PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
DECEMBER 16, 2004

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Phyllis Robinson, consultant; and Lori Collett, Finance Manager

Scott Loomis, Executive Director of MCHT; Greg Davidson, proprietor, and Scott York, counsel for The Monkey Bar

1. Council questions/comments. Joe Kernan disclosed that he provides recycling services to Mountainlands Community Housing, The Monkey Bar and various businesses potentially impacted by the sign ordinance, but will participate in discussions. He reported that the solid waste committee provided an update to the Summit County Commission and will render final recommendations in March. Candace Erickson relayed that Valley Mental Health and the People's Health Clinic meet with the Board of Health about financial support from Summit County. PHC did an outstanding job of quantifying and sorting information, and out of the 1,700 individuals answering its survey, 1,300 were residents of Park City. She continued that Recycle Utah received a grant from the City but not specific funds for the hazmat collection. This event cost Recycle Utah $9,000 for contracted services, which was underestimated by 50%. The Director negotiated the bill down to $6,700 and the County contributed another $2,500 but Recycle Utah is still $1,200 short. Ms. Erickson suggested that the City consider a donation. Marianne Cone pointed out that the collection is free to the public and suggested that donations be encouraged; there doesn't have to be a fee. Ms. Erickson continued that the Library opened a Green Building section for patrons. Marianne Cone commented on the Leadership party. Jim Hier reported on the inter-agency meeting where the primary topic was transportation in the Basin. Mayor Williams congratulated the PHC on reaching its fund-raising goals last week. He attended the first meeting of the Mosquito Abatement Committee and a $350,000 budget is anticipated for the upcoming season. Biological controls, requested by Park City, will be implemented. He stated that he was honored to participate in the Shop with a Cop Program which was very successful. Last night, he presented the City's capital projects to the CARG Board.

2. Review of regular meeting:

Mountainlands Community Housing Trust loan request. The Mayor stated that someone dropped off internal emails from MCHT where there are allegations that he intends to destroy the organization or is responsible for delays in the Deer Valley Drive project. He stated he was furious while reading the emails and hurt by the comments because the accusations were out of line and untrue.

Phyllis Robinson explained that the request is for a bridge loan in the amount of $100,000 to cover increases in construction costs for 555 Deer Valley Drive. The project has been underway and promotes affordable home ownership goals in the community. The source of repayment for the note would be through the sale of the project. The loan would be secured through a second deed of trust and Zions Bank has indicated that it will provide subordinate debt financing on the project. The loan would only be used for capital costs associated with the project, and all requests would be submitted by MCHT and approved by the City before funds are released. The recommendation is to approve a bridge loan in the amount of $100,000 at 3% interest which is consistent with the City's affordable housing policy. Ms. Robinson emphasized that the interest payment on the loan is the same as the amount earned if the funds remain in the City's investment fund. Zions Bank has been involved with the acquisition of the property and the construction loan and MCHT has invested $128,000 in its own funds in terms of equity into the project. The project is appraised at $2.3 million and the combined debt is 88.5%, which is good from an underwriting perspective. One bedroom units are projected for sale at about $85,000 and for two bedroom units at $125,000. Staff recommends approval of the request, subject to the conditions outlined in the staff report.

Candace Erickson felt the request should be approved as loans have been provided to MCHT previously and the community perceives that the City is involved. She feels it important that the City continue to demonstrate its commitment to affordable housing, like the Holiday Ranch Project. In response to a question from Marianne Cone about the construction schedule for the 555 Deer Valley Drive project, Scott Loomis explained that the soonest they can get a framing crew back is the second week of January. Completion is anticipated the end of April. He described the excavation and concrete work required, which was very expensive. She felt that if Council provides a bridge loan, it is reasonable for the City to ask for a schedule to rely upon. Joe Kernan disclosed that he has a recycling contract with MCHT. He stated that he supports this organization and feels that the loan is structured so the City is not losing any investment interest. In response to a question from Jim Hier about the $45,000 budgeted for construction management, Scott Loomis explained that MCHT is acting as the contractor and has hired an independent construction supervisor. He assured Mr. Hier that the CC&Rs will require that the units be owner occupied and agreed with Ms. Cone with regard to regular updates on the progress of the project until completion. Kay Calvert stated that she's heard complaints about installing electric heating and Mr. Loomis explained that there have been advancements in this technology. He heard about this issue recently in the context that MCHT was trying to cut corners to make money on the project, which is obviously not the case and reflected in the numbers.

Scott Loomis indicated that he doesn't know where the emails were generated, but explained that there were a number of potential buyers upset about the stop work order.

He subsequently met with the City Manager on the issue and was convinced that it was not political and he discouraged people from contacting the Mayor's Office. The Mayor responded that everyone has a voice and pointed out that the emails appear to have been generated by members of the MCHT Board. The seated Council has made this project possible and it makes no sense that the City would sabotage it. Mr. Loomis believed that the emails were not from MCHT and the public was encouraged not to email the City. Joe Kernan believed the correspondence to be copies of internal emails between Board members but the Director met with the City Manager, which was appropriate. Marianne Cone encouraged considering using green building techniques and felt disseminating information on electric heat to potential buyers would have eliminated many concerns.

Taxi ordinance. Lori Collett explained that the amendment would change insurance requirements, making them consistent with the Federal Motor Carrier Act. There are currently two insurance levels in the ordinance and for vehicles carrying 15 or less passengers, the requirement is $1.5 million, and for vehicles carrying 16 or more passengers, $5 million. This amendment adds a third level for taxi cabs only, vehicles carrying eight or less passengers including the driver, at $75,000. She stated that the amendment was prompted by numerous complaints and threats of lawsuits from taxicab companies in Salt Lake who are only required to provide $750,000 of insurance. In response to a question from Kay Calvert about the City's coverage, Mark Harrington believed that the City's comprehensive policy significantly exceeds these standards. He feels the City has the authority to determine the levels of insurance and the current ordinance is legally defensible, but from a policy and fairness perspective, it was felt that the Salt Lake airport standard was appropriate. Joe Kernan expressed that reducing the level is reasonable.

Private dance club regulations. Mark Harrington explained that Council requested that dance entertainment, primarily in private clubs, be addressed by ordinance. There is a new draft which has been distributed to Council and to the attorneys of The Monkey Bar and the landlord. The previous Council relied on practices of other communities to address sexually oriented businesses and the location zoned for these businesses is the Prospector general commercial area. The conduct at one particular club was brought to the City's attention last summer and there was an attempt to agree on a compliance strategy with the owners of the establishment, which was unsuccessful. The primary concern at the time was lap-dancing, but rather than revoke the license, the City coordinated an investigation with the Department of Alcoholic Beverage Control and local officers, conducted in October and November 2004. He continued that The Monkey Bar has been served with notice of Agency action which alleges approximately a half dozen violations of state code. There could be a pre-hearing conference or use of an administrative hearing officer who would formally make a recommendation to the DABC Board. The final order rendered by the Board could be appealed to the court for a de novo review. When Council realized that the process could be lengthy, the Legal Department was asked to return with an ordinance which would clarify reasonable time, manner, and place restrictions. This would prohibit contact with for-hire dancers, individual lap dances, and nudity by employees within the establishment regardless of if they are behind a shadow screen.

The City Attorney stated that the ordinance distributed on Monday addresses these three issues, but after receiving input from all interested parties, a revised draft is now before Council. This will regulate all establishments, not just private clubs, where there will also be the requirement of a three foot separation from entertainers and patrons at all times. This is consistent with the findings of the SOB ordinance. Mark Harrington continued that while the dancing is underway, there can be no tipping with contact and there are minimum dress requirements. The final section addresses violations of both the business and patrons. The City is fairly limited in its authority and these restrictions are aimed at conduct not meeting community standards. Staff feels that Council's effort in protecting public decency is appropriate and it is important to make a determination of the conduct outlined in the reports. He encouraged that Council carefully review these and consider public input, acknowledging that this draft ordinance was provided in a very short amount of time. Joe Kernan disclosed that both the City and the Monkey Bar are his customers. He felt he needed more time to consider how this would affect other performers, and the City Attorney explained that the ordinance is content neutral and addresses all dance entertainment in establishments, ensuring compliance with constitutional standards. There may be an opportunity to further refine definitions so they're more specific but staff believes the draft language clearly conveys what is allowed. The most recent revision borrows provisions from a Salt Lake City ordinance, which has been successfully defended in court. However, these provisions are not boiler plate and reflect Park City's community standards and circumstances which should be memorialized in Council's findings with the adoption of an ordinance. He reiterated the importance of Council review of the incident reports which will augment the record in providing sufficient basis for the ordinance. Council can rely on police reports, observations and testimonies to develop legislative findings with regard to public decency and community standards. Jim Hier suggested that the Council open the public hearing tonight, consider input, and continue the ordinance. Kay Calvert expressed concerns about limiting performances like belly dancing, for instance. The City Attorney advised that belly dancing would fall under the dance performance definition, and as proposed, dancers would have to follow the same regulations for approval of the stage location or performance area, which could be a pathway through the establishment as long as the three foot patron rule is maintained. Performances associated with parades would be exempt from the ordinance, as only performances within a club or tavern are intended to be addressed.

In response to a question from Marianne Cone, Mark Harrington explained that The Monkey Bar will remain open pending the outcome of the DABC's action. There are also pending complaints in the City prosecutor's office forwarded by the enforcement division. Candace Erickson expressed concerns about other entertainers required to maintain the three foot separation. Mark Harrington agreed that noted that staff struggled with this and tried to narrow the legislation to dance entertainment. If the ordinance becomes more restrictive with regard to content, there is a higher standard of review and findings must be made to meet additional constitutional standards. Marianne Cone observed that there is no sign alerting the public of the type of performances in the Monkey Bar and Mark Harrington explained that the City's Sign Code is content-neutral. Additional disclosure measures could be implemented but this approach has not been supported by Council or staff to date.

Greg Davidson, proprietor of the Main Street Monkey Bar, asked for an opportunity to address Council. Scott York, attorney, explained that he was prepared to speak on the first ordinance draft and the new version is very different. He strongly urged Council to postpone action and provide the public with an opportunity for review and comment. Additionally, the definitions need to be refined. The Monkey Bar is doing everything possible to be a contributing member of Park City by being a lucrative business and denies causing urban blight and/or increasing crime in the area, alleged by the City. Greg Davidson expressed that every club providing entertainment would violate the ordinance as written, and this should be publicly discussed.

<u>Union Square Project</u> – The City Council adjourned work session attend a balloon float at the project site.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
DECEMBER 16, 2004

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, December 16, 2004. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Max Paap, Special Events and Facilities Coordinator; Brooks Robinson, Planner; and Ray Milliner, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council member Kernan disclosed business relationships with Mountainlands Community Housing Trust, The Monkey Bar, and several business affected by the Sign Code at Silver Lake and PCMR.

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

Main Street snow removal - Mike Sweeney, HMBA, relayed that several merchants on Main Street feel the snow and ice in the gutters on Main Street should be removed by the City before the next storm.

Thank-yous – Sue Follett, Summit County Clerk, thanked Cindy LoPiccolo, Park City Election Officer, her department, and the Public Works Department for their critical assistance in the last election.

Teri Orr, Park City Performing Arts Center, thanked the City for its support of the Moose on the Loose Program and the summer concert program last year. She surprised the Council and the audience with a Celtic folk music performance by the Leahy Family, featured at The Eccles Center,

IV APPROVAL OF MINUTES OF MEETING OF DECEMBER 2, 2004

Marianne Cone, "I move we approve the Minutes of the meeting of December 2, 2004". Jim Hier seconded. Motion carried unanimously.

V PUBLIC HEARINGS

1. International Pedigree Stage Stop Sled Dog Race MFL to be held February 5, 2004 – Max Paap explained that the event began in 1996 in Wyoming, and Park City will be hosting the final leg of the race this year. Twenty-five dog teams will arrive by motorcade to compete on a six mile course on the golf course. There will also be a

fireworks display that evening at PCMR. With no questions or comments from the City Council or the audience, the public hearing was closed.

2. Ordinance approving the first amended record of survey for 8789 Marsac Avenue, Ironwood at Deer Valley, Park City, Utah – Brooks Robinson stated that approval of the amendment would combine two units into one with no additional square footage created. The Planning Commission forwarded a positive recommendation on December 8, 2004 based on the findings in the ordinance. The Mayor opened the public hearing and hearing no comments, closed the hearing.

3. Amendment to the Municipal Code, Title 4, Licensing, regarding insurance requirements for taxis – The Mayor opened the public hearing.

Rob O'Brien, owner of 649-TAXI, stated that he has been providing year-round service in town for 13 years and over the past eight years, has addressed Council many times over compliance and enforcement. Mr. O'Brien suspected that Salt Lake carriers didn't carry Park City's required $1.5 million worth of coverage. When he questioned this he was told by the Finance Department that taxis are only required to carry $750,000, but since his business is located in Park City, he is not eligible since the insurance amount was not formally on the books. In the meantime the City probably issued about 30 licenses, which he has to compete with. Now, the standards have been lowered making it easier for other companies to do business here. He didn't feel that $750,000 is enough coverage for eight passengers. Over the past several years, there has not been enough enforcement and he urged Council to keep this as a high priority. With no further comments or questions from the Council or the audience, the Mayor closed the public hearing.

4. Ordinance amending Title 4, Chapter 4, Section 16 of the Municipal Code of Park City regarding sexually explicit dancing – Mark Harrington referred to the work session discussion where continuance was considered. The Mayor reiterated that the public hearing will be continued at the earliest to January 13, 2005, but invited comments. Hearing none, the public hearing was closed. Jim Hier, "I move we continue this item to a date uncertain, with a preference of having it on the 13th". Kay Calvert seconded. Motion unanimously carried, Jim Hier, "I move to remove this from the Consent Agenda". Marianne Cone seconded. Motion unanimously carried.

5. Ordinance amending the Sign Code, Title 12, Chapter 10, Section 2 of the Municipal Code of Park City to allow portable signs for one test holiday season – Ray Milliner, Planner, explained that approval of the amendment will allow the display of portable signs within certain private property and displayed a rendering of the Main Street area with regard to specific locations. He added that the HMBA requested that the Planning Commission look at this, but the Commission decided to review the Sign

Code comprehensively in January. In the interim, the City Council instructed staff to return with a temporary ordinance, allowing portable signs on private plazas and private property adjacent to the plazas. The term proposed is immediate until the end of the ski season or April 15 to monitor possible impacts like clutter or safety hazards and associated benefits as merchants believe they are very beneficial in directing patrons to their businesses. He requested direction on whether there should be a standard design for signs and whether the Council prefers to have a recommendation from the Planning Commission before enacting this ordinance. In response to a question from the Mayor about private property areas on the map, Ray Milliner explained that although they aren't plazas, they could potentially place signs in these areas if they don't obstruct sidewalks. The ordinance language is general. Mark Harrington advised that the section on the master sign plan for plaza areas, which was removed from the code last year, will be reinstated in the code.

Kay Calvert asked if more than one sign could be allowed if a business is accessed from both Park Avenue and Main Street. Mr. Milliner noted that as drafted, the ordinance allows one sign per business. Jim Hier felt the purpose of the ordinance is to alert people that there are businesses that can't be seen from Main Street and supports one sign. He felt the test should be limited to downtown plaza areas before introducing it to other commercial areas. Mr. Hier didn't feel it appropriate to dictate the design and felt it is appropriately addressed, as written. A trial will provide information to the Planning Commission in conjunction with its comprehensive study, and should be enacted by Council.

Candace Erickson agreed that portable signs should be limited to plaza areas and pointed out that a row of identical signs may be overlooked. She is concerned about potential clutter and didn't feel the matter needs to be remanded to the Commission. The program shouldn't be delayed. Mark Harrington advised that Council has the authority to repeal the ordinance at any time. Marianne Cone believed other commercial plazas will object to not being included. Mr. Milliner added that if the program is successful, it will be expanded to other areas. She stated that she would rather have portable signs limited to plazas and not extended to private property adjacent to plazas. Joe Kernan felt the design of the sign should be at the discretion of the merchant and felt one sign is sufficient. In an effort to control clutter, he further suggested that businesses share signs and that staff be given administrative authority to decide shared locations. Jim Hier emphasized that these portable signs should act as way-finding signs to businesses not visible from Main Street, not to advertise fare or sales. Marianne Cone felt the worst thing for a commercial area is displaying too many signs; people stop reading them. Candace Erickson felt there should be a standard size and Ray Milliner suggested that rather than identifying dimensions, allowing six square feet or less. The Mayor opened the public hearing.

Peter Barnes, architect, suggested some verbiage changes and in response to his comments about real estate and traffic signs in the HCB and HRC zones, it was explained that these are addressed in other sections of the Sign Code or municipal code.

Ken Davis, owner of Java Cow on Main Street, suggested pylon signs listing businesses in the plaza, rather than placing individual signs for each establishment and cluttering the plaza. This may also be a way to direct people to the Main Street Mall. He referred to the lost appeal of the prior owner of Cows where the fiberglass cow was deemed as a sign and not allowed to be displayed in front of the business. From his perspective, the current Sign Code is too restrictive. There should be some flexibility for merchants to express themselves and the business. Other ideas could be tested, and there are many creative shop owners who want to present themselves properly.

Marianne Cone stated that after hearing complaints about the visibility of the Sweeney Café, she walked the site and discovered two signs on Park Avenue for the café above. The signs are not compatible from a design standpoint.

Mike Sweeney, HMBA and owner of Sweeney Cafe, explained that his goal for his business is a little different than his goal for the street. His application to display the Hummer during Sundance last year resulted in the loss of all signs on the deck and he is looking for ways to notify the public that he is open for business from Main Street. He discussed in detail, his specific needs and pointed out other areas on Main Street like the Java Cow entryway where a small sign could be placed. Main Street merchants can police themselves and he reiterated that his most important message is that the café is open.

Jesse Shetler, No Name Saloon and Butchers Chop House, believes it is important for Council to consider enforcement of the Sign Code. The City has only one enforcement officer and he observes a significant number of illegal signs, especially on the weekends. He agreed that the Sign Code could be loosened up; however, the current enforcement officer needs help. Mr. Shetler added that he is reluctant to report businesses not in compliance. He expressed confusion on the number of allowable signs and criteria, which was clarified as one per business. The term of the test should be when the ski resorts close not specifically April 15.

Marianne Cone reiterated concerns about visual clutter and the possibility of having ten signs lined up at one location. Jim Hier felt that it will be difficult to write an ordinance around location of signs on the plaza and this is only an experiment which he believes will go away if it is unattractive. The Planning Commission is the appropriate body to comprehensive look at *loosening up* the Sign Code. Mayor Williams agreed with Mr. Davis' recommendation of one pylon sign and expressed that *this is going to be a mess.*

He feared that the result will be 20 signs clustered at the entrance of the plaza. In other instances, the customer is already at the entrance of a business so a tent sign is not necessary. Kay Calvert expressed confidence with the marketing abilities and common sense of owners participating in the trial. Joe Kernan felt that the ordinance should contain language with regard to staff's authority to determine the location of portable signs and is okay with two signs per business. Kay Calvert cautioned over-regulating the program. Marianne Cone pointed out that merchants will be investing money in their signs with an expectation that the ordinance will not be repealed, and she envisions that enforcement will be more difficult.

Mike Sweeney stated that he does not need two signs, just one for each store. He felt that most merchants will place signs close to their stores and not cluster them on the plaza. He explained that PCMR is pursuing installing a four-sided directional sign with a map on the deck, which is currently prohibited. Candace Erickson pointed out that the Planning Commission has agreed to look all features of the Sign Code and this will be addressed at that time. The hearing tonight is to focus on portable signs for merchants located in interior corridors.

With no further comments, the public hearing was closed.

VI CONSENT AGENDA

Marianne Cone, "I move to remove Item 5 from the Consent Agenda (see Item 1 of New Business)". Candace Erickson seconded. Motion unanimously carried. Kay Calvert, "I move approval of Consent Agenda Items 1, 2, 3, and 6". Candace Erickson seconded. Motion carried unanimously.

1. International Pedigree Stage Stop Sled Dog Race MFL to be held February 5, 2004 – See staff report and public hearing.

2. Ordinance approving the first amended record of survey for 8789 Marsac Avenue, Ironwood at Deer Valley, Phase 1, Park City, Utah – See staff report and public hearing.

3. Amendment to the Municipal Code, Title 4, Licensing, regarding insurance requirements for taxis – See staff report, work session, and public hearing.

4. Ordinance amending Title 4, Chapter 4, Section 16 of the Municipal Code of Park City regarding sexually explicit dancing – See staff report, work session notes and public hearing where a motion to continue to a date uncertain was carried.

5. Ordinance amending the Sign Code, Title 12, Chapter 10, Section 2 of the Municipal Code of Park City to allow portable signs for one test holiday season – See staff report, work session notes, public hearing, and Item 1 under New Business.

6. Loan to Mountainlands Community Housing Trust for affordable housing project, located at 555 Deer Valley Drive, Park City, Utah – See staff report and work session notes.

VII NEW BUSINESS

1. Ordinance amending the Sign Code, Title 12, Chapter 10, Section 2 of the Municipal Code of Park City to allow portable signs for one test holiday season – Kay Calvert, "I move to approve Item 5 on the Consent Agenda". She pointed out that her motion includes the change in determining the maximum size by six square feet per side rather than dimensions, and striking the word, *permission* in Section 12-10-2. Jim Hier seconded. Motion carried.

Kay Calvert	Aye
Marianne Cone	Nay
Candace Erickson	Aye
Jim Hier	Aye
Joe Kernan	Aye

2. City Council call-up of the Planning Commission approval of the Union Square Project Master Planned Development **(motion to continue to January 13, 2005)** – Jim Hier, "I move to continue the City Council call-up of the Planning Commission approval of the Union Square Project to January 13". Candace Erickson seconded. Motion carried unanimously.

VIII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 5 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney. Jim Hier, "I move to close the meeting to discuss property and litigation". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 6 p.m.

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

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott, City Recorder

City Council
Staff Report

PARK CITY
1884

Special Events and
Facilities Department

Author: Max Paap
Subject: International Pedigree Stage Stop Dog Race
Date: December 16, 2004
Type of Item: Administrative – Master Festival License

Summary Recommendations:
Review the Master Festival License application, conduct a public hearing, and consider approving the license for the International Pedigree Stage Stop Dog Race Master Festival License, February 5, 2005.

Description:

Topic:
Review the Master Festival License Application, submitted by the Park City Chamber/Bureau, for the International Pedigree Stage Stop Dog Race for February 5 , 2005.

Background:
The International Pedigree Stage Stop Dog Race will be held in Park City on February 5 , 2005. The event is the final leg of a seven day dog sled stage race that starts in Jackson Hole, Wyoming and ends in Park City, Utah. Created in 1996, the race has strived to make sled dog racing more accessible to the public and spreading the word about the importance of immunization of children under the age of two. The race and its stage stop format, have earned the race the title of "the dog friendly race"- attracting the top mushers in the world to compete for it's $100,000 purse. The race has continued to grow in popularity through the years, becoming the largest sled dog race in the lower 48 states. Approximately 25 teams will compete in this final leg.

The International Pedigree Stage Stop Dog Race is consistent with the City Council's Goal #4 which is to continue to promote Park City as multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this and to increase the number of events in the Winter.

Analysis:
The event will start and finish in the Park City Mountain Resort First Time Parking Lot. The race course will take the dog sleds from PCMR through trails on the Park City Municipal Golf Course and back to Park City Mountain Resort. Prior to the race at Park City Mountain Resort the racers and their support teams will arrive in Park City via motorcade and begin their pre-race staging at the Mawhinney Lot. The organizers will use portions of the First Time Lot for staging and preparation. Special consideration has been given to the route that will be used on the Park City Golf

Course as to not interfere with the regular cross country skiing operations of White Pine touring. At no time, will regular users of the White Pine service be interrupted or altered in running this race. The course will need to cross Silver King Drive and Three Kings Drive twice (Once on the trip out, and once back) to complete the required distance. This will not require a complete closure, but rather intermittent delays that will be staffed by volunteers of the event. Public safety organizations will be fully aware of the route and the occurrence of temporary delays in this area. The race will begin at 6:30pm and will finish at 7:30pm, with fireworks to follow, at Park City Mountain Resort.

The event will include twenty-five (25) teams that have one (1) "musher" and teams of dogs that number twelve (12) to sixteen (16). A group of coaches, veterinarians, friends and family will accompany the team to town. This group will conduct a "Meet and Greet" event at the Santy Auditorium at approximately 3:00 on race day. At the races, the organizers expect between 200 and 300 spectators. Bleacher seating will be provided and spectators may also watch along the route. Concessions will be provided by the organizers.

Traffic and Parking

Parking for the event will be fully contained within the Park City Mountain Resort parking lots. There will be no need for off-site parking. Parking for the event at Santy Auditorium will be accommodated in the Library and Education Center Parking Lot. Traffic control will be necessary at Silver King Drive and Three Kings Drive. Complete closures will not be necessary, but rather intermittent control as the teams periodically cross these streets. These will be manned points with the aid of event volunteers. Regular traffic will not be severely impacted. There will be no need for resident access passes.

Awards Presentation

Awards will be presented to the teams in the established Start/Finish line near the race arena at Park City Mountain Resort following the race.

City Services

Basic City Services will be required to prep the race course on City property prior to and after the event. Coordination of additional grooming services to be determined in further conversations with the race organizers. Bleachers and barricades will also be needed requiring City personnel to set-up and take-down. The applicant has requested no fee waivers. The Building Department will review all temporary structures including tents and bleachers for compliance with the Building Code.

Since the event is stating a moderate crowd size and an evening event, the Police Department has required Police presence at the event. Staff is working on identifying the locations and hours to prepare estimated costs for the organizer.

Park City Mountain Resort Freestyle Snowmobile Exhibition

The International Pedigree Stage Stop Dog Race will occur on the same day as the PCMR Freestyle Snowmobile Exhibition. The snowmobile event has received an Administrative Approval by the Special Events and Facilities Department. The Municipal Code allows for Council to approve multiple events within the same time frame if findings can be made that the events will not negatively impact each other and that there are adequate City Services to be spread over two events.

The PCMR Freestyle Snowmobile Exhibition schedule shows the event occurring from 4:00pm to 4:30pm on February 5th . This event will be contained to the race arena near the First Time Lot at Park City Mountain Resort. The event will draw the majority of its' spectators from existing day skiers and riders and require no additional parking needs. Although there will be additional spectators arriving for the sled dog event, PCMR has adequate parking to accommodate spectators for both events. Staging for the sled dog event will require some space in the First Time Lot, but PCMR can provide adequate parking in the Silver King and Main Lots. These events will not negatively affect each other, nor interfere with one another. They may provide an opportunity for a cross-over of spectators for both events.

Department Review:

All applicable departments have reviewed the International Pedigree Stage Stop Sled Dog Race event and their comments have been incorporated within the report.

Recommendation:

Review the Master Festival License application, conduct a public hearing, and consider approving the license for the International Pedigree Stage Stop Sled Dog Race Master Festival License, February 5, 2005 based on the following:

Findings of Fact:

1. The event takes place on February 5, 2005 starting at 6:30 pm until 7:30 pm, originating and finishing at the First Time Parking Lot with the course running through portions of the Park City Municipal Golf Course. The event venue is PCMR and Park City Municipal Golf Course. The parking lots at PCMR will provide for adequate parking for spectators of both events.
2. Parking for the anticipated crowd size throughout the duration of the event will be accommodated at an on-site parking lot, once secured by the organizers. No shuttle transportation is needed, spectators will be directed to walk to the event. The conduct of the International Pedigree Stage Stop Sled Dog Race will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its Venue.
3. The International Pedigree Stage Stop Sled Dog Race is oriented towards the athletes and their support personnel, but does expect between 200 and 300 spectators. The events associated with the race will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services

protection to the remainder of the City.

4. There will be intermittent and controlled street crossings along the race route. The event will not interfere with police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. One other Master Festival and Special Event License have been issued for February 5, 2005. The PCMR Freestyle Snowmobile Exhibition will take place at Park City Mountain Resort on February 5th. The International Pedigree Stage Stop Dog Race will not substantially interfere with the logistics and venue for the PCMR Freestyle Snowmobile Exhibition for which a license has already been granted and with the provision of City services in support of other such events or governmental functions based on the following:
    a. The Stage Stop is located at PCMR and all parking will be accommodated on-site. While the Snowmobile Exhibition occurs at PCMR the same day, that event is only expecting a maximum of 300 spectators. Both events will be contained within PCMR and have adequate parking.
    b. The Stage Stop and the Snowmobile Exhibition will not overlap in time periods, and will not take away the draw from the other;
    c. Both events will have some impacts to town, but all impacts will be contained to PCMR;
    d. Both events share the same venue and all people and all activities associated with each event will be contained within that area. All public personnel, equipment, and/or transportation services at the event have been coordinated with adequate time to insure there is no negative impact to those services in town; and,
    e. Spectator parking for the Stage Stop will be located at PCMR which will be secured by the event organizers, and parking is available on site for the teams and VIPs. Due to the anticipated size of the event, adequate parking can be accommodated without negative impacts on other areas of town.
6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.
8. The applicant shows significant reasons, such as the nature of the event as a promotion of a community event within Park City.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

The applicant will work with Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.

The applicant shall provide to the Special Events Manager proof of liability insurance as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as an additional insured if necessary.

City Council Staff Report

Author:	**Brooks T. Robinson**
Subject:	**Ironwood at Deer Valley** **First Amended Record of Survey**
Date:	**December 16, 2004**
Type of Item:	**Legislative**

PARK CITY 1884

Planning Department

Summary Recommendations:
The Planning Department recommends the City Council open the public hearing, take any public comment, and consider approval of the First Amended Ironwood Record of Survey as conditioned or amended.

Topic	
Applicant	Ironwood Partners, LLC. Jacek Kosen
Location	8789 Marsac Avenue, Lot C of Northside Village Subdivision II, Empire Pass
Zoning	Residential Development (RD) as part of the Flagstaff Master Planned Development (MPD)
Adjacent Land Uses	Deer Valley Resort - Northside lift, other development parcels of Flagstaff Mountain Resort Northside Village Subdivision II.
Reason for Review	Condominium Record of Surveys require Planning Commission review and City Council approval.

Background
On January 22, 2003, the Planning Commission approved a Conditional Use Permit for the Ironwood at Northside Village project. The MPD for this lot is approved for twenty-five (25) townhouse units. The Conditional Use Permit is for twenty-four (24) actual units plus an ADA unit utilizing not more than 37.5 Unit Equivalents on Northside Village Subdivision II, Lot C.

On May 22, 2003, the City Council approved the Phase I Record of Survey for Ironwood encompassing the first 10 units. On March 4, 2004, the City Council approved the Phase II Record of Survey for the remaining 14 units, an Employee Housing Unit and the ADA unit (both platted as Common Space).

On October 6, 2004, the City received an application to amend the Ironwood plat. The proposed amendment to Building C is to combine units 9 and 10 into one unit. The third unit in the building, number 11, will remain unchanged.

The Planning Commission heard this application at its regular meeting of December 8, 2004 and forwards a positive recommendation.

Analysis
The layout of this proposal is in conformance with the previous Master Planned Development and Conditional Use Permit approvals. The Unit Equivalents will remain unchanged and the two garages will also remain platted as limited common. The proposed amendment creates unit number 9A with a total of 6665 square feet. No additional floor area is created except in the doorways joining the two units. The exterior configuration remains the same. The applicant, Ironwood Partners, LLC, still owns more than 2/3 of the units.

Department Review
This project has gone through an interdepartmental review. No issues were brought up at that time.

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 First Amended Ironwood Record of Survey with the conditions stated, or modify the conditions, or

B. The City Council may deny the First Amended Ironwood Record of Survey 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 from this Record of Survey.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION
The unit configuration would remain the same.

RECOMMENDATION
The Planning Department recommends the City Council open the public hearing, take any public comment, and consider approval of the First Amended Ironwood Record of Survey as conditioned or amended. Findings of Fact, Conclusions of Law and Conditions of Approval are found with the Ordinance.

Ordinance No. 04-

AN ORDINANCE APPROVING THE FIRST AMENDED IRONWOOD RECORD OF SURVEY PLAT, 8789 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Ironwood, located at 8789 Marsac Avenue, have petitioned the City Council for approval of the First Amended Ironwood 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 December 8, 2004, to receive input on the First Amended Ironwood Record of Survey plat; and

WHEREAS, the Planning Commission, on December 8, 2004, forwarded a positive recommendation to the City Council; and

WHEREAS, on December 16, 2004 the City Council approved the First Amended Ironwood Record of Survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the First Amended Ironwood Record of Survey plat;

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

SECTION 1. APPROVAL. The First Amended Ironwood Record of Survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The project is located at 8789 Marsac Avenue, Lot C of Northside Village Subdivision II.
2. The zoning is Residential Development as part of the Flagstaff Mountain Resort Master Plan (RD-MPD).
3. The property uses adjacent to the proposed project are ski terrain and proposed residential.
4. On January 22, 2003 the Planning Commission approved a Conditional Use permit for a multi-unit townhouse project consisting of twenty-four (24) units.
5. On May 22, 2003, the City Council approved the Phase I Record of Survey for Ironwood encompassing the first 10 units. On March 4, 2004, the City Council approved the Phase II Record of Survey for the remaining 14 units, an Employee Housing Unit and the ADA unit (both platted as Common Space).

6. The First Amended Record of Survey is consistent with the Flagstaff Annexation, Northside Village subdivision, and the Ironwood Conditional Use Permit Conditions of Approval.
7. The First Amended Record of Survey creates unit number 9A from platted units 9 and 10 of Building C.
8. The new unit size is 6665 square feet.
9. The exterior configuration of the building remains unchanged.
10. The applicant, Ironwood Partners, LLC, still owns more than 2/3 of the units.
11. The Planning Commission heard this application at its regular meeting of December 8, 2004 and forwards a positive recommendation.

<u>Conclusions of Law:</u>

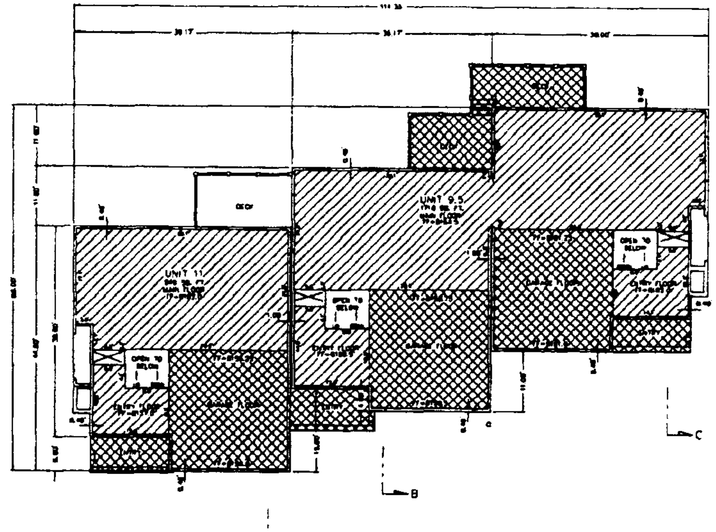
1. There is good cause for this First Amended Record of Survey.
2. The First Amended Record of Survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed First Amended Record of Survey.
4. Approval of the First 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.

<u>Conditions of Approval:</u>

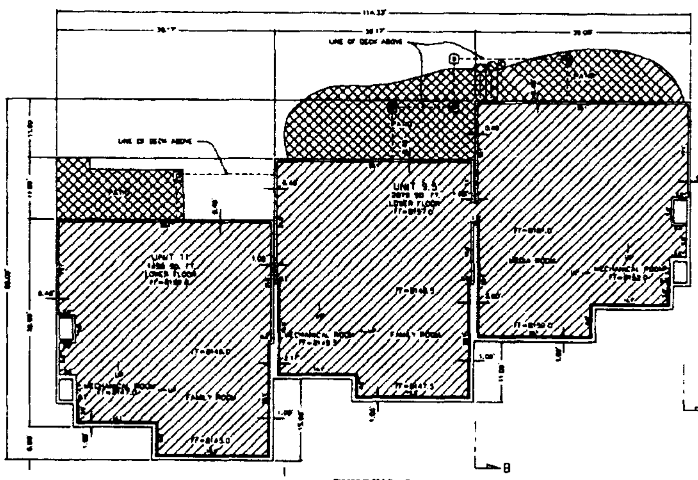
1. The City Attorney and City Engineer will review and approve the final form and content of the First Amended Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the First Amended Record 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 for the plat will be void.
3. All conditions of approval of the Ironwood at Northside Village January 22, 2003 Conditional Use Permit shall continue to apply.

<u>SECTION 2. EFFECTIVE DATE.</u> This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 16th day of December, 2004.



BUILDING C
MAIN FLOOR
SCALE: 1"=10'



BUILDING C
LOWER FLOOR
SCALE: 1"=10'

SURVEYOR'S CERTIFICATE

I, John Demkowicz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 154491, 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) of the IRONWOOD AT DEER VALLEY PHASE I CONDOMINIUM PROJECT in accordance with the Declaration of Covenants, Conditions, and Restrictions for IRONWOOD AT DEER VALLEY PHASE I, a Utah Expandable Condominium project, this First Amended Record of Survey Map of IRONWOOD AT DEER VALLEY PHASE I, which consists of page 4 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.

John Demkowicz, LS #154491 ____ Date ____

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT, the undersigned owner(s) of the herein described tract of land, hereby certify that they have caused this survey to be made and this First Amended Record of Survey Map to be prepared and hereby consent to the recordation of this First Amended Record of Survey Map.

In witness whereof the undersigned has executed this certificate and dedication this ____ day of ________, 2003.

IRONWOOD PARTNERS OF UTAH, LLC.
a Utah limited liability company

By: Jacek Kosan, Managing Member

ACKNOWLEDGMENT

State of ____________
                                        ss:
County of ____________

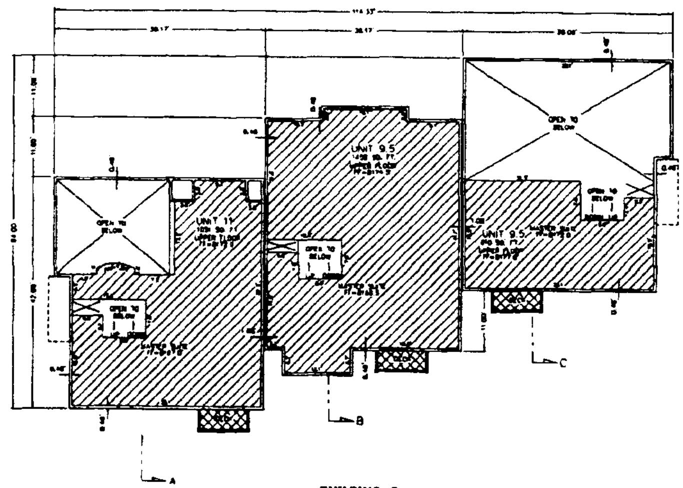
On this ______ day of ____________ 2004, personally appeared before me, the undersigned Notary Public, in and for said County and State, Jacek Kosan, being duly sworn, acknowledged to me that he is the Managing Member of IRONWOOD PARTNERS OF UTAH, LLC, a Utah limited liability company, and that the foregoing Owner's Certificate and Dedication was signed on behalf of said company by authority of its operating agreement, and said Jacek Kosan acknowledged to me that said company executed the same.

Notary Public ____________

Residing in: ____________

My commission expires ____________

OCT - 6 2004



BUILDING C
UPPER FLOOR
SCALE: 1"=10'

NOTES:

1. This First Amended Record of Survey Map is an Amendment of page 4 of the Ironwood at Deer Valley Phase I Condominium Project, recorded August 27, 2003, Entry #670684, in the Summit County Recorders Office. Sheets 1,2,3,5,6, and 7 of IRONWOOD AT DEER VALLEY PHASE I CONDOMINIUMS, as hereon referenced, remain unchanged, in force, and of record with the exception of the square footage table, as it is noted below.
2. All other conditions of approval of the Ironwood at Deer Valley Phase I Condominium project continue to apply.
3. The dimensions of the private spaces and square footage calculations are based on drawings supplied by Rudi Fisher Architects, Inc. Minor variations may occur. It is the intent that the private ownership area of the units will be as constructed.
4. All common structural elements are designated as common areas.
5. The street address of Ironwood at Deer Valley Condominiums is: 8789 Marsac Avenue.

NOTE:
Square Footage Table shown hereon hereby replaces the table for Building C shown on page 1.

SQUARE FOOTAGE TABLE

	BUILDING C			
UNIT	LOWER	MAIN	UPPER	TOTAL
9.5	2879	1718	2068	6665
11	1458	949	1031	3438

OWNERSHIP DESIGNATIONS
PRIVATE OWNERSHIP
COMMON OWNERSHIP
LIMITED COMMON OWNERSHIP

FIRST AMENDED
RECORD OF SURVEY MAP
IRONWOOD AT DEER VALLEY
PHASE I

A UTAH EXPANDABLE CONDOMINIUM PROJECT
LOCATED IN THE NORTHWEST QUARTER SECTION 28, TOWNSHIP 2 SOUTH, RANGE 4 EAST, S.L.B. & M.

10 0 10 20

JOB NO.: 7-12-02

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ____ DAY OF ________ 2004 A.D.
BY ________ S.B.W.R.D.

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF ________ 2004 A.D.
BY ________ CHAIRMAN

ENGINEER'S CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF ________ 2004 A.D.
BY ________ PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS ____ DAY OF ________ 2004 A.D.
BY ________ PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF ________ 2004 A.D.
BY ________ PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF ________.
BY ________ MAYOR

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

City Council
Staff Report

PARK CITY 1884

FINANCE DEPARTMENT

Author: **Lori W. Collett**
Subject: **Finance Manager**
Date: **December 16, 2004**
Type of Item: **Legislative**

Summary Recommendations: Staff requests the City Council conduct a public hearing and approve the amendment to Title 4, Chapter 15, Section 4-15-2(B) of the Park City Municipal Code, regulating for-hire vehicle commercial transportation insurance coverage requirements for vehicles providing taxicab service and carrying eight passengers or less including the driver (excluding limousines) in order to be consistent with Federal Motor Carrier Safety Administration regulations.

Topic
Amendment to for-hire vehicle ordinance to change the City's minimum commercial transportation insurance coverage limits to the same level as those imposed by the Federal Motor Carrier Act (FMCA) for vehicles providing taxicab service and carrying eight passengers or less including the driver (excluding limousines).

Background
The City's minimum insurance coverage requirements for for-hire vehicles set forth at Section 4-15-2(B) currently divide all for-hire vehicles into only two categories: (1) $1,500,000 of commercial transportation insurance coverage for a vehicle with seating capacity of fifteen or less passengers (including the driver) and (2) $5,000,000 per vehicle that seats sixteen or more passengers. The City has received numerous complaints from the Salt Lake City taxi companies that federal law prevents the City from imposing higher insurance requirements than those imposed by the FMCA on taxis carrying eight passengers or less including the driver.

Analysis
The City's current for-hire vehicle minimum insurance requirements of $1,500,000 exceed the amounts legally required by the FMCA. The FMCA requires a minimum of $750,000 per vehicle if the vehicle provides taxi service and has a seating capacity of eight passengers or fewer (including the driver) and is not operated on a regular route.

Staff has researched minimum insurance levels in other Utah municipalities and the results reveal that no other municipality comes close to the City's minimum requirements. The airport has adopted the FMCA insurance requirements of $750,000 and no other municipality has a requirement above $500,000 for two or more passengers (Salt Lake City, Ogden and West Valley). Moab's requirement is only

$40,000, while Murray, Provo, Bountiful and Alpine have no minimum insurance requirements.

Department Review
City Attorney, City Manager, Police and Budget, Debt and Grants.

ALTERNATIVES

A. Approve the Request: Council could move to adopt the amendment to the for-hire vehicle minimum commercial transportation insurance coverage requirements for vehicles providing taxicab service and carrying eight passengers or less including the driver to $750,000.

B. Deny the Request: Council could refuse to adopt the amendment to the for-hire vehicle minimum commercial transportation insurance coverage requirements for vehicles carrying eight passengers or less including the driver and maintain the current insurance requirement of $1,500,000. A legal challenge to the current Section 4-15-2(B) as applied to taxicabs operating in interstate commerce and having a seating capacity of eight passengers or fewer (including the driver) on federal commerce clause and preemption grounds is a real possibility. This is not recommended.

C. Continue the Item: Continue the amendment with direction. If the Council desires more information regarding the amendment, the item can be continued with direction to staff to return with an amended staff report. However, the City is currently processing 2005 license renewals for for-hire vehicles, delaying the amendment will postpone license renewal for vehicles carrying eight passengers or less (including the driver) until this issue is resolved. To date, the City has delayed licensing these vehicles pending resolution of this issue.

RECOMMENDATION

Staff recommend that the City Council conduct a public hearing and approve the amendment to Title 4, Chapter 15, Section 4-15-2(B) of the Park City Municipal Code, regulating for-hire vehicle commercial transportation insurance coverage requirements for vehicles carrying eight passengers or less including the driver (excluding limousines).

AN ORDINANCE AMENDING TITLE 4, CHAPTER 15, FOR HIRE-VEHICLE LICENSING, SECTION 4-15-2(b), MINIMUM INSURANCE COVERAGE REQUIREMENTS, OF THE MUNICIPAL CODE OF PARK CITY

WHEREAS, the minimum insurance coverage requirements for for-hire vehicles set forth at Section 4-15-2(B) currently divide all for-hire vehicles into only two categories—$1,500,000 for vehicles with a seating capacity of fifteen or less and $5,000,000 for vehicles with a seating capacity of sixteen or more; and

WHEREAS, Federal Motor Carrier Safety Administration regulations (49 CFR 387.33) contain the same financial responsibility requirements as Section 4-15-2(B), but create an exception for motor vehicles providing taxicab service and having a seating capacity of less than seven passengers (49 CFR 387.27(b)(2)); and

WHEREAS, the City Council of Park City desires to amend Section 4-15-2(B) to be consistent with Federal Motor Carrier Safety Administration regulations governing financial responsibility requirements for taxicabs;

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

<u>Section I.</u> Amendment. Title 4, Chapter 15, For Hire Vehicle Licensing, Section 4-15-2(B), of the Municipal Code of Park City is hereby amended as follows:

4-15-2. REQUIREMENTS FOR FOR-HIRE VEHICLE OPERATION.

(A) No person shall operate or permit a For-Hire Vehicle owned or controlled by such person to be operated as a vehicle for hire upon the streets of Park City without first having obtained a For-Hire Vehicle business license from the City in accordance with the procedures established in this Chapter.

(B) No person shall operate or permit a For-Hire Vehicle owned or controlled by such person to be operated as a vehicle for hire upon the streets of Park City without first having obtained commercial transportation insurance coverage for at least <u>$750,000.00 per vehicle if the vehicle provides taxicab service, has a seating capacity of eight passengers or fewer (including the driver), and is not operated on a regular route, or</u> $1,500,000.00 per vehicle if the vehicle's seating capacity is fifteen (15) <u>passengers</u> or less including the driver. If the vehicle seats sixteen (16) or more passengers <u>including the driver</u>, the owner is to provide proof of commercial transportation insurance coverage for at least $5,000,000.00 per vehicle. Proof of this commercial insurance shall be required prior to the issuance of the For-Hire Vehicle permit.

<u>Section II.</u> Effective Date. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this 16th day of December, 2004.

City Council
Staff Report

Subject:	**MUNICIPAL CODE REVISIONS** LIVE DANCE ENTERTAINMENT
Date:	**December 16, 2004**
Type of Item:	**Legislative**
Author:	**Mark Harrington**

PARK CITY
1884

LEGAL DEPARTMENT

Summary: Staff requests that the City Council review the proposed changes to Title 4 of the Municipal Code, and consider adopting the attached ordinance with respect to live dance entertainment in establishments licensed under Chapter 4, Beer and Liquor Licensing.

TOPIC

Amendments to Title 4 of the Municipal Code.

BACKGROUND

Early in the fall, staff became aware of lap dancing and other performances involving specified sexual activities at the Monkey Bar, 427 Main Street. Staff met with the owner and manager of the bar several times, but the parties were unable to reach agreement on a compliance strategy. Accordingly, the matter was referred to local and state enforcement personnel. As a result, on November 9, 2004, the Monkey Bar was charged with six counts of various violations by the DABC. See **Notice of Agency Action, <u>DABC v. Main Street Monkey Bar, LLC</u>, No. 2005-051-LX**, which is provided to Council under separate cover. That matter remains unresolved and pending in an administrative hearing process before the DABC. When the City Council was informed of the matter, the Council directed the Legal Staff to return with an ordinance containing additional regulations for its consideration.

ANALYSIS

The Monkey Bar has been using dancers clothed in a manner that is short of the definitions to fall under the Sexually Oriented Business ordinance to provide live entertainment to its customers. Unfortunately, while pushing this envelope, dancers routinely go beyond existing restrictions governing sexually oriented activity and Specified Sexual Activities. The reports identify primarily three areas in which this occurs: 1) individual [lap] dances; 2) contact between dancers and patrons; and 3) exposure of nudity.

The proposal consists of the following:

1. Prohibit individual dance performances;

2. Restrict live dance performances to pre-approved locations only with no customer physical contact; and
3. Prohibit nude dancers behind the shadow screens.

DEPARTMENT REVIEW
The Police Department, Planning Department and Legal Department have reviewed the proposed amendments.

RECOMMENDATION
The Legal Department requests that the City Council review the proposed changes to Title 4 of the Municipal Code, conduct a public hearing, and consider approving the Ordinance.

EXHIBITS
Ordinance
Notice of Agency Action, DABC v. Main Street Monkey Bar, LLC, No. 2005-051-LX (under separate cover)

Ordinance No. 04-

ORDINANCE AMENDING TITLE 4, CHAPTER 4, SECTION 16, OF THE MUNICIPAL CODE OF PARK CITY, UTAH IN REGARD TO DANCE ENTERTAINMENT REGULATIONS

WHEREAS, Section 10-8-84 of Utah Code Annotated (AUCA@) 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 Title 10 UCA 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 for the protection of property in the City; and

WHEREAS, UCA Section 10-8-41 gives the City the power to suppress and prohibit acts of perversion, lewdness or prostitution; and

WHEREAS, the City Council hereby relies on the reports in Notice of Agency Action, DABC v. Main Street Monkey Bar, LLC, No. 2005-051-LX to show that dancers allowed to perform individually and with contact routinely violate the law and such actions offend public decency; and

WHEREAS, UCA Section 32A-5-107(40)(b) gives the City the power to adopt more restrictive regulations regarding live entertainment in private clubs.

WHEREAS, as a result of these findings and experiences, the City Council finds that in order to further prevent unlawful sexual activity and acts which offend public decency, the enclosed time, place and manner regulations are necessary; and

WHEREAS, licensing regulations are legitimate and reasonable means of time, place and manner regulations to ensure that operators of premises licensed to serve alcohol comply with reasonable regulations and to ensure that Operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby preserve the property and character of surrounding neighborhoods, deter the spread of urban blight, protect the citizens from increased crime, preserve the quality of life, and protect the health, safety and welfare of the citizenry; and

WHEREAS, the City Council desires to protect the patrons of premises licensed to serve alcohol from dangerous and unlawful conditions and to protect patrons from the exposure of inappropriate material; 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,

NOW, THEREFORE, BE IT ORDAINED that:

SECTION 1. AMENDMENT. Based upon the findings in the recitals above, which are incorporated herein, the Amendment of Section 4-4-16 of the Municipal Code of Park City, Utah, creating sub-section (R) pertaining to Dance Entertainment Regulations, is hereby adopted as outlined in Attachment A.

SECTION 2. EFFECTIVE DATE. This Ordinance becomes effective upon publication.

PASSED AND ADOPTED this 16th day of December, 2004.

ATTACHMENT A

TITLE 4, CHAPTER 4, SECTION 16

(J) **DANCE ENTERTAINMENT REGULATIONS**.

1. It shall be unlawful for any premises licensed under this Chapter to provide live dance entertainment, either by employees or sub-contract, in the following manner:

   a. when directly compensated by the patron(s) for individual dance performances; or

   b. at a location other than a stage location or designated area approved in accordance with U.C.A. Section 32A-5-107(40), as amended; or

   c. which fails to maintain physical separation between patrons and dance performers at all times, including exchange of gratuities for performers.

2. Live dance performers may not appear in a state of nudity at any time, including behind a shadow screen or similar device.

City Council
Work Staff Report

PARK CITY 1884

Subject: **SIGN CODE REVISIONS**
Date: **December 16, 2004**
Type of Item: **Legislative**
Author: **Ray Milliner**

PLANNING DEPARTMENT

Summary: Staff requests that the City Council review the proposed changes to Title 12 of the Municipal Code, to allow limited use of portable signs on private property for one test season and consider adopting the attached ordinance.

TOPIC
Amendments to Title 12 of the Municipal Code.

BACKGROUND
The Planning Commission is currently considering amendments to the Sign Code. At their December 8th meeting, the Planning Commission continued the matter with direction to staff that they wanted to consider a complete re-write of the Code and a request for more information regarding current enforcement of the Sign Code. However, at the December 9th City Council meeting, members of the Park City HMBA requested that the City Council consider adopting an "experimental sign plan modification" to the City Sign Code that would allow for limited use of portable signs (signs not affixed to a building or to the ground) for one holiday test season. In response, the Council directed staff to investigate such a proposal without creating a situation that would adversely affect the aesthetics of Main Street, nor be detrimental to the health safety and welfare of Park City's citizens. Staff reviewed the matter and drafted the attached ordinance for the Council's consideration. The meeting time frame does not allow input from the Planning Commission since the Council/HMBA requested a one week turnaround, but the proposed action would be contrary to the December 8th direction from Planning Commission not to consider any more piecemeal fixes until they could look at the whole Code comprehensively.

ANALYSIS
The proposed experiment is similar to other proposals that the Council has tried the past two years, including expanded Main St. outdoor dining, outdoor music and legacy resort banners. The purpose of the proposal is to help orient pedestrians toward businesses that are difficult to find due to lack of street frontage, and to increase City sales tax revenue. The negative impacts are increased visual clutter, obstruction of already narrow pedestrian areas, and inconsistency with prohibited off-site signs.

The proposal entails the following:

4. Enact a temporary experimental sign modification ordinance applicable only to private private property adjacent to a plaza in the HCB and HRC zoning districts.
5. The temporary ordinance will permit 'free standing' and portable signs under conditions specified below to be placed on private property, outside the public right-of-way.
6. The signs are required to be display only during business hours.

ISSUES FOR DISCUSSION

1. Should the Municipal Code be amended to allow portable signs on private property adjacent to plazas only, or should the language allow for portable signs on Main Street sidewalks and/or other commercial areas in the City?

2. Should the signs have one approved design, color and make that would ensure compatibility?

3. Should the City Council allow for Planning Commission input prior to enacting the proposal? Staff has encouraged Planning Commission input at the December 16 hearing.

Proposed Amendment

12-10- 2 (J). TEMPORARY PORTABLE SIGNS.

All business owners desiring permission to display temporary portable signs for advertising or identifying a business or other type of entity shall submit a sign application to the Planning Department for review for compliance with the standards below prior to permit issuance.

(1) **SIZE**. Portable signs shall be 24" x 36" A-frame style with 2 1/8" wooden text panels, 4" legs, and 2 1/8" hardboard support panels.

(2) **NUMBER OF SIGNS**. One (1) sign is allowed per business.

(3) **ORIENTATION**. Temporary portable signs are allowed only on private property next to a public sidewalk adjacent to a Private Plaza, and must not impede pedestrian circulation or ADA and Fire access. No sign will be permitted on City owned property including City owned right-of-ways.

(4) **ZONING RESTRICTIONS**. Temporary portable signs are allowed only within the HCB and HRC zoning districts.

(5) **DESIGN**. Fluorescent colors and reflective surfaces are prohibited on portable signs. Reflective colored materials that give the appearance of changing color are also prohibited. A matte or flat finish is required for all surfaces.

(6) **PERIOD OF DISPLAY**. Temporary portable signs shall be displayed only during business hours and shall be allowed from December 17, 2004 until April 15, 2005.

(7) **ILLUMINATION**. Illumination of temporary portable signs is prohibited.

DEPARTMENT REVIEW
The Executive Department, Planning Department and Legal Department have reviewed the proposed amendments.

RECOMMENDATION
Staff requests that the City Council review the proposed changes to Title 12 of the Municipal Code, to allow limited use of portable signs on private property for one test season and consider adopting the attached ordinance.

EXHIBITS
Ordinance

EXHIBIT A

Ordinance No. 04-__

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF PARK CITY, UT CREATING SECTION 12-10-2 (J) WITHIN TITLE 12, TO ALLOW LIMITED USE OF PORTABLE SIGNS ON PRIVATE PROPERTY FOR ONE TEST SEASON

WHEREAS, in response to a request by members of the Park City Historic Main Street Business Alliance (HMBA) for consideration of an experimental sign plan modification to the City Sign Ordinance that would allow for limited use of free standing and portable signs on private property, staff developed an experimental sign plan modification that would allow for limited use of free standing portable signs on private property; and

WHEREAS, the modification allows portable signs that would help orient pedestrians toward businesses that are difficult to find due to lack of street frontage, and to increase City sales tax revenue.

WHEREAS, the negative impacts of increased visual clutter, obstruction of already narrow pedestrian areas, and inconsistency with prohibited off-site signs are mitigated by the standards of the ordinance; and

WHEREAS, the success of the portable signs may contribute to an increase in City sales tax revenue, giving benefit to both businesses and the City; and

WHEREAS, the City supports reasonable ways to improve economic development within the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:
Section I. Amendment. The Municipal Code of Park City, Title12, Chapter 12, is hereby amended to create Section 12-12-7 as follows:

12-10- 2 (J). TEMPORARY PORTABLE SIGNS.

All business owners desiring permission to display temporary portable signs for advertising or identifying a business or other type of entity shall submit a sign application to the Planning Department for review for compliance with the standards below prior to permit issuance.

(1) **SIZE**. Portable signs shall be 24" x 36" A-frame style with 2 1/8" wooden text panels, 4" legs, and 2 1/8" hardboard support panels.

(2) **NUMBER OF SIGNS**. One (1) sign is allowed per business.

(3) **ORIENTATION**. Temporary portable signs are allowed only on private property next to a public sidewalk adjacent to a Private Plaza, and must not impede pedestrian circulation or ADA and Fire access. No sign will be permitted on City owned property including City owned right-of-ways.

(4) **ZONING RESTRICTIONS**. Temporary portable signs are allowed only within the HCB and HRC zoning districts.

(5) **DESIGN**. Fluorescent colors and reflective surfaces are prohibited on portable signs. Reflective colored materials that give the appearance of changing color are also prohibited. A matte or flat finish is required for all surfaces.

(6) **PERIOD OF DISPLAY**. Temporary portable signs shall be displayed only during business hours and shall be allowed from December 17, 2004 until April 15, 2005.

(7) **ILLUMINATION**. Illumination of temporary portable signs is prohibited.

Section III. Effective Date. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this 16th day of December, 2004.

City Council
Staff Report

PARK CITY 1884

Author: **Phyllis McDonough Robinson**
Subject: **BRIDGE LOAN TO MOUNTAINLANDS COMMUNITY HOUSING TRUST**
Budget, Debt and Grants
Date: **December 16, 2004**
Type of Item: **Legislative/Administrative**

Summary Recommendations: Approve a bridge loan for $100,000 at an interest rate of three percent to Mountainlands Community Housing Trust for the affordable housing project under construction at 555 Deer Valley Drive.

Description:

Topic:
Request by Mountainlands Community Housing Trust for a $100,000 construction bridge loan.

Background:
Mountainlands Community Housing Trust is requesting a $100,000 bridge loan for the construction of the Deer Valley Drive Condominiums. The project consists of 10 one-bedroom units, 10 two-bedroom units and the rehabilitation of two historic properties as one-bedroom units. Zions Bank is the primary construction lender for $1,736,482.

The bridge loan will cover an increase in project costs due to increasing materials cost and project delays. Mountainlands currently has 22 pre-qualified buyers on its waiting list for this project. The projected sales prices for the units are in the low $80s for the one-bedroom units, including the rehabilitated homes, and the low $120s for the two-bedroom units.

Prior City assistance and support for this project includes granting $115,000 in fee waivers and an easement for Encroachment and Ingress/Egress on an unrelated parcel of City property.

Analysis:
The construction line of credit will bridge material and construction cost increases. The proposed loan structure will be a deferred payment note. Interest will accrue beginning with the first drawdown. Payment of principal and interest would be deferred and due on or before June 30, 2005.

Staff used the following criteria for reviewing the line of credit request:

1) Affordable housing is an identified City Council action item listed under Goal 9 – Sustainable Place to Live. Affordable housing has been a priority of City Council as evidenced by the City's significant contribution to affordable housing over the years.

2) There is an identified source of funds for the line of credit in the CIP account.

3) The provision and pricing of bridge loans for affordable housing is consistent with past policy. The City has provided loans to MCHT previously for the acquisition and rehabilitation of the Holiday Village Apartments. The loans plus accumulated interest were repaid. The proposed three percent interest rate is consistent with the City's short term earnings.

4) The line of credit is for capital expenses associated with the construction of the project. It is not available for general operating expenses by MCHT. The line of credit would assist in expanding affordable home ownership opportunities in Park City.

5) Zions Bank, the existing construction lender, would require new appraisals, new title policy and points to increase the loan size. This would add another $15,000 to the project costs and have the negative impact of eroding affordability.

6) The line of credit will be secured by a Promissory Note from MCHT and a security interest in the property. MCHT indicated that Zions Bank would accept subordinate debt on the project. Staff will work with MCHT and Zions Bank to structure the security interest and release of liens.

7) The loan would be due on June 30, 2005. A 60-day extension on the loan would be permitted at the discretion of the City Manager. MCHT has indicated that this timeline is reasonable.

8) Draws would be submitted to the City for approval.

Department Review:
City Manager, Budget, Debt and Grants, Finance, and Legal have reviewed this staff report.

Alternatives:

Approve the Request: Council could approve the $100,000 line of credit to Mountainlands Community Housing Trust at three percent interest subject to the conditions outlined above. This is Staff's recommendation.

Modify the Request: Council could modify the terms of the request. A smaller loan size may not be as useful in moving the project forward. A higher interest rate would affect housing affordability.

Deny the Request: Council could deny the request. This would require Mountainlands to find another financing source and adversely affect the completion of the project.

Continue the Request: Council could continue the request. The next meeting is January 13. This would require Mountainlands to find another financing source and adversely affect the completion of the project.

Do Nothing: Doing nothing would have the same impact as denying the request.

Significant Impacts:
The impact on staff time would be minimal. Funds are budgeted in the affordable housing CIP account for this type of expenditure. Adequate funds exist to cover this expenditure. At this time staff is not aware of any major housing projects that would require full use of these funds

If the loan is approved, the Housing Fund will be depleted of $100,000 for up to eight months. The City is currently earning just under three percent on its investment portfolio. The interest rate proposed for the loan would offset forgone interest earnings to the City.

Consequences of not taking the recommended action:
This would require Mountainlands to find another financing source to complete the project. This may further delay project completion and likely add additional expense through a higher interest rate, appraisal and closing costs, as well as increased accumulated interest on the project.

Recommendation:
Staff recommends that the City Council approve the loan request by Mountainlands Community Housing Trust subject to the conditions specified above.

Attachments: Letter from Mountainlands Community Housing Trust

Mountainlands Community Housing Trust

December 3, 2004

Tom Bakaly
City Manager
Park City Municipal Corporation
445 Marsac Avenue
Park City, Utah 84060

RE: The Line Condominiums

Dear Tom,

Mountainlands Community Housing Trust (MCHT) is requesting from Park City Municipal Corporation a bridge loan in the amount of $100,000 to assist in the completion of The Line Condominiums on Deer Valley Drive. MCHT presently has a construction loan with Zlons Bank, but due to various delays and the costs of materials the project is approximately $150,000 over its revised budget. The project should be completed approximately thirty days after the ground thaws so that water, electric and the roadway can be installed. Repayment would be from closing proceeds.

This project consists of 10 one-bedroom units, 10 two bedroom units and 2 replicated houses. These units will be restricted affordable housing. All units have been committed to qualified buyers. These buyers qualified at a lower price over a year and a half ago and are now re-qualifying at higher prices. There is a waiting list of list of qualified buyers. Because the units will sell for $50-75 under comparable market rate units (approximately $125 per square foot) there is no issue in finding qualified purchasers.

Enclosed herewith is a copy of MCHT's most recent audited financials (March 31, 2004). If you are in need of additional information please let me know.

Thank you for your consideration of this matter.

Sincerely,

Scott Loomis
Executive Director

1960 Sidewinder Drive, BelleAire Building Suite 107
Park City, Utah 84060
Telephone: 435-647-9719 Fax: 435-658-3890
Email: www.housinghelp.org

City Council
Staff Report

PARK CITY 1884

Planning Department

Author:	**Patrick Putt, Planning Director**
Subject:	**201 HEBER AVENUE**
	Union Square MPD
Date:	**December 16, 2004**
Type of Item:	**Administrative**
	Council Call-Up Review
Zoning:	**Historic Recreation Commercial**

Summary Recommendations: The Planning Department recommends that Council affirm the November 10, 2004 Planning Commission approval of the Union Square Master Planned Development which includes an MPD height exception for the proposed new structure pursuant to the Land Management Code, Section 15-6-5(F): Master Planned Developments—Building Height.

Topic: Council call-up review of the Planning Commission's November 10, 2004 approval of the Union Square Master Planned Development.

Background

1. **Base Zoning, Master Planned Developments, and Historic Preservation**: Historic Preservation has been identified as a High Priority City Council goal and is cited within a specific purpose statement in each of the Land Management Code's Old Town zoning districts. On March 4, 2004, Council amended the Land Management Code (LMC) to reinstate Master Planned Developments (MPDs) in the Historic District for properties with unique historic preservation and redevelopment challenges. Currently, Master Planned Developments are only permitted in the Historic District for properties with significant historic buildings and multiple zoning designations. These properties must also be subject to development applications that propose underground/under-building parking structures as a design strategy to minimize the visibility of parking and automobile-related improvements. At least three properties in the immediate Lower Main Street/Lower Park Avenue neighborhood have been identified as meeting the aforementioned conditions—the Utah Coal and Lumber/Union Pacific(Union Square) site, David Belz's 801-817 Park Avenue properties; and the City-owned Watts complex.

Amending the Land Management Code to reinstate MPDs in Old Town was the City's preferred alternative strategy to zone change applications submitted by David Belz for a mixed-use development at 801-817 Park Avenue and Fandango for the 201 Heber Avenue (Union Square) development. Over the past ten years, no overall redevelopment proposal which includes a long-term, comprehensive solution to the preservation of the significant historic structures on these properties *(as well as the Watts property)* has been achieved. The City's reinstatement of limited Master Planned Developments in the Historic District is deliberately intended as a tool for creating incentives to save and rehabilitate important historic buildings; promote sensitive additions and/or building separation between historic buildings and new construction; minimize the visibility of parking; and retain open space, yards, and gathering areas as opposed to approving more-intensive commercial rezonings in Old Town.

The other important aspect to reinstituting MPDs in the Historic District was to create an equitable standard of development for both vacant properties in Old Town and Old Town properties with historic buildings. Vacant properties typically yield greater project densities than ones with historic buildings. The City chose to level that playing field as a deliberate incentive to promote historic preservation for important properties. Without the aforementioned flexibility related to setbacks, height, and maximum building footprint calculations for underground parking structures, development on properties such as those referenced above would potentially include:

1. reduced separation between the historic buildings and new construction;
2. larger additions onto historic buildings;
3. setback line to setback line construction (.i.e. no minimum MPD open space which starts at 30%).
4. additional pavement/hard surface resulting from driveways and surface parking lots (i.e. since project cannot go vertically and horizontally away from historic buildings, the development is forced to go down and out utilizing yard areas, open space, and people areas).

2. Union Square Master Planned Development Proposal: Following the City's LMC amendments reinstating Master Planned Developments in the Historic District, the applicant, Cloud Nine Resorts (formerly Fandango), agreed to set aside its rezoning application for the 201 Heber Avenue/Union Square property from HRC to HCB and submitted an MPD application on April 13, 2004. As approved by the Planning Commission on November 10, 2004, the Master Planned Development application is for a 23-unit Multi-Dwelling development. The project includes 23 residential units *(containing one lock-out unit each)*. Unit sizes range from 1,266 square feet to 2,788 square feet. The size of the Union Square building is 71,104 square feet. The overall project plan includes the existing historic Union Pacific Depot *(Zoom Restaurant)*, Utah Coal and Lumber *(Easy Street Restaurant)* and tack shop *(formerly known as Loyola Design)* buildings.

A new kitchen addition is planned for the north end of the Zoom Restaurant. Limited additions/connections are proposed to the Easy Street Restaurant and tack building. The overall square footage for the entire 1.17 acre property (including existing historic buildings) *is 85,524 square feet* (not including underground parking areas and/or basement areas). *See attached site plan Exhibit A and building elevations Exhibit B.*

Vehicular access to the property is provided off Heber Avenue. Forty-six parking spaces are located in a below building/underground parking garage. The plan includes a redevelopment of the Easy Street pedestrian walkway between Main Street and the Summit Watch Plaza, a reconfigured plaza/courtyard area between the Easy Street

Restaurant and the tack building, and a new courtyard adjacent to the Easy Street Restaurant along Heber Avenue.

The applicants applied for additional building height for the Union Square building pursuant to the Land Management Code, Section 15-6-5(F): Building Height. The Zone Height for the HRC zone is 32 feet above existing grade. A small portion to the rear of the site is zoned HCB. The maximum Zone Height in the HCB District is 45 feet above existing grade. The maximum building height proposed is 62.5 feet. This area is limited to a staircase penthouse. The 4 primary roof planes range in building height above existing grade in the following approximate manner—12-17 feet, 35-37 feet, 53-55 feet, and 59-62 feet.

The applicants also requested that the MPD-required 25-foot perimeter setback be reduced to the underlying zone setbacks per Land Management Code, Section 15-6-5(C): Master Planned Developments—Setbacks.

Following seven (7) meetings on this application, the Planning Commission approved the Master Planned Development with the requested height and MPD 25-foot perimeter setback exceptions on November 10, 2004. A copy of the action letter outlining the Planning Commission's approval is attached as an exhibit.

3. **City Council Call-Up of the November 10, 2004 Planning Commission MPD Approval**: On November 18, 2004, Council called-up the Planning Commission approval of the Union Square Master Planned Development pursuant to Land Management Code Section: 15-1-18(I): City Council Call Up. Council stated that it seeks to limit the scope of the call-up to a review of Master Planned Development height exception criteria specifically relating to density, open space, and historic preservation, e.g. Sections 15-6-5(F).1 and 15-6-5(F).4. A copy of the complete Staff report and exhibits from the November 10, 2004 Planning Commission are attached as an exhibit to this report.

Analysis:

The maximum zone height in the HRC zone is **32 feet** from existing grade. The maximum zone height in the HCB zone is **45 feet** from existing grade. Elevator penthouses are automatically allowed an additional 8 foot exception.

The Union Square Hotel building is comprised of a series of flat roofs and is broken up into approximately 4 primary roof planes. **The maximum building height proposed is 62.5 feet** and is the top of a staircase penthouse. The area of the planned staircase penthouse height exception is within the HRC portion of the property. The 4 primary roof planes range in building height above existing grade in the following approximate manner—12-17 feet, 35-37 feet, 53-55 feet, and 59-62 feet. The applicant reduced the overall building height by one floor (approximately 8 feet) from an earlier plan reviewed by the Planning Commission at their August 11, 2004 meeting. The maximum building height proposed at the August 11, 2004 Planning Commission meeting was approximately **<u>70 feet</u>**.

Section 15-6-5(F) of the Land Management Code allows the Planning Commission to grant an increase in height based upon a site-specific analysis and compliance with 6 specific criteria. The applicant bears the burden of proof that the necessary findings can be made. Council has directed a review of two specific height exception criteria, Section 15-6-5(F).1 and 15-6-5(F).4. Staff's analysis and comments of these criteria are provided below in *italics*:

15-6-5(F).1 The increase in building height does not result in increased square footage or building volume over what would be allowed under the zone required building height and density, including requirements for facade variation and design, but rather provides desired architectural variation. *The maximum potential square footage of the entire 1.17 acre property is approximately 162,000 square feet. This density figure is meant to provide a general comparison of the development potential of the property were it vacant and did not include significant historic buildings. The 162,000 square feet is a maximum volumetrics calculation based on compliance with the minimum setback and 32-foot height requirement. The Easy Street pedestrian easement area is not included in this calculation. The Planning Commission reviewed this maximum building envelope analysis at the July 14, 2004 work session and concurred with aforementioned analysis.*

If the footprints of the Union Pacific Depot/Zooms Restaurant, Utah Coal and Lumber/Easy Street Restaurant, and the Tack Shop/Loyola Design buildings are subtracted from the developable area (this assumes said buildings are maintained in their present locations and not lifted or added on to), the maximum potential density once setback, easement, and zone height limits are applied is approximately 132,000 square feet.

The proposed total project area is <u>85,966 square feet</u>. The approved project density is 53% of the maximum potential building area were the property vacant and did not include three historic buildings. The project is 65% of the maximum potential building area including the existing square footage constraints resulting from the three historic buildings, as well as setback, easement, and zone height restrictions.

The Planning Department finds that this criterion has been met. The project and associated height exception request does not result in increased square footage or building volume over what would be allowed under base Land Management Code zoning requirements. The Staff further finds that the density comprises approximately 53-65% of the 1.17 acre site's potential developable square footage.

If the height exception is reduced or denied, the affected building area square footage will most likely not be eliminated, but relocated be elsewhere on the site in areas currently proposed for plaza, court yards, outdoor dining and landscaping. In lieu of a structure pulled up and away from the historic buildings, the new construction could be *pushed down and towards the historic buildings and Easy Street walkway. A proposal for larger additions to the existing historic buildings could be anticipated. The site area along Heber Avenue between the Easy Street Restaurant and the Poison Creek Mercantile (currently proposed for driveway access only) could also likely be developed with 2+ levels of structure impacting the views of the Poison Creek residential units. The currently proposed setback for the east (Easy Street/Poison Creek) property line is approximately 25-30 feet. The minimum HRC setback for this portion of the property is 5 feet. Access to the proposed parking structure could be via garage opening similar Poison Creek Mercantile, Gateway, Summit Watch, and the Town Lift.*

15-6-5(F).4 The additional building height has resulted in more than the minimum open space required and has resulted in the open space being more usable. *The Land Management Code defines "Open Space, Landscaped" as:*

> *landscaped areas which may include local government facilities, necessary improvements, and playground equipment, but excluding buildings and structures.*

"Open Space, Natural" is defined as:

> *a natural or undisturbed area with little or no improvements. Open space may include, but is not limited to ridge line areas, slopes over 30%, wetlands stream corridors, trail linkages, subdivision or condominium common area, or view corridors.*

"Open Space, Transferred Development Right (TDR" is defined as:

> *"that portion of a Master Planned, PUD, Cluster Plan, or other Development Plan from which density is permanently transferred. This area may be either Natural Open Space or Landscaped Open Space."*

The Land Management Code, Section 15-6-5(D): Master Planned Development--Open Space requires a minimum of 30% of the site area to be open space. The site is 1.17 acres (50,904 square feet) in area. The applicant submitted a site diagram/open space exhibit (see attached) that identifies 20,396 square feet (40%) of the site as open space. The bulk of the open space area is comprised of pedestrian plazas, court yard, and walkways. Driveways, small landscape beds, and remnant areas between buildings have not been included in the open space calculation. The open space calculation for the entire site area not covered by buildings, including remnant areas not part of the previous total is 26,107—51% of the site area.

Staff finds that this criterion has been met. Staff further finds that the character of the proposed open space is both consistent with Land Management Code definitions for open space and appropriate for its Main Street/town core setting. The planned open space areas:

- *Are free of buildings/above-ground structures;*
- *will be restricted from further buildings through the required MPD Development Agreement (executed and recorded subsequent to the Final Action on the MPD);*
- *includes the Easy Street Pedestrian walkway, a necessary community pedestrian improvement providing pedestrian linkages to Main Street, the Summit Watch Plaza, and the City Park Trail; and,*
- *will be improved with small landscape/garden areas, plazas, courtyards, sitting areas, and outdoor dining spaces.*

One of the HRC purpose statements is to "preserve and enhance landscaping and public spaces adjacent to streets and thoroughfares." The Planning Department's position is that open space in the Main Street/town core neighborhood is best enhanced by pedestrian-oriented, visible path linkages, all-season gathering spaces, and outdoor dining areas with accent landscaping, street furnishing, and code-compliant light. Staff finds that natural, undisturbed open space as typified by larger-scale on-mountain residential development is not the appropriate form of open space for the project area. This issue was reviewed with the Planning Commission at the November 10, 2004 meeting. The Planning Commission concurred with Staff's opinion relating to the desired character of the project open space.

The applicant has also provided the Planning Commission with a comparison of the proposed project open space with other nearby projects including Summit Watch (37%); Poison Creek Mercantile (27%); Gateway (19%); and Silver Queen (5%) See attached November 10, 2004 Planning Commission Report, Exhibit C.

Department Review: This MPD application was reviewed by the inter-department/service providers staff review team. All necessary conditions of approval were incorporated into the Planning Commission's Final Action.

Alternatives:

Affirm Planning Commission Approval: Staff's recommended action. Affirming the Planning Commission's November 10, 2004 approval of the Union Square MPD will result in the applicant:

1. executing and recording a Development Agreement (ratified by the Planning Commission and signed by the City Council);
2. processing a plat amendment for the property prior to the issuance of a building permit; and
3. construction of the project pursuant to the approved MPD and its conditions of approval.

Deny the Request: The Council may reverse the Planning Commission's November 10, 2004 Final Action and move to deny the Union Square MPD. It will be necessary for Council to direct Staff to return at a subsequent meeting in January 2005 with formal findings of fact and conclusions of law for denial.

Continue the Item: The City Council may continue this matter until January 2005 in order for the applicant and/or Staff to provide the Council with specific information necessary to take action.

Significant Impacts: Council accepts Staff's recommendation, the historic preservation and rehabilitation of three significant historic buildings will be completed and proposed hotel constructed. The City would experience an infill project on Lower Main Street whose overall height is comparable to Summit Watch, Gateway, Caledonia, and the Galleria. Should the MPD be denied, the project would likely be redesigned and resubmitted as a conditional use permit including a lower building with greater site coverage and larger additions to the historic buildings. Alternatively, the applicant may resurrect their rezone application.

Recommendation: The Planning Department recommends that Council affirm the November 10, 2004 Planning Commission approval of the Union Square Master Planned Development which includes an MPD height exception for the new structure pursuant to the Land Management Code, Section 15-6-5(F): Master Planned Developments—Building Height.

Exhibits:

See call-up packet under separate cover. For copies, contact the City Recorder at 615-5007.