

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 15, 2004**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meetings at the Marsac Municipal Building City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 15, 2004.

AGENDA

Closed Session – Executive Conference Room

3:45 p.m. Property

Work Session – City Council Chambers

4:45 p.m. Council questions/comments

5:00 p.m. Environmental management policy

5:30 p.m. Review of regular meeting:

- Ordinances – questions/comments

5:45 p.m. Break

Regular Meeting – City Council Chambers

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF APRIL 1, 2004

V CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance approving a plat amendment for the Roosevelt Gap Subdivision to combine with the Roosevelt Gap and Snow Park development parcels of the 1995 Deer Crest Settlement Agreement, as amended, a portion of an adjacent state trust lands parcel, and other minor amendments to easements and plat notes, located at 2300 Deer Valley Drive, Park City, Utah

2. Ordinance amending the Land Management Code Section 15-2.18-3, Lot and Site Requirements (D) 10 and (F) 11 allowing setback exceptions in the rear and side

yards of the General Commercial District, amendment to Section 15-7.4-1 (preliminary plat) inserting language that was previously deleted

3. Ordinance adding Title 4, Chapter 3A, Section 7 to the Municipal Code, regulating vending by artists on public property, and adding “acoustic and unamplified” to Title 4, Chapter 3, Section 7 of the Municipal Code concerning street musicians

VI CONSENT AGENDA

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2. Ordinance amending the Land Management Code Section 15-2.18-3, Lot and Site Requirements (D) 10 and (F) 11 allowing setback exceptions in the rear and side yards of the General Commercial District, amendment to Section 15-7.4-1 (preliminary plat) inserting language that was previously deleted

3. Ordinance adding Title 4, Chapter 3A, Section 7 to the Municipal Code, regulating vending by artists on public property, and adding “acoustic and unamplified” to Title 4, Chapter 3, Section 7 of the Municipal Code concerning street musicians

4. Resolution declaring the week of April 19 – 25, 2004 as “T’ae Chi and Qi-Gong Week in Park City, Utah

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.

**PARK CITY COUNCIL
SUMMIT COUNTY, UTAH
APRIL 19, 2004**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will be attending a breakfast, hosted by the School District, on Monday, April 19, 2004 at 8:30 a.m. at the Park City School District Office, 2700 Kearns Boulevard. This meeting is intended to discuss matters of mutual interest; no formal action will be taken.

Posted: 04/12/04
see: parkcity.org

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

April 2004

- 22 Spiro Treatment Plant ribbon-cutting
Closed session – property/personnel
County transportation plan for Snyderville Basin – Kevin Callahan (15 min)
Rugby National MFL – work
Quarterly goals - work
PC Cycling Festival trial MFL – action
Resolution amending Section 8.4.4., Golf Fees, and Section ____, Tennis Fees included in the Leisure Services and Facility Rental Fees outlined in Exhibit A of Fee Resolution No. 17-03 and repealing Resolution No. 17-03 in its entirety – hearing/old business (a) Public input (b) Action
Boothill Tank contracts
- 29 City-owned buildings – work
LMC revisions – Mountain Town Stages – public hearing/action

May 2004

- 6 Conservation easements - work
Public safety agencies - planning and education - work
Tentative budget – work
PCMR child care record of survey – public hearing/action
Appeal of determination of water credits for April Mountain – Bamberger Company - new business
- 13 Budget public hearing
LMC amendments – entry corridor protection zone – public hearing/action
- 20 Budget public hearing
- 27 **No meeting**

June 2004

- 3 Recycling update - work
Resolution adopting tentative budget
- 10 **No meeting**
- 17 Budget public hearing
Resolution adopting final budget (no tax increase)
- 24

July 2004

- 1
- 8
- 15
- 22
- 29

August 2004

5
12 Resolution adopting final budget (tax increase)
19
26

Water Service District – Grant of easement from Iron Mountain Associates



City Council Staff Report

Building Department

Author: Jeff Schoenbacher, Environmental Coordinator
Subject: IMPLEMENTATION OF EMS
Date: April 15th, 2004
Type of Item: Legislative

Summary Recommendations:

Review the Soils Ordinance Environmental Management System (EMS) during work session (see document under separate cover). With Council authorization, proceed to schedule a public hearing and adoption of a Resolution that supports the implementation of the EMS.

Description:

Topic:

The Soils Ordinance titled "Landscaping and Maintenance of Soil Cover" found in Chapter 15 of the Building Code 11-15-1 was originally promulgated in 1988 to mitigate areas that were suspect for having underlying mine tailings. Although EPA has consistently given qualified approval to the approach, EPA has periodically sought to strengthen the long-term effectiveness and overall compliance with the ordinance. As a result, in a cooperative effort with the Citizens Soils Stakeholders Group, PCMC, EPA, and the Utah Department of Environmental Quality, an Environmental Management System (EMS) was developed to alleviate the regulatory concerns.

The implementation of the EMS program is intended to protect human health and the environment long-term as well as de-listing the site from the Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database. The EMS program is consistent with Council's Goal #9, sustainable place to live.

Background:

USEPA and the UDEQ have been investigating and evaluating mine sites within the Park City area since the early 1980's. During these evaluations, Silver Creek Tailings Site, now known as Prospector Square was investigated to determine the potential environmental impacts.

Following extensive study, it was agreed that Park City would implement the Landscaping and Soil Maintenance Cover requirements which mandates a 6-inch "clean top soil" cap for affected lots. Park City received United States Congressional support

for the ordinance approach, which resulted in Prospector being removed from Superfund consideration, however the site remains on the CERCLIS database. The ordinance has an action level for capping a lot at a 1000-ppm lead for “vacant property (lot)” and for “occupied property” an action level of 200-ppm lead. The ordinance also requires the maintenance of vegetation and acceptable cover in order to maintain the cap and contain underlying mine related material. The general objective of these measures is to isolate contaminated material from the surface and minimize direct contact. To date 393 properties have been capped within the ordinance soils district.

USEPA and UDEQ concerns with the ordinance are as follows:

- **Definitive data** – both regulatory agencies want data definitive data that reflects the public is not exposed to heavy metals.
- **Long Term Commitment** – the regulatory agencies want assurances that the institutional controls will be in place long-term and that the public is educated on minimizing exposure.
- **Compliance** – lastly the regulatory agencies want assurances that the institutional controls will be complied with in addition to complying with applicable regulations in regards to the management and disposal of soil.

Analysis:

The implementation of the EMS will seek to fulfill the following objectives:

Strengthen Ordinance

The original ordinance does not contain mandatory deadlines for capping lots with elevated levels of lead. Within this proposal, PCMC strengthens the ordinance with uniform enforcement for all properties within the soils district. This includes the identification of lots with known elevated levels of lead that have not been capped. These properties have been provided with two notices and are required to be capped by December 2004 (Tab 5 of EMS). Also defined within this proposal is making non-compliant property owners subject to Class B Criminal Misdemeanor charges and legal enforcement (Tab 1 of EMS). In addition, property owners are given incentives such as free soil testing for site characterization and cap compliance verification. Finally, the ordinance is strengthened by instituting mandatory sampling for all lots that are **not** known to be capped and requiring a cap for these properties that exhibit elevated levels of lead. Tab 1 contains the revised ordinance that was voted on and approved by City Council on December 11th, 2003.

Annual Curb Side Risk Assessment

The annual risk assessment is a long-term commitment to evaluate properties residing within the soils district for environmental and human health risks. The proposed

assessment will be conducted on an annual basis for specific zones within the district. A component of the assessment will be a voluntary XRF field-sampling event for lots that are capped within each area. The purpose of this sampling is to verify that the cap has adequately contained underlying soils that potentially could be impacted by elevated levels of heavy metals. This data will be archived and evaluated to determine if the ordinance is effective in providing a barrier between residents and the impacted soils.

Public Education

This section is intended to increase lead exposure awareness for property owners within the district and the practices that can be implemented to minimize exposure risk (Tab 6 of EMS). Property owners will also be informed of the underlying levels of lead contained on their lot and the importance of maintaining the cap (Tab 10 of EMS). This is an expansion of the PCMC Ordinance as it covers a broad spectrum of residents as well as outreach to local physicians (Tab 7 of EMS). See Tab 4 of the EMS document for the specific contacts that will be provided with correspondences. An option that has been discussed but not developed is the implementation of a loan program for those owners that may need assistance.

Soil Disposal Assurances

Within this EMS are controls for assuring soils that are being transported outside the soils district are disposed of accordingly. This minimizes the scenario of soils being disposed of improperly. Tab 11 of the EMS document contains the revised Plan Checklist and Item G14 contains compliance with the soils ordinance.

Annual Review and Reporting

The EMS contains annual reporting requirements on the assessment results and reviewing the overall progress of the program after 5 years of implementation.

Department Review:

The content of the EMS has been reviewed and approved by Mo Slam (UDEQ), Ty Howard (UDEQ), Jim Christiansen (USEPA), Council Liaison Mayor Williams, Tom Bakaly (City Manager) Ron Ivie (Building Official), and the Soils Stakeholder Group. The Soils Stakeholders Group is comprised of the following people:

Mayor Williams
Tom Bakaly
Lisa Cilva Ward
Sally Elliott

Kathy Meyer
Tom Ward
Jim Christiansen (USEPA)
Mo Slam (UDEQ)

Ty Howard (UDEQ)
Dave Allison (UDEQ)
Brent Ovard (Summit Co.)
Jennifer Chergo (USEPA)

Alternatives:

Approve the Request:

Hold a public hearing and gather public comment and adopt at the next council session on April 22nd, 2004.

Deny the Request:

Keep the current resolution and ordinance. This option would jeopardize the value of the ordinance and the strategy to de-list the site from CERCLIS. The only other option to pursue is the implementation of a blood study.

Delay Implementation:

The implementation of EMS is a product developed by the City, citizens, and agency stakeholders and implementing the program is a step toward the ultimate goal of de-listing. The current objective would be to have the program implemented by May 1st, 2004.

Do Nothing:

Same as item B. No action would result in not having a program to achieve the goal of CERCLIS de-listing. It should be noted that the only other option for achieving CERCLIS de-listing is conducting a full-scale blood study. Of course, the City could always litigate and attempt the de-listing of this site within the courts based on the 1986 SARA Amendment.

Significant Impacts:

- Lots that have not been sampled or characterized are required to do so by 2006.
- Lots with known elevated levels of lead are required to be capped after receiving two notices.
- Annual assessment would be done to assure properties are in compliance and the cap integrity is in place.
- Field sampling of all capped lots to determine if the cap is working as intended (i.e. containing underlying levels of lead).
- Cost to the City from the EMS will be \$65,000.00 in staff time for the Environmental Coordinator and various contracts.
- Staff does not recommend financial assistance or a loan program for the costs incurred by the property owners.

Consequences of not taking the recommended action:

Without making changes the City will not reach the final goal of de-listing Prospector from CERCLIS.

Recommendation:

Hold a public hearing and adopt a resolution that supports the implementation of the attached Soils Ordinance Environmental Management System (EMS). And consider adopting at the next regular council meeting on April 22nd, 2004.

Attachment: Environmental Management System (EMS) Proposal provided under separate cover.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 1, 2004**

Present: Mayor Dana Williams; Council members Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan

Tom Bakaly, City Manager; Kent Cashel, Transportation Director; Alison Butz, Special Events and Facilities Manager; Lloyd Evans, Chief of Police; Colin Hilton, Economic Director; Dave Gustafson, Project Manager; Mark Harrington, City Attorney; Ken Fisher, Recreation Director

Jim McClaren, Wilson & Laurie, Inc., public facility consultants

1. Council questions and comments. Jim Hier referred to the 10 Year Anniversary Leadership Dinner which was well done and attended, and should be held more frequently. He added that he also attended an Interagency Meeting and HMBA meeting during the week. Kay Calvert agreed with Mr. Hier's comments regarding the Leadership Dinner and commented on the quality of the Citizens Guide. She encouraged the public to return the customer service survey. Joe Kernan reported on the School District proposal to realign grades. Summit County has invited the City to display a booth at the Fair as part of its 150-year celebration. There was discussion about expansion of the Summit County mosquito abatement district. Mr. Kernan also reported that he will represent the City on the County Solid Waste Committee who will be meeting soon; he invited Council and public input. He attended a Mountainlands Community Housing Trust meeting for first-time home buyers.

Council member Kernan pointed out that there are a number of bike-skills parks around the country from which we can draw helpful information. Ken Fisher advised that the Recreation Advisory Board subcommittee is soliciting public input, beginning on April 10 for a period of about two weeks. It is envisioned that a survey will also help in identifying interests. Mr. Fisher agreed with the merits of contacting other communities. The Mayor pointed out that BMX and skills parks are very different disciplines and facilities. Joe Kernan suggested that photo of parks would be beneficial for the public to review. Marianne Cone recommended integrating bike safety classes and Ken Fisher suggested that this could be part of the summer day camp program.

Ms. Cone complimented the speaker at the Leadership dinner and hoped that he would be available for other speaking engagements. Candace Erickson congratulated Mark Christensen on his appointment as City Manager in Washington Terrace, Utah and attaining his goal of becoming a city manager. She attended a Summit County Board of Health meeting where expansion of the abatement district was discussed; she will share information on the West Nile Virus. She encouraged staff and the general public to begin working on our annual clean-up effort. Marianne Cone referred to the noxious odors emanating from the dumpster area in Swede Alley and Kent Cashel discussed a

recent grease spill. Staff is considering on-site containers for restaurants for disposing grease and replacing the trash compactor with smaller dumpsters. The compactor is a great idea, but doesn't work well with the type of waste produced by restaurants. In the meantime, the area will be steam-cleaned.

The Mayor also congratulated Mark Christensen and relayed his appreciation to staff for organizing the Leadership dinner. He thanked Ken Fisher for getting the skate park open and announced new participants enrolled in the Wind Power Program. Council members marked their calendars for the April 19 inter-governmental breakfast meeting to be hosted by the School District.

2. Special Events Budget. Alison Butz explained that over the last few years, the number of events have increased, as well as provision of associated City services. These could include barricades, electronic signs, street sweepers, trash removal, police, transportation, etc. Originally, each department billed the event-holder for related fees. The City Council has the authority to waive fees for new events and the City Manager for recurring events. Costs are estimated and an invoice is created at the conclusion of an event, including approved fee waivers. As events like the Arts Festival and Sundance have grown, a special event committee, composed of staff, was formed to review and make recommendations on the process.

Kent Cashel explained that the group was charged at looking at the financial impacts of special events on departmental budgets, procedures for amending departmental budgets, funding mechanisms, and procedures for tracking and reporting. It is difficult to determine the exact financial impacts on departmental budgets, but based on records maintained in 2003, it appears that \$180,000 worth of fees were waived. Many of these events are small but the number continues to increase. Mr. Cashel added that the committee agreed that there is a critical need for a better system to measure financial impacts and to amend departmental budgets. Some events are categorized as "large multi-year events", i.e., Sundance or Arts Festival, where there are contractual agreements. In these instances, costs can be budgeted for the term of the contract. There are numerous one-time events that could be estimated in the budget. He explained that the simple solution is to charge everyone for services rendered, but obviously there are a lot of reasons to waive fees. The committee looked at a three-tiered funding approach, recognizing that it is feasible to calculate an economic benefit to offset large events but not small one-time events. There was discussion about the fiscal analysis conducted for Sundance, which is tracked year by year.

Mark Christensen explained a sales tax reporting tool available since 1996, where revenue trends are broken down geographically within the City and within standard industry codes, i.e., restaurants, lodging. He acknowledged that economic analyses are projections with some inflationary growth. Information from the State Tax Commission is delayed for two months, and the information is turned over to a consultant to work into the model. He emphasized that this information is extremely confidential and can't be shared electronically to expedite the report.

Mr. Cashel stated that accounting procedures were altered in February to capture all costs associated with special events. The committee also recommended that fees for services be included in the Fee Resolution so that reviews would be prompted on a regular basis. In response to a question from Jim Hier, Mr. Cashel explained that all revenues and expenses for special events will be considered during the annual budget review when adjustments are recommended. Mr. Hier asked how these numbers are formulated when many events are unanticipated. Alison Butz explained that staff has a general idea of the number of summer events; applications for large scale events are due 90 days in advance and small scale 60 days. Ten new events are expected each year. Jim Hier expressed his continued confusion about the method to budget departmental costs. Mr. Cashel explained that unanticipated equipment appropriations are requested during the year, for example. Mr. Hier clarified that he understands the Council approving an unanticipated expenditure, but not amending the budget. Mr. Cashel stated that the budget amendment would be the sum of the expenses formalized at one time. The City Manager stated that special events will be presented in the budget as an estimated line item, rather than having departments absorbing unanticipated fee waivers. Jim Hier suggested establishing a General Fund or management account and that the department would bill for special event expenditures and waivers. The City Manager pointed out that it becomes a little more complicated when there are transfers with other funds, i.e., General and Transportation Funds. He added that this tracking is intended to alert Council of a running balance in the account and to have more information when making decisions on fee waivers. Kent Cashel pointed out that there are some technical issues with the described process, which should be cleared with the Finance Manager. Joe Kernan suggested that each department have a contingency fund to absorb special event fee waivers. Kent Cashel explained that the fees often do not cover the entire real cost like staffing buses, fuel, etc.

Candy Erickson believed that having a line item to track uncovered expenses and fee waivers provides Council with a tool when responding to fee waiver requests. She requested that a portion of Alison Butz's salary also be considered. Kent Cashel asked that Council member Hier join a meeting with the Finance Manager to formulate a special events budget policy to be finalized by the City Council as a part of the budget document.

3. Upper Park Avenue utilities relocation update. Chief Lloyd Evans introduced public facilities consultant Jim McClaren whose company produced the space needs study. This document quantifies short and long-term space needs for the Police Department. The next steps include an assessment of various sites and then assigning budget numbers to each option. Copies of the draft are available to the public.

The scope of the short and long-term needs addresses today's deficiencies, planning 20 years out and the second portion looks at sites and parking. The missing functional components have been identified and one option is to bring back a municipal court, which may provide a revenue stream. Courts typically don't require a lot of square footage, but rather parking needs. Mr. McClaren continued that Park City is close to

build-out, but there are enormous swings in daytime population. The population projection for 2010 is 9,100 (24% growth) by 2020 12,000 (additional 32% growth). If the City Council is comfortable with the ratio of police officers to population, then those numbers would be used for service level projections. He explained the methodology for calculating current square footage for the Department, including shared and leased space, and arrived at 12,400 square feet in equivalent use space for comparison purposes as the area that would have to be replicated. The main police station type space includes administration, communications, investigations, etc. and must be built at a higher building code standard than other city hall functions. There are community outreach spaces, like Miners Hospital and the Transit Center, which are not addressed, because it is contemplated that they would remain in operation.

Because of the cost of land within Park City, Mr. McClaren pointed out that the building would have to be multi-story with some secured parking and adequate public parking. The study recommends 1.87 acres if all the parking is at grade. If this site is used, there could be shared parking at Marsac or a building structure. If courts are included, the land requirement increases to 2.43 acres. In 20 years, the police-only parking requirement is 65 stalls and the take-home patrol vehicle program is helpful. In response to a question from Jim Hier, Mr. McClaren described the method for calculating parking area, which includes circulation and curb cuts and the take-home car program. The width of the parking stall has been increased for fleet vehicles so that all doors can be opened for handling equipment and gear. He explained the “wedding cake” shape of the proposed facility and the recommended uses for each floor. It is assumed to maintain the same service levels and work stations for volunteers and other agencies are contemplated. Mr. McClaren pointed out that evidence must be retained for a longer duration and this mandate is considered in the design. Furnishings will be system furniture and equipment. The study covers operational issues, adjacency requirements and identifies accreditation standards and regulatory features unique to the Police Department. He continued that there should be secured parking and access to the building. It is critical that the site is easy to find.

Mr. McClaren estimated the square footage to be 5,600 for operations, 4,180 for storage and support, for a total of 9,780 square feet. The ten-year growth requirement amounts to about 23,000 square feet and the 20 year build-out at 25,000 square feet. The court represents 2,484 additional square feet and additional parking. Potential sites include the Marsac site, addition to a garage expansion, the fire station on 1354 Park Avenue, Public Works site, and Snowcreek Parcel. He explained that they will be looking at the cost of constructing similar buildings of the same quality and will formulate a project budget, including soft costs, as opposed to a building budget, so that the telephone system, furniture, professional services costs, etc. are considered upfront. In response to a question from Jim Hier, Mr. McClaren explained that structured parking may be required on several proposed sites. In response to a question from Marianne Cone, Mark Harrington explained the history of the district court, including the security deficiencies of the Marsac Building and the reasons for supporting consolidating the court in the Summit County Justice Center. There is still an opportunity in the future to establish a municipal court, which would generate revenues.

Council member Calvert pointed out the trend of consolidating dispatch centers between jurisdictions. Jim McClaren pointed out that regional communication centers are more typical in larger communities. A dispatch center ensures a constant presence in the building. Chief Lloyd Evans stated that consolidation has been an on-going discussion in consideration of the proximity of Heber City, Wasatch and Summit Counties. A philosophical decision that needs to be determined is the level of service delivery of ancillary after-hour services and information to the public. He explained that 911 calls are routed to the County, but the service request is delivered to Park City for response. Summit County handles medical and fire, but not law enforcement issues. There was discussion about constructing the facility to the projected build-out square footage, which only represents an additional 3,000 square feet.

Jim Hier felt that some sites should be eliminated immediately without further study because they would fall below the required square footage. Colin Hilton felt that expansion of the Marsac Building, a Swede Alley parking structure, and the Snowcreek site are the viable options. Kay Calvert emphasized the importance of building to the 20-year projections. Tom Bakaly pointed out that the 20-year option is not a shared use. The Council concurred to study Marsac, Snowcreek and Swede Alley with a 20-year projection.

4. Upper Park Avenue utilities relocation update. Dave Gustafson reported that staff met with Utah State Representative David Ure to amend Code Section 54-8, providing for the under-grounding of utilities to make the process more consistent with the Utah Municipality Act 17-A. Under the laws for under-grounding, 2/3rds of the property owners within the proposed improvement district and owners of not less than 2/3rds of the value of real property are required to sign a petition requesting the creation of the said improvement district.

Under 17-A, no petition is required; the creation of the district would proceed, unless a petition in opposition is submitted, representing 51% of the owners. Property owners within the district will be assessed with one method; each household is assessed by square footage of the benefited parcel. Under 17-A, there are five other variables that are considered in calculating the assessment, i.e., taxable value, number of connections, etc. This legislative amendment was not reviewed in 2004, but should be in the 2005 session, and UPAPA is proceeding in obtaining the required 2/3rds signatures. The only properties exempt are properties owned by the federal, state, and local governments; non-profits are not exempt and there are three located on Park Avenue. Obtaining the signatures is a challenge as about 30% live out of state.

Mr. Gustafson continued that if Council desires to pursue amendments to the underground conversion law, staff recommends that the non-profit organizations currently exempt from property tax assessment be exempt from the assessment. Additional assessment methods should be authorized so that square footage is not the only consideration. The creation of the district to underground utilities should mirror the special improvement district process. Colin Hilton added that staff is also seeking

authorization on proceeding with easements with property owners. He reported that coordination between utilities has been exceptional. For example, cooperative efforts have reduced the number of lateral conduits from 50 to 16. There are upcoming meetings with residents to work on an equitable SID process. The City Manager stated that Representative Ure has indicated his willingness to introduce the amendment next year.

Discussion ensued regarding procurement of easements adding to the cost of the project. Mr. Gustafson explained that there are currently 29 poles on Park Avenue and in the event easements are not obtained, nine poles would remain. The Mayor felt that it is worthwhile to pursue discussions on easements with property owners, even though the petition is not complete, because it would provide valuable information. Dave Gustafson added that there are three transformers within the district that cannot be placed on the ground and must remain in the air. The Mayor concluded that there is agreement to pursue legislation and discussions on easements with property owners.

5. Art vending in public parks. Mark Harrington referred to his staff report. The topic of displaying and vending of art in public places was discussed by Council last summer. The purpose of the amendment is to provide time, manner and place restrictions. Last year, Council directed that the location be free, without a license fee, for display and sale of art at the Park City Library and Education Center campus. He disclosed that he received input from Stephan Cornelius, which he will share with Council and a public hearing will be held. Although there is no fee, there may be a registration requirement so that participants can be notified in the event of conflicts because of a special event or other issues. In response to a question from the Mayor about arguments of free speech, the City Attorney believed this ordinance will increase the City's ability to defend itself and this proposal is a good compromise in offering cultural opportunities to the community.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 1, 2004**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, April 1, 2004. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney;

II COMMUNICATIONS FROM COUNCIL AND STAFF

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

1. Diversity outreach programs – Shelley Weiss reported the Volunteer and Police Organization of the International Association of Chiefs of Police contacted her about our City Park Host Program. The Association has identified the park host program as a potential “Best Practices” model as a diversity outreach program. Representatives will be visiting Park City next week. She added that a Sergeant from the Service of Northern Ireland contacted her about visiting Park City by way of a fellowship granted by the George Cross Foundation. The theme this year is raising police and community awareness on race and cultural issues.

2. Park Meadows speeding complaint – Mary Lafferty stated that residents between Monitor and Little Kate on Lucky John Drive have been dealing with speeding traffic for the past 15 years on a daily basis. Police have not addressed this problem and she asked that speed bumps be installed because having a patrol car in the area intermittently has not solved the problem. The petition was signed by 14 of 17 affected residents. Jim Hier explained the traffic calming process program for neighborhoods, which has been used on Meadows Drive and Prospector. Chief Lloyd Evans stated that he will deliver the petition to the traffic calming task force who will contact Ms. Lafferty and involve the neighborhood in a discussion of traffic calming options.

3. Nuclear testing – radioactive fall-out - Rich Wyman, resident, discussed a public meeting at the Library and Education Center on nuclear fall-out and the Mayor asked that he share some information with the Council. Mr. Wyman reported that Summit County is listed #48 and Washington County #1. KUED will be airing a show on fall-out in Utah. The atmospheric testing that occurred at the Nevada site beginning in 1952 and ending in 1992 with under-ground testing has been shrouded in lies. Testing is in our future as \$34 million has been appropriated by Congress to upgrade the testing site and millions more to study the development of nuclear weapons. The 2005 budget calls for increasing both budgets by 5%. He emphasized that Summit County is ranked 48th out of nearly 4,200 counties nationwide in exposure to radioactive fall-out. This is a higher ranking than communities surrounding the test site who are eligible for

compensation. Studies show that fall-out concentrates at a 40% higher rate on mountain peaks than it does below, and radioactive run-off has been detected. In northern Utah counties, death and illnesses occurred among the deer population, where abnormalities were found in fetuses, including high concentrations of Iodine 131. The Center for Disease Control found that any exposure to radiation increases one's risk for cancer. Mr. Wyman described the exposure levels of Summit County residents in 1952 to 2,714 chest x-rays which is 190 times the average annual dose. Resumed nuclear testing has the potential to devastate our health, quality of life, and economy. He asked that the City Council consider the draft resolution contained in his distributed information and schedule a public hearing on this issue. Kane County passed a similar resolution and the city of Kanab is considering adopting one.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF MARCH 11, AND 18, 2004

Hearing no corrections or omissions, the Mayor requested a motion to approve. Marianne Cone, "I move to accept the minutes of March 11 and March 18". Jim Hier seconded. Motion unanimously carried.

V CONSENT AGENDA

In response to a question from Council member Cone about the Galindo contract, the City Manager explained that the total amount may not be expended. Approval of the appropriation provides a balance to draw down upon. Kay Calvert, "I move to approve Consent Agenda Items 1 through 4". Jim Hier seconded. Motion unanimously carried.

1. Second addendum to lease for Soaring Wings for space located at the Library and Education Center, 1255 Park Avenue – See staff report.
2. Increase to professional services contract with Galindo Consulting to \$23,000 and authorization to enter into a contract for personnel development services for 2004 in the amount of \$25,000, in a form to be approved by the Legal Department – See staff report.
3. Award of construction contract to Thiede Construction Corporation for the Park City Library expansion project, in the amount of \$267,700, in a form to be approved by the Legal Department – See staff report.
4. Professional services contract with G. Brown Design, Inc. in the amount of \$100,000 for design, construction and installation of the Olympic Legacy Entryway Enhancement Project on Highway 224 in a form to be approved by the Legal Department – See staff report.

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 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; and Mark Harrington, City Attorney, and Myles Rademan, Public Affairs Director. Kay Calvert, "I move to close the meeting to discuss property". Marianne Cone seconded. Motion carried unanimously.

The meeting opened at approximately 4 p.m.

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



City Council Staff Report

Planning

Author: Kirsten Whetstone
Subject: Deer Crest Hotel Subdivision plat
Date: April 15, 2004
Type of Items: Legislative

SUMMARY RECOMMENDATION:

Staff recommends the Council conduct a public hearing, consider input, and consider approving the Deer Crest Hotel Subdivision plat (being an amendment to the Roosevelt Gap Subdivision plat) based on the findings of fact, conclusions of law, and conditions of approval as outlined in the staff report.

DESCRIPTION:

Topic:

Project Name: Deer Crest Hotel Subdivision (amending the Roosevelt Gap Subdivision plat)
Applicant: Deer Crest Associates I, L.C.
Location: 2300 Deer Valley Drive
Proposal: Request to amend the Roosevelt Gap subdivision plat to combine the Roosevelt Gap and Snow Park parcels and include 12,000 sf of State Trust Lands within the development parcel for the Deer Crest Hotel CUP
Zoning: RC-MPD and RD-MPD (Deer Crest MPD)
Adjacent Uses: Ski resort and related uses, condominiums, open space, single-family residences and lots at Deer Crest
Date of Application: January 13, 2004
Project Planner: Kirsten Whetstone

Background

In December of 1998, the Roosevelt Gap subdivision plat was recorded at Wasatch County. In 1999, Park City annexed this property as part of the Deer Crest Annexation. On February 28, 2001 a conditional use permit (CUP) for a hotel development was approved for this site. The CUP included the Roosevelt Gap and Snow Park parcels of the Deer Crest Master Planned Development. These parcels are subject to the 1995 Deer Crest Settlement Agreement, as amended. On July 25, 2001 the CUP was amended by the Planning Commission and in January of 2002 a grading and excavation /shoring permit was issued by Park City for the Roosevelt Gap parcel.

On June 6, 2002, Park City Council approved a plat amendment for the Roosevelt Gap subdivision plat to shift the building pad north by 60' to address setback issues from a State Trust Lands parcel (see Ordinance 02-09, attached as Exhibit B). Also approved were additional minor modifications to the plat, which are also reflected on the current proposed plat amendment, ie. to realign and narrow the private driveway easement and to dedicate as open space, the north-facing evergreen treed slope that was previously part of the hotel development parcel. The June 6, 2002 plat expired prior to recordation.

On January 13, 2004, Deer Crest Associates I, L.C. submitted an application to amend the approved Deer Crest Hotel CUP and to amend the Roosevelt Gap Subdivision plat.

On February 11, 2004, the Planning Commission discussed the proposed project in a work session. On February 25, 2004, the Commission conducted a public hearing and discussed the proposal. No public input was received and the public hearing was continued to the March 10, 2004 Planning Commission meeting. The Commission requested the applicant provide comparison modeling, as was done for the previous approval, for the buildings at Snow Park and Roosevelt Gap and requested the applicants provide additional horizontal and vertical articulation and design details that would provide additional breaks in the perceived building massing at Snow Park. Additional public hearings were held on March 10th and March 24th.

On March 24, 2004 the Commission voted to forward to the City Council a positive recommendation on the proposed plat amendment. At this meeting the Commission also approved an amended Conditional Use Permit for the Deer Crest Hotel that lowered the overall height, reduced building mass at Roosevelt Gap, shifted the footprint to the south, and improved the overall design and configuration of the buildings at the Snow Park site. An appeal of the amended CUP has been filed and will be heard by the Council at a later date. That appeal has no effect on this subdivision plat.

Proposed Amendments to the Roosevelt Gap Subdivision plat

Amendments to the plat include:

- 1) Adding the Snow Park parcel to the existing and recorded Roosevelt Gap Subdivision plat to create a single development parcel for the Deer Crest Hotel. The Roosevelt Gap and Snow Park buildings, as well as the funicular would then be on a single development parcel. Additional parcels are identified as open space parcels. This amendment resolves issues of development crossing lot lines and better identifies those areas to be developed and those areas to be left as open space.
- 2) Adding to the Roosevelt Gap development parcel a portion of an adjacent State Trust Lands parcel (approximately 12,066 sf) that Deer Crest Associates has under contract. This plat amendment is necessary in order to incorporate this parcel into the development parcel for the hotel. This resolves setback issues resulting from shifting the hotel away from the ridge. The State

Trust Lands parcel is also zoned RC and was annexed to Park City with the Deer Crest Annexation. The Deer Crest Settlement Agreement includes this portion of the State Trust Lands within the development parcels.

3) Other minor amendments, as previously approved but not recorded, to realign and narrow the private driveway easement and to dedicate as open space, the north-facing evergreen treed slope that was previously part of the hotel development parcel.

Staff has reviewed the amended plat and finds that the amendments are consistent with the 1995 Deer Crest Settlement Agreement, as amended, and the amended Deer Crest Hotel Conditional Use Permit. Creating one development lot for the hotel with associated open space parcels resolves lot line ownership issues and setback issues. The plat amendment does not decrease the amount of open space associated with the Conditional Use Permit. All applicable plat notes and conditions of approval of the Roosevelt Gap Subdivision plat shall continue to apply.

Departmental Review

The proposed changes were discussed at a Staff Review meeting on February 3, 2004. Issues discussed included snow-shedding, fire protection plans, and utility issues between the applicant and the City, JSSD, and SBWRD. Any access issues that result from revisions to the current driveway location off of Deer Valley Drive, as well as access issues over private easements within the Deer Crest Master Plan, have been addressed by conditions of approval of this plat amendment and the Deer Crest Hotel CUP.

ALTERNATIVES

- Approve the plat amendment as conditioned or amended; or
- Deny the plat amendment and direct staff to prepare findings to support this recommendation; or
- Continue the item and request further evaluation from the Staff.

SIGNIFICANT IMPACTS:

The proposed amendment will result in one development parcel for the Deer Crest Hotel that meets the requirements of the Deer Crest Hotel CUP and is consistent with the 1995 Deer Crest Settlement Agreement, as amended and the Land Management Code. The plat amendment will not increase the density of the lot.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the plat amendment is not approved as proposed, the Deer Crest Hotel as approved by the Deer Crest Hotel CUP, will have setback problems and development crossing property lines.

RECOMMENDATION

Staff recommends the Council conduct a public hearing, discuss the proposed amendments and approve the proposed plat amendment according to the findings of fact, conclusions of law, and conditions of approval as stated in this staff report.

Findings of Fact:

1. The property is located at 2300 Deer Valley Drive, also known as Roosevelt Gap at Deer Crest. The property is zoned RC-MPD, Resort Commercial (Roosevelt Gap parcel) and RD-MPD, Residential Development (Snow Park parcel), and ROS (Recreational Open Space). The property is subject to the Deer Crest MPD and 1995 Deer Crest Settlement Agreement, as amended. The property is currently vacant. The property has no frontage on any City street.
2. The property is within Park City Municipal boundaries and lies in both Summit County and Wasatch County.
3. The proposed plat amendment includes the following:
 - a. Combines the Snow Park parcel of the Deer Crest Settlement Agreement with the existing and recorded Roosevelt Gap Subdivision plat to create a single development parcel for the Deer Crest Hotel Conditional Use Permit and incorporates all property associated with the Deer Crest Hotel CUP on one plat.
 - b. Identifies development parcels and open space parcels consistent with the Deer Crest Settlement Agreement and the amended Deer Crest Hotel Conditional Use Permit (February 28, 2001, amended March 24, 2004).
 - c. Adds to the Roosevelt Gap development parcel a portion of an adjacent State Trust Lands parcel (approximately 12,066 sf in area) that Deer Crest Associates is purchasing.
4. The proposed amendment narrows the access easement for the private drive, known as Deer Crest Estates Drive, for a length of 100' adjacent to the east facade of the hotel. The proposed easement width of 32' is sufficient for construction of the required curb, gutter, and street for this section of Deer Crest Estates Drive.
5. The property is subject to the Deer Crest Hotel CUP, approved on March 24, 2004, which amended the Rosewood CUP, approved on February 28, 2001, amended on July 25 of 2001.
6. On February 25, 2004 the Planning Commission held a public hearing. No public input was received on the proposed plat amendment. On March 10th and March 24th, 2004, public hearings were also conducted.
7. The proposed amendment resolves issues of development crossing lot lines and identifies those areas to be developed and those areas to be left as open space.
8. The Trust Lands Parcel is zoned RC and is included on the Deer Crest Settlement Agreement exhibits as part of the development area. The Trust Lands Parcel is under contract and will be conveyed to Deer Crest Associates upon approval of the Conditional Use Permit. The owner of this parcel is a signature, as affirmation of sufficient interest, on this plat amendment application.
9. The proposed plat amendment does not decrease the amount of open space associated with the Deer Crest Hotel CUP.

Conclusions of Law:

1. As conditioned, the amended subdivision plat is consistent with the Deer Crest Settlement Agreement, the Park City Land Management Code, the General Plan and applicable State law regarding subdivision plats.
2. As conditioned, neither the public nor any person will be materially injured by the proposed plat amendment.
3. As conditioned, approval of the amended subdivision plat, 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. Conditions of Approval for the Deer Crest Hotel CUP, as amended and the 1995 Deer Crest Settlement Agreement, as amended, remain in full force and effect.
2. The City Attorney and City Engineer will review and approve the final form and content of the amended subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval prior to recordation of the plat.
3. The applicant will record the amended subdivision plat at both Summit and Wasatch Counties within one year of the date of the City Council approval. If plat recordation has not occurred within one year's time, this approval and the plat will be void.
4. The amended subdivision plat shall be recorded as a condition precedent to issuance of a footing and foundation permit for development on these parcels.
5. A note shall be added to the plat disclosing the fact that the parcel has no frontage on a City street.
6. A revised title report shall be submitted to the City prior to plat recordation for verification of land ownership.
7. Any outstanding issues regarding access for the hotel shall be resolved to the satisfaction of the City Engineer and City Attorney prior to recordation of the subdivision plat.

Exhibits

A. Amended subdivision plat

B. Ordinance 02-09

Ordinance No.

AN ORDINANCE APPROVING THE DEER CREST HOTEL SUBDIVISION PLAT, BEING A PLAT AMENDMENT FOR THE ROOSEVELT GAP SUBDIVISION TO COMBINE WITH THE ROOSEVELT GAP AND SNOW PARK DEVELOPMENT PARCELS OF THE 1995 DEER CREST SETTLEMENT AGREEMENT, AS AMENDED, A PORTION OF AN ADJACENT STATE TRUST LANDS PARCEL, AND OTHER MINOR AMENDMENTS TO EASEMENTS AND PLAT NOTES. LOCATED AT 2300 DEER VALLEY DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 2300 Deer Valley Drive have petitioned the City Council for approval of the 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 February 25, 2004, March 10th, 2004 and March 24th, 2004, to receive input on the plat amendment;

WHEREAS, the Planning Commission, on March 24, 2004, forwarded a positive recommendation to the City Council; and,

WHEREAS, on April 15, 2004, the City Council held a public hearing and approved the plat amendment; and

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

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

SECTION 1. APPROVAL. The plat amendment as shown in Exhibit A 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 2300 Deer Valley Drive, also known as Roosevelt Gap at Deer Crest. The property is zoned RC-MPD, Resort Commercial (Roosevelt Gap parcel) and RD-MPD, Residential Development (Snow Park parcel), and ROS (Recreational Open Space). The property is subject to the Deer Crest MPD and 1995 Deer Crest Settlement Agreement, as amended. The property is currently vacant. The property has no frontage on any City street.
2. The property is within Park City Municipal boundaries and lies in both Summit County and Wasatch County.

3. The proposed plat amendment includes the following:
 - a. Combines the Snow Park parcel of the Deer Crest Settlement Agreement with the existing and recorded Roosevelt Gap Subdivision plat to create a single development parcel for the Deer Crest Hotel Conditional Use Permit and incorporates all property associated with the Deer Crest Hotel CUP on one plat.
 - b. Identifies development parcels and open space parcels consistent with the Deer Crest Settlement Agreement and the amended Deer Crest Hotel Conditional Use Permit (February 28, 2001, amended March 24, 2004).
 - c. Adds to the Roosevelt Gap development parcel a portion of an adjacent State Trust Lands parcel (approximately 12,066 sf in area) that Deer Crest Associates is purchasing.
4. The proposed amendment narrows the access easement for the private drive, known as Deer Crest Estates Drive, for a length of 100' adjacent to the east facade of the hotel. The proposed easement width of 32' is sufficient for construction of the required curb, gutter, and street for this section of Deer Crest Estates Drive.
5. The property is subject to the Deer Crest Hotel CUP, approved on March 24, 2004, which amended the Rosewood CUP, approved on February 28, 2001, amended on July 25 of 2001.
6. On February 25, 2004 the Planning Commission held a public hearing. No input was received on the proposed plat amendment. On March 10th and March 24th public hearings were also conducted.
7. The proposed amendment resolves issues of development crossing lot lines and identifies those areas to be developed and those areas to be left as open space.
8. The Trust Lands Parcel is zoned RC and is included on the Deer Crest Settlement Agreement exhibits as part of the development area. The Trust Lands Parcel is under contract and will be conveyed to Deer Crest Associates upon approval of the Conditional Use Permit. The owner of this parcel is a signature, as affirmation of sufficient interest, on this plat amendment application.
9. The proposed plat amendment does not decrease the amount of open space associated with the Deer Crest Hotel CUP.

Conclusions of Law:

1. As conditioned, the amended subdivision plat is consistent with the Deer Crest Settlement Agreement, the Park City Land Management Code, the General Plan and applicable State law regarding subdivision plats.
2. As conditioned, neither the public nor any person will be materially injured by the proposed plat amendment.
3. As conditioned, approval of the amended subdivision plat, 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. Conditions of Approval for the Deer Crest Hotel CUP, as amended and the 1995 Deer Crest Settlement Agreement, as amended, remain in full force and effect.
2. The City Attorney and City Engineer will review and approve the final form and content of the amended subdivision plat for compliance with State law, the Land

Management Code, and the conditions of approval prior to recordation of the plat.

3. The applicant will record the amended subdivision plat at both Summit and Wasatch Counties within one year of the date of the City Council approval. If plat recordation has not occurred within one year's time, this approval and the plat will be void.
4. The amended subdivision plat shall be recorded as a condition precedent to issuance of a footing and foundation permit for development on these parcels.
5. A note shall be added to the plat disclosing the fact that the parcel has no frontage on a City street.
6. A revised title report shall be submitted to the City prior to plat recordation for verification of land ownership.
7. Any outstanding issues regarding access for the hotel shall be resolved to the satisfaction of the City Engineer and City Attorney prior to recordation of the subdivision plat.

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

PASSED AND ADOPTED this 15th day of April, 2004.

CITY PLANNING COMMISSION APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____ DAY OF _____ 2004. CHAIRMAN _____	WATER RECLAMATION DISTRICT APPROVED AND ACCEPTED THIS _____ DAY OF _____ 2004 By: <u>JORDANELLE SPECIAL SERVICE DISTRICT</u> AUTHORIZED REPRESENTATIVE
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SECTION LOCATION MAP

DEER CREST ESTATES

DEER CREST HOTEL

DEER CREST PROPERTY BOUNDARY

SUMMIT COUNTY WASHITA COUNTY

SECTION 14

SECTION 16

SECTION 22

SECTION 24

SECTION 15

SECTION 23

SECTION 25

SECTION 26

SECTION 27

SECTION 28

SECTION 29

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ACCESS EASEMENT LOCATION MAP

The map illustrates the DEER CREST PROPERTY BOUNDARY and the locations of nine access easements. The easements are labeled as follows:

- ACCESS EASEMENT No. 1
- ACCESS EASEMENT No. 2
- ACCESS EASEMENT No. 3
- ACCESS EASEMENT No. 4
- ACCESS EASEMENT No. 5
- ACCESS EASEMENT No. 6
- ACCESS EASEMENT No. 7A
- ACCESS EASEMENT No. 7B
- ACCESS EASEMENT No. 9

Other features on the map include:

- DEER CREST HOTEL (hatched area)
- SUNNIT COUNTY
- WASHINGTON COUNTY
- PROPERTY BOUNDARY
- ACCESS EASEMENT

A vicinity map of Park City, Utah, showing major roads and landmarks. The map is oriented with North at the top. Park City is the central shaded area. Major roads include I-15 running north-south, and US-89 running east-west. Other roads shown are SR-20, SR-26, SR-63, and SR-12. Landmarks include Deer Creek Hotel, Park City, and the surrounding area. The map is titled "VICINITY MAP" and "NOT TO SCALE".

GENERAL NOTES

- [illegible]

SPECIAL PLAT NOTES

- [illegible]

LEGAL DESCRIPTION

[illegible]

三

standards and requirements of the law. The representation of the land surveyed and has been prepared in accordance with the laws of the State of Utah.

On 10/10/01, as prescribed under the laws of the State of Utah, I, _____, a duly acknowledged and duly qualified surveyor and member of the Utah Board of Professional Surveyors, have surveyed and measured the above described land and hereby declare the same to be the true and correct location of the said land.

WITNESSES my hand and the seal of my office this _____ day of _____, 2004.

Dated and recorded this _____ day of _____, 2004.

Notary Public for the State of Utah

RECORD

_____ , 2004

that she is the Managing Member of LLC Properties I, L.P., and the Managing Member of Deer Crest Associates I, L.P., and the Co-Owner of Deer Crest Associates II, L.P., and the Co-Owner of Deer Crest Associates III, L.P., duly acknowledged and acknowledged before me, Angela C. Sobeloff, a Notary Public in and for the State of Colorado, on the _____ day of _____, 2004.

my commission expires: _____

TO RECORD

I, _____, 2004
herby consents to the recordation
that she is the President of Dynamic Finance Corporation,
signer of the foregoing Owner's Consent to Record, and sold Angela C. Sobelak,
to me that she executed the same.

my commission expires:

**DEER CREST HOTEL
SUBDIVISION PLAT**

LOCATED IN THE SOUTHWEST QUARTER SECTION 14,
THE SOUTHEAST QUARTER OF SECTION 45,
THE NORTHEAST QUARTER OF SECTION 22 AND
THE NORTHWEST QUARTER OF SECTION 23
TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASIN AND MERIDIAN
PARK CITY, SUMMIT AND WASHCATCH COUNTIES, UTAH
SHEET 1 OF 2

WATER RECLAMATION DISTRICT

CITY ENGINEER REVIEWED FOR CONFORMANCE WITH PARK CITY ENGINEERING DEPARTMENT ON THIS _____ DAY OF _____ 2004	CITY ENGINEER PRESENTED TO THE PARK CITY COUNCIL THIS _____ DAY OF _____ 2004 AT WHICH TIME THIS PLAT WAS APPROVED. MAYOR CITY RECORDER
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WATER RECLAMATION DISTRICT

APPROVED AND ACCEPTED _____ DAY OF _____ 2004

By: JORDANELLE SPECIAL SERVICE DISTRICT
AUTHORIZED REPRESENTATIVE

CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE PARK
CITY PLANNING COMMISSION ON THIS _____ DAY OF _____, 2004.

CHAIRMAN

STATE OF UTAH, COUNTY OF _____, RECORDED AND FILED AT THE REQUEST OF _____	
DATE _____	TIME _____
PAGE _____	FEE \$ _____
COUNTY RECORDER _____	
OF _____	
1	

SHEET	
DESIGNED	CEA
DRAWN	CEA
CHECKED	BDA

PSOMAS

DEER CREST HOTEL
SUBDIVISION PLAT

DATE	3-9-2004
SCALE	NTS
PROJECT NO.	8DER020100

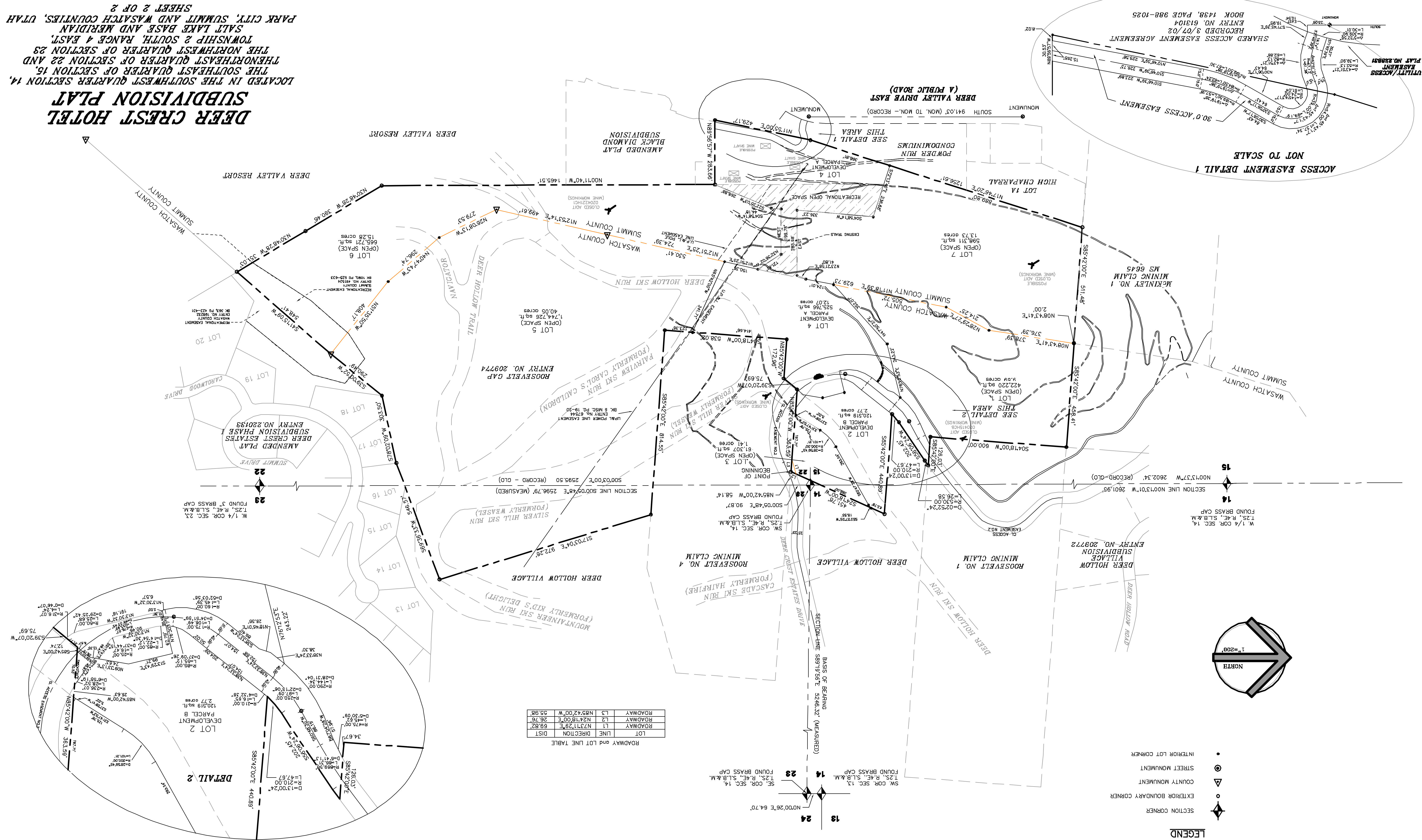


EXHIBIT B

Ordinance No. 02-09

AN ORDINANCE APPROVING AMENDMENTS TO THE FINAL SUBDIVISION PLAT KNOWN AS THE ROOSEVELT GAP SUBDIVISION LOCATED AT 2300 DEER VALLEY DRIVE, PARK CITY, WASATCH COUNTY, UTAH

WHEREAS, the owners, Deer Crest Development, of the property generally located at 2300 Deer Valley Drive, Park City, Utah and known as the Roosevelt Gap Subdivision, have petitioned the City Council for approval of a final subdivision plat amendment; and

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

WHEREAS, on May 22, 2002, the Planning Commission held a public hearing to receive public input on the proposed subdivision plat amendments and forwarded a positive recommendation of approval to the City Council; and

WHEREAS, on June 6, 2002 the City Council held a public hearing and reviewed the proposed subdivision plat amendments; and

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

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

SECTION 1. FINDINGS OF FACT.

1. The property is located at 2300 Deer Valley Drive, also known as Roosevelt Gap at Deer Crest. The property is zoned RC-MPD, Resort Commercial subject to the Deer Crest MPD and 1995 Deer Crest Settlement Agreement. The property is currently vacant.
2. The property is within Park City Municipal boundaries and within Wasatch County.
3. The proposed plat amendment shifts the disturbance area north approximately 60' and shifts 450 sf of the building envelop 10' - 15' to the north. Shifting the development boundary transfers approximately 0.67 acres of open space to Development Parcel A.
4. The requested plat amendment does not increase the building footprint, density, building height, intensity of use, parking, or disturbance area from what was approved with the conditional use permit.
5. The plat amendment dedicates 1.39 acres of forested Development Parcel B as open space for a net increase of 0.72 acres of open space.

6. The proposed amendment narrows the access easement for the private drive, known as Deer Crest Estates Drive, from 80' to 32' for a length of 100' adjacent to the east facade of the hotel. The proposed easement width of 32' is sufficient for construction of the required curb, gutter, and street for this section of Deer Crest Estates Drive.
7. The property is subject to the Rosewood CUP, approved in February of 2001, amended on July 25, of 2001.
8. On May 22, 2002 the Planning Commission held a public hearing. There was no public comment on the proposal. The Commission voted to forward to the City Council a positive recommendation to approve the plat amendment.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned subdivision plat and that neither the public nor any person will be materially injured by the proposed plat. The plat is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats. The plat is consistent with the Deer Crest Settlement Agreement and Rosewood CUP.

SECTION 3. PLAT APPROVAL. The plat amendments to the Roosevelt Gap Subdivision are hereby approved as shown on Exhibit A, with the following conditions:

4. Conditions of Approval for the Rosewood CUP and the Deer Crest Settlement Agreement remain in full force and effect.
5. Conditions of Approval and existing plat notes pertaining to the Roosevelt Gap subdivision plat remain in full force and effect. A note shall be added to the amended plat referring to all notes on the existing Roosevelt Gap plat.
6. The City Attorney and City Engineer will review and approve the final form and content of the amended subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval as a condition precedent to recordation of the plat.
7. The amended subdivision plat shall be recorded as a condition precedent to issuance of a footing and foundation permit for development on these parcels.
8. As a condition precedent to issuance of a footing and foundation permit for the hotel development on these parcels, the applicant shall verify (this may entail re-flying balloons) that the height and location of the roof ridge on the north-west elevation (the portion that is shifted with this plat amendment) comply with the findings of the conditional use permit and are consistent with the conditions of approval of the conditional use permit and the Deer Crest Settlement Agreement.
9. The subdivision plat shall be recorded at the County within one year of the date of City Council approval. If recordation has not occurred within the one year time frame this approval and the record of survey shall be considered null and void.

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

PASSED AND ADOPTED this 6th day of June 2002.

Planning Commission Staff Report



Subject: Land Management Code Amendments
Date: April 15, 2004
Type of Item: Legislative

Planning Department

Summary Recommendations:

Discuss proposed revisions to the Land Management Code, conduct a public hearing, and consider approving the proposed ordinance to amend the General Commercial zone and Subdivision regulations.

Topic

Project Name: LMC Amendments
Applicant: Planning Department
Proposal: Revisions to the Land Management Code
Project Planner: Planning Staff

Background

The Planning Department is preparing amendments to the Land Management Code to address planning and zoning issues that have come up in the past year. Beginning in January of 2004, staff has presented a number of proposals and changes to the Planning Commission and City Council for input and review. Staff is proposing that the Council support changes to the side and rear yard setback exceptions in the General Commercial District and amend Chapter 7.4 to allow previous language that was deleted to be reinserted, and uphold the Commission's recommendation to maintain the current language within the Historic District's side yard setback exceptions.

The Planning Commission reviewed and forwarded a positive recommendation to the Council at their March 24, 2004 meeting to amend the General Commercial District to allow side and rear yard setback exceptions for decks, balconies and architectural overhangs/projections, and to include language that was previously deleted in Chapter 7.4 to be reinserted. The Commission did not support changes to the historic residential zones to allow mechanical equipment in sideyards.

Analysis

As forwarded by the Commission, the Council is acting on two amendments to the Land Management Code, they are as follows: 1) Revisions to the GC zoning district to allow for setback exceptions in the side or rear yard to allow for expansion; 2) Correct a scrivener's error that unintentionally deleted a sentence in the subdivision regulations.

(1) Amendments to the General Commercial Zone

The Planning Commission reviewed a request to allow for setback exceptions in the side or rear yards of the General Commercial District. The rationale behind this request for allowing exceptions into the setback is to provide: 1) expansion or redevelopment of existing commercial buildings that are abutting or adjoining designated open space or public plazas; 2) allow the necessary flexibility for desired architectural interest and variation. Please see exhibit B for proposed language.

(2) Amendments to the Subdivision Code

On May 17, 2001, the City Council approved amendments to the subdivision regulations. The following subsection (d) was inadvertently deleted with adjacent amendments to the text:

15-7.4-1(E)(14)(d) Owners dedication, if any, and consent to record as required by applicable state law.

Staff recommends that this language regarding plat notations, be reinstated in the subdivision regulation of the LMC. Please see exhibit C for proposed language.

Mechanical equipment in the side yard setbacks

The City Council has received a request from a local resident, asking the Council to consider revising the language in Section 15-2.2-3(I)(11) of the LMC (HR-1 zone regarding setback exceptions). This section refers to mechanical equipment as an exception allowed in side yard setback areas.

Section 15-2.2-3(I)(11) reads

“Screened mechanical equipment, hot tubs, or similar structures located a minimum of five feet (5’) from the side lot line.”

The Planning Commission reviewed this item and a public hearing was held at the January 14, 2004 regular meeting, and again at its March 24, 2004 meeting. It was noted that most single-family homes in the HR-1 zone are relatively small, with few places to place mechanical equipment. However, the Commission argued that narrow side yards place neighbor windows in close proximity to activity occurring within an adjacent neighbor’s setback area, and as a result mechanical equipment is not appropriate for the side yard.

Based on this information, the Planning Commission recommended that the City Council decline the citizen request to modify LMC language relating to the appropriateness of mechanical equipment in side yard setbacks.

Department Review

These amendments were discussed at the January 6, 2004 and March 16, 2004 staff review meetings. Where in members of the Planning, Engineering, Building and Legal

Departments were present. Concerns expressed at that meeting have been incorporated into this staff report.

Recommendation

Discuss proposed revisions to the Land Management Code, conduct a public hearing, and consider approving the proposed amendments to the General Commercial zone and Subdivision regulations.

Exhibits

Exhibit A – Proposed Ordinance

Exhibit B - Proposed language for GC zone

Exhibit C – Proposed language for Subdivision Regulations

EXHIBIT A

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE SECTION 15-2.18-3 LOT AND SITE REQUIREMENTS (D)10 AND (F)11 ALLOWING SETBACK EXCEPTIONS IN THE REAR AND SIDE YARDS OF THE GENERAL COMMERCIAL DISTRICT, AMENDMENT TO SECTION 15-7.4-1 (PRELIMINARY PLAT) INSERTING LANGUAGE THAT WAS PREVIOUSLY DELETED

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents of Park City; and

WHEREAS, it is in the best interest of the community to periodically amend the Land Management Code to reflect the goals and objectives of the City Council and to align the Code with the Park City General Plan; and

WHEREAS, the City Council finds that the proposed changes to the Land Management Code are necessary to supplement existing zoning regulations to provide design flexibility for desired architectural interest and variation;

WHEREAS, the City Council finds it is in the City's best interest to amend the Land Management Code to enhance the economic viability of the Commercial Districts and to facilitate expansion or redevelopment of existing commercial buildings that are abutting or adjoining designated open space or public plazas;

WHEREAS, the City Council finds it is in the City's best interest to approve an amendment to the Subdivision Regulations to include language that was previously deleted and reinsert the original language.

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

Section 15-2.18-3 Lot and Site Requirements (D)10 and (F)11 allowing setback exceptions on the side or rear yards of the General Commercial District. The recitals above are incorporated herein as findings of fact. Section 15-2.18-3 (D)10 and (F)11 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

Section 15-7.4-1(E)(14)(d) Owners dedication, if any, and consent to record as required by applicable state law. The recitals above are incorporated herein as findings of fact, Section 15-7.4-1(E)(14)(d) of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B).

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

EXHIBIT B - Proposed language for GC zone

Grade, provided it is located at least five feet (5') from the Rear Lot Line.

(10) An unenclosed porch (includes a roof and open on three sides), or similar structure not more than nine (9') feet into the Rear Yard provided the adjoining property is dedicated as natural or landscaped open space and meet minimum Uniform Building Code and Fire Code requirements.

(E) SIDE YARD.

(1) The minimum Side Yard is ten feet (10').

(2) Side Yards between connected Structures are not required where the Structures are designed with a common wall on a Property Line and the Lots are burdened with a party wall agreement in a form approved by the City Attorney and Chief Building Official.

(3) The minimum Side Yard for a Detached Accessory Building not greater than eighteen feet (18') in Height, located at least five feet (5') behind the front facade of the Main Building must be one foot (1'), except when an opening is proposed on an exterior wall adjacent to the Property Line, at which time the minimum Side Yard must be three feet (3').

(4) On Corner Lots, the Side Yard that faces a Street is considered a Front Yard and the Setback must not be less than twenty feet (20').

(F) SIDE YARD EXCEPTIONS. The Side Yard must be open and free of any Structure except:

(1) A Bay Window or a chimney not more than ten feet (10') wide projecting not more than two feet (2') into the Side Yard. (2) A window well or light well projecting not more than four feet (4') into the Side Yard.

(3) A roof overhang or eave projecting not more than three feet (3') into the Side Yard.

(4) A window sill, belt course, cornice, trim, and other ornamental feature projecting not more than six inches (6") into the Side Yard.

(5) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") above Grade, provided there is at least one foot (1') Setback from the Side Lot Line.

(6) An awning over a doorway or window extending not more than three feet (3') into the Side Yard.

(7) A Fence or wall not more than six feet (6') in height. A retaining wall may have multiple steps, however, each exposed face cannot exceed six feet (6') in height and the horizontal distance between the walls, front face to rear face, must be at least three feet (3') and planted with approved vegetation. The Community Development Director may approve minor deviations to the height and stepping requirements based on Site specific review.¹²

(8) A driveway leading to a garage or Parking Area maintaining a three foot (3') landscaped Setback to the Side Lot Line.

(9) Paths or steps connecting to a City stairway, trail, or path.

(10) Screened mechanical equipment, hot tubs, or similar Structures located a minimum of five feet (5') from the Side Lot Line.

(11) An unenclosed porch (includes a roof and open on three sides), or similar structure not more than nine (9') feet into the Side Yard provided the adjoining property is dedicated as natural or landscaped open space and meet minimum Uniform Building Code and Fire Code requirements.

(G) **SNOW RELEASE**. Site plans and Building design must resolve snow release issues to the satisfaction of the Chief Building Official.

(H) **CLEAR VIEW OF INTERSECTION**. No visual obstruction in excess of two feet (2') in height above Road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(I) **PROSPECTOR OVERLAY ESTABLISHING A MAXIMUM FLOOR AREA FOR DEVELOPMENT**. The following requirements apply to specific Lots in the Prospector Square Subdivision:

(1) **AFFECTED LOTS**. Lots 2A through Lot 49D, except Lots 40, 41, 42, 43, 45, and 46, and parking Lots A through K as shown on the Prospector Square Subdivision Plat.

(2) **MAXIMUM FLOOR AREA RATIO (FAR)**. The FAR must not exceed 2.0. All Uses within a Building, except enclosed Parking Areas, are subject to the Floor Area Ratio. Parking Lots A - K must have no Use other than parking and related Uses such as snow plowing, striping, repaving and landscaping.

¹²A Fence greater than six feet (6') in height requires a Conditional Use permit.

(3) **REDUCED SITE REQUIREMENTS.** In the Prospector Square Subdivision, Lots 2 to 38, Front, Side and Rear Yards may be reduced to zero feet (0') except for commercial Lots within the Frontage Protection Zone.

EXHIBIT C - Proposed language for Subdivision Regulations

- (9) The name and address of the Owner or Owners of land to be subdivided, the name and address of the Applicant and/or Developer if other than the Owner, and the name of the land surveyor.
- (10) The date of the map, approximate true north point, scale, and title of the Subdivision.
- (11) Sufficient data acceptable to the City Engineer to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground.
- (12) Indication of the Use of any Lot, single family, two-family, multi-family, townhouse, and all use other than residential proposed by the Applicant.
- (13) All Lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order.
- (14) The following notation shall also be shown:
- (a) Explanation of drainage easements, if any.
 - (b) Explanation of Site easements, if any.
 - (c) Explanation of reservations, if any.
 - (d) Owners dedication, if any, and Consent to Record as required by State Law.
- (15) Any restrictions or requirements necessary to ensure solar Access shall be defined.
- (16) All utility facilities existing and proposed throughout the Subdivision shall be shown on the Preliminary Plat or on accompanying engineering plans.
- (17) A plan designating Limits of Disturbance or Building Pads and utilities corridors and connections for each Parcel and for Subdivision improvements, such as utilities and roads.

City Council Staff Report



Author: Mark Harrington, City Attorney
Subject: Art in Parks
Date: April 15, 2004
Type of Item: Public Hearing and Action
- Legislative

LEGAL DEPARTMENT

Summary Recommendations:

Conduct a public hearing and adopt the attached ordinance regarding exhibiting art for sale in the park space north of the Library.

Description:

Topic:

Art exhibit space in the public park north of the Library.

Background:

This matter was previously discussed before City Council on September 25, 2003, July 31, 2003 and March 1, 2004. In response to the March 1 draft, both Brian Hess and Stephen Cornelius provided additional suggestions, which were briefly discussed at the last meeting. Accordingly, the final draft was amended as follows:

1. "Display" was replaced with "Exhibit" for sale.
2. Flexibility was added to allow exhibits to begin in May and October as weather permits.
3. Time was reduced from 8 PM to 6 PM closing (start remains at 8 AM).
4. Days were expanded to include special events and MFLs if no conflict (Stephen had requested Thursdays too, but staff recommends staying with weekends for this trial season).
5. "License" was replaced with contact registration. The form will say "Contact List."
6. It was acknowledged that the artists' interests are not mutually exclusive from the "government interests." Stephen had requested use of softer more mutual language but federal constitutional standards require the use of certain terms of art.
7. Rather than limit number of artists, the Ordinance limits the number of 10 x 10 spaces to thirty. Artists may share spaces so long as they are exhibiting their own work.
8. If relocation occurs due to MFL conflict, there must be no reduction in available space.

9. Clarification that artists must comply with sales tax reporting and collection requirements.
10. Monitor parking by staff and flexibility to adopt restrictions as needed.

Analysis:

Council should note that other than initial area designation, parking and relocation due to MFL conflict, there is no staff management of this trial. The intent is to have a self-policed/managed area for use by the artists. If using a tent, artists will have to comply with standard building code requirements. Other than that, the City will just monitor the contact list as necessary and respond to complaints. This is neither a City nor Art Council event. It is simply a designated area for use.

Department Review:

Legal, Special Events, Planning and Library staff have reviewed this matter.

Alternatives:

Approve the Request:

Adopt the Ordinance. This is the recommended action.

Deny the Request:

Direct staff to explore other options, including facilitating and expanding a past program at the Town Lift plaza, or opening up sidewalks and other parks outside of the Historic Districts.

Continue the Item:

Provide direction regarding what change in goal/implementation the Council would like to achieve.

Do Nothing:

Except for approved Special Events or MFLs, outdoor sale of art on public property would remain prohibited.

Significant Impacts:

Staff and interested parties have focused on a positive and proactive approach to addressing this issue. Mutual goals of effectively using limited public space and promoting art and culture have driven the effort so far. Staff believes the Library area can be utilized with minimal impacts.

Consequences of not taking the recommended action:

No action will likely result in a challenge to existing City vending restrictions.

Recommendation:

Conduct a public hearing and adopt the Ordinance.

Ordinance No. 04-__

AN ORDINANCE ADDING TITLE 4, CHAPTER 3A, SECTION 7 TO THE MUNICIPAL CODE, REGULATING VENDING BY ARTISTS ON PUBLIC PROPERTY, AND ADDING “ACOUSTIC AND UNAMPLIFIED” TO TITLE 4, CHAPTER 3, SECTION 7 OF THE MUNICIPAL CODE, CONCERNING STREET MUSICIANS.

WHEREAS, Park City desires to allow artists who wish to exhibit and sell their artwork on City-owned property the opportunity to do so; and

WHEREAS, in allowing artists to exhibit and sell their artwork on City-owned property, Park City wishes to protect its and its citizens’ legitimate and important governmental interests, such as, preventing visual blight, addressing aesthetic concerns, allowing reasonable access and sight easements to businesses and residences, allowing for the free flow of traffic, both pedestrian and vehicular, preventing and limiting the exposure of Park City’s citizens to unwanted, unwelcome, and unsolicited messages, without an avenue of escape; and

WHEREAS, Park City acknowledges that these strong compelling governmental interests, although certainly shared by the artists, compete with the private interests of artists and others such as freedom of expression, access to limited public space, and the commercial interests of artists; and

WHEREAS, Park City wishes to balance these competing interests in a manner consistent with the constitutional protections of the United States and Utah Constitutions; and

WHEREAS, pursuant to U.C.A § 10-8-29, Park City desires, in reasonable time, place, and manner regulations codified herein, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, preserve the property values and character of the neighborhoods surrounding City-owned property, as well as provide artists with the opportunity to exercise their constitutional rights; and

WHEREAS, Park City further desires to make its laws clear and concise, and therefore wishes to add “acoustic and unamplified” before “musical instruments” in Section 4-3-7 of the Park City Municipal Code to clarify what type of music a street musician may perform when granted a street musician license; and

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

SECTION 1. FINDINGS: The Council finds that:

1. Under Park City's Licensing code, a new provision should be added to address the process for obtaining registration to exhibit artwork for sale on Available City Property;
2. The new section is appropriately added as Title 4, Chapter 3A, Section 7 as "Art Exhibit for Sale on Public Property";
3. The new Title 4, Chapter 3A, Section shall provide the process by which an Artist may apply for and obtain registration to exhibit his or her Artwork, as defined therein, on Available City Property, as defined therein;
4. In Title 4, Chapter 3, Section 7 "Street Musicians," the words "acoustic and unamplified" shall be inserted before "musical instruments" to clarify for the public and for street musician applicants that only acoustic and unamplified music is covered under a street musician license.
5. The recitals above are hereby incorporated as findings by the legislative body of Park City.

SECTION 2. AMENDMENTS TO TITLE 4 OF THE MUNICIPAL CODE. Title 4 is hereby amended by adding Chapter 3A, Section 7 "Art Exhibit for Sale on Public Property," and by adding "acoustic and unamplified" before "musical instruments" in Chapter 3, Section 7, "Street Musicians"; as follows:

4-3-7. Street Musicians. Persons playing acoustic and nonamplified musical instruments, performing pantomime, magic, dancing, or any other visual or audible performances with the intent or expectation to receive valuable consideration therefore shall be licensed by the City as street musicians before any such performance. The Finance Department may issue such a license upon payment of the license fee set forth in the Fee Resolution and no license shall be granted for more than ten (10) consecutive days at a time.

4-3A-7. Art Exhibit For Sale on Public Property

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the registrations and manner of operations of Artists using Available City Property in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and registration of Artists within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from adverse secondary effects, while providing to those who desire to exhibit their works of art for sale the opportunity to do so. This Chapter also aims to prevent and control the

adverse effects of Artists who exhibit their artistry in public places, including without limitation, creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic in the city's narrow, historic Main Street sidewalks; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape. These strong substantial and compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of artists and the interests of the public. Therefore, the City desires, in reasonable time, place, and manner regulations codified in this Chapter, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

(A) **Definitions.** For the purpose of this Chapter, the following words shall have the following meanings:

(1) “Art” means original works of fine art, graphic art and aesthetic objects produced by the licensee. It shall not include (1) any artwork produced by any person other than the Artist displaying the artwork; (2) any artwork purchased or taken on consignment and held for resale, or (3) any clothing..

(2) “Artist” means the creator of the Art who exhibits his or her own Art for sale. Artist does not include Street Musician licensed under Section 4-3-7.

(3) “Available City Property” means the green space directly north of the City Library which is situated on 1255 Park Avenue, Park City, Utah, owned and operated by the City, and alternatively pursuant to subsection H(1) below, City Park.

(4) “Exhibit” means display for sale (including taking future orders) or with the intent or expectation to receive valuable consideration.

(B) Exhibit for Sale on Sidewalks Prohibited.

No Artist may Exhibit for sale his or her Art on public streets, sidewalks, or public property other than specifically designated Available City Property as set forth in this Chapter. It is unlawful to Exhibit Art for sale on publicly owned sidewalks. Furthermore, it is unlawful to Exhibit Art for sale without a license under this Chapter or Chapter 8, in park strip areas, pocket parks, and City-operated or otherwise public parks.

(C) Terms and Conditions.

(1) Registration Required.

Any person or groups of person intending or expecting to receive valuable consideration for the Exhibition of Art shall be registered with the City as an Art Vendor before such Exhibit. The registration shall be valid each weekend Friday thru Sunday, and all holidays or Special Events or Master Festivals, for a trial season from May 28, 2004 until October 1, 2004. The Special Events Manager may shorten or extend the season due to weather by giving notice to the registered Artists and the City Council.

(2) Application for Registration.

An application for registraton to use Available City Property for the Exhibit of Art for sale shall be filed with the Finance Department upon a form provided by the Finance Department, which shall include the following information:

(a) The name, address, telephone number, date of birth, and social security number of the applicant;

(b) The names, address, and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant’s Art;

(c) A brief description of the type of Art to be displayed for sale.

(3) Application Fee.

The City Council hereby waives all fees for the one season trial period.

(4) Registration List. The Finance Department shall forward the registration to the Special Events manager. Use of space by a licensee within Available City Property shall be subject to the designation of the City’s Planning and Zoning Administrator in accordance with the standards set forth in Section 4-3a-7(H).

(5) Denial/Revocation. In addition to the reasons set forth in Section 4-2-9 of the Park City Municipal Code, the Finance Department may revoke or deny an Artist Vendor registration for failure to meet any of the conditions or requirements herein.

(6) Appeals of Denial. denial by the Finance Department may be appealed with five (5) days to the City Manager or the City Manager's designee by written notice of appeal. The notice of appeal shall be filed with the City Recorder. The City Manager or his designee may consider the appeal based upon the written submissions. However, for good cause shown, the City Manager or his designee may also hear oral evidence and argument. The City Manager or his designee shall consider the matter using an error of law standard of review.

(D) Use of Property/Hold Harmless.

By way of application to the City, all Artists accept the Available City Property "as is" and the City makes no representations regarding fitness for particular purpose or otherwise regarding the suitability of said property. Anyone using Available City Property for Art Exhibit shall indemnify, defend, and hold the City and its officers and employees harmless for any loss or damage, including attorney's fees, arising out of the use of such property. This obligation shall not extend to any claims for loss, damages, or injury sustained by any person or persons, to damage to property, or to expenses, including reasonable attorney's fees, incurred thereby, resulting from actions or omissions not within the artist's reasonable control or to the acts or omissions to act by the City, its officers and employees, or other third persons.

(E) Number and Spacing of Artists Per Available City Property.

The maximum number of Exhibit areas for artists that may Exhibit at the same time on any Available City Property is thirty (30), unless otherwise determined by the Special Events manager upon a finding of no harm or interference with the open space nature of the area, and upon giving notice to the City Council.

(F) Location Restrictions.

The Planning and Zoning Administrator, in designating areas within Available City Property, shall take into consideration the interests (i) of providing artists reasonable opportunities for self-expression, (ii) of providing reasonable opportunities for the public to experience the artists' work, iii) of the public to peaceably enjoy the intended open space of the City's parks, and (iv) of adequately maintaining park vegetation and properties. No Artist may Exhibit Art for sale within Available City Property except within areas designated by the Planning and Zoning Administrator.

(1) Special Events. No Artist shall Exhibit Art for sale within one hundred feet (100') of the boundary of a location in a Special Event or Master Festival License issued by the City under Title 4, Chapter 8 of the Park City Municipal Code. However, during Special Event or Master Festivals, Artists may Exhibit at a location included in a Special Event or Master Festival License if the Special Event or Master Festival Licensee grants written permission. Furthermore, the City expressly reserves the right to relocate Artists in a manner that does not diminish exhibit capacity to other Available City Property during the period of a Special Event or Master Festival.

(2) Exception. The restrictions of this Chapter notwithstanding, nothing herein shall prohibit the City from authorizing persons to temporarily Exhibit Art for sale, or conduct outdoor sales on public property, or other such areas as the City may deem appropriate, pursuant to Park City Municipal Code Section 4-3-10, or during Special Events or Master Festivals. Special Event and Master Festival vendors shall not be governed by this section, but shall be governed by Title 4, Chapter 8 of the Park City Municipal Code.

(G) Space Restrictions. No Artist may Exhibit Artwork for sale directly on the surface of any City facility or structure, including sidewalks or on top of a trash receptacle. No Artist's Exhibit may exceed five feet in height from the ground or ten feet by ten feet in area, including a tent or other structure. Exhibits should be off the ground in a manner so as not to damage the lawn or other vegetation. No artist shall use any area other than the area immediately beneath the surface of the display area for the storage of items for Exhibit. Artists may have a container for tips. Set-up shall not occur prior to 8:00 a.m. each day. All Artwork, stands, and other equipment, associated debris and structures shall be removed from Available City Property no later than 6:00 p.m. each night. All Artists should park their cars across the street in the old Mahwinney lot, or City Park. Upon finding parking conflicts, the Special Events manager may temporarily designate and/or prohibit parking at certain locations.

(H) Rights Granted. The approval of any location for use by Artists shall not be construed as granting the user any property right or interest to or in any property owned by the City. The rights granted by this Chapter are subject to the provisions of this chapter and other applicable law. Artists exhibiting their art shall be present at all times when on Exhibit. No agent, employee, or other representative shall sell any artwork of an Artist.

(I) Violaton/Removal. If at any time the City determined that an Artist's use of Available City Property or the Exhibit placed thereon is not in compliance with the requirements of this Chapter or other applicable law, a civil notice of such violation shall be issued to the artist by an authorized City official. If, after receipt of such citation, an Artist fails or refused to remove any such Exhibit in violation, the City may, after consultation with the City Attorney or his/her designee, impound such Exhibit. Although prior notice of such impoundment shall not be required, the City shall take reasonable

efforts to promptly notify the Artist following impoundment. The owner of any impounded Exhibit shall be responsible for the expense of removal and storage of such Exhibit. If the owner fails to reclaim the impounded Exhibit and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the Exhibit may be deemed unclaimed property and may be disposed of pursuant to law.

(J) **Emergency Removal.** In the event that a City official or the City police or Fire department determines that an Artist's use of Available City Property or the Exhibit placed thereon constitutes an immediate physical threat to public life, safety, or health, the Exhibit may be removed from the City immediately, without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expression of the material exhibited by the Artist.

(1) **Notice and Hearing.** In the event of such emergency removal, the City shall immediately contact the Artist or his/her representative if the Artist has filed with the City's Finance Department the name, address, and telephone number of the Artist's representative whom the City may notify or contact at any time regarding the Artist's Exhibit. The City shall inform the Artist or his/her representative of the removal and the reason(s) therefore. If requested by the Artist or his/her representative, the City shall hold an expedited hearing before the City Manager or his/her designee to determine whether the removed Exhibit constituted an immediate threat to the public's life, safety, or health. In the event that the City Manager or his/her designee determines that the Exhibit did not constitute such an immediate threat, the City shall forthwith, at its own expense, replace the Exhibit at its location.

(2) **Appeal.** The Artist or his/her representative may appeal any decision or order to the Mayor or the Mayor's designee. Any appeal shall be filed in writing within ten (10) days of the decision with the City Recorder and shall specify the basis for appeal. The Mayor or the Mayor's designee may consider the appeal based on written submissions; however, for good cause shown, the Mayor or the Mayor's designee may also hear oral evidence and argument.

(K) **Penalties.** Any violation of this Chapter shall constitute a civil violation and may subject the Artist to revocation, suspension, or non-renewal of a rights granted hereunder by the City. Three or more violations within a one-year period shall constitute a Class "B" misdemeanor.

(L) **Sales Tax.** All Artists are responsible for individually filing all necessary reporting forms and sales tax in accordance with state law.

SECTION 3. **EFFECTIVE DATE.** This Ordinance shall be effective upon publication.

To the Honorable Mayor of Park City:

Greetings ! ! !

Once again, at the Declaration of the State Governor, we are gearing up preparation to celebrate this year's "World Tai-Chi and Qi-Gong Week in Utah" that promotes Health, Peace, Healing, and Reconciliation - as we did last year.

As Chairperson, I would like to petition the City Mayor, to designate the Day of April 24, 2004 as "World Tai Chi and Qi Gong Day in Park City". Few other Cities in the County have have been requested to participate for this weeklong celebration already (Sandy, West Valley, Holladay, Salt Lake City, and Draper) which culminates on Saturday morning (April 24) at the University of Utah Marriott Center Plaza to join the International Community in celebrating "World Tai Chi and Qi Gong Day". Over 600 Cities in over 70 Countries will join us on this occassion (please refer to this website for more details: www.WorldTaiChiDay.com).

In return, each Participating TaiChi School in Utah will adopt a City and a High School as beneficiary. As a gesture for this celebration, the Participating TaiChi School will offer their services for 'Free' during the preceeding 2-weeks of said "World Tai Chi and Qi Gong Week in Utah". This could be in a form of a Seminar, Sub-a-Class (ie.PE, Dance/Drill classes), and Special Qi-Gong Group Session for Kids that are suffering from Attention Deficit Disorder/Hyper-Active, Sleep Disorder, and Asthma.

During this weeklong celebration, as we did last year, we will have a General Assembly in each designated/adopted High School. This Community Event will be attended by Students, Faculty Members, Parents, Community Leaders, and Residents. Details of these events will be provided soon.

We therefore ask the City Mayor for an audience to receive the City Proclamation as well as invite the Mayor to speak and address the Community in the morning of Saturday (9am), of April 24, 2004 at the designated High School in Park City.

Should you decide to mail a copy of the Proclamation ahead of time, my mailing address is: Arnell Bertumen c/o TaiChiME4Health 908 East Rosebud Court, Draper UT 84020

Attached is a text copy of the Governor's Proclamation for your information and reference.

I look forward to your positive reply.

Thank you and God Bless.

Sincerely yours,
Arnell O. Bertumen
Certified Instructor, Tai Chi for Diabetes
Founder, "TaiChiME4Health" and "TaiChiMEutah"
Chairperson, "World TaiChi and QiGong Week in Utah"
Emailto: TaiChiME_Utah@yahoo.com
Weblink: www.TaiChiME.NET
Phone: (801)572-1292
Work: (801)269-2496

Resolution No.

**RESOLUTION DECLARING THE WEEK OF APRIL 19 - 25, 2004
AS "T'AE CHI AND QI-GONG WEEK IN PARK CITY, UTAH**

WHEREAS, Tai-Chi and Qi-Gong, an ancient Chinese aerobic form of exercise, are a series of individual dance-like movements linked together in a continuous, rounded, smooth-flowing sequence; and

WHEREAS, Tai-Chi and Qi-Gong teaches inner strength while toning muscles, increasing flexibility, and boosting immune power; and

WHEREAS, Tai-Chi and Qi-Gong naturally and safely allow people to learn and experience the benefits of being able to concentrate and channel internal healing energy towards mind and body, and helps individuals achieve Tai-Chi and Qi-Gong's four key elements of Balance, Posture, Breathing and Concentration; and

WHEREAS, World Tai-Chi and Qi-Gong Week seeks to elevate public Health Awareness, Peace, and Reconciliation by exposing the art to as many people as possible; and

WHEREAS, Utah's World Tai-Chi and Qi-Gong Week celebration includes dignified demonstrations of the art, as well as free workshops by different Tai-Chi and Qi-Gong schools in Utah for interested individuals and groups;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council hereby declare the week of April 19 - 25, 2004 as:

T'ai Chi and Qi-Gong Week in Park City, Utah,

in conjunction with the worldwide celebration of the "World Tai Chi and Qi-Gong Day" and the United Nations' "World Health Day", and encourage citizens to participate in this observance.

PASSED AND ADOPTED this 15th day of April, 2004.