

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 31, 2003**

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Alison Butz, Special Events and Facilities Manager; Colin Hilton, Director of Economic Development and Capital Projects; and Mark Christensen, Grants and Budget Manager

Sara Wright, Director of the Utah Clean Energy Alliance and Coordinator of the Utah Wind Power Campaign

1. Council questions and comments. The Mayor thanked Pace Erickson and the parks staff for maintaining the playing fields for the national girls fast pitch tournament in July. The event was very successful and well received. He also reported on a luncheon for regional mayors hosted by KSL. Candace Erickson expressed her appreciation to Jeff Schoenbacker for his assistance with permits for Recycle Utah. She discussed a meeting with State Senator Beverly Evans on the nuclear waste issue and reported that citizen Jill Sheinberg is the point person in town in opposition. Jim Hier agreed with the comments about the quality of the softball tournament as he also heard praises about the grounds crew and the cooperation extended throughout the community. He pointed out the hard work involved to produce the Quinns Junction charette and looked forward to the completion of the study. He added that nuclear waste is an important issue to monitor as allowing storage in Utah could have a serious negative impact on tourism. Kay Calvert agreed with the comments on the tournament and understood that business was significantly boosted by the event. She felt that the plan for Olympic legacies should move ahead now before it loses momentum. There is only \$60,000 budgeted, and there a fundraiser may have to be organized. Council member Erickson concurred and suggested once a legacy piece is identified that completion be coordinated with the opening of the next Olympics which is a year away. Fred Jones continued that there needs to be more direction from Council and asked that it be scheduled on an upcoming work session.

2. Art in public places. Mark Harrington explained that this draft ordinance affects only art displayed on public property for the intent of sale and the request from prior correspondence from Stephan Cornelius and Steven White was that the Council enact an ordinance similar to Salt Lake City's for increased opportunity for artists to sell their work in public venues. Specifically, Salt Lake allows artists to display and sell their work up to 12 times a year without a permit; after 12, a permit is required. Park City's vending regulations with other franchises, street musicians, etc. requires a nominal permit for any activity. The draft limits the areas to City Park and Coalition Park, not sidewalks or other public rights-of-way. The Code reflects a philosophy that all business must be conducted in an enclosed building, except for special events, sidewalk sales, and outdoor dining. He stated that staff

attempted to reach a balance with regard to the sale of art, which must be original work. He asked for direction on the two locations and the fee which is \$5 per year for the first year and then a \$10 renewal fee the following year. This is different than other businesses who pay a standard \$60 administrative fee and a square footage calculation. There was discussion about a method of tracking the number of exhibits conducted by an artist.

The City Attorney acknowledged that providing a description of the art on the application may be intimidating to artists but this is for the benefit of enforcement officers to easily identify permitted booths which is consistent with the Salt Lake ordinance. In response to a question from Kay Calvert about designating allowable space per artist, Mr. Harrington noted that there are some size, distance, and display limitations. She asked if the City is required to find another exhibition area, for example if City Park is scheduled. The City Attorney emphasized that the City must continually provide a reasonable location. The Coalition parcel always seems available and City Park is not usually fully booked.

Fred Jones presumed that the display of art is a freedom of speech issue and Mark Harrington explained that the display of artwork is like any political activity and the ordinance only regulates the sale of art. Council member Jones asked if there is legal precedent that the City has to allow sale of art in public places. Mr. Harrington indicated that our stance would be no, given our consistent practice of prohibiting street vending, however, there have been incremental steps taken to increase business activity in public spaces, i.e., sidewalk dining and special events. There are competing interests here while there is a constitutional precedent set by other jurisdictions that define art work speech as not just commercial. Fred Jones stated that he understands the display rationale but not the for sale distinction. Mr. Harrington responded that some cases parallel the conduct of a sale as part of the speech of the artist but our legal staff would disagree with that argument. Mr. Jones expressed his concern about this legislation opening up a *can of worms* and commented on opportunities for panhandling by street musicians. He doesn't believe that selling is appropriate on our streets and he questioned where it stops. The City Attorney agreed that it is a public policy decision in terms of supporting the arts and creating a certain atmosphere. Mr. Jones pointed out that Park City has an art center and many galleries and clarified that he is not opposed to the display of art but the sales component. Additionally, the Coalition Park was purchased with open space money and may not be available for commercial use.

The Mayor believed that part of the right of artists includes selling and the City Attorney responded that the courts are not that definitive. The New York case is combined with an equal protection argument which is Mr. Jones' point. Because some rights were made available to others, New York could not deny the artists and this remains a litigated matter. The display and sale of art did not initiate from the staff level but is a response to Council reacting to citizen input. Legal staff currently believes our current code is legally defensible and there is always risk in opening regulations. The Council has the ability to make reasonable classifications of regulating conduct and he explained

provision for garage sales which is different than retail sales. Similarly, art and its expression components and the identified goal toward achieving downtown vitality sets the proposal apart. Candace Erickson expressed concern about the quality of art work and the potential of abusing speech opportunities, and Peg Bodell believed that vendors will self-regulate themselves. Mark Harrington didn't believe display of art is in conflict with bond language for the Coalition parcel because there is no permanent structure and activities are temporary.

Ms. Bodell felt that providing a site plan for the booth is excessive and the application should be simple. She added that the \$5 fee is reasonable. Mark Harrington explained that the site plan was directly taken from the Salt Lake ordinance, and he expressed that it could easily be omitted. He asked the Mayor to assess if there is a Council majority on the concept and Mayor Williams suggested that only Coalition Park be used as City Park already has too many demands. Jim Hier concurred. Peg Bodell also agreed the location should be limited to Coalition Park and added that there could be a linear foot space limitation, but height doesn't make sense. Discussion ensued regarding hours of operation and the impact of traffic on sales. Candace Erickson remarked that *once it's on the books, it's hard to get it off the books*. The City Attorney stated that it is much easier to implement enabling legislation but the ordinance can be revisited; there can be a sunset provision for evaluation.

In response to questions from Fred Jones, Mark Harrington explained that a permit is issued for 10 consecutive days and the artist selects days. The Mayor suggested three consecutive days, ten times a year. There was discussion on limiting art displays seasonally, because of the potential for increased snow removal services. Peg Bodell pointed out missed opportunities on warm winter days. Ms. Erickson asked about limits on participation based on space and Mr. Harrington stated that he will return with a recommendation on a system now that the location is established.

3. Wind power. Alison Butz introduced Sara Wright who is the Director of the Utah Clean Energy Alliance and Coordinator of the Utah Wind Power Campaign. Council received an introduction to the program in May where Council requested more information. She referred to her staff report and explained that we could designate a building, a portion of the power used by the City, and buy an equivalent of wind power or green coupon for the increment. Ms. Wright felt that communities like Moab and Park City can be leaders in promoting renewable power sources. Electricity generation is the largest source of industrial air pollution in the country and a major contributor to global warming. Since there is little federal intervention, communities are taking steps toward renewable energy options and energy efficiency. Ms. Wright discussed the Moab program which began at less than 1% participation of the population and currently 8.5% of the customers purchase wind power. Utah Power developed this program and nearly 95% of electricity in Utah is generated at coal powered plants and this provides customers with a choice. People can pay extra on their power bill and the utility will match the same amount of electricity for

renewable energy options. In response to a question from the Mayor, Ms. Wright explained that Moab City has received a fair amount of positive publicity recognizing its success in its campaign. In response to a question from Jim Hier, she explained that the wind turbines contributing to the Blue Sky Program are owned by different wind developers and Utah Power purchases the output from Wyoming and various locations in the Northwest. There was discussion about tax exemptions granted to early non-producing facilities years ago.

Ms. Butz stated that if this is supported by Council, she will return with a resolution with the City taking the first step and encouraging the community to also participate. Jim Hier asked that account information be available to determine an appropriate percentage of participation. Ms. Wright advised that a town reaching a 5% rate qualifies to become a Blue Sky Community and EPA also has a green power recognition program. Fred Jones stated that he is interested in exploring this if there is a commitment to an overall program from the City so that the effort is meaningful. Ms. Wright extended her assistance with the Blue Sky challenge and advised that funding may be available for our campaign. Colin Hilton added that this program could be promoted with the undergrounding utilities project. She discussed the educational and outreach program in Moab and will share this information with staff. Alison Butz understood that staff should return to Council with totals on power usage, recommended participation percentages, and information on a campaign. Fred Jones agreed and felt it necessary to be also informed the level of impacts on City's resources.

4. Citizen budget. Mark Christensen referred to the draft, distributed to Council, and requested input before the final is distributed and posted on the website. Staff is anxious to make the document available as soon as possible. Peg Bodell stated that she has formatting suggestions which she discussed with staff. Candace Erickson thanked CTAC members and staff for producing a quality product.

5. Task force on council compensation. Mr. Christensen explained that CTAC has been involved in developing the budget and performance measures could be a good resource for this project. Bob Swank from the community has also volunteered to serve. Council has been provided a list of prior council members, and Chuck Klingenstein and Roger Harlan have expressed interest in participating. Fred Jones suggested that the membership be relatively small; i.e., two members of CTAC, two former council members or mayors, and a citizen at large. Jim Hier agreed. The Mayor stated that he will make phone calls and proceed. Peg Bodell agreed but stated that she would like to see a woman on the task force. Mark Christensen understood that Council concurred on appointing five members, two former elected officials, and three citizens including two CTAC members.

6. **Closed session - personnel.** Fred Jones, "I move to close the meeting for personnel matters". Kay Calvert seconded. Motion unanimously carried. See Memorandum of Closed Session included in the regular minutes.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 31, 2003**

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 31, 2003. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Colin Hilton, Director of Economic Development and Capital Projects, Kirsten Whetstone, Planner; and Brooks Robinson, Planner.

II PUBLIC INPUT - (any matter of City business not scheduled on the agenda)

Mark Harrington reported that he met briefly with Stephan Cornelius during the break on the display of public art. The substance of his comments will be relayed to the Council at the next review of this issue.

III COMMUNICATIONS FROM COUNCIL AND STAFF

1. Oath of office for Lt. Phil Kirk, and Police Officers Michael Thorpe and Wayne Young - Chief Evans introduced the new hires and Mayor Williams administered the oath of office.

2. Meeting on August 7, 2003 - The Mayor reported that there will be no regular meeting next week but the Council will hold a closed session on personnel.

3. Reduction of speed limit on Park Avenue - In response to a question from Jim Hier on regulations on speed limits, the City Attorney advised that cities must follow the same rules as the state for all city streets, regardless of jurisdiction. Mr. Hier requested that the speed reduction occur prior to the completion of the study from the intersection of Deer Valley Drive to Heber Avenue. Peg Bodell referred to the Municipal Code where she felt criteria is met with regard to impacts on a residential neighborhood and also supported decreasing the speed limit to 25 mph. Fred Jones stated that he fully supports reducing the speed limit on Park Avenue but changes should be made in the context of the overall traffic calming plan for the area. There is a domino effect in implementing traffic measures and there should be some assurance that the impacts aren't move to another part of the neighborhood. He supports the completion of the study before decisions are made. Peg Bodell felt a reduction should have happened long ago and this is a safety issue that needs to be addressed now in the opinion of the residents. Mr. Jones stated that he understands what the residents want, but warned that this needs to be looked at comprehensively so that problems aren't transferred elsewhere. Colin Hilton pointed out that the goal of the committee is to formulate recommendations based on engineering counts and input from the neighborhood. At the meeting with the neighborhood on August 19, one immediate step could be changing the posted speed limit which could be implemented as early as the

next day. Engineering counts are required criteria in the code. Jim Hier believed the change will occur anyway in three weeks. Fred Jones pointed out that Council established a process and he is not arguing about the speed limit. The process is moving along expeditiously and didn't feel it appropriate to *short-circuit* it. It doesn't matter whether the City should have reduced the speed limit long ago, there's a process now to accomplish this and the City is responding to neighborhood concerns. The City Manager pointed out that the result is the same. Mr. Hilton explained that on August 19, all options will be presented to citizens and there will be an opportunity for public input and buy-in from residents on a plan. Ms. Bodell believed there are flaws in the criteria for setting speed limits. Mr. Hilton felt the policy is written with enough flexibility so the area of study have opportunities to make suggestions about action steps. Meadows Drive is the only other neighborhood who has formally participated and he is not aware of any complaints about the process. Lower Park Avenue is being studied through a petition actually submitted from Woodside Avenue and he felt confident that the action steps will be supported. Ms. Bodell again complained about the point system and criteria and the citizens feel the process should be improved. In response to a question from Mayor Williams, Mr. Hilton advised that the policy provides administrative authority to move ahead on action steps unless funding considerations bring it to the Council level. Mr. Hier stated that he is willing to wait until August 20. Mr. Hilton emphasized that reducing the speed limit is not the only measure; other mitigating plans include directing delivery trucks to Deer Valley Drive, etc.

IV WORK SESSION NOTES AND MINUTES OF THE MEETINGS OF JULY 10, 2003 AND JULY 17, 2003

Peg Bodell, "I move approval of the Work Session Notes and Minutes of the Meetings of July 10 and July 17, 2003". Kay Calvert seconded. Motion carried unanimously.

V PUBLIC HEARINGS

1. Ordinance combining the southerly 12 feet of Lot 32, Block 76, Millsite Reservation with Lot 3 of Anchor Development Second amended plat, and approving a right-of-way vacation of approximately 211 square feet of platted, unbuilt Ridge Avenue and combining said 211 square feet with the above described lot (aka 83 King Road, Park City, Utah) - By way of illustration of a map, Kirsten Whetstone explained the location of the project and the two requests. The Planning Commission held a number of public hearings and on July 9, 2003, forwarded a positive recommendation on both the plat amendment and the right-of-way vacation with some conditions. Service providers and property owners have been notified and no negative input was rendered. The City Engineer recommends the retention of an access easement over the 211 square feet in question. The benefit to the owner is the ability to build to the easement line without a set-back. There was discussion about the analysis for arriving at a value for the vacation and

owner Michael Watts explained the difficulty is obtaining an average sale price. Jim Hier suggested \$400 as fair compensation for the 211 square feet.

With no further comments, the public hearing was closed.

2. Ordinance approving a single family lot subdivision at 445 King Road, Park City, Utah - Planner Brooks Robinson explained that the plat amendment was contemplated with the approval of the 1986 Sweeney Master Planned Development. The Planning Commission forwarded a positive recommendation with conditions of approval as outlined in the packet. Fred Jones expressed concern that this remain single family and referred to the nightly rental concerns prompted by the 555 King Road application a few years ago. Mr. Robinson explained that this is zoned Estate. It was approved as single family and received a conditional use permit for a guest house and an access easement from King Road will be provided. The conditions of approval did not include nightly rental for the main or guest houses and Council member Jones asked for assurances and again discussed the long and involved process with 555 King Road project. Brooks Robinson explained that within this subdivision, there is a guest house and a main house. The Estate Zone allows nightly rentals with a conditional use permit. Many of the problems with the 555 King Road application was confusion over semantics and the club concept. Jim Hier pointed out that anyone has the right to petition for a zone change or apply for a conditional use permit. Planner Robinson stated that a distinction here is that the Sweeneys will provide an extensive list of notes on the plat with regard to uses and building features. Pat Sweeney stated that the intent and vision is single-family. Jim Heir emphasized that the main house is only 3,500 square feet where 555 King Road was 20,000 square feet.

With no further comments from the audience or the Council, the public hearing was closed.

3. Ordinance approving a zone change from Recreation Open Space to Estate at 445 King Road, Park City, Utah - Planner Brooks Robinson explained that as a part of the 1986 Sweeney MPD the area was zoned ROS until such time as development plans are approved. With no further comments from the audience or the Council, the public hearing was closed.

VI CONSENT AGENDA

Authorization to staff to execute a service provider agreement in a form approved by the City Attorney with Wright-Way Construction in the amount of \$16,980 for structural installation of a new ramp handrails at the Marsac Building - Peg Bodell, "I move approval the authorization as so noted on the agenda". Jim Hier seconded. Motion unanimously carried.

VII NEW BUSINESS

1. Ordinance combining the southerly 12 feet of Lot 32, Block 76, Millsite Reservation with Lot 3 of Anchor Development Second amended plat, and approving a right-of-way vacation of approximately 211 square feet of platted, unbuilt Ridge Avenue and combining said 211 square feet with the above described lot (aka 83 King Road, Park City, Utah) - See staff report and public hearing. It was agreed to approve the plat amendment and that compensation be set at \$400. Fred Jones, "I so move". Peg Bodell seconded. Motion carried unanimously.

2. Ordinance approving a single family lot subdivision at 445 King Road, Park City, Utah - and

3. Ordinance approving a zone change from Recreation Open Space to Estate at 445 King Road, Park City, Utah - See staff report and public hearing. Candace Erickson, "I move that we approve the Ordinance approving a single family lot subdivision at 445 King Road and approving a zone change from Recreation Open Space to Estate at 445 King Road". Kay Calvert seconded. Motion carried unanimously.

4. Approval of Real Estate Purchase Agreement of approximately 191 acres of open space from the Estate of Edward L. Gillmor in the amount of approximately \$4 million - Quarry Parcel/90 acre parcel - Mayor Williams recognized members of COSAC in the audience. Mark Harrington advised that there are six non-material changes that were not included in Council's copy. An escrow amount of \$1,000 is added, and the legal description for the 90 acre parcel was corrected. All leases will be dissolved with the sale. Water rights are not being transferred with the sale and there is an easement held by the Gillmors to maintain water rights in the Pace Ditch. The City's ability to build a pipeline in the future is protected and the agreement does not grant any additional water rights with regard to flow. The family has requested permission to use three acres on the south side of the 90 parcel for grazing purposes a couple of days a year, subject to the approval of the City. Jim Hier pointed out that grazing and hiking with dogs is not compatible and feared that a pet could be shot. The City Attorney emphasized that there are no grazing leases on the property. Jim Hier, "I move we approve the approval of Real Estate Purchase Agreement of approximately 191 acres of open space from the Estate of Edward L. Gillmor in the amount of approximately \$4 million; the price to be determined based on the terms and conditions of the Sales Agreement". Kay Calvert seconded. Motion unanimously carried.

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 5:40p.m. Members in attendance were Mayor Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones, "I move to close the meeting to discuss personnel matters". Kay Calvert seconded. Motion carried unanimously.

The meeting opened at approximately 6 p.m.

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



DATE: July 28, 2003
DEPARTMENT: Legal Department
AUTHOR: Mark Harrington, City Attorney
TITLE: Addition of Ordinance 4-3A-7 "Art Display on Public Property" to the Park City Municipal Code, issuing licenses for artists to display and sell their art in specified public parks.
TYPE OF ITEM: Legislative- work session only

SUMMARY RECOMMENDATIONS: Review the proposed ordinance that sets forth the licensing for artists to display and sell their art in public places, and direct staff to incorporate revisions/additional locations for the final draft for public hearing on August 14th.

DESCRIPTION:

A. Topic.

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

B. Proposal.

Recommended addition to the PCMC, adding Title 4, Chapter 3A, Section 7 to address licensing requirements and reasonable time, place, and manner restrictions for visual artists to display and sell their artwork on certain parcels of City-owned property.

C. Background and Analysis.

Section Title 4 of the Park City Municipal Code ("PCMC") deals with the licensing for the operation of a business within Park City. Unless expressly authorized, all business activity must be conducted from within a fully enclosed building and on private property. The Code authorizes the licensing of street musicians (§4-3-7); street vendors (§4-3-8, sales within public right-of-way, such as the ice cream truck, and construction sites); concessions with public parks (§4-3-14- establishes priority for non-profit organizations); and solicitors and peddlers (§4-3-1, et.seq.- activity restricted to private property). The City controls the number of franchises granted, and places time, place and manner restrictions on vendors'/solicitors' activities. Chapter 8 of Title 4 also permits temporary vending inside a Master Festival or Special Event venue, including public property and streets. Fees for licenses are set by resolution and expire on December 31 of the year in which they are granted.

Otherwise, all commercial vending is prohibited on public property and streets.

The City recently received correspondence on the topic from Stephen Cornelius and others. Since the PCMC does not allow outdoor public vending by artists/performers except in the Master Festival atmosphere, the Council directed staff to prepare an amendment to allow for limited use of public property by artists to display and sell their

work. Salt Lake City enacted an ordinance for street artists which effectively places time, place, and manner restrictions on such activity throughout their downtown area. The SLC Ordinance effectively limits where, when, and how artists can display their work, and it even sets forth a fairly detailed definition of who is an artist. The Ordinance is careful not to restrict the content of the artists' work, which would probably be challenged as violating the First Amendment. The City Council stated that given Park City's size, narrow streets and limited sidewalks, the Salt Lake example would create too many negative impacts. Accordingly, Staff prepared the attached draft ordinance that incorporates the basic elements of the Salt Lake ordinance, but allows the City to limit the number of artists, location, space, time and manner of display with reasonable time, place, and manner restrictions consistent with constitutional principles.

The City Council should give direction on the following:

1. locations where display allowed- currently specifies Coalition Park and City Park (a map of city property will be shown at the meeting);
2. fee- propose same as street musician (\$5/day- currently set in Fee Resolution) with flat fee of \$10 for renewal;
3. limits on times per year; and
4. limits on number of artists at one time, and criteria for resolution if conflict

D. Significant Impacts

The proposed Ordinance increases the "authorized" outdoor vending to include sales at limited public locations by artists. Such use will impact the existing passive recreation uses of such space by taking up park space, increasing pedestrian traffic in some areas while interfering with access and views by virtue of the display location, and generally increasing the "activity" in these otherwise relatively passive areas.

However, the proposal is consistent with the General Plan and City Council annual goals to enhance the world class, multi-seasonal resort community, promote cultural tourism and support of the arts, and economic development goals for the Main Street area. Council should carefully weigh these competing impacts and adjust the Ordinance accordingly to mitigate negative impacts.

E. Alternatives

1. **Review the draft addition of Title 2, Chapter 3, Sections 15 of the Municipal Code of Park City.** This is the recommended action.
2. **Modify the Ordinance.** If after review and discussion the Council desires further changes, it should direct staff accordingly.
3. **Continue the item with direction to Staff.**

F. Staff Review

The City Manager and the Legal, Finance, and Planning Departments have reviewed this matter.

Staff will circulate the draft to Mr. Cornelius and other interested parties prior to the meeting.

G. Recommendation

Review the proposed ordinance that sets forth the licensing for street artists to display and sell their art in public places, and direct staff to incorporate revisions/additional locations for the final draft for public hearing on August 14th.

Attachments:
Draft Ordinance
Salt Lake City Ordinance

Ordinance No. 03-__

**AN ORDINANCE ADDING TITLE 4, CHAPTER 3A, SECTION 7
TO THE MUNICIPAL CODE, REGULATING VENDING BY ARTISTS ON PUBLIC
PROPERTY, AND ADDING "ACOUSTIC AND UNAMPLIFIED" TO TITLE 4,
CHAPTER 3, SECTION 7 OF THE MUNICIPAL CODE, CONCERNING STREET
MUSICIANS.**

WHEREAS, Park City desires to allow artists who wish to display and sell their artwork on City-owned property the opportunity to do so; and

WHEREAS, in allowing artists to display and sell their artwork on City-owned property, Park City wishes to protect its and its citizens' legitimate and important governmental interests, such as, preventing visual blight, addressing aesthetic concerns, allowing reasonable access and sight easements to businesses and residences, allowing for the free flow of traffic, both pedestrian and vehicular, preventing and limiting the exposure of Park City's citizens to unwanted, unwelcome, and unsolicited messages, without an avenue of escape; and

WHEREAS, Park City acknowledges that these strong compelling governmental interests compete with public and private interests of artists and others in freedom of expression and private commercial interests of artists; and

WHEREAS, Park City wishes to balance these competing interest in a manner consistent with the constitutional protections of the United States and Utah Constitutions; and

WHEREAS, Park City desires, in reasonable time, place, and manner regulations codified herein, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, preserve the property values and character of the neighborhoods surrounding City-owned property, as well as provide artists with the opportunity to exercise their constitutional rights; and

WHEREAS, Park City further desires to makes it laws clear and concise, and therefore wishes to add "acoustic and unamplified" before "musical instruments" in Section 4-3-7 of the Park City Municipal Code to clarify what type of music a street musician may perform when granted a street musician license; and

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

SECTION 1. FINDINGS: The Council finds that:

1. Under Park City's Licensing laws, a new provision should be added to address the process for getting a license to display and/or sell artwork on Available City Property;
2. The new section is appropriately added as Title 4, Chapter 3A, Section 7 as "Art Display on Public Property";
3. The new Title 4, Chapter 3A, Section shall provide the process by which an Artist may apply for and obtain a license to display his or her Artwork, as defined therein, on Available City Property, as defined therein;
4. In Title 4, Chapter 3, Section 7 "Street Musicians," the words "acoustic and unamplified" shall be inserted before "musical instruments" to clarify for the public and for street musician applicants that only acoustic and unamplified music is covered under a street musician license.

SECTION 2. AMENDMENTS TO TITLE 4 OF THE MUNICIPAL CODE. Title 4 is hereby amended by adding Chapter 3A, Section 7 "Art Display on Public Property," and by adding "acoustic and unamplified" before "musical instruments" in Chapter 3, Section 7, "Street Musicians"; as follows:

4-3-7. Street Musicians. Persons playing acoustic and nonamplified musical instruments, performing pantomime, magic, dancing, or any other visual or audible performances with the intent or expectation to receive valuable consideration therefore shall be licensed by the City as street musicians before any such performance. The Finance Department may issue such a license upon payment of the license fee set forth in the Fee Resolution and no license shall be granted for more than ten (10) days at a time.

4-3A-7. Art Display on Public Property

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the licensing and manner of operations of Artists using Available City Property in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and licensing of Artists within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from any potential adverse secondary effects, while providing to those who desire to perform, whether gratuitously or for compensation, or to those who desire to display or sell their works of art the opportunity to do so. This Chapter also aims to prevent and control the adverse effects of Artists who display their artistry in public places, including without limitation, creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape. These strong compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of artists and the interests of the public. Therefore, the City desires, in reasonable time, place, and manner regulations codified in this Chapter, to balance those interests, and thereby protect the health, safety, and welfare of the

citizens and guests of Park City, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

(A) **Definitions.** For the purpose of this Chapter, the following words shall have the following meanings:

(1) "Art" means original works of art produced by the licensee. It shall not include (1) any artwork produced by any person other than the artist displaying the artwork; (2) any artwork purchased or taken on consignment and held for resale, or (3) any clothing, other than jewelry and other accessories or hand painted or tie-dyed garments, which if containing mass-produced or commercially manufactured parts, such mass-produced or commercially manufactured parts have been assembled by the artist and are not the predominant element of an item sold.

(2) "Artist" means a visual artist who displays his or her own art.

(3) "Available City Property" means City Park and the pocket park commonly known as "Coalition Park" which is situated on Park Avenue and 9th Avenue, Park City, Utah, owned and operated by the City.

(4) "Display" means display for sale (including taking future orders) or with the intent or expectation to receive valuable consideration.

(B) **Display on Sidewalks Prohibited.**

No Artist may Display his or her Art on public streets, sidewalks, or public property other than specifically designated Available City Property as set forth in this Chapter. It is unlawful to display art on publicly owned sidewalks. Furthermore, it is unlawful to display, without a license, art in park strip areas, pocket parks, and City-operated parks.

(C) **Terms and Conditions.**

(1) **License Required.**

Any person or groups of person intending or expecting to receive valuable consideration for the Display of Art shall be licensed by the City as a Street Artist before such Display. No license shall be issued prior to payment of the license fee set forth below and no license shall be granted for more than ten (10) consecutive days at a time, times per year.

(2) **Application for License.**

An application for a license to use Available City Property for the Display of Art shall be filed with the Finance Department upon a form provided by the Finance Department, which shall include the following information:

(a) The name, address, telephone number, date of birth, and social security number of the applicant;

(b) The names, address, and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant's Art;

(c) A description of the type of Art to be displayed for sale, including an explanation of the dimensions and layout of the Display, and a diagram, drawing, detailed description, or other representation of the proposed Display; and

(d) The length of time desired for the Art Display.

(3) Application Fee.

A license application shall be accompanied by a fee in the amount of Five Dollars (\$5.00) per day requested to be licensed to partially defray the City's cost of reviewing the application.

(4) Issuance of License. The Finance Department shall issue a license upon receipt of a completed application and receipt of the application fee, providing all criteria as set forth in this Chapter are met. The Finance Department shall obtain written clearance for such issuance with and provide a copy of each such issued license to the City's Planning and Zoning Administrator, or his designee. Use of space by a licensee within Available City Property shall be subject to the designation of the City's Planning and Zoning Administrator in accordance with the standards set forth in Section 4-3a-7(H).

Upon receipt of an application, all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing or if the location applied for is not available. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete or advising that the location applied for is not available. The time for processing applications specified in this section shall begin to run from the receipt of a complete application, as amended by the applicant. Not more than twenty-eight (28) days after receipt of a fully completed application, the Finance Department shall either issue or deny the license, and shall notify, in writing, the applicant of such issuance or denial. In the case of denial, the Finance Department shall notify the applicant of the reason for such denial. If within that time period, the Finance Department fails to notify the applicant of the denial of the permit, the permit shall be deemed to have been issued.

(5) License Denial/Revocation. In addition to the reasons set forth in Section 4-2-9 of the Park City Municipal Code, any license issued pursuant to subsection (4) of this section prior to completion of the review by the City may be revoked by the Finance Department.

(6) Appeals of License Denial. A license denial by the Finance Department may be appealed with ten (10) days to the City Manager or the City Manager's designee by written notice of appeal. The notice shall be filed within ten (10) days of receipt of written notice of denial or revocation of the license with the City Recorder. The City Manager or his designee may consider the appeal based upon the written submissions. However, for good cause shown, the City Manager or his designee may also hear oral evidence and argument.

(D) Renewal Application.

For any subsequent year after an Artist license has been issued, the licensee shall, if the licensee desires to renew the license, submit to the Finance Department a certificate, on a form to be provided by the City, which shall include any changes in the information provided to the City in the license application, or shall state, if true, that there are no changes to the information previously provided.

(E) Renewal Fee.

The licensee shall provide to the Finance Department, at the time of the renewal filing, a fee in the amount of ten dollars (\$10.00) to partially defray the City's cost of reviewing the renewal and the information contained therein.

(F) **Hold Harmless.** Anyone using Available City Property for Art Display shall indemnify, defend, and hold the City and its officers and employees harmless for any loss or damage, including attorney's fees, arising out of the use of such property. This obligation shall not extend to any claims for loss, damages, or injury sustained by any person or persons, to damage to property, or to expenses, including reasonable attorney's fees, incurred thereby, resulting from actions or omissions not within the artist's reasonable control or to the acts or omissions to act by the City, its officers and employees, or other third persons.

(G) **Number and Spacing of Artists Per Available City Property.**

The maximum number of artists that may display or perform at the same time on any Available City Property is _____.

(H) **Location Restrictions.**

The Planning and Zoning Administrator, in designating areas within Available City Property, shall take into consideration the interests (1) of providing artists reasonable opportunities for self-expression, (2) of providing reasonable opportunities for the public to experience the artists' work, (3) of the public to peaceably enjoy the City's parks, and (4) of adequately maintaining park vegetation and properties. No Artist may Display within Available City Property except within areas designated by the Planning and Zoning Administrator.

(1) **Special Events.** No Artist shall Display within one hundred feet (100') of the boundary of a location in a Special Event License issued by the City under Title 4, Chapter 8 of the Park City Municipal Code. However, during Special Event or Master Festivals, Artists may Display at a location included in a Special Event or Master Festival License if the Special Event or Master Festival Licensee grants written permission. Furthermore, the City expressly reserves the right to relocate Artists to other Available City Property during the period of a Special Event or Master Festival.

(2) **Exception.** The restrictions of this subsection notwithstanding, nothing herein shall prohibit the City from authorizing persons to Display Art, conduct entertainment, or vending operations on public property, or other such areas as the City may deem appropriate during Special Events. Special Events vendors shall not be governed by this section, but shall be governed by Title 4, Chapter 8 of the Park City Municipal Code.

(I) **Space Restrictions.** No Artist may Display Artwork directly on the surface of any sidewalk or ground, or on a blanket or board placed immediately on the sidewalk or ground or on top of a trash receptacle. No Artist's display may exceed five feet in height from the ground level or six feet in length. The display may not be less than twenty-four inches above the ground if the display surface is parallel to the ground, and may not be less than twelve inches above the

ground if the display surface is vertical or slanted. Where a rack or other display is placed on top of or above a table or other base, the size of the base shall not be of the display structure placed thereon. Nothing placed on the base shall exceed limitations contained in this section. No artist displaying artwork or handicraft items for display. Artists may have a container for tips. All Artwork, stands, a equipment and structure shall be removed from Available City Property between 10:00 p.m. and 8:00 a.m.

(J) **Rights Granted.** The approval of any location for use of Display by Artists shall be construed as granting the user any property right or interest to or in any property owned by the City. The rights granted by this Chapter are subject to the provisions of this chapter and other applicable law. Artists displaying their art shall be present at all times when on display. No agent, employee, or other representative shall sell any artwork of an Artist.

(K) **Violaton/Removal.** If at any time the City determined that an Artist's use of Available City Property or the Display placed thereon is not in compliance with the requirements of this Chapter or other applicable law, a civil notice of such violation shall be issued to the artist by an authorized City official. If, after receipt of such citation, an Artist fails or refused to remove any such display in violation, the City may, after consultation with the City Attorney or his/her designee, impound such display. Although prior notice of such impoundment shall not be required, the City shall take reasonable efforts to promptly notify the Artist following impoundment. The owner of any impounded display shall be responsible for the expense of removal and storage of such display. If the owner fails to reclaim the impounded display and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the display may be deemed unclaimed property and may be disposed of pursuant to law.

(L) **Emergency Removal.** In the event that a City official or the City police or Fire department determines that an Artist's use of Available City Property or the Display placed thereon constitutes an immediate physical threat to public life, safety, or health, the display or performance may be removed from the City immediately, without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expression of the material displayed by the Artist.

(I) **Notice and Hearing.** In the event of such emergency removal, the City shall immediately contact the Artist or his/her representative if the Artist has filed with the City's Finance Department the name, address, and telephone number of the Artist's representative whom the City may notify or contact at any time regarding the Artist's Display. The City shall inform the Artist or his/her representative of the removal and the reason(s) therefore. If requested by the Artist or his/her representative, the City shall hold an expedited hearing before the City Manager or his/her designee to determine whether the removed Display constituted an immediate threat to the public's life, safety, or health. In the event that the City Manager or his/her designee determines that the display did not constitute such an immediate threat, the City shall forthwith, at its own expense, replace the display at its location.

(2) Appeal. The Artist or his/her representative may appeal any decision or order to the Mayor or the Mayor's designee. Any appeal shall be filed in writing within ten (10) days of the decision with the City Recorder and shall specify the basis for appeal. The Mayor or the Mayor's designee may consider the appeal based on written submissions; however, for good cause shown, the Mayor or the Mayor's designee may also hear oral evidence and argument.

(M) Penalties. Any violation of this Chapter shall constitute a civil violation and may subject the licensee to revocation, suspension, or non-renewal of a license granted hereunder by the City. Three or more violations within a one-year period shall constitute a Class "B" misdemeanor.

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

PASSED AND ADOPTED this ____th day of _____, 2003.

PARK CITY MUNICIPAL CORPORATION

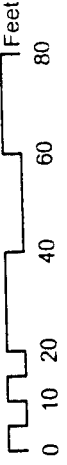
Mayor Dana Williams

Attest:

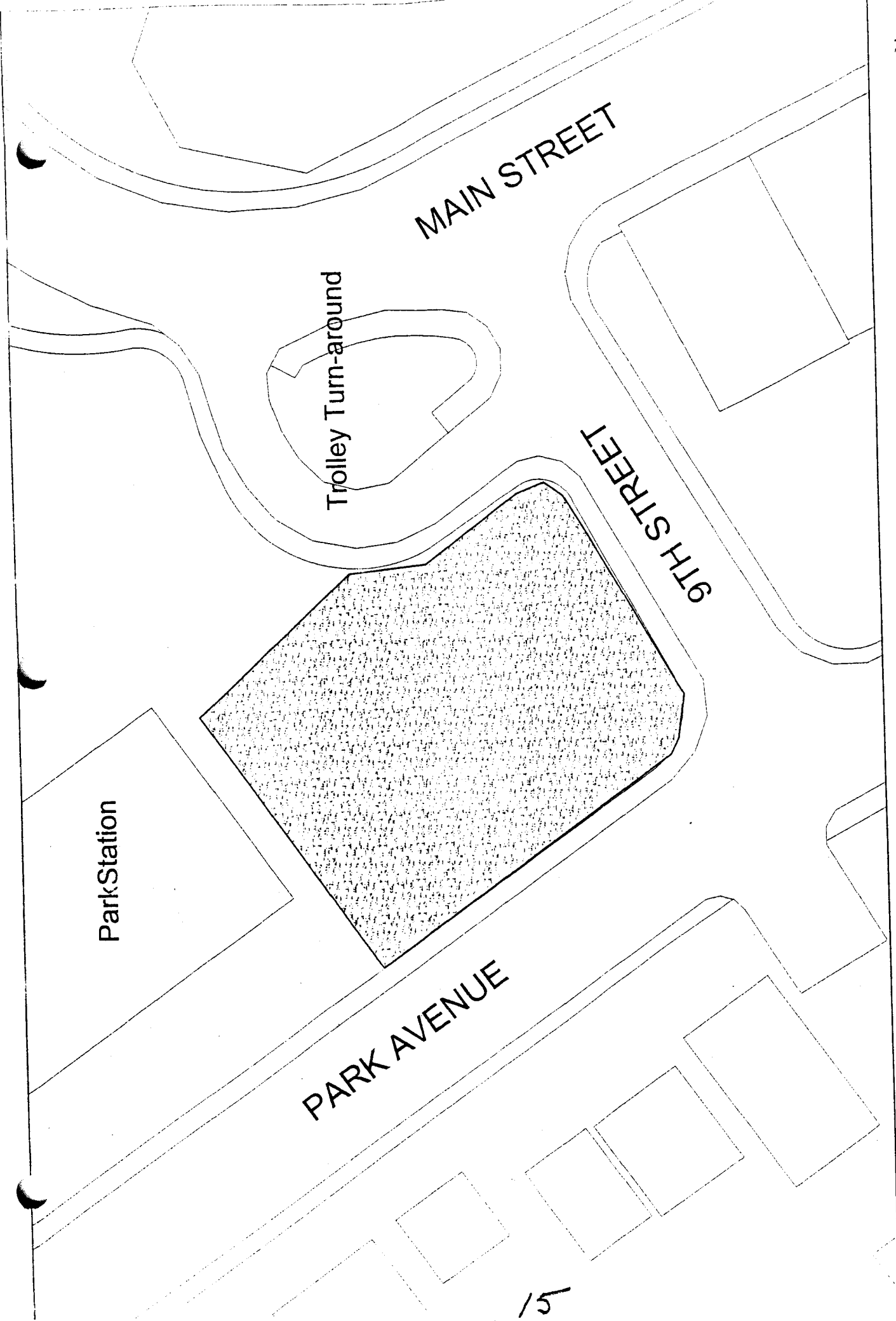
Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



COALITION PARK



Section 21A.30.040, "D-3 Downtown Warehouse/Residential District", of this code;

Section 21A.30.045, "D-4 Downtown Secondary Central Business District", of this code; and

Section 21A.31.020, "G-MU Gateway-Mixed-Use District", of this code,

but not including landscaped areas in the middle of any street;

2. Parks. Areas within city operated parks specifically designated by the director of public services, and

3. Downtown library block. An area or areas within the downtown library block specifically designated by the director of public services.

C. "Display" includes display for sale or display without charge.

D. "Downtown library block" means the city block bounded by 200 East Street, 400 South Street, 300 East Street, and 500 South Street

E. "Perform" includes performing for compensation or performing without charge.

F. "Sidewalk entertainer" means a person, or group of persons together, who perform(s) sidewalk entertainment.

G. "Sidewalk entertainment" means vocal, instrumental, or other entertainment performed personally by person or a group of persons together, upon publicly owned sidewalks and park strip areas, or in city operated parks.

H. "Sidewalk art" means original works of art displayed upon publicly owned sidewalks and park strip areas, or in city operated parks. It shall not include: 1) any artwork produced by any person other than the sidewalk artist displaying the artwork, 2) any artwork purchased or taken on consignment and held for resale, or 3) any clothing other than jewelry and other accessories or hand painted or tie dyed garments, which if containing mass produced or commercially manufactured parts, such mass produced or commercially manufactured parts, have been assembled by the artist and are not the predominant element of an item sold.

I. "Sidewalk artist" means any person who displays his or her own sidewalk art.

SECTION 2. That Section 14.38.140, *Salt Lake City Code*, pertaining to location restrictions be, and the same hereby is, amended to read as follows:

14.38.140 Location Restrictions:

A. Sidewalk And Park Strips: No artist may perform or display in any of the following places:

1. Within ten feet (10') of the intersection of a sidewalk with any other sidewalk, marked or unmarked crosswalk or midblock crosswalk;

2. Within the inner eight feet (8') of any sidewalk over twelve feet (12') in width, "inner" meaning as measured from its farthest point from the curb;

- 7/28/2003

Section 5. This ordinance shall expire on November 30, 2003 unless extended by ordinance enacted by the city council.

Passed by the City Council of Salt Lake City, Utah this 15th day of April, 2003.

Published: April 19, 2003.

Chapter 14.38

SIDEWALK ENTERTAINERS AND ARTISTS

14.38.010 Purpose And Intent Of Provisions:

The city council hereby finds and declares:

- A. Salt Lake City ordinances prohibit the conduct of any business or the sale of any goods or merchandise from any stand or structure upon certain streets or sidewalks of the city; however, the city has by ordinance provided for certain exceptions to the foregoing prohibition, including exceptions for sidewalk vending carts, sidewalk sales by abutting businesses, and newsracks;
- B. It is in the public interest to enliven and increase commerce and create a festive atmosphere in the downtown area and in city parks by encouraging artists and entertainers to express themselves on the sidewalks and in the city parks;
- C. It is in the public interest to encourage artists to display and sell their artworks on city sidewalks and in city parks and to provide opportunities for the public to experience such artworks;
- D. It is in the public interest to encourage entertainers to perform on city sidewalks and in city parks and to provide opportunities for the public to experience such entertainment; and
- E. It is in the public interest for those artists displaying, as a business for profit, to be encouraged to do so through a reduced business license fee for such activity;
- F. It is in the public interest that the first amendment rights of visual artists be advanced by allowing them to display or sell their works on the sidewalks of the city, subject to reasonable time, place, and manner regulations governing such displays;
- G. It is also in the public interest that the first amendment rights of entertainers, who wish to perform, whether gratuitously or for compensation, be advanced by allowing them to perform on the sidewalks of the city, subject to reasonable time, place, and manner regulations governing such performers;
- H. The city has an obligation to the general public to provide reasonably unobstructed passage over the public ways in a clean, safe, and orderly manner;

- I. Inappropriately located entertainment or art displays can pose significant hazards and problems, including, but not limited to: creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape; and
- J. The above strong compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of entertainers and artists and the interests of the public. Thus, the city desires, in reasonable time, place, and manner regulations codified in this chapter, to balance those interests. (Ord. 22-02 § 1, 2002)

14.38.020 Title:

The ordinance codified in this chapter may be referred to as the *SALT LAKE CITY SIDEWALK ENTERTAINMENT AND ART DISPLAYS ORDINANCE*. (Ord. 22-02 § 1, 2002)

14.38.030 Definitions:

This section has been affected by a recently passed ordinance, Ord. No. 18 of 2003. Go to new ordinance.

For the purpose of this chapter, the following words shall have the following meanings:

A. "Artist" means a sidewalk entertainer or a sidewalk artist.

B. "Available city property" means:

1. Sidewalk and park strips. Portions of publicly owned sidewalks and park strip areas, within the following commercially zoned districts:

Section 21A.26.020, "CN Neighborhood Commercial District", of this code;

Section 21A.26.030, "CB Community Business District", of this code;

Section 21A.26.040, "CS Community Shopping District", of this code;

Section 21A.26.050, "CC Corridor Commercial District", of this code;

Section 21A.26.060, "CSHBD Sugar House Business District", of this code;

Section 21A.26.070, "CG General Commercial District", of this code;

Section 21A.30.020, "D-1 Central Business District", of this code;

Section 21A.30.030, "D-2 Downtown Support District", of this code;

Section 21A.30.040, "D-3 Downtown Warehouse/Residential District", of this code;

Section 21A.30.045, "D-4 Downtown Secondary Central Business District", of this code; and

Section 21A.31.020, "G-MU Gateway-Mixed-Use District", of this code,

but not including landscaped areas in the middle of any street; and

2. Parks. Areas within city operated parks specifically designated by the director of public services.

C. "Display" includes display for sale or display without charge.

D. "Perform" includes performing for compensation or performing without charge.

E. "Sidewalk entertainer" means a person, or group of persons together, who perform(s) sidewalk entertainment.

F. "Sidewalk entertainment" means vocal, instrumental, or other entertainment performed personally by a person or a group of persons together, upon publicly owned sidewalks and park strip areas, or in city operated parks.

G. "Sidewalk art" means original works of art displayed upon publicly owned sidewalks and park strip areas, or in city operated parks. It shall not include: 1) any artwork produced by any person other than the sidewalk artist displaying the artwork, 2) any artwork purchased or taken on consignment and held for resale, or 3) any clothing other than jewelry and other accessories or hand painted or tie dyed garments, which if containing mass produced or commercially manufactured parts, such mass produced or commercially manufactured parts, have been assembled by the artist and are not the predominant element of an item sold.

H. "Sidewalk artist" means any person who displays his or her own sidewalk art. (Ord. 22-02 § 1, 2002)

14.38.040 Registration Permit Required:

It is unlawful for any sidewalk artist over eighteen (18) years of age to place or maintain a display of art on available city property for sale or profit, more than twelve (12) times in any twelve (12) consecutive month period, without obtaining a registration permit for selling artwork on such property pursuant to the provisions of this chapter. (Ord. 22-02 § 1, 2002)

14.38.050 Yearly Permit Or Certification:

Anyone described in section 14.38.040 of this chapter, or its successor, desiring to use available city property for the art sales for profit shall, prior to any initial use and annually thereafter, submit the required permit application or certification as specified below. (Ord. 22-02 § 1, 2002)

14.38.060 Permit Application:

An application for a permit to use available city property for art sales for profit ("permit") shall be filed with the city's property manager upon a form provided by the property manager and shall include the following information:

- A. The name, address, and telephone number of the applicant;
- B. The name, address, and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's entertainment or display;
- C. A description of the type of artwork to be displayed for sale, including an explanation of the dimensions and layout of the display and a diagram, drawing or other pictorial representation of the proposed display; and
- D. The length of time desired. (Ord. 22-02 § 1, 2002)

14.38.070 Permit Fee:

The permit application shall be accompanied by a fee in the amount of fifty dollars (\$50.00) to partially defray the city's cost of reviewing the permit application. (Ord. 22-02 § 1, 2002)

14.38.080 Issuance Of Permit:

- A. The property manager shall issue a permit upon receipt of a completed application and receipt of the application fee, providing all criteria as set forth in this chapter are met. In the event the permit is to be issued for use of space within city parks, the property manager shall obtain written clearance for such issuance with and provide a copy of each such issued permit to the city's director of public services, or his/her designee. Use of space by a permittee within a park operated by the city shall be subject to the designation of the director of public services, in accordance with the standards set forth in section 14.38.140 of this chapter, or its successor.
- B. Upon receipt of an application all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing or if the location applied for is not available. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete or advising that the location applied for is not available.
- C. The time for processing applications specified in this section shall begin to run from the receipt of a complete application, as amended by the applicant. Not more than twenty eight (28) days after receipt of a fully completed application, the property manager shall either issue or deny the permit, and shall notify, in writing, the applicant of such issuance or denial. If, within that time period, the property manager fails to notify the applicant of the denial of the permit, the permit shall be deemed to have been issued.
- D. Any permit issued pursuant to subsection A of this section prior to completion of the review by the city may be revoked by the property manager if the completed review determines that the permit should have been denied.
- E. The applicant may appeal the denial or revocation of a permit by the property manager by filing with the mayor or the mayor's designee a written notice of appeal. The notice shall be filed within ten (10) days of receipt of written notice of denial or revocation of the permit. The mayor or designee may consider the appeal based upon the written submissions. However, for good cause shown, the mayor or designee may also hear oral evidence and argument. (Ord. 22-02 § 1, 2002)

14.38.090 Certification Application:

For any subsequent year after a sidewalk artist permit has been issued, the permittee shall, if the permittee desires to renew the permit, on or before the expiration of one year from the previous date of issuance, submit to the property manager a certificate, on a form to be provided by the city, which shall include any changes in the information provided to the city in the permit application, or shall state, if true, that there are no changes to the information previously provided. (Ord. 22-02 § 1, 2002)

14.38.100 Certificate Fee:

The permittee shall provide to the property manager, at the time of the certificate filing a fee in the amount of fifty dollars (\$50.00) to partially defray the city's cost of reviewing the certificate and the information contained therein. (Ord. 22-02 § 1, 2002)

14.38.110 Displays And Performances Allowed Only In Specified Areas:

- A. Sidewalk art may be displayed, and sidewalk entertainment may be performed, only upon available city property. It is unlawful to display, without a permit, sidewalk art on publicly owned sidewalks, park strip areas, and city operated parks that do not constitute available city property. (Ord. 22-02 § 1, 2002)

14.38.120 Hold Harmless:

Anyone using available city property for sidewalk entertainment or sidewalk art display shall indemnify, defend and hold the city and its officers and employees harmless for any loss or damage, including attorney fees, arising out of the use of such property. This obligation shall not extend to any claims of loss, damages or injury sustained by any person or persons, to damage to property, or to expenses, including reasonable attorney fees, incurred thereby, resulting from actions or omissions not within the artist's reasonable control or to the acts or omissions to act by the city, its officers and employees or other third persons. (Ord. 22-02 § 1, 2002)

14.38.130 Number And Spacing Of Artists Per Block:

The maximum number of artists that may display or perform at the same time on any three hundred thirty feet (330') of block frontage is three (3). (Ord. 22-02 § 1, 2002)

14.38.140 Location Restrictions:

This section has been affected by a recently passed ordinance, Ord. No. 18 of 2003. Go to new ordinance.

A. Sidewalk And Park Strips: No artist may perform or display in any of the following places:

1. Within ten feet (10') of the intersection of a sidewalk with any other sidewalk, marked or unmarked crosswalk or midblock crosswalk;
2. Within the inner eight feet (8') of any sidewalk over twelve feet (12') in width, "inner" meaning as measured from its farthest point from the curb;
3. Within the inner three-quarters (3/4) of the width of any sidewalk less than twelve feet (12') in width, but in no event nearer than four feet (4') from the inner edge of any sidewalk;
4. Within five feet (5') of an imaginary perpendicular line running from any building entrance or doorway to the curb line;
5. Within five feet (5') of any handicapped parking space, or access ramp;
6. Within ten feet (10') of the boundary of any designated bus stop;
7. Within five feet (5') of any office window or display window; or
8. In the case of sidewalk artists, within one hundred feet (100') on the same linear block face of a door to a business displaying or selling artwork as its predominant business activity, if that business has direct access to the sidewalk.
9. At the same location for more than seven (7) consecutive days and not sooner than seven (7) days after the last date on which such artist previously performed or displayed at a particular location. For purposes of this subsection A9, the "same location" shall mean within one hundred ten feet (110') along the same block face from where the artist previously performed or displayed.

- B. Parks: The director of public services, in designating available city property within city operated parks, shall take into consideration the interests: 1) of providing artists reasonable opportunities for self-expression, 2) of providing reasonable opportunities for the public to experience the artists' work, 3) of the public to peaceably enjoy the city's parks, and 4) of adequately maintaining park vegetation and properties. No artist may perform or display within city operated parks except within available city property designated by the director of public services.
- C. Special Events: No artist shall perform or display within one hundred feet (100') of the boundary of a location included in a special event permit issued by the city under chapter 3.50 of this code. (Ord. 22-02 § 1, 2002)

14.38.150 Space Restrictions:

No artist may display artwork directly on the surface of the sidewalk or ground, or on a blanket or board placed immediately on the sidewalk or ground or on top of a trash receptacle. No artist's display may exceed five feet (5') in height from ground level or six feet (6') in length. The display may not be less than twenty four inches (24") above the sidewalk or ground if the display surface is parallel to the sidewalk or ground, and may not be less than twelve inches (12") above the sidewalk or ground if the display surface is vertical or slanted. Where a rack or other display structure is placed on top of or above a table or other base, the size of the base shall not be less than the size of the display structure placed thereon. Nothing placed on the base shall exceed the size limitations contained in this section. No artist displaying artwork or handcrafted items shall use any area other than the area immediately beneath the surface of the display space for the storage of items for display. Artists may have a container for tips. All artwork, entertainment displays, stands, and other equipment and structures shall be removed from property owned by the city and from city owned sidewalks between the hours of eleven o'clock (11:00) P.M. and eight o'clock (8:00) A.M. (Ord. 22-02 § 1, 2002)

14.38.160 Rights Granted:

The approval of any location for use for sidewalk entertainment or sidewalk art displays shall not be construed as granting the user any property right or interest to or in any property owned by the city. The rights granted by this chapter are subject to the provisions of this chapter and other applicable law. The sidewalk artist displaying sidewalk art shall be personally present at such display at all times when such artwork is on display, except for thirty (30) minutes in every two

(2) hour time period. No agent, employee or other representative shall sell the artwork of a sidewalk artist. (Ord. 22-02 § 1, 2002)

14.38.170 Violation Removal:

If at any time the city determines that an artist's use of available city property or the display placed thereon is not in compliance with the requirements of this chapter or other applicable law, a civil notice of violation, as provided by chapter 2.75 of this code, shall be issued to the artist by an authorized city official. If, after receipt of such citation, an artist fails or refuses to remove any such display in violation, the city may, after consultation with the city attorney or his/her designee, impound such display. Although prior notice of such impoundment shall not be required, the city shall take reasonable efforts promptly to notify the artist following the impoundment. The owner of any impounded display shall be responsible for the expense of removal and storage of such display. If the owner fails to reclaim the impounded display and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the display may be deemed unclaimed property and may be disposed of pursuant to law.

If, in subsequent proceedings on the underlying citation before the administrative law judge prior to July 1, 2002, or before the justice court on or after July 1, 2002, it is determined that the artist did, in fact, have a permit from the city at the time of impoundment, or that the city made an error in impounding the display, the city shall, forthwith, at its own expense, replace the display at its location. (Ord. 22-02 § 1, 2002)

14.38.180 Emergency Removal:

- A. Removal: In the event that a city zoning inspector or the city police or fire department determines that the artist's use of available city property or the display placed thereon constitutes an immediate physical threat to public life, safety or health, the sidewalk entertainment or sidewalk art display may be removed by the city immediately, without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expression of the material displayed or distributed by the artist.
- B. Notice And Hearing: In the event of such an emergency removal the city shall immediately contact the artist or the artist's representative if the artist has filed with the city's property manager the name, address and telephone number of the artist's representative whom the city may notify or contact at any time regarding the artist's display. The city shall inform the artist or the artist's representative of the removal and the reason(s) therefor. If requested by the

artist or the artist's representative, the city shall hold an expedited hearing before the property manager to determine whether or not the removed entertainment or art display constituted an immediate threat to the public's life, safety or health. In the event that the property manager determines that the display did not constitute such an immediate threat, the city shall forthwith, at its own expense, replace the display at its location.

- C. Appeal: The artist or the artist's representative may appeal any decision or order to the mayor or the mayor's designee. Any appeal shall be filed in writing within ten (10) days of the decision and shall specify the basis for the appeal. The mayor or designee may consider the appeal based on the written submissions. However, for good cause shown, the mayor or designee may also hear oral evidence and argument. (Ord. 22-02 § 1, 2002)

14.38.190 Special Events:

This section has been affected by a recently passed ordinance, Ord. No. 18 of 2003. Go to new ordinance.

The restrictions of this chapter notwithstanding, nothing herein shall prohibit the city from authorizing entertainers or vendors, other than those artists governed by this chapter, to conduct concurrent sidewalk entertainment, art displays, or vending operations within the expanded central business district, or such other areas as the city may deem appropriate, during special events (special event vendors). The special event vendors shall not be governed by this chapter, but shall be governed by such other ordinance, city policy, or executive order as may be applicable. During such special event the city may require one or more artists under this chapter to relocate and perform or display art at another available location within the available city property during the period of such special event. No artist shall perform or display at a location included in a special event permit issued by the city under chapter 3.50 of this code without the permission of the special event permittee. (Ord. 22-02 § 1, 2002)

14.38.200 Penalties:

Any violation of this chapter shall constitute a civil violation and shall be handled as provided by chapter 2.75 of this code. Three (3) or more violations within a one year period shall constitute a misdemeanor. (Ord. 22-02 § 1, 2002)

CITY COUNCIL REPORT

DATE: July 31, 2003
DEPARTMENT: Special Events and Facilities
AUTHOR: Alison Butz, Special Events and Facilities Department
TITLE: Wind Power and other Environmental Issues

SUMMARY RECOMMENDATIONS: Staff requests the City Council discuss Utah Power's Blue Sky Program and the City's contribution.

A. TOPIC

Environmental Practices for Park City to benefit the environment.

B. BACKGROUND

Council was given a brief update in May regarding Utah Power's Blue Sky Program. At that meeting, Sarah Wright, a representative from the Utah Clean Energy Alliance briefed Council on the effort. Council directed Staff to gather additional information.

Staff has been working with Sarah Wright to understand further how the City's efforts with the Blue Sky program would impact the community and environment. As mentioned, the Blue Sky Program allows the City and community to add money towards the fund by adding to their bill an additional payment that would be used to purchase wind power. The payment amount could be based upon the KWH use per month at certain City buildings.

Electricity from wind farms is fed into the transmission system or "power pool" that supplies homes and businesses throughout the state. Utilities are required to match your payments with wind generated electricity. This is monitored by the Public Service Commission of Utah.

The City could kick off the campaign by designating the amount of wind power to purchase, and adopt a resolution urging residents to do the same.

C. ANALYSIS

Below is an analysis of the power use for City Hall and the amount the City could contribute to purchase equivalent KWH of wind power.

TABLE 1

City Hall

445 MARSAC AVE PARK CITY UT

Acct. #35279126 001 008

Yearly kWh usage	349,704
Ave. monthly kWh usage	29,142
Previous year total billings	\$18,658
Average monthly bill	\$1,555

			Utah Power 'Visionary level'	Utah Power 'Champion level'
Blue Sky purchase percentage of energy	100%	75%	50%	10%
Blue Sky purchase in kWh	349,704	262,278	174,852	34,970
Blue Sky purchases in yearly blocks	3,497	2,623	1,749	350
Blue Sky purchases in monthly blocks	291	219	146	29
Blue Sky monthly cost	\$567.45	\$427.05	\$284.70	\$56.55
Blue Sky annual cost	\$6,809.40	\$5,124.60	\$3,416.40	\$678.60
Increased yearly cost	36.496%	27.466%	18.311%	3.637%
Increased monthly cost	36.496%	27.466%	18.311%	3.637%
¹ Environmental impact is equivalent to...				
avoided CO ₂ emission (tons per year)	244.79	183.59	122.40	24.48
not driving x miles per year OR	524,556	393,417	262,278	52,456
planting x acres of trees per year	96.90	72.93	48.62	9.67

The total cost to the City to enroll the Marsac Building in the Blue Sky program will be about \$25,000 per year as opposed to \$18,000.

D. BUDGET IMPACTS The fiscal impacts identified in Table 1 indicate an annual increase to the total costs of power for the Marsac building at various Blue Sky supplemental levels. The annual increase ranges from an additional \$6,800 per year at 100% Blue Sky power to \$678 at the 10% level. If Council directs staff to purchase Blue Sky Power it is likely a budget option would be presented as part of the budget process next spring.

ALTERNATIVES

1. Direct staff to purchase wind power for City Hall as part of the monthly bill from Utah Power and Staff will return at a future meeting with a resolution promoting the purchase of wind power.
2. Direct staff to not purchase any wind power.
3. Continue the discussion in order to receive additional information.

E. RECOMMENDATION:

Staff requests the City Council discuss Utah Power's Blue Sky Program and provide direction if the Council chooses to participate with the Blue Sky program.

Memo

To: Mayor and City Council
From: Mark Christensen, Gary Hill
Date: 7/31/2003

Subject: Citizen's Budget

This is the second year that the City has produced the Citizen's Budget. The Citizen's Technical Advisory Committee (CTAC) has met several times and has spent four weeks reviewing the Citizens Budget making several modifications. Staff would appreciate any comments, changes, or corrections in writing by July 31, 2003. Staff will be available to discuss this on Thursday during work session. A draft of the Citizen's Budget will be provided under a separate cover.

Staff anticipates posting the Citizens Budget on the City's Web page and making copies available City-wide by August 7, 2003.

Staff acknowledges the invaluable assistance of the CTAC group consisting of:

Richard Fontaine
Bill Mullen
Bart McEntire
Councilman Jim Hier
Councilman Fred Jones

DATE: July 31, 2003
DEPARTMENT: OCMB
AUTHOR: Mark Christensen
TITLE: Council Compensation Task Force
TYPE OF ITEM: Informational

SUMMARY RECOMMENDATIONS: Provide direction to staff on the size, composition, and study outline for the Council Compensation Task Force and its members.

DESCRIPTION:

A. Topic: Council Compensation Task Force

B. Background: On July 17, 2003, Council directed staff to return with recommendations regarding the creation of a Council Compensation Task Force. Attachment A outlines a possible task force format for this issue.

C. Analysis:

The format and composition of the task force is completely at the discretion of Council. Staff has provided a conceptual framework that Council could choose to employ or alter to the desires of the Mayor and Council. Attachment B is a list of the former Mayors and Council Members from 1980 to present. Staff has not contacted any of these individuals for participation on the task force although several people have expressed interest (see attachment A). Council should identify or direct staff to identify possible Task Force members to determine interest in participating in this issue. Council could also appoint the Mayor and/or another Council member to identify participants of the task force.

On Thursday Council should direct staff on the following issues:

1. The number of task force members.
2. The names or a process for determining task force members.
3. Confirm Scope of Attachment A

D. Department Review: Budget, Debt and Grants, City Manager, and Legal

ALTERNATIVES:

A. Provide direction on issues 1-3 identified above.

B. Continue discussion until another Council meeting and direct staff to provide additional information.

C. Do Nothing

SIGNIFICANT IMPACTS: Some Council members requested that this issue be addressed prior to the next election. The formation of the task force and the study of these issues may be a time consuming process. Any significant delay might impede the completion of the task force by the election deadline

RECOMMENDATION: Provide direction to staff on the size, identity, and scope of the Council Compensation Task Force.

Attachments:

- A. Council Compensation Task Force Outline
- B. Park City Council Roster 1980 – present

Attachment A:
Council Compensation Task Force
July 31, 2003

Purpose: Provide a fair and objective compensation and benefit review for the Mayor and Council examining compensation, benefits, equipment usage, and other amenities available in carrying out City business.

Goals: Conduct a review process culminating in a summary report of findings which may include recommendations to the Mayor and City Council regarding their total compensation package, reimbursement policy, equipment availability, and other amenities for City business.

Work Plan

1. Using the information available and with Staff assistance; review the compensation packages of the Mayor and Council and compare with other communities.
2. Gather any data required for this analysis.
3. Identify methodology for review and rational for decisions.
4. Determine if the compensation and benefits for the Mayor and City Council are equitable given the hours they work on an average basis in providing public service.
5. Conduct an independent public input process.
6. Make a recommendation to Council based on findings.

Citizen Task Force: This is an independent task force comprised of specially educated, trained, or experienced individuals chosen to study a specific question or issue and empowered with the authority to produce binding recommendations to the governing body. A task force approach is often used to address the most controversial and complex issues. An independent task force made up of experienced individuals will provide a comparative unbiased review of Park City's current compensation and benefits with the policies and practices of other communities. The independent nature of a task force enables the Council to have a formal citizen recommendation for a narrowly defined study issue. The use of this type of task force is common in all aspects for business and government.

Scope: Review all aspects of the Mayor's and Council's compensation, Mayor/Council travel policy, Mayor/Council equipment usage, and Mayor/Council expense reimbursement policy.

Task Force Makeup: A 5-7 Member Group comprising former Council members and Citizens at large is recommended. This group will work with staff to gather pertinent information relating to this topic from representative communities in addition to the information already presented on July 17th. The task force will be paying particular attention to issues 1 and 3 including the internet and phone reimbursement policy identified in issue 2. (Staff report attached) Some Council members discussed a desire to

keep the reimbursement policy relating to their travel and reimbursement (issue 2) consistent with staff policies but there was not clear consensus on this request.

Timeline: Before the election scheduled for November 4th the task force should forward a summary of their findings and any recommendations they may have to the Mayor and Council.

Effective Date of Changes: The Task force should make recommendations regarding an effective date if they choose to recommend any changes with a fiscal impact or a significant change in the existing policy.

Task Force Member Nominees: Council should direct staff to contact the following community members about participating on the Task Force or suggest other individuals from the community to participate. Attachment B is a list of former Mayors and Council members. Roger Harlan and Chuck Klingenstein have volunteered to participate on this task force.

Staff suggests that Council consider appointing current members of the Citizen's Technical Advisory Committee (CTAC) and 2-4 past Council members. CTAC members have over 2 years of detailed experience with City finances and have been a valuable resource in the development of performance measures and the Citizen's Budget. The following list represents the CTAC members and other citizens that have expressed interest in participating on the task force.

Dick Fontaine - CTAC
Bart McEntire - CTAC
Bill Mullen - CTAC (Does not live in the City Limits)
Bob Swank - Volunteered

Attachment:

- A. July 17, 2003 Council Compensation Staff report and Attachments
- B. Park City Council List (1980 to present)

PARK CITY COUNCIL

1980

Mayor John C. Green, Jr.
Helen Alvarez
Tina Lewis
Bob Wells
Richard Martinez
Tom Shellenberger

1982

Mayor John C. Green, Jr.
Helen Alvarez
Tina Lewis
Bob Wells
Bill Coleman
Tom Shellenberger

1984

Mayor John C. Green, Jr.
Bill Coleman
Tom Shellenberger
Al Horrigan
Jim Doilney
Bob Wells

1986

Mayor Hal Taylor
Al Horrigan - resigned 6/86 replaced by Jim Santy
Kristen Rogers
Jim Doilney
Ann MacQuoid
Tom Shellenberger

1988

Mayor Hal Taylor
Kristen Rogers
Ann MacQuoid
Brad Olch
Jim Santy
Ray Johnson

1990

Mayor Bradley A. Olch
Sally Elliott
Ruth Gezelius
Ray Johnson
Bob Richer
Jim Santy

1992

Mayor Bradley A. Olch
Sally Elliott
Ruth Gezelius
Bob Richer
Lollie Miller
Jim Santy - resigned 8/92 replaced by Roger Harlan

1994

Mayor Brad Olch
Shauna Kerr
Leslie Miller
Ruth Gezelilus
Roger Harlan
Lou Hudson

1996

Mayor Brad Olch
Hugh Daniels
Roger Harlan
Shauna Kerr
Chuck Klingenstein
Paul Sincock

1998

Mayor Brad Olch
Hugh Daniels
Roger Harlan
Shauna Kerr
Chuck Klingenstein
Paul Sincock

2000

Mayor Brad Olch
Peg Bodell
Candace Erickson
Roger Harlan
Fred Jones
Shauna Kerr (resigned 1/01 to assume County Commission seat)
Jeff Mann (appointed 1/01 to Kerr's unexpired term)

2002

Mayor Dana Williams
Peg Bodell
Kay Calvert
Candace Erickson
Jim Hier
Fred Jones

DATE: July 31, 2003
DEPARTMENT: Planning Department
AUTHOR: Kirsten Whetstone KAW
TITLE: 83 King Road - ROW vacation/Plat amendment
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Staff recommends the City Council conduct a public hearing, consider public input, and approve the request to combine the southerly 12' of Lot 32, Block 76 Millsite Reservation with Lot 3 of Anchor Development- second amended plat. Staff also recommends approval on the request to vacate and combine with the above lots a 211 sf portion of platted unbuilt Ridge Avenue with direction requested regarding compensation for the vacation. On July 9, 2003 the Planning Commission forwarded a positive recommendation to approve the plat amendment and limited right-of-way vacation.

A. PROJECT STATISTICS

Applicant: Michael Watts
Location: 83 King Road
Proposal: Plat Amendment/ ROW vacation
Zoning: Historic Residential (HRL)
Adjacent Land Uses: Historic and Contemporary Residential Buildings
Date of Application: April 15, 2003

B. BACKGROUND

On April 15, 2003, the Planning Department received a plat amendment application to combine the southerly 12' of Lot 32, Block 76 Millsite Reservation with Lot 3 Anchor Development- second amended plat (see Exhibit A). The remaining 13' of Lot 32 were previously combined with Lot 3 during approval of the seconded amended Anchor Development plat.

This application also includes a request to vacate and combine with Lot 3, a 211 sq. ft. portion of Ridge Avenue (see Exhibit B). Approximately 1,500 sf of Ridge Avenue was previously vacated and combined with Lot 3 during approval of previous Anchor Development plats. Since the original approval of the Anchor Development Plat, Park City has taken steps toward attempting to relocate overhead utilities in Old Town to underground locations, at large expense.

The purpose of the plat amendment, as stated in the applicant's letter (see Exhibit C) is to increase the King Road frontage for Lot 3 to allow for a two car wide garage with HRL setbacks, instead of a single car wide garage, and to provide additional off street parking in a neighborhood where street parking is difficult for residents and guests.

On May 28, 2003 the Planning Commission held a public hearing and discussed the

proposed plat amendment and vacation. One neighbor expressed concerns regarding construction of the proposed home and wanted some assurance that the cement trucks and other construction trucks will not utilize her driveway, on Ridge Avenue, to turn around in. The neighbor expressed general concerns about the narrowness of King Road and Ridge Avenue but indicated that she did not have concerns with the plat amendment or vacation request. Construction staging and mitigation issues will be addressed and regulated during the building permitting and construction process and a construction mitigation plan will be required at that time.

On July 9, 2003 the Planning Commission discussed the plat amendment and right-of-way vacation request and forwarded to City Council a positive recommendation with conditions as stated in this staff report. Staff legally noticed the plat amendment and vacation request with publication of proper notice in the Park Record once a week for four weeks, posting of the property, and posting of notice. Letters to affected entities and property owners within 300' were sent as well.

C. ANALYSIS

The intent of this application is to combine a remnant portion of Lot 32 (the rest of Lot 32 was previously combined with Lot 3 with the Anchor Development plat) and a 211 sq. ft. portion of platted Ridge Avenue with Lot 3 of the Anchor Development amended plat. The new Lot 3 would have 35.36 feet of frontage on King Road, which would allow construction of a two car wide garage with code compliant setbacks. Two additional off-street parking spaces could be provided in front of a two car garage, as the plat requires a 25' front setback. No other changes to the plat notes or conditions of approval are requested.

The applicant does not propose using the area of vacated Ridge Avenue to increase the allowable house size. The existing approved plat currently limits the house size to 2,165 sf (above ground square footage, excluding the garage) and places volumetric controls on the design. The existing approved plat also restricts Lot 3 to one single family home, limits the building height to 18' for the first 80' from the western property line and 27' for the remainder of the lot, requires a 25' front setback from King Road, and requires modified 13-D fire sprinklers, and includes additional requirements for roof ridge height variation. Because of these previous restrictions and conditions a Steep Slope CUP is not required for development on Lot 3, per LMC section 15-2.1-6 (C) Exception. No changes to these restrictions are proposed with this plat amendment. All other setbacks are to be in compliance with the Land Management Code (see Exhibit G).

There are no remnant lots created by this proposal, and the proposed plat complies with both the HRL District regulations and the approved Anchor Development plat, as amended previously. At the time of application the remnant of Lot 32 was owned by an abutting owner, not the applicant. The applicant has since purchased that parcel therefore the substandard platted lots to the south of the lot subject to this application are no longer implicated with this application.

Right-of-way Compensation

Compensation for the vacation of right-of-way is a decision made by the City Council. In the previous Anchor Development plats and plat amendments staff provided an analysis of sales and list prices for property in the area (see Exhibit H). At the July 23, 1998 City Council Meeting the Council discussed formulas to develop a fair price for the vacated right-of-way. The calculation were based on a percentage of the fair market value for developable land. Percentages were developed to find a comparable price for land that does not hold any density, "open land" to distinguish from land that contributes to density. The percentages as figured range from 10% to 16% of the fair market value of a developable lot. These figures were used when the ROW was vacated outright, ie. with no utility easement encumbrments.

In this case, the vacated right-of-way will not be developed with structures due to the recommended utility easement over the entire 211 sf (see condition #9). Although the area may be landscaped and used as open space for the benefit of the lot owner, the proposed vacation of 211 sf does not increase the density or floor area of Lot 3, as these are already restricted by the existing plat notes. The vacation allows construction to the easement edge, as opposed to the required 3- 5' setback required if the parcel is not vacated and therefore adds value to the lot in the resulting flexibility in locating the structure.

The Council did not discuss the aspect of vacating a parcel of right-of-way and retaining a utility and access easement over the parcel. Staff believes a fair percentage for this scenario is in the range of 5% to 10% of fair market value. Using 1998 figures the range is between \$308 and \$614 for average sale price and between \$428 and \$857 for average list price. The average of the low (\$308) and the high (\$857) is \$582.50. Staff requests direction from the Council on this issue.

D. NOTICE

Notice of the City Council public hearing was sent to property owners within 300' on June 30, 2003, as part of the plat amendment procedure. In addition, State law requires publication of legal notice once per week for four weeks prior to the City Council hearing on a vacation. Staff has provided proper posting and noticing for the July 17, 2003 City Council public hearing.

E. DEPARTMENT REVIEW

The Planning Department staff has reviewed this request. The request was discussed at staff review meetings on May 6 and June 17, 2003, with representatives from local utility companies and City Staff. Some of the concerns expressed were discussed by the Planning Commission at the May 28, 2003 meeting other concerns were discussed at the July 9, 2003 meeting.

ALTERNATIVES

- A. The City Council may approve the plat amendment and limited vacation of right-of-way (including a determination on compensation for vacated right-of-way, if

any) with the conditions stated, or modify the conditions, or

- B. The City Council may deny the plat amendment and limited vacation of right-of-way and direct staff to prepare findings supporting this recommendation, or
- C. The City Council may continue the discussion to a later date.

SIGNIFICANT IMPACTS

There are no significant fiscal or environmental impacts from this plat amendment, as there is currently a buildable lot with floor area, volumetric, and setback restrictions in place. Lot 3 will increase in size from 6,251 to approximately 7,251, but all existing restrictions remain. Increased frontage on King Road allows width for a two car wide garage and driveway, including additional off-street parking spaces for residents and guests.

There are slight fiscal impacts due to the vacation, in consideration of the applicant compensating the City for use of the right-of-way. A remnant parcel of right-of-way will be combined with an existing lot of record, with an easement in place to provide potential for placement of utilities in the future. The applicant will be allowed to build up to the easement line, rather than meeting 5' setbacks or requesting a variance. This will provide additional flexibility in designing a compatible residence.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION

A residence could still be constructed on the existing platted lot, although a two car wide garage would not meet the required setbacks.

RECOMMENDATION

Staff recommends that the City Council consider the compensation analysis (exhibit H) and determine the compensation amount for the right-of-way vacation, if any, to be paid to the City prior to recordation of this plat amendment (note condition #9). Staff also recommends approval of the proposed plat amendment, including the limited right-of-way vacation request, subject to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

Findings of Fact

1. The property is located in the HRL District.
2. The site is currently undeveloped.
3. The proposed amendment to the Anchor Development plat will add approximately 1,000 sf to Lot 3, which is currently 6,251 sf. in area. Lot 1 is 7,305 sf, Lot 2 is 11,963 sf, and Lot 4 is 4,643 sf in area.
4. The application for plat amendment also includes a request to vacate and combine with Lot 3, a 211 sq. ft. portion of platted, un-built Ridge Avenue.
5. The proposed plat amendment and vacation neither increases or decreases the potential density along King Road as the existing plat restrictions are not proposed to change with this plat amendment. As restricted on the Anchor Development Second Amended plat, one single family house may be

constructed on Lot 3 with an above ground floor area of 2,165 square feet, not including the garage, with further setback and height restrictions as stated on the plat. All previous notes and restrictions will continue to apply.

6. Because of previous plat restrictions and conditions on Lot 3, a Steep Slope CUP will not be required for development on Lot 3, per LMC section 15-2.1-6 (C) Exception.
7. The Park City Council has approved a budget including approximately \$9 million for relocation of utilities in Old Town to underground locations. The design work for this project has not been completed. At this time Park City does not know which rights-of-way will be needed for underground utilities in the future.
8. The right-of-way vacation criteria are as follows:
 - (a) There is no increase in density as a result of the vacation of the Ridge Avenue right-of-way;
 - (b) The volumetric constraints regarding floor area and height restrictions on Lot 3 and the requirement for design review against the Historic District design guidelines will ensure compatibility of the future home on lot 3 with the surrounding neighborhood;
 - (c) Compensation for the loss of right-of-way shall be addressed by the City Council at a public hearing.
 - (d) The area of vacated right-of-way is not currently used for public utilities nor planned for such use in the future.
9. Dedication of a ten (10) foot non-exclusive public utility and snow storage easement along King Road is necessary to ensure neighborhood compatibility for future development on Lot 3 and potential future utility location.
10. The corresponding 12' (east ½) of platted Ridge Avenue abutting the proposed vacation parcel has already been vacated and is part of Lot 3, per the second amended Anchor Development plat approval.
11. The applicant stipulates to the conditions of approval.
12. On May 28, 2003 the Planning Commission held a public hearing and discussed the proposed plat amendment and right-of-way vacation request.
13. On July 9, 2003, the Planning Commission forwarded a positive recommendation to the City Council regarding this application.
14. On July 17, 2003, the City Council held a public hearing on the plat amendment and limited vacation of ROW request.

Conclusions of Law

1. There is good cause for the amendment as there is no increase in density and setbacks, height and volumetric restrictions remain on the lot as previously platted.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. The proposal is consistent with both the Park City Land Management Code and applicable State law regarding plat amendments.
4. The limited right-of-way vacation is consistent with the City's vacation of right-of-way policies and Resolution No. 8-98.

Conditions of Approval

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. A ten (10) foot non-exclusive public utilities and snow storage easement along King Road shall be dedicated to the City on the plat.
3. One single family home is permitted on Lot 3 with an above ground floor area of 2,165 square feet, excluding the garage.
4. Construction of the single family residence on Lot 3 shall comply with all height, setback, and volumetric restrictions as stated on the Anchor Development Second Amended Plat and the conditions of approval of the Anchor Development Second Amended Plat shall continue in full force and effect.
5. Design of the proposed single family residence requires review and approval by the Planning Department, for compliance with the Historic Design Guidelines, prior to issuance of a building permit.
6. The plat shall be recorded within one year of the date of City Council approval and shall be recorded prior to issuance of a building permit for construction that involves the amended portion of Lot 3.
7. All standard project conditions shall apply.
8. City Council approval of the ROW vacation request described above is a condition precedent to approval of this plat amendment application as proposed.
9. Payment of the compensation value, as determined by the City Council, of the vacated parcel of Ridge Avenue, shall be made to the City by the applicant prior to recordation of the amended plat. The City shall retain a non-exclusive public utility easement over the entirety of the vacated parcel.
10. Construction staging for Lot 3 shall not occur on the private driveway easement for Lots 1 and 2, unless specifically allowed in writing by the adjacent property owners.
11. A construction mitigation plan, submitted to and approved by the Planning, Building, and Engineering Departments, is a condition precedent to any construction activity on Lot 3.
12. All previous notes and restrictions will continue to apply and shall be placed on the Anchor Development Third Amended plat prior to recordation.

Exhibits

- Exhibit A- Vicinity map
- Exhibit B- Plat
- Exhibit C- Applicants letter
- Exhibit D- Right-of-way vacation Policy Resolution
- Exhibit E- Letter from Service providers
- Exhibit F- Warranty Deed recorded June 2, 2003
- Exhibit G- LMC setbacks
- Exhibit H- Compensation analysis

Ordinance No.

An Ordinance Approving a Plat Amendment to Combine the Southerly 12' of Lot 32, Block 76 Millsite Reservation, with Lot 3 of Anchor Development Second Amended Plat, and Approving a Right-of-Way Vacation of Approximately 211 square feet of Platted, Unbuilt Ridge Avenue and Combining said 211 square feet with above Described Lots, located at 83 King Road in Park City, Utah.

WHEREAS, the owner of property located at 83 King Road have petitioned the City Council for approval of a plat amendment and have petitioned for a limited vacation of approximately 211 sq. ft. of platted, unbuilt Ridge Avenue right-of-way; and

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

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

WHEREAS, the Planning Commission held a public hearing on May 28, 2003, to receive input on the proposed plat amendment; and

WHEREAS, the Planning Commission, on July 9, 2003, further discussed the plat amendment and limited right-of-way vacation and forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 17, 2003, the City Council held a public hearing and approved the proposed plat amendment and limited right-of-way vacation; and

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

WHEREAS, the vacation request is consistent with the City's vacation of right-of-way policy and Resolution No. 8-98.

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

SECTION 1. APPROVAL. The plat amendment and limited right-of-way vacation, as shown in Exhibit A, are approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact

1. The property at 83 King Road is located in the HRL, Historic Residential Low Density zoning district.
2. The site is currently undeveloped.

3. The proposed amendment to the Anchor Development plat will add approximately 1,000 sf to Lot 3, which is currently 6,251 sf. in area. Lot 1 is 7,305 sf, Lot 2 is 11,963 sf, and Lot 4 is 4,643 sf in area.
4. The application for plat amendment also includes a request to vacate and combine with Lot 3, a 211 sq. ft. portion of platted, un-built Ridge Avenue.
5. The proposed plat amendment and vacation neither increases or decreases the potential density along King Road as the existing plat restrictions are not proposed to change with this plat amendment. As restricted on the Anchor Development Second Amended plat, one single family house may be constructed on Lot 3 with an above ground floor area of 2,165 square feet, not including the garage, with further setback and height restrictions as stated on the plat. All previous notes and restrictions will continue to apply.
6. Because of previous plat restrictions and conditions on Lot 3, a Steep Slope CUP will not be required for development on Lot 3, per LMC section 15-2.1-6 (C) Exception.
7. The Park City Council has approved a budget including approximately \$9 million for relocation of utilities in Old Town to underground locations. The design work for this project has not been completed. At this time Park City does not know which rights-of-way will be needed for underground utilities in the future.
8. The right-of-way vacation criteria are as follows:
 - (a) There is no increase in density as a result of the vacation of the Ridge Avenue right-of-way;
 - (b) The volumetric constraints regarding floor area and height restrictions on Lot 3 and the requirement for design review against the Historic District design guidelines will ensure compatibility of the future home on lot 3 with the surrounding neighborhood;
 - (c) Compensation for the loss of right-of-way shall be addressed by the City Council at a public hearing.
 - (d) The area of vacated right-of-way is not currently used for public utilities nor planned for such use in the future.
9. Dedication of a ten (10) foot non-exclusive public utility and snow storage easement along King Road is necessary to ensure neighborhood compatibility for future development on Lot 3 and potential future utility location.
10. The corresponding 12' (east ½) of platted Ridge Avenue abutting the proposed vacation parcel has already been vacated and is part of Lot 3, per the second amended Anchor Development plat approval.
11. The applicant stipulates to the conditions of approval.
12. On May 28, 2003 the Planning Commission held a public hearing and discussed the proposed plat amendment and right-of-way vacation request.
13. On July 9, 2003, the Planning Commission forwarded a positive recommendation to the City Council regarding this application.
14. On July 17, 2003, the City Council held a public hearing on the plat amendment and limited vacation of ROW request.

Conclusions of Law

1. There is good cause for the amendment as there is no increase in density and setbacks, height and volumetric restrictions remain on the lot as previously platted.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. The proposal is consistent with both the Park City Land Management Code and applicable State law regarding plat amendments.
4. The limited right-of-way vacation is consistent with the City's vacation of right-of-way policies and Resolution No. 8-98.

Conditions of Approval

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. A ten (10) foot non-exclusive public utilities and snow storage easement along King Road shall be dedicated to the City on the plat.
3. One single family home is permitted on Lot 3 with an above ground floor area of 2,165 square feet, excluding the garage.
4. Construction of the single family residence on Lot 3 shall comply with all height, setback, and volumetric restrictions as stated on the Anchor Development Second Amended Plat and the conditions of approval of the Anchor Development Second Amended Plat shall continue in full force and effect.
5. Design of the proposed single family residence requires review and approval by the Planning Department, for compliance with the Historic Design Guidelines, prior to issuance of a building permit.
6. The plat shall be recorded within one year of the date of City Council approval and shall be recorded prior to issuance of a building permit for construction that involves the amended portion of Lot 3.
7. All standard project conditions shall apply.
8. City Council approval of the ROW vacation request described above is a condition precedent to approval of this plat amendment application as proposed.
9. Payment of the compensation value, as determined by the City Council, of the vacated parcel of Ridge Avenue, shall be made to the City by the applicant prior to recordation of the amended plat. The City shall retain a non-exclusive public utility easement over the entirety of the vacated parcel.
10. Construction staging for Lot 3 shall not occur on the private driveway easement for Lots 1 and 2, unless specifically allowed in writing by the adjacent property owners.
11. A construction mitigation plan, submitted to and approved by the Planning, Building, and Engineering Departments, is a condition precedent to any construction activity on Lot 3.
12. All previous notes and restrictions will continue to apply and shall be placed on the Anchor Development Third Amended plat prior to recordation.

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

PASSED AND ADOPTED this 17th day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

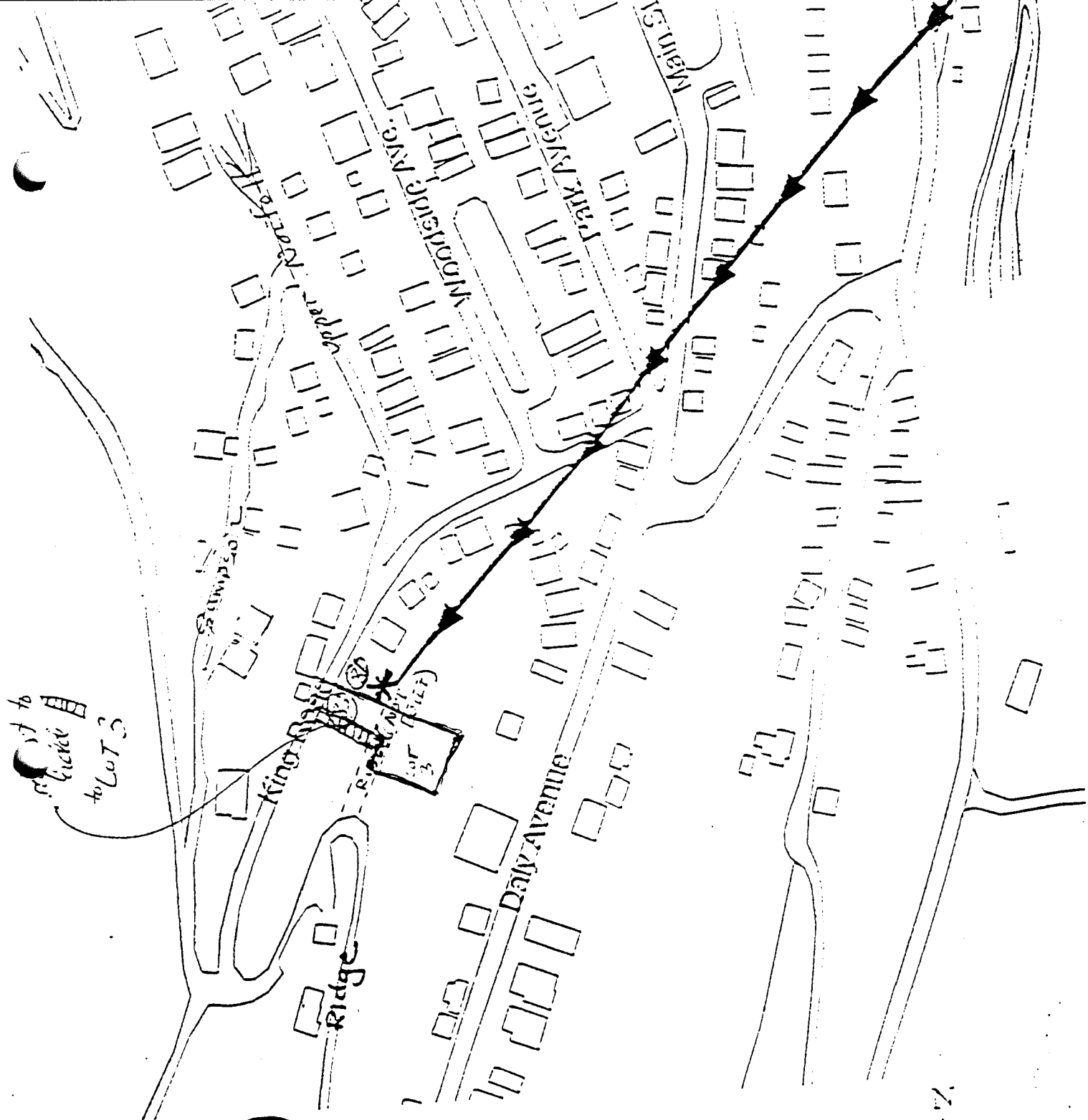


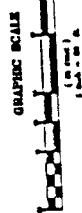
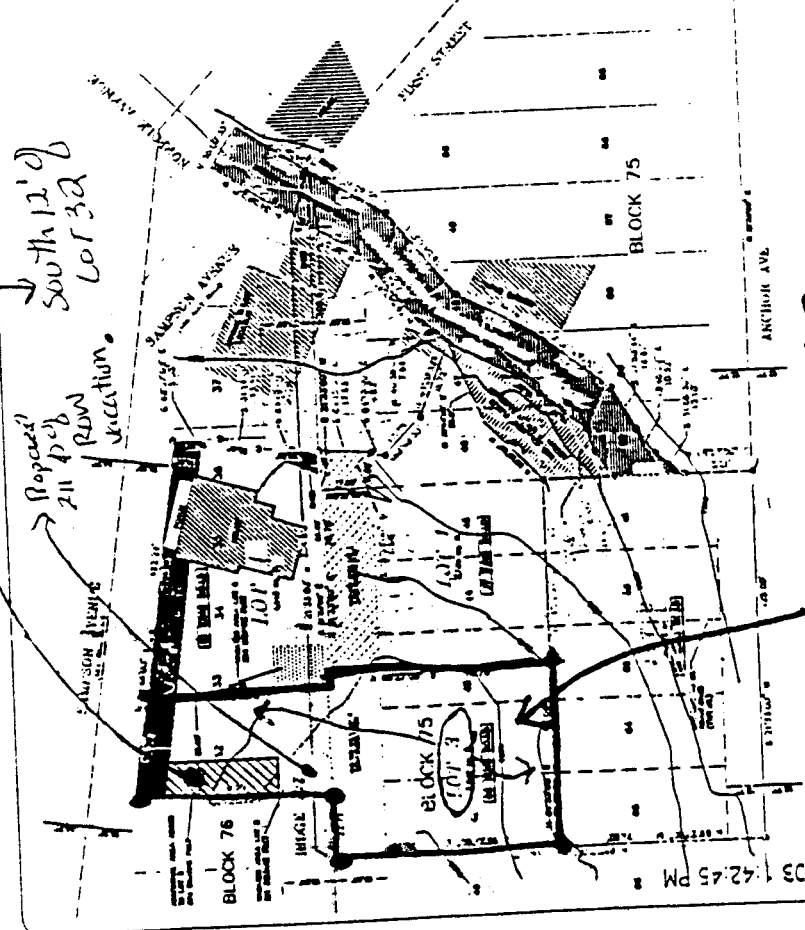
Exhibit A
Location Map

83 King Road



ANCHOR DEVELOPMENT THIRD AMENDED PLAT
 WESTERN RESERVATION SUBDIVISION NO. 1
 LOTS 34 THROUGH 41 THROUGH 47 & LOTS 60 THROUGH 66, BLOCK 76
 & LOTS 35 THROUGH 36, BLOCK 76
 LITING WITHIN THE MOUNTAIN VIEW QUARTER OF
 SECTION 34, TOWNSHIP 36 NORTH, RANGE 1 EAST
 SALT LAKE BASIN & BERRILL, SUMMIT COUNTY, UTAH

MAY 17 2003
 PARK CITY
 PLANNING DEPT.



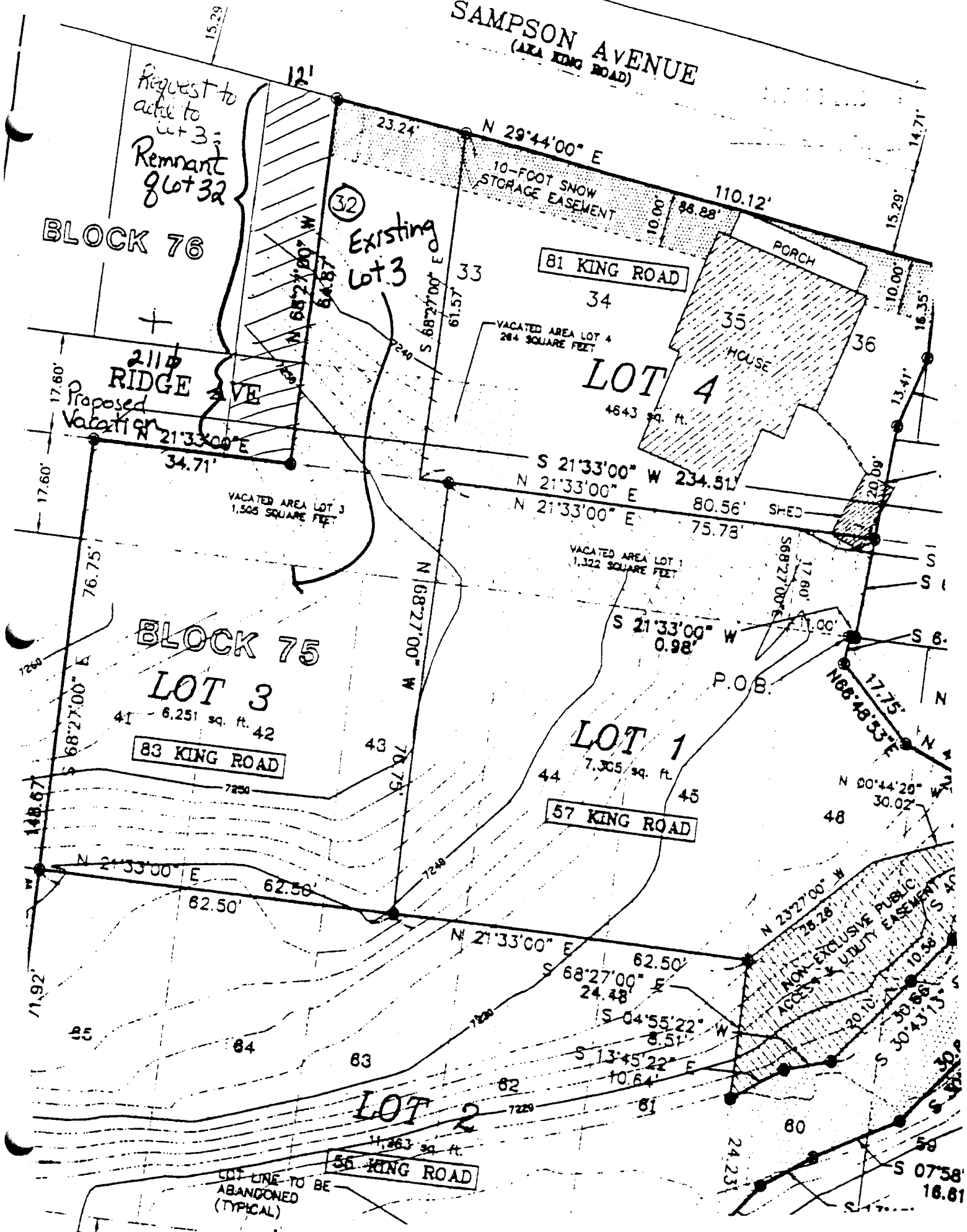
DATE	DESCRIPTION	BY	CHECKED

DATE	DESCRIPTION	BY	CHECKED

EXHIBIT B

JNCL APPROVAL TO BE MAILED TO PARK CITY AT 12:00 PM ON THE DAY OF THE MEETING.	CITY ENGINEER APPROVED AND ACCEPTED BY THE CITY ENGINEER ON THIS _____ DAY OF _____ A.D. _____	CITY PLANNING COMMISSION APPROVED AND ACCEPTED BY THE CITY PLANNING COMMISSION ON THIS _____ DAY OF _____ A.D. _____	SEWER DISTRICT APPROVAL WE HEREBY CONSENT TO THE SEWER DISTRICT ON THIS _____ DAY OF _____ A.D. _____	APPROVAL AS TO FORM APPROVED AS TO FORM ON THIS _____ DAY OF _____ A.D. _____	RECORDED BY _____ COUNTY OF _____ FILED AND RECORDED AT THE REQUEST OF _____ COUNTY RECORDS
PARK CITY SURVEYING P.O. Box 1000 Park City, UT 84302 (407) 400-1000	PARK CITY SURVEYING P.O. Box 1000 Park City, UT 84302 (407) 400-1000				

SAMPSON AVENUE
(AKA KING ROAD)



04/14/03

To: Park City Planning Dept.
Park City, Utah, 84060

From: Michael B Watts
3100 Crestline Dr.
Park City, Utah 84060

Re: Vacation of 12' X 17.60' section of Ridge Ave.
83 King Road
Park City, Utah 84060

I propose to amend the Anchor Development Second Amended Plat (specifically lot 3). By adding the Southerly 12 ft. of lot 32, Block 76 Millsite to Lot 3, Anchor Development Second Amended Plat. I would also request that a 12' X 17.60' section of Ridge Ave be vacated and included into Lot 3. All original requirements placed on Lot 3 shall remain the same. By increasing the frontage of Lot 3, on King Road; It would allow for a two car garage, instead of a single car garage. This will add a additional parking space for this lot. I am not asking for any increase in density in the previously approved home. The 200 Sq. Ft. of property that I am asking to be vacated (part of Ridge Ave.) will not change the density either.

Good Cause:

No Increase in density:

The addition of 200 sq. ft. of vacated Ridge Ave would not be used in any calculations to determine density. There will only be one single family home placed on this lot, as previously approved. I am looking for approval to put a two car garage with this structure instead of a one car garage. By increasing the land area on King Road (by 600 sq. ft. approx.), would allow for enough room for the two car garage.

Neighborhood Compatibility:

This will increase off street parking by, one inside space and one outside space. In Old town that is helping the neighborhood. The height and the setback of the structure is already restricted in the previous approvals.

Consideration:

Other sections of Ridge Ave have previously been vacated. This should establish a reasonable compensation for this land. (\$ per sq. ft. pricing).

Utilities of existing Right-of-ways:

Other sections of Ridge Ave have already been Vacated; establishing precedence that Ridge Ave is not necessary to the master plan for utilities, for Park City.

Thanks

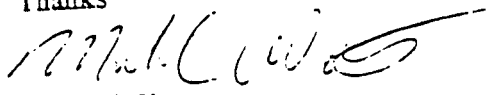

Michael Watts

EXHIBIT C.

EXHIBIT C



Resolution No. 8-98

**RESOLUTION ADOPTING A POLICY STATEMENT REGARDING
THE VACATION OF PUBLIC RIGHT-OF-WAYS WITHIN PARK CITY, UTAH**

WHEREAS, the Municipal Land Use Development and Management Act of the Utah Code ("Act") provides that the City Council may vacate public right-of-ways upon findings of: (1) good cause for the proposed vacation; and (2) that neither the public nor any person will be materially injured by the proposed vacation; and

WHEREAS, the Act and relevant common law fail to further define "good cause" and allow the local jurisdiction discretion in disposing of public right-of-ways; and

WHEREAS, to help assure the consistent and reasonable application of the Act, the Planning Commission and City Council wish to provide their constituents with some general guidance as to the circumstances in which the City may favorably consider vacating public right-of-ways; and

WHEREAS, this policy statement is not an evaluation of any particular request for vacation, but a general position regarding the terms and conditions in which the City may typically grant a citizen's request to vacate a public right-of-way within the City; and

WHEREAS, nothing herein shall be construed as an abandonment of public right-of-way within Park City; and

WHEREAS, this policy shall not be construed as creating a vested right nor entitlement of any nature with regard to vacation of right-of-way, but shall only be advisory for the Planning Commission and City Council to utilize when exercising their legislative discretion in evaluating the merits of a vacation petition; and

WHEREAS, the Planning Commission and City Council shall continue to evaluate vacation petitions on a case-by-case basis; and

WHEREAS, although the City Council will give significant weight to the Planning Commission recommendation the ultimate decision to vacate or not rests squarely with the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of Park City, Utah hereby adopt the following guidelines:

54

SECTION 1. GOOD CAUSE. The City may generally find "good cause" when a proposal evaluated as a whole demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against the following criteria to determine whether a "net tangible benefit" has been demonstrated by the petitioner:

- (a) **No Increase in Density.** Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street rights-of-way will generally not be vacated to facilitate greater density, floor area or area of disturbance. New applications which proposed the subdivision of rights-of-way shall be reviewed under Land Management Code ("LMC") Chapter 15, Subdivisions, and must result in a lower density than that permitted by the underlying zoning (Chapter 7), without the vacated right-of-way.
- (b) **Neighborhood Compatibility.** The proposed shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall review each of the following items when considering compatibility: (1) size and location of the site; (2) traffic impacts including capacity of the existing streets in the area; (3) utility capacity; (4) emergency vehicle access; (5) location and amount of off-street parking; (6) internal circulation; (7) fencing, screening, and landscaping to separate the use from adjoining uses; (8) building mass, bulk, and site plan; (9) usable open space; (10) signs and lighting; (11) physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing; (12) provision of snow storage, and mitigation of noise, vibration, odors, steam, or other mechanical factors that might affect people and property off site; (13) control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up areas; (14) expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies; (15) proposed uses in an historic district must comply with the Historic District Architectural Guidelines provided in a supplement to the LMC; (16) all proposed uses in the zones outside an historic district must comply with the General Architectural Guidelines in LMC Chapter 9; and (17) the Sensitive Area Overlay Zone Regulations (which normally apply only to property within the Sensitive Area Overlay Zone) shall apply to all development proposals including a petition to vacate right-of-way, regardless of the underlying zoning/platting of the development.
- (c) **Consideration.** Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon

square footage); open space dedication above and beyond normal subdivision or development approval requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of right-of-way dedication; and/or any other public amenity deemed in the best interests of Park City's citizens.

- (d) **Utility of existing Right-of-Way.** The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan. The recommendation to the City Engineer, existing improvements and utilities within the right-of-way, and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Street Master Plan, unless otherwise reduced by the City Engineer.

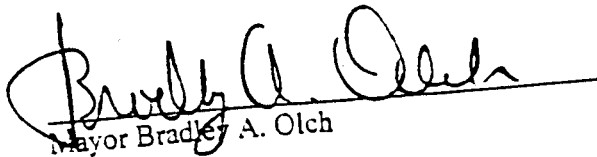
SECTION 2. MATERIAL INJURY. The City must find that no person nor the public is "materially injured" by the proposal. "Materially injured" generally means direct or indirect injury to property or a property right as a result of the proposal. The injury must be significant enough to raise to the level of interfering with the injured party's use of his/her property or property right. The injury must be demonstrated by evidence on the record, or the City's reasonable inference therefrom, and shall not merely be conjecture nor public clamor.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council, and Historic District Commission as necessary, are encouraged early in the process for large (greater than five lot) projects and master planned developments, which propose vacation and reconfiguration of public rights-of-way.

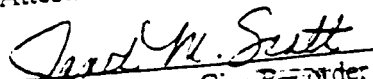
SECTION 4. EFFECTIVE DATE. This Resolution shall take effect upon adoption.

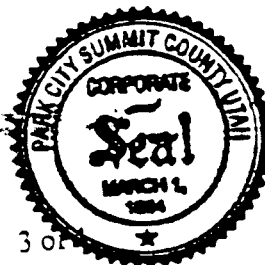
PASSED AND ADOPTED this 9th day of July, 1998.

PARK CITY MUNICIPAL CORPORATION


Mayor Bradley A. Olch

Attest:


Janet M. Scott, City Recorder





Property Management
1407 West North Temple, Suite #320
Salt Lake City, Utah 84116
801-220-4029
(Fax) 801-220-4373

June 19, 2003

Kirsten Whetstone
Park City Municipal Corporation
PO Box 1480
Park City, Utah 84060

Re: Ridge Avenue Street Vacation Petition

Dear Kirsten:

Utah Power has reviewed the Ridge Avenue street vacation information. Currently power service to this area runs along King Road. As long as all future power service to this property is obtained from King Road, Utah Power does not object to the applicant's vacation petition.

If you have any questions, I can be reached at the above referenced telephone number.

Sincerely,

Kevin H. Deis, AICP
Contract Property Agent

EXHIBIT E



Snyderville Basin Water Reclamation District

2800 Homestead Road • Park City, Utah 84098 • Phone 435-649-7993 • Fax 435-649-8040

June 6, 2003

Ms. Kirsten Whetstone
Department of Community Development
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480

Subject: Anchor Development Third Amended Plat
Plat Review

Dear Ms. Whetstone,

The Snyderville Basin Water Reclamation District (SBWRD) has reviewed the referenced plat. We offer the following comments:

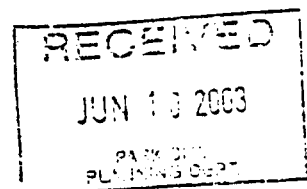
1. The SBWRD has no objection to abandonment of the 210 sq. ft. section of the Ridge Ave. right-of-way as indicated on the plat.
2. References to Sewer District and Sewer Improvement District in the SBWRD signature block should be changed to Water Reclamation District.

If you have any questions, please feel free to contact me at ext. 245.

Sincerely,

Bryan D. Arwood, P.E.
District Engineer

cc: Project File



WARRANTY DEED

KEVIN D. KLEIN

of County, of ALBANY, State of NEW YORK
hereby CONVEY and WARRANT to
MICHAEL B. WATTS

of grantees
for the sum of
Ten and no/100 (and other good and valuable consideration)-----DOLLARS.

the following described tract of land in SUMMIT

State of Utah:

ALL OF THE SOUTH 12 FEET OF LOT 32, BLOCK 76, MILLSITE RESERVATION TO
THE PARK CITY SURVEY ON FILE AND OF RECORD IN THE SUMMIT COUNTY
RECORDERS OFFICE.

(PART OF TAX SERIAL NO. PC-701)

00660256 8401539 8600242-00142

ALAN SPRIGGS, SUMMIT CO RECORDER
2003 JUN 02 15:42 PM FEE \$10.00 BY DM
REQUEST: COALITION TITLE

Subject to easements, restrictions and rights of way currently of record and general property taxes for the year 2003
and thereafter.

WITNESS, the hand(s) of said grantor(s), this
May, 2003

21st

day of

A.D.

Kevin D. Klein
KEVIN D. KLEIN

STATE OF ~~UTAH~~, New York)
County of ~~Schenectady~~) ss.

On the 21 day of May 2003
personally appeared before me KEVIN D. KLEIN

A.D.

the signer(s) of the within instrument, who duly acknowledged to me that (he/she/they) executed
the same.

LAUREN M. BARTON
Notary Public, State of New York
Qualified in Schenectady County
Reg. No. 01BA6075724
Commission Expires July 1, 2006

Residing in Schenectady County

Notary Public.

My commission expires

EXHIBIT F

Land Management Code
Setbacks 7/2/03
set b

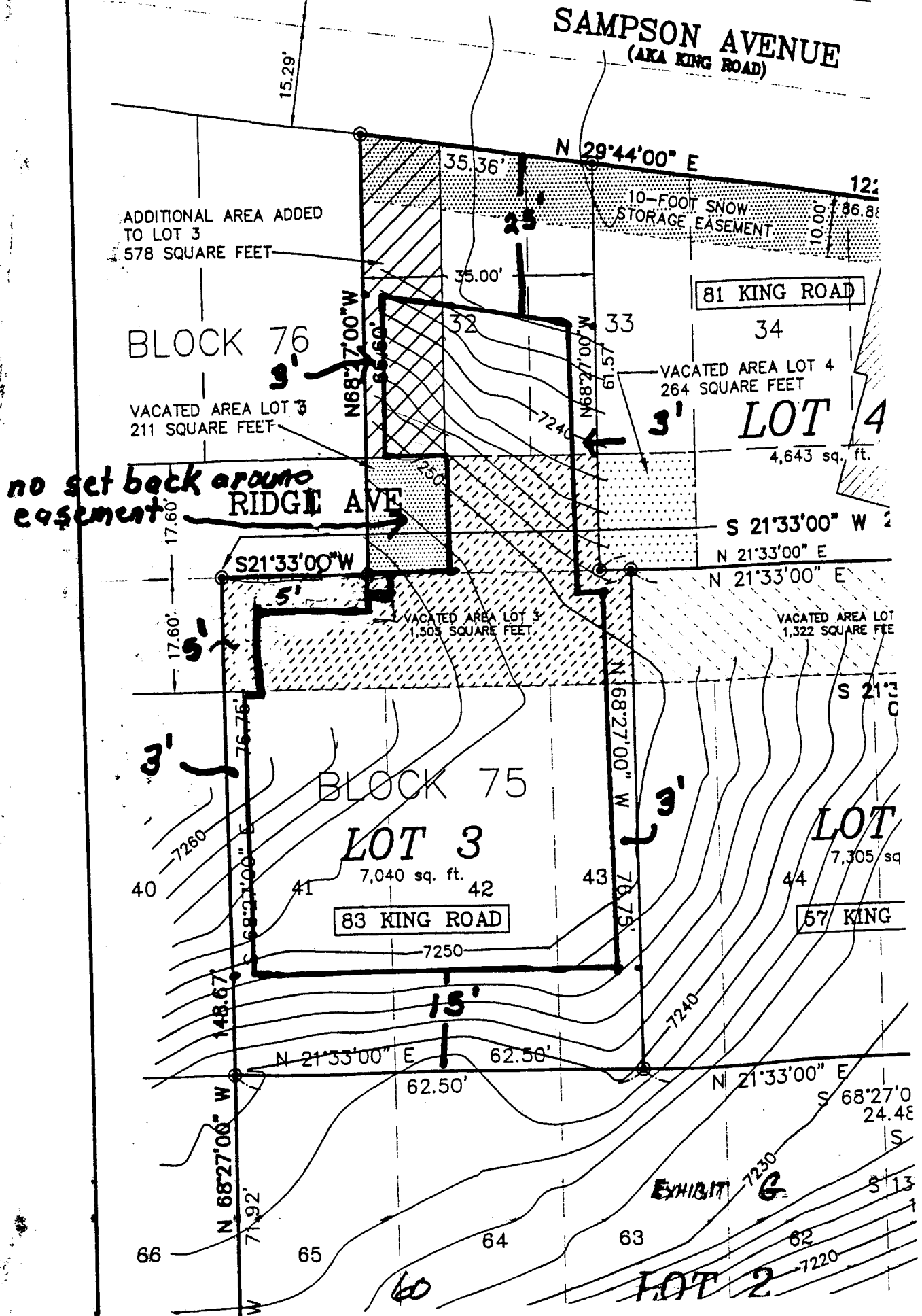


Exhibit H

Compensation Analysis for portions of Ridge Avenue right-of-way

Approved for 81 King Road

At the August 13, 1998 City Council meeting Staff presented the council with a price range for the Ridge Avenue right-of-way. The price range was as follows.

	Average Listing Price \$40.61	Average Sale Price \$29.13
Lot 1 R.O.W. area = 1,322 @ 13%	\$6,980 (\$5.28/s.f.)	\$5006 (\$3.79/s.f.)
Lot 3 R.O.W. area = 1,505 @ 16%	\$9,782 (\$6.50/s.f.)	\$7,015 (\$4.66/s.f.)
Lot 4 R.O.W. area = 264 @ 10%	\$1,072 (\$4.06/s.f.)	\$769 (\$2.91/s.f.)
Total	\$17,834	\$12,790

The approval was made with the price range of \$15,000 for the portions of the right-of-way. \$900 of the \$15,000 was allocated to be paid by the owner of Lot 4. The final distribution follows below.

Lot 1 \$5872 (\$4.44/square foot)	11% of listing price and 15% of sale price per square foot for vacant lots in Old Town
Lot 3 \$8228 (\$5.47/square foot)	13% of listing price and 19% of sale price per square foot for vacant lots in Old Town
Lot 4 \$900 (\$3.41/square foot)	8% of listing price and 12% of sale price per square foot for vacant lots in Old Town

Recommendation for 83 King Road

The current request is for vacation of 211 square feet of Ridge Avenue, with the City retaining an access and utility easement over the entirety of the parcel. The following table is based on the August 1998 figures used to determine compensation for 81 King Road, using a range of 5% to 10% of the average sales/list price. Staff will provide additional information at the meeting on July 17 to compare today's sale and list prices.

	Average Listing Price \$40.61	Average Sale Price \$29.13
Lot 3 R.O.W. area = 211 @ 5%	\$428 (\$2.03/s.f.)	\$308 (\$1.46/s.f.)
Lot 3 R.O.W. area = 211 @ 10%	\$857 (\$4.06/s.f.)	\$614 (\$2.91/s.f.)
Ave of low and high = \$582.50	Ave. of list price= \$642.50	Ave. of sale price= \$461

CITY COUNCIL STAFF REPORT

DATE: July 31, 2003
DEPARTMENT: Planning
AUTHOR: Brooks T. Robinson
TITLE: 445 King Road - Treasure Hill Subdivision, Phase IV and Request for Zone Change from MPD-ROS to MPD-Estate

SUMMARY RECOMMENDATION: Open the public hearing, take public input, and consider staff's recommendation to approve both the subdivision and the zone change (two separate actions).

DESCRIPTION

Applicant	Sweeney Land Company
Location	445 King Road at upper switchback
Zoning	Recreation Open Space (ROS) as part of the Sweeney Master Planned Development (MPD)
Adjacent Land Uses	Park City Mountain Resort, 555 King Road, Open Space
Type of Application(s)	One lot Subdivision and Zone Change

A. Background

On October 16, 1986 the Sweeney Master Planned Development was approved by the City. The Treasure Hill Phase I subdivision consisting of four building lots (two off of Upper Norfolk and two off of King Road) and one open space lot was recorded in April of 1996.

The Sweeney Master Plan Approval document of 1986 identifies Miscellaneous Properties including, "...a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet." (Exhibit D)

Two applications have been received for this 11.9 acre metes and bounds parcel. One application is for a subdivision to create one lot of record for the entire 11.9 acre site. The second application is to change the zoning from Master Planned Development-Recreational Open Space (MPD-ROS) to MPD-Estate for the entire lot.

On January 22, 2003, the Planning Commission discussed these two applications at the work session and took initial public input during the regular hearing (Minutes attached, Exhibit B). On July 23, 2003 the Planning Commission forwarded positive recommendations on both the Subdivision and the Zone Change.

B. Analysis for the Subdivision

The entire 11.9 acre parcel is proposed as one lot of record. The applicant, Pat Sweeney, explained during the January 22, 2003 work session that the intent of this lot was similar to Phase I in which the Building Pads were approximately one-half acre in size with open space easements granted for the balance of the properties. The City was and is concerned that separate Open Space lots might go into default for non-payment of taxes and there would be an expectation of development. A larger lot will command a higher selling price and tax assessment. With a restrictive Building Pad and an easement over the rest of the lot to preserve the natural open space, the City can be satisfied that the open space will remain. A Building Site of 29,084 square feet is proposed with the rest of the property being left in a natural state. Staff recommends that an Open Space Easement, or other instrument of record, be granted to the City to ensure the continued open space properties of the balance of the lot.

The property is accessed by a private driveway from King Road. A Condition of Approval for the adjacent 555 King Road Conditional Use Permit required an easement to be granted to Sweeney for access from the upper (third) switchback. That easement was recorded with the Summit County Records Office on May 14, 2003.

Existing public trails are located on the lot. A minor relocation of John's Trail will be necessary. All trails on the lot will be dedicated to the public as part of this subdivision plat.

The proposed plat has 12 Notes (Exhibit C) that address Building Footprint, Height, Limits of Disturbance, Visibility, and Massing among others. These Notes are substantially the same as were approved on Treasure Hill Phase II (the four lots on Upper Norfolk and King Road).

The Building Footprint for the Main House is proposed at 3,500 square feet with a caretakers or guest house an additional 1,500 square feet. The guest house is not to be sold or leased separately from the Main House. Final house designs will be reviewed as Conditional Use Permits in accordance with the Sweeney Properties Master Plan.

The Height restrictions for the Main House are 25 feet for ridges parallel to the existing contours and 30 feet for ridges perpendicular to the existing contours. These perpendicular ridges cannot comprise more than 20% of the total roof plan. The Guest House is limited to 20 feet in height from existing grade.

A Fire Protection plan has been submitted. The Chief Fire Marshall has reviewed the plan and has conceptually approved it. Final details of the Fire Protection plan are required to be approved prior to plat recordation.

C. Analysis for the Zone Change

At the time of the original MPD approval the Sweeney properties had several zoning designations: HRC, HR-1 and Estate. The Hillside Properties, of which the subject property is one, were zoned Estate. The MPD kept the current underlying zoning except

that over 110 acres of the hillside were rezoned to Recreation Open Space (ROS) and the hillside properties were designated as subject to Master Planned Development approval as E (or HR-1)- MPD (See Exhibit E).

This application is to create the designation of E-MPD for this hillside parcel. The designation is in accordance with the Sweeney Master Plan Development.

D. Department Review

This project has gone through an interdepartmental review. At such time as a final plat is required, the City Engineer and City Attorney will review the plat as to form and compliance with the Land Management Code prior to recordation.

E. Notice

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

RECOMMENDATION ON SUBDIVISION

Staff recommends holding a public hearing, take any public comment, and approval of the Treasure Hill Subdivision Phase 4 Plat based on the following findings of fact, conclusions of law and conditions of approval:

Findings of Fact:

1. The property is located at 445 King Road and is known as lot 12 of the Treasure Hill Subdivision Phase 4, part of the Sweeney Properties Master Plan. The property is currently zoned Recreation Open Space - RD-MPD with a request for zone change pending. The property is vacant.
2. The Sweeney Properties Master Plan (SPMP) was approved by the City Council on October 16, 1986 and amended on October 14, 1987, December 30, 1992, and November 7, 1996.
3. One lot of record will be created with the subdivision.
4. The Treasure Hill Subdivision Phase 4 plat includes plat notes regarding building footprint, heights, setbacks, massing, building pad footprints, limits of disturbance, access, re-vegetation, utilities, and fire protection.
5. Utilities are available to sustain the anticipated property uses. Utilities will generally tie into Woodside Avenue, follow the Quittin' Time ski run in its lower extent and connect to the Building Pad along a future ski run to the Payday area.
6. The Chief Fire Marshall has reviewed the Fire Protection Plan and has conceptually approved it.
7. A financial guarantee for all public improvements is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.
8. The Planning Commission held a public hearing on July 23, 2003 and forwarded a positive recommendation to the City Council.

Conclusions of Law:

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code, the General Plan and applicable State law regarding subdivision plats.
3. Neither the public nor any person will be materially injured by the proposed subdivision plat.
4. Approval of the subdivision plat, 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 Conditions of Approval for the Sweeney Properties Master Planned Development remain in full force and effect.
2. The design of the Main House and any Guest House will follow the Conditional Use Permit process in accordance with the Sweeney Properties Master Plan (SPMP).
3. All standard project conditions shall apply.
4. The Building Pad is 29,084 square feet in which all construction activity must take place, excepting the driveway and utility construction.
5. The Main House footprint is limited to 3500 square feet. A single caretaker's or guest house may have a footprint up to 1500 square feet.
6. The Height of the Main House is 25 feet measured from natural grade for ridges that run parallel to the natural contours and 30 feet from natural grade for ridges perpendicular to the existing contours. Such perpendicular ridges may not comprise more than 20 percent of the roof plan. The Guest House may not exceed 20 feet from natural grade in height.
7. All trails, as indicated on the Treasure Hill subdivision plat, which have not yet been constructed and approved, shall be completed prior to issuance of a certificate of occupancy for the residences. Relocation of said trails shall be reviewed and approved by City Staff.
8. The applicant must record an Open Space Easement, or other instrument of record, for that area outside of the Building Pad to forever preserve the natural state. Ski runs and those public trails dedicated on this plat may be allowed in this open space.
9. The City Engineer shall review and approve appropriate grading, utility, public improvements and drainage plans for compliance with City standards as a condition precedent to permit issuance.
10. Final details of the Fire Protection plan are required to be approved prior to plat recordation.
11. The Snyderville Basin Water Reclamation District shall review and approve the sewer plans.
12. A financial guarantee, for the value of all public improvements, landscaping, re-vegetation, and trails to be completed, shall be provided to the City prior to building permit issuance. All public improvements shall be completed according to City standards and accepted by the City Engineer prior to release of this guarantee.
13. Re-vegetation of the disturbed areas, including utility installation areas, shall be done with native species acceptable to the Planning Department Landscape

Architect.

14. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

RECOMMENDATION ON ZONE CHANGE

Staff recommends holding a public hearing, take any public comment, and consider approval of the Treasure Hill Subdivision Phase 4 lot 12 zone change from Recreation Open Space (ROS) to Estate (E-MPD) based on the following findings of fact, conclusions of law and conditions of approval:

Findings of Fact:

1. The property is located at 445 King Road and is known as lot 12 of the Treasure Hill Subdivision Phase 4, part of the Sweeney Properties Master Plan.
2. The property is currently zoned Recreation Open Space - ROS-MPD. The 11.9 acre property is unimproved.
3. The Sweeney Properties Master Plan (SPMP) was approved by the City Council on October 16, 1986 and amended on October 14, 1987, December 30, 1992, and November 7, 1996.
4. The underlying zoning of the Hillside Parcels, including this one, at the time of MPD approval was Estate.
5. The SPMP approval designated this development parcel as being subject to Estate-MPD approval.
6. The purpose of the Estate zone is to allow very low density, environmentally sensitive residential development which preserves ridge tops, meadows, and visible hillsides, preserves large, cohesive, unbroken Areas of Open Space and undeveloped land, preserves and incorporates wetlands, drainage ways, and intermittent streams as amenities of Development, mitigates geologic and flood hazards, protects views along the City's entry corridors, and decreases fire risk by keeping Development out of sensitive wild land interface Areas, incorporates pedestrian trail linkages between and through neighborhoods; and encourages comprehensive, efficient, Compatible Development which results in distinct and cohesive neighborhoods through application of the Sensitive Lands Ordinance.
7. The entire lot will be zoned Estate. The area outside of the Building Pad will be subject to a Conservation or Open Space Easement.
8. The Planning Commission held a public hearing on July 23, 2003 and forwarded a positive recommendation to the City Council.

Conclusions of Law:

1. The development of this lot is consistent with the E District purpose statements.
2. The change from ROS to E-MPD Zoning is consistent with the Park City General Plan and the Sweeney Properties Master Plan.
3. The rezone from ROS to E is in the best interest of the community.

Conditions of Approval:

1. This zone change is contingent upon the recordation of the plat approved concurrently herein.

EXHIBITS

Exhibit A - Development Plans

Exhibit B - Minutes from Planning Commission Work Session and Public Hearing of
January 22, 2003

Exhibit C - Plat Notes

Exhibit D - Sweeney MPD "Miscellaneous Properties"

Exhibit E - Sweeney MPD "Zoning"

M:\Brooks\COUNCIL\Council 03\Sweeney Plateau (ph).wpd

CHECKED
6-3-03

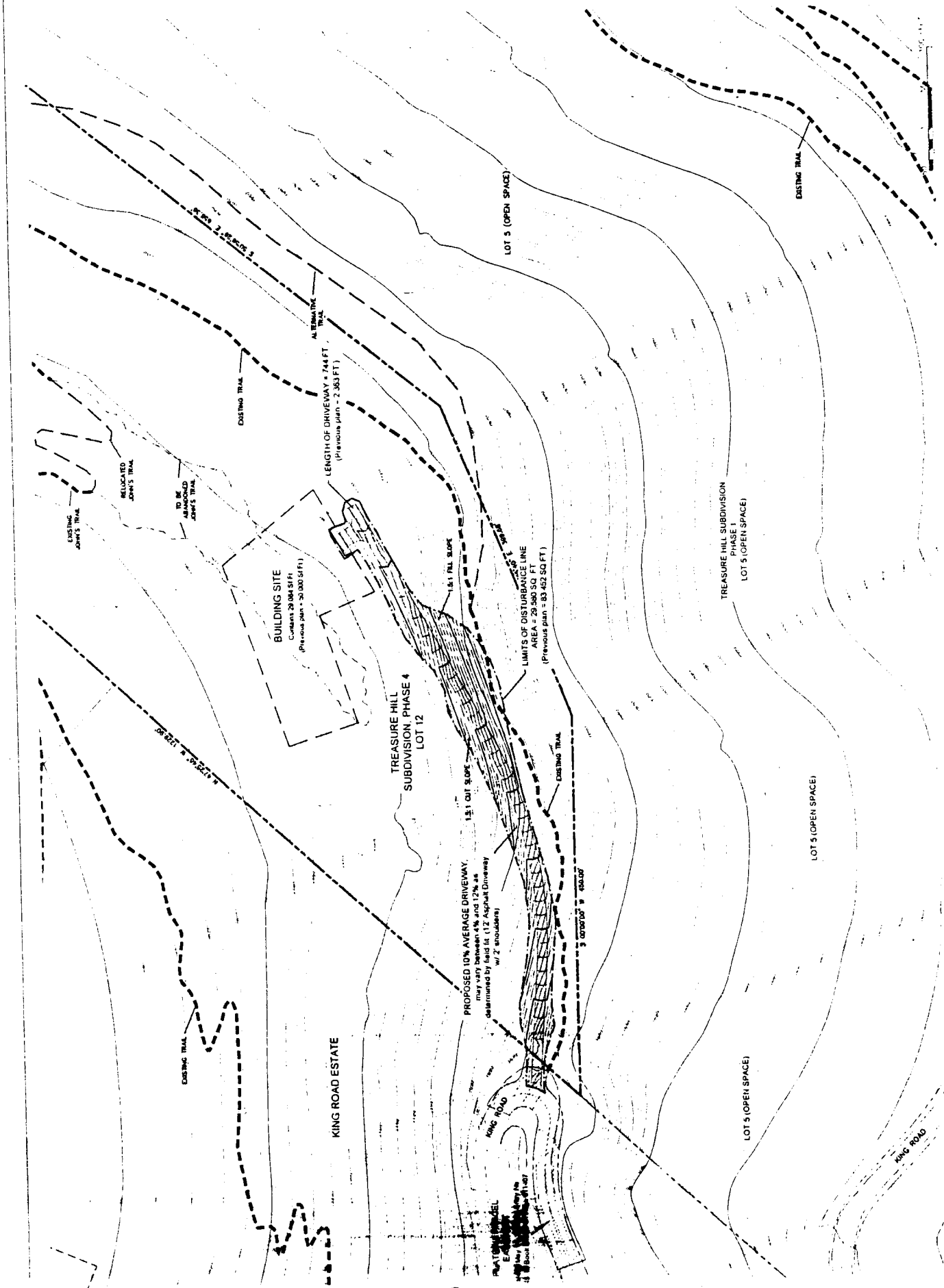
DRIVEWAY GRADING PLAN
TREASURE HILL PHASE 4
Proposed By SWEENEY LAND COMPANY
(435) 649-4499
P.O. Box 2429
Park City, UT 84060

REVISED
JUNE, 2003

SDI
614 Main Street, Suite 404
Park City, Utah 84060
435-649-4499

NORTH
SCALE
1" = 50'

SHEET NO



**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
JANUARY 22, 2003**

Present: Chair Chris Larson, Jim Barth, Bruce Erickson, Michael O'Hara, Bob Powers, Andrew Volkman, Rick Lewis, Patrick Putt, Kevin LoPiccolo, Ray Milliner, Brooks Robinson, Eric DeHaan

WORK SESSION ITEMS

- 445 King Road - Application to rezone an MPD-ROS parcel to MPD-Estate**
- 445 King Road - Application for Treasure Hill Subdivision, Phase IV**

Planner Brooks Robinson explained that these two applications are part of the Sweeney Master Plan Phase IV. The MPD restricted the lot to a single-family home no greater than 3,500 square feet with a maximum building height of 25 feet and a maximum lot size of .5 acre. The properties were rezoned to ROS at the time of the MPD with the understanding that each development parcel would receive an appropriate zoning designation when it was developed. The applicant is requesting a single lot of record with one building pad and is trying to obtain access off the upper switchback of King Road. Based on previous discussions with other properties in the area regarding dedication of open space, the Staff believed the remaining 11.4 acres of the parcel should remain as an open space parcel.

At Sweeney, the applicant, stated that the intent was to create a lot that would accommodate a house similar to the one across from this parcel in a location that would not be easily seen from the Historic District. He recalled that Treasure Hill Phase I was platted in .5-acre lots with metes and bounds open space easements granted to the City for the balance of each property. That would be the intent for Phase IV, with a similar easement being reserved for Sweeney Land Company to prevent any change in the master plan, and the properties also being under easement to Park City Mountain Resort for skiing. He stated that discussions regarding an easement off of the upper switchback seemed to be progressing well.

Chair Larson stated that he believed the access from King Road through Mr. Luber's parcel would be key to the success of this project. He also believed the visual analysis from McHenry Avenue would be important and recalled that the MPD indicates that the structure will not be visible from anywhere in the Historic District. He stated that he would not have a problem with the 25-foot height as long as it is not visually intrusive. He asked if utilities would come through 555 King Road. Planner Robinson replied that the utilities would go up the ski run, and he did not believe the other parties involved were interested in bringing the utilities off of King Road. Chair Larson stated that he would want to see any modification to the trails system that might occur as part of this project. Planner Robinson explained that part of John's Trail would have to be re-routed, and the Mining Company has already platted that re-routing. Chair Larson verified with the Staff that there would be no impact on the historic towers in the area.

Commissioner Erickson stated that, with the open space easement to the City, he would be comfortable with the proposal. He believed either the 20-foot or 25-foot height would be acceptable so long as the structure is not visually intrusive. He stated that he had no problem with the upper switchback access.

Commissioner Volkman asked why it would not be preferable to have two separate parcels, with one parcel being deeded open space. City Engineer Eric DeHaan explained that when parcels are platted separately, they are recorded as separate lots in Summit County. After five years of non-payment of property taxes, the lot can be sold at tax sale, which causes a large number of Realtors to come to the Staff to ask why nothing can be done on the vacant lot. He explained that there is an advantage to platting a larger parcel with the house on the parcel to provide enough tax value to avoid a Sheriff's sale.

Request to amend the Deer Valley Master Plan to create an additional single family lot in the North Silver Lake area

Planner Kevin LoPiccolo explained that the City has not received an application for this request. Harrison Horn, who developed the North Silver Lake Lodge, is requesting that the Planning Commission consider subdivision of a vacant parcel across the street from the triplexes in Belle Arbor. The parcel is zoned RD with no assigned density.

Bob Wells, representing Deer Valley, explained that Mr. Horn wants to place the 54th unit of the North Silver Lake Lodge project on this parcel across the street from the development, and Deer Valley has agreed to work with the applicant. He recalled that North Silver Lake Lodge was approved by the Planning Commission for 53 units. He noted that the drawing submitted to the Planning Commission is a concept drawing only and does not include specifics. In the original Deer Valley MPD, North Silver Lake was designated as a single-family area and was zoned RD-MPD. In 1982 and 1986, the overall master plan for the Silver Lake area was modified, and no development has been shown on the east side of Silver Lake Drive since 1982. The zoning remains RD-MPD. Mr. Wells noted that the zoning would accommodate the additional unit. He believed it would make sense to clean up the zoning if this proposal moves forward to conform with the reality of the master plan.

Chair Larson commented that, in general, when density is allocated in the Deer Valley MPD, it is a use it or lose it situation. He verified with Mr. Wells that North Silver Lake Lodge was approved for 53 units with an option for 54 and that the 53 units could not be transferred without modifying the MPD.

Planner LoPiccolo recalled that when the Planning Commission approved North Silver Lake Lodge, it was approved for 53 units with the allowance of a 54th unit on site, and that unit was not intended to be transferrable. Jeff Graham, representing the applicant, stated

9. The CUP shall expire one year from the date of Planning Commission approval unless the conditional use has commenced on the property or been extended in accordance with the Land Management Code.
10. CC&R's relating to the affordable housing unit shall be reviewed by the Park City Legal Department.
3. 445 King Road - Application to rezone an MPD-ROS parcel to MPD-Estate
4. 445 King Road - Application for Treasure Hill Subdivision, Phase IV

The Planning Commission discussed this item during work session.

Planner Robinson presented the staff report for a subdivision for a single lot of record and a request for a zone change from MPD-ROS to MPD-Estate. He noted that, during the work session, the Planning Commission requested additional information from the applicant, including a visual analysis, particularly from McHenry Avenue. The applicant is working with the owner of 555 King Road to resolve access issues related to access from the upper switchback of King Road. He stated that the Planning Commission agreed with the zone height of 25 feet or 30 feet for a pitched roof.

Chair Larson recalled that the Planning Commissioners agreed to a 25-foot height and stated that he believed 25 feet should be the absolute height limit.

Planner Robinson reported that the Commissioners were interested in clarification of trails that might be affected. A discussion of open space was held with the City Engineer, and it was suggested that creating one lot of record with easements to the City would be acceptable. Planner Robinson suggested further defining the building pad. Staff recommended continuing the public hearing until February 12, at which time Staff would preparing findings for action.

Chair Larson opened the public hearing.

There was no comment.

Chair Larson closed the public hearing.

MOTION: Commissioner Powers moved to CONTINUE the 445 King Road rezone and subdivision to February 12, 2003. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

Notary Public

My commission expires: _____

NOTES TO PURCHASER

1. **FOOTPRINT** The residential footprint of the dwelling "Main House" to be located on Lot 12, Phase IV Treasure Hill Subdivision (the "Lot"), shall be calculated from the outside face of walls, subject to the massing requirements of Note 6, and a maximum of three thousand five hundred (3,500) square feet including garages, unless otherwise excluded as provided below. The following shall not count toward the foot print calculations:
 - (a) Deck which is open on at least two sides, but which may have railings as required, covered or uncovered, and which does not have above existing natural grade garage or living space located below or above it;
 - (b) Exterior walkways;
 - (c) Exterior stairs;
 - (d) Driveway; and
 - (e) That portion of any garage, mechanical space, or living space that is located below existing natural grade and which has landscaping or deck (as provided in 1(a)) located above it.
- (f) A footprint for up to fifteen hundred (1,500) square feet for an additional attached or detached residence, further provided such residential space is used only for a caretaker's house or guest house (not to be sold or leased separate from the Main House) and provided that the height of such additional structure from existing natural grade shall not exceed twenty (20) feet, measured from existing natural grade, including all elements other than chimneys, mechanical exhausts, and sanitary sewer vents.
2. **VISIBILITY** The residence shall be located and screened by existing vegetation and if necessary new vegetation, so as to be substantially invisible from the Historic District.
3. **BUILDING AREA LIMITS** Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on this Plat or as consistent with construction drawings approved by the city of Park City ("City") for the driveway, and utilities ("Drawings")) shall be limited to the Building Area Limits noted on this Plat.
4. **BUILDING AREA CONSTRUCTION DISTURBANCE** Temporary construction disturbance associated with construction of the residence, excluding the driveway, and utilities as shown on the Drawings, shall be limited to the Building Area Limits. Such disturbed area shall be revegetated with native landscaping, and a guarantee for the cost of revegetation shall be posted with the City at the time of building permit issuance. The adjacent ski trails may be used for construction staging subject to the Town Lift Easements referenced in Note 10 below.
5. **HEIGHT** The Main House height shall be measured from existing natural grade. The maximum height shall be twenty-five (25) feet for roofs and roof elements that generally are parallel to existing natural grade and thirty (30) feet for roof ridges that are generally oriented (in the horizontal plane) perpendicular to existing contour lines for example, dormers. Such perpendicularly oriented roof portions located above twenty five (25) feet height shall comprise less than 20 percent of the roof plan. The Planning Commission may during the Conditional Use approval process, grant height exceptions up to a maximum height of thirty-three (33) feet for pitched roofs for the expressed purpose of accommodating access, i.e. stairwells and/or elevators between floor levels.
6. **MASSING** Designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3,500 square foot footprint (referred to in Note 1) shall have a footprint that exceeds 2,000 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks. This requirement shall be interpreted to mean that there will be significant variation of roof heights and wall faces for the different building elements.
7. **ACCESS** The Lot shall be accessed by a minimum of a twelve foot (12) wide driveway as shown on the Drawings.
8. **UTILITIES** Utilities (water, sewer, phone, cable, and power) shall be extended from Woodside Avenue with the exception that power may come from the North Maintenance and replacement of the sewer lateral shall be the responsibility of the owner of the Lot and not that of the Snyderville Basin Water Reclamation District ("SBWRD") unless otherwise approved by SBWRD.
9. **FIRE PROTECTION PLAN** Residential fire sprinkling and/or other safety features shall be required at the determination of the Chief Building Official at the time of building permit issuance. Wood roofing materials shall be prohibited.
10. **EASEMENTS** This Lot is subject to the Town Lift Easements as recorded in Book 1228, Page 213, in the office of the Summit County Recorder, Summit County, Utah and the Sweeney Properties Master Plan ("SPMP"). These lots are subject to ski / pedestrian easements as shown on Sheets 1, 2, and 4 through 9 of the SPMP.
11. **ACCESS AND UTILITIES AGREEMENT** This Lot is subject to that certain agreement as recorded in Book _____, Page _____ in the office of the Summit County Recorder, Summit County, Utah.
12. **PRECEDENCE** The above special restrictions are covenants of and consistent with the SPMP approved by the Park City Council on October 16, 1986 and as subsequently amended on October 14, 1987; December 30, 1992; and November 7, 1996. Final house design shall be reviewed under the Conditional Use Process in accordance with the SPMP. This property shall not be further subdivided.

RECORD OF SURVEY MAP

TREASURE HILL SUBDIVISION PHASE 4

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

EXHIBIT C

unit envisioned. The average building height for the Town Lift site is less than 25' with over 85% of the building volume fitting within a 35' height envelope. Parking will be provided within enclosed structures, accessed via a private road originating from the Empire-Lowell switchback. The closest neighboring residence is currently located in excess of 200 feet away.

The Creole Gulch site is comprised of 7.75 acres and situated basically south of the Empire-Lowell switchback at approximately 8th Street. The majority of the property is currently zoned Estate (E). A total of 161.5 residential unit equivalents are proposed. In addition, 15.5 unit equivalents of support commercial space is included as part of the Master Plan. Average building heights are proposed to be less than 45' with a maximum of 95' for the highest point. As conceptually proposed, in excess of 80% of the building volume is within a 75' height envelope measured from existing grade. It is expected that the Creole Gulch site will be subdivided into specific development parcels at some future date. Parking is accessed directly from the Empire-Lowell switchback and will be provided within multi-level enclosed structures. Depending upon the character of development and unit configuration/mix proposed at conditional use approval, the actual numbers of parking spaces necessary could vary substantially. Buildings have been set back from the adjacent road approximately 100' and a comparable distance to the nearest adjoining residence.

Miscellaneous Properties

In addition to the development areas described above, the proposed Master Plan identifies three distinct single-family lots; one of which is located above Godside Avenue adjacent to and north of platted 5th Street, a second to be accessed from Upper Norfolk, and a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet.

VI. MAJOR ISSUES

Many concerns were raised and issues identified through the review process. A project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. Because this particular site is located both within and adjacent to the Historic District, many of the concerns expressed related to the more subjective kinds of considerations. The Master Planned Development procedure attempts to deal with the general concept of the proposed development and defer or relegate the very detailed project review elements to the conditional use stage of review. At conditional use review, the following issues will be examined in considerable detail with technical solutions sought.

Comprehensive Plan - The city's Comprehensive Master Plan identifies the Hillside property as a key scenic area and recommends that development be limited to the lower portions of the mountain. The existing HR-1 ground included in the Sweeney Master Plan is shown as being retained for residential use similar to the existing pattern of development. The Coalition West site is also recommended for Historic Residential use with the East parcels included within a Historic Commercial area. The proposed Sweeney

properties MPD is in conformance with the land use designations outlined in the Park City Comprehensive Master Plan.

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

Zoning - Currently, the land involved in the proposed MPD is comprised of three (actually four) distinct zoning designations. The Coalition East parcel is currently zoned Historic Recreation Commercial (HRC) although it was zoned (and is therefore, technically "grandfathered" or vested) Historic Commercial Business at the time the application was submitted. The West site is also now zoned HRC. The Hillside Properties (i.e: Town Lift Mid-Station and Creole Gulch sites) are zoned Historic Residential (HR-1) and Estate (E). The Carr-Sheen, MPE, and two of the three single-family lots are all zoned HR-1 as well. The single-family lot adjacent to property owned by United Park City Mines is zoned Estate.

The current zoning will basically remain unaltered as a result of the proposed Master Plan except that over 110 acres of the mountain will be rezoned to Recreation Open Space (ROS), and the hillside properties will be designated as being subject to a Master Planned Development document/approval (i.e: E/HR1-MPD).

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

Ordinance No.

**AN ORDINANCE APPROVING A SINGLE LOT SUBDIVISION AT 445 KING ROAD,
PARK CITY, UTAH.**

WHEREAS, the owners of the property located at 445 King Road have petitioned the City Council for approval of the Subdivision plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on July 23, 2003, to receive input on the subdivision;

WHEREAS, the Planning Commission, on July 23, 2003, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 31, 2003, the City Council held a public hearing and approved the subdivision; and

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

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

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

Findings of Fact:

1. The property is located at 445 King Road and is known as lot 12 of the Treasure Hill Subdivision Phase 4, part of the Sweeney Properties Master Plan. The property is currently zoned Recreation Open Space - RD-MPD with a request for zone change pending. The property is vacant.
2. The Sweeney Properties Master Plan (SPMP) was approved by the City Council on October 16, 1986 and amended on October 14, 1987, December 30, 1992, and November 7, 1996.
3. One lot of record will be created with the subdivision.
4. The Treasure Hill Subdivision Phase 4 plat includes plat notes regarding building footprint, heights, setbacks, massing, building pad footprints, limits of disturbance, access, re-vegetation, utilities, and fire protection.
5. Utilities are available to sustain the anticipated property uses. Utilities will generally tie into Woodside Avenue, follow the Quittin' Time ski run in its lower extent and connect to the Building Pad along a future ski run to the Payday area.

6. The Chief Fire Marshall has reviewed the Fire Protection Plan and has conceptually approved it.
7. A financial guarantee for all public improvements is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.
8. The Planning Commission held a public hearing on July 23, 2003 and forwarded a positive recommendation to the City Council.

Conclusions of Law:

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code, the General Plan and applicable State law regarding subdivision plats.
3. Neither the public nor any person will be materially injured by the proposed subdivision plat.
4. Approval of the subdivision plat, 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 Conditions of Approval for the Sweeney Properties Master Planned Development remain in full force and effect.
2. The design of the Main House and any Guest House will follow the Conditional Use Permit process in accordance with the Sweeney Properties Master Plan (SPMP).
3. All standard project conditions shall apply.
4. The Building Pad is 29,084 square feet in which all construction activity must take place, excepting the driveway and utility construction.
5. The Main House footprint is limited to 3500 square feet. A single caretaker's or guest house may have a footprint up to 1500 square feet.
6. The Height of the Main House is 25 feet measured from natural grade for ridges that run parallel to the natural contours and 30 feet from natural grade for ridges perpendicular to the existing contours. Such perpendicular ridges may not comprise more than 20 percent of the roof plan. The Guest House may not exceed 20 feet from natural grade in height.
7. All trails, as indicated on the Treasure Hill subdivision plat, which have not yet been constructed and approved, shall be completed prior to issuance of a certificate of occupancy for the residences. Relocation of said trails shall be reviewed and approved by City Staff.
8. The applicant must record an Open Space Easement, or other instrument of record, for that area outside of the Building Pad to forever preserve the natural state. Ski runs and those public trails dedicated on this plat may be allowed in this open space.
9. The City Engineer shall review and approve appropriate grading, utility, public improvements and drainage plans for compliance with City standards as a condition precedent to permit issuance.
10. Final details of the Fire Protection plan are required to be approved prior to

- plat recordation.
11. The Snyderville Basin Water Reclamation District shall review and approve the sewer plans.
 12. A financial guarantee, for the value of all public improvements, landscaping, re-vegetation, and trails to be completed, shall be provided to the City prior to building permit issuance. All public improvements shall be completed according to City standards and accepted by the City Engineer prior to release of this guarantee.
 13. Re-vegetation of the disturbed areas, including utility installation areas, shall be done with native species acceptable to the Planning Department Landscape Architect.
 14. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

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

PASSED AND ADOPTED this 31st day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Ordinance No.

AN ORDINANCE APPROVING A ZONE CHANGE FROM RECREATIONAL OPEN SPACE (ROS) TO ESTATE (E) AT 445 KING ROAD, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 445 King Road have petitioned the City Council for approval of the zone change; 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 23, 2003, to receive input on the zone change;

WHEREAS, the Planning Commission, on July 23, 2003, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 31, 2003, the City Council held a public hearing and approved the zone change; and

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

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

SECTION 1. APPROVAL. The zone change on the lot as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 445 King Road and is known as lot 12 of the Treasure Hill Subdivision Phase 4, part of the Sweeney Properties Master Plan.
2. The property is currently zoned Recreation Open Space - ROS-MPD. The 11.9 acre property is unimproved.
3. The Sweeney Properties Master Plan (SPMP) was approved by the City Council on October 16, 1986 and amended on October 14, 1987, December 30, 1992, and November 7, 1996.
4. The underlying zoning of the Hillside Parcels, including this one, at the time of MPD approval was Estate.
5. The SPMP approval designated this development parcel as being subject to Estate-MPD approval.
6. The purpose of the Estate zone is to allow very low density, environmentally sensitive residential development which preserves ridge tops, meadows, and

visible hillsides, preserves large, cohesive, unbroken Areas of Open Space and undeveloped land, preserves and incorporates wetlands, drainage ways, and intermittent streams as amenities of Development, mitigates geologic and flood hazards, protects views along the City's entry corridors, and decreases fire risk by keeping Development out of sensitive wild land interface Areas, incorporates pedestrian trail linkages between and through neighborhoods; and encourages comprehensive, efficient, Compatible Development which results in distinct and cohesive neighborhoods through application of the Sensitive Lands Ordinance.

7. The entire lot will be zoned Estate. The area outside of the Building Pad will be subject to a Conservation or Open Space Easement.
8. The Planning Commission held a public hearing on July 23, 2003 and forwarded a positive recommendation to the City Council.

Conclusions of Law:

1. The development of this lot is consistent with the E District purpose statements.
2. The change from ROS to E-MPD Zoning is consistent with the Park City General Plan and the Sweeney Properties Master Plan.
3. The rezone from ROS to E is in the best interest of the community.

Conditions of Approval:

1. This zone change is contingent upon the recordation of the plat approved concurrently herein.

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

PASSED AND ADOPTED this 31st day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

BOUNDARY DESCRIPTION

OWNER'S DECLARATION AND CONSENT TO RECORD

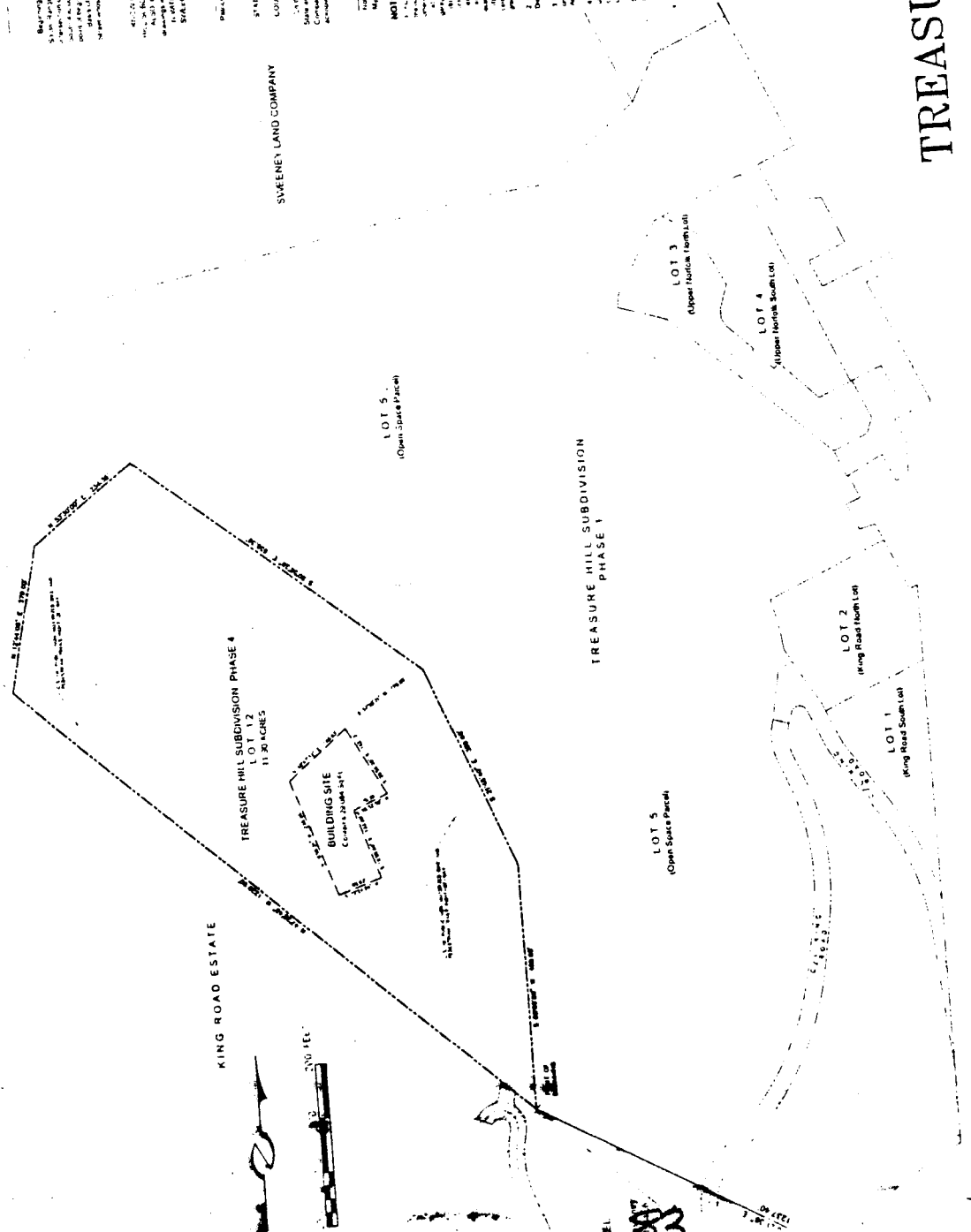
ACKNOWLEDGMENT

SWEENEY LAND COMPANY

TREASURE HILL SUBDIVISION
PHASE 4

A SUBDIVISION LOCATED IN SECTION 18, TOWNSHIP 2 SOUTH, RANGE 4 EAST
SALT LAKE BASE AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH

RECORDED		FILED IN PLAT BOOK 10, PAGE 100, AND 101, AT THE OFFICE OF THE CLERK OF THE DISTRICT COURT, PARK CITY, SUMMIT COUNTY, UTAH, THIS 10TH DAY OF MARCH, 2014.	
COUNCIL APPROVAL AND ACCEPTANCE	CERTIFICATE OF ATTEST	APPROVAL AS TO FORM	ENGINEER'S CERTIFICATE
APPROVED AND ACCEPTED BY THE CITY OF PARK CITY, UTAH, THIS 10TH DAY OF MARCH, 2014.	APPROVED AND ATTESTED BY THE CLERK OF THE DISTRICT COURT, PARK CITY, SUMMIT COUNTY, UTAH, THIS 10TH DAY OF MARCH, 2014.	APPROVED AS TO FORM BY THE CLERK OF THE DISTRICT COURT, PARK CITY, SUMMIT COUNTY, UTAH, THIS 10TH DAY OF MARCH, 2014.	APPROVED BY THE ENGINEER, THIS 10TH DAY OF MARCH, 2014.
PLANNING COMMISSION		PLANNING COMMISSION	
APPROVED BY THE PLANNING COMMISSION, THIS 10TH DAY OF MARCH, 2014.		APPROVED BY THE PLANNING COMMISSION, THIS 10TH DAY OF MARCH, 2014.	
SANDYVILLE BASIN WATER RECLAMATION DISTRICT			
APPROVED BY THE SANDYVILLE BASIN WATER RECLAMATION DISTRICT, THIS 10TH DAY OF MARCH, 2014.			



DATE: July 31, 2003
DEPARTMENT: Legal Department
AUTHOR: Cindy LoPiccolo, Risk Management
TITLE: Marsac Building Ramp Handrails, Wright-Way Construction Service Provider Agreement
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATION: Authorize staff to execute a service-provider agreement, in a form approved by the City Attorney, with Wright-Way Construction in the amount of \$16,980 for structural installation of new ramp handrails at the Marsac Building; Risk Management funding.

A. Topic: Marsac Building Ramp Handrails, Wright-Way Construction Service Provider Agreement

B. Background/Analysis:

The Marsac Building is a historic building currently without certain ADA accommodations for interior accessible routes. Any part of an accessible route with a slope greater than 1:20 is considered a ramp and should comply with ADA. Although the current ramps do not comply, the City is not required to make accessibility modifications to meet the ADA requirements until such a time as there is an alteration, remodeling, renovation, reconstruction, changes or rearrangement within the building, it is then required that the altered portions of the building be readily accessible and usable by individuals with disabilities.

In response to recent accessibility problems wherein several disabled visitors had difficulty accessing the upper and lower floors due to the steepness of the ramps and required staff assistance, staff discussed and reviewed the problem and decided it would be in the public's best interest to install handrails along the ramps that would provide some access assistance. Pursuant to ADA Section 4.8.5, if a ramp run has a rise greater than 6 inches, then it shall have handrails on both sides. According to measurements recently taken by Building Department staff, the slopes of current interior ramps in the Marsac Building substantially exceed that measure and thus should have handrails on both sides.

Staff contacted five area contractors to solicit bids for this job and was able to obtain three bids. Staff recommends accepting the lowest bid from Wright-Way Construction. Wright-Way will install the handrails in a manner that meets ADA requirements for handrails.

Solicitations/Bids

GENERAL CONTRACTOR:	BID:
Wright-Way Construction	\$16,980.00
All Seasons Construction	No Bid
Sun-Rise Builders	No Bid
RLW Construction, Inc.	\$18,850.00
Bald Mountain Builders, Inc.	\$19,400.00

D. Department Review: The Public Works, Building and Legal departments have reviewed the plans and concur with the analysis and proposed recommendation.

ALTERNATIVES:

A. Award the Contract to the Lowest/Only Responsive Bidder: Council should authorize staff to enter into a service-provider agreement, in a form approved by the City Attorney, with Wright-Way Construction in an amount not to exceed \$16,980; and use Risk Management funding to pay for said service. **This is staff's recommendation.**

B. Rebid the Contract: Staff does not recommend this action.

C. Do Nothing: Staff does not recommend this action.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Staff has identified the need for railing along the Marsac Building ramps in order to assist disabled visitors as they access the upper and lower floors of the Marsac building. Without handrails, disabled visitors frequently have difficulty as they attempt to go up and down the ramps and there is a possibility of an accident occurring.

RECOMMENDATION:

Authorize staff to execute a service-provider agreement, in a form approved by the City Attorney, with Wright-Way Contractors in an amount not to exceed \$16,980.



Council Agenda Report

DATE: 7/10/03
DEPARTMENT: Recreation-Library
AUTHOR: Linda Tillson
TITLE: Board Standardization
TYPE OF ITEM: Informational

SUMMARY RECOMMENDATIONS:

A. Topic:

Staff is requesting Council direction on which aspects of Boards should be considered for standardization.

B. Background:

The Board Standardization Committee consisting of Sharon Bauman, Ken Fisher, ReNae Rezac, Craig Sanchez and Linda Tillson has studied Citizen Boards in an effort to identify how these groups might be standardized to create greater efficiency and uniformity. Some of the Boards are governed by statutes and codes which specify certain requirements such as number of members, terms, etc. so it is not possible to standardize all aspects but it does make sense to create uniformity in some areas.

The Boards included in this study are the Board of Adjustment, Historic District Commission, Library Board, Planning Commission and Recreation Advisory Board.

C. Analysis:

The committee created a chart which compares the structure of the Boards and identifies requirements governed by statutes and codes (see attachment "A"). Once compiled this chart provided information about which areas have potential for standardization. Further information on the composition of the Boards can be found in the narrative in attachment "B." Staff has included the operating policies Council adopted for the Recreation Advisory Board (attachment C) as an example of operating policies that Council may want to use for other Boards.

The aspects of the Boards which can be made more uniform fairly easily include; operating policies, application process, term limits, and number of members. Other areas which can be considered are compensation, use of City facilities (Racquet Club, Library, etc.), meeting frequency, and liaison roles.

D. Review:

Report has been reviewed by the Board Standardization Committee and the City Manager.

ALTERNATIVES:

This report is for informational purposes.

SIGNIFICANT IMPACTS:

Depending on compensation and use of City facility decisions, there could be some financial impacts. Meeting frequency will also cause impacts on staff resources.

RECREATION ADVISORY BOARD

Policies and Procedures

1. The RECREATION ADVISORY BOARD (BOARD) is created by Municipal Code of Park City ("Code") Section 2-4-17, attached as Exhibit A and incorporated herein. Nothing in these policies shall overrule any requirement in Section 2-4-17, as amended.
2. The Board will advise City Council and staff on parks and recreation policy as requested by the City Council and consistent with the Code. The City Council will refer particular matters to the Board for discussion, public input and recommendations. The Mayor or Council liaison member will communicate the Council's referral of a matter to the Board.
3. The Board shall meet annually with the City Council as part of the Council's visioning workshop, or as otherwise directed by the Council, to receive updated city goals and direction from the City Council.
4. The Chair of the Board shall communicate regularly with the City Council Board liaison member regarding priorities of the Board as they relate to City Council goals. The City Council liaison member will typically report Board progress on matters to the City Council at least once a month. The Board will provide a quarterly progress report to the City Council during work session of a regular meeting.
5. The role of the City Council liaison will be to:
 - Attend regularly scheduled meetings.
 - Communicate back to the Board recreation issues brought to Councils attention, or acted on by City Council.
 - Notify Council of recreation issues brought to the Board by citizens.
 - Align Board priorities with Council goals.
 - Be a non-voting member of the Board.
6. The Board may request background information from the recreation staff, but such requests shall typically occur at meetings and information shall be requested by the Board as a whole, and all members of the Board shall receive a copy of the information. Board members will use reasonable efforts to communicate independent research material and ex parte information received from the public to the other Board members.

7. Closed meetings may only be held for purposes authorized by U.C.A. 54-4-5, as amended. A quorum for the transaction of business shall be a simple majority of the Board members. Minutes shall be kept at all meetings.
8. Special Task Forces for the study of particular issues may be created by the Mayor and Council. Task Forces may include members of the Board. They will typically serve for 6 months, or until they have completed the work for which they were appointed. Each Task Force shall meet goals and objectives as outlined by the Mayor and Council. The Task Force will elect a Chair to communicate with the Mayor and City Council. City Manager will approve any staff involvement in these Task Forces.
9. Special committees may be appointed by the Chair, with the advice and consent of the Mayor and City Council. These committees will deal with operational, and capital project issues. City Manager will approve any staff involvement in these committees.
10. Special "Friends" groups may be formed by Staff, with the advice and consent of the Mayor, City Council, and City Manager. These groups may include members of the Board. Staff will communicate directly with Council any Council issues brought to the group. These groups will deal with user specific programming, operational, and capital issues.
11. At its first meeting, and annually thereafter, the Board shall elect a Chair, Vice-Chair and any additional officers as necessary. The Chair shall preside at all meetings, appoint all committees with the concurrence of the Board, call special meetings, and generally perform the duties of a presiding officer. The Vice-Chair or a Board member designated by the Chair shall preside when the Chair is absent. The agenda for meetings shall be prepared and noticed by the Recreation Manager and the Chair.
12. The Board shall also act as a sounding board for new recreation policies and programs. The Board will hear initial proposals by the public for new programs and ideas, unless otherwise decided by the City Council. Prior to initiating staff time or resources on a new program or policy, the Board shall inform the City Council of the matter and request direction on how to proceed and the timing priority of the new matter.
13. The Board may provide annual policy recommendations in conjunction with the City's review of the General Plan with regard to use of City facilities and property for recreation purposes, and recommendations on recreation policies generally.

Citizen Boards Comparison Sheet

	Compensation	Meeting Frequency	Members	Annual Cost for Compensation	Member Selection	Liaison Name & Role	Term Limits	Type of Board
Board of Adjustment	\$40 per meeting	As needed Approx. 6x annually	6	\$1440	Council Interview	Voting Member From Planning Commission	5 yrs. unlimited renewal	Quasi Judicial
Historic District Commission	\$60 per meeting	2x month	5	\$7200	Council Interview	Peg Bodell Non-voting Member *	2 yrs. ** unlimited renewal	City Ordinance LMC
Library Board	None	1x month	<u>5-9</u>	None	Board Recommendation to Council	Candace Erickson Voting Member	<u>3 yrs. 1x renewal</u>	Advisory State Statute
Planning Commission	\$100 per meeting	2x month	7	\$16800	Council Interview	Jim Hier Non-voting Member	4 yrs. unlimited renewal	Quasi Judicial
Recreation Advisory Board	None	2x month	7	None	Council Interview	Candace Erickson Non-voting Member	3 yrs. 1x renewal	Advisory Council Directed

* Planning commission member is a voting member of HDC Board though currently a planning commission member is not attending.

Underlined = mandated by Utah State Code

** = mandated by LMC

Attachment A

Attachment B - Narrative Descriptions

Historic District Commission

- Created pursuant to the Historic District Act (Section 11-18-1 of the Utah Code, 1953);
- Required by the Park City Municipal Code, Title 15, Chapter 11 (Land Management Code);
- Five-member board, one of whom shall be the Chair or Vice Chair of the Planning Commission (although it appears this could change;
- Two-year terms specified by the LMC, expiring on February 1. Terms are staggered. Members serve until successors are appointed;
- No term limit;
- Not required to live within the city limits;
- Non-voting City Council liaison (not required to attend meetings);
- Board members receive monetary compensation.

Planning Commission

- Created pursuant to the Utah Code;
- Required by the Park City Municipal Code, Title 15, Chapter 12 (Land Management Code);
- Seven-member board;
- Four-year terms, expiring on the second Monday in February. Members serve until successors are appointed;
- No term limit;
- Must be residents of Park City;
- Chairperson has no voting powers except in the case of a tie vote;
- Non-voting City Council liaison (not required to attend meetings);
- Board members receive monetary compensation.

Board of Adjustment

- Created in order to avail the City of the powers provided in Chapter 9 of Title 10 of the Utah Code (1953, as amended);
- Required by Title 15 LMC, Chapter 10 - Board of Adjustment;
- Required to live within the City limits;
- Five-member board (one of whom is Planning Commission member) plus one non-voting alternate to vote when regular member is absent;
- Five-year terms, served until successor is appointed. Terms are staggered so that one term expires each year;
- No term limit;
- No Council liaison
- Board members receive monetary compensation.

Boards/Commissions Standardization

Page 2

Recreation Advisory Board

- Created by Municipal Code Section 2-4-17;
- Seven-member Board;
- Three-year term that expires July 1;
- Two term limit;
- Required to be a Park City resident;
- Non-voting Council liaison;
- Council directed advisory board;
- Board members serve without monetary compensation.

Library Board

- Created pursuant to Title 9 Chapter 7 of the Utah Code;
- Five to nine members Utah Code 9-7-502;
- Three-year terms, appointed before the first of July each year Utah Code 9-7-403;
- Not more than two consecutive full terms 9-7-403;
- Board members are required to live within the city limits;
- Voting City Council liaison.
- Board members serve without monetary compensation.

CITY COUNCIL REPORT

DATE: July 10, 2003
DEPARTMENT: Planning Department
AUTHOR: Derek Satchell
TITLE: 932 & 936 Norfolk Avenue - Plat Amendment
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS: Staff requests that the City Council conduct a public hearing, consider public input, and approve the plat to combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Park City Survey, into two separate lots of record, as conditioned herein.

A. PROJECT STATISTICS

Applicant: Michael Barenbrugge
Location: 932 & 936 Norfolk Avenue
Proposal: Plat Amendment
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Historic and Contemporary Residential Buildings
Date of Application: May 2, 2003

B. BACKGROUND

On May 2, 2003, the Planning Department received a Plat Amendment application by the applicant (Michael Barenbrugge), to combine the southerly five feet (5') of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, into two (2) separate lots of record. The purpose of the plat amendment is to accommodate the construction of two separate single-family dwellings. On June 11, 2003, the Planning Commission reviewed the proposed plat and forwarded a positive recommendation to the City Council, after adding a new condition of approval regarding potential of drainage on the property. The applicant is now seeking approval for the proposed plat. Prior to any construction, the applicant will be required to submit a Conditional Use Permit for Development on Steep Slope (CUP) and Historic District Design Review application for each proposed dwelling. Neither application has been submitted to date.

C. ANALYSIS

The existing vacant property consists of the southerly five feet (5') of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey. The applicant is proposing to combine all of the property into two (2) separate 27½'x75' lots. Each proposed lot will consist of approximately 2,062.5 square feet. The maximum building footprint permitted for each proposed lot is approximately 918 square feet. The required setbacks for each lot will consist of the following:

- 10' front yard setback fronting Norfolk Avenue;
- 3' side yard setbacks, totaling 6'; and
- 10' rear yard setback.

There are no remnant lots created by this proposal. Each of the newly created lots would satisfy the HR-1 minimum lot size requirements. This proposal does not increase the density on the lot. However, each of the existing lots contains a slope of 30% or greater, which will trigger the CUP/Development on Steep Slope application process when future development occurs.

The neighborhood is characterized by a mix of historic and non-historic dwellings. Additionally, this portion of Norfolk Avenue is a congested and heavily used street. Parking, snow storage, and construction staging is problematic in this neighborhood.

After reviewing the request, the Community Development Department finds that the creation of the new lots are in compliance with the Land Management Code, and supports the plat amendment.

D. NOTICE

Notice of this hearing was initially sent to property owners within 300' on May 29, 2003, as part of the original Plat Amendment procedure. The property was also properly posted and legally noticed at that time. Staff has received a call from an adjoining property owner (Carol & Julia Mellersky @ 928 Norfolk) on June 4, 2003, inquiring about the potential drainage problem that may result pending any future development on both of the proposed lots. Staff informed the Mrs. Mellersky that her concern was valid and will be addressed under the pending CUP/Steep Slope and Historic District Design Review processes. Mrs. Mellersky was satisfied with Staff's response. At the June 11, 2003 Planning Commission public hearing, Ms. Margaret Hilliard (an adjacent downhill neighbor) re-iterated the same concerns of Mrs. Mellersky. Staff informed Ms. Hilliard of the same response.

E. DEPARTMENT REVIEW

The Planning Department has reviewed this request. The City Engineer and City Attorney's Office will review the plat prior to recordation. The request was discussed at a Staff Review Meeting on May 20, 2003, where representatives from local utility companies and City Staff were in attendance and found the plat amendment to be in conformance with all requisite City development codes.

ALTERNATIVES

- A. Approval of the proposed plat amendment to combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, into two separate lots of record, as conditioned.
- B. Deny the plat amendment and retain the original Record of Survey which would prohibit the applicant from constructing the proposed structures (based on the proposed lot size) without some redesign.
- C. Continue the item and request further evaluation from the Staff.

SIGNIFICANT IMPACTS:

There are no significant environmental or fiscal impacts with this plat amendment.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed, the smaller existing Old Town platted lots will remain.

F. RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and consider Staff's recommendation to approve the plat to combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, into two separate lots of record based on the following:

Findings of Fact:

1. The property consists of the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, and is located in the Historic Residential District (HR-1).
2. The existing property is currently vacant.
3. The amendment will combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, into two separate lots of record to allow for future development to the property. No remnant lots are created.
4. The plat amendment will not increase density on the lot.
5. Each proposed lot will consist of approximately 2,062.5 square feet.
6. The maximum building footprint permitted for each proposed lot is 918 square feet.
7. Each of the existing lots contains a slope of 30% or greater.
8. The neighborhood is characterized by a mix of historic and non-historic dwellings.
9. This portion of Norfolk Avenue is a congested and heavily used street. Parking, snow storage, and construction staging is problematic in this neighborhood.

Conclusions of Law:

1. There is good cause for the amendment.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. The proposal is consistent with both the Park City Land Management Code Chapter 7 and Chapter 15 and State subdivision requirements.

Conditions of Approval:

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. Design of any future single-family dwellings requires approval of a Conditional Use Permit/Development on a Steep Slope application by the Planning Commission prior to the issuance of any building permits. During this review, the applicant will work with the Chief Building Official to mitigate any negative potential drainage problems onto adjacent lots generated as a result of development on this property.
3. Design of any future single-family dwellings requires approval of an Historic District Design Review application for compliance with the Historic District Design Guidelines prior to the issuance of any building permits.
4. A note shall be added to the plat stating that no accessory apartment(s) shall be permitted as part of any single-family dwellings associated with these lots because of the congested and heavily used relative to parking, snow storage, and construction staging in this

neighborhood.

5. The City Engineer shall review the slope, configuration and drainage pattern of the proposed driveway fronting Norfolk Avenue, as well as the utility plan for the future building(s). No construction, grading, or construction staging is permitted within the Norfolk Avenue right-of-way without prior approval of the City Engineer.
6. A ten (10) foot non-exclusive snow storage easement along Norfolk Avenue shall be dedicated to the City on the plat.
7. This approval shall expire one year from the date of City Council approval, unless this Plat Amendment is recorded prior to that date.

Exhibits

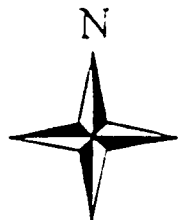
- Exhibit A - Location Map
- Exhibit B - Existing Plat
- Exhibit C - Existing Survey
- Exhibit D - Standard Conditions of Approval
- Exhibit E - Proposed Plat Amendment

M:\CDD\DS\COUNCIL\2003\reports\932&936Norfolkplat.wpd

932/936 NORFOLK AVENUE



Exhibit A Vicinity Map



15

NORFOLK AVENUE (N 35°59' W)

VACANT

19 PAUL BUTKOVICH 692-421 576-542-3 20 M28-325 563-76	PEEK-A-BOO REPLA 141-399
20 M28-325 563-76	13 534°01'00" W 25'
(SA-106-108)	
CORDO (2002)	(SA-104-105)
SA-114 JOHN F. AND DIANE L. MULLIN-TRUSTEES 24 10/14/37 1413-285 306-662 M171-478 319-197 M171-478 357-701	SILVER SKI CONDOS (1982)
JOHN F. & SA-115 DIANE L. MULLIN-TRUSTEES 25 10/14-37 1413-285 171-478 319-197 1413-285 357-701 306-662	MOUNTAIN WOOD TWNHS (1983)
SA 116 JULIA L. MELLERSE 618-658 M 256-5,6 27	SA-103 GARY C. CALLIS 1476-1873 7 1187-635 621-637 1180-695 442-307 M18-525
#SA 117 JACK & LOUISE SCOTT MAHONEY 28 566-588 M89-345	SA-102 JACK & LOUISE MAHONEY-ARA XWD102 LOUISE SCOTT 581-245 588-446
SA-118 JACK & LOUISE MAHONEY (W) 355-554 579-227 31 9/8-19 M28-1 901-190	SA 100-101 CYNDI & SCHWANDT M126-125 3 442-653 413-257
SA-119 ROBERT H. & HENLOPE A. MCNULTY W (J) 1280-537 32 736-277 M36-141 75 901-190	SA-99 ELAYNE SCOOPFLAKES 2 M184-518 518-739
	SA-98 WILLIAM J. AND MARY E. WESNOSKY W (J) M128-129 1457-44

STREET

Exhibit B - Existing Plat

12

14

21

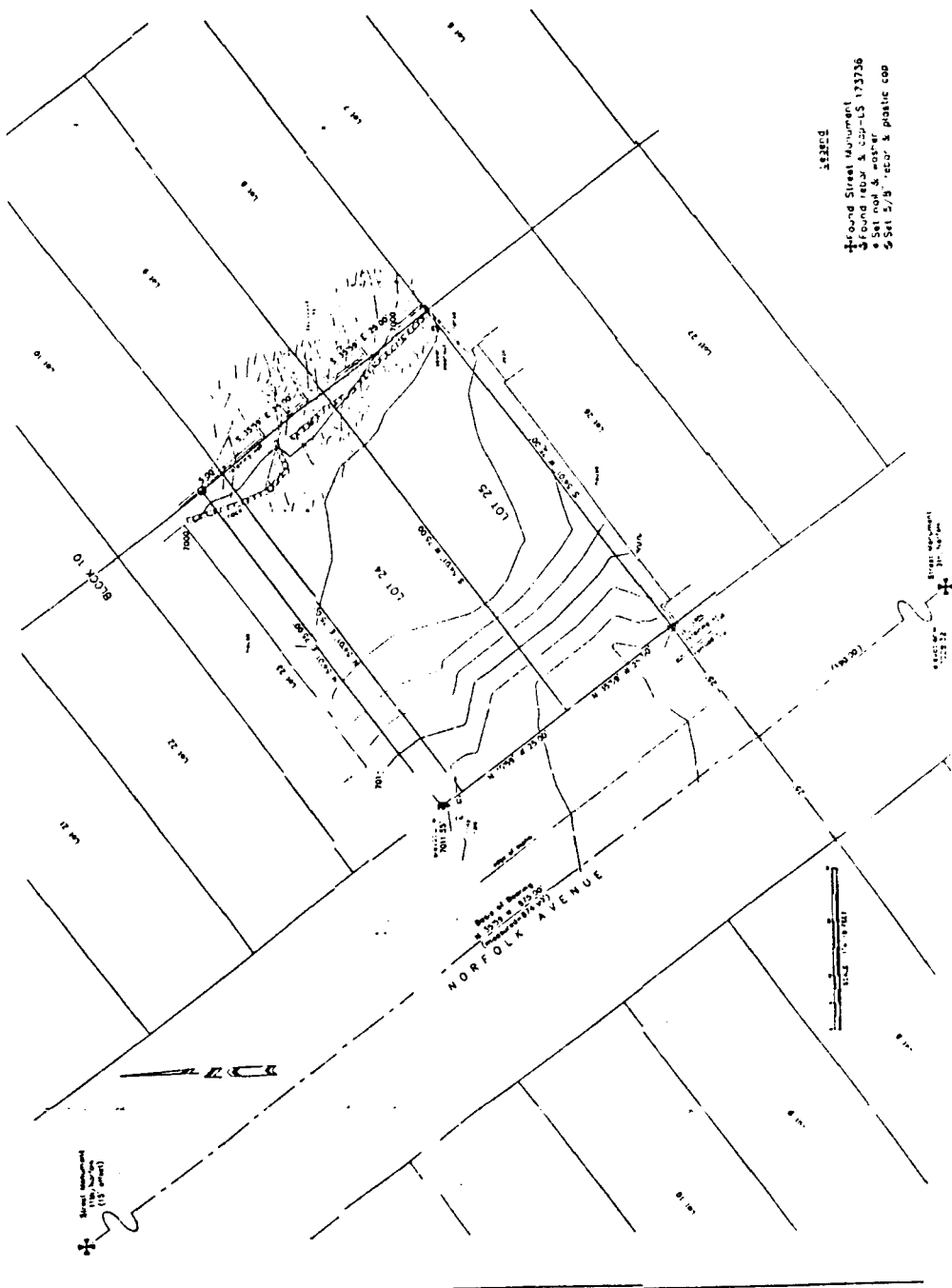
WOODSIDE AVENUE (N 35°59' W)

SA-18 RICHARD 1080-	Mill-
RICHARD KE 1435- 1244-44 MIE	
SA-10	
TERRY 594-35 M22-	
SA-15 RICHARD 0.04 A 662-	
SA-15-A STUART 1194-156 6000-13 1330-13	
HELI REPL SU (199)	
SA 11 L V	
MIX	
#SA- GREGG DANIX	
1458-6 1456-2 ME	
25 SA-24-A (A) 25'	
ROBERT GARVE TRUSTEE	
M 1471-452 1470-52 1442-252	

SHEP

SEE
ABOVE

Snyder's Addition to the Park City Survey Block 10, Lots 24, 25 and the South 5 feet of Lot 23



NOTES.

1. Survey requested by Michael Eversage.
2. Purpose of survey: locate the site location and the location of the proposed building.
3. Basis of survey: found Street Monument as shown. Dimensions from the Park City Monument Control 1923 by Bunn & Guggel, Inc. Recorded as Entry No. 187763 in the office of the Summit County Recorder, Subsequent to the 10 from the Map of Park City by Bunn & Guggel, Inc. Engineers, Traced Street Monument at 9th & Norfolk Avenue of 1923 32' is according to the said Park City Monument Control Map by Bunn & Guggel.
4. Date of survey: April 8, 2003.
5. Property corners set or found as shown.
6. Located on the Northeast Corner Section 16, Township 2 North, Range 10 East, T16N R10E S16.
7. Show the official plats of the Park City Survey for other passing easements and restrictions.
8. The owner of the property should be aware of any liens affecting the property that may appear in a title insurance report.

LEGAL DESCRIPTION

All of Lots 24 and 25, and the Southern 5 feet of Lot 23, Block 10, Snyder's Addition to the Park City Survey, according to the Official Plat thereof on file and of record in the Summit County Recorder's Office, Summit County, State of Utah.

SURVEYOR'S CERTIFICATE

I, J.D. Galey, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 358005, do hereby certify that I have submitted a true and correct description of the described property and that this plat is a true representation of said survey.



Area 17.03
Date



Alpine Survey, Inc.
19 Association Drive
Park City, Utah 84060
(435) 635-9016

1538005

Found Street Monument
Found rebar & cap - LS 173736
Set not & water cap
Set 5/8" rebar & plastic cap

Block Monument
1923 32'

PARK CITY MUNICIPAL CORPORATION
STANDARD PROJECT CONDITIONS

1. The applicant is responsible for compliance with all conditions of project approval.
2. The proposed project is approved as indicated on the final approved plans, except as modified by additional conditions imposed by the Planning Commission at the time of the hearing. The proposed project shall be in accordance with all adopted codes and ordinances; including, but not necessarily limited to: the Land Management Code (including Chapter 9, Architectural Review); Uniform Building, Fire and related Codes (including ADA compliance); the Park City Design Standards, Construction Specifications, and Standard Drawings (including any required snow storage easements); and any other standards and regulations adopted by the City Engineer and all boards, commissions, agencies, and officials of the City of Park City.
3. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit.
4. All construction shall be completed according to the approved plans on which building permits are issued. Approved plans include all site improvements shown on the approved site plan. Site improvements shall include all roads, sidewalks, curbs, gutters, drains, drainage works, grading, walls, landscaping, lighting, planting, paving, paths, trails, public necessity signs (such as required stop signs), and similar improvements, as shown on the set of plans on which final approval and building permits are based.
5. All modifications to plans as specified by conditions of approval and all final design details, such as materials, colors, windows, doors, trim dimensions, and exterior lighting shall be submitted to and approved by the Community Development Department, Planning Commission, or Historic District Commission prior to issuance of any building permits. Any modifications to approved plans after the issuance of a building permit, must be specifically requested and approved by the Community Development Department, Planning Commission and/or Historic District Commission in writing prior to execution.
6. Final grading, drainage, utility, erosion control and re-vegetation plans shall be reviewed and approved by the City Engineer prior to commencing construction. Limits of disturbance boundaries and fencing shall be reviewed and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
7. An existing conditions survey identifying existing grade shall be conducted by the applicant and submitted to the Community Development Department prior to issuance of a footing and foundation permit. This survey shall be used to assist the Community Development Department in determining existing grade for measurement of building heights, as defined by the Land Management Code.
8. A Construction Mitigation Plan (CMP), submitted to and approved by the Community Development Department, is required prior to any construction. A CMP shall address the following, including but not necessarily limited to: construction staging, phasing, storage of materials, circulation, parking, lights, signs, dust, noise, hours of operation, re-vegetation of

disturbed areas, service and delivery, trash pick-up, re-use of construction materials, and disposal of excavated materials. Construction staging areas shall be clearly defined and placed so as to minimize site disturbance. The CMP shall include a landscape plan for re-vegetation of all areas disturbed during construction, including but not limited to: identification of existing vegetation and replacement of significant vegetation or trees removed during construction.

9. Any removal of existing building materials or features on historic buildings, shall be approved and coordinated by the Planning Department prior to removal.
10. The applicant and/or contractor shall field verify all existing conditions on historic buildings and match replacement elements and materials according to the approved plans. Any discrepancies found between approved plans, replacement features and existing elements must be reported to the Planning Department for further direction, prior to construction.
11. Final landscape plans, when required, shall be reviewed and approved by the Community Development Department prior to issuance of building permits. Landscaping shall be completely installed prior to occupancy, or an acceptable guarantee, in accordance with the Land Management Code, shall be posted in lieu thereof. A landscaping agreement or covenant may be required to ensure landscaping is maintained as per the approved plans.
12. All proposed public improvements, such as streets, curb and gutter, sidewalks, utilities, lighting, trails, etc. are subject to review and approval by the City Engineer in accordance with current Park City Design Standards, Construction Specifications and Standard Drawings. All improvements shall be installed or sufficient guarantees, as determined by the Community Development Department, posted prior to occupancy.
13. The Snyderville Basin Sewer Improvement District shall review and approve the sewer plans, prior to issuance of any building plans. A Line Extension Agreement with the Snyderville Basin Sewer Improvement District shall be signed and executed prior to building permit issuance. Evidence of compliance with the District's fee requirements shall be presented at the time of building permit issuance.
14. The planning and infrastructure review and approval is transferrable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
15. When applicable, access on state highways shall be reviewed and approved by the State Highway Permits Officer. This does not imply that project access locations can be changed without Planning Commission approval.
16. Vesting of all permits and approvals terminates upon the expiration of the approval as defined in the Land Management Code, or upon termination of the permit.
17. No signs, permanent or temporary, may be constructed on a site or building without a sign permit, approved by the Community Development Department. All multi-tenant buildings require an approved Master Sign Plan prior to submitting individual sign permits.

December 1, 1999

Ordinance No. 03-

AN ORDINANCE APPROVING THE M.R. BRUGGE PLAT AMENDMENT TO COMBINE THE SOUTHERLY FIVE FEET OF LOT 23, AND ALL OF LOTS 24 & 25 IN BLOCK 10 OF THE SNYDER'S ADDITION TO THE PARK CITY SURVEY, INTO TWO LOTS OF RECORD LOCATED AT 932 AND 936 NORFOLK AVENUE, PARK CITY, UTAH

WHEREAS, the owner of the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, has petitioned the City Council for approval of a revision to the final plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 11, 2003, to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission, on June 11, 2003, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 10, 2003, the City Council held a public hearing to receive input on the proposed subdivision; and

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

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

SECTION 1. FINDINGS. The following findings are hereby adopted.

1. The property consists of the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, and is located in the Historic Residential District (HR-1).
2. The existing property is currently vacant.
3. The amendment will combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, into two separate lots of record to allow for future development to the property. No remnant lots are created.
4. The plat amendment will not increase density on the lot.

5. Each proposed lot will consist of approximately 2,062.5 square feet.
6. The maximum building footprint permitted for each proposed lot is 918 square feet.
7. Each of the existing lots contains a slope of 30% or greater.
8. The neighborhood is characterized by a mix of historic and non-historic dwellings.
9. This portion of Norfolk Avenue is a congested and heavily used street. Parking, snow storage, and construction staging is problematic in this neighborhood.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment, that neither the public nor any person will be materially injured by the proposed plat amendment and that the proposal is consistent with both the Park City Land Management Code and State subdivision requirements.

SECTION 3. PLAT AMENDMENT APPROVAL. The plat amendment to combine the southerly five feet of Lot 23, and all of Lots 24 & 25 in Block 10 of the Snyder's Addition to the Park City Survey, known as the M.R. Brugge Plat Amendment, is approved as shown on Exhibit E, with the following conditions:

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. Design of any future single-family dwellings requires approval of a Conditional Use Permit/Development on a Steep Slope application by the Planning Commission prior to the issuance of any building permits. During this review, the applicant will work with the Chief Building Official to mitigate any negative potential drainage problems onto adjacent lots generated as a result of development on this property.
3. Design of any future single-family dwellings requires approval of an Historic District Design Review application for compliance with the Historic District Design Guidelines prior to the issuance of any building permits.
4. A note shall be added to the plat stating that no accessory apartment(s) shall be permitted as part of any single-family dwellings associated with these lots because of the congested and heavily used relative to parking, snow storage, and construction staging in this neighborhood.
5. The City Engineer shall review the slope, configuration and drainage pattern of the proposed driveway fronting Norfolk Avenue, as well as the utility plan for the future building(s). No construction, grading, or construction staging is permitted within the Norfolk Avenue right-of-way without prior approval of the City Engineer.

6. A ten (10) foot non-exclusive snow storage easement along Norfolk Avenue shall be dedicated to the City on the plat.
7. This approval shall expire one year from the date of City Council approval, unless this Plat Amendment is recorded prior to that date.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 10th day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

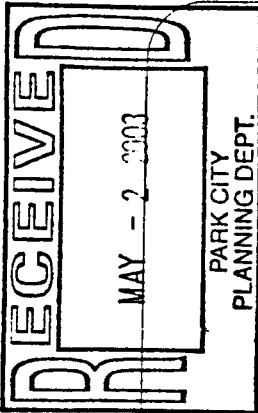
Mayor Dana Williams

Attest:

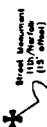
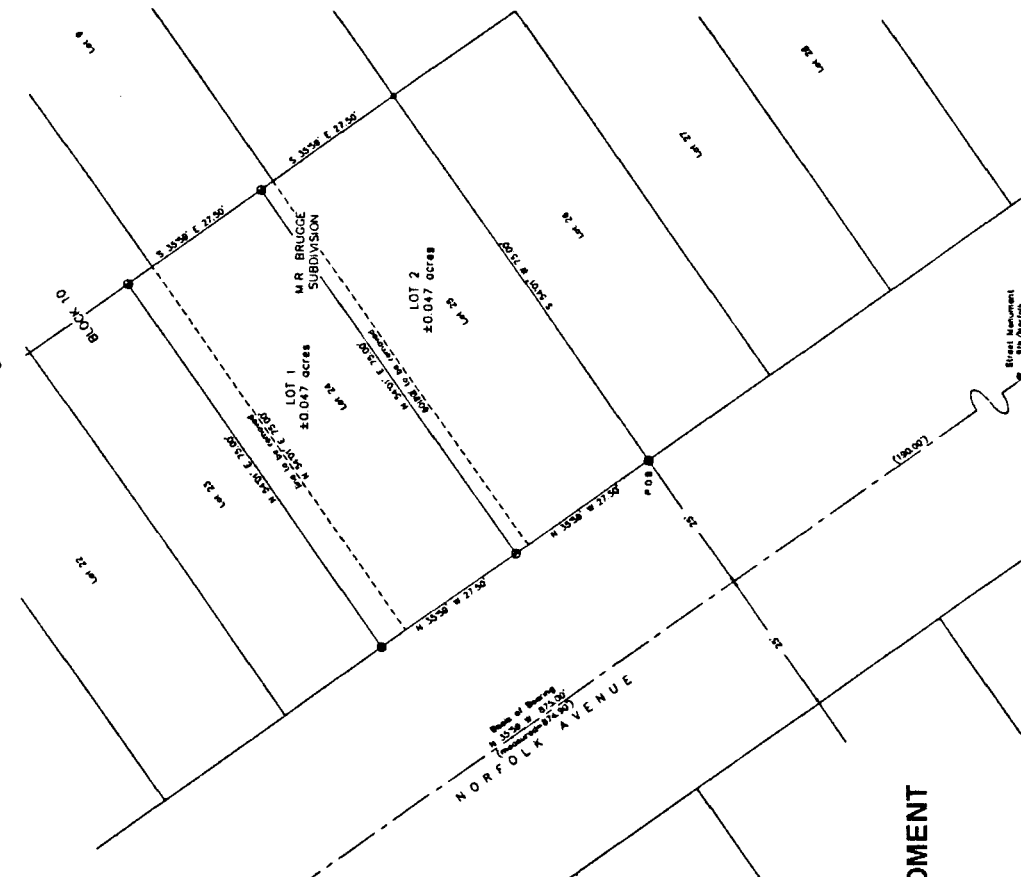
Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



M.R. Brugge Subdivision, Snyder's Addition to the Park City Survey Lot Line Adjustment



SCALE 1" = 40'

LEGEND

- Found Street Monument
- Set 1/4" rebar & cap-L.S. 171716
- Set 1/4" rebar & cap-L.S. 171716
- Set 5/8" rebar & plastic cap

OWNER'S DEDICATION AND CONSENT TO RECORD

I, the undersigned, owner of the hereon described tract of land, to be known as the M.R. Brugge Subdivision, Block 10, Snyder's Addition to the Park City Survey, hereby consent to the recording of this Record of Survey Map in accordance with Utah Law. Also, the owner, hereby irrevocably offers for dedication to the City of Park City, the streets, land for local government uses, easements, parks, and other public uses shown on the plat in accordance with an official plat of record. In witness whereof, the undersigned set their hand this _____ day of _____, 2003.

By: Michael Barenbrugge

ACKNOWLEDGEMENT

EXHIBIT E - PROPOSED PLAT AMENDMENT

NARRATIVE

- Survey requested by Michael Barenbrugge.
- Purpose of survey: Lot Line Adjustment.
- Basics of survey: found Street Monuments as shown. Block dimensions from the Amended Park City Monument Control Map by Bush & Co. Survey, Inc. Recorded as Entry No. 197785 in the office of the Summit County Recorder. Subdivision of Block 10 from the Map of Park City by Caldwell & Richards Engineers, traced from the original map July, 1927.
- Date of survey: April 8, 2003.
- Property corners set or found as shown.
- Cocited in the Northeast Quarter of Section 16, T2S, R4E, S18W.
- Set 1/4" rebar & cap-L.S. 171716.
- Set 5/8" rebar & plastic cap.
- The owners of the property should be aware of any items affecting the property that may appear in a title insurance report.
- For previous survey in the immediate area see Survey File No. S-1086 and S-3862, on file in the office of the Summit County Recorder.

LEGAL DESCRIPTION

Lot 1

Commencing at the northeasterly corner of Lot 26, Block 10, Snyder's Addition to the Park City Survey, according to the official plat thereof, on file and in the office of the Summit County Recorder, said point also being on the line of the way line of Norfolk Avenue, and running thence N 35°59' W, along said right of way line of Norfolk Avenue, 27.50 feet to the true point of beginning; thence N 35°59' W, along said right of way line of Norfolk Avenue, 27.50 feet; thence S 35°59' E, 27.50 feet; thence S 54°01' W, 75.00 feet to the point of beginning; containing 0.047 acres, more or less.

Lot 2

Beginning at the northeasterly corner of Lot 26, Block 10, Snyder's Addition to the Park City Survey, according to the official plat thereof, on file and in the office of the Summit County Recorder, said point also being on the easterly right of way line of Norfolk Avenue, and running thence N 35°59' W, along said right of way line of Norfolk Avenue, 27.50 feet; thence S 35°59' E, 27.50 feet; thence S 54°01' W, 75.00 feet to the point of beginning; containing 0.047 acres, more or less.

SURVEYOR'S CERTIFICATE

I, J.D. Goley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have caused a survey of the hereon described property and that this plat is a true representation of said survey.

Date _____

J.D. Goley RLS#359005

Alpine Survey, Inc. 19 Pryor Lane Park City, Utah 84060 (435) 655-8016	SNYDERVILLE BLOCK WATER RECLAMATION DISTRICT APPROVED BY THE PARK CITY PLANNING COMMISSION THIS DAY OF _____, 2003 A.D. BY: _____	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS DAY OF _____, 2003 A.D. BY: _____	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON RECORD IN MY OFFICE THIS DAY OF _____, 2003 A.D. BY: _____	APPROVAL AS TO FORM APPROVED AS TO FORM THIS DAY OF _____, 2003 A.D. BY: _____	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS RECORDED IN THE CITY COUNCIL THIS _____ DAY OF _____, 2003 A.D. BY: _____	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2003 A.D. BY: _____	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ BOOK _____ PAGE _____
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CITY COUNCIL REPORT

DATE: July 10, 2003
DEPARTMENT: Planning Department
AUTHOR: Derek Satchell
TITLE: 9 Hillside Avenue - Plat Amendment
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS: Staff requests that the City Council conduct a public hearing, consider public input, and approve the plat to combine all of Lot all of Lots 2, 3, 4, 16, 17 & 18 in Block 19 of the Amended Park City Survey, into one (1) lot of record, as conditioned herein.

A. PROJECT STATISTICS

Applicant: Steve & Kathy Stanton
Location: 9 Hillside Avenue
Proposal: Plat Amendment
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Historic and Contemporary Residential Buildings
Date of Application: April 23, 2003

B. BACKGROUND

On April 23, 2003, the Planning Department received a Plat Amendment application from Steve Stanton, to combine all of Lots 2, 3, 17 & 18 of Block 19; and Lots 4 & 16 of the same Block of the Amended Park City Survey, into two separate lots of record. The purpose of the initially proposed plat amendment was to accommodate the relocation of the existing historic dwelling and detached historic shed onto Lots 2, 3, 17 & 18, while leaving the remaining Lots 4 & 16 available for separate development. In the process, the existing historic dwelling and shed would be rehabilitated and restored.

The application was reviewed by the Planning Commission at their May 14, 2003, meeting. Because of concerns voiced by several neighbors during the public hearing, as well as specific encroachment issues identified by Staff, no action was requested at that time. The purpose of the public hearing then was to allow the applicant an opportunity to present the project and permit initial public/neighborhood comment. Upon a lengthy discussion, the Planning Commission agreed that this property is located in a highly visible area, and that any future development on the proposed Lot 2 would trigger the CUP/Development on Steep Slope review process. The Commission also agreed that they were concerned about the potential impacts future development the two newly created lots would have upon the existing deck and masonry wall which encroach onto the property. The Commission recommended that the applicant continue to work with Staff and the adjoining property owners in order to mitigate the extenuating circumstances.

On May 30, 2003, the applicant, applicant's architect, applicant's engineer, both immediate adjoining property owners, and staff met to discuss the project. Initially, there were concerns voiced by the adjoining property owners regarding the accuracy of the existing survey for the property. The remainder of the discussion focused on mitigating the two existing encroachments. Upon a lengthy discussion, the group was immediately unable to reach consensus but agreed to continue the negotiations at a later date.

On June 12, 2003, the applicant submitted a revised plat amendment proposal to combine all of Lots 2, 3, 4, 16, 17 & 18 of Block 19, into a single lot of record. The proposed plat also includes two(2) separate easements to accommodate the existing encroachments onto the proposed lot. The proposed plat is in keeping with the requests made by the adjoining property owners. On June 25, 2003, the Planning Commission re-reviewed the application and forwarded a positive recommendation to the City Council after adding a new condition of approval regarding the proposed easements. The applicant is now seeking approval for the proposed plat.

Rehabilitation and construction of the proposed project will also require the submittal of CUP/Development on Steep Slope and Historic District Design Review applications. Issues regarding the repositioning of the existing house, scale/mass of proposed additions, modifications to the existing adjacent masonry wall, etc. shall be addressed under the review of the aforementioned applications.

C. ANALYSIS

The applicant is currently the owner of six platted lots (Lots 2, 3, 4, 16, 17 & 18 of Block 19) of the amended Park City Survey. The intent of this application is to combine said lots into one (1) lot of record. The applicant still intends to relocate and rehabilitate the existing historic dwelling, but rehab the existing historic barn in its current location.

The new Lot 1 will consist of approximately 75' frontage along Prospect Avenue, 76' frontage at the intersection of Marsac, Hillside and Prospect Avenue rights-of-way, and 88' of frontage along Hillside Avenue. The total square footage of Lot 1 will be approximately 8,207 square feet. Vehicular access for Lot 1 could be provided from Prospect Avenue, or via a private driveway located within the platted Hillside Avenue right-of-way (along the west side of the property). The proposed setbacks for Lot 1, as identified by staff, would consist of a 10' front yard setback from Prospect Avenue, 10' front yard setback from the intersection of Hillside and Prospect Avenues, a rear yard setback fronting Hillside Avenue, and a 12' side yard setback adjacent to the adjacent properties to the south. According to the applicant's architect & representative (David White), the relocation of the existing house is possible while complying with the aforementioned LMC required setbacks. Because the applicant is not relocating the existing barn, it is considered an existing historic non-complying structure that is not required to comply with the required setbacks.

The applicant has included a proposed easement that would accommodate the existing encroachment of an existing non-historic deck (located to the southeast) belonging to an adjacent property owner at 14 Prospect Avenue and reconcile the encroachment of a separate and existing masonry retaining wall (located along the west side of the entire property), despite the fact that the portion of the wall having said encroachment is located entirely on the applicant's property.

There are no remnant lots created by this proposal, and the proposed plat complies with the HR-1 District regulations. The size of the proposed lot is much larger than those in the immediate area, but there are several nearby which are comparable in size (e.g. 45 Hillside, 45 Prospect, 152 Sandridge, etc.). The creation of this combined lot as proposed will address the concerns raised by several neighbors regarding the existing congestion and infrastructure problems in the neighborhood, and the potential erosion of Park City's small mountain town character. After reviewing the request, staff is seeking approval from the City Council on this application.

At the June 25, 2003 Planning Commission hearing, it was staff's and the Planning Commission's understanding that the applicant and neighbors with encroaching structures had agreed to execute easements allowing the encroachments to continue. This is reflected at proposed Finding of Fact #11 and Conditions of Approval #1, 5, and 8. Since the Planning Commission hearing, it has come to staff's attention that at least one of the neighbors with an encroaching structure may refuse to execute an easement with the applicant. This change in circumstance is problematic as such refusal to execute the easement would prevent the applicant from recording this plat. It was never staff's nor the Planning Commission's intent to grant de facto veto power to any third parties, including the neighbors with encroaching structures. Accordingly, staff recommends that the City Council either:

- 1) remand this application back to Planning Commission for further discussion on the encroachments issue; or
- 2) approve this application subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended herein.

The effect of the amended Conditions of Approval is that the plat would recognize the existence of the encroachments, but would not require execution/recording of any easements prior to plat recordation.

D. NOTICE

Notice of this hearing was initially sent to property owners within 300' on April 28, 2003, as part of the Plat Amendment procedure. Numerous neighbors and adjoining property owners have telephoned Staff in objection to the initial plat proposal regarding the potential negative impacts posed by development on Lot 2 regarding parking, access, density and volumetrics. Staff has relayed these comments to the applicant's representative. The applicant has since met with the adjoining property owners and has addressed their concerns. No further comments have been received to date. The property has also been properly posted and legally noticed.

E. DEPARTMENT REVIEW

The Planning Department has reviewed this request. The City Engineer and City Attorney's Office will review the plat prior to recordation. The request was discussed at a Staff Review Meeting on May 6, 2003, where representatives from local utility companies and City Staff were in attendance and found the plat amendment to be in conformance with all requisite City development codes.

ALTERNATIVES

- A. Approval of the proposed plat amendment to combine all of Lot 2, 3, 4, 16, 17 & 18 of Block 19) of the amended Park City Survey, into a single lot, as conditioned herein.
- B. Remand this application to the Planning Commission for further discussion on the encroachments issue.
- C. Deny the plat amendment and retain the original Record of Survey which would prohibit the applicant from repositioning and adding on to the existing dwelling.
- D. Continue the item and request further evaluation from the Staff.

SIGNIFICANT IMPACTS:

The proposed amendment will result in one (1) lot which will meet the lot requirement for the HR-1 District. The plat amendment will not increase the density of the lot.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed, the six (6) Old Town platted lots shall remain and the proposed improvements to the existing historic house would be denied.

F. RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and either remand this application back to Planning Commission for further discussion on the encroachments issue; or approve this application subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended herein to combine of Lots 2, 3, 4, 16, 17 & 18 of Block 19 of the amended Park City Survey, into a single lot.

Findings of Fact:

1. The property is located in the Historic Residential (HR-1) zone.
2. The existing dwelling and adjacent barn are considered to be historically significant.
3. The property consists of all of Lots 2, 3, 4, 16, 17 & 18 in Block 19 of the Park City Survey.
4. The total square footage of the proposed lot is 8,207 square feet.
5. The amendment will combine all of said lots into a single lot of record to allow for the proposed development of the property. No remnant lots are created.
6. The plat amendment will not increase density on the lot.
7. The existing barn currently maintains a zero foot front yard setback along Prospect Avenue, and is considered an existing non-complying structure.
8. The required setback for a lot of this size in the HR-1 zone is 10' front yard setback from Prospect Avenue, 10' front yard setback from the intersection of Hillside and Prospect Avenues, a rear yard setback of 10' fronting Hillside Avenue, and a 12' side yard setback adjacent to the adjacent properties to the south.
9. An existing non-historic deck (located to the southeast) belonging to an adjacent property owner at 14 Prospect Avenue encroaches onto the subject property.
10. An existing masonry retaining wall is located along the west and south sides of the subject property.
11. The applicant is proposing to record two (2) separate easements as part of this plat amendment to accommodate the encroachment of an existing deck and masonry wall.
12. The proposed project will require a Historic District Design review and approval.
13. The neighborhood is characterized by a mix of historic and non-historic dwellings.
14. Several neighbors and adjoining property owners have contacted Staff via telephone regarding the initially proposed plat, but have not voiced any concerns or objection to the revised project nor the newly created lot.
15. Parking, snow storage, and construction staging is problematic in this neighborhood.
16. Several neighbors and adjoining property owners have contacted Staff via telephone regarding the proposed development, but have not voiced any concerns or objection to the project nor the newly created lot.

Conclusions of Law:

1. There is good cause for the amendment.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. The proposal is consistent with both the Park City Land Management Code Chapter 7 and Chapter 15 and State subdivision requirements.

Conditions of Approval:

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat

with the Land Management Code and conditions of approval is a condition precedent to plat recordation, ~~including all easements referred to in Finding of Fact #11 herein.~~

2. The rehabilitation of the existing historic dwelling and adjacent barn shall require the necessary review and approval of a CUP/Development on Steep Slope and Historic District Design Review applications prior to the issuance of any building permits.
3. The City Engineer shall review the slope, configuration and drainage pattern of any proposed driveway, as well as the utility plan for the property. No construction, grading, or construction staging is permitted within the Hillside Avenue, Prospect Avenue, or Marsac Avenue rights-of-way without prior approval of the City Engineer.
4. A ten (10) foot non-exclusive snow storage easement along Prospect Avenue shall be dedicated to the City on the plat.
5. A note shall be added to the plat identifying ~~all~~ the existing encroachments and any easements associated with the existing encroachments on to the subject property, ~~as noted in Finding of Fact #11 herein.~~
6. A note shall be added to the plat stating that no accessory apartment(s) shall be permitted as part of any single-family dwelling associated with this lot because of the congested and heavily used streets relative to parking, snow storage, and construction staging in this neighborhood.
7. This approval shall expire one year from the date of City Council approval, unless this Plat Amendment is recorded prior to that date.
8. ~~All easements (as noted in Finding of Fact #11 herein), shall be signed, executed and duly recorded prior to the recordation of the actual plat amendment.~~

Exhibits

Exhibit A - Location Map

Exhibit B - Existing Plat

Exhibit C - Proposed Plat Amendment

Exhibit D - Standard Conditions of Approval Proposed Setbacks Illustration

Exhibit E - Letter from the Applicant's Representative (dated 6/19/03)

Exhibit F - Letter from an Adjoining Property Owners

Exhibit G - Copy of Written Easement Agreements

Exhibit H - Proposed Setbacks Illustration

M:\DS\COUNCIL\2003\reports\9hillsidePlat2.wpd

9 Hillside Avenue



Vicinity Map Exhibit A

PARK CITY - BLOCKS 18, 19, 51, 64, SECTION 16 & 21

SEE PAGE

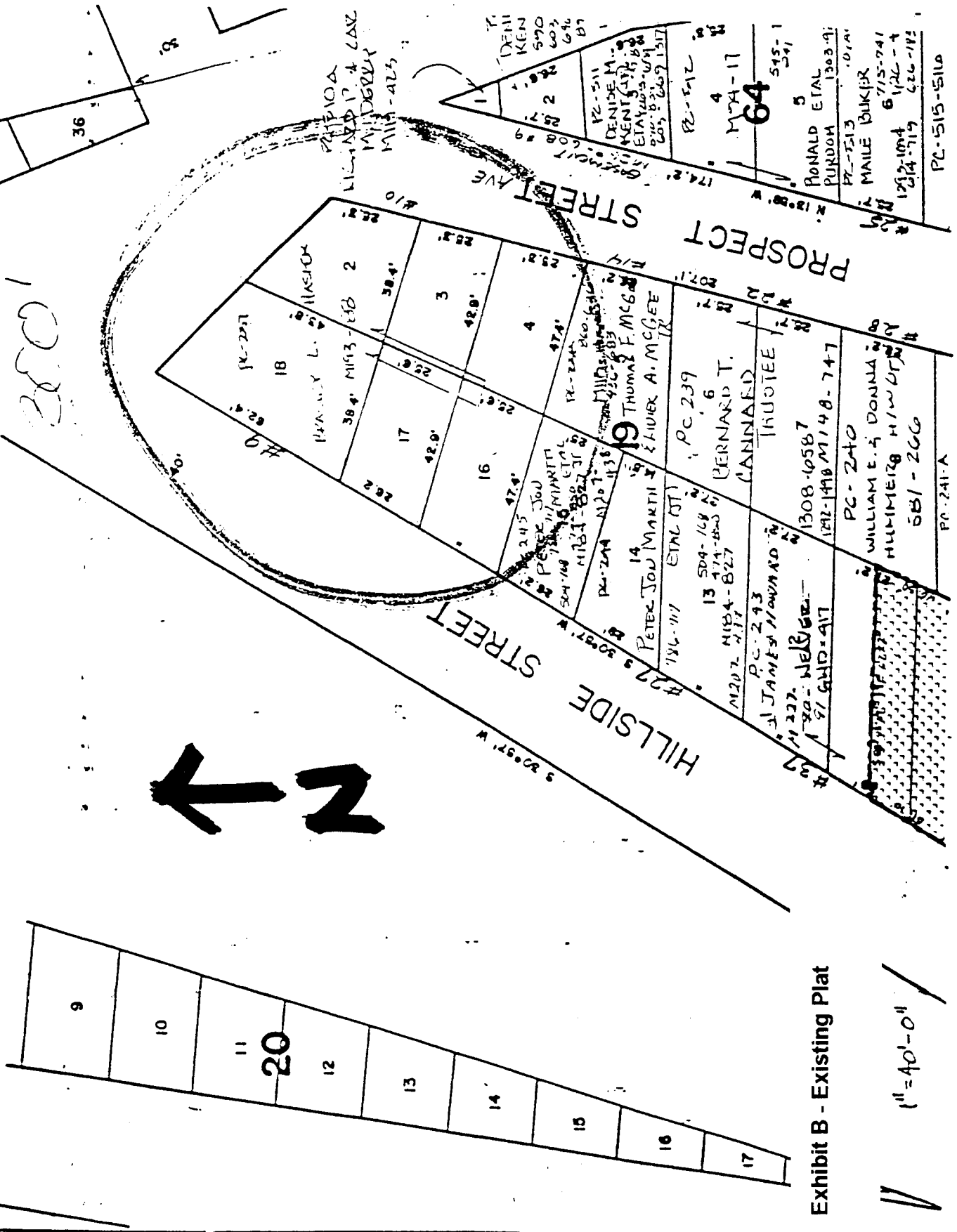


Exhibit B - Existing Plat

1" = 40' - 0"

I have learned today that I am a Registered Land Surveyor and that I have Certificate No. 13403 as prescribed by the laws of the State of Texas, and that by authority of said certificate I have received the Board of Survey map of the BlackDirt Subdivision and that the same has been set off to subdivision or lot ground as shown on the plat.

DATE _____

As of 10/15/23, 4, 16, 17 and 18 blocks of Pata D's supply according to the office had turned in the end of records in the Summit County Records Office.

SHOW ALL THE BEST PRESENTS THAT THE UNDERSTANDING MARCHES OF THE NORTH BRANCHES OF THE CITY, TO BE
shown before the THE SUNDAY SCHOOL, and to be given to the children of the City of New York, to be
prepared, and to be given to the children of the City of New York, to be prepared, and to be given to the
recognition of the SUNDAY SCHOOL, and to be given to the children of the City of New York, to be prepared,
A. S. The names of the representatives being immediately after the dedication to the City of New York, at the
street and the ground, with the names of the representatives and the names of the representatives, and the names of the
and construction, during the time of the dedication, and the names of the representatives, and the names of the

in witness whereof the undersigned do hereunto set their hands and

Only Page

State of Utah
County of Summit[illegible]

Antares Public

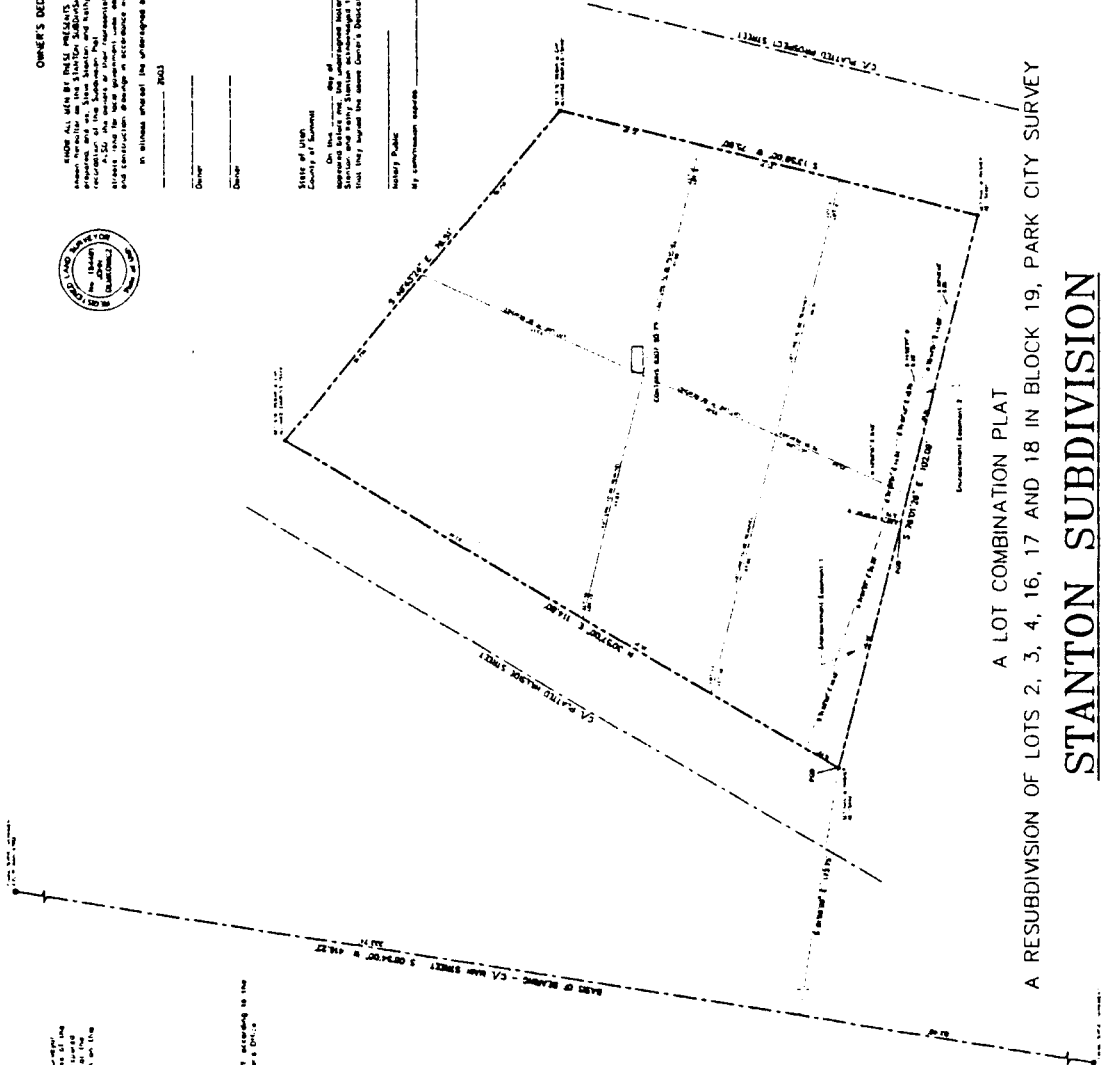
Source: *Author*

(ACTIOCHAMPA) [ASIMM] : DISORDERS

beginning at the southeast corner of Lot 1, Stanton Subdivision, said point being the PCHS of McQueen, thence along the eastern line of Lot 3, Stanton Subdivision north 307°27'00" East 8.72 feet thence South 71°58'00" East 18.13 feet, thence South 71°07'27" East 20.20 feet thence South 14°55'07" West 2.90 feet, thence along the southern line of Lot 1, Stanton Subdivision North 78°01'28" West 48.10 feet to the Point of Beginning.

ACKNOWLEDGMENT

Beginning at the south-west corner of Lot 1, Starter Subdivision along the westerly line South 74°07'38" East 48.10 feet, and point along the Point of Beginning, thence South 14°55'03" East 3.75 feet, thence South 77°38'51" East 10.40 feet, thence South 12°02'30" East 1.22 feet, thence South 77°45'51" East 10.78 feet, thence South 16°28'27" East 2.22 feet, thence South 75°54'51" East 10.46 feet, thence South 00°46'48" East 2.55 feet, thence along the westerly line of Lot 1, Starter Subdivision, 78°02'35" East 38.31 feet to the Point of Beginning.



A LOT COMBINATION PLAT
A RESUBDIVISION OF LOTS 2, 3, 4, 16, 17 AND 18 IN BLOCK 19, PARK CITY SURVEY

STANTON SUBDIVISION

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

SYDNEYVILLE BASIN WATER MATTAMORA DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
APPROVED FOR CONSTRUCTION OF AN 800 GALLON BASIN WATER MATTAMORA DISTRICT SYDNEYVILLE BASIN DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	APPROVED BY THE WATER CITY PLANNING COMMISSION DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	I, <u>W. J. C. B. B. B.</u>, BEING AN ENGINEER, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED WORK IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE WATER CITY PLANNING COMMISSION DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	APPROVED AS TO FORM DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	CERTIFICATE OF ATTEST I, <u>W. J. C. B. B. B.</u>, BEING AN ATTESTER, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED WORK IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE WATER CITY PLANNING COMMISSION DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	COUNCIL APPROVAL AND ACCEPTANCE APPROVED AND ACCEPTED BY THE WATER CITY COUNCIL DATED 21ST OF JULY 1903 A.D. BY <u>W. J. C. B. B. B.</u>	STATE OF CALIFORNIA COUNTY OF SAN DIEGO ALL THE RECORDS OF THE COUNTY OF SAN DIEGO DATE <u>21ST OF JULY 1903</u> TIME <u>10:00 AM</u> PAGE <u>1</u> RECORDED

PARK CITY MUNICIPAL CORPORATION
STANDARD PROJECT CONDITIONS

1. The applicant is responsible for compliance with all conditions of project approval.
2. The proposed project is approved as indicated on the final approved plans, except as modified by additional conditions imposed by the Planning Commission at the time of the hearing. The proposed project shall be in accordance with all adopted codes and ordinances; including, but not necessarily limited to: the Land Management Code (including Chapter 9, Architectural Review); Uniform Building, Fire and related Codes (including ADA compliance); the Park City Design Standards, Construction Specifications, and Standard Drawings (including any required snow storage easements); and any other standards and regulations adopted by the City Engineer and all boards, commissions, agencies, and officials of the City of Park City.
3. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit.
4. All construction shall be completed according to the approved plans on which building permits are issued. Approved plans include all site improvements shown on the approved site plan. Site improvements shall include all roads, sidewalks, curbs, gutters, drains, drainage works, grading, walls, landscaping, lighting, planting, paving, paths, trails, public necessity signs (such as required stop signs), and similar improvements, as shown on the set of plans on which final approval and building permits are based.
5. All modifications to plans as specified by conditions of approval and all final design details, such as materials, colors, windows, doors, trim dimensions, and exterior lighting shall be submitted to and approved by the Community Development Department, Planning Commission, or Historic District Commission prior to issuance of any building permits. Any modifications to approved plans after the issuance of a building permit, must be specifically requested and approved by the Community Development Department, Planning Commission and/or Historic District Commission in writing prior to execution.
6. Final grading, drainage, utility, erosion control and re-vegetation plans shall be reviewed and approved by the City Engineer prior to commencing construction. Limits of disturbance boundaries and fencing shall be reviewed and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
7. An existing conditions survey identifying existing grade shall be conducted by the applicant and submitted to the Community Development Department prior to issuance of a footing and foundation permit. This survey shall be used to assist the Community Development Department in determining existing grade for measurement of building heights, as defined by the Land Management Code.
8. A Construction Mitigation Plan (CMP), submitted to and approved by the Community Development Department, is required prior to any construction. A CMP shall address the following, including but not necessarily limited to: construction staging, phasing, storage of materials, circulation, parking, lights, signs, dust, noise, hours of operation, re-vegetation of

- disturbed areas, service and delivery, trash pick-up, re-use of construction materials, and disposal of excavated materials. Construction staging areas shall be clearly defined and placed so as to minimize site disturbance. The CMP shall include a landscape plan for re-vegetation of all areas disturbed during construction, including but not limited to: identification of existing vegetation and replacement of significant vegetation or trees removed during construction.
9. Any removal of existing building materials or features on historic buildings, shall be approved and coordinated by the Planning Department prior to removal.
 10. The applicant and/or contractor shall field verify all existing conditions on historic buildings and match replacement elements and materials according to the approved plans. Any discrepancies found between approved plans, replacement features and existing elements must be reported to the Planning Department for further direction, prior to construction.
 11. Final landscape plans, when required, shall be reviewed and approved by the Community Development Department prior to issuance of building permits. Landscaping shall be completely installed prior to occupancy, or an acceptable guarantee, in accordance with the Land Management Code, shall be posted in lieu thereof. A landscaping agreement or covenant may be required to ensure landscaping is maintained as per the approved plans.
 12. All proposed public improvements, such as streets, curb and gutter, sidewalks, utilities, lighting, trails, etc. are subject to review and approval by the City Engineer in accordance with current Park City Design Standards, Construction Specifications and Standard Drawings. All improvements shall be installed or sufficient guarantees, as determined by the Community Development Department, posted prior to occupancy.
 13. The Snyderville Basin Sewer Improvement District shall review and approve the sewer plans, prior to issuance of any building plans. A Line Extension Agreement with the Snyderville Basin Sewer Improvement District shall be signed and executed prior to building permit issuance. Evidence of compliance with the District's fee requirements shall be presented at the time of building permit issuance.
 14. The planning and infrastructure review and approval is transferrable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
 15. When applicable, access on state highways shall be reviewed and approved by the State Highway Permits Officer. This does not imply that project access locations can be changed without Planning Commission approval.
 16. Vesting of all permits and approvals terminates upon the expiration of the approval as defined in the Land Management Code, or upon termination of the permit.
 17. No signs, permanent or temporary, may be constructed on a site or building without a sign permit, approved by the Community Development Department. All multi-tenant buildings require an approved Master Sign Plan prior to submitting individual sign permits.

December 1, 1999

David G. White, Architect
P.O. Box 1313
Park City, Utah 84060
435-649-8379

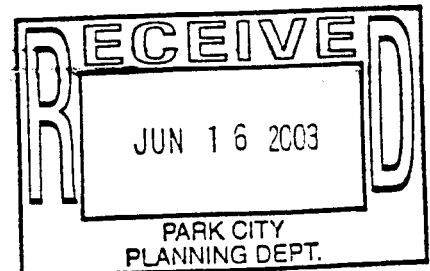
June 16, 2003

Re: 9 Hillside

This project deals with an existing historic single family house and an auxiliary detached historic barn. These structures exist on six old town lots which via a plat amendment will be changed to one lot. A portion of the barn had living quarters at one time. The existing historic portion of the house is about 1272 sq. ft. There is a small non-historic addition on the house which will be removed. The existing barn is about 400 sq. ft. Neither structure has a code compliant foundation nor wall or roof framing compatible for continued habitation.

The new owner of the property has plans to restore both structures and build a new addition/connection between the two buildings. The existing floor elevation of both structures will remain the same with respect to the site. The existing grades on the site are such that the existing floor elevation of the barn is 9' above that of the house. The barn is proposed to remain in its existing location, but when it receives its new foundation, it will have a lower level under which will be about the elevation as the existing house. The existing house will also receive a new foundation which will be in the form of a basement with a garage space. This garage space will be accessed from the west and an existing driveway which is about 9' below the existing main floor of the house. The driveway is on city property and accesses one other private residence. So you see, it all works out hunky-dory. Access to the new garage under the house will require having to break through an existing historic wall. This wall, however, is on the new owners property and the breakthrough will be repaired with the same type of stone.

The restoration of the existing structures will be done in strict accordance with the Park City Design Guidelines. The size of the new addition/connection will conform to the present Park City Land Management Code and all required setbacks will be strictly adhered to. It is proposed that the existing house will be moved south approximately 8' but will maintain its present orientation and required setbacks.



242 SOUTH GRANADOS AVENUE
SOLANA BEACH, CA 92075-2011

FILE COPY

TO WHOM IT MAY CONCERN:

The undersigned are the owners of the house located at

14 Prospect Avenue
Park City, Utah, 84060-9989

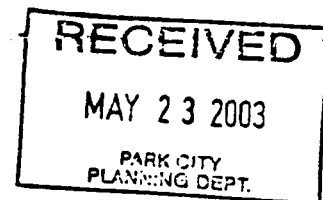
Ms. Paula I. McGee, currently resides at the above named property and has served as its manager for many years. Paula and her husband, Paul Woods, have lived there since July, 1987.

We have granted Ms. Paula I. McGee or Mr. Paul Woods full and complete authority to act on our behalf as regards any legal or financial matters related to this property.

Thomas F. McGee
Thomas F. McGee

Livier A. McGee
Livier A. McGee

May 6, 2003



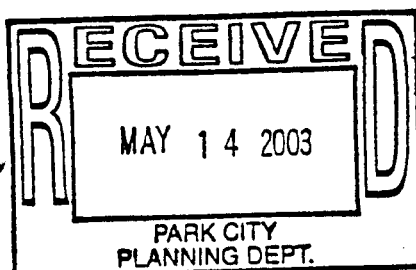
FROM: J. WRTIN 14 PROSPECT ST

DEAR P.C. PLANNING COMM.

I feel strongly that the
9 HILLSIDE PLAT should not be
amended to accommodate^{sq?}
another residence nor should
historic structures such as the
barn & house be allowed to
be moved.

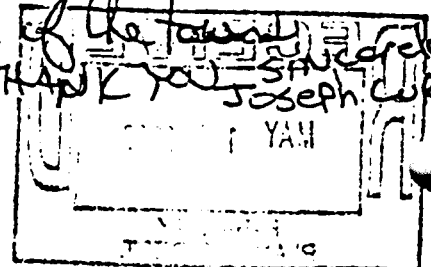
1. The intersection of Hillside
MARSAE, PROSPECT, & MINE RD.
is already very dangerous, con-
gested, & difficult for pedest-
rians to cross. Moving the
barn & residence to the corner
of that property would
make a bad situation worse.

I personally cross this inter-
section a few times every day
I have almost been hit more
than a few times. (over)



2. Allowing people to move houses in OLD TOWN so they can squeeze in more houses is a bad idea for many reasons. I feel for one it is completely contrary to the spirit of HISTORIC ~~OLD~~ OLD TOWN preservation and if allowed to happen and continue will lead to a diminished ~~quality~~ quality of life for OLD TOWN residents and ^{diminished} ~~quality~~ quality of experience for visitors. ~~It is a bad precedent for the future of the town. It is crowded enough here.~~

To allow the quality of life in OLD TOWN to be compromised for the profittering of individuals who may or may not live in OLD TOWN is wrong ~~and~~ and is a bad precedent for the future of the town. It is crowded enough here. THANK YOU Sincerely Joseph C. YAM



Steve Stanton
54 Navy St.
Venice, CA 90291

June 12, 2003

Mr. Thomas McGee
242 South Granados Ave.
Solana Beach, CA 92075

Dear Mr. McGee,

In order to accommodate the encroachment of your retaining walls and deck onto my property, it was suggested by the city in our meeting with Paula that we grant you an easement. This easement will allow the deck and retaining walls to remain and eliminate the need for any inconvenience and expense on your part. I feel this to be the appropriate solution. Enclosed you will find the easement document for your signature.

Please execute this document, have it notarized and return it to me in the enclosed envelope. I would like to have this back ASAP since the city is anxious to get this resolved.

If you should have any questions I can be reached at 310-327-6265 x14 (work) or 310-399-1811 (home)

Sincerely,

Steve Stanton

**Exhibit G - Copy of Written
Easement Agreements**

When Recorded Mail to:

Steve Stanton
54 Navy Street
Venice, CA 90291

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is entered into effective the ____ day of ____, 2003, by and between **STEVE STANTON** (as "Stanton") and **THOMAS F. McGEE** and **LIVIER A. McGEE** (as the "McGees").

Recitals

- A. Stanton owns real property in Park City, Utah described as follows: All of Lot 4, Block 19, Amended Plat Of Park City Survey, according to the official plat thereof on record in the office of the Summit County Recorder, Summit County, Utah, a portion of Tax ID No. PC-237, and referred to below as "Lot 4".
- B. McGees also own real property in Park City, Utah described as follows: All of Lot 5, Block 19, Amended Plat Of Park City Survey, according to the official plat thereof on record in the office of the Summit County Recorder, Summit County, Utah, Tax ID No. PC-238, and referred to below as "Lot 5".
- C. Stanton and McGees acknowledge that a survey of Lot 4 (and additional property) was prepared by Alliance Engineering on May 2, 2003 as Job No. 9-3-03, Amended Record of Survey for 9 Hillside Street. A reduced-size copy of that survey is attached hereto as Exhibit "A", and is referred to below as the "Survey".
- D. Stanton and McGees agree that the legal boundary between Lot 5 and Lot 4 is the boundary as shown on the Survey.
- E. McGees also acknowledge that the deck shown on the Survey (referred to below as the "Deck") encroaches onto Lot 4 from Lot 5.
- F. McGees want to obtain from Stanton the legal right for the Deck to encroach onto Lot 4.
- G. Stanton is willing to grant an easement to McGees to legally permit the encroachment of the Deck onto Lot 4.

NOW THEREFORE, In consideration of the above Recitals and for TEN DOLLARS (\$10.00) and other good and valuable consideration, Stanton and McGees do hereby agree as follows:

1. **EASEMENT.** Subject to the terms of this paragraph 1, Stanton hereby grants and conveys to McGees a perpetual easement for the Deck to encroach onto Lot 4 (the "Easement"). The exact location of the Easement is marked "Encroachment Easement 2" shown on attached Exhibit "B". McGees agree however, that if the Deck is ever destroyed by acts of God, acts of McGees (or McGees's heirs, successors or assigns), the Deck will be removed from Lot 4, and the Easement may be terminated by Stanton (or Stanton's successors or assigns) by providing written notice to McGees (or McGees' successors or assigns).
2. **INDEMNIFICATION.** Stanton shall not be responsible for repair or maintenance of the Deck; nor shall Stanton be responsible for any damage to any portion of the Deck. McGees do hereby agree to indemnify, save and hold harmless Stanton from and against any claims arising out of damage to the Deck or injury to persons or property associated with use of the Deck.
3. **MAINTENANCE & ENFORCEMENT.** McGees shall have the right to use the Deck and to landscape and maintain the property located within the Easement. McGees shall also have the right of access to the Easement for the purpose of repairing and maintaining the Deck. However, no further structures (other than the existing Deck) may be constructed on the Easement without the written consent of Stanton. Any work on or repair of the Deck undertaken by McGees shall be completed at McGees' expense and in a professional and timely manner. In the event of termination of this Easement as provided in paragraph 1 above, McGees shall also be responsible, at Stanton's option and at McGees' expense, to immediately remove all remaining portions of the Deck from any portion of Lot 4. If either Stanton or McGees are required to bring legal action to enforce the rights or privileges granted or reserved herein, the prevailing party shall be entitled to recover from the non-prevailing party, reasonable costs of enforcement, including attorney fees. This Agreement is binding on the heirs, successors and assigns of Stanton and McGees.

IN WITNESS WHEREOF, the undersigned have entered into this Easement Agreement effective as of the date first above written as evidenced by their signatures below.

STANTON

MCGEES

STEVE STANTONTHOMAS F. McGEELIVIER A. McGEE**ACKNOWLEDGEMENT**

STATE OF CALIFORNIA)

: ss.

County of)

On the _____ day of _____, 2003, personally appeared before me STEVE STANTON, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public: _____

My commission Expires: _____

Residing at: _____

ACKNOWLEDGEMENT

STATE OF UTAH)

: ss.

County of Summit)

On the _____ day of _____, 2003, personally appeared before me Thomas F. McGee, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public _____

My commission Expires: _____

Residing at: _____

ACKNOWLEDGEMENT

STATE OF UTAH)

: ss.

County of Summit)

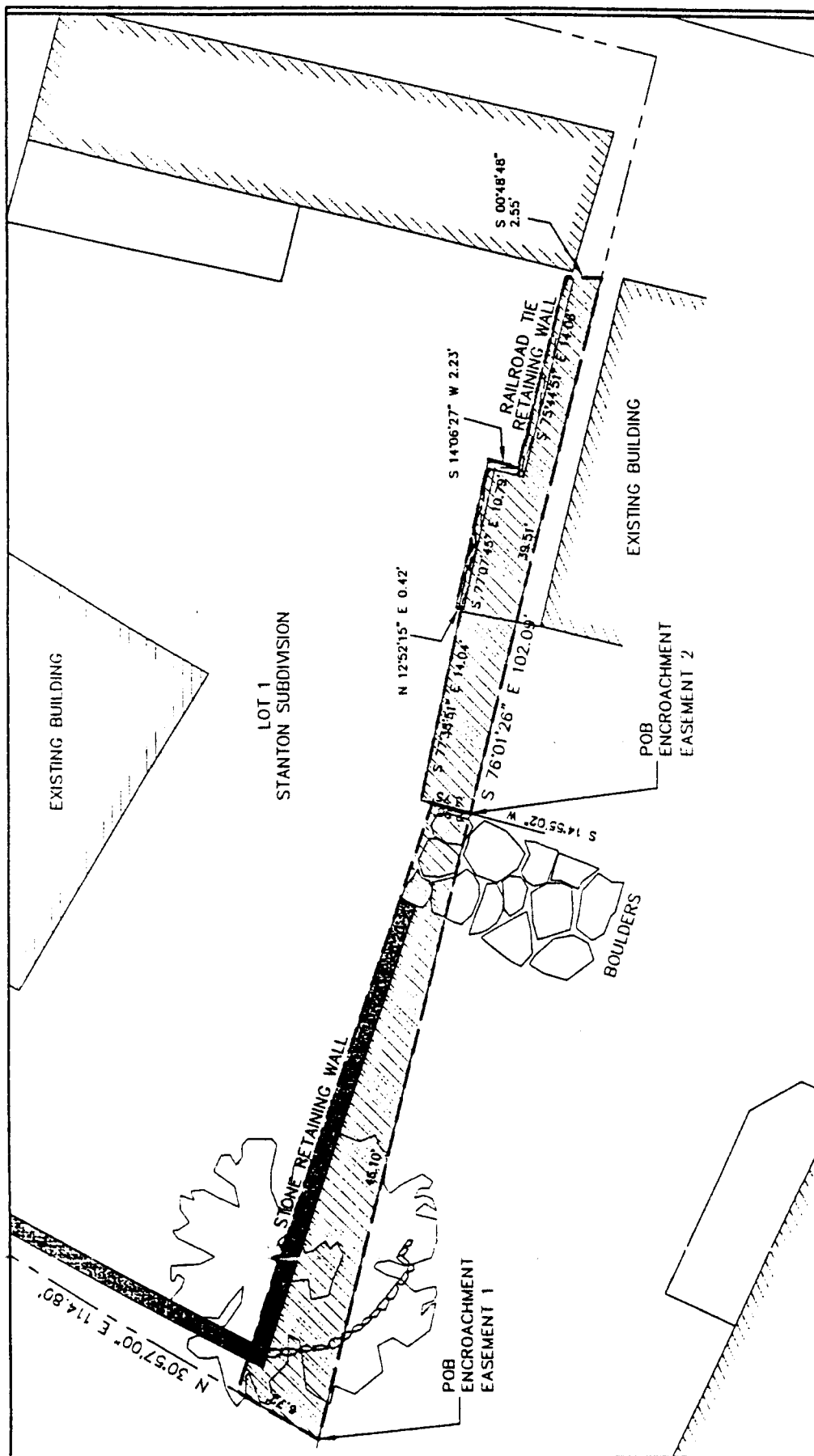
On the _____ day of _____, 2003, personally appeared before me Livier A. McGee, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same.

Notary Public _____

My commission Expires: _____

Residing at: _____

Encroachment Easement Stanton-McGee 6.12.03(PDC)



ENCROACHMENT EASEMENT 1

Beginning at the southwest corner of Lot 1, Stanton Subdivision, said point being the POINT OF BEGINNING; thence along the westerly line of Lot 1, Stanton Subdivision North 30°57'00" East 6.72 feet; thence South 71°56'00" East 18.13 feet; thence South 71°07'27" East 26.20 feet; thence South 14°55'02" West 2.90 feet; thence along the southerly line of Lot 1, Stanton Subdivision North 76°01'26" West 46.10 feet to the Point of Beginning.

ENCROACHMENT EASEMENT 2

Beginning at the southwest corner of Lot 1, Stanton Subdivision along the southerly line South 76°01'26" East 46.10 feet, said point being the POINT OF BEGINNING; thence North 14°55'02" East 3.75 feet; thence South 77°38'51" East 14.04 feet; thence North 12°52'15" East 0.42 feet; thence South 77°07'45" East 10.79 feet; thence South 14°06'27" West 2.23 feet; thence South 75°44'51" East 14.06 feet; thence South 00°48'48" West 2.55 feet; thence along the southerly line of Lot 1, Stanton Subdivision North 76°01'26" West 39.51 feet to the Point of Beginning.

Steve Stanton
54 Navy St.
Venice, CA 90291

June 12, 2003

Mr. Peter Marth
PO Box 368
Park City, UT 84060

Dear Peter,

In order to accommodate the encroachment of the retaining walls onto my property as indicated by the survey and based on the city's suggestion, I have had an easement created giving you access to the wall and the space it defines adjacent to your property. Enclosed you will find the easement document for your signature.

Please execute this document, have it notarized and return it to me in the enclosed envelope. I would like to have this back ASAP since the city is anxious to get this resolved.

If you should have any questions I can be reached at 310-327-6265 x14 (work) or
310-399-1811 (home)

Sincerely,

Steve Stanton

When Recorded Mail to:
 Steve Stanton
 54 Navy Street
 Venice, CA 90291

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is entered into effective the _____ day of _____, 2003, by and between STEVE STANTON (as "Stanton") and PETER J. MARTH (as "Marth").

Recitals

- A. Stanton owns real property in Park City, Utah described as follows: All of Lot 16, Block 19, Park City Survey, according to the official plat thereof on record in the office of the Summit County Recorder, Summit County, Utah, a portion of Tax ID No. PC-237, and referred to below as "Lot 16".
- B. Marth also owns real property in Park City, Utah described as follows: All of Lot 15, Block 19, Park City Survey, according to the official plat thereof on record in the office of the Summit County Recorder, Summit County, Utah, Tax ID No. PC-245, and referred to below as "Lot 15".
- C. Stanton and Marth acknowledge that a survey of Lot 16 (and additional property) was prepared by Alliance Engineering on May 2, 2003 as Job No. 9-3-03, Amended Record of Survey for 9 Hillside Street. A reduced-size copy of that survey is attached as Exhibit "A", and is referred to below as the "Survey".
- D. Stanton and Marth agree that the legal boundary between Lot 15 and Lot 16 is the boundary as shown on the Survey.
- E. Marth also acknowledges that the stone wall shown on the Survey (referred to below as the "Wall") encroaches onto Lot 16 from Lot 15.
- F. Marth wants to obtain from Stanton the legal right for the Wall to encroach onto Lot 16.
- G. Stanton is willing to give an easement to Marth to legally permit the encroachment of the Wall onto Lot 16.

NOW THEREFORE, In consideration of the above Recitals and for TEN DOLLARS (\$10.00) and other good and valuable consideration, Stanton and Marth agree as follows:

1. **EASEMENT.** Subject to the terms of this paragraph 1, Stanton hereby grants and conveys to Marth a perpetual easement for the Wall to encroach onto Lot 16 (the "Easement"). The exact location of the Easement is marked "Encroachment Easement 1" shown on attached Exhibit "B". Marth agrees however, that if the Wall is ever destroyed by acts of God, acts of Marth (or Marth's heirs, successors or assigns), the Wall will be removed from Lot 16, and the Easement may be terminated by Stanton (or Stanton's successors or assigns) by providing written notice to Marth (or Marth's successors or assigns).
2. **INDEMNIFICATION.** Stanton shall not be responsible for repair or maintenance of the Wall; nor shall Stanton be responsible for any damage to any portion of the Wall. Marth does hereby agree to indemnify, save and hold harmless Stanton from and against any claims arising out of damage to the Wall or injury to persons or property associated with use of the Wall.
3. **MAINTENANCE & ENFORCEMENT.** Marth shall have the right to landscape and maintain the property located within the Easement. Marth shall also have the right of access to the Easement for the purpose of repairing and maintaining the wall. However, no further structures (other than the existing Wall) may be constructed on the Easement without the written consent of Stanton. Any work on or repair of the Wall undertaken by Marth shall be completed at Marth's expense and in a professional and prompt manner. In the event of termination of this Easement as provided in paragraph 1 above, Marth shall also be responsible, at Stanton's option and at Marth's expense, to immediately remove all remaining portions of the Wall from any portion of Lot 16. If either Stanton or Marth is required to bring legal action to enforce the rights or privileges granted or reserved herein, the prevailing party shall be entitled to recover from the non-prevailing party, reasonable costs of enforcement, including attorney fees. This Agreement is binding on the heirs, successors and assigns of Marth and Stanton.

IN WITNESS WHEREOF, the undersigned have entered into this Easement Agreement effective as of the date first above written as evidenced by their signatures below.

STANTON

MARTH

STEVE STANTONPETER J. MARTH**ACKNOWLEDGEMENT**

STATE OF CALIFORNIA)
 : ss.
 County of)

On the _____ day of _____, 2003, personally appeared before me STEVE STANTON, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public: _____
 My commission Expires: _____
 Residing at: _____

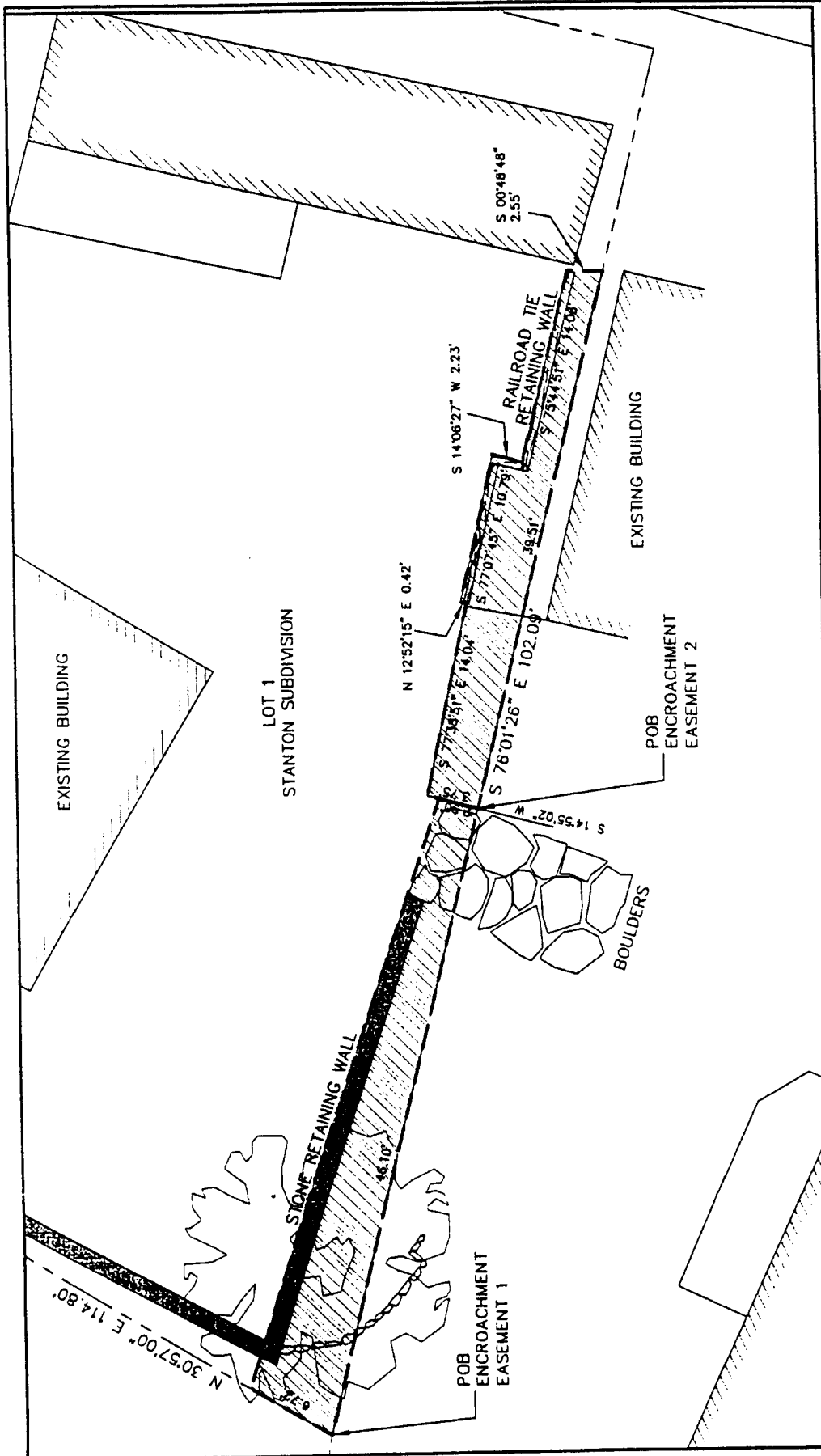
ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
 County of Summit)

On the _____ day of _____, 2003, personally appeared before me Peter J. Marth, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public
 My commission Expires: _____
 Residing at: _____

Encroachment Easement Steve Stanton No One 6.12.03



ENCROACHMENT EASEMENT 2
Beginning at the southwest corner of Lot 1, Stanton Subdivision along the southerly line South 76°01'26" East 46.10 feet, said point being the POINT OF BEGINNING; thence North 14°55'02" East 3.75 feet; thence South 77°38'51" East 14.04 feet; thence North 12°52'15" East 0.42 feet; thence South 77°07'45" East 10.79 feet; thence South 14°06'27" West 2.23 feet; thence South 75°44'51" East 14.06 feet; thence South 00°48'48" West 2.55 feet; thence along the southerly line of Lot 1, Stanton Subdivision North 76°01'26" West 39.51 feet to the Point of Beginning.

ENCROACHMENT EASEMENT 1
Beginning at the southwest corner of Lot 1, Stanton Subdivision, said point being the POINT OF BEGINNING; thence along the westerly line of Lot 1, Stanton Subdivision North 30°57'00" East 6.72 feet; thence South 71°56'00" East 18.13 feet; thence South 71°07'27" East 26.20 feet; thence South 14°55'02" West 2.90 feet; thence along the southerly line of Lot 1, Stanton Subdivision North 76°01'26" West 46.10 feet to the Point of Beginning.

Ordinance No. 03-

AN ORDINANCE APPROVING STANTON PLAT AMENDMENT TO COMBINE ALL OF LOTS 2, 3, 4, 16, 17 & 18 IN BLOCK 19 OF THE AMENDED PARK CITY SURVEY, INTO ONE LOT OF RECORD LOCATED AT 9 HILLSIDE AVENUE, PARK CITY, UTAH

WHEREAS, the owner of all of Lots 2, 3, 4, 16, 17 & 18 in Block 19 of the Amended Park City Survey, has petitioned the City Council for approval of a revision to the final plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 25, 2003, to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission, on June 25, 2003, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 10, 2003, the City Council held a public hearing to receive input on the proposed subdivision; and

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

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

SECTION 1. FINDINGS. The following findings are hereby adopted.

1. The property is located in the Historic Residential (HR-1) zone.
2. The existing dwelling and adjacent barn are considered to be historically significant.
3. The property consists of all of Lots 2, 3, 4, 16, 17 & 18 in Block 19 of the Park City Survey.
4. The total square footage of the proposed lot is 8,207 square feet.
5. The amendment will combine all of said lots into a single lot of record to allow for the proposed development of the property. No remnant lots are created.
6. The plat amendment will not increase density on the lot.
7. The existing barn currently maintains a zero foot front yard setback along Prospect Avenue, and is considered an existing non-complying structure.
8. The required yard setback for a lot of this size in the HR-1 zone is 10' front yard setback from Prospect Avenue, 10' front yard setback from the intersection of Hillside and Prospect Avenues, a rear yard setback of 10' fronting Hillside Avenue, and a 12' side yard setback

adjacent to the adjacent properties to the south.

9. An existing non-historic deck (located to the southeast) belonging to an adjacent property owner at 14 Prospect Avenue encroaches onto the subject property.
10. An existing masonry retaining wall is located along the west side of the entire property.
11. The applicant is proposing to record two (2) separate easements as part of this plat amendment to accommodate the encroachment of an existing deck and masonry wall.
12. The proposed project will require a Historic District Design review and approval.
13. The neighborhood is characterized by a mix of historic and non-historic dwellings.
14. Several neighbors and adjoining property owners have contacted Staff via telephone regarding the initially proposed plat, but have not voiced any concerns or objection to the revised project nor the newly created lot.
15. Parking, snow storage, and construction staging is problematic in this neighborhood.
16. Several neighbors and adjoining property owners have contacted Staff via telephone regarding the proposed development, but have not voiced any concerns or objection to the project nor the newly created lot.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment, that neither the public nor any person will be materially injured by the proposed plat amendment and that the proposal is consistent with both the Park City Land Management Code and State subdivision requirements.

SECTION 3. PLAT AMENDMENT APPROVAL. The plat amendment to combine all of Lots 2, 3, 4, 16, 17 & 18 in Block 19 of the Park City Survey, known as the Stanton Plat Amendment, is approved as shown on Exhibit B, with the following conditions:

1. City Attorney and City Engineer review and approval of the plat amendment for compliance with the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. The rehabilitation of the existing historic dwelling and adjacent barn shall require the necessary review and approval of a CUP/Development on Steep Slope and Historic District Design Review applications prior to the issuance of any building permits.
3. The City Engineer shall review the slope, configuration and drainage pattern of any proposed driveway, as well as the utility plan for the property. No construction, grading, or construction staging is permitted within the Hillside Avenue, Prospect Avenue, or Marsac Avenue rights-of-way without prior approval of the City Engineer.
4. A ten (10) foot non-exclusive snow storage easement along Prospect Avenue shall be dedicated to the City on the plat.
5. A note shall be added to the plat identifying the existing encroachments and any easements associated with the existing encroachments on to the subject property.

6. A note shall be added to the plat stating that no accessory apartment(s) shall be permitted as part of any single-family dwelling associated with this lot because of the congested and heavily used streets relative to parking, snow storage, and construction staging in this neighborhood.
7. This approval shall expire one year from the date of City Council approval, unless this Plat Amendment is recorded prior to that date.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 10th day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

CITY COUNCIL REPORT

DATE: July 10, 2003
DEPARTMENT: Planning Department
AUTHOR: Patrick Put
TITLE: Chapter 11 re-write
TYPE OF ITEM: Work Session & Regular Agenda

SUMMARY RECOMMENDATIONS: Staff requests that the City Council discuss the proposed re-write of Chapter 11 Historic Preservation, of the Land Management Code, conduct a public hearing, consider public input, and approve the proposed modifications.

A. **BACKGROUND**

On May 28, 2003, the Planning Commission reviewed the proposed changes to Chapter 11, Historic Preservation, of the LMC, as suggested by the City Council. Additionally, the Planning Commission considered several comments generated by the HDC (at their May 6, 2003 special meeting) on the proposed changes. Upon a lengthy public hearing and discussion, the Commission provided staff with specific direction and continued the public hearing to the next available meeting date. On June 25, 2003, staff returned to the Planning Commission with a redline draft of the proposed changes, as well as all recommendations made previously by the Commission, for review and possible action. During the public hearing, several citizens voiced their concerns on various issues affecting Old Town and the existing design review process. Both staff and the Commission addressed them by pointing out specific passages of the newly revised chapter in response to their concerns. After a lengthy discussion, the Planning Commission forwarded a positive recommendation to the City Council. At this time, staff requests that the City Council review the generated redline copy of Chapter 11, conduct a public hearing, and approve the modifications as presented.

B. **ANALYSIS**

Based on specific comments made at their May 13, 2003 meeting, City Council recommended that the following changes be made to Chapter 11 (the items in italics are specific changes to the Code):

- *Change the name of the HDC;*
- *HDC retained having 3 new or re-appointed members, or with fewer members;*
- Planning Staff takes action on all design review applications with appeals of staff action going to HDC;
- HDC reviews grant program, establishes preservation policy, and oversees program development;
- Member of Planning Commission serves as a voting member of HDC (term rotates with office of Chair or V. Chair of PC) ;

- *Certificate of Appropriateness of Demolition (CAD) applications go to appointed CAD hearing Officer, and*
- *Improve communication with public and HDC on pending administrative action on projects via website, KPCW interviews, etc.*

Additionally, staff was directed to get the HDC's input on the proposed changes prior to the commencement of the Planning Commission's review. At the May 6, 2003, special meeting held by the HDC (with additional group participants), creating a 'focus group' which concentrated on the proposed recommendations, rather than evaluate the Chapter re-write line by line. Those specific items were as follows (The group's comments are in *italics*):

1. HDC retained but renamed.
The focus group vacillated among several named suggested, however, collectively agreed on the name "Historic Preservation Advisory Board (HPAB)" because of the quasi-judicial role the board, and in order to address issues/buildings in Park City located outside of the Historic District. There is a request that the word "advisory" not be used in the group's title because of the term's implication of being a passive part of the decision-making process. An alternate name suggested is "Historic Preservation Commission (HPC)."
2. Members limited to (3) new or re-appointed members.
The focus group thought that three (3) members were too few. The purpose of the group was to ensure dialogue and consensus, and the idea of reducing the HDC down to 3 members did not accommodate that intent. There was also concern that fewer members would create quorum issues and limit the opportunity for broader representation on the board. The group agreed that the new HPDB be a five member board consisting of a seated Planning Commissioner, an architect/someone affiliated with the building trade, Historical Society, and people belonging to other groups (e.g. at-large, Main Street business rep., real estate agent/appraiser, etc.). Roger Roper later confirmed that the Certified Local Government (CLG) program in which the City participates, requires such a board having a minimum of five (5) members.
3. Planning Staff takes action on all design review applications/appeals of staff action goes to HDC.
There was no general consensus on this matter. Some felt the existing Chapter was not clear enough in terms of "who sees what." One suggestion is to identify a specific list of review responsibilities for staff and the HDC (e.g. paint colors, small repairs, additions and modifications that cannot be seen from the street be reviewed by staff, while all other projects be reviewed by the HDC). Others agreed that more than one person should make final decisions and that there is a need for a public hearing process to review administratively approved projects. The intent should be to streamline but not necessarily expedite the process. Generally, members of the HDC felt ignored and under-utilized. Additionally,

there was a concern expressed that in not utilizing the HDC, the expectation of them staying "sharp" on current design situation would diminish. The group did reach a consensus on relaying a list of pending administrative projects periodically and establishing "quarterly" meetings with staff in an effort to improve communication and keep the HDC abreast to pending staff decisions.

4. HDC reviews grant program, establishes preservation policy, and oversees program development.
The group agreed and had no comments other than consider eligibility of HDC members for City-sponsored grants.
5. Member of Planning Commission serves as a voting member of HDC (term rotates with office of Chair or V. Chair of PC).
Although there was concern requiring a Planning Commissioner to attend yet another public meeting, the focus group agreed that there should be such representation on the HPAB. Comments on placing the burden of this responsibility upon the Chair or Vice Chair of the Planning Commission would be a bit much. However, the group agreed that any one of the seated Planning Commission could serve this purpose.
6. Certificate of Appropriateness of Demolition (CAD) applications go to appointed CAD hearing Officer.
The group agreed but suggested that CADs be heard by a separate three-person Board having one HDC member. They didn't disagree that one person was capable of doing the work, just felt that it may be more democratic involving more individuals in the process. There was also a questions as to if CAD hearings should be open to the public, should it focus just on the number-crunching aspect of determining Economic Hardship, and what the criteria/process should be for the pre-hearing period.
7. Improve communication with public and HDC on pending administrative action on projects.
The group agreed by suggesting that all pending Administrative approvals be posted on the website, the HDC kept "in the loop" utilizing group emails (addressing concise issues, actions, dates, etc.), and use of KPCW for staff interviews and public announcements.

After a lengthy public hearing during the May 28, 2003 meeting, the Planning Commission recommended that the following changes be made to Chapter 11 (the items in italics are specific changes to the Code):

- HDC be renamed to "*Historic Preservation Board (HPB)*;"
- The *HPB* consist of 5 new or re-appointed members;
- Planning Staff takes action on all design review applications with appeals of staff action going to *HPB*;

- *HPB reviews grant program, establishes preservation policy, and oversees program development;*
- *No member of Planning Commission serve as a voting member of HPB; and*
- *Certificate of Appropriateness of Demolition (CAD) applications go to an appointed independent CAD Hearing Board (consisting of one to three members).*

The Planning Commission also agreed that communication among the Planning staff, the new HPB, and the general public on pending administrative action on projects utilizing the City's website, KPCW interviews, etc. was important. However, the Commission decided that this objective could be made via a departmental policy without needing to incorporate the proposed ideas into the LMC. In addition to the Planning Commission's recommendations, various sections of the existing Chapter have been reorganized to match the format of existing chapters of the Code, and incorporated into a redline copy of Chapter 11 (See Exhibit D). Please note that several sections of the existing Chapter will be re-organized in order to reflect a similar format of other Chapters of the LMC. Those Chapters that will be effected are annotated in the redline copy. As for the proposed three member CAD Hearing Board, Staff recommends that the City appoint an attorney, a financial consultant, and a member of the Board of Adjustment.

C. RECOMMENDATION:

Staff requests that the City Council discuss the proposed re-write of Chapter 11, Historic Preservation, of the Land Management Code, conduct a public hearing and consider public input, close the hearing and approve the proposed modifications as presented.

Exhibits

Exhibit A - City Council meeting minutes (dated 3/27/03)

Exhibit B - HDC special meeting minutes (dated 5/6/03)

Exhibit C - Planning Commission meeting minutes (dated 5/28/03)

Exhibit D - Chapter 11. Historic Preservation (Redline copy with Proposed Changes)

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PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
MARCH 27, 2003

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Patrick Putt, Planning and Zoning Administrator; and Derek Satchell, Preservation Planner.

1. **Council Questions/Comments.** Peg Bodell: thanked the Mayor and staff working on important environmental issues; inquired concerning protection of the 148 Main Street house and if it should be boarded up - Derek Satchell responded staff will take necessary action; requested Council members calendar May 1 for a Senior Citizen Recognition Month dinner and awards for local Seniors; reported she attended a successful affordable housing meeting last week and thanked Planner Kevin LoPiccolo, stated an update on issues, gaps, and program review will be brought forth at a future Council meeting; recommended review of the Smithsonian brochure designed to help people research their house history--intended to understand and see the value of preservation; expressed appreciation of Patrick Putt's well-written letter to Kevin Damon and requested Council be kept advised.

Fred Jones: inquired concerning the next inter-governmental session with the County and School District, Council concurred it is the City's turn to hold the meeting and requested staff set it up; commented concerning the water impact fee needs assessment and recommended a strong focus and as much effort be put on not only how to obtain more water and its source, but how to use less water on a permanent basis due to cost and environmental implications, not just a drought plan, reported one Salt Lake water district installed low flush toilets in a group of houses to see the impact and it was found the payback was a couple of years, however, noted although that was one piece what really drives the water usage is irrigation, suggested staff evaluation of how to have appealing landscaped lots that do not use the amount of water currently used. Jim Hier noted Jerry Gibbs was going to come up with a plan for revegetation of disturbed lands with drought tolerant vegetation. Fred Jones agreed with that plan, however, stated it should be broader with something done with existing lots. Planner Brooks Robinson reported he is working on a report addressing procedure to retrofit existing lawns and landscapes for water usage and cost savings, and will include timer and over-watering problems.

Kay Calvert: reported she attended a meeting today at the High School, along with staff, concerning alternative ways to engage suspended high schoolers with community service programs.

Candace Erickson: reported she attended the multi-cultural meeting, the group is growing with people joining in from Salt Lake and bringing ideas. adult ESL program and elementary school reading programs are continuing this summer, a Mother and Me program is also starting, reported members are brainstorming ideas to get greater Park City participation in the Summit County fair, possibly transportation can be arranged and ethnic type competitions i.e. salsa making included, and in return send a bus to Coalville to pick up people to attend Diversity Day here; reported she was approached again concerning the

possibility of using a part of the McPolin Farm for a community or children's garden, noting this has been brought up a number of times, suggested staff review the possibility; reminded everyone the Library luncheon is scheduled for April 15, tickets are available at the Library, and this year's author is Brad Thorpe, Lions of Lucerne; reported she was pleased to fill in for Dana and performed a delightful wedding on Friday night.

Jim Hier: reported COSAC met on Tuesday, toured lands the City purchased and lands that are available, familiarizing everybody with locations and potentials.

Peg Bodell: presented Dana with a Happy Birthday song and gift.

Dana Williams: thanked everyone; reported he and Fred Jones attended the Historic Main Street Business Alliance (HMBA) meeting, there was further discussion on paid parking, several comments about program costs so staff will provide them with a full breakdown/explanation of costs including program implementation and staff time; reported he, along with Kay and Tom, met with the former Parks and Recreation Board yesterday to review the ordinance, policies and procedures coming before Council on April 3rd; announced a new music program coordinated by Mountain Town Stages begins this Saturday featuring solo performances of various singers, song writers, the program will be held all over town for the next several months.

Jerry Gibbs: reported the Summit County Commission received recycling bids yesterday and rejected all of those bids, so the recycling program for the Prospector, Thaynes, Old Town and Park Meadows areas is on hold for at least another 60 days. Stated BFI is still continuing with trash pickup.

2. Review of Regular Meeting.

1048/1051 Empire Avenue Plat - Patrick Putt reviewed the proposed record of survey plat amendment for 1048/1051 Empire Avenue, Gordon Wilson Cummins, Jr., owner, to combine lots to create one lot of record of 3,750 square feet to accommodate a non-historic duplex located on lots 19 and 20 of Block 13. Noted this structure was initially approved with ten foot front and rear setbacks, however, constructed with an eight foot rear yard setback, which will be corrected upon the combination of lots; the Planning Commission forwards a positive recommendation; a public hearing will be held tonight; staff recommends approval.

1280 Park Avenue Plat - Patrick Putt reviewed the proposed plat amendment for 1280 Park Avenue, Tim Lee, owner, to combine two Old Town lots, and portions of two other lots into one lot for the purpose of renovating with an addition an existing historic home and create a duplex; the Planning Commission forwards a positive recommendation; a public hearing will be held tonight; staff recommends approval.

Historic Preservation Board Models and Preservation Work Program -

Proposed Options for Design Review Process: Patrick Putt reviewed the components and pros and cons of each of the following four options that were developed to address three general themes that came forth from the public hearing, specifically, 1) a strong desire for a reasonable process, accountability

and timeframe, 2) a need for checks and balances to ensure a reasonable level of review and appeal of staff decisions in a timely manner, and 3) need for a stronger constituency representation of the historic district on the boards.

Option # 1 3/13/03 Proposal

- Reform HDC as an advisory board (HPAB) with new members;
- Staff takes action on all design review - appeals to Planning Commission;
- HPAB reviews grant program, provides preservation policy, and oversees program development;
- Planning Commission with additional member (architect);
- CADs go to appointed hearing officer.

Option # 2 Modified 3/13/03 Proposal

- Reform HDC as an advisory board (HPAB) with new members;
- Staff recommends action to Planning Commission as Consent Agenda item on all design review - appeals of staff action goes to City Council or Board of Adjustment;
- HPAB reviews grant program, provides preservation policy, and oversees program development;
- Increased historic district constituency on Planning Commission with additional non-voting members: architect, Main Street representative, and HPAB;
- CADs go to appointed hearing officer.

Option #3 Increased HDC Review

- HDC retained with new or re-appointed members;
- Staff recommends action to HDC on all design review - appeals to Planning Commission or Board of Appeals;
- HDC reviews grant program, provides preservation policy, and oversees program development;
- No changes to Planning Commission;
- CADs go to appointed hearing officer.

Option #4 Modify Current LMC Process

- HDC retained with new or re-appointed members;
- Staff takes action on all design review - appeals to HDC;
- HDC reviews grant program, establishes preservation policy, and oversees program development;
- Member of Planning Commission serves as a voting member on HDC - term rotates with office of Chair or Vice-Chair of Planning Commission);
- CADs go to appointed hearing officer.
- Improve communication with public and HDC on pending administrative action via website, KPCW interviews, etc.

Patrick Putt noted public input will be taken tonight; requested Council direction in support of one of these four options, or a modification or blend into one process, that staff can put into a draft ordinance and begin the Planning Commission hearing process the second meeting of April, coming back to City Council early May.

Kay Calvert inquired if staff has been able to meet and work with any of the HDC members to obtain input. Patrick Putt responded he has not spoken individually

to the existing HDC members, however, in past meetings that included Jim Hier and Peg Bodell, there was a number of points raised concerning LMC Chapter 4 and preservation program suggestions. Kay Calvert pointed out the informal follow up meeting held with Parks, Recreation, Beautification Advisory Board members was very productive and some valuable input was received, recommended a similar session be held with HDC members to obtain their input. Jim Hier inquired concerning the CAD process. Patrick Putt responded there are two steps in the CAD process: 1) a determination of historical significance, whereby staff evaluates and recommends, final action is currently taken by the HDC, however, under the options, it is proposed final determination would either be made by the Planning Commission or a historic district advisory board; and 2) a CAD economic hardship determination, it is proposed under the options that staff prepares a recommendation which is forwarded to an appointed hearing officer for fact finding and determination.

Park City Historic Preservation Program Sequence of Development: Derek Satchell identified and reviewed the major components of the Sequence of Development and potential impacts to design review; the five major components consist of 1) Identification (Park City Historic District), 2) Policy (Historic Preservation Element to the General Plan), 3) Regulation (Chapter 4 of the Land Management Code), 4) Development (Historic District Design Guidelines), and 5) Maintenance (Intensive Survey).

Council members inquired concerning the survey's inclusion of historical importance of other types of architecture i.e. A-frames and structures less than 50 years old. Derek Satchell confirmed that a structure can be less than 50 years and be determined historically significant, and other types of architecture can be included in the survey parameters. Mr. Satchell also noted the City does not need an architectural survey to process CAD applications, the Identification and Policy development components are completed, and staff is working on updating LMC Chapter 4 (Regulation), Historic District Design Guidelines (Development), and Intensive Survey (Maintenance) components of the historic preservation program pursuant to the policy recently adopted by City Council. Kay Calvert noted tax records photographs were taken for the purpose of establishing value of the buildings, and inquired what would happen if the structure was modified. Derek Satchell responded if the tax photos were the sole information source there would be a problem, however, the City has the benefit of the Sanborn maps that were initially fire insurance maps outlining the footprint of every structure in the City in 1889, 1990 and 1907. Patrick Putt noted the Sanborn maps include information identifying the structure as a commercial building, an outbuilding, or a dwelling, and usually indicates roof form i.e. pitched, flat, shed, and structure scale, size, shape, configuration, number of stories. Kay Calvert inquired concerning delegation of staff review of historical cases. Derek Satchell responded delegation to other planners is rare and would occur only to address excessive workload and be under his direct and active supervision and review.

Derek Satchell stated public input will be taken tonight to obtain direction on completing or updating the remaining components. Once the LMC is revised to reflect Council direction, Council direction is still needed on whether staff should begin work on the Guidelines or the Survey after that. Kay Calvert pointed out that the Survey is relatively expensive; Derek Satchell responded that the cost of an intensive survey is \$400,000. Candace Erickson asked what information is obtained by the survey; Derek Satchell responded that the intensive level survey

incorporates extensive photographic documentation of the building, all four sides, possibly the inside depending on the interior importance, some degree of a chain of title and history, may also involve a floor plan, layout and configuration depending on the structure, each building has many different tasks that need to be done. Fred Jones pointed out that the City does not get involved with interiors or floor plans and inquired why that information would be included in the survey and what is gained; Derek Satchell responded the purpose of the intensive level survey is to acquire as much information on a building as possible, and although not all of the information is something the City would use, it is information that may satisfy the requirements of the State Historic Preservation Office, and it would be to the City's advantage to have one complete record source for this information, especially from a time savings viewpoint if you are trying to nominate the structure to the National Register; noted there are different levels or modifications of surveys that can be used, depending on the needs of the community, the most recognized type is the intensive level survey which is the most helpful. Peg Bodell noted a hybrid survey is a consideration; inquired if a Certified Local Government (CLG) grant application has been completed. Derek Satchell responded the cost of hybrid survey depends on the extent of the survey components; a CLG/State Historic Preservation matching grant has been applied for again this year, Park City received the largest grant of \$7,000 a few years ago, however, he has not heard yet what will be granted for this year, he will check with other organizations, the State, and the National Trust if other grants are available; reported that the National Trust for Historic Preservation Mid-west/Plains Regional Office representative in Colorado informed him that Trust grant funds could be used in support of the Design Guidelines, however, would not be eligible for conducting or completing an architectural survey.

Work Session adjourned at 5:52 p.m.

Prepared by Cindy LoPiccolo, Deputy City Recorder

**HISTORIC DISTRICT COMMISSION
SPECIAL WORK SESSION
MAY 6, 2003**

Present: Dick Peek, Tom Hurd, Lynn Fey, David White, Derek Satchell, Patrick Putt, Roger Roper, Utah State Historic Preservation Office; Kirk Huffaker, Utah Heritage Foundation, Sandra Morrison, Park City Historical Society; Leslie Thatcher, KPCW

Note: The notes from the first 30 minutes of the meeting are not available since the recorder was not working.

Commissioner White said he recognized the need to streamline the process so applicants get a timely review of their projects. He agreed with establishing specific criteria to determine which projects are reviewed by the HDC in lieu of staff review. Mr. Roper felt the Historic Preservation Commission would stay more familiar with the issues if they saw more projects rather than random cases. He wondered if the applicants should be given the choice of staff review only or review by the Commission.

Administrator Putt said the steep slope conditional use permit process had added to the HDC's frustration since the Planning Commission had already approved the application for setbacks, size, mass, and facade design by the time the HDC reviewed the application. Commissioner Fey said her concern was centered around the reduced number of projects the HDC was being asked to review. She felt that Park City needed to initiate its own set of criteria rather than relying on those of other communities. Ms. Fey suggested that one of the criteria should be that only historic homes or those wherein a small addition was planned needed HDC review and that new homes could be approved by staff. She said that once staff's and the HDC's roles were defined, they could work together harmoniously.

Mr. Huffaker suggested it might be helpful for the Commission to meet with staff separate from HDC meetings on a quarterly basis to review projects approved at a staff level. The Commission members would be able to familiarize themselves with how Staff reviews projects. Through this system, communication would be promoted as well as Commissioners honing their skills.

Commissioner Fey outlined design review procedures utilized in Boulder, Colorado. The staff reviews requests for re-painting and minimal changes to structures. They have a Design Review Committee and a Landmark Preservation Commission. The ~~Landmark Commission is similar to Park City's Historic District Commission.~~ Once a month all five members meet to review demolition, new construction, the relocation of historic structures and any design issues that could not be resolved at the Design Review Committee level. Two members from the Landmark Preservation Commission and the staff meet weekly to review almost everything else. Those two members rotate meeting with Staff. The meetings are not noticed, but the public can attend.

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Commissioner Fey indicated her approval of the policy clarity relating to the total review process.

Ms. Morrison reiterated that some of Park City's subdivisions have their own architectural review committees made up of the residents of that neighborhood. Old Town residents do not have such committees to provide input regarding structure designs in their neighborhoods.

Chair Hurd summarized there was agreement that specific design review criteria needed to be established. Whether that criteria hinges upon landmark buildings, historically significant structures or whether a proposed change in a neighborhood would materially effect property values is yet to be determined. He suggested that an e-mail from staff to the HDC bi-weekly to inform them about new applications and how they would be reviewed would be beneficial and keep them in the loop.

Chair Hurd asked for comments on the fourth bullet item in the staff report that states:

- HDC reviews grant program, establishes preservation policy, and oversees program development.

Ms. Morrison said she thinks one of the reasons citizens do not apply to be on the Historic District Commission is because Commissioners are ineligible to apply for Historic District Grants. There was general discussion about procedural ethicality and public perception. It was noted the City Attorney feels it would not be right ethically for an HDC member to apply for a grant for a property he/she owns.

- Member of Planning Commission serves as a voting member of HDC (term rotates with office Chair or Vice Chair of Planning Commission).

Commissioner Fey said the written policy was always that a Planning Commissioner was to be included as a seated HDC member. However in recent years, no Planning Commissioner had served on the HDC. Administrator Putt said it was difficult to convince a Planning Commissioner to be on the HDC because that is one more meeting he/she would have to attend. Commissioner White said in the early 90's, a Planning Commissioner was on board and it worked very well. It was his recommendation to start adhering to that policy again. The other Commissioners concurred. Mr. Roper suggested that the Planning Commissioners could meet quarterly or semi-annually with the HDC to review projects. The Commissioners agreed. Administrator Putt said the HDC could come in under a work session and have a dialogue with the Planning Commissioners about activity in the District. Ms. Morrison

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commented that an extension of that could be HDC, under work session, talking directly to City Council. Commissioner Peek said that would allow miscommunications to be addressed first-hand between City Council and the HDC. Commissioner Fey added the City Council's perceptions regarding the HDC review process are hearsay since none of the current Council members had gone through the process themselves. Chair Hurd said this would allow interaction between the HDC and the Planning Commission and permit the exchange of each board's expertise and ideas. Mr. Huffaker recommended that the agendas for these meetings be arranged so that crossover projects are discussed first. Administrator Putt agreed with his recommendation.

Ms. Morrison suggested three different review procedures/thresholds:

1. Staff review of projects;
2. Staff and two HDC members review of projects; and,
3. Staff the full HDC review of projects.

Such a system would reduce the number of monthly meetings that require full HDC attendance.

Chair Hurd moved the discussion ahead to the next bullet item:

- Certificate of Appropriateness of Demolition (CAD) applications go to appointed CAD Hearing Officer.

Administrator Putt wanted to make sure the Commissioners understood that under the current ordinance, as well as under the proposed ordinance, all determinations of historical significance would still be reviewed by the HDC. The current discussion should focus on when an applicant files for an economic hardship.

Chair Hurd said his understanding was that the CAD Hearing Officer would have a single purpose; i.e., the duty to review a Certificate of Appropriateness of Demolition. Commissioner White asked if this procedure was in addition to going to the HDC or in lieu of going before the HDC. Administrator Putt responded that after the HDC determined a building was historically significant and if the property owner still wanted to pursue a CAD, the review would then go to the CAD Hearing Officer. It was Administrator Putt's opinion that City Council and the City Attorney were exploring ways to de-politicize the process and set specific fact finding guidelines for meeting the CAD standard. Commissioner Fey asked what qualifications the CAD Hearing Officer should possess. Planner Satchell answered that within 45 days of an actual CAD hearing, a threatened building sign is posted at the property. After the 45-day waiting period, the

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item would be referred to the *independent* CAD Hearing Officer who had been appointed by the City Manager. The Officer's responsibility would be to review and take action on the application upon receipt of a complete CAD application. Planner Satchell read from the proposed Chapter 11 of the Land Management Code: "It is the first priority of the City that the successful candidate shall possess substantial experience in finance, real estate and commercial business interests. Additional desirable qualifications include members living in the Historic District with a demonstrated interest or knowledge in historic preservation; and/or a member appointed at large from Park City with a demonstrated interest or knowledge in historic preservation." Commissioner Fey asked if the position was necessary. Administrator Putt said he was neutral to the idea. Mr. Roper said Salt Lake City had a panel of people with the above-noted qualifications that meet as needed. Administrator Putt speculated one of the reasons to have an objective third party as the CAD Hearing Officer was to avoid the appearance of a conflict of interest. He asked the members of the group to provide honest reaction to the proposed modifications so they can be forwarded to the Planning Commission. He continued that if the panel preferred, a question and answer format for the Planning Commission public hearing could be held with both City Attorney Harrington and Assistant City Attorney Twardowski present to answer the questions. Chair Hurd hoped the CAD Hearing group would be different each time a review was required. He liked the idea of a three-person board with one being a representative from the HDC and the other two having expertise in local finance and/or real estate. Commissioner Peek favored a board separate from the HDC that was appointed each time a CAD review was necessary. Administrator Putt said that that was not really a viable option due to the time involved in appointing a "board". Commissioner Peek suggested utilizing the chairpersons from the Planning Commission, the HDC, and the Board of Adjustment. Planner Satchell voiced his support of that configuration, especially based on the limited number of cases that will progress so far as to need a CAD Hearing Officer. Mr. Roper said he had participated in a similar process/board in Salt Lake City and it had worked well. He also said that one person could work and be appointed on an as-needed basis. He hoped that the criteria for the CAD hearing program would include a detailed job description for the CAD Hearing Officer, including the procedure to be used by the officer to obtain background information on a project. Chair Hurd asked if there were any further comments from the group. There being none, they addressed the last bullet item:

- Improve communication with public and HDC on pending administrative action on projects via website, KPCW.

Administrator Putt said the Planning Department was exploring ways with the Technical Services Department to provide additional information regarding projects and improve

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communication via the City website. Additionally, more frequent interviews on KPCW are being considered. Mr. Roper mentioned an e-mail from staff giving a brief description of new applications as they are received would keep interested parties updated. Administrator Putt asked the Commissioners for input as to how much information an e-mail should contain. Commissioner Peek said he preferred a summary similar to what had been distributed previously. Chair Hurd said he favored an approach that is short and to the point. Then, if a project piqued someone's interest, they could ask for further information. Ms. Morrison suggested that the summary should contain whether a project would be an administrative approval or a review by the HDC. She asked how the public should provide input when a project was being approved administratively. Planner Satchell said after a project was approved administratively by staff, a notice was posted on the property and sent to the adjacent property owners giving them 10 days in which to respond. If concerns are received from the neighborhood, the item is forwarded to the HDC for review. If no comments are received, the project approval is considered to be final.

Chair Hurd asked his fellow Commissioners to review the proposed changes line by line and to write down their comments and forward them to staff and whoever else might be appropriate. Administrator Putt said those comments would be included in the packet provided for review at the May 28 Planning Commission meeting.

Motion: Commissioner Fey moved to adjourn the meeting. Commissioner Peek seconded the motion.

Vote: The motion passed. The meeting adjourned at approximately 10:04.

Administrator Putt thanked everyone for their attendance and participation.

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
MAY 28, 2003**

Present: Chair Andrew Volkman, Jim Barth, Bruce Erickson, Michael O'Hara, Chris Larson, Bob Powers, Patrick Putt, Brooks Robinson, Derek Satchell, Kevin LoPiccolo, Tim Twardowski

WORK SESSION ITEMS

Proposed changes to Chapter 11 of the Land Management Code

Planning and Zoning Administrator Patrick Putt stated that a public hearing will be held this evening, and the Planning Commission will discuss possible amendments to the Land Management Code, Chapter 11, which pertains to the Historic District Commission and the design review process. Following the City Council retreat, the Staff held a series of public discussions with the City Council regarding the roles and responsibility of Planning Department Staff and the HDC relative to design review in the Historic District. The Staff received direction from the City Council to move forward with revisions to Chapter 11 and commence additional historic preservation program developments, including a survey of historic buildings in Park City and an analysis of the historic district guidelines. The objective this evening is to discuss the design review process and roles and responsibilities of the HDC and Staff. The process will be to hold a public hearing, receive input from the Planning Commission, make formal amendments to be presented at another public hearing, and forward a recommendation to the City Council. The Staff has met with members of the existing HDC to receive their comments on the proposed conceptual changes, and those comments are included in the staff report.

Administrator Putt outlined the proposed revisions, which are to 1) retain the Historic District Commission but reduce the number from five members to three; 2) emphasize the fact that the Staff would take action on all design review applications with appeals of Staff decisions going to the Historic District Commission; 3) the Historic District Commission would review the grants programs, establish preservation policy, and oversee program development; 4) have a member of the Planning Commission serve as a voting member of the HDC with the term rotating with the chair and the vice-chair of the Planning Commission; 5) creation of the position of hearing officer for CAD hearings, specifically the economic hardship component of the CAD process; and 6) improve communications with the public and the Commission on pending applications.

Administrator Putt noted that the staff report does not include a red lined strike out version of the pending legislation and explained that a decision was made to wait until after hearing from the Planning Commission and the public to prepare a red-lined draft.

Commissioner Barth asked if a funding issue was involved with changes 3 and 5. Administrator Putt replied that two points came up with regard to reducing the number of Commissioners to three members. HDC Chairman Tom Hurd raised concerns about potential quorum problems with only three members on the board. Another concern is that Park City is a certified local government, and the State requires a design review board consisting of a minimum of five people for CLG communities.

801-817 Park Avenue - Follow-up discussion

Planner LoPiccolo reported that the Planning Commission last reviewed this application on February 12. The applicant, David Belz, and his representative, Jeffrey Kuhn, are requesting that the Planning Commission review a proposal at 801-817 Park Avenue and evaluate its merits based on the current zoning and mixed-use development conceptual plan. The proposed project would be located in the HRC and HR-1 zones. On February 12, the Planning Commission provided comment on the plan and provided the following direction:

- Woodside Avenue street scape is very important, and single-family structures should read as single-family structures which means seeing air between the structures as well as the stairwell and staircase. The look of artificial facades along Woodside is discouraged.
- Concern about building connections being too overpowering from the plaza.
- Use of a dual zone in accomplishing the goals of the Land Management Code and how it would affect the LMC overall.
- Support of the underground parking for the project.
- Direction for the applicant to look at stepping and variation of architecture to allow greater opportunity for a view corridor between buildings.
- Direction for the applicant to consider rehabilitating the historic Boarding House at 801 Park Avenue.

The Staff and applicant have met to discuss how to establish compliance with the LMC. ~~The plan only complies in part with the Code but is inconsistent in terms of zoning~~ compliance with the HR-1 Zone. The property has two zoning designations, HRC fronting Park Avenue, and HR-1 fronting Woodside Avenue. The proposed design includes multi-family dwellings, which are prohibited under the current HR-1 zone but allowed under the HRC zone. The applicant has requested that the Planning Commission consider the following discussion points: 1) Maintain current design. The

4. The proposed amendment is consistent with the April Mountain Master Planned Development and the conditions of approval of the April Mountain Subdivision plat.
5. The proposed use is consistent with the Park City General Plan.

Conditions of Approval - 735 Mellow Mountain Road

1. City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. A note shall be added to the plat stating that if rear lot sewer service is approved on the amended utility plans, then an ejector pump would not be required.
3. All conditions of approval of the April Mountain Subdivision plat continue in full force and effect.
4. No full building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
5. 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 and the plat will be void.
6. The existing easement for the public trail along the water tank access road is to remain on the plat and in the favor of the public. The trail will be maintained open to the public during construction.

7. Proposed changes to Chapter 11 of the Land Management Code

Administrator Putt explained that the proposed changes address the function, make-up, and role of the Historic District Commission and the design review process in the Historic District, which include determination of historical significance and determination for the appropriateness of demolition. Following a City Council retreat earlier this year, the Staff was asked to find alternative design review approaches for the City to consider adopting and meet the City Council's goals for a more responsive form of government and an expedited process. The City Council directed the Staff to begin discussions with the existing HDC and Planning Commission regarding proposed changes that include the following provisions:

- A renaming of the Historic District Commission consistent with the approach taken with the former Parks, Recreation, and Beautification Board which is now an advisory board.
- ~~Retaining a commission but looking at a reduced number of members, possibly only three members.~~
- A continuation of the existing LMC requirement that Staff take action on all design review applications with appeals of Staff decisions going to the HDC.
- A continued requirement that the HDC or the Board review grant programs, establish preservation policy, and oversee new program development.

- A member of the Planning Commission serve as a voting member of the HDC, with the term rotating with the Chair or Vice-Chair of the Planning Commission.

- Certificate of Appropriateness of Demolition applications go to an appointed CAD hearing officer as opposed to the HDC. The hearing officer would be appointed on an as-needed basis, and minimum qualifications would be associated with this responsibility.

- Primary direction to Staff to work on a communications plan in order to get information to Commissioners and the public in a more complete and comprehensive manner.

Administrator Putt reported that meetings were held with members of the HDC and representatives of local preservation organizations and State preservation programs. Their comments are contained in the staff report. Administrator Putt reviewed the history of the design review process in the Historic District. He outlined the current process for applications to the HDC. He noted that the proposed changes relate to a name change, a reduction in members, and an increase in review requirements by the Commission or Board. Discussion also includes whether to maintain HDC review of grant programs, whether a Planning Commissioner should sit as a voting member on the HDC, and whether the determination of a CAD should be made by the Board or Commission, a hearing officer, or a smaller group. The Staff is working on ways to improve communication to the Board, the Commission, and the public.

Administrator Putt reviewed the group comments in the staff report regarding the proposed changes. Utilizing the City web site was a favored suggestion for providing better communication to the public, in addition to E-mails and joint meetings between the Planning Commission and HDC to discuss pertinent issues. A specific draft has not been prepared for action. The purpose this evening is for the Planning Commission to understand the direction from the City Council and feedback from meetings with the HDC, take public input, and provide direction to the Staff on these proposals. The Staff will prepare a redlined draft for possible action on June 11. Administrator Putt provided letters from Historical Society members and the public. He reported on an E-mail he had received from Tom Hurd, chair of the HDC.

Chair Volkman opened the public hearing.

Sandra Morrison, director of the Park City Historic Society, reiterated some of the points from her letter submitted May 23, 2003. ~~Recently she attended a meeting with the~~ HDC, Staff, and other experts, and the meeting came down to discussing a process to best serve the residents. She commented that Old Town does not have a homeowners association, and the HDC role is similar to that of design review boards convened by homeowners associations in Park City. She believed the residents rely on the HDC. She noted that discussions during the meeting suggested that the Planning Staff take action on all design review applications, and only appeals would be submitted to the

HDC for review. She felt that the unintended results of this would be no provision for formal public input in the process. Without the public process and HDC review, the Planning Department could see a parade of concerned citizens coming through any time of the day, any day of the week, wanting to get input and requiring Staff time to understand the requirements. Ms. Morrison noted that there is currently a professional preservation planner on staff, but there is no guarantee that this position would be maintained in the future. If the HDC only sees appeals, the citizen board would only be convened to review the most complicated issues and have no other opportunity to become familiar with the LMC or design guidelines. Ms. Morrison commented on alternatives that other cities have implemented across the nation. She remarked that, during the meeting, the group concurred that changes should be made to streamline the process and that applicants should anticipate the same process over and over again. The HDC members were determined to spend more time on deciding the best process, and that opportunity should not be ignored. Ms. Morrison stated that she received a red-lined version of proposed changes to Chapter 11 and requested a side-by-side format so people can clearly compare the current Code with the proposed changes.

Kirk Huffaker, representing Utah Heritage Foundation, stated that he, too, attended the May 6, 2003, meeting with the HDC. He believed the ideas in the proposal are generally acceptable. Regarding the renaming issue, he requested that the word "advisory" not be used in the name. Regarding the number of members, he agreed with Administrator Putt's explanation as to why it is better to maintain five members rather than three. In terms of design review, he commended Park City for hiring the expertise that is currently on staff. Under the current ordinance, the Staff can review all projects; however, one role of an HDC is to deflect the ramifications of difficult decisions away from the Staff. He believed that would be a benefit of having major decisions and appeals go to the HDC. In any re-write of the ordinance, he requested that this Staff benefit be considered as an option. Mr. Huffaker requested that a public element of review of Staff decisions be implemented, which could include the public at large or the public as represented by the HDC, which is a public body. The recommended format would be similar to the one mentioned in the Park City Historical Society letter which cites Boulder, Colorado. This provides an opportunity for both parties to learn from projects by implementing all of the tools available to preservationists. He believed that other communication methods discussed should be implemented in any scenario. He believed there were several options for the CAD review process, one of which is a CAD officer. Other options could be the renamed HDC, or a body composed of the HDC Chair, Planning Commission Chair, and Mayor. Mr. Huffaker stated that inserting the ~~HDC into the process to review and provide input on Staff decisions~~ was crucial to the citizens' support of these changes.

Peter Barnes stated that he did not attend the meeting that Mr. Huffaker and Ms. Morrison referred to because he was not invited. He did not care what the HDC is called or how many members, but the ability to make a decision is inversely proportional to the number of people attending a meeting. Regarding the Staff taking action on all

design review applications, he noted that has always been the case, and the Staff is supposed to make those decisions. If a project meets Code, it should be passed. Mr. Barnes stated that did not care who reviews the grants program, and he believed the money could be better spent elsewhere. He also did not believe members of the HDC should be eligible for grants. Regarding whether a member of the Planning Commission should sit on the HDC, he thought a Planning Commission member was on the HDC. He preferred a three-member board that is more specific and independent from the HDC for making CAD determinations. He believed CAD's were unpopular and no one wants to go through the process. During the CAD process, the applicant must prove that the building is not significant. It is legally impossible to prove a negative, so they go with the whim of an organization. He noted that language in Chapter 11 states that all buildings are historically significant. He believed it was dangerous to take the position that all buildings, regardless of quality, age, or historic importance, are deemed significant until proven otherwise. He believed a distinction should be made between buildings of quality and buildings that are not qualified or significant. He suggested identifying the significant buildings and leaving the other. He supported improving communication. He commented on the meeting held May 6 between the HDC and special interest groups and commented that it would have been nice if people from the design and construction community had been invited. He felt that notices published in the paper stating that no public testimony will be taken does not encourage people to attend. If the HDC wishes to solicit public comments, they should actively solicit them.

Mary Ann Cone recalled a time when the City Council's idea was to have consensus and encourage the public to get involved. In her opinion, having the HDC means the public is involved, and she felt it was important for it to remain. She remarked that it is difficult for one staff member to make a decision, and she believed it would be better if five people who live in Park City make the decision. She wanted the number to remain at five members.

Lynn Fey, a Historic District Commissioner, agreed with the comments regarding items 1, 2, 4, 5, 6, and 7, and most comments on item 3. She wanted more clarification on item 3. She talked to preservation planners in other communities comparable to Park City and asked them how they know what to approve at staff level and what to send to their preservation council. Everyone replied that the answer is clear and is written down. Each community was different in their process, and Ms. Fey cited a few examples. She commented that Park City's guidelines are not specific, and nothing specifically states what should go to the Historic District Commission. In the two years she has been on the HDC, there has been a dwindling to the point that they wondered why they were not seeing the historic projects being done everywhere in Old Town. Nothing in the Land Management Code or Historic District Guidelines says anything must go to the HDC. Ms. Fey believed that was the crux of the problem and why communications get muddled. She was not interested in returning to a time when the HDC reviews everything, but as a community they should decide what they would like to see reviewed at Staff level and what they would like to see written.

Gary Knudson stated that he owns a piece of property by the Resort which is zoned RC. It is not in the Historic District, and he would like guidelines for 12th Street and the corridor. He purchased his property with the idea of building something compatible with the resort, but he has had too many people telling him what to do, which makes it difficult to do anything. He wanted to see the regulations simplified so people know what they can and cannot do and who they are supposed to work with.

Chair Volkman continued the public hearing.

Commissioner Barth stated that he had no opinion on the name change. He preferred a five member board based on economics because the City receives money for participating in the CLG grant program. He was comfortable with the HDC reviewing grants and establishing preservation policies. He did not believe a Planning Commissioner should serve on the HDC. He would like a three-person board to make CAD determinations because it is important to preserve the historical integrity. He felt they needed public notification on a regular basis. Regarding the issue of review, he felt the crux was maintaining the passion of the historic group and the predictable process. Since being on the Planning Commission, it appeared that they were addressing more historic district issues, and he believed including the HDC in the process while using Staff as the balance made sense.

Commissioner Powers liked the name change to "Historic Preservation Advisory Board." He felt they needed five members. He believed the way the Planning Staff was working was effective, and he did not think every review should go before the HDC. He believed there should be a CAD board and that it should include one HDC member and a few others with expertise in various areas. He agreed with Mr. Barnes that not every structure is sacred. He believed the Planning Commissioners had enough to do without sitting on the HDC.

Commissioner O'Hara stated that he did not care about the name. He agreed that five people was appropriate. He felt that the CAD board should consist of people out of the process, non-political, unbiased, and able to give an expert opinion. He did not have an opinion on the number of people. Regarding design review, he preferred to take all design authority away from the HDC. He saw no reason for a Planning Commissioner to participate on the HDC.

Commissioner Larson felt the Commissioners had reached consensus on 1, 2, 4, 5, 6, and 7 and concurred with their comments and opinions. He commented that the Planning Commission moved much of the decision making from the Planning Commission to the Staff in the last re-write of the Land Management Code for a reason, and the vast majority of the LMC is administered by the Staff. He believed the same should hold true for the Historic District Guidelines and the interpretation thereof. He noted that there is more expertise on Staff now than when he was on the HDC. In

addition, the Planning Commission has taken on the responsibility of reviewing all construction on slopes greater than 30% and review criteria for dealing with volumetrics, roof forms, etc., to help with compatibility in the Historic District. That is one reason the HDC work load has fallen off. He was open to discussion of possibly sending certain significant projects to the HDC for review, but the general decision making should occur at the staff level with appeals to the HDC. He did not believe the Planning Commissioners had time to sit on the HDC.

Commissioner Erickson concurred that the name is not important. He would like the HDC to be comprised of five members. He was comfortable with having the HDC review the grant process and agreed that a Planning Commissioner does not need to be a member of the HDC. He saw the CAD process as a three-member board structured as closely as possible to the Board of Adjustment process. He stated that he would consider the options of Item 3 in the context of how the HDC reconciles the fact that it is more difficult for the owner of an historic home to get an approval than it is for the owner of a historic lot without a building when the HDC's purpose is to preserve the historic nature of the community. That was a conundrum he would like to see resolved in the process. It is recognized that it is easier to do a new building in the Historic District than to go through the historic preservation process. He wanted to see those two anomalies rectified and believed they should do everything possible to preserve homes and historic properties. He expects professional review of design issues, and he expects the HDC to protect the public interest. He will look for those criteria in respect to item 3 of the proposal.

Chair Volkman echoed Commissioner Erickson's comments regarding the name, number of members, grant program review, whether a Planning Commissioner should sit on the HDC, and the three-member review of CAD applications. Regarding Item 3, he felt that they should generally follow the Staff's recommendation that Staff review the bulk of the applications and, in the event of an appeal or a situation when the Staff cannot come to a decision, it would go to the HDC.

Commissioner Larson felt it was critical to have an historical preservation board in some form, because there needs to be a group of concerned citizens who represent the Historic District. He believed the Historic District Guidelines should be re-written and that policy changes should be made. That task is more important than design review.

Chair Volkman noted that there is expertise on the Staff now, and he asked how they could guarantee that the expertise will be carried forward with future staff members. Administrator Putt replied that he did not have an answer, but the objective is to come up with a process that is predictable and easy to administer and guidelines that are easy to apply and easy to understand by a professional who may not have specific training or expertise in the field of historic preservation.

Commissioner O'Hara commented that a number of plats have notes that will bring a design back to the HDC for a number of reasons. He wanted to be sure it is clear who those appeals will come back to--Staff or the HDC.

MOTION: Commissioner Larson moved to CONTINUE this item to June 11, 2003. Commissioner Powers seconded the motion.

VOTE: The motion passed unanimously.

8. 7717 Marsac Avenue - Conditional Use Permit for Deer Valley Stables

Planner Ray Milliner reviewed the application for a CUP for a horse stable at the bend on Guardsman Road past the Guardsman access. The use has existed on the property since the early 1990's. The Staff recommended that the Planning Commission conduct a public hearing and consider approval of this project in accordance with the conditions outlined in the staff report. The primary conditions are that the existing building be removed. It is hoped that the building will be removed prior to adoption of Chapter 11. A condition will terminate this permit on September 30 due to current parking issues on the site.

Chair Volkman opened the public hearing.

There was no comment.

Chair Volkman closed the public hearing.

MOTION: Commissioner Erickson moved to APPROVE the Conditional Use Permit at 7717 Marsac Avenue for the Deer Valley Stables in accordance with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Powers seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 7717 Marsac Avenue

1. The proposed horse stable use is located on property owned by Deer Valley Resort Company.
2. The proposed use is located in the Recreation Open Space (ROS) zone.
3. A commercial horse stable in the ROS zone is a conditional use, requiring a review by the Planning Commission and a public hearing.
4. The building and use were originally granted a one-year temporary use permit by the Planning Commission in January of 1992.
5. The Planning Commission extended the January 1992 temporary use permit for two years in January of 1993.

PARK CITY MUNICIPAL CODE
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**EXHIBIT D - CHATER 11,
PROPOSED REDLINE COPY (DATED 6/25/03)**

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 11 - HISTORIC DISTRICT COMMISSION PRESERVATION

Chapter adopted by Ordinance No. 02-07

**CHAPTER 11 - ~~HISTORIC DISTRICT~~
~~COMMISSION~~ HISTORIC
PRESERVATION BOARD.**

**15-11-1. ~~COMMISSION CREATED~~
ESTABLISHMENT OF BOARD.**

Pursuant to the Historic District Act (Section 11-18-1, et seq. of the Utah Code, 1953) and other applicable power, there is hereby created a Park City Historic District Preservation ~~Commission (HDC)~~ Board (HPB). The ~~HDC~~ HPB shall be composed of five (5) members, ~~one (1) of whom shall be member of the Planning Commission.~~

**15-11-2. ABSENCE DEEMED
RESIGNATION OR GROUNDS FOR
REMOVAL.**

Any ~~HDC~~ HPB member who is absent from two (2) consecutive regularly scheduled Commission meetings, or a total of four (4) regularly scheduled meetings per calendar year may be called before the City Council and asked to resign or removed for cause by the Council. Members of the ~~HDC~~ HPB are not required to reside within the City limits, however, the majority of the members shall reside in Park City.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-4 of the revised Chapter.)

**15-11-3. TERMS AND
QUALIFICATIONS OF MEMBERS.**

Members of the ~~HDC~~ HPB shall serve terms of two (2) years. The terms shall be staggered. Terms may expire on February 1, however, members of the ~~HDC~~ HPB shall continue to serve until their successors are appointed and qualified.

(A) ~~The member appointed from the Planning Commission shall serve a term of two (2) years, however, a vacancy shall occur in the event the Person ceases to be a member of the Planning Commission.~~ The Mayor shall appoint a new ~~HDC~~ HPB member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.

(B) It is the first priority of the City Council that the ~~HDC~~ HPB have technical representation in Historic renovation Preservation. ~~and preservation and secondly that it have cultural representation in Park City history.~~ Therefore, when vacancies occur and if appropriate, it shall be the first consideration of the City Council to ensure

that there is a licensed architect (or other professional having substantial experience in rehabilitation-type construction) serving on the ~~Board~~ HPB, and secondly that there is representation from the Park City Historical Society. After being notified by the City of a vacancy, at least two (2) nominations shall be rendered to the City Council by the Park City Historical Society if it desires to participate in the Application process.

(C) In addition, the ~~HDC~~ HPB should include members with the following qualifications, or representing the following interests:

- (1) A member recommended by or associated with the Utah State Historical Society or Utah Heritage Foundation.
- (2) A member living in the Historic District with demonstrated interest and knowledge of Historic preservation.
- (3) A member appointed at large from Park City with demonstrated interest and knowledge of Historic preservation.
- (4) A member associated with Main Street business and commercial interests.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-2 of the revised Chapter.)

15-11-4. PURPOSES.

The purposes of the ~~HDC~~ HPB are:

(A) To preserve diverse and harmonious architectural styles and design preferences reflecting phrases of the City's history and to encourage complimentary, contemporary design and construction through the creation of comprehensive Historic District Design Guidelines (and update as necessary);

(B) To protect and enhance the City's historic ~~attraction~~ appeal to tourists and visitors;

(C) To identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land Uses;

(D) To provide input to City Council towards safeguarding the heritage of the City ~~by providing for the in protection~~ protecting Buildings of Significance ~~Landmarks~~ representing Significant and Contributing elements of its history, and to promote interest in preservation; Buildings, Structures, and Sites/Areas or Objects;

(E) To promote the private and public Use of Buildings of ~~Landmarks and the~~ Landmark districts Significance and Contributing Buildings, Structures, Sites/Areas or Objects; ~~for the education, prosperity, and general welfare of the people;~~

(F) To make recommendations to the City Council on policies and ordinances that may encourage historic preservation.

(G) To communicate and promote the benefits of historic preservation for the education, prosperity, and general welfare of the people;

(H) To provide input to staff, Planning Commission, and City Council on matters concerning the overall development of the City's historic preservation program;

(I) To make recommendations to the City Council on the development of, and to administer, all City-sponsored preservation incentive programs;

(J) To review all appeals on action taken by the Planning Department regarding compliance with the Historic District Design Guidelines; and

(K) To review and take action on all Determination of Historic Significance applications submitted to the City;

(Editor's note: The above section will be relocated and renumbered as Section 15-11-5 of the revised Chapter.)

**15-11-5. PERMIT ISSUANCE;
PROJECT APPROVAL; HISTORIC
DISTRICT DESIGN REVIEW.**

(A) The Community Development Planning Department shall review and approve, or deny, all Historic District Design Review Applications associated with a for Building Permits to build, locate, Demolish, construct, remodel, alter or modify any facade on any Building, Structure, or Building Site, or other visible element including but not limited to signs, lighting fixtures, and Fences located within the Park City Historic District.

(B) All Building projects within the Historic District shall be reviewed by the Community Development Department for

compliance with the guidelines promulgated by the HDC and adopted by the City Council by resolution or ordinance. Those proposals for permitted or Conditional Uses which, after review by the Department are found to be in compliance shall be approved by the Department without the necessity of HDC review or hearing. Appeals of Planning Department staff decisions may be made to the Community Development Director. In those cases where the Community Development Director finds the proposal is not in compliance, or where it is unable to make a determination at all, the proposal is submitted for review by the HDC, which shall either approve, approve with conditions, or disapprove the proposal. The HDC shall state specific reasons for disapproval so the Applicant has an opportunity to address those concerns. At any time in the review process, the Applicant, or any Person qualified to file a non-Owner petition pursuant to LMC Chapter 15-1-13, may request Historic District review of the Application. Actions of the HDC are subject to review by the City Council in the manner described in LMC Chapter 15-1.

(C) In reviewing Applications for Building Permits, the Community Development Department, or HDC on review, shall approve each Application if it is determined that the Structure, construction, remodeling, modification, alteration, or Building complies with the Historic District Architectural Design Guidelines as adopted by the City Council by resolution or ordinance.

(D) Application for Demolition permits are reviewed by the Community

Development Department except on those Buildings which have been designated as "Landmarks" or "Significant" Historic Buildings by the HDC in which case, the permit is to be reviewed by the HDC.

(1) The Owner and/or Applicant for any Property shall be required to submit an Historic District Design Review Application for proposed work requiring a Building Permit in order to complete the work.

(2) Planning Department staff shall review all Historic District Design Review Applications (including those associated with an Allowed or Conditional Use) which, upon determining compliance with the Guidelines, shall be approved by the department staff without HPB review or hearing.

(B) **NOTICE.**

Prior to taking action on any Historic District Design Review application, the planning staff shall provide notice pursuant to Section 15-1-20 of this Code.

(C) **DECISION.**

Upon taking action on the Application, the Planning Department staff shall make written findings, conclusions of law, and conditions of approval (if any) supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(D) **APPEALS.**

The Owner, Applicant, or any Person with standing as defined in Section 15-1-18(D) of this Code may appeal any Planning Department staff decision made on a

Historic District Design Review Application to the Planning Director. All appeal requests shall be submitted to the Planning Department within ten (10) days of the decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. The scope of review by the Director shall be the same as the scope of review at the staff level.

(1) In those cases, the Director shall either approve, approve with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval (if any) supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(2) Any Director decision may be appealed to the HPB. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Director's decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. The scope of review by the HPB shall be the same as the scope of review by the Director.

(3) Any HPB decision may be appealed to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the HPB decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. Appeals shall be

considered only on the record
made before the HPB.

*(Editor's note: The above section will be relocated
and renumbered as Section 15-11-11 of the revised
Chapter.)*

**15-11-6. ADDITIONAL POWERS
DUTIES.**

In addition to the powers set forth in Section
15-11-5, the ~~HDC~~ HPB ~~shall~~ may at the
direction of City Council:

(A) ~~Recommend to the City Council for
adoption standards to be used by the City or
HDC in reviewing Applications or permits
to construct, change, alter, modify, remodel,
remove, or significantly affect any Building
or visible element within the Historic
District. Participate in the design review of
any City-owned projects located within the
designated Historic District.~~

(B) Recommend to the City Council the
purchase of interests in Property for
purposes of preserving the City's cultural
resources.

(C) Investigate and report to the City
Council on the Use of Federal, State, local,
or private funding sources and mechanisms
available to promote the preservation of the
City's cultural resources.

(D) ~~Advise the City Council on Property
Owner incentives to preserve designated
Buildings in the district.~~

(E) Recommend to the
Planning Commission and the City Council
zoning boundary changes for the district to

preserve the historical integrity of the Area.
Subdivision, Conditional Uses and planned
unit Development Applications must
continue to be acted upon by the Planning
Commission.

(F) Recommend to the Planning
Commission and the City Council changes
to the Park City Land Management Code to
reinforce the purpose of ~~the Historic District~~
historic preservation.

(G) Provide advice and guidance on
request of the Property Owner or occupant
on the construction, restoration, alteration,
decoration, landscaping, or maintenance of
any cultural resource, ~~including Landmarks
Building, Sites, Historic District, and
Property within the Historic District, or
neighboring Property within public view.~~ a
two block radius of the Historic District.

15-11-7. ORGANIZATION.

(A) **CHAIRMAN.** The ~~HDC~~ HPB shall
elect one of its members to serve as
Chairman for a term of one (1) year at its
first meeting in March. The Chairman may
be elected to service for one (1) consecutive
additional term, but not for more than two
(2) successive terms.

(B) **QUORUM.** No Business shall be
conducted without a quorum at the meeting.
A quorum shall exist when the meeting is
attended by a majority three (3) of the
appointed members of the ~~HDC~~, including
the Chairman.

(C) **VOTING.** All actions of the ~~HDC~~
HPB shall be represented by a vote of the
membership. A simple majority of the

members present at the meeting in which action is taken, shall approve any action taken. The Chairman may vote at the meetings.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-3 of the revised Chapter.)

15-11-8. STAFF ASSISTANCE.

The City ~~shall~~ may, subject to the approval of the City Manager, provide ~~the HDC~~ staff and/or the HPB with such assistance ~~as is reasonably necessary by the HDC, to provide assistance concerning matters related to their fields of expertise from:~~

- (A) Utah Heritage Foundation.
- (B) National Trust for Historic Preservation.
- (C) Utah State Division of History.
- (D) Park City Historical Society.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-8 of the revised Chapter.)

15-11-9. LIMITATIONS.

The ~~HDC~~ HPB has no authority to waive or increase any requirement of any ordinance of the City.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-7 of the revised Chapter.)

**15-11-10. ARCHITECTURAL
DESIGN STANDARDS HISTORIC**

DISTRICT DESIGN GUIDELINES.

The ~~HDC~~ HPB shall promulgate and update as necessary ~~Architectural~~ Historic District Design Guidelines for Use in the Historic District zones. These guidelines shall, upon adoption by resolution or ordinance by the City Council, be ~~the design standards applied by the City, and HDC on review,~~ used by the Planning Department staff in reviewing ~~specific Building proposals~~ Historic District Design Review Applications, ~~or reviewing City staff actions on appeal.~~ The ~~standards~~ Historic District Design Guidelines shall address ~~renovation~~ rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. From time to time, the ~~HDC~~ HPB may recommend changes in the Historic District Design Guidelines to the Council, provided that no changes in the Guidelines shall take effect until adopted by a resolution of the Council.

The Historic District Design Guidelines shall apply in all zones within the Historic District, which are designated throughout this Code by the Use of the word "Historic" in the Zoning District name, or the letter "H" in the abbreviation of that name.

**15-11-11. PRESERVATION OF
HISTORIC BUILDINGS;
STRUCTURES AND SITES.
PRESERVATION POLICY.**

It is deemed to be in the interest of the citizens of Park City, as well as the State of Utah, to encourage the preservation of Buildings, Structures, and Sites of Historic Significance in Park City. These Buildings, Structures and Sites are among the City's

most important cultural, educational, and economic assets. In order that they are not lost through neglect, Demolition, expansion or change within the City, the preservation of the remaining Buildings, Structures and Site of Historic or community Significance should be encouraged. This section is intended to provide an incentive for identification and preservation of Historic Buildings, Structures or Sites that may occur within the Park City Historic District, as well as those that may be located outside the Historic District.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-9 of the revised Chapter.)

15-11-12. — REVIEW OF HISTORIC BUILDINGS, STRUCTURES, SITES AND PRESERVATION POLICY.

~~The HDC is the official body to review matters concerning designation and preservation of Historic Buildings, Structures and Sites within Park City, and may take appropriate action as may be necessary, as authorized by other sections of this Code to preserve Historic Buildings, Structures and Sites. The Historic District Commission is authorized to function as a committee on Historic Buildings, Structures and Sites and to designate Significant Historic Buildings, Structures and Sites within the City which it considers to be of Historic Significance and to make this information available to all interested citizens.~~

15-11-13. SIGNIFICANT HISTORIC BUILDINGS, STRUCTURES AND SITES. DETERMINATION OF

HISTORICAL SIGNIFICANCE.

The HPB is the official body to review matters concerning the historical designation of Buildings, Structures and Sites within Park City, and to make this information available to all interested citizens. It is hereby declared that all Buildings, Structures and Sites within Park City ~~that are either located within the Historic District, listed in the most recent Park City Historic Survey, or are over fifty (50) years old are presumed historically "Significant" for the purposes of this Chapter.~~ which substantially comply with the Standards of Review found in Section 15-11-13(A), are determined to be Significant for the purposes of this Chapter.

The ~~HDC~~ Planning Department may shall maintain a list of such Significant Properties. Any Owner of a ~~presumed historically Significant~~ Building, Structure or Site may apply for a hearing before the ~~HDC~~ HPB to ~~rebut the presumption of Significance created herein:~~ to ascertain significance of said property. The Application shall be on forms as prescribed by the ~~HDC~~ City and shall be filed with the ~~Community Development Planning Department (CDD)~~. Upon receiving an Application for a determination of historical Significance, the ~~CDD~~ Planning staff shall schedule a hearing on the ~~HDC~~ HPB agenda within thirty (30) days. Notice of the hearing shall be posted on the Property and published at least once prior to the hearing. At the hearing, the Applicant shall have an opportunity to present testimony and evidence to demonstrate the historical significance, or insignificance of the Building, Structure or Site.

(A) **STANDARDS OF REVIEW.** In determining the Historic Significance of the Property at the hearing, the HDE HPB shall evaluate whether the Building, Structure or Site demonstrates a quality of Significance in local, regional, state or national history, architecture, archaeology, engineering or culture, and integrity of location, design, setting, materials, and workmanship according to the following criteria:

(1) The Building, Structure or Site is associated with events or lives of Persons Significant to our past; and/or

(2) The Building, Structure or Site embodies the distinctive characteristics of a type, period or method of construction or that represent the work of a master; and/or

(3) The architectural or historical value or Significance of the Building, Structure or Site contributes to the Historic value of the Property and surrounding Area; and/or

(4) The Building, Structure or Site is at least fifty (50) years old, or has achieved Significance within the past fifty (50) years if the Property is of exceptional importance to the community; and/or

(5) The relation of Historic or architectural features found on the Building, Structure or Site to other such features within the surrounding Area; and/or

(6) Any other factors, including aesthetic, which may be relevant to the Historical or architectural aspects of the Building, Structure or Site.

(B) **NOTICE.**

Prior to taking action on any Determination of Historical Significance application, the Planning Staff shall provide public notice pursuant to Section 15-1-20 of this Code.

~~(B)~~(C) **DECISION.** The HDE HPB shall determine that the Property is historically insignificant only if it finds that the Building, Structure or Site is of no or minimal Historic Significance because of its location, age, condition, modifications, relation to other Structures or Sites in the Area, or other factors demonstrate that the Property is inconsequential to the Historic value of the Area and to Park City as a whole. If the HDE HPB finds that the Building, Structure or Site is insignificant it shall immediately be removed from the list, if any, of historically Significant Properties. The HDC shall forward a copy of its written findings to the ~~Owner and the Community Development Department.~~ Owner and/or Applicant. ~~The Community Development Department shall maintain a list of Properties that the HDC has determined are historically insignificant.~~

~~(C)~~(D) **APPEAL.** The Applicant or any party participating in the hearing may appeal the HDE HPB decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. ~~to the City Council.~~ Appeal requests shall be submitted to the Planning Department within ten (10) days of the HPB decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20

of this Code. Appeals shall be considered only on the record made before the HPB.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-12 of the revised Chapter.)

15-11-14. DEMOLITION AND REMOVAL OF HISTORIC BUILDINGS, STRUCTURES AND SITES.

It is the intent of this and succeeding sections to preserve the Historic and architectural resources of Park City, through limitations on Demolition and removal of Historic Buildings, Structures and Sites to the extent it is economically feasible, practical and necessary. The Demolition or removal of Historic Buildings, Structures and Sites in Park City diminishes the character of the City's Historic District and it is strongly discouraged. Instead, the City recommends and supports preservation, renovation, adaptive reuse and relocation within the Historic District. It is recognized, however, that Structural deterioration, economic hardship and other factors not entirely within the control of a Property Owner may result in the necessary Demolition or removal of a Historic Building, Structure or Site.

All applications for Demolition of any Building, Structure, or Site within the City shall be initially reviewed by the Planning staff for Significance pursuant to Section 15-11-13(A) herein, and forwarded with a recommendation for action to the HPB.

(A) **DETERMINATION OF INSIGNIFICANCE.** If upon review, the

HPB concludes that the Building, Structure or Site sought to be Demolished or removed does not possess Significance, the planning staff may sign-off on the issuance of a demolition permit.

(B) **DETERMINATION OF SIGNIFICANCE.** If upon review, the HPB concludes that the Building, Structure or Site sought to be Demolished or removed does possess Significance, the Applicant shall be required to submit a CAD Application pursuant to Sections 15-11-15 through 15-11-17 as appropriate.

(C) **REMOVAL OR REPAIR OF HAZARDOUS BUILDINGS.** If, upon review, the Chief Building Official determines the subject Building, Structure or Site to be structurally unsound, and a hazardous or dangerous Building (pursuant to Section 115.1 of the International Building Code), the Chief Building Official may order its removal or repair.

(D) **REQUIREMENT FOR STAY OF DEMOLITION.** In the absence of a finding either of insignificance or of public hazard, the Application for Demolition or removal shall be stayed for 180 days.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-13 of the revised Chapter.)

15-11-15. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION (CAD).

With the exception of any Building or Structure falling under the purview of Section 203 of the Uniform Building Code

115.1 of the International Building Code or undergoing complete renovation/reconstruction in compliance with this Chapter, no Building, other Structure or Site deemed to be historically Significant by the provisions of Section 15-11-13 (pursuant to the Standards of Review set forth in Section 15-11-13 (A) herein), may be Demolished or removed without the approval of prior issuance of a Certificate of Appropriateness (CAD) by the Community Development Department or the Historic District Commission (HDC) an independent CAD Hearing Board appointed by the City. Application for a CAD shall be made on forms prescribed by the HDC City and shall be made first submitted to the Community Development Planning Department.

(A) — DETERMINATION OF SIGNIFICANCE. If, upon review of the Application, the Community Development Department concludes that the Building, Structure or Site sought to be Demolished is Significant according to the standards set forth in Section 15-11-13(a) herein, the Application shall be processed under Section 15-11-16 and 15-11-17 as appropriate. Upon making said determination of Significance, the Community Development Department shall provide a written explanation of its findings to the Applicant. Any Applicant disagreeing with such determination of Significance, the Community Development Department shall provide a written explanation of its findings to the Applicant. Any Applicant disagreeing with such determination of Significance may request a hearing pursuant to Section 15-11-13 within ten (10) days of being given notice of said determination. After the hearing, the Application shall be processed according to

Sections 15-11-16 and 15-11-17 as appropriate. If the HDC determines that the Building, Structure or Site is insignificant, the Community Development Director may issue the CAD after a waiting period as determined by subsection (B)(1) below.

(B) — DETERMINATION OF INSIGNIFICANCE. If, upon review of the Application, the Community Development Department concludes that the Building, Structure or Site sought to be Demolished or removed is not Significant according to the standards set forth in Section 15-11-13 (A) herein, the Department may determine that issuance of a CAD is appropriate. If such a determination is made, the staff shall schedule the CAD as an informational item on the next available Historic District Commission agenda. The staff shall provide the Application, background information, and the findings supporting the staff determination.

— (1) — If the Historic District Commission concurs with the staff determination, the Community Development Director shall issue a CAD.

— (2) — If the Historic District Commission determines that the Building is Significant, the Applicant shall be required to process the CAD Application through the processes outlined under Section 15-11-16 and 15-11-17 as appropriate, unless the Applicant requests a hearing to contest the determination of Significance pursuant to Section 15-11-13, in which case that section shall apply.

~~(C) **REMOVAL OF HAZARDOUS BUILDINGS.** If, upon review, the Chief Building Official determines the subject Building, Structure or Site to be structurally unsound, and a hazardous or dangerous Building, the Chief Building Official may issue a CAD.~~

~~(D) **REQUIREMENT FOR STAY OF DEMOLITION.** In the absence of a finding either of insignificance or of public hazard, the Application for Demolition or removal shall be stayed for 180 days.~~

(Editor's note: The above section will be relocated and renumbered as Section 15-11-14 of the revised Chapter.)

15-11-16. PRE-HEARING CAD APPLICATION REQUIREMENTS.

Upon refusal submittal of a CAD application of to the Community Development Planning Department, ~~to issue a CAD~~, a pre-hearing period of forty-five (45) days shall commence, during which time the Owner shall allow the City to post and sustain a visible sign stating that the Property is "threatened." Said sign shall be at least 3'x2', readable from a point of public Access and state that more information may be obtained from the ~~Community Development Planning Department~~ for the duration of the stay. In addition, the Owner shall conduct negotiations with the City for the sale or lease of the Property ~~or some interest in the Property such as a facade easement~~, or take action to facilitate proceedings for the City to acquire the Property under its power of eminent domain, if appropriate and financially possible.

At the end of the forty-five (45) days, the Owner may request a the Application will be schedule for a hearing before the ~~HDC~~ CAD Hearing Board. upon showing that the above requirements have been met and all economic hardship information required by the ~~HDC~~ has been submitted. The Applicant must also submit fees in accordance with the Park City Municipal fee schedule. The Planning Department staff shall, within ~~fourteen (14) days~~, notify the Owner if any additional information is needed to complete the Application. If the Department staff does not notify the Owner, the Application will be deemed complete. Within forty-five (45) days of receiving the completed Application, the Department staff shall schedule a hearing regarding the Application on the agenda of the ~~HDC~~.

(A) CAD HEARING BOARD.

Upon confirmation of receipt of a complete CAD Application, the City shall appoint an independent CAD Hearing Board (consisting of three (3) members) for the purpose of reviewing and taking action upon the Application. The City Manager shall appoint the CAD Board as the need might arise, solely for the purpose of reviewing and taking final action on all CAD applications.

It is the first priority of the City that the CAD Board have substantial experience in finance, real estate, and commercial business interests. Hence, the Board should possess the following qualifications, or represent the following interests:

- (1) A member appointed at large from Park City with demonstrated knowledge of economics, accounting and finance;

(2) A member appointed at large from Park City who is an attorney at law; and

(3) A member appointed from the Board of Adjustment.

(Editor's note: The above section will be relocated and renumbered as Section 15-11-15 of the revised Chapter.)

**15-11-17. CAD HEARING FOR A
SIGNIFICANT BUILDING,
STRUCTURE OR SITE.**

At the hearing, the H&C CAD Hearing Board will review the Application (pursuant to the Economic Hardship Criteria set forth in Section 15-11-17(A) herein), and consider public input. The CAD Hearing Board may only approve Demolition or removal of an ~~historically~~ a Significant Building, Structure or Site if the Owner has presented substantial evidence that demonstrates that unreasonable Economic Hardship will result from denial of the ~~Demolition or removal~~ CAD Application.

(A) **ECONOMIC HARDSHIP CRITERIA.** In order to sustain a claim of unreasonable Economic Hardship, the H&C ~~may require the Owner to~~ shall provide information pertaining to whether the Property is capable of producing a reasonable rate of return for the Owner or incapable of beneficial Use. The H&C City shall adopt by resolution separate standards for investment or income producing and non-income producing Properties (as recommended by the HPB). Non-income Properties shall consist of Owner occupied Single-Family Dwellings and non-income

producing institutional Properties. The information ~~requested~~ required by the H&C City may include, but not be limited to the following: Purchase date, price and financing arrangements; current market value; form of ownership; type of occupancy; cost estimates of Demolition and post-Demolition plans; maintenance and operating costs; costs and engineering feasibility of rehabilitation; property tax information; rental rates and gross income from the Property. The CAD Hearing Board, upon review of the CAD Application, may request additional information as deemed appropriate.

(B) **CONDUCT OF OWNER EXCLUDED.** Demonstration of Economic Hardship by the Owner shall not be based on conditions resulting from:

- (1) Willful or negligent acts by the Owner; or
- (2) Purchasing the Property for substantially more than market value at the time of purchase; or
- (3) Failure to perform normal maintenance and repairs; or
- (4) Failure to diligently solicit and retain tenants; or
- (5) Failure to provide normal tenant improvements.

(C) **WRITTEN FINDINGS DECISION.** The H&C CAD Hearing Board shall make written findings supporting ~~their~~ the decision in the matter made. The H&C CAD Hearing Board may

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Commission

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determine that unreasonable Economic Hardship exists and ~~issue~~ approve the issuance of a CAD if ~~the Commission finds~~ that one of the following conditions exists:

(1) For income producing Properties, the Building, Structure or Site cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated and denial of the Application would deprive the Owner of all reasonable Use of the Property; or

For non-income producing Properties, the Building, Structure or Site has no beneficial Use as a residential dwelling or for an institutional Use in its present condition or if rehabilitated, and denial of the Application would deprive the Owner of all reasonable Use of the Property; and

(2) The Building, Structure or Site cannot be feasibly moved or relocated.

(D) **FINAL DECISION APPROVAL.**

(1) — **APPROVAL.** If the HDE CAD Hearing Board approves the Application, and ~~issues the CAD~~, the Owner may apply for a Demolition permit with the building department and proceed to Demolish the Building, Structure or Site in compliance with other regulations as they may apply. The HDE City may, as a condition of approval, require the ~~Property~~ Owner to provide the ~~HDE~~ with documentation of the

Demolished Building, Structure or Site according to the standards of the Historic American Building Survey (HABS). Such documentation may include photographs, floor plans, measured drawings, an archeological survey or other information as specified ~~by the HDE~~. The HDE City may also require the Owner to incorporate an appropriate memorialization of the Building, Structure or Site, such as a photo display or plaque, into the proposed replacement project of the Property. Approval of a CAD shall be valid for one (1) year.

(E) **DENIAL.**

(2) — **DENIAL.** If the HDE CAD Hearing Board denies the Application ~~for Demolition~~, the Owner shall not Demolish the Building, Structure or Site, and ~~the~~ may not re-apply for a CAD for a period of three (3) years from the date of the CAD Hearing Board's final decision unless substantial changes in circumstances have occurred other than the re-sale of the property or those caused by the negligence or intentional acts of the Owner. It shall be the responsibility of the Owner to stabilize and maintain the property so as not to create a structurally unsound, hazardous, or dangerous Building, as identified in Section 115.1 of the International Building Code. The City may provide the Owner with information regarding financial assistance for the necessary rehab or repair work, as it becomes available.

The Owner may not re-apply for Demolition for a period of three (3) years from the date of the HDC's final decision, unless the Building, Structure or Site is structurally unsound or substantial changes in circumstances have occurred other than those caused by the negligence or intentional acts of the Owner, in which case the Owner may apply as conditions warrant.

(3) **APPEAL.** All final decisions of the HDC may be appealed to the City Council within ten (10) days. The City or any Persons adversely affected by any decision of the CAD Hearing Board may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Officer's decision was arbitrary, capricious, or illegal. the petition is barred unless it is filed within thirty (30) days after the date of the CAD Hearing Board's decision.

(Note: The aforementioned section will be relocated to Section 15-11-16 of the revised Chapter.)

15-11-18. — NEW CONSTRUCTION.

New construction and exterior remodeling within the Historic District zones shall conform to architectural standards and regulations promulgated by the Historic District Commission and adopted by the City Council. These standards shall be applied by the staff and the Commission, subject to the review process.

DATE: July 10, 2003
DEPARTMENT: Special Events and Facilities
AUTHOR: Alison Butz
TITLE: 1255 Park Avenue – Library and Education Center Leases and Amendments
TYPE OF ITEM: Administrative - Lease Authorization

SUMMARY RECOMMENDATIONS: Approve a lease amendment for Soaring Wings Montessori, a new lease for the Park City Cooperative Preschool and a Lease Amendment for the University of Utah, for space within the Carl Winters Building.

A. TOPIC

Review the draft lease and lease amendments for the rental of space within the Carl Winters Building.

B. BACKGROUND

On April 24, Council received a presentation in public session from the Library regarding the expansion, and at that time seemed positive regarding the proposed budget option. Staff moved forward with the negotiations to take effect as of July 1, 2003. Plans for the expansion focused on extending the Library across the first floor hallway into Room 105 and 106. Room 106 is outlined within Soaring Wings Montessori's lease and Room 105 is rented to the University of Utah, which is then sublet to the Park City Preschool Co-op.

Through the understanding and cooperation of the tenants the City was able to acquire the release of both Room 105 and 106. The lease and lease amendments attached will allow the Library to expand and to increase its services and offerings to accommodate the growing needs of the community.

C. ANALYSIS

The attached leases will be approved with the July 1, 2003 start date. The leases will transfer Room 105 and 106 to the Library to assist them with their expansion plans. The Library will begin soliciting requests for architects to assist in the planning of the expansion immediately. Construction is anticipated to begin in 2004.

The lease amendments will result in additional room changes between the tenants. The University of Utah is releasing Room 302 and 310, which will subsequently be leased to Soaring Wings Montessori. The Park City Cooperative Preschool, a subtenant of the University of Utah in Room 105 will now be located in Room 111.

Duration of Leases

The Montessori's and University of Utah's leases are amended and the duration of the leases remain the same. The University of Utah's lease expires in 2008 and the Montessori's expires in 2012. The Co-op has been offered a new lease with the duration of five (5) years. Staff has included the draft lease and lease amendments.

ALTERNATIVES

- A. Recommend the draft lease, which authorizes the release of Rooms 105 and 106 in order to allow for the Library expansion, be approved.
- B. Modify terms of the lease or lease amendments and approve in order to allow for the Library expansion.
- C. Recommend denial of the new lease and lease amendments thereby preventing the expansion of the Library.
- D. The City Council may continue the discussion in order to receive additional information.

D. RECOMMENDATION:

Staff recommends that the lease and lease amendments be approved for the Carl Winters Building thereby allowing for the Library expansion into Rooms 105 and 106.

E. EXHIBITS

- Exhibit A – Soaring Wings Montessori Lease Amendment
- Exhibit B – Park City Cooperative Preschool Lease
- Exhibit C - University of Utah Lease Amendment

**FIRST ADDENDUM TO THE LEASE AGREEMENT BETWEEN SOARING WINGS
MONTESSORI SCHOOL, INC. AND PARK CITY MUNICIPAL CORPORATION**

THIS FIRST ADDENDUM is made by and between Park City Municipal Corporation ("Landlord") and Soaring Wings Montessori School, Inc. ("Tenant") to amend the Lease Agreement signed and executed by the parties on July 1, 2002 ("Lease") as amended and to set forth the terms and conditions under which Tenant will release to Landlord certain areas of the property in the Carl Winters Building (hereinafter referred to as the "CW Building") subject to the Lease, as amended. The parties agree as follows:

1. Property. The leased space includes the following property on the first and third floors of the CW Building: Room 109, Room 302, Room 305, Room 307, Room 308, Room 309, Room 310 and Room 313, containing approximately four thousand, one hundred sixty (4,160) square feet. On August 1, 2004 Room 109 will be subtracted and the leased space will decrease to approximately three thousand, six hundred eighty-five (3,685) square feet. Tenant shall also have non-exclusive use rights to a passenger drop-off area in the front of the building and parking in the lot east of the building. Tenant shall have exclusive use rights to the Preschool Playground southwest of the building from 8:30am to 10:00am and from 11:00am to 12:30pm and non-exclusive use rights at all other times. The Park City Cooperative Preschool has scheduled use of the Preschool Playground between 10:00am to 11:00am. Other tenants of the CW Building may use the Preschool Playground provided that:

1. The use does not conflict with previously scheduled use by other Tenants; and
2. The user takes full responsibility for clean up and repair of any damages.

Tenant shall also have access to the public bathrooms in what is currently or soon will become the library portion of the CW Building, and any renovation of the CW Building shall include an entrance on the South side through which Tenant shall have access to the public bathrooms in what is currently or soon will become the library space.

2. Rent. The rent for the remaining leased space shall be as follows:

(A) Rate: Fifty-Nine Thousand, Six Hundred Twenty-Three Dollars and Thirty Cents (\$59,623.30) for the one year period running from July 1, 2003 to June 30, 2004. On July 1, 2004 the annual rent will be Sixty-Two Thousand, Six Hundred Four Dollars and Forty-Seven Cents (\$62,604.47).

(B) Rent Deduction. The 2003 Lease year rent shall be reduced by Eleven Thousand Two Hundred Eighteen Dollars and Fourteen Cents (\$11,218.14).

(C) Payments. The initial annual rent shall be paid in ten equal monthly installments of Four Thousand, Eight Hundred Forty Dollars and Fifty-Two Cents (\$4,840.52) beginning on September 1, 2003. Rent shall be due on the first of each month, and past due if not paid by the tenth (10th) of the month. On July 1, 2004 the annual rent shall be paid in twelve equal monthly installments of Five Thousand, Two Hundred Seventeen Dollars and Four Cents (\$5,217.04).

(D) No Deposit is required.

(E) Rent Adjustment: The annual rent for the remaining leased Rooms shall increase 5% on July 1st of each year with the increase beginning on July 1, 2005. For example, annual rent shall increase to \$65,734.69 on July 1, 2005 and \$69,021.42 on July 1, 2006.

(F) Credit for Early Payment. If the Tenant pays the Landlord the first annual rent by September 10, 2003, then the rent for the first year will be reduced by four percent (4%). This reduction includes the anticipated interest earnings on the early payment and credits it to the Tenant. If the Tenant pays any subsequent annual rent on or before July 10th, then rent for that year will be reduced by four percent (4%).

3. Maintenance. Maintenance of the Preschool Playground shall no longer be the responsibility of the Tenant. The Landlord shall be responsible for maintenance of the Preschool Playground and watering of all vegetation.

4. Construction. Access to the public restrooms on the first floor must be maintained during the Library construction. Access to the first floor public restrooms shall not become a hazard during construction of the Library expansion, as deemed by the Chief Building Official.

5. Available Space. If additional space becomes available in the CW Building through the release of rooms by an existing tenant, the Landlord reserves the right to use space. If it is determined in the sole discretion of the Landlord that the space is still surplus to the Landlord's needs the space will be offered to tenants of the CW Building who have been in the building for one (1) year or more. When more than one tenant is interested in a space, the space shall be put out to bid and leased to the highest bidder.

6. Other Terms. All other terms and conditions of the Lease shall apply.

7. Effective Date. The terms of this First Addendum to the Lease shall be effective beginning July 1, 2003.

8. Entire Agreement. This First Addendum is a written instrument pursuant to Paragraph 31 of the Lease between the parties and it cannot be altered or amended except by written instrument, signed by both parties.

DATED this ____ day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

SOARING WINGS MONTESSORI SCHOOL, INC.

Duna Strachan, President

Bruce W. King, Secretary/Treasurer

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On this _____ day of June, 2003, personally appeared before me Duna Strachan, who being duly sworn, did say that she is the President of Soaring Wings Montessori School, Inc., and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and she acknowledged that the company did execute the same for its stated purpose.

Notary Public

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On this _____ day of June, 2003, personally appeared before me Bruce W. King, who being duly sworn, did say that he is the Secretary/Treasurer of Soaring Wings Montessori School, Inc., and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and he acknowledged that the company did execute the same for its stated purpose.

Notary Public

**PARK CITY COOPERATIVE PRESCHOOL
PARK CITY MUNICIPAL CORPORATION
2003 PROPERTY LEASE**

THIS AGREEMENT is made by and between Park City Municipal Corporation (hereinafter referred to as "Landlord") and the Park City Cooperative Preschool (hereinafter referred to as "Tenant") to set forth the terms and conditions under which Landlord will lease space in the Carl Winters Building at 1255 Park Avenue, Park City Utah (hereinafter referred to as the "CW Building") to Tenant. The parties agree as follows:

1. Property. The property leased is in several areas within the CW Building as described in Exhibit A (attached and hereafter referred to as Premises). The leased space includes the following property on the first floor of the CW Building: Room 111. The Premises contain approximately eight hundred and three (803) square feet, and an outdoor play area (hereinafter referred to the Preschool Playground). Tenant shall have exclusive use of the Preschool Playground from 10:00am to 11:00am, and the non-exclusive rights of use at all other times. The Soaring Wings Montessori has scheduled use of the Preschool Playground from 8:30am to 10:00am and from 11:00am to 12:30pm. Other tenants of the CW Building may use the Preschool Playground provided that: Other tenants of the CW Building and Landlord may use the Preschool Playground provided that:
 - (a) The use does not conflict with previously scheduled use by Tenant; and
 - (b) The user takes full responsibility for clean up and repair of any damages.Tenant shall also have access to the public bathrooms in what is currently or soon will become the library portion of the CW Building, and any renovation of the CW Building shall include an entrance on the South side through which Tenant shall have access to the public bathrooms in what is currently or soon will become the library space.
2. Term. This lease shall supercede and replace any/all leases in effect between Landlord and Tenant upon commencement of the Lease term. The Lease term shall commence on July 1, 2003 and shall run for one (1) term of five (5) years through June 30, 2008. The property being lease is currently surplus municipal space, but may be required for municipal purposed by Landlord at the conclusion of the lease term. If it is determined in the sole discretion of the Landlord that the space is still surplus to the Landlord's needs at the conclusion of the Lease term, Tenant shall receive first right of refusal for use of the space for a subsequent lease.
3. Rent. The rent for the leased space shall be as follows:
 - (a) Rate. Twelve Thousand Six Hundred Forty Seven Dollars and Twenty-Five Cents (\$12,647.25) annually for two lease years (from July 1, 2003 through June 30, 2004 and July 1, 2004 through June 30, 2005) with an increase of 5% each additional lease year.
 - (b) Rent Deduction. The 2003 Lease year rent shall be reduced by Four Thousand Two Hundred Fifteen Dollars and Seventy-Five Cents (\$4,215.75).
 - (c) Payments. The initial annual rent of Eight Thousand Four Hundred Thirty-One and Fifty Cents (\$8,431.50) annually shall be paid in eight (8) equal monthly

installments, beginning on November 1, 2003, of One Thousand Fifty-Three Dollars and Ninety-Four Cents (\$1,053.94). Rent shall be due on the first of each month, and past due if not paid by the tenth (10th) of the month. Beginning July 1, 2004 the annual rent shall be paid in twelve (12) equal installments of One Thousand Fifty-Three Dollars and Ninety-Four Cents (\$1,053.94).

- (d) No Deposit is required.
 - (e) Credit for Early Payment. If the Tenant pays the Landlord in two equal installments, with the first payment by November 15, 2003 and the second payment by March 15, 2004 then the rent for the first year will be reduced by two percent (2%). This reduction includes the anticipated interest earnings on the early payment and credits it to the Tenant. If the Tenant pays any subsequent annual rent to Landlord in two (2) equal installments, with the first payment made by July 15th and the second payment by January 15, then rent for that year will be reduced by two percent (2%).
4. Utility Service. Landlord shall be responsible for natural gas, electricity, sewer, refuse collection and water for the leased space. Tenant will be responsible for any other utilities such as telephone and cable television and shall establish an account with each of these utilities in its own name.
5. Use of the Premises. The premises shall be used only for education and related purposes. Retail uses other than those incidental to educational uses shall be prohibited. Vending machines shall be permitted only within the leased space and not in any common area. The Preschool Playground is principally for the use of the preschool tenants. Other tenants and Landlord may use the space provided that:
- (a) The use does not conflict with scheduled by Tenant; and,
 - (b) The user takes full responsibility for clean up and repair of any damage.
6. Telephone, Cable and Microwave. The Tenant will install its own telephone, television, computer and other communication equipment in the leased space. The remodeled space will include wiring, cables or chases for a wide variety for communications between spaces within the building and externally. Any specialized communication facilities, equipment, wiring, cables or installations will be the Tenant's responsibility.
7. Insurance. The Tenant will provide insurance at its expense covering its contents against loss through theft, fire, vandalism or similar casualties. The Landlord will maintain insurance on the structure for the replacement of the building itself, and the contents of the building owned by Landlord. The Landlord also carries a public liability policy insuring it against claims of personal injury on Landlord's property. The Landlord's policy does not cover the Tenant's employees or patrons who are on Landlord's property exclusively for the purpose of doing business with the Tenant. The Tenant agrees to maintain a comprehensive property liability policy in the amount of Five Hundred Thousand Dollars (\$500,000) (each person and each occurrence) and to obtain a certificate of insurance naming Park City Municipal Corporation and the Municipal Building Authority of Park City as additional insured and evidencing coverage as to any

person on the Premises as a result of Tenant's programs or activities. The Landlord is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect the Landlord for liability or allegations arising out of the Tenant's use of Landlord's property.

8. Payment of Taxes and Other Assessments. The Tenant shall pay real estate and personal property taxes and other related assessments or taxes on the Tenant's Premises during the term of this lease.
9. Liens. Tenant shall not permit any liens to attach to the property for work done at Tenant's request or for Tenant's benefit. If Landlord received notice of any such lien against the property, Tenant shall promptly discharge the lien at Landlord's request, or post fund sufficient to satisfy the lien during any period of good faith contest of the lien by Tenant. In the event Landlord reasonably feels its title to the property is in jeopardy because of any lien Tenant has elected to attach to the property, Landlord may discharge the lien and collect the amount paid from the Tenant. The Tenant agrees to pay all reasonable costs incurred by the Landlord in the defense or discharge of any liens on the property.
10. Signs. Landlord reserves the right to specifically review and approve or reject proposed signs on or in the building. Landlord's approval for signs will not be unreasonably withheld, so long as the sign is directional rather than promotional, meets the requirements of the Park City Sign Code, and conforms with the historic nature and architectural detailing of the building. Signs shall be removed and any damage resulting from removal shall be repaired at the termination of the Lease.
11. Assignment/Sublease. The Lease may not be assigned or the Premises sublet without the advance written consent of Landlord. Landlord's consent to assignment or sublease will not be unreasonably withheld.
12. Remedies. In the event the Tenant fails to pay monthly installment payments when due, or violates or breaches any other term or condition of the Lease, Landlord shall have the right to exercise the following remedies, and any other remedies available at law or equity:
 - (a) Landlord may, by written notice to Tenant, demand that Tenant either pay rental installments due within ten (10) days, or quit the premises within fifteen (15) days;
 - (b) Landlord may permit the Tenant to remain in possession and sue for the installments that are past due;
 - (c) Landlord may re-let the premises for Tenant's account at the rate and on such terms as are commercially reasonable at the time and under the circumstances, and charge Tenant for any difference in the rental received and the rental agreed to herein, provided that any re-letting shall be done in good faith under the circumstances;

- (d) Landlord may agree to a payment of damages in such amount as the parties then agree, and release the Tenant from obligations under this Lease entirely. Unless Landlord has released Tenant's continued performance under this Lease, Tenant is deemed to be in possession of the Premises, and any re-letting by Landlord in on Tenant's account. Tenant is responsible for all payments and obligations under the Lease until Landlord releases Tenant.
13. Covenant of Quiet Possession. Landlord covenants with Tenant that Landlord owns or controls the Premises and that Tenant's possession will not be disturbed by acts or omissions of the Landlord so long as Tenant faithfully performs the obligations of this Lease.
14. Maintenance. The Landlord shall be responsible for all structural maintenance of the Premises, including the roof, foundation, structural members, and exterior wall surfaces. The Landlord will be responsible for janitorial service in areas used in common with the library and other tenants and cleaning the outside of the glass. Tenant shall be responsible for all interior maintenance, including mechanical and electrical fixtures to the extent that they are located within and exclusively benefit the Premises, janitorial service, and glass maintenance (both cleaning the inside and replacement in the event of damage from an inside source) which is within the leased premises or solely serves the Premises. Landlord shall be responsible for mechanical systems which serve space as reasonably necessary to maintain the structure and to service common utility facilities. Exterior maintenance of the site and snow removal shall be Landlord's responsibility. Maintenance of the Preschool Playground shall be the responsibility of the Tenant, subject to the responsibility of any other user thereof to clean up and repair any damage caused by their use.
15. Access to Other Spaces. Tenant shall not interfere with the access to other spaces within the building or obstruct the entrances to those other spaces in any way. Landlord shall have such access through Tenant's space as reasonably necessary to maintain the structure and to service common utility facilities. Landlord shall have the right to inspect the leased space during the Tenant's normal business hours.
16. Force Majeure. This Lease Agreement shall automatically terminate upon any holding, interpretation, or determination by a court, legislative, or administrative body that Landlord may not lease to a private educational entity or similar establishment or that the Landlord may not lease to a private entity either under existing state and federal law regulation or future state and federal law regulation.
17. Increased Insurance Risk. Tenant will not permit said premises to be used for any purpose which would render the fire insurance on the building or the premises void or cause cancellation thereof or increase the insurance risk or increase the insurance premium in effect at the time of the terms of this Lease. Tenant will not keep, use or sell, or allow to be kept, used or sold in or about the Premises any article or materials which are prohibited by law or by standard fire insurance policies of the kind customarily in

force with respect to the Premises of the same general type as those covered by this Agreement.

18. Care and Repair of Premises by Tenant. Tenant will inspect and accept the Premises for the purposes of this agreement prior to taking occupancy. Tenant will not commit any waste on Premises nor shall it use or permit the use of the Premises in violation of any state law or county or municipal ordinance or regulation applicable thereto. Tenant may, with the prior written consent of the Landlord, but at its own cost and expense, in a good workmanlike manner, make such alterations and repairs to the leased space as Tenant may require for the conduct of its business without, however, materially altering the basic character for the building or improvements or weakening the structure on the leased premises. Any permanent alterations or improvements to the Premises shall become the property of the Landlord upon expiration or termination of this Lease unless specifically exempted in writing prior to commencing work.
19. Damage or Destruction. If the Premises or any part thereof shall be damaged or destroyed by fire or other casualty, Landlord shall promptly repair all such damage and restore the premises without expense to the Tenant subject to delays due to adjustment in insurance claims; strikes and other causes beyond the Landlord's control. If such damage or destruction shall render the Premises uninhabitable in whole or in part, the rent shall be abated wholly or proportionately until the damage shall be repaired and the premises restored. If the damage or destruction shall be of which may require removal of Tenant's operations from the Premises, either Landlord or Tenant may elect to terminate this lease by written notice to the other within thirty (30) days after the occurrence of such damage or destruction.
20. Surrender of Premise. Tenant agrees to surrender the Premises at the expiration or sooner termination of this Agreement or any extension thereof in the same condition or as altered pursuant to the provisions of this Agreement. Ordinary war, tear and damage by the elements or other acts of God excepted.
21. Hold Over. Should Tenant hold over the Premises or any part thereof after the expiration of the term of this Lease unless otherwise agreed in writing, such holding over shall constitute a tenancy from month to month only, and Tenant shall pay as monthly rental the same monthly rental provided for herein.
22. Available Space. If additional space becomes available in the CW Building through the release of rooms by an existing tenant, the Landlord reserves the right to use space. If it is determined in the sole discretion of the Landlord that the space is still surplus to the Landlord's needs the space will be offered to tenants of the CW Building who have been in the building for one (1) year or more. When more than one tenant is interested in a space, the space shall be put out to bid and leased to the highest bidder.
23. Auditorium. Tenant shall have access to the auditorium in the CW Building on the same basis as the general public.

24. Indemnity. The Tenant covenants and agrees to indemnify, hold Landlord harmless from all claims, loss damage, injury or liability (hereafter "Liability") resulting from Tenant's use and occupancy of the Premises to the full extent provided in the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any Liability resulting from acts or omissions of Landlord, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act.

Landlord will indemnify and hold tenant and its employees harmless to the full extent provided in the Utah Governmental Immunity Act, and limited by Paragraph 22 of this lease, from claims, loss, damage, injury, or liability resulting from Landlord's use and occupancy of the Premises or from the conduct of Landlord's operations; including, but not limited to, Landlord's negligence or intentional acts. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq.), as amended.

25. Landlord Liable only for Negligence. Except where caused by Landlord's negligence, Landlord shall not be liable for any failure of water supply, natural gas supply or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms or disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains or any subsurface area or from any part of the building or buildings or for an interference with light.
26. Nondiscrimination. Tenant agrees not to discriminate against anyone on the basis of race, color, national origin, age, sex or handicap in its hiring practices, services or operation of its business hereunder.
27. Waiver of Covenants. It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein.
28. Rights of Successors and Assigns. The covenants and agreements contained within the Lease shall apply to the benefit of successors in interest and legal representatives, except as expressly otherwise hereinbefore provided.
29. Security. The Landlord will install doors with locking hardware. The Tenant is entitled to put locks on the doors to its space, provided the Landlord is given keys for reasonable access and building maintenance. Both parties will attempt to keep the exterior doors locked after their use of the building is completed for the day, and the Tenant shall have the obligation of checking all exterior doors at the conclusion of each day to make sure that they are locked, and that windows in the rooms used by the Tenant are secured.

Lights and radiators should be turned off at the conclusion of the Tenant's use each day.

30. Notice Provision. Any and all notices required by this Lease Agreement shall be in writing and delivered personally to the party to whom the notice is to be given, or mailed by certified mail, postage prepaid, and addressed as follows:

If to Landlord:

Alison Butz
Facilities Manager
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

If to Tenant:

Park City Cooperative Preschool
P.O. Box 4165
Park City, Utah 84060

With a copy sent to:

Dwayne A. Vance
Miller Vance & Thompson PC
P.O. Box 682800
2200 N. Park Avenue, Suite D200
Park City, Utah 84068

31. Entire Agreement. This agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

DATED this _____ day of June, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

PARK CITY COOPERATIVE PRESCHOOL

Signator

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On this _____ day of June, 2003, personally appeared before me _____, who being duly sworn, did say that he/she is the _____ for the Park City Cooperative Preschool, and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and he acknowledged that the company did execute the same for its stated purpose.

Notary Public

FIFTH ADDENDUM TO THE LEASE AGREEMENT BETWEEN UNIVERSITY OF UTAH AND PARK CITY MUNICIPAL CORPORATION

THIS FIFTH ADDENDUM is made by and between Park City Municipal Corporation ("Landlord") and the University of Utah ("Tenant") to amend the Lease Agreement signed and executed by the parties on May 7, 1992 ("Lease") as amended and to set forth the terms and conditions under which Tenant will release to Landlord certain areas of the property in the Carl Winters Building (hereinafter referred to as the "CW Building") subject to the Lease, as amended. The parties agree as follows:

1. Released Space. Tenant, pursuant to the schedule provided below, hereby releases to Landlord the following property the First and third floor of the CW Building: Room 105, Room 302, and Room 310 as described in Exhibits A and B (attached and hereinafter referred to as "Released Space"). The Released Space contains a total of two thousand one hundred fifty-seven (2,157) square feet. The release of Room 302 and Room 310 shall occur on July 1, 2003, and the release of Room 105 shall occur on September 1, 2003.

2. Rent. The rent for the remaining leased space shall be as follows:

(A) Rate: Fifty-Five thousand Five Hundred Seventy-Three Dollars annually (\$55,573.94) for the remaining leased space.

(B) Payments: Rent shall be paid in equal monthly installments of Four Thousand, Six Hundred Thirty-One Dollars and Sixteen Cents (\$4,631.16). Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.

(C) Deposit. No additional deposit shall be required.

(D) Rent Adjustment: The annual rent for the remaining leased Rooms shall increase \$1.00 per square foot at the beginning of each term with the next term beginning on July 1, 2004. For example, monthly rent payments shall increase to \$4,945.16 on July 1, 2004 and to \$5,259.16 on July 1, 2006.

(E) Credit for Early Payment. For Calendar Year 2003, if Tenant pays Landlord the annual rent in full by July 30, then rent will be reduced by four percent (4%). Beginning in Calendar Year 2003, if Tenant pays Landlord the annual rent in full by July 15 of each year, then rent will be reduced by four percent (4.0%).

3. Use of Room 209. The Tenant shall have the right to use Room 209 for evening and weekend classes. Such use would be coordinated through the Library and shall cost the Tenant \$20.00 per day of use.

4. Other Terms. All other terms and conditions of the Lease, as amended, shall apply.

5. Effective Date. The terms of this Fifth Addendum to the Lease shall be effective

beginning July 1, 2003.

6. Entire Agreement. This Fifth Addendum is a written instrument pursuant to Paragraph 31 of the Lease between the parties and it cannot be altered or amended except by written instrument, signed by both parties.

DATED this ____ day of July, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

UNIVERSITY OF UTAH

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On this ____ day of July, 2003, personally appeared before me _____,
who being duly sworn, did say that he/she is the _____
for the University of Utah, and acknowledged to me that the preceding Agreement was signed on
behalf of said company, and he acknowledged that the company did execute the same for its
stated purpose.

Notary Public

DATE: June 12, 2003
DEPARTMENT: Building Department
AUTHOR: Michelle Barrus
TITLE: Fee Waiver for 12 units located at 555 Deer Valley Dr.
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATION: Staff recommends that City Council review and approve Mountainlands Community Housing's request for a waiver of fees in the amount of \$56,523.66 on their new single family units located at 555 Deer Valley Drive.

DESCRIPTION

A. Topic

Fee Waiver for twelve new single family units located at 555 Deer Valley Drive.

B. Background

Mountainlands Community Housing is constructing twelve new single family units at 555 Deer Valley Drive. A request has been made to City Council to waive up to \$5000.00 worth of impact fees for each of the building permit applications B03-8397 through B03-08400 and B03-084003 through B03-08408, and for a total fee waiver on building permits B03-08401 and B03-08402 (total fee waiver request of \$56,523.26). The total dollar amount in fees is currently \$115,248.92.

555 Deer Valley Drive A-1 Permit # B03-08397		555 Deer Valley Drive A-2 Permit # B03-08398	
Building Permits	1,030.50	Building Permits	1,030.50
Plan Check fees	669.83	Plan Check fees	669.83
Bldg 1% state fee	10.31	Bldg 1% state fee	10.31
Impact-parks/open spa	2,800.00	Impact-parks/open spa	2,800.00
Impact-Public Safety	330.00	Impact-Public Safety	330.00
Impact - Streets	290.00	Impact - Streets	290.00
Water Impact Fees	4,805.00	Water Impact Fees	4,805.00
TOTAL	\$9,935.64	TOTAL	\$9,935.64

555 Deer Valley Drive A-3 Permit # B03-08399 Building Permits 1,254.38 Plan Check fees 815.35 Bldg 1% state fee 12.54 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 4,805.00 TOTAL \$10,307.27	555 Deer Valley Drive A-4 Permit # B03-08400 Building Permits 1,254.38 Plan Check fees 815.35 Bldg 1% state fee 12.54 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 4,805.00 TOTAL \$10,307.27
555 Deer Valley Drive B-1 Permit # B03-08405 Building Permits 1,254.38 Plan Check fees 815.35 Bldg 1% state fee 12.54 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 4,805.00 TOTAL \$10,307.27	555 Deer Valley Drive B-2 Permit # B03-08406 Building Permits 1,254.38 Plan Check fees 815.35 Bldg 1% state fee 12.54 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 4,805.00 TOTAL \$10,307.27
555 Deer Valley Drive C-1 Permit # B03-08407 Building Permits 1,556.59 Plan Check fees 1,011.78 Bldg 1% state fee 15.57 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 5,903.00 TOTAL \$11,906.94	555 Deer Valley Drive C-2 Permit # B03-08408 Building Permits 1,556.59 Plan Check fees 1,011.78 Bldg 1% state fee 15.57 Impact-parks/open spa 2,800.00 Impact-Public Safety 330.00 Impact - Streets 290.00 Water Impact Fees 5,903.00 TOTAL \$11,906.94

555 Deer Valley Drive D-1 Permit # B03-08403		555 Deer Valley Drive D-2 Permit # B03-08404	
Building Permits	1,555.85	Building Permits	1,555.85
Plan Check fees	1,011.30	Plan Check fees	1,011.30
Bldg 1% state fee	15.56	Bldg 1% state fee	15.56
Impact-parks/open spa	2,800.00	Impact-parks/open spa	2,800.00
Impact-Public Safety	330.00	Impact-Public Safety	330.00
Impact - Streets	290.00	Impact - Streets	290.00
Water Impact Fees	5,903.00	Water Impact Fees	5,903.00
TOTAL	\$11,905.71	TOTAL	\$11,905.71
555 Deer Valley Drive E-1 Permit # B03-08401		555 Deer Valley Drive E-2 Permit # B03-08402	
Building Permits	487.50	Building Permits	450.00
Plan Check fees	316.88	Plan Check Fees	292.50
Bldg 1% state fee	4.88	Bldg 1% State surcharge	4.50
Impact-parks/open spa	480.00	Water Impact Fee	1, 650.00
Impact-Public Safety	55.00		
Impact - Streets	35.00		
Water Impact Fees	2,747.00		
TOTAL	\$4,126.26	TOTAL	\$2,397.00
GRAND TOTAL \$115,248.92			

A request has been made to City Council to waive up to \$5000.00 of impact fees for each of the projects in the above mentioned permits (total fee waiver of up to \$56,523.26). This request applies to all the application except the two "moved structures" or permit applications b03-08401 and b03-08402. All the other permits have the same Parks & Open space impact fees of \$2,800.00, and the same Public Safety impact fee of \$330.00, and the same Streets impact fees of \$290.00. The comes to a total impact fee of \$3,420.00. This would leave \$1,580.00 in each of those permits to be deducted from the Water impact fee. The Water Impact fee amounts vary, but they all total over this \$1,580.00 amount, so there would be some Water Impact fees still owed in the amount of \$58,725.66. The total of the Impact fee wavers for those 10 permits would then be \$5,000.00 per unit.

For the moved structures (permit applications b03-08401 and b03-08402), the Impact fees do not come to a \$5,000.00 total, therefore it is requested that Council waive these fees in their entirety, they total \$6,523.26.

C. Analysis

Section 11-12-13 of the Municipal Code provides that: "Any part of any of the fees included in this Title may be waived by the City Council upon the recommendation of the City Manager, for those projects which are deemed to serve a beneficial public purpose that would be harmed by the City requiring payment of such fees, such as low income housing projects." The City Manager notes that the subject property is a moderate income housing development serving Park City's need for affordable housing (the Planning Commission approved a Master Planned Development for this project on January 8, 2003—records are on file with the Planning Department). The fees discussed above are harmful to the affordable housing nature of this development. Historically, the City has not waived Water Impact Fees. The City Manager therefore recommends that the Council approve a partial fee waiver in the amount of \$56,523.26, leaving Mountainlands Community Housing to pay \$58,725.66.

D. Department Review

Building Department, City Manager, and Legal Department

ALTERNATIVES

- A. The City Council may approve the waiver of fees for the twelve units located at 555 Deer Valley Drive in the amount of \$56,523.26 , or
- B. The City Council may deny the fee waiver for the twelve units located at 555 Deer Valley Drive in the amount of \$56,523.26 , or
- C. The City Council may continue the item.

RECOMMENDATION

Staff recommends that City Council review and approve Mountainlands Community Housing's request for a fee waiver for the amount of \$56,523.26 for all twelve units.

CITY COUNCIL REPORT

DATE: July 10, 2003
DEPARTMENT: Planning Department
AUTHOR: Jonathan Weidenhamer
TITLE: Sidewalk Dining - Leases
TYPE OF ITEM: Administrative

Recommendation: Approve the leases for sidewalk dining for each of the applicants as presented

I. Topic:

Sidewalk Outdoor Dining on Main Street.

II. BACKGROUND:

In an effort to promote vibrancy and activity on Main Street, Council has provided direction to allow Outdoor Dining on Main Street Sidewalks. On May 22, 2003, Staff presented a manager's report to the City Council outlining the anticipated process staff would follow to regulate Outdoor Dining. Section 15-2.6-12 of the LMC allows Outdoor Dining on "leased public property" as an Administrative Conditional Use Permit.

III. ANALYSIS:

Staff has prepared a draft lease that would be executed with each individual applicant prior to approving any Outdoor Dining on City Sidewalks (Exhibit A). Also, please find attached the Operational Restrictions that shall apply to all leases for sidewalk dining (Exhibit B). At this time staff has made a preliminary determination that the following applicants' locations meet the standards for outdoor dining provided at LMC Section 15-2.6-12 as well as the proposed operational restrictions:

1. 255 Main Street – The Morning Ray
2. 317 Main Street – The Eating Establishment
3. 412 Main Street – The 412 Bistro
4. 447 Main Street – The No Name Saloon
5. 525 Main Street – The Main Street Deli
6. 530 Main Street – Main Street Pizza

Notification of these applications was sent to adjacent property owners on June 27, 2003. The site plans for each of these are attached as Exhibit C.

ALTERNATIVES:

1. Approve the leases for sidewalk dining for each of the applicants as presented; or
2. Modify the lease language or operational restrictions and then provide direction to approve the lease(s) as amended; or
3. Provide direction to not execute the lease(s) as presented; or
4. ~~Continue the hearing~~ Continue the hearing for more information or discussion.

RECOMMENDATION:

Approve the leases for sidewalk dining for each of the applicants as presented (Alternative #1).

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MAIN STREET SIDEWALK OUTDOOR DINING LEASE

This LEASE AGREEMENT is made and executed this ____ day of _____, 2003, by and between Park City Municipal Corporation, a municipal corporation and political subdivision of the state of Utah ("Park City") and _____, a Utah _____ located at _____ Main Street, Park City, Utah ("Tenant").

The Parties agree as follows:

1. **PROPERTY.** The property affected by this lease is generally described as the sidewalk area directly fronting Tenant's restaurant located at _____ Main Street, and more specifically described via site plan at Exhibit A, attached hereto and incorporated herein by reference (hereinafter referred to as the "Premises").
2. **RENT.** Tenant shall be solely responsible for payment of any and all costs associated with Tenant's performance under this lease, including but not limited to City additional business licensing fees, insurance, sales taxes and other expenses.
3. **TERM.** The term of this Agreement shall commence on May 15, 2003 and shall terminate on September 15, 2003, unless terminated earlier as provided herein. Upon termination by Park City, Park City will refund the rent on a pro rata basis.
4. **USE OF PREMISES.** Tenant may use the Premises only for the provision of outdoor dining services in a manner consistent with Section 15-2.6-12(B)(1) of the Park City Land Management Code and the terms of this Agreement. Additional operational restrictions are attached hereto at Exhibit B.
5. **IMPROVEMENTS TO THE PREMISES.** Tenant shall not make any improvements to the Premises without first obtaining Park City's written consent. Any improvements approved by Park City shall be completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement.
6. **SIGNS.** No signs shall be permitted on the Premises except as specifically approved pursuant to the Park City Sign Code and/or Tenant's Master Sign Plan.
7. **INSURANCE.** Tenant shall, at Tenant's sole expense, carry a policy of general liability insurance in an amount of at least One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000.00) per incident or occurrence. Park City shall be named as an additional insured on each policy. A certificate of insurance with a thirty (30) day cancellation notice provision shall be provided to Park City on or before the lease commencement date, and maintained continuously during the term of the lease. Tenant may carry whatever other insurance Tenant deems appropriate. The parties agree that Tenant's sole remedy in the event of business interruptions, fire, windstorm, or other loss from hazard shall be its own insurance and Tenant will have no action against Park City. Park City is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect Park

DRAFT

City for liability or allegations arising out of the Tenant's use of the Premises.

8. **HOLD HARMLESS.** Tenant covenants and agrees to indemnify, hold Park City harmless from all claims, loss damage, injury or liability (hereafter "Liability") resulting from Tenant's use and occupancy of the Premises to the full extent provided in the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any Liability resulting from acts or omissions of Park City, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act.
9. **ASSIGNABILITY.** Tenant shall not assign or transfer any interest in this Agreement without the prior written consent of Park City. Any assignment or transfer without written approval is void.
10. **PROFESSIONAL PERFORMANCE.** Tenant agrees to perform services under this contract at the highest professional standards, and to the satisfaction of Park City.
11. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the state of Utah.
12. **FORCE MAJEURE.** Any delay or failure of either Party to perform its obligations under this Agreement shall be excused to the extent that it is caused by an event or occurrence beyond its reasonable control, including act of nature, terrorism or war.
13. **ENTIRE AGREEMENT.** This Agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

Executed the day and year first above written.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

DRAFT

TENANT

address

address

address

Name, Title

ACKNOWLEDGMENT

STATE OF UTAH)

: ss.

COUNTY OF SUMMIT)

On this _____ day of June, 2003, personally appeared before me _____, who
being duly sworn, did say that he/she is the _____ of _____, and
acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and
he acknowledged that the company did execute the same for its stated purpose.

Notary Public

EXHIBIT B
OPERATIONAL RESTRICTIONS

The following operational restrictions shall apply to all leases for outdoor dining on Main Street sidewalks:

1. Site Plan - This plan shall be to scale and indicate: the proprietors' building as it relates to the exact locations of chairs, tables, stanchions, heaters, curb (width of sidewalk), and any other existing public improvements (light fixtures, fire department connections, parking meters, utility covers, etc.).
2. Details/ Spec Sheets - Shall be submitted for each piece of equipment proposed with this application. This will include all tables, chairs, umbrellas, heaters, lighting sources, and crowd barricades, etc.
3. Parameters of Permit - Sidewalk Dining is allowed from May 15, 2003 until Sept 15, 2003, from 8:00 am until 10:00 pm.
4. Violations - Ongoing Monitoring will be provided to ensure compliance with lease parameters. A revocation provision will be included for lessee's failure to comply.

Design Standards

1. **SIZE.** Sidewalk dining area shall be limited to the linear frontage a building has on Main Street.
2. **ADVERTISING.** Additional signing or advertising is prohibited beyond what is allowed by the Sign Code. Umbrellas, table tents, or any other equipment must be free of branding or other promotion.
3. **FURNITURE.** All tables and chairs shall be metal and be either black or gray, and have a powder coated finish.
4. **STANCHIONS.** Any necessary crowd control barricades must be equivalent to the Crowd Controller TensaBarrier & Tape - Model 890 Standard, or T-Max, which has been approved by the Preservation Planner and chosen for its minimal visual intrusion, durability, and functionality. TensaBarrier poles shall be black and powder coated, and the tape shall be black also.
5. **UMBRELLAS.** Umbrellas are prohibited from having any advertising or signing and shall be in solid, primary colors. Umbrellas must be free standing and are prohibited from extending beyond the dining area.
6. **HEATERS.** Any proposed heaters shall be reviewed at the time of initial application. In most cases, additional heating elements may require additional building permits.
7. **LIGHTING.** No additional electric lighting is permitted, including exterior building lighting.
8. **ADDITIONAL EQUIPMENT.** To prevent unnecessary visual clutter, additional equipment beyond those outlined in this section is prohibited. This includes server or bus-stations, garbage receptacles, podiums, pedestals, etc.

9. LICENSING. The additional square footage of the dining area must be added to the existing licensed area for the restaurant. The Applicant shall also adhere to other applicable City and State licensing ordinances.
10. HEALTH & SAFETY. The Use shall not violate the Summit County Health Code, the Fire Code, or International Building Code.
11. MUSIC. The use of outdoor speakers and music is prohibited.
12. SPECIAL EVENTS. Operation of Sidewalk Dining during Special Events and Master Festival Licenses is prohibited when the boundary of that Special Event includes Main Street.
13. MAINTENANCE. The dining area shall be cleanly and maintained in a neat and orderly fashion.
14. STORAGE. All equipment and other associated materials must be removed from the sidewalk and stored on private property overnight and during prohibited times.

Current HCB Regulations on Outdoor Dining

15-2.6-12. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.

(A) OUTDOOR DISPLAY OF GOODS PROHIBITED. Unless expressly allowed as an Allowed or Conditional Use, all goods including food, beverage and cigarette vending machines must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration which exceeds a wall-to-window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.6-12(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) OUTDOOR USES PROHIBITED/EXCEPTIONS. The following outdoor Uses may be allowed by the Community Development Department upon the issuance of an Administrative Permit. The Applicant must submit the required Application, pay all applicable fees, and provide all required materials and plans. Appeals of departmental actions are heard by the Planning Commission.

(1) OUTDOOR DINING. Outdoor dining is subject to the following criteria:

- (a) The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.
- (b) The proposed seating Area does not impede pedestrian circulation.
- (c) The proposed seating Area does not impede emergency Access or circulation.
- (d) The proposed furniture is Compatible with the Streetscape.
- (e) No music or noise is in excess of the City Noise Ordinance, Municipal Code Title 6.
- (f) No Use after 10:00 p.m.
- (g) No net increases in the Restaurant's seating capacity without adequate mitigation of the increased parking demand.

SITE / DECIL PLAN

1/8" = 1'-0"

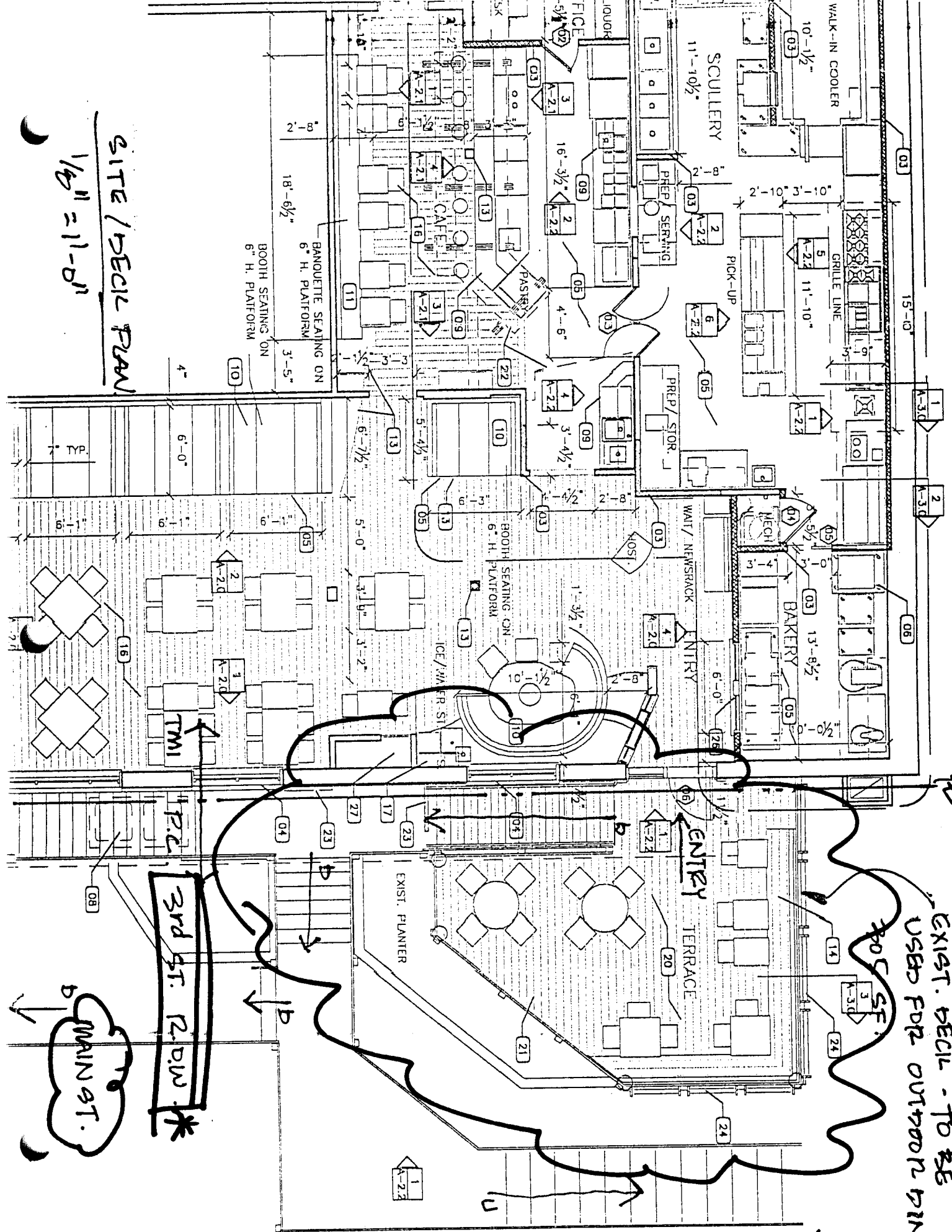


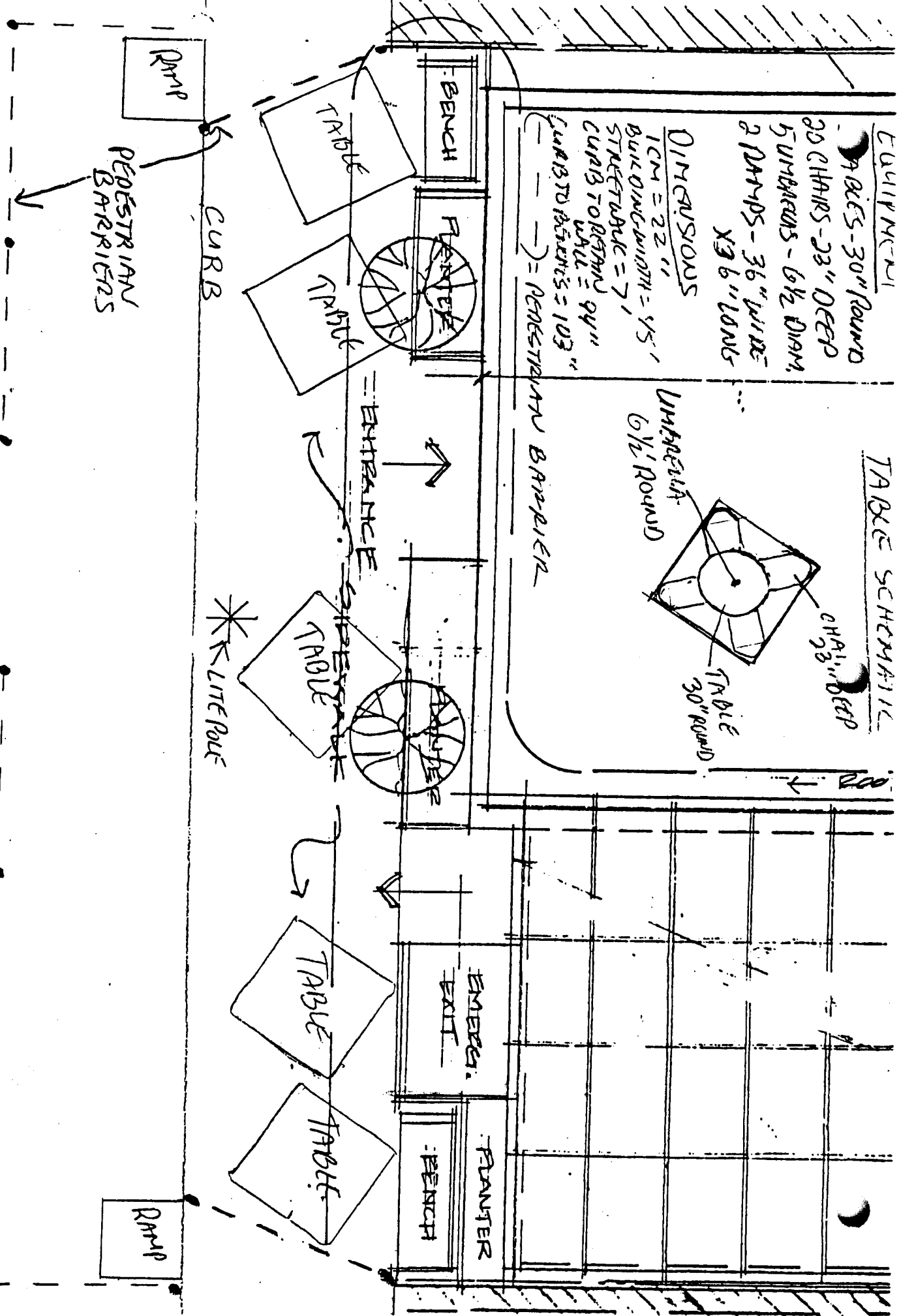
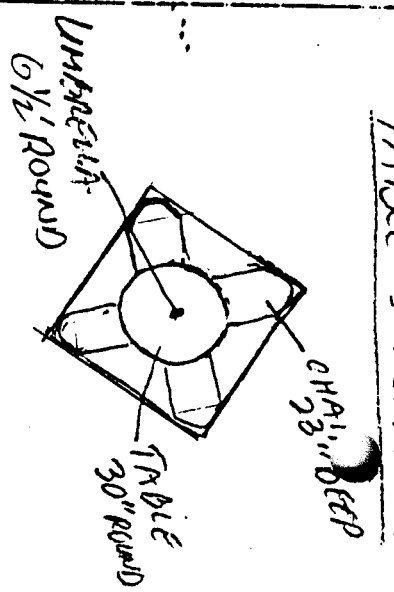
EXHIBIT C - 255 MAIN

EQUIPMENT
 TABLES - 30" Round
 20 CHAIRS - 23" DEEP
 5 UMBRELLAS - 6 1/2' DIAM.
 2 RAMP - 36" WIDE
 X 36" LONG

DIMENSIONS
 1CM = 22"

BUILDING WIDTH = 45'
 STREET WALK = 7'
 CURB TO RESTAURANT WALL = 94"
 CURB TO DRIVEWAY = 103"
 --- = PEDESTRIAN BARRIER

TABLE SCHEMATIC



1CM = 22"

EATING ESTABLISHMENT
 317 MAIN ST.

EXHIBIT C TO EATING ESTABLISHMENT

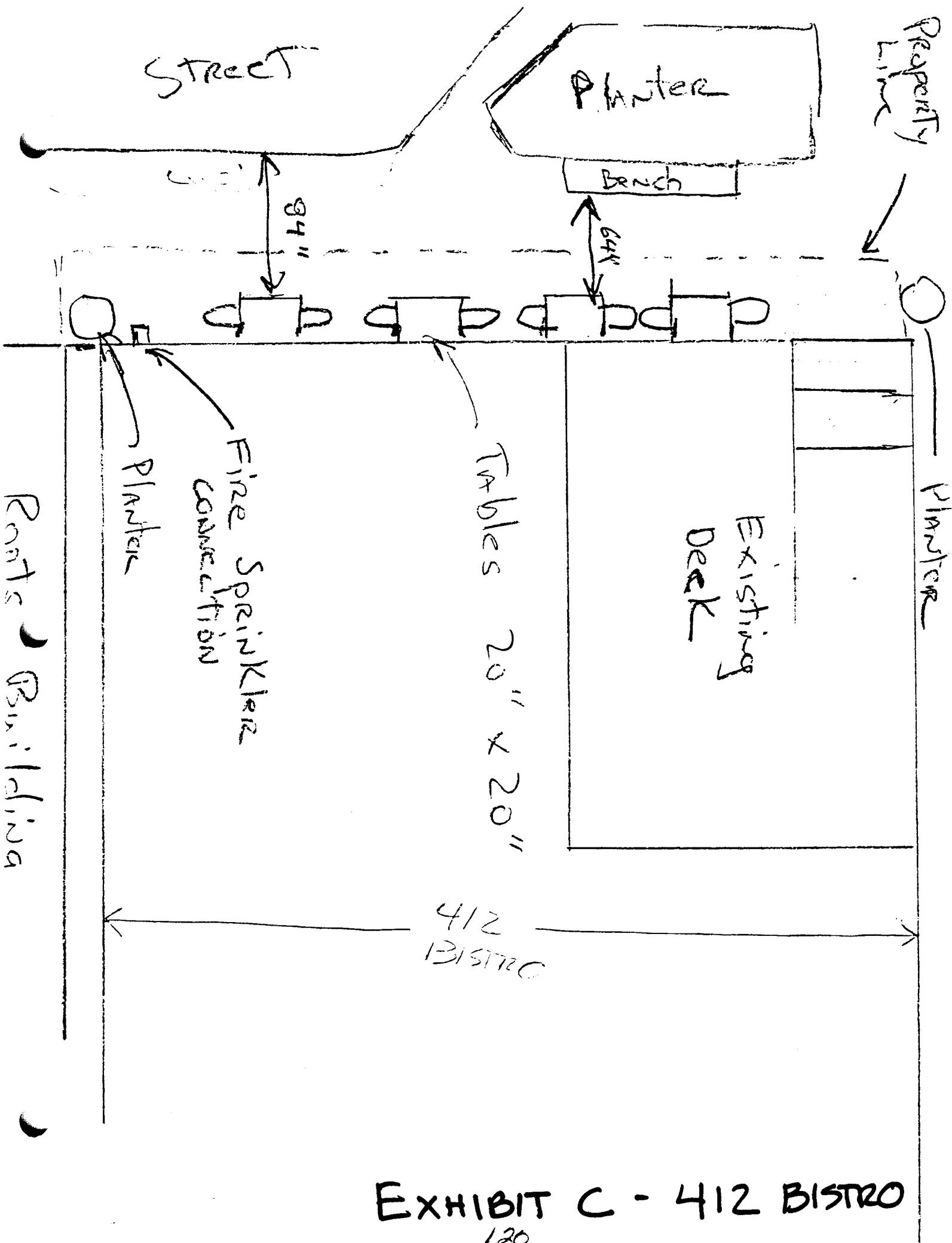


EXHIBIT C - 412 BISTRO
120

NOT TO
Scale

Main St. Deli.
525 Main St

Space between
buildings
1 1/2 FT

2 FT

3 FT

17 FT

Door

Chairs
24x28

Table
24x24

24x28

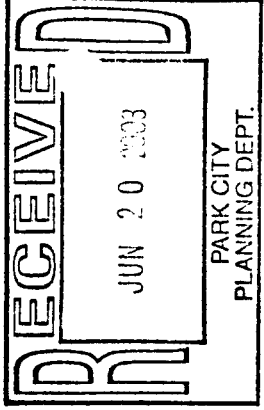
24x28

24x24

24x28

10' 10"
10' 10"

Room for people to
stand for 10' 10"
10' 10"



Free park

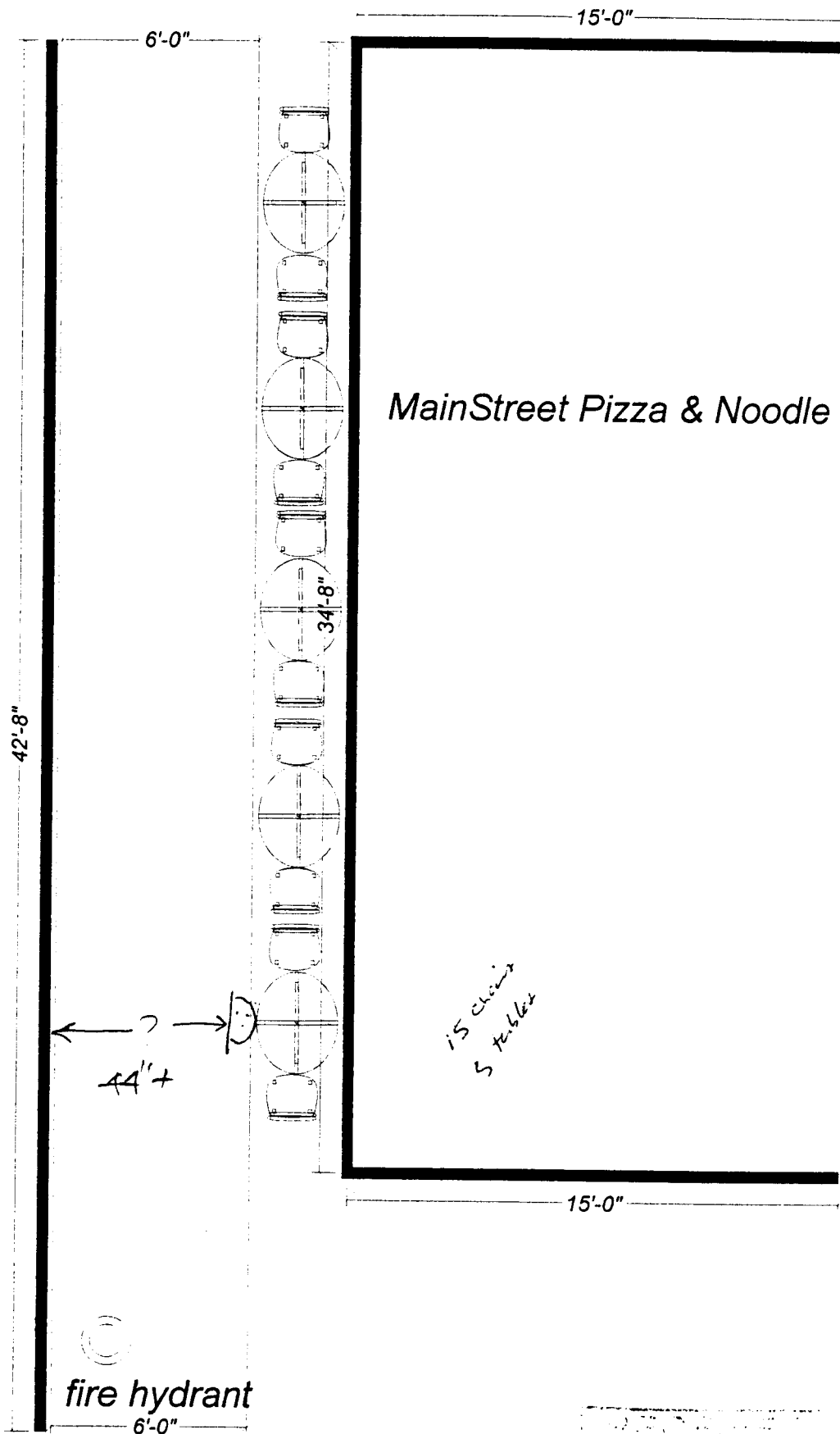
Free park

STREET

Free park

EXHIBIT C - DELI

Main Street



122
EXHIBIT C - MAIN ST. PIZZA

DATE: July 10, 2003
DEPARTMENT: Public Works
AUTHOR: Kathy Gammell
TITLE: Spiro Water Treatment Plant Upgrade - Construction Management and SCADA (Telemetry) Upgrade
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS: Authorize staff to enter into professional services agreements with Montgomery Watson Harza (MWH) in an amount not-to-exceed \$137,000 for Spiro project/construction management, and with Remote Control Systems (RCS) in an amount not-to-exceed \$40,000 for the SCADA (telemetry) system upgrade.

DESCRIPTION:

A. Topic.

Construction Management and SCADA (Telemetry) Upgrade for the Spiro Water Treatment Plant Upgrade project.

B. Background.

Montgomery Watson Harza

In October 2002 City Council approved \$100,000 to match \$100,000 in federal funding from the Army Corps of Engineers for the design of the Spiro Water Treatment Plant Upgrade project. Receipt of Corps funds required the Corps to contract with an engineering firm that had an open "Indefinite Delivery, Indefinite Quantity" (IDIQ) contract with the Corps which met the requirements of the federal funding program. MWH was chosen as the design engineer, one of few that were qualified for this project by the Corps. Selection of MWH by the Corps provided the additional advantage to Park City of experience with the Park City water system and a thorough understanding of the required arsenic treatment process (MWH managed the arsenic pilot processing under their General Water Planning and Services agreement with Park City). MWH's design is currently at 75% completion and is expected to bid prior to July 22, 2003 at 100% design completion.

The Spiro upgrade requires project and construction management to ensure compliance to design specifications and coordination with Park City staff needs (milestones, process changeover, billing, etc.). Although it is the intent of the Economic Development and Capital Projects Department to identify a third party project manager for upcoming capital projects, the Spiro upgrade presents challenges associated with technical knowledge of system operations, project complexity, and a fast-track schedule. MWH engineers have commented that this has been the most challenging small project they've ever designed, and their experienced engineers have required many hours of on-site evaluation of the

current treatment system to gain the knowledge necessary for design of the upgrade. With the project on a fast track, and a steep learning curve for someone entering the project without previous system knowledge, a 3rd party project manager is likely to be less efficient and may further delay the project.

Remote Control Systems

The complexity of Park City's water distribution system is unique considering the number of sources, reservoirs, valves, linear feet of pipe, elevations and pressure zones through which water travels to provide service to Park City residents. The Water Department manages this complexity with the help of a SCADA (telemetry) system to remotely monitor and control the entire treatment, pumping, distribution, and storage systems.

RCS first installed Park City's telephone based telemetry system in 1976. They have since converted Park City's original system from telephone based to entirely radio based with the final conversion completed in 2002. Remote Control Systems is the only company in the western U.S. with the capability of providing and maintaining the Abbey SCADA system which is the system used throughout Park City's water system. As the plant becomes more complex, operational sequencing will become more critical. RCS can provide components of the SCADA system and the historical knowledge of Park City's water system that will ensure seamless harmony between operation of the plant, pumps, wells, and reservoirs.

C. Analysis.

Montgomery Watson Harza

MWH has provided a project and construction management estimate for the Spiro Water Treatment Plant upgrade of \$137,000 over 6 months to include the following:

- Management of Bid phase including pre-bid conferences, response to bidders questions, bid addenda preparation, review bid documents for approach to technical requirements and responsiveness to bidding instructions.
- Management of Construction including field inspection / observation, contractor direction, change order preparation, construction progress meetings, process testing and startup, final inspection, punch list management, review of O&M and equipment manuals over 5months.

MWH's estimate of \$137,000 includes construction management and all work that MWH would otherwise perform as part of its continued design scope (design questions, bid phase management, change orders) even with a 3rd party construction manager other than MWH. The Public Works Director, Economic Development and Capital Projects Director, and Water Manager independently estimated this design continuation effort at approximately \$40,000.

The remainder of MWH's estimate (approx. \$100,000) may then be attributed to project and construction management services utilizing a variety of MWH's technical experts

(estimated at approximately 1500 hours over a six month period). MWH's detailed task list was reviewed and deemed reasonable as a not-to-exceed estimate considering the complexity of the project.

The project and construction management portion of the project will be fully funded from the 2004 budget line item 51-45086, Spiro Water Treatment, \$2,127,113 for an amount not-to-exceed \$137,000.

Remote Control Systems

Staff seeks authorization from Council to enter into a professional services agreement with RCS. This will allow the engineer and project/construction manager to manage design and installation of SCADA system components separately from tasks identified for the contractors. MWH has relied on consultation with RCS to simplify the design process for operational sequencing and believes that this continued relationship would help to minimize change orders during construction. As an added benefit, it is also anticipated that this will save contract costs associated with general contractor profit margins added to SCADA design and fabrication costs.

The SCADA upgrade will be fully funded in the 2004 budget line item 51-45086, Spiro Water Treatment, \$2,127,113, in an amount not-to-exceed \$40,000.

D. Department Review. This report has been reviewed by Public Works, Economic Development and Capital Projects, OCMB, City Manager.

ALTERNATIVES:

- A. Authorize staff to enter into a professional services agreement with MWH for project and construction management in an amount not-to-exceed \$137,000, and with RCS to complete the SCADA upgrade in an amount not-to-exceed \$40,000. This is staff's recommended alternative.**
- B. Authorize staff to enter into a professional services agreement with MWH only. Direct staff to either conduct a competitive bid for the SCADA upgrade or have RCS work as a "named" subcontractor to the general contractor as the only acceptable SCADA supplier.**
- C. Authorize staff to enter into a professional services agreement with RCS only. Direct staff to conduct a competitive bid for construction management.**
- D. Delay further action indefinitely.**

SIGNIFICANT IMPACTS:

Assessment of alternatives:

- A. This is staff's recommendation.**

- B. Rejection of staff's recommendation to enter into a professional services agreement with RCS may delay the project and result in a SCADA system that does not work in harmony with the rest of the water system.
- C. Rejection of staff's recommendation to enter into a professional services agreement with MWH as construction manager on the Spiro project will delay the project and may create additional complexity during construction.
- D. The project will not be able to move forward until a construction manager is approved. Open bidding for the SCADA system may have the same impact as the assessment of B.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Selecting an alternative other than A may delay completion of the Spiro upgrade and/or impact satisfactory operation of the treatment system.

RECOMMENDATION:

Authorize staff to enter into professional services agreements with Montgomery Watson Harza in an amount not-to-exceed \$137,000 for Spiro project/construction management, and with Remote Control Systems in an amount not-to-exceed \$40,000 for the SCADA (telemetry) system upgrade.