



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 3, 2000**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, February 3, 2000.

Work Session - City Council Chambers - Lower Level

- 3:45 p.m. Council questions and comments
- 4:05 p.m. Customer service award
- 4:15 p.m. Newspaper racks update
- 4:30 p.m. Legislative update
- 4:45 p.m. Trash collection services - BFI
- 5:30 p.m. Review of regular meeting
 - Water purchase
 - Other meeting questions/comments
- 5:45 p.m. Break

Regular Meeting - City Council Chambers - Lower Level

I ROLL CALL

II PUBLIC INPUT

1. Taxi and shuttle service licensing ordinance
2. BFI trash collection
3. Sundance Film Festival

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF JANUARY 20, 2000

V PUBLIC HEARINGS

Ordinance amending the Official Zoning Map of Park City to adjust the Sensitive Area

Overlay Zone boundary in the vicinity of Deer Valley Drive East, Park City, Utah

VI CONSENT AGENDA

Ordinance amending the Official Zoning Map of Park City to adjust the Sensitive Area Overlay Zone boundary in the vicinity of Deer Valley Drive East, Park City, Utah

VII NEW BUSINESS

Resolution by the Park City Council to authorize the Chairman of the Park City Water Service Board to enter into a purchase and sale agreement of water rights with Roka Idaho, LLC

VIII OLD BUSINESS

IX ADJOURNMENT

**PARK CITY WATER DISTRICT MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 3, 2000**

PUBLIC NOTICE IS HEREBY GIVEN that the Park City Water Service District Control Board of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes described below immediately following the adjournment of the City Council meeting on Thursday, February 3, 2000.

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF JANUARY 20, 2000

IV NEW BUSINESS

Resolution of the Park City Water Service District Board to accept ownership of up to 226 acre feet of water rights from Roka Idaho, LLC

V ADJOURNMENT

Posted: 1/31/00
See parkcity2002.org



**PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
FEBRUARY 3, 2000**

Present: Mayor Brad Olch; Council members Peg Bodell, Candace Erickson, Roger Harlan, Fred Jones, and Shauna Kerr

Toby Ross, City Manager; Mark Harrington, City Attorney; Alison Kuhlrow, Planner; Tim Twardowski, Assistant City Attorney; Tom Bakaly, Director of Capital Projects and Budget; and Jerry Gibbs, Public Works Director

Andy Bernhard, *Park Record*; Clyde Benton, *USA Today*; Robin Erickson, various publications; Brad Mertz and Loren Rasband, BFI; Michael O'Hara, consultant; and Rick Anderson, Lucky Seslewski, Gordon Cummings, Lanie Jones, Dick Weber, Gary Kimball, residents

1. **Council questions and comments.** In response to a question from Roger Harlan about prioritizing City Council goals, the City Manager explained that there is time set aside next week for the process of involving the public. There was discussion about the retreat facilitator's schedule and Fred Jones interjected that he didn't feel it is necessary that he be here for that discussion. He suggested that goals be dedicated to a work session after Council receives the retreat notes. Roger Harlan agreed and Peg Bodell also felt it important to keep the momentum going. There was Council consensus for a social on Tuesday, March 7 at 5 p.m. Ms. Bodell suggested that the Council members' pictures on the web site be more casual than the current portraits. The CDD annual report was very informative. She received a complaint from a Sampson Avenue resident concerned about a sensitive lands conditional use process and Kevin LoPiccolo is researching this. A report on the Sundance Film Festival, including Chamber/Bureau facts and numbers would be helpful. She has names of residents with good suggestions for the event and felt that the set-up and take-down was much better this year, with the exception of damaged property. Ms. Bodell presented Nora Shepard with a bouquet of flowers in appreciation of her efforts in organizing a committee of employees to clean-up flyers on public property on Main Street last Tuesday. She reported that she attended an Olympic venue meeting, felt that Park City is very well represented by staff and County representatives, and was pleased that representatives want the very best for their citizens. Fred Jones stated that he attended the Summit County Commission meeting last Monday, specifically to attend the session on trash collection. He felt the Commissioners were receptive to Old Town needs and the contract can be modified to address those issues. Wasatch County is contemplating approving 9,000 units around the north end of the Jordanelle; 6,200 units were approved in some fashion last spring and there is talk of another 3,000. Mr. Jones emphasized the importance of working with Wasatch County as he fears that this scope of development will have a negative impact on Park City and Summit County.

2. **Customer service award.** Council member Kerr read a nomination for the award to Stephani Nichols whose customer service skills are outstanding, particularly her ability to speak fluent Spanish.

3. **Newspaper racks.** Alison Kuhlow relayed that Council selected the option of City-owned news racks a couple of weeks ago. Staff met with some distributors, the Main Street Merchants and Historic Main Street Business Alliance who recognize that there is a problem and support Council's option. Distributors agreed to certain locations on Main Street, are willing to branch out into Swede Alley, and believe the enforcement component is critical. Other issues include fees and the placement of individual publications within the news racks, which will be addressed in the ordinance. The Historic District Commission also supports Council's decision. Staff will need guidelines for establishing approving additional news racks. She explained that there will be specific locations established once the ordinance is approved and it is not anticipated that all of the locations will be needed initially; all areas have the eight foot sidewalk clearance. Individual boxes will be owned and maintained by the distributors, which will be placed in the City-owned racks. With regard to the City's responsibility, Ms. Kuhlow noted that the Parks Department is currently under-staff, but part of the box fee would be allocated toward maintenance.

As contemplated, the City will not distinguish between paid publications and free publications, nor newsworthy and non-newsworthy publications. In response to a question from the Mayor, Mark Harrington discussed that the City could remove illegal racks on the City's right-of-way. Fred Jones emphasized that they should be removed immediately, then the owners noticed and fined. Tim Twardowski, Assistant City Attorney, stated that enforcement will be addressed in the ordinance. The Legal Department's intention is not to make a distinction between commercial and newsworthy publications as there is case law striking this approach down at the Supreme Court level. Roger Harlan pointed out the Morning Ray whose porch on private property could accommodate a variety of publications. In response to a question from Roger Harlan regarding communicating with merchants, Ms. Kuhlow explained that she visited with individual business who had news racks in front of their business and invited them to the Main Street Merchants meeting or personally discussed the proposed locations with them. Mark Harrington added that the exclusive locations will be established through a zoning component addressing outside news racks and anything inside a building is not regulated. Fred Jones felt that the City is making progress in the Historic District, but this issue needs to be addressed on a City-wide basis and comprehensively. He compared this to the sign code where criteria is established, which could be applied to private property as well.

Peg Bodell felt the inside and outside issue should be described in the ordinance and pointed out the unattractive racks at the Kimball Art Center. She felt that community publications define who we are and is uncomfortable with the *lottery-type* approach. There needs to be some kind of criteria and there should be priority to local publications. Tim Twardowski responded that he has seen examples from other cities where a prioritization has taken place in terms of publications of general circulation within the town, which then branch out to the state, and further to more general

publications. He has not found case law where such an ordinance has been challenged, but reminded the Council about the ban of commercial publications being unconstitutional. He will continue to investigate this and report back to Council at a future meeting. Ms. Bodell felt there are several more opportunities for the location of racks off of Main Street, and there are some racks across the street from each other. For instance a rack on 5th Street, rather than in front of the post office would be a better option and using side streets like Centennial Park would also be preferable to Main Street. Ms. Bodell didn't feel that the 200 foot requirement was necessary; Ms. Erickson believed it should read at least 200 feet. Ms. Erickson continued that the comments she received from media groups was that as long as the ordinance addresses racks in the Historic District, they would support the ordinance, but not outside the area or on private property. Fred Jones explained that he wasn't suggesting that the City install racks on private property, but that there be design criteria, much like the sign code, as to what type of racks are appropriate if someone desires to install one. There was discussion about including racks in a street furniture ordinance, but Mark Harrington felt that racks are specific and unique. There was discussion about the attractive new racks on Main Street in Salt Lake City.

Mayor Olch asked how new publications can be accommodated. Ms. Kuhlow explained that this has not yet been addressed and this issue was also brought up by the distributors. Andy Berhard of the *Park Record* emphasized the importance of enforcement. The ordinance won't be a problem until there is no more space and free speech becomes limited. He added that he would like two boxes in each location for the *Park Record* and the *Real Estate Weekly*. Ms. Kuhlow noted that she has an inventory of different categories of publications in town. Mr. Berhard suggested a secondary locking system for the City on the boxes. There was again discussion about content, and Mr. Twardowski stressed that the City is avoiding having the ordinance reviewed at a judicial level by limiting content, at all costs. Mark Harrington felt there can be a priority system, but no limitation of content.

Clyde Benton, *USA Today*, stated that they are not opposed to this proposal but do not want to be limited on the racks. He noted that each newspaper will have to pay a fee which may preclude some of the free publications. In response to a question from Peg Bodell about his experience with other cities, Mr. Benton commented that each city is different. The biggest issue for newspapers is freedom of speech and they want to be accessible to everyone. *USA Today* is willing to work on any ordinance but do not want to be limited on their number of boxes now or in the future. Another concern is someone else owning a particular unit other than the city and Mr. Benton relayed an experience where advertisers bought the units and tried to sell them back to the newspapers. Robin Erickson, representing *The Salt Lake Tribune*, *Deseret News*, *Wall Street Journal*, and *Investor's Business Daily*, expressed having news racks consistently maintained is good. The Salt Lake news paper kiosks are owned by the City and vendors pay a fee of \$5 per year for the box. Distributors are responsible for the mechanism and the lock and the City performs the maintenance. She understood the City's interest in regulating the Main Street area, as there may be problems when the Olympics arrive, but now there are 26 publications here and eight racks which

is a problem if everyone wants a box in each rack or may become a problem with providing space for special editions during the Olympics. There may also be a problem with trying to regulate racks on private property. She explained that *The City Weekly* is the only free paper in the Salt Lake City system and she is pleased with the number of racks she has for her publications.

Ms. Kerr emphasized the small size of the Main Street area and with regard to the freedom of speech time, place, and manner issue, didn't feel that distributors need their paper in each location. Robin Erickson stated that she doesn't object to the locations selected, but has concerns about being at every location in the event an edition is sold out. Ms. Kerr believed that as long as the City has provided an outlet, her free speech has been accommodated and the City doesn't need to meet all of her *wants*. Ms. Erickson asked about the fee and a reasonable time frame for compliance and emphasized the importance of consistent enforcement. The Mayor thanked staff and the public for their input.

3. Legislative update. Tom Bakaly discussed SB156 which would require voter approval for any property tax increase. In order to adopt a certified tax rate that generates more property tax revenue, truth and taxation hearings are required. Park City has not had an increase in about 11 years and this bill would require a vote of citizens to increase taxes. The League has opposed the bill as it takes away local control, but this is a philosophical question and will most likely pass out of the House. The City Manager pointed out logistical problems in coordinating a budget with election dates and operating on a temporary budget. General obligation bonds require a vote of the people. Ms. Kerr pointed out the added costs associated with an election and Mr. Bakaly felt this bill has a good chance of passing. HB120, property tax on secondary residences, is back this year. Mr. Bakaly explained that primary residences receive a property tax exemption of 45% while second homes pay 100% of assessed value. This bill would provide that second homes pay 75% on the first \$100,000 which would impact revenues to Park City, which staff will analyze. The City is opposed to this legislation as revenues would be lost or the burden shifted to primary home owners. SB35 would increase the caps on governmental immunity to \$1 million per occurrence which would affect the exposure of our self-insurance fund. There is discussion about raising the property tax mil levy to offset the additional costs to the self-insurance fund. Shauna Kerr added that the caps in Utah have not been changed in 10 to 12 years and have been lower than other states. It's the League's position not to oppose it if the mil levy increase is available, but this would also affect the state and there may be pressure to kill the bill. SB211 is an Olympic funding amendment which deals with the payment to cities for the sales tax deferral of \$59 million for the construction of Olympic facilities. Park City's share is about \$430,000 and SLOC requested that the pay-back date be extended two months to March 2002 after it has received payment for the television rights. Mr. Bakaly pointed the merits of an escrow account and the League formed a policy committee to look at this further. He discussed other legislation regarding the Olympics and venue cities financing services, including the allocation of sales tax revenues to help pay for public safety costs. The sales tax on tickets may be reallocated for that purpose. Ms. Kerr stated that she worked hard a couple of years ago requiring SLOC to pay sales tax as having the Olympics exempt

seems flawed. If the effort is repealing the sales tax for SLOC, Ms. Kerr stated that she is personally offended. SLOC should pay taxes as cities have to, and there should be a specific public safety fund for these monies. The Mayor believed these funds will be directed into an escrow account as the tickets are sold which would be administered by the Public Safety Command to the venue cities. If it came down to repealing the tax to obtain public safety monies, Ms. Kerr felt that a fundamental fairness has been violated. She emphasized that it is more important to her that everyone is taxed equally. Mr. Bakaly noted that it's just the tickets and it can be viewed as reallocating rather than repealing; SLOC will be taxed on rooms, meals, etc. Peg Bodell added that SLOC was also requesting a cap on the amount. There was again discussion about repayment to venue cities in the event the Olympics weren't held and NBC didn't pay and establish the escrow account, and Mr. Bakaly stated that he will explore SLOC's insurance and credit line. It appears that the limousine/taxi bill will not proceed this year.

5. Trash collection services - BFI. Jerry Gibbs explained that he has been meeting weekly with BFI and the County over the last month who have been working on a number of issues, including Old Town and Main Street. BFI has been cooperative in discussing available alternatives. The service approach is to automate as much trash pick-up as possible in Summit County. The County Commission has indicated that it will defer and support the City Council in whatever direction it would like to go with Old Town as it considers it a special area.

Brad Mertz of BFI reiterated that the County and BFI would like to automate to the greatest extent possible in Summit County. Bins were delivered to each residence in the County and Mr. Mertz described the large trucks used for automated pick-up which are too large to operate on some roads in the Old Town area. BFI is in the process of ordering a burrow truck, which is a 4 x 4 vehicle with a picking tipper. He emphasized that since the first of the year, BFI has been picking up everything on the streets. Through illustration of photographs, Mr. Mertz shared his observations of different situations in Old Town dealing with storing the large blue bins. BFI is suggesting that Old Town be serviced through a *blended system*, providing residents options for different sized automated bins. This approach was discussed at a January 7 meeting with the Main Street Merchants, and businesses have ordered different sized bins to fit their needs. As a result of that direction, BFI ordered about 100 bins of the 68 gallon and 32 gallon size and is offering the balance to Old Town residences; it is proposed to develop criteria to rank those requests. He continued to discuss his photo presentation of examples in Old Town. Ms. Kerr felt that the issue in Old Town is that the blue containers are too big; Old Town should be supplied with the smaller bins, rather than establishing a priority system. Michael O'Hara, consultant, stated that Summit County would like to implement an automated system as extensively as possible. There are people in Old Town who are very pleased with the 90 gallon blue container, and the blended system is suggested with criteria to meet the needs of residences on a case-by-case basis.

The Mayor felt that residents in Old Town should be free to trade in the 90 gallon container for several 32 gallon bins, which are more manageable. Also, there can't be a *drop dead*

date for people to trade. Brad Mertz responded that as long as the bins are available, they can be swapped out. Ms. Kerr suggested that the bins be ordered as needed; it should be a common product on the market. She agreed with the Mayor about people not knowing about the trade-out option at this time and bins need to be readily available in the future. Michael O'Hara interjected that they have 100 of each size and don't anticipate running out of them. If they do run out, they will order more but there will be a cost associated with that and the County Commission will have to deal with that policy decision. Mr. Mertz continued with his presentation of bad examples in Old Town, and Ms. Kerr interjected that this is not going to solve problems. Mr. Mertz stressed that people in Old Town who want the smaller bins will receive them and there was discussion about people removing the lids from containers. There should be a list of criteria formulated to prioritize requests for smaller bins; many people like the 90 gallon bin and it can work in Old Town. He suggested that the City Council consider an ordinance requiring removal of the bin on the day it is emptied. Ms. Kerr responded that this is just one more enforcement burden for the City and the goal here is to get the garbage picked up in a reasonable manner and accommodating the customers, not necessarily accommodating the company. Brad Mertz agreed and stated that is why they have been picking up all of the garbage in any container from the start. The Mayor again asked if a resident could trade in a 90 gallon container for several smaller ones. Michael O'Hara explained that the price is not based upon the volume but how many cans are picked-up. The policy allows people to obtain an extra container at \$10 a month and this fee subsidizes recycling in the County. Brad Olch felt it is unfair to penalize people that can't handle a 90 gallon container, but can manage two 32 gallon containers. Mr. O'Hara noted that the Mayor may be right, but BFI shouldn't be penalized either and in fairness to everyone, this issued should be taken to the County Commission. The contract provides that BFI, at no additional cost, must provide assistance to the elderly or disabled. Mr. O'Hara acknowledged that the contract has evolved including eight new policies to help implement the terms and conditions of contract. A policy will have to be determined by the County Commission regarding the cost of a second or third lift at a residence. Ms. Kerr agreed that this program limits what goes into the landfill and promotes recycling, but every resident is entitled to pick-up of the same amount of garbage. She understood that if people returned the blue container the swap would be free but if a bin is delivered, there is a cost. It is not fair or realistic to assume people can transport the 90 gallon container in their vehicle; BFI is in the business of delivering bins and she felt they should pick up the blue can, trade for equal capacity and the extra cans should have been part of the negotiation. Mr. Mertz stated that the County did not specify the size of the bins and BFI bid on 90 gallon containers; the other bidders did not specify smaller bins. Michael O'Hara clarified that he will be taking the City Council's recommendations to the County Commission who must formulate solutions as an across-the-board trade is not addressed in the contract. BFI answered all features of the RFP. Ms. Kerr insisted that a trade out should be free. Mr. Mertz explained that when BFI suggested a price for the service, it included the delivery of over 10,000 containers throughout the county.

Candace Erickson pointed out that a 90 gallon container on a steep driveway in the winter is difficult and described a complaint she received. This is a problem if someone isn't

elderly or disabled but can't maneuver the large bin. Mr. Mertz noted that BFI will visit with the person with a representative from the County who will assess their needs for manual pick-up, but the situation may change in the summer. Fred Jones emphasized that problems need to be resolved and the contract needs to be adjusted by the County Commissioners. The swap-out needs to work in terms of capacity and it is not realistic to assume that people can fit the bins in their cars. The transition is to provide trash service as the County has provided it in the past to everyone on an equal basis, and it needs to get back on equal footing. Old Town residents should be canvassed for their preference of options whether or not they have a garage. Michael O'Hara clarified that the priority system has nothing to do with who gets one and who doesn't, but rather who gets it first and it is their intent that anyone in the County, not just Old Town, has the right to another size container. The people who need it most, should get it first. Fred Jones noted that this shouldn't cost the residents up-front and if changes are made at a later day, he understood there would be a charge.

Peg Bodell stressed that there are problems beyond Old Town and took exception to the County not specifying the color and the size. She took exception that BFI is being penalized by having to assume some of the costs that should have been explored months ago. The photos presented tonight should have been taken a year ago when the streets should have been canvassed. BFI should have done this and the residents shouldn't be penalized; these are normal activities in responding to an RFP. She urged BFI to be open to requests and include residents in decisions. Roger Harlan discussed the merits of recycling and its relationship to automated collection, but there needs to be flexibility and a choice of containers is a step in the right direction. He didn't feel that changes to the contract should be a financial burden to the taxpayer. Shauna Kerr explained that there has been discussion about problems that routinely arise when an automated system is introduced and there was discussion about the service BFI provided to Sandy City which eventually changed vendors. Mr. O'Hara pointed out that replacing an automated service with another automated services goes a lot smoother and BFI was also required to take over commercial service in Park City at the same time. In hind sight, it probably would have been more prudent to phase commercial service.

The Mayor pointed out that BFI is an international publicly traded company with substantial assets and felt that it has the resources to be flexible and could have done a better job with the transition. Brad Mertz felt that BFI has been responsive and pointed out that the former waste hauler sued the County which delayed the start of the contract. They could not order equipment, put sales people out, research accounts, etc. and their hands were entirely tied until the contract was signed. Mr. Mertz stated that they are willing to do things that are not in the contract and feel that problems can be worked out.

Peg Bodell added that there are other issues that need to be addressed including the impact on the parks crew, lawn clippings, and public relations as outlined in the staff report. She continued that the City needs to provide the message to residents and BFI should financially participate in the production of information. Jerry Gibbs relayed that the County is putting together

a brochure that would be distributed in April. This will be geared toward the May clean-up and trash service. Mr. Gibbs felt that the City should provide a brochure on the transition within a month, including options and phone numbers. With regard to BFI participating in the cost of producing a brochure, Mr. Mertz suggested that the City submit a proposal to them.

Loren Rasband, General Manager, reported that the 90 gallon bin is the typical size used on the Wasatch Front where there are steep driveways. He further explained that the Summit County committee had representation from different areas of the county and put this plan together emphasizing the importance of a fully automated system. There was a full year for people to comment about the program and a public hearing process. He relayed that the City Manager complimented them on the attention given to Park City concerns. BFI met with the Main Street Merchants before the program was initiated and have been trying to be flexible in addressing issues. To Summit County's credit, the RFP was advertised some time ago and it tried to address everyone's needs and BFI is here to address outstanding issues. Mr. Rasband emphasized the reduced rate BFI is charging the county as opposed to Salt Lake City household service. Standardized systems save tax dollars and BFI has tried to be fair with everyone which hasn't been conveyed. Fred Jones interjected that there probably has been too much time spent on the history rather than the solutions which are in front of them (the different sized bins). It behooves BFI and the County to get these bins out to the people who need them and on a fair basis to the tax payers, who are paying for the service. People should be provided with two small containers instead of one 90 gallon bin at no additional cost. Michael O'Hara assured Council members that he would relay their comments to the County Commissioners. The Mayor invited the public in attendance to comment.

Rick Anderson, owner of the Eating Establishment, noted that merchants met with BFI on January 7 and they have been responsive to their needs. Garbage is being picked up on the west side of Main Street off the curb. He understood Mr. Mertz to indicated that there was agreement for automated service on the west side of Main Street. Mr. Anderson explained that he doesn't have room in his restaurant to store cans and a manual system is the only one that will work for him, unless the blue bins are stored on the street. The issue has not been resolved to his satisfaction for the west side and the manual service being provided today is adequate and BFI is doing a better job than G&F. He asked that this concern be addressed by the County.

Lucy Seslewski, resident, stated that she called BFI and the County and was told that Old Town would continue to have manual pick-up and no changes would be made. She noted that she would not allow BFI to leave a bin at her house and doesn't have one. She relayed that Mr. Rasband canceled an appointment with her and wasn't willing to reschedule until after the first of the year when she went to Florida. Old Town should be left the way it was with hand pick-up; an automated system just doesn't work. She was told by Mr. Richins that if she didn't like the new system, she wouldn't have trash pick-up and felt bullied. No one will give her a name or address of the CEO. BFI has not addressed the problems fairly, and if hand pick-up can not be accommodated in Old Town, the City needs to go with another company.

Gordon Cummings, resident, commented that he went through hell to obtain an approval ten years ago for his Old Town residence from the Historic District Commission. He complained about the lack of public notice and the 90 gallon bin is unmanageable on his steep lot. As experts, BFI should absorb the costs of their mistakes.

Lanie Jones, condo owner at 470 Woodside, stated that she is an engineer in the waste business, served on the trash service committee, and a member of the Board of Directors of Recycle Utah. She emphasized that BFI is in the business of picking up garbage not determining what size bin is best for what home. Her complex has five blue bins on the street which isn't aesthetic or sufficient and to add more on the street would mean lost parking. Asking BFI to redistribute bins is going to solve the problem and they are still going to be on the street. A lot of time and money is focused on historic preservation and this should be a community decision. Ms. Jones continued that she is a proponent of the automated system as it is much safer and should be employed wherever possible. The people of Old Town should decide if they want to look at the bins for the safety of BFI employees, or if they want a different system. There has been no formal process for Old Town residents' input and there should be an open house conducted. If Old Town residents want a manual system and are willing to pay for it, they should be provided the opportunity to make that decision.

Dick Webber, President of Three Kings Home Owners Association, stated there was no information available prior to January 1. Condominium projects did not receive bins and condominiums are treated differently. He was under the impression that the only way garbage was going to be collected was to have the bins and after a great deal of difficulty received 30 bins for 96 units. They were never told that they could still put out other containers during this period of time after many phone calls. He resented the automatic designation for condominiums as commercial properties which comes at a price, and increases their garbage collection expense to about \$1,000 a month. There is confusion with the billing system.

Gary Kimball, long-time resident on Woodside Avenue, relayed that he has had his garbage picked up twice since the first of the year. The pick-up date was changed and then BFI decided it would not pick up on the west side of the street without telling anyone. He feels very uncomfortable about hauling his garbage to someone else's house across the street; BFI should be doing that.

The Mayor indicated that Park City is probably different than any community BFI has work with; there are many problems and challenges and there is a lot of work to be done to make the system work. Michael O'Hara noted that he will report back to the City Council from the County Commission.

Prepared by Janet M. Scott



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 3, 2000**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6:45 p.m. at the Marsac Municipal Building on Thursday, February 3, 2000. Members in attendance were Brad Olch, Peg Bodell, Candace Erickson, Roger Harlan, Fred Jones, and Shauna Kerr. Staff present were Toby Ross, City Manager; Mark Harrington, City Attorney; Lori Collett, Finance Manager; Nora Shepard, Special Projects Planner; Tom Daley, Deputy City Attorney; Pat Putt, Planning and Zoning Administrator; Tommy Youngblood, Enforcement Officer; and Ron Ivie, Chief Building Inspector.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business not scheduled on the agenda.

1. Taxi and shuttle service licensing ordinance - Gordon Cummings relayed that he received a delinquent business license notice from the City. He is not inclined to pay his license fee because there is no enforcement of the ordinance, particularly during the Sundance Film Festival. He alleged he is one out of 30 companies that actually has a place of business here, and can be easily found if he doesn't comply and felt he is being penalized by paying \$1,500 for a license. Ms. Kerr clarified that the license is not for enforcement but a right to do business within the City. The fee for shuttle services was not increased with the latest amendment which focused on dealing with gypsy cabs. She explained that taxi fees increased two years ago because of the nexus between the bus system and businesses that benefit from the bus system. Mr. Cummings also understood that the fee increased because of inspection and enforcement services. Mr. Harrington explained that Ms. Kerr is correct and there was a significant increase in taxi licensing as a part of the change of the business licensing process and the inspection service charge is insignificant by comparison. Lori Collett explained that there have been 22 complaints and the City heard from each company within two to three days; staff is working with them to get them licensed.

Rob O'Brien, owner of 649-TAXI, stated that he was a party to the original discussions and believes that he is one out of the 30 companies compliant with the ordinance. The biggest week of the year was Sundance and there were people bringing extra vehicles to town during the week and doubted if they were in compliance with the City for insurance or licensing. If there is no enforcement, why be compliant? He felt that everyone should be held to the same standard as he is to operate. He understood that the Chief didn't want to stop to check vehicles with passengers, but Mr. O'Brien didn't feel this had to be a long stop and would take only a minute or two. If people were stopped and fined, there would be compliance within a few weeks and this is not too much to

ask. Gypsy cabs can make between \$5,000 and \$10,000 during Sundance and paying a \$50 fine is a risk many people are willing to take. Additionally, there's no insurance company willing to write a policy for a week. He voiced his opposition to a proposed floating policy suggested by Salt Lake City companies, and felt that if he has to license each of his vehicles, others should also be required. Mr. O'Brien reiterated that he is the only operator in compliance and that is not fair.

2. BFI trash collection - Lanie Jones clarified her work session comments that it is the City's responsibility to obtain that public input from the Old Town residents, and not BFI.

3. Sundance Film Festival - Roger Click stated that he is an avid advocate of film events and this is the best Festival Park City ever hosted because of the side festivals. He felt the vandalism is inexcusable but the handbills should be allowed and the City should loosen up on allowing them. The traffic should be better managed for emergencies and Main Street could be one-way for the event.

III COMMUNICATIONS FROM COUNCIL AND STAFF

The Mayor urged staff to follow-up on organizing a public meeting on trash pick-up for Old Town residents. There was discussion about the process of holding community meetings and appointing a task force.

IV WORK SESSION NOTES AND MINUTES OF THE MEETING OF JANUARY 20, 2000

Hearing no omissions or corrections, the Mayor requested a motion to approve. Candace Erickson, "I so move". Peg Bodell seconded. Motion unanimously carried.

V PUBLIC HEARINGS

Ordinance amending the Official Zoning Map of Park City to adjust the Sensitive Area Overlay Zone boundary in the vicinity of Deer Valley Drive East, Park City, Utah - Nora Shepard explained that in 1992, the City established the Sensitive Lands Overlay Zone which was generally delineated around the flat areas of Park City and Old Town and everything outside of that was required to go through a sensitive area determination. Staff feels that an amendment to the map is appropriate in the vicinity of Deer Valley Drive and through illustration of a rendering, Ms. Shepard discussed the topography and the proposed change. The Planning Commission recommends approval and the only public input involved questions not objections. In response to a question from Candace Erickson, Ms. Shepard explained that an application in the area brought this to staff's attention. It was pointed out that the proposed boundary follows an old graded road. With no further questions or comments from the Council or the public, the public hearing was closed.

VI CONSENT AGENDA

Peg Bodell, "I move approval of this ordinance amendment". Fred Jones seconded.
Motion unanimously carried.

Ordinance amending the Official Zoning Map of Park City to adjust the Sensitive Area Overlay Zone boundary in the vicinity of Deer Valley Drive East, Park City, Utah - See staff report and public hearing comments.

VII NEW BUSINESS

Resolution by the Park City Council to authorize the Chairman of the Park City Water Service Board to enter into a purchase and sale agreement of water rights with Roka Idaho, LLC - The Mayor disclosed that the City Council discussed this purchase last week in a closed session. Tom Daley stated that he reviewed the contract and the change applications which will be filed next week. Shauna Kerr, "I move approval". Peg Bodell seconded. Motion unanimously carried.

VIII OLD BUSINESS

Call-up of Planning Commission decision on October 27, 1999 to approve a conditional use permit for the Old Town Guest House, located at 1011 Empire Avenue - Council member Fred Jones excused himself as he approved the conditional use permit as a Planning Commissioner. Mark Harrington advised that Council is sitting in a de novo capacity or sitting as a planning commission. This isn't an appeal where the issues would be limited and the City Council is basically remaking the decision, not overturning a decision. He encouraged the City Council to disclose any ex parte discussions so the benefit of those comments is shared with other members. Roger Harlan reported that he called the property owner as he had many questions. Shauna Kerr added that she received a call from Bert Pacal regarding his concerns about the process that took place at the Planning Commission and his concerns about parking in the area. Peg Bodell noted that she visited the site and had conversations with staff for clarification on issues.

Pat Putt explained that the Council is being asked to review the merits of a Planning Commission decision on a conditional use permit to allow an expansion of two additional bedrooms in an existing conditional use permit bed and breakfast. As a part of that approval, the Planning Commission formally waived two additional parking spaces. This business has operated in Old Town since 1991 when a conditional use permit was approved by the Planning Commission. The original permit was for a two bedroom bed and breakfast and in 1991, two parking spaces were waived by the Planning Commission. Since that time, the business has been in operation and the business license provides for three bedrooms. Mr. Putt continued that a complaint was filed in March 1999 by an adjacent property owner over parking and when this was brought to his attention, he recommended that the property owner have the conditional use permit reviewed by the Planning

Commission to determine if the additional bedrooms are appropriate. Mark Harrington interjected that at that time, the Building Department filed a criminal citation and staff agreed to stay that prosecution until the conditional use permit application was resolved and that is still the case. There is another condition of that stay which will have to be resolved, including a building inspection. Mr. Putt continued that at the October 8 meeting, Mr. Pacal addressed the Planning Commission with his concerns over the use of on-street public parking for commercial uses. At the conclusion of that meeting, the Commission voiced general support of the expansion of the use, but directed staff to work with the applicant to formulate alternative options to solve the parking problem. One alternative considered at the October 27, 1999 meeting was developing off-street parking in an area south of the home owned by the applicant for two tandem spaces (four cars total). This would create parking but there is an historic rock retaining wall and significant mature vegetation there which would have to be removed. The other alternative was to waive the additional two spaces for a total of four waived spaces, which was supported by the Planning Commission.

Mr. Putt explained that the Council could (1) affirm the Planning Commission approval; (2) modify the Planning Commission approval to require that two to four parking spaces be added off site; Mr. Putt emphasized that the applicant, Ms. Lovci, offered to install off-street parking spaces initially and in the objective of saving the vegetation and the residential character of Old Town, the Planning Commission made its decision; (3) reverse the Planning Commission approval and deny the additional two rooms and the parking waiver; or (4) continue this matter or remand it to the Planning Commission with specific direction.

Tommy Youngblood, Enforcement Officer, stated that he felt that the Planning Commission erred in making the finding that no on-site parking is possible and all alternatives have been explored and exhausted. The applicant owns a lot that borders the house and there are other alternatives that could include both parking and landscaping that were never considered. Mr. Youngblood pointed out the conflicts in attempting to preserve the character of Old Town and ensure good traffic circulation which requires parking. There is also a finding that the structure is not economically feasible to restore and maintain without the adaptive use. It has been economically feasible since 1991 and the bed and breakfast has had two building permits since then; this structure was never in danger of falling down which is usually the consideration in supporting an adaptive use. Mr. Youngblood took exception to the five linear parking spaces referred to in the Planning Commission findings when the LMC states that in no case may parking spaces on the downhill side of public streets be counted toward a parking requirement. Additionally, there is a condition of approval that if Lots 3 and/or 4 are developed, the waiver is void; the Community Development Department is not equipped to flag that information. Mr. Youngblood explained that staff responded to a citizen complaint about parking, and the ultimate Planning Commission decision did not help the neighborhood with regard to circulation and parking.

Deb Lovci, owner of the Old Town Guest House located at 1101 Empire Avenue, stated that her bed and breakfast is historically registered and she received historic grant money. She

cited original findings that the structure is historical and improvements are desired and an allowance for parking is granted because of mature vegetation. She added that about 25% of her guests utilize a car and others use airport transportation. There is 100 linear feet in front of her house which is set back and provides a parking area, but it is public right-of-way. She pays for plowing in the area for her guests and the neighbors. To turn the lot which has 32 aspen trees on it into a parking lot would be a shame. There has only been one complaint about her business in nine years and Ms. Lovci explained the parking complaint involving the interconnect van blocking Mr. Hock's driveway and his subsequent letter. Shauna Kerr understood that the Planning Commission told her to take the no parking signs (guests only) down in front of her house and the signs are still there. Ms. Lovci believed that everyone in Old Town has these signs up; Ms. Kerr countered that not everyone went to the Planning Commission and was told to take it down. There was discussion that this was not a specific condition of approval and Ms. Lovci stated that if she was asked, she would have taken it down. Mark Harrington agreed that this is a widespread Old Town problem and this should be a separate general topic of discussion.

Tommy Youngblood pointed out that the 5 ½ parallel spaces within the 100 linear feet includes parking in front of her garage which is illegal. Roger Harlan felt that if only 25% of Ms. Lovci's guests bring a car, there shouldn't be a parking problem. He added that the neighbors may be contributing to the parking problem, although the signs are inappropriate. Mr. Youngblood asked that if in fact only 25% of the guests bring cars now, but the business changes hands and the number of cars increase, the situation can't be monitored by enforcement officers. The Code specifies one bedroom, one space which can be enforced. Deb Lovci commented that as a business owner she is there and can get a handle on the parking as opposed to nightly rentals which is a free-for-all. Peg Bodell noted that Condition 10 specifies that two on-site parking spaces are provided in the garage. Ms. Lovci admitted that only one car can be accommodated in the garage currently. Planning Commissioner Chris Larson stated that the intent of the condition was to provide two parking spaces in the garage. The Planning Commission debated this for quite a while and he admitted that the decision was not favorable to enforcement employees. The Commission struggled with an application for a conditional use permit for an illegal non-conforming use to bring it into compliance. Mark Harrington explained that the applicant disputes that the initial approval was limited to just the two bedrooms. Chris Larson continued that denying the conditional use permit may put her out of business and requiring on-site parking would solve circulation and parking concerns but would remove all of the mature vegetation from the adjacent lot. Ms. Kerr asked why the Commission felt that denial would be putting her out of business when she had been operating a two bedroom bed and breakfast for nine years. Mr. Youngblood clarified that originally Ms. Lovci applied for two bedrooms in 1991; it was her opinion that everyone knew she was going to rent more rooms and the business license was for three bedrooms, but advertised through the Chamber/Bureau for four rentable rooms.

Ms. Lovci referred to the original conditional use permit which is described as a request for a conditional use permit for a bed and breakfast inn; not a two-room or six-room inn but

for a bed and breakfast. The findings were that the building was historical and the parking would be waived. Conditions included that the Planning Department review this application in one year to determine if there have been any negative impacts on the neighborhood, and if not, approve for continuous use. The permit did not limit the number of rooms; the application indicates for two or more, and the Code stipulates that a bed and breakfast is three or more rooms. Ms. Kerr quoted from the fact sheet of the conditional use permit that two of the three bedrooms would be rented and two parking spaces waived. There was debate regarding this and Mark Harrington interjected that the relevant issue is did the Planning Commission properly decide to allow four bedrooms. The nine year history is so complicated that it couldn't possibly be included as background information for the decision tonight.

Ron Ivie clarified that the City has a pending criminal action on this property. There has been agreement that the applicant agree in writing that she would not occupy more than two rooms until such time a decision by Council was made. The Building Department can not find evidence of ever signing off on the license for the three bedroom. Another condition is an inspection, which Ms. Lovci has not requested yet. He suggested that this not be investigated tonight and that Council look at the north property where off-street parking could be more appropriately located as he didn't recommend the historic south lot. There may have to be an adjustment made to the garage, but Mr. Ivie didn't feel this was adequately considered and is a viable alternative. If the guests place only a 25% demand on required parking, the ordinance should be changed. He emphasized that people need to have an idea of the requirements of a commercial use in a residential zone. There shouldn't be exceptions to ordinances and everyone should be entitled to the same rights. Mr. Ivie noted that the lack of parking in Old Town is a constant problem. Roger Harlan stated that he never realized that the area to the north was a viable option. Pat Putt explained that Ms. Lovci approached staff about reconstructing the garage with an additional living area, not necessarily a rental room. Because of the setbacks from the street and the north property line, staff discouraged Ms. Lovci because of the scale of the structure and its proximity to the historic house. Mr. Putt noted that as strongly as Mr. Youngblood feels about parking and enforcement, he and his staff feels about preserving the residential nature of Old Town. Roger Harlan asked if the proposal eliminates the remodeled structure if there is enough space from the north edge of the garage to the lot line. Pat Putt recalled that it is relatively steep and it is against the code to build a parking space in a side yard. Chris Larson added that the Commission felt that putting parking in the south lot would cause a significant impact and determined that the two garage spaces and the 100 feet of on-street parking would serve the use.

Bert Pacal, resident, stated that he doesn't have an issue with two or four rooms but is upset with the way this has been handled. There weren't any problems for nine years until Mr. Pacal got a new tenant who elected to park his truck on the street. Parking became an issue when Ms. Lovci called the police on his tenant, and his tenant threatened to move out. Mr. Pacal stated that he felt that he was vilified by three Planning Commissioners at the meeting, while some staff members seemed upset that he didn't turn Ms. Lovci in sooner. All he wanted was someone to

remind Ms. Lovci that the street is public and his concern is that the rules not be changed on an individual basis because it doesn't give the system much credibility.

Peg Bodell noted that she visited the site and questioned the 5 ½ car lengths. Pat Putt explained that the 5 ½ parking spaces includes parking in front of the garage and the parking would have to be managed. Peg Bodell pointed out that planting new vegetation may be a good idea as the old vegetation has a limited life span. Candace Erickson emphasized the parking problems created by monthly rentals in residential neighborhoods which are much worse than this situation. Shauna Kerr interjected that they don't have a conditional use permit and that is the difference. Ms. Erickson agreed but putting the Old Town Guest House out of business may force the residence into long-term rental which would put more cars on the street. Pat Putt acknowledged the difficulty of this situation as it involves balancing many issues. He suggested another option of amending the conditions of approval to take down the signs on the retaining walls and attach a one-year or six-month review period and evaluate how the owner can operate the business in the spirit of the conditional use permit. Ms. Kerr referred to Ms. Erickson's comments, but emphasized that this is the historic district which requires a special permit. Ms. Lovci has asked for a special use and the purpose of waiving parking is to restore the structure, which received that bonus in 1991 when it was restored. Now the conditional use permit has been expanded again when the parking was never there in the beginning. The LMC specifies that parking can be waived to save a structure if all alternatives have been exhausted. Ms. Kerr continued that she applied for a conditional use or special permit, received a license for more than that, and when she operated it and got caught, she came back to the City for permission.

Eric Cisco, Solamere Drive resident, felt that Ms. Kerr is assuming facts that he doesn't believe exist. He stated that he looked at the conditional use permit and doesn't think Ms. Kerr has; reasonable minds can differ and people will probably see one another in court on this issue. He stated that he is alarmed because one person will say let's not get into this issue and yet Ms. Kerr will be an advocate of *tarring* Ms. Lovci with that brush of illegality which he honestly doesn't believe exists and he doesn't feel it is appropriate for Ms. Kerr, as a City Council member, to assume away her right to argue. Mr. Cisco believes that Ms. Lovci has been operating her bed and breakfast legally and within the expressed terms of the conditional use permit granted. He is alarmed that Ms. Lovci was served with criminal process and asked to remove the trees for four parking spaces because of one complaint in nine years. This is vast over-kill. Ms. Kerr responded that she has a copy of the business license for three bedrooms, and Ms. Lovci has been operating four. Mr. Cisco added that there is more to this and Mr. Harrington urged Council to focus on the merits of the case pending before Council based on the ordinance not the past. This provides some discretion to the exemption of the spaces based upon certain findings and he emphasized that Council does not have all of the facts about the past. Mr. Cisco added that Ms. Kerr does not have all of the facts and people are listening to her as if what she is saying is true. She doesn't have a copy of the actual conditional use permit but rather a fact sheet on the application.

Ms. Bodell asked Ms. Lovci what is more important to her; preserving the aspen trees or renting out the four rooms. Deb Lovci stated that anything less than three rooms with the floating room would make her business unfeasible. She is not sure if she could cut down the trees for parking either and if that was a finding, she would probably do nightly rentals. She encouraged Council to look at other bed and breakfasts as she has more right-of-way in front of her inn with the exception of one. She again discussed the high use of transportation shuttles by her guests. This is an historical structure and parking has been waived for all of the other bed and breakfasts. Roger Harlan acknowledged that if her business becomes a nightly rental, there will be more cars. In response to a question from Candace Erickson, Ms. Lovci indicated that she and her neighbors have a cooperative relationship.

Mr. Harlan referred to Mr. Putt's recent recommendation about removing the signs and would support reducing the number of rooms from four to three. The Mayor noted that it is not a matter of the number of rooms, but the parking situation. He felt that Mr. Putt's recommendation has a lot of merit, but it aggravates the enforcement problem for Mr. Youngblood. Ms. Kerr felt that employees should have the support of Council when enforcing ordinances. Ms. Bodell stated that the Council's first responsibility is to health and welfare, and is also in favor of preserving the residential nature of Old Town which involves getting the cars off the street. The garage needs to be fully utilized and building on to the garage is going to create more parking needs. She took exception to the signage, and suggested *welcome to our neighborhood; please respect the parking needs of the residents*. The parking is related to the rooms which is in the code and there may be other alternatives that haven't been explored with staff regarding landscaping mitigation. She didn't believe that Ms. Lovci wants to come back to Council over the same issues in a year and felt strongly that the City can no longer afford the consequences of these waivers. She applauded Mr. Youngblood for bringing forth his issues and stated she can't affirm the Planning Commission's approval of the conditional use permit and is inclined to reverse the approval and deny the conditional use permit. Shauna Kerr felt this should be a motion and Peg Bodell seconded. Ms. Lovci stated that a Park City bed and breakfast has to be in an historical structure and the parking has to be waived; it can't be both ways. Roger Harlan reiterated that we can force Ms. Lovci into a nightly rental business, abide by the laws, but create a greater parking demand which is not an acceptable solution. He felt the signs should be taken down but there should be consistency throughout the historic district. He is not willing to put her out of business and there is no easy answer. Candace Erickson stated the permit does not describe the number of rooms; the situation is unique and she is leaning toward Council member Harlan's thinking. The garage needs to be fully utilized as stipulated by the conditions. The Mayor asked that Shauna Kerr restate her motion, "I move that we reverse the Planning Commission's approval, deny the conditional use permit for the additional two bedrooms, and I further move that we direct her take the signs down and the Planning Commission had directed her to get the garage available, and if she does have a garage for the conditional use permit, we should work toward getting it operable". Mark Harrington pointed out that since Ms. Kerr included conditions in addition to the comments referred to as the motion, Ms. Bodell must accept the amended motion. Peg Bodell, "I accept your amended motion". Ms. Bodell

agreed with Ms. Erickson that this may not be fair, but the Council needs to support the ordinance and enforcement. If the ordinance needs to be changed because it is unfair, it needs to come at a later date as this is not the format or the place to determine that the ordinance is wrong. Motion carried.

Peg Bodell	Aye
Roger Harlan	Nay
Candace Erickson	Nay
Fred Jones	Abstention
Shauna Kerr	Aye
Brad Olch	Aye

IX ADJOURNMENT

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

* * * * *

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





CITY COUNCIL STAFF REPORT

DATE: February 3, 2000
DEPARTMENT: Planning Department
AUTHOR: Alison Kuhlow, AICP
TITLE: Regulation of Newsracks on Main Street
TYPE OF ITEM: Work Session

SUMMARY RECOMMENDATIONS:

Staff requests that the City Council review Staff's proposal for the regulation of newsracks on Main Street, to confirm the direction staff has taken, and authorize drafting a formal ordinance.

A. Topic

Discuss the options to regulate newsracks within the Historic District. The purpose of regulating newsracks is to promote the public health, safety and welfare through the regulation of placement, appearance, and servicing so as to:

- (A) Provide for pedestrian and driving safety and convenience;
- (B) Restrict the unreasonable interference with the flow of pedestrian or vehicular traffic including ingress or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;
- (C) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes, and access to locations used for public transportation purposes;
- (D) Eliminate newsracks which may result in visual blight on the public rights-of-way, or which may unreasonably detract from the aesthetics used for public transportation purposes;
- (E) Maintain and protect the values of surrounding properties;
- (F) Reduce unnecessary exposure of the City to personal injury or property damage claims; and
- (G) Provide for and maintain the freedom of speech for newspapers or news periodicals using newsracks for distribution.

B. Background

At the January 6, 2000, City Council Meeting, Staff presented four (4) options regarding the regulation of newsracks within the Historic District. The Council directed Staff to pursue the presented Option #3, where all existing newsracks within the Historic District would be removed and replaced with City owned and maintained "gang" newsracks for lease by the publications.

On January 19, 2000, City Staff held a meeting to discuss newsrack regulation with the Main Street Merchants. At that meeting, concerns were reiterated regarding maintenance of current racks, number of racks and sidewalk clutter. The Historic Main Street Business Alliance, at their meeting

on January 25, 2000, stated that they continue to support the City in their effort to regulate newsracks.

Staff presented the options to the Historic District Commission at their January 21, 2000, retreat. The HDC stated its support for Staff's development of a newsrack ordinance. Since that meeting Staff has received no additional comments from the Commissioners.

On January 26, 2000, Staff also met with distributors of several major publications on Main Street. The distributors supported the City with their chosen option to provide newsracks for lease. The main concern of the distributors was enforcement and removal of the prohibited freestanding racks once the ordinance is passed. Suggestions were given with regards to number of publications within a rack, with the maximum recommended being eight (8), and the insistence on the use of their current graphic and colors on the doors of the boxes.

In response to Council's comments Staff held the two outreach meetings and has evaluated the area of available sidewalk area on Main Street. Staff will provide Council with a review of the sidewalk area at the meeting.

C. Analysis

City Planning and Legal Staff have researched state and federal regulations regarding newsracks, responded to Council's comments, and have formulated the following criteria for the placement and lease of City owned newsracks.

Amendment to the Municipal Code

Title 14, Trees/Landscaping; Streets, Sidewalks, and Stairs; Street Cuts; Snow Removal; and Street Address System, of the Municipal Code would need to be amended to address the following information:

- definitions of newsracks, freestanding and "gang"
- prohibition of individual newsracks within all "H" districts
- allowing "gang" newsracks within the "H" Districts
 - a. "gang" newsracks would require eight (8) feet of sidewalk clearance between either the rack and the building or the rack and the curb
 - b. design of racks would meet City design specifications
 - c. distance between each rack would be 200 feet
 - d. guidelines would be established approving additional newsracks
 - e. newsracks would be owned, maintained and leased by the City
 - f. individual boxes would be owned and maintained by the venders
- outline method of determining distributors in each rack.
- fee for lease of the rack (if any)
- penalties for violation of Code
- standards for lessee upkeep of box
- City's maintenance requirement

Maintenance and Enforcement

Enforcement of the ordinance and maintenance of the City owned racks will be necessary. The Park and Recreation Department is responsible for the upkeep of Main Street sidewalks and public property. Within the past few years there has been an increase in the workload to maintain the Main Street's sidewalks, trash, snow removal and public property which includes the newly refurbished

Miner's Park. By adding another maintenance item, such as newsracks the Parks Department's workload has again increased. Additional funding for maintenance and for the hiring of employees may be necessary to maintain the current service level on Main Street.

Approval of original rack locations

Upon Staff's return to Council with a written ordinance, a confirmed list of possible newsrack locations, with property owner's agreement in specific cases, will be provided. At that time Staff will request approval of the locations from City Council.

Review of Newsrack Designs

Staff will return to City Council with cost estimates and various designs for the "gang" newsracks for Main Street. Staff will encourage creative designs from prospective suppliers.

Approval of Use of Funds for Purchase of Racks

Upon the selection of a newsrack, Staff will present Council with a request for use of CIP funds for the purchase and installation of the newsracks. **(Source of Funds?)**

D. Significant Impacts

The proposed amendment will result significant impacts to City Staff which will include:

- time and effort to phase out the existing newsracks;
- implementation of a lottery, or similar system, to assign available spaces in the new newsracks;
- purchasing and installation of the newsracks;
- increase in the Park and Recreation Department's maintenance of Main Street sidewalks and City property; and,
- enforcement, by the Parks and Recreation Department, of the ordinance.

E. Recommendation

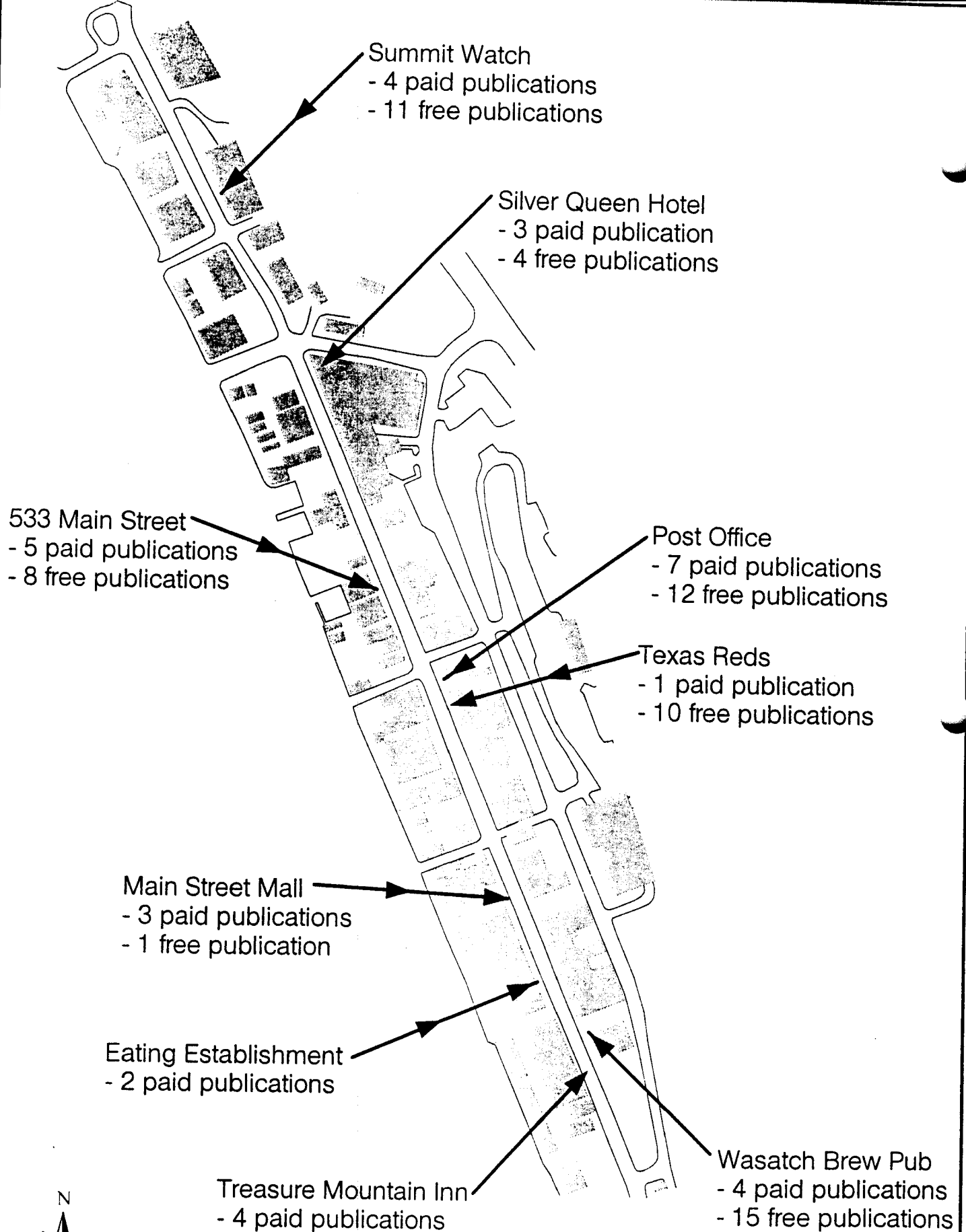
Staff requests Council to discuss the issues presented and direct staff to proceed with the proposed ordinance amendments. Staff will return to the City Council with the Amendment language, along with possible designs for the newsracks. At that time the fee for leasing of the racks will be determined.

Exhibits

Exhibit A - Location of Current Newsracks

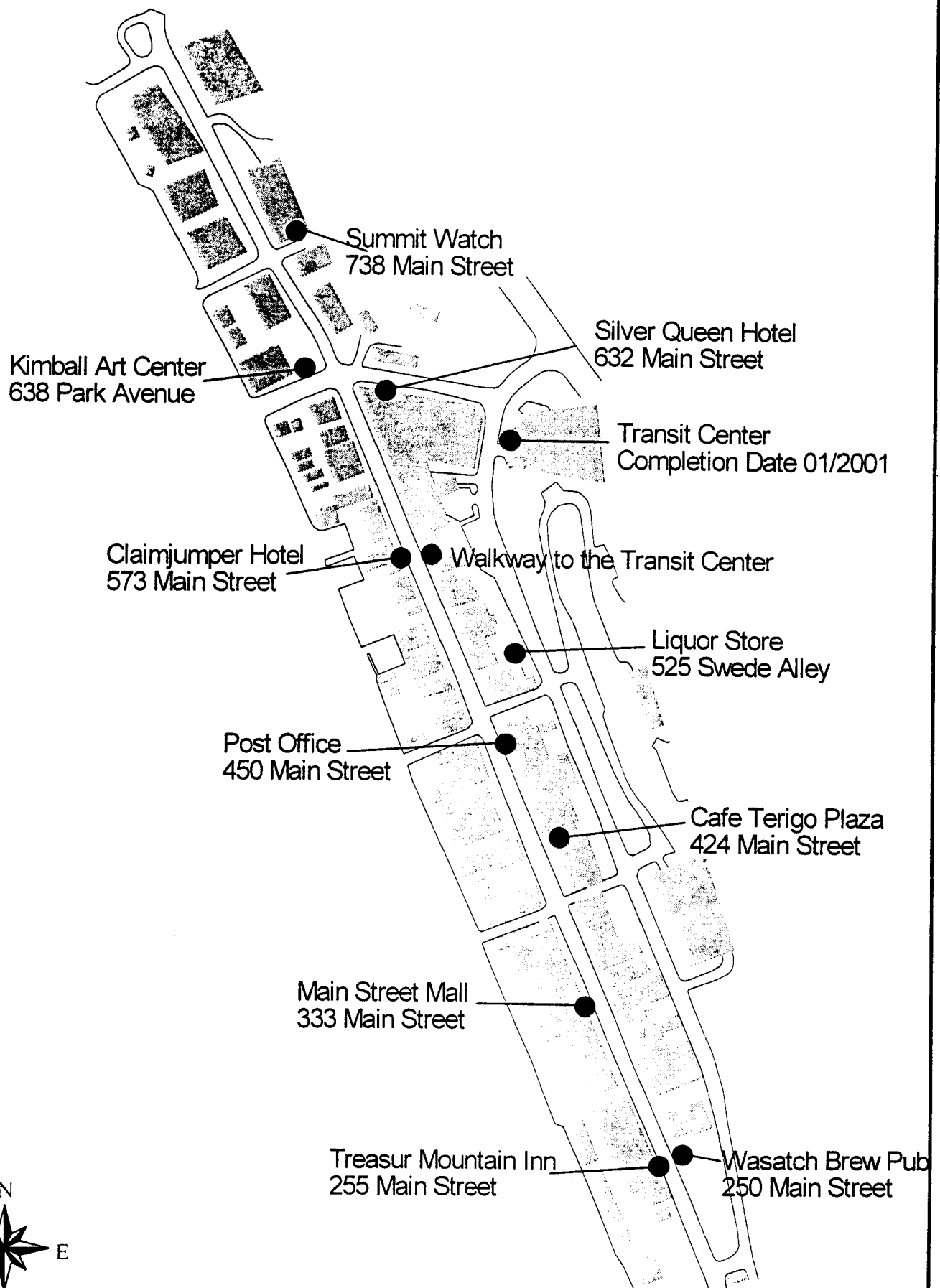
Exhibit B - Proposed location for City Owned "gang" newsracks

* sidewalk area map is available in the Planning Department and will be presented at meeting



Existing Publications on Main Street

November 1999



Proposed Locations for City Newsracks



DATE: February 3, 2000
DEPARTMENT: Public Works
AUTHOR: Jerry W. Gibbs, P.E.
TITLE: Solid Waste Collection
TYPE OF ITEM: Discussion

SUMMARY RECOMMENDATIONS: **Review issues and provide direction.**

DESCRIPTION:

A. Topic: Discussion of trash collection in Old Town and other city locations. Representatives from the County and BFI will be present.

B. Background: The transition from G&F waste to BFI has been troublesome. The biggest issues (besides the 95 gallon containers themselves) have been the billing of all commercial businesses, health concerns with trash bags on the street from Main Street restaurants, esthetics of containers in old town, service problem in old town, plus a number of minor issues.

The Summit County Commission entered into a contract with BFI in November 99. The general terms and intent of the contract are summarized as follows:

1. Contract expires December 31, 2006,
2. An extension of up to three years could be granted,
3. Exclusive right to provide services to residential and commercial businesses,
4. Commercial businesses (except home business) are required to subscribe to the service,
5. The service area is Summit County,
6. Construction & demolition waste is not part of the contract,
7. The intent of Summit County and BFI is to automate all areas,
8. The Commission may designate special collection areas. BFI may impose additional collection fees based on the bid schedule,
9. Handicapped and seniors are eligible for special services upon approval by the County,
10. BFI's goal is to automate as much of the service as possible. Their response to the request for proposals anticipated a minimum of 75% automation.
11. Extra residential containers are provided upon request for a minimum of three months at \$10 per month. The \$10 charge is divided between BFI and the County \$2.88 to BFI and \$7.12 to the County to support recycling .

BFI, representatives from the County, Councilman Harlan and public works staff have been meeting for the last three weeks to discuss trash issues. The County and BFI have been very cooperative, open, and responsive in solving most issues. An example of the responsiveness is the westside Main Street pick-up and picking up bag trash in residential area in excess of the 95 gallon container through this week..

Analysis:

Historic Old Town: The City Council has been very concerned with the esthetics of the blue container in the residential area of Old Town. Options to consider:

1. Manual pickup- Requires the County to designate the area as a special collection area. No additional cost. This decision is expected on Monday
2. Manual pickup- If the area is not designated as a special collection area, the additional cost is estimated at \$6.04 per residence.
3. Combination- Blend of manual and automated.
4. Change color- The bins can be changed to a different color for \$46.28 (95 gallon), \$43.16 (68 gallon), and \$36.75 (32 gallon) containers based on truck load quantities. A \$35 delivery and change out charge would be added.
5. Size change- A smaller blue container can be exchange for \$35. This charge will be waived if the container is delivered and the new one is pick-up at the BFI office in Coalville. Another option would be to make the change out at the Public Works office.
6. Zone change- If we do not reach a satisfactory solution with BFI, the City could prohibit the use automated collection within historic zones. The zone change itself would not necessarily resolve issues of cost.

Main Street: Many of the smaller businesses are refusing to pay the monthly fee for trash. This is a new charge for many of them. BFI has inquired if the City would be willing to provide assistance. Options to consider:

1. No change- This is a County/BFI issue. Could result in higher fees to those business that need the services.
2. City bills- City would bill by adding trash to monthly water bills. This would require an ordinance change. Customers may assume City is responsible for trash.
3. Trash District- Requires an ordinance change, public hearing etc. Customers may assume City is responsible for trash.
4. Ordinance- The City could require mandatory commercial collection. Designing a system of penalties would still involve some greater ownership of this issue by the City.

Swede Alley Dumpsters: Trash has been piling up around some of the dumpsters due to the

difficulty in throwing trash in and holding the lids open. The lids have been removed on a temporary basis to see if the problems is reduced or eliminated. The trash problem around the dumpsters appears to have been reduced.

The building code requires dumpsters to have lids. The apparent problem is the weight of the lids and the height of the dumpster. Front load dumpster, compactors, and propping the lid open are options being explored.

The cost impacts have not been determined.

Public Relations: BFI and the County have not adequately informed the residents during the transition. BFI has approached the County to pay for additional brochures. The request was denied. Options to consider:

1. County responsibility- The County is experiencing similar problems in the county.
2. BFI responsibility- BFI's original single page was inadequate to explain the changes occurring. BFI has refused to initiate additional public relations without the County's participation.
3. Park City responsibility- This option would provide more direct input from city staff. The estimated cost is \$7,000 for design, printing, and mailing five thousand brochures.

Excess Residential Trash: Some of the council members have inquired about the options available for excess trash. BFI's position is:

- All trash must be in the 95 gallon container.
- BFI can pick up the additional trash at \$15 per fifteen minute increments.
- Residents can add a container for \$10 per month, minimum of three months.
- Use excess capacity in neighbors container with their permission.

Change pick-up day: Pick-up days have been set based on vehicles and scheduling county wide. A residential truck will pick-up between 400 and 600 customers per day. Changes in days can not be accommodated without affecting a large number of users.

The County and BFI are committed to work together with Park City to resolve issues.

D. Department Review: The City Manager, Parks, Public Works and Community Development have been involved in portions of the trash issues.

ALTERNATIVES:

These item are for discussion and direction.



CITY COUNCIL REPORT

DATE: January 27, 2000
DEPARTMENT: Planning Department
AUTHOR: Patrick Putt *RP*
TITLE: 1011 Empire Avenue
SUBJECT: Call-up of a Conditional Use Permit to allow for two additional rooms in an existing two bedroom Bed and Breakfast Inn in the HR-1 Zone.
TYPE OF ITEM: Quasi-Judicial

SUMMARY RECOMMENDATIONS: Review the merits of the October 22, 1999 Planning Commission conditional use permit and approval and affirm, modify or reverse the action.

PROJECT STATISTICS

Applicant: Deb Lovci
Location: 1011 Empire Avenue
Proposal: Two additional rooms for a Bed and Breakfast Inn
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Date of Application: July 12, 1999

BACKGROUND: On July 12, 1999, Ms. Lovci submitted a conditional use permit application to allow the use of two (2) additional rental rooms (*4 rooms total*) in an existing approved bed and breakfast. The application was in response to a City enforcement action resulting from a neighbor's complaint concerning the B&B and parking issues.

The original conditional use permit application filed in September 1991 requested a CUP for a two bedroom bed and breakfast at an historic home at 1011 Empire Avenue (*see attached 1991 application*). The applicant received a conditional use permit to operate the B&B on October 9, 1991. The two required parking spaces were waived at that time (*see attached 1991 CUP action letter*). Subsequent to the 1991 CUP approval, the applicant was issued a City business license for the B&B to operate with three rental rooms. Periodically, a fourth room has been rented out. This property has received Historic District grant money

for the renovation of the structure.

PROPOSAL: The applicant's request is for approval of two additional rental rooms (4 rooms total) in the B&B. The off-street parking requirement for B&B's is one parking space per rental room. The Planning Commission waived the two (2) space off-street parking requirement for the two rental rooms in the 1991 CUP approval. Unless waived, two (2) new off-street parking spaces are required for the two additional rooms. The applicant requests the waiver as part of the CUP application.

APPLICANT'S CURRENT PARKING: Two (2) covered parking spaces in a garage are used by the property owner. An area equivalent to 5 ½ parallel spaces in front of the B&B are on the city right-of-way and may be used for the applicant's guests, neighborhood, and public parking. However, the Land Management Code does not count these spaces towards the project's parking requirement.

PLANNING COMMISSION REVIEW AND DIRECTION AT THE SEPTEMBER 8, 1999 MEETING: At the September 8, 1999 meeting, an adjacent property owner, Albert Pacal, addressed the Planning Commission. Mr. Pacal informed the Commission that he owned two rental homes directly to the south of the applicant's property. He informed the Commission that he would like to have the ability for his tenant(s) to use the Empire Avenue right-of-way in front of the applicant's vacant lot to park if need be. No additional public input was received. The Commission continued the public hearing.

The Planning Commission was in general support of the waiving the parking for the additional two rental rooms; however, it directed Staff to verify that all other options to accommodate on-site parking solutions have been exhausted.

PLANNING COMMISSION ANALYSIS AND ACTION AT THE OCTOBER 27, 1999 MEETING: At the October 27, 1999 meeting, the Planning Commission studied two options to resolve the parking issue.

1. Develop an off-street parking area on the vacant lot to the south of the historic house for four (tandem) spaces. This alternative will require a mature stand of aspens and other landscaping improvements to be removed. The Planning Department does not support this alternative due to the loss of the mature landscaping and the resulting negative visual impacts to the streetscape.

2. Waive the requirement for the four additional parking spaces per the Land Management Code, Section 15.2.2.9. The Planning Department has determined that an area equivalent to 5 ½ parallel parking spaces is located in the public right-of-way in front of the applicant's property. Although the LMC does not technically allow on-street parking to count towards the B&B parking requirement, the area is sufficient to accommodate not only the maximum required parking spaces, but the opportunity for public parking (including the adjacent property owner's tenant) along the street as well. The Planning Staff supports this parking waiver inasmuch as the waiver:

a. maintains the mature landscaping existing on the vacant lot to south of the historic house. The landscaping provides a visual enhancement to the streetscape and helps to buffer the B&B use from the adjacent residences.

b. reduces the need to provide on-site parking spaces which may have potentially

detrimental visual impacts on the historic residence;

c. is consistent with other Planning Commission parking waivers for B&B uses in historic residences.

Staff recommended to the Planning Commission that specific conditions of approval be placed on this application should it waive the parking:

* the parking waiver be nullified should the vacant (landscaped) lot to the south of the historic residence be developed.

* The applicant shall be responsible for all snow removal for the on-street parking area beyond the normal snow removal activities conducted by the City.

On October 27, 1999, the Planning Commission approved the conditional use permit and waived the addition parking requirement with the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. The subject property is located in the Historic Residential (HR-1) District.
2. The subject property consists of four (4) 25' x 75' platted lots with frontage on Empire Avenue.
3. The lot(s) to the south of the historic residence (Lot 3 and a portion of Lot 4) includes significant landscaping and trees.
4. Bed and Breakfast Inns are conditional uses in the HR-1 District.
5. The B&B use is for up to four (4) rental rooms (eight guests maximum) and offers breakfast for house guests only.
6. The applicant is the on-site manager.
7. Pursuant to the Land Management Code, Section 15.2.2.9, the Planning Commission may waive on-site parking requirements for bed and breakfast uses in the HR-1 District if:
 - a. No on-site parking is possible and all alternatives for proximate parking have been explored and exhausted; and
 - b. The structure is not economically feasible to restore or maintained without an adaptive use.
8. The subject historic residence has been rehabilitated with the Historic District grant funds.
9. The parking requirement for a four-bedroom (rental rooms) is four spaces.
10. Two (2) off-street parking spaces for the property owner is provided in an on-site parking garage.
11. An area to accommodate four (4) off-street parking spaces is located on the south of the applicant's historic residence on Lot 3 and a portion of Lot 4.
12. The development of off-street parking on Lot 3 and a portion of Lot 4 will require the removal of landscaping and significant trees which provide a buffer along the street and

between adjacent use.

13. It is in the public interest to maintain significant landscaping and buffers along public rights-of-way.
14. An area equivalent to 5 ½ parallel parking spaces (100 lineal feet) exists in front of the applicant's property in the Empire Avenue right-of-way.
15. Parking in the Empire Avenue right-of-way may include patrons of the applicant's B&B, adjacent residents, or members of the general public.
16. Public rights-of-way may not be designated private parking or other uses.
17. The applicant has stipulated to the conditions of approval.

Conclusions of Law

1. As conditioned, this application complies with all requirements of the Land Management Code specifically section 15.1.10 and Section 15.2.2.9.
2. As conditioned, the proposed use is compatible with surrounding structures in use, scale, mass, and circulation.
3. Any negative effects of the project have been mitigated through careful planning and conditions of approval.
4. The proposal is consistent with the Park City General Plan.

Conditions of Approval

1. All Standard Conditions of Approval shall apply.
2. The approved B&B use is for no more than four (4) rental rooms (eight guests maximum).
3. All parking areas within the Empire Avenue right-of-way in front of the applicant's property are for public use which includes, but is not limited to patrons of the applicant's B&B use, adjacent residents, and other members of the public.
4. The applicant shall augment City snow removal in front of the B&B to ensure sufficient parking.
5. The Planning Commission parking waiver for a total of four (4) required off-street parking spaces shall be reviewed if sale or development commences on Lot 3 and the southerly (landscaped) portion of Lot 4 and/or Lot 6. Sale or development of Lot 3, 4, and/or 6 will require the review and approval of a new conditional use permit application. A re-review of the conditional use permit may also be required if parking is not available in the applicant's detached garage.
6. The Planning Commission may review this conditional use permit should documented complaints regarding the B&B operations be received by the Community Development Department.

CITY COUNCIL CALL-UP: Council called up this decision on November 4, 1999 due to concerns primarily related to neighborhood parking issues.

COMMUNITY SERVICES OFFICER CONCERNS: Tommy Youngblood, Community Services Officer has attached a memorandum to this report outlining issues and concerns

which were not discussed and/or considered by the Planning Commission. The memorandum sets forth a discussion as to whether or not the Planning Commission made an error in applying the LMC criteria related to parking waivers for B&Bs, as well as overall parking problems trends in Old Town (*see attached memorandum*).

COUNCIL ALTERNATIVES: Among the alternatives the Council may consider are the following:

1. Affirm the Planing Commission approval. This action will permit the applicant the two additional rental rooms and waive the two-space parking requirement.
2. Modify the Planning Commission approval to require that 2-4 off-street parking spaces to be constructed on Lot 3 with replacement landscaping. This action will provided the total LMC -required parking. However the existing mature landscaping on Lot 3 would be removed.
3. Reverse the Planning Commission approval and deny the conditional use permit for use of the two additional rental rooms. This action would prohibit the applicant's use of the two rental rooms in the B&B.
4. Continue this matter and direct Staff to provide Council with any additional information necessary to take final action.

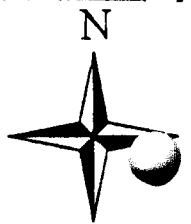
RECOMMENDATION: Staff recommends that the Council review the merits of the October 27, 1999 Planning Commission conditional use permit and approval and affirm, modify or reverse the action.

Exhibits: A: Vicinity Map
B: Applicant's 1991 CUP Application
C: 1991 CUP Action Letter
D: Applicant's Business License
E: Survey/Plat Map
F: Tommy Youngblood Memorandum
G: 9/08/99 PC Minutes
H: 10/27/99 PC Minutes
I: 11/04/99 CC Minutes
J: 05/04/99 Pacal Letter
K: 01/27/00 Hock Letter

1011 Empire Ave.



Exhibit A Vicinity Map





Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060
801-649-9321

CONDITIONAL USE FACT SHEET

PROJECT DESCRIPTION

Proposal is for: OPERATING A BED AND BREAKFAST IN PARK CITY

Existing zoning: HR1

Current use of property: OWNER IS RENTING ROOMS

Total project area: 4 CITY LOTS (acres) _____ (square feet)

Number of residential units: ONE HOUSE IS ON THE PROPERTY WITH 3 ROOMS. TWO WILL BE RENTAL. *

average unit size: 200 sq. ft. per room (square feet) * * *

Commercial area: common living room 500 sq.ft. (gross floor area)
_____ (net leasable area)

Type(s) of business activity: BED AND BREAKFAST

Number of parking spaces required: 2 proposed: 2

Project accessed via: (check one)

(☒) public road (☐) private road (☐) private driveway

Ownership/occupancy (check appropriate)

(☒) owner occupied (☐) lease (☐) nightly rental
(☐) condominium (☐) timeshare

Water service availability: (check one)

(☒) existing (☐) requires extension of city service

APPLICATION REQUIREMENTS

- | | | |
|--------------|--|------------------------|
| <u> X </u> | Completed application form | |
| <u> X </u> | Review fees paid | |
| <u> X </u> | Names and mailing addresses of property owners within ^{300ft} 100' | included are envelopes |
| <u> X </u> | 7 complete sets of all plans submitted no building is required. | Sight plan enc |
| <u> X </u> | Written statement provided addressing any variances requested, proposed construction phasing schedule, rezoning or annexation required, and a general description of the project | |

(PORTION OF 1991 CUP APPLICATION)
EXHIBIT B

RECEIVED
SEP - 6
PARK CITY
MUNICIPAL CC

51

PARK CITY

1884

Department of Community Development
Engineering • Building Inspection • Planning

October 10, 1991

John Hughes
Debra Lovci
P. O. Box 162
Park City, Utah 84060

NOTICE OF PLANNING COMMISSION ACTION

Project Description:

The Old Town Inn, Request for
Conditional Use Permit for a Bed and
Breakfast Inn at 1011 Empire Avenue

Date of Meeting:

October 9, 1991

Action Taken By Planning Commission:

APPROVED

Findings:

1. That the structure is historic and its improvement will be an asset to the Historic District and the community, and
2. that requests for Bed and Breakfasts are limited to Historic structures in the Historic District and are reviewed on a case by case basis and no precedent is being set by the approval for this particular structure, and
- * { 3. that the allowance for a waiver of the parking requirement is based upon the need to preserve the site which has value in the mature vegetation.

Conditions of Approval:

1. The Planning Department shall review the application in one year to determine whether the use has any negative impacts on the neighborhood. The Planning Department shall approve the use for continuous operation.

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Notice of Planning Commission Action - The Old Town Inn
October 10, 1991
Page Two

2. The applicants shall comply with all other City Codes and requirements for use of the structure as a Bed and Breakfast.

Date of Expiration: October 9, 1992

Suzanne McIntyre
Suzanne McIntyre, AICP
Senior Planner

10/14/91
Date

ACKNOWLEDGEMENT

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

Date _____

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

John Pat

MUST BE POSTED IN A CONSPICUOUS LOCATION



OLD TOWN GUEST HOUSE THE
LOVCI DEBBIE
1011 EMPIRE AV
PARK CITY UT 84060-0000

Account Number
00003015
Expiration Date
12312000

BUSINESS LICENSE

Invoice	Code#	Description of Activity	Units	Unit Type
00301501-04	I7021-10	Nightly Rental - General	3.00	BEDROOM

License Granted To
OLD TOWN GUEST HOUSE THE
OLD GUEST HOUSE THE
PO BOX 162
PARK CITY UT 84060-0162

Contact Person
LOVCI DEBBIE
Phone: 435-649-2642

Tolson
CITY MANAGER

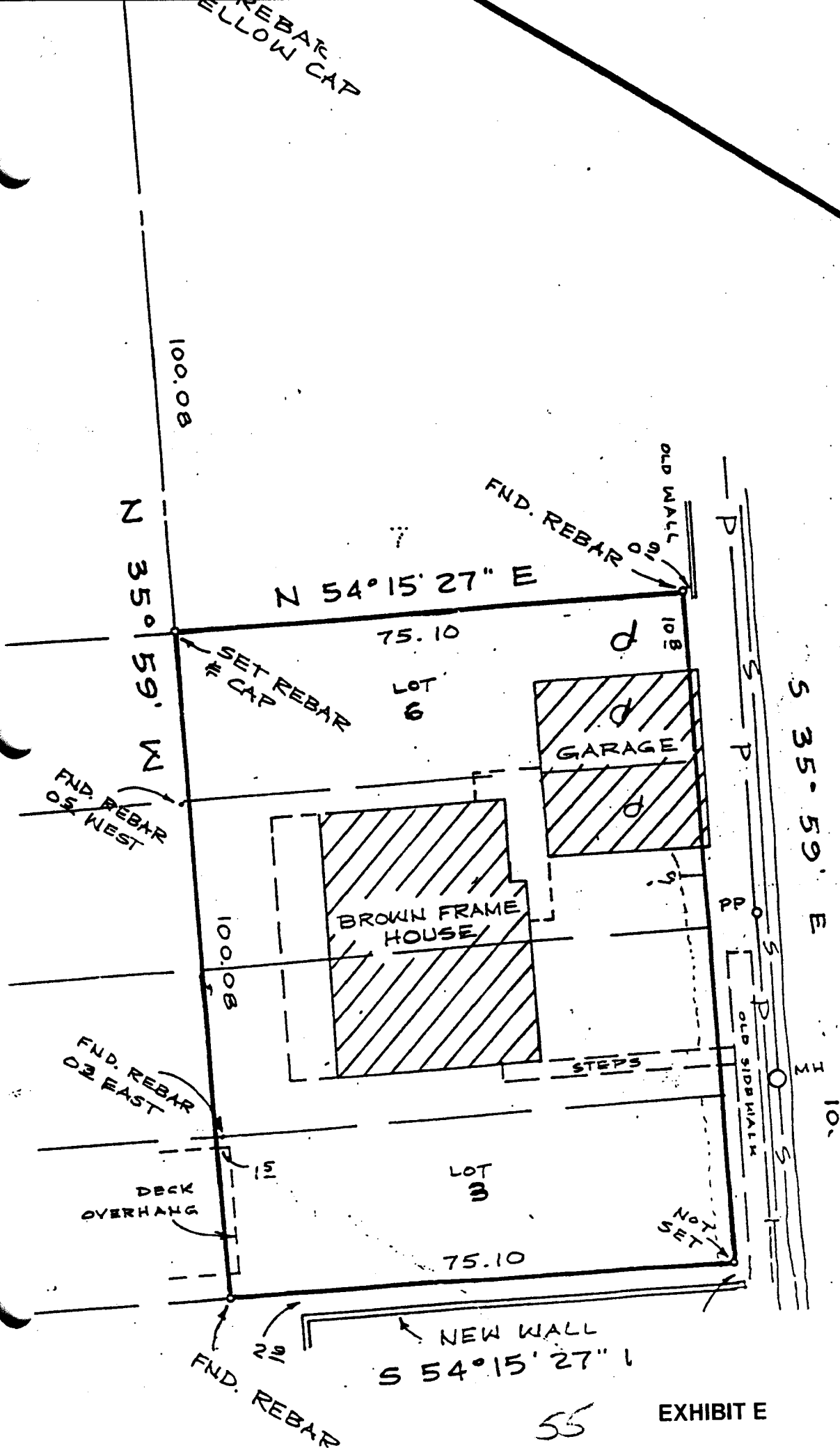
Lori H. Collett
FINANCE MANAGER

NON-TRANSFERABLE

LICENSED RENTAL ROOMS

57

EMPIRE AVENUE



55

EXHIBIT E

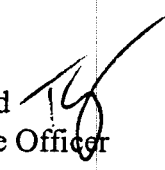


Department of Community Development
Engineering • Building Inspection • Planning

Memorandum

To : Park City
City Council

January 31, 2000

From: Tommy Youngblood 
Community Service Officer

Re: Issue of Bed and Breakfast at 1011 Empire

On the Conditional Use Permit issued October 22, 1999 the Planning Commission erred in applying the Land Management Code Provisions for waving parking for a Bed and Breakfast in the following findings :

A. The Planning Commission made the following Findings of Fact :

1. Paragraph 7. (a) No on site parking is possible and all alternatives for proximate parking have been explored and exhausted: and
 - a. **Note:** The applicant owns 1 3/4 old town sized lots that border this house. With this amount of space a lot of designs could have been created to allow for the construction of off-street parking areas. These areas could have also been required to be landscaped as are others in town.
2. Paragraph 7. (b) The structure is not economically feasible to restore or maintain without and adaptive use.
 - a. **Note:** The building is structurally sound. Since the original CUP approval in 1991 the building has been issued 2 building permits for minor remodels/or changes. Since 1991 the building has been operating in violation of the original CUP and has been, it seems, a successful business. It would not appear that unreasonable economical hardship would be caused by requiring the construction of off-street parking. The waiver of the parking requirements places no requirements as set down in The B&B Criteria in the LMC 7.1.1 (b) "The maximum number of rooms will be determined by the applicant's ability to demonstrate the impacts such as parking and neighborhood compatibility can be adequately mitigated." on this business. In effect, placing all of the parking impacts of



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this commercial business onto the residential streets which it shares.

3. Paragraph 14. An area equivalent to 5 1/2 parallel parking spaces (100 lineal feet) exists in front of the applicant's property on the Empire Avenue right-of-way.

Paragraph 15. Parking in the Empire Avenue right-of-way may include patrons of the applicant's B&B, adjacent residents or members of the general public.

- a. **Note:** 7.1.7 (g) of the LMC states " In no case may parking spaces on the downhill side of public streets and those partially or totally within the city right-of-way be counted toward parking requirement.
The inclusion of these statements seem to directly conflict with the code.

B. The Planning Commission Conditions of Approval included the following:

Conditions of approval # 5. states that the parking waiver is void if development of lot 3 or the southern portion of lot 4 is developed.

- a. **Note:** We have no current process in the CDD department to enforce this provision. The current system is capable of tracking this type of condition and the department is in the process of working this into its daily operation.

Practical downside of this type of decision:

Park City Government has continually helped foster business growth within the city; unfortunately sometimes business growth and expansion may directly conflict with residential and historic uses and zones.

In my research, over the past 4 years we have lost a minimum of 33 and as many as 61 street parking spaces on the immediate old town residential areas by simple development. Each time that a residence is approved and a driveway is placed 12-15 ft. of on-street parking is lost. Some of that lost may be reclaimed by the required parking for a site. But many times this may be lost in the process because of parking waivers or historic district/commission visual concerns where

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Community Development (435) 615-5055 • Engineering (435) 615-5055 • Building (435) 615-5100
Planning (435) 615-5060 • FAX (435) 615-4906



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the consideration of parking is the loser. We have many projects in old town which, in order to save a historic structure we approve an expansion of the building by 1000 + sq. ft. and no parking is required. Many homes in old town have more than a typical 2 car family situation and little or no off-street parking.

Zoning exists to segregate appropriate land uses in appropriate locations. When this process gets muddled by economic or political concerns the normal problems occur. I understand the realities of the occasional exception or waiver. But over time this situation coupled with normal building and growth activity causes the conditions we are currently experiencing. The effect is that city council, planning commission and historic district commission receive complaints from citizens regarding parking and traffic issues in old town. These bodies respond by directing these problems; with expectations of solutions; to the city staff; from the police dept. to the building department to Ampco. In the absence of new policies and regulations these situations can only be mitigated temporarily. The problems will increase and so will the complaints and frustrations.

I believe that the council and commissions should be aware of the additive effect of these types of decisions in this area. Proper city planning can only happen in an informed environment.

Thank you.

EXHIBIT G

5. A Construction Mitigation Plan submitted to and approved by the Community Development Department will be required prior to any construction on the newly created lot.
6. The ten foot (10') non-exclusive utility and snow storage easement along the Lowell Avenue frontage shall be shown on the plat.
7. All standard project conditions apply.
8. The applicant stipulates to the conditions of approval.
4. 1011 Empire Avenue, Old Town Guest House - CUP

Planner Thomas Barlow reviewed the request for a modification to the Conditional Use Permit to allow two additional bedrooms in an existing two-bedroom bed and breakfast located on 1011 Empire Avenue. The applicant received a CUP to operate a bed and breakfast on October 9, 1991. After that, she applied for a business license to rent three rooms, but a modification to the CUP was not formally done at that time. Planner Barlow noted that the two existing covered parking spaces on-site are used for the single family use, and the applicant instructs her guests to use the public right-of-way for parking, which does not count into the parking requirements. In 1991 the Planning Commission waived the parking requirements.

Chair O'Hara asked Mr. Harrington for historical background on the CUP as it appeared that the applicant had been in non-compliance for a number of years. He stated that he was unclear about the number of bedrooms being used. The CUP allows two bedrooms, the business license allows three bedrooms, and they have received copies of a letter stating that four bedrooms are being advertised. Mr. Harrington felt there was some misunderstanding as to what was initially approved and deferred to the applicant's attorney for explanation. Mr. Harrington encouraged the Planning Commission to focus on the application presented this evening to modify the CUP from two bedrooms to four and not be overly concerned with the degree of non-conformance, because that issue was discussed with the Staff and has been pursued with a citation. The primary motive is to achieve compliance and agreement on what is approved. He directed the Planning Commission to process the application according to the Code currently in effect. Chair O'Hara asked Mr. Harrington whether the original CUP allowed two or three bedrooms. Mr. Harrington replied that there is clearly approval for two bedrooms. There is no condition of approval specifically addressing the number of bedrooms, but two bedrooms were applied for and approved. The City cannot grant more than what is applied for, and additional rooms will include additional parking.

Tom Billings, representing the applicant, explained that when the applicants originally applied for the CUP, they indicated that they would like to rent two or three rooms and have two innkeepers on the premises.

Nothing has physically changed with the premises since then. This application does not add space and does not increase the envelope. He stated that the applicant, Ms. Lovci, is a defendant in a criminal proceeding brought by the City arising out of a complaint made by a landlord whose tenant fought with Ms. Lovci about parking on the public right-of-way. The CUP merely states that the Planning Department will review the application in one year to determine if there are problems with parking and that the applicant will comply with all other City Codes. The City Code states that a bed and breakfast should have a minimum of two and no more than 14 beds. Since the CUP was approved, Ms. Lovci has consistently applied for three bedrooms with her business license and has advised the City that on occasion she rents four bedrooms. The fourth bedroom is an accessory room with an adjoining bathroom and is used as overflow for families or groups who can share a common bathroom. Ms. Lovci was advised by the licensing division that, since the fourth room is not used very often and less than 30 days at a time, she only needed a business license for three rooms. Mr. Billings stated that there has never been an attempt to fool the City or anyone else. The purpose this evening is to bring the bed and breakfast into compliance and not to argue the conditional use of 1991. He reiterated that the bed and breakfast has not changed since 1991. It has been operating with three to four rooms, and until this summer there have been no parking complaints. An alternative for parking is an adjoining lot owned by Ms. Lovci which she can plow and pave for on-site parking. Photographs of that lot show the trees and the beauty of the lot, and it would be a shame to replace it with asphalt. Mr. Billings requested that the Planning Commission waive the parking requirement, because the City has been aware of what has gone on since 1991. The applicant has complied with the conditional use requirement for a City inspection and review, and there have never been problems or complaints. The request this evening is for a CUP to allow a four-bedroom bed and breakfast so Ms. Lovci can continue to operate her business in the same manner she has since 1991.

The applicant, Debi Lovci, explained that in 1991 she worked closely with Planner Susan McIntyre to apply for and receive a CUP. There were two existing rooms at the bed and breakfast when she purchased the property and received historic grant money for a two-room addition. The application requested two to three rooms, with hopes of more in the future. She noted that her CUP is for a bed and breakfast in Park City, and the number of rooms allowed is not specified. With this CUP, she must comply with the bed and breakfast Code, which states that there must be two or more rooms, it must comply with the historic conditions of her property, and within one year allow the City to review and evaluate her business. She pointed out that her business license has always been for three bedrooms, and she runs her business today the same as she did the first day. One thing that has changed over the last nine years is that another innkeeper, John Hughes, lived at the bed and breakfast and has since chosen to move on to better things. She is the only innkeeper

living there now. In the past nine years she has received another building permit to add onto her living quarters, and last summer she met with Planner Ryan about the possibility of an addition to the bed and breakfast. She was discouraged by the construction headaches and gave up on the idea, but during her conversations with Planner Ryan, the issue of non-compliance was never mentioned. She knew that parking was an issue in Old Town, but her bed and breakfast is not the only thing creating the problem. She has four city lots and 100 feet of frontage. She has a two-car garage, and her lot is set back off of Empire Avenue. She stated that she pays a lot of money to have those spaces plowed in the winter so she will have parking for her guests, and with City approval she has posted signs stating that the parking is for Old Town Guest House guests only. She believed she had more parking than other bed and breakfasts in town. She stated that she markets her inn to the active skier, hiker, and biker wishing to enjoy the mountains of Utah, and the majority of her guests use winter transportation. She is an interconnect guide in the winter and promotes the attraction of lodging with a guide. 70% of her guests in the winter use airport transportation because it is part of their Park City experience. She expressed a desire to work on the problems and miscommunications and to put closure on the issues. She felt it was important for the Planning Commission to realize that she has not been operating outside of her CUP maliciously, and she honestly felt she had operated within her CUP from day one.

Chair O'Hara opened the public hearing.

Albert Pacal distributed copies of a letter he submitted to the City on September 7. He stated that it pained him to be here under these circumstances, and he did not realize until tonight that his complaint resulted in criminal action against Ms. Lovci. He stated that he owns the two properties at 1007 and 1003 Empire Avenue, which are on the same side of the street as Ms. Lovci's bed and breakfast. He was building those homes at the same time Ms. Lovci and John Hughes purchased the building next door for a bed and breakfast. His property became rentable in February 1993, and his first tenant was a coach with the ski team who was gone all winter. He had a clause in his lease requesting that his tenants not park in front of the bed and breakfast. Because his tenant was gone all winter, parking was not an issue. That tenant left in December 1998, and Mr. Pacal found a new tenant in January 1999 who is a contractor with a pick-up truck, a wife, and two kids. He does not like to move cars around, and because he has a home office, he comes home frequently during the day. Mr. Pacal stated that he would like to have an option to park on the street, and because this tenant's truck is long, and half of it hangs over in front of Ms. Lovci's vacant lot. The incident which triggered this matter was that his tenant was continually being crowded out of his spot, so he parked behind Ms. Lovci, and she called the police. It was an ugly scene, and now Mr. Pacal is faced with a vacancy. He did not know what to tell his next tenant about parking, and this issue hits him hard financially. He has made attempts to

resolve the issue with Ms. Lovci. He knew she was permitted for two rooms and was using four, but he did not want to turn her in because he was sure they could work it out. He went to the Building Department to find out his options, and the person he spoke with was upset that he would not file a complaint on the spot. On May 2, Ms. Lovci called the police about his tenant, and that was where he drew the line. He noted that the permit talks about two off-site parking spaces, but the garage has never been used. He estimated that the area is approximately 50% built out, and the parking problems will only get worse. He encouraged the Planning Commission to visit the site in the winter to get a feel for what is happening in the area. He expressed a desire to work things out with Ms. Lovci and stated that he did not have a problem with four bedrooms. He wanted the option of having his tenants park on the street. Both his buildings have tandem parking, and to get one car out, the other car has to go somewhere. He was asking for the use of one space without police involvement or harassment of his tenant.

Ms. Lovci explained that her call to the police was made on May 2, which is off season and a very slow time. Her call had nothing to do with the bed and breakfast and was based on the fact that she is a resident at 1011 Empire Avenue. She felt that she and Mr. Pacal's tenant had worked things out fairly well, but parking is an issue, and it is not always her or the other tenant parking. It could be someone down the street using the space because it is vacant. The people who park in front of her residence are not always her guests. She stated that she had no guests that morning, and for some reason the tenant next door parked his truck right at her steps and blocked her way. She could barely get in and out of her residence, and she could not move her car. She had invited some friends over for a luncheon that day, and neither her friends nor the caterers could gain safe access to her home. She asked the tenant to move his truck and did not meet with a favorable response. Unfortunately, her only option was to call the police, but when they arrived, she was told that it was out of their jurisdiction, and she was left to handle it on her own. She stated that she parks in her garage on a number of occasions, but she prefers to pull in front of her garage because parking is not usually an issue.

Mr. Pacal stated that Tommy Youngblood has spent a lot of time on this issue, and Officer Booth answered the call on May 2. He encouraged the Planning Commission to contact either of them for questions or clarification. He stated that in 1991 Commissioner Erickson mentioned the significance of parking. Parking was not an issue during the yearly review because his first tenant was never there. If the Planning Commission chooses to approve the current CUP request, he requested that language be added identifying street parking as public parking.

MOTION: Commissioner Jones moved to CONTINUE the public hearing. Commissioner Larson seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Hier stated that the original discussion required that the CUP be reviewed on an annual basis for parking impacts and problems. Due to the fact that there is now a parking problem, he was comfortable with a four-bedroom bed and breakfast, but two additional parking spaces should be required. He wondered if paving the vacant lot and adding a curb cut would be a greater restriction to the street.

Chair O'Hara clarified that the CUP application for four bedrooms does not include the previous waiver for two bedrooms, and the Planning Commission has the option to revisit all the parking.

Commissioner Erickson stated that the criteria in the Historic District allow a bed and breakfast only in historic structures with the express purpose of preserving historic structures. In the absence of any other argument, the issue is whether they are preserving an historic structure or contributing to two new structures, and in this case he favored the side of preservation. He reiterated his longstanding opposition to tandem parking and felt this was another example of why tandem parking does not work. The tenant with the pick-up truck was aware of the tandem parking situation and he was also aware of the bed and breakfast next door. For that reason, he was inclined to move forward with the CUP and grant the parking waiver for four bedrooms in the CUP under the criteria of the Land Management Code, making the finding that no on-site parking alternatives are possible and alternatives for proximate parking have been explored and exhausted.

Commissioner Hays agreed with Commissioner Erickson. She felt it was important to preserve historic structures in Old Town. As a resident of Old Town for 30 years, she stated that she is well aware of the parking problems. She believed it was important for those living in Old Town to understand the problems and not park in front of garages and driveways. She supported the findings outlined by Commissioner Erickson and stated that people in Old Town need to learn to live together, and if there is a parking problem, it can be resolved.

Commissioner Hier clarified that the fourth bedroom is only rented concurrent with another bedroom and not rented separately. Ms. Lovci replied that he was correct.

Commissioner Erickson suggested finding a mechanism to identify the use of the fourth bedroom to reduce the parking requirement by one. Two families sharing one bathroom is reasonable.

Commissioner Hays referred to the photographs provided and felt the applicant was showing the right amount of parking.

Commissioner Larson stated that he understood the logic behind Commissioner Erickson's comments, but there is a point where the parking problem has to be solved, and it is not solved in this case. The Planning Commission has the ability to walk away from the problem, but it must do so consciously. He did not want to put Ms. Lovci out of business, but he was uncomfortable with the situation.

Commissioner Hier stated that he was uncomfortable because all the alternatives for proximate parking have not been explored and exhausted. He did not favor cutting down trees and ruining a gorgeous setting, but it is an alternative parking solution.

Commissioner Hays agreed that they could provide parking in the vacant lot, and the driveway would insure that nobody parks in front of her house. However, there has not been a parking problem for the last nine years, and she hated to disturb what has been constant because one person has a long truck that created a problem. She could not see a parking problem with the exception of one person.

Commissioner Erickson felt there were two proximate parking solutions. One would be to move the parking spaces perpendicular to the street into the lot. The other would be to increase the width of the current parallel parking spaces into private property closer to the fence. Due to the nature of the Historic District, he favored preserving the historic use over new uses. He clarified that he was not suggesting that they close out all parking options without close review by professionals. He believed they should explore different unit configurations so the parking demand is reasonable for the use.

Commissioner Jones agreed with Commissioner Erickson. He suggested a condition stating that the use is allowed provided the landscaped lot remains an open lot. It would compound the problem if the lot was divided off and developed separately. If that happens, the CUP should be voided.

Commissioner Larson preferred trying to squeeze in one more parking space and suggested the possibility of diagonal parking.

Commissioner Zimney stated that she did not understand why this could not work. Ms. Lovci should be able to legally park two cars because she owns the land. It is in the public right-of-way, and she has the right to use it.

Administrator Putt offered to return with additional studies and recommendations on the parking.

Mr. Billings asked that this matter be expedited due to the pending civil matter. Administrator Putt replied that he would meet with Mr. Billings to discuss scheduling.

MOTION: Commissioner Hier moved to CONTINUE this matter to September 22.
Commissioner Hays seconded the motion.

VOTE: The motion passed unanimously.

5. 7720 Royal Street East, Sai Sommet Restaurant - CUP to allow sign

6. 187 Daly Avenue - Plat amendment

The Staff requested that these items be continued to September 22.

MOTION: Commissioner Jones moved to CONTINUE these items to September 22.
Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

7. 1541 Thaynes Canyon Drive, Island Outpost - MPD Amendment

The Staff requested that this item be continued to October 13.

MOTION: Commissioner Jones moved to CONTINUE this item to October 13.
Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:20 p.m.

Approved by Planning Commission _____

1. 1011 Empire Avenue, Old Town Guest House CUP

Administrator Putt reported that this is a follow up to the September 8 meeting on this application to expand an existing Conditional Use Permit to allow two additional bedrooms to be included in a historic bed and breakfast in the HR-1 zone. On September 8 the Planning Commission generally supported waiving the required on-site parking for the two additional guest room parking requirements and directed Staff to further evaluate whether all other possible on-site solutions had been exhausted. The staff report outlines two possible alternatives. One would be to develop an off-street parking area on the vacant lot south of the historic house which would allow for two off-street tandem parking spaces (4 spaces total). The impact of this alternative would be that the mature stand of aspen and other landscaping in the area would be eliminated. The Planning Department does not support this alternative due to the loss of landscaping and the negative visual impact that would occur along the streetscape. It would also result in the loss of the landscape buffer between the B&B and the adjacent residential use. The other alternative would be for the Planning Commission to waive the parking requirement for the four additional parking spaces per Section 15.2.2.9 of the Land Management Code provided that certain findings can be made. The Staff believes that maintaining the landscaping would enhance the visual buffer along the street and buffer between the uses. The second alternative is consistent with parking waivers granted for other historic B&B's in Park City. In addition, waiving the parking in this case would help maintain the historic integrity of the building. Findings of fact, conclusions of law, and conditions of approval have been drafted for possible action this evening. The Staff has determined that the applicant owns four platted Old Town lots. In addition to the historic house, there is a two-car garage that accommodates parking for the property owner. The four lots constitute 100 feet of frontage along the Empire right-of-way, allowing four parallel parking spaces. Those parking spaces are in the public right-of-way and are public spaces. Administrator Putt commented on the conditions of approval. One is a note from the property owner to augment the snow removal done by the City to be sure the spaces are cleared for public parking. Another condition states that, if development should occur on Lot 3 and a portion of Lot 4, the parking waiver will be null and void, and the conditional use will be re-evaluated by the Planning Commission. A finding and a condition of approval specify that parking in the Empire right-of-way is for public use, which includes but is not limited to the patrons of the B&B, adjacent residents and guests, and other members of the public. Administrator Putt noted that a copy of the staff report was provided to the adjacent property owner this morning, and he has not heard from him.

Chair O'Hara opened the public hearing.

There was no comment.

Chair O'Hara closed the public hearing.

Commissioner Jones asked if it was appropriate to include Lot 6 in Condition 5 and suggested revising that condition to read, "The Planning Commission parking waiver for four (4) required off-street parking spaces shall be null and void if development commences on Lot 3, Lot 6, or the southerly portion of Lot 4, or if the garage is not available for parking two cars. Development of Lot 3 will require the review and approval of a new Conditional Use Permit application."

Commissioner Larson felt they should tie the condition to the sale of Lot 3 rather than to the development of Lot 3. The sale will trigger some change in the neighborhood, and the condition should be tied to that change.

Chair O'Hara commented that the sign code does not address parking signs. One stipulation in the sign code states that, if parking signs are not allowed by Code, they are prohibited, and he assumed those kinds of parking signs on private property would be prohibited. If that is not addressed this evening, the Planning Commission should address that policy in the near future to avoid the continual practice of turning a blind eye on parking signs that do not belong.

MOTION: Commissioner Erickson moved to APPROVE the Conditional Use Permit to permit two additional bedrooms to the existing two-bedroom bed and breakfast for a total of four rooms with eight guests in accordance with the findings of fact, conclusions of law and conditions of approval with the modification to Condition 5 to include the sale or development of Lot 3, Lot 6, or the southern half of Lot 4 or if the garage is not available for parking two cars. At such time the CUP is null and void.

Commissioner Erickson questioned whether the intent of Condition 5 was to review the CUP or to make it null and void if a sale or development should occur. He believed that making the CUP for the bed and breakfast null and void would be a little onerous.

Commissioner Larson was satisfied with having the CUP re-reviewed. Commissioner Erickson modified his motion to revise Condition 5 to read, "The Planning Commission parking waiver for required off-street parking spaces shall be re-reviewed if sale or development occurs on Lot 3, the southerly portion of Lot 4, or all of Lot 6, or if the garage is not available for parking two cars."

Commissioner Larson seconded the motion.

Commissioner Hier stated that, if the lot is sold, it will no longer be under the control of the owner who is getting the benefit of the parking for their business. They would have gained the benefit of the sale and

the benefit of the parking spaces. He believed the CUP should be revoked in the event of a sale.

Commissioner Erickson offered to modify his motion to state that if the total number of parking spaces is reduced, the CUP for this number of units cannot proceed. His argument against Commissioner Hier's comment was that Lot 3 could be sold with the easement for parking in front for a period of time, and he did not wish to make an automatic rescission of the CUP.

Commissioner Larson stated that the sale of the lot would have serious consequences, whether it makes the CUP null and void or whether it is re-reviewed. There may be extenuating circumstances to allow it to continue, or they can make the decision to rescind. He believed a re-review was sufficient.

Commissioner Erickson reiterated the modification to his motion that if the parking is reduced, the CUP would be revoked.

Commissioner Larson accepted the modification.

Commissioner Erickson called the question with a third modification that the final language for Condition 5 be reviewed by the Chair and the persons making the motion and the second and that the modifications to the condition be written in a clear manner by the Staff.

VOTE: The motion passed unanimously.

Findings of Fact - 1011 Empire Avenue

1. The subject property is located in the Historic Residential (HR-1) District.
2. The subject property consists of four (4) 25' x 75' platted lots with frontage on Empire Avenue.
3. The lots(s) to the south of the historic residence (Lot 3 and a portion of Lot 4) includes significant landscaping and trees.
4. Bed and Breakfast Inns are conditional uses in the HR-1 District.
5. The B&B use is for up to four (4) rental rooms (eight guests maximum) and offers breakfast for house guests only.
6. The applicant is the on-site manager.
7. Pursuant to the Land Management Code, Section 15.2.2.9, the Planning Commission may waive on-site parking requirements for bed and breakfast uses in the HR-1 District if:

- a) No site parking is possible and all alternatives for proximate parking have been explored and exhausted; and
- b) The structure is not economically feasible to restore or maintain without an adaptive use.
8. The subject historic residence has been rehabilitated with the Historic District grant funds.
9. The parking requirement for a four-bedroom (rental rooms) is four spaces.
10. Two (2) off-street parking spaces for the property owner are provided in an on-site parking garage.
11. An area to accommodate four (4) off-street parking spaces is located on the south of the applicant's historic residence on Lot 3 and a portion of Lot 4.
12. The development of off-street parking on Lot 3 and a portion of Lot 4 will require the removal of landscaping and significant trees which provide a buffer along the street and between adjacent uses.
13. It is in the public interest to maintain significant landscaping and buffers along public rights-of-way.
14. An area equivalent to 5-1/2 parallel parking spaces (100 lineal feet) exists in front of the applicant's property in the Empire Avenue right-of-way.
15. Parking in the Empire Avenue right-of-way may include patrons of the applicant's B&B, adjacent residents, or members of the general public.
16. Public rights-of-way may not be designated private parking or other uses.
17. The applicant has stipulated to the conditions of approval.

Conclusions of Law - 1011 Empire Avenue

1. As conditioned, this application complies with all requirements of the Land Management Code, specifically section 15.1.10 and Section 15.2.2.9.
2. As conditioned, the proposed use is compatible with surrounding structures in use, scale, mass, and circulation.

3. Any negative effects of the project have been mitigated through careful planning and conditions of approval.
4. The proposal is consistent with the Park City General Plan.

Conditions of Approval - 1011 Empire Avenue

1. All Standard Conditions of Approval shall apply.
 2. The approved B & B use is for no more than four (4) rental rooms (eight guests maximum).
 3. All parking areas within the Empire Avenue right-of-way in front of the applicant's property are for public use which includes, but is not limited to, patrons of the applicant's B&B use, adjacent residents, and other members of the public.
 4. The applicant shall augment City snow removal in front of the B&B to ensure sufficient parking.
 5. The Planning Commission parking waiver for required off-street parking spaces shall be re-reviewed if sale or development occurs on Lot 3, the southerly portion of Lot 4, or all of Lot 6, or if the garage is not available for parking two cars. If the total number of parking spaces is reduced, the Conditional Use Permit shall be revoked.
 6. The Planning Commission may re-review this Conditional Use Permit should documented complaints regarding the B&B operations be received by the Community Development Department.
2. 1555 Snow Creek Drive - MPD for full service car wash

Administrator Putt stated that the purpose this evening is to hold a public hearing on two issues. First is whether or not the Land Management Code land use table for the Regional Commercial Overlay Zone should be modified to allow for auto wash and auto detail facilities which are currently allowed only in the General Commercial Zone. Second is whether the Snow Creek Crossing Master Planned Development should be modified for the subject property to allow the development of such a facility on Lot 6. At the last meeting, the Planning Commission raised three main questions. First was what the most recent General Plan states about this use in this location. The other questions were directed towards the applicant and required them to return with more detail and information. The Planning Commission placed the burden on the applicants to present compelling reasons and public benefits for changing the land use table and the MPD. The Planning Commission wanted to see clear evidence that an error may have been made in the MPD when a retail restaurant pad was assigned to that piece of ground. Additional



EXHIBIT I

PARK CITY WORK SESSION NOTES SUMMIT COUNTY, UTAH NOVEMBER 4, 1999

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

Toby Ross, City Manager; Mark Harrington, City Attorney; Rick Lewis, Community Development Director; and Pat Putt, Planning and Zoning Administrator

1. **Council questions and comments.** In response to a question from Chuck Klingenstein, the City Manager explained that the Parks Department is working on the request from HMBA for Christmas trees on Main Street. Mr. Klingenstein noted that he received a request from UPAPA to reduce the speed limit on Park Avenue to 15 mph when one-way is implemented and to obtain enforcement until 10 p.m. Roger Harlan and Shauna Kerr stated that they can not support 15 mph as it would be confusing and ineffective. The City Manager added that there will be a status report on upper Park Avenue and there will be an Ampco contract before Council on November 18, recommending expanded enforcement in residential areas to 10 p.m. The staff is intending to hold meetings this winter with UPAPA to discuss year-round one-way, speeding, speed humps, and signs to reach a consensus on traffic calming. The staff would not recommend a speed change with one-way in order to minimize the number of changes. There was discussion of the difficulty of maintaining 15 mph on the grade of the street. Mr. Klingenstein suggested that staff contact UPAPA in the interim.

Shauna Kerr disclosed that she was contacted by Patty Saccio who has been working for a year on dedicating a memorial bench for Bob Stanton. Rick Lewis suggested that they visit with the City Council regarding a policy on memorial benches, and also that they buy a bench. Hugh Daniels stated that he supports it, but there should be some policies. Paul Sincock felt that buying benches and placing a plaque on them is a great memorial and they could be installed along trails or other view areas. Council supported the project.

Old Town Bed and Breakfast call-up. Ms. Kerr continued that the Planning Commission approved a conditional use permit on October 27, 1999 for the Old Town Bed and Breakfast on Empire Avenue and asked if there is interest in calling this approval up. There are issues with parking and a use that expanded; it originally had a license for two bedrooms which increased to four. She is uncertain if it has met the parking requirements. In response to a question from Paul Sincock, Ms. Kerr clarified that the Planning Commission determined that the street parking could count as its parking. City Attorney Mark Harrington interjected that that is not entirely accurate. Ms. Kerr noted that the findings indicate that no site parking is possible and alternatives for proximate parking have been explored and exhausted, but they own the lot next door and that

would be available for parking or they can cut back to two rooms. Ms. Kerr emphasized that the parking in Old Town is critical and the City shouldn't invite businesses to violate the parking laws to the exclusion of the residents who have to park on the street.

Pat Putt explained that the application for the bed and breakfast in 1991 was for two rooms. Subsequent to the application, there was an expansion of a third room and occasional use of a fourth. In March 1999, a complaint was filed by an adjacent property owner because his tenant parked on the street near the bed and breakfast, the police were called and there was an altercation. At that point, a formal complaint was filed about the parking and how many rooms were actually being used. The staff contacted the bed and breakfast operator and proposed filing an amendment to the conditional use permit for a total of four rooms. Mr. Putt continued that there was a public hearing; the adjacent property owner relayed that he would like the opportunity to park in the public's right-of-way. The Planning Commission examined the site configuration and the number of parking spaces. There is a stand of aspen trees on the vacant lot and the Commission was concerned about taking out the trees; not only would it impact the streetscape, but the trees provided a buffer between the bed and breakfast and the adjacent use. It directed staff to take a look at the parking on site. There are two parking spaces in the garage and since it is an historic house, there is not parking requirement for the residence itself. There is 100 feet of right-of-way width in front of the bed and breakfast and the adjacent lots. The 100 feet could accommodate parallel spaces for four plus an additional 28 feet for any member of the public. When this project came back to the Planning Commission, it determined that the public was better served having those trees and buffer remain in place and having the parking waived with some caveats: the garage must provide available parking and the four spaces in the public right-of-way are public spaces. Ms. Kerr pointed out that there are signs in front of the property that indicate *parking for bed and breakfast guests only* in the public right-of-way. Also, monitoring the condition of the garage places the staff in a difficult enforcement position. She felt the Council should look at whether the conditional use should be granted. The trees can be saved if the business is limited to two bedrooms. Paul Sincock stated that he would be open to consider it but would like to have more information.

In response to a question from Roger Harlan regarding the number of rooms, Mr. Putt explained that at some point after 1991, there was a business license application made to operate three rooms. There was never a permit issued for the occasional use of the fourth room. Mr. Putt emphasized that he encouraged the applicant to apply for four rooms. Mark Harrington added that the applicant's attorney, Tom Billings, indicated that the conditional use permit did not include a specific condition that limited the number of bedrooms and the business always had a business license for three bedrooms. It was alleged that they were told by the Business Licensing Department that they didn't need a license for the fourth bedroom if they used it a certain number of days or less. He noted that the Planning Commission concluded that there wasn't a willful use of a room without a permit. Parking was the main issue, and Mr. Putt explained that there hasn't been a history of chronic parking complaints associated with this use. See regular meeting minutes.

Albert J. Pacal

Civil Engineer

General Contractor

P.O. Box 3552
Park City, UT 84060
(435) 649-0645

May 4, 1999

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060
Attention: Mr. Pat Putt

Subject: Violation of Conditional Use Permit
Old Town Guest House
1011 Empire Ave.

Dear Mr. Putt:

The purpose of this letter is to draw your attention to a violation of the Conditional Use Permit issued to the subject property. Specifically, the Conditional Use Permit allows for two rental bedrooms. As evidenced by the attached Park City Vacation Planner, four bedrooms are being rented. Review of the Park City Planning Department Staff Report and Commission Meeting Minutes (both dated 10/9/91), you will note that parking was a significant issue with respect to the Conditional Use Permit.

I own the two homes located at 1007 and 1003 Empire Ave. I am the person who spoke to representatives of the Planning Department on more than one occasion earlier this year about this issue. As the ladies who work at the public counter may recall, I did not want to file a complaint since I felt the matter could be resolved without getting the City involved.

Sunday May 2, 1999 the owner of the subject property made a scene regarding my tenant's legally parked vehicle. She was so insistent that the street parking is reserved only for her use that she called the police at approximately 10:45 AM (Officer Booth responded).

We have been very patient with the volume of cars, delivery vehicles blocking our driveways and the illegal parking configuration employed during the winter months associated with this business. (The parking configuration referred to is parking on an angle such that the parked cars greatly reduce the effective width of the street.) Regretfully, after the episode on Sunday the situation has become intolerable.

This letter serves as a formal request for the Planning Department to notify the Planning Commission of the situation and that the Conditional Use Permit be re-evaluated in its entirety. The following points should be considered in your review of the matter.

1. My rental property located next door to the subject property was constructed during the period of 8/91 to 11/92. My rental property includes off street parking for two full size or three compact vehicles parked end to end. The first tenant occupied my property from February 1993 to December 1998. This first tenant did not need to jockey cars to get out of the driveway at the frequency of the present tenant. Had that been the case, the present situation may have become an issue long ago.

RECEIVED

MAY 03 1999

PARK CITY
PLANNING DEPT.

EXHIBIT J

May 4, 1999

2. The Planning Commission Meeting Notes of 10/9/91 indicate Commissioner Bruce Erickson suggested that the Staff conduct a yearly review of the parking waiver for two or three years. As indicated above, I built my homes during the period of 8/91 to 11/92 and was never aware or informed of such a review. The owner of the subject property has indicated by her own admission that parking is a significant issue when she called the police on May 2, 1999 (It should be noted that this is during the 'off season'). With the additional build-out of the neighborhood that is ongoing, it is my opinion that the parking issue will only get worse.
3. There exists a blatant disregard for the law and City Codes. This is evidenced by:
 - significant violation of the CUP
 - maintaining a business license for three rental rooms instead of four
 - illegal signage indicating street parking is private
 - allowing (or instructing) guests to park in an illegal configuration (see attached photo).
4. Allowing the cars to park in the illegal configuration indicated above has also created a safety issue. Visibility of southbound traffic is greatly impaired making backing out of my driveway unsafe. Notification to the City's parking contractor Ampco has been fruitless.

Both my tenant and I have made an effort to work with the neighbor in question. At this point, my current tenant has expressed that he is no longer comfortable living at this location and is talking about moving. This issue has the potential to become a significant financial hardship for me. Thank you for your consideration, if you wish to discuss the issue further, please call.

Sincerely,



Albert J. Pacal

Richard G. Hock
10221 No. 52nd St.
Paradise Valley, Az 85253

27 JAN 2000

TO: PATRICK J. PUTT / PARK CITY DEPT. OF COMMUNITY DEVELOPMENT
FROM: RICHARD G. HOCK owner
1010 EMPIRE
RE: 1011 EMPIRE, PARKING ISSUES

Dear Mr. Putt,

As the neighbor of 1011 Empire Ave I have serious concern over the safety issues of cars parked in the street in front of 1011 Empire Ave. This situation forces cars driving up Empire into oncoming traffic. As the pictures demonstrate, there is virtually no parking spaces provided for the guests of 1011 Empire. I have not seen the garage used in over 15 years. I think it's used for storage only. It would be a great start to the parking problem if 2 cars could be parked in it.

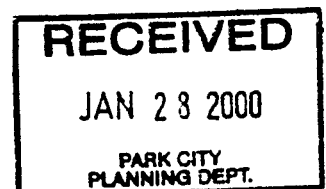
This says nothing for the inconvenience that is caused when guests of 1011 and even Deb herself park in my driveway.

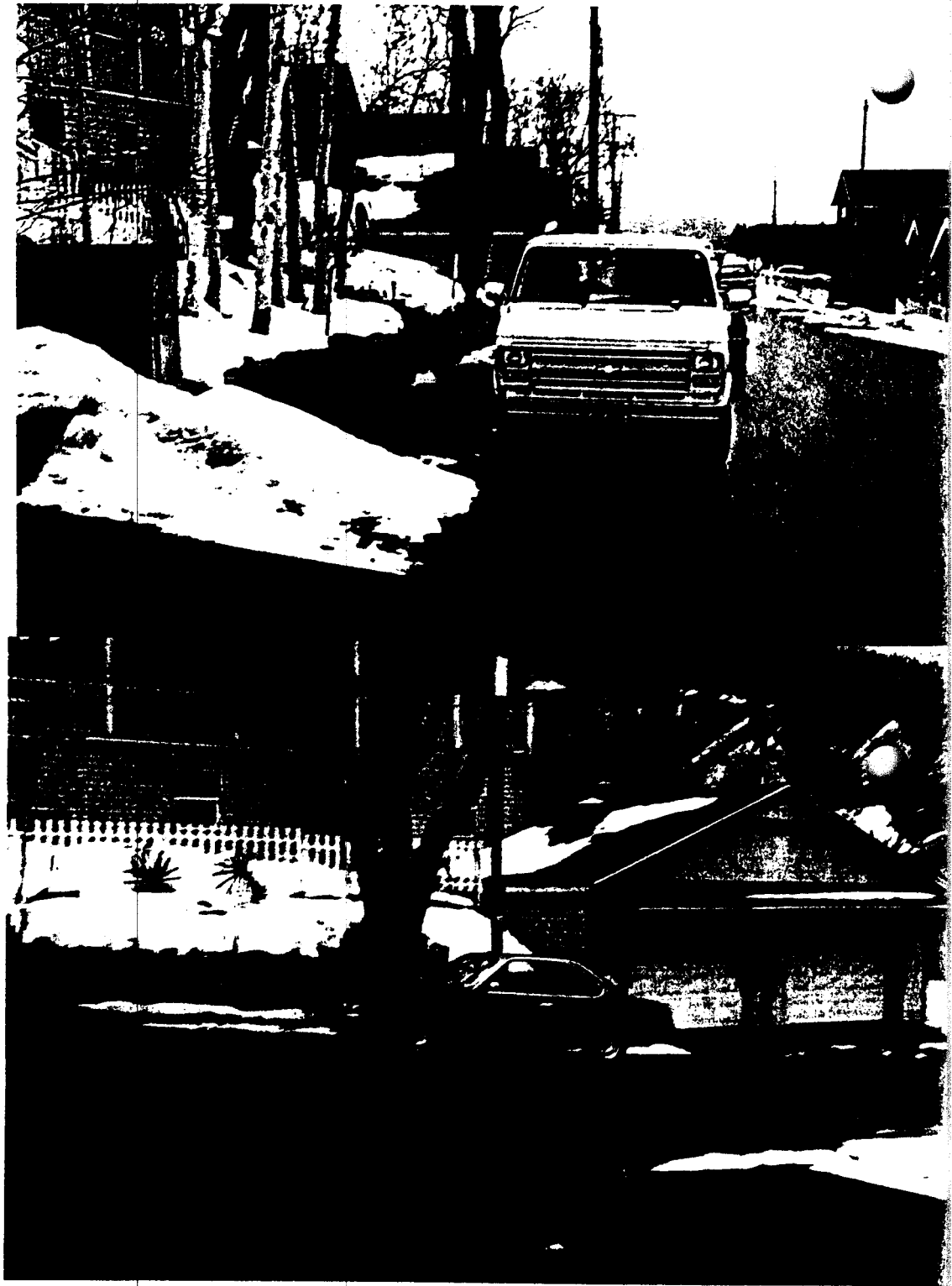
I would hope this dangerous situation is resolved as soon as possible before someone is injured.

Thank you for your time and consideration.

Sincerely,
Richard Hock

EXHIBIT K





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