

**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
APRIL 20, 1995**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 20, 1995

**A G E N D A**

**Closed Session**

4:45 p.m.            Personnel matter

**Work Session**

5:15 p.m.            Council questions and comments  
5:30 p.m.            Review of regular meeting  
                      Annexation resolution  
                      Burnis Watts appeal  
                      Other meeting questions/comments

**Regular Meeting**

6:00 p.m.

**I ROLL CALL**

**II PUBLIC INPUT**

**III MINUTES OF MEETING OF APRIL 13, 1995**

**IV CONSENT AGENDA**

1. Ordinance approving the final plat of condominium plat for Saddlevue Office Park located at 2200 Highway 224, Park City, Utah
2. Resolution determining that an annexation of approximately 5.21 acres owned by St. Mary of the Assumption Catholic Church is deemed premature
3. Findings, Conclusions of Law and Order regarding Marguerite and Max Johnson, Coalition Condos, Appellants vs. Finance Department, Respondent

**V OLD BUSINESS**

Appeal of Historic District Commission denial on February 13, 1995 of Application for Certificate of Appropriateness for

Demolition of buildings located at 664 Woodside Avenue and 703  
Park Avenue - Burnis Watts

**VI REPORTS FROM COMMISSIONS AND BOARDS**

**VII COMMUNICATIONS FROM COUNCIL AND STAFF**

**VIII ADJOURNMENT**

**4/14/95 noon**

**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
APRIL 20, 1995**

**I ROLL CALL**

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, April 20, 1995. Members in attendance were Brad Olch, Ruth Gezelius, Roger Harlan, Shauna Kerr, and Leslie Miller. Lou Hudson was excused. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; Janice Lew, Planner; and Jodi Hoffman, City Attorney.

**II PUBLIC INPUT**

The Mayor invited the public to comment on any matter of City business not scheduled on the agenda. Hearing none, the public input session was closed.

**III MINUTES OF MEETING OF APRIL 13, 1995**

Ruth Gezelius, "I move approval of the Minutes as presented". Roger Harlan seconded. Shauna Kerr abstained as she was excused from that meeting. Motion carried.

|               |            |
|---------------|------------|
| Ruth Gezelius | Aye        |
| Roger Harlan  | Aye        |
| Lou Hudson    | Absent     |
| Shauna Kerr   | Abstention |
| Leslie Miller | Aye        |

**IV CONSENT AGENDA**

Ruth Gezelius, "I move approval of Consent Agenda Items 1 through 3". Leslie Miller seconded. Shauna Kerr disclosed that she will be abstaining from Item 3 as she was not in attendance at the meeting last week when this matter was heard. Motion carried.

|               |                                |
|---------------|--------------------------------|
| Ruth Gezelius | Aye                            |
| Roger Harlan  | Aye                            |
| Lou Hudson    | Absent                         |
| Shauna Kerr   | Aye, Abstention on Item 3 only |
| Leslie Miller | Aye                            |

1. Ordinance approving the final plat of condominium plat for Saddleview Office Park located at 2200 Highway 224, Park City, Utah - See attached staff report.

2. Resolution determining that an annexation of approximately 5.21 acres owned by St. Mary of the Assumption Catholic Church is deemed premature - See attached staff report.

3. Findings, Conclusions of Law and Order regarding Marguerite and Max Johnson, Coalition Condos, Appellants vs. Finance Department, Respondent - See attached staff report.

#### **V OLD BUSINESS**

Appeal of Historic District Commission denial on February 13, 1995 of Application for Certificate of Appropriateness for Demolition of buildings located at 664 Woodside Avenue and 703 Park Avenue - Burnis Watts - Mark Harrington explained that this is a continuation of an appeal for which Mr. Watts asked for an evaluation of the structures by Chief Building Official Ron Ivie. The applicant has since withdrawn that request and stated that he did not want that information disclosed. The Council may solicit additional information or deliberate. Ruth Gezelius noted that she would like to hear summary arguments by staff and the appellant.

Burnis Watts, 703 Park Avenue, stated that he has established rights as to use, value and disposition of his property. The City has an obligation to fairly assess all aspects of the Code and apply them equally to the issues of the request. All property owners should be accorded the same rights and a quality under the existing Code. The Code states "It is recognized, however, that structural deterioration, economic hardship, and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building or site". Mr. Watts continued that impacts beyond the control of the property has dictated the direction and the irreversible conditions that encompass the property and all that surrounds this request. The conclusions and findings of law, which he has disagreed with, of the HDC are not factual or supported by valid findings but rather opinions and personal agendas. The vagary of applied rationale for denial is evident by the obvious application of the Code §4.14 to the CAD request, in that only a portion of the Code was focused on. Information presented was not assessed or given due attention during the hearings.

Mr. Watts referred to the definition of terms used. Terms applied to the findings of law are not defined in the glossary for the use of the HDC. For example, "highest and best use" as defined by the HDC does not allow property owners reasonable opportunity to attain goals of economic gains or personal values. This entitlement, if viewed without flexibility, negatively impacts the implied intent of the term. He stated that the term "burden of proof" is most vague and has been arbitrarily placed on the applicant and it is more the responsibility of the City to establish in each case rationale to deny. There is more "guilty until proven innocent" than "innocent until proven guilty". "All reasonable use" is a term without limits or boundaries; it can

be used to facilitate whatever findings are needed. It has been used in the broadest of interpretations as denial rationale without factual validity. Measuring criteria is lacking. Mr. Watts commented that the terms "economic hardship" and "reasonable rate of return" have not been defined and the terms are catch-all phrases without supporting criteria. He believed that in this request terms were inappropriately used to reach a single focus of denial. Mr. Watts explained that the rental return data provided for the Woodside house had not realistically been construed to be a reasonable rate of return. What right does a body politic have to imply or impose what it considers a reasonable rate of return? Using a purchase price of the property 30 years ago and trying to apply it to today's market values is faulty and lacking in sound logic. He asked if each property owner in Old Town is subjected to this and is forever limited? He thought not. Has this condition been placed and applied to all the economic development which is occurring? He thought not. Economic gain is a given right and he believed that his welfare and quality of life are a determination that he, not the body politic, should make for himself. Mr. Watts reiterated that the intent of the Code has been misapplied; that the findings are in error and that he has been denied equal treatment in the application of the Code. He solicited Council's support in his request.

Assistant City Attorney Mark Harrington addressed the terminology issue. "Highest and best use" is not a defined term because that is not a standard in the Code or the state or U.S. Constitution for takings. The term used is "reasonable rate of return" or is that person deprived of all use of the property. Those terms are flexible by nature and are not clearly defined to require a showing of a specific numerical amount or percentage of return because of change in markets and some level of discretion for the board is necessary. The HDC found that in this case, since no adaptive reuse was identified, the only way to judge the application was the appraisal submitted by Mr. Watts which showed a current valuation of about \$500,000. Based on the purchase price, the current valuation would render a 9% to 11% rate of return. With regard to burden of proof, the Code clearly places that on the applicant. This is not considered an unfair standard and within constitutional mandates; the applicant is seeking the benefit of the action. Mr. Harrington stated that this is one of many CAD requests for residential structures that will be forthcoming and reviewed under the recently amended Code. This case is precedent setting.

Planner Janice Lew stated that the preservation of Park City's historic resources is important to the community. Several years ago, the City had no substantial regulations dealing with preservation, but had been lucky in the past that buyers preserved the structures. She described the amendments to the Code and the

most recent efforts relating to the applicability and enforceability of the preservation ordinance. The demolition of historic structures is approved only through meeting the standards and the process allows a balancing between the private economic interests of the property owner and the public welfare. Ms. Lew felt that we have a workable policy which the HDC applied to the application and this is the first test of our CAD ordinance. She urged Council to uphold the HDC's denial of the CAD. She emphasized that tearing down buildings and replacing them with new buildings is rarely the only alternative. Decision-making sometimes means saying no, but the choice of choosing demolition, however, precludes choosing any other options that are available.

Mark Harrington noted that Council has the right to convene in closed session to deliberate. The Mayor invited public input.

Lance Kincaid, Old Town resident, felt that the City needs to control the destruction of Old Town. He does not support the commercialism of the Fletcher houses and sympathized with Mr. Watts but strongly felt that he should not tear down his buildings. He suggested that these structures could be used as employee housing and the ordinance needs to be enforced.

Frank Dorka, HDC member and Old Town resident, stated that conflicts occurred when the Fletcher-Kimball structures were not kept residential in nature. Of the five houses in the neighborhood; two are medium impact businesses, one a vacated business, one a rental duplex, and Mr. Watts' residence. He noted that he has seen historic buildings lost to weather, neglect, fire, and commercialization. He stressed that now is the time to make a decision that development must become a partner with protecting the heritage of Park City. He urged Council to deny the appeal and protect what there is left to preserve.

Scott Hansen, 952 Lowell Avenue, stated that the Code seems to be intended to preserve old buildings and the nature of a neighborhood. Saving old buildings may be "nice" but not necessarily practical or fair. If Park City is looking to maintain the look of old buildings, he didn't understand the ban on replication. He pointed that the house on Park Avenue can only be used as a residence and no one would want to live in that neighborhood. He asked if there was a midpoint for something that could be built there that would replicate the nature, design or the feel of those buildings so that there would be more viable buildings and a better return for Mr. Watts. Mr. Hansen commented that with the changes, the buildings are starting to look out of place. He felt that something that is commercially viable as opposed to a single residence would make the area maintained in an aesthetic nature for a longer period of time.

Ms. Kerr addressed the comment regarding a midpoint proposal. Through the CAD ordinance, there is a provision that upon denial, an applicant cannot reapply for three years, unless there are special circumstances. The question before Council is demolition of all of the structures and Council has not been approached with an adaptive reuse or request for a partial demolition. She used the garage as an example, by using the facade but building a new structure behind it. Ms. Kerr emphasized that if the questions were asked appropriately to Council, she felt that there could be a midpoint compromise and solution. There can be adaptive reuse of the structures and agreed with Mr. Hansen that it doesn't seem much like a residential neighborhood and perhaps reuse of the buildings is the way to go. However, that is not the question before Council but is a question that can be properly posed to the Council.

Ken Martz, HDC member and Old Town resident, hoped that when Council considers this request that adjoining properties are taken into account. The City has spent \$500,000 or more on historic preservation grants and property owners have spent millions in preserving property. He stated that he has owned his property almost as long as Mr. Watts and has never thought about tearing it down. He pointed out improved property and hoped that many issues will be solved when the HRC zone is reviewed in the near future.

The Mayor invited comments and/or a motion from Council. Ruth Gezelius stated that she owns and lives in a home in the Historic District and has empathy for Mr. Watts and the decision is very difficult. She discussed the frustration of Mr. Watts regarding the zoning of his neighborhood as he is the one full-time resident who is most severely impacted. Ms. Gezelius stated that she interpreted that the request for demolition as a frustration with the planning and zoning around him and at the same time, dealing with the idealist who wish to state that the Historic District is now suddenly desirable. This is a change in value judgment and at the same time there has not been money to restore that product. Most retired people don't have the resources to bring these buildings up to an acceptable standard. Because this has not really been addressed as a community, there will be conflicts. Ms. Gezelius emphasized that the issue of replication needs to be revisited by the HDC and there is some merit in considering it, especially with regard to architectural compatibility. She regretted that the burden of proof for the applicant was difficult and the terminology confusing, and felt it unfortunate that another alternative is not before Council.

Leslie Miller stated that she has learned a lot from public input and that this is a complex issue. When she ran for Council four years ago, her campaign was "people, planning and

preservation" and this is an instance where a couple of these elements actually come into conflict. Public officials have the responsibility of protecting neighborhoods and may have failed in this case, however the zoning and land contracts of past councils and planning commissions dictated those uses and basically "the die was cast". She discussed the review of the master plan of the HRC zone but that it may have come too late. Ms. Miller commented that her decision is being driven by broader policy issues and Council has not been given many options. She stressed that unreasonable economic hardship as required by LMC §4.17 has not been demonstrated and for that reason she will uphold the HDC's recommendation.

Roger Harlan referred to the Coffee Cottage request before Council last summer to expand its operation. Although this seemed like a small issue, he regretted Council's approval of the expansion. He could not support the demolition, however, of very significant and respected historic buildings.

Shauna Kerr, "I move that the Council upholds the HDC based on the information we have had. I believe that they followed the ordinance and applied it correctly. With the one condition that we use the provision in the Land Management Code §4.17(d)(2) that deals with denials of the permit and this Council would consider a new application if, in fact, Burnis comes up with an adaptive reuse that requires some type of a demolition of part of a structure or something as part of the comprehensive plan to save these structures, that the Council would consider that under this provision that states, "the owner may not reapply for demolition for a period of three years from the date of the HDC's final decision unless the building structure or site is structurally unsound, or substantial changes in circumstances have occurred other than those caused by the negligence or intentional acts of the owner", and I would ask for the Council's support in considering and making a specific finding that if in fact he reapplies for some type of adaptive reuse for the structures that we would consider that a changed circumstance under this provision". Leslie Miller seconded. Motion carried

|               |        |
|---------------|--------|
| Ruth Gezelius | Aye    |
| Roger Harlan  | Aye    |
| Lou Hudson    | Absent |
| Shauna Kerr   | Aye    |
| Leslie Miller | Aye    |

#### **VI REPORTS FROM COMMISSIONS AND BOARDS**

None.

**VII COMMUNICATIONS FROM COUNCIL AND STAFF**

Leslie Miller asked that there be a policy discussion on protected memo policies from the Legal staff.

**VIII 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 4:45 p.m. Members in attendance were Mayor Brad Olch, Ruth Gezelius, Roger Harlan, Shauna Kerr, and Leslie Miller. Lou Hudson was absent. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; Bob Stephens, Personnel Director; and Jodi Hoffman, City Attorney. Ruth Gezelius, "I move to close the meeting to discuss a personnel matter". Shauna Kerr seconded. Motion carried.

|               |        |
|---------------|--------|
| Ruth Gezelius | Aye    |
| Roger Harlan  | Aye    |
| Lou Hudson    | Absent |
| Shauna Kerr   | Aye    |
| Leslie Miller | Aye    |

The meeting opened at approximately 5:20 p.m.

\* \* \* \* \*

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

Prepared by Janet M. Scott



*Janet M. Scott*  
\_\_\_\_\_  
Janet M. Scott

**PARK CITY COUNCIL WORK SESSION  
SUMMIT COUNTY, UTAH  
APRIL 20, 1995**

**Present:** Brad Olch, Shauna Kerr, Leslie Miller, Ruth Gezelius, Toby Ross, Jodi Hoffman

**Absent:** Lou Hudson

**1. Council questions and comments.** With regard to the access road to the Osguthorpe Property, the City Manager explained that it was reseeded last year, and staff is waiting to see if it fills in this spring. Leslie Miller asked about money budgeted for Olympic efforts. Mr. Ross explained that the \$15,000 donation to the Olympic Bid Committee has not been granted as of this date as a program for its use has not been submitted to the City. She asked for clarification of the budget and an understanding of the purpose of the trip to Calgary and Budapest. The City Manager explained that Myles has about \$2,500 budgeted for efforts in Budapest so that Park City is considered a "player". The Mayor explained that Myles is not being sent to tour Budapest and attend parties and neither is he, but to work the booth and work with the IOC members. The Mayor stressed that he is not going on taxpayers dollars, but Myles has a budgeted for this; he thought that Council understood this through prior discussions.

Myles Rademan distributed a proposed agenda for the joint meeting with the School District and the County Commission and a work group concept, consisting of elected officials and staff to focus on joint issues. The Council supported the proposal. The Summer Tour to Lake Tahoe was discussed.

The Mayor addressed the ICMA tourism conference in Banff and felt that this would be worthwhile. He added that there is money budgeted in the Council's travel and education budget for these types of things. However, if the focus is to look at Calgary as an Olympic venue, it may be better to wait until after the bid is awarded. The Mayor reiterated the benefits of the tourism conference and that it is appropriate for Councilmembers to attend these meetings. Roger Harlan pointed out that there will be a benefit of going to Lake Tahoe to discuss Olympic planning.

Council discussed the proposed water filtration plant in the County and supported a letter being sent to the Commissioners regarding Park City's concerns. Ruth Gezelius noted her concern of passing on an additional user fee when currently SBSID charges every household the same quarterly fee regardless of size or use.

**2. Review of regular meeting.** See regular meeting minutes.

Prepared by Janet M. Scott



## COUNCIL AGENDA REPORT

**DATE:** April 11, 1995  
**DEPARTMENT:** Community Development Department  
**AUTHOR:** Megan B. Ryan  
**TITLE:** Saddlevue Condominium Plat  
**TYPE OF ITEM:** Legislative

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### SUMMARY RECOMMENDATIONS:

Approve the Final Condominium Plat for Saddlevue Office Park.

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### DESCRIPTION:

#### PROJECT STATISTICS

**Applicant:** Saddlevue L.L.C.  
**Location:** Highway 224 & Saddle View Way  
**Zoning:** RM - Residential Medium Density with Frontage Protection  
Zone overlay  
**Adjacent Land Uses:** Residential, Open Space, Vacant  
**Date of Application:** January 13, 1995

#### A. Topic.

Final Condominium Plat for Saddlevue Office Park.

#### B. Background.

The Planning Commission granted a Conditional Use Permit for the development of office park at the corner of Highway 224 and Saddle View Way on September 14, 1994. The final approval provided for the construction of four, two story, office buildings of approximately 6,000 square feet each. Several Final Conditions of Approval were also attached to the permit which addressed landscaping, lighting,

signage, building setbacks, trails, and sidewalks. Please see Exhibit C for Final Conditions of Approval.

The applicants recieved a positive recommendation to the City Council for consideration of the Final Condominium Plat at the February 22, 1995 Planning Commission meeting. Please see Exhibit D for Final recommendations to the City Council.

### **C. Analysis**

Staff has reviewed the proposed plat to ensure that it complies with all the Conditions of Approval for the project. The building setbacks for A, 58' and B, 81' meet the setbacks as designated by the Planning Commissioners. The requested 10' pedestrian trail is also provided for. All of the required parking stalls are also provided for. The applicant has also complied with the additional notes as conditioned by the Planning Commissioners on February 22, 1995.

Basement and circulation space of approximately 3,700 square feet were added to Buildings A and B. Crawl and circulation space of approximately 581 square feet were added to Buildings C and D. Both the basement and crawl space are 100% underground and are intended for storage use by the individual tenants. The basement and Crawl space will not be separately sold, rented or leased. The addition of this space does not change the building height nor approved design of the buildings. A note, #6, has been added to the plat that specifies this condition. Any proposed change in occupancy for the basement and crawl space levels would require review and approval by the Planning Commission.

The addition of circulation space for entryways and stairs will add interest to the basically square structures. This addition is supported by staff.

### **D. Department Review.**

The Community Development Department and City Attorney's Office has reviewed this application.

### **ALTERNATIVES**

- A. Approve the Final Condominuim plat as conditioned by staff and Planning Commission.**
- B. Modify the conditions of final approval.**
- C. Continue the item for further discussion and/or input from Staff.**

**SIGNIFICANT IMPACTS:**

This action will effect the type of ownership for this project. If the project is not condominiumized, the owner will not be able to record the plat as a condominium type of ownership and he will not be able to individually sell the four buildings.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**

If the City Council does not approve the final plat the applicant will retain the right to single ownership of the project.

**RECOMMENDATION:**

Staff recommends that the City Council approve the final condominium plat at Saddletree Office Park subject to the following condition:

1. Prior to plat recordation the final plat, and the Condominium Declaration and Restrictive Covenants shall be reviewed and approved by the City Engineer, and City Attorney. The final plat shall reflect the designated utility easements as reviewed and approved by the City Engineer and the Final Conditions of Approval as approved by the Planning Commission on September 14, 1994 and February 22, 1995.
2. Prior to plat recordation the applicant shall post a security, in a form acceptable to the City Attorney, in an amount equal to 125% of the cost of public improvements as estimated by the City Engineer. The public improvements shall include the costs for installation and maintenance of the 4' sidewalk and 10' trail.

**EXHIBITS**

Exhibit A - Location Map

Exhibit B - Final Condominium Plat

Exhibit C - Final Conditions of Approval - September 14, 1994.

Exhibit D - Final Conditions of Approval - February 22, 1995.

**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit A - Location Map**

**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit B - Final Condominium Plat**

**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit C - Final Conditions of Approval - September 14, 1994.**

**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit D - Final Conditions of Approval -February 22, 1995.**

ORDINANCE NO. 95-\_\_

**AN ORDINANCE APPROVING THE FINAL PLAT OF CONDOMINIUM PLAT  
FOR SADDLEVIEW OFFICE PARK LOCATED AT 2200 HIGHWAY 224, PARK  
CITY, UTAH**

WHEREAS, the owners of the property known as the Saddlevue Office Park petitioned the Planning Commission for approval of the condominium final plat; and

WHEREAS, proper notice was sent and the Planning Commission held a public hearing to receive input on the proposed plat on February 22, 1995; and

WHEREAS, on February 22, 1995, the Planning Commission approved the final condominium plat attached hereto as Exhibit A; and

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

SECTION 1: Conclusions of Law. The City Council concludes that it is in the best interest of Park City to approve the final plat and neither the public nor any person will be materially injured by the proposed plat.

SECTION 2. Plat Approval. The final condominium plat is approved as shown on the attached Exhibit B with the following conditions:

1. Prior to plat recordation the final plat, and the Condominium Declaration and Restrictive Covenants shall be reviewed and approved by the City Engineer, and City Attorney. The final plat shall reflect the designated utility easements as reviewed and approved by the City Engineer and the Final Conditions of Approval as approved by the Planning Commission on September 14, 1994 and February 22, 1995.

2. Prior to plat recordation the applicant shall post a security, in a form acceptable to the City Attorney, in an amount equal to 125% of the cost of public improvements as estimated by the City Engineer. The public improvements shall include the costs for installation and maintenance of the 4' sidewalk and 10' trail.

SECTION 3. This ordinance shall take effect immediately.

DATED this 20th day of April, 1995.

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
BRADLEY A. OLCH, MAYOR

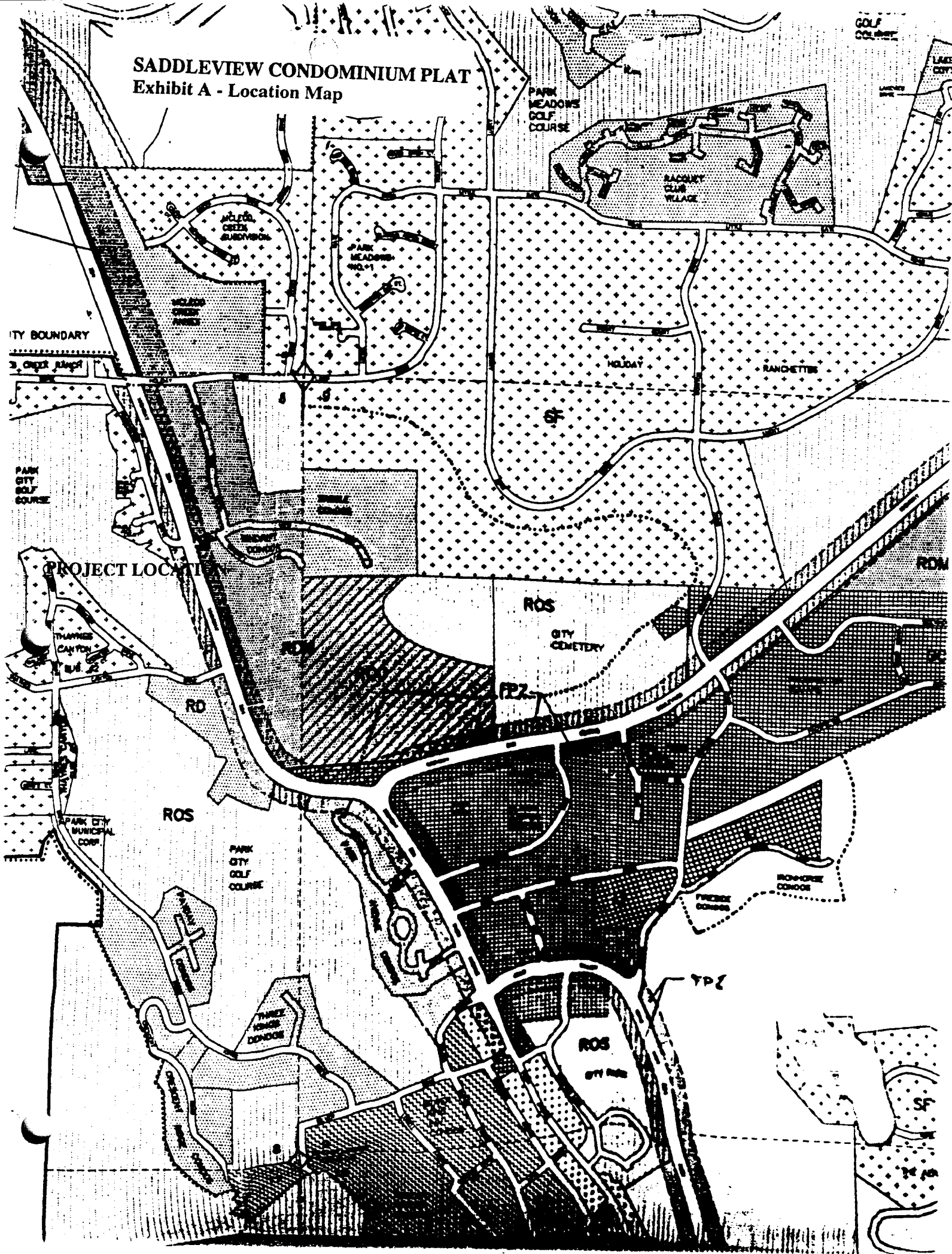
ATTEST:

\_\_\_\_\_  
ANITA L. SHELDON, CITY RECORDER

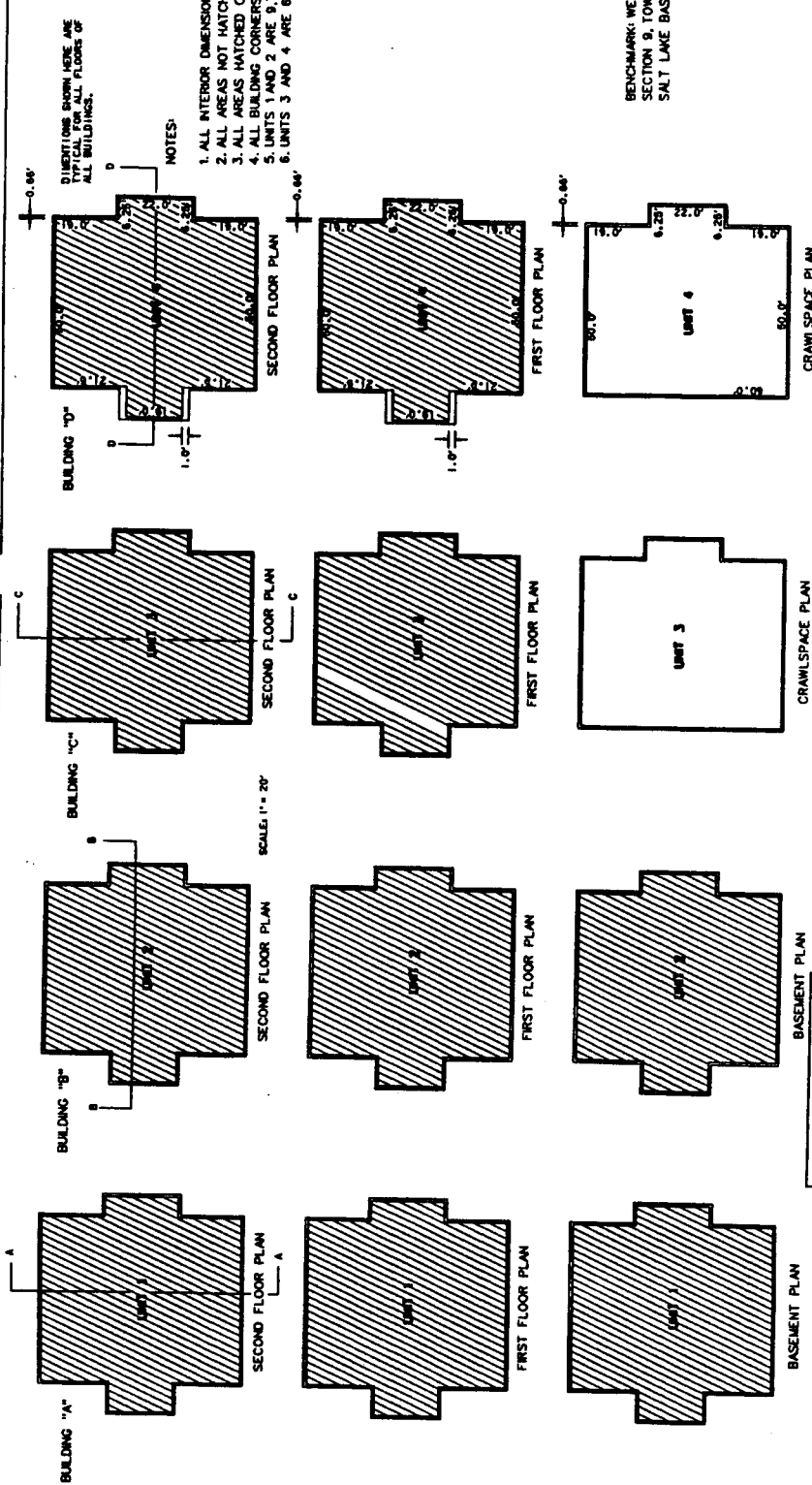
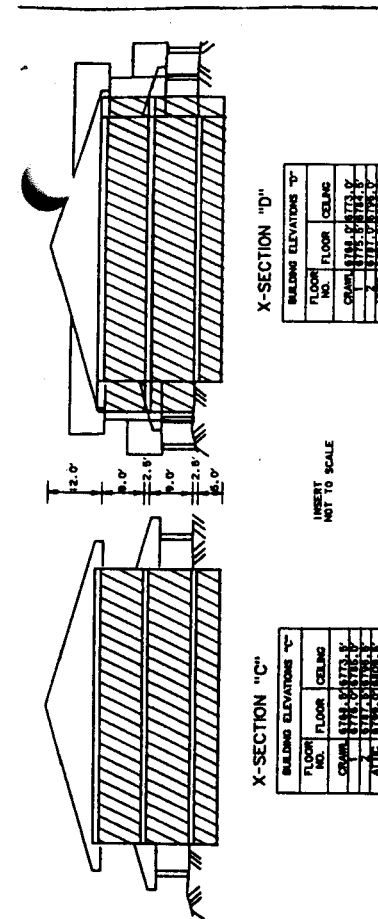
APPROVED AS TO FORM:

\_\_\_\_\_  
MARK HARRINGTON, ASST. CITY ATTORNEY

**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit A - Location Map**







BENCHMARK: WEST QUARTER CORNER OF  
SECTION 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST,  
SALT LAKE BASE & MERIDIAN. ELEV. - 6793.00'

**SADDLE VIEW OFFICE PARK**

RECORDED \* \_\_\_\_\_  
STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED AT THE  
REQUEST OF \_\_\_\_\_  
DATE \_\_\_\_\_ TIME \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
FEE \$ \_\_\_\_\_ SUMMIT COUNTY RECORDER

**THE  
SEAR-BROWN  
GROUP**  
1000 S. PULASKI AVE., SUITE 200  
LAWSON CITY, TN 37403  
(615) 262-0077 FAX (615) 262-0078



**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit C - Final Conditions of Approval - September 14, 1994.**

Willow Ranch Development Company  
% Resort Realty Group, Inc.  
P O Box 2190  
Park City, UT 84060

**NOTICE OF PLANNING COMMISSION ACTION**

**Project Name:** Saddlevue Office Park

**Project Description:** CUP/MPD for Professional Offices and construction in the Frontage Protection Zone

**Date of Meeting:** September 14, 1994

**Action Taken By Planning Commission:** Approved, subject to findings, conclusions and conditions

**\*Findings, Conclusions and Conditions of Approval:**

**Findings**

**1. Description of Project.** The proposed Conditional Use Permit/Master Planned Development is located at the south east corner of Highway 224 and Saddle View Drive and consists of four, two-story, 6,000 square-foot professional office buildings which have a total gross floor area of 24,000 square feet. Building "A" encroaches thirty-feet and Building "B" encroaches twenty-feet into the 100-foot setback area of the Frontage Protection Zone. A total of 90 parking spaces are proposed on-site and the project provides 61 percent open space. The proposed project includes the dedication, construction and maintenance of a four-foot sidewalk along Saddle View Drive and a ten-foot trail along the east property boundary. The proposed project also includes the installation of landscaping and berming and accessways as set forth on the plan.

As per the proposed plan, there are no structures located within the thirty-foot setback of the Frontage Protection Zone and no structures other than those described above, within the one hundred-foot setback area. It should be noted that there are no utility and/or transmission boxes within this setback area.

**2. Standard Conditions.** All projects have the potential to create significant environmental and

neighborhood impacts such as aesthetic degradation, traffic impacts, soil impacts, drainage, and utility impacts. The City's Standard Project Review Requirements were developed in an effort to mitigate these potential impacts and therefore must be applied to all projects.

**3. Signage.** The project is located in the Frontage Protection Zone which prohibits any structures within thirty-feet of the Highway 224 right-of-way and any signage that will have a visual impact on the entry corridor. A condition requiring final discretionary review of a Master Sign Plan by the Community Development Department mitigates potential visual impacts. No sign shall be erected that fails to conform with an approved Master Sign Plan.

**4. Occupancy.** Commercial office uses have the potential to result in land use conflicts with adjoining residential uses. Impacts such as excessive traffic generation, noise, odors and glare will be mitigated through restrictions on occupancy to professional office uses and limiting hours of operation. Real estate visitor centers and property management companies also generate excessive traffic and activity and are therefore considered inappropriate. Conditions limiting occupancy and restricting hours of operation reduce the potential for negative impacts. A deed restriction limiting the building and tenants to regulated hours of operation and type of occupancy provides notice to future tenants and purchasers.

**5. Lighting.** The project has the potential to result in significant off-site visual impacts to adjoining residential uses and motorists on Highway 224 especially if the project were allowed to use high intensity lighting for signage and for parking areas. Limiting the type and intensity of light fixtures and regulating the location of proposed lighting will ensure neighborhood compatibility and protect the visual amenities of the entry corridor. Lighting fixtures with exposed bulbs result in direct off-site impacts and should be prohibited.

**6. Access.** The project has the potential to result in a significant disturbance to existing circulation patterns on Highway 224. Requiring shared access between this project and the adjoining property will limit curb cuts to Highway 224 and therefore will reduce impediments to traffic flow. The shared accessway must be made available for the continual legal use by the public to ensure adequate access for emergency vehicles.

**7. Drainage.** The project will increase the impervious surface of the earth and result in off-site drainage impacts from storm water run-off. Requiring on-site detention devices will reduce the impacts to the surrounding land uses.

**8. Final Landscaping and Building Design.** The project has the potential to negatively impact the visual qualities of the entry corridor and the Frontage Protection Zone by proposing new construction in a highly visible open space area. Requiring adequate landscaping and staff level discretionary review by the Community Development Department of the final building design and materials will ensure that aesthetic impacts are minimized.

**9. Screening of Trash Enclosures and Mechanical Equipment.** The proposed project has the potential to result in significant aesthetic degradation due to odors emanating from the dumpsters on-site to adjacent residential uses and visual impacts from the storage of trash. The appearance

of mechanical equipment could further degrade the existing visual qualities of the entry corridor. Requiring a plan that is subject to discretionary review by the Community Development Department that illustrates adequate screening of all mechanical equipment and trash enclosures will mitigate these potential impacts.

### CONCLUSIONS OF LAW

1. The limitations placed on the conditional use permit satisfactorily mitigate the effect on the zone.

### CONDITIONS OF APPROVAL

1. All Standard Project Review Requirements shall apply. (See attached).
2. An approved Master Sign Plan is a condition precedent to the installation of any signage. The applicant shall submit to the Community Development Department an appropriate Master Sign Plan which shall be subject to discretionary approval by the Community Development Department and which shall include no more signage than the following: one monument sign and four multi-tenant directory signs affixed to buildings. Two maps (one discreetly positioned at each parking lot entrance) to show location of the individual buildings shall be permitted as well.
3. Project Tenants shall be limited to operating professional offices which the Land Management Code defines as a building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, realtors, teachers and others who, by virtue of training and/or license are qualified to perform services of a professional nature, and/or where no goods or merchandise are sold or stored. Although the following is neither exhaustive nor illustrative, there shall be no property management office uses allowed or real estate visitor centers within the project. A deed restriction, limiting the buildings and tenants to these regulations shall be recorded with the County Recorder and proof of said recordation shall be furnished to the Community Development Department prior to the issuance of any certificate of occupancy for buildings on the site.
4. Parking area lighting shall be subject to the following requirements:
  - a) Light intensity shall be limited to a maximum foot-candle of 1.0 at the perimeter of and between light sources and a maximum of 5.0 foot candles under light fixtures. The height of light fixtures shall be no more than fourteen-feet high. Lighting fixtures affixed to structures for the purposes of lighting parking areas shall be prohibited.
  - b) Exterior lights emitting a color temperature in excess of 4,000 degrees Kelvin shall be prohibited. High pressure sodium lighting fixtures are preferred due to their color

and compatibility with the area.

c) Exterior lighting shall be shielded and directed downward so that the light source (the actual bulb) is not visible from beyond the property line on which the structure is located. Exterior lighting shall not project above the horizontal plane of the building.

d) A final lighting plan, indicating the location and types of all lighting fixtures shall be subject to discretionary review by the Community Development Department prior to issuance of a building permit.

e) When all businesses are closed, only a minimum of security lighting shall be maintained and all other lighting is prohibited.

5. The approved site plan depicts a twenty-five foot driveway located adjacent to the northerly property line. Improvements of the accessway shall be subject to final approval by the City Engineer. A recorded easement, allowing continual public access through this driveway to adjoining properties shall be reviewed and approved by the City Attorney prior to building permit issuance. A second accessway shall be provided as submitted on approved plans from Saddle View Drive. The property owner shall submit proof to the Community Development Department that Saddle View Way is a public roadway. If it is determined that Saddle View is not a public roadway, then the owners of Saddle View Office Park shall obtain a public access and maintenance agreement from the roadway owners.

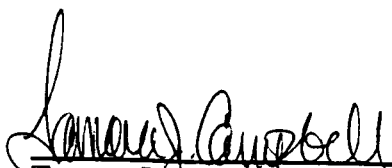
6. Appropriate on-site storm water runoff detention devices shall be required and approved by the City Engineer, prior to building permit issuance.

7. Final landscaping and final building design (inclusive of colors and materials) shall be subject to review and if appropriate, for approval by the Community Development Department Staff prior to building permit issuance.

8. Prior to building permit issuance, a plan shall be submitted that illustrates adequate screening of all mechanical equipment and trash enclosures. Said plan shall be subject to discretionary review by the Community Development Department and must be submitted or modified in such a manner as to receive Community Development Department discretionary approval prior to issuance of building permits.

9. Prior to building permit issuance, the applicant shall record this document with the County Recorder.

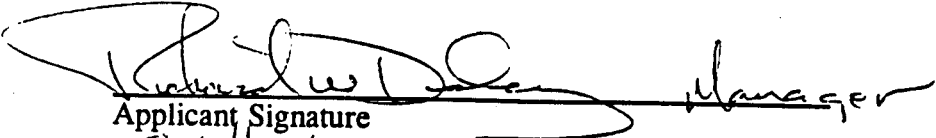
Date of Expiration: September 14, 1995

  
\_\_\_\_\_  
Tamara J. Campbell, AICP  
Principal Planner

  
\_\_\_\_\_  
10/3/94  
Date

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge the conditions by which the project referred to above was approved.

  
Applicant Signature Manager 10/3/94  
Saddle View LLC Date

ANY PERSON WHO SUBMITTED WRITTEN COMMENT ON A PROPOSAL, THE OWNER OF ANY PROPERTY WITHIN THREE HUNDRED (300) FEET OF THE BOUNDARY OF THE SUBJECT SITE, AND THE OWNER OF THE SUBJECT PROPERTY MAY APPEAL TO THE CITY COUNCIL ANY ACTION PERTAINING TO THE APPROVAL OR DENIAL. THE PETITION MUST BE FILED IN WRITING WITH THE CITY RECORDER WITHIN TEN (10) CALENDAR DAYS OF RECEIPT OF THIS NOTICE.

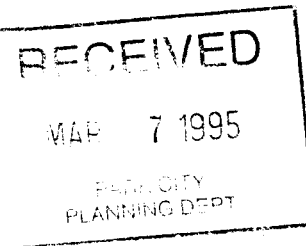
NO CONSTRUCTION SHALL BE PERMITTED UNTIL A SIGNED COPY OF THIS LETTER, SIGNIFYING CONSENT TO THE CONDITIONS OUTLINED ABOVE, HAS BEEN RETURNED TO THE PLANNING DEPARTMENT.



**SADDLEVIEW CONDOMINIUM PLAT**  
**Exhibit D - Final Conditions of Approval -February 22, 1995.**

1884

February 27, 1995



Saddleview L.L.C.  
% Resort Realty Group, Inc.  
P O Box 2190  
Park City UT 84060

**NOTICE OF PLANNING COMMISSION ACTION**

Project Name: Saddleview Office Park

Project Description: Final Plat Application

Date of Meeting: February 22, 1995

Action Taken By Planning Commission: Forward a positive recommendation to City Council for the final condominium plat subject to the following conditions.

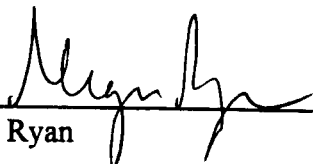
**Conditions of Approval:**

1. Prior to plat recordation the final plat, and the Condominium Declaration and Restrictive Covenants shall be reviewed and approved by the City Engineer, City Attorney, and City Council. The final plat shall reflect the designated utility easements as reviewed and approved by the City Engineer and the Final Conditions of Approval as approved by the Planning Commission on September 14, 1994.
2. Prior to plat recordation the applicant shall post a security, in a form acceptable to the City Attorney, in an amount equal to 125% of the cost of public improvements as estimated by the City Engineer. The public improvements shall include the costs for installation and maintenance of the 4' sidewalk and 10' trail.
3. A basement will be allowed in Building B, of which a maximum of 800 square feet will be habitable space and subject to parking requirements as outlined in the Land Management Code. The balance of the square footage in the basement level of Building B shall be utilized as uninhabitable storage space. Uninhabitable crawl space and basement space shall be allowed in Buildings A, C, and D for storage space use only. A note to this effect shall be added to the plat.

33

Saddleview L.L.C.  
Page two  
February 27, 1995

Date of Expiration: February 22, 1996

  
\_\_\_\_\_  
Megan B. Ryan  
Senior Planner

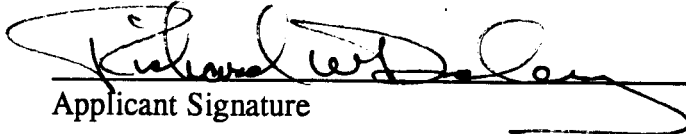
2/24/95  
Date

**SADDLEVIEW OFFICE PARK**

Please sign both copies of this acknowledgement and return one to the City Planning Department for our files. The other copy is for your records.

**ACKNOWLEDGEMENT**

I, the undersigned, hereby acknowledge the conditions by which the project referred to above was approved.

  
Applicant Signature

3/6/95  
Date

**ANY PERSON WHO SUBMITTED WRITTEN COMMENT ON A PROPOSAL, THE OWNER OF ANY PROPERTY WITHIN THREE HUNDRED (300) FEET OF THE BOUNDARY OF THE SUBJECT SITE, AND THE OWNER OF THE SUBJECT PROPERTY MAY APPEAL TO THE CITY COUNCIL ANY ACTION PERTAINING TO THE APPROVAL OR DENIAL. THE PETITION MUST BE FILED IN WRITING WITH THE CITY RECORDER WITHIN TEN (10) CALENDAR DAYS OF RECEIPT OF THIS NOTICE.**

**NO CONSTRUCTION SHALL BE PERMITTED UNTIL A SIGNED COPY OF THIS LETTER, SIGNIFYING CONSENT TO THE CONDITIONS OUTLINED ABOVE, HAS BEEN RETURNED TO THE PLANNING DEPARTMENT.**

# PARK CITY

1884

## COUNCIL AGENDA REPORT

**DATE:** April 20, 1995  
**DEPARTMENT:** Planning Department  
**AUTHOR:** Richard E. Lewis, Director of Community Development  
**TITLE:** Annexation Review - Proposed St. Mary's Catholic Church  
**TYPE OF ITEM:** Legislative

---

**SUMMARY RECOMMENDATIONS:** Accept the Planning Commission's recommendation to not annex the site of the proposed St. Mary's Catholic Church and adopt the attached resolution.

---

### **DESCRIPTION:**

#### **A. Topic:**

#### **PROJECT STATISTICS:**

|                       |                                                                                                                                   |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Applicant:            | St. Mary's Catholic Church                                                                                                        |
| Location:             | Hwy. 224 and White Pine Canyon Road                                                                                               |
| Zoning:               | Countryside (County Zoning)                                                                                                       |
| Adjacent Land Uses:   | Agricultural, Residential, Nursery                                                                                                |
| Date of Application:  | January 19, 1995                                                                                                                  |
| Project Planner:      | Richard E. Lewis                                                                                                                  |
| Staff Recommendation: | Staff recommends that City Council accept the Planning Commission's recommendation to not annex the church property at this time. |

#### **B. Background:**

This project was originally submitted to the Summit County Planning Department on December 1, 1994 and is located in the south quadrant of the intersection of White Pine Canyon Road and S.R. 224. The County zoning for this property is Countryside and churches are allowed in this zone.

Since the proposed site is within Park City's Annexation Declaration boundary, the Catholic Church Parish Administrator, Father Bob Bussen, submitted a request for a preliminary review of the site to determine its acceptability for annexation. The Planning Commission, at their February 22, 1995, meeting reviewed the project and discussed issues relating to access, utilities, visual impact, landscaping and screening, lighting, and trails. The Planning Commission, at their March 22, 1995 meeting, again reviewed the request and determined that if site design issues could be mitigated by agreement, annexation was premature at this time.

**C. Analysis:**

The Planning Commission indicated that most of the concerns could possibly be mitigated by an agreement between the City and St. Mary's. It would probably be premature to annex this property at this time if such an agreement could be arranged. After meeting with Father Bussen and two members of the Church Design Committee, we were able to achieve consensus on the following issues:

1. Lighting. All exterior lighting on the building and in the parking lot, sidewalks and entryways will be muted and in conformity with Park City's lighting regulations.
2. Access on Highway 224. The Church prefers right-turn movements only accessing on Hwy. 224. This would remedy most of the City's concerns relating to possible traffic conflicts in this area.
3. Trail Easement. A 10-foot wide trail easement adjacent to Hwy. 224 will be part of the Church's master plan.
4. Landscaping. Landscaping will be provided to screen the parking lot at the east and south aspects of the property. The Church has contracted with a professional landscape architect to ensure a plan which is compatible with the Entry Corridor Master Plan.
5. Signage. If a monument sign is installed, it will be no more than 6-feet tall, and in conformity with Park City's Sign Code.
6. Future Annexation. Should Park City seek to negotiate the annexation of the Church property, or adjacent property, in the future, the Church has indicated that they will not protest contingent upon such negotiations being in conformity with Utah State Statutes with respect for the rights of all property holders and with due consideration of all costs incurred as a result of the refusal of Park City to annex the St. Mary's Church parcel at this time. The Church has indicated that they would agree to this subject to Park City not seeking annexation of the St. Mary's Church parcel for a period of three (3) years and that, should St. Mary's be annexed, it would be without cost to the Church.

#### **D. Department Review:**

The Community Development Department and the City Attorney's office have reviewed the request, Planning Commission recommendation, and the attached resolution.

#### **ALTERNATIVES:**

- A. Accept the Planning Commission's recommendation to not annex the property at this time, and adopt the attached resolution.
- B. Do not accept the Planning Commission's recommendation and reconsider annexing the property.
- C. Take no action and remand the annexation request back to the Planning Commission for further study.

#### **SIGNIFICANT IMPACTS:**

- A. If the proposed Church site is not annexed at this time, the City will experience no additional costs for infrastructure or services.
- B. The City will, however, have to rely on the agreement with the Church to mitigate impacts due to the site location. If the land was to be annexed, the Church would be required to meet all the City's ordinances relating to design and site issues.

#### **CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**

- A. The Church would be required to file a complete application for annexation which would postpone construction until a mutually acceptable annexation agreement could be accomplished.
- B. The City may need to resolve the issue of extending City water or negotiate for other water source for the Church.

#### **RECOMMENDATION:**

The Community Development Department recommends that the City Council accept the Planning Commission's recommendation of March 22, 1995 to not annex the property subject to mutual agreement on the conditions stated in the attached resolution.

#### **Findings:**

- 1. Annexation of the property would be premature at this time due to the lack of an adequate looped water line and adequate water storage capacity.
- 2. The impact on the community will be mitigated through an agreement with St. Mary's Catholic Church and Park City Municipal Corporation relating to design criteria for the structure, site and parking area.

#### **Conclusion of Law:**

- 1. According to the guidelines set forth in the Park City Annexation Policy Declaration, it is

not in the best interest of the residents of Park City to annex the property for the proposed St. Mary's Catholic Church at this time.

Attachments:

Copy of Father Bussen's letter of March 6, 1995

Copy of Planning Commission Minutes of March 22, 1995 relating to St. Mary's Catholic Church

Resolution determining to not annex at this time

# St. Mary's

BUILDING FOR OUR SECOND CENTURY

March 6, 1995

Mr. Rick Lewis  
Park City Department of Community Development  
P. O. Box 1480  
Park City, UT 84060-1480

Dear Rick,

Thank you for your letter. It was a pleasure to meet with you Thursday to discuss our project. I appreciate your willingness to assist us in an expedited process through the Planning Commission and City Council. We are in full agreement with the City's decision *not* to proceed with the annexation process. In order to proceed let me respond to the issues which you raise. I believe there is no disagreement.

1. *Lighting*: All exterior lighting on the building and in the parking lot, sidewalks and entryways will be muted and in conformity with Park City's lighting regulations.

2. *Access on Highway 224*: Access onto Highway 224 remains to be fully negotiated with UDOT. Logical flow patterns suggest that all left turns occur from White Pine Canyon Road. Left turns from Highway 224 will only clog traffic patterns. Egress from the access on Highway 224 will logically be for right turns only. We will have little control over entrance patterns into the property.

3. *Trail Easement*: At your request we will make accomodation for a ten-foot wide trail adjacent to the Highway 224 right-of-way as part of the master plan. Negotiation of an easement for the development of this trail is yet to occur. As you are aware, several routes are possible for this trailway. After spending time on the site it strikes me that out of respect for the wetlands adjacent to our property the better access is above rather than below. Once we have completed the landscaping and made accomodation for the trail adjacent to Highway 224 there will be no change. I would recommend that the city come to some resolution of the routing of this trail in the coming year prior to the construction of our building so that there will be no conflict.

RECEIVED

MAR 6 1995

PARK CITY  
PLANNING DEPT.

40

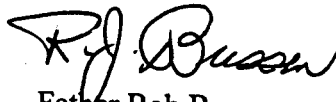
4. *Landscaping*: Every effort will be made to provide landscaping which is indigenous to the area and attractive. We have contracted with Jan Streifel to ensure a plan which is compatible with the Entry Corridor master plan in which she assisted. This is to include screening of the parking lot from both the east and the south prospects of the property.

5. *Signage*: A monument sign no more than six feet tall and in conformity with Park City sign code will be more than adequate.

6. *Future Annexation*: Should Park City seek to negotiate the annexation of either our property or adjacent property in the future we will not protest contingent upon such negotiations being in conformity with Utah State statutes with due respect for the rights of all property holders and with due consideration of all costs incurred as a result of the refusal of Park City to annex St. Mary's at this time. Park City is not to seek annexation of St. Mary's for a period of three years. Should St. Mary's be annexed, it would be without cost to St. Mary's.

Again, your willingness to fast-track this process is greatly appreciated. Please contact me should you have further questions or concerns.

In Christ,



Father Bob Bussen  
Parish Administrator

RECEIVED

MAR 6 1995

PARK CITY  
PLANNING DEPT.

**PARK CITY PLANNING COMMISSION  
WORK SESSION NOTES  
MARCH 22, 1995**

Present: Alison Child, Tom Calder, Bruce Erickson, Chuck Klingenstein, Joe Tesch, Diane Zimney, Rick Lewis, Nora Seltenrich, Janice Lew

**WORK SESSION - OVERVIEW OF REGULAR MEETING**

Special Projects Manager Nora Seltenrich introduced Peter Stak, a part-time contract planner working with the Staff. She reported that the Planning Department had received approximately 85 applications in response to an advertisement for a Planning and Zoning Administrator, and interviews should start within a few weeks.

**St. Mary's Church, Hwy. 224 & White Pine Road**

Manager Seltenrich reviewed the project which had been discussed in a previous work session. The Planning Commission had expressed some concerns, and the Staff had worked with the designers on lighting, access onto the highway, trails, landscaping, and signage. The Church had been cooperative and was willing to design the building to City standards. In return, the City was proposing allowing the application to be processed in the County rather than hold it up for a year. The Church did not oppose annexation in the future, and the Staff recommended that the Planning Commission forward a recommendation to the City Council that the Church not be annexed at this time and that the City enter into an agreement with St. Mary's Church to specify design parameters. She presented renderings of the Church showing the initial site plan and an expansion plan.

Commissioner Tom Calder asked if there was an alternative for the parking lot location. Manager Seltenrich responded that the plans were modified from the original plan.

Commissioner Bruce Erickson agreed with the Staff recommendation that the berm design should not introduce a foreign land form which could appear out of place. Manager Seltenrich suggested adding language to the landscaping component for extra emphasis.

Chair Child clarified that conditions were not attached to the action requested by the Planning Commission as this would only be a recommendation to the City Council. Manager Seltenrich stated that the agreement between the City and the Church would address the issues outlined in the Staff report.

**Hidden Meadows/Royal Oaks Final Plat**

Due to a potential conflict of interest, Commissioners Tom Calder and Diane Zimney abstained from the discussion.

V. PUBLIC HEARINGS/ACTION ITEMS

1. St. Mary's Church, Hwy. 224 & White Pine Road RL

Special Projects Manager Nora Seltenrich reported on the proposal to build a Catholic church outside the City limits on Highway 224 and White Pine Canyon Road. State law required the applicant to approach the City for annexation because the property is within one-half mile of the City limits. Based on Planning Department review and input from the Planning Commission, the Staff did not recommend annexing the property but instead recommended that it be developed under County jurisdiction subject to an agreement between the Church and the City. The terms of that agreement were outlined in the staff report.

Chair Child opened the public hearing.

Commissioner Bruce Erickson asked if the agreement must be negotiated through the Planning Commission for compliance of the sign with the Park City sign ordinance. Manager Seltenrich responded that the sign could be no more than six feet tall and must conform with the Park City sign code. She suggested adding wording under the landscaping requirements to state that the City would review the landscaping with special attention to the berming.

MOTION: Commissioner Jones moved to forward a POSITIVE RECOMMENDATION to the City Council to not annex the church property at this time based on the findings and conclusions of law as presented in the staff report on the condition that, prior to the matter being forwarded to the City Council, an agreement be entered into to the satisfaction of the City Planning Staff as to conditions of the development. Commissioner Tom Calder seconded the motion.

Commissioner Tesch referred to a letter from St. Mary's included in the staff report outlining the concerns of the City and the commitments made by the Church. He asked Commissioner Jones if the agreement mentioned in his motion was the agreement outlined in the letter dated March 6, 1995, with the addition of the berm issues. Commissioner Jones responded that it was.

VOTE: The motion passed unanimously.

Conditions of Approval - St. Mary's Church

1. Lighting - All exterior lighting on the building and in the parking lot, sidewalks and entryways will be muted and in conformity with Park City's lighting regulations.

2. Access on Highway 224 - The Church prefers right-turn movements only accessing on Highway 224. This would remedy most of the City's concerns relating to possible traffic conflicts in this area.
  3. Trail Easement - A 10-foot-wide trail easement adjacent to Highway 224 will be part of the Church's master plan.
  4. Landscaping - Landscaping will be provided to screen the parking lot at the east and south aspects of the property. The Church has contracted with a professional landscape architect to ensure a plan which is compatible with the Entry Corridor Master Plan. The City will review the landscaping with special attention to the berming.
  5. Signage - If a monument sign is installed, it will be no more than six feet tall and in conformity with Park City's Sign Code.
  6. Future Annexation - Should Park City seek to negotiate the annexation of the Church property, or adjacent property, in the future, the Church has indicated that they will not protest contingent upon such negotiations being in conformity with Utah State Statutes with respect for the rights of all property holders and with due consideration of all costs incurred as a result of the refusal of Park City to annex the St. Mary's Church parcel at this time. The Church has indicated that they would agree to this subject to Park City not seeking annexation of the St. Mary's Church parcel for a period of three (3) years and that, should St. Mary's be annexed, it would be without cost to the Church.
2. Deer Valley Snow Park Lodge Expansion - CUP and Revision to Deer Valley MPD

Manager Seltenrich reported that the Planning Commission had discussed the project at a previous work session and expressed concern over issues related to parking and overall impact. Those issues were addressed in the staff report. The Planning Commission was requested to take action on the conditional use approval for the expansion of the Snow Park Lodge and an amendment to the Deer Valley MPD which would re-allocate 7,600 square feet of the general Snow Park commercial allocation to the Snow Park Lodge allocation, thereby reducing the general Snow Park allocation. The numbers were set forth in the findings, and the Staff recommended approval of the action.

Chair Child opened the public hearing.

Recorded at the request of and return to:  
Park City Municipal Corporation  
P. O. Box 1480  
Park City, Utah 84060  
Attention: City Recorder

Resolution No. \_\_\_\_\_

**A RESOLUTION DETERMINING THAT AN ANNEXATION OF  
APPROXIMATELY 5.21 ACRES OWNED BY ST. MARY OF THE ASSUMPTION  
CATHOLIC CHURCH IS DEEMED PREMATURE**

WHEREAS, a request was filed by the owners of the land, St. Mary of the Assumption Catholic Church, consisting of approximately 5.21 acres, located in Section 6, Township 2 South, Range 4 East, in Summit County, requesting Park City Municipal Corporation to determine if said land was suitable at this time for annexation; and

WHEREAS, the described land is included within the Park City Annexation Policy Declaration Statement and Annexation Boundary Area; and

WHEREAS, the request was reviewed by the Planning Commission on February 22, 1995 and March 22, 1995: and

WHEREAS, the Planning Commission at their meeting of March 22, 1995 determined that it would be premature to annex the St. Mary's Church Property at this time due to the lack of a looped City water line and adequate City water storage to serve the site; and

WHEREAS, St. Mary's Catholic Church has agreed to mitigate potential impact on the City by cooperating with the site design of the parking lot and structures;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Park City, Utah that the property owned by St. Mary of the Assumption Catholic Church located at the intersection of State Highway 224 and White Pine Canyon Road not be considered for annexation at this time; and

THEREFORE BE IT FURTHER RESOLVED, that the St. Mary of the Assumption Catholic Church and Park City Municipal Corporation shall enter into an agreement which mitigates the following design issues:

1. All exterior lighting on the building and in the parking lot, sidewalks and entryways will be muted and in conformity with Park City's lighting regulations.

2. Right-hand turning movements only will be allowed for access to the Church parking lot from S.R. 224.
3. A 10-foot wide trail easement adjacent to S.R. 224 will be included in the Church's master plan.
4. Landscaping will be provided by the Church to screen the parking lot at the east and south aspects of the property.
5. If a monument sign is installed, it will be no more than 6-feet tall, and will be in conformity with Park City's Sign Code.
6. Should Park City seek to negotiate the annexation of the Church property, or adjacent property, in the future, the Church will not protest contingent upon such negotiations being in conformity with Utah State Statutes with respect for the rights of all property holders and with due consideration of all costs incurred as a result of the refusal of Park City to annex the St. Mary's Church parcel at this time.
7. Park City will not seek annexation of the St. Mary's Church parcel for a period of three years and, should the church parcel be annexed, Park City Municipal Corporation would be obligated to do so at no cost to St. Mary's Catholic Church.

**EFFECTIVE DATE** This Resolution shall take effect upon passage.

PASSED AND ADOPTED 20th day of April, 1995.

PARK CITY MUNICIPAL CORPORATION

---

Bradley A. Olch, Mayor

Attest:

---

Anita L. Sheldon, City Recorder

Approved as to form:

---

Mark Harrington, Assistant  
City Attorney

BEFORE THE CITY COUNCIL OF PARK CITY, UTAH

MARGUERITE AND MAX JOHNSON,  
COALITION CONDOS,

APPELLANTS

vs.

FINANCE DEPT., P.C.M.C.,

RESPONDENT

FINDINGS, CONCLUSIONS OF  
LAW AND ORDER

This matter having come before the City Council as an appeal of a staff denial of a business license renewal for Marguerite and Max Johnson ("Appellants"), dba Coalition Condos, and whereas the City Council did on April 13, 1995, hold a hearing to obtain full disclosure of relevant facts and afford all parties a reasonable opportunity to present their positions and whereas the appellants appeared through and by their counsel, Ruth Wagner, Esq., the City Council hereby adopts the following FINDINGS OF FACT:

1) Appellants did not dispute any of the facts contained in the denial letter dated 1/23/95 from Kent Parker to Max Johnson and the Council specifically incorporates these facts into this Order; and

2) Appellants called no witnesses and submitted no additional evidence to Council for review; and

3) Appellants agreed to remove Max Johnson as the local responsible party but argued that the past violations were not significant enough to warrant a probationary license for the business; and

4) Staff submitted testimony regarding the Appellants'

failure to pay sales and transient room tax and sufficiently stated the City's need MCPC § 4 to expeditiously respond to any subsequent violations by the Appellants; and

5) Margie Hensley of the Chamber Bureau presented credible and un-rebutted testimony regarding the seriousness and magnitude of the past violations and their effect on tarnishing the reputation of other businesses within Park City. Ms. Hensley further convinced the Council that the Appellants have made great progress in terms of no longer misrepresenting the units offered for rental and significantly improving the conditions of the units; and

6) The Council finds that the Appellants, with the aid of new management, will be committed to continuing to improve the condition of the units and their business practices in general;

**NOW THEREFORE,** the City Council hereby adopts the following CONCLUSIONS OF LAW:

1) In violation of MCPC § 4-2-9, there is a pending felony charge against Max Johnson; the Appellants have failed to pay personal property taxes or other required taxes or fees imposed by the City; and the Appellants have violated the laws of the State of Utah, and the ordinances of Park City governing operation of the business for with the Appellants are applying for a license; and

2) In violation of MCPC § 4-7-1(A), the business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within Park City.

**NOW THEREFORE, IT IS HEREBY ORDERED,** that the appeal is **DENIED** and that Marguerite Johnson dba Coalition Condos may only re-apply for a business license for a nightly rental upon satisfying the following conditions:

1) Max Johnson is not the local responsible party and a new responsible party other than Marguerite Johnson is listed on the application; and

2) The local representative has a valid Utah real estate broker's license or is affiliated with such a broker, pursuant to UCA § 61-2-1; and

3) Marguerite Johnson signs a two-year probation agreement expiring 12/31/96 approved by the City Attorney and substantially in the same form as Exhibit A attached hereto; and

4) This Council strongly recommends that a representative of Coalition Condos attend the Park City Chamber Bureau's customer relations course and Park City lodging association meetings.

DATED this \_\_\_\_\_ day of April, 1995.

**BY THE CITY COUNCIL**

\_\_\_\_\_  
MAYOR BRADLEY A. OLCHE  
PRESIDING OFFICER

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK D. HARRINGTON  
ASST. CITY ATTORNEY

K:\LEGAL\MH\COUNCIL\JOHNSON.ORD

# EXHIBIT A

## BUSINESS LICENSE PROBATION AGREEMENT

This Probation Agreement ("Agreement") is entered into this \_\_\_\_ day of April, 1995, between Park City Municipal Corporation ("City") and Marguerite Johnson, a.k.a. Coalition Condos, ("Licensee") to set forth the terms and conditions of the business license of the Licensee.

Whereas, the City has previously prosecuted Licensee for several violations of the Park City Municipal Code ("Code"); and

Whereas, the City is entitled to deny or revoke business licenses pursuant to the Code violations; and

Whereas, the City has agreed to issue a probationary business license to the Licensee on the condition that it designate an acceptable responsible party pursuant to Code § 4-2-18(C)(6)(d) and to remove Max Johnson as the current responsible party; and

Whereas, the Licensee has agreed to waive formal hearing procedures and to surrender its business license upon violating any provision of the Code or Land Management Code, or any other state or federal law in the course of its business;

Now, therefore, based upon the mutual consideration stated herein, the sufficiency of which is hereby acknowledged, the City and Licensee agree as follows:

**I. LICENSE.** The City hereby agrees to issue a business license to the Licensee subject to the terms and conditions herein.

**II. PROBATION.** The Licensee hereby agrees to a two (2) year probation expiring December 31, 1996. If, at any time during the probationary period, the Licensee violates any provision of the Code or Land Management Code, or any other county, state or federal law in the course of its business, the Licensee agrees to surrender its business license within three (3) days of receiving a written request to do so from the City. Nothing herein shall require a violation to be established by judicial process- a citation from the City's compliance officer shall be sufficient so long as the Licensee does not successfully appeal the citation pursuant to the Uniform Building Code, or any other applicable administrative remedy.

**III. NO WAIVER.** Any failure by the City to request surrender of the business license upon violation of the terms herein shall not constitute a waiver of the City's rights herein upon any subsequent violation by Licensee.

Entered into this \_\_\_\_ day of April, 1995.

**LICENSEE**

\_\_\_\_\_  
Marguerite Johnson

STATE OF UTAH                    )  
                                          : ss.  
COUNTY OF SUMMIT            )

On this \_\_\_\_ day of April, 1995, personally appeared before me \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding Agreement, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
NOTARY PUBLIC

**PARK CITY MUNICIPAL CORPORATION**

\_\_\_\_\_  
BY: MARK D. HARRINGTON  
ITS: ASST. CITY ATTORNEY

ATTEST:

\_\_\_\_\_  
ANITA SHELDON, CITY RECORDER



## CITY COUNCIL REPORT

**DATE:** April 20, 1995  
**DEPARTMENT:** Community Development Department  
**AUTHOR:** Janice Lew  
**TITLE:** 703 Park Avenue and 664 Woodside Avenue CAD Appeal  
**TYPE OF ITEM:** Adjudicative

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**SUMMARY RECOMMENDATIONS:** The staff requests the City Council hear testimony from the applicant, staff and any other interested person and determine that the Historic District Commission (HDC) fairly applied the Preservation Ordinance.

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### **DESCRIPTION:**

#### **A. Topic.**

##### **PROJECT STATISTICS**

|                     |                                         |
|---------------------|-----------------------------------------|
| Applicant:          | Burnis and Betty Watts                  |
| Location:           | 703 Park Avenue and 664 Woodside Avenue |
| Proposal:           | Denial of CAD Appeal                    |
| Zoning:             | HR-1 and HRC                            |
| Adjacent Land Uses: | Residential and Commercial              |
| Date of Appeal:     | February 20, 1995                       |
| Project Planner:    | Janice Lew                              |

#### **B. Background.**

The Council reviewed this appeal at their last meeting on March 30, 1995. At that time, the Council conducted a site visit, held a public hearing and, based on a request from Mr. Watts, asked Chief Building Official, Ron Ivie to evaluate whether the structures presented a hazard to their occupants or to the public. Mr. Ivie and Robert Taylor inspected the site, and informed Mr. Watts of their conclusions relevant to Council's request. On Friday, April 14 Mr. Watts withdrew his request for Mr. Ivie's report. At Mr. Watt's request Mr. Ivie's report is not included with this packet.

The following information is from the March 30th Staff Report.

On March 16, 1995, the Council heard the Watts' appeal in a public hearing to reverse the HDC's decision to deny their Certificate of Appropriateness for Demolition (CAD) request. At that time, action on the appeal was continued to March 30, 1995. The Council also decided to schedule a site visit.

**C. Analysis.**

All CAD applications for historically significant structures are subject to review by the HDC to determine whether an economic hardship will result from a denial. **The burden falls upon the applicant** to present evidence which demonstrates an unreasonable economic hardship. Based upon an analysis of the information submitted by the applicants, the HDC found that the property in question should in fact produce a "reasonable rate of return". The property was purchased for a total of \$44,000 and has now been appraised at approximately \$495,000 in its present condition. Please refer to your March 16th packet for a full analysis of the applicant's appraisal.

In judging the application, the Commission specifically found that:

1. For 664 Woodside Avenue - Because the structure is in fair condition and has been used as rental property since 1977, denial of the CAD would not deprive the owner of all reasonable use of the property.
2. For 703 Park Avenue including the garage - Because the home is in excellent condition and the structures currently function as a residential dwelling and accessory building, denial of the CAD would not deprive the owner of all reasonable use of the property.
3. No information was submitted to demonstrate that the structures could not be feasibly moved or relocated.

**ALTERNATIVES:**

- A. If the Council believes the HDC properly applied the Preservation Ordinance to the facts presented to them, the Council should uphold the denial of the CAD and direct the staff to prepare findings and conclusions to reflect its decision.
- B. If the City Council believes the HDC unfairly applied the law to the facts, the Council should reverse the HDC's decision to deny the CAD and direct the staff to prepare findings and conclusions to reflect its decision.
- C. The City Council may continue the hearing for more information and discussion or to take additional testimony at the following meeting and reschedule the item

for action at that meeting.

**SIGNIFICANT IMPACTS:**

If the City Council sustains the CAD denial, the owner may not legally demolish the structures. The owner may not re-apply for demolition for a period of three years from the date of the HDC's final decision, unless the building, structure or site is structurally unsound or substantial changes in circumstances have occurred other than those caused by the negligence or intentional act of the owner, in which case the owner may apply as conditions warrant.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**

If the City Council overturns the HDC's decision and approves the CAD, the owner may proceed to demolish the structures after obtaining a demolition permit from the Building Department. As a condition of demolition approval, the Council should require the owner to provide documentation of the site according to the standards of the Historic American Building Survey (HABS). Approval of a CAD would be valid for one year.

**RECOMMENDATION:**

The Council may hear testimony, if offered, from the applicant and staff. Based upon the facts as presented to the City Council, the staff requests the Council to determine that the HDC fairly applied the Preservation Ordinance to the facts.

**EXHIBITS:** Please refer to your March 16th packet for supplementary information.

Exhibit A - Notice of Appeal

Exhibit B - August 4, 1994 Staff Letter

Exhibit C - August 15, 1994 Staff Report and Minutes

Exhibit D - Request for Hearing

Exhibit E - December 27, 1994 Staff Letter

Exhibit F - January 17, 1995 Staff Report and Minutes

Exhibit G - February 13, 1995 Staff Report

Exhibit H - Findings and Conclusions

Exhibit I - Section 14 of the LMC

Exhibit J - Economic Hardship Standards and Criteria

CYNDI SHARP  
P.O. Box 340  
Park City, Utah 84060

April 6, 1995

The Honorable Bradley A. Olch  
Mayor of the City of Park City  
P.O. Box 1057  
Park City, Utah 84060

Dear Brad:

Enclosed is a letter I have written to Mr. & Mrs. Burnis Watts in regard to their request to demolish their home and garage at 703 Park Avenue.

I am opposed to the demolition of these structures. If the zoning does not allow the structures to be used as a restaurant, boutique, museum, or bed and breakfast, this zoning needs to be changed. To have commercial use across the street, kitty-corner, and to the side of the Watts' structures, and not have them have similar zoning would not make sense from a planning or economic viewpoint.

I do not know the background of the situation or Mr. & Mrs. Watts' reasoning, but demolition of these structures would be a horrible tragedy for Park City -- permanently. Please do not let it happen.

Thank you for your attention to this request.

Sincerely,

*Cyndi*  
Cyndi Sharp

Enclosure

CYNDI SHARP  
P.O. Box 340  
Park City, Utah 84060

April 4, 1995

Mr. & Mrs. Burnis Watts  
703 Park Avenue  
Park City, UT 84060

Dear Mr. & Mrs. Watts:

I beg you, please do not tear down your gorgeous historic home and garage at 703 Park Avenue. This home is one of the few larger "substantial" historic homes in Park City that remains. Losing these two structures would be devastating to the charming character and history of Park City.

I love the home and as illustrated on the enclosed picture of a sweater I designed and knit, your home is one of my favorite featured Park City historic homes.

I can appreciate your anger and concern about the noise and site pollution from neighboring establishments and the increased commercial approvals around your home. I would not want to live around that environment either. Your son is an outstanding builder and could build you a great home in a quiet setting.

If you do not want to keep the home, there are plenty of people who would love to own the home and who can buy it from you. Please allow the rest of us and future generations to love the home as much as many of us Park City people do.

If you or someone you sold it to did not want to live there, the home and garage would make a fabulous restaurant location similar to other commercially zoned historic homes. The Devereaux House in Salt Lake City, the Brigstons in New Orleans, and a restaurant in an historic home in Moab are all successful restaurants within historic buildings.

A patio on the back with summer dining under umbrellas would be very appealing. The garage would make a neat restaurant space, or a shop or museum. The home could also be used as a luxury bed and breakfast or an exclusive boutique. Anything is certainly better than demolition. Demolition is so permanent!

History would be lost forever! Park City would not be the same. These structures are just too valuable to lose permanently.

I hope you will reconsider and thank you for reading my letter.

Sincerely,



Cyndi Sharp

