

TENTATIVE MASTER AGENDA

PARK CITY COUNCIL MEETING

SUMMIT COUNTY, UTAH

AUGUST 22, 2002

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, August 22, 2002.

Closed Session

3:30 p.m. Litigation

Work Session

4:20 p.m. Council questions/comments

5:10 p.m. [City Park Master Plan](#)

5:40 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 MEETINGS OF [JULY 11, 2002](#) AND [JULY 18, 2002](#)

V CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance zoning Sunnyside Subdivision - Motion to continue to September 29, 2002
2. Ordinance approving a plat amendment at 350 ½ Main Street - Motion to continue to a date uncertain
3. Ordinance approving a condominium record of survey for April Mountain - Motion to continue to August 29, 2002
4. Ordinance - 1641 Lakeside Circle record of survey plat - Motion to continue to a date uncertain
5. [Ordinance approving an amended record of survey for Sterlingwood Condominiums, Units 1 - 6 and 16 - 18, located at 7800 Royal Street East, Park City, Utah](#)
6. [Ordinance approving a six month time extension for the vacation of a portion of the platted Marsac Avenue between platted First and Second Streets, adjacent to Lots 6 and 7, Block 52 of the Park City Survey, Park City, Utah](#)
7. [Ordinance amending Title 11 of the Municipal Code of Park City to update the effective editions of the Building Codes](#)
8. [Master Festival License for a Community September 11 Memorial to be held at City Park](#)

VI CONSENT AGENDA

1. [Ordinance approving an amended record of survey for Sterlingwood Condominiums, Units 1 - 6 and 16 - 18, located at 7800 Royal Street East, Park City, Utah](#)
2. [Ordinance approving a six month time extension for the vacation of a portion of the platted Marsac Avenue between platted First and Second Streets, adjacent to Lots 6 and 7, Block 52 of the Park City Survey, Park City, Utah](#)
3. [Ordinance amending Title 11 of the Municipal Code of Park City to update the effective editions of the Building Codes](#)
4. [Master Festival License for a Community September 11 Memorial to be held at City Park](#)
5. [Authorization to staff to enter into a professional services agreement with Hansen, Allen and Luce Engineers for general services for the Park City Water System](#)

VII ADJOURNMENT

SPECIAL CITY COUNCIL CLOSED SESSION

SUMMIT COUNTY, UTAH

AUGUST 23, 2002

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold a special closed session to discuss personnel matters on Friday, August 23 at 8 a.m. at the Marsac Municipal Building.

Note: This future meeting schedule is TENTATIVE and subject to change.

PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

August 2002

- 29 Website update - work
- Old Town Needs Assessment projects - work session - CH
- Economic development study - TB - work
- Rail Central Project - TB - work
- Ordinance - 3701 Rising Star Lane plat amendment - DS
- Massage Express lease - KK
- White Pine lease assignment - TB
- Open Space Easement - White Pine/Colony - MH (New Business)

September 2002

- 2 *Miners Day*
- 5 No meeting
- 12 Fred gone
- Sign Code revisions - public hearing - RM
- Olympic legacy projects - work session - PP
- 19 2002 Euston Drive rezone from E to RD - KL - public hearing
- 26

October 2002

- 3
- 20
- 17
- 24
- 31

November 2002

- 7

14

21

28 *Thanksgiving Day*

26

Nightly rentals

Date: August 22, 2002
Department: Leisure Services
Author: Bob Johnston/ Dean Schulman
Title: City Park Master Plan Revisions

(Map available at City Recorder's Office 615-5007)

Summary Recommendation: Staff and the Parks, Recreation and Beautification Board requests direction from Council on how to proceed with the City Park Master Plan Revisions.

Description:

A. Topic: City Park Improvements

B. Background: This Item was first brought to Council's attention on August 11, 2002. Proposed changes to City Park were presented and Council input was solicited. Input was given and changes were made to the proposed plan based on that input. Further input was received on August 8, 2002 during a site visit.

C. Analysis: Attached is the latest draft of the proposal for improvements to City Park. Most of the ideas reflected in this plan have been reviewed by the PR&BB. A formal review and endorsement of the plan will take place at their August 20th meeting. This draft represents the latest distillation of ideas as refined by the City Park Subcommittee of the PR&BB. The subcommittee believes that this plan represents a conservative approach to the needs in City Park, is financially feasible and isn't controversial. The latest draft scales down many aspects of the earlier plan and priorities for implementation have been changed. For example, the plan places higher emphasis on the connection between the south end of the Park and the Library and Education Center. Also, plans for an amphitheater north of Center have been abandoned. In summary, the Subcommittee feels that they are on the right path to modest but important City Park enhancements that improve operations and appearance without changing character.

One issue remains unclear and Council direction would be helpful in order for this process to move forward. The current plan proposes that basketball be relocated from behind the recreation building to the area adjacent to the Skate Park. During the site visit two alternatives to that option were discussed by Council.

- The first, was to put sand volleyball next to the Skate Park and locate basketball in the north end of the park next to tennis.
- The second was to use the area adjacent to the skate Park for expansion of the Skate Park.

The PR&BB and staff would appreciate some discussion of these alternatives and subsequent direction.

C. Review: The proposed park plan has been reviewed by the PR&BB and Leisure Services staff.

Alternatives:

- 1) Council could agree to proceed with implementation of the plan as proposed.
- 2) Council could direct staff and PR&BB to reconsider the proposed location for basketball and place volleyball in that location.
- 3) Council could direct staff and PR&BB to reconsider the proposed location for basketball and utilize that space for skate park expansion (vert ramp).
- 4) Council could make additional changes and /or modifications to the plan and direct staff and PR&BB to return with those changes.

Recommendation:

Provide direction to staff and the PR&BB on how to proceed with the proposed changes to City Park.

PARK CITY WORK SESSION NOTES

SUMMIT COUNTY, UTAH

JULY 11, 2002

Present: Mayor Dana Williams; Council members Peg Bodell, Kay Calvert, Candace Erickson, and Jim Hier

Tom Bakaly, Assistant City Manager; Mark Harrington, City Attorney; Myles Rademan, Public Affairs Director; Pace Erickson, Streets Manager; Kent Cashel, Transportation Director; Bob Johnston, Leisure Services Director; Colin Hilton, consultant; and Jerry Gibbs, Public Works Director

Dean Schulman, Chairman Parks and Recreation Board

1. Council questions/comments. The City Council agreed to meet on Monday, July 22 at 3 p.m. to review its strategic plan. Jim Hier reported that three Planning Commissioners were selected to serve on the Quinns Junction planning task force and a positive recommendation is being forwarded on the zoning of Sunnyside from RD to SF. He continued that he received an email correspondence about April Mountain, and answered it without associating the issue with an appeal. Mark Harrington advised to distribute both emails to Council, and enter them into the record if appropriate. In response to a question from Fred Jones about ex parte communications, Mark Harrington explained that due process constraints of an appeal are meant to ensure that everyone has the benefit of all comments and there is no individual lobbying by appellants. In Mr. Hier's instance, he probably should have disclosed that he shouldn't comment on a quasi-judicial hearing; but on legislative matters, it is appropriate to accept comments from the public but they should be disclosed on the record. The Council calendar was discussed. Fred Jones suggested that Council follow-up on the annual City Manager's bonus and the City Attorney's evaluation and schedule time for personnel on next week's agenda. Ms. Erickson complimented the volunteers involved with the success of the 4th of July celebrations. There was discussion about trash on construction sites,

enforcement efforts, and cleaning up stream corridors. She continued that it may be a good idea to have a discourse on the City's responsibilities with regard to maintaining the Seniors Center.

Myles Rademan reported on the progress of the entry corridor task force who is planning improvements honoring the Olympics and a \$350,000 landscaping project at the Richins County Building has been approved by the County. A consolidated signing program may include Olympic pictograms on rocks, welcome signs, and an event board at the Utah Olympic Park. Council will have an opportunity to review the concept. Kay Calvert thanked Chief Evans for quickly organizing a *Neighbors Helping Neighbors* Outreach Program. With regard to Sunnyside, she emphasized that notifying people of meeting changes more than 24 hours in advance would be appreciated. Jim Hier expressed his confusion as he attended the Planning Commission meeting where Sunnyside was reviewed. Ms. Calvert clarified that the residents expected it to be scheduled on the July 18th City Council meeting but it was moved. Pat Putt clarified that when the Planning Commission is finished deliberating, it will probably be scheduled before Council, probably in early August.

Mayor Williams thanked the Public Works Director for installing speed humps in the Prospector area. He asked if there is a way for Deer Valley to keep the Olympic tower flags flying without violating the Sign Code. Myles Rademan explained that next week, Council will be reviewing Olympic legacy projects and Deer Valley flags will be addressed. The Mayor shared his correspondence from the week. There was discussion about modifying a Chamber/Bureau ad geared toward young men age 17 - 25. In response to questions from Peg Bodell, Kent Cashel explained the *pay parking* stencils on the curb between meters on Main Street in the hope to better inform visitors. She felt that people will complain about the signing and Mr. Cashel explained that many visitors, not familiar with pay and display, get frustrated and this is an attempt to mitigate those complaints. Pace Erickson explained that there is no policy on artificial flowers at the cemetery; live flowers are collected and removed after they die. The artificial flowers are not removed. The Mayor emphasized that there is a lot

of information available for the Old Town Assessment Study which should be utilized and not duplicated.

2. **City Park Master Plan revisions.** Bob Johnston reported that staff, the Fire Department and EMTs have been working on a helmet safety program at the skate park. It was decided to hand out t-shirts to safe riders. He gave the Mayor a sample and indicated that he would provide shirts to Council members who would like to hand them out.

He continued that the Parks and Recreation Board has been working on a master plan for three years, which was adopted a year ago. The Board had objectives including creating a safer park which functions better for users. Another objective was the skate park and to improve the children's play area. Features of the plan include expanding basketball and sand ball opportunities, improving the bandstand, and developing a stronger pedestrian connection between the south end of City Park and the Library and Education Center campus to Empire Avenue. The architect, Design Workshop, divided the park into five areas: team sports in the north end, family area with playground at the core, urban style park by the skate park, cultural area in the south end, and the stream identified as the riparian spine. Mr. Johnston stated that the Parks and Recreation Board prioritized the projects into three phases and by illustration of a map, described the location of various activities. It is proposed to move the tennis courts in the north to the Library and Education Center campus and move basketball between the drilling and mucking competition and skate park. In Phase 1, it is desired to install landscaping for shade here. A dog park is addressed in the south end responding to recent Council direction. Mr. Johnston continued that the Board would like to redevelop the Recreation Building and the surrounding to make it more appealing and perhaps a install a water amenity. Phase 2 looks at parking and traffic calming by way of bulb-outs across Park Avenue. Phase 3 focuses on the Library and Education Center and the campus which could accommodate an portable amphitheater. However, it would involve altering the hillside which may improve the sledding. The neighbors were invited to a public hearing before the Board and generally the feedback was positive; staff is seeking some guidance from Council.

Chair Dean Schulman commented that the Board's goal is to make City Park more responsive to current community needs and in the process to make the interface among the different park users more harmonious. The proposal is very preliminary in nature and conceptual. The Board's reaction to the dog park was generally favorable by using an underutilized area to segregate off leashed dogs from other users. The amphitheater and move across the street was supported as it freed up primary areas in City Park for more intense uses. Design Work Shop's recommendation to move the tennis courts was not favored by the Board as it seemed like an unnecessary cost. There was a suggestion to move the basketball court to the north end of the Education Center campus to avoid potential conflicts with the court and the skate park. The Board also made an effort to separate different activities based on age and character of usage. There was some support to eliminating volley ball altogether, moving it to the Racquet Club and perhaps expanding basketball in that location. Mr. Schulman solicited Council's input for direction to the Board to again revise the plan so it can move forward.

As a patron for 20 years and a property owner on Sullivan Road, Peg Bodell stated that she is very familiar with the elements of City Park. She felt the tennis courts are in good condition and can't support moving them and favors the cultural tie-in with the amphitheater. The one-way streets are good and she suggested an access from Deer Valley Drive that is one-way as well, into the back of Miners Hospital. She asked about the demonstration garden which is neglected. Bob Johnston explained that maintenance is staff intensive and the Parks Department has suggested reducing or relocating it. Ms. Bodell agreed and felt that the Garden Club might like to take it on as a project. She also directed staff to contact the Arts Council to submit a public art plan. She pointed out that the area behind the 7-11 is an eyesore and needs to be cleaned up. One-way streets would accommodate 450 parking and many more cars. There is property on Park Avenue for sale and there may be an opportunity to obtain more space for the park. Ms. Bodell preferred to see active uses along the stream corridor rather than passive and is pleased to see benches. The plan should be longer term than five years. She reminded everyone that there are many adjacent neighbors and property values will go down if the City is not sensitive to their

concerns. Isolating activities is understandable but she warned not to segregate families and suggested bleacher type seating at the skate park. Planting trees will also be helpful.

Candace Erickson stated that she attended the hearing and heard the public input. She is not supportive of locating of the basketball courts by residences or moving the tennis courts. Improvements to the Recreation Building are needed as is shade by the skate park. Mr. Johnston discussed the scale of the amphitheater which is small and the purpose of reducing the demands of the bandstand. This project is in Phase 3 and there will be further opportunities for input from the public, technicians and performers. Ms. Erickson stated that she did not feel strongly about the dog park in the south end and expressed concern about owners being in control of their dogs at all times. In response to a question from Council member Erickson, Bob Johnston advised that if the tot lot fence is installed now, if it can be reused in the future. Jim Hier felt that Ms. Bodell's comments are valid and agreed that the costs associated with moving the tennis courts should be reconsidered. He supports the narrowing of Park Avenue and the connection to City Park, and would like to see this addressed in Phase 1. He stated that he is strongly in favor of the dog park. It is a good opportunity for the community and especially Old Town. Peg Bodell concurred but asked if there is a barking problem associated with the parks and Mr. Hier commented on the successes of other parks and believed that dogs bark more when on a lease. There was discussion about the unfenced dog park at Trailside Park where there is a free area for dogs to run, interact and play frisbee. Blocking off the road behind Miners Hospital and making traffic one-way north and south may be a good traffic calming solution. Fred Jones concurred on the tennis courts and agreed with Mr. Hier and Ms. Bodell suggestion to study one-way and blocking the road, especially if it provides more room if concerts remain in their current location. He is hesitant to start cutting up the field in the campus area by way of an amphitheater. The size of the location for the dog park in the south end doesn't appear to be adequate and it may be more appropriate to have picnic tables there. Maybe not all uses can be accommodated in City Park and some activities could be moved to the Racquet Club or other areas. Ms. Calvert agreed that there is probably too much in the plan and felt that the

south end is a good place for a dog park. Her concern about installing art there is that the location is somewhat remote and it would be enjoyed more at Miners Hospital.

Council member Jones interjected that he would like to see the Park City landscaping and Mawhinney lot projects in Phase 1. Perhaps not moving the tennis courts would free a funding option for improving this area. Ms. Calvert also supported the connection and bulb-outs on Park Avenue and felt it will be a benefit for residents. Jim Hier emphasized that he is not in favor of additional curb cuts on Deer Valley Drive to provide access to City Park from a different direction. In response to a comment from Ms. Erickson about moving volley ball to the Racquet Club, Bob Johnston explained that this would consolidate play on grass courts for preliminaries and sand for final tournaments and help staff manage the events easier. This move is also supported by the Police Department. Another option is moving volley ball to Trailside Park, but it has been a good event for the City and we hosted 150 teams last week.

Mayor Williams stated that he is in favor of maintaining the tennis court location and pointed out that the design of the drain in the north end area should be streamlined as it takes up too much room. Basketball in the drilling and mucking area next to the skate park is not a problem for him. He questioned the effectiveness of the dog park and losing the space to another use. The location is confined and too close to the stream and the Mayor suggested that perhaps there are areas on trail systems that could be leash free. He strongly supported fencing the tot lot as soon as possible and understood the concerns from Park Avenue residents who never imagined tennis courts adjacent to their properties. Maintaining the Library and Education Center as an open field with no designated uses is a good thing and he would like concerts to remain in the bandstand at City Park. The Mayor supported improvements to Park Avenue in Phase 1 which may be effective in deterring truck traffic. Peg Bodell asked if the Senior Center property could be also be addressed by the Parks and Recreation Board.

3. Review of regular meeting.

Neighborhood Traffic Management Program and Traffic Calming Policy. Colin Hilton, consultant, referred to the presentation last week where Council directed staff to formulate an administrative policy and draft language is included in the staff report. This provides a structured involvement by citizens requesting traffic calming, a more formal review process for staff as well as allowing greater ability to focus resources on traffic problem areas. The policy was authored by the Public Works Director three years ago, and Mr. Hilton recommended that it be titled *The Traffic Calming Policy* with traffic calming procedures within the document. It reflects minor changes, including the inclusion of a section on communication protocol, and naming a Traffic Calming Traffic Manager; he reviewed Council alternatives on this matter. He added that he has recently received several requests from neighborhoods who would like the program initiated. The Mayor supported the program. He likes the concept of neighborhoods being involved and determining their own destinies and feels it is well thought out. Kay Calvert agreed but felt there should be defined dates for programs and someone to manage the program. Mr. Hilton stated that he is the Project Manager. Ms. Calvert reiterated that there should be hard dates to evaluate the job we're doing. Mr. Hilton described the two-phased process prompted by requests. She again suggested formulating a definite schedule and providing Council with regular updates. Mr. Hilton described the benefits of having a point person which will be an immediate improvement. Mr. Hier explained that this is a policy to allow citizens to petition for some action and defines a procedure which until now has been informal. It generates its own time line. There was discussion about five interested neighborhoods and the design of the median on Holiday Ranch Loop Road and its effect on narrowing the pedestrian lane.

In response to Ms. Calvert's comments, Jerry Gibbs explained that there are some simple solutions to requests and staff will respond quickly. There are other requests involving chicanes, medians, bulb-outs, etc. which take more time to analyze. He further explained that people initially wanting speed bumps may learn that they don't want them in front of their houses because they are noisy and this is part of the education process contemplated in Phase 1. Many of the solutions may be mutual but staff would like to offer a wide range of options and work with the neighborhood. Ms. Bodell felt that involving people is

great and emphasized the importance of promoting the program. She felt that residents should be given some sort of time line. Mr. Gibbs responded that that is the purpose of the first meeting with technical staff; identifying the issues and projecting solutions. Ms. Bodell stated that she would like the *editorial* about stop signs removed; other things like speed limit signs are not addressed at this scale and she suggested neighborhood announcement signs. For instance, *Welcome to our Neighborhood* would alert motorists they are in a residential zone and this could be added as a passive control. Jerry Gibbs commented that he detailed the use of stop signs, because it is the most misunderstood and misused of the traffic calming devices. It is not intended to exclude stop signs as a solution but merely to provide information on warrants. Ms. Bodell insisted that the language be eliminated and to provide stop sign information during the first meeting. After discussion, Council concurred. In response to Fred Jones about moving ahead with adopting the policy tonight, Mr. Hilton indicated that he feels comfortable that he has captured the changes discussed. Mark Harrington recommended that Item 6 be removed from the Consent Agenda, give direction on specific changes in the motion, and delegate the Mayor to execute the resolution pursuant to Council's direction so it doesn't have to come back to Council.

April Mountain appeal process. The City Attorney explained that this appeal is limited as it pertains to the timeliness of submitting an appeal on the MPD approval by the Planning Commission. This is not a hearing, but a determination of the timing of the petition. The plat is scheduled tonight, but all three parties have stipulated to continue to the Council meeting on July 18, 2002 so that it can be heard in tandem with the CUP appeal, if forwarded from the Planning Commission. If public is present who can't attend the meeting on July 18th, the City Attorney advised that it would be appropriate to invite their testimony.

Other meeting questions/comments. With regard to the Main Street bridge encroachment, the City Attorney emphasized that the planning process for this project is complete and has received CUP approval. Any opportunity for the Council to call-up the CUP has passed. This is just a review of an encroachment permit pursuant to the City's right-of-way encroachment policy that is administered by the City Engineer.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING

SUMMIT COUNTY, UTAH

JULY 11, 2002

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, July 11, 2002. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, Assistant City Manager; Mark Harrington, City Attorney; Ray Milliner, Planner; Brooks Robinson, Planner; Alison Butz, Special Events and Facilities Manager; Kathy Gammel, Water Manager; and Colin Hilton, consultant.

II PUBLIC INPUT

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

1. City Park Master Plan:

Gary Pinnell, 1102 Park Avenue, stated that he is here to comment on the City Park Master Plan, specifically the south end proposed for a dog park. This is a prominent entrance to the park and more space is needed for an adequate facility. He supports passive uses at this end which could be a quiet landscaped sitting area, creating a buffer from the skate park and other active uses. Another option could be an attractive climbing rock as a buffer. He also pointed out a 20 foot encroachment of Sullivan Road on his property and would like that considered when improvements to this end begin this summer. Mr. Pinnell also suggested under-grounding utilities or at least installing the conduit and installing a water feature in the south end. He supports moving volley ball to the Racquet Club and liked the bulb-outs on Park Avenue.

Puggy Holmgren, Park Avenue resident, indicated that she was at the public hearing on the City Park Master Plan. Her biggest concern continues to be the speeding on Park Avenue and is pleased to learn of the traffic calming policy, but is in favor of stop signs and cross walks. There have been injuries to pedestrians and dogs because of speeding cars and the speed limit probably should be lowered. Even the City buses appear to be speeding.

Ed Brophy, resident, suggested putting the tennis courts where basketball is proposed and basketball across the street. There is some room on the west side of the bike path which could be considered for the dog park.

2. Road cuts - Belt Route - Richard Robertson, 7980 Juniper, stated that he purchased a unit at Town Pointe and described the difficulty in making a left hand turn to travel north on the belt route from the project and lower Main Street. He suggested that the speed limit be reduced near these areas to 25 mph but understood it is a state highway. Tom Bakaly responded that staff continues to talk with UDOT about jurisdiction of the road and the City Engineer will help him with contacts. Mr. Robertson added that he would like to suggest a joint landscaping buffer project with owners of Town Pointe and UDOT.

Mayor Williams invited anyone in the audience wanting to speak on the April Mountain appeal, who can't be here for the hearing next week. Hearing no further comments, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Peg Bodell thanked the Chief of Police for the PSAs on trails. The City Attorney explained that he is co-sponsoring a citizen participation workshop for public hearings with CARG which is scheduled Wednesday, September 4. He will be sharing his thoughts on providing effective public hearing testimony on planning matters.

IV WORK SESSION NOTES AND MINUTES OF MAY 23, 2002

City Recorder, Jan Scott, recommended that the minutes be continued. A recording error occurred on the 23rd, and the attorneys on the Evergreen Subdivision matter were afforded an opportunity to edit the draft. Peg Bodell, "I move to continue". Kay Calvert seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

Appointment of Kent Cashel as the City's representative on the Park City Fire Protection District - Fred Jones, "I move to appoint Kent Cashel as the City's representative on the Park City Fire Protection District". Peg Bodell seconded. Motion unanimously carried.

VI CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance approving a condominium conversion for the property located at 1765 Sidewinder Drive, Park City, Utah - Ray Milliner explained that the applicant received a timeshare approval about a year ago which expired. Since no units were sold, he has decided to convert the units to condominiums and staff recommends approval. Hearing no comments from the Council or the public, the public was closed.

2. Ordinance approving a six month extension of a plat amendment to add a metes and bounds parcel to 3198 American Saddler Drive (Lot 4) and add a metes and bounds parcel to 3204 American Saddler Drive (Lot 3) and amend the Risner Ridge Subdivision, Park City, Utah - Planner Brooks Robinson explained that this is a request for a six month extension to record the plat. Part of the Council action a year ago was denial of a zoning change request with regard to a sports park. The City has stayed enforcement action on the

sports court until the Utah Private Property Ombudsman holds a hearing on July 17. Hearing no public input, the public hearing was closed.

3. Master Festival License for Dining on Main Street - HMBA - Alison Butz explained that she was approached by the HMBA about an idea for dining outside on Main Street. The Master Festival License applies for the ability to place seating on the Main Street sidewalk in front of certain outlined restaurants. It is proposed to use the sidewalk as a seating area, and reroute pedestrian traffic into the adjacent parallel parking space. The Building Department was contacted with regard to redirecting pedestrians and Mr. Ivie suggested placing signs on both ends which states that the handicap accessible route would be maintained on the sidewalk and to notify a server. The restaurants have agreed to this requirement. Ron Ivie further recommended placing reflective tape on the curb to alert pedestrians to the curb. The application is for four weekends, July 19, August 9, August 23 and September 6 and the HMBA has indicated that if this is successful, they may pursue an amendment to Code next year to allow dining on the sidewalk during the summer. By allowing restaurants to expand their seating area, is in no way a license for sidewalk sales. For the benefit of Jim Hier, Barb Clark of the HMBA explained that every restaurant was invited to participate. Fred Jones pointed out that dining on Main Street was contemplated in the Main Street Action Plan and one of the concepts was putting the dining in the parking spaces so the sidewalks remain open. It would be interesting to test. He also suggested some type of a platform which would eliminate risks of stepping off the curb. The barricades should enhance Main Street and not look like a construction detour so the idea is given a fair chance. Ms. Butz explained that since this is a short term event, the DABC would not extend the restaurant's license unless it is directly adjacent to the front door. An amendment to state law would be required to serve seating in the parking space. Ms. Clark explained that picket fencing will be used and the structure will be reinforced with water barricades. Ms. Butz corrected the tabulation of fees in the staff report. There was discussion about loss of revenue from paid parking, and Ms. Bodell expressed that she supports waiving fees this year and views this as seed money. She challenged the restaurants to be creative with their

fencing and added that a pedestrian boardwalk may work if dining remains next to the door. There was discussion about designating a number for participating restaurants. Jim Hier expressed concern about taking parking away from Main Street and potential complaints from other merchants. Barb Clark stated that the membership was surveyed as well as other associations and she didn't hear much concern about the loss of parking, but it was raised. Peg Bodell agreed with Mr. Hier and felt there has to be a fine balance. Kay Calvert felt that in order for the event to be successful, as many as 20 restaurants probably need to participate on the street. Ms. Clark added that the HMBA is trying to come up with ideas to bring energy to this part of town and found this recommendation in the Downtown Action Plan. Fred Jones suggested that events over 20 restaurants would come back to Council for approval. Kay Calvert requested an update after the first two are held. Peg Bodell encouraged the HMBA to arrive at ideas that don't take away parking.

There was an update on the Farmers Market and Ms. Clark felt that participation will increase when the produce vendors come on line. There is some funding left in the project budget, which will be used to market it. Customers have indicated that parking is inconvenient which she felt is more of a perception issue. Vendors would like to remain at the flag lot but would like to adjust hours from 3 p.m. to 7 p.m. rather than closing at 6 p.m.

VII CONSENT AGENDA

Alison Butz stated that a Condition 4 can be added to Item 3 that *there will be a maximum of 20 participants. If the applicant wishes to exceed that number, Council review is required.* Jim Hier, "I move to remove Item 6 from the Consent Agenda so that we can make a modification suggested in work session and vote on it separately". Fred Jones seconded. Motion unanimously carried. Fred Jones, "I move to approve Consent Agenda Items 1 through 5 with the modification to Item 3, as so noted". Kay Calvert seconded. Motion carried unanimously.

1. Ordinance approving a condominium conversion for the property located at 1765 Sidewinder Drive, Park City, Utah - See staff report and public hearing.
2. Ordinance approving a six month extension of a plat amendment to add a metes and bounds parcel to 3198 American Saddler Drive (Lot 4) and add a metes and bounds parcel to 3204 American Saddler Drive (Lot 3) and amend the Risner Ridge Subdivision, Park City, Utah - See staff report and public hearing.
3. Master Festival License for Dining on Main Street - HMBA - See staff report, public hearing and motion.
5. Approval of encroachment agreement at 875 Main Street for the Main Street pedestrian bridge - See staff report and work session notes.
6. Resolution adopting a Neighborhood Traffic Management Program and Traffic Calming Policy for Park City, Utah - See staff report, work session notes, and motion.

The City Attorney suggested that Council move to approve Item 6 pursuant to the changes noted in work session with direction to the Mayor to review the final resolution prior to signing. Jim Hier, "I so move". Fred Jones seconded. Motion carried unanimously.

Ed Brophy, resident, complained about the lack of enforcement of handicap parking. The 25 mph speed limit sign on the round-about to Deer Valley Drive is behind the bushes, the speed sign at the town bridge needs to be replaced, and the sign at the compactor in Swede Alley should be moved to a more visible location.

VIII PUBLIC HEARING

Ordinance approving a final subdivision plat known as the April Mountain Subdivision, located on Mellow Mountain Road, Section 16, Township 2 South, Range 4 East,

Salt Lake Base and Meridian, Park City, Utah (motion to continue to July 18, 2002) - Fred Jones, "I move to continue to July 18". Peg Bodell seconded. Motion unanimously carried.

IX NEW BUSINESS

1. Determination on validity of timing on the submission of an appeal of the Planning Commission action of June 12, 2002 approving the MPD for April Mountain - Mark Harrington explained that Council has the unpleasant task of formulating a preliminary motion on a jurisdictional question of whether an appeal was timely filed and therefore, whether Council has jurisdiction to go forward and hear the appeal or not. This is a serious matter as Council members are weighing the appellant rights of some citizens and if Council supports staff recommendation, you would be closing those rights. Case law regarding due process to appellants is *generous* and supports due process opportunities. On the other hand, Council must consider the due process rights of the applicant who has equal due process rights and relies on both published standards and disclosure dates on appeals just as much as the other side has the right to adhere to the appeal rights afforded by those same standards. This is a balance and in that effort, Mr. Harrington disclosed that he contacted both parties to propose hearing this determination, the pending CUP appeal, and final plat for April Mountain on July 18, both attorneys declined to entertain that process.

He continued that Council may question the severity of submitting an appeal four days late, but there are statutory and case law authorities that require these deadlines to be strictly followed. There is no provision that allows staff to waive them or amend by stipulation and this is why the City Council must make this decision. The City Attorney added that the staff report is based on what he believes is a clear reading of the statute and follows the practice of the City. He thanked both parties for working together with the City on scheduling this today and consolidating the plat and appeal on the 18th.

Joe Tesch, attorney for Aerie Owners Association, disagreed that the ten day *clock starts ticking* when the vote is taken. He referred to an instance tonight where a motion

was made to approve a policy at the discretion of the Mayor as amended during work session, which is unrecorded. There was a situation tonight where the City Recorder acknowledged a recording error. The decision tonight isn't about April Mountain, but Council is seated like an appellate court and it must live with this determination. He continued to describe confusion to the public when the Council deliberates on findings and conditions and they are adopted and amended during the meeting. This would mean that without the benefit of the minutes, the ten day appeal time period begins at the vote and that is an impossible burden for any citizen.

Mr. Tesch, read from the ordinance, *"The appeal must have a comprehensive statement of all of the reasons for the appeal, including specific provisions of law, if known, that are alleged to have been violated by the action taken"*. The appellant should not be stuck with the burden of understanding what happened verbally without having approved an executed minutes. He read his supplement memorandum regarding the timeliness of appeal. The section of the Code dealing with Planning Commission action states *the minutes of the meeting are public record and shall be available within a reasonable time after the meeting*. A subsection provides that all decisions of the Planning Commission shall be provided in the minutes. Mr. Tesch stated that they're required written findings; the findings may be prepared separately but must be incorporated into the minutes. If there are no minutes, there is no action until the minutes are approved and that the action takes place. With regard to the staff report, he referred to Section 15-6-3(F) *Planning Commission Action* of the LMC. He read the provision, . . . *"To approve an MPD, the Planning Commission will be required to make the findings outlined in Section 15-6-6. . . Any appeal of a Planning Commission action will be heard by the City Council in accordance with Section 15-1-18"*. Mr. Tesch continued that the City Attorney argues there is a finding of fact section in the general definition section which should be applied here. That isn't so. Simple contract interpretation takes you to 15-1-18 and only 15-1-18. Section 15-1-16(E) states *"Timing. All Appeals must be made within ten (10) calendar days of the Final Action. . ."*. Section 15-1-18(M) *Finality of Action. Final Action occurs when the deciding body has adopted and executed written findings of fact and conclusions of law"*. They are therefore adopted when the minutes are approved and when the minutes came before the Planning Commission last night, they were approved and executed on July 10. No official action could have occurred prior to that time.

Mr. Tesch stated that there is an argument presented by the City Attorney that this final action section was intended to only address action in appeals. Subsection 15-1-18(N) reads *"Reconsideration. The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that body. The City Council and any Board or Commission, may reconsider any quasi judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. . ."* If the action was the vote, the vote in the meeting and not the approval of the minutes and execution of the findings of fact, there is no reconsideration time possible. It is inconsistent and impossible that the Final Action is the vote and still be consistent with the minutes. He continued that the only way this can be read in fairness and consistent with ordinances, is to say that Final Action is the approval of minutes. Reconsideration can not occur on a verbal action considered to be a Final Action; it can't be done. Mr. Tesch emphasized that his appeal was timely and the only issue is whether it was right in the sense there is no Final Action to appeal from since last night. In his appeal, he has asked that any subsequent appeal be incorporated so there is some way of going forth. When minutes are prepared, Mr. Tesch believes they are circulated and very often revised and changed. To suggest that a citizen should have the obligation to somehow anticipate what the minutes are going to say is a very impractical burden. The Mayor clarified that work sessions are recorded and there are detailed notes of the meeting.

City Attorney Harrington stated that he was glad that he brought up the recording error because it brings up the point of the complexity of the issue of finality. The action at the meeting was consideration of an ordinance for Evergreen Subdivision and that approval became final on the day Council adopted it. This is defined by state statute regulations and there is a further step that the ordinance is effective upon publication. Enactment has nothing to do with the minutes and that ordinance can not be amended by adoption of minutes, so Mr. Tesch is wrong on that point. Mr. Harrington emphasized that he wants to make this very clear because it is relevant to the point in which this section can't mean what he says in terms of execution of minutes. The Evergreen ordinance is executed,

published and is completely separate from the status of the minutes. Final Action is a defined term and designated by capital letters in the definition chapter, so the definition chapter does apply to Chapter 15. Both sections need to be read consistently because they both apply and he quoted 15-15-8.7., *"Final Action. The latter of the final vote or written decision on a matter"*. In its most literal sense, if you buy Joe's argument about execution on every item in order for it to be appealed after the fact, when could you have a final vote on the matter, if it's appealable. Mr. Harrington stated that the chairperson would have to executive findings beforehand which is nonsensical. Additionally, there are several matters that are clearly appealable to either the Planning Commission or the City Council which don't have executed formal findings, i.e., grants are adopted by motion. If Mr. Tesch's position is supported, every single action of the City would have to provide written and executable findings subsequent to the vote.

Additionally, minutes can take as long as two months after the meeting in some cases. The City Attorney stressed that minutes are a record of the meeting and a record of the actions taken at the meeting. They're not the action of the meeting and this is an important distinction. Otherwise, if decisions weren't final until the adoption of the minutes, the logical extension would be that the Building Department couldn't issue permits until a decision was final. There could be a potential two month delay from the vote to approve a project and the execution of the minutes, and it just doesn't make sense.

He acknowledged that this is a very confusing matter. There were three items pending before the Planning Commission, final plat, MPD and CUP and to make it more complex, the Commission made a motion to recommend a rezone during the same meeting. He didn't believe the appellant understood that when the Commission acted, that this review wasn't coming to City Council and that is probably why the Aerie Owners Association waited.

No one asked for clarification until 14 days later and now bear the burden of not asking that question right after the meeting. The City Council does not have the authority to change the text of an ordinance by way of amending the minutes. With regard to finality of action, the City Attorney stated that the staff report was executed written findings. It was an original

document and remained unchanged, executed by the staff person, and adopted by motion. In this case, there were no changes. The staff report was available at the meeting and adopted with no change. There is no code requirement for the *action letter* which is a courtesy letter summarizing action to the applicant. Mr. Harrington believed that the delay in producing the letter may also have contributed to the appellant's ability to raise this matter. Usually, it is sent two or three days after the action and there is no issue, but the planner was on vacation after the meeting and it didn't go out until about a week later. Again, in a legal sense, we view this not to be relevant. The inconsistency between (M) and the definition of Final Action in the definition section needs to be read in tandem. He described in detail the creation of the sections on finality of action and reconsideration which resulted in the 1997 denial of the Town Lift Bridge and its subsequent reconsideration. These sections were crafted with very specific language for appeals and requires written executed findings. With regard to section (F) Planning Commission Action, there is mention of findings of fact, etc. but no mention of minutes. Mark Harrington reiterated that the findings were voted upon at the meeting, unchanged and that is the reason the staff has taken this position. In response to a question from Peg Bodell, City Attorney Harrington explained that a written decision is the findings of fact, conclusions of law, and conditions of approval adopted by motion and are physically available at meeting where they are adopted.

Bruce Shapiro, attorney for April Mountain, reminded the Council that the final plat and appeal of the CUP will be before Council next week. In its many reviews of cases dealing with finality of action, the Supreme Court views final action when no more arguments can be made, and when the rights or obligations have been determined or if legal consequences will flow from that agency action. They look to see if the action is preliminary, procedural or intermediate. None of those occurred here. He read the motion and decision, *"The Commissioners then moved to approve the revised April Mountain Master Plan development based on the findings of fact, conclusions of law, and conditions of approval, outlined in Pages 206 to 217 of the staff report"*. The motion was seconded and passed unanimously. Mr. Shapiro stated that that sounds pretty final to him. Subsequently, the final plat was reviewed and approved by the Planning Commission. This is another action

supporting finality of action. Mark Harrington interjected that the Commission did not approve, but forwarded a positive recommendation. Mr. Shapiro acknowledged the distinction and continued that the minutes are a record of the meeting. This project has been under review for years with many opportunities for public input.

Joe Tesch argued that Section 18-1(M), final action is defined and you don't have to go anywhere else. The suggestion that this would not apply to an ordinance doesn't make any difference because an ordinance is legislative not a judicial action, as is this matter before Council. The fact that the findings were not changed during the meeting doesn't make any difference, because you would not be able to definitively look at those and file a comprehensive appeal until you had the minutes. In this instance, the findings do not address nightly rentals and the City holding up the developer for a while isn't unreasonable. Ten days is the shortest amount of appeal time he is aware of; 30 days is more common. Mr. Tesch felt that the suggestion that a due process violation could occur is *bunk* and a scare tactic. He stated that it is ridiculous to suggest that they made a mistake in filing the appeal. Not all of the issues of the MPD can be raised in the hearing on the CUP and final plat next week. Regardless of whether the MPD becomes vested, all of the issues should be open for debate on July 18.

Bruce Shapiro reiterated his argument and referred again to the specific pages outlining the findings in the Planning Commission's staff report. The Council must treat everyone equally, and ten days is ten days and consistency needs to be applied. Mark Harrington added that Council call-ups are also quasi-judicial and 15 days are afforded to enable a two week period in case a meeting is canceled to ensure an opportunity to formally call an item up. These time periods are calculated from the date of the vote and never from the date of the minutes. Secondly, Mr. Tesch's allegation that the issues of the MPD will not be address is not accurate. He pointed out the substantive features of the appeal, i.e., the ability to comment on nightly rentals, access is clearly a plat issue, the BLM lease relates to access and the development agreement. Mr. Tesch alleges that information was inadequate and not available for review. He read Section 15-6, "*The development agreement shall be*

ratified by the Planning Commission, signed by the City Council, applicant, and recorded with the Summit County Recorder. The development agreement shall contain language which allows for minor administrative modifications to occur without revision to the agreement. The development agreement must be recorded within six months of the date the project as approved by the Planning Commission or the Planning Commission approval shall expire". He again submitted, that the approval date is the date of the vote and the six months would run from that date. The minutes are meant to be a contractual representation of the final action.

For the benefit of Fred Jones, Joe Tesch explained that *Final Action* occurs when the deciding body has adopted and executed written findings of facts and conclusions of law. There is a different standard for appeals and that is what should be applied here. It is unlikely that findings are signed at the meeting or staff executing staff reports and argued that minutes are signed. Jim Hier stated that there are written findings of fact, conclusions of law, and conditions of approval that are not modified at the time of the vote. That is the final document and in his mind is the execution of the document as defined in the vote. The final action definition applies universally unless modified, and it is his interpretation that subsection (M) of the appeals process was there not to redefine final action of the Planning Commission but to define the final action for the appeals process. Otherwise, there is no definition but the general definition of the finality of the appeals process. If findings are modified they would be executed later, which occurs frequently with the Planning Commission when the affirmative vote is subject to the additional conditions. There may be a time between the vote and the written decision when there is consensus for a reconsideration and he didn't feel this is inconsistent with the two definitions of Final Action. In response to a question from Mr. Tesch regarding verbal changes, Mr. Hier believed they would be amended and not final until then.

In response to a question from Joe Tesch about undocumented public information, the City Attorney explained that minutes are evidence of the meeting and are admissible. He referred to allowing testimony from the appellants on the issue of nightly rentals because it is part of the meeting record, but not really part of the decision. In response to a comment made by Joe Tesch, Jim Hier clarified that he believed the staff report

is rewritten before final action. Mr. Tesch asked how a citizen would know when that would be done. Mr. Harrington expressed that in his mind, the point is moot since there were no changes to the written findings for April Mountain but believes that to the extent that the Commission is directing staff to make changes and votes, that is the final vote even though there is a modification at that time. The direction to make changes and come back to Council is not a final vote even if voted to approve. If the language is unclear and there is direction to come back, it is not final until it is ratified by the City Council. Peg Bodell noted that motions are made specifically and referred to an instance tonight when staff came back with changes to a Consent Agenda item. This is typical and the process is clear to her but she expressed interest in staff looking at the 10 day appeal period. It may be that it should be longer, but it is specified in the Code as 10 days. Fred Jones understood that subsection (M) Finality of Action deals with the appeals section. Kay Calvert noted that the staff report with findings were readily available at the Planning Commission meeting. Mayor Dana Williams added that any body can modify findings and conditions. The City Attorney again explained that the vote is the final action unless staff is directed to bring the amended findings back before the Board.

Jim Hier made a motion to support the staff recommendation and Peg Bodell seconded. There was discussion about including language that the City Attorney bring back findings next week. Jim Hier amended his motion, "I move that we direct staff to come back to us with findings of fact and conclusions of law which support the contention that this appeal was (submitted) beyond the allowable time period". Peg Bodell seconded. Motion carried unanimously.

2. Authorization to staff to enter into a construction contract for the Middle School pipeline replacement - See staff report. Kathy Gammel explained that staff is seeking authorization to enter into a construction contract with Wasatch Engineering in an amount not to exceed \$158,150. This project will repair sections of the line in Park Meadows and Prospector Square and is scheduled to be completed by August 24. The Mayor asked if the City is required to accept the lowest bid. The City Attorney explained that public

improvements are required to have a bid process under state statute and the City must accept the lowest responsive bidder, however, some contractors are disqualified by not meeting *responsive* criteria. Ms. Gammel stated that Wasatch Engineering was verified to be totally responsive and qualified in its ability to take on this project. In response to a question from Jim Hier, Colin Hilton added that this contractor has never worked for Park City but has for other municipalities and oversaw the Salt Lake City 9th West Reconstruction Project, involving six miles of water pipe line. For the benefit of Kay Calvert, staff explained that references are also checked. Colin Hilton commented that there is an easement that is currently being negotiated with a property which would reduce the project cost. Fred Jones, "I move to authorize staff to enter into a contact to the lowest qualified bidder, Wasatch Engineering Construction in the amount of \$158,150 to construct a replacement water line between Treasure Mountain Middle School well house, Park Meadows and Prospector Square". Peg Bodell seconded. Motion carried unanimously.

X **ADJOURNMENT**

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

* * * * *

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

PARK CITY WORK SESSION NOTES

SUMMIT COUNTY, UTAH

JULY 18, 2002

Present: Mayor Dana Williams; Council members Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier; and Fred Jones

Tom Bakaly, Assistant City Manager; Mark Harrington, City Attorney; Gary Hill, Project Manager; Pace Erickson, Streets Manager; Rick Lewis, Community Development Director; Myles Rademan, Public Affairs Director; Patrick Putt, Planning and Zoning Administrator; Jerry Gibbs, Public Works Director; and Rick Lewis, Community Development Director

Bill Brown, Olympic volunteer

1. Council questions/comments. Peg Bodell reported on the Historical Society's volunteer luncheon and relayed that it is the 100th year anniversary of the infamous mine explosions where 34 members of the community were lost. Fred Jones disclosed that he received a phone call from Jan Wiling urging support of the Olympic Look Tower at the Olympic Plaza, adjusted to the height limit, and some consideration given to the City maintaining the white lights on Main Street. Bob Wheaton also contacted him urging support of the Olympic flags at Deer Valley. He complimented Park City Mountain Resort on a great job in finishing the Town Bridge with landscaping and walkways.

Candace Erickson reported that she attended the Parks and Recreation Board's public hearing on the City Park Master Plan. Those comments will be capsulized and a revised plan will be before Council shortly. There was also discussion on locations for trail heads and the fencing for the tot lot; this area of City Park is anticipated to be improved next year. The Parks and Recreation Board brought up cost and efficiency issues associated with incorporating the fence project next year when other improvements are scheduled. Ms.

Erickson stated that she informed them that she takes the public seriously and is inclined to have the fence installed this year. She also advised that she believes that the Council is committed to building this fence yet is sensitive about City Park funding and perhaps could fund it with another source. Peg Bodell felt there is greater public interest in neighborhood tot lots rather than expanding the play area in the park, however, this is a separate topic. She supported installing the fence immediately and urged reconsideration of the expansion of the tot lot. Jim Hier agreed but added there is another public play area in Prospector and Ms. Bodell explained that perhaps play ground equipment could be installed at various locations like the Library and Education Center campus or Rotary Park to serve more citizens. In response to a question from the Mayor, Tom Bakaly explained that the cemetery fence was bid separately from the tot lot and the *other fence account* is the source for the cemetery fence as well as other fences in town. The Parks and Recreation Board requested that this project not be funded with City Park funds at this time but a transfer could be made at a later date. Staff was directed to proceed with the tot lot fencing project.

In response to a question from Kay Calvert about inappropriate behavior by individuals cruising Main Street, Chief Lloyd Evans explained that there are no regulations covering cruising, but there are ordinances addressing noise and lewd conduct. People should report the offense to the Police Department as soon as possible. Mayor Williams shared his mail from the week and discussed his first meeting of the recycling task force. There's a goal to have a plan within two months that involves BFI and the independent recycling agencies in a program which could be implemented County-wide. The Mayor presented a birthday present to Assistant City Manager Tom Bakaly.

There was discussion about the County Commission approving the interlocal agreement for the planning of Quinns Junction which will be coming back to Council for approval on August 1. Mr. Lewis explained that a professional consultant will most likely be hired to facilitate the process.

2. Review of regular meeting:

News racks ordinances. Gary Hill explained that when the Kimball Art Center was remodeled for the Olympics the intended news racks for that location were moved to the sidewalk in front of Zooms. Additionally, there have been requests from business owners and newspaper vendors to take one of the sets of racks by the Brew Pub and install it on the other side of the street. The proposal is to relocate this set at the Main Street Mall; both locations are defined and reflected in the ordinance. Peg Bodell felt the Zooms rack obstructs the sidewalk and it was explained that it complies with setback requirements. She felt it is worthwhile to contact the Kimball Art Center now that there is available space to accommodate a news rack. Council concurred to continue this to the meeting of August 1 so the draft ordinance location changes are defined.

Cleaning contract. Kay Calvert pointed out the great disparities in the bids for the contract and asked if the City has used Resort Commercial Property Management before.

Pace Erickson explained that this company has performed well on its contract with the City for two years. The difference in numbers is probably a result of trying to analyze a contract as large as the City's because of the number of facilities and it's difficult to envision how much it takes to maintain the buildings. He pointed out the variety of events and uses of City facilities and expectations of tenants and event holders.

Fence award. Troy Daley explained that this project was bid a second time and the City received four bids. Mountain States Fence Company was the lowest bidder and staff made sure that every specification could be met as outlined in the RFP.

3. **Olympic legacy.** Myles Rademan referred to his staff report which includes a variety of ideas which don't necessarily preclude other concepts. Peg Bodell asked for a list of legacies already in place and Myles Rademan explained that well over \$100 million has been allocated toward infrastructure at the Utah Olympic Park along with highway improvements. The transit center, round-about, telecommunications improvements and Olympic Welcome Plaza are also products of the Olympics, but there is interest in more visible

mementoes. PCMR and Deer Valley are very interested in maintaining the Olympic Look Towers installed at the resorts. Staff is working on recognition plaques which will be placed around town and at the resorts and the Chamber/Bureau will be producing a walking tour brochure as there are many requests from visitors about information on key Olympic locations.

Mr. Rademan continued that a banner program has been proposed where banners could be displayed every February to mark the anniversary of the Olympics. He added that Pro Graphics created the huge building and bus wraps and are working on legacy concepts with other venue cities. There could be more signs in town and he referred to the permanent Main Street lighting program. The City has been approached by Jonathon Bronson who is a bronze sculpturer. His work is estimated at approximately \$80,000 and a sponsor would have to be identified.

Mr. Rademan asked for feedback specifically on the towers, lighting and flags. The Board of Adjustment denied the look tower recommended for the Olympic Welcome Plaza for a height variation. He explained that the tower can be cut down if that location is still preferred and there are other sites that were proposed several weeks ago. The Mayor suggested that the tower be moved from the center of the plaza back north toward the Cottonwood trees. Bill Brown discussed alterations to the tower by way of reducing the height which will change the look slightly but is a possibility. He discussed the Seiko clock feature in the plaza which is set by satellite. Myles Rademan added that even if the tower height is lowered and located in the center of the plaza, it will have to go to the Planning Commission for conditional use permit review because it would be located in the frontage protection zone. If it is moved to the north, it will not be in the FPZ and Jim Hier felt it would fit in that location with modifications. Fred Jones agreed but requested a schematic plan. In response to a question from Jim Hier, Pat Putt explained that flags are regulated through the Sign Code and property owners are allowed up to three flagpoles. Any amendment to the Sign Code would be reviewed by the Planning Commission. Mr. Putt added that the Olympic Welcome Plaza was approved as a conditional use permit and the underlying zone is GC. The Snowcreek portion of the site is part of an MPD where a height exception can be granted if it meets specific narrow criteria.

Peg Bodell stated that she is willing to consider legacy projects but is not willing to *short-change* the process. Myles Rademan commented that projects could go through the normal channels and get denied or Council may have to create provisions for Olympic legacies in the Code. Jim Hier felt that flags at PCMR and Deer Valley are appropriate and associated amendments should be made to the Code. Mr. Putt added that the Sign Code is reviewed on an annual basis by the Planning Commission and this is scheduled next month. Additional Olympic legacy language could be added for that review. There was discussion about submitting an application to the BOA and the Legal Department researching a variance option.

Fred Jones stated that under the current Code, these Olympic legacies would not be allowed, and the Council should consider amendments which should be narrowly defined for the resorts.

Ms. Erickson interjected that there is no harm in it being reviewed by BOA and Mr. Jones added that he is not in favor of going to the BOA. Ms. Bodell felt that following the process and going through the BOA may result in a better project. Mr. Hier felt that it is inappropriate to make a special exception in the LMC to allow a 65 foot tall Olympic legacy tower at PCMR. Mark Harrington advised that this is not what staff would recommend; cities can not make use variances for exceptions. The proposal is to legally create a narrowly defined permitted use category or administrative conditional use permit category. Most jurisdictions exempt municipal projects in all zones, but staff is recommending a much more narrowly defined permitted use language. There could be specific criteria added, much like the City's practice in facilitating ski operations. Pat Putt acknowledged expressed concerns about process and pointed out our current planning tools for processing special exceptions or variances. The criteria used is extremely limited in scope; for instance, a variance requires demonstrating hardship associated with the height. If Council is also concerned about opportunities for public input, there could be additional legislation crafted outlining a public process before the Planning Commission and City Council.

Mayor Dana Williams stated that all of the calls he has received about the lighting on Main Street was to change it back to the old lighting scheme over the street, except for the HMBA. He relayed an incident where an individual was burned by a light

socket. Kay Calvert felt the project is too costly. Jim Hier commented on his concerns about the on-going costs and additional demands on staff for maintenance on privately owned buildings. Ms. Bodell relayed that she received many calls as well but the negative recommendation from the Historic District Commission carries a lot of weight with her. Ms. Erickson noted her surprise at the associated high costs involved with lighting Main Street and is also compelled to support the HDC's recommendation. Fred Jones agreed with Mr. Hier's comments.

Council members supported to proceed with designing banners. There was discussion about displaying them during the anniversary of the Olympics, but Ms. Erickson felt that they should be hung all winter season. Myles Rademan stated that he will come back to Council with designs. Peg Bodell explained that the banner project is something that the community can be involved in and encouraged staff to promote that; the sculpture should involve a task force. She continued that the Olympic legacy effort seems *piece-mealed* and unbudgeted and a plan could be formulated by a task force where some of the ideas from the original Olympic celebrations document could be incorporated. A matrix of benefits to the community should be utilized so the process is more objective. It may be better to focus on the Utah Olympic Park before the City spends money on things here and there that won't have an impact. She suggested a celebration day or week that draws tourists back to town; many of these proposed projects are insignificant. Ms. Calvert disagreed; sometimes little things have a big impact and *we're going from analysis to paralysis* on this issue. Bus wraps were discussed, and Jerry Gibbs explained that the joint transit committee is looking at bus graphics which will be coming to Council shortly. Myles Rademan added that he will invite Pro Graphics to a meeting. Kay Calvert stated that there should be committee to review the sculpture project and associated fund-raising. Rick Lewis commented that there has been a lot of interest expressed by art galleries to display sculptures on the new bulb-outs on Main Street, at no cost to the City. Discussion ensued about signing the Olympic Welcome Plaza and initiating discussions with UDOT for signs on I80 and US40.

Prepared by Janet M. Scott

PARK CITY COUNCIL MEETING

SUMMIT COUNTY, UTAH

JULY 18, 2002

Also refer to Work Session Minutes for July 18, 2002.

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, July 18, 2002. Members in attendance were Dana Williams, Peg Bodell, Kay Candace Erickson, Jim Hier, Fred Jones, and Kay Calvert. Staff present were Tom Bakaly, Assistant City Manager; Mark Harrington, City Attorney; Jonathan Weidenhamer, Planner; Derek Satchell, Planner; Alison Butz, Special Events Manager; Kirsten Whetstone, Senior Planner; and Patrick Putt, Zoning Administrator.

II PUBLIC INPUT

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

Joe Frasier, Sandstone Cove resident, requested staff be directed to require Sandstone Cove contractors to allow vehicle access down the street, access to the fire hydrants, and room for a vehicle to turn around at the cul-de-sac.

Barbara Frasier, stated there has been occasion when she has not been able to access her driveway due to the construction vehicles parking in the cul-de-sac. Ron Ivie reported he gave direction to the contractor today and if there is further non-compliance the construction vehicles will be towed, recommended the residents work through the Police Chief or himself instead of confronting the contractor or workers to avoid further escalation.

Scott Dancie, representing AT& T, reported the company is currently in the process of upgrading the cable system in Park City that will allow extensive high-speed cable internet, cable and local phone service to all areas of the City; during the construction they have run into a few problems and number of water lines, nothing intentional; reported he met with Eric DeHaan's office to hopefully avoid any more problems; noted AT&T's video service franchise tax is paid to the City, whereas satellite dish services do not pay.

Francis Umlauf, requested any time before AT&T or other service begins work they coordinate with the streets department first to see whether they are planning to slurry the street before the digging up of the street.

Monty Coates, representing the Chamber of Commerce, thanked Council for looking at the Olympic legacy projects, reaffirmed how important even the little things are, hear it daily from visitors how they want and expect to see more, feel like they are in an Olympic city, this is an advertising and marketing opportunity.

Denny Law, Aerie resident, stated residents do not get their landscaping bond back until landscaping is completed; received notice that the water rates are going to be raised punitively for people who use quite a bit of water, feels the water allocation should relate to the area of the lot, established landscaping will either be watered an exorbitant price or will die; feels water rate increase should be rolled back and the rates put in proportion to the area of the lot; has zero-scape landscaping, water every 3 days, next water bill will be over \$800.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Councilmember Bodell reported over the last couple of weeks it has been brought to her attention that the issues with the altercations on the trails could be solved if you just use her as a decoy. In the spirit of serving the people, would like to volunteer her services.

Peg reported she received a letter from Mark Moffet and inquired how the police department was proceeding with that matter. Chief Evans explained the procedure used to address a letter of complaint concerning officer conduct or use of force, or misconduct of arrest powers. First it is acknowledged to the complainant that the complaint was received and will be investigated thoroughly. A thorough investigation is directed to be conducted by the Lt.'s office who investigates the circumstances, obtains statements, and completes a thorough and complete investigation as to the allegation. Once that investigation is completed he reviews it, draws up a conclusion and finding, and then provides discipline if warranted or makes a substantial finding to the complainant of why, what, who or how, and offers additional assistance if needed.

Peg inquired what is the general time period for the process. Chief Evans responded they try to complete an investigation within a 30 day period, with exception of extenuating circumstances that cause it to go further. Peg Bodell requested Council be advised of the conclusion and Officer Evans responded a copy of his letter and investigation summary will be provided.

Councilmember Bodell inquired what the recourse was for a citizen if they are not satisfied with what the City is doing. Chief Evans responded there is not an official recourse, however, his standard practice is if an individual is in disagreement with his findings on a case or the action taken, the City Manager reviews the issue and acts on the appeal, usually we come to some mitigation; stated he was happy to report to this point he has not had to go to the City Manager to mitigate his findings.

Councilmember Hier reported last Tuesday night Chief Evans conducted his first neighbor to neighbor meeting in an attempt to initialize more proactive neighborhood watch type activities; stated the meeting was not well attended however, Chief Evans and his staff did an excellent presentation; expressed hope as these programs extend throughout the rest of the year there is improved public participation. Chief Evans commented it was the first

meeting and more program meetings will be held throughout different areas of the community each month.

Councilmember Jones commented in regard to Aerie resident Denny Law's issue concerning the water rates; suggested Mr. Law contact the water department for review of the situation.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JUNE 6, 2002 AND JUNE 20, 2002

Councilmember Bodell requested minute corrections as follows: Page 3, sentence needs completion where it reads 'at this point there has not transpired'; Page 5, first paragraph, requested addition of 'Council agreed to a suggestion by the Mayor for \$21,000'; Page 7, sentence 'no staff present was present' needs correction.

Hearing no other omissions or corrections, the Mayor requested a motion.

Peg Bodell moved to approve the minutes as corrected. Fred Jones abstained from approval of June 20, 2002 due to absence. Jim Hier seconded. Motion carried 4-0, Bodell, Hier, Erickson and Calvert voted Yes; Jones abstained.

V CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance approving a plat amendment to combine into one lot Lots 4 and 5 of Block 27 of the Snyder's Addition, 1117 Norfolk Avenue, Park City, Utah.

Hearing, having been advertised as required by law, was opened by Mayor Williams. Planner Jonathan Weidenhamer presented an overview of the application submitted by Carl Weaver and Jill Dunlap and staff recommendation to hold a public hearing, consider public input, and approve the plat amendment combining Lots 4 and 5 of Block 17 of Snyder's

Addition into one lot, located at 1117 Norfolk Avenue. Planner Weidenhamer reported a public hearing and review by the Planning Commission was held on July 10, 2002; no public input was received and the Commission voted unanimously to forward a recommendation to approve the application.

Mayor Williams invited the public to comment. Hearing no public input, the public hearing was closed.

2. Ordinance approving 157 Park Avenue lot line adjustment to combine the southerly ten feet of Lot 15, and all of Lot 14 in Block 1 of the Amended Park City Survey, into one platted lot, 157 Park Avenue, Park City, Utah.

Hearing, having been advertised as required by law, was opened by Mayor Williams. Historic Planner Derek Satchell presented an overview of the application submitted by Ruth Drapkin for Amos E. Madanes, and staff recommendation to hold a public hearing, consider public input and approve the proposed Lot Line Adjustment to combine the southerly ten feet (10') of Lot 15 and all of Lot 14 in Block 1 of the amended Park City Survey, into a single lot, at 157 Park Avenue, and outlined the conditions of approval. Planner Satchell reported a public hearing and review by the Planning Commission was held on July 10, 2002, and the Commission voted unanimously to forward a recommendation to approve the application. Reported the reason for tonight's City Council hearing is the applicant was unable to submit the required consent letters from the adjoining property owners.

Councilmember Hier inquired concerning the balance of Lot 15. Planner Satchell responded the remnant of the northerly portion of Lot 15 is under the same ownership as Lot 16, a different property owner.

The Mayor invited public input; hearing none, Mayor Williams closed the public hearing.

3. Amendment to Fidelity Investments Park City International Jazz Festival Master Festival License.

Special Events Manager Alison Butz presented the proposed amendment to the approved Master Festival License application for the Fidelity Investments Park City International Jazz Festival, for review and consideration of approval. Alison Butz reported staff recommends approval of the amendment to include music in Miners Park on August 18th from 11:00 am until 2:00 pm, based on the conditions of approval as outlined in the staff report.

The Mayor opened the public hearing and invited public comment; hearing none the public hearing was closed.

4. Ordinance amending Title 14, Chapter 6, Section 7 of the Municipal Code regulating News Rack locations within park City's Historic District.

Council concurred to continue this item to August 1, 2002. Councilmember Jones moved to remove Item No. 4 from the Consent Agenda and continue the item until August 1, 2002. Candy Erickson seconded the motion. Motion carried unanimously.

VI CONSENT AGENDA

Councilmember Jim Hier moved to approve the Consent Agenda with the exception of Item No. 4. Fred Jones seconded the motion. Motion carried unanimously.

1. Ordinance approving a plat amendment to combine into one lot Lots 4 and 5 of Block 27 of the Snyder's Addition, located at 1117 Norfolk Avenue, Park City Utah (See staff report and public hearing).

2. Ordinance approving 157 Park Avenue lot line adjustment to combine the southerly ten feet of Lot 15, and all of Lot 14 in Block 1 of the Amended Park City Survey, into one

platted lot located at 157 Park Avenue, Park City, Utah (See staff report and public hearing).

3. Amendment to Fidelity Investments Park City International Jazz Festival Master Festival License (See staff report and public hearing).

4. Ordinance amending Title 14, Chapter 6, Section 7 of the Municipal Code regulating News Rack locations within Park City's Historic District. Continued to August 1, 2002 (see Consent Public Hearing No. 4 above).

5. Authorization to staff to enter into a contract with Mountain States Fence Company for replacement of cemetery fence and entrance gates; amount not to exceed \$94,215.

6. Authorization to staff to enter into a two-year contract with Resort Commercial Property Management for janitorial services at City buildings; amount not to exceed \$81,100 per year.

VII NEW BUSINESS

1. Findings of fact and conclusions of law rejecting the appeal of the Planning Commission action of June 12, 2002 approving the MPD for April Mountain for failure to timely file the appeal. (Also refer to staff report, work session notes)

City Attorney Harrington presented the findings of fact, conclusions of law and order denying the appeal of Planning Commission decision on June 12, 2002 to approve April Mountain MPD for review, approval or modification. Clarified Finding No. 8, saying that the majority, if not all the Appellant's objections, can be raised in the review of either the final subdivision plat matter or the CUP appeal, is not a basis for rejecting the appeal, the finding only addresses the underlying original claim of Mr. Joe Tesch, counsel representing Aerie Owners Association, that equitable relief or fairness, regardless of the law for the technical

components, requires hearing of the MPD appeal. The City Attorney noted at the last meeting, Council comments reflected disagreement with Mr. Tesch's claim, that the process can still go forward and some of the MPD issues could be heard at the time the CUP and subdivision matters are addressed and the fairness is preserved. However, addressing certain MPD issues at that time does not allow the entire MPD to be reopened. This action in terms of disposing of the MPD appeal is final.

Councilmember Erickson moved to adopt the findings of fact, conclusions of law and order denying the appeal concerning April Mountain MPD. Fred Jones seconded the motion. Motion carried unanimously.

2. Appeal of Planning Commission June 26, 2002 approval of April Mountain Conditional Use Permit for 39 condominium units.

City Attorney Harrington referred to requests by Mr. Tesch to hear the public hearing of the subdivision plat first in order to hear the majority of the public testimony and eliminate duplication which will be included by reference into the CUP appeal, and that the CUP appeal hearing be opened to include matters other than the record, so comments do not have to be sorted between relative to the plat hearing or appeal, and allow Council consideration of recent public input although not part of the Planning Commission hearing record. He reaffirmed this is not a consolidation of the two issues, they are two different matters and the subdivision plat is not an appeal, Council was forwarded a positive recommendation by the Planning Commission. Historically Council has applied this standard and is the reason CUP appeals are heard by City Council and not before the Board of Adjustment as provided by the state code; prior Council's determined because CUP's and MPD's often raise complex and inter-related issues, as this one does, Council would be the more appropriate body to hear those appeals which was expressly provided for in the Municipal Code as required by the state code. Council has consistently refrained from keeping a judicial closed public record and has made the decision to open the record and allow people to speak at the meeting outside of the

hearing. Municipal Code Section 15-1-18 states that the review of the appeal is limited to the record unless Council by motion opens it, which is the request of Mr. Tesch.

Bruce Shapiro, counsel for the applicant, agreed and requested the public hearing for the final subdivision plat be addressed first and public comment taken at the subdivision plat hearing be used as information for the CUP appeal to eliminate duplicate public input; affirmed there are two separate matters before the Council.

Mr. Tesch concurred with Mr. Harrington's assessment, stated he wanted to clarify the code concerning the admission of new issues.

Councilmember Bodel made a motion to move the public hearing concerning final subdivision plat for April Mountain Subdivision ahead on the agenda before the matter of the CUP appeal.

Jim Hier seconded the motion. Motion carried unanimously.

Councilmember Erickson moved to accept additional testimony for purposes of the CUP appeal and incorporate this testimony by reference from testimony received during the final subdivision plat public hearing. Motion seconded by Jim Hier. Motion carried unanimously.

(See Appeal of April Mountain CUP continued below)

VIII PUBLIC HEARING

1. Ordinance approving a final subdivision plat known as the April Mountain Subdivision, located on Mellow Mountain Road, Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Utah. (Also refer to the staff report and work session notes)

Kirsten Whetstone, Senior Planner, introduced the final subdivision plat for 31 single family lots and three development parcels for 39 condominium units for the proposed April

Mountain subdivision plat, identified the zoning and adjacent land uses, and presented the property description. Reported on June 26, 2002, the Planning Commission held a public hearing on the final subdivision plat and found it consistent with the April Mountain MPD and the Commission forwards a positive recommendation to approve the plat with conditions as presented. Reported the Commission made a number of findings and conclusions on the subdivision plat, the primary one being they found the subdivision as conditioned consistent with the Park City Land Management Code, the Park City General Plan, and the amended April Mountain MPD, which was approved by the Commission on June 12, 2002. Planner Whetstone noted the initial MPD approved in 2001 consisted of 54 single family lots and a condominium parcel for up to 15 condominium units; the current amended MPD lowered the road down the hill, is a more clustered plan, some of the lots were eliminated for open space, and consists of 31 single family lots and 39 condominiums.

Planner Whetstone presented the proposed findings of fact, conclusions of law, and conditions of approval, and staff recommendation for public hearing, review and consideration of the Planning Commission's approval the April Mountain subdivision plat based on those findings, conclusions and conditions; noted the plat reflects the City Engineer's redlines and pointed out location of trails dedicated as public access trails and connection to existing trails in the City open space to the west of the property.

Henry Sigg, representing April Mountain Development L.C., presented a site map depicting the layout of the project, road, open space and trails, and architectural exhibits with structural material and color information. Stated the town homes are similar in materials, size and price as a single family homes, will not encroach on ridgelines and are hidden from view.

Understands nightly rental is an issue of concern to adjacent property owners, however, if RD zoning is an issue, it should be looked at City-wide.

Hearing, having been advertised as required by law, was opened by Mayor Williams. The Mayor invited the public to comment.

Ms. Whetstone presented for the record a summary of three letters received today, as follows: Rob Slettom wrote in support of nightly rentals stating nightly rental programs located away from ski areas are generally 10-13% enrollment and are seasonal; Kim McClellan, representing Deer Valley Lodging, wrote in support of nightly rentals; and Nick Caravaglia, representing David Holland Resort, wrote in support of nightly rentals stating based on his experience nightly rentals have little impact on the neighborhood and do not negatively impact property values.

Frances Umlauf, expressed concern about loss of wildlife habitat and loss of migration trails, and opposition to sidewalks and ice melt.

Ann Daniel, Hearthstone resident, referenced her letter, expressed opposition to the project size and inquired about water availability to support it. City Attorney Harrington explained many years ago this is one of the few projects that paid into a water special improvement district that provided for construction of an Aerie tank based on a City analysis and zoning density for this property of 190 units. The City down-zoned the property lowering the approved MPD to 149 units, then the property was rezoned a second time and applied the sensitive lands Ordinance which further reduced the density to the current 70 units. Ms. Daniel responded that still does not answer her question where the water will come from, stated it was not good planning on the part of the City to balance growth of the City with environmental and especially water concerns, what was paid for 15 years ago does not apply to the current drought and water situation; expressed concern about traffic and Aerie overgrowth.

Carol Honeywell, Aerie resident, expressed concern about the effect to current wildlife and lack of study of the impact the development will have to their habitat, traffic, access, danger of Aerie Drive during the winter.

Denny Law, expressed concern about the use of Aerie Drive during the winter by nightly rental visitors.

Dean Schulman, President of the Aerie Owners Association, affirmed arguments expressed by their counsel Joe Tesch in his brief are a reflection of the personal concerns of a number of the residents, specifically concern with nightly rental, condominiums, destruction of wildlife habitat, and orderly maintenance and administration of trails. Feel none of the concerns have been adequately addressed in the April Mountain development plan. Have signatures of over 100 neighborhood residents opposed to the plan.

Diane Mellon expressed concern about lack of wildlife habitat report and comprehensive wildlife map of the area, and opposition to the brief amount of time for project review and approval, condominiums, nightly rental, sidewalks, lack of harmony with adjacent properties. Stated the two homes identified at the last Planning Commission meeting as failing to meet City requirements should be eliminated from the project. Stated she has found out the prior developer met with the City Council without a public hearing in 1986 and changed the development area from Estate to Residential Development (RD) zone. Reported she has spoken to and received letters in opposition to the condominiums and nightly rental from Mike and Rita Kennebrew, Shardel Riley, Lou and Debbie Moreno, Sandra Orsborn, Michael and Kathy Lee, Susan Monahan, Wendy Lavitt, Karen Fields, David Berry, Bruce and Laura Raile, Chuck Hayes, Paul Seinfeld, Joseph and Nancy Motto, Jim Klopman, Joan and Bill Thompson.

Kevin Damon, past President of Aerie Owners Association 1997 to 2000 and Management Committee 1997 to 2001, thanked Mark Harrington for acknowledging the difficulty in following the sections and subsections of this complicated project; commented in regard to the City's credibility in handling cellular antennae's and a building height violation currently happening on Aerie mountain; expressed strong opposition to condominiums and nightly rental on April Mountain, noted zoning discrepancies, and expressed concern about future development of the Kearns-Tribune and Gambel Oaks parcels with increased densities resulting from this project.

Bernard Nussbaum, Aerie Management Committee member, expressed opinion there were differing definitions for 'adjacent' and 'contiguous' according to Oxford's Dictionary, pointed out the proposed project and the Aerie are in the same neighborhood and not compatible; stated the findings and conclusions addressing compatibility and habitat impacts are inadequate. Mark Harrington clarified that the findings and conclusions presented for adoption tonight were from a prior hearing on a different point, there are no findings or conclusions for this matter except for the plat which findings and conclusions were forwarded to Council by the Planning Commission. Mr. Nussbaum expressed strong opposition to nightly rental. Planner Whetstone stated the areas that are contiguous were never considered to be adjacent, staff review embraces all areas they feel to be affected by the project and staff worked hours with Kevin Damon who is not adjacent to the project.

Bill Thompson, Mellow Mt. resident, referenced his letter, noted the proposed Lots 1, 2, and 3 of April Mountain are directly adjacent to his property and those three lots will appear to be within the Aerie subdivision; expressed opposition to nightly rental in the April Mountain subdivision and supports the single family aspect of the project.

Susan Monihan, stated if the project is not compatible with the neighborhood, she cannot support it.

Joe Markham, Aerie resident, inquired concerning the developers experience and financial gain with this project; expressed opposition to sidewalks and expressed concern about the quality of project, affect on wildlife and traffic.

Henry Sigg, representing April Mountain Developers L.C., referred to the site map and noted Aerie subdivision is surrounded by Estate (E) and Residential Open Space (ROS) zones, noted undue negative attitude toward condominiums, townhomes and twin homes and pointed out the City's makeup is based on those types of dwelling, multi-family dwellings are located extensively in Deer Valley and all around the City; noted Aerie properties encroach on ridgelines and there are no wildlife trails in the Aerie subdivision.

Carol Honeywell inquired about build-out time and stated she would prefer incremental construction. Planner Whetstone responded the infrastructure and road will be built in the first phase, then single family lots sold and built out; condominiums will probably be constructed then sold. Noted one of the conditions of approval for the subdivision plat is that a construction mitigating plan would be required and she is certain trucks would not be allowed use of Aerie Drive in the winter. Clarified the Aerie subdivision plat does not dedicate any open space or trails; those components may be present on Aerie Mountain but not in the subdivision.

Joan Thompson, Mellow Mountain resident, expressed concern about traffic, Deer Valley Drive and Mellow Mt./Sunnyside intersections, impacts of nightly rental.

Joe Tesch, representing the appellants, presented comments pertaining to both plat and CUP appeal. Emphasized the Aerie Owners Association consists of 98 lots, 109 voting citizens to a large extent permanent residents. Sunnyside subdivision is doing everything possible to eliminate nightly rental there; Hearthstone is zoned for nightly rental however CC&R's say lots will be used only for single family purpose and no time-share or nightly rental use allowed in the subdivision. All neighboring areas are opposed to nightly rental on April Mountain due to the incompatibility, disruption, and there is concern about transient use. Nightly rental is not an issue that is zone oriented, it stays consistent with use, not zone. Neighboring areas are not nightly rental, April Mountain may have to deal with restrictions that may be allowed otherwise in the zone. Similarly there is no compatibility with multi-family use except Sunnyside, it could not be said nightly rental and multi-family promotes neighborhood compatibility or is consistent with use, and noted 15 to 20 citizens have submitted letters in opposition to both uses. Stated town is composed not only of resort based dwellings that benefit the economy, but permanent residential residences also. Pointed out a number of myths. That the project is better than what is was; noted the project was vested under the old plan until July 11 when the underlying MPD was amended, now there is no vested right and the City has bargaining power. Another myth is that the project was great because it is providing access to Gambel Oaks; there is already access pointing out state law states if you

use a road for ten straight years it becomes a state highway. A third myth is that nightly rental and multi-family currently exist in the area; it only exists in Sunnyside. Stated Aerie Road will not be able to handle nightly rental use, barely handles current permanent residential use, unfamiliar visitors will be a serious hazard. Referred to exhibit from last MPD approval in 2002, and stated what is being abandoned includes loss of the current roads accessing Solamere and Hope parcels which will be turned into lots, the other fork access is a temporary easement and terminates if the BLM lease terminates, noted if the Hope parcel wants to fence its property then can cut citizens off forever and the City will accept it unless Hope pays April Mountain, cannot understand the reason for giving up the right-of-way existing currently. Stated the Gambel Oaks access is being given up for a dense development and City sidewalk.

Stated Council may not ignore its own Ordinance and citizens expect Ordinance enforcement in regard to a habitat study, pointing out Municipal Code Section 15-2.21-3A, sensitive area analysis and determination states 'Any applicant for development must produce a sensitive lands analysis performed by a qualified professional(s) that identifies and delineates all the following features and conditions: (7) Wildlife Habitat Areas. A map depicting all wildlife habitat areas, as defined by the Wildlife Habitat Report at Section 15-2.21(3)(B)(8)', noted the impact to animal corridors and habitat has not been studied as required. Stated the subdivision plat should not be approved because a habitat study has not been done and project may be doing severe damage which can be avoided. Stated the right-of-way and easements should be looked into closely, the project has no benefit to public access. In regard to the MPD, the project went from 15 to 39 condominiums from the last approval and it was not necessary.

Bruce Shapiro stated that the MPD appeal was denied and should not be addressed, the plat and CUP appeal were being discussed tonight. The arguments heard were spoken in general terms, with no specific reasons why the plat does not meet the findings of the MPD and he has not seen evidence that shows that the wildlife is an issue. In 2002 when the prior MPD was approved, wildlife was not an issue. In review of the final plat requirements, there were no arguments that related to the plat and a lot of discussion re MPD type issues. The plat was revised in 2002 to address concerns by the City, open space was increased,

density was decreased, a more community-type environment was created. This is not a zoning hearing, the project is zoned RD. No study has been made to determine if multi-family dwellings cause any more problems as single family dwellings, there is mixed use in the project, and the units are expensive. There are no statistics that multi-family units cause any more use, in fact it was found multi-family units are used approximately 60 days out of the year in Park City and have a less of a use and cause less traffic than single family units. Multi-family units have management companies to oversee the management of the property and it is a more controlled environment. The Planning Commission summed up the project and issues and it was approved. The 109 residents had no prior opposition to nightly rental and the petition is incorrect on that point. The project conforms with the Land Management code, zoning regulations and is designed to meet open space requirements for the area. Although Aerie is concerned the project will have a substantial impact on its subdivision, the distance from the nearest Aerie subdivision unit to the nearest April Mountain multi-family unit is 1/3 of a mile. Aerie is trying to impose their values on the April Mountain neighborhood, whose residents should have the opportunity to install their own values and ideas, their own destiny and decision concerning zoning and nightly rental. Nightly rental has no consistent problems, disturbance reports from the police department were reviewed and showed disturbances were found primarily at Main Street and no consistent pattern in any surrounding City areas, however, single family homes had more problems than multi-family units. Ordinances are in place, the project is not doing anything against the LMC in regard to the trail system, which was approved by the Planning Commission in the MPD process. There has been no credible evidence given why the plan should not be finalized. Stated he has confusion in regard to the roads and where the issue is coming from that the project is taking away access and right-of-way. This needs to be determined by a court of law, evidence taken, and until a court of law determines there is an actual road there, a dedicated road for public use, there is not a dedicated road. What the developer has agreed to do is to give a defined access available to the public to get the public to Gambel Oak park. Citizens are getting access through public dedication which is 50 feet wide and defined. Noted the hearing has combined the plat and CUP together, they are two completely separate issues, one based upon the recommendation of the Planning Commission and the other based on an appeal.

Upon review of all of the requirements of the final plat, he has not seen any evidence or testimony tonight that shows that the plat as it is drawn is in conflict with any LMC provisions, any plat provisions, or anything that is outlined with the already approved and finalized MPD by the Planning Commission. Everything is consistent.

Joe Tesch stated he only has a brief technical point and that is the road exists as a road on the first day of the eleventh year. As with Center Creek Road and Lake Creek Road, even if not platted they are a prescriptive use, highways by use and the law of the land is not that they do not exist until a court says they do. They exist on the first day after ten years are up and they only get litigated after somebody tries to cut them off.

Hearing no further comments, the Mayor closed the public hearing. City Attorney Harrington inquired if there were any questions of staff on the plat.

Councilmember Hier requested an explanation concerning the habitat study which as he recalls is part of the MPD process. Planner Whetstone responded that is now a requirement of any MPD, however, the previous MPD of which this was an amendment to, was submitted prior to that LMC amendment which added requirements concerning wildlife to the Municipal Code. Further explained when the original MPD was submitted, the Planning Commission made a determination of density under the Ordinance and a sensitive lands analysis was conducted in March, 2001 based on the submittal, and an analysis of determination based on the entire sensitive lands issue was done when there wasn't a requirement for wildlife study at that time. When this MPD amendment came forward, the Planning Commission discussed it and said the determination made actual findings that met the sensitive lands, there was a range of density based on the sensitive lands Ordinance and finally that this new amendment was one unit more than the approved MPD, wasn't significantly different, and well within the density that came out in the analysis.

Councilmember Hier stated he just wanted to clear up that the wildlife habitat study is now required, however, was not required to be done when the amendment was addressed.

City Attorney Harrington responded that was correct. There was a conscious decision by the Planning Commission that it was not necessary.

Councilmember Calvert inquired if the Planning Commission arbitrarily chose which codes they can put to old MPDs. City Attorney Harrington responded, no, the day of applicability of the LMC is determined at the date of the application and in this case there was a complete application that preceded the adoption of the subsequent change to the LMC. The Aerie folks are accurate that there was a delay between the initial application and the amendment, however, as long as that application remains active as is defined in the Code, which this one undisputedly was, it carried that vesting date and not subject to future LMC amendments unless they are made retroactive by City Council upon adoption. In order for the Planning Commission to determine that initial application was no longer active and void they had to go through a formal process which is outlined in the Code and that was not done.

Councilmember Calvert asked Joe Tesch when the habitat study concern was brought to the attention of the Planning Commission. Mr. Tesch responded it was argued in open session, during the public hearing before the Planning Commission and it does apply. The City does not have the right to waive the law, they just decided to give this guy a break.

Councilmember Hier stated he recalls that there is a compatibility definition or description in the LMC and inquired if that was available. City Attorney Harrington responded it was available, however, before he reads it the point is “compatible” does not say or equal “same” which was a point made by some of the Planning Commissioners as they were refuting some testimony.

Zoning Administrator Putt stated that the definition section of the LMC states the defined term ‘compatible’ or ‘compatibility’ as ‘Characteristics of different uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding area or neighborhood. Elements affecting compatibility include, but are not limited to, height, scale, mass and bulk of building, pedestrian and vehicular circulation, parking,

landscaping and architecture, topography, environmentally sensitive areas, and building patterns.'

City Attorney Harrington stated for clarification from earlier testimony concerning the definition of 'adjacent', the code specifically states that a non-defined term shall be defined by Webster's New Dictionary, not Oxford's, and is defined as 'not distant, nearby, having a common border, immediately preceding or following, synonymous with adjoining, contiguous, abutting.'

Administrator Putt also noted 'multi-family' has been discussed by both sides and clarified that the term was defined in the LMC as a building that contains 4 or more dwelling units, duplex is defined as containing two units and single family no more than one unit. As part of this application there is a potential for three types of dwellings, single family, duplex and provision for multi-family units which would go through a separate CUP process. Councilmember Calvert inquired if duplexes were allowed in Single Family (SF) zone. Patrick Putt responded duplexes must be identified on a subdivision plat at the time of approval as being a duplex lot. Under allowed uses in the SF zone, a duplex dwelling is only permitted on lots designated for duplexes on an official subdivision plat. Councilmember Jones stated if this was under SF zone instead of RD zone, these condominium parcels would be required to show individual lots for the duplexes, that would be the difference but they would still be allowed. Pat Putt affirmed that was correct.

Mayor Williams stated he had a concern in regard to the definition of the 'use' of the area as compared to the 'zone', that there is an interpretation of what the 'use' is and he is concerned about how the term 'use' is being used in this case. City Attorney Harrington responded the question applies more to the CUP appeal because that is where the use is determined as opposed to the plat. Clarified that the nightly rental use is not currently applied for. There is no vesting or approval of nightly rental use by approving the MPD or the CUP or the plat. Nightly rental is a use which is applied for by the individual property owners through the Finance Department, through a specific permit system as provided in the Municipal Code.

That is why staff recommended if nightly rental is an issue that needs to be addressed, as an alternative take away the permitted use by a zoning amendment, then that would be applicable to this development and any future development in the zone.

Mayor Williams inquired if this group has the right to say this project will not have nightly rental. Attorney Harrington responded that they did and that is why there is confusion where there is the authority to consider the validity of a permitted use within an MPD and Joe Tesch is correct in making that point. However, the burden shifts, if the underlying use is permitted then it is strongly presumed to be compatible and allowed. This is an allowed use in this zone. However, Mr. Tesch is correct in that if there were in fact density bonuses and those were arranged in a site plan that the Planning Commission or City Council determined had impacts beyond that which were anticipated by virtue of making that an allowed use. For example, had there been density bonuses beyond the underlying zoning which Joe had said that if the Hope parcel had acres and applied in the E zone for that many units they could have the nightly rental. That is the case here. The underlying zoning is 3 to 5 units per acre and you have over 70 acres here. You are at less than 1 unit per acre, so we are way below that which sort of contradicts what he stated before. But had there been some density on the border of the project, say next to a SF property with back yards right there, I could see where the Planning Commission could make findings that said you are allowing four buildings of nightly rental that otherwise in a site plan that otherwise wouldn't typically be allowed but for the discretion that the MPD provides.

Mayor Williams commented in a couple of weeks they might do just that because they might be turning another neighborhood into SF and their backyards will be abutting. Attorney Harrington stated the Planning Commission considered that argument and that is why they clustered the duplexes in the interior first and left the single family units on the perimeter achieving reduction in the number that would be adjoining those borders. Compared to the prior MPD, there was much greater density of single family up on that hill and that goes to Commissioner Zimney's point that there was no finding of non-compliance. It was a very confusing point made by Commissioner Erickson in that he was trying to justify why he had

changed his vote and ultimately approve this, because only he had objected earlier to the underlying sensitive lands determination, based on a finding that two of the units, as he determined, did not apply to the additional view points, not the statutory ones, only the SLO Ordinance defines certain view points which you have to make an analysis for ridgeline violation. By virtue of the MPD, the Planning Commission did an additional burden by delineating and further protect the public by doing some additional determinations. In Commissioner Erickson's original determination, two units broke one of those additional determinations, however, one was eliminated and one corrected by dropping some height, so Commissioner Erickson was essentially saying 'where I had originally determined it violated, I now feel it is at least mitigated.' It was not a finding of non-compliance with the SLO Ordinance. The uses applied for are the single family lots and the duplex units. What the neighbors are asking Council to do is prescribe a future use that may be applied for, which if you make these super findings of non-compatibility, you could do. Planning Commission did consider this, however, said 'No way, we don't see it.'

Mayor Williams stated it was his understanding the Planning Commission believed this decision would be much better made by the City Council. Attorney Harrington responded no, the Commission did consider it because it was a very important distinction. This action is an approval of a project based on existing code. Council does not have some of the leeway represented this evening; there is some, but not to the degree represented. Stated the developer is entitled to due process as well, and entitled to rely on specific provisions of allowed or prohibited uses or reasonable conditions or findings in the process.

Mayor Williams inquired how Council determines exactly what those are. Attorney Harrington responded they are in the record that Council is reviewing, but where that differs from the General Plan recommendations the Commission made is the Commissioners viewed there are big issues in the City as a whole by virtue of the nightly rental and agreed in order to forward a positive recommendation Council consider a rezone application of this area to SF zone. That is a legislative act and that is where the 109 citizens petition is absolutely relevant. They do not need to cite specific criteria or standards that are violated one way or

the other. They can say 'we support' or 'we don't support' because that is a legislative act that Council makes for the general health, safety and welfare of the community and consistent with the General Plan. Those are your two findings on a rezone and that is why it is easier to change the zone in many respects but Joe Tesch is right on the other end. It opens your global can of worms because it effects other RD zones and will open the door for people who are objecting to an RD zone other than just this particular applicant and other issues because it may have ramifications. Council cannot spot zone an area, which an argument can be made if you are taking away a permitted use that is otherwise permitted by the zoning, that in effect a spot zone. However, Council does have sufficient leeway by virtue of an MPD provision that findings could be made, although he believes they simply were not there in this case and believes the Planning Commission made that determination as well. It did not have to be reflected as a finding of fact because that use was not being applied for. That Commission discussion is clearly on the record in the minutes. He stated in defense and fairness of the Aerie home owners, at that time the project was first approved the project developer was going to prohibit nightly rentals in the CC&R's, however, and whether that would have gone forward cannot be validated.

Planner Whetstone stated this plat relies on an MPD that was approved with no restriction on nightly rental so this plat is coming forward and the Planning Commission is recommending it be approved because it is consistent with the MPD that was approved on June 12. The parcels for the CUP were then approved by the Planning Commission and those are the question of the appeal.

Councilmember Calvert inquired concerning the two other issues that were raised by the homeowners, one of which was the traffic study, noting the City has been wrong before on community traffic issues. Planner Whetstone explained this project's density was taken into consideration in the City's streets master plan, and the City Engineer reviewed the plat, staff reports and made statement or finding that the streets servicing the project were sufficient to handle the traffic. As far as anybody from this project going all the way through the development to go down Aerie Road, a sign could easily be installed there that says in

inclement weather use Mellow Mountain Road. Future density was taken into consideration when the round-about was designed and developed, and traffic studies were completed for Deer Valley Drive, through the round-about, signals, to Hwy 224.

Administrator Putt presented a brief description of a portion of the application process prior to coming before the Planning Commission for a work session or a public hearing, an interagency staff review meeting is held where members of the Community Development Department, Public Works, Engineering, and utility provider representatives review projects that are coming forward, specifically for things like potential traffic or volumetric design problems with streets, and at that point in time initially identify existence of any problems associated with that particular application, certainly traffic. Stated this particular project had gone through a minimum of at least three interagency meetings for a review.

Councilmember Calvert stated over the last few months a number of concerned citizens have come before Council with legitimate problems that were revisited and conclusion made a serious problem was not caught; that is the concern with this project. Planner Whetstone reported Mellow Mountain Road was designed and built to sustain the future density of April Mountain, which at that time was almost three times the density proposed with this project, provide for a second point of access, and we are inviting the public up there with access to a City park.

Councilmember Calvert noted the concerns of a number of people that already live in the area, and inquired what will be done to at least ensure the roads are going to adequately serve the needs and address the fear of people that they are going to have bad accidents; inquired if two-way traffic was allowed on Aerie Road during winter. Planner Whetstone responded two-way traffic is currently allowed. Administrator Putt responded the way this is addressed is through the review of the subdivision plat and the requirement for the streets design that goes through the review by the City Engineer and in this particular case the existing road, Mellow Mountain Road, meets or exceeds existing engineering standards as required by the streets standards and the plans that we have and the Ordinance that we have

here in the City. Again, its design and its configuration was predicated on the amount of density that would ultimately be serviced by that road. The question that you would have to answer is does the road meet the current engineering standards, the answer to that is yes. Was the road when it was designed at its inception, designed to accommodate this amount of density, the answer to this question is yes. And that's spelled out in the streets master plan as Ms. Whetstone had referenced. Is this a situation where we have an historic street in old town that's substandard in size or doesn't meet the grades, or doesn't meet the curvature requirements, the geometry associated with that - in those particular cases I think those would be valid questions, but in this particular case we have a road that was established, built, constructed, designed to meet not only the City's standards for road construction but accommodate the density that we have.

Mayor Williams commented he realizes the roads were designed for it, and it may be that nightly rentals actually creates less traffic, as these units tend to sit empty a large amount of the time, and permanent residents could make several day trips. Pointed out hundreds of pages have been submitted to Council and time is needed for review.

Motion by Councilmember Jones to continue the plat to a date uncertain. Motion seconded by Councilmember Calvert. Motion carried unanimously.

Councilmember Hier clarified Commissioner Erickson voted against the plat amendment, his reason for voting against the plat amendment was that he did not think the amount of consolidation of space within the new plat design was sufficient to justify one more unit, it did not have anything to do with SF or RD, it was that in his opinion, the overall reconfiguration of the plat did not justify the addition of one more unit. The rest of the Planning Commission found opposite of that, that the reduction in overall area density of the plat was sufficient to justify the one additional unit. Secondly, that motion went forward. Then there was a separate motion made to request City Council review of the SF zone for that particular area based on the steepness of the access road and concurrently look at all other RD zones to see if steep roads would be sufficient to justify a rezoning to SF.

IX OLD BUSINESS

1. Ordinance approving a final subdivision plat known as the April Mountain Subdivision, located on Mellow Mountain Road, Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Utah.

Continued to a date uncertain - see the foregoing April Mountain final subdivision plat public hearing.

VII NEW BUSINESS (Continued)

2. Appeal of Planning Commission June 26, 2002 approval of April Mountain Conditional Use Permit for 39 condominium units.

Planner Whetstone reported this is the appeal of the Planning Commission's June 26, 2002 action approving the April Mountain Conditional Use Permit, a quasi-judicial issue. Staff is recommending Council discuss the issues of appeal, hear from the appellant, applicants, and neighbors, and consider the Planning Commission's action to approve the CUP based on the approved MPD. Referred to allegations included in the staff report on page 4 and stated that in regard to the nightly rental issue, the Planning Commission considered that to be more of a zoning issue. Reported a substantial number of petitions were received, that the Planning Commission found citizens seemed to be signing the petition that they were opposed to a change of no nightly rentals, that nightly rentals were now being permitted when nightly rentals were not being permitted in the previous MPD and it was clarified by the Commission when the original MPD for April Mountain was approved it did not restrict nightly rentals, and the Planning Commission never made a condition of approval and didn't make the findings. The CUP in this case is for 39 single family and condominium units, there are seven individual units similar to Bald Eagle which are single family condominiumized houses, and 32 duplex units in 16 buildings, that would be condominiumized to allow individual ownership of each

side. The Planning Commission approved this conditional use and the standard they used in determining whether the application was consistent with the LMC is contained in specific criteria listed on pages 3 through 5 on the staff report. A condominium plat must be approved before construction of the condominiums and identifies CC&R's and any restrictions that may apply to the condominium project. The Planning Commission looked at impacts on environmentally sensitive lands, slope retention, determined this complied. The Commission reviewed the conditional use and believed it consistent with the LMC and MPD that was approved, approved it with the findings of fact and conclusions of law and conditions of approval as presented.

City Attorney Harrington clarified concerning the sidewalks that the code provision in the subdivision section states sidewalks shall be included within the dedicated non-pavement right of way of all roads unless an alternate location has specifically been approved by the Planning Commission. He recalled there was some discussion by the Commission on whether to have sidewalks or not and they determined it was more appropriate to have them for maintenance and due to roadway concerns. Planner Whetstone pointed out the additional trail coming from the Aerie Heathstone area which was a condition of approval by the Planning Commission recognizing the preference of the Aerie residents for a trail instead of a sidewalk.

Councilmember Bodell noted this information is different that what was assumed earlier, looks like a trail is accommodated to the north and also accesses the south, so there is no reason to go into the April Mountain subdivision and use these sidewalks for people who are just using the trails for recreation. City Attorney Harrington pointed out that would be true except for the access to Gambel Oaks through the middle is its most direct route. Peg Bodell expressed opinion you would not want to cut across there and stay on the sidewalk because you have access on the north that will take you there directly and faster to the Hope parcel and then across the Hope parcel to the Gambel Oak parcel; requested staff review that because it makes a difference. City Attorney Harrington pointed out for the record, the BLM is requiring vehicular and pedestrian access shown from the road to Gambel Oak and that would be shown on the trail map as the primary access as required.

Councilmember Jones inquired if the CUP is for the form of ownership as condominium is a form of ownership, not a type of unit. Planner Whetstone replied the CUP is for the duplex units. Mark Harrington stated if there were not going to be condominium there would be different setback firewall considerations that would be relevant to the CUP.

Councilmember Hier stated the beginning sentence says as a condition of approval the condominium portion of the MPD was required to be reviewed and approved as a CUP prior to issuance of a building permit for the condominiums so that the Planning Commission could review the configuration and the arrangement of the development within those areas of the plat that were designated as the condominium section, they required this to be a CUP. Subsequent to the plat filing which further defines the location. Planner Whetstone stated it is her understanding the applicant has a plan to put condominiums there; those units were approved by the Commission specifically to these drawings and layouts.

Councilmember Calvert inquired if the developer can make the decision to change the condominiums into single family if he so chooses, however, could not change the single family lots and into condominiums. Mark Harrington responded neither, once the applicant has the plat approval, that is what it is, if they wanted to change it they would have to go back and replat.

Mr. Shapiro pointed out the MPD has been reviewed and approved, this is an appeal of Conditional Use Permit which Planning Commission has decided. If there are issues concerning the Commission's findings of fact and conclusions of law on the CUP, they would like them disclosed at this time, once this is platted the project does not change, an offer of settlement was made to ensure the project will not change later on, that was one of the issues, and this is an appeal. The MPD has been done, appealed, next step is district court if they want to do that on the MPD. Things just keep getting mixed up here.

Councilmember Hier stated as a matter of procedure, staff has answered all of the point by point items that Mr. Tesch has put out in his appeal. If there is a part of staff's responses Mr. Tesch would like to address, that he feels is not appropriately responded to or does not meet the concern, it should be heard at this time. City Attorney Harrington stated for the record, Mr. Tesch's prior comments in the plat hearing addressed many of those in a different manner and are incorporated at this point.

Joe Tesch asked Council to reconsider their decision not to allow the appeal of the MPD, for the reason the arguments made to you was that all of the MPD issues could be raised on these two appeals. Indeed in your decision to not accept the MPD appeal, paragraph 8 states 'the majority if not all of appellants objections and the city applicant defenses can be properly raised pending review of the final subdivision plat and the timely filed appeal by the CUP for the project'. Tonight the City Attorney and the applicant have said that is not true, that the only issues before you are whether or not the CUP and the subdivision is consistent. Mayor Williams responded he wished the appeal had been made a timely fashion and this argument would not be made right now, however, that is not the Council's problem, everyone is in agreement and understands the fact the appeal was filed four days beyond the deadline.

Mr. Tesch stated that he did, and heard what Council said that night which is why he did not immediately go to the district court. It was even put in the findings why the appeal was not accepted that all of the same issues could be raised tonight, now the opposite is heard. The issue is whether or not it is consistent with that MPD and the MPD cannot be discussed. Stated they were fooled, and maybe Council was also. Stated he would like to discuss MPD issues - traffic. Stated the pad was not there when the overlook was approved; however, Council approved a bad road that no one in the world would permit because there was a lawsuit and it was settled and the City said as a result of that lawsuit, the overlook subdivision will be recommended for approval whether or not the road met City code, and it didn't. Mellow Mountain Road may but the other way you have access and the realistic way for access is on the Aerie and that is why a traffic study needs to be done. In regard to the

sidewalk issue, tonight it is stated the sidewalk is not a trail, however, the Planning Commission was told the sidewalk was part of the trail system, and the Planning Commission decided it was part of the trail system. With regard to the misconception of no nightly rentals and the prior approval, why would the issue come up if the developer said he was going to deny in the CC&R's. The CUP Ordinance or MPD Ordinance states if you want nightly rental the developer must declare it in the application. Clearly that statement that you must declare when you apply, suggesting that you get it automatically is belied and denied by that requirement. The City has a right to consider it and deny it, that is why there is a requirement to declare it. Requested anything else he has stated be incorporated. He stated he was astounded by some government speak that suggests that the sensitive lands Ordinance that existed at the time the amendment was filed can be waived. Stated this project was hustled through, short cuts were taken, assumptions were made, and it is time to stop that and go back and do the job the ordinances require.

City Attorney Harrington clarified that the MPD issues could be 'raised' through one of the two processes before Council tonight. He stated he believed there has been some overstatement of reliance on the MPD as at the last meeting he went through point by point in which venue each argument Mr. Tesch has listed in his brief could be raised and he still stands by that statement. There may be a SLO density determination back in June that he would argue in defense to staff and the applicant regardless of whether Council was considering it in the context of the MPD appeal or the Cup appeal. So by virtue of so raising that issue, that the wildlife report was not required or that there was not a substantial change from that original sensitive lands density determination is applicable, the defense is applicable in the CUP appeal as well. Just because it is part of the underlying MPD does not negate it, because that was a prior action that was not even subject to the appeal of the MPD because there is an appeal period that ran from the SLO determination as well. When you apply for an MPD you do not apply for the use, but the CUP Ordinance says expected ownership patterns which include certain things shall be considered. He expressed the opinion he believes it an overstatement to say it is required, that the applicant must specify it and therefore cannot apply for it. The Ordinance reads 'expected ownership and management of

the project as primary residences, condominiums, time-interval ownership, nightly rental, or commercial tenancies', and he believes the intent of the developer in declaring that would probably meet that burden, believes there is a differentiation between the permitted use that is being overlooked by the appellants.

Councilmember Calvert inquired where the issue regarding the habitat study or the maintenance of the road as it is today would come up. Attorney Harrington responded it would be addressed under your CUP criteria, the CUP was filed under the current code, and incorporates the defined term "environmentally sensitive lands". While Council and the Commission could have gotten to wildlife issues there, it is not a required submission for them to consider it. They must consider the impacts of the project as it relates to environmentally sensitive lands, like a mini SLO review that would provide the Commission and Council the ability to require the Wildlife Study, but to Bruce Shapiro's point, the Planning Commission determined that it was not required. Council is reviewing whether the Commission determination was appropriate or not based on the information at hand. The same stands true for the traffic issues. Typically Council looks at whether the Planning Commission correctly applied the proposed development to the code and whether they made sufficient findings based on that criteria and traffic and safety that are in there. Council would typically defer to the Planning Commission findings unless something was found to the contrary, and in that event ask for evidence of that specific area that is going to change the determination and then direct staff. The process could be somewhat prolonged because if Council determines the remedies could be handled certain ways the Planning Commission could be requested to more specifically address that concern, or a contrary finding or condition of approval that addresses the concern but will allow the approval to go forward could be made, or the Council could deny.

Councilmember Calvert inquired if additional review and information concerning the traffic and wildlife issues could be provided to Council in order to make an educated decision. Attorney Harrington responded that is in line with the Mayor's point that additional review is necessary, suggested once the factual inquiry and hearing of the arguments is completed,

continuance is probably the next step unless there is Council consensus to give a specific direction one way or the other or information is requested. However, he believes Council is in a deliberative mode, needs to go through and digest the information and input presented, read everything received, double check the code sections. A tremendous amount of information has been presented from all the parties and Council could not really be better prepared, everyone made excellent arguments, and it is incumbent on Council to decide. Contrarily, as in the past often Council has been able to quickly decipher through the matter affirmatively or negatively and may not want to delay. He pointed out there is no meeting next week and it would be two weeks before coming back. If there is no direction given to staff tonight, a third meeting will be necessary for staff to come back with findings and facts.

Councilmember Jones pointed out Council has a tremendous amount of information before them, a substantial amount received tonight both from testimony but also written. From a process standpoint he inquired if it is possible to get to a point tonight where they have received all the information from the appellants and project proponents, where they do not get handed other input two days before the next meeting or during the next meeting. Attorney Harrington responded that the public hearing has been closed on the plat and the plat has been continued to a date uncertain. The CUP could be closed and continued, however, recommended each party, not the public, be allowed a limited rebuttal and last say, to address any new information from staff that may be disagreed with or objected to; it would be appropriate to reserve a limited opportunity for each party to address the Council at the next meeting based on any new information.. However, the parties should not be preparing anything written at this point, although if they feel the necessity to do so they should probably verbalize that at this time.

Mayor Williams noted Kay Calvert will be absent the 1st of August, the next meeting would be the 8th.

Mr. Shapiro pointed out the Planning Commission process went on a very long time and the developer also has some rights too; there should be some decisions made soon

because this is very expensive, the Planning Commission held a lot of public hearings, and this is an appeal process, think issues could be limited to traffic and habitat.

Councilmember Erickson stated she also had a concern about neighborhood compatibility; noted she found in the the Planning Commission minutes it was a unanimous vote, Commissioner Erickson voted on approval with the condition that the area be rezoned consistent with the single family neighborhood and applications for single family zoning on the basis it was found the road grade is inadequate. Planner Whetstone reported the Commission took that action in two motions, one to approve the MPD and the second motion to recommend rezoning review.

Councilmember Bodell noted all the information Council is asking for is from staff, clarification of the City's Ordinances and historical facts, does not see the need for any additional written information from the appellant and applicant; it is appropriate to set a date for response from staff and direct staff to also provide that information to the applicant and appellant counsel for verbal response at the next meeting.

Motion by Councilmember Calvert to continue the April Mountain CUP appeal to August 8, 2002.

Councilmember Hier inquired if the matter could come for Council discussion on August 1st instead of waiting two weeks. Attorney Harrington replied if Kay is going to attend the subsequent meeting and vote, she would have to review the work session minutes and tape to apprise herself, that is typically what was done in the past. He advised Council as Judges they could go into closed session to deliberate but given the issues co-mingled with the plat and high public interest, he would not recommend closed session. He expressed the opinion to keep the matter in a formal appeal setting, not a work session.

Motion by Councilmember Calvert to amend her motion and continue the April Mountain CUP appeal to August 1, 2002. Motion seconded by Councilmember Hier. Motion carried unanimously.

Attorney Harrington suggested Council comments or requests for information be submitted to the Mayor by Monday to allow response in time for the August 1st packet; a response will be provided by the next Monday before the meeting. Council concurred.

X ADJOURNMENT

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

* * * * *

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:45 p.m. Members in attendance were Mayor Dana Williams, Peg Bodell, Candace Erickson, Jim Hier, and Fred Jones. Kay Calvert was excused. Staff present were Tom Bakaly, Assistant City Manager; Mark Harrington, City Attorney.

Peg Bodell moved to close the meeting to discuss property disposition. Fred Jones seconded. Motion carried unanimously.

* * * * *

The meeting for which these minutes were prepared was noticed by posting at least 4 days in advance and by publication in a local newspaper two days prior to the meeting.

Prepared by Cindy LoPiccolo

DATE: August 22, 2002
DEPARTMENT: Planning Department
TITLE: Second Amended Record of Survey for Sterlingwood Condominiums
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATION: Conduct a public hearing, consider public input, and consider staff's recommendation to approve as conditioned or amended.

C. Topic

Applicant: Sterlingwood Condominium Homeowners Association
Applicant's Representative: Brent Gold
Project Address: 7800 Royal Street East
Zoning: RD - MPD
Adjacent Land Uses: Residential condominium, Open Space (ski run), Silver Lake Lodge

Project Planner: Jonathan Weidenhamer

D. Background

The Planning Commission heard this application at its regular meeting on August 14, 2002, held a public hearing at which they received no input, and forwarded a positive recommendation to the City Council.

This application is to amend units 1-6, and 16 -18 (Buildings A, B, C, D, and E) of the Sterlingwood Condominiums . Portions of existing deck area for these units are indicated on the existing condominium record of survey plat as "Common Area". Consistent with the Condominium Ownership Act, Staff has prohibited any further conversions to private ownership of these common areas without an amendment to the record of survey to allow these conversions.

At this time the Homeowners Association proposes to amend the existing condominium record of survey plat to allow portions of common deck areas to be converted to "Convertible Space" and subsequently converted to "private ownership" at the discretion of the individual owner, subject to HOA approval. This application also proposes to amend the type of ownership of "common" deck areas to Limited Common Ownership. (Exhibit B - Proposed Second Amended Record of Survey Map - Sterlingwood).

E. Analysis

This application allows an administrative process by which an individual unit owner can change "convertible" area to private ownership with homeowners association approval. The value in this type of process prevents excess cost and time processing individual record of survey amendments for each deck enclosure.

Units 1-6, 17 and 18 are 2,443 s.f.. The conversions of the proposed deck areas to private ownership will add 122 square feet to each unit resulting in 2,565 s.f. for each unit. Unit 16 is currently 2,566 s.f. This amendment potentially will add 275 s.f. to the unit. The parking requirement for multi-unit dwellings stipulates that any unit over 2,500 s.f. requires three parking spaces. Each unit addressed in this application can provide at least three on-site parking spaces.

Prior to approval, the condominium association will submit amended CC&R's to the City for review. They have provided confirmation (Exhibit C) of a home owners vote exceeding 2/3 majority to support this application. In all cases, a certified survey will be required prior to issuance of a building permit to verify setbacks or other Land Management Code Regulations.

A Condition of Approval will reflect this.

F. Department Review

This project has gone through an interdepartmental review team. There are no outstanding issues. At such time as a final plat is required, the City Engineer and City Attorney will review the plat as to form and compliance with the Land Management Code prior to recordation.

G. Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also placed in the Park Record. No public input has been received by the time of this report.

SIGNIFICANT IMPACTS

Failure to amend the Record of Survey will prohibit unit owners from converting common and limited common decks and patios into private area.

RECOMMENDATION

The staff recommends that the City Council conduct a public hearing, consider any public input, and consider staff's recommendation to approve the Second Amended Sterlingwood Condominium Record of Survey based on the following findings of fact, conclusions of law and conditions of approval:

Findings of Fact:

1. The Planning Commission heard this application at its regular meeting on August 14, 2002, held a public hearing at which they received no input, and forwarded a positive recommendation to the City Council.
2. This application is to amend the floor plan for units 1-6, 16 - 18.
3. Portions of existing deck area for these units are indicated on the existing condominium record of survey plat as "Common Area".
4. At this time the Homeowners Association proposes to amend the existing condominium record of survey plat to allow common deck areas to be converted to "Convertible Space" and subsequently converted to "private ownership" at the discretion of the individual owner subject to HOA approval.
5. Units 1-6, 17 and 18 are 2,443 s.f.. The conversions of all deck areas to private ownership will add 122 square feet to each unit resulting in 2,565 s.f. for each unit. Unit 16 is 2,566 s.f. This amendment potentially will add 275 s.f. to the unit.
6. The parking requirement for multi-unit dwellings stipulates that any unit over 2,500 s.f. requires three parking spaces. Each unit addressed in this application can provide at least three on-site parking spaces.
7. The applicant has provided confirmation of a home owners vote exceeding 2/3 majority to support this application.
8. If the convertible areas are privatized, the 66.6% open space for the entire project will still be maintained.

Conclusions of Law:

1. There is good cause for this Amended Record of Survey.
2. The Amended Record of Survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed Amended Record of Survey.
4. Approval of the Amended Record of Survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Amended Record of Survey and declaration of condominium for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the Amended Record of Survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

3. All other conditions of approval of the Sterlingwood Condominiums project continue to apply.
4. Converted Private area cannot be used to create a lockout unit.
5. A note shall be added to the plat outlining the administrative process whereby building permits may be issued to unit owners desiring to construct additions in the convertible space created by this plat. The plat note shall provide that no building permits shall be issued for unit additions within the convertible space unless and until: (1) The Park City Community Development Department (CDD) has received a copy of the recorded Notice of Conversion described as plat note number 5; (2) The CDD has reviewed the application for compliance with any underlying Conditional Use Permit, Master Planned Development, or other conditions of approval; and (3) Notice of the application has been sent to all Sterlingwood unit owners stating that anyone objecting to the application may file written objection within ten days of the date of notice. Anyone filing such objection shall be entitled to an administrative hearing before the CDD director.

EXHIBITS

Exhibit A - Location Map

Exhibit B - Proposed Second Amended Record of Survey for Sterlingwood

Exhibit C - Confirmation of HOA approval

Exhibit D - Ordinance

Ordinance No.

AN ORDINANCE APPROVING AN AMENDED RECORD OF SURVEY FOR STERLINGWOOD CONDOMINIUMS LOCATED AT 7800 ROYAL STREET EAST, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 7800 Royal Street East have petitioned the City Council for approval of an amended Record of Survey plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on June 12, 2002, to receive input on the proposed record of survey plat;

WHEREAS, the Planning Commission, on June 12, 2002, forwarded a positive recommendation to the City Council; and,

WHEREAS, on June 27, 2002, the City Council held a public hearing and approved the proposed record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the record of survey plat.

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

SECTION 1. APPROVAL. The Record of Survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

6. The Planning Commission heard this application at its regular meeting on August 14, 2002, held a public hearing at which they received no input, and forwarded a positive recommendation to the City Council.
7. This application is to amend the floor plan for units 1-6, 16 - 18.
8. Portions of existing deck area for these units are indicated on the existing condominium record of survey plat as "Common Area".
9. At this time the Homeowners Association proposes to amend the existing condominium record of survey plat to allow common deck areas to be converted to "Convertible Space" and subsequently converted to "private ownership" at the discretion of the individual owner subject to HOA approval.
10. Units 1-6, 17 and 18 are 2,443 s.f.. The conversions of all deck areas to private ownership will add 122 square feet to each unit resulting in 2,565 s.f. for each unit. Unit 16 is 2,566 s.f. This amendment potentially will add 275 s.f. to the unit.
11. The parking requirement for multi-unit dwellings stipulates that any unit over 2,500 s.f. requires three parking spaces. Each unit addressed in this application can provide at least three on-site parking spaces.
12. The applicant has provided confirmation of a home owners vote exceeding 2/3 majority to support this application.
13. If the convertible areas are privatized, the 66.6% open space for the entire project will still be maintained.

Conclusions of Law:

- A. There is good cause for this Amended Record of Survey.
- B. The Amended Record of Survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
- C. Neither the public nor any person will be materially injured by the proposed Amended Record of Survey.
- D. Approval of the Amended Record of Survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Amended Record of Survey and declaration of condominium for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the Amended Record of Survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. All other conditions of approval of the Sterlingwood Condominiums project continue to apply.
4. Converted Private area cannot be used to create a lockout unit.
5. A note shall be added to the plat outlining the administrative process whereby building permits may be issued to unit owners desiring to construct additions in the convertible space created by this plat. The plat note shall provide that no building permits shall be issued for unit additions within the convertible space unless and until: (1) The Park City Community Development Department (CDD) has received a copy of the recorded Notice of Conversion described as plat note number 5; (2) The CDD has reviewed the application for compliance with any underlying Conditional Use Permit, Master Planned Development, or other conditions of approval; and (3) Notice of the application has been sent to all Sterlingwood unit owners stating that anyone objecting to the application may file written objection within ten days of the date of notice. Anyone filing such objection shall be entitled to an administrative hearing before the CDD director.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 22th day of August, 2002.

DATE: June 30, 2016

DEPARTMENT: Legal Department

AUTHOR: Natalie C. Segall

TITLE: Proposed Amendments to the Municipal Code of Park City ("MCPC") Title 11
to adopt current versions of the building codes and regulations, and
to delete repetitive and extraneous sections found in Title 11.

TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Hold a public hearing and adopt the proposed ordinance which adopts the most current versions of the building codes and regulations as Title 11 of the MCPC and to delete repetitive and extraneous sections found in Title 11.

DESCRIPTION:

A. Topic.

The Municipal Code of Park City ("MCPC").

B. Proposal.

Recommended amendment to the MCPC which updates Title 11 adopting the newest versions of the codes related to building and building regulations and deleting repetitive and extraneous provisions found in Title 11.

C. Background and Analysis.

Amendments to the "Utah Uniform Building Standards Act" were adopted on May 6, 2002. Section 58-56-4(2)(a) of the Utah Code Annotated states that a building code, the National Electrical Code promulgated by the National Fire Protection Association, a plumbing code, and a mechanical code shall be adopted as the construction codes which the states and

each political subdivision of the state shall follow. Successor editions of any adopted code may occur by rule.

Utah Administrative Code Rule 156-56-701, issued January 1, 2002, lists specific editions of the Uniform Building Standards that may be adopted by the state and each political subdivision. These specific editions include the International Building Code, 2000 edition; the National Electrical Code, 1999 edition; the International Plumbing Code, 2000 edition; the International Mechanical Code, 2000 edition; and the International Fire Code, 2000 edition. The Building Department needs to use the current versions of the Codes to apply to building construction, alteration, remodeling and repair, and in the regulation of building construction, alteration, remodeling, and repair.

Additionally, updated building rules and regulations safeguard the health, safety, and property of the community as well as facilitate customer service and the public's general knowledge of the current law.

Sections 11-2-1 through 11-2-6 have been deleted since the duties set forth in these sections are statutorily delegated to the Building Inspector and *not* the Community Development Director. The Building Department confirmed that its staff regularly performs the duties listed in Sections 11-2-1 through 11-2-6.

Section 11-3-1(B) has been amended to reflect how building permit fees are paid and amounts set, by resolution of City Council. Section 11-12-2 has been amended to delete the "fall-back" provision for building fees in the event such fees have not been set by resolution.

Section 11-3-2(F) has been deleted since the provision concerning fire sprinkling systems in the Historic Commercial Business District is no longer applicable.

Section 11-9-2, concerning the Building Official's responsibility for administration and enforcement of the Fire Code, has been deleted in its entirety since it is a direct duplication

of 11-9-1(B), which states the same administration and enforcement duties of the Building Official of the Fire Code.

Section 11-14-4(I) "Erosion Control Practices" under "Construction Mitigation Plans" has been added to manage soil erosion at construction sites. The purpose of this section is protect the water quality of Park City.

Section 11-15-11 "Failure to Comply" governs violations of Chapter 15. Chapter 15 deals with Park City Landscaping and Maintenance of Soil Cover. This section has been amended to reflect that civil and criminal action concerning a violation of Title 11 Chapter 15 are not exclusive of each other and that enforcement may occur through district court *and* criminal prosecution.

D. Significant Impacts

Failure to amend the Code may lead to noncompliance issues and denying the public the most recent laws on building regulations.

Failure to delete unnecessary and repetitive language in the Code may cause confusion and uncertainty regarding applicable code sections.

E. Alternatives

1. Approve the revisions to Title 11 of the Municipal Code of Park City. This is the recommended action.
2. Modify the Ordinance. If after public input and discussion the Council desires further changes, it should direct staff accordingly.

3. **Continue the item with direction to Staff.**

F. Staff Review

The Legal Department and the Building Department have reviewed this matter. City Attorney Mark Harrington recommended the changes and reviewed the ordinance.

G. Recommendation

Approve the revisions to Title 11 of the Municipal Code of Park City.

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TITLE 11 - BUILDING AND BUILDING REGULATIONS

CHAPTER 1 - DEFINITIONS.

11- 1- 1. DEFINITIONS.

(A) **APPEAL**. A request for a review of the Building Official's interpretation of any provision of this Title or a request for a variance.

(B) **APPROVED TOPSOIL**. New topsoil is required to be tested and cannot exceed the following: lead 200 ppm; as determined by testing a representative sample at a state certified laboratory using the method described in Section (Q), Mine Tailings, below. Results reported as received [not dry weight].

(C) **AREA OF SHALLOW FLOODING**. A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

(D) **AREA OF SPECIAL FLOOD HAZARD**. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

(E) **BASE FLOOD**. The flood having a one percent chance of being equaled or exceeded in any given year.

(F) **CONSTRUCTION SITE**. The property, whether fenced or unfenced, involved in the construction of any building or structure as shown on the approved site plan, and such additional contiguous area owned or controlled by the owner or contractor of the project that is used for construction related work or activities such as staging, material storage, equipment storage, soil stock piling and similar activities.

(G) **CONSTRUCTION WORK**. The performance of any labor, delivery of any materials, operation of any power tool or motorized equipment on any construction site.

(H) **CONSTRUCTION MITIGATION PLAN**. A plan that is submitted to the Chief Building Official that includes mitigation details on site specific projects.

(I) **DEVELOPMENT**. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

(J) **FLOOD OR FLOODING**. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or

- (2) The unusual and rapid accumulation of runoff of surface waters from any source.
- (K) **FLOOD INSURANCE RATE MAP**. The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
- (L) **FLOODWAY**. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').
- (M) **HAZARDOUS WASTE**. Any tailings, soil, or other material which exceeds the action level of lead at 1000 ppm for the purpose of this Title shall be considered hazardous waste. The testing to be done according to the method described in Section Q, Mine Tailings, below.
- (N) **LOWEST FLOOR**. The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Title.
- (O) **MANUFACTURED HOME**. A structure, transportable in one or more sections, which is built onto a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. The use of manufactured homes is controlled by the Land Management Code of Park City.
- (P) **MANUFACTURED HOME PARK OR SUBDIVISION**. A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent or sale.
- (Q) **MINE TAILINGS**. Any soil which has the following lead concentration: Lead 1000 parts per million (ppm) or greater, as determined by using the Standard Method 15th Edition 302 [Nitric Acid Digestion] analysis by Atomic Absorption Spectrometer Standard. Method 303. Results reported as dry weight.
- (R) **MOBILE HOME**. A structure that is transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The use of mobile homes is controlled by the Land Management Code of Park City.
- (S) **NEW CONSTRUCTION**. Structures for which the "start of construction" commenced on or after the effective date of this Title.
- (T) **OWNER**. The individual, corporation, partnership or other entity who has requested or caused construction work to be performed on a construction site.

(U) **PERSON**. Every natural person, firm, co-partnership, association, or corporation.

(V) **PROSPECTOR**. That area of Park City described in Section ~~11-14-1~~11-15-1.

(W) **START OF CONSTRUCTION**. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

(X) **SUBSTANTIAL IMPROVEMENT**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure; the term does not, however, include either:
 - (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - (b) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, or any alteration of a structure listed in the Mining Boom Era Thematic Nomination to the National Register of Historic Places.

(Y) **TYPES OF CONTRACTORS**. As an illustrative list of contractors subject to the provision of this Title, but not in limitation thereof, the following types of contractors, and all others engaged in related work are subject to the provisions of this Title: General contractors, specialty contractors of all kinds, such as, but not limited to those engaged in the business of installing, repairing, or otherwise performing services in connection with: Acoustical tile and roof decking; awnings, storm doors, and windows; air conditioning, dry-heating, sheet metal; boilers, steam fitting, carpentry; cement and concrete; ceramic tile; cabinet and millwork; composition floor, countertops, tile; carpet; drywall; elevator installation; electrical; excavating and grading; fencing; floor coverings; fire prevention (structural); furnaces and burners; glazing; industrial piping; iron and bronze

(ornamental); insulation; landscaping; lathing, lawn sprinklers; masonry; mosaic tile and terrazzo; overhead doors; painting and paper hanging; pest control (structural); plastering; plumbing and wet-heating; roofing and siding; swimming pool; signs; stone masonry; sewer installation; steel reinforcing and erection; tanks (structural); waterproofing; weatherstripping; welding; wrecking and demolition; wood floor laying and finishing.

(Z) **VARIANCE**. A grant of relief from the requirements of this Title which permits construction in a manner that would otherwise be prohibited by this Title.

CHAPTER 2 - IN GENERAL

~~11-2-1. COMMUNITY DEVELOPMENT DIRECTOR.~~

~~The Community Development Director, under the supervision of the City Manager, shall have responsibility for the enforcement, administration, application, and interpretation of the following codes:~~

~~(A) — Uniform Building Code;~~

~~(B) — All other building and mechanical codes, including fire, electrical, plumbing, and dangerous building codes, as adopted, or as subsequently amended or enacted;~~

~~(C) — The Land Management Code, as adopted or as subsequently amended or enacted;~~

~~(D) — Standard Engineering Specifications for Park City, as adopted or as subsequently amended or enacted;~~

~~(E) — Park City Sign Code, Title 12 of the Municipal Code, as adopted or as subsequently amended or enacted.~~

~~11-2-2. SUBSTANTIAL COMPLIANCE PERMITTED.~~

~~To avoid unnecessary review by City agencies and disputes over the application of codes, whenever there are practical difficulties involved in strict application of the provisions of the codes listed above, the Community Development Director is granted the authority to make specific modifications to strict compliance with the codes, provided that any such modification is granted on the basis of an identified site-specific reason that makes strict compliance impossible or impractical, that the standards of this Title are met, and that the modification results in substantial compliance with the intent of the code to which the modification is granted. Any time a modification of strict compliance is made, the Community Development Director shall note the modification and the specific reasons why it was granted. The Director shall maintain a file of all modifications granted. The Director may also document requests for modifications that were denied.~~

~~11-2-3. CONDITIONS FOR GRANTING MODIFICATION.~~

The Community Development Director may grant a modification to strict compliance with the codes listed above when:

~~(A) the impact of the modification on adjoining properties is negligible or insignificant;~~

~~(B) the net effect of requiring only substantial compliance provides a functionally or structurally equal structure, site plan, or improvement, both for the owner of the subject property and for the City as a whole;~~

~~(C) there is no material increase in the burdens on City services created by granting the modification;~~

~~(D) there is no material increase in any risks to health or safety created by granting the modification so that conditions relative to health and safety are not materially worsened from the condition that would have existed had strict compliance been required;~~

~~(E) the modification serves to eliminate potentially dangerous or undesirable health, safety, traffic, structural, drainage, erosion control, architectural or similar conditions that would result from requiring strict compliance with the codes;~~

~~(F) there are incompatible code provisions affecting the same issue, that make strict compliance with all applicable provisions impossible due to unusual circumstances not within the contemplation of the code, or mutually exclusive provisions; or~~

~~(G) when situations arise that are not specifically addressed by the codes, but could be under the purview of one or more Code provisions and a ruling on which provisions apply is necessary to go forward.~~

~~11-2-4. SCOPE OF MODIFICATIONS.~~

~~Any modification granted under this Code may affect the requirements, provisions, or terms of any of the codes listed above, whether those provisions are specific in nature or require interpretation, and whether the provisions in question address substantive or procedural requirements. This Code, and modification granted under it, shall not be used to circumvent the clear intent of any ordinance or to grant rights or privileges to one property owner that are not generally available to owners of like property owners or like projects under the same general conditions or circumstances. Modifications shall not be so broad as to exceed a standard of substantial compliance with the code or ordinance in question. Wherever modifications greater than substantial compliance are requested, the matter shall be referred to the appropriate Board of Adjustment, Board of Appeals, Commission or Council.~~

~~11-2-5. AMENDMENT OF OTHER CODES AND ORDINANCES.~~

~~To the extent the codes and ordinances listed above, or their successor provisions specifically vest administrative decision-making authority in persons other than the Community Development Director, those provisions are hereby amended to vest that discretion in the Community~~

Development Director, or those officers or officials that he might delegate the authority to, provided that all decisions are subject to the supervision of the City Manager.

11- 2- ~~61~~. BUILDING INSPECTOR - APPOINTMENT AND REMOVAL.

There shall be a Chief Building Inspector who shall be appointed by the City Manager and shall serve under the direction of the Community Development Director.

11- 2- ~~72~~. BUILDING INSPECTOR - DUTIES.

The chief building inspector shall be responsible for the enforcement of the building code, mechanical code the electric code, plumbing code, housing code, abatement of dangerous building code, all special hazards codes which may now or hereafter be adopted, and the zoning code of the City.

11- 2- ~~83~~. BUILDING INSPECTOR ADDITIONAL DUTIES.

The Building Official shall also be known as the Building Inspector and shall in addition to the provisions of the International ~~Uniform~~ Building Code have the duty of administering and enforcing the provisions of the Housing Code, Abatement of Dangerous Building Code, and Electrical Code, ~~Uniform~~ Plumbing Code, Uniform Sign Code, ~~Uniform~~ Mechanical Code and ~~Uniform~~ Fire Code. Additionally, he or she shall be charged with the inspection and enforcement of the provisions set forth with regard to all buildings and structures, in accordance with the manner provided for in each of the above adopted codes. Where necessary, properly appointed health officers acting in behalf of the City are hereby authorized to make such inspections as may be required to enforce the provisions of any of the applicable codes.

11- 2- ~~94~~. BUILDING INSPECTOR - STOP ORDERS.

Whenever any work is being done contrary to the provisions of this Code or of any code adopted by any provisions of this Code, the chief building inspector shall order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done. It shall be unlawful for any person to fail or refuse to obey such order.

CHAPTER 3 - ~~UNIFORM~~ BUILDING CODE

11- 3- 1. ~~UNIFORM~~ INTERNATIONAL BUILDING CODE ADOPTED.

The ~~Uniform~~ International Building Code, ~~1997~~ 2000 edition, establishing rules and regulations for the design, construction quality of materials, use and occupancy, location and maintenance of building and structures, as adopted by the ~~International Conference of Building Officials~~ International Code Council, is hereby adopted as the Building Code of Park City, together with Rule R156-56 of the Utah Administrative Code, and the following ~~the following Appendix Chapters and Amendments.~~

(A) Appendix Chapter 11, Divisions 1 and 2, Chapter 12, Chapter 15, Chapter 16, Division 1, Chapter 30, and Chapter 33, located in the appendix of the ~~Uniform~~International Building Code are adopted and incorporated herein with an Amendment to ~~Section 3306.1~~Appendix K as follows: Except as specified in Section ~~3306.2~~K1.3.1 of this section, no person shall do any grading or removing or grubbing existing vegetation without first having obtained a grading permit from the building official.

(B) ~~Section 107.1 of the Uniform Building Code is amended as follows:~~

SECTION 107.1 BUILDING PERMIT FEES. A fee for each building permit shall be paid to the Building Official as set forth by fee resolution as adopted by the Park City Council.

(C) Section ~~904.2.1~~901.2 AUTOMATIC FIRE EXTINGUISHING SYSTEMS is hereby amended by ~~deleting~~adding the following wording:

PURPOSE. The purpose of this section is to establish minimum standards to safeguard life, health, property, public welfare and to protect the owners and occupants of structures within Park City by regulating and controlling the design and construction of buildings and structures.

11- 3- 2. AUTOMATIC FIRE EXTINGUISHING SYSTEMS.

The following newly constructed structures of buildings used for or to be used for human occupancy shall have an automatic fire extinguishing system installed in conformity with the requirements of the ~~Uniform Building Code Standard 9-1, 9-2 and 9-3~~International Fire Code Section 903.1 and the following amendments:

(A) All new construction having more than 6,000 square feet on any floor, except R-3 occupancy.

(B) All new construction having more than two stories except R-3 occupancy.

(C) All new construction having four or more dwelling units, including units rented or leased, and including condominiums or other separate ownership.

(D) All new construction in the Historic Commercial Business zone district, regardless of occupancy.

(E) All new construction and buildings in the General Commercial zone where there are no side-yard setbacks or where one or more of the side yard setbacks are less than two and one-half feet per story of height.

~~(F) All existing buildings within the Historic Commercial Business District shall be required to be protected with a fire sprinkling system, in compliance with the Uniform Building Code Standards by August 15, 1996.~~

CHAPTER 4 - MECHANICAL CODE

11- 4- 1. MECHANICAL CODE.

The ~~Uniform~~ International Mechanical Code, ~~1997-2000~~ edition establishing rules and regulations for the design, construction quality of materials, use and occupancy, location and maintenance of building and structures, as adopted by the International ~~Conference of Building Officials~~ Code Council is hereby adopted as the Mechanical Code of Park City.

CHAPTER 5 - UNIFORM HOUSING CODE

11- 5- 1. HOUSING CODE.

The Uniform Housing Code, 1997 edition, printed as code in book form, and adopted by the International Conference of Building Officials, providing minimum requirements for the protection of life, limb, health, safety and welfare of the general public and the owners and occupants of residential buildings is hereby adopted as the Housing Code of Park City.

(A) **APPLICATION.** The provisions of the Housing Code shall apply to all buildings or portions thereof used, or designed for or intended to be used for human habitation. Occupancies in existing buildings may be continued as provided in ~~Section 3401~~ 3402 of the Uniform International Building Code, except as to those structures found to be substandard as defined in the Housing Code.

(B) **VIOLATIONS.** It shall be unlawful for any person, firm or corporation whether as owner, lessee, sublessee, or occupant to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises or cause or permit the same to be done, contrary to or in violation of any of the provisions of Housing Code or any order issued by the Building Official pursuant thereto.

(C) **PERMITS AND INSPECTIONS.** It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or cause or permit the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official in the manner and according to the applicable conditions prescribed in the Housing Code.

CHAPTER 6 - UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

11- 6- 1. ADOPTION OF A CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS.

The "Uniform Code for the Abatement of Dangerous Buildings, 1997 edition," printed as a code in book form and adopted by the International ~~Conference of Building Officials~~ Code Council, providing for a just, equitable and practicable method whereby buildings or structure which from any cause endanger the life, limb, health, morals property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished, is hereby adopted as the Abatement of Dangerous Buildings Code for Park City.

CHAPTER 7 --~~UNIFORM~~ PLUMBING CODE

11- 7- 1. ADOPTION OF A INTERNATIONAL PLUMBING CODE.

The International Plumbing Code, ~~1997~~ 2000 edition, as promulgated by the International Code Council, is hereby approved and adopted as the plumbing code of Park City. Section 106.1 of the International Plumbing Code is amended as follows:

(A) **PLUMBING PERMITS.** No new construction, alterations, or additions to existing plumbing shall be installed without first obtaining a permit and a fee paid according to Park City's fee resolution.

(B) **PLUMBING INSPECTIONS.** The Building Official shall perform all functions of plumbing inspection and shall, among other things, inspect the construction, installation and repair of all plumbing fixtures and appliances and apparatus connected with a plumbing system which are installed within the limits of Park City and shall require that they conform to the provisions of the Plumbing Code.

CHAPTER 8 - NATIONAL ELECTRICAL CODE

11- 8- 1. ADOPTION OF NATIONAL ELECTRICAL CODE.

The National Electrical Code, ~~1996~~ 1999 edition, as adopted by the National Fire Protection Association printed as a code in book form is hereby approved and adopted as the electrical code of this City, including all Park City and state amendments which are incorporated herein by this reference.

(A) **ELECTRICAL INSPECTION.** The Building Official shall perform all functions of electrical inspection and shall, among other things, inspect the construction, installation, and repair of all electrical light or power wiring, fixtures, appliances or apparatus installed within the limits of this municipality and shall require that they conform to the provisions of the Electrical Code. The Building Official shall follow as to electrical work the procedures relating to enforcement and safety as are established by the ~~Uniform~~ International Building Code.

(B) **PERMITS, INSPECTIONS AND FEES.** No alterations or additions shall be made in existing wiring, nor shall any new wiring be installed or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a permit therefor. Applications for such permit, describing such work, shall be made in writing ~~and shall conform to the requirements set forth in the Uniform Building Code as to extent of information disclosed.~~ The fee for electrical permits is set forth in Park City fee resolution.

CHAPTER 9 - ~~UNIFORM~~ FIRE CODE

11- 9- 1. ~~UNIFORM~~ INTERNATIONAL FIRE CODE.

The "~~Uniform~~ International Fire Code", 1997 2000 edition as promulgated by the International Conference of Building Officials Code Council and the Western Fire Chiefs Association and printed as ~~codes in book form~~ is hereby adopted as the Fire Code of Park City with the following amendments to ~~Appendix Chapter III C~~ Section 304.1:

(A) **REMOVAL OF DEBRIS** All debris created from a fire shall be removed and the property restored to normal condition within ninety (90) days after the fire or as soon as the property is released by the State Fire Marshal, the Park City Building Official, or insurance adjuster, whichever is later. In the event the debris is not cleared, such debris shall be declared a nuisance and removed by the City at the expense of the property owner.

(B) **ADMINISTRATION AND ENFORCEMENT**. The Building Official shall be responsible for the administration and enforcement of the Fire Code and shall, among other things, enforce all state statutes and local ordinances and/or regulations pertaining to:

- (1) the prevention of fires;
- (2) the suppression or extinguishing of dangerous or hazardous fires;
- (3) the storage, use and handling of explosives flammable, toxic, corrosive, and other hazardous gaseous, solid and liquid materials;
- (4) the installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment;
- (5) the maintenance and regulations of fire escapes;
- (6) the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures, and other property including those under construction;
- (7) the means and adequacy of each exit in the event of fire, from factories, school, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which people work, live or congregate from time to time for any purposes; and
- (8) the investigation of the cause, origin and circumstances of fire.

(C) **REQUIRED PERMITS**. All applications for permits required by the Fire Code shall be made to the Building Official in such form and detail as he shall prescribe. All applications for permits shall be accompanied by such plans as required by the Building Official and fees paid as per the fee resolution.

~~11-9-2. RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT.~~

~~The Building Official shall be responsible for the administration and enforcement of the Fire Code and shall, among other things, enforce all state statutes and local ordinances and/or regulations pertaining to:—~~

~~(A) — the prevention of fires;~~

~~(B) — the suppression or extinguishing of dangerous or hazardous fires;~~

~~(C) — the storage, use and handling of explosives, flammable, toxic corrosive, and other hazardous gaseous, solid and liquid materials;~~

~~(D) — the installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment;~~

~~(E) — the maintenance and regulations of fire escapes;~~

~~(F) — the maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures, and other property including those under construction;~~

~~(G) — the means and adequacy of each exit, in the event of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which people work, live or congregate from time to time for any purpose; and~~

~~(H) — the investigation of the cause, origin, and circumstances of fire.~~

11- 9- 32. AUTHORITY AND DUTY OF POLICE PERSONNEL TO ASSIST IN ENFORCEMENT

Whenever requested to do so by the Building Official, the Chief of Police shall assign such available police offices as in his discretion may be necessary to assist the Building Official in enforcing the provisions of this Code.

CHAPTER 10 - UNIFORM SIGN CODE

11-10- 1. UNIFORM SIGN CODE ADOPTED.

The Uniform Sign Code, 1997 edition, as adopted by the International Conference of Building Officials and printed as a code in book form is hereby approved and adopted with the following amendment to table 4-B as the Uniform Sign Code of this City:

TABLE 4-B - PROJECTION OF SIGNS

CLEARANCE (feet)	MAXIMUM PROJECTION (feet)
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CLEARANCE (feet)	MAXIMUM PROJECTION (feet)
x 304.8 for mm	x 304.8 for mm
Less than 8	Not permitted
8	3
8 to 16	1 plus 0.5 for each foot of clearance in excess of 8
Over 16	5

CHAPTER 11 - RIGHT OF ENTRY

11-11- 1. RIGHT OF REASONABLE ENTRY.

Whenever necessary to make an inspection to enforce any of the provisions of any code adopted pursuant to this Title, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises unsafe, substandard, or dangerous, as defined in the applicable sections of the codes, any condition that makes such building or premises dangerous, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Official, provided that:

(A) If such building or premises be occupied, he shall first present proper credentials and demand entry; and

(B) If such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

11-11- 2. FAILURE OR NEGLECT TO PROMPTLY PERMIT ENTRY PROHIBITED.

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to any provisions of any of the codes adopted pursuant to this Title.

CHAPTER 12 - FEES

11-12- 1. PAYMENT OF FEES.

Whenever a fee is required by this Title or any schedule or resolution adopted by the City pursuant to this Title, such fees shall be paid to the Finance Department.

11-12- 2. BUILDING PERMIT FEES.

A fee for each building permit, electrical permit, plumbing permit, mechanical permit, and fire permit shall be paid to the city in such amount as shall be established from time to time by resolution duly enacted by the governing body. ~~In the event that specific permit items are not covered by a fee resolution, the building permit fees set forth in Section 303 of the Uniform Building Code, as herein amended, shall be applicable. The administrative and enforcement provisions of the Uniform Building Code relating to building permit fees shall be deemed to apply to the electrical and plumbing permit fees, unless otherwise provided by resolution of the governing body.~~

The determination of value or valuation under any of the provisions of the ~~Uniform~~International Building Code as adopted by the City Council, shall be made by the Building Official on the basis of the ICBO Building Standards, subject to the approval of the City Manager.

11-12- 3. PLAN CHECK FEES.

A fee, as established by resolution, for the review and approval of building construction plans by the Building Department shall be paid to the Building Official.

On buildings requiring plan checks at the time of building permit application, the applicant shall pay a deposit which is established by resolution. This deposit shall be credited against the plan check fee when the permit is issued. This deposit is non-refundable in the event permits are not issued.

11-12- 4. PROJECT APPLICATION OR RE-SUBMISSION FEES.

The Planning Department shall charge a fee for the review and consideration of all projects that require planning review under the Land Management Code. The fee shall be based on the number of unit equivalents applied for as defined in the Land Management Code, subdivision lots or commercial area applied for, provided, however, that payment of the fee based on a specific number of units or commercial area shall not guarantee approval of that number of units or that number of square feet upon completion of the review process.

There shall be no refund of the difference in the fees paid if fewer units or less commercial space is approved than was applied for. Re-submission of projects on which a conditional use approval has lapsed shall be accepted only upon payment of a new application fee. The application and re-submission fees shall be as set forth by resolution.

11-12- 5. CONDOMINIUM CONVERSION, TIMESHARE.

The fees prescribed in this Title for Plan Check, Project Application Fees, and Water Development and Connection Fees shall not be assessed against projects which are before the Planning Department and Planning Commission for the sole purpose of obtaining plat approval to submit a previously approved structure to condominium ownership, or to convert an existing structure to a timeshare condominium, provided the following conditions are met:

- (A) No substantial changes are being proposed to the structure itself as a part of or incidental to the change in the form of ownership;
- (B) No change in use is proposed, other than the change from single ownership to timeshare use where applicable;
- (C) ~~The structure was completed not more than five (5) year prior to the application for condominium and/or timeshare conversion, and was either a permitted or approved conditional use at the time of construction; and~~
- (D) The structure is in a zone which allows timeshare ownership as a conditional use, if timeshare ownership is proposed.

The fee, as established by resolution, for plat review for this condominium or timeshare conversion shall be assessed per habitable dwelling unit within the proposed condominium, exclusive of units not included within the conversion, for residential and transient lodging units, and per thousand square feet of non-residential or commercial space. All other fees prescribed by this Title shall apply as the service is required. Additional water connection fees shall be assessed if the meter capacity or water service to the building is increased as a result of the change in ownership. This Title shall not be construed as waiving the

conditional use review process for timeshare conversions established by the Land Management Code.

11-12- 6. MODIFICATION OF PLANS.

After a development project has been placed on the agenda of the Planning Commission, or Historic District Commission, where applicable, for final approval, or in the case of a phased project which has received project site plan approval, no substantial modifications shall be made by the developer except upon payment of a fee as established by resolution per habitable dwelling unit or per 1,000 square feet of commercial space for each unit or commercial area affected by the modification. On developments requiring approval by the planning staff only, and not by the commissions, the modification fee shall apply after the staff has given final approval of the project. This fee for plan modification shall apply to modifications made at the request of the developer, and not to modifications which are requested or required by the planning staff, Planning Commission or Historic District Commission.

11-12- 7. BOARD OF ADJUSTMENT.

All applications for consideration of any project by the Board of Adjustment shall be accompanied by a fee as established by resolution, to defray the costs of technical review, posting of notice and other administrative costs incurred in the application and review.

11-12- 8. STAFF REVIEW TEAM FEES.

For the technical review provided by the city staff of all development projects, a fee as established by resolution, for staff review team meetings shall be charged by the Planning Department and billed monthly to developers who have projects under review.

11-12-9. ENGINEERING AND ATTORNEY'S FEES.

Each developer of any building project, subdivision or other construction which the City deems to require the services of the City Engineer or the City Attorney, shall reimburse the City for the City's actual costs for such services.

11-12-10. OTHER PROFESSIONAL SERVICES.

Each developer of any building project, subdivision or other construction which the City deems to required professional services not available by the City staff, shall reimburse the city for the City's actual costs for such services as mutually agreed upon by the developer and the City.

11-12-11. CONSTRUCTION INSPECTION.

Prior to receiving a building permit, a notice to proceed or plat approval, developers shall pay a fee equal to six percent (6%) of the estimated construction cost as determined by the City Engineer. The City Engineer's estimate shall be based on standard costs derived from nationally recognized and accepted sources for construction costs and approved by the City Manager. The fee shall be used for plan review and inspection services on all improvements, appertaining to the primary structures including but not limited to streets, curb and gutter, sidewalks, water and storm drainage, and all other improvements, as defined in Chapter 4 of the Uniform Building Code or in *Section 200* of the Park City Design Standards. All such improvements shall be built to City standards found in the Park City Design Standards, Construction Specifications and Standard Drawings, adopted by ordinance. ~~In projects with private street systems, that limit city inspection requirements to water, drainage, and other improvements, but not to streets, the inspection fee shall be four percent (4%) of the estimated construction cost of the improvements to be inspected as determined by the City Engineer.~~

The fees listed above are for typical construction projects requiring typical inspections during normal City business hours. For projects which require extraordinary plan review

and inspection services, the City, upon notice to the developer, may charge the developer a fee as set by resolution to recoup costs to the City above the fee charged. The City may also charge an hourly rate re-inspections of work previously rejected.

11-12-12. ADDITIONAL FEES.

The fees described in this Title are in addition to building permit fees for plumbing, electrical, mechanical, grading and excavation, demolition, signs, street cuts, and other fees set by resolution.

11-12-13. EXCEPTIONS.

Any part of any of the fees included in this Title may be waived by the City Council upon the recommendation of the City Manager, for those projects which are deemed to serve a beneficial public purpose that would be harmed by the City requiring payment of such fees, such as low income housing projects. Applications for exceptions are to be filed with the Building Official at the time a permit is requested.

11-12-14. APPROVALS WITHHELD.

The City Manager is authorized to refuse to allow any building permit to be issued, or subdivision or condominiumization to be approved until the developer has complied with the provisions of this Title.

11-12-15. FEE ADJUSTMENTS.

The fees established in this Title may be amended, changed, adjusted, or waived from time to time by motion of the City Council. The City Manager is authorized to reduce or waive fees on public or non-profit projects, projects deemed to serve a beneficial public purpose, provided that no waiver or reduction of fees totaling more than one hundred

dollars (\$100) on any one project may be waived without City Council approval. Building related fees shall ~~not~~ be assessed against building projects owned by the City based on the contract.

11-12-16. PUBLIC PARKING FACILITY.

The payment for spaces in a publicly constructed parking facility, in lieu of providing on-site parking within the HCB and HRC zones shall be as set by resolution and charged per stall. The payments, together with interest earned thereon, shall be used by the City for the construction or acquisition of parking structures within the Swede Alley area between Hillside and Heber Avenues.

11-12-17. PENALTY.

Any person that fails to pay the fees required by this Title is guilty of a Class B misdemeanor. The Building Official may issue stop work orders on projects with past due fees, and the Council may withhold plat approval.

(Amended by Ordinance 95-35)

CHAPTER 13 - IMPACT FEES

11-13- 1. DEFINITIONS.

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise:

(A) **BUILDING PERMIT**. The permit required for any Development Activity, as defined herein, and pursuant to Chapter 11-3 et seq. of the Municipal Code of Park City, Utah.

(B) **CONSTRUCTION VALUE**. The value of construction per square foot used by the Park City Building Department to determine plan check and Building Permit fees, multiplied by the area of Development Activity

(C) **DEPARTMENT**. The Community Development Department.

(D) **DEVELOPMENT ACTIVITY**. Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which is accompanied by a request for a Building Permit.

(E) **DIRECTOR**. The Director of Community Development or his/her designee.

(F) **ENCUMBER**. To reserve, set aside or otherwise earmark, the Impact Fees in order to pay for commitments, contractual obligations or other liabilities incurred for Public Facilities.

(G) **IMPACT FEE**. Any fee levied pursuant to this chapter as a condition of issuance of a Building Permit. "Impact Fee" does not include fees imposed under Section 11-12 of the Municipal Code.

(H) INDEPENDENT FEE CALCULATION. An impact fee calculation prepared by a fee payer to support assessment of an Impact fee different from any fee set forth herein.

(I) OWNER. The owner of record of real property, or a person with an unrestricted written option to purchase property; provided that, if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the Owner of the real property.

(J) PARKS, TRAILS AND OPEN SPACE IMPACT FEE. The impact fee imposed as a condition precedent to a Building Permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing and construction of City-owned parks, trails and open space

(K) PROJECT IMPROVEMENT. Site improvements and facilities that are planned and designed to provide service for the Development Activity and are necessary for the use and convenience of the users of the development resulting from the Development Activity.

(L) PUBLIC FACILITY. Any structure built by or for, or maintained by, a governmental entity.

(M) PUBLIC SAFETY FACILITIES IMPACT FEE. The impact fee imposed as a condition precedent to a Building Permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, acquisition, engineering, financing and construction of public safety facilities.

(N) STREETS AND STORM WATER IMPACT FEE. The impact fee imposed as a condition precedent to a Building Permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing and construction of additional street and storm water management facilities.

(O) SYSTEM IMPROVEMENT. Public Facilities identified in the 1995 Capital Facilities Plan and Impact Fee Analysis, the 1995 Water Capital Facilities Plan and Analysis, or the 1993 School Facilities Capital Improvement Program, that are not Project Improvements.

(P) WATER CONNECTION IMPACT FEE. The impact fee, calculated as an expression of new equivalent residential units (ERUs), to assess the impact of indoor Development Activity, and increased area of irrigated landscape, to assess the impact of outdoor Development Activity, imposed as a condition precedent to a Building Permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing and construction of water delivery systems.

(Q) WATER DEVELOPMENT IMPACT FEE. The impact fee, calculated as an expression of new equivalent residential units (ERUs), to assess the impact of indoor Development Activity, and increased area of irrigated landscape, to assess the impact of outdoor Development Activity, imposed as a condition precedent to a Building Permit that is used to offset the proportionate impact of the Development Activity on the need for the acquisition and transfer of water rights and points of diversion and the planning, design, engineering, acquisition, financing and construction of physical sources to realize those water rights.

(Ord. No. 95-35; 96-12; 01-37)

11-13- 2. ASSESSMENT AND CALCULATION OF IMPACT FEES.

(A) ASSESSMENT OF IMPACT FEES. The City shall collect the following Impact Fees from any applicant seeking a Building Permit:

- (1) Parks, Trails, and Open Space Impact Fee: 1.35% of Construction Value.

- (2) Public Safety Facilities Impact Fee: 0.05% of Construction Value.
- (3) Streets and Storm Water Facilities Impact Fee: 0.60% of Construction Value.
- (4) Water Impact Fee Schedule:

RESIDENTIAL INDOOR WATER IMPACT FEES:

Size (sf)	≤1000	1001-1500	1501-3000	3001-4500	4501-6000	>6000
# Bdrm	2	3	4	5	6	7+
Fee	\$1,510	\$2,270	\$3,025	\$3,780	\$4,540	\$5,300

OUTDOOR (LANDSCAPING) WATER IMPACT FEES:

Irrigated Area (sf)	0-2000	2001-4000	4001-6000	6001-8000	8001-10,000	>10,000
Fee	\$1,200	\$2,400	\$3,600	\$4,800	\$6,000	\$6,000+ \$633/100 0 sf

WATER SYSTEM IMPROVEMENTS SUMMARY OF FEE CALCULATION:

Development Type	Fee
Residential per each Equivalent Residential Unit (ERU)	\$9,760.00
Commercial/Industrial	\$9,760 x equivalent user ratio

Further calculation and presentation is included in the Impact Fee Analysis (See Ord. No. 01-37, Exhibit B).

INDOOR NON-RESIDENTIAL MULTIPLIERS - Based on IBC Table 1003.2.2.2:

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OCCUPANCY	FLOOR AREA IN SF PER OCCUPANT	EQUIVALENT ERU'S PER OCCUPANT
Assembly		
Bars	15	0.012
Restaurants	15	0.021
Theaters, Auditoriums, Churches, etc.	15 or # of fixed seats Per IBC Table	0.003 Calculated at the time of application
Others not listed	1003.2.2.2	
Business/Office areas	100	0.009
Educational		
Classroom area	20	0.015
Shops/Vocational areas	50	
Exercise rooms	50	0.015
Hotels and Motels	200	0.030
Industrial areas	100	0.021
Institutional areas		
Inpatient treatment areas	240	
Outpatient areas	100	0.151
Sleeping areas	120	
Mercantile	Per IBC Table 1003.2.2.2	0.007
Skating rinks, swimming pools		
Rink and pool	50	0.006
Decks	15	
Warehouses	500	0.021

Parking garages, Carwash, Governmental uses	200	Calculated at the time of application
Library Reading rooms Stack areas	50 100	Calculated at the time of application
Uses not shown will be determined by the Public Works Director based on SBWRD estimated flows or other appropriate information.		

(Ord. No. 96-12; 01-37)

11-13- 3. OFFSETS.

(A) A fee payer can request that an offset or offsets be awarded to him/her for the value of a required System Improvement identified in the Capital Facilities Plan and Impact Fee Analysis, the Water Capital Facilities Plan and Analysis.

(B) For each request for an offset or offsets, unless otherwise agreed, the fee payer shall retain an appraiser approved by the Department to determine the value of the System Improvement provided by the fee payer.

(C) The fee payer shall pay the cost of the appraisal.

(D) After receiving the appraisal, the Director shall provide the applicant with a letter or certificate setting forth the dollar amount of the offset, the reason for the offset, where applicable, the legal description of the site donated, and the legal description or other adequate description of the project or development to which the offset may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the Director before the Impact Fee offset will be awarded. The failure of the

applicant to sign, date, and return such document within sixty (60) days shall nullify the offset.

(E) Any claim for offset must be made not later than the time of application for Building Permit. Any claim not so made shall be deemed waived.

(F) Determinations made by the Director pursuant to this section shall be subject to the appeals procedure set forth in Section 11-13-6 below.

11-13- 4. WAIVER.

The City Council may waive Impact Fees for:

(A) Construction of Affordable Housing, up to \$5,000 per unit;

(B) Construction of a Public Facility.

11-13- 5. APPEALS.

(A) A fee payer may appeal the Impact Fees imposed or other determinations which the Director is authorized to make pursuant to this Chapter. However, no appeal shall be permitted unless and until the Impact Fees at issue have been paid.

(B) Appeals shall be taken within ten (10) days of the Director's issuance of a written determination, by filing with the Department a notice of appeal specifying the grounds for the appeal, and depositing the necessary fee, which is set forth in the existing fee resolution for appeals of land use decisions.

(C) The Department shall fix a time for the hearing of the appeal and give notice to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

(D) The Hearing Officer is authorized to make findings of fact regarding the applicability of the Impact Fees to a given Development Activity, the availability or amount of the offset, or the accuracy or applicability of an Independent Fee Calculation. The decision of the Hearing Officer shall be final, and may be appealed to the Third Judicial District Court for Summit County.

(E) The Hearing Officer may, so long as such action is in conformance with the provisions of this Chapter, reverse or affirm, in whole or in part, or may modify the determinations of the Director with respect to the amount of the Impact Fees imposed or the offset awarded upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the Director by this Chapter.

(F) Where the Hearing Officer determines that there is a flaw in the Impact Fee program or that a specific exemption or offset should be awarded on a consistent basis or that the principles of fairness require amendments to this Chapter, the Hearing Officer shall advise the City Attorney as to any question or questions that the Hearing Officer believes should be reviewed and/or amended.

11-13- 6. ESTABLISHMENT OF IMPACT FEES ACCOUNTS.

(A) Impact Fees shall be earmarked specifically and deposited in special interest-bearing Accounts. The fees received shall be prudently invested in a manner consistent with the investment policies of the City.

(B) Funds withdrawn from these Accounts must be used in accordance with the provisions of Section ~~11-13-9~~ 11-13-8 below. Interest earned on the Impact Fees shall be retained in each of the Accounts and expended for the purposes for which the Impact Fees were collected. Money in these Accounts shall not be commingled with other funds.

(C) Impact Fees shall be disbursed, expended, or encumbered within six (6) years of receipt, unless the Council identifies in written findings an extraordinary and compelling reason or reasons for the City to hold the fees beyond the six-year period. Under such circumstances, the Council shall establish the period of time within which Impact Fees shall be expended or encumbered.

11-13- 7. REFUNDS.

(A) If the City fails to disburse, expend, or Encumber the Impact Fees within six (6) years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to Section 11-13-7(C) below, the current Owner of the property on which the Impact Fees have been paid may request a refund of such fees. In determining whether Impact Fees have been disbursed, expended, or Encumbered, such fees shall be considered disbursed, expended, or Encumbered on a first in, first out basis.

(B) Owners seeking a refund of Impact Fees must submit a written request for a refund of the fees to the Director within 180 days of the date that the right to claim the refund arises.

(C) Any Impact Fees for which no application for a refund has been made within this 180 day period shall be retained by the City and expended on type of Public Facilities.

(D) Refunds of Impact Fees under this section shall include any interest earned on the Impact Fees.

(E) When the City seeks to terminate any or all components of the Impact Fee program, any funds not disbursed, expended, or Encumbered from any terminated component or components, including interest earned shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination, and the availability of refunds, in a newspaper of general circulation at least two (2) times. All funds available for refund shall be retained for a period of 180 days. At the end of the 180 day period, any remaining funds shall be retained by the City, but must be expended on the type of Public Facilities for which they were collected.

(F) The City shall refund to the current Owner of property for which Impact Fees have been paid all Impact Fees paid, including interest earned on the Impact Fees attributable to the particular Development Activity, within one (1) year of the date that right to claim the refund arises, if the Development Activity for which the Impact Fees were imposed did not occur, no impact resulted, and the Owner makes written request for a refund within 180 days of the expiration or abandonment of the permit for the Development Activity.

11-13- 8. USE OF FUNDS.

(A) Pursuant to this Chapter, Impact Fees:

(1) Shall be used for Public Facilities that reasonably benefit the new development; and

(2) Shall not be imposed to make up for deficiencies in Public Facilities serving existing developments; and

(3) Shall not be used for maintenance or operation of Public Facilities.

(B) Impact Fees may be used to recoup costs of designing, constructing and/or acquiring Public Facilities previously incurred in anticipation of new growth and development to the extent that the Development Activity will be served by the previously constructed improvements or the incurred costs.

(C) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of Public Facilities for which Impact Fees may be expended, Impact Fees may be used to pay debt service on such bonds, or similar debt instruments, to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the Development Activity.

(Amended by Ordinance 96-12)

11-13-9. INDEPENDENT FEE CALCULATIONS.

(A) If a fee payer believes that a fee should be charged, other than the Impact Fees determined according to this Chapter, then the fee payer shall prepare and submit to the Director an Independent Fee Calculation for the Impact Fee(s) associated with the Development Activity for which a Building Permit is sought. The documentation submitted shall show the basis upon which the Independent Fee Calculation was made. The Director is not required to accept any documentation which the Director reasonably deems to be inaccurate, unsubstantiated, or unreliable and may require the fee payer to submit additional or different documentation prior to the Director's consideration of an Independent Fee Calculation.

(B) Any fee payer submitting an Independent Fee Calculation shall pay an administrative processing fee, per calculation, of one hundred dollars (\$100).

(C) Based on the information within the Director's possession, the Director may recommend, and the City Manager is authorized to adjust, the Impact Fee to the specific

characteristics of the Development Activity, and/or according to principles of fairness. Such adjustment shall be preceded by written findings justifying the fee.

(D) Determinations made by the Director pursuant to this section may be appealed subject to the procedures set forth herein.

CHAPTER 14 - REGULATING HOURS OF WORK AND STORAGE OF MATERIALS AND EQUIPMENT ON CONSTRUCTION SITES

11-14- 1. POLICY.

It is the policy of Park City to require construction activity on buildings to occur entirely within an approved space, including the storage of materials and equipment, and also accumulation and disposition of construction related refuse.

11-14- 2. FENCING OF PUBLIC RIGHT-OF-WAY.

In those zones which permit construction of buildings up to property lines or within five feet (5') of property lines, leaving a very limited or no setback area, the building official may permit construction fences to be built across sidewalk area where there are sidewalks, or into the parking lane of the street where there is no sidewalk. Where street width will permit, in the judgement of the building official, the construction fence shall also provide a temporary sidewalk area, which may be built in the parking lane of the street. Any sidewalk built as a part of a construction site fence must be covered with a structural roof which complies with ~~Chapter 44 of the 1991 Uniform Building Code as adopted, or its successor provisions in later editions of the Uniform Building Code~~ Section 3306 of the International Building Code. ~~as they are adopted by the City.~~ The ~~Uniform~~ International Building Code requirements for construction of a temporary sidewalk may be reduced or waived by the Building Official where conditions will not permit the full four foot (4') width. The location of fencing within the public way and the determination of whether to require

sidewalk shall be made by the Building Official, subject to review by the City Manager. In the event that changes in parking regulations are required by the construction of such a fence, the Police Chief is authorized to post signs prohibiting or otherwise regulating parking in the area adjoining the construction site.

11-14- 3. CONSTRUCTION CONFINED TO APPROVED AREA.

All construction work, including the storage of construction materials, supplies, temporary offices, tools, machinery, trash containers and construction vehicles shall be confined to the approved area at all times, except as follows:

(A) Delivery trucks may park outside the approved areas for a period not in excess of one hour for the purpose of loading or unloading materials and equipment. On Main Street, Heber Avenue and Swede alley delivery trucks are subject to the additional requirements of Title 9, Parking Code, which regulates delivery vehicles in these locations.

(B) Cranes, concrete pumps and similar equipment that cannot be placed within the approved area because of space or access limitations on the site, shall not block traffic lanes on the streets without first having given the Police Department twenty-four (24) hours written notice of the intent to block the street and receiving written permission to block the street from the Police Chief or his designee. The notice of intent shall designate the duration of the blockage and its location. The Chief of Police has the authority to make temporary changes in parking regulations to keep traffic blockage to a minimum.

11-14- 4. CONSTRUCTION ~~MANAGEMENT~~ MITIGATION PLANS.

A Construction Mitigation Plan shall be required to be submitted and approved by the Community Development Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and

interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department:

(A) HOURS AND DAYS OF OPERATION. The Construction Mitigation plan shall specify the daily construction start and finish times. The hours of construction activity is regulated in Section 11-14-6 for normal construction activity. Construction activity occurring outside of the times specified in Section 11-14-6 may only be allowed by Special Permit issued by the Building Official or the City Engineer.

(B) PARKING. The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted to one side of the street at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department review and approve a parking plan. The plan shall also include anticipated temporary parking, e.g. delivery vehicles, large equipment parking. Any street closures require an approved permit from the Building Department and the Police Department.

(C) DELIVERIES. The Construction Mitigation Plan shall identify proposed delivery locations and routes. Deliveries of construction materials and supplies including concrete may be regulated as to time and routing if such deliveries will cause unreasonable noise, parking, or access issues. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on or near the site may be required. In the case of multiple construction sites in close proximity, a common materials storage and staging site may be required.

(D) CONSTRUCTION PHASING. Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public

safety or nuisance problems. In cases where phasing is deemed necessary by the Community Development Department, the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

(E) TRASH MANAGEMENT AND RECYCLING. Construction sites shall provide adequate storage and a program for trash removal.

(F) CONTROL OF DUST AND MUD ON STREETS. A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

(G) NOISE. Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of this Code.

(H) GRADING AND EXCAVATION. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of excavated material shall be noted.

4. EROSION CONTROL PRACTICES. Because of Park City's implemented Storm Management Plan, construction projects will need to identify drainage areas and planned Best Management Practices ("BMPs") to control erosion and off-site migration of soils. Some common BMPs for controlling soil erosion include but are not limited to the following:

1. Installation of slit fences or straw bales within drainage channels.
2. Minimal soil disturbance within drainage areas.
3. Blown straw media within the drainage.
4. Detention basins.
5. Retention ponds.

The intent of employing Erosion Control BMPs on a construction project is to protect water quality within Park City.

~~(H)~~(J) **CONSTRUCTION SIGN REQUIREMENTS.** A sign, indicating the name of the party responsible for the construction project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed twelve square feet (12 sq. ft.) in size, six feet (6') in height and shall not exceed a letter type of four inches (4").

Information on the sign shall include, at a minimum:

- (1) Name, address and phone number of contractor.
- (2) Name, address, and phone number of person responsible for the project.
- (3) Phone number of party to call in case of emergency.

No additional fee is required for this sign.

11. LIMITS OF DISTURBANCE

FINANCIAL GUARANTEE. A financial guarantee established per policy to assure adequate vegetation and landscaping of areas within Limits of Disturbance ("LOD") shall be required prior to construction. The financial security shall be \$0.75 per square foot of the site within the LOD, excluding the permitted structure, driveways, decks, and other hard surfaced areas of the approved site plan. The City Manager has the authority to exempt pre-existing disturbed areas per interest of the public to mitigate existing disturbance. The LOD financial guarantee shall be reimbursed with the approval of the final landscape inspection.

11-14- 5. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

(A) All construction sites, including duplexes, single family homes and remodeling projects, shall be required to obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. It shall be unlawful to permit accumulated debris, litter, or trash on any construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

(B) All construction sites shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees= two toilets and so on).

11-14- 6. HOURS AND DAYS OF WORK.

(A) Unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan, in all zoning Districts throughout the City construction work shall be allowed between the hours 7 AM and 9 PM Monday through Saturday. Construction shall be allowed in all zoning districts throughout the City between the hours of 9 AM and 6 PM on Sundays. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- (1) Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries.
- (2) Construction of decks, patios, landscape walls less than four feet (4') in height, and fences on individual single-family lots.
- (3) Non-mechanized exterior painting on individual single-family residences.
- (4) Non-mechanized landscaping on individual single-family residences.
- (5) Survey work not involving grading or use of power equipment to cut vegetation.

(B) **EXTENDED HOURS SPECIAL PERMIT.** The Building Official may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation or modify or waive the hours of work on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants. In such cases, the Building Official shall issue a Special Permit identifying the extended hours. The contractor shall display the special permit on site.

(C) **SPECIAL EVENT REGULATIONS.** The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events. ~~Construction sites and activity with the potential of impacting the preparation for the 2002 Winter Olympic events in the City will be restricted as necessary.~~

11-14-7. RELATIONSHIP TO ~~UNIFORM~~ INTERNATIONAL BUILDING CODE.

This Chapter shall be construed as being supplemental to the ~~Uniform~~International Building Code as adopted. The technical requirements of the Building Code are not altered by this Chapter and to the extent there is any conflicting provision between this Chapter and the ~~Uniform~~International Building Code, the more restrictive provision shall apply. The Building Official shall have the authority to alter specific technical requirements of Chapter 33 of the ~~Uniform~~International Building Code (1997 2000 Edition) or the International Fire Code to suit unique

circumstances which might arise within Park City due to site specific conditions or narrow or steep streets.

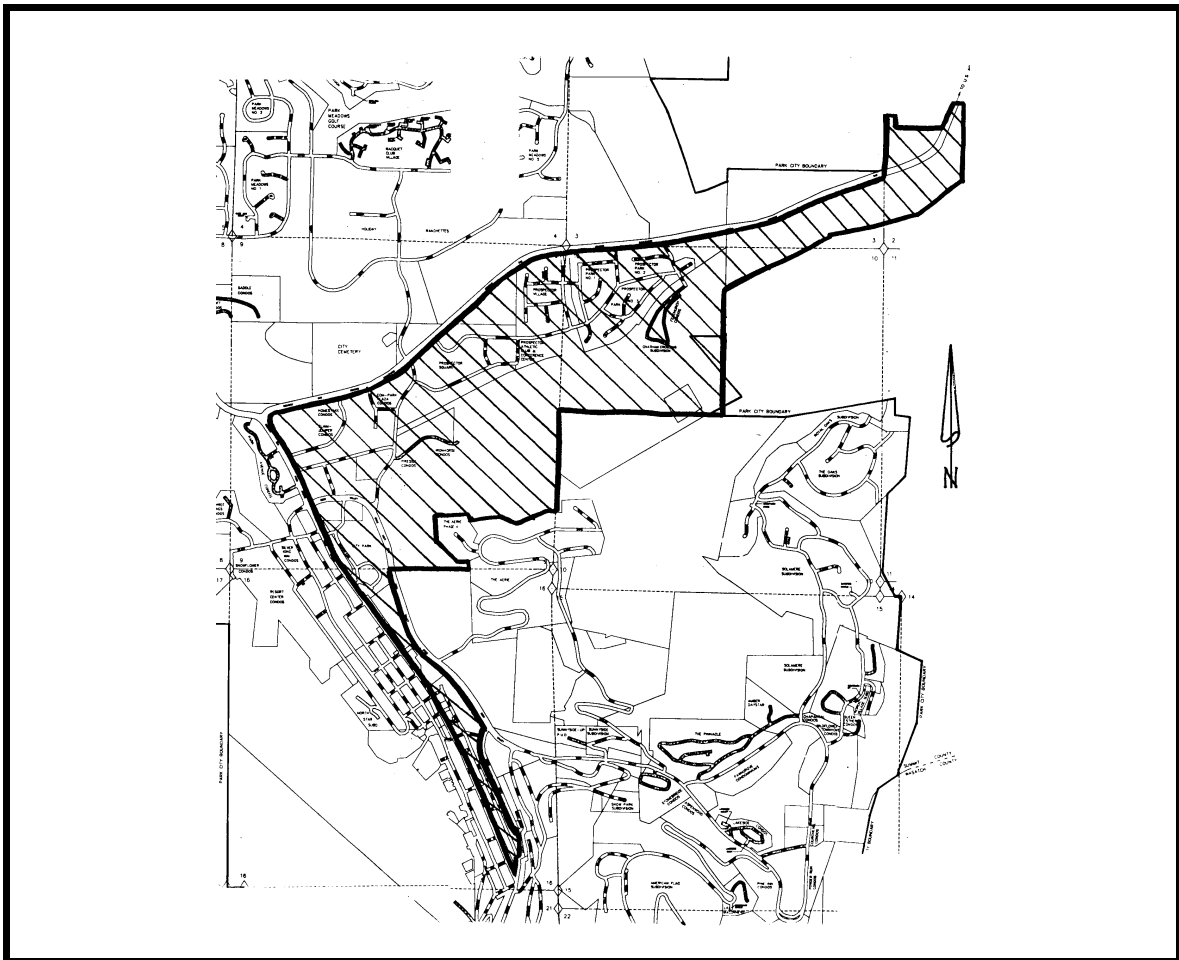
11-14- 8. ENFORCEMENT AND PENALTIES.

This Chapter shall be primarily enforced by the Building Official, with the assistance of the Police Department. When probable cause exists to believe a violation has been committed, the Building Official may issue a stop work order on any construction project until the violation is eliminated or the court finds that no violation exists. Persons violating this Chapter individually or through their employees are guilty of a Class "B" misdemeanor.

CHAPTER 15 - PARK CITY LANDSCAPING AND MAINTENANCE OF SOIL COVER

11-15- 1. AREA.

This Chapter shall be in full force and effect only in that portion of Park City, Utah which is



commonly known as that portion which is depicted in the map below.

MAP OF AREA SUBJECT TO LANDSCAPING AND TOPSOIL REQUIREMENTS
(ORIGINAL MAP ON FILE IN THE CITY RECORDER'S OFFICE) and as described as follows:

Beginning at the West 1/4 Corner of Section 10, Township 2 South, Range 4 East, Salt Lake Base & Meridian; running thence east along the center section line to the center of Section 10, T.2 South, R.4 East; thence north along the center section line to a point on the easterly Park City limit line, said point being South 00°04'16" West 564.84 feet from the north 1/4 corner of Section 10, T.2S., R.4E.; thence along the easterly Park City limit line for the following fourteen (14) courses: North 60°11'00" East 508.36'; thence North 62°56' East 1500.00'; thence North 41°00' West 30.60 feet; thence North 75°55' East 1431.27'; thence North 78°12'40" East 44.69 feet; thence North 53°45'47" East 917.79 feet; thence South 89°18'31" East 47.22 feet; thence North 00°01'06" East 1324.11 feet; thence North 89°49'09" West 195.80 feet; thence South 22°00'47" West 432.52'; thence South 89°40'28" West 829.07 feet; thence North 00°09'00" West 199.12 feet; thence West 154.34 feet to a point on the west line of Section 2, T.2S., R.4E.; thence south on the section line to the southerly right-of-way line of State Road 248; thence westerly along said southerly right-of-way line to the easterly right-of-way line of State Road 224, also known as Park Avenue; thence southerly along the easterly line of Park Avenue to the west line of Main Street; thence northerly along the westerly line of Main Street to the northerly line of 2nd Street (originally platted as 6th Street); thence easterly across Main Street to the westerly line of Swede Alley (originally platted as Farrell Alley, 6th Street, and Grant Avenue); thence northerly along the westerly line of Swede Alley to the westerly line of State Road 224, also known as Deer Valley Drive; thence northerly along the westerly line of State Road 224 to the southerly line of Section 9, T.2S., R.4E.; thence easterly to the west line of Section 10, T.2S., R.4E.; thence northerly to the point of beginning.

EXCEPTING THEREFROM all lots platted as Aerie Subdivision and Aerie Subdivision Phase 2, according to the official plats thereof recorded in the office of the Summit County Recorder.

11-15- 2. MINIMUM COVERAGE WITH TOPSOIL.

All real property within the Area must be covered and maintained with a minimum cover of six inches (6") of approved topsoil over mine tailings except where such real property is covered by asphalt, concrete or permanent structures or paving materials. Parking shall be restricted to impervious surfaces.

11-15- 3. VEGETATION.

All areas in the Area where real property is covered with six inches (6") or more of approved topsoil must be vegetated with plant material suitable to prevent erosion of topsoil.

11-15- 4. ADDITIONAL LANDSCAPING REQUIREMENTS.

In addition to the minimum coverage of topsoil requirements set forth in Section 2 above and the vegetation requirements set forth in Section 3 above, the following additional requirements shall apply:

(A) **FLOWER OR VEGETABLE PLANTING BED AT GRADE.** All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of twenty-four inches (24") of approved topsoil so that tailings are not mixed with the soil through normal tilling procedures. Such topsoil shall extend twelve inches (12") beyond the edge of the flower or vegetable planting bed.

(B) **FLOWER OR VEGETABLE PLANTING BED ABOVE GRADE.** All flower or vegetable planting beds above grade shall extend a minimum of sixteen inches (16") above the grade of the six inches (6") of approved topsoil cover and shall contain only approved topsoil.

(C) **SHRUBS AND TREES.** All shrubs planted after the passage of this Chapter shall be surrounded by approved topsoil for an area which is three times bigger than the rootball and extends six inches (6") below the lowest root of the shrub at planting. All trees planted after the passage of this Chapter shall have a minimum of eighteen inches (18") of approved topsoil around the rootball with a minimum of twelve inches (12") of approved topsoil below the lowest root of the tree.

11-15- 5. DISPOSAL OR REMOVAL OF AREA SOIL.

All soil disturbed or removed from Area, unless a representative sample tested at a State certified laboratory determines the soil is not a hazardous waste, shall be disposed of only at a facility approved by the Utah State Department of Health, or covered on site with six inches (6") of approved topsoil and re-vegetated as required by this Chapter.

11-15- 6. DUST CONTROL.

Contractor or owner is responsible for controlling dust during the time between beginning of construction activity and the establishment of plant growth sufficient to control the emissions of dust from any site. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

11-15- 7. CERTIFICATE OF COMPLIANCE.

Upon application by the owner of record or agent to the Park City Building Department and payment of the fee established by the department, the Park City Building Department shall inspect the applicant's property for compliance with this Chapter. When the property inspected complies with this Chapter, a Certificate of Compliance shall be issued to the owner by the Park City Building Department.

11-15- 8. DISPOSAL.

Any work that produces excess tailings not contained on the site, according to the standards set forth in this Chapter, must have a representative sample of the soil to be transported off the site tested by a State certified laboratory to determine if it is hazardous waste. If the excess soil is determined to be a hazardous waste, it must be transported to a disposal facility approved by the Utah State Health Department. Any work causing tailings to possibly be regenerated to the surface, such as digging, must collect and properly dispose of the tailings, either on site according to the standards set forth in this Chapter or off site as required by this Chapter and state and federal law.

11-15- 9. ENFORCEMENT.

With the exception of new construction, which shall be inspected and required to comply in accordance with other City permitting and inspections, this Chapter shall be enforced through voluntary requests for inspections to obtain Certificates of Compliance. If a request is made for the Certificate of Compliance as set forth in Section ~~11-16-7~~ 11-15-7, then the owner of the property shall be required to comply with the standards set forth in this Chapter.

11-15-10. WELLS.

All wells for culinary irrigation or stock watering use are prohibited in the Area.

11-15-11. FAILURE TO COMPLY WITH CHAPTER.

~~The failure to landscape, maintain landscaping, control dust or dispose of tailings as required by this Chapter shall constitute a public nuisance as determined by the City Council of Park City.~~
Any person failing to landscape, maintain landscaping, control dust or dispose of tailings as required by this Chapter and/or to comply with the provisions of this Chapter shall be guilty of a Class B misdemeanor and on conviction therefor shall be punished by fine or by imprisonment for not more than six months or by both fine and imprisonment. Any person failing to comply with the provisions of this Chapter may be found to have caused a public nuisance as determined by the City Council of Park City, and appropriate legal action may be taken against that person.

CHAPTER 16 - FLOOD DAMAGE PREVENTION

11-16- 1. STATUTORY AUTHORIZATION.

The legislature of the state of Utah has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

11-16- 2. FINDINGS OF FACT.

The flood hazard areas of Park City are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental

services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

11-16- 3. STATEMENT OF PURPOSE.

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (A) To protect human life and health;
- (B) To minimize expenditure of public money for costly flood control projects;
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) To minimize prolonged business interruptions;
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (F) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) To insure that potential buyers are notified that property is in an area of special flood hazard; and
- (H) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

11-16- 4. METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purpose, this Chapter includes methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

11-16- 5. LANDS TO WHICH THIS CHAPTER APPLIES.

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of Park City.

11-16- 6. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated July 16, 1987, with accompanying Flood Insurance Rate Map (FIRM), is adopted by reference and declared to be a part of this Chapter. The study and FIRM are on file at the Park City Planning Office, 445 Marsac Avenue, Park City, Utah. The City may, from time to time, adopt additional or updated maps prepared by FEMA, which maps would then further define the areas of special flood hazard.

11-16- 7. COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of this Chapter and other applicable regulations.

11-16- 8. ABROGATION AND GREATER RESTRICTIONS.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and other Titles or Chapters of this Code, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

11-16- 9. INTERPRETATION.

In the interpretation and application of this Chapter, all provisions shall be:

(A) considered as minimum requirement;

(B) liberally construed in favor of the governing body; and

(C) deemed neither to limit nor repeal any other powers granted under state statute.

11-16-10. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of Park City, or any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

11-16-11. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 11-16-6. Application for a Development Permit shall be made on forms furnished by the Building Official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (A) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all structures;
- (B) Elevation, in relation to mean sea level, to which any structure has been flood proofed;
- (C) Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 11-16-14; and
- (D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

11-16-12. DESIGNATION OF THE BUILDING OFFICIAL AS LOCAL ADMINISTRATOR.

The Building Official is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

11-16-13. DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL.

Duties of the Building Official shall include, but not be limited to:

- (A) **PERMIT REVIEW.**
 - (1) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 11-16-11 are met.

If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

If it is determined that there is an adverse effect, then technical justification, i.e., registered professional engineer, for the proposed development shall be required.

If the proposed development is a building, then the provisions of this Chapter shall apply.

(B) **USE OF OTHER BASE FLOOD DATA.** When base flood elevation data has not been provided in accordance with Section 11-16-6, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer Section 11-16-15 Specific Standards.

(C) **INFORMATION TO BE OBTAINED AND MAINTAINED.**

(1) Obtain and record the actual elevation, in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures and whether or not the structure contains a basement.

(2) For all new or substantially improved flood-proofed structures, verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed, maintain the flood-proofing certifications required in Section 11-16-11 (C) and maintain for public inspection all records pertaining to the provisions of this Chapter.

(D) **ALTERATION OF WATERCOURSES.** Notify adjacent communities and the State Division of Comprehensive Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Management Agency. The Building Official shall also require that maintenance is provided within the altered or relocated portion of said watercourse so that flood carrying capacity is not diminished.

(E) **INTERPRETATION OF FIRM BOUNDARIES.** Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(F) **VARIANCES.** Appeals and requests for variances from the requirements of this Chapter shall be heard in accordance with the established procedures of Park City. Variances shall not be

issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

11-16-14. GENERAL STANDARDS.

In all areas of special flood hazards, the following standards are required:

(A) **ANCHORING.** All new construction and substantial improvements including manufactured homes, which are controlled by the Land Management Code, shall be anchored to prevent floatation, collapse, or lateral movement of the structure. All manufactured homes must be elevated and anchored to resist floatation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

- (1) Over-the-top ties at each of the four corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty feet (50') long requiring one (1) additional tie per side;
- (2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty feet (50') long requiring four additional ties per side;
- (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (4) Any additions to the manufactured home be similarly anchored.

(B) **CONSTRUCTION MATERIALS AND METHODS.**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) **UTILITIES.**

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) **SUBDIVISION PROPOSALS.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

11-16-15. SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 11-16-13 (B) the following standards are required:

- (A) **RESIDENTIAL CONSTRUCTION.** New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation. Within any AO or AH zone on the FIRM, all new construction and substantial improvement of residential construction shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, at least two feet if no depth number is specified. Within any AO or AH zone, adequate drainage paths around structures shall be required to guide floodwater around and away from proposed structures.
- (B) **NON-RESIDENTIAL CONSTRUCTION.** New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:

- (1) Be flood-proofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Official as set forth in Section 11-16-13(C)(2).
- (4) Within any AO or AH Zone on the FIRM, all new construction and substantial improvement of non-residential structures: (a) shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, at least two feet (2') if no depth number is specified; or (b) together with attendant utility and sanitary facilities be completely flood-proofed to that level to meet the flood-proofing standard specified in Section 11-16-15(B), above. Within any AO or AH Zone, adequate drainage paths around structures shall be required to guide floodwater around and away from proposed structures.

(C) **OPENINGS IN ENCLOSURES BELOW THE LOWEST FLOOR.** For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize the hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one foot (1') above grade; and
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(D) **MANUFACTURED HOMES.** Manufactured homes shall be anchored in accordance with Section 11-16-14 (A). All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

11-16-16. FLOODWAY.

Located within areas of special flood hazard established in Section 11-16-6 are areas designated as floodway. Since the floodway is an extremely hazardous area due to the velocity of flood

waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If Section 11-16-16(A) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 11-16-14 and Section 11-16-15.

CHAPTER 17 - PENALTIES AND VIOLATIONS

11-17-1. VIOLATIONS.

No person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the applicable sections of the codes adopted pursuant to this Title or of any order issued by the Building Official hereunder.

11-17-2. PENALTY.

Any person failing to comply with the provisions of this Title, shall be guilty of a Class B misdemeanor and on conviction therefor shall be punished by fine or by imprisonment for not more than six months or by both fine and imprisonment.

11-17-3. CONTINUING OFFENSES DEEMED DAILY VIOLATION.

In all instances where the violation of this Title is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

CHAPTER 18 - GENERAL PROVISIONS

11-18- 1. REPEAL OF CONFLICTING ORDINANCES.

All previous adoptions of the ~~Uniform Building~~ Building, Housing, Fire, Abatement of Dangerous Building, Mechanical, Plumbing, Sign and Electrical Codes are hereby repealed and supplanted with the codes adopted herein.

11-18- 2. COPIES AVAILABLE FOR PUBLIC USE.

Copies of the ~~Uniform Building~~ International Building Code, International Residential Code, International Fuel Gas Code, International Energy Conservation Code, Housing, Fire, Abatement of Dangerous Buildings, Mechanical, Plumbing, Sign and Electrical Codes are on file in the office of the City Recorder for use and examination by the public.

11-18- 3. SEPARABILITY.

Should any section, clause or provision of the codes adopted pursuant to this Title be declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of any other section or provision of this Title or the codes adopted herein and each such section, clause, or provision is hereby declared to be separate and distinct.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon publication.

DATE: August 14, 2002
DEPARTMENT: Special Events
AUTHOR: Michelle Bridge Barrus
TITLE: September 11th Memorial
TYPE OF ITEM: Master Festival License Application

SUMMARY RECOMMENDATION: Review the Master Festival License application, conduct a public hearing, consider approving a license for a Memorial on September 11th on Main Street and at City Park.

DESCRIPTION

5. Topic

Review of the Master Festival License Application, submitted by Park City Municipal Corporation, for September 11th Memorial, at City Park and Main Street.

6. Background

The Master Festival License application submitted by Park City Municipal Corporation requests approval for a September 11th Memorial on September 11, 2002, at City Park. Due to the tragic events that took place on September 11, 2001 in New York City and Washington D.C. many individuals and groups wish to come together on the one-year anniversary to remember the lives lost on that day.

The day will start with the 10 o'clock whistle blown at 8:05 a.m. and once again at 8:28 a.m. These whistles will signify the times of collapse of the Twin Towers in New York. It is felt by many that it would be better to memorialize the loss of lives instead of the terrorist act itself, hence the times of the collapse instead of time the planes hit the buildings. During the interim of these alarms, the Park City Police and Park City Fire Department will conduct a procession down Main Street with their cars, trucks, and sirens. This is to honor those who fought that day to save lives in the World Trade Towers and the Pentagon, as well as honor those who serve and protect the community of Park City.

That evening at City Park there will be a ceremony beginning at 6:00 and extending until 8:00. This will take place at the bandstand with some live music and individual speakers from the community. The set up will require a P.A. system and the band will need electrical power for their equipment. They will plug in to the electrical outlets in the bandstand.

As part of this application, Park City Municipal Corporation have requested the Council review their request for a fee waiver. The Municipal Code allows the Council to waive all or a portion of fees based upon certain criteria.

C. Analysis

The City Council, per the Municipal Code, reviews all new applications for Master Festival Licenses and shall either approve, approve with conditions or deny the applications. The

September 11th Memorial is being reviewed as a Master Festival due to the fact it is a new event and the location of the event is on public property and there will be amplified music.

The organizers are expecting a crowd of 250-300 to attend these events. Due to the size of the anticipated crowd and the duration of the event, adequate parking is available at City Park with the 83 parking spaces available in the MaWhinney Lot and additional capacity in City Park, on Park Avenue, and if needed the Library and Education lot. Staff has added as a condition that the “no parking” areas along Sullivan Road be barricaded in order to ensure fire access through the park.

D. Department Review

The proposed MFL has been reviewed by the Legal Department, the Mayor, and the Special Events and Facilities Department.

Fee Waiver Request

Section 4-8-9 of the Municipal Code provides applicants for Master Festival and Special Event Licenses with criteria to request a waiver for all or a portion of associated fees. The Section further states that fee waiver requests for all new applications be reviewed and approved or denied by the City Council. Eligibility for a full or partial fee waiver shall be determined pursuant to the following criteria, none of which shall be individually controlling. Sundance Institute and Park City Municipal Corporation have requested a full waiver of all fees associated with Movies in the Park. Please see text in italics for Sundance Institute and Park City Municipal Corporation’s response to the criteria.

4. For-profit or non-profit status of the Applicant;
PCMC is a governmental entity.
5. Whether the event will charge admission fees;
There is no general admission fee.
6. Whether the event is youth-oriented;
The event is oriented at all members of the community to come together to memorialize a tragic day in modern history.
7. The duration of the event;
The event will be held on September 11, 2002, from 8:05 a.m. to 8:28 a.m. and again from 6-8 p.m.
8. Whether and to what extent the City is likely to receive positive tax benefits by virtue of the event;
Probably not.
9. The degree of City services involved and whether City costs are likely to be recovered by other revenue opportunities arising from the event;
The costs for this event will be minimal.
10. The season of occurrence; and
The event will take place during fall.
11. Demonstration of hardship by the Applicant.
PCMC is a governmental entity. There is no money specifically budgeted at this time to cover an administrative budget for such an event.

Included within the recommendation of approval of the event, Staff has added a finding regarding the approval of a full fee waiver per the request.

ALTERNATIVES

- A. Approve the Fee Waiver and Master Festival License, as conditioned by staff, allowing the September 11th Memorial on September 11, 2002, at City Park and Main Street.
- B. Modify the parameters of the event and/or Fee Waiver and approve the September 11th Memorial September 11, 2002, at City Park and Main Street.
- C. Deny the Master Festival License, thereby preventing the September 11th Memorial September 11, 2002, at City Park and Main Street.
- D. The City Council may continue the hearing for more information and discussion.

RECOMMENDATION

Staff recommends approval of the Master Festival License for a September 11th Memorial on September 11, 2002 at City Park and Main Street.

Findings of Fact:

- A. September 11th Memorial will be held at City Park and Main Street on September 11, 2002. The event consists of a procession down Main Street and the blowing of the 10 o'clock whistle as well as amplified music and speakers at City Park from 6:00 pm until 8:00 pm.
- B. Parking for the anticipated crowd size (estimated at 250-300 people) throughout the duration of the event can be accommodated by the available parking in Swede Alley, the Mawhinney lot, City Park, Park Avenue, and the Library and Education lot. The conduct of the Memorial will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its Venue.
- C. The events associated with September 11th Memorial will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
- D. By barricading the "no parking" areas along Sullivan Road it ensures that the concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
- E. No other Master Festival License has been approved for September 11, 2001. September 11th Memorial will not substantially interfere with any other Special Event or Master Festival for which a license has already been granted or with the provision of City services in support of other such events or governmental functions on those dates.
- F. Park City Municipal Corporation has adequate insurance for the event.

- G. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
- H. City Staff and applicable departments have met to address all event concerns.
- I. Park City Municipal Corporation has shown significant reasons for a full waiver of all City Services fees due to the fact that the applicant is a governmental entity who desires to provide a community event that will justly honor an important day in modern history.

Conclusions of Law:

- 1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

- A. The Applicant will work in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided.
- B. The Applicant shall provide to the Special Events Manager proof of liability insurance as required by the Special Events Manager or the City Attorney's Office.
- C. The applicant shall place and maintain barricades along the “no parking” areas on Sullivan Road throughout the duration of the event to ensure the minimum clearance requirement for emergency vehicles is met.
- D. The applicant must monitor sound levels to reduce impact on adjacent residents.

Park Rental	\$20 per day	\$20
Barricades Rental	25 @ \$.38 per barricade	\$9.50
Application Fee	\$50	\$50
		Total Fees \$79.50

DATE: August 19, 2002
DEPARTMENT: Public Works
AUTHOR: Kathy Gammell
TITLE: Water Engineering and Planning Consultant Contract
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Authorize staff to enter into a Professional Services Agreement with Hansen, Allen and Luce Engineers (HAL) to replace Entranco under the existing 02/03 approved budget for general water engineering, inspections, and planning for the Park City Water System.

DESCRIPTION:

A. Topic. Water Engineering and Planning Consultant

B. Background.

In July 1999 Park City Public Works solicited formal proposals from interested engineering firms identifying their qualifications and interests. Three engineering firms were subsequently selected by staff and approved by Council. The three firms are Montgomery Watson Harza (MWH), Entranco, and Stantec. In July 2001 Council approved a renewal of contracts with each of the engineering firms.

Entranco closed it's Salt Lake City office in April 2002, leaving two relatively large engineering consultants, Montgomery Watson Harza and Stantec, to provide general engineering services for Park City's water system. As a smaller firm, Entranco was able to provide a more reasonable rate structure for smaller projects and consulting activities which provided cost flexibility in assignment of projects. Staff seeks to restore this flexibility.

To fill the void left by Entranco's office closing, staff solicited Statements of Qualifications (SOQ's) through ads in the Park Record and the Salt Lake Tribune in early July 2002. A

review committee comprised of staff from Public Works, Engineering, and OCMB reviewed nine SOQ submittals, and shortlisted four engineering consultants after reviewing the SOQ's. Personal Interviews were conducted with the selected four engineering consultants, and there was a consensus of the review committee to recommend Hansen, Allen and Luce to Council to replace Entranco.

C. Analysis.

HAL provides a more reasonable rate structure for smaller projects and consulting activities than Stantec and MWH. By replacing Entranco now, we anticipate cost savings on small projects that HAL will be assigned in the future. An additional benefit is that HAL will have evaluated and gained an understanding of Park City's complex water system by the time the MWH and Stantec contracts expire in June 2003. At that time, with Council's approval, a renewed HAL contract will provide overlap and continuity while we solicit SOQ's for consideration in potentially replacing MWH and Stantec for general services and planning. In a reference check, staff found that HAL has completed some complex, large and impressive water system projects for major water suppliers in Utah. All references were found to be very positive for technical capability, on-time on-budget projects, project management and customer responsiveness.

D. Departmental Review.

The staff report has been reviewed by Public Works, City Manager.

ALTERNATIVES:

- A. Authorize staff to enter into an agreement with Hansen, Allen, and Luce for engineering and inspection services. This would allow reduced costs in the near term and overlap of capabilities when two consulting engineer contracts expire in June 2003. This is the staff recommended alternative.

- B. Require staff to resubmit for solicitation of proposals. This would delay the time frame in which a consulting engineer would have to gain an understanding of Park City's complex system and would not be as effective in providing overlap of capabilities when two consulting engineer contracts expire in June 2003. This is not a staff recommended alternative.
- C. Require staff to solicit proposals from engineering firms for each project and service required. This alternative will result in increased staff time, extended project time and decrease staff's ability to effectively and efficiently handle water issues. This is not a staff recommended alternative.
4. Wait until July 2003 to solicit proposals for 3 consulting engineer slots at the same time. Potential cost savings will not be realized and staff may need to request Council authorization to again extend agreements with MWH and/or Stantec in June 2003. This is not a staff recommended alternative.
- E. Do Nothing. Similar to D.

SIGNIFICANT IMPACTS:

Alternative A allows staff flexibility for assignment of water projects through this fiscal year, and flexibility for solicitation of SOQ's in June 2003.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

It is unlikely that any cost savings to water projects will be realized.

RECOMMENDATION:

Authorize staff to enter into a Professional Services Agreement with Hansen, Allen and Luce Engineers to replace Entranco under the existing 02/03 approved budget for general water engineering, inspections, and planning for the Park City water system.

Date: August 22, 2002
Department: Planning Department
Title: Block 52 Street Vacation- six month time extension)
Type Of Item: Legislative

Summary Recommendations: Conduct a Public Hearing, consider public input and Staff's recommendation to extend the approval for a Street Vacation of platted and undeveloped Marsac Avenue located in Block 52, Park City Survey as conditioned.

A. Topic

Applicant: United Park City Mining Co., Kay Calvert, Leslie Miller
Location: 128-134 Ontario Avenue
Proposal: Plat Amendment-15 full/partial lots into 3 lots/Vacation
Zoning: Historic Residential (HR-L) District
Adjacent Land Uses: Residential, Vacant Residential, Municipal Open Space
Project Planner: Kevin LoPiccolo
Date of Application: May 23, 2002

B. Background

On June 21, 2001, the City Council approved, with conditions, a Plat Amendment & Street Vacation to allow the applicant to construct a private driveway in platted/unbuilt 2nd Street, and Vacation of 488 square feet of platted (and undeveloped) Marsac Avenue to be vacated and incorporated into the plan. As part of the approval, a plat amendment to reconfigure 15 full and partial lots in Block 52 of Park City Survey into 3 new lots of record. The property is 25,777 square feet (.59 acres) and located in the Historic Residential Low-Density (HRL) Zoning District.

The property is located on a west-facing slope near the mouth of Ontario Canyon. To the north is the Ivers replat that was approved by the Council and is under construction. The City-owned open space known as the Virginia Claim is uphill to the east. To the south and west across the platted (but undeveloped) Marsac Avenue and First Street are vacant lands owned by the City and United Park City Mining Company. Abandoned railroad spurs, currently used by the public for trails, traverse the northwest portion of the property. The property is moderately steep and is vegetated with a mix of oak, conifers, and ground cover. Development in this area is subject to review under the HR-1 steep slope conditional use permit process. The property also contains the mine waste slurry line connecting the Ontario Mill to Richardson Flats.

The applicant submitted an application request for a six month time extension to the plat that the Council approved on June 27, 2002. The approval was only for the Plat Amendment and not the Vacation. Staff is requesting that the Council approve a six-month time extension for the Street Vacation which will expire on December 21, 2002, the date of the Plat Amendment expiration.

Proposal

The applicants propose to combine 15 full and/or partial HRL-zoned lots into three lots of record. Access is proposed by way of an extension of the 12-foot wide private driveway access off of Ontario Avenue through the Ivers Replat subdivision. The proposed driveway easement

for the plat amendment area south of the Ivers Replat is 30 ft. in width. The driveway surface for the proposed paved driveway south of the Ivers Replat will be 20 feet wide. The driveway easement will also serve as a public trail easement connecting to the existing railroad spur.

To accommodate a lower hillside building pad for one of the lots (proposed Lot 3), the applicants have requested a 488 square foot vacation of platted/unbuilt Marsac Avenue. The area of the proposed vacation is adjacent to Lots 6 and 7 of Block 52.

The proposed lot sizes are 12,139 square feet; 5,719 square feet; and 7,919 square feet. A snow storage and slope easement is provided on the downhill side of the driveway easement. From one to three Fire Department stand pipes are proposed as fire protection for the subdivision. The standpipes will be located at the intersection of the private driveway and the Ontario Avenue/Thrill Hill intersection.

C. Recommendation

Staff recommends that the City Council conduct a public hearing, consider Staff's recommendation to adopt the attached ordinance for Block 52 (128-134 Ontario Avenue) and approve the Vacation based on the following Findings of Fact, Conclusions of Law and Conditions of approval:

Findings of Fact

3. The applicant is requesting a time extension of six months.
4. The applicant received Council approval for a Plat Amendment and 488 square feet vacation of platted/unbuilt Marsac Avenue at their June 21, 2001 meeting.
5. The 25,777 square feet (.59 acre) property is in the HR-L District.
6. The property is located to the south of the Ivers Replat and the 2nd Street right-of-way.
7. The property is currently vacant.
8. The plat amendment reconfigures 15 full and partial HR-L District lots in Block 52 of the Park City Survey into 3 lots of record.
7. Access to the applicants' property is via a proposed extension of a private driveway off of existing Ontario Avenue through the Ivers Replat.
8. The proposed private driveway extension crosses the 2nd Street right-of way and a portion of platted/unbuilt Marsac Avenue.
9. The 2nd Street and Marsac rights-of-way are an unbuilt City streets.
10. On June 21, 2001, the City Council adopted by Ordinance a Plat

Amendment and Right-Of-Way Vacation.

11. The applicant proposes to dedicate the private driveway easement as a public pedestrian trail easement.
12. The lot sizes and maximum building footprints are:

	<u>Lot Size</u>	<u>Maximum Building Footprint</u>
Lot 1:	12,139 sq. ft.	3,068 sq. ft.
Lot 2:	5,719 sq. ft.	2,078 sq. ft.
Lot 3	7,919 sq. ft.	2,539 sq. ft.
13. The project is located in the Ontario Avenue/Thrill Hill Area. Minimal construction staging area is available in this neighborhood.
14. The physical constraints of the neighborhood including narrow prescriptive easements, unbuilt City rights-of-way on steep slopes, and extensive vegetation limit utility design alternatives for the project.
15. The property is located adjacent to the City-owned Virginia Claim open space.
16. The final plat is currently being prepared for recordation.
17. The applicant stipulates to all approved conditions of approval.

Conclusions of Law

9. There is good cause for the amendment and the extension.
10. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. The proposal is consistent with both the Park City Land Management Code and State subdivision requirements.
4. The proposal is consistent with the City's standards for right-of-way vacations set forth in Resolution 8-98.

Conditions of Approval

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Execution of a private driveway easement in a form and manner acceptable to the City Engineer and City Attorney is a condition precedent to plat recordation.

3. An acceptable utility plan shall be submitted to and approved by the City Engineer. The power, phone, and cable TV lines may be overhead. A financial guarantee for the installation of public improvements is required.
4. The applicant shall dedicate 488 square feet of the subject property adjacent to the City-owned Virginia claim to the City for open space purposes.
5. This approval shall expire on December 21, 2002, unless the Block 52 plat amendment is recorded prior to that date.
6. All Standard Project Conditions shall apply.
7. Receipt and approval of a construction mitigation plan (CMP) by the Community Development Department is a condition precedent to the issuance of a building permit. The plan shall address staging, material storage, construction time lines, special signs, parking, fencing, and any other construction-related details to the satisfaction of the Community Development Department.
8. Modified 13-d sprinklers are required in each dwelling.

EXHIBITS:

Exhibit A - Site Plan

Exhibit B - Proposed Plat

Exhibit C - City Council Minutes from June 21, 2001

Exhibit D - Draft Ordinance

Ordinance No. 02-

AN ORDINANCE APPROVING A SIX MONTH TIME EXTENSION FOR THE VACATION OF A PORTION OF THE PLATTED MARSAC AVENUE BETWEEN PLATTED FIRST AND SECOND STREETS, ADJACENT TO LOTS 6 AND 7, BLOCK 52 OF THE PARK CITY SURVEY, PARK CITY, UTAH

WHEREAS, the owners of the property known as United Park City Mines Corporation, Leslie Miller, and Kay C. Calvert have petitioned the City Council for approval of a revision to Block 52 of the Park City Survey; and

WHEREAS, the City Council voted on June 21, 2001 to amend portions of Block 52 of the Park City Survey; and

WHEREAS, United Park City Mines Corporation, Leslie Miller, and Kay C. Calvert have petitioned the City Council for a vacation of 488 square feet of platted Marsac Avenue between platted First and Second Streets, adjacent to Lots 6 and 7, Block 52 of the Park City Survey; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on May 9, and May 23, 2001 to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission, on May 23, 2001 forwarded a positive recommendation to the City Council; and,

WHEREAS, on June 21, 2001 the City Council held a public hearing to receive input on the proposed plat amendment and vacation; and

WHEREAS, on June 21, 2002 the City Council held a public hearing on an extension on the Block 52 Plat Amendment and granted an extension to December 21, 2002; and

WHEREAS, on August 22, 2002, the City Council held a public hearing on a request for an extension to the 488 square foot vacation of platted/unbuilt Marsac Avenue.

WHEREAS, it is in the best interest of Park City, Utah to approve the vacation.

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

SECTION 1. FINDINGS OF FACT

The applicant is requesting a time extension of six months.

The applicant received Council approval for a Plat Amendment and 488 square feet vacation of platted/unbuilt Marsac Avenue at their June 21, 2001 meeting.

The 25,777 square feet (.59 acre) property is in the HR-L District.

The property is located to the south of the Ivers Replat and the 2nd Street right-of-way.

The property is currently vacant.

The plat amendment reconfigures 15 full and partial HR-L District lots in Block 52 of the Park City Survey into 3 lots of record.

7. Access to the applicants' property is via a proposed extension of a private driveway off of existing Ontario Avenue through the Ivers Replat.

8. The proposed private driveway extension crosses the 2nd Street right-of way and a portion of platted/unbuilt Marsac Avenue.

9. The 2nd Street and Marsac rights-of-way are an unbuilt City streets.

10. On June 21, 2001, the City Council adopted by Ordinance a Plat Amendment and Right-Of-Way Vacation.

11. The applicant proposes to dedicate the private driveway easement as a public pedestrian trail easement.

12. The lot sizes and maximum building footprints are:

	<u>Lot Size</u>	<u>Maximum Building Footprint</u>
Lot 1:	12,139 sq. ft.	3,068 sq. ft.
Lot 2:	5,719 sq. ft.	2,078 sq. ft.
Lot 3	7,919 sq. ft.	2,539 sq. ft.

13. The project is located in the Ontario Avenue/Thrill Hill Area. Minimal construction staging area is available in this neighborhood.

14. The physical constraints of the neighborhood including narrow prescriptive easements, unbuilt City rights-of-way on steep slopes, and extensive vegetation limit utility design alternatives for the project.

15. The property is located adjacent to the City-owned Virginia Claim open space.
16. The final plat is currently being prepared for recordation.
17. The applicant stipulates to all approved conditions of approval.

SECTION 2. CONCLUSIONS OF LAW:

There is good cause for the amendment and the extension.

Neither the public nor any person will be materially injured by the proposed plat amendment.

3. The proposal is consistent with both the Park City Land Management Code and State subdivision requirements.
4. The proposal is consistent with the City's standards for right-of-way vacations set forth in Resolution 8-98.

SECTION 3. CONDITIONS OF APPROVAL:

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Execution of a private driveway easement in a form and manner acceptable to the City Engineer and City Attorney is a condition precedent to plat recordation.
3. An acceptable utility plan shall be submitted to and approved by the City Engineer. The power, phone, and cable TV lines may be overhead. A financial guarantee for the installation of public improvements is required.

4. The applicant shall dedicate 488 square feet of the subject property adjacent to the City-owned Virginia claim to the City for open space purposes.
5. This approval shall expire on December 21, 2002, unless the Block 52 plat amendment is recorded prior to that date.
6. All Standard Project Conditions shall apply.
7. Receipt and approval of a construction mitigation plan (CMP) by the Community Development Department is a condition precedent to the issuance of a building permit. The plan shall address staging, material storage, construction time lines, special signs, parking, fencing, and any other construction-related details to the satisfaction of the Community Development Department.
8. Modified 13-d sprinklers are required in each dwelling.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this 22 day of August, 2002.