PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 23, 2009

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 23, 2009.

Closed Session
3:30 p.m. Property and litigation
5:50 p.m. Break

Regular Meeting
6:00 p.m.
I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council questions and comments

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

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF APRIL 2, 2009 AND APRIL 9, 2009 P. 4 - 33

V OLD BUSINESS *(Continued items)*

Consideration of an Ordinance approving the 71 Daly Ave plat amendment, located at 71 Daly Avenue, Park City, Utah P. 34 - 40
(a) Public hearing
(b) Action

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

1, Consideration of authorization to execute a change order to the Neighborhood Parks project(s) Professional Service Provider Agreement in a form approved by the City Attorney to IBI Group in the amount of $62,440 P. 41 - 54

2. Consideration of approval of a Conservation Easement Release with Co-Grantee Summit Land Conservancy to amend the Grant of Conservation Easement (Ski Area) by United Park City Mines Company and Deer Valley Resort Company dated December 19, 2002, File No. 00643790, recorded in the Summit County Recorder's Office, Book 01502, Page 732-747 P. 55 - 59

VII ADJOURNMENT

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

Posted: 04/20/09
See: www.parkcity.org

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

April 2009

30 Recycle Utah update - work
Reciprocal borrowing policy - work
PC Heights annexation - work
Concession contract for golf course
Letter of Intent with the Park City Foundation for the development of a community carbon and water website
Lawn care contract - CD

May 2009

7 CIP Budget - work
For hire vehicles licenses – work
Water supply and demand update – work
Stimulus bill – KC – work
Environmental public hearing - TT
505 Woodside Avenue – Plat [PL-09-00631] KC
Award of contract – City website
Contract for Design of Ironhorse Transit facility – work/action KC
Concession contract – ice arena
MFL – 125 Year Celebration
MFL – Wasatch Wellness Fair

14 **No meeting – Dana gone**

21 **Roger gone**
Land Management Code – Historic Guidelines – work TE/DB
Budget – work
PC Heights annexation – old business

28 Budget – work
Land Management Code – Historic Guidelines - public hearing TE/DB

June 2009

4 Budget

11 **Liza gone**

18

25

Pending Items:

Ordinance amending Municipal Code Titles 1 and 2
Sergio ice cream franchise - PM
Amendment to fee resolution - GRAMA
Water supply and demand
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 2, 2009

Present: **Mayor Dana Williams; Council members Candace Erickson; Roger Harlan; Jim Hier; and Joe Kernan**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jonathan Weidenhamer, Economic Development Manager; Katie Cattan, Planner; Thomas Eddington, Planning Manager; Jerry Gibbs, Public Works Manager; Diane Foster, Sustainability Manager; and Heinrich Deters, Project Manager

Bruce Larrabee and Ken Davis, HMBA

Jack Thomas, Julia Petit, Adam Strachan, and Richard Peek, Planning Commission Members

Absent: **Council member Liza Simpson**

1. Council questions/comments. Roger Harlan reported on attending Education Foundation award presentations recognizing faculty members at two schools and reported on School Board business. He complimented the quality of the recently produced Play Magazine and commented on the flock of pink flamingos left at the City's Administrative Offices on April Fools Day. He felt that the Community Visioning Session held this week was very well done, thanked staff and the consultants, and relayed that there is a lot to be grateful for living in Park City. Candace Erickson was pleased that more people attended Visioning than expected but observed that half of the crowd appeared to be the same core group and she wished that more new citizens participated.

Jim Hier relayed the importance of making site visits to the mountain and reported that the skiing has been exceptional. The Peace House Board meeting was held last night and this non-profit, like others, is struggling this year. The Mayor pointed out that the Visioning plan will unfold with trainers and living room sessions with the potential of involving 1,000 people and he was pleased to learn of the outreach to our Hispanic community. He spoke about the sister-city relationship the Treasure Mountain International School has with a Uganda school. Students are collecting back-packs, clothing, computers, books, etc. and sending a shipment container to Uganda. He thanked representatives from the City and the County working with the Air Force and although SB216 was signed, he was appreciative of the Governor's Office in helping to establish the rules of engagement.

2. Quarterly goals. The Mayor guided the discussion using the goal matrix in the meeting packet. Joe Kernan reported that the County is reconsidering implementing mandatory cardboard recycling and he discussed the importance of making recycling convenient in commercial areas to make the effort successful. Jerry Gibbs stated that staff will follow-up with the County. In response to a question from Mr. Kernan regarding relocating the Recycling Center, Mr. Gibbs explained that staff believes there needs to be a long-term home for Recycle Utah. The Public Works Department recently provided additional space but the location is not designed to meet the goals of Recycle Utah and it was decided to change the project description on the matrix to discussion rather than decision by June 2009. With the redevelopment of NOMA possibly pushed back and the additional two Public Works bays, the City Manager felt that there is more time to explore the issue. Mr. Gibbs referred to Joe Kernan's comments and added that the HMBA is looking at opportunities to recycle cardboard and the City may be inclined to participate in a long-term solution. Mayor Williams asked that an idling ordinance be added to Environmental Initiative goals and that staff provide information on ordinances adopted by other communities. Before this is identified as an action item, Candace Erickson stated that she would also like to see what other communities are doing but more importantly, how the City can enforce it. It was pointed out that this project is not part of the sustainability work plan but a work session will be held to evaluate its priority. The conveyance of the Gambel Oak property was discussed and Mayor Williams recognized US Representative Rob Bishop's help on this matter.

With regard to Goal 7, open and responsive government, Joe Kernan asked members about adding a citizen's survey as a goal this year because it is not scheduled and has been the City's practice every three years. Phyllis Robinson explained that the last citizen survey was conducted by Dave Spatafore in the late summer of 2006 at a cost of about $10,000 to $12,000. Ms. Erickson stated that she would prefer to defer the survey for another year; it's important but not critical. Joe Kernan expressed reluctance in delaying it for a year and Ms. Robinson indicated that she will speak with polling companies to gain a sense of the impacts of waiting a year and will get back to Council through a manager's report.

2. HMBA capital improvement requests. Jon Weidenhamer explained that the City received two capital projects requests from the HMBA, including a lighting project estimated at $260,000 and $120,000 for a sound system on Main Street. The HMBA is asking for a $240,000 interest free loan and for $29,000 to begin to implement the two projects which are included in the RELS (request for elevated service) program. During the CIP budget process, this item will be evaluated and a recommendation from staff will be rendered. He explained that if it is not funded through the CIP process, the Main Street Business Improvement District may be a way of raising capital through business license increases. If Council feels these requests are not feasible, it would be helpful to understand this position now and he referred to information from staff on operation and maintenance concerns.

During the Visioning Session in January, Council members asked the HMBA to prioritize improvements like outdoor dining, bulb-outs, streetscape, changes to the noise ordinance, etc. Mr. Weidenhamer asked if members feel comfortable with staff moving forward with these two specific requests through the CIP process.

Jim Hier expressed his confusion why the CIP request is for $29,000 and not the entire amount and Mr. Weidenhamer explained that the HMBA intends to fund-raise the remainder. Mr. Hier pointed out that capital projects typically relate to City-owned properties or assets and this seems more like a grant request. Mr. Weidenhamer noted that the RELS process is part of the capital improvement project review where staff can weigh in on maintenance and operational concerns. Tom Bakaly indicated that in order for a project to be funded through the CIP, some component of the project needs to be capitalized or owned by the City. The deadline for grants has passed, but the HMBA requests could be added if so desired by members and Mr. Bakaly urged Council to comment on the concept.

Ken Davis explained that the piped-in music would not be continuous but used for special events, crowd control and emergencies. During the holidays, it would be used to play Christmas music. In response to a question from Roger Harlan, Mr. Davis indicated that they did not contact the City's emergency manager, Hugh Daniels, but there may be funding available from Homeland Security because of its safety element. Bruce Larrabee stated that he didn't contact Mr. Daniels, but spoke with the Chief of Police who was supportive. Candace Erickson stated that she would only be supportive of the sound system if it is intended for emergencies only. She spoke about the sound system in a Bavarian Village in Leavenworth, Washington where the non-stop polka music almost drove her crazy; she hates the idea. Joe Kernan felt there are times when amplified music would be appropriate. Roger Harlan believed the value of a sound system must warrant the cost. Jim Hier felt it safe to say that security is not the impetus for the request; the request is for a sound system for Christmas and special events to enhance the ambiance on Main Street. Security really should not be considered here. He felt that the amount of money for the amount of time it would be used is seriously unjustified but if the HMBA raises the money for a sound system, a grant from the City could be considered. Tom Bakaly understood consensus to be to not support the sound system and members agreed.

With regard to the lighting scheme, Candace Erickson relayed that she liked the lighting plan during the Olympics but believes the LMC restricts attachments to historic structures. Heinrich Deters agreed and noted that the proposal is for year-round lighting. Mr. Davis understood that the lighting would be on from November to January and not year-round. Mr. Deters added that the Building Department expressed concerns about operations and maintenance. Joe Kernan stated that he is concerned about the HMBA repaying the City and Mr. Weidenhamer explained that the City is not allowed to extend a loan to a business district at a zero percent interest rate. Mr. Kernan noted that aside from that, it is not a good practice to lend the funds. Mayor Williams stated that it is difficult for the City to endorse the project without a commitment from Main Street businesses.

Mr. Davis explained that the plan has been around for a year and the HMBA received restaurant tax grant matching dollars to help the HMBA get started on the first phase but the timing was not ideal. The thought this year is to get the entire project done at one time and to approach the City for funding and he understood that the lighting company may help finance the project. He spoke about using the BID to administer the allocated costs but the HMBA is looking for financial help from the City to get this done. Jim Hier agreed that it is costly and the merchants should vote on the plan so that the level of commitment is clear. With demonstrated support, the project could be paid for with individual contributions or with BID fees; the City should not have to commit first. Candace Erickson suggested pursuing working with the lighting company on a payment plan for merchants. In response to a comment from Ken Davis, the efficiency of LED lights was discussed. Heinrich Deters relayed that Public Works agreed with the 5% or $12,000 budget for annual O&M for seasonal lighting; department concerns included damage to buildings. Mayor Williams expressed that covering the cost for the power is an issue for him and agrees with Mr. Hier in hearing what the membership thinks about this program and the level of buy-in.

The Mayor encouraged the HMBA to return and update members. Tom Bakaly summarized that the HMBA would essentially own the project and depending upon the level of commitment from businesses, Council may be willing to consider contributing some funds to help. He reiterated that the HMBA would be the owner of the lighting program.

3. LMC Steep Slope Conditional Use Permit Amendments. Through a PowerPoint presentation, Planner Katie Cattan illustrated a house on a flat lot and a house on lots with a slope of 30% and a 60% slope. The outcome of our current LMC is that the steeper the slope, the greater the mass because more excavation and number of stories are allowed. Last Wednesday the Planning Commission forwarded a positive recommendation on the amendments. The footprint calculation under today's code would remain the same. The LMC changes would affect all the properties in the HR-1, HR-2 and HRL Zones because of the height and story requirements. Height exception consideration allowed under the steep slope CUP process would be removed, but a height exception could be considered for a single car garage on a downhill lot in a tandem configuration. She explained that the maximum number of stories allowed is three, the basement would count as the first story and a ten foot minimum step is required in the façade to the third story to help address mass and scale. The allowed roof pitch is between 7:12 and 12:12 and a maximum vertical excavation of 15 feet was set, although staff originally recommended ten feet and the Planning Commission increased it to 15 feet. There is an exception on an uphill lot for the maximum excavation for a single car garage and circulation. The Planning Commission determined that final grade must be within four vertical feet of existing grade, originally recommended at two feet. During the meeting, staff had proposed the height exception and the excavation to include the interior garage for two cars, which was decreased to a single car garage.

Ms. Cattan explained that staff felt that issues may be created by forcing houses on flat lots to step back the third story, although the idea was not introduced to and discussed by the Commission. She recommended that a ten foot minimum horizontal step in the façade be required for a third story of a structure unless the first story is located completely under finished grade on all sides of the structure. This may avoid the creation of a pattern of odd houses. She referred to the renderings of the outcomes of the 15 foot excavation with a single family garage in the tandem configuration. The house on the 30% grade lot is 1,472 square feet, including the garage area with the height exception.

Ms. Cattan stated that there has been a lot of public comment and many meetings on this issue and a member of the public paid an architect to go over different scenarios on these lots and she shared those designs. The theme is the steeper the lot, the less square footage and the goal of the amendments is to bring mass and scale back into perspective, be compatible and reduce environmental impacts. She displayed a design with more living space by eliminating the garage. Public concerns include increasing the front yard from ten to 18 feet to accommodate parking, increasing impermeable surface area, increasing non-point source pollution, decreasing livable space, creation of steep driveways in order to maximum living space above grade, and a decrease in number of interior parking spaces in the district. The Planning Commission addressed mass and scale, excavation, and environmental impacts.

Jim Hier stated that in the existing code, any lot on a slope has the advantage over a flat lot because there are more square feet available stepping up the hillside. The amendment goes further by restricting sloped lots so they have significantly less square footage than a flat lot. He is unsure if this approach improves mass and scale but he is most concerned about the excavation rule relating to a perceived decrease in environmental impacts, especially in consideration of the major projects that have been constructed. In his calculations a 24' x 75 ' flat lot would be allowed roughly 2,532 square feet including the basement and the garage while a house on a sloped lot would lose about 190 square feet because the third floor is set back. He suggested removing the excavation restrictions and although there are environmental concerns, there aren't that many lots left and considering the level of unrestricted excavation relating to a major hotel or road work. This approach provides more equity throughout the Historic District and contributes to compatible mass and scale. He did not support allowing a fourth floor. The Mayor invited the Planning Commissioners to speak.

Jack Thomas believed that Planning Commission members agreed on above-grade impacts including the ten foot shift of the third story and the restriction of three stories, although two members supported exploring four stories. There was agreement with regard to the modification of grade being limited to four feet on the parameter of the building and the 7:12 roof pitch. All members supported eliminating the height exception for steep slopes but realized the necessity for an exception on a downhill lot for a garage. It was felt that these measures would dramatically positively impact the mass and scale in the Historic District. Positions were mixed on the excavation restrictions which evolved with discussions about truck trips in the neighborhood. Jim Hier expressed that the excavation numbers seem arbitrary, including the allowed 15 feet and cubic feet to be removed. Ms. Cattan stated that staff calculated these numbers and on average, truck trips would be reduced from 62 to 54 and the 15 foot excavation was based on the 10 foot setback and the area of repose. Joe Kernan agreed with Mr. Hier's comments on the excavation rule because it is foregone square footage that would benefit the home owner and is space the public can't see. It is a significant loss to the property owner for the trade-off of decreasing truck trips. Candace Erickson agreed with Mr. Hier as well. The whole purpose in looking at this was driven by the height and mass issue; steep slopes seemed to have a great advantage over flat lots. She understood the environmental component but did not feel that a property owner should be penalized in square footage and there should be equity in square footage. Although the excavation rule is not important to her, final grade is very important and she supports the Planning Commission's recommendation.

Roger Harlan asked if the rationale for the excavation restriction was other than environmental. Julia Petit referred to the purpose statements in the historic District, 15-2.2-1(a) *to preserve the present land uses and character of the Historic residential areas of Park City*. The steep slope criteria introduction language speaks to development on steep slopes which must be environmentally sensitive to hillsides. She stated that we haven't evaluated the cumulative effect of excavating out an entire hillside and the integrity of the hillside has never been studied. It is beyond the truckloads of dirt and more about preserving an historic pattern of development in Old Town and this is not the way we've done it. Mayor Williams pointed out that there isn't a historic pattern because houses weren't built on steep slopes. He reiterated that regardless whether you're uphill, downhill or flat, there is some equity associated with the overall mass and scale of a house on any lot. Ms. Petit felt that it should not be a matter of equity but promoting a pattern of development that is compatible with the historic era. Planning Commissioner Dick Peek agreed with Jim Hier, and felt that the excavation rule should apply to all zones and pointed out the large excavations in Deer Valley and agreed with the approach to address mass and scale. Joe Kernan suggested that the staff provide some numbers of the available square footage for different slopes and asked for clarity on the changes in this draft document. Katie Cattan explained that under the current Code, the square footage on a 25' x 75' lot is 2,532 square feet, and 2,342 under the proposed code or a difference of about 190 square feet. Mr. Kernan explained that he receives complaints from property owners about loss of value and would like to understand the numbers better so he is able to respond.

Thomas Eddington suggested a middle ground by allowing an underground tandem parking garage producing a 2,080 square foot house. With an exception to the 15 foot vertical rule for cuts, a lot more space is obtained on the middle floor. A little bit of area is lost on the backside of the building, but the result is a significantly bigger house. The structure could be pushed closer to the setback line so there is less impervious surface for driveways, promoting the environmental element. Jim Hier felt this is going too far. The Mayor invited public input.

Jerry Fiat referred to Scheme A where the hillside starts to rise ten feet back from the road, which is not a typical scenario and resulted in 1,300 square feet of livable space which is a modest house. Scheme B is more realistic because of the location of slope but results in an unworkable house. If the height exception for the garage is not pursued, there would be two parking spaces in front of the house which forces the house to the back of the lot and increases excavation and the impervious surface in the driveway. If surface parking is at the street, the house would yield about 1,950 square feet of living space and he discussed Scheme D which promotes two cars parked at the house. This allows the building to move forward which reduces the amount of excavation. When pushing a house back an extra ten feet for the surface parking, the excavation is almost the same as digging out the two car parking garage. This house yields exactly what was proposed but in order to accomplish this, you have to allow for the ten foot maximum foot setback elevated slightly to minimize digging and also get better living space. He acknowledged that the proposed amendments represent a significant reduction in square footage but is a reasonable compromise.

Don Bloxom, designer, on behalf of Peter Barnes who couldn't be in attendance, relayed that about 80% of the uphill homes under the proposed code would not comply with the Historic District Guidelines. He described calculating cubic yards of dirt and noted that the average construction would require 22 truckloads but he is more concerned about consistency with the Building Code. The roof forms would not be approved by Ron Ivie and he has spoken with him about this. The LMC provides for snow shedding requirements which prohibit steep slopes shedding snow in three foot setbacks onto the neighbor's lot. A snow shed easement is required to be obtained from the neighbor and even if an easement is obtained, if half of the snow is dumping that way, the Building Department will deny the design of the roof. He emphasized that this is not a miners town but a ski town with snow and Mr. Bloxom commented on the significant trashing of the environment during the historic mining era. He described the roof design for a house on a flat lot and in consideration of the height restriction, he explained that there is not enough room to fit two floors and the result is a much smaller house which is inequitable. If a full basement is constructed under a flat lot, the total excavation is in excess of the total excavation on a 30% grade.

Suzanne Pretorius, Prudential real estate agent, stated that she represents many land owners in Old Town. One of her clients owns three over-sized lots on upper Norfolk Avenue and after meeting with Planner Katie Cattan, she understood that with the current LMC, the building footprint would be 1,200 square feet or a 3,600 square foot home. With the proposed amendments, the house size would be 2,100 to 2,200 square feet which is a huge reduction. The owner went through a long eight month plat amendment process and paid $1 million per lot. Katie Cattan emphasized that the 3,600 square feet was based on the proposed amendments minus the excavation rule and was not calculated under today's LMC.

Cynthia Fowler, Empire Avenue lot owner, stated that she has participated in the many meetings on the steep slope issue. She felt that the intent of the original purpose has been lost and it is now recommended that her home for a family of four have a single car garage no storage, a small kitchen, a living area, and two small bedrooms similar to a miner's shack. We are no longer a mining town but a destination ski resort. The garage would be used for storage, out of necessity, and her two cars would be placed on the street. Her lot is 30% and the slope is located right under her roof which is a huge liability. The process has been deceptive; she has not received answers to questions from the Planning Department and her plans have been sitting in the Planning Department since January. She urged Council members to consider how this is going to affect property owners and the future of Park City.

Jim Keesler, 402 Woodside Avenue, stated that he and his wife have owned the lot for 15 years and he supports the current LMC. The new code is too devastating for property owners and he feels punished because they waited longer to build; they were planning to build next year. Under today's code, 2,200 square feet would be allowed and under the proposal, 1,600 square feet is allowed which is extremely detrimental for family living and doesn't work. The Mayor asked if the excavation rule is a major concern and Mr. Keesler agreed that this element is a problem together with the ten foot set-back requirement on the third story, which could translate into losing a bedroom or living space. He pointed out the small number of trucks coming from Old Town compared to the number hauling dirt from Empire Pass and other projects. He stated that he owns a townhome on upper Norfolk, built in 1979, and has considered remodeling it to better fit with mass and scale, but under the new code, he wouldn't be able to maintain 1,800 square feet.

Joe Ferriter, Ontario Court land owner, expressed his opposition to the amendment. He is a family doctor who would like to move his family to Old Town. He explained that the design for his house was 20% smaller than adjacent houses, but the proposal would reduce the design by another 25% which is significant. He heard from the Planning Commission that Old Town is not for everyone which is prejudice. It is difficult to understand the intent of the amendment but understands that some believe that the mass and scale of new development is out of line. Historic buildings were designed for a different time and framework and it is time to incorporate excellence in architecture. Most professionals do not believe that mass and scale has not gotten out of control or out of context with historic structures. Old Town is working and doesn't need to be fixed and he likes the new buildings in the Historic District. He questioned the argument about excavations and the environmental impact and argued that the residents in Old Town have a smaller carbon footprint, the roads have been fine for trucks up to this point, and it is unfair to punish remaining property owners. The reasoning behind the proposal is flawed and even the Chairman of the Planning Commission couldn't support restricted excavations. The detrimental effects far outweigh any benefits. We need a new vision for Park City that is more inclusive, innovate and forward thinking.

Dr. Ferriter read a lengthy letter from Peter Barnes voicing arguments against the proposed steep slope amendments and Mr. Barnes described the process as arbitrary and capricious.

Sean Marquardt, developer, addressed the excavation issue and pointed out that on the Ridge Avenue and Anchor Avenue section, there is an approximate 30 foot tall 800 foot long cut in the hillside which was done to accommodate homes built in the late 1880s to 1890s pointing out that the notion of restricting excavations based on historic building reasons is flawed.

John Staffsholt, 633 Woodside, stated that he has been following this issue for six months and pointed out many of the concerns from property owners relate to changes made in the LMC over the last three to five years and not this set of amendments. Many of the steep slope lots are in the HRL Zone and are not 25' x 75' and he urged members to look at how these decisions are going to play out with larger lots. Over time, many compromises have occurred to get to where we are and the decision by the Planning Commission reflects the removal of the most onerous restriction, the 25% reduction. The legislation also provides an exception for a fourth story on downhill lots for garages. The change in how building height is measured is a key component and a great benefit and the 7:12 roof pitch and ten foot articulation is going to help with mass and scale. With regard to excavation restrictions, he pointed out that new construction has sloughed. He felt that Scheme C is more in character with Old Town and supports the steeper the lot, the smaller the house.

Katie Naylor, Empire Avenue lot owner, explained that her property was intended to house her family of four. She spoke about being raised in Park City and the dream of building a small home that will accommodate her family and fit within the character of the Historic District. Her building plans are complete and she submitted an application for a conditional use permit but was stopped in January because of the amendments. She has participated in the process and is surprised by the lack of transparency from the Planning Commission on the true issues. After attending many sessions, she has left with more questions than answers. The vote last week was based on limited facts and a failure to listen to building and engineering expertise. Her questions include whether the Commission has studied and presented an internal functional livable floor plan of what is proposed. What is the rationale for the unexcavated area of the 844 square foot footprint that forces single car garages with no storage and requires cars into the already crowded street. With the City almost built-out why are we now trying to enforce historical building requirements. She emphasized the personal and financial implications of the amendments and the lack of logic. She encouraged Council to find the best building solutions and suggested that the amendments be further evaluated by professionals. A win-win solution is possible.

Connie Bilbery, developer and real estate agent, stated that he probably owns the largest number of contiguous lots on Ontario Avenue and Rossi Hill Road. He estimates that the proposal will result in at least a $1.5 million loss for his company on a square foot basis for the third floor, but has not estimated losses due to excavation restrictions. He understood the intent of the plan is compatibility with mass and scale but asked what exactly is being compared and he urged Council not to adopt arbitrary restrictions to reduce the size of a home.

Bill Truckus, Northstar Drive resident, acknowledged that although he lives on a steep slope this amendment will not affect his property. If the City wants to go green, we should go deeper and he discussed the efficiency of earth shelters.

Kevin King, 314 Norfolk Avenue, stated that everyone has the right to purchase and own property and protect their property rights. To limit property rights for arbitrary reasons like stepping back the third floor or restricting excavation is ridiculous. It is unconscincable that building permits are being held up in these hard economic times. All complaints about parking and snow removal are facts of life in a resort town. No one has the right to close the door behind them and freeze everything at the moment of time when they first arrived. This is a modern town and Park City will always be a growing community and we must learn to adapt. He felt that people should be able to build underground which doesn't affect anybody and he doesn't buy into the environmental arguments. He referred to Pat Putt's study last year which revealed that homes built in the past ten years are not larger. He didn't believe that decreasing height is the answer but allowing for a reasonable range of roof height. He noted that there is no incentive to improve buildings built in the 1970s land 1980s and believes the quality of design is being compromised with the change. The process needs to be longer.

The Mayor announced that a public hearing is scheduled next week. Tom Bakaly interjected that this is scheduled for possible action next week after the public hearing. Katie Cattan understood direction from Council members to remove the maximum 15 foot excavation. Jim Hier asked for information on the number of remaining lots in the HR-1, HR-2 and HRL Zones and how the roof form complies with the snow shedding requirements. He stated that he supports removing the excavation restriction in next week's document. Ms. Cattan explained that if amendments are not adopted by April 22, the existing code will continue to control applications and the meeting of April 16 is cancelled.

Mayor Williams expressed concerns about Council having enough time to adequately review the amendments which were before the Planning Commission for six months and now before Council for a week. Joe Kernan asked for numbers on square footage without excavation limits and suggested adding some flexibility regarding functional space and cookie cutter designs, leaving some decisions to the discretion of the Planning Director.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 2, 2009

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 7 p.m. at the Library and Education Center on Thursday, April 2, 2009. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Liza Simpson was excused. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

<u>Disconnect of Keetley Road</u> - Eric Lee, attorney representing Gerry Rice, explained that his client is a Deer Crest resident who has a number of concerns relating to parking and traffic associated with the St. Regis Hotel. Mr. Lee believes a number of requirements of the settlement agreement are being ignored and one in particular is the Keetley Road (aka Deer Hollow Road) disconnect. He encouraged Council to direct staff to review the documents and asked that a member of the City Council attend the Planning Commission hearing next Wednesday when an amendment to the St. Regis CUP is heard, acknowledging that the nature of the amendment is to relieve the developer the obligation to build a parking garage at Snow Park and not the disconnect. Jim Hier expressed that he always felt it in the best interest of the City to eliminate the requirement for a disconnect which is contrary to Mr. Lee's desire. Mr. Lee stated that they believe it is an issue that needs to be resolved one way or another. Mark Harrington assured Mr. Hier that the planning staff will review these issues more comprehensively and advised that the Council liaison attends the Planning Commission meetings to observe and not participate.

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

Jim Hier, "<u>I move we approve Consent Agenda Items 1 and 2</u>". Joe Kernan seconded. <u>Motion carried</u>.

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

Liza Simpson	Absent

1. Consideration of approval of a Resolution adopting an Identity Theft Prevention Program; appointing an oversight committee; and authorizing the City Manager to approve modifications to the Program as needed – Staff recommends approval.

2. Consideration of award of service provider agreement, in a form approved by the City Attorney, with Alliance Engineering in the amount of $35,000 for the Little Kate Sidewalk project – Staff recommends approval.

V ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VI ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Liza Simpson was excused. Staff present was Tom Bakaly, City Manager; Max Paap, Special Events Manager; Tom Daley, Deputy City Attorney; and Mark Harrington, City Attorney. Jim Hier, "I move to close the meeting to discuss property and litigation". Candace Erickson seconded. Motion carried. The meeting opened at approximately 4 p.m. Roger Harlan, "I move to open the meeting". Jim Hier seconded. Motion carried.

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

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

Prepared by Janet M. Scott

____

Janet M. Scott, City Recorder

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 9, 2009

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Thomas Eddington, Planning Manager; Diane Foster, Sustainability Manager; Crystal Ward, Project Manager; and Kayla Sintz, Planner

Jack Thomas, Julia Petit, Adam Strachan, and Richard Peek, Planning Commission Members

1. Council questions/comments. Jim Hier reported on a Uniform Building Code meeting where applying SB211 was discussed; this law is significant because it empowers the legislature with the power to amend the UBC, rather than the Uniform Building Code Committee. Liza Simpson shared updates from the Lodging Association meeting. Standards for occupancy were brought up by Joe Kernan and it was pointed out that these are specified in the Fire Code not the UBC. Roger Harlan reported on Art Advisory Board projects. Candace Erickson stated that Cole Sport held its end-of-the-year party at the ice arena which is a great location for a gathering.

2. Community carbon inventory. Through a PowerPoint presentation, Diane Foster explained that this project was funded in July and began in October 2008 to gather information to formulate a carbon baseline for the community. The Mayor signed the Climate Protection Agreement in 2005 committing to measure carbon and water with the philosophy that what gets measured gets managed. She explained that six greenhouse gases were measured with three methods. The International Standards Organization (ISO) allows measurements that aren't recognized in other protocols, like airline travel. The Community Carbon Advisory Committee felt it appropriate and responsible to include airline and road travel in our numbers which many cities would not count. ICLEA is an organization which helps local government with sustainability issues and its protocol does not count air travel. Ms. Foster explained that the committee chose to report in two standards providing better opportunities to compare with other communities. Another standard of measurement is the Sphere of Individual Influence which points out what individuals can do in their daily lives to reduce greenhouse emissions and this will be a separate reporting calculation.

Crystal Ward explained the chart breaking down emissions by source and emphasized that about half is energy and the other half transportation. She explained that 95% of our electricity is coal-based generated and reviewed the ISO, ICLEA and the SII results. A higher number of visitors and new construction increased electricity use from 2005 to 2007 while the use of natural gas decreased because of the positive effects of building efficiencies. Ms. Ward stated that Park City's carbon footprint is 1,003,724 tons.

Ms. Foster explained that because Park City is a resort community, an average daily population has to be determined and Mayor Williams added that resorts also take into consideration second homes. Ms. Ward explained that for budgeting for service delivery purposes, 100% occupancy for second homes is used, but for this purpose 50% is used. Roger Harlan pointed out that 1/3 of our footprint is electricity use and suggested that nuclear would be a lot cleaner source than coal to produce power. Ms. Foster acknowledged that the use of nuclear would reduce our carbon emissions significantly. It was pointed out that Utah can offer one of the lowest electricity rates to consumers in the nation because of our accessibility to coal and it will be a difficult sell to switch to another power source.

She stated that our carbon footprint breaks down to 110 tons per full time capita which is lower than Aspen at 148 tons per capita because its population is smaller based on the average daily population formula. Liza Simpson understood that Aspen also includes air travel, which contributes to its high numbers and Ms. Foster advised that there is never an *apples to apples* comparison. Aspen actually uses its own methodology which tends to be similar to the ISO's method of measurement. Resort communities are different because of the number of restaurants, hotels, ski areas, etc. High altitude communities also have higher heating loads than the average city. Park City uses 59% more electricity than Aspen but emits 106% more carbon from electricity. Offsetting carbon with wind power was discussed. A small part of the project is intended to create a water baseline by a third party on a per capita basis.

Diane Foster discussed using projected population numbers based on data from SBWRD, not the state and relayed that the Community Carbon Advisory Committee recommends pursuing the goal of the Western Climate Initiative or 15% below 2005 levels by the year 2020. ICLEA encourages cities to set specific goals and Ms. Foster explained that Park City will do that after citizens provide input. She described a variety of ways to achieve the 15% reduction which can range from incentive programs to ordinances and staff is working on a survey for the community which will address goals. Park City has partners including the media, schools, non-profits, utility companies, etc. and the results of the survey will develop a road map for community engagement. Work has begun on the website with a full launch slated in late September. Ms. Foster reported that Save Our Snow II is scheduled for this fall and activities like this help engage the community. If Park City is successful in reducing carbon emissions and water consumption, there are many benefits.

3. Joint meeting with Planning Commission - Land Management Code steep slope and Historic District amendments. The Mayor suggested meeting next week in the event a decision is not made tonight, acknowledging that April 16 is designated as a no meeting date. Members expressed that they are willing to meet, however Jim Hier stated that he will be out of town and Roger Harlan indicated he might be out as well next week. Thomas Eddington explained that staff considered Council's work session input from April 2, 2009 and revised the LMC draft. Questions from last week like floor layout and square footage are addressed in the PowerPoint presentation.

Jim Hier discussed an email from Peter Barnes with a drawing illustrating that the new regulations would result in breaking the 27 foot height limit by 2.25 inches. Mr. Eddington admitted that he didn't see the drawing but the proposed ordinance does not change the height limitation. The proposed third story has a setback requirement and would still fall within the 27 foot plane on most slopes. After looking at the drawing, Planning Commissioner and builder Charlie Wintzer remarked that the building is drawn a foot and a half above grade and could have easily been designed four inches below the street bringing the building within the height restriction. Mr. Hier explained that he needs to be confident that criteria will result in a buildable structure. Mr. Wintzer stated that it works, but not all property owners will be able to do what they want. Thomas Eddington explained that depending on the steepness of the lot, lower or a combination of ceiling heights may be needed to conform with height and Mr. Wintzer agreed that there are a variety of ways to meet criteria. Jim Hier asked how the ten foot setback was established. Tom Eddington explained that staff looked at typical setbacks on historic structures which ranged from five to ten feet. Some recent buildings are in the range of three to six feet but staff felt it important that the space be usable for a deck, for instance, and significant enough to provide a relief typical in historic buildings. Dick Peek added that the purpose of the setback is to make the building compatible with historic volumes. In response to a question from Joe Kernan about building a roof over the deck, it was pointed out that it would exceed the height limit.

The Mayor believed that one of the goals of the amendment is to gain equity with flat, uphill and downhill lots. Jim Hier suggested that allowing window wells would make the basement level habitable. Mark Harington emphasized that the maximum square footages outlined in the staff report are estimates of maximum potentials based on meeting the conditional use criteria and they are not guaranteed numbers. Commissioner Adam Strachan stated that no where in the LMC does it say that the Code has to apply equitably to all properties everywhere nor is that possible because lots are different and the Code is applied differently. He felt that they have reached the best solution. Dick Peek added that the current LMC is a lot less equitable than the proposed ordinance.

Joe Kernan asked why two Planning Commissioners supported the fourth floor. Charlie Wintzer indicated that four floors are not allowed now in the purpose statement because traditionally there were no four story buildings and no one built on steep lots. The proposal defines the maximum owners are allowed, not what they automatically get and the allowed use can not be exceeded. Commissioner Peek noted that applicants were actually trying to categorize their properties as steep slope projects to obtain a height exception which was clearly not the intent of the Code and members wanted to eliminate that practice in the future. He felt that if the volumes of the building components were compatible in mass and scale to the historic elements in town, a fourth floor should be allowed. But the real reason he voted against forwarding a positive recommendation was the excavation limitation because the impacts from excavation is a short term problem not a long term one.

Planning Commissioner Jack Thomas pointed out that steep slopes forced growth into the center part of town. The steepness around the perimeter of Park City is our saving grace and made us different than most sprawling communities in the west. The issue is just not the remaining number of steep slope lots; it is really all of the lots. Historically, it was not economically feasible to tear down a building and replace it but now it is a trend making equalizing mass throughout the community even more important.

With regard to the removal of the excavation requirement, Julia Petit believed there are other ways to deal with environmental concerns. For purposes of addressing mass and scale, the proposal before Council will greatly enhance the City's ability to preserve the integrity of our Historic District. There may be some tools in the LMC that may help with environmental concerns and there may be additional changes in the future that will help. She felt that the proposed draft tackles the issues. Liza Simpson expressed that she would like environmental considerations pursued because of the green building side of it. Mr. Wintzer stated that the General Plan is probably the weakest document on environmental issues which is one of the reasons some members backed off because there is no way the Commission can make a statement about the environment because it is not covered adequately in the LMC or General Plan.

Roger Harlan asked how this amendment will apply to lot combinations. Mr. Eddington stated that the steep slope amendments would apply to lot combinations equally, acknowledging that staff will be exploring the impacts of lot consolidations in Old Town as part of the General Plan to make sure the current footprint formula is applicable. Environmental incentives for historic site inventory homes will be pursued and Mr. Eddington added that green roofs is a new recommended element of the ordinance draft.

Mayor Williams pointed out that Council heard from several people that a family of four can not build a three bedroom two bath house under the amendments as proposed. Mr. Wintzer stated that he and his wife raised two kids in Old Town but not every lot in the Historic District is appropriate for families and in many cases, limitations are prompted by the configuration of the lot and not the Code.

Joe Kernan asked if the Commission discussed a *hidden* fourth level and Jack Thomas explained that the fourth level was understood to be seen from somewhere across the canyon or down the street, having a visual impact. There was discussion about property owners of historic homes surrounded by large contemporary structures asking for more square footage based on the argument of compatibility. Julia Petit stated that the Code is not designed to evaluate compatibility based on contemporary homes, but rather to encourage construction of historically compatible structures to contribute to the Historic District. Making mistakes in the past does not diminish the Commission's charge to look more closely at the historic structures in a neighborhood. Mayor Williams agreed and asked if the amendments provide the Planning Commission this ability and Charlie Wintzer answered it does. The Planning Commission had the ability with the old Code but this amendment provides more tools and definitions and it is the Commission's job to enforce the Code better. Mr. Peek added that the amendments are more liberal than creating rules that force replications of historic structures. Mr. Kernan asked what defines a historic building and Mr. Wintzer stated that if an inventory was conducted on what was here in the 1970s, it would probably reveal structures half of the size being built today and the trend needs to be examined. Liza Simpson stated that she appreciates the effort of bringing more clarity to the LMC and providing the Planning Commission with more tools and is frustrated by the argument that there are only a few lots left which doesn't matter to her. Everything in Old Town could potentially be torn down unless protected and it is important to step toward planning for what we want to see.

Mr. Kernan asked how this amendment will affect remodeling four or five story buildings. Mark Harrington explained that applicants would have to go through the process outlined in the non-conforming buildings section of the Code. They would be able to maintain those structures and make modifications that do not increase the degree of non-compatibility. There may be some Board of Adjustment process, depending upon the specifics. Charlie Wintzer expressed that the structure could not get any bigger and owners can work within the existing walls right now. Jack Thomas stated that he doesn't envision any additions to non-conforming structures except perhaps enclosing a porch, but modifying the roof or windows may be requested. Mr. Wintzer hoped that instead of people pursuing the biggest they can build to consider the best they can build. Ms. Petit commented that it is not just about the Code but incentivizing the community to value the Historic District with the preservation of existing historic structures and remodels of non-conforming houses to a scale that is more compatible. There are many options that as a City could be explored.

Mayor Williams asked for more clarification on 15-2.1-5(b) and Mr. Eddington explained that the section deals with the ten foot minimum horizontal step. A flat lot, under 30%, would allow for a fully covered basement and in this instance staff would not recommend the ten foot setback on the third level, because the house is dropped one level. Jim Hier clarified that a downhill façade is facing out from the slope, whether the lot is uphill or downhill. The Mayor asked Planning Commission members if they are comfortable with what is recommended to City Council tonight and all Commission members indicated that they are. He stated that a public hearing will be held during the regular meeting, but invited public input.

Don Bloxom, designer, relayed that a decision should be based on complete and accurate information and asked how is slope going to be measured. The LMC designates a steep slope if any part of the lot is in excess of 30% but on most lots in Old Town, the approach from the street is often well in excess of 30% but then flattens out to 15% to 20%. The planning staff then has to review plans under steep slope criteria even though it is a flat lot with a steep approach. Rather than rewriting every definition, he suggested accepting some widely used definitions like deciding what the actual grade is gong to be called. There are two common methods used to define grade including a simple formula used all over the country taking the average of the distances between the contours and dividing them by the area of the slope. The other is to take the average grade from corner to corner or through the center of the actual building pad.

Mr. Bloxom stated that these methods allow a good understanding of the slope. As to the issue of equity, non-conforming structures will be worth a lot more when this legislation is adopted. The minimum height on the average flat lot is 27'9" based on adding the above the ground minimum, floor to floor heights, roof dimensions etc. He stated that the original 8:12 minimum pitch was lost in Old Town when it was discovered that the pitch could not be maintained with the 1996 height reduction from 28 feet to 27 feet. The illustration with respect to the snow shed issue is not good and will not work. In response to a question from Mr. Hier about the 18" minimum figure, Mr. Bloxom explained that 18" is a FEMA requirement for structures in the flood plain. Joe Kernan asked if there are ways to address this situation and Mr. Eddington explained that there is no height exception in the proposed language and the owner would have to apply for a variance. Dick Peek noted that there is an option to design ceiling heights at eight feet rather than factoring for nine feet ceiling heights and Jack Thomas pointed out that the building numbers presented by Mr. Bloxom are not absolutes. Adam Strachan stated that the Commission had a long discussion about the variances; members have never viewed the restrictions as set in stone and applying for a variance has always been an option for owners.

Jon DeGrey, architect, read a letter from Jerry Fiat who was not in attendance. Mr. Fiat wrote in support of the amendments to the LMC as shown in the April 9 proposed coordinates redline provided two issues are addressed. First, allow for floor to floor height on the lower level garage up to 12 feet which reflects a two foot increase over the recommended language. The 12 foot limit is needed to better meet grade on downhill lots land to improve the quality of the main level on uphill lots. The additional height on the lower level will have no negative impact on the goals of the amendment. Secondly, for lots where the lower level is completely below grade, allow for a side entry garage door and window wells without requiring a 10 foot setback on the third level. The Historic Distinct Guidelines favor side entries to garages and allowing side entries without penalty will incentivize designers and home owners to place garage doors on the side. Thirdly, allow a fourth floor when a fourth floor is more compatible with the surrounding homes and steps back up the hill. The outcome for the CUP has been impossible to predict in advance. The LMC has often been used by the Planning Commission as a starting point for negotiations reducing allowable designs. Their decisions seem arbitrary and this process is costly and time-consuming to everyone and with the adoption of these amendments, the LMC will represent what is allowed and not simply constitute a lower bar to begin negotiations between the property owner and the Commission.

In response to a question from Jim Hier, Mr. DeGrey explained that reference to the side entry includes the entry door and garage door and Thomas Eddington explained that there is accommodation for this because it conforms with the Design Guidelines.

Ruth Meintsma, upper Woodside Avenue resident, expressed her confusion about the more massive look of the four feet at grade allowance and Mr. Eddington explained that this would actually help eliminate massive walls and stepping, so actually the four foot limitation will cut the amount of visible house and push it back into the hillside. She suggested that the cross-canyon view be included in the vantage points and Mr. Eddington stated that staff will consider including this. Julia Petit agreed that cross-canyon views help evaluate compatibility.

Marianne Cone, Prospect Avenue resident, thanked the Council, Planning Commission, staff and the public for their efforts and encouraged Council to consider including the cross-canyon views.

With no further comments or questions from Council or the public, the Mayor closed the public input session. See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 9, 2009

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, April 9, 2009. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Wade Carpenter, Chief of Police; Brooks Robinson, Planner; Thomas Eddington, Planning Director; and Kayla Sintz, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

1. <u>Colors of Success Program</u> – Chief Wade Carpenter introduced Executive Director Laticia Medina from Colors of Success which is an outreach program for at-risk youth. Ms. Medina explained that COP has been around since 1989 and she discussed working in Park City in the capacity of Director of Hispanic Affairs for the state for many years. COP has been funded by the juvenile court system to implement a program in Park City designed for youth between the ages of 12 to 17. She described the programs available to help develop life skills and the process for referrals. In response to a question from Joe Kernan about measuring success, Ms. Medina explained testing and curriculum procedures and the Mayor welcomed the program in the community.

2. <u>Pedestrian tunnel at Bonanza Drive</u> – Mary Wintzer, Wintzer-Wolf Properties, stated that she dropped off a letter to City Hall addressed to Council members on this matter. Wintzer-Wolf properties has always been a good citizen and donated an easement on the perimeter of their property for a walking and bike path. In February 2009, she saw a drawing at one of the stakeholders meetings showing a ramp on their property going into the tunnel just to the east of 1255 Iron Horse Drive. At the time, she expressed her concerns about the assumed use of their property for the project, especially since they already have plans for that piece. Ms. Wintzer noted that she also saw surveyors on the property which was later staked. While she has never been a proponent of the tunnel, she had no idea that it would involve the taking of their land. A light at Bonanza Drive is inevitable making the pedestrian tunnel a non-issue and a signal can be installed at one-fifth the cost of the tunnel. She hoped that Mountain Trails Foundation will be sensitive to the entire town, especially the businesses whose commercial taxes will increase considerably because of the bond. Ms. Wintzer asked that no further plan be discussed regarding the Wintzer-Wolf property without someone meeting with her.

3. Annual HMBA Meeting – Mike Sweeney reported on the meeting where there was a 90% vote to increase dues and fees pursuant to the request of the City Council. He thanked Bret Howser, Jon Weidenhamer, and Max Paap for their participation.

4. Preserving the night sky – Marianne Cone, resident, addressed the lighting plan introduced by the HMBA for Main Street which she feels is counter-productive. She believes people come to Park City to see something more natural than that and she was exceedingly happy when the lights were removed after the 2002 Olympics because the lights detract from the architecture of the buildings. Ms. Cone felt we should think differently by focusing on improving the night sky in Old Town and urged examining the lighting ordinance again.

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF MARCH 26, 2009

Roger Harlan, "I move approval of the work session notes and minutes of the meeting of March 26, 2009". Liza Simpson seconded. Motion carried unanimously.

V OLD BUSINESS *(Continued items)*

Consideration of an Ordinance approving the 2300 Meadows Drive Subdivision, located at 2300 Meadows Drive, Park City, Utah – Planner Brooks Robinson explained that this is a two acre metes and bounds parcel and referred to his staff report. The purchase agreement and the layout of the property anticipated a connection to Meadows Drive being extended out to SR248. This is no longer an option, an easement will be required for the driveway and utilities across City property and the easement will return to the City Council for approval. The recommended action tonight is to approve the one-lot subdivision. Height, trail and fencing were discussed. Because of prior public input on this project, Ms. Erickson reiterated that the plat reflects the original building pad at the same location and the only change is moving the driveway. The Mayor opened the public hearing; there were no comments. Jim Hier, "I move that we approve the 2300 Meadows Drive Subdivision plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft Ordinance". Joe Kernan seconded. Motion unanimously carried.

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

Ordinance approving amendments to the Park City Land Management Code amending the lot and site requirements and building height parameters of Chapters 2.1, 2.2, and 2.3 and adding a new definition to Chapter 15 – Tom Eddington expressed that the PowerPoint presentation is intended to illustrate what was originally recommended by the Planning Commission with regard to the steep slope and Historic District amendments and it also includes input from Council last week. The Ordinance reflects the removal of the footprint calculation so it remains the same as the original LMC. The height exception for steep slopes was removed but the height exception for downhill lots to accommodate a single car garage is provided. There is a three story maximum, the basement or lowest level counts as a story, and a minimum ten foot setback in the façade of the third story is required. Roof pitches range from 7:12 to 12:12, in keeping within the integrity of the Historic District Design Guidelines and final grade must maintain four feet of the existing grade. As a result of Council's direction last week, the excavation limitation of 15 vertical feet was removed.

Through a PowerPoint presentation, Mr. Eddington displayed what could be built on a flat, 30% and 60% lot under the current provisions and the proposed amendments. Currently, the steeper the lot, the more square footage and stories. With the proposed ordinance the sizes of the houses remain basically the same and it is more equitable. This is the result of many Planning Commission meetings and a lot of public input prompted by discussions on the controversial reduction in footprint approach. Square footage was a topic of concern last week, and he displayed a drawing of a house on a flat lot consisting of 2,532 square feet which is the maximum and not a guarantee. On a 30% to 60% lot, the square footage is about the same at 2,342 square feet which is 190 square feet less than a house on a flat lot because of the ten foot third story setback.

Mr. Eddington stated that compatibility was another issue as it relates to the purpose statements for the HR-1, HR-2 and HRL Zones and he illustrated a chart graphing heights of single family dwellings listed in the Historic Site Inventory. The majority of houses in the HR-1, HR-2 and HR-L are between 1,000 and 1,500 square feet and the proposed ordinance allows up to 2,300 square feet. Although the maximum square footage allowed by the proposed changes is significantly larger, it is felt that compatibility is maintained. He displayed floor plans for a house designed for a single lot. Kayla Sintz explained that Jerry Fiat hired architect Jon DeGrey to produce renderings based on the 15 foot excavation version and in the different schemes, there was at least one design that showed three bedrooms and two and a half bath possibilities.

Tom Eddington relayed that staff is also recommending that when the basement story is completely underground, the ten foot setback for the third story would not be required. He displayed a graphic of a section of a house on a single family lot and emphasized that the snow shed easement requirements remain the same. There are about 204 vacant lots remaining in these districts based on GIS information and this count does not include any rehab or demolition projects. From 2003 to 2009 about 38% of our steep slope CUPs were for primary residences and 62% for secondary residences. He didn't feel that the formula will force cookie-cutter designs and he displayed a graphic illustrating the lot, building pad, and footprint proportions. The proposed Historic District Design Guidelines encourage more detailed articulation to take advantage of the building pad. One of the recommendations added is language to allow for a reduced pitch for a green roof where a 7:12 to a 12:12 roof pitch is required. A definition for green roof has been added. In response to a question from Joe Kernan about solar, Mr. Eddington explained that staff is working with Recycle Utah on appropriate specs for solar and the issue of allowing solar panels in the Historic District is being discussed by the HPB. Side entry garages are encouraged for double lots which better comply with Historic District Design Guidelines but are not applicable to single lots. He stated that staff will be returning to Council with an ordinance dealing with environmental issues like LEED, solar, materials etc. and to extend the same opportunities to properties listed as landmark and/or significant. The Mayor opened the public hearing.

Ruth Meintsa, resident, referred to her question during work session about houses looking more massive if there is a four foot reduction in grade, and Mr. Eddington by way of illustrating a graphic showed a design with windows that broke up the massing.

Jim Hier stated that he understood that slope is now measured in 15 foot increments and any increment over 30% would categorize the lot as a steep slope.

Don Bloxom, designer, referred to a slide noting that this condition does not exist anyplace in Old Town except for places where they've built the street in the last ten years. The street level would be a minimum on an average of four feet below the garage so the entire section can be lowered by four feet. He pointed out that the square footages are gross and have no relationship to the livable space. The amendments would result in 1,400 square feet of livable space. It is important that this information is complete and accurate. He hasn't seen a drawing and/or section of a downhill lot and emphasized that if a 7:12 pitch is shedding snow on an adjacent property, the Building Official will not approve the roof. When gross square footages drop, cars will move out on the street. The new additions to the draft were introduced to the community only a few weeks ago and there has not been a lot of time to respond. Mr. Bloxom stated that these are not planning issues but design issues and planners are not designers. He criticized the three bedroom floor plan and Candace Erickson responded that the bedrooms are larger than in her Park Meadows house. Mr. Bloxom stated that the bulk of the homes can not accommodate a four member family.

Bill Tew, full-time resident of Old Town, stated that he is in favor of the amendments. Our community has repeatedly voiced its desire to preserve the character of Old Town. Keeping the size, mass and setbacks on new home construction is complimentary and consistent with Old Town's character and is highly valued. He predicted that if a referendum was held today, Council would hear the same thing. Residents living in Old Town knowingly limited their future real estate capital gains because of the restrictions of the LMC. There can be little argument that the present Code has a lot of grey areas and he is in full support of the Planning Commission's efforts to add clarity to the LMC and urged the City Council to adopt the changes.

Jim Keesler, resident and Old Town property owner, stated that he worked on a design for a house on his downhill lot located at 402 Woodside Avenue under the provisions of the draft ordinance resulting in a maximum of 1,800 square feet with a one car garage. He described the difficulty of getting stairs to the third floor with the pitch of the roof and basically limiting ceiling heights to eight feet. He suggested removing the ten foot ceiling height and excavation limitation. People need design flexibility. The last 15 feet of his property exceeds 30% but the rest of his lot is flat. He agrees that green roofs are a good idea and if more height is required in these instances, it should be considered. Tom Eddington interjected that the pitch may be reduced for a green roof which would provide more volume. Mr. Keesler questioned why this is an issue now. There was no public input on these huge homes in Old Town and CUP applications are noticed for public hearings before the Planning Commission. Jim Hier commented that they are being constructed because the Code allows it not because there was no opposition. Many people voiced opposition to these projects.

Tom Bowen, attorney, spoke about his experience serving as a planning commissioner and his familiarity with the process. One of the things causing great frustration relates to Goal No. 8 in the General Plan that states that *Park City should take full advantage of the diverse and intelligent input from an active constituency and continue to seek input on decisions affecting Park City's future*. There seems to be a *moving target*; one time the issue is run-off, and now we find out it is building, mass and design. The plans have changed from a week ago; improvements have been made but the public is trying to analyze the impacts. He understood the City Council is under pressure because of the Pending Ordinance Rule but he urged members to take a step back to make sure that whatever is done is done correctly. Experts have testified that there are problems. He suggested including local professionals in the process because planners are not designers. There are a lot of people who have invested great sums of money in Old Town and it was pointed out earlier that 60% of the steep slope applications were for second homes. New construction is being jeopardized by the proposal and vacant lots are going to impact the tax base and budget of the City as well as economics. This significantly impacts properties and he asked what compatible means. Take a look at the General Plan and involve the experts. He reiterated that Council is rushing because of the expiration of the Pending Ordinance Rule which should not be the case.

Joe Tesch, attorney for Jerry Fiat, agreed that the process has been fast. The staff report was not available until Monday which doesn't provide enough time to respond. His client asks for consideration that the floor to floor height on the lower level be increased to 12 feet. On lots where the lower level is completely below grade, to allow for a single entry garage door and windows wells, etc. Mr. Tesch understood that this has been addressed on a double lot. Because of the prohibition on the fourth floor, he suggested allowing excavating an additional level for storage. He agreed that the ordinance drafts have been a bit of a moving target. His clients have over-sized lots and the effects of the pending ordinance are unknown. It is a mistake taking action too soon. Get it right so that it doesn't have to be continually amended.

Rich Wyman, resident, expressed his support of the proposed LMC changes to maintain the integrity of historic Old Town which needs to be protected and individual economics should not be a focal point for planning. He urged members to vote in favor of our town and its future by approving the LMC changes.

Tina Smith, Old Town home owner, stated that it is heart-breaking that owners will not be able to make as much money as expected but it's not all greed. She is shocked that some official said that Old Town is not a place for kids, which is not true. Historically, ceilings were ten feet not eight feet; bedrooms are small and there's a 27 foot height limitation which is not fair, but the green roof component is a great addition. She felt that windows should be allowed on the lowest level because it is more sustainable. The snow shed agreement negotiation can get nasty between neighbors.

Michael Baronbrug, builder and property owner, stated that he has built homes on 932 and 936 Norfolk Avenue. When he was considering the purchase of the lots, he checked out Park City's regulations which seemed more restrictive than other communities but he felt that the current LMC strikes a good balance between aesthetic design and amenities necessary to meet home owners' expectations in an upscale resort community. If the proposed amendments were in place when he was on the market for property, he is not sure he would have acquired the lots and asked why now. Old Town is 95% built-out so why make these drastic changes now. With only a few lots scattered around Old Town it would seem more viable to maintain a sense of continuity of what is current. The end is nowhere to start and these should have been considered a long time ago before Park City became what it is today. Under the current guidelines Park City has been very successful in maintaining a balance between historic significance, small town charm, and upscale affluence that very few communities can claim. The current guidelines are a huge part of the overall formula for community success that all of Park City property owners have benefitted from. Realized equity gains on properties have attracted more people to buy here under the current realistic guidelines. A vibrant community will be stagnant as people find somewhere else to go. He urged members to consider this before jumping into a decision that has a huge impact on the community as a whole and many individuals in particular. There are many owners being held up by the moratorium in place which should be lifted for those in the design and permitting stages and the City Council should take more time to consider the impact of a decision.

Harry Reed, resident, believed that the City Council is moving in the right direction, but agreed with Joe Tesch by devoting more time to the issue. The ten foot floor to floor restriction does not reflect historic houses at all, but the downhill lot garage height exception and green roof components are good ideas.

John Staffsholt, 633 Woodside Avenue, reminded everyone the LMC is a living document and changes regularly. This is not a taking but a normal evolution which has happened quite a few times over the years. Short-term financial interest is not any form of substitute for long-term community planning and often they are at odds with each other. Strict planning and zoning are critical for long term preservation of our National Historic Register designation as well as our long-term financial interest for any owner like himself in the Historic District. He explained the bad effects of no zoning by sharing his experience living in Houston. Owners of steep slopes in Park City are required to obtain CUPs and it is not an allowed use. The trend and the current LMC allow houses to get larger as the slopes get steeper, the intent should be reversed and he felt this issue is covered in the proposed amendments. He stated that Utah is a very strong land rights state but the steep slope lots are located in an Historic District which has always been limited by zoning. New building in these zones should be limited in size, mass and scale to fit in with existing historic homes, new buildings should not compromise our historic fabric and should not result in Park City losing its status on the National Historic Register. He pointed out that it has been a busy year. The Historic District Design Guidelines have been rewritten, the LMC has been updated, two temporary zoning ordinances have been created, two Historic District lists of landmark and contributory buildings have been formulated, and more than 525 buildings in the City are now safe from wholesale demolition. He stated that all of these actions have been done to work together in concert so that the loopholes will now be closed and abuses to the system will be limited going forward. Tonight, a positive vote will affirm all of the work that has been completed by the HPB, the Planning Commission, staff and the public. A lot of time has been devoted to this and Mr. Staffsholt encouraged Council to vote in favor of the pending LMC amendment.

Dave White, architect and former member of the Historic District Commission and member of the Historic Preservation Board, voiced his support for the amendments as presented tonight. The changes coupled with the revised Historic District Design Guidelines and a proactive design review will go a long way toward helping new construction in Old Town. He requested consideration of some of the items Joe Tesch touched on, namely the ten foot plate height. A number is not needed to be assigned to floor heights as long as construction stays within the 27 foot height limitation. Also he asked that consideration be given to allowing a fourth floor on lots with a 40° to 45° slope.

Steve Yaworski, owner of a lot at 336 Daly Avenue and long-term Old Town resident, stated that there is a lot of public support for a fourth floor and more time is needed to make the right decision. The loss of square footage is an issue. He is not a speculator and has purchased property to build a home on Daly for his family but he doesn't know if there will be adequate square footage. He spoke about the massive equipment and structures prevalent throughout Old Town during the mining era. Building four stories is not out of scale for residential neighborhoods and the Planning Commission was somewhat undecided on this issue; Mr. Yaworski asked that Council keep that in mind.

Craig Weaver, 1117 Norfolk Avenue, expressed his support for the LMC changes and pointed out that there have been many compromises made throughout the process which took six months before the Planning Commission. A lot of time has been put into it. Mr. Weaver was pleased that the 25% reduction in the footprint and the 15 foot excavation limitation were removed from the proposal; the ordinance has been well thought out.

Brian Van Hecke, Old Town resident, expressed that it is unfortunate that meetings are not well attended because he feels that are many residents in favor of this proposal. The building trend over the past five to ten years has been completely out of control with increased massing and heights and smaller setbacks. The time is now to fix the problem not later. He commended Tom Eddington and his staff for tackling this very controversial issue and what is being presented to Council today has been thoroughly reviewed. He urged members to vote yes tonight without exception.

Michael LeClear, Old Town resident, expressed that he favors taking more time to review the amendments because there are still a lot of questions. A steep slope lot is being confused with a flatter lot with a little steepness to it which is the main problem with the ordinance. His lot is flat with a slope at the end of it and it should not be considered or processed like a steep lot. The compromises have been good but Council should not vote on the ordinance yet and having a deadline makes him even more nervous.

Nathan Anderson stated that he has a family of four and would like to reside on Empire Avenue, but the floor plan displayed tonight would not accommodate his family. There is a bedroom on the second level where the dining room area has been eliminated. A family of four has to have a dining room and the ten foot setback for the third story eliminates needed square footage for bedrooms. He asked that Council take enough time to find solutions. He grew up in Park City and believed that his family should be provided the ability to live on Empire Avenue. A 1,700 square foot house will force cars on the street.

Michael Demcowicz, Ontario Avenue resident, hoped to build in Old Town and agrees with Mr. Anderson's comments. He urged taking more time on the proposed amendments.

Bob Garda, Lowell Avenue resident, stated that he and his wife built a home in 1989 and are now full time residents because of the beauty and character of the City. He thanked the Planning Commission and the Council for considering amendments; it has been on the docket for a long time. A lot of things have been considered, and he urged members to vote for it.

With no further comments, the public hearing was closed.

Jim Hier asked the logic of the ten foot plate height and Mr. Eddington explained that ten feet seemed to be a typical height. Staff looked at a 12 foot plate level on the first floor but part of the challenge is that the Historic District Design Guidelines promote a more pedestrian friendly first floor level. The 12 foot height raises questions about the height of the garage doors and the impact on the streetscape, but is something that could be looked at in the future in more detail. Mr. Hier asked whether a basement could be considered a livable area if there are window wells and Mr. Eddington explained that egress has to be provided in the space and most designs are for work-out rooms, home theaters, storage, utility or mechanical space, etc. It can not be a bedroom unless it has egress.

Jim Hier addressed criticism about moving targets and continuing changes which in his mind is the result public meetings. Discussion, input and changes are part of the natural progression. He stated that no official said we shouldn't have families and kids in Old Town and what was said was that there are some lots in Old Town that would not lend themselves as well to families as other lots. That is not the same. He has many friends with families living in small homes in Old town.

Roger Harlan stated that he felt that there has been enough time devoted to this; the process began in October but the problems have been discussed for years. The allegation that this has been rushed is not borne out by the facts. He agreed with Mr. Hier that adjustments were made as public input was rendered and pointed out that what works for one family of four may not work for another. He took two field trips since October and met with a number of people and believes the issues in Old Town are significant and this has been a good faith effort on everyone's behalf to look at a way to do it better. He thanked the Planning Commission for tackling difficult issues.

In response to a question from Candace Erickson about the ceiling height of a third level on a downhill lot, Tom Eddington explained that the top level would be the garage level and would have an eight foot height and the levels below it would have at least eight feet. He added that it works on an uphill lot. She questioned the rationale for limiting the ceiling height and whether it needs to be included in the ordinance if the 27 foot height is met. It doesn't seem relevant. Ms. Erickson commented on her statement about bedroom size and clarified that the bedrooms shown are not tiny and the bedrooms can be bigger, but something else has to be given up in the space. Requests for the amendments began years ago and the process has gone on for a long time. Unfortunately, there were other planning priorities but this has been an issue for seven or eight years. She spoke about massive projects Council felt they had to approve because of loopholes and no legal way to deny them. The neighbors hate these homes and it became unacceptable which began the process. She stated she is not inclined to allow a fourth floor. Ms. Erickson stated that she does not want to penalize people with steep slope lots but they should not be entitled to additional square footage by creating massing on the hillside.

Liza Simpson commended the public, Planning Commission and the planning staff for their hard work. Public input has made this a better ordinance and there have been changes which is why it is a *moving target*. There are lots of places in Old Town for families but it makes perfect sense that some lots may not be appropriate. She is comfortable with all of the Planning Commission recommendations and moving forward tonight.

Joe Kernan felt that getting rid of the excavation limitation was an improvement but he would like to address some of the concerns expressed by the owners and designers. He felt that some of the problems associated with large homes resulted from lot combinations rather than in-fill lot construction. There is an uncertain benefit to the community by restricting the homes that are left. The typical citizen would have a tough time critiquing designs under the current and proposed code. It would be beneficial spending more time on these specific areas that experts have pointed out and meet most of their needs. He didn't think the changes will be very effective at this point and it is not likely that the large structures will be town down. Mr. Kernan expressed that the focus should be on discouraging lot combinations not construction on the perimeter and he would like to continue this for at least a week so staff can address issues like enough space for stair wells, etc.

Liza Simpson stated that she respectfully disagrees with Mr. Kernan's statement. She felt he is right about lot combinations and hoped that is addressed but there is a vast difference between a three story house, a four story house, and a five story house. These amendments address houses on Ridge Avenue and other sections of Old Town where the mass and scale completely overwhelms the rest of the neighborhood.

Mr. Kernan argued that the average citizen would not think a five story building in Old Town is objectionable but what is substantial is telling someone they have to have the family room in the basement or one less bedroom. There are direct costs associated with losing square footage and light and these small changes are very important to the person living in the house.

Dana Williams stated that there were comments about how few lots are left but there are over 200 lots but he agreed with another speaker that it doesn't really matter because everything else could be threatened. There has been a high level of communication between the public and City Council members on this issue and his only remaining concern is limiting ten feet on the main level. The streetscapes in many instances were changed when homes were lifted so the ten foot plate may not make a difference. There has been a lot of process and the Mayor complimented groups on being organized and civil.

Liza Simpson noted that the language for the ten foot plate is not specific to the first story and Tom Eddington stated that staff looked at opportunities of structuring the first floor at 12 feet with the exterior detailing designed to reflect a ten foot plate appearance. Jim Hier and Candace Erickson questioned if there needs to be limitations at all. Mr. Eddington recommended limits because the ordinance deals with a three story limit and some definition of stories needs to exist. Ms. Erickson felt that a house with two floors with 12 foot ceilings should not be denied if the 27 foot height is maintained.

Liza Simpson suggested language *that a structure may have a maximum of three stories. A basement counts as a first story within this zone.* Jim Hier felt comfortable with the suggestion because it eliminates limits on the first story and applications have to go through HPB design review where the exterior details would be reviewed. Liza Simpson, "<u>I move that we approve the amendments to the Park City Land Management Code amending the lot and site requirements, building height parameters of Chapter 2.1, 2.2, 2.3 and adding a new definition to Chapter 15 including the green roof stuff that was presented and amending 15-2.3-6(a) to read, a structure may have a maximum of three stories, a basement counts as a first story within this zone (to be inserted in all appropriate sections)</u>". Jim Hier seconded. <u>Motion carried</u>.

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

Liza Simpson Aye

VII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned. The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

City Council
Staff Report

Subject: **71 Daly Avenue**
Author: **Katie Cattan**
Date: **April 23, 2009**
Type of Item: **Administrative – Plat Amendment**

PARK CITY 1884
PLANNING DEPARTMENT

Summary Recommendation
Staff recommends the City Council hold a public hearing for the 71 Daly Avenue plat amendment and consider approving the plat amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant:	Robert and Beatrix Koev
Location:	71 Daly Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Plat amendments require Planning Commission review and City Council approval

Background
On November 5, 2008 the City received a completed application for a plat amendment at 71 Daly Avenue. The subject property is located in the Historic Residential (HR-1) zoning district. The proposed plat combines Lot 10 and portions of Lots 9 and 11, Block 73 of the Park City Survey into one lot of record. The proposed lot will be 4,175 square feet. The existing structure on the property is listed as Significant on the Park City Historic Sites Inventory.

The historic structure straddles the lot line between Lot 10 and Lot 11. The minimum lot width in the HR-1 zoning district is twenty-five (25) feet. By adding a approximately one (1) foot of width Lot 9 and two (2) to five (5) feet width of Lot 11, the applicant is not creating substandard lots. The width of Lot 9 (61 Daly Avenue) is forty-five (45) feet wide. The width of Lot 11 (81 Daly Avenue) is thirty-five (35) feet wide.

The applicant wishes to combine the lots into one lot of record to facilitate an expansion of the house. A building permit cannot be issued for construction across a lot line.

There is also a Historic District Design Review application under consideration by staff for this addition.

The Planning Commission reviewed this application on April 8, 2009 and forwarded a unanimous positive recommendation. No comments would made during the public input.

Analysis
Staff finds good cause for this plat amendment as it cleans up the property lines and ensures that the proposed addition to the house will not cross lot lines. A ten feet snow storage easement along the front property line will be required prior to plat recordation.

Home located at 71 Daly Avenue with proposed addition

	Permitted	Proposed
Front setback	12'	42'
Rear setback	12'	12'
Side setbacks	5' minimum, 10' total	5'3" on north, 5'4" on south, and 10'7" total.
Footprint	1,591 square feet maximum	1,369 square feet 557 square feet existing structure

Process
The approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Department Review
This project has gone through an interdepartmental review. All issues identified during the meeting have been addressed by the applicant.

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

Public Input
No public input has been received by the time of this report.

Alternatives

- The City Council may approve the 71 Daly Avenue plat amendment as conditioned or amended; or
- The City Council may deny the 71 Daly Avenue plat amendment and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on 71 Daly Avenue plat amendment.

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

Consequences of not taking the Suggested Recommendation
The lot lines would remain where they currently stand and the addition at 71 Daly could not take place

Recommendation
Staff recommends the City Council hold a public hearing for the 71 Daly Avenue plat amendment and consider approving the plat amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits
Exhibit A – Ordinance with Proposed Plat
Exhibit B – Survey of existing conditions

Exhibit A
Draft Ordinance No. 09-

AN ORDINANCE APPROVING THE 71 DALY AVENUE PLAT AMENDMENT LOCATED AT 71 DALY AVENUE, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 71 Daly Avenue have petitioned the City Council for approval of the 71 Daly Avenue plat amendment; and

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

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

WHEREAS, the Planning Commission held a public hearing on April 8, 2009, to receive input on the 71 Daly Avenue plat amendment;

WHEREAS, the Planning Commission, on April 8, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the 71 Daly Avenue plat amendment.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 71 Daly Avenue plat amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 71 Daly Avenue in the Historic Residential (HR-1) zoning district.
2. There is an existing historic structure on the property. The structure is listed as Significant on the Park City Historic Sites Inventory.
3. The subject property encompasses Lot 10 and portions of Lots 9 and 11, Block 73 of the Park City Survey.
4. The proposed amended plat would result in one lot of record of 4,175 square feet.
5. The proposed plat amendment will not create substandard lots on the neighboring lots.
6. The applicant is proposing the combination of the lots in order to facilitate an expansion/addition to the house.

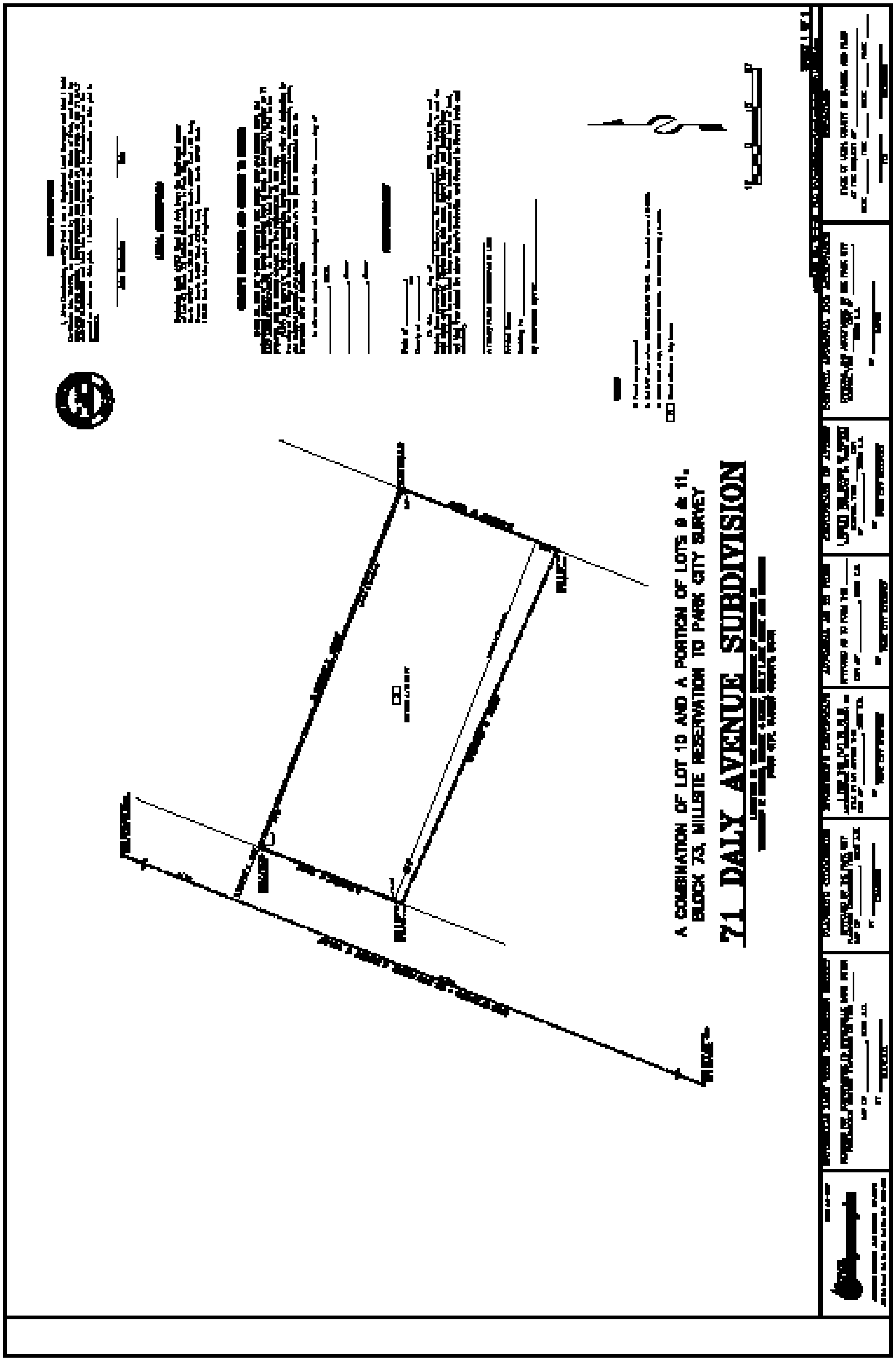
7. A Historic District Design Review application has been submitted to the Planning Department for this property.

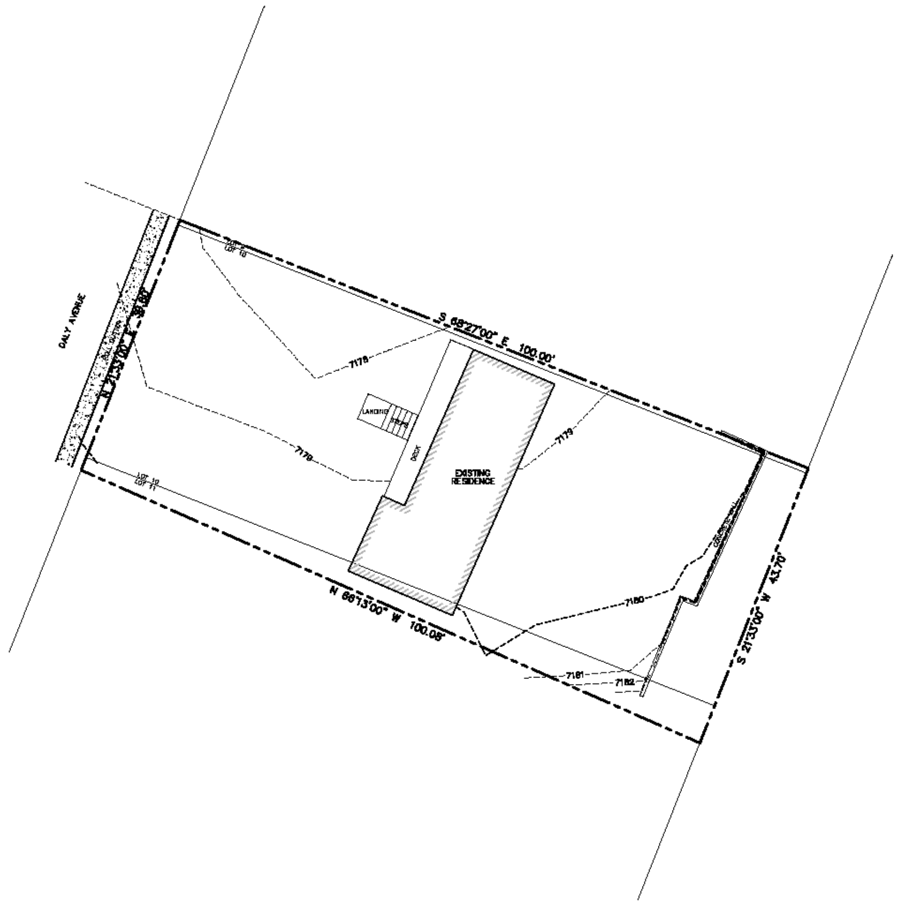
Conclusions of Law:
1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:
1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. A 10 foot wide snow storage easement will be provided along Daly Avenue.
4. Empire Creek flows behind the rear property line. Limits of Disturbance for construction may not occur within ten feet of the Creek.

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

PASSED AND ADOPTED this __day of__, 2009.


A COMBINATION OF LOT 1D AND A PORTION OF LOTS 9 & 11, BLOCK 73, MILLSITE RESERVATION TO PARK CITY SURVEY
71 DALY AVENUE SUBDIVISION



LEGAL DESCRIPTION

Beginning South 21°33' West 2.0 feet from the southwest corner of Lot 10, Block 73, Millsite Reservation in Park City; thence North 21°33' East 39.80 feet; thence South 68°27' East 100 feet; thence South 21°33' West 43.70 feet; thence North 66°13' West 100.08 feet to the point of beginning

10' 0 10' 20'

(435) 649-9467

Alliance Engineering Inc.

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS

323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
MARSHALL KING
BLAKE MYERS
BRYAN SCHAFROTH

DATE: 10/30/08

SHEET 1 OF 1

EXISTING CONDITIONS SURVEY
71 DALY AVENUE

FOR: ROBERT KOEV
JOB NO.: 13-5-06
FILE: X:\ParkCitySurvey\dwg\srv\srvy2006\130506-revised2008.dwg

City Council
Staff Report

Author:	**Matthew A. Twombly**
Subject:	**Neighborhood Parks Professional Service Provider contract**
Date:	**April 23, 2009**
Type of Item:	**Administrative: Service Provider Contract**

Sustainability

Summary Recommendation:
Authorize the City Manager to execute a change order to the Neighborhood Parks project(s) Professional Service Provider agreement in a form approved by the City Attorneys Office to IBI Group in the amount of Sixty Two Thousand Four Hundred Forty Dollars ($62,440.00).

Description:
Topic: Neighborhood Parks Professional Service Provider Contract

Background:
On October 11, 2007 during the RAB Visioning, Council directed staff, RAB and the Neighborhood Parks Committee to proceed with park improvements on the Holiday Ranch Loop site (dirt jump park) as conditioned in the CUP for the park to maintain the dirt jumps, provide restroom and parking facilities in conformance with the Land Management Code and to enhance the remainder of the parcel with Park amenities.

On March 6, 2008 the Council approved the award of a Professional Service Provider contract with IBI Group in the amount of Eighty Two Thousand Two Hundred Ninety Five Dollars ($82,295.00) for the Old Town and Holiday Ranch Loop parks. The original contract was for the complete design (through construction documents and bidding) of the Old Town Park and the partial design (through design development required for Conditional Use Permit) for the Creekside Park (Holiday Ranch Loop).

On April 23, 2008, the RAB and staff held a public meeting to show two conceptual designs to the neighborhood and to receive comment on the park. The neighbors within 500 ft of the property were notified by mail of the meeting. The open house had a strong turnout with over 50 people attending. The general consensus from the meeting was that the neighbors were supportive of the park design and are looking forward to the site being used as such. Neighbors were opposed to lighting the facility and expressed the desire to have age appropriate playgrounds.

As part of the RFP, it was noted that upon completion of the Design Development phase of the projects, a cost estimate of construction would be developed by the consultants prior to continuing into construction and bid documents. With the construction cost estimates, staff will return to Council with recommendations to proceed (or not) into construction documents and construction of both the parks. The construction and bid documents for the Creekside Park were not included in the contract awarded on March 6, 2008. On May 29, 2008 Council discussed a Manager's report regarding the design development construction cost estimate for the Old Town Park, probable budget for the Creekside Park and the direction to proceed with the construction drawings, bidding and construction of the Old Town Park.

On August 21, 2008 staff presented Council with an update to the Creekside Park, presenting the conceptual plans, neighborhood comments, cost estimate and requested affirmation to move forward with a revised master plan, the design development drawings and apply for a Conditional Use Permit for the Creekside Park. Based on Council direction the plans were modified prior to submitting for a Conditional Use Permit. The main item of change was the removal of the gas fire pit. See master plan attached as Exhibit D.

In October of 2008 staff submitted a Conditional Use Permit application for the Creekside Park based on the Council direction from August 21, 2008. On April 8, 2009, the Planning Commission approved the Conditional Use Permit for the Creekside Park. The Commission added a condition of approval that dogs would be prohibited at the park due to the wellhead protection area in the park, but dogs would be allowed on the trail at the Western border of the property. Other changes in the park based on Water Department review were to remove the fence and walkways to the well-heads. The Planning Commission and Planning staff made no other significant changes to the master plan reviewed and modified by the City Council on August 21, 2008.

Analysis:
Because there was no concept plan or cost estimate for the Creekside Park, the Professional Service Provider agreement with IBI Group for the Neighborhood Parks only included design services up through design development in order to obtain a CUP for the project. As the CUP was approved by the Planning Commission, staff is now returning to Council to authorize a change order to the Professional Service Provider Agreement to proceed with the construction documents, bidding, construction and construction management of the project.

The original service contract provided for the Old Town Park Phase 1 and 2 design (less construction phase services) and Creekside Park Phase 1 design (conceptual and design development). The Change Order #1 (Exhibit A) to the Service Provider Agreement includes Creekside Park construction documents (phase 2 design), construction phase services for both Old Town and Creekside, and the Contract Modification #1 thru #3 which were not outlined in the original scope of services. Contract Modification #1 and #2 included hydrological data gathering, modeling, permitting, structural engineering and new drawings for the creek and bridge due to the State Engineer, Chief Building official and City Engineering requirements for flood elevation and stream alteration permitting. Modification #3 includes project delays, wetland coordination and exhibits, and playground manufacturer interviews, selection and design.

The Original Service Provider Agreement included:

Old Town Park: Phase 1 - Schematic Design and Design Development.
Phase 2 - 90% and 100% Construction Documents.

Holiday Ranch: Phase 1 - Conceptual Master Plan, Schematic and Design Development.

The Agreement did <u>not</u> include Phase 2 – 90% and 100% Construction Documents for the Holiday Ranch park, or the Construction administration for either parks

The change order will include the following:

Old Town Park:	Construction Phase Services (partially complete)…..	$10,000
	Contract Modification 1 (complete)……………………..	$2,300
	Contract Modification 2 (complete)…………………….	$3,450
Creekside Park:	Construction Documents…………………………….	$31,690
	Construction Phase Services……………………….	$10,000
	Contract Modification 3 (partially complete)………..	<u>$5,000</u>
	Total	**$62,440**

The Old Town Park design phase 1 & 2 are complete and the construction is substantially complete except for the plantings. The Old Town Park Construction Phase Services are mostly complete (work performed and billed by the consultants) and the Contract Modifications 1&2 for the Old Town Park have been completed. Contract Modification #3 has been mostly completed in order to prepare drawings for the CUP at the Planning Commission. The Change Order encompasses these previously approved (staff approved (up to 20% of contract)) modifications and the unapproved and uncompleted items for Creekside Park. See IBI Neighborhood Parks Scope of Services – Addendum A attached as Exhibit B.

Based on the revised master plan and the design development drawings the consultant prepared a cost estimate for the Creekside Park (see Exhibit C, Estimate). There is currently approximately $725,000 remaining in the Neighborhood Parks budget. The architect's estimate is for $641,000 for construction and there is approximately $42,000 in remaining architectural fees not completed out of the Change Order #1 ($62,440) for a total of $683,000 in project costs. The architects estimate includes a Design Contingency of $53,000. There will be some other soft costs not included in the estimate including testing and inspection, power/utility fees, and public art. Testing/inspection, and power/utility fees should be approximately $10,000 - $15,000. The public art would be approximately $6,000. The total cost of the project including hard and soft cost would be approximately $700,000, leaving approximately $25,000 more in contingency.

The restroom facility is planned to be approximately 500 square feet which would be exempt from the Green High Performance Building requirements, however it is the intent of staff and the architect to build the restroom as an energy efficient green building, including the use of solar thermal for heating and hot water as well as the incorporation of other green building elements. PCMC and the architect wish to provide these and other green elements as a demonstration and provide informational displays to educate park users on the use of sustainable and green elements in building design and construction.

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

Alternatives:

Approve the Request:
Authorize the City Manager to execute a change order for the Neighborhood Parks Professional Service Provider contract on a form approved by the City Attorney's Office with IBI Group in the amount of Sixty Two Thousand Four Hundred Forty Dollars ($62,440.00).

Deny the Request:
The Council could decide to no longer proceed with the Creekside project, leaving the proposed site in its current condition.

Modify the Request:
Council could choose to modify the agreement, which would likely delay the schedule of the project.

Continuance:
A continuance would delay the proposed schedule for the Creekside Park and it's possible completion this season.

Do Nothing:
Same effect as continuance.

Significant Impacts:
There is approximately $725,000 of the Parks Bond remaining and budgeted for the design and construction of the two parks. See analysis above.

Consequences of not taking the recommended action:
Delay would impact the project schedule and discontinuing the project(s) would leave the site in its current state, and the dirt jumps would not be able to continue to be used as the CUP for the temporary use has expired.

Recommendation:
Staff recommends that Council authorize the City Manager to execute a change order to the Neighborhood Parks project(s) Professional Service Provider agreement in a form

approved by the City Attorneys Office to IBI Group in the amount of Sixty Two Thousand Four Hundred Forty Dollars ($62,440.00).

Attachments:
Exhibit A - Change Order #1
Exhibit B - IBI Neighborhood Parks Scope of Services – Addendum A
Exhibit C - Creekside Park Construction Cost Estimate
Exhibit D - Creekside Park Master Plan

EXHIBIT A

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT -- CHANGE ORDER

PROJECT: Neighborhood Parks

CHANGE ORDER - # 1
DATE –April 23, 2009

THE **SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT** dated **March 6, 2008**, ("Agreement") by and between **PARK CITY MUNICIPAL CORPORATION**, a municipal corporation of the State of Utah, hereinafter "City" and IBI Group, a Utah corporation, hereinafter "Consultant," IS HEREBY CHANGED PER THE FOLLOWING:

PURPOSE: For the project known as the Neighborhood Parks , certain items described in the Agreement require modification in order to better suit the needs of City.

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

SECTION 1. SCOPE OF WORK:

(A) Except as otherwise specifically provided for herein, adjustment of the Contract Amount shall be the sole adjustment to the contract for provision of all necessary labor, equipment and materials necessary to accomplish:

Old Town Park: Construction Phase Services

Construction Phase Services Budget ………………………………… $10,000

Creekside Park: Scope of Services Phase Two

90% & 100% Construction and Bid Documents……………………….$31,690
Construction Phase Services Budget …………………………………$10,000
Subtotal $41,690

Additional Services Contract Modification No. 1

Task 1 Hydraulic Analysis of Stream ………………………………….$1,500
Task 2 Structural Review of Pedestrian Bridge and Shade Structure…..$800
Subtotal $2,300

Additional Services Contract Modification No. 2

Task 1 Hydraulic Modeling of Stream …………………………………. $3,200
Task 2 Stream Alteration Permit Drawings……………………………….. $250
Subtotal $3,450

Additional Services Contract Modification No. 3

Task 1 Project Delays………………. ……………………………………	$2,000
Task 2 Wetland Coordination and Exhibits ………………………….....	$1,000
Task 3 Play Area Coordination, Selection and Design ……………….	$2,000
Subtotal	$5,000

Term

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on January 1, 2010 or earlier, unless extended by mutual written agreement of the Parties

Total This Change Order # 1 $62,440

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. Increase the Contract Amount by **$ 62,440.00** to a total of **One Hundred Forty Four Thousand Seven Hundred Thirty Five Dollars ($144,735)** herein called the Contract Amount**.**

ALL OTHER PROVISIONS OF SAID SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT REMAIN UNCHANGED.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of October 2, 2008.

PARK CITY MUNICIPAL CORPORATION
By:

____
Thomas B. Bakaly, City Manager

Attest:

____
Janet M. Scott, City Recorder

Approved as to form:

____
Mark D. Harrington, City Attorney

IBI Group
340 Main Street Suite 203
P.O. Box 267
Park City, UT 84060

Tax ID#: 6575360-0151

____
Signature
Peter Pillman, Director of IBI Group, Utah Operations

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _________________, 2009, personally appeared before me Peter Pillman, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Director of IBI Group by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he signed it voluntarily for its stated purpose as Director for IBI Group.

____
Notary Public

EXHIBIT B

ADDENDUM A

SCOPE OF SERVICES

B. DETAILED WORK PLAN & FEE BREAKDOWN

The following scope and fee breakdown is based on the outline stated in the RFP. The tasks / deliverables listed are directly listed in the proposed Schedule provided in the next section. Please see item D in this section for recommended strategies for cost savings.

Creekside Neighborhood Park

Phase One – Conceptual Master Plan, Schematic & Design Development

Conceptual Master Plan.. $13,698

- Project Team Meetings (bi-monthly)
- Information Gathering / Site Analysis
- Project Vision / Goals Statement
- Neighborhood / Community Design Charrette
- Conceptual Design
- RAB Review
- Final Conceptual Master Plan

*Schematic & Design Development.. $26,467

- Project Team Meetings (bi-monthly)
- Schematic Design Documents
- City Review
- Neighborhood Open House
- Design Development Documents
- Opinion of Probable Construction Costs
- RAB Presentation and Approval
- City Council Review and Approval

Phase Two – 90% and 100% Construction and Bid Documents

*90% Construction Documents.. $19,386

- Project Team Meetings (bi-monthly)
- Construction Drawings
- Preliminary Specifications
- Updated Opinion of Probable Costs
- City Review

*100% Construction and Bid Documents.............................. $12,304

- Project Team Meetings (bi-monthly)
- Final Construction Drawings
- Final Specifications and Bid Documents
- Updated Opinion of Probable Costs
- Building Department Review and Approval

**Construction Phase Services.. TBD

- Respond to Contractor Questions
- Shop Drawing / Submittal Review
- Weekly Construction Meetings / Site Visits
- Final Inspection / Punchlist

* Schematic & Design Development and Construction Document fees are estimated based on a theoretical program for the park. We recommend completing the conceptual master plan and finalize the program prior to negotiating final fees for these tasks.

** These services assume independent construction projects for each park and based on a four–five month constuction schedule. Once a contractor is selected and final construction schedule is set, we would finalize the construction services scope and fee.

IBI GROUP

Park City Neighborhood Parks
Scope of Services - Addendum A

Creekside Neighborhood Park

1.0 Phase I - Conceptual Master Plan, Schematic & Design Development

	Task	Proposed Fee	
1.1	Conceptual Master Plan	$	13,698
1.2	Schematic Design / Design Development	$	26,467
	Subtotal	**$**	**40,165**

Total Fee Creekside Neighborhood Park **$ 40,165**

Additional Services Requested not in Initial Contract

2.0 Phase II - Construction Documents and Construction Phase Services

	Task	Proposed Fee	
2.1	Construction Documents	$	31,690
2.2	Construction Phase Services Budget	$	10,000

Old Town Neighborhood Park

1.0 Phase I - Schematic & Design Development

	Task	Proposed Fee	
1.1	Schematic Design / Design Development	$	14,670
	Subtotal	**$**	**14,670**

2.0 Phase II - 90 and 100% Construction and Bid Documents

	Task	Proposed Fee	
2.1	90% Construction Documents	$	15,263
2.2	100% Construction Documents	$	10,697
	Subtotal	**$**	**25,960**
	Structural Consultant	$	1,500
	Subtotal	**$**	**27,460**

Total Fee Old Town Neighborhood Park **$ 42,130**

Additional Services Requested not in Initial Contract

Construction Phase Services Budget Allowance $ 10,000

Total Contract Amount **$ 82,295**

Note - Fees do not include reimbursable expenses or other specialty consultants not listed.

EXHIBIT C

IBI GROUP

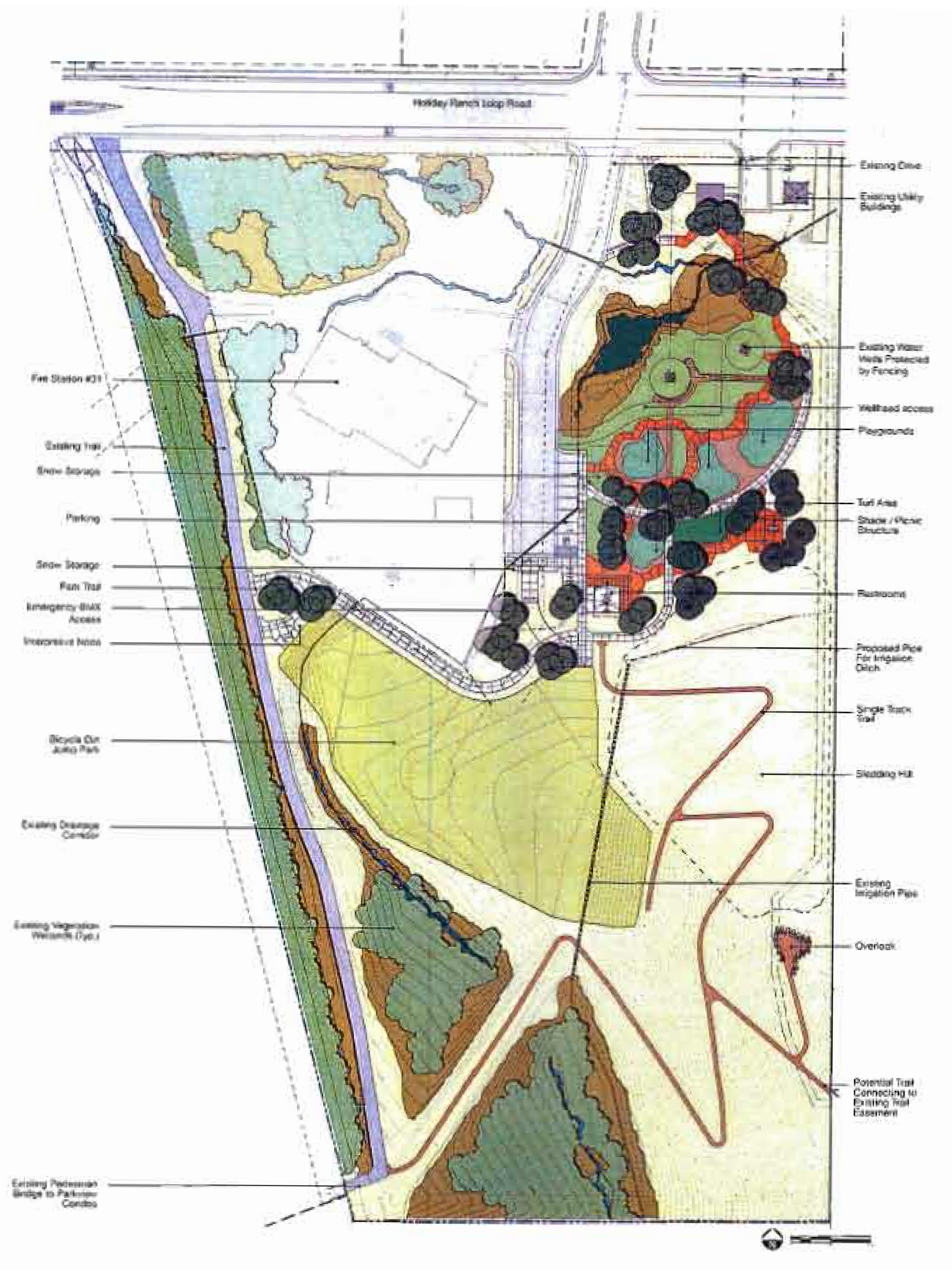
Estimate of Probable Construction Costs

Date	April 8, 2009
Project	Creekside Neighborhood Park
Client	Park City Municipal Corporation
Project #	20208

Item	Description	Qty	Unit	Unit Price	Subtotal	Remarks
1.0	**Site Preparation**					
	1.1 Clearing and Grubbing	1	LS	$ 1,000.00	$ 1,000.00	
	1.2 Remove and Dispose Concrete Curb	90	LF	$ 5.00	$ 450.00	
	1.3 Remove and Dispose Chain Link Fencing	2500	LF	$ 3.00	$ 7,500.00	Includes west fencing per CUP condition
	Subtotal Site Preparation				**$ 8,950.00**	
2.0	**Grading and Erosioin Control**					
	2.1 Topsoil Stripping and Stockpile	400	CY	$ 3.00	$ 1,200.00	
	2.2 Excavation	1000	CY	$ 7.00	$ 7,000.00	
	2.3 Topsoil Respread	800	CY	$ 5.00	$ 4,000.00	
	2.4 Erosion Control	1000	LF	$ 2.00	$ 2,000.00	Includes silt fence along jump park fence line per CUP
	Subtotal Gradinig and Erosion Control				**$ 14,200.00**	
3.0	**Storm Water**					
	3.1 12" Culvert Extension	150	LF	$ 30.00	$ 4,500.00	for Mrs. Smith drainage/water course
	3.2 Play Area Subdrainage	300	LF	$ 20.00	$ 6,000.00	
	3.3 Rip-Rap	5	Ton	$ 40.00	$ 200.00	
	3.4 River Rock	5	Ton	$ 60.00	$ 300.00	
	Subtotal Storm Water				**$ 11,000.00**	
4.0	**Water**					
	4.1 Mainline Connection (meter connection)	1	EA	$ 3,000.00	$ 3,000.00	
	4.2 1" Culinary Lateral Pipe	60	LF	$ 30.00	$ 1,800.00	
	4.3 Curb Stop Box	1	EA	$ 200.00	$ 200.00	
	4.4 Irrigation Ditch Piping (Holiday Ranchettes)	100	LF	$ 30.00	$ 3,000.00	Holiday Ranchettes (Snyder & Dorrily) water course
	Subtotal Water				**$ 8,000.00**	
5.0	**Sanitary Sewer**					
	5.1 Mainline Connection	1	EA	$ 2,000.00	$ 2,000.00	
	5.2 Lateral Pipe	50	LF	$ 40.00	$ 2,000.00	
	5.3 Cleanout	1	EA	$ 200.00	$ 200.00	
	Subtotal Water				**$ 4,200.00**	
6.0	**Site Structures**					
	6.1 Public Restroom Building	600	SF	$ 150.00	$ 90,000.00	
	6.2 Shade Structures	1	EA	$ 7,500.00	$ 7,500.00	
	Subtotal Site Structures				**$ 97,500.00**	
7.0	**Paving and Curbs**					
	7.1 PCC Paving (colored - pedestrian)	6050	SF	$ 12.00	$ 72,600.00	depth, color, finish, joint treatment
	7.2 PCC Paving (standard - pedestrian)	7900	SF	$ 5.00	$ 39,500.00	depth, color, finish, joint treatment
	7.3 PCC Curbs	225	LF	$ 20.00	$ 4,500.00	height, type
	7.4 Asphalt Cement Concrete Paving	275	SY	$ 32.00	$ 8,800.00	base course depth, finish course depth
	7.5 Subgrade Preparation	1300	SY	$ 2.00	$ 2,600.00	compaction for all pavement areas
	Subtotal Paving and Curbs				**$ 128,000.00**	
8.0	**Metal Fabrications**					
	8.1 Vinyl Coated Chain Link Fencing	840	LF	$ 30.00	$ 25,200.00	Dirt Jump Park enclosure including access gates
	Subtotal Metal Fabrications				**$ 25,200.00**	
9.0	**Walls**					
	9.1 Concrete Seat Walls	60	LF	$ 100.00	$ 6,000.00	
	Subtotal Site Furnishings				**$ 6,000.00**	
10.0	**Site Furnishings**					
	10.1 Benches	2	EA	$ 2,250.00	$ 4,500.00	
	10.2 Picnic Tables	2	EA	$ 2,500.00	$ 5,000.00	
	10.3 Trash Receptacles	2	EA	$ 1,500.00	$ 3,000.00	
	10.4 Bike Racks	4	EA	$ 1,500.00	$ 6,000.00	
	10.5 Drinking Fountains	1	EA	$ 2,500.00	$ 2,500.00	
	10.6 2-5 Year Old Play Equipment/Surfacing	1	LS	$ 25,000.00	$ 25,000.00	
	10.7 5-12 Year Old Play Equipment/Surfacing	1	LS	$ 125,000.00	$ 125,000.00	
	Subtotal Site Furnishings				**$ 171,000.00**	
11.0	**Landscape Materials**					
	11.1 Deciduous Trees	30	EA	$ 400.00	$ 12,000.00	3" caliper, matched
	11.2 Ornamental Trees	15	EA	$ 300.00	$ 4,500.00	6'-8' height, multi-stem
	11.3 Decidous Shrubs	40	EA	$ 50.00	$ 2,000.00	5 gallon
	11.4 Groundcover	1500	SF	$ 3.00	$ 4,500.00	1 gallon
	11.5 Perennials	100	EA	$ 20.00	$ 2,000.00	1 gallon
	11.6 Ornamental Grasses	100	EA	$ 20.00	$ 2,000.00	1 gallon
	11.7 Native Grasses (seed)	30000	SF	$ 0.20	$ 6,000.00	
	11.8 Metal Edging	50	LF	$ 6.00	$ 300.00	
	11.9 Mulch	200	CY	$ 35.00	$ 7,000.00	
	Subtotal Landscape Materials				**$ 40,300.00**	

12.0	**Irrigation**						
	12.1 Trenching, Mainline, Heads, Emitters	10000	SF	$ 1.00	$ 10,000.00	
	12.2 Quick Coupler Valves	4	EA	$ 200.00	$ 800.00	
	12.3 Valves and Boxes	8	EA	$ 100.00	$ 800.00	
	12.4 Backflow Preventer	1	EA	$ 1,000.00	$ 1,000.00	
	12.5 Controller	1	EA	$ 1,500.00	$ 1,500.00	
	Subtotal Irrigation				**$ 14,100.00**	
13.0	**Signage**					
	13.1 Identification Signs	1	LS	$ -	$ -	
	13.2 Informational Signs	1	LS	$ 500.00	$ 500.00	
	13.3 Regulatory Signs	1	LS	$ 1,200.00	$ 1,200.00	
	13.4 Interpretive Signs	1	LS	$ -	$ -	
	Subtotal Signs				**$ 1,700.00**	
14.0	**Miscellaneous**					
	14.1 Singletrack Trail/Observation Point	0	LF	$ -	$ -	By others
	14.2 Public Art	1	LS	$ -	$ -	Not in Contract
	Subtotal Miscellaneous				**$ -**	
15.0	**Subtotal**				**$ 530,150.00**	
16.0	**Design Contingency**		10%		**$ 53,015.00**	
17.0	**Subtotal**				**$ 583,165.00**	
18.0	**General Conditions**		10%		**$ 58,316.50**	
	18.1 Mobilization	0		$ -	$ -	
	18.2 Bonds	0		$ -	$ -	
	18.3 Traffic Control	0		$ -	$ -	
	18.4 Dust Control	0		$ -	$ -	
	18.5 Construction Staking	0		$ -	$ -	
	18.6 As-built Survey	0		$ -	$ -	
	Subtotal General Conditions				**$ 58,316.50**	
19.0	**Subtotal**				**$ 641,481.50**	
20.0	**Construction Contingency**		15%		**$ 96,222.23**	
21.0	**Total**				**$ 737,703.73**	

Unless otherwise noted, amounts listed shall include general conditions, taxes, insurance, bonds, overhead and profit. They are estimates only to be utilized for budgeting purposes only and represent components and complete working systems. IBI Group takes no responsibility for the accuracy of these numbers as they are dependent upon current market conditions.



IBI GROUP

PARK CITY 1884

MASTER PLAN
February 6, 2008

CREEKSIDE PARK

EXHIBIT D

City Council
Staff Report

Author:	**Mark Harrington, City Attorney**
	Brooks Robinson, Principal Planner
Subject:	**Partial Release of Flagstaff Ski Area Conservation Easement**
Date:	**April 23, 2009**
Type of Item:	**Administrative**

Summary Recommendations:
The City Council should consider amending the Ski Area Conservation Easement to temporarily remove property that is the subject of litigation by co-owners of the property. At the conclusion of third party litigation, the property in question (Dutchman Claim) will either be returned to the easement area or replaced with property of similar conservation value by Deer Valley.

Background:
As part of the original Flagstaff Annexation, Park City and Summit Land Conservancy ("SLC" fka COOL) were co-grantees on several open space easements by United Park City Mines Co. and Deer Valley. The largest easement, the Ski Area Conservation Easement, ("Easement") covers most of the area within the Deer Valley Ski Resort that was within Flagstaff but outside the development pods. The Easement includes the West Parcel (approx. 542 acres), the East Parcel (approx. 340 acres) and the Sunnyside Claim Parcel.

The Dutchman Mining Claim (the "Claim") is within the West Parcel of this Easement (see attached maps) just off the ridge below the top terminal of the Empire chair (seen to the southwest of the claim). The Claim and two other mining claims are the subject of a lawsuit between co-owners: the Bransfords, Deer Valley and United Park City Mines. Due to the Conservation Easement, Park City and SLC were joined as necessary parties to the litigation.

Analysis:

Rather than un-necessarily force the City and SLC to engage in the litigation, the parties drafted an agreement which temporarily removes the property in question from the Conservation Easement. At the conclusion of the lawsuit which primarily involves the partition rights of commonly held claims, the property will either be returned to the Easement area or in the unlikely event that title remains encumbered, Deer Valley will replace the area with property "in acreage, quality, and conservation value, not previously encumbered, and contiguous if possible, to Summit Land Conservancy for placement in a similar conservation easement having a value at least as great as the value of the easement being surrendered."

SLC led the discussion regarding the draft Release and has approved the Release.

Alternatives:

A. **Approve the temporary Release of Conservation Easement as written–This is staff's recommendation.**
B. **Modify the Release language and/or provide other direction on the terms of the proposed Release;**
C. **Deny the Request- Answer and Defend the litigation. Invoke rights under Flagstaff Development Agreement to have Developer hold City harmless and indemnify City for all costs including attorney fees;**
D. **Continue the Item.**

Significant Impacts

Since the area is within the existing ski area, there is little concern for any immediate impact. No construction could occur on the property without a number of other City approvals.

Consequences of not taking the recommended action:

Time and resources will be un-necessarily dedicated to dealing with the litigation, regardless of the cost recovery under the Development Agreement.

Recommended Actions

The City Council should consider approving the temporary Release of Conservation Easement as drafted.

Exhibits

Release of Conservation Easement Existing Lease
Maps

CONSERVATION EASEMENT RELEASE

WHEREAS the undersigned parties entered into a certain Conservation Easement dated December 19, 2002, File No. 00643790, recorded in the Summit County Recorder's Office, Book 01502, Page 732-747 (the "Conservation Easement," a copy of which is attached hereto as Exhibit A); and

WHEREAS the validity of a portion of that Conservation Easement has been placed at issue in certain litigation currently pending in the Third Judicial District, in and for Summit County, Utah, Case No. 070500278 (the "Bransford litigation"); and

WHEREAS Park City Municipal Corporation and Summit Land Conservancy[1] (collectively, "Grantees / Releasors") hereby agree to release from the Conservation Easement that portion of the Property, as defined in the Conservation Easement, which is at issue in the Bransford litigation, constituting the 6+/- acre Dutchman Mining Claim; and

WHEREAS Deer Valley Resort Company and United Park City Mines Company (collectively, "Grantors / Releasees") agree to restore any portion of the Dutchman Mining Claim to which they possess title to the Conservation Easement immediately upon termination of the Bransford litigation; and

WHEREAS Deer Valley Resort Company hereby promise that, if title to the Dutchman Mining Claim is not vested in Grantors / Releasees at the conclusion of the Bransford litigation, within a reasonable time thereafter, Deer Valley Resort Company will locate and offer a parcel of property comparable to the Dutchman Mining Claim in acreage, quality, and conservation value, not previously encumbered, and contiguous if possible, to Summit Land Conservancy for placement in a similar conservation easement having a value at least as great as the value of the easement being surrendered, and, if agreeable to Summit Land Conservancy, will in fact place the comparable parcel under a similar conservation easement.

NOW THEREFORE, in consideration of the promise of Grantors / Releasees as stated above plus other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Grantees / Releasors do hereby release and re-convey to Grantors / Releasees all of the right, title or interest, without warranty, that Grantees / Releasors have under that certain Conservation Easement described in Exhibit A attached hereto.

IN WITNESS WHEREOF, Grantors / Releasees and Grantees / Releasors have caused this Conservation Easement Release to be executed by persons duly authorized to execute the same as of the last date referenced below.

[This space intentionally left blank]

[1] Formerly known as Conserve Our Open Lands ("COOL").

GRANTOR / RELEASEE:

UNITED PARK CITY MINES
COMPANY, a Delaware corporation

Dated: ___/___/2009 ____________________________________
Hank Rothwell, President

GRANTOR / RELEASEE:

DEER VALLEY RESORT COMPANY, a
Utah limited partnership

Dated: ___/___/2009 ____________________________________
Robert W. Wells, Vice President

GRANTEE / RELEASOR:

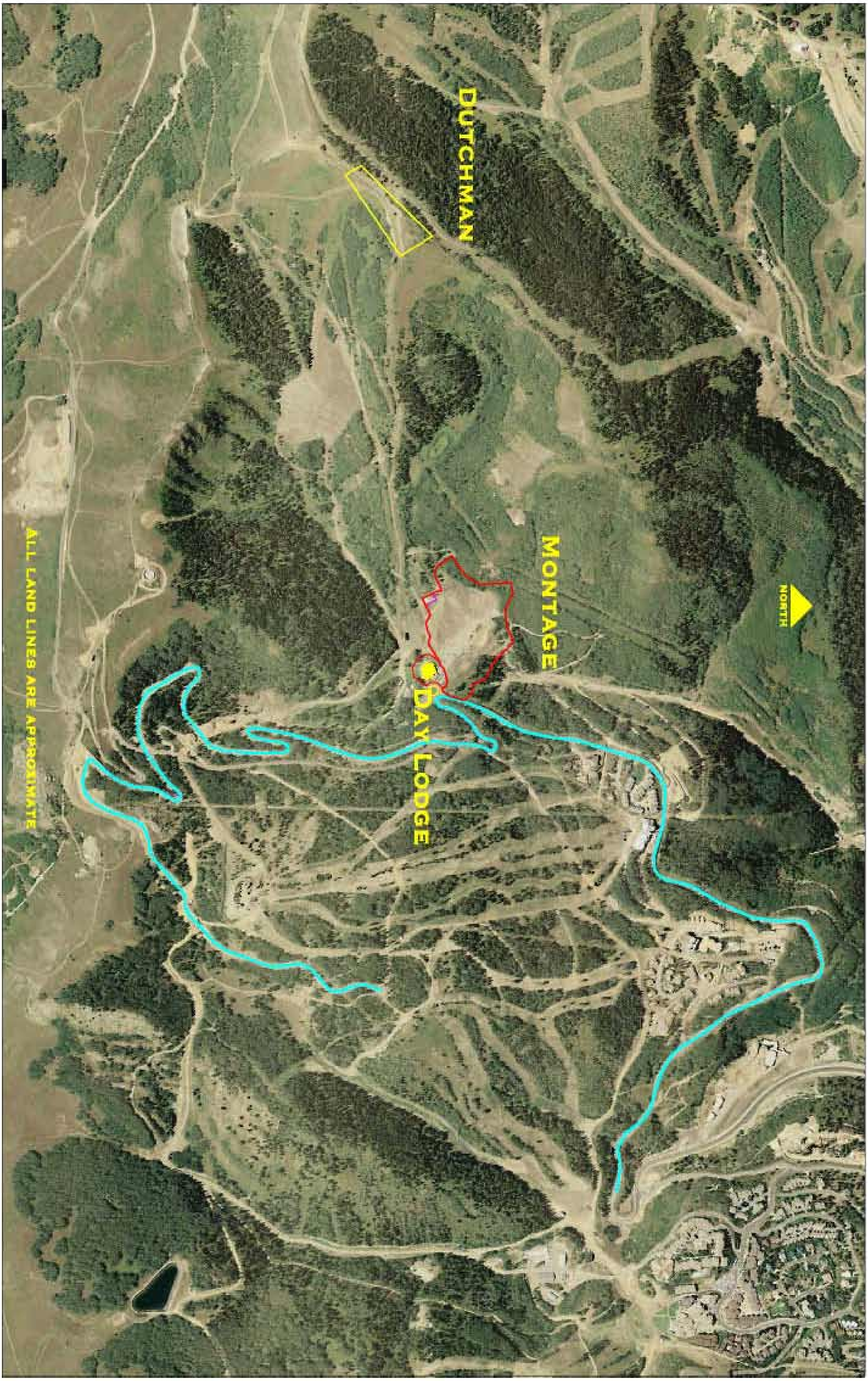
PARK CITY MUNICIPAL
CORPORATION

Dated: ___/___/2009 ____________________________________
Dana Williams, Mayor

GRANTEE / RELEASOR:

SUMMIT LAND CONSERVANCY, a Utah
nonprofit corporation

Dated: ___/___/2009 ____________________________________
Cheryl Fox, Executive Director


DUTCHMAN
MONTAGE
DAY LODGE
NORTH
ALL LAND LINES ARE APPROXIMATE