



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 17, 1997**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 17, 1997.

A G E N D A

Closed Session - To be held in Work Session Room - Main Level

1:00 p.m. Property Acquisition

Work Session - To be held in Work Session Room - Main Level

2:30 p.m. Council Questions and Comments

3:00 p.m. Joint Meeting with Planning Commission

 Park City Mountain Resort Expansion Project

 HR-1 Amendments

 Comprehensive Land Management Code Amendments

Regular Meeting - To be held in Work Session Room - Main Level

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV WORK SESSION NOTES AND MINUTES OF JUNE 26, 1997

V OLD BUSINESS

 Consideration of Island Outpost Development Agreement

VI ADJOURNMENT

Posted: 7/14/97



**PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 17, 1997**

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

Toby Ross, City Manager; Jodi Hoffman; City Attorney; Linda Cook, Special Projects; Jerry Gibbs, Public Works Director; Lloyd Evans, Chief of Police; Pat Putt, Planning and Zoning Administrator; Myles Rademan, Public Affairs Director; Nora Seltenrich, Special Projects Manager; Mark Harrington, Assistant City Attorney; and Thomas O'Finnegan, Paralegal

Planning Commissioners Diane Zimney, Chris Larson, Bruce Erickson, Karri Hays, Fred Jones, and Jim Hier

Doug Clyde, President of Powdr Development (Park City Mountain Resort); David Belz, architect; Paul deGroot, contractor

1. **Council questions and comments.** Roger Harlan commented on the Parks and Recreation Board meeting and relayed that recommendations from the consultant on recreation facilities will be available to Council by the middle of August. Paul Sincock referred to a *Letter to the Editor* from the Park City Nursery offering advice on remediation of the entryway tree situation. Ms. Cook indicated that the Park City Nursery would not be free and its rate is \$35/hour for consultation. In response to a question from Paul Sincock, Jerry Gibbs explained that slurry seals have an abrasive surface. Chuck Klingenstein expressed his concern about using this material for trails and it was explained that the surface will become smoother with use. Chuck Klingenstein noted that he rode the gondola in Telluride which was part of the transportation plan for the mountain village, which has been very successful. He encouraged the development community to consider options other than ground transportation. Mr. Klingenstein suggested that the City become a sponsor of the Rocky Mountain Land Use Institute; Council agreed to contribute \$500 in consideration of the quality of programs provided by this organization.

Council agreed to attend a dinner with the School District and Summit County on August 27. Linda Cook reported to Ms. Kerr that there is a contract to prune the dead material on the entryway trees. Ms. Kerr complimented the new street lighting. She added that the damage on the municipal golf course from the cross-county ski trails is the most severe she has witnessed and felt that the Council should be more diligent next year about White Pine meeting conditions for setting the course. Paul Sincock disclosed that he talked about this with Kathy Sturgis of White Pine who explained the situation and there is a contingency of \$4,000 to \$6,000 in the new lease to mitigate any repairs to the course. There was discussion about irreparable damage and Mr. Sincock emphasized that White Pine is also concerned about the condition of the course. Ms. Kerr

commented on the success of the concerts in the park as that the parking problems seem to be alleviated. Lloyd Evans reported on the enforcement of the Police Department's alarm bond policy.

Hugh Daniels reported on his Utah League appointment to the Utah Sports Advisory Committee and described the membership. In response to questions from Mr. Daniels, Mr. Ross explained that Soaring Wings will have an identified oversized parking space at the Education Center. Pat Putt explained that the wood storage shed was allowed as a permitted use which was granted to Andersons Lumber a year ago; he will check into the chain link fence. Mr. Daniels pointed out that the number of reading pages of information distributed to Council is between 5,000 to 6,000 over the past six months. Myles Rademan announced the winning bumper sticker slogan, "A slower pace, a better place". Roger Harlan volunteered to contact Eric Schifferli about serving on the Summit County Sexually Oriented Business Ordinance committee.

2. Joint meeting with Planning Commission:

Park City Mountain Resort Expansion Project. Nora Seltenrich stated that the height variation is tentatively scheduled for Council action on August 14; there was a lot of input on this issue at the Planning Commission level. She added that there will be field trips arranged for Council members. Ms. Seltenrich explained that this project is a large scale master planned development which sets broad density, mass, and concept parameters by the Planning Commission. A large scale master planned development application would only come before Council if there is an appeal, call-up, or in this case, a height variation. The Commission approved this application after a couple of years of review and there will be more site specific review for determinations of meeting all conditions of approval including parking, approved plans, public improvements, etc. There is a lengthy list of conditions because of interlocal agreements and phasing plans. She continued that the staff is comfortable that the current proposal is feasible. The review did not include the gondola building and did not address the uphill improvements. The Commission felt strongly that before and concurrent with review of the expansion that there needed to be information about projects up the hill (Summit Watch). Both the Commission and the staff felt that the location of the bed base is consistent with the Comprehensive Plan and revised General Plan. There was real concern about the adequacy of skier parking and the recommendation from the Planning Commission was a balance of on-site and off-site parking and the transit system. If this was not adequate, there was agreement to again look at the transit issues in three or four years, which is a provision of approval. Ms. Seltenrich commented that there are traffic and circulation improvements proposed. The Mayor brought up the reluctance of the Marriott, for example, to designing a building not meeting the corporate formula, and Ms. Seltenrich noted that this project has developed differently. The staff and Commission focused on the massing of the structures and the location of densities and in order to communicate the intent of this to future property owners, created the volumetrics approach. Ms. Seltenrich added that the concept for the volumetrics is well articulated in the text. The volumetrics are greater than the allowable square footages. She felt that the architects spent more time on this plan than the Town Lift Project architects to determine if the

buildings will actually work which hopefully will eliminate requests for changes in the future. Chuck Klingenstein commented that he met with Doug Clyde of Powdr Development and feels more comfortable with the concept. Although Council may hear from the public, the Planning Commission shifted buildings around based on input. Nora Seltenrich discussed the plaza areas. The staff and Planning Commission supplied design guidelines so that the buildings were consistent with each other and fit in Park City. There was discussion about properties outside the City limits and properties not zoned Recreation Commercial but within the existing City limits. Ms. Seltenrich explained that there are conditions of approval addressing annexations or interlocal agreements with the property owners so that there is some control over development outside the existing City limits and the zoning of properties. Ms. Seltenrich, through illustration of a rendering, described the recreation open space and ski run areas, and the clustered development locations which are the bases for the height variation request. This proposal is outlined in the conclusions and findings of the Planning Commission. The findings and conditions included in the Planning Commission action deal with both the large scale master plan as a whole and a separate section dealing with the height variation and those findings are required according to the large scale master plan section of the Land Management Code. Ms. Seltenrich emphasized that this is not a variance, but rather is an action outlined in the LMC which allows for increases in height based upon certain findings being met, i.e., additional open space, architectural merit, etc. For the benefit of Paul Sincock, Ms. Seltenrich described a variance and reiterated the findings for allowing more height. She added that the height exception has been used in other cases including the Sweeney Master Plan, Snowcreek Development (before the existing plan) and other projects in Deer Valley. The height is being reviewed by Council because it is in excess of 25%. The height exception ties into parking and circulation, and if the height exception is not granted, the Mountain Resort would have to rethink the entire plan.

Planning Commissioner Chris Larson stated that the Planning Commission recognized the desirability to pull the density off of the hill and cluster it at the base of the resort. He continued that the number of units was directly tied to the number of skier parking places. Massing and volume could be moved around, but it couldn't be reduced without decreasing the number of skier parking spaces. Within that framework, the Commission articulated goals, including the massing and volumetrics. Mr. Larson added that the Commission wanted to step the massing away from the existing residential areas so it is more contextually friendly and minimize the shadow impact on surrounding existing development to preserve sunlight. Mr. Larson stated that the Commission felt it important that the project be accommodated by transportation services. All of these considerations lead to the height exception. He summarized that the Commission agreed that it was better to have density and higher heights at the base rather than have it sprawled across the hillside. Ms. Seltenrich added that the Commission felt that the base was the appropriate place for beds which is within the density allocation for the RC zone and the vote of the Commission for approval was unanimous.

Commissioner Fred Jones noted that the Commission has worked on specific language and diagrams dealing with volumetrics to make sure that the concept is clear and the tops

of the buildings do not come off. He emphasized that if there is a reduction in height, it must come off the bottom to avoid boxy structures. If there is a request to change the plan, there may be lost density in order to maintain the intent of the Commission. Mr. Jones added that keeping density at the base addressed transportation issues; it didn't make economic sense to build day parking underground. However, if the parking is not adequate, there is provision that the City has the right to control ticket sales until the situation is rectified. Mr. Jones explained that it is the responsibility of the resort to develop a parking control plan. Ms. Seltenrich added that the conditions dictate that as each phase develops, the parking needs are reevaluated, as future parking needs are not known at this time. In response to a question from Roger Harlan, Ms. Seltenrich explained that there will be no net loss in skier parking during the course of construction. There will be a net gain in parking over what is available today. Fred Jones reiterated the onus on the resort to provide sufficient parking, but the ultimate number is not known at this time.

Diane Zimney referred to a proposed building near Three Kings Condominiums where the Commission worked very hard to change the configuration, reducing the density. There was discussion about the size of existing buildings where most have an element that is above the existing zone height. Chris Larson explained that initially the buildings were more square and covered more area, but the Planning Commission supported moving density into other places and increasing the height. Karri Hays added the Commission felt the general density was appropriate for the area, however, she personally did not feel there were enough drop-off areas. She does not feel that the transportation system plan works well, particularly to service the lockers or routing for local workers. She felt that the exits from the parking structure were dangerous for pedestrians. Ms. Seltenrich added that the intersections and street widths are designed to accommodate buses and avoid gridlock and the need for police directing traffic. Ms. Hays wasn't sure if the Planning Commission fully addressed employee housing. Ms. Seltenrich relayed that although there is no underlying obligation for employee housing, there is a resolution indicating resort related projects should offset for the number of employees generated. She stated that there were two employee generation studies conducted, one by the applicant and one by the City. She added that the applicant is willing to build seasonal employee housing and the Commission and staff felt it important that the resort address the more permanent needs. Paul Sincock asked how the Council could address this issue when he felt the only decision was on height; Chris Larson responded that the Commission thought the Council would call-up the Planning Commission decision. Mr. Jones felt that the Planning Commission has no authority to dictate employee housing. Ms. Seltenrich indicated that she discussed percentages with the applicant.

Chuck Klingenstein pointed out the controversy with the height of the performing arts building and suggested alerting the community, perhaps with floating balloons. Fred Jones answered that the Commission wasn't convinced that balloons would be useful and the 3-D video would provide a much better perspective. Roger Harlan discussed the perspective of the buildings from the intersection of Jans and Cole Sports. Chuck Klingenstein again commented on his concern that people are aware of the prominence of this project and suggested having the video available to the

public at the Education Center. In response to a question from the Mayor, Doug Clyde of Park City Mountain Resort estimated the tower at the resort building to be 115 feet high and there was discussion of a building of comparable height behind the building. Roger Harlan felt that the height of the performing arts center is quite different because it is on flat ground, without the backdrop of the mountains. Ms. Kerr commented on the massive buildings at Beaver Creek which worked with the mountains behind them. There was discussion about fire suppression. Doug Clyde discussed the built-in fire protection systems in the buildings, so that special fire suppression equipment is unnecessary. There are no combustible materials used, water storage is on-site for the sprinkler system, and there are back-up systems on the hill.

Paul Sincock stated that he met with Mr. Clyde yesterday because there were discrepancies in the square footage calculations. He learned that the dimensions of the volumetrics are slightly larger than the building envelopes. Mr. Sincock proposed that if each building is reduced by one floor, parking would be reduced by 168 spaces. Twenty percent of the square footage would be decreased or 235,000 square feet which is about the size of a building. The reduction of parking is insignificant when considering 2,000 parking spaces. Shauna Kerr noted that if a building is added, development would cover more of the site and questioned if that is a desirable goal. Mr. Sincock stated that his biggest concern is the volume of traffic during peak times. Roger Harlan commented that he didn't feel the bed base would prompt a lot of traffic. Doug Clyde showed slides of the buildings, and pointed out the large setbacks and articulation of the structures. There was discussion of building materials, and Mr. Clyde noted that there will be a common theme. He discussed the elevation of Building A which has evolved through the process. In response to a concern from Paul Sincock about altering buildings after a sale, Mr. Clyde assured Council that control of the building will not be released until a CUP is approved. The 3-D video of the plaza area was then played.

HR-1 amendments. Hugh Daniels disclosed that he is part owner of a building in the HR-1 zone. Pat Putt explained that the committee and staff has been working on these amendments for about ten months. The group is composed of designers who looked at building heights and envelopes, garages, setbacks, and parking. The main focus was to give the design community and property owners the incentive to combine lots resulting in more lot area and better building articulation. He explained that they met seven times as a group, met with the Historic District Commission, and held two public hearings before the Planning Commission.

Mr. Putt explained there is a recommendation for a revised method for measuring building heights. The height would still be 27 feet, but measured from an averaged grade rather than existing or final grade. The amendment includes the elimination of floor area ratios, replaced with a building footprint limitation and volumetrics. There are different volumetric approaches depending on flat, uphill, or downhill lots. There would be the creation of a table in the LMC and a formula which would establish setbacks depending on lot size. There is an allowance for shared driveways and common garages that would require a conditional use permit, which currently is a master

planned development process requiring 60% open space dedication. Triplexes in the HR-1 District are prohibited as are lock-out rooms as a permitted use in the HR-1 and HRL. There is a clarification that bed and breakfast inns are conditional uses only in significant historic structures.

He explained that with regard to building size, setbacks would be determined by the lot size. Through illustration of slides, Mr. Putt discussed the building pad area and the building footprint within the pad area. He discussed the formula for determining the building footprint calculation. The amendment proposes a minimum front and rear setback of ten and ten and eliminates the total of 30 as it was found that the total requirement of 30 feet front and rear actually tends to work against people with historic structures. With regard to height, there was disagreement among members of the group, and a compromise proposal resulted. Paul Sincock added that there were always differing opinions in the process. Mr. Putt explained that it is proposed to change the method of measuring a building from existing or final grade to an average measurement which will provide points of measurement that are consistent at the beginning and end of construction. It was also felt there is a great distinction between different types of terrain. Through illustration of a slide, he explained how height would be measured on a flat lot. Mr. Putt pointed out that in the existing ordinance, nothing can go outside the volumetric line, except for chimneys.

Ms. Kerr asked why this proposal is better than measuring height at existing grade; the proposed method seems just as vulnerable to being altered at the end of construction. David Belz, architect, discussed limits of disturbance which would provide some consistency in measuring undisturbed areas. Bruce Erickson explained that if the average grade was an individual component of the ordinance it doesn't make sense. The average grade concept provides a concession to the architect to allow greater flexibility in height within the constraints of the 27 feet rather than the 33 feet. He continued that it is a three tiered process where average grade theoretically results in lower heights, and the volumetric eliminates the FARs. The goal is to get a better looking house that doesn't cover the entire site, and the garage goes away.

Mr. Putt explained how the uphill and downhill lots are measured and the corresponding volumetrics. He stated that the HDC endorsed the general concept on March 3, 1997. On March 26, there was a public hearing before the Planning Commission where there were concerns about issues relating to the downhill lots and the plate heights which were ultimately eliminated; there were minor adjustments made. The staff review team felt that the lack of limitation on the number of lot combinations may result in the creation of new large structures. Despite the control on the building height, footprint control, and increased setbacks, buildings may be out of scale with nearby historic structures. The downhill building envelope will result in larger building masses than currently permitted which may be inappropriate in context with smaller historic structures. The proposed amendments will not result in one story building structures and there is a fear that the building envelope will be maximized. Mr. Putt continued that the proposed amendments will not assure building articulation, especially on smaller lots where rectangular buildings would result. Consideration should be given in creating a conditional use permit review

process for development on steep sloping lots on a case by case basis and elimination of the FARs should not result in larger above-ground masses. The concept for creating incentives for lot combinations was strongly endorsed by the staff. He added that building footprints for duplexes on individually platted lots should be calculated as if the lots were combined. Ms. Kerr understood that common lot lines were not allowed and that is why there is a requirement for lot combinations.

Mr. Putt stated that the amendments were reviewed by the Planning Commission on June 18. The Commission supported lot combinations and the elimination of FARs in exchange for some sort of defined control on the setbacks and the building heights. It supported the creation of the table for setbacks and the elimination of the 30 foot total requirement and going back to the total of 20 feet; 10 front and 10 rear. The Commission supported the provisions for the allowance for shared driveways and common garages through a CUP and not an MPD which requires 60% open space. It supported the elimination of triplexes from the District and lock-out rooms as permitted uses in the HR-1 and HRL, and clarification on bed and breakfasts in historically significant structures. Mr. Putt explained there was no consensus on where to measure the building height and building volumetrics on downhill lots. There was discussion about a conditional use permit process that sets the same height standards for every building and if there is a request for a height variance, there would be performance criteria. The Planning Commission felt it appropriate to discuss this concept with the Council before the process continued.

The Planning and Zoning Administrator explained that the proposed legislation would eliminate the FARs in exchange for building height and setback restrictions. Because of the elimination of FARs and the incentives for lot combinations, greater lot area may produce better architectural interest addressing garage scapes on the street. The review and approval of the architectural detailing and articulation would still be reviewed by the HDC and building heights would be measured from average grade, not existing grade. Shared driveways and garages would be encouraged. He continued that larger building square footages may result from this proposal. There is a potential for construction impacts and the building height measurements and maximum building footprint calculations may be difficult for the public to understand. Mr. Putt stated that keeping the same standards in place would maintain the FARs and maximum house sizes, but there wouldn't be any incentive for lot combinations or the opportunity for greater architectural interest. Building height would be 27 feet above existing grade and a total setback of front and rear of 30 feet would remain in place. The building mass structures on steeply sloping downhill lots would remain a concern. Mr. Putt suggested that another alternative would be to define what Council supports from the existing and proposed legislation and direct staff to incorporate those elements into a new draft ordinance which would be forwarded to the Planning Commission.

Planning Commissioner Bruce Erickson explained that the original objective was to reduce the incentive to construct homes out of scale in the Historic District and as existing owners of historic homes are limited to one-story structures in many instances. There was an objective to keep garages off the street and to make the LMC more user-friendly and clear. The Planning

Commission reviewed a number of scenarios and concluded that downhill lots remain problematic and there was no consensus among Commission members where heights should be measured.

Commissioner Fred Jones agreed with Mr. Erickson and added that some members felt that the exemption of height on downhill lots probably needs to be removed. He felt that height should be determined through a conditional use process rather than a height variance process. Chris Larson believed that the measurement from average grade will produce higher buildings which in his mind is not a good thing. He added that the current LMC doesn't work now, but doesn't feel there is a general solution to the problem. Mr. Larson suggested the 27 foot height limitations for everyone and providing a conditional use process with performance criteria. He felt that there is a promulgation of a double standard in the Historic District for remodels/renovations and new construction. He emphasized that he would like to see a general case solution for downhill lots, but that is unlikely since a height exception may be appropriate in one case but not in others. Fred Jones commented that there may be incentives for not building garages. Mr. Erickson agreed with Mr. Larson with regard to downhill lots and performance criteria.

Paul Sincock interjected that the reason for the proposed change in measuring height was prompted by concerns of consistency. Chris Larson questioned if there is a problem with the current method of measuring, and Commissioner Karri Hayes stated that she felt people will build to the maximum. Shauna Kerr believed that some steep lots, platted on inadequate streets are unbuildable and owners have unrealistic expectations. She felt that this process is an exercise to make "some delusion of grandeur come true for some speculator". Ms. Kerr encouraged people to refocus on the goal of maintaining an historic district with structures of the right size and scale. She feared that this is an effort to create a document that will enable people to realize expectations on lots that are probably unbuildable. Bruce Erickson appreciated Ms. Kerr's comments and stated that the Commission has asked the City Attorney to provide an opinion on postponing decisions on steep lots until there is a determination of whether the lot is developable; that opinion is forthcoming. Ms. Kerr emphasized that the topography of the properties has not changed but the expectations have, buyers should beware. She added that this effort is to try to create a way to build on these lots and the Council is under no obligation to do this.

Paul deGroot, contractor, argued that the proposal doesn't make it easier to build on a downhill lot but offers versatility. He added that of course, buyers were aware of the topography when they bought lots, but the rules are getting stricter and it is inappropriate to make properties unbuildable. Ms. Kerr concluded that changing the method of measuring height, the volumetrics, and elimination of the FARs creates larger and higher structures. She emphasized that the goal of the Council when this was considered before was to make structures smaller and more compatible. Mr. deGroot emphasized the importance of balancing the interests of the property owners and the Historic District and felt that the net effect of the proposal is a "box", but a better looking box. In response to a question from Paul Sincock, Pat Putt felt that the elimination of the FARs will produce more square footage. Bruce Erickson explained that average grade will result in larger buildings

than the volumetric changes. David Belz pointed out that the LMC used to have a plate height measurement to assure that the elevation of the building on the perimeter could not be more than a certain height. For some reason it was eliminated and the existing language should have a provision that in no circumstances can that plate height be higher than two stories so that there is design flexibility. Bruce Erickson responded that the LMC should not rely on the architectural community to provide solutions to the Historic District and the LMC needs to be structured. Mr. Erickson requested direction from the Council to the Planning Commission. Ms. Kerr noted that with regard to the height variance, the topography of the lot has created the hardship and that may be the purer process. Bruce Erickson believed that the conditional use process would allow additional height for performance characteristics, i.e., detached garage or no garage, etc. Ms. Kerr expressed her concern about work load. Commissioner Erickson suggested that another solution is to stop exempting the Historic District from the Sensitive Lands Ordinance.

Mr. Harlan stated that he wasn't sure if a series of garages is that bad. Mr. Erickson responded that garages aren't necessarily bad, but are not in conformance with the character of the Historic District. If Council feels they are needed, the Planning Commission needs that direction. Chuck Klingenstein appreciated the work on this project, but felt that the document is not user-friendly. He supported the 27 foot height limitation and buildings that are compatible in mass, scale and square footage. Mr. Klingenstein emphasized that Old Town is not for everyone and there are other areas to build large homes. He would like to encourage lot combinations but not with the trade off of a large structure. Hugh Daniels noted that he has lived in Old Town for 15 years and agrees that it is not for everybody. He invited as much input from designers and architects as possible. Mr. Daniels felt the proposal was difficult to understand and that the conditional use permit process was the way to deal with downhill lots. He supported articulation of features and favored some projections in the setbacks like bay windows and porches. Mr. Daniels didn't feel that the language limitation on ornamentation on eaves was desirable and lot combinations beyond three would result in out-of-scale projects. He favored keeping the height and volume down. He noted that bed and breakfasts is the only conditional use outlined in Section 7.1. Although the legislation on this is good, he felt information could be updated and bed and breakfasts should be regulated so that they aren't lined up. Mr. Daniels added that they are allowed in other zones, and that should be specified in the LMC.

Pat Putt believed the direction to the Planning Commission is a 27 foot height limit for all lots, and a conditional use permit for additional height requests. It was decided that the Planning Commission again review average and final grade for measuring height. Ms. Kerr advised to eliminate the height exception for garages. Council didn't have an objection to the building size and footprint concept and agreed with Hugh Daniels regarding lot combination maximums. It was the consensus of Council to move the HR-1 amendments up to Phase 1 of the LMC amendment schedule.

Land Management Code amendments. Mark Harrington explained that this discussion is on format and process only and none of the documents have been through a public process. Although the LMC needs improvement, the Assistant City Attorney noted that it is a thorough document; it is a good starting point and works 75% to 80% of the time. He discussed the HR-1 amendment process which was a drawn out process involving the development community. Staff is suggesting a different approach which is primarily a procedural clean-up, resulting in some policy decisions. There will be an opportunity for the public to comment, and input from the planning staff to the task force. It is proposed that the draft will be a 3/4 page format with redline and strike-out so that changes are obvious and there is sufficient room to make comments and notes. There will also be editorial comments to clarify the reason for the change to the reader and he referred to a draft sample on non-conforming uses.

With regard to timing, Mr. Harrington explained that there will be three phases. The first phase includes general provisions/procedures, definitions, and MPDs and is targeted for completion of a draft on December 1. He stressed that it will then have to go through a review and public process and there is flexibility in the phasing. Chuck Klingenstein suggested including some flow charts under general provisions/procedures. He would rather see districts and regulations under Phase 1 as opposed to master planned moderate income housing development there. Toby Ross explained that this item will be combined with MPDs. He emphasized that districts and regulations encompasses the majority of material in the LMC. The City Manager noted that if Phase 1 is increased, the completion date could be altered. Paul Sincok suggested breaking up the districts and regulations section and moving components up to Phase 1. The Mayor recommended that the task force advise Council on the progress of phases on an on-going basis. Mr. Harrington explained that the drafts will go to the Planning Commission, a public hearing will then be held. He didn't expect a lot of public input because the changes are procedural in nature. The Planning Commission will make a recommendation to Council and a public hearing will be held.

Mr. Harrington explained there are four formats outlined for Council consideration. He described the illustrative format which is user-friendly because of photographs and graphics. It includes all information relating to the section so the reader doesn't have to refer to other chapters. This full page format makes the document lengthy and editing is a little more difficult because of graphics. He discussed the outline format which is a 3/4 page approach accommodating note taking. Mr. Harrington advised that styles can be mixed. He explained the neo-traditional format which looks like the current LMC; it is a full-paged referencing document. He referred to the Code-Co format which is used for the City's Municipal Code; it is a two column page approach and more text can be inserted on a page. Editing is more intensive, because of the column format, but it is most widely recognizable as a code which may be beneficial. Mr. Harrington reiterated that the Council could mix and match. He preferred a combination of the outline 3/4 page approach with selective illustrations; there is no task force recommendation. Pat Putt advised that if the Commission and Council deems this a high priority, development projects may be delayed, and staff will need support when pressured by applicants. Mr. Harrington explained the current LMC is approximately 300

pages. By comparison a rewrite produces about two and a half pages of one page of the current LMC, and illustrative copy is approximately eight pages which would result in about a 600 page document. Code-Co would result in probably a 250 page document. Thomas O'Finnegan presented a slide presentation and explained the Folio™ program for searching information in documents.

Although the illustrative style was easy to read, Mr. Harlan felt it was too lengthy and therefore not user-friendly. Paul Sincock preferred the 3/4 page and inclusive approach with a comprehensive list of uses in each district. There was discussion about breaking down the districts and having separate district information available to the public. Ms. Kerr felt that most people will not use the 3/4 page format for notes. She suggested a Code-Co format as it saves paper and there still can be inclusive and illustrative information. Chuck Klingenstein stated that he didn't have a real preference except that it be inclusive. Ms. Kerr favored definitions in each chapter and Ms. Hoffman explained that words in initial caps will mean that they are defined. Paul Sincock noted that it may be helpful to have different color text and suggested having the LMC available on CD. It was the consensus of the Council to support a Code-Co illustrative approach.

Prepared by Janet M. Scott



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 17, 1997**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 17, 1997. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Pat Putt, Planning and Zoning Administrator; Bob Johnston, Leisure Services Director; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business. Hearing none, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

None.

IV WORK SESSION NOTES AND MINUTES OF JUNE 26, 1997

With no corrections or omissions noted, the Mayor requested a motion to approve. Shauna Kerr, "I so move". Roger Harlan seconded. Motion carried unanimously.

V OLD BUSINESS

Consideration of Island Outpost Development Agreement - Shauna Kerr brought up business interruption insurance coverage for White Pine during the construction and the City Attorney stated that it was never discussed. Tom Clyde, counsel for the applicant, felt that it would be coverage that the tenant would have and it is not the landlord's responsibility. He wasn't sure if they could purchase this type of insurance to cover a business that isn't theirs. Mr. Hoffman explained to Roger Harlan that the Pro Shop will be a condominium unit so that the City will have ownership of the facility. He addressed the provision about not bringing in competing food services on the premises, and staff advised that this is less restrictive than the current arrangement with Adolphs. Mr. Harlan reiterated his concern about sufficient parking when the hotel is full in the summer, and didn't feel this issue has been adequately addressed. Pat Putt explained that the project will contain 210 parking spaces which exceeds the requirement in the Land Management Code, and will exceed what is available now at the golf course. Staff was concerned that the parking not be over built and/or compromise the frontage protection zone. Ms. Hoffman added that if the hotel

determines that there is not sufficient parking for its operation, there is an option to use additional golf course area to build parking. Mr. Ross noted that structure parking costs \$20,000 per stall and there is no more area for surface parking. He stated that the determination for parking was the result of a parking study. Tom Clyde added that the original requirement was only 25 spaces, and through the negotiation process the City's position has changed from exclusive use of 25 parking spaces to shared use of 210. There may be peak day problems, but both parties are better off than with the old agreement.

Ms. Kerr brought up the expectation of Island Outpost with regard to priority of tee times. The language in the agreements refers to no preferential access rights greater than those afforded to other Park City hotel guests or second homes owners, and she questioned why it doesn't say no preferential rights greater than those afforded other golfers. Ms. Hoffman answered that locals are given preferential rates; Ms. Kerr clarified that she meant tee times and did not want tee times blocked for Island Outpost. Ms. Kerr didn't feel this is clear in the agreement. The City Manager explained that Island Outpost guests would have the same rights as other hotel guests in the City and condominium owners would be treated the same as second home owners. Second home owners can qualify for locals rates. With regard to tee times, the City Manager stated that there is no current program with hotels, but the Leisure Services Department is contemplating one. Mr. Johnston explained that local hotels are arguing that their guests should have some accommodation over and above the day visitor from Salt Lake. Ms. Kerr strongly believed that taxpayers should be accommodated versus others, and all "others" are "others"; the golf course is already operating at 110% of capacity. She didn't believe the City has the ability to make those distinctions between lodging guests and day visitors. Bob Johnston explained that the hotels are willing to pay full rates and it could be a revenue increase. Ms. Kerr reiterated that if the golf course was not operating at full capacity, the option would be viable, and shifting play to the hotel guest is not appropriate. Paul Sincock stated that the Island Outpost Hotel will promote itself as a golf course hotel in the summer and a ski hotel in the winter. He felt that summer guests will expect to get on the course as opposed to securing a tee time seven days in advance and believed that Island Outpost will pressure the City to block times. The Mayor suggested that this paragraph in the agreement be redrafted so Council's intention is clear and the golf course hotel is not receiving any special golfing rights. Ms. Kerr added that these minutes should become an attachment to the agreement, so that in the future if there is any question about the Council's intent with regard to preferential treatment and tee times for Island Outpost Hotel guests, it is clear. She believed the biggest concern of the community with regard to this project is that something the public has paid for and owns will somehow become a private amenity for the hotel. Tom Clyde felt that all parties are in agreement with this issue.

Paul Sincock, "I move to approve the development agreement as proposed for the Island Outpost Hotel including the amendment to Paragraph 19, as discussed". Roger Harlan seconded. Motion carried unanimously.

VI ADJOURNMENT



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

MEMORANDUM OF CLOSED SESSION

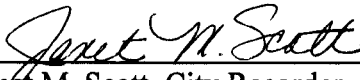
The City Council met in closed session at approximately 1 p.m. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney. Paul Sincock, "I move to close the meeting to discuss property acquisition". Shauna Kerr seconded. Motion carried unanimously.

The meeting opened at approximately 2:30 p.m.

* * * * *

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

Prepared by Janet M. Scott



Janet M. Scott, City Recorder



PARK CITY

1884

DATE: July 17, 1997
DEPARTMENT: Planning
AUTHOR: Nora Seltenrich
TITLE: Park City Mountain Resort
TYPE OF ITEM: Request for Height Variation

SUMMARY RECOMMENDATIONS: Work Session Only

DESCRIPTION:

PROJECT STATISTICS

Project Name: Park City Mountain Resort
Applicant: Powdr Corp.
Location: Base of the Park City Mountain Resort
Zoning: Recreation Commercial (RC)
Adjacent Land Uses: Ski Area, Multifamily Residential
Project Planner: Nora Seltenrich

A. Topic:

Powdr Corporation is requesting a height variation for a Large Scale Master Plan for the Park City Mountain Resort. Section 10.9(f) of the Land Management Code provides for heights to be approved in excess of those specified in the zone. This process is not a variance or a zone change. It is a process which was set up to provide flexibility in design and site planning. Because of the extent of the height variation being requested, City Council action is necessary. The purpose of this work session is to give the City Council some background information on the Large Scale Master Plan and to give the Planning Commission the opportunity to discuss their recommendation. The height variation action will be scheduled on an available Council agenda in August.

B. Background:

The City Council has received copies of the Planning Commission action on the Large Scale Master Plan and has received the approved project documents. The Planning Commission spent many hours working through the issues related to the Large Scale Master Plan. This review included, but was not limited to, consideration of issues relating to:

- Parking and transit alternatives
- Traffic mitigation
- Densities and uses
- Streetscape, landscaping and pedestrian circulation
- Open Space
- Construction phasing and mitigation
- Building height, design and volumetrics

If the Council would like specific information on any of these items, please let me know and I would be happy to provide you with additional detail.



CITY COUNCIL & PLANNING COMMISSION STAFF REPORT

DATE: July 11, 1997 (July 17, 1997 Meeting)
DEPARTMENT: Planning Department
AUTHOR: Patrick Putt *PP*
TITLE: Work Session: HR-1 & HR-L District Amendments

SUMMARY RECOMMENDATIONS: Following Council and Planning Commission discussion, Staff recommends that the Council identify what, if any, aspects of the current HR-1 and HRL regulations should be modified. Once such elements are identified, the Planning Staff can be directed to prepare a draft ordinance for the Commission's review and recommendation to the City Council.

DESCRIPTION:

A. Topic

The proposed amendments are to Section 7.1, Historic Residential (HR-1) and Section 7.14, Historic Residential-Low Density (HR-L) of the Land Management Code.

B. Background

In the fall of 1995, the City Council approved Ordinance 95-65 amending the Land Management Code, specifically, the Historic Residential (HR-1) District. The substantive changes caused by the amendments modified the maximum allowable height to 27'-0" versus the City standard of 28 feet for flat roofs and 33 feet for pitched roofs. In addition, the amendments modified the front and rear setbacks from 10 feet each to the front and rear setbacks totaling 30 feet, with a minimum of 10 feet each.

Since the adoption of Ordinance 95-65, several projects have been constructed under these 1995 amendments. Since many of these sites are identical in size and shape, they produce buildings of identical mass and scale with only applied ornamentation to differentiate them from their neighbors.

In addition, under the present HR-1 zoning, the method of determining the maximum square footage is a deterrent to lot combinations. Under the current ordinance, many property owners have opted to build two smaller homes versus one larger home. These additional buildings require additional parking, utilities, and create a repetitive streetscape. Houses with small street frontages are often dominated, architecturally, by garage door treatments.

Since September 1996, a design forum, including Staff, local architects and designers, Historic District Commissioners, and members of the public, have worked to develop an alternative set of amendments to address development in the residential areas of Old Town. The amendments include the following provisions:

Proposed HR-1 & HRL Amendments

- * a revised method of measuring the height of buildings (*27 foot building height measured from an average grade, not natural grade*).
- * creation of a lot combination incentive through the elimination of the HR-1/HRL Floor Area Ratio. The F.A.R. would be replaced by building volumetric and footprint controls. The proposal differentiates building volumetrics between up-hill and down-hill lots.
- * creation of a Land Management Code table to determine lot side yard setbacks depending on the lot width.
- * creation a Land Management Code table to determine lot front and rear setbacks depending on the lot depth.
- * allowance for shared driveways and common garages with conditional use permit approval (*currently requires MPD approval*).
- * elimination of triplexes as permitted uses within the HR-1 District.
- * elimination of lock-out rooms as permitted uses in the HR-1 and HRL Districts.
- * clarification that Bed and Breakfast Inns are only permitted as conditional uses within significant historic structures.

A copy of the revised amendments is attached to this report (*Exhibit A*).

Historic District Commission Action

On March 3, 1997, The Historic District Commission reviewed the concepts proposed in the attached amendments and forwarded a positive recommendation to the Planning Commission. A copy of the March 3, 1997 Historic District Commission minutes are attached to this report (*Exhibit B*).

March 26, 1997 Planning Commission Review

The Planning Commission held the first of two work public hearings on the proposed amendments on March 26, 1997. Following public input and Planning Commission discussion, the Commission expressed the following comments (*a copy of the public hearing minutes are attached to this report as Exhibit C*):

- * Eliminating the Floor Area Ratio is acceptable, in exchange for defined building volumetrics; however, the amendments should not result in increasing the mass of structures developed on 25 foot wide lots.
- * Incentives for lot combinations is a positive aspect of the proposal; however there should be a maximum limit on the number of lots allowed to be combined to prevent the creation of large structures out of context with the Historic District.
- * A better method for achieving building articulation needs to be developed. Buildings should be designed to step with the terrain.
- * Provisions should be added to limit the overall building height on downhill structures instead of the 33' maximum proposed in the 3/26/97 draft.
- * Establish a consistent 45 degree angle on the building volumetrics (instead of using 45 degree angles for flat and downhill lots and 30 degrees for uphill lots).
- * Eliminate the maximum plate height requirement.
- * The proposed amendments may not result in incentives for lot combinations, and may increase the building size on 25 foot wide lots.
- * The overall height for downhill lots remains a concern.

Post-March 26, 1997 Design Forum Amendment Revisions

Following the March 26, 1997 Planning Commission meeting, the design forum met to discuss the Commission's comments and made the following changes to the proposed amendments:

- * eliminated the maximum plate height and 33' maximum height for downhill lots
- * additional language clarifying how the volumetrics will be calculated for wider and/or deeper lots.

Planning Department & Interdepartmental Staff Review Team Comments

The proposed amendments and post-March 27, 1997 supplemental revisions have been reviewed by the Planning Department and Interdepartmental Staff Review Team. The Planning Department and Staff Review Team supports the goal of creating incentives for lot

combinations. Increasing opportunities for greater architectural interest for structures on 25 foot wide lots, encouraging common driveways and common parking garages, and eliminating triplex and lock-out units are also endorsed; however, Staff is concerned with the following aspects of the current proposal, including:

- * the lack of limitations on the number of lot combinations may result in the creation of new structures out of scale with nearby historic structures despite increased setback requirements;
- * the proposed downhill building envelope will result in larger building masses than currently permitted which may be inappropriate in context with smaller historic buildings.
- * the proposed amendments will not result in one-story building elements (*structures will maximize the proposed building envelopes*).
- * the proposed amendments will not assure building articulation. Consideration should be given to methods which will vary building massing floor to floor.
- * consideration should be given to creating a conditional use permit review process for development on steeply sloping lots to better analyze potential impacts, mitigation, and alternatives on a case-by-case basis.
- * Eliminating the Floor Area Ratio should not result in larger above-ground masses.
- * For duplexes on individually-platted lots, the building footprint should be calculated as if the lots were combined.

June 18, 1997 Planning Commission Review

The Planning Commission held a second public hearing on the draft ordinance amendments on June 18, 1997. Following the public hearing discussion, the Commission determined which elements of the draft ordinance amendment it supports in concept. Those elements are:

- * creation of a lot combination incentive through the elimination of the HR-1/HRL Floor Area Ratio. The F.A.R. would be replaced by building volumetric or building height and footprint controls.
- * creation of a Land Management Code table to determine lot side yard setbacks depending on the lot width.
- * creation a Land Management Code table to determine lot front and rear setbacks depending on the lot depth (*reversion back to a 10 foot front and rear minimum setback and elimination of the combined 30 foot front and rear setback requirement*)

- * allowance for shared driveways and common garages with conditional use permit approval (*currently requires MPD approval*).
- * elimination of triplexes as permitted uses within the HR-1 District.
- * elimination of lock-out rooms as permitted uses in the HR-1 and HRL Districts.
- * clarification that Bed and Breakfast Inns are only permitted as conditional uses within significant historic structures.

No consensus was reached regarding whether or not height should be measured from natural/finished grade or from an average slope line. The Commission stated that building heights did not present a problem on flat and uphill lots, but were an ongoing problem on steeply-sloping down hill lots. The Commission discussed the possibility of implementing a conditional use permit review process for steep downhill lots. It was the conditional use permit discussion which lead the Commission decision to request a joint meeting with the Council to discuss this matter. (*The Planning Commission's work session and public hearing minutes are attached as Exhibits "D" and "E".*)

C. Alternatives and Discussion Issues

Following the presentation of the amendments and public input, the Planning Department suggests that Council and the Planning Commission review the following alternatives and use Staff's evaluation of significant impacts as a discussion outline.

1. Adopt the proposed amendments.

Significant Impacts

- * Floor Area Ratios in the HR-1 District will be eliminated in exchange for building envelope restrictions.
- * Because of the elimination of the FARs, an incentive to combine lots will be created. Greater lot area may promote increased architectural interest, i.e. reduce "garage barrage". Review and approval of architectural detailing and building articulation will continue to be reviewed by the Historic District Commission.
- * Building height will be measured from an average grade, not existing grade. Datum points for building height measurements (*high point and low point of lot located at the building setback lines*) will remain constant, thereby allowing a greater ability to verify heights after construction.
- * Shared driveways and common parking garages will be encouraged. A conditional use permit, not an master planned development process, will be required to review shared driveways and/or common garages.

- * Building mass for downhill lots may increase as a result of this proposal despite building articulation.
- * Larger building square footages may result from this proposal despite building articulation.
- * No maximum house size will be established. The lot area and building volumetrics will control sizes of structures.
- * Additional construction impacts, i.e. increased excavation and grading activity, may result from this proposal
- * The proposed building height measurements and maximum building footprint calculation may be difficult for the public to understand.

2. Define what elements of the proposed amendments should be revised, modified, or deleted and direct Staff to prepare a new draft for possible action. Revisions could incorporate specific elements of the proposed amendments (and/or other revisions) which the Council and Planning Commission determines appropriate.

Significant Impacts

- * Aspects of the proposal that could be revised include:
 - creation of other lot combination incentives (*in addition to eliminating the FARs*)
 - adjustments to building heights and setbacks that are determined to be appropriate by the Planning Commission.
 - additional incentives for shared driveways/common parking areas
- * Further revisions and the preparation of a new draft ordinance will result in additional time before action on item would occur.

3. Maintain current HR-1 development standards.

Significant Impacts

- * Floor Area Ratio will remain in place. Maximum house sizes will remain a product of the FARs and lot size.
- * No incentives for lot combinations will be created.
- * The ability to promote opportunities for increased architectural interest for 25 foot wide lots (*i.e. combating "garage barrage"*) will not be increased.
- * The present building height and setback limitations (*27 feet above existing grade and a*

total 30 foot front/rear setback) will remain in place.

* The building mass of structures built on steeply-sloping downhill lots will remain a concern.

D. Staff Recommendation: The Planning Department will review the proposed amendments with the Planning Commission and present a photographic overview of houses constructed prior to and after the adoption of the most-recent HR-1 amendments (*Ordinance 95-65*). New illustrations comparing the existing and proposed legislation will also be provided.

Following Council and Planning Commission discussion, Staff recommends that the Council identify what elements of the proposed amendments should be incorporated into the Land Management Code. The current proposed elements include:

- * a revised method of measuring the height of buildings.
- * elimination of the HR-1/HRL Floor Area Ratio which will be replaced by building volumetric or building height and footprint controls which differentiates between up-hill and down-hill lots.
- * creation of a Land Management Code table to determine lot side yard setbacks as a function of lot width.
- * creation a Land Management Code table to determine lot front and rear setbacks as a function of lot depth.
- * allowance for shared driveways and common garages with a conditional use permit approval (*currently requires MPD approval*).
- * elimination of triplexes as permitted uses within the HR-1 District.
- * elimination of lock-out rooms as permitted uses in the HR-1 and HRL Districts.
- * clarification that Bed and Breakfast Inns are only permitted as conditional uses within significant historic structures.

Following Council and Planning Commission discussion, Staff recommends that the Council identify what, if any, aspects of the current HR-1 and HRL regulations should be modified. Once such elements are identified, the Planning Staff can be directed to prepare a draft ordinance for the Commission's review and recommendation to the City Council.

EXHIBITS:

Exhibit A: Draft LMC Amendments

Exhibit B: March 3, 1997 HDC Minutes

Exhibit C: March 26, 1997 Planning Commission Public Hearing Minutes

Exhibit D: June 18, 1997 Planning Commission Work Session Minutes
Exhibit E: June 18 Planning Commission Public Hearing Minutes

CHAPTER 7. DISTRICTS AND REGULATIONS

7.1. HISTORIC RESIDENTIAL (HR-1) DISTRICT

7.1.1. PURPOSE.

The purpose of the Historic Residential HR-1 District is to: (1) allow the preservation of the present land uses and the character of the historic residential areas of Park City, and (2) to encourage the preservation of historic structures and ~~the construction of new structures that preserve and construction of historically compatible structures which~~ contribute to the character of the District. ~~and to encourage densities of development that will preserve the desirable residential environment and densities which are consistent with the inherent constraints on development within the narrow canyon areas and on areas that may have steep or substandard street systems;~~ and (3) to encourage development of lot combinations.

7.1.2. PERMITTED USES.

~~In the HR-1 district, no building or structure shall be erected which is arranged, designed, or intended to be used, or which is used for any purpose other than those purposes designated on the Land Use Table as being permitted uses (designated by the letter "A") or conditional uses (designated by the letter "C"). All other land uses are prohibited.~~

Permitted Uses within the HR-1 district are:

1. Single-family residential
2. Two-dwelling structure, duplex
3. ~~Three-dwelling structure, triplex~~
3. Accessory buildings and uses
4. Rental of dwelling for less than 30 days
5. In-home offices and occupations, without employees and not open to the public

Conditional Uses within the HR-1 district are:

1. Bed & Breakfast Inns in historic structures only
2. Multi-dwelling structure of more than two units
3. Guest house (on lots of more than one acre)
4. Ski runs, ski bridges and/or ski lifts
5. Essential municipal and public utility uses, facilities and services.
6. Temporary building for construction management and/or sales activities with respect to a project under construction.
7. Master planned development with residential and transient lodging uses only.

8. Commonly owned garage for four or more cars.
9. Group, child or family care facilities. Requires administrative permit with annual renewal provisions.

7.1.3. LOT SIZE AND COVERAGE REGULATIONS.

(a) Lot Size. The minimum lot area for any lot created after ____ 1997 shall be 1,875 square feet for a single family residence; 3,750 square feet for a duplex and ~~5,625 square feet for a triplex.~~ The minimum width of a lot shall be 25 feet, measured 15 feet back from the front lot line. ~~The Historic District Commission advises that all resubdivisions of lots within the HR-1 zone comply with a standard lot size of approximately 25 x 75 feet. Because combinations of lots are permitted for larger structures, development potential of resubdivided parcels is not affected. However, smaller lots do allow the potential for the development of smaller single family structures, while resubdivisions into larger lots promotes the construction of larger houses, duplexes, and triplexes.~~

(b) ~~For lots 1,871 sq. ft. and smaller, the maximum floor area shall be no greater than 1,687 square feet within the HR-1 Zone. The floor area of all new structures constructed within the HR-1 District on lots greater than 1,875 square feet shall be limited by the Floor Area Ratio (FAR) which shall be the Floor Area as defined in Chapter 2, divided by the total area of the lot or parcel. For lots greater than 1,875 sq. ft., the floor area ratio shall be .9 for the first 1,875 sq. ft., plus 30% of the additional lot square footage. The maximum square footage is calculated by the following formula:~~

$$\text{MAXIMUM FLOOR AREA} = 1687 + (.30 \times (\text{Parcel Size} - 1875))$$

~~In calculating the FAR for a single family structure, 400 square feet may be added to the total floor area for a two car garage after calculating the FAR. For duplexes, triplexes and multi unit structures, the garage addition shall be 100 square feet for each residential unit. In an effort to further maintain Park City's Historic District, this Floor Area Ratio requirement shall not apply to renovations, additions, or expansions to historic structures (structures at least 50 years old, as approved by the Historic District Commission).~~

(b) Building Pad. The building pad is defined as the total lot area minus required front, rear and side yard setbacks as set forth herein.

(c) Building Footprint. The building footprint is the total area of the foundation of the structure, located within the building pad area. The

maximum footprint area of any residence shall be calculated as follows:

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP = maximum footprint area and A = lot area. Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.9^2 = 1,875 \times 0.81 = \underline{1,518.75 \text{ sq. ft.}}$

See Table-7.1 for a schedule equivalent of this formula.

- ~~(c) Side Yard. The minimum side yard for a single family structure shall be three feet. The minimum side yard for any structure of two units or more shall be five feet.~~

~~For structures on lots from 25 to 50 feet in total width, the sum of the side yard setbacks must be a minimum of ten feet. For structures on parcels from 51 to 75 feet in width, the sum of the side yard setbacks must be a minimum of 15 feet with a minimum of five feet on one side. For structures on parcels greater than 76 feet total width, the side setbacks must be a minimum of ten feet each.~~

- (d) Side Yards. The minimum side yard for a single family or duplex structure shall be three (3) feet. Side yards shall be increased for larger lots greater than 25 ft. in width, as per Table-7.1 below.

- ~~1. A side yard shall not be required between structures designed with a common walls on a lot line. The longest dimension of buildings thus joined shall not exceed 50 feet.~~
- ~~2. Section 8.14 shall not apply, except for projections of less than four inches as specified in Section 8.14(a) and for the allowance for a driveway as specified in Section 8.14 (h).~~

1. A driveway leading to a garage or parking area is permitted; however, a side yard cannot be used for a temporary or permanent parking area, nor for storage of any kind (except temporary storage during construction).

- ~~3.~~ 2. On corner lots, any yard which faces on a street for both main and accessory buildings shall not be less than 10 feet.

- ~~4.~~ 3. Site plans and building designs shall resolve snow release issues to the satisfaction of the Chief Building Official to prevent a safety hazard. ~~to~~

~~minimize the impacts of snow shedding on adjacent properties and/or improvements.~~

~~(d) Front and Rear Yard. Front and rear yard setbacks must total a minimum of 30 feet, each with a minimum of ten feet. Parcels with depths of 50 feet or less shall maintain a minimum front and rear yard setback totaling 20 feet, each with a minimum of ten feet. Accessory buildings shall have a minimum rear setback of one foot from the rear property line. On corner lots which rear upon the side yard of an adjacent lot, accessory buildings shall be located no closer than five feet to the rear property line.~~

~~(e) Front Yard. The minimum depth of the front yard for all main buildings and accessory buildings, including garages, shall be 10 feet. be based on the size of the parcel. On parcels 100 feet deep or less and 75 feet wide or less, the front setback must be ten feet. On parcels between 75 feet and 100 feet deep and of greater than 75 feet width, the front and rear setback must total 25 feet with a minimum of ten feet. On parcels deeper than 100 feet, the front and rear setbacks must total 30 feet, with a minimum of ten feet. Open parking spaces may be permitted in the front yard area, but not within the minimum side yard area. "Open parking spaces" does not include carports.~~

TABLE 7.1

Lot Width, ft.	Side Yards Min.	Side Yards Total	Lot Area Sq. ft.	Bldg. Pad Sq. Ft.	Max. Bldg. Footprint	% Lot Coverage
25.0	3 ft.	6 ft.	1,875	1,045	844	45.0%
37.5	5 ft.	10 ft.	2,812	1,513	1,200	42.7%
50.0	5 ft.	14 ft.	3,750	1,980	1,519	40.5%
62.5	5 ft.	18 ft.	4,688	2,723	1,801	38.4%
75.0	10 ft.	24 ft.	5,625	2,805	2,050	36.4%
87.5	10 ft.	30 ft.	6,563	3,163	2,273	34.6%
100.0	10 ft.	36 ft.	7,500	3,520	2,460	32.8%

For existing HR-1 lots less than 1,875 sq. ft. the same formulas shall apply.

See Fig. 7.2 below for an example of this table.

Front and rear yard setbacks shall be as follows:

Lot Depth	Min. Front Setback	Total of Setbacks
Up to 75 feet	10 feet	20 feet
76 to 100 feet	10 feet	25 feet
Over 100 feet	10 feet	30 feet

~~7.1.5. BUILDING HEIGHT. Structures shall be erected to a height no greater than 27 feet as defined in Section 8.17. (See Historic District Design Guidelines for additional design criteria.)~~

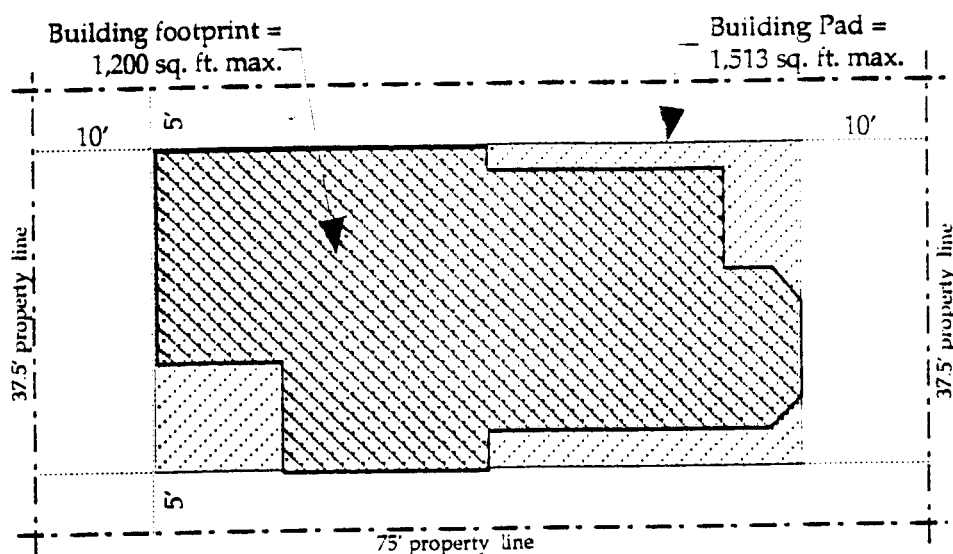


FIG. 7.2 EXAMPLE

~~7.1.5-7.1.4 BUILDING HEIGHT AND VOLUMETRICS.~~ The maximum height and above ground cross sectional area of the building shall be as follows:

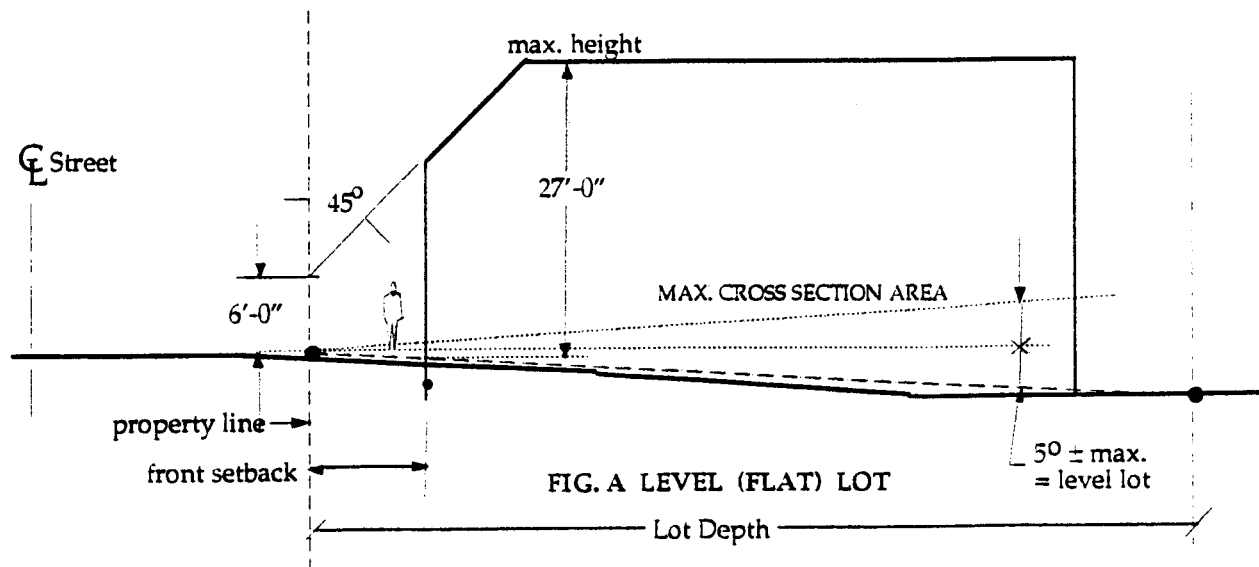
- (a) Level or down-slope lots. The maximum building height shall be twenty seven (27) feet above the intersection of the average slope line and the face of front setback and shall extend a maximum of thirty-six (36) feet from the front property line (except for level lots). No portion of the building shall intrude into a plane of forty-five (45) degrees from vertical as measured from a point six (6) feet above street grade at the front, centerline of the property. The maximum height at the rear of the structure shall be twenty-seven (27'-0") feet above the intersection of the average slope line and the face of rear setback. No portion of the structure shall intrude into a plane which connects the maximum rear building height and the maximum building height. See FIG A & B below. The "average slope" of a lot is defined as the angle from horizontal between the highest elevation of the road centerline along the front lot line and the lowest elevation along the rear lot line.¹

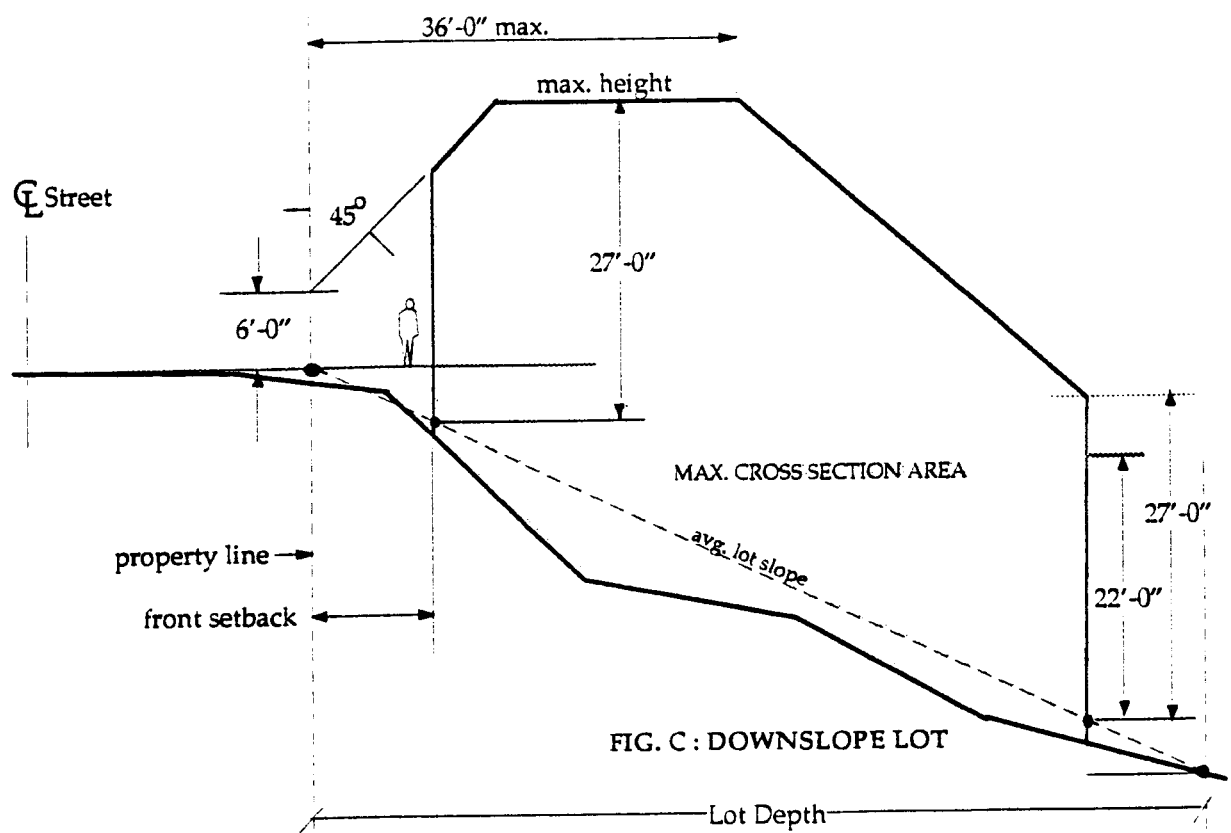
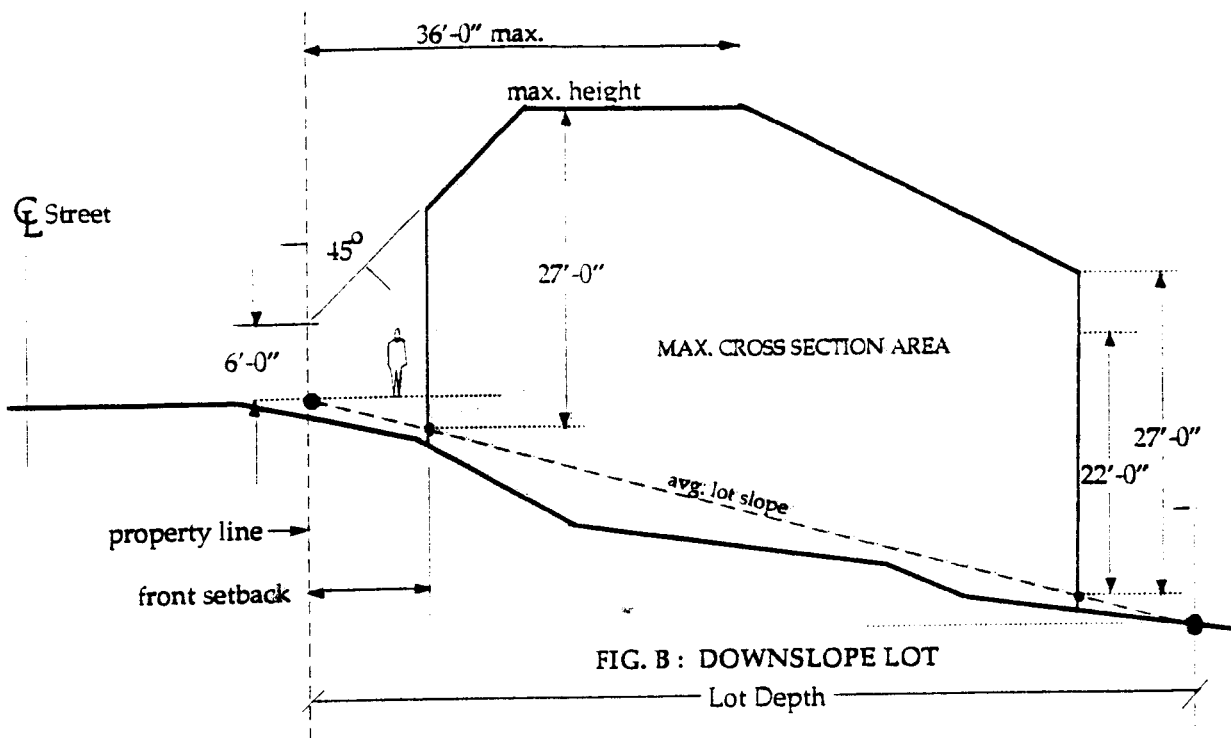
(1) A "level lot" is defined as any lot where the average slope (as defined above) is no greater or less than five (5) degrees from horizontal.

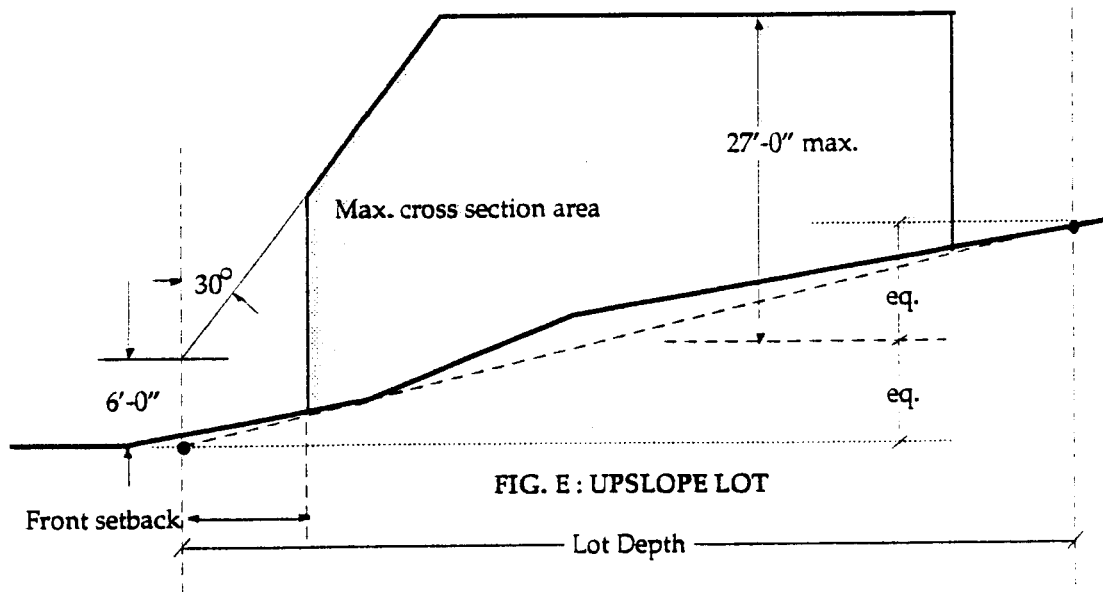
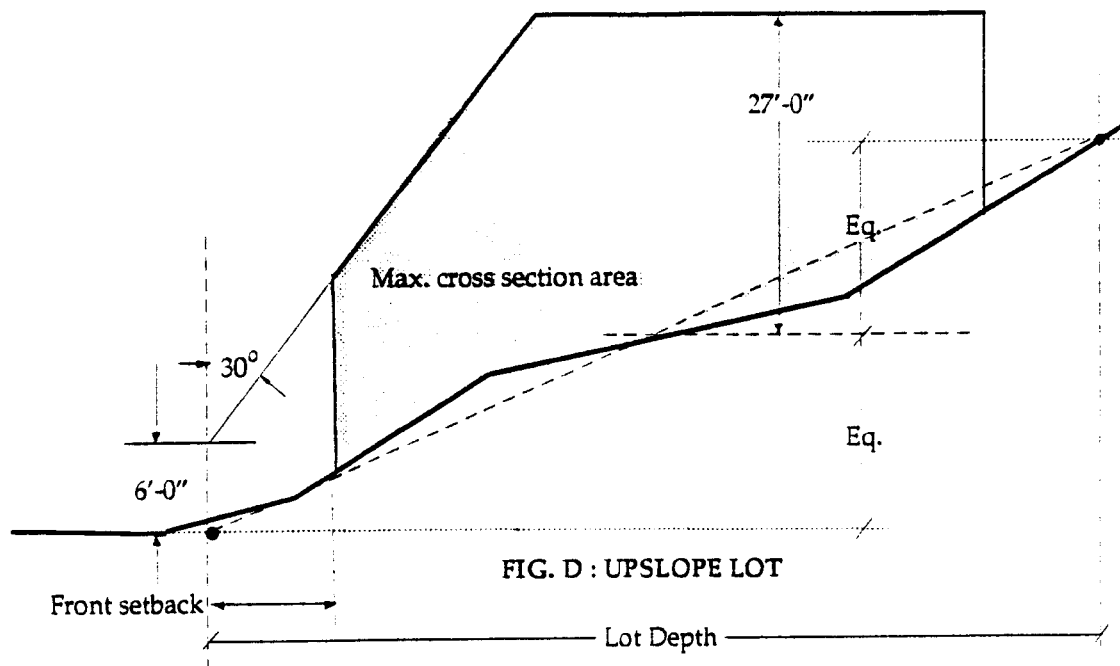
- (b) Up-slope lots. The maximum height at the rear of the structure shall be twenty-seven (27) feet above the average of the highest and lowest points used to determine the "average slope" of the lot as defined in 7.1.4a above. No portion of the building shall intrude into a plane of thirty (30) degrees from vertical as measured from a point six (6) feet above street grade at the front, centerline of the property.¹ See FIG C & D below.

¹Datum points for height measurements shall be established at 50 Foot width increments. Lots over 100 Feet in depth shall have datum points no further than 75 feet from either upper/lower datum point previously defined.

- (c) Maximum height defined. The maximum height is the highest point on the ridge of a hip or gable roof. Roofs not clearly fitting any of the above two classifications shall be classified by the Community Development Department in accordance with the roof classification it most resembles.







- ~~(1) Antennas, chimneys, flues, vents, or similar structures may extend up to five feet above the specified maximum height limit for the zone.~~
- ~~(2) Water towers and mechanical equipment may extend up to five feet above the specified maximum height limit.~~

7.1.5 BUILDING ENVELOPE. The above building pad, footprint, height and volume restrictions (7.1.3 & 7.1.4 above) are intended to define the maximum building envelope in which any structure can be built.

- (a) Decks (covered or open) shall be contained within the building pad area. No deck may be enclosed unless its area is included in the allowable building footprint area.
- (b) Ordinary projections of window sills, belt courses and ornamental features may extend up to four inches (4") beyond the building envelope.
- (c) Antennas, chimneys, flues, vents, or similar structures may extend up to five feet (5'-0") above the maximum height limit.
- (d) Roof overhangs shall extend no more than 12" beyond the building envelope.

7.1.4. 7.1.6 SPECIAL PARKING REGULATIONS.

All regulations governing parking in this zone are as set forth hereinafter:

- (a) Tandem parking is permitted for ~~single family and duplex~~ dwellings in the Historic District.
- (b) To encourage the location of parking in the rear ~~and/or below grade,~~ common driveways ~~may be~~ are permitted along shared side yard property lines ~~where these drives~~ to provide access to parking in the rear of the main building. Restrictions or reciprocal easements on deeds to both properties, to the satisfaction of the City Attorney, must provide for the preservation of such a shared drive.
- (c) Common parking ~~facilities are encouraged~~ ~~may be permitted, upon approval of the Planning Department,~~ where such a grouping ~~may facilitate~~ facilitates:
 - (1) the development of individual buildings that more closely conform to the scale of historic structures in the district as defined in the design guidelines, and
 - (2) the reduction, mitigation or elimination of garage doors at the street edge. Parking structures may be permitted, provided that the structure

maintains all yard set backs above grade, but may occupy below grade side yard areas between participating developments. *Providing common parking facilities to adjacent residential properties will require a Conditional Use Permit, not an MPD process.*

(d) ~~It is the City's policy to consider allowing a portion of the length~~ A portion of a code required parking ~~stall stall's length to~~ may be placed within the City right of way, subject to the City Engineer's ~~approval determination, provided that The City Engineer shall consider the likelihood of~~ future roadway changes, utilities, and other health/safety considerations, which may render parking in the right of way unacceptable, *are unlikely in the long term.*

(e) *It is the City's policy to consider allowing driveways sited between structures to eliminate garage doors facing the street. Minimum width for a driveway shall be 12'-0". Consideration for common driveways shall take into account the benefit of removing cars from streetside parking, minimizing street-facing garage doors and reducing paved driveway areas.*

7.1.7. SPECIAL REQUIREMENTS FOR CONDITIONAL USES. The following impacts shall be considered in reviewing conditional uses:

- (a) Scale of the building in relation to historic structures in the district.
- (b) The need for increased yard areas and the resulting impact on the established set backs in the block.
- (c) The impact of noise on nearby residences.
- (d) The impact of traffic and on-street parking in the block.

7.1.8. CRITERIA FOR BED & BREAKFAST INNS.

Bed and Breakfast Inns ("B&B's") may be approved as conditional uses by the Planning Commission. In making a determination whether a ~~Bed and Breakfast Inn~~ B&B use is appropriate, the Planning Commission shall consider the following criteria:

- (a) ~~Bed and Breakfast Inns~~ B&B's are *only* to be considered for structures of historical significance, whether or not they are officially listed on the National Register of Historic Places. As a part of the renovation of a structure as a B&B, every attempt will be made by the applicant to restore the structure

to its original condition so that it may become eligible for listing on the National Register, and provided the structure is brought up to current building code requirements.

- (b) ~~Bed and Breakfast Inns~~ B&B's are only appropriate for larger residential structures in the Historic District. The ~~houses~~ B&B should have a minimum of two rentable rooms. The maximum number of rooms will be determined by the applicant's ability to demonstrate that impacts such as parking and neighborhood compatibility can be adequately mitigated.
- (c) The length of stay for patrons of ~~Bed and Breakfast Inns~~ B&B's will be limited to less than 30 days (nightly rental).
- (d) It is preferable that ~~Bed and Breakfast Inns~~ B&B's have an owner/manager living on the site, but may, as a minimum requirement, have 24 hour on site management and check in. The check in facility may be off site if it is within close proximity of the ~~Bed and Breakfast Inns~~ B&B's .
- (e) Common kitchen facilities are allowed for the benefit of overnight guests only and are not intended to serve outside visitors. Individual kitchens within rooms shall not be permitted.
- (f) Signage shall be limited to one sign which shall not exceed six square feet in size. A permit must be obtained for the sign and it must comply with the provisions of the Park City Sign Ordinance.
- (g) Parking shall be provided on site at a rate of one space per rentable room. If no on site parking is possible, parking in close proximity to the ~~Inn~~ B&B shall be provided. The Planning Commission may waive the parking requirement if it is found that no on-site parking is possible and all alternatives for other parking have been explored and exhausted. The Planning Commission must find that the structure which is to be a ~~Bed and Breakfast Inns~~ B&B is not economically feasible to restore or maintain without the granting of the adaptive use. The burden of proof in requesting a parking exception shall be on the applicant. In no case may parking spaces on the downhill side of public streets and those partially or totally within the City right-of-way be counted toward parking requirement.

7.1.9. ARCHITECTURAL REVIEW. Prior to the issuance of a building permit (including a footing and foundation permit) for any conditional or permitted uses within this zone, the Community Development Department (hereinafter "CDD") shall review the proposed plans for compliance with this code and the Historic

District Design Guidelines. When the proposed plans for new residential construction and/or exterior remodeling (~~excluding decks or stairs~~) are determined by the CDD to comply with the Historic District Design Guidelines, the subject property shall be posted by the CDD and written notice shall be sent to property owners immediately adjacent to the property (properties directly abutting and across public streets and/or rights-of-way) by the CDD. The notice shall state that the CDD staff has made a preliminary determination that the proposed plans are in compliance with this code and the Historic District Design Guidelines.

The ~~property~~ posting and ~~written~~ notice shall include, but ~~is~~ ~~are~~ not limited to, the location and description of the proposed project and will establish a ten (10) day period in which the staff's preliminary determination of compliance may be appealed. ~~Such appeals by the applicant or adjacent property owners public of departmental actions on architectural compliance~~ shall be heard by the Historic District Commission, Appeals shall be by letter or petition and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project or subject property, reason for requesting the review. ~~and~~ ~~Such appeals~~ must be received by the CDD within ten (10) days from the date of the notice. The appeal shall be limited to the specific provisions of this Code that are violated by the action taken.

Property within this zone may be subject to subdivision regulations and covenants that regulate design, materials, yard and height more strictly than this Code. This Code does not supersede more restrictive provisions in private covenants. In addition, no structure within the zone may be painted or repainted without review and approval of the exterior color scheme by the CDD. *If a conflict exists between any provisions in this Chapter and other chapters of the code, this Chapter shall govern.*

**HISTORIC DISTRICT COMMISSION
MINUTES OF MARCH 3, 1997
PAGE 6**

City Senior Center and the Park City Fire Station across the street. It is the applicant's intent, if permitted to demolish the structure, to construct an 8-unit condominium project consisting of one-bedroom units only.

Commissioner Martz asked if the applicant could arrange a site tour of the structure. The applicant answered that the current owner would prefer not to disturb the tenant. Administrator Putt stated he could work with the owner to see if he would be willing to permit a site tour of the structure's interior. Commissioner Martz went on to say that seeing the inside really helps the HDC make a valid determination. Commissioner Petrie agreed. Commissioner Martz suggested that if viewing the interior was not possible, a group site tour of the outside would be helpful. Administrator Putt said that if the owner is not agreeable to a site tour of the inside, the HDC could meet at the site prior to the March 17 meeting to examine the exterior of the building.

MOTION: Commissioner Petrie moved continuance of this item pending a site visit to be held prior to the March 17 HDC meeting; Commissioner McReynolds seconded.

VOTE: Unanimous, 3-0 in favor.

4) **HR-1 Amendments:** Administrator Putt introduced the members of the Architectural Task Force who were in attendance at the meeting and were involved in the proposed amendments as follows: Paul DeGroot, Quentin Scott, David Belz, and Don Bloxham. Administrator Putt outlined the course of action desired at tonight's meeting. After the presentation of the proposed amendments, if the Commissioners are comfortable with them, a positive recommendation to the Planning Commission would be necessary to keep the amendments moving forward. The recommendation could include comments and concerns. Administrator Putt asked the Commissioners to bear in mind that there will be more public input and that what is presented tonight is not intended to be the final product.

He provided some history relating to the proposed amendments. In 1995, the HDC adopted changes to the HR-1 zone that were forwarded to the Planning Commission and on to the City Council. Those changes lowered the height to 27 feet and required front and rear yard setbacks to be a total of 30 feet. The Architectural Task Force has attempted to further revise the amendments and address some other problem areas; i.e., 25' X 75' lots and how to provide an incentive for lot combinations and disincentives for garage-dominated streetscapes.

Administrator Putt continued that the proposed amendments are what the Task Force members all agreed upon. The Building and Legal Departments have conceptually reviewed the amendments. One of the Planning Department goals is that the wording is consistent throughout the Land Management Code as it relates to these amendments.

**HISTORIC DISTRICT COMMISSION
MINUTES OF MARCH 3, 1997
PAGE 7**

Exhibit A of the HR-1 & HR-L Design Guidelines staff report is attached hereto and made a part of these Minutes. Exhibit A shows the current regulations and the proposed changes to those regulations. The proposed amendments would change the following:

- Redefine the method of measuring the height of the buildings.
- Eliminate Floor Area Ratios from the HR-/HR-L District which will be replaced by language which defines the allowable building volume.
- Provide a table to determine lot side yard setbacks depending on the lot width.
- Provide a table to determine lot front and rear setbacks depending on the lot depth.
- Excludes triplexes as a permitted use within the HR-1 zone.
- Eliminates lock-out rooms
- Differentiates building volumetrics between up-hill, down-hill, and flat lots.

Administrator Putt explained each of the proposed changes to the amendments for the Commission.

One of the regulations that causes the most concern relates to the allowance for Bed and Breakfast Inns and whether a B & B can be included in a new structure, as well as a historic structure.

Since the Task Force could not agree on a way to measure building heights in the HR-1 zone, they decided the best solution to this problem was to come up with volumetrics for a building envelope that was custom-tailored to the types of lots encountered in the HR-1 zone; i.e., a flat lot, a downslope lot, and an upslope lot. (See pages 5 through 8 of Exhibit A.) Additionally, it was decided formulas should be utilized in determining setbacks and building pad and building footprint sizes. The formulas are based on the lot size and eliminate the need for floor area ratios.

Each member of the Task Force was then given an opportunity to address the Commission and present their point of view regarding the proposed amendments. A common theme expressed by all Task Force members was an appreciation for staff's willingness to work with them to achieve a common goal.

HISTORIC DISTRICT COMMISSION
MINUTES OF MARCH 3, 1997
PAGE 8

Structures undergoing design work currently would need to adhere to the old guidelines until the Planning Commission and City Council ratify any amendments.

Commissioner Petrie is in favor of the methodology utilizing formulas to determine setbacks, etc. He also supports the theory of underground parking for structures in Old Town.

Commissioner Martz commented from his perspective in reading the staff report, it appears most of the larger issues causing concern are being addressed. He suggested the Task Force consider design solutions for the small percentage of extremely steep lots and how structures could be built on them. Commissioner Martz continued that he opposes Bed & Breakfast Inns being allowed in historic structures only and supports a modification in that regulation. He is in agreement with Commissioner Petrie that underground parking for new structures helps to eliminate "garage barrage" and successfully addresses the need for parking in the Historic District. He did express a concern that underground parking could seriously compromise the integrity of the drainage scheme in Old Town due to the lack of a consistent curb and gutter system.

Commissioner McReynolds expressed a worry that small hotels (Bed & Breakfasts) could easily multiply in the Historic District residential areas unless their approvals are carefully monitored. She continued that she is not convinced that enough incentive has been provided to encourage lot combinations in lieu of spec home development on each 25' X 75' lot. Under the proposed amendments, a home that is 1,000 square feet larger than what would be approved under the old guidelines could be built on a single lot. She is concerned that there is not enough of an incentive to utilize combined lots if a larger structure can be built on a single lot.

Chair White asked the Commissioners if they were ready to take action on the proposed amendments. He stated he was comfortable with the draft amendments and extended his thanks to the Task Force for their hard work.

MOTION: Commissioner Martz made a motion to forward a positive recommendation to the Planning Commission and further moved that the staff consider the comments and suggestions made by the Historic District Commission as the amendments move through the approval process. Commissioner Petrie seconded.

VOTE: Unanimous, 3-0 in favor.

The meeting adjourned at 8:15 p.m.

Approved by Historic District Commission: _____

MOTION: Commissioner Larson moved to APPROVE the Conditional Use Permit for a private club at 804 Main Street with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously, with Commissioner O'Hara abstaining from the vote.

6. Amendments to the HR-1 Zoning District

Administrator Putt reviewed this item, explaining that an ordinance was adopted in 1995 changing building heights in the HR-1 District to 27 feet and changing the sum of the rear and front setbacks to 30 feet. Since December 1996, the Staff, members of the design community, and members of the public have reviewed the ordinance to try to better deal with building heights and setbacks in the HR-1 and HR-L zones and to provide incentives for lot combinations. The draft of proposed amendments presented at this meeting is a consensus of concepts from the review group. The purpose of this meeting is to receive public input and direction from the Commissioners for the group to address.

Administrator Putt reviewed the proposed amendments as contained in the staff report and asked that the advisability of allowing Bed and Breakfast in new structures in the HR-1 Zone be addressed. By means of an overhead projector presentation, he reviewed the building pad and building footprint that would be allowed on various lot sizes in the HR-1 District as indicated in the table contained in the staff report. He also reviewed examples of how height calculations would be applied to flat, up-sloping, and down-sloping lots. He presented examples comparing building volumes according to the existing Code and the proposed Code amendments. He noted that there is a series of exceptions in the current Code, but other than chimneys, flues, and vents, no exceptions are proposed in the amendments.

In response to a question regarding decks above grade and whether they are included in the building envelope. Administrator Putt referred to page 9 of the draft amendment which states that above-ground decks shall be contained within the building pad area. At-grade decks would be exempted from the footprint. He confirmed that decks can be provided beyond the allowed living space as long as they stay within the building pad area.

Chair Jones opened the public hearing.

Quentin Scott, a member of the design group who developed the amendments, felt there were some other issues to be considered. He provided an example showing three individual lots with structures

on each of them, and an example showing a combined lot which would allow a bigger building, which makes more economic sense, but the overall building mass would be less than three individual structures. He felt lot combinations were the secret to making the proposal work. He recommended eliminating the FARs, because they did not make economic sense. The proposed amendment allows for more sensible planning, and he recommended that the FARs be eliminated.

Peter Barnes, a designer on the committee which developed the amendments, noted that the present situation is not working well. Looking at a volumetrics, he noted that the volume is the important thing. He reason for measuring from the recommended location is that, under the current Code, the point of reference for measurement disappears once a hole is dug. He explained that there must be fixed measurement points that can be referenced both before and after the building process. He explained that the artificial grade lines are created to establish that fixed point, and the group picked the heights, although he disagrees with some of them. He noted that the plate height came in the last few minutes of the last meeting, and his subsequent analysis is that it will not achieve what the group thought it would achieve at the time. He explained that the volume, height, or area analysis is not going to work, but that buildings must be thought of three dimensionally. He suggested that the Commissioners question the numbers developed in the proposed amendment. He explained that people are scared of big buildings, but as a designer, he is asking for an envelope he can work within as a designer and manipulate to provide some good architecture. A volumetric analysis would allow for that.

Fred Hahn, 1039 Empire Avenue, provided a history of the approval of his home and how it was planned within the existing height limit restrictions. He did not understand why it would be necessary to change those restrictions because he had proved that something nice can be built under the current restrictions. He addressed the up-sloping lots, and he felt the proposed amendments would create a massive-looking structure at the street level. The proposal would push the mass of the building toward the front by the street. He suggested eliminating the FAR on up-slope designs, allowing as much to be built underground as the applicant desires, because the envelope is already defined. He noted that the drawings in the packet are not accurate, and he felt that materials provided for the public should be accurate. It was his opinion that most people will be building on single lots, not combining lots. He felt the disincentive to combine lots had been removed, but no incentive has been given to combine lots. He felt that the current regulations on up-sloping lots should be maintained without the FARs and change the 30-degree angle to 45 degrees to provide good stepping up the

hill. He felt the snow shed would restrict the kinds of roof lines that could be designed.

Paul DeGroot, a designer involved in the process, addressed the streetscape. During the process, the group found that they agreed on more things than they disagreed on, and it is the streetscape that they are looking at. He felt the 1995 ordinance did not allow for versatility in the streetscape. Increasing setbacks did not make sense to him because there are not many regular lots left in Old Town. The lots that are left are irregular, shallow, triangular, etc., and the previous Code did not address that. The proposal allows for versatility, and people don't want to see buildings that are boxes, they want to see articulation and variety. He presented a drawing by Peter Barnes which is a study in angles. He noted that the theory of volumetrics is to see designs from a 3-D approach. He felt the proposal was close to a consensus, and he looked forward to the changes and adoption of the proposal.

Kevin King, the designer of Mr. Hahn's house, felt there were many good things in the proposal, and many issues yet to be resolved. He presented drawings of Mr. Hahn's house and explained that he could have designed it under either rule. He felt that what the proposal is trying to accomplish is a variation in volume and stepping back of the buildings. He suggested that the Code state that the buildings must be stepped back. He presented a drawing confirming that a 45-degree angle would work better than 30 degrees. He felt that cantilevering over the footprint needs to be addressed in writing. He noted that he had tried to convince a client to combine lots, and he would not do so because he would ultimately profit from building two buildings. He asked that lock-out apartments, accessory apartments, and accessory living quarters be better defined or lumped together. They are all slightly different in definition. He felt the building pad versus the footprint should be addressed in greater detail. He felt the uphill lot scenario works fine, but the problem has always been downhill lots, and he felt that volumetrics would solve that problem.

David Belz, an architect involved in the process, stated that there might be some disagreement as to the numbers, but there is consensus as to what they were trying to achieve and why it is important, although they may need refinement. He noted that, even with the proposed changes, a great number of the remaining lots will be built as single-family lots. However, if the Code is not modified, an even greater percentage will build on single lots because there is no incentive for lot combination. He felt there were several lots owned by one person, but because of the current Code, he would economically be forced to build two homes instead of

one. These changes would make it possible to achieve lot combinations of 1-1/2 to 2 lots as the ideal width for larger houses. With lot combinations there is an opportunity to create a greater porch element. He explained that the proposal includes more explicit detail about allowing combined parking facilities to service multiple houses above the property. For every house on which a porch front can be created instead of garage doors, the pedestrian character of Old Town will be enhanced and preserved. He reiterated the importance of the concept of stepping in the proposal, and he felt the Code modifications should encourage stepping. The three issues which he felt were most important in the proposal are the encouraging of lot combination, trying to eliminate garage barrage, and creating stepping.

Steve Deckert, a resident and planner in Park City, observed that the streetscape is not the only important factor. He felt that the backyardscape is also important, and he was concerned about 27 feet. As a planner, he was concerned about the footprint calculation. He felt it would work for small numbers of lot combinations, but the exponential decrease in the footprint would only allow a relatively small building on combinations of a large number of lots. He noted that Summit County does not look at the buildable portion of a lot with regard to taxation, they are taxed according to the size of the lot.

Kevin King commented that the City loses many opportunities to decrease garage barrage through lot combinations because the process is so cumbersome.

Chair Jones closed the public hearing.

Administrator Putt commented that he had received a letter from J. M. Moyes in support of the proposal.

Commissioner Larson felt the committee had done a good job and that lot combinations are a good thing. He agreed with Mr. Deckert's comment that there should be a limit to the lot combinations so they would not end up with 20,000-foot houses. He asked for a stronger method for describing the articulation of the proposed angles. He wanted to be sure that on single lots the building volume would not increase. He encouraged them to continue to work on the garage barrage problem. He was very uncomfortable about allowing B & B's in new structures. He felt they were used as a mechanism to save large historic structures, and he did not feel it was necessary to expand that into new structures. He challenged the 33-foot height and encouraged that it be pushed further down. He preferred utilizing a 45-degree angle instead of a 30-degree angle and suggested that the plate height be eliminated.

Commissioner Hays asked if there was another way to define or address "plate height" and asked that such definition be put into Section 7.1.4. She agreed with the comments regarding public input and stated that she needed more time to consider the public input.

Commissioner Zimney stated that it is apparent that the FARs are not working well. She felt that if this committee had been able to agree upon the proposed concepts, she felt they should be adopted.

Commissioner Calder felt that, from the public input received, it appeared that the incentives for lot combinations were not yet there. He felt there was still some room for discussion on angles. It appeared that stepping was important, and that is something that will have to be defined better.

Commissioner Zimney stated that, with regard to design guidelines, she would like to see the designers look at Park Meadows where everything looks the same and nothing can be changed.

Commissioner O'Hara felt this was an excellent first step, but it does not provide incentives for lot combinations, only disincentives. He encouraged the committee to find some incentives. He also did not want B & Bs to proliferate into new construction.

Chair Jones agreed with Commissioner Larson's comments. He challenged the group to come up with a way to assure articulation, and he asked that it not be based on maximum volumetrics but on some concrete method for doing so. On lot combinations, he felt the maximum size of a structure in Old Town should be addressed. On downhill lots, he was concerned about the lower height elevation maximums which has to do with where it is measured from.

7. 614 Woodside Avenue - Old Miner's Lodge - Final Subdivision Plat

Administrator Putt presented a history of the resubdivision site. The subdivision was created in November 1995 to eliminate the existing lodge building extending over a common interior lot line and to accommodate future development of a caretaker's or manager's unit, a garage, and a parking area. The project has moved to this point due to a Staff error in calculation of the square footage of the existing lodge. Staff believes that leaving this issue unresolved will be detrimental to everyone involved. The Staff is asking for a positive recommendation to be forwarded to the City Council. Then there would be a public hearing at the City Council level. The subdivision does not presuppose design approval, which will go through a design review process with the HDC. The adjacent property owners have serious concerns, including building design,

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
JUNE 18, 1997**

Present: Chair Fred Jones, Karri Hays, Chris Larson, Michael O'Hara, Diane Zimney, Patrick Putt

WORK SESSION

Discussion regarding appointment of Planning Commission Chair and Vice Chair

The Commissioners felt these appointments should be continued until July 9 when Jim Hier, the new Commissioner, is officially seated.

HR-1 Amendments

Administrator Putt provided background information on the process and some of the issues. He reviewed the current proposal contained in the Staff report and identified alternatives.

Administrator Putt used overhead exhibits to summarize the items resulting from the design forum in November 1996, including building envelopes, the distinction between uphill and downhill lots, building heights, garage sizes, FAR's, setbacks, parking, underground utilities, building materials, roof pitches, replication versus more contemporary architecture, and the process. Planning Commission involvement and non-complying 1970's buildings were discussed. The concept of incentives was discussed to address buildings that were built in the 1970's and early 1980's which might not be the most attractive in Park City. Other issues included land uses, B and B's in Old Town, and accessory apartments. Administrator Putt noted that this forum involved the Staff and designers who identified the lingering, nagging problems, tried to find solutions, and put together the ordinance proposal.

Administrator Putt also presented an overhead showing the points contained in the current HR-1 and HRL amendment proposal and what the changes would entail. The method for measuring building heights would be revised. Although 27 feet is the height that still appears in the ordinance, it will be measured differently. Instead of measuring from existing or final grade, the 27 feet will be measured from an average grade. Other changes include elimination of Floor Area Ratios in residential zones and replacing them with the building envelope or volumetric approach, with flexible building setbacks. A table will be contained in the document to identify the setbacks, which will be a function of the lot width. Another table will address front and rear setbacks. A provision would encourage shared driveways and common garages with a Conditional Use Permit. The current Code requires an MPD, but 60% open space is required with an MPD. The Staff and designers agreed that 60% open space in residential portions of Old Town is extreme and out of character with the open space traditionally seen

during the mining period. Because of the 60% open space requirement, it was felt that many people would elect not to do common garages. The new proposal would still allow a review by the Staff and the Planning Commission.

Administrator Putt noted that Land Use adjustments will be considered and triplexes will be eliminated in the HR-1 zone. Lockout rooms will be eliminated in the HR-1 and HRL District. Bed and breakfast inns will be permitted as conditional uses in significant historic structures, and the Staff recommends that they only be allowed in historic structures.

A third overhead indicated the change in setbacks and the tables describing how they work. Front, rear, and side setbacks are a function of the size of the lot, and Administrator Putt explained how the formula for the building footprint is set up.

Additional overheads showed three different scenarios on building heights. Administrator Putt read from the existing ordinance which stated that, for level or down sloped lots, the maximum building height shall be 27 feet above the intersection of the average slope line in the face of the front setback and shall extend a maximum of 36 feet from the front of the property line except for level lots. No portion of the building can intrude into the plane about 45 degrees from vertical as measured from a point six feet above the street grade at the front center line of the property. The maximum height at the rear of the structure shall be 27 feet above the intersection of the average slope line in the face of the rear setback. He explained how this works on downhill and uphill lots. He used examples of existing structures to demonstrate what building volumetrics will look like compared to what now exists. One example is the residence at 335 Ontario Avenue which represents an extreme case of a steep sloping downhill lot. Administrator Putt demonstrated the difference between what is currently allowed and what would be allowed under the proposed Code. He showed photos of buildings constructed prior to adoption of Ordinance 9565 in December of 1995 which were built under the prior code of 33 feet and 28 feet for downhill facade measurements. He also presented photos showing buildings constructed after the 1995 ordinance.

The recommendations for the current proposal were reviewed by the Historic District Commission which forwarded them to the Planning Commission with a positive recommendation. On March 27, the Planning Commission reviewed the proposal and held a public hearing, and Administrator Putt reviewed a summary of comments made by the Planning Commissioners at that time. They favored limiting the Floor Area Ratio in exchange for defined building volumetrics; however, the amendment should not result in increased mass for

structures on 25-foot-wide lots. The Planning Commission felt an incentive for lot combinations was positive, but most of the Commissioners felt a maximum number of lot combinations should be allowed in order to control the possibility of extremely large structures being built. They wanted additional mechanisms for achieving building articulation and felt that additional provisions should be made to limit the overall building height on downhill lots instead of the 33-foot maximum proposed. They felt it was important to establish a 45-degree angle on building volumetrics. The Planning Commission agreed that the amendments might not result in the incentive for lot combinations and might increase the building size on standard 25 x 75-foot lots. There was a concern that overall height on the downhill lots is still a problem.

Administrator Putt reported that, following the March 27 meeting, the design forum met several times. Two items resulting from those discussions were elimination of the flat height restriction and the overall 33-foot limit for vertical facade elevations and additional language regarding use of datum points if a number of lots are aggregated. The forum required interval datum points to address the issue. The changes were reviewed by the Planning Department and the inter-departmental Staff review team. They made comments and expressed concerns echoing those made by the Planning Commission.

Administrator Putt explained that the Planning Commission could forward a positive recommendation to the City Council to adopt the ordinance as proposed; define what elements of the proposed amendments should be revised, modified, or deleted and direct Staff to prepare a new draft for possible action; forward a recommendation to City Council to maintain current HR-1 development standards; or forward the elements of the proposed amendments which the Commission can endorse to the City Council along with input regarding the elements which the Commission cannot support. He explained the impacts of each action and noted that the last alternative could set the stage for a possible joint meeting with the City Council to discuss this particular project. He recommended identifying the elements they can support and direct the design forum to revise a draft ordinance for action. Another alternative would be to identify what the Planning Commission finds acceptable and to identify the problem areas as a basis for a joint meeting with City Council.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SPECIAL MEETING
JUNE 18, 1997

COMMISSIONERS IN ATTENDANCE:

Chairman Fred Jones, Karri Hays, Chris Larson, Michael O'Hara,
Diane Zimney

EX OFFICIO:

Patrick Putt, Planning and Zoning Administrator

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The Commissioners and the Staff met in work session from 7:00 to 7:50 p.m. to review items on the regular agenda.

REGULAR MEETING

I. ROLL CALL

Chair Fred Jones called the meeting to order at 7:50 p.m. and noted that all Commissioners were present except Commissioner Erickson and Commissioner Calder who were excused.

II. PUBLIC COMMUNICATIONS

There was no comment.

III. STAFF/COMMISSIONERS' COMMUNICATIONS

Commissioner Karri Hays reported that she was contacted by Matt Alvarez, a resident on Rossi Hill, who was concerned about the Mimlet House where a driveway has not been constructed and a cliff hangs off the edge of the road without fencing. Administrator Putt offered to pass the information on to the building department.

IV. PUBLIC HEARINGS/DISCUSSION/ACTION ITEMS

1. Appointment of Planning Commission Chair and Vice Chair

The Planning Commission discussed this item during work session and agreed to continue the matter until July 9 when the new Commissioner will be seated.

MOTION: Commissioner Larson moved to CONTINUE the matter until July 9. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously.

2. HR-1 Amendments

This item was discussed during work session.

Chair Jones was concerned that neither the revised Code nor the existing Code specifically address the stated purpose of the HR-1 district, which is to allow the preservation of the present land uses and character of the historic residential areas of Park City and to encourage the preservation of historic structures and the construction of historically compatible structures which contribute to the district. He asked for comments from the public regarding this issue. Using the Mimlet house as an example, he did not understand how the design fit into the historic context.

Chair Jones opened the public hearing.

Quentin Scott, a designer who has worked with the design forum, commented that the essence of the revisions is lot combinations. Everyone had a slightly different angle on what they hoped to achieve, but he felt that lot combinations were very important. Currently, there is no incentive for lot combinations and nothing that allows people to have yards with their homes. Once people could build over lot lines, they could start to create the same fabric seen at Telluride and Aspen where lot lines are not as restricted. He felt there must be an economic opportunity to combine lots for better articulation which would allow room for verandas and porches which would look better for the City and work better for the owners. He encouraged the Planning Commission to forward a positive recommendation on the revised amendments. Chair Jones asked Mr. Scott if the lot combination incentive was summarized in the chart he presented. Mr. Scott replied that it was and explained how it would work to achieve two- and three-lot combinations to accommodate garages and yards without having a garage barrage.

Craig Kitterman remarked that one area that is hampered under the old Code is adequate garage space. He requested that consideration be given for a larger garage allowance to design a garage for two cars with ski storage. If more parking is provided, it would get people off the streets. This would be an incentive to do something other than what is allowed under the existing Code.

Paul DeGroot stated that he has been involved with the process since 1995 and supports the revisions. He stressed that this is a three-dimensional item, and the articulation is essential. Using the Mimlet house as an example, he explained how it could be made more aesthetically pleasing under the new proposal.

Chair Jones stated that he did not see how the Mimlet house would be more contextual with historic Park City under the new proposal. Mr. DeGroot felt the revisions would force more articulation on this house.

Mr. Scott agreed that the house is not contextual and noted that there is currently no freedom to move around and massage the lots. He suggested changing the historic guidelines and bringing back some of the historic details that were taken away. In single-family lots, the homes are not historic because they are built by what is mandated by economics. Commission Larson agreed that the building footprint would articulate, but people will still build to the maximum height and the building envelope. Mr. Scott commented that, if it does not make economic sense, nobody will do it.

Peter Barnes commented that it is easy to criticize what has happened in the past, and the design forum determined at the beginning of this process that they would look at what they wanted to achieve, not at what they did not like. The purpose was to analyze the way forward. It is easy to say that people will maximize the building envelope, but there are many design controls that do not allow the envelope to be maximized. People will always try to abuse the system and create a building that is unfavorable. Mr. Barnes noted that all planning legislation is a compromise, and the purpose of this proposal is to prevent bad buildings from being built. However, too much restrictive legislation has prevented good buildings from being built. People will build what they can afford and what they want. They should be building the state of the art in Park City, building to the technological limits, and building good architectural buildings. The Victorians did it and the Miners did it. All historical buildings were built to the utmost, but today they are not building the utmost but are building pathetically bland boxes. Mr. Barnes did not feel the fault was the designers' or the builders', but that the Code has been too restrictive and has not allowed creativity. He felt that Park City is the most complicated place he has ever worked. If the Planning Commission could support the revisions and resolve the processing requirements, the City would see better results. The problems faced by designers, builders, and clients are 90% processing.

Chair Jones understood the lot combination incentives, but he did not understand measuring height from the average line on the downhill lot. He asked what would be gained. Mr. Barnes explained that the key is whether or not a tall building is a bad thing. If the Commissioners view it as bad, nothing will be gained. The purpose is to create a realistic building envelope.

Chair Jones noted that, when the miners built on steep lots, they built on the contour. Everyone now wants to build counter to the

contour. He asked how they could get people to build wide and avoid tall structures. Commissioner Larson stated that he did not believe there was a general case solution to the problem. Mr. Barnes remarked that anything more restrictive than what is proposed is social engineering, not planning. He felt that the Planning Commission, the designers and the builders should look at aesthetics from the outset of planning, not get involved in social control.

Commissioner Larson referred to Chair Jones' comments that the Planning Commission is charged with planning buildings that are historically contextual, and under the proposed set of rules, he was unsure if that could be accomplished. Mr. Barnes replied that he could walk through 25 historic buildings today and give a reason why they are not allowed under the current Code. Historic structures themselves are not allowed under the current Code. He commented that the Planning Department's responsibility should be to help people get from point A to B, not to put obstacles in their path.

Chair Jones was uncertain whether enough incentives could be structured into the Code to encourage people to combine lots and build on the contour.

Mr. Kitterman felt that the problem was garages. There are no historic garages, because miners did not build garages. He did not understand how they could develop a house that looks like a miner's home when half of it is garage. He felt it was time to bite the bullet and do something different. The clients want garages, and the City wants off-street parking. This is an issue that the Historic District Commission and the Planning Commission need to come to grips with. Half of the house is going to be a garage, and there is no historic precedent for that. He felt that the Mimlet house had some historic precedent because it is broken up into smaller building masses.

Chair Jones closed the public hearing.

The Commissioners reviewed the summarized comments from a previous meeting and found that they still agreed with their original comments and concerns.

Chair Jones felt it was important to make a distinction between uphill and downhill lots. Administrator Putt explained that that is the general approach of the ordinance prior to Ordinance 95-65 which allowed a 33-foot (28-foot with 5 feet for pitched roofs). The only distinction was that, on downhill lots, the downhill facade could not measure more than 28 feet.

40

The Commissioners agreed that Bed and Breakfast use should be restricted to historic structures only. They agreed that lock-out rooms should be eliminated in HR-1 and HRL. They favored allowances for shared garages and shared driveways with only a Conditional Use Permit.

The Commissioners discussed the average and natural grade measurements. Commissioner Larson was not inclined to change to average grade without knowing if the measurement is the problem or if the concept of the measurement is the problem. He preferred measuring from the existing natural grade until he receives more input from the Planning Department on why it should be changed.

Commissioner Hays supported the concept of reviewing each house and making it fit the site.

Commissioner Zimney disagreed and felt the Planning Department could handle this at an administrative level without having to come before the Planning Commission with a CUP for each site. The new proposal will force designs with more facade changes and interesting buildings.

Administrator Putt remarked that a CUP would only work if everyone is held to a specific standard. To go beyond that set standard should be based on a set of performance criteria.

Chair Jones preferred eliminating the height exception which would force downhill lots to meet performance criteria and hopefully further the incentive to combine lots. Setting up performance criteria would only put difficult lots through a CUP process. Administrator Putt felt this suggestion could possibly be an alternative, but he was not prepared to draft performance criteria this evening. The issue of contextual zoning and Conditional Use Permits would be best addressed with a discussion which includes the Legal Department and City Council.

Chair Jones felt they should give direction on areas they are interested in exploring and set up a joint meeting with the City Council to discuss the issues and alternatives.

Administrator Putt asked if they wanted to stop the process until they meet with the City Council or if they want to forward what they can agree on along with comments and concerns regarding height and volumetrics before meeting with the Council. Commissioner Zimney felt they should send a recommendation on what they already agree on to avoid having to continue everything. Chair Jones was unsure if they were prepared to take action on the agreed items without some solutions.

Planning Commission Meeting
Minutes of June 18, 1997
Page 6

Administrator Putt did not feel the Staff was prepared at this point to revise the ordinance in a specific manner, but he felt they should keep the process moving forward. He recommended forwarding to the City Council the list of items that the Planning Commission could accept and continue the discussion at the joint meeting to get input and direction on the building envelopes.

Commissioner Larson felt they should not move too far ahead without talking to City Council. Administrator Putt was uncomfortable with the Planning Commission forwarding something to the City Council that was not in ordinance form.

Chair Jones felt that they could not do much without hearing City Council's comments and did not favor piecemealing a recommendation. Without addressing the heights, Commissioner Larson did not think they could do the rest because they are removing floor area ratios and still leaving the height exception.

Administrator Putt suggested a motion to continue the matter with a recommendation to schedule the matter at a joint meeting with City Council. He agreed to schedule the session and announce a date at the next meeting.

MOTION: Commissioner Larson moved to CONTINUE the discussion on the HR-1 and HRL amendments with direction to the Staff to schedule a joint session with City Council as soon as possible. Commissioner Hays seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 9:15 p.m.

proved by Planning Commission_____



CITY COUNCIL AND PLANNING COMM. REPORT

DATE: July 17, 1997

DEPARTMENT: Interdepartmental LMC Task Force

AUTHOR: Mark Harrington
Jodi Hoffman
Rick Lewis
Pat Putt
Toby Ross
Kirsten Whetstone

TITLE: Proposed Re-Write of the Land Management Code ("LMC")

TYPE OF ITEM: Work Session

SUMMARY RECOMMENDATIONS: Give staff direction on the proposed scope and time frame for the Land Management Code re-write. Review the alternative styles of code format provided.

DESCRIPTION:

A. Topic.

The Park City Land Management Code ("LMC").

B. Proposal.

Staff proposes a comprehensive reorganization and substantive re-write of the Land Management Code. Rather than adding to what seems to be a growing list of "professional consultants," staff has assembled an in-house team to orchestrate and undertake the task of re-writing our land use bible. As discussed in detail below, the process as proposed will be geared towards maximizing opportunities for public, Planning Commission and City

Council input, while maintaining an ambitious and efficient work pace.

C. Background

The roots of the Land Management Code can be traced back to the early 1960's. On January, 28, 1964 the City's Ordinances were amended to include a chapter entitled "Planning and Zoning". This amendment, which repealed the existing Planning Ordinance of 1947, included provisions for a Planning Commission, a Master Plan and a Board of Adjustment. The next major addition to the City's land management regulations occurred in 1968 with the adoption of additional zoning regulations, subdivision regulations and regulations on mobile homes. The 1968 amendment was the beginning of the concept of a Land Management Code as we know it today. The City adopted the first edition of the Land Management Code in 1976. The Code was amended in August 1980 and recodified in its entirety in December 1984.

In the 1970's and early 1980's, the City was interested in expediting the development approval process due to a heavy workload and numerous projects in process, and later to stimulate the economy. The original philosophy of the Land Management Code was a desire to have all of the City's regulations relating to planning, design criteria and subdivisions in one document for ease of use by the staff and public. The early editions of the Land Management Code were authored by the City Attorney and the Planning Administrator and allowed significant discretion for administrative approval of projects with minimal review by the Planning Commission. Over the years, this basic philosophy changed and the Planning Commission, Historic District Commission and the City Council have become more involved in review and approval of projects. Amendments and section additions have occurred since 1984, however no substantial changes in format have been made to the document. We are currently working from the forty-fourth (44) edition of the Land Management Code.

As a result of the piecemeal amendments, remnants of the earlier pro-development philosophy and administrative-favored process still exist in the code. These remnant sections sometimes cause confusion in that they conflict with the current planning ideology. Additionally, many of the provisions are so poorly drafted that their intent is unclear or they conflict with other sections of the code. As you are aware, the problems are compounded by the fact that the document's format is difficult to understand and readers must constantly be cross-referencing to find all the different provisions applicable to a particular development.

D. Analysis.

1. GOALS AND PHILOSOPHY OF THE RE-WRITE

The goals of the re-write are defined by the two features which are the most lacking in the current edition- simplicity and clarity. The task force's primary objective is to simplify and

clarify the provisions of the code so that the average reader can easily locate and comprehend the development requirements for his or her particular project. Several standard code-writing tools will be employed to achieve those objectives. Examples include: capitalizing defined terms; writing self-contained chapters; utilizing simple, declarative sentences; and removing regulatory language from the definitions. (The list goes on and on.) Each existing chapter will be routed through the planning department. The planners will create an "issues list", consisting of everything they think is wrong. The task force will then incorporate the necessary changes and produce a draft. The draft will proceed through a public hearing phase before the Planning Commission and City Council.

As a demonstration of the type of work you may expect, the task force re-wrote and attached a copy of Chapter 12- Non-Conforming Uses. See "**Attachment A.**" The task force proposes to re-write each chapter in 3/4 page form with redline and strike-outs, and adding an editorial explanation of the changes in the left 1/4 page column. An additional "clean" copy in the final format (for purposes of this demonstration the code was put in a "CodeCo" format) will also be shown. See "**Attachment B.**"

2. WORK PLAN AND TIME FRAMES

A "LMC Revision Schedule" is included as "**Attachment C.**" The work plan is broken into three phases. The task force requests that you review and discuss the proposed time frame, and provide direction accordingly. Chapter organization is not final and may be changed depending on final document format and whether the Commission and Council agree to move the LMC into the Municipal Code.

3. DESCRIPTION OF ALTERNATIVE CODE STYLES

The task force is also proposing a change to the basic format of the code. Many existing code documents were reviewed for format, style, organization, and unique characteristics. Upon review of these documents, the task force found that there are generally two basic formats that determine how a code works. One is an inclusive code which includes all information pertaining to a district physically placed in each section where the information applies. The other is a referencing code which includes references to other chapters, tables, graphics, and requirements that apply. Of course, a hybrid code can do some of both. A referencing code usually requires advance electronic software that makes cross-referencing more user friendly. (See Electronic Format discussion below.)

There are generally three basic visual formats or styles based on whether the document utilizes the full page, two columns, or a 3/4 page column. In addition, some codes rely heavily on graphics, in the form of tables, illustrations, diagrams, and photographs. In some cases the graphics actually describe code requirements. Other codes rely on complete and lengthy written explanations and descriptions. Hybrid codes include tables and charts for clarity, often relying on the text for the legal interpretation, using graphics for illustrative purposes only.

In review of many different codes, the task force found four basic styles , namely:
1) "CodeCo" style in two columns (current format of the Municipal Code); 2) descriptive and illustrative full page style; 3) three quarter page outline style; and 4) three quarter page neo-traditional style. There are many potential variations of these basic formats.

To enable the Commission and Council to give the task force direction on a preferred format, the task force chose four recently adopted Codes representative of these basic formats. A short section of the current LMC, Section 7.5, Residential Development District, was re-formatted (without including any substantive changes) in the illustrative, outline, and neo-traditional styles. The clean copy of the new Non-Conforming Use chapter was formatted in the CodeCo style. Below is a description of these codes and styles:

A. Illustrative Format- Flagstaff Arizona **"Attachment D"**

How it looks.

This code is a full page format, similar to the current LMC. Paragraphs are broken up with bold type headings. Photographs and illustrations are used throughout to provide explanation and to illustrate examples.

How it works.

This code is fairly inclusive without a lot of referencing to other sections. The illustrations help to make it appear more user friendly. A good index section would help to locate information more quickly.

Unique features.

Use of illustrations and full page format.

B. Outline Format - Fort Collins, Colorado **"Attachment E"**

How it looks.

This code is a three quarter page format using a standard outline of headings and indented subheadings , IE A, B(1), C(1) (a) (b), etc. Headings and subheadings are single words or phrases in bold print. Limited use of tables to explain more complicated districts and regulations. The land use code is divided into articles, divisions, and sections.

How it works.

For the most part, this is an inclusive code. There is some referencing for special

topics, but most of the information applicable to the district can be found in each specific division or section. Each section is consistently divided with headings for Permitted Uses, Prohibited Uses, Land Use Standards, Dimensional Standards, and Development Standards. Each section includes a concise purpose statement.

Unique features.

This code is fairly lengthy due to the inclusive nature and the outline format. It is easy to read and the outline form keeps it visually broken up, with short paragraphs and lists.

C. Neo-Traditional Format- Salt Lake City **“Attachment F”**

How it looks.

This code is a three quarter page format with short numbered paragraphs, IE 7-5.1, 7-5.2 (a), etc. Each paragraph is defined by an underlined key word or phrase. Tables are included to provide additional code requirement details.

How it works.

References to other chapters and sections are used to some degree. Most of the information needed to determine regulations for a zoning district are included in the chapter. This code includes a master table in another section which identifies permitted and conditional uses for each district. Section index at top would help reader find information quicker. This is a traditional code updated to reflect modern terminology and uses.

Unique features.

This is a very traditional code, polished by use of charts for clarity and indentations for ease of reading. Layout is succinct, clear, and to the point. Visually it is easy to follow.

D. CodeCo Format- West Valley City **“Attachment B”**

How it looks.

This code is formatted in two columns, single spaced, with right and left justification. Section headings are listed at the beginning of each Chapter. References to all applicable ordinances are listed following each section. There are generally no graphics or tables, but these could be added with page breaks.

How it works.

A code formatted in this manner reads as a legal or more formal document. The columns read down on each side, and sometimes are not as easily followed as full-page texts. These codes are well referenced and organized. It is relatively easy to find information in each chapter and section. This is the most common type of code. The columns generally enable more text per page than the other formats. Graphics, however, are difficult.

Unique features.

Two columns include more information per page. Limited graphics. Easily identifiable as code.

Another characteristic, apparent in reviewing these codes, is how the code is visually organized, I.E. in strict outline form with headings and indented sub headings, in sections with headings and paragraphs, or in some combination of the two. How useful the index is in getting the reader to a particular system is critical to how these different formats function.

The following is a list of unique features of many codes we reviewed which we may want to incorporate into a revised Land Management Code for Park City:

1. Illustrations and photographs
2. Tables and graphics
3. Updated and current definition sections, modern terminology
4. Updated and current land use categories and type, modern terminology
5. Concise purpose statements reflecting the current General Plan
5. Use of examples, either written or graphic
6. Interactive on personal computers, electronic
7. Clear index and detailed chapter indices
8. Consistent organization of each section or chapter
9. Consistent and clear text
10. Development code incorporated as Chapter of Municipal Code
11. Official zoning map incorporated into Code

4. ELECTRONIC FORMAT

In addition to the hard copy formats, there are several options available to produce an electronic code regardless of the physical format of the code. A program such as Folio transforms a written code into an interactive document. Folio allows a user to pull down definitions, related sections, and applicable ordinances, or even staff reports and minutes. A user can readily locate all sections of the code which discuss a particular matter or reference a certain key word. The features of an electronic code will be reviewed during the work session presentation.

5. GENERAL POLICY ISSUES

Clarifying inconsistent sections and removing ambiguity from the code will force the issue of many policy choices, even though not intentionally (forcing the resolution of an unclear provision will necessarily result in a policy choice). Whenever a stylistic change results in such a policy decision, the task force will point it out and request direction on that particular issue from the Planning Commission. It is contemplated that this direction would be provided at a work session prior to the public hearing on the draft. Sufficient time will be built in so that any change resulting from the public hearing can be incorporated prior to scheduling the final document for action.

D. Alternatives

- 1. Direct the task force to proceed as proposed. Provide direction on the preferred format.** This is the recommended action.
- 2. Modify the time frame and/or proposed scope of work.** If the Council desires further changes, it should direct staff accordingly.
- 3. Direct staff to employ a consultant to assist or take over the re-write.**

E. Recommendation

Review and discuss the enclosed material. Provide the task force with direction regarding the time and format of the revisions.

ATTACHMENT A

Non-Conforming Use Redline and Strikeout

DRAFT

NON-CONFORMING USES

clarifies chapter applies to uses
and structures

CHAPTER 12. NON-CONFORMING USES AND NON-COMPLYING STRUCTURES

12.1. PURPOSE. This Chapter regulates the continued existence of Non-Conforming Uses and Non-Complying Structures as defined herein. ~~describes the status of the uses of land or structures which were lawful before the Land Management Code was passed or amended but which are now or became prohibited, restricted, or substandard.~~ While permitting Non-Conforming Uses, Non-Complying Structures and improvements thereto to continue, this Chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by the Code. ~~The purpose of the non-conforming review is to look at the impacts of the proposed changes and evaluate them based on the character of the surrounding area, traffic capacities of adjacent streets, and potential environmental effects.~~ In addition, applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the structure and site through such measures as landscaping, building design, or the improved function of the use in relation to other uses.

12.2. DEFINITIONS.

includes definitions so chapter
is all inclusive

new definition

- (a) Non-Complying Structure. Buildings and Structures which contain complying land uses and were legally built or established, but do not comply with current provisions of the Uniform Building Code, the Land Management Code, or any legally enacted amendment thereto.

new definition

- (b) Non-Conforming Use. The use of a Building, Structure or land which does not conform to the current use regulations for the Zoning District in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was legally in existence prior to the establishment of use regulations for the Zoning District in which it is situated.

new definition for type of
change of non-conforming use
allowed

- (c) Similar Or Less Intensive Land Use Type. Uses that have the same use classification (permitted, conditional, or prohibited) within a majority of the same Zoning Districts and the change to which does not increase the parking requirement.

12.3. DETERMINATION OF NON-CONFORMING STATUS.

establishes method to
determine status with appeal to
Bd. Of Adjustment

- (a) Burden On Owner To Establish Legality. The burden of establishing that any Non-Conforming Use or Non-Complying Structure lawfully exists under the provisions of this Chapter shall be the Owner's burden, and not the City's. Building permits, dated photos, business licenses and similar documentation may be considered as evidence of establishing legality.
- (b) Determination of Status. The Director of the Community Development Department shall determine the Non-Conforming or Non-Complying status of properties pursuant to this Chapter. Any decision of the Director may be appealed within ten calendar days of the decision to the Board of Adjustment. Upon appeal, the Board of Adjustment shall conduct a hearing and shall review the matter under an error of law standard of review.

12.24. OCCUPANCY: AUTHORITY TO CONTINUE.

stylistic change

(a) Continuation of Non-Conforming Use. A Non-Conforming Use that lawfully occupies a structure or lot on the effective date of this Land Management Code or of any subsequent amendment to this Land Management Code, may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this Chapter. ~~The occupancy of a building or a parcel of land by a Non-Conforming Use existing at the time of passage of the Land Management Code may be continued.~~

clarifies status of structures, as opposed to use

(b) Continuation of Non-Complying Structure. A Non-Complying Structure that was lawfully constructed with a permit prior to the effective date of this Land Management Code or of any subsequent amendment to this Land Management Code, may be used and maintained, subject to the standards and limitations of this Chapter.

~~(b) Occupation Within a Year. A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became non-conforming. Occupation shall mean a full resumption of the use with the intent that it continue indefinitely.~~

12.5. ABANDONMENT OR LOSS OF NON-CONFORMING USE.

new section specifically addressing abandonment- establishes standards

(a) Abandonment of Non-Conforming Use. A Non-Conforming Use that is discontinued or remains vacant for a continuous period of one (1) year shall be presumed to be abandoned and shall not thereafter be reestablished or resumed. Any subsequent use of the Building, Structure, or land must conform with the regulations for the Zoning District in which it is located.

new presumption in favor of
abandonment, burden on
owner to disprove

(b) Rebuttable Presumption of Abandonment. The presumption of abandonment may be rebutted upon a showing that during such period: (i) any period of discontinuance was caused by governmental actions or an Act of God without any contributing fault by the Owner and the Owner did not intend to discontinue the use; (ii) the Owner has been actively and continuously marketing the Building, Structure, or land for sale or lease with the use and the Owner has been maintaining the Building, Structure, or land in accordance with the Uniform Building Code; or (iii) the Owner has been engaged in other activities evidencing no abandonment of the use.

old text stricken

~~(c) Use of Land. The Non-Conforming Use of land existing at the effective date of this Code or amendments affecting that use may be continued, provided that no such Non-Conforming Use of land shall in any way be expanded or extended either on the same or adjoining property except in accordance with the provisions of this section and provided that if such Non-Conforming Use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land must be in conformity with the provisions of this Code.~~

~~(d) Abandonment of Use. Any Non-Conforming Use in existence or created by the adoption of this Code is deemed abandoned by the owner of that use unless the Non-Conforming Use and the rights established as a Non-Conforming Use, are exercised for at least twelve weeks during every calendar year. It shall be the obligation of the owner of such a use to provide evidence that the right to maintain the Non-Conforming Use was so exercised by providing affidavits or other evidence of the exercise of the use upon request of the Community Development Department.~~

~~(e) Change or Expansion of Non-Conforming Use. Pursuant to the procedures provided in 12.4, a Non-Conforming Use may be:~~

- ~~1. Increased in size or expanded within a building or upon the same lot;~~
- ~~2. Changed to another Non-Conforming Use, provided that a change in use (not a change in tenancy) requires the parking to be brought up to the standards of Chapter 13.~~

new section specifically
creating standards for
enlarging, altering and moving
non-conforming uses

12.6. MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES. No Non-Conforming Use may be moved, enlarged, altered, nor occupy additional land, except as provided in this Section.

limited right to enlarge, no Bd.
Of Adjustment process

(a) **Enlargement.** A Non-Conforming Use may not be enlarged, expanded, or extended to occupy all or a part of another Structure or site that it did not occupy on the date on which the use became non-conforming. A Non-Conforming Use may be extended through the same Building or Structure provided no structural alteration of the Building or Structure is proposed or made for the purpose of the extension and provided the parking requirement is not increased.

represents no substantive
change

(b) **Exterior or Interior Remodeling or Improvements to Building or Structure.** Exterior or interior remodeling or improvements to a Structure containing a Non-Conforming Use shall be allowed provided there is no expansion of square footage of the Non-Conforming Use.

restricts relocation

(c) **Relocation of Building or Structure.** A Building or Structure containing a Non-Conforming Use may not be moved unless the use shall thereafter conform to the regulations of the Zoning District into which the Structure is moved.

new, more restrictive criteria
for change of non-conforming
use, maintains Bd. Of
Adjustment process

- (d) Change of Non-Conforming Use to Another Non-Conforming Use or a Conforming Use. Upon application and approval of a change in Non-Conforming Use pursuant to below, a Non-Conforming Use may only be changed to another Non-Conforming Use of a Similar Or Less Intensive Land Use Type as defined herein. Whenever any Non-Conforming Use is changed to a less intensive Non-Conforming Use, such use shall not be changed back to a more intensive Non-Conforming Use. Whenever any Non-Conforming Use is changed to a conforming use, such use shall not later be changed to a Non-Conforming Use.

1. Processing. An application for approval for changes of Non-Conforming Uses may be filed by a person having an interest in the property for which the Non-Conforming Use is requested and shall be made on a form provided by the City. Approval of request for changes shall be granted only when it can be shown that the following criteria, insofar as applicable, are met:

- (i) All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the Non-Conforming Use or Building upon abutting properties or in the neighborhood; i.e., objectionable conditions, visual or noise pollution, vehicular traffic, or on-street parking.
- (ii) All changes, additions, or expansions shall comply with all current development requirements and conditions of this section and other applicable City codes, except as to use.

- (iii) Additions to buildings will provide for storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage.
- (iv) The Building as it exists, and/or the land or use involved cannot reasonably be utilized under the provisions of this Code, or cannot reasonably be made to conform with this Code.

2. Pre-Application. Prior to the filing of an application for a change of a Non-Conforming Use, a pre-application conference shall be held with the Community Development Department where the applicant will be advised of the information required for review and the procedures to be followed.

3. Application. Application shall be made upon forms provided by the Community Development Department. Upon filing of a complete application, the City shall post the property indicating that a modification of a Non-Conforming Use has been filed and that more detailed information may be obtained from the City.

4. Notification of Abutting Property Owners. Notice shall be provided pursuant to Chapter 1.16. The applicant shall include with the application a list of owners of abutting properties and properties located within 300 feet of the property, along with envelopes containing postage and the current mailing addresses of all such owners; provided however, if a condominium is located within 300 feet of subject property, the addresses for the condominium management committee or owners' association shall suffice.

new notice section consistent
with Chapter 1.16

5. Board of Adjustment Hearing. Within 30 working days of receipt of a complete application by the Community Development Department, and after giving public notice, the Board of Adjustment shall hold a public hearing on the Non-Conforming Use application. The Board of Adjustment shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application.

strikes old language

~~12.3.~~ ADDITIONS AND ENLARGEMENT

- (a) ~~A single non-conforming principal building upon a lot, or any accessory buildings which have less than 50% of their building area situated in the required yards, may be structurally altered, repaired, or enlarged; provided however, that any addition conforms to the setback requirements of the district in which it is located, and in the case of principal buildings, all current development requirements and conditions of this Code and other City codes are complied with.~~
- (b) ~~Minor additions, alterations, or repairs to improve the appearance, safety, or efficiency of the building and which do not constitute an expansion of the use within a non-conforming building, may be permitted; provided however, that non-conforming buildings that do not qualify under either this or Paragraph 12.3.(a) may be enlarged or extended only pursuant to the procedures provided in Section 12.4. For the purposes of this section, minor additions, alterations or repairs are defined as additions, repairs or alterations which do not increase the square footage of either enclosed or exterior spaces of the building, or change the building envelope.~~

~~(c) A building on a non-conforming lot may be structurally altered, repaired, or enlarged to improve appearance, safety and/or efficiency, in accordance with the required setbacks of the district in which it is located, when the addition or alteration does not constitute an expansion of the principal use; otherwise, any modification must comply with the procedures set forth in Section 12.4.~~

~~(d) Any building or other structure containing a Non-Conforming Use or any non-conforming building or portion thereof declared unsafe under the City's Building Code or other codes may be strengthened or restored to a safe condition and the use may continue.~~

consolidates old sections
regarding safety and
destruction into one

(e) Damage or Destruction of Building or Structure with Non-Conforming Use. If a Building or Structure that contains a Non-Conforming Use is destroyed to the extent of fifty percent (50%) or greater by fire or natural calamity, or is voluntarily razed or is required by law to be razed, the Non-Conforming Use shall not be resumed, and the Structure shall not be restored unless it is restored to accommodate a conforming use. If a Building or Structure that contains a Non-Conforming Use is damaged to the extent of less than fifty percent (50%) by fire or natural calamity, the Non-Conforming Use may be restored to its original condition, provided such work is started within six months of such calamity and completed within 18 months of the time the restoration is commenced, and the intensity of use is neither increased nor changed. The determination of the extent of damage or destruction under this Section shall be based on the ratio of the estimated cost of restoring the Structure to its condition before the damage or destruction to the estimated cost of duplication the entire Structure as it existed prior to the damage or destruction. The estimate shall be based on the current issue of "Building Standards" published by the International Conference of Building Officials (I.C.B.O.).

substantive changes no longer
allow continuation of non-
conforming use if building is
damage by more than 50 %

New section clarifies status of non-complying structures

12.7. Non-Complying Structures. No Non-Complying Structure may be moved, enlarged, or altered, except in the manner provided in this Section or unless required by law.

still allows repair and enlargement so long as not an increase in degree of non-conformity

(a) **Repair, Maintenance, Alteration, and Enlargement.** Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that no such repair, maintenance, alteration, or enlargement shall either create any new non-compliance or increase the degree of the existing non-compliance of all or any part of such Structure.

(b) **Moving.** A Non-Complying Structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire Structure shall thereafter conform to the regulations of the Zoning District in which it is located after being moved.

substantive changes no longer allow restoration of non-complying structure if building is damaged by more than 50 %

(c) **Damage or Destruction of Non-Complying Structure.** If a Non-Complying Structure is destroyed to the extent of fifty percent (50%) or greater by fire or natural calamity, or is voluntarily razed or is required by law to be razed, the Structure shall not be restored unless it is restored to conform to the regulations of the Zoning District in which it is located. If a Non-Complying Structure is damaged to the extent of less than fifty percent (50%) by fire or natural calamity, the Structure may be restored to its original condition, provided such work is started within six months of such calamity and completed within 18 months of the time the restoration is commenced, and the intensity of use is neither increased nor changed. The determination of the extent of damage or destruction under this Section shall be based on the ratio of the estimated cost of restoring the Structure to its condition before the damage or destruction to the estimated cost of duplication the entire Structure as it existed prior to the damage or destruction. The estimate shall be based on the current issue of "Building Standards" published by the International

Conference of Building Officials (I.C.B.O.).

no substantive change

12.8. ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY. Normal maintenance and incidental repair may be performed on a complying structure which contains a Non-Conforming Use or on a Non-Complying Structure. This Section shall not be construed to authorize any violations of Section 12.6 or Section 12.7 of this Chapter. This Section shall not prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Building Official who declares a Structure to be unsafe and orders its restoration to a safe condition.

old text stricken

~~(e) A non-conforming building or a building containing a Non-Conforming Use which has been damaged by fire, flood, wind, or other calamity or Act of God may be restored to its original condition, provided such work is started within six months of such calamity and completed within 18 months of the time the restoration is commenced, and the intensity of use is not increased or changed.~~

~~12.4. PROCESSING. An application for approval for changes, additions or expansions to non-conforming uses may be filed by a person having an interest in the property for which the non-conforming use is requested and shall be made on a form provided by the City.~~

~~(a) Criteria for Review. Approval of request for changes, additions, or expansions under this section shall be granted only when it can be shown that the following criteria, insofar as applicable, are met.~~

~~1. All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood, i.e., objectionable conditions, visual or noise pollution, vehicular traffic, or on-street parking.~~

old text stricken

~~2. All changes, additions, or expansions shall comply with all current development requirements and conditions of this section and other applicable City codes, except as to use.~~

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

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

~~(b) Pre-Application. Prior to the filing of an application for a modification to a non-conforming use under Sections 12.2.(c). and 12.3., a pre-application conference shall be held with the Community Development Department where the applicant will be advised of the information required for review and the procedures to be followed.~~

~~(c) Application. Upon filing of the application, the Community Development Department shall post the property indicating that a modification of a non-conforming building or use has been filed and that more detailed information may be obtained from the City. When only modification or extension of a building is involved, the Community Development Department shall notify by mail the owners of abutting properties. When any change, extension, or expansion of any non-conforming use is involved, all owners of properties located within 100 feet of the property lines of the land for which such application has been filed shall be notified that they may review the application during the Department's regular office hours, provided however, if a condominium is located within 300 feet of the property, notification of the condominium management committee shall suffice for that owner. The aforementioned notice by mailing is to~~

~~reasonably ensure that surrounding property owners are aware of a proposed non-conforming use being considered, but any minor omission or defect in the mailing shall in no way impair the validity of the proceedings. If any omission or defect in the mailing is brought to the attention of the Board of Adjustment, at or prior to the public hearing, the Board shall consider the defect or omission prior to proceeding on the application. If the Board finds that the omission or defect impairs, or has impaired a surrounding property owner's ability to participate in the public hearing, then the Board of Adjustment shall continue the public hearing on the proposed non-conforming use for at least ten days. Any omission or defect in the aforementioned notice which is not serious enough to have impaired a surrounding property owner's ability to participate in the public hearing by the Board of Adjustment shall in no way impair the validity of the proceedings for the proposed non-conforming use.~~

~~(d) — Notification of Abutting Property Owners. The applicant shall include with his application a list of owners of abutting properties and properties located within 100 feet of his property, along with the current mailing addresses of all such owners; provided however, if a condominium is located within 100 feet of subject property, the addresses for the condominium management committee shall suffice.~~

~~(e) — Board of Adjustment Hearing. Within 30 working days of receipt of a complete application by the Community Development Department, and after giving public notice, the Board of Adjustment shall hold a public hearing on the non-conforming use application. The Board of Adjustment shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application.~~

stylistic change

12.59. APPEALS. Appeal from ~~the a~~ Board of Adjustment decision made pursuant to this Chapter shall be made ~~is~~ to the district court and not the City Council. Any person applying to the district court for review of any decision made under the terms of this ~~section~~Chapter shall apply for review within 30 days after the date the decision is filed with the City Recorder as prescribed by state statute.

ATTACHMENT B

Non-Conforming Use Clean Copy- CodeCo Form

CHAPTER 12. NON-CONFORMING USES AND NON-COMPLYING STRUCTURES

12.1. PURPOSE. This Chapter regulates the continued existence of Non-Conforming Uses and Non-Complying Structures as defined herein. While permitting Non-Conforming Uses, Non-Complying Structures and improvements thereto to continue, this Chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by the Code. In addition, applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the structure and site through such measures as landscaping, building design, or the improved function of the use in relation to other uses.

12.2. DEFINITIONS.

- (a) Non-Complying Structure. Buildings and Structures which contain complying land uses and were legally built or established, but do not comply with current provisions of the Uniform Building Code, the Land Management Code, or any legally enacted amendment thereto.
- (b) Non-Conforming Use. The use of a Building, Structure or land which does not conform to the current use regulations for the Zoning District in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was legally in existence prior to the establishment of use regulations for the Zoning District in which it is

situated.

- (c) Similar Or Less Intensive Land Use Type. Uses that have the same use classification (permitted, conditional, or prohibited) within a majority of the same Zoning Districts and the change to which does not increase the parking requirement.

12.3. DETERMINATION OF NON-CONFORMING STATUS.

- (a) Burden On Owner To Establish Legality. The burden of establishing that any Non-Conforming Use or Non-Complying Structure lawfully exists under the provisions of this Chapter shall be the Owner's burden, and not the City's. Building permits, dated photos, business licenses and similar documentation may be considered as evidence of establishing legality.
- (b) Determination of Status. The Director of the Community Development Department shall determine the Non-Conforming or Non-Complying status of properties pursuant to this Chapter. Any decision of the Director may be appealed within ten calendar days of the decision to the Board of Adjustment. Upon appeal, the Board of Adjustment shall conduct a hearing and shall review the matter under an error of law standard of review.

12.4. AUTHORITY TO CONTINUE.

- (a) Continuation of Non-Conforming Use. A Non-Conforming Use that lawfully occupies a structure or lot on the effective date of this Land Management Code or of any subsequent amendment to this Land Management Code, may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this Chapter.
- (b) Continuation of Non-Complying Structure. A Non-Complying Structure that was lawfully constructed with a permit prior to the effective date of this Land Management Code or of any subsequent amendment to this Land Management Code, may be used and maintained, subject to the standards and limitations of this Chapter.

12.5. ABANDONMENT OR LOSS OF NON-CONFORMING USE.

- (a) Abandonment of Non-Conforming Use. A Non-Conforming Use that is discontinued or remains vacant for a continuous period of one (1) year shall be presumed to be abandoned and shall not thereafter be reestablished or resumed. Any subsequent use of the Building, Structure, or land must conform with the regulations for the Zoning District in which it is located.
- (b) Rebuttable Presumption of Abandonment. The presumption of abandonment may be rebutted upon a

showing that during such period: (i) any period of discontinuance was caused by governmental actions or an Act of God without any contributing fault by the Owner and the Owner did not intend to discontinue the use; (ii) the Owner has been actively and continuously marketing the Building, Structure, or land for sale or lease with the use and the Owner has been maintaining the Building, Structure, or land in accordance with the Uniform Building Code; or (iii) the Owner has been engaged in other activities evidencing no abandonment of the use.

12.6. MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES.

No Non-Conforming Use may be moved, enlarged, altered, nor occupy additional land, except as provided in this Section.

- (a) Enlargement. A Non-Conforming Use may not be enlarged, expanded, or extended to occupy all or a part of another Structure or site that it did not occupy on the date on which the use became non-conforming. A Non-Conforming Use may be extended through the same Building or Structure provided no structural alteration of the Building or Structure is proposed or made for the purpose of the extension and provided the parking requirement is not increased.
- (b) Exterior or Interior Remodeling or Improvements to Building or Structure. Exterior or interior remodeling or improvements to a

Structure containing a Non-Conforming Use shall be allowed provided there is no expansion of square footage of the Non-Conforming Use.

- (c) Relocation of Building or Structure. A Building or Structure containing a Non-Conforming Use may not be moved unless the use shall thereafter conform to the regulations of the Zoning District into which the Structure is moved.
- (d) Change of Non-Conforming Use to Another Non-Conforming Use or a Conforming Use. Upon application and approval of a change in Non-Conforming Use pursuant to below, a Non-Conforming Use may only be changed to another Non-Conforming Use of a Similar Or Less Intensive Land Use Type as defined herein. Whenever any Non-Conforming Use is changed to a less intensive Non-Conforming Use, such use shall not be changed back to a more intensive Non-Conforming Use. Whenever any Non-Conforming Use is changed to a conforming use, such use shall not later be changed to a Non-Conforming Use.

1. Processing. An application for approval for changes of Non-Conforming Uses may be filed by a person having an interest in the property for which the Non-Conforming Use is requested and shall be made on a form provided by the City. Approval of request for changes

shall be granted only when it can be shown that the following criteria, insofar as applicable, are met:

- (i) All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the Non-Conforming Use or Building upon abutting properties or in the neighborhood; i.e., objectionable conditions, visual or noise pollution, vehicular traffic, or on-street parking.
- (ii) All changes, additions, or expansions shall comply with all current development requirements and conditions of this section and other applicable City codes, except as to use.
- (iii) Additions to buildings will provide for storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage.
- (iv) The Building as it exists, and/or the land or use involved cannot reasonably be utilized under the provisions of this Code, or cannot reasonably be made to conform with this Code.

2. Pre-Application. Prior to the filing of an application for a change of

a Non-Conforming Use, a pre-application conference shall be held with the Community Development Department where the applicant will be advised of the information required for review and the procedures to be followed.

3. Application. Application shall be made upon forms provided by the Community Development Department. Upon filing of a complete application, the City shall post the property indicating that a modification of a Non-Conforming Use has been filed and that more detailed information may be obtained from the City.

4. Notification of Abutting Property Owners. Notice shall be provided pursuant to Chapter 1.16. The applicant shall include with the application a list of owners of abutting properties and properties located within 300 feet of the property, along with envelopes containing postage and the current mailing addresses of all such owners; provided however, if a condominium is located within 300 feet of subject property, the addresses for the condominium management committee or owners' association shall suffice.

5. Board of Adjustment Hearing. Within 30 working days of receipt of a complete application by the Community Development Department, and after giving public notice, the Board of Adjustment shall

hold a public hearing on the Non-Conforming Use application. The Board of Adjustment shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application.

(e) Damage or Destruction of Building or Structure with Non-Conforming Use. If a Building or Structure that contains a Non-Conforming Use is destroyed to the extent of fifty percent (50%) or greater by fire or natural calamity, or is voluntarily razed or is required by law to be razed, the Non-Conforming Use shall not be resumed, and the Structure shall not be restored unless it is restored to accommodate a conforming use. If a Building or Structure that contains a Non-Conforming Use is damaged to the extent of less than fifty percent (50%) by fire or natural calamity, the Non-Conforming Use may be restored to its original condition, provided such work is started within six months of such calamity and completed within 18 months of the time the restoration is commenced, and the intensity of use is neither increased nor changed. The determination of the extent of damage or destruction under this Section shall be based on the ratio of the estimated cost of restoring the Structure to its condition before the damage or destruction to the estimated cost of duplication the entire Structure as it existed prior to the damage or destruction. The estimate shall be based on the current issue of

"Building Standards" published by the International Conference of Building Officials (I.C.B.O.).

12.7. NON - COMPLYING STRUCTURES.

No Non-Complying Structure may be moved, enlarged, or altered, except in the manner provided in this Section or unless required by law.

- (a) Repair, Maintenance, Alteration, and Enlargement. Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that no such repair, maintenance, alteration, or enlargement shall either create any new non-compliance or increase the degree of the existing non-compliance of all or any part of such Structure.
- (b) Moving. A Non-Complying Structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire Structure shall thereafter conform to the regulations of the Zoning District in which it is located after being moved.
- (c) Damage or Destruction of Non-Complying Structure. If a Non-Complying Structure is destroyed to the extent of fifty percent (50%) or greater by fire or natural calamity, or is voluntarily razed or is required by law to be razed, the Structure shall not be restored unless it is restored to conform to the regulations of the Zoning District in which it is located. If a Non-Complying Structure is damaged to the extent of less than fifty

percent (50%) by fire or natural calamity, the Structure may be restored to its original condition, provided such work is started within six months of such calamity and completed within 18 months of the time the restoration is commenced, and the intensity of use is neither increased nor changed. The determination of the extent of damage or destruction under this Section shall be based on the ratio of the estimated cost of restoring the Structure to its condition before the damage or destruction to the estimated cost of duplication the entire Structure as it existed prior to the damage or destruction. The estimate shall be based on the current issue of "Building Standards" published by the International Conference of Building Officials (I.C.B.O.).

12.8. ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY.

Normal maintenance and incidental repair may be performed on a complying structure which contains a Non-Conforming Use or on a Non-Complying Structure. This Section shall not be construed to authorize any violations of Section 12.6 or Section 12.7 of this Chapter. This Section shall not prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Building Official who declares a Structure to be unsafe and orders its restoration to a safe condition.

12.9. APPEALS. Appeal from a Board of Adjustment decision made pursuant to this Chapter shall be made to the district court and

not the City Council. Any person applying to the district court for review of any decision made under the terms of this Chapter shall apply for review within 30 days after the date the decision is filed with the City Recorder as prescribed by state statute.

ATTACHMENT C

Work Plan and Time Schedule

Land Management Code Revision Schedule

Phase 1

Topics:

GENERAL PROVISIONS/PROCEDURES
DEFINITIONS
MASTER PLANNED DEVELOPMENTS
MASTER PLANNED MODERATE INCOME HOUSING DEVELOPMENT

Target for Completed Draft: December 1, 1997

Phase 2

Topics:

DISTRICTS AND REGULATIONS
SUPPLEMENTARY REGULATIONS
OFF-STREET PARKING
CHILD CARE REGULATIONS

Target for Completed Draft: April 4, 1998

Phase 3

Topics:

PLANNING COMMISSION
HISTORIC DISTRICT COMMISSION, AND PRESERVATION OF HISTORIC
BUILDINGS AND SITES
BOARD OF ADJUSTMENT
ZONING ADMINISTRATION AND ENFORCEMENT
ARCHITECTURAL REVIEW
NON-CONFORMING USES
SUBDIVISION REGULATIONS
REPEALER; SAVINGS CLAUSE; CONTINUATION OF PRIOR ORDINANCES

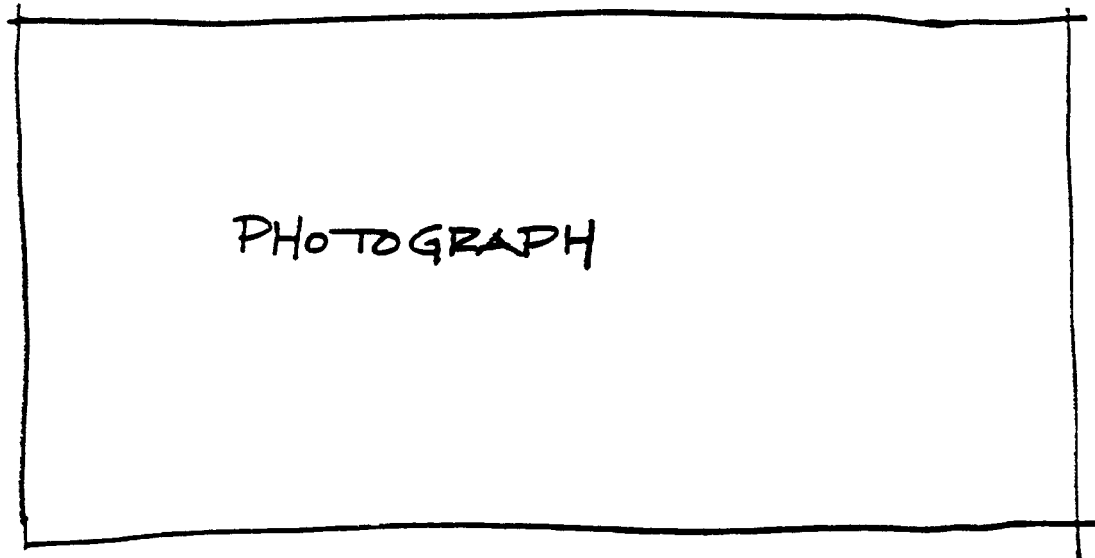
Target for Completed Draft: July 30, 1998

Existing Section	New Section	Timing
CHAPTER 1 - GENERAL PROVISIONS/PROCEDURES	GENERAL PROVISIONS & PROCEDURES	1
CHAPTER 2 - DEFINITIONS	GENERAL PROVISIONS & PROCEDURES	1
CHAPTER 3 - PLANNING COMMISSION	GENERAL PROVISIONS & PROCEDURES	3
CHAPTER 4 - HISTORIC DISTRICT COMMISSION, AND PRESERVATION OF HISTORIC BUILDINGS AND SITES	GENERAL PROVISIONS & PROCEDURES	3
CHAPTER 5 - BOARD OF ADJUSTMENT	GENERAL PROVISIONS & PROCEDURES	3
CHAPTER 6 - ZONING ADMINISTRATION AND ENFORCEMENT	GENERAL PROVISIONS & PROCEDURES	3
CHAPTER 7 - DISTRICTS AND REGULATIONS	DISTRICTS AND REGULATIONS	2
CHAPTER 8 - SUPPLEMENTARY REGULATIONS	DISTRICTS AND REGULATIONS/ ADMINISTRATIVE PROCESS	2
CHAPTER 9 - ARCHITECTURAL REVIEW	ADMINISTRATIVE PROCESS	3
CHAPTER 10 - MASTER PLANNED DEVELOPMENTS	DISTRICTS AND REGULATIONS	1
CHAPTER 11 - MASTER PLANNED MODERATE INCOME HOUSING DEVELOPMENT	DISTRICTS AND REGULATIONS	1
CHAPTER 12 - NON-CONFORMING USES	ADMINISTRATIVE PROCESS	3
CHAPTER 13 - OFF-STREET PARKING	DISTRICTS AND REGULATIONS	2
CHAPTER 14 - CHILD CARE REGULATIONS	DISTRICTS AND REGULATIONS	2
CHAPTER 15 - SUBDIVISION REGULATIONS	SUBDIVISION REGULATIONS	3
CHAPTER 16 - REPEALER; SAVINGS CLAUSE; CONTINUATION OF PRIOR ORDINANCES	ADMINISTRATIVE PROCESS	3

ATTACHMENT D

Illustrative Format- Flagstaff, Arizona

RESIDENTIAL DEVELOPMENT DISTRICT (RD)



PURPOSE. To allow residential uses in areas of developable land within Park City that will be compatible with the City's development objectives and growth capabilities; to encourage the clustering of residential units in order to preserve natural open space, and minimize the cost of municipal services; to allow commercial and recreational activities that are in harmony with residential neighborhoods.

USES. Uses shall be limited to those uses shown on the land use table as either permitted or conditional uses in this zone. All other uses are prohibited.

Permitted Uses:

Single-family Detached dwelling
 Rental of Dwellings
 Accessory Buildings and Uses
 Secondary Living Quarters
 Lock-Out Rooms
 Home Occupations
 Activities For Conservation of Soil, Water, and Wildlife
 Agriculture, Crop Production, Orchards, Flower Production, but not retail sales
 Recreation Facilities owned by a Home Owner or Home Owner's Association
 In-Home Baby-Sitting
 Family Day-Care
 Group Home

Conditional Uses

Two-Dwelling Structures (Duplex)
Three-Dwelling Structure (Triplex)
Four-Dwelling Structure (Four-Plex)
Multi-Dwelling Structure (not to exceed eight-units)
Hotel, Motel, Inn, Boarding House (with 16 or more rooms)
Master Planned Developments with residential and transient lodging uses only
Guest House
Public and Quasi Public Institutions, Churches, Schools, and Private Schools
Essential Municipal and Public Utility Uses, facilities (with no business office)
Group-Care Facilities
Raising and Grazing Horses
Cemetery
Temporary Construction Buildings for sales and project management
Golf Courses, Outdoor Entertainment, and Recreational Facilities
Commercial Recreation Facilities (not including stables)

LOT AND SITE REGULATIONS:

Maximum Density: 3 units per acre. *(Subdivisions are encouraged to cluster development around common open space.)*

Required Yards.

1. In standard subdivisions with lots of 12,000 square feet or more, the setbacks will be as follows:

Side Yards: 12 Feet See Illustration No. 1

Exceptions: The area of a required side yard shall be open and unobstructed except for the following and similar uses:

The ordinary projections of window sills, belt courses, cornices, and other ornamental features to the extent of not more than four inches.

The projection of an eave not more than two feet.

The projection of a step not over two feet.

Awnings projecting over doorways and windows not more than three feet.

A bay window or chimney not over ten feet long projecting not more than two feet, provided such extension maintains the minimum side yard allowable for the smallest side yard in that district.

A light or window well not over two feet in width.

Walls or fences not more than six feet in height.

A driveway leading to a properly located garage or parking area; however, a side yard cannot be used for a parking area except as hereinafter provided, nor for storage, nor can it be hard surfaced in such a way as to make possible the parking of automobiles or other vehicles unless it is a driveway that leads to a garage or a properly located parking area in the rear yard.

A detached garage may be located in a side yard provided said garage meets the requirements specified for the district in which it is located, and the requirements of the Building and Fire Codes for buildings in close proximity to the lot lines.

Hot tubs, decks or similar uses at ground level shall be allowed in a side yard provided they are located at least ten feet from a dwelling on an adjoining lot or five feet from property line.

Front Yard: 25 Feet *See Illustration No. 1*

Front yard exceptions The area of a required front yard shall be open and unobstructed except for the following which are permitted:

A fence or wall not more than four feet in height; no fence more than three feet in height shall be allowed within 30 feet of the intersection on any corner lot.

Uncovered steps leading to the main building; provided, however, that they are not more than four feet in height and do not cause any danger or hazard to traffic by obstructing the view of the street or intersection. Any portion of any steps, covered or uncovered, that are more than four feet above grade must maintain the required setback line.

Eaves or cornices projecting not more than two feet.

A driveway leading to a properly located garage or parking area; provided, however, no portion of a front yard as required in this Code except for those approved driveways, shall be hard surfaced or graveled so as to encourage

or make possible the parking of automobiles, nor shall the City allow any curb cuts or approve any driveways except for entrance and exit driveways leading to properly located parking areas. Hard surfaced parking may be permitted in the front yard of HR-1 and R-1 properties subject to compliance with the zone district requirements. Such parking shall not be permitted in the required side yard extended forward to the front property line.

Circular driveways shall be permitted in required front yard areas of single-family dwellings leading to and from a properly located garage or carport on the property subject to the following conditions:

1. Such drives shall be hard surfaced.
2. Such drives shall not be over 16 feet in width.
3. There shall be an area in landscaping at least 15 feet in depth from the front property line to the inside of the drive.
4. Driveway areas are not to be used for the parking or storage of any trailer, camper, motor home, boat, or other equipment at any time, nor is the area to be used for permanent parking of any vehicle.
5. Passenger automobiles may be parked on driveways serving private residences, provided the automobile is parking completely on private property.

Rear Yard: 15 foot (main buildings); 10 feet (accessory buildings) *See Illustration No. 1*

Rear Yard Exceptions: The area of a required rear yard shall be open and unobstructed except for the following which are permitted:

A bay window or chimney not over ten feet long projecting not more than two feet.

Window wells extending not more than four feet.

The projection of an eave or cornice not more than two feet.

Private swimming pools, tennis courts, and similar uses shall be allowed in a rear yard provided they are located at least 30 feet from any dwelling on an adjoining lot and at least ten feet from any property line.

Garages and other accessory buildings as hereinafter provided. Such structures shall not cover over 50% of the rear yard area.

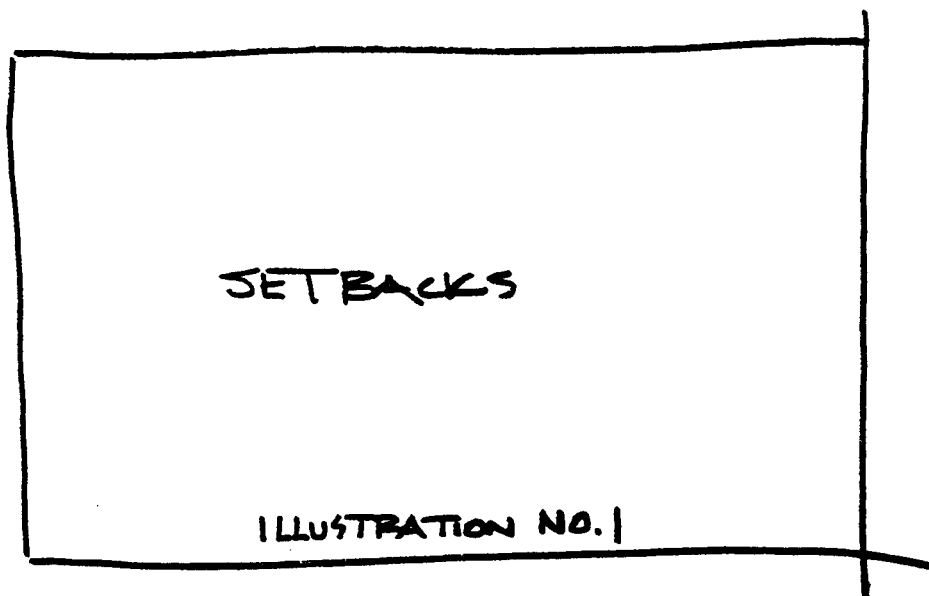
Hard surfaced parking areas subject to the same location requirements of a garage.

Underground bomb or fallout shelters for emergency use only provided they are constructed at least four feet from any property line and also that they conform to all requirements established by the Civil Defense Agency for approved shelters.

Air conditioners.

Fences not over six feet in height.

Hot tubs or similar uses shall be allowed in a rear yard provided they are located at least ten feet from a dwelling on an adjoining lot or five feet from property line.

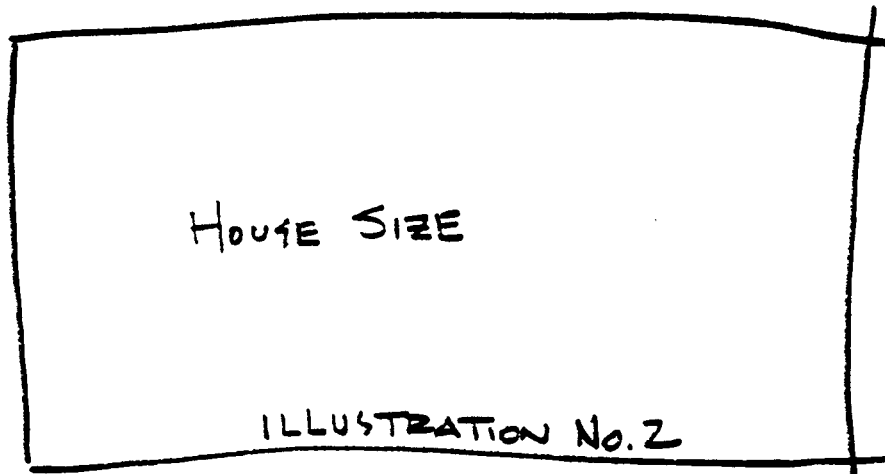


MAXIMUM HOUSE SQUARE FOOTAGES ON COMBINED LOTS

Any requested increase in house square footage must be made on forms provided by the Planning Department. Each application shall be reviewed and approved by the Community Development Director for compliance with the following criteria:

House Size. The maximum house size may not exceed 150 percent of the house size allowed on each single lot when those maximums are combined and averaged. See *Illustration No. 2* For example: if 2 lots, one with a 4000 square foot maximum

house and one with a 3000 square foot maximum are combined, the maximum house size would be 5250 square feet. The average of the two lots is 3500 square feet. $3500 \times 150\% = 5250$ square feet. In subdivisions where maximum house size is not specified, the house size on combined lots must be approved by the Community Development Director based upon neighborhood compatibility.



Setbacks. The required setbacks for homes on combined lots shall increase in proportion to the percentage of increase in the house size above the defined maximum size for a given subdivision. For example: if the home size is 20 percent greater than the maximum house size on any of the lots being combined, the setbacks shall be 20 percent greater than the standard setbacks of the zone. Lots with unusual configurations, topography, access, or significant vegetation may have the setbacks shifted upon approval of the Community Development Director but in no case shall they be less than the required zone setbacks.

HEIGHT REGULATIONS: 28 Feet.¹ See Illustration No.3

Exceptions:

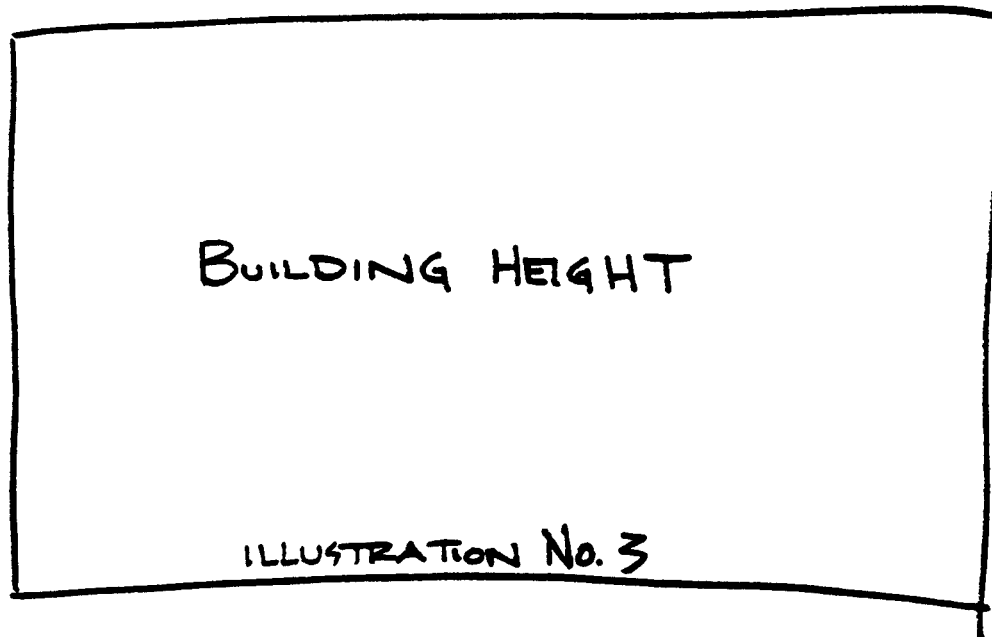
The ridge of a gable, hip, gambrel or similarly pitched roof may extend up to five feet above the specific maximum height limit for the zone.

¹Building Height is measured from natural grade at the building site. On lots specifically designated by the Planning Commission and recorded on the subdivision plat, no building shall be erected to a height greater than 12 feet above natural grade for uphill lots within the area between the five-foot setback allowed for garages and the 25-foot setback. On lots with a downhill orientation, no building shall be erected to a height greater than 12 feet above grade measured at the top back of curb within the area between the five-foot setback allowed under special consideration and the regular 25-foot setback.

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

Water towers and mechanical equipment may extend up to five feet above the specified maximum height limit.

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



ARCHITECTURAL REVIEW: Prior to the issuance of building permits for any conditional or permitted use within this zone, the Community Development Department shall review the proposed plans for neighborhood compatibility in keeping with the architectural design guidelines adopted as Chapter 9 of this Code and with the Park City Design Guidelines. Appeals of departmental actions on architectural compliance are heard by the Planning Commission, and then may be appealed to the Council as set forth in Chapter 1 of this Code. Single family residences may also be subject to subdivision regulations and covenants that regulate design, materials, yard and height more strictly than this Code. This Code does not supersede more restrictive provisions in private covenants.

PERMITTED USE REVIEW PROCESS: The project review process for permitted uses in the RD District are set forth in Section 1.11.

CONDITIONAL USE AND MASTER PLANNED DEVELOPMENT REVIEW PROCESS: The project review process for conditional uses and master-planned developments in the RD District are set forth in Chapter 10 of this Code.

VEGETATION PROTECTION: Every effort to protect significant vegetation shall be made by the property owner/developer. This includes large trees of 6" caliper or greater, groves of 5 or more smaller trees, or clumps of oak or maple covering an area of 50 square feet to the drip lines. Limits of disturbance for the house on combined lots must be approved by the Community Development Director.

EASEMENT VACATIONS: If an easement has to be vacated, the applicant shall show evidence that it can be vacated or relocated without affecting service to the adjacent lots. An easement relocation agreement showing this shall be required to be filed with the County Recorder's office.

FENCES, WALLS, BERMS, AND/OR HEDGES:

Fences, walls, berms and hedges higher than six feet may be erected or allowed within the buildable area, provided that any physical structure over six feet in height shall receive conditional use approval and a building permit. Fences, walls, and hedges shall not exceed four feet in height within any required front yard or side street side yard and shall not exceed six feet within any required rear yard or interior side yard. Where a fence, wall, or hedge occurs along a property line separating two lots and there is a difference in the grade of the properties, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

Restrictions on Materials. Chain link fences are prohibited in all zones with the following exceptions which must be approved by the Community Development Director.

1. For recreational facilities such as tennis courts.
2. As temporary vegetation protection during construction as directed by the Community Development Department.
3. Chain link fences may be permitted in other circumstances by the Community Development Director when it is found that the fence is necessary in the interest of security or public safety, and when the fencing needs cannot be reasonably met with any other type of fencing.

ATTACHMENT E

Outline Format- Fort Collins, Colorado

Fort Collins Code Format

Article 4. Districts

Division 4.5. Residential Development District

DIVISION 4.5 RESIDENTIAL DEVELOPMENT DISTRICT (RD)

(A) **Purpose.** "The Residential Development District is intended..." To allow residential uses in areas of developable land within Park City that will be compatible with the City's development objectives and growth capabilities; to encourage the clustering of residential units in order to preserve natural open space, and minimize the cost of municipal services; to allow commercial and recreational activities that are in harmony with residential neighborhoods.

(B) **Permitted Uses.**

(1) "The following uses are permitted in the RD District, subject to building permit review, provided that such uses are located on lots that are part of an approved site specific development plan:"

Permitted uses shall be limited to those uses shown as permitted uses on the land use table in Section 7.19.

(a) **Residential Uses:**

1. Single-family detached dwellings on lots containing a minimum of fourteen thousand five hundred and twenty (14,520) square feet.
2. Rental of dwellings
3. Secondary Living Quarters
4. Group Homes (size)
5. Lock-out Rooms
6. Family Day-Care
7. Family Group Care
8. In-Home Baby-Sitting

(b) **Institutional/Civic/Public Uses:**

1. "Parks, recreation, and other open lands"

(c) **Accessory/Miscellaneous Uses:**

1. Accessory Buildings (size)

2. Accessory uses
 3. Home Occupations
 4. Activities for Conservation of Soil, Water, and Wildlife
 5. Agriculture, Crop Production, Orchards, Flower Production, but not retails sales
 6. Recreation Facilities owned by a Home owner or Homeowner's Association
- (d) "Any use authorized pursuant to a site specific development plan that was processed and approved in compliance with the LMC in effect on (the date immediately preceding the effective date of this Land Management Code), provided that such use shall be subject to all of the use and density requirements and conditions of said site specific development plan."
- (e) "Any use which was permitted for a specific parcel of property pursuant to the Zoning District regulations in effect for such parcel on (date); and which physically existed upon such parcel on (date) provided, however, that such existing use shall constitute a permitted use only on such parcel of property."
- (2) The following uses are permitted in the RD District, subject to administrative review:
- (a) **Residential Uses:**
1. Accessory Apartments
- (b) **Institutional/Civic/Public Uses:**
- (c) **Accessory/Miscellaneous Uses:**
- (3) The following uses are permitted, in the RD District, with Conditional Use Permits, subject to Planning Commission review:
- (a) **Residential Uses:**
1. Two-Dwelling Structure (Duplex)
 2. Three-Dwelling Structure (Triplex)
 3. Four-Dwelling Structure (Four-plex)
 4. Multi-Dwelling Structure (not to exceed eight units)
 5. Hotel, Motel, Inn, Boarding House (with 16 or more

rooms)

6. Master Planned Developments with residential and transient lodging uses only
7. Guest house

(b) **Institutional/Civic/Public Uses:**

1. Public and Quasi Public Institutions, Churches, Schools, and Private Schools
2. Essential Municipal and Public Utility Uses, facilities (with no business office)

(c) **Accessory/Miscellaneous Uses:**

1. Group-Care Facilities
2. Raising and Grazing of horses
3. Cemetery
4. Temporary Construction Buildings for sales and project management
5. Golf Courses, Outdoor Entertainment, and Recreational Facilities
6. Commercial Recreation Facilities (not including stables)

(C) **Prohibited Uses.** "All uses that are not (1) expressly allowed as permitted uses in this Section or (2) determined to be permitted by the Director pursuant to Section 1.3.4 of this Land Use Code, shall be prohibited."

(D) **Land Use Standards.**

- (1) **Density.** The maximum density for approved standard subdivisions shall be three units per acre. Subdivisions are encouraged to cluster development around common open space.
- (2) **"Mix of Housing Types."** (PC doesn't use)

(E) **Dimensional Standards.**

In subdivisions with clustered single family lots, the yards may be varied by the Planning Commission. In no case shall setbacks be approved which result in less than a ten foot separation in adjacent structures except as provided for in section 7.5.3(b)(1).

In standard subdivisions with lots of 12,000 square feet or more, the

setbacks will be as follows:

- (1) "Minimum lot width shall be ?"
- (2) "Minimum front yard setback shall be..." Minimum depth of the front yard for all buildings shall be 25 feet. In subdivisions allowing single family structures, the Planning Commission may designate specific single family lots on which the front yard set back is ten (10) feet for the main building and five (5) feet for the garage (and habitable space above the garage). This exception to the front yard set back minimum shall be granted by the Planning Commission when it is appropriate or reasonably necessary to solve access problems to lots with relatively steep grades, to preserve vegetation. Lots to which this exception applies shall be so designated on the subdivision plat at the time the plat is approved by the Planning Commission.
- (3) "Minimum rear yard setback shall be..." There shall be a 15 foot rear yard for main buildings and ten foot rear yard for accessory buildings provided.
- (4) "Minimum side yard width shall be..." Side yard of 12 feet will be provided for all structures, but side yards between connected structures may be waived by the construction of two semi-detached units with a party wall on the lot line.

For all buildings in the RD Zone:

- (5) "Maximum building height shall be twenty-eight (28) feet." No building shall be erected to a height greater than 28 feet, measured from natural grade at the building site. On lots specifically designated by the Planning Commission and recorded on the subdivision plat, no building shall be erected to a height greater than 12 feet above natural grade for uphill lots within the area between the five foot setback allowed for garages and the 25-foot setback. On lots with a downhill orientation, no building shall be erected to a height greater than 12 feet above grade measured at the top back of curb within the area between the five-foot setback allowed under special consideration and the regular 25-foot setback.
 - (a) The ridge of a gable, hip, gambrel or similarly pitched roof may extend up to five feet above the specific maximum height limit for the zone.
 - (b) Antennas, chimneys, flues, vents, or similar structures may extend up to five feet above the specified maximum height limit for the zone.
 - (c) Water towers and mechanical equipment may extend up to five feet above the specified maximum height limit.
 - (d) Church spires, bell towers, flag poles, and like architectural features, may extend over the specified

maximum height limit by up to 50% of the height limit, but shall not contain any habitable spaces above the maximum zone height stated.

(F) ***Development Standards.***

(1) *Building Design*

ARCHITECTURAL REVIEW. Prior to the issuance of building permits for any conditional or permitted use within this zone, the Community Development Department shall review the proposed plans for neighborhood compatibility in keeping with the architectural design guidelines adopted as Chapter 9 of this Code and with the Park City Design Guidelines. Appeals of departmental actions on architectural compliance are heard by the Planning Commission, and then may be appealed to the Council as set forth in Chapter 1 of this Code. Single family residences may also be subject to subdivision regulations and covenants that regulate design, materials, yard and height more strictly than this Code. This Code does not supersede more restrictive provisions in private covenants.

- (a) *Facade Length and Variation.*
- (b) *Prohibited Architectural Styles and Motifs.*
- (c) *Prohibited Siding Materials.*
- (d) *Design ornamentation.*
- (e) *Number of Exterior material.*
- (f) *Roofing Materials.*
- (g) *Roof shapes.*
- (h) *Skylights and solar panels.*
- (i) *Window treatment.*

(Other things might be: location of primary entrance, requirement for front porches, location of attached and detached garages ie 10' min behind principal bldg., minimum pitch of roof, ..)

(2) *Building Design for houses on combined lots*

Any requested increase in house square footage must be made on forms provided by the Planning Department. Each application shall be reviewed and approved by the Community Development Director for compliance with the following criteria:

- (a) *All of the above standards.*

- (b) *Maximum house size.* The maximum house size may not exceed 150 percent of the house size allowed on each single lot when those maximums are combined and averaged. For example: if 2 lots, one with a 4000 square foot maximum house and one with a 3000 square foot maximum are combined, the maximum house size would be 5250 square feet. The average of the two lots is 3500 square feet. $3500 \times 150\% = 5250$ square feet. In subdivisions where maximum house size is not specified, the house size on combined lots must be approved by the Community Development Director based upon neighborhood compatibility.
- (c) *Setbacks.* The required setbacks for homes on combined lots shall increase in proportion to the percentage of increase in the house size above the defined maximum size for a given subdivision. For example: if the home size is 20 percent greater than the maximum house size on any of the lots being combined, the setbacks shall be 20 percent greater than the standard setbacks of the zone. Lots with unusual configurations, topography, access, or significant vegetation may have the setbacks shifted upon approval of the Community Development Director but in no case shall they be less than the required zone setbacks.
- (d) *Easement Vacations.* If an easement has to be vacated, the applicant shall show evidence that it can be vacated or relocated without affecting service to the adjacent lots. An easement relocation agreement showing this shall be required to be filed with the County Recorder's office.

(3) *Site Design*

(4) *Landscape/Hardscape Design*

- (a) *Vegetation Protection.* Every effort to protect significant vegetation shall be made by the property owner/developer. This includes large trees of 6" caliper or greater, groves of 5 or more smaller trees, or clumps of oak or maple covering an area of 50 square feet to the drip lines. Limits of disturbance for the house on combined lots must be approved by the Community Development Director.
- (b) *Landscape requirements* (Other references to landscaping, LED, ... in the LMC need to go in here)
- (c) *Fences, walls, berms, and hedges.*

(5) *Lighting Design*

(6) *Block Requirements* (PC doesn't use)

- (a) Block structure.
- (b) Block types and standards

ATTACHMENT F

Neo-Traditional Format- Salt Lake City, Utah

Salt Lake City Code Format

7-5 RD-3/43,560 RESIDENTIAL DEVELOPMENT DISTRICT

7-5.1 Purpose Statement. The purpose of the 3/43,560 Residential Development district is to allow residential uses in areas of developable land within Park City that will compatible with the City's development objectives and growth capabilities. The district is intended to encourage the clustering of residential units in order to preserve natural open space, minimize the cost of municipal services, allow commercial uses, and recreational activities that are in harmony with residential neighborhoods.

7-5.2 Uses. Uses in the RD-3/43,560 Residential Development District, as specified in the Table of Permitted and Conditional Uses for Residential Districts found at Section 7-19 are permitted subject to the general provisions set forth in Section 7-1.

7-5.3 Minimum Lot Area and Lot Width. The minimum lot areas and lot widths required in this district are as follows:

LAND USE	MINIMUM LOT AREA	MINIMUM LOT WIDTH
(a) Single family detached dwellings	14,520 sq ft	125 ft
(b) Natural open space, public & private	no minimum	no minimum
(c) Utility substations and buildings	14,520 sq ft	125 ft
(d) Municipal service uses, including city utility uses and police	no minimum	no minimum
(e) Other permitted or conditional uses as listed in Section 7-19	14,250 sq ft	125 ft

7-5.4 Maximum Building Height. In the RD-3/43.560 Residential Development District, the maximum building height shall be thirty-three (33) feet as measured vertically from the top of the roof and the natural grade. On lots specifically designated by the Planning Commission and recorded on the subdivision plat, no building shall be erected to a height greater than twelve (12) feet above natural grade for uphill lots within the area between the five-foot side yard setback allowed for garages and the twenty-five (25) foot side yard setback. On lots with a downhill orientation, no building shall be erected to a height greater than twelve (12) feet above grade measured at the top back of curb within the area between the five-foot setback allowed under special consideration and the regular twenty-five (25) foot side-yard setback.

7-5.5 Minimum Yard Requirements.

- | | | |
|-----|--|---|
| (a) | <u>Standard Front Yard:</u> | Twenty-five (25) feet. |
| (b) | <u>Restricted Access Front Yard:</u> | Ten (10) feet for main building
Five (5) feet for garage |
| (c) | <u>Corner Side Yard:</u> | Twenty-five (25) feet. |
| (d) | <u>Interior Side Yard:</u> | Twelve (12) feet. |
| (e) | <u>Common Wall Side Yard:</u> | No setback required. |
| (f) | <u>Rear Yard - Main Building:</u> | Fifteen (15) feet. |
| (g) | <u>Rear Yard - Accessory Building:</u> | Ten (10) feet. |
| (h) | <u>Clustered Single Family Lots:</u> | Planning Commission may
vary setbacks provided a ten
(10) foot setback is maintained
between structures. |

7-5.6 Architectural Review: Prior to the issuance of building permits for any conditional or permitted use within this zone, the Community Development Department shall review the proposed plans for neighborhood compatibility in keeping with the Architectural Design Guidelines adopted as Chapter 9 of this Code and with the Park City Design Guidelines. Appeals of departmental actions on architectural compliance are heard by the Planning Commission, and then may be appealed to the City Council as set forth in Chapter 1 of this

Code. Single family residences may also be subject to subdivision regulations and covenants that regulate design, materials, yard and height more strictly than this Code. This Code does not supersede more restrictive provisions in private covenants.

7-5.7 Maximum Building Coverage on Combined Lots. Any requested increase in house area must be made on forms provided by the Planning Department. Each application shall be reviewed and approved by the Community Development Director for compliance with the following criteria:

- (a) House Size. The maximum house size may not exceed 150 percent of the house size allowed on each single lot when those maximums are combined and averaged. In subdivisions where maximum house size is not specified, the house size on combined lots must be approved by the Community Development Director based upon neighborhood compatibility.
- (b) Setbacks. The required setbacks for homes on combined lots shall increase in proportion to the percentage of increase in the house size above the defined maximum size for a given subdivision. For example: if the home size is 20 percent greater than the maximum house size on any of the lots being combined, the setbacks shall be 20 percent greater than the standard setbacks of the zone. Lots with unusual configurations, topography, access, or significant vegetation may have the setbacks shifted upon approval of the Community Development Director but in no case shall they be less than the required zone setbacks.
- (c) Vegetation Protection. Every effort to protect significant vegetation shall be made by the property owner/developer. This includes large trees of 6 inch caliper or greater, groves of 5 or more smaller trees, or clumps of oak or maple covering an area of 50 square feet to the drip lines. Limits of disturbance for the house on combined lots must be approved by the Community Development Director.
- (d) Easement Vacations. If an easement has to be vacated, the applicant shall show evidence that it can be vacated or relocated without affecting service to the adjacent lots. An easement relocation agreement showing this shall be required to be filed with the County Recorder's office.

12-18

TABLE OF PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL DISTRICTS

LEGEND		PERMITTED AND CONDITIONAL USES, BY DISTRICT																
C = Conditional Use P = Permitted Use		RESIDENTIAL DISTRICTS																
USE	FR-1/ 43,560	FR-2/ 21,780	FR-3/ 12,000	R-1/ 12,000	R-1/ 7,000	R-1/ 5,000	SR- 1	SR- 2	SR- 3	R-2	R- RH 35 R- MF 30	R- MF 35	R- MF 45	R- MF 75	R-B	R-MU	R-O	
RESIDENTIAL																		
Accessory Guest and Servants Quarters	C																	
Assisted Living Facility (See Part IV, ch. 18, § 18-6)												P	P	P		P		
Dormitories, Fraternities, Sororities (See § 12-15, Part IV, Ch.18)																		
Dwelling Units, above first floor Commercial or Office use															P	P	P	
Group Home, Small (See Part IV, ch. 18, § 18-8)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Group Home, Large (See Part IV, ch. 18, § 18-8)											C	C	C	C	C	C	C	
Manufactured Home	P	P	P	P	P	P	P	P	P	P	P	P			P	P		
Multiple Family Dwellings											P	P	P	P		P	P	
Nursing Care Facility (See Part IV, ch. 18, § 18-7)													P	P				
Residential Substance Abuse Treatment Home, Small												C	C	P		P	P	
Resident Health Care Facility Congregate Care Facility (See Part IV, ch. 18, § 18-5)											P	P	P	P	P	P	P	
Residential Substance Abuse Treatment Home, Large													C	C		C	C	
Rooming (Boarding) House											C	C	P	P	C	P	P	
Single Family Attached Dwellings									P		P	P	P			P		
Single-Family Detached Dwellings	P	P	P	P	P	P	P	P	P	P	P	P			P	P		

NOTES- Qualifying Provisions:

- * A single apartment unit may be located above first floor retail/office.
- † Provided that no more than 2-two family buildings are located adjacent to one another and no more than three such dwellings are located along the same block face (within subdivisions approved after the adoption date of this ordinance (date)).
- + Subject to conformance with the provisions of Section 12-16.4.
- 3- ~~Non-residential uses, such as Bed and Breakfast, offices, limited retail and similar uses establishments in Residential Districts shall also be conditional uses only for properties on the adopted historic and architecturally significant properties list adopted by the City Council.~~
- @ ~~Must be located in a building originally designed for residential use. New construction for a non-residential use shall only be permitted when the new construction is replacing a building originally constructed for a non-residential use having a non-residential design. New construction is also subject to all provisions of 12-15.8.~~
- ^ Includes utility structures not more than two (2) feet high or twenty (20) square feet in area.

III-12- 51

TABLE 12-19

SUMMARY TABLE OF YARD AND BULK REQUIREMENTS - RESIDENTIAL DISTRICTS

District Symbol	District Name	YARD AND BULK REGULATIONS								
		Min. Lot Area	Min. Lot Width*	Max. Building Height	Min. Front Yard	Min. Corner Side Yard	Min. Interior Side Yard	Min. Rear Yard	Max. Building Coverage	Required Landscape Yard
FR-1/43,560	Footmill Estate Residential	33,560 sf	140'	See Section 12-0.15	20'	20'	10'	40'	25%	Front and corner side yards
FR-2/21,780	Footmill Residential	21,780 sf	100'	See Section 12-0.15	20'	20'	10'	40'	25%	Front and corner side yards
FR-3/12,000	Single Family Residential	12,000 sf	Interior: 30' Corner: 100'	See Section 12-0.15	20'	20'	10'	35'	35%	Front and corner side yards
R-1/12,000	Single Family Residential	12,000 sf	Interior: 30' Corner: 100'	30 or 2-1/2 stories	20'	20'	Corner lots: 5' on one side & 10' on the other Interior lots: 5' on one side & 10' on the other	35'	35%	Front and corner side yards
R-1/7,000	Single Family Residential	7,000 sf	50'	30 or 2-1/2 stories	20'	20'	Corner lots: 5' on one side & 10' on the other Interior lots: 5' on one side & 10' on the other	25'	40%	Front and corner side yards
R-1/5,000	Single Family Residential	5,000 sf	50'	30 or 2-1/2 stories	20'	10'	Corner lots: 4' on one side & 10' on the other Interior lots: 4' on one side & 10' on the other	25% of lot depth or 20'	55%	Front and corner side yards
SR-1	Special Development Pattern Residential	Single family detached: 5,000 sf Two family: 8,000 sf Twin: 4,000 sf	Detached and two family: 50' Twin: 25'	30 or 2-1/2 stories	20% of lot depth or 25'	10'	Corner lots: 4' on one side & 10' on the other Twin: 5' on one side & 10' on the other	25% of lot depth; between 15'-30'	55%	Front and corner side yards
SR-2	Special Development Pattern Residential	4,000 sf	50'	30 or 2-1/2 stories	20'	20'	Corner lots: 5' on one side & 10' on the other, with exceptions	25'	40%	Front and corner side yards
SR-3	Special Development Pattern Residential	Single family detached: 2,000 sf Single family attached & twin: 1,500 sf	Detached: interior - 30' corner - 40' Attached & twin: interior - 22' corner - 32'	30 or 2-1/2 stories	10'	10'	Detached: 4' when abutting single family or if yard provided, otherwise none required	20% of lot depth; between 15' - 30'	Detached: 60% Attached: 70%	Front and corner side yards
R-2	Single & Two Family Residential	Single family detached: 5,000 sf Two family: 8,000 sf Twin: 4,000 sf	Detached & two family: 50' Twin: 25'	30 or 2-1/2 stories	20% of lot depth or 20'	10'	Detached & two family: corner lots - 4' on one side & 10' on the other Twin: one side 10'	25% of lot depth; between 15' - 25'	45%	Front and corner side yards
RMF-30	Low Density Multi Family Residential	Single family detached: 5,000 sf Single family attached: 3,000 sf Two family: 8,000 sf Twin: 4,000 sf	Detached and two family: 50' Attached: interior - 25' corner - 35' Twin: 25'	30 or 3-1/2 stories	20'	10'	Detached & two family: corner lots - 4' on one side & 10' on the other Attached: none required, 4' if provided Twin: one side 10'	25% of lot depth, but between 20' - 25'	Detached: 45% Attached: 60% Two family and Twin: 50% Multi family: 40%	Front and corner side yards
RMF-35	Moderate Density Multi Family Residential	Main family: (3-11 units) - 9,000 sf and 2,000 sf/dw; or (12+ units) - 26,000 sf and 1,000 sf/dw Others: see Section 12-12.3	Main family: 80' Others: see Section 12-12.3	35' or 2-1/2 stories	20'	10'	Detached & two family: corner lots - 4' on one side & 10' on the other Attached: none required, 4' if provided Twin: one side 10' Multi family: 4' and min. 10' between bldgs of different lots Interior lots: one yard: 10'	25% of lot depth; between 20' - 25'	Single family detached: 45% Multi family and Attached: 60% Two family and Twin: 50%	Front and corner side yards Interior multi family lots: one interior side yard
RMF-45	Moderate/High Density Multi Family	Single family attached: 3,000 sf Main family: (3-14 units) - 9,000 sf and 1,000 sf/dw or (15+ units) - 22,000 sf plus 700 sf/dw Others: see Section 12-13.3	Attached: interior - 22'; corner - 32' Multi family: 80'	45'	20% of lot depth or 25'	Single family: 10' Multi Family: 20'	Attached: none required, 4' if provided or 4' between buildings Multi family: 5' and min. 10' between bldgs of different lots	25% of lot depth or 30'	60	Front and corner side yards Interior lots: one interior side yard
RMF-75	High Density Multi Family	Main family: (3-14 units) 9,000 sf and 950 sf/dw or (15+ units) - 20,000 sf and 325 sf/dw Others: see Section 12-14.3	100'	75'	25'	25'	15'	25% of lot depth or 30'	60%	Front and corner side yards Interior lots: one interior side yard
RB	Residential Business	Single family: 5,000 sf Two family: 8,000 sf	50'	30 or 2-1/2 stories	20% of lot depth or 25'	10'	6'; interior lots: one yard - 10'	25% of lot depth or 30'	50%	Front and corner side yards
RMU	Residential Mixed Use	Main family, Non residential and Mixed use: No minimum Others: see Section 12-16.2	See Section 12-16.3	Permitted: 75' Conditional: 120'	See Section 12-16.3	See Section 12-16.3	See Section 12-16.3	See Section 12-16.3	See Section 12-16.3	Front and corner side yards Minimum open space: 20% of lot area
RO	Residential Office	Multi family: none required Offices: 20,000 sf	100'	4 stories or 60'	25'	25'	15'	25' of lot depth or 30'	50%	Front and corner side yards Interior lots: one interior side yard

* Standards reflect the main use (uses) of the district. For other regulations please refer to district regulations.

ADDITIONAL REGULATIONS:

Slope Restrictions: No building allowed on slopes of 40% or more in the FR-1/43,560; FR-2/21,780; FR-3/12,000

MINUTES



DATE: July 17, 1997
DEPARTMENT: Administration
AUTHOR: Toby Ross, City Manager
TITLE: Island Outpost Development Agreement
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Approve the proposed development agreement, which establishes rights and responsibilities associated with the Hotel Parcel at the Municipal Golf Course.

DESCRIPTION:

A. Topic: Island Outpost Development Agreement

B. Background:

The Island Outpost Development Agreement is a revised rendition of an agreement that was entered into between Park City and Greater Park City Company, in 1987. The original agreement specifically detailed the proposed development of the Park City Municipal Golf Course. Island Trading, Inc. (Island) is a successor in interest to the original agreement.

The 1987 agreement adopted Ordinance 87-14, which amends the zoning map to re-zone the subject property from RD to RD-MPD, however the ordinance does not take effect until publication. Island has proposed revisions to the original development plan, which have received final Planning Commission approval.

On July 3, 1997, Council discussed the proposed development agreement between Park City and Island Trading, Inc. The Council members reached general consensus that staff should finalize the development agreement, and present that agreement with its exhibits to the Council on the July 17, 1997 consent agenda.

C. Analysis:

Agreement Summary

The staff report, dated June 22, 1997, provides a detailed summary of the Island Outpost Development Agreement. This information has been presented to the Council and discussed at the Council meeting on July 3, 1997. Everyone present at that meeting had an opportunity to ask questions regarding the agreement, and staff responded to those questions.

Here is a list of the topics covered in the summary presented to the Council:

1. The parties to the agreement are Park City and Island.
2. The project will be constructed in two phases: 1) golf facilities and 2) condominiums.
3. Island will provide interim golf related facilities during the construction of the new facilities.
4. 210 parking spaces will be constructed (115 underground). Park City will contribute approximately \$2.2 million toward this portion of the construction.
5. Island will construct replacement golf facilities. Park City will absorb ½ of the cost of this construction.
6. The City can request that the new cart storage building be built on City owned land. Estimated cost of this structure will be \$335,000.
7. The City would have the obligation to either lease or purchase the Pro Shop from Island.
8. The City will have the right to lease or sublease the Pro Shop Unit for non-golf activities that are not in direct competition with the commercial uses within the balance of the hotel project.
9. The City's right to purchase the Pro Shop Unit, and the rental rate under the lease of the Pro Shop is based on the Construction Costs.
10. The plans on which the MPD was granted are conceptual in nature, and are not construction drawings.
11. The hotel project will eventually be submitted to condominium ownership, while the Pro Shop will be a separate commercial unit within the condominium. The Cart Storage Building, located on City property, will not be part of the condominium ownership.
12. The parties agree to convey any land necessary to eliminate encroachments to the other party.
13. Some golf course modifications will need to be made as part of the agreement.
14. Ordinance 87-14 was adopted in 1987, but has been held in abeyance and does not take effect until publication. The conditions to publication and the ordinance taking effect are payment of fees for the project, issuance of initial permits and, as a result of the modified MPD, approval by the Planning Commission of the revised MPD. With respect to these conditions, the parties agree as follows:
 - A. Payment of Fees. The project will be constructed in phases, and fees will be payable on each phase as it is constructed.
 - B. Issuance of Permits. The demolition permit for the existing structure will constitute initial permits for the project as described in Ordinance 87-14.
15. Upon payment of the fees and issuance of the permit described above, City will publish Ordinance 87-14.
16. The Development Agreement and the MPD approval, and any building permits issued under them, could be transferred by Island to its successors in interest or assigns.
17. Upon the publication of Ordinance 87-14, the MPD approval would have a duration of 2

years, but could be extended for an additional 2 years.

18. In addition, upon recording of an expandable condominium plat consistent with this Permit, Island will be vested in the right to complete construction of the subsequent phases within the seven-year period allowed under the condominium act.

Financing Alternatives

On July 3, 1997, staff presented the Council with four basic financing alternatives relating to this project. These alternatives were: a loan from the developer, a lease from the developer, RDA bonds, and Golf Revenue bonds. There was a limited discussion of these alternatives. However, no decisions were made regarding this issue. The financing strategy which is ultimately adopted will need to consider current and future project financing needs. Approval of the development agreement is not contingent upon approval of a funding source.

ALTERNATIVES:

A. Approve the proposed development agreement:

B. Revise and approve the proposed development agreement:

C. Continue the item with direction:

SIGNIFICANT IMPACTS

The City has been anticipating the financial impacts of this proposed development project for quite some time. Under the terms of the proposed Development Agreement, the City will be responsible for funding all or a portion of the following: 1) golf course improvements; 2) Pro Shop and golf cart parking; and 3) underground parking and a portion of the surface parking. The City's estimated portion of the total cost of this project is \$1,755,256. A portion of these costs will be paid by Island.

Staff is not prepared to recommend a funding option at this time; no action is required with respect to funding. The funding strategy for this project will most likely be a combination of the four alternatives. Staff will return to City Council with its funding plan if the Development Agreement is approved.

The sources of City funds involved in the project would most likely be limited to the Golf Course Fund and the Lower Park Avenue Redevelopment Agency (RDA). CIP or General Fund resources could be used for the project, but probably only in a lending capacity. The City has viable funding alternatives at its disposal to meet its obligations under the proposed development agreement. The exact funding strategy will be determined by policy decisions and economic conditions impacting the Golf Course Fund and the Lower Park Avenue RDA. If the development agreement is approved, staff will begin formal discussions with the City's financial advisors and bond counsel to determine the best course of action for the City.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the Council did not approve a development agreement acceptable to Island by August 1997,

the 1987 zoning ordinance would expire unless Island could pay all fees and receive a building permit. Park City would not normally issue permits until some of the issues addressed in the Development Agreement are resolved and complete building plans are submitted. Island is not ready to submit complete building plans.

The meaning of the expiration has been inconclusively debated by attorneys from both sides. The consequences could be profound. If the property reverted to the base zone (RD), the development potential and associated value would be substantially reduced. Island probably could allow that to happen without reviewing it with a judge.

RECOMMENDATION:

Authorize the Mayor to execute the proposed Development Agreement in substantially the same form as the version attached. The Agreement establishes rights and responsibilities associated with the development of Hotel Parcel and development and relocation of facilities at the Golf Course.

DEVELOPMENT AGREEMENT

Golf Course Hotel MPD

THIS DEVELOPMENT AGREEMENT is made by and between Island Trading, Inc., a Delaware corporation ("Island") and Park City Municipal Corporation, a municipality of the State of Utah, ("City") to set forth the terms and conditions under which Island will develop its property located in Park City, Utah, and certain obligations with respect to that development concerning the City golf course.

City and Greater Park City Company entered into a series of agreements concerning the development of this property and the acquisition of the Park City golf course from Greater Park City. The latest iteration of this agreement is dated August 17, 1987, and entitled "Agreement Golf Course Hotel."

Island is the successor in interest to Greater Park City Company under that agreement. The Golf Course Hotel agreement contemplated the construction of a hotel project on 6½ acres of land containing no more than 272 hotel rooms or no more than 68 residential Unit Equivalents as defined in the Land Management Code, and 15 commercial Unit Equivalents in addition to an allowance of 5% for hotel support commercial. In addition to the density allowance, the Agreement called for the provision of golf course pro shop, cart storage and rest room facilities to replace the existing facilities located on the property.

Under the Golf Course Hotel Agreement, City has adopted Ordinance 87-14, which conditionally amends the zoning map to re-zone the subject property from RD to RD-MPD. Ordinance 87-14 does not take effect until publication. The MPD approval under the 1987 agreement resulted in a density transfer from the Golf Course itself, which was then zoned RD, to the hotel parcel now owned by Island. The Golf Course was then re-zoned ROS, and the development parcel provisionally re-zoned RD-MPD.

Island has proposed a different configuration of development for the site, and in December of 1996 received final Planning Commission approval for the Master Planned Development Application ("MPD") for that revised project. The revisions reduce the overall density in the project, and increase the available parking for the golf course through a shared parking approach. Because of those revisions, the parties feel it is necessary to make adjustments in their agreement to specifically address the proposed building, evidence the final zoning approval for that project, and cause the publication of Ordinance 87-14.

The parties agree as follows:

1. Property. The property subject to this agreement is described on the attached Exhibit A.

2. MPD Approval. On December 18, 1996, the Park City Planning Commission granted Master Planned Development Approval for this project. One of the conditions of approval was the adoption of a revised development agreement to reflect the changed conditions resulting from the new MPD. The parties acknowledge that the plans on which

the MPD was granted are conceptual in nature, and are not construction drawings. Changes and technical corrections will be made, and so long as the changes are not material to the density, appearance of the building, the function of the golf facilities, those changes will be reviewed and approved or rejected by the City staff without planning commission action. The project shall now consist of:

The hotel project with not more than 39 residential unit equivalents, and not more than 9 unit equivalents of commercial space partly within the hotel building and partly in a free standing satellite building not to exceed 2,000 square feet, plus 5% of the total floor area may be dedicated to meeting rooms, and an additional 5% for support commercial without requiring the use of a unit equivalent of commercial space. The satellite building will be limited in use to support commercial as defined by code. Building height, set-back and site coverage are all as set forth in the MPD.

The golf facilities described below, which are in addition to the density assigned to the hotel project, and shall not be counted as either commercial unit equivalents or support commercial.

3. Construction in Phases. Island intends to construct the project as an expandable condominium in two or more phases.

4. Interim Golf Facilities. The first phase of the project will include the Replacement Golf Facilities, as defined below. While that phase is under construction, the existing pro shop, cart storage area, and golfer parking areas will be unusable. As called for in the 1987 agreement, Island will provide interim facilities. The location of the interim facilities, including the interim parking for 41 cars is presently contemplated to be located as shown on the drawing attached as Exhibit B. The temporary pro shop will be in a temporary modular building placed on the site, with restrooms for golfers with water and sewer connections. The cost of providing the interim Golf Facilities will be paid by Island, however City will pay the monthly utility service costs (Island will pay for initial installation and connection) and similar occupancy costs for the temporary building. The actual layout and conditions of the temporary pro shop and other golf facilities will be worked out between Island and the City Leisure Services Director to the reasonable satisfaction of the Leisure Services Director.

5. Parking. (a) The project will include a total of 210 parking places, of which 115 will be underground. Notwithstanding the 1987 Agreement's requirement that Island provide only 25 surface parking spaces for the golf course, the parties recognize that as inadequate, and have agreed to expand the parking. All of the parking will be jointly used by the hotel and the golf course, with the assumption being that the periods of peak demand for the golf course and hotel uses will largely off set each other.

(b) City agrees to pay for 48% of the underground parking Construction Cost, and \$5,500 toward the Construction Cost of the surface parking spaces, with the balance of parking costs paid by Island. The Construction Cost for the underground parking will include the actual hard Construction Cost, and soft costs such as design and engineering costs, construction financing, permitting, and all other costs associated with the construction of the underground parking, including an equitable allocation of footing and foundation expenses. The City share of the hard Construction Cost of parking is detailed on the attached construction cost schedules, and preliminarily estimated as follows:

The total Construction Cost of 115 underground parking spaces, and associated ramps, mechanical, allocated share of elevators, and stairwells is approximately \$2,200,000, with City paying 48%, or \$1,056,000, plus its proportionate share of the soft costs described below;

City will pay \$5,500 toward the cost of providing 14 surface parking spaces, plus its proportionate share of the soft costs associated with those spaces. This is Construction Cost only, and does not include any component for land cost involved in the surface parking.

These Construction Cost estimates are preliminary in nature and subject to change. City will be given 30 days to review and approve or reject final Construction Cost for the parking prior to the commencement of construction, and 10 days to review and approve or reject any change orders, or combination of change orders, that affect City's costs by \$10,000 or more, with silence being deemed approval of the change. All cost estimates and change orders will be submitted in writing, and City's approval, rejection, or requests for clarifications will be made in writing.

(c) City's share of the parking costs will be reimbursed to Island by City upon substantial completion of the parking facilities. It is expected that the underground parking will be completed before the surface parking, and the reimbursement will be made for underground and surface parking independently upon their respective completion.

(d) If requested by Island, City will grant Island an easement to construct additional underground parking under the driving range for nominal consideration, so long as the construction does not interfere with the operation of the driving range or cart storage building, except during periods of actual construction. This request will be made, if at all, before January 1, 2003, and if not requested, the obligation to grant an easement is waived. If Island does not commence construction of the additional underground parking within 1 year from the date of the grant of easement, the easement will terminate.

6. Replacement Golf facilities. Under the 1987 agreement, Island is obligated to make space available to City for replacement Golf Facilities, which include the Pro Shop, restrooms, golf course parking, and cart storage areas. The parties have agreed to modifications in the replacement Golf Facilities, as set forth in this Agreement. Island is obligated to provide the replacement Golf Facilities, and City is obligated to lease and/or purchase the Golf Facilities as described below:

A. Pro Shop Unit. Island will construct a replacement pro shop at the location shown on the plans. It will be a separate condominium unit. The Pro Shop Unit will be approximately 2,000 square feet in area with convenient access to the golf course. The Construction Cost for the Pro Shop Unit is estimated at \$144,256, plus soft costs. The Pro Shop Unit will be completed to a shell state, ready for tenant interior finishes, which are the sole responsibility of City. The shell will consist of rough plumbing and electrical, complete HVAC, fire sprinklers, and finished drywall walls and ceilings, and paint. City is responsible for all fixtures, floor coverings, and window coverings. City will provide Island with its proposed interior layout and any desired partitions within 60 days of the commencement of construction on the phase of the project that includes the Pro Shop Unit.

B. Golf Course Rest Rooms. Restrooms that comply with the Americans With Disabilities Act, totaling approximately 700 square feet will be provided for the Golf Course adjacent to the Pro Shop Unit as shown on the plans. These rest rooms will be common area of the condominium. Hotel patrons will be able to use the Golf Course Restrooms, and Golf Course patrons will be able to use Hotel restrooms, as to some extent the patrons of each facility will overlap. The total Construction Cost of the Golf Course rest rooms is estimated at \$87,750, plus soft costs, and will be added to the cost of the Pro Shop Unit for purposes of computing the purchase price or lease costs. City will pay 50% of the Construction Cost for the golf course rest rooms.

C. City Cost Approval. The stated Construction Cost on Exhibit D for the Pro Shop Unit and Golf Course Restrooms are preliminary estimates only, and not final construction prices based on bids or signed contracts. They do not include soft costs. City will be given 30 days to review and approve or reject final Construction Cost and soft costs for the Pro Shop Unit/Golf Course Rest Rooms prior to the commencement of construction, and 10 days to review and approve or reject any change orders, or combination of change orders, that affect City's costs by \$10,000 or more, with silence being deemed approval of the change. All cost estimates and change orders will be submitted in writing, and City's approval, rejection, or requests for clarifications will be made in writing.

D. Cart Storage. If requested by City, Island will construct the cart storage building on land owned by City under the driving range. This will be constructed by Island for the benefit of City, with the actual costs to be paid by City. Because this is built on land owned by City, no cost for land will be included. The estimated Construction Cost of the Golf Cart Storage Building is \$335,000, or \$50/square foot, plus soft costs. The cart storage building will contain approximately 6,700 square feet of space suitable for parking up to 75 golf carts. Plans for the Cart Storage Building are still conceptual, and it may be reduced in size. Design of the Cart Storage Building is entirely within the City's control and discretion. The Cart Storage building will be paid for by City, but, it may be financed through Island on the same basis as the Pro Shop Unit, with reimbursement of Construction Cost as described below for the Pro Shop Unit. It cannot be leased because it is located on City property. If City uses its own contractor to build the Cart Storage on City property, Island is relieved of any obligation to build it as part of Island's hotel project. Island will still finance the Cart Storage Building in an amount not to exceed \$350,000 or City's actual costs, whichever is less, on the terms stated below for the Pro Shop Unit at City's request, provided that City must decide and notify Island that it wants Island to provide financing prior to placement of Island's construction financing so it can be factored into loan requests as an "off-site" improvement.

E. Lease or Purchase. City is obligated to either lease or purchase the completed Pro Shop Unit from Island. In either event, the purchase price or lease rate will be based on the actual Construction Cost of the Pro Shop Unit. If purchased, the City may either pay the full amount in cash upon completion of construction, or elect to have Island finance the purchase over 20 years at 6% interest, with equal payments that amortize principal and interest. City will cooperate in reasonable efforts to structure the transaction in a way that the interest qualifies as tax exempt municipal interest, so long as there are no additional costs to City, and City is not required to guarantee that tax treatment. Notice of the election to purchase will be

given in writing at least 60 days prior to the estimated completion of construction so Island can make adjustments in its long term financing of the project. If City elects to lease the Pro Shop Unit, the lease will be a triple net lease and provide a 10% annual return to Island on the agreed upon cost of the Pro Shop Unit (which is the same as the purchase price). The lease term will be 20 years, with the right to renew for up to a total of 50 years. Base rent will be reviewed every three years, and adjusted by the actual change in the All Cities Consumer Price Index, with 1997 being the base year. In addition to rent, City is responsible for all occupancy costs of the Pro Shop Unit, including utilities, insurance, taxes, condominium common area assessments (exclusive of hotel operating costs such as front desk, housekeeping, and restaurant expenses). The Cart Storage building is located on City property, and will be purchased by City, with the purchase price being reimbursement of Construction Cost for that building as defined below.

F. Non-Compete Provisions. The Pro Shop Unit will be subject to deed restrictions prohibiting the use of that space for uses other than those reasonably appurtenant to the golf course. During the non-golf season, City will have the right to lease or sub-lease the Pro Shop Unit for non-golf activities that are not in direct competition with the commercial uses within the balance of the hotel project. The anticipated use is as the shop for cross country skiing on the golf course, but other uses are permissible. Retail businesses not related to the golf course or x-country skiing will be prohibited. So long as Island or tenants in the hotel commercial space are providing food and beverage service during hours when the golf course is open, City will not provide sit-down and on-site food and beverage service from the Pro Shop Unit. City will not provide sit-down food service on the golf course property within 100 feet of Island's property line, either directly or through concessionaires. This will not preclude the sale of drinks or sandwiches and other cold food from a golf cart based service, nor preclude food services provided in conjunction with golf tournaments or other special events. The 100 foot limitation will be waived during winter of 2001/2002 to accommodate functions associated with the Winter Olympics.

G. Computation of Costs. City's obligation to purchase the Pro Shop Unit, and the rental rate under the option to lease the Pro Shop Unit are based on the final Construction Costs, plus the City's proportionate share of the Soft Costs. The preliminary Construction Cost, and the allocations for shared items such as footings, foundations, roofing, site preparation, and other common elements are shown in the attached Construction Cost Schedules (Exhibit D). Before construction commences, fixed price contracts will be negotiated by Island, with City having the right to approve costs and change orders as described above. All contracts will be in Island's name (except for the Cart Storage Building), and administered by Island, subject to the rights of City to review costs and changes. In addition to the Construction Cost as shown on the Construction Cost Schedules, City is also responsible for its proportionate share of the following related costs, some of which are referred to elsewhere as Soft Costs:

- (i) One half of the cost of preparing the condominium documents including the record of survey map and declaration (excluding costs associated with any mandatory rental pool, securities registration, out-of-state real estate sales registration, or timeshare ownership expenses), with the City's share not to exceed \$10,000.

(ii) If not included on the Construction Cost Schedules, the actual costs of engineering, architectural, environmental, survey, soils, and similar expenses will be allocated on the basis of the relative percentages of the total Construction Cost to be borne by each party.

(iii) The actual costs of government fees, exactions, and permits are or will be included in the final Construction Cost Schedules. If City offsets or reduces any fees applicable to the Pro Shop Unit, Golf Course Rest Rooms, Parking, or Cart Storage Building, 100% of the actual reduction in fees will be applied against the City share of those fees in the total Construction Costs;

(iv) The actual cost of construction financing for the Pro Shop Unit, Golf Course Rest Rooms, City share of the Parking and Cart Storage Building will be allocated based on their respective percentages of the final Construction Costs for the phase of the project those items are in. In the event that Island finances the project internally, or without a conventional loan, the construction loan interest component will be equal to the First Security Bank (or its successor) prime lending rate, plus 150 basis points;

(v) Unless otherwise shown on the Construction Cost Schedules, or specifically included in this agreement, all other costs associated with the construction of the project are Island's responsibility.

(vi) In the event Island learns of any conditions which will materially increase or decrease those costs during the course of construction, it will notify City in writing. Material changes in cost resulting from conditions beyond Island's reasonable control will not relieve City of its obligations to pay its share of the adjusted costs. If possible, the parties will attempt to find design solutions to reduce or eliminate unanticipated costs, but in no event will construction of the hotel project be delayed by City's redesign or modifications of the Pro Shop Unit once construction has begun.

(vii) No payment on the purchase of the Pro Shop Unit or lease payments will be due until 30 days after the Unit has received a temporary certificate of occupancy.

(viii) Island will provide City with copies of all construction draws during the course of construction, and regularly inform City of the progress of construction and any material changes in schedule.

H. Island to Construct. The construction of the Pro Shop Unit is a condition of the approval of the overall project, and does not become City property until completion. City has the option to purchase or lease, in the City's sole discretion. The Pro Shop Unit will be constructed by Island or its contractor, and as private projects, Island is not required to comply with public bidding procedures. The Golf Cart Storage Building is being constructed on City Property. Construction of the Cart Storage Building on City owned property has relieved Island of any obligation to provide cart storage as part of the underground garage, and results in considerable cost savings to City. Island agrees to provide financing for the Cart Storage Building, as described above, if City requests Island to construct it on City's behalf. If the Cart Storage Building is put out for bid, Island may bid on it, but is not required to,

nor given any preference in the bidding process. Construction staging for the Cart Storage Building will not be on Island's property unless Island, or its contractor, are also the City's contractor on the Cart Storage Building.

I. Design Coordination. Design of the Pro Shop Unit, and necessary golf course modifications will be coordinated through Island's civil engineering and architectural consultants. Design of the Cart Storage Building may be handled separately by City, provided that site plan will be coordinated to maintain access and visual compatibility in materials, design, and appearance, and construction staging and scheduling. Island will be given 30 days to review and approve or reject the design of the Cart Storage Building, provided that this review will be limited to visual and functional considerations that reasonably affect Island's project.

7. Condominium Ownership. The hotel project will eventually be submitted to condominium ownership. It is a mixed use condominium, and different common area costs will be allocated in the Declaration to the commercial and residential units, and parking operation and maintenance costs will be weighted more heavily to the commercial units than residential. The parties anticipate that the Pro Shop Unit will be a separate commercial unit within the condominium, and subject to assessment for common area expenses as provided by the Condominium Act. The parking will be common area of the condominium. The Cart Storage Building, located on City property, will not be part of the condominium ownership. The condominium documents have not been drafted yet, and City will be an active participant in the preparation of the condominium documents. In general the parties agree that the condominium documents will:

- (i) Use a par value based formula for allocating costs between the residential and commercial units, with parking costs weighted more heavily to the commercial units. 48% of the common area expenses associated with the underground parking will be allocated to the Pro Shop Unit. Other common area expenses will be allocated among the commercial units based on their relative square footage of commercial space. During the construction process, if the project is built in phases, this general approach will be applied, with a reallocation of common area interests occurring with the addition of each phase as provided under the Condominium Act for expandable condominiums;
- (ii) Attempt to separate utility usage for the various units in a way that lets each Owner control its own utility costs. Where practical, utilities will be separately metered;
- (iii) Create a distinction between common area costs associated with the residential and commercial units, and designate limited common areas which are the responsibility of each class of owner, and isolate interior maintenance costs of hotel corridors, lobbies, conference rooms, and back of house areas from the commercial units;
- (iv) Isolate costs of hotel operation from the commercial units, so that hotel front desk, reservations, and operations, and furnishings, are not common area expenses chargeable to the commercial units, nor any time share or interval ownership costs; and
- (v) If necessary to facilitate City's financing through the RDA, MBA or other agencies or combination of agencies controlled by City, the parking garage may be

designated as one or more condominium units, rather than common area, provided that appropriate cross easements are in place to preserve the intent of shared parking between hotel and golf course users, and maintain zoning compliance for the hotel project.

8. Boundary Line Adjustments. There are several places where there are, or will be, encroachments by the golf course on to Island's property, and others where shared parking or other common areas encroach on the golf course property. The parties agree to subdivide, convey, and combine the land as necessary to eliminate these encroachments to the other party. Specifically these are shown on Exhibit C. Areas beyond the physical encroachments may need to be conveyed to maintain property building set backs for the zone. The boundary line adjustments will be made in conjunction with a subdivision plat processed jointly by City and Island to create the new property boundaries. This will be filed as soon as practicable based on construction drawings when the final boundaries can be determined. In addition, there may be a need for easements for encroachments or different uses on each party's property, and the parties agree to cooperate with each other to grant the necessary easements for the efficient operation of the project and the golf course.

9. Easements. There are additional areas shown in Exhibit C where there are easements necessary for the operation of the golf course. Island will grant easements for the cart paths as shown on Exhibit C. These will restrict the use to those uses reasonably necessary and consistent with the operation of the golf course and cross country ski operation. City will grant necessary utility easements under the golf course property if needed to serve either Island's project or the interim or permanent Golf Facilities.

10. Golf Course Modifications. There are some items of golf course modification described in the 1987 agreement that are not yet complete, and other items that are necessitated by the current plan which were not contemplated by the 1987 agreement. The following golf course changes will be made:

A. Number 1 Tee. The Number One tee is now on Island's property, and will be moved so that it is entirely on City Property.

B. Number 9 Green. The current 9th Green is located in an area proposed for the expansion of one of the golf course ponds, and needs to be relocated. In conjunction with that, the pond abutting the Ninth Green will be reconfigured as shown on the attached Exhibit C. Island will pay City up to \$15,000 toward the actual cost of relocating the Number 9 green. If costs are less than \$15,000, the balance will be refunded to Island.

C. Number 3 Tee. The Number 3 Tee is on Island's property. It will be relocated slightly, but as re-located is still partially within the 6½ acre parcel owned by Island. Island will convey the property necessary for the Number 3 Tee to City, without cost, so that it is entirely on City-Owned property. Building set-backs and density will be based on the existing property line. This is shown on Exhibit C. This will be accomplished through the subdivision process described above.

D. Pond Reconfiguration. The golf course pond abutting the Number 9 hole will be reshaped to fill in portions of the pond now located on Island's property, and to

expand it on to other areas on Island and City property. In conjunction with this work, City has filed a stream alteration permit with the Utah Division of Water Rights. The pond reconfiguration is shown on Exhibit C. The completed pond will retain at least the same water volume as the existing pond, as it is used for snow making water storage. City has no obligation to Island to participate in the cost of the pond reconfiguration. The ponds are used for storage reservoirs for snow making and golf course irrigation. The water level will fluctuate, and City has no obligation to keep the ponds full.

E. Cart Path. The construction of the hotel will require the construction of a new cart path to connect the Number 9 hole back to the Pro Shop. The location of the new cart path is shown on Exhibit C. This is partially on Island's property, and Island will grant an easement to City for this use. The easement will be non-exclusive, and hotel guests will be entitled to use it for circulation within Island's project, and Island may install utilities under or across it as necessary for the development of Island's project, so long as the work is carried out in a manner that does not unreasonably interfere with golf course operations. This work will be completed with the completion of construction of the hotel, provided that temporary, hard-surfaced cart detours will be provided at all times during construction of the hotel project.

F. Number 9 Fairway. In order to reduce the overall construction costs to both parties, Island will be allowed to dispose of excavated material from the hotel project on the edge of the Number 9 fairway as shown on Exhibit C, or on other mutually acceptable locations on the golf course. The costs of grading and replanting this area will be paid by Island, in addition to any other costs Island is obligated to pay for the remodel of the golf course. The excavation and fill will occur with minimum disruption to play on the golf course, and to the extent possible, will be done during the non-golf season. Soil will be tested by a qualified lab or engineer (at Island's expense), and test results reviewed by City before any soil is deposited on City property. City will not accept any material that is contaminated. Material deposited will also be suitable for use on the golf course, and Island may be required to stockpile top soil for a final layer before planting.

G. Costs. City will not be responsible for the costs of the pond relocation. Island was obligated under the 1987 Agreement to pay City \$15,000 toward the cost of relocating the greens and tees. That amount has already been paid by Island's predecessor.

H. Responsibility and Timing of Golf Course Work. The relocation of greens and tees will be carried out by City and/or its contractors (other than the deposition of excavated material on the 9th Fairway, which will be carried out by Island). The cart paths as shown on Exhibit B will be constructed by Island. The pond relocation work will be done by Island and/or Park City Mountain Resort. These projects will be completed on a schedule worked out between Island and the City Leisure Services Director that reasonably accommodates Island's construction schedule and minimizes disruption to the operation of the golf course.

11. Interim Golf Facilities Plan. The basic construction staging, parking, and interim golf facilities plan is shown on the attached Exhibit B. This is not final phasing, staging, and mitigation plan which will be worked out with the Building Department at the

time of building permit issuance. In addition to those items shown on Exhibit B, construction traffic will be routed to the project from Thaynes Canyon Drive and not directly from Highway 224. No construction traffic will be routed on Payday Drive or Three Kings Drive. Access to temporary parking may be directly from Highway 224 to separate golf course users from construction areas.

12. General Planning Conditions. The following conditions of approval from the Planning Commission are incorporated into this permit:

A. A driveway access to Highway 224 will be permitted as shown on the site plan, provided that this will be for right turns only. Traffic turning left across Highway 224 will be routed to Thaynes Canyon Drive and will turn through the existing intersection.

B. Island will widen and stripe Thaynes Canyon Drive to a width of 40 feet back of the curb at the intersection with Highway 224 to the western-most point of the driveway entrance to the project from Thaynes Canyon. This width is intended to provide a left turn lane on Thaynes Canyon Drive. The additional right of way necessary for this will be split between Island and City, with equal widths being provided on their respective sides of the street.

C. Island will construct a 5 foot wide sidewalk along the north end of the project site to connect the driving range area with the sidewalk on Thaynes Canyon/Hwy. 224. The location of this is indicated on the site plan.

D. Signage and lighting plans will be submitted for review by the City at appropriate times. Lighting may be submitted early in construction in order to anticipate underground conduit placement. Signage plans are to be submitted prior to application for certificate of occupancy.

E. The free standing satellite commercial building at the northern end of the property is intended to function as support commercial, and not as destination retail. Support commercial is defined in the Land Management Code, and the free-standing building will not exceed 2,000 square feet in floor area.

F. No trees within the project or adjacent rights of way or on the golf course will be removed, trimmed, or transplanted without City approval, which will not be unreasonably withheld or delayed. A plan of tree removal and re-location is attached as Exhibit F.

G. The planning condition that Island provide temporary parking along the edge of the driving range has been intentionally deleted, as adequate temporary parking has been provided elsewhere on Island's property during the construction process.

13. Ordinance 87-14. Ordinance 87-14 was adopted in 1987, but has been held in abeyance and does not take effect until publication. The conditions to publication and the ordinance taking effect are payment of fees for the project, issuance of initial permits, and, as a result of the modified MPD, approval by the Planning Commission of the revised MPD. With respect to these conditions, the parties agree as follows:

A. Payment of Fees. The project will be constructed in phases, and fees will be payable on each phase as it is constructed, consistent with City policy and practice.

Payment of fees in conjunction with the first phase is sufficient to satisfy the requirements of Ordinance 87-14 if that payment is at least \$150,000 of building related fees, to be credited against fees as building permits are issued, and the \$15,000 toward golf course remodeling costs.

B. Issuance of Permits. The demolition permit for the existing structure housing the Pro Shop and restaurant will constitute initial permits for the project as described in Ordinance 87-14.

C. Planning Commission Approval. The December, 1996 approval of the revised MPD by the Planning Commission has satisfied that requirement of Ordinance 87-14.

Upon payment of the fees and issuance of the permit described above, City will publish Ordinance 87-14, causing it to take effect as of that date. At that time, the zone of the property will change from RD to RD-MPD, with the density entitlement as provided in the MPD approved by the Planning Commission in December 1996, and as incorporated into this agreement.

14. Transferability of Permit. This Development Agreement and the MPD approval, and any building permits issued under them, may be transferred by Island to its successors in interest or assigns with the title to the property, provided that the obligations of successors to provide the replacement Golf Facilities and other obligations to the City are assumed by the successor or have been otherwise satisfied by Island.

15. Amendment and Modifications. Non-material modifications, technical corrections, and reconciliation of various drawings may be made without planning commission review. The planning and/or building departments will review those changes. Material changes will be presented for review by the planning commission. The parties are anticipating some modifications in parking layout, and the replacement of some underground parking with surface parking. This will be presented to the Planning Commission as an information or consent agenda item, and, as long as the change does not increase the number of surface parking by more than 28 spaces will be considered non-material. Parking cost savings resulting from the relocation of parking will be shared between Island and City. In order to minimize disruption to the golf course, City agrees to expedite review of changes.

16. Duration. Upon the publication of Ordinance 87-14, the MPD approval shall have a duration of 2 years from the date this Agreement is signed by both parties. The MPD approval may be extended for an additional 2 years by action of the City Planning Commission. In addition, if Island commences substantial construction on the hotel project in a manner consistent with the MPD approval, the construction activity will automatically extend the MPD approval as provided in the Land Management Code.

17. Insurance. During the construction period, there are likely to be situations where Island is performing work on City property, and City is performing work on Island's Property. The temporary golf facilities will all be on Island's property. The parties agree to provide insurance as follows:

A. Island will indemnify City against any mechanics liens or other claims related to work carried out by Island on City property, specifically including grading and

pond reconfiguration. To the extent of any work carried out by City on Island's property, City will indemnify Island against mechanics liens.

B. Island will require its contractor to provide contractor's general liability insurance coverage in the face amount of \$1 million per occurrence, \$2 million aggregate covering the construction site, including any work on City property, and naming City as an additional insured. In addition, the Contractor will be required to provide workman compensation coverage on all employees, and require similar insurance from all sub-contractors.

C. Island's contractor will be required to carry Builders All Risk casualty insurance on the building from the commencement of construction until completion and placement of insurance coverage by the owners. This insurance will be in such amounts as necessary for the complete replacement of the building in the event of property loss.

D. Island, or its contractor, will provide property casualty insurance on the temporary pro shop structure, or, at Island's option, be responsible for the cost of replacing that structure if damaged while it is still needed for City's use.

E. City will provide insurance for the golf course operation with \$1 million coverage per occurrence and \$2 million aggregate. This may be provided through City's blanket insurance policies or self insurance program. Island has no role in the ownership, management, maintenance, or operation of the golf course. To the extent that golf facilities are located on Island's property, City will name Island as an additional insured.

F. During the construction period, while the golf course is operating from the temporary pro shop, Island is not required to provide insurance on the contents in the temporary pro shop, including furnishings, office equipment, inventory, or on the golf carts.

G. Following construction of the replacement Pro Shop Unit, the property insurance on the structure will be provided through the condominium association as common area expense. The condominium insurance coverage will not include personal property, fixtures, or inventory of any unit owner in the condominium. The condominium insurance will not include liability insurance on the golf course itself, which remains City property and a City function. If the use of the Pro Shop Unit for a golf course results in higher liability insurance premiums for the condominium as a whole, City agrees to pay the difference between standard coverage and that required because of the golf use on the property.

18. No Business Relationship. Notwithstanding the reserved right to lease or purchase the Golf Facilities, and the City involvement in design and construction in a proprietary context, there is no business entity or relationship created between the parties other than that of vendor/purchaser or landlord/tenant. City is not a guarantor of Island's construction contract or financing.

19. Golf Course Access. City agrees that it will not unfairly discriminate against Island's owners and hotel guests in terms of access to the golf course, but no preferential access rights greater than those afforded other Park City hotel guests or second home owners are contemplated by this agreement.

20. Interval Ownership. If permitted by current or subsequent zoning, City will permit a system of time interval ownership affecting the residential units so long as the costs of timeshare operations are isolated from the general common area expenses of the condominium.

21. Third Party Obligations. There are some obligations and rights under the 1987 Agreement between City and Park City Mountain Resort concerning matters not relevant to the development of Island's property. It is not the intention of the parties to affect those obligations by this Agreement.

22. Complete Agreement. This Agreement, with its exhibits and the December 1996 MPD Approval, is intended to be the complete agreement between the parties, and in the event of any discrepancies between the MPD approval by the planning commission and this Agreement, this Agreement is intended to control.

23. Attorneys Fees. In the event of action to enforce this Agreement by either party, the prevailing party will be entitled to recover reasonable attorneys' fees and costs of court incurred in the enforcement.

Effective this ___ day of July, 1997.

ISLAND TRADING REAL ESTATE, INC., a
Delaware corporation

PARK CITY MUNICIPAL CORP.
a municipality of the
State of Utah

By: _____
Its:

By: _____
Its:

Exhibits:

- A Legal Description of Land**
- B Construction Staging and Mitigation Plan showing interim golf pro shop, parking, and operations**
- C Golf Course Remodel Plan, showing property boundary adjustments, cart path easements, and tee/green relocations, fairway fill area**
- D Construction cost schedules**
- E Tree removal, preservation, and re-location plan**
- F MPD approval**

Exhibits:

- A Legal Description of Land
- B Construction Staging and Mitigation Plan showing interim golf pro shop, parking and, operations.
- C Golf Course Remodel Plan, showing property boundary adjustments, cart path easements, and tee / green relocation's, fairway fill area.
- D Construction cost schedules
- E Tree removal, preservation, and re-location plan
- F MPD approval

EXHIBIT "A"

BEGINNING at the intersection of the Westerly right of way line of State Highway U-224 (U.S. Alt. 40) and the Southerly right of way line of Thaynes Canyon Drive, said point being North 616.52 feet and West 536.93 feet from the East quarter corner of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 21°16' East along said Westerly right of way line 520.00 feet to a point of a 623.70 foot radius curve to the left (center bears North 68°44' East 623.70 feet); thence Southeasterly along the arc of said curve and said Westerly right of way line 372.64 feet; thence South 23°46' West 157.50 feet; thence North 66°14' West 218.50 feet; thence North 23°46' East 30.00 feet; thence North 66°14' West 88.00 feet; thence South 23°46' West 137.00 feet; thence North 66°14' West 108.00 feet; thence North 23°46' East 282.00 feet; thence North 66°14' West 105.00 feet; thence North 21°16' West 95.00 feet; thence North 66°14' West 300.00 feet; thence North 21°16' West 35.00 feet; thence North 66°14' West 256.00 feet; thence North 23°46' East 185.11 feet to a point on the Southerly right of way line of Thaynes Canyon Drive, said point also being on a 175.00 foot radius curve to the right (center bears South 7°07'51" East 175.00 feet); thence Southeasterly along the arc of said curve 94.27 feet to a point of tangency; thence continuing along said Southerly line, South 66°16' East 72.67 feet to a point on a 225.00 foot radius curve to the left (center bears North 23°44' East 225.00 feet); thence Southeasterly along the arc of said curve 176.71 feet to a point of tangency; thence continuing along the Southerly right of way line North 68°44' East 217.16 feet to the point of BEGINNING.

EXCEPTING THEREFROM the following described parcel:

BEGINNING at a point which is the intersection of the Southerly right of way of Thaynes Canyon Drive, as recorded, and the Westerly right of way of U-224 (U.S. Alt. 40), said point also being North 0°16'20" East 2627.42 feet, South 2010.90 feet and West 549.42 feet from the East quarter corner of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence South 68°44'00" West 217.16 feet to a point on a 225.00 foot radius curve to the right (center bears North 21°16'00" West 225.00 feet of which the central angle is 43°17'24"); thence along the arc of said curve 170.00 feet to the true point of beginning, said point being on the Southerly right of way of Thaynes Canyon Drive, said point also on a 225.00 foot radius curve to the right (center bears North 22°01'24" East 225.00 feet of which the central angle is 01°42'36"), the following three calls being along said Southerly right of way: 1) thence Northwesterly along the arc of said curve 6.72 feet; 2) thence North 66°14'00" West 72.67 feet to a point on a 175.00 foot radius curve to the left (center bears South 23°46'00" West 175.00 feet of which the central angle is 30°51'51"); 3) thence Northwesterly along the arc of said curve 94.27 feet; thence South 23°46'00" West 185.11 feet; thence South 66°14'00" East 256.00 feet; thence North 01°18'00" East 227.30 feet to the true point of BEGINNING.

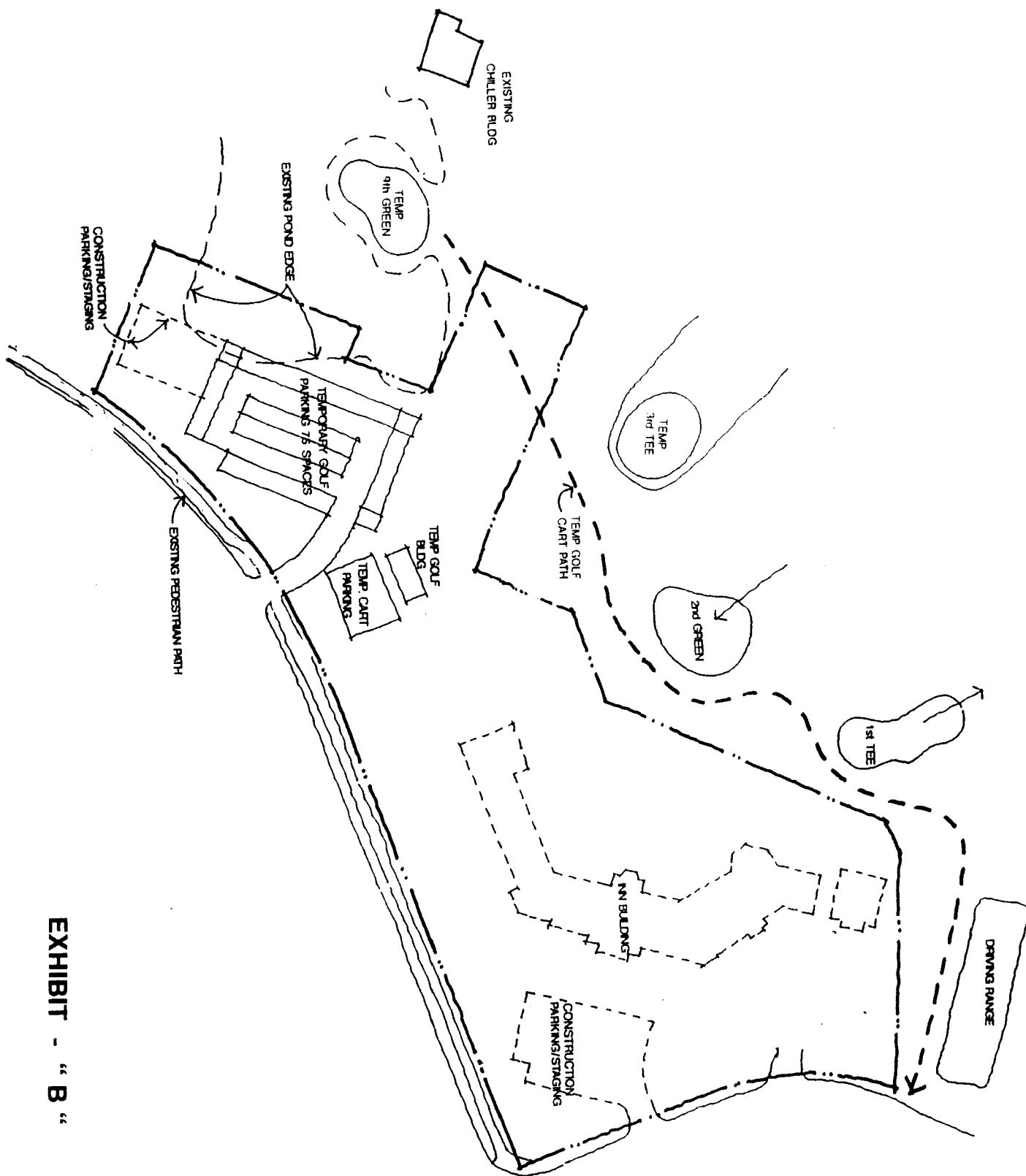


EXHIBIT - " B "



ISLAND OUTPOST RESORT
PARK CITY UTAH

LINE 10 1997

TEMP
PARKING &
STAGING
NTS

JACKSON
 LANDSCAPE
 & ARCHITECTS, INC.
 1000 N. 1000 E.
 SUITE 100
 PARK CITY, UTAH 84302
 (435) 799-1234
 FAX (435) 799-1235
 WWW.JACKSONLANDSCAPE.COM

CONSTRUCTION BUDGET

		UNDERGROUND	SURFACE PARKING
PROJ:	HOTEL / GOLF COURSE PARKING	PARKING AREA 43,000 SF	7,800 SF
	ISLAND OUTPOST	TOTAL STALLS 115 PC	24 PC
	PARK CITY, UTAH	TOTAL COST \$2,050,490	\$9,362
		COST / SF \$47.68	\$1.20
		COST / STALL \$17,830	\$390
		AREA / STALL 374	325

FOR:

CATEGORY		UNDERGROUND	SURFACE PARKING
1	DIRECT JOB COSTS	\$57,094	\$261
2	SITWORK & DEMOLITION	\$425,915	\$7,758
3	STRUCTURE	\$898,366	\$0
4	SHELL	\$101,490	\$0
5	INTERIOR FINISH	\$9,915	\$0
6	OTHER	\$45,051	\$0
7	MECHANICAL	\$143,210	\$0
8	ELECTRICAL	\$75,264	\$0
	SUBTOTAL	\$756,308	\$8,019
	CONTRACTORS OH&P 5.00%	\$87,815	\$401
	BOND 0.75%	\$13,172	\$60
	PERMITS & FEES 6.00%	\$105,378	\$481
	CONTINGENCY 5.00%	\$87,815	\$401
	TOTAL PROJECT	\$2,050,490	\$9,362
	TOTAL BUILDING	\$1,536,522	\$0
	TOTAL SITE & EARTHWORK	\$513,968	\$9,362

NOTES: ESTIMATE IN PROGRESS

VERIFY:
SCOPE
UTILITY COST
LIGHTING SURFACE PLAN

PARK CITY'S ESTIMATED COST	48%	\$988,729
ISLAND OUTPOST'S ESTIMATED COST	52%	\$1,071,123

EXHIBIT - " D "

CONSTRUCTION BUDGET

			PRO SHOP	RESTROOMS
PROJ:	PRO SHOP / RESTROOMS	BUILDING AREA	2,000 SF	700 SF
	PARK CITY, UTAH	TOTAL COST	\$144,256	\$87,716
		COST / SF	\$72.13	\$125.31

FOR:

CATEGORY		PRO SHOP	RESTROOMS
1	DIRECT JOB COSTS	\$4,017	\$2,442
2	SITEWORK & DEMOLITION	\$0	\$0
3	STRUCTURE	\$26,465	\$8,592
4	SHELL	\$36,885	\$2,135
5	INTERIOR FINISH	\$8,353	\$22,179
6	OTHER	\$500	\$5,200
7	MECHANICAL	\$28,000	\$27,275
8	ELECTRICAL	\$19,340	\$6,769
	SUBTOTAL	\$123,560	\$75,131
	CONTRACTORS OH&P 5.00%	\$6,178	\$3,757
	BOND 0.75%	\$927	\$563
	PERMITS & FEES 6.00%	\$7,414	\$4,508
	CONTINGENCY 5.00%	\$6,178	\$3,737
	TOTAL PROJECT	\$144,256	\$87,716
	TOTAL BUILDING	\$144,256	\$87,716
	TOTAL SITE & EARTHWORK	\$0	\$0

NOTES: ESTIMATE IN PROGRESS

EXHIBIT - " D "



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ISLAND OUTPOST RESORT
PARK CITY, UTAH

REMOVAL/
RELOCATION
PLAN
SCALE: NTS

JUNE 20, 1999

**EMERZEN
ARLIGONTI
& ROSS, INC.**

Island Outpost Hotel Revised MPD Stipulated Conditions of Approval

1. All standard conditions of approval shall apply to the revised MPD (see attached standard conditions of approval).
2. The Developer shall obtain all necessary Federal, State, and local permits prior to the commencement of any site grading.
3. The Developer shall execute and record an Amended Golf Course Hotel Agreement, in a form and content mutually acceptable to the City Attorney and the Developer. The execution and recording of the Amended Golf Course Hotel Agreement are conditions precedent to the City issuing any building and/or grading permits for the project. The Amended Golf Course Hotel Agreement shall satisfactorily address, but is not limited to, the following issues:
 - A. The maximum density, height, setback, zoning, and MPD duration shall be established pursuant to the revised MPD. The commencement of construction of the project shall be no later than April 2, 1998.
 - B. A plan addressing the amount, design, costs, cost-sharing, timing, and management of the golf course/hotel shared-parking and golf cart parking and storage for Staff review and action prior to the City issuing any building and/or grading permits.
 - C. A detailed Phasing and Construction Mitigation Plan (PCMP) for review and action by Staff prior to the City issuing any building and/or grading permits. The phasing and mitigation plan shall include, but not be limited to, temporary cart path relocation, temporary Pro Shop/Cross Country Skiing Center facilities, golf course/cross-country skiing parking, cart storage and parking, pond modifications, construction-related parking, access, materials storage, and construction office facilities and such reasonable security for compliance therefor.
 - D. The Developer shall design to City's reasonable satisfaction and construct a pedestrian/cart path connection to the No. 9 Pond linking the existing cart path at the south end of the project site to the proposed No. 9 Green consistent with the

approved PCMP (*see "B" above*).

E. The design and construction of bunkers and contoured mounding along the interface area between the project and the No. 9 Hole in a manner acceptable to the PCMC Parks and Recreation Department prior to the City issuing any Certificates of Occupancy.

F. In the event that the City and Developer mutually agree to construct a new practice green, the Amended Golf Course Hotel Agreement shall address the cost-sharing for the new practice green.

G. The Developer's payment of its share of all design costs associated with a redesign of all golf course modifications directly related to the revised MPD prior to the City issuing any building or grading permits.

H. The execution and recording of a long-term lease, or other acceptable instrument, to the City of the portion of the project site appurtenant to the No. 3 Tee prior to the City issuing any building and/or grading permits.

I. The execution and recording of easements, or other mutually agreed upon ownership alternatives, for all golf cart paths, parking garage and any other City improvements on the Developer's property.

J. The construction of a golf course pro shop by the Developer. Final design, location, and form of ownership of the pro shop shall be mutually agreed upon prior to the City issuing any building and/or grading permits for the project. The pro shop shall be substantially completed prior to the City issuing any Certificates of Occupancy.

4. The proposed connection to the project to SR 224 shall be for right-turn egress only.

5. Construction traffic shall not use Three Kings Drive or Payday Drive to access or leave the project site.

6. All construction traffic shall access the project site from SR 224 at the Thaynes Canyon Drive intersection only. No construction access is permitted directly from SR 224.

7. The Developer shall widen and stripe Thaynes Canyon Drive to a width of 40 feet back of curb to back of curb from SR 224 to the western-most point of the project entrance driveway to allow for a left turn lane.

8. The Developer shall place a 5-foot-wide asphalt parking strip along Thaynes Canyon Drive's southerly gutter to act as a parking amenity during construction. The parking strip shall extend the entire length of the driving range.

9. City approval of a condominium plat is a condition precedent to the individual sale of units within the project.

10. The Developer shall construct a 5 foot-wide sidewalk along the north end of the project site. The sidewalk shall connect the driving range with the Hwy. 224/Thaynes Canyon Drive intersection. The exact location of the sidewalk shall be mutually agreed upon by the City and the Developer.

11. The Developer shall submit a master sign plan for review and action by Staff prior to the City issuing any Certificates of Occupancy.

12. The Developer shall submit a lighting plan for all proposed exterior lighting sources to Staff for review and action prior to the City issuing any building and/or grading permits for the project.

13. The satellite commercial building, located at the north end of the project site, shall be limited to support commercial use as defined below:

Support commercial uses are those which are located on the site of a master planned development, and orient toward the internal circulation of the development, for the purpose of serving the needs of the residents or users of the development, and not the general public or persons drawn from off the site of master planned development. Examples of support commercial uses are barber shops, beauty salons, travel agencies, gift shops, camera stores, sporting goods stores, day care nurseries, information centers, pro shops, ski shops, or other hotel lobby type of use. No use occupying more than 2000 gross square feet of floor area will be considered as support commercial activity.

Signs for any tenant within the satellite commercial building may only be visible from within the development and shall not orient to adjacent public streets or off-site circulation pursuant to Section 10-9 (J) of the Land Management Code.

14. No trees with the project site or adjacent properties or rights-of-way shall be trimmed, pruned, removed, and/or transplanted without City approval.

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