PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
OCTOBER 30, 2008

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, October 30, 2008.

Closed Session
2:00 p.m. Property and personnel

Work Session

3:00 p.m.	Council questions and comments	
3:15 p.m.	Recreation Advisory Board Visioning	P. 7 - 18
4:00 p.m.	Park Silly Sunday Market 2008 Review • Discussion • Public input	P. 19 - 25
4:45 p.m.	HPB interviews	
5:45 p.m.	Break	

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 16, 2008
P. 26 - 34

V OLD BUSINESS *(Continued public hearings)*

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and approving a Water Agreement, and amending the Official Zoning Map of Park city to zone the property in the Community Transition Zoning District (CT)
(a) Public hearing
(b) Motion to continue to November 13, 2008

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

1. Consideration of an Ordinance approving a subdivision plat at 2300 Meadows Drive, Park City, Utah
(a) Public hearing
(b) Motion to continue to November 6, 2008

2. Consideration of a Meter Vault Repair Project Construction Agreement with Landmark Excavating, Inc., in the amount of $77,964, in a form approved by the City Attorney P. 37 - 53

3. Consideration of an Ordinance approving The Zaller Subdivision Plat amendment, located at 830 Empire Avenue, Park City, Utah P. 54 -60

(a) Public hearing
(b) Action

4. Consideration of an Ordinance approving the Elliot Grove Condominium Record of Survey Plat located at 544 Deer Valley Loop Road, Park City, Utah P. 61 - 67

(a) Public hearing
(b) Action

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

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

I ROLL CALL

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

III MINUTES OF MEETING OF SEPTEMBER 11, 2008 P. 35 - 36

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

Consideration of the Second Addendum to Park City Municipal Corporation and Park City Community Wireless Sublease Agreement P. 68 - 71

V ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Posted: 10/27/08
See: www.parkcity.org

PARK CITY COUNCIL MEETING **TENTATIVE**
SUMMIT COUNTY, UTAH
NOVEMBER 6, 2008

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, November 6, 2008.

Closed Session

Property (30 min)

Work Session

Council questions and comments
4:30 p.m. Quarterly Goal Status Report

Field Trip

5:00 p.m. Application of historic preservation guidelines

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 30, 2008

V NEW BUSNINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of an Ordinance approving a subdivision plat at 2300 Meadows Drive, Park City, Utah
(a) Public hearing
(b) Action

2. Consideration of a Master Festival License including a street closure and amplified music for the World Cup to be held on January 29, 2009
(a) Public hearing
(b) Action

3. Consideration of an Ordinance – snow removal amendments – PE
(a) Public hearing
(b) Action

4. Consideration of an Ordinance – 308 Ontario plat amendment – KW
(a) Public hearing
(b) Action

5. Consideration of an Ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City to require all sexually oriented businesses operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation
(a) Public hearing
(b) Action

6. Consideration of an Ordinance – LMC amendments – KW
(a) Public hearing
(b) Action

7. Consideration of award of contract to H W Lockner in the amount of $___ for the Bonanza Drive design, in a form approved by the City Attorney

8. Consideration of a Purchase Agreement in a form approved by the City Attorney between Boyer Snyderville Junction, L.C. (Seller) and Summit County and Park City (collectively Buyers) in the amount of $25,000,000 for two parcels of land located at Kimball Junction and Round Valley composed of approximately 680 acres for open space acquisition and limited other public uses.
(a) Public Input
(b) Action

VI OLD BUSINESS *(Continued public hearings)*

Consideration of an Ordinance approving the Marsac Avenue Affordable Housing Subdivision located at 100 Marsac Avenue, Park City, Utah
(a) Public hearing
(b) Action

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of City Council members may meet socially with the Planning Commission after the meeting at the Wasatch Brew Pub. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Posted: 10/27/08
See: www.parkcity.org

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

November 2008
13 Update on SR248 (30 min)
Street closure policy - work
Resolution authorizing staff to complete and file an application for renewal of the Recycling Market Development Zone within Park City
Community Vision Contract with ___, in the amount of $___, in a form approved by the City Attorney
PC Heights Annexation – Old Business
14 Management Team quarterly meeting (tentative)
20 Transportation Strategic Plan Update (30 min) - KC
27 **Thanksgiving**

December 2008
4
11 Park City Institute for Public Policy update
Center for Applied Media update
Acceptance of audit
2009 insurance renewal
18
25 **Holidays**

Pending Items:
McPolin Farm Administrative Policy
Park City Foundation update – work
Economic development grant update - work
Water supply and demand
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues

City Council
Staff Report

Subject: RAB Visioning
Author: Ken Fisher, Recreation Manager
Department: Recreation & Library
Date: October 30, 2008
Type of Item: Informational

Summary Recommendations: Provide direction to the Recreation Advisory Board (RAB) and staff with regards to the recommended work plan and the continuation of a parks, community outreach, Racquet Club and programming subcommittees.

Topic/Description: Provide direction to staff and the Recreation Advisory Board on recreational items for the next year.

Background:
As outlined in the Recreation Advisory Boards Policy & Procedure (attachment 2) the Board shall meet annually with the City Council to receive updated city goals and direction from City Council. The RAB met with City Council in October 2007 for this purpose and at that time the following committees were formed; Parks, Racquet Club, Community Outreach and Programming. The work plan for last year is attached as "attachment 1" and many of the items outlined in that work plan are complete or in progress. These items are updated through the quarterly updates on Council goals.

Analysis:
The RAB and staff are looking for Council feedback and direction on the following subcommittee (Parks, Racquet Club Community Outreach) work plans:

Parks Subcommittee: The primary focus of this subcommittee has been to work on the development of new parks and recommendations on improvements to existing park facilities. The following funds are available for park improvements.

Table 1 – City Park Funds (CIP #cp0005)

Revenue Source	2008	2009	2010	2011
Lower Park RDA – Property Tax Increment	$25,972			
Total	**$25,972**			

Table 2 – Neighborhood Parks (CIP #cp0100)

Revenue Source	2008	2009	2010	2011
Transfer from General Fund	$250,248			
Transfer from Debt Service	$689,336			
Total	**$939,584**			

Table 3 – Allocated Funds for Park Projects

Project Name	Status	Funds Needed
Old Town Park	Under Construction	$135,000
Creekside Park	In Design Development	$760,805 (Estimate)
Total Funds Committed		**$895,805**

Table 4 – Current Funds Available for Future Projects

CIP Fund	Uncommitted Funds
City Park	$25,972
Neighborhood Parks	$43,779
Total Funds Available	**$69,751**

Currently all park impact fees that are collected are allocated to the Park City Sports Complex.

The City received $4,112 for the Old Town Park and $27,706 for the Dog Park from the Recreation, Arts and Parks (RAP) Tax this year. These funds have already been received and spent on the appropriate projects.

RAB and staff recommend the following priority work plan for neighborhood parks and City Park:

1. **City Park:** The north and south ends of City Park are still unfinished and do not have a current Master Plan for future improvements. RAB and staff recommend hiring a landscape architect to begin the process of getting a master plan in place for these areas. A key component of the Master Plan will be getting citizen input as the plan is developed. Sullivan Road through the north end of the park is scheduled to be rebuilt in FY 2012. It will be important to coordinate the reconstruction of the road with any park improvements. Estimated Cost for conceptual master plan services is $15,000.

Skate Park

There has been discussion in the community about options to increase the use of the skatepark not only beyond daylight hours but also the length of the season that it can be used. The idea of placing a dome over the facility has been brought up but this would be extremely difficult and costly. There is an electronic petition being circulated on the internet that has a goal of 1,000 signatures for support of such a structure.

An option that may work would be to place a pavilion structure over a section of the park that would have sides that could be raised up & down depending on the weather. This could be done over the street course section on the north end of the facility. This is commonly used over ice rinks in certain parts of the country. In order to place any structure above the Skate Park, the Conditional Use Permit (CUP) would have to be amended.

The idea of lighting the park has also been brought up. When the park was originally built the Planning Commission restricted the use of the facility to daylight hours through the approval of the CUP. The Land Management Code would allow it but the CUP would need to be amended. The lighting needed for a skatepark is much less intense than the lighting for playing surfaces. Street light type lighting is sufficient for a skatepark. The lights would be under the same restrictions as the playing field and basketball/volleyball court lights currently in use at City Park.

RAB and staff recommend that Council gives direction to explore expanded use at the skatepark and the hiring of a landscape architect to develop a conceptual master plan for the north and south ends of City Park.

2. **Dog Park:** The new dog park at the Park City Sports Complex opened to the public in September. The facility was built with City funds that were made available through a RAP Tax Grant and the Neighborhood Park CIP Fund. The total amount spent to date on the facility is approximately $35,000. Staff estimated that the facility would cost between $30,000 and $50,000 at last year's RAB visioning.

   The park was developed with the understanding that the City would pay for the fence, needed infrastructure and signage for the park. The dog park user group was to be responsible for any additional improvements that may be desired.

   Located within the boundaries of the park is a storm water retention basin that is for the water runoff from the fields and paved surfaces. There is a desire from the user group for this retention basin to be mitigated by installing a catch basin and piping the storm water out of the facility. There is a concern that the retention basin will be seen as an undesirable feature because user's dogs will become muddy. It is estimated that this will cost $5,000 to mitigate the retention basin. Staff and RAB recommend that the City pay for this to be done bringing the total funds spent to approximately $40,000.

   To date the City has met its original obligation related to the development of the dog park while the user group has raised limited funds for the facility. The user group is aware of their obligation and anticipates a stronger fundraising effort now that the facility is open. The group has a desire to see a section of the park become landscaped with grass, trees and irrigation along with shade and benches.

   Until the user group raises funds for improvements, staff and the RAB recommend that the City does not allocate further funding beyond the $5,000 to mitigate the retention basin at this time.

3. **Park Shade:** Last year shade in the various parks was an item that RAB and staff have received public input on and was park of last year's visioning with Council. Staff worked with "Wicked Shade" to get designs and prices for shade pavilions that are similar to the shade at the skatepark. The cost to install shade at Prospector Park and the Racquet Club was $51,598. Staff is now looking at other options to provide shade as the bids made the project prohibitively expensive. ***RAB & staff would like to continue to work on this project.***

Racquet Club Subcommittee: This subcommittee will continue to play a vital role as the plans for the remodeled facility are developed. The subcommittee has served as an important link between the community and staff and would like to continue to do so. The subcommittee has been involved in all meetings with VCBO Architecture and staff as plans for the remodel are developed. RAB will play a key role as the plans are shown at public meetings and the overall master plan is developed for the facility.

There is an interest in changing the current name of the Racquet Club to a name that has more of a community feel and reflects the wide range of amenities offered at the facility. The current name lends people to think that the facility is privately owned and that you have to be a member to use it***. If Council would like to explore naming options for a remodeled facility now is the time to begin discussing potential name changes. Any potential name changes would go through the Racquet Club Subcommittee before going to Council for approval.***

Community Outreach Subcommittee: For the past two years RAB and staff have been working to increase participation and awareness of recreation programs that the City offers. There has been great success compared to where we were but there is still much that needs to be done. This past summer we gave scholarships to children that participated in swim lessons, skateboard clinics, tennis camp, summer day camp and soccer camp.

Staff has taken a leadership role in "ACT" (Agencies Coming Together) which has been working together to develop a cohesive plan for engaging the underserved population. This past year the group was award a $15,000 grant from the United Way to help fund the "Apartment Kids" programs. Holy Cross Ministries is administering the grant for ACT. This is a program where a different agency is assigned to organize activities on site at Aspen Villas, Parkside, Ironhorse, Holiday Village and other identified locations from 3:30 to 5 p.m. once a week. This program has been very successful and is helping to build a relationship with the Latino population.

The greatest challenge is getting participation in organized sports. This is due to the need for the children to be transported to playing fields all over the area. If a parent is unable to transport their child then they must rely on others to do so. The parent must also have a high comfort level in order to send their child off with someone else.

RAB and staff would like to continue to engage the underserved population and work to get even greater participation in programs.

Department Review: Budget & Grants, Legal, Sustainability, Recreation & Library, and City Manager

Alternatives:

A. Approve the Request:
Provide direction to RAB and staff with regards to the recommended work plan and formation of a parks, community outreach, and Racquet Club subcommittees.

B. Deny the Request:
Council may direct RAB and staff in a different direction than the one outlined in this report.

C. Continue the Item:
Council may continue the item to a future date

D. Do Nothing:
This will result in a lack of clarity and direction to staff & RAB.

Significant Impacts:
By giving direction to the RAB future recreational amenities and programs will continue to be developed that will meet the community's needs.

Consequences of not taking the recommended action:
No action is required only direction to the RAB and staff with regard to the items outlined in the proposed work plan.

Recommendation:
Provide direction to RAB and staff with regards to the recommended work plan and formation of a parks, community outreach, and Racquet Club subcommittees.

Attachment 1: October 11, 2007 Staff Report and Work Plan

Attachment 1

City Council
Staff Report

Subject: RAB Visioning
Author: Ken Fisher, Recreation Manager
Department: Recreation & Library
Date: October 11, 2007
Type of Item: Informational

Summary Recommendations: Provide direction to the Recreation Advisory Board (RAB) and staff with regards to the recommended work plan and formation of a parks, community outreach, Racquet Club and programming subcommittees.

Topic/Description: Provide direction to staff and the Recreation Advisory Board on recreational items for the next year.

Background:
As outlined in the Recreation Advisory Boards Policy & Procedure (attachment 2) the Board shall meet annually with the City Council to receive updated city goals and direction from City Council. The RAB met with City Council in September 2006 for this purpose and at that time the following committees were formed; City Park, Neighborhood Parks, Racquet Club, Community Outreach and Dog Park. The work plan for last year is attachment 1 and many of the items outlined are complete or in progress. These are updated through the quarterly updates on Council goals.

Analysis:
The RAB and staff are looking for Council feedback and direction on the following subcommittee (Parks, Community Outreach, Racquet Club, and Programming) work plans:

Parks Subcommittee: Historically there has been a RAB City Park Subcommittee and a Neighborhood Parks Subcommittee, staff and RAB recommend combining these into one subcommittee that will work on improvements to all parks. The following funds are available for park improvements.

Table 1 – City Park Funds (CIP #cp0005)

Revenue Source	2008	2009	2010	2011
Transfer from Sales Tax DSF-2005B	$986	$ -	$ -	$-
Lower Park RDA – Property Tax Increment	$88,735			

Cumulative Total	$89,721	$	$	$

Table 2 – Neighborhood Parks (CIP #cp0100)

Revenue Source	2008	2009	2010	2011
Transfer from Debt Service	$745,889			

Currently all park impact fees that are collected are allocated to the Park City Sports Complex.

RAB and staff recommend the following priority work plan for neighborhood parks and City Park:

4. **Old Town Park:** Council gave direction on September 20, 2007 for staff to begin the process of developing an RFP for the development of construction documents based on the conceptual design for the development of a park on the corner of Hillside and Main. RAB and staff expect the project to begin construction next spring. The preliminary project budget is $400,000 from the Neighborhood Park Fund.

5. **Lights on the Basketball and Volleyball Courts at City Park:** The engineering and construction documents have been completed. Staff anticipated this project being completed in the spring of 2008. Estimated cost is $50,000 with funds coming from the City Park Fund.

6. **Dirt Jump Park:** The Dirt Jump Park received an extension on the original Conditional Use Permit (CUP) through May 2008. The Planning Commission and staff recommended a one year extension as the planning and building department didn't want the facility to continue in a temporary nature without a decision being made about the future of the facility. RAB and staff recommend that the facility be expanded and the necessary steps be taken to make it a permanent facility at its current location.

   The Planning Commission would likely require the development of permanent parking, restroom facilities, irrigation and improved fencing. Any permanent improvements would meet the requirements of the land Management Code. The park has been very successful with great participation numbers in the instructional camps and general use by residents and visitors. The current location is ideal as it is in town, on the bus route and accessible from an existing bike path.

   The McLeod Creek homeowners association sent a letter to the Mayor & Council in August outlining their support for the continuation of the dirt jump park and the development of additional park amenities. RAB and staff would like to engage the neighborhood and begin the planning of this parcel to include the dirt jump park and other appropriate park amenities.

   If Council is not supportive of keeping the facility at its current location or engaging the neighborhood in the future of this parcel, RAB & staff would need to begin the process of identifying a potential new location for the dirt jump park so construction could begin in the spring.

A preliminary estimate to develop a permanent dirt jump park with the required infrastructure at 2060 Holiday Ranch Loop Road is $300,000 from the Neighborhood Park Fund.

7. **Dog Park:** Council directed staff in June 2007 to develop a dog park out at the Park City Sports Complex. The identified site is approximately 2 acres and sits between the new access road to IHC and Field D. RAB and staff recommend that the City pay for the fencing and the ongoing maintenance of the facility (trash pick up and required ground maintenance other than dog poop removal). RAB & staff recommend the formation of a friends group that is consistent with the Council adopted policy related to Friends Groups. They would be responsible for raising any funds that would be used for improvements beyond the installation of a fence.

   RAB and staff recommend that the users be responsible for dog waste removal and if the users do not pick up after their pets that the facility gets closed down similar to how the skate park is managed with regard to graffiti.

   The project is estimated to cost between $30,000 and $50,000 with an anticipated opening July 2008. Funding would come from the Neighborhood Park Fund.

8. **Park Shade:** RAB and staff have received public input on the need for shade at Prospector Park, Racquet Club Park, Skate Park (additional shade) and for the playground out at the Park City Sports Complex. The playground equipment at these parks gets very hot in the middle of the summer and users have a hard time using it as it is hot to the touch.

   RAB and staff would like to install shade structures similar to the one that was put at the skate park. It is a fabric material that comes in a variety of colors and is easily installed and removed so it is only up during the summer months. Preliminary estimated cost is an average of $8,000 per site. Funding for this would come from both the City Park & Neighborhood Park Fund depending on the location. If funding is not available to complete shade at all the requested locations RAB and staff will pursue additional funding through the CIP Budget process in the spring of 2008.

9. **Miscellaneous Future Projects:** Given the funding that is currently available the above projects would require all the current funding that is available in the City Park and Neighborhood Park CIP accounts. RAB has identified several other projects that they would like to complete but are a lower priority than the ones listed above. The scope of what these projects might entail has not been identified. These include the south end (Boo Radley Forest) and the north end of the park (behind 7-Eleven and the berm by the Snow Country Condominiums); Beautification to Poison Creek; Improvements to the Library field such as an enhanced berm for sledding and installation of benches on the berm; Benches along various trails in town; Installation of bike racks at various locations. These projects would need to first be prioritized as part of the Capital Improvement Program (CIP) in the spring of 2008 before pursuing.

Community Outreach Subcommittee: Last year RAB and staff were interested in trying to engage the underserved population in Park City recreation programs. The subcommittee and staff set up a meeting with other agencies that work with the underserved population. As a result of the meeting Park City & Basin Recreation hosted an open house at the Racquet Club & the Field House to take sign ups for programs. We offered a 70% discount on program fees if participants qualified for the free or reduced lunch program.

The open houses and sign ups were very successful with parent's signing their kids up for both Park City & Basin Recreation programs. We gave several scholarships for summer day camp, swim lessons, several different camps and tennis programs.

RAB and staff have recently become involved in "ACT" (Agencies Coming Together) to try to pool resources and develop a more cohesive plan for engaging the underserved population. Staff is currently compiling all the contact & program information from these agencies so there is a greater understanding of who does what.

One of the ideas to increase participation by the underserved population is that instead of trying to attract residents to come to the Racquet Club or a program location that we bring the program to them. In other words it may be necessary for ACT to run programs at Holiday village, Aspen Villas, Parkside Apartments or other identified locations.

RAB and staff would like to continue to engage the underserved population and work to get even greater participation in programs.

Racquet Club Subcommittee: Council approved a contract with VCBO Architecture on October 4 to begin developing conceptual designs and to conduct a feasibility study on the Racquet Club. RAB will have an active role in the project as the feasibility and conceptual designs are developed.

Programming Subcommittee: RAB and staff recommends that a subcommittee be formed that looks at the recreation programs that are currently offered and explores new programming ideas. The Recreation Needs Assessment that was completed this spring identified adult fitness & wellness and tennis lessons as a programming area that has a high unmet need in the community.

Department Review: Budget & Grants, Legal, Sustainability, Recreation & Library, and City Manager

Alternatives:

A. Approve the Request:
Provide direction to RAB and staff with regards to the recommended work plan and formation of a parks, community outreach, Racquet Club and programming subcommittees.

B. Deny the Request:
Council may direct RAB and staff in a different direction than the one outlined in this report.

C. Continue the Item:
Council may continue the item to a future date

D. Do Nothing:
This will result in a lack of clarity and direction to staff & RAB.

Significant Impacts:
By giving direction to the RAB future recreational amenities and programs will continue to be developed that will meet the community's needs.

Consequences of not taking the recommended action:
No action is required only direction to the RAB and staff with regard to the items outlined in the proposed work plan.

Recommendation:
Provide direction to RAB and staff with regards to the recommended work plan and formation of a parks, community outreach, Racquet Club and programming subcommittees.

Attachment 2

RECREATION ADVISORY BOARD
Policies and Procedures

1 The RECREATION ADVISORY BOARD (BOARD) is created by Municipal Code of Park City ("Code") Section 2-4-17, attached as Exhibit A and incorporated herein. Nothing in these policies shall overrule any requirement in Section 2-4-17, as amended

2 The Board will advise City Council and staff on parks and recreation policy as requested by the City Council and consistent with the Code. The City Council will refer particular matters to the Board for discussion, public input and recommendations. The Mayor or Council liaison member will communicate the Council's referral of a matter to the Board.

3. The Board shall meet annually with the City Council as part of the Council's visioning workshop, or as otherwise directed by the Council, to receive updated city goals and direction from the City Council.

4. The Chair of the Board shall communicate regularly with the City Council Board liaison member regarding priorities of the Board as they relate to City Council goals. The City Council liaison member will typically report Board progress on matters to the City Council at least once a month. The Board will provide a quarterly progress report to the City Council during work session of a regular meeting.

5. The role of the City Council liaison will be to:

Attend regularly scheduled meetings.

Communicate back to the Board recreation issues brought to Councils attention, or acted on by City Council.
Notify Council of recreation issues brought to the Board by citizens.
Align Board priorities with Council goals.
Be a non-voting member of the Board.

6. The Board may request background information from the recreation staff, but such requests shall typically occur at meetings and information shall be requested by the Board as a whole, and all members of the Board shall receive a copy of the information. Board members will use reasonable efforts to communicate independent research material and ex parte information received from the public to the other Board members.

7. Closed meetings may only be held for purposes authorized by U.C.A. 54-4-5, as amended. A quorum for the transaction of business shall be a simple majority of the Board members. Minutes shall be kept at all meetings.

8. Special Task Forces for the study of particular issues may be created by the Mayor and Council. Task Forces may include members of the Board. They will typically serve for 6 months, or until they have completed the work for which they were appointed. Each Task Force shall meet goals and objectives as outlined by the Mayor and Council. The Task Force will elect a Chair to communicate with the Mayor and City Council. City Manager will approve any staff involvement in these Task Forces.

9. Special committees may be appointed by the Chair, with the advice and consent of the Mayor and City Council. These committees will deal with operational and capital project issues. City Manager will approve any staff involvement in these committees.

10. Special “Friends” groups may be formed by Staff, with the advice and consent of the Mayor, City Council, and City Manager. These groups may include members of the Board. Staff will communicate directly with Council any Council issues brought to the group. These groups will deal with user specific programming, operational, and capital issues.

11. At its first meeting, and annually thereafter, the Board shall elect a Chair, Vice-Chair and any additional officers as necessary. The Chair shall preside at all meetings, appoint all committees with the concurrence of the Board, call special meetings, and generally perform the duties of a presiding officer. The Vice-Chair or a Board member designated by the Chair shall preside when the Chair is absent. The agenda for meetings shall be prepared and noticed by the Recreation Manager and the Chair.

12. The Board shall also act as a sounding board for new recreation policies and programs. The Board will hear initial proposals by the public for new programs

and ideas, unless otherwise decided by the City Council. Prior to initiating staff time or resources on a new program or policy, the Board shall inform the City Council of the matter and request direction on how to proceed and the timing priority of the new matter.

13. The Board may provide annual policy recommendations in conjunction with the City's review of the General Plan with regard to use of City facilities and property for recreation purposes, and recommendations on recreation policies generally.

City Council
Staff Report

Subject: 2009 Park Silly Sunday Market
Author: Max J. Paap & Jonathan Weidenhamer
Department: Sustainability
Date: October 30, 2008
Type of Item: Administrative –2009 Master Festival License

Summary Recommendations:
Review the 2009 Master Festival License application, conduct a public hearing, and continue the decision pending completion of an Economic Analysis of the 2008 Market.

Background:
On March 27, 2008 City Council approved an MFL for the 2008 Park Silly Sunday Market (PSSM). The 2008 approval modified the use of the street from (9:00 am – 3:00 pm in 2007) to 10:00 am to 4:00 pm in 2008; and included a series of supporting operational strategies aimed at addressing and/or mitigating specific concerns raised during the approval process. During the 2008 approval there was lengthy discussion regarding the perceived positive and negative financial impacts of the 2007 PSSM on individual businesses. At that time it was agreed an Economic Analysis should be conducted to better understand the impacts on Main Street business owners.

A condition of the 2008 MFL approval required PSSM to return to Council no later than October 30, 2008 to review the 2008 Market and submit plans for the 2009 Market. To that end PSSM recently submitted completed MFL application(s) on October 20, 2008 for the 2009 Market. One specific item PSSM organizers have agreed to specifically address is vendors selling unauthorized materials. Otherwise, PSSM intends to operate the 2009 market exactly the same as the 2008 market (specific vendors aside). They would also like the City to enter into a longer term City services contract to allow the festival to be on-going.

Analysis:
Long Term City Services Contract – Staff recommends further consideration be put on hold until a detailed economic analysis can be conducted and analyzed as part of the budget process in the spring of 2009. PSSM is supportive of this.

2009 Market – Staff finds the additional operational aspects employed by the Event organizers were positive, and on the whole contributed to what staff considers a successful event from an 'event management' standpoint. Staff additionally finds the Event is consistent with a series of Council's Economic Development Goals. Staff does however, find it appropriate that Council consider if there are other unintended impacts on existing business owners.

Economic Analysis – The HMBA agreed during the 2008 PSSM MFL approval to conduct a quantitative economic analysis to measure specific impacts on existing Main Street businesses. No specific agreement to what that was to look like, or exactly when it was to be conducted was formalized. At this time, staff is working with a private consultant to complete this analysis. PCMC has committed to funding this study, and does not expect that cost to exceed $10,000. We anticipate collection of data to take 3-4 weeks, and the analysis to take 3-4 weeks, therefore completion of this study and Council consideration is by the second week of January, 2009.

PSSM's position is that delay in Council decision is prohibiting them from retaining sponsors contracts, vendors, and marketing for the 2009 Market. Council approved the extended hours for the 2008 market in March 2008. Staff is hopeful that by having Council review the 2009 Market 3 months earlier than the 2008 Market, any adverse impacts can be reduced.

The HMBA's general position is that the 2008 Market just finished and some time is needed to gather information. Overall the HMBA is generally supportive, but contend an economic analysis is imperative for them to take a formal position – see Exhibit B.

During the 2008 Market approval process staff conducted a brief analysis of the economic impact of the 2007 Event. That analysis was lacking in detail, inconclusive, and generally suggests completion of an advanced study (Exhibit A).

Department Review:
Sustainability, Legal, and Executive Departments have reviewed this report.

Alternatives:

Approve the Request:
Direct staff to return with findings of fact, conclusions of law, and conditions to approve the 2009 Event application.

Deny the Request:
Deny the application.

Continue the Item:
The City Council may continue the discussion in order to complete the economic analysis. **This is staff's recommendation.** Should Council prefer, they can set a date certain by which they would like to review the application again.

Significant Impacts:
If approved, operational Impacts of approving the event include closure of Lower Main Street for 15 Sundays throughout the summer. The activities, including amplified music, will be contained within described venues and will conclude by 4:00pm. There may be financial impacts on individual business that are undetermined at this time.

If no decision is made, the event organizers stipulate delays are impacting their ability to secure vendors, sponsors, and marketing for the 2009 Market.

RECOMMENDATION:
Review the 2009 Master Festival License application, conduct a public hearing, and continue the decision pending completion of an Economic Analysis of the 2008 Market.

Exhibits

A- Internal Economic Analysis (On 2007 Market)
B – HMBA Position Statement
C - Written public input received

Exhibit A
Internal Economic Analysis

MEMO

To: **Tom Bakaly**
From: **Jed Briggs**
Subject: **PARK SILLY MARKET – INTERNAL ANALYSIS**
Date: **Dec 5, 2007**

In response to your request for additional information about the economic impact of the Park Silly Sunday Market (PSSM) on Park City, the following items have been determined:

Economic Impact

- Without a major study it would be impossible to determine the real economic impact on Main Street as well as the City during the Silly Market's run.
- Sales tax information is reported to the City from the State on a monthly basis, thus PCMC cannot easily isolate the sales tax revenues collected for just the Silly Market in the Main Street Geo, since it was only on Sundays.
- By comparing the Main Street Geographic sales tax revenues during the five month period that the Silly Market ran we can infer that the Silly Market did not negatively impact Main Street nor Park City in general.
- We are currently requesting sales tax revenue data from Sales Tax Commission that would demonstrate just how much the Silly Market vendors accumulated during the Market's run.

To determine the real impact of the PSSM would require an intensive study by an independent agency. However, PCMC can determine certain elements of the economic impact mainly centered around sales tax revenues we have already collected. We receive sales tax information from the State Tax Commission on a monthly basis with a two month lag; however, we are unable to isolate this data to one specific day. Since the Silly Market only operates on Sundays, it would be impossible to know with any certainty, how much sales tax revenues the Main Street businesses—not the PSSM vendors—accumulate on that day. What we can do, however, is isolate the Main Street Geo (the geographic area in and around Main Street) and look for trends by comparing the monthly sales tax revenues with that of prior years. We can also look at Main Street Geo growth within those five months that PSSM ran and compare that with the other Geos in Park City to see if there are any trends. Currently we have sales tax revenue data from June through September: the first four months of the Market. We should have October's numbers by the end of the year.

Average Annual Growth Rate

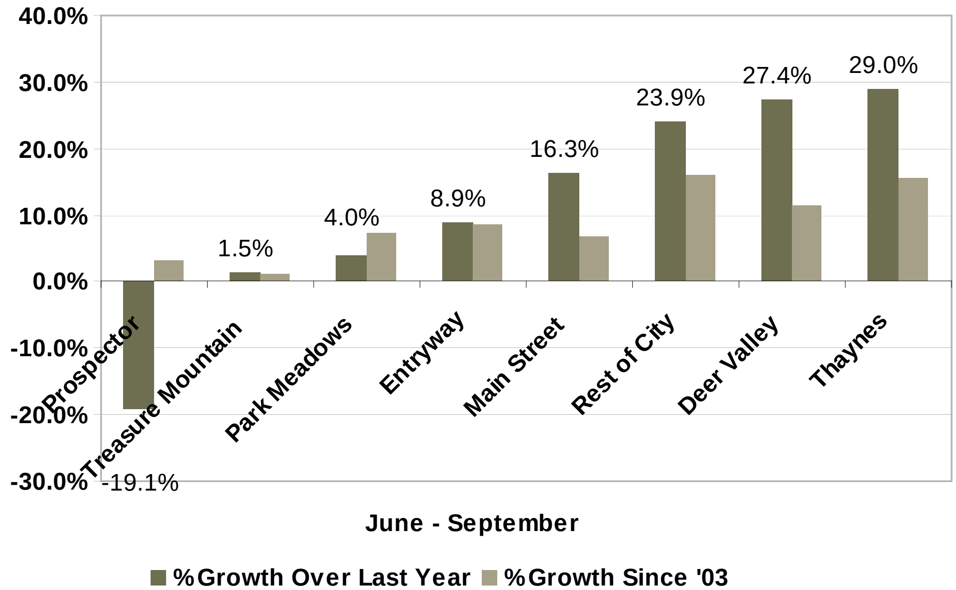


Exhibit B
HMBA Board Position Statement

10/24/08

The HMBA's overall position is supportive of the Silly Market and the use of Main Street as a center for community gathering. In light of the board's responsibility to our member businesses we feel it is very important to quantify the economic effects of the Market on the Main Street core in order to provide additional data to the discussion of "How is the Market doing?" This question is on the minds of the HMBA board and our member businesses.

We recognize the importance of positioning Main Street as a visible destination in Park City and as a welcoming gathering place for locals and visitors; assessing the Markets effects on these aspects of Main Street are more easily done "at a glance". We also recognize the vitality of Main Street is dependant on the viability of its brick-and-mortar businesses, and the economic effects of the Market on these businesses, either positive or negative, are harder to see. It is our desire to move forward with the Market to enhance Main Street's vitality through increased visibility, a welcoming atmosphere *and* increased economic benefit to the City and our member businesses as well as the Market.

We would ask the City Council to conduct a study to try and determine what effects, either positive or negative, the Market is having on the district. We believe the City is best positioned to conduct, or contract with a third party, an un-biased and comprehensive study. This was previously discussed, and I believe recommended, during the decision making process to extend the Market's hours for 2008. In light of the Market's time constraints and their desire to plan the 2009 market as quickly as possible, we would ask that the study be conducted in a timely fashion. The HMBA is willing to help collect economic data from our member businesses to assist in the study's timely completion.

It is our mandate as an organization to help ensure a vibrant downtown core, and we feel the Silly Market can be an important part of that vibrancy, but given the size and duration of this event in particular, we believe that it is in everyone's best interest to *know* what the benefits and/or impacts are, and to rely as little as possible on assumptions and educated guesses.

Thank you,

As President of HMBA,

Jeff Ward
General Manager
350 Main Brasserie, The Spur Bar & Grill

Exhibit C

Public Input

From: Steve Lund [mailto:lundstevek@comcast.net]
Sent: Wednesday, October 22, 2008 10:37 PM
To: Sandy Geldhof
Subject: Park Silly Sunday

Hi Sandy,

Here is a short synopsis of the experience The Village Candy Shoppe has had with the Market during the last two years.

2007 Average Sunday dollar sales were down approximately 60% from previous years while business during the summer for the other days of the week were static or showed slight increases. 3%-5%

2008 Sunday dollar sales were down slightly, 5% from previous year. However sales for the summer of 2008 were static for July and down considerably, 10%-25% for August and September. Indicating that the Markets impact was similar both years; Business down significantly on Sundays, particularly during the hours of operation of the Market.

The Village Candy Shoppe participated in the Market on 4 separate Sundays, taking advantage of the Fee Waiver offered to the HMBA. We averaged approximately $400 per week in Sales at the Market which represents 70% of the business loss to the Market during the last two years. While I was resolved that I needed to participate in the market to recoup lost sales, I remain very strongly opposed to the Market continuing as currently formatted. After factoring in the increased labor cost, increased hours to set up and tear down, the amount of sales that reached the bottom line was greatly diminished. If next year we decide to have a booth presence in the Market we will incur the additional cost of space rental, $90 - $120 per week as well as initial costs of portable booth and supports.

I did find the Market Staff was very helpful and did everything possible to make my experience a positive. Jules, Kimberley, and their staff should be applauded for their efforts. The Main Street District is under assault from Kimball Junction other new retail areas that compete for the same dollars, both local and tourist, as do Main Street Merchants. However, in my opinion, the Market does not stimulate Main Street Brick and Mortar business, nor does it stimulate the compounding effect of dollars spent in the local community circulating within that community. Most of the Market Venders take their money with them at the end of the day to the Valley and beyond to be spent on groceries, taxes, fuel, etc. rather than that money being circulated within the confines of Park City.

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
OCTOBER 16, 2008

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Bret Howser, Budget Analyst; Jonathan Weidenhamer, Project Manager; and Dave Gustafsen, Project Manager

Sandy Geldorf, HMBA Director; Mike Sweeney, Main Street business owner; and Sara Pearce, Sundance

Absent: **Council member Roger Harlan**

1. Council questions/comments. Jim Hier reported that the final joint School District and City traffic control committee was held this week; all of the identified projects over the last year and a half have been substantially completed. He attended the Planning Commission meeting where he updated members on Council decisions including the Ridge Avenue appeals and the remand on the 100 Marsac Avenue affordable housing project. Liza Simpson thanked the organizers of the employee golf tournament. She met with individuals about a compost program and joined staff at a curling event. Candace Erickson discussed business conducted at the Recreation Advisory Board meeting and recognized the outgoing Leadership Class and the new class members. She encouraged the public to visit the scarecrow exhibit at the Farm and reported on the Board of Health meeting. The Peoples Health Center will be taking over women's health services, currently handled by the Health Department, on February 28, 2009. The transition is anticipated to improve services and it appears that 15% to 17% of patients benefitting from the PHC reside in Wasatch County. The construction of the new PHC building is going well. Mayor Williams noted that the Mosquito Abatement District released a report on last summer's activities and he emphasized that the only site in Summit County the Tarsalis Mosquito was found was in the wetlands behind the schools. A variety of mosquito abatement information is now available on line. He stated that he and Diane Foster were invited to meet with the EPA last week in Denver to update them on climate change initiatives in Park City. Salt Lake, Boulder and Park City were selected as presenters. Mayor Williams discussed the difficulty in meeting Kyoto Accord agreements for communities experiencing large increases in growth since 1990, including Park City. The EPA is just beginning to address climate change. It was productive to meet with a variety of cities in Denver about these issues and he reported on future conferences of interest.

2. HMBA Business. Bret Howser reported that the City received a request from the HMBA for expanded service in the Main Street Business Improvement District which, if approved, would result in an increase to the business license tax to fund the new level of service. The HMBA petitioned the City over a year ago to create the BID which was intended to establish a legally defined geographical area to be used for enforcement of a single commercial solid waste provider. The other purpose was providing funding for promoting Main Street businesses and in March, the City contracted with the HMBA to provide a scope of services for the District. These include communication with members, coordination of events and activities, marketing and advertising, and assisting the City in overseeing the solid waste contract. On September 30, 2008, staff received a proposal from the HMBA which outlined a plan for expanded services. The increased scope includes the HMBA managing the trash removal contract itself, implementing a District branding program and increased marketing including a Main Street gift card program.

Staff met with the HMBA with liaison Jim Hier to work out a plan and Mr. Howser relayed that staff is strongly recommending that this request be addressed during the budget process to be evaluated with all other issues. However, the budget cycle creates a timing problem because the business license fees are received on a calendar year basis which means that the HMBA could not implement increased services until 2010. He explained that if the Council were to grant the request in the spring, staff could return with a renegotiated contract which would provide for half of the year's payment to be paid in July 2009 so that an expanded program could begin sooner.

Mayor Williams expressed concern that the proposal is fully supported by the street. Director Sandy Geldorf explained that the organization would like to increase administrative support from 15 hours to 20 hours a week. This represents about $15,000, increasing the budget from $40,000 to $55,000 and increasing the business license fee by $55. She explained that membership is mandatory and there are about 260 members. The Mayor asked if the membership has the opportunity to approve the proposal. Jim Hier explained that there is no process in place for the HMBA to approve a budget and it was suggested to develop an addendum to the bylaws to address adopting a budget. Mike Sweeney stated that a recommended budget was submitted by the Executive Committee and the Board approved the budget by vote. He discussed formulating a budget and referred to the special services contract which provides that the City can not pay the HMBA more than it collects based on the budget presented by the HMBA. Mr. Sweeney pointed out that temporary businesses, during Sundance for instance, must pay for a full annual license plus the $156 BID tax and a number of businesses change on Main Street creating more revenue. He asked that the City provide an accounting of all of the monies collected.

Candace Erickson liked the idea of a Main Street gift card and is generally supportive of the proposal but requested assurances there is support on the street. The Mayor agreed. Jim Hier again discussed the timing of the City's budget cycle and implementation constraints and felt that the July prepayment idea is a good solution. The HMBA membership must approve a budget before the proposal moves ahead.

3. Annual supplemental plans – Sundance Film Festival 2009. Jonathan Weidenhamer explained that the 2009 supplemental plan includes a closure of Main Street from 7^{th} to 9^{th} Streets from January 12 to January 26, 2009. Approval of the plan is slated on the agenda tonight. The parking, circulation and parking management plans have been altered to accommodate the street closure and the drop and load zones will be available on both sides of the street this year. Last year, the zones were located only on the west side of Main Street and delivery zones will be made available a day earlier this year. Due to the closure of the north Marsac Building lot, the entire roof of the China Bridge Parking Structure will be available for employee parking which will provide more spaces than in the past. Discussion ensued on the number of paid parking permits sold last year and monitoring parking spaces the garage. Dave Gustafsen discussed the use of the Swede Alley surface parking and felt that the system is flexible enough to respond to supply and demand.

Mr. Weidenhamer explained that Sundance will program Main Street between 7th and 9th Streets, the Town Lift Plaza and Summit Watch area. A 30' x 90' tent is proposed to be erected in the street and he referred to the site plan included in the meeting packet. He added that Sundance presented the plan to the HMBA and the Board is supportive of the street closure and programming the street. The Temple Har Shalom is a new screening venue which will be served with an additional transit stop at 1251 Kearns Boulevard, The Yard. He stated that on April 24, 2008 the Council reviewed and approved the 2009 supplemental plan for the Racquet Club. For the benefit of Jim Hier, Ms. Pearce explained that credentials are not needed to enter the closed area of the street. Liza Simpson acknowledged that the approval for the Racquet Club is final but confirmed that a manned complaint line will be implemented this year.

Sandy Geldorf stated that the HMBA Board met with the lower Main Street merchants. Businesses initially voiced concerns about Sundance competing with restaurants by serving free food and beverages to the public which is not the case. It was important to business owners that traffic circulation be managed and that the tent and closed street area look visually open, appealing and inviting to the public.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
OCTOBER 16, 2008

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, October 16, 2008. Members in attendance were Dana Williams, Candace Erickson, Jim Hier, Joe Kernan, and Liza Simpson. Roger Harlan was excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Todd Touchard, Water Project Manager; Jon Weidenhamer, Economic Development Manager; Matt Twombly, Project Manager; Denise Carey, Analyst; and Heinrich Deters, Project Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Candace Erickson stated that her husband is employed by Stantec Engineering and Joe Kernan disclosed that USSA and Talisker are among his recycling customers.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF OCTOBER 2, 2008

Jim Hier, "<u>I move to approve the work session notes and minutes of the meeting of the meeting of October 2, 2008</u>". Candace Erickson seconded. <u>Motion carried</u>.

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

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

Joe Kernan, "<u>I move we move Items Nos. 4 and 5 to New Business</u>". Liza Simpson seconded. <u>Motion carried</u>. Liza Simpson, "<u>I move we approve Consent Agenda Items 1 through 3</u>". Candace Erickson seconded. <u>Motion carried</u>.

Candace Erickson	Aye
Roger Harlan	Absent
Jim Hier	Aye

Joe Kernan	Aye
Liza Simpson	Aye

1. Consideration of a Resolution expressing official intent regarding certain capital expenditures to be reimbursed from the proceeds of water revenue bonds to be issued by the City and related matters – See staff report.

2. Consideration of grant of easement to the Snyderville Basin Water Reclamation District for Lot 3 and Lot 5 located at the Intermountain Health Care and Park City Campus, in a form approved by the City Attorney – See staff report.

3. Consideration of a construction contract with Geary Construction, Inc. for the Quinns Loop Trail Project, in the amount of $180,858, in a form approved by the City Attorney – See staff report.

VI OLD BUSINESS *(Continued public hearings)*

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and approving a Water Agreement, and amending the Official Zoning Map of Park city to zone the property in the Community Transition Zoning District (CT) – The Mayor opened the public hearing. With no comments from the audience, the hearing was closed and he requested a motion to continue to October 30, 2008. Candace Erickson, "I so move". Jim Hier seconded. Motion carried.

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

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

4. Consideration of an amendment to Historical Society lease, in a form approved by the City Attorney – This item was removed from the Consent Agenda and moved to New Business for discussion purposes. Jonathan Weidenhamer explained that on September 11, 2008, Council approved the installation of solar which prompted an amendment to the lease with regard to maintenance. More specifically, the Council directed that the solar array be exempted from the City's maintenance obligations. The Mayor invited input from the public; there was none. Liza Simpson, "I move we approve the amendment to the Historical Society lease as proposed in the staff report". Joe Kernan seconded. Motion carried.

Candace Erickson	Aye

Roger Harlan	Absent
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

5. Consideration of an amendment to Boys and Girls Club lease, in a form approved by the City Attorney - This item was removed from the Consent Agenda and moved to New Business for discussion purposes. Kathy Loft, Executive Committee Member, thanked Mayor Williams, the City Council and staff for their support of the Girls and Boys Club over the years and particularly recently when the Club experienced some financial difficulties and are struggling to ensure that there is a sustained presence in Park City community. On behalf of the Board of Directors, she assured Council that they are committed to structure and manage the operations of the facility in a fiscally responsible way to ensure that there is a balanced operating budget, strong cash reserves, and sustainability for future operations. Secondly, given current economic conditions, the services of the Club are in more demand by families. Since locating in Park City in 2001, the Boys and Girls Club has been successful in raising sufficient funds to support the operations but resources have largely come from other areas. However, the organization has been successful in identifying local support and she is hopeful that the facility will be staffed by November 1. She stated that waiving lease payments is a critical component of the plan and will go a long way in motivating donors and improving programs for the children. The Mayor invited public input; there was none. Joe Kernan, "I move we approve the amendment to the Boys and Girls Club lease in a form approved by the City Attorney". Liza Simpson seconded. Motion carried.

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

* * * * * *

1. Consideration of approval of annual supplemental plans and a partial street closure of Main Street from 7th Street to 9th Street from January 12, 2009 to January 25, 2009 for the Sundance Film Festival – Jonathan Weidenhamer stated that staff is recommending approval of the supplemental plans for 2009 as conditioned in the staff report. He referred to the discussion held during work session. The Mayor opened the public hearing.

Mike Sweeney, property owner, thanked Sundance for providing an opportunity for merchants to participate in the Festival. With no further comments, the public hearing was closed.

Candace Erickson, "<u>I move approval of the annual supplemental plans and a partial street closure of Main Street from 7th Street to 9th Street from January 12 to January 25, 2009 for the Sundance Film Festival</u>". Joe Kernan seconded. <u>Motion carried</u>.

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

2. <u>Consideration of a Professional Services Agreement, in a form approved by the City Attorney, with Stantec Consulting Inc. for the design of the Park City Raw Water Infrastructure Phase 1 Project for an amount of $444,000</u> – Todd Touchard explained that the project involves running a raw water line from Promontory into the approved water treatment plant. The contract covers the design, environmental, geo-technical, and surveying work. The Mayor invited the public for input; there were no comments. Jim Hier, "<u>I move to authorize the City Manager to execute an agreement, in a form approved by the City Attorney, with Stantec Consulting for the design of the Park City Raw Water Infrastructure Project in an amount of $444,000</u>". Liza Simpson seconded. <u>Motion carried</u>.

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

3. <u>Consideration of Resolution adopting a Trails Master Plan for Park City, Utah</u> – Jonathan Weidenhamer explained that two deliverables were associated with the Landmark contract relating to the walkability study. The first is the study used as a tool to select capital project and the second is the update to the Trails Master Plan to include the walkability component. This is not a comprehensive update but an addendum to the master plan and identifies the vision reinforced by the walkability study focusing on safety, efficiency, regional and local connections, as well as considering the cost of maintenance. The basic spine concept is included in the addendum as well as goals and policies.

He emphasized that the Planning Commission feels that aesthetics and creating sense of place within public trail projects is important and could be referenced in an amendment to the General Plan Transportation Element. Planning Commission members also discussed establishing a *complete streets* policy which staff is exploring but not through the master plan document. Mr. Weidenhamer noted that the Planning Commission forwarded a positive recommendation on September 10 with a request to adopt a cost maintenance schedule. These numbers are included but are not very relevant because priorities can change during the budget process. Liza Simpson believed the cost analysis is difficult to understand and Heinrich Deters clarified that inflation is taken into account and some services and maintenance are performed by Mountain Trails. Jim Hier questioned why costs are identified in the document at all. Matt Twombly explained that when the Master Plan was adopted in 2003, staff felt it important to describe the level of service and the associated dollar amount for trail maintenance. This information was not considered part of the Master Plan or used as a tool for planning, but included to point out fiscal implications. Mr. Hier believed cost information could be generally summarized rather than including details which become outdated very quickly. Including costs in a policy document is unusual. Jon Weidenhamer reiterated that the Planning Commission recommends including dollar amounts in the Trails Master Plan, which is certainly at the discretion of Council.

Discussion ensued on updating the Streets Master Plan, specifically addressing the concept of *complete streets*. Mr. Hier believed it would be helpful at the beginning of the process to identify which streets are appropriate for consideration. Mr. Weidenhamer envisioned addressing complete streets in the Transportation Element of the General Plan and on a more technical level in the Streets Master Plan. The Mayor invited the public to comment; there was no input. Jim Hier, "<u>I move we adopt the Resolution modifying the Trails Master Plan for Park City</u>". Candace Erickson seconded. <u>Motion carried</u>.

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

4. <u>Consideration of a Resolution adopting a Strategic Plan for the McPolin Farm and an Administrative Policy for use of the Farm Compound and buildings in Park City, Utah</u> – Denise Carey stated that the plan reflects Council's direction from the September 11 work session. Mayor Williams suggested that the document reference the CRP easement on the property and staff agreed to add the language. Candace Erickson stated that she has no issues with the Strategic Plan but feels the Administrative Policy needs more discussion before finalizing. More specifically, she is concerned about uses, for instance making the property available for meetings for non-profit organizations or for celebrations when there are no standards or requirements in place. Ms. Erickson strongly felt that use should be pertinent to the Farm as an educational or cultural tool and the guidelines need to be refined. Liza Simpson agreed with Ms. Erickson's comments. Jim Hier pointed out that the CUP defines allowed uses for the Farm and should be mirrored in the Administrative Policy. The Mayor invited the public to comment. There was no input. Because of expressed concerns, Mark Harrington advised Council to adopt the Strategic Plan with direction to staff to return with an amended Administrative Policy. Jim Hier, "<u>I so move</u>". Liza Simpson seconded. <u>Motion carried</u>.

Candace Erickson	Aye
Roger Harlan	Absent

Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

IX ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Jim Hier, Joe Kernan, and Liza Simpson. Roger Harlan was absent and excused. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Jon Weidenhamer, Economic Development Manager; Dave Gustafsen, Project Manager; and Mark Harrington, City Attorney. Jim Hier, "I move to close the meeting to discuss property and litigation". Liza Simpson seconded. Motion carried. The meeting opened at approximately 4:45 p.m. Jim Hier, "I move to open the meeting". Liza Simpson seconded. Motion carried.

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

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
SEPTEMBER 11, 2008

I ROLL CALL

Chairman Dana Williams called the regular meeting of the Park City Redevelopment Agency to order at approximately 8:30 p.m. at the Library and Education Center on Thursday, September 11, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, Executive Director; Mark Harrington, City Attorney; and Phyllis Robinson, Public Affairs Manager.

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

None.

III MINUTES OF MEETING OF JUNE 19, 2008

Roger Harlan, "I move approval of the minutes of the meeting of July 19". Candace Erickson seconded. Motion unanimously carried.

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

Consideration of a loan to Elliott Development LLC for an affordable housing project located at 1321-1323 Woodside Avenue, Park City, Utah – Joe Kernan disclosed that the Elliott Work Group is among his recycling customers. Chairman Dana Williams stated he was involved in the sale of the property and will be excusing himself from the meeting. Vice Chairman Roger Harlan presided over the meeting. Phyllis Robinson explained that the request is for a loan from the RDA in the amount of $1,650,000 to facilitate a community work force housing project. Historically, the City has provided funding to profit and non-profit organizations to facilitate affordable housing development in the City and this is a legitimate use of RDA funds. Approval of the loan will allow the project to be combined into a joint master plan design competition with adjacent property that the City also owns. This is the site where the senior citizen center and the fire station property sits. The proposal provides for an enhanced design product and the ability to ensure compatibility with adjacent parcels. The master plan will address affordable work force and seasonal housing and community service needs. The Elliott Work Group acquired the property and extending financing, will provide the RDA with a higher level of control in terms of the development on the property; it is a unique opportunity from a public-private perspective.

Ms. Robinson stated that the RDA budget totals about $4.1 million but is programmed for other uses, leaving a fund balance of $2.5 million. Staff recommends that the RDA finance the loan at a base note rate of 8% which is consistent with the market. Once land use regulations are put into the place, the note would be rebated to a reduced rate for affordable housing at 3% plus 50 basis points for staff administrative costs. The rate will be variable so that a 4.5% to 5% spread is maintained between the market rate note and the RDA rate. The note would be secured and the RDA the sole lien holder on the property which has been appraised between $1.625 million and $1.675 million. The note is for 18 months with the option of extending for an additional two six month terms pending satisfactory progress on the project. This is strictly a land loan and no regulatory approvals on the property are associated with this action. Ms. Robinson suggested that the RDA obtain an option to purchase and a right of first refusal on the land. This is a good opportunity to work through a community-based design process. The Mayor Pro Tem invited public input.

Gary Knudson, adjacent property owner, stated that he would like to be involved in the process and is unsure how this project will affect his investment.

Jim Hier suggested that language be added to provide the RDA first right of refusal and an option to purchase the property at the end of the term for a fixed amount which would be the value of the note plus accrued interest at that point in time. This would protect the public's interest so that the property can't be sold and developed for market rate condos or in the event the Elliott Work Group disappears. The timing would also ensure the purchase of the property at the same amount lent plus accrued interest. Craig Elliott confirmed that an option to purchase would occur if he was selling the property and not after he completes the project. Jim Hier added that the RDA should have the option of completing the project, if needed. Candace Erickson asked if the affected property owners will be co-applicants and Ms. Robinson responded that it is a possibility and Mr. Elliott explained holding a design charette for a master plan. Jim Hier believed that market rate development on the other parcels should be addressed in the master plan as well as PCMR's parking lot and the RDA may want to consider funding that effort so there is more control over the area.

Joe Kernan, "<u>I move approval of a loan with Elliott Development LLC for an affordable housing project; that the City (RDA) have the first right of refusal and an option to purchase the property at the end of the term for the value of the note plus accrued interest</u>". Liza Simpson seconded. <u>Motion unanimously carried</u>.

V ADJOURNMENT

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

Prepared by Janet M. Scott

____
Janet M. Scott, City Recorder

City Council
Staff Report

Subject:	**Meter Vault Repair Project**
Author:	**Tamara Lindsay, Todd Touchard, Paul Jerominski**
Department:	**Water**
Date:	**October 30, 2008**
Type of Item:	**Administrative**

Summary Recommendations:
Staff recommends Council authorize the City Manager to execute a Construction Agreement in the amount of $77,964.00, in a form approved by the City Attorney, with Landmark Excavating, Inc. for the Meter Vault Repair Project.

Description:
Water Strategic Plan Topic: Infrastructure
Strategy/Policy: Implement Capital Facilities Plan

Topic:
Meter Vault Repair Project

Background:
In preparation for the installation of a fixed base automatic water meter reading system, staff has been conducting an inventory of all water meters to determine repairs and/or replacements needed. Twenty-eight water meters, ranging from 1 inch to 4 inches in size, in various locations have been identified to be "stuck" or incapable of reading water usage. This project will replace the internal components of these meters to ensure that water usage is recorded accurately.

In addition, twelve meter vault locations have been identified as needing repair or replacement parts. Several of these locations have large meters that are set to read water usage in 10,000 gallon increments and thus are incapable of reading low water usage in a timely manner. The fixed base automatic water meter reading system requires the ability to obtain hourly reads in one gallon increments. In order to capture these lower flows, check valves, bypass lines and smaller meters need to be installed.

These twelve meter vaults are located at various locations in the Park City water service area. The water service lines within the vaults require:

- Replacement/repair of stuck water meters.
- Installation of bypass lines and water meters to capture low flows.
- Replacement of dysfunctional valves.
- Installation of check valves.
- Enlargement of meter vault where necessary.
- Replacement of 3 inch and 4 inch meters with Sensus Omni meters to capture low flows.
- Removal of irrigation systems from meter vaults.

Analysis:
The Meter Vault Repair project was advertised on September 6 and 10, 2008 in the Park Record. One bidder attended the mandatory pre-bid meeting and one bid was received and opened at 1:00pm on October 7, 2008.

Landmark Excavating, Inc was the sole attendee at the mandatory pre-bid meeting. Staff has reviewed the bid schedule submitted by the sole bidder, Landmark Excavating, Inc. and feels that the fees are reasonable for this type of work. Staff has been satisfied with their current work for the City on the Ontario Avenue Waterline Project. Of those references contacted, the general opinion was that Landmark Excavating did good work.

The criteria for evaluating bids for the Meter Vault Repair project were published in the bid documents– Instructions to Bidders. The criteria are summarized below:

1. A bid bond of 5% of the bid amount is furnished.
2. Active Utah Contractor's License, in good standing, with appropriate classification.
3. The firm and the project superintendent shall have satisfactorily completed at least three similar projects within the last five years.
4. The project superintendent shall be dedicated to this project with no substitutions without written approval by the OWNER.

Landmark's submittal adequately met criterion item #1 by furnishing a bid bond with their bid in the amount of 5%. Criterion item #2 above was met by Landmark with their E100 classification. Landmark provided a project list for Criterion #3 with their bid. A resume was submitted for Casey Carlsen, as he will be dedicated to this project. Criterion #4 was met by the proposed superintendent, Casey Carlsen.

The only bid received was from Landmark Excavation Inc in the amount of $77, 964.00.

Based on our experience working with Landmark and the completeness of their bid, staff recommends awarding this project to Landmark Excavating, Inc.

The funding for the project is water service fees and is part of the approved FY09 CIP.

The City's Project Manager will be working under the supervision of the Public Works Director with assistance from the project team in coordinating and scheduling with contractor.

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

Alternatives:

A. Approve:
Staff recommends City Council award the bid and authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Landmark Excavating, Inc for the Meter Vault Repair project for $77,964.00.

B. Deny:
Council could deny Staff's request. Denying the request would delay the repairs of the meter vaults.

D. Continue the Item:
Council could continue the item to a future date. Continuing the request would delay the repairs of the meter vaults.

E. Do Nothing:
Staff does not recommend this alternative. Doing nothing would also delay the repairs of the meter vaults.

Significant Impacts:
The Meter Vault Repair project is part of the approved FY09 budgeted Meter Reading Upgrade CIP in the amount of $77,964.00. Water services to neighbors will be temporarily affected. Operations staff will be present when water service is turned off for repairs and when service is reinstated. Staff and the Contractor will work with neighbors to ensure proper notifications of scheduled impacts are made. Meters are to accommodate new technology of fixed base system. Work is scheduled for week-days from 7:00am to 7:00pm.

Recommendation:
Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Landmark Excavating, Inc. for the Meter Vault Repair Project for a lump sum amount of $77,964.00.

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____________, 2008, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Landmark Excavating, Inc, 560 South 100 West Suite 7, Provo UT 84601, which is a (*check one*) _X_ corporation ___ partnership ___ sole proprietorship __ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the Meter Vault Repair (hereinafter "Project"), which consists of the repairing of meters, valves, check valves, bypass lines, at 40 meter locations in accordance with the Contract Documents and Park City Standards, Construction Specifications, and Standard Drawings.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

SECTION 1. SCOPE OF WORK. Contractor shall furnish all labor, materials and equipment to complete the Project, consisting of the work described in the Information for Bidders as the Basic Bid, and the following additive alternates: Alternative 1 to meet UDOT Specification, as specifically set out in the contract specifications, which is made a part hereof by reference, herein called the "Project."

The Project will be bound by the specifications referenced herein, according to the Advertisement for Bid, the Information for Bidders, the General Project Requirements and Specifications provided by City, the Bid of the Contractor, Bid Bond, Drawings, Notice of Award and Notice to Proceed, collectively referred to as the Contract Documents, all of which are incorporated herein by reference and on file in the Public Works Department. To the extent that this Agreement conflicts in any way with a proposed form agreement which may have been submitted as part of the bid specifications, this Agreement shall control.

If any of the work performed by Contractor in any phase of the Project does not meet City standards as outlined in the bid documents and specifications, then Contractor shall immediately repair or correct the work at no additional cost to City.

A. SUBCONTRACTORS. No part of this contract shall be subcontracted by the Contractor without prior written approval by City through the Project Manager/Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and materialmen who supplied services or materials to

the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release.
If the City reasonably believes that Contractor has failed to pay Subcontractors, materialmen, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

C. INSPECTION AND TESTING. All materials and equipment used in the construction shall be subject to inspection by the Project Manager/Engineer. If laws, ordinances, rules or regulations of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than Project Manager/Engineer, the Contractor shall give the Project Manager/Engineer timely notice of readiness. Inspections, tests or approvals by the City or appropriate authorities will not relieve the Contractor from obligations to perform the work in accordance with the requirements of the Contract Documents and/or provisions. The Project Manager/Engineer and other designated persons will at all times have access to the work. All work shall ultimately be inspected for final acceptance by the Project Manager/Engineer within a reasonable time upon receipt of notice from the Contractor that work is complete and ready for final inspection.

During construction, the work will be inspected and observed by the Project Manager/Engineer or his designated representative. All work that is deficient or does not meet specifications shall be removed and replaced with proper material at Contractor's expense.

D. WARRANTY. Contractor warrants that all materials and supplies used in the construction of the Project shall be new, except as otherwise agreed to in writing by the City's Representative. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of at least one (1) year following the date of substantial completion of the Project under the terms of the performance bond or as provided in the project specifications and construction documents, whichever is longer.

SECTION 2. PERFORMANCE AND PAYMENT BONDS. Contractor shall furnish to the City payment and performance bonds satisfactory to the City guaranteeing

Contractor's payment and performance, in the amount, for each separately, of one hundred percent (100%) of the Contract Amount.

SECTION 3. INSURANCE. Unless otherwise specified in the bid documents, the Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide a Certificate of Insurance evidencing:

> **A.** Commercial General Liability insurance written on an occurrence basis with limits no less than two million dollars ($2,000,000) combined single limit per occurrence and four million dollars ($4,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's practices.
>
> The Contractor shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.
>
> **B.** Automobile Liability insurance with limits no less than two million dollars ($2,000,000) combined single limit per accident for bodily injury and property damage.
>
> **C.** Workers Compensation insurance limits written as follows:
> Bodily Injury by Accident $500,000 each accident;
> Bodily Injury by Disease $500,000 each employee, $500,000 policy limit

The City shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to request certified copies of any required policies.

The Contractor's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Seventy Seven Thousand and Nine Hundred and Six Four Dollars, ($77,964.00**) (“Contract Amount”) for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

SECTION 5. PERMITS AND FEES. As set out in Section 4 above, the Contract Amount includes the price of all normally applicable fees and permits. The City may, at its discretion, arrange for the waiver of certain fees, permits and expenses.

SECTION 6. TERMS OF PAYMENT. The City shall pay for services provided hereunder according to and in an amount not to exceed that detailed in the attached payment schedule (Attachment A) and only upon Contractor's request on forms approved by and submitted to the Project Manager. The City shall make payment within thirty (30) days thereafter. Requests for a more rapid payment may be considered if a discount is offered for early payment. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work. No payment shall be made for any service rendered by the Contractor except for services set forth and identified in this Agreement. The City reserves the right to withhold payment in whole or part from the Contractor for non-compliance with the provisions of the Contract Documents.

A. RETAINAGE. The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

Before final payment is made, the Contractor must submit evidence satisfactory to the City that all payrolls, material bills, subcontracts and all outstanding indebtedness in connection with the Project have been paid for.

The City may withhold a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project plus ten percent (10%) of such indebtedness as the City's cost of administering such claims until Contractor supplies a release satisfactory to the City, signed by all persons who have supplied labor or materials to the Project or, at the City's option if no claim is made, until 105 days after the date on which any person performed the last of the labor or supplied the last of the material for the Project and upon written request from the Contractor.

The Contractor shall supply to the Project Manager/Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

B. FINAL PAYMENT. Acceptance by the Contractor of the final payment from the City shall release the City of all claims, demands and liability of the Contractor, its officers, agents, employees and subcontractors, whether communicated or not by the Contractor, except with respect to those matters referred to in writing delivered to the Contractor and approved in a signed writing by the Project Manager.

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed 90 days from Notice to Proceed. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **One Hundred Fifty Dollars ($150.00)**, (NOTE: liquidated damages clause must be agreed to by Contractor, if no mutual agreement, then no liquidated damages) which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

SECTION 8. ADDITIONAL WORK/CHANGE ORDERS. The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in order of precedence listed below:

A. An agreed lump sum; or in the event the parties cannot agree; then

B. The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then

C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

SECTION 10. DEFAULT, REMEDY AND TERMINATION. The City may terminate this agreement upon the occurrence of one or more of the following events:

A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;

B. If Contractor substantially fails to perform any part of this Agreement;

C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;

D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

After serving ten (10) days written notice on the Contractor and its surety of its intention to terminate the services of Contractor, and if within ten (10) days after serving such notice, the violation is not corrected to City's reasonable satisfaction, the City then may take over the work and prosecute it to completion by contract or by any other method it may deem advisable at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the service herein.

The Contractor shall be entitled to a hearing before a City hearing officer upon the issue of termination if it submits a written request therefore within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

The Contractor shall continue the performance of this agreement to the extent not terminated under the provisions of this section.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

SECTION 12. CONTROLLING LAW. These general conditions shall be construed in accordance with and enforced under the laws of the State of Utah. Any action of law, suit in equity, or judicial proceeding for the enforcement of the Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

SECTION 13. ASSIGNMENT. The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

SECTION 14. SAFETY AND TRAFFIC CONTROL. Contractor shall take all reasonable precautions to protect the safety of pedestrians, school children, motorists, and others who may use or come near to the Project site, including but not limited to compliance with the Manual of Uniform Traffic Control Devices.

SECTION 15. SAFETY AND PROTECTION OF THE WORK. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project work. Contractor shall provide reasonable protection to prevent damage, injury or loss to employees on the Project work and all other persons who may be affected thereby, materials and equipment, whether on or off the site, and other property at the work site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. In addition, the Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by the existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, setting safety regulations, and notifying owners and user of adjacent utilities.

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in party by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

SECTION 16. UNENFORCEABLE CONTRACT, WAIVERS. In the event that any provision of this contract shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

SECTION 17. ENTIRE AGREEMENT. This contract represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

SECTION 18. COMMENCEMENT OF WORK. Contractor will commence work as required by the specifications within ten calendar days after receiving the NOTICE TO PROCEED.

SECTION 19. UTILITIES. The right is reserved to the owners of public utilities and franchises to enter upon the street or work site for the purpose of making repairs or changes of their property that may become necessary by the work. The City shall also have the privilege of entering upon the street or work site for the purpose of repairing culverts, storm drains, water system repairs or adjustments and any and all other necessary City work.

The Contractor takes the whole risk, responsibility and expense with respect to the location of utilities, and in working with utility owners about locating, moving, repairing, and modifying utilities. All utility locations shown on the plans and specifications are approximate and are marked on the plans, if at all, only for convenience. The City makes no representation about the location of any such utilities, and Contractor is encouraged to contact utility companies and owners about the location of all utilities that may be impacted by or impact the Project work.

SECTION 20. HOURS AND DAYS OF WORK. All work performed by the Contractor, its subcontractors, material men, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

A. Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries

B. Construction of decks, patios, landscape walls less than 4 feet in height, and fences on individual single-family lots

C. Non-mechanized exterior painting on individual single-family residences

D. Non-mechanized landscaping on individual single-family residences

E. Survey work not involving grading or use of power equipment to cut vegetation.

Extended Hours Special Permit. The Building Official may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation or modify or waive the hours of work on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants. In such cases, the Building Official shall issue a Special Permit identifying the extended hours. Contractor shall display the special permit on site.

Special Event Regulations. The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events.

<u>SECTION 21. CONSTRUCTION MANAGEMENT PLANS</u>. Contractor shall submit a Construction Mitigation Plan to be approved by the Community Development Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department.

A. Hours and Days of Operation. The Construction Mitigation Plan shall specify the daily construction start and finish times. Construction activity occurring outside of the times specified in Section 11-14-6 of the Park City Municipal Code may only be allowed by Special Permit issued by the Building Official or the City Engineer.

B. Parking. The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department review and approve a parking plan. The plan shall also include anticipated temporary parking, e.g. delivery vehicles, large equipment parking.

C. Deliveries. The Construction Mitigation Plan shall identify proposed delivery locations and routes. Deliveries of construction materials and supplies including concrete may be regulated as to time and routing if such deliveries will cause unreasonable noise, parking, or access issues. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on or near the site may be required. In the case of multiple construction sites in close proximity, a common materials storage and staging site may be required.

D. Construction Phasing. Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public safety or nuisance problems. In cases where phasing is deemed necessary by the Community Development Department**,** the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

E. Trash Management and Recycling. Construction sites shall provide adequate storage and a program for trash removal**.**

F. Control of Dust and Mud on Streets. A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

G. Noise. Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of the Park City Municipal Code.

H. Grading and Excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of excavated material shall be noted.

I. Construction Sign Requirements. A sign, indicating the name of the party responsible for the Project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed 12 square feet in size, six feet in height and shall not exceed a letter type of 4". Information on the sign shall include, at a minimum:

1. Name, address and phone number of contractor;
2. Name, address, and phone number of person responsible for the project; and
3. Phone number of party to call in case of emergency.

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

A. The Contractor shall obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. Contractor shall not permit accumulated debris, litter, or trash on the construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

B. The Project site shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees= two toilets and so on).

<u>SECTION 23. OBEY LAWS</u>. Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

<u>SECTION 24. NONDISCRIMINATION</u>.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Contractor will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

<u>SECTION 25. THIRD PARTY RIGHTS</u>. Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

<u>SECTION 26. PROJECT MANAGER/ENGINEER</u>. The Project Manager/Engineer for this Project is Paul Jerominski, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

SECTION 27. PARTIES' REPRESENTATIVES. For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered or mailed, or sent by facsimile transmission certified mail, postage pre-paid, to the parties at the following addresses:

Contractor: __Casey Carlsen_, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Park City: Project Manager/Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

SECTION 28. SEVERABILITY. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

IN WITNESS WHEREOF, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

City Council Staff Report

Subject: Zaller Subdivision
Author: Jeff Davis
Date: October 8, 2008
Type of Item: Administrative – Plat Amendment

PARK CITY 1884
PLANNING DEPARTMENT

Summary Recommendation
Staff recommends the City Council hold a public hearing and consider approving the Zaller Subdivision plat amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant:	Tom Zaller, owner represented by Jonathan DeGray
Location:	830 Empire Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Plat amendments require Planning Commission review and City Council approval

Background
On August 15, 2008 the City received a completed application for the Zaller Subdivision plat amendment. The subject property is located at 830 Empire Avenue on portions of Lots 14 and 15 and a portion of the Vacated Right of Way (ROW) of Empire Avenue, Block 14 Snyder's Addition of the Park City Survey. The structure located at 830 Empire is considered historic and is listed on the City's Inventory of Historic Buildings.

The applicant wishes to combine portions of Lots 14 and 15 and a portion of the Vacated Right of Way of Empire Avenue into one lot of record to facilitate an addition. The historic home is a non-conforming structure as the home does not meet setbacks and encroaches into neighboring property. The existing historic structure encroaches 0.62 feet into the 8th street ROW to the east; 0.39 feet into the Empire Avenue ROW top the west; and 2.04 feet into Lot 16 to the south. The applicant is proposing to lift the unit 1.6 feet and adding living space under the home to facilitate two bedrooms, bathrooms, and a small storage room. During the process of raising the home the applicant is also proposing to re-design the south façade so that the structure is wholly on their own lot. In the event that the re-design does not take place an encroachment agreement must be signed by the owner of the adjacent Lot 16 before the recordation of the amended plat. No expansion to the building footprint is proposed. A building permit cannot be issued for construction across a lot line.

The Planning Commission heard this application at its work session of October 8, 2008, and forwards a positive recommendation. There was no public input. There are also a Historic District Design Review and Conditional Use Permit applications under consideration by staff for this project.

The proposed amended plat would create one lot. The lot would encompass the existing historic structure located at 830 Empire Avenue. The structure sits on the corner of both Empire Avenue and 8th Street and due to its unique site and lot configuration, staff has determined the structure to have six sides; five front façades and one rear façade.

Analysis

Staff finds good cause for this plat amendment. The amended plat would clean up lot lines and bring the historic structure closer to compliance.

Historic Structure located at 830 Empire Avenue

	Permitted	Existing
Front setback	10’	Multiple fronts with setbacks ranging from 0’ to 18’
Rear setback (lot line to south)	10’	0’
Side setbacks	5’ min, 10’ total	0’
Lot size	1,875 square feet minimum	1,722.6 square feet
Footprint	781.8 square feet maximum	approx. 870 square feet
Parking	2	0

The historic home located at 830 Empire is a legal non-conforming structure as the building does not meet setbacks, crosses lot lines and encroaches onto neighboring properties. It is also below the minimum lot size required in the HR-1 zone and exceeds the maximum footprint. Section 15-2.2-4 of the Land Management Code (LMC) states that Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Section 15-2.2-4 (A) of the LMC grants an exception to building setback for additions to existing historic structures upon meeting certain criteria and approval of a Conditional Use Permit (CUP). For this purpose there is also a CUP application being reviewed concurrently for this project.

Process

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

Department Review
This project has gone through an interdepartmental review. The issue of obtaining an encroachment agreement was brought up at that time. The applicant's representative was made aware of the issue and is in the process of addressing it.

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

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

Alternatives
- The City Council may approve the Zaller Subdivision plat amendment as conditioned or amended; or
- The City Council may deny the Zaller Subdivision plat amendment and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the Zaller Subdivision plat amendment.
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

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

Consequences of not taking the Suggested Recommendation
The lot lines would remain where they currently stand and the addition of living space at 830 Empire could not take place.

Recommendation
Staff recommends the City Council hold a public hearing and consider approving the Zaller Subdivision plat amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits
Exhibit A – Proposed Plat

Draft Ordinance No. 08-

AN ORDINANCE APPROVING THE ZALLER SUBDIVISION PLAT AMENDMENT LOCATED AT 830 EMPIRE AVENUE, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 830 Empire Avenue have petitioned the City Council for approval of the Zaller Subdivision plat amendment; and

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

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

WHEREAS, the Planning Commission held a public hearing on October 8, 2008, to receive input on the Zaller Subdivision plat amendment;

WHEREAS, the Planning Commission, on October 8, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Zaller Subdivision plat amendment.

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

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

Findings of Fact:
1. The property is located at 830 Empire Avenue in the HR-1 zoning district.
2. The structure located at 830 Empire is considered historic and is listed on the City's Inventory of Historic Buildings.
3. The historic home is a legal non-conforming structure as the building does not meet setbacks, crosses lot lines and encroaches onto neighboring properties.
4. The existing historic structure encroaches 0.62 feet into the 8th street ROW to the east; 0.39 feet into the Empire Avenue ROW top the west; and 2.04 feet into Lot 16 to the south.
5. The applicant is proposing to lift the unit 1.6 feet and adding living space under the home to facilitate two bedrooms, bathrooms, and a small storage room. The lot slopes down to the east. With the excavation under the home, only the east façade will show the visual affect of the addition and the 1.6 foot lift of the home. During the process of raising the home the applicant is also proposing to re-design the south façade so that the structure is wholly on their own lot.

6. Section 15-2.2-4 of the LMC states that "Historic structures that do not comply with building setbacks, off-street parking, and driveway location standards are valid complying structures".
7. There are also a Historic District Design Review and Conditional Use Permit applications under consideration by staff for this project.
8. Any construction within the Historic Residential District (HR-1) requires a Historic District Design Review.
9. No expansion to the building footprint is proposed.
10. A building permit cannot be issued for construction across a lot line.

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

Conditions of Approval:
1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. In the event that the re-design of the south façade does not take place and a portion of the structure remains on Lot 16, an encroachment agreement must be signed by the owner of the adjacent Lot 16 before the recordation of the amended plat.

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

PASSED AND ADOPTED this 30th day of October, 2008.

Zaller Subdivision

An Amendment to Lots 14 & 15 and a Portion of the Vacated Right of Way of Empire Avenue Block 14, Snyder's Addition to the Park City Survey

NARRATIVE

1. Survey requested by: Thomas Zaller.
2. Purpose of survey: lot line amendment between adjacent properties.
3. Basis of survey: found Street Monuments as shown. Block dimensions are from the Park City Monument Control Map by Bush & Gudgell, Inc. Recorded as Entry No. 197765 in the office of the Summit County Recorder. Subdivision of Block 14 from the Map of Park City by Coldwell & Richards Engineers, traced from the original map July, 1927.
4. Date of survey: August 6, 2007; see the previous survey of the property recorded as File #S-6720 in the office of the Summit County Recorder.
5. Property monuments found as shown.
6. Located in the Northeast Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
7. The owners of the property should be aware of and disclose any items affecting the property that may appear in a title insurance report.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that I, Thomas F. X. Zoller, the undersigned owner of the hereon described tract of land, known as the Zaller Subdivision, Block 14, Snyder's Addition to the Park City Survey, and having caused this Plat Amendment to be made, do hereby consent to the recordation of this Record of Survey Map in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law.
Also, the owner hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned has set his hand this ____ day of __________, 2008.

By: ______________________
Thomas F. X. Zoller

ACKNOWLEDGEMENT

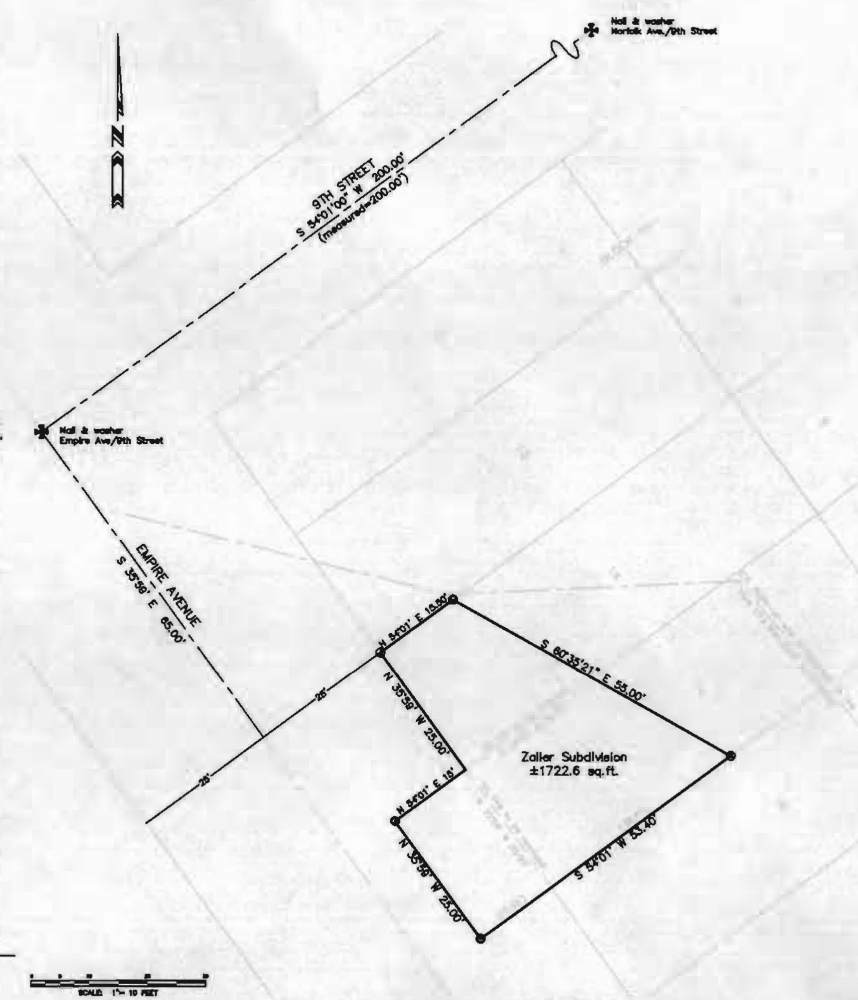
State OF UTAH
County of Summit:

On this ___ day of ______, 2008, Thomas F. X. Zoller personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is the legal owner of the Zaller Subdivision as hereon described, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

NOTARY PUBLIC

My commission expires:__________ ______________________

RESIDING IN ______ COUNTY,____



ZALLER SUBDIVISION

BOUNDARY DESCRIPTION

Beginning at the Northwesterly corner of Lot 14, Block 14, Snyder's Addition to the Park City Survey, according to the official plats thereof, on file and of record in the office of the Summit County Recorder, and running thence N 54°01' E along the Northerly line of said Lot 14, 15.50 feet; thence S 60°35'21" E, 55.00 feet to a point on the Southerly line of Lot 15 of said Block 14; thence S 54°01' W along said Southerly line and the extention thereof, 53.40 feet; thence N 35°59' W 25.00 feet; thence N 54°01' E, 15.00 feet to the Westerly corner of said Lots 14 and 15; thence N 35°59' W along the Westerly line of said Lot 14, 25.00 feet to the point of beginning; containing 1,722.6 square feet, more or less.

ORIGINAL LEGAL DESCRIPTION

Beginning at the Northwest corner Lot 16, Block 14 of Snyder's Addition to Park City, according to the amended plat thereof on file and of record in the Summit County Recorder's office, and running thence North 35°59'00" West, 50 feet; thence North 54°01'00" East, 15.5 feet; thence Southeasterly in a direct line to a point on the Southerly line of Lot 15 which is North 54°01'00" East,38.4 feet from the place of beginning; thence South 54°01'00" West, 38.4 feet to the place of beginning.

Together with 15 feet of vacated Empire Avenue abutting Lot 15 on the Southwesterly line.

Legend

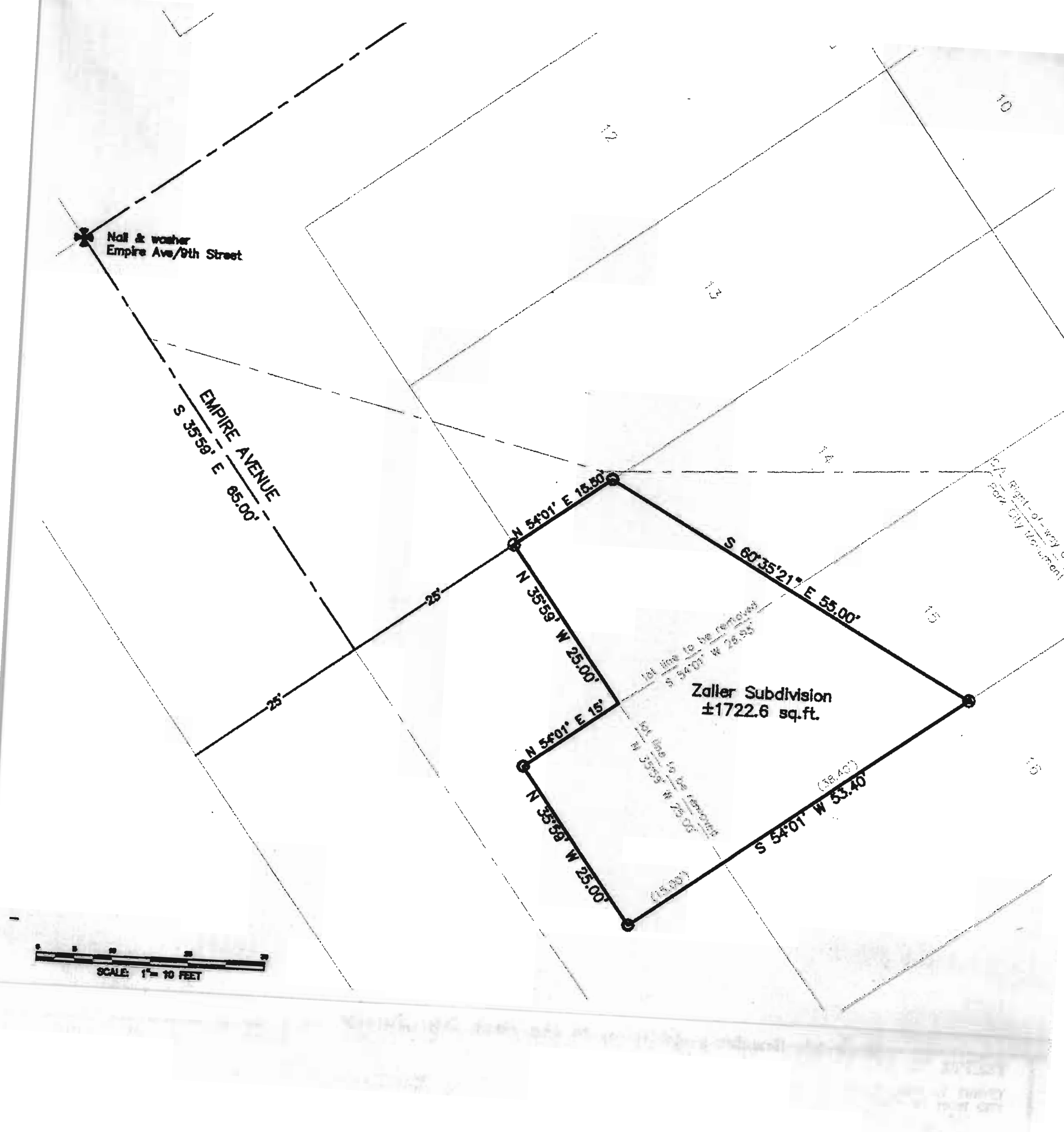
- Found Street Monument
- Found rebar & cap–LS 6164
- Found nail & washer–LS 359005
- Found rebar & cap–LS 359005

SURVEYOR'S CERTIFICATE

I, J.D. Galley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the hereon described property and that this plat is a true representation of said survey.

__________ Date
__________ J.D. Galley RLS#359005

Alpine Survey, Inc. 19 Prospector Drive Park City, Utah 84060 (435) 655-8016	**SNYDERVILLE BASIN WATER RECLAMATION DISTRICT** Reviewed for conformance to Snyderville Basin Water Reclamation District standards on this ___ day of ______ 2008. BY ______ SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	**PLANNING COMMISSION** APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ___ DAY OF ______, 2008 A.D. BY ______ CHAIRMAN	**ENGINEER'S CERTIFICATE** I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ___ DAY OF ______, 2008 A.D. BY ______ PARK CITY ENGINEER	**APPROVAL AS TO FORM** APPROVED AS TO FORM THIS ___ DAY OF ______, 2008 A.D. BY ______ PARK CITY ATTORNEY	**CERTIFICATE OF ATTEST** I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ___ DAY OF ______, 2008 A.D. BY ______ PARK CITY RECORDER	**COUNCIL APPROVAL AND ACCEPTANCE** APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ___ DAY OF ______ 2008 A.D. BY ______ MAYOR	**RECORDED** STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ______ DATE ___ TIME ___ BOOK ___ PAGE ___ FEE ___ RECORDER



Nail & washer
Empire Ave/9th Street
EMPIRE AVENUE
S 35°59' E 65.00'
25'
25'
N 54°01' E 15.50'
S 60°35'21" E 55.00'
N 35°59' W 25.00'
lot line to be removed
S 54°01' W 26.95'
Zaller Subdivision
±1722.6 sq.ft.
N 54°01' E 15'
N 35°59' W 25.00'
S 54°01' W 53.40'
(38.40')
(15.00')
10
12
13
14
15
16
SCALE: 1"= 10 FEET

City Council
Staff Report

Subject: Elliot Grove Condominium Record of Survey
Author: Jacquelyn Mauer
Date: October 30, 2008
Type of Item: Administrative–Condominium **Record of Survey**

PARK CITY 1884 PLANNING DEPARTMENT

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

Topic

Applicant:	Betty S. Elliott and Jeff Smith
Location:	544 Deer Valley Loop Road
Zoning:	Residential-Medium Density (RM) District
Adjacent Land Uses:	Residential

Background
On July 23, 2008, the City received a completed application for an amendment to the condominium plat at 544 Deer Valley Loop Road. The amendment is needed to convert the existing triplex into three separate condominiums.

The structure, built in 1990 by Joyce and Jeff Smith, is currently a triplex. The ownership was eventually transferred to Smith Family Holdings (2/3 interest) and the M.D. Elliott Family Trust (1/3 interest). One portion of the structure has been the primary residence of Mr. and Mrs. Elliott since it was built. The other two units have been rented on an annual basis. Mrs. Elliott is Joyce Smith's mother and owns 1/3 undivided interest in the building. The joint desire of the property owners is to subdivide this property making each unit held as separate interest.

The desired change to the property creates three separate ownerships of the building, common area, and limited common area. The garage provides six parking spaces for the three units. The proposed record of survey identifies each unit with two of the parking spots as limited common area. The remaining garage is common area. The enclosed entryway located off of the garage that provides access to the three units is common area as well. Each of the three individual units is proposed to be privately and separately owned up to the interior walls. The decks off of each unit are proposed limited common ownership. The project is accessed by public roads.

The Planning Commission heard this application at its regular meeting on October 8, 2008, and forwards a positive recommendation. There was no public input.

Analysis

Staff finds good cause for this condominium record of survey. Although the existing building's front and eastside setback is substandard, this conversion will not increase the non-conformity. The ROS will allow for each unit to be sold separately. The lot sits on 0.21 acres or 9147.6 square feet. The building is located in the Residential-Medium Density (RM) district. Unit A is 1,239 square feet, Unit B is 1,497 square feet, and Unit C is 1,401 square feet. The structure partially complies with the requirements of the RM zone as summarized below.

	CODE REQUIREMENT	EXISTING
LOT SIZE	4687 sq. ft. Minimum	9147.6 sq. ft.
FRONT SETBACK	20'	18.2'
REAR SETBACK	15'	23.3'
SIDE SETBACK	10'	East: 9.7' West: 10.3'
PARKING - RESIDENTIAL	6 enclosed spaces	6 enclosed spaces

The proposed condominium conversion complies with the requirements of the Land Management Code for parking. Two parking spaces are required for each residential unit. A total of six spaces are provided in the garage of the building.

Process

The approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed. No Building Permits are proposed.

Department Review

This project was introduced at a Development Review meeting on August 12, 2008. Representatives from the City's Building, Engineering and Planning Departments, and the City Attorney Office were in attendance. Issues that were raised during this meeting were whether or not there was required parking, adequate fire walls between each unit, separate access to each unit, and individual utility meters. Building inspectors visited the property and found all concerns to be in compliance with that required of three separate condo units.

Notice

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

Public Input

At the time of writing this report, no public input has been received.

Alternatives

- The City Council may approve the Elliot Grove condominium record of survey as conditioned or amended; or

- The City Council may deny the Elliot Grove condominium record of survey and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the Elliot Grove condominium record of survey.
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

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

Consequences of not taking the Suggested Recommendation
The structure would remain defined as a triplex entailing the complete structure and property to continue to be under single ownership.

Recommendation
Staff recommends the City Council hold a public hearing and considers approving the Elliot Grove condominium record of survey based on the findings of fact, conclusions of law and conditions of approval as found in the following draft ordinance.

Exhibits
Exhibit A – Draft Ordinance with Site Plan & Record of Condominium

Exhibit A
Ordinance No. 08-

AN ORDINANCE APPROVING THE ELLIOT GROVE CONDOMINIUM RECORD OF SURVEY PLAT LOCATED AT 544 DEER VALLEY LOOP ROAD, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 544 Deer Valley Loop Road have petitioned the City Council for approval of the Elliot Grove condominium record of survey plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on October 8, 2008, to receive input on the Elliot Grove condominium record of survey plat;

WHEREAS, the Planning Commission, on October 8, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the First Amended Elliot Grove condominium record of survey plat.

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

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

Findings of Fact:
1. The property is located at 544 Deer Valley Loop Road, Park City, Utah.
2. 544 Deer Valley Loop Road is located in the Residential-Medium Density (RM) district.
3. The lot is 9147.6 square feet or .21 acres in size.
4. The 3 condominium units vary in size. Unit A is 1,239 square feet, Unit B is 1,497 square feet, and Unit C is 1,401 square feet. All units are designated as residential units.
5. Two parking spaces are required for each residential unit. A total of six spaces are provided in the garage of the building.
6. The existing building located at 544 Deer Valley Loop Road partially complies with the requirements of the Residential-Medium Density (RM) district within the Land Management Code. The condo conversion will not increase the non-conformity of the property.

7. The findings within the Analysis section are incorporated within.

Conclusions of Law:

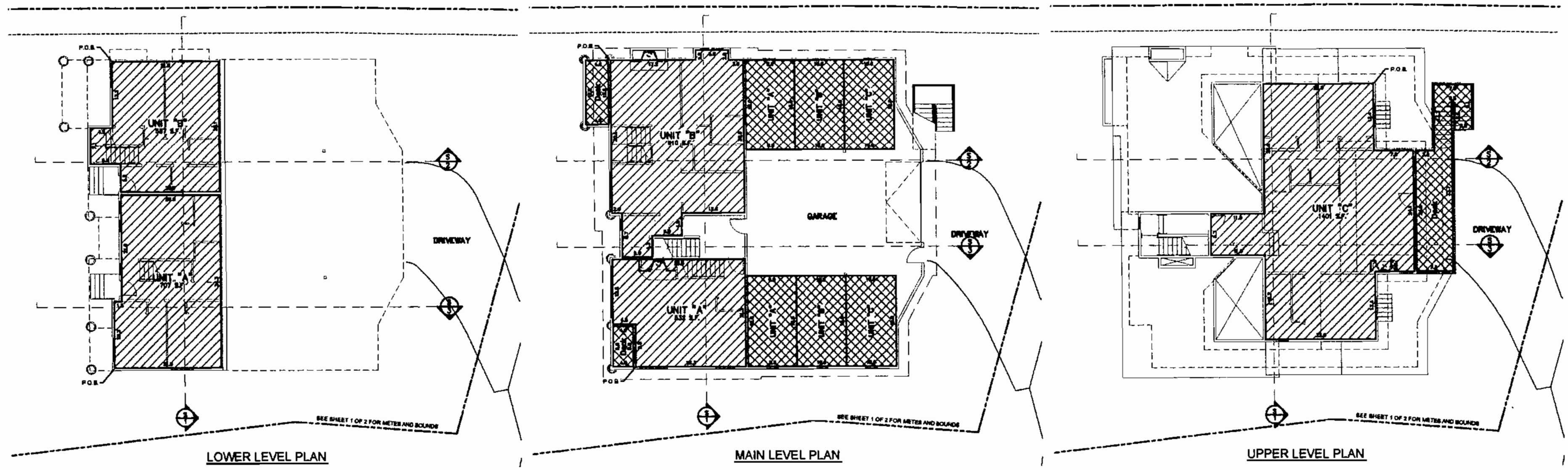
1. There is good cause for this condominium record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey and CCRs for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.

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

PASSED AND ADOPTED this 30th day of October, 2008.

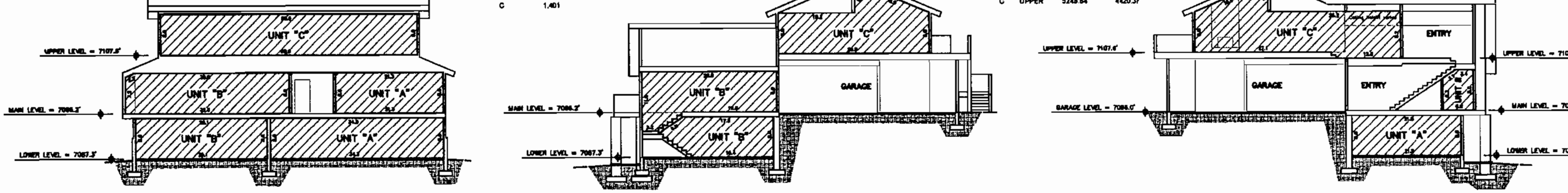


SQUARE FOOTAGE TABLE

UNIT	SQUARE FEET
A	1,238
B	1,497
C	1,401

UNIT POINT OF BEGINNING TABLE

UNIT	LEVEL	NORTHING	EASTING
A	LOWER	5195.85	4468.98
A	MAIN	5195.86	4486.96
B	LOWER	5256.78	4464.85
B	MAIN	5257.10	4469.14
C	UPPER	5248.54	4420.37



SECTION S1

SECTION S2

SECTION S3

NOTES:

1. The dimensions of the private spaces and square footage calculations are based on drawings supplied by G. Francis and Associates and field verified. The square footages shown on this plat are calculated in accordance with the Utah Condominium Act and the Declaration of Condominium for the Elliott Grove Condominiums. Such calculations typically differs somewhat from the square footage determined by the architect or others using different methods of determining unit size. It is the intent that the private ownership area of the units will be as constructed.

2. All foundation walls measure 0.67 feet and all exterior walls measure 0.50 feet, unless otherwise indicated.

3. Interior dimensions shown are to finished surfaces.

4. All building ties are at right angles or radial to the boundary unless otherwise noted.

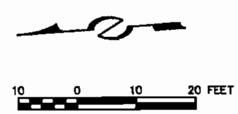
5. All common structure elements are designed as Common Ownership, as described in the Declaration of Condominium.

6. Refer to declaration of condominium for complete description of ownership.

7. Benchmark: See sheet 1 of 2, East Quarter Corner Section 15, for location and elevation. All floor elevations are above sea level.

8. The Units of Elliott Grove Condominiums are served by common private lateral wastewater lines. The Elliott Grove Condominiums Owners Association shall be responsible for ownership, operation and maintenance of all common private lateral wastewater lines.

9. This property was surveyed by Park City Surveying and recorded said survey as Record Of Survey & As-Built Map, 544 Deer Valley Loop Road, Park City, Utah and is file in the office of the Summit County Recorder, Summit County, Utah.



COMMON OWNERSHIP

PRIVATE OWNERSHIP

LIMITED COMMON OWNERSHIP

LEGEND

FOUND OR SET REBAR W/ CAP (AS DESCRIBED).

S.F. REPRESENTS SQUARE FEET.

P.O.B. REPRESENT POINT OF BEGINNING FOR EACH UNIT. SEE SHEET 1 OF 2 FOR BOUNDARY REFERENCE POINT.

THE STREET ADDRESS FOR THIS BUILDING 15-544 DEER VALLEY LOOP

RECEIVED
JUL 23 2008
PARK CITY
PLANNING DEPT.

RECORD OF CONDOMINIUM

ELLIOTT GROVE CONDOMINIUMS

A UTAH CONDOMINIUM PROJECT

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, SUMMIT COUNTY, UTAH

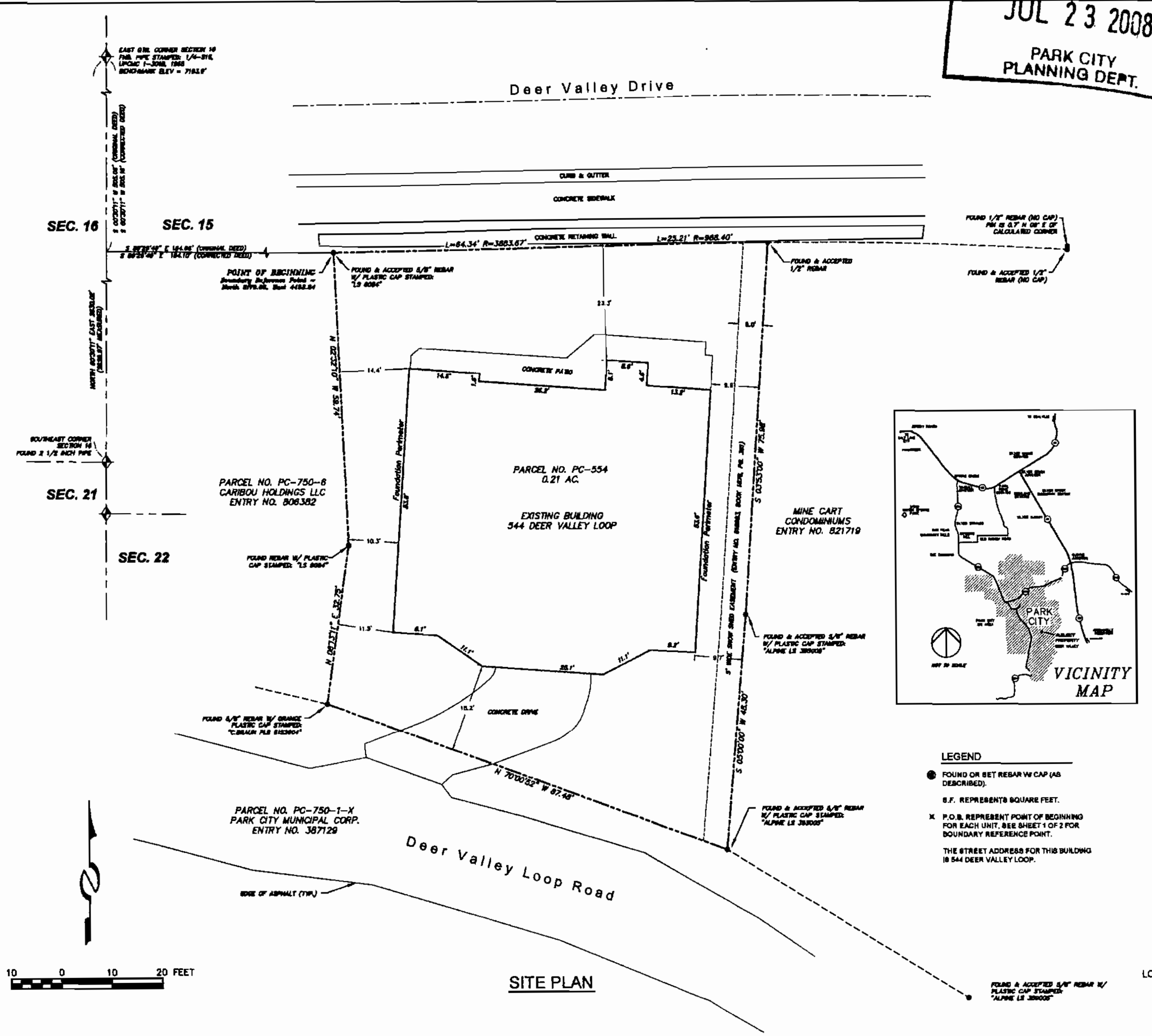
Recorded concurrently herewith is the Declaration of Condominium for Elliott Grove Condominiums.

SHEET 2 OF 2

JOB NO. 80508 FILE: 544DVLoop-S2

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

FEE RECORDER



SITE PLAN

SURVEYOR'S CERTIFICATE

I, Christopher R. Braun, do hereby certify that I am a Registered Land Surveyor and that I hold Certificate No. 5152604 as prescribed by the laws of the State of Utah, and that I have caused to be made under my direction and by the authority of the owner, this Record of Condominium of ELLIOTT GROVE CONDOMINIUMS, a Utah Condominium Project in accordance with the provisions of Section 57-8-13(1) of the Utah Condominium Ownership Act. I further certify the building and property are shown correctly.

Christopher R. Braun L.S. 5152604 ______ Date ______

BOUNDARY DESCRIPTION

Beginning at a point South 0°30'11" West 505.15 feet along a section line and the East boundary line of Park City, Utah townsite, as platted and also South 89°29'49" East 184.10 feet from the East quarter corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; said corner being identified as an iron pipe set in the ground and stamped ¼-S16, UPCMC, 1-3016, 1965, said point being on the southerly right-of-way line of the Deer Valley Drive as recorded, said point also being on the arc of a 3,883.67 foot radius curve to the left, center bears North 00°50'05" West; thence along the arc of said curve through a central angle of 0°56'57", a distance of 64.34 feet to a point on a 988.40 foot radius curve to the right; thence along the arc of said curve through a central angle of 1°27'41", a distance of 25.21 feet; thence South 03°53'00" West a distance of 75.98 feet; thence South 05°00'00" West a distance of 46.30 feet to a point on the northerly right-of-way of Deer Valley Loop; thence along said northerly right-of-way North 70°00'52" West a distance of 87.48 feet; thence leaving said northerly right-of-way North 08°13'11" East a distance of 32.75 feet; thence North 02°32'10" West a distance of 59.74 feet to said point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, Mountain Top Release, Inc., a Utah corporation, is the fee simple owner of the herein described tract of land and consents to the recordation of this Record of Condominium in accordance with Utah Code Annotated §57-8-13, subdividing the land into condominium ownership, and creating units, common areas, limited common areas, and easements, all as set forth herein, to be known as ELLIOTT GROVE CONDOMINIUMS. Also the owner hereby irrevocably offers for dedication to Summit County, Snyderville Basin Water Reclamation District, Park City Fire Protection District, Questar Gas Company, Utah Power, U.S. West, TCI Cablevision, Summit Water Distribution Company and Sundial Lodge Condominium Owners Association, Inc. a non-exclusive easement over the utility easements and Common Areas, shown on this Record of Survey Map for the purpose of providing access for utility installation, maintenance, use and eventual replacement.

Mountain Top Release, Inc., a Utah corporation

By: ______
E. Jeffery Smith, Jr., President

ACKNOWLEDGMENT

State of Utah)
) ss.
County of ______)

On the ____ day of ______, 2008, the foregoing instrument was acknowledged before me by E. Jeffery Smith, Jr., as President of Mountain Top Release, Inc.

______
Notary Public
My commission expires: ______

NOTES:

1. The dimensions of the private spaces and square footage calculations are based on drawings supplied by G. Francis and Associates and field verified. The square footages shown on this plat are calculated in accordance with the Utah Condominium Act and the Declaration of Condominium for the Elliott Grove Condominiums. Such calculations typically differs somewhat from the square footage determined by the architect or others using different methods of determining unit size. It is the intent that the private ownership area of the units will be as constructed.

2. All foundation walls measure 0.67 feet and all exterior walls measure 0.50 feet, unless otherwise indicated.

3. Interior dimensions shown are to finished surfaces.

4. All building ties are at right angles or radial to the boundary unless otherwise noted.

5. All common structure elements are designed as Common Ownership, as described in the Declaration of Condominium.

6. Refer to declaration of condominium for complete description of ownership

7. Benchmark: See sheet 1 of 2, East Quarter Corner Section 15, for location and elevation. All floor elevations are above sea level

8. The Units of Elliott Grove Condominiums are served by common private lateral wastewater lines. The Elliott Grove Condominiums Owners Association shall be responsible for ownership, operation and maintenance of all common private lateral wastewater lines.

9. This property was surveyed by Park City Surveying and recorded said survey as Record Of Survey & As-Built Map, 544 Deer Valley Loop Road, Park City, Utah and is file in the office of the Summit County Recorder, Summit County, Utah.

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Recorded concurrently herewith is the Declaration of Condominium for Elliott Grove Condominiums.

JOB NO. 80508 FILE: 544 DVLoop-S1

SHEET 1 OF 2

PARK CITY SURVEYING	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEERS CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
2041 Sidewinder Drive, Suite 1 P.O. Box 682993 Park City, Utah 84068 435.649.2918 fax 435.649.4637	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ____ DAY OF ______, 2008 A.D. BY: ______ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF ______, 2008 A.D. BY: ______ CHAIRMAN	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF ______, 2008 A.D. BY: ______ PARK CITY ENGINEER	APPROVED AS TO FORM THIS ____ DAY OF ______, 2008 A.D. BY: ______ PARK CITY ATTORNEY	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF ______, 2008 A.D. BY: ______ PARK CITY RECORDER	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF ______, 2008 A.D. BY: ______ MAYOR	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF ______ DATE: ____ TIME: ____ BOOK: ____ PAGE: ____ FEE ____ RECORDER ____

City Council
Staff Report

Author:	**Jonathan Weidenhamer**
Subject:	**Amended Lease of Unit 200 of the Marsac-Swede Condominium (aka Shell Space)**
Date:	**October 30, 2008**
Type of Item:	**Lease and Purchase of Property**

Summary Recommendations:
Approve a second addendum to the KPCW lease extending the date KPCW's monthly rental payments go towards purchase price until May 31, 2009; and increase the monthly rental cost by $1,237. The $1,237 will not apply toward the purchase price.

Background:
On November 1, 2007 the City Council authorized an agreement for KPCW to purchase Unit 200 of the Marsac-Swede Condominiums (aka Shell Space). On June 19, 2008, Council agreed to an updated Purchase Agreement and further allowed KPCW to enter into a short-term agreement (1st Amended Lease) to rent the newly finished Unit 200 until closing on the property. That short term lease allowed KPCW's monthly rental payments to go towards the purchase price through the end of November 2008:

> 3. Rent. The sum of the annual base rentals payable by Tenant to Landlord for the 2,000 square feet of retail space shall be $4,100 per month. The rent for June 2008 and July 2008 are waived. The rent paid from August 1, 2008 through November 30, 2008 shall be applied toward the purchase price of the Unit due at closing. Rent paid from December 1, 2008 though June 30, 2009 will not be applied toward the purchase price of the Unit. Rent shall be paid no later than the first of the month for that month.

On October 14, 2008 KPCW requested the November 30th date for rent to apply to purchase price be extended through May 31, 2009. Based on their current financial circumstances, they believe they can close on the property by April 30, 2009. The condominium plat is scheduled for recordation on October 28, 2008. Per the Purchase Agreement KPCW intends to enter into the REPC within 30 days of plat recordation.

Summary of Dates/ Anticipated Timeline:

Purchase Agreement	June 20, 2008
1st Lease Addendum	June 20, 2008
KPCW move in	June 23, 2008
Operational	July 7, 2008
Condo Plat Recordation	October 28, 2008
Enter into REPC	November 29, 2008
Start Due Diligence Period	November 29, 2008
End DD Period	December 4, 2008
Closing date	April 30, 2009
Short term lease termination	June 30, 2009

Analysis
The City will forgo $20,500 in rent if we continue to allow the rent to go towards purchase price for 5 additional months (@$4,100/month). To that end staff recommends additionally including a monthly “carrying” rental cost. That rental cost will be based on PCMC’s Average Portfolio Yield which is currently at 2.9%. Staff recommends that percentage be fixed for the remainder of the period, which results in a monthly cost of $1,237. That additional monthly cost will not be applied toward the purchase price. See below:

$ Owed (Architect Fees, Cost of Construction, Tenant Improvements)	$924,676
Change Orders	$88,290
sub total - owed	**$1,012,966**
payment 6/5/08	$488,928
Rent (towards purchase) Aug-Oct	$12,300
subtotal - paid	**$501,228**
Remainder Owed	**$511,738**

$511,738*.029 = $14,840

$14,840/12 months = $1,237 monthly carrying cost

Alternatives

A. Approve the Lease and Purchase Agreement:
Approve the second amended lease. **This is staff’s recommendation**.

B. Modify the Request:
Modify the terms and approve the Lease.

C. Deny the Request:
Deny the lease.

D. Continue the Item:
The City Council may continue the item for more information and discussion.

Significant Impacts:
Should Council decline to amend the lease, KPCW’s monthly payments will be strictly rental income starting on December 1, 2008. Extension of the agreement for 5 months (through April) will result in $20,500 in forgone rental revenue, but result in an additional $6,185 of rent; for $14,315 of forgone rental revenue.

<u>Recommendation</u>:
Approve a second addendum to the KPCW lease extending the date KPCW’s monthly rental payments go towards purchase price until May 31, 2009; and increase the monthly rental cost by $1,237. The $1,237 will not apply toward the purchase price.

<u>Exhibits</u>
Exhibit A – 2nd Addendum

SECOND ADDENDUM TO PARK CITY MUNICIPAL CORPORATION AND PARK CITY COMMUNITY WIRELESS SUBLEASE AGREEMENT

WITNESSETH:

WHEREAS, the parties entered into a Lease Agreement on August 5, 2003 (hereinafter "Original Agreement") for certain property located within Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah; and

WHEREAS, the parties agreed to terminate the Original Agreement in order to allow a seismic upgrade to the Marsac Building; and

WHEREAS, the parties entered into a first amended lease and Agreement to Purchase on June 19, 2008, agreeing that the Landlord would sell Unit 200 of the Marsac-Swede Condominium to the tenant by June 30, 2009 and identifying the terms until closing on said property; and

WHEREAS, it is the parties intent that a Real Estate Purchase Contract for the purchase of Unit 200 of the Marsac Swede Condominiums will be signed within 30 days of plat recordation and best efforts by both parties will be made to close on the sale no later than April 30, 2009. This second addendum is meant to provide tenant space to Park City Community Wireless until the closing on the Unit takes place or June 30, 2009 whichever is first.

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

THIS SECOND ADDENDUM is made and entered into in duplicate this ____ day of _____, 2008, by and between PARK CITY REDEVELOPMENT AUTHORITY, a Utah municipal corporation and political subdivision of the State of Utah ("Landlord"), and PARK CITY COMMUNITY WIRELESS, ("Tenant") to amend the terms and conditions under which Tenant will pay rent and Close on the sale of the Marsac-Swede Condominium (hereinafter referred to as the "Shell Space") subject to the Original Agreement, as amended and the First Addendum. The parties agree to amend the First Addendum as follows:

3. Rent. The annual base rental payable by Tenant to Landlord for the 2,000 square feet of retail space shall be $4,100 per month. The rent for June 2008 and July 2008 are waived. The rent paid from August 1, 2008 through ~~**November 30, 2008**~~ **May 31, 2009** shall be applied toward the purchase price of the Unit due at closing. Rent paid from ~~**December 1, 2008**~~ **June 1, 2009** though June 30, 2009 will not be applied toward the purchase price of the Unit. **The Tenant agrees to submit the rental payments from November 1, 2008 – April 30, 2009 in one lump sum of $24,600 upon execution of this Second Addendum; and from May 1, 2009 – June 30, 2009 on the first of the**

month for each month. The Tenant further agrees to pay the Landlord an additional $1,237 in monthly carrying cost until such time as close on the purchase of the leased property or Tenant vacates the property. This payment is to begin on December 1, 2008 and will not be applied toward the purchase price. This payment shall be paid no later than the first of the month for that month.

Effective Date. The terms of this Second Addendum shall be effective upon execution of this Second Addendum.

DATED this ___ day of October, 2008.

IN WITNESS WHEREOF the parties hereto have caused this First Addendum to be executed the day and year first herein above written.