PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 26, 1997

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, June 26, 1997.

AGENDA

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

3:45 p.m. Personnel matter
Property acquisition

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

4:30 p.m. Council questions and comments
Review of regular meeting
5:00 p.m. Impact fees
5:15 p.m. Gillmor property
5:30 p.m. Other meeting questions/comments

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

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JUNE 5, 1997

V PUBLIC HEARING

1. Amendment to Title 11, Chapter 13, Impact Fees, of the Park City Municipal Code and an amendment to Resolution No. 2-97, Fee Resolution

2. An Ordinance approving the plat amendment at 105 Norfolk Avenue, consolidating five fragment lots, in Block 77 and 78 of the Park City Survey, located in the southeast quarter of Section 16, Township 2 South, Range 4 East, Salt lake Base and Meridian, Park City, Utah

VI CONSENT AGENDA

1. An Ordinance approving the plat amendment at 105 Norfolk Avenue, consolidating five fragment lots, in Block 77 and 78 of the Park City Survey, located in the southeast quarter of Section 16, Township 2 South, Range 4 East, Salt lake Base and Meridian, Park City, Utah

2. An Ordinance approving the final subdivision plat for Sandstone Cove located in Park City, Utah

3. An Ordinance approving a final subdivision plat for Lot 2 of North Silver Lake Subdivision at Deer Valley, at Utah corporation project located at North Silver Lake of Lot 2 Amended Deer Valley Master Planned Development, Park City, Utah

4. Ordinance enacting Chapter 13, Title 4 of the Municipal Code of Park City relating to the imposition of a Municipal Energy Sales and Use Tax to replace the Utility Franchise License Tax, and amending Chapter 10, Title 4 of the Municipal Code relating to such taxes

VII NEW BUSINESS

Consideration of a five year lease on the Gillmor property

VIII ADJOURNMENT

Posted: 6/23/97

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 26, 1997

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

Toby Ross, City Manager; Jodi Hoffman; City Attorney; Linda Cook, Special Projects Coordinator; Kurt von Puttkammer, Planner; and Eric DeHaan, City Engineer

Meechie White, National Abilities Center Director

Absent: Council members Chuck Klingenstein and Paul Sincock

1. **Council questions and comments.** Roger Harlan reported that Brenna Herteux explained to him that when balloons are below 500 feet, they must descend, which is a FAA requirement. She suggested that the City Council enact an ordinance that when they descend and land that the balloon be deflated and stop operations. He noted that he and Hugh Daniels attended the ground breaking of the reading garden yesterday. Shauna Kerr discussed her concern about two building officials leaving the City for employment with other cities. She pointed out the building crisis here and the fact that other cities will be benefitting from our trained inspectors. Ms. Kerr didn't know if there is support from Council to again look at salary ranges, but even Heber City is advertising higher pay rates. She believes that the Chief Building Official has worked hard to maintain a good crew and feels badly about losing good employees because of money. Ms. Kerr pointed out that one of Council's goals is valuing employees. Mr. Ross indicated that one of the inspectors is taking a position which will be a promotion with more money, and the other is a unilateral move with better pay. The pay scale for inspectors has been raised recently and there will be replacements for these positions and an additional position this year and next year. There was discussion on graffiti.

2. **Impact fees.** The City Manager explained that the recent staff report is an update from the previous work session. He discussed the Figure 1 fee schedule for single family, duplexes and multi-family, hotel room, commercial, and light industrial which have been adjusted down by 10%. The real driving force behind less revenue from impact fees is that the capital facility plan has less money for projects funded by impact fees. There is a maximum that can be charged based on the level of service provided by a particular facility. With three types of impact fees, the level of service is such that the City could actually charge a higher fee. Roger Harlan asked if there is another defensible number higher than 90%. Mr. Ross recalled that Council debated between a range of 85% and 90%. He relayed that he attended an interim committee meeting last week on impact fees and two other cities testified that they only charged 75%. West and South Jordan charge 100% and were highly criticized by the legislative committee. In response to a question from Roger

Harlan, Mr. Ross explained that the funding of the construction of the new Public Works facility could not be funded with impact fees relating to roads according to state law. The City Manager explained that there will be a public hearing on this tonight, continued to July 3, 1997. Staff indicated that there have been no comments from the building community to date.

3. **Gillmor property.** See attached staff report. In response to a comment from the Mayor suggesting a minimal number of sheep on the property, Linda Cook explained that the County has a standard that the land must be applied to its historic agricultural use at no less than 50%. Roger Harlan asked if the property could have crops. Ms. Cook felt that the topography of the area would not lend itself to that agricultural use. There was discussion about conflicts with dogs and sheep and Mr. Daniels pointed out that the trails encourage people to recreate there. Toby Ross explained that this is a five year proposal. Ms. Kerr strongly felt that in consideration of the rollback tax benefit, if sheep will be grazing there, dogs should be prohibited. She added that the point needs to be made early on that the reason Council is approving sheep there is to save $115,000 in rollback taxes. The Mayor suggested posting the property with finite dates when the sheep will be there, and perhaps dogs could be on a leash. Roger Harlan recommended additional notices on the radio and in the paper. The City Manager added that there are sheep grazing there already. The Mayor could support the lease if there is adequate notice for dog owners hiking and biking in the area. Ms. Kerr reiterated the need for a public relations effort to explain the savings in paying rollback taxes and that the property is for recreation uses, but historically has been agricultural land. The Mayor again discussed establishing finite dates when the sheep will be in the area.

Meechie White explained that the National Abilities Center has stables there and the sheep graze on her property and make a mess. Her property is fenced in on two sides, and she felt it reasonable that the City fence the other two open sides. Ms. White continued that the sheep are a real problem as they are eating their hay and grass, even though the sheepherder is making an effort to alleviate the situation. Mr. Ross pointed out that losing $200 in forage may not justify spending $25,000 for fencing. As the National Abilities Center becomes more developed, the less likely the sheep will be there. Ms. White explained that she felt the fence would only cost around $1,000; she envisioned using fencing wire and steel posts, which is commonly used for livestock.

4. **Meeting questions and comments.** Planner Kurt von Puttkammer explained that the 105 Norfolk plat amendment is consolidating fragment lots on Norfolk and Sampson. This application has gone through the Planning Commission and there was no public input.

With regard to the above-ground pump station for Sandstone Cove, Eric DeHaan explained that because of power, it would be dangerous to have it underground. The pump station will look like a guard house. The location of the pump station is determined to best accommodate maintenance.

There were no further questions or comments on the regular meeting. See regular meeting minutes.

Prepared by Janet M. Scott

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 26, 1997

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, June 26, 1997. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, and Shauna Kerr. Chuck Klingenstein and Paul Sincock 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 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

1. National Trust Preservation Leadership Group - Pat Putt announced that this group will be presenting its recommendations for the reuse of the Burnis Watts Project and the Barn on Friday. The Mayor requested that since Council can't attend, to explore video taping the session.

2. Olympic Media Meeting - The City Manager reminded Council of this meeting at 7 p.m. on Monday at the Yarrow.

IV PUBLIC HEARING

1. Amendment to Title 11, Chapter 13, Impact Fees, of the Park City Municipal Code and an amendment to Resolution No. 2-97, Fee Resolution - The Mayor indicated that this was discussed earlier in work session. There were no further questions from the Council or comments from the public. Hugh Daniels, "I move to continue the public hearing to the meeting of July 3, 1997". Roger Harlan seconded. Motion carried.

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

2. An Ordinance approving the plat amendment at 105 Norfolk Avenue, consolidating five fragment lots, in Block 77 and 78 of the Park City Survey, located in the southeast quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Utah - The Mayor invited the Council and the public to comment. Hearing no input, the public hearing was closed.

V CONSENT AGENDA

Shauna Kerr, "I move approval of the Consent Agenda with the revised Condition No. 7 on Sandstone Cove, Item No. 2". Roger Harlan seconded. Motion carried.

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

1. An Ordinance approving the plat amendment at 105 Norfolk Avenue, consolidating five fragment lots, in Block 77 and 78 of the Park City Survey, located in the southeast quarter of Section 16, Township 2 South, Range 4 East, Salt lake Base and Meridian, Park City, Utah - See staff report.

2. An Ordinance approving the final subdivision plat for Sandstone Cove located in Park City, Utah - See staff report.

3. An Ordinance approving a final subdivision plat for Lot 2 of North Silver Lake Subdivision at Deer Valley, at Utah corporation project located at North Silver Lake of Lot 2 Amended Deer Valley Master Planned Development, Park City, Utah - See staff report.

4. Ordinance enacting Chapter 13, Title 4 of the Municipal Code of Park City relating to the imposition of a Municipal Energy Sales and Use Tax to replace the Utility Franchise License Tax, and amending Chapter 10, Title 4 of the Municipal Code relating to such taxes - See minutes and back-up of meeting of June 12, 1997.

VI NEW BUSINESS

Consideration of a five year lease on the Gillmor property - See staff report and work session notes. The Mayor reported that Council discussed this in work session where it was decided to enter into the lease with the understanding that the dates of herding sheep would be posted, and notice would be given on the radio and in the paper, that dogs would be in danger during these times. Roger Harlan emphasized the importance of vigorous noticing. Ms. Kerr stated that she would

discourage dogs, even on leashes during the time sheep are there. Ms. Cook asked if Council supported prohibiting dogs altogether during those times. Ms. Kerr stated she would be in favor of a prohibition but wasn't certain how comfortable Council felt with that extreme measure. Council agreed that the message should be clear. Roger Harlan, "I move that we inaugurate a strong public relations campaign that would prohibit the use of dogs and other pets that could get away from using the Gillmor Property for the period of time that would be used for sheep herding purposes". Shauna Kerr seconded. Motion carried.

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

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:45 p.m. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan and Shauna Kerr. Chuck Klingenstein and Paul Sincock were excused. Staff present was Tony Ross, City Manager. Shauna Kerr, "I move to close the meeting to discuss personnel and property acquisition". Roger Harlan seconded. Motion carried.

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

The meeting opened at approximately 4:40 p.m.

STATE OF UTAH)
ss.
COUNTY OF SUMMIT)

CERTIFICATE OF CLOSED SESSION
CITY COUNCIL OF PARK CITY, UTAH

As presiding officer of the City Council of Park City, Utah, I hereby certify that the closed session meeting held by the City Council on June 26, 1997, was held pursuant to Section 52-4-5(1)(a)(I) to discuss the character, professional competence, or physical or mental health of an individual.

DATED this 31 day of July, 1997.

Mayor Bradley A. Olch

Subscribed and sworn before me this 31 day of July, 1997.

NOTARY PUBLIC
JANET M. SCOTT
445 Marsac Ave. P.O. Box 1480
Park City, Utah 84060
My Commission Expires
March 11, 2000
STATE OF UTAH

Janet M. Scott, Notary Public

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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

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1,
1884

Janet M. Scott, City Recorder

PARK CITY
1884

DATE: June 22, 1997
DEPARTMENT: Administration
AUTHOR: Toby Ross, City Manager
TITLE: Impact Fee Discussion
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Conduct a public hearing on the *Five Year New Development Capital Facilities Plan and Impact Fee Analysis*, review the proposed impact fee schedule and continue the public hearing until July 3, 1997.

DESCRIPTION:

A. Topic: Impact Fee Discussion

B. Background: On June 12, 1997 the City Council reviewed the history of impact fees in Utah, the 1995 Impact Fee Act, the scope of the *Five Year New Development Capital Facilities Plan and Impact Fee Analysis* (Fee Study) and issues related to amending the City's impact fee ordinance and rates. The staff report for that meeting discussed how impact fees are to be imposed and collected. In summary, the Impact Fee Act:

1. Includes a list of the types of capital facilities for which local government may charge impact fees.

2. Requires a capital facilities plan (CFP) to impose impact fees. The plan must identify a list of public facilities required by new development activity and a description of how the local government will pay for the public facilities.

3. Requires an analysis that
   a. identifies the impact of growth on the need for capital facilities;
   b demonstrates a reasonable relationship between the impacts of growth and the capital facilities;
   c. estimates the proportionate share of the costs for capital facilities; and
   d. identifies how the fees are calculated.

4. Defines factors to be considered in determining proportionate share of the cost of

new facilities.

5. Defines the procedure for the enactment of an impact fee.

6. Specifies the costs that may be considered in establishing the impact fee.

7. Describes accounting, reporting and spending requirements.

8. Describes how the fee ordinance and individual fees may be challenged.

This winter Park City commissioned Rosenthall and Associates to help prepare the Fee Study. To provide the most current capital planning information, this study relies heavily on the Capital Improvement Plan contained in the 1997-98 budget. The Fee Study is limited to roadway facilities; parks (including recreation facilities, open space, and trails); and public safety facilities. Our water impact fees are not currently proposed for revision.

At the June 12th meeting, the Council tentatively determined not to charge the full fee but rather to charge no more than 90% of the maximum fee that could be charged based on the Fee Study. Similarly, the Council did not charge the maximum fee when the impact fee ordinance was last amended in 1995. The Council also tentatively determined to include a provision exempting employee housing that is appropriately deed restricted from the Parks, Public Safety and Roads impact fees like they had in the 1995 amendment.

C. Analysis:

The Ordinance that will be before the Council for adoption on July 3, 1997, basically amends the fee schedule. All the required notice, appeal and other administrative procedures currently in the municipal code comply with the Fee Act and do not require amendment.

1. Impact Fee Schedules

The Council has tentatively determined to establish impact fees at least 10 percent less than the fee calculated in the Fee Study (calculated fee). The proposed impact fee is reached in an iterative process starting with the City's Capital Improvement Plan which is used to produce the Capital Facilities Plan. Capital Facilities Demand is then used in conjunction with the CFP Cost to produce calculated fees. The calculated fees are then reduced to 90 percent of their original value. Finally, the fees are rounded down to the nearest $5.00 and the Standard Multifamily Unit is reduced to match the hotel room greater than 2000 square feet because the distinction between large hotel room and a small condominium is difficult in "real world" Park City (Figure 1, Actual Fee Schedule). This adjustment should avoid some problems administering the ordinance in the future.

A second set of tables is then generated for additions to existing buildings. The process is similar. The calculated fees for residential types are based on the assumption that an addition equal to the size of a standard unit would have a calculated fee equal to the difference between

the fee for the standard unit and the fee for the next higher category. That fee is then adjusted up or down based defined size categories. This approach recognizes that most existing structures have paid impact fees in the past and should pay a lower rate for an addition because of the graduated schedule for residential impact fees. The fees for commercial and light industrial types are directly proportional to the size because impacts usually are directly proportional to size for commercial and light industrial uses. Small additions to all types are exempt from impact fees. The calculated fees are then reduced to 90 percent of their original value. Finally, the fees are rounded down to the nearest $5.00 and the Multifamily Units in most size categories are reduced to match the hotel room size categories (Figure 2 Actual Fee Schedule for Additions). This entire procedure is documented in an addendum to the Fee Study called the *Rate and Structure of Impact Fees* (Rate Addendum) which is available from the City Recorder.

The Rate Addendum also reviews some of the criteria proposed for the administration of the fee. These are suggestions rather than requirements. The actual ordinance and administrative procedures will determine the administration of the ordinance. Staff proposes that the new fees apply to any building application certified complete after the effective date of the ordinance. The previous fee schedule would apply to any building application certified complete before July 1, 1997.

2. Affordable Housing

The Park City Council has indicated its willingness to waive impact fees for *qualified* affordable housing projects. Qualified projects meet the City's standards for affordability and require deed restrictions to guarantee rental rates, resale prices and priority access to employees working in Park City. The City's impact fee ordinance currently permits the City Council to waive fees for affordable projects.

The proposed fee structure also includes several features designed to reduce the effect impact fees could have on the affordability of housing at the lower end of the price range assisting with the affordability of projects that are not qualified projects. Rather than a single fee for all unit types and sizes of residential units, Park City's impact fee structure attempts to recognize that smaller units have a lower potential for peak impact than larger units. Consequently, the proposed fee structure provides for reduced fees for smaller units of all types. Also the fee structure proposes no impact fee for small additions. This strategy supports the City's policy which allows accessory rental units in many residential zones.

The Effect of the Proposed Fee Schedule

The total revenue from impact fees will likely decline compared to what the revenue would have been under the old fee schedule. This results from a change in the impact fee structure, a smaller CFP Cost in the next five years than in the past five years (primarily due to anticipated grants and other sources of revenue) and an actual fee that is less than the calculated and conservative calculation of fees. Examples of how fees are calculated conservatively include:

- All impact fees are reduced at least 10 percent from the calculated fees.

- Impact fees are rounded down.
- Multi-family fees are lowered to match hotel fees in some instances.
- No impact fee is charged for small additions.
- The Capital Facilities Plan recognizes other sources of revenue for capital projects such as grants and reduces the CFP Cost appropriately.
- The fee calculation approach reduces the calculated fee for past and future contributions made by the owners of the property to capital facilities.

D. Department Review: This report has been reviewed by the City Attorney, Building Department and the Finance Manager. The Building Department suggested several administrative approaches that we propose to incorporate in the ordinance or our administrative procedures such as:

1) using the building code definition for the calculation of floor area rather than any definition unique to the ordinance;

2) using the date that a building application is certified to determine whether the old or new fees apply rather than using the date of permit issuance or some other strategy;

3) commercial impact fees will be charged at the time of the shell permit and will not be charged for tenant finishes inside the building; and

4) Impact fees for basements both finished and unfinished will be charged at the time the house permit is issued and no impact fee will be charged for remodeling that doesn't increase the floor area.

The proposed ordinance does not include two recommendations from the Building Department:

1) *Charge accessory units as separate units.* The proposed ordinance does not charge for small additions. To promote affordability housing the Council authorized accessory units. The proposed ordinance supports the Council's current policy on affordable housing and may assist us with our legislative challenges; and

2) *Charge impact fees for parking structures whether they are the primary use or an accessory to another use.* The proposed ordinance does not charge for separate parking structures or parking structures associated with commercial or industrial uses because the impact of parking was already considered in the fee for commercial floor area. To charge for the parking would be double charging. Garages and parking structures for residential uses are included in the floor area when determining the size category.

ALTERNATIVES:

Staff will review basic issues and the proposed impact fee schedule on Thursday with **no formal action** expected. We intend to schedule both a continued public hearing and action for July 3, 1997. On the 3rd the Council could consider the following actions.

A. **Approve a revised impact ordinance:**

B. **Decline to adopt any impact fee ordinance:**

C. **Continue the item with direction:**

SIGNIFICANT IMPACTS: Park City relies heavily on impact fees to support its capital improvement programs. Last year the City collected about $2 million in the categories being discussed in this ordinance. Historically, Park City impact fees (excluding water) have represented 2 percent of calculated construction value (less of construction contract prices). In the aggregate, fees would go down in this by 10% or more as a result of the new fee analysis. However, the new approach does not affect every type of construction equally so that fees for some types of construction will go up (for example, a 2100 square foot multifamily unit) while others will go down (very large single family units).

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Not adopting any impact fee ordinance would significantly limit our long term capital development, particularly in parks and open space. Delaying adoption past July 3, 1997 could create some logistical problems; long delays could result in significant loss of revenue.

RECOMMENDATION:

Conduct a public hearing on the *Five Year New Development Capital Facilities Plan and Impact Fee Analysis*, review the proposed impact fee schedule and continue the public hearing until July 3, 1997.

Park City Impact Fee Analysis

Figure 1, Draft Actual Fee Schedule

Development Type	Parks	Police	Roads	Total
Single Family				
Standard Unit (3001-5000 square feet)	$3,855.00	$445.00	$315.00	$4,615.00
Less than 3000 square feet	$1,925.00	$220.00	$155.00	$2,300.00
More than 5000 square feet	$5,780.00	$670.00	$470.00	$6,920.00
Duplex and Multi Family				
Standard Unit (2001-4000 square feet)	$2,775.00	$320.00	$255.00	$3,350.00
Less than 2000 square feet	$1,400.00	$165.00	$145.00	$1,710.00
More than 4000 square feet	$4,285.00	$495.00	$435.00	$5,215.00
Hotel Room				
Standard Unit (751-2000 square feet)	$1,850.00	$195.00	$170.00	$2,215.00
Less than 751 square feet	$925.00	$95.00	$85.00	$1,105.00
More than 2000 square feet	$2,775.00	$320.00	$255.00	$3,350.00
Commercial (per 1000 square feet)	$0.00	$460.00	$405.00	$865.00
Light Industrial (per 1000 square feet)	$0.00	$370.00	$320.00	$690.00

Park City Impact Fee Analysis

Figure 2, Draft Actual Fee Schedule For Additions

Development Type	Parks	Police	Roads	Total
Single Family				
0-500 square feet	$0.00	$0.00	$0.00	$0.00
501-1500 square feet	$480.00	$55.00	$35.00	$570.00
1501-3000square feet	$960.00	$110.00	$75.00	$1,145.00
3001-5000 square feet	$1,925.00	$220.00	$155.00	$2,300.00
more than 5000 square feet	$3,850.00	$440.00	$310.00	$4,600.00
Duplex and Multi Family				
0-500 square feet	$0.00	$0.00	$0.00	$0.00
501-1000 square feet	$350.00	$40.00	$35.00	$425.00
1001-2000square feet	$700.00	$80.00	$70.00	$850.00
2001-4000 square feet	$1,400.00	$165.00	$145.00	$1,710.00
more than 4000 square feet	$2,800.00	$330.00	$290.00	$3,420.00
Hotel Room				
0-200 square feet	$0.00	$0.00	$0.00	$0.00
201-750 square feet	$350.00	$40.00	$35.00	$425.00
751-2000square feet	$700.00	$80.00	$70.00	$850.00
more than 2000 square feet	$1,400.00	$165.00	$145.00	$1,710.00
Commercial	$0.00	$0.46/sf	$0.40/sf	NA
Light Industrial	$0.00	$0.37/sf	$0.32/sf	NA

PARK CITY
1884

CITY COUNCIL STAFF REPORT

DATE: **June 26 meeting**
DEPARTMENT: **Planning Department**
AUTHOR: **Kurt von Puttkammer, AIA**
TITLE: **105 Norfolk Avenue**
TYPE OF ITEM: **Consent**

SUMMARY RECOMMENDATIONS:

Adopt the ordinance approving a modification to consolidate five fragment lots in Block 77 & 78 of the Park City Survey into one lot.

DESCRIPTION:

A. TOPIC

PROJECT STATISTICS

Applicant:	Jonathan DeGray
Location:	105 Norfolk Avenue
Proposal:	Plat amendment
Zoning:	Historic Residential-Low Intensity (HRL)
Adjacent Land Uses:	Residential
Project Planner:	Kurt von Puttkammer, AIA

B. Background

The proposed project is located on Upper Norfolk Avenue and is surrounded by residential uses. The project consists fragments of five lots totaling 6,500 square feet with a 2,679 square foot single family residence located on the site. The purpose of the proposed plat amendment is to permit the construction of a 595 square foot addition.

Currently, the intersection of built Norfolk/Sampson Avenue bisects approximately 750 square feet of the property.

On May 28, 1997, the Planning Commission held a public hearing and discussed the project. Hearing no comment from the public, the Planning Commission directed Staff to prepare Findings of Fact, Conclusions of Law, and Conditions of Approval for approval on the next meeting's consent agenda.

C. Analysis

Staff has evaluated the overall project against the Land Management Code, section 7.17, Historic Residential-Low Intensity, HRL and determined the proposed plat amendment complies with all requisite City codes. In addition, Staff has reviewed the applicant's proposed addition and determined the newly formed plat will allow the proposed addition as submitted.

The City Engineer has reviewed the project and has requested the applicant dedicate the portion of land currently occupied by Norfolk Avenue to the City. The applicant agrees to this condition.

D. Department Review

The request was discussed at a Staff Review meeting on March 18, 1997, and no additional comments were received.

The Community Development Department will request a Construction Mitigation Plan prior to approving building permits.

This project was noticed to property owners within 300' of the affected property and all property owners within the affected subdivision plat on April 30, 1997.

ALTERNATIVES:

A. Approve the plat amendment request, thereby, allowing the 5 fragment lots to be combined into one lot.

B. Deny the plat amendment request, thereby retaining the original parcel configuration.

C. Continue the item for further discussion and input.

SIGNIFICANT IMPACTS:

This proposed amendment will have no determinable impacts at this time.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed, the owner will be unable to proceed with any additions to the existing single family structure.

RECOMMENDATION:

The Staff recommends the Planning Commission forward a positive recommendation for approval to the City Council of the proposed plat amendment based on the following:

Findings of Fact

1. The plat amendment combines five fragment lots, of varying size, into one 5,800 SF lot.

2. The proposed lot size, 5,800 square feet, is consistent with the existing ownership patterns in the surrounding HRL district.

3. The project is located on Norfolk Avenue with constricted access and with minimal construction staging area. A Construction Mitigation Plan is necessary to mitigate adverse impacts on the neighboring properties.

4. The constructed intersection of Norfolk/Sampson Avenue encompasses appproximately 750 square feet of the applicant's property. The applicant agrees to dedicate the 750 square feet as public right-of-way. This portion of the applicant's property has been used as a public right-of-way for several decades.

Conclusions of Law:

1. There is good cause for the amendment in that the parcel combination will result in one lot which complies with the LMC, replacing five non-conforming lot fragments.

2. Neither the public nor any person will be materially injured by the proposed plat amendment.

Conditions of Approval:

1. Prior to plat recordation, the City Attorney and City Engineer shall review and approve the final plat for compliance with the Land Management Code and conditions of approval.

2. All Standard Project Conditions and Land Management Codes shall apply.

3. The final plat shall be recorded at Summit County within one year from the date of City Council approval. If recordation has not occurred within the one year time frame, this approval and the plat shall be considered null and void.

4. A Construction Mitigation Plan will be required from the applicant prior to any construction on the newly created parcels.

5. The applicant shall dedicate ownership of the portion of Norfolk/Sampson Avenue intersection currently used for public access to the City per the approval of the City Engineer.

REQUESTED COUNCIL ACTION:

The Staff recommends that the City Council approve the proposed plat amendment.

EXHIBITS:
Exhibit A- Proposed plat map
Exhibit B- Location map
Exhibit C- Proposed site plan

Ordinance No. 97-

AN ORDINANCE APPROVING THE PLAT AMENDMENT AT 105 NORFOLK AVENUE, CONSOLIDATING FIVE FRAGMENT LOTS, IN BLOCK 77 & 78 OF THE PARK CITY SURVEY, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, UTAH

WHEREAS, the owners, Jonathan F. DeGray and Patricia A. Lindsey, of the property at 105 Norfolk Avenue, located in the Southeast Quarter of Section 16, Township 2 South, Range 4 East, Park City, Utah, have petitioned the City Council for approval of a plat amendment; and

WHEREAS, proper notice was sent and the property posted according to requirements of the Land Management Code and state law; and

WHEREAS, on June 26, 1997 the City Council reviewed the proposed plat amendment and held a public hearing; and

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

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

SECTION 1. FINDINGS OF FACT.

1. The plat amendment combines five fragment lots, of varying size, into one 5,800 SF lot.

2. The proposed lot size, 5,800 square feet, is consistent with the existing ownership patterns in the surrounding area.

3. The project is located on Norfolk Avenue with constricted access and with minimal construction staging area. A Construction Mitigation is necessary to mitigate any adverse impacts on the neighboring properties.

4. A portion of the lot fragments are currently used as Sampson Avenue and have been used as public access for several decades.

SECTION 2. CONCLUSIONS OF LAW.

The City Council hereby concludes that there is good cause for the above-mentioned plat amendment and that neither the public nor any person will be materially injured by the proposed plat. The plat is consistent with the Park City Land Management Code and applicable State law.

SECTION 3. PLAT APPROVAL.

The plat amendment located at 105 Norfolk Avenue, is hereby approved as shown on Exhibit A, with the following conditions:

1. Prior to plat recordation, the City Attorney and City Engineer shall review and approve the final plat for compliance with the Land Management Code and conditions of approval.

2. All Standard Project Conditions and Land Management Codes shall apply.

3. The final plat shall be recorded at Summit County within one year from the date of City Council approval. If recordation has not occurred within the one year time frame, this approval and the plat shall be considered null and void.

4. A Construction Mitigation Plan will be required from the applicant prior to any construction on the newly created parcels.

5. The applicant shall dedicate ownership of the portion of Sampson Avenue currently used for public access to the City per the approval of the City Engineer.

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

PASSED AND ADOPTED this 26 th day of June, 1997.

PARK CITY MUNICIPAL CORPORATION

_____

Mayor Bradley A. Olch

Attest:

_____

Janet M. Scott, Deputy City Recorder

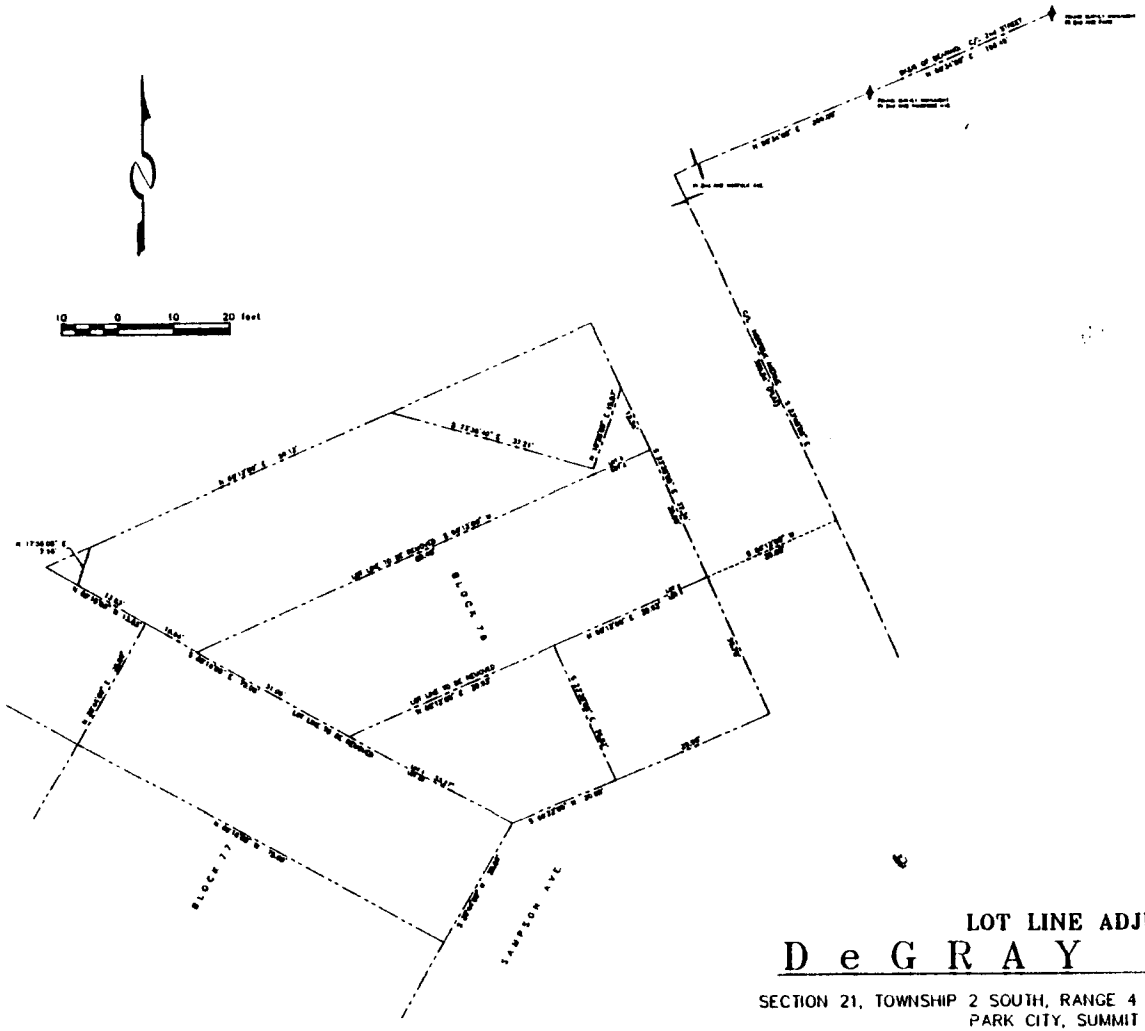
Approved as to form:

_____

Mark D. Harrington, Assistant City Attorney

M:\CDD\KVP\CC\105NORF.ORD

EXHIBIT A



SURVEYORS CERTIFICATION

BOUNDARY DESCRIPTION

NARRATIVE

1. Street address of the property is
2. Property corners were not set.

OWNERS DEDICATION

ACKNOWLEDGEMENT

LOT LINE ADJUSTMENT
DeGRAY REPLAT

SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

JOB NO 7-01-87 FILE SRV\SRV87\PCB\070197

PAGE 1 OF 1

ALLIANCE ENGINEERING INC.
P.O. BOX 2664
323 MAIN STREET
PARK CITY, UTAH 84060
(801) 649-9467

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS _____ DAY OF _____, 1996 A.D.
BY _____
S.B.S.I.D.

ENGINEERS CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 1996 A.D.
BY _____
PARK CITY ENGINEER

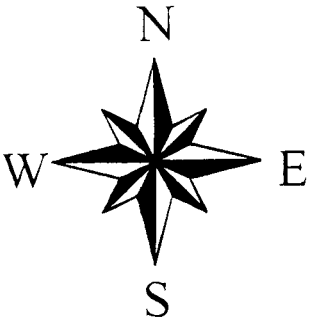
APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____, 1996 A.D.
BY _____
PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 1996 A.D.
BY _____
PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 1996 A.D.
BY _____
MAYOR

RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____
_____ FEE
_____ RECORDER

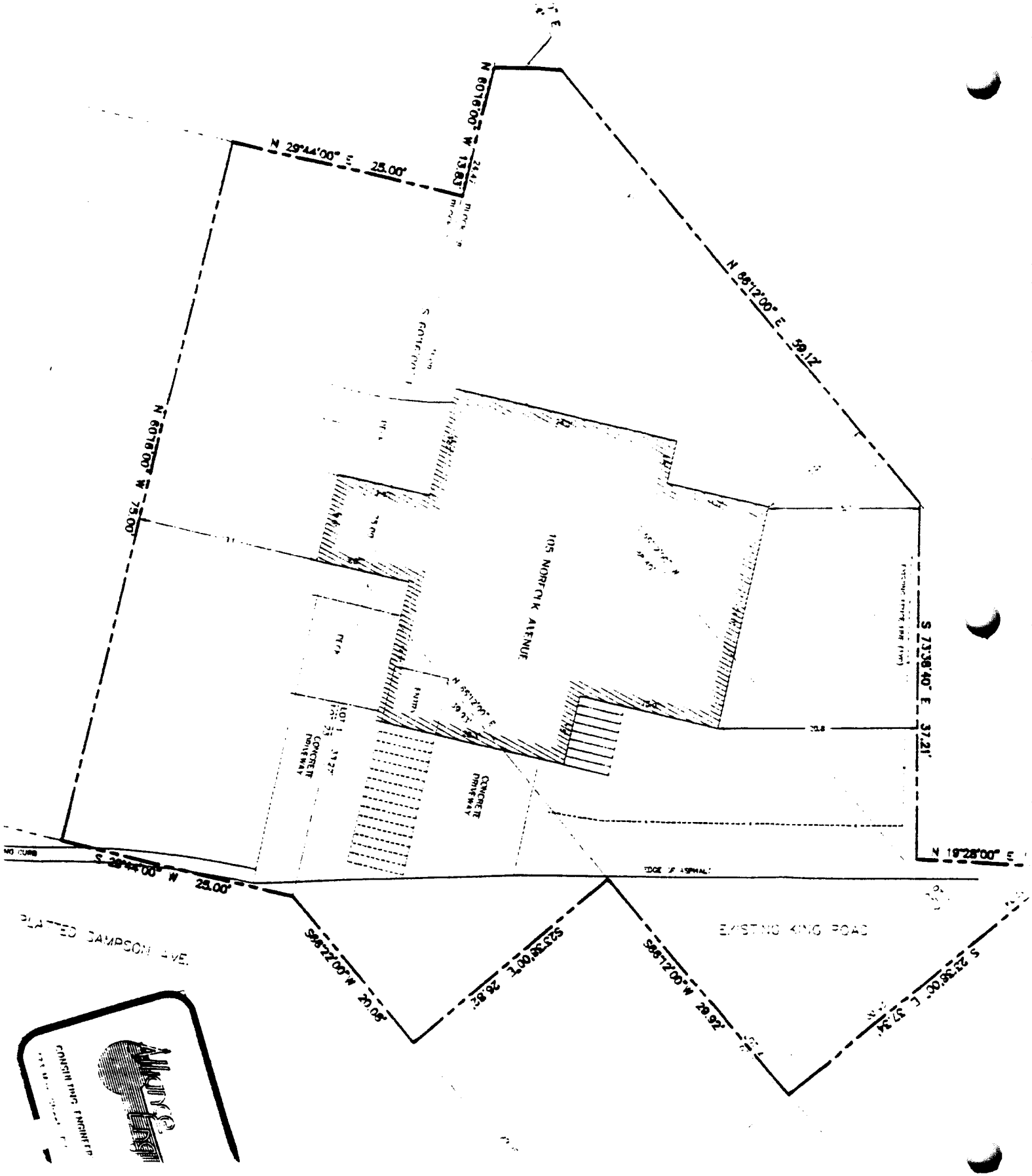
105 Norfolk Ave.



PARK CITY
1884

EXHIBIT ~~A~~ B VICINITY MAP

EXHIBIT "C"


N 60°18'00" W 13.83'
N 29°44'00" E 25.00'
N 60°18'00" W 75.00'
N 88°12'00" E 59.12'
S 73°38'40" E 37.21'
N 19°28'00" E
105 NORFOLK AVENUE
CONCRETE DRIVEWAY
CONCRETE DRIVEWAY
S 29°44'00" W 25.00'
EDGE OF ASPHALT
PLATTED SAMPSON AVE.
EXISTING KING ROAD
S 88°12'00" W 20.05'
S 23°38'00" E 26.82'
S 88°12'00" W 29.92'
S 23°38'00" E 37.34'

PARK CITY

DATE: June 26, 1997
DEPARTMENT: Planning
AUTHOR: Nora Seltenrich
TITLE: Sandstone Cove
TYPE OF ITEM: Final Plat

SUMMARY RECOMMENDATIONS: **Conditional Approval**

DESCRIPTION:
PROJECT STATISTICS

Project Name:	Sandstone Cove
Applicant:	Black Diamond Partners
Location:	West of Eagle Pointe
Zoning:	Estate and ROS
Adjacent Land Uses:	Open Space, Single Family Residential
Project Planner:	Nora Seltenrich

A. Topic:
The applicant is requesting approval from the City Council for the final plat for Sandstone Cove, a 16 lot single family subdivision.

B. Background:
The City Council approved an annexation for Sandstone Cove on May 1, 1997. Subsequently, the Planning Commission reviewed and approved the preliminary and final plats for the subdivision. That approval is consistent with the Annexation Agreement approved by the City Council. A public hearing was held before the Planning Commission on June 11, 1997. There was no public input.

C. Analysis:
The finding of fact, conclusions of law and conditions of approval are consistent with the approved annexation agreement and incorporate specific concerns and conditions required by the Planning Commission and City Council concerning items such as house size, fencing, and lighting.

D. Department Review:
This report has been reviewed by the Community Development Department and the Legal Department. The attached findings and conditions reflect that review. The legal department and City Engineer will review the final plat and CC&R's prior to plat recordation.

RECOMMENDATION: Approve subject to the attached documents.

Ordinance No. 97-____

AN ORDINANCE APPROVING THE FINAL SUBDIVISION PLAT FOR SANDSTONE COVE LOCATED IN PARK CITY, UTAH

WHEREAS, Sandstone Cove was recently annexed to Park City by recordation of an Annexation Plat and associated Annexation Agreement which outlined acceptable development parameters on the property; and

WHEREAS, the applicant is now requesting final plat approval consistent with that annexation; and

WHEREAS, a properly noticed public hearing was held before the Planning Commission on June 11, 1997 and the Planning Commission forwarded a positive recommendation to the City Council at that time; and

WHEREAS, the plat is consistent with the terms of the MPD Approval and Annexation Agreement for Sandstone Cove;

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

SECTION 1. FINDINGS OF FACT.

1. The Sandstone Cove MPD and sketch plat was approved by the Planning Commission and the Sandstone Cove annexation was approved by the City Council subject to an Annexation Agreement, and the proposed final plat, as conditioned, is consistent with those approvals.

2. The subdivision is located on a visually sensitive hillside and analysis has been done to minimize the negative visual impacts as required by the Park City Sensitive Lands Ordinance.

3. The subdivision is located on a visually sensitive hillside which is difficult to access with two points of access that special design criteria are necessary to meet required Fire Codes.

4. The applicant and the City have negotiated, through the Annexation Process, that the applicant is required to construct an additional water tank and appurtenances to serve this subdivision and has an obligation to provide water rights.

5. Water consumption is a growing concern in Park City and conservation measures are vital to address those concerns.

6. The project will create a demand for additional employees in Park City and the City's Annexation Policy allows for an exaction to offset that demand.

7. The Sandstone Cove Property includes some significant visual open space that is being preserved through the terms of the Annexation and the conditions of this subdivision approval.

8. The applicant has reviewed and stipulated to the conditions of approval.

SECTION 2. CONCLUSIONS OF LAW.

1. The final plat, as conditioned, is consistent with the Park City Land Management Code and Annexation Agreement for Sandstone Cove.

2. The size and configuration of the parcels and resulting homes are consistent with adjacent developments.

3. House size limitations, limits of disturbance and building height restrictions are necessary for compliance with the Park City Sensitive Lands Ordinance.

4. Special subdivision and dwelling design conditions are necessary to provide adequate fire protection.

5. The final plat, as conditioned, will not be detrimental to the health, safety and general welfare of the citizens of Park City and is consistent with Chapter 15 of the Land Management Code.

SECTION 3. CONDITIONS OF APPROVAL.

1. **Trails.** The developer shall dedicate a trail easement to the City in a location approved by staff, consistent with the Annexation Agreement and Trails Master Plan. The trail will connect Sandstone Cove to both Eagle Pointe and to Mountain Ridge and shall be put it at the expense of the developer. When practical, a 50 foot easement will be dedicated to accommodate the trail. The trail will be a back country, soft surface trail which shall be located within the easement so as to avoid significant vegetation and minimize necessary grading. Final field location of the trail and specifications for construction shall be approved by the City prior to construction commencing on the public improvements for the subdivision. Some trail connection will be required to be maintained throughout construction of the subdivision and during construction on individual home sites.

2. **Open Space**. Sandstone Cove shall feature an expanse of open space as shown on Exhibits A and B of the Annexation Agreement which shall be preserved as follows:

   A. City Ownership. Petitioners shall transfer by statutory warranty deed satisfactory to the City approximately 30.52 acres of Sandstone Cove to the City in fee simple (the City Open Space parcel) prior to or concurrent with recordation of the final plat. The City Open Space

Parcel is more accurately described and depicted as Parcel 1 on Exhibit A of the Annexation Agreement and is zoned ROS.

B. Use Restrictions and Preservation. The remainder of the property zoned ROS within Sandstone Cove (the Private Open Space) shall be subject to deed restrictions, in addition to the ROS zoning, which will ensure the perpetual preservation of the open space and shall restrict the uses of the Private Open Space Parcel (including a restriction on fencing). The use restrictions shall be drafted and recorded to the satisfaction of the City and shall be included on the final plat prior to recordation Sandstone Cove CC&R's shall further restrict the use of the Private Open Space.

C. Maintenance. Open space shall be maintained by the entity holding fee title to the property.

3. **Fire Prevention Measures.** Because of the Petitioners' inability to provide two points of emergency access, the Petitioner agrees to implement the following mitigation plan for each dwelling unit, all to the reasonable satisfaction of the Fire Marshall:

a) Exterior building materials shall be constructed of flame retardant or non-combustible materials;

b) All structures shall have exterior and interior fire sprinklers;

c) No wood burning devices (interior or exterior);

d) All structures shall be surrounded by defensible space which includes a primary zone of twenty-five feet from the structure in which plant materials must be irrigated and a secondary zone of an additional fifty feet in which dead or unhealthy plant material must be cleared at all times; and

e) Adequate fire flow for this project supplied by a new underground 250,000 gallon water tank, easements, and appurtenances all dedicated on site, at the elevation of approximately 7200 feet.

Items 3(a) through (d), inclusive, shall be shown on the final plat.

4. **Affordable Housing**. The Petitioner shall convey to the City 1 unit of affordable housing, or, at the discretion of the City, shall pay a fee in lieu of its obligation to construct 1.6 units of affordable housing (on site) in an amount that is consistent with City policy at the time the Final Plat is approved. If the City chooses to accept a fee in lieu of its affordable housing obligation, the Petitioner agrees to pay such fee prior to final plat recordation.

5 **Construction Staging.** Submission and approval of a construction staging and mitigation plan is a condition precedent to approval of any building permits.

6. **Roads and Road Design.** All streets, roads and trails within Sandstone Cove shall be public and public access may not be obstructed without the prior approval of the City. Sandstone Cove is benefitted by road improvements scheduled for completion in the Eagle Pointe Subdivision. The developer has entered into and shall honor a proportionate share reimbursement for road and sewer improvements with the developer of the Eagle Pointe Subdivision. The City recognizes that there will be an above-ground water pump station in an island in the middle of the road. That pump station will be required to meet the lighting and design standards for the subdivision.

7. **Dedication of Water Rights**. Prior to, or concurrent with, final plat recordation, the developer shall dedicate to the City adequate water rights for the development and such additional water rights as are necessary to achieve the equivalent of 100% conversion of 22.77 acre feet of Weber River Decreed Right #450 and 6.46 acre feet of Weber River Decreed Right #437 (priority of 1875 or earlier, from a source with an equivalent low flow volume right). The Petitioner, with the cooperation of the City, shall undertake the burden and expense of converting the dedicated water rights to the City's year-round municipal use and for changing the points of diversion, type of use, and place of use of those rights to the City's Park Meadows and Treasure Mountain Middle School Wells or as designated by Park City, at its sole discretion. Petitioner shall be responsible for the administrative and legal expenses incurred in making such changes.

Formal State Engineer approval of the change of 100% of the equivalent of 22.77 acre feet of Weber River Decreed Right #450 and 6.46 acre feet of Weber River Decreed Right #437 (as described above) to the City's Park Meadows and TMMS Wells would constitute full satisfaction of the water development fees the City would otherwise collect from the owners of lots within the annexed area at the time of building permits. However, State Engineer approval of this Change Application could take a long time, and is not likely to occur before Sandstone Cove lot owners would like to connect to the City's water system. Therefore, Park City will collect all normal water development fees from Sandstone Cove lot owners as the lots develop. When the State Engineer approves the Petitioners' conversion of a 100% of 29.23 acre feet of water rights as described above, the City will reimburse to Black Diamond Partnership the actual water development fees the City has collected from lot owners within Sandstone Cove.

8. **Water Connection and Other Water System Costs.** The developer shall construct and dedicate a 250,000 gallon water tank and all necessary easements and appurtenances including an above-ground pump station at a site and to specifications approved by the City Engineer. Upon completion of the tank, easements and appurtenances all to the satisfaction of the City Engineer, the developer shall dedicate the easements and water facilities to the City. As each building permit is obtained for each dwelling unit within the subdivision, the

lot owner shall pay the Park City Water Connection fees as provided by the Park City ordinance in effect at the time of application for building permits. The parties agree that no Sandstone Cove lot owner shall be entitled to an offset (in whole or in part) of the Park City Water Connection Fee as a result of the Petitioner's successful completion of this condition. Exterior maintenance of the above-ground pump station will the responsibility of the property owners in the subdivision.

9. **Fencing.** All fencing is prohibited within the ROS Zone. Fencing of the perimeter of any lot, or of the entire Estate Zone within a lot, is prohibited. Withing the Estate Zone of a lot, certain limited fencing to prevent trespass, protect children, control animals, and/or enhance the landscape plan may be permitted.

10. **Home Size Limitation.** Home sizes shall be limited as follows:

6,000 sq ft on the 2 parcels from .5 to 1.0 acres
7,000 sq ft on the 6 parcels from 1.0 to 2.0
8,500 sq ft on the 8 parcels in excess of 2.0 acres

11. **Building Height** Limitation. Dwellings built on Lots #2, #3, #4, #12, #13 and #14 may have limited visual impacts on abutting Lots and off-site neighbors. To minimize any such impacts, the Declarant seeks to suppress roof heights, to lengthen and vary building elevations to reflect the gentle, underlying topography, and to require substantial landscaping on the most visible elevations. Dwellings to be built on these specified Lots shall conform to the following special requirements:

(a) Maximum Height. The maximum dwelling height shall be twenty-five (25) feet above natural grade. All relevant definitions and the manner of measurement shall be as set forth in Park City's Land Management Code.

(b) Maximum Ridgeline. The maximum height of a dwelling's ridgeline shall be thirty (30) feet. No more than fifty (50) percent of the dwelling's total ridgeline measurement shall be at or within three (3) feet of this height. All relevant definitions and the manner of measurement shall be as set forth in Park City's Land Management Code.

(c) Maximum Upper Floor Area. The area of a top or intermediate floor template shall not exceed 50% of area of the floor template directly beneath it.

12. **Architectural Specifications.**

(a) Limits on Other Floor Areas. The floor area template directly above the lowest floor level template, shall not exceed 85% of the area of the floor template directly beneath it, whether such lowest floor level template is finished, unfinished, or crawl space.

(b) Garage Loft Space. Loft-space above a garage may be developed as living space provided that such development shall not result in raising of the garage exterior wall height or eave line above that necessary to contain the actual garage area volume.

(c) Maximum Exterior Wall Height. No exterior wall may exceed 23' in height when measured from the eave overhang line to the lesser in elevations of either natural grade or finished grade.

(d) Maximum Exterior Wall Length. No single, continuous exterior wall plane shall measure more than thirty (30) feet in length before a change in depth of at least three (3) feet.

(e) Maximum Garage Door Wall Length. No single or continuous exterior wall plane containing one or more garage doors shall measure more than twenty-four (24) feet in length before a change in depth of at least three (3) feet.

13. **Impact and Building Fees.** Sandstone Cove lot owners shall pay all generally-applicable impact, building permit, and plan check fees due for construction on the annexed land at the time of application for building permits.

14. **Acceptance of Public Improvements.** Petitioner shall offer to Park City title to roads, water tank, storm drainage improvements, easements and appurtenances, upon Petitioner's fulfillment of all Code requirements and Park City's final approval of the infrastructure construction.

15. **Snow Removal and Storage.** Park City is not obligated to remove snow from public streets within Sandstone Cove until 50% (8 out of the 16 lots) have been improved by the construction of houses on those lots as evidenced by Park City's issuance of a minimum of eight (8) certificates of occupancy for dwelling units within Sandstone Cove. Since Sandstone Cove is being accessed from a subdivision (Eagle Pointe Phase I and II) which is under construction, the City will not be obligated to provide snow removal to Sandstone Cove until snow removal is provided to Eagle Pointe.

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

PASSED AND ADOPTED this day of , 1997.

PARK CITY MUNICIPAL CORPORATION

_____

Bradley A. Olch, MAYOR

Attest:

_____

Janet M. Scott, City Recorder

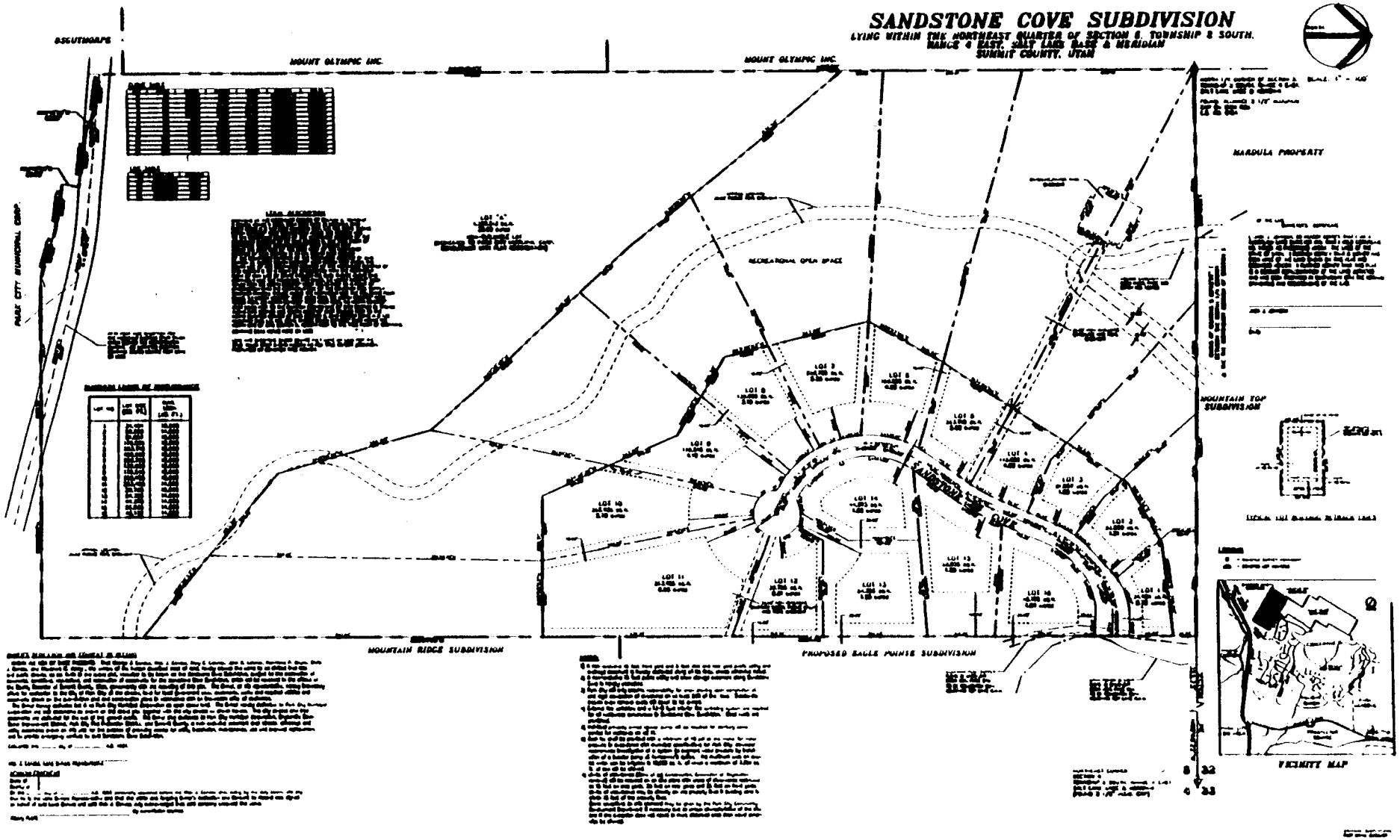
Approved As to Form:

_____

Mark D. Harrington,
Assistant City Attorney

SANDSTONE COVE SUBDIVISION

LYING WITHIN THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH



CITY COUNCIL APPROVAL	CITY ENGINEER	CITY PLANNING COMMISSION	SEWER DISTRICT APPROVAL	APPROVAL AS TO FORM	RECORDED
PRESENTED TO THE BOARD OF CITY COUNCIL THIS ____ DAY OF ____ A.D. 19 ____ AT WHICH TIME THIS RECORD OF SURVEY WAS APPROVED.	APPROVED AND ACCEPTED BY THE ____ CITY ENGINEERING DEPARTMENT THIS ____ DAY OF ____ A.D. 19 ____	APPROVED AND ACCEPTED BY THE CITY PLANNING COMMISSION ON THIS ____ DAY OF ____ A.D. 19 ____	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS THIS ____ DAY OF ____ A.D. ____	APPROVED AS TO FORM ON THIS ____ DAY OF ____ A.D. 19 ____	No. ____ STATE OF ____ COUNTY OF ____ RECORDED AND FILED AT THE REQUEST OF ____

THE JACK JOHNSON COMPANY

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

When Recorded, please return to:
City Recorder
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060

ANNEXATION AGREEMENT FOR THE SANDSTONE COVE PROPERTY

This Annexation Agreement is made by and between Park City Municipal Corporation ("Park City") and Black Diamond Partners, L.C. (Hank Rothwell and Gerald Jackson), George J. Condas, Nick J. Condas, the Heirs and devisees of Mary C. Lehmer Probate no. 2260 Summit County Utah, John R. Lehmer general representative, Hermione P. Bayas, Chris J. Condas, Alexandra C. Ockey (hereafter collectively referred to as "Petitioners") to set forth the terms and conditions under which Park City will annex land owned by Petitioner into the corporate limits of Park City and extend municipal services to a portion of that property. This Agreement is made under authority of Utah Code Annotated §10-2-414 (1953, as amended), and shall serve as a supplemental annexation policy declaration when executed by all parties. In consideration of Park City's agreement to annex Petitioner's property and in consideration of the mutual promises contained herein, the parties agree that the terms and conditions of annexation shall be as follows:

1. **Property**. The property to be annexed is approximately 81.93 acres, depicted on Exhibit A and includes an 80.13 acre parcel owned by Petitioners, more fully described in Exhibit B, and incorporated herein by reference (hereafter referred to as the "Property" or "Sandstone Cove").

2. **Zoning**. Upon annexation, Sandstone Cove will be zoned in two areas as shown on Exhibit A. Approximately 64.20 acres of Sandstone Cove will be zoned Recreation Open Space upon annexation. The ROS zone incorporates annexed property that Petitioners do not own. The entire zone is fully described and depicted on Exhibit A. The remainder of Sandstone Cove (approximately 17.78 acres) will be zoned Estate. The Estate Zone is fully described and depicted on Exhibit A.

3. **Master Plan Approval**. The Planning Commission has tentatively approved a Master Planned Development (MPD) for 18 single family parcels, as a part of this annexation process. The density, road and lot locations, open space, trails, and other parameters of development within Sandstone Cove shall be consistent with the MPD approval as shown in Exhibit C, as amended by this Agreement. The MPD is valid for one year from the effective date of the Resolution authorizing this Agreement.

4. **Density**. The total density of the MPD for Sandstone Cove was 18 single family parcels, which accommodated density transfers from the remainder of the 80.13 acres. Petitioners

agree that the MPD density shall be reduced to a maximum of 16 single family parcels. That density will be further restricted prior to subdivision approval to include maximum height and building mass limitations. The density, road and lot locations, open space , trails, and other parameters of development within Sandstone Cove shall be consistent with the MPD approval as shown in Exhibit C.

5. **Trails.** Petitioner agrees to submit a trails plan and to construct and dedicate such trails and trail easements to the reasonable satisfaction the City as a condition precedent to preliminary plat approval for Sandstone Cove. The trails plan shall include a connection from the Mountain Ridge Subdivision to the future phases of the Eagle Pointe subdivisions.

6. **Open Space.** Sandstone Cove shall feature an expanse of open space as shown on Exhibits A and C which shall be preserved as follows:

A. City Ownership. Petitioners shall transfer by statutory warranty deed satisfactory to the City approximately 30.52 acres of Sandstone Cove to the City in fee simple absolute (the City Open Space parcel). The City Open Space Parcel is more accurately described and depicted as Parcel 1 on Exhibit A and shall be zoned ROS.

B. Use Restrictions and Preservation. The remainder of the property zoned ROS within Sandstone Cove (the Private Open Space) shall be subject to deed restrictions, in addition to the ROS zoning, which will ensure the perpetual preservation of the open space and shall restrict the uses of the Private Open Space Parcel, and shall prohibit perimeter fencing. The use restrictions shall be drafted and recorded to the satisfaction of the City prior to recordation of the Preliminary Plat for Sandstone Cove. Sandstone Cove CC&R's shall further restrict the use of the Private Open Space.

C. Maintenance. Open space shall be maintained by the entity holding fee title to the property.

7. **Fire Prevention Measures.** Because of the Petitioners' inability to provide two points of emergency access, the Petitioner agrees to implement the following mitigation plan for each structure, all to the reasonable satisfaction of the Fire Marshall:

a) Exterior building materials shall be constructed of flame retardant or non-combustible materials;

b) All structures shall have exterior and interior fire sprinklers;

c) No wood burning devices (interior or exterior);

d) All structures shall be surrounded by defensible space which includes a

primary zone of twenty-five feet from the structure in which plant materials must be irrigated and a secondary zone of an additional fifty feet in which dead or unhealthy plant material must be cleared at all times; and

e) Adequate fire flow for this project supplied by a new underground 250,000 gallon water tank, easements, and appurtenances all dedicated on site, at the elevation of 7200 feet.

8. **Affordable Housing.** Prior to release of the final plat for recordation, the Petitioner shall convey to the City 1 unit of affordable housing, or a the discretion of the City, shall pay a fee in lieu of its obligation to construct affordable housing (on site) in an amount that is consistent with City policy at the time the Preliminary Plat is approved. If the Petitioner chooses to pay a fee in lieu of its affordable housing obligation, the Petitioner agrees to pay such fee prior to final plat recordation.

9. **Roads and Road Design.** All streets, roads and trails within Sandstone Cove shall be public and public access may not be obstructed. Sandstone Cove is benefited by road improvements scheduled for completion in the Eagle Pointe subdivision. Petitioner has entered into and shall honor a proportionate share reimbursement agreement for road and sewer improvements with the developer of the Eagle Pointe subdivision.

10. **Sanitary Sewer.** Alignment of the sanitary sewer shall be determined as a part of the preliminary plat for Sandstone Cove. The preferred alignment is through Eagle Pointe, in a location to be determined, which results in the least visual impact and site disturbance.

11. **Dedication of Water Rights.** Petitioner shall immediately dedicate to the City adequate water rights for the development and such additional water rights as are necessary to achieve the equivalent of 100% conversion of 22.77 acre feet of Weber River Decreed Right #450 and 1.33 acre feet of Weber River Decreed Right #437 (priority of 1875 or earlier, from a source with an equivalent low flow volume right). The Petitioner, with the cooperation of the City, shall undertake the burden and expense of converting the dedicated water rights to the City's year-round municipal use and for changing the points of diversion, type of use, and place of use of those rights to the City's Park Meadows and Treasure Mountain Middle School Wells or as designated by Park City, at its sole discretion. Petitioner shall be responsible for the administrative and legal expenses incurred in making such changes.

Formal State Engineer approval of the change of 100% of the equivalent of 22.77 acre feet of Weber River Decreed Right #450 and 1.33 acre feet of Weber River Decreed Right #437 (as described above) to the City's Park Meadows and TMMS Wells would constitute full satisfaction of the water development fees the City would otherwise collect from the owners of lots within the annexed area at the time of building permits. However, State Engineer approval of this Change Application could take a long time, and is not likely to occur before Sandstone Cove lot owners would like to connect to the City's water system. Therefore, Park City will

collect all normal water development fees from Sandstone Cove lot owners as the lots develop. When the State Engineer approves the Petitioners' conversion of a 100% of 24 acre feet of water rights as described above, the City will reimburse to Black Diamond Partnership the actual water development fees the City has collected from lot owners within Sandstone Cove.

12 **Water Connection and Other Water System Costs.** As a condition of its Master Planned Development approval, and this Agreement, Petitioner shall construct and dedicate a 250,000 gallon water tank and all necessary easements and appurtenances including an above-ground pump station at a site and to specifications approved by the City Engineer. Upon completion of the tank, easements and appurtenances all to the satisfaction of the City Engineer, the Petitioner shall dedicate the easements and water facilities to the City. As each building permit is obtained for each dwelling unit within the subdivision, the lot owner shall pay the Park City Water Connection fees as provided by the Park City ordinance in effect at the time of application for building permits. The parties agree that no Sandstone Cove lot owner shall be entitled to an offset (in whole or in part) of the Park City Water Connection Fee as a result of the Petitioner's successful completion of this condition.

13. **Perimeter Fencing:** Petitioner shall not allow a perimeter fence on any lot, or surrounding any portion of the subdivision.

14. **Home Size Limitation/Protection Zone:** Preliminary and final plats for Sandstone Cove shall follow a normal, thorough planning process in accordance with the conditions of approval of the MPD, with this Agreement, and with the Land Management Code. At a minimum the plat shall limit maximum structure sizes in a manner that is consistent with home sizes of adjacent developments and which takes into consideration the visual impact of the clear zones and building pads. Consistent with all City annexations the Petitioners shall offer to dedicate a protection strip along the perimeter of the Property that is contiguous with unincorporated Summit County. Petitioners shall limit the maximum height of structures on lots 2, 3 and 4 to 25 feet.

15. **Planning Review Fees.** Petitioner is responsible for all subdivision and construction inspection fees required by the City at the time of application.

16. **Impact and Building Fees.** Sandstone Cove lot owners shall pay all generally-applicable impact, building permit, and plan check fees due for construction on the annexed land at the time of application for building permits.

17. **Acceptance of Public Improvements.** Petitioner shall offer to Park City title to those roads, water tank, easements and appurtenances, upon Petitioner's fulfillment of all Code requirements and Park City's final approval of the infrastructure construction.

18. **Snow Removal and Storage.** Park City is not obligated to remove snow from

public streets within Sandstone Cove until 50% (8 out of the 16 lots) have been improved by the construction of houses on those lots as evidenced by Park City's issuance of a minimum of eight (8) certificates of occupancy for dwelling units within Sandstone Cove.

19. **Effective Date.** This Agreement is effective as of the date of the Resolution authorizing its execution.

20. **Governing Law.** The Agreement shall be governed by the laws of the State of Utah. Jurisdiction and venue are proper in Summit County.

21. **Real Covenant, Equitable Servitude.** This Agreement constitutes a real covenant and an equitable servitude on the Property. The terms of this Agreement touch and concern and both benefit and burden the Property. The benefits and burdens of this Agreement run with the land, and are intended to bind all successors in interest to any portion of the Property.

22. **Assignment.** This Agreement is also a personal obligation of the Petitioners. Petitioners may assign its obligations under this Agreement, only upon prior written consent of the City, upon demonstration that the City's rights are adequately secured by the assignment. Consent to assignment shall rest in the sole discretion of the City.

23. **Compliance with City Code.** Notwithstanding paragraph 19 herein, from the time of City Council approval of this agreement. Petitioners and their agents shall comply with all City Codes and Regulations pertaining to the subject property.

24. **Full Agreement.** This Agreement contains the full and complete agreement of the parties regarding the Annexation and there are no other agreements in regard to the annexation of the Property. This Agreement may be amended only by a written instrument signed by all parties hereto.

DATED this 2d day of May, 1997.

Exhibits:
A) Annexation and Zoning Plat
B) Legal Description
C) MPD

PETITIONERS
by BLACK DIAMOND PARTNERS L.C.

by Gerarld A. Jackson, Manager

PARK CITY MUNICIPAL CORP.

Bradley A. Olch, Mayor

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this 2nd day of May, 1997, personally appeared before me Gerald A. Jackson. Manger of Black Diamond Partners. L.C.. signed of the foregoing instrument on behalf of Petitioners, and acknowledged to me that he executed the same.

NOTARY PUBLIC

NOTARY PUBLIC
TASSIE BUSHELL
3385 Meadows Dr., PO Box 1776
Park City, Utah 84060
My Commission Expires
December 2, 1997
STATE OF UTAH

ATTEST

Janet M. Scott. City Recorder

APPROVED AS TO FORM:

Jodi Hoffman, City Attorney

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal

ANNEXATION & ZONING PLAT OF THE SANDSTONE COVE SUBDIVISION

LYING WITHIN THE NORTH HALF OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH

MOUNT OLYMPIC INC.

MOUNT OLYMPIC INC.

MANDULA PROPERTY

PARK CITY MUNICIPAL CORP

PARCEL 1

MOUNTAIN RIDGE SUBDIVISION

PROPOSED EAGLE POINTE SUBDIVISION

Exhibit 4

CITY COUNCIL APPROVAL	CITY ENGINEER	APPROVAL AS TO FORM	RECORDED
MAYOR			

THE JACK JOHNSON COMPANY

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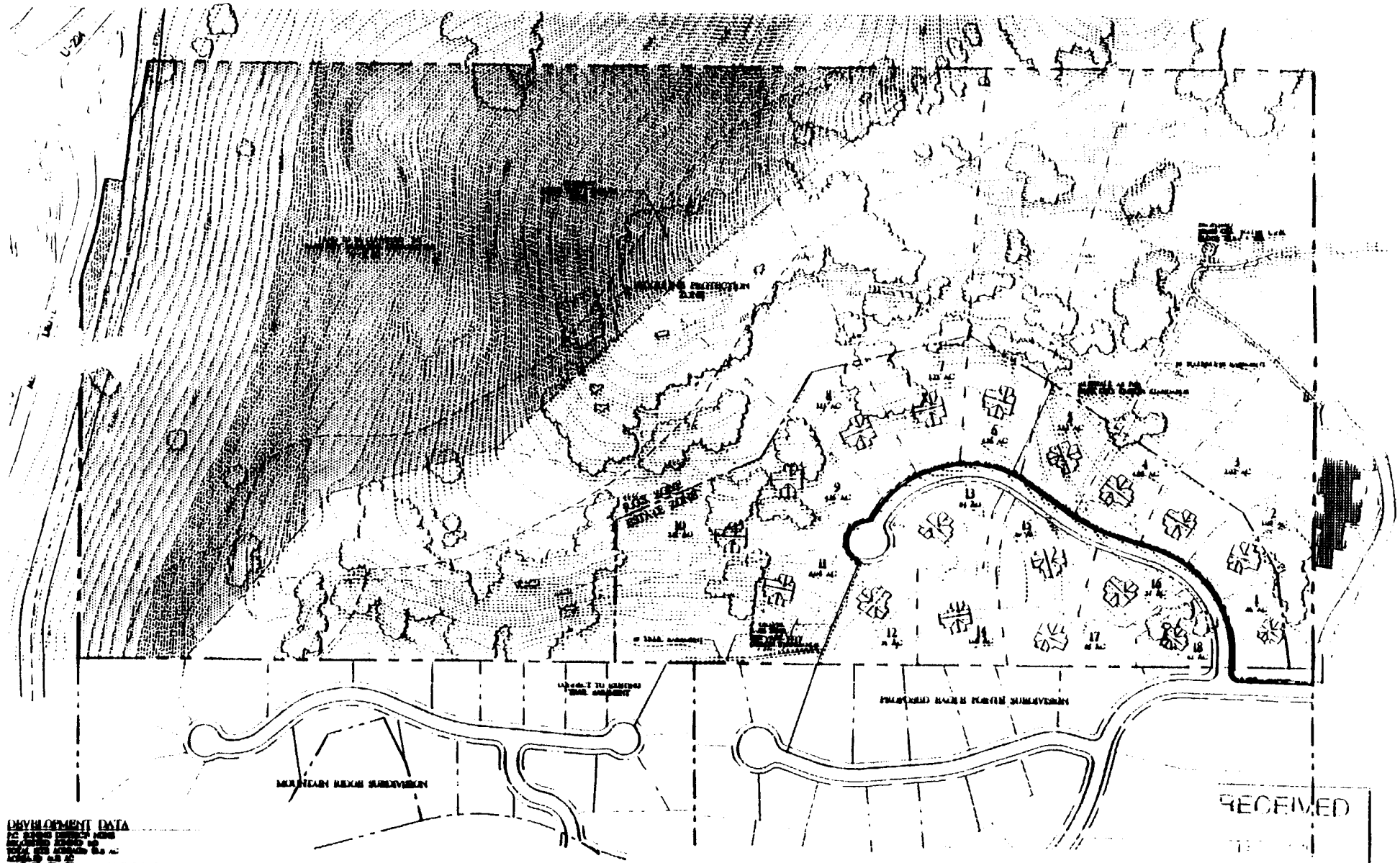
EXHIBIT B

LEGAL DESCRIPTION - ANNEXATION BOUNDARY

Beginning at the north quarter corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 89°47'46" East along section line 1323.74 feet; thence South 00°04'39" West 2664.49 feet to the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 5; thence South 89°56'58" West 1321.18 feet; thence North 89°56'13" West 220.37 feet; thence North 00°07'45" East 198.00 feet; thence South 89°56'41" East 220.00 feet to the Quarter section line of said Section 5; thence North 00°01'22" East along said section line 2472.33 feet to the point of beginning.

Contains 81.98 acres more or less.



DEVELOPMENT DATA

SANDSTONE COVE M.P.D.

ILLUSTRATIVE SITE PLAN - 2

PREPARED FOR
BLACK DIAMOND PARTNERS
MR. GERRY JACKSON
P.O. BOX 1776
PARK CITY, UTAH 84060
801 645-7800

PREPARED BY
THE JACK JOHNSON COMPANY

NORTH

SCALE

RECEIVED

Exhibit C

PARK CITY
1884

CITY COUNCIL STAFF REPORT

Date: **June 26, 1997**
Department: **Community Development Department**
Author: **Kevin LoPiccolo**
Title: **Lot 2 of the North Silver Lake Subdivision**
Type of Item: **Legislative**

Summary Recommendations: Approve the final subdivision of lot 2 into four lots of record for Bellemont at Deer Valley with the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated in this staff report.

Description

A. Topic

Project Information:

Applicant:	Bellcorp, a Utah Corporation/ Mark Prothro
Location:	Lot 2 of North Silver Lake Subdivision, south of Bellevue, east of Belleterre Subdivision
Proposal:	Subdivision of Lot 2 into four parcels of record
Zoning:	RD-MPD (Residential Development District - Master Planned Development)
Adjacent Land uses:	Single - family residential and Deer Valley Ski Run
Date of Application:	December 12, 1996

B. Background Information

On May 14, 1997 the Planning Commission approved North Silver Lake Subdivision to subdivide Lot 2 into four parcels; North Silver Lake MPD revision to allow single-family units versus Multi-Family/attached units as the Bellemont MPD; and a conditional use permit for lot 2A for the construction of 12 single-family units, and fowarded a positive recommendation to City Council for the North Silver Lake Subdivision to subdivide Lot 2

into four parcels. The density and heights are consistent with the Deer Valley Resort Seventh Amended MPD and the North Silver Lake MPD.

The Planning Commission approved a Master Plan for this area in 1986 that included 200 multi-family units and 36 single-family units on parcels A-F. Parcel "A" was developed as Belleterre single-family subdivision in 1990 leaving parcels B-F remaining to be developed in the North Silver Lake Master Plan.

The North Silver Lake area of Deer Valley was originally planned as one Large - Scale Master Planned Development with five different multi-family development areas within the MPD. Each development area has density and height requirements set at the time of the Deer Valley MPD.

On May 14, 1997 the Planning Commission held a public hearing and voted to forward a positive recommendation to the City Council to approve the final subdivision plat to subdivide Lot 2 into four parcels of record.

C. Analysis

The proposed subdivision plat is consistent with the Land Management Code, Deer Valley MPD, and approved Bellemont MPD plans. Although changes have been made to type of development, e.g. attached versus detached, the development within Lot 2 originally showed seven parcels, Lot 1 which is now the Bellevue was sold prior to the 1991 North Silver Lake MPD revision. The current application reflects a subdivision of Lot 2 into four parcels with Lot 2A having been reviewed to construct 12 single-family dwellings:

Lot Designation	Density Per MPD	Proposed Density	Lot Size
Lot 2A	18 Multi-Family	12 Single-Family	3.75 Acres
Lot 2B	54 Multi-Family	Not been reviewed	8.05 Acres
Lot 2C	19 Multi-Family	Not been reviewed	3.36 Acres
Lot 2D*	Was part of Lot 2B	Open Space	4.03 Acres

* Lot 2D will be use as permanent open space, but will be used in the calculation of providing the open space requirement for the development.

There are public utility issues and therefore staff is recommending a condition of approval that a financial guarantee, for completion of all public improvements associated with this project, be posted prior to plat recordation.

D. Department Review

The City's Staff Review Team has reviewed this application and found it to be in conformance with all requisite city development codes. The City Attorney's office will review and approve the plat and CC&R's prior to recordation.

E. Public Input

Property owners within 300 feet of the project were notified on June 10, 1997. The property was properly posted and legally noticed. As of this date of this report, staff has not received any comments.

Recommendation

Staff recommends approval of the final subdivision plat for Lot 2 of the North Silver Lake Subdivision, based upon the following:

Findings of Fact

1. The subdivision of Lot 2 into 4 lots of record, to correspond with the four remaining development parcels of the North Silver Lake MPD.

2. A financial guarantee for all public improvements including utilities, trails, and landscaping is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.

3. On May 14, 1997 the Planning Commission held a public hearing and voted to forward a positive recommendation to City Council to approve the final subdivision plat to subdivide Lot 2 into four parcels of record.

4. The proposal is consistent with both Park City Land Management Code and State Subdivision requirements.

5. The applicant stipulates to all conditions of approval.

Conclusions of Law

1. There is good cause for this subdivision plat.

2. Neither the public nor any person will be materially injured by the proposed subdivision plat.

3. Approval of the subdivision plat, subject to the conditions of approval, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. The subdivision plat is consistent with Chapter 5 of the Park City Land Management Code and applicable State Subdivision Requirements.

5. The subdivision plat is consistent with the Planning Commission approval of May 14, 1997 for the North Silver Lake MPD and the April 14, 1993 Deer Valley 7th amended MPD.

Conditions of Approval

1. The City Attorney and City Engineer's review and approval of the final form and content of the plat and the Conditions, Covenants and Restrictions (CC&R's) for compliance with State Law, the Land Management Code, and the conditions of approval, is a condition precedent to recording the plat.

2. All conditions of approval, including conditions of approval for Bellemont at Deer Valley MPD shall apply.

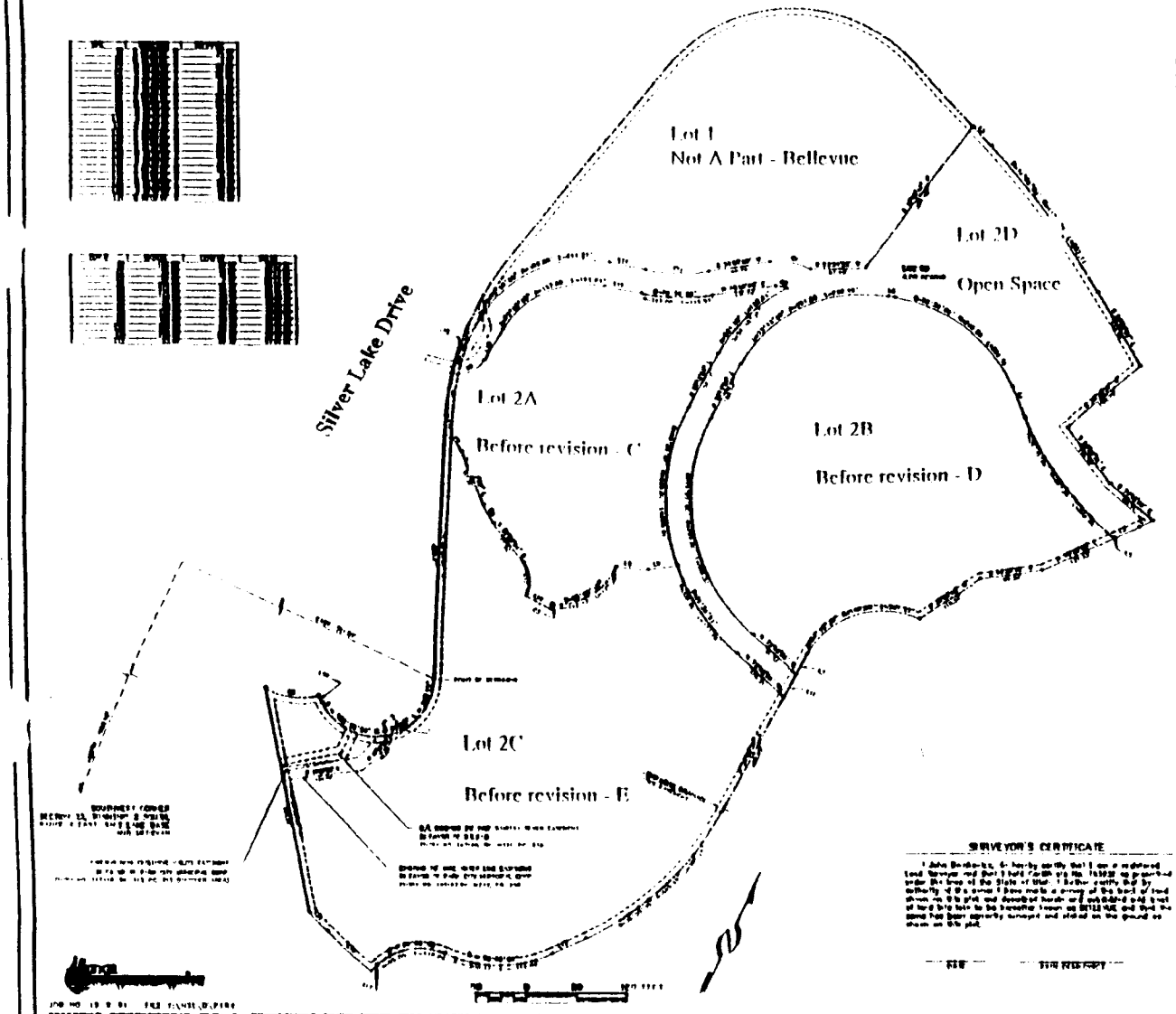
3. All standard project conditions shall apply.

4. A financial guarantee in an amount acceptable to the City Engineer for the value of all public improvements including utilities, trails, and landscaping, to be completed, shall be provided to the City prior to plat recordation. All public improvements shall be completed according to City standards and accepted by the City Engineer prior to release of this guarantee.

5. The final subdivision plat shall be recorded at the County within one year from the date of City Council approval. If recordation has not occurred within the one year of City Council's approval, this approval and the plat shall be considered void.

Exhibits

A. Proposed Subdivision plat
B. Vicinity Map
C. Proposed Ordinance



LEGAL DESCRIPTION LOT 2

OWNER'S DEDICATION

ACKNOWLEDGEMENT

SURVEYOR'S CERTIFICATE

SUBDIVISION OF LOT 2
NORTH SILVER LAKE SUBDIVISION

EXHIBIT A: PROPOSED SUBDIVISION PLAT

PLANNING DEPT.

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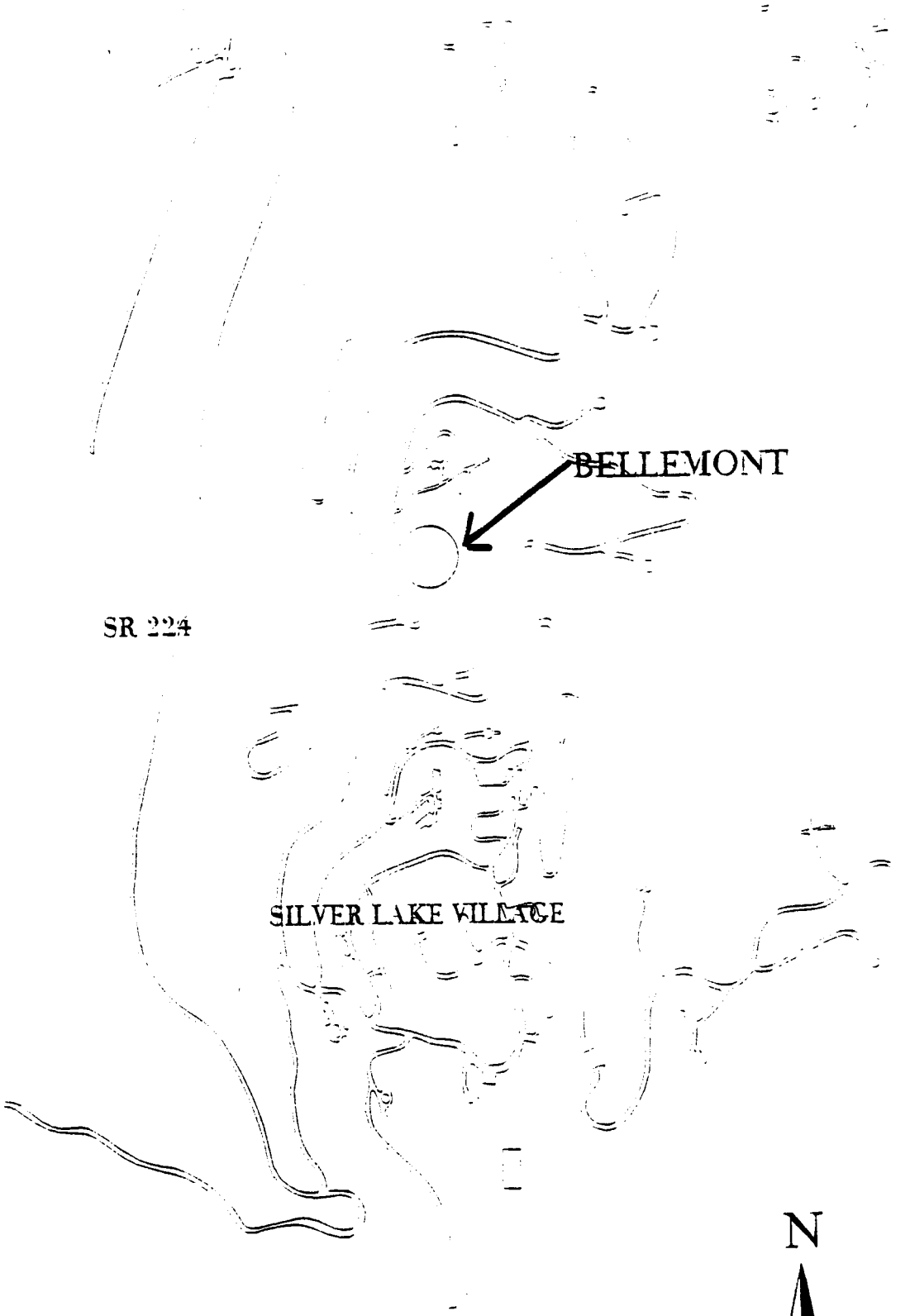

PARK CITY
1884

EXHIBIT B: VICINITY MAP

Ordinance No. 97-

AN ORDINANCE APPROVING A FINAL SUBDIVISION PLAT FOR LOT 2 OF NORTH SILVER LAKE SUBDIVISION AT DEER VALLEY, A UTAH CORPORATION PROJECT LOCATED AT NORTH SILVER LAKE OF LOT 2 AMENDED DEER VALLEY MASTER PLANNED DEVELOPMENT, PARK CITY, UTAH

WHEREAS, the owners, BellCorp, a Utah Corporation, of the property at Lot 2 of North Silver Lake Subdivision, Park City, Utah and to be known as Bellemont Subdivision at North Silver Lake, have petitioned the City Council for approval of a Subdivision plat; and

WHEREAS, proper notice was sent and the property posted according to requirements of the Land Management Code and state law; and

WHEREAS, on May 14, 1997 the Planning Commission held a public hearing to receive public input on the proposed Subdivision plat and forwarded a positive recommendation of approval to the City Council; and

WHEREAS, a financial guarantee for all public improvements is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.

WHEREAS, the proposed subdivision plat subdivides Lot 2 into four parcels of record;

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

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

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

1. The subdivision of Lot 2 into 4 lots of record, to correspond with the four remaining development parcels of the North Silver Lake MPD.

2. A financial guarantee for all public improvements including utilities, trails, and landscaping is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.

3. On May 14, 1997 the Planning Commission held a public hearing and voted to forward a positive recommendation to City Council to approve the final subdivision plat to subdivide Lot 2 into four parcels of record.

4. The proposal is consistent with both Park City Land Management Code and State Subdivision requirements.

5. The applicant stipulates to all conditions of approval.

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

1. There is good cause for this subdivision plat.

2. Neither the public nor any person will be materially injured by the proposed subdivision plat.

3. Approval of the subdivision plat, subject to the conditions of approval, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. The subdivision plat is consistent with Chapter 5 of the Park City Land Management Code and applicable State Subdivision Requirements.

5. The subdivision plat is consistent with the Planning Commission approval of May 14, 1997 for the North Silver Lake MPD and the April 14, 1993 Deer Valley 7th amended MPD.

SECTION 3. PLAT APPROVAL. The subdivision plat, known as the Bellemont Subdivision at Lot 2, North Silver Lake, is hereby approved as shown on Exhibit A, with the following conditions:

1. The City Attorney and City Engineer's review and approval of the final form and content of the plat and the Conditions, Covenants, and Restrictions (CC&R's), for compliance with State law, the Land Management Code, and the conditions of approval, is a condition precedent to recording the plat.

2. All conditions of approval, including conditions of approval for the Bellemont Subdivision MPD shall apply.

3. All Standard Project Conditions shall apply.

4. A financial guarantee in an amount acceptable to the City Engineer, for the value of all public improvements including utilities, trails, and landscaping to be completed, shall be provided to the City prior to plat recordation. All public improvements shall be completed according to City standards and accepted by the City Engineer prior to release of this guarantee.

5. The final subdivision plat shall be recorded at the County within one year from the date of City Council approval. If recordation has not occurred within the one year time frame, this approval and the plat shall be considered null and void.

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

PASSED AND ADOPTED this 26th day of June, 1997.

PARK CITY MUNICIPAL CORPORATION

_____

Mayor Bradley A. Olch

Attest:

_____

Janet M. Scott, City Recorder

Approved as to form:

_____

Mark D. Harrington, Assistant City Attorney

PARK CITY
1884

DATE: June 20, 1997
DEPARTMENT: Executive
AUTHOR: Linda Cook
TITLE: Gillmor Open Space: Intent to Maintain Agricultural Use
TYPE OF ITEM: Approval of Lease

SUMMARY RECOMMENDATIONS: Staff requests direction to proceed with the execution of a limited grazing lease covering the Gillmor Open Space. Staff recommends that Council approve the lease, thereby reducing the County's assessment of rollback taxes otherwise due this year.

DESCRIPTION: On December 30, 1996, the City acquired 607 acres in the Round Valley area. The previous owner, Mrs. Florence Gillmor had managed the property as prime sheep grazing land, with reduced tax assessment for greenbelt agricultural use. By statute, a change of ownership requires the new owner to maintain the property in its historic agricultural use or declare intent to remove the property from greenbelt requirements, pursuant to the provisions of the Utah Farmland Assessment Act If, at any time, the property is applied to a use other than agricultural, the property is subject to the assessment of rollback taxes covering the last five years of greenbelt use.

A grazing lease adds some property management issues. The current, interested livestock owner would provide a herder on the premises. The herder controls the movement of the sheep during daylight hours, but does not prevent the sheep from roaming at night. No additional fencing is required at this time, though enclosure could become an issue. Staff intends to post the property to restrict motorized vehicles and prohibit dogs. Any permanent alterations of the property would be at the expense of the City.

A. Analysis: That area of Round Valley has traditionally been considered mid-range pasture, with grazing for 2 months in the spring and possibly 2 months in the fall. The lessee is willing to pay $.50/acre ($303.50/year) to acquire grazing rights for approximately 1000 sheep regularly herded throughout Round Valley. The rate is based on the lessee's concern that multiple use of the property poses some difficulty to grazing. Negotiations illuminated some concerns on the City's side. Lack of fencing, proximity to adjacent subdivisions and the National Abilities Center, and public access restrictions that need to be imposed to make public use and grazing compatible beg the question as to whether the City should attempt to maintain the property in agricultural use. The alternative is to pay the total rollback assessment removing the need for grazing access altogether.

B. Department Review:
Executive
Legal
There is potential for real public relations problems where public access and grazing sheep conflict. Dogs and sheep are incompatible. The public may not be thrilled that dogs are no longer allowed on the property. Further, a more volatile issue exists with nuisance dogs. Loose dogs can freely roam into the area. A dog(s) can do a great deal of damage to a flock of sheep in a very short period of time. A herder has a legal right to dispense of nuisance animals menacing a herd. The livestock owner is not willing to abrogate the right to shoot an animal that is threatening or harming for the purposes of a special grazing arrangement with the City. Although the City faces no risk of liability for the trespass of the lessee's sheep, any complaint would undoubtedly be addressed to the City. Summit County is considered a "fence-in" county, which means that livestock owners must "fence-in" their animals or face liability for any damage caused by trespass. A lessee will be less inclined to deal with the City property due to the lack of fencing. The issue of trespass is most problematic in relation to the National Abilities Center and Park Meadows subdivision. If the City has to make arrangements for fencing, the public may resent the additional expense as well as the idea of fenced open space.

ALTERNATIVES:

A. Approve the Request: Direct staff to enter into a grazing lease for one year (anticipating the same arrangement for five years) thereby saving $115,645.46 for the total rollback assessment. A) Council could revisit the appropriateness of grazing upon the expiration of a current year lease. Each year that the land is held in agricultural use reduces the dollar amount of the total 5-year assessment. B) The City could also remove select parcels of the total property from greenbelt provisions, though cutting off access to adjacent grazing leases, and running the risk of making a grazing lease much less attractive to a potential lessee. The City would be liable only for the rollback taxes due on the parcels removed from agricultural use. C) Council could choose to deny public access until the rollback assessment period has expired, allowing grazing to be the priority, uninterrupted use of the property for one to five years. The deadline for an effective lease is June 28, 1997

B. Deny the Request: Council could choose not to approve a grazing lease because of the potential for liability due to incompatible uses of the open space. The total rollback assessment ($115,645.46) would be due upon the City's decision to remove the property from greenbelt provisions. If no lease is in effect by June 28, 1997, the rollback is assessed automatically.

C. Continue the Item: Staff has pursued a formal extension of the deadline to declare the use of the property. A staff member from the County Assessor's office has verbally granted a 180 day extension so that the City can debate the issue in a public format. Formal confirmation should be available before the original June 28, 1997 deadline. Assuming the extension is granted, the item could be continued into October, though a lease arrangement may be more difficult to attract later in the year.

SIGNIFICANT IMPACTS: If the City enters into a grazing lease, the value of the lease would net approximately $300 to $800. Absent a grazing lease, or some other acceptable agricultural use, the City would be responsible for rollback taxes totaling $115,645.46.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: The consequence of not maintaining agricultural use is the one-time rollback tax assessment.

RECOMMENDATION: The issue does require some clarification as to the intended public use of the property acquired as open space. Depending on the intensity of multiple use for recreation and the potential for conflict with adjacent properties and the restrictions that would need to be imposed (e.g. prohibiting dogs, additional fencing), continued agricultural use may not be appropriate. However, grazing is not a new concept to the Round Valley area. The City is not introducing sheep; sheep have been on the property pursuant to prior grazing rights under a different owner. Staff recommends that Council approve a grazing lease that allows the property to remain in greenbelt status for five years and avoid a large rollback paid from public funds.