**PARK CITY COUNCIL MEETING**
**SUMMIT COUNTY, UTAH**
**AUGUST 15, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, August 15, 1996.

# AGENDA

**Work Session**

4:00 p.m. Council questions and comments
4:20 p.m. Review of regular meeting
Historic District LMC amendments
Other meeting questions/comments

**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 MEETING OF JULY 25, 1996**

**V CONSENT AGENDA**

1. Ordinance accepting the public improvements at Hidden Meadows Subdivision

2. Ordinance accepting the public improvements at Silver Meadows Estates Subdivision

3. Authorization to staff to replace two backhoes from Scott Equipment at a cost of $115,280 and trade-in of two existing backhoes for a combined total of $39,000

**VI PUBLIC HEARING**

Ordinance amending Chapters 2, 7, and 8 of the Land Management Code relating to building heights, maximum floor areas, and maximum building widths in the Historic Commercial Business (HCB), Historic Recreation Commercial (HRC), Historic Transitional Overlay Zone (HTO), Historic Residential (HR-1), and Historic Residential Low-Density (HRL) Districts; and amending Land Management Code height exceptions for all other zones in Park City, Utah

## VII OLD BUSINESS - APPEAL

(a) Appeal of Planning Commission denial of June 12, 1996 to amend the Snow Creek Crossing MPD and MPD/CUP application for Zions Bank/Visitors' Center located at SR248 and SR224 - P. C. Development

(b) Revised sketch plan to a request to amend the Snow Creek Crossing MPD and MPD/CUP application for Zions Bank/Visitors' Center - P.C. Development

## VIII NEW BUSINESS

Declaration of official intent of Park City to reimburse itself from bond proceeds for certain capital expenditures; establishing the maximum principal amount of such expenditures and authorizing incidental action (Pace water and land acquisition and Public Works facility)

## IX ADJOURNMENT

Posted: 8/12/96

**PARK CITY WORK SESSION NOTES**
**SUMMIT COUNTY, UTAH**
**AUGUST 15, 1996**

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

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Jerry Gibbs, Public Works Director; Pat Putt, Planning and Zoning Administrator; Lloyd Evans, Assistant Chief of Police

Bruce Erickson, Vice-Chairman Planning Commission

**City Council questions/comments.** Hugh Daniels pointed out that the Broken Thumb Restaurant has set up a small bar outside. Pat Putt stated that the business has been cited and its conditional use permit will be annually evaluated in September. Hugh Daniels discussed the KPCW fund-raiser, UDOT's survey on SR224, and the article in *Park Record* about the Council's proposed trip to Europe. Ms. Kerr referred to a complimentary letter to the City and suggested acknowledging receipt to the writer. She added that she has been contacted by the Rocky Mountain Land Institute regarding a donation. Ms. Kerr commented on the benefits of attending the Snyderville Basin Planning Commission meetings and suggested that there be a joint meeting with this group on the General Plan so that plans can be compared. In response to a question from Ms. Kerr, Eric DeHaan explained the Snow Creek trail plan and how it ties into the Windrift Project. Mayor Olch discussed the ULCT convention in September. Hugh Daniels, Chuck Klingenstein, and Shauna Kerr indicated that they will be attending, and voting at the convention was discussed.

Chuck Klingenstein reported that he was introduced to Sgt. Buck Miller from DEA who has shared information with the Police Department and Tri-County. He relayed that several officers indicated that it would behoove the Council to be aware of the information and strongly suggested that Council be personally advised. Mr. Klingenstein recommended also inviting the School Board and County Commission. Lloyd Evans indicated that he would follow-up. Paul Sincock felt that the Summer Tour trip to Idaho was worthwhile. He commented on the article in the *Park Record* about the Olympics and emphasized the importance of early planning. Roger Harlan requested that the speed monitor be placed on Meadows Drive. Lloyd Evans responded that there are other pending requests, but he will add Meadows Drive to the schedule. Mr. Harlan stated that he was surprised the City installed a chain link fence at the baseball diamond and commented on the Olympic planning article. He reminded Council that it is the City's turn to organize a meeting with the County and the School District. Paul Sincock and Chuck Klingenstein volunteered to screen applications for the Leadership 2000 program.

**2. Historic District Land Management Code amendments.** Pat Putt explained that there was a negative recommendation forwarded from the Planning Commission. The Commission recommended to strike the maximum building size, building width, and that the HRC building heights remain as presently permitted in the LMC. The HCB building heights north of the HRC zone be considered to a reduction of two stories, or no more than 30 feet in height. There was no consensus on the building heights in the HCB zone south of Heber Avenue and there was a suggestion that a provision be drafted to exempt historic buildings from this ordinance so they don't become non-conforming. Mr. Putt added that the Commission found that the ordinance, as drafted, does not achieve the intended objectives. He continued that the staff report includes the direction from the June 27 joint meeting with the Commission. These were applied generally to the HCB and the HRC zones. The maximum height would be reduced to a minimum of two stories or 30 feet with an additional 18" for a parapet. In the HRC zone, there is provision for a pitched roof to go up to 33 feet. Maximum building widths in the HCB zone is 37.5 feet; 40 feet in the HRC district because of the setbacks in that zone. Mr. Putt continued that the maximum building area in the HCB, under the parameters discussed at the June 27 meeting, is 2,820 square feet per floor for a maximum of 5,640 square feet per building. In the HRC zone, subtracting out the front, rear and side yard setbacks, left a footprint of 2,200 square feet, for a total of 4,400 square feet. He added that measuring heights has been clarified in the proposed ordinance. Height is measured from the inside of the pavement, not necessarily the property line. He explained that the building heights are measured from the foundation line and not three feet out from the foundation and in addition, there is a five foot bonus for pitched roofs. Staff is also recommending that for steeply sloping downhill lots, to extend the 24 foot deep element to 28 feet in order to accommodate a garage or internal staircases.

Mr. Putt reported that there was a meeting held last Friday with the design community regarding the ordinance. The opposition contends that there is not a clear public need to make these amendments; the proposed amendments would reduce these two zones up to 30% and create significant financial impacts to projects, jeopardizing the quality of projects. The proposed maximum building areas are too restrictive and the proposed amendments do not address the Main Street parking issues or provide density bonuses for parking that would be provided beyond the LMC requirements. He added that the designers felt that the proposed amendments should allow for an exception for the entire 30" UBC required parapet, versus just an 18" bonus. The Mayor asked Mr. Erickson to explain the actions of the Planning Commission as he understood that the Commission supported the ordinance at the June 27 work session.

Mr. Erickson stated that most of the Commissioners were present at the June 27 meeting but were prepared to discuss the General Plan, not the Historic District amendments. The concerns of the Planning Commission involved the HRC zone and the final components of the Town Lift Project and the issue of non-conformance. He didn't believe that the negative recommendation was based on the technical components of the ordinance, but that the ordinance may not result in the desired outcome. Bruce Erickson continued that the Commission understood the objectives to be the preservation of the historic quality of Main Street and discouraging demolition of historic buildings to accommodate new buildings. Reduction in height in the HCB zone north of the HRC zone seemed appropriate, except there was no way to make a recommendation to change the ordinance to implement that provision. The Commission didn't feel that reducing heights in the HRC zone did anything to meet the outcome, but rather complicated projects that already had MPD approvals. There was no consensus on the height reduction on the HCB district south of the HRC zone. Mr. Erickson noted that the Commission felt that two and three story buildings seemed appropriate on Main Street. He discussed the east and west sides of Main Street and that a three story building on Swede Alley takes the pressure off of Main Street and there were concerns with the technical features of the ordinance. He reiterated that there is general consensus about the reduction in heights north of the HRC in the HCB zone. The Commission is comfortable with the MPD approvals in the HRC zone. One of the reasons for the motion to deny was the feeling of the need for more time to arrive at a different solution. Mr. Erickson pointed out that one of the buildings has the potential for 127 feet of frontage and if a building were held to two stories, the result would probably not be compatible with existing historic structures. He explained that the Planning Commission studied lower Park Avenue as a part of the General Plan and recommended rezoning those pieces of ground to lower the height, rather than lowering the heights in the HCB to attain the same goal. The Commission didn't support the land uses allowed in the HCB zone on Park Avenue in the northern section. The Commission was also uncomfortable with two stories on the Swede Alley side of Main Street. With regard to a question from Shauna Kerr regarding if Swede Alley is pedestrian-friendly, Mr. Erickson responded that the Commission discussed this and didn't feel that was a function of the Code for height, but rather the Historic District Commission's regulations on Swede Alley. He felt that if height was the only component of the ordinance, that it may have been approved. A positive recommendation would have included some changes on the HCB Main Street section that provided for lots that are wider than 60 feet to accommodate a range of building heights and a change in the mechanism for Swede Alley so that the east side could go to two and three stories to accommodate a basement. There was input from the HDC and it was felt that some of the more successful new buildings on Main Street and in the HRC Town Lift Project eliminated the rigorous patterns of building widths; varied facades are desired and not driven by 37.5 feet. The Commission recommended against a limitation of a building width, but would recommend strengthening the Historic District guidelines. He relayed that Commissioner Calder was very concerned about square footages and regulating the interiors of buildings as the focus should be preserving the exteriors and the rhythm and scale on Main Street. Paul Sincock pointed out that larger square footages may promote formula retail operations on Main Street and limiting it may discourage chain stores. Mr. Erickson explained that the Planning Commission didn't feel that formula retail should be regulated with design criteria but by some other means. The Commission felt that floor areas are controlled by setbacks, lot size, or design. He continued that existing buildings not complying with the proposed ordinance would be non-conforming and many of the historic buildings that the City is trying to protect would become non-conforming. There was public input before the Commission that there would be a significant cloud on title by designating a building non-conforming. Jodi Hoffman explained that most non-conforming clauses amortize away a type of use or building, but the Park City LMC allows non-conforming forever as long as the non-conforming element is not increased. She added that many of the buildings on Main Street are already non-conforming. Mr. Erickson continued that he believed that none of the Planning

Commissioners were in support of recommending a denial of the changes in the HR-1 and HRL zones, but this was dropped in the final motion. Since there were so many changes to the proposed ordinance, the Planning Commission elected to deny it.

In response to a question from Roger Harlan regarding the consequences of designating a building "non-conforming", Jodi Hoffman suggested that there can be another title for Chapter 12. She stated that Park City's non-conforming section is the most generous she has ever seen. Bruce Erickson suggested just exempting historic buildings as opposed to determining them to be non-conforming. Ms. Hoffman explained that Chapter 12 already exempts historic buildings, and there doesn't need to be another mechanism. There was discussion about the actual downside of having a non-conforming designation on a title report. Bruce Erickson stated that there was public input from several people and the more technical expert on the Planning Commission believed it would be a problem on appraisals. He pointed out that the Historic District Guidelines have not been adopted yet and will be very helpful. Chuck Klingenstein stated that he didn't want to see the ordinance die and asked Mr. Erickson if there is enough time for him to work with staff to rectify some of the issues so that Council can adopt this next week. Mr. Erickson felt it was possible if another Commissioner assisted and suggested Chris Larson or Tom Calder. There was discussion about regulating formula retail by limiting areas. Mr. Sincock discussed the design problems in limiting height, width, and square footage and pointed out the unique look of the diverse historic buildings on Main Street.

Shauna Kerr stated that if the ordinance is going to "die a natural death" that it be acted upon tonight so that the staff doesn't spend more time on this. If there are other ways to reach these goals like the parking TZO, it may be the more prudent way to go. She pointed out that this may be an example of the process actually working and commented on the goal of the ordinance to reduced mass and scale and preserve historic buildings. She emphasized that this didn't come from the community but from Council. The public has provided input and perhaps the concept was right but the mechanisms were wrong. Chuck Klingenstein asked what she meant by "community" as those with vested interests will comment. Ms. Kerr responded that at the Planning Commission meeting last night, HDC members provided input but the people who have been outspoken on Historic District issues were not there, but reiterated that this was not an issue that came from this group. She recognized that the designers and the property owners on Main Street were in attendance, but the Historical Society and the Old Town groups weren't there. Chuck Klingenstein pointed out that in planning, you try to "get ahead of the curve" and not acting on the ordinance may be a mistake. Mayor Olch felt that there are issues that need work, but the width and height components could be implemented. The City Manager added that the clearest direction that the Planning Commission provided was on issues not covered in the TZO so the deadline of next week is irrelevant, i.e., width restriction. See regular meeting minutes.

**Other meeting questions/comments.** There was discussion about the purchase of backhoes. With regard to the Zions Bank appeal, City Attorney Hoffman explained that this is a quasi-judicial matter. There are two items on the agenda; the first being the appeal and the other the option of reviewing the revised plan. Shauna Kerr pointed out that some of the appellant's arguments reference to the revised plan and Council should decide if it wants to consider the revised plan. Jodi Hoffman advised to consider the appeal on its merits and if Council decides to deal with the revised plan to do so separately. It was pointed out that the Planning Commission looked at the revised plans but the application was not complete. Roger Harlan felt that Council's scope of review should solely be the appeal. The City Manager explained that the applicant would like Council's feedback on the merits of the revised plan and explained the range of options for Council action. The Mayor suggested moving the revised plan to New Business at the regular meeting.

There was discussion about the reimbursement resolution. The Mayor requested a motion to close for water acquisition. See Memorandum of Closed Session included in the regular minutes.

Prepared by Janet M. Scott

**PARK CITY COUNCIL MEETING**
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**AUGUST 15, 1996**

## I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 15, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Pat Putt, Planning and Zoning Administrator; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney.

## II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business not scheduled on the agenda. Hearing none, the public input session was closed.

## III COMMUNICATIONS FROM COUNCIL AND STAFF

None.

## IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 25, 1996

Shauna Kerr corrected the motion for the Sandstone annexation to indicate that the motion did not carry and requested that the minutes of December 14, 1995 be amended to reflect that Brookside was not annexed for lack of a 2/3rds vote. The Mayor requested a motion for approval, as corrected. Hugh Daniels, "I so move". Paul Sincock seconded. Motion carried unanimously.

## V CONSENT AGENDA

Roger Harlan, "I move approval of Consent Agenda Items 1, 2 and 3". Paul Sincock seconded. Motion carried unanimously.

1. Ordinance accepting the public improvements at Hidden Meadows Subdivision - See following staff report.

2. Ordinance accepting the public improvements at Silver Meadows Estates Subdivision - See following staff report.

3. Authorization to staff to replace two backhoes from Scott Equipment at a cost of \$115,280 and trade-in of two existing backhoes for a combined total of \$39,000 - See staff report.

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Daniels disclosed that he is part-owner in a building in the HR-1 District. Pat Putt reported that many of the people in attendance were at the Planning Commission meeting last night. He explained that the proposed legislation would limit heights in the HRC and the HCB Zones to two stores. He explained the pre-TZO building height which allows 30 vertical feet, and once that is met, a 45° angle can be applied at the mid-point to a maximum height of 45 feet above natural grade. Under the proposed ordinance, heights would be limited to 30 feet and two stories, measured from the back of curb on Main Street at the center of the building facade. He clarified that there would be a provision for the Swede Alley side, using the same mechanism for the building envelope which may result in buildings that are three levels, but with facades that are two stories on Main Street. There would be an additional 18" to allow for a parapet. Mr. Putt noted that the height in the HRC is 35 feet above natural grade and 40 feet for a pitched roof; under the proposed provisions the pitched roof could go up to 33 feet.

The building width of the HCB Zone is a maximum of 37.5 feet, and in the HRC Zone where setbacks are required, the proposed building width would be 40 feet. A maximum building area cap in the HCB Zone would be 5,640 square feet or 2,820 per floor, which is the dimension of a lot and half or 35 feet x 75 feet. The maximum building area in the HRC District would be 4,400 square feet or 2,200 per floor, which is the footprint of a double lot in Old Town once setbacks are applied. Mr. Putt explained that in addition to these amendments, staff is proposing to clarify several areas of the LMC as they relate to building heights and height exceptions in the HR-1 and HRL Zones. There was a provision that dropped out of December's ordinance amendment that puts the five foot height bonus back into all of the districts, except the HR-1, HRL, and if the legislation is approved in the HCB and HRC as well. In addition, there is a clarification of measuring heights on downhill lots which will be measured from the curb and not the property line. Mr. Putt explained that an additional four feet to 28 feet of building depth will be allowed on the downhill sloping lots for garages. He noted that some of these changes were a result of meetings with the design community and these could be implemented at this time. There have been concerns from the public relating to the impacts of non-conforming buildings if the legislation is approved.

Mark Harrington, Assistant City Attorney, explained that the ordinance before Council does not deal with non-conforming uses, but may result in non-conforming buildings. He stated that remodeling the interior of a non-conforming building is permissible. If the building height is reduced to 30 feet, a 30 foot addition to a "non-conforming" building would be allowable. If an applicant wanted a higher addition, the Board of Adjustment could review the matter. Mr. Harrington read criteria for Board of Adjustment decisions. He relayed that facade improvements and safety features are allowed. If a non-conforming building is destroyed, a new one can be constructed which is the same scale as long as the construction takes place within six months and completed within 18 months. He emphasized that Park City's non-conforming provisions are not typical of most cities who usually amortizes non-conforming uses and buildings to eliminate them within a time frame. Ms. Hoffman reiterated Mr. Harrington's comments and added that non-conforming structures are allowed forever here and there is no intent to retire a non-conforming building which is not typical. She felt that a negative appraisal should not occur based on Park City's Code.

Tom Clyde, attorney, stated that he has several clients on Main Street affected by the ordinance. He was appreciative of staff's work in making changes to the draft to accommodate items that he raised. He stated that his concern is that the ordinance is not necessary and questioned the compelling public interest requiring the emergency ordinance in February. He felt that the parking fee attached to building third and fourth stories has done a good job of holding building heights down. Mr. Clyde pointed out that there are many historic buildings that are three or four stories including the Claimjumper Hotel, Elks Club, Imperial Hotel, Grappa, and the Marsac Building. He is bothered by the 37.5 foot width requirement which may result in poor design and raises construction costs for no particular purpose. He also felt that this is not historical as there are a variety of building widths on Main Street. Mr. Clyde added that the 2,800 square foot limitation is arbitrary. He felt that the ordinance is too "absolute" and there should be some flexibility. He pointed out that there are many businesses in excess of 2,800 square feet, operate efficiently, and are locally owned. He pointed out that Dave Krajeski's building on Main Street is only two stories, because he claimed that he couldn't afford a third floor, but his tenants occupy more than 2,800 square feet in business area. He stated that there are many irregular sized lots that wouldn't coincide with the ordinance and discussed underground parking on the west side. He felt it important to have Historic District Guidelines in place before this is adopted. Mr. Clyde felt that property owners in the HRC Zone received inadequate notice as the TZO only dealt with heights in the HCB Zone and the HRC was added in a late draft. He felt that correcting the errors in the HR-1 Zone is probably appropriate. Although Park City's non-conforming building regulations are atypical, most lending institutions would not be aware of that. He is uncomfortable with the speed of this; there were a number of suggestions that came out of the Planning Commission meeting which deserve a closer look, which may be practical, but the proposal is being rushed. Coupled with that, there is the new parking TZO which should be considered with this ordinance and should be dealt with as a package. He urged Council to abandon this ordinance and send it back to the Planning Commission so that things are thought out carefully; Main Street is too important to "mess up".

Jeff Williams, attorney for McIntosh Mill L.P., stated that he is not familiar with all of the features of the ordinance. He felt that the HCB height change violates an existing agreement that McIntosh Mill has with the City. The agreement is the 1982 Huntsman-Christensen Agreement, the 1992 amendment to the agreement, and related approvals obtained by McIntosh Mill. The proposed amendments will damage existing property as well as approved and vested development rights held by McIntosh Mill. He added that he was informed that the City and developer spent considerable time and money to amend the agreement in 1992, and that $700,000 has been spent by the City. It would be unfortunate to have the efforts of the City and the developer in jeopardy by the proposed amendments to the HCB zoning. McIntosh Mill hopes the City will honor its commitments.

Greg Schirf, resident, disclosed that he owns property between the Wasatch Brew Pub and the Dudler Building which is about 40 feet x 160 feet. With the reduction in square footage, the use for the building would be untenable. He bought the property three years ago thinking he knew the rules for Main Street and had he known this ordinance would surface, he wouldn't have purchased the property. He felt that Main Street was working well and that the parking fee restricts heights. It will not be economically feasible to build on Main Street. He felt that there are more pressing issues than coming up with ways of making it economically unviable to contribute to a charming Main Street with proper planning and considerations. If this ordinance passes, he will be unable to sell the property or to develop it.

Jon Brinton, owner of Imperial Hotel, stated that the building was built in 1904 and has operated continuously as a hotel. It truly represents the history of Park City and has complied with every ordinance the City has imposed throughout the years. It has sprinklers, smoke alarms, provides off-street parking, facade easement, and is registered on the National Register of Historic Buildings. He stated that the building has always conformed and now the City wants to make it non-conforming. Although the City Attorney has indicated that a banker would lend money against a non-conforming building because Park City writes legislation that is unique, Mr. Brinton felt that the banker would also recognize Mr. Schirf's point of view that the building pad no longer has the value it once had. He felt that the ordinance is a bad idea and no one has expressed a clear reason for it. It is inverse condemnation. He discussed the large number of buildings that will become non-conforming and that this is over-regulation. He felt that it may be in conflict with the existing Historic District rules and the public need has not been explained. There is confusion and public mistrust. There is no reason for his building and all of historic Main Street to be non-conforming. Mr. Brinton urged Council to vote the ordinance down and to rethink this issue.

Quentin Scott, designer, asked where this idea came from and the Mayor indicated that it came from him. Mr. Scott stated that this makes no sense as there is no one complaining that the buildings on Main Street are too high. He felt that there are other methods to protect the historic buildings from being torn down. He added that it will be economically unfeasible to develop on Main Street and felt that the parking problem needs to be addressed. He reiterated that it makes no sense and is a waste of staff time. Mr. Scott pointed out that if the ordinance passes, he will be in a non-conforming building.

Bill Coleman, resident, agreed with Tom Clyde's comments. He felt that the process was hurried, the premise was not explained, and together with the parking TZO places an undue burden on the HCB District. He suggested that they be considered together. It was the intent of the ordinance to avoid a rush of applications, but the TZO has prompted applications and that is the danger of abusing a moratorium. He pointed out the Anderson Apartments, Dudler Building and Egyptian Theater as massive old buildings. Mr. Coleman felt that the parking fee is an effective mechanism to control heights and if it isn't, then raise the $10,000 per space fee. He added that language in the ordinance alleges that the Olympics will spur insensitive and excessive development and redevelopment and pointed out that the statement is not factual. Mr. Coleman relayed that he spoke to LeRoy Pia who is an appraiser who indicated that he would take note of a non-conforming building and in doing so, the property is under different restrictions. Mr. Coleman didn't believe that Mr. Harrington's presentation was totally accurate and stated that he owns 556 Main Street which is a one story building next to the 85 foot high Elks Building. He doesn't know what to do with his building. He criticized the parking TZO as trying to identify the problem with a type of business as the problem is much bigger than that. There was discussion about non-conforming buildings and Ms. Kerr interjected that she felt that an appraiser wouldn't be as concerned about a building that is oversized for its zone as opposed to a building that is in a zone that would no longer permit that type of building to be built. Mr. Coleman felt that after talking with the appraiser, that a non-conforming designation creates financial issues which are immeasurable. He urged Council to raise the parking fee, to adopt the Historic District Architectural Guidelines, and to drop the ordinance.

Don Blossom, designer, read a letter from Judy Summer into the record. She wrote that the proposed legislation has put her future into jeopardy with regard to the property she owns. She noted that she has owned property in Old Town since 1977 and there have been many changes including rezoning to HRL. The changes in zoning, codes, heights, square footages have caused her hardship and heartache. Ms. Summer indicated that she wants to build and live on her properties and maximize her profits but felt that could be done sensitively. Rather than blanket designing, she believed that each application should be reviewed individually for its merits. No one needs to get a permit in two weeks and this would be a challenge. Ms. Summer relayed that no one wants the density of the old mining days and not all developers are monsters, not all design is equal, and not all laws are legal. If someone can maximize space and minimize impact and create visual beauty and integrity, they certainly should be allowed to give it their best and be judged on their own merits. Old Town need to be the eclectic, surprising, varied place is still almost is. Don Blossom interjected that he gets this kind of feedback all of the time because there is no leadership and no sense of representation. He hasn't heard any complaints about heights and pointed out the expense in building a third story. Mr. Blossom felt that there are other pressing problems like traffic and parking and this project is wasting staff's time. He complained about attending a design forum on Friday at the end of the process, and felt that it was insulting to be invited at that point. He warned not to be "messing" with people trying to make a living in town, because they are Council's tax base.

Jim Hire, real estate appraiser, clarified that non-conforming would appear for size and/or use. Sometimes it is more favorable and other times less favorable. A building that is non-conforming because it is greater than the current zone would probably have a more favorable income basis and lots yet to be developed would have a less favorable status. To change the overall downsizing would probably have an overall unfavorable effect. In response to a question from Paul Sincock, Mr. Hire answered that non-conforming is a relatively well-defined term and the degree of legislation making it non-conforming and the ability to obtain a variance would have an impact on an appraisal. Mr. Hire indicated that the evaluation of this would be included in the appraisal.

Gary Cole, 24 year resident and business owner, stated that he is speaking on behalf of Steve Chin and William Stephensen who are partners in the three lots at the base of Main Street and Heber Avenue. They bought these lots six years ago for investment purposes and have been in no rush, up to this point, to develop the property. He thanked the Planning Commission for its logical conclusions regarding building size requirements and the interior square footage restrictions proposed and arriving at these determinations before the public input. Mr. Cole and his partners agree that smaller facades on larger parcels can easily work in keeping Main Street's character but they have a huge problem with square footage restrictions and multiple buildings on their site. He doesn't believe in wasting money, space, and building materials and it is ludicrous to reduce the space to an unusable amount. Mr. Cole believed that government should stay out of private business, especially when it involves seasonal operations. He felt that he knows better than any of the Council members what might succeed in his leasable space and if seasonal businesses are restricted, "we're shooting ourselves in the foot". Mr. Cole stated that they have no problem cutting the corner back on their proposed building so that it is not obscuring the intersection whether or not it is a requirement. They have a problem with the two story height limitation for aesthetic reasons and felt that there are great looking three story buildings on Main Street; he discussed the expense of the third story. He pointed out that if they build two stories, the 45 foot high brick wall next to them will be visible. Mr. Cole wants to build a quality project on the corner rather than selling it to a developer. The input from the Planning Commission and public determined to let this legislation die and this should be remanded to the Commission to afford cooperation between the public, Commission and Council. He felt that parking is the real problem which can't be ignored. He didn't feel that it's not a result of businesses on Main Street but increasing skier days and the addition of Deer Valley Resort.

Peter Barnes, designer, quoted Alexander Pope's essay on criticism. He pointed out that with regard to vision, Council can "fiddle around" with width, height and floor area but the ordinance will not affect the quality of the building. He felt that the General Plan has been abandoned and needs to be brought back. He again quoted Pope with regard to method and urged the Mayor to admit that this will encompass more than he intended. Mr. Barnes noted that this legislation may be legal but it is not just. He feels that political conduct has been shoddy and shameful and there has been poor leadership. With regard to action, he again quoted Pope's essay, and suggested that this go away and to begin to deal with real solutions. He commented that when he participated in the process, he was accused of starting a fight but he can't agree with all proposals. Mr. Barnes pointed out that two of his buildings have been used as examples of good design and he would like to continue to be part of the vision for the future.

Leslie Miller, resident, pointed out that one of the things that government is doing well is beautification, including the flower pots on Main Street and the tree planting on the entry corridor. On the other hand, the legislation and public relations parts of government are not good. She stated that she attended the Planning Commission meeting and found citizen comments to be intelligent, thoughtful, and caring and encouraged the Council to rub elbows with their constituents and recognize the stress and confusion and the feeling of being a resident at risk. The people who spoke were business people, professionals, and long-time residents who have contributed to the success of this community and have built this town. If the proposed ordinance guided Park City toward quality urban planning solutions -- and it doesn't -- and had there been adequate opportunity for meaningful public review and dialog -- and there wasn't -- and if this ordinance had been thoughtfully in response to a clearly stated public need or objective -- and it wasn't -- if the author of this ordinance would take credit -- and he has -- for the facts and findings that lead to his conclusions in this proposal then we would getting somewhere. She felt that this ordinance is woefully inadequate in addressing quality urban design, and damages individuals. Ms. Miller urged Council to send this back to staff and the designers with clear direction. She further urged Council to be focused on Park City and not Lillehammer, Norway or Albertville, France.

Paul deGroot, 20 year resident and building contractor, explained his many years of work in the Historic District. He felt that the City Council has given staff an impossible task to accomplish and expressed to the Mayor that it is a bad idea and doesn't work. He felt that it should be rethought.

Nick Powell, relayed that he moved to Park City 26 years ago when people seemed to get along. His family owns property that is included in the ordinance and he spoke with the Mayor and City Manager after the TZO was enacted and was assured that this only affected the HCB Zone and he shouldn't worry. He indicated that he has no guarantee that there won't be another emergency ordinance. He expressed that there wasn't a parking problem until the improvements on Swede Alley which business owners paid for through a special parking district. Obviously that hasn't solved the problem as the community has become more successful. He felt that the parking has to be solved by the City and it's not the problem of property owners with undeveloped lots. He pointed out that their property is on Heber Avenue and is a hybrid of the HCB and HRC Zones. Mr. Powell criticized the concept of several narrow buildings on a site and that there has not been any discussion of the parking study. He urged Council to deny the ordinance.

Jim Powell stated that he attended the work session and complimented Shauna Kerr on her comments on the public process. Other Council members were worried about their image and making the ordinance acceptable, while Ms. Kerr recognized that maybe the public knows something and maybe their input is valuable. He personally thanked her.

Hugh Daniels agreed with Jim Powell's comments but pointed out that the votes vary and people short-change themselves by making assumptions. This is also a new Council and there may not be a track record yet. The Mayor may have brought up the concept, but he is not a voting member and the Council supported it. Mr. Daniels explained that he supported three stories if it could accommodate housing opportunities or increased setbacks or other density or parking options. The Council tries to lead the community and they don't always know what the citizen wishes are, but he felt it was the appropriate thing to do at the time. It's difficult to have things happen last minute, but he appreciated staff's hard work and apologized if the public was not involved early enough. Mr. Daniels stated that public input does makes a difference in his decisions and those comments are taken under advisement. It was a Council idea and if the public doesn't like it, he feels that the Council will move on, but there have been good things rendered from the process. He felt that there was good input from the Planning Commission regarding varied heights and width facades. There has also been valuable comments on space requirements and financial impacts. Mr. Daniels did not find the non-conforming argument compelling because it is a matter of semantics. He discussed people maxing out properties and it was not only the Mayor that heard discussions of building large buildings on the remaining parcels and in addition tearing down historic one-story buildings and replacing them with two and three stories. He agreed that this may not be a good finished product but that there has been valuable input which he will reflect upon to make the best decision for everyone involved.

In response to a question from Don Blossom, the Mayor stated that there will be an opportunity for the public to comment on the legislation arising from the parking TZO. He felt it unfortunate that the public was not involved earlier with this ordinance but the staff is overworked. He relayed that the Council's intent was for the good of the community and hoped that the parking issue will involve the public. The City Manager stressed that there already have been about a dozen meetings on the parking program and there will probably be more than that before the decision stage in September or October. Gary Cole asked that he be put on a list for notification.

Roger Harlan stated that the work session discussion with Planning Commissioner Bruce Erickson was very helpful. He felt that sarcasm somewhat leads him to discount what the speaker is saying, but has appreciated the factual and clear input. He understood the financial interests, but felt that lending institutions would still be very interested in properties on Main Street.

Chuck Klingenstein quoted Jodi Mitchell's song, Paved Paradise. He explained that the Council considered information and decided to implement a TZO. He discussed vested applications and that the TZO provided Council an opportunity for a public process. He recalled that two design forums were held, and encouraged the citizenry to read the paper and listen to the radio for information on meetings. He agreed with Mr. Harlan and noted that he is more favorable to people who are positive. Mr. Klingenstein stated that height is still an issue for him. With regard to width and square footage, his concern was accommodating formula retail and perhaps that can be dealt with differently. He felt that the non-conforming language issue should be cleaned up. Mr.

Klingenstein noted that Council has been addressing parking and the answer isn't just building another parking structure, which would result in more gridlock with more cars downtown.

Shauna Kerr expressed her appreciation of the work staff has done on this, and although there has been criticism about leaving everything to the end, the process has been on-going. She emphasized that this ordinance is not something that originated from staff and it was Council's idea. She continued that this is a perfect example of the process working. Often projects come from the public to the Council and sometimes from the Council for the public to consider not knowing the outcome. She explained that the Council perceived a problem and a danger of losing historic structures and had the best intentions, but the ordinance probably doesn't accomplish this goal. She thanked the audience for recognizing the parking problem and those that made a commitment to help solve the problem. Ms. Kerr emphasized that she felt that this is a good process, except for expending a lot of staff energy, as discussions occurred with regard to the value placed on Main Street and parking problems, which must be addressed as a community. Ms. Kerr agreed that the Historic District Guidelines need to be adopted as soon as possible. She explained that there has been a 40% reduction in the planning staff and in spite of that the staff has done an excellent job in trying to accomplish Council's goals. At this point, she stated that she is ready to make a motion, "that we abandon this effort, rather than try to rework it. I am not comfortable that all of the problems we have identified can be drafted around and would rather admit that perhaps this was a good learning experience but not necessarily something that we should legislate and definitely not something that we would adopt. I move that we abandon efforts, jump ship, sail out, or however we want to put it on the record". Paul Sincock seconded.

The Mayor felt that the public hearing should be officially closed before the motion was made. Paul Sincock thanked the public for participating in the Planning Commission meeting and the meeting tonight. He relayed that last February, Council was informed of real estate transactions on Main Street and there were many inquiries about remodeling, prompting concern about maximizing. He added that the TZO was temporary, and regretted that there isn't enough time to consider revisions. He is worried about the process more than the details of the ordinance because if the process is right, the decision will be wise. He agreed with Ms. Kerr and suggested that it be put aside and rather look at parking. Paul deGroot clarified his earlier comments that there may be elements of the ordinance that could be reworked The Mayor officially closed the public hearing, and recognized Ms. Kerr's motion on the floor. Hugh Daniels relayed that Council has been criticized for taking action on a public hearing issue at the same meeting and would not normally support this, but is willing to vote on it at this time. Mr. Klingenstein felt that the City doesn't have the manpower to pull this off in the eleventh hour. Mr. Harlan indicated that he has heard sufficient public input regarding the proposed legislation. Mr. Sincock stated that he will not support future TZOs without clear objectives as to the purpose and a monthly time line. Ms. Kerr pointed out that there will be new planning staff which will help with the upcoming parking TZO deadline.

Motion carried. Tom Clyde complimented the Planning Commission last night as there was an exchange of ideas and a productive discussion with the public. He felt that there is some good information that should be considered with regard to the parking issue.

## VII OLD BUSINESS - APPEAL

The Mayor requested a motion to move (b) to New Business. Chuck Klingenstein, "I move to move (b) to New Business". Shauna Kerr seconded. Motion carried unanimously.

(a) Appeal of Planning Commission denial of June 12, 1996 to amend the Snow Creek Crossing MPD and MPD/CUP application for Zions Bank/Visitors' Center located at SR248 and SR224 - P. C. Development - Pat Putt explained that this is an appeal of an application that was denied by the Planning Commission on March 27, 1996. The appeal centers around an application that is multi-faceted; it is an appeal of the Snow Creek Crossing Master Plan and a conditional use permit for a drive-through bank facility located partially within the frontage protection zone. The applicants are P.C. Development, represented by Neal Richardson, Snow Creek Crossing Ltd., and Jess Reid. He suggested reviewing the appeal separately from the revised sketch plan. He described the parcel and adjacent uses, through the illustration of a rendering. He discussed the 2.14 acre site next to the cemetery that was designated as the building pad for the bank in the master plan. He described Parcel D which is the unbuildable platted open space tract which is a little over 29,000 square feet and equates to .675 acres, pointed out the area owned by P.C. Development which is a.25 acres and the property owned by Jess Reid. The entire perimeter, including Parcel D, is just shy of two acres. Mr. Putt clarified the location of the UDOT right-of-way where parking is proposed in the amendment to the MPD. Mr. Putt explained that Parcel D was platted as part of the master plan and the subdivision plat for Snow Creek is designated non-buildable open space, with allowances for pedestrian connections, landscaping, and general buffering area. The frontage protection zone runs 100 feet deep through the UDOT right-of-way, not from the edge of curb, but rather from the right-of-way property line. He explained that the first 30 feet of the frontage protection zone prohibits anything but sod or landscaping that wouldn't obstruct clear view areas. From 30 feet back to 100 feet back, a conditional use permit is required to build in the area. Mr. Putt explained the aesthetic reasons for the frontage protection zone as it relates to the entry corridors, and also to allow for future expansions of the highway within the right-of-way. Mr. Putt explained that the proposal is to build a 16,550 square foot bank and visitors center on the site located on the applicant's .25 acre piece of property and that the master plan be amended to allow development within open space Parcel D as well as circulation and improvements within the frontage protection zone, specifically within the 30 foot no-build zone. Mr. Putt explained that the project has a long history which goes back to at least May 1995 when the initial application was submitted. The application wasn't completed until December 1995. In August 1995, the staff was looking at the Snow Creek Project and the final plat approval designating where the development pads would be located and it seemed appropriate to consider Zions at this time to get a reaction from the Planning Commission. The general concerns that the Commission expressed in August was that the loss of currently platted open space, and loss of the vegetated buffer from the highway were important amenities to the Snow Creek Project. There are adverse visual impacts of bringing the parking area out into the frontage protection zone and he discussed the vegetation, specifically the mix of trees, on the open space parcel, which creates a buffer between the large expanse of parking, shopping center and the entry corridor. In staff's opinion, these large trees along with some of the small plantings create an effective buffer and the Planning Commission agreed as the negotiations were long and hard to achieve the 29,000 square feet of open space during the master plan process. Mr. Putt continued that the application was completed in December 1995; there was staff review and it was scheduled for Planning Commission action on March 27, 1996. The Planning Commission recommended that this proposal be denied, primarily because of the impacts on the open space, the frontage protection zone, and the connection between Snow Creek Drive and the highway. This is one of the busiest intersections and adding the potential with conflicts of left-hand turns, the staff and the Commission felt this was not an acceptable solution for the project on this site. Additionally, the building did not meet the height requirements of the zone at that time. The findings of fact and conclusions of law for the denial are outlined in the meeting packet.

Mr. Putt continued that at that time, the applicant requested that the Commission take action on the project in order to move this forward. The applicant appealed on five points and would discuss those if desired by Council. Shauna Kerr stated that she would like to make a motion that in this appeal process, that Council not make references to the amended plan and that the Council not receive any evidence about the amended plan because this is the quasi-judicial procedure where Council should deal with the plan as it went to the Planning Commission. For purposes of this appeal, she encouraged Council to limit comments to what went to the Planning Commission and that the appellant would as well.

Shauna Kerr, "I move that we only accept evidence that was with the original plan that went before the Planning Commission and is on appeal before this body, not any new evidence in this hearing, because this hearing is an appeal of "Plan 1"". Chuck Klingenstein seconded. In response to a question from Paul Sincock, Ms. Kerr explained that the revised plan is scheduled under New Business. The Mayor pointed out that some of the appellant's arguments involve the revised plan. City Attorney Jodi Hoffman explained that the appeal is from the Planning Commission's denial of a single complete application. The statement of appeal raises issues about the benefits of a second plan that really isn't the subject of the appeal at this time. In her opinion, it is proper to limit the evidence to that which the Planning Commission based its decision on which was on the first plan, the only complete application before the Commission. Motion unanimously carried.

Mr. Putt explained that many of the five points of appeal refer back to the revised sketch plan, with the exception of the parking spaces in the UDOT right-of-way. P.C. Development cooperated with staff's suggestion by reducing the number of parking spaces, which deals with the revised plan, but pointed out that parking in UDOT's right-of-way exists now. He discussed the applicant's proposal of moving the parking area further south and closer to the highway right-of-way and the frontage protection zone. This is off-site parking which is prohibited by the LMC. Staff suggested that if the applicant negotiated a long-term lease with UDOT which would allow the parking and landscaping improvements there for 99 years, staff would consider this piece as part of the applicant's property and consider it on-site parking. Then, the frontage protection zone would start at the back of the curb. To date, staff has not received evidence that a long-term lease has been executed. Mr. Putt continued that staff is suggesting three alternatives (1) affirm the Planning Commission's denial of the project; (2) reverse the denial and approve it with any modifications deemed necessary; or (3) remand it back for further study from staff and the Planning Commission.

Neal Richardson, appellant, distributed a packet of information to Council. Mr. Richardson stated that staff has worked hard in developing a workable plan with them, and has provided him the opportunity to thoroughly review his files. He discussed that the property had a gas station on it when it was purchased which leaked oil and he spent a couple of $100,000 on remediation and the site is now clean. He referred to a staff report on March 9, 1994 that indicated that the City would prefer to have a new building with fully enclosed uses and pointed out that the corner has traffic problems. He alleged that staff encouraged him to negotiate with the developer of Snow Creek to "join it" as there may be an opportunity to coordinate access and building designs so that his potential project could be part of that development. Mr. Richardson continued that what has been purported as open space, he has not seen any deeds that indicate that it is open space. He referred to the actual plat recording and stated that in March 1994, the staff indicated that there should be some sort of link between his project and Snow Creek. He read the note off of the plat with regard to "Parcel D is a non-buildable lot except for landscaping, utilities, and signage unless a revised MPD approval and conditional use permit for the frontage protection zone are obtained". He pointed out that plat notes also include that "Entrance Lots A and B are non-buildable lots, except for landscaping, utilities and signage. Both lots are non-exclusive public utility easements". Mr. Richardson felt that it was clear that there was never an intention for any buildings on Parcels A and B, but the direction for Parcel D was not clear. He thought that the plat note meant that the City wanted to take a look at a development project on Parcel D. Mark Harrington, Assistant City Attorney, stated that he wrote those notes. Legal staff had a different condition of approval, but the applicant was already contemplating a different application and the City was advised of this. Parcel D was written in an effort to accommodate P.C. Development so the plat wouldn't have to be amended if an agreement was reached and the open space was shifted. Pat Putt explained that the approved master plan for Snow Creek also shows Parcel D as landscaped green-belt area and the platted language was consistent and clearly designated open space unless there was an amendment and CUP granted by the Planning Commission, which it clearly did not want to do. Shauna Kerr pointed out that the plat was not an assurance that it would be granted. Mr. Richardson argued that the plat note indicated that it could allow a building. Roger Harlan felt that it is clear that the note excludes a building. Mr. Richardson argued that there was an intent to build something there or it wouldn't be on the plat. Mr. Harrington attempted to clarify that it was written like that in the event of an MPD amendment, but it expressly does not allow a building there now. This was a procedural accommodation and this was explained again for the benefit of Council member Sincock.

With regard to traffic concerns and staff correspondence indicating that they should contact Snow Creek's engineers, Sear Brown Group, for the latest information on the intersection, Mr. Richardson alleged that Eric DeHaan advised that the best engineers in the valley is Sear Brown. He referred to a letter from Sear Brown which indicated that the preferred option is to leave the existing driveways open with the existing left-turn restrictions in place. He continued that the letter stated that with the proper signage encouraging the traffic to use Snow Creek Drive access, the traffic using existing driveways adjacent to the intersection of SR224 and Kearns Blvd. should remain relatively low. Bank customers will realize the benefits of using the alternative access during peak hours and visitors will have the signs to guide them to the best access location. The existing driveways on SR224 and Kearns Blvd. should remain to provide right turning entrances and exits for the site. He noted that the final conclusion was that this analysis is preliminary and may require further investigation but the initial review indicates that the existing driveways will not create an undesirable situation and should operate satisfactorily for the 85 percentile condition. Mr. Richardson expressed his dismay that after hiring a traffic engineer familiar with Park City, the Planning Commission made a different determination.

With regard to the UDOT issue, P.C. Development intended to obtain a lease and Mr. Richardson referred to the signed lease which was distributed to Council. He explained that UDOT only grants a five year lease and stated that UDOT relayed to him that they are never going to change that intersection because of the money already invested. Roger Harlan pointed out that the Planning Commission didn't have the lease because it is dated August 13, 1996. Mr. Richardson pointed out that the staff was well aware. Shauna Kerr stated that she is not comfortable with the termination clause providing that either party can terminate with 60 days notice. She asked what they would do if it were terminated and the improvements are on UDOT's property. Mr. Richardson added that with the revised plan, they don't need to use UDOT's ground, but they have secured a lease anyway.

He continued that they believe that there needs to be a buffer and that their building can buffer Snow Creek better than the existing area. They will preserve as many of the existing trees and are adding landscaping. He didn't feel that the traffic will be significantly impacted and that is what their traffic engineers have said. Traffic light sequencing was discussed. Mr. Richardson felt that it was confusing that the plat language for Parcel D wasn't the same as Parcels A and B. Paul Sincock commented that Parcel D is 29,000 square feet and asked what the issue over the 4,500 square feet by the Planning Commission was. Mr. Richardson explained that they totaled what the total square footage of landscaping on the project will be as compared to what exists, and were short 4,500 square feet of landscaped area. With regard to the staff report and a recommendation to deny, Mr. Richardson stated that he had problems with the description of the consequences for not taking that action. It stated that the project at the proposed location would result in a significant loss of currently platted non-buildable open space and loss of vegetated buffers for screening the Snow Creek shopping center. He again reiterated that this is not consistent with the plat, if Parcel D was to be open space it should have been described the same as Parcels A and B. With regard to the potentially hazard traffic circulation statement, Mr. Richardson emphasized that staff has the letter from their traffic engineer. With regard to the UDOT property, he stressed that the frontage protection zone is moved back. He noted that they have tried to be responsive, produced many drawings and it is a landmark building and will not pencil out for a developer. He added that this would be a great location for a Visitors Center.

Through illustration of a map, Mr. Putt described the open space areas of the project under appeal and that of the approved master plan, and the loss of open space associated with the project. The Planning Commission had to decide if it preferred a building on the corner, or just landscaping, or both. Neal Richardson argued that there will be a building there no matter what happens. Mr. Putt stated that staff advised P.C. Development that if they were going to take open space from Parcel D that they provide square footage elsewhere in the subdivision in key points in the entry corridor that will mitigate the loss. Staff suggested widening the buffer between the cemetery. Neal Richardson noted that Snow Creek has already dedicated 60% open space and there isn't potential for a trade. Shauna Kerr pointed out that Parcel D is included in the 60% calculation for required open space for Snow Creek, and without all of it, it is not in compliance with its master plan. City Attorney Jodi Hoffman stated that she is not certain if Snow Creek is at 60% or higher. She continued that one of the points the Planning Commission was trying to make was that there is another bank building pad on the MPD site and a trade was economically unfeasible from Snow Creek's perspective. There was discussion about the building being over the height limitation. Mr. Richardson stated that he faxed the intent of the reduction in height before the Planning Commission meeting. The Mayor replied that a reduction in height would affect the design of the building on the renderings, which wouldn't be available for the Commission to review. It was clarified that the reduced building height is part of the revised plan not the project under appeal. Paul Sincock stated that he didn't understand the strategy of appealing the original plan when there is a revised plan. Neal Richardson stated that he asked the planning staff what they wanted, and he provided the information and there were delays in providing a complete application. He felt that the Planning Commission might have been biased because of all of the hard work invested in the approved Snow Creek master plan. Because of his frustration, he wanted to move it out of the hands of the Planning

Commission, since they were getting nowhere. He added that there is no mark-up to the Chamber for space in the building.

Chuck Klingenstein felt that the planning staff did the right thing in March 1994 by offering Mr. Richardson the best planning advice which is what they are hired to do, however, an applicant is free to pursue any option. Shauna Kerr explained that staff was not suggesting building on Parcel D, but to coordinate access and building design with Snow Creek, and there is no indication that staff was removing any restrictions on Parcel D. She continued that since Snow Creek was in the planning process at that time, staff was suggesting other options. Mr. Richardson asked Ms. Kerr if she wouldn't have been frustrated. Ms. Kerr responded that the language is pretty clear and any frustration he might be feeling is probably the result of an expectation that may not have been realistic. Mr. Klingenstein stated that he was a Planning Commissioner involved in the Snow Creek MPD and Parcel D was designated as open space. He further explained that although Sear Brown is a professional company, it doesn't mean that the Commission agrees with everything presented. Mr. Klingenstein relayed that engineers can produce anything an applicant requests. He added that intersections can have additional signage, but that wouldn't be desirable on the entry corridor. He had problems with any lease term of the UDOT contract. Mr. Klingenstein felt that this is a massive building on a small site and there is another bank site that was carefully reviewed on the Snow Creek parcel where there are a variety of uses allowed. Mr. Harlan brought up that the March 9, 1994 letter from staff was written by a planning intern and questioned her authority. Ms. Kerr interjected that the intern was a very capable and competent employee.

The Mayor explained that in hearing an appeal, the Council must determine if the Planning Commission acted accordingly. If Council decides to consider the revised plan, it will render direction on that plan. The Mayor requested a motion. Roger Harlan, "I move to uphold the Planning Commission's denial of June 12, 1996 to amend the Snow Creek Crossing MPD and MPD/CUP application for Zion's Bank/Visitor's Center located at SR248 and SR224 - P.C. Development". Shauna Kerr seconded. Hugh Daniels felt that staff accommodated the applicant with the plat note. He added that something may go on the corner, but as the complete application was currently before the Planning Commission, he felt that it was correct in its findings and conclusions. Motion unanimously carried.

(b) Revised sketch plan to a request to amend the Snow Creek Crossing MPD and MPD/CUP application for Zions Bank/Visitors' Center - P.C. Development - See New Business.

## VIII NEW BUSINESS

1. Revised sketch plan to a request to amend the Snow Creek Crossing MPD and MPD/CUP application for Zions Bank/Visitors' Center - P.C. Development - Shauna Kerr stated that she would like to make a motion, "not to visit this new plan since it has been our practice in the past that when a new plan is submitted that it go through the Planning Department and through the Planning Commission. Since the Planning Commission looked at the revised plan in an advisory capacity and was not a formal submission with rendered findings, it is premature for the Council to usurp the Commission's authority and review it ahead of the process. It sends the wrong message to the development community to bypass the Commission and come to the Council. That is a message I don't want to send, because the process is that we delegate planning authority to our Planning Commission and I would hope that Council would support me in remanding this plan to

the Planning Commission for its advice and direction as per our procedure". (The motion was later clarified that submission of a subsequent application to the Planning Commission is solely at the discretion of the applicant.) Chuck Klingenstein seconded.

Paul Sincock commented that he did not have a problem with the motion, but would be willing to look at the revised plan in a formal session or privately. Roger Harlan stated that he has a problem with the Council acting as a quasi-planning commission or quasi-planning staff. Neal Richardson complained that now he has to go back to the Planning Commission. Shauna Kerr responded that the prudent thing would have been to resubmit a complete application at the Commission level instead of appealing this plan to the Council. The Council is forced, through its judicial process, to review what was reviewed by the Planning Commission. The procedural process was discussed. Pat Putt explained that on March 27, 1996 the project received a strong negative reaction from the Commission. Following that meeting, Mr. Richardson mentioned that maybe the best thing to do would be to rebuild a gas station on the site. Mr. Putt's response was to get in touch with staff. Staff tried several times to follow-up with phone calls to find out the status of the project and finally a letter was written to Mr. Richardson in April asking for clarification of the status. Staff received a phone call May 3, 1996 and it was indicated that there was a new revised plan, and that P.C. Development wanted to move forward with the Planning Commission. It had been continued to May 8, 1996, but receiving the call on May 3 didn't provide staff an opportunity to provide an analysis. Because of that, staff asked that this item be continued. Mr. Richardson was frustrated and indicated to staff that he would accept denial on the original and just wanted a Planning Commission decision. Mr. Putt explained that at this point it was scheduled for action on June 12, 1996. At this meeting, it was pointed out that two plans cannot be taken to the Planning Commission and an incomplete plan cannot be submitted. It was agreed upon that the plan taken for action would be the plan they reviewed in March which they didn't like. Knowing that there was a revision in the works, Mr. Putt felt it fair to Mr. Richardson and the Planning Commission to present a concept plan for feedback on its merit only. The Commission denied the original plan and looked briefly at the incomplete application and recognized that there were improvements, but there still were some major flaws with the project and it did not support that plan either. Mr. Putt explained that the only thing that can be appealed to Council is the plan that the Planning Commission denied. If the revised plan goes back to the Planning Commission, Mr. Putt emphasized that the agendas are full and it might take some time to schedule review of a complete application.

Shauna Kerr stated that this is not the right body to deal with applications without the proper recommendations. The Mayor asked that Ms. Kerr restate her motion as he recalled that it didn't include remanding it back to the Planning Commission. Shauna Kerr stated that she did say that in her motion, however, she pointed out that it is completely up to the applicant to make the decision to submit a plan. Hugh Daniels understood the frustration of the process, but is uncomfortable with giving direction on the revised plan, and then having it go to the Commission, with the potential of having it appealed to the City Council. He didn't want to predispose himself without it going through the process. Neal Richardson emphasized that the City Council funds the planning staff which didn't have enough time to review the revised plan and there was a debate about the discussion of what plan to take to the Planning Commission. Hugh Daniels pointed out that the Planning Department is understaffed, and he is one of many applicants caught in the process. He added that the City could just stop accepting applications. Shauna restated her motion, "The revised sketch plan is not officially before us. It has not come up with a recommendation from the Planning Commission. It is not a complete application submittal, therefore this Council is uncomfortable and unwilling to review and usurp the power of our Planning Commission, and that the applicant may, if he chooses, submit a completed application to the Planning Commission and go forward with that, but that we will not review the revised sketch plan which I want the record to reflect is an incomplete application at this time."

Motion unanimously carried.

Mr. Putt stated for the record that submitting the revised plan would not require a new application fee, as all of the information could be carried forward.

2. Declaration of official intent of Park City to reimburse itself from bond proceeds for certain capital expenditures; establishing the maximum principal amount of such expenditures and authorizing incidental action (Pace water and land acquisition and Public Works facility) - Toby Ross pointed out that there is the possibility of completing the Pace transaction in advance of actually bonding. Staff is attempting to have the bond issue rated and insured and would like to issue the bonds at the optimal time from an interest rate standpoint. Because of these timing issues, staff may be coming back to Council with a recommendation that the City buy the property and reimburse ourselves with the bonds when they are actually issued. Hugh Daniels, "I move approval of the resolution that declares our official intent of Park City to reimburse itself from bond proceeds for certain capital expenditures establishing the maximum principal amount of such expenditures and authorizing incidental action". Chuck Klingenstein seconded. Motion carried unanimously.

## IX ADJOURNMENT

Paul Sincock referred to his experience as a mediator and that it is normal that both sides provide a brief of information. The meeting packet contained staff recommendations, but there was nothing from the applicant other than the notes of the Planning Commission. City Attorney Hoffman responded that appellants are encouraged to write a statement of appeal which clarifies the basis on which they are appealing and the rationale behind it. Staff followed up with the appellant to make his argument which was submitted. Once the appeal is received, a notice is sent out about the packet deadline and it is up to the appellant as to what is submitted.

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

## MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 5:30 p.m. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney. Hugh Daniels, "I move to close the meeting to discuss water acquisition". Chuck Klingenstein seconded. Motion carried unanimously.

The meeting opened at approximately 6 p.m.

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The meeting for which these minutes were prepared was noticed by posting 24 hours in advance and by delivery to the news media two days prior to the meeting, however, there was no advance notice or posting of the closed session.

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott, Deputy City Recorder

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# CITY COUNCIL REPORT

**DATE:** August 15, 1996
**DEPARTMENT:** Community Development
**AUTHOR:** Eric DeHaan, P.E., City Engineer
**TITLE:** Acceptance of the Public Improvements at Hidden Meadow Subdivision, Phase 1
**TYPE OF ITEM:** Legislative

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**SUMMARY RECOMMENDATIONS:** Adoption of the ordinance accepting the public improvements at Hidden Meadow Subdivision, Phase 1.

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## DESCRIPTION:

**A. Topic:** The final plat for Hidden Meadow Subdivision, Phase 1 was approved on May 11, 1995. The developer has finally completed all the public improvements. This ordinance will transfer ownership of those improvements to Park City.

**B. Background:** The process of accepting public improvements in new subdivisions is created by the subdivision section of our Land Management Code, which specifies that the Council accept improvements by ordinance. The offer of dedication of those improvements is contained within the final subdivision plat itself. In the case of Hidden Meadow Subdivision, Phase 1, the improvements were largely accomplished in 1995, but completion of the revegetation and retopsoiling was delayed, for various reasons, until recently.

**C. Analysis:** The public improvements consist of bike paths, sidewalks, utilities, and the roads known as Fox Tail Trail, Fox Glen Circle, Hidden Court, Foxwood Court, and Solamere Drive. Homes have been started in Hidden Meadow, although until 50% of the homes have been built the snowplowing responsibility rests with the developer, who has transferred it to the homeowners association. Hidden Meadow contains several trails which are already receiving considerable use by the general public. The oblong common area is owned and maintained by the owners association. Fox Tail Trail stubs out to the Gillmor property to the east, as required by the annexation agreement, but no improvements all the way to the property line are planned. Mountain bikers, however, can connect all the way to the US40 frontage road. A copy of a sketch of the subdivision is attached.

**D. Department Review:** The ordinance (attached) has been reviewed by the Legal Department. The construction and operation of the streets and utilities has been coordinated with the Public Works Department. The only unresolved issue is the repair of minor asphalt failures at the end of the one-year guarantee period, which commences with the adoption of this ordinance. The City is holding $383,102 of the developer's money to guarantee those repairs at the end of the guarantee period. The very visible Solamere Drive earthwork has received extensive topsoil, seeding, and mulching; the financial guarantee will cover any erosion repairs although heavy germination is expected next spring.

**ALTERNATIVES:**

**A. Approve the Request:** Approving the ordinance will cause the orderly transfer of the public improvements and will start the one-year guarantee period.

**B. Continue the Item:** If the Council needs more information or more time to render a decision on the ordinance, the ordinance should be continued.

**SIGNIFICANT IMPACTS:** The construction has taken place and is complete except for minor revegetation and asphalt reconstruction. All of this work is adequately guaranteed by the $383,102 which the developer currently has in place and will leave in place for one year following adoption of the ordinance.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:** Although adopting the ordinance is mainly a formality, it does serve a definite purpose in the accounting of publicly-owned improvements and in the orderly transfer of maintenance responsibility for the public improvements. On a properly-built project there is no real reason not to accept the public improvements, but the ordinance can be continued to the next meeting if more information is needed.

**RECOMMENDATION:** Approve the ordinance accepting the public improvements at Hidden Meadow Subdivision, Phase 1.

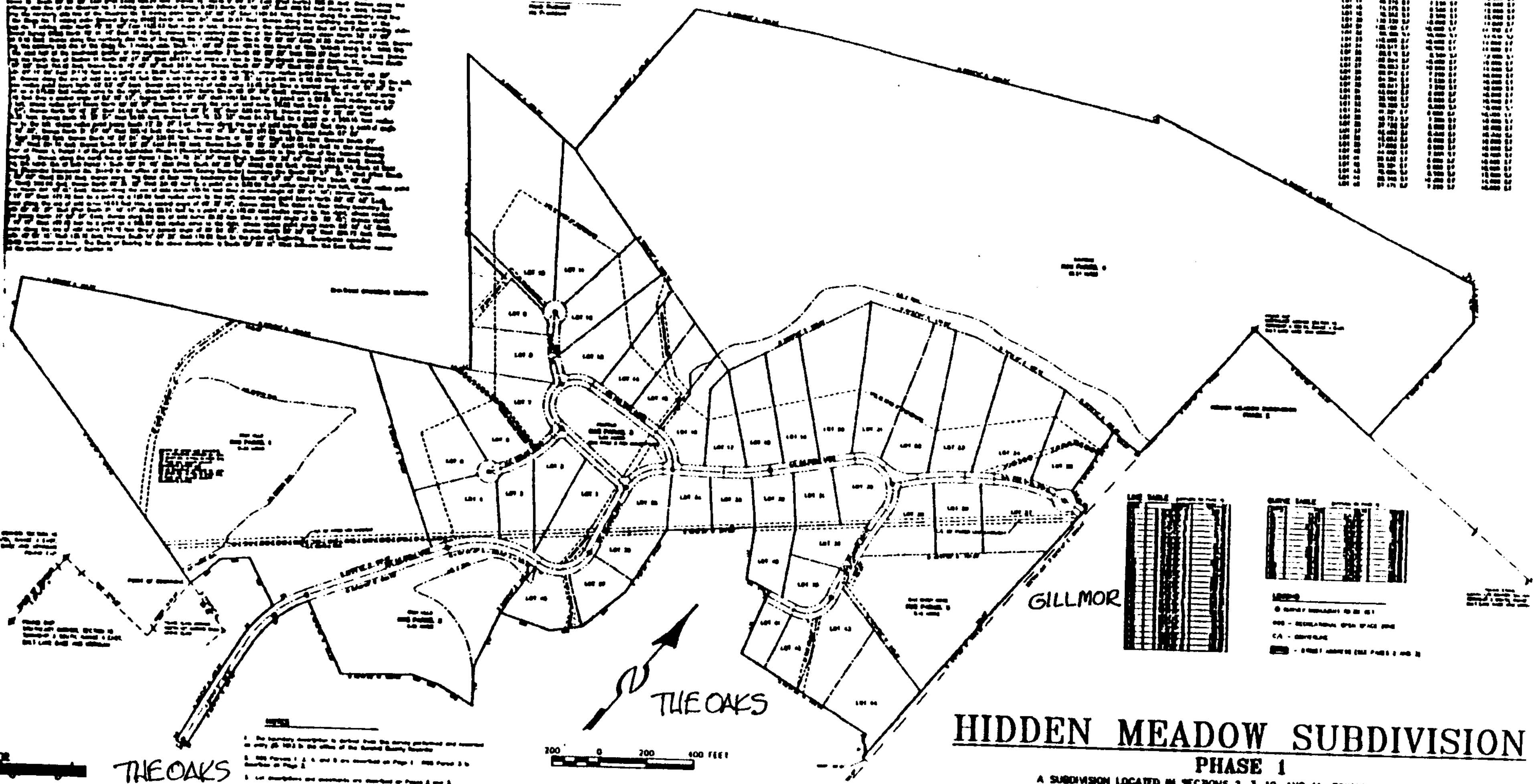
SURVEYOR'S CERTIFICATE

BOUNDARY DESCRIPTION

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGEMENT

TABLE




NOTES

# HIDDEN MEADOW SUBDIVISION

## PHASE 1

A SUBDIVISION LOCATED IN SECTIONS 2, 3, 10, AND 11; TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

PAGE 1 OF

| ALLIANCE ENGINEERING INC. | SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT | PLANNING COMMISSION | ENGINEERS CERTIFICATE | APPROVAL AS TO FORM | CERTIFICATE OF ATTEST | COUNCIL APPROVAL AND ACCEPTANCE | RECORDED |
|---|---|---|---|---|---|---|---|
| P.O. BOX 2664<br>133 MAIN STREET<br>PARK CITY, UTAH 84060<br>(801) 649 9467 | REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS ____ DAY OF ________, 1995 A.D.<br>BY ________<br>SBSID | APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF ________, 1995 A.D.<br>BY ________<br>CHAIRMAN | I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF ________, 1995 A.D.<br>BY ________<br>PARK CITY ENGINEER | APPROVED AS TO FORM THIS ____ DAY OF ________, 1995 A.D.<br>BY ________<br>PARK CITY ATTORNEY | I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF ________, 1995 A.D.<br>BY ________<br>PARK CITY RECORDER | APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF ________ 1995 A.D.<br>BY ________<br>MAYOR | STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF ________<br>DATE ____ TIME ____ BOOK ____ PAGE ____<br>FEE ____ RECORDER |

24

ORDINANCE NO. 96- ______

AN ORDINANCE ACCEPTING THE PUBLIC IMPROVEMENTS
AT HIDDEN MEADOW SUBDIVISION

WHEREAS, Hidden Meadow Subdivision was approved by the Park City City Council on May 11, 1995; and

WHEREAS, construction of the public improvements has been accomplished by the developer, including the public streets known as Solamere Drive, Fox Glen Circle, Hidden Court, Foxwood Court, and Fox Tail Trail; and

WHEREAS, Park City has adopted LMC Sec. 15.3.1(g), which provides for the City Council to accept (by Ordinance) those public improvements which are dedicated and built in accordance with the requirements of Chapter 15 of the Land Management Code; and

WHEREAS, the public improvements within Hidden Meadow Subdivision were installed in accordance with the ordinances in effect at the time of plat recordation and have been duly inspected by the City Engineer.

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

SECTION 1. PUBLIC IMPROVEMENTS. The City hereby accepts from the developer all public improvements at Hidden Meadow Subdivision which were intended for City ownership, subject to the developer's warranty of these improvements for one year following the adoption of this ordinance. The developer will be required to repair the asphalt paving at Hidden Meadows wherever the asphalt has settled or deteriorated within one year from the adoption of this ordinance. Appropriate repair will include patching followed by an overlay as approved by the City Engineer. Stabilization of all disturbed areas by revegetation shall have been achieved by the end of the one-year period commencing with the adoption of this ordinance. A financial guarantee of $383,102 shall remain in place for the one-year guarantee period. This guarantee will be used for repairs to the public improvements if the developer fails to make such repairs.

SECTION 2. SNOWPLOWING SERVICES. Snowplowing responsibilities shall lie with the developer until such time as 50% of the lots obtain a certificate of occupancy.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective upon publication.

PASSED AND ADOPTED THIS ______ DAY OF ________ 1996.

PARK CITY MUNICIPAL CORPORATION

______________________________
Bradley A. Olch, Mayor

ATTEST:

______________________________
Anita L. Sheldon, City Recorder

Approved as to form:

______________________________
Mark D. Harrington, Assistant City Attorney

PARK CITY
1884

# CITY COUNCIL REPORT

**DATE:** August 15, 1996
**DEPARTMENT:** Community Development
**AUTHOR:** Eric DeHaan, P.E., City Engineer
**TITLE:** Acceptance of the Public Improvements at Silver Meadows Estates Subdivision
**TYPE OF ITEM:** Legislative

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**SUMMARY RECOMMENDATIONS:** Adoption of the ordinance accepting the public improvements at Silver Meadows Estates Subdivision.

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## DESCRIPTION:

**A. Topic:** The final plat for Silver Meadows Estates Subdivision was approved on August 25, 1994. The developer has finally completed all the public improvements. This ordinance will transfer ownership of those improvements to Park City.

**B. Background:** The process of accepting public improvements in new subdivisions is created by the subdivision section of our Land Management Code, which specifies that the Council accept improvements by ordinance. The offer of dedication of those improvements is contained within the final subdivision plat itself. In the case of Silver Meadows Estates, the improvements were largely accomplished in 1995, but completion of the drainage improvements and bike path link from Comstock Drive to Aspen Villas was delayed, for various reasons, until recently.

**C. Analysis:** The public improvements consist of bike paths, sidewalks, utilities, and the roads known as Cooke Drive and Stryker Avenue. All homes have been built, so it is time for Park City to assume snowplowing responsibilities. (The roads will probably be a Priority 3 for snowplowing.) The Kearns bike path is complete at this project but not in front of the nearby portion of Prospector Square between Aspen Villas and the Pizza Hut. A copy of a sketch of the subdivision is attached. Please note that Cable TV has not yet extended service into Silver Meadows Estates.

**D. Department Review:** The ordinance (attached) has been reviewed by the Legal Department. The construction and operation of the streets and utilities has been coordinated with the Public Works Department. The only unresolved issue is the success of the revegetation within the one-year guarantee period, which commences with the adoption of this ordinance. The City is holding $38,764.75 of the developer's money to guarantee those repairs at the end of the guarantee period.

**ALTERNATIVES:**

**A. Approve the Request:** Approving the ordinance will cause the orderly transfer of the public improvements and will start the one-year guarantee period.

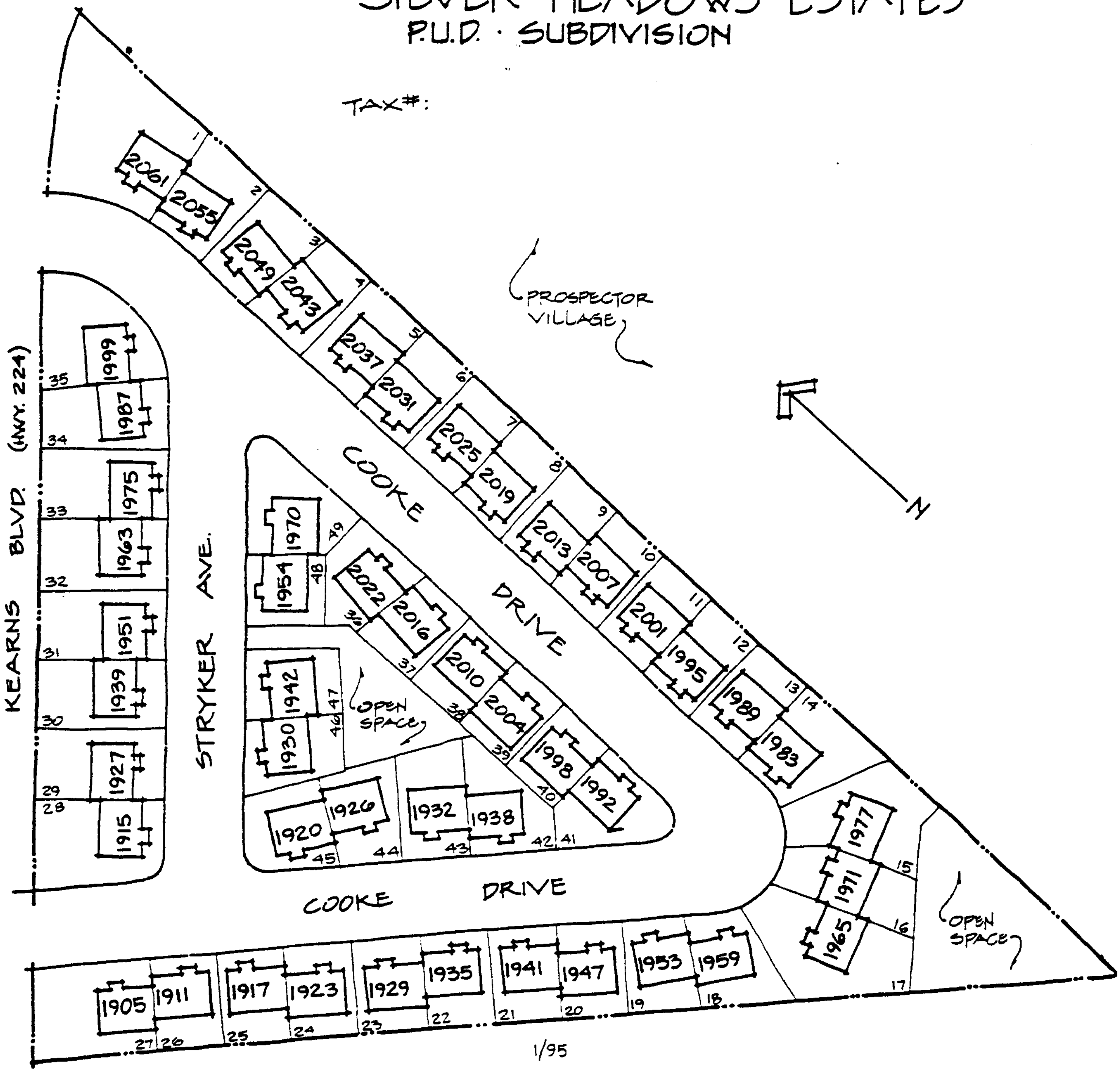
**B. Continue the Item:** If the Council needs more information or more time to render a decision on the ordinance, the ordinance should be continued.

**SIGNIFICANT IMPACTS:** The construction has taken place and is complete except for minor revegetation. All of this work is adequately guaranteed by the $38,764.75 which the developer currently has in place and will leave in place for one year following adoption of the ordinance.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:** Although adopting the ordinance is mainly a formality, it does serve a definite purpose in the accounting of publicly-owned improvements and in the orderly transfer of maintenance responsibility for the public improvements. On a properly-built project there is no real reason not to accept the public improvements, but the ordinance can be continued to the next meeting if more information is needed.

**RECOMMENDATION:** Approve the ordinance accepting the public improvements at Silver Meadows Estates Subdivision.

# SILVER MEADOWS ESTATES
## P.U.D. · SUBDIVISION



ORDINANCE NO. 96-____

AN ORDINANCE ACCEPTING THE PUBLIC IMPROVEMENTS
AT SILVER MEADOWS ESTATES SUBDIVISION

WHEREAS, Silver Meadows Estates Subdivision was approved by the Park City City Council on August 25, 1994; and

WHEREAS, construction of the public improvements has been accomplished by the developer, including the public streets known as Cooke Drive and Stryker Avenue; and

WHEREAS, Park City has adopted LMC Sec. 15.3.1(g), which provides for the City Council to accept (by Ordinance) those public improvements which are dedicated and built in accordance with the requirements of Chapter 15 of the Land Management Code; and

WHEREAS, the public improvements within Silver Meadows Estates were installed in accordance with the ordinances in effect at the time of plat recordation and have been duly inspected by the City Engineer.

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

SECTION 1. PUBLIC IMPROVEMENTS. The City hereby accepts from the developer all public improvements at Silver Meadows Estates which were intended for City ownership, subject to the developer's warranty of these improvements for one year following the adoption of this ordinance. A financial guarantee of $38,764.75 shall remain in place for the one-year guarantee period.

SECTION 2. SNOWPLOWING SERVICES. Because the homes are complete, the City hereby accepts responsibility for snowplowing on Cooke Drive and Stryker Avenue.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective upon publication.

PASSED AND ADOPTED THIS ______ DAY OF ________ 1996.

PARK CITY MUNICIPAL CORPORATION

______________________________
Bradley A. Olch, Mayor

ATTEST:

______________________________
Anita L. Sheldon, City Recorder

Approved as to form:

______________________________
Mark D. Harrington, Assistant City Attorney

PARK CITY
1884

**DATE:** 15 August 96
**DEPARTMENT:** Public Works
**AUTHOR:** Jerry Gibbs; John Lind
**TITLE:** Backhoe Replacement
**TYPE OF ITEM:** Contract

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**SUMMARY RECOMMENDATIONS:** Authorize staff to replace two backhoes (75 hp and 79 hp) from Scott Equipment at a cost of $115,280 and trade-in two existing backhoes for a combined total of $39,000.

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**DESCRIPTION:**

A. **Topic:** Replacement of two rubber tired backhoes.

B. **Background:** The City operates two backhoes shared between Parks, Water and Streets. They are used to repair streets and waterlines, clean ditches, dig graves and other public works related tasks. Both pieces were purchase five years ago. The 210 (55 hp ) John Deere was purchased for the Parks Department. The 310 John Deere (75 hp) was purchased through Public Works where the supplier guaranteed a limit on maintenance cost, a repurchase price at the end of five years use and a 48 hour replacement part guarantee or provide a replacement backhoe at no charge. Both backhoes are programmed to be replaced this year through the Equipment Replacement Fund.

Case, John Deere and Caterpillar were invited to demonstrate their equipment on site. The three pieces were considered comparable to each other and invited to bid. Only John Deere and Cat chose to provide a bid.

The bid package was divided into two sections for purchase or lease with a 1, 2, 5 and 7 year term for comparison. Bids were formally received and opened at Public Works on August 2, 1996 at 1:30 pm. The request was for 75 hp and a 79 hp backhoes.

C. **Analysis:** Staff recommends increasing the size of both vehicles. The 55 hp backhoe is designed for light duty work. It is unable to dig through frozen ground without sustaining damage to joint pins. The existing 75 hp backhoe is being increased in size to accommodate a 4' "extendahoe" attachment that will provide greater flexibility and safety during excavation and backfilling water repairs.

Bid Comparison

John Deere submitted the lowest bid for each piece and alternative. Their bid priced for a 75 hp backhoe is $48,750 and a 79 hp backhoe is $62,750. Cat's bid was $55,363 and $65,600 respectively.

A present value calculation was performed to compare each bid alternative. A table was developed showing the declining value of the equipment over ten years based on the industry standard for the last three years and the current bid price.

| BACKHOE VALUES | | | | | | | |
|---|---|---|---|---|---|---|---|
| | 79 hp Backhoe | | | | 75 hp Backhoe | | |
| Years | ResidualValue | % of New | New Value | Years | Residual Value | % | New Value |
| 1996 | $62,750 | 100% | $62,750 | 1996 | $48,750 | 100% | $48,750 |
| 1997 | $47,828 | 76% | $64,382 | 1997 | $37,879 | 78% | $50,018 |
| 1998 | $41,800 | 67% | $66,957 | 1998 | $33,900 | 70% | $52,018 |
| 1999 | $38,089 | 61% | $69,635 | 1999 | $30,713 | 63% | $54,099 |
| 2000 | $34,073 | 54% | $72,420 | 2000 | $27,300 | 56% | $56,263 |
| 2001 | $29,800 | 48% | $75,317 | 2001 | $24,000 | 49% | $58,513 |
| 2002 | $22,276 | 36% | $78,330 | 2002 | $17,306 | 36% | $60,854 |
| 2003 | $14,348 | 23% | $81,463 | 2003 | $10,725 | 22% | $63,288 |
| 2004 | $12,550 | 20% | $84,722 | 2004 | $9,750 | 20% | $65,820 |
| 2005 | $12,550 | 20% | $88,111 | 2005 | $9,750 | 20% | $68,452 |
| 2006 | $12,550 | 20% | $91,635 | 2006 | $9,750 | 20% | $71,190 |

A seven year period was chosen for the comparisons. The present value annual cost calculations are shown below for the 75 hp and 79 hp backhoes. For all time periods considered a purchase appears more attractive than a lease. Purchasing the equipment for seven years is apparently the least expensive approach. However, warrantees only extend for five years and reliability declines with age. Staff recommends purchasing the equipment with the intent to replace it after five years. Major component failure could occur in year six and seven. Engines, drive trains and booms will need work around the 8,000 hour time depending on the usage. The City would have the option to keep it longer based on the performance and reliability of the equipment during the first five years.

## Net Annual Cost (Present Value

| | 75 hp | Backhoe | 79 hp | Backhoe |
|---|---|---|---|---|
| **TERM** | **LEASE** | **PURCHASE** | **LEASE** | **PURCHASE** |
| **1 YEAR (1000 hr)** | $18, 357 | $13, 015 | $29, 280 | $17, 629 |
| **2 YEAR (2000 hr)** | $13,707 | $9,290 | $17,825 | $12,774 |
| **5 YEAR (5000 hr)** | **$8,100** | **$6,503** | **$!0,200** | **$8,512** |
| **7 YEAR (7000 hr)** | $7,520 | $6,188 | $9,583 | $7,898 |

An extended warranty is recommended up to five years. A warranty beyond this time is not available. The combined warranty cost for two units is $3,780.

**Department Review:** The information has been reviewed by our Finance Manager, City Manager and Public Works Departments.

**ALTERNATIVES:**

**A. Approve the Request:** The Council could authorize staff to purchase a 75 hp and 79 hp backhoe from Scott Equipment with extended warranties.

**B. Modify the Request:** The Council could authorize staff to lease both backhoe on a five year term.

**C. Delay Purchasing:** The Council could delay replacement for another year. Both machine are in fair condition. The smaller machine is poorly suited to its use. Existing warranties will expire on both vehicles.

**D. Do Nothing:** The Council could do nothing. This would have the same effect as Alternate C.

**SIGNIFICANT IMPACTS:**

The 55 hp backhoe does not meet our current needs. Replacement backhoes will minimize potential downtime. Parks, Water and Streets will have the proper tools to complete their assigned tasks in a more efficient manner.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**

Increased downtime and higher repair cost will need to be accommodated. Current warranties will expire. This includes the guaranteeing of a backhoe if parts are not available in 48 hours.

**RECOMMENDATION:**

Authorize staff to purchase 75 hp and 79 hp backhoes from Scott Equipment in the amount of $115,280 and trade in two existing backhoes for a combined total of $39,000. The net cost not to exceed $76,280. A combined guaranteed buy back price of $53,800 will be honored by Scott Equipment in five years for the new units.

## LMC AMENDMENTS HCB, HRC, HTO, HR-1 AND HRL DISTRICTS

The following is the staff report submitted to the Planning Commission regarding the proposed LMC amendments for its August 14 meeting. Staff will apprise the Council of the Commission's comments and action at Thursday's work session and public hearing.

PARK CITY
1884

## PLANNING COMMISSION & CITY COUNCIL REPORT

DATE: August 12, 1996
(August 14, 1995 Meeting)
DEPARTMENT: Planning Department
AUTHOR: Patrick Putt PAT
TITLE: LMC Amendments To The HCB, HRC, HTO, HR-1 AND HRL Districts
TYPE OF ITEM: Legislative (Public Hearing/Action)

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**SUMMARY RECOMMENDATIONS:** Forward a positive recommendation to City Council regarding the proposed Land Management Code amendments.

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## DESCRIPTION:

### A. Topic.

This action involves the consideration of Land Management Code amendments to replace temporary zoning regulations relating to allowed uses, building heights, building widths, and maximum use/tenant square footages in the HCB/HTO zoning districts. The amendments are also to be applied to the HRC District. This action also includes needed Land Management Code clarifications related to building heights in the HR-1 and HR-L Districts and building height exceptions in all remaining zones.

### B. Background.

On February 22, 1996, Council adopted a Temporary Zoning Ordinance (TZO) for the Historic Commercial Business (HCB) and the Historic Transition Overlay (HTO) Districts under Utah State Code, Section 10-9-404. Section 10-9-404 authorizes the enactment of interim zoning regulations for a period of up to six (6) months upon a finding of compelling, countervailing interest.

The TZO adopted by Council for the HCB and HTO Districts are as follows:

1. Building Height: No structure shall be erected to a height greater than 27 feet *(above natural grade)*.

2. Maximum Area Per Tenant Or Use On The Ground Floor: 2800 square feet.

The TZO regulations are in effect through August 22, 1996.

At the June 27, 1996 joint City Council Planning Commission work session, the Council and Commission directed the Planning and Legal Departments to prepare Land Management Code amendments concerning allowed uses, building heights, facade widths, and maximum use/tenant square footages in the HCB and HTO zones, as well as the Historic Recreation Commercial (HRC) District. The specific input given to Staff include:

* Reducing maximum street-front building heights to two stories and no more than 30 feet;

* Establishing maximum facade widths of no more than 37.5 feet *(one and one-half lot width)*;

* Limiting the maximum square footage per use or tenant space to 2800 square feet;

* Zoning large-scale formula retail/restaurant uses to districts other than the HBC and HRC Districts *(Proposed ordinance available for a future Planning Commission meeting)*; and

* Implementing a Temporary Zoning Ordinance (TZO) regulating parking in the HCB and HRC Districts *(TZO adopted by Council on July 18, 1996, Ordinance 96-5)*.

The Planning Commission reviewed the suggested amendments at a work session on July 31, 1996. At the conclusion of the work session, the Commission asked for further staff review regarding the proposed 37.5 foot building width restriction and implications of applying the amendments to the McIntosh Mill parcel *(located at the southwest corner of lower Main Street and Ninth Street)*. A public hearing and action is scheduled for Wednesday night's meeting *(August 14, 1996)*.

C. Analysis

After reviewing the direction from City Council and Planning Commission and public input offered at the last Planning Commission meeting, Staff has made the following revisions to the proposed amendments:

* An exemption from the 37.5 foot maximum building width for parking structures;

* A provision for wall penetration between buildings not separated by property lines *(under common ownership)* for common facilities such as elevators, restrooms, and/or egress;

* An increase in the HRC District's maximum building width from 37.5 feet to 40 feet *(The additional 2.5 feet in width is the residual lot width after the required 5 ft. side yard setbacks are applied on a 50 foot wide parcel.)*

* A decrease in the maximum building area in the HRC District from 2820 square feet per floor/5640 square feet total to 2200 square feet per floor/4400 square feet total. *(2200 square feet per floor is the area maximum floor dimension on a 50 foot wide parcel after applying the HRC setbacks of 10 feet front/rear setbacks and 5 foot side setbacks, i.e. 40' x 55' = 2200 square feet).*

The following report sections provide an evaluation of the impacts of the proposed Land Management Code amendments:

**1. Building Heights:** If the proposed amendments are implemented, no new construction in the HCB and HRC Districts may exceed two stories and 30 feet in height as measured from the property's street front (s) *(33 feet in height measured to the ridge of a pitched roof in the HRC zone)*. Buildings with three or more levels above the street front will no longer be permitted. In instances where the rear of the property is lower in elevation than the front of the property, as in the case of Swede Alley, a third level may be possible. In such cases a step-back on the *(rear)* upper level will be required at the 30-foot height mark so that the rear elevation is similar in scale to the street front elevation.

Until the current TZO went into effect, the maximum building height in the HCB District was defined by a plane that rose vertically at the front property line to a height of 30 feet measured above natural grade and then proceeded at a 45 degree angle toward the rear of the property until it intersected with a point 45 feet above natural grade. The same system of measurement applied to the rear building elevation *(See illustration below)*.

The current maximum building height in the HRC Zone is 35 feet, plus an additional 5 feet for a pitched roof *(40 feet overall with a pitched roof)*. Under the proposed amendments, the maximum building height in the HRC zone would be 30 feet for a structure with a flat roof, 33 feet for a structure with a pitched roof. *(See attached building height illustrations.)*

**2. Building Widths:** The Land Management Code requires a facade variation for a building wider than 60 feet; however, the current Code does not specify a maximum building width in the HCB and HRC Districts. The proposed amendments would limit any single building in the HCB District to maximum width of 37.5 feet *(a lot and one-half width)* and a maximum building width of 40 feet in the HRC District. The maximum building width in the HRC District has been increased to 40 feet *(an additional 2.5 feet)* to allow property owners the use of the residual lot width after the required five-foot side yard setbacks are applied to a 50 foot wide parcel *(two Old Town lots)*. Although HRC maximum building widths are proposed to be increased by 2.5 feet, the maximum square footage per use/tenant is proposed to be reduced from what is proposed in the HCB District *(see subsequent report section, "Maximum Square Footage Per Use /Tenant Space")*.

In response to public comments regarding the impacts on underground parking and ADA access, egress, and restroom requirements created by the 37.5 foot and 40 foot building width limitations, Staff has revised the proposed ordinance to exempt parking structures from the maximum width requirement. As in the case of properties fronting both Main Street and Swede Alley, this revision would allow parking structures to be constructed on multiple-lot parcels, while maintaining a 37.5 foot/40 foot building widths above the parking. *(Cross-easements for common parking areas would be required.)*

As proposed, separate structures *(i.e. separate walls, footings, parapets between buildings, utilities, restrooms, and egress)* must be constructed at maximum allowed building widths of 37.5 feet (HCB)/40 feet (HRC). In situations were property lines do not separate structures *(i.e. common ownership of multiple lots)* the Community Development Department proposes a revision that would allow wall penetrations between buildings for common facilities such as elevators, restrooms and/or egress. The proposed wall penetrations will not be permitted to functionally combine tenant spaces beyond the maximum allowed floor area specified in the district. Under this scenario, the owner of four (4) 25 foot wide lots would be required to construct buildings in such a way as to not exceed the maximum building width limitation *(such as two 37.5' wide buildings and a 25' wide building)*; however, openings between the buildings would be permitted to share elevator (ADA access), secondary egress, and/or restroom facilities. Although the wall penetration provision will not totally mitigate the design and cost impacts resulting from the proposed building width limitation, the revision would reduce the cost of providing these facilities for each separate building.

The Community Development Department acknowledges that the implementation of the proposed building width limitation will increase project costs related to constructing separate walls, footings, and utilities.

**3. Maximum Square Footage Per Building:** Maximum building square footages in the HCB, HTO, HRC Districts are currently controlled by their respective Floor Area Ratios. *(the FAR in the HCB and HTO District is 4.0 to 4.5; the FAR for commercial uses in the HRC District range from 0.7: 1 to 1:1)*. Under the proposed amendments, the FARs will be eliminated in the HCB/HTO zones.

In addition to regulating building size with the new building height and building width limitations, the proposed amendments establish a maximum areas in the HCB District of 5640 square feet and 2820 square feet per floor *(rounding up the 2812 square feet of area within a one and one-half Old Town lots)*. Parking areas would be exempt from this regulation. The Community Development Department proposes a revision to the maximum area in the HRC District from 2820 square feet per floor/5640 square feet total to 2200 square feet per floor/4400 square feet total. Parking areas would be exempt from this regulation. The reduction takes into account the maximum building footprint after the HRC minimum setbacks *(front/rear: 10 feet, sides: 5 feet)* are applied to a 50 foot wide *(2 Old Town lots)* parcel, i.e. 40' x 55' = 2200 square feet. The reduction in the maximum allowed HRC area from that of the HCB District is consistent with purpose of the HRC District of providing a transition in scale and land uses between the HCB and HR-1 zones.

Note that Staff has modified the proposed revisions so as to regulate maximum building area, rather than maximum square footage per use or tenant space. This change allows non-conforming areas within existing buildings to change use/tenancy without the necessity of Board of Adjustment review. Combinations of existing tenant spaces would also be allowed, even though the resulting size of the space exceeds the new maximum building area. *(See report section, "Non-Conforming Buildings" below.)*

Buildings which exceed the proposed maximum area will become legal non-conforming buildings. Modifications to legal non-conforming buildings may be considered pursuant to the LMC, Section 12.3 and 12.4: Additions and Enlargements.

**4. Non-Conforming Buildings:** As a result of adopting more stringent zoning regulation or down-zoning an area, one of two things usually happens--non-conforming **uses** and/or non-conforming **buildings** are created. The distinction is important because the Land Management Code ("LMC") treats non-conforming uses very differently from non-conforming buildings. Adoption of the ordinance as proposed would create several non-conforming buildings in the HCB and HRC district.

**A. The Rules**

The LMC allows the occupancy of non-conforming buildings to continue, with some restrictions on changes of use, additions, and expansion. Changes and expansions of non-conforming buildings and uses are governed by Chapter 12.3 and 12.4 of the LMC. Under the LMC, non-conforming buildings may be occupied so long as type of occupancy (use) is permitted within the zone the building is located in. **There is no regulation of**

**tenancy or use**, other than those generally applicable throughout the zone. (Existing floor space can be rented, occupied or combined by new tenants, including those of a different use, without review by the Board of Adjustment so long as all other LMC regulations are met, such as parking for the new use.)

Non-conforming buildings may also be enlarged or changed under several circumstances, without the necessity of Board of Adjustment review:

I. *A non-conforming building may have an addition so long as the addition conforms to the setbacks of the zone and meets all current development requirements of the LMC.* This means that if you had a building with a height in excess of 30 feet and you wanted to add an addition to the rear of the building, no Board of Adjustment review would be necessary so long as the addition was under 30 feet in height and conformed to setback and all other LMC regulations. If you wanted the addition to be the same height as the rest of the building, you would have to receive approval from the Board of Adjustment per section "c" below.

ii. *Minor additions, alterations, or repairs which do not expand the use within the non-conforming building may be done to improve the appearance, safety, or efficiency of the building.* For example, the addition of an external rear stairways, windows or facade work could be done without approval from the Board of Adjustment per section "c" below.

iii. *Any building declared unsafe by the Building Department may be strengthened or restored to a safe condition.*

iv. *Any building damaged by fire or natural causes may be restored to its original condition.*

v. *Any change or renovation that does not increase the non-conformity of the building.* This means that tenant area within the Main Street Mall, or a similar non-conforming building, could be combined with other existing areas on the same level even though the resulting tenant space is larger than 2820 sq. ft. This is because there is no expansion of the overall floor area of that level of the Mall. The non-conforming element of the building (a floor in excess of 2820 sq. ft.) remains the same.

## B. Board of Adjustment Review

When their review is required, the Board of Adjustment can approve changes, additions or expansions to non-conforming buildings when the following criteria, insofar as applicable, are met:

1. All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood;

2. All changes, additions, or expansions shall comply with all current

development requirements and conditions of this section and other applicable City codes, except as to use;

3. Additions to buildings will provide for storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage; and

4. The building as it exists, and/or the land or use involved cannot reasonably be utilized under the provisions of this code, or cannot reasonably be made to conform with this code.

Staff believes it would be next to impossible to meet this criteria for an expansion of a building that expanded a floor area above 2820 sq. ft. or a height in excess of 30 feet.

**C. Non-Conforming Uses**

The proposed ordinance will not create any non-conforming uses, only non-conforming buildings (i.e. all the uses--restaurant, retail commercial, etc. as specified by the land use table in Chapter 7 remain the same). Therefore, the portion of the LMC regulating changes to or expansion of non-conforming uses has no application to the situation at hand.

**5. Status of McIntosh Mill Parcel:** A conditional use permit application for a 15,000 square foot mixed-use project on the McIntosh Mill site *(875 Main Street)* was submitted to the City on March 13, 1996. The property is located in the HRC District; however, a 1982 agreement gives the developer of the site the option of developing under HCB or HRC zoning including subsequent zoning amendments. Inasmuch as the application was submitted after the HCB-HTO temporary zoning ordinance was adopted on February 22, 1996, the project is subject to the present TZO regulations. The height of the proposed structure does not comply with the HCB District regulations *(27 feet)* as set forth in the TZO.

Staff has identified at least five options for the applicant to pursue:

1. Submit a new design which complies with the 27' height limitation set forth in the TZO;

2. Submit a new design which meets all criteria of the underlying HRC zone in place at the time of a complete submittal;

3. Submit an new design which meets all criteria of any HCB-HRC amendments;

4. Appeal Staff's interpretation of the 1982 Agreement to the City Council;

5. Request a rezoning of the property.

The applicant's project is currently vested under the HCB-HRC temporary zoning ordinance; however, the building height must be reduced to a maximum height of 27 feet in order to comply with the zoning regulations. Should the applicant submit plans for review under the HRC zone prior to Council action on the proposed amendments, the project would be reviewed under the existing HRC requirements *(i.e. 35 feet maximum building height/40 feet with a pitched roof and all HRC setback requirements)*. Should the applicant submit plans after the Council takes action on the proposed HCB-HRC amendments, the project would be reviewed under all new regulations including building heights, building widths and maximum area per use/tenant.

**6. Utah Main Street Comments:** Prior to the July 31, 1996 work session on this item, Staff contacted Bim Oliver of the Utah Main Street Program (UMSP) which is affiliated with the National Trust For Historic Preservation. Mr. Oliver stated that his role with UMSP is to provide Utah communities with grant and design assistance to revitalize Utah communities' central business districts. Mr. Oliver acknowledged that Park City has a strong and economically-viable historic Main Street. Mr. Oliver stated he did not wish to advocate any position on the proposed Park City amendments; however, he suggested that three things be considered in adopting any new legislation for downtown areas:

1. Develop regulations that permit creativity in architectural design.

2. Develop regulations that enhance the pedestrian experience.

3. Maintain compatibility with the historic Main Street character.

**7. HR-1 and HRL Building Height Clarifications:** Inasmuch as the proposed HCB and HRC amendments affect the LMC's definition of "building height", staff is using this opportunity to clarify how building height is defined within the individual zones and to clean up contradictory language in the HR-1 and HRL Districts. When the HR-1 and HRL regulations were amended this past December, the 5 foot bonus for pitched roofs was inadvertently deleted for all zones. This amendment corrects this scrivener's error.

In addition, pursuant to input staff has received from the design community, staff is proposing to modify several highlighted provisions in the HR-1 and HR-L zones including the building height exception for steeply sloping downhill lots. Section 8.17(e): Height Provisions, allows for structures on downhill lots to exceed the 27 foot height maximum *(provided the ridge line does not exceed 18 feet when measured from the street)* for a distance of 38 feet back from the front property line instead of the previous 34 feet. Staff is requesting that this additional 4 feet be permitted in order to provided more-functional garages and interior staircases leading from the garage to living areas. The design community has proposed other additional beneficial revisions to the HR-1 and HR-L districts that staff will forward to the Planning Commission in the near future.

**8. August 9, 1996 Meeting With Local Designers and HCB/HRC Property Owners:** City Staff held a meeting with a dozen or so local designers and owners *(or representatives)* of properties located in the HCB and HRC Districts. Some of those present expressed strong opposition to the proposed amendments. The objections and concerns include:

* In the opinion of those who spoke, no clear public need for the proposed amendments has been demonstrated to date;

* The proposed amendments will reduce buildings in the HCB and HRC Districts by 30% and, therefore, create significant financial impacts;

* As projects become less-viable financially, owners will find it necessary to cut costs on architectural details;

* The proposed maximum building areas are too restrictive. No maximum building area should be specified, particularly since building envelopes are established by the proposed maximum building heights and widths are proposed;

* The proposed amendments do not address Main Street parking issues or provide density bonuses for parking beyond LMC requirements; and

* The proposed amendments should allow an exception for the entire 30 inch UBC required parapet, instead of an additional 18 inch height exception for parapets.

**D. Department Review.**

The Community Development, Building Inspection, Administrative and Legal Departments have reviewed this report.

## ALTERNATIVES

**A.** Forward a positive recommendation to the City Council to adopt the attached Land Management Code amendments.

**B.** Direct Staff to make any necessary revisions and forward revised amendments to the city Council for adoption.

## SIGNIFICANT IMPACTS:

If the proposed Land Management Code amendments are approved by City Council:

* building heights in the HCB and HRC Districts would be reduced by a minimum of one full floor *(maximum street-front building heights to two*

*stories and no more than 30 feet [33 feet with a pitched roof in the HRC zone]);*

* maximum building widths of no more than 37.5 feet *(one and one-half lot width)* for buildings within the HCB District and 40 feet in the HRC District will be established. *(In cases were property lines do not separate structures (i.e. lot combinations of common ownership of multiple lots), wall penetrations between buildings for common facilities such as elevators, restrooms and/or egress will be permitted, provided the openings will not functionally combine tenant spaces beyond the maximum allowed floor area specified in the district );*

* the maximum building area in the HCB District will be a total of 5640 square feet or 2820 square feet per floor *(parking areas will be exempt)*.

* the maximum building area in the HRC District will be a total of 4400 square feet or 2200 square feet per floor (parking areas will be exempt);

* FARs will be eliminated in the HCB and HTO districts;

* the 5 foot height bonus for pitched roofs, inadvertently deleted from the code last December, will be put back in the LMC for applicable districts; and

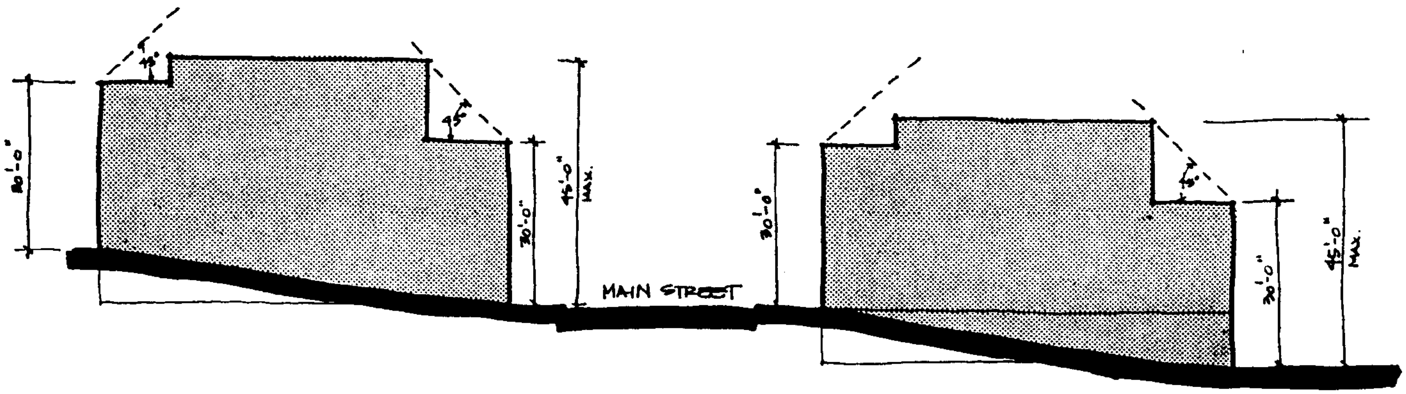
* building height measurements in the HR-1 and HRL zones will be further clarified.

## CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Should the proposed amendments not be adopted, HCB development applications will be reviewed under the former HCB regulations which allow for overall building heights up to 45 feet and no limitation on building area. Development in the HRC District will be reviewed under the existing FARs and the maximum building height of 35 feet *(40 feet with pitched roof)*.

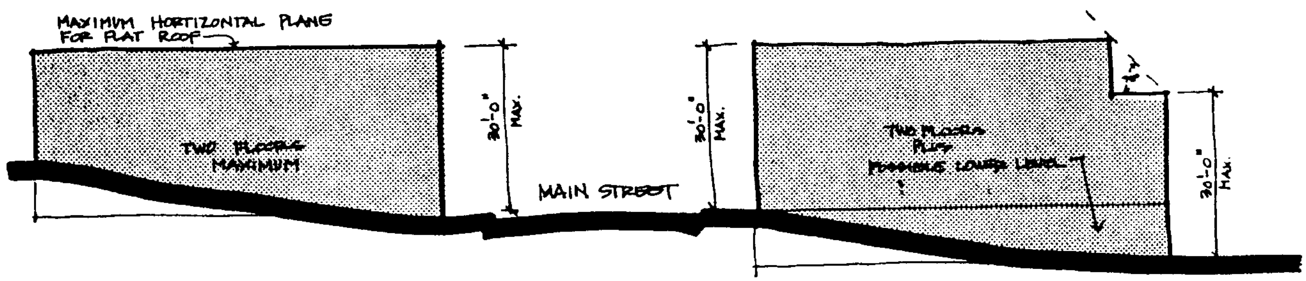
## RECOMMENDATION:

The present HCB-HTO temporary zoning Ordinance expires August 22, 1996, therefore, it is important that the Planning Commission forward a recommendation to City Council following Wednesday night's public hearing. The Community Development Department recommends that the Planning Commission recommend any necessary changes to the proposed amendments and forward a positive recommendation to the City Council.



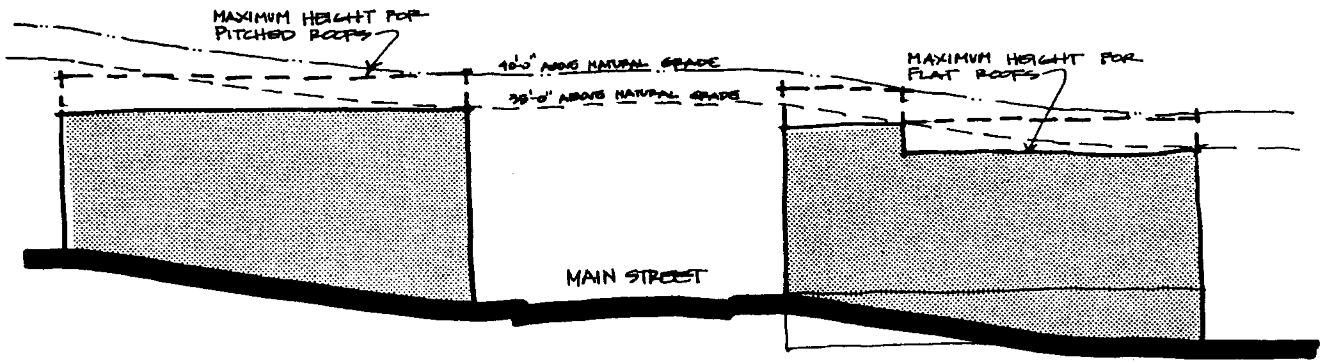

PRE-TZO/HCB BUILDING HEIGHT ENVELOPES

NO SCALE



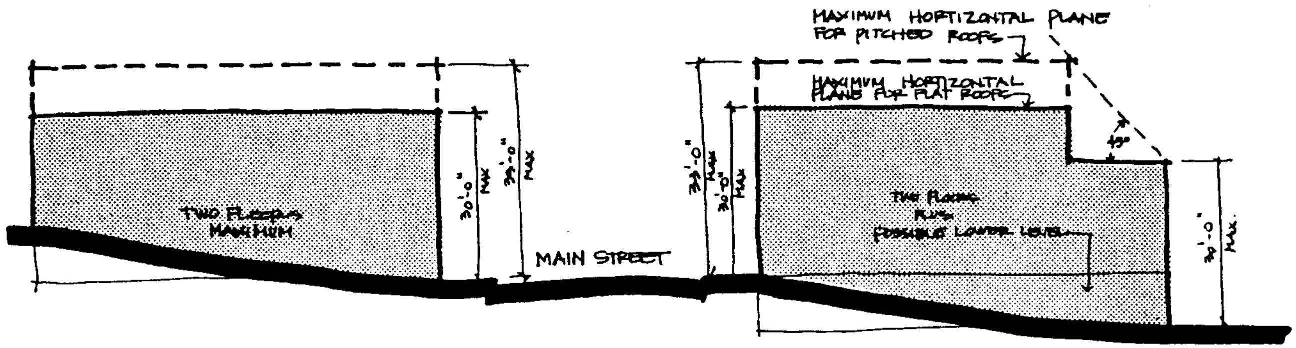

PROPOSED HCB BUILDING HEIGHT ENVELOPES

NO SCALE

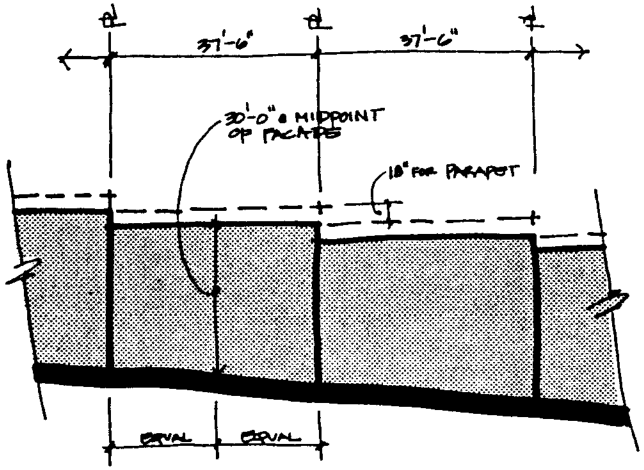



EXISTING HRC HEIGHT ENVELOPES

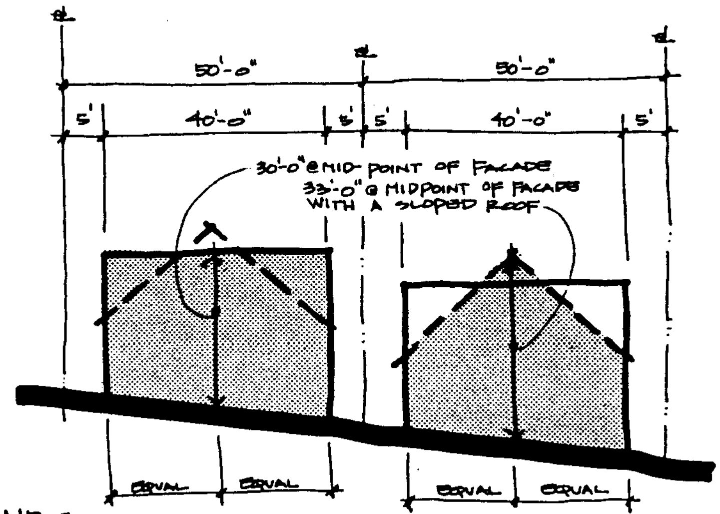
NO SCALE




PROPOSED HPC BUILDING HEIGHT ENVELOPES
NO SCALE




HCB




HPC

METHOD OF HEIGHT DETERMINATION

NO SCALE

**Ordinance No. 96-**

**AN ORDINANCE AMENDING CHAPTERS 2, 7 , AND 8 OF THE LAND MANAGEMENT CODE RELATING TO BUILDING HEIGHTS, MAXIMUM FLOOR AREAS, AND MAXIMUM BUILDING WIDTHS IN THE HISTORIC COMMERCIAL BUSINESS (HCB), HISTORIC RECREATION COMMERCIAL (HRC), HISTORIC TRANSITIONAL OVERLAY ZONE (HTO), HISTORIC RESIDENTIAL (HR-1), AND HISTORIC RESIDENTIAL LOW-DENSITY (HRL) DISTRICTS; AND AMENDING LAND MANAGEMENT CODE HEIGHT EXCEPTIONS FOR ALL OTHER ZONES IN PARK CITY, UTAH.**

WHEREAS, on February 22, 1996, the City Council adopted a Temporary Zoning Regulation Ordinance, for a period not to exceed six (6) months pursuant to Utah State Code, Section 10-9-404 to prevent a rush of applications prior to final adoption of these proposed amendments;

WHEREAS, the City has provided notice of specific proposals to rezone the Historic Commercial Districts within public meetings to develop the Growth Management and Community Character elements of the Community's General Plan. This proposed rezoning is intended to establish a limit on development within the rezone that more closely resembles the historic development pattern;

WHEREAS, a joint Planning Commission and City Council meeting was held on these amendments on June 27, 1996 and public hearings were held before the Planning Commission on July 31, 1996 and August 14, 1996;

WHEREAS, the City Council and Planning Commission have expressed a desire to preserve the unique scale of businesses within the Historic Commercial Districts;

WHEREAS, the Historic Commercial Districts are presently zoned in a manner that allows development at a scale and intensity that is not reflected in the current development pattern on Main Street and its environs;

WHEREAS, notice of the proposed rezoning, coupled with the recent and dramatic increase in property values on Main Street, and a new impetus to develop spurred by the International Olympic Committee's award of the 2002 Winter Olympics to Salt Lake City (with Park City venues) has created an unprecedented incentive toward excessive development and redevelopment within the Historic Commercial Districts under the present zoning. Unchecked, this development pressure could forever destroy the ambiance of Main Street;

WHEREAS, The Historic Districts are the crown jewels of the City and are vital to the economic health and general welfare of the community and its guests;

WHEREAS, the proposed General Plan states that to "maintain the unique identity and character of an historic community" is a desirable Community Character goal and that efforts should focus on maintaining the integrity and health of the historic district and the downtown should maintain its historic character marked by pedestrian friendly buildings of simple design, modest scale and height and other similar features;

WHEREAS, one of the policies of the proposed General Plan is to maintain the character of historic building in the Historic Core of Park City by augmenting existing design regulations with height and bulk limitations that will help retain the character of the core area to avoid being overwhelmed by buildings that are too large and too tall for their sites or in relation to adjacent structures;

WHEREAS, the zoning regulations herein will apply uniformly to development within the specified zones and will enhance the pedestrian experience by preserving the traditional boutique shopping experience, while maintaining creativity in architectural design;

WHEREAS, the amendments for height in the HR-1 zone, HRL zone, and regarding the definition of height correct a scrivener's error;

WHEREAS, the amendments to section 8.17(e) was in response to the development community which sought greater flexibility in providing more functional garages and interior staircases leading from garages to living areas; and

WHEREAS, it is in the best interest of Park City to adopt these amendments which preserve the historic integrity and economic viability of the City's Historic Commercial Districts and which protect the health, safety and the general welfare of its citizens;

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

**SECTION 1: FINDINGS:** The recitals above are hereby incorporated herein as findings.

**SECTION 2: AMENDMENTS TO CHAPTER 2 OF THE LAND MANAGEMENT CODE.** Section 2.1 of **Chapter 2 Definitions** is hereby amended as follows:

**Section 2.1: Definition Usage:**

Height. Unless otherwise defined herein, the vertical distance from Natural Grade to the highest point of a flat roof or to the deck line of a mansard roof or to ~~a point midway between the lowest part of the eaves or cornice and~~ the highest ridge of a hip or gable roof. ~~In no case shall a~~ A mansard roof or the parapet wall of a flat roof may extend ~~more than~~ a maximum of 18" above the deck line or maximum zone height~~, whichever is lower~~. Roofs not fitting clearly any of the above three classifications shall be classified by the Community Development Department in accordance with the roof it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration.

~~In the HR-1 and HR-L zones, height shall be defined as the vertical distance from natural undisturbed grade or final grade (which ever yields the smaller\shorter building) at a point measured three feet out from the foundation wall to the highest point of a flat roof or to the deck line of a mansard roof or to the highest ridge of a hip or gable roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line. Roofs not clearly fitting any of the above three classifications shall be classified by the Community Development Department in accordance with the roof classification it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration. See Section 8.17.~~

**SECTION 3: AMENDMENTS TO CHAPTER 7 <u>DISTRICTS AND REGULATIONS</u>** OF **THE LAND MANAGEMENT CODE.**

Subsection 7.1.5 of **SECTION 7.1** **<u>Historic Residential (HR-1) District</u>** is hereby amended as follows:

7.1.5. <u>BUILDING HEIGHT</u>. ~~Structures shall be erected to a height no greater than 27 feet as defined in Section 8.17.~~ The maximum building height in the HR-1 District shall be defined as the vertical distance from Natural Grade or final grade (which ever yields the smaller\shorter building) at points adjacent to the foundation to the highest point of a flat roof or to the deck line of a mansard roof or to the horizontal plane projected from the highest ridge of a hip or gable roof. A mansard roof or the parapet wall of a flat roof may extend a maximum of 18" above the deck line. Roofs not clearly fitting any of the above three classifications shall be classified by the Community Development Department in accordance with the roof classification it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration. (See Section 8.17 for supplemental height provisions and *see Historic District Design Guidelines for additional design criteria.)*

The following subsections of **SECTION 7.2 Historic Commercial Business (HCB) District** are hereby amended as follows.

7.2.6. <u>MAXIMUM FLOOR AREA ALLOWED PER BUILDING</u>: No building shall exceed a gross area of 5640 square feet, or 2820 square feet per floor. Parking areas are exempt from this regulation. ~~FLOOR AREA RATIO. To encourage variety in building height, a floor area to ground area ratio shall be used to calculate maximum buildable area. The maximum floor area ratio (FAR) shall be 4.0 measured as: Floor area divided by total lot area equals 4.0. Note that this is the potential maximum, and is not to be considered the minimum buildable area. Buildings of lesser square footage are encouraged~~.

7.2.7. <u>MAXIMUM BUILDING HEIGHT</u>. No building shall exceed two stories or 30 feet in height as measured from the midpoint of the building facade at the back of the curb adjacent to the parcel's Front Lot Line. For purposes of measuring heights on parcels which front on both Main Street and another street, the property line adjacent to Main Street shall be considered to be the Front Lot Line.

Where the Natural Grade of the Rear Lot Line is lower than the Natural Grade of the Front Lot Line, the maximum building height at the rear shall be defined by a plane measured at the midpoint of the rear building facade at the Rear Lot Line that rises vertically to a maximum of 30 feet. The maximum building plane may then proceed at a 45 degree angle toward the front of the building until it intersects the horizontal plane projected from the maximum height for the front of the building (see diagram). In such instances portions of the building may include three stories. ~~HEIGHT AND BULK PLANE. A maximum building envelope shall be defined by a plane that rises vertically at the front lot line to a height of 30 feet measured above the natural grade and then proceeds at a 45 degree angle toward the rear of the property until it intersects with a point 45 feet above the natural grade. No part of a building shall be erected to a height greater than 45 feet, measured from natural grade at the building site. Similarly, the rear portion of the bulk plane shall be defined by a plane that rises vertically at the rear lot line to a height of 30 feet measured above the average natural grade and then proceeds at a 45 degree angle toward the front of the property until it intersects with a point 45 feet above the natural grade of the building site. This provision shall not be construed to encourage solid roofing to follow the 45 degree set back plane.~~

7.2.8 MAXIMUM BUILDING WIDTH. No building shall exceed a width of 37.5 feet measured from outside wall to outside wall. Parking structures are exempt from this limitation. Multiple buildings are allowed on one lot. In the situations where property lines do not separate structures, wall penetrations for common facilities such as elevators, restrooms, and egress, are allowed. For purposes of this section, residential dwellings are considered separate tenants. Wall penetrations which would functionally combine tenant spaces beyond the maximum floor area allowed per building within the district are not allowed.

Renumber the remaining subsections in Section 7.2.

The following subsections of **SECTION 7.3 Historic Recreation Commercial (HRC) District** are hereby amended as follows:

7.3.5. SITE DEVELOPMENT STANDARDS. The site development standards for the HRC zone are as follows:

(a) Setbacks. 10 feet from the front and rear property lines, or existing curb lines, where the curb encroaches; 5 feet on side yards. On corner lots, both street frontages must maintain the 10 foot setback.

(b) Maximum Building Width. No building shall exceed a width of 40 feet measured from outside wall to outside wall. Parking structures are exempt from this limitation. Multiple buildings are allowed on one lot. In the situations where property lines do not separate structures, wall penetrations for common facilities, such as elevators, restrooms, and egress, are allowed. For purposes of this section, residential dwellings are considered separate tenants. Wall penetrations which would functionally combine tenant spaces beyond the maximum floor area allowed per building within the district are not allowed. ~~Facade Variations. Five feet, as defined in the standards for the HR-1 zone are required (see Section 7.1.4 of the Land Management Code).~~

(c) Maximum Building Height. No building shall exceed two stories or 30 feet in height as measured from the Natural Grade or final grade (whichever yields the smaller/shorter structure) at points adjacent to the foundation to the highest point of a flat roof or to the deck line of a mansard roof or to 33 feet to horizontal plane projected from the highest ridge of a hip or gable roof. A mansard roof or the parapet wall of a flat roof may extend a maximum of 18" above the deck line. Roofs not clearly fitting any of the above three classifications shall be classified by the Community Development Department in accordance with the roof classification it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration. (See Section 8.17 for supplemental height provisions and *see Historic District Design Guidelines for additional design criteria.).*

Where the Natural Grade of the Rear Lot Line is lower than the Natural Grade of the Front Lot Line, the maximum building height at the rear shall be defined by a plane measured at the midpoint of the proposed rear building facade at the rear setback line that rises vertically to a maximum of 30 feet measured from Natural Grade or final grade (whichever yields the smaller/shorter structure) at points adjacent to the foundation to the highest point of a flat roof or to the deck line of a mansard roof or to 33 feet to horizontal plane projected from the highest ridge of a hip or gable roof. The maximum building plane may then proceed at a 45 degree angle toward the front of the building until it intersects the horizontal plane projected from the maximum height for the front of the building (see diagram).~~Building Height. The maximum allowable building height is 35 feet.~~

(d) Parking. The residential parking requirement for the zone is the same as that for the RC zone (see Chapter 13 of the Land Management Code). All parking must be both on-site and fully enclosed unless the property is a part of a Master Planned Development. In Master Planned Developments, parking must be fully enclosed within the MPD site and must be encumbered by reciprocal easements (or their functional equivalent) to ensure that all sites within the MPD have legal access to adequate, enclosed, "on-site" parking. For projects within ~~existing~~ structures existing in their present form as of October 1, 1985 where there is insufficient area to provide for parking on-site, the parking requirement may be waived by the Community Development Director when necessary to retain the building intact. Parking for all other uses shall be consistent with the requirements set forth in Chapter 13.3(c).

(e) Vehicular Access. Projects shall have only one vehicular access from Park Avenue, Heber Avenue, Swede Alley or Deer Valley Drive, unless the project is a Master Planned Development, in which case additional accesses may be permitted. This provision shall not preclude the use of vehicular service accesses through alleys or service corridors developed within the zone or specific projects.

(l) Driveways must maintain the minimum side yard, unless serving more than one property.

(2) Vehicular access of Park Avenue is allowed only when the property has no other frontage on another public street, or in Master Planned Developments.

(3) Projects on the west side of Park Avenue must access from Park Avenue or from a cross street, and may not enter from Woodside Avenue.

(f) Pedestrian Access. Sidewalks are required on all street frontages, with a minimum width of five feet. Covered arcades between projects are exempt from side yard set backs, provided that the uppermost element of the arcade may not be more than fifteen feet above the elevation of the enclosed walk. Bridges are permitted between buildings on levels other than ground level, provided that no more than ten percent of the spatial volume of the side yard may be filled with bridges or bridge enclosures.

(g) Maximum Floor Area Allowed Per Building. No building shall exceed a gross area of 4400 square feet or 2200 square feet per floor. Parking areas are exempt from this regulation. ~~Existing Structures. Structures in the HRC zone that were in existence as of October 1, 1985 are exempt from the Floor Area Ratio and parking requirements of this code. The existing structures are also exempt from the setback, side yard, and driveway location standards, provided however that no additions to those buildings can violate the setback or side yard, nor shall any addition eliminate parking now in existence and associated with the building in question. Any substantial addition or alteration to an existing building will be reviewed under Chapter 12 of the Land Management Code as non-conforming uses.~~

(h) Floor Area Ratio. In all projects within the HRC Zone, except the Heber Avenue sub-zone area, non-residential uses are subject to a floor area ratio to restrict the scope of non-residential uses within the zone and within specific projects. All non-residential uses, except parking, are subject to the floor area ratio. On properties located east of Park Avenue, the floor area ratio of non-residential space to total lot area is 1:1. On properties located on the west side of Park Avenue, the floor area ratio of non-residential space to total lot area is 0.7:1 with 0.7 applying to the floor area and 1 to the lot area. In both cases, the ratio is determined by taking building gross floor area as a ratio of total lot area, without reduction for set back, side yards, or rear yards. Structures existing as of October 1, 1985 are not subject to the floor area ratio, and may be used in their entirety for non-residential uses as provided in this ordinance.

The following subsection of Chapter 7.4 **Historic Transition Overlay Zone (HTO)** is hereby amended as follows:

7.4.2. (~~b)~~ ~~Lot Size. Only lot area within the HCB District may be used to calculate the maximum size of commercial structures. The permitted floor area ratio shall be 4.0, measured as: Gross floor area divided by the total HCB lot area. The Community Development Department may permit the floor area ratio to be increased to 4.5 if the project demonstrates exceptional compatibility with~~

~~existing buildings through sensitive massing of building elements. The number of residential units permitted on the HR-1 portion of the site is subject to the provisions of the HR-1 District. Residential units in the HR-1 District are permitted in addition to the subterranean commercial development.~~

Renumber the remaining subsections in Section 7.4.2.

The following subsection of Chapter 7.14 **Historic Residential Development Low-Density (HRL) District** is hereby amended as follows:

7.14.3 (g) Building Height. Buildings shall not exceed a maximum height of 27 feet~~, as defined in Section 8.17~~. The maximum building height in the HRL District shall be defined as the vertical distance from Natural Grade or final grade (which ever yields the smaller\shorter building) at points adjacent to the foundation to the highest point of a flat roof or to the deck line of a mansard roof or to the horizontal plane projected from the highest ridge of a hip or gable roof. A mansard roof or the parapet wall of a flat roof may extend a maximum of 18" above the deck line. Roofs not clearly fitting any of the above three classifications shall be classified by the Community Development Department in accordance with the roof classification it most clearly resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration. See Section 8.17 for supplemental height regulations and *see Historic District Design Guidelines for additional design criteria.)*

**SECTION 4: AMENDMENTS TO CHAPTER 8 OF THE LAND MANAGEMENT CODE.** The following section 8.17 is hereby amended as follows:

8.17. HEIGHT PROVISIONS.~~The total height of the building shall be measured as the vertical distance from natural grade or final grade (whichever yields the smaller\shorter building) at a point three feet out from the foundation wall, as defined in this Code, to the highest point of a flat roof or to the deck line of a mansard roof or to the highest ridge of a hip or gable roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line . Roofs not clearly fitting any of the above three classifications shall be classified by the Community Development Department in accordance with the roof classification it most resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration.~~To allow for roof pitches and provide usable space within the structure, the following exceptions apply:

(a) In all but the HR-1, HRL, HTO, HCB and HRC Districts the ridge of a gable, hip, gambrel or similarly pitched roof may extend up to five feet above the specific maximum height limit for the zone;

(b) Antennas, chimneys, flues, vents, or similar structures may extend up to five feet above the specified maximum height limit for the zone;

(c) Water towers and mechanical equipment may extend up to five feet above the specified maximum height limit;

(d) Church spires, bell towers, flag poles, and like architectural features as permitted under the Historic District Guidelines, may extend over the specified maximum height limit by up to 50% of the height limit, but shall not contain any habitable spaces above the maximum zone height stated;

(e) In order to accommodate a ~~one-story~~ building element and pitched roof with a ridge design running perpendicular to the street on downhill lots, the Community Development Department may permit a building height increase, not to exceed 18 vertical feet to the ridge line when measured from the midpoint of the near edge of the street adjacent to the ~~front/street-side~~ ~~property~~ Front Lot Line. Additional building height, pursuant to this exception, shall not be permitted for portions of the structure further back than ~~34~~ 38 feet from the Front Lot Line. Prior to granting any additional building height pursuant to this section, the Community Development Department shall find that the proposal complies with all requisite policies in the Historic District Design Guidelines and results in a better overall architectural design and neighborhood compatibility. In such instances portions of the building may include three stories; and

(f) In order to accommodate a pitched roof running with a ridge design running perpendicular to the street, the Community Development Department may grant additional building height provided that no more than 20% of the ridge line exceeds the height requirements. Prior to granting any additional building height, pursuant to this exception, the Community Development Department shall find that the proposal complies with all requisite policies in the Historic District Design Guidelines, results in a better overall architectural design, and does not substantially interfere with sight lines of adjacent properties. *(This provision is intended to promote more historic roof forms and to prevent the proliferation of non-historic, long-sloping roof forms that run parallel to the slope.)*

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective upon adoption and shall apply to all Historic District Design Review applications received on or after August 22, 1996.

PASSED AND ADOPTED THIS _____ day of August, 1996

PARK CITY MUNICIPAL CORPORATION

______________________________

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Assistant City Attorney

PARK CITY
1884

# CITY COUNCIL REPORT

| | |
|---|---|
| **DATE:** | **August 9, 1996**<br>**(July 25, 1996 Meeting)** |
| **DEPARTMENT:** | **Planning Department** |
| **AUTHOR:** | **Patrick Putt** P.P. |
| **TITLE:** | **Appeal of the Planning Commission denial of applicants' request to amend the Snow Creek Crossing MPD and MPD/CUP application for a Zions Bank/ Visitors' Center** |
| **TYPE OF ITEM:** | **Quasi Judicial** |

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**SUMMARY RECOMMENDATIONS:** Deny the Applicants' appeal of the Planning Commission's denial of the applicants' request for a revision to the Snow Creek Crossing MPD and MPD/CUP for a bank and visitors' center at the northeast corner of Highways 224 and 248.

**DESCRIPTION:**

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|---|---|
| Applicants: | Park City Development, Snow Creek Crossing, L.C., Jesse Reid |
| Location: | 740 East Kearns Boulevard/Northeast Corner of SR224/248 Intersection |
| Zoning: | General Commercial, Residential Medium Development, Frontage Protection Zone Overlay, Regional Commercial Overlay |
| Adjacent Uses: | Office, Restaurant, Open Space |
| Application Completed: | December 11, 1995 |
| Project Planner: | Patrick Putt |

## BACKGROUND:

On June 12, 1996, the Planning Commission denied a request for a revision to the Snow Creek Crossing MPD and MPD/CUP for a bank and visitors' center at the northeast corner of Highways 224 and 248. The requested revision was based on a complete application submitted to and reviewed in full by staff and the Planning Commission. The Commission's action on that application is now being appealed by the applicant *(see attached June 24, 1996 appeal letter)*.

Additionally, prior to rejecting the application currently on appeal, the Planning Commission gave a brief, preliminary review to a revised concept plan *(an incomplete application)*. At that time, the Commission informed the applicants that the proposal was incomplete, and did not sufficiently address several important concerns which would require the applicant to submit additional information if the applicant desired to pursue that alternative. Rather than address the Planning Commission's concerns, the applicants chose to request Planning Commission action on the first and only complete proposal. The Planning Commission reviewed and then denied the applicants' request based on the complete submittal.

The applicants seek Council's approval of the completed application. Alternatively, if the Council is not willing to reverse the Planning Commission, the applicants would like Council direction regarding the revised plan.

Because the applicant acknowledges that there was only one complete plan before the Planning Commission and that the Planning Commission has not yet taken action on the (*incomplete*) revised plan, staff has broken this matter into two discussions and has addressed these separate issues in separate reports. This report addresses the appeal of the Commission's denial of the completed project application *(the March 27, 1996 work session/public hearing plan)*. A subsequent report deals with the applicants' proposed revisions.

**I. Proposal:** The applicants' proposal is for a revision to the Snow Creek Crossing Master Planned Development (MPD) and a master planned development for a 16,550 square foot bank with drive-through facilities and Chamber of Commerce visitors center at the northeast corner of the Highway 224/Highway 248 intersection. Access for the proposed project is via two existing driveways onto Highways 224 and 248, as well as a proposed driveway onto Snow Creek Drive. The 2+ acre project site consists of the 1.2 acre property formerly used as a car wash, the 0.68 acre *(29,620 square feet)* open space parcel known as Parcel D, Snow Creek Crossing Subdivision, a small portion of the Jess Reid Building property, and a large chunk of Highway 224 right of way that is not presently in use for highway purposes *(see attached location maps)*. The project area is located in four zoning districts: 1) General Commercial

(GC), 2) Residential Medium Development (RDM), 3) Frontage Protection Zone Overlay (FPZ), and 4) Regional Commercial Overlay (RCO) zones. A site plan and building elevations are attached to this report.

Two important aspects of the proposed plan are the applicants' request to locate (1) a substantial portion of the building and project improvements on the Snow Creek Crossing, open space parcel, Parcel D *(see attached Parcel D location map);* and (2) parking and access within the 30 foot "no build" area of the Frontage Protection Zone (FPZ). On August 30, 1995, the Planning Commission approved the Snow Creek Crossing subdivision plat with the requirement that Parcel D be designated non-buildable, except for landscaping, utilities, and signage unless a revised MPD approval and a conditional use permit for development within the FPZ were obtained.

The FPZ prohibits structures and improvements other than landscaping within 30 feet of the highway right-of-way line and requires a conditional use permit for any development in the area between 30 feet to 100 feet of the highway right-of-way line. The applicants' proposal includes parking, circulation and sidewalks within 30 feet of the highway right-of-way *(the prohibited area)*. The improvements extend off the applicants' property onto the UDOT right-of-way in a paved area pre-existing from the old car wash *(see attached map for location of UDOT property)*. The applicants' proposal also includes constructing the bank/visitors' center building and parking within the area between 30 feet to 100 feet of the highway. In order to build in this area an applicant must propose a use, the impacts of which can be sufficiently mitigated through the CUP process *(the CUP area)*.

**II. Project History:** The applicants' proposed bank with drive-through facilities, visitors' center, and MPD revision originated with an incomplete application submitted on May 24, 1995. The Commission's primary concerns included:

* loss of the Snow Creek Crossing, open space Parcel D;

* loss of vegetative buffers for screening the shopping center from the highway;

* adverse visual impacts on and improper, precedent-setting use of the Frontage Protection Zone; and

* adverse impacts of increased traffic and circulation patterns at and/or near the SR224/248 intersection.

The applicants submitted a completed project application on December 11, 1995. The Planning Commission conducted a work session and public hearing at the March 27, 1996 meeting. The Planning Commission reiterated its previously-stated concerns over the project and continued the matter until May 16, 1996.

Following the March 27, 1996 meeting, the primary applicant, Neil Richardson, suggested to staff that he was considering an alternative proposal for the site, i.e. reconstructing a gas station. Beginning March 28, 1996, staff attempted several times to contact the applicant by telephone and sent a letter to determine the status of project. The applicant telephoned the staff on May 3, 1996, with news of a revised plan for a bank/visitors center. However, the applicant did not submit the revised plan until May 16, 1996, (*the date scheduled for Planning Commission action on the original proposal*), so staff did not have an opportunity to review the revised plan and prepare an analysis for the Commission prior to its meeting. Therefore, staff recommended that the Commission postpone the project.

On May 16, 1996, the applicant requested that the Planning Commission take action on the original (complete) project (due to the fact that the newly-submitted sketch plan was not a complete application and the fact that the applicants did not want to postpone a Planning Commission decision on the project). The applicant also requested that the Commission review and provide input on the proposed revisions. If the Commission found the revisions to be acceptable, the applicant requested that the Commission approve the concept shown on the sketch plan with the condition that the final project design be approved by Staff subject to the requirements of the *Land Management Code, Section 10: Master Planned Developments*.

The Planning Commission determined that neither the applicants' completed plan nor its incomplete sketch-plat revisions adequately addressed the Commission's concerns related to:

* loss of open space currently platted under the Snow Creek Crossing, Parcel D;

* loss of vegetative buffers for screening the shopping center from the highway;

* adverse visual impacts on and in the Frontage Protection Zone;

* adverse impacts of increased traffic and improper circulation at and/or near the SR224/248 intersection; and

* off-site parking in the UDOT right-of-way *(no long-term lease for parking in the right-of-way for the bank/visitors' center use has been acquired by the applicant as of the date of this report)*;

The Commission denied the completed project application based on the following Findings of Fact and Conclusions of Law:

Findings of Fact

The following Findings of Fact are based on the project application reviewed by the Planning Commission on March 27, 1996:

1. The proposed bank with drive-through facilities, visitors center, and MPD revision are located in a highly visible location within and adjacent to Park City's highway Frontage Protection Zone.

2. *The Land Management Code, Section 2: Definitions*: defines a structure as:

    anything constructed , the use of which requires fixed location on the ground, or attached to something having a fixed location upon the ground and which imposes an impervious structure on or above the ground; definition includes "building." All structures must maintain the minimum setbacks for the district in which they are located, both above and below ground.

    The proposed bank with drive-through facilities, visitors' center, and MPD revision includes parking and vehicular driveways, i.e. impervious surface area on the ground, within 30 feet of the SR224/SR248 right-of-way. The *Land Management Code, Section 8.8(c): Frontage Protection, Limited Access To Highways*, specifies that no structure be erected within 30 feet of the nearest highway right-of-way in order to preserve view corridors and buffer areas, and to allow for possible future improvements of the highway.

3. Parcel D of the Snow Creek Crossing MPD and subdivision is platted as "non-buildable," with the exception of landscaping and utilities. The proposed bank with drive-through facilities, visitors center, and MPD revision includes a portion of the bank, drive-through facilities, parking and circulation on Parcel D. The proposed development on Parcel D will result in the loss of open space, existing vegetation, and buffer areas. The applicant has not proposed to replace the loss of open space with other open land.

4. The *Land Management Code, Section 8.8(a) : Frontage Protection, Limited Access To Highways,* requires that a project should:

    to the extent possible minimize access points and driveways to highways, access shall be from existing City streets that join with the highway rather than direct highway access.

    The proposed bank with drive-through facilities, visitors center, and MPD revision, creates a new vehicular connection between Snow Creek Drive and SR 224 and SR248. The new connection between Snow Creek Drive and SR224/SR248 could add vehicular turning movements at or near the SR 224/SR248 intersection.

5. The existing two driveway access points on SR224 and SR 248 would remain open as part of the proposed bank with drive-through facilities and MPD revision. The proposed bank with drive-through facilities and MPD revision would not prevent motorists from attempting left-hand turning movements which cause traffic conflicts into or out of the project.

6. The *Land Management Code, Section 13.1: Off-Street Parking* specifies that required parking must be provided on the same lot as the main building. The proposed bank with drive-through facilities, visitors center, and MPD revision includes parking off-site in the UDOT right-of-way.

7. The *Land Management Code, Section 7.6.4: (RDM Zone) Building Height*, permits a maximum building height of 33 feet above natural grade for structures with pitched roofs. The proposed bank and visitors center building height is 42 feet and, therefore, does not comply with *Section 7.6.4: (RDM Zone) Building Height*.

8. The proposed bank with drive-through facilities, visitors center, and MPD revision would create adverse impacts on the surrounding area as a result of the loss of currently platted "non-buildable" open space, loss of vegetative buffers for screening the Snow Creek Crossing shopping center from the highway, potentially hazardous traffic circulation, and development within the Frontage Protection Zone.

9. The applicants submitted incomplete application materials for the proposed bank with drive-through facilities, visitors' center, and MPD revision on May 24, 1995. The applicants' project application was completed on December 11, 1995. Planning Commission work sessions were conducted on the applicants' project on August 30, 1995 and March 27, 1996. Planning Commission public hearings on the proposed bank with drive-through facilities, visitors' center, and MPD revision were properly noticed and were held on March 27, 1996 and June 12, 1996.

Conclusions of Law

1. The proposed bank with drive-through facilities, visitors center, and MPD revision does not comply with the *Land Management Code, Section 10.9: Master Planned Developments-General Criteria For Review*.

2. The proposed bank with drive-through facilities, visitors' center, and MPD revision does not comply with all requirements of the *Land Management Code*, specifically, *Sections 7.6.4: Residential Development-Medium Density (RDM)- Building Height, 8.8: Frontage Protection , Limited Access To Highways, and 13.1: Off-Street Parking*.

3. The project plan would not be compatible with surrounding structures in use, scale, mass, and proposed circulation.

4. The use is inconsistent with the Comprehensive Plan.

5. All adverse impacts have not been mitigated through careful planning.

Minutes from the previous Commission reviews are attached to this report.

## ANALYSIS.

The applicants base their appeal of the Planning Commission's denial on five points. An analysis of the applicants' arguments is provided below. Staff's response to the applicants' points are in italics.

1. **Applicants Argue: The 30 ft. setback buffer zone is met by the revised site plan presented to the Planning Commission for review.**

   ***Staff Response***: *The revised site plan is not on appeal at this time. The only plan on appeal is the plan for which the applicant has submitted a complete application. Council will have an additional opportunity to review the revised (incomplete) site plan at the conclusion of this appeal. Neither the completed application nor the revised site plan complies with the requirement that no improvements be placed in the FPZ within 30 feet of the highway right-of-way.*

2. **Applicants Argue: The loss of open space through the use of "Parcel D" from the Snow Creek Crossing Subdivision is more than made up by the areas dedicated to landscaping to the south of the proposed Bank and Visitors' Center Building.**

   ***Staff Response***: *Approval of this plan will result in a net loss of open space and buffer. The area to the south of the applicants' property is in the UDOT right-of-way which they do not control. With the exception of the current non-conforming paved area, this area is already open space. Landscaping areas and open space in the vicinity of the applicants' property are already platted and improved as part of the Snow Creek Crossing development. No new open space area is proposed as mitigation for the use of the Parcel D open space. Under the applicants' plan on appeal (the completed application plan), only 24%, or approximately 7000 square feet of the 29,620 square feet would remain as open space. The remaining 7000 square feet is located to the side and rear of the project site which minimizes its value to the public for open space and highway corridor buffers for the shopping center.*

3. **<u>Applicants Argue:</u> The entrances off of Highway 224 and Kearns Boulevard are in existence and cannot be closed. The entrance off of Snow Creek Drive was established at the suggestion of Patrick Putt.**

*<u>Staff Response</u>: Staff has serious concerns with the proposed access, circulation and traffic congestion at this key intersection. This concern was also strongly expressed by the Planning Commission. Throughout the approval process for the Snow Creek MPD, staff and the Commission were mindful of guarding against the deterioration of 224/248, the busiest intersection in town. The access concerns relate to the project's interconnections between Snow Creek Drive and Highways 224 and 248, via the parking lot surrounding the proposed bank. In our opinion, development of the project as proposed could result in visitors and locals short-cutting onto and off of the two state highways.*

*The Land Management Code, <u>Section 8.8: Frontage Protection, Limited Access to Highways</u>, requires development: to minimize access points and driveways to highways; access shall be from existing City streets that join with the highways rather than direct highway access.*

*Staff contends that the applicants should minimize additional turning movements entering and exiting the state highways at this location. Those movements can and should be displaced to Snow Creek Drive, where the traffic can be handled by the more efficient layout of the lanes. This will require a revision to the applicants' plan so primary access is off of Snow Creek Drive. (The project architecture could still address the Hwy. 224/248 intersection.) Locating the project's primary access off of Snow Creek Drive would require directional signage.*

*The City is quite far along in a process to gain approval to modify the traffic signal at the intersection of Highways 224 and 248. The goal would be to give Highway 224 a solid green light for several minutes at peak periods, if necessary, in an effort to clear out the congested intersection of Deer Valley Drive and Park Avenue. Any drivers waiting to exit Zions Bank onto either state highway will most likely become frustrated by the bumper to bumper traffic. As we suggested to the applicant, the marginal number of these frustrated drivers can be reduced by channeling the Zions Bank traffic to Snow Creek Drive, with <u>no physical possibility</u> of connecting directly to the state highways. Snow Creek Drive's intersections are remote enough that those turning movements will be far less frustrating and, in Staff's opinion, less dangerous.*

4. **<u>Applicants Argue:</u> Regarding the parking spaces in the UDOT right-of-way, it should be noted that P.C. Development cooperated with the Planning**

**Staff's suggestions and reduced the number of parking spaces in the UDOT right-of-way from 17 to 8. Underground parking has been designed for the project at great additional expense. In addition the Planning Commission failed to recognize the we have obtained written permission from UDOT to lease the applicable area. It should also be noted that the configuration of the landscape buffer zone and parking area on the UDOT property meets the goal of the 30-ft. setback requirement.**

***Staff Response***: *The reference to the reduction in the number of proposed parking spaces in the UDOT right-of-way and the development of underground parking are part of the sketch plan revision and not part of the application which the Planning Commission denied (see subsequent report). To date, no long-term lease for the UDOT right-of-way has been provided to Community Development or Legal Departments for review. Without executing a long-term lease from UDOT, the applicants have no control over the applicable area and the City has no commitment that its long-term use as a landscape feature and/or parking can be assured. Underground parking would obviate the need to develop within the first 30 feet of the FPZ.*

5. **Applicants Argue: The Planning Commission finds that the maximum building height requirement of 33 ft. is exceeded by this project. However, the Planning Commission fails to recognize the revised plans which brings the height of the project below the 33-ft. maximum requirement.**

   ***Staff Response***: *The Planning Commission took action on the completed application which proposed a building with a maximum height of 42 feet. The maximum height allowed in the RDM/RCO zones is 28 feet/33 feet with a pitched roof.*

   *The revised plan is not on appeal at this time.*

## ALTERNATIVES.

1. Affirm the Planning Commission's denial of the completed application to amend the Snow Creek Crossing MPD and MPD/conditional use permit for a bank with drive-through facilities and visitors' center. **(Staff's recommendation)**

2. Reverse the Planning Commission's denial and direct Staff to prepare Findings of Fact, Conclusions of Law, and Conditions of Approval to approve the application to amend the Snow Creek Crossing MPD and MPD/conditional use permit for a bank with drive-through facilities and visitors' center based on the completed application.

3. Continue this item pending the review of any additional information the Council wishes to address.

**SIGNIFICANT IMPACTS.**

Should the Planning Commission's denial stand, the applicant may pursue development of the property within the parameters of the General Commercial, Residential Medium Development, Frontage Protection Zone Overlay, Regional Commercial Overlay zones.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION.**

Reversing the Planning Commission's denial of the proposed MPD revision and conditional use permit for a bank with drive-through facilities and a visitors' center at the proposed location will result in a significant loss of currently platted "non-buildable" open space, loss of vegetative buffers for screening the Snow Creek Crossing shopping center from the highway, potentially hazardous traffic circulation, and development within the Frontage Protection Zone.

**PUBLIC INPUT:**

The applicants' property was posted and legal notice was sent pursuant to state statute and the *Land Management Code* requirements. As of the date of this report, staff has received no public comment.

**RECOMMENDATION:**

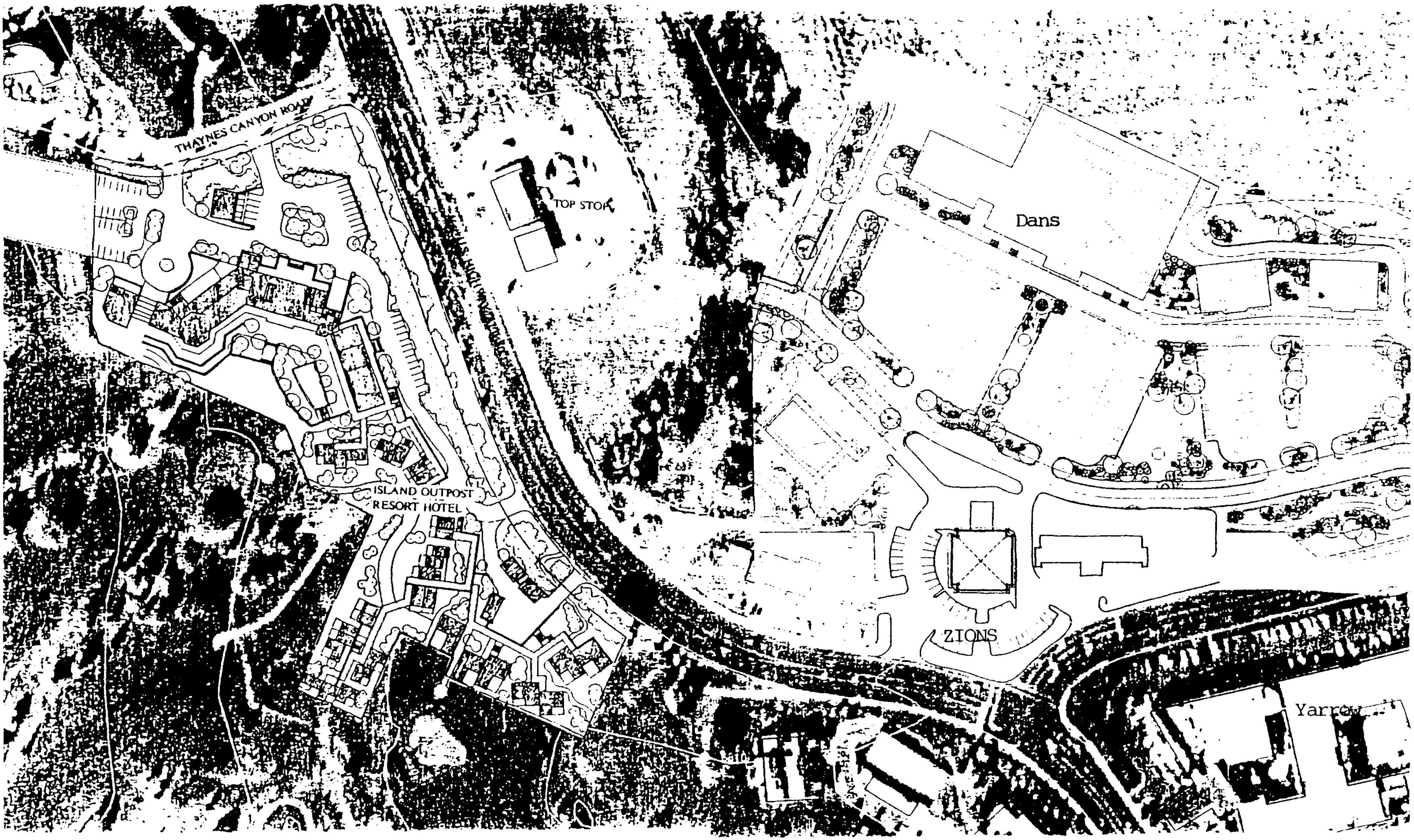
Staff recommends that Council affirm the Planning Commission's denial of the completed application to amend the Snow Creek Crossing MPD and MPD/conditional use permit for a bank with drive-through facilities and a visitors' center. From staff's perspective, the Planning Commission properly applied specific provisions in the LMC to the proposed development of this site.

**ATTACHMENTS:**

Attachment 1: Vicinity and Location Maps
Attachment 2: Existing Project Plans (3/27/96 Plans)
Attachment 3: Eric DeHaan's Vehicular Turning Movement Illustration
Attachment 4: 8/30/95 Commission Work Session Minutes
Attachment 5: 3/27/96 Commission Work Session and Public Hearing Minutes
Attachment 6: June 12, 1996 Commission Minutes
Attachment 7: Applicants' Appeal Letter

# ATTACHMENT NO. 1

# VICINITY AND LOCATION MAPS

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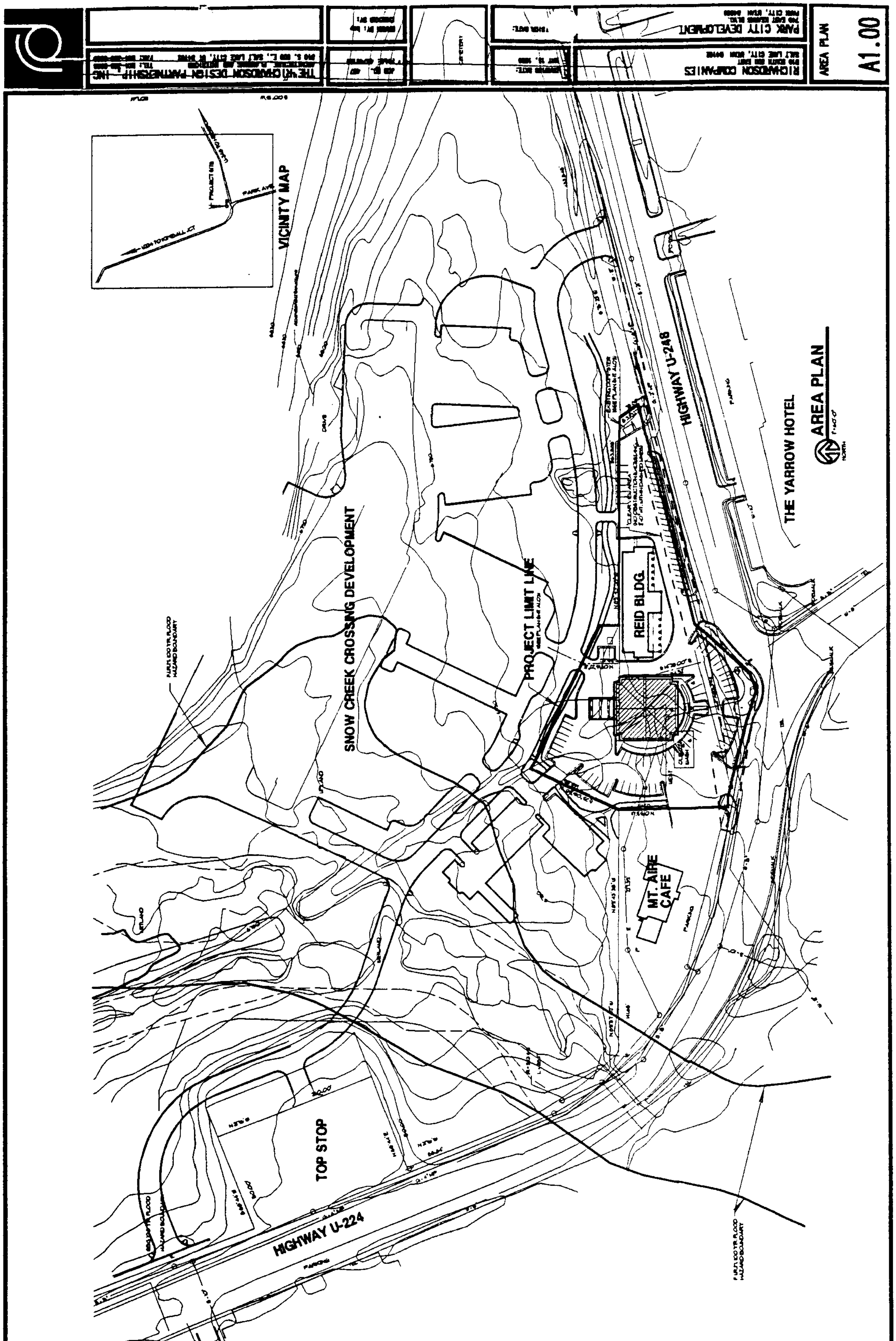
Loc Vicinity Map 2

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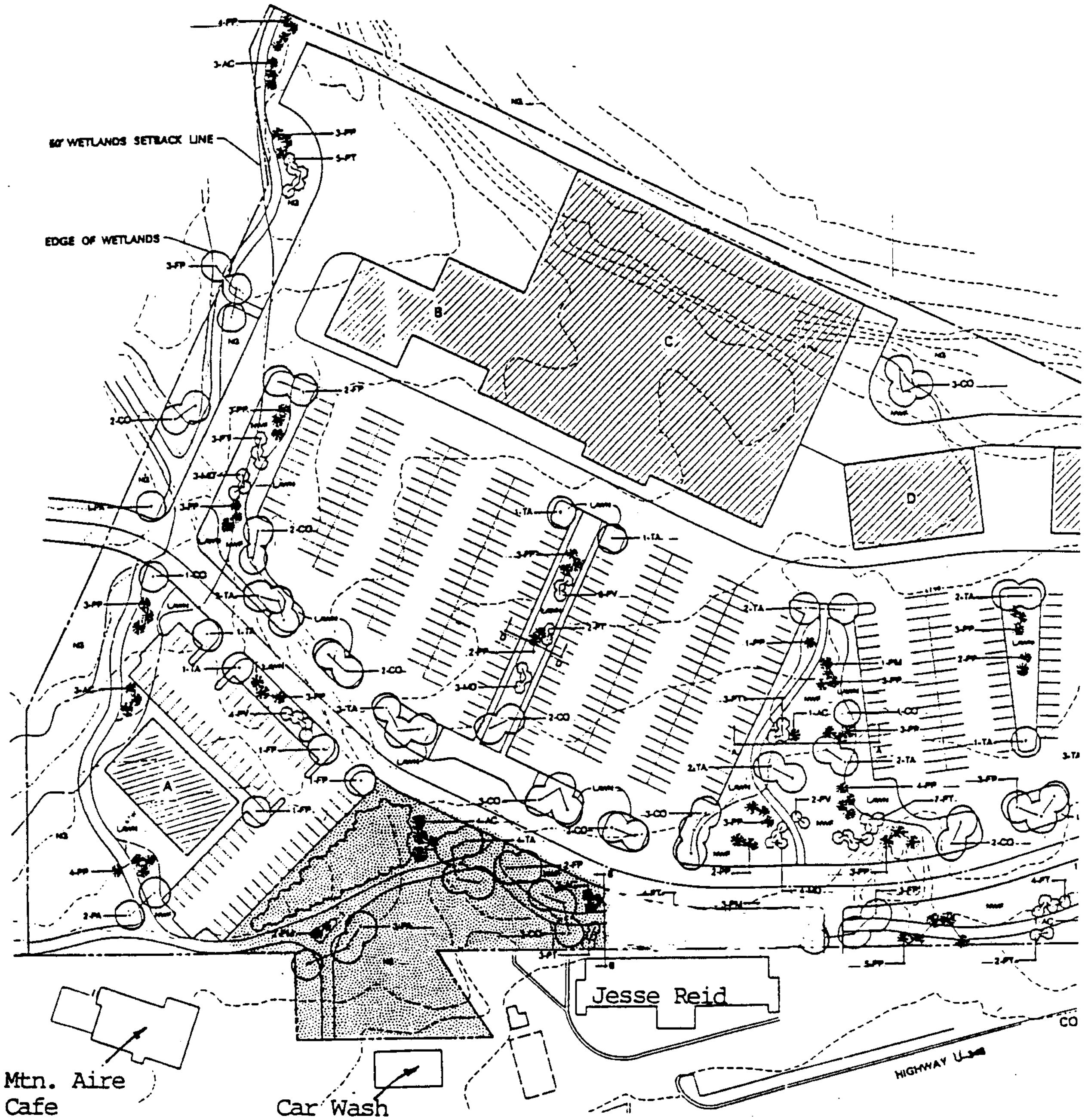
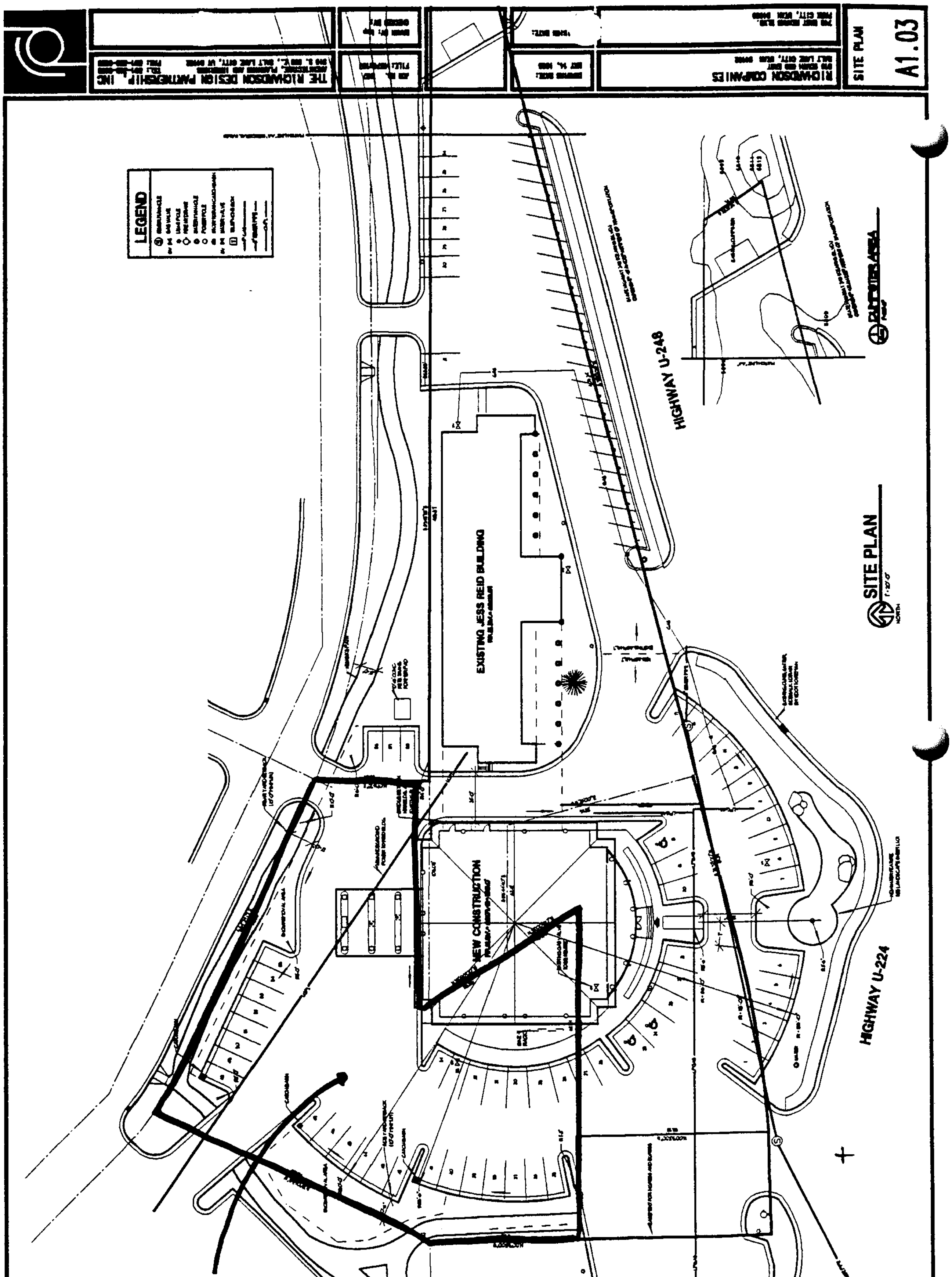
Vicinity Map



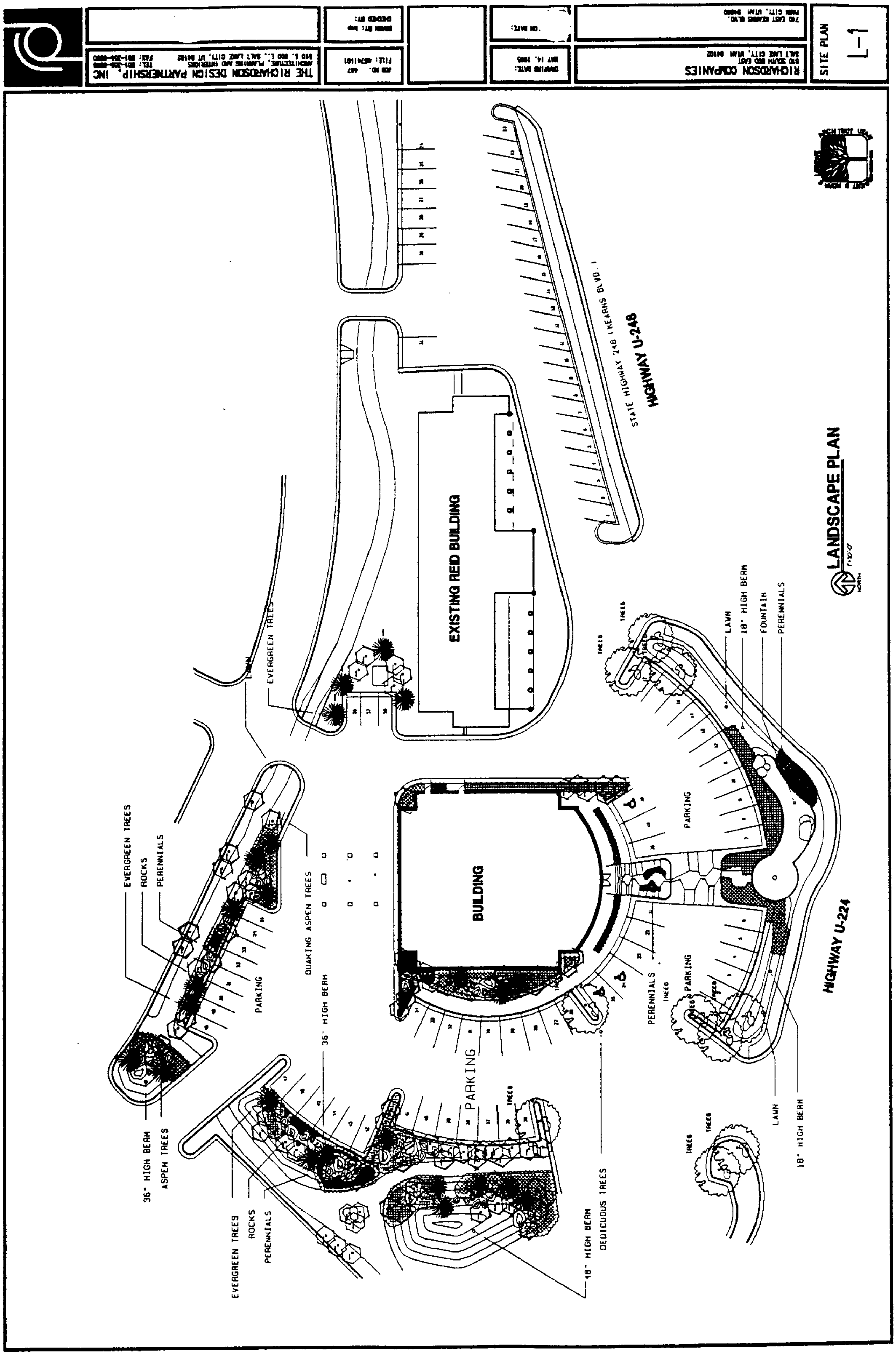

WESTERLY PORTION OF SNOW CREEK CROSS MPD;
OPEN SPACE AREA Parcel D (Shaded)

## ATTACHMENT NO. 2

## EXISTING PROJECT PLANS
## (REVIEWED BY PLANNING COMMISSION 3/27/96)



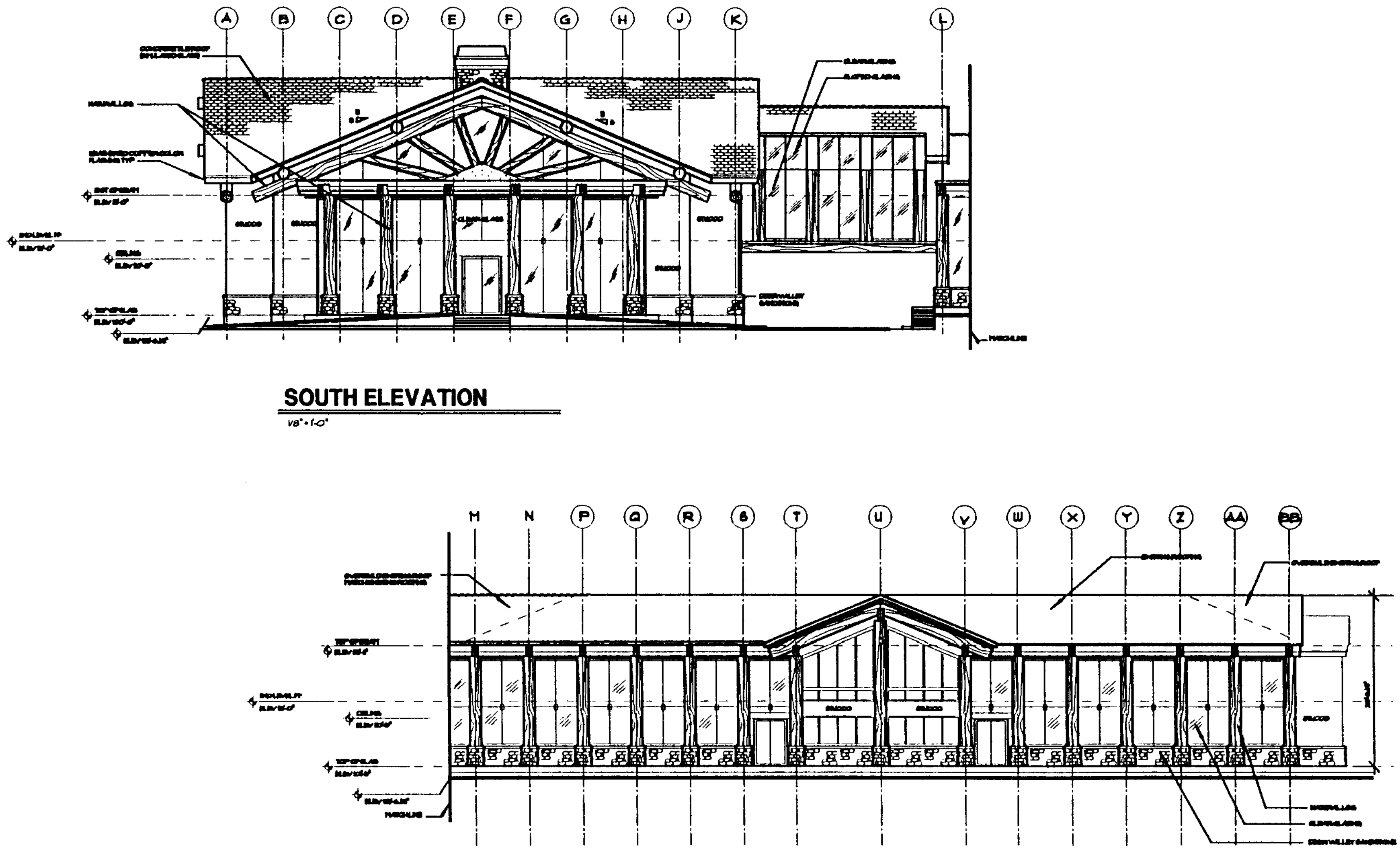

Location of Parcel D






Landscaping Plan

MAY 24 1995
PARK CITY
PLANNING DEPT.




SOUTH ELEVATION

1/8" = 1'-0"

THE RICHARDSON DESIGN PARTNERSHIP, INC

THE CONSULTANT ORG...TION, INC

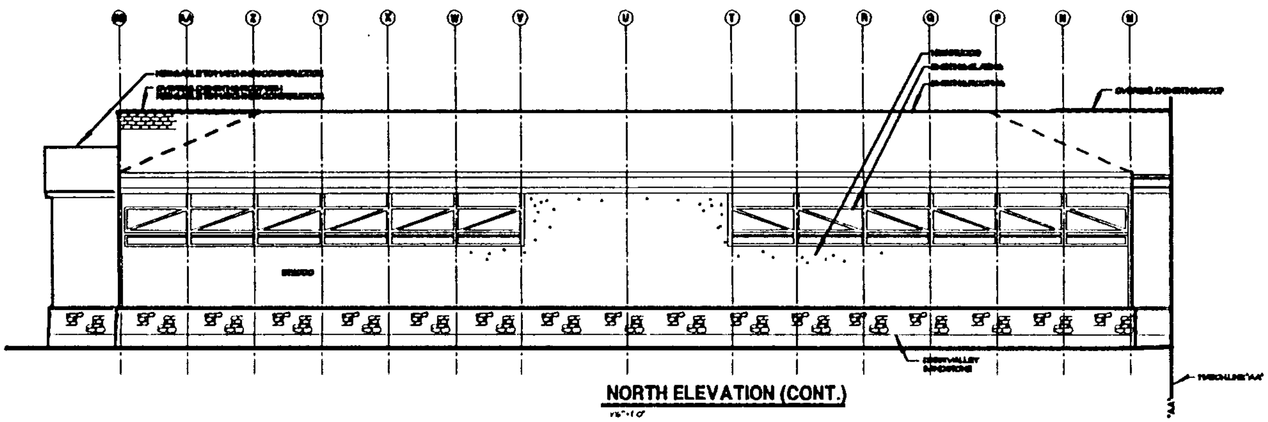
RICHARDSON COMPANIES

PARK CITY DEVELOPMENT

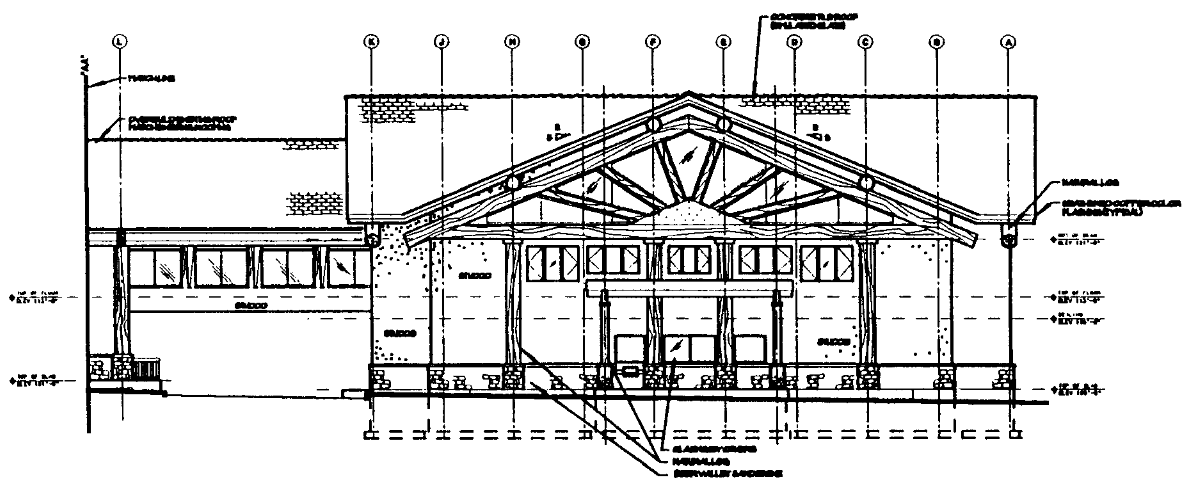
EXTERIOR ELEVATION

A3.01

RECEIVEL
MAY 24 1995
PARK CITY
PLANNING DEPT



NORTH ELEVATION (CONT.)



NORTH ELEVATION

THE RICHARDSON DESIGN PARTNERSHIP, INC

THE CONSULTANT OR ATION, INC

RICHARDSON COMPANIES

PARK CITY DEVELOPMENT

EXTERIOR ELEVATION

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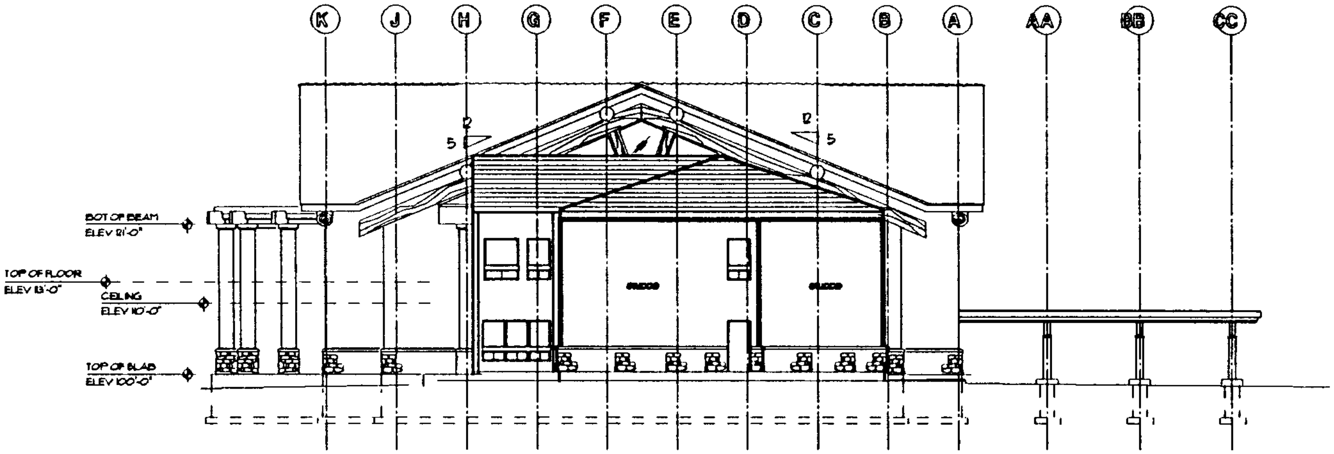
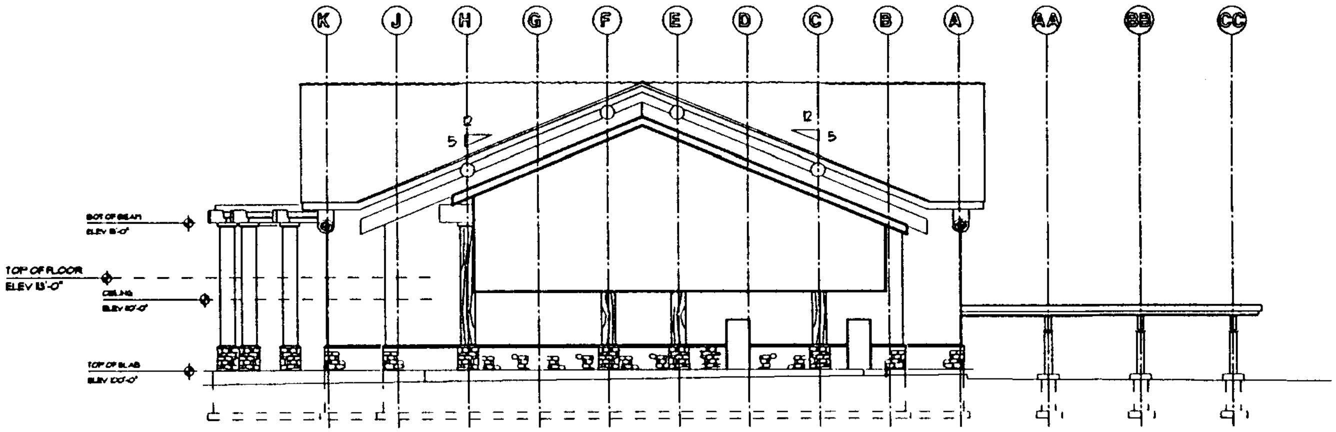



EAST ELEVATION
1/16" = 1'-0"




EAST ELEVATION
1/16" = 1'-0"

NOT FOR CONSTRUCTION

THE RICHARDSON DESIGN PARTNERSHIP, INC

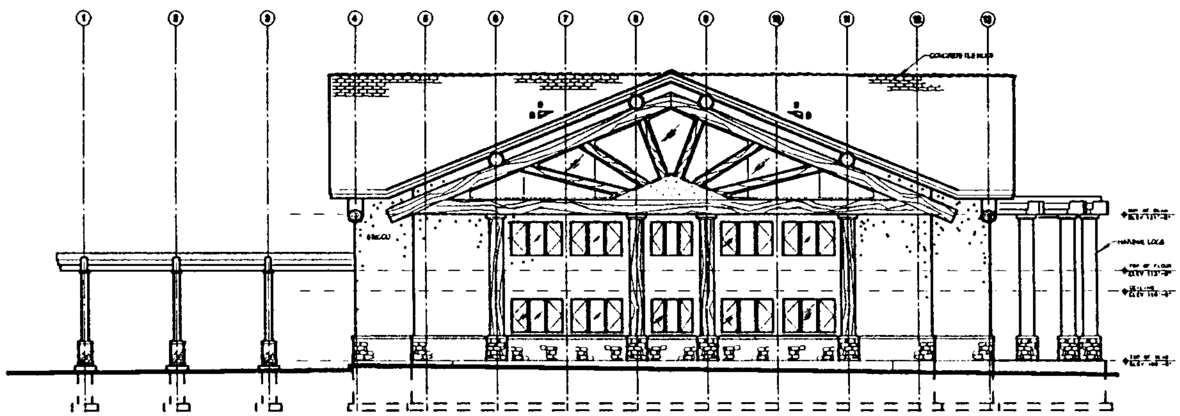
THE CONSULTANT OF ... ATION, INC

RICHARDSON COMPANIES

PARK CITY DEVELOPMENT

EXTERIOR ELEVATION

A3.03



WEST ELEVATION

THE RICHARDSON DESIGN PARTNERSHIP, INC

RICHARDSON COMPANIES

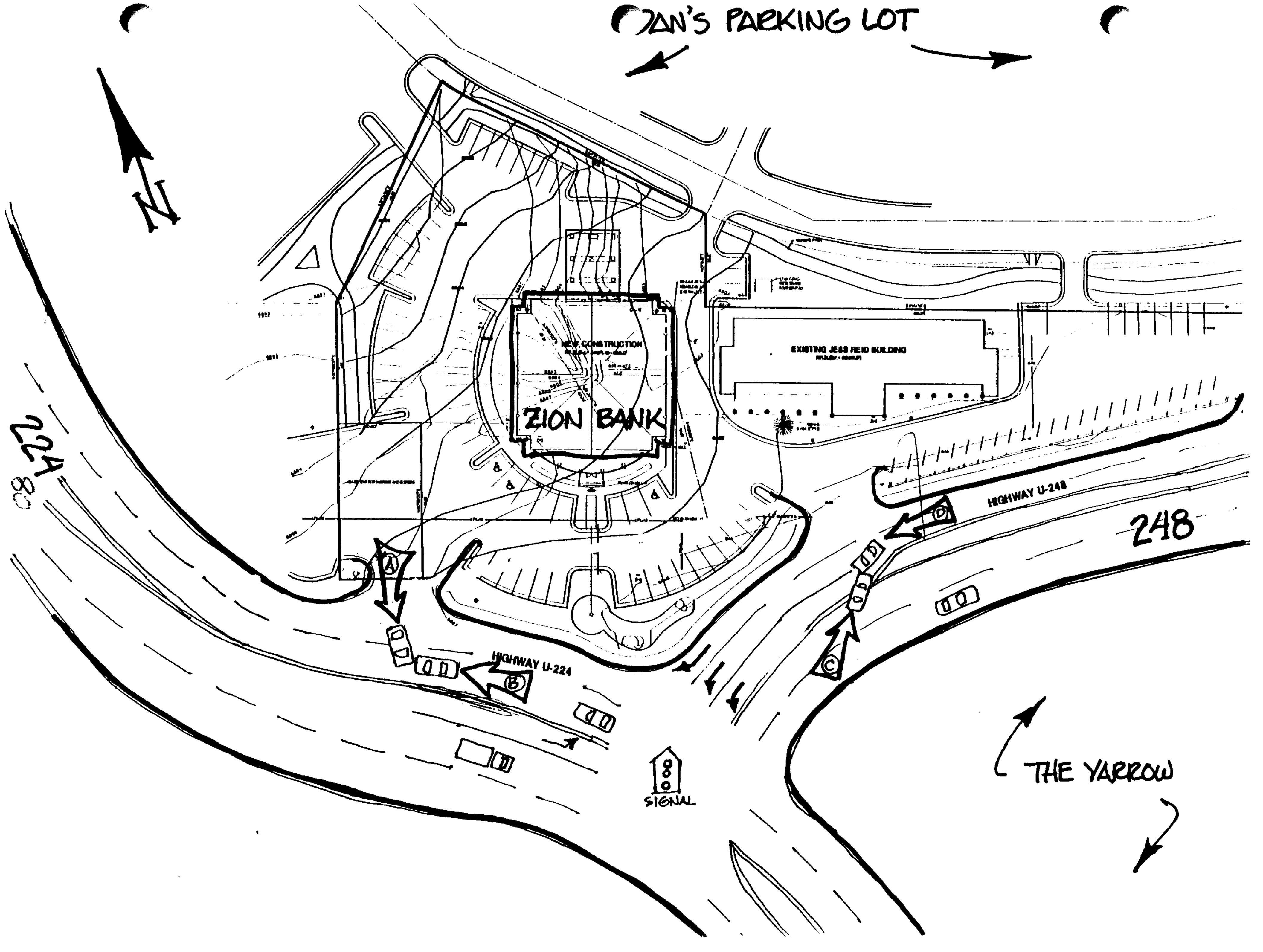
PARK CITY DEVELOPMENT

EXTERIOR ELEVATIONS

A3.04

# ATTACHMENT 3

# ERIC DeHAAN'S VEHICULAR TURNING MOVEMENT ILLUSTRATION


DAN'S PARKING LOT
N
ZION BANK
NEW CONSTRUCTION
EXISTING JESS REID BUILDING
HIGHWAY U-248
248
HIGHWAY U-224
224
A
B
C
D
SIGNAL
THE YARROW
80

ATTACHMENT 4

8/30/95 COMMISSION WORK SESSION MINUTES

impacts for the cemetery and visual impacts. The Commissioners were careful in their planning and specifically felt the site was not appropriate for a restaurant.

The applicant, Fred Fairclough, explained the change from a bank to a restaurant. The applicant had tried to market the development exactly as called for in the MPD but was unsuccessful. A marketing survey indicated that people in the area wanted a medium-priced family restaurant with a ticket price of $5 to $10 a meal. The developer tried hard to find restaurants meeting those criteria but found they were smaller users that would go into retail space. The applicant also marketed to every bank in the Wasatch Front with no success. Zions Bank was interested, but not for that location. They had a design in mind to locate on another corner that would allow space for a full-service bank and signature office building. The developers could not find an interested bank or a sit-down restaurant and eventually approached McDonald's. The McDonald's drive-through would be on the other side of the cemetery and would be face-to-face ordering with no microphones or speakers. In response to the traffic study, the engineers had prepared their comparison based on the difference between a restaurant and a bank. Mr. Fairclough agreed that a restaurant drive-through would bring traffic midday as opposed to rush hour like a bank. If traffic per se was a concern, the restaurant use would reduce the number of trips during rush hour because traffic would be focused more during the noon hour. Regarding intrusion on the site, Mr. Fairclough indicated that the mass of the building would be 68% less than the approved mass. He agreed that it was a use issue and commented that the use had changed because McDonald's was the only restaurant willing to come into the shopping center.

Commissioner Child understood the development problems but noted they were not the Planning Commission's problems. The Planning Commission had the responsibility to be sure that neighboring uses are compatible and make good planning sense. She needed to hear how it would be a better project for the community before she could consider any revisions.

Planner Ryan distributed the latest public input received opposing the proposal. Mr. Fairclough noted that the owner had obtained 76 signatures in favor of McDonald's that would be submitted at the Planning Commission meeting.

**Zion's Bank at Snow Creek**

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

Fred Fairclough introduced Neal Richardson, a representative for Zions Bank, who was available to answer questions.

Administrator Putt reported that this was an information item only to show the relationship of the overall project to the MPD. The Staff was not requesting any action as this is only the beginning of an on-going Staff review process. The Planning Commission would be requested to take action within the next few months.

He reviewed the application for a 10,000-square-foot bank and noted that the building would also include the Chamber of Commerce Visitors Center facility. The proposed location would cover several parcels of land which he indicated on a map. Lot 7 for Snow Creek was being proposed for platting. Any encroachment or development within the 100-foot frontage protection strip would require a Conditional Use Permit. The proposal encompasses the Jess Reid Building, a 10,000-square-foot bank with existing access off the existing points with road cuts off the Highway 248 and 224 connection onto Snow Creek Drive. Related parking and associated improvements on Lot 7 were indicated.

The Staff is working with the applicant and property owners to finalize a full application which would involve a series of steps. Before the Staff can make a recommendation, and in order for the Planning Commission to fully assess the merits of the application, the Staff will continue to work on several issues. One issue would be resolving some of the property ownership. The proposed building and other improvements are shown on property that is not owned by the applicant. The Staff had met with some of the property owners earlier in the week and were close to resolving the problems. Other issues included concerns about increasing development in the Frontage Protection Zone, loss of mature vegetation and the buffer aspect created by the existing MPD plan, traffic access and circulation patterns, and pedestrian circulation related to not having the MPD open space parcel. After receiving direction from the Planning Commission, the Staff will work with the applicant to resolve the issues and schedule the matter for an upcoming meeting.

Commissioner Child noted that the Snow Creek parcel started as a beautiful wetland area with a background. The Planning Commission changed the zoning to allow RCO and worked hard to make the master plan palatable. One reason she voted against the project was the amount of parking. She noted that the Planning Commission had negotiated the parcel of open space in front that saved a lot of trees and created a buffer for the sea of parking. She questioned why, after all the negotiations to retain the open space, the City would be interested in giving it away. Mr. Richardson responded that Commissioner Child should look at the trade-off between what was being given away and what they were getting. The Commissioners had created a nice park behind the property, but the UDOT parcel and the improvements were intended to be a gateway. He felt his project would enhance the parcel and that the City would benefit. Commissioner Child clarified that Mr. Richardson felt a 10,000-square-foot building with parking around it was a more aesthetically pleasing entry statement for the City than open space. Mr. Richardson felt that a well-designed building nestled into the right landscaping would be a greater enhancement. Mr. Fairclough stated that the building design was world class, and once the Planning Commission had an opportunity to see the building design, they would understand Mr. Richardson's point. Compared to what currently exists, he felt anything would be an improvement.

Commissioner Zimney agreed with Commissioner Child.

Commissioner Jones agreed and noted that he wanted to know the merits of the bank building versus the open space.

Commissioner Tesch felt it could be a nice corner and thought the City should trade off for it. If the City would lose some open space, they should get some back. He did not oppose the idea and believed the applicant could provide a nicely designed building that would enhance the corner, but if the Planning Commission approved the project and would lose open space, more open space should be given somewhere else.

Vice-Chair Klingenstein wanted to know the percentage of the 10,000-square-foot building that would be bank and the percentage that would be visitors center. He had significant traffic issues with that junction and noted that people were not happy with the intersection as it exists without adding the intensity of the proposal. He could see a loss of pedestrian orientation with the project that would conflict with the goal to achieve pedestrian orientation and circulation through the area.

**Heritage Crest Rezoning and MPD (in Deer Valley, north of the Pinnacle, south of the Aerie)**

Chair Erickson resumed the chair.

Chair Erickson reported that the applicant had informed the City Attorney, the Community Development Director, and Planner Kirsten Whetstone that the application had been completely withdrawn. Out of courtesy to the public who expect to give input as part of the process, he suggested taking public comment during the public communications portion of the agenda. He would ask the public to comment on the rezone question in general because the application no longer existed for a specific rezone. The Commissioners agreed to reopen public communications at the time the matter appears on

ATTACHMENT 5

3/27/96 COMMISSION WORK SESSION AND PUBLIC HEARING MINUTES

WORK SESSION



the site at ground level and not just over the site. That ability will be linked to the material, location, and height of the wall.

Administrator Putt noted that the matter is tentatively scheduled for public hearing on May 22.

**Zion's Bank/Visitor's Center - MPD Application**

Administrator Putt reported that this matter is scheduled for public hearing at tonight's Planning Commission meeting. The application is a request for a CUP, MPD, and an MPD revision for a 16,000-square-foot, drive-through bank and Chamber of Commerce visitor's center. The elemental issues are access and the use of Parcel D, which is the non-buildable open space tract of the Snow Creek Crossing subdivision. The Planning Commission previously reviewed the matter in August 1995. At that time, concern was expressed that the open space tract had been negotiated by the Planning Commission, and the idea of giving it up was not favorable. One Commissioner had suggested that it might be considered if the same amount of open space could be given back in key areas elsewhere in the subdivision. Administrator Putt asked for clear direction on whether the Planning Commission feels the plan presented by the applicants or the plan that could evolve from a list of suggestions summarized in the staff report would be beneficial to the point of trading 29,000 square feet of open space.

Neal Richardson represented the applicant and reviewed the revised site plan. He noted that the City would not be giving up 29,000 square feet of open space as the plan area contains 24,000 square feet of landscaped open space. The City would only really give up 4,500 square feet of open space, although the 24,000 square feet would be divided up around the site and not concentrated in one area. He reported that a key issue expressed by City Engineer Eric DeHaan was circulation. Mr. Richards felt the issue had been resolved through orientation of the buildings to enable people to use the Snow Creek road to limit circulation and through traffic.

Chair Erickson asked Mr. Richardson if his plan had been reviewed by Staff. Mr. Richardson replied that the Staff had made several suggestions at a staff review meeting, and the suggestions are incorporated into the plan. The Staff had not had an opportunity to see the revised plan in detail prior to the meeting. Chair Erickson asked Administrator Putt if he was comfortable with the Planning Commission reviewing the site plan before a Staff review. Administrator Putt felt the fundamental issues were the same, and he was comfortable moving forward.

Mr. Richardson noted that the building was lowered to meet the 33-foot height restriction, and the scale of the building and amount of glass on the front elevation was reduced. He indicated the location of the bank, the visitor's and convention center, and the open space.

Chair Erickson clarified that the applicants are using 4,500 square feet more of parcel D than they are returning and asked why the City should be willing to give up 4,500 square feet of open space. Mr. Richardson explained that representatives of the City had approached Zions Bank with the idea of a signature corner for the City and suggested a fountain and visitor's center. He felt the project would enhance the entry and noted that it is a gateway corner into the City. Chair Erickson asked Mr. Richardson to explain exactly how the town would benefit by giving up open space. Mr. Richardson felt the question was what the Planning Commission wanted on that corner. Chair Erickson replied that he viewed open space as being very beneficial, and he could not see an improvement to the City worth making the trade.

Commissioner Zimney agreed with the staff report and felt there were so many problems with the site that she was unsure they could be overcome. Numerous problems indicated to her that perhaps the project does not belong on that site. She agreed with the statement in the staff report that traffic on Highway 224 and 248 would be totally unworkable, and she could not support this plan.

Commissioner Jones questioned the accuracy of the 4,500 square feet of lost open space. He explained to Mr. Richardson that, in order to give up open space, they need to get something in return. He did not see that happening with the proposal, and counting land in the highway right-of-way as open space did nothing for him. He agreed that there are numerous problems with the site. Parcel D was platted as open space in exchange for the development behind it, and for Zions Bank to request its use did not make sense without something significant in return.

For all the reasons articulated and because of the original MPD, Commissioner Larson could not find a compelling reason to modify the MPD and allow the project. The parcel is designated as non-buildable with the exception of landscaping, utilities, and signage, and he could not see that the City was getting anything back. Mr. Richardson asked if a visitor's and convention center would be an asset. Commissioner Larson replied that it was not an asset and would create incredible traffic circulation problems.

Commissioner Calder felt the plan should be reviewed by the Staff to determine whether the revised plan is an improvement. He was dismayed that nothing had changed and that they are no further than they were last August. He wanted to get rid of the car wash and replace it with something better. He believes there could be some trade-offs, but he was not convinced with this plan.

Mr. Richardson understood concerns with the open space and noted that he was not involved with the Snow Creek development or negotiations. Other things can be done with the property, and he offered to provide alternatives.

Commissioner O'Hara supported the Staff's recommendations and agreed that the design should be referred back to Staff for review. He was concerned with traffic flow and was not interested in breaking up the open space.

Chair Erickson directed Administrator Putt to work with the applicant to obtain an accurate accounting of space and location of space, how much space is in the Frontage Protection Zone, and the location of the property lines. He also wanted to know the open space requirement for the zone. Administrator Putt stated that he would present that information at the public hearing.

Commissioner Hayes-Walzer agreed with the other Commissioners and the Staff. She stressed the importance of a pedestrian walkway as one does not currently exist.

Chair Erickson directed the applicants to work with the Staff on technical details. When the Staff is comfortable with the product or reaches an impasse, it will be scheduled again for the Planning Commission.

Commissioner Zimney asked the Staff to provide reasons why they should entertain amending the MPD. The Planning Commission had spent years working on the Master Plan, and she wanted to see significant reasons why it should be changed and why traffic should be promoted at that corner.

Commissioner Calder noted that open space was discussed conceptually, and before deciding on trade-offs, the Planning Commission should visit the site for other possible perspectives.

PUBLIC HEARING



Commissioner O'Hara asked Mr. Kohler and Mr. Ross when they knew that November 30 was the cut-off date. Mr. Kohler replied that it was when he received the letter on November 29. Mr. Ross replied that he heard about it two days later from Mr. Kohler.

MOTION: Commissioner Larson directed the Staff to prepare findings to deny the appeal and moved to CONTINUE the matter. Commissioner Hayes-Walzer seconded the motion.

VOTE: The motion passed 5 to 1, with Commissioner Zimney voting against the motion.

3. **Zion's Bank/Visitor's Center - MPD Application**

Chair Erickson opened the public hearing.

There was no public input.

Chair Erickson closed the public hearing.

Administrator Putt presented a drawing showing the approved MPD for Snow Creek Crossing and indicating Parcel D where Zion's Bank had requested to build. With the exception of the area to the east along the cemetery boundary, the project site comprises the largest contiguous open space tract on the project. An illustration showing the location of some of the larger trees in the open space tract was reviewed. Administrator Putt noted that parcel D is currently platted non-buildable as it was originally negotiated by the Planning Commission to remain as open space to offset the extended parking in front of Dan's. In addition to the Parcel D open space, other areas are to be left as open space or landscape improvements. Administrator Putt indicated the property line was also the beginning of the Frontage Protection Zone. The applicant proposed including parking, circulation, and sidewalks within 30 feet of the highway right-of-way. The applicant also proposed constructing the bank/visitor's center building and parking within the area between 30-100 feet of the highway. Improvements extend onto the Utah Department of Transportation right-of-way in an area which was previously parking for a car wash. The Staff had informed the applicants that building within the Frontage Protection Zone could be considered, but there were problems associated with the request. If the applicants could eliminate the parking and demonstrate that the Department of Transportation would grant a long-term, 99-year lease, the Staff would consider the UDOT parcel as part of the project site.

Commissioner Jones asked if UDOT was willing to grant a long-term lease. Administrator Putt replied that a letter had been submitted approving the site plan, but the Staff had not seen a lease or the terms of a lease.

Commissioner Zimney noted that the majority of the proposed building is located on Parcel D and that Dan's was approved because it is below highway grade. The Zion's Bank request is not below grade and negates the purpose of the master plan.

Scott Anderson, representing Zion's Bank, stated that he was as frustrated as the Planning Commission over the length of time this matter had continued. When the bank first spoke with the architect, the property acquired was large enough to build the type of structure they desired. However, City representatives and the Chamber of Commerce approached Zion's Bank with the request to install a fountain and enlarge the building to accommodate a joint venture with the Chamber of Commerce. The bank agreed to the joint venture and paid the additional expense to purchase Parcel D. He was frustrated at the Planning Commission's comments about not wanting the Chamber of Commerce building in that location and the amount of traffic it will generate. He explained that the building and the fountain which the Commissioners dislike were included because the City requested them. If the bank is spinning its wheels by trying to accommodate the Chamber and the City, he asked that the Planning Commission let them know so they can move forward with a design that better fits the property.

Chair Erickson felt the questions about building size and the fountain were irrelevant at this time. He summarized the issues outlined in the Staff report, which included a building that would take up platted open space, a project that would contribute significant traffic on the busiest intersection in town, and a building that, previous to this application, was over height. He did not feel it was appropriate to trade off all the issues, including open space, in exchange for a fountain. He noted that earlier comments from some of the Commissioners were that they might be willing to consider moving the open space to another appropriate location in the project. He noted that this was not a consensus opinion, and some Commissioners were not willing to move the open space at all.

Administrator Putt commented that the issues outlined at this meeting are reflective of the issues discussed on August 30, 1995. In addition to circulation, open space, and building size, the issues include access and the impact of the project in the context of the rest of Snow Creek.

Neal Richardson, architect for the project, felt there was a communication problem between City bodies. He was directed by the Staff three months ago to hire a traffic engineer who arrived at the same conclusions the applicant had already determined, that it is not a great intersection, and moving or changing anything would only make it worse. He found the circulation issue frustrating because the applicants had complied with the Staff's suggestions. He felt they were to the point of adjusting buildings, and he understood the concerns about open space. He felt the open space was great from the Snow Creek development site. There would be no impact from Highway 224 because the open space cannot be seen due to the existing structures. He understood the Planning Commission's desire to preserve open space, but if they were removed from the situation as a third party, they might see it differently. A car wash and a gas station on that corner would not be what he wanted in his City. He thought the Planning Commission wanted something better, and he was willing to give them something better. He reminded the Commissioners that the bank did not suggest the fountain.

Chair Erickson replied that he found it difficult to understand why the City should give up platted open space. The open space was platted as part of the Snow Creek open space and had nothing to do with the Zion's Bank project. He agreed that there might be a better location for the building, but that was not the issue at this meeting and was not part of the application, so the Planning Commission could not discuss it. As to the gas station proposal, he read from the Code that a gas station on that site would be a conditional use. If the gas station is moved to the RCO zone, it would become a conditional use and could only be done as an MPD requiring 60% open space. He was unsure that a gas station could even be considered. Holding the threat of a gas station over the heads of the Planning Commission was not an appropriate reaction.

Mr. Richards stated that the bank had done an existing EPA clean up on a statutory gas station which existed on the property. He felt they had excellent grounds to request that a gas station be put back into service, but that was not what the applicants wanted. He stated that he understood that the open space issue was the pivotal point, and he agreed to look at it again. He expressed a willingness to work with the Planning Commission to achieve the best project for everyone.

Commissioner Jones was unsure that the issues could be resolved and did not feel the trade-offs on open space were worth what they would get in return.

Commissioner Larson supported the Staff on their direction to the applicant as outlined in the staff report.

Chair Erickson felt that, if open space is to be relocated, it should be given back value for value.

Commissioner Zimney believed that parcel D should be left as platted open space in keeping with the original MPD.

Chair Erickson noted that the matter is scheduled for public hearing only, and the Planning Commission was not expected to take action. Administrator Putt requested that the matter be continued to May 8.

MOTION: Commissioner Jones moved to CONTINUE the Zion's Bank/ Visitor's Center MPD application to May 8, 1996. Commissioner Larson seconded the motion.

VOTE: The motion passed unanimously.

**4. 55/57 King Road (Anchor Development) - Plat Amendment**

Administrator Putt reviewed the application to combine 9-1/2 platted lots in the Millsite Reservation and a 2,729-square-foot metes and bounds parcel into two single-family lots. Access to the property is located directly south of the King Road/Upper Norfolk/ Sampson Avenue intersection. The property is located in the HR-1 Zone. The proposed lots have uphill slopes and are vegetated primarily with scrub oak. Historic structures are located directly to the east and west of the applicant's site, and the properties to the south are vacant. Development to the north across King Road is primarily a mix of historic and recent residential construction. The Planning Commission reviewed this item at work session on December 13, 1995, and expressed concern that the house sizes be compatible with the surrounding residences. The Commissioners also requested an overlay of existing roads, rights-of-way, and houses. Administrator Putt reviewed the overlay.

Administrator Putt reported on a 1985 agreement signed by the property owners regarding fire-code provisions for development of two houses on the property. The agreement imposed special access, driveway, fire mitigation, and water line improvements as conditions precedent to the issuance of building permits. Ron Ivie concluded that the conditions imposed by the agreement would meet the current fire code provided no further subdivision or access were allowed. The Staff has drafted conditions of approval for Planning Commission consideration. In addition, a condition of approval has been prepared stating that a note is to be added to the plat which specifies that further subdivision and/or the development of additional units beyond the two units named in the 1985 agreement shall be prohibited.

Access to the two lots would be by way of a 16-foot-wide paved drive to King Road. The City Engineer and Chief Building Official have reviewed the access proposal and determined it to be

# ATTACHMENT 6

# JUNE 12, 1996 COMMISSION MINUTES

MOTION: Commissioner O'Hara moved to forward a NEGATIVE recommendation to the City Council with the Findings of Fact and Conclusions of Law outlined in the staff report. Commissioner Larson seconded the motion.

Commissioner Erickson asked for the motive behind the motion and Commissioner O'Hara replied that he could see some reasonableness to use the space, but he was greatly concerned with setting precedent. Commissioner Erickson was unsure what would happen next if the application is denied.

Commissioner Calder remarked that, legally, the 260 square feet would be walled up and become non-usable square footage in the structure.

VOTE: The motion passed 5 to 1, with Commissioners Calder, Erickson, Hays-Walzer, Larson, and O'Hara, voting in favor of the motion and Commissioner Zimney voting against the motion.

**6. <u>Zion's Bank/Visitor's Center</u>**

Administrator Putt reported that this application is a request for a revision of the Snow Creek Crossing master plan and an MPD for a 16,550-square-foot bank with drive-through facilities and a Chamber of Commerce Visitors Center located at the intersection of Highway 224 and Highway 248. He reviewed an exhibit illustrating of the location and configuration. The project dates back to May 1995 when an incomplete application was submitted. As part of a review of another revision proposed for the Snow Creek project and a pending McDonald's project, the Staff reviewed the Zion's Bank project as a macro view of potential modifications to the Snow Creek plan. The application was completed in December 1995 and scheduled for work session and public hearing on March 27. Administrator Putt presented the plan reviewed on March 27, at which time the Planning Commission expressed concern over the loss of a significant portion of 29,000 square feet of open space on Parcel D, the loss of vegetation buffering the shopping center from the two highways, the visual impacts and use of the Frontage Protection Zone (specifically the 30-foot, no-build zone), and the adverse impacts of traffic circulation created by a new connection between Snow Creek Drive and the two State Highways. Staff's concerns also included the use of the UDOT right-of-way for part of the project's parking. Discussions with the applicant in March determined that, if a long term lease could be executed between the State and property owner, the Staff would be willing to bring the argument to the Planning Commission that the area involved could be counted toward the 30-foot FPZ setback. The Staff does not yet have documentation that the lease has been executed. The building reviewed in March exceeded the RDM zone required height, but it has since been modified.

The Staff had proposed eight or nine alternatives to make the plan better which include moving the drive-through to the west side of the project to allow for ingress only, removal of all parking from the UDOT right-of-way and putting the parking in a shared configuration with Snow Creek or under ground, increasing the size and width of the buffer area along the highways, providing dedicated open space areas in other key visible areas within the subdivision in exchange for improvements on open space Parcel D, reduction in building size and footprint, reduction in building height, and increasing articulation in the building mass. Proposed changes have been submitted in the form of a sketch plan and include moving the building pad to the west edge of the site, shifting the drive-through from the north elevation to the east elevation, providing 11 underground spaces accessed off of Snow Creek Drive, reducing the number of parking spaces in the UDOT right-of-way from 16 to 8 spaces, reducing the building areas from 16,500 square feet to 13,000 square feet, and reducing the building height to 33 feet. The Staff agrees that the revisions are an improvement but do not resolve the issues and concerns expressed by the Planning Commission and Staff. The Staff recommends that the Planning Commission review the existing application and the revisions shown on the sketch plan, but only take action on the complete application which includes all final drawings and submittal materials. If the Planning Commission determines that the revised plan does not fully address the project concerns but would like to see it pursued, the Staff recommends that the Commission give further direction, such as implementing the other design modifications suggested by the Staff. If the Planning Commission chooses to deny the application, the Staff has prepared Findings of Fact and Conclusions of Law based on the plan reviewed by the Commission on March 27.

Chair Jones opened the public hearing.

Neal Richardson, representing the applicant, felt the revisions made the plan better, and open space would be preserved as a big piece. He noted that the remaining stalls on the UDOT property belong to Jess Reid and are currently under lease. He felt that the plans were closer to addressing all the concerns, and he wanted a chance to work with Staff to mitigate the remaining concerns.

Chair Jones closed the public hearing.

Commissioner Larson felt the revision was a step forward but strongly believed that the points raised at the last meeting had not been completely addressed. It is important to trade quality open space for quality open space, there should be no circulation access from Highway 224 at Kearns Boulevard, and the 30-foot, no-build zone means exactly that. Based on those comments, he did not see how they could move forward with this proposal.

Chair Jones agreed with Commission Larson and added that two high-traffic uses are not appropriate at that intersection.

MOTION: Commissioner Calder moved to DENY the application for Zion's Banks Visitor's Center based on the Findings of Fact and Conclusions of Law outlined in the staff report. Commissioner Zimney seconded the motion.

Commissioner Hays-Walzer asked if it would be possible to move the building back to get the traffic off the highway and put the open space in front of the building. Administrator Putt replied that an existing easement for the Mt. Air Cafe would make her suggestion difficult. Commissioner Larson explained that the open space contains significant vegetation and is one reason why it is located where it is.

VOTE: The motion passed unanimously.

Because the parcel is critical, Commissioner Erickson suggested a conceptual discussion at a later date on the uses that could be accommodated on the buildable parcel and whether the Planning Commission could contemplate land exchange or project exchange for Parcel D.

7. **Willow Ranch Subdivision - Plat Note Amendment**

Planner Whetstone reviewed the request to amend a plat note for the Willow Ranch subdivision. The subdivision consists of seven lots ranging in size from .7 to 8.3 acres. Four of the lots larger than five acres are designated as equestrian lots. The subdivision approval was subject to several conditions, and one condition required an animal management plan and maintenance covenant to address the number of horses allowed on those four lots. The management plan on file with the City limits the number of horses on each of the equestrian lots to three plus one unweaned colt. After six months, the colt is considered to be a horse. The plat note that resulted before the plat was recorded reads, "On lots 1, 2, 6, and 7, a maximum of three horses will be allowed, and no grazing of horses in the wildlife corridors." An Army Corps of Engineers permit was granted and included in the CC&R's which states that no more than one horse per two acres is allowed. The Staff contacted the Army Corps of Engineers for clarification. Their response states that unweaned colts are horses. The Army Corps of Engineers also counts the entire lot, even if a portion is

# ATTACHMENT 7

# APPLICANTS' APPEAL LETTER

RICHARDSON COMPANIES

June 24, 1996

HAND DELIVERED ON JUNE 24, 1996

RECEIVED 24 1996 PARK CITY LEGAL DEPT.

Anita Sheldon, City Recorder
Park City Municipal Corporation
445 Marsac Avenue
Park City, Utah 84060-1480

Re: Park City Planning Commission's Denial of P. C. Development's Application for Zions Bank/Visitor's Center Project - Date of Denial June 12, 1996.

Dear Ms. Sheldon:

For the following reasons it is necessary to appeal the Planning Commission's denial of the application by P. C. Development for the Zion's Bank/Visitor's Center Project. The denial took place at the Planning Commission meeting on June 12, 1996. Please refer to the findings of fact and conclusions of law set forth in Patrick J. Putt's letter dated June 13, 1996.

1. The 30 ft. set back buffer zone requirement is met by the revised site plan presented to the Planning Commission for their review;

2. The loss of open space through the use of a portion of "Parcel D" from the Snow Creek Crossing Subdivision is more than made up by the areas dedicated to landscaping to the south of the proposed Bank and Visitor's Center Building;

3. The entrances off of Highway 224 and Kearns Boulevard are in existence and cannot be closed. The entrance off of Snow Creek Drive was established at the suggestion of Patrick J. Putt;

4. Regarding parking spaces located in the UDOT right-of-way, it should be noted that P. C. Development cooperated with the Planning Staff's suggestions and reduced the number of parking spaces in the UDOT right-of-way from 17 to 8. Underground parking has been designed for the project at great additional expense. In addition, the Planning Commission failed to recognize that we have obtained written permission from UDOT to lease the applicable area. It should also be noted that the configuration of the landscape buffer zone and parking area on the UDOT property meets the goal of the 30-ft. set back requirements discussed above;

5. The Planning Commission finds that the maximum building height requirement of 33 ft. is exceeded by this project. However, the Planning Commission fails to recognize the revised plans which bring the height of the project below the 33-ft. maximum requirement.

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Accordingly, the Planning Commission ignored salient facts in arriving at its flawed conclusions. The Zion's Bank/Visitor's Center project meets the stated goals of the Land Management Code in every respect. The City Council should reverse the decision of the Planning Commission and allow the project to proceed.

Sincerely,

P. C. DEVELOPMENT, INC.

Neil W. Richardson, President
510 So. 600 E.
Salt Lake City, Utah 84102

PARK CITY
1884

# CITY COUNCIL REPORT

| | |
|---|---|
| **DATE:** | **August 9, 1996**<br>**(July 25, 1996 Meeting)** |
| **DEPARTMENT:** | **Planning Department** |
| **AUTHOR:** | **Patrick Putt** PAT |
| **TITLE:** | **A revised sketch plan related to a request to amend the Snow Creek Crossing MPD and MPD/CUP Application for a Zions Bank/Visitors' Center** |
| **TYPE OF ITEM:** | **Legislative** |

**SUMMARY RECOMMENDATIONS:** Review and give input and direction on the applicants' revised concept plan for a bank and visitors' center to be located within the FPZ at the northeast corner of Highways 224/248.

## DESCRIPTION:

| | |
|---|---|
| Applicant: | Park City Development, Snow Creek Crossing, L.C., Jess Reid |
| Location: | 740 East Kearns Boulevard/Northeast Corner of SR224/248 Intersection |
| Zoning: | General Commercial, Residential Medium Density, Frontage Protection Zone Overlay, Regional Commercial Overlay |
| Adjacent Uses: | Office, Restaurant, Open Space |
| Application Completed: | Incomplete |
| Project Planner: | Patrick Putt |

**BACKGROUND:**

On June 12, 1996, the Planning Commission denied the applicants' proposal for an amendment to the Snow Creek Crossing MPD and MPD/CUP application for a bank and visitors' center on the subject property. At the work session and public hearing, staff suggested eight modifications which could help address (not necessarily resolve) some of the concerns expressed over the project design. The suggested modifications include:

* Revise the project plan so that the primary building access fronts on Snow Creek Drive. *(The building can still architecturally address the Hwy. 224/248 intersection. Staff will not support architecture that results in the back end/service entrance fronting the intersection.)* This revision should also be accompanied with an analysis and proposal for how directional signage at the highway and within the subdivision will be addressed;

* Relocate the drive-through bank-teller window to the west side of the site. Eliminate or revise the current Mt. Aire Cafe driveway to permit ingress circulation only;

* Remove all parking from the UDOT right-of-way or secure long-term control of that area.

* Increase the size and width of the buffer along the highway. If the applicants can demonstrate that UDOT will approve a long-term lease of the right-of-way, the City will consider the FPZ as beginning at the back of the highway sidewalk instead of at the right-of-way line, as the zone currently is defined.

* Provide dedicated open space areas in other key visible areas within the Snow Creek Subdivision in exchange for improvements on open space Parcel D.

* Reduce the size of the building footprint to free additional site area for parking outside of the FPZ.

* Reduce the building height to the 28 ft./33 ft. requirement of the RDM/RCO Zone.

* Increase the articulation of the building mass to help reduce the building's perceived scale. Reduce the amount of glass and stucco areas on the building.

In addition to reviewing the complete final project plans, the Planning Commission reviewed a revised concept plan on June 12, 1996 which included the following changes:

* shifting the building pad to the west edge of the site;

* shifting the drive-through from the north elevation *(shopping center side)* to the east elevation *(Jess Reid side)*;

* providing 11 under-ground parking spaces;

* reducing the number of parking spaces in the UDOT right-of-way from 16 to 8 spaces;

* reducing the building area from 16,500 square feet to 13,000 square feet; and

* reducing the building height to 33 feet.

A copy of the sketch plan showing the proposed revisions is attached to this report.

The Planning Commission concurred with Staff that the reduction in the building area and height, development of underground parking, and reduction of parking spaces in the UDOT right-of-way are positive steps forward. Although some of the project issues are addressed by the revision, the Commission's primary concerns, with the following aspects of the plan were not resolved:

* loss of open space currently platted under the Snow Creek Crossing, Parcel D;

* loss of vegetative buffers for screening the shopping center from the highway;

* visual impacts on and in the Frontage Protection Zone;

* adverse impacts of traffic circulation at and/or near the SR224/248 intersection;

* off-site parking in the UDOT right-of-way *(no long-term lease for parking in the right-of-way for the bank/visitors' center use has been acquired by the applicant as of the date of this report)*;

The revised plan continues to show improvements on Parcel D, parking and circulation within the Frontage Protection Zone *(including within the 30 foot no-build area immediately adjacent to the right-of-way)*, off-site parking in the UDOT right-of-way, and an inter-connection between Snow Creek Drive and SR 224/SR248.

**ANALYSIS:**

**1. Parcel D Open Space:** Although the revised plan results is less development in the platted open space, the applicant still proposes to use approximately 10,000 square feet of

Parcel D. No new additional open space is proposed as part of the revised plan. Although an architecturally-attractive building is appropriate on the applicants' property, ***the structure should be developed on the applicants' site and not on the platted open space***. The Planning Commission worked for over two years to negotiate the open space dedication as part of the Snow Creek Crossing MPD and subdivision plat approval process. With no provision for new open space elsewhere along the highway corridor, the applicants' proposed building is not sufficient mitigation for the loss of 10, 000 square feet of open space in, and adjacent to, the FPZ.

**2. Shopping Center Buffers:** Although some of the trees on Parcel D are in poor condition, the majority of vegetation is in good health. Maintaining the tree buffer or "green edge" between the highway corridor and the shopping center was a crucial mitigating factor in the Planning Commission's approval of the Snow Creek Crossing MPD and subdivision plat. Despite the fact that the overall amount of proposed development of Parcel D is reduced with the revised plan, the fact remains that with either plan the shopping center will be buffered with a building instead of vegetation. In order to maintain the natural buffer along the FPZ/highway corridor and to soften the appearance of the shopping center buildings and parking lots at this key entry into Park City, staff continues to recommend that development be precluded from the platted open space, unless new, platted open space is provided elsewhere *(in equal square footages)* in or along the FPZ.

**3. Traffic and Circulation:** The proposed Zions Bank/Visitors Center location is one where significant traffic problems already exist. The sketch attached to the City Engineer's memo (also attached) illustrates that confusion exists between drivers using the existing driveways on the state highways in conflicting movements. The existing driveways are too close to the intersection of 224 and 248, so a driver can too easily become confused as to right-of-way, and aggressive drivers could too easily cause problems with visiting drivers unfamiliar with Park City. The existing neighbors to the proposed Zions Bank/Visitors Center, namely Jess Reid and the Mount Aire Cafe, feel strongly that they have entitlements to the existing driveways in their existing configuration, and are not vocal supporters of any effort to reorient the driveways or (if access could be provided from Snow Creek Drive) eliminating them entirely. The current site plan will still allow traffic to drive between Snow Creek Drive and 224 and/or 248. The revised plan does a better job than previous plans at trying to discourage through traffic (both locals and visitors) from shortcutting onto and off of the two state highways, Park City's busiest streets. However, the connection between Snow Creek Drive and the highway remains a serious potential for traffic conflicts at Park City's most vital intersection, and the Staff strongly recommends that the Zions Bank/Visitors Center traffic not be connected, even indirectly, to 224 and/or 248. The existing entrances into the project site, which are shared by the Mount Aire Cafe and the Jess Reid Building, intersect the highways on curves very close to the intersection. The entrances are not and probably cannot be controlled by signage alone, and would at a minimum need geometric alignment with substantial curb walls to force right-turn-only traffic in the case of vehicles exiting the Mount Aire driveway, and possibly "DO NOT ENTER" signage in the case of Jess Reid's westernmost driveway.

Unless and until adequate control for all traffic at this critical intersection can be proposed by the applicant and supported by the affected neighbors, the site plan should (in the opinion of the City Engineer) be remanded back to the developer for additional work. In addition to directing the Zions Bank/Visitors Center traffic to Snow Creek Drive, the applicant should be directed to make plan modifications which prevent through traffic from Snow Creek Drive to the state highways. Snow Creek Drive's intersections are remote enough that those turning movements will be relatively safer, with a more efficient flow of traffic.

**4. Parking and Improvements in the FPZ and UDOT Right-Of-Way:** Due to the parking and driveway improvements, the applicants' revised concept plan does not comply with the Land Management Code requirement that no improvements be placed within 30 feet of the highway right-of-way. Both plans include nearly continuous paving in the 30 feet adjacent to the highway right-of-way. As of the date of this report, the applicant has not provided the Staff with evidence that a long-term lease for use of the UDOT right-of-way has been executed. Absent a long-term lease, the applicant has no control over the applicable UDOT property and therefore, any landscaping improvements can not be counted towards the required 30 foot FPZ buffer.

**RECOMMENDATION:**

The revised concept plan is an improvement over the previous proposal; however, it does not acceptably address the Commission's concerns regarding impacts on the platted open space, FPZ buffers, off-site parking in the UDOT right-of-way, and the traffic and circulation issues. Further modifications to the plan are necessary to be compatible with the Snow Creek Crossing MPD open space plan, as well as to comply with the Land Management Code.

Unless the Council determines that the issues outlined in this report suggest the applicants' site is inappropriate for the proposed project and should not move forward, staff recommends any further review be remanded back to the Planning Commission for an analysis of a complete application. If Council sends this project back to the Commission, it has several alternatives.

1. Remand the project back to the Commission with specific direction to the applicants to

develop a project on the applicants' property only, i.e. not on any portion of the UDOT right-of-way, or the platted open space.

2. Remand the project to the Commission with specific direction to the applicants and Commission that the project could include the use of the platted open space, or UDOT right-of-way but with provisions for replacement open space elsewhere along the FPZ, elimination of all parking in the FPZ and with adequate mitigation of circulation issues.

3. Remand the project to the Commission with general direction to the Planning Commission to consider a broad range of mitigation for the open space and circulation. Such direction would indicate that the applicants were generally on the right track, but needed to more specifically resolve some of the issues.

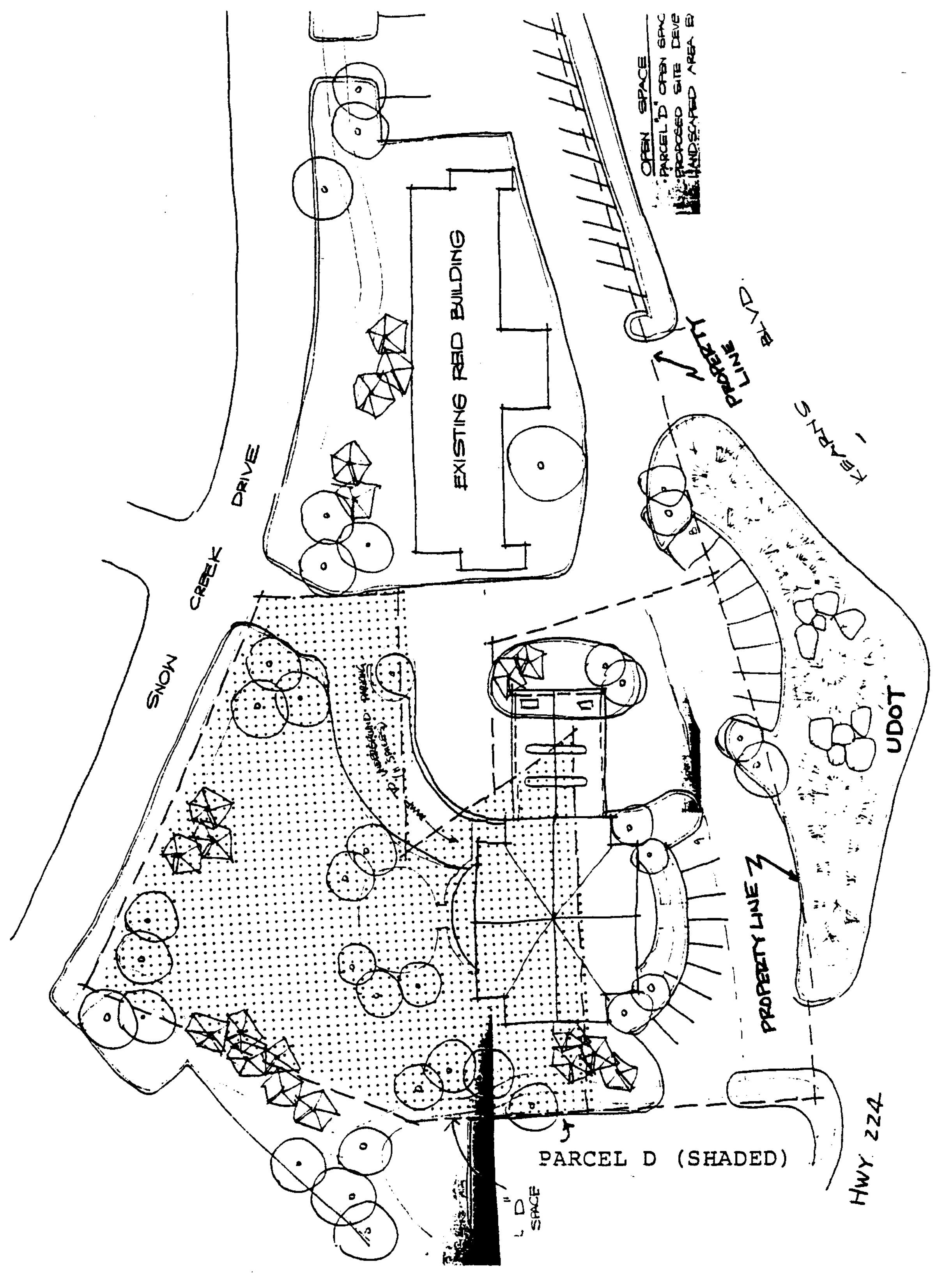
Should the Council send this project back to the Commission, staff recommends that no further review occur until a long-term lease for the any improvements in the UDOT right-of-way is obtained by the applicant unless the 30-foot "no build" area is respected.

**ATTACHMENTS:**

Attachment 1: Revised Bank/Visitors -Center Concept Plan

# ATTACHMENT 1

# REVISED BANK/VISITORS CENTER CONCEPT PLAN




SKETCH PLAN WITH REVISIONS

DATE: August 9, 1996
DEPARTMENT: City Manager
AUTHOR: Toby Ross TR
TITLE: Reimbursement Resolution
TYPE OF ITEM: Legislative/administrative

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**SUMMARY RECOMMENDATIONS:** **Adopt a Reimbursement Resolution for various capital projects including the Pace acquisition and the public works facility.**

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## DESCRIPTION:

A. **Topic:** Consideration of a resolution that expresses the intent of Park City to reimburse itself from bond proceeds for expenditures associated with various capital projects including the Pace acquisition and the public works facility.

B. **Background:**

On June 27, 1996 the Council approved the acquisition of water and land from the Pace family authorizing staff to prepare final documents and initiate bonding. The purchase should close within 90 days from June 27. On August 1, 1996 the Council approved awarding a construction contract for the public works facility and authorized staff to explore issuing bonds to finance the cost of construction. Dave Miner, our financial advisor and President of Municipal Bond Consulting, Inc., has analyzed our bonding requirements and has recommended that the City issue a single series of Municipal Building Authority (MBA) revenue bonds. While, MBA bonds usually carry a small interest premium over water revenue bonds, consolidating the issues would minimize costs of issuance and permit rating and insurance, resulting in a lower overall cost. To allow the City to reimburse itself from bond proceeds for expenditures associated with various capital projects, the Council must adopt a resolution similar to the one proposed.

C. **Analysis:**

The proposed resolution will make it possible for the City to reimburse itself from bond future proceeds for costs incurred after the effective date of the proposed resolution but before the bonds are actually issued. This will allow the largest possible issue for these projects up to a maximum of $8,000,000. The resolution does not commit the City issue bonds or to issue any particular amount of bonds. The resolution is broad enough to include some small improvements at the farm if the Council wished to. The resolution would allow the City to pay the Paces within 90 day period from available cash and to reimburse that cash when the bonds were issued. This would allow us to be assured that the 90 day deadline for the Pace acquisition could be met and that we would not be forced to rush the issue.

**D. Department Review:** The City Manager and Finance Manager reviewed the resolution prepared by Bond Counsel and concur with the recommendations.

**ALTERNATIVES:**

**A.** **Approve the Request:** Adopting the proposed resolution will give the City the flexibility to reimburse itself for any costs incurred between now and when bonds are issued.

**B.** **Deny the Request:** Not adopting the proposed resolution will not affect the City's ability to issue bonds only the ability to reimburse itself for costs incurred between now and when bonds are issued.

**C.** **Continue the Item:** Continuing the resolution, delays its benefit. A short delay would have little consequence

**D.** **Do Nothing:** This would have the same effect as denying the request.

**SIGNIFICANT IMPACTS:** This resolution may allow the City to increase the size of the proposed bond issue by a few hundred thousand dollars. It would also make it easier to meet the payment obligation to the Paces.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:** Not adopting the proposed resolution would limit the City's ability to reimburse itself for costs incurred between now and when bonds are issued

**RECOMMENDATION:** Adopt a Reimbursement Resolution for various capital projects including the Pace acquisition and the public works facility.

RESOLUTION NO. __

DECLARATION OF OFFICIAL INTENT OF PARK CITY TO REIMBURSE ITSELF FROM BOND PROCEEDS FOR CERTAIN CAPITAL EXPENDITURES; ESTABLISHING THE MAXIMUM PRINCIPAL AMOUNT OF SUCH EXPENDITURES AND AUTHORIZING INCIDENTAL ACTION

WHEREAS, Park City (the "City") expects to incur significant costs for the acquisition of land and related water rights, construction of a public works facility and trail, parking and restroom facilities and building rehabilitation in connection with open space property (the "Project"); and

WHEREAS, the City has determined that it intends to finance all or a portion of the cost of the Project with the proceeds of obligations of the City or its Municipal Building Authority (the "Authority"), the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt bonds"); and

WHEREAS, no costs of the Project to be reimbursed were paid more than 60 days prior to the date of this Resolution, other than preliminary expenditures (not exceeding 20% of the aggregate issue price of the tax-exempt bonds issued to finance the Project), provided that such preliminary expenditures shall not include costs of land acquisition or site preparation or other costs of construction or acquisition of the Project;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Declaration of Official Intent to Finance Capital Expenditures; Maximum Authorized Debt. The City hereby declares its intention and reasonable expectation to use proceeds of tax-exempt bonds (the "Reimbursement Bonds") of the City or the Authority to reimburse itself for expenditures for costs of the Project. The City intends that the Reimbursement Bonds are to be issued, and the reimbursements made, by the later of 18-months after the payment of the costs or after the Project is placed in service, but in any event, no later than three years after the date the original expenditure was paid. The City anticipates that the maximum principal amount of the Bonds which will be issued to finance the Project (including the Reimbursement Bonds) will not exceed $8,000,000.

Section 2. Nature of Project Costs. The costs of the Project consists entirely of capital expenditures or costs of issuance of tax-exempt bonds, and no cost of the Project to be reimbursed with the proceeds of the Reimbursement Bonds is a cost of working capital.

Section 3. Incidental Action. The appropriate officers of the City are hereby authorized and directed to take or approve the taking of such actions as may be necessary or appropriate in order to preserve the ability of the City to finance its capital expenditures in accordance with the federal tax regulations and this Resolution.

Section 4. No Replacement Proceeds. The City will not, at any time within one year after any allocation of proceeds of the Reimbursement Bonds to reimburse any expenditure, use the reimbursed funds to create a sinking fund for any issue of tax-exempt bonds, or to otherwise replace the proceeds of any issue of tax-exempt bonds.

Section 5. Effective Date; Repeal. This Resolution shall take effect immediately. All prior resolutions or portions thereof inconsistent herewith are hereby repealed.

ADOPTED AND APPROVED this 15th day of August, 1996.

Mayor

ATTEST:

Deputy City Recorder

( S E A L )



/ / /

STATE OF UTAH )
) ss.
COUNTY OF SUMMIT )

I, Janet M. Scott, hereby certify that I am the duly qualified and acting Deputy City Recorder of Summit County, Utah.

I further certify that the above and foregoing constitutes a true and correct copy of the minutes of a regular meeting of the Board of Summit County, Utah, including a resolution adopted at said meeting held on August 15, 1996, as said minutes and resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of this 15th day of August, 1996.

Deputy City Recorder

(SEAL)

EXHIBIT "A"

# CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, the undersigned Deputy City Recorder of Summit County, Utah (the "County"), do hereby certify, according to the records of the County in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the August 15, 1996 public meeting held by the Board as follows:

1. By causing a Notice, in the form attached hereto as Schedule "1", to be posted at the County's principal offices on August __, 1996, at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

2. By causing a copy of such Notice, in the form attached hereto as Schedule "1", to be delivered to the Park Record on August __, 1996, at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 1996 Annual Meeting Schedule for the Board of County Commissioners (attached hereto as Schedule "2") was given specifying the date, time and place of the regular meetings of the Board to be held during the year, by causing said Notice to be posted on _________, 199__ at the principal office of the Board and by causing a copy of said Notice to be provided to at least one newspaper of general circulation within the County on _________, 199__.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this 15th day of August, 1996.

______________________________
Deputy City Recorder

(SEAL)

**PARK CITY SPECIAL COUNCIL MEETING**
**SUMMIT COUNTY, UTAH**
**AUGUST 13, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council will hold a special closed session on Tuesday, August 13, 1996 at 2 p.m. at 2571 Lucky John Drive to discuss a personnel issue.

Posted: 8/12/96