PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 8, 2009

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, January 8, 2009.

Closed Session
3:00 p.m. Litigation and property

Work Session

3:45 p.m.	Council questions/comments	
4:00 p.m.	Business license amendments – nightly rentals	P. 79 - 99
4:30 p.m.	Hillside Avenue reconstruction update (see separate cover)	P. 8 - 9
5:00 p.m.	Historic Sites Inventory and Historic District Guidelines	P. 10 - 23
5:50 p.m.	Break	

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Recognition of Mark Huber and David White for their service on the Historic Preservation Board

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

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF DECEMBER 18, 2008 P. 24 - 34

V CONSENT AGENDA *(Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

Consideration of a Resolution establishing a regular meeting date, time, and location for meetings of the City Council of Park City, Utah for 2009 P. 38 - 47

VI RESIGNATIONS AND APPOINTMENTS

1. Consideration of the appointment of Mayor Pro Tem and Alternate Mayor Pro Tem P. 38 - 47

2. Consideration of the appointment of a Member and an Alternate to the Employee Transfer and Discharge Appeals Board P. 48 - 49

VII NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of an Ordinance approving the Four's Company Replat, a re-subdivision of Lots 26-29 and a portion of Lots 25 and 30, Block 73, all of Lot A of the 187 Daly Avenue Replat, Millsite Reservation, located at 161, 167, 173, and 187 Daly Avenue, Park City, Utah P. 50 - 58
   (a) Public hearing
   (b) Action

2. Consideration of an Ordinance approving the Fisher Amended Subdivision, a replat of Lots 17 and 18, Block 74, located at 118 – 124 Daly Avenue, Park City, Utah
   (a) Public hearing P. 59 - 65
   (b) Action

3. Consideration of an Ordinance approving the 1910 Prospector Avenue Office Condominiums Record of Survey located at 1910 Prospector Avenue, Park City, Utah
   (a) Public hearing P. 66 - 78
   (b) Action

4. Consideration of an Ordinance amending Title 4, Licensing, Section 4-2-23, Fee and Tax Payments, Renewals and Penalty, of the Municipal Code of Park City to defer payment of the administrative fee for lodging business licenses until 2010, and to allow for refunds of lodging administrative fees already paid P. 79 - 99
   (a) Public hearing
   (b) Action

5. Determination of compliance with Section 15-1-18 of the Land Management Code regarding Final Action, Timing, and Form of Appeal of a written request submitted by Jamie Thomas on November 17, 2008 to appeal the Steep Slope Conditional Use Permit approval of the Marsac Avenue Affordable Housing Project, located at 100 Marsac Avenue, Park City, Utah rendered by the Planning Commission on October 22, 2008 P. 100 - 112

VIII ADJOURNMENT

PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
JANUARY 8, 2009

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF OCTOBER 30, 2008 P. 35

IV CONSENT AGENDA

Resolution establishing a regular meeting date, time, and location for 2009 meetings and appointing officers of the Board of Directors of the Park City Redevelopment Agency P. 42 - 43

V ADJOURNMENT

PARK CITY MUNICIPAL BUILDING AUTHORITY
SUMMIT COUNTY, UTAH
JANUARY 8, 2009

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF JUNE 19, 2008 P. 36

IV CONSENT AGENDA

Resolution establishing a regular meeting date, time, and location for 2009 meetings and appointing officers of the Board of Directors of the Park City Municipal Building Authority P. 44 - 45

V ADJOURNMENT

PARK CITY WATER SERVICE DISTRICT MEETING
SUMMIT COUNTY, UTAH
JANUARY 8, 2009

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF NOVEMBER 15, 2007 P. 37

IV CONSENT AGENDA

Resolution establishing a regular meeting date, time, and location for 2009 meetings and appointing officers of the Board of Directors of the Park City Water Service District
P. 46 - 47

V ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 15, 2008

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, January 15, 2009.

Posted: 01/05/09
See www.parkcity.org

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

January 2009

15 **No meeting – Sundance Opening**

22 **Meeting at police facility**
Racquet Club remodel – presentation by VCBO
Resolution adopting the Historic Sites Inventory for Park City, Utah – work/public hearing
Resolution adopting the Historic District Guidelines for Park City, Utah – work/public hearing
Environmental strategic plan – DF - work
Design contract for pedestrian lighting
Reimbursement to Intermountain Health Care for gas service in the amount of $137,000

29-30 **Visioning Session**

February 2009

5 SR248 corridor plan – (1hr) - work
Cost recovery policy for Recreation - work
Contract for SR248 pedestrian crossing - MC
Adoption of Historic Sites Inventory – public hearing and action
Historic District Guidelines – public hearing and action
PSSM – 2009 incentives for upper Main Street
Comprehensive transportation strategic plan
Land Management Code Amendments to Chapter 2 – Zoning Districts regarding applicable Steep Slope Conditional Use Permits in the HR-1, HR-2, and HRL zones – old business
Ordinance approving the 2300 Meadows Drive subdivision plat – old business

12 Resolution adopting SR248 corridor plan – work/action
Award of contract – Park City Website

19 **No meeting**

26

March 2009

5

12

19

26

Pending Items:

Consideration of an Ordinance approving a one-year extension of the Boothill Parcel Plat, located near the corner of Monitor Drive and Kearns Blvd., Park City, Utah
Amendment to fee resolution - GRAMA
Park City Foundation update – work
Water supply and demand
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues
No meeting – May 14 – Dana gone

City Council Staff Report

Subject: Preliminary Design Discussion for Hillside Avenue Reconstruction
Author: Matthew Cassel, P.E., City Engineer
Department: Engineering
Date: January 8, 2009
Type of Item: Informational

Summary Recommendations:
The preliminary design for Hillside Avenue is nearly complete and will be reviewed with City Council so the design is consistent with Council objectives.

Background:
A contract was approved with Ward Engineering on October 2, 2008 to provide the necessary design work for Hillside Avenue. The design includes a retaining wall to support the road and its sub-base, replacement of the sanitary sewer and water line, and a sidewalk on one side of Hillside Avenue or in an alternative location. Storm drain repair/replacement and dry conduits for future under-grounding of overhead utilities may also be included as well.

The waterline is being designed by Bowen, Collins & Associates through their contract with the City's Water Department and incorporated into the construction plans. Additionally, Ward Engineering Group signed a separate contract with SBWRD for the design to replace the sanitary sewer.

The design process for Hillside Avenue included:

Task 1 – Preliminary Design
Task 2 – Final Design
Task 3 – Bidding Support
Task 4 – Construction Support
Task 5 – Post Construction

The Preliminary Design is nearing completion and includes alternative types of retaining walls, alternative locations for the sidewalk, a traffic analysis and conceptual plans for Hillside Avenue. Before the final design starts, we would like Council's input on the direction of the design.

An open house meeting was held on September 25, 2008 to discuss the project with residents and others concerned with the project. Approximately 15 people attended the meeting. Numerous requests were made during the meeting to include sidewalk with the project.

Another open house meeting was held on December 17, 2008 to discuss the preliminary design with residents and others concerned with the project. Approximately 5 people attended the meeting. One request made during the meeting was to include an upgrade of the road signage so traffic is not routed to Hillside Avenue.

Analysis:
Four key issues became apparent during the preliminary design of Hillside Avenue. As we move forward from preliminary design to final design, our design team wanted to check in with City Council resolutions for the following four issues.

1. <u>Final location for the sidewalk</u>
Numerous locations for the sidewalk have been identified including along the south edge of Hillside Avenue (between the existing historic walls and the new roadway), between the two retaining walls for Hillside Avenue and along the old Grant Avenue ROW connecting Hillside Avenue directly with Swede Alley. Our recommendation is to locate the sidewalk for a short distance between the two proposed retaining walls and then use a set of stairs to bring the passage down to the recently constructed Old Town Park..

2. <u>Type of retaining wall</u>
The basic retaining wall includes either a concrete structure with decorative facing or a driven wall with lagging between the drive piles. The wall will be broken up into an upper section and a lower section to minimize the mass of the structure. Our recommendation is to install a decorative concrete structure with decorative relief facing.

3. <u>Formalize the parking area at the bottom of Hillside Avenue</u>
During the October 2, 2008 City Council meeting, it was requested to formalize the parking at the bottom of Hillside Avenue. Attached is a formalized layout of the parking. Council input on this item would be helpful.

4. <u>Final roadway width</u>
The minimum roadway width required to meet fire code is 20 feet. A 20.5 foot wide roadway (18 foot paved surface, 2.5 foot curb and gutter) is the recommended width we anticipated designing along with signage to minimize truck traffic.

Recommendation:
Affirm the direction Engineering is headed with the design of Hillside Avenue so it is in alignment with Council objectives for the road.

Exhibit A – Draft Preliminary Design Report

City Council
Staff Report

Subject:	**Historic Preservation**
Author:	**Dina Blaes, Consultant**
	Thomas E. Eddington, Jr., AICP
Date:	**January 8, 2009**
Type of Item:	**Informational - Work Session - LMC Amendments/Historic Sites Inventory (HSI)**

Summary Recommendations:
Staff recommends the City Council receive an update and begin discussing the proposed amendments to the Land Management Code (LMC) for Chapters 11 and 15 as described in this report.

Topic:

Project Name:	LMC Amendments - Regarding the manner in which historic sites are designated in Park City and definitions
Applicant:	Planning Department
Proposal:	Revisions to the Land Management Code

Background:
On August 4, the City Council adopted Ordinance 08-33 imposing a temporary moratorium on the demolition of any structure located within the municipal boundaries built before 1962. When the moratorium was imposed, City Council asked staff to develop a strategy for modifying the current way in which buildings are designated as historic so that more of the buildings that give Park City its unique character would be subject to the protections found in the LMC for Historically Significant Buildings.

At an October 2, 2008 work session, the City Council provided direction for staff to move forward in two areas:

1) Prepare amendments to Title 15-11-12 Determination of Historical Significance to accommodate "Landmark" and "Significant" designations and to broaden the definition of historic properties.
2) Prepare an updated Historic Sites Inventory (HSI) based on the new criteria to be presented to the HPB for adoption once the proposed changes to the LMC are adopted.

At a November 5, 2008 work session, the Historic Preservation Board (HPB) reviewed the proposed amendments to Title 15-11-12 Determination of Historical Significance and, after much discussion and public comment, came to consensus on adopting three policies:

1) Proposed projects involving Landmark Sites must result in the site retaining its status as a Landmark Site.

2) Proposed projects involving Significant Sites must result in the site retaining its status as a Significant Site or upgrading its status to Landmark Site designation.
3) The City should pursue financial incentives--targeted grant funds, property tax freeze, and fee waivers--for projects involving Landmark or Significant sites.

The attached proposed amendments to the LMC (see Exhibits A and B) reflect the policy direction of both the Historic Preservation Board and the City Council.

On January 7, 2009, the Planning Commission is scheduled to conduct a public hearing on the proposed amendments to the Land Management Code (LMC) for Chapters 11 and 15 as described in this report. Because this staff report was prepared prior to that Planning Commission meeting, Staff will bring to this Council meeting a written report outlining the Planning Commission public hearing and discussion.

Staff anticipates bringing additional LMC amendments pertaining to draft Design Guidelines to the Planning Commission for review and recommendation at a public hearing on February 25, 2009, and subsequent public hearing of the City Council on March 19, 2009. Because of the time constraint imposed by the temporary zoning ordinance adopted in August 2008, at this time Staff is seeking discussion from the City Council *only* on the amended sections of LMC Chapter 11 and Chapter 15 that address the designation of historic sites in Park City. Staff would then return for possible action from Council on *just* the designation of historic sites (LMC amendments) on January 22, 2009. Please see Exhibit C that is the proposed schedule for the entire Historic District Design Guidelines and Inventory review process.

<u>Discussion of Intent:</u>
The proposed amendments represent recommendations to broaden the criteria by which buildings, structures and sites are designated as historic and to define separate criteria for Landmark Sites and Significant Sites.

<u>Analysis and Discussion:</u>
Amendments to Chapter 11-HISTORIC PRESERVATION
Staff recommends the Council review amendments to the following section of Chapter 11:

Section 15-11-12 DETERMINATION OF HISTORICAL SIGNIFICANCE
Section replaced with proposed language to:

- establish the Historic Sites Inventory;
- broaden the criteria by which buildings, structures and sites are designated;
- establish the criteria and procedure for the designation of Landmark Sites and Significant Sites; and
- define the criteria and procedure for removing a property from the Historic Sites Inventory

Amendments to Chapter 15 - Section 15-15-1 DEFINITIONS
Staff recommends the Council review amendments to Chapter 15 to revise and/or add defined terms as follows (re-number Section accordingly):

- Dissimilar Location

- Essential Historical Form
- Historic Integrity
- Noteworthy
- Preservation
- Reconstruction
- Rehabilitation
- Restoration
- Significance (revised definition)
- Site

Department Review:
These LMC amendments have been reviewed by the Planning and Building Departments and by the Legal Department.

Notice:
Legal Notice of this work session was posted in the required public spaces.

Public Input:
Public hearings, conducted by the Planning Commission and City Council, are required prior to adoption of Land Management Code amendments. At the meeting on January 8, Staff will provide Council with a written report on the public hearing and discussion held by the Planning Commission on January 7, 2009.

Significant Impacts:
There are no significant fiscal impacts to the City as a result of these amendments. The amendments provide clarification of procedures, criteria, and definitions and are consistent with City Council direction and stated historic preservation goals.

Recommendation:
Staff recommends the City Council discuss and provide direction on the proposed amendments to the Land Management Code (LMC) for Chapters 11 and 15 as described in this report.

Exhibits:
Exhibit A: Land Management Code, Chapter 11-Historic Preservation.
Exhibit B: Land Management Code, Chapter 15-Definitions.
Exhibit C: Schedule for the entire Historic District Design Guidelines and Inventory review process

EXHIBIT A: LMC, Chapter 11 - HISTORIC PRESERVATION

~~15-11 -12. DETERMINATION OF HISTORICAL SIGNIFICANCE~~.

~~The HPB is the official body to review matters concerning the historical designation of Buildings, Structures and Sites within Park City, and to make this information available to all interested citizens. It is hereby declared that all Buildings, Structures and Sites within Park City which substantially comply with the standards of review found in Section 15-11-13(A), are determined to be Significant for the purposes of this Chapter.~~

~~The Planning Department shall maintain a list of such Significant Properties. Any Owner of a Building, Structure or Site may apply for a hearing before the HPB to ascertain Significance of said Property. The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving an Application for determination of historical Significance, the Planning staff shall schedule a hearing on the HPB agenda within thirty (30) days. Notice of the hearing shall be posted on the Property and published at least once prior to the hearing. At the hearing, the Applicant shall have an opportunity to present testimony and evidence to demonstrate the historical Significance, or insignificance of the Building, Structure or Site.~~

~~(A)~~ **~~STANDARDS OF REVIEW~~**. ~~In determining the Historic Significance of the Property at the hearing, the HPB shall evaluate whether the Building, Structure or Site demonstrates a quality of Significance in local, regional, state or national history, architecture, archaeology, engineering or culture, and integrity of location, design, setting, materials, and workmanship according to the following criteria:~~

~~(1) The Building, Structure or Site is associated with events or lives of Persons Significant to our past; and/or~~

~~(2) The Building, Structure or Site embodies the distinctive characteristics of a type, period or method of construction or that represent the work of a master; and/or~~

~~(3) The architectural or historical value or Significance of the Building, Structure or Site contributes to the Historic value of the Property and surrounding Area; and/or~~

~~(4) The Building, Structure or Site is at least fifty (50) years old, or has achieved Significance within the past fifty (50) years if the Property is exceptional importance to the community; and/or~~

~~(5) The relation of Historic or architectural features found on the Building, Structure or Site to other such features within the surrounding Area; and/or~~

~~(6) Any other factors, including aesthetic, which may be relevant to the historical or architectural aspects of the Building, Structure or Site.~~

~~(B)~~ **~~NOTICE.~~** ~~Prior to taking action on any determination of historical Significance Application, the Planning staff shall provide public notice pursuant to Section 15-1-20 of the Code.~~

~~(C) **DECISION.** If the HPB finds that the Building, Structure or Site is insignificant pursuant to Section 15-11-13(A), it shall immediately be removed from the list, if any, of historically Significant Properties. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.~~

~~(D) **APPEAL.** The Applicant or any party participating in the hearing may appeal the HPB decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the HPB decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. Appeals shall be considered only on the record made before the HPB.~~

15-11-12. PARK CITY HISTORIC SITES INVENTORY

The Historic Preservation Board may designate Sites to the Historic Sites Inventory as a means of providing recognition to and encouraging the preservation of historic Sites in the community.

(A) CRITERIA FOR DESIGNATING SITES TO THE PARK CITY HISTORIC SITES INVENTORY.

(1) LANDMARK SITE. Any Buildings (Main, Attached, Detached or Public), Accessory Buildings, and/or Structures may be designated to the Historic Sites Inventory as a Landmark Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least 50 years old; and

(b) It retains its Historic Integrity in terms of Location, Design, Setting, Materials, Workmanship, Feeling and Association as defined by the National Park Service for the National Register of Historic Places; and

(c) It is significant in local, regional or national history, architecture, engineering or culture associated with at least one of the following:

(i) an era that has made a significant contribution to the broad patterns of our history,

(ii) The lives of persons significant in the history of the community, state, region, or nation, or

(iii) The distinctive characteristics of type, period, or method of construction or the work of a notable architect or master craftsman.

(2) SIGNIFICANT SITE. Any Buildings (Main, Attached, Detached or Public), Accessory Buildings, and/or Structures may be designated to the Historic Sites Inventory as a Significant Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least 50 years old; and

(b) It retains its Essential Historical Form; meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:

(i) Changes in pitch of the main roof if:

(a) the change was made after the period of historic significance, or

(b) the change is NOT due to any structural failure, or
(c) the change is NOT due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous owner.

(ii) Addition of upper stories or the removal of original upper stories occurred after the period of historic significance, or

(iii) Moving it from its original location to one that is Dissimilar to the original, or

(iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public right-of-way.

(c) It is important in local or regional history, architecture, engineering or culture associated with at least one of the following:
(i) An era of historic importance to the community, or

(ii) Lives of persons who were of historic importance to the community, or

(iii) Noteworthy methods of construction, materials, or craftsmanship used during the historic period.

(B) PROCEDURE FOR DESIGNATING SITES TO THE PARK CITY HISTORIC SITES INVENTORY. The Planning Department shall maintain an inventory of Historic Sites. It is hereby declared that all Buildings (Main, Attached, Detached or Public), Accessory Buildings, and/or Structures within Park City, which comply with the criteria found in sections 15-11-12(A)(1) or 15-11-12(A)(2) are determined to be on the Park City Historic Sites Inventory.

Any Owner of a Building (Main, Attached, Detached or Public), Accessory Building, and/or Structure may nominate it/them for listing in the Park City Historic Sites Inventory. The Planning Department may nominate a Building (Main, Attached, Detached or Public), Accessory Building, and/or Structure for listing in the Park City Historic Sites Inventory. The nomination and designation procedures are as follows:

(1) COMPLETE APPLICATION. The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving a complete Application for designation, the Planning staff shall schedule a hearing before the Historic Preservation Board within thirty (30) days.

(2) NOTICE. Prior to taking action on the Application, the Planning staff shall provide public notice pursuant to section 15-1-21 of this Code.

(3) HEARING AND DECISION. The Historic Preservation Board will hold a public hearing and will review the Application for compliance with the "Criteria for Designating Historic Sites to the Park City Historic Sites Inventory". If the Historic Preservation Board finds that the Application complies with the criteria set forth in section 15-11-12(A)(1) or section 15-11-12(A)(2) the Building (Main, Attached, Detached or Public), Accessory

Building and/or Structure will be added to the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(4) APPEAL. The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of Historic Preservation Board Final Action. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board.

(C) REMOVAL OF A SITE FROM THE PARK CITY HISTORIC SITES INVENTORY.
The Historic Preservation Board may remove a site from the Historic Sites Inventory.

(1) CRITERIA FOR REMOVAL.

(a) The Site no longer meets the criteria set forth in 15-11-10(A)(1) or 15-11-10(A)(2) because the qualities that caused it to be originally designated have been lost or destroyed,

(b) The Building (Main, Attached, Detached or Public), Accessory Building, and/or Structure on the Site have been demolished and will not be Reconstructed, or

(c) Additional information indicates that the Building(s), Accessory Building(s), and/or Structures on the Site do not comply with the criteria set forth in 15-11-12(A)(1) or 15-11-12(A)(2).

(2) PROCEDURE FOR REMOVAL.

(a) Complete application. The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving a complete Application for designation, the Planning staff shall schedule a hearing before the Historic Preservation Board within thirty (30) days.

(b) Notice. Prior to taking action on the Application, the Planning staff shall provide public notice pursuant to section 15-1-21 of this Code.

(c) Hearing and Decision. The Historic Preservation Board will hear testimony from the Applicant and public and will review the Application for compliance with the "Criteria for Designating Historic Sites to the Park City Historic Sites Inventory". If the HPB finds that the Application does not comply with the criteria set forth in section 15-11-12(A)(1) or section 15-11-12(A)(2) the Building (Main, Attached, Detached or Public) Accessory Building, and/or Structure will be removed from the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(d) Appeal. The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board.

EXHIBIT B: LMC, Chapter 15 - DEFINITIONS

Dissimilar Location. A location that differs in several respects from the original location in terms of vegetation, topography, other physical features, and proximity of Structures.

Essential Historical Form. The physical characteristics of a Structure that make it identifiable as existing in or relating to an important era in the past.

Historic Integrity. The ability of a Site to retain its identity and, therefore, convey its significance in the history of Park City. Within the concept of historic integrity, Park City Municipal Corporation recognizes seven aspects or qualities as defined by the National Park Service that, in various combinations, define integrity. They are:

(A) Location. The place where the historic Site was constructed or the historic event took place.

(B) Design. The combination of physical elements that create the form, plan, space, structure, and style of a Site. Design includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and colors of surface materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in a designed landscape.

(C) Setting. The physical environment, either natural or manmade, of a historic Site; including vegetation, topographic features, manmade features (paths, fences, walls), and the relationship between Structures and other features or open space.

(D) Materials. The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic Site.

(E) Workmanship. The physical evidence of the crafts of a particular culture or people during any given period in history; including methods of construction, finishes (plain or decorative), painting, carving, joinery, tooling, and turning.

(F) Feeling. A Site's expression of the aesthetic or historic sense of a particular period of time. Feeling results from the presence of physical features that, taken together, convey the property's historic character.

(G) Association. The direct link between an important historic era or person and a historic Site. A Site retains association if it is the place where the activity occurred and is sufficiently intact to convey that relationship to an observer.

Noteworthy. Deserving notice or attention because of uniqueness, excellence, or Significance.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Reconstruction. The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Rehabilitation. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

Restoration. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Significance. ~~The value placed on a Building relating to its architectural or Historical importance~~. The quality of having Historical importance or being regarded as having great architectural value.

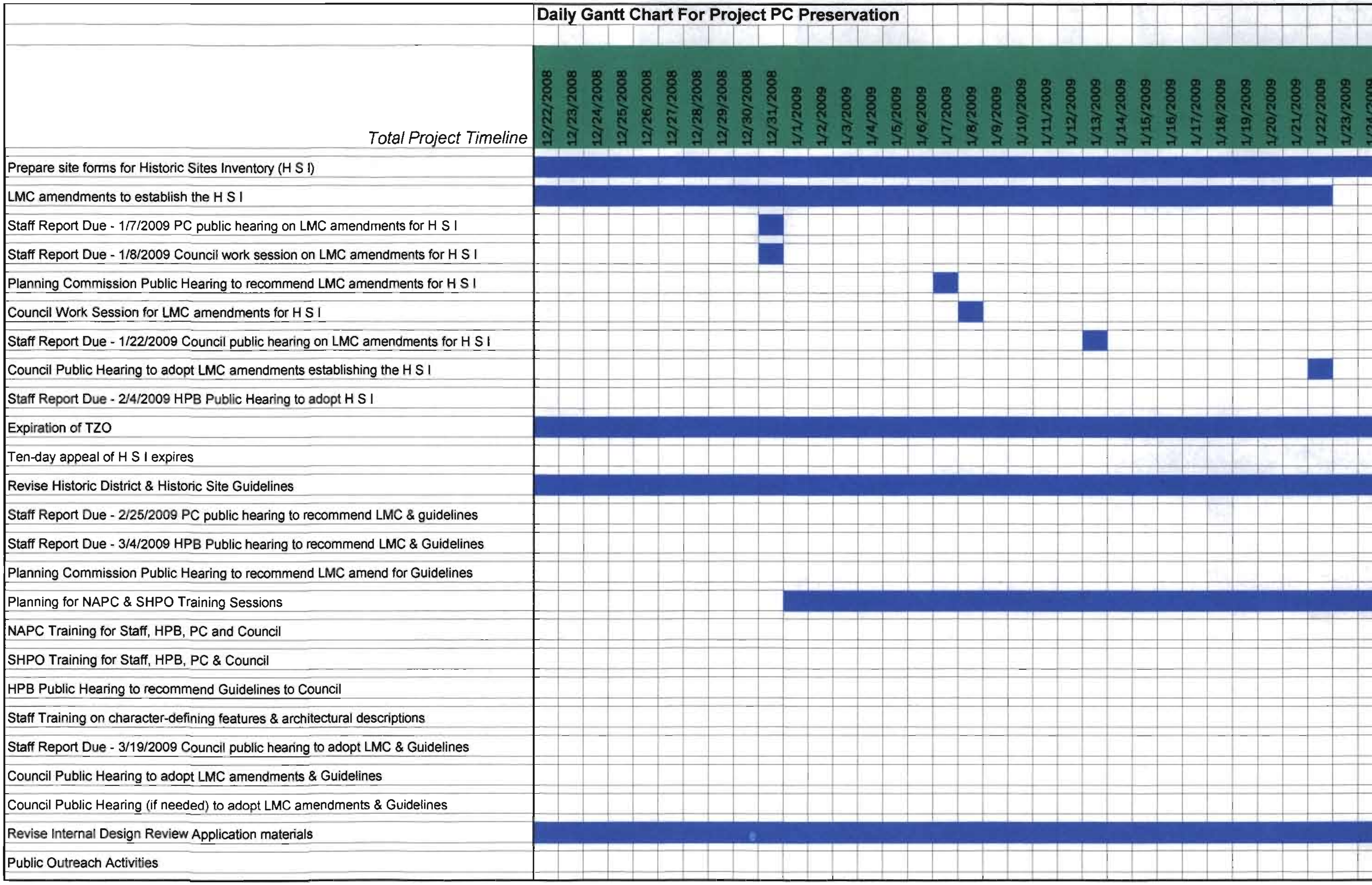
Site. An area, Lot, or piece of land where a Building (Main, Attached, Detached or Public), Accessory Building(s), and/or Structure(s) were, are, or will be located.

EXHIBIT C: Schedule for the entire Historic District Design Guidelines and Inventory review process

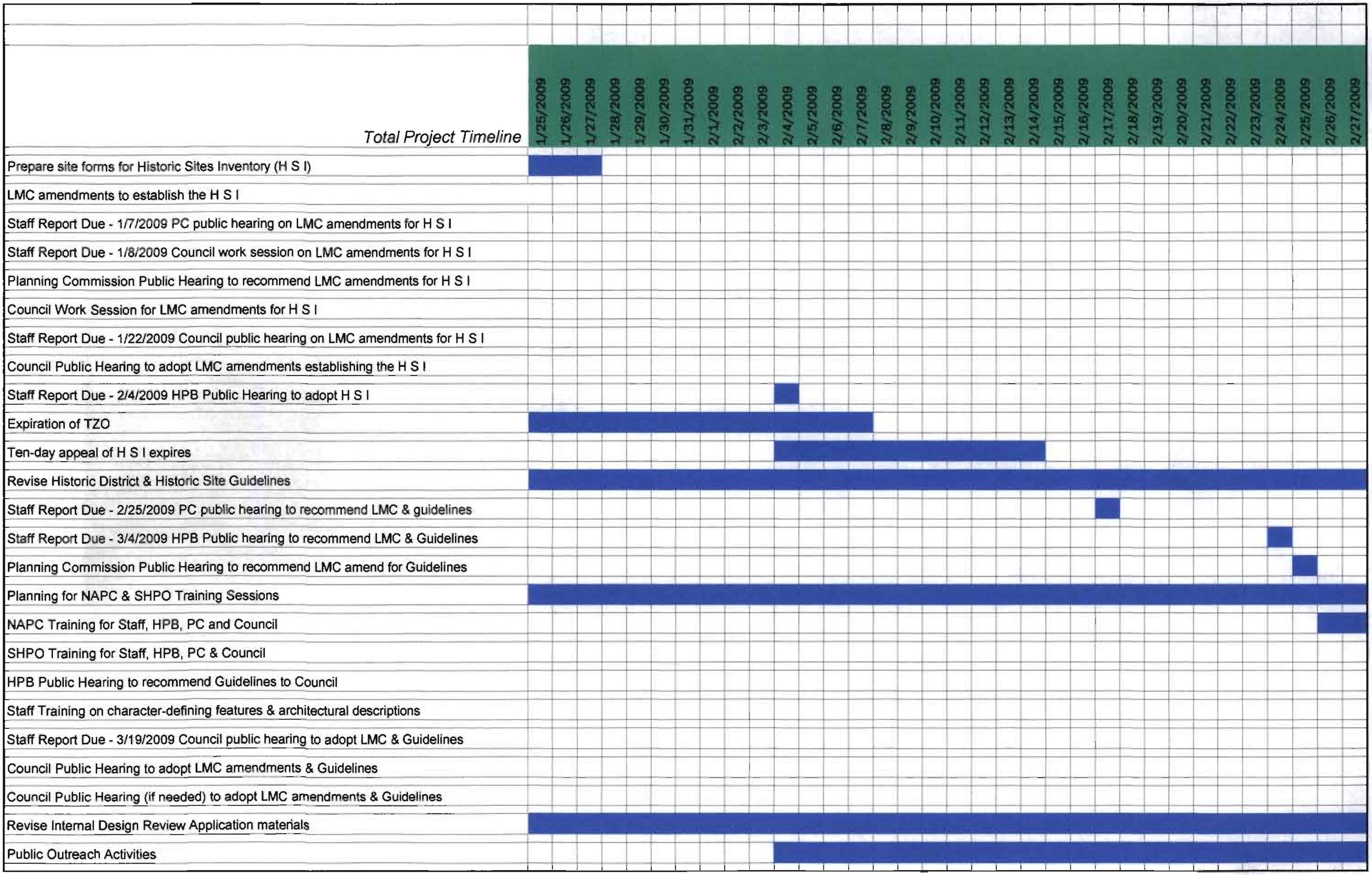
(following pages)

Task Name	Task Start Date	Task End Date	Responsible Party
Prepare site forms for Historic Sites Inventory (H S I)	12/22/2008	1/27/2009	Dina
LMC amendments to establish the H S I	12/22/2008	1/22/2009	Dina & Tom
Staff Report Due - 1/7/2009 PC public hearing on LMC amendments for H S I	12/31/2008	12/31/2008	Dina
Staff Report Due - 1/8/2009 Council work session on LMC amendments for H S I	12/31/2008	12/31/2008	Dina
Planning Commission Public Hearing to recommend LMC amendments for H S I	1/7/2009	1/7/2009	Dina & Tom
Council Work Session for LMC amendments for H S I	1/8/2009	1/8/2009	Dina & Tom
Staff Report Due - 1/22/2009 Council public hearing on LMC amendments for H S I	1/13/2009	1/13/2009	Dina
Council Public Hearing to adopt LMC amendments establishing the H S I	1/22/2009	1/22/2009	Dina & Tom
Staff Report Due - 2/4/2009 HPB Public Hearing to adopt H S I	2/4/2009	2/4/2009	Dina & Tom
Expiration of TZO	12/22/2008	2/7/2009	
Ten-day appeal of H S I expires	2/4/2009	2/14/2009	
Revise Historic District & Historic Site Guidelines	12/22/2008	3/26/2009	Dina
Staff Report Due - 2/25/2009 PC public hearing to recommend LMC & guidelines	2/17/2009	2/17/2009	Dina
Staff Report Due - 3/4/2009 HPB Public hearing to recommend LMC & Guidelines	2/24/2009	2/24/2009	Dina
Planning Commission Public Hearing to recommend LMC amend for Guidelines	2/25/2009	2/25/2009	Dina & Tom
Planning for NAPC & SHPO Training Sessions	1/1/2009	3/3/2009	Dina
NAPC Training for Staff, HPB, PC and Council	2/26/2009	2/27/2009	Dina
SHPO Training for Staff, HPB, PC & Council	3/3/2009	3/3/2009	Dina
HPB Public Hearing to recommend Guidelines to Council	3/4/2009	3/4/2009	Dina
Staff Training on character-defining features & architectural descriptions	3/10/2009	3/10/2009	Dina
Staff Report Due - 3/19/2009 Council public hearing to adopt LMC & Guidelines	3/10/2009	3/10/2009	Dina
Council Public Hearing to adopt LMC amendments & Guidelines	3/19/2009	3/19/2009	Dina & Tom
Council Public Hearing (if needed) to adopt LMC amendments & Guidelines	3/26/2009	3/26/2009	Dina & Tom
Revise Internal Design Review Application materials	12/22/2008	3/19/2009	Dina & Tom
Public Outreach Activities	2/4/2009	3/26/2009	Dina & Tom

See Gantt Chart that accompanies this list.



See Task List that accompanies this chart.



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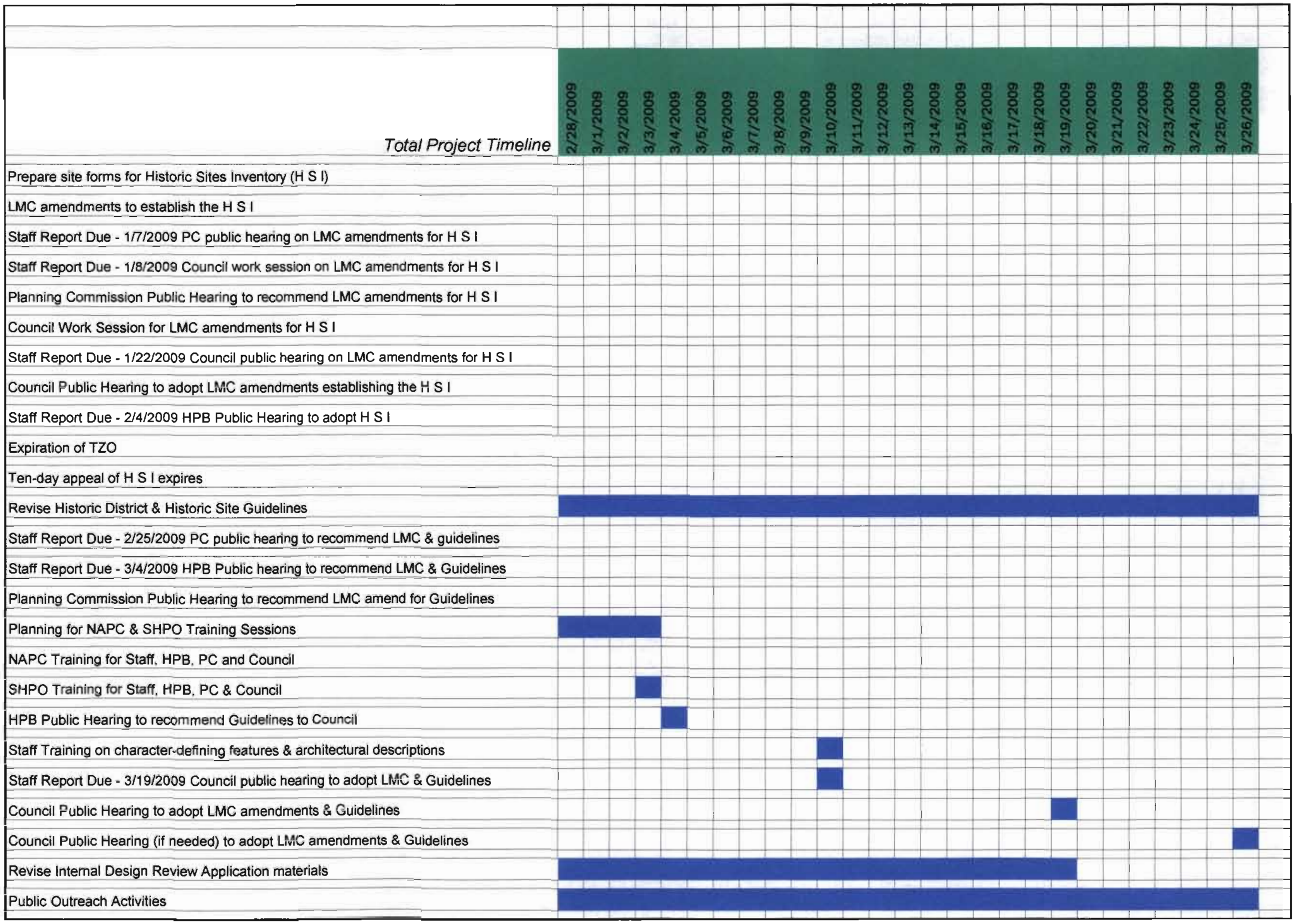

See Task List that accompanies this chart.

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
DECEMBER 18, 2008

Present: **Mayor Dana Williams; Council members Candace Erickson; Roger Harlan; Jim Hier; Joe Kernan; and Liza Simpson**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Polly Samuels McLean, Assistant City Attorney; Tom Daley, Deputy City Attorney; Denise Carey, Analyst; Max Paap, Special Events Manager; Bob Kollar, Joint Venture Coordinator - Chamber/Bureau; Jason Glidden, Marketing Analyst

1. Open meeting training. Mark Harrington and Polly McLean presented the Legal Department's overview of the Utah Open and Public Meetings Act. This training session satisfied the annual training requirement for Council specified in the Act.

2. Council questions/comments. Candace Erickson spoke about Utah League business relating to the upcoming legislative session. She asked about the status of the sinkhole on the Rail Trail and Tom Daley explained that the state's abandoned mines division installed a concrete plug but the project may not be completed yet. Jim Hier reported that he and Roger Harlan met with Kent Cashel on the SR248 options; the discussion was very informative and productive. He and Joe Kernan met with on potential changes to licensing lodging which will be discussed during an upcoming work session. Roger Harlan noted that Mountainlands Community Housing Trust is looking for a Hispanic board member so the organization is better represented. Liza Simpson stated she toured the Museum and the building is looking great. She attended the Hillside Reconstruction Open House and thanked staff and the consultants for organizing it. There was good input from the neighborhood. She thanked the recreation staff for arranging for a shuttle to the ice rink for the Fiesta Event. The Mayor spoke about visiting the Treasure Mountain Middle School classes to speak on leadership and encouraged staff to take the design of the Racquet Club to the kids for their input. He stated that he received an email from Peter Marth complimenting the City on holding the open house on the Hillside reconstruction project.

There was discussion among members on Recycle Utah's financial shortfall estimated in the range of $15,000 to $20,000. The Mayor personally felt it really important to provide recycling services in the next several months. Joe Kernan disclosed that he owns a recycling business, and explained that Recycle Utah provides the infrastructure for local recycling companies. It is not worth it for haulers to travel to Salt Lake City and taking a choice away from recyclers is impactful and will increase the cost for recycling for everyone both fiscally and environmentally. The Mayor pointed out that the reality will be glass in the landfill. Candace Erickson felt that recycling is a social responsibility of the City. Glass is costing Recycle Utah $1,000 per month. The City provides a grant to them for education and she suggested helping them through this crisis. Mayor Williams felt that Sundance could do a better job of waste management and pointed out the burden the Festival places on Recycle Utah. Candace Erickson and Joe Kernan debated allowing private haulers to dump glass at Recycle Utah. Roger Harlan spoke about Recycle Utah's $1 donation campaign and felt that a public service announcement with the Council's endorsement would be a positive effort. He remarked on the staggering volume of glass handled in Park City this time of year and throughout the Sundance Film Festival.

The City Manager emphasized that Recycle Utah is not scheduled for action on the agenda but he has authority up to $10,000 for unbudgeted expenditures. With Council direction, he suggested working on a strategy with Recycle Utah and reporting back to Council. One option may be a loan to operate through two months. The Mayor indicated Recycle Utah did not want a loan. Mayor Williams acknowledged that the City helping Recycle Utah might set a precedent but that is a risk he is willing to take. Jim Hier stated that he supports Tom Bakaly working with Recycle Utah on a plan and stated that he strongly favors a loan tied to its public service contract. If the loan can not be covered, the Council may consider increasing the grant award to cover the loan. Joe Kernan stated that he is comfortable with Mr. Bakaly working on this with the goal of reestablishing the recycling infrastructure on City property. Roger Harlan felt that fund-raising on KPCW can be very effective and volunteered his time. Jim Hier added that the loan could potentially be repaid back with community contributions.

3. McPolin Farm administrative policy. Denise Carey explained that the strategic plan for the Farm was adopted in October. At that time, Council members felt that the administrative policy should be a separate document and requested some language changes, more specifically addressing the conditional use requirements and the role of the Summit Land Conservancy. She pointed out that the administrative policy clarifies that the Farm buildings are not part of the conservation easement managed by the Conservancy and provides for up to 12 one day City Council sponsored special public events per year. Roger Harlan suggested a minor wording clarification. Jim Hier pointed out that the text relating to allowing private use of the Farm should be removed entirely; Ms. Carey agreed.

4. Event policy discussion. Max Paap explained that staff is asking for confirmation of the direction the special events program is heading in preparation for 2009. After the Olympics a joint venture was created with the Chamber and Bob Kollar was hired to bring events to town, filling out the shoulder seasons while the City processed events and mitigated impacts. He emphasized that the effort worked demonstrated by the increase in event days. The direction from the 2008 Visioning Session was to use events as an economic development tool and the event calendar was populated while trying to balance impacts to the community.

At this point, staff is recommending the use of *management tools* to evaluate the attributes of events and their geographic locations, and/or specific dates. The application process was refined, as directed, and departmental resources were better aligned. Mr. Paap explained that it is recommended to form a review committee and to formulate criteria to rank events so there is a good mix. Vail and Telluride have a similar process. Another consideration is making sure a waste management program associated with the event is in place. He recommended creating an on-line event planning guide for organizers. Amendments to the Municipal Code may be needed and he specifically referred to the sale of metal sculptures on the School District property during the summer as an example. These types of activities are not really events and preventing them from obtaining a business license is recommended.

Jim Hier believed that art and cultural events should be identified in the criteria although they may be encompassed in the category of *tourism based events*. He strongly felt that the proposed committee membership is too large and suggested extending the 90 day deadline for applications with 120 days. Bob Kollar explained that this has been discussed but there might be applications not requesting funding submitted after the deadline that fit nicely on the event calendar. Exceptions to the criteria could be created or lead times could be adjusted. Mr. Kollar added that arts and culture are considered destination tourism based events and other categories include sports and recreation, arts and culture, and community events. Candace Erickson suggested that there be a different process for events requesting funding including compliance with a deadline and prioritization. Mr. Kollar explained that currently this process takes place informally and is somewhat subjective. This proposal will formalize the process with criteria and a priority system and ranking will relate to funding and availability of venues. Mayor Williams agreed with Mr. Hier regarding the size of the committee because the event may dictate who should be participating; a core group could be formed and others could be included as appropriate. He expressed concerns about local events competing for field use. Jason Glidden stated that staff is monitoring percentage of use and clarified that the PC Extreme Soccer Tournament benefits the local soccer community and use is split between events and local events. Joe Kernan favored amending the Code to better manage outdoor sales and removing them from our entry corridor. He felt the committee proposal is fine as written.

Liza Simpson asked if Council is waiving too many fees or if raising the amount of fees is a better option. Max Paap indicated that waivers are tracked and the information is available. He acknowledged that it has been a while since these fees have been updated and some events require more resources than the benefits they bring to the community. She supported more clearly defining event types and several events held on the same day were discussed. Roger Harlan asked if economic trends are affecting the number of applications but Max Paap stated that organizers continue to express interest. Dana Williams noted that he supports the waste management requirement and pointed out that Park City's 125th celebration will be an upcoming community event in 2009.

5. Quarterly goal update – 4th quarter. Discussion ensued on ancillary topics relating to goals, but there were no substantive changes just minor corrections or suggestions to the goal summary. Mayor Williams indicated that he has been contacted from the public about the Council addressing senior housing issues at its upcoming Visioning Session and he referred to potential opportunities by master planning the fire station and senior center properties. Liza Simpson requested that the action plans for neighborhood traffic management be clearer.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
DECEMBER 18, 2008

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, December 18, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Kirsten Whetstone, Planner; Kathy Lundborg, Water Manager; Diane Foster, Sustainability Manager; Kent Cashel, Deputy Public Works Director; and Phyllis Robinson, Public Affairs Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Joe Kernan reported that during these tough economic times, he has experienced a fluctuation in his customer base but that has stabilized and in fact, grown recently. He disclosed that Talisker is among his recycling customers.

Mayor Williams extended his good wishes to the public for a happy holiday season.

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

1. Senior housing - Mary Cook, resident, urged Council members to consider senior housing as a topic for discussion at the upcoming Visioning Session. She felt that eight to ten units and limited services would fit nicely on the property next to the Senior Center. The Mayor indicated that this will be discussed and thanked Ms. Cook for her comments.

2. Recycle Utah support – Julie Kaylor, Deer Valley Green Team representative, expressed that Recycle Utah needs community support during the current commodity market downturn. Deer Valley Resort has supported Recycle Utah since its inception 17 years ago and believes in resort-wide recycling. Recycle Utah has a successful 98% recycle rate and Deer Valley feels strongly that glass should be kept out of landfills and Recycle Utah has made great strides in educating the public regarding the value of recycling. She asked that the City join Deer Valley in supporting Recycle Utah's tremendous efforts in keeping Park City at the forefront of community recycling. Mayor Williams stated that the City's environmental director and City Manager will attend Recycle Utah's board meeting tomorrow morning to discuss options.

Stewert Bauclas encouraged the Council to protect Recycle Utah's financial security so it can continue to do business even during market fluctuations. He pointed out that financial support could be given now or the City will have to deal with the delayed costs associated with landfills and the environmental impacts due to the need for more landfill space. He asked that everyone be financially responsible in helping Recycle Utah.

Jessie Turner, intern at Recycle Utah and member of High School Environmental Club, agreed with previous comments and emphasized that it is our ethical responsibility to recycle glass. Everyone should step up and help out.

IV MINUTES OF MEETING OF DECEMBER 4, 2008

Liza Simpson, "I move we approve the minutes of December 4th". Roger Harlan seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

1. Consideration of acceptance of resignation of Mark Huber from the Historic Preservation Board – Joe Kernan, "I move we accept the resignation of Mark Huber from the Historic Preservation Board". Liza Simpson seconded. Motion unanimously carried.

2. Consideration of appointment of Adam Opalek to the Historic Preservation Board to fill an unexpired term to July 2011 – The Mayor requested a motion to approve. Roger Harlan, "I so move". Liza Simpson seconded. Motion unanimously carried.

VI NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of Land Management Code Amendments to Chapter 2 – Zoning Districts regarding applicable Steep Slope Conditional Use Permits in the HR-1, HR-2, and HRL zones – The Mayor opened the public hearing. There were no comments from the audience. He stated that this matter is still under consideration by the Planning Commission. Roger Harlan, "I move to continue to February 5, 2009". Jim Hier seconded. Motion unanimously carried.

2. Consideration of an Ordinance approving the 2300 Meadows Drive subdivision plat – The Mayor reported that this item is still being considered by the Planning Commission and opened the public hearing. There was no input. Roger Harlan, "I move to continue to February 5, 2009". Candace Erickson seconded. Motion unanimously carried.

3. Consideration of Procurement Contracts for the Quinn's Water Treatment Plant Membrane Equipment in the amount of $2,011,132; the Temporary Treatment Equipment in the amount of $272,265; and associated Engineering Services in the amount of $132,100 with Pall Corporation, in a form approved by the City Attorney – Kathy Lundborg introduced Corey Christiansen, Carolla Engineers' project manager. She explained that award of these contracts is the first step of the project, as the membrane drives the design of the system. It is staff's intent to provide some form of online temporary treatment for next summer. The lowest bidder is not recommended in this instance because its system is new and untested and staff is recommending Pall Corporation because of its experience. In response to a question from Joe Kernan, Mr. Christiansen explained that the membrane will remove organic particles greater than .1 microns in size and explained that treated surface water results in dissolved carbon in a variety of forms. The membrane releases chemicals to filter the carbon from the water at a water recovery rate of 93%. The solids are removed from the remaining 7% and recycled to the head of the plant. Jim Hier, "I move we that we authorize the City Manager to execute a procurement contract in a form approved by the City Attorney, with Pall Corporation for the water treatment plant membrane equipment for a lump sum amount of $2,011,132 and for the temporary treatment equipment for a lump sum amount of $272,265 and for the engineering services in the amount of $132,100". Liza Simpson seconded. Motion unanimously carried.

4. Consideration of a Cost Sharing Agreement, in a form approved by the City Attorney, related to the joint property acquisition of approximately 107 of the estimated 112 acres of Parcel #SS-57-1, property owned by the Boyer Company located to the southeast of the UDOT facility – Diane Foster distributed an updated version of the cost sharing agreement. The only substantive change appears on Page 2 with an added sentence stating that all parties agree

that the environmental work would commence within 120 days of an approved work plan for the site. During the due diligence period, City staff conducted soil studies and some of the readings suggested that some remediation is necessary which is estimated at $200,000 to $500,000. The four parties agree that they will commit approximately $50,000 to $200,000. She pointed out that even though the Boyer Company will only own this parcel for a very short period of time, it has agreed to participate in the project in good will and good faith. She explained that the City agrees to indemnify the Boyer Company for anything over $200,000 related specifically to the remediation associated with this parcel. In response to a question from Jim Hier, the City Manager explained that the closing and funding are scheduled on Monday. Jim Hier asked about the status of defining the five acres and Ms. Foster stated that staff is confident that before closing, it will be described. The Mayor invited public input; there was none. Jim Hier, "I move we approve the cost sharing agreement related to the property known as the Triangle Parcel as defined in the cost sharing agreement presented this evening. Roger Harlan seconded. Motion unanimously carried.

VII OLD BUSINESS *(Continued items))*

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and approving a Water Agreement, and amending the Official Zoning Map of Park City to zone the property in the Community Transition Zoning District (CT) – Kirsten Whetstone explained that the staff and the applicants are seeking direction from Council on the Annexation and Water Agreements and additional items identified in the staff report. The Heights Annexation was first presented to Council in April 2008 and the property consists of 286 acres located at the southwest corner of the intersection of US40 and SR248 with CT zoning. The applicant and staff have been meeting regularly to address remaining issues, including traffic mitigation. She continued to explain that there are questions regarding allowing nightly rentals in the CT Zone as well as mine hazard mitigation. At a recent meeting, the Planning Commission requested that Council address the appropriateness of nightly rentals in the annexation area. On December 11, the Council remanded the LMC amendments, including nightly rentals as a conditional use in the CT Zone, to the Planning Commission for further review. She explained that short term athlete housing is contemplated which requires a conditional use and the LMC is silent on the issue of nightly rentals in the CT Zone. Staff is recommending permitting nightly rentals in the market rate units and she pointed out that affordable housing is generally deed restricted to prohibit nightly rentals. Staff is recommending that the Annexation Agreement require the applicant to amend the Flagstaff mine inventory to include these mine hazards in the Annexation Agreement subject to the same requirements in the supplemental amended plan approved by the Planning Commission. Ms. Whetstone referred to a letter received today from Talisker which was distributed to members of the Council.

Kent Cashel explained that staff and the applicant have been working together over the last several weeks to reach agreement on traffic mitigation measures. Staff is seeking policy decisions on four issues from Council which are needed in order to move forward. The first issue deals with change from on-road bicycle trails to a separated trail, the second and third deal with intersection improvements of the Richardson Flats Road and SR248, including timing and responsibility for cost of construction; and fourth, the downstream (corridor) traffic impacts.

Mr. Cashel explained that general requirements specify five foot wide bicycle paths on both sides of the road from SR248 all the way out to US40. A bike path section crosses wetlands and a stream and in order to provide the adequate width for the bike path, impacts to the wetlands would be significant as well as the cost to build up the road. The applicant proposes to continue the current trail to the east and north sides of the Richardsons Flat Road and bridge the wetlands connecting to the Rail Trail over to US40. The separated trail could connect eastward to the Phoston Spur and eventually the Park and Ride and the City is requesting an easement from the applicant so this section could be accomplished at some point. He noted that staff supports this approach and feels it is a better solution.

Mr. Cashel asked for direction on the timing of and responsibility for improvements to the intersection at Richardsons Flat Road and SR248. Existing multiple studies generally indicate that Phase 2 will trigger the need for a signal but staff believes that preparation for the signal should be constructed in Phase 1. He added that the applicant does not agree with the timing and would like to phase improvements and there is disagreement with regard to responsibility for intersection improvements. Staff believes the residential component will prompt the demand for the signal long before a traffic warrant for a light, much like Meadows Drive. The applicant disagrees on this point with an argument based on its proportionate contribution to the traffic. Mayor Williams emphasized that the light would not be necessary if there was no project. Kent Cashel commented that at some point in time as traffic grows, a signal will be warranted and the turning movements off the highway together with residential traffic will generate the need.

He asked for direction on whether the developer is responsible for *downstream* impacts. Consistent with methodologies used in previous annexations and with the City's entry corridor strategic plan, staff calculated an estimate of associated costs. The approach was to use incremental growth figures, not total traffic counts, and proportional costs for improvements similar to the manner impact fees are calculated. Mr. Cashel stated that the applicant disagrees with the concept of downstream impacts and the incremental growth calculation and all parties are looking for Council feed-back. Exact costs are unknown because there a specific project has not been selected, but the Annexation Agreement language provides some flexibility. Mr. Cashel stated that these are not additive items. The applicant's estimate for the signal is roughly $1 million and for downstream impacts $1 million. The Agreement language contains a provision to credit funding in Phase 1 toward meeting the downstream obligation for improvements.

Mr. Cashel asked if members agree that intersection improvements are the responsibility of the applicant. Does Council agree that all of the intersection improvements should be constructed in Phase 1 or another phase? Does Council agree with utilizing downstream traffic methodology as staff has recommended or based upon the project's percentage of growth, or nothing at all? Does Council feel comfortable with the recommended trail improvements rather than constructing an on-road trail.

David Smith, counsel for Talisker, stated that the wetland issues were challenging and separating the bicycle path from the road seems to be a better solution. He just received the new language a couple of days ago but felt that bike trail issues could be worked out with staff. Of the $1.1 million dedicated for intersection improvements, the cost of the signal only represents $200,000 to $250,000. Remaining improvements include the turn lanes and widening the road, etc. When the Hale studies were conducted, the premise was looking at total traffic impacts through 2020 and the analysis drove the list of improvements. Park City Height's impact to the intersection is calculated at 3% to 6% at build-out through the 2020 time period. He felt they are a tiny piece of the total beneficiaries of those improvements and they worked with outside engineers to arrive at a phasing plan, which is supported by the traffic studies. The traffic study reveals that there is no need for a signal until Phase 2.

With regard to downstream impacts, Mr. Smith stated that the impact from Park City Heights is about 3%. He described the methodology as speculative since the money could be called for regardless of whether or when anything is built at Quinns Junction. He felt that the credit piece should be dropped altogether if there is agreement on the intersection improvements.

Jim Hier stated that he has no problem with an off-road bike path in this instance. He recalled that the intersection improvements were always to be the responsibility of the development from the onset. The proportionate share of costs was designed to cover downstream impacts which he felt was consistent with the approach for the IHC annexation. He recalled that the proportionate share would be determined by actual counts at the time the improvements were needed so that the share of and total costs would be known and distributed accordingly. Mr. Hier commented that he is comfortable with changing the approach to a future count and proportionate share at the time the improvements are needed through 2020. He felt that intersection improvements are the responsibility of the applicant, favored having the signal infrastructure installed in Phase 1 and spending the majority of the money. David Smith explained that a complete signal totals $200,000 to $250,000 and $850,000 remains for the rest of the improvements. Roger Harlan recalled that the task force agreed that the installation of the signal and intersection improvements is the responsibility of the applicant and that they occur in the first phase; he supports Items 1 and 2 and 4.

Walt Plum, applicant, stated that the annexation process began four years ago and conditions have substantially changed throughout that time. The entire project has basically become an affordable housing project and as a result, can only bear so much cost. In these economic times, no one in the development business would consider beginning a subdivision. This type of project can not bear the cost of downstream costs for road improvements. In his 30 years in the business, Mr. Plum noted that is the first time he has been asked to pay for downstream use of a road. He pointed out that IHC and USSA do not pay property taxes and the IHC analogy is not really applicable because even with affordable housing, they will be paying property taxes. Roger Harlan acknowledged that the economic climate has changed since the project's inception. Mr. Plum added that through the task force process, the density was reduced to 150 units mainly allocated to affordable housing for IHC, Talisker and Park City Heights.

Candace Erickson stated she appreciated Mr. Plum's comments but strongly felt that a signal is warranted in the first phase because no one in the project will be able to turn left onto SR248 during peak hours. Mr. Plum emphasized that they agree with the signal but have issues with regard to the downstream impact concept. Ms. Erickson believed that 100 units will result in 200 cars. She referred to the purpose of the CT Zone, specifically the resort nature of development, and is concerned about housing being solely affordable and not a mix of types. Mr. Plum explained that he is referring to *affordable* in general terms, mainly price range as Talisker will be building *more affordable* units not affordable housing as defined by the City. Ms. Erickson pointed out that once the property is sold, the Boyer Company will no longer be paying property taxes on the property.

Joe Kernan asked how this compares with other annexations beyond IHC, specifically the methodology and distribution of costs. Kent Cashel explained that annexations must mitigate traffic impacts and the shift in this case may be addressing downstream impacts; every application is different. Jim Hier referred to the Flagstaff Annexation where the mine road had to be improved at the beginning of the development. The Mayor recalled that improvements were not based on traffic counts, and were negotiated as part of the Annexation Agreement and Ms. Erickson interjected that the fee was $2 million.

Dave Smith pointed out that providing affordable housing is another mitigation requirement of annexations but is phased in Flagstaff. All of the affordable housing projects constructed in Park City over the past 15 years are all built on high volume streets and none of them, to his knowledge, were imposed with significant traffic mitigation exactions. Given the proposed phasing of Park City Heights, the affordable component is required *out of the gates* and based on the drafts of the Annexation Agreement, the net effect would be to load millions of dollars on the affordable housing infrastructure. Mayor Williams commented that this is different because the Flagstaff Annexation encourages on-site affordable housing.

Mr. Kernan stated that he feels that intersection improvements should be the responsibility of the applicants which is consistent with City practices. He also supports the off-road trail solution. Candace Erickson relayed that she needs more information about the downstream corridor impacts. Liza Simpson understood that if the applicant spends $1 million improving the intersection and installing the signal in Phase 1, the $1 million goes towards the $1,050,000 calculated for downstream impacts. Kent Cashel agreed confirming that the cost of improving the intersection would be credited toward the downstream impact obligation. She didn't understand why the applicant prefers to wait since the cost of construction is unlikely to decrease and didn't see how basing costs on counts would harm the City. She agreed with the recommendations for Items 1, 2 and 4. The Mayor stated he is in agreement with 1, 2 and 4 as well, and felt the signal is needed in Phase 1.

Jim Hier emphasized that the Flagstaff affordable housing requirement for Empire Pass will be satisfied within the Park City Heights development, however, if the affordable housing units were built on site, the SR248 costs would not exist. The signalization and the improvements should occur in Phase 1 which has always been contemplated and he confirmed his concurrence with Items 1, 2, and 4. The Mayor suggested removing Item 3 altogether because it probably only represents $30,000 and the exact costs will be unknown for some time. Kent Cashel acknowledged that staff does not have an actual cost associated with the improvements which may be significant. Jim Hier felt that the timing of all improvements for SR248 be considered for better planning and cost efficiency. Kent Cashel confirmed that Council agrees with Items 1, 2 and 4 as staff recommended and Item 3 is gone. Liza Simpson expressed her confusion because she understood the Agreement states that the applicant will pay for some downstream traffic impact and indicated that she doesn't care how that is determined but staff should have some direction on this point. Jim Hier recommended that Item 3 remain and for all intensive purposes, the impact to the developer will be negligible. He encouraged staff and the applicants to reach consensus of whether the obligation is based on current traffic count estimates or future actual numbers. In either case, it should not be a significant amount one way or the other. All other members agreed to include Item 3 and Kent Cashel stated that staff will determine the methodology.

The Mayor requested that water be addressed. Kathy Lundborg explained that the City is asking the applicant, like any other developer, to provide the infrastructure needed to provide water for the project. A phasing strategy has been developed based on the completion of the water treatment plant. She is recommending prohibiting outdoor irrigation until the water treatment plant is built because of the risk of drought next summer and expressed that her initial reaction as not to provide water at all until the plant was on line because of the potential strain on the City's water resources. No outdoor irrigation during the first phase was the compromise reached and the applicant is required to build the infrastructure for water delivery. Discussion ensued on when and how many certificates of occupancy would be issued and Jim Hier pointed out that occupancy could not occur until October 15, 2009. The Mayor invited comments from the applicants.

Patrick Moffat, Boyer Company, explained that the water improvements required by the applicant will be built concurrently with the first phase, not prior to. David Smith stated that this point is critical because other language in the Agreement could be read to suggest that these things could be required before Phase 1 begins. He asked for clarification that it is the intent of the City that nothing has to be done until Phase 1 begins. Kathy Lundborg advised that building codes dictate that water be available before any flammable construction materials are stored on site. Mr. Moffat explained that initial construction will be vertical (framing) only. There was discussion about not being able to begin construction until the MPD is approved and not knowing how long the process will take. Ms. Lundborg added that the Water Agreement specifies that water improvements must be complete concurrent with the completion of the water treatment plant. Jim Hier suggested revised wording regarding the timing of water related obligations and Mark Harrington was confident that staff can draft language which distinguishes between system improvements independent of the project, if any, and look to see if those need to be addressed upfront or delayed pending the start of Phase 1. Dave Smith pointed out the temporary connection contemplated for Phase 1 and felt completion of the plant should be tied to Phase 2. Mayor Williams advised that November 2010 is the completion date for the plant.

Kathy Lundborg felt it important to meet with the applicants on specifics because the City is trying to design a water treatment plant to deliver water in certain ways. Mr. Smith explained the problem with an over-riding provision that all of the traffic and water improvements will be done in any event, before the completion of the water treatment plant. He again asked for clarification on the traffic issue and asked if it is tied to Phase 1 construction as well. Mayor Williams stated that the signal needs to be installed before the project is occupied. Mr. Moffat stated that they understand that outdoor irrigation is not an option until the water treatment plant is operational but asked if they could have some water for slope stabilization through re-vegetation of native species in some disturbed areas. Jim Hier stated that he is amenable to the request, as long as it is defined.

Mr. Hier stated that nightly rentals were never contemplated for the development and nightly rentals prompt service worker traffic trips. He is against nightly rentals as a conditional use in the CT Zone and favored deferring this issue to the Planning Commission in its review of the Land Management Code amendments. Walt Plum, Jr. noted that Park City Heights is also a resort development, including second homes which typically allow nightly rentals. Jim Hier felt that most residential zones do not allow nightly rentals and again stated that this is not an appropriate area for nightly rentals which may contribute to traffic impacts in a manner never contemplated. Candace Erickson was not supportive of nightly rentals. Members agreed to omit it from the Annexation Agreement and defer the determination to the Planning Commission.

Jim Hier felt that mine hazards in the project area should be addressed independently and not linked to the Flagstaff mine inventory. David Smith believed this is the right approach and Mr. Hier suggested that a technical report on mine hazards may be required. Phyllis Robinson explained that minimum lease terms for affordable housing would appear in the development agreement. Joe Kernan felt that the length of time shouldn't really matter in rental units and he warned against too many restrictions leaving the units empty. Ms. Robison noted that rental provisions are addressed in the housing resolution and owned housing can be rented for a minimum of six months. Mark Harrington added that some units need to be factored into the Flagstaff overall targets which may or may not warrant further restrictions.

The Mayor opened the public hearing.

Morgan Bush, Project Manager for Intermountain Health Care, stated that IHC is very supportive of the Park City Heights annexation proposal by providing affordable housing in a community setting. The treatment plant for Park City Heights is tied to the Water Agreement with IHC in terms of providing a second source of water. If the timing changes on this, the Water Agreement may have to be amended. He acknowledged that IHC had concerns about using the downstream methodology and when given the choice of current estimated counts versus future actual counts, they chose current estimates. Cost certainty was more important to them. During the MPD process, the methodology worked very well and there were no future unanticipated costs. IHC's experience was positive once the project went through the MPD process.

Mary Cook, resident, felt the signal should be installed before there is construction traffic. If there is a need for other traffic signals, the infrastructure should be installed all at one time which is less disruptive and cheaper.

With no further comments, the public hearing was closed. Roger Harlan, "I move that we continue consideration of an Ordinance to annex Park City Heights to a date uncertain in 2009". Liza Simpson seconded. Motion unanimously carried.

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

IX ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:15 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Brooks Robinson, Planner; Ron Ivie, Chief Building Official, and Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss property and litigation". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 4 p.m. Liza Simpson, "I move to open the meeting". Jim Hier seconded. Motion unanimously carried.

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

Prepared by Janet M. Scott

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Janet M. Scott, City Recorder

PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
OCTOBER 30, 2008

I ROLL CALL

Chairman Dana Williams called the regular meeting of the City Council to order at approximately 6:45 p.m. at the Library and Education Center on Thursday, October 30, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, Executive Director; Jonathan Weidenhamer, Economic Development Manager; and Mark Harrington, City Attorney;

II PUBLIC INPUT *(Any matter of RDA business not scheduled on agenda)*

None.

III MINUTES OF MEETING OF SEPTEMBER 11, 2008

Jim Hier, "I move we approve the minutes of the meeting of September 11, 2008". Roger Harlan seconded. Motion unanimously carried.

IV NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

Consideration of the Second Addendum to Park City Municipal Corporation and Park City Community Wireless Sublease Agreement – Jonathan Weidenhamer explained that on June 19, 2008 the City and KPCW entered into a short term lease agreement that would allow the radio station to occupy the space before it is purchased. Part of the agreement specified that the monthly rent would be allocated to the purchase price until the end of November. Community Wireless recently requested to extend the time that rent would go to purchase price through the end of May. Staff is supportive but to recover some of the foregone rental revenue, it is recommended to add a carrying cost and an additional monthly fee of $1,237 of straight rent. KPCW has agreed to the terms and as a good faith effort has provided the City with a check for all of the rent that will be put toward the purchase price through the end of April. The Chairman invited public input; none was rendered. Jim Hier, "I move we approve the second addendum to the KPCW lease extending the date of the monthly rental payments until May 31, 2009 based on the staff report". Joe Kernan seconded. Motion unanimously carried.

V ADJOURNMENT

With no further business, the regular meeting of the Redevelopment Agency was adjourned. The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

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Janet M. Scott, Secretary

PARK CITY MUNICIPAL BUILDING AUTHORITY
SUMMIT COUNTY, UTAH
JUNE 19, 2008

I ROLL CALL

Chairman Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, June 19, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Polly Samuels McLean, Assistant City Attorney; and Bret Howser, Budget Manager.

II PUBLIC INPUT *(Any matter of MBA business not scheduled on agenda)*

None.

III MINUTES OF MEETING OF JANUARY 10, 2008

The Chairman requested a motion to approve the minutes. Roger Harlan, "I so move". Joe Kernan seconded. Motion unanimously carried.

IV NEW BUSINESS

Resolution adopting the Park City Municipal Building Authority Revised Budget for Fiscal Year 2008 and the Budget for Fiscal Year 2009 – The Chairman opened the public hearing and with no input, closed the hearing. Jim Hier, "I move we adopt the Park City Municipal Building Authority Revised Budget for FY2008 and the Budget for FY2009". Liza Simpson seconded. Motion unanimously carried.

V ADJOURNMENT

With no further business, the regular meeting of the Municipal Building Authority was adjourned. The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

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Janet M. Scott, Secretary

PARK CITY WATER SERVICE DISTRICT MEETING
SUMMIT COUNTY, UTAH
JANUARY 10, 2008

I ROLL CALL

Chairman Dana Williams called the regular meeting of the WSD to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, January 10, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; and Mark Harrington, City Attorney.

II PUBLIC INPUT

None.

III MINUTES OF MEETING OF NOVEMBER 15, 2007

Liza Simpson stated that she will be abstaining from voting. Candace Erickson, "I move approval of the minutes of November 15, 2007". Jim Hier seconded. Motion carried.

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Abstention

IV CONSENT AGENDA

Resolution establishing a regular meeting date, time, and location for 2008 meetings and appointing officers of the Board of Directors of the Park City Water Service District - The Chairman requested a motion to approve. Roger Harlan, "I so move". Jim Hier seconded. Motion unanimously carried.

V 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 at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

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Janet M. Scott, Secretary

City Council Staff Report

Subject: **Mayor Pro Tem and Alternate Appointments and Resolutions setting forth 2009 meeting dates**
Author: **Janet M. Scott, City Recorder**
Department: **Executive**
Date: **January 8, 2009**
Type of Item: **Administrative**

Summary Recommendations: Appointment of Liza Simpson as Mayor Pro Tem and Candace Erickson as Alternate Mayor Pro Tem and adoption of resolutions setting forth meeting dates for the City Council and its related agencies are recommended actions in order to comply with our municipal code and state law.

Topic/Description: Mayor Pro Tem appointments and setting meeting dates are housekeeping matters which occur at the first meeting of the year. Setting an annual meeting schedule is a requirement of the Utah Open and Public Meetings Act. The annual meeting notice is often required as an attachment to bond resolutions; all meetings require at least a 24 hour public notice period.

Background: Over the years, there has been an effort to provide all City Council members the opportunity to serve as Mayor Pro Tem, and historically the alternate Mayor Pro Tem moves into the Mayor Pro Tem position the next year. Selection criteria include the consideration of number of years of service and/or votes garnered in an election. Typically, these members have been appointed as Mayor Pro Tem and Alternate Mayor Pro Tem for one year terms.

Analysis: Last year Roger Harlan served as Mayor Pro Tem and Liza Simpson as the Alternate. For informational purposes, Marianne Cone was appointed Mayor Pro Tem in 2007, Joe Kernan in 2006, Kay Calvert in 2005, Jim Hier in 2004, and Candace Erickson in 2003. Applying past methodology would designate Liza Simpson as the Mayor Pro Tem and Candace Erickson as the Alternate Mayor Pro Tem.

It should be emphasized that the manner of appointments is at the sole discretion of the Mayor and City Council and can be modified at any time with the majority vote of Council.

Department Review: City Manager's Office.

Alternatives:

- **Approve:** Use past methodology to appoint Liza Simpson as Mayor Pro Tem and Candace Erickson as the Alternate Mayor Pro Tem.

- **Deny:** This is not a realistic option. The Council has the discretion to change the manner of appointing the Mayor Pro Tem and to change the time, dates, and/or location for meetings. However, state law requires that meting dates by adopted by resolution, which logically occurs at the first meeting of the year.

- **Continue the Item:** If Council desires to reconsider the method of appointments, a continuance may be appropriate.

Recommendation: Appointment of a Mayor Pro Tem and Alternate Mayor Pro Tem and adoption of resolutions setting forth meeting dates for the City Council and its related agencies are recommended actions in order to comply with our municipal code and state law.

Resolution No. 1-09

A RESOLUTION ESTABLISHING A REGULAR MEETING DATE, TIME, AND LOCATION FOR MEETINGS OF THE CITY COUNCIL OF PARK CITY, UTAH FOR 2009

BE IT RESOLVED by the City Council of Park City:

SECTION 1. REGULAR MEETING DATE. The regular meetings of the Park City Council shall be held on Thursdays at 6 p.m. at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah. During the renovation of the Marsac Municipal Building, meetings will be held at the Park City Library and Education Center, 1255 Park Avenue, Park City, Utah. Regular meetings are open meetings, where agenda items are scheduled for public hearing and/or action. The time may change if it is felt appropriate to schedule issues of general interest at a time that may better accommodate the public. Meetings may be canceled when there is no pending business, no quorum, or the regular meeting date falls on a holiday.

The meeting schedule for the City Council in 2009 is as follows:

January 8, 15, 22, 29	July 2, 9, 16, 23, 30
February 5, 12, 19, 26	August 6, 13, 20, 27
March 5, 12, 19, 26	September 3, 10, 17, 24
April 2, 9, 16, 23, 30	October 1, 8, 15, 22, 29
May 7, 14, 21, 28	November 5, 12, 19, 26
June 4, 11, 18, 25	December 3, 10, 17, 24, 31

SECTION 2. NOTICE OF PUBLIC MEETINGS. Notice shall be given, including the agenda, date, time, and place of the meeting. The agenda will be posted at least twenty-four (24) hours prior to each regular meeting, and delivered to the local news media. The agenda for special or emergency meetings shall be noticed in the best manner practicable. The Mayor and Council may meet socially at an announced location after the meeting, but City business will not be conducted.

SECTION 3. WORK SESSIONS. Work sessions are open informational meetings, where new items are introduced or regular meeting agenda items are discussed for clarification prior to action. Typically, no formal action is scheduled or taken during a work session, but formal actions may be made to conduct the City's business, if it is deemed to be in the best interest of the public.

SECTION 4. CLOSED MEETINGS. Every meeting and work session is open to the public, unless closed pursuant to Sections 52-4-204 and 52-4-205 of the Utah Code. A closed meeting may be held if a quorum is present and upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given pursuant to Section 52-4-202. No closed meeting is allowed except for purposes expressly allowed under Section 52-4-205; provided no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. A record of closed meetings shall be created and maintained in accordance with Section 52-4-206 of the Utah Code, as amended.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately.

PASSED AND ADOPTED this 8th day of January, 2009.

Resolution No. RDA 1-09

A RESOLUTION ESTABLISHING A REGULAR MEETING DATE, TIME, AND LOCATION FOR 2009 MEETINGS AND APPOINTING OFFICERS OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF PARK CITY, UTAH

BE IT RESOLVED by the Redevelopment Agency of Park City:

SECTION 1. REGULAR MEETING DATE. The regular meetings of the Redevelopment Agency shall be held on Thursdays at 6 p.m. or immediately following the adjournment or preceding the convening of other meetings that may be scheduled at 6 p.m. Meetings shall be held at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah, except when there is no pending business or the regular meeting date falls on a holiday. During the renovation of the Marsac Municipal Building, meetings will be held at the Park City Library and Education Center, 1255 Park Avenue, Park City, Utah.

SECTION 2. NOTICE OF PUBLIC MEETINGS. Notice shall be given, including the agenda, date, time, and place of the meeting. The agenda will be posted at least twenty-four (24) hours prior to each regular meeting, and delivered to the local news media. The agenda for special or emergency meetings shall be noticed in the best manner practicable. The Board of Directors may meet socially at an announced location after the meeting, but City business will not be conducted.

SECTION 3. WORK SESSIONS. Work sessions are open informational meetings, where new items are introduced or regular meeting agenda items are discussed for clarification prior to action. Typically, no formal action is scheduled or taken during a work session, but formal actions may be made to conduct the City's business, if it is deemed to be in the best interest of the public.

SECTION 4. CLOSED MEETINGS. Every meeting and work session is open to the public, unless closed pursuant to Sections 52-4-204 and 52-4-205 of the Utah Code. A closed meeting may be held if a quorum is present and upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given pursuant to Section 52-4-202. No closed meeting is allowed except for purposes expressly allowed under Section 52-4-205; provided no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. A record of closed meetings shall be created and maintained in accordance with Section 52-4-206 of the Utah Code, as amended.

SECTION 5. SPECIFIC MEETING DATES. The meeting schedule for the Redevelopment Agency in 2009 is as follows:

January 8, 15, 22, 29	July 2, 9, 16, 23, 30
February 5, 12, 19, 26	August 6, 13, 20, 27

March 5, 12, 19, 26	September 3, 10, 17, 24
April 2, 9, 16, 23, 30	October 1, 8, 15, 22, 29
May 7, 14, 21, 28	November 5, 12, 19, 26
June 4, 11, 18, 25	December 3, 10, 17, 24, 31

SECTION 6. APPOINTMENT OF OFFICERS. The officers of the Board of Directors of the Redevelopment Agency of Park City, Utah shall be as follows: The elected Mayor shall be the Chairman; the Mayor Pro Tempore shall be the Vice-Chairman; the Alternate Mayor Pro Tempore shall be the Alternate Vice-Chairman; the City Manager shall be the Executive Director; the City Recorder shall be the Secretary; and the Deputy City Recorder shall be the Deputy Secretary.

PASSED AND ADOPTED this 8th day of January, 2009.

Resolution No. MBA 1-09

A RESOLUTION ESTABLISHING A REGULAR MEETING DATE, TIME, AND LOCATION FOR 2009 MEETINGS AND APPOINTING OFFICERS OF THE BOARD OF DIRECTORS OF THE MUNICIPAL BUILDING AUTHORITY OF PARK CITY, UTAH

BE IT RESOLVED by the Municipal Building Authority of Park City:

SECTION 1. REGULAR MEETING DATE. The regular meetings of the Municipal Building Authority shall be held on Thursdays at 6 p.m. or immediately following the adjournment or preceding the convening of other meetings that may be scheduled at 6 p.m. Meetings shall be held at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah, except when there is no pending business or the regular meeting date falls on a holiday. During the renovation of the Marsac Municipal Building, meetings will be held at the Park City Library and Education Center, 1255 Park Avenue, Park City, Utah.

SECTION 2. NOTICE OF PUBLIC MEETINGS. Notice shall be given, including the agenda, date, time, and place of the meeting. The agenda will be posted at the Marsac Municipal Building at least twenty-four (24) hours prior to each regular meeting, and delivered to the local news media. The agenda for special or emergency meetings shall be noticed in the best manner practicable. The Board of Directors may meet socially at an announced location after the meeting, but City business will not be conducted.

SECTION 3. WORK SESSIONS. Work sessions are open informational meetings, where new items are introduced or regular meeting agenda items are discussed for clarification prior to action. Typically, no formal action is scheduled or taken during a work session, but formal actions may be made to conduct the City's business, if it is deemed to be in the best interest of the public.

SECTION 4. CLOSED MEETINGS. Every meeting and work session is open to the public, unless closed pursuant to Sections 52-4-204 and 52-4-205 of the Utah Code. A closed meeting may be held if a quorum is present and upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given pursuant to Section 52-4-202. No closed meeting is allowed except for purposes expressly allowed under Section 52-4-205; provided no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. A record of closed meetings shall be created and maintained in accordance with Section 52-4-206 of the Utah Code, as amended.

SECTION 5. SPECIFIC MEETING DATES. The schedule for Municipal Building Authority meetings in 2009 are as follows:

January 8, 15, 22, 29	July 2, 9, 16, 23, 30
February 5, 12, 19, 26	August 6, 13, 20, 27
March 5, 12, 19, 26	September 3, 10, 17, 24
April 2, 9, 16, 23, 30	October 1, 8, 15, 22, 29
May 7, 14, 21, 28	November 5, 12, 19, 26
June 4, 11, 18, 25	December 3, 10, 17, 24, 31

SECTION 6. APPOINTMENT OF OFFICERS. The officers of the Board of Directors of the Municipal Building Authority of Park City, Utah shall be as follows: The elected Mayor shall be the Chairman; the Mayor Pro Tempore shall be the Vice-Chairman; the Alternate Mayor Pro Tempore shall be the Alternate Vice-Chairman; the City Manager shall be the Executive Director; the City Recorder shall be the Secretary; and the Deputy City Recorder shall be the Deputy Secretary.

PASSED AND ADOPTED this 8th day of January, 2009.

Resolution No. WSD 1-09

A RESOLUTION ESTABLISHING A REGULAR MEETING DATE, TIME, AND LOCATION FOR 2009 MEETINGS AND APPOINTING OFFICERS OF THE ADMINISTRATIVE CONTROL BOARD OF THE PARK CITY WATER SERVICE DISTRICT

BE IT RESOLVED by the Water Service District of Park City:

SECTION 1. REGULAR MEETING DATE. The regular meetings of the Water Service District shall be held on Thursdays at 6 p.m. or immediately following the adjournment or preceding the convening of other meetings that may be scheduled at 6 p.m. Meetings shall be held at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah, except when there is no pending business or the regular meeting date falls on a holiday. During the renovation of the Marsac Municipal Building, meetings will be held at the Park City Library and Education Center, 1255 Park Avenue, Park City, Utah.

SECTION 2. NOTICE OF PUBLIC MEETINGS. Notice shall be given, including the agenda, date, time, and place of the meeting. The agenda will be posted at least twenty-four (24) hours prior to each regular meeting, and delivered to the local news media. The agenda for special or emergency meetings shall be noticed in the best manner practicable. Board members may meet socially at an announced location after the meeting, but City business will not be conducted.

SECTION 3. WORK SESSIONS. Work sessions are open informational meetings, where new items are introduced or regular meeting agenda items are discussed for clarification prior to action. Typically, no formal action is scheduled or taken during a work session, but formal actions may be made to conduct the City's business, if it is deemed to be in the best interest of the public.

SECTION 4. CLOSED MEETINGS. Every meeting and work session is open to the public, unless closed pursuant to Sections 52-4-204 and 52-4-205 of the Utah Code. A closed meeting may be held if a quorum is present and upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given pursuant to Section 52-4-202. No closed meeting is allowed except for purposes expressly allowed under Section 52-4-205; provided no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. A record of closed meetings shall be created and maintained in accordance with Section 52-4-206 of the Utah Code, as amended.

SECTION 5. SPECIFIC MEETING DATES. The meeting schedule for the Water Service District in 2009 is as follows:

January 8, 15, 22, 29	July 2, 9, 16, 23, 30
February 5, 12, 19, 26	August 6, 13, 20, 27
March 5, 12, 19, 26	September 3, 10, 17, 24
April 2, 9, 16, 23, 30	October 1, 8, 15, 22, 29
May 7, 14, 21, 28	November 5, 12, 19, 26
June 4, 11, 18, 25	December 3, 10, 17, 24, 31

SECTION 6. APPOINTMENT OF OFFICERS. The officers of the Administrative Control Board of the Park City Water Service District shall be as follows: The elected Mayor shall be the Chairman; the Mayor Pro Tempore shall be the Vice-Chairman; the Alternate Mayor Pro Tempore shall be the Alternate Vice-Chairman; the City Manager shall be the Executive Director; the City Recorder shall be the Secretary; and the Deputy City Recorder shall be the Deputy Secretary.

PASSED AND ADOPTED this 8th day of January, 2009.

City Council Staff Report

Subject:	**Council Appointments to Employee Transfer & Discharge Appeal Board**
Author:	**Brooke Moss**
Department:	**Human Resources**
Date:	**January 8, 2009**
Type of Item:	**Administrative**

Summary Recommendations:
In accordance with Utah State and Municipal Codes, three Council member appointments are needed for a one year term to serve on the Employee Transfer & Discharge Appeal Board. Two appointments are needed to serve as representatives and one in an alternate position.

Topic/Description:
The Employee Transfer Discharge and Appeal Board (ETDAB) consists of two appointed council members and three elected full time regular employees. The employee representatives are elected by the body of current employees. An alternate is also chosen from both the City Council and employee groups.

Background:
In November of 1999 council approved the establishment of ETDAB according to Section 2-6-2 within Title 2, Chapter 6 of the Municipal Code in conjunction with Park City Municipal Policies and Procedures and as set forth in Utah Code Annotated 10-3-1106, as amended. This statute prohibits the discharge or transfer of a full time regular employee to a position with less remuneration because of the employee's politics or religious belief, or incident to, or through changes, either in the elective officers, governing body, or heads of departments. The statute also provides that any employee who is discharged or transferred from one position to another, for any reason, shall have the right to appeal the discharge or transfer the ETDAB. A formal appeal was held in 2006 for the first time in two decades. No formal appeals have been held since that time.

Analysis:
The ordinance approving the establishment of the ETDAB was passed by the City Council in November of 1999. By ordinance, the appointment of council members must be made during the first regular council meeting of each year. The 2007 ETDAB board consisted of two Council members, Jim Hier and Joe Kernan with Liza Simpson as an alternate and four full-time regular City employees. Staff elected to serve for 2008 includes Pam Evans, Public Works, Karen Maxwell, Finance Department, and Matt Cassel, Engineering Department with Ron Ivie, Building Department, as an alternate. The ETDAB meets only if and when a formal appeal challenging a transfer or discharge is filed by an eligible City employee.

Department Review:
Human Resources

Alternatives:

A. Approve:
Council is being asked to appoint two members and an alternate based on prior approval of the board.

B. Deny:
As the recommendation follows that set by Council statute, denial is not recommended.

C. Modify:
As the recommendation follows that set by Council statute, no modification is recommended.

D. Continue the Item:
As the appointment timeline is established by Council statute, no continuance is recommended.

E. Do Nothing:
As the recommendation follows that set by Council statute, no lack of action is recommended.

Significant Impacts:
There are no significant impacts. This action coincides with the council liaison appointments to other boards and committees regularly occurring in January of each year.

Consequences of not taking the recommended action:
Failure to make the required appointments would leave the City out of compliance with Council statute as well as City policies and procedures.

Recommendation:
The City Council should appoint two members and an alternate to serve on the Employee Transfer and Discharge Appeal Board for one year to remain in compliance with Park City and Utah State Code.

City Council
Staff Report

PARK CITY 1884 PLANNING DEPARTMENT

Author: Katie Cattan
Subject: Four's Company Re-plat
Date: January 8, 2009
Type of Item: Administrative – Subdivision

Summary Recommendations

Staff recommends the City Council review the subdivision application, hold a public hearing and consider approving the Four's Company Re-Plat based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance (Exhibit A).

Topic

Applicant:	Linda Wright, 161 Daly Avenue Gordon and Kay Grange, 167 Daly Avenue Glen Arvil Price, 173 Daly Avenue Richard and Rhea Martinez, 187 Daly Avenue
Location:	161, 167, 173, 187 Daly Avenue
Zoning:	HR-1
Adjacent Land Uses:	Residential
Reason for Review:	Subdivision applications require Planning Commission review and City Council action

Background

On November 12th, 2007 the City received a completed application for the Four's Company Re-plat. The subdivision includes the properties at 161, 167, 173, 187 Daly Avenue in the Historic Residential (HR-1) zoning district of Park City. The proposed subdivision combines portions of lots 25 and 30 and all of lots 26-29 of Block 73 of the Park City Survey and all of lot A of the 187 Daly Avenue Replat Millsite Reservation to Park City. There is an existing home on each of the proposed lots. Three of the four homes (161, 167 and 173 Daly Avenue) are listed on the Park City Historic Building Inventory. The proposal is to remove the platted lot lines and create new lot lines to reflect the current property utilization and the existing street and to remove lot lines from underneath the historic homes. The new subdivision will clean up the property lines and create four lots of record.

There are many existing homes through out "Old Town" Park City that are located upon several lots. The applicants chose to apply for a subdivision application in an effort to create one lot of record for each of the homes. Typically, subdivisions in "Old Town" are to create single lots of record for single owners. This group of owners decided to invest in a subdivision application to create lot lines that reflect property ownership, respect the existing homes and historic areas of utilization by the owners.

The plat amendment will create four legal lots of record, from eleven platted lots (six of which are portions of lots). No building plans have been proposed by the applicant. The purpose of the plat amendment is to clean up the lot lines between the existing homes.

The Planning Commission heard this application at its regular meeting on December 10, 2008, and forwards a positive recommendation. There was no public input.

Analysis

The proposed plat amendment creates four lots of record within the HR-1 zoning district. There are 11 lots included in the application, six of which are partial lots.. The three historic homes sit on existing lot lines. The home at 187 Daly Avenue does not sit upon an existing lot line but has been included to realign the property line between the two homes to clean up the encroachment of 173 Daly Avenue on the property of 187 Daly Avenue.

Staff has reviewed the proposed plat amendment and found compliance with the LMC requirements for minimum lot size (1,875 sq. ft.) and minimum lot width (25 ft.). Even with the lot line adjustments, there is inadequate spacing between the homes to comply with the LMC side yard setback requirements within the HR-1 zoning district. The side yard setback requirements and existing conditions are as follows:

Property	Width of Lot	LMC Min. Side Yard	Proposed Side Yard
Lot 1 – 161 Daly	32.72 feet	3 feet 6 feet min. total	1 foot north side; 1 foot south side
Lot 2 – 167 Daly	71.40 feet	5 feet 18 feet min. total	2 feet north side; 3 feet south side
Lot 3 – 173 Daly	49.88 feet	5 feet 10 feet min. total	Encroaches onto lot 2 on north side; home on property line on south side
Lot 4 – 187 Daly	42.17 feet	5 feet 10 feet min. total	2 feet on north side

Although the side yards do not comply with the current LMC side yard setback requirements, any future additions would need to meet the setback requirements of the HR-1 zone. The existing homes are Existing Non-Complying Structures. An existing non-complying structure is defined by the LMC (15-15-1.144) as:

> A structure that:
>
> > (A) legally existed before its current zoning designation; and
> >
> > (B) because of the subsequent zoning changes, does not conform with the zoning regulation’s setback, height restrictions, or other regulations that govern the structure.

No non-complying structure may be moved, enlarged, or altered, except in the manner provided in Section 15-9-6 of the LMC or unless required by law.

The proposed subdivision would allow the owners to apply for future building permits. Currently, the building department would not issue a construction permit across a lot line. The three historic homes currently have a lot line passing through at least one portion of the existing homes. All future construction must comply with the LMC requirements for the HR-1 zone. Under the present Land Management Code, the following maximum footprints would be allowed on each of the lots:

Lot	Total Area	Allowed Footprint
1	3,541 square feet	1,451 square feet
2	6,867 square feet	2,334 square feet
3	4,948 square feet	1,873 square feet
4	3,544 square feet	1,452 square feet

There are significant existing improvements across the rear property line including decks, retaining walls, and a portion of a shed. As a condition of approval, either those encroachments must be removed or encroachment easements between the City and the owners for those existing uses in the City open space shall be recorded prior to plat recordation.

A portion of the property exist within the existing Daly Avenue. The subdivision application dedicates all of the existing Daly Avenue portions of the lot as street right-of-way to the City. The ROW dedication totals 1153 square feet. As a result of the right-of-way dedication, the allowable footprints for Lots 1,2, and 3 are smaller than would have been permissible with this land included in the lots.

Staff finds good cause for this subdivision as the lot lines will reflect the property boundaries and ownership between the existing homes. Existing encroachments into the City property will be memorialized or removed and will not be allowed to further expand into the open space. Also, the property under existing Daly Avenue will become official City street right-of-way.

Department Review

On November 21, 2007 this project was discussed at an interdepartmental review meeting. The original proposal requested a dedication of land from the City to the applicant. The land to the East of the property is deed restricted open space which was acquired by the City through the Coleman acquisition. City Staff directed the applicant to approach the City Council for the proposed property sale prior to continuation of the plat amendment. The City must sign off on the affirmation of sufficient interest within the subdivision application when City property is included in an application. The City Council reviewed a proposal from the applicant to exchange the street right-of-way for the open space in the rear if the property. The City Council was not in favor of the proposed property sale.

The encroachment easements between the owners and the City will allow the owners to continue utilizing the area without granting ownership of the open space. The second concern raised was snow storage. The applicant amended the plat to provide a ten foot wide snow storage easement along the front property line.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record.

Public Input

No public input has been received at the time of drafting this report.

Alternatives

- The City Council may approve the Four's Company Re-Plat as conditioned or amended, or
- The City Council may deny the Four's Company Re-Plat and direct staff to make Findings for this decision, or
- The City Council may continue the discussion on the Four's Company Re-Plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The homes would continue to exist across the platted lot lines.

Recommendation

Staff recommends the City Council review the application, hold a public hearing and consider approving the Four's Company Re-Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Survey with existing structures
Exhibit B – Ordinance

Exhibit A. Survey

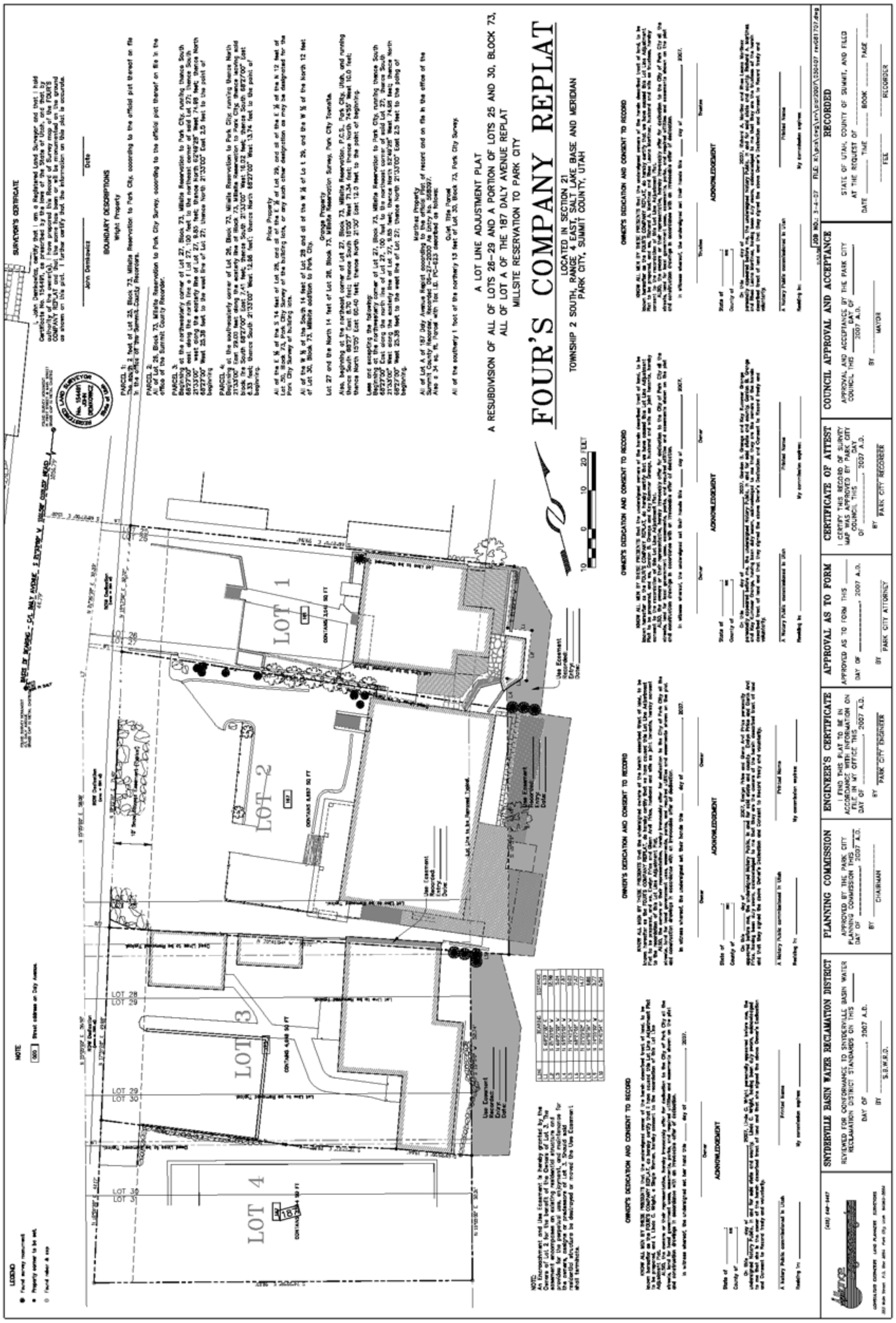


Exhibit B: Ordinance

Ordinance No. 09-

AN ORDINANCE APPROVING THE FOUR'S COMPANY RE- PLAT, A RESUBDIVISION OF ALL OF LOTS 26-29 AND A PORTION OF LOTS 25 AND 30, BLOCK 73, ALL OF LOT A OF THE 187 DALY AVENUE REPLAT MILLSITE RESERVATION TO PARK CITY LOCATED AT 161, 167, 173, AND 187 DALY AVENUE, PARK CITY, UTAH.

WHEREAS, the owners the homes located at 161, 167, 173, and 187 Daly Avenue have petitioned the City Council for approval of the subdivision; and

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

WHEREAS, the applicant would like to reestablish the lot lines to reflect the property boundaries of the homes at 161, 167, 173, and 187 Daly Avenue into four lots of record; and

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

WHEREAS, the Planning Commission held a public hearing on December 10, 2008, to receive input on the subdivision; and

WHEREAS, the Planning Commission, on December 10, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, on January 8th, 2009, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Four's Company Re-Plat.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Four's Company Re-Plat, as shown in the attachment is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 161, 167, 173, and 187 Daly Avenue.

2. The zoning district is Historic Residential (HR-1).
3. The subdivision will include all of lots 26-29 and a portion of lot 25 and 30 of Block 73 of the Park City Survey and all of lot A of the 187 Daly Avenue Replat Millsite Reservation to Park City.
4. The proposed subdivision creates four lots of record.
5. The proposed subdivision dedicates 1153 square feet to Park City underlying paved Daly Avenue.
6. According to the Land Management Code, the minimum lot width in the HR-1 District is 25'. Each of the proposed new lots exceeds the 25' minimum width.
7. According to the Land Management Code, the minimum lot area in the HR-1 is 1,875 square feet. Each of the proposed four lots exceeds the 1,875 square foot minimum.
8. An existing historic home is located on each the properties at 161, 167 and 173 Daly Avenue.
9. Side yard setback as required within the HR-1 zone are not in compliance with the existing structures and proposed lot lines due to insufficient spacing between the existing structures. The structures are existing non-complying structures. All future modifications and/or additions on the properties must comply with the Land Management Code standards for non-complying structures.
10. Lot lines exist beneath the existing historic homes at 161, 167, and 173 Daly Avenue.
11. There are existing structures and improvements across the Easterly lot line into the City property. This property is deeded open space.
12. The proposed subdivision creates a snow storage easement 10 feet wide along the front property line off of Daly Avenue
13. No remnant parcels of land are created by this plat amendment.
14. Access to the lot is from Daly Avenue.
15. Existing Daly Ave is located along the west property line. Existing structures comply with the front yard setback requirements for the HR-1 zoning district.
16. No trails exist across the property.
17. All findings within the Analysis section of the staff report are incorporated within.

Conclusions of Law:

1. There is good cause for this Subdivision because it will create four legal lots of record for four existing homes.
2. The Subdivision is consistent with the Park City Land Management Code complying with the minimum requirements for lot width and area.
3. Neither the public nor any person will be materially injured by the proposed Subdivision.
4. Approval of the Subdivision, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and

content of the Subdivision for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. Recorded encroachment easements for the existing improvements across the rear property line within the City open space shall be recorded between the City and the owners prior to plat recordation.
3. The applicant will record the Subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
4. A ten foot Snow storage easement shall be identified along the front property line on the subdivision plat.
5. Dedication of property to the City for the Daly Avenue street right-of-way shall be identified on the subdivision plat.
6. No remnant parcels are separately developable.
7. An encroachment agreement on Lot 2 for the encroachment of the structure from Lot 3 must be recorded prior to plat recordation.
8. Lot 1, 2, 3, and 4 of the Four's Company Replat must record snow shed and maintenance agreements with adjacent property owners within this application prior to plat recordation.

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

PASSED AND ADOPTED this 8th day of January, 2009.

PARK CITY MUNICIPAL
CORPORATION

____
Dana Williams, MAYOR

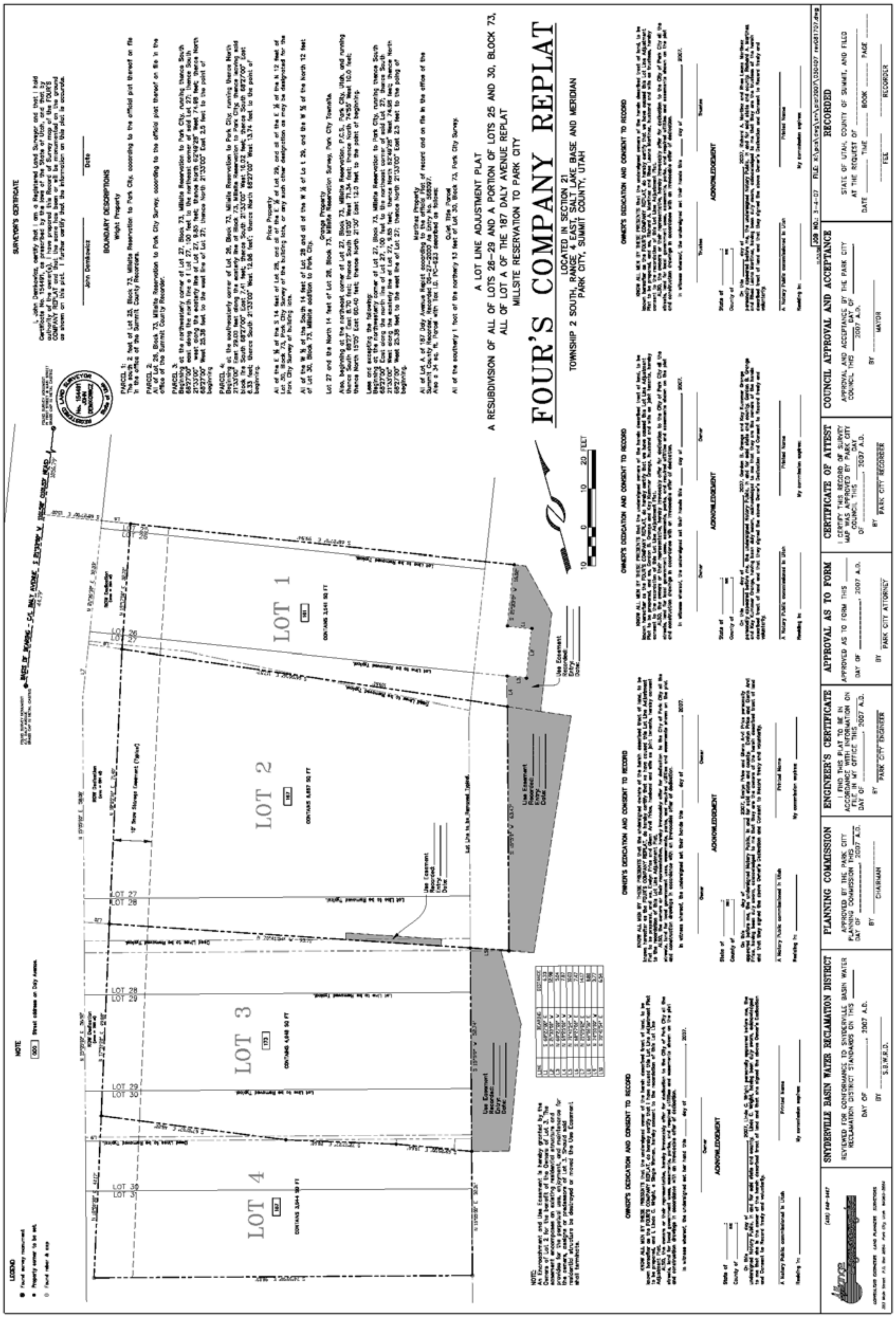
ATTEST:

____
Jan Scott, City Recorder

APPROVED AS TO FORM:

____
Mark Harrington, City Attorney

Attachment 1 - Proposed Plat Amendment



City Council Staff Report

Subject: **Fisher Subdivision Amended**
Author: **Katie Cattan**
Date: **January 8, 2009**
Type of Item: **Administrative – Subdivision**

PARK CITY 1884 PLANNING DEPARTMENT

Summary Recommendations

Staff recommends that the City Council review the subdivision application, conduct a public hearing and consider approving the Fisher Subdivision Amended re-plat according to the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Topic

Applicant:	118 and 124 Daly Avenue, LLC Jerry Fiat, Representative
Location:	118 and 124 Daly Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Subdivisions require Planning Commission review and City Council approval

Background

On October 22, 2008, the City received a completed application to combine each of the two lots of record at 118 and 124 Daly Avenue with the adjacent parcels located behind the lots. The adjacent metes and bounds parcels are located on vacated Anchor Avenue directly west of Lot 17 and 18 of the Fisher Subdivision. The properties are all owned by a single entity.

The applicant wishes to combine the parcels with each of the two existing lots reflecting current ownership. The lots are currently vacant, however, building permits have been issued for the homes at 118 and 124 Daly Avenue. Applicant also has received steep slope conditional use permits for each property. No changes to the current building plans have been proposed by the owner. A building permit cannot be issued across a property line. The issued building permits do not cross over the property line. Planning Staff will review all future plans for compliance with the Historic District Design Guidelines and the Land Management Code.

It must be noted that the proposed amended subdivision in Attachment 1 includes Lot 16B and Lot 16A of the Fisher Subdivision. Lot 16A and 16B will remain unchanged. The re-plat only changes the dimensions of Lot 17 and Lot 18.

The Planning Commission heard this application at its regular meeting on December 10, 2008, and forwards a positive recommendation. The Planning Commission added a condition of approval that a hatched area must be added to the plat in the area of vacated anchor avenue and a note be added to the plat stating “The hatched area on the plat will not be included in future footprint calculations." There was no public input.

Analysis

The purpose of the application is to have the property lines reflect the ownership boundaries. The amended subdivision will create two larger lots of record. The two proposed lots comply with the Land Management Code (LMC) requirements for a minimum width of 25 feet and a minimum lot size of 1,875 square feet. Lot 17 Amended will be 4602 square feet in area and Lot 18 Amended will be 2750.7 square feet in area.

Per the LMC, the increase in lot square footage may directly result in an increase in allowed footprint. Due to the steepness in the rear of the lots, the applicant will have to apply for a steep slope CUP if he wishes to expand his footprint in that portion of the lot. An application for a Steep Slope CUP will be subject to the pending steep slope ordinance. Under the current code, prior to the proposed plat amendment, the maximum footprint was 1589 square feet for Lot 17 and 1039 square feet for Lot 18. Potential maximum footprint under the current LMC would be 1776 square feet for Lot 17 amended and 1178 square feet for Lot 18 amended. (Attachment 2 – Daly Avenue Existing Square Footage Study)

	Max. Footprint Current Lot	Max. Footprint Proposed Lot
Lot 17	1589	1776
Lot 18	1039	1178

To prevent any potential increases in the maximum footprint allowed on the newly created lots, the Planning Commission added a condition of approval that a hatched area must be added to the plat in the area of vacated anchor avenue. Also, a note must be added to the plat stating "The hatched area on the plat will not be included in future footprint calculations."

Planning Staff finds there is good cause for the application as the subdivision will reflect the ownership of the property. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

The property is located in the HR-1 zone. Therefore, prior to the issuance of any new Building Permit for a conditional or allowed use, the Planning Department must review the proposed plans for compliance with Historic District Design Guidelines and the Land Management Code.

Department Review

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at a Staff Review Meeting where representatives from local utilities and City Staff were in attendance. Issues which were brought up during the Staff meeting have been resolved.

Notice
Notice of this hearing was sent to property owners within 300'. Legal notice was also put in the Park Record.

Public Input
No comments have been received by staff at the date of this writing.

Alternatives
1. The City Council may approve the Fisher Subdivision Amended as conditioned or amended; or
2. The City Council may deny the Fisher Subdivision Amended and direct staff to make Findings for this decision; or
3. The City Council may continue the discussion on the Fisher Subdivision Amended.

Significant Impacts
There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation
The lot would remain as is and the current approved building plans could be built. The property lines would not reflect the current ownership of the vacated Anchor Avenue parcel adjacent to Lot 17 and Lot 18.

Recommendation
Staff recommends that the City Council hold a public hearing for the Fisher Subdivision Amended and consider approving the amended subdivision plat based on the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits
Exhibit A – Proposed Ordinance
Exhibit B – Daly Avenue Square Foot Analysis

Ordinance No. 09-

AN ORDINANCE APPROVING THE FISHER AMENDED SUBDIVISION A REPLAT OF LOTS 17 AND 18 BLOCK 74, PARK CITY, UTAH

WHEREAS, the owner of the properties known as 118 and 124 Daly Avenue, has petitioned the City Council for approval of a subdivision combining the existing lots of record with the vacated Anchor Avenue parcels adjacent to the lots; and

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

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

WHEREAS, the Planning Commission held a public hearing on December 10, 2008, to receive input on the Fisher Amended Subdivision; and

WHEREAS, the Planning Commission, on December 10, 2008, forwarded a positive recommendation to the City Council; and

WHEREAS, on January 8, 2009, the City Council approved the Fisher Amended Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Fisher Amended Subdivision.

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

SECTION 1. APPROVAL The above recitals are hereby incorporated as findings of fact. The Fisher Amended Subdivision as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 118 (Lot 17) and 124 (Lot 18) Daly Avenue.
2. The two lots are not of equal dimensions. The lot area of lot 17 is approximately 4602 square feet. The lot area of lot 18 is approximately 2750.7 square feet
3. The zoning is Historic Residential (HR-1).
4. The neighborhood is characterized by single family new and historic homes, as well as duplexes and multi-family homes.
5. The subdivision will create two lots of record.
6. The two lots currently have approved building permits for single family

homes, approved design review applications, and approved steep slope conditional use permits.

7. Any change to the building permit to include an expansion of the footprint due to this plat amendment will require a new application.
8. Access to the property is from Daly Avenue.
9. The minimum lot size in the HR-1 zone is 1,875 square feet for a single family home.
10. The minimum lot width in the HR-1 zone is 25 feet.
11. Lot 17 and 18 comply with the minimum lot requirements for area and width.
12. Minimal construction staging area is available along Daly Avenue.
13. Attachment 1 includes Lot 16B and Lot 16A of the Fisher Subdivision. This is an error. The re-plat only includes changes to Lot 17 and Lot 18. Lot 16A and 16B will not be included in the final subdivision plat.
14. All findings within the Analysis section of the staff report are incorporated herein.

Conclusions of Law:

1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. As conditioned the subdivision is consistent with the Park City General Plan.

Conditions of Approval:

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. The applicant will record the subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
4. The constructed buildings will require 13-D fire sprinklers.
5. A hatched area must be added to the plat in the area of vacated Anchor Avenue and a note be added to the plat stating "The hatched area on the plat will not be included in future footprint calculations."

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

PASSED AND ADOPTED this 8th day of January 2009.

PARK CITY MUNICIPAL CORPORATION

____

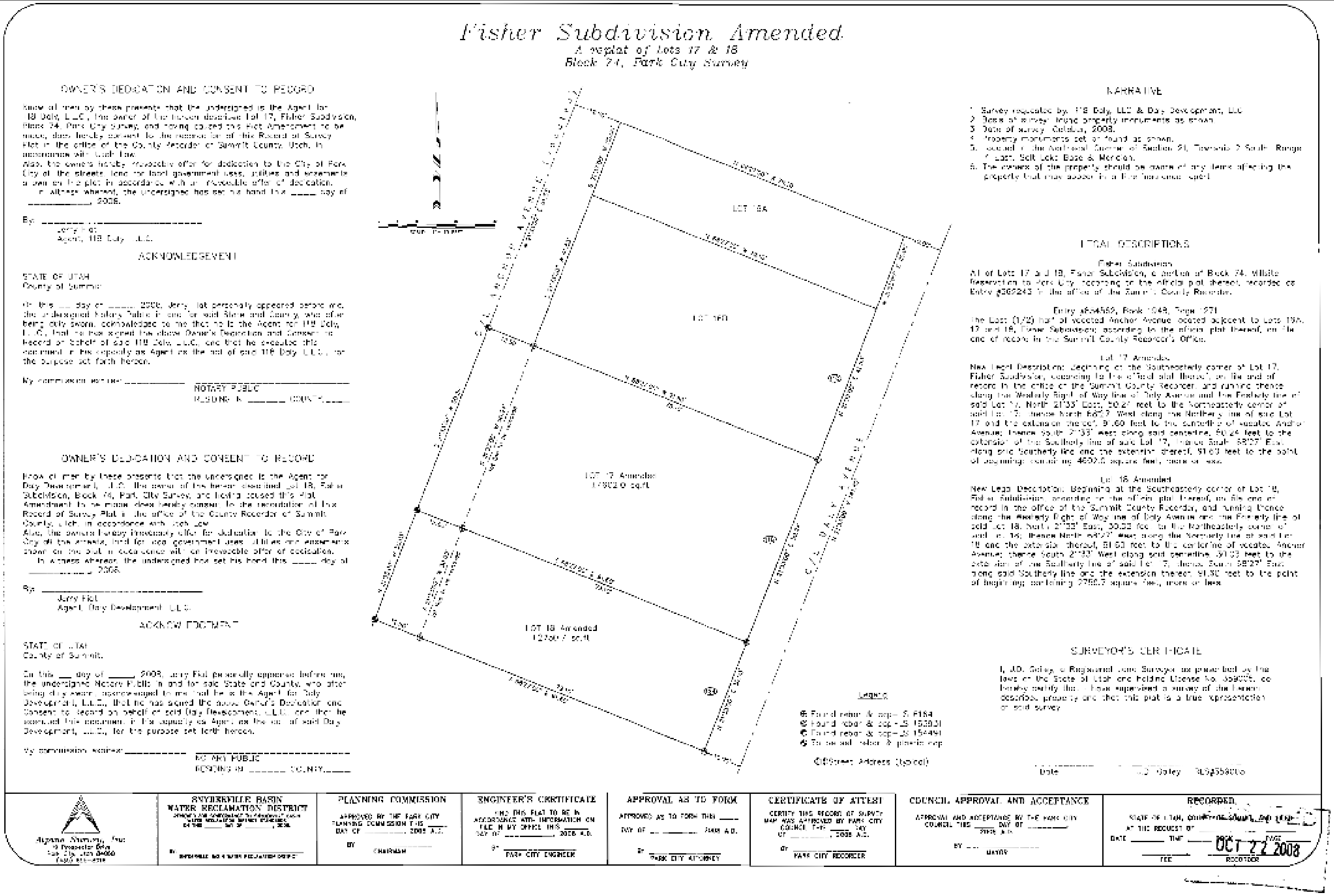
Dana Williams, Mayor

Attest:

____
Janet M. Scott, City Recorder

Approved as to form:

____
Mark D. Harrington, City Attorney


Fisher Subdivision Amended
A replat of Lots 17 & 18
Block 74, Park City Survey
OWNER'S DEDICATION AND CONSENT TO RECORD
Know all men by these presents that the undersigned is the Agent for 118 Daly, L.L.C., the owner of the herein described Lot 17, Fisher Subdivision, Block 74, Park City Survey, and having caused this Plat Amendment to be made, does hereby consent to the recordation of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law.
Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.
In witness whereof, the undersigned has set his hand this _____ day of __________, 2008.
By: ______________________
Jerry Fiat
Agent, 118 Daly, L.L.C.
ACKNOWLEDGEMENT
STATE OF UTAH
County of Summit
On this ___ day of _____, 2008, Jerry Fiat personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is the Agent for 118 Daly, L.L.C., that he has signed the above Owner's Dedication and Consent to Record on behalf of said 118 Daly, L.L.C., and that he executed this document in his capacity as Agent as the act of said 118 Daly, L.L.C., for the purpose set forth hereon.
My commission expires: __________
NOTARY PUBLIC
RESIDING IN ______ COUNTY____
OWNER'S DEDICATION AND CONSENT TO RECORD
Know all men by these presents that the undersigned is the Agent for Daly Development, L.L.C. the owner of the herein described Lot 18, Fisher Subdivision, Block 74, Park City Survey, and having caused this Plat Amendment to be made does hereby consent to the recordation of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law.
Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.
In witness whereof, the undersigned has set his hand this _____ day of __________, 2008.
By: ______________________
Jerry Fiat
Agent, Daly Development, L.L.C.
ACKNOWLEDGMENT
STATE OF UTAH
County of Summit.
On this ___ day of _____, 2008, Jerry Fiat personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is the Agent for Daly Development, L.L.C., that he has signed the above Owner's Dedication and Consent to Record on behalf of said Daly Development, L.L.C. and that he executed this document in his capacity as Agent as the act of said Daly Development, L.L.C., for the purpose set forth hereon.
My commission expires: __________
NOTARY PUBLIC
RESIDING IN ______ COUNTY____
LOT 18A
LOT 18B
LOT 17 Amended
LOT 18 Amended
NARRATIVE
1. Survey requested by: 118 Daly, LLC & Daly Development, LLC
2. Basis of survey: found property monuments as shown.
3. Date of survey: October, 2008.
4. Property monuments set or found as shown.
5. Located in the Northeast Corner of Section 21, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
6. The owners of the property should be aware of any items affecting the property that may appear in a title insurance report.
LEGAL DESCRIPTIONS
Fisher Subdivision
All of Lots 17 and 18, Fisher Subdivision, a portion of Block 74, Millsite Reservation to Park City, according to the official plat thereof, recorded as Entry #362243 in the office of the Summit County Recorder.
Entry #654562, Book 1049, Page 1271
The East (1/2) half of vacated Anchor Avenue located adjacent to Lots 18A, 17 and 18, Fisher Subdivision, according to the official plat thereof, on file and of record in the Summit County Recorder's Office.
Lot 17 Amended
New Legal Description: Beginning at the Southeasterly corner of Lot 17, Fisher Subdivision, according to the official plat thereof, on file and of record in the office of the Summit County Recorder, and running thence along the Westerly Right of Way line of Daly Avenue and the Easterly line of said Lot 17, North 21°33' East, 50.24 feet to the Northeasterly corner of said Lot 17; thence North 68°27' West along the Northerly line of said Lot 17 and the extension thereof, 91.60 feet to the centerline of vacated Anchor Avenue; thence South 21°33' West along said centerline, 50.24 feet to the extension of the Southerly line of said Lot 17; thence South 68°27' East along said Southerly line and the extension thereof, 91.60 feet to the point of beginning; containing 4602.0 square feet, more or less.
Lot 18 Amended
New Legal Description: Beginning at the Southeasterly corner of Lot 18, Fisher Subdivision, according to the official plat thereof, on file and of record in the office of the Summit County Recorder, and running thence along the Westerly Right of Way line of Daly Avenue and the Easterly line of said Lot 18, North 21°33' East, 30.33 feet to the Northeasterly corner of said Lot 18; thence North 68°27' West along the Northerly line of said Lot 18 and the extension thereof, 91.63 feet to the centerline of vacated Anchor Avenue; thence South 21°33' West along said centerline, 30.33 feet to the extension of the Southerly line of said Lot 17; thence South 68°27' East along said Southerly line and the extension thereof, 91.30 feet to the point of beginning; containing 2768.7 square feet, more or less.
SURVEYOR'S CERTIFICATE
Legend
SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
PLANNING COMMISSION
ENGINEER'S CERTIFICATE
APPROVAL AS TO FORM
CERTIFICATE OF ATTEST
COUNCIL APPROVAL AND ACCEPTANCE
RECORDED
OCT 22 2008

City Council
Staff Report

Subject: **1910 Prospector Avenue**
Author: **Jacquelyn Mauer**
Date: **December 10, 2008**
Type of Item: **Administrative – Condominium Record of Survey**

PLANNING DEPARTMENT

Summary Recommendations
Staff recommends the City Council hold a public hearing and considers approving the 1910 Prospector Avenue Office Condominiums Record of Survey based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Description

Applicant:	1910 Prospector PC, LLC, owner, represented by Bruce Anderson, contractor
Location:	1910 Prospector Avenue, Lots 23 B and C of the Amended Plat of Prospector Square Subdivision
Zoning:	General Commercial (GC) within the Prospector Square overlay
Adjacent Land Uses:	Commercial and Multi-family Housing
Reason for Review:	Condominium Record of Surveys require Planning Commission review and City Council approval

Background
On October 24, 2008 the City received a completed application for the 1910 Prospector Avenue Office Condominiums Record of Survey. The building is located at 1910 Prospector Avenue in the General Commercial (GC) zoning district within the Prospector Square overlay. The building was constructed in the early 1980's on Lots 23B and 23C of the Amended Plat of Prospector Square. The building consists of three upper levels and one basement level with common stairways and a common elevator.

The current property owner is proposing to condominiumize the building creating one commercial unit per floor for a total of three units. The basement level would be Convertible Space as defined by the Utah Condominium Act. The applicant is also proposing to eliminate the lot line between 23B and 23C as part of this application.

The owner plans to offer each floor as a unit for Office use. The levels are accessible through common stairways and a common elevator. The common spaces will be managed by a Condo Owner's Association.

Analysis
Staff finds good cause for this condominium conversion record of survey. Separating the building into three commercial units for office space will allow the individual sale of units. Removal of lot line between 23B and 23C will bring location of structure into compliance.

There are no proposed modifications to the building shell. Existing building height, setbacks, and floor area ratio (FAR) will not be altered. The current Land Management Code states the maximum FAR allowed for this property is 2.0. However, the FAR of this structure complied at time it was built since there was no mention of FAR in the Land Management Code at that time and therefore is an existing non-complying structure. There is also no mention of FAR on the plat. The conversion of the convertible space at a future date into units and/or common area will not increase the FAR as it is a basement area below final grade. Any future changes to the building structure must comply with the zoning regulations of the Land Management Code other than set forth above.

Building Use
There are no plans of change in building use. If there is a need to change this use in the future, it must comply with the allowed uses within the GC zone as stated in the Land Management Code.

Utilities
Per the request of Snyderville Basin Water Reclamation District, the way in which utilities are split will be noted on the plat. The mechanical rooms are all located in common areas.

Access
The main access is from Parking Lot E. The rear access is located on the southwest side of the building. It is owned by the Prospector Square Owners Association.

Square Footage
The square footage will not be increased in any way. Each condo varies in size.

Unit Number	Total Private Ownership (SF)	Total Common Ownership Per Floor (SF)	Convertible Space
Basement	0	944	2627
1	4537	657	0
2	4797	499	0
3	5149	499	0

Traffic
Traffic flow will not be disturbed by this condominium conversion.

Parking
Parking demands will not be increased by this condominium conversion. Property uses Prospector Square Common Parking Lots.

Process
The approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Department Review
This project has gone through an interdepartmental review. All issues that were brought up have been addressed above.

Notice
The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input
No public input has been received by the time of this report.

Alternatives
- The City Council may approve the 1910 Prospector Avenue Office condominium record of survey as conditioned or amended; or
- The City Council may deny the 1910 Prospector Avenue Office condominium record of survey plat amendment and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the 1910 Prospector Avenue Office condominium record of survey plat amendment.
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

Significant Impacts
There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation
Ownership of the property would remain as is with one single owner of building in its entirety. The existing lot line between Lots 23B and 23C would remain.

Recommendation
Staff recommends the City Council hold a public hearing and considers approving the 1910 Prospector Avenue Office Condominiums record of survey on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A: Ordinance

I:\Cdd\Jacquey\Projects\1910 Prospector

Ordinance No. 08-

AN ORDINANCE APPROVING THE 1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS RECORD OF SURVEY LOCATED AT 1910 PROSPECTOR AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 1910 Prospector Avenue have petitioned the City Council for approval of the 1910 Prospector Avenue Office Condominiums record of survey; and

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

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

WHEREAS, the Planning Commission held a public hearing on December 10, 2008, to receive input on the 1910 Prospector Avenue Office Condominiums record of survey;

WHEREAS, the Planning Commission, on December 10, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the 1910 Prospector Avenue Office Condominiums record of survey.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 1910 Prospector Avenue Office Condominiums record of survey as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:
1. The property is located at 1910 Prospector Avenue, lots 23B and 23C of the Amended Plat Prospector Square.
2. The zoning is General Commercial (GC) within the Prospector Square overlay.
3. Each floor of the building becomes a unit, creating a total of three units in the building and two convertible spaces in the basement level.
4. Each of the three units will vary in size. Unit one is 4537 SF, unit two is 4797 SF, and unit three is 5149 SF. Total convertible space is 2627 SF. Convertible space #1 is 2312 SF, and convertible space #2 is 315 SF.
5. The levels are accessible through common stairways and a common elevator.
6. The lot line between 23B and 23C is removed.

7. The structure was built in the early 1980's.
8. Existing building height, setbacks, and floor area ratio of this building will not be altered.
9. The findings within the Analysis section of this staff report are incorporated within.

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

Conditions of Approval:
1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. All conditions of approval of the Amended Prospector Square Subdivision shall continue to apply.
4. Division of utilities will be addressed and included on the record of survey prior to recordation of the plat.

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

PASSED AND ADOPTED this day of .

PARK CITY MUNICIPAL CORPORATION

____

Dana Williams, MAYOR

ATTEST:

____

Jan Scott, City Recorder

APPROVED AS TO FORM:

____

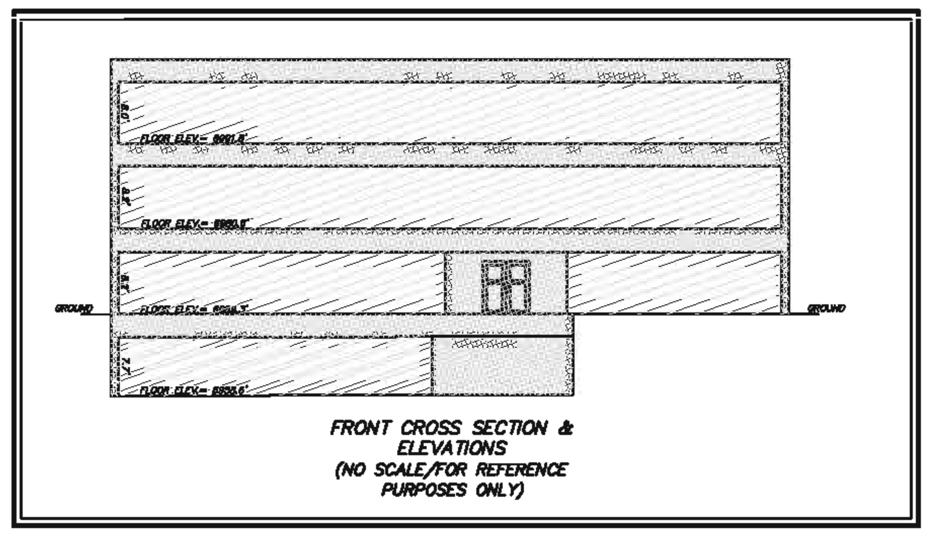
Mark Harrington, City Attorney

Attachments

Attachment A: Record of Survey

1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS

A UTAH CONDOMINIUM PROJECT
LYING WITHIN THE NORTHEAST QUARTER OF
SECTION 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST
SALT LAKE BASE & MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



LEGAL DESCRIPTION:

ALL OF LOT 1 LYING WITHIN THE "1910 PROSPECTOR AVENUE AMENDED PLAT", ON FILE AND OF RECORD AT THE SUMMIT COUNTY RECORDER'S OFFICE.

NOTES:

1. THE PURPOSE OF THIS PLAT IS TO CONVERT THE EXISTING BUILDING ON LOT 1 INTO A CONDOMINIUM.
2. ALL NOTES AND COVENANTS OF "AMENDED PLAT PROSPECTOR SQUARE" REMAIN IN EFFECT ON THIS PLAT AMENDMENT.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that by the virtue of a corporate resolution, 1910 PROSPECTOR PC, L.L.C., a Utah limited liability company, owner of the herein described tract of land, to be known hereafter as the 1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS, do hereby certify that I have caused this plat to be prepared, and does hereby consent to the recordation of this plat. I certify that buildings shown on this plat, but not under construction at the time the plat is recorded, will be substantially as shown on the plat.

ALSO, the owner, or his/her representatives, hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements, parks, and required utilities and easements shown on the plat and construction drawings in accordance with an irrevocable offer of dedication.

In witness whereof, I have hereunto set my hand this ________ day of ______________, 2008.

LABOR ET HONORE, LLC, Manager

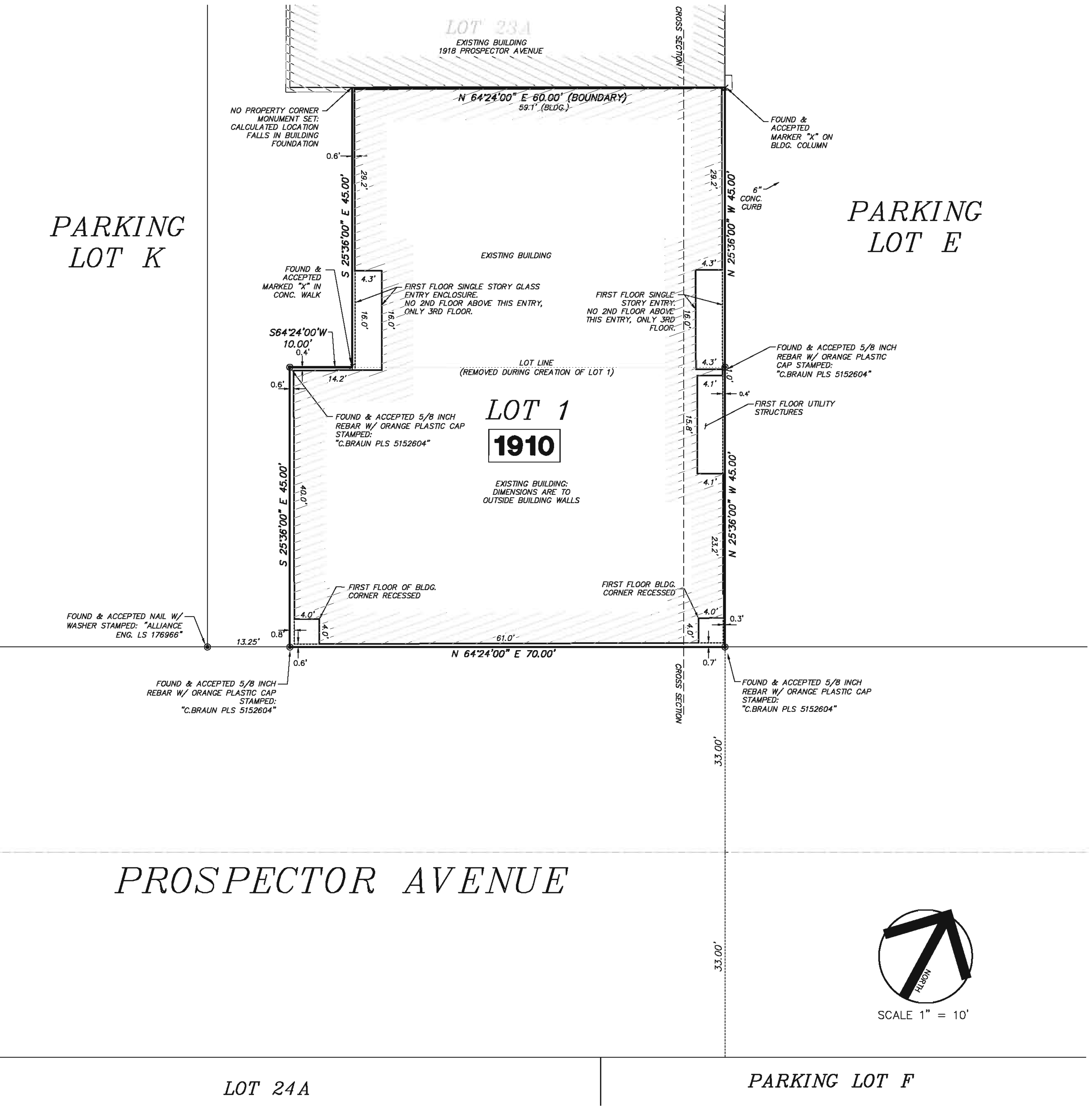
BY: ______________________________
James N. Clarke, Manager

CORPORATE ACKNOWLEDGEMENT:

STATE OF UTAH
County of Summit
Personally appeared before me this __________ day of ____________________, 2008 the following:
James N. Clarke, who after being duly sworn, acknowledged to me that he is Manager of Labor et Honore, L.L.C., a Utah limited liability company, and that he signed the owners dedication freely and voluntarily for and on behalf of said company under the authority granted by its operating agreement and that said company executed the same.

MY COMMISSION EXPIRES ______________________ ______________________
NOTARY PUBLIC

RESIDING IN ______________________



MAP OF SURVEY

LEGEND

LOT 1 LOT NUMBER

1910 STREET ADDRESS

FOUND REBAR & CAP, AS DESCRIBED (UNLESS OTHERWISE NOTED)

SURVEYOR'S CERTIFICATE

I, Christopher Pentes, certify that I am a Registered Land Surveyor and that I hold Certificate No. 6449384, as prescribed by the laws of the State of Utah, and this Plat was prepared under my direction in accordance with the requirements of Park City Municipal Corporation. I further certify that the property boundaries as shown are correct.

______________________ __________
Christopher Pentes Date
PLS 6449384

UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	TOTAL PRIVATE OWNERSHIP SQ. FT.	TOTAL COMMON AREA SQ. FT.	CONVERTIBLE SPACE
B	0	944	2627
1	4537	657	0
2	4797	499	0
3	5149	499	0

Park City Surveying
P.O. Box 682993
Park City, UT 84068
(435)649-2918
(435)649-4637 fax

PAGE 1 of 5

PARK CITY PLANNING COMMISSION	CERTIFICATE OF ATTEST	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	ENGINEERS CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____DAY OF ___________ A.D. 2008. ______________ CHAIRMAN	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF ___________, 2008 A.D. BY ______________ PARK CITY RECORDER	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ______ DAY OF ___________, 2008 A.D. BY ______________ S.B.W.R.D.	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF ___________, 2008 A.D. BY ______________ PARK CITY ENGINEER	APPROVED AS TO FORM THIS _____ DAY OF ___________, 2008 A.D. BY ______________ PARK CITY ATTORNEY	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF ___________, 2008 A.D. BY ______________ MAYOR	STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF ______________ DATE _______ TIME _____ BOOK _____ PAGE _____ ________ FEE ______________ RECORDER

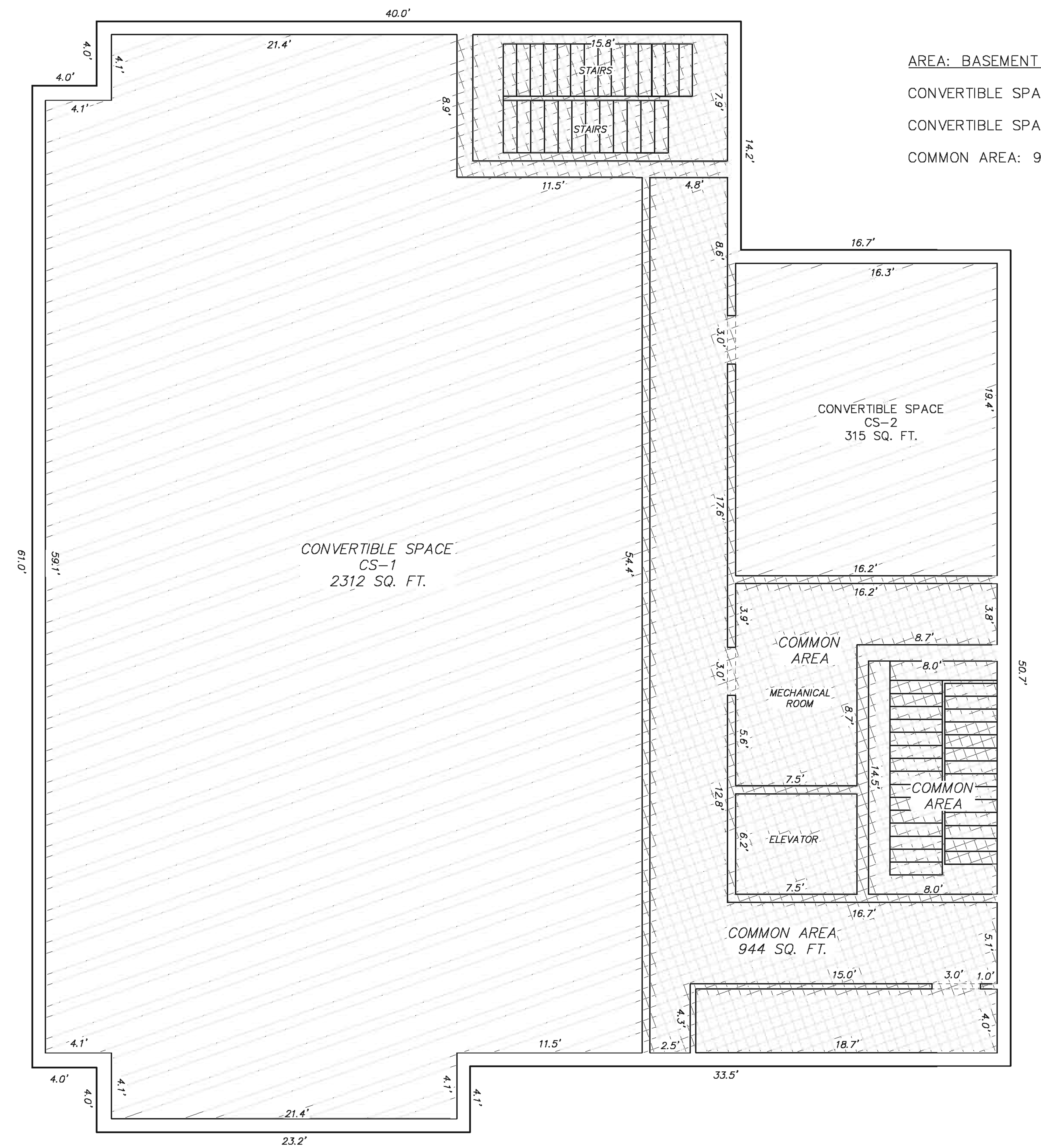
1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS

AREA: BASEMENT FLOOR:

CONVERTIBLE SPACE 1: 2312 SQ. FT.

CONVERTIBLE SPACE 2: 315 SQ. FT.

COMMON AREA: 944 SQ. FT.



CONVERTIBLE SPACE

COMMON AREA

DOOR

BASEMENT FLOOR

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

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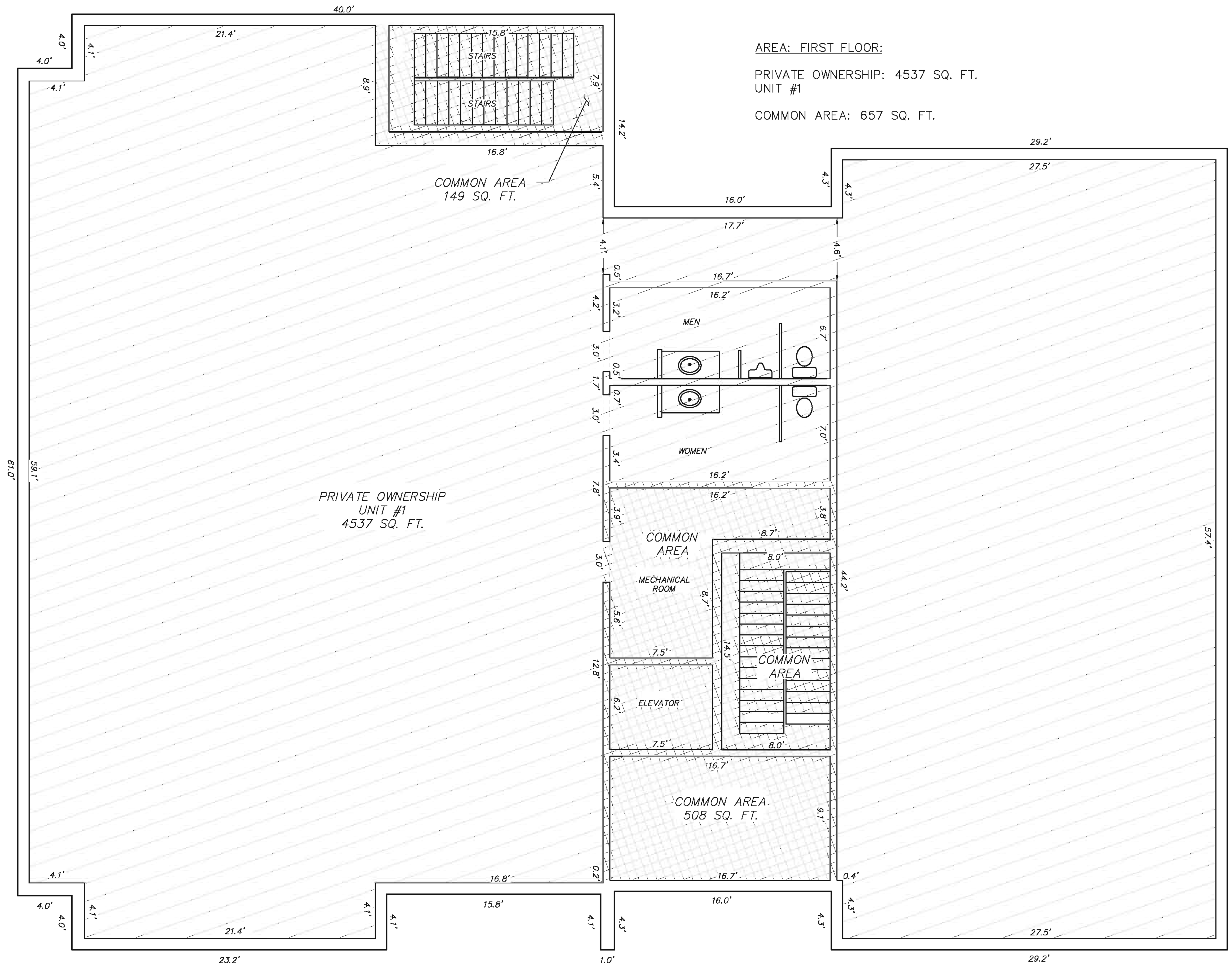
SHEET 2 OF 5

RECORDED

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

______ FEE ______ RECORDER

1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS



AREA: FIRST FLOOR:

PRIVATE OWNERSHIP: 4537 SQ. FT.
UNIT #1

COMMON AREA: 657 SQ. FT.

PRIVATE OWNERSHIP

COMMON AREA

DOOR

FIRST FLOOR

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

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SHEET 3 OF 5

RECORDED

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

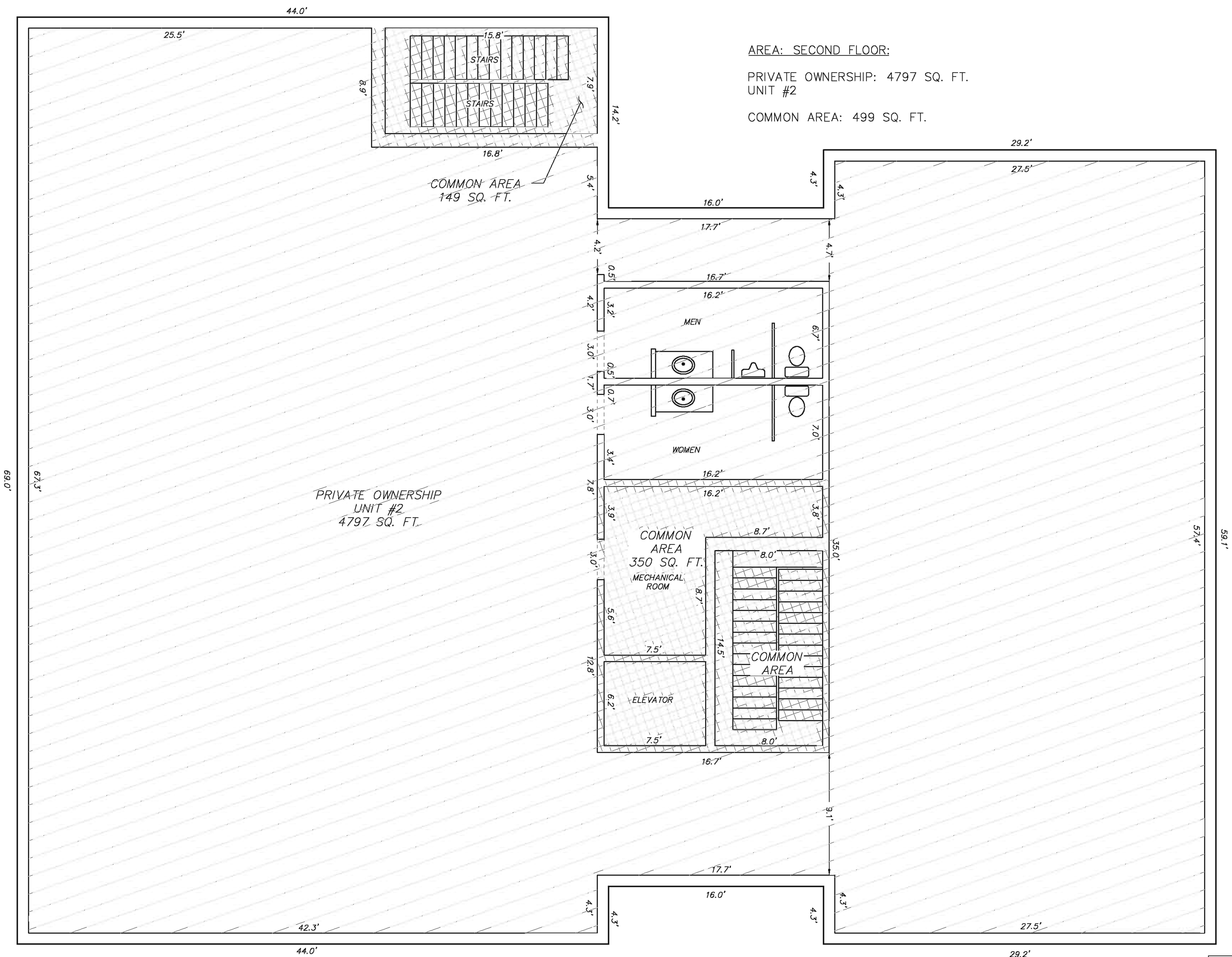
______ FEE ______ RECORDER

1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS

AREA: SECOND FLOOR:

PRIVATE OWNERSHIP: 4797 SQ. FT.
UNIT #2

COMMON AREA: 499 SQ. FT.



PRIVATE OWNERSHIP

COMMON AREA

DOOR

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

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SHEET 4 OF 5

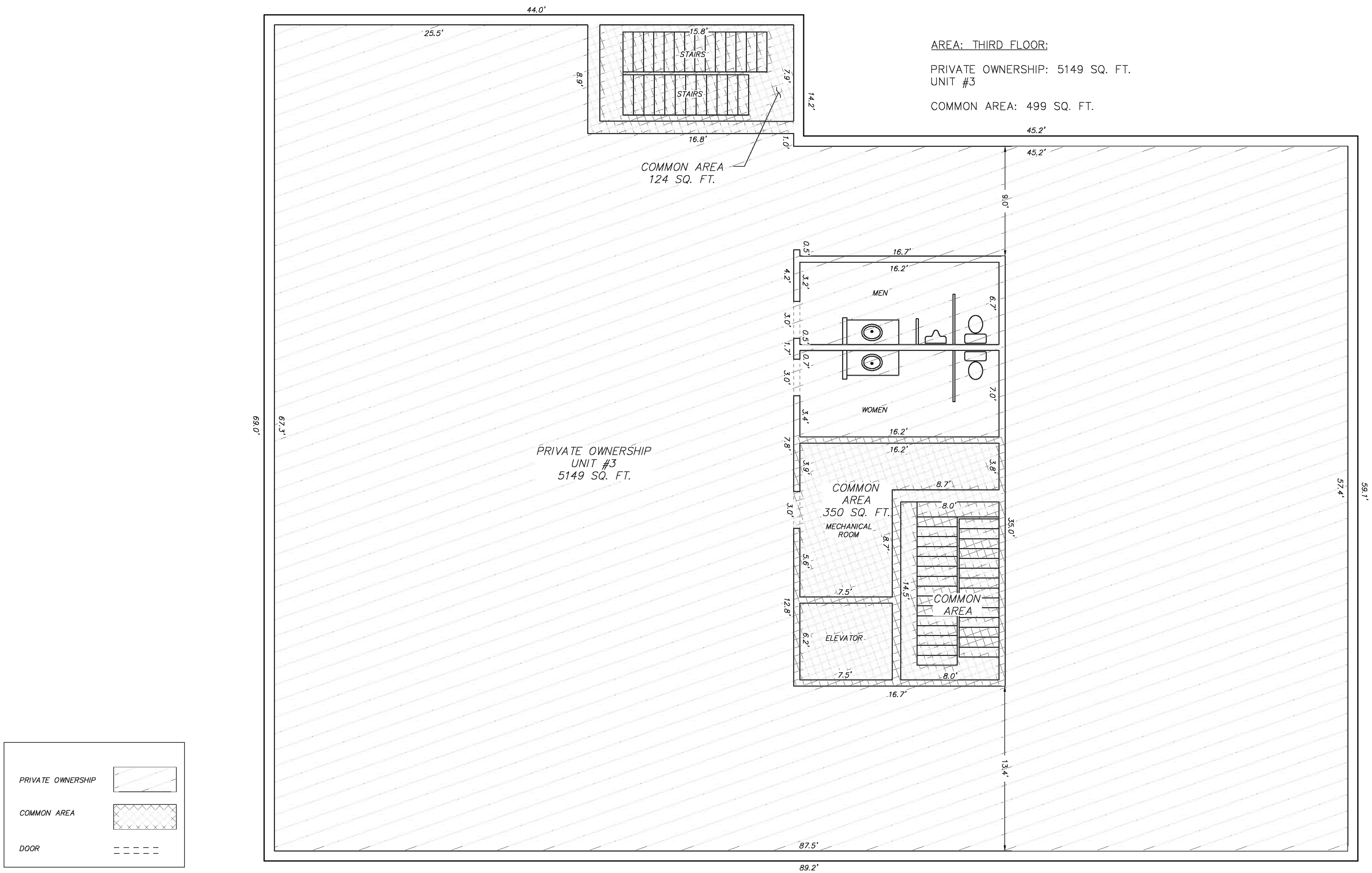
RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF ________
DATE ______ TIME ______ BOOK ______ PAGE ______
______ FEE ______ RECORDER

1910 PROSPECTOR AVENUE OFFICE CONDOMINIUMS

AREA: THIRD FLOOR:

PRIVATE OWNERSHIP: 5149 SQ. FT.
UNIT #3

COMMON AREA: 499 SQ. FT.



THIRD FLOOR

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

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(435)649-4657 fax

SHEET 5 OF 5

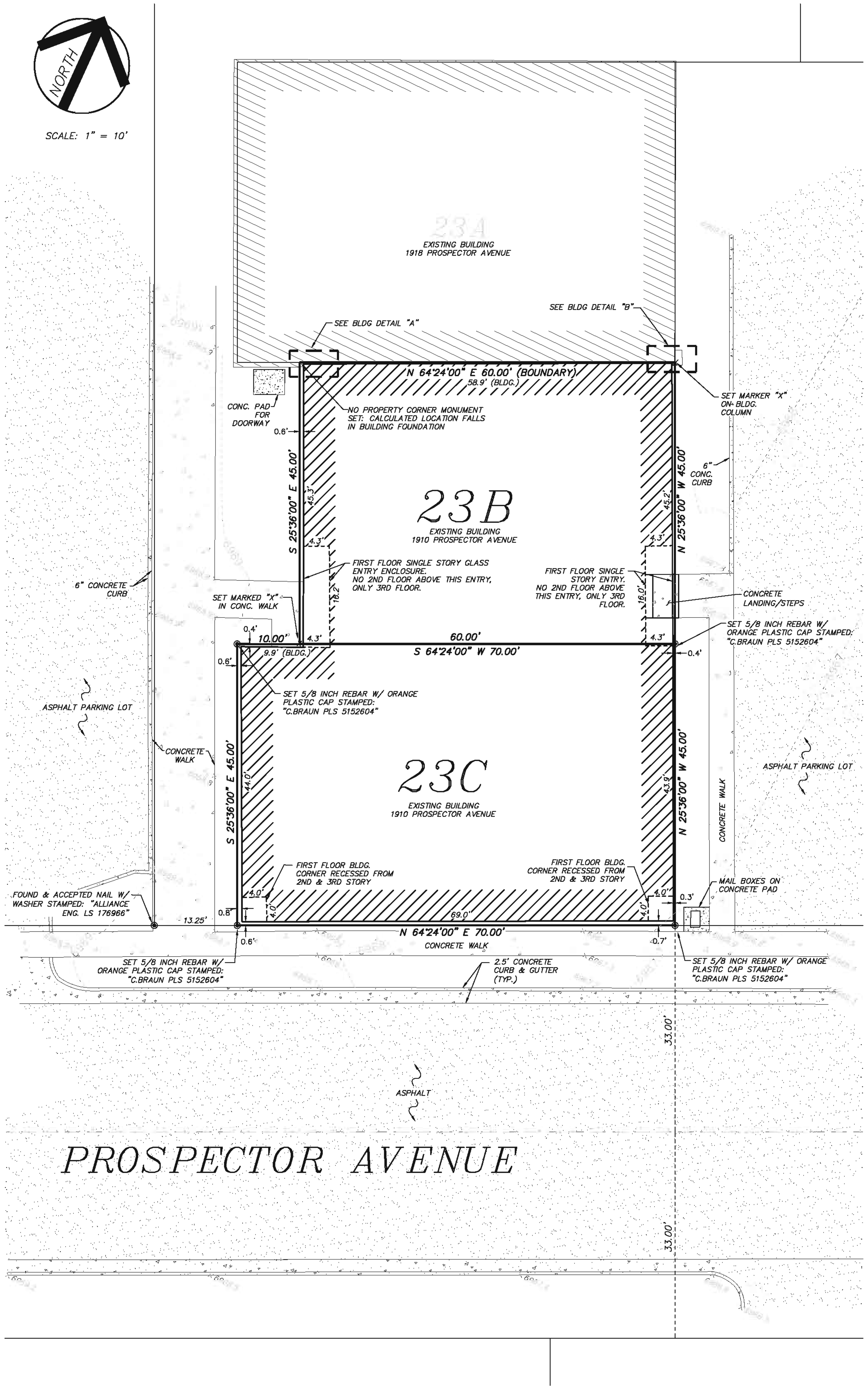
RECORDED

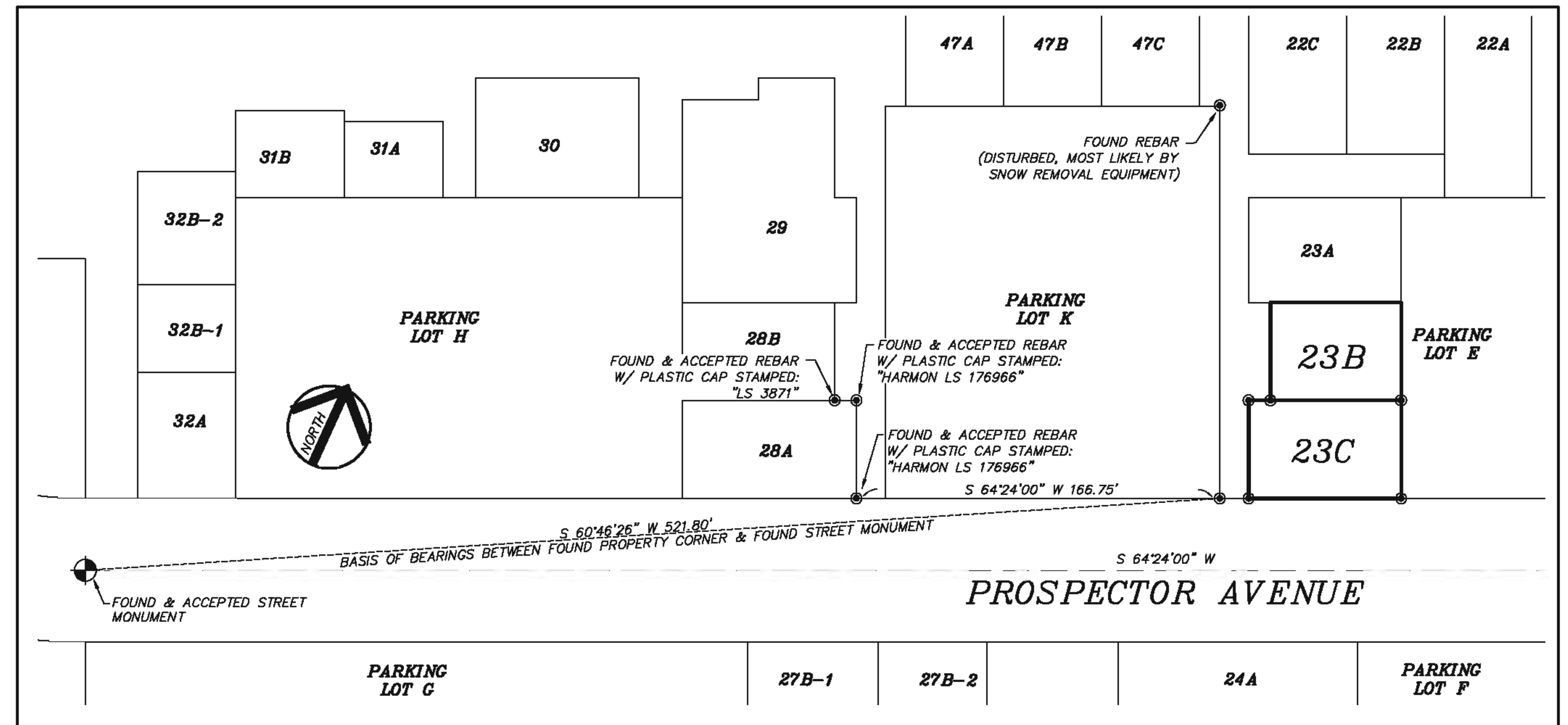
STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF ______
DATE ______ TIME ______ BOOK ______ PAGE ______

______ FEE ______ RECORDER

RECORD OF SURVEY & AS-BUILT MAP

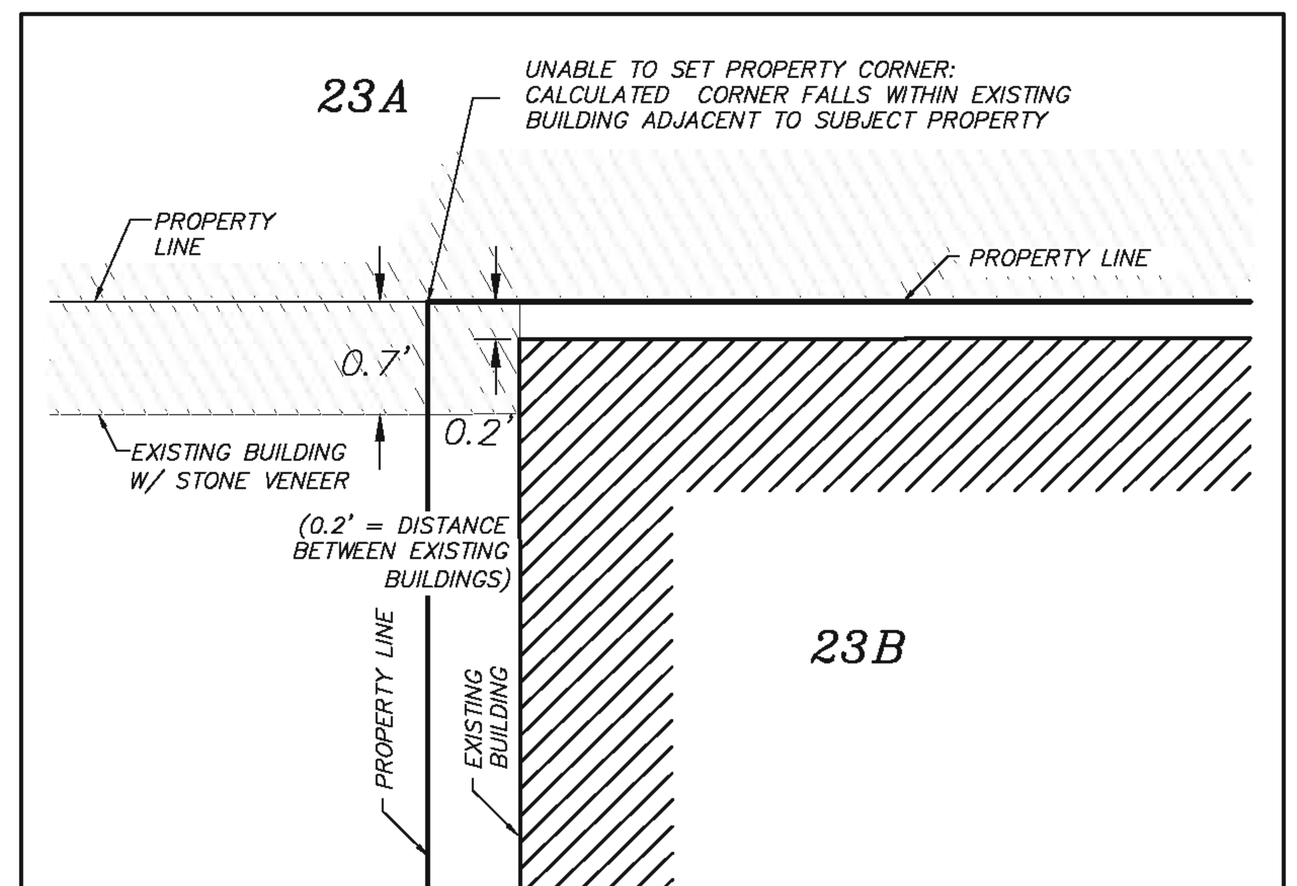
LOTS 23B & 23C OF THE AMENDED PLAT PROSPECTOR SQUARE SUBDIVISION
LYING WITHIN THE NORTHEAST QUARTER OF
SECTION 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST
SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH





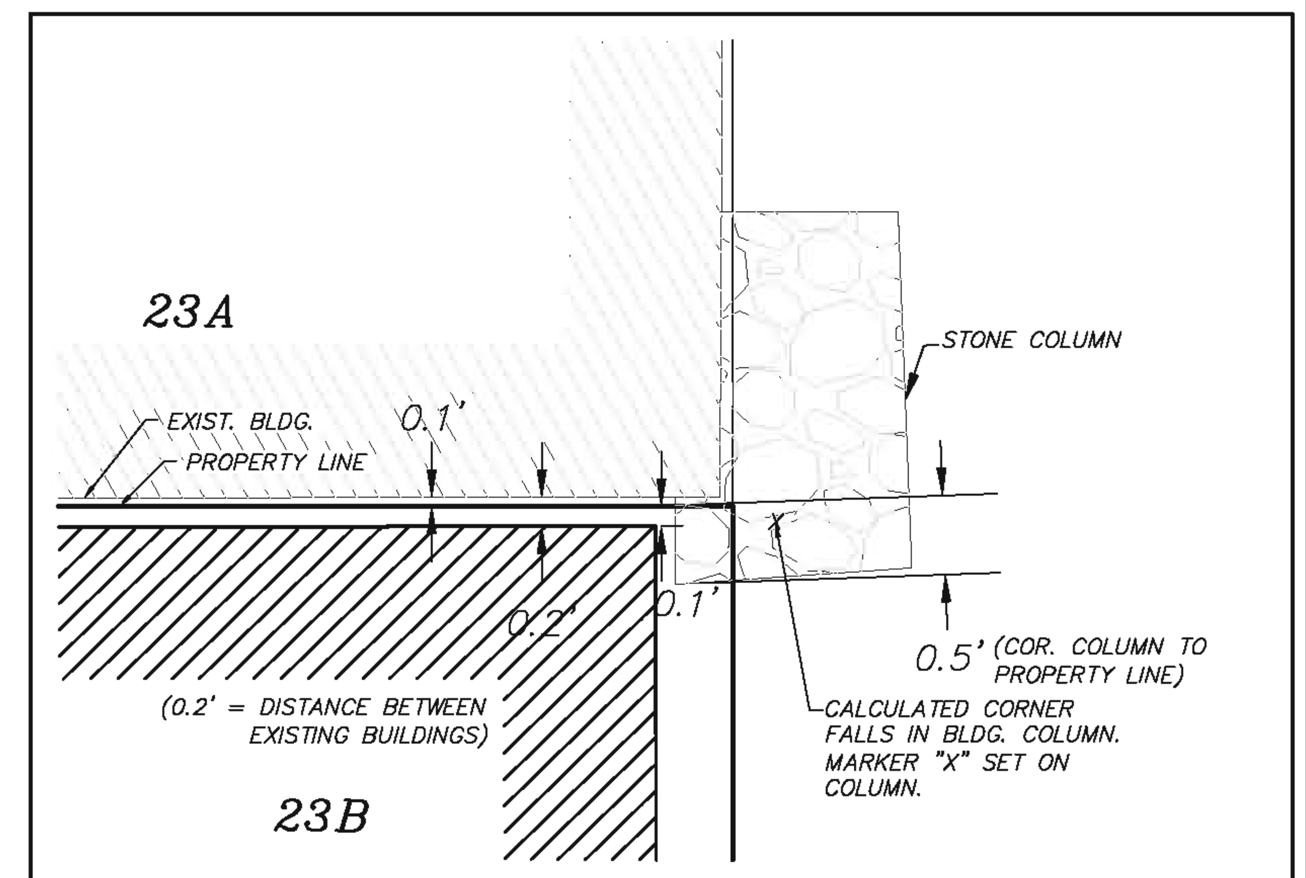
SITE MAP

SCALE: 1" = 50'



BLDG. DETAIL "A"

SCALE: 1" = 1'



BLDG. DETAIL "B"

SCALE: 1" = 1'

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO LOCATE THE BOUNDARY LINES OF THE SUBJECT PROPERTY AND EXISTING STRUCTURES ON OR ADJACENT TO SUBJECT PROPERTY, IN ANTICIPATION OF A CONDOMINIUM PLAT TO BE PREPARED IN THE FUTURE.

EXISTING SURVEY MONUMENTS ON ADJACENT LOTS/ROADWAYS WERE USED TO REESTABLISH THE PROPERTY CORNERS.

THE BASIS OF BEARINGS IS SHOWN HEREON. BEARINGS AND DISTANCES SHOWN HEREON ARE PER SUBDIVISION PLAT OF RECORD.

SURVEY COMPLETED: 05/06/2008

SEE SAID OFFICIAL AMENDED PLAT PROSPECTOR SQUARE SUBDIVISION PLAT FOR ANY EASEMENTS, SETBACK REQUIREMENTS, BUILDING ENVELOPES AND BUILDING LOT RESTRICTIONS. NOTE: OTHERS MAY APPLY.

THE OWNER OF THE PROPERTY SHOULD BE AWARE OF ANY ITEMS AFFECTING THE PROPERTY THAT MAY APPEAR IN A TITLE INSURANCE REPORT; THE SURVEYOR HAS FOUND NO OBVIOUS EVIDENCE OF EASEMENTS, ENCROACHMENTS, OR ENCUMBRANCES ON THE PROPERTY SURVEYED, EXCEPT AS SHOWN HEREON.

EVIDENCE FOR THIS SURVEY WAS TAKEN FROM RECORDED DEEDS, RECORDS OF SURVEYS, PLATS AND PHYSICAL EVIDENCE OBTAINED IN THE FIELD. ALL EVIDENCE HAS BEEN CONSIDERED IN THE ESTABLISHMENT OF THE BOUNDARY AS SHOWN HEREON.

LEGAL DESCRIPTION:

ALL OF LOTS 23B AND 23C LYING WITHIN THE "AMENDED PLAT PROSPECTOR SQUARE" SUBDIVISION PLAT, ON FILE AND OF RECORD AT THE SUMMIT COUNTY RECORDER'S OFFICE.

LEGEND

	FOUND STREET MONUMENT
	FOUND OR SET REBAR W/ CAP (AS DESCRIBED)
x6969.0	SPOT ELEVATION

SURVEYOR'S CERTIFICATE

I, CHRISTOPHER BRAUN, OF OAKLEY UTAH, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, HOLDING LICENSE NO. 5152604. I FURTHER CERTIFY I HAVE PERFORMED A SURVEY ON THE HEREON DESCRIBED PROPERTY AND THAT TO THE BEST OF MY KNOWLEDGE IT IS A CORRECT REPRESENTATION OF THE LAND SURVEYED.

CHRISTOPHER R. BRAUN

DATE:

Park City Surveying
P.O. Box 682993
Park City, UT 84068
(435)649-2918
(435)649-4637 fax

DATE	BY	COMMENTS

REVISIONS

SURVEYED BY: TM/BO
DRAWN BY: MN
DATE: MAY 2008

FOR: JAMES CLARKE

DWG: PROSP 23 B AND C ROS.DWG

RECORD OF SURVEY & AS-BUILT MAP
LOT 23B & LOT 23C
AMENDED PLAT PROSPECTOR SQUARE SUBDIVISION

SHEET 1 OF 1

Z:\PS\Prospector Square\Prosp 23 B and C ROS.dwg, 11/5/2008 2:49:02 PM, ARCH D

City Council
Staff Report

Subject: **Nightly Rental Business Licenses**
Author: **Bret Howser**
Department: **Budget, Debt, & Grants**
Date: **January 8, 2009**
Type of Item: **Legislative**

Summary Recommendations:
Staff recommends that Council consider adopting the attached business license ordinance revision which would allow the City to defer the 2009 administrative fee on business licenses for all nightly rental businesses until the 2010 license renewal process. Staff also recommends that a separate business license be issued for each nightly rental property in accordance with existing code and that a fee study be performed as part of the spring 2009 budget process to determine a more appropriate structure for the business license administrative fee.

Topic/Description:
Nightly Rental Business Licenses

Background:
Prior to the calendar year 2009 business license renewal process, Park City had allowed multiple nightly rental properties that were managed by the same property management company to obtain one business license issued to the property management company. The fee for this business license included one $46 administrative fee in addition to a Transit Service Enhancement Fee and a Festival Facilitation Fee which are charged on a per bedroom basis (currently $19.25 and $9.49 per room respectively). Nightly rental property owners who did not use a property management company paid the full administrative fee themselves in addition to the Transit and Festival Facilitation fees.

After having difficulty with code and zoning enforcement on nightly rental properties that fell under property management umbrella licenses (see description of these difficulties in analysis section below), staff reviewed the ordinances for a solution. It was discovered that Park City Code calls for each nightly rental property to be treated as a separate business and to be issued an individual business license. The Municipal Code stipulates as follows:

> All nightly rental units must be licensed before being offered for rent (§ 4-2-18)(C)
>
> A separate license must be obtained for each branch establishment or separate location in which business is engaged in, within the City, as if such branch establishment or location were a separate business… (§ 4-2-15)

The code also defines a separate place of business as "each separate location maintained or operated by the licensee within Park City from which business activity is conducted or transacted. A location shall be identified by street address…" (§ 4-1-1.35)

City staff sent out a letter to nightly rental businesses in October informing them that they were updating interpretation of the Park City Code to require a separate license for each nightly rental property (see Attachment A). The letter cited inspection and code enforcement issues as the impetus for the change and requested that a set of information for each property be submitted to the Business License Department before renewal notices were sent out.

Staff began receiving communication from property management companies in November 2008 with concerns and claims of undue hardship resulting from the administrative fees associated with multiple licenses. While a property management company with 100 different properties was once paying one $46 administrative fee, they would now be required to pay $4,600 in administrative fees. Although typically this fee would be passed along to the property owners, thus distributing and diminishing the impact, it still creates problems for the property management company related to cash flow issues and the appearance to owners that the property management company is raising fees.

After receiving a number of complaints, staff began to re-evaluate its administrative action and held meetings in early December with Council liaisons and lodging industry representatives. During these meetings, a number of options and alternatives were considered and staff received valuable input. Much of what was discussed and proposed in those meetings is summarized in the options and analysis below.

Upon the realization that an alternate course of action was likely to be the ultimate solution, staff sent another letter to nightly rental businesses on December 23. This letter is also attached to this report (Attachment B). In the letter, staff informed the businesses that the issue is being reconsidered and that businesses could wait to pay the $46 administrative fee until after the January 8th Council meeting and still receive a business license. Any potential administrative fee will be assessed and collected pending Council direction, with rebates given if necessary.

Makeup of Business License Fees
Park City's business license fee is made up of three separate portions. The first portion of the fee, and the portion of the fee in question in this report, is the administrative fee. This $46 per license fee was calculated in 1998 by Rosenthal & Associates (see Attachment C) and is levied by the City to recover all administrative costs associated with the implementation, issuance, and enforcement of business licenses. Every business and business type is charged a $46 administrative fee on its business license with the exception of taxis (which are charged a $71.73 administrative fee). Businesses with multiple outlets are charged an administrative fee for each outlet.

In addition to the administrative fee, a Transit Service Enhancement Fee is levied on businesses for the benefits received from a free-fare transit system. This fee is distinct for each business type and is calculated based on some measure of size. The units of measure differ by business type. The fee was originally calculated and implemented as part of the 1998 study. In 2006, Rosenthal & Associates revised the fee calculation and Council adopted a 25% increase to the Transit Service Enhancement Fee, which increase was phased in over the next three years (5% in 2007, 10% in 2008, and 10% in 2009).

As part of the 2006 fee update, Council adopted a new Festival Facilitation Service Enhancement Fee to account for the benefit received by businesses from special events and festivals. This fee is calculated on the same basis and units as the Transit Service Enhancement Fee. The fee was implemented in full starting in 2007. A summary table of the business license fee calculation as it currently stands is shown below.

PARK CITY BUSINESS LICENSE FEE SCHEDULE								
	Transit Service Enhancement Fee		Festival Facilitation Service Enhancement Fee		Enhanced Enforcement Fee		Administrative Fee	
	Rate	Unit of Measure	Rate	Unit of Measure	Rate	Unit of Measure	Rate	Unit of Measure
Ski Resort	$0.263	Skier Day	$0.013	Skier Day	-	-	$46.00	License
Lodging	$19.250	Per Bedroom	$9.488	Per Bedroom	-	-	$46.00	License
Restaurant	$0.231	Per Sq. Ft.	$0.103	Per Sq. Ft.	-	-	$46.00	License
Outdoor Dining	$0.063	Per Sq. Ft.	$0.029	Per Sq. Ft.	-	-	$46.00	License
Retail	$0.231	Per Sq. Ft.	$0.103	Per Sq. Ft.	-	-	$46.00	License
Large Retail (> 12,000 sq. ft.)	$0.161	Per Sq. Ft.	$0.072	Per Sq. Ft.	-	-	$46.00	License
Office, Service, Other	$0.206	Per Sq. Ft.	$0.013	Per Sq. Ft.	-	-	$46.00	License
Warehouse	$0.059	Per Sq. Ft.	$0.002	Per Sq. Ft.	-	-	$46.00	License
Resort and Amusement	$1.035	Per User	$0.048	Per User	-	-	$46.00	License
For-Hire Vehicles	$37.500	Per Vehicle	$1.751	Per Vehicle	$45.58	Per Vehicle	$71.83	License
Other Commercial Vehicles and Trailers	$7.500	Per Vehicle	$0.292	Per Vehicle	-	-	$46.00	License
Employee Based	$3.750	Per Employee	$0.146	Per Employee	-	-	$46.00	License
Commercial Vending, Game and Laundry Machines	$18.750	Per Machine	$0.730	Per Machine	-	-	$46.00	License
Escort Services	$3.750	Per Employee	$0.150	Per Employee	$46.19	Per Employee	$46.00	License

Analysis:
1) Issues

(a) Financial Impact – The application of an administrative fee to all nightly rental properties could have a potentially significant financial impact on some property management companies. For example, if a property management company manages 100 properties, they would now be responsible for $4,600 in administrative fees when they previously paid just $46. While this cost could be split up and passed along to each property owner, it does create cash flow issues for the property management company. It also could create the appearance that the property management company has raised its fees which could cause property owners to begin shopping for new property management services.

(b) Building Inspection/Enforcement – Currently, the City attempts to collect information about nightly rental properties from property management companies by asking them to submit a list of properties they manage with accompanying data. While some have complied with this request, many have only partially complied or not complied at all. The resulting lack of data hampers the ability of the City to provide adequate code enforcement and inspection of nightly rental properties.

For example, if a complaint is made about a certain nightly rental property and City staff cannot find information on the property in the business license system, staff cannot be sure if the property is unlicensed or if the property falls under the umbrella license of a property management company but has not been reported. Additionally, even in the event that staff has data on the property on one of the lists that's been submitted by a property management company, that property might have switched to a different management company during the year or may have become independent and be unlicensed altogether. Property management companies rarely if ever updated their property list after a business license was issued.

Also, properties should be inspected each time they are first licensed under a new owner or property management company. Currently, as properties change hands between two licensed property management companies during the year, there is no mechanism to require that an inspection be performed because there is no new business license required. And when inspections are performed during a renewal process or when a new license is issued to a property management company, the failure of one property to pass inspection will hold up business on all of the other properties since the license is not valid until all units are inspected and approved.

The lack of manageable data on individual nightly rental units obstructs emergency response as well. As Fire and Police respond to any calls involving a nightly rental, the business license system should be able to provide them with contact information of the property management company for keys, information, etc. A separate license for each unit could also help potential renters when they call the city to find out of a unit is a legitimate nightly rental (which calls staff does receive on occasion).

If the City were to require a separate license for each nightly rental property, on the other hand, these issues would be resolved. If a complaint were made about a certain property, staff would know if it's in compliance because each property with a business license would be recorded in the licensing system. As properties change hands from one management company to another, the new management company will not have a license for that property and they'll have to go get one. The City will then know about the change, and an inspection will be performed. If the property does not pass inspection, the license for just that property will be withheld rather than the license for the entire property management company. The City would also require business licenses to be posted so that users of the property could get accurate info as well.

(c) Adherence to Code – As currently worded, the business license ordinance dictates that all nightly rental units be treated as separate businesses and have their own license. Whichever course of action Council directs staff to take, steps will need to be taken to ensure that the Municipal Code is consistent with the desired administrative strategy.

(d) Equity – It is imperative that no disparate impact is created for any particular business type. The application of the current fee structure to all nightly rental properties will result in the lodging industry covering half of the bill for administrative impact of the business licensing program. On the surface this seems to be an inequity for the lodging industry. However, an exemption for property management companies with multiple properties also seems to be an inequity for retail and other business types which pay multiple administrative fees for their additional outlets. Also, the current structure requires a single nightly rental property where the owner is also the property manager to pay the same $46 administrative fee as a property management company with 100 properties. It's unlikely that the administrative impact of these two is equal, and therefore an inequity currently exists in the administrative fee structure.

(e) Revenue Adequacy – The administrative fee should be sufficient to cover the City's administrative costs and no more. These administrative costs are currently defined as direct expenses arising from establishing, implementing, administering and enforcing the business license system. The fee is not intended to cover costs of police service, public works, or any other City service which a business might receive or cost they create for the City other than those related directly to the business license program itself. State code requires that the fee generate no more than an amount sufficient to cover the costs of the business license program.

The current administrative fee of $46 per license was calculated in 1998 to recover the administrative costs of the business license program as they stood at that time. Staff has recently updated the figures from the 1998 study and found that with the number of business licenses issued last year, the City would have to collect $62 per license to recover administrative costs. However, if each nightly rental property were to have its own license, the City would only need $33 per license to be made whole.

A separate $15 fee is levied with respect to building inspection. This fee was also created and instituted in 1998. The fee was never intended to recover the total costs of inspection. According to the Utah League of Cities and Towns, costs of inspection are customarily recovered through the administrative fee. Staff recommends that these costs be studied along with the administrative costs and that Council also consider the option of setting the inspection fee to be sufficient to recover costs during the budget process.

2) Options

Staff vetted a number of alternative courses of action searching for an approach which can be realistically implemented and which best resolves as many of the aforementioned issues as possible. The following options are presented for Council consideration along with an analysis describing the potential impact of the alternative on the issues described above. As usual, this is not an exhaustive list of alternatives, but rather the most likely and realistic options at this juncture. It is, of course, possible that Council could choose to direct staff to pursue an alternative which is not listed here or which is a combination of elements from these different options.

Option #1 – Proceed with the issuance of separate licenses for each property

Option 1(a) – with $46 admin fee per property
Option 1(b) – without any admin fee per property
Option 1(c) – with some yet-to-be-identified mitigated administrative charge per property

<u>Financial Impact on Licensees</u>: Sub-options (b) and (c) would eliminate or reduce (respectively) the financial impact on property management companies while sub-option (a) would not resolve this concern.

<u>Enforcement/Inspection</u>: All options would be a major step toward resolving enforcement and inspection issues by requiring separate licensure.

<u>Adherence to Code</u>: Sub-option (a) would adhere to the code as presently worded, while sub-options (b) and (c) would require a change in the code.

<u>Equity</u>: Sub-option (a) would be more equitable for property owner/managers and other business types with multiple outlets, but creates a potential inequity of administrative cost burden for nightly rentals managed by property management companies. Sub-option (b) creates slightly further inequity for property owner/managers and other business types with multiple outlets. Sub-option (c) could be more equitable for all sides, but inequities would likely remain built into the structure of the administrative fee as this would be retrofit rather than a ground-up approach to resolving the issue.

<u>Revenue Adequacy</u>: Staff estimates that an additional $46 per nightly rental property which was previously under a property management umbrella license would generate an excess of revenue to cover administrative costs. Sub-option (a), then, could generate too much revenue. Sub-option (b), on the other hand, would not generate enough revenue to cover administrative costs. Sub-option (c) might cover the costs, depending on the level of the charge.

Option #2 – Issue separate licenses, study the fee as part of budget process, and change it if appropriate

Option 2(a) – collect admin fee now ($46 or other amount)
Option 2(b) – defer 2009 admin fee (until 2010 bill or later in 2009)
Option 2(c) – do not collect an admin fee for 2009 at all

Financial Impact on Licensees: Sub-options (b) and (c) would likely reduce or eliminate (respectively) the financial impact on property management companies while sub-option (a) would not resolve this concern.

Enforcement/Inspection: This option would be a major step toward resolving enforcement and inspection issues by requiring separate licensure.

Adherence to Code: Sub-option (a) would adhere to the code as presently worded if $46 per license were charged, while sub-options (b) and (c) would require legislative action.

Equity: All of these sub-options should result in greater equity for all sides by improving the structure of administrative cost recovery in the future. Businesses should ultimately be paying only the amount of administrative cost they create for the City.

For 2009, though, sub-option (a) would be more equitable for property owner/managers and other business types with multiple outlets, but could potentially create an inequity of administrative cost burden for nightly rentals managed by property management companies depending on the amount assessed per license for nightly rentals. Sub-option (b) could be more equitable for all sides as an appropriate administrative cost-share for nightly rentals can be determined in the coming months and assessed on the 2010 bill. However, some inequity would remain as administrative costs from 2009 nightly rental owners which do not renew in 2010 will not be recovered. That burden would be shifted either to new owners or to the rest of the nightly rental industry on their 2010 bills. Sub-option (c) creates slightly further inequity for property owner/managers and other business types with multiple outlets in the short term.

Revenue Adequacy: Sub-option (a) could generate an excess of revenue. Sub-option (b) could be crafted to generate sufficient revenue to cover 2009 administrative costs. Sub-option (c) would not generate enough revenue to cover administrative costs.

Option #3 – Return to one business license and one $46 admin fee per property manager

Financial Impact on Licensees: There would be no differential financial impact on property managers from years passed.

Enforcement/Inspection: A solution to enforcement and inspection issues is not likely to be achieved under this option. An alternate strategy for collecting the necessary information on each property for enforcement purposes could be pursued (as it has in the past), but without individual licenses, the City would be reliant on property management companies to volunteer information on properties (including status changes in the interim between license renewals) of their own accord. Without significant research, City staff would not be able to tell whether a nightly rental property is properly licensed since it may or may not have been reported to the City by the property management company.

Adherence to Code: The business license ordinance would need to be modified to exclude nightly rental properties from being considered a separate outlet.

Equity: Inequities would persist in the administrative fee structure. Staff does not consider the current administrative fee of $46 per business to be a close approximation of the relative costs associated with different business types. A structure differentiated by business type is more probable to approach an equitable distribution of the administrative expense burden.

Revenue Adequacy: Current estimates show that $46 per business (treating property management companies as one business) would be insufficient to cover the administrative costs associated with the business licensing program.

Recommended Option – Staff recommends that the City pursue Option 2(b): Issue separate licenses for each property, study and potentially change the administrative fee structure as part of the 2009 budget process, and defer the 2009 administrative fee until 2010. This would allow for improved tracking and data collection, and therefore enforcement and inspection, on nightly rental properties while avoiding a significant financial impact on property management companies. The attached ordinance would make a slight adjustment to the code to allow for such action. Equity is preserved for 2009 as nobody will be charged more than they would have been in passed years, and equity should be enhanced in 2010 and forward with an improved administrative fee structure. The City will defer some revenue for a time, but that revenue will ultimately be realized and adequate.

There are various options for collecting a deferred 2009 administrative fee from the lodging industry. Staff recommends that the issue be resolved at a future time, but the following is a brief summary of the issue as it stands now. Two questions have been commonly asked on this issue: 1) How much will be collected? 2) When will it be collected? To the first question, staff preliminarily recommends that the total amount of forfeited revenue be calculated based on what would have been collected under the method used in years prior to 2009 (i.e.: one administration fee per property manager, currently estimated at $8,000), and then redistributed throughout the lodging industry in a future billing. This is estimated to result in a one time charge of $5 for each nightly rental business license. To the second question, staff suggests that this charge be applied to the 2010 billing for ease of administration. It has been suggested that the money be collected earlier (perhaps as a separate billing in the spring) to avoid the transfer of a 2009 expense from current property owners to future property owners as properties change hands in the interim. However, as the fee is expected to be nominal and the expense to the City for a separate billing significant, staff continues to recommend that the 2009 administrative cost be recovered on the 2010 renewals.

The lodging industry has voiced support for Option 2(c). There is general support for looking at the administrative fee structure anew and issuing separate licenses for each property for enforcement purposes. However, due to the uncertainty surrounding the administrative fee level, the lodging community would rather that the City forgo the collection of an administrative fee for nightly rentals for 2009 only and begin in 2010 with a new fee structure. Staff does not recommend this option because of the inequity it would create for other industries which still must pay an administrative fee and because it would create a shortfall in business license revenue.

Other concerns expressed by the nightly rental community include increased paper work for both business license renewal as well as filing sales taxes, financial and aesthetic issues surrounding the requirement to display a business license in each unit, and uncertainty over the licensing of time share properties. Staff has contacted the State Tax Commission and has been reassured that property management companies will still be able to file one submission for sales tax remittance for all of their properties, regardless of whether those properties are licensed individually or not.

Also, there has been some difficulty between the Building Department staff and property management companies in scheduling inspections for new properties. The Building Department is required to perform an inspection within 10 days of the report of a new property. However, management companies tend to schedule renters during those days, making it difficult for the City to perform an inspection without cutting in on business. This issue would likely become exacerbated as separate licensure causes management companies seek licenses (and therefore inspections) on properties that switch hands during the course of the year. Staff proposes that solutions for this issue be explored along with the administrative fee structure in the spring.

Some property management companies have expressed a preference that no change be made to nightly rental business licensure. They assert that the majority of property management companies are in compliance with the City's current requirement to list and submit information on each property to the Business Licensing Department. The current enforcement issues are caused by a small minority which is not complying and will continue to be incompliant regardless of the changes recommended by staff.

3) Impacts of implementation

Most of the impacts of the various options have been discussed throughout this analysis. However, in addition to the options discussed, there is likely to be a significant administrative impact associated with making adjustments to each of the nightly rental business licenses (over 1500 licenses) and issuing rebates to those who've already paid. Staff will attempt to cover this impact within existing personnel and resources through overtime (amount yet to be determined) worked by the Finance Department staff.

Also, there will be a staff workload impact of conducting a business license fee structure update. Traditionally, the City has contracted out with a consultant to perform the study.

However, given current economic conditions and the projected budget shortfall, staff preliminarily recommends that the study be performed in-house as a cost saving measure.

Council has the option of recovering any increased administrative costs associated with the unique administration of 2009 business licenses from businesses along with the rest of the 2009 administrative costs. However, staff recommends that these costs be mitigated as much as possible by covering them within existing resources and that no more than the normal administrative expense be recovered from the lodging industry.

4) Preliminary Look at Potential Administrative Fee Structure

If Council directs staff to pursue the recommended option, staff will begin work on a new administrative fee structure. Currently, staff anticipates that the study could be done in-house with existing resources. Staff would work with members of the lodging community, other business leaders, and Council liaisons to develop a fee structure that would be both equitable and adequate.

Currently a single administrative fee is levied per license. Staff will explore the appropriateness of differentiating the administrative fee by business type and perhaps by business size. Staff will explore a potential tiered system for evaluating the impact of nightly rentals and property management companies. Staff is confident that a set of alternatives can be developed which will provide an option that will be sufficient for all parties involved.

5) Description of ordinance change

The attached business license ordinance revision appends the following language to the ordinance:

> For the 2009 billing period, due 1/1/09, the $46 administrative fee for lodging licenses will be deferred until the 2010 billing period. If the $46 administrative fee has been paid prior to 1/8/09, a refund will be issued for the amount of the administrative fee. This Section shall supercede Section 4-2-6 Refund of Fee limited to refunds allowable by this Section. All other license fees are required to be paid in full according to the requirements of this Section for issuance of a business license.

This revision will allow the City to defer the administrative fee for nightly rentals for 2009 in accordance with the recommended option. If Council directs staff to pursue another alternative, a distinct revision may be required. Should Council decide later to waive the fee altogether, apply a different fee to 2009, or some other course of action, an ordinance revision could be made at that time or at a future Council meeting and applied retroactively.

Department Review:
Budget, Debt, & Grants; City Manager; Legal; Finance; Building

Alternatives:

A. Approve:

Should Council approve the recommended option, a separate business license would be issued for each nightly rental property, but nightly rental businesses would not have to pay an administrative fee for 2009 at this time. Council could choose to recover 2009's administrative costs in a separate billing or in 2010. Staff would begin work on an update to the administrative fee study.

B. Deny:

Council could choose another option either delineated in the report or otherwise. The impacts of these options would vary. A distinct revision to the business license ordinance would likely be required.

C. Modify:

Same as B

D. Continue the Item:

The deadline for obtaining a business license is Jan 15. Should Council continue this item, some direction should be given concerning either an extension of the deadline or another course of action for handling businesses that haven't paid for a business license due to uncertainty of the amount.

E. Do Nothing:

Staff would continue with its current interpretation of Code which would require a distinct license for each nightly rental property and a $46 administrative fee for each license.

Significant Impacts:

The impacts are many and are discussed in detail in the report. There are financial impacts nightly rental businesses, impacts on the City's ability of enforcement and inspection, issues of equity, and revenue adequacy. There is also the potential for significant administrative impact to the City depending on the alternative Council seeks.

Consequences of not taking the recommended action:

Council could choose another option either delineated in the report or otherwise. The impacts of these options would vary. A distinct revision to the business license ordinance would likely be required.

Recommendation:

Staff recommends that Council adopt the attached business license ordinance revision which would allow the City to defer the 2009 administrative fee on business licenses for all nightly rental businesses. Staff also recommends that a separate business license be issued for each nightly rental property in accordance with existing code and that a fee study be performed as part of the budget process to determine a more appropriate structure for the business license administrative fee.

Attachments:

A – October Letter to Nightly Rental Businesses
B – December Letter to Nightly Rental Businesses
C – 1998 Business License Fee Study
D – Proposed Business License Ordinance Revision

PARK CITY
1884

Finance

Park City Municipal Corporation
1255 Iron Horse Dr.
PO Box 1480
Park City, Utah 84060

October 2, 2008

Dear Park City Nightly Rental Business Licensee,

The Park City Business License Department is changing the process of nightly rental business license billing, issuance and printing. Presently, all nightly rental locations for each licensee are on one business license. The problem with this process for licensees with multiple rental locations is if any one nightly rental location has not passed an inspection, then the issuance of the business license is stalled for all locations until each and every location is approved for licensing. Beginning with the 2009 license period, in order to eliminate this issue each nightly rental location will be issued an individual business license. At this time, we are asking for the following information.

Current property list including the following for each unit for the year 2009:

a. Street number
b. Street name
c. Unit number
d. Number of bedrooms per unit
e. Complex/Subdivision
f. Managing Agent
g. Manager's address
h. Manager's day phone number
i. Owner's day phone number

Once we have received this information, we will send out an invoice for each rental location. If, during the year, you add or subtract property that you are managing, please notify the Park City Business License Department.

Thank you for your assistance,

Shelley Hatch
Business License Administrator
435-615-5225

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Phone (435) 615-5221 • FAX (435) 615-4917

PARK CITY
1884

Finance

Park City Municipal Corporation
1255 Iron Horse Dr.
P.O. Box 1480
Park City, Utah 84060

December 23, 2008

Dear Park City Nightly Rental Business Licensee,

The City previously notified you in a letter dated October 2, 2008, that the City changed the procedure for issuing a business license for nightly rentals. Beginning with the 2009 license period, each nightly rental location based on each address will be issued an individual business license. Accordingly, each nightly rental license location was billed a $46 administration fee.

Due to concerns raised by the lodging community of the increased costs of paying additional administration fees, Park City Municipal Corporation is in the process of reviewing the business license administration fee calculation for the billing year of 2009 and forward. The issue will be discussed during the City Council meeting on January 8, 2009. Proposed options include deferring collection of the 2009 administration fee, pending recalculation of the fee amount, until the 2010 renewal process.

Pending City Council direction on January 8, 2009, below are your options for obtaining a nightly rental business license for 2009:

1. If you have not paid your nightly rental business license fees for 2009 and need to obtain a business license by January 1, 2009, please submit payment but deduct the $46.00 administration fee from the amount you remit. If Council decides to require an administration fee for 2009, you will be billed for the 2009 administration fee amount at the time of your 2010 license renewal. Alternatively, if you have not paid your nightly rental business license fees for 2009, and prefer to wait to renew your nightly rental license until City Council provides direction on January 8, you will be operating without a valid license for several days in January, but the City will not assess any fines or penalties until January 15, 2009.
2. For the nightly rental businesses that have already paid the administration fees, if Council provides direction to waive or defer the $46 administration fee for 2009, then you will receive a refund for the administration fee in early February 2009.

We appreciate your patience and understanding pending City Council direction with these possible fee changes. If you have any question please feel free to call.

Thank you,

Shelley Hatch
Business License Administrator
435-615-5225

Park City Business License Fee Study

Executive Study

November 17, 1998

Prepared by

Rosenthal and Associates

INTRODUCTION AND EXECUTIVE SUMMARY

Introduction

The state legislature enacted new legislation in 1997 which changes the way business license fees may be calculated and assessed. HB 98 and SB 96 limit business license fees to *cost recovery*. Fees now may be charged only for:

X The cost of regulation (an "administrative fee")
X The cost of providing an *enhanced service*
X Recovery of *disproportionate costs* attributable to the provision of service for a given class of businesses

The *administrative fee* is intended to recover the direct and indirect costs of operating the licensing system. The *service enhancement fee* is intended to offset the cost of providing an added service, or service at a level higher than the city standard. The fee for disproportionate costs is intended to offset added cost from difficult to serve business types. Fees for an enhanced service or for Adisproportionate costs@ must be calculated in a way estimated to be reasonably related to the benefit.

Park City has a long history of using business license revenue to support an enhanced serviceCprovision of a municipal transit system. The city has not charged for "disproportionate costs" and, until now, has paid administrative costs through an interfund transfer from the Transportation Fund.

The new legislation the City has determined to re-structure its business license rates. This study summarizes analysis, decisions, criteria and conclusions which underlie calculation of the new rates.

Background

No other municipality in the state of Utah provides a free public transit system. Therefore, there is no basic service level provided to business, regarding public transit. Park City implemented a free public transit system at the request of the business community in the early 1980's and has operated it as a service enhancement for the benefit business, since that time.

Exclusive of grants, about 1/5 of the current cost of operating the transit system is funded by the business community through business licenses revenue. About 4/5's of the cost of the system is funded by other sources, primarily sales taxes. Initially, business license rates were set for each class of business to be generally proportionate to estimated benefit from the transit system. Since commencing transit service, business license revenues have been dedicated entirely to expenses associated with operating the transit system.

Over the years, as the local economy diversified, categories were added to the licensing system and fee rates were selectively modified, complicating the system and diluting the relationship between transit system benefit and licensing rates. So while the current system still retain its basic relationship to the enhanced service, changes to the local economy, shifts in transit usage and selective modifications to the fee structure suggest that it is time to revisit the original assumptions. This study is intended to re-establish and strengthen the relationship between transit system benefit and licensing rates. It summarizes analysis used to update the proportionate allocation of cost to each class of business and redefines licensing categories to formalize a simplified and more uniform method of assessment.

Business License Fee Schedule

The city has chosen to assess only administrative and service enhancement feesCan administrative fee to recover the cost of regulation and a service enhancement fee to cover a small part of the cost of operating the transit system. The administrative fee is charged as a flat rate, to each licensee. The service enhancement fee is charged as a variable rate, different for each class and size of business, so that the amount charged is proportionate and reasonably related to estimated benefit.

Proposed changes to the licensing system are *revenue neutral*Cthe total amount of money collected under the new system will be about the same as under the current system. However, for each business, fees charged under the new system *will be different* compared to the old system, because administrative costs are separately calculated and because of the updated Aproportionate share analysis@Cthe current estimate of proportionate transit system benefit attributable to each class of business.

Proportionate share analysis is intended to account for *average impacts* represented by a class of businesses rather than a specific business entity. The new system includes fewer, more broadly defined licensing categories. Ridership information from the transit department, used to guide the analysis of benefit, suggests the breakdown of business categories and proportional share of benefit and cost shown in Figure 1.

Figure 1

Business License Category	**Benefit Share (Percent)**	**Share of Total Cost (Percent)**
Ski Resort	33	7.25
Lodging	18	3.96
Restaurant / Retail	30	6.53
Office/Other	16	3.47
Miscellaneous	3	0.64
Total	**100**	**21.85**

The *service enhancement fee* could be charged up to the full cost of operating the transit system. The city has elected to charge businesses less than this ***maximum fee*** amount because it has identified additional revenue sources to fund the transit system. The ***actual fee***, the reduced amount charged to businesses, is about 22 percent of the allowable maximum. The *Share of Total Cost* shown in Figure 1 is derived from the calculation of the total cost of the service enhancement illustrated in Figure 2.

Figure 2

Business License Fee Analysis

Cost of Service Enhancement

		Annual Total Cost	% of Total
Bus System Operations Expense (FY 1997)			
Fund 57 - Transportation & Parking	$2,201,686		
Less - Parking Customer Service	(36,747)		
Less - Paid Parking Contract	(235,000)		
Net Cost of Bus Operations		$1,929,939	
Capital Equipment - Depreciation		$404,503	
Estimated Collection Loss		$10,000	
Total Annual Cost		$2,344,442	
Components of Revenue			
Transit Sales Tax		$850,970	36.30%
Resort Sales Tax		796,208	33.96%
Other (grants, charge for services, etc.)		185,119	7.90%
Business License Revenue		512,145	21.85%
Total Revenue		$2,344,442	

The administrative and regulatory fee is based upon the cost to the City of establishing, implementing, administering and enforcing the business license system (Figure 3). Included in the total cost is the amortized cost of the computer and software system, administrative personnel, supervisory personnel, the consultant's enhanced service study, and enforcement. New businesses are charged an additional $15 to cover the cost of inspecting the business. This fee is not factored into the revenue calculation. Moderate additional costs for enforcement of the business license ordinance are included the calculation of the administrative fee.

Figure 3

Business License Fee Analysis *Administrative Expense*	Total Cost	Useful Life	Annual Cost
System Startup (amortized at 6%)			
Software	$20,000	5	$4,748
Hardware	20,000	5	4,748
Fee Study	5,000	2	2,727
Annual Operations			
Administrative Clerk (.5 FTE)			18,250
Enforcement/Review			15,640
Sub-Total Operations & Start-up			$46,113
Indirect Costs (overhead)			12,675
Annual Total Administrative Expense			$58,788
Cost per License			
Total Licenses (1996)			1,278
Cost per License			$46.00

While total business license revenue remains about the same, there are shifts among business categories. Figure 4 shows the average shift among categories. Ski resorts, lodging, restaurants and retail on average increased their share of total costs. Office and other businesses on average went down or stayed the same to reflect the results of the enhanced service analysis.

Figure 4

Business License Fee Analysis

Change in Cost Allocation

Class	Current System	New System	% Change
Ski Resorts	$154,392	$169,923	10%
Lodging	$87,033	$92,876	7%
Restaurant/Retail	$146,207	$153,136	5%
Office & Other	$105,869	$81,372	(23%)
Miscellaneous	$18,751	$14,943	(20%)
Total	$512,251	$512,251	

Business License Fee Schedule

Business license fees, calculated as the sum of service enhancement fee and administrative fee, are the culmination of the study (Figure 5).

Figure 5

Business License Fee Schedule

	Service Enhancement Fee		Administrative Fee	
	Rate	Unit of Measure	Rate	Unit of Measure
Ski Resort	$4.40	Uphill Capacity	$46.00	Licensee
Lodging	$15.40	Per Bedroom	$46.00	Licensee
Restaurant /Retail				
Restaurant	$0.185	Per Sq. Ft.	$46.00	Licensee
Outdoor Dining	$0.052	Per Sq. Ft.	$46.00	Licensee
Retail	$0.185	Per Sq. Ft.	$46.00	Licensee
Large Retail (greater than 12,000 sq. ft.)	$0.129	Per Sq. Ft.	$46.00	Licensee
Office/Other				
Office, Service, Other	$0.165	Per Sq. Ft.	$46.00	Licensee
Warehouse	$0.047	Per Sq. Ft.	$46.00	Licensee
Resort and Amusement	$0.828	Per User	$46.00	Licensee
Miscellaneous				
Taxies, Buses and Limousine Services	$30.00	Per Vehicle	$46.00	Licensee
Other Commercial Vehicles and Trailers	$6.00	Per Vehicle	$46.00	Licensee
Employee Based	$3.00	Per Employee	$46.00	Licensee
Commercial Vending, Game and Laundry Machines	$15.00	Per Machine	$46.00	Licensee

Fee rates are rounded down.

Ordinance No. 09-

AN ORDINANCE AMENDING TITLE 4, LICENSING, SECTION 4-2-23, FEE AND TAX PAYMENTS, RENEWALS AND PENALTY, OF THE MUNICIPAL CODE OF PARK CITY

WHEREAS, the Park City Municipal Code requires licenses for all nightly rental units; and

WHEREAS, Park City has allowed lodging management companies for over fifteen years to only pay one administrative fee for all the nightly rental units they manage in error; and

WHEREAS, for 2009, Park City Municipal Corporation corrected this error and requires a business license for each individual nightly rental unit; and

WHEREAS, the correction of this error will impact the lodging community by increasing costs based on the administration fees due for each nightly rental unit; and

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

Section I. Amendment. Title 4, Licensing, Section 4-2-23, Fee and Tax Payments, Renewals and Penalty, of the Municipal Code of Park City is hereby amended as follows:

4- 2-23. FEE AND TAX PAYMENTS, RENEWALS AND PENALTY.
The annual business license fee provided in this Title shall be due and payable to the City on or before the first day of January of each year for renewals of licenses for businesses, which were licensed the previous year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the calendar year in which issued unless issued between October 1 and December 31, in which case the license shall be valid until December 31 of the year following the issuance of the license, upon payment of 125% of the annual license fee, as set forth in Section 4-2-13 above.

If the renewal license fee is not paid on or before January 15 of the year in which the renewal license is due, there shall be a business license enforcement fee imposed of twenty-five percent (25%) of the license fee imposed by this Chapter or twenty-five dollars ($25.00) whichever is greater.

If the renewal license fee is not paid in full on or before February 15th of the year in which the renewal fee is due, the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this Chapter or twenty-five dollars ($25) whichever is greater. If the renewal license fee is not paid on or before March 1st of the year in which the renewal fee is due, the business license enforcement fee shall be increased to one-hundred percent (100%) of the license fee imposed by this Chapter.

Upon a proper showing that the business is of such a seasonal nature that business has not been conducted to date, the Director or his or her designee may waive the business license enforcement fee of said renewals.

Upon a showing of hardship acceptable to the Director or his or her designee, the licensed business may be allowed to pay the business license fees due over a period of time not to exceed three (3) months from the due date, with interest on the unpaid balance at the rate of eighteen percent (18%) per annum.

Any previously licensed business cited for engaging in business in violation of this Title shall have five (5) days from the date of citation to come into compliance with this Title. Failure of the licensee to reach compliance within five (5) days of the date of citation will subject the business to closure and the licensee to all applicable civil and criminal penalties.
If a licensed business enlarges its place of business or increases its capacity for conducting business, i.e., adding square footage, increasing number of vending machines, number of employees, bid limits, or increasing hourly user capacity, an additional license fee shall be due and payable to the City and shall be prorated on the basis of one-twelfth (1/12th) of the total annual fee on the enlargement or increase for each month remaining in the unexpired portion of the calendar year, including the month in which such increase is accomplished. The additional license fee for adding square footage shall be due and payable on the date the City issues the occupancy permit.

For the 2009 billing period, due 1/1/09, the $46 administrative fee for lodging licenses will be deferred until the 2010 billing period. If the $46 administrative fee has been paid prior to 1/8/09, a refund will be issued for the amount of the administrative fee. This Section shall supercede Section 4-2-6 Refund of Fee limited to refunds allowable by this Section. All other license fees are required to be paid in full according to the requirements of this Section for issuance of a business license.

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

PASSED AND ADOPTED this 8th day of January, 2009.

City Council Staff Report

Subject: **Consideration of Timeliness of 100 Marsac Steep Slope Conditional Use Permit Appeal**
Author: **Brooks T. Robinson**
Date: **January 8, 2009**
Type of Item: **Quasi- Judicial**

PARK CITY 1884
PLANNING DEPARTMENT

Summary Recommendations

Staff recommends the City Council open a quasi-judicial hearing for consideration of timeliness for an appeal of the Planning Commission approval of the 100 Marsac Avenue Steep Slope Conditional Use Permits. Staff also recommends that the City Council consider finding that they lack jurisdiction to hear substance of the appeal due to lack of timeliness.

Topic

Applicant:	Ontario Court Driveway Association, represented by Jamie Thomas
Location:	100 Marsac Avenue
Zoning:	Historic Residential (HR-1)
Reason for Review:	The City Council has final authority in the administration of the Land Management Code.

Background

The Planning Commission voted to approve and adopted findings of fact and conclusion of law supporting the approval of ten Steep Slope Conditional Use Permits (CUPs) on October 22, 2008, for the property located at 100 Marsac Avenue. Pursuant to Land Management Code (LMC) Section 15-1-18, Appeals and Reconsideration Process, final actions by the Planning Commission on CUPs may be appealed to the City Council. "All appeals must be made within ten (10) calendar days of the Final Action" (LMC 15-1-18(E)). Final Action is defined by section 15-15-1.90 of the Land Management Code as, "The later of the final vote or written decision on a matter." Ten days from October 22, 2008 is Saturday, November 1, 2008. As this date falls outside of the normal business hours, the City allows any appeal to be received by 5pm on the next working day; Monday, November 3rd.

An appeal by the adjacent Ontario Court Driveway Association was submitted to the Planning Department on November 17, 2008, outside the ten day appeal period. In addition, per LMC 15-1-18 (F), appeals to the City Council must be filed with the City Recorder, which did not occur.

The appellant states that the appeal is being filed 10 days after the City Council action on the subdivision and contends that the subdivision application must be heard prior to or concurrently with the CUP. Although accurate that the appeal was filed 10 days after the City Council action on the subdivision, (City Council action on the Subdivision occurred on November 6, 2008. November 16th was a Sunday so Monday, November 17th, would be "ten days" from the subdivision approval), this appeal is of the CUPs which the Planning Commission voted on and approved on October 22, 2008.

On October 22, both the CUPs and the subdivision were heard by the Planning Commission with the Commission approving the CUPs and forwarding a positive recommendation to the Council on the subdivision. There is no basis in the Land Management Code for claiming that the time period for appeals of Planning Commission action on CUPs begins after the City Council approval of the concurrent subdivision.

Alternatives

- The City Council may deny the appeal for lack of timeliness; or
- The City Council may support the Appellant's request and schedule a hearing on the merits of the appeal; or
- The City Council may remand the matter back to the Planning Commission with specific direction to evaluate additional information; or
- The City Council may continue the item, requesting additional information for review.

Recommendation

Staff recommends the City Council open a quasi-judicial hearing for consideration of timeliness for an appeal of the Planning Commission approval of the 100 Marsac Avenue Steep Slope Conditional Use Permits. Staff also recommends that the City Council consider finding that they lack jurisdiction to hear substance of the appeal due to lack of timeliness. Staff further recommends that the City Council enter the following findings of fact, conclusions of law, and order on this appeal.

Findings of Fact:

1. The subject property is located at 100 Marsac Avenue.
2. The Planning Commission approved ten Steep Slope Conditional Use Permits (CUPs) on October 22, 2008.
3. An appeal by the adjacent Ontario Court Driveway Association was submitted to the Planning Department on November 17, 2008.
4. Pursuant to Land Management Code (LMC) Section 15-1-18, Appeals and Reconsideration Process, final actions by the Planning Commission on CUPs may be appealed to the City Council. Appeals must be made within ten calendar days of the Final Action (LMC 15-1-18(E)).
5. Final Action is defined by section 15-15-1.90 of the Land Management Code as, "The later of the final vote or written decision on a matter."

6. Final Action occurred on October 22, 2008 at the Planning Commission's final vote approving the Steep Slope CUPs with written findings of fact, conclusions of law, and conditions of approval.
7. Ten days from Final Action in this case occurred on Saturday, November 1, 2008. As this date falls outside of the normal business hours, the City allows any appeal to be received by 5pm on the next working day; Monday, November 3rd.
8. Appellants submitted their appeal on November 17, 2008.

Conclusions of Law:

1. The issues raised by Appellants were not timely raised on appeal of the Planning Commission's Final Action and are therefore time-barred by the provisions of sections 15-1-8(E) of the Land Management Code.
2. Appeals to the City Council must be filed with the City Recorder, per LMC 15-1-18 (F), which did not occur.

Order:

1. The appeal is dismissed for lack of timeliness of appeal pursuant to the provisions of section 15-1-8(E) of the Land Management Code.; therefore the City Council lacks jurisdiction.

Exhibits
Exhibit A – Appeal Letter from Ontario Court Driveway Association

I:\Cdd\Brooks\COUNCIL\Council 2008\Marsac 100 Appeal of SSCUP 010809 (2).doc

November 17, 2008

Appeal of 100 Marsac Avenue, Steep Slope CUP Design Review.

By Jamie Thomas
on behalf of the
Ontario Ct Driveway Association
P.O. Box 2275
Park City Ut. 84060

Much of the original report is reproduced here with reasons for appeal shown in italics.

This appeal is being filed 10 days after the City Council's hearing of the Subdivision application on November 6 2008.

The subdivision application must be heard prior to or concurrently with the CUP.
See CUP Application section on; AFFIRMATION OF SUFFICIENT INTEREST
"I am aware that all subdivision-related issues such as the removal of interior lot lines, combination or separation of existing lots and/or parcels, etc., shall be resolved prior to or in conjunction with the approval of this application.

Criteria 1: Location of Development. Development is located and designed to reduce visual and environmental impacts of the structure.
NO UNMITIGATED IMPACTS
The MPD and subdivision clustered the units to the north end of the 2.7 acre property. Ten residential lots from 2410 square feet to 2803 square feet are proposed. In addition, four deed restricted open space parcels encompassing 1.63 acres are proposed. Each building is two stories and have footprints approximately 25-30% smaller than allowed by the zone. The uphill units (#7-10) are situated behind the downhill units when viewed from the west so they are partially obscured. The location also saves approximately 78% of the historic Ontario Loading Station stone retaining walls.

All references to the MPD should be removed:

LMC 15-6 -2. APPLICABILITY.

(C) MPD's are allowed in Historic Residential (HR-1) Zone **only** when:
(1) HR-1 zoned parcels **are combined with** adjacent HRC or HCB zone Properties as part of an allowed MPD (see criteria above; or
(2) Property **is not** a part of the original Park City Survey or Snyder's Addition to the Park City Survey and which may be considered for Affordable Housing MPDs consistent with Sectoin 15-6-7 herein.

This project fails both criteria.

The Subdivision process is incomplete and remains a 'proposal' at best. The visual and environmental impacts of the proposal are significant. This site has significant issues with contaminated soils. Neither the application nor this Staff report address environmental concerns

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associated with previous mining operations. (NB this is a "Major Subdivision as defined by the Land Management Code and should be processed accordingly.)

The impacts of this proposal may, in part be a result of attempting to mitigate the physical impact on the existing rubble walls. However, moving the proposed buildings to the North absolutely and without question, increases their visibility and perceived massing over previous proposals. The applicant has consistently failed to provide suitable visual analysis justifying staff's claim.

Criteria 2: Visual Analysis. The applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine the potential impacts of the project.
NO UNMITIGATED IMPACTS
The proposed buildings are in an area of Old Town where there are both larger contemporary buildings (Ontario Avenue and Court) and smaller historic homes (Prospect Avenue area). The applicant has submitted a streetscape of the ten proposed buildings demonstrating the visual impacts of the buildings as viewed from the west. The two closest houses on Ontario Court are drawn in for perspective. The project site is not visible from the LMC-defined Vantage Points. The downhill units (1-6) are proposed with two stories; however, there are additional exposed foundation walls of varying heights (2 to 9 feet in height). Even with the exposed foundations, the buildings are 2-3 feet under the 27 foot height maximum (see height exception for Lot 6).

At the previous Planning Commission meeting further information was requested in order to make a determination. Chair Thomas specifically requested a site model and asked for dimension information to be noted on the drawings. The model supplied does not show dimensions or a verifiable scale to test accuracy of the visual claims. The plans in the packet do not show the individual buildings in relation to their proposed lots, no USGS datum information is shown on the building plans, or elevations as required for the application. No sections are provided.
(No lots shown for the individual applications, the project site plan has no lot dimension nor setbacks). The streetscape is incorrect. A cursory inspection of the site/topo plan shows an incorrect relationship between the proposed buildings and the grade level. For example the south corner of Unit 1 and the north corner of Unit 6 are both shown on the site plan to intersect existing grade at approximately the same contour (7202'). The streetscape drawing does not represent this condition. The streetscape drawing also fails to illustrate the retaining walls shown on the site plan; note especially the trees located north of unit 7, which according to the streetscape drawing are located in the truck turnaround.

Potential impacts cannot be determined from the contradictory information provided.

Criteria 3: Access. Access points and driveways must be designed to minimize grading of the natural topography and to reduce overall building scale.
NO UNMITIGATED IMPACTS
Each of the ten homes will take access from a private road (Silver Hills Court) with access to Marsac Avenue (SR 224). Silver Hills Court utilizes the existing railroad grade

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thereby eliminating the need for substantial grading for access. The driveways to the garages on Lots 1-6 provide for the second Code required parking space. On the uphill Lots 7-10, the buildings are at the front setback with short driveways as the second parking space is under the buildings in an open carport.

It is typical to require infrastructure improvements to be completed prior to the issuance of individual building permits (as was the case for the Ontario Ct driveway).The North end/West side of the proposed street lies substantially higher than the existing grade requiring the downhill buildings to act as retaining structures for the road. It is doubtful if the access road could exist without the buildings on the downhill side.
As a result of the relative levels of floors and grade from uphill to downhill sides the lower level foundation walls of buildings 5 and 6 especially, have the same impact as an additional occupied storey. This would suggest a proposal incompatible with the natural topography.

Can cars enter and exit the driveway and garage of Lot 6 without cars maneuvering over the portion of road required for fire access "ONLY"?

The Project does not have emergency access from Ontario Court.

An initial comparison of the site/topo plan and the unit plans show marked discrepancies with the information provided. For example the "side elevation" of unit seven (both sides) fail to show the required retaining structures indicated on the site plan. If existing grade was shown on these elevations it would reveal the substantial regrading required.

At the last meeting Commissioner Peek discussed the option of combing garages on the uphill buildings in an effort to reduce grading and visual impacts

As is typical throughout this staff report; the conclusion 'no unmitigated impacts' cannot be drawn from the information supplied. No appropriate level of analysis can be performed.

Criteria 4: Terrace. The project must provide terraced retaining structures to regain natural grade.
NO UNMITIGATED IMPACTS
Minimal retaining structures are necessary. The four uphill units (7-10) have boulder retaining walls of less than four feet in height behind the units. The downhill lots (1-6) also have 4'-5' high walls between the buildings. The vehicular turnaround will alsorequire a retaining wall approximately 18 feet high into the east hillside. As units 5 and 6
are directly across Silver Hills Court from the turnaround, they will help mitigate the visual impact. In addition, the wall is proposed to be separated into two nine-foot high walls with landscaping between the tiers.

The uphill units have retaining walls labeled as 8' high (but drawn closer to 10'high, see Unit 7) between the units. Walls shown on individual unit elevations do not match the walls shown on the site/topo plan. The information shows four foot high walls to the rear with a very steep slope

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rising from the top of these walls. Requirements for excavation and backfill of these lots will have a significant impact on the final design, and height of these walls.
What is the visual impact of the turnaround as viewed from the entry to Ontario Court from Ontario Avenue?
Some retaining walls are not shown on the individual building plans.
No retaining walls are shown on the elevations of the down hill units.

Potential impacts cannot be determined from the contradictory information provided.

Criteria 5: Building Location. Building, Access and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the site.
NO UNMITIGATED IMPACTS
The 740-900 square foot footprint buildings are placed onto the hillside with natural grade remaining along the sides of the buildings, with the exception of the small boulder walls to help maintain existing grade. Access and infrastructure will be along the existing railroad grade minimizing the need for excessive site disturbance and grading.

For the reasons stated above, this conclusion cannot possibly be reached from the information provided. At this stage it seems necessary to ask why the staff report consistently fails with regard to any critical analysis. Conclusions appear to ignore the information provided presenting conclusions as unsubstantiated facts.

Criteria 6: Building Form and Scale. Where building masses orient against the Lot's existing contours, the structures must be stepped with the grade and broken into a series of individual smaller components that are compatible with the District.
NO UNMITIGATED IMPACTS
The buildings have footprints of approximately 740 to 900 square feet and minimal stepping. Each building is slightly rectangular in shape (37 feet wide by 28 feet deep on Lots 1-6, 30'-8" wide by 28'-8" on Lots 7-10) oriented with the existing contours. Each building has horizontal and vertical articulation in keeping with the simple forms of the Historic District. The uphill units have greater stepping in the foundation and building form as this is the steeper part of the property.

No comment

Criteria 7: Setbacks. The Planning Commission may require an increase in one or more setbacks to minimize the creation of a wall effect along the Street front and/or rear Property Line. The Setback variation will be a function of the building, site constraints, proposed Building scale, and Setbacks on adjacent Structures.
NO UNMITIGATED IMPACTS
There are no other houses along the east side of Marsac Avenue for several hundred feet to the north. The backs of the downhill units face Marsac but curve away from the street up to 50 feet and more based on the lot layout. All buildings have a minimum of

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five feet of setback in the side yards. The lots are sized to fit the building configurations. The lots could be larger thereby increasing the technical setbacks to the lot lines, but from a practical standpoint there would be no visible difference in the front and rear setbacks. Increasing the side setbacks would cause the buildings to be spread further across the property and closer to the Ontario Court homes.

At the time of the writing of this report and at the time of the Planning Commission action. The Lots have not been created as the Subdivision has not been approved. Nor has the City Street been vacated
See CUP Application section on; AFFIRMATION OF SUFFICIENT INTEREST
"I am aware that all subdivision-related issues such as the removal of interior lot lines, combination or separation of existing lots and/or parcels, etc., shall be resolved prior to or in conjunction with the approval of this application.

Criteria 8: Dwelling Volume. The maximum volume of any structure is a function of the Lot size, Building height, setbacks and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed structure to minimize its visual mass and/or to mitigate difference in scale between a proposed structure and existing structures.
NO UNMITIGATED IMPACTS
The design is compatible with the volume of the smaller historic homes to the west and south. The contemporary single family homes in the Ontario Avenue area are substantially larger with three to four stories and several thousand square feet of floor area.

The perceived scale of the downhill homes seems at odds with the accommodation provided. This is a direct result of the design proposal and planning methodology. Typically old town lots leave little choice in this regard. Not so for this site. . At the time of the writing of this report and at the time of the Planning Commission action. The Lots have not been created as the Subdivision has not been approved. Nor has the City Street been vacated

Criteria 9: Building Height (Steep Slope). The maximum Building Height in the HR-1 District is twenty-seven feet (27'). The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed structure to minimize its visual mass and/or to mitigate differences in scale between a proposed structure and existing residential structures.
NO UNMITIGATED IMPACTS
Due to the smaller sizes of the units, especially compared to the nearby Ontario Court homes, staff does not recommend further reduction in heights. The proposed heights of the buildings are at or below the 27-foot height restriction. The roof of the small gable over the kitchen window on Unit 6 exceeds the height maximum by less than two feet. A redesigned roof form could be accommodated to meet the height requirement.

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No information regarding building height is shown on the individual unit plans and elevations. Levels are required as part of an application. Planning Commission chair Thomas asked that staff ensure that dimensions were provided, as requiring commissioners to scale drawings was unacceptable. No building or site sections are provided. An initial review of the drawings provided in the packet makes measurement difficult. There needs to be clarification of the levels shown on the site plan for floors, plate hts and ridgelines. When comparing the Unit elevation drawings with the site plans the uphill lots appear to show underside of ridge not top of ridge, is this correct? This may be a problem with reproduction of the drawings which would not be an issue if the required application information was present.

If the proposed road was lowered, especially at the North end to follow more closely the existing grade then the downhill lots would be reduced in overall height. Uphill lots in this scenario would be negatively impacted unless they were clustered more to the South.

Criteria 10: Height Exceptions (Steep Slope). The Planning Department and/or the Planning Commission may grant a Building Height exception for a portion or portions of a proposed structure if the applicant proves compliance with each of the criteria.

NO UNMITIGATED IMPACTS, minor height exception requested for building 6.
a) Height exception to 28'-9" does not exceed 40 feet.
b) Building has horizontal and vertical step backs to achieve increased articulation.
c) The proposed design and articulation are similar to other buildings in the project and the mass is substantially smaller than buildings on Ontario Court.
d) No snow release issues identified by the Chief Building Official.
e) All other elements of the building are under the 27-foot height requirement.
f) The height exception does not allow for additional floor area as a continuation of the roof would be under the 27-foot height.
g) The gable breaks up the roof and provides architectural interest.
h) The height exception is compatible with good planning practices and design by providing more articulation to the roof form.
i) The height increase of 1'-9" will result in a superior plan with greater building articulation and interest.
j) The small gable and height exception have no impacts needing mitigation as outlined in LMC 15-1-10 Conditional Use Review.

No comment

Findings of Fact:

1. The property is located at 100 Marsac Avenue.
2. The zoning is Historic Residential (HR-1).
3. The approved plat created 10 residential building lots and four open space parcels.
4. Access to the lots from Marsac Avenue is via a private driveway (Silver Hills Court).
5. The minimum front yard setback for lots of this size is 10 feet.
6. The minimum rear yard setback is 10 feet.
7. The minimum side yard setback is 5 feet for the lots as proposed. The applicant proposes 5 feet on all side yards.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning

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Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD. A minor height exception of 1'-9" is proposed for a subordinate gable on the rear of unit 6.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. The applicant is proposing two on-site parking spaces within a single car garage and
an exterior space for each of the ten two-bedroom units.
12. The maximum footprints for these lots are 1052 to 1197 square feet, based on lot size.
13. The proposed footprints are 746 to 910 square feet.
14. The total floor area of the ten buildings is 12,275 square feet, representing 15 Affordable Housing Unit Equivalents.
15. The findings in the Analysis section of this report are incorporated herein.

See previous comments

Conclusions of Law:
1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B)
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

For the reasons stated above, this conclusion cannot possibly be reached from the information provided.

Conditions of Approval:
1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the houses are reviewed and approved by the Planning Department staff for compliance with the Historic District Design Guidelines.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.

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7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
8. A height exception of 1'-9" is granted for the subordinate gable on the rear of unit 6.
9. Building permit plans must substantially comply with the drawings reviewed and approved by the Planning Commission on October 22, 2008.
10. This approval will expire on October 22, 2009, if a building permit has not been issued.

Exhibits
Exhibit A – Site plan, floor plans, and elevations
See elevation and part of site plan.

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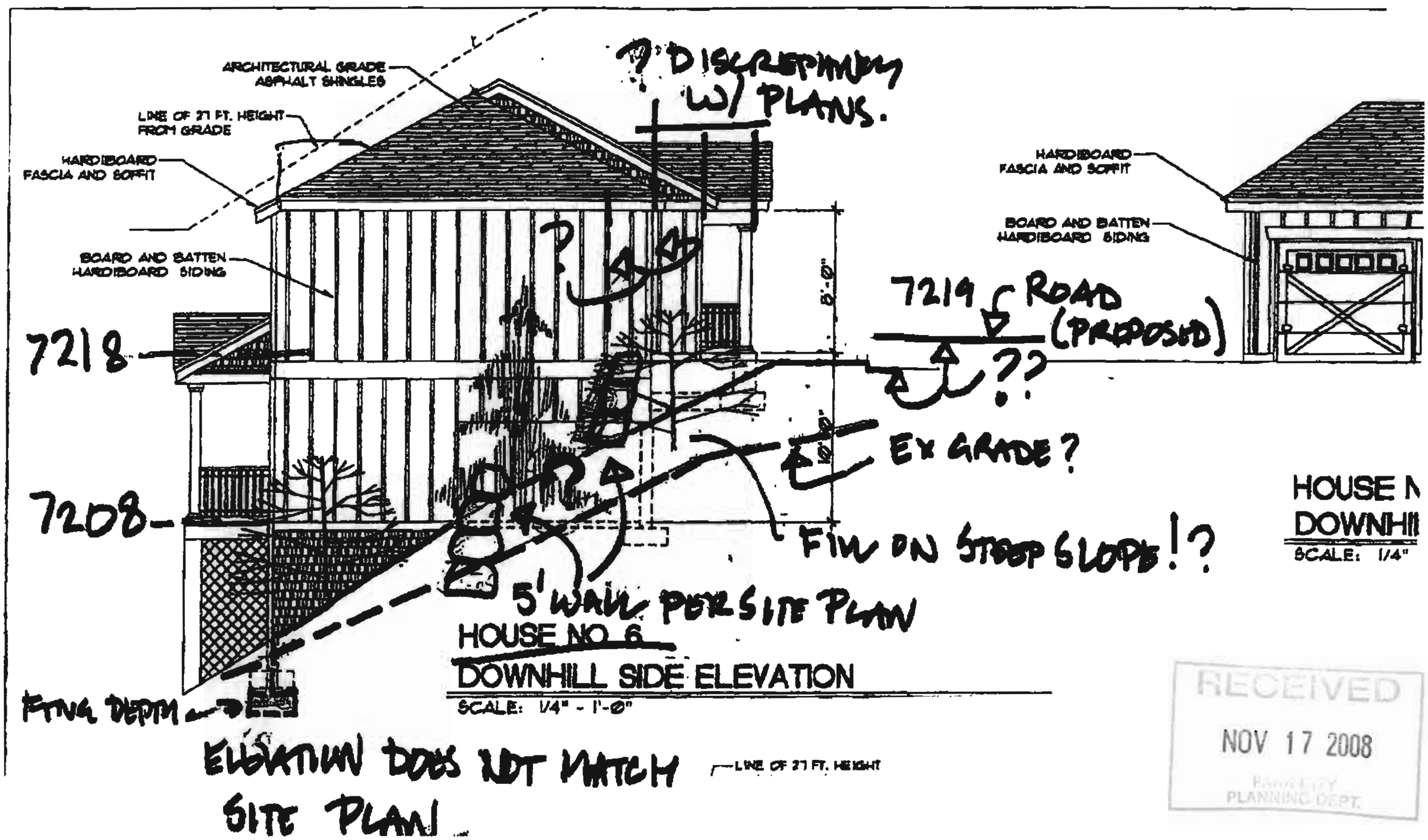

HOUSE NO 6
DOWNHILL SIDE ELEVATION
SCALE: 1/4" - 1'-0"

HOUSE N
DOWNHI
SCALE: 1/4"

? TURN AROUND RETAINING WALL.
LEVEL 7242.
-(2) 9' HIGH WALLS. = 7224 → 5' HIGHER THAN INDICATED LEVEL 7219