PARK CITY 1884

# PARK CITY COUNCIL MEETING
# SUMMIT COUNTY, UTAH
# APRIL 13, 2000

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 13, 2000.

**Closed Session - City Council Chambers - Lower Level**

3:00 p.m. Property acquisition and litigation

**Work Session - City Council Chambers - Lower Level**

4:30 p.m. Council questions and comments
4:50 p.m. Core value employees presentation
5:00 p.m. Review of regular meeting
- Hidden Hollow Subdivision/Deer Crest Settlement Agreement
- News racks
- Mountainlands loan

Other meeting questions/comments
5:45 p.m. Break

**Regular Meeting - City Council Chambers - Lower Level**

**I ROLL CALL**

**II PUBLIC INPUT**

**III COMMUNICATIONS FROM COUNCIL AND STAFF**

Resolution proclaiming May 1 - 21, 2000 as bike, walk, and car pool to work and school month in Park City, Utah

**IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF MARCH 16, 2000 AND MARCH 23, 2000**

**V CONSENT AGENDA PUBLIC HEARINGS**

Ordinance approving the amended record of survey plat of the Aspen Wood Condominiums, 1305-1570 Deer Valley Drive South, Park City, Utah

## VI CONSENT AGENDA

1. Ordinance approving the amended record of survey plat of the Aspen Wood Condominiums, 1305-1570 Deer Valley Drive South, Park City, Utah

2. Resolution proclaiming May 1 - 21, 2000 as bike, walk, and car pool to work and school month in Park City, Utah

## VII RESIGNATIONS AND APPOINTMENTS

Appointment of one member to the Planning Commission to fill an unexpired term to February 2002 and appointment of three members for terms expiring February 2004

## VIII PUBLIC HEARING

1. Continuation of hearing on the Environmental Element of Phase 1 of the General Plan

2. Ordinance amending Title 4, adding Section A, Master Festival License (outdoor music)

3. Ordinance amending Title 14 of the LMC adding language to regulate news racks within the Historic District

## IX NEW BUSINESS

1. Resolution adopting the Environmental Element of the General Plan

2. Ordinance amending Title 4, adding Section A, Master Festival License (outdoor music)

3. Ordinance subdividing the Hidden Hollow Subdivision, Park City, Utah

4. Amendment to the Deer Crest Settlement Agreement

5. Award of design contract to Holmes & Narver for the design and engineering of a skate park and related Phase 1 improvements of the adopted City Park Master Plan in the amount of $61,274

6. Consideration of extension and/or increase of the loan to Mountainlands Community Housing Trust for the purchase of the Holiday Village Apartments

## X ADJOURNMENT

Posted: 4/10/00
Reposted: 4/11/00
See parkcity2002.org

PARK CITY 1884

# PARK CITY WORK SESSION NOTES
## SUMMIT COUNTY, UTAH
## APRIL 13, 2000

**Present:** **Mayor Pro Tem Shauna Kerr; Council members Peg Bodell, Candace Erickson, Roger Harlan, and Fred Jones**

**Toby Ross, City Manager Mark Harrington, City Attorney; Jerry Gibbs, Public Works Director; Nora Shepard, Special Projects Manager; Alison Kuhlow, Planner; Tom Bakaly, Director of Capital Management and Budget; Linda Cook, Special Projects Manager; Matt Twombly, Landscape Architect**

**Absent:** **Mayor Brad Olch**

1. **Council questions and comments.** Roger Harlan reminded the Council of the upcoming annual Friends of the Library luncheon and reported on the library conference he attended in Charlotte, North Carolina. Mr. Harlan commented on his trip to see Chandler, Arizona's skate park which was designed by Michael McIntyre, the recommended consultant for the City's skate park facility. Peg Bodell complained about the lights at City Park being turned on during the night, and staff explained a new switching system to take care of the problem. She reported on the visit with the Vail delegation. Fred Jones disclosed receiving a call from Diane Roberts regarding trash cans in the Old Town area and felt it important to adopt an ordinance to require residents to remove the containers from the street after collection. There was discussion about the County/City clean-up effort which is scheduled May 8 - 22. Mr. Jones added that the first meeting of the Olympic Steering Committee is scheduled on April 18 and letters have been sent out to everyone who expressed an interest in participating. Candace Erickson commented that her friends from Norway had a great time in Park City and were impressed by the ski areas. She attended the parking advisory committee meeting and is pleased that the City is recovering costs from meter revenues. The committee is recommending that the Council consistently follow the paid parking plan for the summer. Ms. Erickson also attended the Mountainlands Housing Trust meeting where maintaining housing and building additional units were discussed. Ms. Kerr reported that she attended the Summit County Commission meeting where deeds were accepted as a part of the transfer development rights program. The County has received close to $10 million worth of properties and the disposition of those lands have not yet been determined. The citizen group, COOL discussed defining different types of open space and would like the City and County to agree on terminology. The Commission amended its Olympic permitting ordinance and announced its Olympic five pin puzzle set. The pins will be sold through Jans who has a presence at the venues and on Main Street. She encouraged the public to attend the first part of the Democratic Convention on Tuesday, which is a tribute to Sheldon Richins. The Commission also discussed the ambulance service and the resource hospital contract, which will be bid. It is proposed to form a committee to review RFPs and the County invites suggestions for appointments from the City. The City Council decided to cancel its meeting of May 25.

**2. Core value employees presentation.** The Mayor Pro Tem recognized recipients of the core value award for quality and excellence, including Ben Ling, Brent Ball, Judy Palmer, Rod Daughtee, Tim Twardowski, Kent Cashel, Kathy Kelly, Eric DeHaan, Barbara Spruill, and Alison Kuhlow.. The next quarter's value is fun and humor.

**3. Review of regular meeting:**

**Hidden Hollow Subdivision/Deer Crest settlement agreement.** Nora Shepard referred to her presentation a couple of weeks ago on this issue and invited questions from Council. Since that meeting, staff has drafted an amendment to the settlement agreement and the recommendation from the Planning Commission is approval based on the prior report. See regular meeting minutes.

**News racks.** Alison Kuhlow explained that there is a public hearing on the draft ordinance to regulate news racks on Main Street, which is probably the first of many hearings. She understood that a couple of distributors will be in attendance this evening and she will relay input at the hearing from Andy Bernhard from the *Park Record* and Clyde Benton from *USA Today* who couldn't attend the regular meeting. The ordinance designates a special distribution area which is the entire Historic District. News racks are prohibited in the special distribution area unless located in an enclosed building or unless papers are placed in City-owned racks. She referred to the designated areas for racks based on the criteria in the ordinance, specifically the eight foot side walk clearance after installation of a rack. The locations include the Kimball Art Center, two at Summit Watch, Pizza & Noodle rear entrance; Post Office, Café Terigo rear entrance, Wasatch Brew Pub, and Transit Center. There are currently 88 racks on Main Street and this proposal would reduce the number to 58. The ordinance provides that each publication is allowed one box within the City-owned racks and there is a maximum number of permits proposed, which is an issue with the publishers. Since the number of racks and publications on Main Street will be reduced, there is a priority system based on number of times a paper is published per week which is a standard used in other municipalities. For instance, Category 1 includes papers published two or more times a week; once a week publications would be in Category 2.

The current Silver Queen Hotel and Brew Pub locations do not meet the sidewalk width. She continued that distributors want all racks removed that don't meet this ordinance. There is no design yet as staff would like more input from the City Council. It is anticipated that the distributors will be responsible for the mechanical features and face plates and the City will be looking at a minimum price of $15,000 for eight racks. Ms. Kuhlow relayed that fees are consistently $20 or below and fees can not be used as a part of an exclusionary process. The installation and maintenance of the racks may have to be contracted out since the Parks Department is committed to other projects. In response to a question from Roger Harlan about the majority of racks being located on the east side of the street, Ms. Kuhlow explained that is the result of the setback requirement for clearance. There is a proposed location at the Main Street Mall, but the private grass area would have to be used to meet the setback. There was discussion about the cost to the City to install the racks. Ms. Kuhlow reiterated that the feedback she is receiving from distributors is the limit on the number of permits. Centennial Park is another possible west side location. The distributors suggested locations along the stairways in residential areas, but not in lieu of a Main Street location. The focus has been Main Street where distributors claim a volume of sales. Fred Jones stated that he could consider other locations; his main concern is getting an organized process in place. Peg Bodell believed this will improve the experience on Main Street and it is uncertain if rearranging the current boxes will reduce sales. The setback of eight feet may not be enough room, and she preferred the locations off of Main Street. She continued that news racks are out of control and the City acknowledged that this was a problem as long as four years ago. She emphasized that the City wants the distributors to continue making money but there are other ways to draw attention to the racks other than tripping over them. Ms. Kerr doubted if widening Main Street sidewalks would be taken on as a project if eight feet is determined to be inadequate. The combination proposed by staff is very workable because there is visibility for people driving or walking up Main Street or Swede Alley. She didn't support removing all of them from Main Street because that is the logical location and felt distributors would fight that; this proposal is far better than the clutter now on the street. Roger Harlan noted that the program comes with a price to the taxpayer, and the racks should be in locations that will be used. He brought up the lack of City control to regulate racks on private property and Ms. Kuhlow explained that the ordinance requires non-City racks to be located inside. Ms. Bodell understood there are no designs yet, but requested a mock-up for size and scale in these locations. Ms. Kuhlow explained her method for determining the number of publications at each location. Ms. Bodell stated that the two racks at Summit Watch may be *over-kill*. Ms. Kuhlow responded that one may be adequate there and perhaps the Main Street Mall could be another location. Ms. Bodell emphasized the importance of providing the City flexibility to remove racks for other uses or activities in the future. Ms. Kuhlow explained the dimensions of the boxes and her calculations.

Fred Jones asked what can be done for the rest of the town. Ms. Kuhlow suggested starting in the Historic District to ascertain the program. In looking at other cities, it seemed to work well when dealing with just one area and the distributors have indicated that they will fight the City on regulating the entire town. Mr. Jones stressed that he doesn't want to hold the ordinance up, but what he had in mind for the rest of the town was regulating where they can be located and their design. Shauna Kerr pointed out that some new buildings have racks built into the design of the building, like Dans. Mr. Jones explained that much like the sign code, the City could regulate the design of the racks. Candace Erickson asked about racks at the new post office and it was pointed out that it is a decision of the property owner. She brought up the economy of scale by purchasing in quantity and felt that hotels should be addressed for rack locations. There may be a business owner who would be willing to invest in a rack with the City. There was discussion about maintenance and the program covering costs. The Mayor Pro Tem announced that there will be a public hearing tonight where it would be appropriate for the public to put their comments on the record.

**Mountainlands Community Housing Trust loan.** Tom Bakaly explained that the request is to extend the term of the loan until June 30 and an additional $25,000 for a total of $65,000. In July, the City Council approved a pre-development loan to assist in acquiring the Holiday Village Project. In December, Council granted an extension and Mountainlands is requesting another but plans to close in May. The loan will be repaid in full when the transaction is complete and Mr. Bakaly indicated that funds are available in the affordable housing account. Mr. Harlan understood that Mountainlands is working on other acquisitions and asked if the City would again be approached for financial assistance. Tom Bakaly stated that there is no pending City affordable housing program that would preclude the additional $25,000 loan; it is possible that Mountainlands will approach the City again with a pre-development loan request for other properties. Bob Wells, Board of Directors, explained processing difficulties with this purchase and relayed that Mountainlands may consider purchasing Parkside after this transaction is complete. In response to a question from Peg Bodell, Mr. Bakaly indicated that full repayment should occur the end of May or by June 30.

**Skate park contract.** Linda Cook explained that there were seven respondents to the RFP for design and engineering; four of which were interviewed by a selection committee. Holmes & Narver has designed several eminent skate parks and is experienced in the public participation process. The scope of services has been negotiated and staff believes Holmes & Narver's cost of $61,274 is fair and reasonable. Roger Harlan, who served on the selection committee, added that they are in line with the other bidders. Matt Twombly explained the time line described in the contract for each task; some tasks relate to the date of approval by the Planning Commission. Fred Jones suggested that the contractor receive feed-back at the schematic design stage from the City, and hoped that the existing equipment can be utilized in the new park and considered in schematic presentations. Linda Cook believed the scope of services has addressed Mr. Jones' concern as there are triggers at various stages for updated cost estimating. She discussed Mr. Harlan's suggestion of commissioning a model of the park to accommodate better conceptualization and cost estimating. Roger Harlan explained that the 3-D imaging for the Chandler Park was an aid to the contractor who had never built a skate park. When the Parks and Recreation Board met with the four finalists, it was suggested that there be a budget figure for the park itself. Mr. Twombly indicated that Homes & Narver could deliver a computer simulated rendering of the park. Peg Bodell stated she supports the production of a model.

See regular meeting minutes.

Prepared by Janet M. Scott

PARK CITY
1884

# PARK CITY COUNCIL MEETING
# SUMMIT COUNTY, UTAH
# APRIL 13, 2000

## I ROLL CALL

Mayor Pro Tem Shauna Kerr called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, April 13, 2000. Members in attendance were Peg Bodell, Candace Erickson, Roger Harlan, Fred Jones, and Shauna Kerr. Mayor Brad Olch was excused. Staff present were Toby Ross, City Manager; Mark Harrington, City Attorney; Eric DeHaan, City Engineer; Brooks Robinson, Planner; Alison Kuhlow, Planner; and Melissa Caffey, Special Events Manager.

## II PUBLIC INPUT

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

## III COMMUNICATIONS FROM COUNCIL AND STAFF

City Engineer Eric DeHaan reported on the Woodside Avenue storm drain and Wyatt Earp Drive projects. He explained that SR248 is not as wide as it may appear because of grading work. Alison Kuhlow invited Council to a meeting on directional signage tomorrow. Tom Bakaly discussed a traffic calming effort for Park Avenue as there may be impacts from detours relating to the construction of the Transit Center and road work on Woodside Avenue. It is proposed to install trees planted in rubber containers south of the Heber Avenue and Park Avenue intersection to discourage traffic. Peg Bodell suggested stop signs at the top of Park Avenue. Mr. Bakaly noted that staff is not recommending stop signs at this time as they should not be used as traffic calming devices. Speed humps would probably be the next step if the trees do not work. Mr. Bakaly assured Roger Harlan that Park Avenue can still accommodate emergency and utility vehicles. Ms. Kerr stated that she is comfortable with the trees but not installing stop signs, as they shouldn't be used as a speed control device. Peg Bodell understood that the neighborhood prefers stop signs to speed humps so this issue needs to be addressed. Fred Jones felt that lower Park Avenue needs to be monitored after the closure of Heber Avenue as it may require some traffic calming.

Mr. Bakaly added that the Youth Advisory Council would like to award three grants, ranging from $200 to $500, for upcoming programs this weekend. Mr. Bakaly proposed that the grant policy be amended so that small amounts can be granted on an administrative basis. The City Council felt comfortable with releasing the funds.

Resolution proclaiming May 1 - 21, 2000 as bike, walk, and car pool to work and school month in Park City, Utah - The Mayor Pro Tem introduced students from the McPolin Elementary School 4th Grade Program for Academically Talented and High Achieving Students (PATHS) and Director Barbara Lewis.

Barbara Lewis explained that this is the second year for the program for 4th and 5th grade students and there are a variety of focuses. Ms. Lewis explained that this group undertook a community problem-solving project. Casey McAdams, Alyssa von Puttkammer, Maurine Westover, Daniel Klismith, Ian Smith, Michael Papadakis, Thomas Beall, Jonathan Perkins, John Sanderson, Anna Amici, and Kate Sutton explained their individual contributions to the project. The kids performed a rap about keeping the air clean in Park City. Mayor Pro Tem Kerr signed the resolution and added that the City Council will car pool, bike, or walk to help with the solution. She thanked the kids for their great ideas for protecting our environment.

## IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF MARCH 16, 2000 AND MARCH 23, 2000

Hearing no corrections or omissions, the Mayor Pro Tem requested a motion to approve the minutes of March 16, 2000. Roger Harlan, "I so move". Peg Bodell seconded. Ms. Kerr disclosed that she was excused from the March 16 meeting and will not be voting. Motion carried. Shauna Kerr requested a motion to approve the March 23, 2000 minutes. Roger Harlan disclosed that he will not be voting as he did not attend the March 23 meeting. Peg Bodell, "I move approval". Candace Erickson seconded. Motion carried.

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|---|---|
| Peg Bodell | Aye |
| Roger Harlan | Aye, abstention March 23 meeting |
| Candace Erickson | Aye |
| Fred Jones | Aye |
| Shauna Kerr | Aye, abstention March 16 meeting |

## V CONSENT AGENDA PUBLIC HEARINGS

Ordinance approving the amended record of survey plat of the Aspen Wood Condominiums, 1305-1570 Deer Valley Drive South, Park City, Utah - Brooks Robinson explained that the Planning Commission held a public hearing and there was no public input. The Commission forwards a positive recommendation to the City Council to approve the amended record of survey as conditioned in the staff report. Hearing no comments or questions from the Council or the public, the public hearing was closed.

## VI CONSENT AGENDA

Roger Harlan, "I move approval of the Consent Agenda, Items 1 and 2". Fred Jones seconded. Motion carried unanimously.

1. Ordinance approving the amended record of survey plat of the Aspen Wood Condominiums, 1305-1570 Deer Valley Drive South, Park City, Utah - See staff report and public hearing.

2. Resolution proclaiming May 1 - 21, 2000 as bike, walk, and car pool to work and school month in Park City, Utah - See communications from council and staff above. Staff recommends approval.

## VII RESIGNATIONS AND APPOINTMENTS

Appointment of one member to the Planning Commission to fill an unexpired term to February 2002 and appointment of three members for terms expiring February 2004 - Fred Jones, "I move that we appoint Bob Powers to fill the term expiring February 2002 and appoint Andrew Volkman, Michael O'Hara and Chris Larson for terms expiring February 2004. Roger Harlan seconded. Ms. Kerr noted that there were many qualified candidates and it was a difficult decision. Council appreciates the interest of citizens and thanked all for applying. Motion carried.

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| Peg Bodell | Aye |
| Roger Harlan | Aye |
| Candace Erickson | Nay |
| Fred Jones | Aye |
| Shauna Kerr | Aye |

## VIII PUBLIC HEARING

1. Continuation of hearing on the Environmental Element of Phase 1 of the General Plan - Rick Lewis pointed out that this ties in well with the presentation of the PATHS' kids, because there is an air quality portion in the element. A hearing was held on March 23 and there was no public input. Since that time one amendment has been made eliminating the term *grey water*. Mr. Lewis explained that the new language would indicate that the City would continue to work with the Weber Basin Water Conservancy District, the Summit County Health Department, and the Division of Water Quality to establish policies and regulations to reduce water waste and discharge, and reduce the need for new water resources. In response to a question from Shauna Kerr on March 23 regarding the cost of the action program, Mr. Lewis estimated $500,000 to $700,000 for implementation of everything in the program. When the City Council adopts an element of the General Plan, it is not obligated to implement everything in the action plan, but it is a good wish list when program funding becomes available. The City applied for funds for assistance in watershed management. Shauna Kerr suggested that if the resolution is adopted tonight, that Barbara Lewis

of the PATHS program receive a copy.

Fred Jones suggested that *grey water* may be the wrong terminology and believed that the intent may have been reusing water from the treatment plat for irrigation and somehow grey water may have been included erroneously. Rick Lewis agreed and pointed out the importance of maintaining the flow from the treatment plant and this may require research. Council member Jones felt that the element can be easily reworded by reinstating the irrigation section and replacing *grey water* with *treated affluent water*. Peg Bodell added that she appreciates the cost estimate and felt that the City needs to be very careful about consultant fees. Mr. Lewis explained that before any program proceeds, it would have to be budgeted and approved by the City Council. Ms. Kerr invited the Council and the public to comment. Hearing none, the public hearing was closed.

2. Ordinance amending Title 4, adding Section A, Master Festival License (outdoor music) - In response to a question from Ms. Bodell, Ms. Kuhlow explained that there has been no additional public input since the last hearing. Peg Bodell stated that she received a call from the University of Utah Architecture Department regarding contacts for press releases; staff will be contacted. The Mayor Pro Tem invited further comments from the Council and the public. Hearing none, she requested a motion to continue the public hearing. Peg Bodell, "I so move". Fred Jones seconded. Motion unanimously carried.

3. Ordinance amending Title 14 of the LMC adding language to regulate news racks within the Historic District - Ms. Kuhlow stated that she has two comments to add to the public record. Andy Bernhard of the *Park Record* would prefer not be restricted to the specific criteria of two high and four across, and would like the City to consider different configurations for the news boxes. He is also concerned about the one-third reduction of available permits and would like the ability to obtain permits in all news boxes. When a holder has the maximum number of permits, what happens when a box opens up, and Mr. Bernhard would like the City to consider locations along the stairways in the residential areas of Old Town. Clyde Benton from *USA Today* strongly believes that the City should be the owner of the racks. He alleges that when there is a limit on locations, it decreases his sales significantly and the ability for his patrons to purchase the paper, and wants to be able to locate in all areas. Mr. Benton's third point is not to prevent growth or additional locations of news racks in the future.

Ms. Kerr asked if Mr. Bernhard suggested another configuration. Ms. Kuhlow responded that he suggested three stacked racks in certain locations. In her research, three may be too large, and two is considered a more reasonable height. Ms. Kuhlow discussed the proposed stairway racks which would be placed in the City's right-of-way in residential zones. Peg Bodell pointed out that both gentlemen claim hardship for lost business and asked if they have statistics. Ms. Kuhlow stated that she has no statistics but asked them to put their concerns in writing since they could not attend the hearing. *USA T*oday is in many markets with news racks regulations and may have some information or data on sales. Hearing no further questions or comments from the

City Council, the Mayor Pro Tem invited the public to comment.

John Saltas, publisher of *City Weekly* and *Mountain Times*, expressed his appreciation of the ordinance process. In other communities, news rack ordinances were forced on publishers and in some cases, have ended up in court. Other locales have made the distinction between free and paid publications. He emphasized that free publications provide a vital service to the communities. He stated that between the two publications in this market, he is moving over 20,000 papers a month here which is more than *USA Today, The New York Times,* and *The Wall Street Journal.* These are paid publications, published more than once a week, which places an onus on them to prove their worth which they are not accustomed to proving. Court cases show that it is not wise to make a distinction between paid and free. He does not anticipate issues with Park City and the process has been good thus far, but assured Council that publishers will make sure that their rights are protected. Our papers are fundamentally protected on public lands and public tax payer pathways. The creation of an ordinance for historic districts is not unusual. Mr. Saltas pointed out that they decreased the number of *City Weekly* on Main Street and have already been good participants; his publications encourage commerce in the City and moving the racks off of Main Street is harmful. His papers are a different dimension than paid publications and Salt Lake City provided special boxes for them. With regard to location on the racks, Ms. Kuhlow explained that once an ordinance is passed, a date would be set for an applications deadline, there would be an assignment of boxes, and some positions may be raffled. Mr. Saltas expressed that their concern is a presence on Main Street.

In response to Mr. Saltas concerns, Ms. Kuhlow clarified that it was never the intent of the City to exclude his or other publications and this ordinance was drafted from a Boulder, Colorado model. As written, each publication can only have two-thirds of the available permits and that is not determined on existing numbers. She stated that she is aware of the different sizes of papers and this will be considered. Advertising on the racks was never the City's intention nor would it comply with our sign code.

Robin Erickson stated that she distributes *The Salt Lake Tribune, The Deseret News, The Wall Street Journal, The Barons,* and *The Investment Business Daily* and also one free paper. She shares concerns about limitations and would like space in all of the racks available or at least the number they are already in. Having racks on a side street or rear entrance conflicts with selling papers on traffic count. Ms. Erickson felt that consolidating locations is a great idea and discussed designing racks for Salt Lake businesses who feel that news racks are beneficial. She requested that distributors have advance notification of the implementation of the program, including a reasonable time line, and that renewals be sent out by the City. Shauna Kerr felt that renewals could be handled like renewals for business licenses. Robin Erickson continued that if fees are raised for maintenance or other aspects of the program, people should be noticed six months in advance for budgeting purposes. She complimented the presentation of the children earlier on the environment and commented on her involvement in the Salt Lake Clean Cities Coalition.

In response to a comment made by Roger Harlan about *USA Today's* desire to use its blue logo, Ms. Kuhlow explained that a final design has not been determined. It may be reasonable to have the logo on the glass or below the glass. The City can specify where the logo is placed. She will come back to Council regarding requests for identifying colors and fonts. Robin Erickson added that a three stacked configuration is too high. The Mayor Pro Tem requested a motion to continue the hearing. Fred Jones, "I so move". Peg Bodell seconded. Motion unanimously carried. Ms. Kuhlow stated that she will be coming back to Council with designs probably in about two weeks.

**IX NEW BUSINESS**

1. Resolution adopting the Environmental Element of the General Plan - Peg Bodell, "I move that we adopt the Resolution adopting the Environment Element of the General Plan". Candace Erickson seconded. Motion unanimously carried.

2. Ordinance amending Title 4, adding Section A, Master Festival License (outdoor music) - Shauna Kerr noted that the public hearing has been continued and requested a motion to continue this item. Roger Harlan, "I so move". Fred Jones seconded. Motion unanimously carried.

3. Ordinance subdividing the Hidden Hollow Subdivision, Park City, Utah - See work session notes and staff report. Hearing no comments or questions, the Mayor Pro Tem requested a motion to approve. Roger Harlan, "I move that we approve the ordinance approving the Hidden Hollow Subdivision of Park City, Utah". Peg Bodell seconded. Motion carried unanimously.

4. Amendment to the Deer Crest Settlement Agreement - See work session notes and staff report. Hearing no questions or comments, Ms. Kerr requested a motion to approve. Peg Bodell, "I so move". Candace Erickson seconded. Motion carried unanimously.

5. Award of design contract to Holmes & Narver for the design and engineering of a skate park and related Phase 1 improvements of the adopted City Park Master Plan in the amount of $61,274 - See work session notes and staff report. Hearing no comments or questions, the Mayor Pro Tem requested a motion to approve. Roger Harlan, "I move that we award a design contract to Holmes & Narver for the design and engineering of a skate board park and related Phase 1 improvements of the adopted City Park Master Plan not to exceed an amount of $61,274." Candace Erickson seconded. Motion unanimously carried.

6. Consideration of extension and/or increase of the loan to Mountainlands Community Housing Trust for the purchase of the Holiday Village Apartments - Shauna Kerr clarified that this is an extension of an existing loan and a request for an additional $25,000, which would bring the loan total to $65,000 with an extension to June 30, 2000. She requested a motion to approve. Peg Bodell, "I so move". Candace Erickson seconded. Motion carried unanimously.

## X ADJOURNMENT

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

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## MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Peg Bodell, Candace Erickson, Roger Harlan, Fred Jones, and Shauna Kerr. Mayor Brad Olch was excused. Staff present were Toby Ross, City Manager; and Mark Harrington, City Attorney. Peg Bodell, "I move to close the meeting to discuss property acquisition and litigation". Shauna Kerr seconded. Motion carried unanimously.

The meeting opened at approximately 4:30 p.m.

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

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott, City Recorder

PARK CITY
1884

# CITY COUNCIL STAFF REPORT

| | |
|---|---|
| **DATE:** | **April 13, 2000** |
| **DEPARTMENT:** | **Planning** |
| **AUTHOR:** | **Brooks T. Robinson** |
| **TITLE:** | **1305-1570 Deer Valley Drive South, Aspen Wood Condos** |
| **TYPE OF ITEM:** | **Amendment to Record of Survey** |

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**SUMMARY RECOMMENDATIONS** Conduct a public hearing, consider any public input, and approve the amendment to the record of survey as conditioned and/or amended.

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## DESCRIPTION

### A. Summary

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|---|---|
| Owners | Aspen Wood Condominium Association |
| Location | 1305-1570 Deer Valley Drive South |
| Zoning | RD-MPD |
| Adjacent Land Uses | Stonebridge and Trails End Condominiums |
| Reason for Review | Plat amendments require Planning Commission review and City Council approval |

### B. Background

The applicant proposes to amend the condominium record of survey plat to allow existing limited common decks to be enclosed and converted to private living space. In addition, common area under these decks would be amended to convertible space. Also, the addition of private space in the rear of the garages in the "A" units and the lower level of the "B" units that was excavated years ago and is used for storage is proposed on the amended plat. Each of these spaces is under the existing roof lines and would not add additional bedrooms to the units (see Exhibit C). This condominium association, along with several others, has worked with the City to amend their homeowners documents (CC&Rs). A copy of the Memorandum of Understanding is included as Exhibit D.

The Planning Commission held a public hearing on this application at its regular meeting of March 8, 2000 and forwarded a positive recommendation to the City Council.

C. **Analysis**
Staff has no outstanding issues with this proposal. No further parking is required as no additional bedrooms are proposed. No expansion of the building footprint or change in open space and setbacks is proposed.

D. **Department Review**
This project has gone through an interdepartmental review. There are no outstanding issues. At such time as a final plat is required, the City Engineer and City Attorney will review the plat as to form and compliance with the Land Management Code prior to recordation.

E. **Notice**
The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record. No public input has been received by the time of this report.

## ALTERNATIVES

A. The City Council may approve the application with the conditions stated, or modify the conditions, or

B. The City Council may deny the application and direct staff to prepare findings supporting this recommendation, or

C. The City Council may continue the discussion to a later date.

## SIGNIFICANT IMPACTS
There are no significant fiscal or environmental impacts to the City with this amendment to the record of survey.

## CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION
The Aspen Wood condominiums would not be able to enclose the decks and add space to the units under the existing roof lines.

## RECOMMENDATION
The staff recommends that the City Council conduct a public hearing, consider any input, and approve the application for the amended record of survey based on the following findings of fact, conclusions of law and conditions of approval:

Findings of Fact:
1. The condominium project known as the Aspen Wood Condominiums is located at 1305 through1570 Deer Valley Drive South and is zoned RD-MPD.
2. The proposed amended record of survey adds private space to the garages of "A" units and the lower level of "B" units and changes limited common decks to convertible space.
3. The Condominium Association has approved this change.
4. The building footprint does not increase in size.
5. A Memorandum of Understanding has been signed by the City and the Condominium

Association.

6. The Planning Commission held a public hearing on this application at its regular meeting of March 8, 2000 and forwarded a positive recommendation to the City Council.

Conclusions of Law:

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

Conditions of Approval:

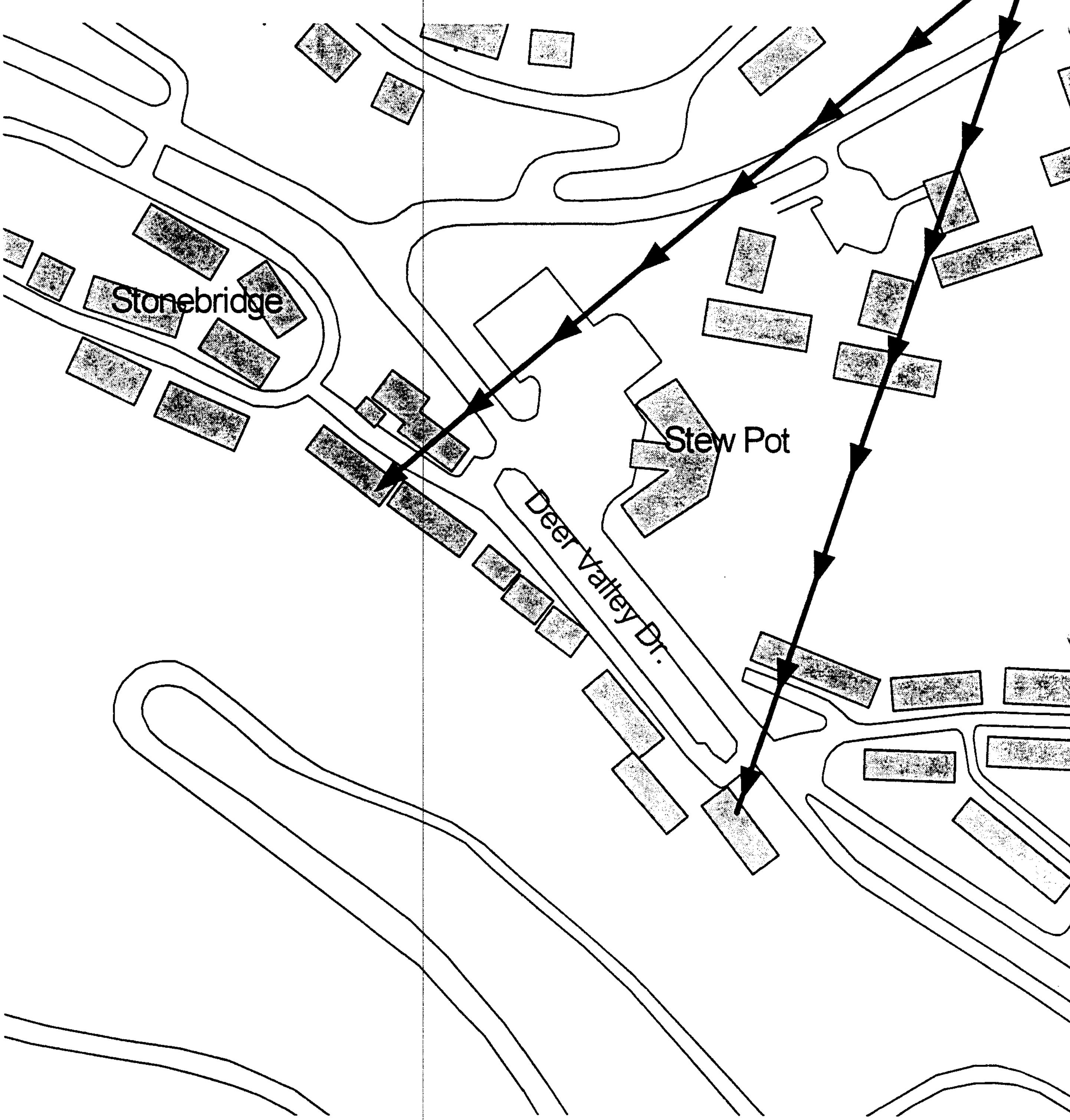
1. The City Attorney and City Engineer will review and approve the final form and content of the Amended Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the Amended Record of Survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. All other conditions of approval of the Aspen Wood Condominiums project continue to apply.

**EXHIBITS**

Exhibit A - Location Map
Exhibit B - Proposed Amended Record of Survey
Exhibit C - Applicant's narrative
Exhibit D - Memorandum of Understanding

M:\CDD\BTR\COUNCIL\CC2000\Aspenwood.wpd

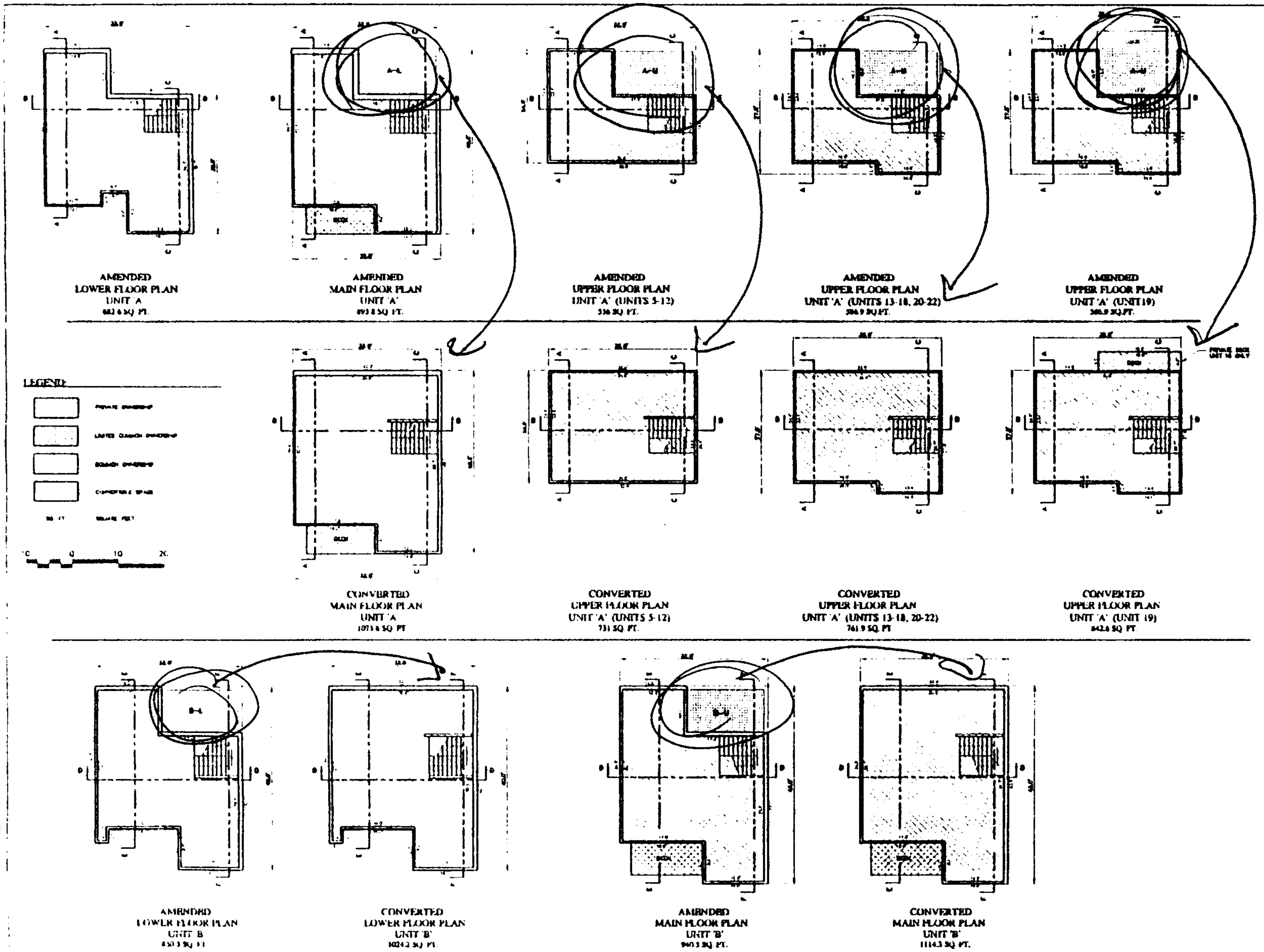
# Aspen Wood Condos




PARK CITY
1884

# Exhibit A
# Vicinity Map

N




## SURVEYOR'S CERTIFICATE

I, John Demkowicz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 163831, as prescribed by the laws of the State of Utah, and that I have caused to be made under my direction and by the authority of the owner(s), this Amended Record of Survey Map of Aspenwood, a Utah Condominium Project which consists of sheets 2 and 3 in accordance with the provisions of Section 57-8-13(1) of the Utah Condominium Ownership Act. I further certify the information shown hereon is accurate to the best of my knowledge.

John Demkowicz, LS #163831 ______ Date

## OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT, the undersigned owners of the herein described tract of land, hereby certifies that they have caused this survey to be made and this Amended Record of Survey Map to be prepared and consents to the recordation of this Amended Record of Survey Map.

Jonathan J. Ortich, President
Aspenwood Homeowners' Association, Inc. ______ Date

## ACKNOWLEDGMENT

State of ______
County of ______

On this ______ day of ______, 1990, personally appeared before me, the undersigned Notary Public, in and for said County and State, Jonathan J. Ortich, being duly sworn, acknowledged to me that he is the president of the Aspenwood Homeowners' Association, Inc., and that he signed the above Owner's Dedication and Consent to Record on behalf of the Aspenwood Homeowners' Association, Inc.

Residing in: ______

My commission expires ______

NOTES:

1. This Amended Record of Survey Map is an Amendment of sheets 2 and 3 of the Aspenwood Condominiums, recorded June 8, 1981, as Entry #180268 in the Summit County Recorders Office. Sheet 1 of the Aspenwood Condominiums as recorded June 8, 1981, shall remain intact.
2. The address of the property is: 1308 thru 1370 Deer Valley Drive South
3. All other conditions of approval of the Aspenwood Condominium project continue to apply.
4. A convertible space is deemed converted into private ownership upon recordation of "Notice of Conversion" containing: (i) unit number identification; (ii) owner acknowledgment of conversion, (iii) identification of level(s) being converted; (iv) table with recalculation of percentage undivided ownership interests in common areas, and (v) approval by Aspenwood Condominium Owners Association.
5. Refer to Amendment to CC&R's recorded concurrently with this plat.
6. The dimensions of the private spaces and square footage calculations are based on the Record of Survey Map of Aspenwood Condominiums (see Note 1), and on measurements in the field. Minor variations may occur. It is the intent that the private ownership area of the units will be as constructed.

AMENDED
RECORD OF SURVEY MAP
# *ASPENWOOD*
A UTAH CONDOMINIUM PROJECT
LOCATED IN SECTION 15, T2S, R4E, SLB & M

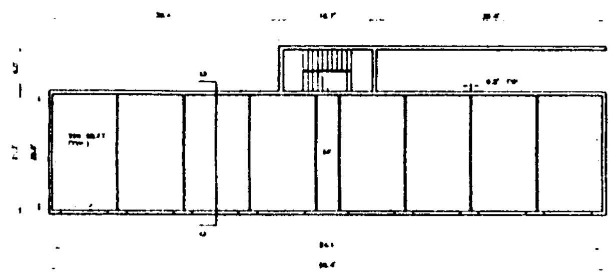
AMENDED SHEET 2 OF 3

JOB NO: 2-11-90 FILE: \ASPEN\32 amended

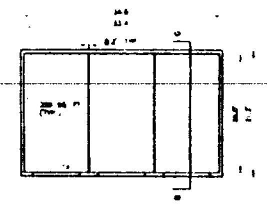
| SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT | PLANNING COMMISSION | ENGINEER'S CERTIFICATE | APPROVAL AS TO FORM | CERTIFICATE OF ATTEST | COUNCIL APPROVAL AND ACCEPTANCE | RECORDED |
|---|---|---|---|---|---|---|
| REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS ______ DAY OF ______ 1990 A.D. BY ______ S.B.S.I.D. | APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ______ DAY OF ______ 1990 A.D. BY ______ CHAIRMAN | I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ______ DAY OF ______ 1990 A.D. BY ______ PARK CITY ENGINEER | APPROVED AS TO FORM THIS ______ DAY OF ______ 1990 A.D. BY ______ PARK CITY ATTORNEY | I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ______ DAY OF ______ 1990 A.D. BY ______ PARK CITY RECORDER | APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ______ DAY OF ______ 1990 A.D. BY ______ MAYOR DEC 1990 | STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ______ DATE ______ TIME ______ BOOK ______ PAGE ______ FEE ______ RECORDER |

10

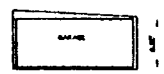
EXHIBIT B



GARAGE FLOOR PLAN

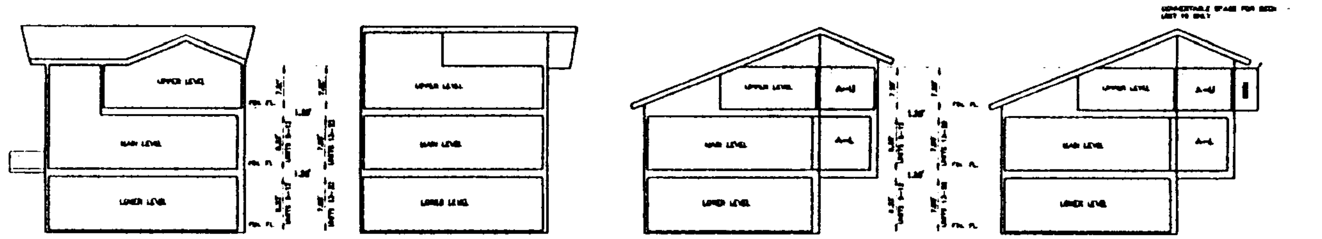


GARAGE FLOOR PLAN



SECTION G-G

GARAGE SECTION



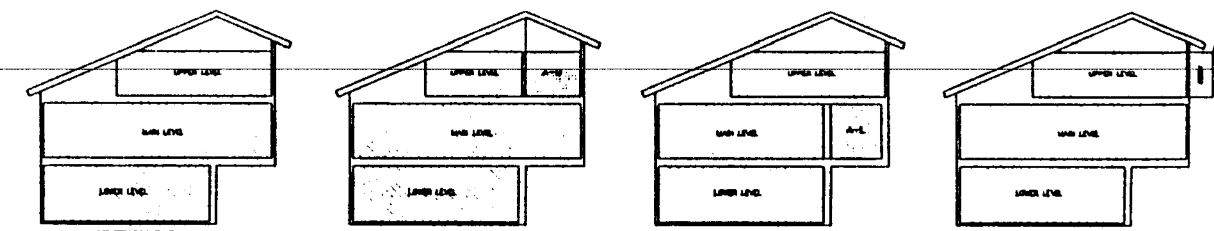

SECTION A-A

SECTION B-B

SECTION C-C

SECTION C-C (UNIT 19)

UNIT 'A' - AMENDED




SECTION C-C A-L & A-U CONVERTED

SECTION C-C A-L CONVERTED

SECTION C-C A-U CONVERTED

SECTION C-C A-L & A-U CONVERTED (UNIT 19)

UNIT 'A' - CONVERTED

## CONDOMINIUM ELEVATION TABLE (AS SHOWN ON ORIGINAL PLAT)

| UNIT NUMBER | UNIT TYPE | FINISHED FIRST FLOOR | FINISHED CEILING 1ST FLOOR | FINISHED SECOND FLOOR | FINISHED CEILING 2ND FLOOR | FINISHED THIRD FLOOR | FINISHED CEILING 3RD FLOOR |
|---|---|---|---|---|---|---|---|
| 1 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 2 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 3 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 4 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 5 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 6 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 7 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 8 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 9 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 10 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 11 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 12 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 13 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 14 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 15 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 16 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 17 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 18 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 19 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 20 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 21 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 22 | A | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 23 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 24 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 25 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 26 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 27 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 28 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 29 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |
| 30 | B | [illegible] | [illegible] | [illegible] | [illegible] | N/A | N/A |

## SQUARE FOOTAGE TABLE

| UNIT NUMBER | UNIT TYPE | AMENDED | A-L OR B-L CONVERTED | A-U OR B-U CONVERTED | A-L AND A-U OR B-L AND B-U CONVERTED | UNIT ADDRESS ON DEER VALLEY DRIVE SOUTH |
|---|---|---|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

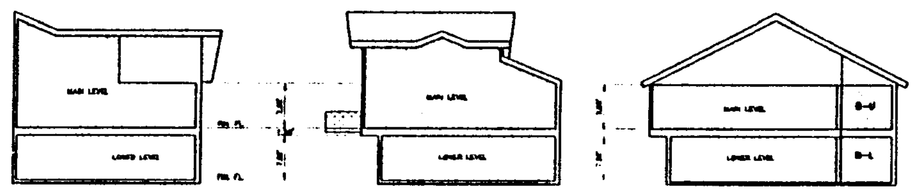
UNITS 6 AND 7 INCLUDE AN ADDITIONAL EXTERNAL GARAGE SEE SHEET 1 ASPENWOOD CONDOMINIUM PLAT FOR LOCATION

## GARAGE ELEVATION TABLE (AS SHOWN ON ORIGINAL PLAT)

| GARAGE NUMBER | BELONGS TO BLDG. TYPE | FINISHED FIRST FLOOR | FINISHED CEILING |
|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] |

NOTES

1. This Amended Record of Survey Map is an Amendment of sheets 2 and 3 of the Aspenwood Condominiums, recorded June 8, 1981 as Entry #180268 in the Summit County Recorders Office. Sheet 1 of the Aspenwood Condominiums as recorded June 8, 1981, shall remain in tact.
2. The address of the property is:
   1308 thru 1870 Deer Valley Drive South
3. All other conditions of approval of the Aspenwood Condominium project continue to apply.
4. A convertible space is deemed converted into private ownership upon recordation of "Notice of Conversion" containing: (I) unit number identification, (II) owner acknowledgment of conversion, (III) identification of level(s) being converted, (IV) table with recalculation of percentage undivided ownership interests in common areas, and (V) approval by Aspenwood Condominium Owners Association.
5. Refer to Amendment to CC&R's recorded concurrently with this plat.
6. The dimensions of the private spaces and square footage calculations are based on the Record of Survey Map of Aspenwood Condominiums (see Note 1), and on measurements in the field. Minor variations may occur. It is the intent that the private ownership area of the units will be as constructed.

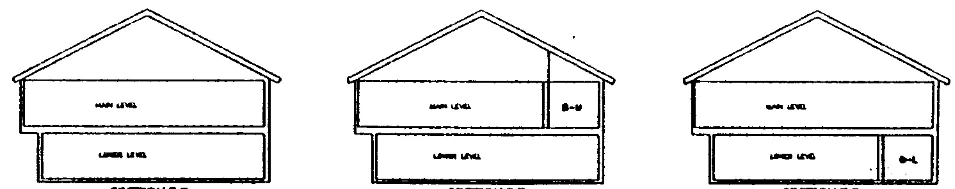



SECTION D-D

SECTION E-E

SECTION F-F

UNIT 'B' - AMENDED



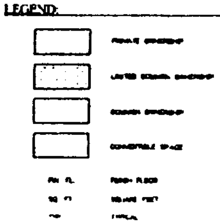

SECTION F-F B-L & B-U CONVERTED

SECTION F-F B-L CONVERTED

SECTION F-F B-U CONVERTED

UNIT 'B' - CONVERTED

LEGEND




AMENDED
RECORD OF SURVEY MAP
ASPENWOOD
A UTAH CONDOMINIUM PROJECT
LOCATED IN SECTION 15, T2S, R4E, SLB & M

DEC 30 1999

AMENDED SHEET 3 OF 3

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

11

# ASPEN WOOD CONDOMINIUMS
# AMENDED PLAT NARRATIVE

The plat amendment submittal consists of amended sheets 2 and 3 for the Aspen Wood Condominium survey map. Sheet 1 as originally platted has not been amended and shall remain intact.

The amendment consists of three changes:

(1) The addition of private space located in the rear of the garages on the A units and the addition of private space located in the lower level of the B units. These spaces were partially or wholly excavated years ago, per building permit, and are being used for storage.

(2) The creation of convertible spaces, to be located at the same place in the rear of all 30 units at the project. The upper space on each unit currently is a deck, designated as limited common area on the original Aspen Wood plat, while the lower space is situated on a sloping grade in most instances, and is designated as common area on the plat. The convertible space concept would allow individual owners to enclose and incorporate the spaces into their units. The plat amendment will designate all such common or limited common areas which will become convertible space, providing the linear and vertical dimensions of same.

(3) An illustration of the units when either upper or lower levels, or both, have been converted into private areas.

The proposed amendment will illustrate that all convertible spaces are within the roofline of the adjacent unit, constituting a logical completion of the "footprint" of each unit. When an owner decides to expand onto one or both levels adjacent to a unit, the declaration for Aspen Wood will be amended to require submission of that expansion to the Association for compliance with the conversion scheme. The owner will file for recording a "Notice of Conversion," which will identify the unit, the level or levels to be converted, along with a revised table for the undivided ownership interest in the remaining common areas. Thus, subsequent conversions would be accomplished without necessity of further formal amendment to the plat, approvals by the planning commission and city counsel, etc.

If in conformity with the conversion scheme as set out in the condominium declaration, a deed would issue from the Association for the level(s) being converted into private ownership. When received by Summit County Recorder, the increase in size of the unit would be duly noted in the ownership data base for Aspen Wood and also passed on to the county assessor for tax evaluation purposes. Thus, no further "subdivision" of the Aspen Wood parcel would have occurred, just the actual transfer of ownership of same and reallocation of ownership interest for common expense purposes.

EXHIBIT C

The proposed plat amendment and consequent change in ownership of convertible spaces, the adjustment of percentage ownership interest in the project's remaining common areas, and the authorization of the Association's Management Committee as agent for the owners to accomplish these purposes has received the unanimous approval of the unit owners.

The convertible space proposal has been approved, in concept, by the City Attorney's office, per Tom Daley.

The Building Department has received building permit applications from two Aspen Wood owners for this expansion; tentative approval has been given, subject to approval of the plat amendment.

No additional density is proposed with the plat amendment. All setback and open space provisions of the Land Management Code are in conformance. The proposed amendment does not expand the existing building or deck footprint.

# MEMORANDUM OF UNDERSTANDING

Whereas, Steven G Potkin owns (hereinafter referred to as "Owner") condominium unit number 1460 in building number ______ in the Aspenwood condominium project located at 1460 Deer Valley Drive, Park City, Utah ("hereinafter referred to as Unit"); and

Whereas, Owner desires to expand the Unit into common or limited common area as those areas are defined in the Condominium Ownership Act, Utah Code Annotated § 57-8-1 et seq.; and

Whereas, Owner has applied for Building Permit Number 598-04371, which permit is attached hereto and incorporated by this reference; and

Whereas, the Condominium Ownership Act requires the consent of 100% of unit owners in the condominium project and the recording of an amended declaration and record of survey map before expanding into common or limited common area into private area; and

Whereas, several unit owners in Owner's condominium project did not satisfy the requirements of the Condominium Ownership Act when expanding their units; and

Whereas, the Community Development Department of Park City Municipal Corporation (hereinafter referred to as "City") wishes to facilitate Owner's ability to upgrade Owner's Unit while preserving the rights of neighboring unit owners and adhering to the spirit of the Condominium Ownership Act.

NOW THEREFORE, City and Owner, based upon mutual consideration, the sufficiency of which is hereby acknowledged, hereby agree as follows:

1. Owner acknowledges that the Condominium Ownership Act requires Owner to obtain the consent of 100% of unit owners within the condominium project and that an amended record of survey and declaration be recorded before converting common or limited common area to private area.

2. City agrees to allow Owner to expand his Unit into common or limited common area without receiving 100% consent of unit owners, under the following conditions:
   a) Owner receives approval from the condominium project's owners' association; and
   b) the owners' association has amended its declaration and record of survey map to reflect that Owner's expansion into common or limited common area may occur upon the owners' association's approval.



EXHIBIT D

3. In the event the above-referenced approval is not obtained by January 1, 2001, Owner agrees to terminate the occupancy of Owner's Unit and to remove all improvements in common or limited common area by June 1, 2001, at Owner's expense. Owner agrees that if the improvements are not removed by June 1, 2001, City shall have the right to do so and be reimbursed by Owner for all costs associated with the removal of the improvements.

4. Owner agrees to satisfy all permitting requirements to the satisfaction of the City Building Department prior to occupancy.

5. Owner agrees to satisfy all requirements of the Park City Municipal Corporation Land Management Code including, but not limited to, those addressing density, parking, open space, building height, and setbacks. Owner further agrees to limit the expansion into common area to those areas designated on the proposed amended declaration and record of survey map for Owner's respective condominium project on file in the Park City Community Development Department.

6. Owner acknowledges that he/she has consulted with the owners' association, the association's attorney, and Owner's attorney and is agreeing to the terms herein at his own risk.

7. Owner agrees to indemnify and hold Park City harmless from any and all costs, claims, actions or suits, including reasonable attorney fees, from any claims arising out of the expansion of Owner's Unit into common or limited common area.

8. City and Owner agree that if at any time during the term of this agreement the Condominium Ownership Act is amended with the result of bringing Owner into compliance with the act, this agreement will be nullified.

DATED this 22 day of Nov, 1999.

OWNER

Steve B Potkin

STATE OF UTAH )
: ss.
COUNTY OF SUMMIT )





15

On this 22 day of November, 1999, personally appeared before me Beverly B Krausert, Notary Public, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding Agreement, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Beverly B. Krausert
NOTARY PUBLIC
101 City Dr. Orange, CA. 92868

BEVERLY B. KRAUSERT
Commission # 1176942
Notary Public - California
Orange County
My Comm. Expires Apr 17, 2002

CITY

Rick Lewis, Community Development Director

Approved as to form:

Thomas A. Daley
Asst. City Attorney

**Ordinance No. 20-**

## AN ORDINANCE APPROVING THE AMENDED RECORD OF SURVEY PLAT OF THE ASPEN WOOD CONDOMINIUM, 1305-1570 DEER VALLEY DRIVE SOUTH, PARK CITY, UTAH.

WHEREAS, the Homeowner's Association of Aspen Wood condominiums located at 1303-1570 Deer Valley Drive South, have petitioned the City Council for approval of an amended record of survey plat; 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 March 8, 2000, to receive input on the proposed amended record of survey plat;

WHEREAS, the Planning Commission, on March 8, 2000, forwarded a positive recommendation to the City Council; and,

WHEREAS, on April 13, 2000, the City Council held a public hearing to receive input on the proposed amended record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the amended record of survey.

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

**SECTION 1. APPROVAL.** The First Amended Aspen Wood record of survey plat is hereby approved as shown in Exhibit A subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The condominium project known as the Aspen Wood Condominiums is located at 1305 through1570 Deer Valley Drive South and is zoned RD-MPD.
2. The proposed amended record of survey adds private space to the garages of "A" units and the lower level of "B" units and changes limited common decks to convertible space.
3. The Condominium Association agrees to this change.
4. The building footprint does not increase in size.
5. A Memorandum of Understanding has been signed by the City and the Condominium Association.
6. The Planning Commission held a public hearing on this application at its regular meeting of March 8, 2000 and forwarded a positive recommendation to the City

Council.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Amended Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the Amended Record of Survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. All other conditions of approval of the Aspen Wood Condominiums project continue to apply.

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

PASSED AND ADOPTED this 13th day of April, 2000 .

PARK CITY MUNICIPAL CORPORATION

______________________________

Bradley A. Olch, MAYOR

ATTEST:

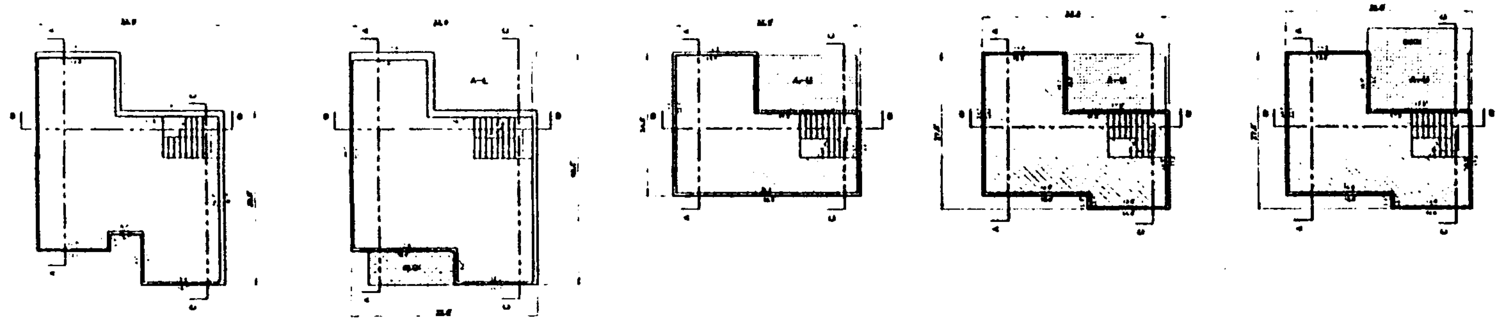
______________________________

Jan Scott, City Recorder

APPROVED AS TO FORM:

______________________________

Mark Harrington, City Attorney



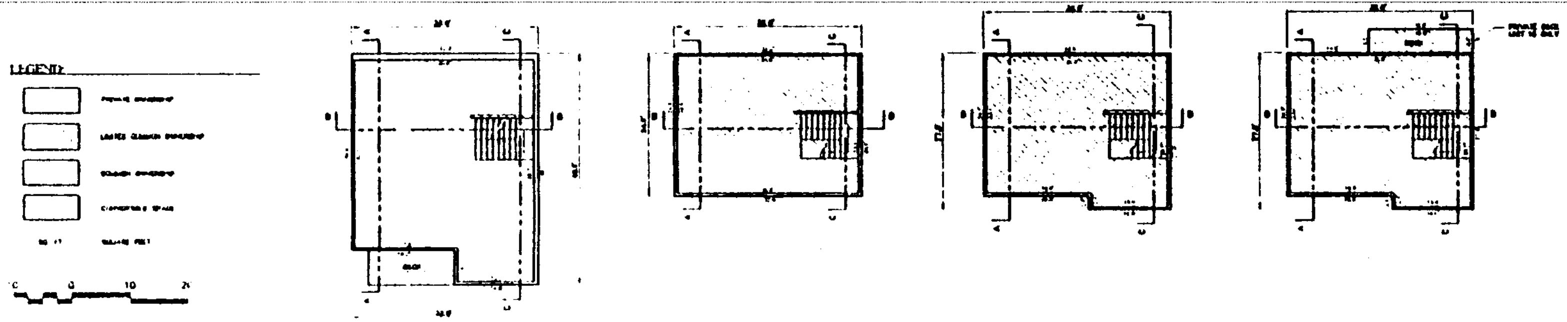
AMENDED
LOWER FLOOR PLAN
UNIT A
842.6 SQ FT

AMENDED
MAIN FLOOR PLAN
UNIT 'A'
993.8 SQ FT

AMENDED
UPPER FLOOR PLAN
UNIT 'A' (UNITS 5-12)
536 SQ FT

AMENDED
UPPER FLOOR PLAN
UNIT 'A' (UNITS 13-18, 20-22)
584.9 SQ FT

AMENDED
UPPER FLOOR PLAN
UNIT 'A' (UNIT 19)
580.9 SQ FT

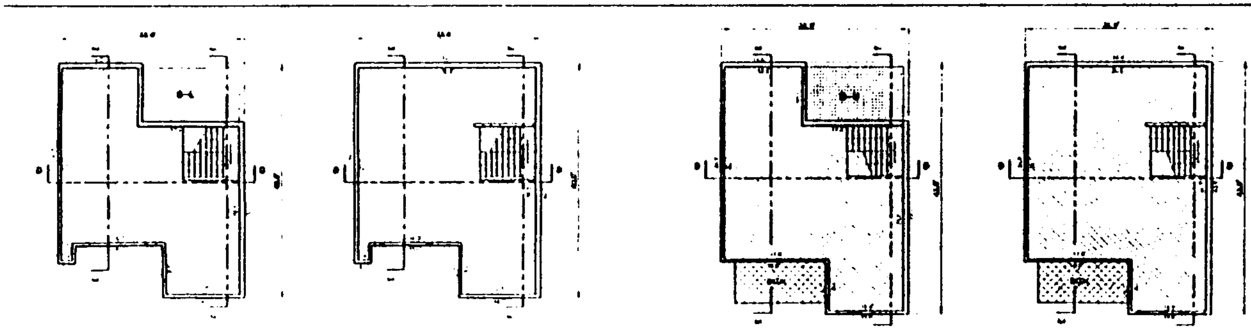



CONVERTED
MAIN FLOOR PLAN
UNIT 'A
1073.6 SQ FT

CONVERTED
UPPER FLOOR PLAN
UNIT 'A' (UNITS 5-12)
731 SQ FT

CONVERTED
UPPER FLOOR PLAN
UNIT 'A' (UNITS 13-18, 20-22)
761.9 SQ FT

CONVERTED
UPPER FLOOR PLAN
UNIT 'A' (UNIT 19)
842.6 SQ FT



AMENDED
LOWER FLOOR PLAN
UNIT B
853.3 SQ FT

CONVERTED
LOWER FLOOR PLAN
UNIT 'B'
1024.2 SQ FT

AMENDED
MAIN FLOOR PLAN
UNIT 'B'
940.3 SQ FT

CONVERTED
MAIN FLOOR PLAN
UNIT 'B'
1114.3 SQ FT

## SURVEYOR'S CERTIFICATE

I, John Demkowicz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 163831, as prescribed by the laws of the State of Utah, and that I have caused to be made under my direction and by the authority of the owner(s), this Amended Record of Survey Map of Aspenwood, a Utah Condominium Project which consists of sheets 2 and 3 in accordance with the provisions of Section 57-8-13(1) of the Utah Condominium Ownership Act. I further certify the information shown hereon is accurate to the best of my knowledge.

John Demkowicz, LS #163831 ______ Date

## OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that, the undersigned owners of the herein described tract of land, hereby certifies that they have caused this survey to be made and this Amended Record of Survey Map to be prepared and consents to the recordation of this Amended Record of Survey Map.

Jonathan A Orlich, President ______ Date
Aspenwood Homeowners' Association, Inc.

## ACKNOWLEDGMENT

State of ______
County of ______

On this ______ day of ______ 1990, personally appeared before me, the undersigned Notary Public, in and for said County and State, Jonathan A Orlich, being duly sworn, acknowledged to me that he is the president of the Aspenwood Homeowners' Association, Inc., and that he signed the above Owner's Dedication and Consent to Record on behalf of the Aspenwood Homeowners' Association, Inc.

Residing in: ______

My commission expires ______

NOTES:

1. This Amended Record of Survey Map is an Amendment of sheets 2 and 3 of the Aspenwood Condominiums, recorded June 8, 1981, as Entry #180284 in the Summit County Recorders Office. Sheet 1 of the Aspenwood Condominiums as recorded June 8, 1981, shall remain intact.
2. The address of the property is
   1308 thru 1370 Deer Valley Drive South
3. All other conditions of approval of the Aspenwood Condominium project continue to apply.
4. A convertible space is deemed converted into private ownership upon recordation of "Notice of Conversion" containing (i) unit number identification, (ii) owner acknowledgment of conversion, (iii) identification of level(s) being converted, (iv) table with recalculation of percentage undivided ownership interests in common areas, and (v) approval by Aspenwood Condominium Owners Association.
5. Refer to Amendment to CC&R's recorded concurrently with this plat.
6. The dimensions of the private spaces and square footage calculations are based on the Record of Survey Map of Aspenwood Condominiums (see Note 1), and on measurements in the field. Minor variations may occur. It is the intent that the private ownership area of the units will be as constructed.

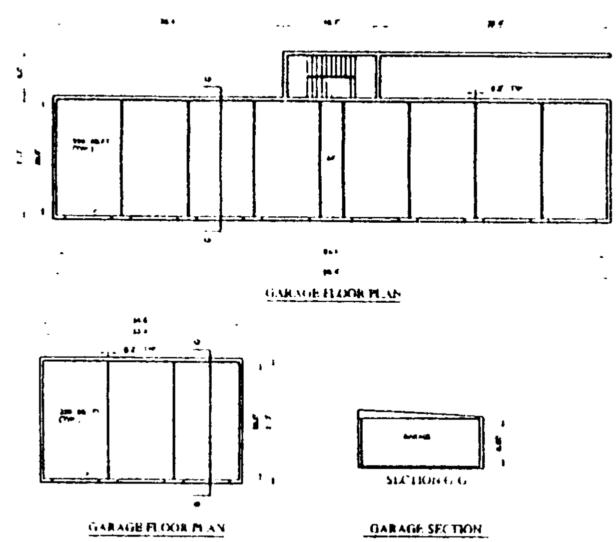
AMENDED
RECORD OF SURVEY MAP
*ASPENWOOD*
A UTAH CONDOMINIUM PROJECT
LOCATED IN SECTION 15, T2S, R4E, SLB & M

AMENDED SHEET 2 OF 3

| SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT | PLANNING COMMISSION | ENGINEER'S CERTIFICATE | APPROVAL AS TO FORM | CERTIFICATE OF ATTEST | COUNCIL APPROVAL AND ACCEPTANCE | RECORDED |
|---|---|---|---|---|---|---|
| REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS ______ DAY OF ______ 1990 A.D. BY ______ S.B.S.I.D. | APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ______ DAY OF ______ 1990 A.D. BY ______ CHAIRMAN | I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ______ DAY OF ______. BY ______ PARK CITY ENG | APPROVED AS TO FORM THIS ______ DAY OF ______ 1990 A.D. BY ______ PARK CITY ATTORNEY | I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ______ DAY OF ______ 1990 A.D. BY ______ PARK CITY RECORDER | APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ______ DAY OF ______ 1990 A.D. BY ______ MAYOR | STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ______ DATE ______ TIME ______ BOOK ______ PAGE ______ RECORDER |

19

EXHIBIT A

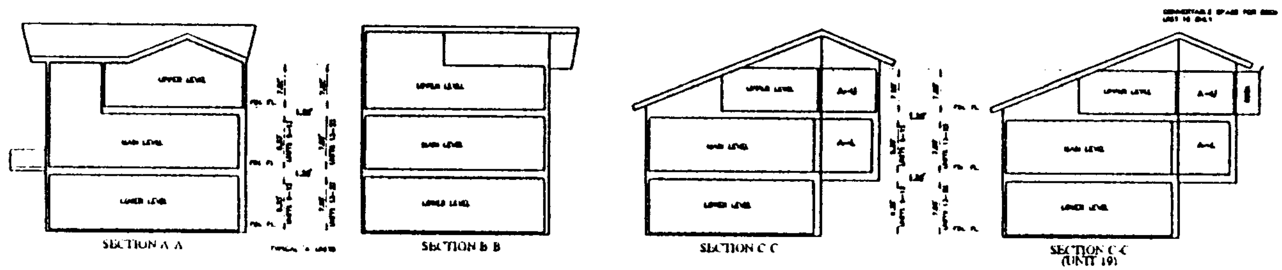


GARAGE FLOOR PLAN

GARAGE FLOOR PLAN

SECTION G-G

GARAGE SECTION



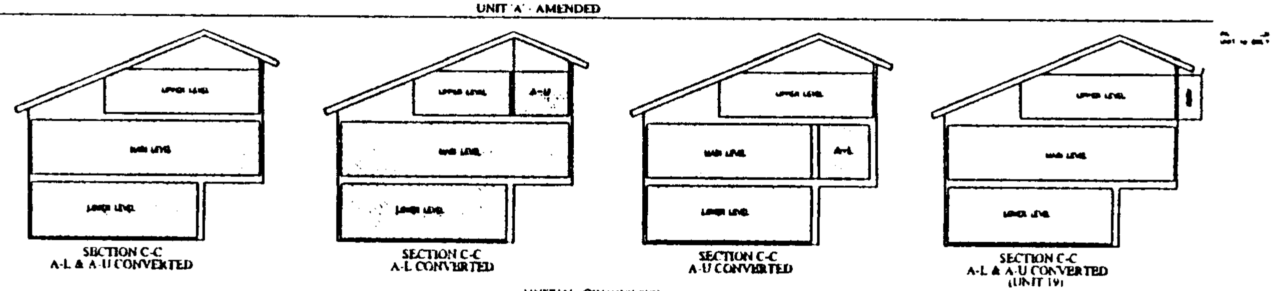
SECTION A-A

SECTION B-B

SECTION C-C

SECTION C-C (UNIT 19)

UNIT 'A' - AMENDED



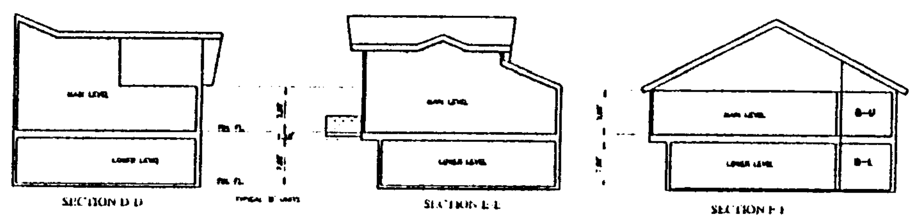
SECTION C-C A-L & A-U CONVERTED

SECTION C-C A-L CONVERTED

SECTION C-C A-U CONVERTED

SECTION C-C A-L & A-U CONVERTED (UNIT 19)

UNIT 'A' - CONVERTED

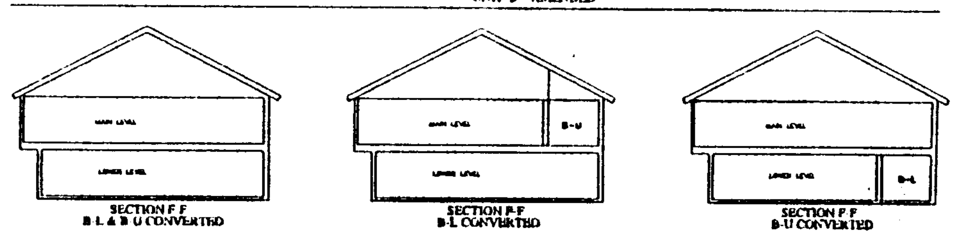


SECTION D-D

SECTION E-E

SECTION F-F

UNIT 'B' - AMENDED



SECTION F-F B-L & B-U CONVERTED

SECTION F-F B-L CONVERTED

SECTION F-F B-U CONVERTED

UNIT 'B' - CONVERTED

LEGEND

CONDOMINIUM ELEVATION TABLE

| UNIT NUMBER | UNIT TYPE | FINISHED FIRST FLOOR | FINISHED CEILING 1ST FLOOR | FINISHED SECOND FLOOR | FINISHED CEILING 2ND FLOOR | FINISHED THIRD FLOOR | FINISHED CEILING 3RD FLOOR |
|---|---|---|---|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

SQUARE FOOTAGE TABLE

| UNIT NUMBER | UNIT TYPE | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
|---|---|---|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

GARAGE ELEVATION TABLE

| GARAGE NUMBER | [illegible] | FINISHED FLOOR | FINISHED CEILING |
|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] |

NOTES

1. This Amended Record of Survey Map is an Amendment of sheets 2 and 3 of the Aspenwood Condominiums recorded June 8, 1981 as Entry #180268 in the Summit County Recorders Office. Sheet 1 of the Aspenwood Condominiums as recorded June 8, 1981, shall remain intact.
2. The address of the property is
   1300 thru 1570 Deer Valley Drive South
3. All other conditions of approval of the Aspenwood Condominium project continue to apply.
4. A convertible space is deemed converted into private ownership upon recordation of "Notice of Conversion" containing: (i) unit number identification; (ii) owner acknowledgment of conversion; (iii) identification of level(s) being converted; (iv) table with recalculation of percentage undivided ownership interests in common areas; and (v) approval by Aspenwood Condominium Owners Association.
5. Refer to Amendment to CC&R's recorded concurrently with this plat.
6. The dimensions of the private spaces and square footage calculations are based on the Record of Survey Map of Aspenwood Condominiums (see Note 1) and on measurements in the field. [illegible] variations may exist. It is the intent that the private ownership area of the units shall be as constructed.

10 0 10 20

AMENDED
RECORD OF SURVEY MAP
*ASPENWOOD*
A UTAH CONDOMINIUM PROJECT
LOCATED IN SECTION 15, T2S, R4E, SLB & M

DEC 30 1999

JOB NO.: [illegible] FILE: [illegible]

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ________
DATE ______ TIME ______ BOOK ______ PAGE ______

FEE ______ RECORDER ______

20

**RESOLUTION PROCLAIMING MAY 1 - 31, 2000**
**AS BIKE, WALK, AND CAR POOL TO WORK AND SCHOOL MONTH**
**IN PARK CITY, UTAH**

WHEREAS, the 4th Grade Students of McPolin Elementary in the Program for Academically Talented and High-Achieving Students (PATHS) are concerned about preserving Park City's environment and would like to make the community more aware of their concerns; and

WHEREAS, the Park City air is now clean and breathable and we would like to preserve the air quality and avoid the problem of polluting our air; and

WHEREAS, with the Olympics approaching more and more people are moving to Park City, causing more and more congestion and car exhaust to pollute the air; and

WHEREAS, we would like to preserve the natural environment, our trees, natural gas, and Park City's attraction as a tourist town;

NOW, THEREFORE, BE IT RESOLVED that May 1 - 31, 2000 be proclaimed

***BIKE, WALK, AND CAR POOL TO WORK AND SCHOOL MONTH***
***IN PARK CITY, UTAH***

The Mayor and City Council and the citizens of PATHS encourages everyone to bike, walk, and car pool and play in the fresh air more.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Park City Council appreciates the work of Casey McAdams, Alyssa vonPuttkammer, Maurine Westover, Daniel Klismith, Ian Smith, Michael Papadakis, Thomas Beall, Jonathan Perkins, John Sanderson, Anna Amici, and Kate Sutton; and the support of teachers Agnes Johanson and Kathy Zabel and guidance of coordinator Barbara Lewis on addressing this important issue.

PASSED AND ADOPTED this 13th day of April, 2000.

PARK CITY MUNICIPAL CORPORATION

______________________________

Mayor Bradley A. Olch

Attest:

______________________________
Janet M. Scott, City Recorder

Approved as to form:

______________________________
Mark D. Harrington, City Attorney

PARK CITY 1884

# CITY COUNCIL REPORT

**DATE:** April 13, 2000
**DEPARTMENT:** Community Development
**AUTHOR:** Richard E. Lewis, Community Development Director
**TITLE:** Environmental Element - Phase II General Plan
**TYPE OF ITEM:** Legislative

---

**SUMMARY RECOMMENDATION:** Close public hearing, direct staff to make any desired amendments to Environmental Element and adopt resolution.

---

## A. DESCRIPTION

Environmental Element of Phase II of the General Plan.

## B. BACKGROUND

The City Council opened the public hearing for the Environmental Element on March 23, 2000. The public hearing was continued until April 13. Staff was directed to investigate the possible cost of implementation of the action items and to re-write one of the policies relating to water use reduction.

## C. ANALYSIS

The Action Plan was reviewed by staff and a priority system established which would program the action items over a six year period.

Implementation Cost Estimates:

The highest priority items **(Priority A)** could be implemented over the next two years with adequate staff and consultant resources. The estimated total cost for the Priority A action items is approximately **$115,000.** This estimate includes 2280 hours of staff time costing about $90,000 plus $25,000 of consultant services.

**Priority B** action items could be implemented over the following two years at a total cost of approximately **$255,000**. Consultant fees would represent about $225,000 of that total. About 1000 hours of staff time would be needed at an estimated cost of $30,000.

**Priority C** action items would be implemented following the completion of most of the Priority A and B actions and would cost about **$250,000**. Approximately 1600 staff hours would be needed, costing about $50,000 and about $200,000 of consulting services would be required.

It is not anticipated that additional staff will be needed to coordinate the most critical action plan recommendations, provided other priorities would allow adequate time for implementation. The major impact of the action plan is the need for consultant services ($450,000) over a six year period. The estimated total staff time is about 4860 hours at a cost of nearly $170,000. The adoption of the Environmental Element and its action plan does not obligate the City to implementation but does provide a good overview of the cost to the community for environmental management. Some of the action items, such as water quality studies and environmental monitoring, must be implemented in order to comply with state and federal requirements. Most of these programs are already anticipated in the staff's work programs.

Water Resources Action Item.
The Council asked for clarification regarding the term "grey water" on one of the actions recommended. Grey water is normally defined as waste water from washing dishes, bathing, and washing clothes. Grey water has been used in some areas for farmland irrigation and landscape irrigation. The key to successfully using grey water is to apply it quickly to a soil environment before it has reached the anaerobic state which can produce foul odors.

After analyzing the potential use of grey water in our region, I have concluded that, whereas it may be beneficial in reducing waste water, other significant problems would have to be addressed. For example, a minimum water flow must be maintained downstream from the treatment plants and the Snyderville Basin has limited crop land where grey water could probably be used successfully. In addition, the presence of residential units near most of the crop land could be a problem if odors were generated from the water.

I recommend that the action item be modified to eliminate the use of the term "grey water" but the City continue to work with the various agencies to investigate water conservation options. The revised action plan would state:

> **"Work with the Weber Basin Conservancy District, Summit County Health Department and the Division of Water Quality to establish policies and/or regulations and other methods that help reduce water wasting discharges and reduce the need for new water resources."**

## D. IMPACTS

As previously stated in staff memos, the implementation of the action plan will have a significant impact on the City's operating budget. While some of the work can be absorbed into our existing work programs, some temporary staffing may be necessary and consulting assistance will be needed as well.

## RECOMMENDATION:

Close the public hearing, direct staff to make final amendments, and vote on the Resolution to adopt the Environmental Element.

Attachment: Resolution adopting Environmental Element

M:\CDD\GENPLAN\ENVIRONSTAFFRPT.COST.APRIL2000

PARK CITY
1884

Resolution No. _____

RESOLUTION ADOPTING THE ENVIRONMENTAL ELEMENT
OF THE GENERAL PLAN FOR PARK CITY, UTAH

WHEREAS, the Comprehensive Plan was adopted by City Council in 1985 and certain elements have not been substantively amended or replaced since that time; and

WHEREAS, the Utah State Municipal Land Use Development and Management Act specifies that municipalities prepare and adopt a comprehensive, long-range general plan to accomplish the purposes of the Act; and

WHEREAS, the City Council recognized the inadequacy of the 1985 Comprehensive Plan and the need to adopt an effective planning tool to address the many planning challenges which have been prompted by the dramatic changes in the community since the original Comprehensive Plan was adopted; and

WHEREAS, the City Council has identified the updating of the General Plan as a high priority and an integral component in the long range planning of the community; and

WHEREAS, Phase 1 of the revised General Plan was adopted on March 20, 1997; and

WHEREAS, the Planning Commission held work sessions and public hearings on the Environmental Element of Phase II of the General Plan on May 5, 1999, June 30, 1999 and on February 9, 2000, and the City Council held public hearings on March 23, 2000 and April 13, 2000; and

WHEREAS, our natural environment is vital to the quality of life of our residents and visitors, and protecting our natural resources is crucial to our lifestyle in our world-class mountain resort community; and

WHEREAS, the City Council considered public input, recommendations from its staff and consultants and the Planning Commission and deems it in the best interest to proceed with the adoption of the Environmental Element of the General Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Park City, Utah that the Environmental Element is hereby adopted and becomes effective upon the adoption of this Resolution.

PASSED AND ADOPTED THIS 13th day of April, 2000.

PARK CITY MUNICIPAL CORPORATION

______________________________

Mayor Bradley A. Olch

Attest:

______________________________

Janet M. Scott, City Recorder

Approved as to form:

______________________________

Mark D. Harrington, City Attorney

PARK CITY
1884

# CITY COUNCIL STAFF REPORT

**DATE:** April 13, 2000
**DEPARTMENT:** Planning/Facilities and Special Events/Police
**AUTHOR:** Staff
**TITLE:** Outdoor Music at Town Lift Plaza, Summit Watch Plaza and Prospector Square Plaza.
**TYPE OF ITEM:** Legislative

---

**SUMMARY RECOMMENDATIONS:** Discuss proposal and consider adopting the ordinance amending Title 8 of the Municipal Code to allow for regulated outdoor music events.

---

## A. Project

Report from Outdoor Music Task Force and City staff in regards to outdoor music events.

## B. Background

The Council held public hearings on the plan proposed by the Task Force on March 30, 2000 on March 2, 2000.

## C. Analysis

The Task Force has met for the last month and has arrived at the following program for discussion before the Council. The program is designed to mitigate the scheduled events to the best extent possible. Sound, time limitations, and review mechanisms have been put in place and a responsible party has been designated for management and compliance. The program can also be modified once events have occurred to mitigate any unanticipated concerns. Details of the entire program were presented in the March 30, 2000 staff report.

## D. Department Review

**D. Department Review**
The Police Department, Community Development Department, Special Events and Facilities, City Attorney's Office and City Managers's office have reviewed this report.

**ALTERNATIVES**

**A.** Adopt the proposed ordinance amending Title 8 of the Municipal Code to allow for Music Plazas in the HCB zone.

**B.** Reject or modify the proposed ordinance amending Title 8 of the Municipal Code to allow for Music Plazas in the HCB zone.

**C.** Continue the item for further information, input or discussion.

**SIGNIFICANT IMPACTS:**
If the proposed ordinance is adopted the music plazas will result in additional activity and sound in the designated areas. As outlined in the proposed ordinance mitigation measures have been implemented and additional concerns can also be addressed as the situation arises.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**
If the proposed ordinance is not adopted the Task Force could propose other alternatives or abandon the idea to have public outdoor events.

**RECOMMENDATION:** Review Task Force proposal and consider adopting the ordinance amending Title 8 of the Municipal Code to allow for regulated outdoor music events.

**EXHIBITS:**
Exhibit A - Proposed Ordinance

K:\ADMIN\CC\packets.00\music.wpd

ORDINANCE 00-___

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 8 OF THE MUNICIPAL CODE OF PARK CITY REGULATING MASTER FESTIVAL LICENSING; BY ADDING A NEW SUB-CHAPTER 8A REGULATING PUBLIC OUTDOOR MUSIC PLAZAS; AND AMENDING SECTION 6-3-10, OF TITLE 6, HEALTH, NUISANCE ABATEMENT, NOISE BY CREATING AN EXEMPTION FOR SUCH OUTDOOR MUSIC PLAZAS**

WHEREAS, Utah Code Annotated ("UCA") § 10-8-73 and 10-8-76 give the City the power to regulate and prohibit public demonstrations, processions and other street or otherwise public performances which may interfere with public order or otherwise create a noise nuisance; and

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

WHEREAS, UCA § 10-8-60 gives the City the right to declare what constitutes a public nuisance, and provide for the abatement of the same; and

WHEREAS, the City Council received a petition supporting outdoor music; and

WHEREAS, the City Council received recommendations based upon the findings and experiences of a volunteer citizen committee, and a University of Utah class concerning the effects and regulation of noise and the construction of sound mitigating stages, to properly set forth reasonable regulations and time limits to substantially mitigate the effects of such music upon neighboring residents and businesses; and

WHEREAS, the plazas authorized herein are within the Historic Commercial Business ("HCB") zoning districts, where noisy commercial operations, businesses and public master festivals/parades are common; and

WHEREAS, the adjoining neighborhood to the west of the Town Lift Plaza is primarily residential, however the neighborhood is separated from the plaza by Park Avenue, is adjacent to ski runs with snow making with noise levels as high as 75 decibels, and Park Avenue is along a primary municipal transit route with existing noise levels as high as 90 decibels.

WHEREAS, licensing and zoning are legitimate and reasonable means of time, place and manner regulations to ensure that outdoor music performers comply with reasonable regulations and to ensure that performers do not knowingly allow their music to become a nuisance to nearby residences and businesses, nor create public disorder; and

WHEREAS, the City Council received convincing testimony that outdoor music performances, because of their very nature, have a positive effect on both the existing businesses around them and the community at large, causing enhanced resort atmosphere and business patronage; and

WHEREAS, as a result of these findings and testimony, the City Council finds that public outdoor music in the specified plazas is not a nuisance per se, but if performed consistently with the regulations contained herein, is reasonably within the standard of comfort prevailing in the areas of and adjacent to the plazas defined herein, and consistent with pending Master Festival Licensing section 4-8-5; and

WHEREAS, the City Council finds that outdoor music, **if unregulated**, may have serious objectionable operational characteristics particularly when located in close proximity to residential neighborhoods, thereby contributing to increased noise, pedestrian traffic and downgrading the quality of life in such adjacent residential areas; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby preserve the property and character of surrounding neighborhoods, deter unreasonably large pedestrian crowds, protect the citizens from increased noise, preserve the quality of life, and protect the health, safety and welfare of the citizenry; and

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

WHEREAS, the City Council held work sessions with public input on this matter as regularly scheduled meetings on November 18, 1999, and February 10, 2000, and public hearings on March 2, 2000 and March 30, 2000.

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

**SECTION 1. FINDINGS.** The recitals above are incorporated herein as findings by the City Council, the legislative body of Park City.

**SECTION 2. AMENDMENT**. The Municipal Code of Park City is hereby amended by adding the following Chapter 8a to Title 4:

**CHAPTER 8A - PUBLIC OUTDOOR MUSIC PLAZAS**

**4- 8A- 1. TITLE FOR CITATION**.

This section shall be known and may be referred to as the Public Outdoor Music Plaza Ordinance.

**4- 8A- 2. PURPOSE: REASONABLE LICENSING PROCEDURES.**

It is the purpose and object of this section that the City establish reasonable and uniform regulations governing the licensing and manner of operations of Public Outdoor Music Plazas in Park City. This section shall be construed to protect the 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 licensing of Public Outdoor Music Plazas within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects, while providing to those who desire to perform in and patronize Public Outdoor Music Plazas the opportunity to do so. The purpose of this Chapter is to prevent and control the adverse effects of Public Outdoor Music Plazas and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased noise, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods.

**4- 8A- 3. APPLICATION OF PROVISIONS.**

This section imposes regulatory standards and license requirements on certain activities, which are characterized as "Public Outdoor Music Plazas." It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of Public Outdoor Music Plazas. This Chapter is intended to supersede any other related ordinances including, but not limited to, Title 6 Chapter 3, Noise, of the Municipal Code; and Title 15 Chapter 2 of the Park City Land Management Code.

**4- 8A -4. DEFINITIONS.**

For the purpose of this Chapter, the following words shall have the following meanings:

(A) **AMPLIFIED MUSIC**. Music utilizing an amplifier or other input of power so as to obtain an output of greater magnitude or volume through speakers or other electronic devices.

(B) **PUBLIC OUTDOOR MUSIC PLAZA**. The following plazas used for public performances and outdoor music:

(1) Town Lift Plaza as shown on **Exhibit A**; and

(2) Summit Watch Marriot Plaza as shown on **Exhibit B**.

(C) **STAGES**. The raised and semi-enclosed platforms that are designed to attenuate sound, in a form substantially similar to as depicted in **Exhibit C** or as otherwise approved by Special Events staff.

### 4- 8A- 5. MASTER FESTIVAL LICENSE; REVIEW PROCEDURE.

The City Council hereby grants Master Festival Licenses for each of the plazas in Section 4. The Licenses shall be subject to all regulations and conditions of this Chapter. The Licenses shall be valid as of June 1, 2000 and shall expire October 1, 2000, unless renewed by the City Council. The City Council may not renew said licenses until after a public hearing and receipt of a staff evaluation of the prior year's compliance with this Chapter. Renewal shall be granted in the sole judgment of the City Council based upon compliance with the regulations herein, community impacts, and so long as such decision is not arbitrary and capricious. No licensee nor performer shall accrue any vested rights under this revocable license.

### 4- 8A- 6. PROGRAM LIMITS AND CATEGORIES.

Each Stage may be programed for not more than four days per week, and of those four days, only one program day may be a weekend day (Saturday or Sunday). The categories of programming allowed at Public Outdoor Music Plazas are:

(A) **Amplified Music**: This type of music shall be programmed for **no more** than 2 days a week at each plaza, only one of which may be a weekend day (Saturday or Sunday). Amplified Music shall be limited to **no more** than 5 hours of total performance time on each of those two days (breaks are not included in total time).

(B) **Non-amplified music and events:** Programming for music and events such as poetry readings, dance, or other events that require no amplification.

### 4- 8A-7. GENERAL REGULATIONS.

(A) The program manager, or his/her designee, shall provide on-site management for each event.

(B) A sound technician shall provide on-site noise monitoring for each event with music, Amplified or otherwise.

(C) For Amplified Music, a sound limiter will be placed on the sound system that maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty five (25) feet from the stage. Non-amplified music shall not exceed a maximum decibel level of 90, as measured twenty five (25) feet from the stage.

(D) All events shall be open to the public and free of charge.

(E) Power controls. A timer device will be installed that shuts the power of the stage and sound system off at 8:15 p.m.

(F) Time: All performances, regardless of type, are permitted only between noon (12:00 p.m.) and 8 p.m.

(G) No event shall not exceed 250 people unless a separate Master Festival License is granted for that event.

(H) The Police Department or other proper City official shall have access at all times to all plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

(I) All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.

**4- 8A-8. ALCOHOL.**

It is unlawful for the licensee or any person or business to allow the sale, storage, supply, or consumption of alcoholic beverages on the Public Outdoor Music Plazas, unless licensed pursuant to Chapters 4-6 of Title 4, as applicable.

**4- 8A-9. LICENSE HOLDER; PROGRAM BOARD**

(A) The Park City Arts Council will be the licencee of the events and will own the Stages. The Arts Council will hire a program manager, approved by the City, said approval not to be unreasonably withheld. The program manager will be responsible for general management of each plaza and on-sight oversight for each event. Agreements with the individual property owners will be provided to the City Special Events Department by the program manager.

(B) The Arts Council will appoint an independent Programming Board, consisting of five residents of Park City (community and arts). The Programming Board will schedule the selection and times of events. Nothing herein shall allow the City to regulate the content or otherwise censor plaza productions or speech. The Arts Council shall at all times hold the City harmless and indemnify the City for all claims, actions and liability arising from the Arts Council's use of the Public Outdoor Music Plazas. The Arts Council shall maintain its own liability insurance, with the City listed as an additional insured in a form approved by the City Attorney.

(C) Nothing in this Chapter shall be interpreted to create a contract or implied-contract between the City and any performer, or plaza owner.

**4- 8A-10. ON-GOING COMPLIANCE EVALUATION.**

The program manager will appoint an independent neighborhood review group of at least three area residents which will be contacted weekly by the city Special Events staff and the program manager to receive comments and concerns. A phone number will also be available at each venue so that individuals may phone in comments. Based upon such comments, the Special Events staff may issue additional conditions consistent with the intent of this Chapter to the program manager. A summary of, and recommended response to comments will be forwarded to the City Council within seven days of the end of each month of operation, or sooner if requested by the program manager to resolve any issue. At the end of the season, the Special Events staff will forward a final recommendation to the City Council, with proposed changes, if any, prior to renewal of the licenses granted herein.

**4- 8A-11. TRANSFER LIMITATIONS.**

The Master Festival Licenses granted under this Chapter are not transferable without the written consent of the Mayor. It is unlawful for an individual to transfer a Public Outdoor Music Plaza master festival license without City approval as provided herein. If any transfer of the controlling interest in a Public Outdoor Music Plaza license occurs without City approval, the license is immediately null and void and the Public Outdoor Music Plaza shall not operate until a separate new license has been properly issued by the City as herein provided. The City will not unreasonably withhold consent of transfer provided the proposed Licensee is a non-profit organization within Park City, meets all the criteria of this Chapter, and demonstrates experience managing special events.

**4-8A-12. PLAZAS LICENSES IN LIEU OF ADMINISTRATIVE PERMITS FOR OUTDOOR MUSIC AND OUTDOOR SPEAKERS.**

The Master Festival Licenses granted under this Chapter are in lieu of any Administrative Conditional Use Permit for outdoor music (including outdoor speakers) pursuant to the existing Land Management Code and pending ordinances MCPC § 15-2-6.10(B)(4) and 15-2-17.5(B)(4). The Community Development Department shall not issue any outdoor music permits in the Historic Commercial Business ("HCB") zoning district north of Heber Avenue, or in the General Commercial ("GC") zoning district. The City may still issue outdoor music permits in conjunction with an approved Master Festival License.

**SECTION 3. AMENDMENT**. Section 6-3-10, of Title 6, Health, Nuisance Abatement, Noise, is hereby amended to add the following to as an exemption to Chapter 3, Noise:

(J) Noise resulting from a duly licensed and operated Public Outdoor Music Plaza pursuant to Title 4, Chapter 8a of the Municipal Code of Park City.

**SECTION 4. SEVERABILITY.** If any phrase, clause, sentence, paragraph, or section of this Ordinance is declared unlawful by a Court of competent jurisdiction, such decision shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall become effective upon publication.

PASSED AND ADOPTED this ____ day of ____________, 2000.

Park City Municipal Corporation

______________________________
Bradley A. Olch, Mayor

Attestation by:

______________________________
Jan Scott, City Recorder

Approved as to Form:

______________________________
Mark D. Harrington, City Attorney

K:\ADMIN\CC\packets.00\music.wpd

PARK CITY
1884

# CITY COUNCIL STAFF REPORT

**DATE:** April 13, 2000
**DEPARTMENT:** Planning Department
**AUTHOR:** Alison Kuhlow, AICP
**TITLE:** Regulation of Newsracks on Main Street
**TYPE OF ITEM:** Public Hearing

## SUMMARY RECOMMENDATIONS:

Staff requests the City Council conduct a public hearing and review Staff's Ordinance regulating newsracks within the Historic District and provide direction to Staff on the issues for discussion.

## A. Topic

Discuss the proposed Ordinance to regulate newsracks within the Historic District.

## B. Background

On February 3, 2000, Staff approached City Council with a basic outline for criteria to regulate newsracks within Park City. At that meeting the City Council heard basic concerns from the distributors of publications within the area. Since that meeting Staff has reviewed Council's and the distributor's concerns, reviewed the ability to regulate the distribution of publications on public rights-of-ways and have drafted an ordinance.

## C. Analysis

City Planning and Legal Staff have researched state and federal regulations regarding newsracks, and have formulated the following criteria for the placement and lease of City owned newsracks.

### Special Distribution Area

The Ordinance defines a Special Distribution Area where all newsracks would be owned and regulated by the City and spaces within those Newsracks would be available by permit, to the Distributors for lease. The Special Distribution Area has been designated as the Historic District which includes all "H" zones.

### Proposed Locations and Number of Publications in Each Area

Please refer to Attachment B for photos of the proposed locations

- Kimball Art Center, 8 Newsboxes
- Summit Watch, 2 locations of 8 Newsboxes
- Main Street Pizza and Noodle, Rear Entrance, 6 Newsboxes
- Post Office, 8 Newsboxes
- Café Terigo, Rear, 4 Newsboxes
- Wasatch Brew Pub, 8 Newsboxes
- Transit Center, 8 Newsboxes

The eight locations allow for the total of 58 distribution points on and surrounding Main Street. The current number of newsracks on Main Street is 88. With the adoption of the ordinance, the Council would be reducing the number of distribution points by 30 spaces.

The Ordinance as written allow each publication to lease only one Newsbox in each Newsrack. A maximum number of 2/3 the available permits are allowed for each publication. For example if there are nine (9) Newsracks located within the Historic District, a publication is limited to a maximum number of six (6) Newsboxes within the entire area. Priority for publications in each newsrack is given first to those publication published two or more times weekly. Newsbox permits will be issued for a period of three years and can be renewed to the publication at the time of expiration.

Once all spaces within the City owned Newsracks are filled, the Community Development Department will place the remaining publications on waiting list for their specified locations. Only when a publication is in a maintenance violation of this Ordinance or abandons its permitted Newsbox would a publication on the waiting list be given a permit.

Other locations such as the vacant parcel between Morning Ray Café and the Brew Pub and Silver Queen Hotel were investigated as possible Newsrack locations. Both areas were eliminated because the sidewalk width in those areas would not allow the required eight (8) foot clearance. Other areas for the location of Newsracks could include the Centennial Plaza adjacent to Main Street Accommodations, West entrance to China Bridge and the Main Street Mall. Staff requests input from Council on the three additional locations.

**Impoundment**
The distributors requested the City Council to allow for the impoundment of newsracks that violate the proposed Ordinance. Staff has added language within the Ordinance to allow for the City to impound any newsracks placed within the Special Distribution Area that are not within a fully enclosed building.

**Design**
Staff has been contacting various manufacturers for designs of newsracks. Staff will present Council with designs at the next scheduled public hearing for newsracks. The Historic District Commission has requested review of the newsrack design to ensure compatibility of the design with the existing street furniture. At the time a design is chosen, the specific requirements for publication identification and installation of hardware for the Newsboxes will be determined.

**Fees**
Staff has investigated the lease amounts for other City's newsrack programs. The fees are consistently below $20 per year for each newsbox. Staff will return with a proposed fee for Park City's Newsboxes at a later meeting. The fees set need to correlate to City's administrative costs. The fees set can not be prohibitive.

**Installation of Newsrack and Maintenance of Program**
Staff requests input from the Council regarding the installation of the newsracks, including: should the installation of the racks be done by the staff or should the installation be contracted. Input will assist Staff in their investigation of designs and costs.

Staff has also been approached by a company who maintains the assignment, inspection and maintenance for other newsrack programs in San Francisco and New York. Would Council be interested in reviewing proposals from outside agencies for the programming of our Newsracks?

**Issues for Discussion**

- Proposed locations and locations by China Bridge, Main Street Mall and Centennial Park
- Installation of Newsracks and Maintenance of Program

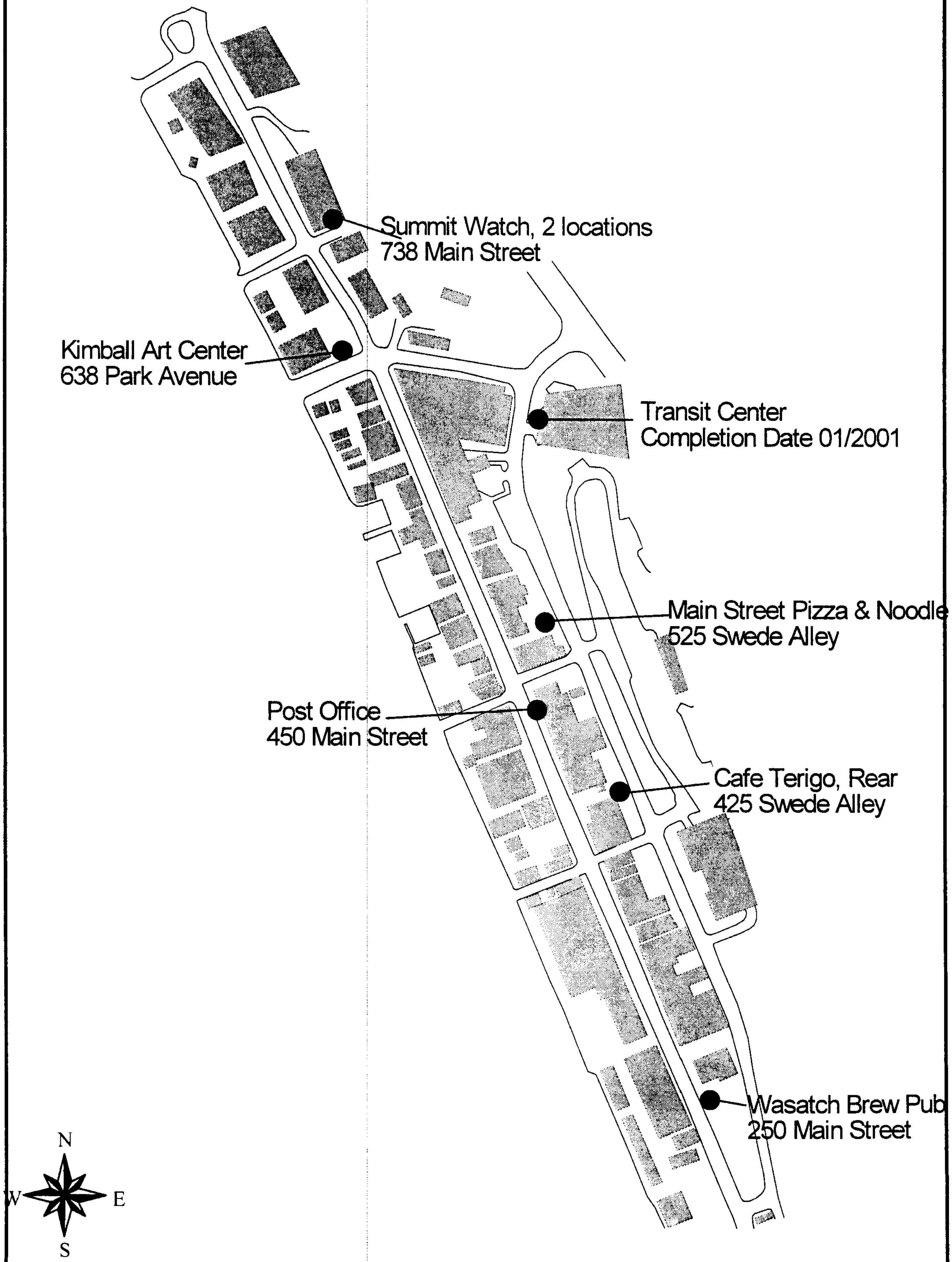
## E. Recommendation

Staff requests Council conduct a public hearing, discuss the issues presented and provide direction to Staff concerning the proposed ordinance amendments. Staff will return to the City Council with designs and any modifications to the Amendment language as requested.

**Exhibits**

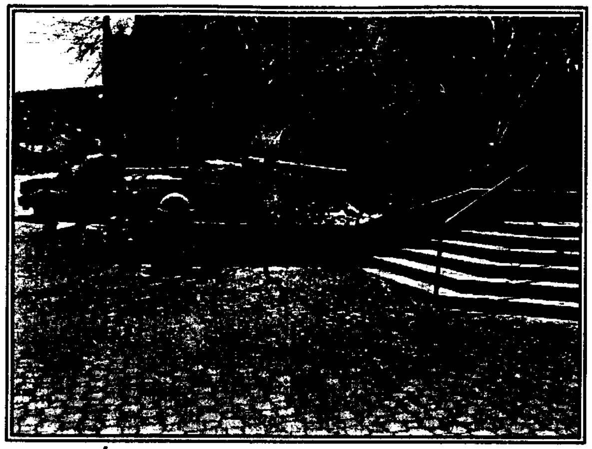
Draft Ordinance
Exhibit A - Location Map for proposed newsracks
Exhibit B - Photos of proposed areas
Exhibit C - Inventory of Newsracks and Number of weekly publications

EXHIBIT A




**Locations for City provided newsracks**

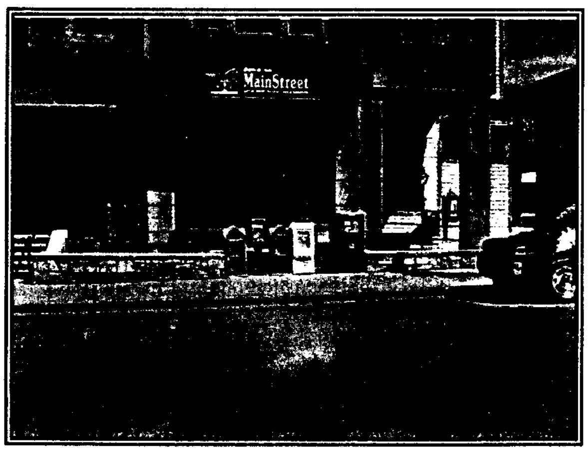
MAIN STREET PIZZA & NOODLE, REAR
six publications, location of existing rack



CAFÉ TERIGO, SWEDE ALLEY
four publications to the right of trash can

POST OFFICE
eight publications against empty wall

South of the Wasatch Brew Pub
eight publications to the left of the bench




SUMMIT WATCH, 2 LOCATIONS
eight publications

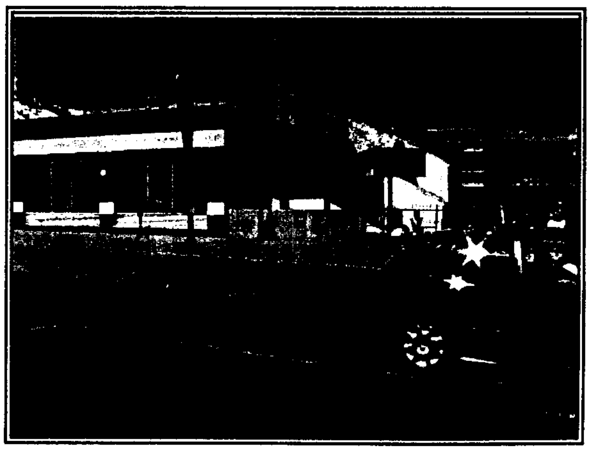


**Figure 6**KIMBALL ART CENTER
eight publications, against cement wall

**Exhibit B**

| | Summit Watch | Post Office | Wasatch Brew Pub | Silver Queen Hotel | Main Street Mall | Texas Reds | Treasure Mountain Inn | Eating Establishment | 533 Main Street | **Totals** |
|---|---|---|---|---|---|---|---|---|---|---|
| Park Record | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 8 |
| Salt Lake Tribune | 1 | 1 | | | | | 1 | | 1 | 4 |
| New York Times | | 1 | 1 | | | | | | | 2 |
| USA Today | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | 7 |
| Deseret News | 1 | 1 | | | | | | | 1 | 3 |
| Wall Street Journal | | 1 | | | | | 1 | | | 2 |
| Financial Times | | 1 | | | | | | | | 1 |
| Catalyst | 1 | 1 | 1 | | | 1 | | | 1 | 5 |
| Mountain Times | | 1 | 1 | | | | | | 1 | 3 |
| City Weekly | | 1 | | | | | | | 1 | 2 |
| Homes and Land | 1 | | 1 | 1 | 1 | 1 | | | | 5 |
| Homestead | | 1 | | | | | | | | 1 |
| Homes Illustrated | 2 | 1 | | | | 1 | | | | 4 |
| Real Estate Weekly | 1 | 1 | 1 | 1 | | | | | | 4 |
| Express Home Sales | | | 1 | | | | | | | 1 |
| Menu Guide | | 1 | | | | | | | | 1 |
| Thrifty Nickel Ads | 1 | 1 | 1 | 1 | | | | | | 4 |
| Apartment Guide | 1 | 1 | 1 | | | | | | | 3 |
| Apartments for Rent | 1 | | 1 | | | 1 | | | | 3 |
| Magic Nickel Ads | | | | 1 | | | | | | 1 |
| Deals on Wheels | | | 1 | | | 1 | | | 1 | 3 |
| LDS Messenger | 1 | | 1 | | | 1 | | | 1 | 4 |
| Salt Lake Visitors Guide | | | 1 | | | 1 | | | | 2 |
| Home Choice | 1 | 1 | 1 | | | 1 | | | 1 | 5 |
| Employment Guide | 1 | 1 | 2 | | | 1 | | | 1 | 6 |
| Prime Times | | 1 | 1 | | | 1 | | | 1 | 4 |
| **Totals** | 15 | 19 | 18 | 6 | 3 | 10 | 3 | 2 | 12 | **88** |

41

**Exhib[illegible] - Inventory of Existing Publications**

| | Paid/Free | Frequency |
|---|---|---|
| Wall Street Journal | Paid | 7/week |
| Deseret News | Paid | 7/week |
| USA Today | Paid | 7/week |
| New York Times | Paid | 7/week |
| Salt Lake Tribune | Paid | 7/week |
| Financial Times | Paid | 6/week |
| Park Record | Paid | 2/week |
| Magic Nickel Ads | Free | 1/week |
| City Weekly | Free | 1/week |
| Employment Guide | Free | 1/week |
| Real Estate Weekly | Free | 1/week |
| Mountain Times | Free | 1/week |
| Thrifty Nickel Ads | Free | 1/week |
| Apartments for Rent | Free | 2/month |
| Prime Times | Free | 1/month |
| Home Choice | Free | 1/month |
| Apartment Guide | Free | 1/month |
| LDS Messenger | Free | 1/month |
| Deals on Wheels | Free | 1/month |
| Express Home Sales | Free | 1/month |
| Catalyst | Free | 1/month |
| Homes and Land | Free | 6/year |
| Salt Lake Visitors Guide | Free | 2/year |
| Menu Guide | Free | 4/year |
| Homes Illustrated | Free | |
| Homestead | Free | |

**Exhibit C - Inventory of Existing Publications**

PARK CITY
1884

# CITY COUNCIL STAFF REPORT

**DATE:** March 21, 2000
**DEPARTMENT:** Planning
**AUTHOR:** Nora L. Shepard
**TITLE:** Hidden Hollow
**TYPE OF ITEM:** Final Subdivision Plat and Amendment to the Deer Crest Settlement Agreement

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**SUMMARY RECOMMENDATIONS**: This is a work session only. The Planning Commission recommended that the City Council conditionally approve the final subdivision plat and amend the Deer Crest Settlement Agreement to allow 5 lots in Hidden Hollow.

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## DESCRIPTION

| | |
|---|---|
| Owners: | Hidden Hollow, LLC represented by Harry Reed and Jim Lavender |
| Location | A portion of the Deer Crest Development, adjacent to Morning Star Estates |
| Zoning: | Estate-MPD and Recreation Open Space-MPD |
| Adjacent Land Uses: | Low Density Residential |
| Reason for Review: | Final Subdivision Plat Approval Request |

## B. Background

The Hidden Hollow property was included the Settlement Agreement between the City and Telemark Park, now known as Deer Crest. The Hidden Hollow portion of the project lies in Summit County, unlike the balance of the Deer Crest project which lies in Wasatch County. It is not currently owned by Deer Crest, and is being developed separately, although the area is included in the Master Homeowners Association for Deer Crest. The property is immediately adjacent to the Snowtop Subdivision, which lies in Wasatch County. A map of Deer Crest is attached for your use as Exhibit A. It is anticipated that Hidden Hollow will develop concurrently with the Snowtop Subdivision. The Snowtop subdivision (15 single family parcles) was also annexed into the City limits. The plat was recorded with Wasatch County prior to annexation. The road to Snowtop and Hidden Hollow is under construction and will be completed sometime this summer.

The Hidden Hollow property was annexed to Park City at the same time as the Deer Crest

Annexation which included Snowtop, Roosevelt Gap and Deer Hollow (December, 1998). A copy of the Annexation Ordinance for Hidden Hollow is attached as Exhibit B.

The Settlement Agreement allows for 4 single family parcels to be created in Hidden Hollow. An attachment to the Settlement Agreement shows a 4 lot configuration with designated building envelopes. The agreement also states that Hidden Hollow and Snowtop are exempt from having to provide a visual analysis. Now that the property is within the City Limits, a subdivision plat is necessary to create the subdivision.

The subdivision would be accessed via an extension of the road serving the Snowtop subdivision. A secondary, emergency access road is planned to extend from Hidden Hollow and connect to the emergency access road from Morning Star Estates. The secondary access road is to be a 20 foot wide asphalt road, the minimum necessary Fire Code width in this area due to wildland brushfire potential.

The Planning Commission reviewed the 4 lot layout in the Settlement Agreement and visited the site to evaluate the plan. Based upon that review, the Planning Commission asked the applicant to relook at the road location and the building envelopes. The Planning Commission directed the applicant to try to align the proposed road in as close as possible to the same location of the an existing dirt road. In addition, a number of building envelopes would have been highly visible from Hwy 248. The Planning Commission indicated that if the road and the building envelopes could be relocated, they would consider 5 lots instead of 4.

Commissioner Larson and various members of the staff met in the field several times to review potential road and building envelope locations. The proposal before the City Council at this time reflects a five lot subdivision, with fewer and less visible potential building envelopes. The road has also been realigned consistent with the Planning Commission direction.

## C. <u>Project Description</u>

The revised subdivision layout includes 5 single family parcels and an access road which more closely follows the alignment of the existing dirt road. A copy of the proposed plat is attached as Exhibit C. The parcels are proposed to be sized as follows:

Lot 1 386,057 sf or 8.86 acres
Lot 2 446,762 sf or 10.26 acres
Lot 3 994,481 sf or 22.83 acres
Lot 4 1,027,987 sf or 23.60 acres
Lot 5 687,225 sf or 15.78 acres

As a result of the Planning Commission process, each parcel has designated building envelopes different from those shown in the Settlement Agreement. Lots 1, 2 and 4 have more than one building envelope shown on the plat. Only one of the envelopes can be used for the primary dwelling, but the property owner would have the option to use either of the envelopes shown. A visual analysis was performed by the applicant, even though the City could not require it according to the Settlement Agreement. This property is in a hollow and is seen only from a short section of Highway 40 and from Highway 248 as it leads to Kamas. Building envelopes were relocated or eliminated to minimize visibility.

The applicant is requesting that horses be allowed on specific building envelopes on lots 1, 4 and 5, subject to administrative Conditional Use Review. There is a hiking/biking/equestrian trail which has been graded on the site connecting the Deer Crest trails with the Solamere trails.

## D. Issues for Discussion

**House Size**

The applicant is requesting that maximum house sizes for this subdivision be fairly large. The parcels are large and generally not visible from established vantage points. The staff and applicant conducted a field analysis of larger homes in Park City. In general, siting and design of the home have more to do with the large appearance of a home than the actual square footage. Assuming that visual impact is the primary rationale for limiting building size, the applicant has identified maximum square footages which are smaller on the more visible building sites and larger on the less visible sites. The Planning Commission discussed this issue at length. A copy of the Planning Commission minutes is attached for your review (Exhibit D).

The Planning Commission recommends the following maximum building sizes:

| | | |
|---|---|---|
| **Lot 1** | Envelope A | 13,000 sf (the average in Snowtop is about 9800 sf) |
| | Envelope B | 19,000 sf |
| **Lot 2** | Envelope A | 19,000 sf |
| | Envelope B | 13,000 sf |
| **Lot 3** | | 19,000 sf |
| **Lot 4** | Envelope A | 13,000 sf |
| | Envelope B | 19,000 sf |
| **Lot 5** | | 19,000 sf |

The square footage would be measured according to the definition in the Land Management Code at the time a building permit is applied for.

All single family residences in Hidden Hollow would be subject to the Deer Crest Architectural Guidelines which regulate the siting and design of structures to decrease the apparent mass. The homes would also be subject to the Park City Design Guidelines in effect at the time of building permit application. The Planning Commission recommended that additional guidelines be applied to Hidden Hollow which would further reduce the apparent mass of the structures. That language has been added in the conditions of approval and will be required to be shown on the plat.

The Settlement Agreement does not address maximum house size in Hidden Hollow. The architectural guidelines for Deer Crest does specify maximum house and coverage sizes based upon the size of the lot upon which a house sits. According to those guidelines, lots of this size would not have a maximum house size restriction.

**Horses**

The applicant is requesting that the subdivision approval include permission for horses on lots 1, 4 and 5. The request is for a maximum of 3 horses on lot 1, and a maximum of 4 horses on lots 4 and 5. A maximum barn footprint of 2500 sf is proposed, and a maximum graded area of 10,000 sf, for lots 1,4 and 5.

The staff was initially opposed to horses on the parcels, as they were originally laid out. With the revised road and lot layout, however, it appears that there may be fairly flat areas on lots 1,4 and 5 which could accommodate horses. The staff would recommend that specific, potential locations for a barn and grading be shown on the plat and that the actual approval of the horse use be deferred to an administrative Conditional Use Permit. Only the owners of lots 1, 4 and 5 would be allowed to apply for the administrative CUP. In reviewing the administrative CUP, the following criteria should be evaluated:

- Slope of area proposed for the horses to be kept - horses should only be kept in areas of less than 15% slope. Significant grading should not be necessary to achieve this.
- Proximity to adjacent building pads
- Vegetation type - existing open areas should be used and significant vegetation removal should not be necessary.
- Animal Management Plan - this should address, at a minimum, erosion control, waste disposal, and odor control.

**Amendment to the Settlement Agreement**

Because the proposed subdivision now contains 5 single family parcels, the Settlement Agreement will have to be amended to allow the additional lot. Deer Crest Associates, LLC are the successors in interest to the Settlement Agreement and would be required to sign any amendment.

**Trails**

This fall, a trail was built which connects the Deer Crest trail system with the Solamere trail system. The location of that trail is shown on the plat, but the plat needs to dedicate a public easement for the trail. The exact language of an easement or dedication for the trail has not yet been finalized but will be required prior to Plat Recordation. The City Attorney's office and the attorney for the developer are working on this issue.

**Road Standards**

The primary access to Hidden Hollow is through the Snowtop Subdivision. The roadways are to be maintained (including snow removal) by the Deer Crest Homeowners association. The extension of the Snowtop road serves only the Hidden Hollow subdivision. In order for the alignment of the road to better fit with existing disturbance and topography, and due to the limited occupancy of the homes, as well as the presence of required fire sprinklers and the secondary access road, the City Engineer is willing to allow road gradients up to 12%. The City

Engineer has reviewed the proposed road alignment and can make findings to allow it due to the unique circumstances of this subdivision.

**Infrastructure**

Because of the location of this property and its inclusion in the Deer Crest Master Association, the water and sewer are to be provided by the Jordanelle Special Service District (JSSD). Lot 5 is proposed to be able to use a septic system. There is an interlocal agreement in place between Hidden Hollow LLC, JSSD and SBSID which allows this property to be served in this manner.

The property is within the Park City Fire Service District and the Park City School District. A note has been placed on the plat that due to the remoteness of this subdivision, some services such as school bus pick up and trash pick up may not occur in this area.

**Adjacent Properties**

The Settlement Agreement granted limited access over the Keetley Road for two properties adjacent to Hidden Hollow. It also required that an access easement be granted through Hidden Hollow for the future development of those 2 parcels. The easement is shown on the plat. The 50 foot wide access easement required by the Settlement Agreement is reflected on the plat. No road construction will occur until and unless development is approved by Summit or Wasatch Counties on these two parcels. The access easement traverses the hillside and roadway grading along this route will be very visible from Hwy 40 and 248.

**E.** **Alternatives** - This is a work session only. Listed below are some possible alternatives for the City Council. The staff would like direction from the Council at this time.

Conditionally approve the 5-lot subdivision and authorize the staff to prepare an amendment to the Settlement Agreement. Once the staff has direction from the City Council on the 5-lot subdivision, an amendment to the Settlement Agreement will be prepared for Council review and approval.

Deny the 5-lot subdivision. If the City Council cannot support the proposed 5-lot subdivision, the applicant could return to the Planning Commission and City Council with the 4-lot layout with building envelopes as designated in the Settlement Agreement.

Direct the Planning Commission or staff to modify the 5-lot subdivision. Specific direction to the staff would be necessary if the City Council agrees with the 5-lot configuration, but does not support some other part of the recommendation.

**F.** **Recommendation**

After significant discussion, the Planning Commission forwarded a positive recommendation to the City Council on the Final Subdivision Plat for Hidden Hollow, a 5 lot single family subdivision on February 9, 2000, subject to the following finding of fact, conclusions of law and conditions of approval (as modified by the legal department):

FINDINGS OF FACT:

1. The subject property is included in the 1995 Settlement Agreement which entitled the settling property owners to 4 single family parcels in Hidden Hollow. An exhibit included in the Settlement Agreement showed a preliminary subdivision layout depicting 4 parcels with numerous potential building envelopes.

2. Several of the building envelopes shown on the 1995 exhibit were highly visible from Highway 248 and slightly visible from Park City.

3. The 1995 Settlement Agreement exempted this subdivision from the provisions of the Sensitive Lands Ordinance.

4. The property was annexed to Park City on December 17, 1998. The annexation specified that the subdivision required review and approval by Park City, but that it was not subject to application of the Sensitive Lands Provisions of the Land Management Code.

5. The project is uniquely located so that it is not visible from Park City and is visible from few vantage points.

6. The property is unique in that primary access is through the Deer Crest Development and the subdivision will receive water and sewer service by the Jordanelle Special Service District (JSSD) and is a part of the Deer Crest Homeowners' Association.

7. The Community Development Staff, applicant and the Planning Commission carefully analyzed the site and made numerous site visits to evaluate the application for subdivision. The applicant was willing to redesign the subdivision based upon input from the staff and Planning Commission. Several of the more visible building envelopes were eliminated, thereby decreasing opportunities for building sites. In exchange for this concession, the Planning Commission was willing to consider a fifth lot to be located in the non-visible portion of the property.

8. Deer Crest, LLC does not object to a 5 lot subdivision and has agreed to execute an amendment to the Settlement Agreement prior to plat recordation.

9. The project was noticed and public hearings held in compliance with the Park City Land Management Code.

10. A 50 foot wide access easement to adjacent properties is being shown on the plat because it is a requirement of the Settlement Agreement. That road is not being proposed to be built at this time. The inclusion of that easement on the plat does not constitute City approval or support of any plans or development on those adjacent parcels.

11. The Planning Commission discussed sizes of homes and concluded that large homes may create more employees and therefore more of an impact on traffic and affordable housing. Large homes use a significant amount of valuable natural resources and have a significant

impact on the environment. Large homes also contribute significant property taxes.

CONCLUSIONS OF LAW:

1. The final plat, as conditioned, would be consistent with the 1995 Settlement Agreement, as amended.

2. The plat contains numerous notes which are necessary due to the unique location and circumstances relating to this property and project.

3. Building envelope designation, dwelling size restrictions and limits of disturbance are necessary for better compliance with the Land Management Code and General Plan.

4. The final plat, as conditioned, will not be detrimental to the health, safety and general welfare of the citizens of Park City.

5. The proposed 5-lot subdivision is consistent with the subdivision criteria set forth in section 15.1.3 of the Park City Land Management Code.

CONDITIONS OF APPROVAL:

1. Prior to plat recordation, the plat must gain the approval of the City Engineer, City Attorney and City Council.

2. Prior to, or concurrent with, plat recordation, an amendment to the 1995 Settlement Agreement must be executed by all affected parties to the Settlement Agreement to allow a 5 lot subdivision.

3. Building Envelope and House Size requirements are specified on the final plat. A property owner can choose to use only 1 building envelope for the primary dwelling. The maximum house sizes allowed shall be:

| | | |
|---|---|---|
| **Lot 1** | Envelope A | 10,000 sf (the average in Snowtop is about 9800 sf) |
| | Envelope B | 19,000 sf |
| **Lot 2** | Envelope A | 19,000 sf |
| | Envelope B | eliminated |
| **Lot 3** | | 19,000 sf |
| **Lot 4** | Envelope A | 10,000 sf |
| | Envelope B | 19,000 sf |
| **Lot 5** | | 19,000 sf |

The square footage would be measured according to the definition in the Land Management

Code at the time a building permit is applied for.

All single family residences in Hidden Hollow would be subject to the Deer Crest Architectural Guidelines which regulate the siting and design of structures to decrease the apparent mass. The homes would also be subject to the Park City Design Guidelines which are in effect at the time of building permit application.

4. Horses are subject to an Administrative CUP on lots 1,4 and 5, subject to the locations designated on the plat. In reviewing the administrative CUP, the following criteria should be evaluated:

- Slope of area proposed for the horses to be kept - horses may only be kept in areas with less than 15% slope. Significant grading will not be allowed.
- Proximity to adjacent building pads
- Vegetation type - existing open areas should be used and significant vegetation removal will not be allowed.
- Animal Management Plan - this should address, at a minimum, erosion control, waste disposal, and odor control.

5. Sewer and Water will be provided by Jordanelle Special Services District. Lot 5 is being permitted to have a septic tank, subject to Summit County approval. Road maintenance, including snow removal, will be the responsibility of the homeowners.

6. The plat shall contain language that indicates that due to the remote location of Hidden Hollow and the access through Deer Crest and Wasatch County, the subdivision may not be able to receive customary services such as garbage pick up and school bus access.

7. Final language on the dedication of the trail will have to meet the requirements of the City Attorney.

8. All notes on the 1/6/2000 draft plat shall appear on the recorded plat.

9. A note shall be added to the plat which states that "No exterior wall may exceed 23 feet in height when measured from the overhang eave line to the lesser in elevation of either natural grade or finished grade. No single, continuous exterior wall plane shall measure more than 30 feet in length before a change in depth of at least 3 feet."

10. The Standard Project Conditions shall apply.

Exhibit A - Deer Crest Map
Exhibit B - Annexation Ordinance for Hidden Hollow
Exhibit C - Proposed Subdivision Plat
Exhibit D - Planning Commission Minutes

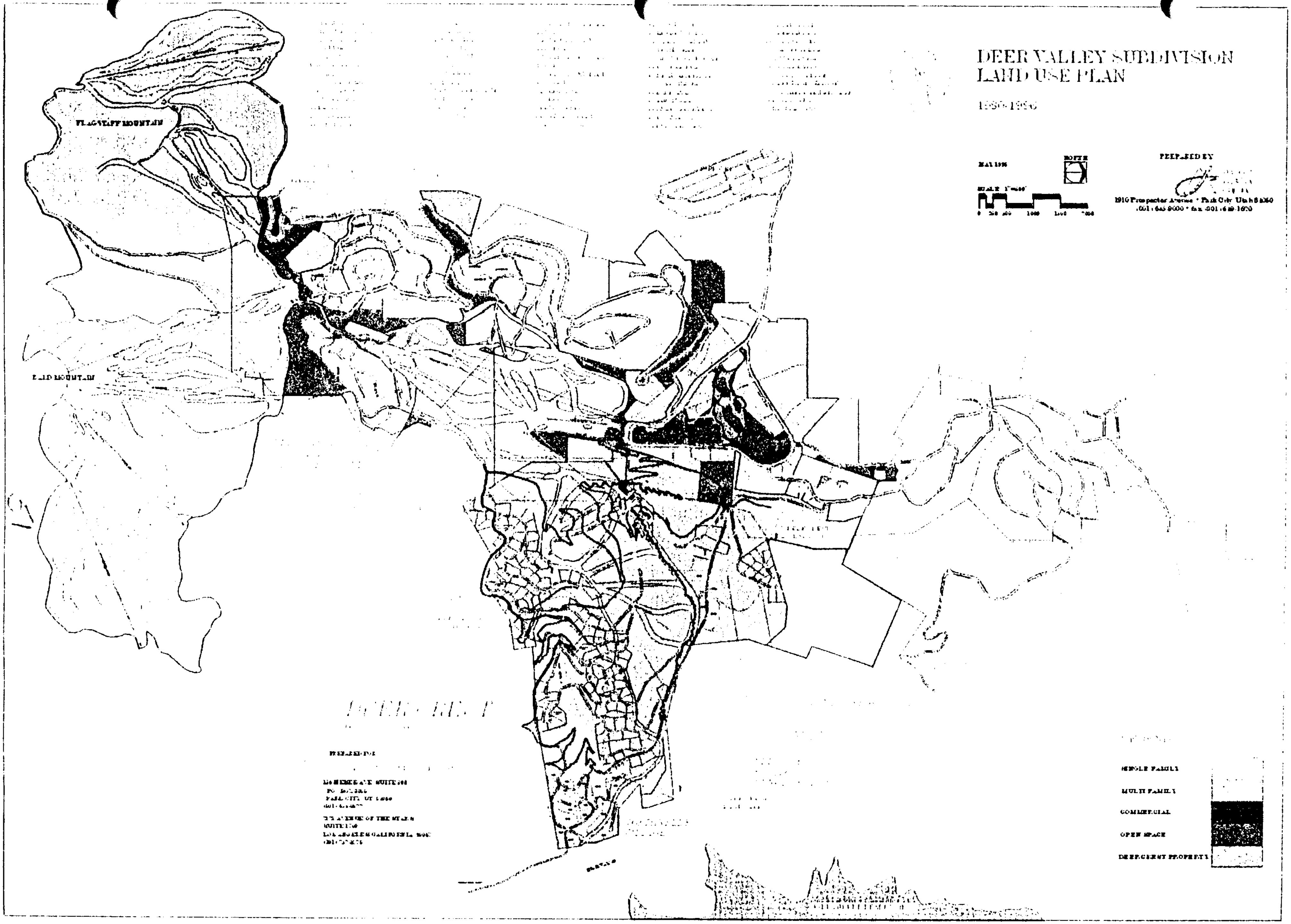

DEER VALLEY SUBDIVISION
LAND USE PLAN
FLAGSTAFF MOUNTAIN
PREPARED BY
SINGLE FAMILY
MULTI FAMILY
COMMERCIAL
OPEN SPACE

Exhibit A

PARK CITY
1884

Ordinance No. 98-52

# AN ORDINANCE ANNEXING, APPROXIMATELY 84 ACRES OF PROPERTY KNOWN AS HIDDEN HOLLOW LOCATED ADJACENT TO DEER VALLEY INTO THE CORPORATE LIMITS OF PARK CITY, UTAH

WHEREAS, a petition was filed by Hidden Hollow Associates, LLC requesting Park City to annex Hidden Hollow (the Property, Exhibit A) to the City on July 22, 1998;

WHEREAS, the annexation request is consistent with the 1995 Settlement Agreement which applies to the property;

WHEREAS, the property will be served with sewer and water by the Jordanelle Special Improvement District (JSSD) and all road maintenance will be the responsibility of the owners;

WHEREAS, the Planning Commission conducted a public hearing on August 26, 1998 and forwarded a positive recommendation on the requested annexation on September 23, 1998;

WHEREAS, the annexation petition was accepted by the City Council on September 24, 1998 and certified by the City Recorder on October 21, 1998;

WHEREAS, the City Council conducted a public hearing on December 3, 1998;

WHEREAS, the Property is not included within any other municipal jurisdiction and there have been no protests filed by any other jurisdictions;

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

SECTION 1. ANNEXATION. The property is hereby annexed to the corporate limits of Park City, Utah according to the annexation plat executed in substantially the same form as it is attached hereto as Exhibit A. The Property so annexed shall enjoy the privileges of Park City and shall be subject to all City levies and assessments as described in the terms of the 1995 Settlement Agreement (as amended). The Property shall be subject to all City laws, rules and regulations upon the effective date of this ordinance.

SECTION 2. COMPLIANCE WITH STATE LAW. This annexation, in the judgement of Park City, meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect upon recordation of the annexation plat.

Exhibit B

DATED this 17th day of December, 1998

PARK CITY MUNICIPAL CORPORATION

BRADLEY A. OLCH, MAYOR

ATTEST:

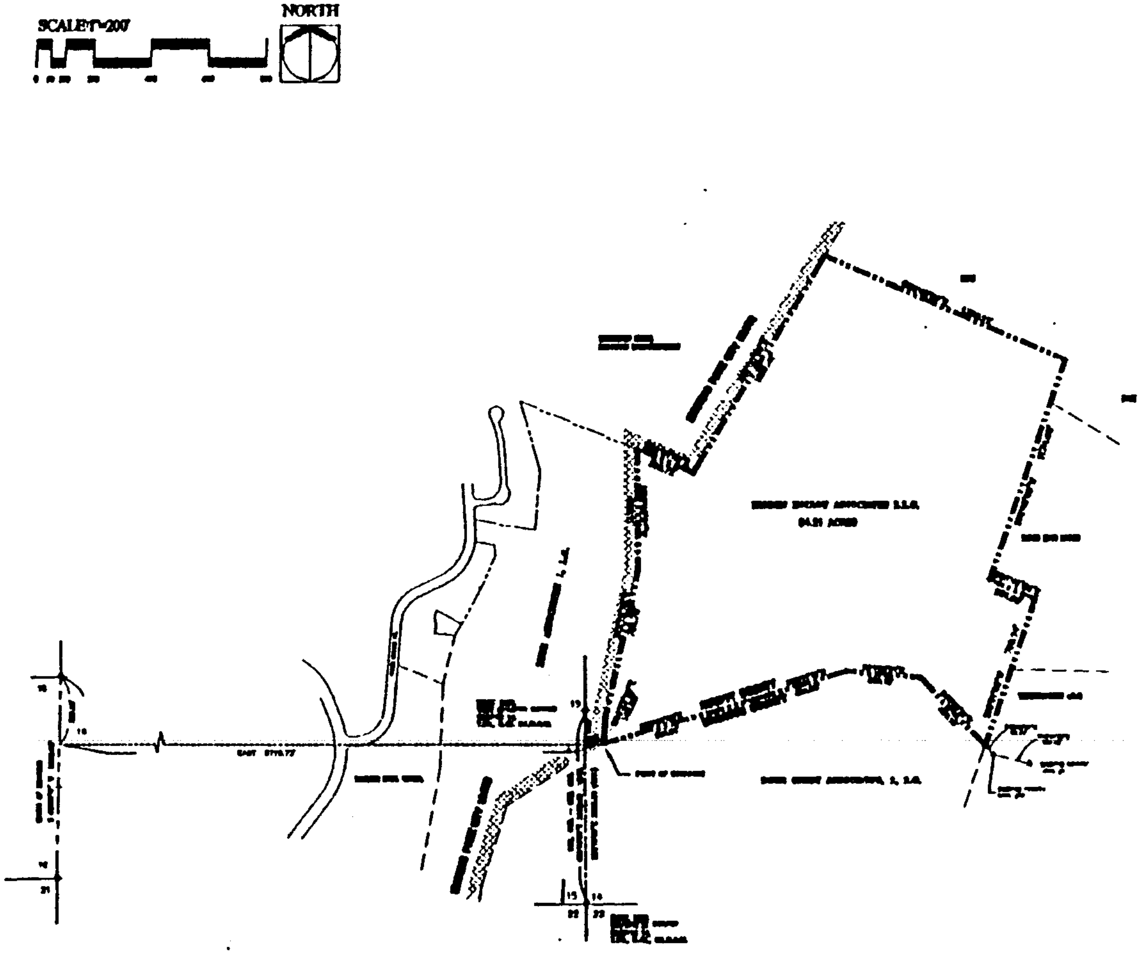
Janet M. Scott

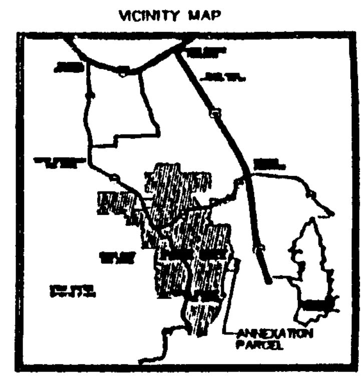
Janet M. Scott, City Recorder

APPROVED AS TO FORM:

Jodi Fatland Hoffman, City Attorney

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884




**LEGAL DESCRIPTION**

[illegible]

SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS, RIGHTS-OF-WAY, COVENANTS AND RESTRICTIONS OF RECORD, WHETHER INDICATED OR NOT ON THIS ANNEXATION PLAT.

**SURVEYOR'S CERTIFICATE**

I, JACK JOHNSON, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. [illegible] AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT THIS PLAT IS A CORRECT REPRESENTATION OF THE LEGAL DESCRIPTIONS OF THE ANNEXATION AREA AND THE INFORMATION SHOWN ON THIS PLAT IS CORRECT BASED UPON SAID LEGAL DESCRIPTIONS.

DATE ______ JACK JOHNSON ______

RECEIVED
DEC 11 1998
PARK CITY PLANNING DEPT.

*ANNEXATION PLAT for*
*HIDDEN HOLLOW*
*LYING WITHIN SUMMIT COUNTY, UTAH*
*LOCATED IN THE WEST HALF OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN*

| CITY COUNCIL APPROVAL | CITY ENGINEER | CITY PLANNING COMMISSION | APPROVAL AS TO FORM | RECORDED |
|---|---|---|---|---|
| PRESENTED TO THE BOARD OF ______ CITY COUNCIL THIS ____ DAY OF ______ A.D. 19__ AT WHICH TIME THIS RECORD OF SURVEY WAS APPROVED. MAYOR ______ CITY RECORDER | APPROVED AND ACCEPTED BY THE ______ CITY ENGINEERING DEPARTMENT ON THIS ____ DAY OF ______ A.D. 19__ CITY ENGINEER | APPROVED AND ACCEPTED BY THE CITY PLANNING COMMISSION ON THIS ____ DAY OF ______ A.D. 19__ CHAIRMAN | APPROVED AS TO FORM ON THIS ____ DAY OF ______ A.D. 19__ CITY ATTORNEY | NO. ______ STATE OF ______ COUNTY OF ______ RECORDED AND FILED AT THE REQUEST OF: ______ COUNTY RECORDER |

THE JACK JOHNSON COMPANY

PARK CITY
1884

Ordinance No. 98-50

## AN ORDINANCE AMENDING THE ZONING MAP OF PARK CITY TO INCLUDE HIDDEN HOLLOW LOCATED ADJACENT TO THE CURRENT CORPORATE BOUNDARIES OF PARK CITY, UTAH

WHEREAS, Hidden Hollow Associates, LLC petitioned to annex a project to the City; and

WHEREAS, the annexation is consistent with the 1995 Settlement Agreement between Park City and the property owners; and

WHEREAS, the Planning Commission held a public hearing on August 26, 1998 and forwarded a positive recommendation to the City Council on the Annexation and Zoning on September 23, 1998; and

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

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

WHEREAS, on December 3, 1998, the City Council held a public hearing to receive input on the proposed annexation and zoning; and

WHEREAS, it is in the best interest of Park City, Utah to amend the Official Zoning Map of Park City to include the property within the City's regulatory boundary.

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

**SECTION 1. Zoning Map Amended.** The Zoning Map of Park City as adopted by section 1.9 of the Park City Land Management Code, is hereby amended to include Hidden Hollow as depicted in Exhibit A.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon recordation of the annexation plat.

PASSED AND ADOPTED this 17th day of December 1998 .

PARK CITY MUNICIPAL CORPORATION

Bradley A. Olch, MAYOR

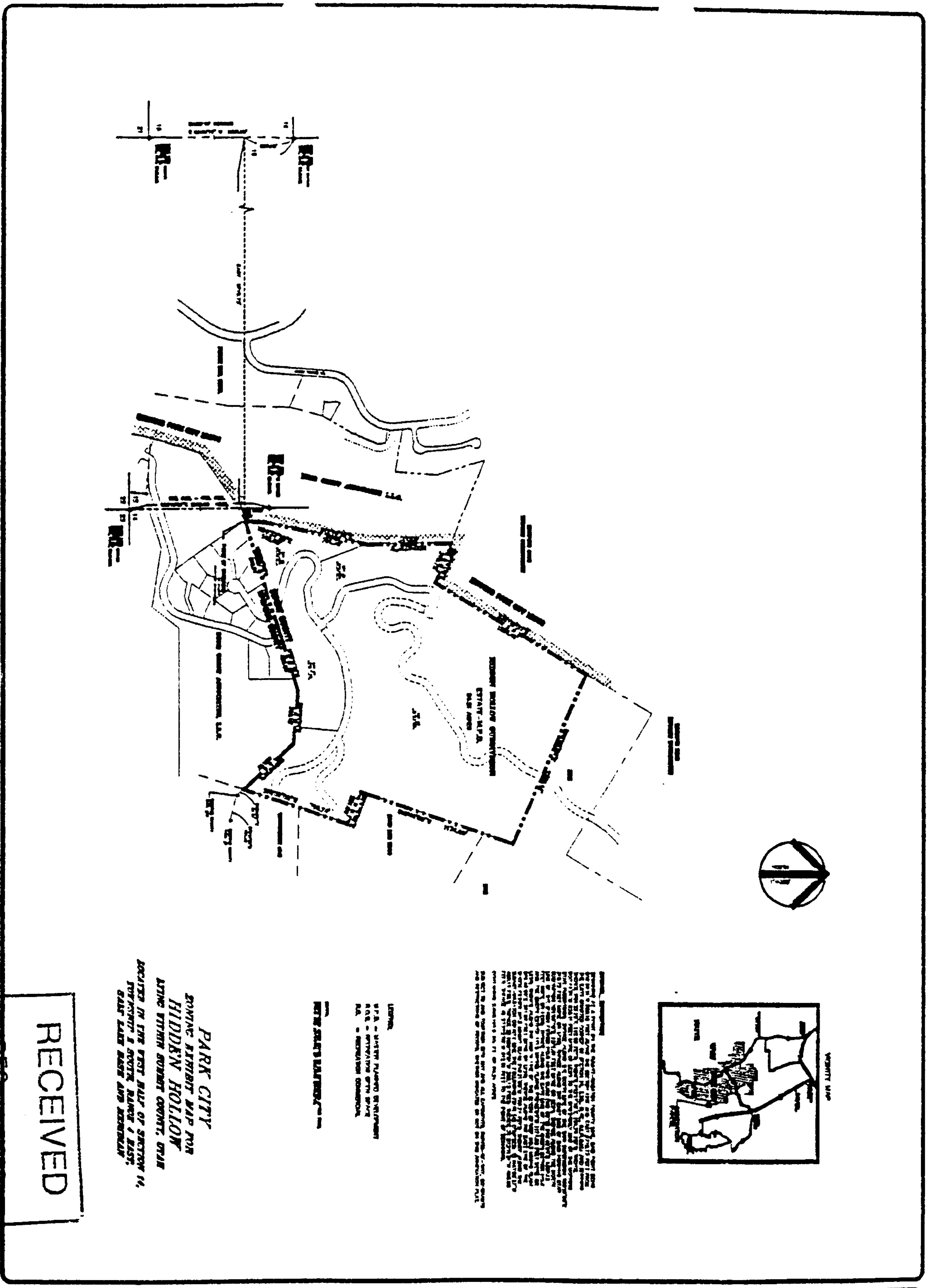
ATTEST:

Janet M. Scott, City Recorder

APPROVED AS TO FORM:

Jodi Hoffman, City Attorney

EXHIBIT A





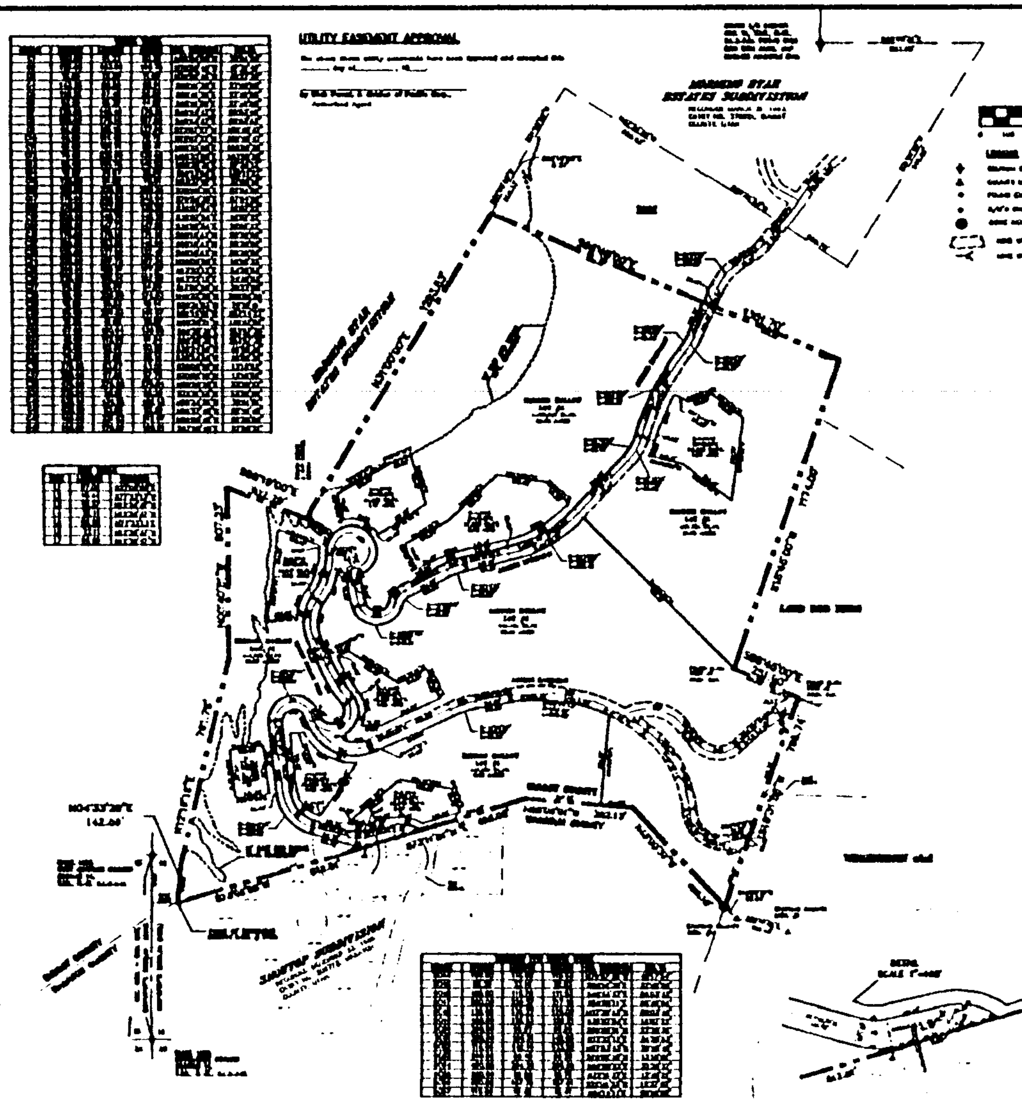

PARK CITY –
HIDDEN HOLLOW PROPERTY
ZONING EXHIBIT MAP

HIDDEN HOLLOW ASSOC. | 408018

THE JACK JOHNSON COMPANY

57

V:\Survey-dwg\Deer Crest\HidHollo\HH-PCZone.dwg Thu Dec 10 14:57:19 1998 R. Sorenson




# HIDDEN HOLLOW SUBDIVISION AT DEER CREST

*LOCATED IN THE WEST HALF OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH*

| CITY COUNCIL | CITY ENGINEER | CITY PLANNING COMMISSION | SEWER DISTRICT | APPROVAL AS TO FORM | RECORDED |
|---|---|---|---|---|---|
| PRESENTED TO THE PARK CITY COUNCIL THIS ___ DAY OF ______ 19__ AT WHICH TIME THIS PLAT WAS APPROVED | APPROVED AND ACCEPTED BY THE PARK CITY ENGINEERING DEPARTMENT ON THIS ___ DAY OF ______ 19__ | APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS ___ DAY OF ______ 19__ | REVIEWED FOR CONFORMANCE TO JORDANELLE SPECIAL SERVICE DISTRICT STANDARDS THIS ___ DAY OF ______ 19__ | APPROVED AS TO FORM ON THIS ___ DAY OF ______ 19__ | STATE OF ______ COUNTY OF ______ RECORDED AND FILED AT THE REQUEST OF: |
| MAYOR / CITY RECORDER | CITY ENGINEER | CHAIRMAN | J.S.S.D. | CITY ATTORNEY | COUNTY RECORDER |

THE JACK JOHNSON COMPANY

Exhibit C

accelerated development schedule that Mr. Morris hoped to pursue was not feasible. It was also made clear that a regional planning approach to the Highway 248/Quinn's Junction area is needed. Every property owner believes he is getting all the density transfer, and everyone wants the highest and best use of their property. It is important to work this out from a regional perspective so they will know where the density is moving. He stressed the importance of working on this area with the Snyderville Basin Planning Commission.

Commissioner Hier explained that the subcommittee determined that a joint meeting with both Planning Commissions and a joint public input session is needed to facilitate the development of an overall plan for the area.

Planner Shepard reported that the Snyderville Basin Planning Commission and Summit County Commissioners are planning a joint meeting in February, and hopefully Walter Keiser will attend. She offered to provide information regarding the date and time of that meeting. She explained that they are trying to better educate themselves about activities in Wasatch County. She planned to attend the Snyderville Basin Planning Commission meeting on February 17, and the County Commission meeting is scheduled for February 14.

Commissioner Erickson commented on the review of the Highway 248 area which was done for the General Plan and asked if it was adequate to provide initial guidance to the developers regarding the type of development that should occur in that area. Planner Shepard replied that it was. Commissioner Erickson asked if it would be appropriate for the Planning Commission to review the initial concepts in the context of the General Plan and provide guidance to the developers regarding conformance with the General Plan. Planner Shepard replied that it was her intent to provide that information. Work session time can be scheduled if the Planning Commission would like to discuss it during work session. Commissioner Erickson stated that he would prefer that the Planning Commission have an opportunity to take action on conformance with the General Plan and felt that it might be helpful for the Planning Commission to provide support to the Staff.

Hidden Hollow - Final Subdivision Plat

Due to a conflict of interest, Commissioner Zimney abstained from discussing this matter.

Planner Shepard noted that revised findings and conditions and the minutes from the January work session are included in the staff report.

Exhibit D

She reported that the settlement agreement shows a total of 20 lots between the Snow Top subdivision and the Hidden Hollow area. At the Staff's request, Snow Top moved a lot, resulting in 15 lots. Therefore, the total is still 20 lots in that location.

Chair O'Hara noted that this item is not scheduled for public hearing this evening. Public hearings have been held and closed, and this item is for action only.

Commissioner Erickson asked what the Deer Crest design guidelines say about building mass and height. Planner Shepard replied that the guidelines are fairly extensive, and some of them were used for Park City. Commissioner Erickson clarified that it could be 66% to 75% of the main floor on the second floor.

Commissioner Larson commented on the Pitkin County studies. After close review, he agreed conceptually but did not believe the numbers translated to Park City. Pitkin County and Park City are different, and the study cannot be used at this time to specifically limit house size.

Commissioner Erickson agreed with Commissioner Larson's analysis. He suspected that the multipliers were the same but would be distorted by Salt Lake. He believed there was a greater relationship between house sizes, number of units, and sizes of lots. He asked if Commissioner Larson suggested that they not provide mechanisms for limiting house sizes in revisions to the Code or whether he was suggesting that they not do a TZO or study of house sizes. Commissioner Larson replied that at present he would not suggest a TZO to study the matter unless the City Council is willing to allocate additional resources so the Community Development Department will not impacted. Commissioner Erickson advocated providing additional mechanisms for reviewing house sizes. Commissioner Larson agreed but did not want the Planning Commission to forward a recommendation to the City Council for a TZO if it would prevent the Community Development Department from working on the Land Management Code. Commissioner Erickson agreed but did not favor dropping the house size issue.

Commissioner Hays stated that she did not believe the findings of fact reflected the minutes of the last meeting and that she had found numerous contradictions in the minutes. One was that Commissioner Erickson felt they should argue the fifth lot as a separate issue to determine the benefits. They talked about sufficient benefit to the community for the fifth lot and that it still exists in this proposal. Commissioner Hays stated that one of her issues is house size, and another main issue is the fifth lot. In a community where growth is the number one issue, she wanted to know where the Planning Commission could find the ability to grant a developer extra density, and she felt this would set a huge precedent for other developers. She felt that they were only using one part of the environmental element in looking at environmental impacts from this project. She believed that allowing the fifth lot would send a message that the only thing that matters is whether or not it can be seen. She stated that she believed this project flies in the face of the environmental element they approved this evening and that the Planning Commission should start practicing what it preaches. They have the tools to limit house sizes but do not care unless they can see it.

On the issue of setting a precedent, Commissioner Erickson stated that he hoped the Findings of Fact would state that this project was subject to a settlement agreement. In his opinion, that makes a significant difference. He agreed that unfortunate decisions were made in the settlement agreement, and he suspected that settlement agreements with other properties that they are not seeing with the special road easement are worse than what is seen in this project. There is no way this project would have been submitted or acted on in a positive light under the Sensitive Lands Ordinance had there not been a settlement agreement. He agreed with Commissioner Hays regarding precedent. The reason he asked Planner Shepard to include the fifth lot as a line item was to allow open debate on the fifth lot and to have the ability to make a motion with or without that lot. In terms of the large homes, he requested a debate on language regarding the impacts of large homes and wanted to make sure a mechanism was opened to consider large homes in the future.

Commissioner Larson stated that the difference between Hidden Hollow and another application is the settlement agreement. He believed the settlement agreement changed a lot of things; it exempts this subdivision from the Sensitive Lands Ordinance, specifies the number of units, and specifies the building envelopes. It is hard to throw good planning at an agreement that already exists, and the fifth lot was offered as a mechanism to get the building envelopes moved off the more visible ridges.

Commissioner Hier asked if the settlement agreement specified house size. Planner Shepard stated that she did not think house size was addressed. Commissioner Hier stated that everything involved with building a large house is self-evident. The larger the house, the more construction workers are needed and the more resources are consumed In terms of maintaining the house, the Pitkin report concludes that once a house reaches 10,000 square feet, no additional employees are needed for any size beyond that. He felt the study did not provide him with enough data to make any conclusions on outgoing maintenance based on size above 10,000 square feet.

Chair O'Hara remarked that, in general, the Pitkin study was a good study, but he came away with different findings from the facts. He found the study to say that bigger houses provide employment, which is an overall benefit to the community.

Commissioner Erickson stated that, in his opinion, height and mass of the house was a bigger issue than house size in this case. If the Planning Commission is not comfortable reducing the overall house size, he was inclined to look more closely at the Aspen Springs restrictions on mass and sizes of walls. He commented that, with the exclusion of the SLO, they do not have a mechanism for house size on this subdivision.

Commissioner Hays disagreed and stated that she believed compatibility with the community was a mechanism. The largest house size presented as a comparable was 18,000 square feet at Bald Eagle and Morning Star Estates. The largest house size proposed for this project is 23,000 square feet, which is larger than anything else in the community. She noted that the fifth lot is their bargaining chip.

Commissioner Larson stated that he did not disagree with Commissioner Hays, and if he could get there with the Land Management Code, he would. However, it is not in place right now, and the Pitkin County study does not provide enough information to get them there either. These homes are too large, and they generate environmental impacts, but the Land Management Code and the General Plan in their current form do not provide the mechanism they need.

Commissioner Hier suggested limiting the two 23,000-square-foot homes to 19,000 square feet under the compatibility scenario. Chair O'Hara stated that this suggestion could be crafted as part of a motion.

Planner Shepard explained that the Planning Commission could approve the proposal as drafted with modifications to the findings, approve a five-lot scenario with reduced house sizes, or deny the proposal and give direction to the Staff for a four-lot scenario.

Commissioner Larson requested that the Staff look at the Aspen Springs Subdivision height requirement if this proposal moves forward.

Commissioner Hays stated that she wanted to draft a finding which would remove the fifth lot from the rest of the proposal and leave it as a tradeoff for good planning and reduced house sizes so the proposal could be forwarded to City Council with that recommendation.

MINUTES OF FEBRUARY 9, 2000

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 9, 2000

COMMISSIONERS IN ATTENDANCE:

Chair Michael O'Hara, Bruce Erickson, Karri Hays, Jim Hier, Chris Larson, Diane Zimney

EX OFFICIO:

Rick Lewis, Community Development Director; Nora Shepard, Special Projects Planner; Alison Kuhlow, Planner; Kevin LoPiccolo, Planner; Brooks Robinson, Planner

==========================================================================

REGULAR MEETING - 7:00 P.M.

**I. ROLL CALL**

Chair O'Hara called the meeting to order at 7:00 p.m. and noted that all Commissioners were present.

**II. ADOPTION OF MINUTES**

MOTION: Commissioner Larson moved to APPROVE the minutes of January 26, 2000, as written. Commissioner Hier seconded the motion.

VOTE: The motion passed unanimously.

**III. PUBLIC COMMUNICATIONS**

There was no input.

**IV. STAFF/COMMISSIONERS' COMMUNICATIONS**

These reports were given during the work session.

Commissioner Hier noted that he will be out of town on February 23.

**V. PUBLIC HEARING/DISCUSSION/ACTION ITEMS**

1. Hidden Hollow - Final Subdivision Plat

Due to a conflict of interest, Commissioner Zimney abstained from discussing and voting on this matter.

The Planning Commission discussed this item at length during the work session. Chair O'Hara noted that the public hearing was closed at a previous meeting.

Special Projects Planner Nora Shepard reported that the Planning Commission raised issues at the last meeting and directed the Staff to draft additional findings to address them. The current proposal is for a five-lot subdivision in the Hidden Hollow area located between Deer Crest and Morning Star Estates.

MOTION: Commissioner Hays moved to forward a POSITIVE recommendation to the City Council with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report with the following modifications:

> Finding of Fact 7 - Include additional language regarding house size concessions. If the house size complies with community compatibility and the redesign of the subdivision is achieved, the Planning Commission is willing to consider a fifth lot.
>
> Condition of Approval 2 - Eliminate this condition as it refers to Lot 5.
>
> Condition of Approval 3 - Delete Lot 5.

Commissioner Hays stated that the applicants redesigned the subdivision but did not reduce the house size. If they can do both, the Planning Commission will consider allowing the fifth lot.

Commissioner Hier clarified that the motion forwards a recommendation for a four-lot subdivision with the provision for a potential fifth lot based on concessions with regard to house size.

Chair O'Hara asked about the process, noting that the design presented to the Planning Commission consists of five lots. Forwarding a recommendation for four lots means that no one would know where the lots will be.

Planner Shepard stated that she would be more comfortable with the Planning Commission denying the proposal as presented and allowing the applicants to bring back a four-lot subdivision proposal. An alternative would be to forward a negative recommendation based on the fact that the concessions discussed were not adequately addressed but a fifth lot could be considered if those concessions are met. Another alternative would be to approve a five-lot consideration with reduced house sizes.

ACTION: Commissioner Hays withdrew her motion.

MOTION: Commissioner Hays moved to DENY the proposal.

ACTION: The motion died for lack of a second.

MOTION: Commissioner Hier moved to forward a POSITIVE recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval with a modification restricting the maximum house size to 19,000 square feet. Commissioner Larson seconded the motion with the amendment that it is recommended that the City Council review the building envelope and massing restrictions in Aspen Springs and consider adding them to this project. Commissioner Hier accepted the amendment.

Commissioner Erickson felt they should link the finding suggested by Commissioner Hays as part of the concessions for the fifth lot. Commissioner Hier accepted this amendment to his motion. Commissioner Larson included the amendment in his second.

VOTE: The motion passed 4-1, with Commissioners Erickson, Hier, Larson, and O'Hara voting in favor of the motion, Commissioner Hays voting against the motion, and Commissioner Zimney abstaining from the vote.

Findings of Fact - Hidden Hollow

1. The subject property is included in the 1995 Settlement Agreement and was entitled to 4 single family parcels. An exhibit included in the Settlement Agreement showed a preliminary subdivision layout including 4 parcels and numerous potential building envelopes.

2. Several of the building envelopes shown on the 1995 exhibit were highly visible from Highway 248 and slightly visible from Park City.

3. The 1995 Settlement Agreement exempted this subdivision from the provisions of the Sensitive Lands Ordinance.

4. The property was annexed to Park City on December 17, 1998. The annexation specified that the subdivision required review and approval by Park City but that it was not subject to application of the Sensitive Lands Provision of the Land Management Code.

5. The project is uniquely located so that it is not visible from Park City and is visible from few vantage points.

6. The property is unique in that primary access is through the Deer Crest Development, and the subdivision will be served by the Jordanelle Special Improvement District (JSSD) and is part of the Deer Crest Homeowners' Association.

7. The Community Development Staff, applicant, and the Planning Commission carefully analyzed the site and made numerous site visits to evaluate the application for subdivision. The applicant was willing to redesign the subdivision based upon input from the Staff and Planning Commission. Several of the more visible building envelopes were eliminated, thereby decreasing opportunities for building sites. In exchange for this concession, the Planning Commission was willing to consider a fifth lot to be located in the non-visible portion of the property.

8. The parties to the 1995 Settlement Agreement do not object to a 5-lot subdivision and will have to execute an amendment to the agreement prior to plat recordation.

9. The project was noticed and public hearings held in compliance with the Park City Land Management Code.

10. A 50-foot-wide access easement to adjacent properties is being shown on the plat because it is a requirement of the Settlement Agreement. That road is not being proposed to be built at this time. The inclusion of that easement on the plat does not constitute City approval or support of any plans or development on those adjacent parcels.

11. The large homes create more employees and therefore more of an impact on traffic and affordable housing. Large homes use a significant amount of valuable natural resources and have a significant impact on the environment. Large homes also contribute significant property taxes (a $5 million second home could contribute as much as $75,000 per year in property taxes).

<u>Conclusions of Law - Hidden Hollow</u>

1. The final plat, as conditioned, is consistent with the 1995 Settlement Agreement.

2. The plat contains numerous notes which are necessary due to the unique location and circumstances relating to this property and project.

3. Building envelope designation, dwelling size restrictions, and limits of disturbance are necessary for better compliance with the Land Management Code and General Plan.

4. The final plat, as conditioned, will not be detrimental to the health, safety, and general welfare of the citizens of Park City.

<u>Conditions of Approval - Hidden Hollow</u>

1. Prior to plat recordation, the plat must gain the approval of the City Engineer, City Attorney, and City Council.

2. Prior to, or concurrent with, plat recordation, an amendment to the 1995 Settlement Agreement must be executed by all affected parties to allow a 5-lot subdivision.

3. Building Envelope and House Size requirements are specified on the final plat. A property owner can choose to use only 1 building envelope for the primary dwelling. The maximum house sizes allowed shall be:

| | | |
|---|---|---|
| LOT 1 | Envelope A | 10,000 sf (the average of Snowtop is about 9,800 sf) |
| | Envelope B | 19,000 sf |
| LOT 2 | Envelope A | 19,000 sf |
| | Envelope B | Eliminated |
| LOT 3 | | 19,000 |
| LOT 4 | Envelope A | 10,000 sf |
| | Envelope B | 19,000 sf |
| LOT 5 | | 19,000 sf |

The square footage would be measured according to the definition in the Land Management Code at the time a building permit is applied for.

All single family residences in Hidden Hollow would be subject to the Deer Crest Architectural Guidelines which regulate the siting and design of structures to decrease the apparent mass. The homes would also be subject to the Park City Design Guidelines which are in effect at the time of building permit application.

4. Horses are subject to an administrative CUP on lots 1, 4, and 5 subject to the locations designated on the plat. In reviewing the administrative CUP, the following criteria should be evaluated:

   - Slope of area proposed for the horses to be kept - Horses should only be kept in areas of less than 15% slope. Significant grading will not be allowed.

   - Proximity to adjacent building pads.

   - Vegetation type - Existing open areas should be used, and significant vegetation removal will not be allowed.

   - Animal Management Plan - This should address, at a minimum, erosion control, waste disposal, and odor control.

5. Sewer and water will be provided by Jordanelle Special Services District. Lot 5 is being permitted to have a septic tank, subject to County approval. Road maintenance, including snow removal, will be the responsibility of the homeowners.

6. The plat shall contain language that indicates that due to the remote location of Hidden Hollow and the access through Deer Crest and Wasatch County, the subdivision may not be able to receive customary services such as garbage pick up and school bus access.

7. Final language on the dedication of the trail will have to meet the requirements of the City Attorney.

8. Plat notes on the 1/6/2000 draft shall appear on the recorded plat.

9. The Standard Project Conditions shall apply.

10. It is recommended that the City Council review the building envelope restrictions in Aspen Springs and consider adding them to this project.

2. <u>586 Main Street - Plat amendment</u>

# Second Amendment to the Telemark Park Settlement Agreement

This Second Amendment to the Telemark Park Settlement Agreement (this "Second Amendment") is entered into this _____ day of ____________________, 2000 by and between Hidden Hollow Associates, LLC, a Utah limited liability company ("Hidden Hollow"), Deer Crest Associates I, L.C., a Utah liability company ("Deer Crest"), and Park City Municipal Corporation, a political subdivision of the State of Utah ("Park City").

## Recitals

A. Pursuant to a Settlement Agreement between Park City Consolidated Mines Company, Inc., a Utah corporation ("Consolidated Mines"), Trans-Wasatch Company, L.L.C., a Utah limited liability company ("Trans-Wasatch"), and Park City dated December 29, 1995 (the "Telemark Park Settlement Agreement"), the parties thereto made reciprocal promises affecting, among other parcels, the parcel of land described in Exhibit "A" (the "Hidden Hollow Property").

B. The parties to the Telemark Park Settlement Agreement agreed that four (4) single family Estate lots would be permitted on the Hidden Hollow Property, with building envelopes, configurations, and other features further specified within the Telemark Park Settlement Agreement and its Exhibits.

C. Pursuant to a First Amendment to the Telemark Park Settlement Agreement between Deer Crest ~~Associates I, L.C.~~, the successor in interest to Consolidated Mines and Trans-Wasatch, and Park City dated December 29, 1995 (the "First Amendment"), the parties thereto made certain revisions of and clarifications to the Telemark Park Settlement

Agreement.D. Deer Crest and Park City approved additional revisions of and clarifications to the Telemark Park Settlement Agreement in December of 1998, but never recorded said amendments in written form. The parties now wish to include those revisions in this Second Amendment (Paragraph 5 below).

E. Hidden Hollow owns the Hidden Hollow Property and is the successor in interest to all of the rights and obligations in the Hidden Hollow Property which resulted from the Telemark Park Settlement Agreement and the First Amendment.

F. Upon Hidden Hollow's application to Park City to subdivide the property, Hidden Hollow expressed its willingness to redesign the subdivision based upon input from the Park City Community Development staff and the Park City Planning Commission. Several of the more visible building envelopes were eliminated, thereby decreasing opportunities for building sites. In exchange for this concession, Park City agreed to allow five (5) single family Estate lots on the Hidden Hollow Property with the building envelopes, configurations, and other features further specified in this Second Amendment.

G. The parties to this Second Amendment wish to amend the Telemark Park Settlement Agreement and the First Amendment to reflect Park City's decision to allow five (5) single family Estate lots on the Hidden Hollow Property with the building envelopes, configurations, and other features further specified in this Second Amendment. Park City wishes to do so without decreasing the total number of lots permitted to the owners of other real property parcels which were subject to the Telemark Park Settlement Agreement.

**Agreement**

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Second Amendment, intending to be legally bound, hereby agree as follows:

1. The following paragraphs in the Settlement Agreement and the First Amendment are hereby amended to delete references to four (4) single family Estate lots on the Hidden Hollow Property, and references to five (5) single family Estate lots on the Hidden Hollow Property are hereby inserted in place of the deleted references:

| Settlement Agreement | First Amendment |
|---|---|
| Paragraphs 5.2 to 5.2.1.5, inclusive; Exhibit B, "Develop. Density Table" | Paragraphs 2 and 3 |

2. The following paragraphs in the Settlement Agreement and the First Amendment are hereby amended to delete references to one hundred fifty (150) total single family units lying West of the East Perimeter Gate, and references to one hundred fifty one (151) total single family units lying West of the East Perimeter Gate are hereby inserted in place of the deleted references:

| Settlement Agreement | First Amendment |
|---|---|
| Paragraph 5.2(e) | Paragraph 2 |

3. The proposed plats and maps of the Hidden Hollow Property attached within the following exhibits to the Settlement Agreement and the First Amendment are hereby eliminated, and the plat of the Hidden Hollow Property attached as Exhibit "B" to this Second Amendment is hereby substituted in place of those plats and maps:

| Settlement Agreement | First Amendment |
|---|---|
| Exhibits "B", "D", "N" and "U" | References to Exhibits "B", "D", "N" and "U" of the Settlement Agreement shall refer to Exhibit "B" of this Second Amendment |

4. Any references within the Telemark Park Settlement Agreement or the First Amendment which are inconsistent with the intent of the parties to this Second Amendment, as set forth in paragraph "G~~F~~" in the "Recitals" section of this Second Amendment, are hereby reformed and shall be construed to be consistent with ~~that expressed intent~~ this Second Amendment.

5. Paragraph 5.2.2.5 of the Telemark Park Settlement Agreement is deleted and hereby replaced by the following amended Paragraph 5.2.2.5, approved by the City Council of Park City in December of 1998:

> **5.2.2.5 Annexation Agreement for Alternative A for the Roosevelt Gap/Snow Park Hotel Area.** If the Roosevelt Gap/Snow Park Development Area is annexed into Park City under Alternative A, then the following conditions of development shall bind the parties: (a) the density of the Roosevelt Gap Lodge shall not exceed 105 Park City Unit equivalents, (b) the funicular tramway shall be installed at the earliest opportunity, (c) Property Owners shall make offers of dedication of conversation easements, and shall designate development envelopes, all as depicted in Exhibit "N" attached hereto, (d) the remainder of the Roosevelt Gap/Snow Park Development Area shall be dedicated open space to Park City as depicted in Exhibit "N" attached hereto, and (e) there shall be no overnight parking at Roosevelt Gap Lodge unless the Planning Commission approves overnight parking at Roosevelt Gap Lodge in conjunction with a Master Planned Development of a luxury resort hotel, upon Property Owner's demonstration that the remainder of the Project has been modified to result in no net increase of traffic on the Keetley Road as a consequence of the provision of overnight parking at Roosevelt Gap. The Planning Commission may approve up to 105 overnight parking spaces at Roosevelt Gap without further Council action.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to the Telemark Park Settlement Agreement as of the date first written above.

**PARK CITY MUNICIPAL CORPORATION**

______________________________
By: Bradley A. Olch, Mayor

ATTEST:

______________________________
Jan Scott, City Recorder

APPROVED AS TO FORM:

______________________________
Mark Harrington, City Attorney

**HIDDEN HOLLOW ASSOCIATES, LLC**
By: Skyline Land Company, Inc.
Its: Manager

______________________________
By: Harry F. Reed
Its: President

STATE OF UTAH )
) SS.
COUNTY OF SUMMIT )

On this _____ day of ____________________, 2000, personally appeared before me HARRY F. REED, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), said that he is the President of

SKYLINE LAND COMPANY, INC. which Company, as Manager of HIDDEN HOLLOW ASSOCIATES, LLC, executed the foregoing SECOND AMENDMENT TO TELEMARK PARK SETTLEMENT AGREEMENT, and represented that he signed the foregoing document on behalf of said corporation by authority of its bylaws (or a resolution of its Board of Directors), and further represented that said corporation has been duly authorized to execute the foregoing document in accordance with the limited liability company's operating agreement.

______________________________
Notary

**DEER CREST ASSOCIATES I, LC**
By:
Its: Manager

______________________________________
By:
Its:

STATE OF UTAH )
) SS.
COUNTY OF SUMMIT )

On this _____ day of ____________________, 2000, personally appeared before me __________________, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), said that he is the _______ of ________________________. which Company, as Manager of **DEER CREST ASSOCIATES I, LC**, executed the foregoing SECOND AMENDMENT TO TELEMARK PARK SETTLEMENT AGREEMENT, and represented that he signed the foregoing document on behalf of said corporation by authority of its bylaws (or a resolution of its Board of Directors), and further represented that said corporation has been duly authorized to execute the foregoing document in accordance with the limited liability company's operating agreement.

______________________________
Notary

## EXHIBIT "A" To Second Amendment to

## Telemark Park Settlement Agreement

Beginning at a point on the Summit-Wasatch County line, said point being South 0°30'11" West 529.16 feet along the section line and East 5719.73 feet from the East quarter corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence North 4°33'29" East 142.89 feet; thence North 12°19'16" East 761.76 feet; thence North 0°40'51" West 620.11 feet more or less; thence along the South line of the Republican Mining Claim (MS 4980) South 68°19'00" East 310.72 feet more or less; thence along the East line of the Republican Mining Claim North 31°00'00" East 1281.41 feet more or less; thence along the North line of the Queen Esther No. 5 Mining Claim (MS 6979) South 66°45'00" East 1350.12 feet more or less; thence along the East line of the Queen Esther No. 4 and the Queen Esther No. 5 Mining Claims South 18°45'00" West 1174.00 feet more or less; thence along the North line of the Queen Esther No. 3 Mining Claim South 66°45'00" East 251.90 feet more or less; thence along the East line of the Queen Esther No. 3 Mining Claim South 18°31'58" West 799.74 feet; thence along the Summit-Wasatch County line the following 4 courses: 1) North 43°00'37" West 488.15 feet; thence 2) North 85°09'01" West 382.13 feet; thence 3) South 73°11'51" West 485.08 feet; thence 4) South 73°02'55" West 812.81 feet to the point of beginning.

TOGETHER WITH all rights-of-way and easements appurtenant to such real property set forth in the Declaration of Easements, Covenants and Restrictions, recorded July 1, 1996 as Entry No. 457356 in Book 975 at Page 335 of the official records of the Summit County Recorder.

TOGETHER WITH Water Right No. 35-8833, Certificate No. 3006, as such right is more particularly defined in the records of the Utah Division of Water Rights.

## EXHIBIT "B"

## To Second Amendment to Telemark Park Settlement Agreement

DATE: April 13, 2000
DEPARTMENT: OCM&B/Leisure Services
AUTHORS: Pace Erickson / Linda Cook / Matt Twombly
TITLE: Approve Design Contract For Skate Park and Related Phase I Improvements of the Adopted City Park Master Plan
TYPE OF ITEM: Professional Service Contract Approval

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**SUMMARY RECOMMENDATIONS:** Approve entering into a contract with Holmes and Narver (H&N) for the design and engineering of a skate park and related Phase I improvements of the adopted City Park Master Plan in the amount of $61,274.

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**DESCRIPTION:**

**A. Topic:** Contract with a professional services provider for the engineering design of the Phase I Improvements of the City Park Master Plan. The scope of services (attached) consists of concept and schematic design based on user group design workshops, public meetings, design team and Park Committee (Parks, Recreation and Beautification Advisory Board, Arts Council, City staff and skate enthusiast representatives) meetings, and Planning Commission Public Hearings. The consultant will also work with the Park Committee in the design development, construction document production, and construction oversight of these improvements.

**B. Background:**

At the March 2, 2000 City Council meeting, Staff requested that City Council reaffirm and give direction to build the skate park at the south end of City Park. The direction given by Council indicates that the construction of a skate park is a high priority. Staff should proceed with the construction of the skate park, as time allows, subject to the Planning Commission conditional use permit review process. Council stressed a desire not to rush the process and to try to incorporate as much public input on the design as possible. It was also suggested that public art be included in the design. Staff has included representatives from the Arts Council in the design process, as well as, selection of art/artistic concepts to be incorporated into the design of the project.

Staff has further researched skate park costs through the skate park consultant proposal references and information given by the consultants during the interviews. Staff has determined that the construction costs for contoured, concrete bowl skate parks (not including other improvements) range from $11.50 to $17 per square foot depending on size and the experience of the contractor bidding the project. Staff estimates the skate park in City Park to be approximately 15,000 square feet which would realize a construction cost of $172,000 to $255,000 for the skate park alone. Related amenities such as landscaping, soils mitigation, trail connections, parking, traffic and noise mitigation or other improvements were not included in the comparisons or estimates.

In the March 2, 2000 meeting Council also directed staff to begin the process of designing and building the related Phase I improvements of the adopted City Park Master Plan, excluding the proposed improvements to the Recreation Building and Children's Play Area identified in section 2 of the Phase I improvements outlined in the Preliminary Cost Estimates. The related Phase I improvments are integral to the total skate park project. The Council also recommended that staff create a facility that was unique to Park City.

**C. <u>Analysis</u>:** An RFP ( Request For Proposals) was advertised in the legal notices of the Park Record on February 23rd and 26th and the Salt Lake Tribune on February 21st and 22nd. Contracts for professional services are treated differently than purchases and contracts for public improvements. As stated in the City's contracting and purchasing policy: Contracts for Professional Services are usually contracts for services performed by an independent contractor in a professional capacity who produces a service predominantly of an intangible nature. Professional service contracts are exempt from competitive bidding. The selection of personal service contracts shall be based on an evaluation of the services needed, the abilities of the contractors, the uniqueness of the service and the general performance of the contractor. The lowest quote need not necessarily be the successful contractor. Usually, emphasis will be placed on quality, with cost being the deciding factor when everything else is equal. Staff geared the RFP toward an evaluation of services based on the uniqueness of the project, the professional abilities of the contractors, the experience of the contractors and the ability of the contractor to fulfill the City's needs, rather than on price.

Proposals were submitted by:

| | | |
|---|---|---|
| Holmes and Narver<br>1935 East Vine Street<br>Salt Lake City, Ut | Purkis-Rose<br>801 N. Harbor Boulevard<br>Fullerton, CA | ASWN<br>5005 South 900 East<br>Salt Lake City, UT |
| DRCA<br>66 West 2100 South<br>Salt Lake City, UT | Mountain Works<br>608 Main Street<br>Park City, UT | CRJ:A<br>68 South Main Street<br>Salt Lake City, UT |
| MGB+A<br>145 West 200 South<br>Salt Lake City, UT | | |

Staff, along with members of the Parks Recreation and Beautification Advisory Board (PRBB), narrowed the field of seven original proposals to four (Holmes and Narver, Purkis-Rose, ASWN and MGB+A).The four firms selected for interviews had prior experience designing skate parks, where the other firms had never designed skate parks. On March 17, 2000, the same panel of City staff and PRBB members interviewed all four of the remaining firms and determined that the Holmes and Narver (H&N) Team convincingly demonstrated in their interview that they could best represent the City's needs and accomplish the project on time and within the budget.

Skate parks, especially the type with contoured, concrete bowls, are quite unique in their design and engineering. The arc/curve of bowls, spacing between features and texture of the finished concrete are critical in providing safety to the users in such a facility. There are very few firms who can appropriately design skate parks to the specifications and requirements needed in producing a safe, usable and fun facility. Two of the firms interviewed showed the level of expertise to meet these requirements, however the H&N team rated the highest.

H&N has subcontracted with Michael McIntyre of SITE Design Group Inc (SDG) to serve as the primary consultant for the design of the Skate Park and Related Phase I Improvements to City Park. Michael McIntyre was a professional skateboarder and his knowledge, expertise, and extensive experience in designing numerous skate parks all over the United States, along with his enthusiasm and conviction for each of his projects, was vital in our selection of Holmes and Narver.

<u>The criteria used in the selection and recommendation was</u>:

| | |
|---|---|
| 1. Presentation (quality, clarity and additional insight). | 10% |
| 2. Project Teams relevant experience. | 15% |
| 3. Project Teams qualifications. | 10% |
| 3. Project Managers relevant experience (on time, on budget, public process experience). | 20% |
| 4. Planning Commission or special design experience. | 20% |
| 5. Adequacy of staff resources (local office, professional training, support staff). | 10% |
| 6. Familiarity with Park City and ability to respond to local concerns. | 15% |

**Improvements include:**

The design Request For Proposals was tailored to finding a firm or team with experience and qualifications to design a skate park. Having found a qualified and experienced team, the scope of services was negotiated which, more specifically than the RFP, identifies the individual elements necessary to complete the total skate park site, i.e. a trail link, landscaping, an artistic component, and improvement to the mucking and drilling area, if necessary, to complete the perimeter of a contoured skate park. Staff has included construction management and the aesthetic improvements incidental to the skate park. The scope incorporates amenities identified in the in the City Park Phase I Improvements as integral pieces of the skate park. This includes:

- Construction of a skate park facility (approximately 15,000 square feet).

- Possibly removing some parking along the eastern side of Sullivan Avenue and replacing it along the west side of Sullivan Avenue.

- Installation of paved trail connections from the existing trail to Sullivan Avenue and Park Avenue, grading, furnishing topsoil, installing irrigation, landscaping and public art.

- Based on community/users input the new facility may/may not incorporate the equipment used in the temporary park.

- Possibly moving the Mucking and Drilling area, or aesthetically improving the area.

The proposed design contract does not include improvements to the Park and Recreation Building/playground in the North End of City Park, the "Main Spine" trail or additional lighting. All excavated soils will remain on site.

**Service Agreement**:
Staff advertised a Request For Proposals the week of February 21, 2000 prior to the City Council meeting of March 2, 2000. Based on the direction of Council from the March 2, 2000 meeting, staff scheduled the review of the Temporary Skate Park with the Planning Commission for March 22, 2000 and a public hearing for April 12, 2000. At the March 22, 2000 meeting, staff requested direction from the Planning Commission for the context in which they would review the conditional use permit of the Permanent Skate Park.

Planning Commission determined they would review the conditional use permit for the skate park as it relates to the other improvements contemplated in the City Park Master Plan. The Commission did not wish to review the entire Master Plan for this CUP, however they strongly urged that staff present a complete project for their review that addresses adjacent park improvements, parking, traffic, pedestrian linkages, noise and any other impacts generated by the skate park. They questioned the compatibility of the Master Plan to the neighborhood and recommended that the plans for the skate park CUP should include any other necessary improvements to address these impacts based on the conditional use criteria outlined in the Land Management Code. If the proposed improvements and Master Plan did not address the impacts to "fit" the neighborhood, then the Planning Commission would review the compatibility of the entire City Park Master Plan as it relates to these issues.

Based on the direction from the City Council meeting on March 2nd, and the Planning Commission meeting on March 22nd, staff formally incorporated the incidental improvements anticipated for the perimeter of the skate park into the scope of services to be performed by Holmes and Narver, thereby satisfying the goals of the PRBB and Planning Commission. The scope including additional public meetings, design of incidental skate park improvements and construction management shouldn't be confused with the direction of Council to <u>not</u> include improvements to the Recreation Building and Children's Play Area identified in Section 2 of the City Park Phase I Improvements Preliminary Cost Estimate.

The recommended scope of services consists of five major tasks (see attached service agreement and scope of services) that takes us from conceptual design through construction. The major tasks include Conceptual Design, Schematic Design, Design Development, Construction

Documents, and Construction Observation and Inspection. The Schematic Design Phase is the most critical where the design team will work with the users and stakeholders to develop a plan that works for everyone. This phase is also an important part of the conditional use permit process, where the design development phase of the project will not proceed without an approved CUP.

The construction phase is also extremely important where proper construction is critical not only for the longevity of the product but for the safety of the users as well. Staff felt that due to the unique nature of the skate park construction, it would be necessary for the H&N team to perform the construction observation and inspection. The construction observation and inspection increased the cost of the original scope by approximately 17%. The additional public meetings/hearings required for a CUP and involved public process with the subcontractor has increased the cost of the original scope by approximately 10%. Staff's specifications for Phase I Improvements (e.g trail link, landscaping) in the skate park involve greater site analysis and design increasing the design fee by approximately 5%. Staff is confident that the related Phase I Improvements fit nicely within the skate park.

The not to exceed fee of $61,274 based on the scope of services, the schedule of values and uniqueness of the project is comparable to Service Provider fees for other City projects. The Entryway Trail Phase III was bid at $222,000 for construction and the costs for design and construction management will approximate $92,000 for which 80% will be paid by the FHWA. The Entryway Phase II trail cost over $70,000 in design and construction management for a $340,000 dollar project. The design costs for these projects were impacted by federal regulations, but are comparable to the skate park due to the unique construction requirements and necessary public involvement and process.

**D. Department Review:** The Office of Capital Management and Budget, Leisure Services, Community Development and Legal staff have reviewed the proposals. Members of the Parks, Recreation and Beautification Advisory Board were also involved in reviewing the proposals, as well as, interviewing and selecting a design firm.

**ALTERNATIVES:**

**A. Approve Staff Recommendation:** Approve the recommendation to enter into a contract drafted by the City Attorney's Office with Holmes and Narver in an amount of $61,274.

**B. Continue the Item:** Postpone the project and ask staff to negotiate a reduced scope of services to be provided by Holmes and Narver. This action would delay the project and tentative schedule for construction.

**C. Deny the Request:** If Council determines that the cost for services is too high then Council could choose to not enter into a contract with Holmes and Narver and direct staff to pursue contracting with the firm the selection committee ranked second. This action would delay the project and tentative schedule for construction. Staff has no way of knowing if a contract with any of the other three finalists is likely to reduce the cost.

**D. Cancel the Project:** Cancel the project and terminate the contract negotiations with Holmes and Narver at this time, until further analysis can be performed. This action would significantly impact the project construction schedule.

**SIGNIFICANT IMPACTS:** There is currently a total of approximately $550,000 in the Budget for the City Park Improvements Phase I, Section 1.

Due to the significant amount of public involvement, the complexity and uniqueness of the skate park construction and coordination, design and construction of the Phase I Improvements to City Park, the proposed cost of $61,274 is a reasonable amount based on the scope of services.

**RECOMMENDATION:** Staff recommends entering into a contract with Holmes and Narver (H&N) for the design of the Skate Park and Related Phase I Improvments of the adopted City Park Master Plan in the amount of $61,274.

**CONSEQUENCES OF NOT TAKING RECOMMENDED ACTION:** Staff feels that by delaying action or cancelling the project at this time would jeopardize the construction of the Phase I improvements for this season. With the Olympics approaching, it may be unrealistic to find a qualified contractor or complete the proposed improvements within the allocated budget.

PARK CITY 1884

# CITY COUNCIL STAFF REPORT

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|---|---|
| DATE: | April 13, 2000 |
| DEPARTMENT: | Office of Capital Management & Budget |
| AUTHOR: | Tom Bakaly TB |
| TITLE: | Mountainlands Community Housing - Holiday Village |
| TYPE OF ITEM: | Administrative - Predevelopment Loan |

**SUMMARY RECOMMENDATIONS:** Approve extension of predevelopment loan to Mountainlands Community Housing Trust until June 30, 2000 and provide direction and possible action about increasing the loan from $40,000 to $60,000.

## DESCRIPTION:

### A. Topic.

Request for a term extension and additional $20,000 related to their existing predevelopment loan of $40,000 for efforts to acquire the 80 unit project at Holiday Village.

### B. Background.

On July 29, 1999 the City Council approved a five (5) month predevelopment loan in the amount of $40,000 to Mountainlands Community Housing Trust for efforts to acquire the 80 unit project at Holiday Village. On December 16, 1999 City Council extended the term of the loan to April 30, 2000. Mountainlands has drawn down $40,000 of that approved loan amount. Mountainlands has requested that the loan be increased another $20,000 (to $60,000) and extended through June 30, 2000 so that they can close on the acquisition of Holiday Village. Please see the attached letter. Mountainlands has executed a purchase agreement, and is confident that the transaction will occur by that time. Staff has included in this report text from the original staff report from July for City Council's information.

For the past two years Mountainlands Community Housing has been negotiating on the acquisition of the Holiday Village Apartments. Holiday Village is a rent restricted project that houses many city residents. The Chrysalis program also houses many of their participants in the units.

Until July, 2000 Mountainlands had been using their own internal developement fund and a challenge grant from the Federal Home Loan Bank to finance the predevelopment costs. Final financing will come from a variety of sources. Tax exempt bonds, a HOME loan, a Rural Development Rehabilitation loan, and Federal Home loan equity grant are some of the sources. The purchase price is $6,150,000. The total project cost is $7.8 million. All units will remain "affordable" if Mountainlands acquires the project.

**C. Analysis.**

Mountainlands has received a short term predevelopment loan from the City for costs associated with the acquisition of Holiday Village such as escrow funds, application fees, legal fees, and architectural and engineering fees. These are all budgeted items which will be repaid through Mountainlands permanent financing if the acquisition proceeds. If for some unanticipated reason the acquisition falls through, Mountainlands would then request that the terms be renegotiated with the City. Mountainlands is requesting an extension of the loan and an increase in the loan amount.

Staff met with Mountainlands Executive Director, Phyllis Robinson, to discuss the initial terms of the loan. The following alternatives were discussed when the loan was originally proposed:

1. Compound monthly with quarterly payment starting on October. Amortization would start on the first drawdown.

2. Disburse the loan with interest. Let interest accrue and pay at end of loan term.

3. Establish a line of credit with the City for $40,000 for a six month period. (August to Feb). Amortization would start on first drawdown with an interest rate of 5.5%. Interest would accrue and the full payment (principal and interest) would be made by April 30, 2000.

In terms of the loan arrangements, staff supports the third alternative and that is what has been implemented per City Council direction in July.

In terms of the original loan itself, the staff has used the following criteria for review:

1. The request is directly related to the City Council's annual priorities (Housing);

2. There is an identified source of funds (over $500,000 exists as of 7/1 in the Housing CIP Fund 33);

3. The loan would be for capital not operating expenses and would be seed money for the acquisition (which is in accord with the City's criteria under the grants program).

The Council has also displayed an interest in the project over the past few years and has encouraged staff to work towards the preservation of the units. Staff supports Mountainlands efforts to acquire the units and maintain their affordability. If these 80 were converted to market units the city would have little control over the rental or purchase price rates unless the city itself purchased the units. The units are an integral part of the city's affordable housing stock and should be maintained. Staff recommends that the Council consider extending the predevelopment loan until June 30, 2000 and increasing the loan amount to $60,000.

Mountainlands will utilize the City housing list in the management of the units.

**D. Department Review**
The Office of Capital Management and Budget, City Manager's Office and Legal Department have reviewed this proposal.

**ALTERNATIVES**
A. Direct staff to extend the predevelopment loan agreement with Mountainlands Housing for $60,000 until June 30, 2000.
B. Deny either the predevelopement loan term extension request and/or the $20,000 increase to the loan.
C. Continue the item for further discussion and/or additional input from Staff. There are two more City Council meetings scheduled before the current loan expires at the end of April.

**SIGNIFICANT IMPACTS**: If the loan extension and loan increase are approved, the Housing CIP Fund 33 will be depleted by up to $60,000 for another six month period. The interest paid on the loan will approximately cover the City's cost of funds. The Affordable Housing Account has approximately $500,000 available. At this time staff is not aware of any major housing projects that would require full use of these funds.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:**
If the City does not support the request, Mountainlands will need to repay the loan within two weeks by using funds from another source. At worst case the acquistion of the project may fail and the units may not remain affordable.

**RECOMMENDATION:** Staff recommends that the City Council extend the predevelopment loan to Mountainlands Community Housing Trust until June 30, 2000 and consider increasing the loan amount to $60,000.

**Exhibits**
**Exhibit A - Request from Mountainlands - March 30, 2000**

**MOUNTAINLANDS COMMUNITY HOUSING TRUST**

P.O. Box 3661
614 Main Street, Suite 306
Park City, UT 84060

Tele: (435) 647-9674
Fax: (435) 658-3890
email: pmcrob@sisna.com

March 30, 2000

Mr. Tom Bakaly
Park City Municipal Corporation
Capital Management and Budget
P.O. Box 1480
Park City, UT 84060

Dear Tom:

As a follow-up to my e-mail of earlier this week, I am writing to (1) request an extension of the date to repay our line of credit until June 1, our scheduled closing date and, (2) to ask for that line of credit to be increased to $65,000.

**Background**
On July 29 the Park City Council approved a $40,000 line of credit to the Mountainlands Community Housing Trust to be used for predevelopment costs associated with the acquisition of the Holiday Village Apartments. The first draw for $20,000 was made in September 1999. Those funds were used as escrow funds ($10,000) and therefore are not at risk, as well as to pay appraisal and bond allocation fees. A second draw request was made on March 28 for the remaining $20,000. Those funds are providing a forward rate lock commitment on our bonds and providing escrow deposits for our term loan.

**Extension Request**
The predevelopment loan is scheduled to be repaid to the City on April 30, 2000. This was our anticipated closing date and up until two weeks ago we were on scheduled to meet that deadline. However, Rural Development has indicated that they will not be able to close until the end of May due to processing time. The sellers have agreed to extend the purchase agreement until June 1 to accommodate this timing.

**Increase in Line of Credit**
Our request for an increase in our line of credit is based on two factors. One, rising interest rates required us to add credit enhancement to our bonds in order to secure a lower rate and not reduce our bond amount. Credit enhancement enabled us to secure a term loan of $4,000,000 rather than $3,600,000 with an attractive 7.2% all in rate. Nothing comes without a cost, however, especially loan terms. Fannie Mae and Washington Mortgage, the DUS lender for the enhancement, require some fairly steep deposits which must be paid at time of loan commitment rather than at closing. These deposits total nearly $40,000. We have negotiated an installment plan with them based on the fact that we only had $20,000 available in our current line of credit. Needless to say, we hadn't planned on having to put that much money out in bank fees and find ourselves in a position of needing additional funds to continue forward with the transaction.

We have tried to be conservative with our use of funds and I hesitate to ask for an increase in our line of credit because I don't want to take advantage of the City's good will and support for this project. But, we do need your support to complete this project. We have exhausted other alternatives such as closing our AHP grant or HOME loan in advance of the construction loan, or securing a predevelopment loan from our investor. In addition to the processing time (4 - 6 weeks) each of these options require the completion of most our due diligence which in itself requires cash and time such as $8,000 and 3 weeks to complete the asbestos, radon and lead-based paint tests. Hence my dilemma and my request to the city.

**Repayment and Terms**
The line of credit has a 5.5% interest rate with principal and interest due in full at closing. We would ask that any increase in that line of credit be at the same terms. The city will be repaid through funds disbursed at closing. All costs that I have outlined here are budgeted expenses. Unfortunately they're happening a bit earlier than anticipated. All funding is in place to complete this transaction.

We sincerely appreciate the City's assistance in our efforts to acquire the Holiday Village Apartments. Please let me know what additional information you will need to complete your review. Thank you.

Very truly yours,

*Phyllis M. Robinson*

Phyllis McDonough Robinson
Executive Director