

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 25, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 25, 1996.

A G E N D A

Closed Session

2:45 p.m. Personnel matter

Work Session

4:00 p.m. Council questions and comments
4:15 p.m. Update on SR224 Thaynes Canyon Drive intersection
5:00 p.m. Review of regular meeting
 Plats
 Sandstone Cove
 Other meeting questions/comments

Regular Meeting

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

1. Affordable housing guidelines
2. Swearing-in of Officer Brett Ashworth

III COMMUNICATIONS FROM COUNCIL AND STAFF

Scheduling Town Run reconsideration

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 11, 1996

V PUBLIC HEARINGS

1. An Ordinance approving the amendment to the Thaynes Canyon Subdivision for Lots 83, 83A, 84 and 84A, to be known as the Eriksen Replat (13 Hidden Splendor Court)
2. An Ordinance approving amendments to Lots 17 and 18, Block 19 of the Snyders Addition to the Park City Survey, to be known as the Offret Replat (1372 Empire Avenue)

An Ordinance approving an amendment to Lot 19, Block 19 of the Snyders Addition to the Park City Survey to be known as the Gallacher Subdivision (1376 Empire Avenue)

An Ordinance approving an amendment to Lot 20, Block 19 of the Snyders Addition to the Park City Survey to be known as the REI Subdivision (1378 Empire Avenue)

3. Ordinance amending the Park City Land Management Code to zone sexually oriented businesses as conditional uses in the General Commercial Zone, Section 7.9 and to regulate the location of sexually oriented businesses
4. Ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City regulating sexually oriented businesses; by clarifying the purpose, appeal procedure, and definitions within the chapter; and amending Section 8-4-20, of the Criminal Code by creating a dramatic works exception to lewdness

VI CONSENT AGENDA

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3. Authorization to staff to enter into a contract with Skaggs Telecommunications Services in the amount of \$50,000 for the purchase and installation of new public safety radio communications in the Marsac Building

VII NEW BUSINESS

1. Decision regarding annexation of Sandstone Cove, approximately 80 acres east of SR224 and northwest of Ridgeview and Mountain Ridge Subdivisions
2. Deliberation on findings of fact, conclusions of law, and final order denying an appeal of the Planning Commission's June 12, 1996 denial of a conditional use permit to place a free standing sign at Cows, 402 Main Street

VIII APPEAL

Appeal of Planning Commission denial of June 12, 1996 for Zions Bank/Visitor Center located at SR248 and SR224 - P.C. Development

IX ADJOURNMENT

Posted: 7/22/96

Note: It should be noted that the comments under Public Input and Communications from Council and Staff occurred at the meeting and were not posted. They appear on this agenda for reference purposes.

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 25, 1996

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

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Pat Putt, Planning and Zoning Administrator; Nora Seltenrich, Special Projects Manager; Eric DeHaan, City Engineer; Kirsten Whetstone, Planner; Lloyd Evans, Assistant Chief of Police; Mark Harrington, Assistant City Attorney; Rick Lewis, Community Development Director

Rich Taylor and Jim McMiminee of UDOT; Rebecca Champion, Carol Shackleford, and Jo Scott of Thaynes Canyon; Dana Williams, Prospector Home Owners Association; Jerry Jackson, Sandstone Cove

1. Council questions and comments. Roger Harlan relayed that he spent some time last week at the Atlanta Olympics and elaborated on four observations (1) social energy, which involved crowd enthusiasm and pride; (2) large crowds; (3) security factor; and (4) the greed factor. Paul Sincock stated that he has received calls on the construction on Boothill Drive, and explained that it was work on a trail and the area is open space. Chuck Klingenstein referred to a letter from Peter Yogman and his suggestion for the alternate burn day. Toby Ross answered that staff has not analyzed this particular alternative and this issue may not be pursued, but staff has talked with Mr. Yogman. The Mayor pointed out to the City Manager several programs sponsored by the National League of Cities offered in its recent publication. Shauna Kerr noted all of the work on the Gateway Tree Project and felt that an entry statement at the City boundary would be appropriate on SR224. This would serve to welcome people to the community and secondly, as an indicator to slow down. Lloyd Evans reported on the status of the Rugby Club beer license for the Arts Festival. Ms. Kerr suggested that Hugh Daniels serve on the Nominating Committee at the Utah League convention in September. She added that the new Telecommunications Act may have some ramifications for the police in consideration of the new technology and if we will be prohibited from using our existing frequencies and if some private industry wants to set us up on a different frequency that we would be willing to take their money for that benefit.

Hugh Daniels relayed that he kept track of the number of hours devoted to City Council business in the past six months which averaged about 25 hours a week, or 2.6 hours every day and based on the \$9,600 annual compensation Council receives, the hourly wage calculates to about \$7 before taxes. Mr. Daniels commented that he and Mr. Klingenstein had a call on their radio show about requirements for affordable housing. Ms. Hoffman restated the concern that when two individuals apply who don't make a great deal of money, they can't qualify for the affordable unit because the combined incomes exceeds qualifications. She stated that this could be a Park City requirement if the project is subject to the federal Section 42 housing standard. This standard is geared toward one income families with dependents and fills a housing niche, but there are 25 units at Silver Meadows and another eight units at 1465 Park Avenue don't have Section 42 requirements. She stated that Megan Ryan is drafting a new housing resolution to identify income ranges for

different types of housing. In response to a question from Paul Sincock, if the income increases over the years, under Section 42, the occupants can stay; it is an initial qualification. The salary limit is based on a percentage of the median income in Summit County and the median increased from 1994 to 1995 by roughly 17%. See public input session.

2. Update on SR224 Thaynes Canyon Drive intersection. Jim McMinimee of UDOT discussed the status of the I-80 project and clarified that speeders are not fined higher for violations in a construction zone at this time. Lloyd Evans referred to his report on SR224 regarding traffic counts and speed in the area. The City's traffic trailer was used to monitor the amount of vehicle traffic and about 8,766 cars traveled the corridor north and south combined in an eight hour period typically 7 a.m. to 5:30 p.m. The average speed, both north and south, was 37.7 mph between the Top Stop and the Radisson Hotel. He continued that traffic was monitored on Thaynes Canyon and Snow Creek; Thaynes Canyon had 1,233 cars in a 16 hour period, and Snow Creek counted 359 vehicles in an eight hour period. In the vicinity of the Top Stop to Payday Drive, the accident statistics were 17 from January 1, 1992 to December 31, 1993 (pre-traffic light); 11 January 1, 1994 to December 31, 1995 (post-traffic light); and four accidents from January 1, 1996 to July 15, 1996 (year to date). In response to a question from Roger Harlan regarding the discrepancy of the 35,931 north bound vehicles and 25,432 south bound vehicles, Lt. Evans again pointed out that this was over an eight hour period and many people would be leaving Park City after 5:30 p.m.

Jim McMinimee of UDOT discussed warrant standards in the Manual of Uniform Traffic Devices which outlines prioritized criteria including traffic counts, turning movement types, and coordination with other signals. Paul Sincock relayed that private funds have been committed to a traffic signal and asked if the location doesn't meet the warrant criteria, could a traffic light be installed if we paid for it. Jim McMinimee responded that it would be very unlikely that that would happen, however in the event that potential development occurred in the near future in the area, the state would try to be proactive. However, more than likely, if it didn't meet the warrant criteria UDOT would have a hard time installing a light on its facility. He clarified that the roads that the state owns and operates have a different purposes than other surface streets and that is to move people. Mr. McMinimee added that there are about 70 locations in the region that are warranted for signals and waiting, and if the Thaynes Canyon signal warrants, and if there were financial participation from Park City, it would help move up the signal's priority.

Roger Harlan asked if the City's traffic count would meet UDOT's warrant. Rich Taylor of UDOT responded that they would break counts down by the hour and the number turning left out of Snow Creek Crossing or Thaynes Canyon Drive. Chuck Klingenstein pointed out that Snow Creek Crossing has recently come on line and there will be a hotel on the opposite corner. He added that there is a residential component to Snow Creek which may be converted to hotel rooms and a convention center, and asked if these units would be considered. Jim McMinimee responded that UDOT will conduct the warrant study first and if the numbers are not met, will look at potential build-out. Thaynes Canyon resident Carol Shackleford pointed out that she avoids traveling on the

intersection and particularly making left hand turns. She felt that people familiar with the traffic patterns do the same thing which could result in a skewed traffic count. Shauna Kerr added that the turn lanes aren't striped correctly on SR224 and SR248 into the Snow Creek Crossing area which may discourage people from using them. Rebecca Champion, Thaynes Canyon resident, felt that the traffic counts between 5:30 p.m. and midnight should be strongly considered. Lloyd Evans clarified that the City doesn't have the equipment for 24 hour counts. The equipment is designed for daylight hours for security reasons, and the reason why the Snow Creek count was for only eight hours was because someone cut the count line and the study couldn't be completed. Mark Peterson of Dans emphasized that they are only at 50% of the winter peak season and it gets darker earlier in the winter. Rich Taylor stated that UDOT has a policy on this and wouldn't conduct a count in October or May. Chuck Klingenstein added that there are huge fluctuations in traffic during a winter day and would like this to be taken into account. He continued that he is unhappy with the results of the improvements of SR224, which looks like a seven lane interstate, and SR248 is a long-range project, where there have been more fatal accidents. Rich Taylor responded that SR224 looks like an interstate but it is full of cars; he personally felt that it is the right kind of road. Mr. Klingenstein discussed the City's successful open space plan on our entry corridor which encourages people to speed and emphasized that there are schools on SR248. Dana Williams, Prospector Home Owners Association, thanked UDOT for lowering the speed limit on SR248. He stated that a kid was hit there last year; he didn't feel that SR248 would ever warrant a traffic light by numbers but wondered if safety is ever a consideration. A gentleman from Thaynes Canyon who didn't identify himself, interjected that the residents don't make left hand turns and the intersection is a serious problem. The Mayor requested that UDOT contact him when a date for the warrant study is determined. He requested that the "reduced speed ahead" signs be moved further outside of town. Shauna Kerr suggested flashing lights or reduced speed pavement markers. Jo Scott pointed out that there isn't enough time to turn left from Payday Drive onto SR224 and Mr. Taylor indicated that that could be remedied. Ms. Champion suggested that UDOT conducts its study when there are concerts or during Arts Festival and that the police do more enforcement. Lloyd Evans pointed out that when there are high volumes of traffic, it is more difficult to enforce speeds. He added that when there are traffic lights at every intersections, mid-block speeds increase. Some of the mitigation efforts staff discussed was increasing stripping, preventing left-hand turns in some locations, and improved lighting and site distance which isn't really a problem in the Thaynes Canyon Drive area. Lt. Evans noted that increased traffic signals create grid-lock, and people may defuse and travel back streets that they are not familiar with. Mr. McMinimee assured Mr. Peterson that UDOT will factor in seasonal fluctuations in its count and added that Thaynes Canyon Drive was designed for a traffic light when the road was improved.

Jim McMinimee congratulated the City on its Gateway Tree Planting Project and urged the City to enter into a contract clarifying the maintenance of the trees. He added that some trees are in clear zones and liability issues need to be discussed. The Mayor asked for Council's feeling on setting up a citizen task force. Hugh Daniels noted that there is a lot work currently being done on traffic and transportation, and he would rather wait to formulate direction for a task force.

The Council agreed. Chuck Klingenstein requested that SR248 also be studied and discussed that he is not a proponent of seven lane roads. The Mayor requested that UDOT contact him with regard to the timing of the traffic study.

3. Review of the regular meeting.

An Ordinance approving the amendment to the Thaynes Canyon Subdivision for Lots 83, 83A, 84 and 84A, to be known as the Eriksen Replat (13 Hidden Splendor Court). Ms. Whetstone stated that this plat is a request to accommodate a remodel. The Ericksens own Lot 84 and half of 83. She pointed out that in 1977 an area was owned by Royal Street Land Company and there was an agreement with the City that the property owners could obtain the properties which were divided into lots. At that time the Ericksens purchased 84A and half of 83A. She explained that the 1977 agreement had a provision that the area be limited recreation related improvements, i.e., tennis court, swimming pool, basketball court, although garages could be permitted with conditional use permit approval. Ms. Whetstone explained that the remodel is designed with the garage in the back and the Ericksens have applied for a conditional use permit and are scheduled on the Planning Commission docket. It was clarified that this area is not part of the golf course fairway. Ms. Whetstone urged Council to approve the plat amendment as it will clear up the lot lines, and there will be conditions on the conditional use permit addressing buffering and landscaping, etc. It was pointed out that there will be a public hearing on the conditional use permit and adjacent neighbors will be noticed. There is a condition in the ordinance that prior to plat recordation, the applicants must meet the provisions of the 1977 agreement.

An Ordinance approving amendments to Lots 17 and 18, Block 19 of the Snyders Addition to the Park City Survey, to be known as the Offret Replat (1372 Empire Avenue) - and

An Ordinance approving an amendment to Lot 19, Block 19 of the Snyders Addition to the Park City Survey to be known as the Gallacher Subdivision (1376 Empire Avenue) - and

An Ordinance approving an amendment to Lot 20, Block 19 of the Snyders Addition to the Park City Survey to be known as the REI Subdivision (1378 Empire Avenue). Ms. Whetstone explained that these are three separate plats which are adjacent to each other and related. She added that this should have been done as one plat, but there were two in the process when the third was discovered as crucial. Through illustration of a map, Ms Whetstone discussed the location of the four lots where existing Empire Avenue cuts off the front part of the lots. She discussed the vacation of Norfolk Avenue and the portions of land given to the property owners. The plat amendment will clean up the right-of-way parcels attached to the lots. She discussed a call in opposition to the plat amendments from an adjacent neighbor who would rather see a one unit condo there to avoid curb cuts for single family homes. Another caller supported the single family concept.

Sexually oriented businesses ordinances. Mark Harrington explained that he changed the definition of semi-nude and indicated that Joe Tesch has reviewed the ordinance. Mr. Tesch expressed a preference that we also amend the definition for business in the ordinance to exempt non-profit organizations. Mr. Harrington stated that he is not recommending that, because that definition has application to non-profits in other parts of the Code, i.e., beer licensing. He added that he would not recommend a blanket exemption of one particular group, but felt that all of Mr. Tesch's concerns have been met. He is suggesting that with regard to the definition of adult motion picture theater, that there be additional language, "at its principal business, regularly shows films. . ." This would be an additional narrowing of that definition. Changing from strict numbers was discussed and Mr. Harrington pointed out that this may create an opportunity for a loophole, but it offers flexibility for the arts community.

Public safety radio equipment. In response to a question from Paul Sincock, Lt. Evans explained that they met with other vendors; including Motorola who quoted \$70,000, and GE at \$100,000. He discussed that this is pc technology and explained that the "dead zone" issue will not be handled with this contract.

Sandstone Cove annexation. Nora Seltenrich explained that the affordable housing unit and construction phasing were issues at the last meeting. The applicant is willing to purchase and convey to Park City 1.8 unit equivalents of affordable housing stock and has submitted a revised phasing schedule. Once Council has provided direction, staff will draft findings and conclusions, and/or agreements and Ms. Seltenrich described the range of options available to Council. Chuck Klingenstein felt that with regard to phasing, since there aren't homes there now, it may be better to build more in the beginning but asked for Ms. Seltenrich's opinion. She indicated that this was discussed in conjunction with the General Plan, and the Planning Commission believed that it was better to get the construction done. Ms. Seltenrich felt that the phasing plan was probably consistent with what market conditions would dictate. She added that monitoring the phasing plan will add to the staff's workload and Council could use this project as a trial for future annexation phasing conditions. Chuck Klingenstein pointed out that if a permit rate system is implemented that this be addressed in the phasing condition. In response to a question from Roger Harlan, Mr. Jackson explained that the number of units was determined on economics and what was acceptable politically. He added that the project is burdened by building a water tank, and a larger contribution to the affordable housing pool. If there is a permit allocation system in the future, Mr. Jackson requested that the phasing condition be removed. Roger Harlan stressed that the phasing should be clearly indicated on the plat. Paul Sincock discussed having no more than three houses under construction at one time. Mr. Jackson discussed the disruption of stretching the construction process which is not the desirable outcome of the intent of phasing.

Shauna Kerr pointed out that if the property were developed in the County, there would be only two units. She asked what the downside would be not to annex, work with the County, and wait until the annexation policy of the General Plan is available. She did not feel that

there would be a downside for the City. In order for Sandstone to develop more than two dwellings, a land use amendment would have to be granted as well as a modification to the tiering system. The current comprehensive plan of Park City does not designate a land use for this area and the updated General Plan is scheduled to designate a land use for this area. She asked if there was any support from her fellow Council members to deny the annexation until it is timely submitted after the General Plan is adopted. The applicant could submit an application to the County now or wait until the General Plan is adopted. Ms. Kerr noted that now the Council is responding to a density that the applicant has proposed as appropriate and the County feels two is appropriate. She added that once Sandstone is annexed, the Mountain Top Subdivision annexation petition is affected, and asked if that is prudent planning before the benefit of the General Plan. The Mountain Top Subdivision petition was discussed. The City Manager commented that the General Plan will be back to Council sometime this fall. Hugh Daniels appreciated Ms. Kerr's comments but felt some responsibility to the good faith efforts by the agents of Sandstone Cove. He added that the annexation will provide the City with important open space. Ms. Kerr argued that she would rather see two houses in the County than 18 in the City. The Mayor recognized that Shauna Kerr's position has merit and that she has been consistent with her position on annexation proposals. Ms. Kerr reiterated that the County specifies two units per 80 acres, the City is trying to negotiate a contract, and she didn't believe that the City is getting the benefit of the bargain.

Chuck Klingenstein relayed that he has been thinking about Ms. Kerr's comments and the transition of the large densities of Park Meadows. Paul Sincock pointed out that Mountain Top far exceeds the 1:40 acre density and it is a gamble with regard to outcome of a land use amendment. He envisioned the City limits going over Quarry Mountain. Ms. Kerr felt that there is a lack of vision to spend so much time on revising a General Plan and in the interim making piecemeal decisions that have radical ramifications to the General Plan.

Rick Lewis stated that there was not a lot of support by the Planning Commission for expanding north on Quarry Mountain down the slope. The Planning Commission has discussed looking at land use patterns and determining densities. Roger Harlan continued that he would be willing to reduce the affordable housing requirement if the density is reduced to 15 units.

Because of time restraints, the work session adjourned. See regular meeting minutes.

Prepared by Janet M. Scott

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 25, 1996**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 25, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Kirsten Whetstone, Planner; Meg Ryan, Planner; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

1. Affordable housing guidelines. John Gonthier, 14 year resident, stated that he applied for an affordable housing unit. He earns about \$8.50 per hour and works 40 hours a week. His co-applicant works 40 hours a week and makes \$10 per hour. Their application was denied because their combined incomes total \$31,000 and the limit is \$24,000. He can't afford to have a car and felt that something needs to be done to make these units affordable for the working person. Mr. Gonthier understood that \$24,000 is low for a family. Mr. Ross explained that North Horse Apartments have the federal Section 42 requirement, but some of the units at Aspen Villas don't have the restriction but those units are taken. Mr. Ross noted that Mr. Gonthier's choices include combining income with someone who doesn't make as much money or waiting for a unit that doesn't have the income requirement. There will be some units coming on line in about nine months. He explained that if these restricted units didn't have the federal subsidy, they wouldn't have been built. Mr. Gonthier emphasized that affordable housing for employees is an issue that needs to be addressed. Chuck Klingenstein added that the City has been proactive, but government can't solve the problem by itself; employers are going to have to participate. Council may consider legislation to exact employee units from commercial development or commercial remodels.

2. Swearing in of Brett Ashworth - The Mayor swore in Brett Ashworth as a reserve police officer.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Scheduling Town Run reconsideration. Shauna Kerr stated that last week Council made a motion to reconsider the Town Run. It was indicated that it would come up at the earliest opportunity but not to displace other items on the agenda. Since then, people have asked her exactly what that meant. She stressed that when she amended Mr. Daniels' motion, she meant it came back to Council after the Flagstaff annexation, Telemark, the General Plan and other things that are already in the process. This should not come back after a few weeks or months. Ms. Kerr asked for an accounting from the Planning Department as to everything that was already in the works so that this is fair to applicants already in the process and fair to Pat Sweeney with a time line he can plan on. Hugh Daniels stated that in his motion and accepting her amendment, he was not clear that that was Ms. Kerr's intent. His intent and understanding was to bring this back where it would normally fall in the scheme of things when there was adequate time for Council to hear it. He didn't feel there would be a lot of staff time as it has been prepared. To say that the Town Run would be scheduled after a final decision on Flagstaff when there might be time to schedule this, would not be his intention and at the same time he would not want to displace an issue. Ms. Kerr responded that the Council is displacing someone when this is scheduled as there was a final decision; Mr. Sweeney

asked for a denial and took his chances in requesting a reconsideration. Ms. Kerr asked if other applicants should take a back seat, or should Town Run go to the "bottom of the heap" as expressed last week. Mr. Daniels didn't see "bottom of the heap" necessarily being after anything that happens to be on the docket that may or may not be concluded. There may be weeks without a big agenda, and he would rather solve it for the community and the appellants and be done. Ms. Kerr reiterated her position and Mr. Daniels disagreed. Mr. Sincock stated that he also did not read into her amendment the idea of delaying it several months. The staff work has been completed and Council would be back to the same meeting where Council was prepared to make a decision. Mr. Sincock agreed with Mr. Daniels that there may be lighter meetings where Town Run can be scheduled. Ms. Kerr felt that Council needs to be fair to the citizen appellants who thought that this was over and now they need to gear up again. She felt that the project will get better in time and just from the time of Council's decision to the time of the reconsideration, the changes made on the project are positive. Rick Lewis noted that the staff analysis has been completed but staff's work load is intense to the end of the year. Chuck Klingenstein commented that he is somewhere in between Ms. Kerr's and Mr. Daniels' positions and felt that Council would rehear Town Run at the earliest possible convenience without disrupting Council's schedule. However, there will be new information presented and it is going to require more staff time if this is pursued, and he is concerned about that. He pointed out that the General Plan, and Flagstaff are major projects. The Mayor directed the planning staff to look at the agendas in the next six months, to suggest a time when Town Run can be reconsidered and recommend some dates. He hoped that this could be heard before the end of the year, depending on the complexity of the reconsideration and if it's simple, he felt that Council could review it soon. Ms. Kerr responded that if Council is asking for simple, then the applicant will submit the same plan.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 11, 1996

Hugh Daniels, "I move approval of work session notes and minutes of the meeting of July 11, 1996". Roger Harlan seconded. Motion unanimously carried.

V PUBLIC HEARINGS

1. An Ordinance approving the amendment to the Thaynes Canyon Subdivision for Lots 83, 83A, 84 and 84A, to be known as the Eriksen Replat (13 Hidden Splendor Court) - See work session notes and staff report. The Mayor invited the public or Council to comment. In response to Mr. Harlan's concern about the neighborhood, Ms. Whetstone explained that everyone within the plat has been noticed. With no further comments or questions from the Council or the public, the public hearing was closed.

2. An Ordinance approving amendments to Lots 17 and 18, Block 19 of the Snyders Addition to the Park City Survey, to be known as the Offret Replat (1372 Empire Avenue) - and

An Ordinance approving an amendment to Lot 19, Block 19 of the Snyders Addition to the Park City Survey to be known as the Gallacher Subdivision (1376 Empire Avenue) - and

An Ordinance approving an amendment to Lot 20, Block 19 of the Snyders Addition to the Park City Survey to be known as the REI Subdivision (1378 Empire Avenue) - See work

session notes and staff report. The Mayor invited the public or Council to comment. With no comments or questions from the Council or the public, the public hearing was closed.

3. Ordinance amending the Park City Land Management Code to zone sexually oriented businesses as conditional uses into the General Commercial Zone, Section 7.9 and to regulate the location of sexually oriented businesses - See staff report. Planner Meg Ryan stated that in addition to the designation of the General Commercial Zone, the staff is recommending initiating a disbursement zone. The Mayor invited the public to comment.

Scott Fine stated that he attended a previous public hearing and asked what this ordinance means in lay terms. Meg Ryan explained that the ordinance defines areas for this type of business and provides for a review process for this use. This matter went through several public hearings at the Planning Commission stage and the Commission determined to provide for a conditional use process before the use would be allowed. There is a determination of certain uses that are inappropriate for SOB businesses to locate adjacent to, i.e., church, cemetery, parks, day care, liquor store, or residential, and staff recommended a disbursement or buffer zone which is 300 feet. Mr. Fine asked if the zone is broader than before. Mark Harrington responded that there was never a designated zone designated. Initially, the Light Industrial Zone was considered but that was not considered adequate in terms of providing a reasonable option for locating, because it is too small and occupied by residential components. The General Commercial has less residential and would provide more opportunity to locate. Mr. Fine asked if that was in the community's best interest based on community values. Mr. Harrington believed that this is as small as the City could designate and still be legally defensible. Roger Harlan explained that in consideration of the 300 foot buffer zone, the allowable area may have decreased while on paper it seems to be expanded. With no further comments or questions, the public hearing was closed.

4. Ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City regulating sexually oriented businesses; by clarifying the purpose, appeal procedure, and definitions within the chapter; and amending Section 8-4-20, of the Criminal Code by creating a dramatic works exception to lewdness - Mark Harrington stated that in January 1995, the City Council adopted business regulations regarding SOBs and directed the planning staff to work on the zoning designation which is pending. During that time frame, staff met with representatives of the arts and religious communities and did its best to alleviate concerns about misapplications of certain definitions relating to activities on-going in the community while still preserving the original intent of the ordinance to zone these areas off the main commercial district and regulate their secondary effects. To that end, Mr. Harrington explained that staff is proposing minor modifications to the definitions which clarify the intent to apply to year-round businesses and not for special showings like the Sundance Film Festival. He discussed the replacement language "regular shows as a principal part of its business" is a term that has been upheld in the courts and the elimination of the regulation of the semi-nude dance agencies as the City regulates the premises. There is a dramatic works exception to the lewdness section; staff felt this was necessary to preserve the City's ability to regulate lewdness without being overly broad and adds to the defensibility of the ordinance. He repeated Mr. Tesch's comments which are described in the work session notes.

Hearing no further comments or questions, the public hearing was closed.

VI CONSENT AGENDA

Shauna Kerr, "I move approval of Consent Agenda Items 1 through 3". Hugh Daniels seconded. Motion unanimously carried.

1. An Ordinance approving the amendment to the Thaynes Canyon Subdivision for Lots 83, 83A, 84 and 84A, to be known as the Eriksen Replat (13 Hidden Splendor Court) - See staff report, work session notes, and public hearing.

2. An Ordinance approving amendments to Lots 17 and 18, Block 19 of the Snyders Addition to the Park City Survey, to be known as the Offret Replat (1372 Empire Avenue) - and

An Ordinance approving an amendment to Lot 19, Block 19 of the Snyders Addition to the Park City Survey to be known as the Gallacher Subdivision (1376 Empire Avenue) - and

An Ordinance approving an amendment to Lot 20, Block 19 of the Snyders Addition to the Park City Survey to be known as the REI Subdivision (1378 Empire Avenue) - See staff report, work session notes, and public hearing.

3. Authorization to staff to enter into a contract with Skaggs Telecommunications Services in the amount of \$50,000 for the purchase and installation of new public safety radio communications in the Marsac Building - See staff report and work session notes.

VII NEW BUSINESS

1. Decision regarding annexation of Sandstone Cove, approximately 80 acres east of SR224 and northwest of Ridgeview and Mountain Ridge Subdivisions - See work session notes. Chuck Klingenstein stated that timing and growth inducing impacts have been his two issues. He asked how this affects Eagle Pointe. Nora Seltenrich explained that this does have a potential impact on Eagle Pointe. Phase 2 of Eagle Pointe specifically excludes two parcels located along the road to Mountain Top, pending action on Sandstone. If Sandstone Cove moves forward and if a water tank is built, then houses would be allowed at a higher elevation than shown on the preliminary plat. There was some concern expressed by the Campbells about too much density down at the intersection of Meadows Drive and Mountain Top, and at least one of the two lots is being considered to be relocated higher which could be accomplished if there is adequate water pressure. Ms. Seltenrich added that it is her understanding that a water tank would not generate more units in Eagle Pointe. Eagle Pointe would have to make application and that probably would not be supported by staff, and any shifting of units would require a plat amendment.

Jerry Jackson, applicant, urged Council to render direction to staff. He stated that the project has been around for about 49 months; they didn't file it for two years because staff asked them to hold back pending the review of the General Plan. It has been under formal application with the City for about 25 months. He stated that the plan has evolved into 18 lots; the Planning Commission felt it was a good project last year when it was approved at 19 lots. He stated that they voluntarily removed one lot because they felt it was an improvement. Mr. Jackson noted that he would like to bring this to closure and felt that this area should be in the City. In response to Mr. Harlan's concerns, he stated that he would consider a reduction in the number of lots to 16, he would remove the flag lots, and accept the offer of the standard in-lieu payment for affordable housing. He requested direction on this modified proposal. He clarified that he would be paying a fee for 1.6

equivalent units, not providing a physical unit; this would represent a slight savings but does not compensate for the reduction of two lots. Mr. Ross estimated that 1.6 represents about \$110,000 and if allocated to an affordable housing project may represent 1.8 or 1.6 unit equivalents; however, it wouldn't be sufficient to build one. Shauna Kerr felt that this affordable housing proposal contradicts what the Council discussed previously, except for Roger Harlan, about actual units, and although this is a generous offer at the eleventh hours, she is not interested in money in-lieu of and a unit built is better than money in the hand. Alternatively, Mr. Jackson stated that they could build and convey to the City one unit. The Mayor summarized three options including the (1) original 18 lots and 1.8 equivalent units of hard living space; (2) 16 buildable lots and approximately \$110,000 in-lieu of fee; or (3) 16 lots and one "brick and mortar" unit. Ms. Seltenrich stated that there has been some staff concern about units being conveyed to the City and staff's role in terms of management. She added that there are some difficulties, which are not insurmountable, but do exist and the in-lieu fees have assisted other projects in getting projects built. Paul Sincock suggested providing that flexibility. Hugh Daniels referred to Ms. Kerr's comments in work session and felt that applicants can't wait forever until the General Plan is accomplished and there needs to be some finalized direction this evening. Roger Harlan felt that the determination tonight of the production of the affordable housing is not as crucial as to making a decision on the annexation itself. Chuck Klingenstein, "I move to direct staff to prepare findings and conclusions to deny the annexation due to its prematurity based on the fact that we don't have the General Plan done. It is a premature extension of public services that will be growth inducing impacts of infrastructure extension. There is a lack of compelling reason at this time to grant increased density over the one unit per 40 acre designation of the County. It will result in additional primary residences which is not a priority in the currently adopted annexation policy declaration. I think this does belong in the City and has been well-designed, worked hard on, a lot of time and effort has been put into this by the Planning Commission and the staff, but the timing is wrong. I don't think we fully understand the growth inducing impacts at this time". Shauna Kerr seconded. Paul Sincock commented that this is a difficult decision for him and was initially against the annexation for reasons expressed by Mr. Klingenstein. However, after considering the long-range, he felt that it should be under the care and custody of the City and his only question is timing. He felt that the developer has responded well to the concerns of the Council and he is inclined to affirm the annexation. Hugh Daniels agreed with Mr. Sincock and believed that this belongs in the City and he too did not support the annexation but was persuaded otherwise. Ms. Kerr emphasized that each time an annexation is processed, it takes staff's time away from completing the General Plan. She added that the applicant has made great strides with the project and she has no problems with the merits of the project, however, this sends a message to continue to make application at a time when she felt that the City is vulnerable to attack because we are not armed with a updated General Plan. She continued that by approving this tonight, the Council is sending a clear message to Flagstaff and others that Council is going to conduct business as usual. Ms. Kerr stated that she is going to consistently deny annexations until the City has an updated General Plan. Paul Sincock appreciated Ms. Kerr's consistently and suggested that there should be a consensus to direct the planning staff to drop all work on annexations and only pursue the General Plan and annexation policy first. Roger Harlan discussed the patience and financial resources a developer must have to go through a 49 month process, stated that he appreciated the reduction in units and would not have supported 18 units. The Mayor felt that the developer should have been informed at the first meeting that the timing was inappropriate until the General Plan is completed; Ms. Kerr responded that she made that comment at that time.

Hugh Daniels

Nay

Roger Harlan	Nay
Shauna Kerr	Aye
Chuck Klingenstein	Aye
Paul Sincock	Nay

Motion denied.

Paul Sincock, "I move to annex Sandstone Cove at 16 units, and providing 1.6 units of affordable housing through an in-lieu fee or one real unit of affordable housing to be conveyed to the City". Hugh Daniels seconded.

Hugh Daniels	Aye
Roger Harlan	Aye
Shauna Kerr	Nay
Chuck Klingenstein	Nay
Paul Sincock	Aye

Motion died for lack of a 2/3rds vote.

2. Deliberation on findings of fact, conclusions of law, and final order denying an appeal of the Planning Commission's June 12, 1996 denial of a conditional use permit to place a free standing sign at Cows, 402 Main Street - The Mayor stated that the cow appeal has been dismissed.

VIII APPEAL

Appeal of Planning Commission denial of June 12, 1996 for Zions Bank/Visitor Center located at SR248 and SR224 - P.C. Development - The Mayor announced that this appeal has been rescheduled at the request of the appellant to the meeting of August 15.

IX ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:45 p.m. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; and Jodi Hoffman, City Attorney for portions of the meeting. Roger Harlan, "I move to close the meeting to discuss a personnel matter". Chuck Klingenstein seconded. Motion carried unanimously.

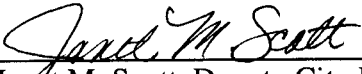
The meeting opened at approximately 4 p.m.

* * * * *

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

Page 7
City Council Meeting
July 25, 1996

Prepared by Janet M. Scott



Janet M. Scott, Deputy City Recorder





DATE: July 19, 1996
DEPARTMENT: Public Safety
AUTHOR: Lloyd Evans
TITLE: SR 224 Traffic Analysis
TYPE OF ITEM: Informational

SUMMARY RECOMMENDATIONS: Discuss the traffic study and mitigation options with staff and the general public in attendance at the Council work session on July 25th. Consider forming a city-wide task force to assistance staff in the reviewing traffic issues and solutions. Request UDOT to conduct a study of this corridor.

DESCRIPTION:

A. Topic:

Review traffic and circulation issues along SR 224 in the vicinity of Payday Drive, Snow Creek Drive and Kearns Boulevard.

B. Background:

A fatal automobile accident on June 26, 1996 intensified citizen concern about the section of SR 224 near Snow Creek Drive. This accident involved 2 vehicles, a Toyota Camry and a Ford truck. The Camry was traveling west on Snow Creek Drive. Three Witnesses stated that after stopping at the stop sign, the Camry inexplicably traveled into the path of the Ford truck, which was north bound on SR 224. The driver of the Ford truck had no time to react prior to the point of impact. The Ford truck was traveling at a calculated speed of 38 mph (35 mph is the posted speed limit) when the collision occurred. It is presumed that the victim was attempting to cross SR 224 to travel to her residence in Thaynes Canyon.

The physical layout of the intersection at SR 224 and Snow Creek Drive was inspected. North and south sight distances from the stop sign on Snow Creek Drive exceed 1000 feet. There were landscaping activities on the southeast corner of Snow Creek Drive, but nothing that would obstruct the vision of a driver stopped at that location. The Top Stop Gas Station is located about 500 feet South of this intersection and there was a dump truck stopped in front of that business in the break-down land of SR 224, but would not have obstructed the view of on-coming South bound traffic.

This intersection is fairly new as it now exists and is composed of three roadways: north and

south bound SR 224, Snow Creek Drive to the east and Thaynes Canyon Drive to the west. Drivers have several options in negotiating this intersection. They can make left and right hand turns from both Snow Creek and Thaynes, as well from SR 224, or straight through from Snow Creek Drive to Thaynes Canyon Drive and visa versa, or vehicles can exit from the Snow Creek area via Kearns Boulevard. Stop signs control traffic at both exits of Snow Creek Drive and Thaynes Canyon Drive. Also, vehicles may exit the Thaynes Canyon area via Payday Drive, which is regulated by a traffic signal.

Based on concerns from Thaynes Canyon residents, the Council requested a study session.

C. Analysis:

A. TRAFFIC SURVEY - To get a better idea of traffic speed and volume the Public Safety Department placed the Smart Trailer (Radar Trailer) along SR 224 in the area of concern. The data were collected over a 7 day period beginning July 1st excluding the 4th of July. The data collected on Snow Creek Drive are somewhat deficient because vandals tipped over and damaged the trailer causing the loss of data for the second day. The trailer could not be repaired in time for this study.

The information for SR 224 reflects relatively large traffic volumes traveling, on average, at about the speed limit (35 mph north bound and 40 mph south bound). Because of the high volumes it would be unusual to expect wide variation in speed during peak travel times. Thaynes traffic includes the golf course/Adolph's destinations. Snow Creek has the lowest traffic volumes.

<u>SR224</u>	Vehicles	Average Speed
North bound	35,931	37.3 mph
South bound	25,432	38.2 mph
Total	61,363 (north & south)	37.7 mph
Daily average	8,766 (8 hr. period)	
Hourly rate	1,031 (8 hr. period)	
<u>Thaynes</u>		
East bound	1,233 (16 hr. period)	
<u>Snow Creek</u>		
West bound	359 (8 hr. period)	

B. ACCIDENT STATISTICS - Staff researched department traffic accident records to determine the number of vehicle accidents in the SR 224 corridor between the Top Stop Gas Station and the intersection of Payday/Holiday Ranch Loop Road and SR 224. A small number

of accidents in this corridor may have been investigated by the Utah Highway Patrol, however the majority of accidents in this area would have been investigated by the Park City Police Department.

1 - JANUARY 1, 1992 - DECEMBER 31, 1993 (Pre-Traffic Light)

* - Payday/Holiday Ranch & SR 224	4 injury 2 damage only
* - Radisson Hotel & SR 224	5 damage only
* - Saddle View & SR 224	1 injury 1 damage only
* - Thaynes Canyon Drive & SR 224	3 damage only
* - Top Stop Gas Station & SR 224	1 injury

—
TOTAL 17 accidents

2 - JANUARY 1, 1994 - DECEMBER 31, 1995 (Post-Traffic Light)

* - Payday/Holiday Ranch & SR 224	1 injury 4 damage only
* - Radisson Hotel & SR 224	3 damage only
* - Thaynes Canyon Drive & SR 224	2 damage only
* - Top Stop Gas Station & SR 224	1 damage only

—
TOTAL 11 accidents

3 - JANUARY 1, 1996 - JULY 15, 1996 (Year to date)

* - Payday/Holiday Ranch & SR 224	2 injury 1 damage only
* - Snow Creek & SR 224	1 fatal

—
TOTAL 4 accidents

These rates of accidents are not considered exceptional; several other intersections have higher rates and higher absolute numbers of accidents. When comparing the accident numbers, "pre-traffic light" to "post-traffic light" the difference may be overstated because the road was under construction during a portion of the "pre-traffic light" period. The year to date statistics are on pace with the pre-traffic light period. The fatal accident at Snow Creek and SR 224 is the major difference in severity of injuries for this study.

C. TRAFFIC ANALYSIS - The intersection at Snow Creek/Thaynes and SR 224 is affected by the intersection to the south, (the Junction of SR 224 and SR 248) and the intersection to the north, (Payday/Holiday Ranch Loop). Both of these intersection see the majority of the in-

bound and out-bound Park City traffic. The both intersections are controlled by a traffic signals. How to mitigate the turning/crossing delays at the Thaynes Canyon/Snow Creek intersection is the major focus of this discussion. Possible mitigations:

Mitigation	Comments
Increased/improved striping of the road way	Only effective if drivers that use the lanes properly.
Turn restrictions	Not effective without some type of barrier to physically prevent cross-traffic turns.
Improve lighting and sight distance	Sight distance is good from both minor streets north and south; night lighting is adequate at this intersection.
Install a traffic signal	May not prevent accidents like the fatality accident. Signal likely to cause other types of accidents. With three traffic signals so close together, mid-block speeds between signals may increase. Lack of traffic signal synchronization could cause "grid-lock" during peak season.
Increased enforcement	Increased enforcement expected; speed survey indicates that, on average, traffic is going the speed limit.
Request warrant studies for this area.	UDOT seems willing to conduct studies.
Request lower speed limits.	Could result from warrant studies
Discuss "TRAFFIC CALMING" strategies UDOT, City and the neighborhood.	Must include UDOT to be effective

D. Department Review:

Eric DeHaan, City Engineer, Jerry Gibbs, Public Works Director and I met to discuss this area and develop a pool of thoughts and information for this staff study.

ALTERNATIVES:

As an informational item, no action is required or expected. The Council may wish to offer some guidance on how to proceed to address neighborhood concerns.

1. **Form a traffic task force.** The Council could consider forming a city-wide task force to assistance staff in the reviewing traffic issues and solutions.
2. **Request a UDOT Study.** The Council could request UDOT to conduct a study of this corridor.

3. **Request a City Study.** The Council could request staff to conduct a study of this corridor along with the Circulation Element of the General Plan or in conjunction with the "traffic calming" work. Without UDOT participation this course of action is not likely to be productive.

4. **Do Nothing.** No action is required.

SIGNIFICANT IMPACTS:

Without special agreements any mitigation will be a UDOT expense. Traffic numbers will continue to increase as development of the Snow Creek area and other planned developments along the east side of SR 224 are completed despite any mitigation efforts.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

While UDOT is responsible for SR 224, citizens from the Thaynes neighborhood probably expect the City to assist in reaching a solution. Failure to offer direction may result in a loss of confidence in City's willingness to address and mitigate community concerns.

RECOMMENDATION:

Discuss the traffic study and mitigation options with staff and the general public in attendance at the Council work session on July 25th. Consider forming a city-wide task force to assistance staff in the reviewing traffic issues and solutions. Request UDOT to conduct a study of this corridor.



Department of Community Development
Engineering • Building Inspection • Planning

July 18, 1996

Mr. Clint Topham
Utah Department of Transportation
4501 South 2700 West
Salt lake City, UT 84119

Re: Signal Warrant Study - Intersection of SR224 and Thaynes Canyon Drive

Dear Clint:

This letter will serve as a follow-up to your recent Local Governments meeting in Coalville. You will recall that Park City Councilman Roger Harlan was also in attendance.

It is my understanding that you indicated a commitment to carry out a signal warrant study at the intersection of SR224 and Thaynes Canyon Drive in Park City. A new commercial Center, Snow Creek Crossing, contributes traffic to this intersection via Snow Creek Drive, which intersects SR 224 opposite Thaynes Canyon Drive.

It is my hope that the study could be done either prior to the end of summer or in the winter, avoiding the below-average traffic months of October and November. I also hope that coordination or synchronization of the SR224 signals from Payday Drive to Empire Avenue, inclusive, can be implemented. You are familiar with the air quality issues, the noise, and the sheer inconvenience to SR224 drivers which could easily occur if the signal operation isn't optimized.

There is also a striping problem at Snow Creek Drive where the center-left-turn lane was striped without the left-turn indicators off SR224 (southbound).

July 18, 1996
Page Two

Jim McMinimee of Region 2 has graciously agreed to attend a July 25 afternoon Park City Council meeting where these items will probably be discussed in a public input session.

Thanks very much for your help on these issues, which are important to the residents and elected officials of Park City. Please don't hesitate to call if I can provide additional information.

Respectfully submitted,



Eric W. DeHaan, P.E.
City Engineer

EWDH/scb

CC: Brad Olch, Mayor
Roger Harlan, City Councilor
Toby Ross, City Manager
Jim McMinimee, UDOT
Rick Lewis, Director of Community Development

To: Park City Council Members

Re: Signal at Hwy. 224 and Thaynes Canyon Dr./ Snow Creek Crossing

Date: July 18, 1996

My name is Carol Engen and my address is 2167 Three Kings Ct. I guess I'm the designated spokesperson for the residents of Thaynes Canyon in regard to the impact of the Island Outpost project on our neighborhood. I do not, however, pretend to speak for all who reside in Thaynes Canyon.

Some background: On March 22nd, the Island Outpost hotel people made a presentation to Thaynes Canyon residents and other interested parties prior to the first Planning Commission Work Session on their project. Some of us here tonight were at both of those meetings and had concerns. We met together and then took those concerns to a meeting with Patrick Putt, Eric DeHaan and Harry Reed. Primary among our concerns were: #1 - Parking for the golfers, a subject which needs to be addressed but not tonight. #2 was safety. Safety concerns included the need for left turn lanes, a traffic signal, keeping construction traffic off Thaynes Canyon Dr. and a reduced speed limit on Hwy. 224. Mr. DeHaan stated that he would not be in favor of a signal and that it was not up to the city. He said all appeals must be made to UDOT, that it would probably take at least two years and would have to be "warranted", meaning that someone would have to be killed there. Well - is it warranted now? How many fatalities make it warranted? At the May 22nd Planning Commission Public Hearing on Island Outpost the need for a traffic signal was expressed again and again. In mid-June I became aware that the City could push forward on a signal. So after reading in the Park Record that council members keep regular hours at the Marsac Bldg. I went there the morning of June 17th hoping to discuss my concerns with a council member. Both Roger Harlan and Chuck Klingenstein were signed up. Neither could be found in the building. I went away miffed. Nine days later Bev Neff was killed and the need for a signal has taken on a whole new urgency.

It's not just the residents of Thaynes Canyon who are endangered. It's anyone who travels or traverses

this section of Hwy. 224, whether in a vehicle or on foot. AND it's not just the cross traffic that creates the danger. At least once a week I come face to face with a vehicle in my left turn lane as I am heading north on 224 and trying to turn onto Thaynes Canyon Dr. and the facing vehicle is trying to turn left into the Top Stop. This is a common and risky situation which needs to be addressed. The speed limit should be **lowered and enforced** at some point north of Payday. Forty is too high, especially since most drivers are going 5, 10 or more miles per hour over the limit. And I can't tell you how many times I have seen people, often children, running across the highway between the Top Stop and the golf course. That's another accident just waiting to happen.

As I stated in a letter I sent to some of my neighbors: I don't care who pays for the signal. Park City? Island Outpost? UDOT? Top Stop? The Snow Creek Crossing merchants? Or a combo of any or all. I just want it done. **SOON!**

Now I'd like those of you in the audience who feel as I do to stand and be counted.

Thank you!



CITY COUNCIL STAFF REPORT

DATE: July 18, 1996 (July 25, 1996 Meeting)
DEPARTMENT: Planning Department
AUTHOR: Kirsten A. Whetstone
TITLE: 32 Hidden Splendor Court, plat
amendment for Lots 83, 84, 83A, and
84A, Thaynes Canyon Subdivision
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:

Adopt an ordinance amending the Thaynes Canyon Subdivision plat to combine Lots 84 and 84A, portions of Lots 83 and 83A, and a 0.03 acre parcel adjacent and to the south, into a single building lot for the purpose of constructing a garage addition to an existing single family residence at 13 Hidden Splendor Court.

DESCRIPTION:

A. **Topic.**

PROJECT STATISTICS

Applicant:	Francoise and Stein Eriksen
Proposal:	Plat amendment for Lots 84 and 84A and portions of Lots 83 and 83A of Thaynes Canyon Subdivision, to be known as the Eriksen Replat.
Zoning:	SF, Single Family
Adjacent Land Uses:	Residential- single family and Park City Golf Course
Date of Application:	May 23, 1996
Project Planner:	Kirsten A. Whetstone

B. Background.

The applicants, Francoise and Stein Eriksen, are owners of two lots (84 and 84A) and the southerly portions of two adjacent lots (83 and 83A) in Thaynes Canyon Subdivision, and a 0.03 acre parcel of land adjacent to Lots 84 and 84A. This commonly owned property is located at 13 Hidden Splendor Court. The property is located in the SF, Single Family, Zoning District.

The applicants are requesting a plat amendment to combine two lots and portions of two adjacent lots for the purpose of constructing a garage addition to an existing single family home on the property (see Exhibits A and B).

The Thaynes Canyon Subdivision plat was approved by City Council in July of 1971. An addition to this plat, to add Lots 65A- 84A, was approved in February of 1977. The added land was a remnant "inlet" of City owned golf course land that was not utilized or maintained by the golf course. This land was subdivided and deeded to the adjacent lot owners in Thaynes Canyon for their private use and maintenance (see Exhibit C). As a condition of the subdivision an Agreement, between the City and Royal Street Land Company (owners at the time) restricting the use of the added parcels, was recorded at the Summit County Recorder's office (see Exhibit D).

Pursuant to the Agreement, the applicants will need a Conditional Use Permit from the Planning Commission to allow the addition.

Property owners within 300' and within the affected plat were sent notice of this proposal. At this time, no opposition to this proposed plat amendment has been raised by the affected property owners. Staff has received one letter and one phone call in support of the proposal.

C. Analysis.

If this plat amendment is approved, the applicants could add on to the existing single family house. The size of the structure and setbacks are determined according to requirements of the SF zoning district. The location of additional construction is further restricted by the 1977 Agreement, which limits the uses on Lots 83A and 84A. A garage is a conditional use in these areas. In this case there are no maximum floor area requirements and the mass of the house is limited by the setbacks and height limitations. The combined lot is pie-shaped and has approximately 80' of frontage on Hidden Splendor Court and is approximately 0.63 acres.

Lot combinations which result in larger than standard lots have been allowed in the past, in areas where the ownership pattern is one of several lots. In the surrounding area, the lot ownership pattern is typically one and one half or two contiguous lots.

Staff has visited the site and believes that the proposal to combine these commonly owned lots will not be detrimental to the surrounding neighborhood or community as a whole. There is recent history of remodels and upgrading of these residences, many of which were constructed in the early 1970's. Staff will further study the proposed addition for architectural compatibility, compliance with the Land Management Code, and compliance with the 1977 Agreement, at the time of building permit review.

D. Department Review

The Community Development Department and City Attorney's Office have reviewed this plat amendment request. The request was discussed at a Staff Review meeting in June of 1996 where the City Engineer, Chief Building Official, and representatives from local utilities were in attendance. Their concerns have been addressed by the applicant or are included in the conditions of approval.

ALTERNATIVES:

- A. Approve the proposed amendment thereby allowing the lots to be combined into a single building lot.
- B. Deny the plat amendment request thereby retaining the original lot configuration.
- C. Continue the item for further discussion and input.

SIGNIFICANT IMPACTS:

This proposed amendment will result in one lot larger than the existing surrounding individual lots, but roughly proportionate to surrounding lots under common ownership which could also be combined in this manner. Staff believes that given required setbacks and restrictions on location of the building, and the predominant ownership pattern in the area, the lot combination results in a proposed structure which is compatible in mass and scale with the immediate neighborhood.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed the owner could modify the addition to remain entirely on Lot 84.

RECOMMENDATION:

The Community Development Department recommends that City Council approve the attached ordinance (Exhibit E) and proposed plat amendment based on the following Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. The plat amendment combines portions of four lots and one parcel into one lot.
2. The proposed lot configuration is consistent with the existing ownership patterns in the surrounding area.

Conclusions of Law

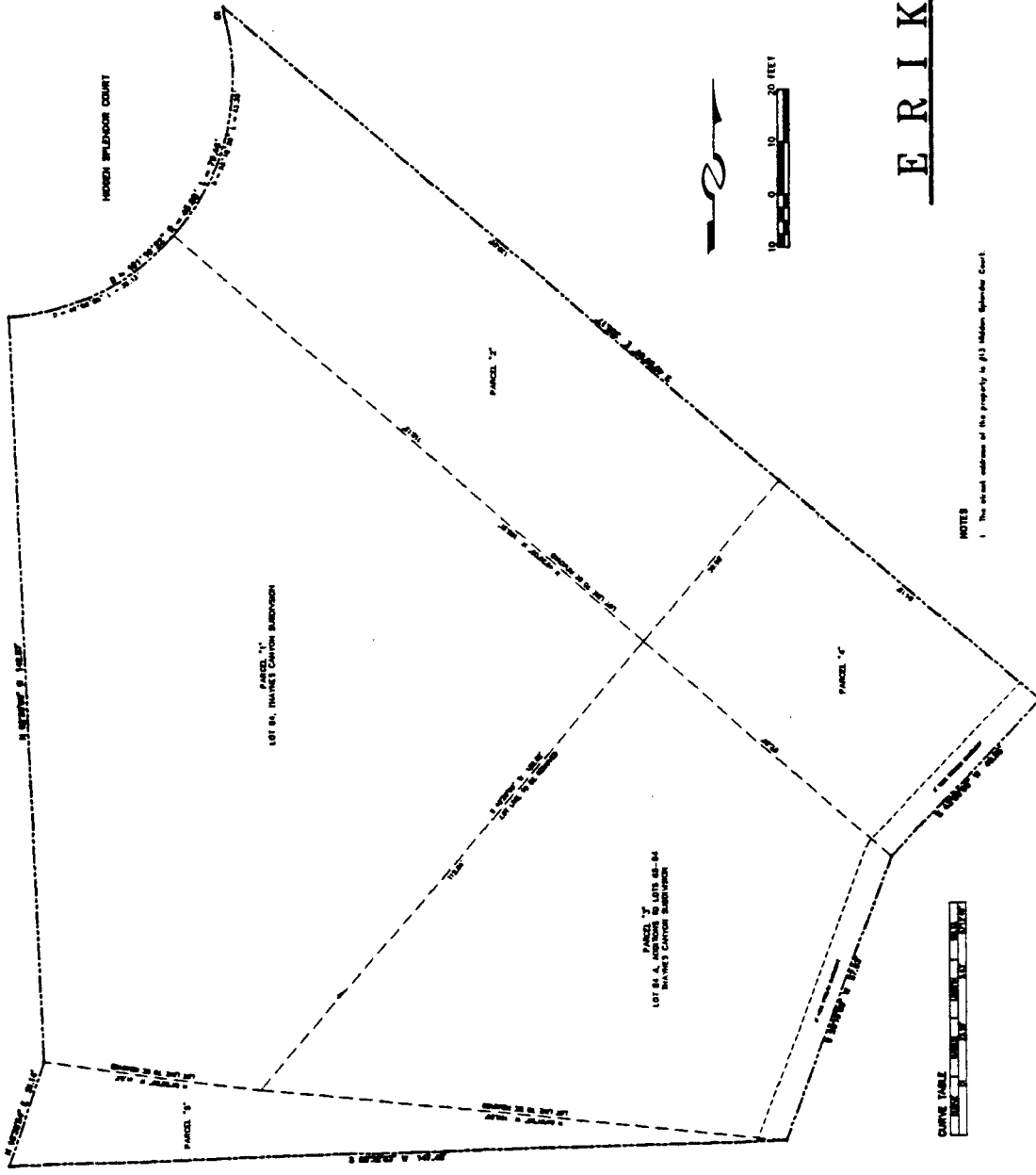
1. There is good cause for the amendment in that the lot combination will result in a single legal lot of parcels held in common ownership.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.

Conditions of Approval

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. Prior to plat recordation a note shall be added to the plat stating that all conditions of the March 23, 1977 Agreement between Royal Street Land Company and the City, as stated in the document recorded as entry #137582 in Book M93, at the Summit County Recorder's office, shall apply. The area affected by the Agreement shall be cross-hatched on the plat prior to recordation.
3. All Standard Project Conditions shall apply.
4. This approval shall expire one year from the date of City Council approval, unless the plat is recorded prior to that date.

EXHIBITS:

Exhibit A- Amended Plat
Exhibit B- Location Map
Exhibit C- Thaynes Canyon Addition Plat
Exhibit D- 1977 Agreement
Exhibit E- Proposed Ordinance



ENGINEER'S CERTIFICATE
I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct.

DEED DESCRIPTION
Parcel 1, being certain portion, according to the original and approved survey of 1911, of the 1/4 Section 36, Township 2 North, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah.

Parcel 2, being certain portion, according to the original and approved survey of 1911, of the 1/4 Section 36, Township 2 North, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah.

Parcel 3, being certain portion, according to the original and approved survey of 1911, of the 1/4 Section 36, Township 2 North, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah.

Parcel 4, being certain portion, according to the original and approved survey of 1911, of the 1/4 Section 36, Township 2 North, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah.

CONVEYANCE INFORMATION AND COMMENT IN RECORD
The undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct.

ADDITIONAL COMMENTS
The undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct.

NOTES
The original address of the property is 410 Madison Boulevard, Park City, Utah.

LOT LINE ADJUSTMENT ERIKSEN REPLAT

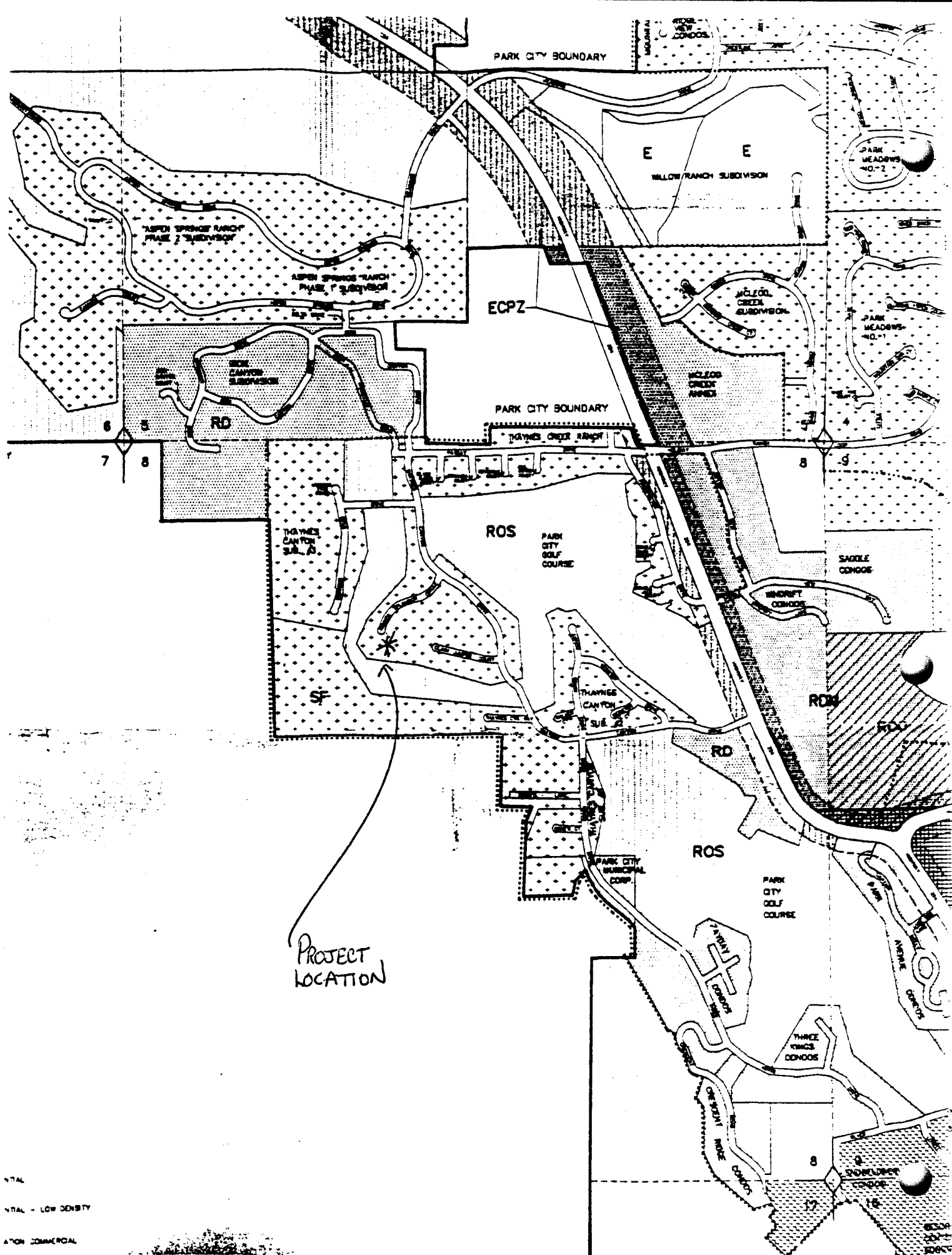
LOCATED IN SECTION 36
TOWNSHIP 2 NORTH, RANGE 4 EAST, SALT LAKE BASE
AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH

ENGINEERS CERTIFICATE I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct. DATE OF SURVEY: 1911 BY: PARK CITY ENGINEER		ENGINEERS CERTIFICATE I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct. DATE OF SURVEY: 1911 BY: PARK CITY ENGINEER		APPROVAL AS TO FORM I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct. DATE OF SURVEY: 1911 BY: PARK CITY ATTORNEY		COMMUNITY DEVELOPMENT DIRECTOR I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat and that the same was made by me or under my direct supervision and to the best of my knowledge and belief the same is true and correct. DATE OF SURVEY: 1911 BY: DEVELOPMENT DIRECTOR		RECORDED STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE OFFICE OF THE CLERK OF THE COUNTY OF SUMMIT DATE: 1911 FILE: 1911 RECORDED: 1911	
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JOB NO 12-4-40 FILE: 12-4-40

EXHIBIT A.



GRANTOR: _____
GRANTEE: _____
RELEASED: _____
ABSTRACTED: _____
STAMPED: _____

AGREEMENT

RECORDED 5-2-77 at 10:31 A.M. Page 324-
REQUEST of Royal Street Land Co.
FEE \$5.00 WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
INDEXED _____ BY Wanda Y. Spriggs
ABSTRACT _____

This Agreement made and entered into this 23RD day of March, 1977, by and between ROYAL STREET LAND COMPANY, a Utah corporation, hereinafter referred to as the "developer," and PARK CITY, a municipal corporation, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS, Developer is the owner and developer of a certain tract of land, located within the city limits, and more specifically described in the attached Exhibit "A" which by reference is incorporated herein and made a part hereof; and

WHEREAS, said tract of land has been subdivided into lots and affects lots 65 to 84 of the existing Thaynes Canyon Subdivision; and

WHEREAS, the City Council wishes to approve the subdivision of the said tract of land as a platted subdivision, subject, however, to certain conditions hereinafter enumerated; and

WHEREAS, said conditions of approval as contained herein, shall be recorded simultaneously with the recordation of the final approved plat of said subdivision, and shall affect only lots 65 to 84 of the Thaynes Canyon subdivision.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable considerations, the parties agree as follows:

EXHIBIT A.

BOOK M 93 PAGE 324

1. The property described in the attached Exhibit "A", as subdivided in lots numbering 65A to 84A inclusive, shall be offered for sale by the owner-developer, to only those persons who have right, title and interest in lots 65 to 84, inclusive, of the existing Thaynes Canyon Subdivision.

2. The use of lots 65A to 84A, inclusive, shall be restricted and limited to only landscaping, private recreation facilities, and fencing.

3. There shall be no construction, erection or maintenance of any buildings for use as primary dwelling buildings on the said lots of 65A to 84A inclusive, but the construction of garages and other ancillary buildings may, at the discretion of the City, be permitted, provided further, however, that a conditional use permit is first obtained from the City.

4. This agreement shall be part of and be annexed as an Exhibit to the final approved plat of the plat known as "Addition to Lots 65 to 84 Thaynes Canyon Subdivision, and shall be recorded as such, said subdivision plat being recorded as number 137581.
DEVELOPER

ROYAL STREET LAND COMPANY

PARK CITY CORPORATION

By M. Warren King
President

By Leon Thriate
Mayor

Ordinance No. 96-

**AN ORDINANCE APPROVING AN AMENDMENT TO THE
THAYNES CANYON SUBDIVISION
FOR LOTS 84 AND 84A, PORTIONS OF LOTS 83 AND 83A,
AND A PARCEL OF LAND LOCATED IN SECTION 8, TOWNSHIP 2 SOUTH,
RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN,
TO BE KNOWN AS THE ERIKSEN REPLAT
LOCATED AT 13 HIDDEN SPLENDOR COURT
PARK CITY, UTAH**

WHEREAS, owners of the property at 13 Hidden Splendor Court, being Lots 84 and 84A and portions of Lot 83 and 83A in the Thaynes Canyon Subdivision, including a sliver parcel of land located adjacent and to the south, to be known as the Eriksen Replat, have petitioned the City Council for approval of an amendment to the Thaynes Canyon Subdivision Park City, Utah; and

WHEREAS, the area of the amendment is subject to a March 23, 1977 Agreement between Royal Street Land Company and the City, as stated in the document recorded as entry 137582 in Book M93 at the Summit County Recorder's Office; and

WHEREAS, the Thaynes Canyon Subdivision plat was approved by City Council in July of 1971, and an addition to this plat, to add Lots 65A- 84A, was approved in February of 1977. The added land was a remnant "inlet" of City owned golf course land that was not utilized or maintained by the golf course. This land was subdivided and deeded to the adjacent lot owners in Thaynes Canyon for their private use; and

WHEREAS, the property was properly noticed and posted according to requirements of the Land Management Code and Utah State law; and proper legal notice was sent to all affected property owners; and

WHEREAS, on July 25, 1996 the City Council held a public hearing to receive input on the proposed plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the amended plat to combine these commonly owned parcels into one lot;

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

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated as findings of fact.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment and that neither the public nor any person will be materially injured by the proposed plats.

SECTION 3. PLAT APPROVAL. The amendment to the Thaynes Canyon Subdivision for Lots 84 and 84A, portions of Lots 83 and 83A, and the addition of a 0.03 acre adjacent parcel, all under the common ownership by the Eriksens, is approved as shown on Exhibit A, with the following conditions:

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code, and conditions of approval is a condition precedent to plat recordation.
2. Prior to plat recordation a note shall be added to the plat stating that all conditions of the March 23, 1977 Agreement between Royal Street Land Company and the City, as stated in the document recorded as entry 137582 in Book M93 at the Summit County Recorder's Office, shall apply. The area affected by the Agreement shall be cross-hatched on the plat prior to recordation.
3. All Standard Project Conditions shall apply.
4. This approval shall expire one year from the date of City Council approval, unless the plat is recorded prior to that date.

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

PASSED AND ADOPTED this 25th day of July, 1996.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Assistant City Attorney



CITY COUNCIL STAFF REPORT

DATE: July 18, 1996 (July 25, 1996 Meeting)
DEPARTMENT: Planning Department
AUTHOR: Kirsten A. Whetstone
TITLE: 1372 - 1378 Empire Avenue plat
amendments for portions of Lots 17,
18, 19, and 20 and a parcel of vacated
Norfolk Avenue in Block 19 of the
Snyder's Addition to the Park City
Survey plat
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:

Adopt three ordinances amending the Snyder's Addition to the Park City Survey plat to remove existing lot lines between portions of Lots 17 - 20 and the adjacent vacated Norfolk Avenue right-of-way, to create four legally platted lots. The lots are located at 1372 - 1378 Empire Avenue.

DESCRIPTION:

A. Topic.

PROJECT STATISTICS

Applicants:	Mike Offret, Richard Gallacher, and Lance Richards
Proposal:	Plat amendments to add the adjacent vacated Norfolk Avenue right-of-way to Lots 17 -20 of Block 19 Snyder's Addition.
Zoning:	RC, Recreation Commercial
Adjacent Land Uses:	Residential- condominiums and single family residences

Date of Application: and the Park City Resort Center
May 23, 1996 (complete on July 3, 1996)
Project Planner: Kirsten A. Whetstone

B. Background.

The applicants, Mike Offret, Richard Gallacher, and Lance Richards, are owners of portions of lots located on Empire Avenue. These properties are adjacent to abandoned and vacated Norfolk Avenue. The owner of each lot fronting on Empire Avenue also owns adjacent parcels to the east, which are vacated Norfolk Avenue. The properties are located at 1372 to 1378 Empire Avenue. The zoning is RC, Recreation Commercial.

The applicants are requesting individual plat amendments to combine the portion of their lots (or lot) on Empire with the adjacent vacated Norfolk Avenue right-of-way parcels for the purpose of constructing single family residences (see Exhibits A and B).

Existing Empire Avenue cuts diagonally across Block 19. The western portions of Lots 17-20 were dedicated to the City for existing Empire Avenue and in exchange, the abandoned Norfolk ROW was deeded over to the adjacent property owners. The vacated ROW parcel has never been formally combined by plat amendment and the property owners are now requesting this action in order to construct single family residences on the land that they own.

Property owners within 300' and within the affected plat were sent notice of this proposal. At this time, staff has received two letters in opposition to the plat amendments and one inquiry for additional information. One affected property owner is opposed to the plat amendment because he believes the amendment will facilitate development of high density condominiums. The other affected property owner is opposed because he believes the amendment will facilitate small single family residences and additional curb cuts on Empire Avenue in an area that is dominated by condominiums. Staff has received one letter and one phone call in support of the proposal.

C. Analysis.

If this plat amendment is approved, the applicants can build one single family residence on each lot. There currently is a residence on Lot 17. The size of the structure and setbacks are determined according to requirements of the HR-1, Historic Residential Low Density, zoning district, including recent amendments to heights and setbacks in this zone. Two on-site parking spaces per residential unit are required.

The RC zone does allow hotel and studio type units at a rate of 2 per 1000 sq. ft. of lot area, with parking provided as per Chapter 13 of the Code. The lots range in size from

approximately 2,100 square feet to 2,675 square feet. A lot combination would be required for the applicant's to build a condominium project on this site. The applicant's have not expressed an interest in building condominiums on this site.

Staff has visited the site and believes that the proposal to combine these portions of lots with abandoned right-of-way parcels will not be detrimental to the surrounding neighborhood or community as a whole. There is recent history of single family homes constructed on such combined parcels, but without the official lot line/ plat amendment process. Prior to building permit issuance, all proposed structures will be reviewed for architectural compatibility, compliance with the Land Management Code, and conformance to the Historic District Design Guidelines.

Because of the configuration of lots and parcels there is the potential of creating a remnant land locked parcel if all three plat amendments are not recorded at the same time. Therefore, staff has added a condition of approval that all three plat amendments must be recorded simultaneously.

D. Department Review

The Community Development Department and City Attorney's Office have reviewed these plat amendment requests. The requests were discussed at a Staff Review meeting on July 2, 1996 where the City Engineer, Chief Building Official, and representatives from local utilities were in attendance. Their concerns have been addressed by the applicant or are included in the conditions of approval.

ALTERNATIVES:

- A. Approve the proposed amendment thereby allowing the lots to be combined into individual legally subdivided building lots.
- B. Deny the plat amendment request thereby retaining the original lot configuration.
- C. Continue the item for further discussion and input.

SIGNIFICANT IMPACTS:

This proposed amendment will result in four building lots slightly larger than the typical old town lot but roughly proportionate to the size of surrounding single family lots.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed, the owners would be unable to build on the portions of lots and parcels that they own.

RECOMMENDATION:

The Community Development Department recommends that City Council approve the attached ordinances (Exhibit E) and proposed plat amendments based on the following Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. These three plat amendments combine portions of Lots 17-20 with adjacent parcels of abandoned Norfolk Avenue. These lots and parcels are under common ownership due to an exchange with the City for Empire Avenue ROW and subsequent sale of lots and parcels by the original owner.
2. The proposed lot configuration is consistent with the existing ownership patterns in the surrounding area.
3. If these plat amendments are not recorded simultaneously, land locked remnant parcels of property may be created by this process.

Conclusions of Law

1. There is good cause for the amendments in that the lot combinations will legally resolve the existing situation of common ownership of portions of lots and vacated parcels of ROW and will eliminate the future potential of land locked parcels.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.

Conditions of Approval

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code and conditions of approval is a condition precedent to plat recordation.
2. All Standard Project Conditions shall apply.
3. A ten foot non-exclusive snow storage and public utility easement along Empire Avenue shall be dedicated on the plats.
4. These three plats shall be recorded simultaneously.
5. This approval shall expire one year from the date of City Council

approval, unless the subdivision plats are recorded prior to that date.

EXHIBITS:

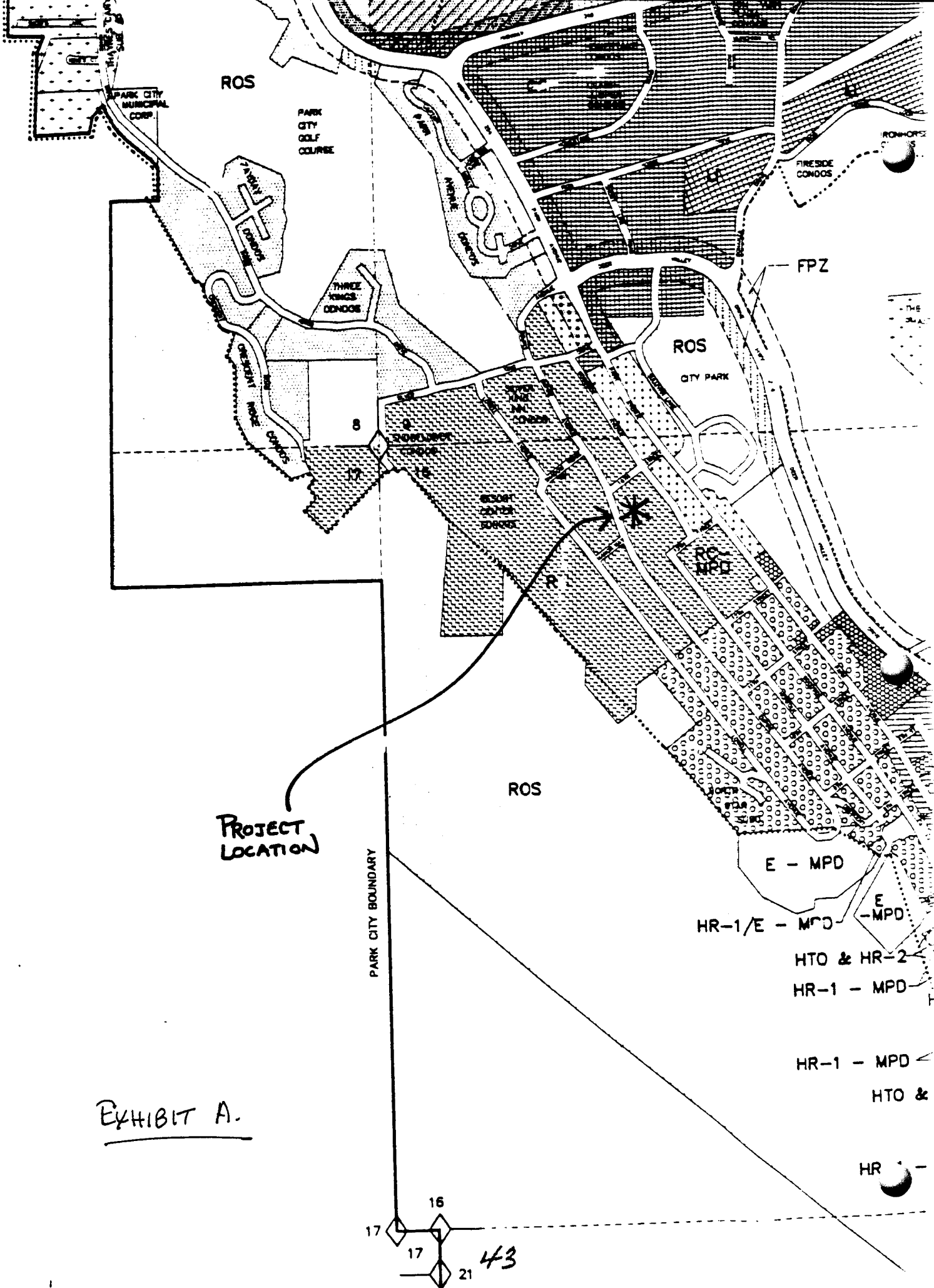
Exhibit A- Location Map

Exhibit B- Plat Map

Exhibit C- Letter from applicant

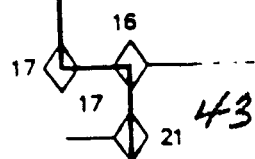
Exhibit D- Letter from affected property owner

Exhibit E- Proposed Plat amendments and ordinances



PROJECT
LOCATION

EXHIBIT A.



37 -

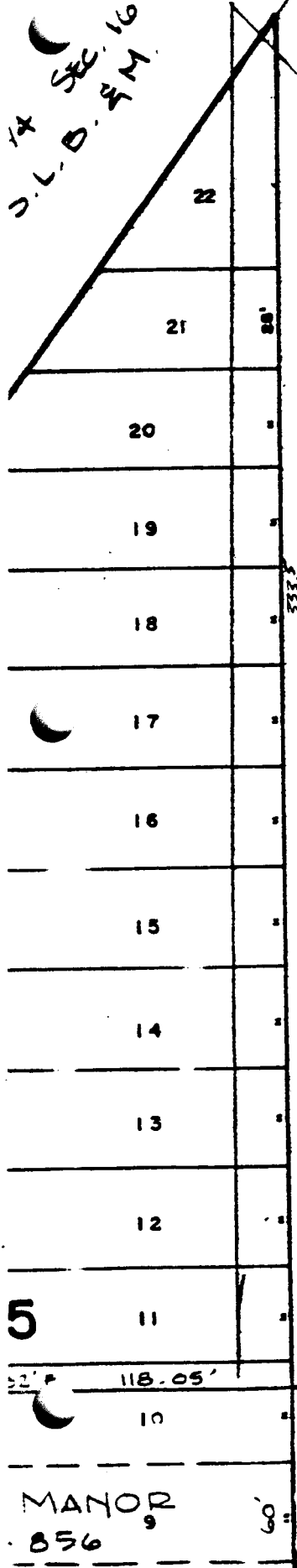
SECTION 16 T2S R4E, S.L.B. 8M.

BOOK PAGE

20

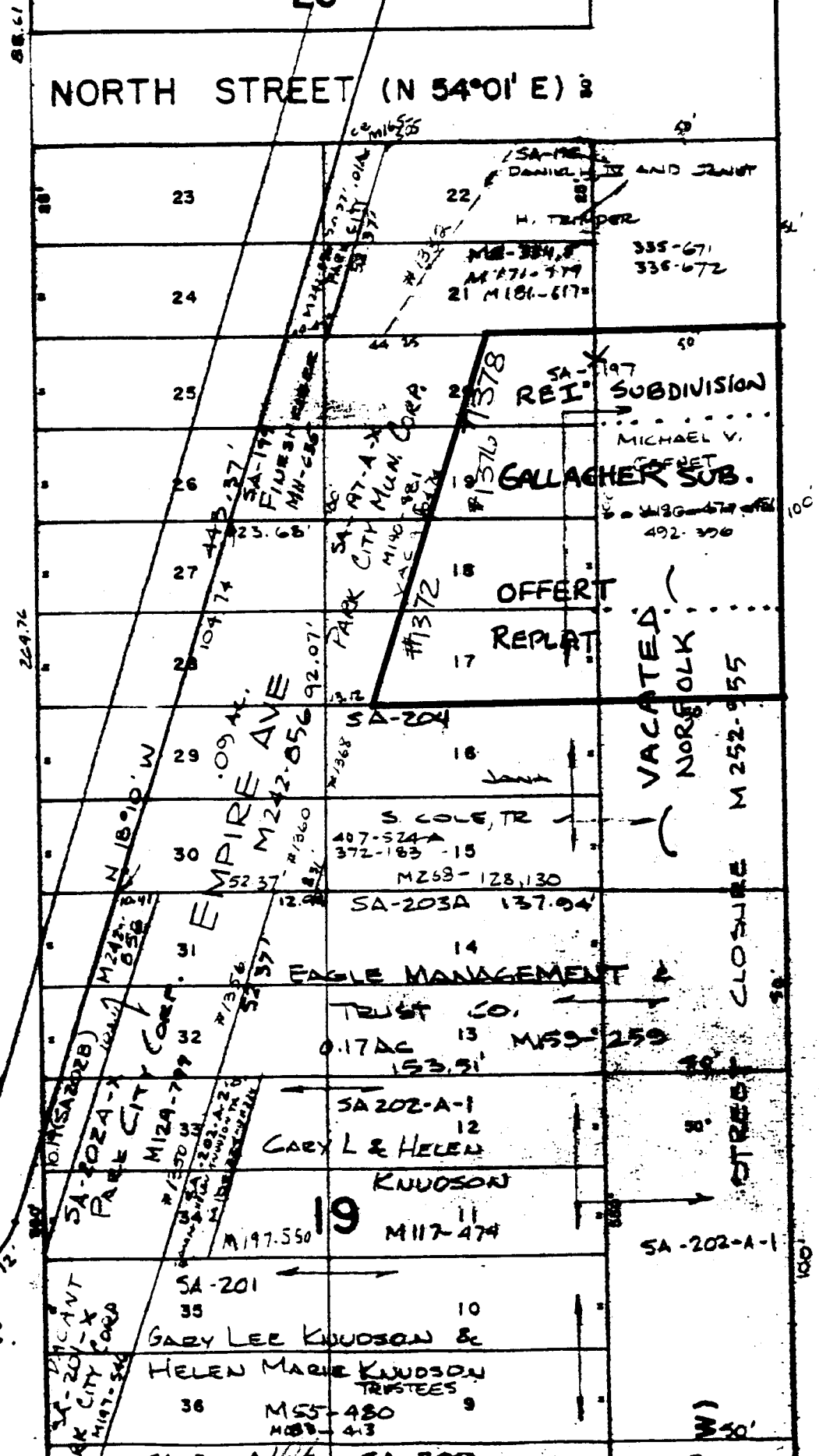
NOTE: A REFERS TO STREET ADDRESS

NORTH STREET (N 54°01' E) 3



SA-402-E

EXHIBIT B.



Community Development Department
Park City Municipal Corporation
455 Marsac, Park City, Utah

May 20, 1996

RE: Lot Line Adjustment / 1370 Empire Avenue. Lot 19, Block 19
Snyders Addition.

To whom it may concern,

I am requesting deletion of a lot line that bisects my lot and runs north and south through my property.

This lot line is the result of a trade between Park City, for the Empire road right of way, and the adjoining vacated Norfolk Avenue. (see highlighted plat)

When Park City changed the street alignment of Empire Avenue, approximately one half of the old lot 19 became part of Empire Avenue. Subsequently, the rear 25' x 50' parcel of property known as the Vacated Norfolk Street was deeded to the original property owner to compensate him for the loss of his property to Empire Avenue.

I have subsequently purchased lot 19. I am requesting a lot line adjustment which will delete the property line that bisects lot 19. The resultant lot will be approximately (25' x 95') (see highlighted plat) and within the PCMC guidelines for a building lot.

Thank You,

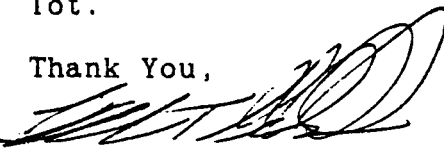

Richard Gallacher

EXHIBIT C.

RECEIVED

MAY 29 1996

PARK CITY
PLANNING DEPARTMENT

Patrick J. Putt, Administrator
P.O. Box 1480
1996
Park City, UT 84060-1480

June 17,

Dear Administrator:

I am responding to the request to reconfigure the two lots at 13~~6~~ Empire Ave, by removing the present right-of-way.

This change is not to improve Park City or the Resort, but rather one to fill the pockets of a few people. I recommend that this request be denied since it is not in the best interest of the people of Park City or the Area.

I believe that approval of this request will lead to a large high structure which will block the view of, and limit access to the mountain. The beauty of Park City is its openness and views of the mountains.

Respectfully,


Ed L. Caustin

Property Owner, Shadowridge

RECEIVED

JUN 20 1996

PARK CITY
PLANNING DEPT.

EXHIBIT D.

Ordinance No. 96-

**AN ORDINANCE APPROVING AN AMENDMENT TO THE
SNYDER'S ADDITION TO THE PARK CITY SURVEY
FOR PORTIONS OF LOTS 17 AND 18, BLOCK 19,
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN,
TO BE KNOWN AS THE OFFRET REPLAT
LOCATED AT 1372 EMPIRE AVENUE
PARK CITY, UTAH**

WHEREAS, owners of property at 1372 Empire Avenue, being portions of Lots 17 and 18, and a portion of the adjacent vacated Norfolk Avenue right-of-way in Block 19 of the Snyder's Addition, known as the Offret Replat, have petitioned the City Council for approval of an amendment to the Snyder's Addition to the Park City Survey subdivision plat; and

WHEREAS, this plat amendment and amendments for 1376 and 1378 Empire Avenue combine portions of Lots 17-20 with adjacent parcels of abandoned Norfolk Avenue. These lots and parcels are under common ownership due to an exchange with the City for Empire Avenue ROW and subsequent sale of lots and parcels by the original owner; and

WHEREAS, the proposed lot configuration is consistent with the existing ownership patterns in the surrounding area; and

WHEREAS, if these plat amendments are not recorded simultaneously, land locked remnant parcels of property may be created by this process; and

WHEREAS, the property was properly noticed and posted according to requirements of the Land Management Code and Utah State law, and proper legal notice was sent to all affected property owners; and

WHEREAS, on July 25, 1996 the City Council held a public hearing to receive input on the proposed plat amendment; and

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

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

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated as findings of fact.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment and that neither the public nor any person will be materially injured by the proposed plat.

SECTION 3. PLAT APPROVAL. The amendment to the Snyder's Addition plat for Lots 17 and 18 and the 2500 square foot vacated Norfolk right-of-way parcel adjacent to the east and under common ownership, is approved as shown on Exhibit A, with the following conditions:

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code, and conditions of approval is a condition precedent to plat recordation.
2. All Standard Project Conditions shall apply.
3. A ten foot non-exclusive snow storage and public utility easement along Empire Avenue shall be dedicated on the plat.
4. This plat shall be recorded simultaneously with the plat amendments for 1) 1376 Empire Avenue, known as the Gallacher Subdivision, and 2) 1378 Empire Avenue, known as the REI Subdivision.
5. This approval shall expire one year from the date of City Council approval, unless the subdivision plat is recorded prior to that date.

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

PASSED AND ADOPTED this 25th day of July, 1996.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

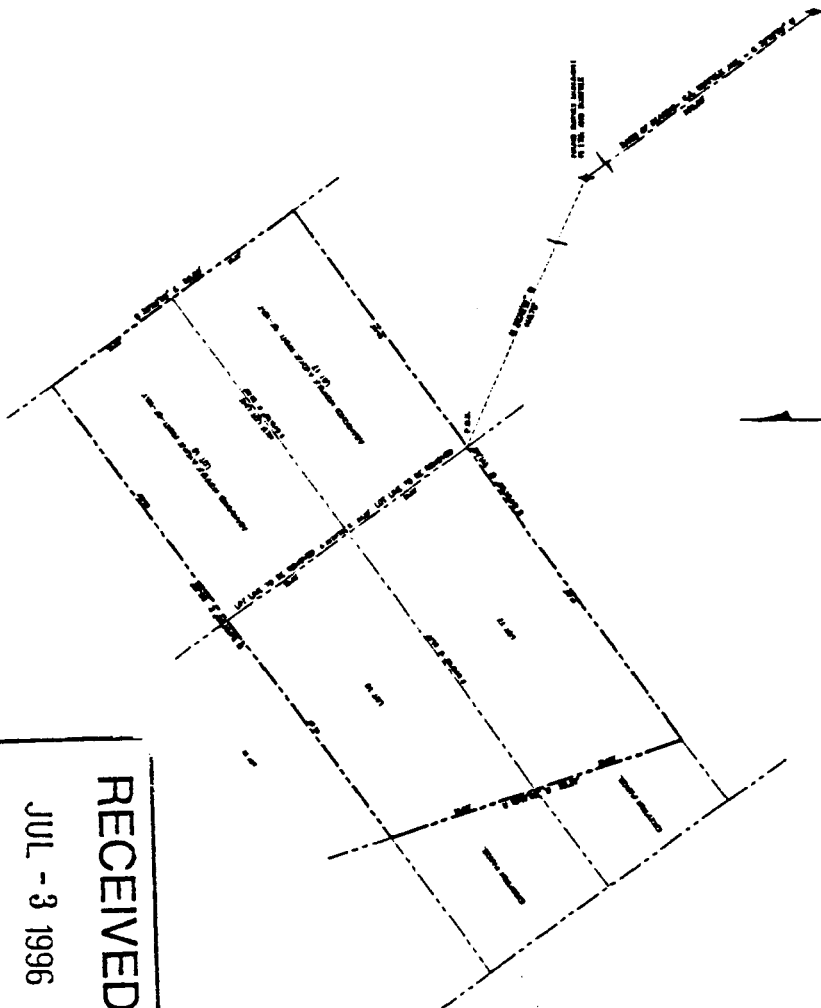
Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Assistant City Attorney

RECEIVED
JUL - 3 1996
PARK CITY
PLANNING DEPT.



THIS SURVEY PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY PLAT AS FILED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF SUMMIT, UTAH, ON JULY 3, 1996.

STANDARD REMARKS

1. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

ADDITIONAL REMARKS

1. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

2. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

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4. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

5. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

6. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

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9. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

10. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

11. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

12. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

13. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

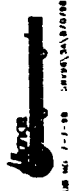
14. The survey was made by the use of a Leica 1150 total station, which was checked and found to be in good working order before and after the survey.

OFFERT REPLAT

LOT LINE ADJUSTMENT
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

PAGE 1 OF 1

ALLIANCE ENGINEERING INC. P.O. BOX 2443 225 MAIN STREET PARK CITY, UTAH 84000 (801) 615 2167	ENGINEERS CERTIFICATE I, RANDI LEE PLATT, do hereby certify that the above described plat is a true and correct copy of the original survey plat as filed in the office of the Clerk of the District Court of the County of Summit, Utah, on July 3, 1996. BY: RANDI LEE PLATT PARK CITY ENGINEER	APPROVAL AS TO FORM I, RANDI LEE PLATT, do hereby certify that the above described plat is a true and correct copy of the original survey plat as filed in the office of the Clerk of the District Court of the County of Summit, Utah, on July 3, 1996. BY: RANDI LEE PLATT PARK CITY ATTORNEY	COMMUNITY DEVELOPMENT DIRECTOR I, RANDI LEE PLATT, do hereby certify that the above described plat is a true and correct copy of the original survey plat as filed in the office of the Clerk of the District Court of the County of Summit, Utah, on July 3, 1996. BY: RANDI LEE PLATT PARK CITY ATTORNEY	RECORDED STATE OF UTAH COUNTY OF SUMMIT AT THE REQUEST OF DATE: JUL 3 1996 BOOK: 1000 PAGE: 1000
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Ordinance No. 96-

**AN ORDINANCE APPROVING AN AMENDMENT TO THE
SNYDER'S ADDITION TO THE PARK CITY SURVEY
FOR PORTIONS OF LOT 19 AND A PARCEL OF VACATED
NORFOLK AVENUE IN BLOCK 19,
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN,
TO BE KNOWN AS THE GALLACHER SUBDIVISION
LOCATED AT 1376 EMPIRE AVENUE
PARK CITY, UTAH**

WHEREAS, the owner of property at 1376 Empire Avenue, being portions of Lot 19 and the adjacent vacated Norfolk Avenue right-of-way in Block 19 of the Snyder's Addition, known as the Gallacher Subdivision, have petitioned the City Council for approval of an amendment to the Snyder's Addition to the Park City Survey subdivision plat; and

WHEREAS, this plat amendment and amendments for 1372 and 1378 Empire Avenue combine portions of Lots 17-20 with adjacent parcels of abandoned Norfolk Avenue. These lots and parcels are under common ownership due to an exchange with the City for Empire Avenue ROW and subsequent sale of lots and parcels by the original owner; and

WHEREAS, the proposed lot configuration is consistent with the existing ownership patterns in the surrounding area; and

WHEREAS, if these plat amendments are not recorded simultaneously, land locked remnant parcels of property may be created by this process; and

WHEREAS, the property was properly noticed and posted according to requirements of the Land Management Code and Utah State law, and proper legal notice was sent to all affected property owners; and

WHEREAS, on July 25, 1996 the City Council held a public hearing to receive input on the proposed plat amendment; and

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

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

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated

as findings of fact.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment and that neither the public nor any person will be materially injured by the proposed plat.

SECTION 3. PLAT APPROVAL. The amendment to the Snyder's Addition plat for Lot 19 and the 1,250 square foot vacated Norfolk right-of-way parcel, adjacent to the east and under common ownership, is approved as shown on Exhibit A, with the following conditions:

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code, and conditions of approval is a condition precedent to plat recordation.
2. All Standard Project Conditions shall apply.
3. A ten foot non-exclusive snow storage and public utility easement along Empire Avenue shall be dedicated on the plat.
4. This plat shall be recorded simultaneously with the plat amendments for 1) 1372 Empire Avenue, known as the Offert Replat, and 2) 1378 Empire Avenue, known as the REI Subdivision.
5. This approval shall expire one year from the date of City Council approval, unless the subdivision plat is recorded prior to that date.

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

PASSED AND ADOPTED this 25th day of July, 1996.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Assistant City Attorney

Ordinance No. 96-

**AN ORDINANCE APPROVING AN AMENDMENT TO THE
SNYDER'S ADDITION TO THE PARK CITY SURVEY
FOR PORTIONS OF LOT 20 AND A PARCEL OF VACATED
NORFOLK AVENUE IN BLOCK 19,
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN,
TO BE KNOWN AS THE REI SUBDIVISION
LOCATED AT 1378 EMPIRE AVENUE
PARK CITY, UTAH**

WHEREAS, the owner of property at 1378 Empire Avenue, being portions of Lot 209 and the adjacent vacated Norfolk Avenue right-of-way in Block 19 of the Snyder's Addition, known as the REI Subdivision, have petitioned the City Council for approval of an amendment to the Snyder's Addition to the Park City Survey subdivision plat; and

WHEREAS, this plat amendment and amendments for 1372 and 1376 Empire Avenue combine portions of Lots 17-20 with adjacent parcels of abandoned Norfolk Avenue. These lots and parcels are under common ownership due to an exchange with the City for Empire Avenue ROW and subsequent sale of lots and parcels by the original owner; and

WHEREAS, the proposed lot configuration is consistent with the existing ownership patterns in the surrounding area; and

WHEREAS, if these plat amendments are not recorded simultaneously, land locked remnant parcels of property may be created by this process; and

WHEREAS, the property was properly noticed and posted according to requirements of the Land Management Code and Utah State law, and proper legal notice was sent to all affected property owners; and

WHEREAS, on July 25, 1996 the City Council held a public hearing to receive input on the proposed plat amendment; and

WHEREAS, the applicant has offered to dedicate snow storage and public utility easements to the City; and

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

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

Utah as follows:

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated as findings of fact.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned plat amendment and that neither the public nor any person will be materially injured by the proposed plat.

SECTION 3. PLAT APPROVAL. The amendment to the Snyder's Addition plat for Lot 20 and the 1,250 square foot vacated Norfolk right-of-way parcel, adjacent to the east and under common ownership, is approved as shown on Exhibit A, with the following conditions:

1. The City Attorney's and City Engineer's approval of the final plat for compliance with State law, the Land Management Code, and conditions of approval is a condition precedent to plat recordation.
2. All Standard Project Conditions shall apply.
3. A ten foot non-exclusive snow storage and public utility easement along Empire Avenue shall be dedicated on the plat.
4. This plat shall be recorded simultaneously with the plat amendments for 1) 1372 Empire Avenue, known as the Offert Replat, and 2) 1376 Empire Avenue, known as the Gallacher Subdivision.
5. This approval shall expire one year from the date of City Council approval, unless the subdivision plat is recorded prior to that date.

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

PASSED AND ADOPTED this 25th day of July, 1996.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

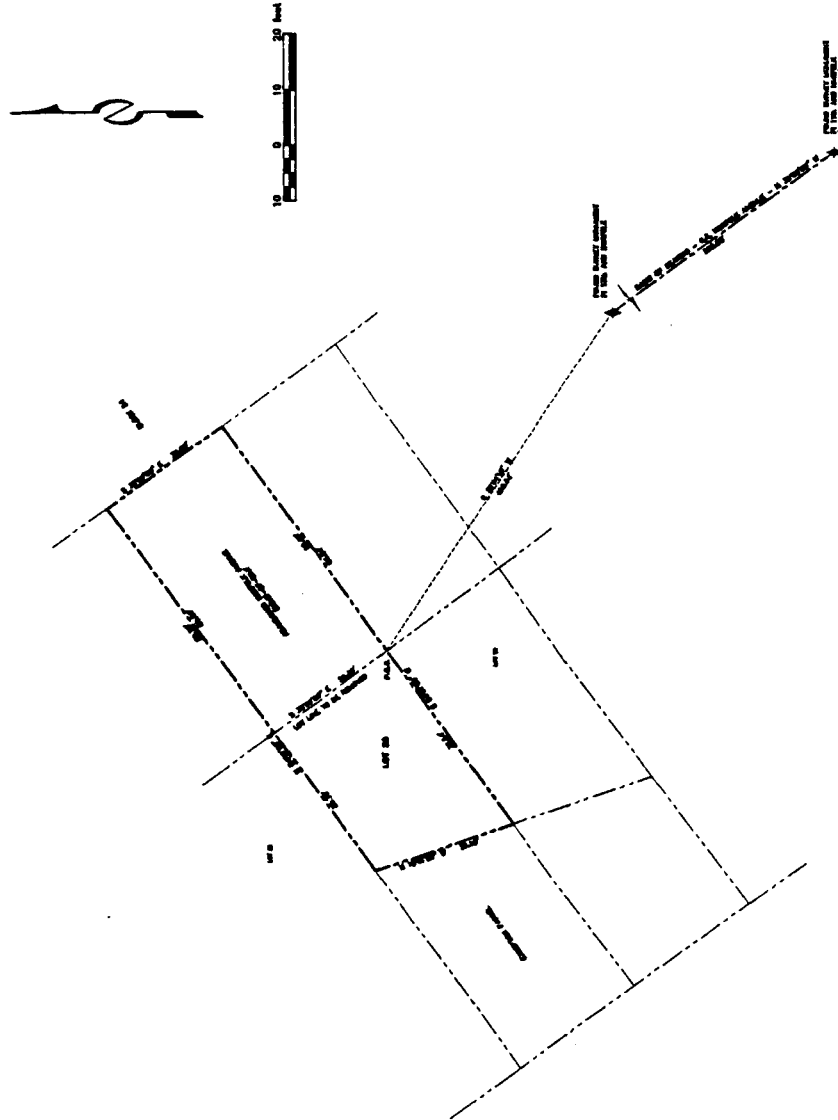
Approved as to form:

Mark D. Harrington, Assistant City Attorney

RECEIVED

APR 26 1996

PARK CITY
PLANNING DEPT.



ENGINEER'S CERTIFICATE
I, the undersigned, being a duly Licensed Professional Engineer in the State of Utah, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the property, and that the same is in accordance with the requirements of the Utah Subdivision Map Act, Chapter 37A, Utah Code, and the rules and regulations of the State Engineer's Office.

COMMUNITY DEVELOPMENT DIRECTOR
I, the undersigned, being a duly Licensed Professional Engineer in the State of Utah, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the property, and that the same is in accordance with the requirements of the Utah Subdivision Map Act, Chapter 37A, Utah Code, and the rules and regulations of the State Engineer's Office.

APPROVED AS TO FORM
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REI SUBDIVISION LOT LINE ADJUSTMENT
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REI SUBDIVISION
LOT LINE ADJUSTMENT
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

ALLIANCE ENGINEERING INC.
P.O. Box 7644
Salt Lake City, Utah 84107
(801) 467-8467

ENGINEER'S CERTIFICATE
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APPROVAL AS TO FORM
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RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED
DATE OF THE RECORD OF THE RECORD
DATE FILED IN THE RECORD
BOOK PAGE
RECORDED



CITY COUNCIL REPORT

DATE: July 5, 1996
DEPARTMENT: Community Development Department
AUTHOR: Megan B. Ryan
TITLE: Amendment to the Land Management Code and Official Park City Zoning Map to allow for Sexually Oriented Businesses ("SOB's") in the General Commercial Zone.
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Conduct a public hearing and consider the Planning Commission's recommendation to amend the Land Management Code and Official Park City Zoning map to allow for Sexually Oriented Businesses ("SOB's") in the General Commercial Zone as outlined in the ordinance attached as Exhibit A.

DESCRIPTION:

A. Topic.

Sexually Oriented Business zoning ordinance.

B. Background.

The City Council adopted a licensing procedure for SOBs on January 19, 1995, and forwarded a recommendation to the Planning Commission to establish the zoning parameters and conditions for such businesses. The Planning Commission held a public hearing on the matter on June 12, 1996 and voted to forward a positive recommendation to the City Council to establish Sexually Oriented Businesses as Conditional Uses in the General Commercial zone. The City Council discussed this item at their work session

meeting of July 11, 1996 and directed the staff to proceed with a public hearing on the ordinance as drafted.

C. Analysis.

A municipality can regulate SOBs separately from other businesses so long as the regulation is aimed at curbing the secondary effects of SOBs, and is not aimed at curbing the content of proffered speech, expression or materials of such businesses. Several cities have studied the secondary effects of SOBs on their communities and have concluded that unregulated SOBs have had strong negative impacts on several neighborhood aspects, including lowered property values, and increased crime and transiency.

A recent study by Minneapolis and St. Paul concluded: 1) A considerable number of communities throughout the nation have studied the impacts which adult entertainment businesses have on the areas surrounding them; 2) These studies have concluded that adult entertainment uses have an adverse impact on the surrounding neighborhoods; 3) Residential neighborhoods in proximity to adult businesses suffer adverse effects including increased crime rates, lowered property values, and increased transiency; 4) Values of commercial and residential properties are diminished when located in proximity to adult entertainment businesses; 5) The impact on commercial areas is increased by the presence of more than one adult entertainment use in close proximity to another; 6) The impacts of adult entertainment on surrounding areas lessens as the distance from the business increases; 7) reasonable "time, place and manner" restrictions which address the "secondary" impacts of adult entertainment uses are constitutional.

Recent case law has held that communities may rely on studies by other communities to regulate SOBs. The study above and similar studies by Indianapolis, Indiana, Phoenix, Arizona and Seattle, Washington, have delineated the adverse secondary effects of SOBs on surrounding areas. Staff believes the conclusions of these studies apply equally to Park City. Additionally, staff has determined that several other Utah cities, including West Valley City, have further reduced adverse secondary effects of SOBs by prohibiting alcohol on the premises.

The proposed amendment to the LMC has been drafted to curb and/or eliminate those secondary effects through a conditional use process and zoning. The City's regulation attempts to achieve this result through two mechanisms: 1) business licensing; and 2) the proposed conditional use permit process and zoning.

Proposed Land Management Code Amendment

Attached as "Exhibit B" is a summary of what some other jurisdictions in Utah have done to minimize the secondary effects of SOBs. These jurisdictions have adopted a "dispersal" approach on top of their permit process. That is, they require that adult business meet certain geographic specifications to prevent the formation of high areas of concentration of these uses and insure minimum distances from incompatible uses- schools, churches, etc. A dispersal strategy is favored by the staff for Park City.

The proposed ordinance amending the LMC would specify that SOBs are Conditional Uses in the General Commercial (GC) zone (see map attached as "Exhibit C") and would amend the Land Use Table accordingly. The GC zone was chosen for its location which is not as near to residential locations in town, nor near religious or educational institutions as other zones might be. The GC zone's proximity to these areas will be addressed by a 300' buffer zone as described below.

A distance of 300' from residential, park, religious, day care, package stores, cemetery, and educational uses is the dispersal radius proposed by staff. This allows for a separation of uses and allows for reasonable location of SOBs in this zone. This radius establishes a boundary that is considered to be most immediately affected by this use. If the Commission decides to increase this radius it is recommended that a distance be chosen that will still allow for reasonable physical locations of these uses in the zone.

D. Department Review.

The Community Development Department, with assistance from the Legal Department, drafted the proposed ordinance. The City wide staff review team has also reviewed the proposal.

PUBLIC INPUT

After the adoption of the ordinance by the City Council in 1995 the City Staff met with about 50 members of the religious community at the request of Council Member Harlan in order to explain the ordinance and to try and help them understand the Planning Commission's upcoming hearing process. The staff similarly met with members of the arts community after a public hearing before the Council in August of 1995. That meeting focused primarily on issues surrounding possible amendments to the business license regulations for SOBs. These proposed license changes are included in the packet as a separate agenda item. No group meetings have occurred on either issue so far this year.

In May of 1996 staff met with Council Member Harlan to update him on the status of the ordinance and to discuss staff's recommendation to the Planning Commission. Staff has also contacted the Prospector Square Property Owner's Association in order to apprise them of the public hearing date on this issue. Dana Williams of the Prospector Square Homeowner's Association and resident Carol Murphy have also been notified of the hearing. Public notice has also appeared in the Park Record regarding this issue. No input was given on this item at the Planning Commission public hearing on June 12, 1996.

ALTERNATIVES:

Alternative A: Adopt the Ordinance as recommended by staff and the Planning Commission.

Alternative B: Reconsider the appropriate zone or dispersal area for such uses and direct staff to research this alternative zone.

Alternative C: Leave the Land Management Code intact and allow such uses to locate in any zone in the city as permitted uses.

SIGNIFICANT IMPACTS:

The new licensing procedure and zoning may mean the opening of a SOB within Park City. The zoning and conditional use process would minimize the impact of such businesses and maintain the City's primary objective of keeping secondary effects of SOBs out of the main business, residential and tourist areas of the City. No applications will be processed until the LMC is amended to specify zoning and conditional use criteria. Staff will propose a Fee Resolution amendment to include this conditional review process once the LMC amendment is scheduled for Council action.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If no specific zoning district or use parameters are identified for these uses they may be permitted in all commercial districts without regulation as the courts have determined that the City cannot totally exclude this type of business activity.

RECOMMENDATION:

Conduct a public hearing, consider public input and discuss consider the Planning Commission's recommendation to amend the Land Management Code and Official Park City Zoning map to allow for Sexually Oriented Businesses ("SOB's") in the General Commercial Zone as outlined in the ordinance attached as Exhibit A.

EXHIBITS

Exhibit A - Proposed Ordinance

Exhibit B - Survey of other Municipalities in regards to SOB zoning

Exhibit C - Proposed zoning District with 300' buffer radius

EXHIBIT A

Ordinance No. 96-___

AN ORDINANCE AMENDING THE PARK CITY
LAND MANAGEMENT CODE TO ZONE SEXUALLY ORIENTED
BUSINESSES AS CONDITIONAL USES IN THE GENERAL COMMERCIAL
ZONE, SECTION 7.9, AND TO REGULATE THE LOCATION OF
SEXUALLY ORIENTED BUSINESSES

WHEREAS, The General Commercial Zone allows for professional, retail, hotel and general business uses, and;

WHEREAS, the City wishes to minimize the secondary effects of Sexually Oriented Businesses by establishing a 300' buffer radius from day care, religious, educational, park, cemetery and package liquor store uses in the zone;

NOW, THEREFORE, be it ordained by the City Council of Park City, Utah, as follows:

SECTION 1. AMENDMENT. The following section 7.9, of the Park City Land Management Code, is hereby amended to read as follows:

7.9.7 SEXUALLY ORIENTED BUSINESSES. The purpose and objective of this Section is to establish reasonable and uniform regulations to prevent the concentration of Sexually Oriented Businesses or their location in areas deleterious to the City, and prevent inappropriate exposure of such businesses to the community. This Section is to be construed as a regulation of time, place, and manner of the operation of these businesses, consistent with the United States and Utah Constitutions.

(a) Location of Businesses - Restrictions. Sexually Oriented Businesses, shall be conditional uses in areas zoned General Commercial (GC) under this Title, subject to the following additional restrictions:

(1) No Sexually Oriented Business shall be located:

- (i) within 300 feet of any school, day care facility, cemetery, public park, library, or religious institution;
- (ii) within 300 feet of any residential zoning boundary; or
- (iii) within 300 feet of any liquor store or other Sexually Oriented Business.

(b) Measurement of Distances. For the purposes of this Chapter, distances shall be measured as follows:

(1) The distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(2) The distance between Sexually Oriented Businesses and any school, day care facility, public park, library, cemetery or religious institution shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the Sexually Oriented Business is located, to the nearest property line of the premises of the school, day care facility, public park, library, cemetery, or religious institution.

(3) The distance between Sexually Oriented Businesses and any residential zoning boundary shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the Sexually Oriented Business is located, to the nearest property line of the residential zone.

(c) Definitions - Terms involving Sexually Oriented Businesses which are not defined in this chapter shall have the meanings set forth in the Municipal Code of Park City, § 4-9-4.

SECTION 2. LAND USE TABLE AMENDMENT. The Land Use Table located in Section 7.19 of the Park City Land Management Code is hereby amended to include a new line for Sexually Oriented Businesses as follows:

	<u>GC</u>	<u>(all other zones)</u>
Sexually Oriented Business	C ⁴	"*"

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

PASSED AND ADOPTED this ____ day of July, 1996.

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark Harrington, Asst. City Attorney

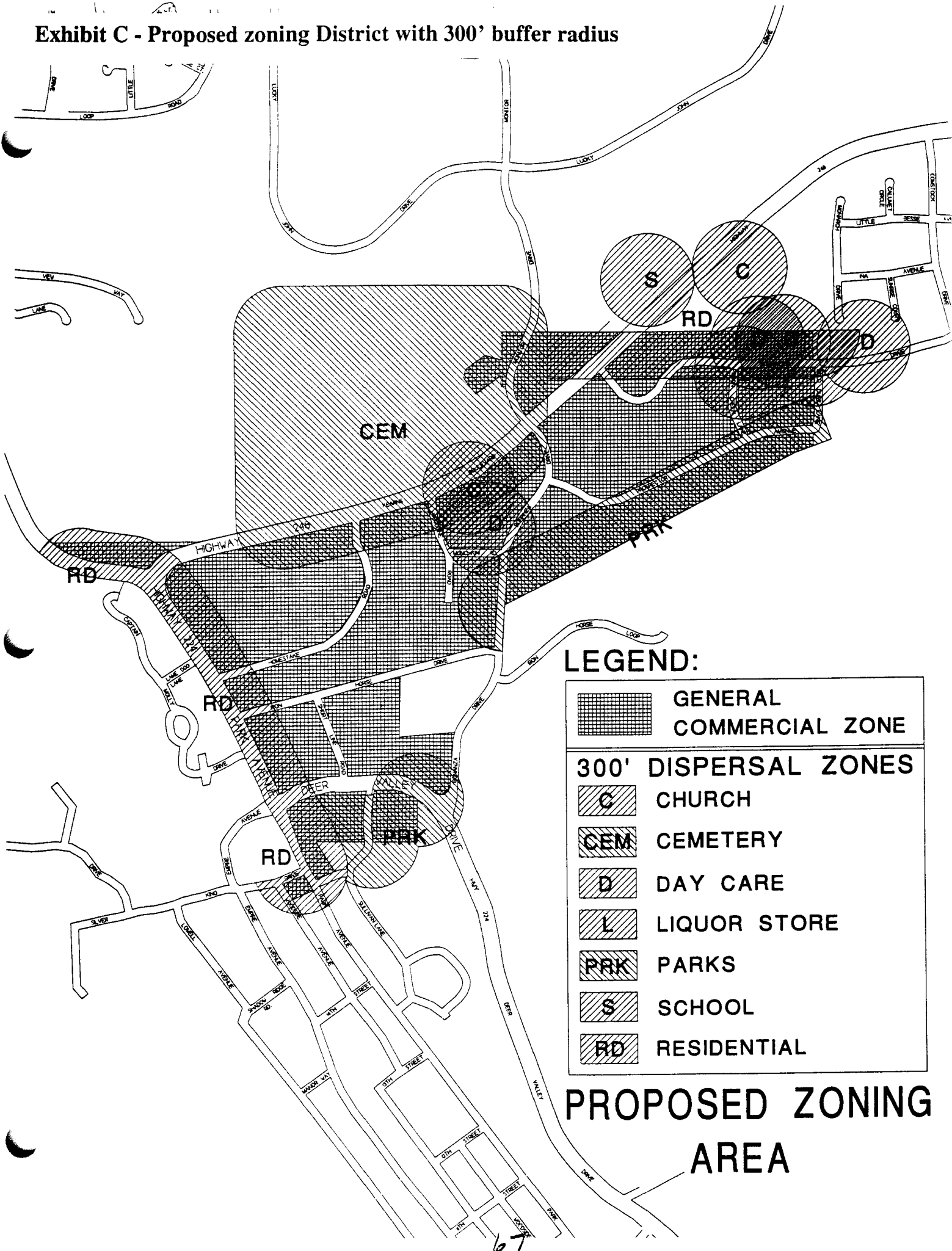
Exhibit B - Survey of other Municipalities in regards to SOB zoning

The following cities have zoning regulations to prohibit sexually oriented businesses

No sexually oriented business shall be located:

SANDY	WEST VALLEY CITY	PROVO	OGDEN
1,000 feet from any school, public park, library, or religious or cultural activity	1,000 feet of any school, public park, library, or religious institution	500 feet of any church or school	1,000 feet of any religious institution, educational institution, public park, public library, the Ogden City Mall or the Newgate Mall
500 feet of any other sexually oriented business	600 feet of any other sexually-oriented business, except outcall services	500 feet of any structure which a license for Nude Entertainment has earlier been issued and has not expired	1,000 feet of another such business
600 feet from an agricultural or residential use or residential zoning boundary	600 feet of any residential use or any agricultural or residential zoning boundary	500 feet of any residential zone as shown on the Zone Map of Provo City, Utah	1,000 feet of any residential district
150 feet of the 9000 South Street gateway	350 feet of any gateway corridor		
			660 feet of any historic building or district line to the property line of the sexually oriented business

Exhibit C - Proposed zoning District with 300' buffer radius



LEGEND:

	GENERAL COMMERCIAL ZONE
300' DISPERSAL ZONES	
	CHURCH
	CEMETERY
	DAY CARE
	LIQUOR STORE
	PARKS
	SCHOOL
	RESIDENTIAL

**PROPOSED ZONING
AREA**



DATE: July 22, 1996
DEPARTMENT: Legal
AUTHOR: Mark Harrington
TITLE: Amendment of Title 4, Chapter 9 of the Municipal Code of Park City regulating Sexually Oriented Businesses (SOB); and Section 8-4-20, Lewdness, of the Criminal Code
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Hold a public hearing on the proposed amendments to the code sections regarding Sexually Oriented Business licensing and Lewdness.

DESCRIPTION:

A. Topic:

Amendments to Title 4, Chapter 9 of the Municipal Code of Park City regulating Sexually Oriented Businesses and Section 8-4-20, Lewdness, of the Criminal Code.

B. Background:

The City Council adopted a licensing procedure for SOBs on January 19, 1995. Since its adoption, members of the arts community have voiced concerns regarding the City's licensing process. Their concerns are: (1) the effect the ordinance may have on legitimate, worthy and valued expressions of the arts community; and (2) the possible over-breadth of certain definitions within the ordinance. In response to these concerns, the Legal Department has drafted the attached amendments and is now recommending their adoption.

C. Analysis:

A municipality can regulate SOBs separately from other businesses so long as the regulation is aimed at curbing the secondary effects of SOBs, and not the content of proffered speech, expression or materials of such businesses. Recent case law has held that communities may rely on studies of other communities to regulate SOBs. In addressing the above concerns, the legal department has consulted SOB ordinances from several jurisdictions, including Salt Lake City, Aspen, Seattle, and Dallas. The primary goal of the following amendments is to simplify and clarify the City's SOB ordinance.

(1) Amended Definitions: Changes have been made to several definitions in order to maintain

the legal department's effort to narrow the definitions of Adult Bookstore, Adult Video Store, Adult Motion Picture Theater, and Adult Theater in order to ensure that establishments which display works of legitimate artistic expression (such as the Kimball Art Center) are not regulated by the ordinance.

(2) Expanded Dramatic Works Exception: Staff also is proposing an amendment to the criminal code regarding Lewdness (this is the code section that prohibits public nudity). The goal behind the expanded Dramatic Works Exception to the is to exempt legitimate artistic and educational speech from criminal prosecution. The amended Section declares that the City's prohibition on public nudity shall not be construed to prohibit plays, operas, musicals or other dramatic works which are not obscene.

(3) Elimination of the Section regulating Semi-Nude Dancing Agencies: In the interest of simplifying the ordinance, the Section regulating Semi-Nude Dancing Agencies has been eliminated. A Semi-Nude Dancing Agency was defined as an entity which furnished or booked professional dancers to other SOBs. The Legal Department believes that mitigation of the secondary effects of SOBs is most effectively accomplished through the direct regulation of SOBs, as presently achieved by the amended ordinance. Since the sections regulating and defining Semi-Nude Dancing Agencies were not viewed as of primary importance to the regulation of actual businesses, they should be eliminated.

D. Department Review:

The Legal Department has drafted the proposed amendments and CDD reviewed this matter.

ALTERNATIVES:

A. Hold a public hearing and provide staff with direction regarding any additional changes that the Council deems necessary.

B. Continue the Item. If the Council would like more information on this matter, it may postpone action on the ordinance (Action is currently scheduled for August 1).

SIGNIFICANT IMPACTS: The proposed changes simplify and clarify the existing licensing regulations for SOBs. The changes would de-regulate one area that most other communities include in their SOB ordinances.

RECOMMENDATION: Hold a public hearing and provide staff with direction regarding any additional changes that the Council deems necessary.

AN ORDINANCE AMENDING TITLE 4, CHAPTER 9 OF THE
MUNICIPAL CODE OF PARK CITY REGULATING SEXUALLY ORIENTED
BUSINESSES; BY CLARIFYING THE PURPOSE, APPEAL PROCEDURE,
AND DEFINITIONS WITHIN THE CHAPTER; AND AMENDING SECTION 8-4-20,
OF THE CRIMINAL CODE BY CREATING A DRAMATIC WORKS EXCEPTION
TO LEWDNESS

WHEREAS, Section 10-8-41, Utah Code Annotated ("UCA") gives the City the power to suppress and prohibit the keeping of disorderly houses, houses of ill fame or houses kept by, maintained for, or resorted to or used by, one or more persons for acts of perversion, lewdness or prostitution and also empowers the City to make it unlawful for lewdness or moral perversion or for any person to secure, induce, procure, offer or transport to any place within the City any person for the purposes of committing an act of sexual intercourse for hire, lewdness or moral perversion or for any person to receive or direct or offer or agree to receive or direct any person into any place or building within the City for the purposes of committing an act of sexual intercourse for hire, lewdness or moral perversion or for any person to aid, abet or participate in the commission of any of the foregoing and further prohibit the sale, distribution or exhibition of obscene or lewd publications, prints, pictures or illustrations; and

WHEREAS, Section 10-8-84 UCA allows the City to pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by Chapter 8 of Title 10 UCA which are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort and convenience of the City and its inhabitants; and

WHEREAS, Section 76-10-1210 UCA gives the City the right to regulate pornographic materials by ordinances relating to zoning, licensing, public nuisances, or relating to specific types of businesses; and

WHEREAS, the City Council has relied on the findings and experiences of cities including Salt Lake City, Sandy City, West Valley City and others concerning the effects and regulation of

Sexually Oriented Businesses; and

WHEREAS, as a result of these findings and experiences, the City Council finds that Sexually Oriented Businesses are frequently used for unlawful sexual activity; and

WHEREAS, licensing and zoning are legitimate and reasonable means of time, place and manner regulations to ensure that operators of Sexually Oriented Businesses comply with reasonable regulations and to ensure that Operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that Sexually Oriented Businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and residential areas adjacent to them, causing increased crime and the degrading of property values; and

WHEREAS, the City Council finds that it is recognized that Sexually Oriented Businesses, due to their nature, have serious objectionable operational characteristics particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent areas; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby preserve the property and character of surrounding neighborhoods, deter the spread of urban blight, protect the citizens from increased crime, preserve the quality of life, and protect the health, safety and welfare of the citizenry; and

WHEREAS, the City Council desires to protect the patrons of Sexually Oriented Businesses from dangerous conditions and to protect the youth of the City from exposure to inappropriate material; and

WHEREAS, many City residents are offended by Sexually Oriented Businesses and harbor fears about their own safety and the well-being of their children and families if exposed to such businesses and the persons who patronize them and these residents should have their rights of travel and association accommodated, if

reasonable; and

WHEREAS, the time, place and manner restrictions of this ordinance are required to protect important governmental interests and are reasonably related to achieve the protection of those interests with the minimum interference necessary to rights protected by state and federal constitutional provisions,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF PARK CITY, as follows:

SECTION 1. AMENDMENT. THE MUNICIPAL CODE OF PARK CITY is hereby amended by adding the following Chapter 9 to Title 4.

CHAPTER 9 - SEXUALLY ORIENTED BUSINESSES

4- 9- 2. **PURPOSE: REASONABLE LICENSING PROCEDURES.** It is the purpose and object of this section that the City establish reasonable and uniform regulations governing the ~~time, place~~ licensing and manner of operations of Sexually Oriented Businesses and their employees in Park City. This section shall be construed to protect the governmental interests recognized by this section 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 Sexually Oriented Businesses within the City in a manner which will protect: (1) the property values of surrounding businesses and neighborhoods; and (2) residents from the potential adverse secondary effects of Sexually Oriented Businesses, while providing to those who desire to patronize Sexually Oriented Businesses the opportunity to do so. Sexually Oriented Businesses are frequently used for unlawful sexual activities, including prostitution. Licensing of Sexually Oriented Businesses is a legitimate and reasonable means of ensuring that Operators of Sexually Oriented Businesses comply with reasonable regulations and that operators do not knowingly allow their businesses to be used for illegal sexual activity or solicitation. There is convincing documented evidence that Sexually Oriented Businesses, because of their nature, have a deleterious effect on both the existing neighboring businesses and surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this Chapter is to

control the adverse effects of Sexually Oriented Businesses and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight.

4- 9- 3. APPLICATION OF PROVISIONS. This section imposes regulatory standards and license requirements on certain business activities, which are characterized as "Sexually Oriented Businesses". It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of Sexually Oriented Businesses. Nothing in this Chapter is intended to ~~Except where the context of specific provisions require, this section does not~~ supersede or nullify any other related ordinances including, but not limited to, the Municipal Code of Park City, Utah, or the Park City Land Management Code.

4- 9 -4. DEFINITIONS. For the purpose of this section the following words shall have the following meanings:

(A) ADULT BUSINESS - an Adult Theater, Adult Motion Picture Theater, Adult Bookstore or Adult Video store.

(B) ADULT BOOKSTORE or ADULT VIDEO STORE - a Business ~~commercial establishment~~ which:

(1) Holds itself out ~~as to be~~ such a business; or

(2) ~~Excludes minors from~~ For more than thirty (30%) percent of the retail floor or shelf space of the premises; ~~or~~

(3) ~~Which as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations the central theme of which~~

depicts or describes "Specified Sexual Activities" or "Specified Anatomical Areas", or instruments, devices or paraphernalia which are designated for use in connection with Specified Sexual Activities, except for legitimate medically-recognized contraceptives.

(C) ADULT MOTION PICTURE THEATER - a Business commercial establishment which:

- (1) Holds itself out as such a business; or
- (2) Regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

~~(2) Excludes minors from the showing of two consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or~~

~~(3) As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".~~

(D) ADULT THEATER - a theater, concert hall, auditorium, or similar Business commercial establishment which:

- (1) Holds itself out as such a business; or
- (2) Regularly features persons who appear in a State of Nudity or live performances which are primarily characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

~~(2) Excludes minors from the showing of two consecutive exhibitions (repeated performances of the same presentation shall not be considered a consecutive exhibition); or~~

~~(3) As its principal business, features persons who appear in live performance in a state of nudity or which are characterized by the exposure of specified anatomical areas, or by specified sexual activities.~~

(E) NUDITY or STATE OF NUDITY - A state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of semi-nude.

(F) OBSCENE - Any material or performance is Obscene if:

(1) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;

(2) It is patently offensive in the description or depiction of Nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion; and

(3) Taken as a whole, it does not have serious literary, artistic, political or scientific value.

(GF) OPERATOR - the manager or other natural person principally in charge of a ~~S~~sexually ~~O~~oriented ~~b~~ Business.

(HG) SEMI-NUDE - a state of dress in which a person wears opaque clothing covering (1) only the male or female genitals, pubic region, anus, or (2) the nipple and areola of the female breast, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point.

(H) ~~SEMI-NUDE DANCING AGENCY~~ - any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this section for performance or appearance at a business licensed for adult theaters.

(I) SEMI-NUDE ENTERTAINMENT BUSINESS - a business, including an Adult Theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a Semi-Nude Entertainment Business if the business holds itself out as such a business.

(J) SEXUALLY ORIENTED BUSINESS - Semi-Nude Entertainment Businesses, Adult Businesses, and Semi-Nude Dancing Agencies as defined by this Chapter.

(K) SPECIFIED ANATOMICAL AREAS - the human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla or nipple to the end thereof with less than full opaque covering.

(L) SPECIFIED SEXUAL ACTIVITIES means:

(1) Acts of:

- (a) Masturbation;
- (b) Human sexual intercourse; or
- (c) Sodomy

(2) Manipulating, caressing or fondling by any person of:

- (a) The genitals of a human;
- (b) The pubic area of a human; or
- (c) The breast or breasts of a human female.

(3) Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

4- 9- 5. OBSCENITY AND LEWDNESS - STATUTORY PROVISIONS. Notwithstanding anything contained in this section, nothing in this section shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or state statutes prohibiting obscenity.

Notwithstanding anything contained in this section, nothing in this

section shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of the Criminal Code, Section 8-4-20 "Lewdness". Provided, however, that for the purpose of Sexually-Oriented Businesses, the definition of "private parts" shall be construed to mean "Nudity" as defined in this section.

~~4-9-6. LOCATION AND ZONING RESTRICTIONS. It shall be unlawful for any Sexually Oriented Business to do business at any location within the City not zoned for such business. Sexually Oriented Businesses licensed pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to Chapter 7 of the Park City Land Management Code.~~

4-9-67. BUSINESS LICENSE REQUIRED, APPEAL PROCEDURE. It shall be unlawful for any person to operate a Sexually Oriented Business, as specified herein, without first obtaining a Sexually Oriented Business license. The business license shall specify the type of Sexually Oriented Business for which it is obtained. Any applicant denied a Sexually Oriented Business license may appeal to the City Council pursuant to Section 4-2-11, provided such request is filed within ten (10) days after receipt of notice of denial.

4-9-78. EXEMPTIONS FROM LICENSE REQUIREMENTS. The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

4-9-89. ARTISTIC MODELING. The City does not intend to unreasonably or improperly prohibit legitimate modeling or exhibitions which may occur in a State of Nudity for purposes protected by the First Amendment or similar state protections.

4-9-91. BUSINESS CATEGORIES; SINGLE LICENSE. It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented Business. The categories of Sexually Oriented Businesses are:

(A) Adult Bookstore or Adult Video Store ~~Adult Businesses.~~

- (B) Adult Motion Picture Theater
- (C) Adult Theater
- (DB) Semi-Nude Entertainment Businesses.
- ~~(C) Semi-Nude Dancing Agency.~~

4- 9-10~~11~~. **LICENSE APPLICATION; DISCLOSURE.** Before any applicant may be licensed to operate a Sexually Oriented Business pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the Park City Business License Officer, the following:

(A) The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.

(B) If the applicant is a corporation, partnership or limited partnership or individual or entity doing business under an assumed name the information required below for individual applicants shall be submitted for each partner and each principal of an applicant and for each officer or director. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this chapter.

(C) All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership or non-corporate entity to sign the checks for such corporation, partnership or non-corporate entity.

(D) For all applicants the application must also state:

- (1) any other names or aliases used by the individual;
 - (2) present business address and telephone number;
 - (3) present residence and telephone number;
 - (4) Utah drivers license or identification number;
- and

(5) Social security number.

(E) Acceptable written proof that any individual is at least 21 years of age;

~~(F) The applicant's fingerprints on a form provided by the Park City Police Department. For persons not residing in Park City, the fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the fingerprints shall be paid by the applicant directly to the issuing agency.~~

(FG) A statement detailing the license or permit history of the applicant for the five year period immediately preceding the date of the filing of the application, including whether such applicant possessed or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated a Sexually Oriented Business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do business denied, revoked or suspended in this or any other county, city state, or territory. In the event of any such denial, revocation or suspension, state the date, the name or issuing or denying jurisdiction and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

(GH) All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or entity subject to disclosure under this chapter for five years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense); stating the date, place, nature of each conviction and plea of nolo contendere and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for a Sexually Oriented Business shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

(H~~F~~) In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

(I~~F~~) A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the Sexually Oriented Business intends to operate. This description shall also include:

- (1) the hours that the business or service will be open to the public and the methods of promoting the health and safety of employees and patrons and preventing them from engaging in illegal activity;

- (2) the methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

- (3) the methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;

- (4) the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

(J) It is unlawful to knowingly submit false or materially misleading information on or with a Sexually-Oriented

Business license application or to fail to disclose or omit information for the purpose of obtaining a Sexually-Oriented Business license.

4- 9-11~~12~~ LICENSE FEES. Each applicant for a Sexually Oriented Business license shall be required to pay regulatory license fee pursuant to the schedule established by resolution of the Park City City Council.

4- 9-12~~13~~.. SINGLE LOCATION AND NAME.

(A) It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises.

(B) It is unlawful for any Sexually Oriented Business to do business under any name other than the business name specified in the application.

4- 9-13~~14~~. LICENSE - ISSUANCE CONDITIONS. The Police Chief or his designee shall approve or deny the issuance of a license to the applicant within thirty days of receipt of a completed application. The Police Chief shall not deny the issuance of a license pursuant to this Chapter unless the ~~official~~ he/she finds one or more of the following:

(A) The applicant is under twenty-one years of age;

(B) The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to a Sexually Oriented Business;

(C) The applicant has falsely answered a material question or request for information as authorized by this Chapter;

(D) The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application. A criminal conviction for a violation of a provision of this chapter or similar provisions from any jurisdiction, whether or not being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;

(E) The premises to be used for the business ~~have~~ has been disapproved by the Summit County Health Department, the Fire Department, the Police Department, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty-day approval or denial period, the agency or department may obtain an extension of time of no more than fifteen days for ~~its~~ ~~their~~ review. The total time for the city to approve or deny a license shall not exceed forty-five days from the receipt of a completed application and payment of all fees.

(F) The required license fees have not been paid;

(G) All applicable sales and use taxes have not been paid;

(H) An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in state statutes or ordinances from any other jurisdiction;

(I) An applicant has been convicted or pled nolo contendere to a crime involving:

(1) Prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:

(i) Less than two years have elapsed from the date of conviction, if the conviction is of a

misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years; or

(ii) Less than five years have elapsed from the date of conviction if the offense is a felony;

(2) The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.

4- 9-14~~15~~. CHANGES IN INFORMATION. Any change in the information required to be submitted under this Chapter for a Sexually Oriented Business license shall be given, in writing, to the Police Department, within fourteen days after such change.

4- 9-15~~16~~. TRANSFER LIMITATIONS. Sexually Oriented Business licenses granted under this chapter are not transferable. It is unlawful for an individual to transfer a Sexually Oriented Business license. It shall be unlawful for a Sexually Oriented Business license held by a corporation, partnership or other non-corporate entity to transfer any part in excess of 10% thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a Sexually Oriented Business licensee occurs, the license is immediately null and void and the Sexually Oriented Business shall not operate until a separate new license has been properly issued by the City as herein provided.

4- 9-16~~17~~. GENERAL REGULATIONS. It is unlawful for any Sexually Oriented Business to:

(A) Allow persons under the age of eighteen years, ~~or the age of twenty one years if required by applicable alcoholic beverage ordinance,~~ on the licensed premises, except that in Adult Businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

(B) Allow, offer or agree to allow any alcohol being stored, used or consumed on or in the licensed premises;

(C) Allow the outside door to the premises to be locked while any customer is in the premises;

(D) Allow, offer or agree to gambling on the licensed premises;

(E) Allow, offer or agree to any employee of a Sexually Oriented Business touching any patron or customer;

(F) Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;

(G) Allow Sexually Oriented Business employees to possess, use, sell or distribute controlled substances, while engaged in the activities of the business;

(H) Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the licensed premises;

(I) Allow, offer, commit or agree to any Specified Sexual Activity ~~as validly defined by Park City ordinances or state statute~~ in the presence of any customer or patron;

(J) Allow, offer or agree to allow a patron or customer to masturbate in the presence of an employee or on the premises of a Sexually Oriented Business;

(K) Allow, offer, or agree to commit an act of lewdness as defined in Section 8-4-20 of this Code; or

(L) Not permit the Police Department or other proper City official to have access at all times to all premises licensed or applying for a license under this chapter, or to make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

4- 9-1718. ADULT BUSINESS, DESIGN OF PREMISES.

(A) In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an Adult Business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business shall conform to the following:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;

(2) Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person be allowed in the restroom per stall and only one person in any stall at a time and requiring that patrons shall not be allowed access to manager's station areas;

(3) For businesses which exclude minors from the entire premises all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;

(4) The diagram ~~required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram~~ must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.

(B) It shall be the duty of licensee and licensee's employees to insure that the views from the manager's station of all areas specified in section (1) above remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(C) The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle measured at floor level. It shall be the duty of licensee and licensee's employees present on the premises to insure that the illumination described

above is maintained at all times that any patron is present in the premises.

4- 9-1819. SEMI-NUDE ENTERTAINMENT BUSINESS; INTERIOR DESIGN

Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high. It is unlawful for business premises licensed for Semi-Nude Entertainment to:

(A) Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an Adult Theater such items may be on the stage as part of a performance;

(B) Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside;

(C) Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier;

4 - 9-1920. ALCOHOL PROHIBITED. It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any Sexually Oriented Business.

~~4 - 9-21. SEMI-NUDE DANCING AGENCY.~~

~~(A) It is unlawful for any individual or entity to furnish, book or otherwise engage the services of a professional dancer, model or performer to appear in a state of semi nudity for pecuniary compensation in, or for, any Semi Nude Entertainment Business or Adult Theater licensed pursuant to this chapter unless such agency is licensed pursuant to this Chapter.~~

~~_____ (B) It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model or performer in a state of semi-nudity either gratuitously or for compensation, in, or for, any business licensed pursuant to this chapter unless such person is employed by a Semi Nude Dancing Agency licensed pursuant to this chapter.~~

~~4 9 22. NUDITY DEFENSE TO PROSECUTION. It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated.~~

~~_____ (A) By a proprietary school licensed by the State of Utah or a college, junior college or university supported entirely or partly by taxation;~~

~~_____ (B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.~~

SECTION II. AMENDMENT. SECTION 8-4-20 OF THE MUNICIPAL CODE OF PARK CITY is hereby amended to read as follows:

8-4-20. LEWDNESS. A person is guilty of lewdness if in a public place or place open to public view, he or she performs an act of sexual intercourse or sodomy, makes an intentional exposure of his or her genitals, pubic area, buttocks, or the female breast, engages in trespassing voyeurism, urinates or defecates, or performs any other act of lewdness under circumstances which he or she should know will likely cause affront or alarm. As used in this section, public place means any place to which the public or a substantial group of the public has access. It includes commercial establishments and anyplace to which admission is gained by payment or a membership or admission fee, however designated, notwithstanding its designation as a private club or by words of like import. Exposure of genitals, pubic area or buttocks means less than a fully opaque covering, or a showing of the female breast below a point immediately above the top of the areola.

DRAMATIC WORKS EXCEPTION. This section shall not be construed to prohibit:

(A) Plays, operas, musicals, or other dramatic works which are not Obscene;

(B) Classes, seminars, and lectures held for serious scientific or educational purposes; or

(C) Exhibitions or dances which are not Obscene.

SECTION III. EFFECTIVE DATE. This ordinance shall become effective upon publication.

PASSED AND ADOPTED this ____ day of July, 1996.

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark D. Harrington, Asst. City Attorney



DATE: July 10, 1996
DEPARTMENT: Public Safety
AUTHOR: Frank Bell
TITLE: Communications Contract
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS:

Approve a contract with Skaggs Telecommunications Services of Salt Lake City in the amount of \$50,000 for purchase and installation of new public safety radio communications system in Marsac Building.

BACKGROUND - In 1983 Park City elected to construct its own public safety communications system in response to growing demand for around the clock services. The communications center was constructed at the entrance to the Marsac Building providing 24 hour telephone and radio communications for all city services. The center also monitors regional and statewide public safety radio networks, local alarm systems, and statewide computer networks. The radio system operates on a low power microwave link to transmitters located on Quarry Mountain. Portions of the system are shared with KPCW in order to minimize the number of radio towers on the building and to reduce construction and operating costs.

The radio transmitters and station modules are now 13 years old and in failing health. The dated technology is difficult to repair, and we have had to shut down some stations in order to maintain others. The system is frequently subject to interference from paging and cell phone systems, and has a number of dead spots in newly developing areas of town.

In our earlier plans to refurbish the Marsac Building, we had planned to move the communications center to the basement. As a part of the budget for that new construction, we had intended to install a new radio system. Though we are no longer moving to the basement, we must still contemplate replacing the radio system. Funds exist within the Marsac remodel budget to do so.

ANALYSIS - The first request for action considers the spending of \$50,000 to upgrade and replace the existing radio system. We presently have three city radio frequencies (police, public works, and transportation, and need access to the county, state, and fire frequencies) which operate out of base stations within the communications center and in the ceiling in Toby's office (nearest place to the microwave tower on the north side of the building). The system includes the following major components:

1. Dual dispatch stations rather than the present single station. This will allow two dispatchers to work side by side during frequent times of heavy demand. The dual stations will allow for simultaneous operation of radio and telephone systems rather than one operator trying to do both.
2. Console completely interfaced with state and city computer systems, all city radio systems telephone, paging, and access to other area emergency channels.
3. Instant recall system which allows operator to immediately playback radio or telephone conversations for verification. At present, we research the master recordings on VCR-like device which is tedious and time consuming.
4. Directional banding of our signal to better access shaded areas and improve quality of signal. Living in a mountainous area is both a benefit and hindrance to radio transmitting. We are able to broadcast fairly long distances at low power (higher power would interfere with other users of our assigned frequency in other parts of the state), but the hills and canyons create shadows where transmissions may not be clearly heard.
5. Battery powered backup systems in the event of power failure.

Because of the age of our present system, new technology will not adapt to the old. Virtually the entire system must be replaced and expanded.

The second request for action considers a waiver from the formal bid process. Though the original system was sold and installed by General Electric, we have since developed a long working relationship with Skaggs Telecommunications Service keeping our present system more or less functional. While there are a number of vendors of radio systems, there are few who consult, design, sell, and service all out of one office such as Skaggs. They have knowledge of our topography, community, and the services we provide which enables them to customize a system that fits our unique needs without extra consulting and design costs. We have not been able to find any other vendor which offers all of these services. It appears that they are the only vendor who can provide the desired system within the \$50,000 budgeted for this purpose without subcontracting to others. Skaggs also designed and installed the furniture and work surfaces for the present system. They feel the existing work surfaces can be adapted to the new system, thus saving the cost of new work surfaces.

ALTERNATIVES - provided we wish to continue in the business of providing communications for city services, there are few alternatives to replacing the old system. There will come a time when we can no longer keep the system operating. Last year, maintenance costs exceeded \$8,000. There is also a safety issue as we continue to seek solutions to our growing number of dead spots. While we will never be able to solve the problem completely, we cannot solve it at all with our existing equipment.

We do not have to be in the communications business. We could contract with the county to handle such services in conjunction with construction of the new criminal justice complex in which there is a large dispatch center. However, we would lose much of our control over the telephones and dispatching services, and the county is unlikely to want to dispatch for public works and transportation. I have not researched the costs or feasibility of such a contract. It is possible that a county contract would be less expensive but it is unlikely that we could get the

same level of service.

We have also considered moving our communication function and employees to the new county justice center and paying rent to the county for the space. While we would retain control over our employees and services, we would be maintaining a city function with city employees outside the city limits. This may create political and managerial problems. We would also have to overcome some technological problems regarding information flow and storage to prevent endless travel back and forth to the county dispatch center. It is believed those costs would be much higher than simply installing new equipment here and utilizing existing space.

SIGNIFICANT IMPACTS - The project will cost about \$50,000. The money has already been budgeted. Ample justification exists for the single vendor exceptions to formal bids.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION - We may be able to extend the life of the existing equipment through high maintenance and improvisation for some undetermined of time. I do not think it would be cheaper to wait in expectation that prices for equipment might come down, since labor costs will probably go up. There are no exceptional consequences of going outside the bid process though the project would likely cost more, and would most certainly be delayed as we sought a vendor or vendors who could provide all necessary services, and subsequently redesigned the project.

RECOMMENDATION - The Public Safety Department recommends that the council authorize a contract with Skaggs Telecommunications Service of Salt Lake City in the amount of \$50,000 for purchase and installation of a new telecommunications system for city services. Staff also recommends that this contract be awarded through the exception to the bid process on the basis of single vendor efficiencies.



CITY COUNCIL AGENDA REPORT

DATE: July 17, 1996
DEPARTMENT: Community Development Department
AUTHOR: Nora Seltenrich, Special Projects Manager
TITLE: Sandstone Cove Annexation Request
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:

Make a decision on the proposed annexation and direct staff to prepare appropriate findings and conclusions.

DESCRIPTION:

A. Topic.

PROJECT STATISTICS:

Applicant:	Jack Johnson Company/Black Diamond Partners
Location:	East of Highway 224 and northwest of Ridgeview and Mountain Ridge Subdivisions
Zoning:	Not zoned in the City Zoned Critical/Sensitive Area in Summit County Proposed Zoning of ROS and Estate
Adjacent Land Uses:	Open space, single family residential
Date of Application:	July 8, 1994
Project Planner:	Nora Seltenrich

B. Background.

Since this annexation and MPD request was submitted in July 1994, the applicant and staff have worked to identify and address technical and conceptual issues. In response to input from the staff and Planning Commission, the applicant has revised the plan several times. The original application was for 50 units and included a *cul-de-sac* on the west

side of the property, visible from U-224. At this time, the staff recommended to the Planning Commission that the Annexation Petition be considered premature based upon the adopted Annexation Policy Declaration, and the fact that the City was about to engage in a comprehensive planning process that would include this area within an updated General Plan.

On May 9, 1995, the applicant submitted a revised plan which the Planning Commission discussed in July, 1995. This plan eliminated all lots on the west side of the property, facing U-224. The Planning Commission felt this plan had merit but lacked a satisfactory secondary access. The Commission directed the applicant and staff to work on resolving the issue of emergency access prior to further discussion of the petition. The applicant and Chief Building Official/Fire Marshall have drafted a Fire Prevention and Protection Plan to mitigate for the petitioners' lack of secondary access.

The current revised proposal includes 18 large single family lots and eliminates the *cul-de-sac* on the west side of the property, facing U-224. The parcels are very large, ranging from .42 acres to 5.82 acres and averaging 2.66 acres. Although the original site plan indicated that the entire 80 acres would be in private ownership as part of individual parcels, the applicant is willing to dedicate to the City 30.54 acres on the west side of the property (facing U-224). A site plan is attached for your review.

The applicant is requesting annexation into the City and zoning consideration to increase density over what is currently allowed in the County (1 unit per 40 acres allowing 2 dwellings on the 80.13 acres). This area is currently in Tier 2 and is zoned critical/sensitive area in the County. In order for this to develop at this density in the County, a land use amendment would have to be granted as well as a modification to the Tiering system. The current Comprehensive Plan for Park City does not designate a land use for this area. The updated General Plan is scheduled to designate a land use for this area, although that process is not yet complete.

The applicant received conditional Master Planned Development (MPD) and Sketch Plan approval from the Planning Commission and the Commission forwarded a positive recommendation on the Annexation and Zone Change to the City Council.

The annexation petition also includes 3 small pieces of property on the corner of Meadows Drive and U-224. One is where the Mountain Fuel gas pressure regulator is located. The second is a small parcel owned by D.A. Osguthorpe and the third is a small parcel owned by the owners of the Sandstone Cove properties. At staff's request, the applicant modified the annexation plat to include these parcels so that the proposed annexation would not create an island of unincorporated land, contrary to state law. Staff recommends that these parcels be zoned Recreation Open Space (ROS). Staff sent notice of the amended annexation plat to each of the property owners listed above. On April 4, 1996 the Council held a public hearing on this matter to allow these property owners, and any others, an opportunity to speak prior to annexation.

C. Analysis

The City Council has held two work sessions on the annexation request and discussed issues relating to:

Adequacy of Fire Access and Mitigation Plan
Timing and Phasing of Development
Affordable Housing
Growth Inducing Impacts
Subdivision Configuration

Based upon input from the City Council, the applicant is willing to further condition the annexation request (from the project recommended by the Planning Commission) in the following ways:

- The applicant will purchase and convey to Park City 1.8 unit equivalents of affordable housing stock. The unit(s) will be conveyed to Park City at the time of recordation of the final subdivision plat. If the Council accepts this approach, it would be subject to staff approval of the condition, quality and location of the unit(s).
- To control the rate of development, permits for new dwellings would be limited to:

YEAR	PERMITS AVAILABLE	PERMITS FROZEN	PERCENT FROZEN
1	2 permits	16 permits	89%
2	2 permits	14 permits	78%
3	3 permits	11 permits	61%
4	3 permits	8 permits	44%
5	4 permits	4 permits	22%
6	4 permits	0 permits	0%

D. Alternatives

The following alternatives are presented for the Council's consideration. The applicant is requesting that the City Council direct staff to prepare an annexation agreement and findings and conclusions for ratification by the Council.

- A. **Direct staff to prepare the Annexation Agreement for Council Action as recommended by the Planning Commission with the additional conditions**

regarding employee housing and construction phasing. This alternative would require the staff to draft an Annexation Agreement consistent with the project as approved by the Planning Commission for consideration by the City Council and the Applicant.

B. Direct staff to prepare findings and conclusions to deny the Annexation Request due to prematurity. The City Council could decide that this property should be developed within the City Limits if and when it develops, but that it is not appropriate at this time. This prematurity may be based upon considerations such as:

- The status of the Revised General Plan
- The premature extension of public services
- The lack of a compelling reason to grant increased density over the 1 unit per 40 acre designation of the County

C. Direct staff to prepare findings and conclusions to deny the Annexation Request due to other factors. Other possible findings for denying Annexation at this time may include:

- Growth inducing impacts of the infrastructure extension
- Inadequacy of the fire access and mitigation plan
- Will result in additional primary residences which is not a priority in the currently adopted Annexation Policy Declaration
- Lack of support for the Planning Commission approved Master Plan

D. Direct staff to prepare necessary documents to approve the Annexation with additional or modified conditions. The City Council could impose additional conditions or approve a modified request, which may address:

- Further limitations on the rate of build-out of the parcels
- Alternative methods to satisfy the employee housing obligation

E. Direct staff to prepare the necessary ordinance with findings, conditions of annexation and a final annexation agreement to approve the Annexation of the property and approve the zoning, but remand the item back to the Planning Commission to revise the Master Plan Development. The Council would need to give the staff and Planning Commission clear direction on the nature of the modifications desired. These could include:

- Fewer parcels
- Reconfiguration to eliminate flag parcels

COWS FINDINGS

Staff has prepared the attached findings of fact, conclusions of law, and final order based on the record of July 18, 1996. The Appellant received these proposed findings today (Monday), and has not yet had an opportunity to comment on them. The City Attorney will attempt to coordinate with the Appellant during the week to negotiate agreed findings and will bring a consensus version to the Council on Thursday, highlighting any remaining areas of disagreement.

Because the Appellant has argued that the Historic District Guidelines are subjective, and are impermissibly vague, staff has emphasized those objective provisions within the Sign Code which regulate the use of Free-Standing Signs. Staff recommends that the Council carefully review the cited Sign Code provisions (Chapter 12 of your Municipal Code) in conjunction with your review of the proposed findings.

This matter is scheduled for review and approval during the regular session of the Council's July 25, 1996 meeting.

BEFORE THE CITY COUNCIL OF THE PARK CITY MUNICIPAL CORPORATION

(Proposed)

Bless Young (d.b.a. COW'S),	)	FINDINGS, CONCLUSIONS AND
Appellant	)	FINAL ORDER UPHOLDING
	)	PLANNING COMMISSION'S
v.	)	DENIAL OF A C.U.P. FOR A
	)	FREE-STANDING SIGN AT
	)	402 MAIN STREET
Park City Planning Commission	)	

This matter, having come on regularly for hearing on appeal before the City Council, with appellant appearing *pro se*, and with the City Council advised by the Office of the City Attorney; and having reviewed the files and records herein, supplemented by:

1. Appellant's Statement of Appeal dated July 11, 1996 with exhibits
2. Planning Staff's July 12, 1996 City Council Report with attachments
3. Appellant's response to staff's report to Council dated July 15, 1996 with exhibits.
4. Supplemental photographic copies Exhibits X-Z

and having taken testimony of appellant, witnesses, and staff on July 18, 1996 and having been fully advised in the premises, the City Council enters the following Findings of Fact, Conclusions of Law and Final Order Upholding the Planning Commission's Denial of Applicant's Conditional Use Permit Application for a Free-Standing Sign at 402 Main Street:

FINDINGS OF FACT:

1. Park City is an historic mining town with a four-season, tourism-based economy. Much of Park City's allure as a destination resort can be attributed to the beauty and unique nature of Park City's Historic Main Street.

2. Land uses and signs on Historic Main Street are highly regulated to preserve and enhance the viability of the commercial hub of the City.
3. The community has sustained a long-standing effort to enhance the viability of Historic Main Street by encouraging property owners to renovate and innovating parking opportunities for Main Street businesses and their customers, by planting and maintaining summer flower pots and baskets, and by enforcing compliance with the Land Management Code, the Sign Code, the Historic District Guidelines.
4. The City has been vigilant in its attempt to uniformly enforce the Sign Code on Main Street. Appellant offered current examples of Sign Code violations on Main Street (illegal Temporary Signs, A-Frame Signs, Outdoor Display of Merchandise). Some of the examples Appellant offered were not violations of the Sign Code, but were permitted uses under the law.
5. Appellant offered no example of a Free-Standing Sign (legal or illegal) on Main Street (as that term is defined in the Sign Code).
6. *Cow's* is an international formula retail chain which sells ice cream by the scoop and T-shirts and memorabilia emblazoned with whimsical portrayals of stylized Holstein cows. A life-sized fiberglass Holstein is a formula retail symbol, and is the pervasive advertising element of every *Cow's* franchise location in North America.
7. 402 Main Street is an historic structure, with approximately 36.6 lineal feet of Main Street frontage.
8. In 1994, prior to Appellant's ownership, the former owner of *Cow's* illegally placed a free-standing, full-sized, four and one half foot tall, fiberglass replica of a Holstein cow, in a recessed area beside the side walk.
9. At that time, the City Community Services Officer identified the fiberglass cow as a violation of provisions within the Sign Code which regulated Free-Standing Signs. He cited the former owner for a violation of the City Sign Code. The former owner paid a small fine but apparently failed to mention the incident to new purchasers of the business (Appellant).
10. Each side of the fiberglass cow measures approximately 30 square feet of signage under the Sign Code.
11. The exposed surface of the cow is fiberglass, patterned in black and cream to resemble the markings of a Holstein cow. The cow has no lettering painted on, or affixed to, its surface.
12. The exterior colors of the 402 Main Street building are pale yellow and blue/black, with additional lettered signage on the storefront awnings, on windows, on the doorway, and on a wooden sign hanging perpendicular to Main Street.

13. Appellant offered uncontradicted evidence that the fiberglass cow is a popular attraction, with tourists snapping 25 to 50 photographs of the cow on a daily basis.
14. In its proposed location, the fiberglass cow is positioned parallel to the Main Street right of way, eight to ten feet from the back of the Main Street curb, just outside of the store display window.
15. The cow placed in its proposed location visually dominates the 402 Main Street building.
16. In 1996, the City Community Services Officer notified the Appellant that the outdoor display of the fiberglass cow violated the Sign Code. He elaborated that Free-Standing Signs are not allowed in the HCB zone, unless a conditional use permit is issued pursuant to the Code; that she would need to apply for a conditional use permit to position the cow outside of her business at 402 Main Street; and he handed her a conditional use permit application.
17. On April 30, 1996, the Appellant applied for a conditional use permit to affix the fiberglass Holstein permanently to the ground as a Free-Standing Sign, parallel to the facade and the right-of-way, within a small recessed area of private property in front of her store.
18. Planning staff reviewed the application, and forwarded a negative recommendation to the Historic District Commission, and to the Planning Commission. The Historic District Commission forwarded a negative recommendation to the Planning Commission. Applying the Sign Code, and the Historic District Guidelines to the application, the Planning Commission denied Appellant's request for a conditional use permit to display the cow as a Free-Standing Sign.

CONCLUSIONS OF LAW

1. The Planning Commission correctly denied the conditional use permit application because the proposed sign is too large for the site and would visually dominate an historic structure. Historic District Guideline number 36; Section 12-4-1(A)(3). Section 12-4-1(A)(3) provides that while a Free-Standing Sign can be no more than 36 square feet in area, in no case may the area of a Free-Standing Sign exceed one square foot for every 3 feet of frontage. In this instance, the maximum area of a Free-Standing Sign associated with 402 Main Street would be approximately 12.2 square feet, less than half of the size of the fiberglass cow proposed for this location.
2. The Planning Commission properly denied the conditional use permit application because the proposed sign orientation, parallel to the frontage of 402 Main Street, distracts from the historic building facade and does not comply with Section 12-4-1(A)(5) of the Municipal Code. Pursuant to Section 12-4-1(A)(5), a Free-Standing

Sign must be perpendicular to the right-of-way (unless the right of way is more than 25 feet from the proposed sign location).

3. The Planning Commission properly denied the conditional use permit application because the proposed sign is not constructed of a sign material allowed under Section 12-5-4 of the Municipal Code.
4. The Planning Commission erred to the extent that it based its decision on color compatibility. Black and cream are desired sign colors within the Historic District.

FINAL ORDER

It is hereby ordered that the Planning Commission's denial of Applicant's Conditional Use Permit application is hereby affirmed to the extent that it is consistent with the foregoing findings of fact and conclusions of law. This final decision of Park City Municipal Corporation takes effect immediately.

Dated this 25th day of July, 1996.

PARK CITY MUNICIPAL CORPORATION

Bradley A. Olch, Mayor



CITY COUNCIL REPORT

DATE: July 22, 1996
(July 25, 1996 Meeting)

DEPARTMENT: Planning Department

AUTHOR: Patrick Putt *PAT*

TITLE: Zions' Bank/Visitor's Center Appeal

TYPE OF ITEM: Quasi-Judicial

Council is scheduled to open a quasi-judicial appeal of the Planning Commission's denial of a request to revise and enlarge the Snow Creek Crossing MPD to allow a conditional use permit for an additional building pad for a bank and a visitor's center at the northeast corner of Highways 224 and 248. The Planning Commission denied the applicant's proposed amendments/CUP application on June 12, 1996.

The applicant sent notice of appeal to the City Recorder on June 14, 1996, but failed to state the basis for the appeal in the notice. On June 24, 1996, the applicant forwarded a statement of appeal to the City Recorder. The applicant has yet to pay the requisite \$100 appeal fee.

Staff originally considered scheduling the appeal for a single Council meeting on the 18th of July. That meeting agenda was full. Staff asked the applicant for a one day extension (to July 25, 1996) of the LMC provision which requires the Council to first consider a matter within 30 days of an appeal.

Responding to the exigencies of the July 18, 1996 meeting, and to the need to process the Main Street TZO in a timely manner, staff has been unable to adequately prepare a timely response to the appeal. The matter is somewhat complicated and warrants additional staff analysis to provide a context for Council consideration. In a nutshell, there are many

interesting and intricate questions regarding the interrelationships of ownership, access, vested rights, open space use, overlay zones, maximum heights, adequacy of consideration, and design on this appeal. In addition to the matters raised on appeal, the applicant would like Council direction regarding the proper use of the site.

Staff has asked the applicant to agree to continue this matter in full until August 1, 1996. At that time, staff will be prepared fully to address the issues on appeal and to engage in a productive dialogue regarding staff's perspective on appropriate uses for the site. At the time of this memo, however, the applicant has not responded to staff's proposal to continue the matter until August 1. As such, staff requests Council to be prepared to open the appeal, schedule argument on the appeal for August 1, 1996 and then continue the matter until the next Council meeting.

While this appeal is pending, Council should refrain from entertaining extra-judicial contacts regarding the matters on appeal with any person, including the applicant.