PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 15, 2010

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 15, 2010.

Closed Session
4:30 p.m. Property and litigation

Work Session
5:30 p.m. Council questions/comments
5:40 p.m. UDOT Update - SR 224 P. 5
5:55 p.m. Break

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 24, 2010
P. 6 - 17

V CONSENT AGENDA

1. Consideration of four appointments to the Public Art Advisory Board for terms expiring June 30, 2012: Greta Church, Bob Peek, Kai Bolger and Bob Kollar

2. Consideration of award of professional service provider contract for the Recreation Center Remodel project for Testing and Special Inspection, in a form approved by the City Attorney, to Consolidated Engineering Laboratories in an amount not to exceed $40,000
P. 18 - 25

3. Consideration of a lease of City property/right-of-way for Zona Rosa, located at 501 Main Street for street dining P. 26 - 41

4. Consideration of a lease of City property/right-of-way for the Red Banjo, located at 322 Main Street for street dining P. 42 - 56

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

1. Consideration of the 6808 Silver Lake Drive plat amendment
   (a) Public hearing
   (b) **Motion to continue to July 29, 2010**

2. Consideration of an Ordinance approving the 321 McHenry Avenue Plat Amendment, located within Block 59 of the Park City Survey, Park City, Summit County, Utah P. 57 - 63

(a) Public hearing
(b) Action

3. Consideration of an Ordinance approving the 1144 Woodside Avenue Plat located within Lot 20 and 21 in Block 5 of Snyder's Addition to the Park City Survey, Park City, Summit County, Utah P. 64 - 70

(a) Public hearing
(b) Action

4. Consideration of the Rail Central Pedestrian Connection Bridge Design P. 71 - 106

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Wireless internet service available in Marsac Building on Wednesdays and Thursdays – 4 p.m. to 9 p.m.

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 22, 2010

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, July 22, 2010.

Posted: 07/12/10
See www.parkcity.org

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

July 2010

13 *Sweeney Open House Meetings*
15 **Tom gone**
22 **No meeting**
29 HMBA Strategic Plan (work – 30 min)
Norfolk Ave Reconstruction (work - 45 min)
Quarterly goals (work - 30 min)
Environmental update and prioritization (work - 1 hr)
Blue Sky Anniversary and Resolution (Tyler)
Tour of Utah MFL
General Plan amendment name change - FA
200 Ridge Avenue – Ridge Overlook – KS
1150 Deer Valley Drive – Snow Country – FA
6808 Silver Lake Drive – KW
114 Hillside Avenue - KC
Reconsideration of a service agreement with Questar Gas for design and construction services for the SR-248 and Comstock Pedestrian Tunnel Project in the amount of $100,000, in a form approved by the City Attorney - MC

August 2010

5 **Dana gone**
Trail Program expansion per Mountain Trails Foundation - HD
Special Service Contract award - HD
12
19 **No meeting**
20 Quarterly Managers Meeting
26

September 2010

2
9
16
23
30

October 2010

7
14
21
28

Pending Items:

Review of two year special event policy
Open space maintenance
U S Postal Service gang boxes in Old Town - MC
Wild land interface issues

City Council Staff Report

Transportation

Subject: Update from UDOT
Author: Brooks T. Robinson, Senior Transportation Planner
Department: Transportation
Date: July 15, 2010
Type of Item: Informational

Summary Recommendation: This item is an informational update from the Utah Department of Transportation on planned roadwork on SR- 224. No action is required.

Topic/Description:

Background:
UDOT will be doing road construction along SR-224 beginning July 12, 2010 from Bear Hollow Drive to Kearns Boulevard.

Analysis:
UDOT will be applying a new asphalt overlay from Bear Hollow Drive to Kearns Boulevard. In addition, new pedestrian ramps will be installed at major intersections along with new striping and traffic detection loops.

Construction is scheduled from July 12 through August 4, 2010. The work will take place between 7pm and 6am with one lane closures in each direction. All lanes will be open during daytime hours. No construction will occur July 22 – July 24 (Pioneer Day holiday).

Special Events staff met with the Public Involvement Coordinators to discuss potential impacts on planned events. Staff is contacting event organizers with information about the construction that they can provide to their participants and plan accordingly. Transit does not anticipate any significant impact to bus schedules during the construction.

Justin Kable, Field Engineer for UDOT, Region 2 will provide an update to City Council on the planned work and answer any questions.

Recommendation: This item is an informational update from the Utah Department of Transportation on planned roadwork on SR- 224. No action is required.

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 24, 2010

Present: Mayor Dana Williams; Council members Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Michael Kovacs, Assistant City Manager

Snow Creek Cottages Ribbon-Cutting Ceremony - Prior to Work Session, Council and Staff met on site for a ribbon cutting ceremony and celebration for the Snow Creek Cottages project.

Council questions/comments. Candace Erickson noted the Mayor and Council members had all attended a quarterly breakfast with the Park City School District. The Chamber Board has reported that increasing tax revenues have allowed them to reinstitute most of their programs. Summit County is creating an ordinance that would allow municipalities and public entities to operate off-leash locations (dog parks) that are regulated by the entity's guidelines. Finally, the County Board of Health has received and reviewed new applications for the Director position and hopes to conduct interviews soon. Liza Simpson thanked Jan Scott for inviting Marilyn and Roger Harlan's daughters to the skate park dedication on June 27th before the City Summer Picnic. Alex Butwinski reported that Planning Commission approved a name change for the Bonanza Park area and ratified the development agreement for the Racquet Club project. Joe Kernan attended the Coalville 3rd Annual Pig Roast.

Mayor Williams had attended the Concert in the Park as well as a memorial service for Brenda Smith. He reported that Park City lost one of its true greats in the passing of Mel Fletcher and services for him would be on Sunday in Oakley. He had participated in a series of water, MIDA and EPA meetings.

Public Art Advisory Board recommendation-Kimball Art Center Sculpture - Assistant City Manager Michael Kovacs reported that the Public Art Advisory Board had reviewed a request to accept and move the Kimball Art Center Olympic Sculpture to public property. They voted to forward a recommendation to City Council to deny the request to accept the sculpture.

Following the art board meeting, local property owner Mark Fischer contacted staff and was willing to move the sculpture to his property in the Bonanza-Park District. He proposed placing the sculpture near the Maverick Store at Kearns Boulevard and Bonanza Drive. Council members expressed appreciation of his interest and encouraged him to move forward with the regulatory process since the location is subject to Frontage Protection Zone regulations. Manager Bakaly asked Council whether they would like to see it go on public property if there were issues that could not be resolved. Some Council members felt it was not appropriate to spend the amount of money that would be required for the City to move the structure. They encouraged Mr. Fischer to proceed through the regulatory process. In response to a question about fee waivers, Manager Bakaly suggested that Mr. Fischer begin the regulatory process and Council could discuss fee waivers in the future if necessary.

Council adjourned work session and conducted interviews for four positions on the Public Art Advisory Board.

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 24, 2010

I ROLL CALL

Mayor Williams called the regular meeting of the City Council to order at 6:00 p.m. at the Marsac Municipal Building on Thursday, June 24, 2010. Members in attendance were Dana William, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Max Paap, Special Events Manager; Matt Twombly, Parks Project Manager, Heinrich Deters, Trails Coordinator, and Roger McClain, Water Project Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

There were no communications or disclosures.

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

There was no public input.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 10, 2010

Liza Simpson, "I move approval of the work session notes and minutes of the June 10, 2010 meeting". Alex Butwinski seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

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

1. Consideration of a Master Festival License for the KPCW Back Alley Bash, as conditioned, on July 2, 2010 to be held on the Town Lift Plaza - Mayor Williams disclosed his band was performing at the event and Candace Erickson disclosed she is employed by Cole Sport who sponsors the event. Max Paap reviewed the application submitted by Community Wireless for its annual fundraising music event on the Town Lift Plaza. The event has been changed to July 2nd to align with the KPCW's 30th Anniversary. The Special Events Team focused on minimizing impacts on neighbors in the Town Lift Area and determined that parking for the event was sufficient. Mayor Williams opened the public hearing. There was no input and he closed the hearing.

Cindy Matsumoto, "I move approval of the Master Festival License for the KPCW Back Alley Bash, as conditioned, on July 2, 2010 to be held on the town Lift Plaza". Joe Kernan seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye

Cindy Matsumoto	Aye
Liza Simpson	Aye

3. Consideration of a Resolution celebrating KPCW's 30th Anniversary and proclaiming June 28 through July 4, 2010 as "KPCW Week" in Park City, Utah - Mayor Williams read a resolution proclaiming "KPCW Week" in Park City, Utah.

Liza Simpson, "I move approval of a Resolution celebrating KPCW's 30th Anniversary and proclaiming June 28 through July 4, 2010 as "KPCW Week" in Park City, Utah". Candace Erickson seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

2. Consideration of a construction contract, in a form approved by the City Attorney, with Silver Spur Construction LLC in the amount of $774,740 for the Holiday Ranch Loop Pathway project – Trails Coordinator Heinrich Deters explained the Holiday Ranch Loop project was a priority identified by the Walkability Committee and the scope included an 8 foot wide separated asphalt path from Little Kate Road to the McLeod Creek Trail, as well as a six foot concrete sidewalk from the McLeod Creek Trail to SR-224. The roadway will be narrowed, with new rolled gutter the entire length. Storm drains will be installed to tie into the Little Kate storm drain improvements and sections of curb will be replaced as part of the storm drain improvements. He added that drought tolerant landscaping is planned for the buffer between the roadway and the trail and street trees will also be placed in the buffer.

In response to the published Request for Proposals, Staff received five bids and Staff determined that Silver Spur Construction was the lowest responsible bidder with a bid amount of $782,539.69. Alternates were included for irrigation pipe and the Water Department chose to use reinforced pipe that resulted in a $7,800 savings, so the total contract is $774,740. Construction is scheduled to begin in mid-July with completion by mid-October.

Mayor Williams opened the public hearing and closed it upon receiving no comments.

Alex Butwinski, "I move approval of a construction contract, in form approved by the City Attorney's Office, with Silver Spur Construction LLC in the amount of$774,740 for the Holiday Ranch Loop Pathway project". Liza Simpson seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Liza Simpson requested a brief discussion about whether Council needed to receive copies of all contracts in their packets. City Attorney Harrington suggested that if Staff is recommending entering into the City's standard contract, they should include the scope of work in the staff report. Manager Bakaly clarified Council's direction that they no longer wanted to receive copies of full contracts; they just want the scope of work to be included with staff reports.

4. <u>Consideration of two appeals of the Planning Commission's April 28, 2010 approval of a conditional use permit application for the North Silver Lake Lodges Project, submitted by North Silver Lake Lodge LLC-appellants Lisa Wilson, individual, and adjacent owner associations represented by Jones Waldo, Attorneys at Law</u>

(a) Staff presentation and scope of appeals
(b) Appeal 1- Appellant Eric Lee's presentation
(c) Appeal 2- Appellant Lisa Wilson's presentation
(d) Applicant's presentation
(e) Possible action on Appeal 1/Eric Lee
(f) Possible action on Appeal 2/Lisa Wilson

Councilor Candace Erickson recused herself due to her husband's participation in the application representing the North Silver Lake project and left the meeting.

Mayor Williams outlined the process: Council will vote to decide whether or not to expand the scope of appeal to allow public input; Staff will introduce the appeal followed by questions from Council; the two appellants will present their appeals; the applicant and developer will make a presentation; all parties may have reserved opportunities to respond; and, finally, Council will deliberate and take action on the appeals.

Liza Simpson, "<u>I move to accept public input</u>". Alex Butwinski seconded. <u>Motion carried</u>.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Planner Katie Cattan stated the remanded North Silver Lake Lot 2B Conditional Use Permit was approved by the Planning Commission on April 28, 2010 and two separate parties had appealed this approval: Eric Lee and Lisa Wilson. The North Silver Lake Subdivision Lot 2B is permitted for a density of 54 residential units and 14,552 square feet of commercial and support space under the Deer Valley Resort Master Plan Development. The original CUP was reviewed by Planning Commission on five occasions in 2008 and 2009. Following the July 8, 2009 approval, neighboring property owners appealed the permit and Council, at its meeting of November 12, 2009, remanded the CUP to Planning Commission with direction to review three specific items. Planning Commission reviewed the remanded items and after discussing the project at two work sessions and two regular meetings in 2009 and 2010, approved the revised conditional use permit on April 28, 2010.

Planner Cattan reviewed the three specific items Council included in their remand order: 1) the height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard; 2) further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; and 3) construction phasing and additional bonding beyond public improvement guarantee shall be required.

Building 3 was redesigned which resulted in a 25% reduction in square footage. It was reoriented on the site, provides greater stepping of the building, less exposure of the basement floor; and separated into two buildings, Buildings 3A and 3B. With these changes, Planning Commission found that it had been reduced to meet Compatibility.

The Landscape Plan referenced in remand item 2 was updated to comply with a tree mitigation plan and will require that any one high quality tree that was removed would be replaced with two 20'-30' trees and any second tier trees would be replaced with one and one-half 20'-30' trees.

To address Construction Phasing and additional bonding referred to in remand item 3, additional conditions were approved to require that the Building Department approve a phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond the public improvement guarantee; and, collection of a bond at the time of CUP approval to ensure that existing impacts of the site will be repaired at the time of CUP expiration or extension. These conditions specify that financial guarantees include revegetation of the perimeter enhancement, capping for new disturbances and previous disturbances, and cleanup of all staging areas on the site.

Planner Cattan summarized the first appeal from Eric Lee who represents local residents in the area of the project. He references the Commission's failure to address the construction phasing plan as specified in the Council remand. He asserts the Commission improperly delegated responsibility to the Building Department and did so with language that offers no direction regarding mitigation measures to be required in the construction phasing plan. And, further, that the Commission erred in characterizing the construction phasing plan as a site restoration scheme.

Planner Cattan Katie explained she had listened to recordings of the November 19, 2009 City Council meeting which clarified that Council had not asked for a completion bond. Council members specified that the intent was to ensure that throughout the stages of construction, if it were to be abandoned, the City would be able to restore the site to a visually acceptable level. Additionally, Council wanted to make sure that the project would be staged and that the Building Department should manage bonding to ensure site restoration with phasing stages. The Chief Building Official also recommended that a condition be added to mitigate existing impacts on the site. Conditions of Approval 17 and 18 addressed these issues.

Mr. Lee also submitted a supplemental appeal letter appealing the condition of approval regarding lockout units, which had been discussed during the City Council remand, but had been omitted from the Planning Commission approval on April 28, 2010. Staff agreed with the appellant and added Condition of Approval 19 that no lockout units are permitted with this approval.

The second appeal from neighborhood residents, Brad and Lisa Wilson, included eight items, three of which were not applicable to the remand. Ms. Cattan reviewed each of the points and provided Staff's response to each.

1) Ms. Wilson stated the April 28, 2010 Planning Commission meeting was not properly noticed and notification was not posted on the parcel for 14 days prior to the planning meeting. Staff complied with the Land Management Code noticing matrix throughout the review and courtesy mailings to owners within 300 feet, publication in the Park Record and posting on the property occurred 14 days prior to the hearing. The April 28th meeting was a continuation from March 10, 2010 and no secondary courtesy noticing is required when items are continued.

2) The Wilsons stated the April 2001 8th Amendment to the Deer Valley Master Plan changed the 60% open space requirement defined in the DVMPD for the North Silver Lake Zone and nearby owners were not notified that this could adversely affect them. Staff noted the time to appeal the 8th Amendment expired in 2001.

3) Mr. and Mrs. Wilson stated that Land Management Code changes increased the square footage of North Silver Lake Lodge beyond what was defined in the Code at the time it was platted. Staff explained this was not applicable as it refers to a previous application, not the application under review.

4) The Wilsons argued the North Silver Lake Lodge was not compatible with the existing area. Staff noted the only building subject to the remand was Building 3. As discussed, there had been a 25% reduction in square footage, reorientation on the site, greater stepping and separation of the buildings, as well as less exposure of the basement level.

5) Ms. Wilson stated the number of existing natural trees after construction would be significantly less than the developer represented. Staff referred to the mitigation plan that I requires tree replacement of each high quality tree with two 20'-30' trees and replacement of second tier trees with one and one-half 20'-30' trees. In addition, a condition of approval was included to require a bond covering the cost of the landscape plan.

6) The Wilsons pointed out that lock out units were prohibited under the previous CUP approval, but that had been changed and would allow a potential of more than 54 additional rentable units for the hotel. Staff noted that issue had been identified at the April 28, 2010 public hearing and a condition of approval was added to reflect that language so no lockout units are permitted within this approval.

Council Member Kernan questioned the possibility of future owners applying to amend that condition. Ms. Cattan explained they would have to reapply for a conditional use permit in order to include lockout units in this project. She noted they are allowed by the Deer Valley MPD. Attorney Mark Harrington stated that Council's action would prohibit them in this project; however, there was no way to prevent future applications to amend the CUP.

7) Mr. and Mrs. Wilson stated there was not a phasing plan to complete the project. Staff stated Conditions 10 and 18 under which the approval expires within a year if no building permits were issued, and the requirement for phasing and bonding plans to be approved by the Building Department, have addressed this.

8) The Wilsons state the North Silver Lake area was platted in 1987 or 1988 and property owners were not notified when plat amendment changes were made in the zone. Staff explained this referred to a previous application was not applicable to the remand.

Council members had no questions and Mayor Williams opened the floor to Appellant 1, Eric Lee.

Eric Lee, Jones Waldo, representing owners of neighboring properties and homeowners associations in the area, stated the main focus of the appeal was the Commission's failure to address the construction phasing plan as specified in Council's remand. A project of this magnitude, in a mature single-family neighborhood, had the potential to materially disrupt the lives, use and enjoyment of neighboring property owners. They believe the Planning Commission did not follow Council's directive to review and approve a construction phasing plan. Instead, they delegated responsibility to develop a specific construction phasing plan to the Building Department and did so without providing direction regarding the impacts Council felt needed to be addressed.

Mr. Lee stated the applicant argued that the Commission's decision did not require the Building Department to review and approve a plan, but to address a plan. Additionally, the applicants argue that the Commission's decision to delegate to the Building Department met the spirit of your remand order. He felt the focus of that argument was too narrow and didn't address the Council's finding that construction phasing and bonding was necessary to mitigate visual and construction impacts of the conditional use permit. In addition, he felt the Planning Commission erred by characterizing the construction phasing plan as a site restoration scheme. He believed Council's direction to address unmitigated adverse impacts of the conditional use had not been addressed. He and his clients encouraged review of a phasing plan by the Planning Commission in a public process that gave the public the right to appeal the conclusions if they were not satisfied.

He requested that Council again remand the issue to the Planning Commission with specific instructions to identify visual and construction impacts that construction of this project will create on surrounding neighborhoods and create a plan at the Planning Commission level that addresses those impacts. He outlined suggestions to address the unusual situation of a large project being built in the middle of a mature residential neighborhood: 1) each phase should be stand-alone; 2) once construction begins on a phase, it must be completed within a specified period of time; 3) evidence of financial resources should be provided; 4) construction should begin with the perimeter structures to buffer neighbors from high density core, unless entire project is constructed in one phase; and, 5) mitigation of any substantial time between phases should include removal of all construction fences, trailers, materials, etc.

Appellant two, Lisa Wilson, stated she had filed a complaint with the State Ombudsman regarding this project. Ms. Wilson reported that her family had been travelling and had just returned to Park City.

Mayor Williams cautioned Ms. Wilson that the issues on appeal that can be discussed were noticing, compatibility, trees, lockout units and the phasing plan. He noted the lockout issue had been addressed.

Ms. Wilson stated the property was not noticed for the required 14 days and she had submitted photos taken before the April meeting showing that the sign was not properly posted. She reported this to the Planning and was surprised that Planning Commission approved the project without proper noticing. She had spoken to property owners who had not received mailed notice, not only for these hearings, but for previous reviews of the project as well. She informed KPCW of this and she and another neighbor participated in a KPCW interview about this project. She felt the developer intentionally and consistently left adjacent property owners off the mailing list.

Regarding the reduction in size of Building 3, she distributed building plans for a large home near her property to illustrate its size as well as the ski bridge, or causeway, in the center of the home and the amount of vegetation that had been removed from the site. Although the developer suggests there are three buildings on the property, it is all one building depending on the way the causeways work, and is not compatible with the neighborhood. The neighborhood is made up of single family homes, and Deer Valley consistently decreased densities on various parcels. Because there are no multi-family structures in North Silver Lake, she questioned how such a large building could be considered to be compatible in height, scale, mass and bulk. From Main Street it will look like one building and one won't see the gaps between buildings.

Ms. Wilson felt that beginning the construction on the perimeter of the project was extremely dangerous. She commented on the City's experience with Treasure Hill that had been built in increments over the years to maintain property rights and was now a problem. She asked Council not to create a problem for future City Council's and requested that they deny the project.

Doug Clyde represented the applicant, along with architect John Shirley and attorney Tom Bennett. Mr. Clyde explained that following the remand instructions from Council, they returned to Planning Commission to test their revised concept and then converted it to detailed plans, which were reviewed in subsequent meetings with the Planning Commission. The visual simulation dramatically shows that the project is much smaller.

Architect John Shirley commended the client for being willing to take a fresh look and redesigning the building. He noted they had reduced the mass of building three by 25% and had split it into two buildings to break up the impact. A subterranean portion of the project will house common area, spas, ski lockers, etc. Because the building was moved down the hill, it reduced the number of stories. Elimination of the ski funicular provided an opportunity to plant more trees to screen the building from the open space below. Doug Clyde pointed out that the new design stepped back, with a maximum of four stories, and because of the way they reoriented it on the site, visual impacts from Main Street have been substantially reduced.

Mr. Clyde addressed the landscape plan and noted the redesigned project provided substantially more opportunity to provide vegetative screening. He noted their simulation was done with trees as they would be planted; they did not attempt to project new growth.

Mr. Clyde clarified for Councilor Kernan that the photograph from Main Street was taken from street level just below the pedestrian bridge on Lower Main.

Tom Bennett, attorney for the applicant, commented that Building 3 had been dramatically redesigned to reduce and meet the compatibility standard as directed by the remand. He addressed the appellant's argument for requiring the Planning Commission to impose a phasing plan. He noted the Planning Commission followed the City's standard practice and addressed the issue by adoption findings of fact and conditions of approval relating to phasing and bonding and making it clearly the responsibility of the Building Department to monitor final decisions on phasing and bonding. He stated that although there are provisions in Master Planned Development approvals for imposition of phasing plans, there is none in the Conditional Use Permit process. He appreciated the appellant making suggestions for phasing plans, and addressed examples of why they do not work. Phasing plans are dependent on many variables and, for example, requiring the completion of one phase before beginning the next may not make sense in times of economic boom. Those decisions are very personal and are the inherent right of the property owner. Regarding the proof of financial ability to perform, he was unsure the City wanted to assume the role of judging an applicant's financial ability to develop a project.

One appellant requested that the project be built from the outside in, while the other appellant disagreed, which highlighted problems with the government and the public trying to settle on a phasing plan. The applicant was willing to rely on the resources of the Building Department in requiring appropriate mitigation for the phased construction to minimize impacts on neighbors.

Katie Cattan introduced Interim Building Official Roger Evans who was present to respond to questions regarding the Building Department and construction mitigation phasing plans.

Attorney Harrington stated that the Building Department has utilized a quasi-public process for construction mitigation plans and phasing plans for large projects such as Flagstaff. Mr. Evans explained that developers typically submit plans for the entire site, not individual buildings, and Building issues separate permits in order to track progress, issue Certificates of Occupancy and release limits of disturbance fees, which are a cash bond. Planning had incorporated Ron Ivie's suggestions to ensure that mitigation issues were covered if the project was not completed.

Mr. Harrington asked whether it would be useful to build in an opportunity for a series of courtesy neighborhood meetings to get additional input at the time the Construction Mitigation Plan was approved. He asked whether the Building Department would want them to require a specific plan, or include further conditions or parameters regarding phasing, and bonding if Council determined that the Planning Commission appropriately implemented their direction. Mr. Evans indicated they could hold neighborhood meetings to review the plans and discuss mitigation measures.

Councilor Cindy Matsumoto asked how long empty foundations were allowed to sit in a project. Mr. Evans stated the Building Department was reviewing old permits and had plans to remediate abandoned foundations. Building permits are good for 180 days as long as work is progressing, and developers can request extensions to keep the project in place. Ms. Matsumoto clarified that each building would be bonded, which would provide money for remediation if the project stalled. Mr. Evans stated they collected a cash bond which can be used to mitigate sites.

Mark Harrington clarified there was a one year CUP approval with an opportunity to request an additional one year extension through the Planning Commission, and there was also the building permit process.

Attorney Bob Dillon asked if pulling a building permit for a foundation vested a CUP or whether plans for the entire structure must be submitted in order to receive a foundation permit. City Attorney Harrington stated that pulling the first permit does vest the Conditional Use Permit; however, it can still be cancelled for inactivity if there was subsequent failure to keep the permit going.

Roger Evans explained that developers pull the footing and foundation permits first because they aren't required to pay impact fees at that time; however, the Building Department does not issue footing and foundation permits until they have reviewed the entire plan. Once they pull the footing and foundation permit they have 180 days to pull the full permit or go through extension process.

Mr. Dillon stated these structures would be part of a condominium project and asked whether they were required to file their Condominium Plat and Declarations prior to obtaining building permits. Mark Harrington explained that, while there are certain sites that have lot lines and code issues that would prevent the permit from being issued, in this case they have the lot of record and it was likely not an issue. The Condominium Plat is not recorded until the project is completed.

Mr. Dillon questioned allowing a developer to start without knowing that they would comply with the Conditional Use Permit and suggested that if construction plans were sufficient to obtain a building permit, they should be sufficient to create the condominium map for the portion of the project they want to build. Mr. Harrington explained that building plans were complete prior to obtaining footing and foundation permits, but noted there were almost always in-the-field amendments to every building plan of this size and it was preferable to have the condominium plat come in after the fact. Mr. Dillon clarified that they would not be able to sell anything until the plat was recorded.

Council Member Butwinski prompted a discussion about burden of proof for noticing. Attorney Harrington explained there had to be reasonable evidence on the record, and Council had made a finding of fact that there was not. He noted they received competing testimony and none regarding the noticing prior to the March 2010 meeting. Mr. Butwinski confirmed that the Planning Department maintains a mailing list along as well as a copy of the notice letter. Ms. Cattan explained that the applicant provides stamped, addressed envelopes accompanied by a list from a title company and Planning does not check the list. Courtesy notices are not re-sent when a project is continued, although Planning posts the property and publishes again in the newspaper and website.

Tom Bennett, attorney for the developer, indicated they would be willing to engage in neighborhood meetings for each phase of the construction mitigation.

Mayor Williams opened the hearing for public input. There was none and he closed the hearing.

Eric Lee referred to Mr. Bennett's comments and felt the concept of neighborhood meetings to review construction mitigation and phasing plans was sound. However, they were looking for that at the Planning Commission level because they are the body within City Government charged with addressing adverse impacts on a neighborhood. Also, there is no appeal process associated with a neighborhood forum with the building department and the neighbors have no recourse if their concerns are not taken into consideration. Mark Harrington clarified that although the meetings were not appealable; any staff action was appealable to the Planning Commission.

Mr. Lee addressed the necessity of requiring a phasing plan at the onset of the project as opposed to allowing the developer the flexibility to make those decisions as the project progressed. The developer must recognize that the neighbors have concerns and we believe that a permit should be issued only if the adverse impacts are adequately mitigated. They did not receive the mitigation plan they should have and think the project needs to go back.

Lisa Wilson commented about phasing plans and shared that the Deer Crest Homeowners Association is going to require bonding for all buildings due to a number of uncompleted homes. She hoped the City would require bonds so they are not left with the eyesore of unfinished construction.

Mayor Williams requested that Council discuss each appeal separately and opened the discussion regarding Appeal One.

Joe Kernan was comfortable with the Building Official making an administrative approval of the construction phasing plan, but suggested having conditions related to public input, whether it is neighborhood meetings or something more formal. Liza Simpson agreed, but felt the Building department understood the best way to move projects forward. She was comfortable adding conditions of approval if necessary. Council members expressed a preference for informal meetings and Mark Harrington suggested adding language to Condition 17 that required a neighborhood meeting at each phase prior to Building Department action.

Alex Butwinski believed height, mass and scale had been reduced to improve compatibility and landscaping plans had been sufficient addressed. Regarding the phasing plan, the City uses bonding as a mechanism to ensure the phasing was followed and the project was completed. He relayed a question from Planning Commissioner Peek regarding whether bonding was used to return the site to vegetation or to move the project forward. Roger Evans explained the Building Department would determine where they were in phasing, and the bond would be adequate to address a solution.

Regarding the requirement for an applicant to provide proof of financial wherewithal, Mr. Butwinski noted there had been no precedent either in the Code or past practice. Mr. Harrington explained that annexations required an economic profile; however, in this context it would be highly unusual. He added that the City does not have an institutional basis to make the necessary analysis in terms of what constitutes financial viability, and he would not recommend it.

Mark Harrington clarified for Liza Simpson that if Council amended Condition of Approval 17 and add a condition regarding lockout provisions, they were granting the appeal in part, denying the appeal in part, and providing direction to Staff to return with findings.

Liza Simpson, "I move that Council deny Appeal One in part, and uphold the appeal in part, and amend Condition of Approval 17 with language that addresses that a meeting with residents to gather input be held before Building Department approval is given at each phase of construction; and with changes as outlined in the Staff Report regarding lockout units."

Attorney Tom Bennett questioned that it was being characterized as denial in part. He felt the appeal was denied subject to the modification of Condition 17 to add a requirement for community meetings as part of construction mitigation process. Attorney Harrington explained the appeal was upheld in part because of the lockout component. He stated new findings and conditions would be ratified by Council and thirty days for district court appeal would run from that final approval. Tom Bennett clarified that, if the motion passed, the appeal would be denied and Council would receive a set of findings and order at the next meeting.

Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Mayor Williams requested discussion regarding Appeal Two. Council Members concurred that the Planning Commission had mitigated all applicable items and they did not see any merit in the appeal. The project had been greatly improved and all issues that were applicable in the appeal had been mitigated by the Planning Commission.

Returning to the burden of proof for noticing, Mr. Butwinski clarified that the Planning Commission felt they had necessary proof to find that the notice requirement was filled. Mark

Harrington responded they clearly did and noted there was no allegation of improper legal notice for the first meeting, but there was an allegation regarding mailed notice for the second hearing and the fact that the posted notice fell down prior to the second hearing. He explained that mailed notice was problematic because it was a courtesy attempt to reach those who do not read the newspaper or the City's website.

Cindy Matsumoto stated the process had resulted in a better project. She stated Lisa Wilson had been part of that and thanked her for her commitment.

Joe Kernan "I move that Council deny Appeal Two." Alex Butwinski seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

There were none.

VII ADJOURNMENT

With no further business, Mayor Williams adjourned the meeting at 8:30 p.m.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at 2:00 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Tom Daley, Deputy City Attorney; Jason Christensen, Legal Intern; Kathy Lundborg, Water Manager; Diane Foster, Environmental Manager; Craig Sanchez, Golf Manager; and Linda Tillson, Library Manager. Liza Simpson "I move to close the meeting to discuss personnel, property and litigation." Joe Kernan seconded. Motion unanimously carried. The meeting opened at 3:15 p.m. Liza Simpson "I move to open the meeting." Alex Butwinski seconded. Motion unanimously carried.

City Council Staff Report

Subject:	**Recreation Center Remodel Testing and Special Inspection Professional Service Provider contract**
Author:	**Matthew A. Twombly**
Department:	**Sustainability**
Date:	**July 15, 2010**
Type of Item:	**Administrative**

Summary Recommendations:
Authorize the City Manager to enter into a professional service provider contract for the Recreation Center Remodel project for Testing and Special Inspection in a form approved by the City Attorneys Office to Consolidated Engineering Laboratories in an amount not to exceed Forty Thousand Dollars ($40,000.00).

Topic/Description:
Recreation Center Testing and Inspection – Contract Award

Background:
As part of the Recreation Center Remodel project, special inspection and materials testing is required as part of the design specifications, permitting and building codes. The testing and inspection must be performed by certified inspectors and testing technicians. The Request for Proposals (RFP) was advertised in the Park Record on June 19, and 23; in the Salt Lake Tribune on June 20, and 21; and posted on the City's web site through e-notify.

Analysis:
There were eight firms submitting on the project: AGEC, AMEC, CMT, Consolidated, Earthtec, GeoStrata, SES and Western Technologies. None of the eight firms were local. Since this was the selection of professional services, the firm selected may not solely be based on price. PCMC has previously worked with four of the eight firms submitting on the project. Almost all firms could equally perform the work required.

The proposed testing and inspection is priced on a unit price basis or hourly rates for items of work required. The consulting engineers under VCBO determined the requirements for the scope of work included in the RFP. The testing and inspection greatly depends on the contractor's schedule and ability to perform the work according to building codes and project specifications. A team of City staff, the architect and consulting engineers, the consulting project manager and contractor have reviewed the proposals and recommend Consolidated Engineering to perform the work based upon their expertise, ability to do the work in a timely manner, and their cost. Consolidated Engineering's unit price schedule is attached as Exhibit A. The team worked with Consolidated Engineering to estimate a total not to exceed cost. All billing will be done at the unit rates specified.

Consolidated Engineering will enter into the standard Professional Services Contract.
A scope of services is attached.

Department Review:
City Manager, Legal, and Sustainability, have reviewed this report and all comments have been incorporated into the report.

Alternatives:

A. **Approve the request, and authorize the City Manager to execute the construction agreement in a form approved by the City Attorney's Office: (Staff recommendation)**
B. Deny: Denying the request will delay the project where special inspection and testing is required for this type of construction.
C. Modify: The requirements for special inspection and testing may only be modified by approval of the consulting architect, engineer, contractor and building department.
D. Continue the Item: Council may need additional time to discuss this item. Staff would need to return to Council at a later date. This could delay the project.
E. Do Nothing: Doing nothing will delay the project.

Significant Impacts:
Staff estimated and budgeted approximately $46,000 in testing and fees in the overall Recreation Center Remodel budget.

Consequences of not taking the recommended action:
The consequences of not approving the award of contract will likely delay the project.

Recommendation:
Authorize the City Manager to enter into a professional service provider contract for the Recreation Center Remodel project for Testing and Special Inspection in a form approved by the City Attorneys Office to Consolidated Engineering Laboratories in an amount not to exceed Forty Thousand Dollars ($40,000.00).

Attachments:
Exhibit A – Consolidated Engineering Unit Prices
Exhibit B - Scope of Services

CONSOLIDATED ENGINEERING
LABORATORIES

CONSTRUCTION MATERIALS TESTING SERVICES
UNIT COST PRICE PROPOSAL

SITEWORK:		UNIT	UNIT PRICE
1.	Proctors*	Each	$ 100.00
2.	Sieve Analysis*	Each	$ 50.00
3.	Field Technician Time**	Hourly Rate	$ 40.00

* Cost of test, lab work, reporting and incidentals only, no field technician time.

** Hourly rates shall be calculated to include travel costs, and shall include a component for vehicles and incidental costs not included elsewhere. Nuclear density tests will be included in hourly rates.

CONCRETE:		UNIT	UNIT PRICE
1.	Set of 4 Cylinders Cast by Testing Agency, including Pick-up Curing of Cylinders & Breaking of Cylinders	Sets	$ 40.00
2.	Field Technician **	Hourly Rate	$ 37.00

* Cost of test, lab work, reporting and incidentals only, no field technician time.

** Hourly rates shall be calculated to include travel costs, less meal period (s) and shall include a component for vehicles and incidental costs not included elsewhere. Slump Tests, air entrainment tests, and concrete temperature should be included in field technician hourly rate.

CONCRETE SPECIAL INSPECTION:		UNIT	UNIT PRICE
1.	Periodic Inspection of Structural Rebar Bolts, & PT Cable*	Hourly Rate	$ 44.00

* Hourly rates shall be calculated to include travel costs, less meal period (s) and shall include a component for vehicles and incidental costs not included elsewhere.

EXHIBIT A

CONSOLIDATED ENGINEERING
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MASONRY:	UNIT	UNIT PRICE
1. Prism Tests Based on Set of 5 Prisms Cast by Masonry Contractor***	Sets	$ 200.00
2. Set of 3 Mortar Cubes*	Sets	$ 45.00
3. Set of 3 Grout Prisms	Sets	$ 45.00
4. Field Technician Time**	Hourly Rate	$ 44.00

MASONRY SPECIAL INSPECTION:	UNIT	UNIT PRICE
1. Period Inspection of Structural Masonry (Level I)**	Hourly Rate	$ 44.00
2. Continuous Inspection of Structural Masonry (Level II)**	Hourly Rate	$ 44.00

* Cost of test, lab work, reporting and incidentals only, no field technician time.

** Hourly rates shall be calculated to include travel costs, less meal period (s) and shall include a component for vehicles and incidental costs not included elsewhere.

*** Unit Price shall include all cost related to this item, including but not limited to: Field technician, materials, equipment, vehicles, travel, lab work and reporting.

STRUCTURAL STEEL WELDING INSPECTION:	UNIT	UNIT PRICE
1. Periodic Visual Inspection (VT) of Field Welding	Hourly Rate	$ 47.00
2. Ultrasonic Testing of Welds	Hourly Rate	$ 52.00
ROOF DECK WELDING INSPECTION:		
1. Periodic Visual (VT) Field Welding**	Hourly Rate	$ 47.00
STRUCTURAL STEEL BOLT TORQUE TESTING:		
1. Inspect 10% of Bolts or 2 Per Connection	Hourly Rate	$ 47.00

** Hourly rates shall be calculated to include travel costs, less meal period (s) and shall include a component for vehicles and incidental costs not included elsewhere.

CONSOLIDATED ENGINEERING
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Helical Pier Inspection:

1. Continuous Inspection of Pier Installation	Hourly Rate	$	44.00

CONSOLIDATED ENGINEERING
LABORATORIES

PROJECT PHILOSOPHY

I. INTRODUCTION

Consolidated Engineering Laboratories (CEL) is committed to providing the highest quality construction services available while maintaining our core values, Integrity & Honesty, Teamwork, Education, Quality, and Profitability. We achieve this with a quality Team Approach.

CEL's Team Approach to project management is comprised of the General Manager/Project Manager, Operations Manager, Project Lead Inspector, Field Inspectors and Technicians, Laboratory Manager, Laboratory Materials Testing Technicians, and an entire team of support staff. The General Manager, Charlie Trujillo, will be acting as the Project Manager and will serve as overall leader of the team, providing direction to other members of the team, identifying information interfaces, reporting procedures, and coordinating between team members and Construction Representatives.

II. RESPONSIVENESS

CEL will utilize our Salt Lake City facility for this project. In addition, we have many projects that we are involved with in this area, with personnel within minutes of your site to respond as needed to any project demand. This will allow us to provide cost controls as well as immediate responsiveness with both laboratory results and personnel.

CEL has a long and successful history in the industry on a large variety of projects. The one common factor is that time is one of the most important aspects of each project. Our services are continually provided with little notice from our clients and their agents; however, we understand that there will be a Lead Inspector on site on a semi-full time basis during construction. This will be the key element in coordinating support staff as needed.

III. DUTIES AND RESPONSIBILITIES

Project Manager
The Project Manager is responsible for the administration and control of our testing and inspection program for this project. He will communicate with the owner's representatives and the construction manager regarding project progress and verify that each aspect of the contract is being satisfied. He will also coordinate CEL's team responsibilities, maintain all required personnel, accounting and billing records and procedures, and review the entire testing and inspection budget on a weekly basis. In addition, the Project Manager will supervise the establishment and maintenance of all documentation files and reports required for this project.

The Project Manager is responsible for reviewing the daily testing reports and assisting the Laboratory Technician with technical issues in the absence of the Laboratory Manager, including research of technical issues in the appropriate codes and reference manuals, special provisions, standard specifications, and plans. With this information, he will provide technical input to the Inspector, technicians, construction management team, and the owner's agents. The Project Manager will also review all submitted mix designs and prepare the final report at the project completion as required by the contract documents and or Park City. The Project Manager will also be available to review the progress of the project and performance of the Resident Inspector.

EXHIBIT B

Project Resident Inspector
CEL's Lead Inspector, Bradley Eggertsen, is responsible for daily inspections and project reports for all inspections and tests performed in the field. The Lead Inspector will work closely with the Contractor, Building Officials, Project Architect and Engineer to ensure that every aspect of the construction is in strict compliance with the appropriate specifications and drawings. He will be the first line of contact for the daily issues related to the entire quality control program. Additionally, our inspectors and support staff will report directly to the Lead Inspector, relaying results and findings as they become available.

Laboratory Manager
CEL's Laboratory Manager will report functionally and operationally to the Resident Inspector. Work performed by the laboratory personnel will be in accordance with the requirements of the contract documents and accepted standard test methods and procedures. Additionally, our Laboratory Manager will perform his work in accordance with the contract guidelines for laboratory testing as developed for each discipline.

IV. PROJECT TESTING APPROACH

Consolidated Engineering Laboratories will utilize the following project approach for this project. The General/Project Manager is the means of assuring that work performed by CEL will be in accordance with contract documents, and that required testing and inspection is being performed.

Project Management Meetings
Upon notice to proceed and prior to the commencement of each construction project, the Project Manager and the Project Lead Inspector will meet with the appropriate representatives and review the plans and specifications of the assigned inspection and testing services for the project. At this time, the initial testing plan will be developed based upon the specific requirements of the contract documents. The purpose of this first project management meeting will be to reduce or eliminate misunderstandings regarding the testing and inspection requirements of the project, and to develop a mutual understanding between all parties involved.

Manpower Control
CEL will perform all testing and inspection as outlined in the "Unit Prices" portion of the proposal as directed by Millcreek Consulting or Park City Personnel. We will staff adequate personnel to support the testing requirements of the Contractor at all times by maintaining and utilizing our dispatch service system. We will also be very aware of times that we are not required to be on site as to ensure the best cost controls available.

Request For Information
Work performed by CEL field inspectors will be in accordance with the contract documents and approved standard methods. However, in the event a field inspector encounters a condition in which the contract documents contain unclear, contradictory, or inadequate information to permit completion of the work, a Request for Information (RFI) form will be submitted to the established personnel. The Lead Inspector shall maintain a log of all RFIs and their disposition.

Non-Conforming Work/Materials
When observations or field/laboratory test results indicate that material or work in progress does not conform to the requirements of the contract documents, the appropriate parties will immediately be notified verbally and with appropriate documentation via a Non-Compliance Report (NCR) and test results. An NCR may be initiated by the Project Manager, Project Lead Inspector or Laboratory Manager, as developed through the established chain of authority. NCRs will be routed through the General Manager for review and assignment of an NCR number prior to submitting to Millcreek Consulting or the appropriate contractor responsible for the work. CEL will maintain a log of NCRs and their resolutions, and will maintain a Work-In-Progress report that will include any outstanding work that is noted as non-conforming. The key to not encountering an NCR is good communication between all parties concerned.

Budgetary Control
Included in our service is close monitoring of the testing and inspection costs. All invoices will reflect individual tasks (concrete, cylinders, steel, etc.), and the number of hours expended for each task. A summary of each task to-date, as it relates to the overall budget, is also available. The summary budget breakdown can be presented with each invoice or at other intervals, as requested. All re-inspection and retests due to unsatisfactory or non-conforming work will be task coded to reflect costs for the re-inspection.

CEL is committed to maintaining the highest possible level of service with minimal costs. This can be achieved with cooperation from the Development Team. The key to good budget control is close communication, scheduling and timely notice.

Document Control
CEL personnel will verbally inform the owner's representative and the appropriate contractors if directed to do so, all test results as they become available. In addition, written reports will be submitted to all parties deemed necessary by the owner's representative within the week following the test or inspection. CEL will also provide a summary of all testing performed on the project.

Records of administrative files, inspection and testing reports, as well as the above referenced items, will be maintained by CEL's office personnel at the permanent office of Consolidated Engineering Laboratories under the supervision of the General Manager.

V. CONCLUSION

Consolidated Engineering Laboratories has a current ongoing in-depth involvement with several projects of this nature now in-progress in Park City and Summit County. We are dedicated to the continued development of our experience and expertise in the fields of testing and inspection with respect to the specific project requirements and specifications. Our past history and performance on projects of this type have been successful and educational, and has helped to sharpen our own in-house Quality Control Program. We believe that with our experience on many projects in the Summit County area, we can be a vital instrument and extension of owners and their agents on this project.

City Council Staff Report

Subject: Lease of Main Street for Zona Rosa Street Dining
Author: Francisco Astorga
Department: Planning
Date: July 15, 2010
Type of Item: Administrative

Summary Recommendations:

Consider approving a lease of City property/right-of-way for Zona Rosa, located at 501 Main Street, so that they can have on street dining.

Topic/Description:

Paul Marsh, owner of Zona Rosa, proposes to build a temporary street dining deck on Main Street. Street dining decks are only allowed from May 1 to October 30. The proposed deck is fourteen feet (14') wide by fourteen feet (14) long along the linear frontage of the building on Main Street (Exhibit A). The proposed deck extends 7 feet nine inches (7'-9") from the curb line into the street and it extends six feet three inches (6'-3") into the sidewalk, leaving forty-four inches (44") of clear sidewalk width available for pedestrian circulation. The deck takes the space of the parallel parking space on the street.

Background:

Section 15-2.6-12 of the Land Management Code (LMC) allows Outdoor Dining on "leased public property" as an Administrative Conditional Use Permit. The outdoor dining Administrative Conditional Use permit application will be finalized by staff once the Lease Agreement is approved by City Council.

Analysis:

This seasonal lease of the use of Main Street granted by the City will: regulate the time and duration of the use, provide for consistency in look and materials on the Street, ensure the aesthetic value of the Historic District by preventing visual clutter, prevent conflicts with Special Events/Master Festival Licenses, mitigate for conflicting uses in the public right-of-way, ensure for clean sidewalks, and provide an ongoing monitoring mechanism and revocation provision for failure to comply with regulation.

Staff has prepared a draft lease template that would be executed with the applicant prior to approving any Outdoor Dining on City Streets (Exhibit B). Staff has also prepared operational restrictions (Exhibit C). At this time staff has made a preliminary determination that Paul Marsh's request meets the proposed operational restrictions (Exhibit C) as well as the following standards for an outdoor dining Administrative Conditional Use Permit as described in LMC § 15-2.6-12:

a) *The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.* **Complies as mitigated**

   The proposed street dining area is within proposed leased public property. The proposed street dining deck is for a business that is current in the 1984 Main Street Parking Special Improvement District assessment and has fully paid for parking. Lots which were current in the 1984 parking assessment are exempt from the parking obligation for a floor area ratio (FAR) greater than 1.5. The parking area where the street dining deck is proposed will reduce the overall stock of Main Street parking by one (1) parking space. Due to the temporary nature of the request taking place from the beginning of May to the end of October staff finds the overall stock of parking spaces on Main Street will not be affected by the loss of one (1) parking space. The maximum dollar amount that the City may receive in parking fees of one (1) parking space within the requested time of 183 days is $2,745. Staff recommends that in order to promote street activity during the summer season that a waiving of a rental fee is appropriate. The street dining deck does not diminish any landscaping.

b) *The proposed seating Area does not impede pedestrian circulation.* **Complies as mitigated**

   The proposed street dining deck and also the sidewalk between the building and the proposed street dining deck will maintain a minimum of 44 inches of clearance at all times to comply with ADA access.

c) *The proposed seating Area does not impede emergency Access or circulation.* ***Complies as mitigated***

   Due to the temporary nature of the street dining deck, emergency access vehicles will have the ability to access the street dining deck to service any emergency if nessesary. In case of an emergency, including but not limited to, a flood, a storm drain issue, utility issue, the structure may be removed or damaged by response teams at the cost of the owner.

d) *The proposed furniture is Compatible with the Streetscape.* **Complies as mitigated**

   The proposed furniture and actual street dining deck will be compatible with the streetscape and it will complement the historic district.

e) *No music or noise is in excess of the City Noise Ordinance, Title 6.*

Complies as mitigated

The use shall be in compliance of the City Noise Ordinance.

f) *No Use after 10:00 p.m.* **Complies as mitigated**

Street Dining will not be permitted after 10:00 p.m.

g) *Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.* **Complies as mitigated**

The proposed street dining decks are for businesses that are current in the 1984 Main Street Parking Special Improvement District assessment and have fully paid for parking. Lots which were current in the 1984 parking assessment are exempt from the parking obligation for a floor area ratio (FAR) greater than 1.5. The applicant will have to provide to staff a review of the restaurant's seating capacity showing that the seating capacity does not exceed the parking demand.

At a recent City Council meeting it was determined that the term of the street dining deck shall automatically renew each year for a total of three (3) years terminating on October 30, 2012 unless terminated earlier as provided in the lease agreement. The property may only be utilized for a six (6) month period commencing on May 1st and terminating on October 30th each year except for the period of the Arts Fest (the first Friday, Saturday and Sunday of August). An annual review by the City Council, with input from the Planning Department will be conducted by April 1st of each year.

Department Review:

The Building, Planning, Engineering, Special Events, Parking, Water Departments have reviewed the street dining request. The Planning and Engineering Departments have met the applicant on-site to analyze appropriate size of the deck.

Alternatives:

A. Approve:
Provide direction to approve the Outdoor Dining on City streets; and approve the lease for street dining for Zona Rosa as presented; or

B. Deny:
Provide direction to deny the Outdoor Dining on Main Street request; or

C. Modify:
Provide direction to continue Outdoor Dining on Main Street, but modify the lease language or operational restrictions and then provide direction to approve the lease(s) as amended; or

D. Continue the Item:
Continue the hearing for more information or discussion.

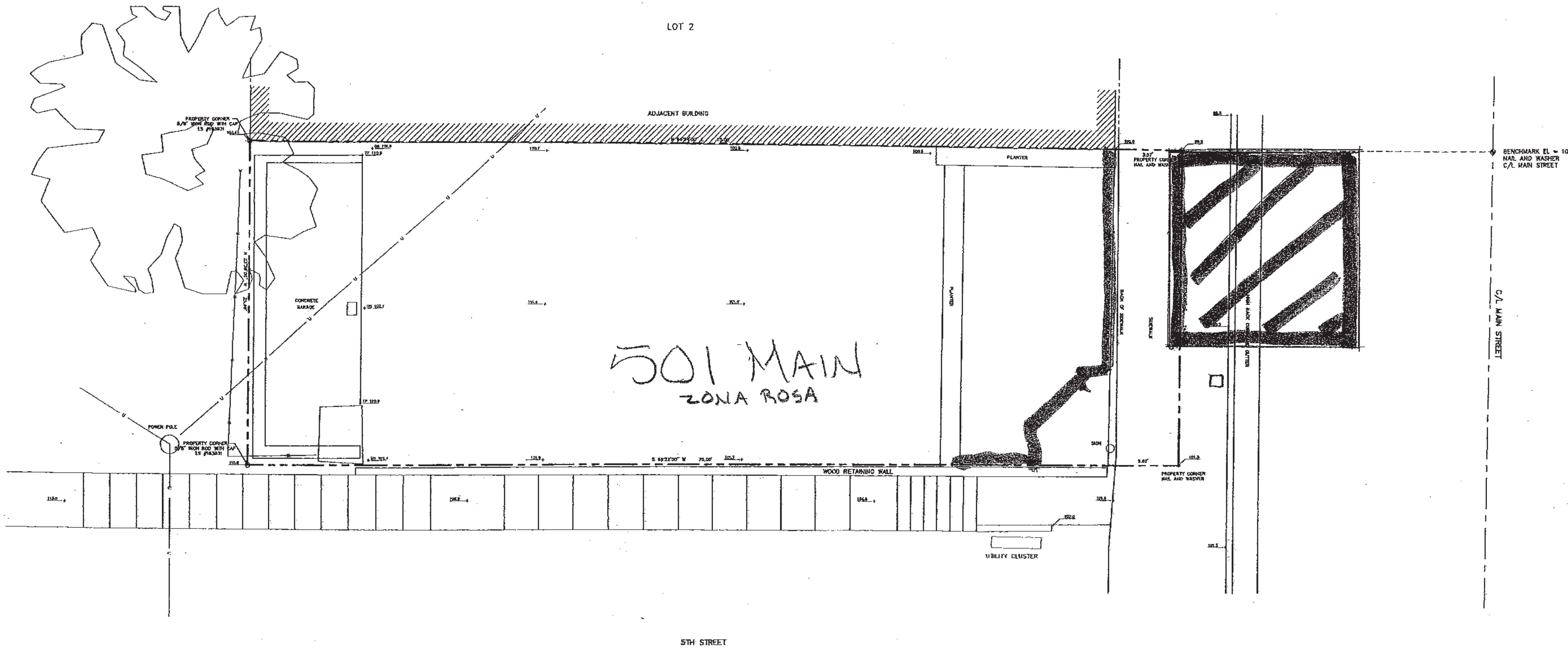
Recommendation:

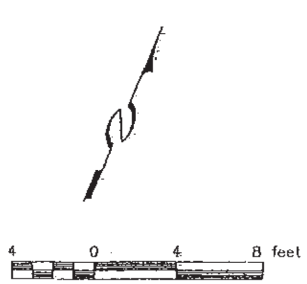
Consider approving a lease of City property/right-of-way for Zona Rosa, located at 501 Main Street so that they can have on street dining.

Exhibits:

Exhibit A – Plans
Exhibit B – Lease & Operation Restrictions

Zona Rosa
501 Main Street
Street Dining Deck
N
1 inch = 20 feet





LOT 1
BLOCK 9, PARK CITY SURVEY

TOPOGRAPHIC MAPPING BY:
ALLIANCE ENGINEERING INC.
323 MAIN STREET
PARK CITY, UTAH
(801) 649-9467

JOB No. 5-2-96
Y: \SRV\TOPO96\PCS\L1B9.DWG

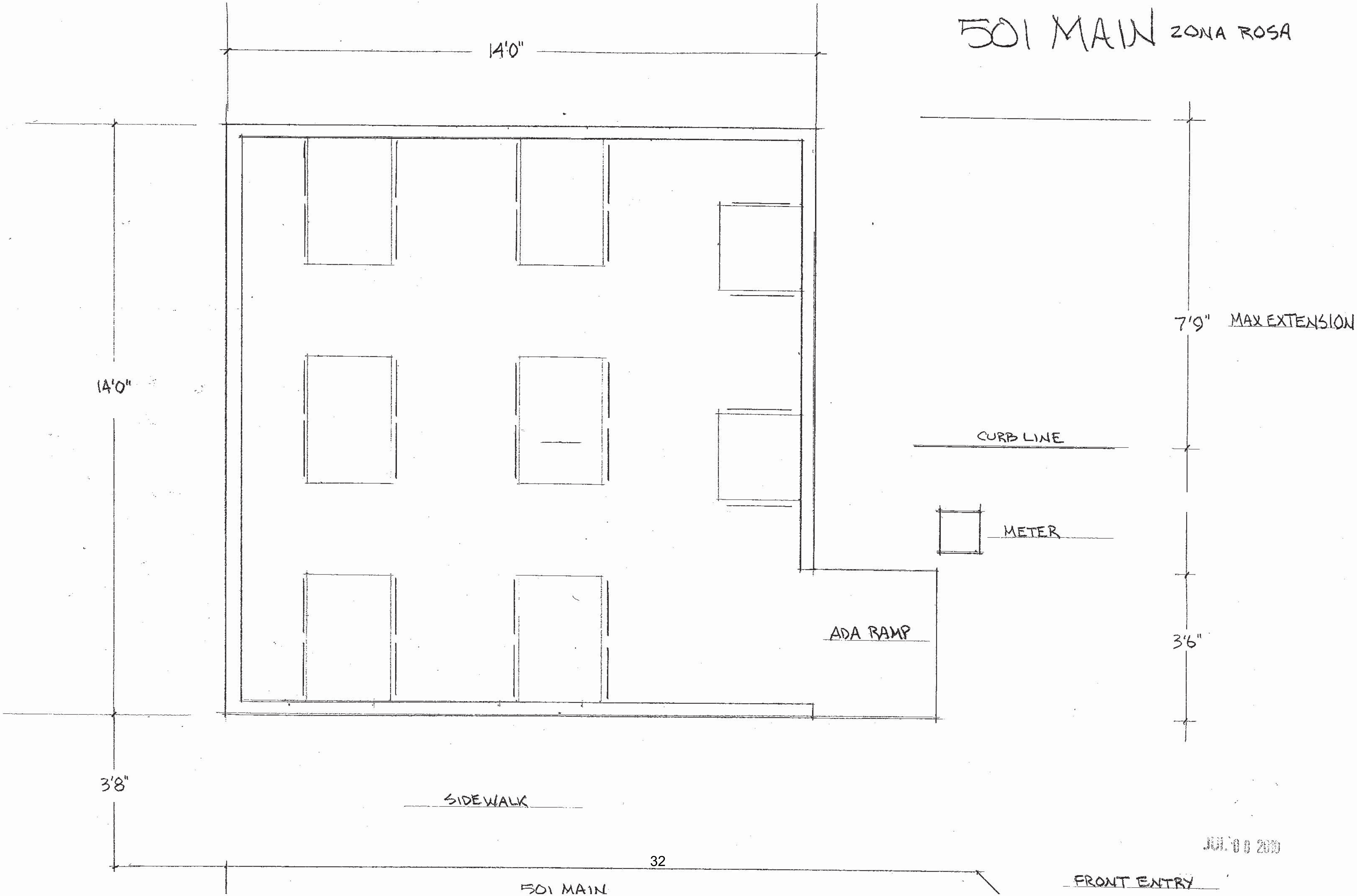
NOTE: 1. BENCHMARK ELEVATION 100.0 WAS RANDOM
APPROXIMATE SEA LEVEL ELEVATION AT STREET = 7050

2. SEE RECORD OF SURVEY PLAT FOR EASEMENTS AND RESTRICTIONS. THE ARCHITECT IS RESPONSIBLE FOR VERIFYING REQUIRED BUILDING SETBACKS, ZONING REQUIREMENTS, AND BUILDING HEIGHTS.

3. THIS TOPOGRAPHIC MAP IS BASED ON A FIELD SURVEY PERFORMED 2-13-96.

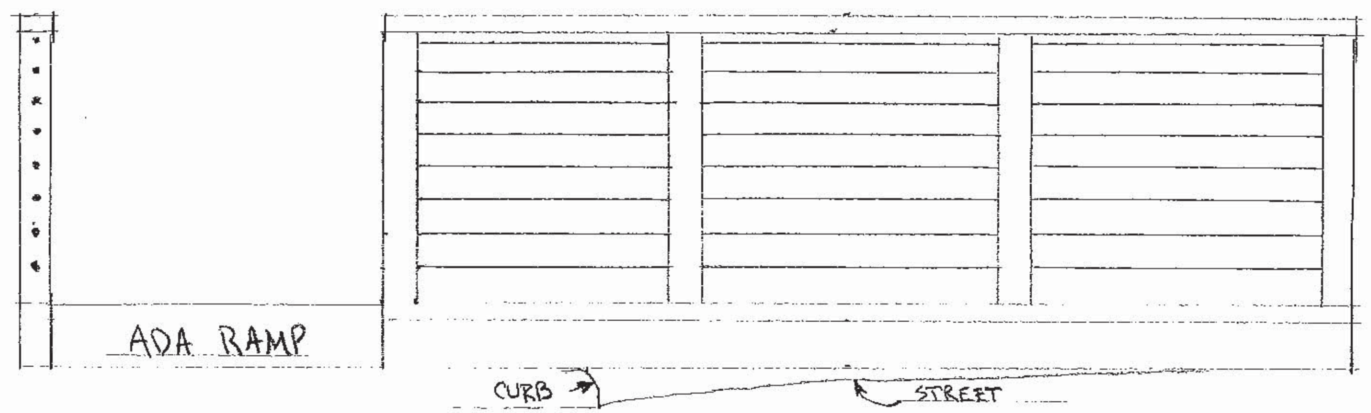
4. THIS IS NOT A CONTOUR MAP. SPOT ELEVATIONS ARE AS SHOWN.

5. ARCHITECT SHOULD VERIFY BUILDING PAD GRADES PRIOR TO FINAL CONSTRUCTION.

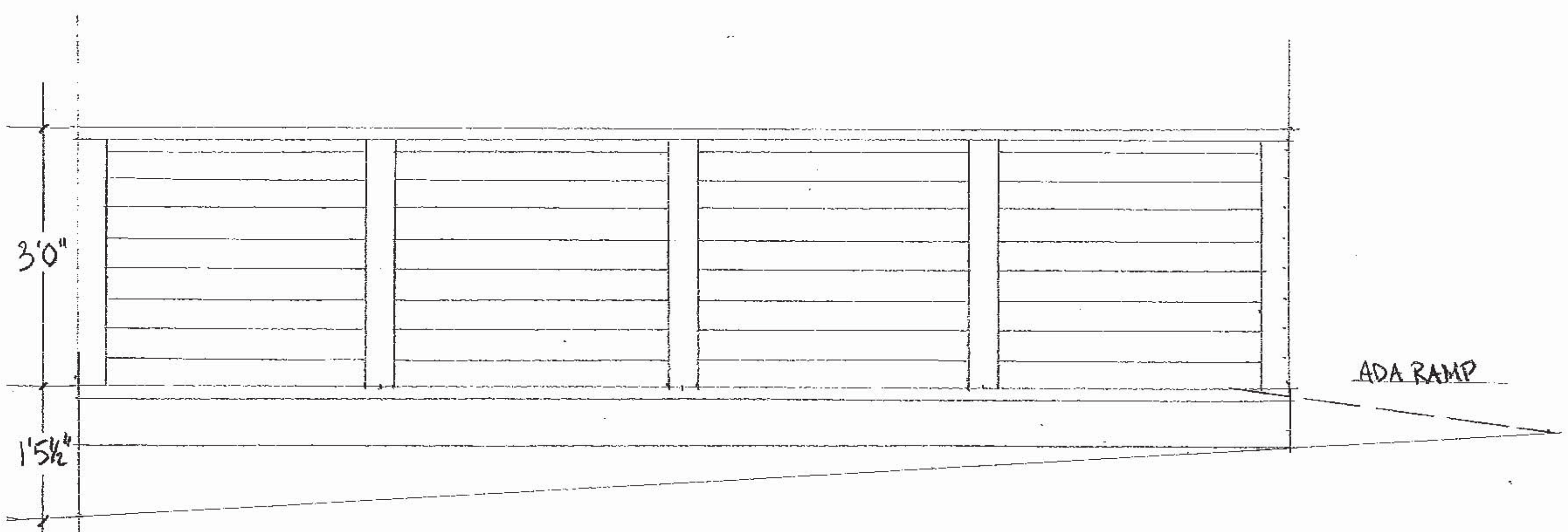

501 MAIN ZONA ROSA
14'0"
14'0"
7'9" MAX EXTENSION
CURB LINE
METER
ADA RAMP
3'6"
3'8"
SIDEWALK
501 MAIN
FRONT ENTRY

JUL 0 8 2010

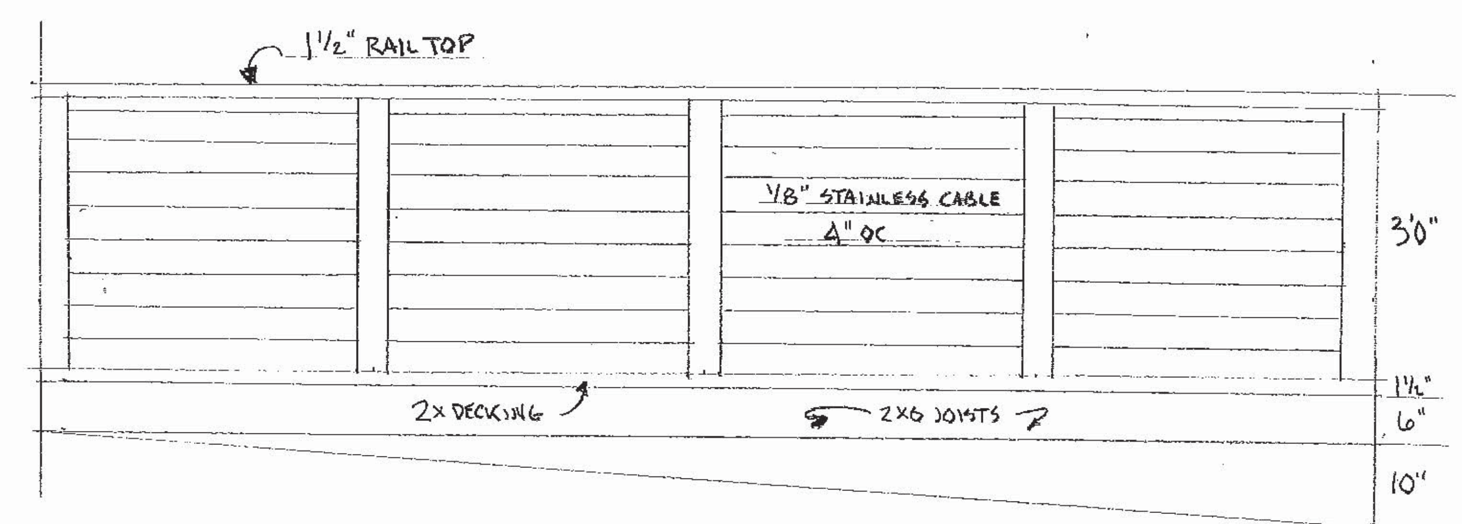
501 MAIN ZONA ROSA



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION

STREET DINING ON MAIN
OUTDOOR DINING LEASE

This LEASE AGREEMENT is made and executed this ____day of _________, 20____, by and between Park City Municipal Corporation, a municipal corporation and political subdivision of the state of Utah ("Park City") and ________________________________, located at ____________________, Park City, Utah ("Tenant").

RECITALS

WHEREAS, the City wishes to enable opportunities for restaurants on Main Street to be able to provide additional outdoor dining opportunities; and

WHEREAS, the City's goals include the establishment of new and creative opportunities to facilitate the Main Street experience for residents and visitors alike during the shoulder and summer seasons; and

WHEREAS, the City's goals include the preservation and enhancement of Park City's character regarding Old Town and the desire to strengthen the pedestrian experience along Main Street; and

WHEREAS, the City recognizes the desire of many visitors and residents to dine outdoors along historic Main Street; and

WHEREAS, the City's General Plan recommends utilizing street design techniques to encourage slower traffic speeds and a more intimate pedestrian-oriented scale; and

WHEREAS, the City's goals include maintaining and furthering the resort community's economic opportunities, as well as enhancing the economic viability of Park City's Main Street Business District;

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

TERMS & CONDITIONS OF LEASE

Based upon good and valuable mutual consideration, the Parties agree as follows:

1. PROPERTY. The property affected by this lease is generally described as the street area directly fronting Tenant's building located at _______Main Street, and more specifically described in site plan Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Premises"). The length of the outdoor dining deck per restaurant may not exceed fifty (50) feet.

2. RENT. Annual rent is hereby waived in exchange for other indirect and intangible benefits provided to the City. Tenant shall be solely responsible for payment of any and all costs associated with Tenant's performance under this lease, including but not limited to City additional business licensing fees, insurance, sales taxes and other expenses.

3. TERM. The term of this Agreement shall commence on May 1, 2010 and shall terminate on October 30, 2010. The term shall automatically renew each year for a total of three (3) years terminating on October 30, 2012 unless terminated earlier as provided herein. The Property may only be utilized for a six (6) month period commencing on May 1st and terminating on October 30th each year except for the period of the Arts Fest (the the first Friday, Saturday and Sunday of August). An annual review by the City Council, with input from the Planning Department will be conducted by April 1st of each year. City Council may terminate or change the terms of this lease at that time. Additional term restrictions are attached hereto and incorporated herein by this reference in Attachment 1 (Street Dining Operation Restrictions). This Agreement may be terminated by Park City upon a finding of non-compliance of this lease or the attached operational restrictions.

   The use of the Property shall not conflict with any previously existing Master Festival License (MFL) recipients on Main Street, specifically the Arts Fest (Kimball Arts Center). The Kimball Arts Center has been leased exclusive use of Main Street during the first Friday, Saturday and Sunday of August. The Property must be vacated (i.e. removal of decks) no later than 10 a.m. MT of the first Thursday of August for the duration of Arts Fest (including set-up and breakdown) unless the Kimball Arts Center consents in writing to allow Tenant's use of the Property. If the outdoor dining structure is not removed as required, the Landlord will remove the structure at Tenant's cost.

4. USE OF PREMISES. Tenant may use the Premises only for outdoor dining services in a manner consistent with Section 15-2.6-12(B)(1) of the Park City Land Management Code and the terms of this Agreement. Additional operational restrictions are attached hereto and incorporated herein in Attachment 1. Park City makes no representations regarding the premises and Tenant accepts the premises "as is."

5. IMPROVEMENTS TO THE PREMISES. Tenant shall not make any improvements to the Premises without first obtaining Park City's written consent. Any improvements approved by Park City shall be completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement. No permanent alterations to the City's property are permitted.

6. SIGNS. No signs shall be permitted on the Premises except as specifically approved by the Park City Municipal Corporation Planning Department pursuant to the Park City Sign Code and/or Tenant's Master Sign Plan.

7. INSURANCE. Tenant shall, at Tenant's sole expense, carry a policy of general liability insurance in an amount of at least Two Million Dollars ($2,000,000) per combined single limit per occurrence and Three Million Dollars ($3,000,000) per aggregate for personal injury, bodily injury and property damage. Park City shall

be named as an additional insured by endorsement on each policy. Tenant's insurance is to be primary to Park City's and Park City's insurance shall be non-contributory. A certificate of insurance with a thirty (30) day cancellation notice provision shall be provided to Park City on or before the lease commencement date, and maintained continuously during the term of the lease. Tenant may carry whatever other insurance Tenant deems appropriate. The parties agree that Tenant's sole remedy in the event of business interruptions, fire, windstorm, or other loss from hazard shall be its own insurance and Tenant will have no action against Park City. Park City is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect Park City for liability or allegations arising out of the Tenant's use of the Premises.

8. HOLD HARMLESS. Tenant covenants and agrees to defend, indemnify, hold Park City harmless from all claims, loss damage, injury or liability (hereafter "Liability") resulting from Tenant' use and occupancy of the Premises to the full extent permitted by law and/or the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any Liability resulting from acts or omissions of Park City, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq.), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act. In case of an emergency including but not limited to a flood, storm drain, utility, the structure may be removed or damaged by response teams at the cost of the owner.

   Tenant shall indemnify, protect and hold the Landlord harmless from and defend (by counsel reasonably acceptable to Landlord) the Landlord against any and all claims, causes of action, liability, damage, loss or expense (including reasonable attorneys' fees and costs and court costs), statutory or otherwise arising out of or incurred in connection with (i) the use, operation, occupancy or existence of the Premises or the presence of visitors, or any other person, at the Premises during the Term or the Renewal Term, (ii) any activity, work or thing done or permitted or suffered by Tenant in or about the Premises, (iii) any acts, omissions or negligence of Tenant, any person claiming through Tenant, or the contractors, agents, employees, members of the public, invitees, or visitors of Tenant or any other such person ("Tenant Party" or "Tenant Parties"), (iv) any breach, violation or nonperformance by any Tenant Party of any provision of this Lease or of any law of any kind, or (v) except to the extent resulting from any negligence or intentional torts of Landlord.

9. ASSIGNABILITY. Tenant shall not assign or transfer any interest in this Agreement without the prior written consent of Park City. Any assignment or transfer without written approval is void.

10. PROFESSIONAL PERFORMANCE. Tenant agrees to perform services under this contract at the highest professional standards, and to the satisfaction of Park City.

11. APPLICABLE LAW. This Agreement shall be governed by the laws of the state of Utah.

12. ENTIRE AGREEMENT. This Agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

Executed the day and year first above written.

Tenant:

____
By:

____
Its:

____
Date:

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this_________ day of ________________, 20___, personally appeared before me _______________, who being duly sworn, did say that he is the Owner of ____________________________, and acknowledged to me that the preceding Agreement was signed on behalf of _________________________________, and he acknowledged that the company did execute the same for its stated purpose.

____
Notary Public

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

Attachment 1

Street Dining Operation Restrictions

Street dining may be allowed by the Planning Department upon issuance of an Outdoor Dining Administrative Conditional Use Permit. Street dining is permitted from May 1st, and shall terminate on October 30th of each year. The Applicant must submit an application, pay an application fee, and provide all required materials and plans. Ongoing monitoring will be provided to ensure compliance with these parameters. The Administrative Conditional Use Permit or the Lease may be revoked for failure to comply with these restrictions.

<u>Required Submittals:</u>

- Dining Site Plan – This plan shall be to scale and indicate: the Applicant's building as it relates to the exact proximity of the street dining deck. The plan shall include accurate locations of proposed chairs, tables, umbrellas, planters, and any other existing public improvements (light fixtures, fire department connections, parking meters, etc.).

- Details/specifications sheets – Shall be submitted for each piece of equipment proposed with the street dining is application. This will include all tables, chairs, umbrellas, etc.

<u>Design Standards:</u>

1. <u>Size.</u> Street dining area shall be limited to the linear frontage a building has on Main Street and shall not exceed nine feet (9') in width. The encroachment of the proposed decks into street will not exceed seven feet, nine inches (7'-9") in width from the curb, as the encroachment of the proposed decks into the sidewalk will not exceed one foot three inches (1'-3"). With the written permission of the adjacent property owner submitted to the City, they may extend into the neighbor's street frontage. Forty-four inches (44") of clear sidewalk width shall be available at all times where the street dining deck is being constructed. Each outdoor dining deck shall not exceed fifty (50) feet in length.

2. <u>Location.</u> The City Council reserves the right to reject an application for an outdoor dining deck:

   - If the proposed deck is too close to a previously existing deck and would eliminate needed parallel parking along Main Street thus creating a concentrated parking issue
   - If the proposed deck is for a restaurant that does not have direct access at street level
   - If the proposed deck is for a business with existing outdoor dining space and the expansion of such is deemed excessive

- If the proposed deck creates too much private use of the public right-of-way that may be deemed detrimental to the health, safety, welfare of the area

3. Material. Street dining decks may be built of wood platforms and shall have a solid base. The design of the base shall complement the style of the building. The railing shall be painted solid to also complement the building. While outdoor dining deck is not subject to a complete Historic District Design Review (HDDR), the guidelines are applicable to the project.

4. Advertising. Additional signing or advertising beyond what is allowed by the Park City Sign Code is prohibited.

5. Furniture. All tables and chairs shall be metal, wood, or other comparable material. Plastic furniture shall not be allowed. All furniture must be approved by the Planning Director.

6. Umbrellas. Umbrellas must be free standing and are prohibited from extending beyond the dining area. Any umbrellas shall be affixed permanently to the deck as required by the International Building Code requirements (including fire standards) and shall not create any public hazard.

7. Lighting. No additional electric lighting is permitted, including exterior building lighting.

8. Planters. Any proposed landscaping or atmosphere pieces shall be reviewed at the time of initial application, and shall not create any public hazard or unnecessary clutter. All plant material must be maintained in a manner that ensures their viability throughout the summer outdoor dining season.

9. Use. The terms and scheduling of the use of the outdoor dining decks must not conflict with any previously existing Master Festival License (MFL) recipients on Main Street, specifically the Arts Fest (Kimball Arts Center). Existing MFL recipients must be consulted with if the outdoor dining decks are to remain during their event. If no agreement is reached, the outdoor dining structure must be removed in full for the duration (including set-up and breakdown) of the MFL event. If the outdoor dining structure is not removed as required, PCMC will remove the structure at cost to compensate for the employees and equipment needed to complete the task.

10. Licensing. The additional square footage of the dining area must be added to the existing licensed area for the restaurant. The Applicant shall also adhere to other applicable City and State licensing ordinances, including the Department of Alcoholic Beverage Control. It is the responsibility of the Applicant to ensure that all licenses are properly obtained and adhered to.

11. Duration. Street dining is permitted from May 1st, and shall terminate on October 30th, each year.

12. Health & safety. The Use shall not violate the Summit County Health Code, the Fire Code, or International Building Code.

13. Music. The use of outdoor speakers and music is prohibited.

14. Maintenance. The dining area shall be clean and maintained in a neat and orderly fashion.

15. Storage. All equipment and other associated materials must be removed and stored on private property during prohibited times (off season). No material associated with the outdoor dining decks may be stored outdoors on-site during the off-season.

16. Drainage. Design of the deck and its skirting shall not interfere with the existing street drainage. Deck plans shall be reviewed by the City for drainage and may be modified so as to not interfere with the existing drainage patterns of the street.

17. Utilities. Access to utilities shall not be hindered by the structures. No outdoor dining decks will be approved if located in an area that blocks access to fire hydrants, etc. No new utility lines shall be installed as a result of the proposed outdoor dining.
18. Insurance requirement. The tenant shall carry a policy of liability insurance in an amount of at least $2 million per combined single limit per occurrence and $3 million per aggregate for personal injury, bodily injury and property damage. Park City Municipal Corporation shall be named as additional insured by endorsement of each policy.

City Council Staff Report

Subject:	**Lease of Main Street for Red Banjo Street Dining**
Author:	**Francisco Astorga**
Department:	**Planning**
Date:	**July 15, 2010**
Type of Item:	**Administrative**

Summary Recommendations:

Consider approving a lease of City property/right-of-way for Red Banjo, located at 322 Main Street, for use of on-street dining.

Topic/Description:

Tana Ireland, owner of Red Banjo, is asking to lease part of the Main Street Right of Way in order to build a temporary street dining deck on Main Street. The terms of the lease will only allow Street dining decks from May 1 to October 30. The proposed deck is nine feet (9') wide by the linear frontage of the building on Main Street (Exhibit A), which is twenty-four feet (24'). The proposed deck extends nine feet (9') from the curb line into the street. Staff would suggest only leasing the right of way to allow an overall encroachment of seven feet nine inches (7'-9") as indicated on the Operation Restrictions to maintain consistency of street dining decks on Main Street. The leased space where the deck will be located will occupy the area of the parallel parking spaces on the street in front of the building.

Background:

Section 15-2.6-12 of the Land Management Code (LMC) allows Outdoor Dining on "leased public property" as an Administrative Conditional Use Permit. The outdoor dining Administrative Conditional Use permit application will be finalized by staff once the Lease Agreement is approved by City Council.

Analysis:

This seasonal lease of the use of Main Street granted by the City will: regulate the time and duration of the use, provide for consistency in look and materials on the Street, ensure the aesthetic value of the Historic District by preventing visual clutter, prevent conflicts with Special Events/Master Festival Licenses, mitigate for conflicting uses in the public right-of-way, ensure for clean sidewalks, and provide an ongoing monitoring mechanism and revocation provision for failure to comply with regulation.

Staff has prepared a draft lease template that would be executed with the applicant prior to approving any Outdoor Dining on City Streets (Exhibit B). Staff has also prepared operational restrictions (Exhibit C). At this time staff has made a preliminary determination that Tana Ireland's request meets the proposed operational restrictions (Exhibit C) as well as the following standards for an outdoor dining Administrative Conditional Use Permit as described in LMC § 15-2.6-12:

a) *The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.* **Complies as mitigated**

   The proposed street dining area is within proposed leased public property. The proposed street dining deck is for a business that is current in the 1984 Main Street Parking Special Improvement District assessment and has fully paid for parking. Lots which were current in the 1984 parking assessment are exempt from the parking obligation for a floor area ratio (FAR) greater than 1.5. The parking area where the street dining deck is proposed will reduce the overall stock of Main Street parking by two (2) parking spaces. Due to the temporary nature of the request taking place from the beginning of May to the end of October staff finds the overall stock of parking spaces on Main Street will not be affected by the loss of two (2) parking spaces. The maximum dollar amount that the City may receive in parking fees of two (2) parking spaces within the requested time of 183 days is $5,490. Staff recommends that in order to promote street activity during the summer season that a waiving of a rental fee is appropriate. The street dining deck does not diminish any landscaping.

b) *The proposed seating Area does not impede pedestrian circulation.* **Complies as mitigated**

   The proposed street dining deck and also the sidewalk between the building and the proposed street dining deck will maintain a minimum of 44 inches of clearance at all times to comply with ADA access.

c) *The proposed seating Area does not impede emergency Access or circulation.* ***Complies as mitigated***

   Due to the temporary nature of the street dining deck, emergency access vehicles will have the ability to access the street dining deck to service any emergency if nessesary. In case of an emergency, including but not limited to, a flood, a storm drain issue, utility issue, the structure may be removed or damaged by response teams at the cost of the owner.

d) *The proposed furniture is Compatible with the Streetscape.* **Complies as mitigated**

   The proposed furniture and actual street dining deck will be compatible with the streetscape and it will complement the historic district.

e) *No music or noise is in excess of the City Noise Ordinance, Title 6.* **Complies as mitigated**

The use shall be in compliance of the City Noise Ordinance.

f) *No Use after 10:00 p.m.* **Complies as mitigated**

Street Dining will not be permitted after 10:00 p.m.

g) *Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.* **Complies as mitigated**

The proposed street dining decks are for businesses that are current in the 1984 Main Street Parking Special Improvement District assessment and have fully paid for parking. Lots which were current in the 1984 parking assessment are exempt from the parking obligation for a floor area ratio (FAR) greater than 1.5. The applicant will have to provide to staff a review of the restaurant's seating capacity showing that the seating capacity does not exceed the parking demand.

At a recent City Council meeting it was determined that the term of the street dining deck shall automatically renew each year for a total of three (3) years terminating on October 30, 2012 unless terminated earlier as provided in the lease agreement. The property may only be utilized for a six (6) month period commencing on May 1st and terminating on October 30th each year except for the period of the Arts Fest (the first Friday, Saturday and Sunday of August). An annual review by the City Council, with input from the Planning Department will be conducted by April 1st of each year.

Department Review:

The Building, Planning, Engineering, Special Events, Parking, Water Departments have reviewed the street dining request.

Alternatives:

A. Approve:
Provide direction to approve the Outdoor Dining on City streets; and approve the lease for street dining for Red Banjo as presented; or

B. Deny:
Provide direction to deny the Outdoor Dining on Main Street request; or

C. Modify:
Provide direction to continue Outdoor Dining on Main Street, but modify the lease language or operational restrictions and then provide direction to approve the lease(s) as amended; or

D. Continue the Item:
Continue the hearing for more information or discussion.

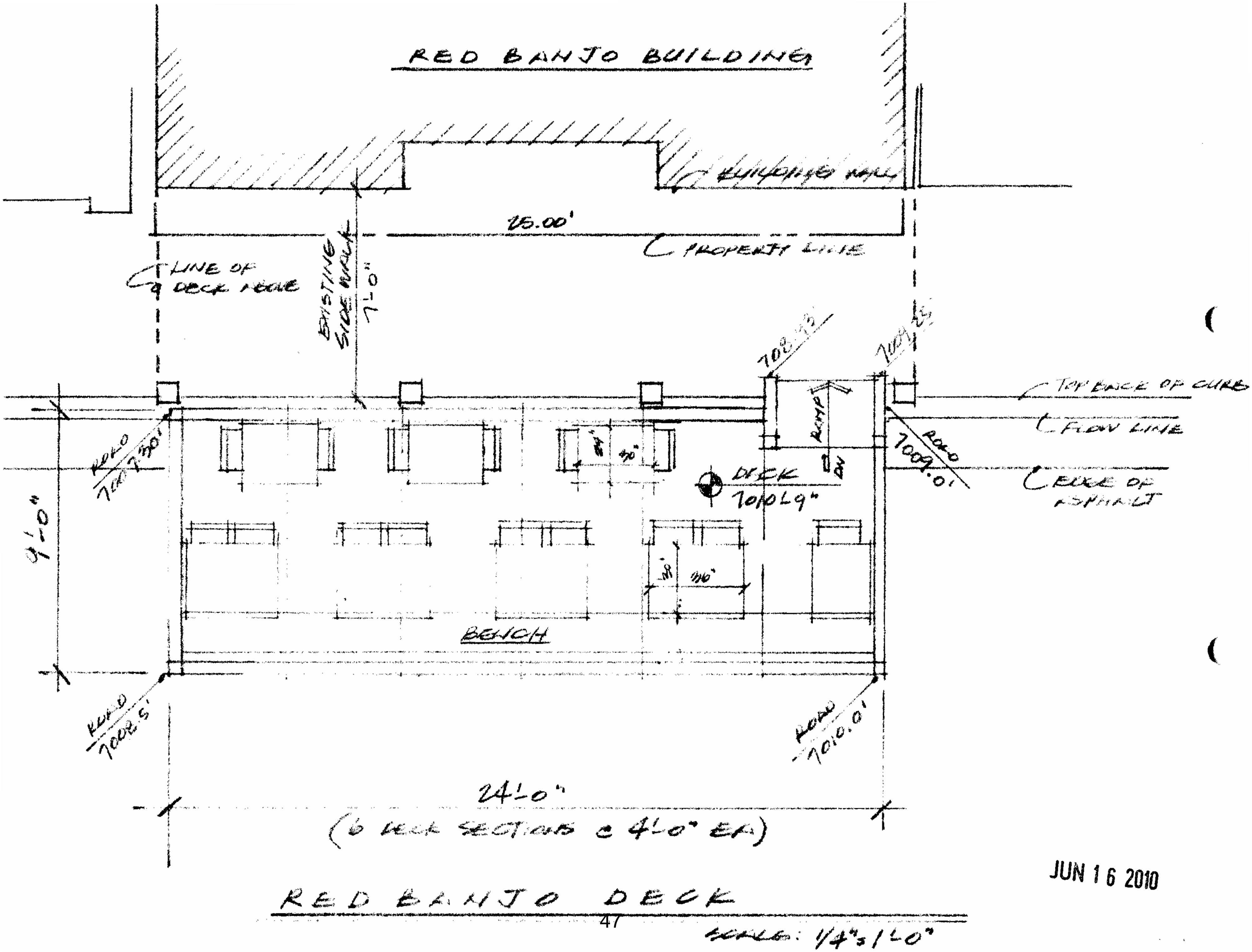
Recommendation:

Consider approving a lease of City property/right-of-way for Red Banjo, located at 322 Main Street, for use of on-street dining.

Exhibits:

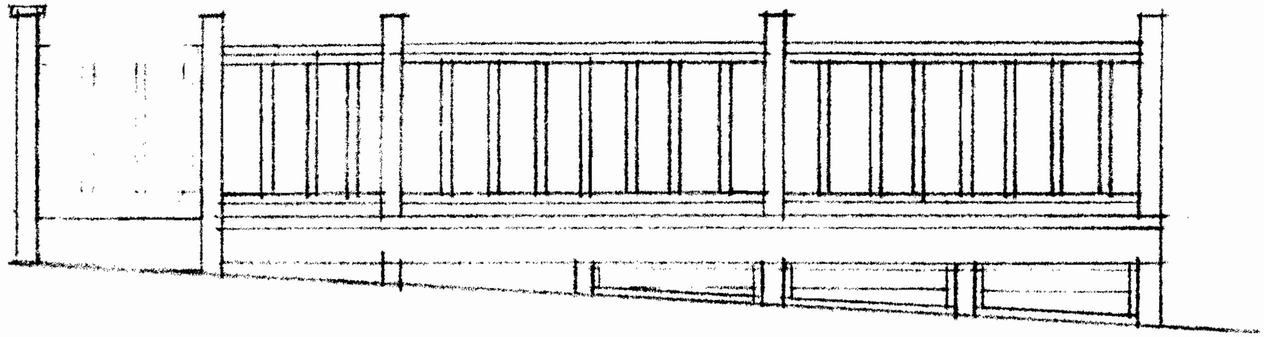
Exhibit A – Plans
Exhibit B – Lease & Operation Restrictions


Red Banjo
322 Main Street
Street Dining Deck
1 inch = 20 feet
N



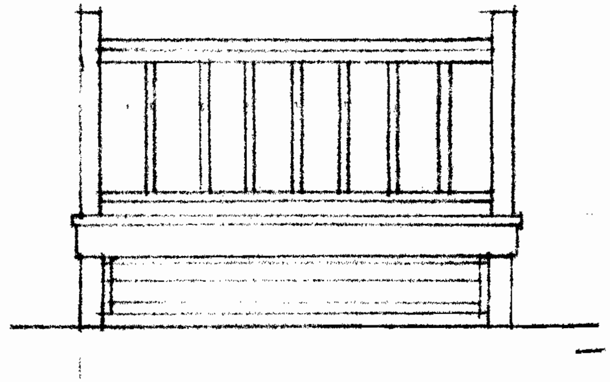
RED BANJO BUILDING
BUILDING WALL
25.00'
PROPERTY LINE
LINE OF DECK FACE
EXISTING SIDEWALK
7'-0"
TOP BACK OF CURB
FLOW LINE
EDGE OF ASPHALT
RAMP
DN
DECK
ROAD 7009.01
ROAD 7010.01
9'-0"
BENCH
30"
36"
24'-0"
(6 DECK SECTIONS @ 4'-0" EA)
RED BANJO DECK
SCALE: 1/4"=1'-0"

JUN 16 2010



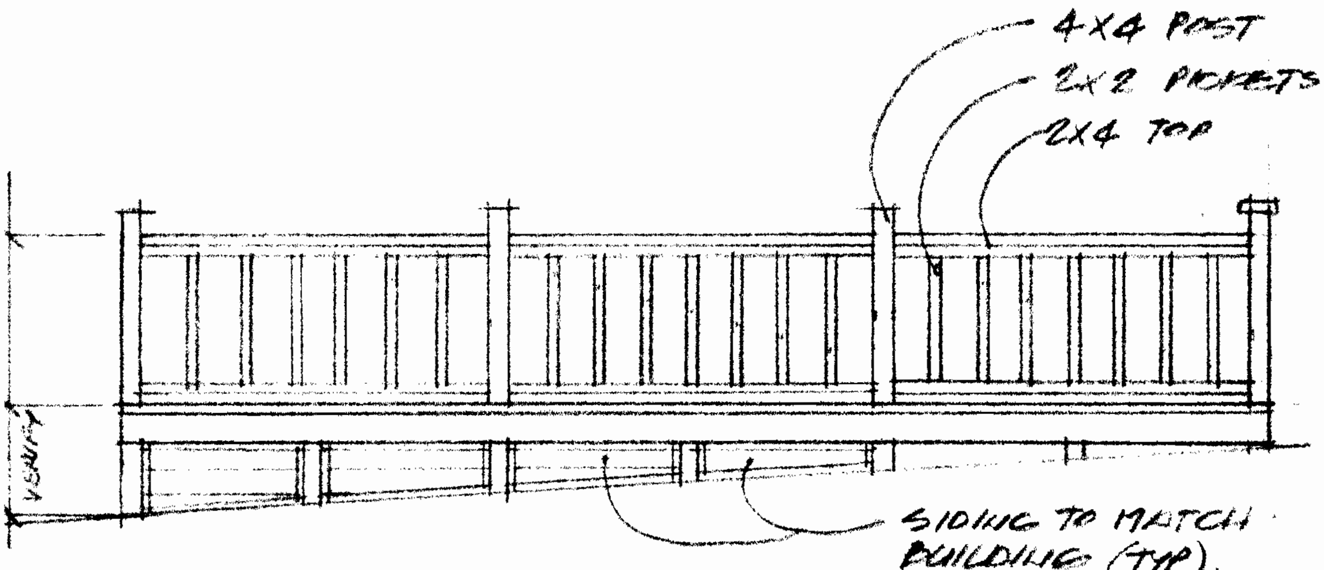
SIDEWALK ELEV.

1/4"



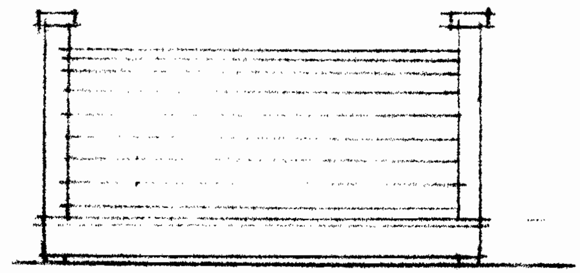
NORTH END

1/4"



MAIN ST. ELEV.

1/4"



SOUTH END

1/4"

JUN 16 2010

STREET DINING ON MAIN
OUTDOOR DINING LEASE

This LEASE AGREEMENT is made and executed this ____day of _________, 20____, by and between Park City Municipal Corporation, a municipal corporation and political subdivision of the state of Utah ("Park City") and _________________________________, located at ____________________, Park City, Utah ("Tenant").

RECITALS

WHEREAS, the City wishes to enable opportunities for restaurants on Main Street to be able to provide additional outdoor dining opportunities; and

WHEREAS, the City's goals include the establishment of new and creative opportunities to facilitate the Main Street experience for residents and visitors alike during the shoulder and summer seasons; and

WHEREAS, the City's goals include the preservation and enhancement of Park City's character regarding Old Town and the desire to strengthen the pedestrian experience along Main Street; and

WHEREAS, the City recognizes the desire of many visitors and residents to dine outdoors along historic Main Street; and

WHEREAS, the City's General Plan recommends utilizing street design techniques to encourage slower traffic speeds and a more intimate pedestrian-oriented scale; and

WHEREAS, the City's goals include maintaining and furthering the resort community's economic opportunities, as well as enhancing the economic viability of Park City's Main Street Business District;

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

TERMS & CONDITIONS OF LEASE

Based upon good and valuable mutual consideration, the Parties agree as follows:

1. PROPERTY. The property affected by this lease is generally described as the street area directly fronting Tenant's building located at _______Main Street, and more specifically described in site plan Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Premises"). The length of the outdoor dining deck per restaurant may not exceed fifty (50) feet.

2. RENT. Annual rent is hereby waived in exchange for other indirect and intangible benefits provided to the City. Tenant shall be solely responsible for payment of any and all costs associated with Tenant's performance under this lease, including but not limited to City additional business licensing fees, insurance, sales taxes and other expenses.

3. TERM. The term of this Agreement shall commence on May 1, 2010 and shall terminate on October 30, 2010. The term shall automatically renew each year for a total of three (3) years terminating on October 30, 2012 unless terminated earlier as provided herein. The Property may only be utilized for a six (6) month period commencing on May 1st and terminating on October 30th each year except for the period of the Arts Fest (the the first Friday, Saturday and Sunday of August). An annual review by the City Council, with input from the Planning Department will be conducted by April 1st of each year. City Council may terminate or change the terms of this lease at that time. Additional term restrictions are attached hereto and incorporated herein by this reference in Attachment 1 (Street Dining Operation Restrictions). This Agreement may be terminated by Park City upon a finding of non-compliance of this lease or the attached operational restrictions.

   The use of the Property shall not conflict with any previously existing Master Festival License (MFL) recipients on Main Street, specifically the Arts Fest (Kimball Arts Center). The Kimball Arts Center has been leased exclusive use of Main Street during the first Friday, Saturday and Sunday of August. The Property must be vacated (i.e. removal of decks) no later than 10 a.m. MT of the first Thursday of August for the duration of Arts Fest (including set-up and breakdown) unless the Kimball Arts Center consents in writing to allow Tenant's use of the Property. If the outdoor dining structure is not removed as required, the Landlord will remove the structure at Tenant's cost.

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11. APPLICABLE LAW. This Agreement shall be governed by the laws of the state of Utah.

12. ENTIRE AGREEMENT. This Agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

Executed the day and year first above written.

Tenant:

____
By:

____
Its:

____
Date:

ACKNOWLEDGMENT

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this__________ day of _________________, 20___, personally appeared before me ________________, who being duly sworn, did say that he is the Owner of ______________________________, and acknowledged to me that the preceding Agreement was signed on behalf of ___________________________________, and he acknowledged that the company did execute the same for its stated purpose.

____
Notary Public

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney’s Office

Attachment 1

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Street dining may be allowed by the Planning Department upon issuance of an Outdoor Dining Administrative Conditional Use Permit. Street dining is permitted from May 1st, and shall terminate on October 30th of each year. The Applicant must submit an application, pay an application fee, and provide all required materials and plans. Ongoing monitoring will be provided to ensure compliance with these parameters. The Administrative Conditional Use Permit or the Lease may be revoked for failure to comply with these restrictions.

<u>Required Submittals:</u>

- Dining Site Plan – This plan shall be to scale and indicate: the Applicant's building as it relates to the exact proximity of the street dining deck. The plan shall include accurate locations of proposed chairs, tables, umbrellas, planters, and any other existing public improvements (light fixtures, fire department connections, parking meters, etc.).

- Details/specifications sheets – Shall be submitted for each piece of equipment proposed with the street dining is application. This will include all tables, chairs, umbrellas, etc.

<u>Design Standards:</u>

1. <u>Size.</u> Street dining area shall be limited to the linear frontage a building has on Main Street and shall not exceed nine feet (9') in width. The encroachment of the proposed decks into street will not exceed seven feet, nine inches (7'-9") in width from the curb, as the encroachment of the proposed decks into the sidewalk will not exceed one foot three inches (1'-3"). With the written permission of the adjacent property owner submitted to the City, they may extend into the neighbor's street frontage. Forty-four inches (44") of clear sidewalk width shall be available at all times where the street dining deck is being constructed. Each outdoor dining deck shall not exceed fifty (50) feet in length.

2. <u>Location.</u> The City Council reserves the right to reject an application for an outdoor dining deck:

    - If the proposed deck is too close to a previously existing deck and would eliminate needed parallel parking along Main Street thus creating a concentrated parking issue
    - If the proposed deck is for a restaurant that does not have direct access at street level
    - If the proposed deck is for a business with existing outdoor dining space and the expansion of such is deemed excessive

- If the proposed deck creates too much private use of the public right-of-way that may be deemed detrimental to the health, safety, welfare of the area

3. Material. Street dining decks may be built of wood platforms and shall have a solid base. The design of the base shall complement the style of the building. The railing shall be painted solid to also complement the building. While outdoor dining deck is not subject to a complete Historic District Design Review (HDDR), the guidelines are applicable to the project.

4. Advertising. Additional signing or advertising beyond what is allowed by the Park City Sign Code is prohibited.

5. Furniture. All tables and chairs shall be metal, wood, or other comparable material. Plastic furniture shall not be allowed. All furniture must be approved by the Planning Director.

6. Umbrellas. Umbrellas must be free standing and are prohibited from extending beyond the dining area. Any umbrellas shall be affixed permanently to the deck as required by the International Building Code requirements (including fire standards) and shall not create any public hazard.

7. Lighting. No additional electric lighting is permitted, including exterior building lighting.

8. Planters. Any proposed landscaping or atmosphere pieces shall be reviewed at the time of initial application, and shall not create any public hazard or unnecessary clutter. All plant material must be maintained in a manner that ensures their viability throughout the summer outdoor dining season.

9. Use. The terms and scheduling of the use of the outdoor dining decks must not conflict with any previously existing Master Festival License (MFL) recipients on Main Street, specifically the Arts Fest (Kimball Arts Center). Existing MFL recipients must be consulted with if the outdoor dining decks are to remain during their event. If no agreement is reached, the outdoor dining structure must be removed in full for the duration (including set-up and breakdown) of the MFL event. If the outdoor dining structure is not removed as required, PCMC will remove the structure at cost to compensate for the employees and equipment needed to complete the task.

10. Licensing. The additional square footage of the dining area must be added to the existing licensed area for the restaurant. The Applicant shall also adhere to other applicable City and State licensing ordinances, including the Department of Alcoholic Beverage Control. It is the responsibility of the Applicant to ensure that all licenses are properly obtained and adhered to.

11. Duration. Street dining is permitted from May 1st, and shall terminate on October 30th, each year.

12. Health & safety. The Use shall not violate the Summit County Health Code, the Fire Code, or International Building Code.

13. Music. The use of outdoor speakers and music is prohibited.

14. Maintenance. The dining area shall be clean and maintained in a neat and orderly fashion.

15. Storage. All equipment and other associated materials must be removed and stored on private property during prohibited times (off season). No material associated with the outdoor dining decks may be stored outdoors on-site during the off-season.

16. Drainage. Design of the deck and its skirting shall not interfere with the existing street drainage. Deck plans shall be reviewed by the City for drainage and may be modified so as to not interfere with the existing drainage patterns of the street.

17. Utilities. Access to utilities shall not be hindered by the structures. No outdoor dining decks will be approved if located in an area that blocks access to fire hydrants, etc. No new utility lines shall be installed as a result of the proposed outdoor dining.
18. Insurance requirement. The tenant shall carry a policy of liability insurance in an amount of at least $2 million per combined single limit per occurrence and $3 million per aggregate for personal injury, bodily injury and property damage. Park City Municipal Corporation shall be named as additional insured by endorsement of each policy.

City Council
Staff Report

Subject: **321 McHenry Avenue**
Author: **Katie Cattan**
Application #: **PL-10-00973**
Date: **July 15, 2010**
Type of Item: **Administrative – Plat Amendment**

PARK CITY 1884
PLANNING DEPARTMENT

Summary Recommendations
Staff recommends that the City Council review the Plat Amendment application, conduct a public hearing, and consider approving the 321 McHenry Avenue Plat Amendment according to the findings of fact, conclusions of law, and conditions of approval outlined in the attached ordinance.

Topic
Applicant:	Ed Axtell
Location:	321 McHenry Avenue
Zoning:	Historic Residential Low-density (HRL)
Adjacent Land Uses:	Residential
Reason for Review:	Subdivision require Planning Commission review and City Council approval

Background
On May 25, 2010, the City received a completed application for a Plat Amendment for the existing property at 321 McHenry Avenue. The Plat Amendment combines the All of lot 28 and portions of lots 3, 4, 5, 29, 30, 31, and 32, of Block 59, of the Park City survey. There is an existing non-historic home located on the property.

On April 6, 2010, the applicant received approval of a variance to reduce the front yard and side yard setbacks to accommodate a garage. The applicant cannot obtain a building permit to build across a lot line. A Plat Amendment must be recorded prior to issuance of a building permit to remove the interior lot line. The garage will also require the approval of a historic district design review application.

The Planning Commission reviewed this application as a consent agenda item on June 23, 2010. No public comment was made. The Commission forwarded a unanimous positive recommendation to the City Council.

Analysis
The application is to create one lot of record at 321 McHenry Avenue. Currently, the property is made of portions of 8 old town lots. The Plat Amendment will remove the interior lot lines to accommodate the future plans of a garage.

The proposed Plat Amendment will create one uniquely configured lot of record that is approximately 123 feet wide by a varying depth of 75 to17 feet. The area of the proposed lot is 4,610 square feet. The minimum lot size in the HRL zoning district is 3750 square feet. The minimum lot width in the HRL zone is 35 feet.

The following table explains the site requirements for lots within the HRL zoning district and how the proposals comply with the zoning regulations:

Required	Proposed Lot
Lot Size: Minimum 3750 square feet	4610.85 square feet
Density: Minimum lot size for single family dwelling 3,750 square feet.	Single family dwelling is an allowed use.
Front yard. The minimum front yard is ten feet. (10')	The minimum front yard is ten feet (10'). Variance received from BOA for a five feet (5') front yard for the future garage only.
Rear yard. The minimum rear yard is ten feet (10')	The minimum rear yard is ten feet (10').
Side yard. The minimum side yard for a lot greater than 100 feet wide is 10 feet minimum with a minimum side yard total of 30 feet combined.	Existing non-conforming side yard on north property line. Variance received from BOA for a six and a half feet (6.5') side yard on south property line for garage.
footprint	2095 square feet

LMC Section 15-2.1-3(D) regulates maximum building footprint in the HRL zone. Footprint is calculated based on the total area of the lot. The applicant is dedicating 1195.94 square feet of property to the City as McHenry right of way. The applicant is not receiving any property from the City. The applicant has requested that the area of dedication be included in the footprint calculation. The maximum footprint based on the property owned prior to right of way dedication (5806.79 sf) is 2095 square feet. The maximum footprint based on the proposed lot after right of way dedication (4610.85 sf) is 1779 square feet. By allowing the footprint to be calculated including the dedication, the property owner receives the right to an additional 316 square feet of footprint.

Planning Staff finds there is good cause for the Plat Amendment as it will remove interior lot lines and create a clean ownership boundary for the property. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Department Review

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at internal Staff meetings where representatives from local utilities and City Staff were in attendance. Issues which were brought up during the staff meeting have been resolved.

Notice
Notice of this hearing was sent to property owners within 300 feet and the property was posted 14 days prior to the Planning Commission meeting. Legal notice was also placed in the Park Record.

Public Input
No comments have been received by staff at the date of this writing.

Alternatives
1. The City Council may approve the 321 McHenry Avenue Plat Amendment as conditioned or amended; or
2. The City Council may deny the 321 McHenry Avenue Plat Amendment and direct staff to make Findings for this decision; or
3. The City Council may continue the 321 McHenry Avenue Plat Amendment.

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

Consequences of not taking the Suggested Recommendation
The lot would remain as is and a future building permit for an addition could not be obtained by the owner.

Recommendation
Staff recommends that the City Council hold a public hearing the 321 McHenry Avenue Plat Amendment and consider approving the 321 McHenry Avenue Plat Amendment based on the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits
Exhibit A – Proposed Ordinance
Exhibit B – Survey

Ordinance No. 10-

AN ORDINANCE APPROVING THE 321 MCHENRY AVENUE PLAT AMENDMENT LOCATED WITHIN BLOCK 59 OF THE PARK CITY SURVEY, PARK CITY, SUMMIT COUNTY, UTAH

WHEREAS, the owner of the properties known as 321 McHenry Avenue, has petitioned the City Council for approval of a Plat Amendment for the existing Lot 28 and portions of Lots 3, 4, 5, 29, 30, 31, and 32 of Block 59 of the Park City Survey; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 23, 2010, to receive input on the 321 McHenry Avenue Plat Amendment; and

WHEREAS, the Planning Commission, on June 23, 2010, forwarded a positive recommendation to the City Council; and

WHEREAS, on July 15, 2010, the City Council approved the 321 McHenry Avenue Plat Amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 321 McHenry Avenue Plat Amendment.

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

SECTION 1. APPROVAL The above recitals are hereby incorporated as findings of fact. The 321 McHenry Avenue Plat Amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 321 McHenry Avenue within the HRL zoning district.
2. The Plat Amendment is for the existing Lot 28 and portions of Lots 3, 4, 5, 29, 30, 31, and 32 of Block 59 of the Park City Survey.
3. The proposed Plat Amendment will create one uniquely configured lot of record that is approximately 123 feet wide by a varying depth of 75 to17 feet. The area of the proposed lot is 4,610 square feet. The minimum lot size in the HRL zoning district is 3750 square feet. The minimum lot width in the HRL zone is 35 feet.
4. There is an existing non-historic home located at 321 McHenry Avenue.
5. The neighborhood is characterized by single family and multi-family homes.

6. A right of way dedication of 1195.94 square feet will be dedicated to the City upon recordation.
7. The maximum footprint based on the property owned prior to right of way dedication (5806.79 sf) is 2095 square feet. The maximum footprint based on the proposed lot after right of way dedication (4610.85 sf) is 1779 square feet. By allowing the footprint to be calculated including the dedication, the property owner receives the right to an additional 316 square feet of footprint.
8. All findings within the Analysis section are incorporated herein.

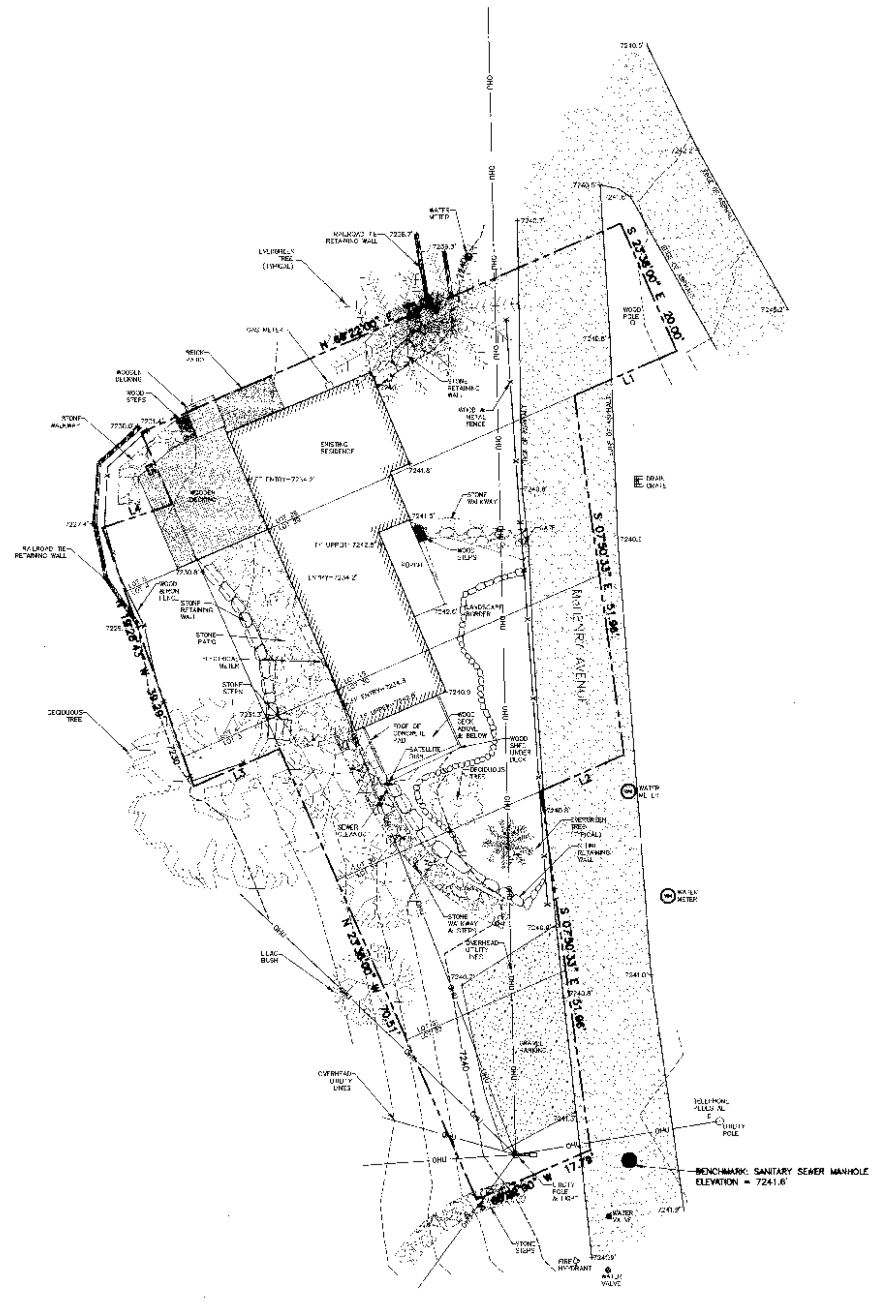
Conclusions of Law:
1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

Conditions of Approval:
1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. A ten foot wide public snow storage easement is required along the front of the property.
4. No remnant parcels are separately developable.
5. A plat note will be added to the parcel which states the maximum footprint on the property is 2095 square feet.

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

Attachment 1

Exhibit B. Existing Conditions Survey



City Council
Staff Report

Subject: 1144 Woodside Avenue
Author: Katie Cattan
Application #: PL-10-00968
Date: July 15, 2010
Type of Item: Administrative – Plat Amendment

PARK CITY
1884
PLANNING DEPARTMENT

Summary Recommendations
Staff recommends that the City Council review the plat amendment application, conduct a public hearing, and consider approving the 1144 Woodside Avenue Plat Amendment according to the findings of fact, conclusions of law, and conditions of approval outlined in the attached ordinance.

Topic

Applicant:	Rebekka and Mike Monson
Location:	1144 Woodside Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Plat amendment require Planning Commission review and City Council approval

Background
On May 14, 2010, the City received a completed application for a plat amendment for the existing property at 1144 Woodside Avenue. The plat amendment combines all of Lots 20 and 21 of Block 5 of Snyder's Addition to the Park City survey. The resulting lot of record is 50 feet wide by 75 feet deep. Currently, there is an asphalt driveway located on the two lots but there is no structure. The driveway is utilized by the adjacent historic home.

The applicant has not submitted any additional applications with the plat amendment. The applicant has mentioned that they plan to build a single home on the location in the future. The applicant cannot obtain a building permit to build across a lot line. A plat amendment must be recorded prior to issuance of a building permit to remove the interior lot line. Any future applications for a structure will require the approval of a historic district design review application.

The Planning Commission reviewed this application as a consent agenda item on June 23, 2010. No public comment was made. The Commission forwarded a unanimous positive recommendation to the City Council.

Analysis
The application is to create one lot of record at 1144 Woodside Avenue. Currently, the site is vacant and utilized as a parking space for the home located directly behind it on Park Avenue. The home is owned by a relative. The home on Park Avenue is an existing historic structure and therefore does not require off-street parking per LMC Section 15-2.2-4. The plat amendment will remove an interior lot line to accommodate the future plans of a single family home.

The proposed plat amendment will create one lot of record that is 50 feet wide by 75 feet deep. The area of the proposed lot is 3750 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet. The minimum lot width in the HR-1 zone is 25 feet.

The following table explains the site requirements for lots within the HR-1 zoning district and how the proposals comply with the zoning regulations:

Required	Proposed Lot
Lot Size: Minimum 1875 square feet	3750 square feet
Density: Minimum lot size for single family dwelling is 1875 square feet and for a duplex 3,750 square feet.	Single family dwelling is an allowed use. A duplex requires a conditional use permit.
Front yard. The minimum front yard is ten feet. (10’)	The minimum front yard is ten feet (10’).
Rear yard. The minimum rear yard is ten feet (10’)	The minimum rear yard is ten feet (10’).
Side yard. The minimum side yard is five feet (5’) on each side with a total of ten feet (10’) combined.	The minimum side yard is five feet (5’) on each side with a total of ten feet (10’) combined.
Footprint: based on 3,750 square foot lot	1518.75 square feet

There are several existing encroachments onto the property including a shed, two fences, and a portion of a neighboring driveway. The applicant must either remove the existing encroachments or record encroachment agreements with the neighboring property owners prior to plat recordation.

Planning Staff finds there is good cause for the plat amendment as it will remove an interior lot line and create a clean ownership boundary for the property. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Department Review

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at internal Staff meetings where representatives from local utilities and City Staff were in attendance. Issues which were brought up during the staff meeting have been resolved.

Notice
Notice of this hearing was sent to property owners within 300 feet and the property was posted 14 days prior to the Planning Commission meeting. Legal notice was also placed in the Park Record.

Public Input
No comments have been received by staff at the date of this writing.

Alternatives
1. The City Council may approve the 1144 Woodside Avenue Plat as conditioned or amended; or
2. The City Council may deny the 1144 Woodside Avenue Plat and direct staff to make Findings for this decision; or
3. The City Council may continue the 1144 Woodside Avenue Plat.

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

Consequences of not taking the Suggested Recommendation
The lots would remain as is and a future building permit across the two lots could not be obtained by the owner.

Recommendation
Staff recommends that the City Council hold a public hearing the 1144 Woodside Avenue Plat and consider approving the 1144 Woodside Avenue Plat based on the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits
Exhibit A – Proposed Ordinance
Exhibit B – Survey

Ordinance No. 10-

AN ORDINANCE APPROVING THE 1144 WOODSIDE AVENUE PLAT LOCATED WITHIN LOT 20 AND 21 IN BLOCK 5 OF SNYDERS ADDITION TO THE PARK CITY SURVEY, PARK CITY, SUMMIT COUNTY, UTAH

WHEREAS, the owner of the properties known as 1144Woodside Avenue, has petitioned the City Council for approval of a plat amendment for the existing Lots 20 and 21 in Block 5 of Snyder's Addition to the Park City Survey; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 23, 2010, to receive input on the 1144 Woodside Avenue Subdivision; and

WHEREAS, the Planning Commission, on June 23, 2010, forwarded a positive recommendation to the City Council; and

WHEREAS, on July 15, 2010, the City Council approved the 1144 Woodside Avenue Subdivision; and

WHEREAS, it is in the best interest of Woodside City, Utah to approve the 1144 Woodside Avenue Subdivision.

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

SECTION 1. APPROVAL The above recitals are hereby incorporated as findings of fact. The 1144Woodside Avenue Plat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 1144 Woodside Avenue within the HR-1 zoning district.
2. The plat amendment is for the existing Lots 20 and 21 of Block 5 of Snyder's Addition to the Park City Survey.
3. The proposed plat amendment will create one lot of record that is 50 feet wide by 75 feet deep. The minimum lot width in the HR-1 zone is 25 feet.

4. The area of the proposed lot is 3750 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet.
5. The lot is vacant with an existing asphalt driveway.
6. The neighborhood is characterized by single family and multi-family homes and condominiums.
7. All findings within the Analysis section are incorporated herein.

Conclusions of Law:

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions and plat amendments.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

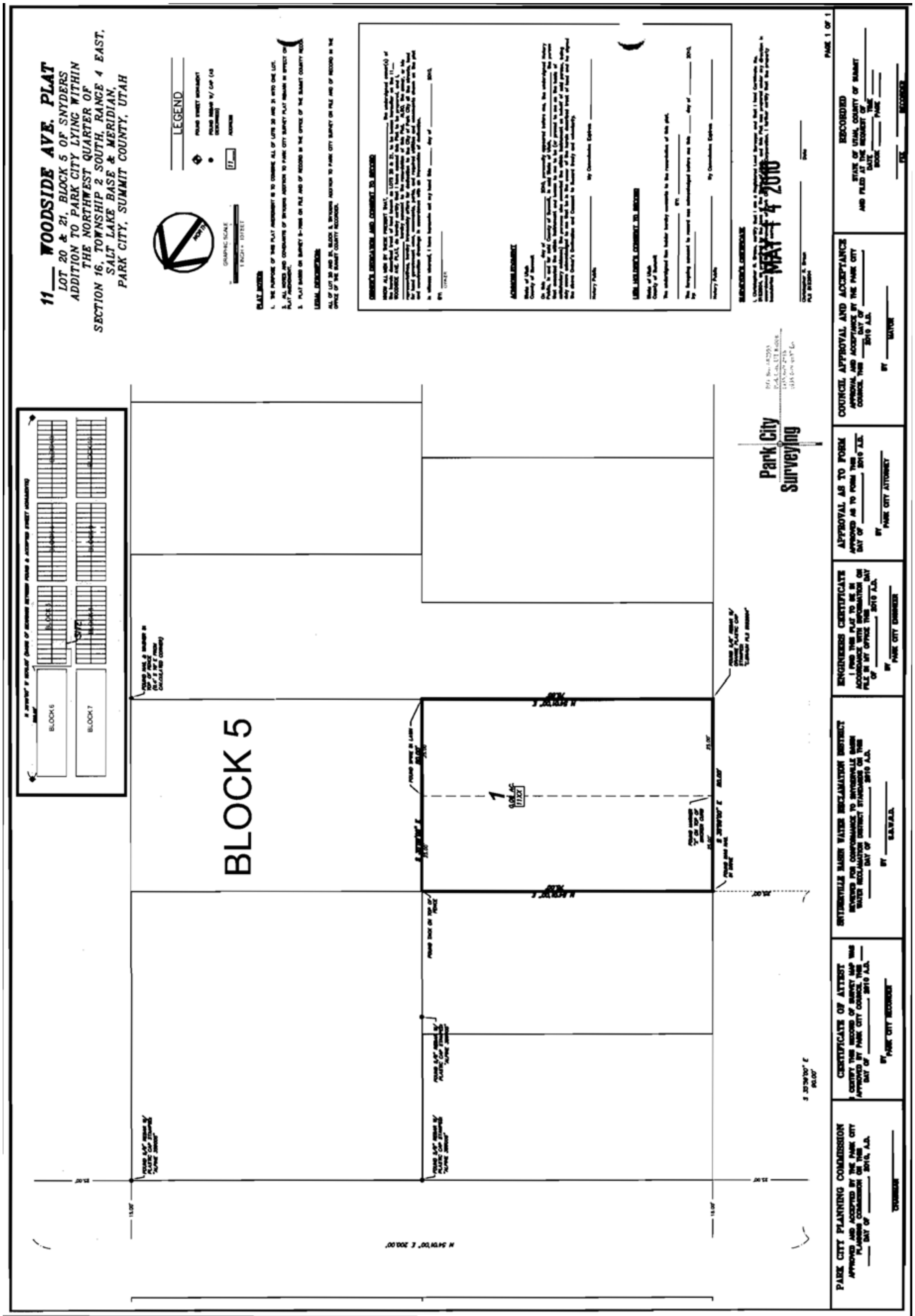
Conditions of Approval:

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The applicant will record the subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. A ten foot wide public snow storage easement is required along the front of the property.
4. No remnant parcels are created.
5. There are several existing encroachments onto the property including a shed, two fences, and a portion of a neighboring driveway. The applicant must either remove the existing encroachments or record encroachment agreements with the neighboring property owners prior to plat recordation.
6. Modified 13-D sprinklers shall be required for all occupied structures.

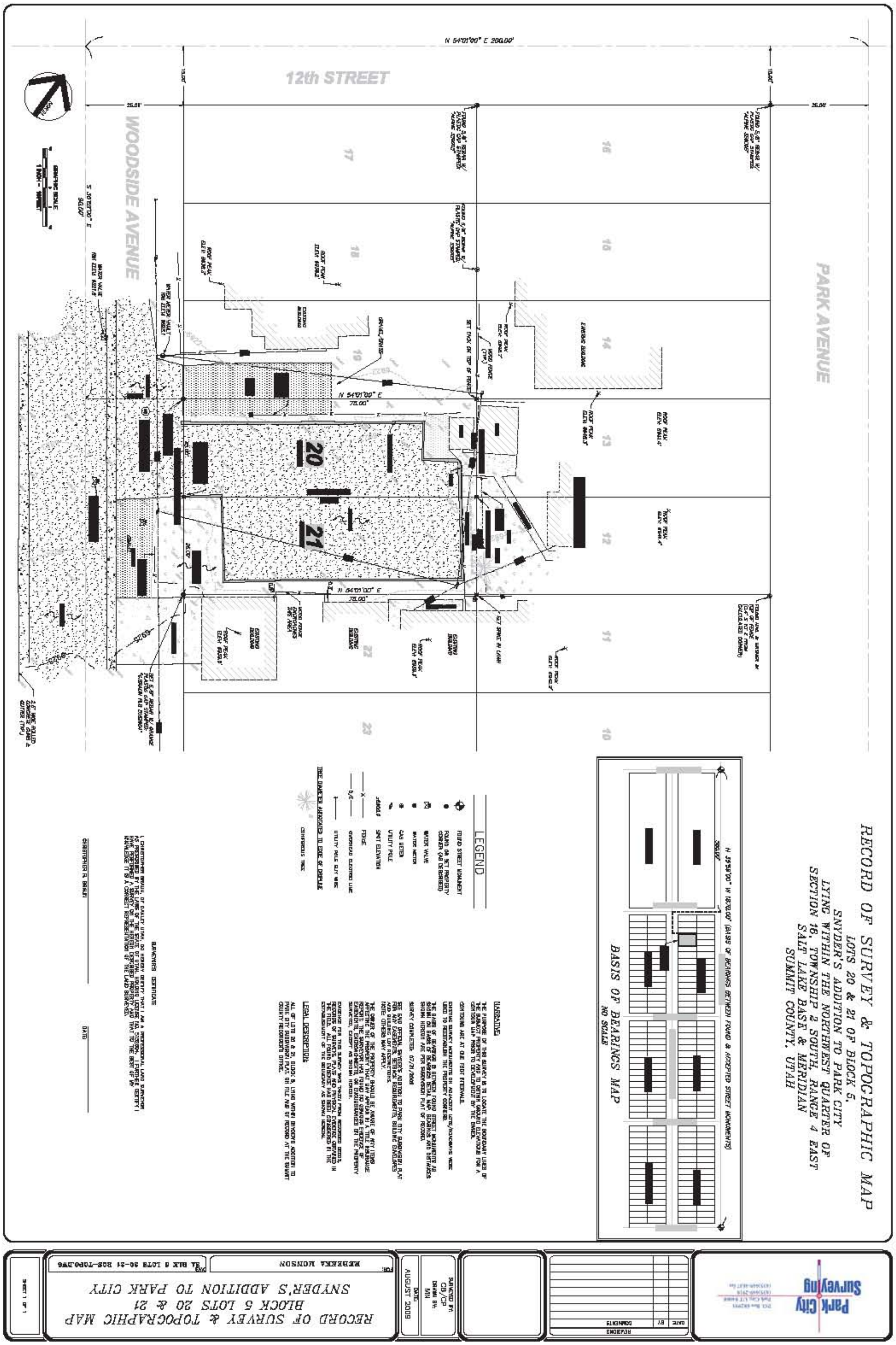
SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this __th day of July 2010.

Attachment 1



Attachment 2. Existing Conditions
Survey



City Council Staff Report

Subject: **Rail Central Pedestrian Connection**
Author: **Matthew A. Twombly**
Department: **Sustainability**
Date: **July 15, 2010**
Type of Item: **Administrative**

Summary Recommendations:
Review the request and approve the pedestrian connection (bridge) between the Rail Trail/Rail Central Building and the Iron Horse Mixed Use Buildings project.

Topic/Description:
Rail Central pedestrian connection (bridge) design approval.

Background:
In 2003 PCMC and Centura Rail Central entered into an agreement for an encroachment permit and access easement for the Rail Central Development. In 2006 there was a first addendum to add parking for the Rail Trail, guarantee for landscape completion and to extend the date of the pedestrian connection or bridge. In 2008 there was a second addendum (attached as Exhibit A) to extend the date of the Council approval on the bridge design to December 2010.

In order to facilitate and coordinate pedestrian improvements in the area in conjunction with forthcoming WALC recommendations, Council allowed a time extension and amended the Encroachment Permit for a period of three (3) years. As part of the WALC study, a bridge connection from the Rail Trail to the Iron Horse Condominiums was identified as a priority. Currently, there is a significant amount of pedestrians crossing the creek at the location shown on Exhibit B as Bridge #2. The heavy use has led to erosion issues at this location.

On April 28th the Park City Planning Commission reviewed the plans for the Iron Horse Mixed Use Buildings during Work Session. The Park City Planning Commission was supportive of the location of the bridge between the Rail Central and Iron Horse project for pedestrian circulation. The Commission also commented that an additional bridge in the area proposed by the City will help with overall pedestrian circulation for the area.

As part of the original easement and First Addendum that added parking along the north side of the driveway adjacent to White Pine Touring; there were some parking issues over the crossover use. Additional signage was placed at the parking area, and there have not been complaints regarding this issue over the past two years.

Analysis:
Since the WALC recommendation approvals, the City has coordinated with Mark Fisher on the possibility of providing one bridge to accommodate both pedestrian circulation

needs. It was determined that moving the bridge location in the middle would not satisfy either parties needs. Due to the negative impacts to the stream and soils cap within the Soils Ordinance boundary; the distance between bridges; the support of the Planning Commission; and the approval of the second addendum for the first bridge, staff is recommending that two bridges be planned, permitted and installed at the locations shown on Exhibit B. Planning and permitting the two bridges jointly is not only more cost effective, it would also be required for a stream alteration permit.

Elliott Work Group, the representatives for MJF Investment Partnership have proposed an 8' wide by 65' long pedestrian bridge as depicted in the renderings on Exhibit C1 – C6. The location of the bridge will be directly across from the stairway between the Rail Central Building 1, and the Rail Trail.

The bridge #2 as proposed by the City connects the Rail Trail to the Iron Horse Condominium property. The bridge proposed by the City will be similar in design to the one proposed by the developer. The City will need to obtain an encroachment permit for this bridge from the adjacent property owners (Iron Horse Condominiums).

Department Review:
City Manager, Legal, Sustainability, and Planning have reviewed this report and all comments have been incorporated into the report.

Alternatives:

A. Approve: Staff Recommendation
Approve the design of the Pedestrian Connection (bridge) consistent with the Second Addendum to Encroachment Permit for Public Improvements in City Property and Easement for Public Access.

B. Deny:
Denying the request will leave the existing Encroachment Permit and all other terms in place and the developer would not be allowed to construct a pedestrian connection.

C. Modify:
Council may wish to modify the requested design for the bridge. Staff will need to return to Council at a later date with the modifications.

D. Continue the Item:
Council may need additional time to discuss this item. Staff will need to return to Council at a later date.

E. Do Nothing:
Doing nothing will delay the project.

Significant Impacts:
The maintenance of the bridge is to be performed by the developer according to the original encroachment permit. The installation will likely impact the Rail Trail at this location for a day or two. For the City's bridge there is currently $85,000 estimated in the WALC recommendations. There is a Conservation Easement on the Rail Trail

Parcel. Although the bridges appear consistent with the Reserved Rights, notification will need to made to Summit Land Conservancy.

Consequences of not taking the recommended action:
The consequences of denying the item will not provide adequate pedestrian circulation in this area. The other actions will likely delay the project.

Recommendation:
Review the request and approve the pedestrian connection (bridge) between the Rail Trail/Rail Central Building and the Iron Horse Mixed Use Buildings project.

Attachments:
Exhibit A - Staff report Second Addendum, first addendum, encroachment agreement, and minutes
Exhibit B – Site Map
Exhibit C – Drawings and Renderings

City Council
Staff Report

PARK CITY 1884

SUSTAINABILITY IMPLEMENTATION

Author: Matthew A. Twombly
Subject: Rail Central Encroachment Agreement Addendum
Date: January 17, 2008
Type of Item: Administrative

Summary Recommendation:
Review the request for a second addendum to the Rail Central Encroachment Agreement and amend the agreement to grant a time extension as it relates to the pedestrian connection.

Description:
Topic: Rail Central Encroachment Agreement Addendum
Background:
On August 16, 2006 the City Council reviewed and accepted a request by Centura to amend the Encroachment permit in order to construct an additional 12 spaces for Rail Trail trail-head parking behind Building 2 of the Rail Central Development in lieu of landscaping and to extend the date for the Pedestrian Connection until December 31, 2007. The pedestrian connection contemplates a bridge from the Rail Trail across the Silver Creek to the property to the South adjacent to the Iron Horse Condominiums.

The Walkable/Bikeable Neighborhood Study ("Study") conducted between September of 2006 and March of 2007, identified a pedestrian connection in the general area of Rail Central parcel connecting the Rail Trail and Iron Horse Condominiums. Through the study this issue ranked as the top 8th priority based on the ranking criteria.

In addition to the Study, the City formed a task force to consider the redevelopment of the Park/Bonanza district. The City has also developed the Bonanza Drive Corridor and Pedestrianization Plan, which has identified recommended improvements to be completed in 2009 in conjunction with the Boot Hill Water Line Replacement project. Although these are separate projects, issues and planning processes, they all identify improved pedestrian connections in the area as a high priority.

Analysis:
In the original permit, no dates for completion were specified for the items in the Encroachment Permit other than the submittal of plans for the pedestrian bridge. In the first amendment, the City drafted language which included a completion date of October 15, 2006 for all other items in the permit. These items were completed by the developer in accordance with the addendum.

Since the completion of the items identified in the first addendum to the encroachment permit, the developer of Rail Central has not been able to secure the property on the South side of the Rail Trail between Bonanza Drive and the Iron Horse Condominiums. On November 28, 2007 the City received a letter from the representatives of Centura Rail Central, from Steven Dougherty of the law offices of Anderson and Karrenberg, requesting an extension to the pedestrian connection section of the agreement.

In order to facilitate and coordinate pedestrian improvements in the area in conjunction with forthcoming WALC recommendations, staff recommends allowing a time extension and amending the Encroachment Permit for a period of three (3) years.

Department Review:
City Manager, Sustainability, departments have reviewed this report and all comments have been incorporated into the report.

Alternatives:

Approve the Request:
Authorize the request for a Second Addendum to the Encroachment Permit on a form approved by the City Attorney's Office (Attached) for a Pedestrian Connection: Extension of Encroachment Permit Section (2)(D) Pedestrian Connection through December 31, 2010.

Deny the Request:
Denying the request will leave the existing Encroachment Permit in place and the developer would not be allowed to construct a pedestrian connection subject to approval of the City Council.

Continuance:
If the Council requires more information prior to making a decision, they may choose to delay the request.

Do Nothing:
The Pedestrian Connection would be considered denied and all other terms of the permit and amendments shall apply.

Significant Impacts:
The proposed addendum to the encroachment permit does not affect the remainder of the agreement. Extending the submittal deadline will allow flexibility and cooperation in constructing the pedestrian connection.

Consequences of not taking the recommended action:
Delaying or denying the request could jeopardize the construction and/or funding of a pedestrian connection in the area.

Recommendation:

Staff recommends that Council review the request for a Second Addendum to the Rail Central Encroachment Agreement and amend the permit to grant a time extension as it relates to the pedestrian connection application.

Attached:
Proposed Addendum

SECOND ADDENDUM TO ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS

THIS SECOND ADDENDUM is made and entered into in duplicate this _____ day of _______________, 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), M.J.F. 1998 INVESTMENT PARTNERSHIP, LT, a Georgia limited partnership company ("MJF Investment Patnership"), to amend the ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS signed and executed by the Parties, and recorded on November 19, 2003.

WITNESSETH;

WHEREAS, the parties entered into ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS (hereinafter "Original Agreement"); and

WHEREAS, the 2007 Walkable/Bikeable Neighborhood Study identified a pedestrian bridge as a high priority; and

WHEREAS, the Study identified a pedestrian bridge approximate to the pedestrian connection identified in the encroachment permit; and

WHEREAS, MJF Investment Partnership requires additional time to prepare plans for a pedestrian connection; and

WHEREAS, the parties desire to amend the Original Agreement to provide sufficient time for such performance;

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. **Section (2)(D) <u>Pedestrian Connection</u>**. Subject to the approval of the City Council of Park City, MJF Investment Partnership may construct a pedestrian connection connecting the Rail Trail and Rail Central parcel in a southerly direction across the creek to parcel(s) located south of the Rail Trail. The Parties hereby agree that the City Council of Park City, as owner of the Rail Trail Parcel, has unfettered discretion to approve or deny the pedestrian connection for any reason, including but not limited to aesthetics and scale. If the City Council of Park City has not approved design plans for said pedestrian connection on or before December 31, 2010, then this subsection (2D) shall be null and void and MJF Investment Partnership request to construct said pedestrian bridge shall be considered denied.

2. **<u>OTHER TERMS</u>**. All other terms and conditions of the Original Agreement shall continue to apply.

3. **<u>ENTIRE AGREEMENT</u>**. This Second Addendum is a written instrument pursuant to Section 8 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

IN WITNESS WHEREOF the parties hereto have caused this Second Addendum to be executed the day and year first herein above written.

DATED this _____ day of _______________, 2008.

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

____
Dana Williams, Mayor

Attest:

____
City Recorder's Office

Approved as to form:

____
City Attorney's Office

M. J. F. 1998 INVESTMENT PARTNERSHIP, LP
2245 Monitor Drive
Park City, UT 84060

____
Mark J. Fisher, Manager

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this day of , 2008, before me, the undersigned notary, personally appeared Mark J. Fisher, personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he signed it voluntarily for its stated purpose as Manager for M.J.F. Investment Partnership, a limited liability corporation

____
Notary Public

Candace Erickson, "I move approval of the Consent Agenda, Items 1 and 2". Joe Kernan seconded. Motion unanimously carried.

1. Consideration of approval of the D'Juice Concession Contract Addendum at the Park City Ice Arena – See staff report.

2. Consideration of acceptance of the Mayor's and City Council members' disclosure statements for 2008 – See staff report.

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

1. Consideration of approving an Ordinance approving a plat amendment at 154 McHenry Avenue, Park City, Utah – Kirsten Whetstone explained that this application was continued by the Planning Commission and recommended a motion to continue to February 28, 2008. The Mayor Pro Tem opened the public hearing and with no comments from the audience, closed the hearing. Jim Hier, "I so move". Liza Simpson seconded. Motion unanimously carried.

2. Consideration of approving a second addendum to the Rail-Central Encroachment Permit – Matt Twombly explained that the second addendum is proposed to allow for a time extension for the pedestrian connection. The applicant has requested three years or December 31, 2010. This element is addressed in the Landmark study and staff recommends the approval of the time extension since a final location and design has not been determined. Mr. Hier suggested delaying amending the encroachment permit until there is an integrated plan. Mark Harrington explained that this action creates the expressed avenue for the applicant to request a bridge at a later date, but Council has full discretion to pursue either option. He felt there is purpose to amending the encroachment permit to better facilitate a preferred design in the future. Joe Kernan, "I move we approve a second addendum to the Rail-Central encroachment permit". Jim Hier seconded. Motion carried unanimously.

3. Consideration of approving a Master Festival License for the International Pedigree Stage-Stop Dog Sled Race to be held at the Park City Recreation Complex on February 2, 2008 – Max Paap stated that Bob Kollar of the Chamber is the applicant. The event is the final leg of the seven day sled dog race beginning at Jackson Hole and ending in Park City for the fourth year. The race will be held in Round Valley and Bob Kollar described involving the schools. The Summit Land Conservancy and Mountain Trails Foundation support the event. NAC agreed to share its parking, if needed. The Mayor Pro Tem opened the public hearing.

03-1106B

Recorded at the request of and return to: Park City Municipal Corp. Attn: City Recorder P.O. Box 1480, Park City, UT 84060

Fee Exempt per Utah Code Annotated 1953 21-7-2

FIRST ADDENDUM TO ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS

THIS FIRST ADDENDUM is made and entered into in duplicate this 17th day of August, 2006, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), Centura Rail Central, LLC, a Utah limited liability company ("Centura"), and Ol' Miner Partners, LLC, a Utah limited liability company ("Ol' Miner"), to amend the ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS signed and executed by the Parties, and recorded on November 19, 2003.

WITNESSETH;

WHEREAS, the parties entered into ENCROACHMENT PERMIT FOR MPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS (hereinafter "Original Agreement"); and

WHEREAS, more parking is needed for Rail Trail usage; and

WHEREAS, space exists in the area lying south of Building Two for an additional twelve spots; and

WHEREAS, Centura requires additional time to prepare plans for a pedestrian connection; and

WHEREAS, the parties desire to amend the Original Agreement to provide sufficient time for such performance.

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. **Section (2)(B) <u>Rail Trail Parking Lot</u>**. Centura shall construct and maintain an asphalt eleven (11) space parking lot and a twelve (12) space parking lot for use as Rail Trail parking only. The twelve space parking lot shall be located in the area lying south of Building Two and shall contain one handicapped van parking stall. Centura shall install signs marking all spaces in both lots as "Parking for Rail Trail Users Only." The parking lot construction shall be completed on or before October 15, 2006. None of the parking herein shall count towards code required parking for any permit or master plan proposed by Centura. Centura as landloard will also be held responsible for tenant violations of Rail Trail only parking spaces. Repeated violations shall be subject to the default provisions of Paragraphs 6 and 7 of the Original Agreement.

2. **Section (2)(C) <u>Landscaping and Irrigation</u>**. Centura shall landscape in conformance with the Prospector Landscaping and Maintenance of Soil Cover Ordinance (03-50), the areas surrounding the driveway and the 11 space Rail Trail Parking Lot discussed herein at Paragraphs 2A and 2B for the full length of Centura's property line to the east on or before October 15, 2006. City will landscape and irrigate the Rail Trail Parcel lying south of Rail Central Building One – the City intends to landscape as close to the property line as possible adjacent to Centura's deck/patio and also intends to place a few picnic tables on said property. Should the City remove the new parking Lot pursuant

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REQUEST: PARK CITY MUNICIPAL CORP

BK1814 PG0630

to Section 7, Centura shall landscape the area in conformance with plan approved with the Original Agreement.

3. **Section (2)(D) Pedestrian Connection**. Subject to the approval of the City Council of Park City, Centura may construct a pedestrian connection connecting the Rail Central Building One to the Rail Trail, and continuing in a southerly direction across the creek located south of the Rail Trail. The Parties hereby agree that the City Council of Park City, as owner of the Rail Trail Parcel, has unfettered discretion to approve or deny the pedestrian connection for any reason, including but not limited to aesthetics and scale. If the City Council of Park City has not approved design plans for said pedestrian connection on or before December 31, 2007, then this subsection (2D) shall be null and void and Centura's request to construct said pedestrian bridge shall be considered denied. This approval is in no way intended to contradict the Land Management Code requirement for on-site parking and accordingly is not intended to facilitate the use of parking on the south side of the Rail Trial for development on Centura property to the north.

4. Section (2) (E) ADA Connection to the Rail Trail: Centura shall construct an ADA compliant ramp connecting the Rail Trail to the Public Restrooms in Building One. City shall pay the full cost of constructing this ADA connection to the Rail Trail. Centura shall construct a paved ramp from the 11 space Rail Trail parking lot at the Southeast end of the driveway to the Rail Trail. Centura shall pay the full cost of constructing this ramp to the Rail Trail. The ramp shall be completed on or before October 15, 2006.

5. **OTHER TERMS**. In the event that Centura fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, Centura agrees to pay the City **Two Hundred Dollars ($200.00)**, which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT. All other terms and conditions of the Original Agreement shall continue to apply.

6. **ENTIRE AGREEMENT**. This First Addendum is a written instrument pursuant to Section 8 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

IN WITNESS WHEREOF the parties hereto have caused this First Addendum to be executed the day and year first herein above written.

DATED this 17th day of August, 2006.

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

Dana Williams

Dana Williams, Mayor

Attest:

Janet M. Scott

Janet M. Scott City Recorder

Approved as to form:

Polly Samuels McLean

Polly Samuels McLean, Assistant City Attorney

PARK CITY SUMMIT COUNTY UTAH CORPORATE Seal MARCH 1, 1884

CENTURA RAIL CENTRAL, LLC
2476 Aspen Springs Drive
Park City, UT 84060

Rodman W. Jordan, Corporate Manager

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this 21 day of August, 2006, before me, the undersigned notary, personally appeared Rodman W. Jordan, personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he/she signed it voluntarily for its stated purpose as Corporate Manager for Centura Rail Central, a limited liability corporation.

Janet M Scott

Notary Public

JANET M. SCOTT
NOTARY PUBLIC • STATE of UTAH
445 MARSAC AVE. • POB 1480
PARK CITY, UT 84060
COMM. EXPIRES 9-11-2008

OL MINER PARTNERS, LLC
2476 Aspen Springs Drive
Park City, UT 84060

Rodman W. Jordan, Corporate Manager

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this 21 day of August, 2006, before me, the undersigned notary, personally appeared Rodman W. Jordan personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he/she signed it voluntarily for its stated purpose as Corporate Manager for Ol Miner Partners, a limited liability corporation.

Notary Public

JANET M. SCOTT
NOTARY PUBLIC • STATE of UTAH
445 MARSAC AVE. • POB 1480
PARK CITY, UT 84060
COMM. EXPIRES 3-11-2008

BK1814 PG0633

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 17, 2006

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 17, 2006. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Matt Twombly, Project Manager; Polly Samuels McLean, Assistant City Attorney; Jonathan Weidenhamer, Planner; Myles Rademan, Public Affairs Director; Dave Gustafson, Project Manager; Ken Fisher, Recreation Director; and Phyllis Robinson, Project Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. Disclosures - Joe Kernan disclosed that he has recycling contracts with Rail-Central tenants and Main Street customers.

2. Oath of office for Police Sergeant Bob Lucking – Chief Lloyd Evans explained the process for the appointment to Sergeant, and the Mayor administered the oath of office.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 27, 2006 AND AUGUST 3, 2006

Roger Harlan, "I move approval of work session notes and minutes of the meetings of July 27 and August 3". Marianne Cone seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

Acceptance of resignation of Historic Preservation Board Member Roger Durst and appointment of Ken Martz to fill his unexpired term to June 30, 2008 – Marianne Cone, "I move that we accept the resignation of Roger Durst and appoint Ken Martz to fill his unexpired term to June 30, 2008". Jim Hier seconded. Motion unanimously carried.

VI OLD BUSINESS

Amendment to the Rail-Central Encroachment Agreement – Centura Development – Matt Twombly explained that this request is to construct an additional 12 parking spaces behind Building #2 of the Rail-Central Project. It was discussed and continued from the August 3 meeting so that Council would have an opportunity to review the final agreement. The completion date for the pedestrian connection is specified as December 31, 2007.

Jim Hier disclosed that he met with Rodman Jordan earlier in the week and he asked Mr. Jordan to share his concerns. Mr. Jordan referred to the provision dealing with the pedestrian connection and was concerned with the wording, *"This approval in no way (is) intended to contradict the Land Management Code requirement for on-site parking and accordingly is not intended to facilitate the use of parking on the south side of the Rail Tail for development on Centura property to the north".* He explained that amendments to the General Plan affecting the Park Bonanza District are proceeding and one consideration is consolidated parking. There may be a possibility of conflicting provisions once General Plan amendments are made and the property will always be required to comply with the Land Management Code. There is the possibility that the final language of the amended General Plan will conflict with the encroachment permit. Polly Samuels McLean pointed out that the timing for the completion of the pedestrian bridge is a Council decision. The subject phrasing was included in the document to clarify Council's original intent that the pedestrian bridge was not intended to be created for access to commercial parking. If there is a resulting conflict in provisions, Centura can return to request an amendment to the encroachment agreement. Council member Hier noted that Centura property to the north contains more than one parcel and suggested it to be described as *directly adjoining property to the north.* Another general concern is whether this is overly restrictive with regard to future implementation of walk-able community initiatives. Tom Bakaly clarified that the goal in this wording is consistency with conservation easement language and Ms. McLean added that the conservation easement should be strictly adhered to.

Joe Kernan understood that the pedestrian bridge was already evaluated for compliance with conservation easement language earlier. He felt that Council should focus on the matter of parking and the draft as it was presented at the last meeting. If the developer receives a benefit for additional parking, that can be considered at a later date. He favored striking the language. Marianne Cone stated that she is comfortable with the document as written, since it can be amended in the future if needed. Candace Erickson favored waiting to see what happens with regard to consolidated parking, so that there aren't contradicting provisions. Roger Harlan believed Council should restrict its review to the issues discussed two weeks ago. Jim Hier disagreed and felt that at that meeting, there were other elements of the agreement that were raised, including requirements for landscaping. In response to comments made by Mr. Hier about the Deer Valley Maintenance Building, Rodman Jordan explained that Centura plans to redevelop that property in a future phase. It was remodeled but will be torn down and that project will provide required parking; he discussed a circulation plan. He asked the purpose of creating a new constraint when the property is already subject to the LMC.

Polly McLean felt that the bridge was never contemplated as a connector between two commercial properties which would not strictly adhere to the open space bond. The bridge was intended for access to the Rail-Trail and not for commercial purposes. Her legal advice is that there can not be a pedestrian bridge on open lands property in order to connect two commercial properties. The Mayor agreed that the wording should not be changed. Joe Kernan pointed out that the agreement does not contain that statement and perhaps should be included in the document. The question as to the value of any additional parking on the north side is a future discussion. Rodman Jordan withdrew his opposition.

Candace Erickson, "I move we amend the Rail-Central Encroachment Agreement with Centura Development as it is currently written". Jim Hier seconded. Motion carried.

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

The Mayor changed the order of the agenda and opened the public hearing on the ordinance regulating use of outdoor decks and balconies at this point in the meeting.

VII NEW BUSINESS

1. Authorization to the City Manager to enter into a professional service provider contract for the Park City Police Facility Project, in a form approved by the City Attorney, to Consolidated Engineering Laboratories in the estimated amount of $28,148 – Dave Gustafsen explained that the purpose of the contract is to perform specialty inspections on the police facility. This cost is included in the project's budget. Marianne Cone, "I move that we authorize the City Manager to enter into a professional service provider contract for the Park City Police Facility Project, in a form approved by the City Attorney, to Consolidated Engineering Laboratories in the estimated amount of $28,148". Jim Hier seconded. Motion unanimously carried.

2. Resolution providing for the holding of a special bond election on November 7, 2006 for the purpose of submitting to the qualified electors of the City the question of the issuance and sale of General Obligation Bonds of the City in an amount not to exceed $20,000,000; declaring official intent with respect to certain expenditures; and providing for related matters – Item 2 was discussed before Item 1 of New Business, but appears here for reference purposes. Myles Rademan explained that the $20 million bond election is recommended to be held in November. City voters supported both the

will be a private group charged to promote the open space bond initiative. Jim Hier asked for clarification of the funding schedule before the vote on the bond resolution occurs and Roger Harlan asked what rate the City would be offered given our bond rating strength.

5. **Meeting questions/comments - Rail-Central parking.** Mat Twombly explained that Centura Development has requested an amendment to the encroachment permit approved in November 2003 for the Rail-Trail Parcel. The encroachment permit allowed for the construction of a driveway between Buildings #1 and #2 and an easement across the driveway to the City's parcel. The permit also required the construction of eleven Rail-Trail parking spaces at the end of the driveway, a stairway ramp to the trail, landscaping behind Building #1 to be installed by the City, landscaping behind Building #2 to be completed by the developer, and landscaping along the driveway for the length of the Rail-Trail Parcel and the Rail Central Parcel. Mr. Twombly relayed that the permit also provided for a pedestrian connection, subject to approval by the City Council, but the design plan was never processed and expired on December 31, 2005.

The request is to amend the encroachment agreement to allow for twelve spaces and an ADA space for Rail-Trail parking behind Building #2, and an extension for the pedestrian connection. He added that the driveway and parking for Rail-Central were constructed in 2004 and understood that there have been a few complaints about users not parking in the appropriate designated areas. Staff's recommendation is to deny the request to amend the agreement as it pertains to additional parking, in lieu of the landscaping, but to grant a time extension for the pedestrian connection. He emphasized that the Planning, Engineering and Building Departments are not in agreement with this recommendation. There was discussion about the timing of the construction of the ramp which would probably be done with the parking.

Joe Kernan asked for clarification on the differing staff recommendations. Chief Building Official Ron Ivie explained that one of the goals in the area is to provide shared parking opportunities to enhance the commercial and recreational area. Inadequate parking has been an issue at times and it makes sense to provide additional parking. Regulating designated parking areas is extremely difficult to enforce. He felt that the proposed parking plan is very similar to the existing trailhead parking area and there will be mixed patrons even though the property is signed. Additionally, it is desirable to have the Rail-Central improvements accomplished as soon as possible. He spoke about the property being located in the Soils Ordinance Area and subject to compliance. From an ordinance standpoint, the Building Department is more concerned about providing adequate parking for the public over monitoring where people park. Roger Harlan observed that some trail users use Parking Lot G and Mr. Ivie responded that there will be development at some point. In response to a question from Marianne

Cone, he relayed that landscaping or paving would make the property comply with the ordinance and should be mitigated as soon as possible. Tom Bakaly commented that an informal survey was conducted and it's staff's opinion that if this additional parking were to be built on open space property, that it would not be used primarily by Rail-Trail users, but for the shops.

See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

Joe Kernan, "I move that we approve the fee waivers, except for water impact fees". Marianne Cone seconded. Motion unanimously carried. Council members agreed that this should be the rationale for future fee waiver requests from public entities. Tom Bakaly explained that the School District has not paid fees on the high school project and this will be brought back to the Council.

2. Amendment to the Master Festival License authorizing the waiver of fees associated with the Tour of Utah to be held August 12, 2006 in an amount not to exceed $1,360 – Max Paap explained that on July 6, 2006, the Council approved the Tour of Utah MFL which contemplates using Deer Valley Drive and SR248. The only City service that the event requires is police for traffic control calculated at $1,360. Because the City will not be collecting revenues to offset special event costs until 2007, staff recommends denial of the fee waiver request for the Tour of Utah. Roger Harlan recalled that the organization is for-profit and for this reason, is not inclined to waive fees. Joe Kernan asked about economic impacts and Mr. Paap relayed that riders will be in Park City for approximately twenty minutes and are staying at Snowbird. He has not seen any advertising promoting Park City. Marianne Cone noted her support for cycling but is not willing to waive police costs. Max Paap stated that the Park City route will require at least nine officers. The Mayor opened the public hearing and with no comments, closed the hearing.

Jim Hier, "I move we deny the fee waiver request for the Tour of Utah". Roger Harlan seconded. Motion unanimously carried.

3. Amendment to the Rail-Central Encroachment Agreement – Centura Development - Mat Twombly referred to the earlier work session discussion where staff recommended the denial of additional parking but grant a time extension for the construction of the pedestrian connection. Rodman Jordan, applicant, stated that he feels that Centura has developed a very successful trailhead and there is an average of 40 to 80 users per day. In addition, their restrooms are available to the public and the public art component and landscaping are aesthetic amenities. Parking is only a problem during peak hours and he stated that Centura has been very aggressive on enforcing designated parking. The request for twelve additional spaces would alleviate conflicts that occur and many White Pine Touring's patrons are Rail-Trail users. He relayed that the twelve proposed parking spaces are identical in character to the eleven that were approved previously. They are located on the same piece of real estate and governed by the same language. Centura would install the necessary signs so there is no confusion on where to park and will continue with enforcement. His tenants are informed and noticed when there are violations and acknowledged that tourists and visitors are probably unclear about property lines. He felt this is a good long-term solution for Rail-Trail parking. Acquiring additional parking now may mitigate the loss of parking in Lot G in the future.

As an employee in a sporting goods store, Candace Erickson spoke about people renting bicycles parking in a store lot while they are riding, which affects turn-over of spaces. As biking becomes more popular, the parking demand will grow and she doesn't object to this amendment as long as parking is adequately signed. Marianne Cone stated that accommodating more cars creates more congestion and the parking is difficult to enforce. Also, there are conflicts with cars, pedestrians and cyclists and she is not interested in approving more parking. Roger Harlan didn't feel this is a perfect solution, but at some point Lot G will be developed and more parking may be needed. He felt that people will continue to drive their cars to the trailhead. Jim Hier believed that the parking will provide commercial access on property purchased with public funds and supported the recommendation outlined in the packet. Joe Kernan agreed with Council members Harlan and Erickson and Chief Building Official Ron Ivie expressed that this is a good effort to balance needs and demands, especially in the future. He is comfortable with approving the request. Marianne Cone asked about conflicts with the open space language. Jim Hier advised that the signed parking areas legally comply with the intent of the open space language although he is sure there will be violations.

Jim Hier suggested that the approval of the encroachment permit be continued until the next meeting because there are outstanding issues that may not be addressed and he would like an opportunity to review the final document. Given the level of interest in this matter, Mark Harrington strongly suggested that Council review the language before it is approved.

Rodman Jordan emphasized that because of the repaving of the Rail-Trail, Centura felt it made sense to wait to install the landscaping so it wouldn't be disturbed with improvements to the trail. Mayor Williams pointed out that there will still be Rail-Trail users parking in Rail-Central commercial parking and vice-versa. This is not necessarily a bad thing as there is currently a shortage of parking for both uses and he questioned whether monitoring parking is worthwhile. There was discussion about the location of the bridges.

Marianne Cone, "I move we move this item to August 17". Jim Hier seconded. Motion unanimously carried.

4. Real estate purchase contract with Avenue Communities, LLC for the sale of three municipally-owned parcels located at 221 Main Street, 222 Grant Avenue, and 206 Swede Alley in the amount of $3,050,000 – Consultant Hugh Daniels explained the staff report outlining the purchases of the hotel and the properties acquired in 2003. The Mayor opened the public hearing and with no comments from the Council or the audience, closed the public hearing.

Mailed for recording November 19, 2003 js

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

Fee Exempt per Utah Code Annotated 1953 21-7-2

ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS

THIS AGREEMENT is made by and between **PARK CITY MUNICIPAL CORPORATION** (hereinafter City) and **CENTURA RAIL CENTRAL, L.L.C., FORMERLY KNOWN AS CENTURA CANYONS L.L.C.**, a Utah limited liability company (hereinafter Centura) and **OL MINER PARTNERS, L.L.C.,** a Utah limited liability company (hereinafter Ol Miner) to set forth the terms and conditions under which the City will permit Centura to build, maintain, and use certain improvements within the City property and right-of-way known as the Rail Trail Parcel, Park City, Utah, and whereby Centura and Ol Miners will grant a public access easement across their properties to a parking area on the Rail Trail Parcel for use as Rail Trail parking only.

1. This encroachment permit and easement agreement shall be appurtenant to the following described property:

   A. Centura Commons, a two lot subdivision containing Lots A and B, located at 1790 and 1800 Bonanza Drive, as more specifically described at Exhibit A, attached hereto and incorporated herein by reference (hereinafter "Centura Commons property"); and

   B. Rail Trail Parcel, as more specifically described at Exhibit B, attached hereto and incorporated herein by reference (hereinafter "Rail Trail Parcel").

This agreement is not transferable to other property, but is freely transferable with the title to each of the properties identified above. The license and conditions as stated in the agreement, are binding on the successors in title or interest of Centura and Ol Miner.

2. Centura is hereby permitted to build, maintain, and use the following improvements[1] within the City's Rail Trail Parcel (All improvements contemplated by this agreement shall be installed

1 Unless otherwise stated herein, Centura shall be solely responsible for all costs of installing, building and maintaining the improvements discussed herein.

and/or constructed in substantial conformance with the locations and scales depicted on the site plan dated November 3, 2003 and approved by the City Council of Park City, attached hereto and incorporated herein as Exhibit C):

A. Driveway: Centura shall construct and maintain an asphalt driveway beginning at a location between Buildings One and Two of the Rail Central Development (hereinafter "Rail Central") and running easterly behind Building Two to the Rail Trail Parking Lot and connecting to the Rail Central parking located to the north of the Rail Trail. The driveway shall be limited to a maximum of sixteen feet (16') in width. No parking shall be allowed on the driveway.

B. Rail Trail Parking Lot: Centura shall construct and maintain an asphalt eleven (11) space parking lot for use as Rail Trail parking only. Centura shall install signs marking the lot as "Parking for Rail Trail Users Only."

C. Landscaping and Irrigation: Centura shall landscape and irrigate the areas surrounding the driveway and Rail Trail Parking Lot discussed herein at Paragraphs 2A and 2B for the full length of Centura's property line to the east. City will landscape and irrigate the Rail Trail Parcel lying south of Rail Central Building One—the City intends to landscape as close to the property line as possible adjacent to Centura's deck/patio and also intends to place a few picnic tables on said property to encourage use of the area.

D. Pedestrian Connection: Subject to the approval of the City Council of Park City, Centura may construct a pedestrian connection connecting Rail Central Building One to the Rail Trail, and continuing in a southerly direction across the creek located south of the Rail Trail. The Parties hereby agree that the City Council of Park City, as owner of the Rail Trail Parcel, has unfettered discretion to approve or deny the pedestrian connection for any reason, including but not limited to aesthetics and scale. If the City Council of Park City has not approved design plans for said pedestrian connection on or before December 31, 2005, then this subsection (2D) shall be null and void and Centura's request to construct said pedestrian bridge shall be considered denied.

E. ADA Connection to Rail Trail: Centura shall construct an ADA compliant ramp connecting the Rail Trail Parking Lot to the Rail Trail. City shall pay the full cost of constructing this ADA connection to the Rail Trail.

F. Public Art: The City, at its sole discretion, may install public art on the Rail Trail. If the City elects to install public art on the Rail Trail, Centura agrees to match the City's contribution to the cost of said public art up to a maximum of Five Thousand Dollars ($5,000.00). If the City elects to install public art in a location other than the Rail Trail, then Centura at its sole discretion may elect to match the City's contribution to the public art up to a maximum of Five Thousand Dollars $5,000.00).

G. Public Restrooms: Centura agrees to build and maintain public restrooms on the ground floor, east end of Rail Central Building One. Centura agrees that said public restrooms will remain open to the public during normal Park City Parks operating hours (ie., same hours of operation as the Park City Skate Park).

H. Public Access Easement: Centura and Ol Miner hereby grant and convey a public access easement across the Centura Commons property (Lots A and B) for access between Bonanza Drive and the Rail Trail Parking Lot, as shown on Exhibit C herein. City hereby grants and conveys to Centura and Ol Miner a site circulation easement on those portions of the driveway discussed herein at Paragraph 2A lying within the Rail Trail Parcel.

I. Soil Exportation/Fill Materials: Except as expressly provided otherwise herein, Centura shall not export soil from the Centura Commons property to the Rail Trail Parcel. Centura shall be solely responsible to pay all costs associated with the exportation of any/all hazardous soils from the Centura Commons property—no hazardous soils shall be exported from the Centura Commons property to the Rail Trail parcel. Subject to review and approval by the City's Environmental Specialist and/or Chief Building Official, non-hazardous soils may be exported from the Centura Commons property to the Rail Trail Parcel for use as fill material in areas to be landscaped by the City.

J. Project Coordination: Centura hereby agrees to coordinate the construction and/or installation of improvements discussed herein with the City's Rail Trail improvements project.

3. Development Review Process Unaffected by this Agreement: Centura acknowledges that the City is party to this agreement solely as property owner. Nothing in this Agreement constitutes nor shall be construed as a waiver of any development code provisions applicable to Centura's Rail Central development project, including but not limited to the Park City Land Management Code, Municipal Code, Sign Code, and International Building Code. This agreement shall not be construed to create any assumption of development approvals. Centura's Rail Central development, including any/all improvements contemplated by this agreement, shall be subject to all applicable development processes and requirements.

4. No permanent right, title, or interest of any kind shall vest in Centura or Ol Miner in the Rail Trail Parcel by virtue of this agreement. No interest shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

5. Centura or its successors shall maintain the improvements described herein at Paragraph 2 in a safe, functional, and good state of repair at all time, and upon notice from the City, will repair any damages, weakened, or failed sections. Centura shall have complete maintenance responsibility for all improvements described herein, less and excepting any improvements installed or constructed by City on the Rail Trail Parcel. Centura agrees to hold the City harmless and indemnify the City for any and all claims arising from Centura's use of the Rail Trail Parcel, or from the failure of the Centura's improvements.

6. In the event that Centura or its successors or assigns fails to maintain the improvements described herein at Paragraph 2 in a safe, functional, and good state of repair at all times, City may elect, at its sole discretion, one or more of the following remedies after providing thirty (30) days written notice to Centura of such failure to maintain and opportunity to cure:

A. Require specific performance of Centura of maintenance necessary to render the offending improvement safe and functional;

B. Perform the necessary maintenance and recover the costs and expenses therefore from Centura;

C. Close, stabilize, demolish, or remove the offending improvement if the improvement represents a hazard to the public health or safety if the offenses are not promptly cured;

D. All other remedies available at law or equity;

E. Terminate this agreement; and

F. Obtain reimbursement from Centura for City's costs, including administrative time and legal fees, incurred in pursuing its remedies under this agreement.

7. This agreement shall be perpetual unless terminated pursuant to Paragraph 6 herein. In the event that this agreement is so terminated, Centura shall remove the pedestrian bridge at its sole expense. The City may elect, at its sole discretion, to maintain the driveway and/or Rail Trail Parking Lot or remove said improvements at its sole expense.

8. This agreement represents the entire integrated agreement between City and Centura and Ol Miner and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

DATED this 6 day of NOVEMBER, 2003.

PARK CITY MUNICIPAL CORPORATION

Dana Williams

Dana Williams, Mayor

ATTEST:

Janet M. Scott

City Recorder's Office

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884

APPROVED AS TO FORM:

Timothy C. Tuck

City Attorney's Office

CENTURA RAIL CENTRAL, L.L.C., FORMERLY KNOWN AS CENTURA CANYONS L.L.C.
2476 Aspen Springs Drive
Park City, UT 84060

Rodman W. Jordan, Corporate Manager

Acknowledgment

NOTARY PUBLIC
DAWN M. JENSEN
445 MARSAC AVE. P.O. BOX 1480
PARK CITY, UT 84060
MY COMMISSION EXPIRES
MARCH 11TH, 2004
STATE OF UTAH

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this 18th day of Nov., 2003 personally appeared before me Rodman W. Jordan, whose identity is personally known to meor proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Corporate Manager of Centura Rail Central, L.L.C. by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said L.L.C. executed the same.

Dawn M. Jensen
Notary Public

OL MINER PARTNERS, L.L.C., A UTAH LIMITED LIABILITY COMPANY
2476 Aspen Springs Drive
Park City, UT 84060

Rodman W. Jordan, Corporate Manager

Acknowledgment

NOTARY PUBLIC
DAWN M. JENSEN
445 MARSAC AVE. P.O. BOX 1480
PARK CITY, UT 84060
MY COMMISSION EXPIRES
MARCH 11TH, 2004
STATE OF UTAH

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

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Dawn M. Jensen
Notary Public

EXHIBIT A

Order Number: 13852

LEGAL DESCRIPTION

PARCEL 1:

LOT A, CENTURA COMMONS, A TWO LOT SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE.

(TAX SERIAL NO. CCOM-A)

PARCEL 2:

LOT B, CENTURA COMMONS, A TWO LOT SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE.

(TAX SERIAL NO. CCOM-B)

ADDRESSES:

PARCEL 1
1790 BONANZA DRIVE, PARK CITY, UTAH 84060

PARCEL 2
1800 BONANZA DRIVE, PARK CITY, UTAH 84060

Exhibit A

UNION PACIFIC RAILROAD COMPANY
Park City, Summit County, Utah

EXHIBIT "A"

A 100 foot wide strip of land situate in the NW ¼ of the SE ¼ of Section 9, Township 2 South, Range 4 East Salt Lake Meridian, Summit County, Utah, said strip of land lying 50.0 feet on each side of the centerline of main track of the Union Pacific Railroad Company, as was constructed and operated, extending southwesterly from the north line to the west line of said SE ¼ of Section 9.

Containing an area of 1.977 acres, more or less

Office of Real Estate
Omaha, Nebraska
January 6, 2000

Written by: JCO
41998.leg

Exhibit B
Rail Trail Parcel

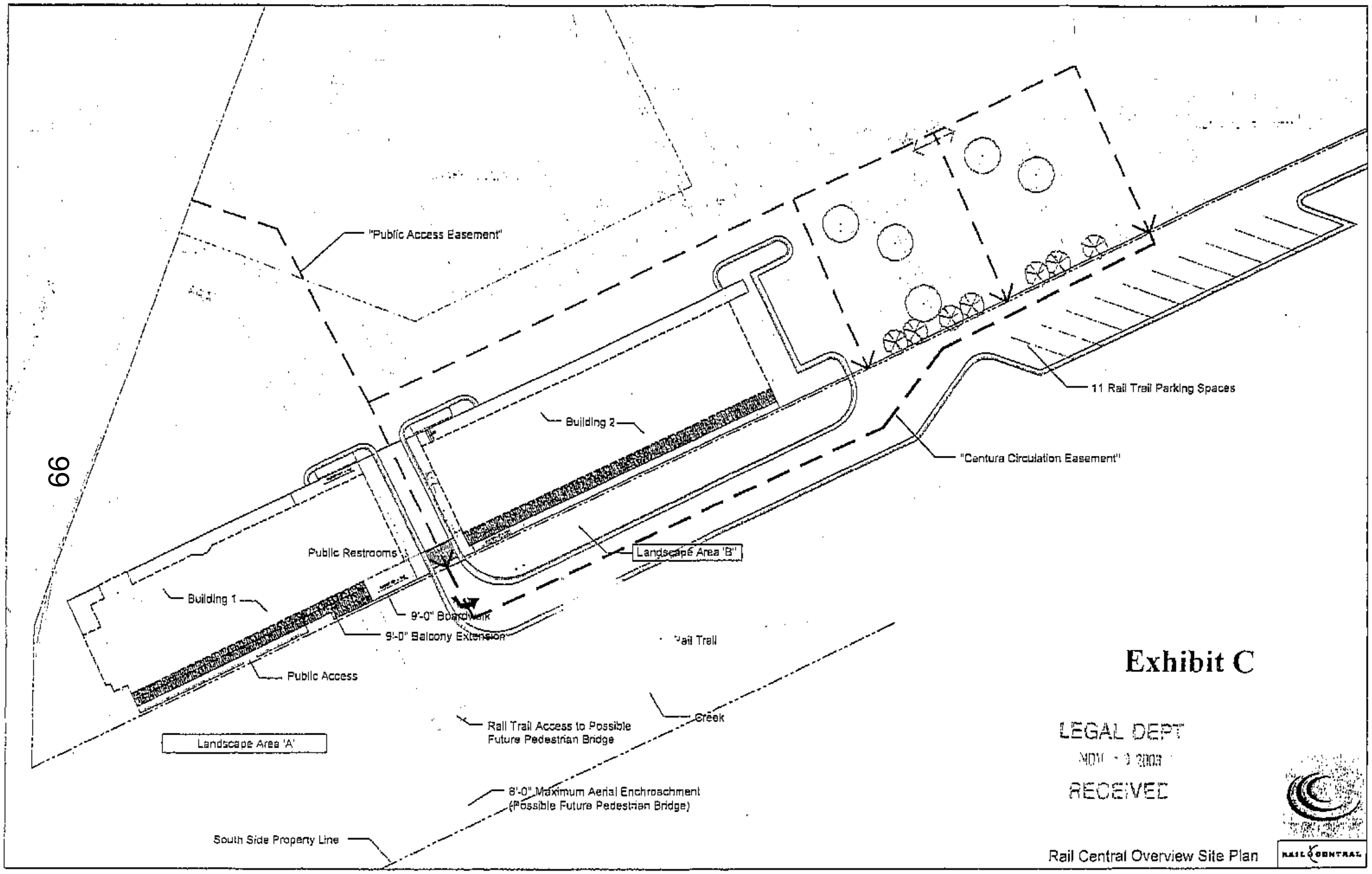
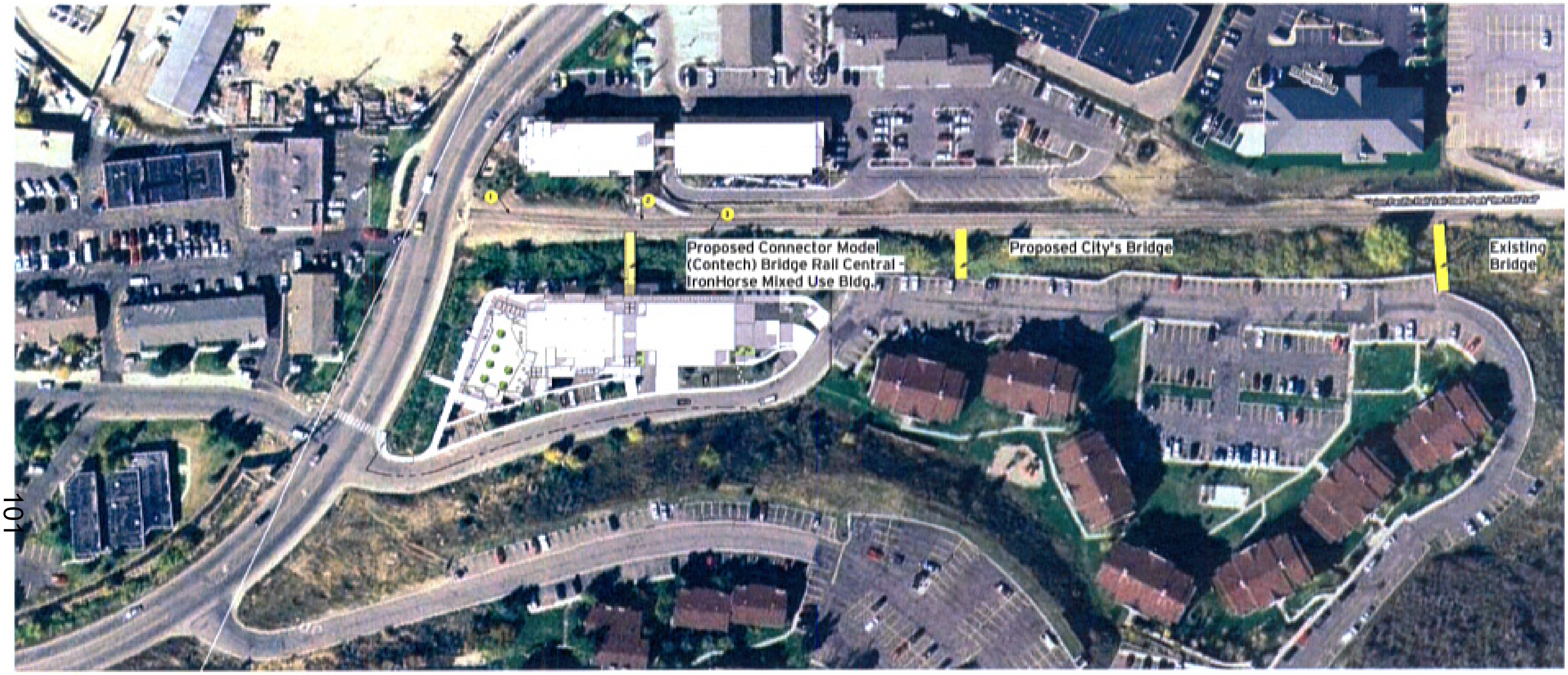


Exhibit C
"Public Access Easement"
11 Rail Trail Parking Spaces
Building 2
"Centura Circulation Easement"
Public Restrooms
Landscape Area 'B'
Building 1
9'-0" Boardwalk
9'-0" Balcony Extension
Rail Trail
Public Access
Creek
Rail Trail Access to Possible
Future Pedestrian Bridge
Landscape Area 'A'
8'-0" Maximum Aerial Enchroachment
(Possible Future Pedestrian Bridge)
South Side Property Line
LEGAL DEPT
RECEIVED
Rail Central Overview Site Plan
RAIL CENTRAL

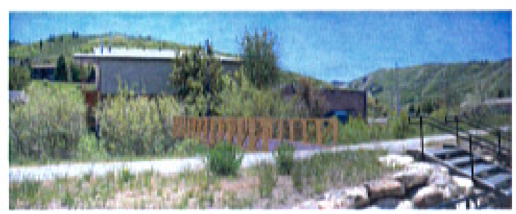
Rail Trail - Iron Horse Park LC

Exhibit B

1 in = 89 ft



(1) View from Bonanza Park
SCALE: N.T.S.



(2) View fron Rail Central Bldg. Ramp
SCALE: N.T.S.

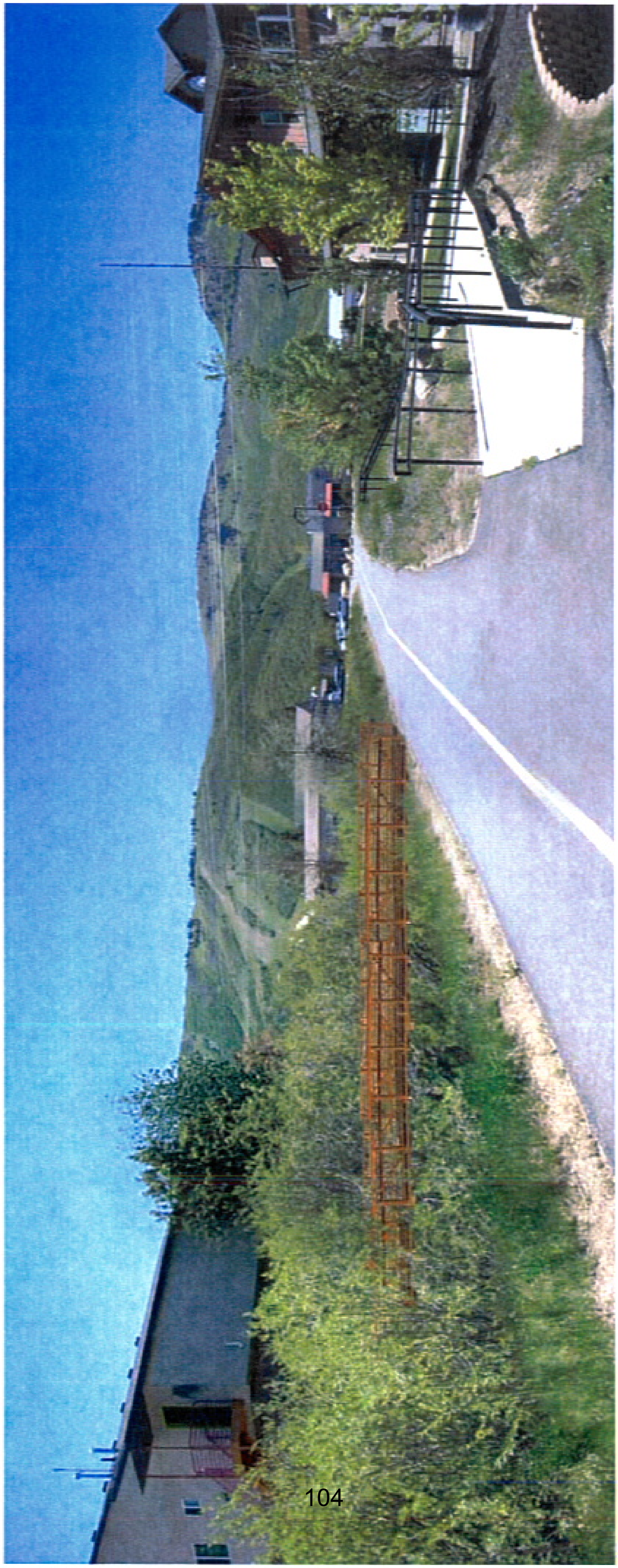
(3) View from Rail Trail to Bonanza Park
SCALE: N.T.S.

elliott
workgroup
architecture

EXHIBIT C-1

C-2

C-3



C-4

4-7

RAIL

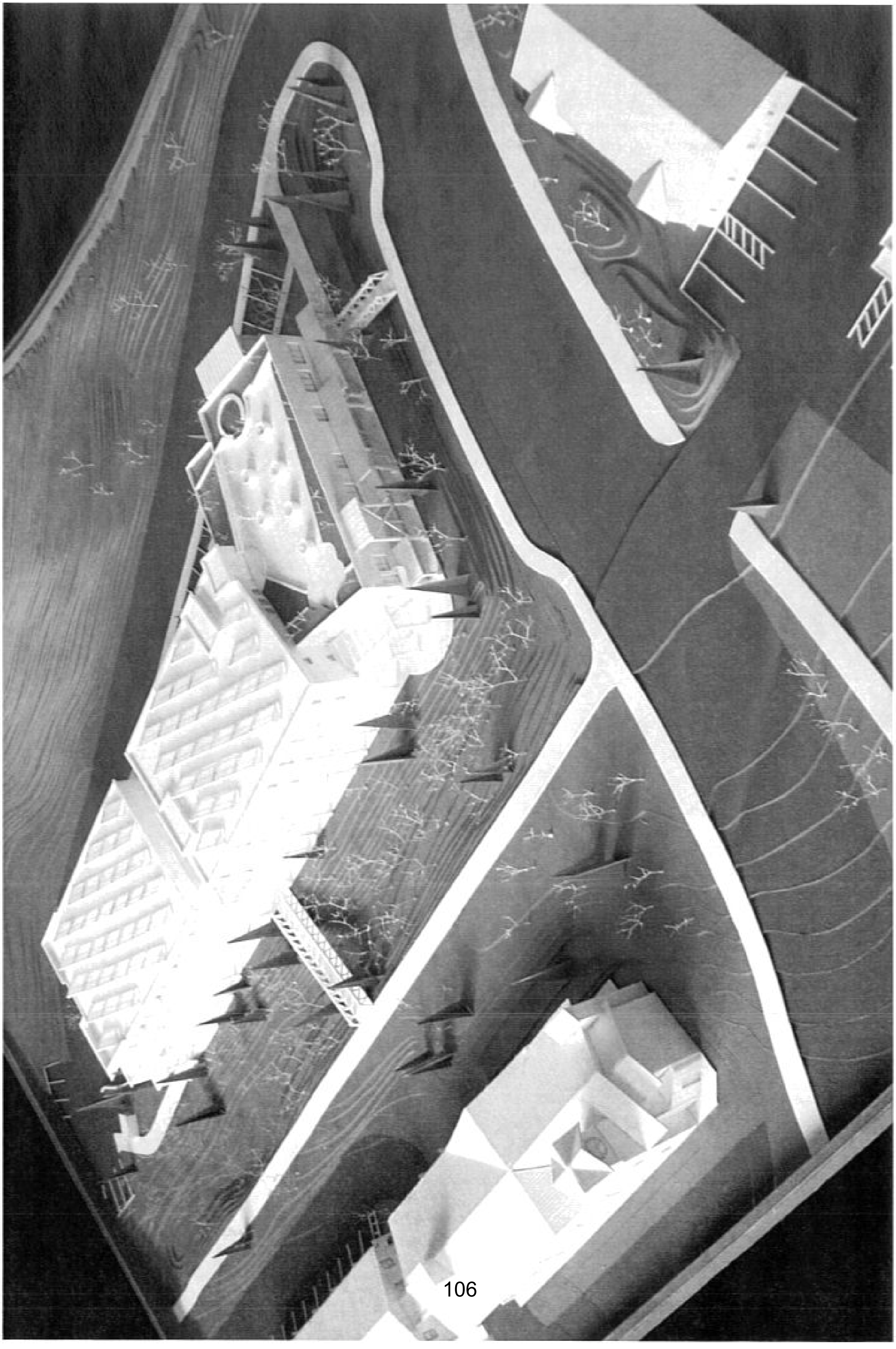
Cable

DECK

Concrete

FINISH

Weathering Steel



C-5