

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 17, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 17, 2008.

Work Session

5:15 p.m. Council questions and comments

5:30 p.m. Scope of Community Visioning Program P. 6 - 9

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 26, 2008

P. 10 - 26

V NEW BUSINESS (*New items with presentations and/or anticipated detailed discussions*)

1. Consideration of an Ordinance approving the 426 Woodside Subdivision being a replat of Lots 24 and 25, Block 4 of the Park City Survey, Park City, Utah

(a) Public hearing P. 27 - 36

(b) Action

2. Consideration of a Construction Agreement with Landmark Excavating, Inc. for the construction of the Ontario Avenue Waterline Replacement Project for a lump sum amount of \$363,096, in a form approved by the City Attorney P. 37 - 57

VI OLD BUSINESS (*Continued public hearing*)

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR 248 and US40 Interchange in the Quinns Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and amending the Official Zoning Map of Park City to zone the property in the Community Transition Zoning District (CT) P. 58 - 71

(a) Public hearing

(b) Possible action

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

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

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 24, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, July 24, 2008.

Posted: 07/14/08

See: www.parkcity.org

**HISTORIC DISTRICT GUIDELINES
PUBLIC INPUT SESSIONS
SUMMIT COUNTY, UTAH
JULY 14 – AUGUST 13, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that there may be a majority of members of the City Council attending one or more of the scheduled sessions on draft Historic District Guidelines for Park City, Utah:

- July 14, 2008, Room 205 Library and Education Center, 6:00 p.m.
- July 16, 2008, Room 205 Library and Education Center, 6:00 p.m.
- July 23, 2008, Room 205 Library and Education Center, 5:30 p.m.
- August 7, 2008, Room 205 Library and Education Center, TBD
- August 13, 2008, Room 205 Library and Education Center, 5:30 p.m.

No formal action will be taken at these meetings.

Posted: 07/10/08
See: parkcity.org

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

July 2008

12-26 Tom gone

17 See agenda

24 **No meeting – Pioneer Day**

31 **Jan gone**

Closed session – 90 min

Wind turbines at Quinns – work

Appointment of Sharon Bauman as Deputy City Recorder

Richardson Flat Road construction agreement.- KC

900 Round Valley Drive Plat Amendment (IHC) - BR

408 & 412 Deer Valley Drive Loop Road plat amendment – FA

Consultant lobbying services contracts

Austin Healy Car Show MFL - partial street closure MP

Public hearing parameter resolution OTIS – BH

Professional Services Agreement in the amount of \$____ for preparation of the SR-
248 Corridor Plan, in a form approved by the City Attorney

August 2008

7 Quarterly goal update

Farm trail update (20 min)

Water supply/demand update

Joint Planning Commission work session

14-15 *Management Team meeting – Zermat, Midway*

14 **No meeting**

21 Municipal carbon footprint report – work - DF

Snow removal discussion - PE

7447 Royal Street #351 amendment to record of survey plat - BR

28 Sundance State of the Festival Update at Silver Star – 4 p.m.

Deed restrictions for Snow Creek affordable housing project – PR

Affordable housing resolution

460 Swede Alley condo conversion - KW

September 2008

1 *Labor Day*

3-7 *City Tour*

4 **No meeting**

11

18

25 City-wide wireless – SR

Pending Items:

Ridge Avenue CUP steep slope appeals

Update on “The Yard” operation on Kearns Blvd – 2008 Film Festival

Update on water supply and demand

Resolution - Trails Master Plan

Carrying capacity/market analysis survey

Wild land interface issues

City Council Staff Report



Author: Phyllis Robinson
Subject: Community Engagement/Visioning Project
Date: July 17, 2008
Type of Item: Informational update

SUMMARY RECOMMENDATION

Review and discuss the scope and timeline of the Community Engagement RFP and provide direction.

BACKGROUND

At the 2008 Council Visioning Sustainability Staff outlined a process for implementing a community visioning process. Community visioning, at its core, is about creating opportunities for meaningful dialog within the community and opportunities for listening to the community outside of a public hearing process. Through community engagement and exploration we can define the heart and soul of Park City – how all of these individual aspects of people and neighborhoods intersect to create the place we live. The results of this process set the groundwork for future land use, economic, social and environmental decisions.

A key goal is to get the community to describe, with specificity, those tangible and intangible elements that if lost would fundamentally change the character of the place. The heart and soul elements must be so deeply enmeshed in the community's identity that making a decision without reference to it will be as unthinkable as making a decision without reference to its water, traffic or economic impacts.

This is fundamentally different from an issues-based approach that focuses on what's not working or what needs to be fixed or asking people to rank their concerns about the current issues facing Park City. The outcomes of the community visioning process can be used by the City as it shapes a new general plan or land management code, but also by other stakeholders in the community as they make their plans for the future in Park City.

Staff has reviewed past City visioning initiatives approaches and outcomes, compiled and analyzed best practices, enhanced professional skills necessary to undertake a community-wide outreach effort, and built networks to assist in the implementation.

- 1. Past City Visioning Initiatives.** Park City has conducted several community events in the past. Through Community Vision processes conducted in 1987, 1993, and 2002, we have seen that community values, concerns and perceived or actual problems have remained remarkably consistent over the past 20 years.
 - ***Preserve:*** community, history, scale and natural environment
 - ***Promote:*** resorts, year-round economy, quality growth, and recreational opportunities and amenities

- **Address:** *housing, sprawl, transportation, water and sustainability.*

What each visioning session had in common was a focus on current conditions and resources. The focus was on addressing problems and anticipating what they might be 5 – 10 – 20 years out. The outcomes/strategies were largely focused on what does Park City Municipal Corporation need to do. One of the most valuable outcomes through out each visioning process was the community building that occurred through the shared discussion.

2. **Best Practices.** Staff reviewed other community's visioning documents and processes. We met directly with communities including Jackson Wyoming, Washoe County, Nevada, Burlington, Vermont, Basalt and Grand Junction, Colorado, to learn about their visioning initiatives. Together with the City Manager and IT Manager, the Vision Team attended the 2007 Community Matters Conference "Growth and Character: Having it All". The conference focused on how growth and change can reinforce and enhance the unique attributes and elements that comprise the spirit and substance of place. We listened, learned and networked with an immensely knowledgeable and talented group of practitioners and thinkers about what makes place special and how to advance these essential qualities.

One common theme emerged during this process. A community must develop a vision in order to be a sustainable, resilient community in the future and that its plan for future land use and development must be based on that community vision for the future. The community vision provides an essential framework and a set of benchmarks or objectives that help to articulate where a community is headed. It transcends mere land use, transportation, or economic development planning. The proposed community visioning process draws upon these best practices.

3. **Professional Training.** Staff completed a certificate training program on designing and implementing a community processes through the National Charette Institute.

ANALYSIS

Scope of Study

The last comprehensive community outreach effort was conducted in 2002. Park City's population, economy, land boundaries and demographics have changed significantly in the past five years. Although Park City remains a premier destination resort and full-time residential community, the needs and values of its residents, business people, workers, and visitors continue to evolve. During the recent budget update, Council funded a Community Engagement/Visioning project in the amount of \$65,000.

Key Elements for Request for Proposal

- City Council approved funding for this project in the FY 2009 budget.
- Park City will solicit consultant proposals to conduct a community-wide visioning and citizen engagement project. The intended outcomes include articulating core community values, creating a vision statement, developing general community vision

based on the community's core values and establishing a vision action plan to implement the vision.

- We are seeking a consultant team with sufficient experience to work in a collaborative framework with other team members including City staff, the public, citizen committees, business and industry representative, service clubs, nonprofit organizations, the School District, elected, and appointed City officials.
- The visioning process must be based on extensive and sustained public involvement activities including innovative outreach efforts through various approaches with the goal of engaging a broad and deep cross section of the community. Examples of the scope of work include:
 - o Develop customized strategies that will be effective within the political and social environment of the community;
 - o Link the process and outcomes with current and upcoming planning efforts and decision-making processes among a variety of organizations within the community;
 - o Effectively carry out a variety of public outreach methods and activities;
 - o Use a variety of media, activities and methods to capture, focus and engage citizens, decision makers and other key players; and
 - o Develop and manage the process to achieve outcomes perceived as balanced and authentic by as many community stakeholders as possible.

Staff plans to issue an RFP for a consultant team in early August. Staff has provided a copy of this report individually to the Planning Commission members and asked for input by the end of July.

Project Overview

Phase I: Community Understanding Dialogs (Months 1 - 4)

Create a common base of information and understanding of Park City through community-wide programs related to the City history, development, environment, economy and people.

Host community dialogs and listening on the ideals of Park City.

Key questions to explore might include:

- How do you participate in the community?
- What brought you here?
- What keeps you here?
- What would make you leave?
- Where would you go?
- What are your dreams for this town?

Outcomes:

A more informed community with an enhanced understanding of Park City.

Defined set of tangible and intangible elements that if lost would fundamentally change the character of the place.

Phase III: Community Synthesis (Months 5 – 6)

Draft, develop and adopt a *Statement of Community Ideals* based upon the outcomes of the community preparation and community dialog.

Outcome: Adopted Statement of Ideals and Community Celebration

Phase IV: Community Action Plan (Months 6 - 9)

Set short-term action items, mid-term objectives and long-term goals. Implementation of the community vision transcends government and must be part of the business community, the schools, churches, nonprofit organizations and others.

Outcomes: Community action plan

Timeline

- RFP/RFP advertisement dates: August 1 – August 15, 2008
- Interviews: September 2008
- Recommendation to Council/Award of Contract: September 2008
- Review of Community Understanding Dialogs at Council Visioning with the Planning Commission: January 2009
- Project Completion: June 2009

Council Discussion Points:

- Are there additional outcomes that Council would like the RFP to consider?
- Would Council like the appropriate liaisons to be part of the review/interview team (Mayor Williams and Councilmember Simpson)
- Would Council like the Planning Commission to appoint a member to the review committee?
- Is Council interested in having this project be a co-convening with other organizations such as the Park City Community Foundation for whom this information will also be of interest. If so, staff is looking for input as to role clarity with other organizations.

Department Review: The City Manager's Office, Legal, Sustainability and Planning Departments have reviewed this report.

Recommendation

Review and discuss the scope and timeline of the Community Engagement RFP and provide direction

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 26, 2008**

Present: Mayor Dana Williams; Council members Candace Erickson; Roger Harlan, Jim Hier, Joe Kernan and Liza Simpson.

Planning Commission Members Jack Thomas, Evan Russack, Adam Strachan, Dick Peek and Julia Pettit

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Gary Hill, Interim Planning Director; Dina Blaes, Preservation Consultant

1. Council questions/comments. Joe Kernan shared information about local construction costs and suggested that Park City compare costs with other communities. Liza Simpson thanked everyone who worked on the IMBA event and noted Matt Twombly did an excellent job on the panel discussion. She and Roger Harlan commented that the celebration for outgoing Chief Lloyd Evans was an exceptional experience. Mr. Harlan reported that Main Street merchants will be monitoring the Triple Crown events to see how it affects their establishments. Jim Hier reported the Uniform Building Code Commission overturned its initial decision to allow municipalities to designate zones for water conservation requiring low flow fixtures; they felt the building code was not the appropriate place for that type of statement. He reported the Chamber had passed their budget and new marketing plan. Mayor Williams echoed the comments about IMBA and welcomed NORBA to Park City. He discussed a change in Federal Law that could encourage more people to participate in conservation easements.

2. Joint work session with Planning Commission on Historic District Guidelines. Gary Hill, Interim Planning Director, and Dina Blaes, Preservation Consultant, introduced the discussion and noted this meeting would begin a series of discussions and unresolved issues would be continued to joint meeting in August. Knowing the public would like to provide input, he suggested they review topics to a time certain, and then open the meeting to public input.

Mayor Williams proposed that Planning Commission be included in the review of the final Historic Preservation Board recommendation.

Jim Hier stated it was important that Planning Commission review the proposed guidelines in concert with the Land Management Code to determine what LMC modifications may be necessary and identify whether there were internal conflicts within the guidelines that might be able to be resolved at the Planning Commission level before it is presented to Council. He believed the Historic Preservation Board was the appropriate body to create these policies and would

not expect the Planning Commission to develop new policies for the Historic District.

Mayor Williams requested a visual display comparing historic homes that had retained original footprints, historic homes that had additions, new homes that are being built in the Historic District, etc., to see how differing design concepts over the past few years had, or had not, met the intent of the Code.

Liza Simpson requested the inclusion of recent structures that have been approved and built, but do would not be allowed under the new guidelines. She, too, wanted to understand unintended consequences of the guidelines. Candace Erickson concurred it was helpful to compare actual built examples with the guidelines and codes.

Planning Commissioner Jack Thomas added it would be extremely helpful for the Historic Preservation Board and the Planning Commission if graphical representations were included in the proposed guidelines.

Dina Blaes, consultant, explained the process began after adoption of the Historic Building Inventory in October 2007. The Historic Preservation Board engaged in lengthy discussions on preservation issues the City has faced in the past few years: panelization; new construction; use of substitute materials; and a policy approach of how to allow reclaimed building materials to be used. They also discussed the disparity between owning an historic building or a vacant lot and how applicants may feel they were treated in those situations. They are trying to create a comprehensive method of addressing all development within historic district, not just the historically significant buildings. The draft Design Guidelines reflect policy directives from the Historic Preservation Board and the Staff Report presents suggestions based on practicality and recognized best practices within the historic preservation field.

Based on direction given at a joint Planning Commission, City Council, Historic Preservation Board work session, Staff pursued a two-tiered approach to universal design guidelines, which is in keeping with National Preservation Standards but also recognizes the need for specific interpretation for development issues in Park City.

Ms. Blaes stated the HPB held public hearings on June 2 and 16 and received comments from developers, architects and owners in Old Town. Comments focused on how the guidelines would fit into the process to maintain consistency and fairness. They also received comments about parking issues and height requirements.

Ms. Blaes emphasized the importance of the Planning Commission being versed in the Design Guidelines in order to ensure there are not conflicts with at the Land Management Code. She stressed that the review of the Design Guidelines

and associated Land Management Code amendments would advance concurrently.

City Manager Tom Bakaly requested clarification that the role of the Planning Commission was to review the Design Guidelines in the context of the Land Management Code to identify potential conflicts, not to conduct an independent review of the guidelines.

Council Member Liza Simpson noted that Ms. Blaes had already identified areas where the LMC may need to be changed and she wanted the Planning Commission to be grounded in the direction the document is going. Council Member Hier agreed and he requested that the review also consider any conflicts within the document itself.

Planning Commissioner Dick Peek asked whether the Commission could make suggestions as he felt they could identify issues that affect both the Land Management Code and the Design Guidelines. Commissioner Evan Russak suggested they might be able to identify issues that based on their experiences. Jim Hier encouraged their analysis and noted there may, or may not, be a better concept in the LMC; however, they may need to change the LMC to adapt to the Guidelines. He stressed the main purpose was to create a feasible document that could be integrated into the Land Management Code and he did not expect this to be a policy review.

To help clarify the process, City Attorney Mark Harrington explained that Municipal Code Sign Code amendments are presented to Planning Commission for courtesy review against the Conditional Use Permit regulations of the LMC prior to recommendation to Council. He believed the goal of having Planning Commission review of the Design Guidelines was broader than a narrow check-off, but not a total policy review.

Mayor Williams Dana emphasized it was important to receive input not only from the HPB and citizenry, but the Planning Commission as well. If that means time lines need to be extended, it is worth it.

Council Member Roger Harlan stressed that both groups have guidelines and the community will be better served by the expertise and perspective provided by both the Historic Preservation Board and the Planning Commission. He acknowledged this would take time, but believed we would appreciate and salute the end result.

Council Member Hier clarified that he did not want a *de novo* review of entire document and Planning Commission's review should focus on reasonable, practical, reconciliation of the Guidelines with the Land Management Code.

Planning Commissioner Julia Pettit requested that the Planning Commission conduct their review in tandem with the Historic Preservation Board so the process was more dynamic.

Planning Commissioner Jack Thomas argued this had a broader impact on the entire community than the Sign Code. Jim Hier agreed and noted this process would extend over numerous work sessions and the amount of time spent will be significant. Council Member Candace Erickson emphasized that this is not a “cursory” review and input from the Planning Commission may help the Historic Preservation Board with their process.

Ms. Blaes directed members to Historic Preservation Policy Issues in the Staff Report. Due to recent public discussion concerning construction in the historic district and Historically Significant homes, Staff wanted to clarify what the Design Guidelines will and will not do. Design Guidelines are written as a method to achieve design within legal requirements that are listed in the Land Management Code. Staff provided examples of 12 buildings that were undergoing remodel or being enlarged at the time the survey was being done. They were removed from the initial review because of the size and scale, which has more to do with the City’s definition of integrity and significance in the LMC than the Design Guidelines. All the buildings went through design review process, but there was an inconsistency between the interpretation and the standards of review.

Ms. Blaes noted the Historic Preservation Board held lengthy discussions about size additions for historically significant buildings and decided not to limit sizes, but expressed concern about buildings that may be eliminated from the list when the next inventory is done. She stressed this was a policy issue and posed the question of whether the City wanted to limit the size of development so it can fall into the National Park Service’s approach to integrity, or whether they wanted to change the way they define integrity in the Land Management Code to accommodate buildings that have had substantial additions to them.

Mayor Williams expressed concern over comments voiced the last few years that the historical status of Old Town was in jeopardy. He commented on houses that fit the guidelines, but were incongruous with the surrounding properties or the neighborhood. He didn’t know whether it was necessary to stick to a certain size percentage, but that should be part of the consideration in determining what should happen on a property.

Roger Harlan commented it may be onerous to have a percentage, but suggested that ten years down the road we may be more satisfied with the end result if footprint sizes were limited.

Council Member Candace Erickson requested clarification about Land Management Code exemptions for projects proposing additions of up to 200% of original footprint that comply with design guidelines. Ms. Blaes explained that

off-street parking, for example, was not required for historically significant buildings. Ms. Erickson believed that additions of any size that did not comply should be denied, and she supported limiting footprint sizes. She expressed dismay over the large structure in the Master Planned Development next to Ron Whaley's house on Park Avenue, and wanted to ensure that type situation can be prevented in the future.

Planning Commissioner Adam Strachan suggested that in order to retain Old Town's historic feel the Guidelines should more closely approach those of the Standards of Review for Historical Significance. He did not favor lowering the standards and redefining "integrity" in the LMC in order to keep historically significant homes with very large additions on the inventory.

Commissioner Dick Peek suggested the issue might have more to do with primary viewing angles, not necessarily the footprint size. He noted that the addition on 291 Daly was subservient to the historical structure, whereas the angle of the addition on 297 Daly was very prominent. He pointed out that 937 Park Avenue had a very prominent addition very close to the street; however, it retained its listing on the inventory.

Dina Blaes explained that 937 Park Avenue was the "poster child" for additions. This project sought a loan from Utah Heritage Foundation and tried to get tax credits but was denied because it was viewed as an enormous addition. It went through a significant vetting process within the preservation field and transition elements were added to bring it more in line with standard preservation policy. It was interesting to see the progression from the uproar 937 Park caused, compared with 297 Daly, which is part of the next generation of large additions.

Interim Planning Director Gary Hill clarified the Historic Preservation Board's decision about not limiting the size of additions was a result of their concern for fairness between owners of vacant lots and owners of historic homes.

Commissioner Pettit believed one of the issues in the Historic District was the impact of infill projects and how new home construction related to a neighborhood of existing historical homes. In fairness to size restrictions placed owners of historical homes, there should be some limitations on size for empty lots in historical neighborhoods.

Council Member Simpson emphasized the HPB members were not against finding a mechanism to address the context of the street and sizes of surrounding buildings, but they were not comfortable picking 200% as the standard.

City Attorney Mark Harrington noted that many people owned their homes before the Historic Preservation regulations took effect in the 1980's and the demolition regulations took effect in 1989-1990.

Commissioner Evan Russack emphasized the need for a clear set of guidelines so rulings can be consistent and applicants have a clear understanding of what they can or cannot do. The idea of context zoning is important for maintaining consistency within neighborhoods. Determining what the community wanted for the historic core will help shape these discussions.

Council Member Joe Kernan expressed concern that the more clarity we provide, the less flexibility applicants have to be creative. Commissioner Thomas believed basic guidelines were excellent in terms of parameters, but there should be room within the guidelines for creative effort. Too much specificity would limit site-specific possibilities.

Commissioner Russak felt they were reviewing the recommendations in a vacuum and encouraged input from the design community. Understanding what we want to achieve for the Historic District, from the General Plan and Land Management Code standpoint, will provide a framework for possible changes.

Commissioner Pettit concurred that making a commitment to the future was important to the entire community. They may be faced with hard decisions that will affect property owners across the board, but if that is the goal, they need to define it and decide how to achieve it.

Jim Hier believed they had made that commitment; however, it was premature to make decisions on specifics with regard to size, or the scope of any of the elements. Regarding height and footprint limitations, Jim Hier suggested that the Planning Commission develop Land Management Code criteria, based on neighborhood analysis, which can be applied to individual applications.

Manager Bakaly stated the intent of this work session was to update Council and Planning Commission on what was being considered at the Historic Preservation Board level.

Gary Hill summarized the HPB was looking at methods to limit addition sizes in a way that was contextual to the overall historic districts and neighborhoods but also fair to vacant lots, or non-improved properties. In addition, revisions to the Land Management Code may be necessary to support the general guidelines in the Historic Design Guidelines.

The group discussed concerns that homes removed from the historically significant list would become targets for redevelopment in the future. Guidelines for new construction should prohibit anything out of context with the neighborhood; however, they questioned whether they had to be returned to historical significance and discouraged replication of homes.

Gary Hill introduced the idea of categorizing buildings on the Historic Building Inventory as Landmark and Contributing buildings. This would provide an opportunity to protect homes that do not meet the standards, but are important to the community and fit the context of the neighborhood. Jim Hier suggested that proper administration of these guidelines would prevent that in the future. He expressed concern about attempting to establish a second set of guidelines when they were unable to come to a conclusion about the first set. Liza Simpson felt they just needed to add a category preventing demolition of those houses.

Commissioner Julia Pettit explained there are houses in town that are not deemed to be historically significant because of additions, but it doesn't mean they could not be placed back on the list if the additions were removed. However, under the current Land Management Code and current Guidelines, there is an ability to tear them down. She encouraged exploring ways to preserve their potential contribution in the future as historically significant and preserve them as they exist today, as they add flavor and character to the District.

Ms. Blaes explained that historic inventories typically project out so the life of the inventory is more than just the year in which it is done. The historic period for Park City was cut off at 1962, the pre-ski resort history period. Generally, another inventory would be completed in 2010 which would include the emergence of the ski inventory, and take into consideration the newer buildings. An option that is strongly recommended is to acknowledge the limitations on the reconnaissance level survey and commit to doing intensive level surveys of all the buildings that were built before 1962. That would take about a year and would cost about \$250,000. Council might consider instituting that approach when it updates the inventory in five or six years. Standards of review to accommodate Significant and Contributing categories would have to be rewritten, as would sections of the Design Guidelines.

Mr. Hill recapped Staff's recommendation to complete Design Guidelines for the Significant list, and return in the future to address Contributing homes. Staff's recommendation would be to wait four or five years to update the inventory. Mayor Williams argued that was too long and during that time 10-15 Contributing homes may be lost. Mr. Hill indicated Staff understood the direction and there would be further opportunities for input and any changes in direction.

City Attorney Mark Harrington reminded Council of their request for increased opportunity to become involved early in the process. Staff has tried to structure joint meetings with opportunities for public input to keep this dialogue going from day one. Staff is not seeking definitive answers, but desires Council direction as they begin to formulate formal recommendations.

Mr. Hill clarified there was not an official inventory prior to the one adopted in October 2007. A survey was completed in 1983, and another in 1995 which was not adopted by Council. The Planning Department has several binders with

information about historical homes, but it is not a comprehensive survey and it would be difficult to say what preceded the inventory adopted in October. Attorney Harrington explained it was adopted as a list, but because it was acknowledged there was never a comprehensive survey done, we kept in the 50-year presumption of significance.

Dick Peek asked what elements caused the houses to fall off the list, since the LMC Standards of Review, 15-11-12(a), contains nothing about addition sizes. Ms. Blaes explained it had to do with the City's definition of Integrity. The National Park Service has a definition and Park City chose five of them: integrity of location, materials, design, setting and workmanship; and omitted integrity of association and feeling. When determining the historic significance of a property, the HPB evaluates whether the building, structure or site demonstrates a quality of significance in local, regional, state or national history, **AND** integrity of location, design, setting, materials, and workmanship. She explained the homes at 915 Park and 291 Daly remained in their location, but the overall body of work failed to meet the criteria based on the definition.

Mayor Williams opened the public hearing.

Ruth Gezelius, Old Town Resident, believed this was Council's opportunity to improve upon the process and they should have notified everyone who lived here and provided copies of the guidelines at the meeting. Staff and some Board members continue to be in denial of the importance of the automobile in the current world, as well as the importance of public transportation, snow removal and snow shedding. She believed we should be pro-active about the homes built in the 1970s and require them to be rebuilt to the same standards as historic homes when people start replacing them with newer homes. The only way to maintain the Historic District is to allow additions, and be more receptive to changing times, while respecting history and being fair about enforcing guidelines.

John Stafsholt, Woodside resident, was interested to learn how restrictive the standards were for historically significant houses versus contributory houses. He encouraged creation of a contributory list and stated the importance of preserving the fabric of Old Town neighborhoods.

Don Bloxom, designer, was heartened to learn of the commitment to create high-quality guidelines. He believed the talented designers in town could provide valuable input and provide opinions based on their experiences as users of the code and guidelines.

Beth Fratkin, resident, felt the guidelines were so subjective and flexible they would encourage bad interpretations. She did not understand why they couldn't just limit the square footage and not impose height restrictions. She encouraged preservation of historic houses, including the contributory houses.

Paul DeGroot, architect, was heartened to hear the questions being asked by Council, Planning Commission and Historic Preservation Board. A recurring theme in the guidelines is to retain, preserve, protect and maintain which, to him, meant that nothing could be changed. It also suggested to him that the inventory was flawed and we should start over.

Mayor Williams asked if he felt it was important that Old Town and Main Street remain on the National Historic Register. Mr. DeGroot explained that infill projects were very difficult and owners of historical houses have expectations of how they should fit into the historical district. He suggested the idea that what is left are “shapes” and people should be able to see the history of town as they walk up Main Street.

Peter Barnes, local designer, stressed that the Planning Commission did play a serious role in preservation planning as they consider streetscape issues, urban design, and how the historic fabric fits into what we envision for the future. We have a fundamental belief in the value of history, but it was not something that existed then; it is something that exists now and hopefully will exist in the future. He believed we should aspire to high quality and have flexibility in the codes to deal with that. Illustrations are an important component of design guidelines. He suggested rewriting the criteria so buildings that were removed from the inventory could be put back on it. He asked Council to invite the design community to join the process because they could explain what will work, what won't work, and why.

Mayor Williams asked if it was important that Main Street and Old Town maintain the National Historic Designation and status. Mr. Barnes responded that it was important, but being the owner of a historical building should be a matter of pride, not a burden. He studied architecture at Sheffield University and during the 1984 miners strike in Cardiff he did an urban design study for a town in South Wales because it was a dying town. He suggested inviting the unemployed miners to Park City to give advice on urban design and architecture if we believe the mining period was a valuable stopping point. There have been technological advances since then, like bathrooms, that people find valuable. He personally believed that looking past the mining aesthetic, and deciding what we should aspire to, is a decision Council can make.

Marianne Cone, Old Town resident, encouraged keeping historical houses intact, setting a limit on size; and requiring landscaping plans. She believed the City needed a preservation planner on staff; and would like to return to having a Historic District Commission making design decisions.

Roger Durst, architect, complimented Staff's efforts. He had submitted a written critique and highlighted some of his concerns about the draft guidelines. He noted the design process was very demanding and once a solution was arrived

at that met the prescriptive requirements, it would be repeated and would become monotonous. He noted the building code protects people, not buildings and believed the resulting designs would result in the absence of vitality and diversity being championed here. He stated design must be resolved in context, and in order for history to be preserved it must be continued.

Gary Knudsen, resident, felt the proposed changes placed a burden on people who had been living by the rules. He suggested that the ski industry saved Park City and that should be taken into consideration when they evaluate the areas near the resort.

Jim Totoro, resident in Old Town, stated he has more neighbors now than ever before. He loves the vitality of his neighborhood and hoped that would not be impacted by the proposed changes.

Andy Kelly, builder of an Old Town house, stated the house he recently demolished was the ugliest, worst designed place on the planet. He cautioned Council that many “newer” houses would be turning 50 soon and would be subject to these guidelines. As written, the guidelines will mandate that Old Town stays very ugly in some places.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 26, 2008**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6:15 p.m. at the Library and Education Center on Thursday, June 26, 2008. Members in attendance were Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jonathan Weidenhamer, Economic Development and Special Projects Coordinator; Max Paap, Special Events Coordinator; Jerry Gibbs, Public Works Director; Francisco Astorga, Planner; Kirsten Whetstone, Senior Planner; Jennifer Byrd, Analyst I; Police Chief Lloyd Evans and Deputy City Attorney Tom Daley.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Joe Kernan disclosed that Talisker and KPCW were customers.

Mayor Williams presented a resolution honoring Police Chief Lloyd Evans, Sr., for his exceptional thirty-year public safety career in Park City and surprised him by announcing that the meeting room in the Park City Police Facility would be named for him in honor of that service as well as his involvement in the development of the new facility.

Chief Evans thanked Council for the recognition and stated it had been a great honor for a hometown boy who just wanted to make a difference. He stated it had been an honor working for them and an honor serving the community.

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

David Belz, Old Town resident, requested that everyone in the Historic District be notified by mail because of the significance of the proposed modifications and everyone should have a chance to become involved, to understand the implications of the changes, and provide input. He praised the intent of honoring and respecting the historic fabric of the community but when there are conflicting provisions in the guidelines and the code, the most restrictive application always seemed to prevail.

Michelle Aimone, resident in Prospector Lodge at 2200 Sidewinder, expressed concern that Talisker was trying to event current tenants. They have implemented new rules and monetary requirements and were pressuring her to rent on a monthly basis rather than renewing her lease.

Special Events Coordinator Max Paap informed Council that fireworks would be included in the July 4th community celebration.

Kevin King, Old Town resident, urged caution in the creation of new historic guidelines. He did not believe the Historic Preservation Board had enough experience or depth and suggested that a larger firm be contracted to draft the guidelines. Main Street is the core of the historic district, but he believed everything should be contributory and should be documented. Guidelines should not be mandatory and they should include room for negotiation. He urged public participation and encouraged guidelines that allowed creativity.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 12, 2008

Joe Kernan, "I move approval of Work Session Notes and Minutes of the June 12, 2008 meeting". Jim Hier seconded. Motion unanimously carried.

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

1. Resolution honoring Police Chief Lloyd D. Evans, Sr. in recognition of his exceptional 30 year public safety career in Park City, Utah and naming the Park City Public Safety Meeting Room in his honor. Jim Hier "I move approval of the Resolution honoring Police Chief Lloyd D. Evans, Sr. in recognition of his exceptional thirty-year public safety career in Park City, and naming the Park City Public Safety meeting room in his honor". Roger Harlan seconded. Motion unanimously carried.

2. Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006; and related matters. Jim Hier, "I move approval of the Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006; and related matters". Candace Erickson seconded. Motion unanimously carried.

3. Resolution celebrating KPCW's 28th Anniversary. Mayor Dana William read the Resolution honoring KPCW's Anniversary on July 2nd. Roger Harlan, "I move approval of the Resolution celebrating KPCW's 28th Anniversary". Liza Simpson seconded. Motion unanimously carried. Flint Deckert expressed thanks on behalf of the Community Wireless Board. Members Bob Wells and Diane Foster were present.

VI RESIGNATIONS AND APPOINTMENTS

Appointment of one Planning Commissioner for a term expiring July 2012. - Candace Erickson, "I move approval of the appointment of Jack Thomas to the Planning Commission to a term expiring July 2012". Jim Hier seconded. Motion unanimously carried.

VII OLD BUSINESS

Ordinance approving the Knoll Estates (aka Deer Valley Club Estates) Lots 17 and 18 Amended Subdivision Plat, located at 7888 Aster Lane, Park City, Utah - Senior Planner Kirsten Whetstone explained issues between property owners had not been resolved and Staff recommended conducting a public hearing and continuing the item to a date uncertain. Mayor Williams opened the hearing. There was no public input and the hearing was closed. Roger Harlan, "I move that the Ordinance approving the Knoll Estates Amended Subdivision Plat be continued to a date uncertain". Candace Erickson seconded. Motion unanimously carried.

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

1. Consideration of a Lease Renewal and First Addendum with the University of Utah for space located in the Library and Education Center, 1255 Park Avenue, in a form approved by the City Attorney. Jonathan Weidenhamer and Max Paap were joined by Betsy Oswald and Linda Wichowski of the University of Utah. Staff requested that Council consider a four-year lease renewal with the University of Utah; the lease would expire in 2012, at which time the Library is scheduled to consider an expansion. During the Marsac remodel, the University of Utah has allowed the City to rent back Room 205 for City Council, Planning Commission, and other community meetings.

Mr. Weidenhamer explained the lease was for 3,222 square feet at an annual cost of \$54,000, which would increase every other year at a rate of \$1.00 per square foot, with a 4% discount for early payment. Staff recommends that Council immediately approve an Addendum to the lease to accommodate municipal meetings in Room 205, which terminates on completion of the Marsac Building. Staff seeks Council direction on options for the addendum: rental of the space at a daily or hourly rate; rental at a discounted hourly rate (or discounted daily rate); or reduction of the base rent in proportion to the City's use for meetings.

Betsy Oswald, Director of Operations for Division of Continuing Education at University of Utah, and Linda Wichowski, onsite manager, emphasized the University has enjoyed their relationship with the City and they hope to work

through the process and maintain that good relationship. City Staff proposed a rental of \$100 per day, which would equal about \$9,700 over the course of a year based on 97 proposed meetings times per year. The University of Utah pays \$20,066 annually for the spaces used by the City. Rental income from Sundance and week-end church rentals is \$5,365, and they have miscellaneous hourly or daily rentals from time to time. The City's proposal to pay \$9,700 means they would only generate \$15,065 in rent next year and they find it hard to justify that as a good use of taxpayer dollars.

Ms. Oswald noted their primary student load was in the evening and the City's use in late afternoons and evenings does affect them. Mayor Williams asked if they had figures on the number of rentals, or classes, they have held over the past year on Wednesday and Thursday evenings. Ms. Wichowski explained the room was used an average of 5.5 days per month for other rentals, but did not have figures on the classes.

Council Member Candace Erickson asked if the City displaced classes that would normally be meeting in Room 205. Ms. Wichowski responded they have been able to place them in other rooms, but it did reduce the U's ability to hold classes they would otherwise be able to hold. Ms. Oswald stressed she wanted Council to be cognizant of the impacts. Council Member Erickson stated the City also had to justify how tax dollars are spent; she was concerned about paying four times the amount of money for the lease than the U was actually paying the City.

Ms Oswald stated they had significantly discounted their daily rental rates and feel it is fair relative to market rates. She asked Council to consider setting the fee at daily rate of \$145.48 which would be \$14,112 annually based on usage of 97 days per year.

Council Member Jim Hier noted they were able to accommodate students and suggested that the City's rental for a year more than offset their previous rental history for Wednesday and Thursday evenings. If they could document previous rentals, he would consider it. He suggested they split the difference. Mayor Williams requested a straw poll; three Council members were willing to pay \$100; two, \$115.

City Attorney Mark Harrington pointed out it was not simply a financial decision and encouraged a time out to review numbers and determine whether an alternate amount was acceptable. Mayor Williams suggested that the applicants and Staff hold a brief discussion so the item does not need to be continued. Council moved on to review the remaining agenda items.

The group returned to the meeting and Jonathan Weidenhamer reported that if the City was willing to facilitate rental of the University's space since Miners was unavailable in the City's rental pool, the University would be willing to accept a

rental rate of \$115 per day. If Council does not agree, they would request a continuation. Rather than continue the discussions, Council members once again discussed the rental rate they were willing to pay. Jim Hier "I move that the Addendum be restructured to allow for a rental rate of \$115 a day, to be calculated on an annual basis and adjusted from the total amount of rent paid as outlined in the Staff Report; and authorization for the City Manager to execute a four year lease in a form to be approved by the City Attorney". Candace Erickson seconded. Motion approved.

Candace Erickson	Aye
Roger Harlan	Nay
Jim Hier	Aye
Joe Kernan	Nay
Liza Simpson	Aye

2. Consideration of a Lease Renewal with the Park City Cooperative Preschool for space located in the Library and Education Center, 1255 Park Avenue, in a form approved by the City Attorney – Jennifer Byrd, Analyst, reviewed the Staff Report for renewal of the Park City Cooperative Preschool lease for Room 209 in the Library and Education Center. Staff recommends that Council approve the four year.

Alex Butwinski provided input on the University of Utah lease. As a citizen and taxpayer, he preferred rental of a better space for meetings. He believed the agreed upon rent was too high and recommended that Council call their bluff.

Roger Harlan, "I move approval of the Lease Renewal with the Park City Cooperative Preschool for space located in the Library and Education Center, 1255 Park Avenue, in a form approved by the City Attorney". Candace Erickson seconded. Motion carried unanimously.

3. Consideration of a Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of \$536,050 – Public Works Director Jerry Gibbs explained this was the first phase of a two-phase project for a pipeline to move water from the Boothill Pump Station to the Woodside Reservoir. Staff reviewed references for Silver Spur Construction and recommended approval of the contract. Liza Simpson, "I move approval of the Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of \$536,050". Joe Kernan seconded. Motion unanimously carried.

4. Consideration of an Ordinance approving the Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey located at 1110 Empire Avenue, Park City, Utah – Planner Francisco Astorga reviewed the Staff Report and explained Council had previously approved the plat, but the applicant

had not met the condition of approval requiring the plat to be recorded within one year. Staff recommends that Council hold a public hearing and consider approval of the amendment. Mayor Williams opened the public hearing. There was no comment and he closed the hearing. Roger Harlan, "I move approval of an Ordinance approving the Amended Plat for Lots 28 and 29, Block 17, Snyders Addition to Park City Survey located at 1110 Empire Avenue, Park City, Utah". Candace Erickson seconded. Motion unanimously carried.

5. Consideration of an Ordinance approving the 601 Deer Valley Drive Condominium Plat located at 601 Deer Valley Drive, Park City, Utah, and

6. Consideration of an Ordinance approving the 605 Deer Valley Drive Condominium Plat located at 605 Deer Valley Drive, Park City, Utah - Planner Francisco Astorga requested that Council combine Items 5 and 6 and reviewed the Staff Report. Staff recommended approval of both condominium conversions. He referred to a letter that was not included in the packet because it had been received at the last minute and noted that the Planning Commission had discussed it at their meeting. He explained that nightly rentals are an allowed use in the zone and duplexes are allowed uses, so the projects were not required to obtain Conditional Use Permits. He also explained that decks are allowed structures reviewed during the building permit process. Council briefly discussed decks and hot tubs in adjacent condominiums and suggested that tenants be advised of noise restrictions after 10 p.m. Mayor Williams opened the public hearing. There was no input and the hearing was closed. Joe Kernan, "I move approval of the ordinance approve the 601 Deer Valley Drive and 605 Deer Valley Drive Condominium plats". Roger Harlan seconded. Motion unanimously carried.

7. Consideration of an amended water agreement between Park City Municipal Corporation (PCMC) and Talisker/United Park City Mines Company (UPCMC) – Deputy City Attorney Tom Daley requested that Council approve the agreement. Jim Hier, "I move approval of the amended water agreement between Park City Municipal Corporation (PCMC) and Talisker/United Park City Mines Company (UPCMC)". Roger Harlan seconded. Motion unanimously carried.

IX ADDITIONAL DISCUSSION – AGENDA ITEMS

X ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at 2:00 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan and Liza Simpson. Staff present were Tom Bakaly, City Manager; and

Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss personnel and property". Jim Hier seconded. Motion carried unanimously. The meeting opened at 3:30 p.m. Joe Kernan, "I move to open the meeting". Candace Erickson seconded. Motion unanimously carried.

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

Prepared by Sharon Bauman

City Council Staff Report



PLANNING DEPARTMENT

Subject: 426 Woodside Subdivision
Author: Kirsten A. Whetstone, AICP
Date: July 17, 2008
Type of Item: Administrative –plat amendment

Summary Recommendations

Conduct a public hearing, consider public input, and discuss the 426 Woodside Subdivision, a replat of Lots 24 and 25, Block 4, Park City Survey. Consider approving the plat amendment based on the findings of fact, conclusions of law and conditions of approval as stated in the draft ordinance.

Description

Applicant: Susan Edwards, owner
Project Address: 426 Woodside Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Residential single family and duplexes,
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On May 15, 2008, the City received a complete application for the 426 Woodside Subdivision, located within the Historic Residential (HR-1) district. The application is a request to combine Lots 24 and 25, Block 4, Park City Survey into one lot of record for a new single family house. The lots are under common ownership.

Submitted with the replat were 1) Historic District Design Review application for a new single family house and 2) Steep Slope Conditional Use permit for construction on a slope greater than 30%. Staff is working with the applicant to address concerns regarding the design and compliance with the Steep Slope CUP criteria.

The property at 426 Woodside Avenue was improved with a 2,940 sf duplex constructed in the 1980s that contained four non-conforming units with separate exterior entrances. The 4 plex was demolished in June. Access to the property is from Woodside Avenue. There is no garage and the entire front yard area is paved and utilized for parking.

There is an existing historic house to the south and a non-historic house to the north. The owner resolved previous encroachments by removing decks and by reconstructing the neighbor's stairs.

An existing overhead power pole and line serving 426 and 428 Woodside is located within the City ROW in front of the proposed garage location. The applicant had proposed to relocate the pole approximately 7' to the north however the adjacent neighbor was not in favor of the relocation. The applicant's contractor indicated to the

Planning Commission that he will likely not attempt to move the pole. Relocation of power poles requires approval by the City Engineer and Utah Power. There is an existing 25' wide sewer easement across the lot in the rear. Any encroachment into the sewer easement would require an encroachment agreement from the Snyderville Basin Water Reclamation District.

On June 25, 2008, the Planning Commission conducted a public hearing and forwarded a positive recommendation to the City Council. There was no public input at the meeting. Because the previously encroaching stairs and decks had been resolved prior to the meeting, the Planning Commission revised the findings and conditions to reflect the current situation.

Analysis

Land Management Code

The plat amendment, as conditioned, does not create new non-conforming circumstances, nor does it increase density because the number of lots is not increased. The plat amendment would allow a new single family house to be constructed, subject to the Historic District Design Review, Steep Slope CUP and LMC Section 15-2.2-3. A duplex would require a Conditional Use Permit.

	CODE REQUIREMENT	PROPOSED
SETBACKS		
FRONT	10'	10'
SIDES	5'	5'
REAR	10'	25' due to an existing sewer easement. If SBWRD approves an encroachment for a deck, the setback would be 15'
HEIGHT	27' from existing grade and 27' from final grade around the perimeter, height exception maybe granted by the Planning Commission with Steep Slope CUP.	4:12 shed roofs meet 27', Steep Slope CUP height exception has been requested to allow an historically compatible pitched roof at 8:12 or 9:12.
MINIMUM LOT SIZE	1,875 sf for SF house 3,750 sf for duplex	3,750 sf
MINIMUM LOT WIDTH	25'	50'
MAXIMUM FOOTPRINT	1,519 SF	1,516 SF

Staff finds good cause for this subdivision plat amendment as the non-conforming situation is resolved and one structure with increased side yard setbacks could be constructed instead of two single family homes. A duplex could be proposed however duplexes require a conditional use in the HR-1 district and the sewer easement restriction on the lot is an additional constraint to providing sufficient parking for a duplex. The applicant is proposing a single family house with 2 code required parking spaces. Similar plat amendments have been approved in the immediate neighborhood combining two Old Town lots into one. The resulting lot size is consistent with the pattern of development in the neighborhood and the density is not increased.

Process

Plat amendments require a recommendation from the Planning Commission and final action by the City Council. The applicant has submitted applications for a Steep Slope CUP and Historic Design Review for the future house. The CUP requires final action by the Planning Commission. Staff is working with the applicant to address Historic Design guideline compliance, pending information from the SBWRD. After compliance has been determined staff will notify adjacent property owners regarding the design review. Final approval of this plat amendment may be appealed following procedures found in LMC Section 1-18.

Department Review

This project has gone through a Development Review with City Staff and utility providers. Issues discussed include 1) the sewer easement and resulting restrictions, 2) snow shedding and snow storage issues, 3) relocation of the power pole and line, 4) existing encroachments, and 5) existing shared stairs. These issues have been resolved with the demolition of the existing structure, additional information from the applicant, and/or by conditions of approval.

Public Notice

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

Alternatives

- The City Council may approve the 426 Woodside Subdivision plat amendment as conditioned or amended; or
- The City Council may deny the request and direct staff to prepare findings for this recommendation; or
- The City Council may continue the discussion to a date certain to allow the applicant time to respond to any additional concerns or issues raised at the City Council hearing.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

No construction may occur across property lines. Two single family houses could be constructed on the existing lots of record.

Recommendation

Staff recommends the City Council conduct a public hearing for 426 Woodside Subdivision plat amendment, consider public input, and consider approving the plat based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Ordinance

Exhibit A- proposed plat

Exhibit B- applicant's letter

Exhibit C- existing conditions survey (prior to demolition)

Ordinance No. 08-

**AN ORDINANCE APPROVING THE 426 WOODSIDE SUBDIVISION BEING A
REPLAT OF LOTS 24 and 25, BLOCK 4 OF THE PARK CITY SURVEY,
PARK CITY, UTAH**

WHEREAS, the owner of the property located at 426 Woodside Avenue, has petitioned the City Council for approval of a replat to create a lot of record from the combination of Lots 24 and 25, Block 4 of the Park City Survey, as shown on Exhibit A; and

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

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

WHEREAS, on June 25, 2008, the Planning Commission held a public hearing to receive input on the proposed replat; and

WHEREAS, on June 25, 2008, the Planning Commission forwarded a recommendation to the City Council; and

WHEREAS, on July 17, 2008, the City Council conducted a public hearing on the proposed subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the subdivision to combine 2 lots into one 3,750 sf lot of record;

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

SECTION 1. APPROVAL. The 426 Woodside Subdivision, located at 426 Woodside Avenue, as shown in Exhibit A is approved subject to the following Findings of Fact, Conclusions of Law, and Conditions of Approval. The above recitals are hereby incorporated as findings of fact.

Findings of Fact

1. The property, known as 426 Woodside Avenue is located in the Historic Residential (HR-1) zoning district.
2. The HR-1 zone is a residential zone characterized by a mix of contemporary residences and smaller historic homes.
3. The replat combines Lots 24 and 25, Block 4 of the Park City Survey into one 3,750 square foot lot of record.
4. The lots are under common ownership.
5. There was a non-historic, contemporary house on the property that contained a four-plex, which is a non-conforming use in the zone. The house was demolished

in June of 2008.

6. Stairs and deck encroachments existed between 426 and 428 Woodside Avenue. The deck was removed with the demolition and the stairs have been re-constructed to comply with the code.
7. Access to the property is from Woodside Avenue.
8. The minimum lot area in the HR-1 zone is 1,875 square feet. The proposed lot is 3,750 square feet in lot area.
9. The minimum lot width in the HR-1 zoning district is 25'. The proposed lot has a width of 50'.
10. There is an existing sewer easement across the rear 25' of the property. The applicant is working on an agreement with the SBWRD to allow an encroachment for the proposed rear decks and footings.
11. A shared stairway for 426 and 428 Woodside was located on the proposed lot with an encroachment on to 428 Woodside Avenue prior to the demolition. The owner resolved this encroachment by rebuilding compliant stairs for the neighbor.
12. Snow shedding easements along side property lines are necessary to accommodate snow shedding off of adjacent buildings, due to the minimum side yard setbacks in the historic district.
13. Minimal construction staging area is available along Woodside Avenue. Reciprocal construction easements with the adjacent property owners may be necessary.
14. Snow removal is necessary for emergency access, and snow storage areas are necessary for good snow removal. Snow storage and snow shedding easements will be identified on the plat. Substantial landscape areas in the front of the house will be required at Historic District Design Review.

Conclusions of Law

1. There is good cause for this plat amendment as it creates one lot of record from two existing lots.
2. The plat amendment is consistent with the Park City Land Management Code, the Park City General Plan, and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned, approval of the plat amendment does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year of the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The applicant shall obtain written approval from the City Engineer, Utah Power and the affected property owners prior to relocation of the power pole and service lines.
4. All standard project conditions apply.
5. A construction mitigation plan, to address mitigation of construction impacts on

adjacent properties and protection of Woodside Avenue during excavation and construction shall be approved by the Planning, Building, and Engineering Departments as a condition precedent to building permit issuance.

6. Approval of a Historic District Design Review and a Steep Slope CUP is required as a precedent to building permit issuance for new construction.
7. Reciprocal 5' snow shedding easements shall be dedicated on the plat along all side property lines for adjoining lots. Snow shed agreements with adjacent properties shall be recorded, if required by the Chief Building Official, prior to issuance of a building permit for new construction.
8. A 10' snow storage easement shall be dedicated on the plat along the Woodside Avenue frontage.
9. A landscape plan with substantial landscape areas in the front of the house is required with the Historic District Design Review.
10. Relocation of the power pole requires approval by the City Engineer and Utah Power.
11. No rear decks, including footings or overhanging deck structures, may be constructed in the rear sewer easement without an encroachment agreement approved by Snyderville Basin Water Reclamation District.
12. A note shall be added to the plat as a condition precedent to plat recordation stating that a sewer ejection system is required for this property.

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

PASSED AND ADOPTED this 17th day of July, 2008.

426 Woodside Subdivision
 A replat of Lots 24 and 25,
 Block 4, Park City Survey

NARRATIVE

Survey requested by Bruce & Susan Edwards.
 1. The survey was made on the 10th day of August, 2008.
 2. The survey was made by Bruce & Susan Edwards, Licensed Land Surveyors.
 3. The survey was made for the purpose of replating the 426 Woodside Subdivision.
 4. The survey was made from the original map July, 1927.
 5. The survey was made from the original map July, 1927.
 6. The survey was made from the original map July, 1927.
 7. The survey was made from the original map July, 1927.

LEGAL DESCRIPTIONS

Original Description
 All of Lot 24 & 25, Block 4, Park City Survey, according to the official plat thereof, on the 10th day of August, 2008, more or less.
 Recorder: containing 0.006 acres, more or less.

SURVEYOR'S CERTIFICATE

I, J.D. Gasky, a Registered Land Surveyor as prescribed by the laws of the State of Utah, do hereby certify that I have made a survey of the heretofore described property and that this plat is a true representation of said property.

ACKNOWLEDGEMENT

On this _____ day of _____, 2008, Bruce & Susan Edwards, owners of the heretofore described property, personally appeared before me, the undersigned, Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that they were the owners of the above described property and that they have signed the above Owner's Dedication and Consent to Record Truly and voluntarily for the purposes set forth herein.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned owners of the heretofore described tract of land, to be known hereafter as 426 Woodside Subdivision, do hereby certify that we have accepted of this Plat Aerial in the office of the Summit County Recorder in accordance with Utah Law, and that we have consented for local government to use the same for the purpose of replating the 426 Woodside Subdivision, and that we have consented for local government to use the same for the purpose of replating the 426 Woodside Subdivision, and that we have consented for local government to use the same for the purpose of replating the 426 Woodside Subdivision.

In witness whereof, the undersigned have set their hands this _____ day of _____, 2008.

By: _____
 Bruce Edwards
 Owner

My commission expires: _____

By: _____
 Susan Edwards
 Owner

My commission expires: _____

APPROVAL AS TO FORM

APPROVED AS TO FORM THIS _____ DAY OF _____, 2008 A.D.
 BY: _____
 COUNTY: _____

ENGINEER'S CERTIFICATE

I and my assistants, on this _____ day of _____, 2008, have examined the above described property and find that the same is in accordance with the original map of the 426 Woodside Subdivision, and that the same is in accordance with the original map of the 426 Woodside Subdivision, and that the same is in accordance with the original map of the 426 Woodside Subdivision.

PLANNING COMMISSION

PLANNING COMMISSION
 PLANNED COMMUNITY DEVELOPMENT
 CITY OF SUMMIT
 SUMMIT COUNTY, UTAH
 DATE: _____
 BY: _____

INTERMOUNTAIN BAY WATER RECLAMATION DISTRICT

INTERMOUNTAIN BAY WATER RECLAMATION DISTRICT
 1000 WEST 1000 NORTH
 SALT LAKE CITY, UTAH 84119
 DATE: _____
 BY: _____

CERTIFICATE OF ATTEST

I, J.D. Gasky, a Registered Land Surveyor as prescribed by the laws of the State of Utah, do hereby certify that I have made a survey of the heretofore described property and that this plat is a true representation of said property.

COUNCIL APPROVAL AND ACCEPTANCE

COUNCIL APPROVAL AND ACCEPTANCE
 CITY OF SUMMIT
 SUMMIT COUNTY, UTAH
 DATE: _____
 BY: _____

RECORDED

RECORDED
 DATE: _____
 BY: _____

Exhibit B- Applicant's letter

BRUCE & SUSAN EDWARDS
KEVIN S. KING
JOE BUTTERFIELD

P.O. Box 1957
Park City, UT 84060
Phone (435) 645-7474

Planning Department
Planning Commission
445 Marsac Ave.
Park City, UT, 84060-1480

Dear Commissioners and Staff,

Please accept the following project description for 426 Woodside Avenue – Bruce & Susan Edwards Residence.

Existing on the property is a very dilapidated wood framed, party wall duplex structure with a low pitched roof, probably built in the late 70's early 80's. This will be removed through demolition permit issued by the Building department. The 2 lots will be combined as part of the separate plat amendment. A new single family residence will then be constructed on the property.

The surrounding site consists of the following;

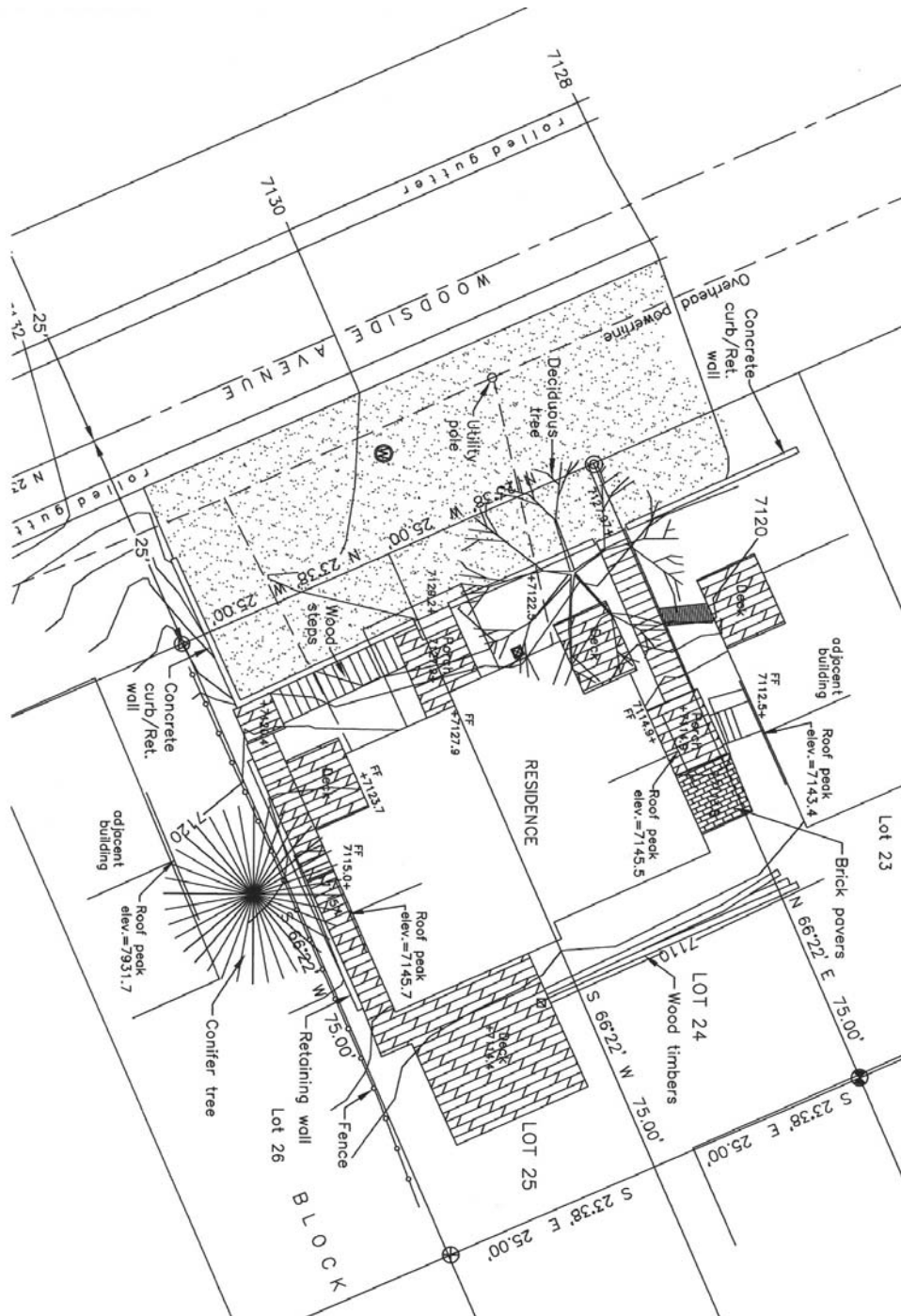
The building to the North is an identical dilapidated Duplex belonging to Ms. Tina Smith. There is a wooden stair that is 99% on the Edwards property which serves as access to both properties lower levels. New stairs are being proposed so both property's access is maintained. To the South is a low lying historic home that has been added onto both historically and currently. It has no redeeming qualities or curb appeal as the modern road has clearly been elevated around it. Across the street is a large 4 story Multi-8-plex condominium that towers over the street. Additionally across the street are 2 modern Historic District designs that are uphill, large and similarly on 2 combined lots.

We appreciate your time and consideration to this project,

Sincerely,

Bruce & Susan Edwards
Kevin S. King
Joe Butterfield

Exhibit C- Existing conditions survey (prior to the demolition)





City Council Staff Report

Author: Kathy Lundborg
Subject: ONTARIO WATERLINE REPLACEMENT
CONSTRUCTION CONTRACT
Date: July 17, 2008
Type of Item: Administrative PUBLIC WORKS

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Landmark Excavating, Inc for the construction of the Ontario Waterline Replacement for a lump sum amount of \$363,096.00.

Description:

Water Strategic Plan Topic: Infrastructure, Strategy/Policy: Implement Capital Facilities Plan

Topic:

Ontario Waterline Replacement

Background:

The Daly pressure zone serves a long narrow area extending from the south end of Daly Avenue nearly to Deer Valley Drive. Because of its narrow service area, the zone essentially consists of one long dead end pipe running from south to north with a few service branches along the way. Due to the dead end pipeline, some existing sections of undersized pipe limit the available fire flow in portions of the zone.

Proposed Construction and Contractor:

To remedy the fire flow deficiency, the following improvements are recommended:

- Replace 1,500 feet of existing 6-inch pipeline on Ontario Avenue from Daly Avenue to Ontario Pressure Reducing Valve (PRV) with a 10-inch pipe.
- Upgrade an existing motorized butterfly valve to allow flows from south to north on current 8-inch connection between Lower Deer Valley Zone and the Daly Zone near the Stone Bridge Pump Station.

The proposed Contractor will replace the existing 6-inch waterline from Sandridge Avenue to the Ontario PRV Valve. The project includes furnishing and installing approximately 1,042 feet of 10-inch restrained joint ductile iron waterline,

fittings, and gate valves. New fire hydrants will be installed along the alignment. Fifteen water services will be replaced with 1-1/2" service lines from the new water main to new meter boxes.

The waterline from Sandridge Avenue to Daley Avenue will be replaced when Hillside Avenue is reconstructed. The butterfly valve near Stonebridge Pump Station is scheduled to be upgraded as part of a separate contract before the Contractor completes the Ontario Avenue waterline replacement.

The Ontario Waterline Replacement construction project was advertised this spring in the Park Record and Intermountain Contractor. Five bidders attended the mandatory pre-bid meeting and six bids were received and opened on July 7, 2008.

An alternative bid item to replace the asphalt paving for the entire road width ranged in cost from \$20,484 to \$39,300, which was much higher than estimated. Due to the high cost of this alternative compared to slurry sealing, it will not be included in the contract. The cost to slurry seal the entire road width would typically cost \$2,000. However, this will be done next summer by the City because it is not recommended to apply slurry seal in the cool fall temperatures. Bids below represent base bids to replace pipe and asphalt patching the trench width.

Analysis:

The following summarizes the total base bids:

Contractor	Base Bid
Engineer's Estimate	\$306,670
Newman Construction	\$356,926
Landmark Excavating	\$363,096
Silver Spur Construction	\$399,210
DC Transport	\$429,726
Geneva Rock	\$497,655
SCI Inc	\$661,840

Landmark Excavating, Inc. is the lowest qualified bidder. Newman Construction provided the lowest bid, but did not attend the mandatory pre-bid meeting and was therefore disqualified. Important issues are discussed in a pre-bid meeting and therefore attendance was made mandatory in the bid documents. During pre-bid the following was discussed: new City service line and meter box requirements, construction sequencing to minimize construction impacts to residents, and observe existing meter box locations. The new water service requirements will require the Contractor to remove existing meter boxes. This will require replacing portions of homeowner's landscaping and driveways. Each existing meter box was identified to bidders during pre-bid site walk. During construction, temporary water service is also required to maintain service to homeowners.

Qualifications and Bid Documents were verified by our Engineer, Bowen Collins & Associates and staff (see attached letter). Staff therefore recommends Landmark Excavating as the successful bidder.

The funding for this project is water service fees and is part of the approved FY09 CIP.

The City's Project Manager will be working under the guidance of the Water Manager.

Department Review:

This staff report has been reviewed by Public Works, Legal, and City Manager.

Alternatives:

A. Approve the Request:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Landmark Excavating, Inc for the construction of the Ontario Waterline Replacement for a lump sum amount of **\$363,096.00**.

B. Deny the Request:

Council could deny Staff's request. Denying the request would delay the needed fire flow capacity.

C. Continue the Item:

Council could continue the request. Continuing the request would delay the needed fire flow capacity.

D. Do Nothing:

Staff does not recommend this alternative. Doing nothing would also delay the additional fire flow capacity.

Significant Impacts:

The Ontario Waterline Replacement construction project is part of the approved FY09 budget. Traffic on the portion of Ontario Avenue affected by this project will be impacted. Staff and the Contractor will work with the neighbors to ensure proper notifications of scheduled impacts are made.

Recommendation:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Landmark Excavating, Inc for the construction of the Ontario Waterline Replacement for a lump sum amount of **\$363,096**

Attachment: Qualification Verification
Letter



756 EAST 12200 SOUTH, DRAPER, UTAH 84020
Tel: (801) 495-2224 Fax (801) 495-2225

July 9, 2008

Kathy Lundborg, P.E.
Water Manager
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

Project: Ontario Avenue Waterline Replacement Project

Subject: Review of Bids

Dear Ms. Lundborg:

Bids for the Ontario Avenue Waterline Replacement Project were received at the office of Park City Public Works on Monday, July 7, 2008 at 2:30 PM. Six contractors furnished bids for consideration and we have reviewed the bids. Refer to the Bid Opening Checklist, Bid Opening Summary, Bid Opening Attendance List, and Bid Tabulation for related information.

The bids ranged from \$356,926 to \$681,840 for the base bid schedule and the Additive Alternate Item bids ranged from no bid to \$39,300. The apparent low bidder was Newman Construction at \$356,926 for the base bid with an additive alternate price of \$39,300. Unfortunately, Newman Construction did not attend the mandatory Prebid Meeting held on June 30, 2008 and was disqualified per the contract documents. Landmark Excavating, Inc. was second low bidder at \$363,096 and they did not bid the additive alternate #1.

We reviewed the data submitted by the low bidder, Landmark Excavating, Inc., and have prepared the attached table containing a summary of information obtained from calling each reference listed in Landmark's bid submittal. Of those references that were contacted, the general opinion was that Landmark Excavating did good work.

The criteria for evaluating the bids for construction of the Ontario Avenue Waterline Replacement Project were published in the bid documents Section 00100 – Instructions to Bidders. The criteria are summarized below.

1. A bid bond of 5% of the bid amount is furnished
2. Active Utah Contractor's License, in good standing, with appropriate classification
3. The firm and the project superintendent shall have satisfactorily completed at least three similar projects within the last five years
4. The project superintendent shall be dedicated to this project with no substitutions without written approval by the OWNER.

Landmark's submittal adequately met criteria item #1 by furnishing a bid bond with their bid in the amount of 5%.

Criterion #2 above was met by Landmark with their E100 classification. For a clarification, Landmark's license is listed as "Contractor with LRF". LRF refers to the contractor's membership

Ontario Waterline Replacement
July 9, 2008
Page 2

in the Lien Recovery Fund which allows them to get paid as a subcontractor should the general contractor receive payment from the owner but not pay the subcontractors.

Landmark provided a project list for Criterion #3 with their bid. BC&A has contacted the references and a summary is attached. A resume was submitted for Shane Bills as superintendent which outlined his experience with similar work as required.

Criterion #4 was met by the proposed superintendent, Shane Bills, as he will be dedicated to this project.

Based on the above information, we recommend that Park City award the contract to Landmark Excavating, Inc.

Please let us know if you have any questions or comments about our bid review.

Sincerely,

Bowen, Collins & Associates



Tena Campbell, P.E.
Project Engineer

Enclosures (5)

cc: Rich Hilbert – PCMC
Matt Cassel – City Engineer, PCMC
Todd Touchard – Harris & Associates

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2008, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Landmark Excavating, Inc, 560 South 100 West Suite 7, Provo UT 84601, which is a (*check one*) X corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the ONTARIO WATERLINE REPLACEMENT (hereinafter "Project"), which consists of the construction of the Ontario Waterline in accordance with the Contract Documents and Park City Standards, Construction Specifications, and Standard Drawings.

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

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

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

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

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

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of

subcontractors, laborers and materialmen who supplied services or materials to the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release.

If the City reasonably believes that Contractor has failed to pay Subcontractors, materialmen, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

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

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

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

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

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

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

The Contractor shall provide a Certificate of Insurance evidencing:

A. Commercial General Liability insurance written on an occurrence basis with limits no less than two million dollars (\$2,000,000) combined single limit per occurrence and four million dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's practices.

The Contractor shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

B. Automobile Liability insurance with limits no less than two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

C. Workers Compensation insurance limits written as follows:
Bodily Injury by Accident \$500,000 each accident;
Bodily Injury by Disease \$500,000 each employee, \$500,000 policy limit

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

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

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Three Hundred Sixty Three Thousand and Ninety Six Dollars, (\$363,096.00)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

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

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

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

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

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

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

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

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed 90 days from Notice to Proceed with all asphalt work complete by October 15, 2008. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **Seven Hundred Fifty Dollars (\$750.00)**, (NOTE: liquidated damages clause must be agreed to by Contractor, if no mutual agreement, then no liquidated damages) which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree

that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

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

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

- A. An agreed lump sum; or in the event the parties cannot agree; then
- B. The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then
- C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

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

City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

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

- A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;
- B. If Contractor substantially fails to perform any part of this Agreement;
- C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;
- D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

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

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

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

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

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

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver

has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

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

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

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

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

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

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible,

except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

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

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

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

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

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

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

allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- A. Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries
- B. Construction of decks, patios, landscape walls less than 4 feet in height, and fences on individual single-family lots
- C. Non-mechanized exterior painting on individual single-family residences
- D. Non-mechanized landscaping on individual single-family residences
- E. Survey work not involving grading or use of power equipment to cut vegetation.

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

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

SECTION 21. CONSTRUCTION MANAGEMENT PLANS. Contractor shall submit a Construction Mitigation Plan to be approved by the Community Development Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department.

- A. **Hours and Days of Operation.** The Construction Mitigation Plan shall specify the daily construction start and finish times. Construction activity occurring outside of the times specified in Section 11-14-6 of the Park City Municipal Code may only be allowed by Special Permit issued by the Building Official or the City Engineer.

B. Parking. The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department review and approve a parking plan. The plan shall also include anticipated temporary parking, e.g. delivery vehicles, large equipment parking.

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

D. Construction Phasing. Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public safety or nuisance problems. In cases where phasing is deemed necessary by the Community Development Department, the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

E. Trash Management and Recycling. Construction sites shall provide adequate storage and a program for trash removal.

F. Control of Dust and Mud on Streets. A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

G. Noise. Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of the Park City Municipal Code.

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

I. Construction Sign Requirements. A sign, indicating the name of the party responsible for the Project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed 12 square feet in size, six feet in height and shall not exceed a letter type of 4". Information on the sign shall include, at a minimum:

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

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

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

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

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

SECTION 24. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed,

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

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

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

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

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

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

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

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

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

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

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

ATTEST:

City Recorder's Office

APPROVED AS TO FORM:

City Attorney's Office

Landmark Excavating, Inc
560 South 100 West Ste 7
Provo, UT 84601

Signator, Title

6159918-5501
Utah Contract License No.

Construction Agreement

2

Project: Ontario Waterline Replacement

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, _____, personally appeared before me (signator), whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he/she is the (title or office) of (Contractor business name) by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said Corporation executed the same.

Notary Public

City Council Staff Report



Subject: Park City Heights Annexation
Author: Jim Carter, AICP
Kirsten A. Whetstone, AICP
Date: July 17, 2008
Type of Item: Legislative

PLANNING DEPARTMENT

Summary Recommendation

Staff recommends that the City Council review the Park City Heights annexation request at the regular meeting, conduct a public hearing, and review the draft Annexation Agreement and Annexation Ordinance attached to this staff report. Due to the pendency of a draft Water Agreement, no action is requested at this time. Staff recommends that the City Council continue this item to the July 31, 2008 City Council meeting for further discussion, public input, and possible action.

The purpose of this meeting is to:

- Review the draft Annexation Agreement and Annexation Ordinance
- Discuss and provide input to staff and the applicant regarding the Annexation Agreement and Ordinance
- Conduct a public hearing

Description

Project Name: Park City Heights Annexation
Applicants: Boyer Plumb Park City L.L.C.; Talisker
Location: South West corner of the intersection of Highways 248 and 40
Proposed Zoning: Community Transition (CT-MPD)
Adjacent Land Uses: Municipal open space; City Ice Arena and Fields Complex;
Reason for Review: Annexations require a recommendation from the Planning Commission with final action by the City Council

Background

This staff report is supplemental to the Park City Heights Annexation staff reports dated April 24, May 22, June 5, and June 19, and refers to the project history and Exhibits and background materials attached to those reports.

City Council meeting of June 19

On June 19, the City Council made findings with regard to the extent to which the currently proposed MPD addresses the purposes and requirements of the CT zone district. The Council found that, based on the currently proposed MPD configuration, 148 "countable" residential units would be an appropriate density for the MPD development. The Council confirmed that the MPD as proposed meet the MPD criteria of Section 15-2.23-4 of the Land Management Code. Staff indicated that they would draft an Annexation Agreement, and Water Agreement, and an Annexation Ordinance for the Council's review and consideration for approval.

The Draft Annexation Agreement and Annexation Ordinance

The draft Annexation Agreement and Ordinance are intended to specifically address the Council's direction from its previous meetings on the Park City Heights annexation, pertaining to affordable housing, residential density, trails, "downstream" traffic impacts, and sustainable design to include water conservation, in addition to the usual subjects of annexation agreements and ordinances. The language of the attached draft annexation agreement pertaining to these matters is located in sections 3, 4, 10, 11, and 14.

The Council should be aware that the draft Annexation Agreement was first provided to the applicants on Thursday, July 10th, and the Applicants may not have had time for a thorough review. The Applicants may wish to address the provisions of the draft Agreement and Ordinance in conjunction with the Council's review.

Staff requests that the Council review the draft language of the Annexation Agreement and Annexation Ordinance for conformance with Council's direction and provide the staff with input on any changes or additions necessary to accurately convey the Council's direction

The Water Agreement

Staff and the applicant held a meeting on project phasing and water on June 25th. At the time this staff report was prepared, a draft Water Agreement was still in preparation. The Water Agreement will address several significant issues unique to the annexation property, including the phasing of the construction in the Final MPD and the construction of a new raw water storage and treatment facility, in addition to water distribution systems, a treated water storage adequate to provide fire protection, and culinary service to the area.

Phasing of construction – Talisker proposes to commence construction of its affordable housing units in anticipation of occupancy of those units in the fall of 2009. Boyer-Plumb intends to begin construction of its market-rate and affordable units in anticipation of occupancy of half of the units by the spring of 2010, and occupancy of the remaining approved units by Fall, 2010. The capacity of existing City water system facilities is sufficient to provide for the occupancy of the Talisker affordable units by the fall of 2009.

The City plans to begin construction of the new raw water storage and treatment facilities on a schedule that would allow for occupancy of the market rate and remaining affordable housing units by the fall of 2010. If the parties agree to accelerate the City's construction schedule to allow occupancy of the Boyer-Plumb by the spring of 2010, the Water Agreement will need to address the responsibilities of the parties to accomplish the accelerated schedule.

Recommendation

Staff recommends that the City Council review the draft Annexation Agreement and Annexation Ordinance and provide Staff with direction for any additions or corrections needed to fully implement the Council's direction. Staff recommends that the Council conduct a public hearing, and that the public hearing and discussion be continued to July 30, 2008 in anticipation of a draft Water Agreement. No action is requested at this time.

Exhibit A

AN ORDINANCE APPROVING THE PARK CITY HEIGHTS ANNEXATION AND APPROVING AN AMENDMENT TO THE PARK CITY ZONING MAP TO ANNEX AND ZONE APPROXIMATELY 286.64 ACRES OF PROPERTY, LOCATED AT THE SOUTHWEST CORNER OF THE STATE ROUTE 248/US-40 INTERCHANGE, INTO THE COMMUNITY TRANSITION (CT) ZONING DISTRICT

WHEREAS, on January 28, 2005, the majority property owner (Boyer Plumb Park City L.C.) of the property known as the Park City Heights Annexation, as shown on the attached Annexation Plat (Exhibit A, the "Property"), petitioned the City Council for approval of an annexation into the Park City limits; and

WHEREAS, the Property is approximately 286.64 acres in size and is located southwest of the intersection of State Road 248 and US-40 as described in the attached Legal Description (Exhibit B); and

WHEREAS, the Property is included within the Park City Annexation Expansion Area, and is not included within any other municipal jurisdiction; and

WHEREAS, on February 16, 2005, additional information was included in the annexation submittal and the submittal was deemed complete; and

WHEREAS, the Park City Council accepted the Park City Heights petition for annexation on March 10, 2005; and

WHEREAS, the City reviewed the petition against the criteria stated in Sections 10-2-403 (2), (3), and (4) of the Utah Code, annotated 1953 as amended, and finds that the petition complies with all applicable criteria of the Utah Code; and

WHEREAS, On April 8, 2005, the City Recorder certified the annexation petition and delivered notice letters to the "affected entities" required by Utah Code, Section 10-2-405, giving notice that the petition had been certified and the required 30-day protest period had begun; and

WHEREAS, no protests have been filed by any "affected entities" or other jurisdictions; and

WHEREAS, on July 5, 2007, the associated MPD application was amended to include the UPCM/Talisker affordable housing and development application; and

WHEREAS, the City Council established the Park City Heights Annexation Task Force (Resolution No. 13-06) on May 4, 2006, for purposes of formulating specific recommendations to the Planning Commission and City Council relating to the annexation's proposed zoning, density, land uses, affordable housing, transportation, and community economic/fiscal impacts; and

WHEREAS, the Task Force, on July 10, 2007, forwarded a unanimous positive recommendation to the Planning Commission to, among other things, zone the annexation area Community Transition (CT); and

WHEREAS, the Planning Commission, after proper notice, conducted a public hearing on February 27, 2008. The public hearing was continued to March 26, 2008, where additional input was received; and

WHEREAS, on April 9, 2008, the Planning Commission voted to forward a recommendation on the proposed annexation and requested zoning designation (CT) to the City Council; and

WHEREAS, on April 24, May 22, June 5, June 19, and July 17, 2008, after proper notice, the City Council conducted public hearings and took public testimony on the matter, as required by law; and

WHEREAS, the Council finds that the requested zoning, is consistent with the Park City General Plan and Quinn's Junction Joint Planning Principles; and

WHEREAS, the requested CT zoning allows for increases above the base zone residential density of up to one unit per acre for a Master Planned Development (MPD) that meets the requirements of Section 15-2.23-4 of the Land Management Code; and

WHEREAS, an application for a Master Planned Development (the "Proposed MPD") on 239.58 acres of the annexation Property was submitted with the complete annexation petition; and

WHEREAS, the Council finds that the Proposed MPD meets the requirements of criteria (A) (1) through (9) of Section 15-2.23-4 of the Land Management Code for Master Planned Developments in the CT zone, but that the Proposed MPD only partially meets the purposes of the CT zone district identified in LMC Section 15-2.23-1 (A), (B), (J), and (K); and

WHEREAS, an Annexation Agreement, between the City and Petitioner pursuant to the Land Management Code, Section 15-8-5 (C), setting forth further terms and conditions of the Annexation and Master Planned Development is herein included as Exhibit C;

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

SECTION 1. ANNEXATION APPROVAL. The Property is hereby annexed into the corporate limits of Park City, Utah according to the Annexation Plat executed in substantially the same form as is attached hereto as Exhibit A and according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated below.

The Property so annexed shall enjoy the privileges of Park City as described in the Annexation Agreement attached as Exhibit C and shall be subject to all City levies and assessments as described in the terms of the Annexation Agreement.

The Property shall be subject to all City laws, rules and regulations upon the effective date of this Ordinance.

SECTION 2. ANNEXATION AGREEMENT. Council hereby authorizes the Mayor to execute the Annexation Agreement in substantially the same form as is attached hereto as Exhibit C and as approved by the City Attorney. The Annexation Agreement shall include an executed Water Agreement between the City and Applicant to be recorded concurrently with the Annexation Agreement.

SECTION 3. COMPLIANCE WITH STATE LAW, GENERAL PLAN, AND ANNEXATION POLICY PLAN. This annexation meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code, the Park City General Plan, and The Annexation Policy Plan - Land Management Code Chapter 8, Annexation. The CT zoning designation is consistent with the Park City General Plan and Annexation Policy Plan.

SECTION 4. OFFICIAL PARK CITY ZONING MAP AMENDMENT. The Official Park City Zoning Map is hereby amended to include said Property in the CT-MPD zoning district, as shown in Exhibit D. Land not currently owned by petitioners or otherwise outside the proposed MPD shall be zoned CT.

SECTION 5. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL.

Findings of Fact

1. The property is subject to the Employee/Affordable Housing requirements of the Affordable Housing Guidelines and Standards Resolution 17-99. One Affordable Unit Equivalent equals 800 square feet.
2. Land uses proposed in the Proposed MPD include market rate residential units, required affordable housing, and affordable housing units from other projects within the City, as described in the Annexation Agreement. It is anticipated that the Petitioner will submit a revised MPD application. Other support uses, as approved by the Planning Commission during the Master Planned Development review, consistent with the CT zone and Land Management Code, may be allowed. Configuration and integration of the market rate and affordable units will be determined at the time of MPD review.
3. The proposed land uses are consistent with the purpose statement of the CT zone and shall be presented in the revised MPD as a clustered development preserving the natural setting and scenic entry corridor by providing significant open space and landscape buffers between the development and highway corridor.
4. The revised MPD, when approved, shall substantially comply with the Annexation Agreement. Additional density above that authorized in the Annexation Agreement may be proposed by Petitioner, subject to the requirements and purposes of the CT zone, and Planning Commission approval of the revised MPD.
5. The Petitioner offers, and the City accepts, donation of 24 acres of the Property, known as Parcel SS-92, for open space and public recreation and utility uses.
6. The annexation complies with the Quinn's Junction Joint Planning Principles in that the proposal results in significant public benefits due to the inclusion of a significant amount of affordable housing in a residential community with a range of housing types, and the proposed affordable housing relates to Park

- City's recreation and tourism industry.
7. The recitals above are incorporated herein.

Conclusions of Law

1. The Zoning Map amendment is consistent with the Park City Land Management Code and General Plan.
2. Approval of the Annexation and Zoning Map amendment does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The Official Zoning Map shall be amended to include the Park City Heights Annexation property in the Community Transition (CT) Zoning District and designated (CT-MPD) subject to a Master Planned Development.
2. The Annexation Agreement shall be fully executed and recorded with the Annexation Plat.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect upon publication of this Ordinance, recordation of the Annexation Plat and Annexation Agreement, and compliance with state annexation filing requirements, pursuant to the Utah Code Annotated Section 10-2-425.

Exhibits to the Ordinance

Exhibit A- Annexation plat
Exhibit B- Legal Description
Exhibit C- Annexation Agreement
Exhibit D- Amended Zoning Map

Exhibit B - Draft Annexation Agreement (without attachments)

When recorded, please return to:
PARK CITY MUNICIPAL CORPORATION
City Recorder
P O Box 1480
Park City UT 84060

ANNEXATION AGREEMENT DRAFT

This Annexation Agreement (this "Agreement") is made by and between Park City Municipal Corporation (hereinafter "Park City" or the "City"), Boyer Plumb Park City L.C. , a Utah liability company, and Talisker (hereafter collectively "Petitioner") to set forth the terms and conditions under which Park City will annex certain land owned by Petitioner, consisting of approximately 286.64 acres and located in unincorporated Summit County, Utah, at the southwest corner of State Route 248 and Highway 40 (as further defined below, the "Property"), and known as Park City Heights Annexation, into the corporate limits of Park City and extend municipal services to the Property. This Agreement is made under authority of §§ 10-2-401 et. seq. of the Utah Code, Annotated 1953, as amended, and shall serve as a supplemental annexation policy declaration when executed by all parties.

WHEREAS, included in the 286.64 acre annexation Property are the following parcels: parcel 1- M. Bayer/J. Bayer (SS-89-A); parcel 2- Boyer Plumb (SS-122); parcels 3, 7, and 8- United Park City Mines (UPCM)/Talisker (SS-88); parcel 4- Utah Department of Transportation (UDOT) (SS-92-A-2-X); parcel 5- Park City Municipal Corporation (PCMC) (SS-92-A-X-X); and parcel 6- Boyer Plumb Park City L.C. (SS-92). The annexation Property also includes the right-of-way of Old Dump Road through the Property and the State of Utah Parks and Recreation Rail Trail right-of-way through the Property.

WHEREAS, in furtherance of the foregoing, the Petitioner desires to annex the Property into the corporate limits of the City and, to that end, an annexation petition (the "Annexation Petition") for the Property was filed with the City on January 28, 2005. Additional information was included in the annexation petition and on February 16, 2005, the City deemed the application complete. The petition was accepted by the City on March 10, 2005;

WHEREAS, in connection with any such annexation (the "Annexation"), the Property is proposed to be zoned Community Transition, a City zoning district that allows for low density, clustered development as part of a Master Planned Development. The zoning district allows uses including, but not limited to, public/quasi-public institutional uses, public recreation uses, affordable/employee housing, residential, and open space land uses on the Property;

WHEREAS, the Petitioner desires to donate twenty-four (24) acres of the Property for open space and public recreation and utility uses (described as Parcel SS-92 in Summit County recorder's Book 1835 Page 1338) to Park City, and Park City is willing to accept such donation;

WHEREAS, the parties understand, acknowledge and agree that the Annexation of the Property is conditioned upon, among other matters, the satisfaction of the terms and conditions of this Agreement, as well as the completion of the Master Plan Development approval and subdivision of the Property, all to the satisfaction of the undersigned and the City; and

NOW, THEREFORE, in furtherance of the Annexation Petition, in consideration of Park City's agreement to annex Petitioner's property and in consideration of the mutual promises contained herein, as well as the mutual benefits to be derived here from, the parties agree that the terms and conditions of Annexation shall be as follows:

1. **Property.** The property to be annexed is approximately 286.64 acres in size, as depicted on the annexation plat attached as Exhibit "A" (the "Annexation Plat") and as more fully described in the legal description attached as Exhibit "B" (hereafter referred to as the "Property").
2. **Zoning.** Upon Annexation, the Property will be zoned Community Transition District - Master Planned Development ("CT-MPD").
3. **Master Plan Approval; Phasing.** Pursuant to Land Management Code Section 15-8-3 (D), on July 5, 2007, a complete application for a Master Planned Development on 239.58 acres of the Property (as submitted, the "MPD") was filed with the City. Annexation parcels 1, 4, 5 as described above are not included in the MPD. The Petitioner plans to submit a revised MPD application. The allowable residential density of the MPD project area is 148 units. Additional units may be authorized pursuant to the MPD review process, up to the maximum bonus density allowed by Section 15-2.23-4 of the LMC. This Agreement does not represent approval or vesting of the submitted MPD or any subsequent MPD proposal. Rather, the MPD and the land use development of the Property shall be governed by the zoning designations provided herein and, shall be finalized (and, as necessary, amended) as soon as reasonably practicable following completion of the Annexation process pursuant to Utah Code Annotated § 10-2-425(5) (the "Final MDP"). Moreover, any substantive amendments to the MPD or this Agreement shall be processed in accordance with the Park City Land Management Code in effect at the time. Further, as part of the Final MPD and subdivision approval process, the phasing of the development of the Property shall be determined, to ensure the adequacy of public facilities that may be required to support any such development.
4. **Trails.** A condition precedent to the Annexation, Final MPD approval, and subdivision approvals for the Property is the grant to the City of public easements and the construction of non-vehicular pedestrian trails as determined by the Planning Commission during the Final MPD and Subdivision Plat review process (collectively, the "Trails"). In any event, the trail easements shall include, but are not limited to, existing trails and those easements necessary to extend and/or relocate existing non-vehicular pedestrian trails to connect to other public trail easements existing or planned for the future on adjacent developed or undeveloped properties. Any obligations with respect to the construction of any such trails shall be governed by the terms and conditions of the Final MPD for the Property.
5. **Fire Prevention Measures.** Because of significant wild land interface issues on the Property, the Petitioner (or, as specified in connection with any such assignment, its assigns) agrees to implement a fire protection and emergency access

plan, to be submitted prior to the issuance of any building permits, and to be reviewed and approved by the Fire Marshall and Chief Building Official for compliance with applicable building and fire codes.

6. **Roads and Road Design.** All streets and roads within and to the Property, which are to be dedicated to the City, shall be designed according to the City's road design standards. During the MPD review, the Planning Commission shall determine whether the road shall be granted, conveyed and/or dedicated to the City for purposes of a public thoroughfare and, upon acceptance thereof by the City, the maintenance and repair thereof by the City, or retained as private roads. The roads in the Talisker and IHC affordable housing are anticipated to be public. Otherwise, maintenance and repair of all such streets and roads shall remain with the Petitioner (or its assigns), until such time as any such streets and roads shall be accepted by Park City pursuant to the City's applicable ordinances governing any such dedication (the "Subdivision Ordinance"). All roadways within the Property and subject to the Subdivision Ordinance (the "Subdivision") shall be not less than thirty (30) feet wide, back of curb to back of curb. The final determination of which roadways, or portions thereof, are to be publicly dedicated shall be made during the Subdivision Plat review process; provided that the terms and conditions of grading and constructing roadway access across any City property shall be agreed to as part of any MPD approval process.

Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads unless an alternate location has been approved by the Planning Commission. Non-motorized paths separate from the road right-of-way may be preferable and determined by the Planning Commission.

The MPD shall not propose a road or street connection from Park City Heights to The Oaks at Deer Valley Subdivision, Hidden Meadows Subdivision, or to the Morning Star Estates Subdivision. The two proposed single family lots with access onto Sunridge Court shall be restricted at the time of the Final MPD to single family uses, consistent with the uses allowed in the Oaks at Deer Valley Subdivision. These lots may, if approved by the Oaks at Deer Valley Subdivision, be included in the Oaks at Deer Valley HOA at the time of the Final Subdivision Plat approval.

7. **Sanitary Sewer, Line Extensions and Related Matters.** Construction and alignment of the sanitary sewer shall be determined as part of the Final MPD and the Final Subdivision Plat for the Property (as accepted by the City and filed in the official real estate records of Summit County, Utah, the "Subdivision Plat"). The preferred alignment of the sanitary sewer shall be that which results in the least visual impact and site disturbance while meeting the site design and construction requirements of the Snyderville Basin Water Reclamation District. Further, as part of the MPD, the Petitioner (or, as specified in connection with any such assignment, its assigns) shall enter into a latecomer's agreement to reimburse the City for a portion of its costs in extending sewer facilities adjacent to the Property.

8. **Water Rights and Water Source Capacity.** The 1992 Pre-Annexation and Settlement Agreement conveyed 235.5 acre-feet of water rights to the City for the Park City Heights property and memorialized the fact that development on that property would be treated as if it had dedicated water rights to the City. Accordingly, the LMC Section 15-8-5 (C) (1) requirement to dedicate paper water rights is satisfied. So long as the Talisker units are within the 20-acre Quinn's Junction Parcel referenced in the 1999 Flagstaff Annexation Agreement, water requirements for the Talisker units shall be

determined as provided in the 2007 Water Agreement as referenced in the Amended and Restated Development Agreement for Flagstaff Mountain. Water Impact Fees will be determined and applied by the City in the same manner and in the same amount as with other developments within municipal boundaries. A Water Agreement, between the City and the Petitioner, shall be executed as part of this Annexation Agreement, to be recorded concurrently.

9. **Water Impact Fees and Other Water Facilities and Systems Costs.**

As a condition precedent to the effectiveness of this Agreement, certain water facilities and systems shall be required to be constructed and, to the extent to be dedicated to the City, easements therefor granted to the City, all of which shall be determined, and agreed to, by the affected parties and the City during the Final MPD and final Subdivision review process (the "Water Facilities and Systems"). Any and all such Water Facilities and Systems shall be constructed to not less than the specifications reasonably required by the City Engineer. Water Impact Fees will be calculated in consideration of the prior conveyance of paper water rights. A Water Agreement, between the City and the Petitioner, shall be executed as part of this Annexation Agreement, to be recorded concurrently.

In connection with the MPD and subdivision approval process, on-site storm runoff detention facilities, or approved alternatives, as approved by the Park City Engineer, may be required. The timing for the construction of such storm run-off improvements shall be determined at the time of final Subdivision Plat and Final MPD approval (the "Storm Detention Facilities").

10. **Affordable Housing Requirement.** Affordable/employee housing shall be provided in a manner consistent with the conditions of the Final MPD, with the understanding and agreement of the parties that:

- a. The base Employee/Affordable Housing requirement for development associated with the Park City Heights Annexation and Final MPD will be determined as defined in the City's Land Management Code and in a manner consistent with Affordable Housing Resolution 17-99. This requirement shall be satisfied by the construction of said units within the Park City Heights MPD property.
- b. The 44.78 AUE Employee/Affordable Housing unit equivalents associated with the IHC Hospital, as described in the Intermountain Healthcare/USSA/Burbidge Annexation Agreement, will be transferred to the Park City Heights MPD .
- c. The Employee/Affordable Housing requirement for development associated with the Montage Hotel/Park City Mountain Resort annexation amendment to the Flagstaff Mountain Resort Development Agreement is 20 Affordable Unit Equivalents. This requirement, as described in the amended Development Agreement, may be satisfied with construction of these units within the Park City Heights MPD.
- d. The Employee/Affordable Housing Phasing Plan of the Flagstaff Mountain Development Agreement further identifies that the 20-acre Quinn's Junction parcel that is part of this Annexation Agreement as a potential location for other affordable housing requirements outlined in the Flagstaff Development Agreement.
- e. Affordable units shall be made available for occupancy on approximately the same schedule as a project's market units or lots; except that Certificates of Occupancy (temporary or permanent) for the last ten percent of the market units shall be withheld until Certificates of Occupancy have been issued for all of the inclusionary units. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the phasing of the

required inclusionary units shall be approved as part of the Final MPD prior to the issuance of a building permit for either the affordable or market rate units.

11. **Sustainable Development requirements.** All construction within the Final MPD shall utilize sustainable site design, development and building practices. Each home in the development must reach a score of 100 on the Built Green Checklist (Exhibit H) **OR** reach LEED for Homes Silver Rating (minimum 60 points).

In addition to the builder achieving the aforementioned points on the Built Green or LEED for Homes checklists, to achieve water conservation goals, the builder must either:

- Achieve a minimum of 20 points within section XXXVIII. Resource Conservation: Water of the Built Green Checklist; OR
- Achieve a combined 10 points within the Sustainable Sites: 2. Landscaping and the Water Efficiency sections of LEED for Homes Checklist.

Points achieved in these resource conservation categories will count towards the overall score.

12. **Planning Review Fees.** All property owners within the annexed property shall be responsible for all standard and customary, and generally-applicable planning, building, subdivision and construction inspection fees imposed by the City in accordance with the Land Management Code.

13. **Impact and Building Fees.** All property owners within the annexed property shall be responsible for all standard and customary, and generally-applicable, fees, such as development, impact, park and recreation land acquisition, building permit and plan check fees due and payable for construction on the Property at the time of application for any building permits. In the event that additional inspections of roads and structures are required, based on the Geotechnical report prepared by GHS Geotechnical Consultants, Inc. dated June 9, 2006 and supplemental report dated March, 2008, these additional fees shall be borne by the Petitioner.

14. **Acceptance of Public Improvements.** Subject to fulfillment of all the conditions of the Subdivision Ordinance and, further, Park City's final approval of the construction of any such public improvements, those roads, streets, water facilities, utilities, and easements as may be agreed by the City and the affected parties in connection with the Final MPD and Subdivision Plat review and approval process (the "Public Improvements"), shall be conveyed and dedicated to the City, for public purposes,. Following any such dedication, Park City shall be responsible for the maintenance, repair and replacement of any and all such Public Improvements.

15. **Snow Removal and Storage.** Other than as may be necessary or appropriate for the Trails, Park City shall not be obligated to remove snow from roads, streets or similar improvements within the Property, until acceptance of the dedication thereof pursuant to the Subdivision Ordinance. Park City shall not be obligated to remove snow from private roads, streets, or other similar private improvements to be further identified on the final subdivision plat.

16. **Fiscal Impact Analysis.** The Fiscal Impact Analysis, prepared for the Petitioner by Lodestar West, Inc. and dated June 6, 2007, was reviewed by the Park City Heights Annexation Task Force and forwarded to the Planning Commission for further review. The Fiscal Impact Analysis concludes that the annexation will result in an overall positive impact on the City. The analysis includes revenue and cost assumptions related

to the Annexation and development of the Property, concludes that there will be a net fiscal gain to the School District for the market rate units and a net fiscal loss to the School District for the affordable housing portion of the development, however, if aggregate property taxes to the District generated from local sources are not adequate to cover the expenditures required for the budget, then additional State funds would be redistributed per the State Code, to compensate for the shortfall. The fiscal Impact Analysis is hereby accepted and approved by the City as part of this Agreement.

17. **Traffic Mitigation.** A comprehensive traffic review and analysis of the Property and surrounding properties, including existing and future traffic and circulation conditions was performed by Petitioner's traffic consultant, Hales Engineering, dated June 7, 2007 (Exhibit G). The mitigation measures (including traffic calming) outlined in the Hales Engineering, June 7, 2007, Park City Heights Traffic Impact Study, shall be implemented in a manner consistent with the Final MPD. The parties anticipate that the Petitioner (or, as specified in connection with any such assignment, its assigns) shall bear all financial costs, except land acquisition costs, for the construction of a signalized intersection on State Road 248 (including the intersection improvements detailed in a-d below) and the connection of that intersection with a roadway to the Property, as shown in the Traffic Impact Study.

a. A southbound left turn lane, deceleration lane and taper should be constructed on SR-248 to accommodate more than 10 vehicles per hour making left-hand turning movements.

b. A northbound right turn pocket, deceleration lane and taper should be constructed on SR-248 to accommodate more than 25 vehicles per hour making right-hand turning movements.

c. A westbound to northbound right turn acceleration lane and taper should be constructed to accommodate more than 50 vehicles per hour on roadways with speed limits greater than 40 mph for the un-signalized condition. When the intersection is signalized this improvement would not be necessary.

d. The Old Dump Road (Richardson Flat Road) must be built 40 feet back-of-gutter to back-of-gutter within a 60 foot right-of-way (not inclusive of turnout pockets or required utility easements, and except as described in 1-4 of this section) to the southernmost Park City Heights intersection of the expense of Park City Heights and Talisker. Turnout pockets shall be constructed at each of the Property's intersections with the Richardson Flat Road. These turnout pockets will be constructed per standards set forth in the Manual of Uniform Traffic Control Devices (MUTCD) and/or by the American Association of Highway Transportation Officials (AASHTO).

The Richardson Flat Road at its intersection with SR-248 will be of sufficient paved width to accommodate (at the stop bar):

1. 18' wide eastbound lane tapered per standards set forth in the MUTCD and/or by the AASHTO.
2. 12' wide westbound left hand thru traffic lane for a minimum of 150' then tapered per standards set forth in the MUTCD and/or by the AASHTO.

3. 12' wide westbound left hand through traffic lane for a minimum of 150', then tapered per standards set forth in the MUTCD and/or by the AASHTO.
4. (2) 5' wide bike lanes.

e. The cost sharing methodology (between Petitioner and any assigns) for the above projects shall be agreed to by the Petitioner and assigns prior to Final MPD approval. The cost sharing formula and timing for construction of the above improvements shall be detailed in the Final MPD document.

In addition to the improvements to the Old Dump Road and its intersection with SR-248 the Petitioner (or, as specified in connection with any such assignment, its assigns) shall bear its proportionate share of financial costs of traffic mitigation improvements to be made to SR-248 between US-40 and SR-224. These traffic mitigation projects shall be identified in a joint study to be completed by Utah Department of Transportation and Park City Municipal Corporation (target study completion October 2008). The proportionate share of the costs for these capacity enhancements shall be determined by the City Engineer using the Institute of Transportation Engineers (ITE) Trip Generation Manual peak hour trips (winter weekday evening) for the Park City Heights MPD as a percentage of total peak hour trips on SR-248 (winter weekday evening).

SR-248 traffic mitigation projects, the timing for construction, the cost-sharing proportion, and the timing of payment of proportionate share by Petitioner and assigns shall be detailed in the Final MPD document

18. **Effective Date.** This Agreement is effective as of the date the City Council adopts the annexation ordinance authorizing the execution of this Agreement and, further, the City provides notice of the adoption of such resolution to the parties to this Agreement.

19. **Governing Law; Jurisdiction and Venue.** The laws of the State of Utah shall govern this Agreement. Jurisdiction and venue are proper in Summit County.

20. **Real Covenant, Equitable Servitude.** This Agreement constitutes a real covenant and an equitable servitude on the Property. The terms of this Agreement touch and concern and both benefit and burden the Property. The benefits and burdens of this Agreement run with the land, and are intended to bind all successors in interest to any portion of the Property. This Agreement, a certified copy of the ordinance approving the Annexation, and the Annexation Plat shall be recorded in the official real estate records of Summit County, Utah.

21. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof may be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Petitioner or its successors or assigns; provided that, notwithstanding the foregoing, the City hereby consents to the assignment of the rights and responsibilities, and the benefits, of this Agreement, in whole or in part, to Boyer Plumb Park City, L.L.C. ("Park City Heights"), upon written notice to the City; and

provided that, in connection with and to the extent of any such assignment, Petitioner shall not have any further rights or responsibilities under this Agreement as and to the extent accruing from and after the date of any such assignment.

22. **Compliance with City Code.** Notwithstanding Paragraph 17 of this Agreement, from the time of Park City Council (the "City Council") approves of this Agreement and upon completion of the Annexation, the Property shall be subject to compliance with any and all City Codes and Regulations pertaining to the Property.

23. **Full Agreement.** This Agreement, together with the recitals and exhibits attached to this Agreement (which are incorporated in and made a part of this Agreement by this reference), contains the full and complete agreement of the parties regarding the Annexation of the Property into the City and there are no other agreements in regard to the Annexation of the Property. Only a written instrument signed by all parties hereto, or their successors or assigns, may amend this Agreement.

24. **No Joint Venture, Partnership or Third Party Rights.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto. Except as otherwise specified herein, this Agreement, the rights and benefits under this Agreement, and the terms or conditions hereof, shall not inure to the benefit of any third party.

25. **Vested Rights.** Subject to the provisions of this Agreement, Petitioner (or its assigns) shall have the right to develop and construct the Project in accordance with the uses, densities, intensities, and configuration of development approved in the Final MPD when approved, subject to and in compliance with other applicable ordinances and regulations of Park City.

Exhibits-

- A. Annexation Plat
- B. Legal Description
- C. Concept MPD

- F. Zoning Map
- G. Park City Heights Traffic Impact Study