PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 9, 2007

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the approximate times as described below on Thursday, August 9, 2007.

Closed Session – City Council Chambers
3:30 p.m. Property

Work Session – City Council Chambers
4:00 p.m. Council questions/comments
4:15 p.m. Quarterly goal update
4:45 p.m. Marsac Building seismic upgrade update
5:30 p.m. Review of regular meeting

- Comprehensive Emergency Management Plan
- Other meeting questions/comments

5:50 p.m. Break

Regular Meeting – City Council Chambers
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 19, 2007

V CONSENT AGENDA PUBLIC HEARINGS *(items listed will be open for public hearing prior to consideration for adoption or rejection; hearings may also be continued by vote of the Council)*

1. Consideration of an Ordinance approving the rezone of the Iron Canyon Subdivision from the Residential Development District to the Single Family District of Park City, Utah **(motion to continue to 8/16/07)**

2. Consideration of an Ordinance approving a plat amendment for1617/1621 Lakeside Circle, Park City, Utah **(motion to continue to 8/30/07)**

3. Consideration of an Ordinance approving amendments to the Park City Land Management Code to Chapter 15-2.6 – Historic Commercial Business District and 15-2.5 – Historic Recreation Commercial District relating to prohibiting office, residential, or

other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-15-1 – Definitions

4. Consideration of an Ordinance amending Chapter 15-4-7 of the Land Management Code relating to Accessory Apartments

5. Consideration of an Ordinance approving the 1375 Park Avenue Subdivision Plat amendment located at 1375 Park Avenue, Park City, Utah

VI CONSENT AGENDA *(items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

1. Ordinance approving amendments to the Park City Land Management Code to Chapter 15-2.6 – Historic Commercial Business District and 15-2.5 – Historic Recreation Commercial District relating to prohibiting office, residential, or other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-15-1 – Definitions

2. Ordinance amending Chapter 15-4-7 of the Land Management Code relating to Accessory Apartments

3. Ordinance approving the 1375 Park Avenue Subdivision Plat amendment located at 1375 Park Avenue, Park City, Utah

4. Resolution adopting the Park City Comprehensive Emergency Management Plan

5. Resolution adopting the use of the National Incident Management System

VIII NEW BUSINESS *(new items with presentations and/or anticipated detailed discussions)*

1. Consideration of Award of Contract to DRD Paving, LLC., in a form approved by the City Attorney, in the amount of $266,960 for the SR-248 Sidewalk Project

2. Consideration of an extension, in a form approved by the City Attorney, of three reserved parking spaces in the Gateway Garage to American Skiing Company for an additional five months ending December 31, 2007

3. Consideration of Contract Amendment #3, in a form approved by the City Attorney, to the existing Jacobsen Construction In. Agreement in the amount of $1,597,000

X ADDITIONAL DISCUSSION – AGENDA ITEMS

XI ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Posted: 08/06/07
See: www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

August 2007

16 **Candy gone**
Prospect Avenue water line - work
Boys and Girls Club lease - MP
Proclamation – ride the bus to work day
Ordinance – 175 Snows Lane Subdivision - KW
Resolution of intent – bond issue
Ordinance – 1027 Woodside plat amendment – SMA
Ordinance approving the Daly West Subdivision Lots 5 and 6, creating two lots of record at 331 and 337 Daly Avenue, Park City, Utah – KC
Ordinance – Christopher Homes at Empire Pass plat amendment – BR
Ordinance – Pod B1 in Empire Pass Nakoma condominium conversion – BR
Ordinance – Iron Canyon Subdivision zone change – KC
Appointment of poll workers for the Primary Election
Award of contract for hauling services within the Main Street area and at City facilities
Authorization for the City Manager to sign a Cooperative Agreement with the Utah Department of Transportation Relating to the Installation of a Traffic Signal at the Intersection of Meadows Drive and S.R. 224
Professional services contract with FFKR Architects in the amount of $29,510 for the preparation of a feasibility analysis of an expanded bus maintenance facility

23 **No meeting – Management Meeting**
Candy gone

30 Closed session – property and litigation – (1 hour)
Park/Bonanza General Plan Element l- public hearing/action
Ordinance – 1617/1621 Lakeside Circle plat amendment – KC

Dana gone 9/5 – 9/12
September 2007

6 **No meeting**
11 Primary election
13
20
27 Closed session

Dana gone 10/04 – 10/21
October 2007

4
11
18 **No meeting**
25

November 2007

1
6 *General Election*
8
15 Canvass of General Election
22 **Thanksgiving**
29

Pending Items:
Addendum to the lease with Park City Historical Society for property located at 528 Main Street
Resolution - Trails Master Plan
Solid waste strategic plan
Market analysis – Phases 1 and 2

Tentative "no meeting" dates:
December 27

MEMO

Executive Department

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To: City Council
From: Tom Bakaly, City Manager
Subject: 2007 Council Goals Update
Date: August 9, 2007

On August 9, 2007 we have scheduled time in work session to review City Council goals and action items.

Attached is the latest quarterly update on Council goals for the period of January – March 2007. We continue to tentatively add (in bold) new action items to your goal status report based upon individual input from Council members, the Mayor and staff.

The report also includes quarterly summaries related to traffic calming and neighborhood service requests. This work session will provide an opportunity to for departments to provide operational updates on Council goals if requested.

2007 Park City Goals and Targets for Action – 2nd Quarter Report (April - June)

TOP PRIORITY				
Goal 1 Quality Water - Dana Williams and Candace Erickson; Alternate, Jim Hier				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Pipeline/Preferred Project Agreements Jerry Gibbs	Determine a preferred project with Weber Basin and Bureau of Reclamation 1. Decision point – Park City/County may opt out 2. WBWCD Water Sales/Petition Agreement 3. Decision point – Park City /County may opt out **4. Design of Pipeline Improvements** **5. Pipeline Construction Begins**	 03/05 04/05 05/06 **01/07** **04/09**	 03/07 01/07 12/07 **03/08**	 **Complete** **Complete** **Complete** **Pending** **Pending**
2. Water Treatment Plants Kathy Lundborg	1. Judge: Resolve Plant Location and Land Transfer with Talisker **2. Judge NPDES permit** 3. Judge: Determine Scope and Timing for Plant Design and Construction 4. Judge: Plant Design 5. Judge: Plant Construction	 12/05 **12/07** 09/05 08/04 04/06	 **12**/07 **12**/07 **05/08** **12**/08	 Pending **Pending** Pending Pending Pending
3. Other Water Solutions – Supply Options Jerry Gibbs	1. Summit County, Snyderville Basin Water Reclamation District Cooperation Discussions /Stream Flow Enhancements 2. JSSD Water Discussions	Annual Annual		Ongoing Ongoing
4. Water Funding Strategy Jerry Gibbs	1. Pursue future appropriations and authorizations **2. Lobby for passage of Water Resource Development Act (WRDA)**	Annual **05/07**	 **09/07**	Ongoing **Pending**

TOP PRIORITY				
Goal 2 ***Preservation of Park City Character*** **– Marianne Cone and Dana Williams; Alternate, Candace Erickson**				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Old Town Improvements Alison Butz	1. Downtown Projects			
	- Town Plaza/Swede Alley			
	- USPS Talks, Site footprint determined	06/07	**12/07**	Pending
	- Public Dialogue	09/07	**02/08**	Pending
	- Design Complete	12/07	**06/08**	Pending
	- Base Construction Complete	12/07		Pending
	- Swede Alley Plaza Construction Complete	10/08	**06/09**	Pending
	- Shell space			
	- Schematic Design	10/06	02/07	Complete
	_Executive tenant contracts		**08/07**	**Pending**
	- Construction	04/07	**09/07**	Pending
	- Construction Complete	09/07	**04/08**	Pending
	- Marsac Building			
	- **Confirm project with Council**		**08/07**	**Pending**
	- Space programming exercise	02/07	**09/07**	Pending
	- Design complete	04/07	**10/07**	Pending
	- Identify and move into temporary office space		**01/08**	**Pending**
	- Construction Start	10/07	**05/08**	Pending
	- Construction end	10/08	**08/09**	Pending
2. Affordable Housing Phyllis Robinson	**1. Develop RFPs for affordable housing development on Park Avenue and Snow Creek Parcels**	**06/07**	**08/07**	**In Progress**
	-Topographic map completed		**08/07**	
	-Wetlands Report in progress		**09/07**	
	- Pre MPD application for Snow Creek parcel	**06/07**	**10/07**	
	- Subdivision/MPD application	**07/07**	**11/07**	
	- CUP application	**09/07**	**01/08**	**In Progress**

TOP PRIORITY

Goal 2 ***Preservation of Park City Character*** **– Marianne Cone and Dana Williams; Alternate, Candace Erickson**

Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
2. Affordable Housing (Cont.)	**2. Complete acquisition of Park Avenue Property**	**06/07**		**In Progress**
	3. Quarterly Housing Status Report – Set 2007 in lieu fees	**06/07**		**Ongoing**
	4. Monitor Developer Obligations	**06/07**		**Pending**
	5. Analysis of deed restrictions and selection criteria	**06/07**	**08/07**	**Pending**
	6. Housing General Plan Element Review & Update	**10/07**		
3. Trash and Recycling Jerry Gibbs	**1. Execute Letter of Intent – Hazardous Materials**	**03/07**	**04/07**	**Complete**
	2. Research: Formation regarding Main Street trash and possible BID/SID	09/04	**05**/07	**Complete**
	3. Decision on recycling facility relocation		**TBD**	**Pending**
	4. Joint County Trash and Recycling Study		**11/07**	**Ongoing**
4. Environmental Initiatives Alison Butz	1. Identify Action Items for Strategic Plan	07/06		**Complete**
	2. Implement Strategic Plan	08/06	11/06	**Ongoing**
	3. Wasatch Back Environmental Alliance – Continue as an active member	Ongoing		Ongoing
	4. Installation of wind turbine(s) at Park City Ice Arena	10/06	06/**08**	Pending
	5. Green Policy for Capital Projects	**05/07**		**Complete**
	6. Adoption of Action Plan	**06/07**		**Complete**
	7. Rocky Mountain Energy Grant Findings	**09/07**	**11/07**	
	8. Develop and implement citywide green purchasing policy	**10/07**		
	9. Develop General Municipal building Efficiency Measures	**10/07**		
	10. Inventory CO2 emissions from City operations	**10/07**		
	11. Explore mandatory green building initiatives	**02/08**		
5. Historic Preservation Patrick Putt and Jonathan Weidenhamer	1. Retain Historic Significance Designation		**06/**07	Ongoing
	2. Review of Historic District			
	- **Adopt Historic Significance Survey**		**10/07**	**Pending**
	- Steep Slope Issues Update to PC/CC		**06**/07	**Complete**
	- Vertical Zoning Update to PC/CC		**07**/07	**Complete**

TOP PRIORITY				
Goal 2 *Preservation of Park City Character* – Marianne Cone and Dana Williams; Alternate, Candace Erickson				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
5. Historic Preservation (Cont.)	3. Amend LMC as needed 4. Implementation of City-owned Historic Structures Plan - Upper Main/Park/Sandridge Structures 5. Historic District Guideline Revisions 6. 801 Park Ave Preservation – anticipated completion		**09**/07 **09**/07 **12**/07 **12**/07	Ongoing Ongoing Ongoing Ongoing Ongoing
6. Senior Issues Phyllis Robinson	1. Facilitate **Senior Needs Regional Subcommittee through Interagency Task Force** **2. Conduct assessment of Senior Center Programming and other services**	**06/07** **10/07**	**11/07**	**Pending** **In Progress**
7. Staffing Plan for Sustainable Vision and Implementation	1. Pursue self-managed teams to frame policy direction and implement Council Goals **2. Work Plan Completed** **3. Long Range Sustainability Community Plan**	12/06 **05/07** **11/07**		Complete **Complete** **Ongoing**
8. Park City Heights Task Force and Annexation Patrick Putt	1. Completion of Task Force Discussion 2. Annexation – PC review and recommendation to CC on Development Agreement	06/07 12/07		**Complete** Ongoing

TOP PRIORITY				
Goal 3 ***Effective Transportation and Parking System*** **– Jim Hier and Roger Harlan; Alternate, Marianne Cone**				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Traffic Calming **Brian Andersen**	**See attached Traffic Calming Summary Report**			
2. Regional Transportation Eric Nesset	1. Enhance Transit Marketing 2. Year-round Bus Service to Kimball and Canyons operating through 12/31/04 3. Complete Region-SLC-UTA Service Feasibility Analysis 4. Implement employee carpool incentive program 5. Implement action items from 7/8/05 Transit Planning Summit **and Conduct next Summit (08/07)** 7. Update short-range transit plan with County 6. Secure land for expanded transit maintenance storage facility	Annual Annual 09/04 Annual Ongoing 10/05 06/05	 **08**/07 **09**/07	Ongoing Ongoing **Complete** Ongoing Ongoing In Progress In Progress
3. Transportation Strategic Plan Kent Cashel	1. Alternative Transportation/Walkability Study 2. Annual Progress Report to City Council 3. Implement Transportation Plan Strategies 4 **Form** Transportation Task Force with School District **5. Recommendations from PCSC/PCMC Transportation Task Force** **6. Implement Task Force Recommendations**	06/06 12/06 01/07 **04/07** **09/07**	03/07 **05/07**	**Complete** **Ongoing** Ongoing **Complete** **Complete** **In Progress**
4. Public Parking Brian Andersen, Kent Cashel	1. Parking Garage Revenue 2. Policy on Pay Parking during events 3. Private use of public parking	**04/07** **TBD** **06/07**		**Complete**
5. Community Transportation Plan Kent Cashel, Myles Rademan, Jonathan Weidenhamer	1. Park and Ride 2. School Drop 3. Entry Corridor	 **08/07**	 **8/07**	**In Progress** **In Progress**

TOP PRIORITY				
Goal 4 ***World Class, Multi-Seasonal/Resort Community* – Jim Hier and Marianne Cone; Alternate, Joe Kernan**				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Economic Development Jonathan Weidenhamer	1. Implementation of 2006 Economic Development Strategic Plan Initiatives 2. Prospector/Bonanza Redevelopment Area (PBR District) 3. Oquirrh Institute ED Grant - Follow-up 4. Market analysis – inventory existing business types; compare against demand model	 09/06 02/07 02/07	 **08/07** **10/07** **02/08**	 **In Progress** **Pending** **In Progress**
2. Support for Arts **Gary Hill**	1. Art in Public Places Implementation 2. Bus Shelter Implementation (8th Shelter) 3. Pocket Park Benches, Bike Racks 4. Completion of Pantheon of Muses at Old Town Transit Center 5. Poison Creek Fish 6. Memory Wall - **Work Session Discussion**	Ongoing 08/05 05/07 08/07 **06/08** 	 08/07 08/07 **10/07**	Ongoing Pending In Progress **Complete** **Pending**
3. Community Amenities and Events: Evaluation, Future Direction Alison Butz	1. Special Events Retention & Attraction - Economic Development Plan 2. Monitor Museum Expansion 3. Destination Events/Activities Joint Venture 4. Golf Course Pro Shop Acquisition 5. Imperial Hotel Sold or Traded 6. Joint Venture Annual Update – Chamber 6. Strategic Plan for Farm 7. Marsac Remodel Planning - construction begins - construction ends (See Old Town Improvements)	Ongoing 11/04 07/05 10/06 Annual 03/05 10/07 11/08	 10/06 **Ongoing** 02/07 **05/07** **11/07** **05/08**	Ongoing Ongoing **Ongoing** **Ongoing** **Completed** Annual Pending Pending

HIGH PRIORITY

Goal 5 Recreation, *Open Space and Trails* – Candace Erickson and Joe Kernan; Alternate, Marianne Cone

Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Ongoing Open Space Acquisition Myles Rademan	1. Flagstaff - Distribution of open space contribution 2. Gambel Oak - Legislation 3. Red Maple/Air Force 4. Other Properties	03/04 10/04 10/04 09/06	 **06/07** **11/07** **11/07**	Ongoing Ongoing Ongoing Pending
2. Conservation Easements Myles Rademan	1. Additional easement monitoring on new acquisitions 2. Conservation Easement on Farm	08/05 04/06	 **08/07**	Pending **Complete**
3. Trail Development Plan Matt Twombly	1. Round Valley Trails - Friends of Trails - Cross Country Ski Trails – Mountain Trails Found -Quinn's Loop trails 2. Trailhead Parking Phase II a. Cove b. Round Valley – Quinn's Rec Complex c. Other sites as available 3. Citywide study on Walkable Community/Trails Master Plan Update - Safe Sidewalks Grant – Kearns Blvd. - Safe Routes to School Grants – Little Kate & Comstock	 04/05 11/05 12/07	 **09**/07 09/07 09/07	 Pending In Progress Pending Complete In Progress Pending Pending
4. Neighborhood Parks/City Park Ken Fisher	1. City Park Recreation Building - Remodel Complete 2. Old Town Park (Wisnewski) - Conceptual Design - Public Input on Conceptual Design **- Present Conceptual Plan to Council** 4. Lights on Basketball Court & **Volleyball Court** **5. Dog Park – Alternate Site Identification** **- Complete Dog Park**	 04/07 02/07 03/07 06/07	 06/07 **06/07** **06/07** **09/07** **07/07** **08/07** **04/08**	 **Complete** **Complete** **Complete** **Pending** **In Progress** **Complete** **Pending**

HIGH PRIORITY

Goal 5 Recreation, *Open Space and Trails* – Candace Erickson and Joe Kernan; Alternate, Marianne Cone

Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
5. Ice Rink Stacey Noonan	1. Ice Arena Strategic Plan 2. Ice Fundraising & Naming Campaign - RFP/selection process **- Naming Rights Campaign** 3. Ice Arena Completion – final punch list	11/06 08/06	03/07 **07/07** **08/08**	Complete **Complete** In Progress
6. Recreation and Racquet Club: Next Steps Ken Fisher	1. Dirt Jump Park- Plan in place for future facility location -CUP Extension with Planning Commission 2. Racquet Club/recreation - Complete Recreation/Racquet Club Needs Assessment - Update to City Council on Needs Assessment - Long-term maintenance plan for facility - Recommendation – future capital improvements		 **04/07** **05/07** **10/07** **10/07**	**In Progress** **In Progress** **Complete** **Complete** **Pending** **Pending**
7. Outdoor Recreation Complex **Matt Twombly**	1. Landscaping (trees, shrubs, drip irrigation)		**06/07**	**Complete**
8. Walkability Implementation Phase I Matt Twombly	1. Projects to be identified during budget process **2. Implementation**			**Complete** **Ongoing**

HIGH PRIORITY				
Goal 6 Regional Collaboration and Partnerships				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Transportation Kent Cashel	See Goal #3			
2. Flagstaff-Wasatch County Tom Bakaly	1. Work with Wasatch County re SR-224 and public versus private access	09/04	04/**08**	Ongoing
3. Recreation Ken Fisher	See Goal #5			
4. Health Pace Erickson	1. Noxious weed coordination 2. Enforcement on private property	08/04 Ongoing		Ongoing Ongoing
5. Water Jerry Gibbs	See Goal #1			
6. Solid Waste Jerry Gibbs & Joe Kernan	1. Implementation of Solid Waste Alternatives	11/05	12/07	Pending
7. Mosquito Abatement Pace Erickson	1. Continued coordination with Summit County	Ongoing		Ongoing
8. Wasatch Back Alliance	1. Continued participation	Ongoing		Ongoing

OTHER PRIORITIES

Goal 7 Open and Responsive Government to the Community – Roger Harlan and Joe Kernan; Alternate, Jim Hier

Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
1. Community Vision 2015 and Beyond Myles Rademan Pat Putt	1. Community Involvement & Outreach	Monthly		Ongoing
	2. Update Material for Vision Presentations **2007**	Monthly		Ongoing
	3. Develop Neighborhood Request Tracking Report (attached – Attachment B)	05/04		Ongoing Ongoing
	4. 2nd Homeowners Social (1st weekend in August)	Annual		Ongoing
	5. Neighborhood Interest Group Meetings	Ongoing		Ongoing
	6. General Plan Review with Planning Commission	Annual		In Progress
	7. General Plan Update Phase 1 (**Outline)**		**12/07**	In Progress
2. Budget Review & Benchmark (2005-2006) Gary Hill	1. Bi-weekly budget review meetings	08/06		Ongoing
	2. First set of Benchmark Data compiled	10/06	**01/07**	**Complete**
	3. Draft of Long Range Financial Plan & Service Prioritization	12/06		**Complete**
	4. Phase II Benchmarks determined with CAST		**07/07**	**In Progress**
	5. Finance/ERP System Conversion			
	a. Personnel and Payroll		**02/07**	**Complete**
	b. Utility Billing		**05/07**	**In Progress**
	c. Bid and Quote		**07/07**	**Postponed**
	d. Business Licensing		**07/07**	**In Progress**
	e. Position Budgeting		**10/07**	**Postponed**
	f. Planning and permits		**12/07**	**Pending**
	f. Budget		**01/08**	**Pending**
3. Customer Service: Evaluation & Action Plan Myles Rademan	1. Accountability/responsibility training for Staff	Monthly		Ongoing
	2. Volunteer Bank – review program		**09/07**	Pending
	3. City "Fam" Tour			Annual
	4. Employee Survey & Training	Annual		Ongoing
	- communication of results	Ongoing		
4. Public Safety Lloyd Evans	1. Purchase of Additional Officer Safety Equipment	10/06	04/07	**Complete**
	2. Emergency Response Plan Updated		**08/07**	**In Progress**
	- Staff Training			Pending
	3. Police Facility Complete	10/07		**In Progress**

OTHER PRIORITIES				
Goal 7 Open and Responsive Government to the Community – Roger Harlan and Joe Kernan; Alternate, Jim Hier				
Target for Action ***Staff Coordinator***	**Actions**	**Initial Target Date**	**Revised Target Date**	**Status**
4. Public Safety (Cont.)	4. Community Oriented Program – Citizens Academy	12/06	**12**/07	Pending
5. Communications Myles Rademan	1. Press Releases/Communication Strategies	Ongoing		Ongoing
	2. Leadership 101	Ongoing	**02/08**	Ongoing
	3. Media Seminars	Ongoing	**03/08**	Ongoing
	4. Sustainability Promotion	Annual		Ongoing
	5. Park City University	Ongoing		Ongoing

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	Date Recd	Phase 1 Meeting	Citizen Concerns	Phase 1 Follow-up	Date Completed
Prospector/ SR248	3/2006	3/2006	• Traffic using Prospector neighborhoods when school zones back traffic on SR248 • Removal of no left turn signs on SR248 and increased traffic • Traffic speeding and not stopping at stop signs-	• Data collected for both before and after school season start; copy given to HOA • Residents of Prospector neighborhoods comment at Council meeting regarding several traffic concerns; Council directs TCC to work with UDOT to reinstall no left turn signs on SR-248 • Petition received from HOA regarding several issues including long term closure of Wyatt Earp and Buffalo bill and building parking on north side of high school. No Comstock residents signed. • UDOT agrees to reinstall no left turn signs. Signs ordered from vendor. • **Phase 1 meeting** • **No Left turn signals installed** • **Additional counts taken showing substantial reduction in traffic between 7-9AM**	Aug 2006 Nov 2006 Dec 2006 **Jan 2007** **Feb 2007** **April 2007**

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	**Date Recd**	**Phase 1 Meeting**	**Citizen Concerns**	**Phase 1 Follow-up**	**Date Completed**
Little Kate Road & Lucky John Drive	04/05	05/12/05	• Request reduction of the posted 25 mph speed limit • "Illegal" bike lane • Bicycle training for the kids in the neighborhood; • Sidewalk to provide a safe pedestrian way along Little Kate Road to McPolin Elementary School • Realign the Racquet Club driveway to align with Monitor & 4-way stop • Paint a crosswalk on Little Kate Road at Monitor Drive • Employ a crossing guard to work that crosswalk • More parking enforcement during Sundance Film Festival • Erect more speed regulatory signs • School Drop Area Permanent infrastructure Official school zone (lights, etc)	• Police to assist in bicycle safety at McPolin • Other issues referred to the Neighborhood Program • Installed "20 MPH when children present" signs • Conducted counts; results for vehicle, pedestrian, cyclist traffic low • Three-way stop and crosswalks installed 11/05 at Little Kate / Evening Star with squiggly lines • Integration into Interplan study • TCC recommendation to refer to walkable communities group based on pedestrian tie-ins with surrounding pathways and potential cost defrayment with this larger effort • **Council directed staff to install 3-way stop at Little Kate and Monitor (8/2/07)** • **Direction to implement "pedestrian friendly zone at school drop area - pending legal review (8/2/07)** • **Update on Wakability Alternatives** • **Coordinated approach with school circulation task force**	TCC no further action Nov 2006 **Ongoing**

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	Date Recd	Phase 1 Meeting	Citizen Concerns	Phase 1 Follow-up	Date Completed
Meadows Drive/Risner Ridge	05/06	**2006**	• Speeding	• HOA meeting with residents to discuss TCC concerns • Citizen request for permanent driver feedback signs • Ongoing enforcement occurring • Counts with new counters • TCC recommendation pending data collection scheduled for Fall 06 • Counts rescheduled for Spring 07 • **Recommendation for feedback sign and narrowing of traffic lanes with striping** • **Counts Completed On Meadows Drive**	2002 June 2006 **June 2006** **Mar 2007**
Risner Ridge	09/05		• Dangerous curve on American Saddler • Intersection approach on bend • Thru route not apparent	• Curve ahead signs installed • Stop ahead sign installed • Squiggly lines painted approaching stops • Further actions pending Spring 06 counts • Counts pending winter season 06-07	Sept 2005 Jan 2006

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	**Date Recd**	**Phase 1 Meeting**	**Citizen Concerns**	**Phase 1 Follow-up**	**Date Completed**
Comstock Drive	**Revised petition 06/07**	**07/10/07**	• Traffic speed and high traffic volumes	• **Improve visility of 25 MPH signs** • **Enforcement** • **Permanent driver feedback signs** • **Narrow travel lanes (repaint)** • **Install "residential area" signs** • **Paint intersection sight lines** • **No parking 7-9am on east side** • **Commercial traffic study**	**July 07** **Ongoing**
The remaining items in this report are considered complete by the Traffic Calming Committee.					
Ridgeview	**7/2006**	**NA**	• Children playing ahead signs	• Advised TCC position of placement and purchase of Children playing ahead A-signs is up to HOA. Advised where to obtain.	July 2006
Royal Street (Little Bell Condos)	**7/2006**	**NA**	• Request for speed limit signs and additional asphalt width	• TCC determined signs existed at that location in the past and facilitated replacement but determined no need for additional asphalt width	Aug 2006
Three Kings Drive			• Speeding	• TCC determined this street would not qualify for reduced speeds according to TCC administrative policy	Aug 2006

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	Date Recd	Phase 1 Meeting	Citizen Concerns	Phase 1 Follow-up	Date Completed
Aspen Springs Drive	05/06		• Additional 20 MPH sign • Crosswalks on trail • Children playing signs	• TCC advised HOA policy-obtain children playing ahead A-signs and place in yard	Aug 2006
SR 248/Kearns	08/05	NA	• Speeding • Noise, higher earth berms • Driver feedback signs • Increase Enforcement • Speed Humps	• Enforcement is ongoing	2005
Silver Pointe			• Emergency access • Neighborhood parking in prohibited areas • Parking damaging landscaping • All-way stop request McHenry/Rossi Hill/Coalition	• Stop request postponed until review of additional area development impacts are assessed	2006
Empire & Lowell Avenues	12/05		• Speeding	• Installed residential speed limit signs	April 06

Traffic Calming Summary Report
ATTACHMENT "A" TO QUARTERLY STATUS REPORT

Location	Date Recd	Phase 1 Meeting	Citizen Concerns	Phase 1 Follow-up	Date Completed
Little Kate Road & Lucky John Drive	04/05	05/12/05	• Request reduction of the posted 25 mph speed limit • "Illegal" bike lane • Bicycle training for the kids in the neighborhood; • Sidewalk to provide a safe pedestrian way along Little Kate Road to McPolin Elementary School • Realign the Racquet Club driveway to align with Monitor & 4-way stop • Paint a crosswalk on Little Kate Road at Monitor Drive • Employ a crossing guard to work that crosswalk • More parking enforcement during Sundance Film Festival • Erect more speed regulatory signs • School Drop Area Permanent infrastructure Official school zone (lights, etc)	• Police to assist in bicycle safety at McPolin • Other issues referred to the Neighborhood Program • Installed "20 MPH when children present" signs • Conducted counts; results for vehicle, pedestrian, cyclist traffic low • Three-way stop and crosswalks installed 11/05 at Little Kate / Evening Star with squiggly lines • Integration into Interplan study • TCC recommendation to refer to walkable communities group based on pedestrian tie-ins with surrounding pathways and potential cost defrayment with this larger effort • Council directed staff to not install 3-way stop at Little Kate and Monitor until Walkable Study completed • Coordinated approach with school circulation task force	TCC no further action Nov 2006 May 2007

Neighborhood & Business District Needs Assessment
Request for Elevated Levels of Service Request (RELS) - ATTACHMENT "B" TO QUARTERLY STATUS REPORT

Deer Valley Drive and Sunnyside Drive Neighborhood

Weidenhamer

Status Report

Staff met with neighborhood and prioritized requests – Project 1sidewalk on Deer Valley Drive completed. City bus stop installed. Projects 2 – 4 pending addition study/funding

Target for Action	Responsible	Actions	Target Date	Status	Budget
1. Sidewalks	**DeHaan**	Sidewalk on north side of Deer Valley Drive from the Line to Sunnyside. Sidewalks will not be plowed by City crews	Summer 2006	Completed	PCMC '05 CIP
2. Cross Walks & Traffic Calming Devices	**Traffic Calming Group**	▪ Traffic Counts ▪ Group has requested a formal traffic engineer study to more accurately measure speeds and traffic counts Make later recommendation based on data collection	03/07 04/07	Traffic Calming Budget Pending	**Speeds counted Crosswalks not warranted**
3. Pedestrian Lighting	Twombly (PCMC)	Install street and pedestrian lights from Stonebridge condos to roundabout	12/07	Cost identified ($250k) not in CIP budget	No City funding Private funds: Deer Valley Resort; Neighborhood SID
4. Bus Stop	Cashel Nesset	1. The school bus stop will be temporarily relocated to the NW corner of Sunnyside and Deer Valley Drive to accommodate	**11/06**		**Private**

Neighborhood & Business District Needs Assessment *Request for Elevated Levels of Service Request (RELS) - ATTACHMENT "B" TO QUARTERLY STATUS REPORT*					
Deer Valley Drive and Sunnyside Drive Neighborhood Weidenhamer					
		construction of 601 & 605 Deer Valley Drive at the NE corner. 2. Concrete pad installed. Shelter to be installed summer 07. **Concrete pad was installed too close to fire hydrant. Mountainland's contractor was notified and indicated they would talk with The Gambler owners to get their permission to extend pad north onto their property.**	**08/07**		**Existing PW**

Neighborhood & Business District Needs Assessment
Request for Elevated Levels of Service Request (RELS) - ATTACHMENT "B" TO QUARTERLY STATUS REPORT

Little Kate Road, Holiday Ranch Loop Road, Lucky John Drive

Status Report
Project has been split into both TC and Neighborhood Process to address capital projects requested. More information can be found under Traffic Calming Report, Attachment A.
Written Petition received – Per request of Staff, petition is being generated
Initial Internal Review – ongoing with TC Committee
Initial Communication to Council – Complete
Comprehensive Internal Review – **Complete**
Initiate Public Forum – ongoing
Communication to Council – **ongoing**
Initial Council Decision
Walkable and bikeable study completed 3/07
Trails Master Plan to be completed 0907

Target for Action	Responsible	Action	Target Date	Status	Budget
1. Crosswalks	**Streets Dept**	**1. Crosswalks installed at Little Kate and Lucky John**	12/05	**Completed**	**Existing budget**
2. Realign Racquet Club Entrance with Monitor Drive	Weidenhamer/ **Gibbs, Fisher**	**1. Funding allocation ($75k) put in '07 budget** **2. Phase 1A – temporary bus pullout** **3. Phase 1B – install stop signs if warranted** **4. Phase 2 – Racquet Club remodel; realign 4 way intersection/ 4-way stop; permanent bus pullout**	**08/06** **08/06** **07/07** **2008**	**Completed** **Completed** **Direction to install 3-wy intersection**	**Funded through CIP** **Existing PW**

Target for Action	Target for Action	Target for Action	Target Date	Status	Budget
3. **Pedestrian connection from** Little Kate from HRL to schools	**Weidenhamer**	**1. Pending Bond outcome for final project determination** **2. Install "pedestrian friendly zone" signs pending legal review**	**11/07** **11/07**	**Bond Process**	**FY08/09**
4. Study on Walkable Community/Trails Master Plan Update	**Weidenhamer**	**1. Final direction on projects pending bond approval/denial**	**11/07**	**Pending**	**Pending**

City Council
Staff Report

Author:	**Alison Butz**
Subject:	**Marsac Building Seismic Upgrade Shell Space**
Date:	**August 9, 2007**
Type of Item:	**Informational**

Sustainability Department

Summary Recommendations:
Discuss the scope and timeline for the Marsac Building Seismic Upgrade, reaffirm the direction to move forward with the seismic upgrade and improvements as previously planned and described under Option B of this report; and authorize the use of $1.5 Million from the 5-year CIP account.

Topic:
Marsac Building Seismic Upgrade

Background:
City Hall was been listed as a "dangerous building" by the Chief Building Official back in April of 1996 (Attached, Exhibit A) due to the un-reinforced nature of the masonry building. Several engineering studies have been completed that explain this issue. These studies are available for review in the Building Department. Ron Ivie, the Building Official, has allowed City Hall operations to remain in the building as long as the City moves toward a solution to rectify the situation. One step in that direction is moving the Police into their new facility in October, 2007. The seismic remodel of the Marsac Building is scheduled to begin in May 2008.

The current budget for the remodel of $4.75 million was approved during the FY2008 budget review. At the time of budget approval both staff and Council understood the current plans for the seismic upgrade would exceed that amount and Council directed staff to transfer the additional funds needed to the 5-year CIP.

Analysis:
The remodel of existing City Hall is planned and the original budget of $3.5 million was estimated in 2004 considering only the seismic remodel, air handling system and ADA accessibility. Due to the increased cost of construction, green elements and the desire to relocate departments within the building not calculated into the original budget, as well as system upgrades Staff recommends are necessary (sewer, H_2O) Staff anticipates the project budget to exceed the $4.75 million budgeted. Council did informally review potential levels of construction and staff has updated the attached matrix with updated costs and pros/cons of Marsac alternatives.

The Marsac Building, with its location in Old Town is desirable for City offices by establishing the importance of Old Town to Park City and adds vitality to the area. The building has held public uses since its construction and is a key presence in the Old

Town landscape. The design of the building, while not originally planned for City offices, provides benefits such as the width of the hallways which lead to impromptu meetings and conversations. The increasing costs of new construction make wider hallways in a new building unfeasible. Location of City Hall in Park City's downtown core is also important to stay connected with Park City's National Historic District and the Main Street area.

Post construction, there will be an estimated 74 employees working in Marsac with an estimated increase to 93 by 2018. The total office and conference space square footage available (including KPCW's space) in the building is 20,689 square feet. While the rough numbers may calculate enough space, the City will experience a need for increased employee space. The remodel of the Marsac Building will not allow for any expansion within the existing historic building. Staff has outlined a growth and space analysis on a future work plan to understand long-term space needs especially when approached to lease surplus space.

<u>Expansion Area</u>
The original downtown FRP included the new Police Headquarters in an annex to the Marsac Building and showed the location in the South Marsac lot. The lot is large enough to meet any long-term expansion needs. Through the growth and space analysis an additional/annex in this location can be planned for during the Marsac Remodel.

<u>Alternate City Hall Locations</u>
By expanding the scope and outlook of the Marsac Building remodel, Staff discussed alternate locations for City Hall. An alternate location would allow for more square footage dedicated to City Hall offices. The addition and expansion capabilities may be able to allow for consolidation of City offices such as Public Work's Administration. It has been forecasted that Public Works, especially Transit, will outgrow the facility on Ironhorse. By allowing a location that can accommodate additional City Offices, the site at Ironhorse could be reconfigured to house an expanded Transit operations.

By looking at an alternate location, construction could occur while the Marsac Building is still occupied by City offices. There would only be one move of City offices and there would be minimal disruption of government services and a potential savings of $350,000 in relocation costs.

An alternate location for City Hall also provides an additional funding source for the new facility through the sale of the Marsac Building. The City would need to disclose the current condition of the building, and the new owner would shoulder the responsibility of upgrading the building. Staff contacted Chris Donaldson with Cushman Wakefield as to the current value of the Marsac Building as it stands. Staff walked away with the understanding that the Marsac Building could be sold for a maximum net profit amount of $6 million.

Six Potential Locations were listed with a brief summary of pros and cons for each.

Construct an Additional Level above China Bridge
China Bridge, both old and new, was designed to handle an additional floor level above the top parking level. An estimated 37,000 square feet could be constructed. Costs of constructing an additional floor level would be less than constructing a new facility since a building foundation already exists however, Staff's recent discussion with the project engineer revealed that the structural integrity of the garage was compromised when the sheer wall was cut into to connect the old garage to the addition and would require an upgrade to the facility.

North Marsac Parking Lot
While there would be some soil issues to work around during construction on the north Marsac Lot, the City has a better understanding of those issues and a portion of the soil was removed during the construction of the Transit Center. This location also keeps City Hall downtown and emphasizes the importance of Old Town to Park City. 66 parking spaces would be eliminated, but with the construction in 2005 of the China Bridge expansion there remains adequate parking in the area.

City Park – South of Skate Park
There is a potential for construction of a linear building just to the south of the skate park in City Park. The space is currently un-programmed, but has constraints due to the Park Avenue homes to the west of the site. Access to the facility would be off of Deer Valley Drive and there may be a potential to use an existing access point.

City Park – Softball and Rugby Fields
The north end of City Park has more than enough space to accommodate a large municipal facility up to 45,000 square feet. Access could be configured at the intersection of Deer Valley Drive and Bonanza Drive turning the intersection into a 4-way. The space is currently programmed, and staff anticipates heated discussions regarding the removal of the fields, even though additional fields have been constructed at the Quinns complex. The site would require significant remediation of contaminated soil. Richardson Flats could be used, as long as the site remains open. The placement of City Hall at the park would keep the offices close to Old Town and in close proximity to Public Works.

North Library Field
The north Library Field has never been officially programmed and many of the neighbors have strong opinions as to how the field should be used. The placement of City Hall in this location would keep the offices close to Old Town.

North 40
The North 40 is the farthest location out of Old Town staff was willing to consider. The space is currently programmed as fields. There would be adequate space at this

location for a large municipal facility that could accommodate additional departments as needed. Access would be off of Kearns Blvd.

Relocation of City Office during Construction
The Marsac Building must be entirely vacated during the remodel. At this time staff is looking at Miners Hospital, the Park Avenue Fire Station Administrative Building and trailers as potential temporary offices. The relocation of City offices has been budgeted at $350,000 and depends on the location; costs could include the need for fiber optic lines to be connected to facilities.

Timeline
If Council reaffirms their decision to proceed with a seismic upgrade of the Marsac Building, construction will begin May 2008 once KPCW moves out of the Marsac Building. Construction is estimated to take 14 months.

Green Building Policy
Staff has incorporated green building elements into the design of the Marsac Building with the assistance of Rocky Mountain Power's FinAnswer program. Current plans for the building show the improvements meeting the Silver level of LEED. If Council reaffirms their decision to proceed with a seismic upgrade of the Marsac Building, Staff will return to Council on August 16th to review the elements that meet the City's Green Building CIP policy.

HMBA
The HMBA Board sent a letter requesting Council to examine options (short and long range) of what can be done with the Marsac Building and site, given the extraordinary cost just to earthquake proof/remodel the existing site. In the interest of determining the most beneficial and sound solution, they would like to participate on any committee that may be formed to examine potential options.

Staff's recommendation
Staff's recommends the City pursue the seismic upgrade to the building as planned including all necessary system replacements and conversions/upgrades. The Building Maintenance Staff identify potential failures of building plumbing and sewer system in the near future. While the seismic upgrade to the building would not require these be replaced, Staff recommends the replacement. Also included in Option B is the addition of an air handling system. Staff has not yet scoped out the final design of the system, but is investigating and drilling test cores in the north Marsac parking lot for a ground loop heat source system. Staff has outlined a growth and space analysis on a future work plan to understand long-term space needs especially when approached to lease surplus space.

Significant Impacts:
Staff has been working with the architects and engineers on the seismic upgrade of the Marsac Building since the spring of 2006. Funds currently exist in the budget to

proceed with Option A. If Council wished to pursue option B (staff recommendation), an additional $1,500,000 would need to be used from the 5-year CIP account, where funds are available.

If Council were to decide that the best option were to construct a new City Hall, some money from the budget will have already been spent. Under this scenario, additional time to select a site and design a building will be needed and moving employees out of the dangerous building will take longer than originally planned under the seismic upgrade scenario.

In order to look at alternative locations for City Hall, the Marsac Building must be sold to provide the major source of revenue. Staff contacted Chris Donaldson with Cushman Wakefield as to the current value of the Marsac Building as it stands. Staff walked away with the understanding that the Marsac Building could be sold for a maximum net profit amount of approximately $6 million. Even with the current budget of $4,750,000 added to the $6 Million, the City would still need an estimated $6 Million from other CIP sources to build a new building. If Council looks to expand the Marsac Building the cost could be allocated from Sales Tax Bonds, reprioritization of the CIP Budget and/or sale of the Brew Pub Parking Lot.

Department Review:
All applicable departments have reviewed the proposed timeline and report and their comments have been incorporated within the report.

Recommendation:
Discuss the scope and timeline for the Marsac Building Seismic Upgrade, reaffirm the direction to move forward with the seismic upgrade and improvements as previously planned and described under Option B of this report; and authorize the use of $1.5 Million from the 5-year CIP account..

Attachments:
Exhibit A – April 1996 Dangerous Building Letter
Exhibit B – Marsac Remodel Options
Exhibit C – Marsac Remodel Cost Estimates
Exhibit D – HMBA Submittal

9 April 1996

MEMORANDUM

TO: Toby Ross
City Manager

FROM: F.M. Bell
Chief of Police

SUBJECT: Marsac Remodel - The Continuing Saga

The plan we settled on to remodel Marsac involved moving, adding, and deleting many interior walls. Though for the most part, the walls were not structural, the magnitude of the work triggered the necessity to bring the Marsac Building up to modern structural codes (earthquake resistance). The magnitude of construction needed to do that also seems to trigger the necessity to bring the building into ADA compliance. It is the same standard the Building Department has used in its permitting process for the renovation of a number of old buildings around town.

Given that problem, we could not proceed without further structural analysis. We have since consulted with two design firms (Richardson Design, our present consultant on the project, and Karren & Associates as a second opinion) in order to define the deficiencies, what construction strategies could be used to bring the building up to code, and the approximate costs related to compliance.

The building is a steel frame, unreinforced masonry wall structure built in 1936. It was not designed to withstand the lateral pressures of the sort of major earthquake anticipated in our seismic area (zone 3). In such a quake, the steel frame would likely remain in place while the floors of offices would collapse downward, and the exterior masonry walls would crumble (even in lesser quakes). There would also be considerable exterior risk to both people and Range Rovers from falling brick. The building has a structural performance rating of "very poor", which is obviously dependent on the magnitude and distance to the epicenter of any earthquake, but nonetheless disconcerting for us occupants.

The two reports are very different in scope of work and related costs. Richardson has prepared a thorough report outlining the retrofitting necessary to bring the building into code compliance as well as internal retrofitting for the utilities, walls, roofing, and finishing disrupted by the retrofit. Accordingly, the costs are quite high. They propose an internal and external retrofit consisting of a new internal reinforced wall around the perimeter of the building which would connect with the existing perimeter wall. The roof and the new perimeter walls would then be tied together by a new roof diaphragm.

Under the Richardson plan, there would be little noticeable change to the exterior of the building through this process except for steel framework located at the corners of the building which would be bricked over. Issues related to its historic preservation would be minimized under this plan. Given the complexity of this process, the costs are high as is the disruption factor - it would be difficult (though possible) to conduct business inside the building while the retrofit was in progress, particularly on the floors where work was taking place.

The Karren report addresses only the retrofitting necessary to bring the exterior walls into code compliance based on their cursory understanding of the building from past experience. They have not addressed the roof, the interior of the building, ADA issues, nor have they done any major on site research. However, their plan is less radical, and might meet our basic needs at least as far as minimal code compliance. Much of their proposal has to do with reconstruction of the outside of the perimeter walls by adding a number of reinforced walls and exterior columns. Though similar brick would be used to replicate the old wall, such retrofitting would necessitate blocking off some existing windows, thus creating historic preservation and internal environmental issues. However, both cost and disruption are reduced through this strategy.

One of the questions with respect to code compliance is whether or not the building is an "essential facility" - essential government services which could be compromised in the event of a natural disaster. Having the police station in the building creates a dilemma - if police are not in the building, then code compliance falls into the lower standards of the Uniform Building Code for Building Conservation (UCBC). If the police station is considered an essential service associated with the building, then the engineers are inclined to hold us to the higher Uniform Building Code (UBC 1994) standards. The cost of retrofitting to UCBC standards is less (though not substantially) than those associated with UBC compliance.

In order to sort through these problems it is helpful to think of any remodel in phases. The problems associated with seismic integrity add some phases to any significant remodel. We are not under any time commitment with regard to code compliance. All we have to do is demonstrate a continuing effort once the project is started. However, the seismic retrofitting probably needs to occur first in order to minimize the disruption, and it **must** occur first under the Richardson plan. Since the major expense of our proposed remodel is the seismic retrofitting, we have an serious budget impact before any workspace remodeling can occur.

Therefore, if we continue on the path of a major remodel, our construction and financial priorities will need to change. Even the minimalist approach of Karren & Associates is $186,000. The more comprehensive Richardson report estimates retrofitting costs at $1, 750,000 (UBC) or $1,671,000 (UCBC) which includes almost everything short of moving furniture. Obviously, there is a huge difference,.

but much of it has to do with the just getting by approach vs. doing all that needs to be done approach. In reality, we would have to do more than Karren advocates, and could probably do less than what Richardson advocates. In any event, the project is expensive, disruptive, and will significantly alter the building both inside and out.

OPTIONS - Any significant remodel triggers code compliance. The Chief Building Official has determined that the planned remodel of Marsac triggers such compliance. Our options come in whether we choose to initiate a remodel that triggers compliance, then the construction strategies we use to comply.

1. **Karren Report Advantages** - comparatively inexpensive, minimal internal disruption, could be done at any time during remodel process, relative ease and speed of construction.

2. **Karren Report Disadvantages** - may not provide us desired levels of seismic protection without additional work and cost, significantly alters exterior of building, doesn't address ADA, cannot be phased (exterior work would all have to be done at once), seems to be a short term solution to complex problems.

3. **Richardson Report Advantages** - comprehensive assessment of problems and solutions, minimizes exterior impacts, seems to be a long term solution to a variety of problems with building, lends itself to both construction and fiscal phasing.

4. **Richardson Report Disadvantages** - expensive, may overstate the case for compliance, highly disruptive, lengthy phasing and construction process.

5. **Do something else (less)** - we can do things which are essentially cosmetic without triggering code compliance. Such things as carpet replacement, double pane windows, modular furniture, and fixing up existing workspaces such as council chambers are all possible without structural ramifications.

6. **Do even less than that** - we have already completed work on the downstairs office space in anticipation of KPCW's move due to the police occupation of their space (As I recall, the first stage of revolution is to capture the radio station). The police can't relocate without triggering one of options 1-4, thus KPCW does not need to move either. We can utilize the basement space for offices and get by for a few more years. The same is true for the council chambers. If the council room in the basement was reconfigured (without moving walls) both it and the council space on the Main Floor might be better utilized.

7. **Stop** - we have invested about $20,000 in engineering reports a design work over the last year in consideration of fixing this building. We can quit now, and do as we have, given existing staff, until longer term decisions are made with respect to what and where City Hall should be.

8. Build or find new facilities in conjunction with other projects and priorities - we have yet to have the discussion about city hall in general. Is there a potential to build a new city hall in conjunction with other projects such as Swede Alley parking, Marsac Road widening, or some other project? Is this building worth the expense to save it in the long term? Do we want to add on to the building and retrofit the old building after that?

Recommendation-

I have attached readable pieces of each report for further background. The full report is available in my office or through Jerry Gibbs or Ron Ivie.

City Hall Options - Current Budget $4.75 Million					
Option	**Action**	**Cost**	**Pros**	**Cons**	**Additional Notes**
A	**Seismic Upgrade Marsac Building including additional improvements required by Building Code such as ADA**	$4,620,312	Marsac Building would no longer be a "dangerous building"; City Hall would be upgraded to fullest extent	If Marsac Building is not selected as long term location for City Hall, it is unknown how much of the investment for the seismic upgrade would be recouped during sale; disruption of City Services due to need to relocate all offices during construction for a cost of $500,000; Seismic updgrade would not meet new construction standards and other needed improvements such as HVAC and new interior water lines would not be completed at the most cost effective time	KPCW needs to vacate Marsac Building during construction; KPCW remaining in the Marsac building long-term would limit space needs for the future.
B - Staff recommendation based upon current council policy	**Seismic Upgrade Marsac and include all improvements such as HVAC, ADA, office relocation, new interior water lines, etc. and plan for an addition to the Marsac Building in the future to accommodate additional space needs**	$6,201,286	Marsac Building would no longer be a "dangerous building"; limits options to address traffic on Marsac Avenue; best scenario to fix all building issues is while the building is under construction; space analysis would outline growth plan	Additional space for employees will be needed 10 years after construction; upgrade to the building would be earthquake resistent, not earthquake proof	Staff recommends a more indepth space needs analysis for 20 and 30 years into the future to fully understand space needs; KPCW needs to vacate Marsac Building
C	**Construct a new City Hall on Land currently owned by the City**	≈ $17,335,500	Sale would need to provide additional revenue for construction; the building could be designed to meet all future space needs of City Hall; one relocation of City Services once construction of new structute is complete	Building Official would need to approve a 3 year delay regarding the "dangerous building" designation for the Marsac Building and there would be a risk of los of building and loss of life; Potential City land sites could be controversial, and/or not located in the downtown core	$250 per square foot budgeted + 18% soft costs for a 28,000 square foot building
D	**Construct a new City Hall on Land owned by another party**	≈ $17,335,500 + cost of land	Sale would need to provide additional revenue for construction; the building could be designed to meet all future space needs of City Hall; one relocation of City Services once construction of new structute is complete	Building Official would need to approve the delay regarding the "dangerous building" designation for the Marsac Building and there would be a risk of los of building and loss of life	$250 per square foot budgeted + 18% soft costs for a 28,000 square foot building

Marsac Renovation Cost Estimates

Current Budget: $4,750,000

Cost of Construction (as of October 2006)	**Option A (no department rearrangement, no air handling system)**	**Option B (includes department rerrangement)**	**Option C (construct new City Hall on City Land)**	**Option D (new City Hall on private property)**
Seismic	$621,216	$621,216	23,000 sqare feet	23,000 square feet
HVAC	$0	$639,180	$450/square foot*	$450/square foot*
ADA	$184,007	$184,007	construction '09	construction '09
Power Source	$150,000	$150,000		
Other construction, resulting from seismic	$1,193,024	$1,193,024	*based on recommendations from the architect and design team	
Interior Plumbing Improvements	$0	$247,230		
Hazardous Material Allowance	$50,000	$50,000		
Rearrangement of Department Offices	$0	$225,000		
General Cojnditions, Fees, Bonds, Insurance, etc.	$379,231	$379,231		
Contractors Contingency (not Owner's & Design Contingency)	$372,745	$372,745		
Temporary Reolcation of Staff	$350,000	$350,000		
Cost of Construction Subtotal	**$3,300,223**	**$4,411,633**	**$10,350,000**	**$10,350,000**
Underground Parking	$0	$0	$1,500,000	$1,500,000
Space Needs Analysis	$0	$25,000	$0	$0
10% Construction Contingency	$330,022	$441,163	$1,035,000	$1,035,000
Architectual Design (6% cost of construction)	$198,013	$264,698	$931,500	$931,500
Engineering, FFE (9% cost of construction)	$297,020	$397,047	$931,500	$931,500
1% cost of construction for art	$33,002	$44,116	$103,500	$103,500
4% cost of construction for green building	$132,009	$176,465	$414,000	$414,000
10% increase in cost of construction per year	$330,022	$441,163	$2,070,000	$2,070,000
Total	**$4,620,312**	**$6,201,286**	**$17,335,500**	**$17,335,500**
	$247/square foot	$307/square foot		Plus cost of land

HISTORIC MAIN STREET BUSINESS ALLIANCE

July 24, 2007

Park City Council and Mayor
Park City Municipal Corporation
PO Box 1480
Park City, UT 84060

Subject: Support looking at what to do with the Marsac Building/Site

Dear Mayor and City Council:

The HMBA Board supports Councilman Harlan's request to examine options (short and long range) of what can be done with the Marsac Building and site, given the extraordinary cost just to earthquake proof/remodel the existing site. In the interest of determining the most beneficial and sound solution, we would like to participate on any committee that may be formed to examine potential options.

We appreciate your consideration in this matter.

Sincerely,

Historic Main Street Business Alliance

Kenneth A Davis

Ken Davis, President

cc: Tom Bakaly, City Manager
Mark Harrington, City Attorney

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 19, 2007

Present: **Mayor Dana Williams; Council members Marianne Cone; Candace Erickson; Roger Harlan; and Joe Kernan**

Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Eric DeHaan, City Engineer; Stacey Noonan, Sports Complex Manager; and Max Paap, Special Events Manager

Lanie Jones, H W. Lochner; Chris Crowley, and Tamara and Rob Castellano, Shindig; Kimberly Kuehn, PSSM; and Mike Sweeney, HMBA

Absent: **Council member Jim Hier**

1. Council questions/comments. Joe Kernan reported that his HOA, Silver Meadows, has voluntarily committed to reducing water usage by 20%. Roger Harlan remarked on the USSA ground-breaking ceremony. He referred to the mud slide situation in Draper and commented on the quality of the operation of the Chief Building Official's Office in protecting life and property. Additionally, he supports the fireworks ban mandated by the Fire Chief Kelly Gee. Marianne Cone thanked the Mayor for his earlier efforts in protecting Prospect Ridge, which was originally proposed for development under the Flagstaff annexation proposal. The mountainside is prone to slides and should be protected.

She spoke about attending the Alf Engen Ski Museum anniversary party, the HPB meeting and events at the NAC and ice rink. Ms. Cone invited the public to attend the green building session to be held tomorrow at 2 p.m. in the Council Chambers. Candace Erickson relayed that the Board of Health is likely to adopt the body art ordinance at its next meeting in August. The Board is plotting all water sources and septic systems in the County to compile a complete inventory and has discovered 6,000 septic systems at this point in the Hoytsville Valley alone. The Rally for the Cure was a tremendous success and Ms. Erickson thanked the golf course staff for their time and energy.

Mayor Williams also commented on the USSA ground-breaking and how pleased he is with the planning of the Quinns Junction quadrant as an entry corridor statement. He reported on the progress of the police facility, more specifically the efficiency of the HVAC system, and other great elements of the design. The Silver Creek stakeholders group met during the week and the Mayor asked about the City's policy for using the Richardsons Flats repository. Tom Bakaly stated that hazardous waste from the parking garage is stored there as well as materials from private projects. The Chief Building Official is working with Talisker on what can be stored at Richardsons and Mr. Bakaly indicated that the EPA seems agreeable with storing hazardous materials from

Silver Creek at that location. The question is capacity at the site and using the Anchor site is being explored by staff. The Montage project, for instance, is conditioned to use Richardsons but that is being again studied.

Mayor Williams referred to the frozen water line problems on Prospect Avenue which occurred after the City reconstructed the street in 2006. He felt that it is the City's responsibility to make the repairs, acknowledging that it could be as much as $10,000 per household. Candace Erickson believed the freezing was due to the reconstruction project and it is the City's obligation to return the system to the same working level for Prospect Avenue property owners. As a resident on Prospect, Marianne Cone, relayed the neighborhood's experience with running water to avoid freezing lines. Ms. Erickson pointed that running water is not an acceptable solution. Tom Bakaly suggested scheduling this for work session on August 9.

Review of regular meeting:

Bonanza Drive consulting contract – Eric DeHaan stated that Bonanza is slated for a water project in 2009 to deliver water to Empire Canyon. The City received a grant from UDOT in the amount of $1 million to augment the water line project for qualified improvements (unrelated to utilities). In response to requests to improve Bonanza Drive for pedestrians and bicycles, staff is recommending proceeding with a conceptual design early in the process so plans are finalized by 2009. Three firms responded to the RFQ and H W Lochner was selected by staff. Lochner is partnered with firms like Fehr & Peers who has worked with Park City to better facilitate producing a conceptual plan and a 20 year corridor plan. This plan will provide a basis for making decisions relating to walkability projects and relating to elements of the Park Bonanza zoning district. He clarified that the amount of the contract is $72,790.

Consultant Lanie Jones relayed that Lochner will initiate a public involvement program by engaging businesses and the general public and will scientifically examine bike and pedestrian needs. The 20 year corridor plan will recommend both pedestrian and traffic improvements like raised medians or consolidating driveways to improve traffic flow. She explained that there will be a recommendation on environmental clearances tied to the UDOT grant. Candace Erickson suggested that counts be expanded and pointed out that Fehr & Peers may lack a fresh new perspective on Park City streets since it has collected so much information on the City over the years. Ms. Jones clarified that the staff person she will be working with at Fehr & Peers is a bike expert and not a traffic engineer. There was discussion about installing a round-about in the Park Bonanza area and Mr. DeHaan emphasized the conflicts with pedestrians and bicyclists and also rights-of-way issues.

Roger Harlan asked about Lochner's experience with mountain towns. Ms. Jones explained that they have done work for Talisker and she is personally very familiar with Park City. It is actually very common for the firm to examine corridors and uses, recommend improvements and provide a plan for the future. Marianne Cone discussed the importance of including affected property owners in the planning process. Eric

DeHaan interjected that there will also be a plan to get patrons to businesses during the 2009 construction project. Joe Kernan discussed the challenge in accommodating uses without widening the road and is looking forward to learning the results of the study and possible options. Marianne Cone believed that the number of street cuts makes Bonanza more challenging and wondered if accesses could be consolidated. Eric DeHaan explained that driveway locations are reviewed by the Planning Commission and a future plan will provide better information for these types of decisions. Joe Kernan hoped there is a recommendation to improve the intersection at Park City Plaza. Eric DeHaan emphasized the limited right-of-way on Bonanza, but there will be opportunities in the 20 year corridor plan for redeveloped properties. He spoke about redeveloping the Anderson Lumber properties and improving the Homestake Road experience for residents. He emphasized that a master plan design for Bonanza Drive is not the work product.

Naming rights contract – Stacey Noonan introduced Chris Crowley, and Tamara and Rob Castellano of Shindig Inc. She explained that Council members have expressed an interest in naming rights over the past two years for the Park City Sports Complex and one of the goals in the strategic plan, adopted in February, identifies seeking a sponsor for this purpose. Locals were given a chance to step forward, but there was no interest. The next step was proceeding with an RFP and in March, she again presented the proposal to Council and funds were allocated to the project. Ms. Noonan explained that the contract term is one year in the amount of $52,750; $10,750 is for sales and marketing materials and the other $42,000 represents a $3,200 per month draw. This amount will be repaid by Shindig if and when the naming rights are sold. Shindig will develop the Sports Complex's marketing and sales materials in the next 60 days and focus on the naming rights for the remaining ten months. If the City feels that Shindig is not performing, there is an ability to cancel the contract within 30 days. Ms. Noonan felt that the timing is more ideal now since the rink has been operation for over a year.

In response to a question from Roger Harlan about the allocation of time to marketing and soliciting naming rights, Tamara Castellano explained that the sales and marketing program is a small part of the scope of services. A marketing approach will be developed in the first 60 days. Shindig will probably begin targeting corporations in Utah first for naming rights and then branch out to other areas.

Mayor Williams stated that he is not interested in selling the naming rights anymore and wants the Sports Complex *to be ours*. He emphasized that this has nothing to do with Shindig. Marianne Cone described Chicago's Millennium Park where everything is named after a corporation Candace Erickson felt that Council should give the proposal a chance. Maybe no one will want to acquire the naming rights to the entire facility but may be inclined to sponsor other features of the Sports Complex or it may be that the Council ultimately declines offers from corporations. She referred to the process for this project and the fact that Shindig has been before Council a couple of times. Ms. Castellano explained that the facility may remain the Park City Ice Arena *presented by*. . .or there may be assets inside the building or on the fields that may be more appropriate to sell to raise revenues. She strongly felt that the integrity of the facility can be protected. Rob Castellano explained that there are ways to avoid the look of Millennium Park. Chris Crowley added that Shindig is looking for a partner who will potentially underwrite programs and/or events at the facility. Candace Erickson felt that a subsidy in the lean years or an endowment for a second sheet is significant. Roger Harlan expressed his interest in proceeding with the contract. Joe Kernan anticipated that Shindig will return with proposals and Council members will make a final determination and Ms. Castellano pointed out that the contract includes reporting deadlines. Tom Bakaly assured members that they will be updated on the status of the naming rights project.

Park Silly Sunday Market event update and amendment to the MFL – Max Paap explained that this proposed second amendment to the MFL relates to allowing amplified music. He explained the elements of the special event, the original application and approved modifications since this concept was introduced in August 2006. Response to the Sunday Market has been larger than anticipated and about 1,000 patrons have been attending the four markets held to this date. Staff has been meeting with the organizers on a weekly basis since February 2007. Mr. Paap felt that most market goers are satisfied with the event product and there are consistently between 75 and 90 vendors every week. At a recent HMBA meeting, there was discussion about the event drawing people to Main Street and improved sales for restaurants and stores. He acknowledged a few challenges but the weekly debriefings are helpful in addressing problems immediately.

Mr. Paap emphasized that programming the street every week is a major undertaking and the applicants have done a great job in complying with conditions of their MFL. He explained that the request for amplification is for demonstrations and music from 9 a.m. to 3 p.m. and there are potentially six stage areas. This application is consistent with other approvals where a program manager is required on site to manage the stage; the maximum decibel level is 90 measured 25 feet from the front of the stage. Ms. Kuehn urged Council to favorably consider this amendment and clarified that amplified music will not be programmed at all five stages at once. Amplification will also be helpful for cooking demonstrations, etc. In response to a question from Candace Erickson about notifying adjacent property owners, Ms. Kuehn stated that she hasn’t talked to the Marriott but she has discussed the application with tenants and lower Main Street merchants.

Marianne Cone suggested reducing the maximum decibel level to something less than 90. Mike Sweeney interjected that it has been his experience that 90 decibels on average is reasonable and workable. Being able to hear the music is important. Ms. Kuehn added that the stages will be oriented away from residences. Roger Harlan felt the applicants have done a great job up to this point and supports the request. Marianne Cone felt that providing a variety of vendors every week adds to the success of the event. Joe Kernan also expressed his support.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 19, 2007

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 19, 2007. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, and Joe Kernan. Jim Hier was absent and excused. Staff present was Tom Bakaly, City Manager; Polly Samuels McLean, Assistant City Attorney; Kirsten Whetstone, Planner; Max Paap, Special Events Manager;

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. <u>Buy Local Campaign</u> - Candace Erickson commended the Chamber for its *Buy Local* Promotion.

2. <u>Resolution proclaiming the Mayor's and City Council's appreciation of Spc. Robert Adam Kelley's patriotic commitment to serve our country</u> – The Mayor read the proclamation and presented it to Jim and Carl Santy, grandparents of Spc. Kelly.

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

<u>Promoting bicycling in Park City</u> - Michael Watson encouraged Council to maintain its commitment to bikeability within Park City. He felt that the City should follow the County's example with support of bike projects like widening a portion of Old Ranch Road for a bike lane and signing the US40 frontage road as a bike lane.

IV CONSENT AGENDA PUBLIC HEARINGS *(items listed will be open for public hearing prior to consideration for adoption or rejection; hearings may also be continued by vote of the Council)*

1. <u>Consideration of an Ordinance approving the 337 Daly Avenue Subdivision</u> <u>**(motion to continue to August 16, 2007)**</u> – The Mayor requested a motion to continue. Roger Harlan, "<u>I so move</u>". Marianne Cone seconded. <u>Motion carried.</u>

Marianne Cone	Aye
Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Absent
Joe Kernan	Aye

2. Consideration of an Ordinance approving a plat amendment to the King Ridge Estates, located at 255 Ridge Avenue, Park City, Utah **(motion to continue to August 2, 2007)** - The Mayor requested a motion to continue. Marianne Cone, "I so move". Candace Erickson seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Absent
Joe Kernan	Aye

3. Consideration of an Ordinance approving a condominium conversion for the Caribou Lodge located at 522 Deer Valley Drive, Park City, Utah – Planner Kirsten Whetstone explained the application which will provide individual ownership of units. The Planning Commission forwarded a positive recommendation on July 11, 2007. There was public input dealing with the upkeep of the property which has been addressed. She urged approval based on the Ordinance included in the meeting packet. The Mayor opened the public hearing. Hearing no comments from the audience the Mayor closed the public hearing.

4. Consideration of an amendment to the Master Festival License for the Park Silly Sunday Market to allow amplified music – Max Paap explained the request for amplification for art and cooking demonstrations and music from 9 a.m. to 3 p.m. The Mayor opened the public hearing and with no comments, closed the hearing.

5. Consideration of an Ordinance approving a plat amendment to remove a plat note from the Parcel 2- Amended Walter Daniels Subdivision Plat, located at 615 and 621 Woodside Avenue, Park City, Utah – Kirsten Whetstone explained that the application was filed in September 2006 and since that time the staff and Planning Commission have worked through a number of issues. The property at 621 Woodside was a care-taker unit for the Miner's Lodge, located at 615 Woodside, and included a parking easement for the Lodge. Since this is now a private residence and not tied to the Lodge, staff is recommending removal of the plat note as conditioned in the Ordinance. Dana Williams disclosed that the applicant is an employee at Coldwell Banker. The Mayor opened the public hearing and with no comments or questions from the public, closed the hearing.

V CONSENT AGENDA *(items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

Joe Kernan, "I move to remove Item 6 from the Consent Agenda and approve Items 1 through 5 and Item 7". Marianne Cone seconded. Motion carried.

Marianne Cone	Aye

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Absent
Joe Kernan	Aye

1. Resolution proclaiming the Mayor's and City Council's appreciation of Spc. Robert Adam Kelley's patriotic commitment to serve our country – See Council Communications and staff report.

2. Amendment to the Master Festival License for the Park Silly Sunday Market to allow amplified music – See staff report, work session notes, and public hearing.

3. Ordinance approving a condominium conversion for the Caribou Lodge located at 522 Deer Valley Drive, Park City, Utah – See staff report and public hearing.

4. Ordinance approving a plat amendment to remove a plat note from the Parcel 2-Amended Walter Daniels Subdivision Plat, located at 615 and 621 Woodside Avenue, Park City, Utah – See staff report and public hearing.

5. Authorize the City Manager to enter into a one-year contract, in a form approved by the City Attorney, with Koda, Inc. dba Shindig Marketing & Events, in the amount of $52,750 to pursue the sale of naming rights for the Park City Ice Arena and Sports Complex – See staff report and work session notes.

6. Authorize the City Manager to enter into a three-year contract renewable annually, in a form approved by the City Attorney, with Resort Commercial Property Management for janitorial services in the amount not to exceed $119,775 per year – See staff report and New Business.

7. Authorize the City Manager to enter into a professional engineering services agreement with H W Lochner Inc., in a form approved by the City Attorney, to provide a concept design and a 20 year corridor plan for Bonanza Drive in the amount of $73,000 – See staff report and work session discussion.

VI NEW BUSINESS

Authorize the City Manager to enter into a three-year contract renewable annually, in a form approved by the City Attorney, with Resort Commercial Property Management for janitorial services in the amount not to exceed $119,775 per year – In response to a question from Joe Kernan, Pace Erickson explained that local businesses are given higher preference than outside contractors. There was discussion regarding level of service for restrooms in municipal buildings, facilities and parks. Mr. Erickson explained that Miners Park restrooms are cleaned every day but during special events, may be cleaned six to ten times a day and the contract addresses additional services during special events or occasions. He relayed that contracting general cleaning services has proved more economical than using staff and has worked well over the past five years. Marianne Cone felt the City does a good job of providing a number of public restrooms to the public that are accessible and unlocked. Roger Harlan, "I move that we authorize the City Manager to enter into a three-year contract renewable annually, in a form approved by the City Attorney, with Resort Commercial Property Management for janitorial services in the amount not to exceed $119,775 per year". Marianne Cone seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Absent
Joe Kernan	Aye

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VIII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4:30 p.m. Roger Harlan, "I move to close the meeting to discuss personnel". Candace Erickson seconded. Motion carried. The meeting opened at approximately 4:45 p.m. Joe Kernan, "I move to open the meeting". Roger Harlan seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Absent
Joe Kernan	Aye

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

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

City Council
Staff Report

SUSTAINABILITY DEPARTMENT

Author:	**Jonathan Weidenhamer**
Subject:	**Amendments to the Park City Land Management Code prohibiting office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts in storefronts; as well as related definitional changes.**
Date:	**August 9, 2007**
Type of Item:	**Legislative**

Summary Recommendation: Staff recommends the City Council hold a public hearing and consider approving proposed amendments to the LMC to prohibit non-sales tax generating uses and Off-Site Private Residence Clubs from ground level storefronts in the downtown core.

Background

On August 2, 2007 Council provided direction to exclude all of Park Avenue from the HRC zoned portion of the proposed ordinance. The draft ordinance attached recognizes that direction.

Analysis

Upon review and analysis, staff recommends consideration of only excluding those portions of Park Avenue north of the Town Lift Bridge/ 8th Street, while keeping those areas south of the Bridge within the area affected by the proposed ordinance. An additional exhibit has been included (Exhibit B2).

The Town Lift Bridge creates a significant visual, physical, and land use break on Park Avenue. The area north of the bridge therefore should not be affected by the ordinance. The area south of the Bridge exhibits the following characteristics that indicate why it should be included in the ordinance:

- This block serves as the entry way and portal to both the Main Street downtown area and the historic residential core.
- It is a transitional area that has a strong mixed-use character, defined by restaurant, retail, and ski-related service uses. The buildings are a mix of historic and contemporary and are of a varying size.
- The first bus stop location as you enter the downtown core.
- The buildings and lots include several locations that are a specific concern to staff:
  East side
  - 738 Park Avenue – Kimball Art Center

- o 690 Park Avenue Davanzas
- o 698 Park Avenue Utah Ski and Golf
- o 751 Park Avenue Caledonian
- o 820 Park Avenue Rio Grande/Zions Bank

West Side

- o 651 Park Avenue Bad Ass
- o 657 Park Avenue 1894 Miner's House/ PC Tourist Center
- o 703 Park Avenue National Garage
- o 777 Park Avenue Coalition West Parcel (.58 acres)

To support staff's recommendation alternative language to the HCB footnote for Council to consider has been drafted (changes indicated by underline):

> *Prohibited in storefronts adjacent to the Main Street, Swede Alley, Heber Avenue, <u>or Park Avenue (excluding those HRC zoned areas north of the Town Lift Bridge/8th Street)</u> rights-of-way; excluding without limitation addresses contained within the following Buildings: 702, 710, 780,804, 890, and 900 Main Street. For purposes of this Chapter storefront is intended to mean the space having approximately the same elevation as the Final Grade of the street level, or in the case of split level storefronts, both the levels immediately above and below street level.The Planning Director shall have the final determination of applicability.*

<u>Additional Clarifications:</u>

- o Split Level Buildings - In the case of a split level storefront, both the levels immediately above and below street level will be affected by this ordinance.

- o Residential uses – The proposed amendments to the HCB zone prohibit non-hotel residential uses in storefronts. The amendments to the HRC zone do <u>not</u> prohibit residential in storefronts.

The previous Background and Analysis Sections from the August 2, 2007 staff report were unchanged as presented at the August 2, 2007 Council meeting and are available upon request.

<u>Significant Impacts</u>

Adoption of this ordinance will likely result in approximately 17 businesses becoming non-conforming uses (Exhibit E). They will then be regulated by Chapter 9 of the LMC; of which the purpose statement states: which generally states that A Non-Conforming Use that is discontinued for a continuous period of one (1) year is presumed abandoned and shall not thereafter be reestablished or resumed. The purpose statement of the chapter (15-9-1) states:

This Chapter regulates the continued existence of Non-Conforming Uses and Non-Complying Structures as defined in Chapter 15. While Non-Conforming Uses, Non-

Complying Structures and improvements may continue, this Chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the Development standards prescribed by this Code. In addition, Applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the Structure and Site through such measures as landscaping, Building design, or the improved function of the Use in relation to other Uses.

Public Input

Staff has received input at the 8/2/07 meeting on the following issues:

1. Deceptive Advertising – This ordinance should preclude those who operate business under the moniker of “tourist advertising”, when they are really selling real estate

2. Non-conforming Use - Staff has had discussions with an owner of a space that will become non-conforming. That owner has asserted that this amendment will affect the value of their property and their ability to market and potentially sell the location. No specific evidence to this effect was provided by the property owner.

3. Noticing – One affected property owner asserted that additional, specific written notice should be provided to all potentially affected property owners.

4. Previous Municipal Code Amendment – It has been suggested that with consideration of these new LMC amendments that the previous change to the Municipal Code that prohibited local consent for Liquor Licenses for Bars and Private Clubs that do not allow the general public to apply for membership should be amended to only affect storefronts as well.

Department Review

This has been reviewed by the Sustainability, Planning, Executive and Legal Departments.

Alternatives:

1. Adopt ordinance as prepared as directed by City Council, which excludes all HCB zoned portions of Park Avenue.
2. Adopt ordinance as prepared by staff. **This is staff’s recommendation.**
3. Remand to the Planning Commission
4. Continue for more information.

Recommendation

Staff recommends that the City Council hold a public hearing and consider approving proposed amendments to the LMC to prohibit non-sales tax generating uses and Off-Site Private Residence Clubs from ground level storefronts in the downtown core.

Exhibits
Draft Ordinance
Exhibit A - May 24, 2007 Municipal Code Change
Exhibit B – Zoning Map Detail
Exhibit C– Address Book Exhibit – Village on Main
Exhibit D – Cross section Exhibit
Exhibit E – Probable Non-Conforming Uses*
Exhibit F – Meeting minutes

- 4/5/07
- 5/24/07
- 5/31/07 (not completed at printing of report. Will be available at the meeting)
- 6/13/07 Planning Commission Work Session & Public Hearing
- 6/27/07 Planning Commission Public Hearing & Recommendation

Exhibit G – Affidavit from Park City Budget Department (signed copy on file, as well as affidavit from HMBA).
Ehhibit H – 2006 land use and sales tax numbers
Exhibit I – Public Input letter

* Subject to determination in accordance with LMC Ch. 9

AN ORDINANCE APPROVING AMENDMENTS TO THE PARK CITY LAND MANAGEMENT CODE TO CHAPTER 15-2.6: HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT AND 15-2.5 HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT RELATING TO PROHIBITING OFFICE, RESIDENTIAL, OR OTHER NON-SALES TAX GENERATING USES AND OTHER SIMILAR OR ASSOCIATED USES IN THE HCB AND HRC DISTRICTS IN STOREFRONTS; AS WELL AS RELATED DEFINITIONAL CHANGES TO LAND MANAGEMENT CODE CHAPTER 15-15-1: DEFINITIONS

WHEREAS, the Land Management Code is designed and enacted to implement the objectives of the Park City General Plan; to protect the general health, safety, and welfare of Park City's citizen's and property owners; to maintain the quality of life and experience for its residents and visitors; and to preserve the community's unique character and values;

WHEREAS, Park City has an interest in promoting vibrancy and activity in the historic Main Street downtown area located in the Historic Commercial Business (HCB) and the Historic Recreation Commercial (HRC) Districts and finds it is essential to the City's long term economic and financial well-being; and

WHEREAS, The Community Economy Element of the Park City General Plan states that "Temporary or transient real estate project offices should be encouraged to locate in other areas of the City in order for Main Street to retain its primary functions; and goes on to say Park City should, "Maintain and improve the resort ambiance, which includes adequate opportunities for recreation, shopping, dining and culture."; and

WHEREAS, the 2003 HyettPalma Park City Downtown Economic Study recommends pursuing a broad variety of uses and attractions to draw locals and visitors; and

WHEREAS, The City's Budget Department and The Main Street Business Alliance have submitted Affidavits that support these amendments; and

WHEREAS, Park City's Economic Development Plan identifies the following as Top Priorities: Facilitation and establishment of more "attractions/areas of interest" for both visitors and residents; Maintain and improve the balance of Sustainable Community goals by going beyond just economic initiatives to include social and environmental strategies; and Protect, preserve, and promote the historic Main Street downtown area as the heart of the region; and

WHEREAS, Park City's Economic Development Strategic Plan identifies the following as High Priorities: Further develop and market the uniqueness of Park City and why it is set apart from other mountain resort communities; Proactively target business sectors that will fill voids left by departing companies or for smart redevelopment reasons; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will diminish the diverse and eclectic mix of uses and attractions necessary to sustain Park City's unique vibrant Main Street core for the general public, visitors, quests, and locals; and

WHEREAS, the City monitors the downtown business mix and sales tax generation as part of its financial health assessment and finds a diversified business mix is an element of Main Street's attractiveness and a destination center for visitors and locals; and

WHEREAS, the long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of commercial and mixed-use buildings and districts in and near the downtown core; and

WHEREAS, a preliminary discussion was held at the joint Planning Commission/City Council work session on April 5, 2007 regarding legislative remedies available to ensure the continuation of a successful business mix on historic Main Street; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will have a negative effect upon the overall economy and vitality of the downtown core as visitors find fewer businesses in which to shop or restaurants in which to eat. A reduction in visitor traffic will have a net negative impact to sales tax overall. A reduction in visitor numbers will also signal a change in the culture of Main Street into an elite area that is less inviting to the majority of Park City's visitors, guests, and locals; and

WHEREAS it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Utah State Code and the Park City General Plan, and to be consistent with the values and identified goals of the Park City community to protect health and safety, maintain the quality of life for its residents, and to preserve the community's unique character.

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

<u>SECTION 1</u>. AMENDMENTS TO SECTIONS **15-2.5 Historic Recreation Commercial (HRC) District, 15-2.6: Historic Commercial Business (HCB) District, and Section 15-15-1** are hereby amended as attached hereto as Exhibit A.

LMC Amendments

TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT

Chapter adopted by Ordinance No. 00-51

15-2.5-1. PURPOSE.
(I) maintain and enhance the long term viability of the Downtown core as a destination for residents and tourists by ensuring a business mix that encourages a high level of vitality, public access, vibrancy, activity, and public/resort-related attractions.

15-2.5-2. USES.

Uses in the HRC are limited to the following:

(A) **ALLOWED USES**.

(1) Single Family Dwelling
(2) Duplex Dwelling
(3) Secondary Living Quarters
(4) Lockout Unit[1]
(5) Accessory Apartment[2]
(6) Nightly Rental
(7) Home Occupation
(8) Child Care, In-Home Babysitting
(9) Child Care, Family[3]
(10) Child Care, Family Group[3]
(11) Child Care Center[3]
(12) Accessory Building and Use
(13) Conservation Activity
(14) Agriculture
(15) Bed and Breakfast Inn[4]
(16) Boarding House, Hostel
(17) Hotel, Minor, fewer than 16 rooms
(18) Office, General[5]

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[1]Nightly rental of Lockout Units requires a Conditional Use permit

[2]See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

[3]See LMC Chapter 15-4-9 for Child Care Regulations

[4]Requires an Administrative Conditional Use permit

5 Prohibited in storefronts adjacent to the Main Street, Swede Alley, or

(19) Parking Area or Structure, with four (4) or fewer spaces

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Heber Avenue rights-of-way; excluding without limitation addresses contained within the following Buildings: 702, 710, 780,804, 890, and 900 Main Street. For purposes of this Chapter storefront is intended to mean the space having approximately the same elevation as the Final Grade of the street level, or in the case of split level storefronts, both the levels immediately above and below street level. The Planning Director shall have the final determination of applicability.

(B) **<u>CONDITIONAL USES</u>**.

(1) Triplex Dwelling
(2) Multi-Unit Dwelling
(3) Guest House, on Lots one acre
(4) Group Care Facility
(5) Public and Quasi-Public Institution, Church, School
(6) Essential Municipal Public Utility Use, Facility, Service and Structure
(7) Telecommunication Antenna[6]
(8) Satellite Dish, greater than thirty-nine inches (39") in diameter[7]
(9) Plant and Nursery stock products and sales
(10) Hotel, Major
(11) Timeshare Projects and Conversions[5]
(12) Private Residence Club Project and Conversion[5][4]
(13) Office, Intensive[5]
(14) Office and Clinic, Medical[5]
(15) Financial Institution, without drive-up window[8]
(16) Commercial Retail and Service, Minor[7]
(17) Commercial Retail and Service, personal improvement[7]
(18) Neighborhood Convenience Commercial, without gasoline sales
(19) Café or Deli[7]
(20) Restaurant, General[7]
(21) Restaurant and café, Outdoor Dining[4]
(22) Outdoor Events[4]
(23) Bar
(24) Parking Area or Structure, with five (5) or more spaces
(25) Temporary Improvement[1]
(26) Passenger Tramway Station and Ski Base Facility
(27) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
(28) Recreation Facility, Commercial, Public, and Private
(29) Entertainment Facility, Indoor
(30) Fences greater than six feet (6') in height from Final Grade[4]
<u>(31) Private Residence Club, Off-site [5]</u>

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[6]See LMC Chapter 15-4-14, Supplemental Regulations For Telecommunication Facilities

[7]See LMC Chapter 15-4-13, Supplemental Regulations For Satellite Receiving Antennas

[8]If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use

TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

Chapter adopted by Ordinance No. 00-15

15-2.6-1. PURPOSE.

(J) maintain and enhance the long term viability of the Downtown core as a destination for residents and tourists by ensuring a business mix that encourages a high level of vitality, public access, vibrancy, activity, and public/resort-related attractions.

15-2.6-2. USES.

Uses in the Historic Commercial Business (HCB) District are limited to the following:

(A) **ALLOWED USES**.

(1) Single Family Dwelling~~[9]~~[1]
(2) Multi-Unit Dwelling[1]
(3) Secondary Living Quarters[1]
(4) Lockout Unit[1] [10]
(5) Accessory Apartment[1] [11]
(6) Nightly Rental [12]
(7) Home Occupation[1]
(8) Child Care, In-Home Babysitting[1]
(9) Child Care, Family[1] [13]
(10) Child Care, Family Group[1] [4]
(11) Child Care Center[1] [4]
(12) Accessory Building and Use[1]
(13) Conservation Activity
(14) Agriculture
(15) Bed and Breakfast Inn[14]

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[1] Prohibited in storefronts adjacent to the Main Street, Heber Avenue or Swede Alley rights-of-way. For purposes of this Chapter storefront is intended to mean the space having approximately the same elevation as the Final Grade of the street level, or in the case of split level storefronts, both the levels immediately above and below street level. The Planning Director shall have the final determination of applicability.

[10]Nightly Rental of Lock Units requires a Conditional Use permit

[11]See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

[12]Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses

[13] See LMC Chapter 15-4-9 for Child Care Regulations

(16) Boarding House, Hostel
(17) Hotel, Minor, fewer than 16 rooms
(18) Office, General[1]
(19) Office, Moderate Intensive[1]
(20) Office and Clinic, Medical[1]
(21) Financial Institution, without drive-up window
(22) Commercial Retail and Service, Minor
(23) Commercial Retail and Service, personal improvement
(24) Commercial Neighborhood Convenience, without gasoline sales
(25) Restaurant, Cafe or Deli
(26) Restaurant, General
(27) Bar
(28) Parking Lot, Public or Private with four (4) or fewer spaces
(29) Entertainment Facility, Indoor
(30) Salt Lake City 2002 Winter Olympic Games Legacy Displays[6]

(B) **CONDITIONAL USES**.

(1) Group Care Facility[1]
(2) Public and Quasi-Public Institution, Church, School
(3) Essential Municipal Public Utility Use, Facility, Service, and Structure
(4) Telecommunication Antenna[7]
(5) Satellite Dish, greater than thirty-nine inches (39") in diameter[8]
(6) Plant and Nursery stock products and sales
(7) Hotel, Major
(8) Timeshare Projects and Conversions[1]
(9) Timeshare Sales Office, Off-Site within an enclosed Building[1]
(10) Private Residence Club Project and Conversion[1][5]
(11) Commercial Retail and Service, Major
(12) Office, Intensive[1]
(13) Restaurant, Outdoor Dining[5]
(14) Outdoor Events
(15) Hospital, Limited Care Facility
(16) Parking Area or Structure for five (5) or more cars
(17) Temporary Improvement
(18) Passenger Tramway Station and Ski Base Facility

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[14]Requires an Administrative Conditional Use permit

[6]Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services agreement and/or Master Festival License.

[7]See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

[8]See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

(19) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
(20) Recreation Facility, Public or Private
(21) Recreation Facility, Commercial
(22) Fences greater than six feet (6') in height from Final Grade[5]
(23) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays[9]
(24) Private Residence Club, Off-site [1]

TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 15-15 -1.44

15-15-1.44. Club.

(E) Private Residence Club, Off-Site. Any Use organized for the exclusive benefit, support of, or linked to or associated with, or in anyway offers exclusive hospitality services and/or concierge support to any defined owner's association, timeshare membership, residential club or real estate project. Hospitality includes but is not limited to any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, office.

Exhibit A
May 24, 2007 municipal Code Amendment

PARK CITY MUNICIPAL CODE
TITLE 4 - LICENSING

4- 5- 1. BEER LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of the sale of beer at retail or wholesale within the City without first procuring a beer license as required by this Chapter. In addition to the City license, a State beer license shall be required for all sales of beer for on-premise consumption or for purchase or sale of beer in a container exceeding two liters. A separate license shall be required for each place of retail sale, for each separate premise, except that separate licenses are not required for each retail beer dispensing outlet located in the same building or on the same resort premise owned or operated by the same applicant. No beer license may be transferred, assigned or subleased in any manner. Licenses are invalidated by transfer or attempted transfer. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act, and this Title. **No Beer License shall be issued for any Private Club or Bar in the HCB District or HRC District unless the general public may join the club, either as an annual member or a temporary visitor, and the cost of that annual membership or temporary visitor card is not more than $50.00.**

4- 6- 1. LIQUOR LICENSE REQUIRED.

No person shall operate a place of business which allows customers, members, guests, visitors, or other persons to possess, consume, or store liquor on the premises of the place of business without a liquor license issued by the City. A separate license shall be required for each place of business. No liquor license may be transferred, assigned, or subleased in any manner. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act, Utah Alcoholic Beverage Control Commission Rules and Regulations, and this Chapter. **No Liquor License shall be issued for any Private Club, Bar, or Restaurant in the HCB District or HRC District as described in Sections 4-6-2 and 4-6-3 unless the general public may join the club, either as an annual member or a temporary visitor, and the cost of that annual membership or temporary visitor card is not more than $50.00.**

Exhibit B – Zoning Map Detail

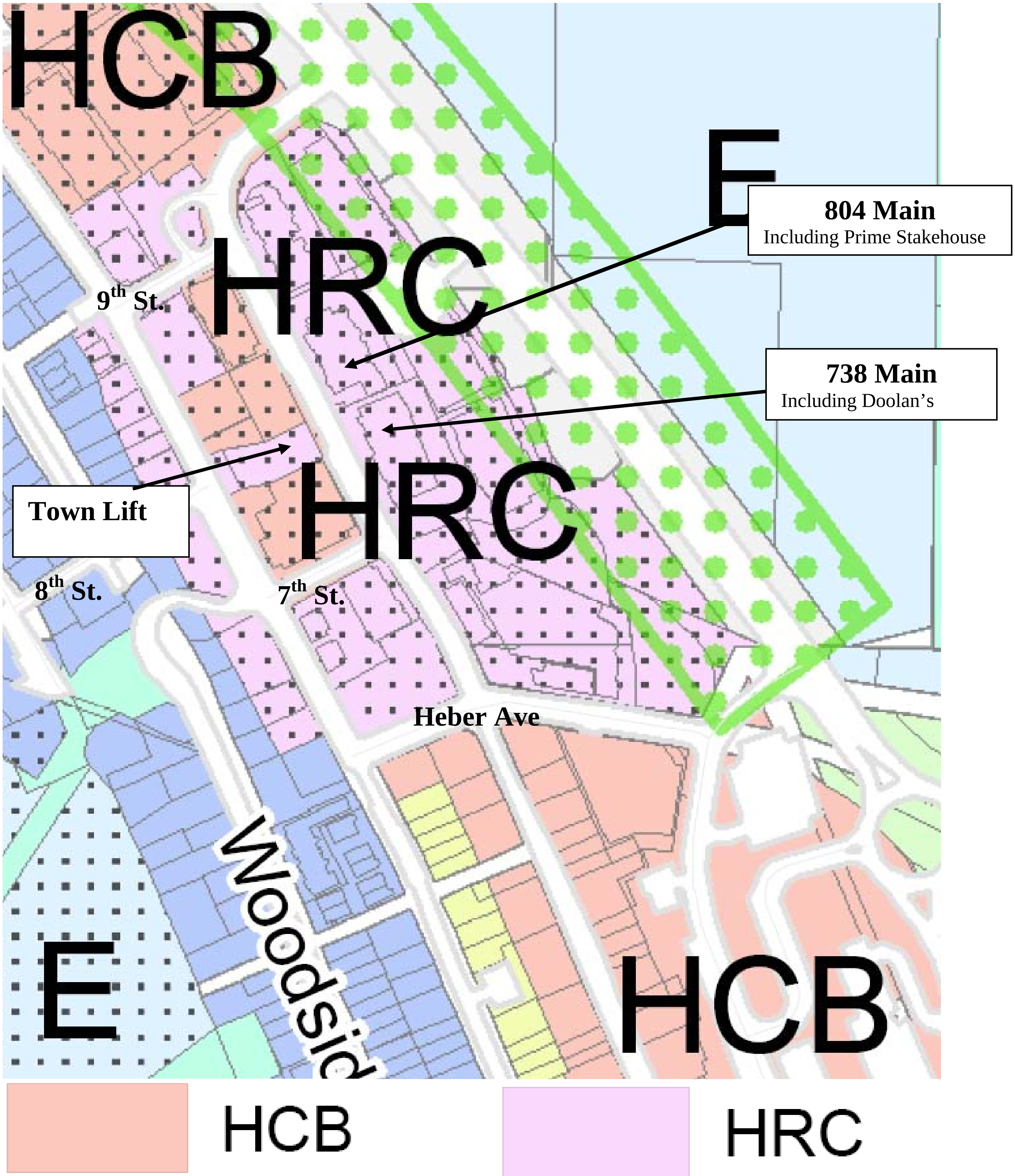

HCB
E
804 Main
Including Prime Stakehouse
HRC
9th St.
738 Main
Including Doolan's
Town Lift
HRC
8th St.
7th St.
Heber Ave
Woodsid
E
HCB
HCB
HRC

Exhibit B2

Park Avenue

DRAFT

0 30 60 90 120 150 Feet

Exhibit C
Address Book - Village on Main

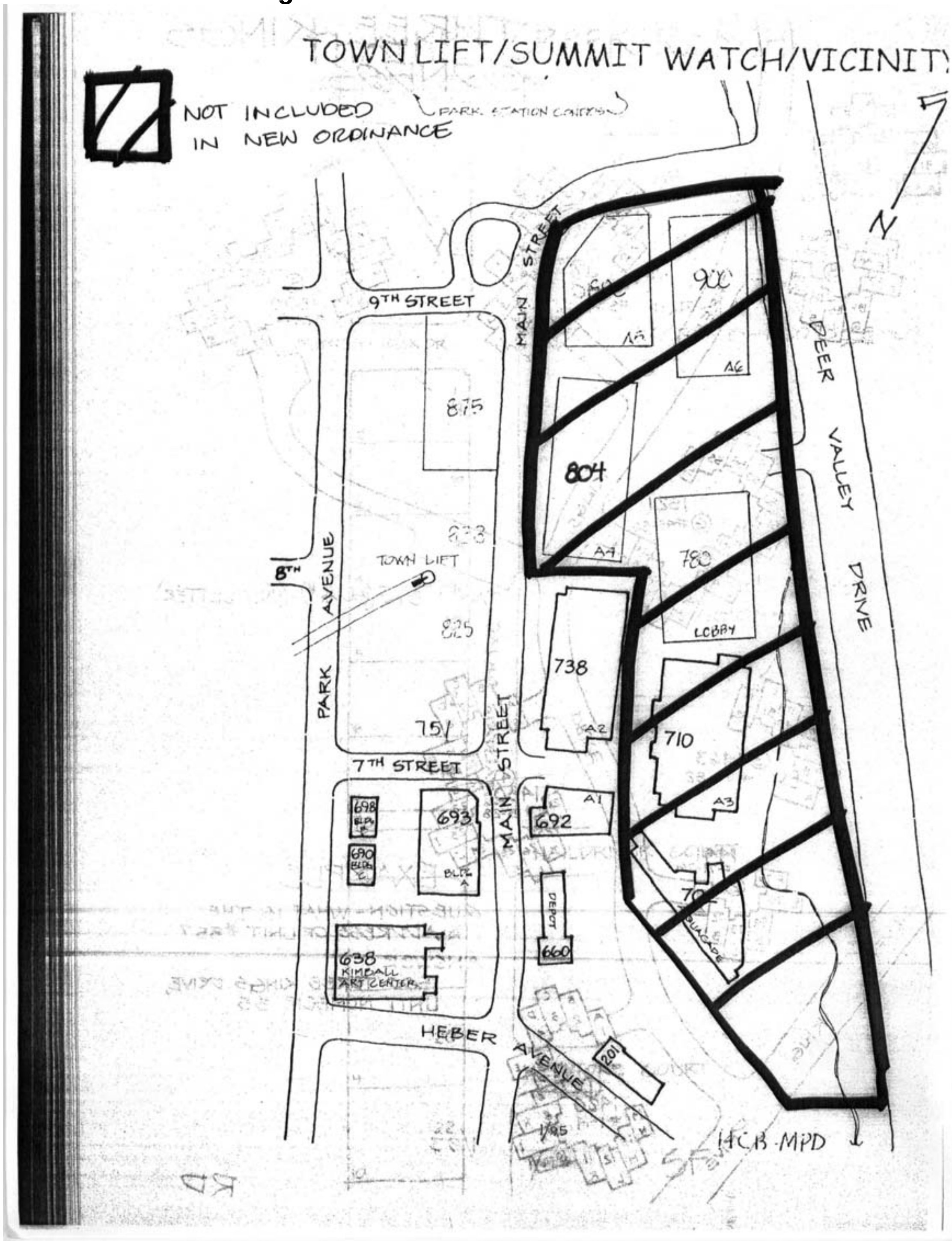


Exhibit D – Cross Section Exhibit

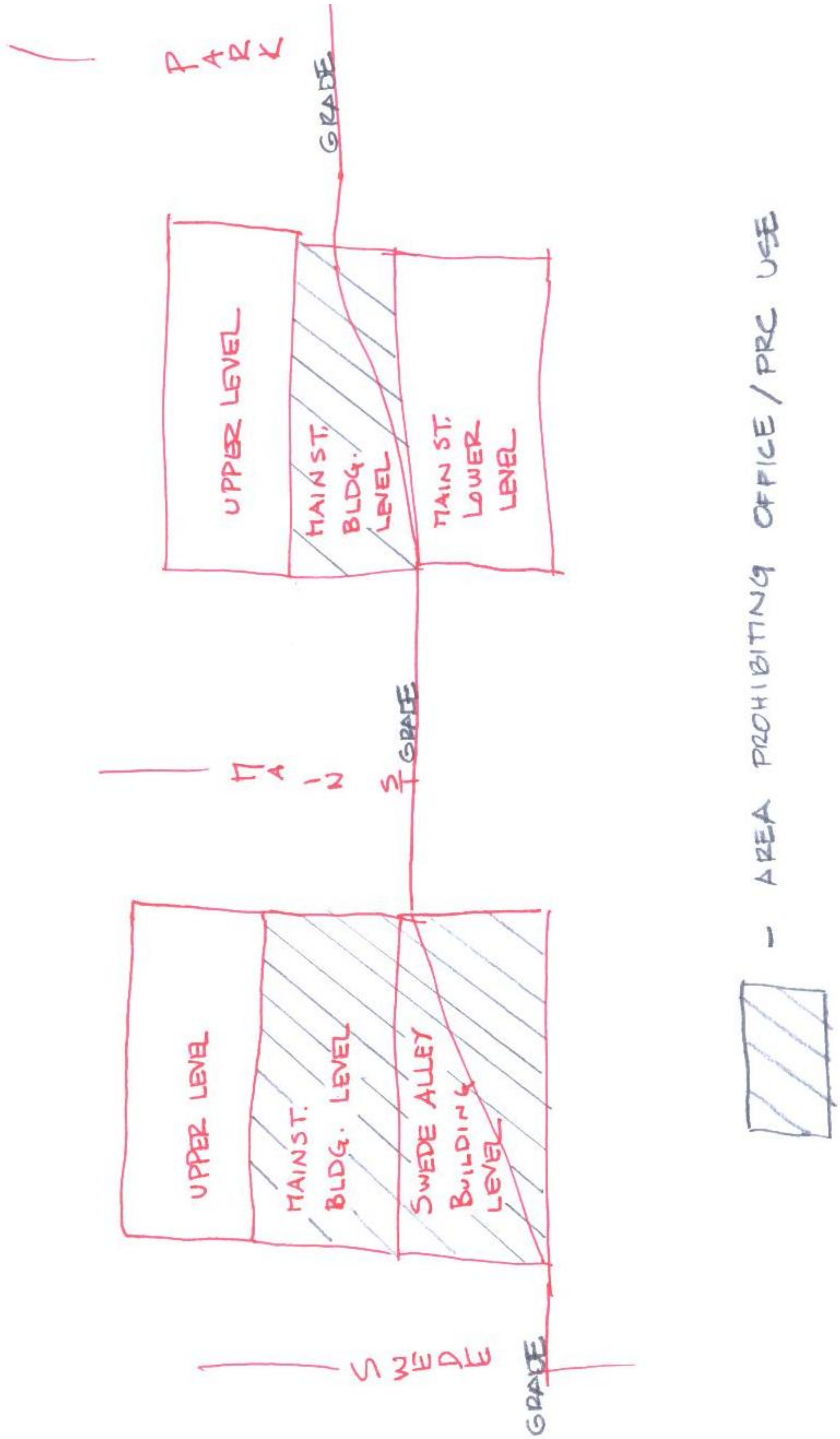


Exhibit E
Probable Non-Complying Uses*

1. 186 Main Prudential
2. 268 PC Tourist Center
3. 312 keller Williams
4. 354 Bald Eagle
5. 515 Talisker
6. 544 PC Tourist Center
7. 545B Coldwell Banker
8. 545C Marriott Mt. side vacation club
9. 592 PC Activity Center
10. 625 Prudential
11. 632 Sterling Real Estate
12. 692 Marriott Vacation Club
13. 751 Westgate
14. 804ste. 37 Mountainland builders/Ashley investors/McIntosh Mill Partners
15. 875 Silver Creek Dlvpt. Grp.
16. 201 Heber Sky lodge real estate
17. 136ste. 108 Prudential (Discover Park City)

*Subject to determination in accordance with LMC Ch. 9

Exhibit F - Meeting minutes

PARK CITY COUNCIL WORK SESSION NOTES
APRIL 5, 2007

Main Street Vertical Zoning - Mayor Williams explained this item refers to regulation of real estate offices on Main Street, which has been a concern because linear square footage has been converting into offices on Main Street.

Project Manager Jonathan Weidenhamer explained that in 2002 and 2006, Staff had brought updates to Council on mixed uses on Main Street. In 2002, 11% were office use and 82% were restaurant and retail. In 2006, offices had decreased to 8% and 91% were restaurant and retail. At that time, there was a consensus that the threat was more perceived than real and Staff was directed to monitor uses as they proceeded with a market analysis.

The market analysis will be a two-phase approach providing first an inventory of the types of businesses, and based on sales tax revenues, what types of businesses are more successful than others. The second phase will involve a comparison to other resort communities and their mix of businesses. This information will provide a basis for Council to discuss the efficiency of our mix and to discuss whether we want to look at something else. Park-Bonanza updates will also help shape discussions on some type of preferred future.

Based on observations, Staff has observed the possibility of ownership changes on Main Street involving “residential concierge or owners’ clubs”. They are unclear what the impact could mean in terms of sales tax.

Jim Hier felt we should be taking a look at how we can limit non retail, non restaurant uses, not necessarily doing a market retail study of which facilities provide us with more sales tax. Joe Kernan wanted ideas from other towns who have addressed this issue. Ken Martz believed the more public you could make Main Street, the better it will be. Jack Thomas felt the vitality and future of Main Street depended on the ease with which we can get there. Evan Russack wondered what the trigger point was if we were going to make efforts to change the economic landscape on Main Street. Mayor Williams explained there was a mix of about 10-11%, which was livable, but we are trying to define a percentage for the future since there is the potential to go higher.

Manger Bakaly summarized Council’s direction to return with more discussion of issues surrounding this and that they desire fact finding to frame the information from other cities that have done this, rather than returning with an ordinance.

2. Consideration of an Ordinance amending Title 4 of the Municipal Code of Park City Utah regulating liquor-licensed establishments - Jon Weidenhamer read minor revisions to the Ordinance into the record. Section 4-5-1 would be amended to include, "No Beer license shall be issued for any Private Club or Bar in the HCB District or HRC District, unless the general public may join the club, either as a member or visitor, and the cost of that membership or visitor card is not more than $50.00"; and, 4-6-1 would read, "No Liquor license shall be issued for any Private Club or Bar in the HCB District or HRC District, as described in Sections 4-6-2 and 4-6-3 unless the general public may join the club, either as a member or visitor, and the cost of that membership or visitor card is not more than $50.00."

The general intent of the ordinance is to assure that private clubs, bars and restaurants on Main Street would allow public access at all times. He explained the $50 fee was based on double the average of the norm of general Main Street fees. City Attorney Mark Harrington emphasized this addressed temporary visitor cards as well as annual membership cards and did not prevent private events such as fund raisers.

Mayor Williams questioned the need to include a specific fee. Attorney Harrington expressed concern that unless it included a cap, exorbitant fees, or fees attached to private home ownership, could be charged and this was the safest way to ensure public access. He explained we were not interfering with the State definition of a private club, we are just addressing local consent for clubs within a limited area.

Mayor Williams opened the public hearing.

Mike Wong, Main Street businessperson, understood it could be beneficial for the Main Street district and it was important to place a cash limit so portions of the population were not excluded. He supported the changes and encouraged Council to prevent loopholes in the ordinance.

Mike Sweeney, speaking on behalf of the HMBA, his tenants and himself. He expressed concern about the wording to prevent loopholes. He did not want to preclude businesses that collect cover charges to pay for performing groups. He was supportive of Council's consideration of the changes.

John Burdick, director of restaurants for Sky Lodge, opposed including the cost of membership in the ordinance changes.

Attorney Harrington emphasized this ordinance would not regulate cover charges nor special event ticket prices. This ordinance is most defensible if we follow the state regulatory categories and not attempt to distinguish differences in membership types. Jim Hier commented this was a great first step in trying to ensure the viability of Main Street and encouraged Staff to consider additional measures to help maintain that economic viability.

With no additional input, the Mayor closed the public hearing.

City Attorney Harrington requested they insert “annual” and “temporary” membership language in Item 1.

Jim Hier “I move approval of Consent Agenda as modified and corrected by the City Attorney and the documents issued supplemental to the packet that Council received”. Marianne Cone seconded. Motion unanimously carried.

1. Ordinance amending Title 4 of the Municipal Code of Park City Utah regulating liquor licensed establishments – See Staff Report and discussion in Work Session

PARK CITY COUNCIL WORK SESSION NOTES
MAY 31, 2007

Joint review with Planning Commission – vertical zoning. Jon Weidenhamer explained that vertical zoning is intended to provide control to the City with regard to the mix of uses buildings on historic Main Street and is consistent with the Economic Development Strategic Plan. There have been concerns expressed about the proliferation of real estate offices on the street, and he referred to studies performed in 2002 and 2006. Staff believes that perhaps this is more of a perceived threat than real because the number of offices has decreased from 2002 to 2006. Office use represents 8% of the available storefronts on Main Street and this translates into foregone sales tax revenue of about $30,000 annually. During the 2006 Visioning Session, the City Council introduced a new goal of community sustainability balancing economy, quality of life and the environment. At the April 5, 2007 joint session, direction was given to staff to compare data from other cities and Mr. Weidenhamer contacted the Colorado Association of Ski Towns. Additionally, staff was asked to formulate legislative remedies to manage use mix, specifically private residence clubs and on May 24, 2007, the City Council adopted an ordinance regulating private clubs to ensure accessibility to visitors and residents. He asked if Council desires pursuing further regulations by prohibiting offices and/or private residence clubs on the street level. Joe Kernan stated that he was pleased to learn that peer communities are also considering the vitality of their downtowns. He felt real estate offices detract from the street, but at the same time there should be a balance with regard to property rights. Jon Weidenhamer added that some people feel that real estate offices are not a bad thing on Main Street if they contribute to the sales of second homes, for instance. Jim Hier recommended that use criteria be tied to sales tax generation and that existing offices be grandfathered; he asked whether Swede Alley properties should be included.

Planning Commissioner Michael O’Hara suggested clearly stating the problem and defining a target goal (i.e., number, percentage, and/or square footage on Main Street).

A conditional use permit could be required for non-retail businesses which could be accomplished through an overlay zone. Jim Hier stated that he doesn't favor implementing an arbitrary percentage for retail and suggested allowing only sales tax generators on the street level on Main Street. He doesn't believe there is a problem now, but feels this approach is proactive to ensure the vitality of Main Street. Charlie Wintzer agreed with Mr. Hier and pointed out the significant expense in building and managing parking in the downtown core which was never contemplated for supporting office use. The easiest thing to do is the best thing and conditional uses are not always straight-forward. Julia Petit agreed with previous comments and felt it would be extremely difficult to arrive at a percentage and manage it. She agreed with controlling use on the street level with a policy developed by the Legal Department supporting the City's control of a land use right, rather than imposing an arbitrary formula. Evan Russack expressed that he personally would like all of the real estate offices off of Main Street and whatever can be done to move forward is a step in the right direction. He discussed the possibility of appropriate non-sales tax generating operations being overlooked. Candace Erickson emphasized that a conditional use is described as an *approved use* unless it is proved it can't be mitigated. This is where the application of the conditional use permit process becomes an issue for her. Mr. O'Hara explained that the conditional use permit would only be workable if there is a target or standard. Roger Harlan stated he liked the sales tax generating criteria; more retail would make Main Street more diverse, acknowledging that high rent may drive certain uses like restaurants. Mayor Williams countered that the limitations of many historic buildings preclude restaurant use as a practical matter and he didn't feel this will potentially become problematic. Jim Hier discouraged regulating the types, numbers and mix of businesses on Main Street which is driven by the market. He pointed out that the museum is not sales generating, but belongs on Main Street and there may have to be a provision addressing these circumstances. He expressed concern that crafting conditional use criteria may become complicated. All members of Council and the Planning Commission in attendance agreed on pursuing a vertical zoning ordinance.

Charlie Wintzer agreed with Mr. Harlan about the impacts of artificially high rents and felt that limiting use will keep the market more level. Mayor Williams stated that he doesn't want offices in storefronts and/or private residence clubs and supports moving ahead with an ordinance regulating at least the street level. It should include Swede Alley as well. Michael O'Hara reiterated his first comment about identifying a target and proceeding with a simple solution. He feared that criteria will be a challenge to apply if it is too complicated. Mark Harrington understood direction to be to explore the feasibility an ordinance, restricting office use because it doesn't generate sales tax and consideration of exemptions for public safety, non-profits, etc. Evan Russack stated that he agrees that private residence clubs should not be allowed in storefronts and suggested considering an economic development program to promote diversity of businesses. Discussion ensued on definitions and Mark Harrington pointed out the importance of consistency with terms in the land use table. There was discussion of including the plaza area and a portion of Park Avenue and adjacency to a public right-of-way. Jim Hier pointed out commercial uses being allowed in historic buildings in the overlay zone if qualified under the preservation incentive program. Candace Erickson commented on the significant sales tax generated by Butchers on Park Avenue. There was consensus that an economic development program for incubator businesses on

Main Street is a separate topic and the ordinance on vertical zoning should be the focus. The City Manager referred to Option A in the staff report as summarizing direction and pointed out that vertical zoning will be reviewed by the Planning Commission as early as June 13.

PLANNING COMMISSION MEETING MINUTES
JUNE 13, 2007

<u>LMC Amendments related to HCB - Vertical Zoning</u>

Jonathan Weidenhamer, Economic Development and Special Projects Coordinator, reviewed the proposed amendments to the Land Management Code that would prohibit office, residential, off-site residence clubs, and other non-sales tax generating uses in the Historic Commercial Business and Historic Recreation Commercial Districts in storefronts; as well as supporting definition changes.

The Staff requested that the Planning Commission conduct a public hearing on these amendments and provide direction. Mr. Weidenhamer requested that the Planning Commission continue the public hearing to June 27th .

Mr. Weidenhamer noted that a preliminary discussion on this topic occurred during a joint City Council/Planning Commission meeting on May 31, 2007. At that time, the City Council and the Planning Commission directed the Staff to come back with legislative remedies to prohibit offices and other types of uses in storefronts downtown. Based on input heard at the May 31st meeting, they tried to keep these amendments as simple as possible. Mr. Weidenhamer explained how they tried to footnote the existing use table in the allowed and conditional uses with footnote language stating, "these uses would be prohibited in storefronts adjacent to Main Street, Heber Avenue, or Park Avenue rights-of-way. For purposes of this Chapter, storefront is intended to mean the space having approximately the same elevation as the Final Grade of the street level, or in the case of split level storefronts, both the levels immediately above and below street level. The Planning Director shall have the final determination of applicability."

Mr. Weidenhamer stated that this footnote would apply in the HRC zone and prohibit offices and a newly defined off-site private residence club from being located in storefronts. Because so many types of uses are allowed and considered in the HCB zone, it would prohibit offices and off-site private residence clubs, as well as child care uses and other residential uses. Mr. Weidenhamer noted that off-site private residence club is defined as "a private residence club off site is any use organized for the exclusive benefit, support of, or linked to or associated with, or in any way offers exclusive hospitality services and/or concierge support to any defined owner's association, timeshare membership, residential club or real estate project. Hospitality includes but is not limited to any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, office." He explained that the definition was intentionally broad and as inclusive as possible.

Mr. Weidenhamer requested input and discussion from the Planning Commission on four issues outlined in the Staff report.

Commissioner Sletten referred to the definition of a private residence club, and asked if this would prohibit the Sky Lodge from having a sales office, a bar, or other amenities on site. Mr. Weidenhamer stated that the Municipal Code language previously approved by the City Council would prohibit the Sky Lodge from having a bar that does not offer a membership to the general public for $50 or less. Planner Robinson pointed out that this definition refers to a private residence clubs off-site versus an on-site residence club, such as the Sky Lodge. Commissioner Sletten felt the language in the definition reading, ".....or in any way offers exclusive....." opens the door for interpretation. He asked if an existing private residence club in the Historic District with an on-site sales office and other private amenities would be allowed to continue those uses under this definition. Mr. Weidenhamer replied that they would be allowed to continue the use, provided they were not in a store front facing Main Street, Swede Alley, or Heber. Commissioner Sletten wanted to know what would happen if they were in storefronts. Mr. Weidenhamer replied that their business license would be reviewed to see if they were a non-complying use.
Commissioner Sletten personally felt the City was opening itself up to extraordinary damages by limiting an existing approved use.

Polly Samuels McLean, Assistant City Attorney, stated that if an existing use is changed based on zoning, that use would be grandfathered in as a non-complying use. If a similar situation occurred after this ordinance was in place, that use would be prohibited. She noted that this only applies to storefronts. Ms. McLean felt it was worth discussing the overall intent of the statute and whether having these uses at the storefront level is detrimental to Park City in terms of tax revenue, vibrancy, and other issues.

Chair O'Hara opened the public hearing.

Mike Nielsen, Assistant General Manager for Promontory, understood the intent and direction of this amendment; however, he felt some statements contained in the Staff report were purely qualitative in nature. Mr. Nielsen did not believe there was quantitative data to support the intent. He used Promontory as an example, noting that in the end they will have 1900 members. Mr. Nielsen is a local resident and he would like to see the data that shows that foot traffic created by an off-site residential club does not create more commerce and more sales tax revenue. Mr. Nielsen believes they are heading down a road of absolute prohibition rather than control. He thought the Planning Commission and the City would prefer to err on the side of control rather than absolute prohibition that would box them in. He recommended that the Planning Commission look at the quantitative data that supports some of the presumptions and that they look for measures of control rather than absolute prohibition.

Chair O'Hara continued the public hearing.

Chair O'Hara wanted to make sure that the purpose statement was written fairly strong with sufficient legal findings. He recalled that Commissioner Wintzer made the observation during the joint session that the parking structure was built with public funds in order to increase the number of people going to Main Street and to contribute to the vitality of the shops and provide more tax revenue for the City. He did not believe the purpose of the parking structure was to provide more parking for private clubs. Chair O'Hara felt those types of findings would be appropriate as they move forward. He agreed with Mr. Nielsen that quantitative data was important.

Commissioner Pettit felt the issue was striking a balance between storefront prohibition and the ability to implement a private residence club at a different level of the building. She believed there could be some benefit to a private residence club bringing additional foot traffic to Main Street. Commissioner Pettit was comfortable with the purpose statement and the goal of maintaining the vibrancy and feel of Main Street. She agreed with Chair O'Hara about strengthening the findings. Commissioner Pettit addressed Question #4 in the issues for discussion regarding the "shared use" scenario. She was concerned about creating a slippery slope in trying to define "sharing" and what it would look like. She felt it opened the door for being more complicated than necessary. Commissioner Pettit could not favor shared uses without a convincing reason. Commissioner Pettit noted that Question #2 asks if the Planning Commission is comfortable with the definition of "storefront" that includes lower level and split level basements. She felt that a window looking in from the Main Street level should be considered a storefront. Regarding Swede Alley, Commissioner Pettit understood from the joint meeting that nearly everyone thought Swede Alley should be included. Before she could be completely comfortable with that concept, she needed a better vision and feel for what they are trying to accomplish on Swede Alley.

Chair O'Hara commented on the four questions for discussion. He felt the footnotes and definitions achieved at least 95% of what they were trying to accomplish. He was comfortable with the storefront definition. Chair O'Hara felt they could address Swede Alley in the future; however on the practical reality is that you typically enter Swede Alley to go straight through to Main Street. He felt it was appropriate to add Swede Alley only because those who look for loopholes in the regulations may easily find that they could enter from Swede Alley with a very small storefront facing Main Street. On the issue of shared uses, Chair O'Hara preferred that it be broadly defined. He agreed with Commissioner Pettit about the slippery slope and determining what percentage of revenue would come from retail or the issue of square footage from one use to the other.

Commissioner Thomas agreed with Chair O'Hara on the shared use issue and the footnotes and definitions. Commissioner Thomas noted that office use would be prohibited, but he believed some smaller components are an appropriate part of the mix of the Main Street historic community. He asked for clarification on this matter. Planning Director, Patrick Putt, explained that some of the uses that would typically be considered traditional types of Main Street storefront offices are not the developing trend. The Staff is having to make a policy decision and recommendation on the direction Main Street should take. When they consider land use, the economic vitality of Main Street, and what they are looking for Main Street to be, the Staff recommends that it be weighted in a way that is geared towards retail and restaurant. The balance they hope to strike does not prohibit particular uses from the HCB or the Main Street core. They are only guiding those uses into areas that are more consistent with the resort nature and the community uses of Main Street. In an attempt to balance, they would like to be able to steer the community retail, the resort retail, and the restaurant uses to the pedestrian levels and have other uses on second or third levels. Commissioner Thomas agreed with Director Putt's explanation and stated that this was why he moved his office off of Main Street. Commissioner Thomas preferred to have more flexibility for the mix on Swede Alley. Director Putt stated that the Staff sees offices as part of the mix on Swede Alley but not on the Main Street level. They see Main Street as being a neighborhood in the core of different and varied retail and restaurant uses; and not an office district.

Commissioner Sletten understood the importance of maintaining the character and referred to the walkability study that cites Old Mining Town characteristics when things were largely pedestrian. Photos show a mix of different uses from offices, judges, dentists, and definite retail uses and saloons. Commissioner Sletten was unsure if regulation could result in the mix they want. Director Putt shared his concern. He noted that a number of office uses currently exist on the Main Street level and through the grandfathered status, he expects a number of those uses will remain. He thinks this may be an unintended positive tool that goes towards maintaining those mixes. Director Putt worried that at some point in the future, the trend will be to slowly add more and more offices, which will chip away from the diversity of Main Street. This regulation is an attempt to keep that from happening. It does not prohibit office use but directs it to a more appropriate location.

Mr. Weidenhamer requested more clarification on Swede Alley. Chair O'Hara was concerned with the failure scenario on Swede Alley if it were not included, since many of the Swede Alley frontages move right on through to Main Street. Someone needs to think about the loophole for someone on Main Street who wants to have a small store front that would comply and put the rest into a timeshare sales office or something else. Chair O'Hara suggested that the scenario failure should be well thought out. Mr. Weidenhamer felt the Staff had addressed that issue through discussions and help from the Legal Department. He intended to bring this item back in two weeks with additional information.

PLANNING COMMISSION MEETING MINUTES
JUNE 27, 2007

<u>LMC Amendments related to HCB - Vertical Zoning</u>

Chair O'Hara stated that these amendments to the Park City Land Management Code would prohibit office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts in storefronts; as well as related definitional changes.

Jonathan Weidenhamer requested that the Planning Commission forward a recommendation to the City Council to approve the legislation as stated by Chair

O'Hara. He noted that the Planning Commission and City Council have reviewed these amendments a number of times in joint meetings and looked at quantitative data in the past. In an effort to shorten the length of the Staff report for the June 13th meeting, some of the quantitative data was omitted and the Planning Commission had requested that it be included for this meeting.

Mr. Weidenhamer reported that the Staff tried to find the easiest and most simple method to accomplish the direction they heard form the City Council and Planning Commission. That direction was to limit storefronts in downtown to sales tax generating businesses and prohibit offices, residential, and residence club uses in storefronts. On June 13, the Planning Commission requested additional background information and the City's vision for Swede Alley. Mr. Weidenhamer stated that the LMC language in the HCB zone, as well as the City's commitment to capital funding, suggests redevelopment of Swede Alley as a goal and sees it as an important transition zone between Main Street and the transit center versus the residential going up the hill on Marsac. At the same time, it recognizes that redevelopment must still facilitate a service and delivery access and the intent is to find a balance between commercial and residential. The Staff had included Swede Alley and recommends that it continue to be included in their considered legislation. Mr. Weidenhamer clarified that on June 13th the Planning Commission was generally comfortable with the language contained in the ordinance and how the land use tables were footnoted to indicate that specific types of uses are not allowed in Main Street storefronts. He stated that if there is any concern or disagreement on what a storefront is, the Planning Director would have the final call on the matter. Mr. Weidenhamer clarified that the Staff had exempted residential uses from being prohibited in the HRC District due to the number of existing residential uses in that zone. The Staff also defined an off-site private residence club as an "off-site residential subdivision that would have a membership club in a Main Street storefront." He reiterated that this use would be prohibited in a Main Street storefront.

Mr. Weidenhamer commented on questions he had fielded from the Historic Main Street Business Alliance prior to this meeting. The first question addressed a store front at Summit Watch, now called The Village at Main. He stated that as he walked along the street, his opinion was that he could still see the front door of a shop across from the bottom of the town lift. He was unsure if there would be any more clarity in the ordinance and pointed out that the ultimate decision would be made by the Planning Director. The second issue addressed liquor licensing. On May 24th the City Council amended the Municipal Code to require an establishment to show that they would have a temporary membership available for $50 or less, prior to receiving local consent on a liquor license. Mr. Weidenhamer noted that this issue would be addressed at the City Council level. The third question addressed convention and sales licenses that are issued during Sundance and other special events and allows temporary uses of existing businesses. Mr. Weidenhamer stated that this amendment is not intended to preclude or prohibit the ability to continue that temporary use and suggested that this may need to be clarified at the City Council level. He was unprepared to respond to that question this evening.

Chair O'Hara opened the public hearing.

Hollie Stray-Gundersen, representing Triple Net Properties, the new owner of the Village on Main, formerly known as the Marriott Summit Watch. Ms. Stray-Gundersen named several of the businesses at the Village on Main. She clarified that Triple Net Properties is not against the private residence clubs and they appreciate what the City is trying to do in maintaining the Main Street charm. If the City moves forward with the ordinance to ban the private clubs in storefronts, Ms. Stray-Gundersen asked that they relook at the Village on Main area because it is very unique property, it is off Main Street, and it is difficult to get foot traffic to the plaza area. Ms. Stray-Gundersen requested that the City give the Village on Main an exemption to the ordinance because of their location. She pointed out that private residence clubs would help maintain the value of the area because they already have office space and retail is difficult to attract.

Robert Weiner stated that he has owned property in Park City since 1986 and he currently lives at Promontory, which is his primary residence. For the last three years he has had a season pass at Deer Valley primarily because of the Alpine Room at Silver Lake. Mr. Weiner stated that while skiing he has met many people who own property at Promontory but stay in town and treat it like a resort. Mr. Weiner remarked that in Vail, Aspen, or European areas, you can ski to the parking lot when you are ready to go home. He believes that the inability to do this is a major design fault of Park City. Mr. Weiner stated that one advantage of the Town Lift is that you can ski into town and the advantage of Promontory having something at the base of Main Street would draw people to start and finish their skiing in that area. Mr. Weiner understands that getting foot traffic to the bottom of Main Street is a huge problem and to eat at Mustang is really out of the way. It is a destination restaurant and not some place you would patronize on impulse. He believes that the traffic the restaurants and art gallery attract during the day are from people who are members of Promontory. Mr. Wiener believes that exempting The Village on Main would be a win/win situation for everyone. He pointed out that If they allow Promontory to use this facility, the lease is not chiseled in stone and changes could be made. He believes it is better to have a residence club in a storefront than to have nothing all.

Mike Sweeney, stated that he was speaking on behalf of himself and as a representative of the HMBA. Mr. Sweeney remarked that the HMBA signed an affidavit and the Board of Directors voted to support this concept. He read from paragraph 11, "The HMBA supports programs and events that display Main Street as visitor friendly. We encourage the City to legislate in a manner that insures that businesses in storefronts on Main Street remain open to all visitors." Mr. Sweeney stated that Jonathan Weidenhamer had done a nice job in writing the ordinance and he read the main purpose, "Maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring the business mix that encourages a high level of vitality, public access, vibrant activity, and public/resort related attractions." Mr. Sweeney believed this purpose statement was right on target. Mr. Sweeney clarified that there was not unity among the HMBA organization. Some were very concerned that the City might be over reacting in trying to program the street too much. He remarked that the Business Alliance cares about the Main Street level store frontage but they do not care what happens on the second level or above.

On a personal level, Mr. Sweeney stated that he and his brothers helped build lower Main Street and they spent a tremendous amount of money designing what they thought was the right project. Early on they developed the Town Lift Plaza and the Marriott Plaza. Originally there were no storefronts on the plaza and at some point that was changed by the Marriott Corporation. Mr. Sweeney stated that from his perspective, if the Code is specific, that area is not Main Street storefront property. Mr. Sweeney remarked that he has had dealings with Promontory and they are a great group of people. However, when they asked to take space on his side of the street for a restaurant and club, he and his brothers said no because they did not think it complimented what they wanted, which was something that accommodated visitors and residents. They told Promontory that the restaurant would have to be open to the public and they never got past that point of view. Mr. Sweeney believes the location Promontory is looking at now is a good location for their clubhouse because it is off of Main Street and it would bring people into town.

Commissioner Russack asked if the HMBA included Lower Main Street. Mr. Sweeney replied that the HMBA includes 9th Street going south all the way to the top of Main Street, it includes all of Park Avenue from 9th Street up to Woodside and back down, and Swede Alley. It comes back and connects to 9th Street again down Deer Valley Drive. The Village on Main is part of the HMBA and Triple Net has paid for every tenant in that space.

Mr. Sweeney stated that the requirement Mr. Weidenhamer mentioned regarding the liquor license is in conflict with the concept of allowing activities on the second level on Main Street in the Historic District. He encouraged the Staff to address this with the City Council to make sure the LMC is in compliance.

Commissioner Sletten asked Mr. Sweeney if limiting a potential use would diminish the value of a building for the owner. He wanted to know how this would impact the building owners on Main Street in terms of the economic health of Main Street. As the owner of a building on Main Street, Mr. Sweeney did not believe it would have a negative impact. In 50 years he would like to see Main Street as charming as it is today and part of that charm is the fact that there is an eclectic group of business owners who make Main Street fun.

Chair O'Hara closed the public hearing.

Mr. Weidenhamer commented on non-complying uses. Any storefront business that has a current business license and does not let it expire for longer than 365 days would be allowed to continue that use, even if this ordinance were adopted.

Mr. Weidenhamer stated that he had been talking to the Planning Director and the Assistant City Attorney about clarifying how this ordinance would apply to The Village on Main. He noted that interior spaces are not considered storefronts on Main Street if they front interior plazas or the roundabout on Deer Valley Drive. Some of the stores have dual frontages. Mr. Weidenhamer stated that his personal opinion is if the business is north of the Prime Steak House, which is across from the Town Lift, that is the point where you begin to differentiate from a store front at street level versus an elevated level that does not participate in the pedestrian experience.

Chair O'Hara stated that after re-reading the footnote and the definition in the LMC, he believes the definition is more than adequate to address a storefront.

Commissioner Wintzer asked Assistant City Attorney, Polly Samuels McLean, if she felt the definition was clear enough to address the Village at Main. Ms. McLean believed it was clear because the pedestrian level does not adjoin a right-of-way.

Scott Thompson was granted permission by the Chair to ask a question. He wanted to know what would happen in a Main Street Mall situation where it is located on Main Street but you need to go inside the Mall to access any of the space. Mr. Weidenhamer replied that the few stores who front Main Street would be bound by this ordinance but all other interior spaces and upper level spaces would not be considered. Mr. Thompson asked about the Poison Creek Building on Heber Avenue. Mr. Weidenhamer replied that the same explanation would apply to the Poison Creek Building. As Mike Sweeney had pointed out, the HRC language needs to include Swede Alley. Mr. Thompson clarified that he was speaking on behalf of a friend who owns a condo in the Poison Creek building and he is currently looking at purchasing the lower spaces to create a work/live situation. Chair O'Hara suggested that Mr. Thompson discuss this issue with the Staff outside of this meeting.

Commissioner Barth stated that the problem with complete prohibition is the issue of balance. Commissioner Sletten remarked that in his view, this was a legislative approach to devaluing Main Street over time. He believes a quick knee jerk reaction right now could have long term impacts. Commissioner Sletten stated that he does not own property on Main Street but feels that prohibiting access to a specific type of use in a general commercial environment is a disadvantage to those owners and he would most likely vote against this ordinance.

Commissioner Wintzer agreed that the jewel of Main Street is its diversity and if they lose that diversity they will lose Main Street. As a property owner who owns property where he can dictate what uses go in, he finds that sometimes it is necessary to be a "little Hitler" and decide what does and does not fit. Without having some type of regulation for properties that are individually owned, the result is that the tenant with the best rent gets the space. Commissioner Wintzer was unsure if this was the best thing for Main Street and for that reason he supports this ordinance. If it proves to be wrong, they can always look at it again in the future. In his opinion, they should do whatever they can to keep Main Street as diverse as possible.

Commissioner Russack agreed with Commissioner Wintzer. He also believes the storefront definition is very clear. Commissioner Russack was concerned that not including Park Avenue and the HCB zone would only push everything down there. Mr. Weidenhamer clarified that the HCB zone and Park Avenue were included in the amendments specifically to address that concern. He explained that the language indicating that the HCB and Park Avenue were not included only applied to residential use. Commissioner Russack was very comfortable with the amendments as proposed.

Chair O'Hara favored these amendments and noted that he has gone on record for promoting these changes for a number of years. He pointed out that the amendments only prohibit uses in storefronts and not on Main Street in general. He felt it was important to make that distinction. Chair O'Hara preferred to return at a later date and admit they made a mistake, rather than to do nothing and risk the privatization of Main Street.

Mr. Weidenhamer stated that he had inadvertently omitted Swede Alley from the HRC zone and asked the Planning Commission to include Swede Alley in their motion.

MOTION: Commissioner Russack moved to forward a POSITIVE recommendation to the City Council on the proposed amendments to the Land Management Code prohibiting office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts, including Swede Alley, in storefronts; as well as related definitional changes. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 3-1. Commissioner Sletten voted against the motion.

Exhibit G –
Affidavit from PCMC Budget

AFFIDAVIT OF GARY HILL

COUNTY OF SUMMIT)
)
STATE OF UTAH) ss.

The undersigned, being first duly sworn, deposes and says the following:

1. I am the manager of Budget Department of Park City Municipal Corporation.
2. The Budget Department is responsible for the preparation of the municipal budget and sales tax analysis.
3. The General Plan states that the City's "economic base depends on skiing, tourism, arts, and recreation …. Essential to long-term viability is the unique, varied, high quality, and welcoming experience Park City offers to both residents and a diverse visitor population."
4. Tourism is the major industry in Park City, and revenues attributable to tourism account for approximately two thirds of the City's budget.
5. In FY 2006, the City collected $11.3 million of sales tax.
6. In addition to stabilizing the City's budget, the sales tax collected by the City contributes to its bond rating. Moody's upgraded the City's bond rating in 2006 to Aa2, which is currently the highest rating given to a resort community. The City also maintains AA- ratings from Fitch and Standard & Poor's, which is considered "Top Quality; 'Gilt-Edged' High Grade; and Very Strong."
7. Any change in City's ability to collect sales tax could jeopardize its bond rating.
8. The Main Street area contributes the largest amount of restaurant sales and the second largest amount retail sales to the City's tax base.

9. The City’s long term financial health depends on the ability to forecast revenue projections. Main Street’s consistent contribution to the City’s retail and restaurant sales tax base is an essential part of the revenue forecast.
10. Therefore, the City’s overall ability to generate continued sales tax revenue is dependant, in large part, on the continuation of Main Street as an accessible, attractive destination for all visitors to the area.
11. One of the City’s goals, found in the General Plan, requires the City to “[p]romote the continuation and augmentation of a pedestrian-friendly environment in the downtown.”
12. “Market preference surveys reveal that both [residents and visitors] prefer a lively, small scale downtown with diverse and unique shops,” according to the General Plan.
13. The City should actively promote measures that ensure that Main Street remains desirable to all visitors as destination for shopping, dining, and nightlife.
14. Although a certain amount of not-retail / non-dining businesses currently exist on Main Street, the City should adopt a policy of promoting the presence of tax generating retail and dining businesses in store-front locations on Main Street. The City Council should takes steps to ensure that all existing store-front businesses on Main Street remain accessible to the general public and continue to contribute to the City’s tax base.

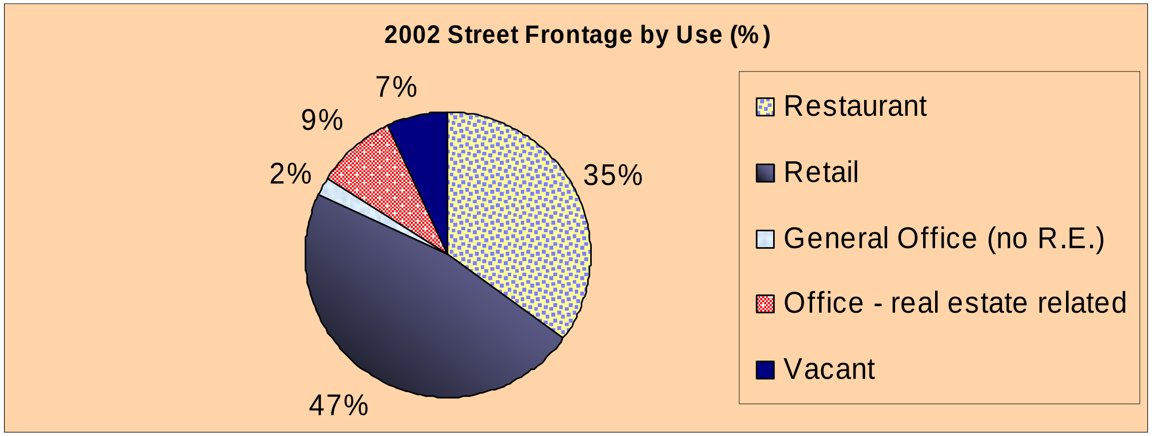
Further the Affiant saith not.

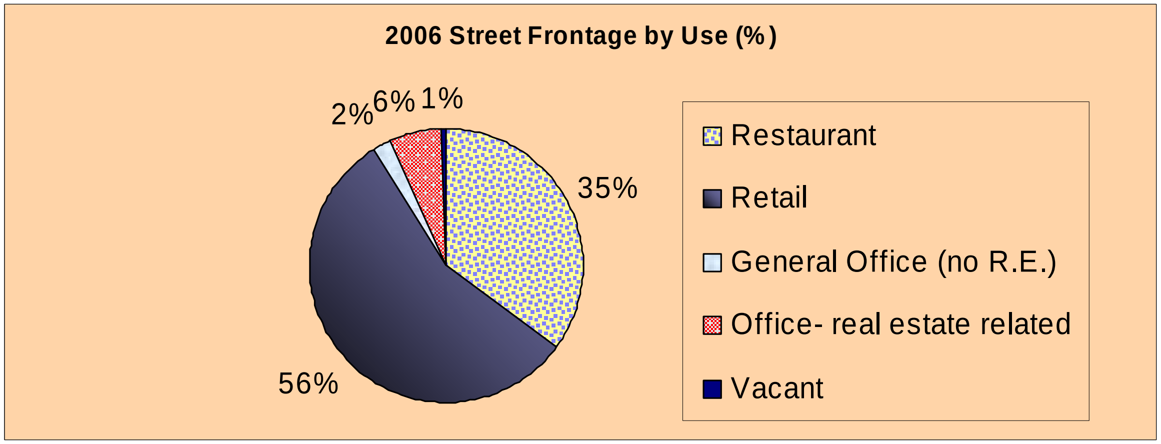
Commercial uses on Main St - 1998 – 2002

	98		**99**		**2000**		**2001**		**2002**			
	Licensed	SF	Licensed	SF	Licensed	SF	Licensed	SF	Licensed	# store fronts	SF	Stree Front Linea ft@
Restaurant	60	133736	57	136830	60	136830	59	152119	58		151071	1423
Retail	127	157444	117	145220	115	145220	115	136024	115		130319	1906
General Office (no R.E.)	50	44332	56	52494	59	61738	49	55606	53		52648	78
Office - real estate related	7	6020	10	8211	12	15928	13	13508	18	12	22614	377
Vacant												275
total	244	341892	240	343087	246	362798	236	357617	244		357159	4059

@ based on field survey 10/02 - Linear feet of street frontage on Main St.

	2003		**2004**		**2005**				**2006**			
	Licensed	SF	Licensed	SF	Licensed	SF			Licensed	# store fronts	SF	Stree Front Linea ft@
Restaurant	61	159902	54	155431	48	140718			50		145585	1350
Retail	108	135797	101	129498	94	129752			95		128817	2167
General Office (no R.E.)	40	39962	34	40861	38	42462			34		37898	93
Office- real estate related	14	21053	15	24634	16	26764			15	8	22764	230
Vacant												25
Total	223	356714	204	350424	196	339696			194		335064	3865





2007 – Office Uses in Main Street Storefronts Comparison

year	**storefront linear feet**	**% of storefronts**	# storefronts
2002	377/4059	11	15

2006	323/3865	8	12
2007	430/3865	11	13

Sales Tax Info
Main Street Totals

Total # of Businesses: 162

	1998	1999	2000	2001	2002	2003	2004	2005	2006
*Sales Tax $'s (All business types)	$548,201.46	$564,412.55	$581,987.34	$629,237.06	$804,483.10	$648,410.78	$655,638.01	$694,136.95	$740,039.00
*Sales Tax $'s (Retail)	$207,468.96	$218,271.47	$223,835.57	$234,341.77	$364,312.06	$226,107.88	$236,477.17	$258,829.17	$277,669.90
$'s/SqFt	$ 1.32	$ 1.50	$ 1.54	$ 1.72	$ 2.80	$ 1.67	$ 1.83	$ 1.99	$ 2.16
**Forgone Rev(sf)	$ 7,932.75	$ 12,341.46	$ 24,550.70	$ 23,271.54	$ 63,218.36	$ 35,054.16	$ 44,984.31	$ 53,388.80	$ 49,068.66
$'s/frontage ft	Data Not Available				$ 191.14	Data Not Available			$ 128.14
***Forgone Rev(frontage)					$ 72,059.63				$ 29,471.19

*Includes Local Option and Transit Tax. 2006 figures based on Bud Dept estimates.
**Calculated using Tax Dollars per retail square foot rate applied to square footage of real estate businesses on Main St
***Calculated using Tax Dollars per frontage linear foot rate applied to frontage linear feet of real estate businesses on Main St

Exhibit I – Public Input

July 30, 2007

Park City Municipal Corporation
Attn: John Weidenhamer, Economic Development Coordinator.
Via e-mail

Dear John,

It was a pleasure meeting with you the other day. As you know I have some concerns about the new zoning being proposed for old town along with some that have recently been changed. Some of my concerns include the following:

1. Notification to property owners.
    a. I feel that this is such a big impact on our business district, Tenant Landlord leases. Leases currently in negotiation etc.
    b. I understand that by public notification in the paper suffices your obligation for notices. But I think an impact such as this should also have notified the 300 foot requirements of the public regarding the considerations and potential changes.
    c. I personally take some responsibility in not being aware since I have been going through a lot of medical issues along with running a few businesses.
2. I feel that a lot of the new ordinances being determined are a reactive response to things that are going on rather than proactive for the complete picture.
3. I am very concerned on many levels and I will try to get some of my questions answered prior to the meeting on August 2, 2007.
4. I feel this could economically affect many properties.
5. I just feel that as a business district we should be able to do business. I don't see Main Street as an outlet mall.

I appreciate your intentions for what is being attempted to be accomplished. I am concerned that property owners and business owners have not been brought to the table to voice all their concerns and commitments they may have to others. There are sales and leases currently being negotiated including purchases of buildings that will be affected. Not all owners live in Park City and may not have read the Park Record. (Even those who do may have been having a crazy life.)

Respectfully yours,
Jana Potter

City Council
Staff Report

Planning Department

Author: Sharon Mayes-Atkinson, Sr. Planner
Subject: Land Management Code Amendments – Chapter 15-4-7, Accessory Apartments
Date: August 9, 2007
Type of Item: Legislative LMC Amendments

Summary Recommendations
Discuss proposed revisions to the Land Management Code, conduct a public hearing, and consider adoption of amendments to LMC Chapter 15-4-7 regarding Accessory Apartments.

Topic
Project Name: LMC Amendments
Applicant: Planning Department
Proposal: Revisions to the Land Management Code- Chapter 15-4-7, Accessory Apartments.

Background
The Planning Department has been doing amendments to the Land Management Code (LMC) to address planning and zoning issues that have come up in the past year. At the present time the LMC allows Accessory Apartments as an Administrative Approval in some zones and some zones require a Conditional Use Permit.

In 1993 public hearings were held on the original ordinance allowing Accessory Apartments. In the ordinance, and Resolution No. 3-94 it specifically identified Accessory Apartments as “Diverse housing opportunities with quality, affordable housing” as a “High Priority long-term goal” and including policy determinations for affordable housing, “as a Top Priority Action Target for 1994-1996”. The minutes of the December 1, 1993 work session (attached) and the public hearings, clearly discusses that this is the intent of the Accessory Apartment ordinance. There was lengthy discussion about the need for Affordable Housing and how to insure that the units were used for that purpose. A deed restriction requirement was placed in the ordinance to insure that the Accessory Apartments continued to be monitored for compliance and, in addition, a one year review was required as an additional measure to insure compliance. The staff pointed out that even if the homeowner did not retain his permit for an Accessory dwelling he would still have the unit and preventing him from renting the unit would create an enforcement problem. The commission discussed the possibility of requiring a yearly permit and a one year review.

Since that time, it appears that many of the dwellings with Accessory Apartment units have been resold and most have not made application with the Planning Department for renewal. In addition, there have been many Accessory Apartments that may have been built without obtaining a permit. Staff would have an impossible task in trying to determine exactly how many illegal nightly rentals and illegal accessory apartments are out there.

The Planning Commission held a work session on this topic on June 13, 2007, and directed staff to bring back an ordinance at the time of the Public Hearing. A Public Hearing was held on July 25, 2007, and there was no public input offered. The Planning Commission approved a motion to forward to the City Council a recommendation for approval of the Amendment to the Land Management Code.

Included in this packet is Exhibit "A", a redlined copy of the proposed changes to the existing LMC 15-4-7, Exhibit "B" the preamble to Ordinance No. 94-4 reflecting the intent of the original ordinance allowing Accessory Apartments, Exhibit "C", notes from the Work Session of the Planning Commission of June 13, 2007, Exhibit "D" Minutes of the Planning Commission meeting of December 15, 1993 Pages 4 through 6 (beginning of meeting), Exhibit "E" Work Session Notes from Planning Commission December 1, 1993, and Exhibit "F" additional pages from Minutes of Planning Commission meeting of December 15, 1993, pages 18 through 20 (later in meeting after other items covered).

Analysis

Many zones permit nightly rentals of the main residence. Some zones also allow Accessory Apartments to be granted. The current LMC specifically states that Accessory Apartments may not be rented nightly, and that the owner of the property must live in either the main house or the Accessory Apartment. Staff finds that the nightly rental prohibition (15-4-7(A)(8)) is ambiguous and could have an unintended result, that someone could rent out the main house for nightly rentals and reside in the accessory apartment. Additionally, staff finds that the Deed Restriction informing prospective buyers that the Conditional Use Permit terminates automatically upon sale creates an enforcement problem since once a unit is there, it will likely be used, with or without the permit.

Staff believes that revision may be desired to prevent nightly rental of the main residence if an Accessory Apartment is granted. While many zones allow a single family residence to be rented nightly in order to allow for bed base in the community, the primary reason for permitting Accessory Apartments is to allow a base of affordable long term housing. Allowing nightly rentals of the main residence and the Accessory Apartment defeats the intent, and often degrades the residential neighborhood by increasing the intensity of use. The Planning Commission expressed a desire that neither dwelling unit be rented nightly.

Revision may also be desired to change the Deed Restriction so that the approval of a Conditional Use Permit is not lost by the subsequent sale of the property, provided that neither dwelling unit may be rented for short-term rentals, and the new owners must continue to meet the conditions of approval. To grant a Conditional Use Permit resulting in construction of an Accessory Apartment, and then require them to physically remove it upon sale seems unreasonable. If the unit is not removed, it may become another illegal Accessory Apartment. The policy concerns may be addressed somewhat by requiring a Deed Restriction to clearly advise that neither dwelling unit may be used for short-term or nightly rentals.

Revision may also be desired to remove the one year review. There is no evidence that an actual one year review has ever been done. Instead, requiring that permits may be revoked at any time there is non-compliance with the conditions upon which it is granted will help address policy concerns. If Accessory Apartments are not being used as approved, or are illegally placed, changing this provision would allow for revocation of the permit for the apartment even after the one year now in the LMC. To revoke the permit staff must find, as a result of reasonable complaints, that the conditions of approval set to mitigate impacts, are not being met. That decision would be subject to appeal.

The Planning Commission work session on June 13, 2007, discussed the clear intent of Accessory apartments to be for affordable housing. The same issue was discussed at the Planning Commission meeting of July 25, 2007. Concerns were expressed regarding whether allowing Accessory Apartments had actually been successful in meeting the original intent for Affordable Housing. The Planning Commission directed staff to set the matter for a public hearing. The minutes of that meeting are attached to this report.

Department Review
This amendment has been reviewed in a staff meeting by the Planning, Engineering and Building Departments, as well as by the Legal Department. A draft of this amendment is available at the Planning Department for review by the public.

Notice
Legal notice of the Public Hearing was posted in the required public spaces and placed in the Park Record.

Public Input
A Public Hearing is required to be conducted by the Planning Commission and City Council prior to adoption of this amendment. The Public Hearing was properly and legally noticed as required by the Land Management Code. Staff has received no input from the public, as of the writing of this report.

Alternatives

- Conduct a Public Hearing and approve the proposed revisions to Chapter 15-4-7 as presented.
- Conduct a Public Hearing and direct staff to incorporate additional or different edits to this section of the Code; or
- Deny approval of the proposed revisions to Chapter 15-4-7 as presented, or
- Continue this item to a date certain.

Recommendation
Staff requests that the City Council:

1) Hold a Public Hearing to discuss whether nightly rental should be allowed in the main dwellings granted an Accessory Apartment, and

2) Amend the Deed Restriction to remove the loss of the Conditional Use Permit upon sale of the property provided neither dwelling unit may be rented for periods less than thirty (30) days, and all mitigating conditions continue to be met; and

3) Remove the one year review.

4) And approve Amendments to Chapter 15-4 -7 as shown on the attached Exhibit "A".

Exhibits

Exhibit "A" Redline copy of the proposed changes to the existing LMC 15-4-7
Exhibit "B" Preamble to Ordinance No. 94-4 reflecting the intent of the original ordinance allowing Accessory Apartments.
Exhibit "C" Notes from Work Session of Planning Commission of June 13, 2007
Exhibit "D" Minutes of Planning Commission meeting of December 15, 1993 Pages 4 through 6 (beginning of meeting)
Exhibit "E" Work Session Notes from Planning Commission December 1, 1993
Exhibit "F" Additional pages from Minutes of Planning Commission meeting of December 15, 1993, pages 18 through 20 (later in meeting after other items covered) Intentionally omitted pages 7 through 17 as they were discussions of issues of other items on the Agenda that were unrelated.
Exhibit "G" (Under Separate Cover) draft, unapproved minutes from Planning Commission meeting of July 25, 2007

PROPOSED LMC PROVISIONS

15-4-7. ACCESSORY APARTMENTS.

Accessory Apartments are subject to the following criteria:

(A) **<u>CRITERIA FOR USE</u>**.

(1) **SIZE**. Accessory Apartments may be no more than one third (1/3) of the dwelling size, shall be limited to a maximum floor Area of 1,000 square feet and shall be no less than 400 square feet with no more than two (2) Bedrooms. An Accessory Apartment may not increase the floor Area of a Structure over the maximum floor Area as specified in the Land Management Code or Subdivision approval.

(2) **PARKING**. One (1) Parking Space per Bedroom must be provided in addition to the existing requirement for the primary residence. Parking Spaces for Accessory Apartments need not be covered and may be provided in tandem subject to one of the following criteria:

(a) One (1) Parking Space for an Accessory Apartment may be provided in tandem if the existing driveway length equals or exceeds twenty-five feet (25') as measured from the Property Line. Parking is permitted only within approved garages and on paved driveways.

(b) One (1) Parking Space for an Accessory Apartment may be provided in tandem in an effort to preserve existing Significant Vegetation and when all other parking alternatives are undesirable.

(c) **Historic District Zones**. One (1) tandem Parking Space, parking one vehicle behind another, for an Accessory Apartment proposed in any residential Historic District Zone may be provided when the Applicant has secured a Conditional Use permit and the Planning Commission has made the following findings:

(i) Tandem Parking will not create an undue hardship for the neighborhood.

(ii) Other parking options are less desirable than the proposed tandem space.

(iii) Reasonable efforts, such as automatic garage door openers, lease provisions and/or limitation of garage storage, have been made to encourage the Use of all Off-Street Parking.

EXHIBIT “A”

(3) **APARTMENTS PER LOT**. No more than one (1) Accessory Apartment may be located on a Lot.

(4) **REQUIREMENTS FOR REVIEW**. The Applicant for an Accessory Apartment must submit a floor plan, architectural elevations, and Site plan showing any proposed changes to the Structure or Site.

(5) **DENSITY LIMITS**. A permit for an Accessory Apartment may not be granted if more than three (3) of the homes within three hundred feet (300') of the Applicant's Property boundary contain other established Accessory Apartments. There may be no more than four (4) Accessory Apartment within a three hundred foot (300') radius.

(6) **OWNERSHIP**. One (1) unit, either the main Dwelling Unit or the Accessory Apartment shall be occupied by the Owner of the Structure and the Accessory Apartment shall not be sold separately.

(7) **DEED RESTRICTION**. A deed restriction "Notice to Purchaser" must be filed with the County Recorder, which states:

> "A permit for an Accessory Apartment was issued to ______________________, the current Owner of this Property on ________________. This permit ~~does not~~ runs with the land and is automatically ~~invalidated~~ transferred to the new owner by the sale or transfer of this Property, provided however, if the use by the new owner does not continue to comply with the conditions of approval, the permit may be invalidated by the Planning Department, pursuant to Chapter 15-4-7(B)(1). Prospective purchasers should be advised that only one (1) unit on the Property may be rented; the other must be occupied by the Owner.
>
> ~~Prospective purchasers who intend to reside in one of the units on the Property may apply with the Planning Department for an Accessory Apartment permit. If the Apartment already exists and all of the conditions required by zoning continue to be met, a new permit will typically be granted~~. The Owner shall strictly adhere to all the conditions of approval and the prohibition of the ~~Use~~ rental of ~~the accessory~~ either Dwelling Unit ~~Structure as a Nightly Rental~~ for short term rentals of less than thirty (30) days.

(8) NIGHTLY RENTALS~~. Accessory Apartments are intended for long term rental of thirty (30) days or more and may not be used for Nightly Rentals.~~
If an Accessory Apartment permit is granted, neither the main Dwelling Unit nor the Accessory Apartment may be rented for periods of time less than thirty (30) days.

EXHIBIT "A"

(9) **HOMEOWNERS ASSOCIATION REGISTRATION AND NOTIFICATION**. All Accessory Apartments shall be subject to the Homeowners Association and notification requirements established in LMC Chapter 15-1-12 (E).

(B) **REGULATED USE REVIEW**. The Planning Department shall review Accessory Apartments in those zones where the Apartments are a Regulated Use. This includes all Zoning Districts where Accessory Apartments are an Allowed Use and not a Conditional Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Department shall approve a permit if the requested Accessory Apartment complies with the criteria for Use in Section 15-4-7 (A), established herein~~. The Regulated Use permit shall be subject to the one (1) year review outlined in Section 15-4-7(D).~~The Planning Department shall impose reasonable conditions to mitigate any impacts to the surrounding neighborhood.

(1) **PERMIT REVOCATION**. The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter. The permittee may appeal the determination to the Board of Adjustment, which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

(C) **CONDITIONAL USE REVIEW**. In those zones where Accessory Apartments are subject to a Conditional Use permit, the Planning Commission shall review the requested Use. After submission of a complete Application and payment of the Application fee as established by the fee schedule, the Planning Commission shall approve a permit if the requested Accessory Apartment complies with the criteria established in Section 15-4-7 (A) herein. In addition, prior to issuance of a Conditional Use permit, the Planning Commission shall determine that parking and other impacts as outlined in LMC Chapter 15-1-10 have been mitigated~~. The Conditional Use permit shall be subject to the one (1) year review outlined in Section 15-4-7(D).~~

(1) **PERMIT REVOCATION**. The Accessory Apartment permit may be revoked by the Planning Department for non-compliance with the criteria of this Chapter. The permittee may appeal the determination to the Board of Adjustment, which will evaluate the Planning Department's determination of permit non-compliance and decide if permit revocation should occur.

~~**(D) ONE YEAR REVIEW**. Both regulated Use permits and Conditional Use permits for Accessory Apartments shall be subject to a one (1) year review by the Planning Department. The review shall occur one (1) year after issuance of the Accessory Apartment permit. If no complaints have been filed and the Planning Department finds that the Owner and tenants are complying with the conditions of the permit, then the permit may be extended until ownership of the Property is transferred. If~~
~~**(E)**~~

~~complaints have been filed, the Planning Department shall ensure that the Owner of the Property is complying with the requirements of the Accessory Apartment permit.~~

(D) **EXISTING NON-CONFORMING ACCESSORY APARTMENTS**. Existing non-conforming Accessory Apartments may be approved by the Planning Department provided that the Accessory Apartment meets all of the criteria outlined in Section 15-4-7 (A). If the existing Accessory Apartment does not meet the criteria as specified, the Planning Commission shall review the Use~~. Permits for non-conforming Accessory Apartments shall be subject to the one (1) year review provisions of Section 15-4-7 (D).~~ The Planning Commission shall approve the request only if the following findings can be made:

(1) The Apartment contains no more than two (2) Bedrooms;

(2) One (1) Parking Space per Bedroom is provided for Use by the Accessory Apartment occupants. On-Street parking shall not be counted to fulfill parking requirements;

(3) One (1) unit is Owner-occupied; ~~and~~

(4) Impacts of the Use can be mitigated; and

(5) Neither Dwelling Unit is proposed to be rented for periods less than thirty (30) days.

(6) All significant impacts to the surrounding neighborhood are reasonably mitigated and continue to be mitigated.

Ordinance No. 94-4

AN ORDINANCE RENUMBERING CERTAIN SECTIONS AND AMENDING SECTIONS 2, 7.19, AND 8.19 OF THE PARK CITY MUNICIPAL CORPORATION LAND MANAGEMENT CODE REGARDING THE ALLOWANCE OF ACCESSORY APARTMENTS.

WHEREAS, public notice and opportunity to comment were provided pursuant to the Land Management Code (LMC); and

WHEREAS, the Planning Commission of Park City, after public hearing on November 17, 1993, voted unanimously on December 15, 1993, to recommend amending the LMC to allow accessory apartments in Park City; and

WHEREAS, the City Council of Park City, after public hearing on February 3, 1994, has determined that allowing accessory apartments in Park City pursuant to the criteria established below will help provide alternative housing options in Park City; and

WHEREAS, the City Council adopted Resolution No. 3-94 establishing long term goals and a policy agenda and action agenda for 1994-1996; and

WHEREAS, Resolution No. 3-94 identifies "Diverse housing opportunities with quality, affordable housing" as a High Priority Long-term goal and "Affordable Housing," including policy determinations such as allowing accessory units, as a Top Priority Action Target for 1994-1996; and

WHEREAS, the City Council has determined that allowing accessory apartments in Park City pursuant to the criteria established below is in the best interest of the community;

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

SECTION I. Chapter 2 of the Land Management Code ("LMC") is hereby amended to include the following definition:

> Accessory Apartment. A self-contained apartment, containing cooking, sleeping, and sanitary facilities, created either by converting part of and/or adding on to an existing detached single-family home or detached garage or by building a separate apartment into a new home or detached garage on a single-family lot. Accessory apartments are prohibited in multi-unit structures.

EXHIBIT "B"

PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
JUNE 13, 2007

PRESENT: Michael O'Hara, Julia Pettit, Jack Thomas, Mark Sletten, Brooks Robinson, Ray Milliner, Katie Cattan, Sharon Mayes-Atkinson, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code Amendments - Title 15, Chapter 4-7(A)(8) Accessory Apartments - Nightly Rentals

Planner Sharon Mayes-Atkinson stated that the purpose of this proposed amendment was to address ambiguities in the Land Management Code. She explained that many zones permit nightly rental to the primary residence. Some zones also allow conditional use permits for an accessory apartment, however the accessory apartment may not be rented nightly. Either the accessory apartment or the main house must be occupied by the owner of the property. Planner Mayes-Atkinson remarked that there may be circumstances where the owner of the property moves into the accessory apartment so he can rent the home on a nightly basis. The question is whether or not the City should allow the property owner a windfall of rentals and whether the property owner should be allowed to move into the accessory apartment. Planner Mayes-Atkinson stated that research has shown that the intent of the accessory apartment ordinance is to provide affordable housing and not to increase bed base. She explained that because the language is clear, the Planning Commission must decide if affordable housing would be decreased if a property owner is allowed to move into the accessory apartment and rent out the main house. Another issue is whether or not allowing nightly rentals in the main home would impact a traditional family neighborhood.

Planner Mayes-Atkinson reported that the Staff recommendation is to prohibit the main house from nightly rentals if an owner moves into the accessory apartment; particularly in traditional family neighborhoods. Exceptions could be made in areas near the Park City Mountain Resort, Deer Valley, and Main Street.

Commissioner Sletten asked if the Staff had envisioned a grandfathering provision for existing situations where an owner has moved into an accessory apartment and is renting the house on a nightly rental basis. Planner Mayes-Atkinson felt it was up to the Planning Commission as to whether or not the ordinance would be retroactive to existing situations. She pointed out that the Staff was divided on the issue.

Commissioner Thomas felt that allowing an owner to move into an accessory apartment and renting the main house is still affordable housing. He envisioned a couple who may be in a financial situation and this is the only way they could afford to stay in Park City. Commissioner Thomas believed that nightly rental is the question because the main house could be rented out for a longer term.

Planner Mayes-Atkinson noted that as written, the Code prohibits the accessory apartment from nightly rental. The ambiguity in the Code relates to the main house. Planner Mayes-Atkinson commented on the number of accessory apartments being used as nightly rentals and the inability of the City to enforce the CUP due to lack of Staff.

EXHIBIT "C"

Planner Robinson did not believe there are too many current situations where the owners stay in the accessory apartment and rent the main house. The Staff believes the impacts of nightly rental in the main structure would be greater because it generates more people and more activity in a traditional family neighborhood.

Commissioner Pettit felt the issue is the expectation by the neighbors that an accessory apartment is an accessory to the main unit and utilized for the purposes for which the Code was initially adopted. She was uncomfortable with allowing nightly rentals in the main unit with the owner living in the accessory apartment because it contradicts the intent of the CUP and the expectation of the neighbors during the CUP process. Commissioner Pettit was willing to let the owner occupy the accessory apartment as long as the main unit is only used for long term rental. She believes the ordinance is very clear that the accessory apartment was designed for affordable housing. Commissioner Pettit felt the question is whether the concept or implementation of the accessory apartment structure is actually accomplishing that goal. She was interested in knowing if the objectives are being met through implementation of the Code provisions and how many of the accessory apartments are being utilized as affordable housing.

Planner Mayes-Atkinson stated that she did a significant amount of research and obtained a data base from the Finance Department of all the permits issued for nightly rentals in the City. She believed the number exceeded 4,000 permits. She then tried to determine which ones were for main houses and which ones for accessory apartments. If it was for an accessory apartment, she matched it up with planning records for accessory apartments that were approved. Planner Mayes-Atkinson stated that it was a larger project than she had the time for and she was unable to answer Commissioner Pettit's question.

Commissioner Sletten remarked that under the Land Management Code as written, an accessory apartment should not have a permit for nightly rentals. Planner Mayes-Atkinson suggested working with the Finance Department to establish a system for keeping better records when permits are issued in the future so they will know what type of structure the permit was issued on.
Commissioner Pettit understood that when a CUP is granted for an accessory apartment, a deed restriction prohibits nightly rentals. Planner Robinson referred to the highlighted nightly rental prohibition language included in the Staff report and recommended an amendment to the language stating, "structures with accessory apartments are intended for long term rentals and not used for nightly rental". This language would address the entire building and clarify the intent.

Commissioner Thomas wanted to know what distinguishes nightly rental from long term rental. Planner Mayes-Atkinson replied that the Code defines long term rental as 30 days or more. Anything less than 30 days is considered nightly rental.

Chair O'Hara agreed that the original intent for accessory apartments was to build the base for affordable housing. He did not think it mattered which unit the property owner lived in because there would still be an affordable housing opportunity for someone who could not afford to purchase their own home. Chair O'Hara did not favor nightly rental in either the main house or the accessory apartment and preferred to amend the language as suggested by Planner Robinson. Chair O'Hara suggested that they broach the subject of an accessory apartment inventory with the City Council and Staff. This would be good information to have but he was unsure if it was obtainable.

Commissioner Pettit asked about the process for enforcement on an annual basis for the accessory apartments they do know about. Planner Robinson replied that the Building Department is responsible for enforcement through business licensing.

Planner Mayes-Atkinson stated that this amendment would be on the agenda for action at the next meeting.

Review of Regular Agenda

Commissioner Thomas stated his intent to pull 430 Ontario Avenue, Lots A, B and C from the Consent Agenda. He also intended to pull 239 Woodside Avenue from the Consent Agenda. Commissioner Pettit stated that she would request to pull 1013 Woodside Avenue from the Consent Agenda.

Due to the length of the agenda this evening, Chair O'Hara suggested that they move the LMC amendments and the Trails Master Plan Update to the end of the agenda.

trail would be open for use by the Silver Lake residents in the area. During February and March the trail as dedicated and currently being recorded between the units and Bald Eagle Drive would open for access.

Chairman Bruce Erickson asked Mr. Graham if the trail was located in the same location as approved during the preliminary approval. Mr. Graham responded that it was.

Ms. Hurda said the easement or trail that the Cache residents had been using at the edge of Cache where Double Eagle begins was no longer usable, and the residents wanted to know what the plans would be for this season. Mr. Graham pointed out that the trail was outside the easement, but if it was located in the current easement, it would be necessary to knock out all the trees. The limits of disturbance fence was to the south towards the Double Eagle development, so the easement would be accessible to skiers for the current season. Ms. Hurda was concerned that, because of boulders, the trail was not accessible all the way down.

Chairman Bruce Erickson asked Director Seltenrich to look into the matter. Director Seltenrich responded that the main objective was to find a ski access during the construction phase, and that she would follow through.

Dan Cord, a resident of Park City, asked what affordable housing exactions had been levied on the Double Eagle development. If none had, he questioned why not.

Chairman Bruce Erickson answered that there were no exactions directly on the project, but there was a commitment to employee housing in the Deer Valley overall Planned Unit Development.

Director Seltenrich explained that Double Eagle was part of the Deer Valley Master Planned Development which was required to provide many affordable units, most of which were completed, and she had received that day a copy of the breakdown of all Deer Valley employee housing units being constructed and what obligations remained. She offered to provide Mr. Cord with a copy if he was interested.

Chairman Bruce Erickson closed the public hearing.

2. **Amendment to the Land Management Code to Allow Accessory Apartments**

Planner Susan Lykes reported that a number of items had changed since the last public hearing. The changes included a parking

EXHIBIT "D"

provision which was discussed at length during the work session. The provision would state:

> Neither on-street nor tandem parking may be used to satisfy the apartment or primary residence parking requirement.

A second change under Section 8.19(a) would add Section 9 to read:

> Homeowners Association Notification
>
> The applicant for an accessory apartment permit shall certify that they have notified the subdivision's Homeowners Association if any. The City shall not require proof of Homeowners Association approval prior to issuance of a permit for an accessory apartment.

Planner Lykes noted that this would be a courtesy notice, and the person applying should inform the Planning Department that the Homeowners Association had been notified of plans to build a secondary unit.

Planner Lykes reported on public input received by the Staff. A letter was received from Andrew Pierce supporting the ordinance. A letter was also received from Toby Tolpinrud, president of the Holiday Ranch Homeowners Association, stating that, "the Holiday Ranch Homeowners Association does not have a problem with the City adding accessory apartments into the Land Management Code. However, we feel very strongly that independent covenants and restrictions should not be superseded. We understand that at the present time the City does not enforce CC&R's and we respect that decision, however we feel that it is up to the individual associations to either amend or enforce the restrictions that are in place and the City should not take part in removing that right."

Chairman Bruce Erickson opened the public hearing.

Rich Wyman, a member of CORR, commented that CORR had always supported accessory dwellings, and he felt that most of the Commissioners supported it. Accessory dwellings had worked in most communities, and he felt it would ease the affordable housing problems in Park City. CORR saw allowing accessory dwellings as a major step, and he felt CC&R's were exclusionary segregation.

Liz Hoey supported the ordinance. She felt that apartments were more important than cars, and if the Commissioners could not agree on a parking solution, she would rather give up her car than see the ordinance denied. She agreed with Commissioner Joe Tesch's comments regarding the bus system and encouraged the community to take advantage of the bus system or walk rather than add to the traffic problem. She also respected the homeowners' opinions and hoped this would not become a "tit-for-tat" issue which divided the community.

Dan Cord did not favor changing the parking provision and thought tandem parking should be allowed. He felt tandem parking solved the justified concern of on-street parking. He felt the Commissioners' concern appeared to be that tandem parking would not be used, and he did not find that to be a valid concern. He urged the Planning Commission to continue allowing tandem parking. Mr. Cord summarized a 1989 article on accessory apartments and pointed out that the ordinance, as written for Park City, was moderate compared to most places. No city had ever repealed an accessory apartment ordinance nor recorded a negative impact. He accepted the defense of CC&R's as stated in the letter from Toby Topinrud and the Holiday Ranch Homeowners Association.

Chairman Bruce Erickson closed the public hearing.

VI. MINUTES OF NOVEMBER 17, 1993, AND DECEMBER 1, 1993

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the minutes of November 17, 1993, and December 1, 1993. Commissioner Joe Tesch seconded the motion.

VOTE: The motion passed unanimously.

VII. CONSENT AGENDA

1. Double Eagle Phase I, Condo Plat, Silver Lake Community of Deer Valley (Jack Johnson Company c/o Jeff Graham)

MOTION: Commissioner Fred Jones moved to APPROVE the Consent Agenda with the modified condition as stated by Staff. Commissioner Chris Erickson seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval - Double Eagle Phase I

1. The CC&R's shall be reviewed and approved by the City Attorney and shall be required to form a Homeowner's Association as a corporation to receive the common area parcel. Further, the plat shall contain a note that the common area shall not be separately sold.

2. The plat shall show easements necessary to accommodate a 4-foot sidewalk along the driveway of the project and an 8-foot sidewalk along Royal Street to be separated from the road and

inappropriate for residential, but he wanted to see it expanded toward affordable housing.

Commissioner Dean Berrett felt comfortable with residential but suggested putting the parking behind the buildings and using a lot of buffering. He felt that the design could help him overcome density issues. He thought it might be possible to fit in more units with a design that closely approximated a Park Avenue situation versus the spread out, separate buildings in Windrift. He did not see much chance that the use would be changed from residential to commercial. He was not concerned with the mix of market versus rent controlled because that could be driven by density.

In spite of the Top Stop and the Radisson Hotel, Commissioner Joe Tesch preferred to leave the open space as entry corridor. He felt the City Council had done a superb job along the entry until that parcel. He felt that, if they did lose the open space, he wanted it to be affordable housing.

Vice-Chair Alison Child remarked that she was leery of putting affordable housing on the entry corridor into Park City. She was concerned with looks and exterior appearance. If it meant sacrificing affordable housing to keep the entry corridor looking great, she was willing to make that sacrifice and would vote to put affordable housing elsewhere. Commissioner Alison Child favored residential use over office use, but only if it was well done.

Commissioner Chuck Klingenstein agreed that aesthetics was important. Another issue was that affordable housing meant affordable to people who live and work in Park City, not to people commuting to and from Salt Lake.

Accessory Apartments

Chairman Bruce Erickson resumed the chair.

Planner Susan Lykes reported that the staff report had not changed from the November 17 meeting. An additional issue for discussion was whether accessory apartments should be allowed in duplexes. The ordinance was currently written to address single-family dwellings, but it might be appropriate for one of the units in a duplex to have an accessory apartment. The Staff would not support one in each unit. It would fit within the definition of accessory apartments, but the ordinance referenced single-family homes with a detached garage.

EXHIBIT "E"

Commissioner Fred Jones noted that duplexes were included in the staff report. Planner Lykes explained that was for discussion purposes, and if duplexes were not allowed, it would be deleted. Commissioner Dean Berrett recommended deleting the phrase because the density and impact of a duplex was too much. He was open to public input on the matter, but his immediate reaction was to delete it.

Commissioner Joe Tesch shared the concern that a duplex could become a fourplex, but if it was a very large duplex, it might be appropriate. He suggested requiring a minimum duplex size of 4,000 or 5,000 square feet before allowing accessory apartments. Planner Lykes suggested reviewing accessory apartments in multi-unit dwellings as a conditional use and asking the Planning Commission to look at the impact and whether it was practical.

Commissioner Alison Child could not think of enough large duplexes to worry about and thought it was best to delete it now and add it later if necessary.

Commissioner Fred Jones was concerned with detached garages. He felt it was better to start with single-family dwellings with attached garages to avoid the confusion of trying to identify outbuildings as a garage or a barn. Commissioner Alison Child commented that the ordinance said a unit was allowed over accessory structures, and a barn was as good as a garage. The building was simply detached from the primary dwelling as opposed to attached.

Chairman Bruce Erickson explained that the idea was to provide additional housing without additional impact.

Commissioner Dean Berrett stated that the impact of putting an accessory apartment over the garage was no greater than the impact in a single structure if the Planning Commission had done their job and resolved other issues such as parking and number of cars.

Commissioner Fred Jones commented that he was not against detached garages. He just thought it was best to take one step at a time to get the ordinance in place and add to it as they went along. He was simply trying to avoid problems by allowing outbuildings.

Commissioner Chris Erickson saw no problem with detached garages but suggested that they specify existing detached garages to keep people from building a new structures on their lot.

Planner Lykes reported that density limitations had been drafted in the staff report based on a percentage. Instead, the Staff proposed a constant of three homes within a 300-foot radius of a property proposing an accessory apartment. Out of the 300-foot radius, if three homes already had an accessory apartment, another homeowner proposing a unit would be denied. The density limitation proposed by the Staff was acceptable to the Planning Commission.

Commissioner Joe Tesch commented that he was not in favor of a deed restriction, especially based on the three homes within 300 feet density limitation. Three people were allowed accessory apartments, but that did not mean three people had to use them. This would be a deed restriction of record that would become a property right, but he did not want people to horde accessory apartments without using them because it added to the resale value of the home. A better policing tool would be a yearly application requiring the owner to appear and sign a sworn statement stating that they live in a portion of the home and rent out another portion. If someone is not using the accessory unit, the owner should not be allowed to have it and it should not become a property right.

Planner Lykes pointed out that, if a homeowner did not retain his permit, it would not matter because he would still have the unit. Commissioner Joe Tesch responded that, if a unit were not being used, a neighbor who was not previously eligible could get one. Planner Lykes asked what would happen if the first owner sold to a second owner and he wanted to rent it as an accessory apartment but could not because his neighbor now had the right. Planner Lykes felt that taking a permit away after a unit had been built would result in a major enforcement problem. Director Seltenrich answered that it was more like an annual business license requiring an annual application.

Commissioner Chris Erickson remarked that, if a deed restriction stated that when the property was sold the use no longer existed, it would not add to the resale value. Chairman Bruce Erickson commented that the Planning Commission should give the owner of the property the right to control how he lives and the right to control his own premises. If an owner wanted to build an accessory apartment, he should be allowed to do so, and there should be restrictions to keep the town from outgrowing itself. Commissioner Joe Tesch felt part of the enforcement problem could be addressed in a yearly licensing process. Commissioner Chris Erickson recommended what the Staff had presented because they had researched it and contemplated the best course.

In the interest of time, Planner Lykes suggested that the Planning Commission cover the remaining issues at the next meeting. This item would be scheduled for action, but if additional discussion was necessary, it could be continued.

Chairman Bruce Erickson asked if there were other issues not listed in the staff report that needed to be addressed.

Commissioner Fred Jones asked how the Planning Commission could put forth an ordinance relative to CC&R's. He suggested a provision restricting future subdivisions from having CC&R's regarding accessory apartments. Before making a decision, he wanted to see the CC&R's issue discussed. Planner Lykes agreed to see if that could be done.

Commissioner Alison Child suggested adding a disclosure statement to the permit stating, "Please be advised your CC&R's do not allow this." Commissioner Fred Jones felt that was a good idea because some disclosure was necessary to avoid the potential for future lawsuits between the homeowner and the Homeowners Association.

Commissioner Joe Tesch asked that the City Attorney be consulted to see if the Planning Commission had the right to put forth an ordinance overriding CC&R's. Chairman Bruce Erickson wasn't comfortable with the broad scope social engineering that Commissioner Joe Tesch was advocating and was not interested in taking it that far. He felt that if the neighborhood wished to govern itself, it should be allowed to do so.

Planner Lykes summarized that the next report would contain the one year review language recommended by the Staff, the new language on minimum unit size, tandem parking, and a Staff recommendation on neighborhood notification which would be no notification.

Commissioner Dean Berrett said that he wished the public hearing had been continued from the last meeting and asked if another public hearing should be scheduled for the next meeting before making a decision. The Commissioners agreed that another public hearing should be scheduled, and Planner Lykes said it would be noticed in the paper as scheduled for action but the Planning Commission would also take public input. Commissioner Dean Berrett preferred that it be listed as a public hearing item as well as new business.

Commissioner Fred Jones felt a public hearing was appropriate and, if there was a significant amount of new information, the matter should be continued.

Mark Building Master Sign Plan CUP

Commissioner Alison Child objected to the vinyl letter signs on the windows and doors since there were individual tenant signs over every entrance. Planning Director Nora Seltenrich explained that

6. A final limits of disturbance plan shall be approved by the Community Development Department prior to plat recordation or building permit issuance, whichever comes first. The plan shall include limits of disturbance for utilities as well as general construction.

7. Final design, materials and color palette shall be approved by the Staff prior to issuance of building permits, including those for the single-family dwelling.

8. Open space requirements shall be satisfied by the proposed hillside open space. Areas shown on final subdivision plans as undeveloped shall not be further subdivided and shall remain as open space.

9. The applicant shall pay the park dedication fee of $1,035 prior to plat recordation or building permit issuance, whichever comes first.

10. Any proposed signage must receive a sign permit and comply with the City's Sign Code.

IX. NEW BUSINESS

1. Recommendation to City Council on Amendments to the Land Management Code to Allow Accessory Apartments

The Staff recommended approval with the provision to not allow tandem parking to satisfy the apartment or primary residence parking requirement and adding of Section 9, Section A, to read:

Homeowners Association Notification

> The applicant for an accessory apartment permit shall certify that they have notified the subdivision homeowner association, if any. The City shall not require proof of homeowners association approval prior to issuance of a permit for an accessory apartment.

Chairman Bruce Erickson asked if an applicant must notify the homeowners association only if they were registered with the City. Planner Lykes responded that the wording specified "homeowners association, if any," since the Staff did not require a letter of approval from the homeowners association. She offered to be more specific to be consistent with Building Department procedures. Chairman Bruce Erickson favored the change to eliminate notifying something that did not exist.

EXHIBIT "F"

Commissioner Joe Tesch remarked that the ordinance was reworked to the point that he was 99% in favor. He wanted to send a positive recommendation to the City Council with a clear indication of his single difference. He recommended a motion be made to pass the ordinance with a favorable recommendation for tandem parking added and a second vote amending the motion to remove tandem parking to make it clear how many Commissioners favored tandem parking and how many opposed it.

Commissioner Fred Jones stated that he could not support tandem parking for several reasons. The Planning Commission had always been strict on parking, and variances from Code parking was only allowed if there were clearly demonstrated reasons for doing so. He felt that tandem parking in a single-family driveway encouraged on-street parking, and he found that detrimental to the purpose they were trying to accomplish. He felt it was important for accessory apartments to become an attribute to the town, not a detriment to the neighborhoods. Residents would be more likely to allow and embrace this type of development if it was shown to be done well without much impact.

Planner Lykes clarified that tandem parking was only allowed in new construction in the Historic District because of lot size and setbacks and was prohibited everywhere else.

Commissioner Chris Erickson suggested that when the Planning Commission was stuck on one issue, the group as a whole should pass the item and be personally responsible to attend the City Council meetings to explain the split opinions.

Planner Lykes recommended that the Staff prepare an update for the City Council outlining the actions taken and the public input taken at the Planning Commission meeting. Language could be included to indicate that some Commissioners disagreed with the provision on tandem parking but felt compelled to vote for the ordinance.

Commissioner Chuck Klingenstein felt it was important for the Commissioners to be united in sending a message to the City Council and thanked Commissioner Chris Erickson for his suggestion. The strength of the ordinance was that it had been crafted so neighborhoods in Park City would embrace the concept, and he expected to visit this item again in the future to fine tune it.

MOTION: Commissioner Chuck Klingenstein moved to PASS a positive recommendation to the City Council on amending the Land Management Code allowing accessory apartments as outlined in the Staff report and with the change suggested by Chairman Erickson regarding home owner association notification. Commissioner Chris Erickson seconded the motion.

Commissioner Chuck Klingenstein amended his motion to add the homeowners notification as outlined by the Staff. Commissioner Chris Erickson accepted the amendment.

Commissioner Joe Tesch stated that he intended to vote in favor of the motion and hoped the issue of tandem parking would be re-visited in the future. So much of the ordinance was good that he was willing to accept the small disagreement over the parking issue.

VOTE: The motion passed unanimously.

Planner Lykes asked if the Commissioners wished the Staff to include the minority opinion on tandem parking in her update to the City Council. Chairman Bruce Erickson directed her to forward the information that there were Commissioners who felt tandem parking was an acceptable opportunity to meet the parking requirement for accessory housing.

2. Avise CUP for Construction in the Frontage Protection Zone, 106 Pacific Avenue (Gary Avise)

Planning Director Nora Seltenrich reported that this item was reviewed and discussed in detail at two work sessions and felt the Commissioners understood the issues. The applicant, Robert Felton, was in attendance, and she asked him to explain his reasons for requesting the conditional use.

Mr. Felton reported that he was part of Gary Avise's lot which had been in various stages of litigation for years and was then taken to build Deer Valley Drive. Some litigation was ongoing, and they were trying to resolve a conservative use on the property because it originally existed as a larger, single-family property before the road was built and the property was cut back. The applicant had been before the Board of Adjustment regarding a parking variance, but it was not well received. Sufficient parking spaces had been tucked away on the lot to accommodate the requested use. Mr. Felton felt the conditional use was a conservative use of the property which would preserve Mr. Avise's interest in the property and allow everything to continue. The parking requirement had been solved, and he urged the Planning Commission to consider passage.

Commissioner Fred Jones asked Mr. Felton what he expected of the Planning Commission. The Board of Adjustment had given direction in defining the site, but he was not sure what the Planning Commission could do until they received more specific plans.

Mr. Felton responded that the plan had been submitted in the alternative. Basically, the building envelope and the yard itself

Except from 7/25/07 Planning Commission Meeting:

Amendment to the Land Management Code regarding Accessory Apartments

Planner Sharon Mayes-Atkinson noted that the Planning Commission previously discussed these amendments to the Land Management Code regarding accessory apartments at the June 13, 2007 work session. Since that time, additional information has come to light, as well as additional issues. For that reason, this item was re-noticed with broader noticing, to make the public aware that there are additional issues.

Planner Mayes-Atkinson recalled that the previous discussion related to whether accessory apartments and/or the main homes they are attached to should be allowed for nightly rental. Since that time, the Staff had extensively researched the matter and determined that in 1993, the original intent of an accessory apartment was for affordable housing and not for bed base. Planner Mayes-Atkinson noted that a deed restriction was placed on all accessory apartments indicating that if the property is sold, the right to an accessory apartment is lost. At that time the Staff had raised the question of an enforcement nightmare if the apartment still exists but the right to use it goes away. Planner Mayes-Atkinson believed that the enforcement issue has occurred over the years and many of the properties have been transferred. After a very detailed research of approximately 4,000 nightly rental permits, the Staff narrowed the numbers down to nightly rentals in an accessory apartment versus a main house. That number was approximately 250. They compared those records against the records in the Planning Department for conditional use permits that were granted for accessory apartments.

Planner Mayes-Atkinson stated that because there have been problems with record keeping and enforcement over the years, the Staff recommends that the Planning Commission revise the Land Management Code to prevent nightly rental of the main residence if an accessory apartment is granted. The Staff believes this would continue the intent of affordable housing. If the owner wishes to move into the accessory apartment and rent the main house, that would also be acceptable. The condition is that neither structure must be long term rental and not nightly rental. Planner Mayes-Atkinson noted that the Code defines long term rental as 30 days or more. The Staff also requested that the Planning Commission consider amending the deed restriction. Typically, conditional uses run with the land; however, as written, the deed restriction prevents that from happening. The revised language would state that the CUP does run with the land and all of the conditions must be met. Planner Mayes-Atkinson remarked that currently the Code requires a one year review of the conditional use permit. She found no evidence that reviews were ever done on accessory apartments and the Staff would like the Planning Commission to consider removing that one year review requirement. As an alternative, the Staff recommended that the deed restriction specify that a review can be conducted any time the conditions are not met and reasonable complaints are received. If the Staff finds that the use is in violation of the conditions, the CUP can be revoked.

Commissioner Barth was not comfortable with a situation where the City could be a potential arbitrator between two disputing neighbors. Assistant City Attorney McLean, explained that if the City receives a complaint and the Code Enforcement Officer determines that the conditions have not been met per the Land Management Code, the City would take away the ability to continue the use. In response to Commissioner Barth's concern, Ms. McLean pointed out that the City is the final arbitrator on matters related to compliance with the Land Management Code.

Planner Mayes-Atkinson requested that the Planning Commission discard pages 213-216 of the

Staff report. Those pages were inadvertently included and should be removed because they are were not done in color for ease of reading the changes..

The Staff requested that the Planning Commission conduct a public hearing and discuss 1) whether nightly rentals should be allowed in the dwelling granted an accessory apartment; 2) whether the deed restriction should be amended to remove the loss of the conditional use permit upon sale, with the provision that neither dwelling unit may be rented for periods less than 30 days and must comply with all conditions of approval; 3) whether to amend or remove the one year review period.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council on the amendments to the Land Management Code regarding accessory apartments.

Chair O'Hara commented on the deed restriction. He understood that if someone did not comply with the conditions of approval, the permit would be invalidated. He wanted to know what would happen to the accessory apartment if that were to happen. Planner Mayes-Atkinson replied that the accessory apartment could not be rented. Chair O'Hara wanted to make sure the owner would not be able to start renting the accessory apartment as a nightly rental because the conditional use permit was invalidated. Assistant Attorney McLean, replied that the LMC, as currently written, does not allow nightly rentals to occur in accessory apartments. If the conditional use permit was revoked, the accessory apartment would remain vacant unless the owner chooses to use it as extra space or guest housing. They would not have the ability to put the accessory apartment into the rental pool.

Chair O'Hara opened the public hearing.

There was no comment.

Chair O'Hara closed the public hearing.

Commissioner Pettit recalled from the previous discussion that affordable housing was the purpose of an accessory apartment and it was tied to the concept of providing more affordable housing in Park City rather than adding to the bed base. At that time she raised the question of whether the City had the ability to gauge how successful they have been in providing additional affordable housing opportunities. She wanted to know how affordable housing is defined and what it means. Commissioner Pettit asked if there is any way to insure that these affordable housing units remain affordable or to implement a rent control mechanism. Planner Mayes-Atkinson replied that Phyllis Robinson, the Affordable Housing Consultant, was better able to answer that question, since she is well versed on all matters related to affordable housing. Assistant Attorney McLean stated that the idea of rental control is a separate topic. If the Planning Commission is interested in having that discussion, they could schedule a separate time. She understood that the affordable housing concept of these units is identified by the size restriction and the fact that the rental fee for a smaller unit is more affordable than renting a 3,000 square foot house.

Commissioner Pettitt commented on the matter at the last meeting where they allowed the owner of the main dwelling to reside in the accessory apartment and rent the larger home. She wanted to make sure they correlated the purpose for allowing accessory apartments and whether they are meeting that purpose by the way they implement the Code provisions. Assistant Attorney McLean replied that a policy discussion for the Planning Commission would be whether to place a restriction that prohibits renting the main dwelling if it has an accessory apartment, or if both could be rented.

Commissioner Russack felt the policy would depend on the definition of affordable housing. Planner Mayes-Atkinson replied that affordable housing is usually defined by Housing and Urban development and the State. She explained that the formula is based on the area median income, which is quite large in Park City. She noted that those needing affordable housing must make below the median income by a certain percentage in order to qualify. Therefore, affordable housing is based on what the unit could rent for per month and whether it would meet the criteria for someone making that percentage less than the median income. Assistant Attorney McLean stated that currently the City does not have criteria for affordable housing, even though the discussion in 1993 was to have affordable housing. By Code, if someone wants to rent an accessory apartment, they could rent it for the market price because nothing in the Land Management Code restricts or specifies rent amounts.

Commissioner Pettit commented on balancing the increased intensity of the lot by having an accessory apartment against the goal of providing affordable housing options for the work force. If that is not happening, she did not think the trade off was worth the impact to the Historic District. She had concerns about whether the policy implemented addresses the purpose or whether they should be looking at the issues on a broader scale. Enforcement is another issue and she believes they are continuing a situation that is easy to abuse, as well as adding intense use in an unsuitable area.

Commissioner Thomas stated that it is a complex issue and there may be combinations they had not thought about. He mentioned the possibility of a long time resident who evolves into retirement and can no longer afford the main house he lives in. If they took away his ability to move to the smaller unit and rent out the larger unit, it may force that individual out of the community. Commissioner Thomas was not comfortable restricting the property owner to the larger unit. Planner Mayes-Atkinson noted that the amendment proposed allows the owner to live in either unit. Commissioner Thomas remarked that the issue is a quagmire and affordable housing in the community is an oxymoron.

Commissioner Wintzer recalled from the discussions in 1993 that affordable housing was considered a smaller place to live and not a percentage of income. The theory was, the smaller the place the less it cost to rent. Commissioner Wintzer still believed that the purpose of affordable housing is to create smaller places where people can rent. He felt it would be a nightmare for the City to regulate numerous things and try to live within the criteria.

Commissioner Russack felt that attaching affordable housing to the accessory apartment was creating the issue. If the original intent for allowing accessory apartments was to solve the affording housing problem, he agreed that they would not achieve that intent by allowing the owner to live in either unit. He thought they may need to back off trying to connect affordable housing with accessory apartments because they are different issues.

Chair O'Hara remarked that if someone rents it usually means they cannot afford to purchase. He cited his own personal situation in the 1980's where he could not afford to purchase a home but did rent a home large enough to accommodate his family. If he had not been allowed that option, he would not have lived and worked in Park City. He favored allowing a property owner to live in whichever unit they choose and rent out the other unit. Allowing a family to rent a larger home still provides affordable housing under a larger umbrella of what is affordable. Chair O'Hara believed the original intent for accessory apartments was to provide additional bed base for people who live and work in the City.

Commissioner Barth understood that these amendments were an attempt to simplify the system and not get into bureaucratic involvement of affordable housing. He preferred to keep consistent with what they were asked to do this evening. If the Planning Commission wishes to discuss building a new bureaucracy for affordable housing it should be done at another time.

Commissioner Russack agreed with the Staff recommendations this evening. Commissioner Pettit read the language in Criteria 6, "All significant impacts of the surrounding neighborhood are reasonably mitigated and continue to be mitigated." She asked if Criteria 6 is currently considered when the Planning Commission reviews an accessory apartment application. Planner Mayes-Atkinson stated that Criteria 6 was added language. Currently, the Planning Commission only has five criteria to use in reviewing an accessory apartment application. She explained that the six criteria outlined only apply to existing non-conforming accessory apartments to allow them to continue.

MOTION: Commissioner Barth moved to forward a POSITIVE recommendation to the City Council on Chapter 15-4-7 regarding accessory apartments. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Draft Ordinance No. 07-

AN ORDINANCE APPROVING AN AMENDMENT TO THE LAND MANAGEMENT CODE, 15-4-7 OF PARK CITY, UTAH, REGARDING ACCESSORY APARTMENTS

WHEREAS, the Land Management Code chapter 15-4-7 presently permits the granting of accessory apartments in all zones, except the PUT zone; and

WHEREAS, the current Land Management Code (15-4-7) allows for nightly rentals of a main residence, but prohibits nightly rentals of accessory apartments, and also requires that the owner of the property reside in either the main house or the accessory apartment; and

WHEREAS, the Planning Commission conducted a work session on this issue on June 13, 2007; and

WHEREAS, the current Deed Restriction required under the present ordinance requires that the approval of an Accessory Apartment permit is automatically revoked upon sale of the property to a subsequent owner; and

WHEREAS, a one-year review of the Accessory Apartments has shown to be ineffective, and such use should be able to be reviewed anytime reasonable complaints are made; and

WHEREAS, the Planning Commission duly noticed and conducted a Public Hearing at its regularly scheduled meeting on June 25, 2007 and forwarded a positive recommendation to the City Council; and

WHEREAS, the City Council duly noticed and conducted a Public Hearing at its regularly scheduled meeting on August 9th, 2007; and

WHEREAS, the strongly expressed intent of Ordinance 94-4 originally allowing Accessory Apartments, was to create opportunities for Affordable Housing; and

WHEREAS, nightly rentals in traditional residential neighborhoods increases the intensity of use, often creating negative impacts to the neighborhood, and

WHEREAS, Accessory apartments should not be granted without a compelling reason and imposing conditions to mitigate impacts; and

WHEREAS, the city should be able to review Accessory Apartments periodically to determine if conditions imposed to mitigate impacts are continuing to be met; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to require owners of homes receiving approval for an accessory apartment to forego the ability to rent the main house nightly; and

WHEREAS, it is within the power of the City to regulate nightly rentals.

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

SECTION 1. INCORPORATION. The above recitals are hereby incorporated as Findings of Fact and Conclusions of Law.

SECTION 2. APPROVAL OF AMENDMENT CHAPTER 15-4-7 of the Land Management Code is hereby amended to read as attached hereto on Exhibit "A", pursuant to the Findings of Fact and Conclusions of Law. Any conflicts or cross-references from other provisions of the Land Management Code shall be resolved by the Planning Director.

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

PASSED AND ADOPTED this ___ day of August, 2007

PARK CITY MUNICIPAL CORPORATION

____

Dana Williams, Mayor

Attest:

____

Janet M. Scott, City Recorder

Approved as to form:

____

Mark Harrington, City Attorney

City Council
Staff Report

PARK CITY 1884 PLANNING DEPARTMENT

Author: Ray Milliner
Subject: 1375 Park Avenue Subdivision
Date: August 9, 2007
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends that the City Council hold a public hearing for the 1375 Park Avenue Subdivision and consider approving it based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant:	Ryan Sapp
Location:	1375 Park Avenue
Zoning:	Historic Residential Medium (HRM)
Adjacent Land Uses:	Residential
Reason for Review:	Plat amendments require Planning Commission review and City Council approval

Background

On February 20, 2007, the City received a completed application for the 1375 Park Avenue Subdivision. The property is located at 1375 Park Avenue in the HRM zone. The applicant is the owner of two 68' x 31' metes and bounds parcels of approximately 2,030 square feet located in Block 24 of the Snyder's Addition to the Park City Survey. There is an unoccupied non-historic building on the property that was previously a laundry mat. The property receives access from Park Avenue as well as Woodside Avenue. The applicant is proposing to combine these two parcels into one lot of record, and to accommodate a residential duplex on site.

If the applicant desires to demolish the existing building on site, he will be required to apply for a Determination of Historical Significance from the Historic Preservation Board, who will need to make a finding that the building is not historically significant, prior to the issue of a demolition permit. The application will be reviewed by the Historic Preservation Board per the requirements of LMC Chapter 15-2-11.

This application was reviewed by the Planning Commission at its July 25, 2007 meeting. The Commission conducted a public hearing and forwarded a positive recommendation to the City Council.

Analysis

The property is located in the Historic Residential (HRM) zone. The proposed plat amendment will create a single lot of approximately 4,061 square feet with 10 foot setbacks in the front and rear and 5 feet on each side. The maximum height for the zone is 27 feet above existing grade. There is an existing irregular easement on the north side of the property that encroaches approximately 6 feet into the property. The easement provides access to the adjacent 14th Street Condominiums, and is proposed to remain on the plat as recorded.

The existing commercial structure currently is built on the south property line with no setback. However, if the applicant removes the building, the new structure will be required to have a setback of 5 feet from the property line, creating a LMC compliant situation on the lot. Prior to the issue of a building permit, the applicant will be required to submit an application for review for compliance with the historic district design guidelines.

Staff finds good cause for this plat amendment as two existing parcels will be joined into one lot of record. The proposed construction will create a situation where the duplex does not cross property lines. Additionally, the plat amendment will enable the removal of the existing building and the construction of a building that is compliant with the current regulations in the Land Management Code. The lot size is consistent with the pattern of development in the neighborhood. A duplex will use less water than the former laundry mat.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report.

Alternatives

- The City Council may approve the 1375 Park Avenue Subdivision plat amendment as conditioned or amended, or
- The City Council may deny the 1375 Park Avenue Subdivision plat amendment and direct staff to make Findings for this decision, or
- The City Council may continue the discussion on the 1375 Park Avenue Subdivision plat amendment.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation
The property would remain as is and no additional construction could take place across the existing lot lines.

Recommendation
Staff recommends that the City Council hold a public hearing for the 1375 Park Avenue Subdivision and consider approving it based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits
Exhibit A – Ordinance
Exhibit B – Record of Survey Plat

Ordinance No. 07-

AN ORDINANCE APPROVING THE 1375 PARK AVENUE SUBDIVISION PLAT AMENDMENT LOCATED AT 1375 PARK AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 1375 Park Avenue have petitioned the City Council for approval of the 1375 Park Avenue Subdivision plat amendment; and

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

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

WHEREAS, the Planning Commission held a public hearing on July 25, 2007, to receive input;

WHEREAS, the Planning Commission, on July 25, 2007, forwarded a positive recommendation to the City Council; and,

WHEREAS, on August 9, 2007, the City Council approved the 1375 Park Avenue Subdivision plat amendment; and

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

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The plat amendment as shown in Exhibit B are approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 1375 Park Avenue in the Historic Residential (HRM) zone.
2. The HRM zone is a residential zone characterized by a mix of larger contemporary residences and smaller historic homes.
3. The applicant is the owner of two 68’ x 31’ metes and bounds parcels located in Block 24 of the Snyder’s Addition to the Park City Survey.
4. There is an existing non-historic commercial structure on the property.
5. The applicant is proposing to join the parcels into one lot of record to accommodate a residential duplex on the property.
6. The proposed lot will be 4,061 square feet in size.
7. The maximum height for the zone is 27 feet above existing grade.
8. Access to the property comes from both Park Avenue and Woodside Avenue.

9. The applicant will be required to apply for a Determination of Historical Significance prior to any modifications being made to the existing commercial building. The application will be reviewed by the Historic Preservation Board per the requirements of LMC Chapter 15-2-11.

Conclusions of Law:

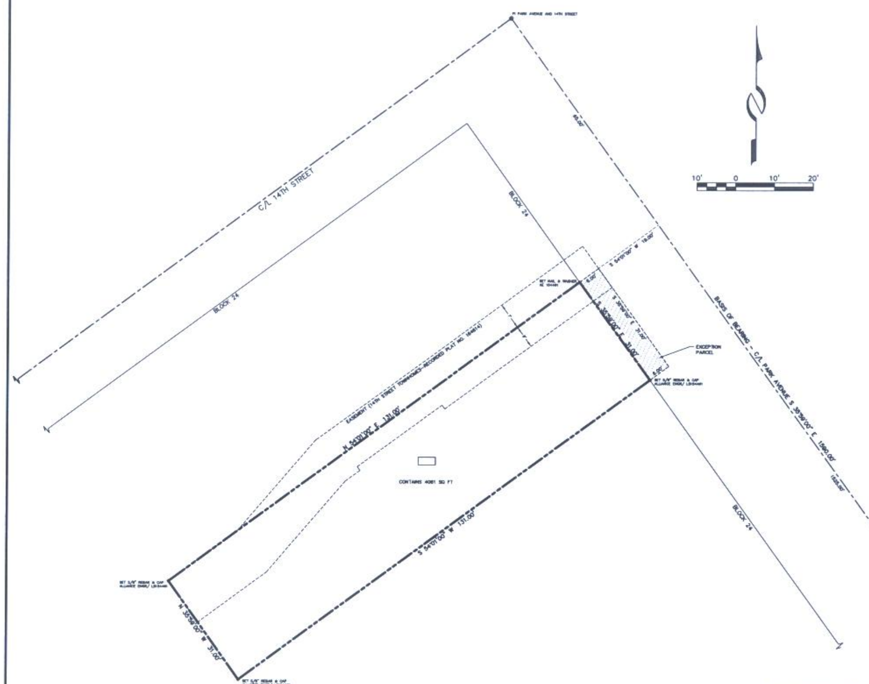
1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment,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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. Prior to the issue of a building permit, the applicant shall submit for review and approval a historic district design guideline review application.
4. A determination of historical significance will be reviewed by the Historic Preservation Board, and a finding that the structure is not historically significant shall be made prior to the demolition of the building on site.
5. No remnant parcel shall be created as part of this application.

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

PASSED AND ADOPTED this 9th day of August, 2007.



SURVEYOR'S CERTIFICATE

REGISTERED LAND SURVEYOR No. 154481 JOHN DEMKOWICZ State of Utah

I, John Demkowicz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 154481, as prescribed by the laws of the State of Utah, and that by authority of the owner(s), I have prepared this Record of Survey map of the 1375 PARK AVENUE SUBDIVISION and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

________________ John Demkowicz   ________ Date

BOUNDARY DESCRIPTION

Beginning North 54°01' East 356 feet and South 35°59' East 50 feet from the southwest corner of Block 24, Snyder's Addition, Park City, Utah; and running thence South 35°59' East 31 feet; thence South 54°01' West 137 feet; thence North 35°59' West 31 feet; thence North 54°01' East 137 feet to the place of beginning.

Excepting threrefrom those portions lying within 25 feet of the centerline of Park Avenue on the easterly boundary of the above described property.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that 1375 PARK AVENUE, LLC, a Utah limited liability company, the undersigned owner of the herein described tract of land, to be known hereafter as the 1375 PARK AVENUE SUBDIVISION, does hereby certify that it has caused this Subdivision Plat to be prepared, and does hereby consent to the recordation of this Subdivision Plat.

ALSO, the owner or its representative, hereby irrevocably offers for dedication to the city of Park City all the streets, land for local government uses, easements, parks, and required utilities and easements shown on the plat and construction drawings in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this ______ day of ________________, 2007.

____
Ryan Sapp, Managing Member
1375 Park Avenue, LLC

ACKNOWLEDGEMENT

State of ___________;
ss:
County of ___________;

On this ______ day of ____________________, 2007, Ryan Sapp personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Ryan Sapp acknowledged to me that he is the managing member of 1375 Park Avenue, LLC, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

____
A Notary Public commissioned in Utah

____
Printed Name

Residing in: ________________

My commission expires: ________________

LEGEND

☐ Street address on ______ Street

1375 PARK AVENUE SUBDIVISION

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

JOB NO.: 4-5-07 FILE: X:\SnydersAddition\dwg\srv\plat07\040507.dwg

Alliance Engineering Inc (435) 649-9467 CONSULTING ENGINEERS LAND PLANNERS SURVEYORS	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ____ DAY OF ______, 2007 A.D. BY ______ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF ______, 2007 A.D. BY ______ CHAIRMAN	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF ______, 2007 A.D. BY ______ PARK CITY ENGINEER	APPROVED AS TO FORM THIS ____ DAY OF ______, 2007 A.D. BY ______ PARK CITY ATTORNEY	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF ______, 2007 A.D. BY ______ PARK CITY RECORDER	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF ______, 2007 A.D. BY ______ MAYOR	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ______ DATE ____ TIME ____ BOOK ____ PAGE ____ ____ FEE ____ RECORDER

City Council Staff Report

PARK CITY 1884

Budget, Debt, and Grants

Author: Gary Hill and Hugh Daniels
Subject: Comprehensive Emergency Management Plan (CEMP)
Date: August 9, 2007
Type of Item: Administrative – Review updated CEMP and adopt both the CEMP and NIMS by resolution

Summary Recommendations:
Review the updated Comprehensive Emergency Management Plan (CEMP) and adopt by resolution both the CEMP and the National Incident Management System (NIMS) in accordance with FEMA requirements and standards.

Description:
Topic:
Bring the City's CEMP current and adopt CEMP and NIMS to meet federal, state and county requirements.

Background:
Park City's last Emergency Management Plan was produced in c. 1990, with some event specific updates made for the Olympics in 2001. Subsequent to September 11, 2001, the President and FEMA initiated new requirements for emergency planning for all states and local governmental subdivisions.

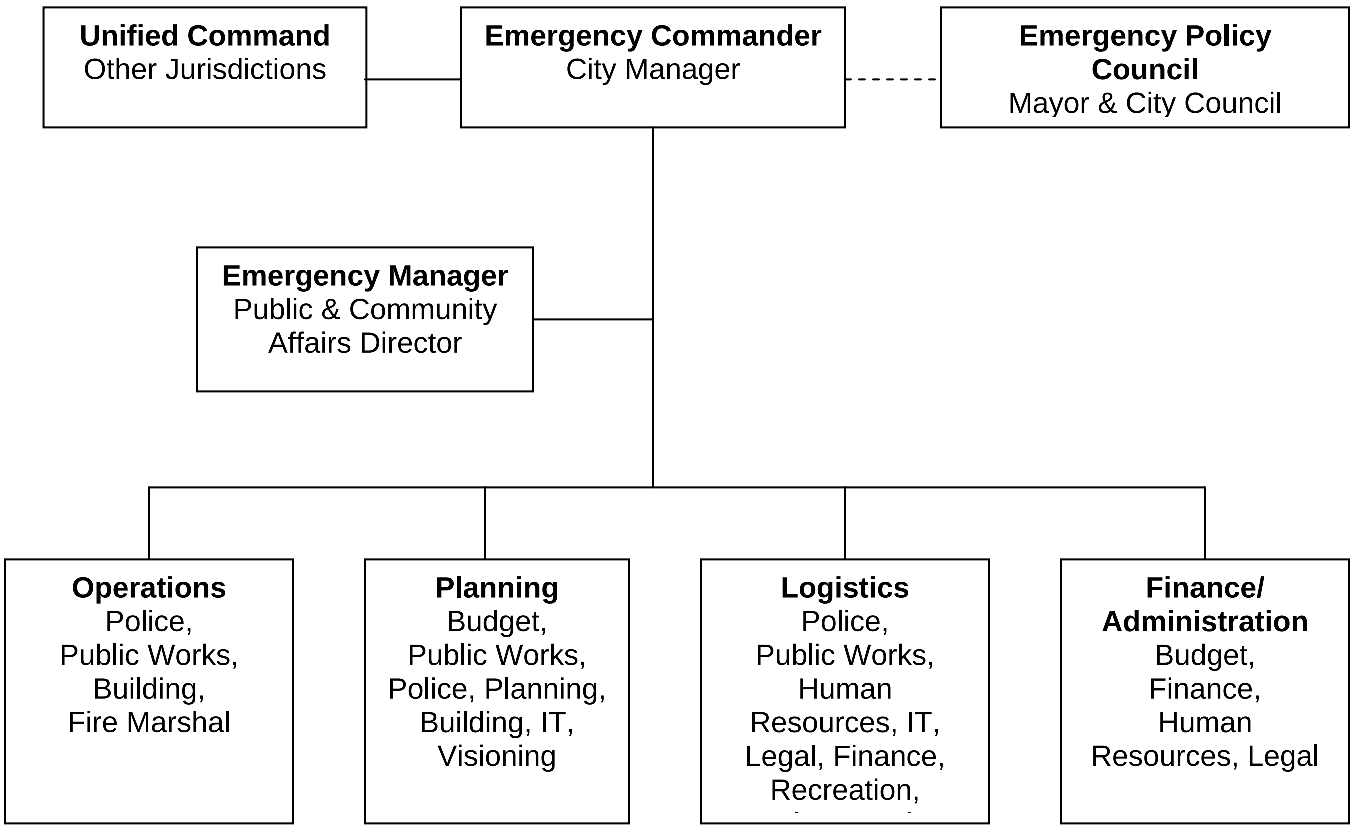
On February 28, 2003, the President issued Homeland Security Presidential Directive (HSPD) - 5 *Management of Domestic Incidents,* which directs the Secretary of Homeland Security to develop and administer a National Incident Management System (NIMS) and the directive also requires Federal departments and agencies to make adoption of the NIMS by State, Tribal and local organizations a condition for Federal preparedness assistance beginning in Federal FY 2005.

Without formal adoption of a CEMP and NIMS, the City is not eligible for certain federal grants and certain federal disaster reimbursements. Further, the staff believes that this will become a requirement for other federal assistance and grants in the near future. State assistance to municipalities may also be available with approved emergency management plans and training.

In addition to the basic plan a number of Appendices lay out the details of Mitigation, Preparedness, Response and Recovery. Two key components are the Implementation and Training Plan and Community Preparedness Plan.

Analysis:
The basic CEMP is completed and before you for review and adoption including the Federal NIMS requirement.

<u>Structure</u>
Staff's primary focus at this point was to identify basic roles and responsibilities so that a clear line of authority could be understood and followed in the event of emergency. Figure 1 below shows the basic structure:



As with the rest of the CEMP, the Incident Command Structure (ICS) is based upon the standard identified by NIMS. ICS is used by all levels of government – Federal, state, local and tribal, and the uniformity is intended to allow rapid communication/integration between agencies when required to work together on an incident. This structure also mirrors the City's usual operations with the City Manager responsible for day-today operations and the Mayor and City Council responsible for policy formation and linking citizens to the government.

The basic roles identified in the ICS above are explained in greater detail in the CEMP, but individual departments will be developing their roles and responsibilities over the course of the next several months.

The Appendices are in the process of completion with six having been completed and the remainder in process with the majority expected to be completed by the end of September, 2007. Training and implementation are scheduled to begin in the fourth quarter of 2007 and will include interagency training using the Incident Command

System (ICS) as required by NIMS. Staff and Council training will also be required to meet the Federal guidelines.

Staff feels it is very important for the adoption of the CEMP and NIMS at the earliest convenience to meet Federal requirements and protect our ability to receive grants and reimbursements. Further, while we hope a City wide emergency or disaster never befalls any of us, we must make this program a priority. A key responsibility of municipal government is public safety and a comprehensive plan and employee training go a long way towards meeting those objectives.

The various completed appendices are not included with the CEMP to save on paper (many are lengthy), but are available to the Council for review. Some appendices are protected documents under UCA - 63-2-304 and UCA 62-2-106 due to personnel and security issues. The Council will be periodically updated on amendments to the plan made by the Emergency Management Group (EMG) as outlined in the CEMP

Significant Impacts

There is no substitute for protecting the public safety to the best of the City's ability. Staff and training time will need to be set aside, in order to be prepared for an emergency or disaster. Budgeted funds are available to carry out this plan and its components. This adoption or lack thereof does not impact individual citizen requests for federal aid.

Failure to adopt the CEMP and NIMS, jeopardizes the City's ability to receive State and Federal grant and disaster reimbursement funds.

ALTERNATIVES

A. Approve the Request – Council should review and adopt by resolution the CEMP and NIMS.

B. Deny the Request – Council could choose to direct staff to make changes to the CEMP and return at another time.

C. Continue the Item - The City Council may continue the action for more information and discussion.

RECOMMENDATION:

Review the CEMP and NIMS and adopt them both by resolution.

Attachments:

A – Comprehensive Emergency Management Plan (CEMP) – **under separate cover**

B – Resolution adopting the National Incident Management System (NIMS)

C – Resolution adopting the CEMP

A RESOLUTION ADOPTING THE PARK CITY COMPREHENSIVE EMERGENCY MANAGEMENT PLAN (CEMP)

WHEREAS, the purpose of the CEMP is to develop a comprehensive emergency management program that will provide a system to mitigate the effects of an emergency or disaster, preserve life, respond during emergencies, provide necessary assistance, and establish a recovery system in order to return the community to its normal state of affairs; and

WHEREAS, this plan attempts to define clearly the roles and responsibilities of each department and function within the City organization by providing guidance in accomplishing the objectives of this plan with lists of guidelines, plans, assessments and resources; and

WHEREAS, on February 28, 2003, the President issued Homeland Security Presidential Directive (HSPD) - 5 *Management of Domestic Incidents,* which directs the Secretary of Homeland Security to develop and administer a National Incident Management System (NIMS) and the directive also requires Federal Departments and agencies to make adoption of the NIMS by State, tribal and local organizations a condition for Federal preparedness assistance beginning in Federal FY 2005; and

WHEREAS, certain State and Federal disaster reimbursements require local jurisdictions to adopt and train in a CEMP, NIMS and Incident Command Systems (ICS); and

WHEREAS, it is expected that certain Federal grant programs now require or will require an adopted CEMP; and

WHEREAS, the City Manager and the Emergency Management Group (EMG) has reviewed the proposed Comprehensive Emergency Management Plan with all of its attachments, as periodically amended by the EMG and recommends adoption by the City Council; and

WHEREAS, the City Council deems it in the best interest of Park City Municipal Corporation to formally adopt them;

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

SECTION 1. ADOPTION . The Comprehensive Emergency Management Plan, dated August 9, 2007 attached hereto, along with all appendices and compendiums as periodically amended, by the City Manager, are hereby adopted, to replace any and all others previously adopted. Any amendments approved by the City Manager shall be effective for not more than one year unless ratified by the City Council.

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

RESOLUTION ADOPTING THE USE OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

WHEREAS, natural and man-made disasters may occur in any part of Park City, and;

WHEREAS, Utah State Code Title 63, State Affairs in General, Chapter 5a, Disaster Response and Recovery outlines authority, and;

WHEREAS, Park City is responsible to respond to emergency incidents as well as disasters with local responders, i.e. Law Enforcement, Fire, Emergency Medical Services, Public Services, and other such departments and divisions that might be required, and;

WHEREAS, City departments may be called to respond to and/or assist in response and/or recovery from the effects of emergency incidents and disasters, and;

WHEREAS, Park City is committed to achieving a system that will provide a consistent approach for local, state and federal governments to work effectively and efficiently together to prevent, prepare for, respond to and recover from domestic emergency and disaster incidents, regardless of cause, size or complexity, and;

WHEREAS, The Homeland Security Presidential Directive (HSPD-5) requires federal departments and local jurisdictions to adopt the National Incident Management Systems (NIMS), and;

WHEREAS, in times of disaster, local and state agencies work closely with federal agencies, and;

WHEREAS, NIMS provides a consistent nationwide template for all agencies to work together to prevent, prepare for, respond to and recover from all hazards, and;

WHEREAS, as a condition for federal preparedness assistance, beginning in federal Fiscal Year 2005, local organizations are mandated by HSPD-5 to adopt NIMS as the model for incident management in times of disaster;

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

SECTION 1. ADOPTION. Park City Municipal Corporation hereby adopts the National Incident Management System (NIMS) to be used by all City departments in response to all incidents and/or disasters within Park City.

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

City Council
Staff Report

Author: Matt Twombly, Project Manager
Subject: SR-248 (Kearns Boulevard) Sidewalk Project
Date: August 9, 2007
Type of Item: Request for Award of Contract

Summary Recommendation:
Staff recommends City Council authorize the City Manager to execute a construction contract on a form approved by the City Attorney's Office to DRD Paving, L.L.C., in the amount of Two Hundred Sixty Six Thousand Nine Hundred Sixty Dollars ($266,960.00).

Description:
Topic: Construction Agreement Award – SR-248 (Kearns Boulevard) Sidewalk Project

Background:
On October 26, 2006 City Council authorized the City Manager to enter into a Cooperative Agreement with the Utah Department of Transportation (UDOT), for a matching grant in the amount of $115,500 ($86,500 UDOT/$29,000 Park City) to engineer, design and construct a sidewalk along SR-248, Kearns Boulevard. In May of 2007 the City entered into an agreement with Stantec Consulting, Inc., for the design and engineering of the project.

In June of 2007 UDOT approved the design drawings for conformance with their standard drawings and specifications for highway projects. The project entails constructing a five foot (5'-0") wide sidewalk behind the existing curb, with a one foot space of roadbase, where signs and other utilities may be located, between a concrete block retaining wall, which runs for most of the length of the new sidewalk; and ADA ramps at the driveways. The project is within the soils district and all of the excavated material will need to be hauled to Richardson's Flat. Lighting is not proposed, but a conduit will be installed behind the wall for possible future lighting.

Analysis:
The project was advertised to bidders in the Salt Lake Tribune on July 17 and 18, 2007, and in the Park Record on July 18 and 21, 2007. The sealed bid(s) were opened and read aloud on July 26, 2007. The low (only) bidder was DRD Paving, L.L.C., in the amount of Two Hundred Sixty Six Thousand Nine Hundred Sixty Dollars ($266,960.00). There were two additive alternates for the concrete retaining wall systems. DRD Paving only bid on additive alternate number 2 for a standard concrete retaining wall similar to that found at the bus stops along Park Avenue by Albertson's. The additive alternate would save approximately $10,718 if selected. The concrete retaining wall included in the bid is a Mosaic style which includes blocks of varying sizes to give it a more rustic look. Due to the extent and visibility of the wall, staff recommends installing the Mosaic style block retaining wall included in the base bid.

Funding for the sidewalk project will be from the Walkability Implementation CIP Fund and the approved Safe Sidewalk grant. Staff had estimated the project cost at $150,000 including design and engineering. The engineer's cost estimate was $134,000.00. As part of the Walkability Study, Landmark Design estimated the project cost at $322,000. During the budget hearings on the Walkability Study, Council directed staff to place the difference between the Landmark estimate and staff's estimate into a contingency account in case of costs exceeding estimates in the fluctuating construction market.

The total cost for the project is $272,960 including design. The Safe Sidewalk grant is in the amount of $86,500. Staff had budgeted $63,500 in the Walkability Implementation CIP based on the $150,000 estimate and grant. To complete the project as designed, $122,960 of contingency funds will have to be used. Staff recommends proceeding with the project where it was identified as a Tier II project in the Walkability Study.

Department Review: This report was reviewed by City Manager, Legal Department, Sustainability Implementation Team, Budget Debt and Grants.

Alternatives:

A. **Approve the Request:** Staff is requesting authorization to proceed with the Kearns Boulevard Sidewalk project and award the construction contract on a form approved by the City Attorneys Office to DRD Paving, L.L.C., in the amount of Two Hundred Sixty Six Thousand Nine Hundred Sixty Dollars ($266,960.00).

B. **Deny the Request:** If Council feels that the cost of constructing the project is too expensive, the project may be re-bid during the winter in hopes that a less expensive project may be built in the spring of 2008.

C. **Continue the Item:** This would delay the project which would likely impact the schedule for completion this season.

D. **Do Nothing:** This will have the same impact as delaying the request.

Significant Impacts / Consequences of not taking the recommended action:
A delayed contract approval would impact completing the project this season. Re-bidding the project may or may not provide for a less expensive project next season due to a highly variable construction market. There is approximately $1.6 milion budgeted in the Walkability CIP accounts.

Recommendation:
Staff is requesting authorization to proceed with the Kearns Boulevard Sidewalk project and award the construction contract on a form approved by the City Attorneys Office to DRD Paving, L.L.C., in the amount of Two Hundred Sixty Six Thousand Nine Hundred Sixty Dollars ($266,960.00).

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this 9th day of August, 2007, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and DRD PAVING, L.L.C., 27 West 3900 South, Salt Lake City, UT 84107, which is a (*check one*) __ corporation ___ partnership ___ sole proprietorship _√_ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the SR-248 Sidewalk Improvements (hereinafter "Project"), which briefly consists of excavation, concrete block retaining wall, concrete sidewalk utility boxes, relocate signs, remove and dispose of excavated soils, landscape restoration, miscellaneous other work and cleanup.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

SECTION 1. SCOPE OF WORK. Contractor shall furnish all labor, materials and equipment to complete the Project, consisting of the work described in the Bid Form as the Total Bid, as specifically set out in the contract specifications, which is made a part hereof by reference, herein called the "Project."

The Project will be bound by the specifications referenced herein, according to the Advertisement for Bid, the Information for Bidders, the General Project Requirements and Specifications provided by Architect, the Bid of the Contractor, Bid Bond, Drawings, Notice of Award and Notice to Proceed, collectively referred to as the Contract Documents, all of which are incorporated herein by reference and on file in the Department of Capital Management. To the extent that this Agreement conflicts in any way with a proposed form agreement which may have been submitted as part of the bid specifications, this Agreement shall control.

If any of the work performed by Contractor in any phase of the Project does not meet City standards as outlined in the bid documents and specifications, then Contractor shall immediately repair or correct the work at no additional cost to City.

A. SUBCONTRACTORS. No part of this contract shall be subcontracted by the Contractor without prior written approval by City through the Project Manager/Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and materialmen who supplied services or materials to the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release. If the City reasonably believes that Contractor has failed to pay Subcontractors, materialmen, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

C. INSPECTION AND TESTING. All materials and equipment used in the construction shall be subject to inspection by the Project Manager/Engineer. If laws, ordinances, rules or regulations of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than Project Manager/Engineer, the Contractor shall give the Project Manager/Engineer timely notice of readiness. Inspections, tests or approvals by the City or appropriate authorities will not relieve the Contractor from obligations to perform the work in accordance with the requirements of the Contract Documents and/or provisions. The Project Manager/Engineer and other designated persons will at all times have access to the work. All work shall ultimately be inspected for final acceptance by the Project Manager/Engineer within a reasonable time upon receipt of notice from the Contractor that work is complete and ready for final inspection.

During construction, the work will be inspected and observed by the Project Manager/Engineer or his designated representative. All work that is deficient or does not meet specifications shall be removed and replaced with proper material at Contractor's expense.

D. WARRANTY. Contractor warrants that all materials and supplies used in the construction of the Project shall be new, except as otherwise agreed to in writing by the City's Representative. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of one (1) year following the date of substantial completion of the Project under the terms of the performance bond.

SECTION 2. PERFORMANCE AND PAYMENT BONDS. Contractor shall furnish to the City payment and performance bonds satisfactory to the City guaranteeing Contractor's payment and performance, in the amount, for each separately, of one hundred percent (100%) of the Contract Amount. The deliver of the required bonds to the City shall be made prior to the Notice to Proceed.

SECTION 3. INSURANCE. Unless otherwise specified in the bid documents, the Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide a Certificate of Insurance evidencing:

> **A.** Automobile Liability insurance with limits no less than five hundred thousand dollars ($500,000) combined single limit per accident for bodily injury and property damage.
>
> **B.** Commercial General Liability insurance written on an occurrence basis with limits no less than one million dollars ($1,000,000) combined single limit per occurrence and two million dollars ($2,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's liability.
>
> **C.** Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars ($500,000) combined single limit per occurrence.

The City shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to request certified copies of any required policies.

The Contractor's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Two Hundred Sixty Six Thousand Nine Hundred Fifty Nine and 99/100 Dollars ($266,959.99)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

SECTION 5. PERMITS AND FEES. As set out in Section 4 above, the Contract Amount includes the price of all normally applicable fees and permits. The City may, at its discretion, arrange for the waiver of certain fees, permits and expenses.

SECTION 6. TERMS OF PAYMENT. The City shall pay for services provided hereunder according to and in an amount not to exceed that detailed in the attached payment schedule (Attachment A) and only upon Contractor's request on forms approved by and submitted to the Project Manager. The City shall make payment within thirty (30) days thereafter. Requests for a more rapid payment may be considered if a discount is offered for early payment. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work. No payment shall be made for any service rendered by the Contractor except for services set forth and identified in this Agreement. The City reserves the right to withhold payment in whole or part from the Contractor for non-compliance with the provisions of the Contract Documents.

A. RETAINAGE. The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

Before final payment is made, the Contractor must submit evidence satisfactory to the City that all payrolls, material bills, subcontracts and all outstanding indebtedness in connection with the Project have been paid for.

The City may withhold a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project plus ten percent (10%) of such indebtedness as the City's cost of administering such claims until Contractor supplies a release satisfactory to the City, signed by all persons who have supplied labor or materials to the Project or, at the City's option if no claim is made, until 105 days after the date on which any person performed the last of the labor or supplied the last of the material for the Project and upon written request from the Contractor.

The Contractor shall supply to the Project Manager/Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

B. FINAL PAYMENT. Acceptance by the Contractor of the final payment from the City shall release the City of all claims, demands and liability of the Contractor, its officers, agents, employees and subcontractors, whether communicated or not by the Contractor, except with respect to those matters referred to in writing delivered to the Contractor and approved in a signed writing by the Project Manager.

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **October 15, 2007**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **Two Hundred Fifty Dollars ($250.00)**, which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

SECTION 8. ADDITIONAL WORK/CHANGE ORDERS. The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in order of precedence listed below:

A. An agreed lump sum; or in the event the parties cannot agree; then

B. The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then

C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

SECTION 10. DEFAULT, REMEDY AND TERMINATION. The City may terminate this agreement upon the occurrence of one or more of the following events:

A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;

B. If Contractor substantially fails to perform any part of this Agreement;

C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;

D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

After serving ten (10) days written notice on the Contractor and its surety of its intention to terminate the services of Contractor, and if within ten (10) days after serving such notice, the violation is not corrected to City's reasonable satisfaction, the City then may take over the work and prosecute it to completion by contract or by any other method it may deem advisable at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the service herein.

The Contractor shall be entitled to a hearing before a City hearing officer upon the issue of termination if it submits a written request therefore within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

The Contractor shall continue the performance of this agreement to the extent not terminated under the provisions of this section.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

SECTION 12. CONTROLLING LAW. These general conditions shall be construed in accordance with and enforced under the laws of the State of Utah. Any action of law, suit in equity, or judicial proceeding for the enforcement of the Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

SECTION 13. ASSIGNMENT. The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

SECTION 14. SAFETY AND TRAFFIC CONTROL. Contractor shall take all reasonable precautions to protect the safety of pedestrians, school children, motorists, and others who may use or come near to the Project site, including but not limited to compliance with the Manual of Uniform Traffic Control Devices.

SECTION 15. SAFETY AND PROTECTION OF THE WORK. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project work. Contractor shall provide reasonable protection to prevent damage, injury or loss to employees on the Project work and all other persons who may be affected thereby, materials and equipment, whether on or off the site, and other property at the work site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. In addition, the Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by the existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, setting safety regulations, and notifying owners and user of adjacent utilities.

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in party by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

SECTION 16. UNENFORCEABLE CONTRACT, WAIVERS. In the event that any provision of this contract shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

SECTION 17. ENTIRE AGREEMENT. This contract represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

SECTION 18. COMMENCEMENT OF WORK. Contractor will commence work as required by the specifications within ten calendar days after receiving the NOTICE TO PROCEED.

SECTION 19. UTILITIES. The right is reserved to the owners of public utilities and franchises to enter upon the street or work site for the purpose of making repairs or changes of their property that may become necessary by the work. The City shall also have the privilege of entering upon the street or work site for the purpose of repairing culverts, storm drains, water system repairs or adjustments and any and all other necessary City work.

The Contractor takes the whole risk, responsibility and expense with respect to the location of utilities, and in working with utility owners about locating, moving, repairing, and modifying utilities. All utility locations shown on the plans and specifications are approximate and are marked on the plans, if at all, only for convenience. The City makes no representation about the location of any such utilities, and Contractor is encouraged to contact utility companies and owners about the location of all utilities that may be impacted by or impact the Project work.

SECTION 20. HOURS AND DAYS OF WORK. All work performed by the Contractor, its subcontractors, materialmen, agents and employees shall be performed during work hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday and 9:00 a.m. to 6 p.m. on Sunday, unless otherwise specified in a Conditional Use Permit, or UDOT approved schedule or plan. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed.

Special Event Regulations. The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events.

SECTION 23. OBEY LAWS. Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

SECTION 24. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Contractor will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

SECTION 25. THIRD PARTY RIGHTS. Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION 26. PROJECT MANAGER/ENGINEER. The Project Manager for this Project is Matthew A. Twombly, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

SECTION 27. PARTIES' REPRESENTATIVES. For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered or mailed, or sent by facsimile transmission certified mail, postage pre-paid, to the parties at the following addresses:

Contractor: David Harrison, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Park City: Project Manager/Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

SECTION 28. SEVERABILITY. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

IN WITNESS WHEREOF, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

City Council
Staff Report

Subject: American Skiing Company Request For Extension of Dedicated Parking Spaces In Gateway Garage.
Author: Kent Cashel, Deputy Public Works Director
Department: Public Works
Date: August 9, 2007
Type of Item: Discussion/Direction

Summary Recommendations:
Staff requests that Council extend the availability of three (3) reserved parking spaces to American Skiing Corporation (ASC) for an additional five months ending Dec 31st, 2007.

Background:
In 2002 the City negotiated with ASC for the relocation of its corporate offices to the Gateway Center under conditions and for reasons outlined in the attached Memorandum of Understanding "MOU" (attachment A). The term of this agreement was from July 27, 2002 for a period of five years, expiring July 27, 2007.

The MOU provided ASC five reserved parking spaces in the Gateway garage. The City also agreed in the MOU to make "reasonable efforts" to extend this use if ASC extended its Gateway office space lease. The spaces are reserved 24/7, seven days a week.

ASC renewed its lease for office space in the Gateway Center in December 2006 (through December 31st, 2007) but did not notify the City of this action.

Staff, after consulting with the City Manager, formally notified ASC of the City's intent to place the spaces back into the public parking pool on July 26, 2007. ASC responded by informing staff of their lease extension and requested that the MOU and use of all five spaces be similarly extended through December 31st, 2007.

Working with the City Attorney's office, staff informed ASC that such an extension required the approval of City Council and that staff would likely oppose such an extension to pursue other alternatives for the spaces and due to increased public need of spaces in the area due to heavy construction. ASC then amended their request to extend use of only three of the original five parking spaces through the end of the Gateway office lease (December 31, 2007), and to further limit their reserved use Monday-Friday until 5pm each day.

Staff agreed to temporarily extend ASC's use of three of the five spaces until ASC's request could be presented to Council.

Analysis:
Staff believes extending the availability of three (3) reserved parking spaces is consistent with the original intent of the MOU (attached), specifically:

Now, therefore, the parties agree as follows:

1. For the term of ASC's lease within the Gateway Building, expected to be five years, at the Gateway Center the City will provide 5 free and reserved parking stalls in the City owned portion of the parking garage in the Gateway Center. The City and ASC shall also use reasonable efforts to extend the availability of these stalls in the event that ASC extends the foregoing lease.

ASC's extension request offered to open the spaces to the general public between the hours of 5:00pm – 8:00 am Monday thru Friday and all hours on weekends.

Staff does not believe granting the requested extension will significantly impact the public parking supply given that the extension period (August-December) is during Park City's shoulder season and peak parking demand during these months occurs after 5:00pm and on weekends.

Staff requests that Council authorize the extension of three (3) reserved parking spaces to American Skiing Corp. for an additional five months ending Dec 31st, 2007 subject to the following terms:

- Three (currently allocated) spaces will be designated for exclusive ASC use, Monday – Friday 8am-5pm. During all other days and hours of the extension period the three (3) spaces will be made available to the general public.
- Current signage designating the three (3) spots will remain in place. City staff will modify signage to reflect public-private hours.
- Enforcement of three (3) spaces will continue to be ASC responsibility throughout all days and hours during extension term.
- City Staff will remove signage from the three (3) spaces on January 1st, 2008 and spaces will return to public use.

Department Review:
This report was reviewed by the City Manager's office, The City Attorney's office, and Public Works.

Alternatives:

A. Approve the Request:
Staff recommends Council extend availability of three (3) reserved parking spaces to ASC until December 31st, 2007 and then and return the spaces to the public parking pool.

B. Modify the Request:
Council could elect to charge ASC market rate for the spaces (currently $125 per month per space). This is not Staff's recommendation.

C. Continue the Item:
Council could elect to continue the item. This is not Staff's recommendation.

D. Do nothing

Recommendation:
Staff requests that Council extend the availability of three (3) reserved parking spaces to American Skiing Corp. for an additional five months ending Dec 31st, 2007.

Attachment B

DEPARTMENT: Office of Capital Management & Budget
AUTHOR: Tom Bakaly, Assistant City Manager
TITLE: American Skiing Company Corporate Headquarters Relocation
DATE: June 27, 2002
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATION: City Council should adopt the attached Memorandum of Understanding (MOU) between the City and American Skiing Company (ASC) in a form approved by the City Attorney.

DESCRIPTION:

A. Topic: American Skiing Company Corporate Headquarters Relocation

B. Background: Over the last year, the City Council and staff have placed a greater emphasis on economic development efforts. High priority goals for City Council in 2002 include Multi Seasonal Resort (Economic Development Policy) and Improve Historic Park City (Enhanced Vitality of Main Street). Pursuant to those goals, Staff has been meeting with representatives from the American Skiing Company (ASC - Owner of the Canyons) regarding the possible relocation of their corporate headquarters from Maine to Park City.

ASC has signed a 5 year lease with the Gateway Office Building located on Swede Alley and Heber Avenue. ASC has also received a grant from the State of Utah that will help make the move possible.

C. Analysis: The following is a summary of the MOU.

Gateway Parking: ASC and Park City agree that ASC will receive 5 reserved and free spaces on the City's floor of the Gateway.

Regional Transportation: ASC and the City agree that ASC can use the City's expertise in securing federal assistance for their proposed intemodal center at the Canyons Resort.

Water: Because water is not delivered by the City to the Canyons, there is not a direct contribution that can be made by the City. If an opportunity arises and if the other water providers agree, ASC and the City agree to improving the efficiency of the City's water system by expanding and interconnecting with the Canyons. This action requires cooperation from Mountain Regional and Summit Water.

Tenant Improvement Facilitation and Fee Waiver: ASC has complied with all City building requirements and their tenant improvements have been made.

D. <u>Department Review</u>: This report has been reviewed by the City Manager's Office, the City Attorney and Kent Cashel, Assistant Public Works Director. Kent Cashel has raised some concerns about who has responsibility for towing vehicles that park in ASC's dedicated spots. Council could add language to the MOU stating that the City or ASC will have the responsibility. As it is currently written in the MOU, the City would have responsibility for that enforcement. Staff has also spoken with the Deer Valley and Park City resorts about this issue.

ALTERNATIVES:

1) Council could approve the MOU with ASC.

2) Council could modify the MOU with ASC.

3) Council could chose not to adopt the MOU.

SIGNIFICANT IMPACTS:

According to ASC's application to the State for incentive funds, the relocation would involve 46 employees, most at an executive level. ASC estimates that the annual salary for the 46 employees will be roughly $6 million. ASC estimates that their work force could grow to 80 employees within the next five years. The value of the 5 free parking spaces is roughly $5,400 per year and funds from the City's economic development account will be annually transferred to the parking fund to make up for that revenue shortfall.

Naturally, the City would directly benefit from taxes (property & sales) if ASC located to Park City. The direct benefits are difficult to quantify, but do exist. Indirect benefits would take the form of enhanced regional cooperation and ski resort coordination. It would be advantageous on several levels to have all three ski resorts (or their parent companies) headquartered in Park City. Main Street and the Gateway Building would benefit immensely from such a major office tenant.

When weighing the benefits of ASC relocating to Park City against possible incentives, the City should be cognizant of the reaction from the community.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

The purpose of the Memorandum of Understanding would be to establish an enhanced relationship with American Skiing Company (ASC). ASC has decided to relocate to the Gateway in part due an enhanced relationship with the City. If the City did not approve the MOU, that relationship would be impacted.

<u>RECOMMENDATION:</u> City Council should adopt the attached Memorandum of Understanding (MOU) between the City and American Skiing Company (ASC) in a form approved by the City Attorney.

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MEMORANDUM OF UNDERSTANDING AND COOPERATION
PARK CITY MUNICIPAL CORPORATION AND AMERICAN SKIING COMPANY

This Memorandum of Understanding and Cooperation, hereinafter known as "The MOU", is by and between Park City Municipal Corporation (City) and American Skiing Company, a Delaware corporation (ASC).

Whereas, ASC is considering the relocation of its corporate headquarters and certain of its staff to the State of Utah and more particularly to Park City, and;

Whereas, ASC's Utah-based corporate staff includes senior officers and executives of the company, is expected to be approximately 45 in number and expected to grow over the next five years, and;

Whereas, the City views the location of ASC's corporate headquarters in the City as an economic benefit to the City and wishes to encourage such location, and;

Whereas ASC is considering and evaluating the Gateway Center in the City as the office location for its corporate headquarters and the City finds that having this facility more fully leased is economically and fiscally beneficial to the City, and;

Whereas, the City further views such location as beneficial to the City and regional tourism and recreational industries, and;

Whereas, ASC and the City recognize that there are potential areas of cooperation that can further and enhance the local and regional economy and the tourism and recreational industries including supporting and ancillary commerce, and

Whereas, potential areas of cooperation include but are not limited to such matters as:

1. transportation and transit matters;

2. culinary, snowmaking and irrigation water supply including strong emphasis on water conservation;

3. further cooperation among the three resort companies – The Canyons, Deer Valley and Park City Mountain Resort;

4. enhanced regional marketing promotion, and legislative initiatives;

5. cooperation and mutual assistance on seeking federal funds for mutually beneficial projects;

6. assistance with park & ride programs and locations, and

7. assistance in locating potential ice arena sites.

Whereas, areas of cooperation on matters such as transportation, transit, recreation, and water conservation and supply increasingly represent critical issues in the region and can benefit from broad public and private support in seeking solutions including the Parties, and

Whereas, the region's economy, being largely tourist based and home to three world class ski resorts, relies on the preservation and restoration of the community's unique mountain environment, resort aesthetics, and trail connections, and

Whereas, the parties are willing to work expeditiously to accomplish the components of the MOU consistent with the logistics of the various components.

Now, therefore, the parties agree as follows:

1. For the term of ASC's lease within the Gateway Building, expected to be five years, at the Gateway Center the City will provide 5 free and reserved parking stalls in the City owned portion of the parking garage in the Gateway Center. The City and ASC shall also use reasonable efforts to extend the availability of these stalls in the event that ASC extends the foregoing lease.

2. ASC agrees to relocate its corporate headquarters to the City, and confirms its present expectation that it will maintain its corporate headquarters in the City for at least 5 years.

3. The City will expedite review of all required tenant improvements.

4. The City and ASC agree that the City should manage the operation of the Canyons bus service within the City's management of the County's bus system. The City acknowledges the significant bed-base of the Canyons Resort Village and is desirous of encouraging Canyons guests to travel to the Historic Main Street core for dining and shopping. In addition, as part of the transit system development, the City will provide in-kind technical assistance with the multi-modal center and parking structure planned in the Lower Village Development Area of The Canyons Resort including advice and assistance in acquiring federal and state funds if eligible.

5. The City recognizes that ASC has an existing water service and supply agreement with Summit Water Company. Subject to the terms and conditions of ASC's agreement with Summit Water, as in effect from time to time, ASC and City agree to work cooperatively in the planning and development of future culinary, snowmaking, and irrigation water supplies including the

storage and distribution systems. When connections and system capacity and distribution allow, the City and ASC agree to research and consider plans and programs that are mutually beneficial. As part of this, the City will consider improving the efficiency of their water system by expanding the existing distribution system to interconnect to a reasonable point of connection at The Canyons. Nothing herein shall be deemed to bind future City Councils in accepting or rejecting such expansions or future proposals.

6. The city agrees to the inclusion of The Canyons Resort on City sponsored directional signs where appropriate (including but not limited to the Olympic directional sign located on Highway 248 near the intersection of Highway 224 and City area maps).

7. The Parties agree to cooperate and assist each other in other ways and specific projects that may arise that are mutually beneficial including seeking necessary financing to accomplish the goals of the projects.

8. The parties further agree to accomplish the goals of this work in a spirit of good will and cooperation, recognizing the importance of this work to each of the parties, the overall region and the State of Utah.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed this 27th day of July, 2002.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
P. O. Box 1480
Park City UT 84060-1480

Toby Ross, City Manager

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884

AMERICAN SKIING COMPANY,
a Delaware Corporation
136 Heber Avenue
P. O. Box 4552
Park City UT 84060-4552

____
William J. Fair, CEO

Tax ID#: 04-3373730

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On the 23rd day of July, 2002 personally appeared before me William J. Fair, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn, did say that he is he Chief Executive Officer of the American Skiing Company and that said document was signed by him in behalf of said corporation by authority of its bylaws (or of a Resolution of its Board of Directors), and said William J. Fair acknowledged to me that said corporation executed the same.

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
January 18, 2004
PAULINE E. ESSEN
954 E. Lafayette Street
Sandy, Utah 84094

____
Notary Public

City Council Staff Report

PARK CITY 1884

Sustainability Team

Author: Dave Gustafson
Subject: Swede Alley Retail Space Contract with Jacobsen Construction, Inc. Contract Amendment #3
Date: August 9, 2007
Type of Item: Administrative

Summary Recommendations:
Staff recommends approval of Contract Amendment #3 to the existing Jacobsen Construction, Inc. Agreement in the amount of $1,597,000.

Topic:
Downtown Improvements, Swede Alley Retail Space, Jacobsen Contract Amendment #3

Background:
At a December 2, 2004 meeting, City Council approved a Construction Manager General Contractor (CMGC) Construction Agreement with Jacobsen Construction, Inc. for work related to Municipal Downtown Projects and Improvements.

Staff last updated the City Council on the Downtown Projects in July 2006. One of the projects discussed was the Retail Space on Swede Alley situated on the north end of the new China Bridge Parking Expansion. Since that time, Staff worked with the architect to finalize design of the 4,535 square foot, two-story building that would have 3 tenant spaces. The building was designed with the tenants being, the DABC on half of the first floor and KPCW on the second floor. The 915 square foot space adjacent to the DABC space did not have a proposed tenant.

In June of this year, the guaranteed maximum price (GMP) for the cost of construction of the 4,535 square foot Retail Space came in $420,000 over the budget that was originally approved by Council.

To put the project within the budgeted amount, it was determined that the 915 square foot space on the first floor would be eliminated. This elimination would not affect the square footage or the floor plan of the KPCW or DABC space.

Analysis:
Staff and Council have identified support of the local radio station as a community-wide benefit. To that end, Staff is negotiating with KPCW to purchase the 2nd floor space, which would require the building to be condominiumized. Staff will return to Council with a purchase agreement the end of August. The DABC will occupy the 1st floor space of the structure. Council will review the lease the end of August.

Ground breaking is scheduled for late August 2007. Staff anticipates that a majority of the surface parking spaces on Swede Alley between 4^{th} and 5^{th} Streets will be fenced off for approximately eight months to accommodate construction staging for the project. Staff is communicating the impacts of the construction to the Main Street merchants and is working on addressing all issues. This amendment formalizes the guaranteed maximum price for the construction on the Retail Space.

Significant Impacts:
The GMP for the construction of the building is within the budgeted amount for the structure.

Department Review:
All applicable departments have reviewed the proposed resolution and their comments have been incorporated.

Recommendation:
To stay on schedule, Staff recommends approval of Contract Amendment #3 to the existing Jacobsen Construction, Inc. Agreement in the amount of $1,597,000.

Attachments:
Exhibit A – Standard Form of Agreement between Owner and Construction Manager
Exhibit B - Rendering of Shell Space

EXHIBIT A

AMENDMENT NO. 3

TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER

Pursuant to Paragraph 2.2 of the Standard Form of Agreement between Owner (Park City Municipal Corporation) and Construction Manager (Jacobsen Construction, Inc.), dated ____________________, for construction of the Swede Alley Retail Space, the Owner and the Construction Manager establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below:

ARTICLE I
GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 5 of the Agreement and the Construction Manager's Fee as defined in Article 4 of the Agreement, is one-million five hundred ninety seven thousand dollars ($1,597,000).

Included in the Guaranteed Maximum Price is the Construction Manager's fee of forty six thousand three hundred thirteen dollars ($46,313).

This Price is for the performance of the Work in accordance with the "Guaranteed Maximum Price Proposal" dated August ___, 2007, from Jacobsen Construction, Inc., and incorporated herein by this reference (the "GMP").

ARTICLE II
CONTRACT TIME

The Construction Manager acknowledges that the Substantial Completion Date is March 15, 2008 and the Final Completion Date is May 15, 2008.

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OWNER:	**CONSTRUCTION MANAGER**
Park City Municipal Corporation	Jacobsen Construction, Inc.
By: _________________________________	By: _
Date: _________________________________	Date: _

Attest: ______________________________ Attest:_

____

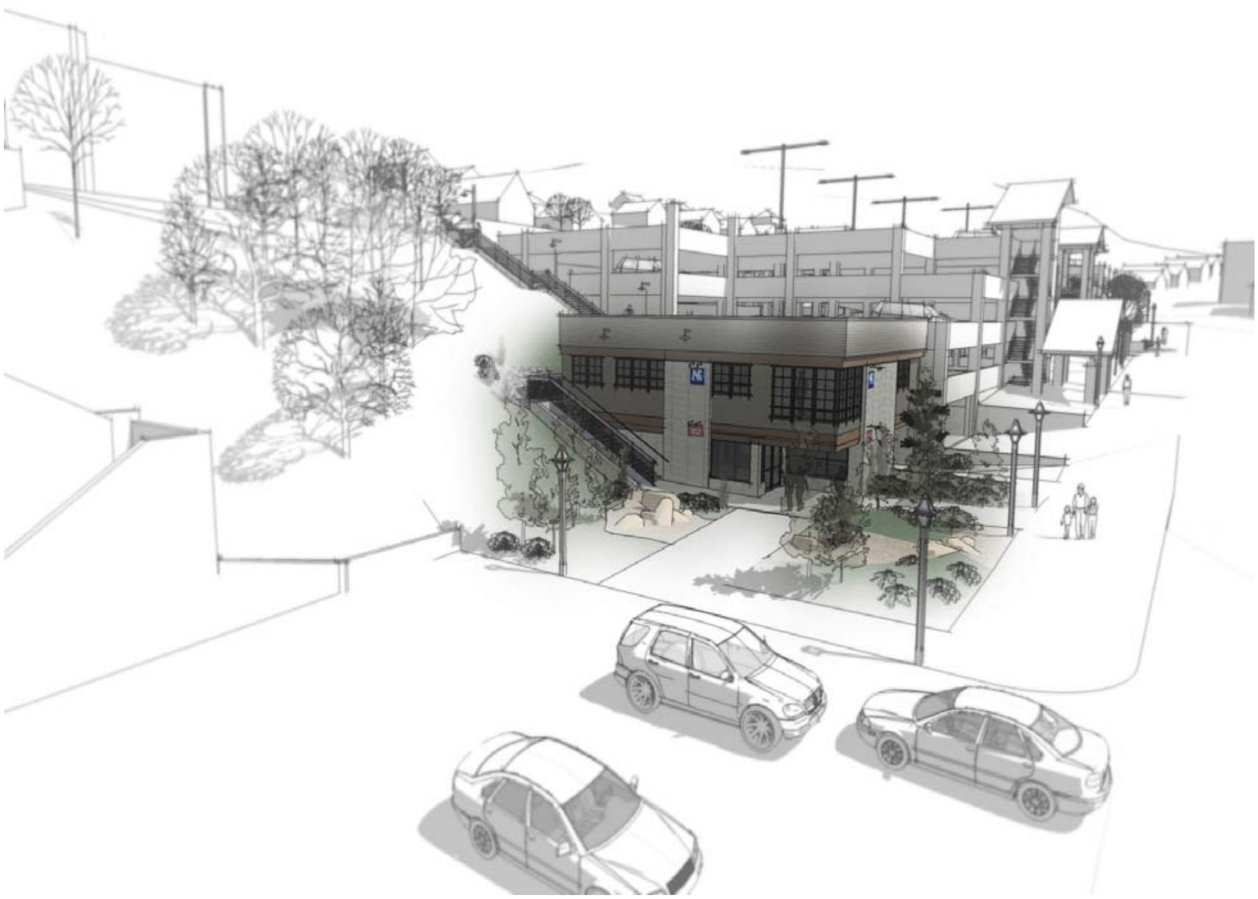

EXHIBIT B