PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 13, 1997

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, February 13, 1997.

AGENDA

Work Session - To be held in Work Session Room - Main Level

2:15 p.m.	Building code training
5:15 p.m.	Council questions and comments
5:45 p.m.	Review of regular meeting

Regular Meeting - To be held in Work Session Room - Main Level

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

Swearing-in of Reserve Officers Matt Courtney, Larry Cazier and Jerry Silva

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV CONSENT AGENDA

1. Lease with Utah Valley State College for space in the Park City Library and Education Center

2. A Resolution of the Council of Park City, Utah recognizing the growth in the property tax increment from the Lower Park Avenue Redevelopment Project and authorizing a mitigation payment to Summit County, Utah from the City's General Fund

3. Resolution of the Council of Park City authorizing the Mayor to execute the documents necessary to accept a temporary conservation easement on about 2,600 acres owned by Iron Mountain Holding Group, L.C. in the White Pine Canyon Area

V NEW BUSINESS

An Ordinance approving a record of survey, Arrowood Condominiums, at Gilt Edge Circle, Park City, Utah

VI ADJOURNMENT

Posted: 2/10/97

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
FEBRUARY 13, 1997

Present: Mayor Brad Olch; Council members Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Jerry Gibbs, Public Works Director; Lloyd Evans, Assistant Chief of Police; Meg Ryan, Planner

1. **Council questions/comments.** Paul Sincock reported that Council attended a Main Street Merchants Association meeting on Tuesday where the delivery problem on Main Street was discussed. Currently, double parking for delivery vehicles is permitted on the west side and there was a suggestion of instituting loading zones there solely for the use of delivery trucks during certain hours. He felt this should be explored. Mr. Sincock commented that the current Parking Code does not limit the time a delivery truck can double park and this should be changed. The regulations now permit deliveries to occur until 1 p.m. during the high holiday season; that should be looked at and perhaps the Code should be consistent for all periods. The Mayor recommended that this be dealt with as soon as possible. Mr. Gibbs reported that his Department is preparing an overall paid parking plan to be presented to Council the end of March. Short term parking areas will be reviewed and there will be a recommendation for the location loading zones on Main Street. Roger Harlan felt that the meeting was an illustration on human nature as some of the comments were self-serving. He added that the Main Street Merchants should police itself. The Mayor pointed out the diversity of merchants on Main Street, the difficulty of pleasing everyone and the fact that there is always going to be a problem no matter what the City does.

Mr. Sincock reported that he spoke with Steve Jenkins, County Health Department Director, who relayed that the state is cutting health departments' budgets. It is proposed to cut $400,000 eliminating environmental health service, and $250,000 for the LHD preventive block grants. The inspection of food services workers would not be funded, and inspection of restaurants would be drastically reduced. He continued that Hepatitis A between 1985 and 1996 went from 19 cases to 1,090 in the state, salmonellas went from 95 cases to 564 and campilobicar(?) went from 50 to 246. Mr. Sincock felt that attracting people from all over the world is also bringing a-symptomatic diseases and Park City will be drastically impacted in cut-backs in the health department. He urged Council to contact our state representatives. He added that he sent a memo to City Attorney Hoffman about the appeal process. Ms. Hoffman continued that the senior management team discussed this briefly this morning and a meeting is scheduled next week with the Planning Department. She emphasized that there are implications no matter how appeals are conducted.

Chuck Klingenstein requested that Council adopt a resolution honoring the Women's Antheneum and hoped that members could attend the 100 year commemoration on February 25. The

Mayor reported that he is working on setting up a meeting with the Salt Lake City Council sometime in April. He added that he talked with people at Marker; its products may be an option for employee recognition awards.

Shauna Kerr stated that she was interviewed last night on the radio show *All Things Considered*, and candidly admitted that *All Things Are Not Worth Being Considered* which she proved on the radio. Ms. Kerr relayed that as a part of the campaign about people driving slower, someone suggested a bumper sticker. Ms. Kerr asked when the billboard on Park Avenue will come down as she understood there is new billboard legislation which may protect it. Ms. Hoffman responded the billboard legislation on the books wouldn't allow the City remove it. There was discussion about the ownership of the property and the lease of the billboard and discussion about upcoming vacancies on the Historic District Commission.

Council member Hugh Daniels pointed out potential conflicts with the Land Use Conference and the National Abilities Fund-Raiser in March. Shauna Kerr expressed interest, but urged staff to solicit employees to participate. Hugh Daniels referred to the budget from the Historical Society included in the Manager's Report and noted that it didn't balance by a small amount of money. He urged Tom Bakaly to assist grant recipients who may not have a trained treasurer. He suggested that Frank Bell, representing Council on the Fire Service District, update Council once or twice a year, or when appropriate in the event of tax proposals or major projects. Shauna Kerr suggested that vehicular traffic be prohibited from 8 a.m. to 11 a.m. on the west side of Main Street so that delivery trucks would not have to maneuver around parked cars. This would be easier to enforce, although there will be many complaints. Ms. Kerr didn't feel that the behavior of the delivery people will change unless their corporate offices know the features of the new ordinance. Lloyd Evans pointed out that violation of the delivery ordinance is a Class B misdemeanor and punishable by a $250 fine. He explained that the drivers are cited and guaranteed that the citations are paid by the corporations and they are aware. Mr. Evans estimated that about ten citations are issued in the winter season. He felt that loading zones are and will continue to be staff intensive and that Ms. Kerr's suggestion of prohibiting vehicular parking on the west side is somewhat easier to enforce. Deliveries could be made as early as 6 a.m., but one of the problems Mr. Evans relayed is that merchants are not willing to be in the stores at that time and there needs to be a buy-in from them. Mr. Daniels suggested that the National Abilities fund-raiser be funded with the grant contingency funds as opposed to the City Council budget.

Mr. Harlan reported that the Recreation Board meet with the consultants on the recreation facilities study. There was a debriefing yesterday and he was impressed with the quality of their proposal and he felt that the City will receive a good product. He added that Habitat for Humanity is building a home in Coalville and a number of City employees donated time, including Ron Ivie and a number of building inspectors. Mr. Harlan felt a great sense of pride that employees would contribute their time and expertise. The School Board meeting was briefly discussed.

2. Review of regular meeting. With regard to the UVSC lease, the Mayor stated that there was an article in the *Salt Lake Tribune* where the representative from UVSC indicted that she has found other locations for programs and will be moving. He personally didn't appreciate the negative comments and as a result felt that the lease should be more accommodating to UVSC and suggested a two year lease with no renewal options. The Mayor added that it should be pulled off the Consent Agenda for discussion. Chuck Klingenstein requested that the conservation easement be continued.

Planner Meg Ryan stated that the Arrowood Project is something staff has been working on for over a year as it was submitted in January 1996. This is a request for a record of survey on a condominium plat. The Queen Esther neighbors have been involved in the public process from the beginning but there have been trying communications with the owner of the parcel and the relationship has deteriorated throughout the process. Ms. Ryan emphasized that staff has focused on the Land Management Code, and given those restraints, the project meets Code. There has been some steps to ameliorate the neighbors, like relocating the pool inside and although there is an easement on a portion of the property, the owner has offered to designate it as an unbuildable parcel. The owner attempted to obtain a reduction on the unbuildable parcel from the Sewer District, but that was unsuccessful. She advised that two public hearings were held on this matter before the Planning Commission, and public input will be solicited this evening. Ms. Ryan explained that there is dispute about private agreements, and emphasized that staff has attempted to broker the issues between the two parties. Through illustration of a map, Ms. Ryan oriented Mr. Daniels to the location of Arrowood and the adjacent projects. Ms. Ryan stated that this is a transition zone and one can make an argument one way or the other.

Mark Harrington explained that this was supposed to be a part of the expandable Queen Esther condominium project, which never materialized and was subsequently subdivided. However, there are still covenants with regard to the access easement and the existing Queen Esther phases. He predicted that the home owners will argue that the owner is violating the CC&Rs and a condition of the access easement. Mr. Harrington stressed that staff has stepped back. He has a title report which shows that the property owner has access and Ms. Ryan has performed the LMC review. The Queen Esther property owners have not yet taken an action against the owner. He continued that there is an existing lawsuit by this development against Queen Esther for interference of property rights; the developer is entitled to process under the Code. In response to a question from Chuck Klingenstein, Mr. Harrington indicated that Queen Esther has been notified that they could file a Lis pendens, which has not been done. Mr. Harrington explained that there is an amendment currently being drafted to the Queen Esther CC&Rs to include Arrowood in the Queen Esther Subdivision; a set of CC&Rs will be submitted and filed with the plat. It was explained that this is a replat of part of Queen Esther which was carved out without the access easements. See regular meeting minutes.

Prepared by Janet M. Scott

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 13, 1997

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, February 13, 1997. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Meg Ryan, Planner; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

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

<u>Swearing-in of Reserve Officers Matt Courtney, Larry Cazier and Jerry Silva</u> - The Mayor sworn in these three officers.

III COMMUNICATIONS FROM COUNCIL AND STAFF

None.

IV CONSENT AGENDA

The Mayor requested that Item 1 be removed from the Consent Agenda and placed under New Business. Shauna Kerr, "<u>I so move</u>". Chuck Klingenstein seconded. <u>Motion unanimously carried</u>. The Mayor asked for a motion to continue Item 3. Chuck Klingenstein, "<u>I so move</u>". Paul Sincock seconded. <u>Motion carried unanimously</u>. The Mayor requested a motion to approve Item 2. Chuck Klingestein, "<u>I move approval of the Consent Agenda, Item No. 2</u>". Roger Harlan seconded. <u>Motion carried unanimously</u>.

1. <u>Lease with Utah Valley State College for space in the Park City Library and Education Center</u> - See New Business.

2. <u>A Resolution of the Council of Park City, Utah recognizing the growth in the property tax increment from the Lower Park Avenue Redevelopment Project and authorizing a mitigation payment to Summit County, Utah from the City's General Fund</u>

3. <u>Resolution of the Council of Park City authorizing the Mayor to execute the documents necessary to accept a temporary conservation easement on about 2,600 acres owned by Iron Mountain Holding Group, L.C. in the White Pine Canyon Area</u> - See motion; continued to a date uncertain.

V NEW BUSINESS

1. Lease with Utah Valley State College for space in the Park City Library and Education Center - The Mayor relayed that there was an article in *The Salt Lake Tribune* indicating that UVSC has space in other locations for its programs and as a result would like to modify the proposed lease to two years, with no renewable option. Shauna Kerr noted that after the last meeting with Dr. Barbara Von Dether a few weeks ago, and considering her comments about how the program was growing and the need for more space in the future, agreed to provide a two year term because it is not going to be any easier in this market to find space and it is in everyone's best interest to maintain the space for the public's benefit because the City's needs are not yet known. Mr. Kerr recalled that at that time, UVSC requested a two year lease if it could not obtain a long term lease and was surprised at the recent request for a four year lease. Shauna Kerr, "I move approval of the lease with the change to Paragraph No. 2, Term, which says that the lease term shall be two years commencing on July 1, 1997 and ending June 30, 1999 and amending the language in Paragraph 3 dealing with surplus property and rights of first refusal". Paul Sincock seconded.

Chuck Klingenstein pointed out that the lessee is not in attendance, and he has a problem with that. Roger Harlan agreed. Mr. Klingenstein continued that he concurred with the direction of Council as he also read the article. Ms. Kerr emphasized that Dr. Von Dether specifically asked for two years at the last meeting, and Council was willing to do that. The Mayor felt that UVSC should be accommodated with a two year lease, without a renewal option. In response to a question from Roger Harlan, Assistant City Attorney Mark Harrington stated that UVSC's preference now is for a four year renewable lease but before the last meeting, its position was a two year lease and for some reason Dr. Von Dether changed her mind and would prefer the four year lease. This was relayed through a message and Mr. Harrington is not aware of the reason. He emphasized that his comments were not exactly accurately depicted in the article, and perhaps her comments weren't either. Mr. Klingenstein stated that he will not vote on this as he feels it important to have UVSC representation although he probably would support two years. Ms. Kerr felt that the two year lease was an ultimatum tactic which has been used with Council before and later regretted, and felt that two years is where Council is and is she not willing to commit the space for four years with an extension. Ms. Kerr emphasized that she supported two years at the last meeting and still holds that position. Hugh Daniels stated that he made the comment that he didn't care if it was at one, two, three or four years, as long as there was an option for the Olympic year. He has no problem supporting two years and after that if UVSC desires to rebid the space, it should have the opportunity like anyone else and not expect an automatic renewal. Mr. Daniels also felt that this is something UVSC is not expecting and his inclination is to have staff inform them of Council's direction. Ms. Kerr added that the City's needs are unknown and it is possible that it may move some of its operations there by 1999. Mark Harrington added that UVSC has also requested a 90 day revocable clause, which is normally not recommended, but since there are people desiring the space on the City's terms, he didn't feel the proposed term is a risk. Melissa Call added that there is also a proposed clause for the Sundance Film Festival, providing some flexibility with regard to scheduling classes. Chuck Klingenstein felt it appropriate to provide notice but canceling classes would be a major hit. Mr. Harrington felt it helpful to put the tenant on notice about a potential interruption of quiet enjoyment of the building during Film Festival and will amend that section. The 90 day clause was discussed. Hugh Daniels referred to the motion and felt that there may not be a lease to approve if the other party is not in agreement. Shauna Kerr, "I withdraw my motion"; Paul Sincock withdrew his second. Motion withdrawn.

Shauna Kerr, "I move that we continue this item with direction to staff to convey that we are extending a two year term on this lease to the year '99, that we are amending the provisions dealing with surplus property and right of first refusal, that we are inserting a provision to deal with the Sundance issues and include a quiet enjoyment provisions to accommodate the Sundance Film Festival and further that we are inserting a provision allowing that the tenant can terminate with 90 days prior written notice". Paul Sincock seconded. Motion carried unanimously.

2. An Ordinance approving a record of survey, Arrowood Condominiums, at Gilt Edge Circle, Park City, Utah - Planner Meg Ryan indicated that this is a request for a record of survey for three units, outlined in the packet. Staff has reviewed this for compliance with the Land Management Code under the Residential Development District. The Council may take public input and consider adoption with conditions, postpone it with further direction to staff, or deny the record of survey plat. The Mayor invited the representative for Arrowood to speak.

Elizabeth Schaffer stated that she is an attorney representing Belford & Company, the developer on the project. She pointed out that the her client has made all attempts to conform with the LMC and have complied with all of the requests of the Planning Commission throughout the process. She continued that they have attempted to comply with the reasonable demands of the Queen Esther Association I, II and III. Ms. Schaffer explained that the application is for three single family dwellings and felt that the Queen Esther people will bring up issues that aren't particularly relevant at this point in terms of Council's approval. She asked for an opportunity to speak later to comments made about the agreement. There are agreements from prior lawsuits that property owners may be referring to, but believed they are not an issue at this time. Ms. Schaffer indicated there are resolved lawsuits and one lawsuit pending. In response to a question from Roger Harlan, Ms. Schaffer stated that the developer delivered a site plan to members of the Gilt Edge Maintenance Circle Board in August 1995 by overnight UPS mail. There has also been written correspondence with the members of the Queen Esther III Association and she believed that the developer personally met with some of the members of the Association. She continued that there have been attempted meetings with the Association and the developer. The Planning Commission, throughout the process, suggested that they go back and meet on concerns from the public input and she alleged that that was done. Ms. Schaffer explained to Ms. Kerr that her client owns separately from the Association but as a part of the ownership, there are restrictions that the parcel be included in the Queen Esther III Association. She assured Ms. Kerr that her client is the owner of the property.

Elaine Wilcox, 2424 Queen Esther Circle, read a letter dated February 12, 1997 from Keith and Donna Golan, which is attached and made a part of these minutes. Ms. Wilcox added that they have received letters from Queen Esther III purchasers that they have moved because buildings obstructed their views and they sold their property at a loss. They were told that there were deed restrictions so that they would not have this problems. In response to a question from Paul Sincock, Ms. Wilcox indicated that they were informed by a real estate agent.

Joan Praether Fry, President of the Queen Esther III Association and President of the Gilt Edge Circle Maintenance Association, stated that Mr. Tracy (owner) has sued them to make sure that no one objects to his three single family individual homes on a plat of land that was always meant to be common-wall condominiums. She added that Mr. Tracy attended an Association meeting and brought an attorney which was unwelcome and alleged that he is trying to make a profit to the detriment of other owners with a non-conforming project. Ms. Praether-Fry stated that the impact analysis requested by the Planning Commission was not complete as the report showed an elevation, but failed to show that Queen Esther units have one story underground. She understood that the setback requirements now comply. Ms. Praether-Fry continued that Mr. Tracy sent them a letter that they could no longer store snow on his parcel, and explained that this snow is from the private road in front of his property. She stated that she discussed the design restrictions with Mr. Tracy and she pointed out to him that his original plan encroached on public easements. She reiterated that the impact study was not conducted properly as there is only information from his engineer and it didn't include a Queen Esther survey and the fact that Solamere is there and stand-alone units in Deer Valley doesn't have anything to do with this parcel. Ms. Kerr asked how she can explain Subsection (a) in the Notice of Restrictions which states, "There can be no more than three units built on the subject parcel, which units shall be single family dwelling units". Council member Kerr emphasized that it doesn't say attached single family dwelling units and single family dwelling units means to her a three separate single family structures. Joan Praether-Fry noted that there are no detached single family homes there; all of the units there are single family but attached and the agreement describes this. She added that the agreement was written before there were any stand alone homes. Mr. Klingenstein asked why they have not filed a *lis pendens*. She responded that they hoped that Mr. Tracy would come around and live up to the settlement agreement and when he bought the property, there were approved plans for three attached units. Mr. Klingenstein pointed out that they had a period of time between Christmas and now to file something. Meg Ryan explained to Mr. Klingenstein that the visual impact analysis is included in the meeting packet which compares other adjacent projects and the report was accepted by the Planning Commission. Ms. Praether-Fry again argued that the Planning Commission considered the 33 feet, but did not take into account that one level is underground in the Queen Esther Project. She reiterated that this information was provided by Mr. Tracy's engineer and she tried to call Ms. Ryan who never returned her calls until the day before the meeting and there wasn't an opportunity for them to relay all of the pertinent information. It was pointed out that CC&Rs are required by state law for condominiums. Ms. Hoffman clarified that the City does not enforce CC&Rs, and it is unknown if the Queen Esther CC&Rs are enforceable. The CC&Rs were recorded in 1979 and could be suspect as Utah Code mandates that CC&Rs be consistently and specifically enforced or they're waived. It has been the policy of the Council to direct staff not to review CC&Rs for enforceability on any particular project, but to make sure that the covenants bind the condominium owner association on the onset so that everyone has an opportunity at the beginning to make sure that they commonly bind each other. She emphasized that it has been Council's policy that CC&Rs should be enforced civilly. Mr. Harrington explained that staff reviews CC&Rs to make sure that they conform with the Utah Condominium Ownership Act. Ms. Hoffman added that covenants can be changed at any time by a simple majority of the owners, so enforcement of covenants are out of the control of the City after its initial review. Ms. Praether-Fry stated that enforcement of the CC&Rs has always been consistent and felt that in a court of law they would prevail. She added that she doesn't expect the City to enforce their CC&Rs but urged another impact study to look at neighbor compatibility. In response to a question of Roger Harlan about the meaning of compatibility, she stated that compatibility may include square footage, height, and building type. Ms. Praether-Fry stated that besides the detached component, the units are larger and higher than their units. Chuck Klingenstein stated that as a former Planning Commissioner that a compatibility study looks beyond a condominium project and looks at all of the adjacent uses which would include Solamere and Chaparral so the Commission did look at the entire area. Mr. Klingenstein felt that if the CC&Rs are enforceable then the Association should enforce them. Ms. Praether-Fry stated that a plat has been recorded and doesn't understand how the Planning Commission or the Council can approve something that is so obviously contrary. Ms. Hoffman added that the height is within the Code, and the City can not impose additional restrictions on property. There is an entitlement based on the zoning, that may be circumscribed by private enforcement rights within the CC&Rs which must be enforced privately. Ms. Kerr stated that the allowable height is 33 feet and there is no way that the Council can limit the height to 28 feet. Ms. Kerr added that the height is more of a concern to her than whether the units are attached. She does not have a legal tool to decrease the height of the buildings, although the Association may have remedies. Paul Sincock asked if this should be tabled until the parties work it out. Ms. Hoffman responded that essentially that has been done and the property owners were encouraged to file a *lis pendens*. If that is done, staff would recommend that the process stop, but that has not happened. Ms. Hoffman emphasized that staff doesn't want to create a veto power without the property owners filing a *lis pendens*. Doug Fry interjected that the Association has been avoiding litigation. Paul Sincock stressed that if it is approved or tabled, they will have to take some legal action.

Don Von Pelt, 2416 Gilt Edge Circle, stated that he is a trustee of Queen Esther I and Gilt Edge Maintenance Association. He questioned how a project can be approved if there is not access to the land, which could be held up by the Association. Because Gilt Edge Road is a private road, the Mayor pointed out that this is a civil matter between the Association and Mr. Tracy. Mr. Harlan added that disputes involving home owners associations is a national issue, where municipalities have stepped back and their ability to remain neutral has been upheld by the courts. He emphasized that the City doesn't have the power to step in act as the arbitrator for the dispute.

Doug Fry, Gilt Edge Circle, recognized that the City doesn't involve itself in home owners disputes, but the applicant has not filed CC&Rs and felt that perhaps the application is not complete and can not be approved by the City Council. If no action is taken, it will give the group an opportunity to make a decision on litigation which can be very expensive and not very helpful. Discussion ensued about the type of provisions which could be documented in the covenants. Mark Harrington understood that they are currently drafting CC&Rs. Staff typically doesn't have them on the onset because they change and it is a condition of approval that the Legal Department reviews prior to plat recordation. Mr. Fry felt that this situation is different and CC&Rs should be submitted before plat approval as Mr. Tracy has acted in bad faith not only to the home owners association but to the City. In response to a question from Paul Sincock regarding if the submitted CC&Rs conflict with the Queen Esther CC&Rs, Ms. Hoffman explained that staff would review these for compliance with the state code and that there can be a layer of CC&Rs binding property. Mr. Harrington pointed out the potential that the subsequent purchasers aren't going to like the conflicting CC&Rs and it will be resolved one way or another. Ms. Hoffman added that there are a number of administrative things that will occur before the plat is recorded.

Roger Wilcox, 2424 Queen Esther Drive, emphasized that Mr. Tracy was aware of the rules as he was manager of two units and owned one. He stated that the units are 1,000 to 1,500 square feet larger than the existing units and a lot higher and discussed his frustration in reviewing plans. He complained that these monstrous homes will destroy the symmetry of the development which is upsetting.

Elizabeth Schaffer, attorney, stated that the CC&Rs are in existence for Queen Esther III and the restrictions on the property require that they be part of Queen Esther III. The Associations are represented by George Nagel, Esq. and he is here and there has been correspondence and communications with him regarding the CC&Rs for Arrowood. The amendments are being prepared and it is their intention to have them agreed upon by all the parties.

There was discussion about tabling this matter. Hugh Daniels believed that this is predominantly a civil matter, that neither party should be held hostage, and it should be tabled to a date certain. Ms. Kerr agreed but added that the property is part of Queen Esther III, strongly encouraged the developer to comply with the requirements, and reiterated that the common wall feature is not as important as the height issue. The Mayor suggested that this be scheduled on March 20, 1997. Paul Sincock, "I so move". Roger Harlan seconded and added that this is an unfortunate situation as it raises hostility in the community. He hoped that the developer takes the history of the area seriously, and not base his decisions on greed. He encouraged both groups to work together to solve the issues and that hoped that financial selfishness not be a motivation. Chuck Klingenstein agreed and would like to see it resolved as good neighbors as opposed to bickering and legal maneuvering. Paul Sincock believed that the developer has an obligation to design a compatible development within the frame work of the constraints he was aware of when he purchased the property. He hoped it could be worked out so that litigation can be avoided. Motion unanimously carried.

VI ADJOURNMENT

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

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

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

PARK CITY 1884

Staff Report

DATE: February 10, 1997
DEPARTMENT: Legal
AUTHOR: Mark Harrington, Asst. City Attorney
TITLE: **Lease Renewal- Utah Valley State College**
TYPE OF ITEM: Administrative

SUMMARY RECOMMENDATIONS:

Authorize the Mayor to execute a Lease renewal, in a form approved by the City Attorney's Office, with Utah Valley State College ("UVSC") for space in the Park City Library and Education Center for four years and an option to renew for five years.

DESCRIPTION:

A. Topic:

The Lease renewal with UVSC.

B. Background and Analysis::

Please refer to your January 23, 1997 packet for background information.

At the January 23rd meeting, the Council stated its preference for either: 1) a short term lease (two-four years); or 2) a long term lease (four years with an option to renew for another five years after 2002) with a City option for use of the space during 2002. UVSC prefers to have the longer term with the City's option in 2002, as originally proposed by staff. UVSC may decide not to renew after the initial four year term upon giving the City at least ninety days notice. Staff has inserted language clarifying that the City's option for 2002 may be for a period less than the full year, as requested by Council. The proposal also contains a right of first refusal for UVSC at the end of the term (the City will offer the space to UVSC prior to offering it to another party).

C. Department Review:

This Staff Report has been reviewed by the Leisure Services Department, the Assistant City Attorney and the Finance Manager.

ALTERNATIVES:

A. Authorize the Mayor to execute a Lease renewal, in a form approved by the City Attorney's Office, with Utah Valley State College ("UVSC") for space in the Park City Library and Education Center for four years and an option to renew for five years.

B. Ask for more information and continue discussion to another meeting date.

C. Specify different lease terms.

SIGNIFICANT IMPACTS:

The space is prime office/classroom space which could be readily used for numerous municipal purposes, or easily rented to another party. Please contact Melissa Call (X5185) if you would like to arrange a tour of the leased space. Prior to knowing of the 2002 Winter Olympics, the City entered into a long term lease for Library space with the University of Utah so there is limited opportunity to retain flexibility with the remaining office and classroom space in the building.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

The City must give UVSC sufficient time to determine whether they need to relocate by June 30, 1997 when the current lease expires. UVSC is also setting their budget so they need direction from the Council as soon as possible so that they can take the necessary budget steps to secure funding for the amount of the proposed Lease.

RECOMMENDATION:

Authorize the Mayor to execute a Lease renewal, in a form approved by the City Attorney's Office, with Utah Valley State College ("UVSC") for space in the Park City Library and Education Center for four years and an option to renew for five years.

UTAH VALLEY COMMUNITY COLLEGE
PARK CITY MUNICIPAL CORPORATION

THIS AGREEMENT is made by and between Park City Municipal Corporation (hereinafter referred to as "Landlord") and UTAH VALLEY COMMUNITY COLLEGE (hereinafter referred to as "Tenant") to set forth the terms and conditions under which Park City will lease space in the Park City Library and Education Center (hereinafter referred to as "Library"). The parties agree as follows:

1. Property. The property leased is in several areas within the Library at 1255 Park Avenue, Park City, Utah as described in Exhibit A (attached and hereafter referred to as Premises). The Premises contain 3925.0 square feet leased exclusively to the Tenant. The Library contains additional space that the Tenant intends to share with the University of Utah under provisions of a separate agreement.

2. Term. The Lease Term shall be four years commencing on July 1, 1997 and ending June 30, 2001. This Lease shall automatically renew at a rental rate to be negotiated by the parties for one five year term unless: a) Landlord notifies Tenant in writing not less than one year prior to the expiration of the Lease Term of its intention not to renew for the fiscal year of 2001, or any portion thereof; or b) Tenant gives the Landlord ninety days written notice of its intent not to renew. If Landlord does not renew the Lease for the fiscal year of 2001, or any portion thereof, Landlord will offer to renew the Lease after Landlord's use of the space at a rental rate to be negotiated by the parties for one five year term ~~commencing July 1, 2002 and ending June 30, 2007~~, unless notice is given pursuant to Paragraph 3 below. Tenant must give Landlord written notice that it is exercising its option to renew by December 31, 2001, or the renewal option shall expire.

3. Surplus Property and Right of First Refusal. The Premises are currently surplus to municipal needs, but may be required for municipal or other purposes by Landlord at the conclusion of the initial Lease Term. Landlord may give the Tenant written notice by July 1, 2000 that the Lease will not be renewed. If Landlord shall at any time determine to Lease the Premises to anyone other than Tenant, Landlord shall obtain a bona fide, executed, written offer from a responsible and fully disclosed lessee and shall submit an exact copy of such offer to Tenant which shall, for a period of 30 (thirty) days from the date of delivery of such offer, have the right, exercisable by written notice to Landlord, to Lease the premises for the price and on the terms and conditions contained in such offer. If Tenant does not exercise its right of first refusal, Landlord may complete the lease of the Premises, provided that, if the Lease to such lessee is not completed within sixty (60) days after delivery of such offer to Tenant, Tenant shall again have the right of first refusal herein provided. This right of first refusal shall survive for one year after the termination or expiration of this Lease. Tenant shall have no right of first refusal if it terminates the Lease, or defaults under the terms herein.

4. Rent. The rent for the space shall be as follows:

Resolution No.

A RESOLUTION OF THE COUNCIL OF PARK CITY RECOGNIZING THE GROWTH IN THE PROPERTY TAX INCREMENT FROM THE LOWER PARK AVENUE REDEVELOPMENT PROJECT AND AUTHORIZING A MITIGATION PAYMENT TO SUMMIT COUNTY FROM THE CITY'S GENERAL FUND

WHEREAS, redevelopment projects in Park City have improved public facilities, assembled land for private development, encouraged private investment, protected historic and employee housing and increased property values for the benefit of all taxing entities; and

WHEREAS, the City Council of the Park City Municipal Corporation in 1990 adopted the Lower Park Avenue Project Plan and the Lower Park Avenue Redevelopment Area (LPARDA) which extends generally between Deer Valley Drive and Lowell Avenue from Nineth Street to the intersection of State Routes 224 and 248 excluding the Town Lift area; and

WHEREAS, before adoption the Lower Park Avenue Project Plan, the Board of County Commissioners for Summit County approved the concept of the LPARDA; and

WHEREAS, the LPARDA complies with Utah Code and all other applicable law; and

WHEREAS, the boundaries of the Lower Park Avenue Project Plan and other information were transmitted to and approved by other taxing entities, including Summit County, in 1990 as required pursuant to Section 17A-29-1259 of the Utah Neighborhood Development Act; and

WHEREAS, the property tax increment generated by the Lower Park Avenue Project Plan is expected to increase significantly between FY 1995-96 and FY 1996-97 because of public and private investment and property reassessments; and

WHEREAS, the Redevelopment Agency makes annual mitigation payments to the Park City School District which are based in part on the amount collected by the LPARDA; and

WHEREAS, one of the top priority goals established by the City Council for 1997 is enhanced relations with Summit County; and

WHEREAS, Park City is eager to discuss issues of mutual interest with Summit County such as formalizing RDA mitigation, planning in Park City's annexation area, water development and administration and sales tax strategies.

NOW BE IT RESOLVED BY THE COUNCIL OF PARK CITY:

1. The Council hereby authorizes a one-time $50,000 mitigation contribution to Summit County.

2. The Council hereby authorizes staff to transmit the above mentioned mitigation payment to Summit County.

3. This Resolution shall be effective on the date of its adoption.

APPROVED AND ADOPTED this 13th day of February, 1997

PARK CITY COUNCIL

____

Bradley A. Olch, Mayor

Attest:

____

Janet M. Scott
City Recorder

DATE: February 6, 1997
DEPARTMENT: Administration
AUTHOR: Toby Ross - City Manager
TITLE: **Grant of Temporary Conservation Easement by Iron Mountain Holding Group, LC**
TYPE OF ITEM: Property acquisition

SUMMARY RECOMMENDATIONS:

Consider accepting a temporary conservation easement on approximately 2,608 acres owned by Iron Mountain Holding Group, LC (IMHG). The actual easement would be subject to review of by the City Attorney.

DESCRIPTION:

A. Topic:

A temporary conservation easement on 2,608 acres owned by IMHG.

B. Background:

IMHG has requested that the City accept (purchase at a nominal cost) a conservation easement on the IMHG land (approximately 2,608 acres) pursuant to the State of Utah Land Conservation Easement Act of 1985.

The issues surrounding the grant of perpetual conservation easements are very complicated; IMHG does not wish to commit to a permanent easement until all the terms have been negotiated or before it has had adequate time to consider all the legal and tax ramifications. The issue before the Council is not the grant of a permanent easement. The Land Conservation Easement Act provides that conservation easements created under the statutory authority of the Act may be terminated. Thus, while the City would accept the grant of easement for an indefinite term. The grant of easement:

(1) would be subject to termination at any time at the sole and absolute discretion of IMHG; and
(2) would **not** create, in any manner whatsoever, a permanent or binding commitment to grant any perpetual easement to the City.

The current request is an interim arrangement and emanates from IMHG's concern that any further consideration of a perpetual easement might create speculation as to the future uses of the land that could have a disruptive effect on its agricultural leases which, if canceled, would threaten IMHG with loss of its "greenbelt" property tax status and thus expose it to the "rollback tax." Section 59-2-506 of the State of Utah Farmland Assessment Act provides that the rollback tax shall not apply to land held for agricultural use that is converted into a conservation easement under the terms of the Land Conservation Easement Act. Acceptance of the easement by the City thus would relieve IMHG of its anxiety about this matter and allow it to continue negotiations with the City in confidence that it will not suffer the loss of its greenbelt tax status while it evaluates the future uses and disposition of the land.

C. <u>Analysis</u>

The temporary easement would not provide for public access or assure that a permanent easement would be granted. Neither would it require anything of the City (except a nominal purchase fee...$10.00).

<u>Department Review</u>:

This Staff Report has been reviewed by the Legal Department.

<u>ALTERNATIVES</u>:

1. Accept the conservation easement.
2. Decline to accept the conservation easement.
3. Continue the item for additional information.

<u>SIGNIFICANT IMPACTS:</u>

None. Acceptance of the conservation easement is a procedural matter and would not result in any specific advantage or disadvantage to the City. There would be no fiscal impact since IMHG would remain in title to the underlying fee and thereby responsible for any assessments on the land. The proposed easement would not confer any access to the public.

<u>CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:</u>

The temporary conservation easement is a matter of considerable importance to IMHG. IMHG would consider the acceptance of the easement a demonstration of good faith by the City. Delay beyond this meeting would significantly reduce the utility of this easement to IMHG.

<u>RECOMMENDATION:</u>

Adopt a resolution authorizing the City to accept the temporary conservation easement subject to review and approval of the easement documents by the City Attorney.

Resolution No.

A RESOLUTION OF THE COUNCIL OF PARK CITY AUTHORIZING THE MAYOR TO EXECUTE THE DOCUMENTS NECESSARY TO ACCEPT A TEMPORARY CONSERVATION EASEMENT ON ABOUT 2600 ACRES OWNED BY IRON MOUNTAIN HOLDING GROUP, L.C. IN THE WHITE PINE CANYON AREA

WHEREAS, Iron Mountain Holding Group, LC (IMHG) owns 2,608 acres of land in the Iron Mountain and White Pine areas at the northwest boundary of the City; and

WHEREAS, The issues surrounding the grant of perpetual conservation easements are very complicated and IMHG does not wish to commit to a permanent easement at this time; and

WHEREAS, IMHG wishes to grant a temporary conservation easement over the 2608 acres it owns to Park City.

NOW BE IT RESOLVED BY THE COUNCIL OF PARK CITY:

1. The Council hereby authorizes the Mayor to execute any documents necessary for the City to accept the temporary conservation easement subject to review and approval as to form of the easement documents by the City Attorney.

2. This Resolution shall be effective on the date of its adoption.

APPROVED AND ADOPTED this 13th day of February, 1997

PARK CITY COUNCIL

____

Bradley A. Olch, Mayor

Attest:

____

Janet M. Scott
City Recorder

PARK CITY

CITY COUNCIL
STAFF REPORT

DATE:	**February 6, 1997**
DEPARTMENT:	**Planning Department**
AUTHOR:	**Megan B. Ryan** MBR
TITLE:	**Arrowood Condominium Plat - Gilt Edge Circle**
TYPE OF ITEM:	**Legislative**

SUMMARY RECOMMENDATIONS: Conduct a public hearing and consider the Planning Commission's positive recommendation for the adoption of a three unit condominium project at Gilt Edge Circle.

DESCRIPTION:

A. Topic.

Applicant: Chris Rideout for John Tracy
Location: Gilt Edge Circle
Zoning: Residential Development - RD
Adjacent Land Uses: Single Family and condominiums
Date of Application: January 18, 1996
Project Planner: Megan B. Ryan

B. Background.

The parcel is located off Gilt Edge Circle and sits directly behind the Chapperal Condominiums and the Solamere Single family subdivision. The Queen Esther Condomnium project is to the north and east. A residential development is a permitted use in this zone, RD. The applicant wishes to construct three detached condominium units with shared recreational amenities on a 1.8 acre parcel. Please see Exhibit A.

The Planning Commission has held two public hearings, September 11, and December 4, 1996, on this proposal. (Please see Exhibit B for meeting minutes) This application has received considerable public input and opposition from neighboring residents in regards to height, use and conpatability. Subsequently the plan has been modified and attempts have been made to address the neighbors concerns. At the last public hearing on this project the Planning Commission directed staff to prepare positive findings, conclusions and conditions for this project that would be forwarded to the City Council for adoption.

C. Analysis

The applicant has worked to incorporate staff's and the public's suggestions in the site plan which will result in the following:

1. Three structures to be constructed with wood siding, rock trim and shake roof.
2. Each dwelling shall have two car garages. Driveway parking shall also be provided.
3. A shared drive between units 1 and 3. A minimized drive to unit 2.
4. A pool and recreation area in the middle part of the site.
5. A deed restricted unbuildable open space area to the north.
6. A landscape plan that works to buffer the edges of the project.
7. Living area is approximately 2,850 square feet for each unit and three spaces will be provided for each unit.

Staff believes that this plan minimizes the amount of asphalt on the site and provides a significant open space buffer to the north.

- Access

Gilt Edge Circle is a private road and the Legal Department has been provided with legal documentation that demonstrates the applicant's rights to use Gilt Edge Circle as the access point to the property. The property also has two significant sewer easements that traverse the site. A fifty foot easement runs through the northern section of the parcel and a 20' easement runs through the center of the parcel. Upon completion of the remaining Solamere parcels, this site will be visually screened from both Deer Vally Drive and Solamere.

- Parking

The parking requirement for this structure as a multifamily unit over 2,500 square feet is three spaces. These can be provided on each site. Three additional spaces for guests are provided for between units one and three.

- Setbacks

Setbacks for this zone, RD, are 25' front , 12' side and 15' rear for single family structures with lots of 12,000 square feet or more. The project meets these setbacks.

- Height:

The height limits permitted for this zoning district are 28' with a five foot allowance for pitched roofs, (33'). The applicant is aware of the height limit and will need to adhere to this when building plans are submitted. The applicant has provided a site section, included as Exhibit C. The preliminary building elevations indicate that the applicant is proposing a height of 28' with a five foot allowance for a pitched roof (33").

- Pool Operations:

The applicant in response to concerns from the Chaparral residents have moved the pool to the interior of the site and propose to limit operations from 8 a.m. until 10:30 p.m. Fencing and lighting will be addressed at the building permit stage. Chain link fencing is prohibited under the Land Management Code.

- Signs:

The applicant has not addressed any sign plan for the project. Staff recommends that any project identification signs be restricted to building faces, are downlit and not internally illuminated. A separate permit will be required for any signs.

D. Department Review

This project has been reviewed by the City wide staff review team. The Synderville Basin Sewer Improvement District has reviewed the site plan and is satisfied that their easements will be preserved.

PUBLIC INPUT

The project was noticed on January 21, 1997. The notice for this hearing was sent out four weeks prior to the meeting in order to give sufficient notice to those out of town residents. No new input has been received at the time of this report. This application has received considerable public input and opposition at the Planning Commission level from neighboring residents. Many of the concerns have centered around height, use and conpatability. Despite the Land Management Code allowance for a maximum height of 28', the neighboring residents who spoke feel that the structures are too tall and will obstruct too many views in the area. Residents also believe that the structures are not compatible with the smaller attached condominiums in the neighboring vicinity.

ALTERNATIVES

A. Conduct a public hearing, consider public input and adopt the findings, conclusions and conditions as proposed by staff.

B. Continue the item for further discussion and/or additional input from Staff.

C. Deny the proposed Record of Survey and direct staff to prepare the appropriate findings.

SIGNIFICANT IMPACTS:

The project will result in the development of three structures on a previously vacant site. The site plan attempts to minimize asphalt and preserve open space. A construction management plan will also help to ensure that the construction impacts to the neighborhood are minimized to the best extent possible.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Alternate development plans could be pursued by the applicant should the current project be denied. Under the Land Management Code a single family house or multifamily development could occur.

m:cdd/mr/council/cc97/arrowood

RECOMMENDATION:

The staff recommends that the City Council conduct a public hearing and consider adopting the Record of Survey (condominium plat) with the following Findings, Conclusion and Conditions:

Findings of Fact:

1. The condominium plat will result in three detached condominium units with shared recreational amenities. Living area is approximately 2,850 square feet for each unit. This use is permitted under the Residential Development District and meets all Land Management Code requirements concerning heights and setbacks.
2. Gilt Edge Circle is a private road.
3. An open space buffer to the North has been offered by the applicant to be restricted as unbuildable. This restriction will prohibit any future development on this portion of the applicant's property and provide significant open space on the site.
4. The property has two significant sewer easements that traverse the site. A fifty foot easement runs through the northern section of the parcel and a twenty foot easement runs through the center of the parcel. Due to the site's physical constraints and the restricted open space parcel, careful construction planning on this site will be necessary.

Conclusions of Law:

1. There is good cause for the Record of Survey as a significant portion of the property will remain unbuildable.
2. The proposed Record of Survey is consistent with both the Park City Land Management Code, Section 7.5 and the State Condominium Ownership Act requirements.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.

Conditions:

1. The final Record of Survey shall be reviewed by the City Engineer and City Attorney for compliance with State law, the Land Management Code and these conditions of approval as a condition precedent to plat recordation.
2. The preliminary plat site plan as submitted on January 31,1997 shall be in substantial form the site plan that is approved under this process. Setbacks must conform with Chapter 7.5 of the Land Management Code. For the purpose of setback calculations, Gilt Edge Circle abuts the front of the parcel and the Solamere subdivision abuts the rear.
3. Signs for the project shall be limited to the building face of one structure and shall be governed in size and materials by the Municipal Sign Code.
4. The northernmost parcel of this property and the 50' wide sewer easement shall be restricted in a form acceptable to the City Attorney that delineates that area as unbuildable. A note indicating such shall be recorded on the Record of Survey plat.
5. Approval of a Construction Management Plan for the site, which details at a minimum staging, vehicle and material storage and Limits of Disturbance fencing,

shall be submitted, by the Chief Building Official is a condition precedent to any building permit issuance on the site. The open space area shall be used for temporary construction staging, material or vehicular storage during construction only if no other location on site can be utilized. Any site disturbance in this are shall be revegatated to ensure that the site is returned to a passive, landscape area and sureties shall be posted to ensure this at time of the building permit issuance.

6. The plat shall be recorded within one year of the date of this approval or this approval is null and void.
7. The Record of Survey must be recorded prior to the issuance of any final building permits.

EXHIBITS

Location Map
Exhibit A - Site plan/plat/ proposed elevations
Exhibit B - Minutes from Sept. 11, 1996 and December 4, 1997 Planning Commission mtg.
Exhibit C - Site Section

m:cdd/mr/council/cc97/arrowood

Location Map

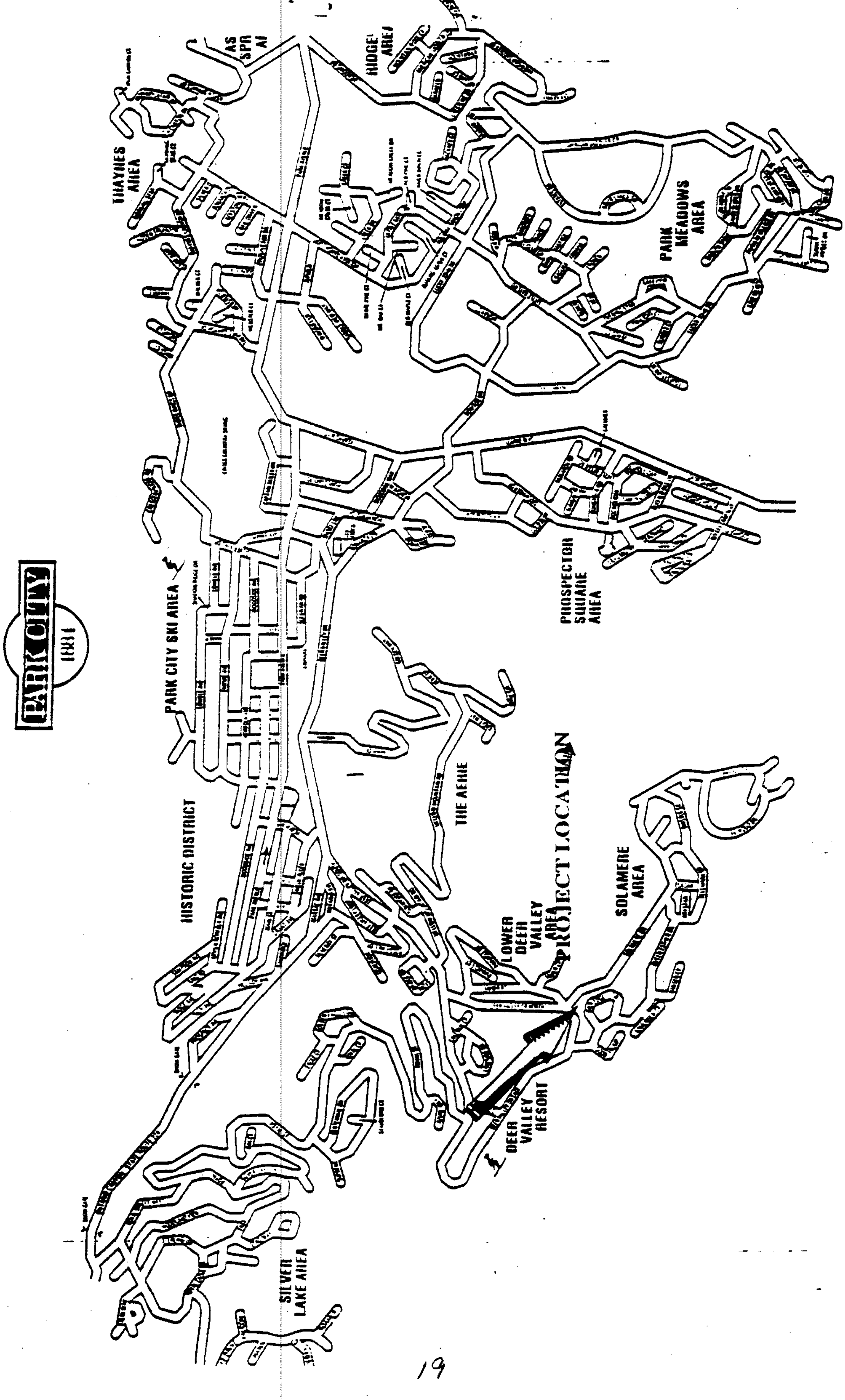
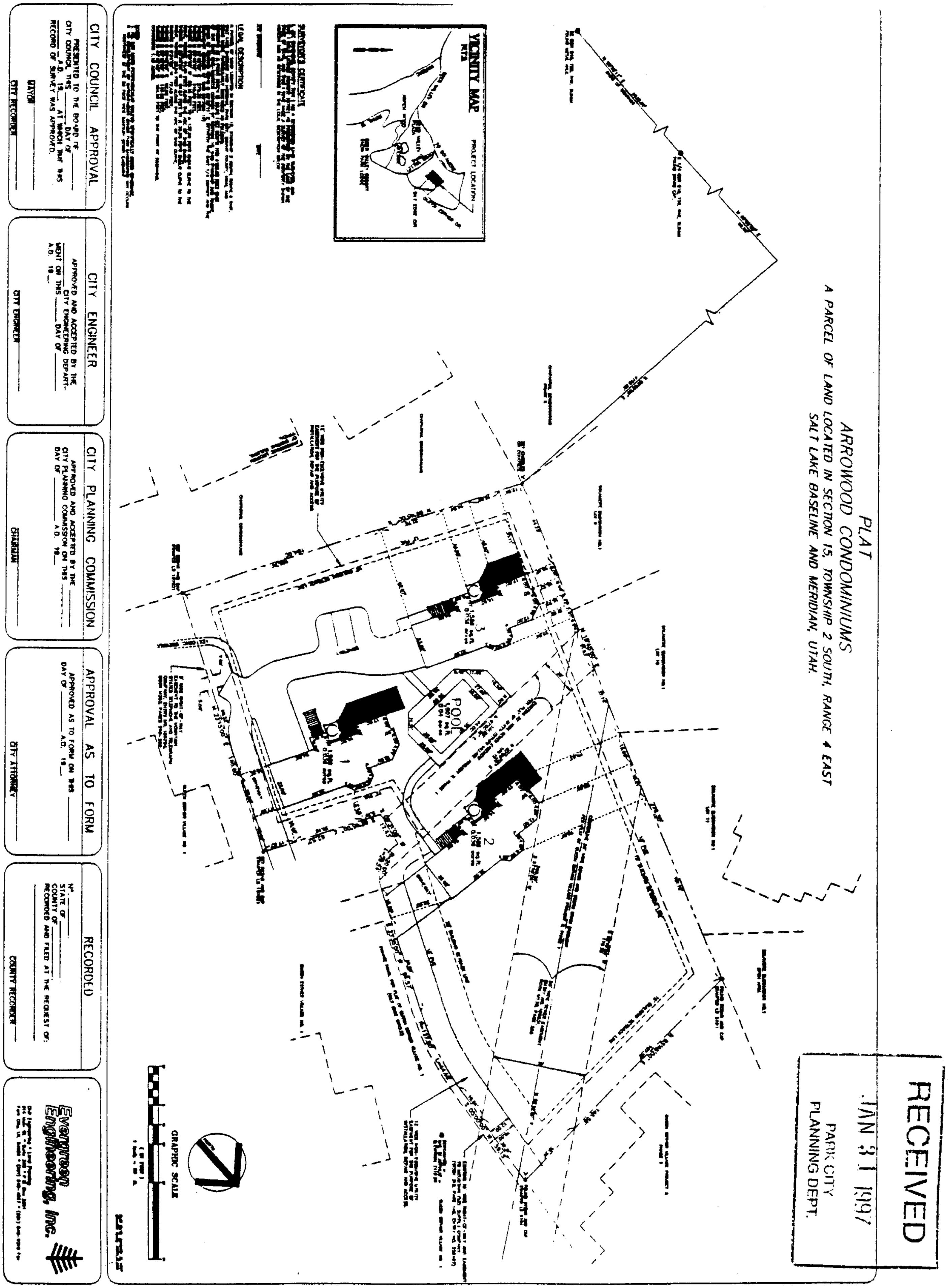
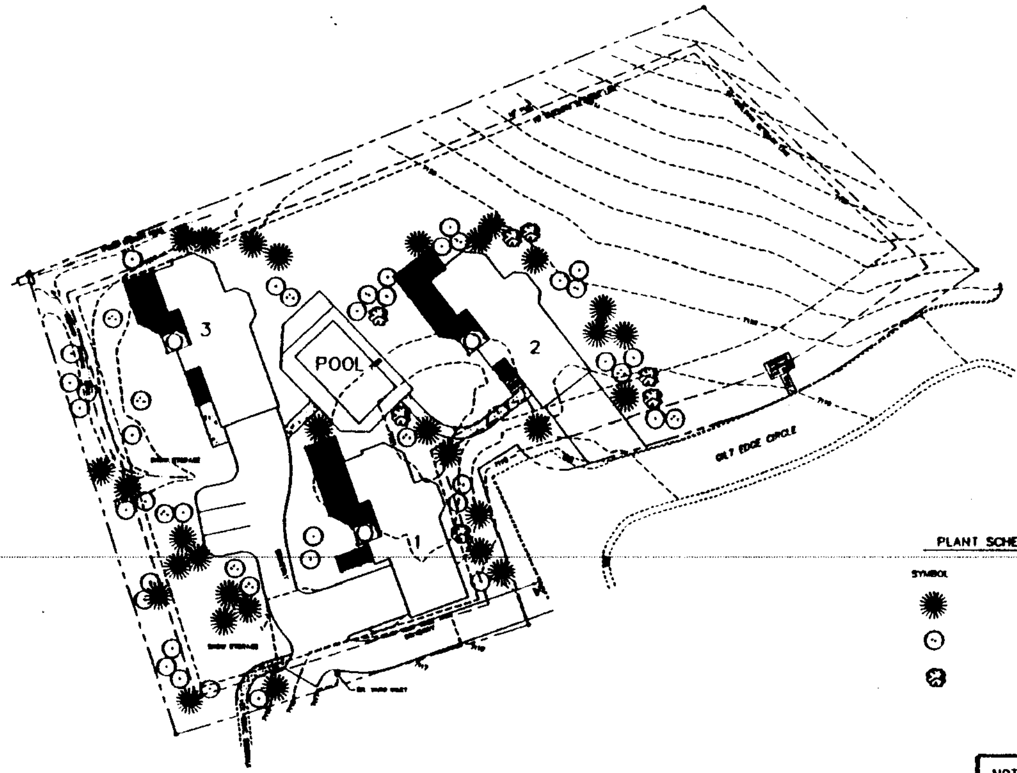


Exhibit A - Site plan/plat/ proposed elevations

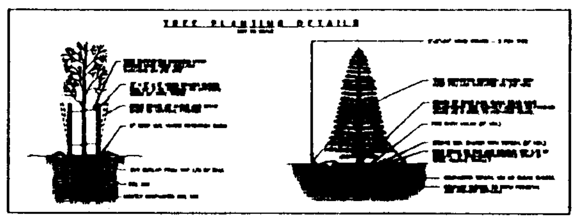




PLANT SCHEDULE AND LEGEND FOR PRELIMINARY PLANTING PLAN

SYMBOL	QUANTITY	BOTANICAL NAME	COMMON NAME
	30	PICEA PUNGENS 'GLAUCA'	COLORADO BLUE SPRUCE
	44	POPULUS TREMULOIDES	QUAKING ASPEN
	7	SORBUS AUCUPARIA 'MICURED'	'CARDINAL ROYAL' MTN ASPEN

NOTE: CAUTION SHALL BE USED WHEN PLANTING IN OR NEAR EXISTING SEWER AND STORM DRAIN EASEMENTS



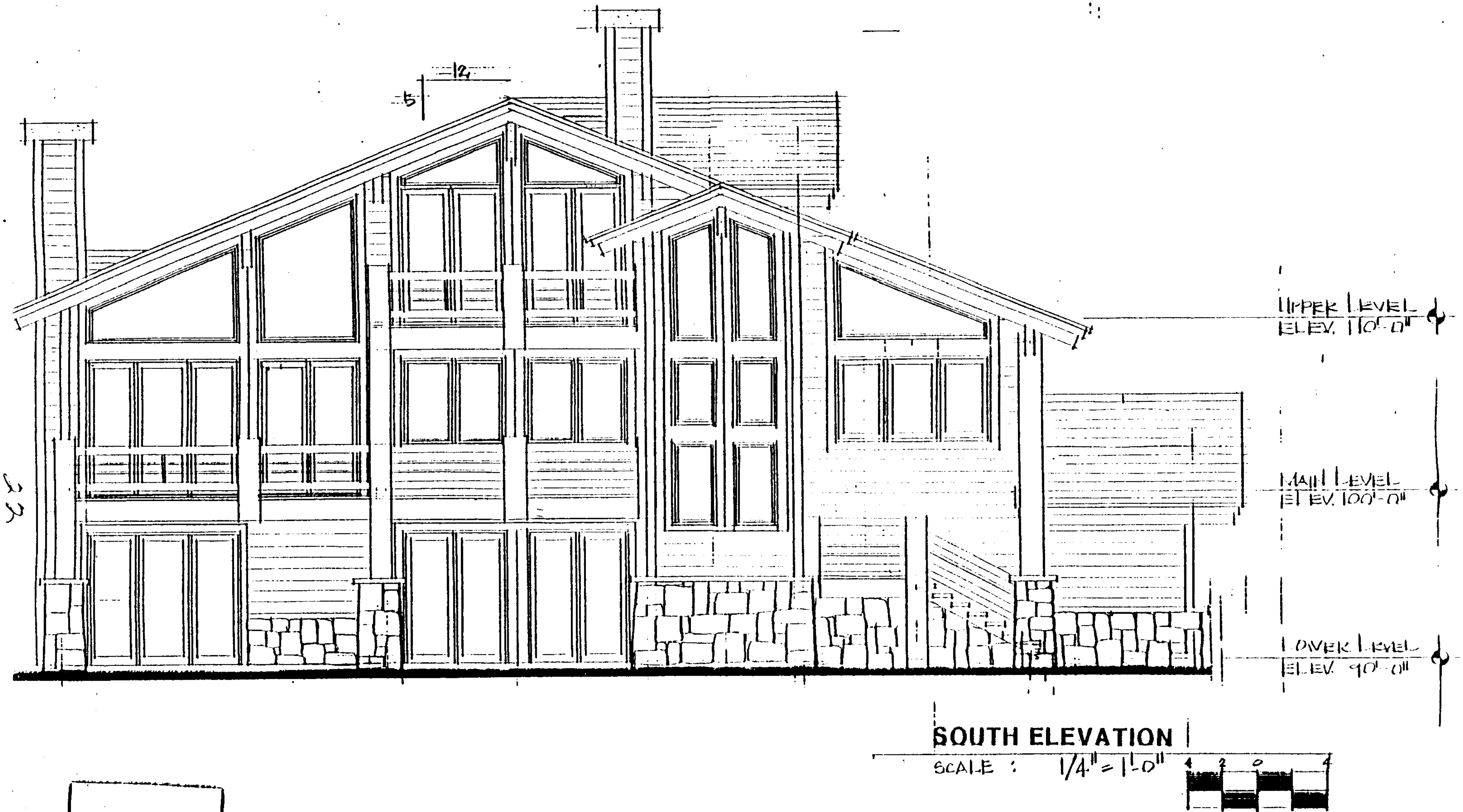
LANDSCAPING PLAN
ARROWOOD CONDOMINIUMS

BELFORD & COMPANY L.L.C.

CPR/ORW
CPR/ORW
CPR

Evergreen Engineering, Inc.

21



SOUTH ELEVATION

SCALE : 1/4" = 1'-0"

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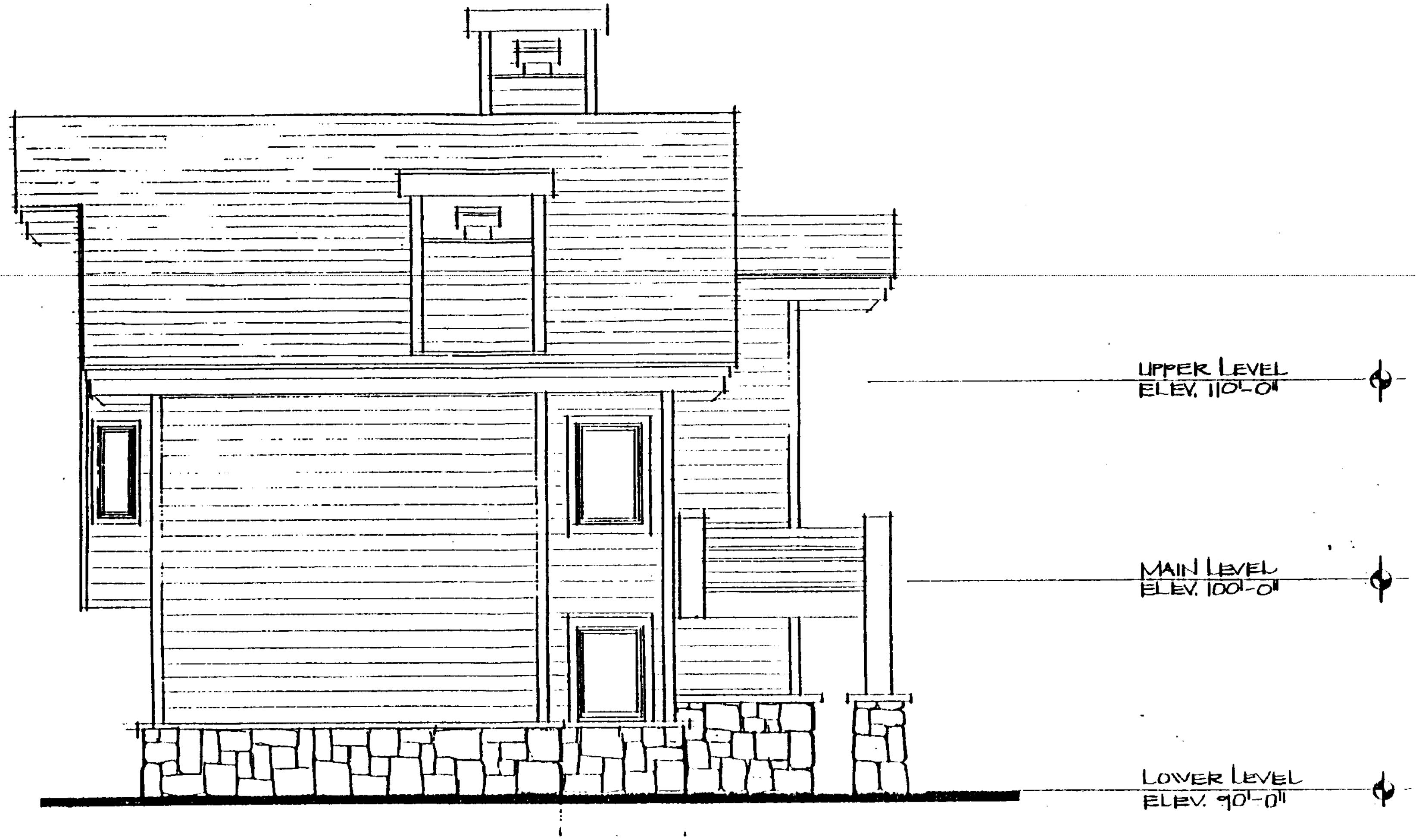
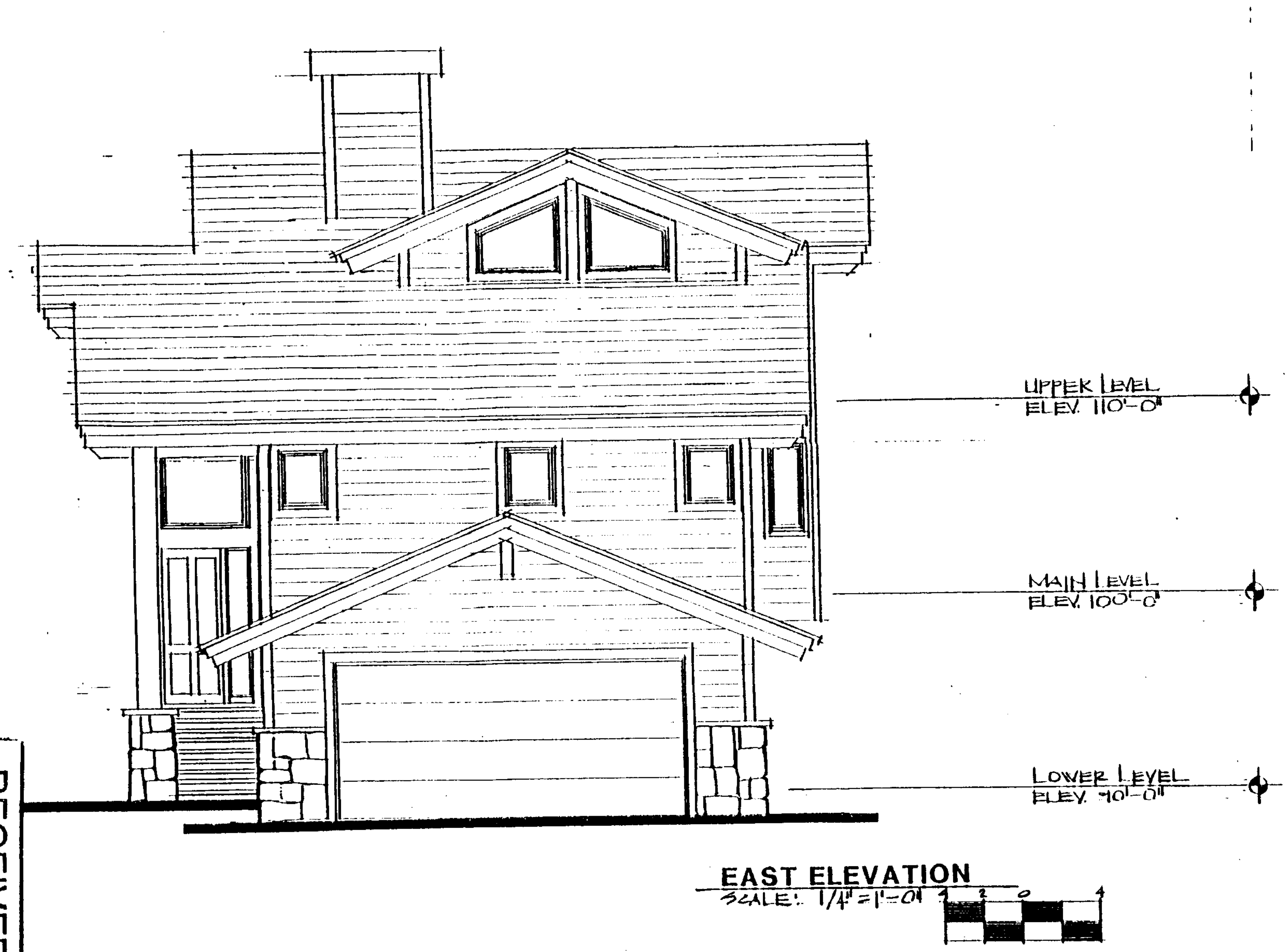
AUG 30 1996
PARK CITY
PLANNING DEPT.



WEST ELEVATION

SCALE: 1/4" = 1'-0"



EAST ELEVATION
SCALE: 1/4" = 1'-0"

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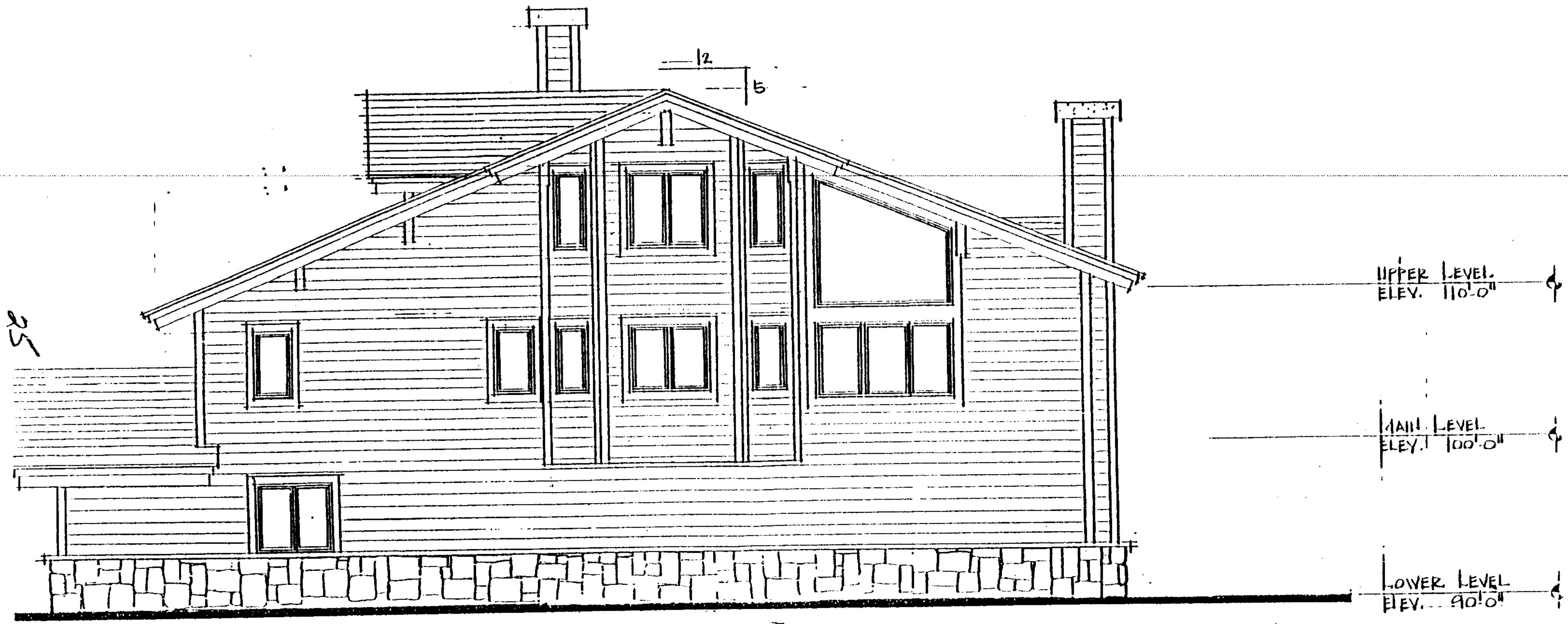
PARK CITY
PLANNING DEPT.



NORTH ELEVATION
SCALE : 1/4" = 1'-0"

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PARK CITY
PLANNING DEPT.

floors are exposed. He did not believe three floors would meet the elevation requirements of the control document. He did not have a problem moving the building area as long as it would result in the same or less impact on the site. He applied the same criteria to the accessory apartment and stated that the accessory apartment on the site cannot result in additional site disturbance.

Commissioner O'Hara echoed Commissioner Erickson's comments. He was not uncomfortable changing the building pad, but he did not want to see a loss in the rate of disturbance.

Commissioner Zimney agreed and stated that she wanted to see the accessory apartment work. Accessory apartments are perfect for Old Town, especially if parking is required. She did not understand why the Commissioners received a memo from the Staff dated the previous day stating that the Staff had not received details on retaining walls and other pertinent information as they should have been provided.

Chair Jones agreed with Commissioner Erickson's comments. He felt the retaining walls were the biggest issue because they have the largest visual impact, particularly associated with the parking and driveway.

Chair Jones commented on the accessory apartments in the area that are not permitted and asked if they are capable of being permitted provided they meet all the conditions of the ordinance. If so, he wondered if the Commission should look at retaining existing units as opposed to creating new ones. Administrator Putt was unprepared to answer his question and offered to provide an answer at the next meeting. The City is in the process of sorting out the illegal units from the legal ones.

Commissioner Calder felt the applicant should be given first consideration. If he was the last within 300 feet, he should be permitted an accessory apartment. He did not think a person who maintains an apartment illegally should be given preference over one who has gone through the appropriate process. Administrator Putt replied that it was not black and white due to legal issues.

MOTION: Commissioner Calder moved to CONTINUE the public hearing on Lot 2. Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

6. <u>Arrowwood Condominium Plat</u>

Planner Ryan reviewed the request for a condominium plat on Gilt Edge Circle. At the public hearing this summer, several concerns were raised by the homeowners. The Planning Commission directed the applicant to look at three issues--the height of surrounding structures and a site section, hours of operation for the pool and mitigation measures, and setbacks. The applicant's response to the three issues is included in the staff report. Planner Ryan reported on three letters received from Queen Esther Condominium Homeowners and a letter submitted from the applicant's attorney which are included in the staff report. She noted that there are legal and personal issues between the applicant and the Queen Esther Homeowners, and the Staff has requested that they not be dragged into the middle of the disputed issues. The primary focus at this meeting is on the Land Management Code issues necessary to process this condominium plat.

Chris Rideout, project engineer, addressed the three issues. Pool hours are identified as 8:30 a.m. to 10:00 p.m., and the pool was moved to a central location within the three buildings. It was originally located adjacent to the Chaparral units. He reviewed the site section and explained how heights were measured. He asked the Planning Commission to revisit the requested setbacks if possible. Queen Esther I, adjacent to the site, ranges from 16 feet to 24 feet from top of curb back to the garage face. Within that range, there is a 3- to 4-foot living overhang that encroaches into the 16 to 24 feet. He noted that the Planning Commission has the discretion to reduce setbacks for unusual site constraints and explained why he felt this project met the criteria. He requested that the setback be reduced to 15 and 23 feet.

Chair Jones opened the public hearing.

Kris Jones, secretary of the Queen Esther III Homeowners Association, stated that Joan Prather Frye is usually the spokesperson, but she was unable to attend the meeting. She noted that Ms. Frye and several other homeowners did not receive written notice of this meeting until November 25. Most of them live out of town and found this to be unacceptable because it is difficult to make plans to attend an out-of-town meeting with only one week's notice. They requested more advanced notice for future meetings. She stated that Ms. Frye requested that the minutes of the August meeting be modified. They reflect that Ms. Frye said the City had not received the plans for this project in August. She asked that they be modified to correctly read, "Mr. DeHaan had received the plans, but only one week earlier, and they did not have a chance to review the plans." Ms. Jones stated that the September 11 meeting was the first time anyone from the Queen Esther project had an opportunity to see the plans. She submitted a letter for the record from Joan Prather Fry and noted that the Commissioners had received a copy. The main issues pertaining to the Land Management Code are setbacks and the height of the units. The Queen Esther

III units are 33 feet because one level is built underground. Looking at them from another direction, only two levels show above ground on all the Queen Esther units. The majority are only 24 feet in height, not 33 feet. The homeowners are concerned because it is not just the Queen Esther III units that are being impacted by the project. They suggest that an average of all units be used or a number taken from the height of the majority of units. She addressed setback concerns and referred to the staff report which takes issue with the setbacks for units 2 and 3. If the Staff is concerned, so are they. The architectural design speaks more to a single-family subdivision than a condominium unit. It appeared that the developer was trying to put three, single-family homes on property purchased for condominium use. This was supposed to be an expansion of the Queen Esther project, and the homeowners felt it should be compatible with existing Queen Esther units. The project has turned into something completely different than what was intended for the land and resulted in snow removal problems. Ms. Jones noted that Gilt Edge Circle is a private road which is privately maintained, and access into the project is from that road. She asked the Planning Commission for a solution on snow removal. None of the Queen Esther residents felt there was an issue of compromise on the project. The only change since the last meeting was to move the swimming pool. Queen Esther residents were not worried about the swimming pool but about height and setback issues, and nothing had changed relative to height or setback.

John Tracy commented that the Queen Esther project was a very difficult parcel with the easements that run through it. The architect had designed what he felt was the best plan for the parcel. He noted that a strong feeling exists among the Queen Esther homeowners for a park. However, they used to own the property, and he questioned why they sold it instead of making it into a park. The Queen Esther residents had alluded that he had made no attempt to meet with them. He reported that he has copies of numerous letters sent to the homeowners allowing them an opportunity to meet and discuss, but he was constantly denied access. He felt it became clear in the last meeting that their motive was to keep something from being built on the parcel. He has tried to compromise and stated that the plans are on their ninth redrafting. The plan has changed dramatically, and he has tried to address the views of others, which he did not have to do. He felt he had done everything he could to be a good neighbor, but there is a position of unwillingness to meet from the Homeowners standpoint.

Chair Jones closed the public hearing.

Commissioner Larson asked about setbacks. Planner Ryan explained the Staff's interpretation of front, side, and rear setbacks.

Based on that interpretation, the Staff did not find a compelling reason to reduce the setbacks and believed this to be a developable parcel without a variance for reduced setbacks.

Commissioner Calder clarified that Building 2 is the building involved in the setback issue and asked why Building 2 could not be turned to run parallel with the 50-foot sewer easement and be in compliance. Mr. Rideout explained why he believed this suggestion would not work.

After discussing the matter, the Commissioners agreed not to change the setbacks.

Chair Jones clarified that the project meets the requirements of the Land Management Code except for the setbacks. He directed the Staff to prepare the proper findings of fact, conclusions of law, and conditions of approval with the stipulation that the project adhere to the setbacks.

MOTION: Commissioner Calder moved to CONTINUE the matter until December 18. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 9:30 p.m.

Approved by Planning Commission________________________________

Planner Ryan stated that 7th Street would be closed for another year, and the conditions previously placed are not working. She was unclear as to what the Planning Commission was directing the Staff to do. Commissioner Erickson felt it was incumbent on the applicant to find a solution. Planner Ryan replied that the process calls for the Staff to set conditions on the applicant, which has been done for two years without success. Commissioner Erickson asked why it was the applicant's fault that the City could not open 7th Street. Planner Ryan stated that she was trying to indicate 7th Street as a constraint in any delivery solution over the next 12 months.

Planner Ryan suggested that installation of the air conditioning be a condition precedent to looking at outdoor dining. Chair Jones suggested a timetable for completing the installation of the air conditioner well before next summer. Planner Ryan offered to return with solutions on issues that could be solved, but she did not believe that all the issues could be solved at this time.

3. **Arrowwood Condominium Plat**

Planner Ryan reviewed the condominium plat located on Gilt Edge Circle, a private drive. The location is a 1.8 acre parcel behind the Solamere subdivision, Chapparal condominiums, and Queen Esther condominium units. There are some constraints on the site, including two sewer easements running through the site. The Staff has worked with the applicant for over a year on site design parameters and the project has been reviewed for compliance with the Land Management Code. The applicant has requested a condominium plat which requires Planning Commission review before moving forward to the City Council.

Planner Ryan reviewed the proposal for three separate structures plus a pool and recreation area. The Staff had worked with the applicants to configure the sites so that the parcel abutting Queen Esther condominiums would be an unbuildable, dedicated open space parcel. The lot is unusual, making it difficult to interpret front, rear, and side. The Staff interprets the front to be off of Gilt Edge Circle with a 25-foot setback on that side. One interpretation of the residential development setback requirements would allow the Planning Commission discretion to reduce the setback to 10 feet; however, they do not address condominium units, making this a gray area. The Staff recommended that the 25-foot setback be respected on the front yard. Currently, 23 feet and 15 feet exist. Side setbacks are 12 feet, and 15 feet for the single-family structure in the rear.

Planner Ryan reported that the applicants propose wood siding, shake roof, and stone veneer in a vernacular that speaks more to a single family subdivision but has elements of the Queen Esther units. The project is located in an area that slopes down and becomes flatter, so the subdivision will not be seen driving up Solamere Drive. It would be blocked from Deer Valley Drive by Chapparal. It would not be seen from Queen Esther Drive and could only be seen from Gilt Edge Circle and the interior units. The project complies with the Land Management Code and is located in the RD zone. It is a permitted use and complies with height requirements. The Staff is requesting clarification on the setbacks from the Planning Commission.

Chair Jones opened the public hearing.

Dennis Clapham, an owner at Chapparal, commented that the project would be located in the back yard of the Chapparal condominium complex. Dick Welsh, the president of Chapparal, was unable to attend the meeting, and Mr. Clapham was expressing his concerns as well. Mr. Welsh was under the impression that the land where Arrowwood is proposed was set aside for wetland or undeveloped area. Planner Ryan replied that this was not the understanding of the Planning Department, and Assistant City Attorney Mark Harrington had reviewed the legal documents provided by the applicant. Development is permitted on this parcel. Mr. Clapham stated that Chapparal would block the view of Arrowwood from the main street, but the swimming pool would be adjacent to Chapparal's back yard where all the privacy decks are located. He felt the pool should be located internally in the project.

Joan Prather Frye, president of the Queen Esther III Association and acting president of the Gilt Edge Road Maintenance Association which is the authority for the access road up Gilt Edge over which the applicant would have to apply for access, distributed materials to the Planning Commission for review and noted that the proposed project comes under the authority of Queen Esther III, and they have jurisdiction over how the project is developed. She applauded the Planning Staff for maintaining the drainage easements because they would be necessary as the project is in a low area. She did not want anyone to think the objective was to stop anyone from building on their parcel. The objective was not to stop the project but for it to conform with the neighborhood standards and compatibility of the area. She noted that the applicants planned toe build three huge, single-family homes in an area where condominiums vary in size from 1,500 to 2,100 square feet. Obviously, it is not close to what exists. The surrounding condominiums also have common walls. She was not aware of any condominiums in Deer Valley that are single-family homes other than Bald Eagle. Nothing in Queen Esther is single-family, and since Queen Esther III is the governing authority on the project, they all have common walls. She appreciated the creativeness of the developer, but the proposal does not conform to any of the Queen Esther condominiums. This is a unique situation, because the road is private, and they maintain the road. She received six calls from homeowners, and six people had come in by plane who were concerned with the nature of the project. The major issue is how much authority one body has over another, and it was her position that Solamere should not be considered because it is a public road and a public development. Queen Esther I, II, and III are located on a private road that is maintained by the homeowners, not the City. She commented on an agreement that was litigated earlier having to do with compatibility of Queen Esther I, II, and III configuration. First, they have to be condominiums, which means common walls. Second, they have to be comparable in size, including height, width, and square footage. She noted that the proposed units would be twice as wide and much greater in height, which would block the view of at least 14 existing condominium owners. If the height were decreased to conform with existing units, the project would be more desirable. The proposed project averages 2,850 square feet, which is not comparable to the 1,500 to 2,100-square-foot Queen Esther units. She reiterated that Arrowwood would have to become part of Queen Esther III, and this was the first time they had seen a set of plans. The applicants were required to submit plans to the Association, and the Association had asked, but nothing was submitted. Included in the packet was a letter from the applicant's attorney stating that, on July 29, he had Planning Board approval on the project. She flew in from Los Angeles two days after receiving the letter to meet with Eric DeHaan who told her that the City Staff had not yet received the plans. The attorney had represented to all the homeowners that the project was already approved and planned and there was no discussion. She felt it gave the Planning Commission an idea of the less than forthright dealings they had had with this applicant. She expressed a desire to work with the applicant but noted the importance of knowing the real story.

Planner Ryan explained that the Staff had worked with the applicant over six months and, at one point, sent the applicant to work with the Homeowners Association. She believed there had been a dialogue between the two and that there are issues in the CC&R's which are not enforceable or recognized in the Land Management Code. She explained that the Staff built in a four-month time frame to allow the applicants an opportunity for discussions with the homeowners.

Ms. Frye commented that, since the time the application was submitted, the Association had yet to see a single plan.

Roger Wilcox, owner of a Queen Esther I condominium and a member of the Association, had flown in from Phoenix to attend the meeting because the situation was of great concern to him. He expressed his love for Park City and the enjoyment that he and his family and friends find in their home at Queen Esther. He and his wife bought their condominium in 1985 and immediately saw the possibility and probability of people building in front to block the magnificent view. At that time he was assured that this would not occur because rules were in place to require the buildings in the area to conform in height and size which would avoid that problem. He stated that he had received the same letter from an attorney on July 29 stating that his client wished to add to the agenda the submission of his revised site plan for the project, which revisions had been reviewed and approved by the Park City Municipal Corporation Planning Department. Upon receiving that letter, he was stunned and upset. He and his wife discussed the situation and remembered other unusual statements made by the applicant that turned out not to be true. He contacted Ms. Frye, who reassured him that she had looked into the matter and the plans had not been approved. In order to afford his condo, he rents it out when he's not here. People love the view and constantly speak of it. He was finding his condo threatened by the proposed project because they would not be tiny places but huge 33-foot-high homes. He and his wife went to the site, and it was evident that their view will be completely gone. He found the situation very upsetting, particularly since he was involved in the 1990 settlement in which it was agreed that the zoning would be stable and the buildings would be compatible. He knew there would be changes over the years, but they never expected such a radical change with monster homes. He urged the Planning Commission to carefully review the project, and he saw no reason why the applicants could not build their units to an appropriate size and in an appropriate mode to fit in with what currently exists.

Elaine Wilcox was also concerned when they received the letter from the attorney. It sent up a red flag that something like that could be sent to all the owners who had absolutely no idea what was going on. She wondered how many more red flags would come up shortly. She and her husband had only seen the plans today and were very disturbed. The applicants stated that they did not want to alter any existing views, and she explained that it certainly would alter theirs. She and her husband rent their unit, and she asked why someone would want to rent a unit with a view of other buildings when other condos are available that have a beautiful view. This would affect their rental income, and that does not address the noise issue. She wondered where they expected to put their building supplies. She did not oppose the applicants building something that would comply with the rest of the units. She enjoys her unit, and she would like to see someone else enjoy one too. She felt there were too many conflicts with terminology. The application says condos, but these are clearly are not condos. They are houses, huge houses. The applicants said they intended to protect views, but she knew for certain that their view will not be protected. She worried about their property value at resale if their view is taken away. She was concerned with potential down the road. She stated that the Association is willing to work out a plan with the applicant to benefit everyone, but the applicant does not want to converse and sends letters implying that the project has been approved, leaving the homeowners no recourse. She was unsure if she could believe anything the applicant says, because there are too many conflicts.

Rick Jones, a condo owner in Queen Esther III, noted that, during the presentation of the project, Planner Ryan talked about how it would be hidden from Solamere and Chapparal down in a little knoll and the only people who would be affected are the people on Gilt Edge Circle. He lives on Gilt Edge Circle, and the fact that the applicants are proposing a three story "condominium" directly in front of his windows when he has a two-story building tells him that it will affect his view. Unfortunately, the applicants don't seem to care. He asked the Planning Commission to consider the height of the units and require the applicants to comply with the existing structures.

Mark Walker, architect of the project, noted that the original platted density for the parcel is six units, and they would only build three. The height meets the City's requirement of 33 feet. The size of the units is 2,850 square feet, broken up into three separate buildings. Separate buildings would provide more open space around the buildings versus three buildings attached in a multi-family configuration like the surrounding buildings. He explained that the units are smaller, but in terms of massing, the footprint of the adjacent buildings is much bigger. He felt it was important to be aware of the scale of the multi-family attached units versus the single detached condominiums. He cited numerous units in Deer Valley that are detached units. The footprint is maximized to take advantage of the view, which is good site planning. The roof has been configured to peak in the middle, which would minimize the impact from behind. He stated that meetings with homeowners of Queen Esther III had been ongoing since last winter, and he believed they had arrived at a site plan jointly agreed upon. There had been numerous meetings, and the Association had given input. This is a difficult site with many easements, and Mr. Walker felt sufficient time has been spent with Queen Esther III homeowners to come up with a compatible solution. He could not comment on the letter of July 29 because it was out of his architectural purview, but in terms of design, site planning, and working with the City, he felt everyone had been cooperative to come up with a mutual solution.

Chair Jones asked Mr. Walker for the distance between Queen Esther III and the first building. Mr. Walker replied that Queen Esther III staggers in a sawtooth fashion away from the proposed buildings. The closest units at Queen Esther III are more than 130 feet away.

Ms. Frye stated that the Homeowners Association has had exactly two meetings with the applicant on this project, and she has written letter after letter stating areas of non-compliance. She clarified that the building requirements are not CC&R's. It is an actual litigated settlement agreement between Queen Esther I, II, III, and the subject parcel. She explained that the closest condominiums are Queen Esther I, and she asked Mr. Walker for the distance between the proposed buildings and Queen Esther I. Mr. Walker replied that the distance is 35 feet.

Chair Jones asked if the view issue involves Queen Esther III. Ms. Frye replied that the people in Queen Esther I would all be affected. That would apply to 14 units.

Chair Jones closed the public hearing.

In response to public input, Commissioner Calder stated that the Planning Commission was compelled to make a decision based on the Land Management Code. If the Homeowners Association had a separate agreement controlling what the developer could do, the Planning Commission could not exercise that private agreement. The Planning Commission makes decisions based on the Land Management Code, the applicant gets to do whatever they want to do, and if it does not work within the confines of the agreement, the Association would have to take appropriate action.

Commissioner Zimney felt issues had been raised that were not included in the staff report. She requested more information and asked the Staff to analyze the compatibility issue. Planner Ryan replied that the Land Management Code permits the proposed height in this zone. There are single-family homes on Solamere and there are condominiums. Commissioner Zimney noted that this is the first time the Planning Commission had tried the new format for presenting projects, and she believed things had been brought up that require further analysis before taking action. She wanted to know more about compatibility with neighboring buildings and requested an analysis on how it would affect the neighbors and whether a compromise can be reached. She stated that she would have preferred an opportunity to review the project in a work session.

Commissioner Hays felt this came back to the issue of being a good neighbor. The issue is compatibility, and she does not think this fit in with adjacent buildings. It was apparent that most people saw the plans for the first time today, which gave them no recourse.

Chair Erickson asked how long the plans had been available in the Planning Department. Planner Ryan replied that the first submittal was in December, and the current plans have been in since July with revisions submitted in August.

Chair Jones stated that he did not see setbacks addressed in the conditions of approval. Planner Ryan explained that she had requested clarification on setbacks in her presentation.

MOTION: Commissioner Erickson moved to CONTINUE the matter with specific direction to the Staff to provide specific direction to the applicant: 1) to provide a site section including the Queen Esther III unit and the proposed unit to see the relative heights between the two buildings; 2) to modify the site plan to conform to the recommendations on setback; 3) to respond on the location of the pool and hours of operation. Commissioner Hays seconded the motion.

VOTE: The motion passed unanimously.

5. <u>General Plan</u>

Chair Jones reiterated that the Planning Commission would not take action on the matter this evening but would take brief comments. Another option is to submit comments to the Staff. The Planning Commission will continue to work on the matter and will take public input once more prior to taking action.

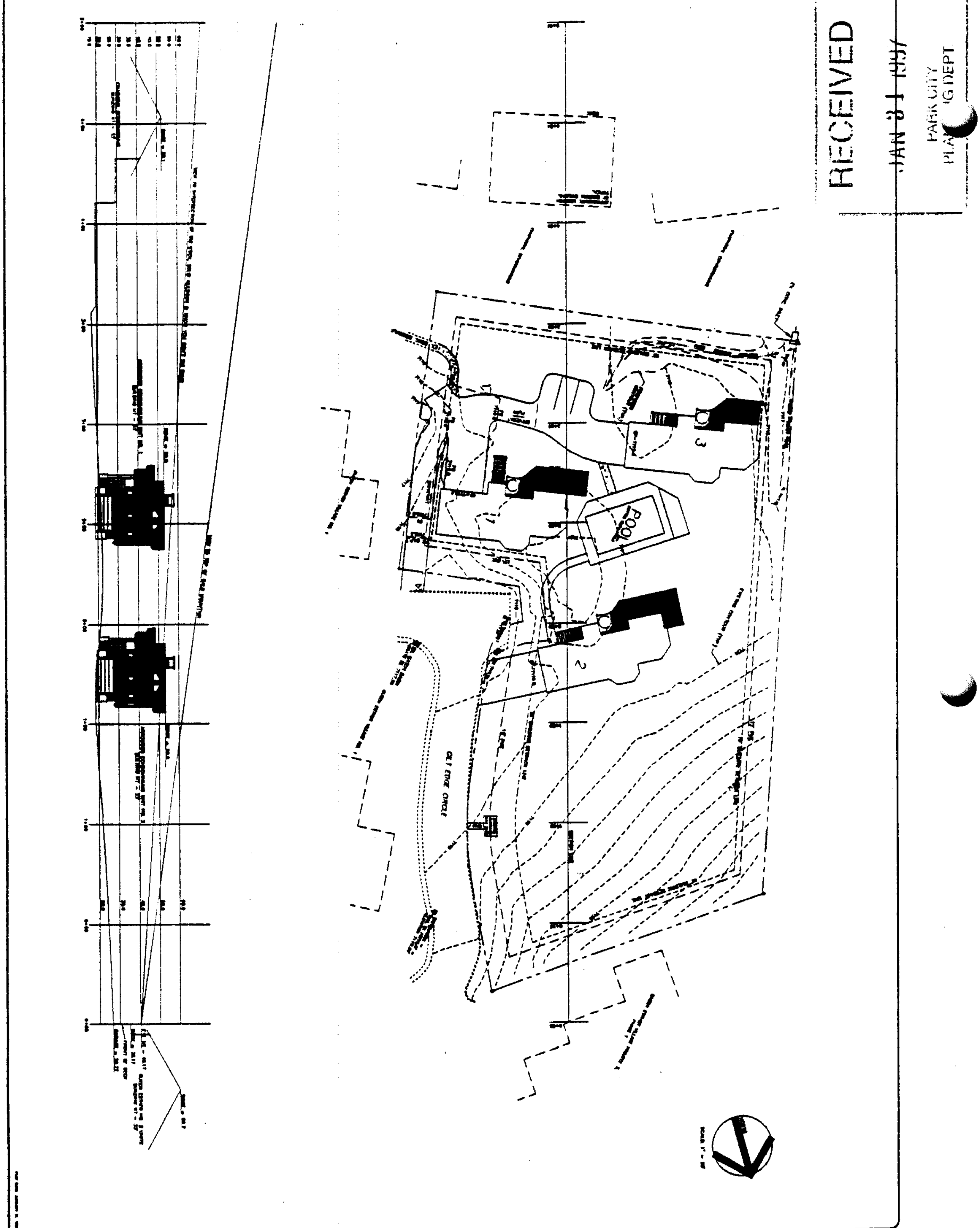
Commissioner Erickson asked if a definite decision had been made to not move forward with a recommendation this evening. Chair Jones replied that a consensus decision was not made, and he apologized for the assumption.

Commissioner Erickson noted that certain elements of the plan are forwardable in their current form. He suggested taking public input and, if possible, forward those components of the plan that are forwardable. The Planning Commission could then continue to work on the components that are not forwardable.

Chair Jones opened the meeting for public comment.

Hank Rothwell, with United Park City Mines, stated that as he listened to the work session discussion, he was concerned about the inclusion of hard numbers such as residential unit equivalent and population numbers. He was not the only one concerned and/or

Exhibit C - Site Section



SITE SECTION
ARROWOOD CONDOMINIUMS

BELFORD & COMPANY L.L.C.

Evergreen Engineering, Inc.

ORDINANCE NO. 97-___

AN ORDINANCE APPROVING A RECORD OF SURVEY, ARROWOOD CONDOMINIUMS, AT GILT EDGE CIRCLE , PARK CITY, UTAH

WHEREAS, the owners of the property known as Arrowood Condominiums petitioned the City Council for approval of a Record of Survey plat; and

WHEREAS, proper notice was sent and the City Council held a public hearing to receive input on the proposed amendment on February 13, 1997; and

WHEREAS, it is in the best interest of Park City to approve the Record of Survey, as a large portion of the lot remains in open space, and

WHEREAS, neither the public nor any person will be materially injured by the proposed plat.

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

<u>SECTION 1</u>. The Record of Survey plat is approved as shown on the attached Exhibit A with the following findings, conclusions and conditions:

Findings of Fact:
1. The condominium plat will result in three detached condominium units with shared recreational amenities. Living area is approximately 2,850 square feet for each unit. This use is permitted under the Residential Development District and meets all Land Management Code requirements concerning heights and setbacks.
2. Gilt Edge Circle is a private road.
3. An open space buffer to the North has been offered by the applicant to be restricted as unbuildable. This restriction will prohibit any future development on this portion of the applicant's property and provide significant open space on the site.
4. The property has two significant sewer easements that traverse the site. A fifty foot easement runs through the northern section of the parcel and a twenty foot easement runs through the center of the parcel. Due to the site's physical constraints and the restricted open space parcel careful construction planning on this site will be necessary.

Conclusions of Law:
1. There is good cause for the Record of Survey as a significant portion of the property will remain unbuildable.
2. The proposed Record of Survey is consistent with both the Park City Land Management Code, Section 7.5 and the State Condominium Ownership Act requirements.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.

m:cdd/mr/council/cc97/arrowood

Conditions:

1. The final Record of Survey shall be reviewed by the City Engineer and City Attorney for compliance with State law, the Land Management Code and these conditions of approval as a condition precedent to plat recordation.
2. The preliminary plat site plan as submitted on January 31,1997 shall be in substantial form the site plan that is approved under this process. Setbacks must conform with Chapter 7.5 of the Land Management Code. For the purpose of setback calculations, Gilt Edge Circle abuts the front of the parcel and the Solamere subdivision abuts the rear.
3. Signs for the project shall be limited to the building face of one structure and shall be governed in size and materials by the Municipal Sign Code.
4. The northernmost parcel of this property and the 50' wide sewer easement shall be restricted in a form acceptable to the City Attorney that delineates that area as unbuildable. A note indicating such shall be recorded on the Record of Survey plat.
5. Approval of a Construction Management Plan for the site, which details at a minimum staging, vehicle and material storage and Limits of Disturbance fencing, shall be submitted, by the Chief Building Official is a condition precedent to any building permit issuance on the site. The open space area shall be used for temporary construction staging, material or vehicular storage during construction only if no other location on site can be utilized. Any site disturbance in this are shall be revegatated to ensure that the site is returned to a passive, landscape area and sureties shall be posted to ensure this at time of the building permit issuance.
6. The plat shall be recorded within one year of the date of this approval or this approval is null and void.
7. The Record of Survey must be recorded prior to the issuance of any final building permits.

SECTION 2. This ordinance shall take effect upon publication.

DATED this 13th day of February, 1997.

PARK CITY MUNICIPAL CORPORATION

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Bradley A. Olch, Mayor

ATTEST:

____

Jan Scott, Deputy City Recorder

APPROVED AS TO FORM:

____

Mark Harrington, Assistant City Attorney

m:cdd/mr/council/cc97/arrowood