

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 11, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 11, 1996.

AGENDA

Work Session

- 4:30 p.m. Council questions and comments
- 4:50 p.m. Wood burning ordinance
- 5:10 p.m. Sexually oriented business ordinance
- 5:30 p.m. Review of regular meeting
 - Outdoor display ordinance
 - Other meeting questions/comments

Regular Meeting

I ROLL CALL

II PUBLIC INPUT

1. Request for outdoor vending business
2. Wolf Mountain master plan meetings
3. Outdoor climbing tower

III COMMUNICATIONS FROM COUNCIL AND STAFF

Swearing-in of police officers

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 20, 1996

V CONSENT AGENDA

1. Sweeney corrective deed at Treasure Hill Subdivision
2. Authorization for Mayor to execute quit claim deed (Daffern claim - Colman property)
3. Authorization to file civil complaint on 2254 Doc Holiday Drive
4. Vehicle replacement for transit buses in an amount not to exceed \$880,000

VI NEW BUSINESS

An Ordinance amending Chapter 7 of the Land Management Code of Park City, Utah to clarify prohibitions on the outdoor display of merchandise and storage and to allow the administrative approval of outdoor dining areas and storage of rental bicycles in the HCB, HRC, GC, HR-2 AND RCO Zones

VII ADJOURNMENT

Posted: 7/8/96

Note: It should be noted that the entries under Public Input occurred during the meeting and were not posted. They appear on the agenda for reference purposes.

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 11, 1996

Present: Council members Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Kirsten Whetstone, Planner; Pat Putt, Planning and Zoning Administrator; Mark Harrington, Assistant City Attorney; Jerry Gibbs, Public Works Director; Rick Lewis, Community Development Director; Meg Ryan, Planner

Absent: Mayor Brad Olch and Paul Sincock

1. Council questions and comments. There was discussion about a UDOT meeting to address concerns of municipalities on Friday and Roger Harlan stated that he will try to attend. Chuck Klingenstein pointed out that because of the open space plan on the entry corridor of SR224, motorists aren't aware of when they are entering the City. Hugh Daniels announced the Wolf Mountain upcoming master plan meetings; see regular meeting minutes. He recognized Paul Sincock's efforts with the Hispanic community. Shauna Kerr relayed that she attended the School Board meeting where Pace Erickson and his staff were complimented for their assistance in the construction project. In response to a question from Roger Harlan, Jerry Gibbs explained that the Racquet Club roof is in the process of being coated with a weather resistant product. Chuck Klingenstein commented on the success of the flower project on Main Street. He added that he attended a Summit County Homebuilders Associations meeting with City staff and it was a productive meeting. There was dialog about the City's strict regulations and the City's enforcement; he continued that the City staff was complimented. Mr. Klingenstein pointed out that the Jordanelle is placing demands on emergency services like the Summit County ambulance, Park City Fire District, etc. and felt that interlocal agreements would be appropriate to protect the taxpayers of the City. Mr. Klingenstein expressed his concerns about the safety of Hillside Avenue. Myles Rademan discussed an upcoming Leadership 2000 picnic and the flower basket project. He emphasized the importance of the timing of planting the seeds in our greenhouse in the spring, and the recognition in the kiosk and certificates to donors. Mr. Rademan indicated that it takes ten hours a day to water the Main Street hanging baskets. Toby Ross reported that because of the hot dry weather, the Chief Building Official has banned fireworks from July 20 until further notice.

2. Wood burning ordinance. Planner Kirsten Whetstone explained that this ordinance was drafted for four reasons. There is the fire safety issue, especially with the disposal of ashes. Although a study has not been conducted in the area, there are health and welfare concerns as it is typical that 15% of particulates are related to wood burning. Another reason is air quality, and Roger Harlan pointed out that the public may be mislead in cleaning up the air, as traffic is by far the highest pollutant. Ms. Whetstone appreciated Mr. Harlan's comments, recognizing that regulating wood burning fireplaces will only solve part of the pollution problem. She added that this issue has been on the Planning Commission agenda for about six years.

Ms. Whetstone explained that the ordinance limits the number of new wood burning or solid fuel burning fireplaces that create ashes. It also requires that new devices meet EPA requirements for emissions which is 7.5 grams per hour. Multi-family units would only be allowed to have a wood burning fireplace in the lobby, not in the individual units. Existing wood burning and solid fuel burning devices would be non-conforming uses. When there is a 50% remodel of the square footage of a unit or a demolition, there would be a requirement for compliance. One wood burning device is allowed in a single family or duplex unit, one in the lobby of multi-family, and one in restaurants or bars. All of those have to meet EPA requirements which would not allow open fireplaces because they don't meet these standards. She continued that the Planning Commission held several work sessions and directed that the ordinance be equitable and not based on a ratio of number of devices to square footage sizes. The Commission desired to keep the ordinance simple with regard to non-conforming uses and suggested using the Historic District Grant Program for conversions. Shauna Kerr asked the number of coal burning devices in Old Town in consideration of hardship cases.

Ms. Whetstone discussed the public hearing held by the Planning Commission last night where most of the comments opposed the prohibition of open fireplaces, mainly from large home owners. She explained that inserts are relatively small, although there is technology for an open fireplace with a gas log. There were also comments about formulating a program for non-conforming devices and the transfer of fireplace rights. The Planning Commission elected to explore the latter. With regard to the concern that wood is a diminishing resource, but burning gas is okay is a finding that Roger Harlan felt was "thin". He encouraged an addition in the ordinance to include recycling construction wood, in consideration of landfill demands. Kirsten Whetstone felt that this could be accomplished with the implementation of a construction mitigation plan for projects. Ms. Whetstone added that there was a suggestion at the hearing to prohibit the sale of wood. With regard to the consumption of natural resources, Mr. Lewis emphasized that there is a phenomenal difference between the efficiency of a gas device versus a wood burning fireplace, where there can a negative heating result.

Hugh Daniels felt comfortable with the Planning Commission again reviewing this matter, but views this ordinance as a step toward an environmentally sound community. He added that work is being done to monitor auto emissions through the County. There may be a compromise, but he didn't feel the City should make provision for "burning giant sequoias in open fireplaces". Mr. Daniels stated that he would consider one wood-burning fireplace in a single family, but multi-family and condos should all be natural gas, as there is an escalated safety hazard with those type of units. Banning wood burning fireplaces and amortizing fireplace transfer rights to reach that goal was discussed. He felt that the City should be proactive on this matter.

Shauna Kerr expressed her concern about enacting legislation without data to support it. It has been her observation that the largest contributor to haze in the winter is snow-making and until there is information and whether this exasperates air quality problems, she is reluctant to go

forward with this ordinance at this time. She felt that there are other pending issues, and agreed with Commissioner Erickson's comments about work pressures. Ms. Kerr felt that the future auto emission testing station will provide air quality information. She suggested that the ordinance be tabled, because the Council will be fighting the development community on this, and unless there is data to support the need for it, it will be a "loser". However, she supported banning wood burning devices in multi-family units and felt that there would be support from the lodging community because of safety considerations and the hassles of cleaning fireplaces. She emphasized, however, that it would have to be a community-wide ban and suggested that this may be accomplished on a voluntary basis in the interim. Roger Harlan pointed out that using other ski communities who have banned wood burning stoves as models may not be appropriate because they may have a different topography. He stated that he is not a strong proponent of the ordinance and agreed with Ms. Kerr's comments. Ms. Whetstone clarified that Mr. Erickson's comments at the Planning Commission were in support of the ordinance as written as he didn't want to see the matter continued. Ms. Kerr recognized the need, but didn't feel that it can be isolated to fireplaces at this time. Chuck Klingenstein recalled growing up in the New York region in the '60s and it has taken basically 25 years to take care of the pollution problem. He stated that like Mr. Daniels, he wants to be proactive. He added that Diane Nielson at the Division of Environmental Quality noted that we don't have a problem now but will have one someday and the question is when. He added that dust, dirt, and sand on the roads contribute to 65% of air pollution and suggested exploring a covered truck ordinance. Mr. Klingenstein pointed out that auto emissions are not as significant a problem as it once was. He felt that there should be a ban on multi-family and would support a ban on all wood burning fireplaces; he didn't feel that he needed a scientific study to go forward with the ordinance.

3. Sexually oriented business ordinance. Planner Meg Ryan stated that the Planning Commission held a public hearing to determine the appropriate zones for SOBs and recommends that they be conditional uses in the General Commercial Zone with buffer zones from conflicting uses and residential zones. It was felt that there was a reasonable area where these businesses could locate. There was no input at the public hearing. Property owners in the GC Zone were contacted and individuals felt comfortable with the staff recommendation. Ms. Ryan continued that there will be a public hearing before Council on this matter on July 25. She explained that conditional uses require public hearings. Roger Harlan asked about residential areas in commercial zones, specifically the Homestake Condominiums, and Ms. Ryan responded that staff felt that the conditional use process would handle concerns of residents. One of the conditions of approval of a conditional use is neighborhood compatibility. Mark Harrington added that the Planning Commission had the same concern but felt comfortable with the conditional use process.

Mark Harrington discussed the enforcement side of the SOB Ordinance in the Municipal Code which has a long history and considerable public input. This draft addresses two major concerns, to simplify the ordinance as much as possible and to clean-up definitions. He clarified that the definition of adult motion picture theater has been rewritten to eliminate the reference of frequency of showings with a more accurate description of the type of films. Ms. Kerr

encouraged Mr. Harrington to contact Joe Tesch regarding these changes before the public hearing.

Review of regular meeting.

Outdoor dining and display ordinance. Pat Putt explained that Council reviewed this on May 2. Currently outdoor dining requires a conditional use permit and it is proposed to handle applications administratively with criteria to better accommodate processing. He continued that the LMC provides that the only outdoor use is outdoor dining with the caveat that an application can be made for a conditional use permit for other uses. After public input at the Planning Commission level, it was determined that the only other appropriate outdoor use is the storage of bicycles for rent which was considered by Council in May. However, after the public hearing was held by Council, staff was directed to consider other options. One was allowing the outdoor storage of canoes and kayaks and the other alternative was allowing certain non-motorized outdoor recreational craft, described as "A device or vessel designed for outdoor sport which is sat in or on not powered by a motor and requiring manual self-propel which is sold or rented on premise. This definition shall include kayaks, canoes, sailboards, sailboats, bicycles, unicyles, and river rafts. The definition does not include skis, snow boards, water skis, surf boards, inner tubes or other inflatable toys, in-line skates, ice skates, or skate boards". Mr. Putt clarified that there would be limits of display for each option. Roger Harlan expressed his concern about being specific about what is prohibited because it is very difficult to be all-inclusive. Ms. Kerr asked what option staff preferred. Mr. Putt explained that the fairness issue was the basis for the exemption of additional outdoor recreation devices. In response to a question from Mr. Daniels regarding the canoes stored on a trailer in front of Peak Performance, Mr. Putt explained that there currently is no criteria for amount of space for outdoor displays. If the ordinance is adopted, the criteria would prohibit display in a required parking space, required landscape areas, or public sidewalks. Hugh Daniels pointed out that Jans has bike displays on the landscaped grass area, and Ms. Kerr felt that this location should be encouraged. Mr. Putt felt that landscape area could exclude sodded areas, which would allow displays on the lawn, but would not disrupt landscape beds. In response to a question from Chuck Klingenstein, Mr. Putt explained that the Planning Commission did not consider alternative recreation devices as the primary focus was bicycles. Sidewalk sales were discussed, which would not be affected by the adoption of this ordinance. Shauna Kerr stated that for rent and/or sale was acceptable to her. Chuck Klingenstein emphasized that number allowed for display is important. Charlie Sturgis of White Pine Touring felt that ten is reasonable. There was discussion about the number of bikes which should be allowed from ten to twenty. Shauna Kerr felt that outdoor display should be limited to bikes, kayaks and canoes. Charlie Sturgis pointed out that if there haven't been complaints, then an ordinance may not be warranted; Ms. Kerr responded that businesses that have been cited have complained about the equity issue. There was again discussion of the number of bikes and canoes/kayaks and it was the consensus to allow 15 bikes. Three kayaks or canoes could be allowed but would be subtracted from the allowable 15 total. Landscape areas were again discussed, and Mr. Kerr expressed her concern with the language "required" landscaping, as older businesses may not be conditioned. Chuck Klingenstein felt that private sidewalks should not be

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obstructed, so that access is safer for pedestrians. Mr. Putt discussed an option, ultimately rejected by the Planning Commission, which would have allowed up to 100 square feet of display area under a canopy in a recessed area.

Consent agenda. In response to a question from Roger Harlan, Mark Harrington explained the Doc Holiday civil complaint. Toby Ross clarified that the expenditure for the purchase of the transit buses is budgeted. See regular meeting minutes and back-up material.

Prepared by Janet M. Scott

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 11, 1996**

I ROLL CALL

Mayor Pro Tem Roger Harlan called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 11, 1996. Members in attendance were Hugh Daniels, Roger Harlan, Shauna Kerr, and Chuck Klingenstein. Mayor Brad Olch and Paul Sincok were excused. Staff present were Toby Ross, City Manager; Pat Putt, Planning and Zoning Administrator; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

The Mayor Pro Tem invited the public to comment on any matter not scheduled on the agenda:

1. Request for outdoor vending business. A gentlemen identified himself as Daniel from Switzerland. He stated that he would like to start a mobile food business or outdoor food vending business in Park City. He stated that these types of businesses are popular in resort communities in Europe and understood that it is not currently allowed under City ordinances. The Mayor Pro Tem encouraged Daniel to make an appointment with the Legal Department staff. Chuck Klingenstein pointed out that an ordinance change may take some time because of demands on staff. Ms. Kerr explained the recent ice cream truck vending request.

2. Wolf Mountain master plan meetings. Hoyt Cousins reported that meetings will be held from July 12 to July 18 and explained in detail the sessions scheduled for the week. He emphasized that this is an extremely participative effort through its structure and urged Council to attend.

3. Outdoor climbing tower. Charlie Sturgis of White Pine Touring stated that he approached Pat Putt regarding the possibility of a 20 foot portable outdoor climbing tower, which is not regulated by any existing ordinance, Mr. Sturgis asked for Council's opinion. In response to a question from Ms. Kerr regarding location, he suggested the rear lot of his business or the Marriott Plaza. He added that control is a very important factor and its location should not be high profile. Mr. Sturgis felt that this is an important amenity. Ms. Kerr compared this use to trampolines at the Resort Center. Mr. Harrington clarified that the Legal Department has not reviewed this request yet. Chuck Klingenstein added that the School District and Recreation Department are considering climbing walls as well.

With no further comments, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Swearing-in of police officers - Mayor Pro Tem Harlan swore in Park City's newest officer, Don C. Terry.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 20, 1996

Hugh Daniels, "I move approval of the work session notes and minutes of the meeting of June 20, 1996". Chuck Klingenstein seconded. Motion carried.

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

V CONSENT AGENDA

Shauna Kerr, "I move approval of Consent Agenda Items 1 through 4". Chuck Klingenstein seconded. Motion carried.

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

1. Sweeney corrective deed at Treasure Hill Subdivision - See staff report.
2. Authorization for Mayor to execute quit claim deed (Daffern claim - Colman property) - See staff report.
3. Authorization to file civil complaint on 2254 Doc Holiday Drive - See staff report.
4. Vehicle replacement for transit buses in an amount not to exceed \$880,000 - See staff report.

VI NEW BUSINESS

An Ordinance amending Chapter 7 of the Land Management Code of Park City, Utah to clarify prohibitions on the outdoor display of merchandise and storage and to allow the administrative approval of outdoor dining areas and storage of rental bicycles in the HCB, HRC, GC, HR-2 AND RCO Zones - Pat Putt, Zoning and Planning Administrator, explained that the amendment will affect outdoor dining, making it an administrative approval with criteria and changing it from a conditional use approval requiring Planning Commission review. The second feature of the amendment deals with allowable outdoor uses which would be limited to outdoor display of rental bikes, kayaks and canoes. As discussed in work session, there could be no more 15 pieces of equipment of which up to three can be canoes and/or kayaks. Areas for the proposed storage is limited to private property and not on public rights-of-way, required parking areas, or in landscaped bedding areas. These proposed amendments do not affect sidewalk sales or seasonal sales of plants.

Shauna Kerr stated that if restaurants are approved for outdoor dining, they increase their seating capacity and resulting parking demands. She emphasized that this is a concern for her and felt that there should be a requirement for a parking fee in the future. Mark Harrington clarified that the City considers outdoor dining in parking requirements but if the location is within the two

floor exemption area, there is no trigger for a parking requirement. Mr. Putt added that there are probably five applications and there must be a seating plan submitted; he estimated an average of four tables per permit. Ms. Hoffman suggested having a parking mitigation plan as a part of the application, retiring a certain number of indoor seats for the outdoor seats. Roger Harlan recommended that total seating capacity, indoor and outdoor, cannot exceed the state imposed limit. Shauna Kerr added that if it is exceeded, that an in-lieu fee be imposed. The City Manager felt that the expansion of outdoor dining could be addressed in the temporary zoning ordinance for parking which will be considered next week. There was discussion about including a parking mitigation plan in this amendment. Chuck Klingenstein supported the direction of the administrative process. Ms. Hoffman added that staff is exploring the transition of other processes but this is a new policy objective of this Council; there was a strong preference for Planning Commission review in lieu of an administrative process by previous councils.

Hugh Daniels, "I move that we approve an Ordinance amending Chapter 7 of the Land Management Code of Park City, Utah to clarify prohibitions on the outdoor display of merchandise and storage and to allow the administrative approval of outdoor dining areas and storage of rental bicycles in the HCB, HRC, GC, HR-2 and RCO Zones, as presented in our packet with the following amendments. Under Section 7.2.5(b) Outdoor Storage of Rental Bicycles, we will add "kayaks and canoes". The outdoor storage of rental bicycles, kayaks and canoes may be permitted in the Historic Commercial Business District submit to all requirements of this code, including. Under Subsection 1, the area proposed, we'll strike bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaped bedding. We'll add to the second part, bicycles, kayaks and canoes. And we'll add a Section 4 that says no more than a total of 15 pieces of equipment are displayed; no more than three of which may be kayaks or canoes, and those same amendments will continue through the ordinance replacing similar items as it runs through the ordinance". Ms. Kerr suggested another feature of the motion, "it would be in the caption of this ordinance where we call it bicycle rental, because we are now talking about rental and sale of bicycles, canoes, and kayaks so we will need to change it in the caption of the ordinance as well". Mr. Daniels continued with his motion, "and further, under Section 7.9.5(b) which is general commercial uses to be within an enclosed building concerning outdoor dining, we would add after (b)6 or replace number 7, saying outdoor dining capacity does not increase the total seating capacity of the restaurant without adequate mitigation of the increased parking demand and then renumber number 7, to number 8 which starts outdoor grills". Shauna Kerr seconded. Motion carried.

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

VII ADJOURNMENT

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

* * * * *

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City Council Meeting
July 11, 1996

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

Prepared by Janet M. Scott

Janet M. Scott, Deputy City Recorder

MEMORANDUM

PARK CITY PLANNING DEPARTMENT

TO: Mayor and Park City Council
FROM: Kirsten Whetstone, City Planner
DATE: July 5, 1996
RE: Wood burning Ordinance Discussion at July 11, 1996 work session

On Wednesday, July 10, 1996 the Planning Commission will hold a public hearing to receive input on the proposed Land Management Code amendments regarding the proposed wood burning ordinance. On July 11, the following evening, the item comes before the Council in work session. Please see attached the proposed ordinance. At this work session, staff will summarize the previous evening's public hearing and update you on the Planning Commission's recommendation. Please be prepared to give staff direction and input on this proposed ordinance. A public hearing before Council is tentatively scheduled for August 1, 1996.

Briefly, the proposed wood burning ordinance requires all new solid fuel burning devices, ie wood, pellet, etc. to be EPA (Environmental Protection Agency) Phase II certified devices. Open fireplaces are not considered to be certified devices. The ordinance allows one EPA certified wood burning device per single family and duplex dwelling unit and prohibits them in multi-family and condominium units, except that one EPA device may be installed in a common area or lobby. Existing wood burning or other solid fuel burning devices will be legal non-conforming uses which may remain, unless the structure is substantially destroyed or altered, in which case the dwelling must conform to the requirements of this ordinance. There is no proposed limitation on the number of gas fireplaces, gas logs, or decorative gas or other non-solid fuel burning devices.

**AN ORDINANCE AMENDING SECTIONS 2 AND 8 OF
THE LAND MANAGEMENT CODE OF PARK CITY
REGARDING THE REGULATION
OF SOLID FUEL BURNING DEVICES AND GAS APPLIANCES
IN ALL ZONING DISTRICTS**

WHEREAS, one of the leading causes of residential fires in Park City is consistently associated with wood burning devices; and

WHEREAS, improperly discarded ashes have caused considerably more fire loss in Park City than any other fireplace related incident; and

WHEREAS, the frequency of residential fires associated with multiple family apartments and condominiums is greater than that associated with single family and duplex residences; and

WHEREAS, the City Council has determined that it is necessary to reduce fire potential and loss by reducing the number of solid fuel burning devices as the community grows; and

WHEREAS, the City desires to insure long-term quality of the pristine mountain air, water, natural vegetation and wildlife; and

WHEREAS, Park City is a resort community and much of the community's economic well being is dependent on its appeal as a year-round destination; and

WHEREAS, the City considers visually clean air to be an irreplaceable asset enjoyed by guests and residents of Park City; and

WHEREAS, it is in the long term interest of current and future citizens as well as visitors to Park City to maintain or improve current levels of air quality.

WHEREAS, the City Council has determined that it is necessary to encourage environmentally beneficial technologies to prevent further degradation of the air quality in Park City; and

WHEREAS, it is in the best interest of Park City and for the protection of the health, safety, and general welfare of its citizens to reduce the potential for fire loss from solid fuel burning devices and improper disposal of ashes, and to prevent further degradation of the air quality; and

WHEREAS, legal notice was duly published and public hearings were held before the Planning Commission on July 10, 1996, and before the City Council on ?, ? 1996;

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

SECTION 1. AMENDMENT TO CHAPTER 2 OF THE LAND MANAGEMENT CODE. With regard to fire prevention and air quality, Chapter 2 is hereby amended as follows, to add in alphabetical order the following words and definitions:

Alternative Device. Any non-Solid Fuel Burning device, approved by the Building Official, that operates with non-solid fuel (gas, liquid, electricity, etc.) to produce heat.

Fireplace. Any open hearth, framed opening or fire chamber built in conjunction with a chimney to hold a fire.

Gas Appliance. A fully self-contained, Listed "fireplace" unit which does not require venting through a chimney and which does not permit the use of solid fuel. These units must comply with all requirements of applicable building codes.

Gas Log Fireplace. A Fireplace equipped with a Listed artificial log unit which is approved for the burning of natural gas. These units must comply with all requirements of applicable building codes.

Listed. Refers to equipment or materials included in a list published by an approved testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of current productions of listed equipment or materials.

Lobby. The entrance, check-in, foyer or waiting room of: 1) any lodge, hotel, or motel; 2) a condominium or multi-dwelling project.

Phase II Certified Solid Fuel Burning Device. Any solid fuel burning device which is certified by the Environmental Protection Agency which produces 7.5 grams of particulate per hour or less. This shall include both catalytic and non-catalytic Phase II as well as pellet burners or any other technology that can meet these emission criterion.

Refuse. Materials that produce large amounts of smoke, particulate, and odors when burned, including but not limited to tires, plastics or other petroleum based products, solid wastes, garbage and rubbish, whether combustible or non-combustible.

Solid Fuel Burning Device. Any Fireplace, stove, firebox or other device used for the purpose of burning wood, pellets, coal, pulp, paper or other non-liquid or non-gaseous fuel.

SECTION 2. AMENDMENT TO CHAPTER 8 OF THE LAND MANAGEMENT CODE.

Chapter 8 is hereby amended to add a new Section 8.30 which reads as follows:

8.30 REGULATION OF SOLID FUEL BURNING DEVICES AND GAS APPLIANCES.

(a) Prohibited Solid Fuel Burning Devices and Uses.

1. Except as permitted below, no Solid Fuel Burning Devices may be constructed or installed within any Structure.
2. The burning of Coal is prohibited unless it can be burned in a manner to conform to EPA emission standards for Phase II Certified Solid Fuel Burning Devices, or if it is the only source of heat for the structure.
3. The burning of Refuse in any Solid Fuel Burning Device is prohibited.

(b) Permitted Phase II Certified Solid Fuel Burning Devices, Gas Log Fire Places and Gas Appliances.

Phase II Certified Solid Fuel Burning Devices, Gas Log Fire Places and Gas Appliances that conform to the Uniform Mechanical Code, are permitted in all zones subject to the following provisions:

1. Single family homes and duplex dwelling units shall not contain more than one Phase II Certified Solid Fuel Burning Device per unit.
2. Multi-dwelling structures, including any triplex, four-plex, or any building containing more than two dwelling units, such as condominium, townhouse and apartment buildings, shall not contain more than one Phase II Certified Solid Fuel Burning Device. The device must be located in the Lobby or common area of the project. No Phase II Certified Solid Fuel Burning Device may be located in individual dwelling units of any multi-dwelling structure.
3. Restaurants, bars, and other commercial or retail uses shall not contain more than one Phase II Certified Solid Fuel Burning Device.
4. An unlimited number of Gas Log Fire Places and Gas Appliances, or other Alternative Devices approved by the Building Official, are permitted within all Structures, subject to the Uniform Mechanical, Fire and Building Codes.
5. All other Fireplaces are prohibited.

(c) Non-conforming Devices, Fireplaces, and Appliances

1. Non-conforming Fireplaces, Gas Log Fire Places, Gas Appliances, Solid Fuel Burning Devices or other solid, liquid or gas burning devices lawfully constructed and installed prior to the effective date of this Section may continue in operation.
2. No existing non-conforming Fireplaces, Gas Log Fire Places, Gas Appliances, Solid Fuel Burning Devices or other solid, liquid or gas burning devices shall be moved or structurally altered unless it is modified to comply with all provisions of this Section.
3. Whenever any Structure is substantially destroyed or altered by greater than 50% of the prior floor area, whether by intent of owner or by natural disaster, the new or revised Structure must meet all provisions of this Section.
4. The City shall encourage the conversion of non-conforming Fireplaces, Gas Log Fire Places, Gas Appliances, Solid Fuel Burning Devices, and other non-conforming solid, liquid or gas burning devices in the Historic District by accepting and reviewing grant applications for remodels which replace non-conforming devices with conforming devices.

(d) Building Permits

A building permit shall be required for the installation, modification or repair of any Fireplace, Gas Log Fire Place, Gas Appliance, Solid Fuel Burning Device or other solid, liquid or gas burning device. All Gas Log Fire Places and Gas Appliances must be approved by the Building Official for use at high altitude, prior to installation.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this __ day of August, 1996.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

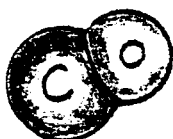
Approved as to form:

Mark D. Harrington, Assistant City Attorney

What is Woodsmoke?

**It is Fuel from Your Firewood Which Escaped Burning --
And it is Air Pollution!**

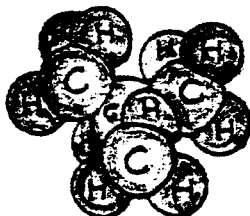
Complete combustion gives off light, heat and the gases carbon dioxide and water vapor. Smoke contains these gases and the following unburned pollutant gases:



CO - carbon monoxide - produced in large amounts by burning without enough air, CO reduces the blood's ability to supply **oxygen** to body tissues. Small amounts in the air can stress your heart and reduce your ability to exercise. Those most at risk from CO poisoning are the unborn child and people with heart, circulatory or lung disease, or anemia.



NO_x - oxides of nitrogen - nitrogen dioxide (NO₂) and nitric oxide combine with hydrocarbons to make ozone and with water vapor to form **acid rain** or acid fog. NO₂ may lower a child's resistance to lung infections.



HC - hydrocarbons - evaporated carbon compounds (some toxic - see below) which react with NO_x in sunlight to form ozone, or photo-chemical **smog**. Ozone injures the lungs and makes breathing difficult, especially in children and exercising adults.

Woodburning also produces **Particulate Matter (PM)**, microscopic solid or liquid particles. **Most smoke particles are VERY small droplets of condensed hydrocarbon vapors (wood tars and gases), unburned fuel which escaped from the fire.** Other smoke particles include **soot** (unburned carbon) and **ash** (unburnable minerals). Most smoke particles average less than one micron (1 millionth of a meter) in size. Their very small size and weight allow them to remain airborne for weeks, and, when inhaled, they travel easily deep into the lungs. Inhaled smoke particles may be trapped in your lungs for years, leaking their "cargo" into nearby blood vessels, causing coughing, lung changes, chronic lung diseases, and cancer.

Smoke Contains Toxic Pollutants

Woodsmoke also contains hydrocarbons which have been changed in the fire into toxic or cancer-causing substances such as **benzene, formaldehyde** and **polycyclic organic matter (POM)** which can cause cancer even in small amounts. Researchers are now studying these and other smoke products to learn more about their effects on human health.



Why Worry About Air Pollution?

Air pollution affects millions of ^{Americans} ~~people~~ every day. It damages our health, our crops, our property and our environment. Vehicles and industries produce most of the air pollution in the cities. Air pollution from agricultural burning and nearby cities is carried into rural areas by the wind. But in neighborhoods everywhere across ~~the USA~~ the USA residential woodburning is a growing source of air pollution. Most wood heaters (woodstoves and fireplaces) release far more air pollution, indoors and out, than heaters using other fuels. And woodsmoke reduces visibility and air quality significantly in areas where many woodstoves and fireplaces are in use.

The Compliance Assistance Program at the California Air Resources Board and your local air pollution control district are asking you to **help clear the air of woodsmoke**. In this handbook you will find information about the air pollutants in woodsmoke, their health effects, how wood burns, why it smokes and how you can produce less woodsmoke. You can make a difference!



Take These Steps To Reduce Woodsmoke Pollution!

1. Don't Burn Wood on a No-Burn Day When the Air Quality is Poor.

2. Burn Less Wood:

- Reduce your heating needs by weatherizing your house (page 4).
- Use a cleaner, and maybe cheaper, fuel to heat your home (page 13).
- Convert your fireplace to gas with a new gas fireplace insert (page 6).
- Replace your old woodstove or fireplace with a new certified model, and get more heat while burning less wood (page 8).

3. Change the Way You Operate Your Stove or Fireplace:

- Burn only clean, dry wood and nonglossy white paper (page 10).
- Build small, hot fires instead of large smoldering ones (page 10).
- Burn mostly seasoned hardwoods (page 9) and firelogs (page 6).
- Watch your chimney for smoke (page 11).
- Follow your woodheater's operating instructions carefully (page 11).
- Inspect often, keep your woodheater and chimney in top shape (page 12).

Smoke Hangs Around in Winter

Cold nights, with little wind - common weather conditions in winter months when we heat our homes - often cause smoke and other air pollution to accumulate close to the ground overnight. These stagnant conditions can last for days.

This is a big problem in California valleys. As night falls, ground level air cools and cold air also slides down the valley walls, pooling on the valley floors. With little or no wind **temperature inversions** can then occur - warm air layers act as a lid over the cold air in the valleys, trapping smoke and other air pollution close to the ground. And, as home heating systems operate mainly in the evening, **the smoke from stoves and fireplaces remains at ground level and collects overnight in the air you and your neighbors must breathe.**

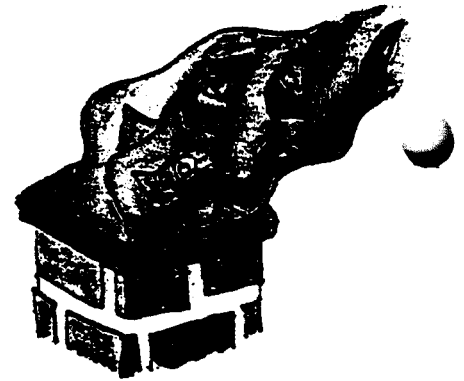


Don't Smoke Your Neighbors Out!

The air pollution problems that people complain about the most are odors and **reduced visibility**. Smoke from neighborhood stoves and fireplaces is a common source of both of these annoyances. Their nuisance value must be added to the health-related problems caused by breathing in smoke pollutants. So be a good neighbor and burn correctly.



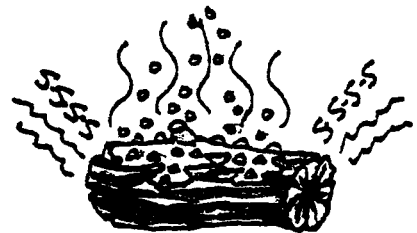
Most Fireplaces and Older Woodstoves Are Expensive Heaters Because They Turn a Large Part of Your Firewood Into Smoke Instead of Heat!



Why Does This Happen? Because of the Way Wood Burns -

Wood burns **completely** only at **very high temperatures** with enough **oxygen** present. The fuel, the heat, and the oxygen have to be mixed together in the same place at the same time. Although all stages of burning may actually occur in different areas at the same time on a burning log, let's place a "demonstration" log on a hot fire. As its temperature rises, it will "burn" in three stages:

1. **Boil Off Water** - moisture in the log evaporates as it heats up and hisses and bubbles out through the log's surface as water vapor. This takes longer and **uses up lots more heat energy** if the log isn't really dry. *That heat energy could be warming your house instead of drying your wood before it will burn.*



2. **Vaporize Wood Gases** - before burning, firewood "cooks" and forms hundreds of new hydrocarbon gases and tars plus charcoal (carbon). The gases and tars, a large part of your wood, vaporize in the heat and stream out of the log in a "wind" of organic gases. They **escape up the flue** because the log temperature at this stage is too low to burn them. *As they cool, some of the gases will combine with water vapor to form highly flammable **creosote** that sticks to the flue walls; other gases condense into smoke particles.*



3. **Burn Log Charcoal** - above 600° F the log "catches fire" and the escaping gases start burning, ignited by nearby flames, but the log charcoal doesn't start to burn and emit heat until the log reaches 1000° F. **Burning the charcoal remainder of the log produces most of the fire's useable heat.** *Most of the log's gases and tars will escape unburned; there's still not enough heat or oxygen this close to the log to burn them. They don't ignite before reaching 1100° F, and then **only** with enough **oxygen** present.*



Most Fireplaces Are Not Good Heaters

Most fireplaces rob your house of heat because they draw in lots of the air you've paid to heat and send it up the chimney! Yes, you'll be warmed if you sit within six feet of the fire, but the rest of your house is getting **colder** as outdoor air leaks in to replace the hot air going up the chimney.

Most fireplaces waste wood because with unrestricted air flow, the vaporized wood gases and tars cooked out of your logs go right up the chimney as **smoke**. And all that air helps the fire **burn fast**, so a load of wood lasts only one or two hours.

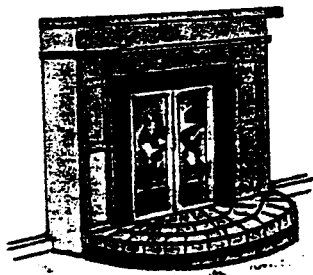
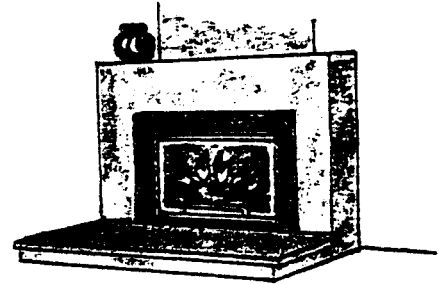
Most fireplaces can pollute more if you install glass doors or a fireplace insert that is not a new, certified clean-burning model. Restricting the air supply reduces the available oxygen and causes the fire to smolder and smoke.



You Can Clean Up Your Air Guzzling Fireplace!

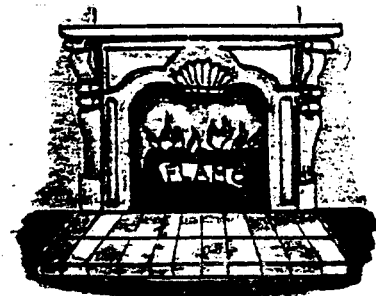
Switch to Gas. Gas fireplaces are gaining in popularity. The new models look like a real wood fire! They are self-contained units which can be fitted into your existing masonry fireplace. They send less of your heated air up the chimney.

This equipment burns cleaner, is easy to start, convenient and inexpensive to operate, and is a good source of heat.



Certified Woodburning Fireplace Inserts have been developed which meet federal emission standards and provide high fuel efficiency. They are available in many sizes and styles to fit into your masonry fireplace. **They provide excellent fire viewing and heat output with very little smoke.**

Rarely Use Your Old Fireplace? You can still reduce heat loss and air pollution from your fireplace by burning **firelogs**. Made of dry, pressed sawdust (some contain wax), these "logs" burn slowly at high temperatures, producing less smoke and sending less air up the chimney. **Do not burn these logs in your metal fireplace or woodstove, however - they burn too hot.**



Heating Efficiency

The heating efficiency of any wood heater depends on two factors:

1. How completely it burns the firewood (combustion efficiency); plus
2. How much of the fire's heat gets into the room, rather than going up the flue (transfer efficiency).

How efficiently your heater operates depends on 2 more factors:

1. It's installation - located on an outside wall? Too big for house? Flue draws well?
2. How it's operated - Wood green? Stove stuffed with wood? Fire starved for air?

Operating techniques account for the largest variations in a stove's heating efficiency.

How Much Heat Do You Get?

Masonry Fireplace	-10% to 10%
Manufactured Fireplace	-10% to 10%
Freestanding Fireplace	-10% to 30%
Fireplace Insert	35% to 50 %
Antique Stove	20% to 40%
Airtight Stove	40% to 50%
Certified Stoves, Inserts, Fireplaces	60% to 80%

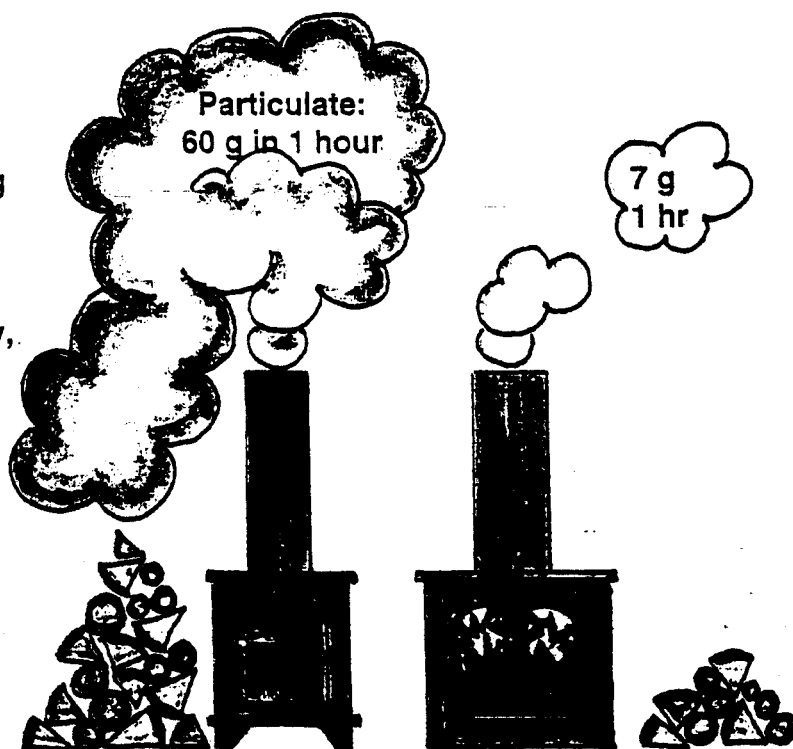
Treat Yourself To A New EPA Certified Stove -

Old stoves waste 30-60% of your wood. If your stove is more than a few years old and is not EPA certified, you should seriously consider buying a new certified woodstove.

It will burn all of your wood, increasing combustion efficiency, producing far less smoke and creosote buildup, and reducing air pollution.

It incorporates the latest and best technology available on transfer efficiency, and will provide more heat for your house and less for your flue!

Burn two cords instead of three and get the same amount of heat!

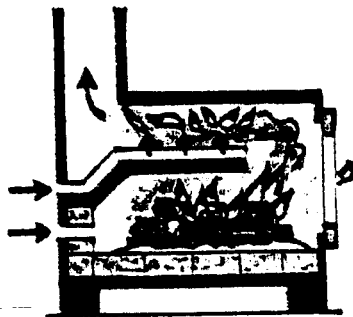
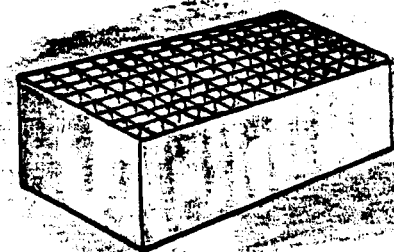


It Will Help Pay For Itself in Fuel and Cleaning Savings!

EPA Certified Stoves Heat More and Pollute Less

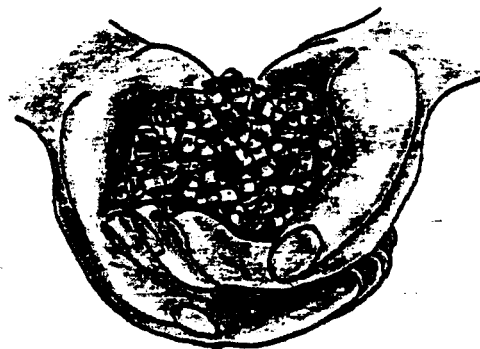
Since 1988, the manufacture and sale of new woodstoves and fireplace inserts in the USA has been regulated by the EPA (Environmental Protection Agency). Tighter standards (Phase II certification) became effective on July 1, 1990. The certified stoves heat better with less wood because they burn the combustible gases that become smoke in fireplaces and older stoves. There are three new stove designs to choose from:

Catalytic Stoves - similar to the smog device on new cars, the catalytic combustor in these stoves allows the volatile gases to burn at lower temperatures. Smoke passes through a ceramic honeycomb coated with a rare-metal catalyst, which allows complete smoke combustion and heat release at 500-700° F. Their efficiency does drop over time and the catalyst device requires replacement after about 1200 hours of use.



Noncatalytic Stoves - these stoves are designed with baffles and/or secondary combustion chambers which route the burnable gases through the hottest part of the firebox and mix them with sufficient air to burn them completely.

Pellet Stoves - the most efficient and least polluting of the new stove designs, this stove has some moving parts and does require electricity to operate. Measured amounts of the pelleted fuel (compressed wood waste) automatically feed into the firebox. A fan blows in combustion air and the fire burns hot and clean. Another fan blows heated air into the room.



Look for the Permanent EPA Label on the Stove Before You Buy!

And have a professional installer size the stove and design the chimney for safety and maximum efficiency.

State and Local Woodburning Regulations

Some California cities and counties have already enacted local ordinances to limit the growing woodsmoke problem. Mammoth Lakes, Squaw Valley, Cloverdale, Healdsburg, and Fresno permit installation of only EPA certified wood-fired appliances in all new construction. Mammoth Lakes bans woodburning when the air quality is poor, and the Bay Area Air Quality Management District may adopt a similar voluntary program on poor air quality days.

Future Woodburning Regulations?

The California Air Resources Board has suggested the following air pollution control measures for residential woodburning. The local California air pollution control agencies may adopt these and/or other regulations as they find it necessary:

- **Develop A Public Awareness Program** encouraging cleaner woodburning practices, including information on proper operation and maintenance of wood heaters, proper fuel selection and use, the health effects of wood smoke, weatherization methods for homes, and determining the proper size of the heater needed before purchase and professional installation.
- **Replacement of Non-Certified Wood Heaters Required** upon sale of any residential, commercial or industrial property before completion of escrow.
- **Restrict the Sale and Installation of Used Wood Heaters.**
- **Limit the Moisture Content of Wood Advertised as "Seasoned"** to 20% or less moisture by weight.
- **Prohibit the Burning of Certain Materials** such as garbage, treated wood, plastic, rubber, petroleum products, paints, solvents, and high-sulfur coal.
- **Voluntary No-Burn Days for Uncertified Stoves and Fireplaces** during periods with unhealthful air quality.

Your state and local air pollution control agencies urge you to burn clean, burn safe, and burn smart - and to choose not to burn when air quality is already poor.

For more information contact your local building inspector, fire department, county agricultural extension office, woodstove retailer, chimneysweep, or air pollution control office.



CITY COUNCIL REPORT

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

SUMMARY RECOMMENDATIONS: Discuss the proposed Ordinance prior to the public hearing scheduled on July 25, 1996 and direct staff as to any modifications or changes.

DESCRIPTION:

A. Topic.

Sexually Oriented Business zoning ordinance.

B. Background.

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

C. Analysis.

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

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

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

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

Proposed Land Management Code Amendment

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

The proposed ordinance amending the LMC would specify that SOBs are Conditional Uses in the General Commercial (GC) zone (see map attached as "Exhibit C") and would

amend the Land Use Table accordingly. The GC zone was chosen for its location which is not as near to residential locations in town, nor near religious or educational institutions as other zones might be. The GC zone's proximity to these areas will be addressed by a 300' buffer zone as described below.

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

D. Department Review.

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

PUBLIC INPUT

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

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

SIGNIFICANT IMPACTS:

The new licensing procedure and zoning may mean the opening of a SOB within Park City. The zoning and conditional use process would minimize the impact of such businesses and maintain the City's primary objective of keeping secondary effects of SOBs out of the main business, residential and tourist areas of the City. No applications will be processed until the LMC is amended to specify zoning and conditional use

criteria. Staff will propose a Fee Resolution amendment to include this conditional review process once the LMC amendment is scheduled for Council action.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

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

RECOMMENDATION:

Discuss the proposed ordinance which establishes new zoning for SOBs in the Land Management Code and direct staff as to any proposed changes or modifications prior to the public hearing on July 25, 1996.

EXHIBITS

Exhibit A - Proposed Ordinance

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

Exhibit C - Proposed zoning District with 300' buffer radius

EXHIBIT A

Ordinance No. 96-__

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

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

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

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

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

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

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

(1) No Sexually Oriented Business shall be located:

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

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

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

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

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

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

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

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

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

PASSED AND ADOPTED this ____ day of July, 1996.

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark Harrington, Asst. City Attorney

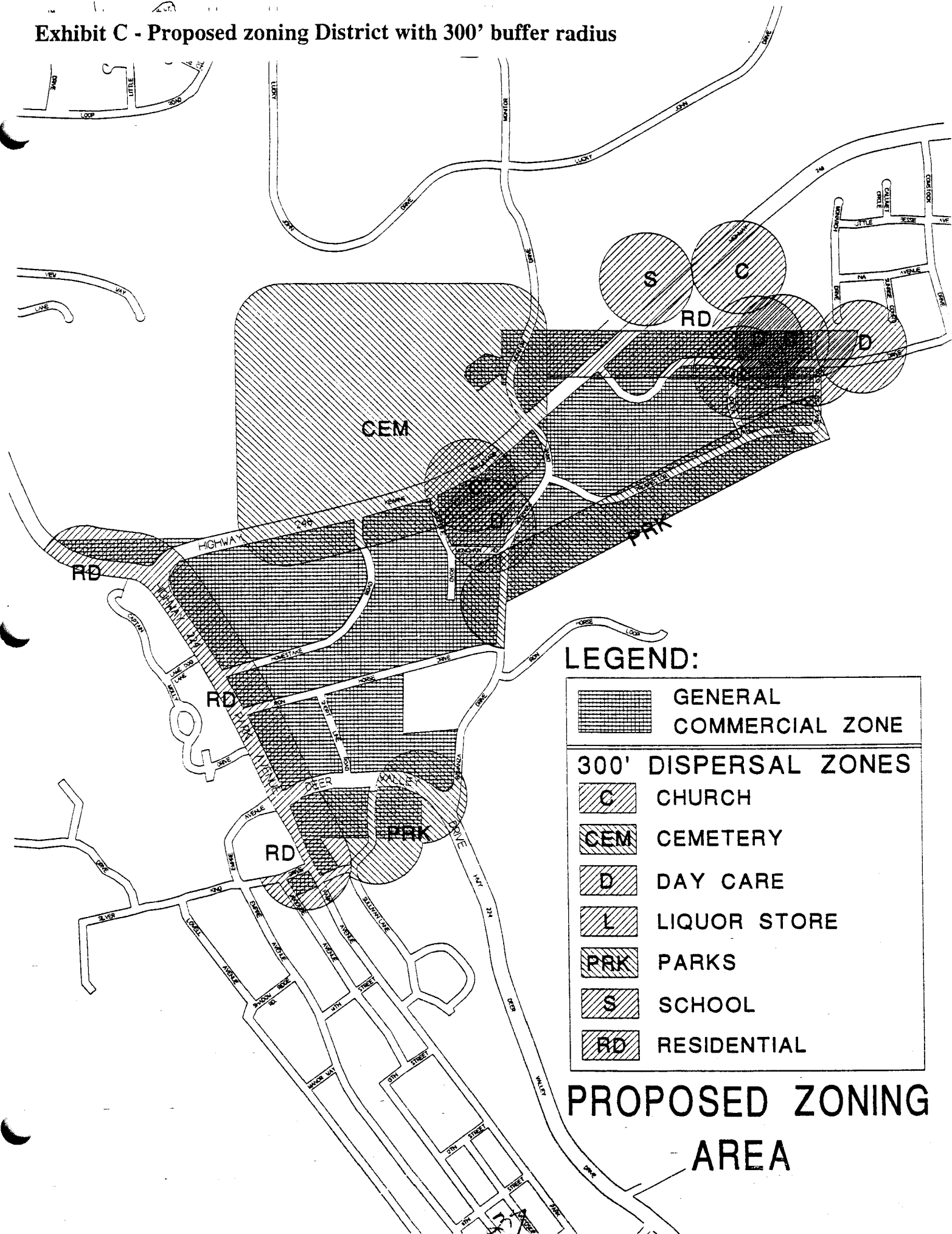
Exhibit B - Survey of other Municipalities in regards to SOB zoning

The following cities have zoning regulations to prohibit sexually oriented businesses

No sexually oriented business shall be located:

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

Exhibit C - Proposed zoning District with 300' buffer radius



LEGEND:

	GENERAL COMMERCIAL ZONE
300' DISPERSAL ZONES	
	C CHURCH
	CEM CEMETERY
	D DAY CARE
	L LIQUOR STORE
	PRK PARKS
	S SCHOOL
	RD RESIDENTIAL

PROPOSED ZONING AREA



DATE: July 11, 1996
DEPARTMENT: Legal
AUTHOR: Mark Harrington
TITLE: Amendment of Title 4, Chapter 9 of the Municipal Code of Park City regulating Sexually Oriented Businesses (SOB); and Section 8-4-20, Lewdness, of the Criminal Code
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Hold a work session on the proposed amendments to the code sections regarding Sexually Oriented Business licensing and Lewdness, and direct staff accordingly.

DESCRIPTION:

A. Topic:

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

B. Background:

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

C. Analysis:

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

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

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

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

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

D. Department Review:

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

ALTERNATIVES:

A. Provide staff with direction regarding any additional changes that the Council deems necessary.

B. Continue the Item. If the Council would like more information on this matter, it may postpone action on the ordinance (Action and a public hearing are currently scheduled for July 25th).

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

RECOMMENDATION: Provide staff with direction regarding any additional changes that the Council deems necessary.

ORDINANCE 96-___

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

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

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

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

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

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

WHEREAS, licensing and zoning are legitimate and reasonable means of time, place and manner regulations to ensure that operators of Sexually Oriented Businesses comply with

reasonable regulations and to ensure that Operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

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

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

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

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

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

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

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

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

CHAPTER 9 - SEXUALLY ORIENTED BUSINESSES

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

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

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

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

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

- (1) Holds itself out ~~as to be~~ such a business; or
- (2) ~~Excludes minors from~~ For more than thirty (30%) percent of the retail floor or shelf space of the premises; or

(3) ~~Which as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas", or instruments, devices or paraphernalia which are designated for use in connection with "specified sexual activities", except for legitimate medically-recognized contraceptives.~~

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

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

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

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

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

- (1) Holds itself out as such a business; or

(2) Regularly features persons who appear in a State of Nudity or live performances which are primarily characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

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

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

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

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

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

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

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

(G) **OPERATOR** - the manager or other natural person principally in charge of a ~~S~~sexually ~~O~~riented ~~B~~usiness.

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

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

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

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

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

(M) **SPECIFIED SEXUAL ACTIVITIES** means:

(1) Acts of:

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

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

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

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

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

Notwithstanding anything contained in this section, nothing in this section shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of the Criminal Code, Section 8-4-20 "Lewdness". Provided, however, that for the purpose of Sexually-Oriented Businesses, the definition of "private parts" shall be construed to mean "Nudity" as defined in this section.

~~4- 9- 6. **LOCATION AND ZONING RESTRICTIONS.** It shall be unlawful~~

~~for any Sexually Oriented Business to do business at any location within the City not zoned for such business. Sexually Oriented Businesses licensed pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to Chapter 7 of the Park City Land Management Code.~~

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

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

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

4- 9- ~~910~~. **BUSINESS CATEGORIES; SINGLE LICENSE.** It is unlawful for any business premises to operate or be licensed for more than one category of Sexually Oriented Business. The categories of Sexually Oriented Businesses are:

- (A) Adult Businesses.
- (B) Semi-Nude Entertainment Businesses.
- (C) Semi-Nude Dancing Agency.

4- 9- ~~1011~~. **LICENSE APPLICATION; DISCLOSURE.** Before any applicant may be licensed to operate a Sexually Oriented Business pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the Park City Business License Officer, the following:

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

(B) If the applicant is a corporation, partnership or limited partnership or individual or entity doing business under an

assumed name the information required below for individual applicants shall be submitted for each partner and each principal of an applicant and for each officer or director. Any holding company, or any entity holding more than ten percent of an applicant, shall be considered an applicant for purposes of disclosure under this chapter.

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

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

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

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

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

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

(~~GH~~) All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or

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

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

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

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

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

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

(4) the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the

transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

(J) It is unlawful to knowingly submit false or materially misleading information on or with a Sexually-Oriented Business license application or to fail to disclose or omit information for the purpose of obtaining a Sexually-Oriented Business license.

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

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

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

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

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

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

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

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

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

(E) The premises to be used for the business have ~~has~~ been disapproved by the Summit County Health Department, the Fire

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

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

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

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

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

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

(i) Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) ~~The diagram required shall not necessarily be a professional engineer's or architect's blueprint;~~ however, the diagram must show marked internal

dimensions, all overhead lighting fixtures and ratings for illumination capacity.

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

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

4- 9-~~1819~~. **SEMI-NUDE ENTERTAINMENT BUSINESS; INTERIOR DESIGN**
Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high. It is unlawful for business premises licensed for Semi-Nude Entertainment to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Exhibitions or dances which are not Obscene.

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

PASSED AND ADOPTED this ____ day of July, 1996.

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark D. Harrington, Asst. City Attorney

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 20, 1996

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

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Tom Bakaly, Finance Manager; Frank Bell, Chief of Police; Janice Lew, Planner; Eric DeHaan, City Engineer; Meg Ryan, Planner; and Tom Bakaly, Finance Manager

Gary Sanders and Andrew Volkman, Arts Festival; Joann Krajewski, SOS Foundation; Burke Jolley, Acting School District Superintendent; Gary Accord, District architect

Absent: Chuck Klingenstein

1. Council questions and comments. Paul Sincock indicated that the Board of Health received an opinion from the County Attorney questioning the ability to impose pollution standards when pollution doesn't exceed a federal standard. This may mean that some legislation needs to be introduced to change this law and Representative Ure indicated that he will support it. The McLeod Creek park improvements were discussed. Hugh Daniels reported that he has received a number of calls about construction noise and a call from Ken Schakelford about some budget items regarding the golf course. There was discussion about the schedule for various upcoming meetings.

With regard to the restaurant tax application for the tree planting project which was recently denied by the County Commission, Hugh Daniels who also serves on the grant committee, explained that a letter will be sent to the Commissioners from the committee. The Restaurant Tax Committee is concerned about how the Deputy County Attorney arrived at his decision which did not involve the committee or its policy. Another concern was that the Commissioners did not understand the requests from both for the School District and for the City. The School District's application for the pool would increase the public's use for recreation, clearly allowed by the statute. It was the committee's intent with the irrigation for the trees that that was in conjunction with Olympic Parkway and an adjunct to the bike paths designed around the project as a part of the City's and County's master plans. The committee will ask the Commissioners to reconsider both applications as the methodology in eliminating these two did not include the committee, but the Deputy County Attorney's opinion. Paul Sincock pointed out that the tree planing project could be described as state-wide and he suggested that the Council appeal this decision. Shauna Kerr was upset by a statement by the Deputy County Attorney inferring that other applications may fit the criteria better than the City. Hugh Daniels clarified that the committee reviewed 13 applications and decided that only seven qualified and there is still money available. Hugh Daniels pointed out that the statute not only includes tourism but other uses. Jodi Hoffman referred to the statute which indicated that tax can be spent financing tourism promotion and the development, operation and maintenance of tourist, recreational, or cultural facilities. Roger Harlan suggested resubmitting the application and highlighting certain features.

2. Amendment to 1996 Art Festival Master Festival License. Chief Bell explained that the MFL was submitted in late March and asked for a number of changes including an extension of the festival into Friday, extension of the Festival closing hour from 6 p.m. to 7 p.m., issuance of a temporary beer license, an expanded Deer Valley concert on Friday evening, and waiver of fees in the amount of \$5,500 for law enforcement services. Over the past few months there has been correspondence and meetings with the Art Festival group, but because of the drastic changes proposed by the Festival, it was felt by staff that the proposed changes were premature and not in the best interest of the City at this time and the application was denied. The ordinance provides an appeal process to the City Council. Chief Bell continued that there are a variety of things Council can do including approving all of the requests, some of the requests, deny all of the requests, or continue for further study. Staff is asking Council to deny all of the requests, with the exception of the expanded Friday night concert; there is also a concert at Wolf Mountain. Mr. Bell noted that some of the financial information submitted by the Kimball Art Center may not be accurate and added that the impacts of the Festival are so significant already, that the creation of new impacts fly in the face of all of the work that has been done over the past ten years to change the appearance of the Festival.

Gary Sanders, KAC, felt that this event is a cultural tradition in Park City as it will be its 27th year. Mr. Sanders stated that he over calculated the amount of sales tax coming back to the City in his request and explained the process for artists to report sales tax and tracking single events. He referred to a survey conducted in 1994 and 64% of guests felt that a three-day event would be positive and there would be a more leisurely set-up for artists on Friday morning as opposed to Saturday. There are logistical problems like closing the street on a business day but the Main Street Merchants Association has voted in favor of this. In response to a question from Shauna Kerr, Mr. Sanders explained that the artists would set-up, drive to satellite parking and be shuttled back to the Festival area. He continued that he understood Chief Bell's concern with the extra police officers, and the KAC contacted a security company that provides services for the Utah Arts Festival and would be available. These individuals would be supervised by City staff and can be hired at \$10 per hour as opposed to \$19 per hour, which saves them half or can provide twice as many officers. He added that prior to 1993, 7 p.m. was the closing time and the additional hour could be helpful to accommodate Salt Lake patrons. With regard to the beer license, it is their intent to be able to serve beer with lunch at the food pavilion and PRM would be contracted for services. PRM is used at the Cherry Creek Arts Festival in Denver, Colorado and the servers will be trained. Mr. Sanders noted that a 16 oz. beer will cost \$3.50 and could be a potential revenue source. Having beer at the food pavilion may increase food sales and it keeps people on the street so that art sales may be better. With regard to the fee waiver, Mr. Sanders thought this would be workable for the City.

The Mayor felt the timing would have been better last September when there would have been an opportunity to address these issues. He understood that Mr. Sanders had an agreement with Chief Bell and then later came back at the last moment with these requests. He stated that if he voted he would not support any of these amendments, but would be willing to take a look at the

proposal this fall. The Mayor referred to the \$6,000 net operation revenue, but asked about revenue from sponsors which was not in the report. Mr. Sanders stated that in 1995, the corporate sponsorship dollars amounted to about \$45,000, this was the second year and hopefully that source will increase. Timing was raised again and Shauna Kerr asked if the Board urged him to make the request now. Mr. Sanders relayed that the application was made in March and the Board wanted to gauge Council's reaction to the changes. The Mayor stated that he is concerned about the impacts on Old Town if expanded to Friday. He pointed out that the Franklin Quest Golf Tournament also has major impacts on the Park Meadows neighborhood, but affected residents receive free passes to attend the event, and the Mayor suggested that maybe this is something that the KAC should consider. Mr. Sanders responded that Friday would be a free day for residents. Andrew Volkman of the Board added that Friday would be open to all Park City residents. Chief Bell stressed that expanding the event to Friday requires the same amount of work for preparation and management as doing it on Friday and Saturday, and it is impossible to predict who will attend on Friday. He continued that when any event has profitability problems, the first choice is making it bigger rather than considering doing some things differently to cut costs or generate new revenue within the existing structure. For instance, he stated that there is nothing wrong with bringing a greater role of private security into the Festival, provided that it is closely managed and the same is true for food management. Chief Bell added that there can be revenue increases without changing the format of the Festival and without creating greater impacts which in turn cost more money to manage. He warned not raising revenues and raising expenses in the context of trying to generate more money, because the profitability level is just taken to a higher level. Chief Bell felt that the Friday night concert has some real revenue potential that has not been explored, without having greater impacts. Although the artists may have a leisurely set-up on Friday no one else does and the City is not in a position this summer to staff an expanded Art Festival. There are things that can occur incrementally to accommodate some of the requests, but they are not all manageable at one time. There was discussion about the limitations of private security services. Mr. Bell discussed the tightening up on alcohol sales over the past ten years at the Festival's request; the event has evolved into a relatively alcohol-free event and the beer license request is a reversal of philosophy. He felt that a beer concession has to be carefully managed and it is a request he cannot deal with this summer.

Hugh Daniels, an Old Town resident for 13 years, recalled when the Festival had extended hours and relayed that it was noisy, which was the reason for moving the Rugby beer tent out of the area. He emphasized that the event is six weeks away, but is willing to look at the beer license and maybe some private security on a limited basis. He supported the Friday night concert and he would need more information than the Main Street Merchants Association support as they only represent 30% of the business owners. Mr. Daniels stated that there needs to be serious public discussion about the waiver of fees for City services. Ms. Kerr felt that the hassle factor to extend the Festival to Friday far outweighs the community benefit, and although this is intended as a goodwill effort, it will create more animosity as people will not be prepared. She suggested promoting early Saturday mornings for locals and did not support extending the closing time. Ms. Kerr felt that at the \$3.50 per beer price will not attract "power-drinkers", could support the beer

license this year as an experiment and the Friday night concert. She added that she is reluctant to approve fee waivers because she perceives that it is important to the tax payers that the Police Department be compensated for services. Paul Sincock stated that he could support a beer license on an experimental basis and but not extended hours to 7 p.m. He supported the Friday night concert, but extending the Festival to Friday needs more study. Mr. Sincock felt that private security could be explored this year, and suggested that the fee waiver could be considered a grant and the KAC should look toward the Arts Council for funding.

Roger Harlan expressed that the time factor is a concern to him. He stressed that the Council doesn't know the approximate dollar amount the Festival has set as a goal to offset the additional impacts. He felt that they should have a better idea of what beer sales will render than just feeling that it will make some money. Mr. Harlan stated that he cannot support the Friday extension. Mr. Sanders noted that the community benefits from the KAC 362 days a year. The Mayor felt that there is consensus on some of the issues but this is scheduled at the regular meeting for further consideration.

3. SOS request - Egyptian Theater. Shauna Kerr relayed that there was no mention of requesting \$10,000 in the City's Historic District Grant Program to offset commercial renovation costs; additionally building permit fees don't have to be paid on grant projects. She added that Council has already set aside money for this grant program. Joann Krajeski of SOS stated that they don't need the loan and personally thanked Council member Daniels for his financial support. Ms. Krajeski pointed out that they received an Historic District grant last year. Janice Lew explained that a single project can receive multiple grants, and although all of the grants have been awarded this year there is still available funding. Ms. Krajeski indicated that it is their intent to make application for a grant next year. Hugh Daniels noted his relief in not asking for a loan because he had a problem with that part of the request. There was consensus to waive building-related fees in an amount not to exceed \$15,844.

4. School District encroachment permit. The City Manager discussed the School Fields Agreement and stated that he didn't know if the City would ever find it feasible to build the little league field that would be disrupted by this proposal. Through illustration of a map, the City Manager described the area involved and explained that there is an impact on the leased area and the City's right-of-way and that impact is an encroachment which is revokable on 90 days notice. There may be a better solution that can formulated within six months that may involve a land exchange. There was discussion about realigning the proposed bypass road and Mr. Sincock expressed his concern about not abandoning the bypass road in consideration of construction traffic demands. Roger Harlan expressed his concern about losing the little league field. Architect Gary Accord discussed the options that were explored through illustration of a rendering. One site had traffic and circulation problems, another option placed the building in the 100 foot frontage protection zone, the third would result in building another parking lot, another location resulted in an encroachment in the playground. The proposed location results in better access to SR248 and better circulation for

the two schools. Mr. Accord explained that there may have not been enough room to accommodate the little league field in any event because of the wetlands and the other full-sized fields.

5. Plats and zoning ordinance:

45 Hillside Avenue plat amendment. Planner Janice Lew stated that this plat amendment was a requirement of a quit claim deed. She explained that approval will eliminate an interior lot line.

124 Park Avenue plat amendment. The existing structure sits on two lots. Ms. Lew explained that because of proposed improvements, the applicant is required to formally combine the lots.

Condominium plat at 675 Deer Valley Drive. Meg Ryan explained that this is a condominiumization of the building being built.

Prospector Square overlay zone ordinance. Meg Ryan clarified that the Board of Directors of the Property Owners Association unanimously support this zoning change. This is one of many solutions to ameliorate the parking situation in the area. She continued that there is about 70% build-out and this proposal to reduce the floor area ratio for the remaining 30% should reduce parking demands. This would only affect properties within the Property Owners Association. Ms. Ryan discussed a 1992 study that Jack Johnson Company performed indicating that there are 1,100 parking spaces in this area. Mr. Sincock explained that his analysis indicates that there will be a resulting 475 space deficiency based on Code standards, and this proposal is still woefully inadequate. The City Manager explained that the Association is looking at purchasing land for parking needs as a part of the special improvement district that they are exploring. Mr. DeHaan clarified that the Main Street District doesn't require on-site parking and pointed out that the off-street parking works quite well in Prospector. There was discussion about the varying utilization of lots in the area. The City Engineer discussed the problems associated with the New Claim Condominium building as its parking lot was constructed under a lot owned by the Association. There are now structural problems with the underground parking structure and disagreement with regard to liability.

6. Budget review. Tom Bakaly explained that there will be a continued public hearing and action on the FY 1996-97 budget which was tentatively adopted a couple of weeks ago. There have been a couple of changes, one of which is the Lower Park Avenue RDA. The County has provided a figure of \$1.1 million which is substantially higher than the budgeted \$600,000. Mr. Bakaly felt that although this is good news, it needs to be investigated further to ensure that it is accurate. Tom Bakaly suggested that rather than designating this \$450,000 surplus to a project, to reduce the proposed loan for bonding for a land purchase at \$700,000 by this amount. Additionally, staff has received a letter from the arts community supporting the request for \$8,500 to be released

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City Council Work Session
June 20, 1996

July 1 to the International Music Festival, as an umbrella organization has not been formally designated. The Council indicated that it was comfortable with this approach. Mr. Bakaly stated that there is an allocation for an additional police officer in this year's budget.

Prepared by Janet M. Scott

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 20, 1996**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, June 20, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, and Paul Sincock. Chuck Klingenstein was excused. Staff present were Toby Ross, City Manager; Janice Lew, Planner; Meg Ryan, Planner; Tom Bakaly, Finance Manager; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

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

III COMMUNICATIONS FROM COUNCIL AND STAFF

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 6, 1996

Hugh Daniels, "I move approval". Paul Sincock seconded. Motion carried.

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

V PUBLIC HEARING

1. An ordinance approving the amendment to the Park City Survey for Lot 10 and a portion of Lot 11, Block 19 to be known as the Bluejay Parcel located at 45 Hillside Avenue, Park City, Utah - Planner Janice Lew explained that this is a lot combination and asked that an effective date of upon approval be added to the ordinance.

2. An ordinance approving the amendment to the Park City Survey for Lots 17 and 18, Block 13, to be known as the Lot 17A, Block 13 amended plat at 124 Park Avenue, Park City, Utah - Planner Janice Lew explained that this is a lot combination and asked that an effective date of upon approval be added to the ordinance.

3. An ordinance amending the General Commercial District zoning regulations of the Land Management Code of Park City and amending the Official Zoning Map of Park City, Utah to establish the Prospector Square Overlay Zone which establishes floor area ratio building standards - Meg Ryan explained that after a public hearing, the Planning Commission recommended that this ordinance be forwarded to the City Council with a positive recommendation. The objective of the ordinance is to amend the General Commercial Zone in order to establish an overlay district on specific lots that are under the Prospector Square Property Owners Association's authority in order

to limit the building mass by creating a floor area ratio of 2.0. This proposal has the support of the Association and it is one step toward ameliorating the parking situation of a plat that was created in 1974 prior to the City's parking standards. The Mayor invited the public and the Council to comment. Paul Sincock relayed that the parking in the Prospector Square area is a problem and he will support reducing the established floor area ratios in order to make the buildings more compatible with the parking. Hearing no further comments, the public hearing was closed.

4. Continuation of hearing on FY 1996-97 Budget for Park City Municipal Corporation and its related agencies - Tom Bakaly explained that this is a continuation of the public hearing held on May 23. Since that time, there are two changes including a higher property tax increment for the Lower Park Avenue Redevelopment Agency in the amount of \$1.1 million; \$700,000 was budgeted. Staff is recommending that rather than adding \$450,000 to the RDA budget, to reduce the amount of a proposed loan for property acquisition, once the tax increment is verified. The other issue deals with a deviation in the grants policy, by releasing \$8,500 set aside for the arts community to the International Music Festival and the balance of the arts grant funds released to the designated umbrella organization.

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

VI CONSENT AGENDA

Paul Sincock, "I move approval of the Consent Agenda with Items 1 and 2 amended to include the wording that the effective date would be upon approval". Shauna Kerr seconded. Motion carried.

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

1. An ordinance approving the amendment to the Park City Survey for Lot 10 and a portion of Lot 11, Block 19 to be known as the Bluejay Parcel located at 45 Hillside Avenue, Park City, Utah - See public hearing, work session and staff report.

2. An ordinance approving the amendment to the Park City Survey for Lots 17 and 18, Block 13, to be known as the Lot 17A, Block 13 amended plat at 124 Park Avenue, Park City, Utah - See public hearing, work session and staff report.

3. An ordinance amending the General Commercial District zoning regulations of the Land Management Code of Park City and amending the Official Zoning Map of Park City, Utah to establish the Prospector Square Overlay Zone which establishes floor area ratio building standards - See public hearing, work session and staff report.

4. An ordinance approving a condominium plat for the Greyhawk Condominiums at 675 Deer Valley Drive, located in the Southwest Quarter of Section 15, Township 2 South, Range 4 East.

Park City, Utah - See work session and staff report.

5. Encroachment permit and modification of the school lease area to accommodate School District administrative offices on SR248 - See work session and staff report.

6. Authorization to enter into a contract with Park City Glass to replace 28 windows on the east side of Marsac Municipal Building in an amount not to exceed \$66,292.50 - See staff report.

VII RESIGNATIONS AND APPOINTMENTS

Two Library Board appointments for terms expiring July 1, 1999 - Shauna Kerr, "I move approval of Sally Roberts for a three year appointment until July of 1999 and Carolyn Meyers: Sally Roberts would be a reappointment and Carolyn Meyers would be a new appointment". Roger Harlan seconded and added that Ms. Roberts has done an outstanding job during her first term and Ms. Meyers interviewed very well. Motion carried.

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

VIII NEW BUSINESS

1. Waiver of building related fees in the amount of \$15,844 and a possible loan not to exceed \$21,279 to Save our Stage for the renovation of the Egyptian Theater - See staff report and work session notes. The Mayor summarized that the loan is no longer requested, and that there was a consensus among Council members to waive fees in an amount not to exceed \$15,844. The Mayor requested a motion. Paul Sincock, "I so move". Hugh Daniels seconded. Motion carried.

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

2. Revised master festival license for the 1996 Arts Festival - See work session notes and staff report. Gary Sanders stated that after the work session discussion, he would ask that the extension of the Festival be tabled so that it can be discussed through an Art Festival Advisory Committee over the next few months. He urged Council to approve the request for a beer license on a trial period this year and look at the extension of the hours to 7 p.m. during this trial period. Mr. Sanders asked that the fee waivers be tabled so that it can be reviewed further by staff to minimize the fees charged to the Festival and waivers in future years. Chief Bell emphasized that many of his staff members will be in Atlanta for the Olympics and it will be very difficult to prepare and deal with beer at the Festival. Mr. Sanders pointed out that they will be bringing on a professional management company as well as an experienced security force to handle any problems. Roger Harlan asked if Mr. Sanders has discussed his beer license request with the Brew Pub and Mr.

Sanders indicated that he has and Wasatch Beer will be one of the primary selections served. He continued that the hours of operation would probably be 11 a.m. to 5 p.m.

Hugh Daniels, "I move that we deny the appeal on Items (1), the extension of the Festival to include Friday; (2), the extension of the closing hour from 6 p.m. to 7 p.m.; (5) the waiver of fees; and approve on appeal the issuance of a temporary beer license as an experiment for this year and the expanded Deer Valley concert on Friday evening". Shauna Kerr suggested additional language with the understanding that the KAC will be hiring additional security at its expense to police the beer sales; Mr. Daniels accepted the amendment. Paul Sincock seconded. The Mayor reiterated his comments from work session, and agreed with the Chief of Police and there has not been an opportunity to look at the beer issue and if he were voting, he would vote against the motion. The Mayor urged Mr. Sanders to reconsider beer sales this summer. Paul Sincock asked Chief Bell how the additional security would affect his opinion and Frank Bell responded that the problem is that his Department has had no experience with the management company or security company. Chief Bell stated that he is strongly opposed to issuing a beer license this summer. Shauna Kerr referred to her comments in work session where she felt that the beer price would eliminate problems, but stated that she will defer to the Chief's comments. She added that it is his business and although she felt that beer at this location would not be a real problem, without some type of relationship with the police officers working with the management and security companies, she is persuaded not to support the beer license request. There is also a timing issue and a conflict with the police staff being out-of-town. Mr. Sanders responded that with regard to the Olympics, this is the type of attitude that event organizers are hoping to avoid as the Olympics will take precedent over existing events. He discussed the competition of sponsorship dollars and felt that the Arts Festival is becoming subservient to the Olympics in Atlanta, which is a disservice. Ms. Kerr stressed that the other side of the coin is that it is June 20 and the Festival is in six weeks. If these requests occurred last fall, it wouldn't be as pressing; the realities are that there isn't enough time. The Mayor felt that the Festival sponsors probably are not Olympic sponsors. Mr. Sanders argued that he has information about event sponsorship and that the contract with the management company was not finalized until the end of April. Paul Sincock felt that beer in this location, supervised by experienced people, is not a big deal and worthy of an experiment. The Mayor summarized that the motion is to approve the revised master festival license allowing only the sale of beer between the hours of 11 a.m. to 5 p.m. and the Deer Valley concert.

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

Motion carried.

3. Resolution adopting a final budget for FY 1996-97 for Park City Municipal Corporation and its related agencies - See staff report, work session, and public hearing. Roger Harlan, "I move approval of the budget for FY 1996-97 for Park City Municipal Corporation and its related agencies". Hugh Daniels seconded. Motion carried.

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

IX ADJOURNMENT

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

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

Prepared by Janet M. Scott

Janet M. Scott, Deputy City Recorder



CITY COUNCIL REPORT

DATE: July 11, 1996 City Council Meeting
DEPARTMENT: Community Development
AUTHOR: Eric DeHaan, City Engineer
TITLE: Sweeney Corrected Deed at Treasure Hill Subdivision (North end of Upper Norfolk in Old Town)
TYPE OF ITEM: Administrative approval of quit-claim deed

SUMMARY RECOMMENDATIONS: Approval of the Quit-Claim Deed from Park City Municipal Corporation to the Sweeney Land Company for a portion of Lot 3 of the Treasure Hill Subdivision as described on Exhibit "A" to the deed.

DESCRIPTION:

A. Topic: The Sweeney Master Planned Development covers a large area west of Old Town. The area is roughly bounded by Park Avenue, Creole Gulch, the top of Quitting Time ski run, and King Road. The Treasure Hill Subdivision created four large, visible single-family lots near Upper Norfolk but preserved the Quitting Time Ski Run area as open space, including public access to the trails known locally as the Sweeney Switchbacks. An 8,000-square-foot portion of one of the four lots was mistakenly included in a 1987 deed to Park City for a turnaround at the north end of Upper Norfolk. At the time of the 1987 deed a ski bridge was already planned for the area in question, although final language on trail access, maintenance, and liability had not been developed.

B. Background: The Sweeney Master Plan called for numerous public improvements as part of the density approval. One of the public improvements is a small three-point turnaround at the end of Upper Norfolk, one of our least accessible and most congested streets in the entire traffic-challenged Old Town area. The turnaround is presently under construction adjacent to a (non-Sweeney) home, also under construction, on the west side of the end of Upper Norfolk. In 1987 Sweeney gave a deed to Park City for the turnaround area. The deed was duly recorded. Unfortunately back in 1987 there was an erroneous assumption that ski bridges were welcomed on City property whereas recently it appears that the liability of a ski bridge is not a good thing. The 1987 deed included approximately 8,000 square feet where a ski bridge is proposed to render the four Treasure Hill lots "ski-in, ski-away". The ski bridge is approved as part of the

Sweeney Master Plan and the Treasure Hill Subdivision.

C. Analysis: The only issues remaining regarding the ski bridge are the final design and building permit issuance. The City Staff feels that we want to be consistent in the Council's policy, which emerged in the Town Run Bridge discussions, that City taxpayers not be saddled with maintenance and liability of private ski bridges. The proposed quit-claim deed will render the ski bridge privately owned and therefore privately maintained; there are no public improvements on the parcel, so no easements need to be retained other than those already shown on the Treasure Hill Subdivision plat.

Please note that the Staff feels no payment is due to Park City in exchange for the quit-claim deed because we didn't pay any money for it in the first place and all of the burdens and benefits of the Sweeney Master Plan remain in place after the corrected deed is recorded. The 1987 deed was simply an honest mistake on the part of the Sweeneys, possibly with some City responsibility because various 1987 staff members reviewed the deed.

The ski bridge surface is approved at about 25 feet wide. A guided tour of the general area can be arranged through Eric DeHaan at 645-5026.

D. Department Review: The quit-claim deed has been reviewed by Community Development and by the Legal Department.

ALTERNATIVES:

A. Approve the Request: This will have no effect on the built environment when construction is completed at the Treasure Hill Subdivision and will protect the City from maintenance and liability costs.

B. Deny the Request: This will also have no effect on the completed construction but will leave Park City with a potentially hazardous bridge on our property.

C. Continue the Item: If the Council needs more information the item can be continued, although the Staff believes much of the construction will take place soon in any case.

SIGNIFICANT IMPACTS: Approval of the corrected deed will have no impact on the actual construction we will see at Upper Norfolk, nor will denial. The long-term impact lies in shielding Park City from maintenance and liability, which is why the Staff recommends approval.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: If the Council chooses not to approve the corrected deed, the Sweeneys and the purchasers of the lots in the Treasure Hill Subdivision will claim a vested right under the MPD approval and the subdivision approval to go ahead and build all the private improvements anyway. Numerous lengthy meetings would probably occur, and the Staff feels the end result will be the same amount of construction either way. It would be difficult to develop incontrovertible findings for denial given the voluminous record on the Sweeney Master Plan.

RECOMMENDATION: The City Council should approve the Quit-Claim Deed in this staff report to the Sweeney Land Company.

ORDERED MAIL TO:

CK J. SWEENEY

Space Above for Recorder's Use

QUIT-CLAIM DEED
(Corporate Form)

PARK CITY MUNICIPAL CORPORATION

organized and existing under the laws of the State of Utah, with its principal office at **PARK CITY**, a corporation
of County of **SUMMIT**

State of **UTAH**

grantor, hereby QUIT CLAIMS to **SWEENEY LAND COMPANY, A PARTNERSHIP**

of **PARK CITY, UTAH**

Ten and no/100 (and other good and valuable consideration)-----
the following described tract(s) of land in **SUMMIT**

State of Utah:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

, grantee,
for the sum of
-----DOLLARS,
County,

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers this _____ day of _____ A.D., 19 _____

PARK CITY MUNICIPAL CORPORATION,

Attest:

(Corporate Seal)

STATE OF UTAH)
) ss.
COUNTY OF)

On the _____ day of _____, A.D., personally appeared before me

who being by me duly sworn, did say, each for himself, that he, the said

is the _____, and he, the said

is the

of **PARK CITY MUNICIPAL CORPORATION**

Company, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors, and said

and
each duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of the said corporation.

Notary Public

My Commission Expires: _____ Residing at: _____

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EXHIBIT "A"

ALL THAT PORTION OF LOT 3 PHASE I, TREASURE HILL SUBDIVISION LYING WITHIN THE PROPERTY CONVEYED TO THE GRANTOR BY QUIT CLAIM DEED RECORDED DECEMBER 18, 1987, AS ENTRY NO. 281767, IN BOOK 458, AT PAGE 3, SUMMIT COUNTY RECORDER'S OFFICE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3 SAID POINT BEING SOUTH 23 DEGREES 38 MINUTES 00 SECONDS EAST 308.19 FEET; AND SOUTH 66 DEGREES 12 MINUTES 00 SECONDS WEST 425.00 FEET; AND SOUTH 62 DEGREES 20 MINUTES 36 SECONDS WEST 125.31 FEET; AND NORTH 23 DEGREES 38 MINUTES 00 SECONDS WEST 51.54 FEET FROM A PARK CITY MONUMENT AT THE INTERSECTION OF PARK AVENUE AND FOURTH STREET; RUNNING THENCE NORTH 23 DEGREES 38 MINUTES 00 SECONDS WEST 100 FEET; THENCE NORTH 66 DEGREES 22 MINUTES 00 SECONDS EAST 90.52 FEET; THENCE SOUTH 23 DEGREES 38 MINUTES 00 SECONDS EAST 77.00 FEET; THENCE SOUTH 18 DEGREES 06 MINUTES 25 SECONDS WEST 30.82 FEET; THENCE SOUTH 66 DEGREES 22 MINUTES 00 SECONDS WEST 70.00 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS AS SHOWN ON THE RECORDED SUBDIVISION PLAT OF TREASURE HILL SUBDIVISION.

61

LOT 5
(OPEN SPACE PARCEL)

TREASURE HILL SUBDIVISION

SKI RUN EASEMENT

AS RECORDED

ENTRY NO.

BOOK PAGE

LOT 3

(UPPER NORFOLK NORTH LOT)

SKI TRAIL EASEMENT

AS RECORDED

ENTRY NO.

BOOK PAGE

LOT 2

(KING ROAD NORTH LOT)

LOT 1

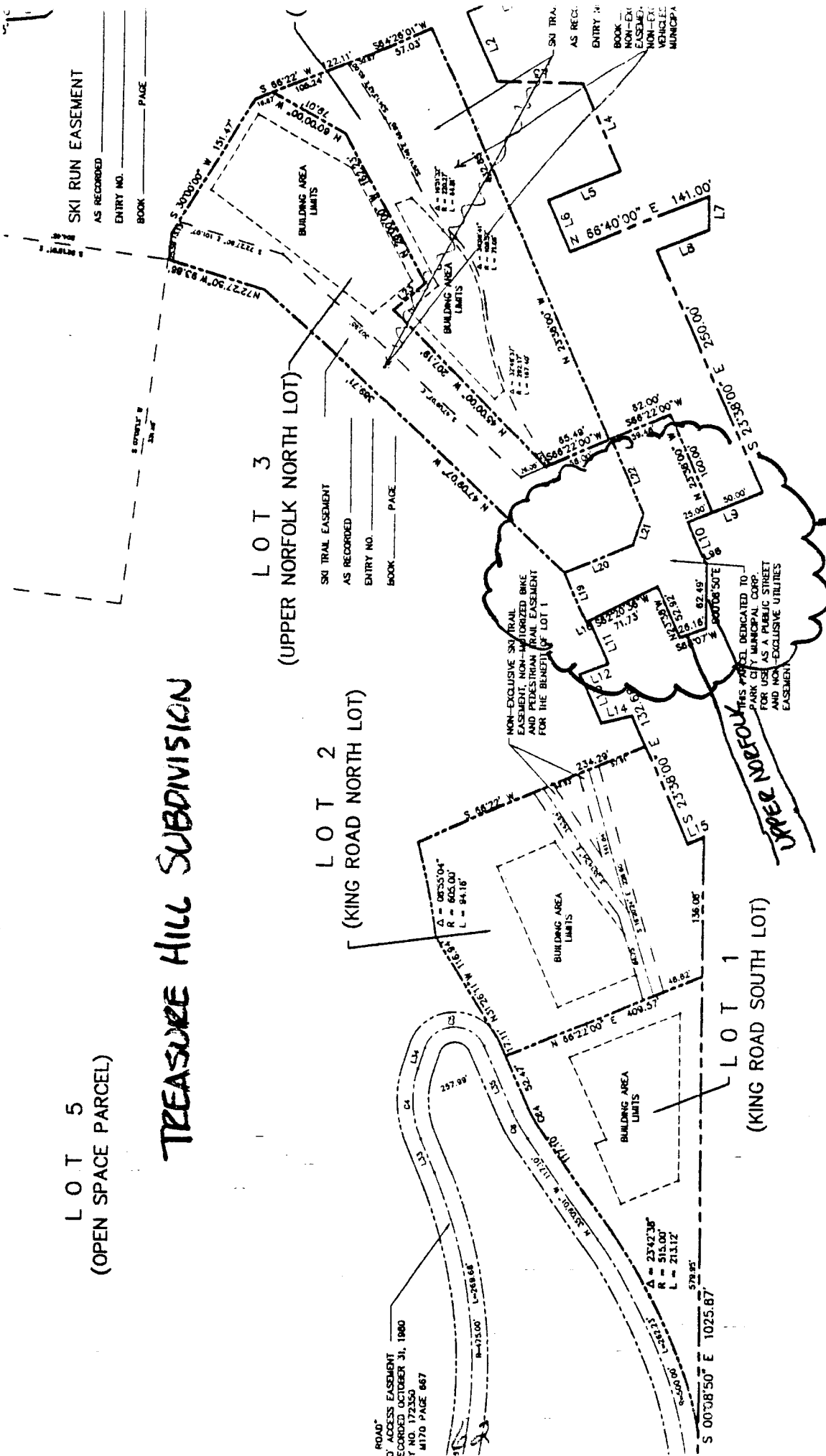
(KING ROAD SOUTH LOT)

ROAD
ACCESS EASEMENT
RECORDED OCTOBER 31, 1980
F NO. 172350
4170 PAGE 867

NON-EXCLUSIVE SKI TRAIL
EASEMENT, NON-AUTHORIZED BIKE
AND PEDESTRIAN TRAIL EASEMENT
FOR THE BENEFIT OF LOT 1

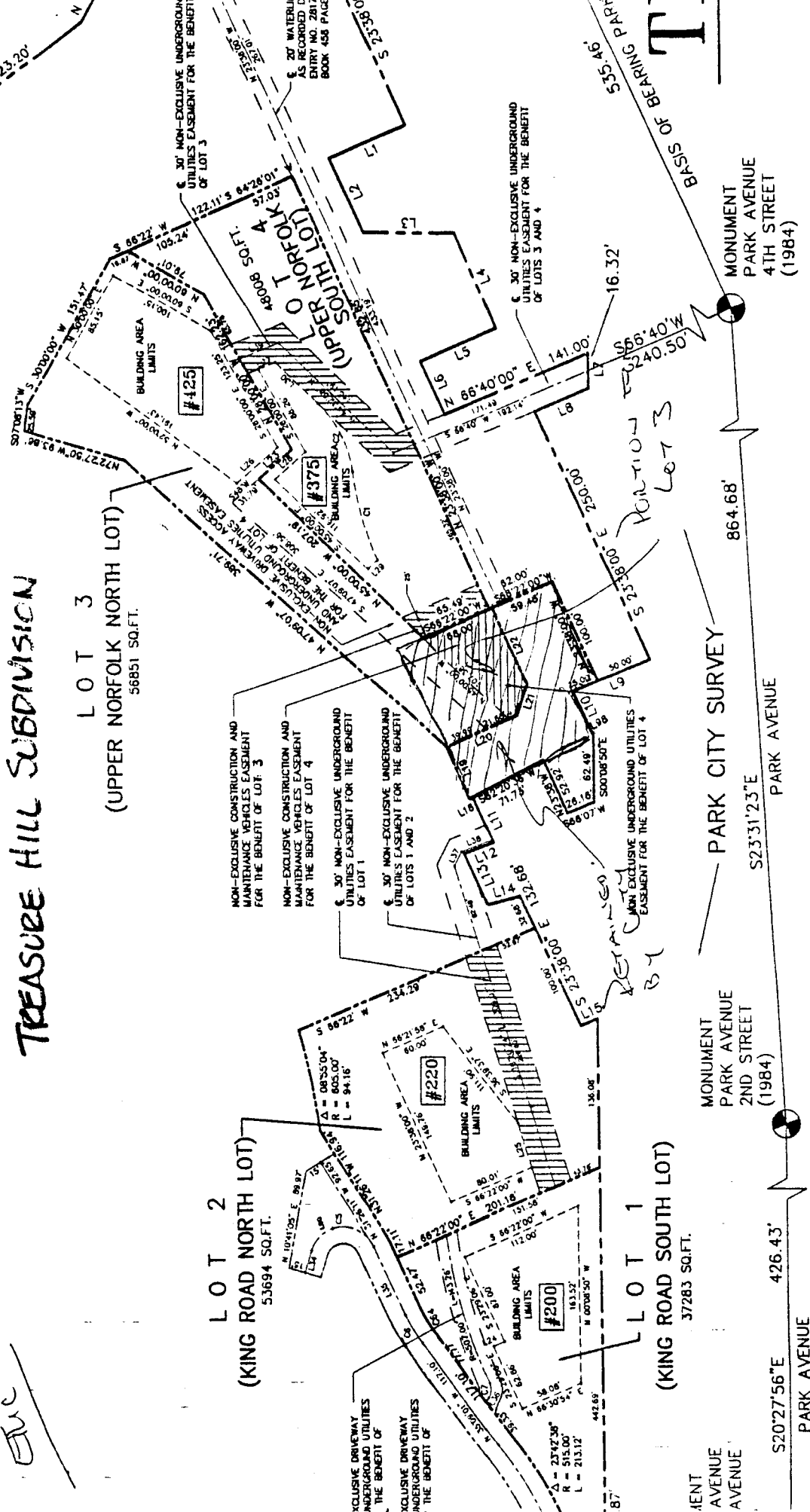
THIS PARCEL DEDICATED TO
PARK CITY MUNICIPAL CORP.
FOR USE AS A PUBLIC STREET
AND NON-EXCLUSIVE UTILITIES
EASEMENT

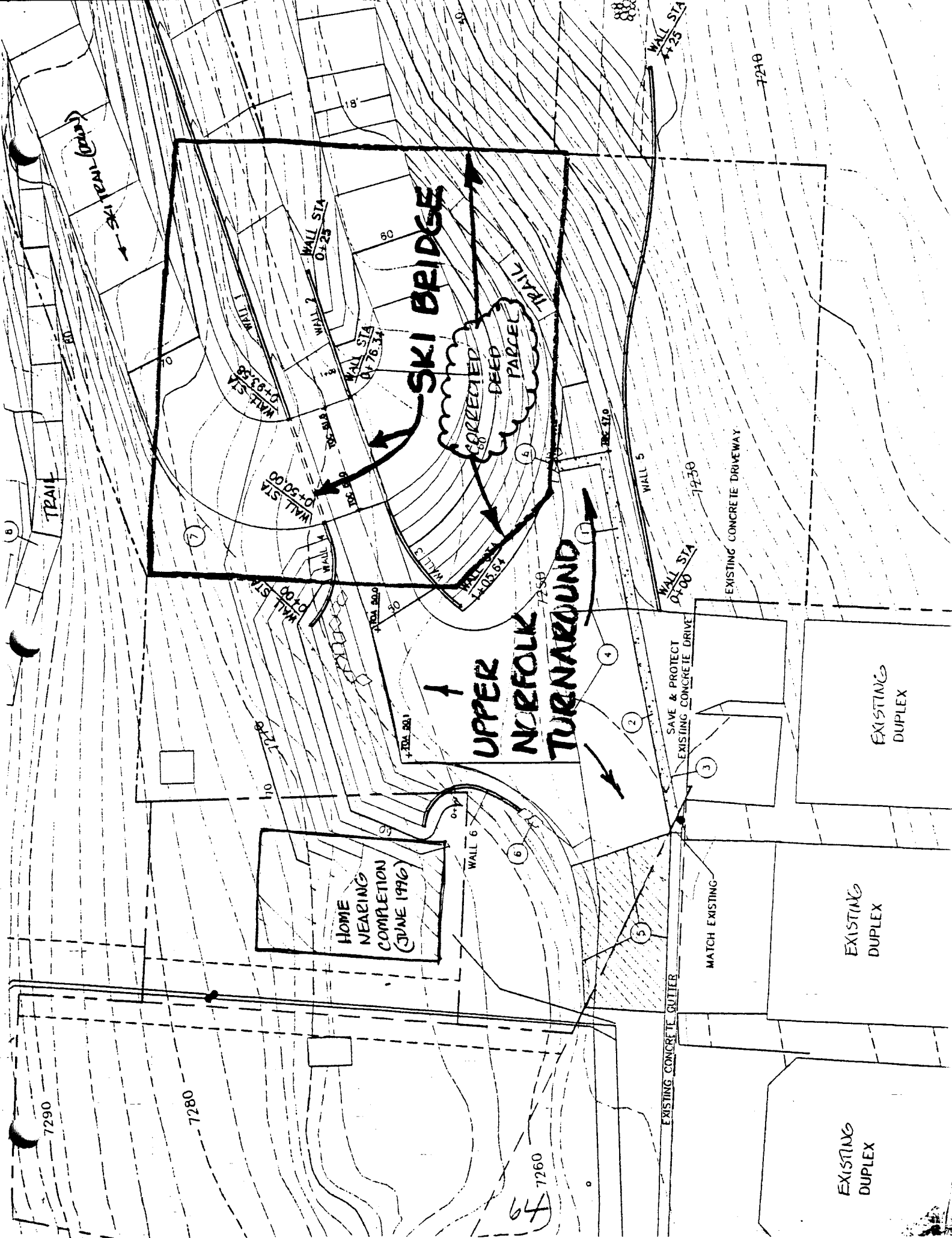
SUBJECT AREA



(UPPER NORFOLK NORTH LOT)
1,861,792 SQ.FT.

TREASURE HILL SUBDIVISION





SKI BRIDGE

UPPER
NORFOLK
TURNAROUND

CORRECTED
DEED
PARCEL

HOME
NEARING
COMPLETION
(JUNE 1996)

EXISTING
DUPLEX

EXISTING
DUPLEX

EXISTING
DUPLEX

EXISTING CONCRETE DRIVEWAY

EXISTING CONCRETE GUTTER

MATCH EXISTING

SAVE & PROTECT
EXISTING CONCRETE DRIVE

WALL 5

WALL 6

WALL 2

WALL 3

WALL 4

TRAIL

TRAIL

SKI TRAIL (DRAIN)

7290

7280

7260

7250

7230

7210



DATE: 7/8/96
DEPARTMENT: Legal
AUTHOR: Mark Harrington
TITLE: Authorization of QCD to N. Virginia Daffern
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS: Authorize the Mayor to execute a Quit Claim Deed ("QCD") in a form approved by the City Attorney to N. Virginia Daffern for the property described in Exhibit A in exchange for a preservation easement for the historic structure at 97 Daly.

DESCRIPTION:

A. Topic:

A property claim on the Colman open space parcel

B. Background:

The City has developed a settlement strategy to help facilitate resolution of long standing property claims by owners adjacent to the Colman parcels purchased by the City in 1994. This is the one of several such claims.

Ms. N. Virginia Daffern is the owner of lot 14 and a portion of lot 13 of Block 13 of the Millsite Reservation (97 Daly). She had originally applied for a Certificate of Demolition for the historic home on the property. However, a potential buyer of the property has expressed a desire to save the structure, which encroaches up to 4 feet into the Colman open space parcel. Accordingly, Ms. Daffern has submitted a request that the City quit claim to her its interest in the area directly to the rear of the lots, as described in her attorney's letter attached as Exhibit B and as shown on the survey reduction attached as Exhibit C. The area is approximately 1292 sq. ft.

C. Analysis:

Staff believes that based upon the information supplied by Ms. Daffern, her claim stems from long-standing use and occupancy of a portion of the property. The additional area is simply to create a conforming setback for the historic home, which the new owner has agreed to restore. Accordingly, staff recommends that the City quit claim the area to Ms. Daffern in exchange for a preservation easement for the historic structure and the standard condition that Ms. Daffern's

agreement to participate in a lot combination for the area and lots 13 and 14.

D. Department Review:

The Legal Department and City Engineer reviewed this claim.

ALTERNATIVES:

A. Approve the Request:

This is the recommended action.

B. Deny the Request:

See below for consequences.

C. Continue the Item:

If the Council wants more information, it should remove the item from the consent agenda and continue to a work session meeting.

SIGNIFICANT IMPACTS:

The area in question is already encumbered by a building and fence improvements owned by Ms. Daffern, and it is very small in relation to the overall open space parcel. The additional area is very steep and is required for a rear yard setback. Therefore, there are no significant impacts resulting from the transfer of title.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Ms. Daffern may likely attempt to take formal legal action. Until the matter was resolved, her title to the property would remain unclear and she may lose the buyer who has agreed to restore the structure.

RECOMMENDATION:

- ◆ Authorize the Mayor to execute a Quit Claim Deed in a form approved by the City Attorney to N. Virginia Daffern for the property described in Exhibit A in exchange for a preservation easement for the historic structure at 97 Daly.

LEGAL DESCRIPTION

GLEN ADDITION PARCEL

Beginning at the Southeast corner of Lot 14, Block 73, Park City Survey, according to the official plat thereof on file and of record in the office of the Summit County Recorder, and running thence along the Easterly line of said Block 73, N 21°33'00" E 68.00 feet; thence S 68°27'00" E 19.00 feet; thence S 21°33'00" W 68.00 feet; thence N 68°27'00" W 19.00 feet to the Point of Beginning.

Description contains 1292 square feet.

Y: \PCS\GLENL.TXT (S-272)

LAW OFFICES
JOHNSON, HOLBROOK & S

1912 SEDEWINDER DRIVE, #200A,
PARK CITY, UTAH 840
(801) 649-5602
FAX: (801) 649-0933

Exhibit B

DAVID W. JOHNSON, P.C.
GREGORY M. HOLBROOK, P.C.

ERIC D. SCHIFFERLI, P.C.
JAMES M. BARTH, P.C.

June 19, 1996

Mr. Mark Harrington, Esq.
Asst. City Attorney
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060

HAND DELIVERED

Re: 97 Daly (Lot 14 and the Southerly 18' of Lot 13, Block 73, Millsite Reservation

Dear Mark:

This letter is written on behalf of my client, Mrs. Virginia Daffern, Trustee, owner of the above-referenced property. As we have discussed, Mrs. Daffern recently contracted to sell the Daly Avenue property to an out-of-state buyer who intends to renovate and restore the home. As part of the purchase contract, the buyer requested Alliance Engineering to prepare a topographical survey of the property. Just prior to closing, the survey was completed. Unfortunately, the survey revealed that the southeast corner of the home encroaches onto property recently acquired by Park City as part of the "Coleman Property Purchase". A copy of the Alliance Engineering survey is enclosed for your review. Also enclosed is a copy of a recent Commitment for Title Insurance on the property issued by Associated Title.

Having discovered the encroachment, the purchase/sale transaction has been placed on hold. The closing date called for in the purchase contract, has been extended for a brief period of time in an effort to allow Mrs. Daffern to resolve the encroachment problem. In that context, it would appear that the most realistic means of resolving the encroachment problem would be to obtain from Park City Municipal Corporation, a Quit Claim Deed to a portion of the property the City recently acquired during the Coleman Property Purchase.

Accordingly, by this letter, Mrs. Daffern requests from Park City Municipal Corporation, a conveyance to her, by Quit Claim Deed, of the property described on the enclosed legal description prepared by Alliance Engineering. Enclosed are several recent photographs of the home. The home has existed in its present location for several decades. Also enclosed is a photocopy of an old family photo (estimated to be taken during the 1930's) which shows the present home.

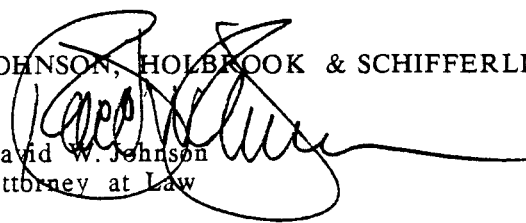
You and Eric DeHaan visited the property with me on June 4th. As noted in the enclosed photos, and at the time of the site visit, the slope immediately behind the house is quite steep. There is also a very noticeable rock wall a number of feet behind the house. The wall runs the width of the house. Ms. Daffern, who was raised in the home, is of the opinion that the rock wall was built sometime during the 1920's or 1930's. The rock wall is evidence that Ms. Daffern and her family have occupied the encroaching portion of the property (as shown on the survey) for well over fifty years.

Mr. Mark Harrington
Page Two

It should be noted that the enclosed legal description for the Quit Claim Deed, as drafted, would not only resolve the encroachment problem; it would also result in bringing the house into compliance with the current set back requirements of the Land Management Code.

As stated above, the buyer who had contracted to purchase the property desires to preserve the historical value of this Daly Avenue home. A timely resolution of this encroachment problem is, quite frankly, critical. In that context, and based on the information provided above, Mrs. Daffern respectfully requests consideration of this request at the earliest possible convenience. If you have any questions at all, please do not hesitate to contact me.

Sincerely,


JOHNSON, HOLBROOK & SCHIFFERLI, L.C.

David W. Johnson
Attorney at Law

enclosures

cc: Virginia Daffern
Larry Glenn



97 Daly - 1930's

Exhibit C





DATE: 7/5/96
DEPARTMENT: Legal
AUTHOR: Mark Harrington
TITLE: Authorization to file civil enforcement action- 2254 Doc Holiday
TYPE OF ITEM: Litigation

SUMMARY RECOMMENDATIONS: Authorize the Legal Department to file a civil complaint against the owner of 2254 Doc Holiday Drive to cure various Land Management, Building and Fire Code violations.

DESCRIPTION:

A. Topic: Enforcement of the Land Management Code (LMC),-Uniform Fire Code (UFC) and the Uniform Building Code (UBC), as adopted by the Municipal Code of Park City (MCPC).

B. Background: The Building Department has determined that the following violations exist at the property: 1) a chain link fence has been constructed around the rear of the property in violation of the LMC; 2) the garage area of the house has been converted to a living unit without necessary permits; 3) as a result of the additional unit, there is currently insufficient off-street parking for the property; 4) rocks placed by a fire hydrant do not allow the required access to the hydrant, nor proper room for snow removal and storage; and 5) the flue for the main level wood-burning stove does not have a spark arrester nor proper support. Several other violations probably exist within the home and these will be flushed out thru discovery. Prior criminal citations proved ineffective as the Owner transferred the property to another person.

C. Analysis: Despite over several years of litigation and negotiation, the property remains in violation of the LMC, the UFC and the UBC. The units are being rented as residential units without a permit of occupancy, as required by the UBC. The violations have had a negative impact on the neighborhood. The Building Department has continuously received complaints from residents in that area. Many of the violations can be easily cured, but the owner has been unresponsive to prior attempts to achieve compliance. The suit will seek to obtain both declaratory and injunctive relief.

D. Department Review: The Legal Department and Building Department have reviewed this matter.

ALTERNATIVES:

A. Approve the Request: Authorize the Legal Department to file a civil complaint against the owner of 2254 Doc Holiday Drive to cure various Land Management, Building and Fire Code violations. This is the recommended action.

B. Deny the Request: Direct staff to continue to negotiate with the owner of the property.

C. Continue the Item: If you or the public has questions regarding this matter that are not addressed in this report and cannot be addressed at the meeting, the Council should continue this matter to the next meeting and remove the item from the consent agenda.

D. Do Nothing: The property will remain in non-compliance. Based upon past history, the city can expect to get complaints from neighboring residents.

SIGNIFICANT IMPACTS: The action is relatively simple and should not have a huge impact on the Legal Departments work load.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: This would effectively tie the hands of the Building Department and allow the violations to continue. However, Ron could then recommend that criminal charges be filed, which does not require Council approval. The City could also expect to receive more neighborhood complaints.

RECOMMENDATION: Authorize the Legal Department to file a civil complaint against the owner of 2254 Doc Holiday Drive to cure various Land Management, Building and Fire Code violations.



COUNCIL AGENDA REPORT

DATE: July 11, 1996
DEPARTMENT: Public Works
AUTHOR: Hope Bleecker, Transportation Director *HJB 7/1/96*
TITLE: Vehicle Replacement Purchase
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Approve the purchase of four 35' busses for replacement of aging vehicles within the existing Park City Transit Fleet.

DESCRIPTION:

A. Topic. Purchase of Four (35') Replacement Transit Busses.

B. Background. Four fourteen-year-old busses in Park City's transit fleet are currently due for replacement. Federal funding is currently available for two of the vehicles provided that the procurement process complies with certain federal standards. A procurement of the same model vehicle was recently conducted by the Utah Transit Authority (UTA) in which the contract included an option for UTA to purchase additional vehicles in subsequent years. UTA elected not to exercise the option, which means that several vehicles among the Gillig stock can be transferred to another property at the same purchase price originally specified in UTA's 1994 contract.

This method of procurement will allow the city to comply with required federal mandates and to ensure a competitive price. Gillig's average bid price over the last six months has exceeded \$225,000 per bus. The total purchase price for the vehicles under the UTA option will not exceed \$220,000 per vehicle. Federal Transit Administration funds in the amount of \$343,400 will cover approximately 78% of the purchase price for two vehicles in 1997. When additional funding is secured in 1998, the city will order the additional two vehicles.

C. Analysis. Park City maintains a fleet of fourteen (35') coaches. Typically up to nine vehicles are on the road during winter peak hour service, which results in a 35% spare ratio. The procurement of four new vehicles over the next two years is necessary in order to ensure proper rotation of the fleet and to allow for service adjustments. The Gillig bus was the vehicle most closely suited to the Transportation Department needs under a recently conducted procurement in 1990. Since that time Gillig has been the successful bidder in two other Park City vehicle procurements. The UTA and

Gillig Corporation have designed and engineered a new ski bus capable of continuous mountainous operation to and from ski resorts which can fulfill all present and future departmental needs at this time. There are no other vehicles now on the market which could meet or exceed Park City's specifications more effectively.

If Transportation Department staff were to issue a specification for four new busses at this time, the delivery date would be delayed for an additional year and the total cost would increase approximately \$20,000.

D. Department Review. This proposal has been reviewed by the City Manager, the Director of Fleet Services, and the Director of Public Works.

ALTERNATIVES:

- A) Assume a contract option for two new vehicles with option for two additional vehicles under an existing contract between the UTA and the Gillig Corporation.**
This is the most preferable option in that it allows for a competitive price, optimum delivery, and acquisition of vehicles best suited to the needs of the Transportation Department.
- B) Conduct a new process for a bid or negotiated procurement.**
This option is not as preferable as the option specified above. It would ensure delivery of the same vehicles at a higher price (approximately \$5,000 more per bus) with delivery in June 1998 and 1999 respectively, and additional staff work.
- C) Do Nothing**
This option is not recommended because the vehicles are due for replacement. If the purchase does not take place there will not be enough rolling stock for the adequate rotation of the fleet, operation of special services, and peak period use.

SIGNIFICANT IMPACTS:

The significant impacts of this procurement would be replacement of outdated equipment, a significant cost savings of least \$20,000 in total purchase price, and staff time saved in conducting a lengthy procurement. This method guarantees less of a delay in delivery time because the busses are already on the assembly line.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Conducting a new procurement process would result in additional staff time and a higher cost. Delaying a purchase at this time does not allow for regular fleet rotation or minor service expansions.

RECOMMENDATION:

Authorize staff to purchase four Gillig (35') busses through assumption of an option on an existing contract between the Utah Transit Authority and the Gillig Corporation of Heyward, California. Two vehicles will be purchased with \$343,000 (78%) in federal funds in 1997. The remaining two vehicles will be purchased when additional federal funds are secured. The total purchase price for all four vehicles shall not exceed \$880,000.



CITY COUNCIL REPORT

DATE: July 2, 1996
(July 11, 1996 meeting)
DEPARTMENT: Planning Department
AUTHOR: Patrick Putt P.P.
TITLE: Land Management Code amendments related to the outdoor display of goods and uses.
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: The Community Development Department recommends that the City Council review the three alternatives prepared by Staff and adopt an ordinance amending the *Land Management Code* related to the outdoor display of goods and uses. (A draft ordinance is attached to this report.)

1. TOPIC:

Amendments to the Land Management Code relating to the outdoor display of merchandise and outdoor uses.

2. BACKGROUND AND DISCUSSION:

The Community Development Department has prepared amendments to the *Land Management Code* clarifying limitations on the outdoor display of merchandise and storage. The amendments also create an administrative approval process for outdoor dining areas and storage of rental bicycles in the commercial zoning districts. The impetus for the proposed Code amendment comes as a result of several conditional use permit applications to the Planning Commission for outdoor dining areas, and outdoor display of rental bicycles and merchandise, including lawn furniture, salt, and firewood. The increase in outdoor display related conditional use permit applications are a result of code enforcement activities which have occurred over the past year.

The *Land Management Code* does not permit the display of merchandise in commercial zones

outside of an enclosed building except for outdoor dining with a conditional use permit approval. Temporary outdoor displays for sidewalk sales, Christmas tree, pumpkin, and seasonal plant sales are permitted under *Title 4 of Park City Municipal Code* and are permitted by the Finance Department through the business licensing process. No changes to the existing provisions for temporary outdoor displays for sidewalk sales, Christmas tree, pumpkin, and seasonal plant sales are proposed.

Although the display of merchandise outside of an enclosed building is not permitted in commercial zones, the *Land Management Code* contains a caveat which states that "the Planning Commission may permit outdoor uses which it determines are in the best interest" of the zoning district. However, no specific criteria are set forth to determine what constitutes the "best interest" of the zoning districts. Outdoor dining areas are typically approved by the Planning Commission. However, the conditional use permit requires a public hearing before the Planning Commission which often means applicants wait several months to be scheduled on an agenda.

A. Planning Commission Background:

At the October 11, 1995 work session, the Planning Commission reviewed this issue and directed staff to draft changes that would:

- establish an administrative process for outdoor dining areas and specific criteria for the approval of such uses;
- require food, beverage and cigarette vending machines to be placed within enclosed buildings;
- permit the outdoor display of rental bicycles and possibly other types of goods subject to specific criteria.

At the February 14, 1996 work session, the Planning Commission discussed a proposal from Staff that:

- allowed for Staff approval of outdoor dining areas subject to compliance with performance standards related to seating location, outdoor furniture, pedestrian circulation, hours of operation, parking, prohibition on outdoor speakers, signage and lighting;
- allowed for Staff approval of outdoor storage of rental bicycles subject to compliance with performance criteria related to storage location, landscaping and pedestrian impacts, signage and lighting; and
- allowed for the 100 square feet of outdoor display of merchandise in the General Commercial (GC) Zone.

The Planning Commission supported the concept of the administrative approval process for outdoor dining and permitted outdoor storage of rental bicycles. The Commission stated that the storage of rental bikes should be considered because of the inherent storage problems, as well as

the fact that bicycles promote alternative forms of transportation and enhance the outdoor-recreation image of the community. The Commissioners reexamined the concept of permitting other types of outdoor storage. The Commission members expressed a concern that allowing items such as lawn furniture, clay pots, bags of salt, firewood, and other types of general merchandise would create visual blight that is inconsistent with the community's resort image and result in code enforcement problems. The Commission emphasized that it found no problem with the existing *Municipal Code* provision for seasonal plant sales or display of Christmas trees and pumpkins and had no interest in recommending changes related to those activities.

The Planning Commission held a public hearing concerning the attached draft ordinance at the March 13, 1996 meeting. Although not present at the hearing, the Main Street Merchants Association forwarded a resolution supporting the LMC amendment. No public input was received at the hearing. The Commission voted unanimously to forward a positive recommendation to City Council to amend the Code as proposed.

B. City Council's May 2, 1996 Public Hearing:

City Council held a public hearing on the proposed amendments on May 2, 1996. A local outfitter expressed a concern that, in addition to allowing the outdoor storage of rental bicycles, the amendments should permit the outdoor storage of kayaks. The owner of hardware store voiced a concern regarding, what she perceived to be, inconsistent enforcement of the current outdoor display of merchandise regulations and expressed doubts whether or not the proposed amendments will improve the City's code enforcement. Council closed the public hearing and recommended that Staff studying possible alternatives which would allow for the outdoor storage of other rental outdoor recreation related items, such as kayaks.

3. ORDINANCE ALTERNATIVES: Should the Council wish to allow the outdoor storage of rental outdoor-recreation items in addition to bicycles, Staff proposes the following alternatives:

1. Revise the draft ordinance to allow the outdoor storage of rental bicycles, kayaks, and canoes; or
2. Revise the draft ordinance to allow the outdoor storage of "non-motorized outdoor recreational craft for which staff has drafted the following definition:

Non-Motorized Outdoor Recreational Craft: Any device or vessel designed for outdoor sport which is sat in or sat on, not powered by a motor and requiring manual skill to propel, which is sold or rented on-premise. This definition shall include kayaks, canoes, sail boards, sail boats, bicycles, bicycle carts, unicycles, and river rafts. This definition shall not include skis, snow boards, water skis, surf boards, inner tubes or other inflatable pool toys, in-line skates, ice skates, or skateboards.

4. DEPARTMENT REVIEW:

The City's Staff Review Team and City Attorney's office have reviewed this amendment.

5. ALTERNATIVES:

- A. Approve the attached ordinance amending the *Land Management Code* as drafted.
- B. Modify the attached ordinance amending the *Land Management Code* with specific direction.
- C. Continue this matter pending further discussion and input.

6. SIGNIFICANT IMPACTS:

The proposed *Land Management Code* amendment:

- maintains the present *Park City Municipal Code* provisions which permit temporary outdoor displays for sidewalk sales, Christmas tree, pumpkin, and seasonal plant sales are proposed;
- establishes a faster, more-streamlined process issuing outdoor dining permits;
- defines up-front criteria for outdoor dining uses;
- establishes an administrative process for the outdoor storage of rental bicycles (and other outdoor-recreation items as deemed appropriate by Council) subject to compliance with specific performance standards; and
- clarifies the limitations on outdoor display of merchandise and storage which will help provide a greater degree of predictability in the code enforcement process.

7. CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If Council determines not to adopt the proposed *Land Management Code* amendment, outdoor dining uses will continue to be reviewed by the Planning Commission through the conditional use permit process. The Planning Commission will also continue to review conditional use permit applications for the outdoor display and storage of all types of merchandise with no specific approval criteria.

8. PUBLIC INPUT:

Since Council's May 2, 1996 public hearing, only one letter has been received by the Planning Department. David Dodgion and Natalie Malovich, of Peak Experience, submitted a follow-up letter to the public hearing requesting that the outdoor storage of other recreational equipment such as kayaks be included as part of the amendments.

RECOMMENDATION:

The Community Development Department recommends that the City Council review the amendment alternatives prepared by Staff and adopt an ordinance amending the *Land Management Code* related to the outdoor display of goods and uses.

ATTACHMENTS:

Attachment A: Draft Ordinance
Attachment B: David Dodgion 5/13/96 Letter

AN ORDINANCE AMENDING CHAPTER 7 OF THE LAND MANAGEMENT CODE OF PARK CITY, UTAH TO CLARIFY PROHIBITIONS ON THE OUTDOOR DISPLAY OF MERCHANDISE AND STORAGE AND TO ALLOW THE ADMINISTRATIVE APPROVAL OF OUTDOOR DINING AREAS AND STORAGE OF RENTAL BICYCLES IN THE HCB, HRC, HR-2, AND RCO ZONES.

WHEREAS, the Land Management Code places limitations on the outdoor display of merchandise, outdoor storage and outdoor dining uses; and

WHEREAS, the City Council finds that it is in the public interest to regulate the outdoor display of merchandise, outdoor storage, and outdoor dining uses in certain pedestrian-oriented commercial districts in order to reduce visual clutter, protect and preserve the unique aesthetic character of the City, and enhance the community's economic viability; and

WHEREAS, public hearings were duly held before the Planning Commission on March 13, 1996, and before the City Council on May 2, 1996; and

WHEREAS, public notice and opportunity to comment were provided, pursuant to the Land Management Code; and

WHEREAS, the City Council finds and determines that, subject to certain criteria, outdoor dining uses can enhance the pedestrian appeal and vitality of certain commercial areas; and

WHEREAS, the City Council finds and determines that, subject to certain criteria, the outdoor storage of rental bicycles promotes alternative modes of transportation and strengthens the outdoor recreation character of the City; and

WHEREAS, the City Council finds the proposed amendments in the best interest of the residents of Park City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF PARK CITY, UTAH, THAT:

SECTION I. FINDINGS.

The above-recitals are hereby incorporated herein as findings.

SECTION II. AMENDMENT.

Chapter 7 of the Land Management Code is amended to read as follows:

7.2.5 (A)

HISTORIC COMMERCIAL BUSINESS DISTRICT: USES GOODS TO BE WITHIN ENCLOSED BUILDING. All uses, except outdoor dining shall be conducted within a completely enclosed building except that the Planning Commission may permit limited outdoor uses which it determines are in the best interest of the Historic Commercial Business District. All storage shall be within a completely enclosed building. Unless expressly allowed in this district as a permitted or conditional use, all display of goods, including food, beverage and cigarette vending machines, shall be within a completely enclosed building. This section does not preclude temporary sales in conjunction with a master festival, sidewalk sales, or seasonal plant sales as permitted under Title 4 of the Municipal Code.

7.2.5 (B)

HISTORIC COMMERCIAL BUSINESS DISTRICT: USES TO BE WITHIN AN ENCLOSED BUILDING. Unless expressly allowed in this district as a permitted or conditional use, all uses shall be within a completely enclosed building. The following outdoor uses may be permitted by the Community Development Department upon the issuance of an administrative permit:

(a) **Outdoor Dining:** Outdoor Dining may be permitted in the Historic Commercial Business District subject to all requirements of this code, including:

1. The area of the proposed seating is located on private property and not on public rights-of-way, nor in areas of required parking.
2. The proposed seating area does not impede pedestrian circulation.
3. The proposed furniture is compatible with the streetscape.
4. No additional signage is installed.
5. No outdoor speakers are installed.
6. Outdoor dining areas shall not be used after 10:00 p.m.
7. Outdoor grills and/or beverage service stations may be permitted subject to the following criteria:
 - I. The use is located on private property
 - II. The use is for no service other than the sale of food or beverages in a form suited for immediate consumption.

III. The use is compatible with the aesthetics, site design, and architectural character of the neighborhood.

IV. The use complies with all applicable Uniform Building Code and Health Code regulations.

(b) Outdoor Storage of Rental Bicycles: The outdoor storage of rental bicycles may be permitted in the Historic Commercial Business District subject to all requirements of this code, including:

1. The area of the proposed bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaping.

2. Bicycles may be hung on historic buildings if sufficient site area is not available, provided the such display does not destroy or alter the historic fabric of the structure.

3. No additional signage is installed.

7.3.10 (A)

HISTORIC RECREATION COMMERCIAL DISTRICT: USES
GOODS TO BE WITHIN ENCLOSED BUILDING. All land uses, whether conditional or permitted, are to be located within a fully enclosed building, with the exception of the operation of approved ski lifts. The Planning Commission may authorize the extension of the allowable uses into outside areas when it finds that the development of the outdoor use is in the best interest of the HRC Zone, and does not adversely impact adjoining properties due to noise, light or visual conditions. Unless expressly allowed in this district as a permitted or conditional use, all goods, including food, beverage and cigarette vending machines, shall be within a completely enclosed building. This section does not apply to ski lifts and does not preclude temporary sales in conjunction with a master festival, sidewalk sales, or seasonal plant sales as permitted under Title 4 of the Municipal Code.

7.3.10 (B)

HISTORIC RECREATION COMMERCIAL DISTRICT: USES TO BE WITHIN AN ENCLOSED BUILDING. Unless expressly allowed in this district as a permitted or conditional use, all uses shall be within a completely enclosed building. The following outdoor uses may be permitted by the Community Development Department upon the issuance of an administrative permit:

(a) Outdoor Dining: Outdoor Dining may be permitted in the Historic Recreation Commercial District subject to all requirements of this code, including:

1. The area of the proposed seating is located on private property and not

on public rights-of-way, nor in areas of required parking.

2. The proposed seating area does not impede pedestrian circulation.

3. The proposed furniture is compatible with the streetscape.

4. No additional signage is installed.

5. No outdoor speakers are installed.

6. Outdoor dining areas shall not be used after 10:00 p.m.

7. Outdoor grills and/or beverage service stations may be permitted subject to the following criteria:

I. The use is located on private property

II. The use is for no service other than the sale of food or beverages in a form suited for immediate consumption.

III. The use compatible with the aesthetics, site design, and architectural character of the neighborhood.

IV. The use complies with all applicable Uniform Building Code and Health Code regulations.

(b) Outdoor Storage of Rental Bicycles: The outdoor storage of rental bicycles may be permitted in the Historic Recreation Commercial District subject to all requirements of this code, including:

1. The area of the proposed bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaping.

2. Bicycles may be hung on historic buildings if sufficient site area is not available, provided the such display does not destroy or alter the historic fabric of the structure.

3. No additional signage is installed.

7.9.5 (A)

GENERAL COMMERCIAL DISTRICT: USES GOODS TO BE WITHIN ENCLOSED BUILDING. All uses, except outdoor dining shall be conducted within a completely enclosed building except that the Planning Commission may permit limited outdoor uses which it determines are in the best interest of the General Commercial (GC) District. All storage shall be within a completely

enclosed building. Unless expressly allowed in this district as a permitted or conditional use, all goods, including food, beverage and cigarette vending machines, shall be within a completely enclosed building. This section does not preclude temporary sales in conjunction with a master festival, sidewalk sales, or seasonal plant sales as permitted under Title 4 of the Municipal Code.

7.9.5 (B)

GENERAL COMMERCIAL: USES TO BE WITHIN AN ENCLOSED BUILDING. Unless expressly allowed in this district as a permitted or conditional use, all uses shall be within a completely enclosed building. The following outdoor uses may be permitted by the Community Development Department upon the issuance of an administrative permit:

(a) **Outdoor Dining:** Outdoor Dining may be permitted in the General Commercial District subject to all requirements of this code, including:

1. The area of the proposed seating is located on private property and not on public rights-of-way, nor in areas of required parking.
2. The proposed seating area does not impede pedestrian circulation.
3. The proposed furniture is compatible with the streetscape.
4. No additional signage is installed.
5. No outdoor speakers are installed.
6. Outdoor dining areas shall not be used after 10:00 p.m.
7. Outdoor grills and/or beverage service stations may be permitted subject to the following criteria:

- I. The use is located on private property
- II. The use is for no service other than the sale of food or beverages in a form suited for immediate consumption.
- III. The use compatible with the aesthetics, site design, and architectural character of the neighborhood.
- IV. The use complies with all applicable Uniform Building Code and Health Code regulations.

(b) **Outdoor Storage of Rental Bicycles:** The outdoor storage of rental bicycles may be permitted in the General Commercial District subject to all requirements of this code, including:

1. The area of the proposed bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaping.
2. Bicycles may be hung on historic buildings if sufficient site area is not available, provided the such display does not destroy or alter the historic fabric of the structure.
3. No additional signage is installed.

7.17.7 (A)

HISTORIC RESIDENTIAL - LOW INTENSITY COMMERCIAL OVERLAY (HR-2) DISTRICT: USES GOODS TO BE WITHIN

ENCLOSED BUILDING. All uses, except outdoor dining shall be conducted within a completely enclosed building except that the Planning Commission may permit limited outdoor uses which it determines are in the best interest of the Historic District. All storage shall be within a completely enclosed building. Unless expressly allowed in this district as a permitted or conditional use, all goods, including food, beverage and cigarette vending machines, shall be within a completely enclosed building. This section does not preclude temporary sales in conjunction with a master festival, sidewalk sales, or seasonal plant sales as permitted under Title 4 of the Municipal Code.

7.17.17 (B)

HISTORIC RESIDENTIAL - LOW INTENSITY COMMERCIAL OVERLAY (HR-2) DISTRICT: USES TO BE WITHIN AN ENCLOSED BUILDING. Unless expressly allowed in this district as a permitted or conditional use, all uses shall be within a completely enclosed building. The following outdoor uses may be permitted by the Community Development Department upon the issuance of an administrative permit:

- (a) **Outdoor Dining:** Outdoor Dining may be permitted in the HR-2 District subject to all requirements of this code, including:
 1. The area of the proposed seating is located on private property and not on public rights-of-way, nor in areas of required parking.
 2. The proposed seating area does not impede pedestrian circulation.
 3. The proposed furniture is compatible with the streetscape.
 4. No additional signage is installed.
 5. No outdoor speakers are installed.
 6. Outdoor dining areas shall not be used after 10:00 p.m.
 7. Outdoor grills and/or beverage service stations may be permitted

subject to the following criteria:

- I. The use is located on private property
- II. The use is for no service other than the sale of food or beverages in a form suited for immediate consumption.
- III. The use compatible with the aesthetics, site design, and architectural character of the neighborhood.
- IV. The use complies with all applicable Uniform Building Code and Health Code regulations.

(b) Outdoor Storage of Rental Bicycles: The outdoor storage of rental bicycles may be permitted in the HR-2 District subject to all requirements of this code, including:

1. The area of the proposed bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaping.
2. Bicycles may be hung on historic buildings if sufficient site area is not available, provided the such display does not destroy or alter the historic fabric of the structure.
3. No additional signage is installed.

7.18.3 (m)

REGIONAL COMMERCIAL OVERLAY ZONE (RCO): CRITERIA:

Outdoor storage and display of merchandise is not permitted except as allowed for temporary sales under Ordinance No. 82-27.

1. Goods To Be Within an Enclosed Building: Unless expressly allowed in this district as a permitted or conditional use, all goods, including food, beverage and cigarette vending machines, shall be within a completely enclosed building. This section does not preclude temporary sales in conjunction with a master festival, sidewalk sales, or seasonal plant sales as permitted under Title 4 of the Municipal Code.

2. Uses To Be Within an Enclosed Building: Unless expressly allowed in this district as a permitted or conditional use, all uses shall be within a completely enclosed building. The following outdoor uses may be permitted by the Community Development Department upon the issuance of an administrative permit:

(a) Outdoor Dining: Outdoor Dining may be permitted in the RCO District

subject to all requirements of this code, including:

1. The area of the proposed seating is located on private property and not on public rights-of-way, nor in areas of required parking.
2. The proposed seating area does not impede pedestrian circulation.
3. The proposed furniture is compatible with the streetscape.
4. No additional signage is installed.
5. No outdoor speakers are installed.
6. Outdoor dining areas shall not be used after 10:00 p.m.
7. Outdoor grills and/or beverage service stations may be permitted subject to the following criteria:

- I. The use is located on private property
- II. The use is for no service other than the sale of food or beverages in a form suited for immediate consumption.
- III. The use compatible with the aesthetics, site design, and architectural character of the neighborhood.
- IV. The use complies with all applicable Uniform Building Code and Health Code regulations.

(b) Outdoor Storage of Rental Bicycles: The outdoor storage of rental bicycles may be permitted in the RCO District subject to all requirements of this code, including:

1. The area of the proposed bicycle storage is located on private property and not on public rights-of-way, areas of required parking or landscaping.
2. Bicycles may be hung on historic buildings if sufficient site area is not available, provided the such display does not destroy or alter the historic fabric of the structure.
3. No additional signage is installed.

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

PASSED AND ADOPTED this _____ day of _____, 1996

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark D. Harrington, Assistant City Attorney



PEAK EXPERIENCE
PARK CITY, UTAH

May 13, 1996

Park City Town Council
445 Marsac Ave.
Park City, UT 84060

RE: Proposed amendments to Land Management Code

Dear Council Member:

We are writing in follow-up to the town council meeting on May 2. At that time we voiced our concerns about the proposed amendments to the Land Management Code. In particular, the new provisions allow rental bicycles to be stored outdoors. While we have no objections to this recommendation, we do not feel that it addresses the needs of other local businesses involved in the rental or sale of similar outdoor equipment.

As you may remember, Peak Experience is a ski rental and paddlesports shop on Iron Horse Drive. Last summer we displayed several kayaks in front of our store and were told that this was in conflict with the Park City Code. As requested, we stopped doing so. In subsequent discussions with the Park City Planning Department, it was agreed that such a display was in keeping with the recreational atmosphere of Park City and that an exception to the Code might be allowed. It appears that rental bicycles may be granted an exception but that kayaks or other recreational equipment have not been addressed. While I understand that broadening the exception to include all recreational equipment may be problematic, I am requesting that language be added to the current recommendation that would allow us to display our kayaks. Perhaps limiting the display or "storage" to 2 or 3 boats would address any concerns about the appearance.

As discussed at the council meeting, our interest in displaying kayaks is two-fold. First of all, paddlesports represents a significant outdoor activity of potential interest to Park City visitors, as well as local residents. Few visitors, however, are likely to be aware of this opportunity. Paddlesport activities are in keeping with Park City's focus on outdoor recreation, and can potentially add to the appeal of Park City as a summer vacation destination.

In addition, our location on Iron Horse Drive greatly adds to our need for eye catching displays. Businesses not located in the Main Street Historic District fail to benefit from the promotion and displays provided by the city to Main Street merchants. Not only are these businesses not promoted by the city in brochures or other advertising, but we do not have the benefit of such eye-catching decor as flags, banners, and Christmas lighting that

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875 Iron Horse Drive • P.O. Box 682158 • Park City, Utah 84068-2158 • 801-645-5366

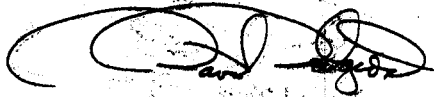
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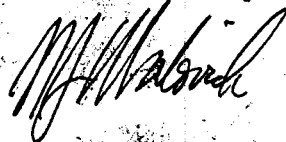
are provided to Main Street businesses. Thus, merchants located "off the beaten path," are more dependent on their own creative efforts to achieve visibility while complying with Park City's strict sign ordinances. After over a year in business, we still encounter Park City residents who were not aware that there were, in fact, retail shops in the plaza we occupy on Iron Horse Drive. Our ability to display a limited number of kayaks would thus greatly enhance our visibility, while appealing to visitors looking for additional activities.

We hope you will consider our request to alter the proposed amendment to include the outdoor display of kayaks, as well as bicycles, to be allowed. We feel this would be in keeping with the purpose of the proposed amendment, as well as more fully address the needs of Park City businesses. Thank you for your consideration.

Sincerely,



David Dodgion
President, Peak Experience



Natalie Malovich
Vice President, Peak Experience