



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 14, 2000**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah, for the purposes and at the times as described below on Thursday, September 14, 2000.

Field trip

4:30 p.m. Meet at Adolph's Restaurant - 1500 Kearns Blvd.

Work Session

5:00 p.m. Council questions and comments
5:30 p.m. Review of regular meeting
5:50 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF AUGUST 24, 2000

V CONSENT AGENDA

Resolution proclaiming September 20, 2000 as *Undoing Racism Day* in Park City, Utah

VI PUBLIC HEARING

Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah to address commercial deliveries on Main Street

VII NEW BUSINESS

1. Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah to address commercial deliveries on Main Street
2. Authorization to enter into a contract with Intermountain Equipment Sales Company Corporation for the purchase of one bus washer in the amount of \$103,995
3. Appeal of denial of conditional use permit to alter a non-conforming structure located at 1500 Kearns Blvd. by the Planning Commission on June 28, 2000 - Adolphe Restaurant and Adolph Imboden

VIII ADJOURNMENT

Posted: 09/11/00

See: parkcity2002.org



**PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
SEPTEMBER 14, 2000**

Present: Council members Peg Bodell; Candace Erickson; Roger Harlan; and Shauna Kerr

Toby Ross, City Manager; Mark Harrington, City Attorney; Kent Cashel, Transportation Director

Absent: Mayor Brad Olch and Council member Fred Jones

1. **Council questions and comments.** Candace Erickson thanked Pace Erickson for organizing a clean-up of the creek area in City Park and commented on the how quickly he made this happen after her request. Roger Harlan reported that the Friends of the Library book sale was the most successful ever, raising \$6,100; Marydee Ojala will be the new Chairman of the Library Board. Mr. Harlan continued that he and the City Manager participated in a meeting with Wasatch County regarding Deer Crest. He will be serving on the economic review committee and feels that this process will build a good relationship with Wasatch County. In response to a question from Mr. Harlan regarding Mr. Hurd's comments last meeting on the project in Grant Avenue, Ms. Bodell reported that Pat Putt and Derek Satchell met with Mr. Hurd last week. Ms. Kerr added that she called Linda McReynolds of the HDC who recalled a report on the project from staff; she felt that the funding source from Historic District grants is appropriate. Roger Harlan understood that Mr. Hurd stated that there was no discussion on this project. Peg Bodell indicated that there was a casual discussion and it was his understanding that the funding would be \$5,000 at the time and was surprised to later hear that the City Council approved a \$50,000 project. She relayed that she is still receiving complaints about trash in Old Town, particularly that BFI is not picking up bagged trash. This was brought up during the Historical Society meeting where there was discussion on recommendations to improve the program. She thanked the Transportation Director for organizing the senior citizen excursion yesterday.

Shauna Kerr reported that since the Mayor's comment on 24 hours clinic service, she has been contacted by members of the community who feel it's premature for the City to join that discussion or that it may be inappropriate. Additionally, 24 hour care may be a medical convenience but not a necessity. She understood that in some instances, a 24 hour medical center actually is not ideal in situations where patients really need to go directly to the hospital. She does not want the Summit County Health Department to proceed with an effort of funding 24 hour clinic service, involving commitments from governmental agencies. The City Manager explained that the City has not formally responded to the original request or subsequent correspondence. As liaison to the Summit County Board of Health, Ms. Erickson explained that the Department of Health has identified grant opportunities and Paul Sincock is working on grant proposals. If funding is

available, the Board will pursue approaching counties and cities for support. Ms. Kerr emphasized that she is reluctant to get *caught up in a battle* that the City may not want to fight. Roger Harlan understood that Dr. Winn was attempting to recruit a volunteer medical staff and Ms. Kerr added there are legal, insurance and anti-trust issues with this approach. Candace Erickson agreed with Ms. Kerr and disclosed that she received a couple of calls against the City's financial participation. Ms. Bodell felt that citizen response is valid and that the City needs to take a public position.

Ms. Kerr continued that she received requests for a City fall clean-up, especially since BFI doesn't pick up bags of lawn debris. Ms. Erickson discussed mulching material, and the City Manager explained that the City has a program for its own green waste but is limited with regard to accommodating mulching for the entire community. There was \$10,000 budgeted for the spring clean-up but nothing for a fall program. Staff will get back to Council with costs next week.

2. Review of regular meeting.

Amendment to parking code. Kent Cashel requested that action on the amendment be continued to the meeting of September 28. He explained that he and Chief Evans met with representatives of UPS and Main Street. The management of UPS stated that their drivers will abide by Park City's parking regulations; there has been no comment from other delivery companies. Staff also met with Monty Coates, President of Main Street Business Alliance, on the ordinance. He was comfortable that it would meet the needs of the merchants. Mr. Cashel referred to a request from UPAPA for additional language to be added to the ordinance to prohibit deliveries on Park Avenue, and restrict deliveries to Main Street. Staff has no problem with this request for but would like time to integrate this properly in the code. He requested that the public hearing be held but that action be continued to September 28.

Purchase of bus washer. Kent Cashel explained that the bus washer is 15 years old and needs to be replaced, which has been approved in the FY 2000 budget. The City secured a grant which is FTA money for 80% of the purchase, administered through UDOT. Staff is requesting authorization to enter into a contract with the successful bidder, Mountain Equipment Sales Company for the purchase of the bus washer in the amount of \$103,995. He reiterated that 80% will be paid by the FTA and \$20,799, the City's share, will be allocated from the Transportation Fund if Council authorizes the transaction. The design of the Public Works Building will accommodate the bus washer. Roger Harlan stated that a few years back he didn't support the purchase because he felt the cost was prohibitive. However, he will be voting in favor of the procurement as the price is less and a matching grant is now available.

Adolph's Appeal. Mark Harrington pointed out that this will be a *de novo* appeal which means that the City Council will be basically rehearing the application. This process was selected based on input from the Planning Commission and the applicant. The decision at the Planning Commission was a 3:3 tie with the Chairman breaking the tie with a 4:3 vote. At the time

the appeal was filed, it was conveyed to staff that additional survey information would be provided regarding rights-of-way. The applicant was unable to obtain information from UDOT and unwilling to have survey work conducted. The City Attorney further explained that there are conditions to uphold or deny the appeal drafted for Council review so that action can be taken tonight or continued if the conditions don't meet the intent of Council action. Peg Bodell disclosed that she is excusing herself from discussion and voting on this matter as she has a conflict of interest.

The City Attorney added that Utah law requires a minimum of three council members to vote affirmatively for any action which would result in an unanimous vote to take any action tonight. If there is divisiveness, Council may want to consider continuing the appeal. The applicant is aware of the circumstances and elected to proceed this evening regardless.

See regular meeting minutes.

Prepared by Janet M. Scott



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 14, 2000**

I ROLL CALL

Mayor Pro Tem Shauna Kerr called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, September 14, 2000. Members in attendance were Peg Bodell, Candace Erickson, Roger Harlan, and Shauna Kerr. Peg Bodell left the meeting when the appeal was heard. Mayor Brad Olch and Council member Fred Jones were excused. Staff present were Toby Ross, City Manager; Mark Harrington, City Attorney; Lloyd Evans, Chief of Police; Eric DeHaan, City Engineer; Kent Cashel, Transportation Director; and Jonathon Weidenhamer, Planner.

II PUBLIC INPUT

The Mayor Pro Tem invited public input.

Round-about signage. Ed Brophy, resident, praised the project but noted that traffic slows down as it travels around the round-about, but speeds up again on Deer Valley Drive and the speed signs are confusing. He added that the intersection slopes to the north and the City will have to be diligent to keep it free of ice and felt there should be signage for the pedestrian path and crossing.

With no further comments, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

1. City Engineer's report. Eric DeHaan reported that the signals on Kearns Blvd. are not functioning properly; staff has fielded a number of complaints and UDOT is aware of the problem.

2. Feasibility study on shared emergency communication services. Police Chief Lloyd Evans referred to the distributed feasibility study on a shared communications facility with Summit County and the Park City Fire District. In response to a question from Roger Harlan, the Chief believes that Sheriff Eley is reluctant in participating because he doesn't view a need for a communication change, as presented. Commissioner Cone is leading discussions on this issue. In light of the many projects associated with the Olympics, Mr. Harlan pointed out that hiring a consultant may be premature. Ms. Bodell explained that the process for formulating a joint emergency communications program takes a long time. The timing really is now, as it may take ten

years to create. Ms. Kerr asked if the Chief of Police has some reluctance. Lloyd Evans stated that he is interested in studying the effects of a joint system, but doesn't feel that it is critical to be explored today. The study could be performed at any time and it is his preference to wait until budget and staff resources can be committed to the effort. Ms. Kerr pointed out that the activities prompted by the upcoming Olympics may taint the study. Roger Harlan felt uncomfortable with the Sheriff's reluctance and would be more inclined to wait. The City Manager expressed the Mayor's position which is not supportive of the City's participation unless he is convinced it will provide improved benefits to the community. Mayor Olch also stated that if there is any uncertainty on the part of the Council, he would like this issue continued when he will have an opportunity to participate in the discussion. Ms. Erickson expressed her concern that the contract with the consultant provides no guarantees on the applicability of the study to protect the governmental agencies' investment in the production of an analysis. Chief Evans explained that he has no information on the consultant. Ms. Bodell suggested that Commissioner Cone be apprized of concerns. Ms. Kerr felt this matter should come back to Council.

IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF AUGUST 24, 2000

Roger Harlan disclosed that he will be abstaining from voting as he was not in attendance. City Recorder Jan Scott noted that there were some technical corrections, suggested by staff, in the text of the GIS presentation during work session and the Judge Tunnel water update during the regular meeting. Peg Bodell, "I move approval, as amended". Candy Erickson seconded. Motion carried.

Peg Bodell	Aye
Roger Harlan	Abstention
Candace Erickson	Aye
Fred Jones	Absent
Shauna Kerr	Aye

V CONSENT AGENDA

Resolution proclaiming September 20, 2000 as *Undoing Racism Day* in Park City, Utah - Roger Harlan, "I move approval of the Resolution". Candace Erickson seconded. Motion carried.

Peg Bodell	Aye
Roger Harlan	Aye
Candace Erickson	Aye
Fred Jones	Absent
Shauna Kerr	Aye

VI PUBLIC HEARING

Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah to address commercial deliveries on Main Street - See work session comments. Kent Cashel explained that the Ordinance will amend the Code to eliminate loading zones from Main Street to allow commercial deliveries along the west side of Main Street and west side of Swede Alley. Deliveries will be restricted to the hours of 7 a.m. to noon and on Swede Alley from 7 a.m. to 4 p.m. There is also language to allow for double parking when no other curb parking exists on Main Street during those hours. There is also a provision restricting idling of engines when parked for deliveries. Mr. Cashel explained that these amendments are also being made to better reflect current delivery practices. The Mayor Pro Tem opened the public hearing.

In response to a question from Ed Brophy about delivery trucks blocking available parking spaces and on occasion, cars. Mr. Cashel indicated that the proposed ordinance would allow for the delivery driver to use those spaces as long as the delivery is made expeditiously, and it would not allow a delivery truck to block a car. With no further questions or comments from the City Council or the audience, the public hearing was closed. The Mayor requested a motion to continue the hearing to the meeting of September 28, 2000. Roger Harlan, "I so move". Peg Bodell seconded. Motion carried.

VII NEW BUSINESS

1. Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah to address commercial deliveries on Main Street - See staff report, work session comments, and public hearing. Peg Bodell, "I move to continue to September 28". Candace Erickson seconded. Motion carried.

Peg Bodell	Aye
Roger Harlan	Aye
Candace Erickson	Aye
Fred Jones	Absent
Shauna Kerr	Aye

2. Authorization to enter into a contract with Intermountain Equipment Sales Company Corporation for the purchase of one bus washer in the amount of \$103,995 - Peg Bodell, "I move to authorize the purchase of the bus washer". Roger Harlan seconded. Motion carried.

Peg Bodell	Aye
Roger Harlan	Aye
Candace Erickson	Aye
Fred Jones	Absent

Shauna Kerr

Aye

3. Appeal of denial of conditional use permit to alter a non-conforming structure located at 1500 Kearns Blvd. by the Planning Commission on June 28, 2000 - Adolphs Restaurant and Adolph Imboden - Council member Bodell disclosed a conflict in interest on this matter during work session. She recused herself and left the meeting.

Planner Jonathon Weidenhamer explained that the application is to modify an existing previously approved conditional use permit to allow construction in the frontage protection zone (FPZ), which the Planning Commission denied. The FPZ was established by the Sensitive Lands Ordinance in 1992 to preserve view corridors, buffer areas, and allow future improvements to the highway. It is described as the first 100 feet from specific rights-of-way; the first 30 feet is a *no-build* zone and the next 30 to 100 feet requires a conditional use permit for construction. Both the deck and the restaurant are in the 30 foot no-build zone and existed prior to the establishment of the FPZ, and therefore, Adolphs Restaurant is considered an existing non-conforming structure. In 1998, Mr. Imboden received a conditional use permit for construction in the FPZ, which allowed him to build a patio screen fence and he also received approval from the Board of Adjustment for expansion of a non-conforming structure. During the conditional use permit process, there was a specific condition of approval, "*The deck shall remain open and shall not be enclosed by a roof or any other structure*". He continued that the applicant proposes to expand further into the FPZ and remove that condition of approval in order to enclose about 212 square feet of the deck. Staff felt that this application is not consistent with the original conditional use permit. It violates the 30 foot no-build zone and does not meet the 16 criteria used to review conditional use permits requests. The application is not consistent with the Land Management Code allowances for expansion of non-conforming structures. Based on these facts, staff is recommending upholding the Planning Commission's decision. Ms. Kerr asked if the plat designates the deck as common area. Brent Gold, attorney for applicant, explained that the Park Meadows Plaza was never condominiumized and all of the property is owned by John Russell. The designated common area is a misnomer.

Mr. Gold continued that when Mr. Imboden received the conditional use permit in 1998, there is a good record of the meetings and the conditions. The referenced condition by Mr. Weidenhamer was made by the Planning Commission so that the expansion was limited to the deck improvement. It is his understanding that the applicant could not build from the existing building and construct a roof over the deck. There was some confusion over this in the Planning Commission meeting. Subsequent to the meeting, Mr. Imboden had discussions with two Commissioners who believed that he was further enclosing the deck. Mr. Gold emphasized that the proposal is clearly within the existing roof area and would match an existing wall. The intent of the enclosed area is for indoor dining and at this time it is used for seasonal outdoor dining. The Planning Commission vote was very close at 4:3. He referred to the staff report and the site visit conducted by the City Council members before the work session. There is a purpose for the FPZ, and the expansion of this non-conforming structure does not interfere with ingress and egress to the property. There is an

approved monument sign located beyond the deck. The 200 square feet, proposed to be enclosed, will not be noticeable at this level and there is provision for expansion of non-conforming structures which should be applied to this building. With regard to setting a precedent, Mr. Gold argued that these decisions are fact-driven, and based on the facts, this application applies to the ordinance regulating non-conforming structures. Additionally, the area is completely built out and the purpose of the FPZ is not impinged by the expansion of this structure. He explained that since the City doesn't know where the UDOT right-of-way is located, there is no basis to determine infringement on the 30 foot zone; the deck measures 39 feet from the edge of the road. To make a finding that the expansion is within the 30 foot no-build zone is speculation. With regard to the location of public right-of-way, Mr. Weidenhamer explained that the survey for the Park Meadows Plaza was used. Mr. Gold continued that a certified survey could not be obtained on the property. It was again clarified that the plat was never recorded. Adolph Imboden explained that the design of the expansion fits within the existing roof and design of the building. The entry door remains in the same location.

Hearing no further comments or questions, Mark Harrington advised Council that it can deliberate in closed session as it is acting in a quasi-judicial capacity; in open session, or the matter can be continued. Roger Harlan emphasized the value of a field trip. He read the staff report and was surprised to find that his opinion changed after visiting the site. When the City allowed the deck to be screened, the argument for protection of the FPZ zone is diminished. The applicant is not requesting anything unreasonable or unsafe and Mr. Harlan expressed that this is an appeal he will support. Ms. Erickson stressed that the roof was already there, only a portion of the deck is proposed to be enclosed, and the look of the building will not be altered. Building materials and structural walls were discussed, and Mr. Gold pointed out that code requirements must be met before obtaining a building permit. Ms. Kerr pointed out that if the material is not glass and instead a solid wall because of a Building Code requirement, the circumstances change and under that scenario, the Council may want to revisit the issue. Mr. Gold responded that Ms. Kerr's point is reasonable and it is his understanding that the enclosure will be glass and this could be identified as a condition of granting the appeal. There was again discussion of structural components. Mark Harrington suggested that if the Council is leaning toward granting the appeal, fashioning a motion granting the appeal, subject to the adoption of findings of fact and conclusions of law to be prepared by staff for Council approval. There are features of this application that should be distinguished from other sections of the building. Facts may include a finding of the existing footprint and other structural improvements beyond the deck, such as the sign and deck posts. Additionally, because of its particular architectural design, this improvement poses no significant view corridor impacts, which could be tied to the glass. If another material is used, it would have to come back to the Planning Commission. The City Attorney continued that staff is also requesting that there be a condition that exterior lighting comply with current standards. Ms. Kerr stated that she is leaning toward granting this appeal. She didn't view the application as an impediment to the FPZ because of the footprint of the building and agreed with Mr. Gold that the neighborhood is built-out and if it were a new building, the review would be more critical. Enclosing 200 square feet could be granted without

compromising the FPZ. Roger Harlan, "I move that we grant the appeal of the Planning Commission's denial of a modification to an approved conditional use permit with the understanding that we will receive revised findings of fact and conclusions of law, as directed by the City Attorney at a future date". Candace Erickson seconded. Shauna Kerr added that the an additional reason for looking at this appeal with a critical eye, is there was a divergence of opinions at the Planning Commission level and a split vote. Roger Harlan reiterated that the on-site visit changed his mind. Motion carried.

Peg Bodell	Abstention
Roger Harlan	Aye
Candace Erickson	Aye
Fred Jones	Absent
Shauna Kerr	Aye

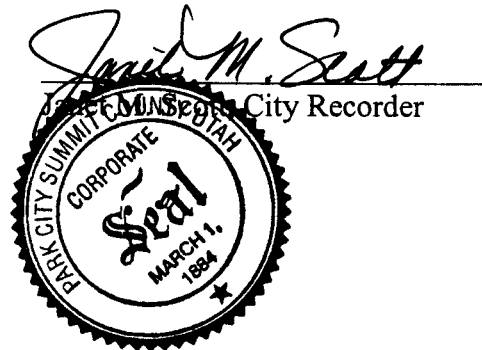
VIII ADJOURNMENT

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

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

Prepared by Janet M. Scott





Resolution No.

**RESOLUTION PROCLAIMING SEPTEMBER 20, 2000
AS UNDOING RACISM DAY
IN PARK CITY, UTAH**

WHEREAS, by Act of Congress of the United States dated July 2, 1964, the Civil Rights Act of 1964 was adopted banning discrimination because of a person's color, race, national origin, religion, or sex; and

WHEREAS, by Act of Congress of the United States dated December 6, 1985, the 13th Amendment of the Constitution of the United States was adopted abolishing slavery; and

WHEREAS, by Act of Congress of the United States dated July 9, 1968, the 14th Amendment of the Constitution of the United States was adopted giving all persons born or naturalized in the United States the right to due process and equal protection under the law; and

WHEREAS, in support of the Resolution of the National League of Cities and the many participating towns and cities throughout the county declaring racism unjust and advocating equal rights for all;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Council of Park City, Utah declare

**SEPTEMBER 20, 2000 AS UNDOING RACISM DAY
IN PARK CITY, UTAH**

to reaffirm our commitment to ensure equality and freedom for all people regardless of race, religion, sexual preference or gender, and the City Council further urges our citizenry to reflect on the merits of not only accepting our differences but celebrating diversity.

PASSED AND ADOPTED this 14th day of September, 2000.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, City Recorder



DATE: 09/14/2000
DEPARTMENT: Transportation
AUTHOR: Kent Cashel, Transportation Director
TITLE: Ordinance Amending Title 9, Chapter 5, Section 3 and Title 9, Chapter 8, of the Municipal Code of Park City.
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Discuss, hold a public hearing and adopt the attached ordinance which amends Title 9, Chapter 5, Section 3 and Title 9, Chapter 8 of the Municipal Code of Park City to remove the current restriction which requires commercial delivery vehicles to utilize 30 minute loading zones on Main Street & Swede Alley. This amendment will also require delivery drivers to shut off their vehicle engine when making deliveries in the Main Street core. This item is scheduled for discussion in work session on September 14 and adoption on September 21.

DESCRIPTION:

A. Topic: Ordinance amending the Park City Municipal Code Title 9, Chapter 5, Section 3 and Title 9, Chapter 8 (Parking Code).

B. Background: On Dec 11th, 1997 staff recommended and Council adopted an ordinance that amended the Parking Code to restrict commercial deliveries to 30 minute loading zones located along the west side of Main Street & Swede Alley. To accommodate deliveries, four loading zones were designated along the west side of Main Street and the entire west side of Swede Alley was designated as a loading zone. After 12:00 noon the loading zones on Main Street converted to customer parking. Staff believed, at the time, that restricting commercial deliveries to loading zones would not seriously inconvenience delivery drivers or merchants and would reduce vehicle congestion on Main Street.

Shortly after implementing the new regulations it became evident that restricting delivery vehicles to loading zones was not workable in the Main Street core. Loading zones were not a workable solution for the following reasons:

- Loading Zones were difficult for motorists to differentiate from public parking. This difficulty was exacerbated by confusing signage that resulted from the dual use of this space (loading zones on Main Street were converted to free public parking after 12:00 noon) Several attempts to improve identification of these zones with clearer signage,

including barricades which were removed each day at 12:00 noon, failed and the loading zones continued to be occupied by cars.

- Motorists seeking free parking frequently abused the loading zones. The result of this abuse was loading zones filled with cars.
- Effective loading zone enforcement required immediate removal of violating vehicles (towing) to free up space for delivery vehicles. Towing would have required a continuous presence of tow trucks on Main Street. This approach was not pursued by staff because of the administrative impact and liabilities associated with towing, storing and releasing a high volume of vehicles. Staff also believed that the public relations impact of wide spread towing would be significant.

During the Winter of 1998, after wrestling with the issues identified above, staff came to the conclusion that the loading zones were placing an unwarranted hardship on delivery vehicles, merchants and enforcement officers. Staff decided to allow Main Street\Swede Alley delivery vehicles to operate in a similar fashion to what was allowed prior to the December 11, 1997 code amendment. This approach, still being followed, allows commercial vehicles to:

- Make commercial deliveries anywhere along the west side of Main Street and the west side of Swede Alley.
- Make deliveries between the hours of 7:00 a.m. to 12:00 noon. on Main Street, and from 7:00 a.m. to 4:00 p.m. on Swede Alley.
- Double park on the west side of Main Street, when no curbside parking is available and the double parked vehicle does not restrict traffic flow or block a legally parked vehicle from leaving the curb.

After enforcement of loading zones on Main Street was abandoned, the four loading zones on Main Street were reduced to two zones. These two zones now serve as multi-purpose 30 minute parking spaces. These spaces continue to be heavily used by both automobiles and delivery vehicles.

Parking Services has allowed Main Street\Swede Alley delivery vehicles to operate in this fashion since 1998. Park City's Municipal Code has not been amended to reflect this change in enforcement.

C. Analysis: Park City's Main Street core has many specific characteristics that should be considered when developing a solution to manage commercial deliveries in this area. Those characteristics include:

- Main Street Businesses, for the most part, do not have access to loading docks or off-street delivery.
- Main Street is home to a wide variety of businesses with a wide variety of delivery needs.
- Main Street has a steep grade (approximately 8%).
- Main Street is not wide enough to accommodate commercial

- vehicle parking on both sides of the street.
- Main Street is very busy with both vehicular and pedestrian traffic.
- Main Street pedestrians are very sensitive to noise and air pollution.

Each of these characteristics is covered in more detail below.

Access to loading docks or off-street delivery.

Most businesses in the Main Street core do not have access to loading docks or off-street delivery space. The only delivery access available to these businesses is from street or curbside parking. Eliminating deliveries from Main Street or Swede Alley is not a workable solution to managing commercial deliveries in the Main Street core.

Wide variety of businesses and delivery needs

The Main Street core has a wide range of business types (e.g., architects, art galleries, restaurants, furniture stores, hotels, property management companies, accountants, travel agencies, florists, night clubs and etc.). The delivery needs of these businesses are as varied as the different business types. Some businesses such as bakeries and restaurants open very early in the morning, others such as night clubs not until late afternoon. Some businesses such as architects may only require deliveries of office supplies while others such as furniture stores require routine deliveries of bulky and heavy items. These varied hours and delivery types need to be considered when developing a solution to managing commercial deliveries in the Main Street core.

A steep thoroughfare

Main Street is a steep thoroughfare with an approximate 8% grade. This grade creates safety issues for delivery drivers, particularly those picking up or delivering bulky or heavy items. Safety becomes a larger concern when the road and sidewalks are wet, snow packed or icy. Due to these conditions it is important that delivery drivers are able to park reasonably close to the business they are delivering to.

Street width will not accommodate commercial vehicle parking on both sides of street

This width of Main Street & Swede Alley is not adequate to allow for the parking of commercial vehicles on both sides of the street without severely impacting traffic flow. Any solution to manage commercial deliveries in the Main Street core should seek to restrict the parking of commercial vehicles to the west side of Main Street and Swede Alley.

A busy thoroughfare

Main Street is a very busy street, often congested, particularly after 12:00 noon. Commercial deliveries inhibit traffic flow and contribute to congestion. Any solution to manage commercial deliveries in the Main Street core should seek to mitigate the impact commercial deliveries have on traffic flow and congestion particularly during peak hours.

Noise and Air Pollution

Idling engines on delivery vehicles contribute to air and noise pollution in the Main Street core. These impacts are very apparent, and often annoy, visitors and locals strolling the sidewalks of Main Street.

Delivery vehicles parked with their engines idling also present a safety hazard. When delivery drivers leave their vehicle idling they must put the vehicle transmission in neutral (manual transmission only) and rely on the parking brake to hold the vehicle from rolling downhill. This is not a safe practice on a heavily loaded truck. Many trucking companies restrict their drivers from leaving their vehicle idling to avoid runaway vehicles. Any solution to manage commercial deliveries in the Main Street core should consider restricting delivery drivers from leaving their vehicle engine idling while parked.

After considering the issues detailed above, staff has drafted the attached ordinance that, if adopted by Council, will provide a Parking Code that will enable enforcement officers to effectively manage commercial deliveries in the Main Street core. The attached ordinance will amend the Parking Code to:

- Eliminate curb loading zones (30 minute short term parking spaces would remain)
- Restrict commercial deliveries to morning hours on Main Street (7:00 a.m. to 12:00 noon) and to daytime hours on Swede Alley (7:00 a.m. to 4:00 p.m.). These time restrictions limit the traffic impact caused by deliveries to off -peak hours, while still offering delivery options for those businesses that open later in the day.
- Restrict deliveries to the west side of Main Street and Swede Alley. This restriction eliminates disruption to traffic flow that results when large delivery vehicles are parked on both sides of the street.
- Allow double parking on the west side of Main Street when curb parking is not available provided this double parking does not restrict traffic flow or block legally parked vehicles from leaving the curb. This allows delivery vehicles to unload heavy & bulky items within a reasonable and safe distance from the business they are delivering to, while not giving delivery vehicles license to park in a manner that impedes traffic flow.
- Restrict delivery drivers from idling their vehicle engine while making a delivery. This restriction will mitigate the environmental and safety issues associated with delivery vehicles left idling while parked.

Staff recommends Council review and adopt the attached ordinance.

D. Department Review:

This report has been reviewed by the City Manager, Police Department, City Attorney's Office and the Public Works Director.

ALTERNATIVES:

A. Pass and Adopt the Ordinance: Adoption of the ordinance will amend the Park City Municipal Code to allow delivery vehicles to operate in a fashion that has proven to be effective and acceptable over the past two and a half years. Additionally, adopting the ordinance will

restrict idling of delivery vehicle engines on Main Street and Swede Alley.

B. Do Not Pass and Adopt the Ordinance: Failure to pass the ordinance will require staff to either:

Enforce the current Parking Code which has already proven to be unworkable in the field. The increase in space designated for commercial delivery will not promote a "customer friendly parking environment"; or

Manage commercial deliveries in some manner not reflected in the current Parking Code. Without an amendment to the current parking code this alternative does not provide a long term solution.

C. Continue the Item: Council could delay decision on this item. The Police Department and Parking Services will continue to manage commercial deliveries as they have in the past (not reflective of the current Municipal Code).

D. Do Nothing:

This alternative will have the same impact on staff as Alternative B

SIGNIFICANT IMPACTS: If adopted by Council the attached ordinance would codify the manner in which commercial deliveries have been managed by Police and Parking Services over the past two and a half years. Staff is not aware of any significant problems that have been created by this approach, other than those caused by enforcing the code as it is presently written, and does not anticipate any significant impacts to arise as a result of adoption of the ordinance.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Not taking the recommended action will require Police and Parking Services to follow one of the following enforcement approaches based on Council direction:

- Enforce the current Parking Code. Enforcement of this ordinance would require staff to re-designate an adequate number of loading zones along Main Street.
- Continue to manage commercial deliveries as they have in the past (not reflective of the current Municipal Code).
- Manage commercial deliveries in a manner directed by Council (not reflective of the current Municipal Code).

RECOMMENDATION: Adopt the attached ordinance that amends the Park City Municipal

Code. This item is scheduled for discussion in work session on September 14 and adoption on September 21.



Ordinance 00-__

**AN ORDINANCE AMENDING TITLE 9, "PARKING CODE," OF
THE MUNICIPAL CODE OF PARK CITY TO ADDRESS
COMMERCIAL DELIVERIES ON MAIN STREET**

WHEREAS, in December of 1997, Park City attempted to address commercial delivery issues on Main Street by designating curb loading zones and establishing a delivery vehicle permit system; and

WHEREAS, despite signage designating curb loading zones, motorists have consistently had difficulty differentiating such zones from public parking; and

WHEREAS, the curb loading zones are consistently occupied by automobiles, thereby rendering such zones unuseable by delivery vehicles as intended; and

WHEREAS, the only effective measure for enforcing the curb loading zones is immediate removal of vehicles in violation of the Code (towing), which entails the continuous presence of tow trucks on Main Street as well as the administrative impact and potential liabilities of towing, storing, and releasing a high volume of vehicles on a regular basis; and

WHEREAS, due to the narrow and steep character of Main Street, delivery vehicles need to unload heavy & bulky items within a reasonable and safe distance from the business they are delivering to, without obstructing or otherwise impeding traffic flow; and

WHEREAS, On September 21, 2000, Park City Council held a public hearing on the proposed amendments; and

WHEREAS, clear and current code provisions are a priority of the City Council;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

SECTION I. AMENDMENT. Title 9, Chapter 5, Section 3 of the Municipal Code of Park City is hereby amended as follows:

9- 5- 3. TYPES OF PERMITS.

The following permit types are established and shall be issued by the City upon payment of the appropriate fee, if any, as designated in the Fee Resolution:

(A) RESIDENT PERMIT. One resident permit shall be issued for each Vehicle owned by a person residing within a Residential Permit Zone (RPZ). If more than two permits are requested for one residence, the owner(s) of the Vehicles of the residence must make a formal application to the City for additional permits. In no case shall the number of resident permits issued to one residence exceed five. Permits will only be issued to the extent that the number of Vehicles registered at the dwelling exceeds the off-Street Parking available at that dwelling to encourage the use of all available off-Street Parking. An applicant for a permit shall present: (a) current Utah Motor Vehicle registration, (b) a current operator's license with the application, and (c) proof of residence; and shall certify the application with his or her signature.

No permit shall be issued in the event that either the registration or license shows an address not within the RPZ unless the applicant demonstrates to the satisfaction of the City Manager or designee that the applicant is, in fact, a resident of the RPZ and that the Vehicle is used primarily by the applicant.

The resident permits shall be valid: (a) until the expiration date shown on the permit, or (b) until the resident, business, or qualified non-profit organization relocates outside of the RPZ, or (c) until the permitted Vehicle is sold, whichever occurs first.

Resident permits shall be valid only in the same residential permit Parking zone in which the residence, business, or qualified institution is located.

(B) RESIDENT GUEST PERMIT. One resident guest permit shall be provided to each residential, business or qualified non-profit institution address receiving at least one resident permit within an RPZ, subject to the following conditions:

(1) Resident guest permits shall be issued for the exclusive use of the resident permit holder's guests only during periods when the guests are actually visiting a resident permit holder's address. Resident guest permits shall display the host resident's resident permit number. Residents shall instruct their guests in the proper display and use of the guest permit.

(2) Resident guest permits issued to business or non-profit institution guests within an RPZ shall be valid only while the guest is actually engaged in business at a resident permit holder's business or institution address. Resident guest permits issued to businesses or institutions within an RPZ shall display the host business's or institution's resident permit number. Businesses or institutions shall instruct their guests in the proper display and use of the guest permit.

(3) Resident guest permits may also be issued directly to guests by the Transportation & Parking Department subject to reasonable conditions imposed by the City Manager or designee.

The resident guest permits shall be valid: (a) until the expiration date shown on the permit, or (b) until the holder of the host permit relocates outside of the RPZ, whichever occurs first.

The resident guest permit shall be valid only in the same residential permit Parking zone in which the host residence, business, or qualified institution is located.

(C) LODGING GUEST PERMIT. Lodge guests permits shall be issued to, or approved for, lodges within a non-metered RPZ for the exclusive use of lodge guests during their period of stay at the lodge. Lodge owners shall fill out the lodge guest permit completely, using permanent ink, and instruct their employees and guests in the proper display and use of the lodge guest permit. Passes shall not be available for transient lodging units with available off-Street Parking for their guests and/or employees, or for lodging units located within a metered Parking zone. Lodge guest permits may also be issued to individuals with unusual or special needs at the discretion of the City Manager or designee.

The lodge guest permit shall be valid either: (a) only during the guest's stay at the lodge, or (b) for seven (7) days from the date of issue to the guest, whichever is less. The lodge guest permit shall be valid only in the same residential permit Parking zone in which the host lodge is located.

(D) EMPLOYEE PERMIT. If the City Manager or designee deems necessary, employee permits may be made available upon payment of the prescribed fee, if any, to Main Street area businesses that have inadequate off-Street Parking for Parking in designated Public Parking Facilities.

~~(E) DELIVERY VEHICLE PERMIT. Business Vehicle permits shall be made available to allow Delivery Vehicles to Park in designated loading zones in the Main Street core. Businesses shall be required to justify a Delivery Vehicle permit for business delivery use and adhere to strict regulations of this Title. Delivery Vehicles shall also be required to use the designated loading zones in the Main Street core before the hour of 12:00 a.m., or otherwise pay the hourly fee for Parking.~~

~~(F)~~ (E) SERVICE VEHICLE PERMIT. Service Vehicle permits shall be made available to allow building maintenance and cleaning functions for buildings in the resident permit zones. Applicants shall possess a valid Park City business license. Service Vehicles shall be required to use short-term zones, or Park in metered spaces and pay the hourly fee while conducting service calls in the metered parking areas (Main Street core).

SECTION II. AMENDMENT. Title 9, Chapter 8 of the Municipal Code of Park City is hereby amended as follows:

CHAPTER 8 - DELIVERIES AND SHORT-TERM USE

9-8-1. DELIVERY AND SHORT-TERM SPACE DESIGNATIONS.

The City Manager or designee shall designate, where necessary, ~~curb loading zones and/or short-term zones.~~

9-8-2. CURB LOADING ZONES.

No person shall stop, stand, or Park a Vehicle for any purpose or length of time, other than for expeditious unloading and delivery, or pick-up and loading of materials, in any place marked as a curb loading zone, during the hours posted on curb loading zone signs. In no case shall the stop for loading and unloading of materials exceed the posted time limits. It shall be unlawful for any person to use the curb loading zones during the posted hours without properly displaying a delivery Vehicle permit.

9-8-32. SHORT-TERM ZONES.

In any area designated as a short-term zone, it shall be unlawful for any person to Park any Vehicle longer than the posted time limit during the hours posted on designated signs.

9-8-43. DELIVERY VEHICLES IN THE MAIN STREET CORE.

In addition to the curb loading zone requirements, all All Delivery Vehicles Parked on Main Street or Swede Alley shall observe the following restrictions;

- (A) Delivery Vehicles shall utilize the ~~thirty (30) minute zones on the~~ West side of Main Street during the hours from ~~9:00 a.m.~~ 7:00 a.m. to 12:00 noon, after which time no Delivery Vehicle shall be Parked on Main Street. Delivery Vehicles may utilize any parking space on the west side of Swede Alley from 7:00 a.m. to 4:00 p.m..
- (B) ~~No Delivery Vehicle shall double Park on Main Street.~~
Delivery Vehicles may double park on the west side of Main Street from the hours of 7:00 a.m. to 12:00 noon, provided that: the double parked vehicle is in the course of an expeditious delivery, there is no other curb parking available, the double parked vehicle does not inhibit traffic flow or block a legally parked car from leaving the curb.
- (C) Delivery Vehicles shall utilize parking on the west side of Swede Alley for deliveries to Main Street after the hour of 12:00 ~~a.m.~~ noon.
- (D) No Delivery Vehicle shall Park on the east side of Swede Alley.
- (E) No Delivery Vehicle shall be Parked in such a manner to impede the flow of traffic.
- (F) No Delivery Vehicle shall be Parked with its engine left idling.

SECTION III. EFFECTIVE DATE. This ordinance shall become effective upon adoption.

PASSED AND ADOPTED this 14th day of September, 2000

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, City Recorder

Approved as to Form:

Mark D. Harrington, City Attorney



DATE: 09/14/2000
DEPARTMENT: Transportation
AUTHOR: Kent Cashel
TITLE: Contract with Intermountain Equipment Sales Company for the Purchase and Installation of an Automated Vehicle Wash System.
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS:

Authorize staff to enter into a contract, in a form approved by the City Attorney, with Intermountain Equipment Sales Company in the amount of \$103,995 for the purchase and installation of an automated vehicle wash system.

DESCRIPTION:

A. Topic: Contract with Intermountain Equipment Sales Company for purchase and installation of an automated vehicle wash system.

B. Background: The City's current automatic vehicle washer is approximately 15 years old and requires replacement. City Council approved \$145,000 in the FY 2000 budget for the purchase of this replacement washer.

In April 2000, Transportation and Legal staff developed a Request for Proposal (RFP) and advertised this RFP both locally & nationally. Eight (8) vendors requested RFP's and four (4) submitted proposals. An evaluation committee comprised of staff from Fleet Services, Transportation & Public Works Administration evaluated each of the proposals. The committee determined that two of the bids did not substantially meet requirements set forth in the RFP. These bidders were notified and removed from further consideration.

The evaluation committee then evaluated the remaining two (2) proposals based upon the following criteria:

- Quality of Components and Assembly of Washer
- Support & Service Capabilities of Bidding Firm
- Product User Satisfaction (reference contacts)
- Wash Quality (site visits & reference contacts)
- Operating Cost Per Wash
- Maintenance Costs
- Price

After evaluating the two remaining bids, staff requested best and final offers from both bidders. These best & final offers are contained in the table below.

Vendor	Best and Final Offer (included addition of hand held power washer)
Intermountain Equipment Sales Company	\$103,995
Rieskamp Equipment Company Inc.	\$127,910

The evaluation committee recommends award of this contract to Intermountain Equipment Sales Company based upon the criteria detailed earlier in this report.

C. Analysis: Purchase of the washer was approved by City Council in the FY 2000 budget. Staff has conducted a procurement in compliance with City and FTA requirements. The FTA has awarded the City funding for 80% of the purchase price of the washer. Staff recommends that City Council authorize a contract for the purchase of an automated vehicle system to Intermountain Equipment Sales Company.

D. Department Review:

The Transportation department has worked closely with the Legal department throughout the procurement process.

ALTERNATIVES:

A. Approve the Request: Authorize staff to enter into a contract with Intermountain Equipment Sales Company, in a form approved by the city Attorney's Office, for the purchase of an automated vehicle wash system.

B. Deny the Request: This would require staff to conduct another time consuming and expensive procurement.

C. Continue the Item: City Council could delay authorization for a few weeks but delaying beyond that time frame will result in bids expiring and the need for staff to conduct another time consuming and expensive procurement process

SIGNIFICANT IMPACTS:

The automated vehicle wash system will enable staff to keep City buses clean of road dirt and salt. This improved maintenance will enhance fleet appearance, reduce rust repair and extend the useful life of fleet equipment.

The City's current vehicle wash has reached the end of its useful life and requires immediate replacement.

RECOMMENDATION: Staff recommends that City Council authorize a contract in the amount of \$103,995, in a form approved by the City Attorney, to Intermountain Equipment Co. for the purchase of an automated vehicle wash system. This wash system will be housed in an enclosed wash bay at the Public Works facility designed and constructed for this purpose.

PARK CITY

1884

CITY COUNCIL REPORT

DATE: September 14, 2000
DEPARTMENT: Planning Department
AUTHOR: Jonathan Weidenhamer
TITLE: 1500 Kearns Boulevard (Adolph's Restaurant)
TYPE OF ITEM: Appeal of Planning Commission Denial of a Modification to an Approved Conditional Use Permit

SUMMARY RECOMMENDATIONS: Staff requests that the City Council review the project within the context of the Appeal and Reconsideration Process, hold a public hearing, consider any public input and deny the proposed modification to an approved Conditional Use Permit to allow construction within the Frontage Protection Zone.

DESCRIPTION:

A. Topic.

Project Name: Appeal of a Planning Commission Denial to Allow a Modification to a previously approved Conditional Use Permit to enclose an existing roof overhang within the Frontage Protection Zone

Applicant: Adolph Imboden, Adolph's Restaurant

Location: 1500 Kearns Boulevard

Zoning: General Commercial District (GC)

Adjacent Land Uses: Commercial

B. Background.

Park Meadows Plaza, Building D (Adolphs), was approved by the Planning Commission on January 24, 1979 as part of the Park Meadows Plaza MPD. At that time the Land Management Code required all structures proposed to be located within 100 feet of the Highway 248 right-of-way be reviewed by the Planning Commission. The structure met all requirements at that time. The FPZ was adopted with the Sensitive Lands Ordinance in September 1992.

On November 4, 1998, the Planning Commission approved a Conditional Use Permit (CUP) to allow construction of a "patio screen fence" along the south western most edges of the existing deck of Building D. This fence is within the Frontage Protection Zone (FPZ). The applicant also received approval from the Board of Adjustment for an expansion of this non-conforming structure in the FPZ.

At this time, the applicant wishes to modify the existing CUP by removing a condition of approval which states, "The deck shall remain open and shall not be enclosed by a roof or any other structure". The applicant proposes to expand his building footprint and increase commercial square footage approximately 136 square feet by enclosing a portion of the existing ten foot roof overhang that extends over part of the existing deck.

At its regular meeting of June 28, 2000 the Planning Commission held a public hearing and voted to deny this application (see Exhibit I). The applicant has appealed this decision to the City Council. Council will hear this application/appeal *de novo*.

A site visit has been arranged during the work session of the Council meeting tonight.

C. Analysis.

The Land Management Code specifies the FPZ as the first 100 feet from certain public right-of-way lines. All construction in the setback between 30 to 100 feet from the nearest right-of-way is a conditional use. The Land Management Code also specifies that 0 - 30 feet from the right-of-way, in the Frontage Protection Zone, is a no build area. Staff's review of the Park Meadows Plaza survey showed both the existing building and deck, where the construction is proposed, are located within the first 30 feet of the Kearns Boulevard FPZ (see Exhibit D).

At the time of original approval, the building complied with all code requirements. The subsequent adoption of the FPZ applied new restrictions within the 100 foot setback from the right of way. Because the location of the proposed expansion and existing building and deck violate the 30 foot no build zone, Staff has determined that the proposed enclosure of the existing roof overhang would be an expansion of a non-conforming use. The LMC allows for repair, maintenance, alterations, and enlargement, but any non-complying structure may be repaired, maintained, altered, or enlarged provided that such enlargement shall neither create any new non-compliance nor increase the degree of existing non-compliance.

The proposed enclosure of the existing roof overhang would result in the addition of commercial square footage. Reference to further expansion was specifically noted in the minutes from the original CUP. Not only was a condition of approval crafted to prevent this, but many references were made throughout the original CUP approval process regarding the Commissions' desire to prevent construction and additional floor area in the FPZ (see Exhibits D&E). The Planning Commission denied this proposal at their June 28, 2000 meeting.

All construction within the Frontage Protection Zone, is subject to the Conditional Use review process, including design review. Listed below is Staff's analysis of the Conditional Use Permit Standards for Review.

1. Size and location of the site: The proposed construction will increase the footprint of the existing structure by approximately 136 square feet. It would be located within the 30 foot no build zone as stipulated by the FPZ.

2. Traffic considerations: The increase in floor area will add additional traffic flow, the results of which are undetermined at this time.
3. Utility capacity: This standard is not applicable to the proposal.
4. Emergency vehicle access: This standard is not applicable to the proposal.
5. Location and amount of off-street parking: The proposed increase of floor area by 136 square feet would trigger the need for additional parking space(s). The existing parking associated with Park Meadows Plaza is required to meet principally daytime demand capacity. Adolph's is the only business which would place a demand on parking at night, of which there is an ample amount.
6. Internal circulation system: This standard would be addressed at the time of full building permit submittal.
7. Fencing, screening and landscaping to separate uses: The proposed construction will be in the 30' no build area as established by the FPZ. No additional landscaping/screening is proposed.
8. Building mass, bulk, orientation and the location on site, including orientation to adjacent buildings or lots: The proposed addition will increase the footprint of the building, enclose open space, violate the 30 foot no build setback, and otherwise compromise the intent of the FPZ, which was established to preserve view corridors, buffer areas, and allow for improvements of the highway.
9. Usable open space: This standard is not applicable to the proposal.
10. Signs and lighting: There are no additional signs or lighting included within the proposal to construct the fence.
11. Physical design and compatibility with surrounding structures in mass, scale and style: Although the expansion would be in the 30 foot no build zone, an existing roof overhang and cement post already exist. At this time building plans have not been submitted, however, by enclosing open space, the proposed construction would be physically obtrusive to the view corridor and buffer area along Kearns Boulevard.
12. Noise, vibration, odors, steam, or other mechanical factors that might affect people: There will be no additional noise, vibration, odors, steam, or other mechanical factors emitted by the proposed addition.
13. Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick up areas: This standard is not applicable to the proposal.
14. Expected ownership and management of the property: This property is part of Park

Meadows Plaza commercial condominium project. If this project were to move forward, a review of the condominium plat would be necessary to determine whether an Amendment to the Record of Survey is necessary.

15. Architectural and Uniform Building Code review: The applicant will need to submit for a Building Permit to construct the addition. At this time, the applicant has not submitted plans for review.
16. Sensitive Lands Review: The proposed site for the addition is in not located within the Sensitive Lands Overlay Zone, and has no impact on lands that are environmentally sensitive.

D. Notice.

Notice of this hearing was sent to property owners within 300' on September 1, 2000. No formal comments have been filed at the time of this report.

ALTERNATIVES

- A. Approve the amendment to the existing Conditional Use Permit, at 1500 Kearns Boulevard. Specific Findings of Fact, Conclusions of Law and Conditions of Approval would have to be created to allow this.
- B. Deny the amendment to the Conditional Use Permit, preventing the construction of an addition in the FPZ.
- C. The City Council may continue the hearing for more information and discussion.

RECOMMENDATION:

Staff recommends denial of the amendment to a previously approved Conditional Use Permit which would allow the enclosure of the existing roof overhang which sits within the Frontage Protection Zone, at 1500 Kearns Boulevard based on the following:

Findings of Fact:

1. The findings discussed in the Analysis section are incorporated herein.
2. Adolphs Restaurant is within the General Commercial Zone
3. The south facade, roof overhang, and deck of Building D, 1500 Kearns Boulevard are located within the first 30 feet of the Frontage Protection Zone.
4. The Frontage Protection Zone establishes that construction can not take place within 30 feet of the Kearns Boulevard right-of-way.
5. The proposed changes will add an approximately 136 square feet to the existing building envelope.

6. A Conditional Use Permit was approved on November 4, 1998 to allow the construction of a "patio screen fence" on the existing non-conforming deck. A condition of approval is, "The deck shall remain open and shall not be enclosed by a roof or any other structure."
7. The Frontage Protection Zone establishes that any construction between 30 and 100 feet from the nearest right-of-way requires a conditional use permit.

Conclusions of Law:

1. The application does not comply with all requirements of Section 15-1-10, Standards for Review for a Conditional Use Permit, of the Land Management Code.
2. The proposed construction does not comply with the conditions of approval for the existing Conditional Use Permit.
3. The use is not consistent with the Frontage Protection Zone and the Park City General Plan.

EXHIBITS:

Exhibit A - Location Map
Exhibit B - Photograph Elevation
Exhibit C - Applicant's request for appeal
Exhibit D - Survey of Park Meadows Plaza
Exhibit E - Proposed area of construction
Exhibit F - Minutes from 10/21/98 Planning Commission Meeting(work session & regular mtg.)
Exhibit G - Minutes from 11/4/98 Planning Commission Meeting(work session & regular mtg.)
Exhibit H- Planning Commission Report 6/28/00
Exhibit I - Minutes from 6/28/00 Planning Commission Meeting

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1500 Kearns Blvd.



Exhibit A - Location Map

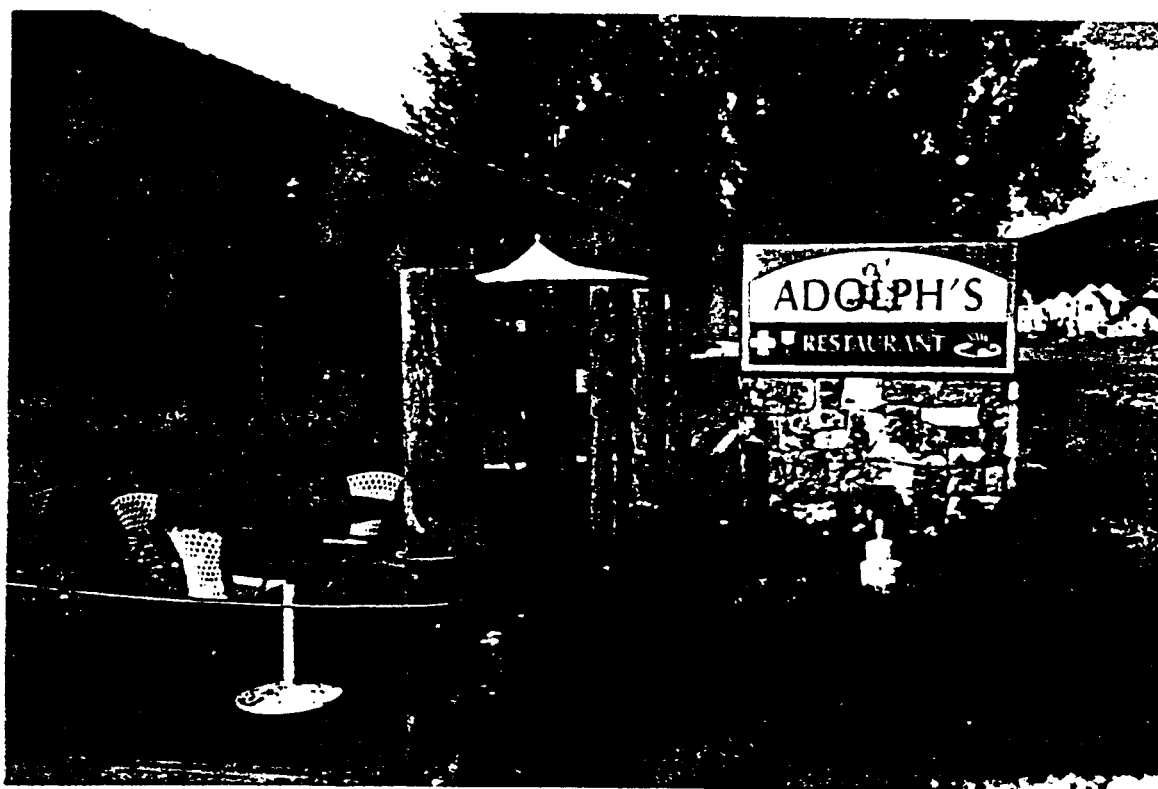
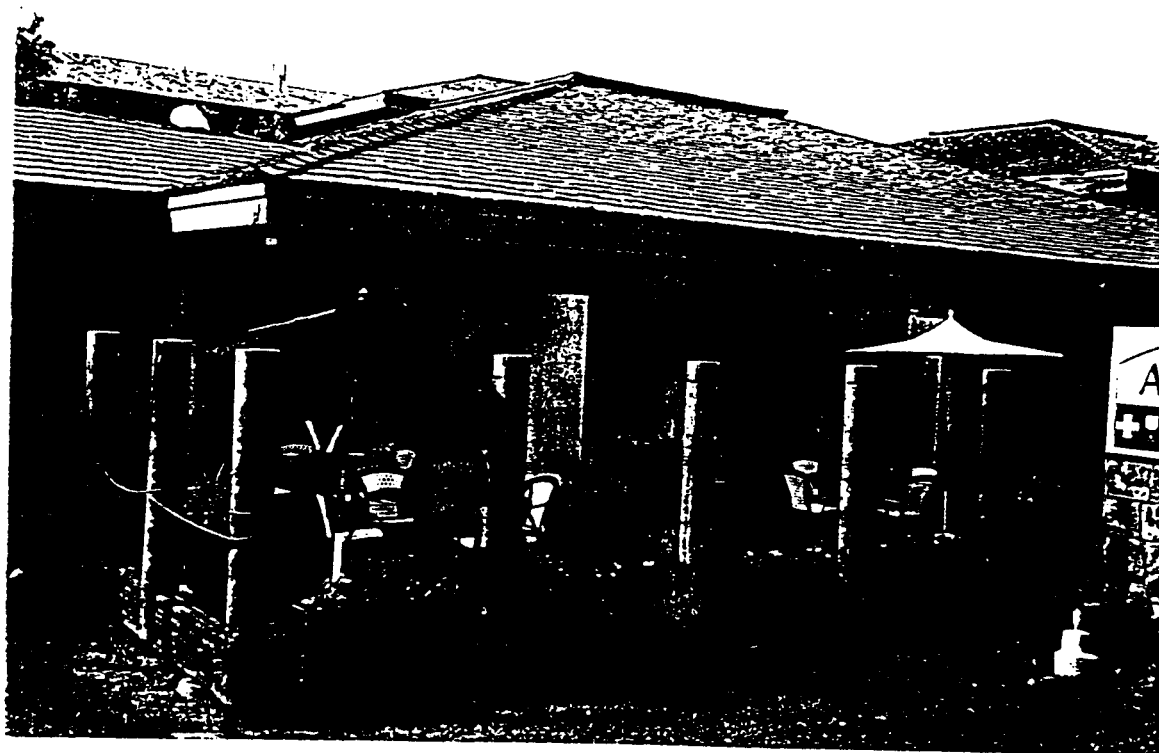


Exhibit B - Photograph Elevation

BRENT A. GOLD, 1213
 Attorney for Petitioner
 2064 Prospector Avenue, Suite 203
 P. O. Box 1994
 Park City, Utah 84060
 Telephone: (435) 649-8406
 Facsimile: (435) 649-8412

**BEFORE THE CITY COUNCIL
 PARK CITY MUNICIPAL CORPORATION, PARK CITY, UTAH**

In the Matter of the Denial
 of Conditional Use Permit for:
ADOLPH'S RESTAURANT
 and **ADOLPH IMBODEN,**

Petitioner(s),

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)
)

APPEAL PETITION

Appeal No. _____

The Petitioner(s) above named, by and through their undersigned attorney, Brent A. Gold, herewith appeal the denial of Petitioner(s) Application for Condition Use Permit ("CUP") by the Park City Planning Commission, which denial was effectuated by a 4-to-3 vote by the Planning Commission at its regularly scheduled meeting of June 28, 2000.

Basis of Appeal. This appeal is timely made and filed pursuant to the provisions of Title 15 Chapter 1 of the Park City Land Management Code ("PCLMC") § 15-1-17(C)(D)(E) and (F).

The Petitioner(s) made CUP application to alter a non-conforming structure (Adolph's Restaurant) located at 1500 Kearns Blvd., Park City, Utah. The proposed alteration is lawful and meets the requirements of Title 15 Chapter 9 of the PCLMC. The non-conforming status of the structure is uncontested and confirmed by Planning Staff, and relates to the passage of the Frontage Protection Zone (FPZ) ordinance subsequent to the fully lawful completion of the structure in question. The requested CUP alteration is intended to occur entirely within and

under the existing roof overhang of the original structure, and the alteration will not in any way adversely impact or be incompatible with abutting properties. No suggestion or argument has been made that the proposed alteration would in any way affect the FPZ in any manner or fashion beyond the current effect of the existing non-conforming structure. All requirements of Chapter 9 of the LMC respecting non-conforming structures can be complied with and the FPZ will remain intact as it is today.

DATED this 7th day of July, 2000.


Brent A. Gold
Attorney for Petitioner

Petitioner's Information:
Adolph Imboden
Adolph's Restaurant
1500 Kearns Blvd.
Park City, UT 84060
(435) 649-7177

Appeal Petition received this
_____ day of July, 2000.

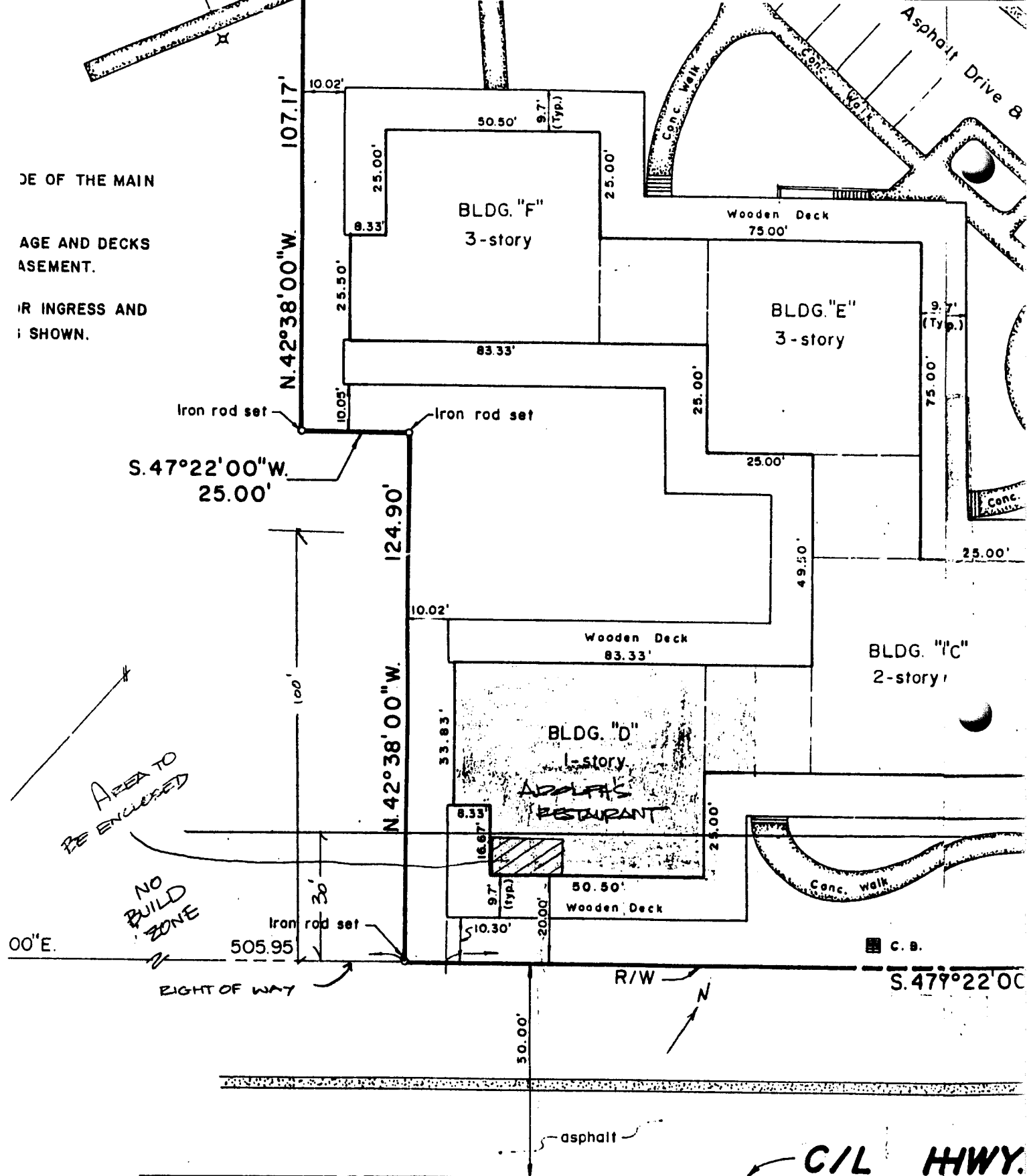
Park City Recorder

cc: Mark Harrington, Esq.

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AGE AND DECKS
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I SHOWN.



BENCHMARKS

of brass cap located at the SE cor of Sec. 4,
S., R.4.E. and being 70 feet +/- NW of C/L of
248 on the East side of entrance drive to
Park City Middle School approx. 1.1 mi. NE
Hwy. from Junction with Hwy. 224.

3S Elev. - 6729.21

43

Exhibit D

subd

quarter of Sec

4 East, Salt Lake

The representative for the Iron Horse Homeowners asked to make a comment. Chair Larson asked that he wait until the regular meeting. Commissioner Erickson suggested that this item be moved to the first item on the agenda.

WORK SESSION

1500 Kearns Blvd., Adolph's - Conditional Use Permit for construction in the Frontage Protection Zone

Administrator Putt reviewed the request for a CUP to put a glass windscreen on the deck. This is a CUP item because it requires construction or additional construction within the Frontage Protection Zone. This building, which is called Park Meadows Plaza Building A, was approved and constructed in 1979, at which time the zoning rules were different for the Frontage Protection Zone. The buildings had to meet a setback requirement and be approved by the Planning Commission. Under the LMC requirements of 1979, the building and deck met the setback requirements. This is a non-conforming building because the FPZ precludes construction within the first 30 feet of the right-of-way. Since this is a grandfathered situation, new construction on the deck will require Board of Adjustment action to allow the modification to a non-conforming use. In order to make the process easier, the Staff decided to go through the CUP process in advance of the Board of Adjustment decision. Adolph proposes putting a glass enclosure around the deck. Assuming that the Board of Adjustment will allow the glass screen, the Staff reviewed the CUP criteria in Chapter 1.13 and found that the request complies with the criteria. Administrator Putt noted that the footprint of the building will not be expanded. The applicant's architect submitted drawings today, and the Staff has not had an opportunity to review the material. The drawings indicate that the glass enclosure will run all the way across the front of the building. If the Planning Commission favors the glass screen to facilitate outdoor dining, it would make sense from an architectural compatibility standpoint to continue the glass screen across the entire front of the building rather than just a segment of the front facade. The Staff was not concerned about this change in the plan. If the request is approved, Administrator Putt recommended that no additional habitable floor area be allowed as a result of this project.

Chair Larson clarified that a deck currently exists where the screen is proposed. Administrator Putt explained that Adolph's started construction without a permit until the City stopped construction. They were as far as putting in the log posts before they were stopped, and since then they have obtained the application materials.

The Staff recommended approval as conditioned. The main condition of approval is that this will require Board of Adjustment approval. If the Board of Adjustment denies the request, the CUP will not be valid.

Commissioner Jones was unsure why a CUP should be approved before the Board of Adjustment acts. He was concerned that Planning Commission action might be interpreted as telling the Board of Adjustment what to do. Administrator Putt replied that the Planning Commission could continue this item until after the Board of Adjustment meets on November 3.

Chair Larson noted that the Board of Adjustment meets on November 3 and the next Planning Commission meeting is November 4. Administrator Putt replied that the matter could be scheduled for November 4, using the same Staff report and eliminating the condition referring to Board of Adjustment action.

Commissioner Erickson felt that, if the Planning Commission continues the matter, they should do so with direction to the Staff to prepare findings for glass across the entire front of the building.

The Commissioners discussed whether to allow construction in the Frontage Protection Zone. Administrator Putt noted that Chapter 12, which is the nonconforming use section of the Land Management Code, permits minor improvements in the Frontage Protection Zone.

Commissioner O'Hara questioned whether changing the entire facade of the building was minor.

Commissioner Zimney stated that she has always been reluctant to approve any changes in the Frontage Protection Zone.

Administrator Putt explained that it would be different if someone were asking to build the deck in the Frontage Protection Zone. The fact that the deck already exists and with the revisions to the General Plan designed to promote outdoor dining facilities, the Staff was comfortable supporting this request.

Staff and Commissioners' Communications

Administrator Putt reported that the City Council has called up the Rossi Hill project to be heard on November 12. The primary concerns expressed by the City Council were the underlying premise that the permitted density was 14, neighborhood compatibility, and site grading.

Conclusions of Law - 2440 Holiday Ranch Loop Road

1. The applicant complies with all requirements of the Land Management Code, specifically Section 1.13 conditional use process, in that no variances are required, and the SF zone specifically identifies horses as an allowed use subject to a CUP.
2. The use, a condition, will be compatible with surrounding structures in use, scale, and mass and circulation.
3. The use is consistent with the Park City General Plan.
4. The effects of any differences in use or scale have been mitigated by careful planning.

Conditions of Approval - 2440 Holiday Ranch Loop Road

1. A one-year review, conducted by Staff, of the Conditional Use Permit to ensure the horses are properly cared for, the area is properly cleaned and maintained, and that the neighborhood concerns are addressed is required. If there are no withstanding issues, the permit can be extended to run with the property.
2. The owner shall comply with the Animal Management Plan as described within this report and the addition of the waste removal at the end of the season.
3. The Conditional Use Permit is not transferrable without the permit being extended to run with the property as identified in Condition 1.
4. Approval of a grading and landscaping plan, which minimizes the amount of cut and fill, is a condition precedent to building permit issuance.
5. This approval shall be null and void as of October 21, 1999, unless the applicant has received a building permit for the project.
3. 1500 Kearns Building, Adolph's - Conditional Use Permit for construction in the Frontage Protection Zone

Administrator Putt reported that this matter was discussed during work session. He reviewed the proposal to allow additional construction in the form of a wood and glass patio screen in front of the Adolph's

REGULAR
MEETING

restaurant located at 1500 Kearns Blvd. This is a Conditional Use Permit because construction within the Frontage Protection Zone requires a CUP. This building predates the existing Code. It was constructed in 1979, and at that time, it complied with all necessary building setbacks. The application has been reviewed against the CUP criteria and found to comply with those criteria provided the applicant obtains a Board of Adjustment approval for the expansion and modification of a non-conforming use. This matter is scheduled for action before the Board of Adjustment on November 3. During work session, the Planning Commission discussed a request by the applicant for a Phase 2 extension of the glass screen. Administrator Putt presented a slide showing the log posts already in place and explained that this is the area for Phase 1 where the glass enclosure would be constructed this winter. The enclosure will be extended across the front of the building next spring. From an architectural point of view, the Staff believed extending the screen across the entire front of the building was more appropriate and would give a finished look to the property. It is consistent with the architectural compliance in Chapter 9 of the Land Management Code. The Staff recommended approval conditioned upon Board of Adjustment approval for this expansion and modification prior to issuing a building permit.

Commissioner Hays asked if the glass would be tinted or clear. It was confirmed that it will be clear.

Chair Larson opened the public hearing.

There was no input.

Chair Larson closed the public hearing.

Chair Larson reiterated the direction given during the work session to continue this matter to November 4 to allow the Board of Adjustment to take action first. The Planning Commission will direct the Staff to prepare findings of fact, conclusions of law, and conditions of approval for approval of Phase 2 at the same time.

MOTION: Commissioner O'Hara moved to CONTINUE this matter to November 4. Commissioner Erickson seconded the motion with the direction to Staff to prepare findings of fact, conclusions of law, and conditions of approval for the proposal as applied for and for Phase 2. Commissioner O'Hara accepted the modification to the motion.

VOTE: The motion passed unanimously.

might want to make changes to the maps or the language in the text. The Commissioners agreed to eliminate the text referring to Richardson Flat which talks about future residential development.

Director Lewis noted that the text on pages 41 and 42 should be rewritten to be consistent with the maps.

Commissioner Erickson mentioned the Rail Trail and felt that guidance in the community character section was needed which would stress the importance of visual quality from the Rail Trail. That would be the criterion for determining the appropriateness of a site plan and landscape plan.

Chair Larson felt the entry corridors should be addressed in the General Plan. Manager Shepard stated that she believed it was and offered to check on that item.

Review of Regular Agenda

WORK SESSION

1500 Kearns Blvd, Adolph's - CUP for construction in the Frontage Protection Zone

Chair Larson summarized that the Planning Commission agreed at the last meeting to consider approving Phase I and Phase II of this request pending a decision by the Board of Adjustment.

Commissioner Zimney reported that the Board of Adjustment approved the application, but they did not discuss the length of the enclosure.

Chair Larson asked the Commissioners if they were still interested in having the glass screen run along the entire front of the building. Commissioner Hier felt it would not look good for it to stop halfway.

Commissioners O'Hara commented that the traffic analysis did not address cars exiting from the parking area on the west side of the building onto the highway and whether the screen would block the view and create a safety problem. He also requested that a condition be added to prohibit Adolph's from coming back to request construction of a roof over the screened-in area in the FPZ.

Commissioner Hier asked if both phases are addressed in the Staff report and noted that the drawing does not reflect Phase II.

Commissioner O'Hara asked about permits for the flagpole lights. Planner Alison Kuhlow explained that the flagpole lights will be eliminated.

Chair Larson clarified that the suggestion by Commissioner O'Hara is to restrict a roof or other all-weather enclosure, define the length of what is approved, and a caveat to address the line of sight for traffic entering onto the highway. Planner Kuhlow was directed to draft conditions of approval addressing those issues.

71 Thaynes Canyon Drive - Plat amendment

Commissioner Zimney reported that Lot 95 has been sold and suggested changing the finding to reflect the change in ownership.

Commissioner Erickson asked why this item was not processed as an administrative lot line adjustment. Planner Robinson explained that an administrative lot line adjustment can only be done when combining two lots into one.

1305 Lowell Avenue, Marriott's Mountainside - CUP for temporary sales trailer

Due to a conflict of interest, Commissioner Erickson abstained from discussing this matter.

Manager Shepard reported that the trailer will sit where the construction fence follows the north end of the plaza. The construction fence will act as skirting for the trailer, and the trailer will not come into the plaza any further than the construction fence does now. She clarified that the fence material is wood. She reported that this item was noticed, and she has not received any comment.

Given the construction going on at the Resort, Chair Larson stated that he was comfortable granting the CUP for one year.

Manager Shepard noted that this is a timeshare use, and the applicants could have requested a CUP for an off-site timeshare office if they had wanted to.

MOTION: Commissioner O'Hara moved to CONTINUE this item to November 18.
Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

2. 508 & 510 Ontario Avenue - Condominium conversion application

The Staff requested that this item be continued to November 18.

MOTION: Commissioner Hier moved to CONTINUE this item to November 18.
Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously.

REGULAR MEETING

3. 1500 Kearns Boulevard, Adolph's - CUP for construction in the Frontage Protection Zone

Planner Kuhlow reviewed application for a Conditional Use Permit to construct a patio screen fence within the Frontage Protection Zone. The Planning Commission reviewed the matter on October 21 and postponed its decision pending Board of Adjustment action. Planner Kuhlow reported that the Board of Adjustment approved this expansion of a non-conforming use. The Staff recommended approval of the CUP with three additional conditions of approval distributed to the Planning Commission this evening.

Commissioner Hier asked that the added conditions of approval be read.

* Condition 4: The proposed "patio screen fence" shall not extend more than 76 feet along the southern edge of the deck attached to Building A.

Condition 5: The deck shall remain open and shall not be enclosed by a roof or any other structure.

Condition 6: The materials of the "patio screen fence" shall in no way obstruct visibility of traffic entering or exiting the adjacent driveway.

Commissioner Erickson felt that a finding of fact should be drafted to clarify why the Planning Commission is allowing construction within the Frontage Protection Zone. He suggested that the prime reasons for allowing construction in the Frontage Protection Zone are that the building and the deck currently exist, as opposed to a future proposed

building, and because the Frontage Protection Zone was created after this building was approved. Planner Kuhlow suggested language stating that at the time the building was constructed, it met with all applicable City codes, and the Frontage Protection Zone was created subsequent to construction of this facility.

MOTION: Commissioner Erickson moved to APPROVE the conditional use permit to allow the construction of the screen fence within the Frontage Protection Zone at 1500 Kearns Boulevard based on the findings of fact, conclusions of law, and conditions of approval presented in the staff report with the following additions:

Finding of Fact 6: At the time the building was constructed, it met all applicable codes and setbacks.

Finding of Fact 7: The building and deck were constructed prior to the enactment of the Frontage Protection Zone along Highway 248.

Condition of Approval 4: The proposed patio screen fence shall not extend more than 76 feet along the southern edge of the deck attached to Building A.

Condition of Approval 5: The deck shall remain open and shall not be enclosed by a roof or any other structure.

Condition of Approval 6: The materials of the patio screen fence shall not obstruct visibility of traffic entering or exiting the adjacent driveway.

Commissioner Jones seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 1500 Kearns Boulevard

1. The westernmost deck areas on Building A, 1500 Kearns Boulevard, is located within the Frontage Protection Zone.
2. A deck exists in the Frontage Protection Zone and General Commercial Zone.
3. The proposed changes do not significantly alter the existing footprint.
4. The flag pole lights are located adjacent to the proposed screen. The existing lights do not comply with the Land Management Code, which requires that all such fixtures shall be brought into compliance with this Code upon any application for an exterior building permit.
5. The applicant stipulates to all Conditions of Approval.

6. At the time the building was constructed, it met all applicable codes and setbacks.
7. The building and deck were constructed prior to the enactment of the Frontage Protection Zone along Highway 248.

Conclusions of Law - 1500 Kearns Boulevard

1. The application complies with all requirements of Section 1.13 of the Land Management Code.
2. The proposed use, as conditioned, is compatible with the surrounding residential and commercial structures in use, scale, mass, and circulation.
3. The use is consistent with the Park City General Plan.
4. Any differences in use or scale have been mitigated by the Conditions of Approval.

Conditions of Approval - 1500 Kearns Boulevard

1. All standard conditions of project approval shall apply to this projects (See Exhibit D).
2. The flag pole lights shall be removed or brought into conformance with the Land Management Code Lighting Standards within thirty (30) days from the issuance of the Building Permit for the patio screen fence.
3. This approval shall be null and void as of October 21, 1999, unless the applicant has received a building permit for the project.
4. The proposed patio screen fence shall not extend more than seventy-six feet (76') along the southern edge of the deck attached to Building A.
5. The deck shall remain open and shall not be enclosed by a roof or any other structure.
6. The materials of the patio screen fence shall in no way obstruct visibility of traffic entering or exiting the adjacent driveway.

PLANNING COMMISSION REPORT

DATE: June 28, 2000
DEPARTMENT: Planning Department
AUTHOR: Jonathan Weidenhamer
TITLE: 1500 Kearns Boulevard (Adolph's Restaurant)
TYPE OF ITEM: Modification to an Approved Conditional Use Permit - Administrative

SUMMARY RECOMMENDATIONS: Hold a public hearing, consider any public input and deny the proposed modification to an approved Conditional Use Permit to allow construction within the Frontage Protection Zone.

DESCRIPTION:**A. Topic.**

Project Name: Modification to an approved Conditional Use Permit to enclose an existing roof overhang within the Frontage Protection Zone
Applicant: Adolph Imboden, Adolph's Restaurant
Location: 1500 Kearns Boulevard
Zoning: General Commercial District (GC)
Adjacent Land Uses: Commercial

B. Background.

Park Meadows Plaza, Building A (Adolphs), was approved by the Planning Commission on January 24, 1979 as part of the Park Meadows Plaza MPD. At that time the Land Management Code required all structures proposed to be located within 100 feet of the Highway 248 right-of-way be reviewed by the Planning Commission. The structure met all requirements at that time.

On November 4, 1998, the Planning Commission approved a Conditional Use Permit(CUP) to allow construction of a "patio screen fence" along the south western most edges of the existing deck of Building A which is within the Frontage Protection Zone(FPZ). The applicant also received approval from the Board of Adjustment for an expansion of this non-conforming structure in the FPZ. At this time, the applicant wishes to modify the existing CUP by removing a condition of approval which states, "The deck shall remain open and shall not be enclosed by a roof or any other structure". The applicant proposes to expand his building footprint and increase commercial square footage 136 square feet by enclosing the roof overhang which extends approximately ten feet from the building, over part of the existing deck.

C. Analysis.

A survey of the property was submitted as part of the Conditional Use Permit Application requirements. Staff's review of the survey showed the building and deck, where the construction is proposed, are located within the first 30 feet of the FPZ (see Exhibit D). The Land Management Code specifies that any construction from 30 to 100 feet from the nearest right-of-way is a conditional use. The Land Management Code also specifies that 0 - 30 feet from the right-of-way, in the Frontage Protection Zone, is a no build area. Since the original approval and construction of the building complied with the requirements at that time, Staff has determined that the enclosure of the existing roof overhang is an expansion of a non-conforming use and therefore requires not only a CUP for construction in the FPZ but approval from the Board of Adjustment. Staff is hesitant to appear before the Board of Adjustment or perform a complete design review without approval from the Planning Commission to modify the existing CUP.

The proposed enclosure of the existing roof overhang would result in the addition of commercial square footage. Reference to this was specifically noted in the minutes from the original CUP. Not only was a condition of approval crafted to prevent this, but many references were made throughout the approval process regarding the Commissions' desire to prevent construction of additional square footage in the FPZ (see Exhibits D&E). Additionally, all areas in the Park Meadows Plaza condominium project outside the main building perimeter are considered common area. An Amendment to the Record of Survey Plat would need to be recorded prior to any modification.

All construction within the Frontage Protection Zone, is subject to the Conditional Use review process, including design review. Listed below is Staff's analysis of the Conditional Use Permit Standards for Review.

1. Size and location of the site: The proposed construction will increase the footprint of the existing structure by 136 square feet. It would be located within the 30 foot no build zone as stipulated by the FPZ.
2. Traffic considerations: The increase in floor area will add additional traffic flow, the results of which are undetermined at this time.
3. Utility capacity: This standard is not applicable to the proposal.
4. Emergency vehicle access: This standard is not applicable to the proposal.
5. Location and amount of off-street parking: The proposed increase of floor area by 136 square feet would trigger the need for additional parking space(s). At this time it is not known if the applicant can meet this requirement.
6. Internal circulation system: This standard would be addressed at the time of full building permit submittal.
7. Fencing, screening and landscaping to separate uses: The proposed construction will be in the 30' no build area as established by the FPZ.

8. Building mass, bulk, orientation and the location on site, including orientation to adjacent buildings or lots: The proposed addition will increase the footprint of the building, enclose open space, and otherwise compromise the intent of the FPZ, which was established to preserve view corridors, buffer areas, and allow for improvements of the highway.
9. Usable open space: This standard is not applicable to the proposal.
10. Signs and lighting: There are no additional signs or lighting included within the proposal to construct the fence.
11. Physical design and compatibility with surrounding structures in mass, scale and style: Although at this time building plans have not been submitted, by enclosing open space, the proposed construction would be physically obtrusive to the view corridor and buffer area along Kearns Boulevard.
12. Noise, vibration, odors, steam, or other mechanical factors that might affect people: There will be no additional noise, vibration, odors, steam, or other mechanical factors emitted by the proposed addition.
13. Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick up areas: This standard is not applicable to the proposal.
14. Expected ownership and management of the property: This property is part of Park Meadows Plaza commercial condominium project. If this project were to move forward, a review of the condominium plat would be necessary to determine affirmation of sufficient interest, and whether an Amendment to the Record of Survey is necessary.
15. Architectural and Uniform Building Code review: The applicant will need to submit for a Building Permit to construct the addition. At this time, the applicant has not submitted plans for review.
16. Sensitive Lands Review. The proposed site for the addition is in not located within the Sensitive Lands Overlay Zone, and has no impact on lands that are environmentally sensitive.

D. Notice.

Notice of this hearing was sent to property owners within 300' on May 31, 2000. No formal comments have been filed at the time of this report.

ALTERNATIVES

- A. Approve the amendment to the existing Conditional Use Permit, at 1500 Kearns Boulevard, conditional on Board of Adjustment approval. Specific Findings of Fact, Conclusions of Law and Conditions of Approval would have to be created to allow this.
- B. Deny the amendment to the Conditional Use Permit, preventing the construction of an

addition in the FPZ.

- C. The Planning Commission may continue the hearing for more information and discussion.

RECOMMENDATION:

Staff recommends denial of the amendment Conditional Use Permit to allow the enclosure of the existing roof overhang which sits within the Frontage Protection Zone, at 1500 Kearns Boulevard based on the following:

Findings of Fact:

1. The findings discussed in the Analysis section are incorporated herein.
2. The south facade and roof overhang of Building A, 1500 Kearns Boulevard is located within the General Commercial Zone and the first 30 feet of the Frontage Protection Zone.
3. The proposed changes will add an additional 136 square feet to the existing building envelope.
4. A Conditional Use Permit was approved on November 4, 1998 to allow the construction of a "patio screen fence" on the existing non-conforming deck. A condition of approval is, "The deck shall remain open and shall not be enclosed by a roof or any other structure."
5. The Frontage Protection Zone establishes that construction can not take place within 30 feet of the nearest highway right-of-way.
6. The Frontage Protection Zone establishes that any construction between 30 and 100 feet from the nearest right-of-way requires a conditional use permit.

Conclusions of Law:

1. The application does not comply with all requirements of Section 15-1-10., Standards for Review for a Conditional Use Permit, of the Land Management Code.
2. The proposed construction does not comply with the conditions of approval for the existing Conditional Use Permit.
3. The use is not consistent with the Frontage Protection Zone and the Park City General Plan.

EXHIBITS:

Exhibit A - Location Map

Exhibit B - Photograph Elevation

Exhibit C - Survey of Park Meadows Plaza

Exhibit D - Minutes from 10/21/98 Planning Commission Meeting(work session & regular mtg.)

Exhibit E - Minutes from 11/4/98 Planning Commission Meeting(work session & regular mtg.)

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3. 1500 Kearns Boulevard, Adolph's - CUP for construction in the FPZ

Planner Jonathan Weidenhamer reviewed the request for a modification to a previously approved CUP for construction in the FPZ at Adolph's Restaurant which is part of the Park Meadows commercial condominium project approved in 1979. At that time construction within the first 100 feet from the right-of-way had to come to the Planning Commission, and it did meet all City codes. The FPZ established by the Land Management Code requires that the first 100 feet along Kearns Boulevard and Highway 248 be subject to a CUP, and the first 30 feet is considered a no-build area. The deck at Adolph's and the existing roof overhang and front part of the building are within the first 30 feet and is considered an existing, non-conforming structure. In 1998, Adolph's received a CUP to build a patio screen fence along the edge of the deck to screen outdoor diners from the highway. In addition, a variance was needed from the Board of Adjustment for expansion of the non-conforming structure. The CUP was granted with strict references and specific findings and conditions of approval. One condition specifically stated that the deck shall remain open and shall not be enclosed by a roof or any other structure. Now the applicant is asking to expand part of the deck by enclosing part of the existing roof structure and adding square footage to the building. This requires a modification of the previously approved CUP and complete design review by Staff and a request to the Board of Adjustment for another expansion of the non-conforming structure. The Staff recommended denial of the proposal based on the fact that it is not consistent with the originally approved CUP, the FPZ, or the General Plan. Planner Weidenhamer noted that this proposal is not consistent with the 16 criteria for a CUP.

Brent Gold, representing Adolph's Restaurant, stated that he believed the submittals to the Planning Commission were complete in information. He believed in the purpose of the FPZ and agreed that it was good policy. However, the reality is a building that predated the FPZ by many years. When the matter was previously before the Planning Commission, Commissioner O'Hara raised the issue of no additional roof. The minutes were clear that the deck extends beyond the existing roof and that the Planning Commission did not want the roof extended over the deck. The minutes reflect a comment from Commissioner Larson opposing any all-weather enclosure over the deck. Mr. Gold believed the minutes reflected a consistent objection to the deck becoming part of the building and pointed out that what Adolph proposed was well inside the existing roof line. He felt the critical issue was the mass and volume of the existing building. He disagreed with Planner Weidenhamer on the 16 criteria in the CUP evaluation and stated that he believed this request complied with

at least 13 criteria. He felt it should be difficult to go into the FPZ, but it is not absolutely forbidden, and he believed they could make a logical and reasonable evaluation of this situation. This request is not to build in the FPZ but to work with what is already there. He believed the glass enclosure approved in 1998 had more impact than what is currently proposed.

Chair O'Hara opened the public hearing.

There was no input.

Chair O'Hara closed the public hearing.

Chair O'Hara addressed his comments to the previous approval. He was swayed at the time by the argument that it was to promote outdoor dining in the City. The deck was already there, and he could see no reason not to go ahead with it. He believed it was an appropriate action that had worked well, but at the time there were concerns with the creep that might occur. Adolph's was allowed approval for a deck that was not started with proper approval before construction, and the concern was that things would continue to be added that would creep into the FPZ. He was not convinced that if this request were approved, something might not be seen next year to add to that outdoor dining area.

Commissioner Hier concurred with Chair O'Hara's recollection of the previous approval. The deck was not friendly to outdoor dining because of the wind and traffic noise, and the Planning Commission approved the glass screen to enhance the area and make it more effective. They were hesitant to allow any construction in the FPZ because of the precedent it might set, but they believed the benefits were great enough to approve it. Commissioner Hier believed the addition of walls would be contradictory to the reasons the enclosure was approved. He concurred with the staff report that this request was contrary to the conditions of the CUP.

Commissioner Zimney agreed. She recalled that the approval was merely a matter of allowing the glass to make the deck a more comfortable dining experience. A specific condition of approval states that the deck will not be enclosed, and she could not support this request.

Commissioner Erickson disagreed. In his review of the minutes and the existing condition of approval, this proposal would not violate the terms of the original approval since there would be no expansion of the roof or floor line into the FPZ. The enclosure could occur without having

approved the additional deck. Recalling that he made the motion for the original approval, he acknowledged that he may have made a mistake in his motion and did not consider closing in the area under the existing roof in addition to allowing this deck to go in. He felt it was reasonable to make findings stating that 136 square feet is not an expansion into the FPZ because it was within the building when it was approved in 1978. The fact that a deck was approved in 1998 is irrelevant to this expansion into the FPZ. He was prepared to make a finding that this expansion is inside the existing building and not part of the deck approved in 1998. He felt it was within the Planning Commission's purview to approve the 136 square feet.

Commissioner Volkman stated that he was not on the Planning Commission in 1998, but after driving by Adolph's many times while considering this request, he supported many of the findings stated by Mr. Gold. This proposal is not an obtrusive change in the character of the building and does not further block any view corridors. He felt that the only compelling argument is whether it intrudes into the FPZ, and that clearly has been done.

Commissioner Powers concurred with Commissioner Erickson's findings and supported this request.

Administrator Putt referred to Exhibit B in the staff report showing the area of the proposed enclosure which includes an area that expands into the 30-foot no-build area. He referred to the recently adopted Land Management Code dealing with non-complying structures, of which the structure is a non-conforming use. This is a non-complying structure because it predates the Code, but it is a building that violates the FPZ setback requirements which include a 30-foot no-build area. The Land Management Code allows for repair, maintenance, alterations, and enlargement, but any non-complying structure may be repaired, maintained, altered, or enlarged provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor increase the degree of existing non-compliance. He argued that a finding could be made that the deck in its current form is open as an outdoor amenity, and the expansion into this area crosses into the no-build area. He welcomed the Planning Commission to make a finding that this is acceptable and does not matter, but the Staff did not believe it met the criteria.

Mr. Gold noted that in 1998 the deck was already there and was not part of the approval. The illegal construction that had commenced were the poles going up on the deck. He was confused by Administrator Putt's

comments about the expansion, because this proposal does not exceed the existing building line.

Commissioner Larson concurred with the staff report and Administrator Putt's comments. He believed a no-build zone was exactly that, a no-build zone.

MOTION: Commissioner Larson moved to DENY the proposed modification at 1500 Kearns Boulevard with the findings of fact and conclusions of law outlined in the staff report. Commissioner Hier seconded the motion.

VOTE: The motion passed 4 to 3, with Commissioners Hier, Larson, O'Hara, and Zimney voting in favor of the motion, and Commissioners Erickson, Powers, and Volkman voting against the motion.

Findings of Fact - 1500 Kearns Blvd.

1. The findings discussed in the Analysis section are incorporated herein.
2. The south facade and roof overhang of Building A, 1500 Kearns Blvd., is located within the General Commercial Zone and the first 30 feet of the Frontage Protection Zone.
3. The proposed changes will add an additional 136 square feet to the existing building envelope.
4. A Conditional Use Permit was approved on November 4, 1998, to allow the construction of a "patio screen fence" on the existing non-conforming deck. A condition of approval is, "The deck shall remain open and shall not be enclosed by a roof or any other structure."
5. The Frontage Protection Zone establishes that construction cannot take place within 30 feet of the nearest highway right-of-way.
6. The Frontage Protection Zone establishes that any construction between 30 and 100 feet from the nearest right-of-way requires a Conditional Use Permit.

Conclusions of Law - 1500 Kearns Blvd

1. The application does not comply with all requirements of Section 15-1.10, Standards for Review for a Conditional Use Permit, of the Land Management Code.

2. The proposed construction does not comply with the conditions of approval for the existing Conditional Use Permit.
3. The use is not consistent with the Frontage Protection Zone and the Park City General Plan.
4. Reconsideration - Silver Pointe Subdivision Condition of Approval relating to height measurement

Chair O'Hara noted that this item was noticed as a reconsideration but is actually a request for a clarification of wording.

Due to a conflict of interest, Commissioner Zimney abstained from discussing and voting on this matter.

Chair O'Hara disclosed that he has a personal relationship with an individual who has a contractual agreement with the applicant, but he did not have a conflict of interest with this application.

Planner Kevin LoPiccolo reported that the Planning Commission reviewed this request and modified condition of approval for Lots 6 through 10 of the approved MPD at Silver Pointe on April 12. The Planning Commission continued the item and requested that the applicant provide cross sections for Lots 6 through 10. The Planning Commission also made a determination of what cross sections were seen during the original MPD approval in 1998. Condition 6 currently reads, "As the building height for units 6 through 10 shall be measured from final grade provided that final grade does not exceed the elevation of Rossi Hill." The Staff requested that three alternatives contained in the staff report be reviewed by the Planning Commission this evening. The Staff requested that the Planning Commission approve the request to modify the original Condition 6 for Lots 6 through 10 of the Silver Pointe MPD. If the Planning Commission finds it appropriate to approve this request, the Staff has prepared findings of fact, conclusions of law, and conditions of approval. If the Planning Commission chooses another alternative, the Staff will prepare the necessary findings.

Chair O'Hara opened the public hearing.

There was no input.

Chair O'Hara closed the public hearing.

