

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
SEPTEMBER 1, 2005**

Present: Mayor Dana Williams; Council Members Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier and Joe Kernan

Tom Bakaly, City Manager; Kent Cashel, Deputy Public Works Director; Eric DeHaan, City Engineer; Patrick Putt, Planning Director; Alison Butz, Special Events and Facilities Manager; Brooks Robinson, Senior Planner; Myles Rademan, Public Affairs Director; Lloyd Evans, Chief of Police; Matt Twombly, Trails Coordinator

1. Council questions/comments

Mayor Williams relayed the outpouring of community support and the numerous suggestions to organize participation in Hurricane Katrina relief efforts. He announced a community meeting in Council Chambers on Tuesday from 5:00–7:00 p.m. Dr. David Sundwall from the Governor's Office will be present. In addition, the Red Cross will be holding a blood drive on Wednesday from 3:00-8:00 p.m. Manager Bakaly expressed interest in the level of the City's involvement and role in this effort and the Mayor's intent was to facilitate local efforts.

The Mayor reported that he and Father Bob Bussen had met with a group from the University of Utah to discuss potential outreach programs the University could sponsor for the Hispanic community in Park City. He will keep Council advised of their progress. He also applauded the Jazz Festival, as well as the Fire District's efforts in extinguishing the hill fire Sunday evening.

Marianne Cone thanked Maria Barndt for cleaning up the gravel on the Poison Creek Trail in the Deer Valley Drive underpass.

Council Members thanked Katherine Matsumoto, Myles Rademan, Brenna Herbert and David Maloney for their efforts in producing the 20/30 Vision meeting. The large turnout and enthusiasm of participants reinforced the fact that Park City has many people who care about the community. Myles Rademan reported that survey results and next steps would be reported in the future.

At the invitation of the Mayor, Chief Lloyd Evans reported that the Elks Lodge had honored Robert Lucking as officer of the year for his dedication and work in helping to make our streets safer.

The Mayor commented on the long, arduous process of rebuilding Park Avenue and thanked Eric DeHaan for his hard work. He had recently visited with residents who talked about the process and how great the street looked.

2. Strategic plan for City-owned properties

Deputy Public Works Director Kent Cashel reminded Council they had reviewed the report on August 18, 2005; however, it had been reformatted for review and discussion tonight. He explained the criteria for identification of these parcels was "raw" land, larger than one-half acre, with development potential. Staff requested that Council approve the resolution adopting a strategic plan for the properties.

3. Funding for Rail-trail paving project

Trails Coordinator Matt Twombly reviewed Staff's request for Council to authorize the City Manager to enter into a Cooperative Agreement in the estimated amount of \$23,606.19 as the City's match for construction of the Historic Union Pacific Rail Trail (specifically, the first 1,000 linear feet from Bonanza Drive to the existing, state-owned, paved area of the trail). Following a multi-year process, this project is ready to proceed and plans are developed enough to schedule bidding through UDOT. Prior to bidding, the City must enter into the Cooperative Agreement.

Jim Hier noted the report did not specifically identify the portion of the rail trail. Due to delays that would result from revising the agreement, he requested that the *minutes clearly reflect that it is the first 1,000 linear feet from Bonanza Drive to the existing paved area of the trail*. Matt noted the project number is the reference number for the project and it is described in the Statewide Transportation Improvement Plan, which was not attached to the report. He clarified that once the project was completed, we would be reimbursed by the County for a portion of the expenditure; however, the agreement is between the City and UDOT.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 1, 2005**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, September 1, 2005. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; Polly Samuels McLean, Deputy City Attorney; Kent Cashel, Deputy Public Works Director; Brooks Robinson, Senior Planner; Patrick Putt, Planning and Zoning Director; Eric DeHaan, City Engineer; Matt Twombly, Trails Coordinator

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council Member Joe Kernan thanked the Park City Performing Arts Foundation for sponsoring the successful summer concert series.

Mayor Dana Williams invited Bruce Erickson to the dais. Council Member Jim Hier stated that last month Bruce Erickson quietly retired after serving 16 years on the Planning Commission. As a former Planning Commission Member, Mr. Hier spoke of Bruce's experience and leadership of the group. Council felt it was appropriate to honor him for his contributions to the group and to the community. In addition to their thanks and gratitude, Council presented Bruce with cross country skis/bindings. Bruce expressed appreciation for the support of Council Members and the Mayor through the years, as well as the support and guidance of the Planning Staff, City Attorney and City Engineer.

III PUBLIC INPUT (any matter of City business not scheduled on agenda)

Peter Roberts, The Glory Hole, reported he was actively pursuing his hot glass studio project. He stressed that it would provide a great contribution to the community in terms of cultural tourism and higher education.

Liz Peet, 3 year resident and glass artist, stated she worked at the Pilchuck Glass School, established by Dale Chihuly, near Seattle every summer. She felt a hot shop at the bottom of a ski run in Park City would be incredibly successful. She spoke of the increased success of glass artists in arts festivals and how this would enhance our art community.

Fletch Halliburton, graduated from Alfred University in the Bachelor of Fine Arts Program of Glass, moved to Park City in hopes of becoming part of the Glory Hole team. He felt this was a rare opportunity to create a glass shop which would encompass the entire process from the making to selling of glass.

Tom Humes also offered support for the Glory Hole project, noting that it would bring together artistic and educational opportunities for residents and tourists, both young and old.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF AUGUST 18, 2005

MOTION: Jim Hier, "I move to approve the work session notes and minutes of August 18, 2005 as submitted." Marianne Cone seconded. Motion passed.

Kay Calvert	Recused - not present on August 18, 2005
Marianne Cone	Aye
Candace Erickson	Aye
Jim Hier	Aye
Joe Kernan	Aye

V OLD BUSINESS

Resolution adopting a strategic plan for city-owned property with development potential

MOTION: Marianne Cone, "I move that we approve the resolution adopting a strategic plan for city-owned property with development potential as presented in the packet." Candace Erickson seconded. Motion unanimously carried.

VI NEW BUSINESS

1. Authorization to staff to enter into a cooperative agreement for pre-construction reimbursement with UDOT for improvements to the Historic Union Pacific Rail-Trail and appropriation of \$23,606, as Park City Municipal Corporation's match to the project - Trails Coordinator Matt Twombly briefly reviewed the staff report and reiterated that the area to be paved would involve 1,000 linear feet from Bonanza Drive to the existing paved area of the Historic Union Pacific Rail Trail.

MOTION: Joe Kernan, "I move to authorize staff to enter into the cooperative agreement with UDOT and appropriate \$23,606 to match other funds of the project." Marianne Cone seconded. Motion unanimously carried.

2. Appeal of a conditional use permit for construction on a steep slope, and a conditional use permit for an accessory apartment for 234 Daly Avenue, approved by the Planning Commission on July 27, 2005 - Appellants Eric Mosher, Julia Pettit and Brooke Hontz

Mayor Dana Williams stated that Council must determine the criteria they would follow in judging the appeals. Assistant City Attorney Polly Samuels McLean explained the basic standard of review is *error of law*, wherein Council would determine whether the Planning Commission acted within the scope of the Land Management Code and correctly applied the law. The other option is *de novo* review, in which case Council would vote to hear the whole case *de novo* (again). Council members concurred they would judge the case based on the *error of law* standard.

Senior Planner Brooks Robinson explained the appeals involved two Planning Commission approvals granted for 234 Daly Avenue: 1) Conditional Use Permit for Construction on a Steep Slope (slope greater than 30%); and, 2) Conditional Use Permit for an Accessory Apartment. He explained that a conditional use is an allowed use that has impacts that must be mitigated. A few years ago, the City adopted the steep slope Conditional Use criteria based on concern about the number of steep lots remaining to be developed in the Historic District. The current real estate market is creating pressure to develop lots that were previously not thought of as being economically viable.

Mr. Robinson presented a slide show of all the homes on Daly Avenue illustrating the mix of structures built on varied parcel sizes, and built in different eras under different codes. He stated the lot at 234 Daly Avenue is 7,840 square feet and the maximum footprint allowed by the HR-1 Zone floor area ratio formula is 2,274 square feet. The proposed footprint of the house is half of that and the total house size would be approximately 3,000 square feet. Therefore, Staff found this project to be compatible with the neighborhood.

Member Kay Calvert asked about floor area ratio equivalents for other houses in the neighborhood. Mr. Robinson explained they did not perform a comparative analysis of every home on the street; however, at the direction of the Planning Commission, Staff performed an analysis on two duplexes:

220-222 Daly - lot size 6,200 square feet; living area 3,000 square feet.; four levels, FAR .497; and,

210-212 Daly - lot size 6,000 square feet; living area 3,000 square feet, three levels, FAR .72.

He compared that to the .41 FAR for 234 Daly Avenue based on square footage/lot size mentioned earlier. The Staff did not perform a comparative analysis to the Mosher/Pettit property or others across the street or on Ridge Avenue.

Mr. Robinson stressed that the Planning Commission based their decision on information enumerated in the Code and had received input during four public hearings. They also held several work sessions and conducted site visits. He stated there is a

global concern by Staff and the Planning Commission about whether criteria needed to be revised; however, all applications are reviewed under the current code and criteria.

Brooks Robinson explained that the accessory apartment was less than 1,000 square feet (less than one-third of total building size) and met all the criteria of the Land Management Code.

Mr. Robinson summarized that the Planning Commission received substantial input, received detailed research and analysis of the Code, they visited the site, and found that both of the Conditional Use Permits, Steep Slope and Accessory Apartment, complied with criteria of the Land Management Code. Staff recommends that the City Council deny the appeals and uphold the Planning Commission approval according to the findings of fact, conclusions of law, and conditions of approval.

Mayor Williams invited the appellants to give their presentation.

Brooke Hontz, 209 Daly Ave, stated her husband (Jon Weidenhamer) is member of Planning Staff. She emphasized that Staff and the Planning Commission did an excellent job, but the problems lay with the applicant's plan and the Code which is not stringent enough when one considers what has been approved for this lot. She presented handouts to Council highlighting her response to Staff's analysis.

Ms. Hontz stated neither of the garage spaces on the building plans meets the minimum interior dimension requirement of 11' wide by 20' deep. In addition, the plan shows a third parking spot that is not code compliant. Concerns regarding parking spaces and sizes were raised at three hearings. Lower Daly frequently does not have enough parking for the number of units and upper Daly occasionally experiences the same situation. This past winter emergency vehicles were called to Daly several times and the road was blocked for over an hour each time. Adding the pressures of a project that does not meet code to these substandard roads is questionable.

Ms. Hontz bought her home in Old Town because of the rules and loves the uniqueness, but is concerned that focus on Old Town had been relaxed. She stressed it is a challenging site and better solutions must be developed. She did not feel there had been enough give and take to allow these approvals and specifically questioned the height, setbacks and parking. In the interest of setting a precedent that the Historic District is a special and unique place that deserves better development solutions, she respectfully requested that Council grant the appeals of the Steep Slope CUP and the Accessory Apartment CUP.

Julia Pettit and her husband Eric Mosher live at 239 Daly and own 243 Daly. She stated they returned to Park City because of its unique quality and history and have lived in

Old Town for over 13 years. They are concerned that the approval will establish a precedent that could jeopardize other areas of Old Town. She noted she had submitted additional input to Council and Staff to highlight where they felt the analysis, findings of fact, and conclusions of law fell short.

Ms. Pettit agreed that Daly Avenue is a mixed bag, but to focus only on properties directly across the street as the basis for compatibility was wrong. She noted there was no flat portion of the lot on which to develop; it is entirely a steep slope, approximately 50 degrees. She did not feel there had been any analysis of the impact the project will have on emergency vehicles because there are not adequate setbacks to provide a margin of room for large vehicles rounding that corner to get to upper King and upper Norfolk. Further, she did not believe the criteria required under Section 15-1-10, even though it may be subsumed into the conditional use permit criteria, had been addressed in findings of the staff report, nor in the action letter.

Ms. Pettit commented that this will be the only visible building on Daly Avenue when looking down from American Flag and that is indicative of its incompatibility with the streetscape. She appreciated Brooke Hontz' analysis and report about issues of code compliance and encouraged Council to pay careful attention.

Ms. Pettit stated there were additional people interested in speaking out against the project who had not met the ten-day appeal period. She raised due process concerns about how people who had been following the project received notice of the Planning Commission's action. The applicant's action letter was e-mailed on July 28th, but it was not mailed to people who had either appeared at the hearing or submitted written objections. She encouraged Council to consider the comments submitted by those who had not met the appeal period.

Although her husband, Eric Mosher, was not able to attend, she read a statement from him. He felt the future of Park City was at a cross-road and many of the characteristics that make Park City a unique place to live are being lost. He feared that the charm and character was being whittled away and Old Town was becoming a suburb of Deer Valley. Criteria in the Land Management are too subjective and easily manipulated and the requirements need to mean something if we hope to achieve the goals and objectives under the General Plan for historic preservation. He expressed particular concern about the lack of analysis of the impact of the project on the historic properties across the street from the project and along Daly Avenue.

Mr. Mosher's statement also noted there was no ability to minimize grading on the site; terracing may erode and cause undermining and eventual failure; there was insufficient parking; and setbacks were questionable. The structure will have a towering wall effect.

He stated Council's action on this matter would set the precedent for the fate of Old Town and expressed hope that Council was committed to preserving Old Town.

Council Member Calvert referred to conditions experienced last winter and asked if people were parking illegally on the street. Ms. Pettit responded that occasionally happened because some projects did not have adequate parking. The accessory apartment in this structure increases concern about the project having adequate parking.

Council Member Kernan referred to comments that parking did not meet code. He requested clarification as to whether parking is within the scope of Council's review in this appeal and, if so, he requested a response from Staff about the parking issue.

Senior Planner Robinson Brooks stated that Planning Staff and Chief Building Official have met with the applicants regarding the parking space size. Initially, the interior spaces fell 6 inches short of 11 x 20 feet because they were going to be finished with drywall and the mechanical room included a bump-out. However, the Planning Director had made a finding of substantial compliance with the Code. Subsequent modifications were made and both interior spaces meet the Code requirement. He added that the planter in the outside parking space was eliminated to allow sufficient depth for that space.

Assistant Attorney McLean stated general parking was raised in the appeal; however, specifics of the garage interiors were not. It is up to Council to determine whether it wants to expand consideration of that.

Brooke Hontz reported she had met with Ron Ivie to review the approved plans and he said they did not meet code, even if the bump-out is removed.

Council Member Cone felt parking, interior and exterior, should be addressed.

Council Member Hier explained that Planning Commission review of Conditional Use applications does not address interior dimensions of parking spaces. That level of review is left to the Planning Staff and Chief Building Official. The Planning Commission would not have reviewed the interior parking spaces and it does not fit within Council's review criteria for this appeal. Assistant Attorney McLean reiterated that Council could only consider what the Planning Commission reviewed.

Planning Director Patrick Putt explained it was common to make changes to approved building plans and those were handled administratively between Building, Engineering and Planning. The changes are noted on the plans and are reviewed for code

compliance. Unless they are significant (change in rooflines that may impact snow release, radical exterior changes, etc.) adjacent property owners are not notified.

Council Member Calvert requested clarification of the appellant's issue because the footprint was staying the same. Ms. Hontz explained parking was an issue because the accessory apartment contains a den which could become a bedroom and there is a potential of renters having two cars. In order to create code compliant parking spaces, the staircase will be affected and everything inside the structure will have to be shifted. She felt it was appropriate for Council to discuss parking because she had questioned the adequacy of parking before the Planning Commission. Ms. Pettit added that the action letter included an incorrect finding that the plan included three code compliant parking spaces. There has not been mitigation of the additional parking issues created by the extra living space.

Assistant Attorney Polly Samuels McLean stated the accessory apartment criteria require that one parking space per bedroom must be provided in addition to requirements for the primary residence. That is what the Planning Commission based their decision on, and it is the criteria Council must use to determine whether an error of law was made.

Brooks Robinson clarified for Council Member Hier that it was possible to adjust the accessory apartment parking pad to create a code compliant space. They concurred that the Planning Commission's findings for the accessory apartment in effect approved the parking pad.

Council Member Kernan asked Staff to explain "substantial compliance". Mr. Robinson explained that Title 15-4-1 Zoning Administration and Enforcement allowed Staff to make a determination as to whether violations are in substantial compliance, or other enforcement actions taken. Patrick Putt explained the reasoning for his decision: a six foot long section of the interior garage space was constricted to 10'6". Considering the requirements in the off-street parking section that the minimum interior dimension of a single garage must be 11'x 20', and a double garage must be 20'x 20', he found it to meet the *intent* of the code, or "substantial compliance". Ms. McLean stated it was Council's role to determine whether that determination was within the meaning of the code.

Brooks Robinson explained for Council Member Cone that *platted* Ridge Avenue is nowhere near the location of the existing road in this location, although the City claims a prescriptive right of use for Ridge since it has been there for over 100 years. This lot was platted with a road through it, so it did not go through a subdivision process. This presented challenges to the applicant because his buildable area was reduced. A

previous owner gave the City a snow storage easement on the east portion of the parcel, and during the winter it is used for snow storage.

Don & Kathleen Simon explained they have lived in Old Town for 15 years and wanted to remain in this area, although they wanted to downsize from their larger home. When they optioned the property, they commissioned a soils analysis, and met with the City Engineer, Building and Planning Departments who outlined all the issues before they purchased the lot. Mr. Simon felt the hard work had been done with Staff and they arrived at a sensible project that met Code. Although they support the public process, they have been hurt. There were comments that the grade is 50 degrees and that the soils are poor and the hill would collapse. He has a certified survey as well as analysis by a soils engineer that disprove those allegations. They have not maximized the footprint and they meet the required setbacks. They have a thorough excavation plan and the structure is engineered to seismic standards. He stated they had exceeded requirements all the way through the process and if the Building Department finds areas non compliance, they will make changes. He noted this was the 5th public meeting on their project and no new evidence has been presented. He requested a decision and thanked Council for their consideration.

Council Member Hier stated this is one of the most comprehensive appeals Council had reviewed and complimented the appellants. It has identified several areas in the Land Management Code that may require modification and he would like a discussion of those elements regardless of the outcome of the appeal. He supported directing Staff to review language in the HR Zones and consider restructuring language to prevent large homes, eliminate specific square footage allowance on steep slopes, and define what is and is not allowed.

Council Member Hier stated he did not find that the Planning Commission made an error of law with regard to these applications and he could not support the appeal.

Council Member Marianne Cone added she had discussed these same issues with Patrick Putt. Retaining the character of Old Town is a huge priority.

Russ Henry, Daly Avenue resident, commented that the house will be incompatible with all other structures on Daly Avenue. He relayed information about a project on King Road where the owner tried to accommodate neighborhood concerns and reduced the size of the home. As a result, the project is being redesigned and has been substantially delayed. Mr. Henry felt compatibility and sensitivity to the neighborhood were more important than merely meeting the Code.

Joe Kernan did not find sufficient information to determine that the Planning Commission made an error of law. He supported the balance that the Staff and Planning Commission had worked out.

Kay Calvert supported the Planning Commission's action. She agreed that parking and safety issues are valid and exist everywhere in Old Town, but must be addressed outside of this discussion. She supported Mr. Hier's suggestion for a review of Land Management Code language.

Marianne Cone agreed that the Planning Commission had not made an error of law. However, she requested an additional week to review the material given to them at the meeting and requested a set of building plans.

Candace Erickson did not see that the Planning Commission erred; however, she did not think the neighbors were wrong either. She did not like the building, but it was not legally wrong. She would be willing to wait if she felt the information would prove an error of law.

Attorney McLean cautioned that the process was to review what the Planning commission reviewed. Should Council desire to look at new plans, they must expand their review to include the new plans.

A brief discussion followed and it was stressed that it was not within the Planning Commission's purview to review building plans. They are asked to review the site plan, setbacks, and building elevations. The Building Department is responsible for reviewing plans and ensuring compliance with the International Building Code.

MOTION: Kay Calvert, "I move to deny the appeal of the Conditional Use Permit for Construction on a Steep Slope and the Conditional Use Permit for an Accessory Apartment at 234 Daly Avenue approved by the Planning Commission on July 27, 2005". Jim Hier seconded. Motion carried.

Vote:	Kay Calvert	Aye
	Marianne Cone	Nay
	Candace Erickson	Aye
	Jim Hier	Aye
	Joe Kernan	Aye

VII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned. The Mayor announced they would meet socially at Butchers, and no City business would be conducted.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4:30 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier and Joe Kernan. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney. Candace Erickson, "I move to close the meeting to discuss personnel and property". Joe Kernan seconded. Motion carried unanimously.

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 Sharon C. Bauman

Sharon C Bauman
Sharon C. Bauman, Administrative Asst.



City Council Staff Report



Author: Kent Cashel, Deputy PW Dir.
Subject: STRATEGIC PLAN FOR CITY-OWNED PROPERTIES

Date: September 1st, 2005
Type of Item: Legislative

Public Works

Summary Recommendations:

Staff requests that City Council pass the attached resolution adopting a strategic plan for City-owned properties with development potential.

Description:

Background:

The City owns hundreds of parcels of land. The size of these properties range from easements consisting of a few hundred square feet to 30- 40 acre parcels with development potential. This not including thousands of acres of protected open space.

As land with development potential within the area becomes increasingly scarce both the market and strategic value of these parcels rise. Looking forward the City's need for additional administrative offices, operations facilities, and recreation and affordable housing facilities will grow and require real estate to develop these facilities on. The City Manager directed Staff to form a cross functional team in December of 2004 to complete the following five tasks:

- Compile an inventory of City owned parcels with development potential.
- Compile a list of City needs or projects that are currently being considered.
- Develop a draft strategic plan for the use of City owned parcels with development potential.
- Present this draft strategic plan to Council for input and direction.
- Integrate Council and community input into a final strategic plan and present to Council for final adoption.

The City Property Team was formed with the following members:

Patrick Putt
Rick Ryan
Colin Hilton
Alison Butz
Gary Hill
Ken Fisher
Eric Dehaan
Kent Cashel

Planning
Public Safety
Capital Projects & Economic Development
Special Events
Budget, Grants & Debt
Recreation
Engineering
Public Works

On May 4th, 2005 Staff held an open house at the Miner's Hospital to present the draft plan to the public and take comment on the plans recommendations.

Staff presented the final draft plan to Council on August 18th, 2005. Technical difficulties encountered while preparing the Council packet for that resulted in the report being contained in two different sections of the packet. This created some confusion regarding the specific contents of the final strategic plan. Staff requested that Council reschedule adoption of the strategic plan for the September 1st meeting to reassemble the report and ensure all details of the plan have been clearly communicated.

Staff has incorporated Council direction and public comment into the final strategic plan and requests that Council pass a resolution to adopt that plan.

Analysis:

The "Strategic Plan for City Owned Parcels with Development Potential." (Found in Exhibit A of the attached resolution) consists of the following two elements:

1. **Summary Strategic Plan-** This table identifies the intended use(s) for each parcel contained in the plan.
2. **Strategic Plan Technical Tables** – These tables contain technical details specific to each individual parcel

Department Review:

This report has been reviewed by the following departments: City Manager's Office, City Attorney's Office, Facilities and Special Events, Budget Office and Public Works.

Alternatives:**Approve the Request:**

Council could pass the resolution adopting a strategic plan for City-owned properties with development potential. This is staff's recommendation.

Amend the Request:

Council could amend the final plan and pass the resolution adopting a strategic plan for City-owned properties with development potential.

Deny the Request:

Council could deny Staff's request.

Continue the Item:

Council could defer decision on this item to a later date.

Do Nothing:

Council could choose to do nothing on this item.

Significant Impacts:

It is important to note that the attached strategic plan will not bind the City to any particular use for a given parcel but will provide more clarity and direction to City Council, Staff and third parties on the intended use of City-owned parcels with development potential.

Recommendation:

Staff requests that City Council pass the attached resolution adopting a strategic plan for City-owned properties with development potential. The resulting strategic plan will not bind the City to any particular use for a given parcel but will provide more clarity and direction to City Council, Staff and third parties on the intended use of City-owned parcels with development potential.

Attached: 1. Resolution with Exhibit A

RESOLUTION ADOPTING A STRATEGIC PLAN FOR CITY OWNED PARCELS WITH DEVELOPMENT POTENTIAL

WHEREAS, the City owns numerous properties with possible municipal uses or development potential;

WHEREAS, potential uses for City-owned parcels with development potential are many and varied;

WHEREAS, the City Council has determined that it is in the public's best interest to have a strategic plan to communicate the intended use for each City-owned parcel with development potential; and

WHEREAS, the City Council has determined it is in the public's best interest to have a strategic plan to guide decision making regarding City-owned parcels with development potential.

NOW, THEREFORE BE IT RESOLVED by the City Council of Park City, Utah as follows:

SECTION 1. STRATEGIC PLAN. Park City adopts the "Strategic Plan for City-Owned Parcels with Development Potential" as attached hereto as Exhibit A.

This Resolution hereby constitutes public notice that the properties listed herein are intended for sale if so noted, and the City Council may meet in closed session as allowed by state law to discuss the best possible terms of a potential sale. Any final approval of a sale by the City Council must be done at a regular, open meeting.

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect upon adoption.

**EXHIBIT A
SUMMARY STRATEGIC PLAN**

Parcel	Intended Use
Baingo\Wortley #1	Recreational Use, Trade/Sell
Baingo\Wortley #2	Public Works Snow Storage
Baingo\Wortley #3	Hold/Trade/Sell
North Forty Parking Area	Recreation Parking ,Trade/Sell
Old Sewer Plant	Park/Water Infrastructure/Fire Station, Trade/Sell
Snow Creek #1	Public Safety, Trade/Sell
Snow Creek #2	Potential Affordable Housing Project, Trade/Sell
Shortline	Trade/Sell
North Library	Current Recreation Use
Wisnewski	Trade/Sell
Colman	Interpretive Park/Green Space, Trade/Sell
Colman (Prospect Ridge)	Open Space/Trail
Pechnick	Trade/Sell
Pace #1-3	Hold/Trade/Sell
Pace #4 (Tailings Parcel)	Hold/Trade/Sell
Braser-Nanaloa	Hold/Trade/Sell

Baingo\Wortley # 1 Parcel

Location	Eastern edge of City on north side of SR248.
Description	Approx 8 Acres.
Ownership	City
Parcel Market Value	No current appraisal available.
Zoning	RD, ECPZ
Current Use	None
Identified Potential Use	Recreation Use (Identified as potential BMX track). Affordable Housing. Public Works Expansion. Park and Ride.
Environmental Issues	None
Miscellaneous Issues	Utilities (water and sewer) are distant from site
Easements	None
Intended Use	Recreation Use, Trade/Sell: Given the ECPZ zoning and utility access issues this site presents many development challenges. The City intends a recreational use for this parcel. The parcel has been identified as the potential site by the Recreation Advisory Board for a future BMX track. The BMX track planned to be temporarily at the Old Sewer Treatment parcel is currently developed as a concept only. Funding for this project exists in CIP funds. The City may choose to sell or trade this parcel in the future.

Baingo\Wortley # 2 Parcel

Location	Eastern edge of City on south side of SR248.
Description	Approx 14 Acres.
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	ROS, ECPZ
Current Use	Public Works Snow\Materials Storage.
Identified Potential Use	Public Works Snow\Materials Storage.
Environmental Issues	Most likely soil contamination.
Miscellaneous Issues	Wetlands protection will be necessary if City chooses to continue snow\materials storage at this site.
Easements	None.
Intended Use	Snow Storage: Proximity to City makes this site invaluable to snow removal efforts as is evident by volume of snow stored there this year.

Baingo\Wortley # 3 Parcel

Location	Eastern edge of city on south side of SR248 (South side of Rail Trail).
Description	Approx 14 Acres.
Ownership	City
Parcel Market Value	No current appraisal available.
Zoning	ROS, ECPZ
Current Use	None
Identified Potential Use	No projects identified by Staff
Environmental Issues	None
Miscellaneous Issues	Access to site is somewhat limited.
Easements	None
Intended Use	Hold/Trade/Sell: No current projects. The City will continue to explore potential uses for this parcel. The City may choose to sell or trade this parcel in the future.

North Forty Parking Area Parcel

Location	West side of PC hill between SR248 and Meadows Drive.
Description	73.5 acres.
Ownership	Municipal Building Authority (MBA)
Parcel Market Value	No current appraisal available
Zoning	ROS
Current Use	Parking for recreation fields.
Identified Potential Use	Parking for recreation fields, Recreation storage, Right of way for eastern access road into Park Meadows from SR 248, Trade\Sell.
Environmental Issues	Wetlands along west side of parcel.
Miscellaneous Issues	Historic structure on site. Much of site is very steep hillside.
Easements	Osguthorpe Single family easement on north end of parcel.
Intended Use	Current Recreation Field Parking, Trade/Sell. Current use for parking fills need generated by recreation fields. Parcel has the potential to serve as right of way for an eastern access route into Park Meadows\Fairway Hills area if this route was deemed appropriate at some point in the future. The City may choose to sell or trade this parcel in the future.

Old Sewer Plant

Location	East of SR 224 on south side of Holiday Ranch Loop Road between Holiday Ranch Loop Road and Saddle View Way.
Description	Approx 8.45 acres
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	ROS
Current Use	Trail along the west side of parcel, Parks and Golf materials storage and staging, Water well and pump house on NE corner.
Identified Potential Use	Fire Station, Park, Water Treatment Plant and infrastructure, Affordable Housing, Public works expansion, trade-sell.
Environmental Issues	Wetlands dissect property in several places.
Miscellaneous Issues	Situated in the flood plain. Old foundations are buried and would likely need removal to prep building site (park site could bury in place).
Easements	Trail
Intended Use	Park/Fire Station/Water Treatment Plant, Trade\Sell The water treatment plant is a required use along the east side of property (next to the Divide and New Park Meadows wellheads). The Recreation Advisory Board has identified this as a potential site for a neighborhood park and a temporary BMX track. The site's geographic location makes it ideal for the placement of a fire station to provide fire suppression and medical response services to adjacent neighborhoods. The packaging of essential water infrastructure, a neighborhood park and a fire station is the optimal identified use of this site. The fire station will provide an on-site security presence for the park and critical water infrastructure. The park provides a softening element for the water infrastructure and fire station.

	Funding for water projects has been identified and concept design and environmental work are underway. City could negotiate sale\trade\donation of site for fire station. Design and funding of the fire station would be provided by the PC Fire District. Funding for the park exists in the CIP.
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Snow Creek # 1 Parcel

Location	East Side of SR224 between Post Office and Snow Creek Drive.
Description	Approx 2.5 acre.
Parcel Market Value	No current appraisal available
Ownership	Lower Park Avenue RDA
Zoning	RDM, FPZ, SLO
Current Use	None
Identified Potential Use	Public Safety Complex, Sell or Trade, Visitor Center
Environmental Issues	None identified
Miscellaneous Issues	None identified
Easements	Trail, Doherty Ditch
Intended Use	Public Safety Complex, Trade/Sell Council has directed staff to move forward with design of Public Safety Complex on this site. The City may choose to sell or trade this parcel in the future.

Snow Creek # 2 Parcel

Location	West Side of SR224 directly east of post office west of Dan's shopping center and north of Snow Creek Drive.
Description	Approx 4.0 acres.
Parcel Market Value	No current appraisal available
Ownership	Lower Park Avenue RDA
Zoning	RDM, SLO
Current Use	None
Identified Potential Use	Affordable Housing.
Environmental Issues	Wetlands along west side of parcel.
Miscellaneous Issues	Providing access to site may be challenging.
Easements	Sewer and road, trail and Doherty ditch easements.
Intended Use	Affordable Housing, Trade/Sell Given the lack of identified projects for this site, the RDM zoning, parcel proximity to transit and other amenities make an affordable housing project a viable use for this parcel. No specific design or funding for this project has been identified. The City may choose to sell or trade this parcel in the future.

Shortline Parcel

Location	Northeast corner parcel at Deer Valley Drive and Shortline Road (south of Public Works directly west of Frontier Bank).
Description	Approx. 1 acre.
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	General Commercial FPZ
Current Use	Vacant dirt lot
Identified Potential Use	Public works expansion, trade-sell.
Environmental Issues	Lies within Soil Protection ordinance boundaries (capping mandatory).
Miscellaneous Issues	None identified
Easements	Parking easement for eight spaces granted to Copperbottom Inn along west frontage with Shortline Road. Any project constructed on this site will have to accommodate these spaces.
Intended Use	Trade or Sell This location adjacent to the Public Works facility make a portion of the parcel viable for Public Works expansion. Its immediate location would help control operating costs that would increase with a more distant location. The portion of the property fronting on Deer Valley Drive make this parcel attractive to a third party seeking a site for office\commercial use. Transit in particular has immediate (0-2 years), intermediate, (3-7 years) and long term (7-20 year) needs for expanded equipment storage and maintenance bays. While the Shortline parcel will accommodate immediate and intermediate needs it is not clear that space is adequate to fill long term needs. It has been determined that a more viable long term strategy for Transit is to seek a new site perhaps in the Quinn's junction area. The City may sell or trade this parcel to fund that alternate site.

North Library Parcel

Location	Recreation field located north of City library
Description	Approximately 1 acre
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	ROS
Current Use	Recreation field and unregulated parking
Identified Potential Use	Recreation field, small affordable housing project at north end of field.
Environmental Issues	None identified
Miscellaneous Issues	None identified
Easements	None identified
Intended Use	Current Recreational Use This parcel will continue in current use serving the communities un-programmed recreational needs.

Wisnewski Parcel

Location	148 Main Street
Description	Approx. ¼ acre.
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	HR-2
Current Use	Vacant dirt lot
Identified Potential Use	Trade/Sell (with relocated historic structure currently located on Colman parcel).
Environmental Issues	None identified.
Miscellaneous Issues	Flood Plain.
Easements	Critical water flow course.
Intended Use	Trade/Sell (with relocated historic structure located on Colman parcel) Given location in historic district relocating structure from Colman parcel will make structure more attractive and improve likelihood outside party would purchase and restore.

Colman Parcel

Location	Located between Hillside Avenue and Swede Alley
Description	Approx. 1 acre
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	HR-1, HR-2
Current Use	Vacant Dirt lot.
Identified Potential Use	Interpretive Neighborhood Park, Green Space
Environmental Issues	Within Soils Ordinance Boundaries (capping mandatory).
Miscellaneous Issues	Flood Plain, Historic Structure on Site, Limited access to site.
Easements	Critical Water Flow Course
Intended Use	Interpretive Neighborhood Park/Green Space, Trade/Sell Given location in historic district, flood plain and limited access to the site make an interpretive neighborhood park\green space a viable and beneficial use. Historic structure on site could be relocated to Wisniewski parcel (just west of Coleman parcel). Funding for the interpretive parks project exists in the neighborhood parks CIP. The City may choose to trade or sell this parcel.

Colman (Prospect Ridge) Parcel

Location	NE corner of Hillside and Main.
Description	Approximately 8.29 acres.
Ownership	City
Parcel Market Value	No current appraisal available
Zoning	ROS
Current Use	Open Space with trail and small parking area on Prospect drive.
Identified Potential Use	Open Space\Trail.
Environmental Issues	Within Soils Ordinance Boundary.
Miscellaneous Issues	Very steep slope.
Easements	None identified
Intended Use	Open Space/Trail. The City believes that current use of this parcel as open space\trail is its best and highest use. This conclusion is based upon the slope of the parcel, its natural and visual qualities, and the lack of any other identified projects for the parcel.

Pechnik Parcel

Location	154 Marsac Avenue
Description	Approximately 1500 sq'
Ownership	Main Street RDA
Parcel Market Value	No current appraisal available
Zoning	HR-2
Current Use	None
Identified Potential Use	Sell or trade for use in affordable housing project.
Environmental Issues	Within Soils Ordinance Boundary
Miscellaneous Issues	Very steep slope
Easements	
Intended Use	Sell/Trade (for use in affordable housing project). The City believes the size of this parcel limits its use in most projects. However its proximity to other privately held parcels makes it a strong sell\trade candidate to be used as part of an affordable housing project.

Pace Parcel #1-3

Location	Summit County south of I-80 east of Rails to Trails. In vicinity where east I-80 enters Silver Creek Canyon.
Description	169.38 Acres
Ownership	MBA
Parcel Market Value	No current appraisal available
Zoning	Summit County
Current Use	None
Identified Potential Use	Trade\Sell (Golf Course) Open Space
Environmental Issues	None identified
Miscellaneous Issues	None identified
Easements	None identified
Intended Use	Hold/Sell/Trade Staff recommends the City continue to explore potential uses for this parcel. The city has recently been approached by a developer concerning the construction and donation of a golf course on this parcel. These discussions are currently in a concept stage only. Prior discussions with the private sector have involved a potential equestrian facility.

Pace Parcel #4 – Tailings Parcel

Location	South side of I-80 at mouth of Silver Creek Canyon.
Description	49.13 Acres
Ownership	MBA
Parcel Market Value	No current appraisal available
Zoning	Summit County
Current Use	None
Identified Potential Use	None identified
Environmental Issues	Soils issues
Miscellaneous Issues	Any construction on this site prior to July 28 th , 2036 requires prior written authorization of Standley, Arvill and Pearl Pace as per sales agreement.
Easements	None identified
Intended Use	Hold/Sell/Trade Given environmental issues and sales agreement limitation on development the sale or development of this parcel will be challenging No City projects have been identified for this parcel. The City will continue to explore potential uses for this parcel.

Braser - Naniloa Parcel

Location	North side of I-80 at mouth of Silver Creek Canyon.
Description	9.51 Acres
Ownership	MBA
Parcel Market Value	No current appraisal available
Zoning	Summit County
Current Use	None
Identified Potential Use	None identified
Environmental Issues	Soils issues
Miscellaneous Issues	None identified
Easements	None identified
Intended Use	Hold/Sell/Trade The City will continue to explore potential uses for this parcel.

City Council Staff Report



Author: Matthew A. Twombly
Subject: Historic Union Pacific Rail Trail:
Cooperative Agreement for
Preconstruction and Construction
Reimbursement
Date: September 1, 2005
Type of Item: Administrative

Summary Recommendation:

Authorize the City Manager to enter into a cooperative agreement with the Utah Department of Transportation (UDOT) in the estimated amount of \$23,606.19 as the City's match for the Preconstruction/Construction of the Historic Union Pacific Rail Trail project.

Description:

Topic: Historic Union Pacific Rail Trail: Cooperative Agreement for Preconstruction and Construction Reimbursement.

Background:

The Transportation Enhancement Committee for fiscal year 2001, authorized the project through the Statewide Transportation Improvement Program (STIP) in the amount of \$158,750. The approved funding by the FHWA is \$127,000 or 80% of the project total. The City Council, at the time of the application, approved the remaining 20% or \$31,750 of the project total.

Because of the Olympics, other project priorities and the planning of the Rail Central project, the City did not undertake the project at that time. Due to this lapse in starting the project, the project was no longer considered a priority for UDOT and the project was put on hold. At this time the City sought Restaurant Tax Grant funding for the project where the funding would be far more flexible, especially in coordinating with the Rail Central project. The project was awarded \$10,500 for the paving portion only. The Restaurant Tax funding was to expire in 2004, but the County graciously gave the City a one year extension.

Although the project was put on hold, the Mountainland Association of Governments' (MAG), UDOT and the City worked to reinstate the project's status as part of the STIP, where Rails to Trails conversions are a priority of the Enhancement Program. In 2004, the City and UDOT began the preliminary scoping on the project. The project was divided into two parts: The Design and Engineering, and the Pre-construction and Construction of the project.

Analysis:

The Federal Enhancement (Federal-aid) Program projects are managed by UDOT where the Design and Engineering must meet all Federal regulations, such as the Endangered Species Act, where clearances must be obtained prior to the development of plans for the project. The Federal-aid for Transportation Enhancement projects are not a grant, but a reimbursement of funds through UDOT. The funds for the project from the FHWA and from the City are pooled together and reimbursements are made to the consultants, contractors and UDOT by UDOT for work on the project. UDOT provides project management, review and approvals on the project.

In February of this year, the City entered into a Cooperative Agreement for the Design Engineering Reimbursement with UDOT for the project. In conformance with the Local Government Consultant Selection Process outlined in the UDOT Consultant Selection Process, the City selected Project Engineering Consultants, Ltd. (PEC), to perform the design engineering. Since the execution of the agreement, all of the environmental, cultural, paleontological and other Federal requirements have been met and the plans are developed enough to schedule bidding through UDOT. Prior to bidding the project, the City must enter into a Cooperative Agreement for Pre-construction and Construction Reimbursement with UDOT (see attached agreement).

UDOT is working on expediting the bid process, so that construction may begin and possibly be completed by the end of this year. The necessary agreement is attached. The engineer's project estimate is less than the Transportation Commission approved amount.

Estimated Funding Breakdown:

Design Engineering	Estimated
UDOT	\$ 5,000.00
Consultant	33,219.06
Design Administrative Cost	<u>2,500.00</u>
	\$40,719.06

Pre-Construction/Construction

UDOT	\$ 1,000.00
Consultant	12,664.00
Construction Contract	<u>96,513.00</u>
	\$110,177.00

Estimate Total: \$150,896.06

Commission approved amount:

Federal Funds	\$127,000.00
Local Match	<u>31,750.00</u>
Total Project	\$158,750.00

Total Match (\$31,750.00) less deposit (\$8,143.81) equals \$23,606.19 in new match deposit.

Department Review:

City Manager, Economic Development and Capital Projects, City Attorney.

Alternatives:

A. Approve the Request:

Authorize the City Manager to enter into the Cooperative Agreement for Pre-construction and Construction Reimbursement with UDOT for the Historic Union Pacific Rail Trail project.

B. Deny the Request:

The project would not receive Federal-aid, and the project site would remain in its current condition.

C. Do Nothing:

Delaying a decision would jeopardize the schedule, where construction would be unlikely this year. The City would need to request an additional extension for the Restaurant Tax Grant funding if the project is delayed.

Significant Impacts:

There is currently a total of approximately \$41,229 in the Trails Master Plan CIP (Fund 31) account leaving a balance of \$17,622.81 for other trail projects for FY 2006.

Consequences of not taking the recommended action:

If delayed, it would be very unlikely to begin the project this year. Not starting the project could jeopardize the Restaurant Tax grant funding for the project.

Recommendation:

Authorize the City Manager to enter into a cooperative agreement with the Utah Department of Transportation (UDOT) in the estimated amount of \$23,606.19 as the City's match for the Preconstruction/Construction of the Historic Union Pacific Rail Trail project.

**COOPERATIVE AGREEMENT
PRECONSTRUCTION & CONSTRUCTION REIMBURSEMENT
Program
(FEDERAL PARTICIPATION)**

THIS Cooperative Agreement No. , made and entered into this _____ day of _____, 20__, by and between the Utah Department of Transportation hereinafter referred to as "UDOT", and Park City Corp., State of Utah, acting through its, hereinafter referred to as "LOCAL AUTHORITY", witnesseth that:

WHEREAS, the parties to this agreement desire to provide for the project, Historic Union Pacific Rail Trail, financed in part from Federal-aid highway funds, said project located in Summit County, Utah and identified as project number STP-LC43(18); and

WHEREAS, the LOCAL AUTHORITY agrees to pay all costs of the project, less the eligible amount reimbursed to UDOT by the Federal Government, and that through their consultant selection process has selected, Project Engineering Consultants, Ltd. hereinafter referred to as "CONSULTANT", as their Consultant Project Engineer to perform Construction Engineering; and

WHEREAS, the LOCAL AUTHORITY agrees to comply with the applicable UDOT and Federal Highway Administration (FHWA) Federal-aid Program Procedures and Standards for the project; and

WHEREAS, UDOT's Policy for Construction Engineering on Local Government Projects provides that UDOT not perform construction engineering for local government projects, unless a hardship exists and substantial savings can be realized by using UDOT construction engineering, and UDOT construction resources are available; and

WHEREAS, by law, UDOT may not expend State Funds on any local government project:

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. **Description of Work Involved:** The work covered by this agreement shall commence upon advertisement of the project, and shall consist of the following:
 - a. UDOT shall:
 - (1) Award the project, with concurrence from the LOCAL AUTHORITY, using UDOT procedures.
 - (2) Provide a Project Manager for the project.
 - (3) Provide Technical Assistance and Engineering Services to the CONSULTANT only if such Technical Assistance and Engineering Services are requested in writing from the CONSULTANT and are not available from other private consultants.

- (4) Charge appropriate costs for all Technical Assistance and Engineering Services to the CONSULTANT.
- (5) Charge appropriate costs for all project management to the project.

2. **Liability:** LOCAL AUTHORITY agrees to hold harmless and indemnify UDOT, its officers, employees and agents (Indemnities) from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of the LOCAL AUTHORITY'S negligent acts, errors or omissions in the performance of this project, and from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of Indemnities' failure to inspect, discover, correct, or otherwise address any defect, dangerous condition or other condition created by or resulting from LOCAL AUTHORITY's negligent acts, errors or omissions in the performance of this project.

Any periodic plan and specification review or construction inspection performed by UDOT arising out of the performance of the project does not relieve the LOCAL AUTHORITY of its duty in the performance of this project or to ensure compliance with acceptable standards.

3. **Financing of Project:** The costs shown below are only ESTIMATES. Actual costs exceeding any funds outside the Commission approved STIP amount will be paid by the local authority. The funding percentages match applies to the Commission approved STIP amount only. Any request for additional funding outside of that amount will required the local authority to make an official request to their MPO or the Joint Highway Committee and the Transportation Commission. An amendment may be required to the STIP with advertisement to the public if approved by the Transportation Commission.

		FEDERAL PARTICIPATING	FEDERAL NON- PARTICIPATING
Preliminary Engineering:			
UDOT Reviews, Services, and Project Management.		\$5,000.00	\$
Consultant Design Costs		\$33,468.00	\$
Right-of-way:			
UDOT Review, Services, and Technical Assist.		\$0.00	\$
Acquisitions and Appraisals		\$0.00	\$
Utilities		\$0.00	\$
Construction Contract		\$96,513.00	\$
Construction Engineering:			
UDOT Construction Monitoring		\$1,000.00	\$
Consultant Construction Engineering		\$12,664.00	\$
ESTIMATED TOTAL PARTICIPATING AND NON-PARTICIPATING COSTS		\$148,645.00	\$0.00
GRAND TOTAL (Participating + Non-participating)		\$148,645.00	
Federal Funds	80% of Commission Approved Amount (\$158,750)	\$127,000.00	
Local Match	20% of Commission Approved Amount (\$158,750)	\$31,750.00	
Local Authority Non-participating Costs		\$0.00	
Local Authority Match and Non-participating Costs		\$31,750.00	
Less Local Match Already on Deposit for Preconstruction Phase		\$8,143.81	
Additional Local Authority Match Required		\$23,606.19	

NOTE: The Utah State Transportation Commission has approved \$158,750 in total funds for this project. Any additional participating project costs above this amount shall be paid by the Local Authority.

- a. **Payment of LOCAL AUTHORITY Match For Construction:** Upon signing this agreement, the LOCAL AUTHORITY will pay their matching share for construction phase estimated at (\$23,606.19). The LOCAL AUTHORITY shall make a check payable to the Utah Department of Transportation referencing the project number. Payment should be mailed to the UDOT Comptroller's Office, 4501 South 2700 West, Salt Lake City, Utah 84119-5998.
- b. **UDOT Technical Assistance and Engineering Services:** The CONSULTANT shall pay all costs (both direct and indirect) for any Technical Assistance or Engineering Service performed by UDOT relative to this project.
- c. **Construction:** The LOCAL AUTHORITY shall pay all costs of construction and construction engineering, less the eligible amount reimbursed to UDOT by the Federal Government. The Joint Highway Committee limits federal participation in construction engineering costs to 20 percent of the construction contract costs for local government projects, provided that the average statewide cost for construction engineering does not exceed the 15 percent limit required by the Federal Government. Construction engineering includes UDOT Project Management and Consultant Construction Engineering.
- d. **Consultant Construction Engineering:** The LOCAL AUTHORITY shall submit four copies of billings with attached supporting data for costs incurred to the UDOT Project Manager. The LOCAL AUTHORITY and the UDOT Project Manager shall certify and approve the billings and forward to the UDOT Consultant Services Accountant within the Comptroller's Office. UDOT shall pay the Consultant for the LOCAL AUTHORITY, by a separate Engineering Services contract for work covered by the billing.
- e. **Underruns:** If the deposited amount stated above exceeds the LOCAL AUTHORITY's total share of project costs, UDOT will return the amount of overpayment to the LOCAL AUTHORITY.
- f. **Overruns:** If project costs exceed the estimated amount, the LOCAL AUTHORITY shall pay its matching share for the overruns. Should the LOCAL AUTHORITY fail to reimburse UDOT for costs that exceed the federal reimbursement, federal funding for other LOCAL AUTHORITY projects or B&C road funds may be withheld until payment is made.
- g. **Final Inspection and Acceptance:** The UDOT Comptroller shall provide the LOCAL AUTHORITY with a final invoice after final inspection and acceptance of the project by the FHWA. If the deposited amount stated above exceeds the LOCAL AUTHORITY's share of the project, UDOT

shall return the amount of overpayment to the LOCAL AUTHORITY. If the project overruns in costs, the LOCAL AUTHORITY shall pay its share of the additional amount required for completion of the work within 90 days after receiving the final invoice. Federal funds for future projects may be withheld until payment is made.

UDOT shall furnish a quarterly statement to the LOCAL AUTHORITY and UDOT Project Manager showing costs charged to the project.

4. **Construction Change Orders:** An authorized LOCAL AUTHORITY official shall approve all construction change orders.
5. **Certification of Consultant Selection Process:** The LOCAL AUTHORITY certifies that the consultant selection process used for obtaining the CONSULTANT for this project is in conformance with UDOT and FHWA requirements. Failure to conform to these requirements may result in loss of Federal funds for the project.
6. **Maintenance:** The LOCAL AUTHORITY shall properly maintain and restore each type of roadway, structure and facility as nearly as possible in its original condition as constructed or improved in accordance with State and Federal requirements. Future utility installations will be made according to UDOT's "Regulations for the Accommodation of Utilities on Federal-aid and Non Federal-aid Highway Right-of-Way."
7. **Parking Regulation and Traffic Control:** After the effective date of this agreement, no changes in parking regulations and traffic control will be made on this project without prior approval of the Federal Highway Administration unless the LOCAL AUTHORITY has a functioning traffic engineering unit with the demonstrated ability, as determined by the UDOT, to apply and maintain sound traffic operations and control. Any requests for revisions should be submitted through UDOT's Region Director.
8. **Inter-local Co-operation Act Requirements:**

This agreement shall be authorized by resolution of the governing body of each party to Section 11-13-17 of the Inter-local Co-operation Act, Utah Code Title 11, Chapter 13, as amended (the AAct@);

This agreement shall be approved as to form and legality by a duly authorized attorney on behalf of each party, pursuant to Section 11-13-9 of the Act;

A duly executed original counterpart of this agreement shall be filed with keeper of records of each party, pursuant to Section 11-13-10 of the Act;

Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this agreement, and for any financing of such costs; and

No separate legal entity is created by the term of this agreement. To the extent that this agreement requires administration other than as set forth herein, it shall

be administered by the mayor of the LOCAL AUTHORITY and the Region Director of UDOT, acting as a joint board. No real or personal property shall be acquired jointly by the parties as a result of this agreement. To the extent that a party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this agreement, such party shall do so in the same manner that it deals with other property of such party.

9. Representation Regarding Ethical Standards for Local Authority Officers and Employees and Former Local Authority Officers and Employees:

UDOT represents that it has not: (1) provided an illegal gift or payoff to a LOCAL AUTHORITY officer or employee of former LOCAL AUTHORITY officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the LOCAL AUTHORITY=s conflict of interest ordinance, Title 3, Park City Municipal Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a LOCAL AUTHORITY officer or employee of former LOCAL AUTHORITY officer or employee to breach any of the ethical standards set forth in the LOCAL AUTHORITY=s conflict of interest ordinance, Title 3, Park City Municipal Code.

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day, month, and year first above written.

City Council Staff Report



Author: Brooks T. Robinson
Subject: 234 Daly Avenue Appeal of
Planning Commission Approval of Two
Conditional Use Permits
Date: September 1, 2005
Type of Item: Quasi-Judicial

**PLANNING
DEPARTMENT**

Summary Recommendations:

Staff recommends that the City Council deny the appeals and uphold the Planning Commission approval of the proposed Conditional Use Permit (CUP) for the construction of a single family home on a slope greater than 30% and the Conditional Use Permit for an Accessory Apartment according to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

Description

Project Name: 234 Daly Avenue
Applicant/Owner: Don and Kathleen Simon
Zone: Historic Residential (HR-1)

Background:

The applicants own platted lot 33, Block 74 of the Park City Survey located at the corner of Daly Avenue and Ridge Avenue. The lot is 7,840 square feet; however Ridge Avenue bisects the property reducing the total square footage of the property by 1,258 square feet to 6,582. The Applicant intends to construct on the upper (west) side of Ridge Avenue.

Applications for two Conditional Use Permits (CUPs) were submitted to the Planning Department on March 11, 2005. The applications contemplate the construction of a single-family residence with an Accessory Apartment of approximately 2,669 square feet total, plus 516 square feet of garage.

Because the proposed dwelling is located within the HR-1 zone, has a proposed square footage is greater than 1000 square feet, and will be constructed on a slope greater than 30%, the applicant is required to file a Conditional Use Application for review and approval by the Planning Commission, pursuant to the Land Management Code section 15-2.2-6(B). An Accessory Apartment is also a Conditional Use in the HR-1 zone.

Steep Slope CUPs are reviewed by the Planning Commission as Consent Calendar items unless the Commission removes the item from the Consent Calendar and sets the

matter for a Public Hearing. The Planning Commission removed this item from the Consent Agenda on June 8, June 22, and July 13, held public hearings each time and continued the item. The Planning Commission also heard the Steep Slope CUP in a public hearing on July 27 and approved the CUP. In addition, the Accessory Apartment application was continued on June 8 and 22 and July 13 and was approved on July 27. (Staff Reports, Minutes and Action Letters are attached as Exhibits).

The City received two letters of appeal within the ten day appeal period. Brooke Hontz of 209 Daly sent an email on Friday August 5 and Julia Pettit and Eric Mosher of 239 Daly sent an appeal on August 8, the last day of the appeal period. (Both letters are attached as Exhibits).

Analysis:

Section 15-1-18 of the Land Management Code (LMC) provides the process for any appeal of a Planning Commission action. Staff finds that both appellants have standing to appeal as all have submitted testimony and/or are within 300 feet of the subject property. Both appellants submitted their appeals within the required ten days in the form listed in the LMC. Issues raised by the appellants are outlined below with staff responses in italics:

Pettit/Mosher Appeal

- Question of Quorum and Voting: LMC15-12-13: "A quorum shall consist of a majority of the appointed members of the Commission, including the Chairman for computation purposes." *Four of the seven members of the Commission were in attendance, so a quorum was present.*

LMC 15-12-14: "Actions by the Commission shall pass by majority vote. A majority is a simple majority of those members entitled to vote on the matter under consideration. The vote of the Chairman shall be counted only when he or she votes in order to break a tie vote of the other Commission members." *The action was unanimous, 3-0, with Chairman Barth not voting and Thomas, Powers, and Volkman not present. A majority of those members entitled to vote approved the action.*

- Findings of Fact Erroneous. *Appellant does not point out any errors in fact although they do question lack of discussion of items of interest to them. The ten criteria for Development on Steep Slopes in the HR-1 zoning district are found in section 15-2.2-6 of the LMC. The Record demonstrates that the Planning Commission had a reasonable basis by which to decide the applications complied with the LMC as reflected in the adopted findings, conclusions and conditions of approval.*
- Overall Impact on Historic Properties. *What is pointed out in the Staff Report and presentation of July 27 is extremely varied building mass, scale and design along Daly Avenue with historic buildings mixed in with contemporary buildings. The Commission requested a more definitive comparison of the adjoining contemporary properties found at 210/212, 214, and 220/222 Daly. Although the appellants are adjacent to the property, they are not only across Daly Avenue but*

Ridge Avenue as well. There is no immediately adjacent structure to 234 Daly due to the Ridge Avenue bifurcation and lack of buildable lots adjacent to the proposed structure. The LMC specified Visual Analysis and other impacts were rigorously complied with.

- Question of Finding of Fact 4. Appellants do not dispute the finding but wish to integrate other criteria not found in the Code. Footprint, which is a part of calculating the maximum Dwelling Volume, is defined merely by a function of Lot size and Setbacks. LMC 15-2.2-6(B)(8).
- Capacity of streets. The City Engineer finds that Daly Avenue can adequately handle the volume of traffic. No evidence was offered to the contrary.
- Parking. Appellant wishes to add additional criteria. The proposed project has two parking spaces for the Main Dwelling and an additional parking space for the Accessory Apartment as required by the Code. In addition, over 700 square feet of the applicant's property (between Daly and Ridge) is encumbered with a snow storage easement. The applicant provides more snow storage and parking than many properties in this "already overtaxed and difficult area for parking."
- Historic District Design. Appellants were notified on July 1, 2005 of the Historic District Design Review. Within the ten day comment period, the appellants did not comment. The Design Review was approved on July 11, 2005.
- Subjective process. The criterion for review clearly outlines the Planning Commission's authority in reviewing a particular site. As evidenced by the voluminous record and number of meetings, a site visit, both work session and public hearings, for a Consent Agenda item, the Planning Commission took many factors into consideration including the public statements and correspondence of the appellants. While the criterion allows the Commission flexibility, additional building restrictions must be reasonably tailored to mitigate specifically identified adverse impacts. By analysis and required design changes, the Commission determined that the building form and scale "compatible with the District."
- Public Policy considerations. Not germane to the specific criteria for the two CUPs. This is an administrative decision. The applicant is entitled to have the project reviewed by the applicable criteria adopted by City. To do otherwise would be contrary to law.

Hontz appeal

- Ms. Hontz states she "disagrees with the subjective analysis provided". Again, as evidenced by the voluminous record and number of meetings, both work session and public hearings, including a site visit and complete visual analysis, the Planning Commission took many factors into consideration including the public statements and correspondence of the appellant. While the appellant may disagree, errors in law were not committed.
- Criterion 6: "Where Building masses orient against the lots existing contours, the Structure must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District." The Appellant ignores the first clause of this criterion as the Building mass orients **with** the existing contours. The Planning Commission weighed the benefits of increasing the

amount of stepping up the hill with its attendant increased excavation and vegetation removal against a relatively narrow building oriented with the existing contours.

- *Criteria 8 and 9: Dwelling Volume and Building Height: As stated in response to the Pettit/Mosher appeal, Daly Avenue is an eclectic mix of many building ages, sizes, heights, and mass. The Commission asked for a comparison of the proposed structure with the immediately adjacent buildings to the north. The Visual Analysis and the site visit gave Commissioners ample opportunity to further limit the volume and its visual mass if the Commission chose to do so. Additional building restrictions must be reasonably tailored to mitigate specifically identified adverse impacts. By analysis and required design changes, the Commission determined that the building form and scale "compatible with the District."*
- *Criterion 10 (c): "The Planning Commission may refer the proposal to the Historic District Commission (now Historic Preservation Board), prior to taking action..." The Commission found that the stepping both horizontally and vertically complied with this criterion and that further review by the Historic Preservation Board was not warranted.*
- *Accessory Apartment as "duplex in disguise": Saying that the Accessory Apartment is a "duplex in disguise" is just factually wrong. Each has technical definitions in the LMC. An Accessory Apartment must meet the nine Criteria For Use found in Chapter 15-4-7 of the Land Management Code. The applicant has submitted a recorded restriction of the Accessory Apartment (Exhibit I) as required by Criterion 7 and the staff and Planning Commission found the Accessory Apartment complied with the other eight Criteria. The building design application is not a duplex.*

Generally, both Appeals fail to demonstrate errors of law or incorrect findings. They merely reiterate conclusory statements that there are not supported by fact. Even if they had asserted more facts, the Planning Commission had sufficient basis in the record to meet LMC 15-2.2-6. There is no requirement that the Planning Commission adopt findings addressing each and every issue raised at the hearing, particularly to disprove statements. The Commission must find compliance with the criteria and that was done in this case.

Alternatives

- The City Council may affirm the Planning Commission's approval of the Conditional Use Permits for Construction on a Steep Slope and the Accessory Apartment as conditioned. Staff has drafted findings, conclusions and an order which the Council may adopt if a majority of the Council agrees with analysis herein and you determine the attached appropriately reflects the Council's decision; or
- The City Council may grant the appeals, in total or in part, and direct staff to make Findings for this decision.
- The City Council may remand the matter to the Planning Commission for further

review of the application consistent with the LMC and direct staff to make Findings for this decision.

- The City Council may continue the discussion on the matter and direct staff as to any additional information that the Council would like provided for the next meeting.

Recommendation

Staff recommends that the City Council deny the appeals and uphold the Planning Commission approval of the proposed Conditional Use Permit (CUP) for the construction of a single family home on a slope greater than 30% and the Conditional Use Permit for an Accessory Apartment according to the findings of fact, conclusions of law and conditions of approval passed by the Planning Commission.

Appeal packet with attachments available at City Recorder's Office – 435-615-5007.

Exhibits

Exhibit A - Pettit/Mosher Appeal

Exhibit B - Hontz Appeal

Exhibit C – Action Letters for both Conditional Use Permits

Exhibit D – Staff Reports, Handouts and Planning Commission Minutes from July 27

Exhibit E – Staff Reports, Handouts and Planning Commission Minutes from July 13

Exhibit F – Staff Reports and Planning Commission Minutes from June 22

Exhibit G – Staff Reports and Planning Commission Minutes from June 8

Exhibit H – Pettit email of 8/21 regarding Historic Design review

Exhibit I – Accessory Apartment Recorded Deed Restriction+