PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
NOVEMBER 6, 2003

Present: **Mayor Dana Williams; Council members Peg Bodell, Kay Calvert Candace Erickson, Jim Hier, and Fred Jones**

Tom Bakaly, City Manager; Chief Lloyd Evans; Patrick Putt, Planning and Zoning Administrator; Doug Stephens, preservation consultant; Kent Cashel, Transportation Director; and Eric DeHaan, City Engineer

1. **Council questions and comments.** In response to a question from Peg Bodell about the purpose of the Manager's Reports distributed to the Council, the City Manager explained that they are informational; often questions or comments are made by Council members at this portion of the meeting on topics or correspondence outlined in the report. Ms. Bodell specified that it seemed like the Friends of the Farm report a couple of weeks ago requested some direction. Since it was never discussed, the final decisions isn't clear. Mr. Bakaly responded that the report invited comments and there was also a follow-up email before anything proceeded with regard to the Friends' update. The $7,000 cited for the painting project at the Farm doesn't require Council action, but staff asked if there was any concern on behalf of Council members. Ms. Bodell stated that if a decision doesn't have to be made by Council, staff "*should not hope to hear from them*". Tom Bakaly felt that staff needs to balance that with sharing information on projects. It was clarified that the number of programs at the Farm are governed under a conditional use approval and programming was discussed when Council reviewed this topic. Kay Calvert reported on a meeting to organize a Girls and Boys Club in Park City. Fred Jones commented that he considers the Manager's Reports as information and brings questions up during work session. He felt this is an efficient way to do business, rather than scheduling every decision on the agenda. Candace Erickson thanked everyone for voting and is very happy with the snowfall this week. Mayor Williams congratulated Candy Erickson, Marianne Cone, and Joe Kernan. However, Moab clearly beat Park City at the polls with regard to turnout. He and Tom Bakaly met with Wasatch County to discuss the potential of an inter-local agreement. Brighton Estates was also discussed and the improvements Wasatch would like to accomplish before access is provided. The City will also be meeting with UDOT. Mayor Williams asked that staff contact merchants in the NOMA area to gain some insight on issues, which were brought up during the recent candidates debate. The campaign on Wind Power was conducted on Main Street during the week where there was quite a bit of interest expressed by businesses. There was discussion on the placement of the banners and it was decided to place them intermittently up and down Main Street since there aren't enough for every light pole.

2. **Police advisory committee.** Chief Lloyd Evans referred to his staff report, specifically the policies and procedures for a police advisory committee. Fred Jones commented that he hoped that this proposal doesn't create more work, and that

the committee meet when there is pending business. Perhaps meeting four times a year is appropriate. He suggested three year staggered terms and felt that quarterly meetings may be sufficient to review complaints. There could be some provision for special meetings, with approval from the City Manager, if there is a need for immediate attention, for instance.

Peg Bodell asked the process for someone complaining about mistreatment, not necessarily the arrest. The Chief explained that the complaint would be filed with the office of the Chief of Police. An investigation would be conducted by the Police Department and the findings of the investigation would be given to the complainant. If the citizen is not satisfied with the disposition of the proceeding, it would be scheduled as an appeal to the committee. Peg Bodell stated that there may be citizens who are unhappy with or don't trust the Police Department and asked why would they would contact the Police Department. Chief Evans expressed that there is an obligation to the community to be accountable and to be provided an opportunity to rectify a problem. Ms. Bodell commented on the merits of providing the public with direct contact with the committee. Kay Calvert believed the concept is to improve communication between the Police Department and the community and most of the input she has received supports a two to three member citizen board with a trained ombudsman to directly hear complaints. Chief Evans understood concerns about mistrust but believed that earlier direction from Council is to establish a review process for the committee, not create a separate process outside of the Police Department. Kay Calvert stated that she doesn't believe the current complaint process is working and there is natural reticence on the part of citizens to come forward. Fred Jones understood that Ms. Calvert is suggesting a contact person who is not the investigator, but would relay it to the Chief. Ms. Calvert agreed and felt that the group is a conduit and perhaps many circumstances could be resolved before they are even investigated. Candace Erickson noted that she doesn't have a problem with an individual contacting a point person, who then contacts the Chief.

Jim Hler stated that he doesn't view the ombudsman as a volunteer position and this being completely a police problem. He liked the framework of the report and suggested that citizens be provided an outlet for problems beyond the police and discussed a City complaint hotline. Kay Calvert felt that committee members need to be knowledgeable. Tom Bakaly pointed out that as written, this is an appeals board, but under Ms. Calvert's scenario he understood that someone could call the chairman of the advisory board with a complaint; the chairman would pass this along to the Chief for an investigation. He asked what happens if a person reports corruption but doesn't want to leave a name. There was discussion that the callers need to identify themselves. Mr. Hier again discussed his hotline idea, which could be extended to employee complaints. Police complaints could be channeled to the appropriate person through the phone line. The complaint point person doesn't necessarily have to resolve the issue, but must have the appropriate skills to handle complaints. He felt this has to be something more than an ad hoc committee, which meets periodically on Police Department business.

There was discussion about reporting the findings back to the complainant. If this individual disagrees with the report, the matter would be scheduled as an appeal to the committee. Chief Evans advised that the City's phone system can be programmed with security measures for hotline callers. He continued that with anonymous complaints, it is difficult to establish facts and at some point, the Park City Police Department will have to interview the person making the complaint to effectively resolve issues. Mr. Hier felt that there could be a way to inform the caller that his anonymity will be protected; there are ways to work around this. Chief Lloyd Evans explained in detail how he envisioned an appeal would take place.

Peg Bodell stated that she also supports three year staggered terms and hoped that citizens would have an advocate since the board has staff support. She suggested tape recording meetings be added to the policies. Disciplinary actions for staff are addressed and she suggested offering counseling to complainants. Kay Calvert felt the public should be made aware that hearings are not intended for frivolous claims. Lloyd Evans stated that this policy was written from the perspective of creating a partnership with the police and citizenry and to offer the public an appeals process. Disciplinary action is not a duty of the committee. Fred Jones felt it should be clear that this appeals board deals strictly with process and not to protest an arrest, citation or criminal process. Secondly, the appeals process must not supplant the department's ability to deal with the problem first. Tom Bakaly felt that a hotline is fine for complaints. He expressed concern with empowering an advocate or representative with no reporting responsibilities. He understood most of the Council members wanting a contact to communicate a complaint, not necessarily an advocate position.

The Mayor concluded that Council supports a three member board with three year staggered terms and that the meetings are taped. Tom Bakaly interjected that a citizen could contact a committee member to initiate the complaint. Jim Hier suggested that it not be in the policy and the City Manager suggested that this be clarified before final approval of the policies. The Chief asked for the opportunity to call special meetings in the event a short turn-around decision is needed. Council agreed. Mayor Williams commended the Chief and his Department and expressed that he is very proud of all of the officers. Chief Evans noted that he will return to Council in about 30 days.

2. Historic preservation plan for city-owned buildings. Pat Putt explained that Council directed staff to inventory historic City-owned structures and properties with the aim at preparing a strategic plan to assess their overall contributions to the community. The inventory has been completed and properties are categorized into community anchor areas. The location of an historic structure or property is critical.

Through illustration of a slide show, Mr. Putt explained that most people enter Park City from the north and pass the historic McPolin Farm, structures and the associated open space. He pointed out that Huntman's Park, and the Richards Ranch property, other open space acquisitions, make a statement about our values. As cultural tourism grows, identifying adaptive uses in historic structures will become more important. The Park Avenue district includes the Miners Hospital, Library and Education Center, Senior Center and recreation fields in and around City Park and the Education Center. This area focuses on our commitment to open space, history, education, culture and recreation and the buildings help to anchor the surrounding residential neighborhood. The lower Park Avenue anchor consists of the Watts Woodside and Park Avenue residences, the National Garage and the Sweeney tram tower. Staff believes this area is extremely important in the development of Main Street, particularly in the context of the Kimball Art Center. The upper Main Street anchor includes the 148 Main Street house and garage, Poison Creek flume and the Main Street turn-around and provides a visual transition. The center core of historic Main Street includes the Old City Hall, Miners Park, and the ABC Reservations Building. The east side core includes the Marsac Building, Marsac Mill Wall and the China Bridge Parking Structure. As Swede Alley develops with new types of gathering places, these City-owned properties will be critical in tying these elements together. He discussed the features of the old retaining walls throughout Old Town. The Sandridge garages are considered significant because of their visibility and they could be a part of a potential project to improve the parking structure. The Pace Homer shed, Pechnik house and old shack on Prospect Ridge were illustrated. They are considered insignificant in their contribution to the Historic District and may be properties considered for demolition. Staff recommends that the materials from these structures be dismantled, if reasonable, and used in other renovation work in the community.

Mr. Putt continued that the next analysis, which is occurring now, is assessing whether the historic structures will advance economic development and/or cultural tourism. The Engineering and Building Departments will also be involved to evaluate the structural conditions of buildings and arriving at adaptive uses and associated costs. It is hoped that staff will return sometime in January with an opportunity for the public to comment. Fred Jones recalled that when the City purchased the Wisnewski lots, that the Historical Society was adamant about restoring 148 Main Street, which may be a way to address that particular property. With regard to the Sandridge garages, he suggested that perhaps the property owners in the area may desire to restore and use them. Peg Bodell disclosed that she has had conversations with Julie Christens, Sandridge property owner, who is interested in pursuing an agreement with the City. She continued that the use of the Miners Hospital has been a concern to her since the library vacated the property. It seems like it lacks the synergy it once had. Since rock walls are included in this presentation, she asked about the inclusion of stairs and rights-of-way as contributors to the historic fabric. Doug Stephens explained that the stairs create the east-west connections within the Historic District while the walls establish a north-south visual. This is the basis to encourage future quality developments within the Historic District, whether it is restoration or new construction. Peg Bodell asked about including the parking structure in the inventory, which doesn't seem to have any historic relevance. Mr. Stephens discussed looking at each property separately on a task-oriented basis, recognizing that the value of historic renovation is diminished unless there is vitality and continuity of connections associated with it. He continued that it became apparent to staff that in order to restore properties, all City-owned properties need to be considered and the parking structure is part of the visual component. The technical part of restoring buildings is fairly easy, but creating vitality through reuse is more difficult and he referred to Ms. Bodell's comments regarding the Miners Hospital. In response to a question from Patrick Putt, Fred Jones indicated that in his opinion, he feels staff is going in the right direction and Peg Bodell felt this is a solid start.

4. Review of regular meeting.

Transit purchases. See staff report. Kent Cashel stated that staff is recommending the purchase of a replacement trolley to authorize a contract for the initial purchase of four 35 foot low-floor transit coaches with an option to purchase up to 12 more. Replacement of the trolley was approved through the budget process and a federal grant will cover 80% of the procurement. Five proposals were submitted and staff is recommending Cable Car Classics, which is supported also by HMBA.

Mr. Cashel continued to explain that over the next four years, the remaining old units in the fleet will be replaced. The transit development plan, adopted by Council last week, anticipates an additional need for vehicles to meet service expansion. Seven proposals were submitted in response to the RFP. The level of response provided a good opportunity to look at a variety of equipment and staff is recommending the award to Gillig for four buses initially; subsequent purchases are not obligatory. The option to purchase more vehicles is beneficial because it eliminates the demanding procurement process required by the federal government for grant monies. There is a price escalator linked to future acquisitions outlined in the contract. The initial purchase totals $1,015,800 for four buses which will be equipped with video. There was discussion about selling the old vehicles, which don't have a high value. Mr. Cashel stated that some buses may be retained as a small reserve contingent. In response to a question from Fred Jones about the timing of the federal funding, Kent Cashel explained that it is already in place and payment by the City is not required until the buses are delivered in September 2004. There was discussion about signing the trolley as "free".

Encroachment permits. See staff reports. The City Manager explained the public input process associated with both the Centura and Campbell encroachment requests. With regard to the Rail Central development, staff is recommending approval of the encroachment permit to Centura. This would allow staff to make the necessary revisions to the staff report for the master planned development, which can then be scheduled before the Planning Commission next Wednesday. The MPD will not proceed unless there is Council approval tonight. He understood that Council was split on the pedestrian bridge. This concept can be denied at any time and the design can be reviewed at a future date. Tom Bakaly recommended that instead of eliminating the bridge from the encroachment permit, to continue the encroachment permit to November 20 or December 4. Fred Jones asked if the 16 foot one-way road to the parking is a code requirement. Eric DeHaan responded that 16 feet is a normal one-way driveway width and determined appropriate to meet the needs of circulation.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
NOVEMBER 6, 2003

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, November 6, 2003. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, City Manager; Mark Christensen, Budget and Grants Manager; Kent Cashel, Transportation Director; Tim Twardowski, Assistant City Attorney; and Matt Twombly, Trails and Parks Planner.

II COMMUNICATIONS FROM COUNCIL AND STAFF

1. Recreation update - Peg Bodell referred to the recreation survey in the Manager's Report and asked for clarification. Candace Erickson explained that the survey was conducted and funded with money left over from a grant for the pool project in the amount of $100,000. The survey was intended to identify the public's immediate priority in upgrading the Racquet Club. Some exercise equipment was purchased and RAB is looking at long-term recommendations for improvements through one of its committees.

2. Resolution proclaiming Education Foundation Week – The Mayor read the resolution into the record and presented it to representatives of the Foundation.

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

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 23, 2003

Jim Hier made a correction to the work session notes and Kay Calvert clarified that three members were for and two against considering a reconfiguration of the bridge; it should not have been categorized as a "split". Peg Bodell asked that Harvey LaPointe's comments be clarified in the public input section, "I move to approve the minutes (as corrected) and clarification by Mr. LaPointe". Jim Hier seconded. Motion carried unanimously.

V PUBLIC HEARINGS

Community Development Block Grant Application – Mark Christensen explained that holding a public hearing is a requirement in order for the City to submit a 2004 pre-application. The public hearing is intended to solicit comments on projects, and at the conclusion of the hearing, staff is requesting Council direction. Pre-applications are due December 1 to be reviewed by Mountainlands Association of Governments; the second round will include another public hearing to formalize the application. He added that grant money must be spent on projects benefiting low and moderate income persons. MAG, of which Park City is a member, is expecting a $300,000 base grant. Mr. Christensen continued to explain that eligible activities vary and include (but are not limited to) construction of public works facilities, water, sewer lines, acquisition of real property, provision of public services, etc. The City received CDBG funding in the mid-1990s for housing and infrastructure improvements.

He stated that a consolidated plan for this year is available for review by the public. Park City can submit one application per year and the maximum award is $150,000. In the case of a partnership with other agencies, the maximum would be $100,000 per entity. Peg Bodell suggested teaming up with Coalville and Kamas for a joint request for senior centers. Mr. Christensen stated that this could be done but a coordinated effort but may require more time to meet this year's deadline. She felt senior centers could benefit from outdoor facilities, improving the safety of the parking lots, and adding some landscaping. Candace Erickson asked if the City can facilitate applications for non-profits and Mr. Christensen stated that we can and did last year for Mountainlands Community Housing Trust.

Phyllis Robinson, 838 Mountain Oak Court, encouraged the City to consider submitting a planning grant to the CDBG, rather than an application for infrastructure implementation. A planning grant would assist in furthering the strategies and policies for housing. It could assist in the analysis and prioritization, and preliminary design for affordable housing in Park City. She pointed out the benefits of gathering and analyzing data and there is an opportunity for the public to participate in setting housing goals for the community. Funding can help meet strategic goals including assessments on housing needs, development and funding options, evaluation of a rental rehabilitation fund, and identifying development options for special needs housing. Ms. Robinson strongly urged Council to support applying for a planning grant.

Kay Calvert asked if her proposal would require the total award of $150,000. Ms. Robinson explained that the City would have to match some funds and politically it would be beneficial to look at other communities who are also applying. Mark Christensen added that it may be better to apply for less, although Park City has not participated to a great level in the past. He spoke about attending MAG meetings on Thursday nights for the Mayor. Peg Bodell commented that co-applications would seem to support a regional housing effort. From a timing perspective, Ms. Robinson felt collecting information on our own housing needs enables us to participate more fully in a regional discussion of housing. A regional housing assessment may require an inter-local agreement with the associated entity. Mark Christensen stated that staff is looking to coordinate with other agencies, whether or not they will be asked for funding.

Ginger Tollman, 300 Norfolk Avenue, concurred with Ms. Robinson's comments and felt that improving housing strategies create better community involvement and a clearer plan for the future.

Joe Kernan, 1970 Stryker Avenue, stated that there is an open house for the People's Health Center tonight and suggested that this organization be considered for CDBG funding.

Kurt VonPuttkammer, architect, felt that Park City has a lot to lose by not addressing housing. It is important to apply for as much funding as possible to take the lead in this region for a variety of segments in the community. He encouraged the Council to apply for a planning grant.

The City Manager explained options for direction. Jim Hier recommended that the Council support the planning grant and asked for information on the match and a funding source. Mark Christensen explained that RDA monies can be spent outside the district on housing. Mr. Hier suggested that the City commit to $50,000 or set a guideline. Peg Bodell agreed and stated that she will act as liaison to the Council on the application and report back. Mark Christensen explained that the planning grant can be prepared this year. The People Health Center could be incorporated into a longer range strategy and it is the intent of the City to continue the process and to become active in pursuing grants. Fred Jones requested that he would like to hear from Ms. Robinson on an amount to accomplish the planning grant and is hesitant to limit the request. Mark Christensen stated that if the pre-application proceeds to the next stage, then a second public hearing will be held before Council and there will be more information to share. There was discussion about bringing this back on November 20. The Mayor interjected that he feels it more beneficial to go lower than request the maximum amount.

With no further comments or questions, the public hearing was closed.

VI CONSENT AGENDA

Fred Jones, "I move approval of the three items on the Consent Agenda". Jim Hier seconded. Motion unanimously carried.

1. Resolution proclaiming the Week of November 16 – 22, 2003 as Park City Education Foundation Week in Park City, Utah – See Communications from Council and staff.

2. Resolution declaring Park City's interest in taking a leadership role in promotion of sustainable energy by promoting both energy efficiency and renewable energy for Park City Municipal Corporation and the community – See staff report.

3. Ordinance accepting the public improvements at Eagle Pointe Phase 3 Subdivision, The Cove at Eagle Mountain Phase 2 Subdivision, and a portion of Meadows Drive – See staff report.

VII NEW BUSINESS

1. Authorization to staff to execute a contract with Cable Car Classic's Inc. in the amount of $259,988 for the purchase of one replacement trolley – See staff report and work session notes. Peg Bodell, "I move approval of an authorization to staff to execute a contract with Cable Car Classic's Inc. in the amount of $259,988 for the purchase of one replacement trolley". Fred Jones seconded. Motion unanimously carried.

2. Authorization to staff to execute a contract with Gillig Corporation, in the amount of $1,015,800 for an initial purchase of four 35' low-floor transit buses with an option to purchase up to 12 additional 35' buses over the next three years – See staff report and work session notes. Jim Hier pointed out that Item 1 and 2 were discussed in detail during work session. Kent Cashel interjected that 80% of the cost will be federally funded. Kay Calvert, "I move to authorize staff to execute a contract with Gillig Corporation, in the amount of $1,015,800 for an initial purchase of four 35' low-floor transit buses with an option to purchase up to 12 additional 35' buses over the next three years". Jim Hier seconded. Motion unanimously carried.

3. Authorization to City Manager to enter into an encroachment and access agreement for certain elements of the proposed Rail Trail development – Centura Development – Tom Bakaly explained that although this is not a formal public hearing, public input is solicited. Staff is recommending approving an encroachment permit, which grants the City access across Centura's property to the City's open space parcel where there would be 11 parking spaces for the Rail Trail project. The City is also granting an easement across our property to Centura. There is no commercial or private development on the open space and it will be Centura's responsibility to build the 11 parking spaces to be signed as Rail Trail use only. He emphasized that the pedestrian bridge over the City's property will be considered at another meeting. Approving an encroachment permit will assist in the timing of Centura's MPD application before the Planning Commission; this matter does not relate to planning aspects of the project. Jim Hier clarified that the bridge will not only span City property but a terminal will be on our property, providing access. Fred Jones acknowledged that a decision on the bridge is not slated for tonight, but referred to his confusion regarding the purpose of the bridge discussed earlier. He stated that he can support a north-south pedestrian

access that connects on-grade with the Rail Trail which goes east-west. There seems to be some justification for public access on-grade but a bridge connecting to the second floor of a commercial building is not something he feels is appropriate. The Mayor invited the audience to comment.

(a) Public input

Charlie Sturgis, White Pine Touring, recalled the development of the Rail Trail some 15 years ago. He is surprised at the volume of its use and its importance to the trail system. He discussed conducting bike guides on this trail and noted that patrons often complain about the lack of facilities. He pointed out that this property was purchased with open space funds. It is a key piece to the trail system and could offer amenities for users year-round. Jim Hier asked his opinion on the bridge. Mr. Sturgis felt the bridge will assist access. There was discussion about the Farm trail, which White Pine Touring plans on opening this Saturday.

Rodman Jordan explained that the original design included a curb cut and there is no longer a second floor connection; it's accessible at grade level and ADA compliant. He discussed their efforts in exploring bridge design concepts.

Troy Duffin, Mountain Trails Foundation, stated that the trail is used by at least 100,000 people a year and is very popular. There was discussion on the location of the people counters. Mountain Trails does not comment on the merits of any development project, but as it affects the trail, any type of amenity is a great thing, as long as it does not hinder the function of the trail and its potential future. He pointed out that the widths of trails in specifications have increased over the years, and he encouraged the City not to give up any right-of-way. Rail trail parking must be reserved for trail users. The parking between Snowcreek and Associated Title will be lost. It would be ideal to build an underpass under Bonanza as the ultimate trailhead is City Park.

With no further comments or questions from the audience, the public input session was closed.

(b) Direction or action

Jim Hier read an excerpt from the recent open space bond brochure, *"How can the public ensure that land purchased with the proceeds of the bond issue remains open? Open space, purchased with the intent to keep it permanent and forever preserved as open, can be protected using a variety of standard legal techniques. The most common involve open space easements and deed restrictions".* In addition, the bond language itself guarantees that the purchase must remain forever open. He described this brochure language as similar to the one published on the first bond issue but amended in the second. *"It is conceivable that certain parcels of land will be purchased to implement other strategies deemed important by the Citizens Open Space Advisory Committee, the City Council, and the community. These might include land banking for future land trades and development of selected recreational amenities. These strategies will be clearly identified and justified to the public in advance of their purchase".* He emphasized that the City purchased this property under the context that it would be forever open and understanding that if we didn't purchase it, Union Pacific could sell it and develop it commercially, potentially blocking the trail system. It wasn't purchased as a trailhead but rather to maintain the extension of the broader trail system. Had conservation easements been placed at the time of acquisition, there would probably be less debate at this particular time. Mr. Hier stated that the proposed bridge spans from one commercial parcel, across the Rail Trail, to another commercial parcel; both privately owned. It's not public access, but commercial access. Part of the proposed agreement provides for an ADA accessible ramp leading down from the Rail Trail parking area, which is not much more than 150 feet to the restrooms. It is his belief that the bridge is a 100% commercial enhancement. If the City's property was not open space, he would consider the request, however the bridge will block the view corridor down the trail. He stated that he can't support the bridge based on the intent of the bond purchase and do so would betray a public trust. This may be a small transaction, but it sets a precedent. He strongly suggested that this portion be stricken but everything else is fine, i.e., allowing access through the property. Mr. Hier strongly expressed his distaste for approving something, which requires approval by a subsequent action and can't be defined in time or in scope. He cited a scenario about the property being sold before the bridge is built.

Peg Bodell commended Centura on voluntarily including a public art element and commented on the on-going development of an art policy for the City. She asked if the art could be located in another area of town. Mr. Jordan explained the public art program in San Francisco and feels this is a good thing for Park City. He responded that it doesn't have to be on-site and agreed with Mr. Duffin's remarks about tying the Rail Trail into City Park. Having a pocket park in the Rail Trail Development is something that has been in their plans and he would like to see art as a part of this project, however, they are open to discussions. In defense of the bridge, Mr. Jordan emphasized the overall pedestrian vision for the neighborhood.

Jim Hier stated that when the applicant produces a master plan of the entire area showing how these elements integrate, an encroachment permit would be appropriate to review. Why not wait? Mayor Williams interjected that he agrees totally with Council member Hier on his comments about the intent of the bond language. There was discussion about the current pedestrian bridge serving area residents, which is more convenient. Fred Jones suggested that rather than striking Subsection (d), which Mr. Hier is recommending, to simply replace pedestrian *"bridge"* with pedestrian *"connection"*, and eliminate the bridge as the applicant is reconsidering this feature. He agreed with Mr. Hier that the bridge, as proposed, doesn't fit the criteria of public way. Using the word *"connection"* doesn't eliminate the possibility of a bridge in the future. He emphasized that the City is not committed to any kind of connection at this point. Relative to Mr. Hier's quotes from the bond pamphlet, Mr. Jones noted that this was prepared by a special interest group promoting the initiative, and it is not a legally binding document, which is specific as well. The focus needs to be on the bond language, not the bridge. Jim Hier countered that the pamphlet has the City logo, Park City Municipal Corporation and its email address and any resident would believe it came from the City. He agreed that it may not be legally binding, but it is morally. There was discussion about placing a timeline on the bridge application or tying it to Centura's application. Candace Erickson expressed the problems associated with outstanding projects and there was discussion about whether or not to strike (d). Rodman Jordan expressed that he wants resolution on this. It is a matter of full disclosure as Centura wants to go through the master plan process and develop good north/south connections. He discussed integrating the Hispanic community in the area.

Peg Bodell stated that she has concerns about the City's enforcement responsibilities outlined Section (b) with regard to restricting parking. This is a difficult obligation, at best, and this is not a trailhead and not an appropriate place for a trailhead. She asked that it be stricken because it is more of a problem than a benefit. Mr. Jordan explained that this is an effort to provide some public parking and she believes it won't be available for trail users. He responded that he successfully enforces a plan with his tenants at the Emporium, which he explained in detail. Kay Calvert stated that it would be inconvenient to eliminate parking because it can't be enforced. He discussed in detail the Telluride trail system which ties into retail areas and emphasized the Centura is offering to grant an easement across its property so that the public has a place to access the Rail Trail. Ms. Bodell argued that City Park has plenty of parking. Candance Erickson disagreed with Ms. Bodell's comments; the more parking, the better. She believes there will be a number of trail users who will drive there to run or bike and the parking will be used. In response to the Mayor's poll, there was no support among Council members to support Ms. Bodell's recommendations to strike Section (b).

Tom Bakaly summarized that amendments to the proposed draft include changing the word bridge to connection in Section (d). The first sentence should contain language, *"subject to the approval of the City Council of Park City by July 1, 2004, owner may construct a pedestrian connection. . ."* Under Section (f), Council may want to consider adding, *"in the event a location for public art is determined by the City, other than the Rail Trail, the owner may match the City's contribution to the cost of said public art up to a maximum of $5,000"*. Jim Hier reiterated his reasons for opposing the bridge and the agreement and Fred Jones countered that it is not approving a bridge. Jim Hier stated that the approval of the bridge could occur with a future council and he is not willing to make that provision. He could approve a pedestrian connection. Fred Jones, "I move to approve the encroachment agreement with the changes as iterated by Tom, including Section (d) which replaces "bridge" with "connection", and with the additional sentences relative to public art and ~~the July 1, 2004 deadline~~ with regard to the pedestrian connection". Assistant City Attorney Tim Twardowski asked if July 1 is the deadline for approval or application. Jim Hier felt the City should have a design submitted for approval prior to that date, and if not, the clause would expire. Rodman Jordan felt six months may not be adequate. Fred Jones amended his motion to, approval by the City Council no later than December 2005". Candace Erickson seconded. Motion unanimously carried.

4. Consideration of encroachment permit for Lot #36 Iron Canyon Ct, in a form approved by the Legal Department – Dr. G. Richard Campbell – Matt Twombly explained the Iron Canyon annexation and subdivision was approved in October 1983. The developer, The Boyer Company, was granted a credit for dedication of park land where the public access easement was the only recreation dedication. The Boyer Company was credited $8,000 toward the required fee in lieu of park land dedication for the pedestrian access through the Iron Canyon Subdivision. Many years after the annexation, the original owner of Lot #36 built his driveway within the 20 foot utility and access easement centered on the property line. The current owner is requesting encroaching within the easement. The driveway was also built partially on the adjoining property owned by David Wiener. There were conflicts with property owners, trail users, and concerns about parking in the cul-de-sac and staff met with Dr. Campbell and his neighbors to find solutions to alleviate the situation. The City stripped and signed the cul-de-sac. It has worked with some success, however, Dr. Campbell alleges that trail users are not using the parking or access properly. Over the last few months, the City Engineer and City Attorney have worked with Dr. Campbell on creating an encroachment agreement so that he can proceed with the installation of a fence and gate on his property. It appears that part of the improvements would encroach on Mr. Wiener's property within the access easement. He was amenable to this proposal earlier but has subsequently submitted his written opposition to any structures on his property (within the access easement). To date, there has been no resolution reached by all parties. Staff is recommending that Council deny the amended encroachment permit proposed by Dr. Campbell and to take public input.

(a) Public input

Beverly Gray, resident, expressed that this trail has been around a lot longer than the platting of the subdivision in 1983. Prior to that, what is now Aspen Springs, was the Smith Ranch. This trail, historically used for sheep herding, is shown on a 1950 topographical map. She stated that she started using the trail in 1979 and it has special meaning for her and she would like continued access. She feels that trail users keep it maintained by clearing it. It's a beautiful place.

Troy Duffin, Mountain Trails Foundation, stated that there is another alternative in the works contemplating a trail connection along the face of Iron Mountain and connecting above the neighborhood and over by the water tank. This access is completely owned by Iron Mountain Associates with the potential of gaining access through other privately owned lots. This is being pursued by IMA and Mountain Trails and there is no guarantee that it will ever happen, but it would resolve many issues. Mr. Duffin emphasized that whatever legal access there may be, easements or rights by prescription, should and must be maintained. This is a very important trail connection, especially with the mid-mountain, and he urged Council to maintain the access.

Rick Campbell stated that when he purchased his home, there was nothing in the title report denoting public access, only an utility easement. There are countless problems; people parking in their driveway and his daughter was almost hit by a speeding car. They have asked for laws to be enforced. Their home has been invaded by off-leash dogs and hey inherited these problems when they bought their home seven years ago. He has tried to work with the City and reiterated that the access was not on the plat. The previous owner who installed the driveway received approval from the City and he inherited it by buying it. Dr. Campbell relayed that his requests over the years has been for the City to take responsibility for the trailhead. He referred to a trail book, written by Raye Ringholtz in 1984, which identifies the Iron Canyon Trail and parking at Rotary Park. A couple of years ago, the City installed signs directing trail users down their driveway and he repeated that the City should take responsibility. The old easement was not properly recorded and he had no idea that his driveway is on someone else's property. He met with the City Engineer to solve the problem and correct the wrong recorded documents. He referred to the City's draft and his proposed encroachment permit. Dr. Campbell stated that his proposal solves the historical problems and gives him a driveway. He shouldn't have the liability of hikers on his property.

(b) <u>Direction or action</u>

Fred Jones stated that he read both encroachment agreements and was unclear as to what issues the City's version doesn't address. The City has addressed parking. Dr. Campbell explained that other issues involve trespass, nuisance, off-leash dogs, cars obstructing mail delivery, and litter. His cul-de-sac was not designed for 25 cars and he has not seen any enforcement. The trailhead should have been recorded; he would have never bought the house had he known. Fred Jones understood that the City's version contemplates a gate and fence and asked how his differs. Dr. Campbell stated that once the City diverted user trail traffic down their driveway they experienced problems and in July to October 2002 the residents began meeting with the City. There were about six meetings and the short-term solution was fencing his property and allowing for a utility easement, but a year later nothing happened. He decided to install the fence at his expense, which was resisted by the City. Now the agreement states that he has no driveway easement, although it has been in continuous use since 1988. The easement on his property is for utilities; the easement on Wieners' property is for utilities and access. Council member Jones understood that the City's encroachment permit provides access. Dr. Campbell stated that his draft is more specific and contains relevant history.

Mayor Williams understood that an arrangement was made with the developer of Iron Canyon Subdivision so that a road cut wasn't necessary to access this lot from Iron Canyon Drive. Instead this lot was allowed the use of the utility easement as long as it is maintained. Tom Bakaly emphasized that in the City's opinion, Dr. Campbell's easement has been for utilities and access and that has been a principle disagreement. Fred Jones clarified that he heard from Dr. Campbell that he doesn't believe he has legal access under the document written by the City. Tom Bakaly stated that is incorrect. What Dr. Campbell is asking for is that the City give up our access and utility easement which is viewed as permanent property of the City. Under the City's encroachment permit, he would still have access to his property but the City's retains ownership of the easement. Under either encroachment permit, permission from the home owners association and the adjacent property owners is required and he referred to Mr. Wiener's letter which states his opposition to Dr. Campbell's proposal. Mr. Bakaly pointed out that without the adjacent property owners' approvals stated above, neither permit can proceed.

Dr. Campbell clarified that he is requesting an encroachment permit for the property under his driveway. Jim Hier didn't feel that it is a prescriptive easement and suggested that the easement be surveyed and specified in the document. Eric DeHaan explained that the 20 foot utility and access easements are clearly shown on the recorded plat and the intent is to allow Dr. Campbell's driveway to float freely within that 20 feet. The City doesn't believe a survey is needed. Dr. Campbell explained that his driveway extends beyond his property on the south and west and that property has not been surveyed. Jim Hier stated that the City can't grant rights it doesn't have and we don't have an easement that goes past the 20 foot wide easement. There was discussion about the ability of granting Dr. Campbell an easement on Lot #34's property. Eric DeHaan referred to the recorded plat showing the 20 foot utility and access easement. In addition to that, there is another easement on Lot #34, which has not been surveyed. This is the area Dr. Campbell describes backing his car out into. The easement the City is proposing to grant is contained within the platted utility and access easements, without creating a burden on Lots #34 or #35. Staff has advised Dr. Campbell that he can continue to use as a driveway, as approved by The Boyer Company and the City in the early 1980s. The driveway and trail locations stay in place. Jim Hier asked if the

City were to define that access so that Dr. Campbell was granted an irrevocable easement on Lot #34, would the City be over-stepping its legal authority. Tim Twardowski clarified that this is a non-exclusive public access easement. The City cannot grant him exclusive rights; it is an encroachment for a driveway, which was installed and maintained by the owner. He continued that some differences with the drafts appear in the recitals, the City Attorney didn't feel Dr. Campbell's recital statements are factual. The City's agreement is consistent with our position since 1983 that we have a 20 foot utility and access easement straddling the property line between the lots, basically 10 feet on either side. The main distinction with Dr. Campbell's document is not recognizing the public access easement on the 10 foot portion residing on his lot. He referred to language in his draft, which refers to the easements as solely utility easements. Secondly, Dr. Campbell writes, *"the City shall have the right to reasonable access to the easement for the purpose of maintaining, repairing, and replacing the existing water main that lies within the boundaries of the easement, i.e., repair work".* This verbiage relays that this is not a public access easement and describes the City's access in a more limited fashion than the City's position. Dr. Campbell disagreed and stated that access is never described as public or trailhead and he believes that the easement is for utility access. Jim Hier stated that the utility and access easements are clearly defined on the recorded plat and is sufficient notice to buyers; access means access. Dr. Campbell felt it unreasonable that a buyer would travel to Coalville and check the plat.

Jim Hier felt that an arrangement could be worked out satisfactorily for all parties, but the cooperation of the neighbors is needed and missing. The City Manager confirmed that the City's document contemplates consent by the adjacent property owners. The is before Council because staff and Dr. Campbell could not reach resolution on the document. He crafted an encroachment permit that, in our opinion, grants property rights to him, and only Council can authorize that. Staff is recommending the denial of Dr. Campbell's encroachment permit request. There was discussion about involving other parties, and Mr. Bakaly explained that the City's encroachment permit requires that there be home owner association approval, as well as adjacent property owners.

Fred Jones stated that there is no dispute that Dr. Campbell can use his driveway and the major point of contention is that he would like to preclude public access. The City Manager agreed and added that he wants us to give up our 10 feet of public access on his property and this is a property disposition that only Council can resolve. Council member Jones stated that if the City did this for Dr. Campbell, there would be nothing to prevent the other neighbors to make the same request. On what basis could we deny them? And the City would lose its public access.

Peg Bodell asked if all other fence locations have been explored and Dr. Campbell relayed the many meetings where held on this throughout 2002. On the short term, it was the City's idea to construct a fence and in addition, he wanted to install gates on either end. Peg Bodell described an option for the placement of the gate and fence and people gathered around the dais to discuss it. Matt Twombly explained that Dr. Campbell is also requesting that the City be responsible for maintenance on his heated driveway, fence and gates.

Fred Jones stated that the decision is whether Council accept or deny Dr. Campbell's encroachment permit, as drafted by him, "I move to deny the encroachment permit as drafted by Dr. Campbell for many of the reasons discussed today, but the primary one is that it is not in the City's interest to give up the public access". Jim Hier seconded with the additional stipulation that the recitals are under dispute. Motion carried unanimously.

VIII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:30 p.m. Members in attendance were Mayor Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present was Tom Bakaly, City Manager; Tim Twardowski, Assistant City Attorney; and Myles Rademan, Public Affairs Director. Peg Bodell, "I move to close the meeting to discuss property and personnel". Fred Jones seconded. Motion carried unanimously. The meeting opened at approximately 3:30 p.m.

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

Prepared by Janet M. Scott

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
MARCH 1, 1884
SEAL

Janet M. Scott

Janet M. Scott, City Recorder

City Council Staff Report

Author: Chief Lloyd Evans
Subject: POLICE ADVISORY COMMITTEE
Date: November 6, 2003
Type of Item: Discussion and Direction

PARK CITY 1884

POLICE DEPARTMENT

Summary Recommendations:

Staff requests that City Council discuss the proposed structure of a Police Advisory Committee and provide direction.

COUNCIL DIRECTION

During Council work session on September 25, 2003, Council directed staff to create a plan and develop a structure for a committee to partner with the police department in a review capacity. Further Council wished to have a committee make up of citizens and city staff, perhaps to include a representative from the City Attorney's office to advise the committee. The Council also directed staff to include in the plan how members of the committee would be selected and trained.

Staff requested that a first draft plan be present to Council the first week of November 2003 for discussion.

PLAN SUMMARY

The draft plan, essentially the 'policies and procedures' of the committee, outlines the proposed general purpose of the committee, the organizational structure, selection of members, training of members, meetings types and work product of the committee and processes.

What is not contained within the current draft are the specifics of training for members, forms for reporting and tracking or specific selection criteria for committee members. Staff wanted to wait until the form and function of the committee and its policies and procedures were reviewed and approved by Council before presenting proceeding with specific criteria formation.

APPROACH

Staff would like Council to review the proposed outline and discuss the philosophy, the processes and basic structure to determine if this model is acceptable or if adjustments should be made to meet Council's directions.

NEXT STEPS

With modifications of current draft, if any, staff would proceed as follows;

1. Develop specific criteria for committee membership and training
2. Return to Council for review of developed specifics for membership and training
3. Develop a implementation plan for the committee
4. Committee formation and member selection

TIME LINE

Staff anticipates implementation of this committee by late spring 2004.

SUMMARY

Staff has developed a committee policies and procedures outline for discussion with City Council to establish a base line for discussion and further development of this police citizen partnership.

Establishing a committee of this type and ensuring that it will function properly and in the best interest of our community and the police department will require development of committee member selection criteria, committee member training requirements and formulation of forms for both police department and committee use in reviewing items, tracking items and reporting findings and recommendations.

Review and discussion of the presented draft is the first step in establishing the Police Advisory Committee.

Park City Police Advisory Committee
Polices and Procedures
DRAFT
November 6, 2003

I. Purpose

The purpose of the Police Advisory Committee (Committee) is to advise the Chief of Police on matters of police policy and procedures, review complaint dispositions if formally requested, and to provide annual reports and recommendations to the Chief of Police.

II. Organization

The Committee shall consist of five (5) members, three (3) citizens from the community at large, and two (2) City staff members consisting of the City Manager or his desginee, and a member of the Management Team. An attorney from the City's legal staff will be assigned to act as a legal liaison to the committee by the City Attorney. The Chief of Police shall be an ex officio member and shall provide all necessary staff support and information to the committee.

The City Manager or his designee,. shall act as the Chairperson for the Committee and in the absence of the Chairperson, the Chairperson pro-tem shall perform the duties of the Chairperson.

The Chairperson pro-tem shall be elected by a majority vote of the members of the Committee at the first meeting of the Committee each calendar year.

III. Appointment of Committee Members

The Mayor and City Council shall solicit applications from interested members of the community. Each applicant shall apply for a specific two (2) year term of office. Each applicant will be interviewed by the Mayor and City Council. From the interviews, the Mayor and City Council shall select the three (3) members to serve and shall appoint them to the Committee.

The City Manager shall appoint the Management Team member and said appointment may rotate as determined in the sole discretion of the City Manager.

With the exception of the City Manager or his designee, Management Team appointee, and Chief of Police, officers or employees of the city are not eligible for appointment to the committee.

IV. Voluntary Service

Members of the Committee shall perform their services on the committee without pay or other compensation, except for payment of reimbursement of expenses actually and reasonably incurred and as approved by the Chief of Police.

Citizen members shall be deemed volunteers as defined in Title 67, Chapter 20, Utah Code Annotated, as amended, or any successor statue.

Members shall be immune from any liability with respect to any decision or action taken in the performance or their duties and responsibilities on the committee as provided by Title 63, Chapter 30b of the Utah Code Annotated, as amended, or any successor statute.

V. Term of Office

The three (3) citizen members will serve two (2) year terms. Each member's term shall expire on the first day of March. A member shall serve until a successor has been duly appointed.

Members shall not serve for more than two (2) consecutive full terms.

IV. Removal from Office

Any citizen member of the Committee may be removed from the Committee by the Mayor, for cause, prior to the normal expiration of the term for which the member was appointed. Prior to a member being removed from the Committee, the member may request to have the removal reviewed by City Council for decision.

VII. Vacancy Filling

Any vacancy on the Committee shall be filled for the remaining term of the vacated member in the same manner as the member whose position has been vacated was appointed.

VIII. Members' Ethics

Members shall be subject to and bound by the provisions of the city's conflict of interest ordinance (Municipal Code of Park City Title 3). Any violation of its provisions shall be grounds for removal from the committee.

IX. Eligibility for Membership

To be eligible for appointment to the Committee, a person shall be at least 21 years of age and shall reside within the incorporated limits of Park City.

X. Training

Within three (3) months after the commencement of a members term, each member shall receive training regarding the duties of the committee and police practices and procedures.

The Chief of Police shall specify the nature of the training and may include attendance at specific police training classes and participation in ride-along training in police vehicles during police shifts.

XI. Meeting Types

Review of Complaints: The Committee will have regularly scheduled meetings quarterly in March, June, September and December. The committee shall meet only if there are complaints or agenda items to review and/or address.

Special Policy Meetings: The Chief of Police may request a meeting of the Committee to review policy matters. Such meetings shall be noticed well in advance of the meeting, giving each member an opportunity to address conflicts.

Meeting Location: The Committee shall meet in the City Council Chambers at City Hall unless scheduling conflicts prohibit use of the chambers. An alternative meeting site shall be announced well in advance of the meeting date.

Record of Meetings:The Chief's Administrative Assistant will keep a written record of the meetings. The written record of these meetings shall be classified as 'PROTECTED' and will available only to those who meet the GRAMA standard for release.

The committee meetings will not be considered open or public meetings.

XII. Quorum and Vote

All actions of the Committee shall be presented for a vote to the members. A simple majority of the voting members present at a meeting which a quorum is present shall be required for any action to be taken.

The decision of the committee is advisory only. The Chief of Police and City Manager shall have final decision authority regarding disciplinary actions.

XII. Scheduled Committee Meetings

Committee meetings will be held as prescribed in the 'Meeting Types' section.

The Committee shall meet to review documents of the police department with respect to citizen complaints against police personnel and/or policy and procedures and internal police investigations and their respective dispositions if formally requested by the original complainant.

The Chief may request the Committee to review new department policy or procedures, new programs or department initiatives.

At least 10 business days prior to a committee meeting an agenda will be provided to each member outlining the content of the meeting. Attached to the agenda will be materials for review for each agenda item if appropriate.

Members of the Committee shall treat any police documents provided as confidential at all times, including after the conclusion of a review. All protected material provided to the committee shall not be removed from the meeting room once the meeting has concluded.

Documents provided to Committee Members shall not contain the names, addresses or identifying information of individuals involved. Except during committee meetings, individuals shall not be mentioned by name in any verbal or written statements by the committee or its members.

XIV. Committee Reports

After each committee meeting a report shall be prepared highlighting the committee's findings, conclusions and recommendations regarding the agenda items discussed and acted upon.This report shall be completed within thirty (30) days after the committee meeting.

A copy of the committee's report will be provided to members of the City Council. Each committee member will also receive a copy of the committee's report.

The Chief's Administrative Assistant will prepare the report for distribution.

XV. Citizen Requested Review of Complaint Disposition

The Chief of Police will ensure that the procedures for requesting a 'review of complaint disposition' will be publicized and make a reasonable effort to educate the public regarding where, when and how to file a request for review. Development of brochures and written publicity materials for education of the public will be undertaken. As well, media exposure outside of the written media will be undertaken.

Any person, other than a police officer who was the subject of a complaint, who is dissatisfied with a decision of the police department regarding a complaint filed against a police officer or police policies and procedures may request a review by the committee of such decision.

The request must be filed within 30 days after the person's receipt of the notice of findings and disposition by the police department. Extraordinary circumstances may be exempted for this deadline.

A request for review must be filed in writing, personally or by mail, at the office of the Chief of Police or the office of the City Manager.

The request must include; (1) the name, address, and telephone number of the person requesting the review; (1A) the name, address, and telephone number of the complainant if different from the requestor; (2) the approximate date the complaint was filed (if known); (3) the substance of the complaint; and (4) the reason or reasons the complainant is dissatisfied with the police department's decision.

The Chief of Police will not be an active participant in this meeting but will appoint a voting replacement and act as the department liaison, available to answer questions or obtain additional information as requested by the sitting committee members.

XVI. Complaint Review Process

When a review is request, the Chief of Police, acting in the department liaison capacity shall supply the sitting committee members and the City Manager, or his designee, all pertinent documents and investigative materials related to the original complaint.

All review meetings held by the sitting committee are confidential and closed to anyone but the committee members.

Should the committee believe it necessary to obtain additional information, facts or opinions of the investigator who conducted the investigation, a request to the Chief of Police may be made to have the assigned investigator attend the meeting to address questions relevant to the investigation.

After the review meeting, the committee shall reach a conclusion and provide an advisory recommendation. A report of the committee's conclusion(s) and recommendation(s) will be completed by staff.

Committee advisory recommendations may include; (1) further investigative action or review by the Chief of Police, to clarify and/or to expand the investigation or review; (2) review of department policy or procedure for adjustment, revision or modification; or (3) both.

The committee advisory recommendation shall not involve specific recommendations regarding discipline of individual officers.

The Chief of Police shall ensure that the individual requesting the review and the original complainant, if they are not the same person, will be notified of the conclusion(s) and recommendation(s) of the committee and the intended actions of the Chief of Police, if known at that time.

A copy of the conclusion(s) and recommendation(s) will be forwarded to City Council members.

All committee documents will be maintained in the Administrative Offices of the Chief of Police in a secured filing cabinet

XVII. Cooperation and Coordination

The Chief of Police shall provide complete and prompt cooperation to the committee members in the discharge of its duties.

XVIII. Committee Actions

The recommendations of the committee shall not be deemed to bind the Chief of Police in their determination.

Nothing in this document shall be construed to be a delegation of the powers of the Chief of Police, City Manager or the Mayor and City Council.

XIX. Committee Attendance

Committee members should make every effort to attend scheduled meetings. The Committee can recommend to the Chairperson that a member be replaced if they miss four (4) or more consecutive meetings.

XX. Committee Requests for Information

All information requests from committee members will be directed to and authorized by the Chief of Police.

City Council Staff Report

PARK CITY 1884

Author:	**Patrick J. Putt, Planning Director**
	Douglas C. Stephens
Subject:	**City-Owned Historic Structures Update**
Date:	**November 6, 2003**
Type of Item:	**Work Session—Informational**

Planning Department

A. **Topic:** City-Owned Historic Structures

B. **Discussion:** As part of the City's Historic Preservation program, Council recently directed Staff to commence an inventory of City-owned historic structures and prepare a strategic plan aimed at providing an assessment of the structures and their contribution to the community. The Planning Department is coming to Council give an update on the structures inventoried and provide an initial assessment of the structures' relative importance. Staff finds that prior to making final decisions as to whether or not specific buildings should be rehabilitated, restored, sold/conveyed , or demolished, it is critical to establish their potential value in context with their immediate neighborhood and connection to the community at large. It is also important to discuss and determine how, if it all, the structures contributes to the City's developing strategies relating to preservation, cultural heritage, and economic development.

Included with this report and attached under separate cover are draft worksheets for each City-owned historic structure and Staffs' assessment of the contributions these properties may have to the community. During Thursday's work session, staff will give Council an overview presentation of how these properties relate the entry corridors, neighborhoods, and historic Main Street. Following the presentation, time has been allotted for a discussion on the concepts presented.

City Owned Structures & Property-Neighborhood Context

Entry Corridor

Properties:

McPolin Farm and Out Buildings
McPolin Open Space
Huntsman Park
Richards Ranch

Neighborhood Context:

These buildings are among the most important that Park City owns. They provide the first communication as you arrive to Park City that history and open space is an important value to the community. Successful restoration speaks as much to today as yesterday and vitality is the key to its current use. A use for these buildings should therefore be determined that will provide a new life for these structures and a community benefit that reflects both of the values of open space and history.

Park Avenue Historic District

Properties:

Miner's Hospital
Park City Library and Education Center
Senior Citizen Facility
Recreation Fields

Neighborhood Context:

These properties along with the City Park and its surrounding fields speak to Park City's values of history and recreation and anchor this neighborhood both visually and with activity. These properties reflect the residential nature of the neighborhood where education and neighborhood playing fields are important. This area is wonderfully connected to the Main Street Historic District through the walkway along Poison Creek.

Main Street Historic District Lower Historic Main Street Anchor

Properties:

Burnis Watts Residence
664 Woodside Avenue-single family home
National Garage
Sweeney Tram Tower

Neighborhood Context:

These three properties along with the tower are very significant to the development of the Main Street Historic District of Park City and in particular they have the potential, along with the Kimball Art Center to provide the historic anchor to Lower Historic Main Street. These properties should be developed in such a way as to contribute a sense of energy and availability to the public. The grounds, which are significant should remain open to the public and should have some sense of historic landscape and design. Including the Sweeney Tram Tower these properties make a strong visual statement to the visitors of Park City that you have arrived to the beginning of Park City's Historic Main Street District.

Upper Historic Main Street Anchor

Properties:

148 Main Street-Single Family Residence and Garage
Poison Creek Flume and City Owned Land
148 Main Street-City Owned Land
Main Street Turnaround

Neighborhood Context

These properties along with the vacant land recently acquired by Park City at 148 Main Street should become the anchor to the top of Main Street providing a visual residential history of Park City. By continuing the light posts up Main Street to the turn around it will create a visual continuity to the top of Main Street. By combining the lots at 146 Main with the restoration of the buildings and the Poison Creek flume a dynamic environment could be created at the top of Main Street through the creation of a park sensitive to history. The completion of the turnaround at the top of Main Street will complete the journey up Main Street and provide the facilities to board the Main Street Trolley. The completion of these improvements will provide the foundation for the restoration of additional privately owned properties on upper Main Street most notably the Centennial and the Alaskan.

Center of Historic Main Street

Properties:
Old City Hall
Miner's Park
ABC Reservation Building

Neighborhood Context:
These buildings, along with the Miner's Park on Main Street, provide a historic center to Main Street. If the museum is successful with its new mission it will provide additional vitality and interest in the history of Park City.

East Anchor of Main Street Historic District

Properties:
Marsac School
Marsac Mill Wall
Park City Transit Center
Parking Structure
Park City Owned Land & Parking along Swede Alley

Neighborhood Context:
These buildings, structures and land visually anchor the East Side of the Main Street Historic District. With the potential to include a Town Green, these properties visually are some of the most significant that the city owns. In conjunction with the Transit Center and the other lands owned along Swede Alley they provide a very significant impact to the Historic District of Park City.

Peripheral Properties

Historic Retaining Walls within City Right of Way
These walls along with the future improvements of the roads in Old Town provide the visual North South continuity of the Historic District and provide the fabric to connect the individual styles of architecture together.

Sandridge Garages
These structures are significant because of there visibility. They also become more significant if there is linkage between the existing parking structure and the Sandridge Parking Lots.

Pace Homer Shed
Prospect Ridge Shack

These buildings are insignificant in their contribution to the historic district and may need to be demolished; ; however the materials could be useful in the restoration of other buildings owned by Park City.

Pechnic House

This house was not constructed during Park City's Historical Period and does not contribute to the historic district and therefore should be demolished to complete the open space.

Next Steps/Time Line: Following input and direction from Council, Staff will work to develop a more detailed plan of this overall strategy with the assistance of Building, Engineering, and Capital Improvements and Economic Development, City Facilities Departments. Staff anticipates that the plan can be completed and formal recommendation can be submitted by mid January.

RESOLUTION PROCLAIMING THE WEEK OF NOVEMBER 16 – 22, 2003 AS PARK CITY EDUCTION WEEK IN PARK CITY, UTAH

WHEREAS, the Park City Education Foundation has been an integral part of Park City for many years, providing essential financial support and incentives to promote educational opportunities for our youth; and

WHEREAS, the entire community expresses its gratitude to the many residents who have volunteered endless hours to this worthy non-profit organization over the years and thank them for their many contributions toward the betterment of our future through our children;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Council recognize the value our citizenry places on education and hereby declare the week of November 16 – 22, 2003 as

PARK CITY EDUCATION FOUNDATION WEEK
IN PARK CITY, UTAH

and encourage all citizens to support our Park City schools and to become aware of the role that the Foundation can play to foster excellence for our students and educators.

PASSED AND ADOPTED this 6th day of November, 2003.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott
City Recorder

City Council Staff Report

Author: Mark Christensen
Subject: CDBG PUBLIC HEARING
Date: November 6, 2003
Type of Item: Public Hearing

PARK CITY 1884

BUDGET, DEBT, AND GRANTS

Summary Recommendations: Hold a public hearing soliciting public comment for the CDBG Grant Pre Application.

Description:

Topic: CDBG Public Hearing

A. Background:
City staff is in the process of preparing an application for Community Development Block Grant (CDBG) funds from Mountainland Association of Governments (MAG). As part of the pre-application process the City is required to hold a public hearing soliciting comment regarding the CDBG application. The CDBG Pre Application is due on December 1, 2003. The City will be holding the required public meeting on November 6, 2003 to specifically solicit public input on this year's application process.

There are many projects available for funding through the CDBG program that would benefit the community. The purpose of the public hearing is to solicit potential grant application ideas specifically to:

1. Supply Citizen's information on the: Amount of CDBG funds available for allocation, the range of activities that may be undertaken with CDBG funds, establish the amount proposed for activities that meet the national objectives for Low/Moderate income individuals.
2. Identify and Discuss Community Development Needs of the Community.
3. Obtain citizen's views and suggestions regarding possible projects.
4. Respond to suggestions and questions.

After the public hearing the City Council will determine which project will be submitted in the CDBG pre application. After Nov 6th, the pre application will be submitted based on the comments from the public hearing.

The CDBG process allows each entity in MAG to submit one project application per year.

B. Analysis:
The City has not applied for these funds for the past few years. The CDBG funds are distributed within MAG based on need, prior year funding and other ranking criteria.

The City can only sponsor and submit on application per year. Any projects identified in the public hearing that are not recommended for this year can be prioritized for a future project year.

C. Department Review:
City Manager, Legal, Budget, Debt, and Grants

Alternatives:

A. **Approve the Request:** After the public hearing is completed Council will need to recommend a project for the CDBG Application process based on the information gathered at that hearing.
B. **Deny the Request:** Council could choose to not hold the public hearing or recommend a project for the CDBG application process.
C. **Continue the Item:** Council could continue the item. Failure to specify a project or hold a public hearing before Dec 1, 2003 will result in the City not being eligible to apply for 2004 CDBG funding.
D. **Do Nothing:** Failure to specify a project or hold a public hearing before Dec 1, 2003 will result in the City not being eligible to apply for 2004 CDBG funding.

Significant Impacts: Park City is eligible to receive CDBG funds through MAG. By holding a public hearing and identifying a project for the pre application process the City will be eligible for potential funding up $100,000.

Consequences of not taking the recommended action: Park City has historically not received CDBG funds in the past few years. Failure to hold the public hearing or identify a project for the pre application process will prevent Park City from potentially receiving CDBG funding in the FY2004 CDBG cycle.

Recommendation:

1. Hold a public hearing on November 6, 2003.
2. Identify a City project based on the public comment received at public hearing for the FY2004 CDBG Funding and direct staff to apply on the City's behalf.

City Council
Staff Report

PARK CITY
1884

Special Events and Facilities
Department

Author: Alison Butz
Subject: Wind Power
Date: November 7, 2003
Type of Item: Administrative
– Sustainable Communities

Summary Recommendations:
Review and approve the resolution declaring Park City's interest in taking a leadership role in promotion of sustainable energy by promoting both energy efficiency and renewable energy for Park City Municipal and the community.

Description:

A. Topic:
Blue Sky Clean Energy Communities.

B. Background:
Council last discussed participation in Utah Power's Blue Sky Program at the October 9, 2003 Council Meeting. At that meeting Council directed Staff to proceed with a resolution outlining participation in Utah Power's Blue Sky Program at a level of 7.5% of total power use, as well as outlined goals for future participation.

C. Analysis:
Council has agreed to purchase Wind Power at 7.5% of the City's total usage. The chart below outlines the purchase and it's impacts

Cost and Equivalent Environmental Benefits of a Pollution-Free Wind Power Purchase by Park City Municipal Corporation

Yearly kWh Usage	5801808				
Average monthly KWh Usage	483484				
Previous Year Total Billings	$495,052				
Estimated Average Monthly Bill	$41,254				
	EPA Green Power Leadership		*Utah Power 'Visionary Level'*	*EPA Green Power Partnership Level*	*Utah Power 'Champion Level'*
Blue Sky purchase percentage of energy	**24%**	**10%**	**7.5%**	**6%**	**3%**
Blue Sky purchase in kWh	1,392,434	580,181	435,136	348,108	179,856
Blue Sky purchases in yearly blocks	13,924	5,802	4,351	3,481	1,799
Blue Sky purchases in monthly blocks	1,160	483	363	290	150

Blue Sky monthly cost	$2,262.71	$942.79	$707.10	$565.68	$292.27
Blue Sky annual cost	$27,152.46	$11,313.53	$8,485.14	$6,788.12	$3,507.19
Increased yearly cost	5.485%	2.285%	1.714%	1.371%	0.708%
Increased monthly cost	5.485%	2.285%	1.714%	1.371%	0.708%
Environmental impact is equivalent to...					
Avoided CO2 emission (tons per year)	975	406	305	244	126
Not driving x miles per year OR	2,088,651	870,271	652,703	522,163	269,784
Planting x acres of trees per year	386	161	121	97	50

Based on independent analysis completed by the Northwest Power Planning Council and EPA data

Goals

Through campaign outreach the City, Utah Power and the Utah Wind Power Campaign will get the message out to locals to participate. While the City has set their initial purchase at 7.5%, an increase to 10% has been approved by Council once the community's goal of 5% penetration has been met. An overall goal of 2% of the entire community's power purchase from wind power has been set.

Energy Efficiency

Once the wind power campaign is kicked off, Staff will begin investigating additional programs such as an energy evaluation of building and appliances, light bulb campaign, building codes and other building restrictions. Both Utah Power and Sarah Wright, Director of the Utah Clean Energy Alliance and Coordinator of the Utah Wind Power Campaign can help with energy efficiency messaging in our community outreach. A Sustainable Communities Commission will also be investigated to further address these programs and other environmental concerns.

D. Department Review:

The program has been reviewed by all applicable City departments.

Recommendation:

Review and approve the resolution declaring Park City's interest in taking a leadership role in promotion of sustainable energy by promoting both energy efficiency and renewable energy for Park City Municipal and the community.

Exhibits:

Exhibit A – Resolution

Resolution No. 00-03

A RESOLUTION DECLARING PARK CITY'S INTEREST IN TAKING A LEADERSHIP ROLE IN PROMOTION OF SUSTAINABLE ENERGY BY PROMOTING BOTH ENERGY EFFICIENCY AND RENEWABLE ENERGY FOR PARK CITY MUNICIPAL AND THE COMMUNITY.

WHEREAS, a sustainable energy supply is critical to well-being of our society.

WHEREAS, electricity generation is the largest source of industrial air pollution in the Nation, is a major contributor to global warming and fossil fuel resources used to generate electricity are finite resources.

WHEREAS, energy efficient technology and renewable energy electricity sources are viable and readily available

WHEREAS, Park City's procurement of wind power consists of an aggregated load of sufficient size to potentially have influence in the electricity marketplace on the development of clean and renewable resources.

WHEREAS, There exists a general consensus that electricity generated using "zero emissions" sources such as solar, wind, and certain small low-impact hydroelectric sources is clean, renewable, and has fewer environmental consequences than fossil fuel generated power.

WHEREAS, Park City wants to become a member of the EPA's Green Power Partnership program, and as such has made a commitment to acquire renewable energy resources in the amount of 435,136 KWh during the coming year.

WHEREAS, Energy efficiency is the cornerstone of a sustainable energy system and energy efficiency not only reduces energy consumption but also saves money and prevents pollution. Park City's efforts have already resulted in significant savings for instance all light fixtures in City Hall have been retrofitted to energy efficient fixtures. Park City recognizes that additional programs and retrofits will achieve further energy savings.

WHEREAS, Park City will promote a policy to "Continually improve the efficient use of all energy resources in order to ensure a future with a secure and sustainable energy supply" and to "look to increase the amount of clean and renewable energy purchased"

WHEREAS, Park City expects to be able to offset the cost associated with a price premium for clean renewable energy by improving energy efficiency and conservation and by ensuring the effectiveness of existing energy efficiency efforts through impartial third-party audits of a sample of City buildings.

NOW THEREFORE, be it resolved by the City Council of Park City as follows:

SECTION 1. INTENT TO ENTER INTO A CONTRACT WITH UTAH POWER.

It is the intent of the City Council of Park City to enter into a contract with Utah Power to purchase 7.5% of the City's power from wind power. The recitals above are hereby incorporated as findings. The City Council may, at some future date, alter or adjust the minimum percentage of clean renewable energy required in electricity procurements to 10% of the City's power from wind power. The purchase of clean renewable energy generated power will begin at the earliest date practicable, and will continue through future electricity procurements.

SECTION 2. PROMOTE PURCHASES OF WIND POWER BY LOCAL BUSINESSES AND RESIDENTS.
Park City Council will partner with the Utah Clean Energy Alliance and Utah Power to actively promote community participation in Utah Power's Blue Sky wind program through a Community Clean Energy Challenge. The challenge includes a two-tiered goal. The first tier is to have 5% of the community participating in the program and second goal is to achieve EPA's recognition of the community's efforts by having 2% of the entire community's electricity purchased from renewable power. If these goals are achieved further goals will be evaluated.

SECTION 3. PROMOTION OF USE OF ENERGY EFFICIENT TECHNOLOGY AND CONSERVATION EFFORTS.
Park City will promote and investigate venues for increased energy efficiency for City facilities, and for commercial, industrial, building, and residential sectors. Currently, Utah Power has incentives for electricity energy efficiency. The Park City Clean Energy Community Challenge will include promotion of these incentives and other energy efficiency information, such as the benefits of compact fluorescents, choosing energy efficient appliances and the benefits of prioritizing energy efficiency in new building design and construction.

SECTION 4. INVESTIGATING DISTRIBUTED RENEWABLE ENERGY SOURCES
Park City will investigate distributed renewable energy sources that can be installed in our community, these include photovoltaic systems, solar hot water systems and small-scale wind generation. Additionally, although not strictly renewable, fuel cells and combined heat and power systems are net fuel savers and therefore, should also be investigated.

SECTION 5. INVESTIGATE SUSTAINABLE CITIES COMMISSION.
Park City will investigate a Sustainable Communities Commission to look at new programs and address other environmental issues in the community. The Sustainable Communities Commission could include participation in the Cities for Climate Protection program.

Section 6. EFFECTIVE DATE. This resolution shall become effective upon adoption.

Passed and adopted this 6th day of November 2003.

City Council Staff Report

PARK CITY 1884

CITY ENGINEER

Author: Eric DeHaan, P.E. City Engineer
Subject: Acceptance of Public Improvements Eagle Pointe Phase 3, a portion of Meadows Drive, and The Cove at Eagle Mountain Phase 2
Date: November 6, 2003
Type of Item: Administrative

Summary Recommendations:
Approve the ordinance accepting the public improvements at Eagle Pointe Phase 3 subdivision, The Cove at Eagle Mountain Phase 2 Subdivision, and a Portion of Meadows Drive.

Description:

A. Topic:
The three subject developments were properly approved by the Planning Commission and City Council. Construction of the relevant public improvements has been completed and inspected by the City Engineer. This action will transfer ownership of the public improvements to the City in a timely manner.

B. Background:
The original Park Meadows Master Plan was originally approved in the early 1980s. Numerous developments in Park Meadows have now been completed in accordance with the Park Meadows Master Plan as amended from time to time. The final subdivision plat for Eagle Pointe Phase 3 was approved by the City Council on September 2, 1999. A sketch of Eagle Pointe Phase 3 is attached. The portion of Meadows Drive linking Eagle Pointe to The Cove at Eagle Mountain, the subject portion of Meadows Drive of interest here, was approved by Council on March 22, 2001. Mapping of the portion of Meadows Drive is attached. The plat for The Cove at Eagle Mountain Phase 2 was approved by the City Council originally on September 2, 1999. On January 11, 2001, the Council approved an extension of the approval of the plat after several neighborhood concerns regarding the adjacent Phase 1 were addressed by the developer. A sketch of The Cove at Eagle Mountain Phase 2 is attached. In the past three years the actual construction work has been completed and inspected. Numerous vacant lots remain at both Eagle Pointe 3 and Cove Phase 2, but that fact doesn't enter into the acceptance of the public improvements.

C. Analysis:
The public improvements consist of roads, storm drain systems, public trails, and water systems. The roads in Cove Phase 2 are private, so the City's acceptance of

public improvements there is limited to the water system. Storm runoff from all the areas is detained prior to release into our surface streams, thus meeting Park City's water quality enhancement goals per our Storm Water Pollution Prevention Plan, which is the subject of an agreement between Park City and Utah Department of Environmental Quality. Concerns about speeding vehicles in north Park Meadows were addressed with a traffic-calming design which includes a very narrow section of Meadows Drive. The road system is functioning well, although some concerns remain in Ridgeview Subdivision regarding speeding by residents of Eagle Pointe and The Cove on their way to SR 224. The City's Traffic Calming Committee and our Police Department continue to work to resolve those speeding concerns.

D. Department Review:
This report has been reviewed by Public Works and the City Manager.

Alternatives:

A. Approve the Request:
Approving the ordinance will transfer ownership of public improvements to Park City in an orderly fashion.

B. Continue the Request:
If the Council needs more information the item can be continued.

Significant Impacts:
There are very few significant fiscal impacts to Park City. Additional snow removal costs will accrue to the City when 50% of the lots in Eagle Pointe Phase 3 contain legally occupied houses. We have already been plowing all of Meadows Drive for emergency access around Park Meadows. The streets in Cove Phase 2 are private. The water department will assume maintenance of the water system throughout all three developments, but our exposure to repair costs is mitigated by the one-year warranty period which commences with acceptance by Council. Significant financial guarantees are in place for the one-year period to protect the City against any failures of the public improvements.

Consequences of not taking the recommended action:
Not accepting the public improvements at Eagle Pointe Phase 3, Meadows Drive, and The Cove at Eagle Mountain Phase 2 would leave the maintenance responsibility for important services in limbo until the acceptance occurs.

Recommendation:
Staff recommends that Council approve the Ordinance Accepting the Public Improvements at Eagle Pointe Phase 3 Subdivision, The Cove at Eagle Mountain Phase 2 Subdivision, and a portion of Meadows Drive.

Exhibits:
Exhibit A – Eagle Pointe Subdivision, Phase III
Exhibit B – Quarry Mountain and Sandstone Cove MPDs
Exhibit C – Meadows Drive Road Dedication Plat
Exhibit D – The Cove at Eagle Mountain Phase II

When recorded return to:
PCMC
Attn: City Recorder
PO Box 1480
Park City UT 84060

ORDINANCE NO. 03-____________

AN ORDINANCE ACCEPTING THE PUBLIC IMPROVEMENTS AT EAGLE POINTE PHASE 3 SUBDIVISION, THE COVE AT EAGLE MOUNTAIN PHASE 2 SUBDIVISION, AND A PORTION OF MEADOWS DRIVE

WHEREAS, Eagle Pointe Phase 3 was approved by the Park City Council on September 2, 1999; The Cove at Eagle Mountain Phase 2 was approved by Council on January 11, 2001; and a portion of Meadows Drive was approved by Council on March 22, 2001; and

WHEREAS, construction of the public improvements has been accomplished by the developer, including the public streets known as Eagle Landing Court and Meadows Drive; and

WHEREAS, Park City has adopted Land Management Code Section 15-7.2-3, which provides for the City Council to accept (by Ordinance) those public improvements which are dedicated and built in accordance with the requirements of Title 15 Chapter 7 of the Land Management Code; and

WHEREAS, the public improvements within the developments described above were installed in accordance with the ordinances in effect at the time of plat recordation, and have been duly inspected by the City Engineer.

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

SECTION 1. PUBLIC IMPROVEMENTS. The City hereby accepts from the developer all public improvements at Eagle Pointe Phase 3, The Cove at Eagle Mountain Phase 2, and Meadows Drive, which were intended for City Ownership, subject to the developer's warranty of these improvements for one year following the adoption of this ordinance. A financial guarantee shall remain in place for the one-year guarantee period as follows: Eagle Pointe Phase 3, $60,825.00; The Cove at Eagle Mountain Phase 2, $149,675.00; and Meadows Drive, $140,400.00. The form of the financial guarantee shall be acceptable to the City Attorney.

SECTION 2. SNOWPLOWING AND LANDSCAPE MAINTENANCE. The City shall plow snow within Eagle Landing Court only when 50% of the lots contain legally occupied houses, and only as a Third Priority. The City shall not plow or otherwise maintain any private roads.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective upon adoption by Council and publication.

PASSED AND ADOPTED THIS 6th day of November, 2003.

PARK CITY MUNICIPAL CORPORATION

____

Dana Williams, Mayor

ATTEST:

____

Janet M. Scott, City Recorder

Approved as to Form:

____

Mark D. Harrington, City Attorney

EAGLE POINTE SUBDIVISION
PHASE III

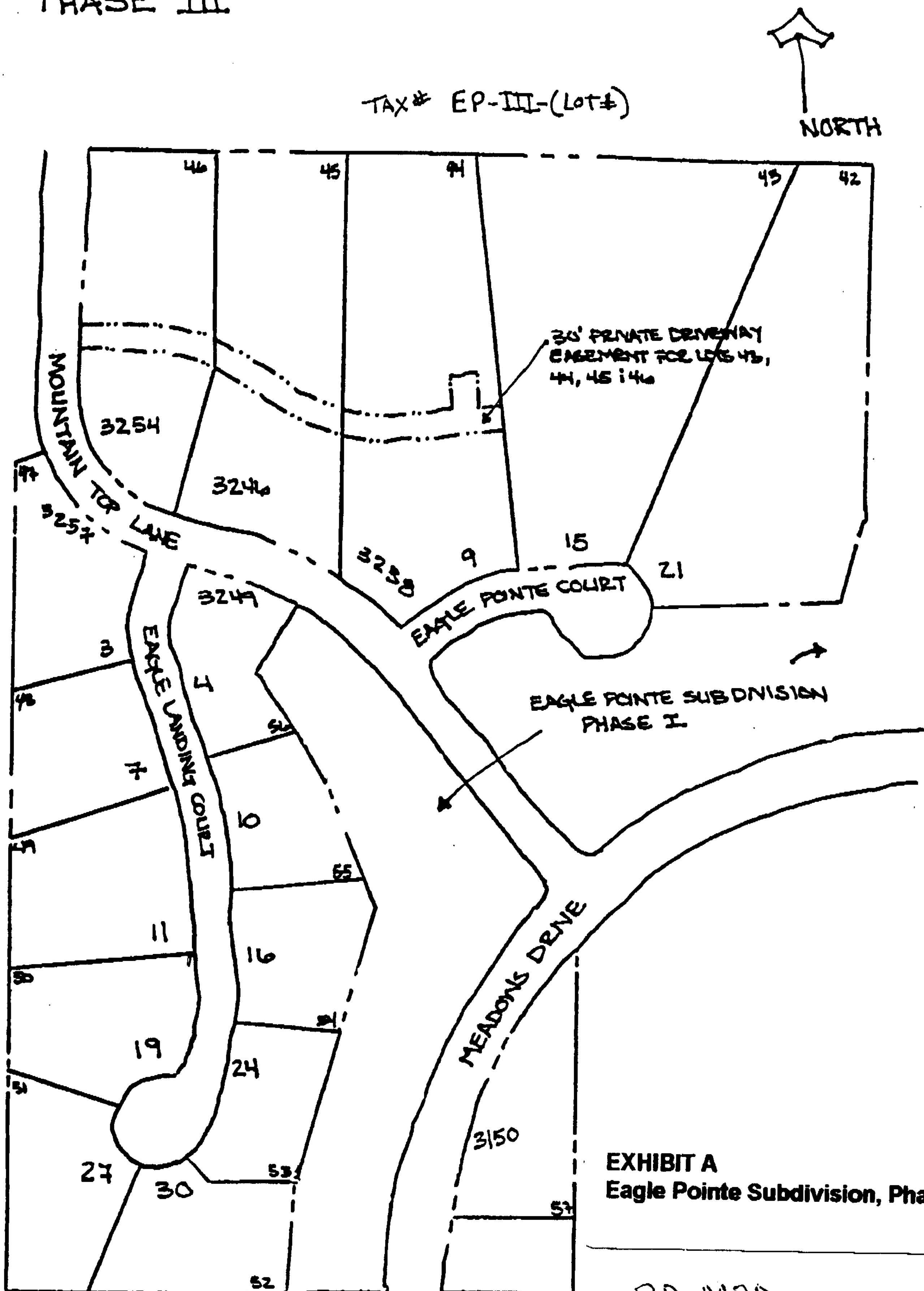


EXHIBIT A
Eagle Pointe Subdivision, Phase III

RD-MPD

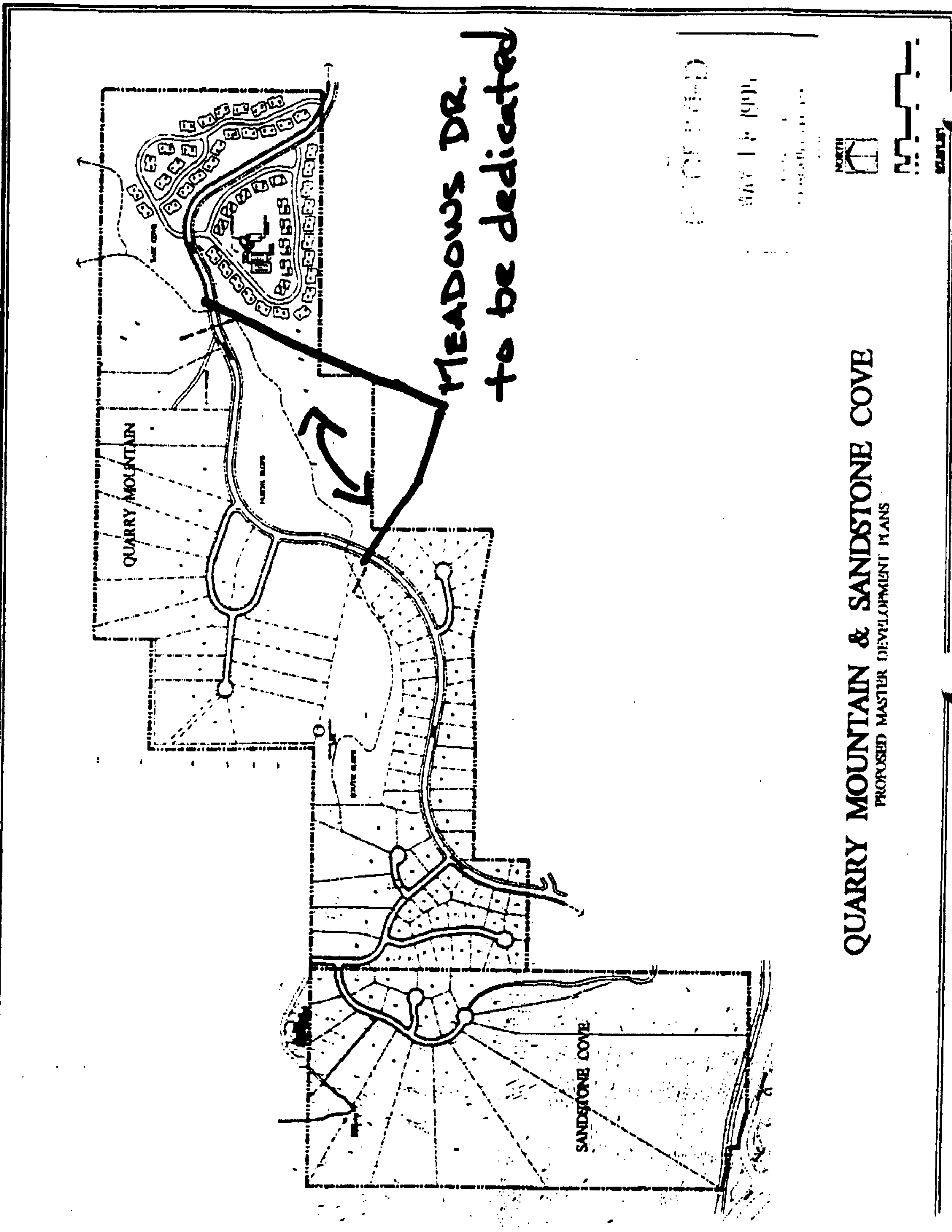


EXHIBIT B
Quarry Mountain and Sandstone Cove MPDs

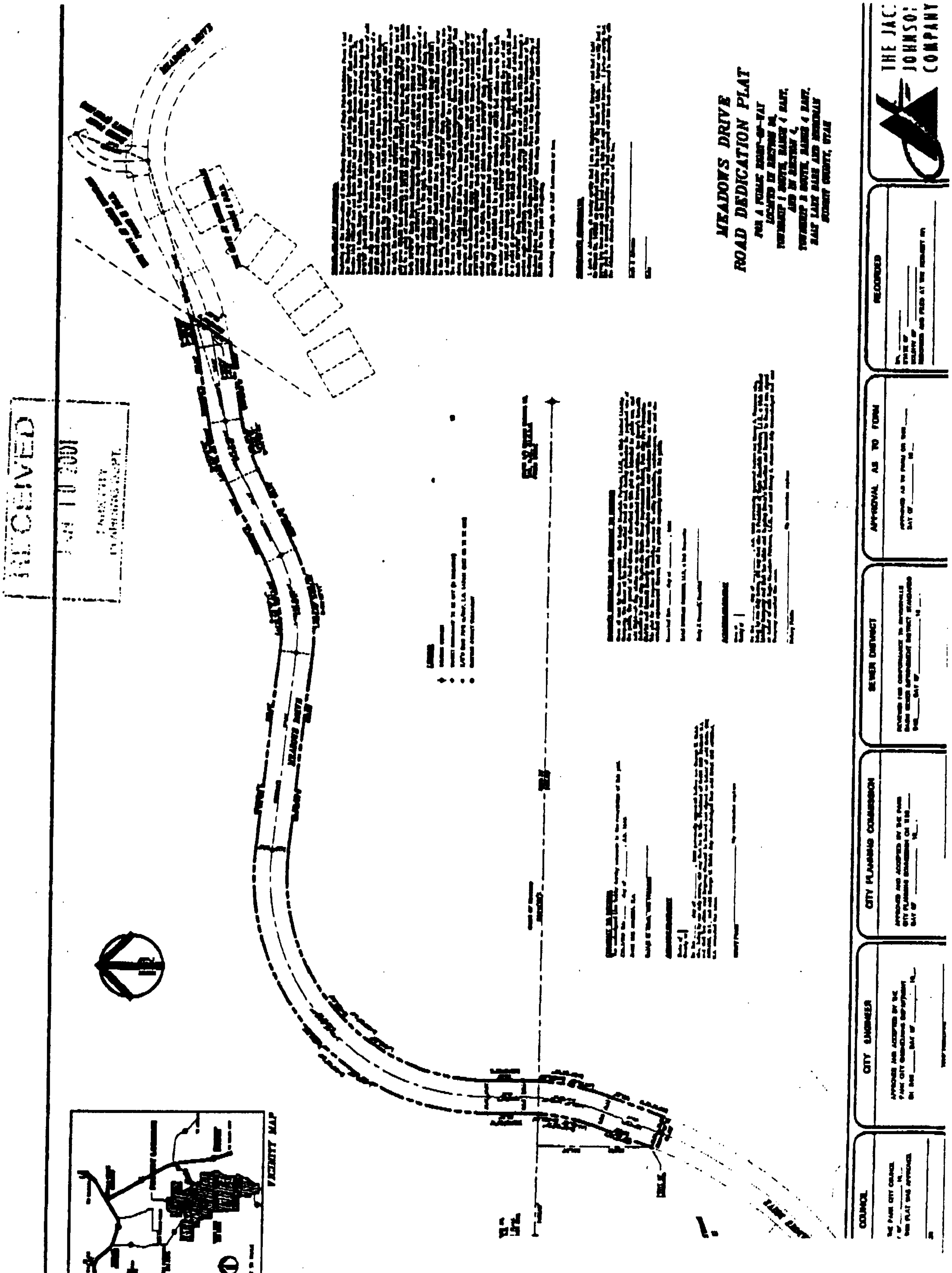
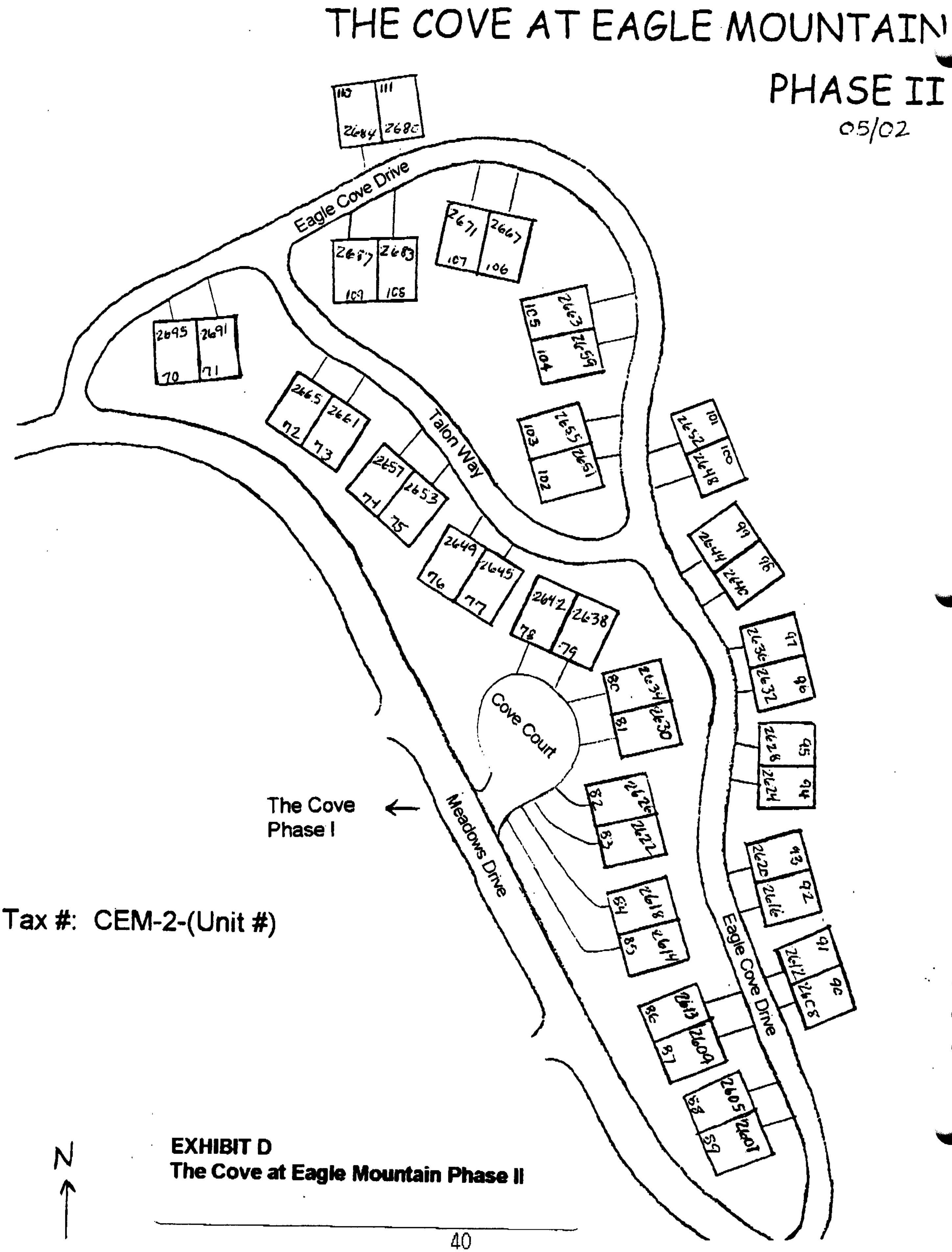


EXHIBIT C
Meadows Drive Road Dedication Plat



Tax #: CEM-2-(Unit #)

EXHIBIT D
The Cove at Eagle Mountain Phase II

City Council
Staff Report

PARK CITY 1884

Author: Kent Cashel, Asst PW Director
Eric Nesset, Transportation Manager

Subject: AUTHORIZE STAFF TO CONTRACT FOR THE PURCHASE OF ONE (1) REPLACEMENT TROLLEY

Date: November 6, 2003

Type of Item: Administrative

Public Works

Summary Recommendations:
Authorize Staff to execute a contract (in a form approved by the City Attorney) with Cable Car Classics, Inc in the amount of $259,988 for the purchase of one replacement trolley.

Description:

A. Background:
The City's current trolley, purchased in 1996, has now reached the end of its useful life and is scheduled and budgeted for replacement.

To meet this need, Staff has conducted a competitive procurement in compliance with applicable local and Federal regulations.

This replacement trolley will be funded using 80% Federal Transit Administration grant funds and 20% locally generated funds from the Transit Fund. This project was anticipated and funded in the City's FY 2004 budget (CIP project 419).

Staff has worked with the Historic Main Street Business Alliance throughout the procurement to ensure merchant input was part of the process.

Five vendors submitted responsive proposals to the City's Request For Proposal (RFP).

A selection committee made up of Staff members from Public Works, Fleet Services and Park City Transit reviewed the proposals and has made a recommendation to award the contract to Cable Car Classics, Inc.

B. Analysis:

The selection committee used the evaluation criteria detailed in the RFP to evaluate and rank each of the five proposals. Those criteria were (in descending order of importance):

1. Vehicle Quality
2. Cost\Price
3. Manufacturer Capabilities and Performance

This result of this ranking process was the selection of two vendors being selected as finalists.

Three committee members visited transit agencies that own and operate one of each of the finalist trolleys. This visit gave the committee members the opportunity to talk with management, operations and maintenance staff that have worked with the trolleys in question. It also provided the opportunity to view and drive each of the finalist vehicles. Following these site visits (using criteria detailed in the RFP) the selection committee chose Cable Car Classic Inc.'s submittal as the successful proposal.

Following the selection of the finalist the Public Works Director and Assistant Public Works Director visited Cable Car Classic's manufacturing plant in Healdsburg, California. The purpose of this visit was to view the manufacturing plant and process first hand as well as to meet with key staff of the firm. Staff is confident that Cable Car Classic's manufacturing capability and product support will serve the City well.

After completing this competitive selection process Staff strongly recommends Cable Car Classic, Inc. as the successful vendor.

C. Department Review:

This report has been reviewed by The city Manager's office, the Office of Capital Management and Budget, The City Attorney's office and Public Works.

Alternatives:

A. Approve the Request:

Council could authorize Staff to execute a contract (in a form approved by the City Attorney) with Cable Car Classics, Inc in the amount of $259,988 for the purchase of one replacement trolley. This is Staff's recommendation.

B. Deny the Request:

Council could deny Staff's request and require that a new procurement be conducted. This would require a significant amount of Staff resource and expense. Staff does not recommend this alternative.

C. Continue the Item:

Council could continue the item. Delay of more than a few weeks would render proposal prices invalid and may require a new procurement process.

D. Do Nothing:

Council could do nothing on this item. This alternative would have the same impact as alternative B. Staff does not recommend this alternative.

Significant Impacts:

It is important to note that the recommended proposal (Cable Car Classic, Inc.) was not the lowest priced proposal submitted. The proposals prices ranged from $145,000 to $295,000. Staff did follow the selection criteria detailed in the Request for Proposal and believes that the Cable Car Classic proposal best meets the needs of Park city Transit and Historic Main Street.

Recommendation:

Authorize Staff to execute a contract (in a form approved by the City Attorney) with Cable Car Classics, Inc in the amount of $259,988 for the purchase of one replacement trolley.

City Council Staff Report

Author:	**Kent Cashel, Asst PW Director** **Eric Nesset, Transportation Manager**
Subject:	**AUTHORIZE STAFF TO CONTRACT FOR THE PURCHASE OF FOUR (4) 35' BUSES WITH OPTION FOR 12 ADDITIONAL 35' BUSES.**
Date:	**November 6, 2003**
Type of Item:	**Administrative**

Public Works

Summary Recommendations:
Authorize Staff to execute a contract (in a form approved by the City Attorney) with the Gillig Corporation in the amount of $1,015,800 for an initial purchase of four (4) 35' low-floor transit buses with an option to purchase up to 12 additional 35' buses over the next 3 years.

Description:

A. Background:

Ten (10) of Park City Transit's buses will require replacement over the next three years. Additionally, the Short Range Transit Development Plan adopted by City Council and Summit County Commissioners anticipates the need for several additional buses to expand and maintain service levels.

To meet this need Staff has conducted a competitive procurement in compliance with all local and Federal regulations.

These buses will be funded using 80% Federal Transit Administration Grant Funds and 20% locally generated Transit Funds. The purchase of the initial order of four buses was anticipated and funded in the City's FY 2004 budget (CIP Project 419).

Seven vendors responded to the City's Request For Proposal. Four of those seven vendors were deemed responsive to requirements set forth in the RFP. The remaining four vendors and their per bus cost are contained in the table below:

Proposer	Per Bus Bid
New Flyer	$274,901
Gillig	$253,950
ElDorado	$249,383
Bluebird	$249,917

A selection committee made up of Staff members from Park City and Summit County Public Works, Fleet Services and Park City Transit has carefully reviewed and ranked the four proposals.

B. Analysis:

The selection committee used the evaluation criteria detailed in the (RFP) to evaluate and rank each proposal. Those criteria were (in descending order of importance):

1. Vehicle Quality
2. Cost\Price
3. Manufacturer Capabilities and Performance

The selection committee, having completed a careful evaluation and ranking according to the requirements set forth in the RFP, has chosen the Gillig Corporation as the successful proposer.

It is important to note that the Gillig Corporation's proposal was not the lowest priced. However, when all other factors relevant factors were considered (e.g., load carrying capacities, manufacturer experience, and additional training and parts stocking costs required to maintain an additional make of bus) Gillig's proposal ranked at the top.

These low floor buses will be equipped with full time video recording equipment and the exteriors will be wrapped with Park City Transit's current graphic theme.

The option for the purchase of up to twelve additional buses creates no contractual obligation for the City. Staff will request budget approval for additional buses before any of these options are exercised.

C. Department Review:
This report has been reviewed by The City Manager's office, the Office of Capital Management and Budget, The City Attorney's office and Public Works.

Alternatives:

A. Approve the Request:
Council could authorize Staff to execute a contract (in a form approved by the City Attorney) with the Gillig Corporation in the amount of $1,015,800 for an initial purchase of four (4) 35' low-floor transit buses with an option to purchase up to 12 additional 35' buses over the next 3 years. This is Staff's recommendation.

B. Deny the Request:
Council could deny Staff's request and require that a new procurement be conducted. This would require a significant amount of Staff resource and expense. Staff does not recommend this alternative.

C. Continue the Item:
Council could continue the item. Delay of more than a few weeks would render proposal prices invalid and may require a new procurement process.

D. Do Nothing:

Council could do nothing on this item. This alternative would have the same effect as alternative B. Staff does not recommend this alternative.

Recommendation:

Authorize Staff to execute a contract (in a form approved by the City Attorney) with the Gillig Corporation in the amount of $1,015,800 for an initial purchase of four (4) 35' low-floor transit buses with an option to purchase up to 12 additional 35' buses over the next 3 years.

City Council
Staff Report

PARK CITY 1884

Executive Department

Staff:	Tom Bakaly, City Manager
Subject:	Centura Rail Trail Development
Date:	November 6, 2003
Type of Item:	City property

Summary Recommendation:
Acting as property owner, approve the applicant's request to use portions of the City's Rail Trail property for certain elements of the proposed Rail Central development; authorize the City Manager to enter into an encroachment and access agreement with the applicant in a form to be approved by the Legal Department. The applicant has agreed to the agreement.

A. Topic:

Applicant:	Centura Canyons, LLC - Rodman Jordan
Location:	1790 Bonanza Drive - Lot A
Zoning:	GC - General Commercial
Adjacent Land uses:	Commercial/Rail Trail, City Property
Date of Application:	May 2, 2003

B. Background:
The City Council reviewed the applicant's request to use portions of the City's Rail Trail property for certain design and circulation elements for the Rail Central development at 1790 Bonanza Drive at their October 23, 2003 Work Session meeting (Minutes included in packet). The Council granted the applicant, Rodman Jordan, approval subject to certain terms and conditions under which the City will permit the construction and use of certain improvements within City property. The Legal Department has drafted an agreement (Exhibit A) which sets forth the terms agreed upon between the City and the owner of 1790 Bonanza Drive.

In sum, the primary deal points included in the draft encroachment and access easement agreement include the following:

1. The applicant will construct a 16' asphalt driveway to the rear of the Business Commons Building One and continuing in an easterly direction to an 11-space asphalt parking lot for exclusive use by rail trail users. Applicant will fund and construct the parking lot;
2. The applicant will grant a non-exclusive public access easement across the Business Commons property to the rail trail parking lot;
3. PCMC will grant a non-exclusive site circulation easement across the driveway lying within the City's property;
4. The applicant will landscape and irrigate those areas surrounding the driveways and rail trail parking lot;

5. The City will pay and install an ADA ramp linking the rail trail parking lot to the rail trail;
6. The applicant will build restrooms on the ground floor of Building One for public use during normal park operating hours;
7. The applicant will contribute funds for public art on the rail trail adjacent to Bonanza Drive up to a maximum of $5000; and
8. The applicant will return to the Council at a future date with revised plans for a proposed pedestrian bridge linking the Business Commons Building One with the rail trail and the lot located south of the rail trail—the City Council retains unfettered discretion to approve or deny the pedestrian bridge for any reason, including but not limited to aesthetics and scale.

The applicant is currently processing an application to amend the Business Commons MPD. The MPD amendment application is likely to include most or all of the improvements covered by the draft encroachment and access easement agreement. However, approval of the agreement in no way waives or otherwise affects any development code provisions applicable to the applicant's Rail Central MPD amendment application, including but not limited to the Park City Land Management Code, Municipal Code, Sign Code, and International Building Code, nor does it create any assumption of development approvals.

Alternatives:

1. Approve the draft encroachment and access easement agreement between the applicant and PCMC;
2. Modify and approve the draft encroachment and access easement agreement between the applicant and PCMC;
3. Reject the draft encroachment and access easement agreement between the applicant and PCMC.

<u>Recommendation</u>
Staff recommends that the Council, acting as property owner, approve the draft encroachment and access easement agreement between the applicant and PCMC in approved form to be approved by the Legal Department.

C. Exhibits
A. Draft Encroachment and Access Easement Agreement
B. October 23, 2003 City Council Staff Report

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City Council
Staff Report

PARK CITY 1884

Executive Department

Staff:	Tom Bakaly, City Manager
Subject:	Centura Rail Trail Development
Date:	October 23, 2003
Type of Item:	City Property – Request for use by adjacent property owner

Summary Recommendation:
Consider the applicant's request to use portions of the City's Rail Trail property for certain elements of the proposed Rail Central development; grant limited approval subject to the conditions recommended by staff.

A. Topic:

Applicant:	Centura Canyons, LLC - Rodman Jordan
Location:	1790 Bonanza Drive - Lot A
Zoning:	GC - General Commercial
Adjacent Land uses:	Commercial/Rail Trail, City Property
Date of Application:	May 2, 2003

B. Background:
The City purchased an approximately 1000' portion of the rail trail property on March 6, 2000 using proceeds from the open space bond approved by Park City voters in 1998. On August 19, 2002 the applicant, Rodman Jordan, representing Centura Canyons LLC, petitioned the City Council requesting use of a portion of the City's rail trail property for certain development elements arising from redevelopment of the Business Commons. The requested improvements included the following: curb cut and driveway off Bonanza Drive south of the Business Commons, parking directly adjacent to the proposed redevelopment, parking lot for the rail trail, east of the redevelopment, private outdoor dining that included decks within the City's property, and a "bridge feature" connecting the western building onto the rail trail and continuing across the rail trail to the south. The Council considered the applicant's request, and directed staff to inform the applicant in writing (Exhibit C) that he could only use the City's property for vehicle circulation between the two buildings that allowed for better site circulation and allowed direct access to the 11- space trail head parking lot, east of the development. The applicant was to construct the improvements in exchange for using the City's property for access only.

The applicant submitted a Master Planned Development amendment on May 2, 2003 requesting an amendment to the Business Commons to allow remodeling of both buildings and a request to allow a restaurant use at the site. The scope of work that was reviewed by the Planning Commission at their July 9, 2003 meeting was to make a determination that the proposed remodel to the existing Business Commons buildings, and a request to allow a restaurant would be consistent with the Land Management Code, General Commercial Zone and architectural guidelines requirements. The

B. October 23, 2003 City Council Staff Report applicant requested as part of the MPD amendment to provide a through access between the buildings to the south side of the property and to include 11 parking spaces for trail use that the applicant and Council agreed upon be considered. At the initial Planning Commission meeting, the Commission reviewed the following:

- Constructing a driveway between the renovated buildings to allow for circulation behind building 2 and access a parking lot to accommodate 11 parking spaces for the Rail Trail. This parking lot is not to be used to satisfy the applicant's parking requirement. The access leads to the 11 trail head parking spaces and will provide the applicant with better circulation for the overall development.

- Construct a clock tower on building 1.

- Demolish a portion of building 1 and 2 creating vehicular circulation for Lot A and provide access to trail head parking lot. The applicant was allowed to go forward with this request for partial building demolition at each end of the building, where the proposed driveway location would be. The parking lot for the trail is not approved pending the Commission review and approval of this proposal.

- Exterior improvements such as paint, roof replacement, window replacement, elevator and accessibility compliance. The applicant was allowed to go forward with this request since the scope of work did not increase density or intensity.

- Interior renovations that includes reconfiguration of leasable space for each building. The applicant was allowed to go forward with this request since the scope of work did not increase density or intensity.

The MPD amendment for 1790 Bonanza Drive has been reviewed by the Planning Commission, but no action has been taken as of this date. Much of the applicant's construction has been allowed to move forward with the exception of a restaurant use, 11-space trail head parking lot, and the use of the driveway (City property) behind the Business Commons

Topics For Discussion

The applicant is requesting that the City Council again review his development proposal in terms of the use of the City's property at the rail trail. Staff recommends that that Council re-affirm its original response stating its commitment to forever preserve the rail trail parcel as open space and recreational land, and that the applicant can use a small portion of the property for circulation along a driveway that will lead to an 11-space parking lot reserved for rail trail users. Staff is recommending that, due to impacts to the rail trail property caused by the applicant's development, such as, excavation, paving, and internal circulation traffic, the applicant should also provide the City with the following amenities in addition to the rail trail parking lot:

- Landscape and irrigate areas around lot and driveway, and remove existing pavement and revegetate.

- The applicant would not be allowed off-site soil exportation.

- The applicant would need to coordinate with City's Trail improvement project.
- Maximum driveway width behind the Business Commons buildings shall not exceed 16' width with prohibition of parking along driveway.
- The applicant would be required to provide a trail connection for the rail trail parking lot to the Rail Trail.
- Encroachment/ easement agreement memorializing deal points.

Staff further recommends that the City and the applicant execute an easement agreement describing the rights and obligations agreed upon by the parties for recording. Staff seeks Council input on the agreement elements.

Summary Of Issues

1. Whether and to what extent will the Council, as property owner, allow the applicant to use the rail trail parcel for: curb cut and driveway off Bonanza Drive south of the Business Commons, parking directly adjacent to the proposed redevelopment, parking lot for the rail trail, east of the redevelopment, private outdoor dining that included decks within the City's property, and a "bridge feature" connecting the western building onto the rail trail and continuing across the rail trail to the south and;
2. If the applicant is allowed to use the rail trail parcel to improve site circulation for his project, does Council agree with Staff's recommendation concerning the amenities/mitigation the applicant must provide to City in return; and
3. Does the Council direct staff to execute an easement agreement consistent with Council's decision regarding number 1 and 2 above?

C. Exhibits

A. Existing Conditions
B. Site Plan
C. May 20, 2003 Site Plan for MPD
D. July 9, 2003 Planning Commission Minutes

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City Council Staff Report

Author: Matthew A. Twombly
Subject: #2 IRON CANYON COURT
Date: November 6, 2003
Type of Item: Encroachment Agreement

PARK CITY 1884

ECONOMIC DEVELOPMENT AND CAPITAL PROJECTS

Summary Recommendations:
Staff recommends that Council take public comment on the issue and deny the request for an amended encroachment agreement as proposed by Dr. Campbell, and concur with the encroachment agreement as administratively approved by Staff.

Description:

A. Topic: #2 IRON CANYON COURT

B. Background:

In October of 1983 the Iron Canyon Subdivision Plat and Annexation Agreement were approved by the City Council of Park City and recorded with the County. The Plat dedicated all public land, streets and easements to Park City Municipal Corporation in perpetuity. The Annexation Agreement includes a provision that the Boyer Company agreed to provide public pedestrian access *through* Iron Canyon Subdivision and that the access would be platted. The developer, The Boyer Company, was granted a credit for dedication of park land. The public Access Easement was the only recreation dedication. The Boyer Company was credited approximately $8,000 towards the required fee in lieu of park land dedication.

In the letter from City Attorney Jim Carter to the Boyer Company dated February 3, 1989, Mr. Carter states that "Park City construes the twenty foot Utility and Access Easement granted by the Boyer Company adjacent to Lots 34, 35, and 36 to include the right of pedestrian access through the subdivision in favor of the public, as was contemplated by both parties."

At the time residential construction began in the Iron Canyon Subdivision, the Boyer Company presented drawings to the City showing driveway access on each of the platted lots. For Lot 36, the Boyer Company contemplated the driveway access to begin at Iron Mountain Drive and *not* Iron Canyon Court. The original owner of Lot 36 built the driveway along the Utility and Access Easement beginning at Iron Canyon Court to access Lot 36 from the back instead of from the front off of Iron Mountain Drive, as proposed by the Boyer Company. The City allowed this driveway because it was within platted Access Easement.

The City staff asserts that the public access has *always* been along the platted Utility and Access Easement even though, over time, some pedestrians have created a foot path on Lot 33. When the owners of Lots 33 and 34 experienced a continuing trespass on their land, additional signs were posted to indicate that the trail access was along the Utility and Access Easement. These additional signs were posted in response to complaints received by Public Works in November 2000.

On Lot 36 of the Iron Canyon, now owned by Dr. Campbell, there are several easements on three sides of the property (attached as Exhibit A.). The easement in question lies on the west side of the property where lots 34, 35 and 36 share a 20' Utility and Access Easement centered on the property line. When the house was built on lot 36 the driveway was built in the easement on the existing access road to the water tank, and not entirely within the property. Since the beginning of the subdivision, the City has maintained a water line from the water tank (servicing all of Iron Canyon and part of the Aspen Springs subdivision) through this easement, as well as trail access to the Iron Canyon Trail leading up to Monitor Flats. In 1997 Dr. Campbell purchased the house on lot 36 (32 Iron Canyon Court). Despite the location of his own driveway within the Access Easement, Dr. Campbell now asserts that the platted easement on his property is limited to a Utility Easement and the Access Easement is solely on the other lot, Lot 34.

Over the past few years the popularity of the Iron Canyon Trail has increased significantly. Approximately four years ago signs and a trail marker were installed at the end of Iron Canyon Ct. directing trail users to use the access easement along the driveway of #2 Iron Canyon Ct. and to not block driveways or access. The signs were installed because trail users were hiking through private property rather than using the easement and blocking the driveways and mailboxes. The signs were stolen/destroyed a couple years ago. Over the past few years there were have been many incidents involving hikers, their dogs, parking and access problems in the cul de sac, leading up to Dr. Campbell's phone calls and e-mails to the City.

In 2002 staff met with Dr. Campbell and the neighbors to get input in order to alleviate the problems associated with the trail. The informal short term plan developed through the neighborhood input was to provide designated parking areas for four cars through striping and signs, the prohibition of parking on the right hand side (as one enters) of the entire street for emergency access, the designation of overflow parking on the right (as one exits) of the street, and the grading of the trail within the access easement on lot # 34 (Wiener Property). Dr. Campbell had suggested a fence and possibly a gate on his property and driveway. All of the elements of the plan, except the fence, were completed in October/November of 2002. The fence and gate were not completed because no agreement was ever reached between the City and Dr. Campbell. Possible on-going efforts at a long-term solution to the parking problems on Iron Canyon Court include additional city acquisition of property for a different trailhead in a neighboring street, with the ability to build off-street parking.

C. Analysis:
On September 15, 2003 Dr. Campbell received an electrical and mechanical permit for work at #2 Iron Canyon Court. Staff received some information from Dr. Campbell requesting a snow melt system/concrete driveway, fence and gate. Apparently the permits were in an attempt to proceed with the "improvements," in addition to other work at his house. Staff requested a more detailed site plan showing property lines, location and type of mechanical equipment, fence, gate and driveway improvements. In addition to the site plan, staff informed Dr. Campbell that an encroachment permit was needed for any improvements

within the city's easement. Staff also informed Dr. Campbell that prior to permitting any improvements such as a fence and gate that the City would need proof that the Homeowners Association has received a copy of the plans and details. Staff also e-mailed Dr. Campbell a modified standard encroachment agreement for his review in order to proceed with the proposed improvements.

On September 23, staff met with Dr. Campbell to review any changes to the encroachment agreement. According to Dr. Campbell the agreement was not specific enough to his property, and he also requested a perpetual access easement for his existing driveway within the city's easement. Staff revised the agreement to include the driveway easement and address the history of the situation, and e-mailed the draft to Dr. Campbell within a week (attached as Exhibit B.). Dr. Campbell and his attorney made some revisions to the agreement (attached as Exhibit C.). The City Attorney and City Engineer were not comfortable approving the encroachment permit as revised and as shown as Exhibit C. Dr. Campbell wanted to proceed with the proposed improvements, but would not agree to the terms of the City's agreement (Exhibit B). The main areas of disagreement are that: 1) Dr. Campbell's draft limits the City's ability to utilize the Utility Easement in the future; 2) he requires additional conditions in Para. 4 regarding city responsibilities that are unacceptable the City Engineer; and 3) several mis-statements of fact are in the recitals and elsewhere in the document.

Because Dr. Campbell wants more property rights than staff can administratively approve, the matter is before the City Council. No agreement has been made and the City and Dr. Campbell wish to resolve this issue. Staff recommends that the City Council deny the request for an amended encroachment agreement as proposed by Dr. Campbell (Exhibit C).

D. Department Review:
City Manager's Office, City Attorneys Office, City Engineer's Office,

Alternatives:

A. **Approve the Request:**
Deny the request for an amended encroachment agreement as proposed by Dr. Campbell.

B. **Deny the Request:**
Council may choose to allow the amended agreement as proposed by Dr. Campbell or make other modifications to the Agreement.

C. **Continue the Item:** Provide staff with additional direction towards any desired next step.

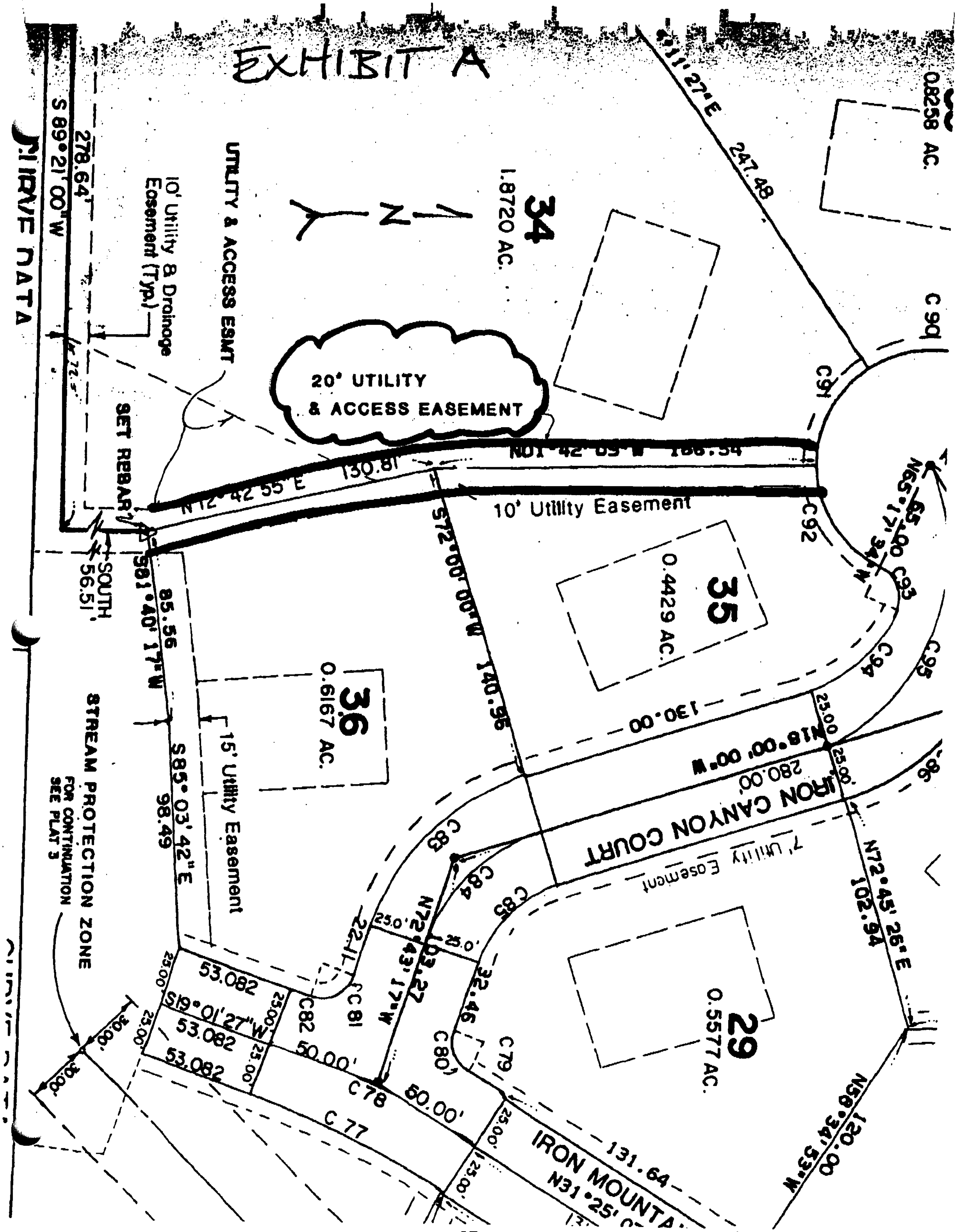
D. **Do Nothing:** This would leave the trail issue as is and the City would continue to possibly work on a long-term solution subject to COSAC and City Council approval, and mitigate additional complaints by Mr. Campbell and the neighbors as they arise.

Significant Impacts:
The Utility Easement is for significant water service and unknown future utility needs. Consideration was given to the original developer for the platted Access Easement and in recognition of allowing the driveway to be built where it is. The trail is extremely popular and even the permit as proposed by staff potentially impacts the public use by shifting the access to the west of the graded road.

Consequences of not taking the recommended action:
If Council directs staff to approve the amended agreement as proposed by Dr. Campbell, the City will be limiting its rights to the easement and incurring additional encumbrances on its utilization of the easement, without consideration.

Recommendation:
Staff recommends that Council deny the request for an amended encroachment agreement as proposed by Dr. Campbell, and concur with the staff approved encroachment agreement.

EXHIBIT A



34
1.8720 AC.
35
0.4429 AC.
36
0.6167 AC.
29
0.5577 AC.
0.8258 AC.
20' UTILITY
& ACCESS EASEMENT
UTILITY & ACCESS ESMT
10' Utility & Drainage Easement (Typ.)
10' Utility Easement
15' Utility Easement
7' Utility Easement
SET REBAR
STREAM PROTECTION ZONE
FOR CONTINUATION SEE PLAT 3
IRON CANYON COURT
IRON MOUNTA
S 89°21'00"W
278.64'
N 12°42'55"E
130.81
SOUTH
56.51'
S81°40'17"W
85.56
S72°00'00"W
140.96
S85°03'42"E
98.49
N18°00'00"W
280.00
130.00
N72°45'26"E
102.94
N58°34'53"W
120.00
N72°43'17"W
103.27
S19°01'27"W
53.082
50.00'
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247.48
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EXHIBIT B

CITY PROPOSAL

When recorded return to:
City Recorder
P. O. Box 1480
Park City, Utah 84060

ENCROACHMENT PERMIT AND ACCESS EASEMENT
2 IRON CANYON COURT- CAMPBELL

THIS AGREEMENT is made by and between **PARK CITY MUNICIPAL CORPORATION** (City) and **G. RICHARD CAMPBELL** (Owner) to set forth the terms and conditions under which the City will permit the Owner to build, maintain, and use certain improvements within the platted Utility and Access Easement as shown on the Iron Canyon Subdivision, in Park City, Utah attached as Exhibit "A" ("Easement").

Whereas, the parties dispute the actual terms and rights of the Easement;

Whereas, the private driveway accessing Lot 36 was built within the Easement off Iron Canyon Court instead of off Iron Mountain Drive, as proposed by the original developer, the Boyer Company;

Whereas, although Owner's predecessor received Building Department approval for the driveway construction, Owner does not have an easement for the private driveway;

Whereas, Owner has complained of increased impacts from dog and pedestrian use of the Easement to access neighboring trails and open space;

Whereas, the parties enter into this agreement without waiving any of their claims or rights with respect to the Easement;

Whereas, the parties wish to cooperate in resolving: 1) use impacts on Owner's property resulting from public access within the Easement; and 2) Owner's permanent right to locate the private driveway within the Easement.

Now therefore, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, Owner shall have the right to construct and maintain a fence and heated driveway within the platted Easement subject to the following terms and conditions:

1. This encroachment agreement shall be appurtenant to the following described property:

   Lot 36, Iron Canyon Subdivision, Summit County, Utah.

   This agreement is not transferable to other property, but is freely transferrable with the title to this lot. The license and conditions, as stated in the agreement, are binding on the successors in title or interest of Owner.

2. The improvements permitted within the Easement shall consist of a fence and heated driveway of a design approved by the City building department. Owner shall provide City with keys or electronic openers to any gates that are part of the fence.

3. Although it is not currently planned, and unlikely because of the expense involved, the City or authorized utility may, at some future date, elect to make improvements to the Easement at this location and install utilities or improvements to the full width of the Easement. To the extent that any utilities or improvements require the removal, relocation, replacement, and/or destruction of the improvements the Owner may have been using within the Easement, the Owners waive any right to compensation for the loss of the use of the Easement and/or change in the grade and elevation of the Easement. This waiver of compensation, in the event the improvements are removed for utility repair, installation, or maintenance, is the consideration given for granting of this encroachment permit.

4. Prior to installing utilities or improvements in a manner that will require the removal or relocation of the improvements, the City will give the Owner sixty (60) days notice, in which time the Owner shall make adjustments and remodel the fence and heating system as necessary to accommodate the changes in the Easement at Owner's cost. In the event of an emergency, as determined by the City, the City shall give best practical notice to Owner, but nothing herein shall prevent the City or authorized utility from making emergency repairs without notice to Owner. Upon completion of the improvements, the City will use reasonable efforts to restore the driveway to its previous condition, but is not obligated to repair or replace the snowmelt system.

5. Notwithstanding the above right to require removal of improvements as stated above in paragraphs 3 and 4, the City hereby grants the Owner a non-revocable access easement within the original Easement for purposes of locating the primary driveway to Lot 36. The property interest hereby created is a perpetual easement. No interest against the other lot owners shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

6. The Owner or his successors shall maintain the fence and heated driveway in a good state of repair at all times, and upon notice from the City, will repair any damaged, weakened, or failed sections. The Owner agrees to hold the City harmless and indemnify the City for any and all claims which might arise from third parties who are injured as a result of the Owner's improvements, or from the failure of the Owner's improvements.

7. This agreement resolves a dispute between the parties regarding dedication of and rights to use the Easement. So long as this agreement is in effect, neither party shall be deemed to waive any right or claim to the Easement, specifically as it related to Owner's property.
8. This agreement shall be perpetual and shall run with the land. This agreement may only be modified by written document, properly executed by both parties.

DATED this _______day of September, 2003.

PARK CITY MUNICIPAL CORPORATION

____

Eric W. DeHaan, P. E. Date
City Engineer

Attest:

____

City Recorder

Approved as to Form:

____

City Attorney's Office

OWNER

____

G. Richard Campbell

STATE OF UTAH)
ss
COUNTY OF SUMMIT)

On the _______ day of September, 2003, personally appeared before me G. Richard Campbell, who being first duly sworn and upon oath, did acknowledge to me that they signed the foregoing instrument freely as owner.

____

Notary Public
Residing at: ________________
Commission expires: __________

When recorded return to:
City Recorder
P. O. Box 1480
Park City, Utah 84060

EXHIBIT C
CAMPBELL PROPOSAL

ENCROACHMENT PERMIT AND ACCESS EASEMENT
#2 Iron Canyon Court, Lot #36 Iron Canyon Subdivision, Park City, Utah
Owner – Dr. G. Richard CAMPBELL, D.V.M.

THIS AGREEMENT is made by and between **PARK CITY MUNICIPAL CORPORATION** (City) and **Dr. G. RICHARD CAMPBELL** (Owner) to set forth the terms and conditions under which the City will permit the Owner to replace existing driveway, install a perimeter boundary fence and two gates, maintain, and use certain improvements within the platted 10-foot Utility Easement as shown on the Iron Canyon Subdivision on the west side of Lots #35 and #36, in Park City, Utah attached as Exhibit "A" ("Easement").

Whereas, Park City Planning Department approved the Iron Canyon Subdivision by the Boyer Company October 11, 2003;

Whereas, Park City Planning & Building Departments approved the construction of the log house and attached log garage on Iron Canyon Lot #36 September 14, 1988 (Owner Sandy Williams, Attorney at Law);

Whereas, Park City Planning & Building Departments approved construction and installation of the existing asphalt driveway September 14, 1988. This driveway was permitted and approved by Park City on the West boundary of Lot #35 & Lot #36. This driveway provides the ONLY ingress/egress from the house permitted and constructed on Lot #36 to Iron Canyon Court (Public Street) in September 1988;

Whereas, the only historic recorded instrument permitting the City's Utility Easement is the Park City approved plat map that indicates a 10-foot Utility Easement crossing from North to South on the Western Boundary of Iron Canyon Lot #35 and #36.

Whereas, this driveway has been in continuous use for ingress/egress to Lot #36 as permitted by Park City since September 14, 1988.

Whereas, the present Owner (Dr. Campbell) purchased "in good faith" the pre-existing house, and the preexisting, pre-approved asphalt driveway and Iron Canyon Lot #36 in March 1997. Title Company search revealed a 10-foot UTILITY Easement on the West boundary of Lot #36. Historically, a water main is only utility that traverses this Park City Utility Easement. Note, title companies' title searches only search to the "boundaries" of the property being purchased. Dr. Campbell was never informed that part of the pre-existing driveway was approved and permitted by the City across the boundary of the Easement beyond the west boundary of Lot #36.

Whereas, the parties dispute the actual terms and rights of the Easement that was previously planned, permitted and approved by Park City;

Whereas, the private driveway accessing Lot 36 was approved and permitted by Park City September 14, 1988 and constructed by Americana Construction for the original owner, Mr. Sandy Williams within the Easement off south of Iron Canyon Court instead of off Iron Mountain Drive, as proposed by the original developer, the Boyer Company;

Whereas, the Owner's predecessor received Park City Building Department approval for the driveway construction September 14, 1988. Without this Park City approved and permitted driveway 15 years ago, Owner's Lot #36 would be landlocked without access or egress to the public street (Iron Canyon Court);

Whereas, Owner has complained of increased impacts from off leash dogs and pedestrian use of the Easement to access neighboring trails and open space;

Whereas, Owner has complained about trespass, expansion of a recorded utility easement to a public access thoroughfare, increasing a private property owner's personal property liability and decreasing Owner's property owning privacy rights from such pedestrian traffic and lack of City's enforcement of existing animal control laws:

Whereas, the parties enter into this agreement without waiving any of their claims or rights with respect to the Easement except as expressly provided in this agreement;

Whereas, the parties wish to cooperate in resolving: 1) use impacts on Owner's property resulting from questionable expansion of a recorded Utility easement to a public access within the Easement; and 2) Owner's permanent right to record the private driveway within the Easement that has existed and was pre-approved by the City over 15 years ago (September 14, 1988);

Now therefore, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, Owner shall have the right to construct and maintain a fence and heated driveway within the platted Easement subject to the following terms and conditions:

1. This encroachment agreement shall be appurtenant to the following described property:

   Lot 36, Iron Canyon Subdivision, Park City, Summit County, Utah.

   This agreement is not transferable to other property, but is freely transferable with the title to this lot. The license and conditions, as stated in the agreement, are binding on the successors in title or interest of Owner.

2. The improvements permitted within the Easement shall consist of a six foot bronze aluminum Jerrith residential grade fence (south, west and north perimeter boundary), an exterior gas boiler heated driveway with a stamped concrete surface approved by the City building department ("Improvements"). Owner shall provide City with keys or electronic openers to any gates that are part of the fence. City shall be responsible for distribution, potential loss and or security of such keys and openers to authorized Park City personnel only.

3. City shall have the right to reasonable access to the Easement for the purpose of maintaining, repairing or replacing the existing water main that lies within the boundaries of the Easement. ("Repair Work"). The Owner waives compensation during the period of time that Repair Work is being performed in accordance with this encroachment agreement. This waiver of compensation is the consideration given for granting of this encroachment permit.

4. If the Repair Work requires the removal of any portion of the Improvements, then the City will give the Owner sixty (60) days' written notice prior to commencement of the Repair Work. In the event of an emergency, as reasonably determined by the City, the City shall give best practical notice to Owner, but nothing herein shall prevent the City or authorized utility from making emergency repairs without notice to Owner where under the circumstances such notice cannot reasonably be provided in advance without risking loss or damage. City shall be responsible for all costs involved in removing any portions of the Improvements necessary to perform the Repair Work. All Repair Work shall be performed with reasonable care and in a manner that will result in as little damage to the Improvements as is reasonably possible. If City removes the fence, it shall be temporarily relocated and maintained by City so as to provide continued security to Owner's house and property. Once commenced, the Repair Work shall proceed continuously and with reasonable promptness to completion. Upon completion of the Repair Work, City shall return the surface grade of the soil to a condition substantially similar to that which existed prior such Repair Work being undertaken. The City and Owner will thereafter work promptly and cooperatively to rebuild and replace the Improvements. The Owner shall be responsible to contract for the

replacement of the Improvements. The City shall within thirty (3) days after submission of documentation verifying the costs of such replacement work, reimburse the Owner a reasonable and allocable amount for the preparation of the sub-base and installation of the hard surface of the driveway. Owner shall alone bear the cost of those portions of the snowmelt system that are damaged or removed as a result of the City's performance of the Repair Work in accordance with this encroachment agreement.

5. Notwithstanding the provisions of paragraphs 3 and 4, above, the City hereby grants the Owner a non-revocable access easement within the original Easement for purposes of locating the primary access driveway to Lot 36 from Iron Canyon Court across Lot 35 and a triangular piece of the easement approximately 30 feet west from the Southwest property marker of Lot #36, and from that point approximately 130 feet north to the Northwest property marker of Iron Canyon Lot #36. (Note: This "triangular piece of property" within the Easement is where the original City approved paved asphalt driveway has existed since September 14, 1988). The property interest hereby created is a perpetual non-revocable easement as a driveway that was historically allowed for access and egress to and from Lot #36. No interest against the other lot owners shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

6. The Owner or his successors shall maintain the fence and the hard surface of the driveway in a good state of repair at all times, and within a reasonable time after written notice from the City, will repair any damaged, weakened, or failed sections. Provided that the City has complied with its obligations hereunder, the Owner agrees to hold the City harmless and indemnify the City for any and all claims, which might arise from third parties who are injured as a result of the condition of the Improvements, including, without limitation, the Owner's failure to maintain the Improvements. City will defend, indemnify and hold harmless Owner for any and all claims relating to the conduct of the Repair Work by City or the City's performance or nonperformance of any of its obligations under this encroachment agreement.

7. This agreement resolves a dispute between the parties regarding dedication of and rights to use the Easement. So long as this agreement is in effect, neither party shall be deemed to waive any right or claim to the Easement except as expressly provided in this agreement, specifically as it related to Owner's property.

8. This agreement shall be perpetual and shall run with the land. This agreement may only be modified by written document, properly executed by both parties.

DATED this __15th__day of October 2003.

PARK CITY MUNICIPAL CORPORATION

____

Eric W. DeHaan, P. E. Date
City Engineer

Attest:

____

City Recorder

Approved as to Form:

____

City Attorney's Office

OWNER

G. Richard Campbell, D.V.M.

STATE OF UTAH)
ss
COUNTY OF SUMMIT)

On the __15th__ day of October, 2003, personally appeared before me G. Richard Campbell, who being first duly sworn and upon oath, did acknowledge to me that they signed the foregoing instrument freely as owner.

Notary Public
Residing at: ____________________
Commission expires: ____________