

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION
CITY HALL, COUNCIL CHAMBERS
JANUARY 9, 2013**



AGENDA

MEETING CALLED TO ORDER - 5:30 PM		<i>pg</i>
WORK SESSION – <i>Discussion items. No action will be taken.</i>		
Land Management Code – Discussion of height/story in Chapter 2 and Chapter 15		5
496 McHenry Avenue, McHenry Subdivision Re-Plat – Plat Amendment	PL-12-01717	7
ROLL CALL		
ADOPTION OF MINUTES OF OCTOBER 10, 2012		35
ADOPTION OF MINUTES OF DECEMBER 12, 2012		61
PUBLIC COMMUNICATIONS – <i>Items not scheduled on the regular agenda</i>		
STAFF AND BOARD COMMUNICATIONS/DISCLOSURES		
REGULAR AGENDA – <i>Discussion, public hearing, and possible action as outlined below</i>		
1580 Sullivan Road – Conditional Use Permit	PL-12-01644	105
<i>Public hearing and possible action</i>		
99 Sampson Avenue – Conditional Use Permit for nightly rental	PL-12-01720	127
<i>Public hearing and possible action</i>		
427 Main Street – Conditional Use Permit	PL-12-01672	159
<i>Public hearing and possible action</i>		
Richards Parcel – Annexation	PL-12-01482	205
<i>Public hearing, discussion, and continuation to January 9, 2013</i>		
ADJOURN		

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

WORK SESSION

Planning Commission Staff Report



Subject: Building Height in the Historic Residential Districts
Author: Francisco Astorga, Planner
Date: January 9, 2013
Type of Item: Work Session Discussion

Summary Recommendations

Staff recommends the Planning Commission discuss specific scenarios regarding Building Height in the Historic Residential Districts (HR-L, HR-1, & HR-2) through a hands-on exercise prepared by the Planning Department.

Discussion

Currently the three (3) Historic Residential Districts contain the following Building Height parameters:

- No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.
- Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.
- A structure may have a maximum of three (3) stories. A basement counts as a first story.
- A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.
- Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.
- Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

During the September 26, 2012 Planning Commission regular meeting Staff was directed to prepare scenarios to better understand the issues related to the current height parameters of the LMC. This work session has been re-scheduled several times in the past Planning Commission meetings due to lengthy meetings, etc.

Planning Commission Staff Report



Application #: PL-12-01717
Subject: McHenry Subdivision Re-plat
Author: Francisco Astorga, Planner
Date: January 9, 2012
Type of Item: Administrative – Plat Amendment Work Session Discussion

Summary Recommendations

Staff recommends the Planning Commission review the application for a plat amendment located at 496 McHenry Avenue, McHenry Subdivision Re-plat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed plat amendment.

Description

Applicant: Sean Kelleher, Managing member, for JGC Beach Properties LLC represented by Preston Campbell
Location: Lots 21-32, Block 58, Park City Survey
496 McHenry Avenue (Echo Spur)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council action

Proposal

The property owner requests to combine lots 21-25, 29-32, a portion of lot 26-28, of block 58 and portion of lot 17 & 19 of Block 59. The request is for a plat amendment to combine these lots and vacation of the Right-of-Way of the eastern half of 4th Street between Ontario and platted McHenry (Echo Spur) so that the entire property is contiguous. The entire combined property will then re-platted as a condominium plat with seven (7) separate units which are to be designed to reflect single family dwellings. See detailed statement submitted by the owner in Exhibits A & H.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,

- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On December 11, 2012 the City received a completed application for the McHenry Subdivision [Plat Amendment]. The purpose of this plat amendment is to combine all of the contiguous property under common ownership in this location, (see Exhibit G) and re-subdivide it as individual condominium units through a Condominium Record of Survey, at a later date. The applicant requests that a portion of 4th Street Right-of-Way to be vacated and incorporated into this plat amendment.

The applicant has submitted various exhibits that describe the existing property conditions, property lines, topographic survey, and aerial photography. See exhibits E - H.

The Planning Commission held a site visit and work session discussion on a request in this same neighborhood on December 12, 2012. The draft minutes have been attached in the packet with this staff report as the Commission will review the minutes and possibly adopt them during this meeting. The December 2012 discussion mainly focusses on ridgeline development/vantage point analysis. However, many other items relative to this area were also discussed.

Analysis

The applicant submitted a preliminary concept plan showing seven (7) structures to be built on the subject property. The preliminary concept plan also shows a shared vehicular access to the site off built Rossi Hill Drive. This access provides underground parking for the seven (7) proposed structures.

Use

The Land Management Code (LMC) indicates that a single family dwelling is an allowed use in the HR-1 District. Furthermore, the LMC contains the following definitions:

1.87 DWELLING.

- A. *Dwelling, Duplex. A Building containing two (2) Dwelling Units.*
- B. *Dwelling, Triplex. A Building containing three (3) Dwelling Units.*
- C. *Dwelling, Multi-Unit. A Building containing four (4) or more Dwelling Units.*
- D. *Dwelling, Single Family. A Building containing not more than one (1) Dwelling Unit.*

1.88 DWELLING UNIT. *A Building or portion thereof designed for Use as the residence or sleeping place of one (1) or more Persons or families and includes a Kitchen, but does not include a Hotel, Motel, Lodge, Nursing Home, or Lockout Unit.*

1.33 BUILDING. *Any Structure, or any part thereof, built or used for the support,*

shelter, or enclosure of any Use or occupancy by Persons, animals, or chattel.

(A) *Building, Attached.* A Building connected on one (1) or more sides to an adjacent Building by a common Party Wall with a separate exterior entrance for each Building.

(B) *Building, Detached.* Any Building separated from another Building on the same Lot or Parcel.

(C) *Building, Main.* The principal Building, or one of the principal Buildings on a Lot, that is used primarily for the principal Use.

[...]

Discussion: How would the Planning Commission define their requested concept? The seven (7) privately owned single family dwelling units would share the common ownership underground parking garage through the subsequent Condominium Conversion. A condominium is not a use, but rather a type of ownership. The HR-1 District indicates that a single family dwelling is an allowed use; a duplex is a conditional use; and triplex/multi-unit dwelling is not allowed.

Footprint as Related to the Underground Parking Garage

The LMC indicates that the maximum building footprint of any structure located on a lot or combination of lots shall be calculated according to the footprint formula:

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = 1,519$ sq. ft.

The LMC further clarifies that the maximum building footprint for any structure located on a lot or combination of lots exceeding 18,750 square feet (equivalent to 10 standard Old Town lots) in lot area shall be 4,500 square feet. A Condition Use Permit is required for all structures with a proposed footprint of greater than 3,500 square feet.

Building footprint is defined as *the total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.*

The LMC indicates the following under Parking in the Historic District found in the Off-Street Parking Chapter:

LMC 15-3-8. PARKING IN THE HISTORIC DISTRICT.

- A. *To encourage the location of parking in the Rear Yard and/or below Grade, the City allows common driveways along shared Side Yards to provide Access to*

parking if the Owner restricts the deeds to both Properties to preserve the shared drive in perpetuity.

B. Common Parking Structures are allowed as a Conditional Use where it facilitates:

- 1. The Development of individual Buildings that more closely conform to the scale of Historic Structures in the district; and*
- 2. The reduction, mitigation or elimination of garage doors at the Street edge.*

C. Parking Structure may occupy below Grade Yards between participating Developments if the Structure maintains all Setbacks above Grade and the Area above Grade is properly landscaped, subject to Conditional Use permit or Master Planned Development (MPD).

D. Driveways between Structures are allowed in order to eliminate garage doors facing the street, to remove cars from on-Street parking, and to reduce paved Areas, provided the driveway leads to an approved garage or Parking Area.

E. Turning radii are subject to a review by the City Engineer as to function and design.

The HR-1 District indicates that a Residential Parking Area or Structure with five (5) or more spaces for residential, non-commercial, uses is a conditional use to be reviewed and approved by the Planning Commission subject to LMC 15-1-10.

Discussion: How would the Planning Commission interpret the requested use of the future Condominium Conversion in terms of building footprint within the HR-1 District, specifically related to the allowance for below grade parking area? How would the Planning Commission interpret how to count the footprint of the underground garage, if applicable?

Previous plat amendment request within the neighborhood

Staff has forwarded the draft Planning Commission minutes from December 12, 2012 to make the applicant aware of the items of concerns dealing with the ridgeline development/vantage point analysis, road acceptance by the city, and various applicable concerns. At this time the applicant has not submitted additional information related to building footprint and square footages related to each structure.

Right-of-Way Vacation

The applicant also requests that the City vacate/abandon a portion of the 4th Street Right-of-way. Resolution No. 8-98 adopted a policy statement regarding the vacation of public right-of-way. The City may generally find "good cause" when a proposal evaluated demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against specific criteria

to determine whether a "net tangible benefit" has been demonstrated by the petitioner. See Exhibit I.

Recommendation

Staff recommends the Planning Commission review the application for a plat amendment located at 496 McHenry Avenue, McHenry Subdivision Re-plat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed plat amendment.

Exhibits

- Exhibit A – Applicant’s Statement & Presentation
- Exhibit B – Vicinity Map
- Exhibit C – County Tax Map (Block 58, Park City Survey)
- Exhibit D – County Tax Map (Block 59, Park City Survey)
- Exhibit E – Topography with Aerial Photograph
- Exhibit F – Topographic Survey
- Exhibit G – McHenry Subdivision (Proposed Plat Amendment)
- Exhibit H – Conceptual Site Plan
- Exhibit I – Resolution No. 8-98

Exhibit A – Applicant's Statement

Statement

The intent of this request is a replat of the described property as well as a vacation of the eastern half of the 4th Street right-of-way (the "ROW") between Ontario Avenue and the new Echo Spur so that the entire property associated with this application will be contiguous. The entire combined property will then be placed into a homeowner's association ("HOA") for the purpose of creating a condominium plat with seven separate units. While the condominium units will have common walls below final grade, above grade they will have separate walls, providing the appearance of single family residences. More details on each of these topics are discussed below.

Vacation of ROW

JGC requesting the vacation of the eastern half of the 4th Street ROW. In exchange, the HOA is proposing that the following compensation be offered to Park City and the citizens of Park City:

1. JGC and the proposed HOA will extend Shorty's Stairs along the western half of the ROW between Ontario Avenue and Echo Spur, providing a continuous pedestrian path from Rossi Hill Drive to Old Town
2. JGC and the proposed HOA will provide three car parking spots to be designated for the owners of several Ontario Avenue homes. These parking spots will be located on the southern side of Rossi Drive just west of the Echo Spur intersection. The HOA will landscape this parking area to minimize the visual impact to neighbors.
3. In addition, the JGC and the proposed HOA will provide walkway access from these parking spots to the Shorty's Stairs extension and the rear entry of each of the Ontario residences on each homeowner's property.
4. JGC and the proposed HOA are negotiating a proposal (see Exhibit A) for the Kimball Arts Center ("KAC") that would provide living quarters and an off-street parking spot for an artist-in-residence program which KAC seeks to commence in 2014. The proposal provides KAC with a below-market, long term lease which terminates in fifteen years; at that time, the HOA will deed to KAC the living quarters with no further payments due (besides KAC's share of HOA dues and property taxes).
5. JGC has agreed to donate to the Park City Foundation a payment of 1.5% of the lot sales proceeds upon the sale of each replatted lot to homebuyers.
6. The HOA will deed to Park City the stub lot on Block 59, lot 19, which lies east of Rossi Hill Drive.

Condominium Strategy

The HOA believes that most, if not all, of the proposed residences will be built with first floors that will be substantially below final grade. These lower floors will house garages, mechanicals, storage, laundry, and other similar home needs. Because the lower floor will be below final grade, this allows the homes to have large, underground parking, thereby keeping the homeowners autos off Echo Spur. The HOA has determined that the most efficient way to achieve this is to provide each residence with underground parking, which will be accessed from a proposed driveway off of Rossi Hill Drive. This driveway will be heated from the point at which it meets Rossi Hill Drive until it reaches a garage door which will be lower section of the unit housing the KAC artist-in-residence living quarters. It is anticipated that the driveway will not exceed a slope of 16 degrees, and will continue to submerge under the existing grade of the lots and ROW until it reaches a depth of at least twelve feet below current grade. This underground alleyway will:

- Allow for 100% of the parking for the non-KAC residences to be off-street;

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.



- Connect each residence as the underground alleyway will run the length of the property. Since the alleyway provides a natural connection between each residence and a condominium plat allows for below final grade first floors to excavate to the property's lot lines, the HOA will utilize the ability to create larger below final grade first floors by excavating nearly to the replatted lot lines. Lot line excavation is also beneficial for our energy strategy as described below.

Home Energy Strategy

The HOA believes that building highly energy efficient homes is the appropriate strategy given current energy prices, mortgage rates, and costs for solar photovoltaic and thermal equipment. Our goal is to develop homes which "Raise the bar" in advanced strategies to reduce the carbon footprint and external energy needs of residential structures. While the homes will use standard strategies such as Energy Star appliances, we also anticipate using the following energy saving strategies:

- "Passive House" building strategies
 - Superinsulation: superinsulation strategies are emerging as the most economically efficient strategy for reducing carbon-based energy usage. Superinsulation reduces energy gain/loss because of the house's air tightness and eliminates thermal bridging. Superinsulation results in extremely thick walls, making it difficult to build efficiently on standard Old Town lots (i.e., the internal square footage of a home built on a 25 x 75 lot is compromised due to the thicker walls.
 - Advanced ventilation strategies:
 - Passive heating: proper building siting, overhang shading, glazing are just three examples of the use of passive strategies to manage and store heat.
- External Systems strategies: we anticipate using solar photovoltaic and thermal and geothermal systems to source electricity and hot water, which will also reduce external, carbon-based energy needs.
- The use of a condominium strategy may allow the separate residences to share solar PV. While Rocky Mountain Power policy does not allow the sharing of electricity between single family homes, condominium units can distribute energy across units. Since we anticipate that 50% of the homes will be second homes, the sharing of solar PV generation lowers the initial capital cost of solar PV installation.
- Finally, changes in Utah law in 2010 allow for the storage of rainwater, and the HOA anticipates building each home with rainwater storage capabilities.

Our Passive and External Systems strategies will reduce the need for external energy sources by 70-90% and will do so in a manner that is economically efficient. We believe that one outcome of this project will be to raise awareness that building with highly energy efficient strategies not only is good for the environment but is also good for the homeowner's finances.

Architecture & Building Strategy

With the downturn in the economy and excess of residential homes on the market, the developers are pursuing an architectural strategy that has a more contemporary element but still remains true to the Park City/Old Town vernacular. The use of concrete and metal exteriors will be emphasized; flatter roof lines, which are more typical of contemporary homes, will also be emphasized. Importantly, flatter roof lines will also be critical to our energy strategy; because of the downward slope of the property to the north, steep roof lines would tend to block solar access. The use of flatter roof lines allow for greater flexibility in siting solar PV panels, a critical element to our energy plans. In addition, flatter roof lines will allow for greater snow storage and will link into our rainwater retention plans.

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.



Planning Commission Meeting
Echo Spur Project



History of Property Ownership/Development

- Kelleher had no development rights until 2011 and therefore had no influence on plat and development applications submitted to Park City in 2007, 2010, 2011
- Portions of the property have been offered to PCMC twice in past 4-5 years for Open Space purchase; PCMC declined



		2006	2007	2008	2009	2010	2011	2012	
Land Ownership	Block 58, lots 17-19	<i>Bilbrey</i>						<i>Tlou</i>	
	Block 58, lot 20	<i>Bilbrey/Kelleher (Tenants-in-Common)</i>						<i>Bilbrey</i>	<i>Green</i>
	Block 58, lots 21-31	<i>Bilbrey/Kelleher (Tenants-in-Common)</i>						<i>Kelleher</i>	
	Block 58, lot 32	<i>Bilbrey</i>						<i>Kelleher</i>	
	Block 59, lots 17-19	<i>Bilbrey</i>							<i>Kelleher</i>
Development Rights	Block 58, lots 17-19	<i>Bilbrey</i> plat app Open Space Offer						plat app	<i>Tlou</i>
	Block 58, lot 20							plat app	<i>Green</i>
	Block 58, lots 21-31								
	Block 58, lot 32							<i>Kelleher</i>	Open Space Offer
	Block 59, lots 17-19								<i>Kelleher</i>
Infrastructure Completion		<i>Bilbrey</i>						{ <i>Kelleher stepped in to complete</i> }	

Introduction of Team



- Local service providers with a proven track record *as a team*
- An established history of developing energy efficient housing solutions



Heliocentric is a Utah-based, energy and environmental engineering firm that provides technical assistance, consulting services, and systems solutions to owners, architects, builders and engineers. We specialize in the engineering and design of high performance buildings and communities, passive buildings, net-zero homes, and sustainable whole-building energy solutions.

How is the Echo Spur Plan in Keeping with Park City Objectives?

- ❖ **Develop new cutting-edge technologies.**
- ❖ Create new energy-related manufacturing opportunities.
- ❖ Address infrastructure needs
- ❖ **Promote energy efficiency and conservation.**
- ❖ **Responsible development of Utah's energy resources, including ..., alternative fuels and renewable fuels.**
- ❖ Expand opportunities for Utah to market and export energy
- ❖ **Enhance partnerships between industry, universities & GVT.**
- ❖ Collaborate with other Western states to federal regulators

Governor's 10-Year Strategic Energy Plan



ENGINEERING GEOLOGY OF PARK CITY (1983)

Implement the goals of the General Plan; promote the general health, welfare and safety of Park City inhabitants; protect and enhance the quality of life for Park City residents; protect and preserve peace and good order and aesthetics in Park City; protect the tax base; allow development in a way that encourages preservation of scenic vistas, environmentally sensitive lands, and historic structures; provision of well planned commercial and residential structures; provision of safe and efficient traffic and pedestrian circulation; and to prevent development that is susceptible to natural disaster.

Park City General Plan (Balanced Growth Strategy Outline, Bonanza Park Plan, PC 2030)

Land Management Code

- Preserve & enhance PC's ecological systems & diversity
- Encourage efficient use of resources to develop sustainable sources of energy
- Encourage environmental stewardship & protection of PC's environment through community participation
- Incorporate environmental considerations as an integral part in assessing growth management options
- Investigate best practices that have the potential of substantially improving the environment

Historic District Guidelines

- Preserve the mountain character of PC, environmental quality, open space, & outdoor recreational activities
- Maintain PC's historic & unique identity
- Manage the amount, rate form & location of growth
- Encourage a diversity of housing opportunities
- Involve the community in decision-making

Meet the needs of various interests in the community by providing guidance in determining the suitability and architectural compatibility of proposed projects

Park City Environmental Plan

How is the Echo Spur Plan in Keeping with Park City Objectives?



AFFORDABLE HOUSING

- ❖ A self-imposed, 1.5% “tax” on lot sales is being donated to the Park City Foundation & targeted to Open Space & Affordable Housing
- ❖ A below-market lease & purchase deal is being developed with the Kimball Arts Center for an “Artist-in-Residence” living space

SUSTAINABILITY

- ❖ PASSIVE HOUSE: superinsulation will reduce our carbon footprint by 60-80%;
- ❖ Solar PV/Thermal: allows for a further reduction of 20-30%;
- ❖ A **UNIQUE** inter-home PV sharing strategy driven by the condo plat will create the most cost-effective solar PV option possible and be a game-changer for the residential market
- ❖ LEED strategies (water efficient systems, low VOC paint, etc.)

SENSE OF NEIGHBORHOOD

ENCOURAGE THE ARTS

PRESERVE OPEN SPACE

ARCHITECTURE

- ❖ Extend Shorty’s Stairs and add Ontario Ave. neighbor parking & access
- ❖ Bring Park City institutions (KAC) into the residential neighborhoods
- ❖ Create a neighborhood “Pocket Park” on 4th Streeer ROW and Block 59 lots
- ❖ Echo Spur is an in-fill development;
- ❖ Underground parking limits road congestion (LMC 15-3-8)
- ❖ “Mountain modern” within the Park City vernacular; if 7 home are built, conditioned/living space for each home will range from 2800-3500 sq. ft.

What is a Passive House?

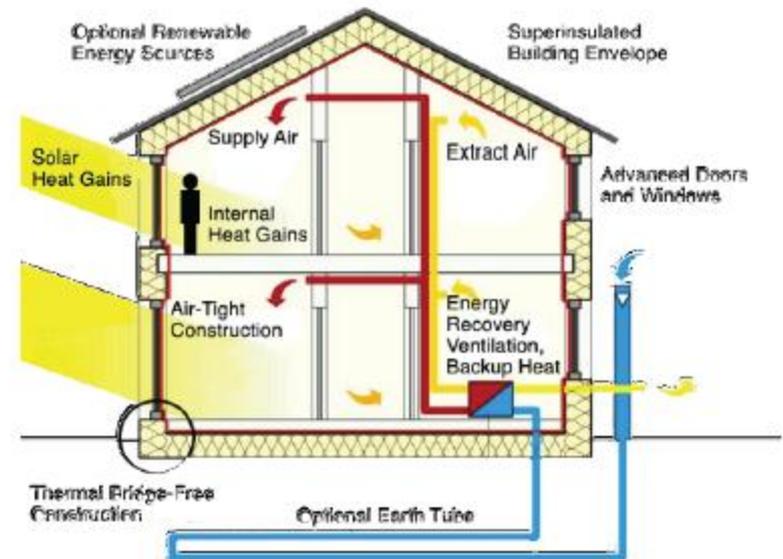
A Passive House is a very well-insulated, virtually air-tight building that is primarily heated by passive solar gain and by internal gains from people, electrical equipment, etc. Energy losses are minimized. Any remaining heat demand is provided by an extremely small source. Avoidance of heat gain through shading and window orientation also helps to limit any cooling load, which is similarly minimized. An energy recovery ventilator provides a constant, balanced fresh air supply. The result is an impressive system that not only saves up to 90% of space heating costs, but also provides a uniquely terrific indoor air quality.

Performance Characteristics

- Airtight building shell
- Minimal heating requirement ≤ 15 kWh/m²/year (4.75 kBtu/sf/yr)
- Ventilation system with heat recovery
- Thermal Bridge Free Construction ≤ 0.01 W/mK



PASSIVE HOUSE SCHEMATIC (Details vary with climate)



Discussion of Building Strategy: Energy

Our over-arching vision: to create economically viable, sustainable, environmentally-friendly homes based on market-priced technologies that are forward-thinking for the goals and aesthetics of their community

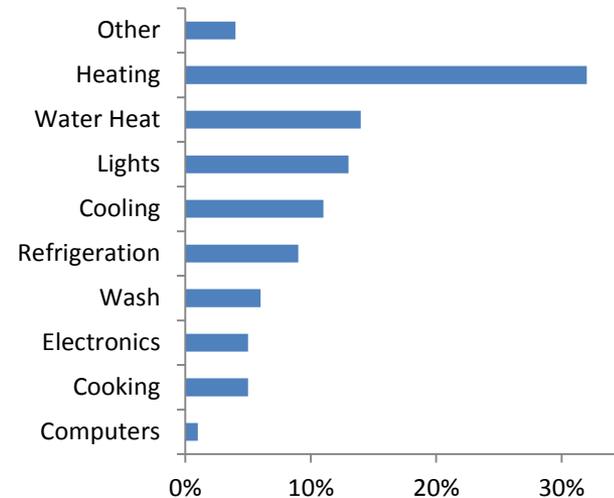


- ❖ *the “Passive House” strategy is the only Green/energy efficient strategy that satisfies this vision*
- ❖ *wind/solar PV & geothermal are potential “add-ons” based on buyer’s objectives, but are useful only in the context of Passive House.*
- ❖ *Solar-heated water should also achieve these goals*
- ❖ *Use Energy Star appliances, water conservation strategies, natural vegetation*
- ❖ *LEEDs standards will also be considered in construction strategy*

USGBC
U.S. Green Building Council



Residential Energy Usage



Source: Lawrence Berkley National Lab, 2006

Passive House plus Solar PV makes economic sense



Rocky Mountain Power submits largest rate hike request ever

BY STEVEN OBERBECK THE SALT LAKE TRIBUNE
PUBLISHED JANUARY 28, 2011 11:51 AM

Rocky Mountain Power is asking for the largest rate hike in its history, a \$232.4 million increase that if approved by state utility regulators will raise the typical Utah homeowner's electricity bill by approximately \$120 a year.

And that may just be the beginning.

Due to what it describes as the rising demand for electricity throughout the state, **the utility warns Utah consumers may see annual price increases of 8 percent to 10 percent annually for the next decade.**

"Our Utah customers are using more electricity than ever before," Rocky Mountain Power spokesman Dave Eskelsen said.

Low electricity rates are attracting a lot of new industry, which puts pressure on existing generating capacity, he said.

The power company, which filed the rate hike request earlier this week without announcing it publicly, said it needs the 13.7 percent increase to help it deal with the steadily rising cost of producing electricity and to upgrade its existing generating facilities.

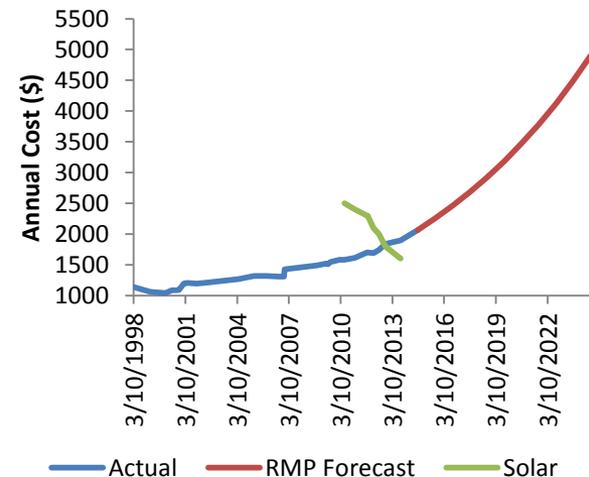
The \$232.4 million requested increase dwarfs the utility's previous record high request of \$194.1 million in 2006, although in that case the power company eventually settled for a \$115 million increase, or a 9.15 percent raise in its rates.

Rocky Mountain Power rates have been rising faster than cost of inflation AND solar PV

5 year annualized increase: 5.0%

10 year annualized increase: 4.4%

RMP Forecast: ~ 9%



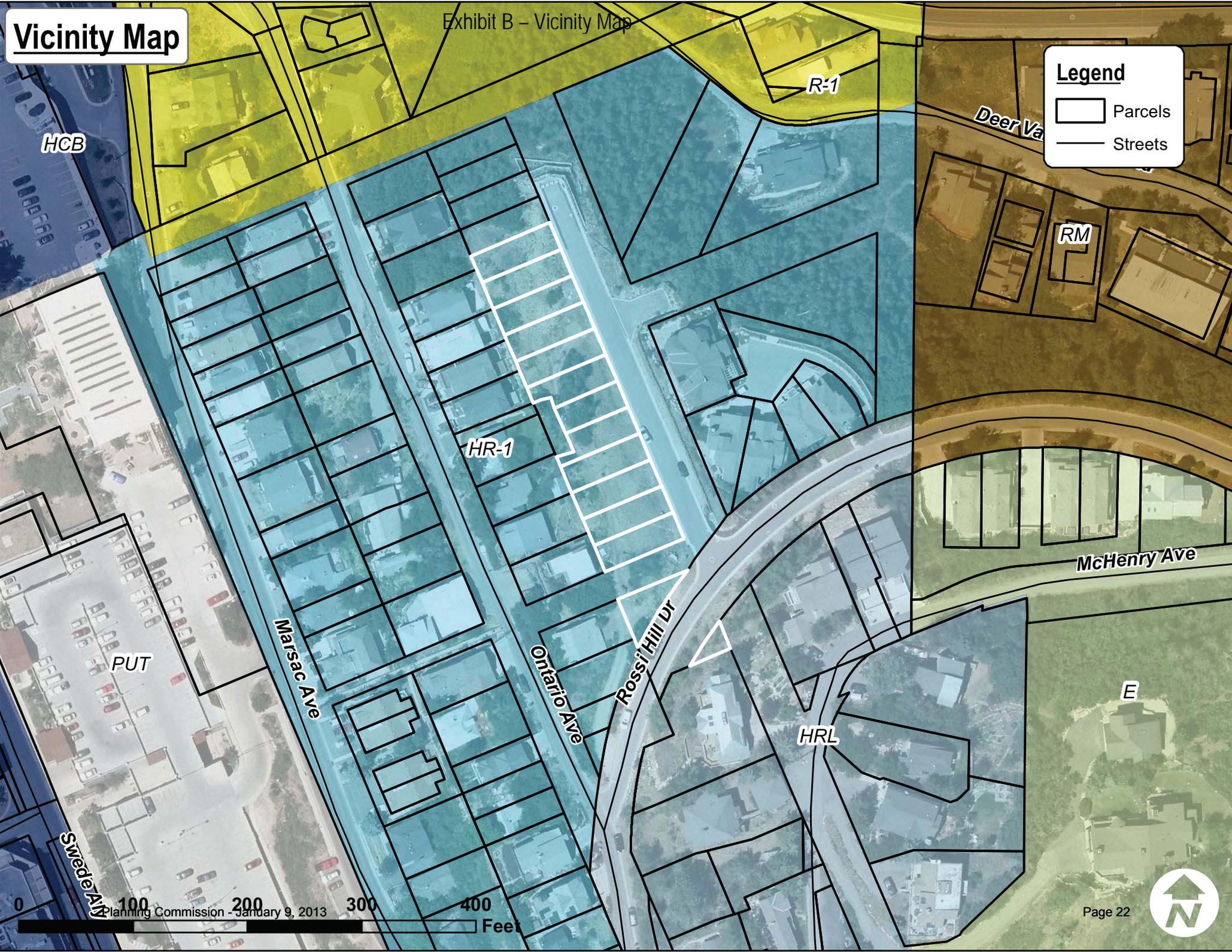
Annual cost for a typical Utah home using 1400 kwh/month
Source: Rocky Mountain Power

Vicinity Map

Exhibit B – Vicinity Map

Legend

-  Parcels
-  Streets



0 100 200 300 400 Feet

Planning Commission - January 9, 2013

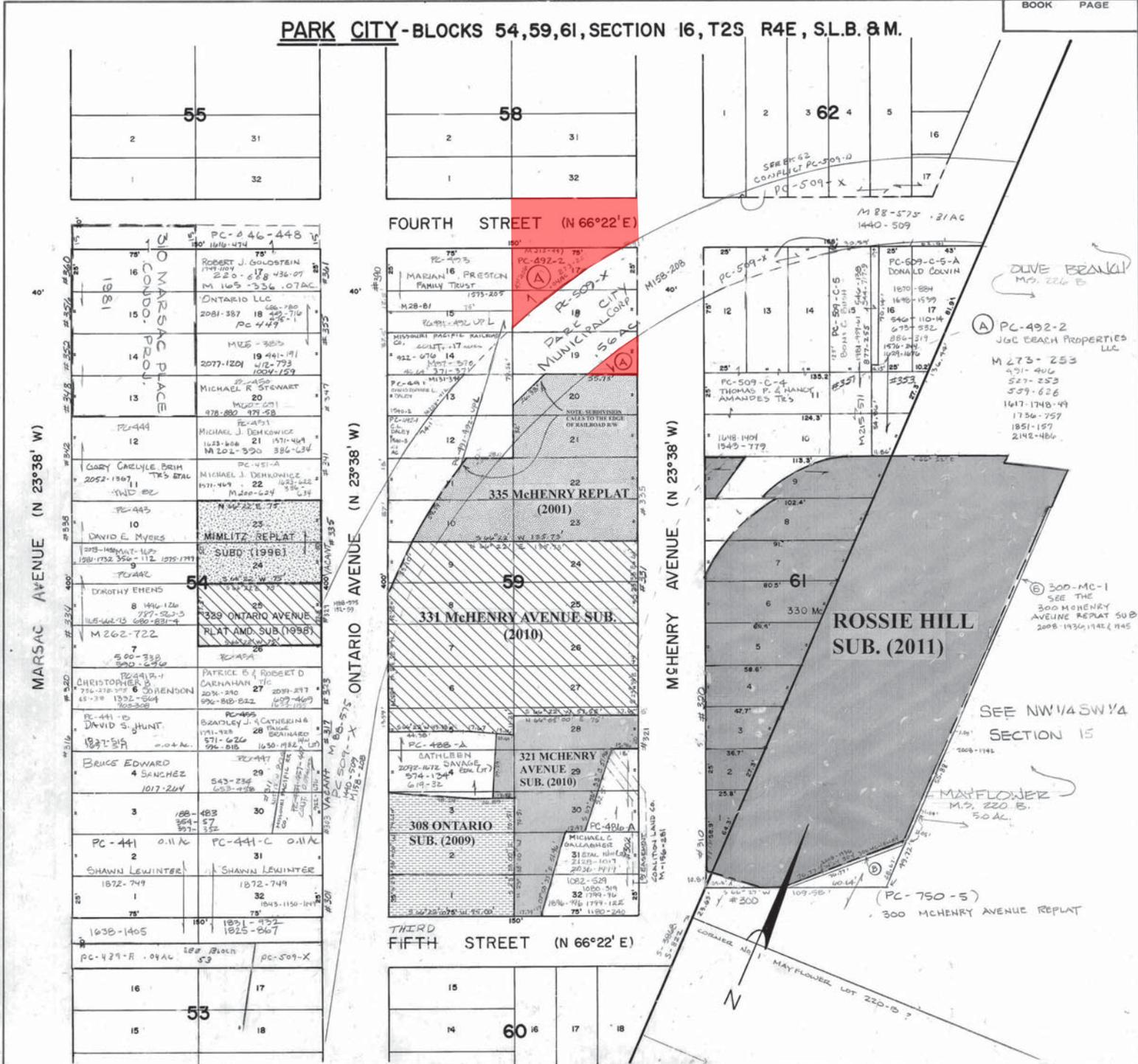


Exhibit D - County Tax Map (Block 59, Park City Survey)

NOTE: # REFERS TO STREET ADDRESS

PARK CITY - BLOCKS 54, 59, 61, SECTION 16, T2S R4E, S.L.B. & M.

BOOK PAGE



Approved	REVISIONS - DATE AND INITIAL	(In Pencil)
Utah State Tax Comm	Sept 20 2011	
Date	By	

SUMMIT COUNTY, UTAH

SCALE
ONE INCH 40 FEET
BOOK PAGE

Exhibit E – Topography with Aerial Photograph



BASELINE SURVEYING, Inc
 1058 East 2100 South
 Salt Lake City, UT 84106
 (801) 208-2152

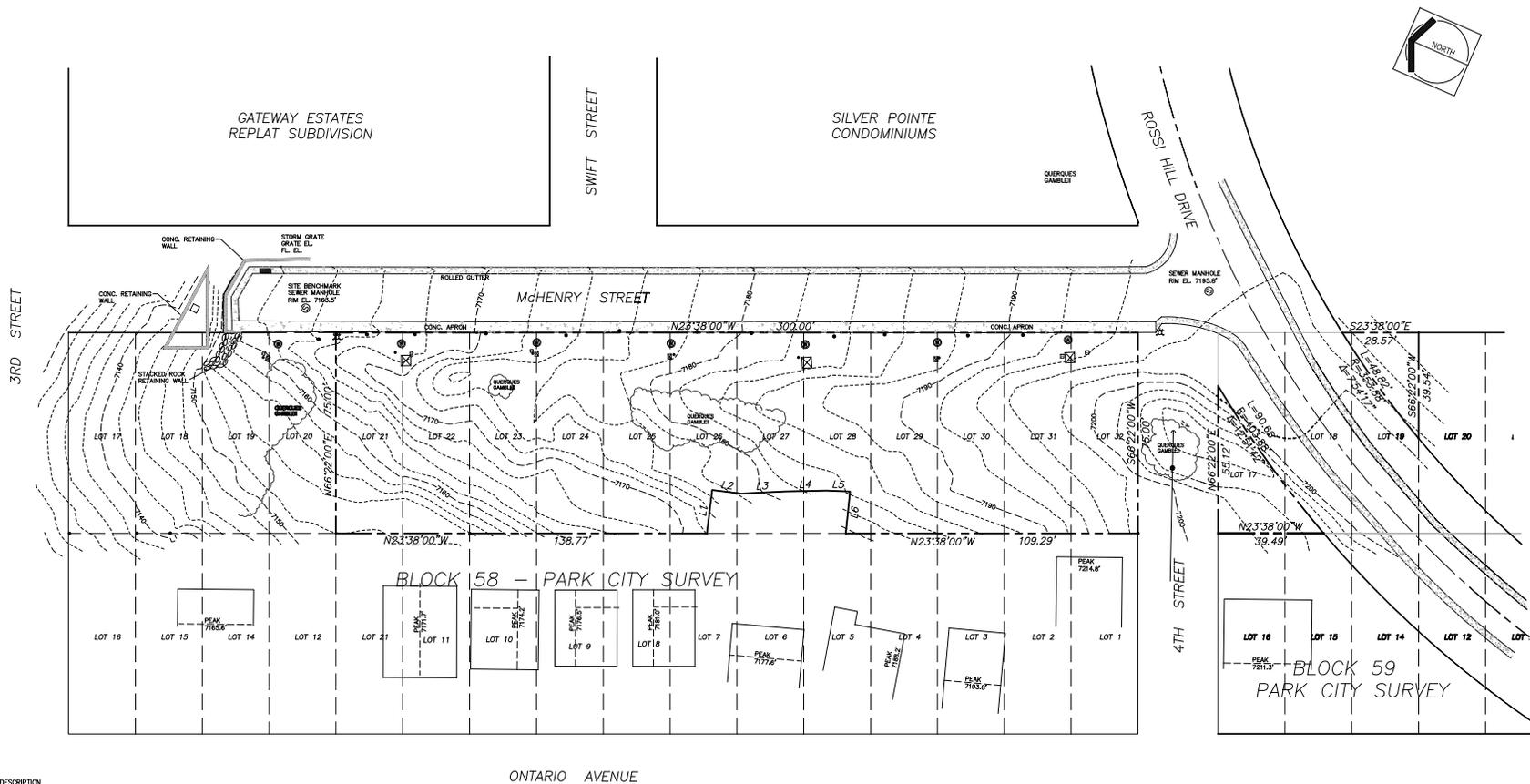
REVISIONS	DATE	BY	COMMENTS

JOB No. 884
 SURVEY BY: RC
 DRAWN BY: JFB

TOPO W/ AERIAL FOTO
 PARTS OF BLOCK 58 & 59,
 PARK CITY SURVEY
 PARK CITY, UTAH

SHEET
 1 of 1

Exhibit F – Topographic Survey



BASELINE SURVEYING, Inc
 1508 East 2105 South
 Salt Lake City, UT 84108
 (801) 209-2152

DATE	BY	REVISIONS	COMMENTS

JOB No. 884
 SURVEY BY: RC
 DRAWN BY: RC

**TOPOGRAPHIC SURVEY
 PARTS OF BLOCK 58 & 59,
 PARK CITY SURVEY
 PARK CITY, UTAH**

LEGAL DESCRIPTION
 All of Lots 19 through 32, Block 58, Park City Survey, according to the Amended Plat thereof, on file and of record in the Office of the Summit County Recorder.
 Excepting therefrom:
 Beginning at a point South 23°38'00" East 13.77 feet from the corner common to Lots 7, 8, 25 & 26, Block 58, Park City Survey, according to the Amended Plat thereof, and running thence North 73°17'50" East 16.30 feet; thence South 16°42'10" East 11.00 feet; thence North 29°25'04" East 16.18 feet; thence South 24°50'20" East 15.71 feet; thence South 21°44'47" East 8.81 feet; thence South 72°11'53" West 15.70 feet; thence North 23°38'00" West 51.34 feet to the point of beginning.

NARRATIVE:
 The survey was prepared for Go West Construction.
 The purpose of the survey is to locate the topography, utilities, and roadway on the Lots shown.
 The site benchmark is the sewer manhole opposite Lot 20 as shown, El. 7163.5 NAVD 88 Datum.
 This survey does not show building setbacks, easements, or underground utilities. The locations of which should be verified prior to any construction.
 The Owner of the property should be aware of any items affecting the property that may appear in a Title Insurance Report. The Surveyor has found no obvious evidence of easements, encroachments, or encumbrances on the property surveyed except as shown herein.

LINE	LENGTH	BEARING
L1	16.30'	S73°17'50"W
L2	11.00'	N16°42'10"W
L3	16.18'	N26°25'04"W
L4	15.71'	N24°50'20"W
L5	8.81'	N21°44'47"W
L6	15.70'	N72°11'53"E

SURVEYOR'S CERTIFICATE:
 I, Russell E. Campbell, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 316833 as prescribed under the laws of the State of Utah. I further certify that a topographic survey has been made of the land shown on this plot and described herein, and that this plot is a correct representation of the land surveyed and has been prepared in conformity with the minimum standards and requirements of the law as of the date of survey, May 5, 2012.

Russell E. Campbell
 Date

- LEGEND:**
- SET REBAR & CAP LS 316833
 - ⊙ FOUND CORNER (AS NOTED)
 - ⊕ EXISTING STREET MONUMENT
 - POWER POLE
 - ⊗ WATER METER
 - ⊕ HYDRANT
 - U.S. WEST BOX
 - SEWER CLEANOUT
 - CABLE BOX
 - ⊗ POWER BOX



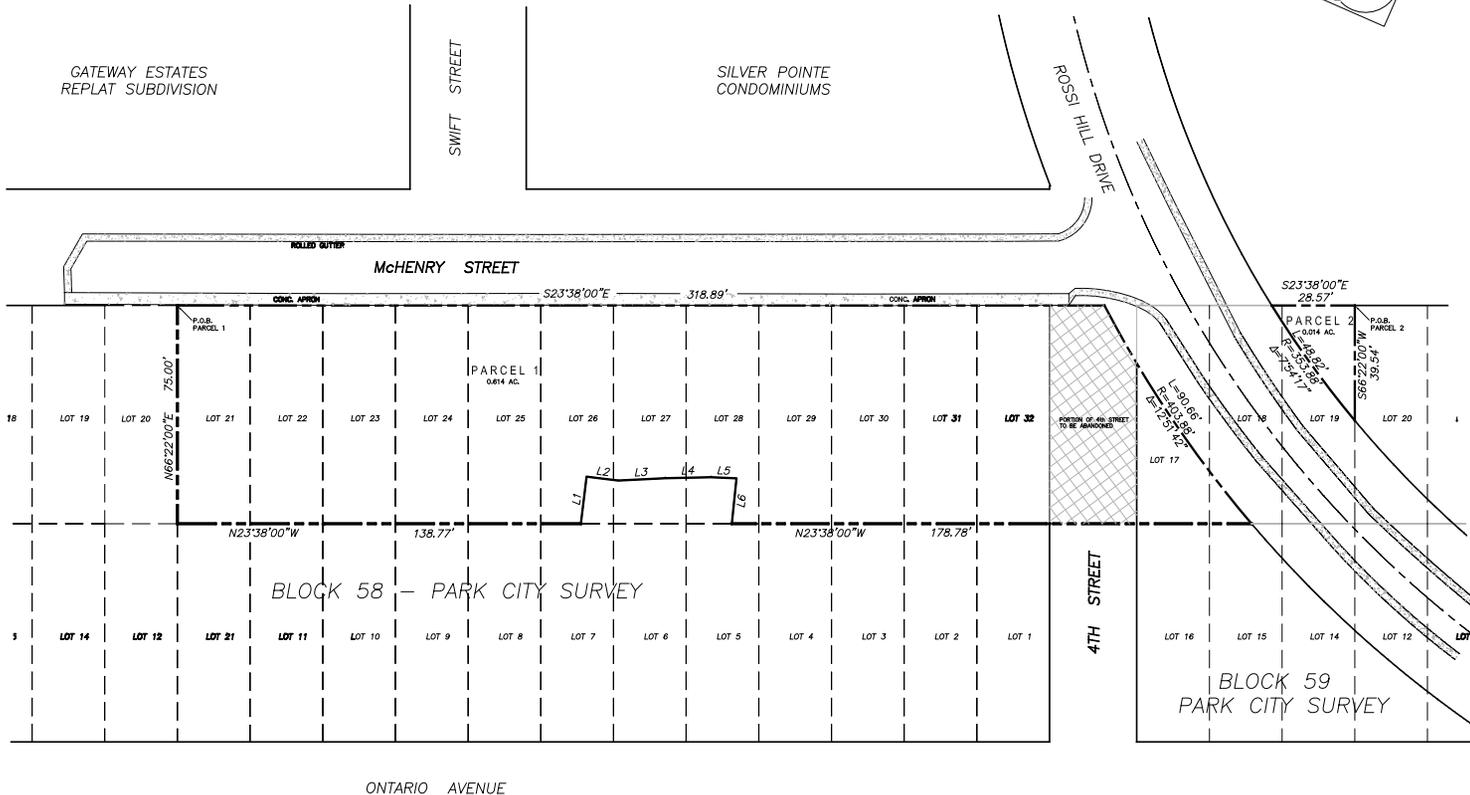
LOCATED IN
 BLOCKS 58 & 59,
 PARK CITY SURVEY
 SUMMIT COUNTY, UTAH

SHEET
 1 of 1

Exhibit G – McHenry Subdivision (Proposed Plat Amendment)

McHENRY SUBDIVISION

LOCATED IN
BLOCKS 58 & 59, PARK CITY SURVEY
SUMMIT COUNTY, UTAH



LINE	LENGTH	BEARING
L1	16.30'	S73°17'30"W
L2	11.00'	N16°42'10"W
L3	16.16'	N26°29'04"W
L4	15.71'	N24°50'20"W
L5	9.91'	N21°14'47"W
L6	15.70'	N72°11'03"E

NOTES:

1) It is the purpose of this Plat to combine all Parcels as shown hereon to be re-subdivided at a later date. That portion of 4th South Street adjacent to Parcels to be abandoned and incorporated into this Plat.

LEGEND

- SET REBAR & CAP LS 316633
- FOUND CORNER (AS NOTED)
- ⊕ EXISTING STREET MONUMENT

SCALE: 1"=20'

LEGAL DESCRIPTION

Beginning at a point on the westerly right of way line of McHenry Street and the line common to Lots 18 & 19, Block 58, Park City Survey, according to the Amended Plat thereof, and running thence South 23°38'00" East 318.89 feet along said westerly right of way to the northerly right of way of Ross Hill Drive and a non-tangent point of curvature of a 403.88 foot radius curve to the left, the center of which bears South 51°12'28" East; thence southerly along said right of way of Ross Hill Drive and the non-tangent point of curvature of a 403.88 foot radius curve to the left, the center of which bears South 51°12'28" East; thence North 23°38'00" West 178.78 feet; thence North 23°38'00" East 15.70 feet; thence North 21°14'47" West 9.91 feet; thence North 24°50'20" West 15.71 feet; thence North 26°29'04" West 16.16 feet; thence North 16°42'10" West 11.00 feet; thence South 73°17'50" West 16.30 feet; thence North 23°38'00" West 158.77 feet; thence North 66°22'00" East 75.00 feet to the point of beginning.

Together with:

Beginning at a point on the westerly right of way line of McHenry Street and the line common to Lots 19 & 20, Block 59, Park City Survey, according to the Amended Plat thereof, and running thence South 66°22'00" West 39.54 feet to the southerly right of way of Ross Hill Drive and a non-tangent point of curvature of a 353.88 foot radius curve to the right, the center of which bears South 53°27'45" East; thence northerly along the arc of said curve 48.82 feet through a central angle of 07°54'17"; thence South 23°38'00" East 68.57 feet to the point of beginning.

Containing 27,321 square feet or 0.6268 acres NET.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents: That the owners of the hereon described tracts of land, hereby causes the same to be divided into lots and private streets, as set forth in this plat, hereafter to be known as "McHENRY SUBDIVISION"

Also, the owners hereby dedicate to Summit County, Snyderville Basin Water Reclamation District, Mountain Regional Water Service District, the Park City Fire District, a non-easement easement over the roadway and utility easements shown on this plat for the purpose of providing access for utility installation, maintenance, replacement and repair and to provide access for emergency services. These areas that are intended for public use are hereby dedicated to Summit County.

Executed this ____ day of _____, 2012.

REPRESENTATIVE OF JGC PROPERTIES, L.L.C., OWNER

ACKNOWLEDGMENT

State of Utah
County of Summit

The foregoing was acknowledged before me this ____ day of _____, 2012, by _____ Representative of JGC Properties L.L.C., the Owners of the above described property

Notary Public
Residing at: _____
My commission expires: _____

CONSENT TO RECORD

State of Utah
County of Summit

The undersigned lien holder hereby consents to the recordation of the plat.
By: _____ Authorized Official
The foregoing consent to record was acknowledged before me this ____ day of _____, 2012.

Notary Public
Residing at: _____ My commission expires: _____

SURVEYOR'S CERTIFICATE

I, Russell E. Campbell, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 316633 as provided under the laws of the State of Utah. I further certify that a boundary survey has been made of the land shown on this plat and described hereon and that this plat is a correct representation of the land surveyed and has been prepared in conformity with the minimum standards and requirements of the law as of the date of survey, October, 2012.

Russell E. Campbell
Date

McHENRY SUBDIVISION

LOCATED IN
BLOCKS 58 & 59, PARK CITY SURVEY
SUMMIT COUNTY, UTAH

BASELINE SURVEYING, Inc 1058 East 2100 SOUTH Salt Lake City, UT 84106 (801) 209-2152	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF _____, 2012.	CITY PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2012.	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF _____, 2012.	CITY ENGINEER I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE, THIS ____ DAY OF _____, 2012.	SEWER DISTRICT REVIEWED FOR CONFORMANCE TO JORDANELLE SPECIAL SERVICE DISTRICT STANDARDS THIS ____ DAY OF _____, 2012.	APPROVAL AS TO FORM APPROVED AS TO FORM ON THIS ____ DAY OF _____, 2012.	RECORDED ENTRY NO. ____ BOOK ____ PAGE ____ STATE OF ____ UTAH ____ COUNTY OF ____ SUMMIT DATE ____ TIME ____ RECORDED AND FILED AT THE REQUEST OF: _____ COUNTY RECORDER
	_____ PARK CITY RECORDER	_____ PLANNING COMMISSION CHAIRMAN	_____ MAYOR	_____ PARK CITY ENGINEER	_____ J.S.S.D.	_____ PARK CITY ATTORNEY	_____ COUNTY RECORDER

Exhibit H – Conceptual Site Plan



Take Control of Your Environment



This schematic is for illustrative purposes only. The actual location, scale, style, and number of homes, plantings, and walkways may change. As of December 2012, no regulatory approvals have been granted for this project.



Resolution No. 8-98

**RESOLUTION ADOPTING A POLICY STATEMENT REGARDING
THE VACATION OF PUBLIC RIGHT-OF-WAYS WITHIN PARK CITY, UTAH**

WHEREAS, the Municipal Land Use Development and Management Act of the Utah Code (“Act”) provides that the City Council may vacate public right-of-ways upon findings of: (1) good cause for the proposed vacation; and (2) that neither the public nor any person will be materially injured by the proposed vacation; and

WHEREAS, the Act and relevant common law fail to further define “good cause” and allow the local jurisdiction discretion in disposing of public right-of-ways; and

WHEREAS, to help assure the consistent and reasonable application of the Act, the Planning Commission and City Council wish to provide their constituents with some general guidance as to the circumstances in which the City may favorably consider vacating public right-of-ways; and

WHEREAS, this policy statement is not an evaluation of any particular request for vacation, but a general position regarding the terms and conditions in which the City may typically grant a citizen’s request to vacate a public right-of-way within the City; and

WHEREAS, nothing herein shall be construed as an abandonment of public right-of-way within Park City; and

WHEREAS, this policy shall not be construed as creating a vested right nor entitlement of any nature with regard to vacation of right-of-way, but shall only be advisory for the Planning Commission and City Council to utilize when exercising their legislative discretion in evaluating the merits of a vacation petition; and

WHEREAS, the Planning Commission and City Council shall continue to evaluate vacation petitions on a case-by-case basis; and

WHEREAS, although the City Council will give significant weight to the Planning Commission recommendation the ultimate decision to vacate or not rests squarely with the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of Park City, Utah hereby adopt the following guidelines:

SECTION 1. GOOD CAUSE. The City may generally find “good cause” when a proposal evaluated as a whole demonstrates a “net tangible benefit” to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against the following criteria to determine whether a “net tangible benefit” has been demonstrated by the petitioner:

- (a) **No Increase in Density.** Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street rights-of-way will generally not be vacated to facilitate greater density, floor area or area of disturbance. New applications which proposed the subdivision of rights-of-way shall be reviewed under Land Management Code (“LMC”) Chapter 15, Subdivisions, and must result in a lower density than that permitted by the underlying zoning (Chapter 7), without the vacated right-of-way.
- (b) **Neighborhood Compatibility.** The proposed shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall review each of the following items when considering compatibility: (1) size and location of the site; (2) traffic impacts including capacity of the existing streets in the area; (3) utility capacity; (4) emergency vehicle access; (5) location and amount of off-street parking; (6) internal circulation; (7) fencing, screening, and landscaping to separate the use from adjoining uses; (8) building mass, bulk, and site plan; (9) usable open space; (10) signs and lighting; (11) physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing; (12) provision of snow storage, and mitigation of noise, vibration, odors, steam, or other mechanical factors that might affect people and property off site; (13) control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up areas; (14) expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies; (15) proposed uses in an historic district must comply with the Historic District Architectural Guidelines provided in a supplement to the LMC; (16) all proposed uses in the zones outside an historic district must comply with the General Architectural Guidelines in LMC Chapter 9; and (17) the Sensitive Area Overlay Zone Regulations (which normally apply only to property within the Sensitive Area Overlay Zone) shall apply to all development proposals including a petition to vacate right-of-way, regardless of the underlying zoning/platting of the development.
- (c) **Consideration.** Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon

square footage); open space dedication above and beyond normal subdivision or development approval requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of right-of-way dedication; and/or any other public amenity deemed in the best interests of Park City's citizens.

- (d) **Utility of existing Right-of-Way.** The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan. The recommendation to the City Engineer, existing improvements and utilities within the right-of-way, and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Street Master Plan, unless otherwise reduced by the City Engineer.

SECTION 2. MATERIAL INJURY. The City must find that no person nor the public is "materially injured" by the proposal. "Materially injured" generally means direct or indirect injury to property or a property right as a result of the proposal. The injury must be significant enough to raise to the level of interfering with the injured party's use of his/her property or property right. The injury must be demonstrated by evidence on the record, or the City's reasonable inference therefrom, and shall not merely be conjecture nor public clamor.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council, and Historic District Commission as necessary, are encouraged early in the process for large (greater than five lot) projects and master planned developments, which propose vacation and reconfiguration of public rights-of-way.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED this 9th day of July, 1998.

PARK CITY MUNICIPAL CORPORATION



Mayor Bradley A. Olch

Attest:



Janet M. Scott, City Recorder



MINUTES – OCTOBER 10, 2012

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
October 10, 2012**

PRESENT: Nann Worel, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Charlie Wintzer, Thomas Eddington, Katie Cattan, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Snow Creek Crossing – Concept Plan Discussion

Commissioner Thomas disclosed that many years ago he was involved in the original MPD and CUP drawings for this project under a different owner. He did not believe that would affect his ability to be fair in reviewing this plan.

Planner Astorga remarked that the purpose of the work session this evening was to give the Planning Commission the opportunity to provide input and direction to the applicant on the concept plan prior to a pre-master planned development application and public hearing. Planner Astorga stated that the original master planned development was approved in 1993; however, since that time the regulations have changed in terms of the MPD procedure and specific requirements. The Staff report provided a history of the previous approvals.

Planner Astorga noted that the applicant's representatives were before the Planning Commission this evening to consider the possibility of adding 17,700 square feet of retail throughout the project. Planner Astorga presented the original approved MPD that he found in the records. The original MPD included both banks that currently exist. He reviewed an exhibit showing the three specific areas being proposed for additional density. Planner Astorga reported that the original MPD was approved for 90,000 square feet and the existing Snow Creek Crossing is approximately 87,000 square feet. The 87,000 does not include the DABC Liquor Store.

Planner Astorga stated that 17,700 square feet is a hypothetical density that could be obtained through the TDR program. Before density can be transferred from one portion of town to another, specific requirements of the TDR must be met. He noted that the Snow Creek Crossing site qualifies to be a receiving zone. Planner Astorga explained that the Planning Director has to sign off on the density that could be transferred. In the one year since the TDR Ordinance was adopted, less than one unit equivalent from an Old Town lot on Norfolk had been approved. Director Eddington noted that there were actually two because another one in Old Town had asked for a certificate of determination regarding density. Commissioner Hontz suggested that people might be more willing to go through the TDR process if they knew other people wanted to buy them.

Planner Astorga reiterated that the applicant was looking for feedback on the concept before spending time and money on the specific component of an official pre-application.

Pete Gillwald and Jill Packham were representatives for the applicant.

Pete Gillwald with Land Solutions Planning, stated that the objective this evening was to present their concept plan and offer ideas for transitioning uses, open space, and parking; and to see if there were opportunities within this parcel to warrant looking for TDRs and determine whether this

was a viable process.

Mr. Gillwald stated that they looked at the existing site and came up with three basic areas where commercial density could be increased. They could create additional parking by moving elements around and add employee parking behind the Snow Creek Clinic.

Mr. Gillwald clarified that Snow Creek never asked to be a receiving zone and they were not looking to expand the retail square footage. However, since the City believed this was an appropriate location for density, they decided to move forward with the concept plan being proposed.

Mr. Gillwald presented an aerial view of the Snow Creek Center in its existing condition and the surrounding properties. He reviewed the survey that was done years ago showing all the improvements on the site. The site is divided into six different lots. Mr. Gillwald indicated a square on the plan that represented the liquor store and noted that the size did not represent the actual footprint. He had counted 300 parking spaces on site. Mr. Gillwald pointed out the large landscape area across from the Teriyaki Grill that divides the center into two separate parcels. He stated that over the years Jill Packham has spent a lot of money and time watering that area and mowing the grass, but it is truly an underutilized area. It does not connect to anything and it creates a barrier between the east and west sides of the parcel.

Mr. Gillwald noted that Retail Building B is the space that provides the greatest opportunity to increase square footage. In conjunction with Retail Building B, he proposed relocating the bus stop currently located behind the liquor store. He recommended shifting the bus stop more towards the east and allow Retail Building B to become a pedestrian mall walkway connecting from the bus stop through retail space B, and into that area between the Market and the Teriyaki Grill, where he showed a small expansion of Retail C. Mr. Gillwald remarked that there is open space between the Teriyaki Grill and another building. However, a sewer line runs in that location and he did not believe it was an appropriate building location.

Mr. Gillwald stated that the parking would need to be shifted around in order for Retail Building B to fit. All the parking would be maintained from the west side of the building all the way over to Retail Building A, which is an approximately 4,000 square foot footprint with a proposed drive-thru access.

Mr. Gillwald stated that the three locations identified made the most sense for expansion. It preserves the buffer, median and berming and landscaping along Snow Creek Drive and it still maintains the sidewalks in an internal reconfiguration. Parking was increased by 50 spaces and the building footprint was increased by four-tenths of an acre. Approximately seven-tenths of an acre of open space would be lost.

Using photos of the existing site, Mr. Gillwald explained the proposed changes and where the additional density would occur. He requested feedback from the Planning Commission on the proposed concept and available options for transferring density.

Assistant City Attorney McLean stated that the question for this work session was similar to what the City Council was asked to consider with the Kimball Arts Center and the LMC amendments. It was not whether the applicant should pursue the proposal, but whether the Planning Commission

was open to the applicant submitting a pre-application based on the concept. She clarified that giving a nod of support was not committing to an approval, and the applicant still needed to go through the application process.

Commissioner Wintzer applauded Mr. Gillwald for coming to the Planning Commission early in the process before spending time on a concept that may not be acceptable. He fully supported the fact that the applicant was looking for opportunities to use TDRs. This neighborhood is under-utilized and it is a key area in town where height would not be negative. However, Commissioner Wintzer felt Mr. Gillwald had taken a 1980 approach to a 2012 project. He noted that minutes from the previous approval talked about a strip mall look and feel, and he believed the proposed plan would add to that rather than change it. Commissioner Wintzer would support housing, which was not favored in the original approval, but he felt the City was now going in a different direction. He suggested that using the idea of the BOPA plan for Bonanza Park would be a better approach for Snow Creek Crossing. That would mean going vertical on top of existing buildings, more housing, and less strip mall look. Commissioner Wintzer encouraged Mr. Gillwald to look at different options. This was a great opportunity to create a neighborhood and he recommended going bigger and higher.

Chair Worel asked if there was a demand for additional retail? Jill Packham, the property manager, stated that they have been fully occupied since the beginning of the development. In the 13 years that she has been managing the property, there have only been a few short-term vacancies.

Ms. Packham stated that the problem with a complete redevelopment is taking out the economic source while redeveloping. Chair Wintzer believed it could be added on to vertically without taking it out or losing existing tenants.

Commissioner Hontz concurred with Commissioner Wintzer. She likes the site and she supports moving TDRs to that site. Commissioner Hontz favored a mixed-use concept and encouraged Mr. Gillwald to find a way to factor in mixed use and height, particularly on the Market side. She liked how the parking lot was broken up in the location of Retail B because it would lessen the appearance of a sea of parking; however, she thought they would need less parking than what currently exists and what is additionally proposed. Commissioner Hontz suggested eliminating the parking by the Health Center, particularly because of how it would interfere with people trying to access the retail. Commissioner Hontz thought the project should go bigger and higher with less parking and no drive-thru. She would like a physical break in the parking that also has people walking in and out of the facilities. Commissioner Hontz was open to a pre-application and she favored most of the ideas presented in the concept plan.

Mr. Gillwald remarked that some of the existing retailers on one end want more parking because parking is tight. Parking on the other end of the site is less utilized because those uses are not high intensity and there is more movement where people come and go. He explained that he was hesitant to add on top of existing structures because those structures were not designed for a second story.

Commissioner Thomas vaguely recalled some of the discussion from 17 years ago. One

recollection was that everyone thought this was a good site to put a large building because it begins to disappear. That was a negative for the Market because it is not visible and people cannot find it. Early in the previous process they talked about upper level functions, affordable housing and housing units above the retail. Commissioner Thomas believed the calculations would show that the building could bear additional load on masonry walls designed to accommodate the vertical load. Commissioner Thomas echoed Commissioner Wintzer and Hontz with regard to verticality. He liked the location of Retail Building A because it breaks up the parking mass. He suggested more character in the architecture, a more contemporary look for Retail Building B, and less of a strip mall appearance. Commissioner Thomas was not fond of Building C. He believed they could do a small scale building. The trellis could be removed, but the separation between the large building mass where the Market is and the other commercial spaces is essential. Landscaping and a smaller scale building would break up the strip mall effect. The commercial facades are not consistent with the character of the community. Commissioner Thomas thought the pedestrian connections and relocation of the bus stop were good ideas. He believed there was the ability for vertical massing on the site.

Commissioner Thomas thought a site visit would be helpful when an application is submitted.

Commissioner Strachan concurred with the comments of his fellow Commissioners. He recommended that Mr. Gillwald work on a substantial pedestrian and bike connectivity because currently there is no way to safely bike or walk to that location. When people reach the intersection of Kearns and Park Avenue they cannot figure out how to get into Snow Creek. People try to go through the Olympic structure but it is a dead end. Commissioner Strachan felt that was an important issue that needs to be addressed. He agreed that the plan could use more height. He also agreed that there should be residential; however, he thought that could be worked out with on-site affordable housing. He assumed the residential units would demand pedestrian and bike connectivity.

Commissioner Savage stated that a business is run opposite from reading a book. When you run a business you start at the end and do everything necessary to get to the front. Commissioner Savage remarked that Snow Creek is gem property in a fabulous location and he would look at it as a blank slate. He believed there was strong endorsement from the Planning Commission, the Planning Department and the City related to the validation of the implementation of an aggressive TDR program to create density in places that are suitable for higher levels of density. He encouraged Mr. Gillwald to do everything possible to optimize the value associated with that opening and think about how he would design the project with privilege with a 15-20 years horizon, and think how that would work into the plan under the current constraints. Commissioner Savage thought there would be support for that type of concept and neighborhood with significant density. Commissioner Savage noted that the Planning Commission was scheduled to have a work session discussion about Park City growing inward and it talks about TDRs and creating density where appropriate. He emphasized that density was very appropriate in this location.

Commissioner Thomas asked if the access through the Jess Reid building would have to remain. Ms. Packham was unsure how that access was created. Commissioner Thomas believed that could be a point of conflict with the bus location. Commissioner Thomas pointed out that prior to the Olympic Park, that area was a physical connection to the Snow Creek Center and he felt it was

important to show how that pedestrian link weaves its way through the community. He encouraged the creation of some type of pedestrian benefit.

Planner Astorga reported that the Staff had issues with some standards for the MPD that the applicant would need to mitigate. The first was open space. Currently the site has approximately 29% open space and additional density would decrease that number. Regarding parking, Planner Astorga agreed with the Commissioners, but noted that he has to abide by the standards outlined in the LMC. Once the General Plan is updated they would be able to update the Land Management Code, at which time they could address maximum and minimum standards. He clarified that some technical aspects may not work with the current proposal, and based on the current Code, he would not be able to ignore that once the pre-application is submitted. He wanted to make sure the Planning Commission and the applicant understood that constraint.

General Plan – Discussion and review of draft “Small Town” Chapter (Application #PL-12-01529)

Planner Cattan provided an update on the General Plan process. They held four meetings with the Task Force to discuss each of the Core Values of the General Plan. A fifth meeting was held to summarize the discussion and to go through the controversial discussion points. After four months with the Task Force, the Staff was ready to actively engage the Planning Commission in the discussions.

Planner Cattan noted that a special work was scheduled for Tuesday, October 16th, to continue this discussion.

Director Eddington presented a slide showing the foundation for the entire General Plan based on the 2009 Visioning. The goal of doing the General Plan was to focus on the Core Values as chapters, as opposed to doing the traditional elements. The message from Visioning was not to change the Core Values. However, the Vision document also talks about the attributes of arts, culture, skiing, and exceptional benefits for residents, which do evolve from change. Because the Core Values stay the same they are the basis for the General Plan.

Director Eddington reviewed the influence levers and the measureables, which are the matrix of evaluation used for the General Plan. The Staff would begin using that matrix for projects presented to the City Council.

Planner Cattan stated that small town, consisting of land use, regional planning and transportation elements were the discussion points for this evening. Complimentary to that are the Core Values of Natural Setting, Sense of Community and Historic Character. They are interconnected and one cannot sustain without the other. She noted that topics for the next meeting would be Natural Setting and Historic Character. Sense of Community was an involved discussion that would require a separate meeting.

Planner Cattan provided an overview of land use, regional planning, and transportation. The recipe for Small Town is 1) to maintain and build upon existing neighborhoods and strengthen them; 2) allow for compatible infill and redevelopment; 3) protect the edges of the neighborhoods with wildlife corridors and open space connections, as well as looking at the overall town and a greenbelt going

around the City itself; 4) protect the cherished places such as open space and view corridors; 5) try not to widen existing roads; 6) keep the traffic flowing.

Planner Cattan presented a view from the Armstrong Trail to show what she meant by infill of lots within Old Town and out in Park Meadows, as well as redevelopment in Bonanza and the Park City Mountain Resort. She reviewed a slide with an overlay to show the green areas for wildlife corridors and open space throughout town. She also identified the transportation systems.

Director Eddington pointed out that on a larger scale the City was working with Summit and Wasatch Counties on creating nodal development. It's the same idea locally versus regionally.

Commissioner Savage referred to the summary and noted that individual words can carry a lot of meaning, both intentional and unintentional. When describing the slide and talking about point number 5, Planner Cattan used the language, "try not to widen roads". He pointed out that the language on the slide was more definitive. Commissioner Savage stated that in setting goals they try to quantify things. The wording, "Do not widen roads" is quantitative and says that the road will not be widened period. He believed the City would not be able to live up to that goal, and he suggested that they think through each element individually to create a sense of parameters or boundary conditions around which those various points could be considered in a reasonable way.

Planner Cattan requested that as the Commissioners read through the materials, that they highlight anything they feel needs to be addressed and send those changes or comments to her.

Commissioner Hontz remarked that the intent is to reduce the number of words in the document. She felt it was well written in terms of a draft of what they want to say. However, every word needs to pack a punch and it needs to be the right word. Commissioner Hontz believed that 50% of the bullet points were not worded correctly. She thought Commissioner Savage had used a great example of the difference between "try" and "do not". She pointed out that the wording, "Preserve Steep Slope" contradicts their intent to "not develop on steep slopes." It is important to say exactly what they mean. Commissioner Hontz had gone through the draft and made corrections that she would send to the Staff. Planner Cattan encouraged the Commissioner to set up an individual appointment with her if they preferred to discuss their changes.

Commissioner Thomas commented on the opposition when Bonanza Drive was widened at the direction of the City Engineer. He thought the Planning Commission needed to be careful and not allow Engineering to drive the issues because engineering solutions are not in line with the recipe for small town and the character of a small town. Engineering solves the mechanical problems related to traffic flow and transportation.

Commissioner Thomas stated that he thinks of a place and a small town and asks whether something fits into that consideration. He thought Commissioner Savage had a good point about not widening the roads. Moving through a small town is sluggish, and that is the nature and the character of a small town. He clarified that he would not be the wordsmith but he would keep track of the concepts.

Planner Cattan presented a slide showing the build-out of Park City, which was part of the

presentation given by Charles Buki. The slide showed the history of Park City build out starting with 1881 to present day.

Commissioner Thomas asked if it would be helpful to talk about what has occurred over the past 20 years and what they might have done differently. He noted that in planning the Flagstaff development the idea was that sprawl in smaller pieces would be less visible. However, in reality, sprawling development across the mountain created more visible impact and it would have been better to concentrate development in one area and go vertical. It would have also accommodated mass transit.

Commissioner Wintzer found the minutes from the original Snow Creek Subdivision fascinating in terms of the change in concept from 17 years versus now. Commissioner Strachan remarked that it was the most intensive 17 years that the City had seen for a long time.

Planner Cattan presented a slide showing developed land and open space. The red color identified the developed land. She pointed out that Park City has managed to retain a substantial amount of open space. It is a good trend, but the question is whether they want to continue outward growth through further annexation and development within annexations. Commissioner Strachan understood that the open space also included the Resorts. He thought it would be interesting to see only the non-resort open space. Planner Cattan replied that they would be able to see that at the next meeting. Commissioner Thomas thought sensitive lands should also be taken out of the equation.

The Commissioners were given clickers to anonymously vote on a series of questions.

1) Has Park City grown inward or outward since 1970? The voting result showed the majority thought Park City had grown outward.

2) According to the community vision, do you believe Park City has an obligation to grow inward? The voting result showed the Commissioners were split on strongly agree and agree.

Planner Cattan noted that Park City experienced significant growth during the mining boom and then it slowed down due to lack of mining. It increased again in 1970 with the ski industry. The population growth was only 200 people, but the residents units grew by 50% from 6,600 to 9,471. In Summit County population continues to grow.

Planner Cattan reviewed the average size of a house built within various decades. In looking at the in-between point of each range, the median would be higher than the average because certain homes within Old Town are regulated to a standard to be smaller and that pulls down the average size. The average size of a single family home is 7,000 square feet.

3) City-wide, what concerns you most about home size in Park City? The voting results showed that compatibility was the primary concern for all the Commissioners.

Planner Cattan presented a slide of future residential development showing how neighborhoods begin to be divided up. The Staff tracked everything in GIS so the numbers were actual in terms of remaining pending vacant lots or pending units per master planned developments. Residential is

2100 and commercial was 447,000 square feet. The numbers for Bonanza Park did not take into consideration all the redevelopment. It only addressed vacancies. Director Eddington noted that the assumption of 80% buildout is correct based on the analysis. They are currently at 9500 units and they could build out to approximately 11,700.

Chair Worel asked if lodging was counted as commercial. Director Eddington explained that lodging is considered residential.

Planner Cattan commented on Goal 1 - growing inward and protecting undeveloped lands. She explained that it can be accomplished by diversifying existing neighborhoods, supporting development and re-development in the core commercial, and protecting areas from development that should remain open space.

Commissioner Strachan remarked that diversify was one of the vague terms that exist throughout the General Plan and makes it useless.

Planner Cattan explained that on the issue to diversify existing neighborhoods, they were taking a neighborhood by neighborhood approach to the General Plan. The document will have sections reflecting the Core Values along with strategies that provide more explanations, and then it will be divided up into nine neighborhoods. The language will specifically state which strategies are appropriate and it will go as far as identifying what is compatible in those individual neighborhoods for infill development.

On the issue of supporting development and re-development of the Core, Planner Cattan noted that this could be accomplished by allowing a range of commercial uses and keep the industrial uses within town. Another element for planning large areas is to go through master plan development process.

Planner Cattan stated that during the Task Force discussions there was a heated discussion on revise minimum lot sizes within existing zones to allow smaller, more compact development and redevelopment. The Task Force believed that increased density should only be allowed in neighborhoods in exchange for open space. Another strategy was to adopt floor area ratios to create homes size and allow purchase of TDR credits. After considerable discussion, the Task Force wanted to adopt FAR ratios and allow homeowners to exceed the FAR ratio if they meet home efficiency standards.

Commissioner Thomas stated that if the intent is to encourage smaller homes they should not allow additional square footage. It is easy for someone to buy their way into a larger home by spend money on efficiency standards. Commissioner Wintzer pointed out that a larger energy efficient home uses the same amount of energy as a smaller lower efficiency home. Commissioner Savage thought they should also consider the cost of energy efficient homes and how it could impact affordable housing.

Commissioner Hontz thought the strategies needed to build on one another to avoid conflicting strategies in working towards the goal.

4) Revise minimum lot sizes within existing zones to allow smaller, more compact development and redevelopment. NOTE: No density transfer to protect open space is required. The voting results showed a 67 yes/33 no split among the Commissioners.

4a) NOTE: Density transfer to protect open space is required to utilize this. The voting results showed another 67/33 split.

4b) NOTE: No benefit for a second lot unless there is an acquisition of a TDR to preserve open space somewhere else. The voting results showed a 70/30 split.

Planner Cattan presented various photos of what small town infill and redevelopment could look like. In Thaynes it might look like a detached apartment above a garage. Multi-family in Bonanza Park. In Park Meadows it might be an attached accessory apartment. It could be row homes by Public Works.

5) Do you agree with the examples on the previous slide of small town infill and redevelopment? The voting results showed that two Commissioners disagreed.

Planner Cattan presented a color coded slide showing where development has already occurred and where it will occur in the future. In terms of regional growth in Park City, there are 2,575 total UE's that can be built. Summit County has 8,720 units. Jordanelle in Wasatch County had the highest rate. Director Eddington assumed the Wasatch County number could go higher with MIDA. He expected to see a shift in the center of power in the region from Park City to Jordanelle.

Planner Cattan indicated the pending entitled units for Park City, Western Summit County and Wasatch. She noted that there were 23,000 units but the acres for those units were 32,000.

Planner Cattan reviewed Goal 2 – Park City will collaborate with Summit County, Wasatch County and Salt Lake County towards the preservation of place through regional land use planning. The first strategy is to create a shared regional vision. Planner Cattan did not believe they could go much further without setting the tone of doing something similar to what was done with Charles Buki in terms of regional visioning. She noted that some of the strategies would need to be better identified after the regional visioning process.

Commissioner Savage commented on the apparent adversity between County Management and City Management and he felt the City could be proactive in conjunction with hiring a new City Manager that would help mitigate those issues moving forward in the future. City Council Member Butwinski pointed out that there could potentially be four new County Council members in November and the people coming in have no frame of reference to help with that collaboration. Commissioner Hontz was unsure how they could create a shared regional vision when it has been so difficult to schedule timely meetings with the Snyderville Basin Planning Commission. She was not opposed to having collaboration as a strategy, but she did not think it would happen.

Planner Cattan stated that collaboration would be similar to what Salt Lake City has done with their 20/40 plan. There was collaboration between counties and cities to create a vision for the future and it was done by working with Envision Utah. Planner Astorga reported that it was part of the

MPO, the Metropolitan Planning Organization, and a representative from each city attended the meetings. The collaboration efforts was started a long time ago as a Wasatch Front long range planning effort to identify specific nodes of development and land use patterns and transportation. Planner Astorga understood that Planner Cattan's point is to start the dialogue now so in 10, 20 or 50 years there would be collaboration along the Wasatch Back.

Director Eddington was aware of the frustration in trying to schedule a joint meeting; however, the Planning Commission and the County Council have held two or three joint meetings amongst themselves, which shows that the issue of collaboration in the County is set in motion. Director Eddington pointed out that the County is in a waiting mode because of the election, which puts the City at a disadvantage.

6) Do you support the strategy of working on the goal towards regional collaboration? The voting results showed that one person did not support the strategy.

7) What is the City's role in the effort towards a regional visioning process? Initiate the process or wait to see if the idea catches on and we receive an invitation.

The Commissioner felt the question was confusing.

Planner Cattan noted that the question came from a discussion on whether Park City should be a leader or take a secondary role. Commissioner Hontz did not think either one was appropriate. The City should be a participant in the overall process.

Planner Cattan commented on Goal 3 – public transit, biking and walking will be a larger percentage of residents' and visitor's utilized mode of transportation. Director Eddington stated that Park City has always talked about the challenges of land use and transportation and how they influence each other. He explained that the goal addresses alternative modes and which opportunities they should focus on. Part of the question of utilizing alternative transportation is whether they would be willing to fund alternative modes of transportation.

8) Would you be willing to consider and fund alternative modes of transportation? The voting results showed that one person was not in favor primarily due to the funding aspect.

Planner Cattan reviewed the strategies associated with Transportation. Keeping the streets narrow to maintain the small town character. Implement completes streets of the traffic and transportation master plan. Prioritize walkability improvements as identified in hot spot areas where existing trip demands are located close to one another.

The Work Session was adjourned.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
OCTOBER 10, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Thomas Eddington, Planning Director; Kirsten Whetstone, Planner; Francisco Astorga, Planner;
Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Gross, who was excused.

ADOPTION OF MINUTES – September 26, 2012

MOTION: Commissioner Strachan moved to ADOPT the minutes of September 26, 2012 as written. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reminded the Planning Commission that the Planning Commission meeting on October 24, 2012 would begin at 5:00 p.m. with a joint meeting with the City Council to hear a presentation by Gateway Planning regarding the draft Form Base Code for Bonanza Park. Following the presentation the Planning Commission would move into their regular agenda.

Director Eddington noted that time was scheduled during work session to discuss the first elements of the General Plan. At the last meeting a special meeting for the General Plan discussion was tentatively scheduled for Tuesday, October 16th, and the Staff would like to hold that meeting to discuss additional chapters if the Planning Commission was still amendable. The Planning Commission agreed to meet on October 16th at 5:30 p.m. in the Council Chambers.

Chair Worel stated that she would be arriving late for the meeting on October 24th. Commissioners Thomas stated that he would be unable to attend the meeting on November 14th. Commissioners Hontz and Strachan would also miss the November 14th meeting. Commissioner Savage noted that he would possibly have to miss the November 14th meeting as well.

Director Eddington reported that the Staff was still trying to schedule a meeting with the Snyderville Basin Planning Commission. November 5, 2012 was a potential date that was being pursued. He would inform the Planning Commission if a date is finalized.

Director Eddington introduced Anya Grahn, the new Planner who replaced Kayla Sintz. Planner Grahn would primarily be doing historic preservation and working on the General Plan.

CONTINUATION(S) – Public Hearing and Continue to Date Specified

Land Management Code Amendments – Chapter 1-General Provision and Procedures; Chapter 2-Zoning; Chapter 3-Off Street Parking; Chapter 4-Supplemental Regulations; Chapter 5-Architecture Review; Chapter 6-Master Planned Development, Chapter 7-Subdivisions; Chapter 8-Annexation; Chapter 12-Planning Commission; Chapter 15-Definitions. (Application #PL-12-01631)

Chair Worel opened the public hearing.

Meg Ryan, a Park City resident and a Land Use Planner, stated that she works with City Councils and Planning Commissions throughout the State on State and Federal Compliance issues. However, she was speaking on behalf of herself this evening as a resident of Park City. Ms. Ryan remarked that she had read staff reports and minutes from previous meetings to understand the changes and processes. She had sent the Commissioners and the City Council members an email last week regarding process and education to get the message out to the public in a better way.

Ms. Ryan had three points this evening and she handed out additional information. The first point was process and outreach. The second related to the proposed changes to the MPD sections and the third point was the subsection related to the Kimball Arts Center discussion.

Ms. Ryan stated that from reading the minutes and Staff reports, it is apparent that the proposed changes are unclear in public noticing. She requested that the agendas and notices provide more detail for the public. For example, the Staff, City Council and Planning Commission may know what it is in Chapter 6, but the general public would have no idea and would not be familiar with how to access the Staff report or understand it. She also requested clarification in the noticing on how the public could provide input, particularly if they are unable to attend a public hearing. Ms. Ryan suggested that those who do the radio spots be more descriptive because people can only comment if what they are being asked to comment on is clear and where they can find the information.

Ms. Ryan had passed out a handout called Mind Mixer. She was not endorsing the company, but she thought it was a good process that some cities utilize for interaction when they go through General Plan changes. It was another tool in addition to visioning. Ms. Ryan pointed out that she had made that same suggestion to the City Council.

Director Eddington reported that the City was looking at opportunities to begin using Mind Mixer. City Engineer Cassel stated that Mind Mixer was already being used for the Deer Valley Drive construction project next summer. Director Eddington stated that the first discussion was

scheduled for the next day, and the City was trying to bring it on line project by project to see if they could use it for more projects.

Ms. Ryan stated that her second point was specific to Code changes to the MPD. She was trying to fully understand what question was being asked of the public. She assumed they were requesting input on the draft dated September 26th. Ms. Ryan noted that her comments specifically related to the changes to Title 15, Chapter 6, Master Planned Development. She understood the subset discussion about why the change may or may not be occurring, but the exact discussion was not clear. In looking at the minutes it appears to be a global discussion about MPDs, which may be a good and necessary discussion. However, from her reading of the changes, it looks like they are removing the HCB and HRC zones, which were never prescribed but allowed. Use definitions were added, and a change was made for the open space definitions and the type of open space allowed. The language also talks about the HRC and HCB zones. Ms. Ryan was confused as to why the zones were eliminated, yet other areas in the draft talk about provisions for these zones. Ms. Ryan also questioned a new concept about a fee in-lieu purchase for open space.

Ms. Ryan had reviewed the minutes from the City Council meeting when the MPD changes were discussed, and the Council indicated that open space would be an on-going discussion and that it needs to parallel any changes to the MPD. Ms. Ryan could not find where the Planning Commission had fully discussed the proposed changes and she assumed they would still have that discussion. Ms. Ryan clarified that the actual changes were unclear and specifically for MPDs what they wanted the public to comment on.

Ms. Ryan stated that her third point was the issue of the Kimball Arts Center and how that was intervening itself into the MPD process. She noted that the August 23, 2012 City Council minutes reflected some discussion about alternatives in thinking about how the Kimball Arts Center proposal get process through the City. The City Council specifically wanted a public process, and when they discussed the MPD process they specifically wanted an exploration of how criteria for the MPD could possibly address one particular situation. Ms. Ryan understood that there were two issues regarding MPDs. One was the global MPD changes which were part of the annual review, and the second is the discussion of another process. She thought some of the amendments were addressing that sub issue.

Ms. Ryan asked why the MPD process was being caressed to fit a concept that did not have an application. There is already a process for that application to move forward, which would be the Heber Avenue subzone amendment. That area and the properties in that area were meant to be a transition zone from Main Street to the HRC before the Town Lift. Ms. Ryan pointed out that the HRC zone has many provisions and criteria that allow for a development on the Kimball Arts Center parcel. She questioned why this process was being back ended when a process already exists in the Heber Avenue subzone and an application could be submitted. Ms. Ryan remarked that the disconnect is that people believe they are commenting on an actual proposal when no proposal has been submitted. It appears that the Planning Commission is trying to change an existing process to accommodate a specific development plan. She was unsure why the Kimball Arts Center was not being required to submit an application and go through the public process like every applicant. She would like an explanation as to why the existing process was not being utilized. Mr. Ryan clarified

that she would be asking the same questions to the City Council and giving them the same message the following evening.

Ms. Ryan reiterated her request for better direction and information prior to the public hearing on October 24th.

Chris Schaefer stated that he spoke at the last meeting and commented on the MPD concept from the Kimball Arts Center. Since that time he has had the opportunity to read all the information on the City website, and he wanted to follow up on his previous. Mr. Schaefer stated that reading the first page of the MPD document, he came across three different items with regard to the Kimball Arts Center. From his reading, it appears that the project being proposed violates the spirit and the idea of an MPD. One is to insure neighborhood compatible; however, the building proposed is in no way compatible with anything in the immediate neighborhood. The second was to provide opportunities for appropriate re-development and reuse of existing structures and sites and maintain compatibility of the surrounding neighborhood. Mr. Schaefer remarked that the building concept shown by the Kimball does not even complement the existing Kimball building. The third item is to protect residential users and neighborhoods. Speaking as a private citizen and property owner in the building next door to the Kimball, he and other homeowners in the area were very concerned about property values if this very large structure is built in the middle of Old Town.

Mr. Schaefer understands that changes to the LMC are necessary at times, but the Kimball Arts Center should be made to follow the same rules as everyone else. Proper procedures are already established in the City for someone who wants to build in a zone. He felt the Kimball was trying to go around the system with this MPD proposal.

Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments listed on the agenda to October 24, 2012. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 264 Ontario Avenue – Plat Amendment (Application #PL-12-01628)

Commissioner Wintzer disclosed that he lives in the neighborhood; however, he did not believe that would affect his decision on this plat amendment.

Planner Whetstone reviewed the application for a plat amendment to combine three lots and small portion of a fourth lot of Block 60 of the Park City Survey, located at 264 Ontario Avenue. The request was to combine the lots into one lot of record for an existing landmark structure. The existing house has been designated as a Landmark structure on the Historic Sites Inventory. The

house was constructed across property lines and the applicant owns all three lots, as well as the small portion.

Planner Whetstone presented the existing conditions survey. She indicated a large slope on the edge of Ontario that goes all the way up and noted that the porch and a portion of the house sits in the platted right-of-way. She pointed out the location of existing McHenry and noted that some of the existing paved McHenry sits on Lots 14 and 15.

The property is in the HRL zone, which requires a minimum combination of two lots. The zone also requires that any future applications go through a Historic District Design Review. If the slope is 30% or greater and the applicant proposes more than 1,000 square feet, a Steep Slope CUP would be required. Planner Whetstone stated that the maximum footprint for this particular lot combination is 2,064 square feet. The combined lots would be 5,677 square feet. The existing house has a footprint of 793 square feet, which does not include the porch. The total additional footprint is 1,271 square feet.

The Staff did an analysis of lot combinations in the area and found that most of the lot combinations that exceed 3750 square feet did not have a restricted footprint. The lot with a restricted footprint in the Bear Subdivision was 6500 square feet. Planner Whetstone clarified that the footprint was restricted because it took out the right-of-way. Therefore, the size was based on the lot and not the right-of-way. Planner Whetstone stated that the average of the lots greater than 3750 square feet and went through a plat amendment was 2,280 square feet. The applicants were proposing 2,064 square feet. The average footprint of all the replatted lots, including the ones that are 3750, is 2,140.

Planner Whetstone noted that based on a formula in the Code for the entire zone, as the lot size increases the footprint increases at a decreasing rate. The Staff recommended that the footprint be based on the lot formula in the Code for the HRL zone.

Commissioner Hontz asked if the hatched area shown on the subject property should also include the one lot to the south. From looking at the existing conditions slide, it appeared that the three lots included that portion. Planner Whetstone agreed that it should be included.

Commissioner Hontz asked if the City still maintains the right-of-way on McHenry Avenue in that area. Director Eddington replied that the right-of-way has not been vacated. Planner Whetstone distributed copies of a revised plat showing the right-of-way that was proposed to be dedicated. She noted that the lot size did not include the dedicated area and the footprint would not be based on the dedicated right-of-way.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the 264 Ontario Avenue Subdivision plat, according to the findings of fact, conclusions of law and conditions of approval outlined in the draft ordinance.

David Constable, the applicant, stated that he has owned the property for 12 years and up to this point they have had good tenants. It has typically been a low-income situation. He and his wife

currently live on Deer Valley Drive and they would like to move forward with this project. Mr. Constable believes it will be a benefit to the neighborhood and the size will be compatible. Since it is historic it will fit with the neighborhood. He stated that currently three tenants live on the property and all three park on Ontario. If his project is completed, it will remove some of the cars off of Ontario and put parking on McHenry. Mr. Constable believed the McHenry access would benefit Ontario.

Commissioner Strachan referred to page 42 of the Staff report showing the subject property crosshatched in red and Lot A west of the subject property. He wanted to know what had occurred with that lot in terms of the encroachment on to Ontario Avenue. Planner Whetstone indicated the area from that subdivision that was dedicated to Ontario. Commissioner Strachan asked how that affected the porch of this landmark structure because it was also encroaching. Planner Whetstone stated that an encroachment agreement would be required. Director Eddington clarified that the City would not give up public property. The intent would be to record the encroachment agreement.

Commissioner Strachan stated that he was looking towards the future because many other lots in the area have the same issue.

Commissioner Hontz asked if there would be no need for a further right-of-way beyond the edge of the asphalt on McHenry. City Engineer Cassel stated that additional right-of-way would not be necessary. The intent is to establish McHenry and keep it the way it is. There is no future plan to expand the width of McHenry. Commissioner Hontz pointed out that McHenry is a very narrow street.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz remarked that this was a fantastic landmark structure and she believed the lot combination would help the applicant improve and preserve the structure. However, she was concerned about what they could see in the Steep Slope CUP and hoped that it would be reasonable. Commissioner Hontz noted that the Planning Commission has seen a number of applications where another structure, such as an accessory building, comes in with multiple stories; and/or the main house also goes up in size creating a cascading creep up the hill. She asked if that issue should be addressed at this point. Commissioner Hontz thought it made better sense to come in from McHenry and have one story above ground. It would fit well on the site versus something taller.

Commissioner Hontz noted that there was no recommendation or condition of approval that prohibits moving the house. She believed one of the attractions of the lot is that the house is in the right location. Planner Whetstone replied that it was included as a condition but it was apparently redlined out.

Director Eddington remarked that because the structure is listed on the Historic Sites Inventory as a Landmark structure it cannot be relocated unless it qualifies for movement based on an assessment by the Chief Building Officer and deemed unsafe or has threatening conditions. This particular structure does not qualify for movement.

Commissioner Hontz asked if they could add language indicating that the structure does not qualify for movement. Assistant City Attorney McLean stated that the process and decision regarding movement of the house is the purview of the Historic Preservation Board review. It was not part of this process.

Commissioner Thomas was comfortable with the conditional use permit process on steep slopes. Given the experience and expertise of the project architect, he was sure the applicant and his architect could come up with a design that is compatible with the historic nature of the building.

Commissioner Wintzer was concerned about potential stories given the number of recent applications with a three-story structure behind an existing three-story structure. He believed it was an issue worth discussing. Commissioner Wintzer suggested that one story above street and one story below street would be a large enough garage and it would resolve the concerns of a third story creep.

Chair Worel thought that would be addressed in the CUP process. Commissioner Wintzer pointed out that if it is allowed the Planning Commission would not have the opportunity to control it. Commissioner Strachan stated that the only tool would be to restrict the footprint. Commissioner Wintzer replied that restricting the height of the accessory structure would address the concern. Commissioner Strachan remarked that the height could also be restricted in the CUP process. Commissioner Wintzer concurred. Commissioner Thomas stated that the CUP process was the appropriate time to address those issues.

Commissioner Hontz pointed out that David White, the project architect, was the architect for another project where the number of stories was an issue. She believed Mr. White was well aware of the Planning Commission's position based on those discussions.

Commissioner Strachan felt it was a common problem with this section of the Land Management Code because Good Cause is a worthless standard. He noted that the LMC defines Good Cause as, "Providing positive benefits and mitigating negative impacts determined on case by case basis."

Commissioner Strachan thought the Planning Commission should have a broader discussion at another time about whether or not the LMC should be amended regarding this issue. However, for this application he believed there was good cause for the plat amendment.

Commissioner Wintzer stated that from living in the neighborhood he also sees the plat amendment as a positive. He clarified that the comments regarding stories was not directed to the neighborhood. It was a broader context based on past experience. If they open the door to allow an accessory building, the question is whether or not to restrict the size.

Commissioner Strachan stated that he views the neighborhood as two sections, where the west side of Ontario is a classic Old Town 25' x 75' lots and the east side is not. For whatever reason,

the two sides were designed differently and they have not evolved the same. Commissioner Strachan thought the CUP process was the appropriate time to look at ways to make the project compatible with both sides of the street because they are different.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the plat amendment at 264 Ontario Avenue Subdivision in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in the attached ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Finding of Fact – 264 Ontario Avenue

1. The property is located at 264 Ontario Avenue within the Historic Residential Low (HRL) zoning district.
2. On August 1, 2012 the property owner submitted an application to the Planning Department for the proposed plat amendment.
3. The application was deemed complete on August 10, 2012.
4. The plat amendment combines Lots 13, 14, and 15 with a portion of Lot 16, Block 60, of the Park City Survey, into one lot of record for an existing Landmark house.
5. The proposed plat amendment will create one (1) lot of record that is seventy five feet (75') wide by seventy fee (70') feet deep. The minimum lot width in the HRL zone is thirty five feet (35'). The lot depth is the minimum distance from the front property line to the rear property line.
6. The area of the proposed lot is 5,677.45 sf (5,773.45 square feet minus 96 square feet of area dedicated to the McHenry Avenue ROW). The minimum lot size in the HRL zoning district is 3,750 square feet.
7. There is an existing historic Landmark structure on the property that is listed on the Park City Historic Sites Inventory.
8. The Landmark structure was constructed in or around the year 1890 across lot lines between Lots 13 and 14. A non-historic lean-to shed crosses from Lot 14 to 15, Block 60 of the Park City survey. The house encroaches onto platted Ontario Avenue.
9. The applicant cannot obtain a building permit to build an addition to the historic house if it crosses an internal lot line. A plat amendment must be recorded prior to issuance of a building permit for a future addition.
10. The owner is not proposing to move the house from its existing location.

11. The property has frontage on platted Ontario Avenue and existing McHenry Avenue.
12. A 96 square foot portion of McHenry Avenue exists on the subject property.
13. The porch and front of the Historic Structure encroaches up to eight and a half (8-1/2) feet into the platted Ontario Avenue ROW.
14. Maximum footprint allowed on the lot is 2,064 square feet. The footprint of the existing landmark structure is 793 square feet.
15. The neighborhood is characterized by a mix of single family historic homes and single family non-historic homes on single and combinations of "Old Tow" lots. The average footprint of re-platted lots greater than 3,750 sf, in the surrounding area is 2,283 square feet per the findings in Table 1.
16. The lots are situated on narrow streets, namely Ontario Avenue and McHenry Avenue, which are not located within their respective platted rights-of-way. There is little or no available on-street parking in this neighborhood. Snow removal from McHenry may put snow onto the first 10' of the proposed lot front McHenry. Snow removal from Ontario occurs onto platted Ontario Avenue and therefore no snow storage easements on the lot area fronting Ontario are necessary. Paved Ontario is twenty feet below and forty (40') to sixty (60') to the west of the proposed lot.
17. All findings within the Analysis section are incorporated herein.

Conclusions of Law – 264 Ontario Avenue

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.
3. The public will not be materially injured by the proposed plat amendment.
4. As conditioned the pat amendment is consistent with the Park City General Plan.

Conditions of Approval – 264 Ontario Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with the Land Management Code and conditions of approval prior to recordation of the plat amendment.
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, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. The plat must be recorded prior to issuance of a building permit for any additions to the historic structure.
 4. A 10-foot wide public snow storage easement will be located along the property's frontage with McHenry Avenue. The easement shall be indicated on the final plat.
 5. Modified 13-D sprinklers will be required for all new construction and noted on the plat.
 6. An encroachment easement into Ontario Avenue, for the existing historic house, porch, shed and retaining walls shall be recorded and the recording information shall be indicated on the final plat, prior to recordation of this plat amendment.
 7. Approximately ninety-six (96) square feet of property shall be dedicated to Park City as McHenry Avenue ROW and shall be so indicated on the final plat.
2. **11398 N. Snowtop Road, Lot 1 Hidden Hollow – Plat Amendment**
(Application #PL-12-01637)

Spencer White was representing the owner of Lot 140, who lives in Florida.

Planner Whetstone reviewed the request for a plat amendment to create a small, 3,452 square foot driveway parcel, 'Parcel A' out of Lot 1 of the Hidden Hollow subdivision at Deer Crest. Lot 1 is 9.54 acres and the property was annexed into the City as part of the Hidden Hollow annexation and the Hidden Hollow Subdivision that followed.

Planner Whetstone stated that the parcel is needed to construct a Code compliant driveway for Lot 140 of the Snowtop Subdivision. The Snowtop Subdivision was approved by Wasatch County and annexed to Park City as part of the Deer Crest annexation. It came in with the parcel for the St. Regis, Slalom Village and other open space land. Planner Whetstone noted that the line shown between the two subdivisions was the County Line. Hidden Hollow is in Summit County and Snowtop is in Wasatch County. Both subdivisions are in Park City and under the purview of the Planning Commission and the City Council.

Planner Whetstone clarified that the purpose of the plat amendment was to resolve an issue with a driveway that is too steep and does not meet Code. Planner Whetstone remarked that several years ago the house was under construction and construction was stopped due to financial issues. Construction has started again, but the driveway is still an issue. The City Staff met to find a solution and determined that the best solution would be to ask the owner of the Hidden Hollow lot to provide property for this driveway.

Commissioner Strachan asked if there was a current driveway cut. Planner Whetstone indicated the driveway cut on the site plan. She explained that the owner of the Hidden Hollow subdivision agreed to an easement for the driveway and the applicant obtained a permit to construct the

driveway with the easement. However, the owner of Lot 1 did not want the driveway on his property and it was eventually sold to the owner of Lot 140.

Commissioner Savage asked if the easement was ever recorded. Planner Whetstone replied that the easement was recorded as a construction easement to build the driveway. The overall easement was not recorded.

Planner Whetstone reiterated that the requested plat amendment would create a small driveway parcel. A condition of approval states that the parcel is not separately developable as a unit and is solely for the purpose of the driveway, retaining walls and landscaping. The plat amendment does not impact Lot 140.

The Staff conducted an analysis and determined that there was good cause for the requested plat amendment. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval identified in the draft ordinance.

Spencer White clarified that there is an existing unpaved driveway on his property, but it is too steep to meet Code.

Commissioner Wintzer asked for the grade of the new driveway. Mr. White replied that it was an 11% grade and it would be heated. The driveway was approximately 300 feet long. Given the length, Commissioner Thomas asked how the fire department turnout would work. City Attorney Cassel noted that there was a dry pipe system at the top and a turnout would not be necessary.

Mr. White stated that the house sat unfinished for years until his client purchased it. His client had gone through an administrative conditional use permit and an encroachment permit with engineering due to the ROW. At the last minute the owner of Lot 1 was concerned about liability issues regardless of the easement agreement, and he decided to sell the parcel.

Commissioner Thomas assumed the retaining walls required engineering and that it would be a condition of the approval. Planner Whetstone replied that the retaining wall required a conditional use permit, which was approved administratively.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Lot 1 Hidden Hollow

1. The property, Lot 1 of Hidden Hollow Subdivision at Deer Crest is located at 11398 North Snowtop Road. The property is located within the Estate (E) zone designation.
2. Lot 1 of the Hidden Hollow Subdivision at Deer Crest is a 9.37 acre, vacant single family lot, located at 11398 North Snowtop Road.
3. Hidden Hollow Subdivision at Deer Crest was approved by the Park City Council on April 13, 2000. The subdivision plat was recorded on July 6, 2011 and is subject to Ordinance #00-27. The area of the Hidden Hollow Subdivision was officially annexed into Park City as the Hidden Hollow Annexation on December 17, 1998. The annexation plat was recorded a Summit County on September 9, 1999.
4. This plat amendment creates a 3,452 sf driveway access parcel, "Parcel A", from Lot 1 of the Hidden Hollow Subdivision for the purpose of providing additional area for construction a code compliant driveway for an adjacent lot, namely, Lot 140 of the Snowtop Subdivision, located at 11380 North Snowtop Road.
5. North Snowtop Road is a private road with platted easements for joint use by residents of both the Hidden Hollow Subdivision and the Snowtop Subdivision.
6. The Snowtop Subdivision was approved by Wasatch County on December 15, 1998 and the plat was recorded on December 23, 1998. The entire subdivision was annexed into Park City with the Deer Crest Properties Annexation in 1999.
7. A single family house is currently under construction on Lot 140 (Snowtop). The current driveway exceeds the maximum grade of 14% and the City Engineer and Building Department require a Code compliant driveway prior to issuance of a Certificate of Occupancy for the house. The driveway is currently being constructed with a building permit and a recorded temporary construction easement from Lot 1 to Lot 140.
8. Hidden Hollow Subdivision Lot 1 will be reduced from 9.37 acres to 9.29 when this plat amendment is recorded. There are no other changes proposed to Lot 140 of the Snowtop Subdivision. Lot 1 continues to meet all zone requirements as to size.
9. "Parcel A" is restricted in use to a driveway, retaining walls, and landscaping and other minor and incidental uses associated with the home.
10. The driveway parcel, "Parcel A", is not proposed to be combined with Lot 140 because Lot 140 is in Wasatch County within the Snowtop Subdivision, and "Parcel A" is located in Summit County within the Hidden Hollow Subdivision. Both subdivisions are located within the Park City Municipal Boundaries. Combining "Parcel A" with Lot 140 would create a lot that is within two different Counties.

11. This plat amendment also replats an amended building envelope for Amended Lot 1 of Hidden Hollow Subdivision to accommodate the driveway parcel. The building envelope of Lot 1 is reduced from 38,018 sf to 34,940 sf.
12. "Parcel A" is a non-buildable (for primary structures) parcel permanently associated with Lot 140 of the Snowtop Subdivision.
13. On April 26, 2012, the Planning Department approved an administrative conditional use permit for the retaining walls for the proposed driveway for Lot 140. The conditional use permit was required due to the retaining walls heights exceeding 4' in the front setback and 6' in the side setback areas.
14. There is good cause for this plat amendment. The amendment will allow the owner of Lot 140 to construct a code compliant driveway for access to the house currently under construction that is necessary prior to issuance of a Certificate of Occupancy and the plat amendment cures the issue of the overly steep driveway.
15. Both lots (Lot 1 and Lot 140) will have to abide by the setbacks required from each of the lots.
16. The applicant stipulates to the conditions of approval.

Conclusions of Law – Lot 1 Hidden Hollow

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 amendments.
4. Approval 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 – Lot 1 Hidden Hollow

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, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. All conditions of approval of the Hidden Hollow Subdivision at Deer Crest, as found in Ordinance #00-27, shall continue to apply to amended Lot 1 and shall remain in full force and effect with recordation if this plat amendment. A note shall be added to the amended plat to this effect and referencing the current Ordinance and Ordinance #00-27.
4. A note shall be added to the plat stating that: "Parcel A' shall become part of the ownership of Lot 140 of the Snowtop Subdivision in perpetuity and is not separately building or developable for any structure or units with the exception of a driveway, retaining walls, landscaping, irrigation, and other on-site utilities typically associated with a driveway use. The parcel cannot be used as a separate developable parcel for the construction of an additional home or to count towards additional density."

The Planning Commission adjourned the regular meeting and moved into work session. That discussion can be found in the Work Session Minutes dated October 10, 2012.

The Park City Planning Commission meeting adjourned at 8:25 p.m.

Approved by Planning Commission: _____

MINUTES – DECEMBER 12, 2012

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
DECEMBER 12, 2012**

PRESENT: Jack Thomas, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matthew Evans, Polly Samuels McLean

The Planning Commission held site visits prior to the work session at Lot 17, 18 and 19 of the Echo Spur Development and 30 Sampson Avenue.

WORK SESSION ITEMS

30 Sampson Avenue – Steep Slope CUP (Application PL-12-01487)

Planner Matthew Evans reviewed the application for a Steep Slope CUP for 30 Sampson Avenue. The property is located in the HRL zone which requires that any development over 1,000 square feet be reviewed as a Steep Slope conditional use permit. Planner Evans remarked that the Staff report contained several numbers related to house size, plat notes and decisions that allow a larger house than what was noted on the plat. He noted that the Staff and applicant were in agreement on the numbers outlined.

Planner Evans reported that the lot was a result of a plat amendment. It was a combination of Millsite designation lots that were combined into one larger lot approximately 7,000 square feet, and it is part of a subdivision that was approved in 1995 as Lots 30, 40 and 50 Sampson Avenue. The Staff reviewed the Staff report from the original subdivision and found that the City Council made findings for the approval of that subdivision based on the purpose statement of the HRL zone.

Planner Evans stated that this application was for a single-family dwelling unit, which is an allowed use. The conditional use is based on the fact that it is a steep slope property and must be reviewed by the Planning Commission under specific criteria. The Staff report contained the list of criteria. The Staff analysis found unmitigated impacts on Criteria 8 – dwelling volume and Criteria 9 – Building height. The Staff requested that the Planning Commission discuss the current design and provide direction to the applicant on the two unmitigated issues. The Staff found no other unmitigated impacts in the proposal submitted by the applicant.

Planner Evans reported on public input he received from the adjacent property owner, Ms. Schneckloft, regarding the snow shed easement. Planner Evans clarified that a snow shed easement is not reviewed at this point in the process; however, it would be addressed at a later time by the Building Official. When this application is further reviewed for a motion, he believed Ms. Schneckloft would offer recommendations for conditions of approval.

Commissioner Wintzer referred to the comparison of existing houses on page 61 of the Staff report and suggested that the Staff also include the proposed project to the table to make it easier to compare. Based on the purpose statement of the zones, Commissioner Wintzer could not find that the proposed structure was compatible with historic structures in the neighborhood. He acknowledged that larger structures were built before his time on the Planning Commission; however, the structure as proposed does not meet the purpose to preserve the character of historic structures. Commissioner Wintzer had additional concerns with the project, but the inability to meet the purpose statement was his primary concern regarding compatibility.

Jonathan DeGray, the project architect, asked Commissioner Wintzer for more specifics on where he believed the structure failed on incompatibility. Commissioner Wintzer replied that it was the height and mass compared to the historic structures. He was not looking at compatibility with the new structures in the neighborhood. He did not believe the City had done a good job enforcing the purpose statements in the past. In his opinion, they first need to look at compliance with the General Plan and the purpose statements of the zone before addressing setbacks and other elements. Commissioner Wintzer did not believe the proposed structure was even close to being compatible to historic structures in the neighborhood.

Mr. DeGray asked if Commissioner Wintzer was suggesting that the analysis should be geared towards historic structures and not as broad as the structures compared in the Staff report. Commissioner Wintzer answered yes because historic compatibility is identified in the purpose statements.

Commissioner Hontz concurred with Commissioner Wintzer in terms of height, scale and massing. She referred to page 57 of the Staff report and the Code definition for basements at the time of the plat. Commissioner Hontz stated that when the plat was written and the 3,000 square foot limitation was placed on the plat, her interpretation was that the basement as currently designed would not have been considered a basement, and therefore, would have been counted in the square footage. She understood that 400 square feet for the garage is not counted as part of the square footage as established by the former Planning Director. Commissioner Hontz struggled with the detachment of the two structures, the elevator and the patio in between. She did not believe it was a realistic design for Park City's climate to have people go up an elevator and walk outside to reach their homes. She was concerned that at some point in the future someone would try to attach the two structures and take apart what was created to get around the story limitation. Commissioner Hontz was uncomfortable creating new problems for enforcement and more issues for neighbors and Staff, which she believed could occur if someone tried to enclose the structures. Commissioner Hontz also had concerns with the stabilization of the snow shed and keeping it within the property, and making sure the retaining walls maintain the sides. She found the driveway to be perplexing and requested a drawing to scale to show how the driveway would work.

Commissioner Gross agreed with Commissioner Hontz. He had concerns about the 20 foot access during the winter and he asked if the proposal included radiant heat from the patio to the front door. Mr. DeGray stated that there would be a waterproof deck above that provides a cover over to the elevator. The plan is also for a heated slab. Mr. DeGray noted that page 83 of the Staff report showed the elevator and the walkway underneath. He pointed out that the elevator also goes to the main floor. In inclement weather the house could be accessed from the lower level. Mr. DeGray stated that the idea of detached structures is encouraged in the Code for the H zones in terms of detached garages and separate structures to break down the mass. He felt the comments from the Commissioners conflicted with the direction encouraged in the Code.

Commissioner Gross understood the concerns regarding historic compatibility; however, he was more concerned about how it would all tie in together.

Commissioner Strachan echoed Commissioners Wintzer and Hontz. However, he agreed with Mr.

DeGray that per the Code the structures must be stepped with the grade and broken into a series of individual smaller components that are compatible with the District. The garage must be subordinate in design of the main building. Commissioner Strachan believed the language encourages having a separated garage. It would be hard to predict whether or not someone would try to enclose it eventually. Commissioner Strachan felt that overall the dwelling mass and volume was incompatible with the surrounding houses, with the exception of 205 Norfolk which should not be a basis for compatibility analysis. He views the analysis as a bell curve and the proposed project should be near the middle to be considered even close to compatible.

Mr. DeGray asked if the compatibility issue was the size of the building or the mass above grade. Mr. Strachan replied that it was mass of the building above grade. Mr. DeGray pointed out that the average for the area came in at 3700 square feet. The proposed project is larger at 4500 square foot gross, but they are comparable to the other structures at 60 Sampson, 50 Sampson and the recently approved projects at 16 Sampson and 201 Sampson. Commissioner Strachan remarked that the smaller structures such as the one at 41 Sampson are the ones that need to be taken into account. He clarified that in addition to the size above grade, it is also the size of the entire living space. Commissioner Strachan pointed out that the purpose statements in the Code do not differentiate between above grade and below grade. His primary concern was the massing above grade; however, the CUP process analysis will also look at the total area.

Commissioner Savage thought the applicant was in the zone they needed to be in as it relates to the comparables in that particular part of the neighborhood. The house looks nice and interesting and it appears to adapt to an extremely challenging lot situation. Commissioner Savage suggested that the applicant look at changing the façade of the home to make it look and feel more historic in terms of presentation. From his perspective, the design and configuration as proposed was not inconsistent with what exists in the neighborhood. He felt it was difficult to be consistent with a hodgepodge of structures.

Commissioner Hontz noted that page 73 of the Staff report showed the size of surface parking and asked for the dimensions. Mr. DeGray replied that it was 9' x 18'.

Vice-Chair Thomas agreed that it was a difficult argument to fit within the purpose statements and the burden was on the applicant to demonstrate compatibility with the historic fabric of the community in terms of mass, scale and height, and how it is consistent with the purpose statements. He noted that the Planning Commission has the purview to reduce height on a Steep Slope CUP and he would prefer to see the height reduced. Vice-Chair Thomas struggled with the drawings presented and questioned how it was not one house based on the design. The roof is connected to the elevator and the elevator is connected to the garage, which makes it one structure exceeding three stories. Vice-Chair Thomas felt the argument was whether or not this was one house.

Mr. DeGray stated that the deck and patio are required to meet setback requirements, which treats them like a structure. Having a deck or patio connect from an accessory structure to a main structure does not technically connect buildings. Vice-Chair Thomas understood the point Mr. DeGray was making, however, he wanted to see that defined in the drawings to prove his point. Planner Evans remarked that it would definitely be an issued if the foundation was connected. Mr.

DeGray noted that the deck touches the elevator shaft, but it is an open air connection.

**Lot 17, 18 and 19 Echo Spur Development – Plat Amendment
(Application PL-12-01629)**

Planner Francisco Astorga noted that on September 12, 2012 the Planning Commission requested a site visit and work session for the Echo Spur Development Replat. The applicant also submitted additional information that was requested, including preliminary plans of the site. Planner Astorga noted that the plans were more specific than preliminary and the Staff was still working on reviewing the plans.

Planner Astorga reviewed the application for a plat amendment on platted McHenry. As previously noted, the City Engineer would eventually change the name of the road once it is fully dedicated to the City.

Planner Astorga reported that the applicant had submitted an application for a plat amendment to combine lots 17, 18 and 19. He presented slides to orient the Planning Commission to what they had seen during the site visit. He also presented the County Plat showing the ownership of the property. On September 12, 2012 the Planning Commission discussed vantage points per the Land Management Code. Planner Astorga noted that the LMC does not have a defined vantage point from where the development would be visible. However, the LMC identifies cross-canyon view as a vantage point. The applicant had submitted a total of six vantage points; three on Deer Valley Drive by the access to Main, one by the entrance at the Summit Watch, one at the roundabout, and another closer to the property. Planner Astorga reviewed slides from the stated vantage points.

Commissioner Savage concluded from the photographs that the development was basically invisible. Commissioner Gross concurred. Commissioner Hontz stated that she personally stood at each of the vantage points and concluded that the development would be visible, particularly the retaining wall. Commissioner Strachan remarked that the brown house behind the retaining wall was also visible. He pointed out that photographs are not entirely reflective of what the human eye would actually see.

Scott Jaffa, the project architect stated that the intent was never to make the house invisible. The existing scrub oak is 12 feet high and the house would sit approximately 12 feet above. It is surrounded by houses at the bottom on Ontario, as well as houses above it. The house is nestled in its surrounding environment.

Planner Astorga reviewed the elevations. He noted that the site is zoned HR-1 which has a 27' foot height limitation and a required 10 feet setback on the downhill façade. Planner Astorga stated that at the last meeting the Planning Commission discussed the 2007 settlement agreement. He had verified with Jack Fenton that the disputes with the settlement agreement had been resolved and both parties were satisfied with the outcome. Planner Astorga had done a more specific analysis of the Ontario neighborhood as shown on page 9 of the Staff report. The analysis concluded that the average width is approximately 36 feet and the average lot area is approximately 2800 square feet for those lots.

Planner Astorga referred to an Exhibit showing the outskirts of the Park City survey. He commented on the Gateway Estates subdivision. Because of the orientation of the houses and access off of Deer Valley Loop Road, it provided a better way to transition Old Town to what is called the Deer Valley entry area. In terms of house size the two houses that were originally platted for Gateway Estates were planned to be much larger than the Old Town historic character.

Planner Astorga requested that the Planning Commission discuss whether this Echo Spur neighborhood provides an appropriate area for transitioning between the larger lots of record versus the Ontario neighborhood, which tends to follow a different pattern than the standard 25' x 75' configuration. Since September the Staff has held several meetings with the owner to review the current definition of gross residential floor area and how that applies. The Staff recommendation was to limit the gross residential floor area to 3600 square feet. The Staff reviewed the preliminary plans submitted and found that the proposal would comply with the Staff recommendation of limiting the gross residential floor area.

Commissioner Wintzer remarked that the three lots are contiguous to a neighborhood of historic platted lots of 25' x 75'. That is the neighborhood they need to look at rather than the homes above or below. Planner Astorga pointed out that after the General Plan update is completed the next task is to do an analysis of the zoning districts to see how that can be improved.

Vice-Chair Thomas stated that he was on the Planning Commission when the Deer Valley Loop Road lots were approved, and there was a dramatic effort to minimize the massing and to make the units fit into the hillside. He pointed out that the grading on those three lots was dramatically different than the grading on the three Echo Spur lots. Vice-Chair Thomas believed that would have to be highly considered in this process. Planner Astorga noted that only one house was actually built and the other two houses lost their approval because they did not move forward on the building permit.

Planner Astorga recalled that another discussion point in September was what would happen in the neighborhood. Since the September meeting the Staff met with Mike Green, the owner of Lot 20. Mr. Green plans to build a single family dwelling and is currently working on an application. The other twelve lots are owned by Sean Kelleher, who submitted a complete application yesterday. The Planning Commission would review Mr. Kelleher's application during a work session in January. He proposes to build seven single family units through a condominium plat on his 12 lots of record. Vice-Chair Thomas stated that he would be recusing himself from the Kelleher discussion and he was uncomfortable talking about that proposal this evening.

Planner Astorga stated that ridgeline development was another issue carried over from the September meeting. He noted that Lot combinations in the HR-1 zone require an overall setback of 18 feet, with a minimum of 5 feet. The Staff request that the setback on the northern side be increased to 15 feet to aid with drainage issues and slope mitigation issues. Planner Astorga asked for input from the Planning Commission regarding the Staff analysis.

Planner Hontz referred to the minutes from the September 12, 2012 meeting on page 15 of the Staff report, fifth paragraph, and revisited a number of issues that were still pertinent. The first was that the road is still not dedicated to the City. In speaking with Matt Cassel during the site visit she

understood that some conditions have not been fulfilled and issues still remain. Commissioner Hontz was not comfortable with the safety of the road related to the gate, the vegetation that needs to be replaced and enhanced, the retaining wall and other issues. She thought there could be possible pressure from the applicant to whoever was responsible for fulfilling the conditions if it was a requirement to move forward with this application. Since the City Engineer had decided to place the road under the City's road system, they should do nothing until they know for sure that the road is acceptable to the City. A second point is that Third Street, which is located to the north of Lot 17, is currently a platted dedicated right-of-way. Because it was a right-of-way, someone decided to dig it up and put in a road. If this application moves forward, Commissioner Hontz wanted to make sure that no access would ever be provided to any lots in any area off of that existing right-of-way. A third point was that lots 17, 18 and 19 had to be combined in order to have access. In looking at the plat, lot 19 is the only lot that has access off of Echo Spur. Commissioner Hontz thought it was unrealistic to say that Lots 17 and 18 would be developed off of the current configuration of Echo Spur Drive. Standing at the gate and looking over a 40 foot drop, the amount of retaining required to get to the lots makes them unbuildable. Commissioner Hontz remarked that in reality this was one lot.

Commissioner Hontz referred to page 15 of the Staff report regarding the settlement area. She appreciated that the Staff took the extra step to confirm that an agreement was reached. However, she would like to see how the land was deeded. According to the publicly available agreement, the land would change hands and there would be different lot configurations for the lots adjacent to this property further north that could possibly have an effect.

Commissioner Hontz referred to Item 5 on page 15 and reiterated that the property and the road are part of a ridgeline. They cannot change the definition of a ridgeline because of what has happened around it. She thought they may be able to say that due to setbacks, the structure is placed far enough off of the ridgeline, but regardless, the property is part of the ridgeline and the setbacks should be closely scrutinized. Commissioner Hontz commented on LMC 15-7.3-1(D) and noted that this is a very sensitive area and there are impacts related to the ridgeline.

Commissioner Hontz referred to Items 6 and 7, additional limitations on maximum square footage and visibility from the roundabout. She felt it was a unique strategy to separate these lots from what was previously reviewed as a subdivision, because they now have to look at it as a new application. If this application moves forward, the applicant would have to maximize the number of lots on this particular substandard road, which can only be reached by other substandard Old Town streets. Based on traffic impact models, Commissioner Hontz understood that one house would generate approximately 12 vehicle trips per day. Assuming build-out on the nine lots, the per day vehicle trips would exceed 108 per day on this substandard street. She thought it was ludicrous to create that much additional traffic into that neighborhood on substandard streets. Commissioner Hontz pointed out that it was not just one home. They need to consider the compound impacts of all the lots.

Commissioner Gross asked about the cars backing out of the driveway and how they would get up the street. In his opinion it looked very tight and he was unsure how a car would get out. He requested a diagram showing how it would work. Commissioner Gross had spoken with City Engineer Matt Cassel about the fire safety issues and there is a turnaround below for fire trucks.

He assumed that once the street is accepted by the City it would provide the proper access for people to build.

Planner Astorga asked if the Planning Commission would feel comfortable approving the proposed development once the road is accepted by Matt Cassel, particularly regarding the road compliance issue raised by Commissioner Hontz. Planner Astorga noted that LMC 15-7.3 indicates that these types of development must be approved by the Planning Commission and that upon recommendation of a qualified engineer these items can be mitigated. The burden is on the applicant to hire a qualified engineer to determine whether the issues are mitigated. Planner Astorga clarified that the LMC implies that the applicant is allowed to find appropriate mitigation for these types of unforeseen development conditions on the land.

Commissioner Wintzer pointed out that the applicant has that ability with everything except the ridgeline. He read language in the same Chapter of the LMC that states, "For other features including ridgelines." Commissioner Hontz remarked that per the LMC the impact mitigation is formulated by the developer and approved by the Planning Commission. The applicant can propose a solution but the Planning Commission has the purview to determine whether the solution is suitable to mitigate the problem. Planner Astorga agreed. However, his interpretation of the LMC language is that the burden of mitigation is on the applicant, which also includes the ridgeline. He wanted to make sure the Planning Commission shared his interpretation. Commissioner Wintzer agreed with the interpretation with regards to geological hazards. His reading of the LMC language did not include the ridgeline. Commissioner Wintzer recalled that this same paragraph was read to the previous owner five years ago and at that time the Planning Commission had the same concerns that combining these three lots would encourage development to move down the hill further on the ridgeline. They faced the same issue with this application and he could see no way around it.

Planner Astorga remarked that the Staff interpretation was that ridgeline impacts could be mitigated if adequate methods are formulated. Due to the discrepancy in interpretation, he believed further discussion was necessary. He asked if the Staff was interpreting the Code incorrectly. The Commissioners answered yes.

Commissioner Strachan questioned whether the applicant could even find adequate methods. In addition, language in LMC 15-17.3-2(D) prohibits ridgeline development. There was no qualifier in the language to indicate that it would be allowed with adequate mitigation methods. Commissioner Strachan felt the LMC was clear that ridgeline development would not be allowed in any circumstance. In his opinion, this was still a ridgeline, even though the previous owner tried to eliminate that fact by digging a road through the property.

Planner Astorga understood that the Planning Commission would be prepared to make findings that this is a ridgeline and construction is prohibited on a ridgeline. Commissioner Savage stated that the Planning Commission was looking at a set of platted lots that also included other lots along that same ridgeline, and there were property rights associated with those particular lots. He understood the ridgeline issue; however, the fact that the lots were platted and exist as platted lots entitles the owners of those lots to some level of development rights independent of the ridgeline.

Assistant City Attorney McLean agreed that City cannot take away all rights to the use of a property; however, there are restrictions in the Code that prohibit structures on ridgelines. Therefore, those two issues need to be balanced. Commissioner Savage asked if the contextual precedence in that particular area has any influence on how the Planning Commission should view ridgeline development. In looking at the topography, it is clear that a ridgeline runs along the road and through the middle of the lots. He pointed out that existing homes above those lots on the ridgeline have already compromised the ridgeline in that area. He asked if that should have any impact on how these applications are reviewed. Commissioner Savage asked if the applicant would have the ability to say that within the constraints of this particular development site, as well as the existing homes, this is the ridgeline visual impact with the proposed home versus not building at all. Ms. McLean replied that the Planning Commission could have that discussion. Commissioner Savage wanted the applicant to pursue that direction unless it would be a waste of time because it is a ridgeline and development would be denied.

Mr. Jaffa pointed out that this was a new subdivision that was still in the process of dedicating the road to the City. He questioned why the subdivision would have been approved with platted lots if the lots could not be built on. Commissioner Wintzer noted that the previous subdivision application never came before the Planning Commission and it was never approved. Planner Astorga explained that it was a historic part of the Park City survey that was historically platted a hundred years ago.

Commissioner Strachan asked Assistant City Attorney McLean for her interpretation of LMC 15-7.3-1(D) as opposed to 15-7.3-2(D). Ms. McLean stated that when there are competing ordinances in the Code, they look at the plain meaning of the language. She noted that when language is added to address restrictions due to the character of the land, they try to have the statutes comport. Ms. McLean thought that should be balanced with making sure property rights are not being taken away from an existing lot. She believed that sub (D) in 15-7.3-1 also goes to health and safety issues; whereas, in 15-7.3-2(D), ridgeline development, the issue is more aesthetic.

Commissioner Strachan recalled that when the LMC provisions conflict the policy is to follow the one that is most specific. He considered the language in 15-7.3-1 to be more general than the language in 15-7.3-2.

Commissioner Savage asked to look at the topo map. Commissioner Wintzer pointed out the top of the ridge on the map to identify the exact ridgeline. Assistant City Attorney McLean read the definition of ridgeline area in the LMC. "The top ridge or crest of hill or slope, plus the land located within a 150 feet on both sides of the top crest or ridge." Commissioner Hontz pointed out that Lot 19 was different than in the previous proposal. Commissioner Wintzer personally believed it was a ridgeline and combining the lots would allow the applicant to move further down the ridgeline. He has walked the property and drawn the ridgeline on the topo. Commissioner Wintzer could see no way of getting around that fact. It is an important issue and the General Plan and the LMC address ridgelines in several places. Commissioner Hontz did not believe the Planning Commission should compromise on ridgeline development.

Vice-Chair Thomas remarked that the reason for being sensitive to ridgelines is based on the observation from the community of what appears to be a ridgeline and the problems created when

the ridgeline is broken. The type of ridge is irrelevant. this is a ridgeline with regard to a large percentage of the community. Commissioner Savage did not disagree that this was a ridgeline. He was only pointing out that there are many ridgelines in that area and some of those ridgelines had been compromised.

Assistant City Attorney McLean read the language from LMC 15-7.3-2(D) - General Subdivision Requirements for Ridgeline Development. "Ridges shall be protected from development in which development would be visible on the skyline from the designated vantage points in Park City." The specific vantage points are the Osguthorpe Barn, Treasure Mountain Middle School, the intersection of Main Street and Heber Avenue, the Park City ski area base, Snow Park Lodge, the Park City golf course clubhouse, the Park Meadows Golf Course Clubhouse, State Road 248 at the turnout one-quarter mile west from US Highway 40, State Route 224 one-half mile south of the intersection of Kilby Road, the intersection of Thaynes Canyon Drive and State Road 224 and across valley views. Commissioner Hontz stated that the cross valley view could be from any point across the valley. Vice-Chair Thomas remarked that the intersection of Main Street and Heber Avenue would be a critical vantage point in this situation.

Commissioner Savage thought an important piece of the language was the reference regarding visibility on the skyline from the designated vantage points. Vice-Chair Thomas informed Mr. Jaffa that the Planning Commission would need to see visuals from the specific vantage points mentioned. Commissioner Strachan stated that the three related vantage points were Heber Avenue, the base of PCMR and the base of the Park City golf course. Commissioner Strachan suggested that the Planning Commission could personally visit those vantage points.

Mr. Jaffa asked for clarification on across valley. The Planning Commission discussed other potential vantage points where the development might be visible. Commissioner Savage believed the analysis could be done using the topography map without a site visit to the vantage points. Commissioner Wintzer stated that in his opinion it was very clear that development would hit the ridge and penetrate the skyline. Commissioner Savage remarked that every object would penetrate the skyline from some given point. Vice-Chair Thomas agreed, but noted that there were primary valleys in the community that needed to be protected.

Assistant City Attorney McLean stated that height restrictions or other limitations are often placed in subdivisions to address the issues on a problematic property. She noted that the applicant has submitted a subdivision application and provided a conceptual idea of what they would like build. She suggested that the Planning Commission could discuss placing restrictions on the site to make sure it complies with all the elements of the Code. Commissioner Strachan remarked that the Planning Commission was being asked whether or not there was good cause for a plat amendment. In his opinion, there would not be good cause if the site is on a ridgeline and no structure, regardless of the height, could be built. Ms. McLean agreed, if the Planning Commission finds to that extreme. However, if as an example, if they find that a one story structure would not violate the elements of the Code, they could place those restrictions. Commissioner Strachan was unsure whether the Planning Commission would be able to make that finding. Ms. McLean stated that if the Planning Commission could not find good cause they would need to define very specific findings related to the vantage points and visibility on the skyline.

Mr. Jaffa used the color coded map to point out that while this may be a ridgeline, it was definitely not the highest element in that neighborhood. He indicated three houses that are substantially higher than the proposed structure. Commissioner Wintzer reiterated that those houses were approved in that location as a trade-off to stop development from coming further down the ridge. This is a different process and if this application is approved they would be putting one house on the ridge.

Vice-Chair Thomas requested that the Staff delineate the ridge that separates Deer Valley Drive from Main Street. If that ridge goes through this property the argument would be resolved. He directed the applicant to work with the Staff and seriously consider the comments made this evening.

Commissioner Savage clarified that he was not arguing whether or not it was a ridgeline. He was concerned that there was not a working definition on how to make that analysis. Commissioner Wintzer pointed out that the Planning Commission can only adhere to the Code. He agreed that the Code is sometimes vague, but the Planning Commission is tasked with interpreting the Code to make their decisions.

Commissioner Gross asked if the applicant could build on any part of Lots 17, 18 and 19. Commissioner Wintzer stated that Lot 19 is a platted lot on a ridge. The applicant could build a house on Lot 19 based on the current Code. The issue is that combining the lots would require a Steep Slope analysis. Planner Astorga remarked that all three lots would require a Steep Slope CUP.

The applicant, Leeto Thlou understood the comments expressed this evening. He asked if the other landowners in that area would have the same problem. Commissioner Savage replied that it would depend on the steepness of the individual lot and whether a Steep Slope CUP would be required. It was clear that Lots 17, 18 and 19 would require a Steep Slope CUP; therefore, the ridgeline issue needs to be resolved.

Commissioner Hontz clarified that the points she identified earlier in the discussion also apply to all the lots in that same area.

The Work Session was adjourned.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
DECEMBER 12, 2012

COMMISSIONERS IN ATTENDANCE:

Jack Thomas, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matt Evans, Planner; Francisco Astorga; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Vice-Chair Thomas called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Worel who was excused.

ADOPTION OF MINUTES

October 10, 2012

Commissioner Hontz referred to page 112 of the Staff report, page 6 of the minutes, fourth paragraph, regarding the 264 Ontario plat amendment and a discussion she had with the City Engineer that established key points about the small size and narrowness of City roads and the policy. She requested that someone listen to the recording and expand the paragraph to include more details of the actual discussion. Commissioner Hontz recalled an exchange between herself and the City Engineer which clarified that the narrowness of the road was appropriate. She would like her question and his response included in the minutes before they are adopted.

MOTION: Commissioner Hontz moved to postpone adopting the minutes of October 10, 2012 to January 9, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 4-0. Commissioner Thomas abstained since he was absent on October 10, 2012.

November 28, 2012

MOTION: Commissioner Wintzer moved to ADOPT the minutes of November 28, 2012 as written. Commissioner Gross seconded the motion.

VOTE: The motion passed 4-0. Commissioner Thomas abstained since he was absent on November 28, 2012.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington announced that the second meeting on December 26, 2012 was cancelled and the next Planning Commission meeting would be January 9, 2013.

Commissioner Hontz noted that the Park City Sustainability Department had put forth the project at 1580 Sullivan Road. Her husband works within that department, however, it would not affect her decision making on the project.

Planner Matt Evans reported that at the last meeting the Planning Commission denied the application for a CUP at 1580 Sullivan Road. He noted that the application would have come back to the Planning Commission this evening for ratification of new findings. However, the applicant had withdrawn the application and intends to make a new application that will come before the Planning Commission as a work session item.

CONTINUATIONS – PUBLIC HEARING AND MOTION TO CONTINUE

1. 1580 Sullivan Road – Conditional Use Permit
(Application #PL-12-01644)

Vice-Chair Thomas opened the public hearing. There were no comments. Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the 1580 Sullivan Road conditional use permit to January 9, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission moved into Work Session to discuss the Echo Spur Development Plat Amendment and the 30 Sampson Avenue CUP. Those discussions can be found in the Work Session Minutes of December 12, 2012.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 1580 Sullivan Road – Plat Amendment
(Application #PL-12-01645)

Planner Astorga reviewed the application for a plat amendment to allow the reconstruction of the two existing tennis courts and to add a third one. As the Staff internally reviewed the application

they discovered a lot line that went through the existing corner of one of the two existing tennis courts, which would ultimately affect the third court proposed by the City. Planner Astorga remarked that the plat amendment would shift the lot line as indicated on page 174 of the Staff report. He noted that the survey was shown on page 175 and the proposed site plan was shown on page 176. The property is owned by the City and it is located in the General Commercial (GC) District.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval.

Vice-Chair Thomas opened the public hearing.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the administrative subdivision on 1580 Sullivan Road in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1580 Sullivan Road

1. The site is located at 1580 Sullivan Road, City Park.
2. The site is within the General Commercial District.
3. The City requests to reconstruct the existing two (2) tennis courts and a third court at the north end of City Park.
4. The site contains two (2) existing tennis courts, a concrete sidewalk leading into the courts from the parking lot, two (2) park benches at the court entry area, landscaped area around the courts and four (4) court lights, one on each corner.
5. The City requests to add another tennis court west of the existing courts over the entry area, concrete sidewalk, bark mulch path, and portion of the landscape area.
6. The City also requests to reconstruct the exiting two (2) tennis courts.
7. Construction of the proposed third court and reconstruction of one of the courts would be located over an existing lot line, which is why the subdivision is necessary.

8. The City requests approval of the subdivision application to remove this lot line in order to be able to construct the proposed improvements (as described in this Staff Report) at City Park.

Conclusions of Law – 1580 Sullivan Road

1. There is good cause for this Subdivision.
2. The Subdivision 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 Subdivision.
4. Approval of the Subdivision, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 1580 Sullivan Road

1. The City Attorney and City Engineer will review and approved the final form and content of the record of survey for compliance with State law, the Land Management Code, and conditions of approval.
2. The applicant will record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Approval of a CUP and issuance of all necessary permits (building, et.) is required prior to the commencement of any construction activity.
2. **1063 Norfolk Avenue – Plat Amendment**
(Application PL-12-01693)

Planner Evans reviewed the application for a plat amendment to combine existing Lot 16 and half of Lot 15 in the Snyder's Addition to Park City into one lot. Planner Evans stated that the ultimate application would be a Historic District Design Review for an addition to an existing historic home listed on the Historic Sites Inventory as a significant home. Any addition to the home would require a plat amendment due to the fact that a portion of this home straddles both of those lots.

Planner Evans noted that the lot combination would result in a 2,812 square foot lot with an existing footprint of 739 square feet and a maximum building footprint of 1,201 square feet, resulting in approximately 462 square feet of additional footprint. Planner Evans remarked that the applicant had not yet submitted an HDDR application; however, the Staff assumed it would be submitted in the near future. The Staff has a general idea of what the applicant plans to do with the existing historic home. One idea is to put a basement underneath the home and add a rear addition.

The Staff found good cause for the plat amendment as described in the Staff report. There were some existing non-conformities associated with the setbacks; however, due to the fact that this is a historically significant home, those setbacks are legal conforming. Any new addition would be subject to the current setback standards.

The Staff recommended approval based on the findings of fact and conditions of approval outlined in the Staff report.

Planner Evans stated that the owner, Letitia Lawson, had questions regarding condition of approval #4. He clarified that it was a standard condition that is placed on all lot combinations.

Ms. Lawson requested clarification on condition of approval #5, which requires a 10-foot wide public snow storage easement. Commissioner Wintzer explained that the condition comes from the City Engineer and it is required on every lot combination. Ms. Lawson asked where the 10-feet was measured from. Planner Evans replied that it is 10-feet beyond the right-of-way. Ms. Lawson was concerned because the house does not sit 10-feet back. Commissioner Wintzer clarified that the 10-foot easement only gives the City the right to push snow off the road. Planner Evans stated that currently there is 9-feet to the existing house. In that case it becomes a snow storage area minus the encroachment.

Ms. Lawson referred to condition of approval #4 and questioned the requirement for sprinklers. She had met with someone from the Building Department who told her that per City ordinance, all homes in Park City must have sprinklers. She was unsure why that condition was placed on the plat amendment. Ms. Lawson was told that the condition was a standard requirement of the Building Code for any new construction, renovation or additions. If the historic home is left in its existing state, the sprinklers would not be required. Ms. Lawson still questioned why the condition was placed on the plat amendment.

Commissioner Savage pointed out that sprinklers would be required once Ms. Lawson does the addition. Having the condition on the plat should not make a difference. Ms. Lawson clarified that additions are included in the definition of new construction. She was told that this was correct. She was concerned about the expense and long term maintenance associated with fire sprinklers. It would also take away from the funds she planned to use to make the house historically correct.

Planner Evans suggested revising Condition #4 to read, "Modified 13-D sprinklers may be required for the renovation of the existing structure or new addition to be determined by the Chief Building Official at the time of review of the building plan permit submittal". Director Thomas thought the revised condition would be sufficient. Ms. Lawson was comfortable with the revised language.

Chair Thomas opened the public hearing.

There were no comments.

Chair Thomas closed the public hearing.

Commissioner Hontz revised condition of approval #3 to read, "No building permit for any work that expands the footprint of the home or **that** would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

Commissioner Hontz changed Condition #4 to read, "Modified 13-D sprinklers may be required for the renovation of the existing structure or **any** new addition to be determined...."

MOTION: Commissioner Savage moved to forward a POSITIVE recommendation to the City Council for the Norfolk Avenue plat amendment at 1063 Norfolk Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1063 Norfolk Avenue

1. The property is located at 1063 Norfolk Avenue within the Historic Residential (HR-1) Zoning District.
2. The property is shown on the Historic Sites Inventory as a "Significant Site" and includes a 739 square foot mining-era home constructed in 1911.
3. The applicants are requesting to combine one and a half Old Town lots into one parcel.
4. The plat amendment is necessary in order for the applicant to move forward with an HDDR for the purpose of a basement level and rear yard addition to the home.
5. The amended plat will create one new 2,812.5 square foot lot.
6. Currently the property is one and a half separate Old Town lots, Lot 16 and half of Lot 15. The half of is adjoined to Lot 14 and is a separate parcel.
7. The existing historic 739 square foot home is listed as "Significant" on the Historic Sites Inventory.
8. The applicant is considering a basement level addition to the home, including a garage and a rear yard addition. The application will also include a proposal to bring back the original covered front porch and bay window, as well as remove the front attic window, which was an out-of-period addition.
9. The existing historic home straddles Lots 15 and 16 of the Snyder's Addition and cannot be moved per the Historic District Guidelines.
10. The proposed additions to the existing historic home will require a review under the adopted 2009 Design Guidelines for Historic Districts and Historic Sites through the HDDR process.

11. The maximum building footprint allowed is 1,201 per the HR-1 LMC requirements. The current square footage is 739, which would allow a maximum footprint addition of 462 square feet.
12. There are non-conforming setbacks associated with this property, including the north side yard and (west/East/south) front yard setbacks. New additions to the rear of the historic home would require adherence to current setbacks as required in the HR-1 District, as well as be subordinate to the main dwelling in terms of size, setback, etc., per the requirements of the adopted 2009 Design Guidelines for Historic Districts and Historic Sites.

Conclusions of Law – 1063 Norfolk Avenue

1. There is good cause for this plat amendment.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval.
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 – 1063 Norfolk Avenue

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, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. No building permit for any work that expands the footprint of the home or that would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.
4. Modified 13-D sprinklers may be required for the renovation of the existing structure or any new addition, to be determined by the Chief Building Official at the time of review of the building plan permit submittal.

**3. 481 Woodside Avenue – Plat Amendment
(Application PL-12-01653)**

Planner Kirsten Whetstone reviewed the request for a plat amendment for the purpose of combining all of Lots 16 and 17 of Block 29 of the Park City Survey. The address is 481 Woodside on the west side of Woodside Avenue. An existing historic home on the property is listed on the Historic Sites Inventory as a significant home. The home was constructed in 1884 and went through a remodel in 1984. The house straddles a common lot line between Lot 16 and 17 and the applicant would like to combine the lots to resolve the common lot line.

Planner Whetstone reported that the applicant intends to work on the house and possibly add a partial basement. The applicant would eventually like to do interior remodeling due to storm water runoff issues in the rear of the property. Interior work was not being proposed at this time and the requirement would be one lot of record.

The Planning Staff believed there was good cause for this application because the home currently straddles the lot line creating a non-conforming situation with regards to setbacks of the common property line. The plat amendment is required before the applicant could proceed with improvements to the home and to protect the historic house from flood water. The Staff found that the plat would not cause undue harm to the adjacent property owner and could possibly improve the situation. All requirements of the LMC for future development shall be met.

Planner Whetstone noted that the conditions of approval were similar to the previous application, and she revised Condition #4 regarding the sprinklers. "Modified 13-D sprinklers may be required for renovation of the existing structure or any possible future additions." She pointed out that some new structure takes up footprint; however, since the house currently exceeds the maximum footprint the applicant could not add an addition unless something else was removed. Planner Whetstone referred to Condition #5 regarding the 10-foot snow storage easement. There is an existing garage within that easement area and the City would not push snow into the garage. However, the garage is not historic and if it ever comes down the City would want that easement.

The Staff recommended that the Planning Commission conduct a public hearing for the 481 Woodside Avenue plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval listed in the draft ordinance.

Vice-Chair Thomas opened the public hearing.

There were no comments.

Vice-Chair Thomas closed the public hearing.

Commissioner Hontz revised Condition #4 to match the revised language in the previous application. "Modified 13-D sprinklers may be required for renovation of the existing structure or possible addition to be determined by the Chief Building Office..." Commission Hontz referred to Finding #6 and removed the sentence, "no additional building footprint is proposed". She felt that language weakened Finding #10 regarding the maximum footprint and created confusion.

MOTION: Commissioner Hontz moved to forward a positive recommendation to the City Council for the 481 Woodside Avenue plat amendment in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact -

1. The property is located at 481 Woodside Avenue within the Historic Residential (HR-1) Zoning District.
2. The property includes an existing 2,677 square foot house and 594 square foot garage.
3. The house was originally constructed circa 1884 and remodeled with additions over time with the latest remodel and garage constructed in 1984.
4. According to the Historic Sites Inventory (KSI) the existing historic home on the property is listed as "Significant".
5. The applicant is requesting to combine two Old Town lots into one lot of record.
6. The plat amendment is necessary in order for the applicant to move forward with additional interior remodeling and landscaping in the rear to resolve existing issues with storm water run-off into the basement.
7. The amended plat will create a 3,750 square foot lot of record from the combination of all of Lots 16 and 17, Block 29 of the Park City Survey into one lot.
8. The existing historic home straddles Lots s16 and 17 and cannot be moved onto one lot, per the LMC and Historic District Guidelines. The house is also wider than one 25' wide lot.
9. Any exterior changes to the existing historic home or exterior landscaping requires submittal of an Historic District Design Review application with review for compliance with the adopted 2009 Design Guidelines for Historic Districts and Historic Sites.
10. The maximum building footprint allowed is 1,519 square feet per the HR-1 LMC requirements. The current building footprint is 1,723 square feet and is considered non-complying. No additional building footprint is permitted or proposed.
11. There are non-conforming setbacks associated with this property, including the south side and rear yards for the house and the front yard setbacks for the garage.

12. No construction is not proposed that will create further non-compliance of building footprint, height or setbacks.

Conclusion of Law – 481 Woodside Avenue

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 – 481 Woodside Avenue

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. Unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. No building permits for work on the existing structure that would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's Office.
4. Modified 13-D sprinklers may be required for renovation of the existing structure or a possible addition to be determined by the Chief Building Official at the time of review of the building plan permit submittal.
5. A 10-foot wide public snow storage easement will be provided along the frontage of the property.
6. Encroachments in the ROW and cross property lines must be addressed prior to plat recordation and either removed or entered into an agreement to preserve each encroachment.
4. **Land Management Code Amendments – Chapter 2-Zoning, Chapter 5-Architecture Review, Chapter 6-Master Planned Development, Chapter 15-Definitions.**
(Application PL- 12-01631)

Chapter 5 – Architectural Review

Planner Whetstone noted that at the last meeting the Planning Commission discussed adding the requirement for a landscape plan to this section. Additions were also made to the landscape requirements for using water-wise xeriscaping.

Planner Whetstone referred to page 225 of the Staff report and new language for permitting up-lighting for City funded or owned statues, public monuments, ground mounting public art, or flags of the United States. The language is very restrictive.

- (i) The use of Luminaires for up-lighting on any residentially or commercially zoned Lot or within a City ROW or Open Space Zone is permitted only for City-funded or owned statues, public monuments, ground-mounted Public Art, or flags of the United States of America.
- (ii) All lighting shall be shielded and have a beam-angle control aimed to limit the directed light to the illuminated object.
- (iii) Up-lighting is permitted 30 minutes before sunset and until 11:00 p.m. or one hour after the close of the location.

Vice-Chair Thomas asked if there was a way to control the amount of lumens that reflect off surfaces. Planner Whetstone suggested adding a restriction to address the issue. Commissioner Strachan noted that the language in (ii) says to limit the light to the directed object only. Vice-Chair Thomas thought there should be a limitation on lumens.

Commissioner Hontz suggested that they add a fourth restriction and ask the Staff to come back with proposed numbers for lumens. Planner Whetstone preferred to draft that language this evening so the Planning Commission could forward this chapter to the City Council.

Commissioner Strachan pointed out that the LMC sections regarding lighting and down lighting already have lumen restrictions. Director Eddington remarked that the lumen restrictions in those sections primarily address down-lighting for fields and parking lots.

Commissioner Hontz suggested adding language to indicate that the intent is to only illuminate the object. Commissioner Strachan remarked that the proposed language specifies that intent in (ii), "The up-lighting shall be shielded and/or have a beam-angle control and shall be aimed to limit the directed light to the illuminate object only". The Commissioners were comfortable that the language as proposed addressed the concern.

Director Eddington reported that in January the Planning Commission would have a more detailed discussion regarding lighting.

Planner Whetstone referred to page 226 of the Staff report, (L) Patios and Driveways. She noted that the Planning Commission previously discussed this requirement and approved the language in another section of the LMC. The language was being added to the Architectural Design Guidelines as well to say that:

- All non-bearing concrete flatwork, asphalt, and/or any Impervious Surface regardless of

size is required to obtain a Building Permit, including any repairs, alterations, modification, and expansion of existing features.

Planner Whetstone clarified that the requirement is intended to be proactive. When people do their own work or hire someone to do repair work or construct a patio or driveway, it often results in issues related to soils, drainage, property lines and neighborhood issues. The permits will be inexpensive and the cost will be based on the value of construction. Requiring a building permit allows the Building Department to review plans and inspect the work.

Planner Whetstone referred to (M) Landscaping. Proposed language requires a complete landscape plan to be prepared for all building permit applications. New language was added to include all exterior work that impacts existing vegetation.

Commissioner Wintzer asked if that applied to minor decks or patios and whether a property owner would have to hire a licensed landscape architect. Planner Whetstone replied that the owner would be required to submit a landscape plan; however, the requirement for a licensed landscape architect only applies to a conditional use permit, a master planned development or historic district design review. Commissioner Wintzer clarified that the homeowner could draw his own landscape plan to comply with the requirement. Planner Whetstone replied that this was correct.

Commissioner Hontz referred to the second paragraph under Landscaping on page 226 and asked if "Organically" was a defined term in the LMC. Planner Whetstone replied that currently it is not a defined term. Commissioner Savage thought the sentence could be removed entirely.

Planner Whetstone agreed and deleted the sentence, Mulches do not need to be Organically produced.

Planner Whetstone referred to the paragraph under Landscaping that addressed irrigated lawn and turf area. She thanked Commissioner Hontz for helping the Staff draft appropriate language. A table on page 227 of the Staff report outlined the percentage of Maximum Turf or Lawn Area of the allowed Limits of Disturbance Area of the lot that is not covered by Buildings, Structures, or other Impervious paving. Great than 1 acre is 25%; .50 to 1 acre is 35%; 0.10 to 0.49 acres is 45%; Less than 0.10 acres – no limitation.

Planner Whetstone noted that additional language requires that rocks and boulders used for pathways, walls, etc., need to be from local sources. Noxious weeds must be removed from the property prior to issuance of a certificate of occupancy.

Commissioner Savage asked why the City would dictate that rocks and boulders must come from local sources. Planner Whetstone replied that it was a sustainability issue.

Vice-Chair Thomas asked for a definition of "Local". Director Eddington stated that it would be the northern part of Utah and typically stone that is seen historically in Browns Canyon and surrounding areas. He clarified that the language was primarily added for HDDR purposes. Planner Whetstone pointed out that LEEDS defines local sources as within a couple hundred miles of the area.

Commissioner Strachan referred to (L) on page 225 of the Staff Report, and suggested that the language related to all non-bearing concrete flatwork be revised to indicate the type of action that requires a building permit. Director Eddington revised the language to read, A building permit is required for the construction of all non-bearing concrete, flatwork, asphalt, or any other Impervious Surface regardless of size, including any repairs, alterations, modifications, and expansions of existing features.

Vice-Chair Thomas opened the public hearing on Chapter 5 – Architectural Review.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation for the amendments to Chapter 5 of the Land Management Code subject to the revisions made during this meeting. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Chapter 6 – Master Planned Developments (MPD)

Planner Whetstone reported that on November 28th the Planning Commission removed a purpose statement the Staff had added regarding economic development.

Planner Whetstone referred to page Section 15-6-2 – Applicability, on page 229 of the Staff report. For the meeting on November 28th the Staff had added proposed language for clarification of where a Master Planned Development process would be required and where it would be allowed but not required. She noted that the language had not changed since November, other than to capitalize “Public” and “Quasi-Public” and “Light Industrial” and to add definitions.

Planner Whetstone stated that based on the language, master planned developments are required in all zones except the HR-1, HR-2, HRL zones. The language also removes the two zone allowance that has been allowed but not required. An MPD is allowed in HR-1 and HR-2 only when property in those two zones is combined with either the HRC or HRC zones. The draft also cleaned up the language and clarified that an MPD would be allowed but not required if it is not part of the original Park City Survey and the proposed MPD is for affordable housing.

Planner Whetstone clarified that the most recent changes were based on direction by the Planning Commission on November 28th.

Planner Whetstone recalled from the last meeting that there was general concurrence among the Commission that a master planned development was an appropriate process for these types of projects; and that height exceptions should be allowed in the HCB or HRC zones. To make sure the Staff had the correct understanding, Planner Whetstone requested that the Planning Commission revisit the issue to discuss the four options outlined on page 230 of the Staff report:

- 1) Forward the current language allowing no height exceptions for those MPDs which would limit the HRC to 32 feet and the HCB to 45 feet;
- 2) Allow a 50% zone exception in the HRC Heber subzone, which would allow a height of 48 feet;
- 3) Allow 50% of the zone height in the entire HRC, but only if a historic structure is located on the site. The allowed height would be 48 feet;
- 4) Allow a height exception in the HRC zone only up to the HCB limit of 45 feet.

Commissioner Hontz requested that Height and Open Space on page 231 of the Staff report be included in this discussion so it could be addressed at one time.

Open Space – 15-6-5(D)

Planner Whetstone noted that new language states that open space may be reduced for infill or redevelopment to 20%. Additional amenities were added such as sustainable design, meeting LEED Gold, publicly accessible, plazas and historic restoration either on or off the site. Planner Whetstone stated that based on comments at the last meeting, the fee-in-lieu was revised to a consideration of up to 5% of the required open space, with the fee to be determined by the City Council, with a recommendation by the Planning Commission based on market appraisal and a recommendation from COSAC or a similar open space committee.

Commissioner Hontz thought the language in (1) Minimum Required Open Spaces was confusing to read. She requested that the Staff come back with either bullet points or a chart to help with clarification. The language was too wordy and she felt it could be more concise. In reading the language, Commissioner Hontz was unable to determine what percentage of open space would be required. She suggested that the language be revised to better convey the information, along with charts and/or bullet points.

Director Eddington stated that the proposed language was clarification of existing language. As worded, all master planned developments require 60% open space, except the City's most dense zones, which are the GC, LI, HRC and HRM, as well as HR-1 and HR-2 if they are a bifurcated MPD issue. In the denser zones, the Staff recommended an open space requirement of 30%. If a project is part of redevelopment, the open space may be reduced to 20% subject to the criteria. Director Eddington offered to look at revising the language. Planner Whetstone would prepare the requested visuals for clarification.

Commissioner Gross pointed out that "Publicly" was spelled two different ways and one was incorrect.

Commissioner Wintzer was comfortable with 30% open space in the denser zones. However, he was concerned that they were dwindling the open space and then making an allowance for better landscaping. He was unsure how that would work since they were taking away the land that could be landscaped. Commissioner Wintzer believed open space was a great requirement for affordable housing, and he questioned whether they were dwindling open space too much to have meaningful open space. He was also concerned about process, because the City could reduce the open space and the developer could get credits for adding the open space back in.

Commissioner Wintzer questioned the 20% reduction and he could not see the purpose for considering a 5% reduction for fee-in-lieu.

Commissioners Strachan and Hontz concurred with Commission Wintzer regarding the 5% reduction. Commissioner Savage thought it would depend on the situation. The language "may be considered" is only an option and does not mean it would be granted. Vice-Chair Thomas was concerned that it would become a standard procedure for every application. Commissioner Savage suggested that they revise the language to state, "Fee-in-lieu would apply to situations where the open space is at least 20-30%". Commissioner Gross thought they should also add, "In no event less than" a specified percentage. Commissioner Wintzer was uncomfortable with allowing 20% because that results in very little open space. No landscaping could be done in 20% open space. Commissioner Hontz remarked that that the concept of publicly acceptable plazas, pedestrian ways and trail linkages have taken away the public accessibility or flow of pedestrian ways. She recalled a conversation at the last meeting that a pool would not be considered open space because it is not accessible 365 days per year/24 hours per day. Commissioner Hontz could not support publicly accessible plazas, gardens, etc. as an acceptable piece of open space. Vice-Chair Thomas asked if Commissioner Hontz was suggesting that the proposed language be stricken. Commissioner Hontz replied that she wanted the Planning Commission to discuss whether the "publicly accessible" language should be eliminated or further defined.

Planner Whetstone read the LMC definition of publicly accessible. "Open or available for public use to share and enjoy that may be subject to posted hours of operation such as weather, time, and seasonal closures".

Commissioner Strachan was bothered by the language, "...that are located either on or off the property." He felt that was the same as in-lieu. Planner Whetstone clarified that the language only pertained to historic structures. She read, "Rehabilitation or restoration of historic structures that are located either on or off the property". She explained that the owner could get credit for open space in another location in exchange for historic preservation. Director Eddington stated that the idea stemmed from the issue of setbacks serving as open space. No one wanted setbacks to serve as open space because it is non-functional and non-usable space. The intent was to get away from setbacks and require a reduced amount of open space that was more usable. Commissioner Wintzer preferred to reduce the setbacks in certain areas and keep the percentage of open space the same. Director Eddington remarked that the Staff was also looking at that as well, particularly as they work with form based code. However, the issue was that maintaining 60% open space in the more dense areas created areas that were separated from each other and diminished the walkability experience. Director Eddington believed the Staff could reword the language to address their concerns.

Commissioner Strachan asked if the Planning Commission was in agreement on the fee-in-lieu. Commissioners Wintzer, Hontz and Strachan thought they should strike the language. Commissioner Savage pointed out that they continually talk about affordable housing and ways to finance the ability for affordable housing. He believed the fee-in-lieu could be a revenue source, particularly since the City would have the ability to decide on a case by case basis whether it was good revenue source. He did not understand why they would cut that option.

Commissioner Strachan did not want the selling of open space to become a precedent to raise revenue. In his opinion, the City should be buying open space, not selling it. Commissioner Savage clarified that his point was to have the option. Commissioner Strachan was not interested in having that option.

Director Eddington stated that the fee-in-lieu was a TDR of open space. Commissioner Wintzer asked the Staff to provide visual examples of how it would work before they strike the language.

Commissioner Hontz referred to (2) Type of Open Space, and the language, "Open space may not include land that is to be utilized for streets, roads, driveways, parking areas, uses, or building requiring a building permit." She recommended adding internal pathways that exist only to service a particular use. Commissioner Savage thought the wording, Open space **may not** include land..." should be replaced with **does not** include land..." Planner whetstone made the suggested change. The Planning Commission discussed what they would consider to be acceptable publicly accessible open space.

Director Eddington stated that the Staff had enough information to prepare the requested visuals.

Height – 15-6-5(F)

Commissioner Hontz was comfortable with the proposed language on page 232 of the Staff report. Commissioner Strachan understood that the revisions were part of the discussion on the bullet points outlined by Planner Whetstone and listed on page 230 of the Staff report. Commissioner Savage clarified that the revisions on page 232 were part of the first bullet point. Commissioner Strachan replied that this was correct.

Planner Whetstone noted that Landscaping, Historic Mine Waste Mitigation and Resort Accessory Uses were the remaining topics in Chapter 15-6-5. She stated that rather than describing landscaping again, the language talks about compliance with the landscaping requirements in Chapter 5. Mine Waste Mitigation was unchanged from the last meeting including findings for addressing physical mine hazards and mine waste. Back of house was the only change to Resort uses.

Commissioner Strachan was comfortable with the remaining sections as proposed. The Commissioners concurred.

Vice-Chair Thomas opened the public hearing on Chapter 6 – MPDs.

Sanford Melville, an Old Town resident, stated that he was also a member of Preserve Historic Main Street. Mr. Melville felt it was clear from previous statements that Preserve Historic Main Street was very opposed to modifying the current MPD language. The existing rules were well thought out and have served the community very well. Mr. Melville understood that the Staff believed the MPD language needed to be revised and he and others had concerns with the proposed revisions. One is the height exceptions. Mr. Melville questioned why they would consider an exception for MPDs in the Historic District. It would increase the mass and scale of

future buildings and it would substantially contribute to building creep. Mr. Melville asked where the 50% zone height exception came from and what analysis was done to show that it was even needed. He felt it appeared to be arbitrary and definitely counter to the small town feel, nature setting, and historic character goals in the General Plan. He believe is also conflicted with some of the purpose goals in LMC.

Mr. Melville expressed concern with the open space. He asked why they would consider reducing open space requirements for MPDs in the historic district or anywhere else in Park City. Mr. Melville stated that reduced open space would lead to increase project density and was counter to the goals of the new General Plan. He noted that the purpose statement in the MPD chapter states that one of the goals of the MPD is to provide the highest value to open space for any given site. The modifications being proposed for open space do not reflect that goal and the project enhancements do not contribute to the feeling of open space at the project site. Mr. Melville commented on the revisions to the type of open space that include publicly accessible plazas and gardens. He noted that publicly accessible is defined as open or available for public use to share and enjoy that may be subject to posted hours of operation. In his opinion that was not truly open space. Mr. Melville stated that the historic core is fundamental to the whole identity of Park City. It is the heart and soul of the town and he urged the Planning Commission to preserve this valuable historic core by narrowly modifying the MPD Chapter of the Land Management Code.

Hope Melville an Old Town resident could not find in the LMC a requirement that the historic design guidelines apply to MPD projects in historic zones. There was a provision in the Architectural Code that all uses in historic districts are subject to design review by the Planning Department. Referring to the Findings for MPDs in 15-6-6, Ms. Melville believed there should also be a finding that requires MPDs in the historic district to comply with the historic district design guidelines.

Robyn Rouche, the Executive Director of the Kimball Arts Center, stated that like everyone else, they are committed members of Park City who are passionate about what is best for Park City. She believed they could all agree that the community deserves the merits of a larger, better, and cooler art center. Ms. Rouche wanted to clear up misconceptions about why the Kimball has not been more forthcoming. The intent was to be respectful of the process and they were advised not to come before the Planning Commission until an official applicant was submitted. She explained that all they have at this point is a conceptual plan from their architectural contest and they have been gathering public opinion on that plan while waiting to hear whether they could even apply for a formal application. Ms. Rouche understood that the Kimball may not have that opportunity. She noted that the Kimball Arts Center was mentioned 36 times in the minutes from the last two Planning Commission meetings without their voice being heard. She came this evening to discuss the situation firsthand. Mr. Rouche reiterated that the plan in question was only a concept from a design contest. The Kimball Arts Center wants to work with the Planning Commission and they are willing to compromise if the Planning Commission is willing to have the dialogue. She remarked that the goal from start, and after years of study, has been how to expand the Kimball and contribute to the enrichment of the community both culturally and financially in the best way possible through greater education, events and exhibits, not to mention being a draw to Main Street. Ms. Rouche stated that the economic

reality is that the Kimball is housed in a building that has become too expensive to maintain and it does not meet their current needs and future programming goals. The 32' height limit would not come close to meeting their programming goals, nor would it warrant the high cost of the massive preservation effort they are willing to undertake. Ms. Rouche pointed out that in addition to square feet it is also about cubic footage. Without the ability to do the necessary expansion, the Kimball Arts Center would be forced to look at other options and locations. It would only be a matter of time before they would have to move. Mr. Rouche understood that 80 feet was a non-starter. She clarified that they were not looking for approval. They only wanted a formal chance to have a dialogue on what would work best on that site for the Kimball and the community. Ms. Rouche stated that the Planning Commission would be welcome and encouraged to have a say in the design. The goals of the project are entirely altruistic in nature and are meant for the overall prosperity and educational advantage of the community. She hoped there was an opportunity to collaborate with the Planning Commission to achieve an extraordinary and successful result.

Matt Mullin, Chairman of the Board of the Kimball Arts Center and an Old Town resident, stated that the Kimball has not submitted an application of any kind. They have not finalized their design and have not drafted an application. They have done nothing more than talk about the concept, yet the concept has been discussed at length in Planning Commission meetings. Only one side has been vocal. The other side has been kept silent and out of the discussion. Mr. Mullin asked the Planning Commission to allow the Kimball to voice their opinion and share their needs and the reasons for expansion. They have a strong desire to stay in the Historic District of Park City, but without help and cooperation they may need to set their sights on a new location. Mr. Mullin stated that after contemplating expansion for more than ten years through various boards and three directors, they know what it takes to meet their needs and how it could be accomplished. What they do not know is whether Park City wants to have a dialogue that will allow all the components necessary for a great Arts Center to work within the Historic District. He requested that the Planning Commission give them this avenue through which they can share ideas and allow the Kimball and their supporters the equal right to become part of the discussion and process. Mr. Mullin stated that the Kimball has a run a public and collaborative process from the beginning and they hope to continue to do so. They want to work with the Planning Commission and City Council to build an addition that allows them to do all the things they need to do and at the same time preserve historic Main Street.

Jim Tedford provided a handout of his comments and proposals. Mr. Tedford stated that he was speaking on behalf of Historic Main Street. Following the process for three months he believed the concept of public dialogue started with the initial work session with the City Council in August. During that meeting it appeared that the main impetus was to find a method of allowing public dialogue. Mr. Tedford believed there were options for dialogue without changing the MPD process. One option would be to schedule a work session. As outlined in his handout, the opportunity for dialogue was already written in the Code. There was an existing opportunity for a pre-application conference and a pre-application public meeting and determination of compliance in front of the Planning Commission. Mr. Tedford understood that wording was the reason why the pre-application process would not be available to the Kimball Arts Center. He recommended modifying the language in 15-6-2 – Applicability (A), to say that the master planned development pre-application process shall be required in all zones. In (B)

the language could be modified to require the master planned development application process in all zones.

Chris Shaeffer, an owner in the Town Lift condos next door to the Kimball Arts Center. He has met with Robyn Rouche several times over the past few years regarding this project. Ms. Rouche has also met with others from the Town Lift condos. In the past they discussed the previous proposal the Kimball was making for a more modest development on that same site in 2006 and 2007. Mr. Shaeffer suggested that the Kimball entertain a more modest expansion similar to what was proposed in 2006-2007. That proposal alone would not meet the space requirements; however, there is available space across the street in the Summit Watch development that could be leased to meet some of their requirements. He believed that option would be less expensive than the building they were currently proposing. Mr. Shaeffer offered that suggestion as a viable way to keep the Kimball Arts Center in the downtown area and still meet their expansion requirements.

Vice-Chair Thomas closed the public hearing.

Commissioner Savage stated that trying to recommend modified language to the City Council regarding the MPD would have a significant impact on the future course of events as it relates to the Kimball Arts Center. From his personal perspective, as well as the perspective of a Planning Commissioner, he thought they should try to create an opportunity by which they could look at the objectives, vision and the benefits to Park City from this project within the constraints of the existing Code and within the context of the concerns expressed by all the citizens. Commissioner Savage suggested that they consider whether there could be a reasonable solution to move forward in a positive fashion.

Commissioner Wintzer stated that it is always difficult to weigh the value of Old Town and/or the community against the value of a project. He personally struggles with the idea of rewriting the Code for a project. Commissioner Wintzer recalled earlier discussions where they agreed to keep the focus on whether or not to allow an MPD, but the conversation always goes back to the Kimball project. He would like to find a way to open the door for MPDs, but he was concerned that if they allow for more height they would end up with four or five buildings on the corner that would take away from what they were trying to preserve. Commissioner Wintzer pointed out that they cannot write a Code that allows something for one building but not another. He noted that part of the Code is to protect the neighbors who built underneath the Code. The people who live behind or adjacent to the Kimball thought they would be subject to the same restrictions as everyone else in the neighborhood. Commissioner Wintzer felt it was an awkward situation; however, he would like to have a conversation to see what might be accomplished. He was not comfortable recommending an arbitrary number for height without understanding the implications. This is an important corner and with the information he has he would have to vote against additional height.

Commissioner Hontz echoed her fellow Commissioners. The Kimball is an important piece and central to tourism in Park City. Although it is not within their purview to make sure Park City is successful and economically healthy and vibrant, the Code has ramifications to what people can and cannot do that may or may not impact what would happen in the vicinity of the Kimball Arts

Center and other affected Districts. However, from the standpoint of a Planning Commissioner, she knows how the proposed height changes to the MPD would look and feel. Because this is not a discussion about a site specific application, they need to understand the ramifications of allowing this for all MPDs in all the areas discussed. Commissioner Hontz stated that the impacts are significant and she was not comfortable with the height exception. In many of the jurisdictions she works with, when someone has a good idea they bring it forward and it is presented and vetted through a process. Commissioner Hontz believed that if an applicant worked with the Legal Department there would be a way to have a discussion about an actual application regardless of where it is located. She did not favor spot zoning, but in some circumstances it is necessary to look at a site and determine that the zoning does not fit. Commissioner Hontz was not comfortable opening the window for height and she could not support changing the Code to allow additional height for any applicant at any time.

Commissioner Gross thought it was unfortunate that the Planning Commission went through the process without a submitted application and it is difficult to make a decision based on that fact. He noted that the Kimball needs to make tough decisions and decide whether they can physically operate their vision within that building regardless of what it looks like. The Planning Commission was doing their best to develop those areas where there is more density to create walkability so they are not developing on the fringes. Commissioner Gross believed the stated mission was clear. Whether the Kimball comes under the MPD or something else that allows the expansion is critical, but they do not have the answers.

Assistant City Attorney McLean clarified that from a legal perspective the Kimball could not submit an application because the winning design of the competition would not meet the Land Management Code requirements.

Commissioner Hontz remarked that there could be a non-application made through a different process where it is not an application for land use. A second option would be for the Kimball to amend their application to come in under the Code and possibly ask for variances. There are options but the Planning Commission should not be the ones to find them.

Commissioner Strachan did not think the City should amend an entire zone based on one subpart that may or may not want to do something. If they intend to make zone-wide decisions, they should be made based on the needs of the zone and how the needs of that zone interrelate to the needs of the other zones. At the last meeting he stated that under that analysis height exceptions should not be allowed. He had changed his opinion since the last meeting and now believes that MPDs are not good for any of the HR zones. Commissioner Strachan stated that MPDs are an exception to the zone and it is a way to get around the planning and zoning that the City has tried to make as consistent and beneficial as possible. If they allow a tool like an MPD, whereby any property owner who fits a certain amount of criteria can submit an application and ask the Planning Commission to ignore the zone, it is a dangerous tool. It is a helpful tool in other zones but not in historic zones. Commissioner Strachan stated that he would not vote in favor of the proposed MPD language at all.

The Planning Commission discussed process and options for the Kimball Arts Center or any other project to have the ability to submit an application when it does not meet Code. Assistant City Attorney McLean explained the process for variances and zone change requests.

Commissioner Strachan reiterated that aside from the height issue, he would recommend that the City Council not make any changes to the MPD section of the LMC. Ms. McLean stated that it was appropriate to recommend that no changes be made.

Commissioner Hontz asked if the Planning Commission would consider recommending changes to the MPD section that makes the Code easier to read without changing the intent. Commissioner Strachan was willing to discuss clarification changes at the next meeting.

Commissioner Savage asked if it was appropriate to ask the Staff to conduct a process in conjunction with the various stakeholders to see if there is a process to find a solution to this particular situation. The Planning Commission could then discuss how that impacts what they want to do in terms of making a recommendation to the City Council on the MPD section of the Code.

Director Eddington stated that the Staff would come back with a revised proposal for 16-6-2 and 15-6-5 based on the comments made by the Planning Commission this evening. They would also look at other options as requested by Commissioner Savage.

Commissioner Strachan thought the Planning Commission needed to give the Staff clear direction on whether or not they want MPDs in the HR Districts. Planner Whetstone understood that the Planning Commission did not want MPDs in any of the historic districts. In the spirit of optionality, Commissioner Savage could not understand why the Planning Commission would take that step right now. Commissioner Strachan did not believe that optionality would ever be necessary or appropriate in the historic districts. Commissioner Savage took the opposite perspective. He would not want to pre-judge what is or is not appropriate in the historic district until he had the opportunity to see the proposal and understand how it looks and feels within the context of the historic district. If a proposal comes forward from the Kimball that does a good job of maintaining the historic significance of the existing location and adds value to the community and neighborhood, as a servant to the City he would like to see a process that would allow for that possibility. He thought they were cutting off options rather than letting the possibilities manifest themselves. Commissioner Gross concurred with Commissioner Savage.

Vice-Chair stated that if the Code is not changed for that District, it would be more restrictive by prohibiting MPDs. He was unsure where he stood on the issue.

Commissioner Savage suggested that the Planning Commission continue further discussion on this section of the Code to the next meeting and let the Staff do what was requested. Commissioner Wintzer felt they needed to give the Staff direction before they continue the matter.

Vice-Chair Thomas noted that Commissioner Strachan had asked for clarity on whether or not the rest of the Commissioners agreed with not allowing MPDs in the historic districts.

Commissioner Hontz stated that as much as she agreed with Commissioner Strachan regarding the history of MPDs and the ones seen in the past, she was not uncomfortable with allowing MPDs in the historic district as long as they eliminated the height exception. If they move forward and keep (B) allowed but not required, she would want the height restriction for the historic district. Commissioner Hontz could see opportunities with MPDs, but height in the historic district would be the biggest challenge and people would build to the maximum. In the interest of cooperation and unanimity, Commissioner Strachan would be willing to allow MPDs in the HR Districts if there would be no height exception under any circumstance.

Vice-Chair Thomas stated that the problem is that MPDs cascade through their way through the community in unexpected places. He has seen exception to heights used in other small towns on significant building that enhance the community and make it a better place. It provides a focal point for where you are. Absolutes make him nervous and he was not comfortable with absolutely restricting that site forever.

Director Eddington asked if it would be helpful for the Staff to come back with a better analysis of what exists along Main Street where MPDs were utilized and the various heights in the different zones. Commissioner Savage personally thought the analysis would be helpful.

Commissioner Wintzer stated that he would have a hard time allowing a height exception in this area. He would like the opportunity to look at a project under an MPD, but he was certain that if they changed the Code to allow height exception that is all they would see. He believed developers and the design community fail on that issue because they see a height exception as a permitted use.

The Commissioners commented on buildings in the Historic District that could increase their height if the height exception was allowed.

MOTION: Commissioner Savage move to CONTINUE this discussion to the next meeting and ask the Staff to carry out the exercises discussed, and to come back with additional information to help the Planning Commission make the decision regarding the MPD language in the context of that analysis. Vice-Chair Thomas seconded the motion.

VOTE: The vote was tied 3-3. Commissioners Savage, Gross and Thomas voted in favor of the motion. Commissioners Wintzer, Hontz, and Strachan voted against the motion.

Commissioner Strachan suggested that the Planning Commission make a motion to direct Staff to come back with language disallowing any height exceptions. They would have this same discussion at the next meeting but they would have language to vote on.

Commissioner Savage withdrew his motion.

Commissioner Hontz read language from page 232, "Height exceptions will not be granted for master planned developments within the HR-1, HR-2, HRC and HCB".

MOTION: Commissioner Strachan moved to CONTINUE the discussion to January 9, 2013 with direction to Staff to include the proposed language on page 231 and the top of 232 with regard to 15-6-5 – Building Height, and bring back added language that makes it clear that no exceptions to the height restrictions will be allowed in the HRC and HCB zones. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Chapter 15 - Definitions

The Commissioners agreed to open the public hearing and continue discussion on Chapter 15 to the next meeting.

Vice-Chair Thomas opened the public hearing for Chapter 15 – Definitions.

Ruth Meintsma, a resident at 305 Woodside, stated that the definition on half-story was appropriate except the description does not apply to some structures on the Historic Sites Inventory. An example was the pyramid structure at 359 Woodside, which was originally a boarding house. Ms. Meintsma noted that this house was described as a story and a half on the HSI. It does not look like a two-story structure; however, according to the definition a half story now becomes a whole story. A half-story was described in history and the National Register description describes it as a half-story. Ms. Meintsma suggested an exception for historic houses described in that way on the HSI.

Lila Tedford requested clarification on the definition of publicly accessible. She asked if that would apply to a deck that was publicly accessible unless the restaurant closed or to a roof top garden.

Vice-Chair Thomas stated that the Planning Commission would come back with clarity at the next meeting.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Wintzer moved to CONTINUE Chapter 15 – Definitions to January 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Roof Pitch

Vice-Chair Thomas opened the public hearing on Roof Pitch.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the Roof Pitch discussion to January 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

5. Richards Parcel – Annexation (Application PL-12-01482)

Planner Whetstone requested that the Planning Commission provide direction on a number of issues outlined in the Staff report and continue the item to January 9, 2013 to allow Staff time to draft an annexation agreement. She noted that most of the issues would be addressed through conditions of approval that must be met prior to final plat recordation.

Commissioner Wintzer asked if the agreement to allow the applicant to use City property for grazing would be a separate agreement. Planner Whetstone answered yes. Commissioner Wintzer asked if there would be limitations to prevent over-grazing. Planner Whetstone stated that the City was working with an expert on that language.

Commissioner Hontz felt they failed in the last annexation by not addressing the environmental existing conditions. She asked if that would be part of the analysis and whether there would be actual existing conditions of the open space that the City purchased in the 1990's. Planner Whetstone remarked that in 2009 the Summit Land Conservancy did a study of the property for existing conditions. The City has asked people from the Soil Conservation Service to provide their thoughts on what needs to be done on the property in terms of restoration, remediation, restrictions and monitoring. She noted that Mr. Richards has done that for 30 years and the Staff would also seek his input.

Commissioner Wintzer stated that he could not receive a packet this late and do a good job of reading it. If the Staff is unable to provide packets in a timely manner they should postpone the issue to allow the Planning Commission sufficient time to review the information.

Steve Schueler with Alliance Engineering stated that the proposal was still the same 7 lot configuration that was presented at the last meeting. Commissioner Wintzer noted that his previous question on Lot 7 had not been addressed. He still did not want to see fencing going all the way up to the common area. He understood the issues related to the barn, but he was uncomfortable allowing Lot 7 to wander that far into the common area. He was not opposed to the lot going out that far, but he was opposed to fencing because it takes away from the appearance of public space.

Commissioner Gross suggested placing limits on fencing. Planner Whetstone noted that the Staff requested that the applicant submit a fencing plan with the final subdivision plat. She stated that the Staff has concerns with white vinyl fencing around each lot. She recommended

interior fencing to keep animals away from the streams and wetland areas, but it should be pole fencing or a simple agricultural wire fencing instead of white vinyl.

Mr. Richards, the applicant, stated when he was young his family had a ranch in Morgan County and he would install fences all summer long. He could say from experience that wire fencing was not good fencing. He was willing to put in a brown rail fence, but wire fences do not hold up. Mr. Richards remarked that a vinyl rail fence lasts forever. He commented on two fences along the highway from Payday Drive to the Osguthorpe Farm. One was a wire fence that was installed by the State. The other was a white vinyl fence he put in. Mr. Richards pointed out that the wire fence is down and the vinyl fence is still standing. In all these years he has only had to repair one area of the vinyl fence. Vinyl fencing is maintenance free and much stronger than a wire fence. Mr. Richards commented on other areas where wire fencing was installed and the number of times it has needed to be repaired because the poles fall over and the braces rot out.

Vice-Chair Thomas thought they could simplify the discussion by requesting a fencing plan with fencing samples and section elevations.

Commissioner Wintzer showed Mr. Richards exactly where the fencing should end and where the unfenced open space should begin. Vice-Chair Thomas clarified that Commissioner Wintzer preferred to see a delineation of the fence immediately behind the structures on Lot 7, and no fencing east of Lot 7 between the Park City open space parcel and the rear of that property.

Mr. Richards understood that the owner of Lot 7 could own the property but not fence it off. Commissioner Wintzer clarified that he could own it and fence it as long as the fence does not go out as far as what was shown on the east side of the lot. Planner Whetstone noted that part of the reason for fencing is to control the animals, which is why the Staff had requested a fence plan. Vice-Chair Thomas agreed with Commissioner Wintzer and he directed the applicant to submit a fencing plan that addresses their comments regarding location and fence material.

Planner Whetstone asked if the Planning Commission wanted to see the fencing plan with the annexation or with the final subdivision plat. The Commissioners preferred to see it with the annexation. Planner Whetstone noted that she had drafted a condition of approval requiring a fencing plan with the subdivision plat application to ensure that the Planning Commission would see the fencing plan. Commissioner Wintzer was comfortable waiting until the subdivision plat. The Commissioners concurred.

Commissioner Hontz stated that she was overridden at the last meeting with regard to density and other issues. Other than density, the other issues were identified as bullet points in the Staff report. Commissioner Hontz remarked that this was an artificial political boundary that has existed for a long time. It would be nice to have it in order to eliminate the holding of Summit County's zoning within Park City boundary, but it has not negatively affected anyone for all these years. Commissioner Hontz stated that changing it from what the current zoning allows, which is one house, the outbuildings and the stable, to a seven lot subdivision by annexing it into the City, would be upzoning by seven units. She felt that was a generous give. When looking at other annexations they made sure the "get" for the public was something of value.

Commissioner Hontz could not see a “get” in this annexation because the City purchased the open space in 1998, and currently under the artificial boundary they get the visual feeling of continued open space along the road. Commissioner Hontz clarified that this was not an issue of compatibility. The number of units and size of structures proposed are compatible with the surrounding developments. However, the applicant could not do that unless that City gives them the right. She personally likes the land in its current condition because the existing structures and the layout fits the agricultural nature of the existing terrain. Commissioner Hontz stated that through the process she has not seen less than one unit of affordable housing, fencing, avoidance of wetlands, mitigation plans. She was concerned about that the open space parcel had become so degraded because of the uses the City has allowed on it.

Commissioner Hontz stated that if they move forward with the annexation and zone the property single family, she would demand additional precautions to possibly limit the actual amount of square footage on any lot and to have all the wetland areas and sensitive lands and all the land with barns zoned ROS or another open space designation.

Commissioner Hontz urged the Planning Commission to use the same filter they have used for other annexations, because it would be unfair if they did not look for the appropriate “get” for the public on this annexation as well.

Commissioner Savage was excused and left the meeting at 10:00 p.m.

Vice-Chair Thomas asked if any work had been done with regards to wildlife mitigation. When he drove through there this morning there were two moose on the property. He would like to know more about the wildlife and wetland issues and whether those had been studied. Planner Whetstone replied that the applicant had provided that information and wildlife does use the property.

Planner Whetstone remarked that the conservation easement was the biggest “get” for the City. Currently there is not a written agreement. If they have an annexation agreement it is important for the City to have a written and recorded agreement that talks about what could occur on the City’s parcel.

Commissioner Hontz pointed out that there was a signed Deed of Conservation Easement on page 20 of the Staff report. Planner Whetstone explained that there was a gentleman’s agreement for use of the property. This property was farmland and not pristine open space and it was used for agricultural purposes. This was a historical use of this property but there was never a written agreement. The City is very interested in having a written plan. Commissioner Hontz wanted to know which plan they did not have. Planner Whetstone replied that if this property owner wishes to continue using the property there is not a written management plan.

Commissioner Hontz referred to Exhibit C and the piece labeled Park City Open Space Parcel. She understood that Park City Municipal owned that parcel of land. Planner Whetstone replied that this was correct. Commissioner Hontz noted that there was a signed Deed of Conservation Easement recorded against it. Therefore, the only thing the City did not have was an agreement regarding animals and livestock. Commissioner Hontz asked if that was the only

“get” they were getting. Planner Whetstone clarified that the City has nothing in writing for the irrigation, hay cutting, fertilizing and all things that Frank Richards does to take care of the parcel. She agreed that not all the activity on that parcel was the best benefit, but the City would like a written agreement to better understand what was occurring on the property.

Commissioner Hontz noted that page 3 of the Conservation Easement has a Continued Conservation Reserve program which is a 15 year farm service agency contractual agreement for the stream corridor. Planner Whetstone replied that it was not an agreement for the use of Frank Richards, who sold the land to the City. If the land is annexed, the City would get an agreement in writing. Planner Whetstone stated that when the other parcels were annexed to the City, there was another agreement that said when Frank Richards decides to develop his property he would come to the City first. After a year, if no progress is made with the City, he would be able to ask the County for development. Planner Whetstone believed that provision was in the annexation agreement for Thaynes Creek Ranches. She pointed out that denying the annexation would not keep the property in its current state because it could be developed through the County. The City has been working diligently and a main issue is the use of the open space. The City wants to make sure it is monitored, protected and maintained, and possibly remediated based on a study by the Conservation Reserve Program. Planner Whetstone stated that the City has had conversations with Cheryl Fox, who holds the easement, in terms of whether grazing of the horses and hay cutting could continue.

Commissioner Hontz understood that the “gets” were that the entity that currently manages the open space would continue to manage it and that Mr. Richards would not develop through the County. Commissioner Hontz reiterated her opinion that this was a very generous annexation proposal.

Planner Whetstone remarked that the density analysis showed that the proposed density was low for this area and consistent with the lots along Pay Day and the SF zone. The General Plan expresses an interest in having the City’s entry corridor maintaining an agricultural and rural look. The riding stable would remain and while it is an amenity for the development, it also provides an equestrian property in the City.

Commissioner Hontz referred to the minutes on page 44 of the Staff report and her comments from the meeting in September. She appreciated the Staff’s opinion and analysis, but she disagreed. Commissioner Hontz noted that in September she had said that it was a benefit to the landowner to go from 0-7 units and the Planning Commission needed to find benefits for the City. Planner Whetstone stated that restoration of the property is also important. The City required and the applicant agreed to LEED Silver for all the homes being constructed. The applicant also agreed to limit the houses sizes and the disturbance area. Other benefits include restricting the use of the City open space land and repairing and maintenance of ditches that serve the property. Planner Whetstone stated that various other parts would be part of the annexation agreement and the Planning Commission would have the opportunity to review those at the next meeting. She would provide it to the Planning Commission early so they would have sufficient time to consider the benefits.

Vice-Chair Thomas stated that the drawings in the packets were too small to read the lettering. He asked about the size of the barns and whether there were driveways leading to the barns. Mr. Schueler replied that the barn dimensions were 36' x 36'. Vice-Chair Thomas clarified that Lots 1,2, 6 and 7 would have a 36' x 36 one-story barn. He was told that this was correct and the use would be for horses and storage equipment. Vice-Chair Thomas suggested limiting the use to agricultural use only and eliminate the possibility of ATV, snowmobiles or similar items. Vice-Chair Thomas also wanted to see how the barns would be accessed.

Planner Whetstone asked if the Planning Commission would be interested in seeing design guidelines like they did with Park City Heights. Vice-Chair Thomas stated that the nature of the site is agrarian. He did not want to be too restrictive with design guidelines, but he encouraged agrarian structures and elevations. Commissioner Strachan did not want all seven homes to look the same. Director Eddington suggested variety with the barns as well. Planner Whetstone offered to make variation in design and materials a condition of approval.

Mr. Richards outlined the problems associated with different barns. He preferred to see one top-of-the-line barn for these homes rather than a variety of different barns. He thought uniformity would add class to the subdivision. Vice-Chair Thomas still preferred variation. Commissioner Wintzer noted that the issue would be addressed and discussed with the plat.

Commissioner Hontz stated that according to the annexation initiation, a complete application for a petition for annexation must also include the preliminary subdivision plat. Planner Whetstone noted that they were looking at the preliminary subdivision plat this evening. The preliminary plat identifies the lots, square footage, etc. The specific details are addressed with the plat application.

Assistant City Attorney stated that an annexation is measured against certain criteria. She noted that the criteria was summarized in the Staff report and she suggested that the Planning Commission provide input on those bullet points.

Planner Whetstone stated that the Staff would come back with the annexation agreement that would address some of their concerns. They would also bring back the analysis for various sections of the Code.

The Planning Commission reviewed the bullet items in the Staff report.

- Conservation Easement and Use/Restoration of PCMC parcel.

Planner Whetstone felt this had already been addressed in their discussion.

- Incentivize Equestrian component of Subdivision.

Planner Whetstone stated that equestrian property is important in this area. They would need to look at how many horses would be allowed in the area and would use the City property and how many horses each lots could have. Since horses require a conditional use permit, part of the annexation agreement would allow the horses to go through an administrative conditional use permit. The Staff was preparing to write that into the annexation agreement.

Commissioner Wintzer asked if the share agreement had time limit on use of the land. Mr. Richards stated that it was a verbal agreement and there was no time limit. Commissioner Wintzer felt it was important to have something in writing to give the City leverage if someone abuses the land. Planner Whetstone stated that the recommendation from Summit Land was for a two-year or three-year review and the City would do the report and report back to Summit Land. She clarified that use of the land would not be in perpetuity.

Mr. Richards asked if the Planning Commission would prefer that he not develop the land as equestrian property. The lots are averaging 2 acres per lot and he was willing to consider a different type of development. Commissioner Wintzer replied that horses were not the issue. If someone is using public land, the City would want a mechanism to monitor the conditions of the annexation and development. Mr. Richards understood and he was not opposed.

- Fencing.

Planner Whetstone noted that this item had already been address.

- Affordable Housing.

Planner Whetstone noted that there was a requirement for affordable housing at 15%. The calculation was .1 times 900 square feet. The affordable housing unit must be built on site unless the Housing Authority allows it to be a fee-in-lieu or constructed elsewhere. That language will be in the annexation language. Planner Whetstone noted that Mr. Richards has an existing manager's unit that could count as affordable; however, the unit would need to be deed restricted.

- Historical and cultural resources

Planner Whetstone stated that there have been conversations with the State, the County and City and the Historical Society and there are no known resources at this time. Before the plat is recorded there would be a historic survey of the property. If anything is there it would go into the Historic Sites Inventory. If nothing is found they would have that certification. Planner Whetstone stated that there would also be language in the annexation agreement addressing cultural or archeological. If anything is found during an excavation there would be a process and procedure to follow.

- Zoning

The Staff recommended Single-Family because it is consistent with the surrounding neighborhoods. She pointed out that the neighbors were not interested in nightly rental and that the Iron Canyon Subdivision rezoned to single-family because they had issues with nightly rentals. Single-Family zoning allows greater density, which is why each lot should be deed restricted to prohibit re-subdivision to increase the density. The eighth lot is for a riding stable and that should also have a deed restriction.

- Preliminary plat lot layout, building pad size, and visual analysis

Planner Whetstone noted that the building pad for Lot 7 was moved to the south. The applicant would provide visual information. The Planning Commission would have a more detailed discussion at the time of the final subdivision plat when the final lot lines are drawn and the building pads are identified.

- Public benefits

The Planning Commission discussed public benefits earlier in the discussion.

Vice-Chair Thomas opened the public hearing.

Ruth Meintsma commented on the sand barns. It was mentioned at the last meeting that the barns would be the same and would favor variations.

Mike Jorgensen, a resident at 20 Pay Day Drive, was surprised by the discussion this evening. He came to this meeting five hours earlier thinking it would be a no-brainer, great project. He is the one who would be looking at the barns and he would much prefer having a high-quality barn in his back yard rather than a cinder block barn that could be built. Mr. Jorgensen stated that he attended this evening because he was primarily concerned about the fence. His lot is intersected by the lot line coming down the other way. He currently has a vinyl and rail fence and he was opposed to metal wire fencing. Mr. Jorgensen emphasized how hard Mr. Richards has worked to propose a project that looks nice. In looking at the history of the open space and how much Park City paid for that open space versus how much it is worth today, they would find that the City already got something for nothing. Mr. Jorgensen believed the City has benefitted a great deal from that property purchase. He stated that Mr. Richards developed the property and worked there and at this point in his life decided he would like to subdivide it out. However, the City feels that it has the right to get something for nothing. Mr. Jorgensen reiterated his preference for a nice looking fence and attractive barns. He would be the most impacted by this development and strongly supports it.

Vice-Chair Thomas closed the public hearing.

Mr. Richards clarified that he was not poaching on City property. He did not want to sell the property when the City approached him about purchasing to maintain a view corridor coming into the City. He told them no because he had purchased the farm and developed every fence and every building on the property and he wanted to use it as long as he lived. The City asked if he would consider selling if they allowed him to continue using the property. Mr. Richards eventually sold the property and worked out an agreement because it was important to the City. He believed he sold the property at a fair price at the time with the understanding that he could continue to use the property as long as he lived.

MOTION: Commissioner Strachan moved to CONTINUE the Richards Parcel Annexation to January 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously. Commissioner Savage was not present.

The Park City Planning Commission meeting adjourned at 10:35 p.m.

Approved by Planning Commission: _____

DRAFT

REGULAR AGENDA

Planning Commission Staff Report



Subject:CitmPark Tennis
Author: Francisco Astorga
Project Number: PL-12-01644
Date:Januafm9, 2013
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review the proposed Conditional Use Permits for expansion of the tennis courts, a Public Recreation Facility, and a fence greater than six feet (6') at City Park, located at 1580 Sullivan Road, and consider approving the requested uses based on the findings of fact, conclusions of law, and conditions of approval as found in this staff report.

Description

Applicant: Park City Municipal Corporation represented by Matt Twombly, Project Manager
Location: City Park, 1580 Sullivan Road
Zoning: General Commercial (GD) District
Adjacent Land Uses: Offices, bank, residential condominiums, park & open space
Reason for Review: Planning Commission review and recommendation to City Council

Proposal

The applicant requests to reconstruct two (2) existing tennis courts and add a third court at the north end of City Park. Tennis courts are considered a "Public Recreation Facility" which requires a Conditional Use Permit (CUP) to be reviewed and approved by the Planning Commission. The applicant is also requesting a fence greater than six feet (6') in height, which also requires a CUP.

Background

On August 16, 2012 the City received a completed application for a CUP for a Public Recreation Facility at City Park located at 1580 Sullivan Road. The applicant requests to reconstruct the existing two (2) tennis courts and a third court at the north end of City Park. According to the applicant the existing height of the fencing is approximately twelve feet (12'). The applicant proposes the new fencing around the three (3) courts to be lowered to ten feet (10'). See Exhibit E Site Photographs.

The proposed third court would be built over an existing lot line. The City also requests to shift the lot line within property that it owns to accommodate the proposed third court and the resurfacing and reconstruction of the existing tennis courts. City Park comprises of several lots and parcels. The Commission reviewed this subdivision application during the December 12, 2012 Planning Commission meeting. The

Commission forwarded a positive recommendation to the City Council. The City Council will review the subdivision application on January 10, 2013.

Purpose

The purpose of the General Commercial (GC) District is to:

- A. allow a wide range of commercial and retail trades and Uses, as well as offices, Business and personal services, and limited Residential Uses in an Area that is convenient to transit, employment centers, resort centers, and permanent residential Areas,
- B. allow Commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,
- C. protect views along the City's entry corridors,
- D. encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access with links to neighborhoods, and other commercial Developments,
- E. allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,
- F. encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and
- G. encourage commercial Development that incorporates design elements related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting Areas, play Areas, and public art.

Analysis

The site currently contains two (2) tennis courts, a concrete sidewalk leading into the courts from the parking lot, two (2) park benches at the court entry area, landscaped area around the courts and four (4) court lights, one on each corner (see Exhibit B Existing Conditions Survey).

The City requests to add another tennis court west of the existing courts over the entry area, concrete sidewalk, bark mulch path, and portion of the landscape area. The City also requests to reconstruct the existing two (2) tennis courts by adding another layer concrete, replacing all of the fencing and replacing the four (4) light posts and fixtures with more efficient lighting (see Exhibit C Proposed Site Plan). The City also proposes to reconfigure the entrance to the courts. This including a new ADA accessible entry, re-grading the existing berm (for the new ADA sidewalk), and reconfiguring the drainage around the proposed court.

The construction of the proposed third court would cross over an existing property line. This issue will be addressed if the subdivision plat that came before the Planning Commission on December 12, 2012, is approved by City Council. The City filed this CUP application to move forward with the proposed improvements at City Park, which

includes the reconstruction of one additional tennis court, bringing the total to three (3) courts, and to build a fence greater than six feet (6') in height from final grade.

According to Land Management Code (LMC) § 15-2.18-2(B)(30) a Public Recreation Facility is a conditional use in the General Commercial (GC) District. Also a fence greater than six feet (6') in height from final grade is also a conditional use in the GC District. The Commission must make a determination that the proposed expansion of the use meets the criteria found in LMC § 15-1-10:

1. Size and location of the site. **No unmitigated impacts.**
The site, City Park, has ample size for the proposed expansion. The location of the site in terms of the proposed expansion of the use seems to be appropriate as the overall use of the site has already been established as a public City park.
2. Traffic considerations. **No unmitigated impacts.**
There are minimal traffic impacts associated with the expansion of the use. The proposed use is located at City Park, which has access off Sullivan Road towards Deer Valley Drive, a major collector street, and access off Park Avenue, a major bus corridor in the City. The site also has access to the Rail Trail, a major pedestrian trail.
3. Utility capacity. **No unmitigated impacts.**
No additional utility capacity is required for this project.
4. Emergency vehicle access. **No unmitigated impacts.**
Emergency vehicles can easily access the site.
5. Location and amount of off-street parking. **No unmitigated impacts.**
The proposed expansion of the use does not increase the amount of off-street parking. The use is being from changed from a passive park area to active.
6. Internal circulation system. **No unmitigated impacts.**
The parking areas are directly accessed off Deer Valley Drive through Sullivan Road and through Park Avenue.
7. Fencing, screening and landscaping to separate uses. **No unmitigated impacts.**
According to the applicant the existing height of the fencing is approximately twelve feet (12'). The applicant proposes the new fencing around the three (3) courts to be lowered to ten feet (10'). See Exhibit E Site Photographs.

The proposed additional court (third) court will be placed over an existing concrete sidewalk leading to the tennis courts, back mulch pathway, and over a small landscaped area containing two (2) deciduous trees and several shrubs. Staff recommends adding a condition of approval which indicates that the same amount of removed vegetation will be added to the park in another location.

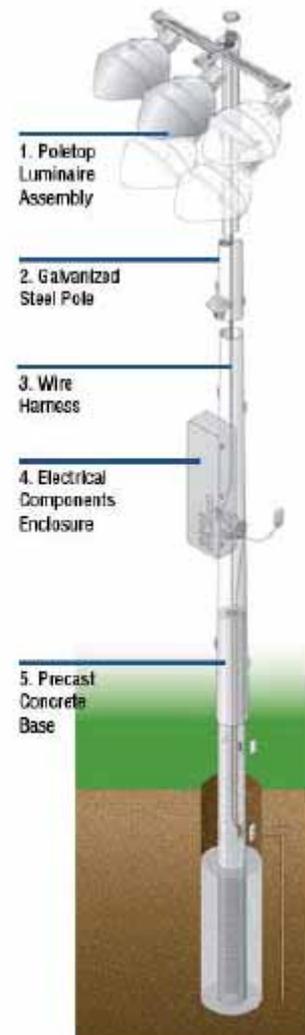
8. Building mass, bulk, orientation and the location on site, including orientation to adjacent buildings or lots. **No unmitigated impacts.**
The improvements include a new fence around three (3) newly constructed tennis courts. The existing courts will receive a new layer of concrete and will be at the exact location. The new court will be located directly west of the existing courts. The three (3) tennis courts will be lined up on a side-by-side configuration. See Exhibit C Proposed Site Plan.
9. Usable open space. **No unmitigated impacts.**
The requested use will be changed from passive open space to active open space. The use will still be usable open space.
10. Signs and lighting. **Complies as mitigated.**
No signs are proposed at this time.

The applicant also proposes to remove all four (4) existing light post and fixtures as shown below and replace them with the following light posts and fixtures:

Existing:



Proposed:



Staff recognizes that the proposed lighting fixture cuts operating costs in half, reduces spill light by fifty percent (50%), and it's easy to assemble, etc. (see cut sheet Exhibit G Lighting Post Cut Sheet). The applicant has indicated that they are unable to use the existing wooden posts because of the Building Department's requirement that specific structural engineering is required to authorize the more efficient lighting fixtures on them.

The proposed lighting will be down-directed and shielded. The applicant has indicated that the lighting will be more efficient. Recreational lighting, as permitted in the LMC, shall be turned off within thirty (30) minutes of the completion of the last game, practice, or event as indicated on LMC § 15-5-5-(1)(11). Staff recommends adding a condition of approval which indicates that the site shall comply with specific LMC standards for recreation lighting.

The applicant requests to replace the existing poles with the proposed galvanized steel poles. Staff recommends mitigating the finish of the poles by making them “stealth” with some sort of treatment or paint to make them dark similar to the proposed chain link fence. Staff finds that the glare or reflective finish of the galvanized steel poles needs to be mitigated. Staff recommends adding a condition of approval which indicates that the galvanized steel poles be treated or painted to remove their reflective aspect.

11. Physical design and compatibility with surrounding structures in mass, scale and style. **No unmitigated impacts.**

The applicant requests to reconstruct the existing two (2) tennis courts by adding another layer of concrete, completely reconfigure the existing tennis court fence, and replacing that the existing four (4) light posts and fixtures. The location of the two (2) reconstructed tennis courts will remain exactly the same.

The applicant submitted the following photograph which shows wooden posts (similar to the existing material) and black vinyl coated chain link. As indicated on Purpose Statement E of the GC District, *the development needs to contribute to the distinctive character of Park City, through building materials, architectural details, color range, massing, lighting, etc. Furthermore, Purpose Statement F encourages architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities.*

Staff finds that the proposed materials provide a look and feel that is simply unique to our character. Staff finds that the existing materials meet the purpose statements as they contribute to the distinctive mountain resort character of our City, which is not repetitive of what may be found in other communities (steel posts and rails with chain-link) commonly found in Anytown, USA.

The existing tennis court fence consists of 4x4 pressure treated wood posts with standard chain link:



Staff also recommends that any salvageable materials be used throughout the project as construction waste should be diverted from the landfill and reused and recycled when possible.

12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site. **No unmitigated impacts.**
The proposal does not appear to create additional noise, vibration, odors, steam or mechanical factors that are anticipated with the project or that are not normally associated within City Park.
13. Control of delivery and service vehicles, loading and unloading zones, and screening. **No unmitigated impacts.**
There are no increases to or anticipated deliveries, services vehicles, loading zones, and screening associated with the proposed expansion.
14. Expected ownership and management of the property. **No unmitigated impacts.**
Park City Municipal Corporation, the City, will retain ownership. The Park and Recreation Department will program and manage the property.
15. Sensitive Lands Review. **No unmitigated impacts.**
The proposal is not located within the Sensitive Lands Overlay zone.

The proposed improvements as conditioned are consistent with the purpose statements of the GC District in that the development will be compatible with and contribute to the distinctive character of Park City, through materials, architectural details, color range, massing, lighting, and landscaping. It will also allow the proposed courts to be compatible with and encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities.

Process

Prior to issuance of any building permits, the applicant will have to submit a Building Permit application. The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

The Engineering Department indicated that existing water lines run adjacent to the existing courts. These water lines will need to be relocated prior to construction. There are some potential issues dealing with possible contaminated soils. This project shall comply with the City's Soils Ordinance. No additional issues were raised.

Notice

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

Public Input

Staff has not received any public input regarding this CUP.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The two (2) existing tennis courts would remain as is and no construction could take place.

Recommendation

Staff recommends that the Planning Commission review the proposed Conditional Use Permits for expansion of the tennis courts, a Public Recreation Facility, and a fence greater than six feet (6') at City Park, located at 1580 Sullivan Road, and consider approving the requested uses based on the findings of fact, conclusions of law, and conditions of approval as found in this staff report.

Findings of Fact:

1. The site is located at 1580 Sullivan Road, known as City Park.
2. The site is within the General Commercial (GC) District.
3. The site contains two (2) tennis courts.
4. The City requests to add another tennis court west of the existing courts over the entry area, concrete sidewalk, bark mulch path, and portion of the landscape area.
5. The City requests to reconstruct the two (2) existing tennis courts by adding another layer concrete, replacing of all of the fencing and replacing the four (4) light posts and fixtures with more efficient lighting.
6. The City proposes to reconfigure the entrance to the courts and also add a new ADA access, re-grade the existing berm (for the new ADA sidewalk), and reconfigure the drainage around the proposed court.
7. The City filed this CUP application to move forward with the proposed improvements at City Park.
8. The expansion of the tennis court, a Public Recreation Facility is conditional use in the General Commercial District.
9. A fence over six feet (6') in height from final grade is a conditional use in the General Commercial District.
10. The site, City Park, has ample size for the proposed expansion.
11. There are minimal traffic impacts associated with the expansion of the use.
12. The proposed use is located at City Park, which has access off Sullivan Road towards Deer Valley Drive, a major collector street, and access off Park Avenue, a major bus corridor in the City. The site is also accessed of the rail trail, a major pedestrian trail.
13. No additional utility capacity is required for this project.

14. Emergency vehicles can easily access the site.
15. The proposed expansion of the use does not increase the amount of off-street parking.
16. The parking areas are directly accessed off Deer Valley Drive through Sullivan Road and through Park Avenue.
17. The existing height of the fencing is approximately twelve feet (12').
18. The applicant proposes the new fencing around the three (3) courts to be lowered to ten feet (10').
19. The proposed additional court (third) court will be placed over an existing concrete sidewalk leading to the tennis courts, back mulch pathway, and over a small landscaped area containing two (2) deciduous trees and several shrubs.
20. The improvements include a new fence around three (3) newly constructed tennis courts. The existing courts will receive a new layer of concrete and will be at the exact location. The new court will be located directly west of the existing courts. The three (3) tennis courts will be lined up on a side-by-side configuration.
21. The requested use will be changed from passive open space to active open space. The use will still be usable open space.
22. No signs are proposed at this time.
23. The applicant also proposes to replace all four (4) existing light posts.
24. The proposed lighting fixtures cut operating costs in half and reduces spill light by 50%.
25. The applicant has indicated that they are unable to use the existing wooden posts because of the Building Department's requirement that specific engineering is required to authorize the more efficient lighting fixtures on the existing wooden posts.
26. The applicant requests to replace the existing poles with the proposed galvanized steel poles.
27. The applicant proposes fencing consisting of wooden posts (similar to the existing material) and black vinyl coated chain link.
28. Staff finds that the proposed materials provide a look and feel that is compatible with our character.
29. Staff finds that the existing materials meet the purpose statements as they contribute to the distinctive mountain resort character of our City, which is not repetitive of what may be found in other communities.
30. There isn't any noise, vibration, odors, steam or mechanical factors are anticipated that are not normally associated within City Park.
31. There are no anticipated deliveries, services vehicles, loading zones, and screening associated with the proposed expansion.
32. Park City Municipal Corporation, the City, will retain ownership of the property as well as management of the park.
33. The proposal is not located within the Sensitive Lands Overlay zone.

Conclusions of Law:

1. The proposed application as conditioned complies with all requirements of the Land Management Code.

2. The use as conditioned will be compatible with surrounding structures in use, scale, mass, and circulation.
3. The use as conditioned is consistent with the Park City General, as amended.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

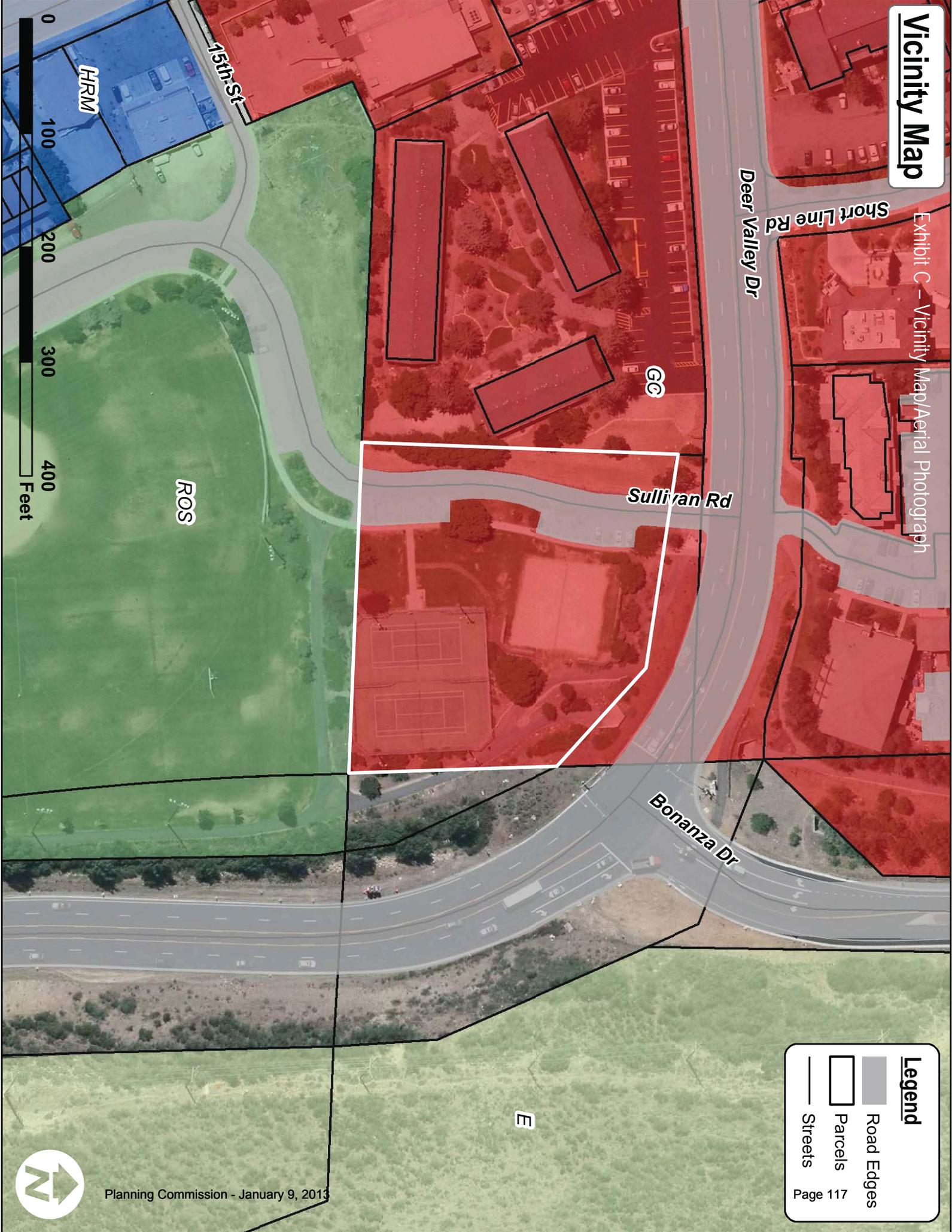
1. All standard conditions of approval shall continue to apply.
2. The same amount of removed vegetation will be added to the park in another location.
3. The site shall comply with specific standards for recreation lighting outlined in LMC § 15-5-5-(l)(11).
4. The galvanized steel poles be treated or painted to remove their reflective aspect so that they do not stick out.
5. Salvageable material shall be used throughout the project as construction waste should be diverted from the landfill and reused and recycled when possible.
6. Existing water lines run adjacent to the existing courts. These water lines will need to be relocated prior to construction.
7. This project shall comply with the City's Soils Ordinance.

Exhibits

- Exhibit A – Existing Conditions Survey
- Exhibit B – Proposed Site Plan
- Exhibit C – Vicinity Map/Aerial Photograph
- Exhibit D – Site Photographs
- Exhibit E – Proposed Fencing
- Exhibit F – Light Post Cut Sheet
- Exhibit G – Applicant's project Description

Vicinity Map

Exhibit C - Vicinity Map/Aerial Photograph



Legend

- Road Edges
- Parcels
- Streets

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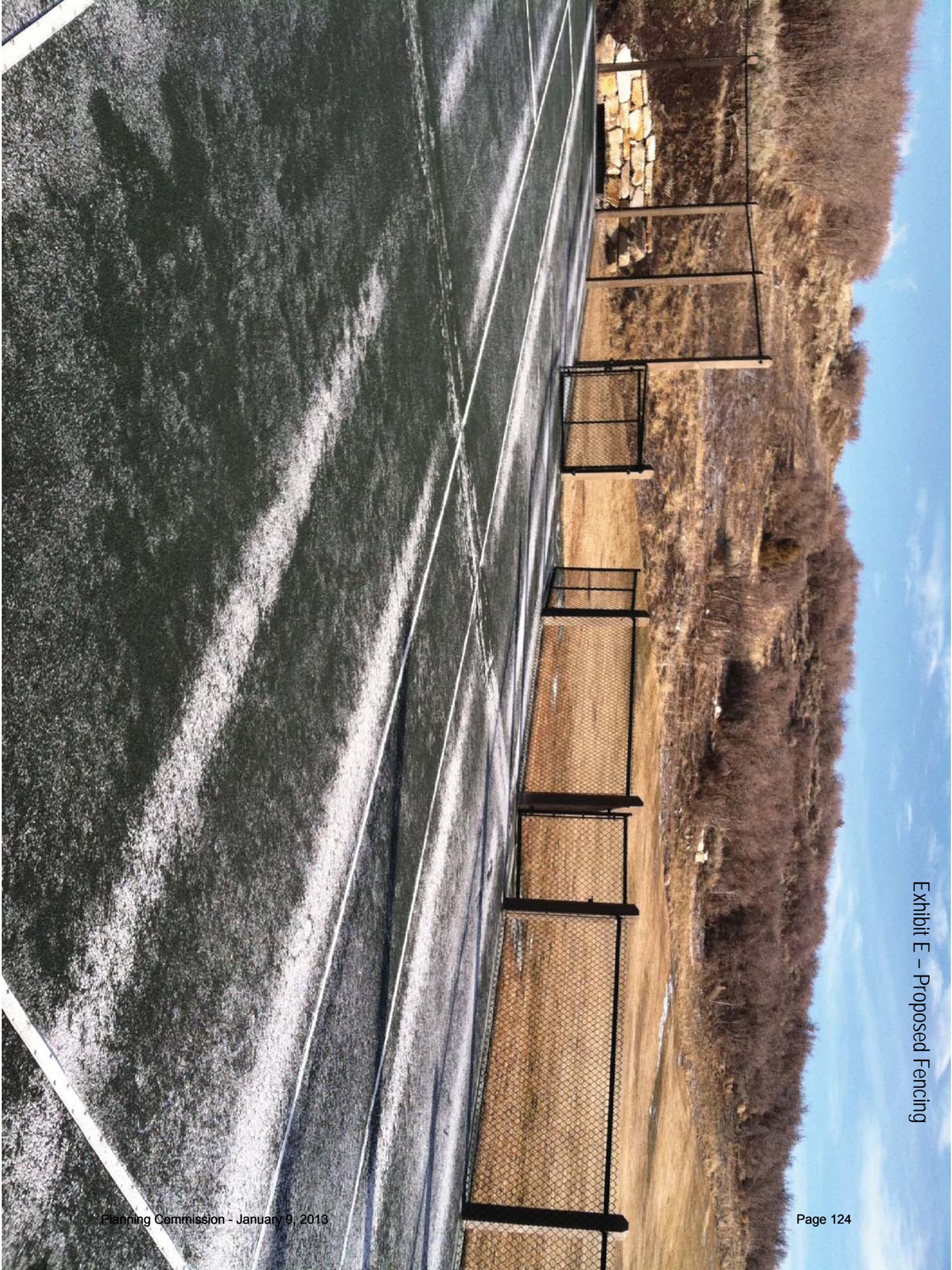


Exhibit F – Light Post Cut Sheet

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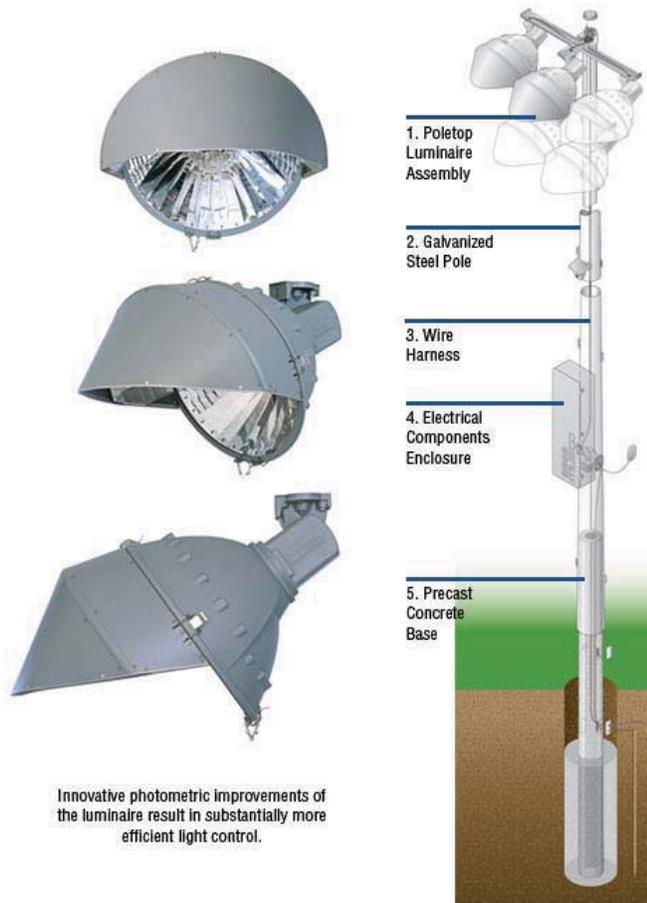
- Complete system from foundation-to-poletop
- Factory wired, aimed and tested
- Fast, trouble-free installation
- Comprehensive corrosion package

Warranty

Musco's Constant 25™ — 25-year product assurance and warranty program.

Provides 25 years of trouble-free lighting equipment operation, including parts, labor, and group lamp replacement.

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Memo



To: Francisco Astorga
Author: Ken Fisher
Subject: City Park Tennis Courts
Date: December 6, 2012

The two tennis courts located on the north end of City Park are asphalt based courts that were originally constructed in the early 1980’s. The courts can no longer be repaired due to their age and are scheduled to be replaced with three post-tension concrete courts in the spring of 2013. This project has gone before the Recreation Advisory Board (RAB) and City Council as part of RAB Visioning which is done with City Council every year. City Council & RAB are both supportive of replacing the two existing courts and adding the third court. The project is funded through the City Park Capital Improvement Fund and was approved as part of the CIP budget on July 1 ,2012.

The need for the third court is due to the demand for tennis. The courts in City Park are the only free public courts in Park City. The City completed a citizen survey in 2007 and again in 2012 and both times the citizens identified the need for additional tennis courts as a facility with a high unmet need and being important to them. In the spring of 2012 the City also completed a Recreation Facility Demand Study by Zions Bank Public Finance that looked at the number of recreation facilities in park City versus other resort towns in the intermountain region. The study identified a shortage of 6 outdoor tennis courts in the Park City area.

Planning Commission Staff Report



Application#: PL-12-01720
Subject: CUP for Nightly Rental
Author: Mathew Evans, Senior Planner
Date: January 9, 2013
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission conducts a public hearing and consider approving the Conditional Use Permit (CUP) for nightly rental of a single family house located at 99 Sampson Avenue. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

Description

Applicant: Janet Margulies (agent) on behalf of Richard Wilson (owner)
Location: 99 Sampson Avenue
Zoning: Historic Residential Low (HRL)
Adjacent Land Uses: Residential
Reason for Review: Conditional Use Permits require Planning Commission review and approval

Proposal

This application is a request for a Conditional Use Permit (CUP) to allow for the nightly rental of an existing 3,490 square foot single-family home located at 99 Sampson Avenue. The home has three (3) bedrooms (four bedrooms counting the studio/den), and three (3) bathrooms, including two legal off-street parking spaces in the form of an attached two-car garage. Nightly rentals are a "Conditional Use" in the HRL District.



Background

On November 16, 2012, a complete application was received by the City for a Conditional Use Permit (CUP) to allow nightly rental use of an existing 3,490 square foot single family house located at 99 Sampson Avenue. The property is located within the Historic Residential Low Density (HRL) zoning district. A Conditional Use Permit is required for nightly rental in this zoning district.

The home, which is not historic, was originally constructed in 1983 on a .10 acre (4,360 square foot) Millsite Reservation (Old Town) Lot (see Exhibit "A" original house plans and Written Proposal submitted by the applicant). On December 11, 2012, the item was brought forward to the City's Development Review Committee for their review. There were no issues brought up during that meeting regarding the potential nightly rental at this location.

The property is located adjacent to another recent nightly rental at 60 Sampson Avenue. 60 Sampson Avenue applied for, and was denied a Conditional Use Permit application by the Planning Commission by a 3-2 vote on February 22, 2012 (see Exhibit "B" Planning Commission Final Action Letter for 60 Sampson Avenue). The Planning Commission found that the applicant could not mitigate the detrimental effect of the proposed use in five (5) of the conditional use review criteria as outlined in Section 15-1-10 of the Land Management Code and found that the proposed Conditional Use Permit with respect to the conditional use review criteria #2, #4, #5 and #6 as outlined in LMC 15-1-10, could not be mitigated.

On March 29, 2012, the City Council overturned the Planning Commission denial, on appeal by the applicant, by a 3-2 vote (see Exhibit "C" City Council Final Action Letter – Maltby Appeal of Planning Commission Denial). In their decision to overturn the Planning Commission denial of the CUP, the City Council found that the aforementioned criteria could be mitigated through conditions of approval. Similar Findings of Fact, Conclusions of Law and Conditions of Approval from the City Council approval of the 60 Sampson CUP have been recommended for adoption of this application. The applicant is aware of those potential conditions of approval and stipulates to them or similar conditions on their Nightly Rental request.

Purpose of the HRL District

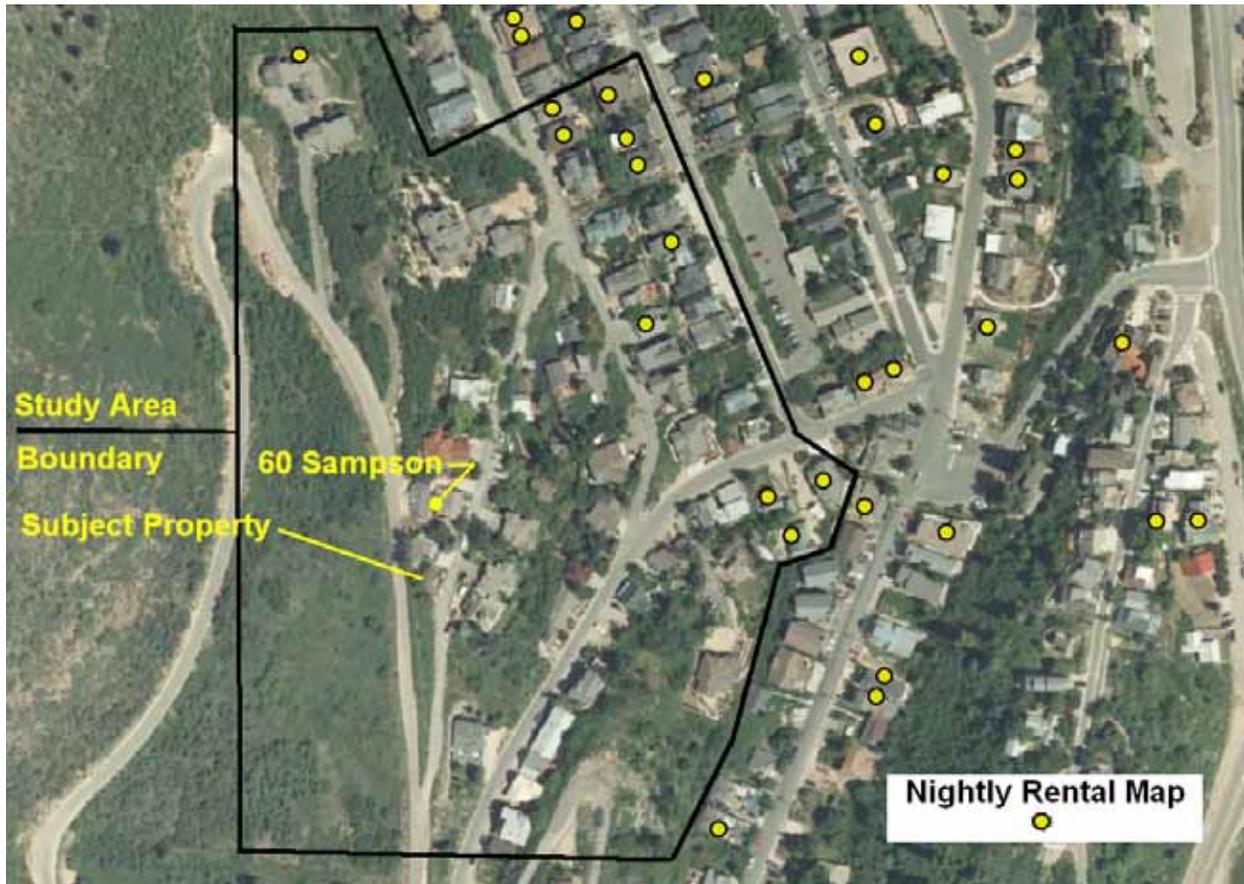
The purposes of the HRL District include:

- (A) Reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) Provide an Area of lower density Residential Use within the old portion of Park City,
- (C) Preserve the character of Historic residential Development in Park City,
- (D) Encourage the preservation of Historic Structures,
- (E) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods,

- (F) Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and
- (G) Define Development parameters that are consistent with the General Plan policies for the Historic core.

Analysis

According to the Land Management Code, Section 15-2.1-2, Nightly Rental is a Conditional Use in the HRL zoning district. Nightly Rentals are not uncommon within the HRL District. Staff has researched Nightly Rentals for nearby properties and found that there have been twelve approvals within the “Nightly Rental Study Area” as illustrated in our GIS data base for Nightly Rentals as shown below:



Staff has reviewed the proposed Conditional Use Permit with respect to the conditional use review criteria as outlined in LMC 15-1-10.

Criteria 1: Size and location of the site. No unmitigated impacts.

The project is located on the 4,360 square foot lot at 99 Sampson Avenue. The site is large enough to accommodate the proposed use of nightly rental within an existing structure. The 3,490 square feet structure is average relative to surrounding houses. A recent analysis of the neighborhood conducted by Staff for another project revealed that

the home meets the LMC height and footprint requirements. The structure is located within walking distance of the Upper Norfolk ski runs at PCMR, Old Town and Main Street, and the bike trails at King Road and Daly Avenue. According to information available to the Planning Department, there are twelve (12) existing nightly rental uses in the surrounding neighborhood, including nightly rentals on King Road, Sampson Avenue, and Ridge Avenue. The house is 3,490 square feet in area and contains three (3) bedrooms with a studio/den as well as three (3) bathrooms. The home also has frontage onto King Road, but its primary access is from Sampson Avenue.

Criteria 2: Traffic considerations. No unmitigated impacts.

The project may likely contribute some additional traffic to the neighborhood during the peak times of the year when there are more visitors in town; however, the trip generation for long term rentals, seasonal work force rental, and/or housing for permanent residents, is generally greater than that of short term vacation/nightly rentals. This is primarily because the location is in close proximity to vacation amenities. Nightly rentals are required to be rented to one person or entity (family, group, etc.) increasing the likelihood of the entire family or group arriving in a single vehicle, with fewer overall daily trips generated. The City Council, in their approval of the CUP for 60 Sampson Avenue, limited the nightly occupancy to no more than eight (8) persons. In an effort to mitigate potential traffic considerations, the same occupancy restriction is proposed for this nightly rental and is a proposed Condition of Approval.

Criteria 3: Utility capacity. No unmitigated impacts.

No additional utility capacity is required for this project. Utilities for a nightly rental use are consistent with the available utilities associated with a typical single-family dwelling.

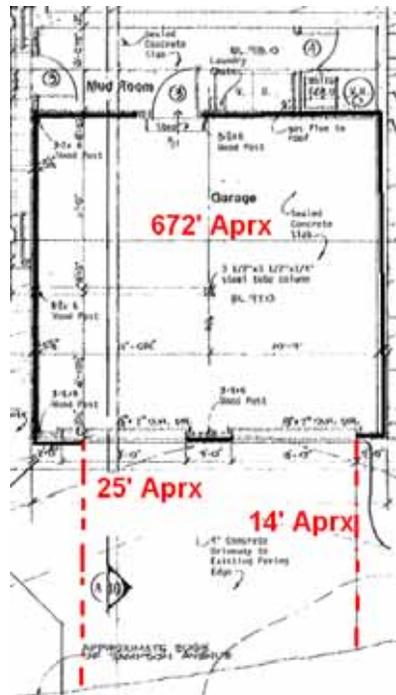
Criteria 4: Emergency vehicle access. No unmitigated impacts.

The nightly rental business license triggers an inspection of the house by the Park City Building Department and all IBC and Fire Code requirements have to be met prior to issuance of a business license. Nightly rental use does not change the requirement for emergency vehicle access which exists on Sampson Avenue and King Road. Much like the previous 60 Sampson Avenue, this home has double-frontage which allows emergency access from two sides, Sampson Avenue and King Road. Although Sampson Avenue is a narrow street, the home is the closest home on Sampson Avenue to the intersection with King Road, thus making it easier to gain access to.

Criteria 5: Location and amount of off-street parking. No unmitigated impacts.

Pursuant to LMC 15-3-6 parking for the first six (6) bedrooms of a Nightly Rental is based on the parking requirement for the unit. In this case the parking requirement is the same as that required for the existing home which would be two (2) legal off-street parking spaces. The existing home has a two-car garage with two separate doors. The garage itself is approximately 672 square feet, and according to the original floor plans,

each interior space would be approximately ten feet (10') wide by twenty seven feet (27') in width. The driveway area between the paved Sampson Avenue and the garage appears to be range between twenty five (25) to fourteen (14) feet deep. Therefore, it is likely that only one additional parking space could be counted for this area if the actual square footages were know, so as a Condition of Approval, Staff recommends that the applicant be required to inform renters to park within the provided garage areas in order to meet the parking standard. There may be times when renters need to park off-site in an approved overnight public parking lot and walk to the property. Staff recommends as a condition of approval that the nightly rental lease include information to this effect and that alternative access to the property and alternative locations for parking may become necessary during heavy snow events. Furthermore, Staff also recommends a cap on the number of vehicles allowed on the property at a maximum of two (2) except for loading and unloading, deliveries, etc.



Criteria 6: Internal circulation system. No unmitigated impacts.

There are not internal circulation issues. The home is approximately 3,000 square feet and has ample ingress/egress. The home can be accessed by one of three (3) ways; the front door (main level), the garage door (basement level), and a rear door to the back-yard (third level). There is also a door out to the front deck.

Criteria 7: Fencing, screening and landscaping to separate uses. No unmitigated impacts.

The property is heavily landscaped with mature trees, retaining walls, and other landscape features. With exception of the very front, the home is not easily visible from

adjacent properties due to the amount of mature trees on the property. Fencing is not proposed at this time. No changes to the exterior landscaping are part of this application. The property appears to be well kempt and well maintained.

Criteria 8: Building mass, bulk, orientation and the location on site, including orientation to adjacent buildings or lots. No unmitigated impacts.

The size of the existing house, relative to surrounding buildings, mitigates impacts from building mass, bulk, orientation, and location on the site. The home, which was finished in 1983, is fairly modern compared to other historic homes in the HRL District. Other homes within close proximity are of the same size and scale as the applicants home.

Criteria 9: Usable open space. N/A

The use is not required to provide open space in excess of that provided by typical single family houses; however, the home is located on a 4,360 square foot lot and there are patios, decks, and other outdoor spaces available for use by nightly renters.

Criteria 10: Signs and lighting. No unmitigated impacts.

No signs are proposed. All exterior lighting was previously approved. Any lighting installed after the home was constructed would need to conform to current standards. There are no known violations of the lighting standards within the LMC at this property.

Criteria 11: Physical design and compatibility with surrounding structures in mass, scale and style. No unmitigated impacts.

The existing home is compatible with surrounding structures in mass, scale, and style. A recent analysis of homes on Sampson Avenue revealed that the size of this home is typical of others on Sampson Avenue (see table below):

Address	House Size + garage (sq. ft.)	Footprint (total sq. ft. estimate)	Total Size (sq. ft.)	Lot Size (total ac/sq. ft.)
16 Sampson* Ave	3,684 + 457	2,160	4,141	.14 or 6,100
40 Sampson Ave	(Unknown) + 0	1,746	0**	.26 or 11,444
41 Sampson Ave	908 + 0	908	908	.11 or 4,792
50 Sampson Ave	3,674 + 500	1,830	4,174	.16 or 6,970
60 Sampson Ave	3,800 + 446	1,900	4,246	.15 or 6,534
99 Sampson Ave	2,990 + 672	1,500	3,652	.10 or 4,560

121 Sampson Ave	1,854 + 0	680	1,854	.15 or 6,534
131 Sampson Ave	2,085 + 240	750	2,325	.14 or 6,098
133 Sampson Ave	2,593 + 626	1,200	3,219	.09 or 3,920
135 Sampson Ave	3,014 + 484	560	3,498	.13 or 5,600

Criteria 12: Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site. **No unmitigated impacts.**

It is not anticipated that the nightly rental would cause additional noise, vibration, odors, steam or mechanical factors above and beyond those normally associated with a detached single family dwelling in Old Town. Furthermore, as a means to mitigate potential odors, trash and unsightliness, a condition of approval will be to require that the property management place all trash receptacle(s) out for trash pick-up no more than fifteen (15) hours prior to the anticipated pick-up time, and that the receptacle is placed properly back onto the property no more than fifteen (15) hours after the actual pick-up time. This timeframe was established for the nightly rental at 60 Sampson Avenue by the City Council.

Criteria 13: Control of delivery and service vehicles, loading and unloading zones, and screening. **No unmitigated impacts.**

No commercial type deliveries are anticipated. Residential trash pickup for the Lot will be from Sampson Avenue as it is with all houses in the area. Sampson Avenue and King Road are steep and narrow streets. Delivery vehicles, taxies, and shuttles will need to utilize King Road and Sampson Avenue for access to the home. During heavy snow fall or bad road conditions, access to the lot may be limited or may require a four-wheel drive vehicle in order to gain access. Staff is proposing that the Planning Commission review the Nightly Rental one (1) year after its approval for compliance with the other conditions of approval. The Planning Commission could then consider if the Nightly Rental caused an increase in delivery or service vehicles associated with the same.

Criteria 14: Expected ownership and management of the property. **No unmitigated impacts.**

The applicant, Janet Margulies, is the local agent for the property owner. As a condition of approval, the owner shall at all times have a property management company based in Summit County under contract and responsible for functioning as Applicant's agent with regard to all matters concerning Nightly Rental of the property.

Criteria 15: Sensitive Lands Review. **No unmitigated impacts.**

The house is not located within the Sensitive Lands Overlay zone. The use is within an existing structure and no external changes are proposed.

Process

If the Conditional Use Permit is approved, the applicant will have to apply for a Business License. A pre-inspection of the home was conducted by the Building Department, as required by Code. The approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This item was reviewed by the Development Review Committee (DRC) on December 11, 2012. Although there were no issues identified by the DRC, a pre-inspection of the home by the Building Department identified one (1) window that will need to be replaced prior to the issuance of the Business License for the Nightly Rental. Because the home is located within the HRL Zone, an application for a pre-HDDR (Historic District Design Review) will be necessary prior to the issuance of a building permit. Considering that the home is not historic, it is likely that the applicant can receive a “waiver” per LMC Section 15-11-12(a) by the Planning Director for the work that needs to be done to replace the window identified by the Building Department.

Notice

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

Public Input

No public input was received prior to publication of this report.

Recommendation

Staff recommends the Planning Commission review the proposed Conditional Use Permit application for the proposed Nightly Rental; conduct a public hearing; and consider approving the Conditional Use Permit based on the following findings of fact, conclusion of law, and conditions of approval:

Findings of Fact

1. The property is located at 99 Sampson Avenue. The property is improved with a 3,490 square foot, three (3) bedrooms, one den/studio, three (3) bathroom, single family house.
2. The subject property is located within the Historic Residential Low Density (HRL) zoning district.
3. The house at 99 Sampson Avenue is located on an approximately 4,360 square feet (.10 acres) lot. Minimum lot size in the HRL district is 3,570 square feet.
4. Nightly rental uses are subject to a Conditional Use Permit in the HRL district.
5. The Planning Commission finds that there are no unmitigated impacts to Criteria 1-15 as outlined in LMC Section 15-1-10(E) if the applicant adheres to the mitigation measures as proposed.

6. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #1 (Size and Location of the Site), that the site and size of the home is suitable for nightly rentals with the number of persons limited to no more than eight persons occupying the home overnight as conditioned within the Conditions of Approval.
7. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #2 (Traffic) of Section 15-2.1-2, LMC, and that the proposed Nightly Rental may contribute some level of increased traffic; however, the trip generation for long term rentals, seasonal work force rental, and/or housing for permanent residents, is generally greater than that of short term vacation rentals. As a potential mitigation measure limit the number of people occupying the Property during any given rental period to no more than eight (8). Applicant shall include express references to this limit in the marketing materials and rental agreements for the Property.
8. The City Council finds that there are no unmitigated impacts with respect to Criterion #3 (Utility Capacity) as no additional utility capacity is required for a nightly rental, and utilities for a nightly rental use are consistent with the available utilities associated with a typical single-family dwelling
9. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #4 (Emergency Vehicle Access). The nightly rental business license triggers an inspection of the house by the Park City Building Department and all IBC and Fire Code requirements have to be met prior to issuance of a business license. Nightly rental use does not change the requirement for, or conditions related to, emergency vehicle access which exists on Sampson Avenue and King Road, and that the double-frontage of the home allows emergency access from two sides, Sampson Avenue and King Road.
10. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #5 (Location and amount of off-street parking). Pursuant to LMC 15-3-6 parking for the first six (6) bedrooms of a Nightly Rental is based on the parking requirement for the unit. The home has three (3) bedrooms with a studio/den, and thus would not exceed the requirement. Furthermore, the parking requirement is the same as that required for the existing home which would be two (2) legal off-street parking spaces and the site has two fully enclosed parking spaces available within the garage.
11. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #6 (Internal circulation system). The home is accessible from both Sampson Avenue and King Road. Access to the site could be complicated during winter months, but the same is true for all local residence and other nightly rentals within the vicinity. The internal circulation within the home is not at issue due to the fact that the home is fairly modern and is typical of other homes within the area.
12. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #7 (Fencing, screening and landscaping to separate uses). The site is heavily landscaped, has retaining walls and existing mature trees, making only the very front and rear of the house visible from adjacent properties. The property appears to be well kempt and in good condition.
13. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #8 (Building mass, bulk, orientation and the location on site, including

orientation to adjacent buildings or lots) as the size of the existing house, relative to surrounding buildings, mitigates impacts from building mass, bulk, orientation, and location on the site.

14. The Planning Commission finds that Criterion #9 (Usable open space) is not applicable due to the fact that open space is not a requirement for a Nightly Rental; however, the lot is larger than a typical Old Town lot and does provide some outdoor spaces, patios, and decks for renters to enjoy.
15. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #10 (Signs and lighting) as the applicant is not proposing signs or additional lighting, and signage is not allowed per the Conditions of Approval.
16. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #11 (Physical design and compatibility with surrounding structures in mass, scale and style) has no unmitigated impacts in that the home is similar in height, size, scale and mass to most of the homes on Sampson Avenue.
17. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #12 (Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site). It is not anticipated that the nightly rental would cause additional noise, vibration, odors, steam or mechanical factors above and beyond those normally associated with a detached single family dwelling in Old Town, and as a means to mitigate potential odors, trash and unsightliness, a condition of approval will be to require that the property management place all trash receptacle(s) out for trash pick-up no more than fifteen (15) hours prior to the anticipated pick-up time, and that the receptacle is placed properly back onto the property no more than fifteen (15) hours after the actual pick-up time.
18. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #13 (Control of delivery and service vehicles, loading and unloading zones, and screening) as it is anticipated that the Nightly Rental would not necessarily increase deliveries or additional service vehicles at the property. It is conceivable that renters may use taxis and shuttle services, but the infrequency of such vehicles would likely not create a burden in the neighborhood. As part of the Conditions of Approval, Staff is proposing that the Planning Commission review the Nightly Rental one-year after its approval for compliance with the other conditions. The Planning Commission could then consider if the Nightly Rental caused an increase in delivery or service vehicles associated with the same.
19. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #14 (Expected ownership and management of the property). As a condition of approval, the applicant must agree to use a Property Management Company to manage the Nightly Rental business. The home is currently used by the owner, who resides in California, as a secondary residence.
20. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #15 (Sensitive Lands Review) as the home is not located within the Sensitive Lands Overlay zone. The home is existing, and the use as a Nightly Rental is contained within the existing structure, and no expansion of the home is being proposed at this time.
22. Parking at the property is limited to the garage and driveway, which accommodate two (2) legal parking spaces. The Applicant has agreed to limit the number of motor

vehicles parked on the Property during any given rental period to no more than two (2) within the enclosed garage.

23. All-wheel or 4-wheel drive vehicles may be necessary to access the nightly rental during winter months.
24. The applicant has been informed of the potential conditions based on those imposed on the Conditional Use Permit for 60 Sampson Avenue, and stipulates to the conditions of approval as proposed by Staff.

Conclusion of Law

1. Nightly rentals are a Conditional Use in the HRL District.
2. The proposed nightly rental use as conditioned is compatible with surrounding structures in use, scale and mass, and circulation.
3. The proposed nightly rental use as conditioned is consistent with the Park City General Plan.
4. Any effects in difference of the nightly rental use have been mitigated through careful planning and conditions of approval.

Conditions of Approval:

1. All standard project conditions shall apply.
2. A business license and inspection of the property by the building department are necessary to ensure that the business owners are verified and the property meets all applicable fire and building codes.
3. A detailed review against specific requirements of the Uniform Building and Fire Codes in use at the time of business license application is required as a condition precedent to issuance of a business license.
4. No exterior commercial signs are approved as part of this CUP. All signs are subject to the Park City Sign Code.
5. The Applicant shall at all times have a property management company based in Summit County under contract and responsible for functioning as Applicant's agent with regard to all matters concerning nightly rental of the Property.
6. The Applicant shall limit the number of people occupying the Property during any given rental period to no more than eight (8) persons total. Applicant shall include express references to this limit in the marketing materials and rental agreements for the Property.
7. The Applicant shall limit the number of motor vehicles parked on the Property during any given rental period to no more than two (2). Said vehicles shall be parked in the garage at all times. Applicant shall include express references to this limit and the stipulation that the vehicles must be parked in the garage within the marketing materials and rental agreements for the Property.
8. Property management shall place trash receptacle(s) out for trash pick-up no more than 15 hours prior to the anticipated pick-up time, and that the receptacle is placed properly back onto the property no more than 15 hours after the actual pick-up time.
9. Applicant shall include that all-wheel drive or 4-wheel drive may be necessary to gain access to the property during winter months in the marketing materials and rental agreements for the Property.

10. The applicant shall agree to monitoring of the Conditional Use Permit by the City and shall come back before the Planning Commission after one year from the date of this approval for a review of the Conditional Use Permit for compliance with the Conditions of Approval.
11. A pre-HDDR application is required for any exterior work needed as a result of the Building Department inspection and identification of building code deficiencies prior to the issuance of the Business License for the Nightly Rental. A building permit is also required prior to the commencement of any interior or exterior work on the home.

Exhibits

Exhibit A- Original House Plans (Received June 17, 1982) and Written Proposal

Exhibit B- Final Action Letter denying the Conditional Use Permit for 60 Sampson Ave.

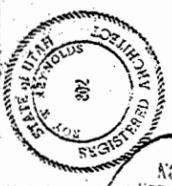
Exhibit C- Final Action Letter – Maltby Appeal of Planning Commission denial

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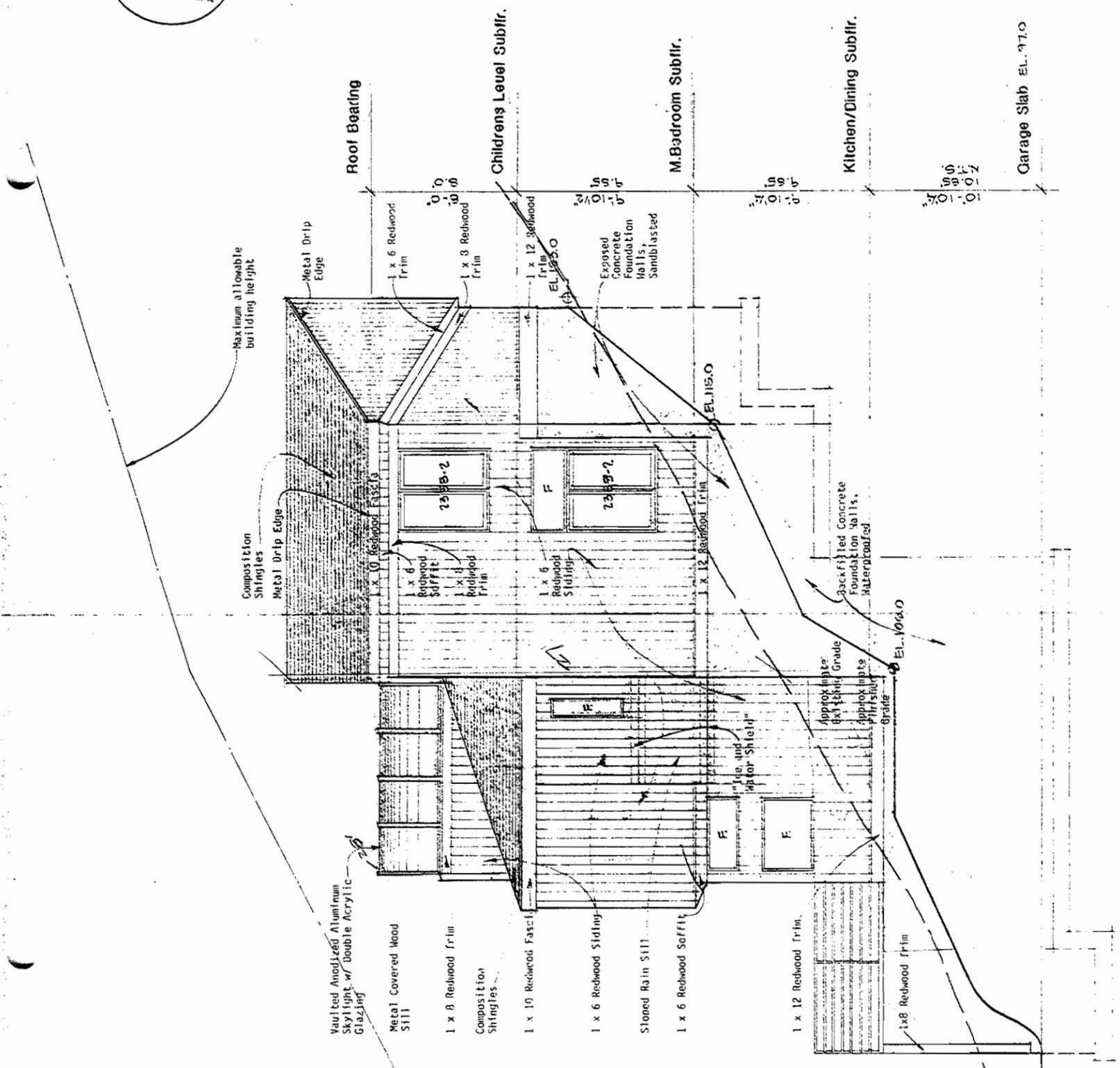
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 JUN 17 1982
 PARK CITY CORPORATION

reynolds & mammen
 architects
 P.O. Box 1720 Park City, Utah 84060 (801) 649-8868

sampson avenue
 residence



APPROVED
 JUL 15 1982
 PARK CITY PLANNING DEPT. INSPECTION



North Elevation
 1/4" = 1'-0"

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 NOV 16 2012
 PARK CITY
 PLANNING DEPT.

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 PARK CITY CORPORATION

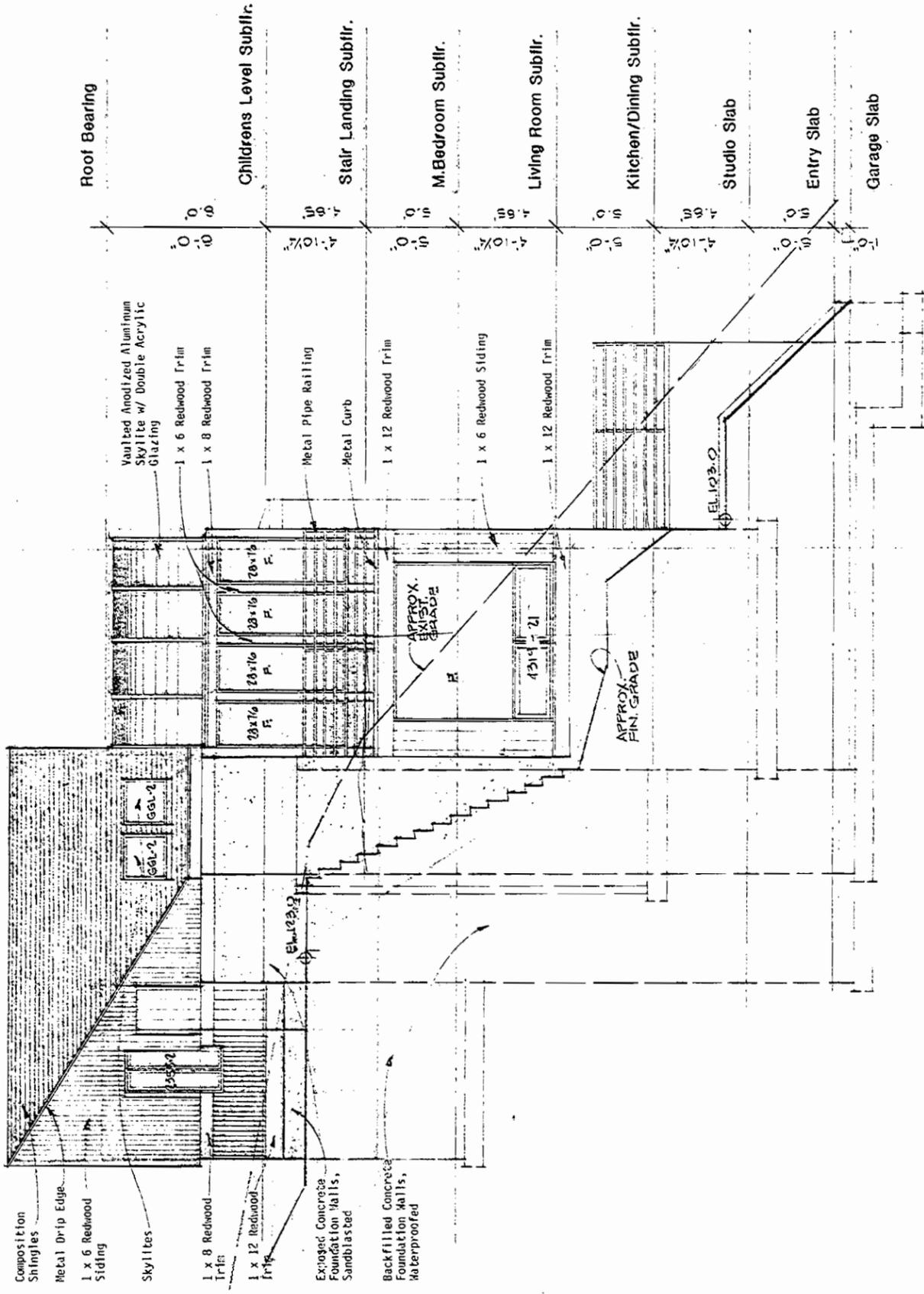
P.O. Box 1720 Park City, Utah 84060 (801) 649-8868

reynolds & mammen
 architects

sampson avenue
 residence



APPROVED
 JUL 2 1982
 PARK CITY BUILDING
 INSPECTION



South Elevation
 1/4" = 1'-0"

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 NOV 16 2012
 PARK CITY
 PLANNING DEPT.

JUN 17 1982
 PARK CITY CORP.

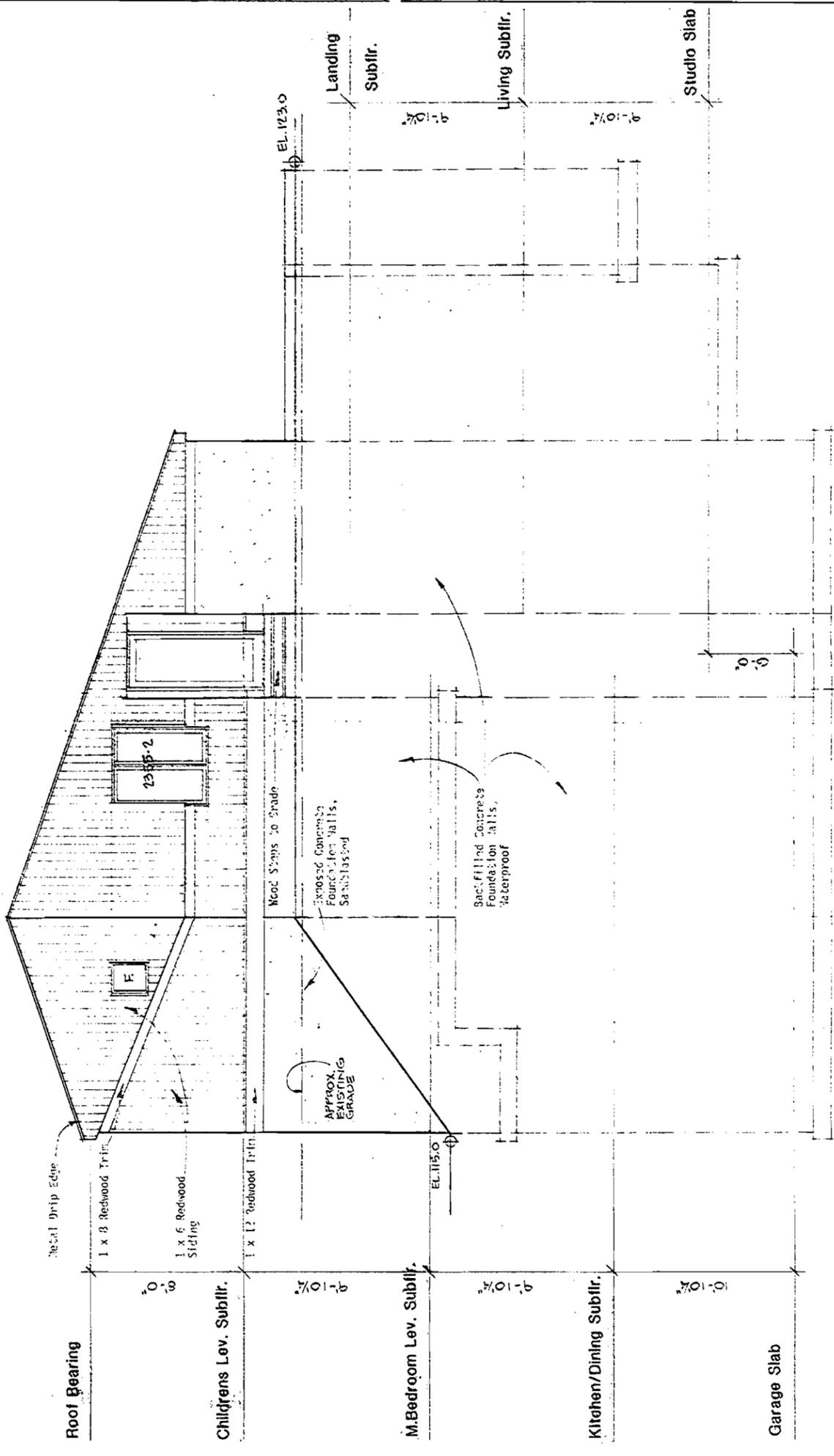
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reynolds & marnen
 architects
 P.O. Box 1720 Park City, Utah 84060 (801) 649-8868

sampson avenue
 residence



APPROVED
 JUL 3 1982
 PARK CITY PLANNING DEPT.



West Elevation
 1/4" = 1'-0"

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 NOV 16 2012
 PARK CITY
 PLANNING DEPT.

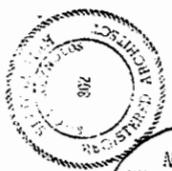
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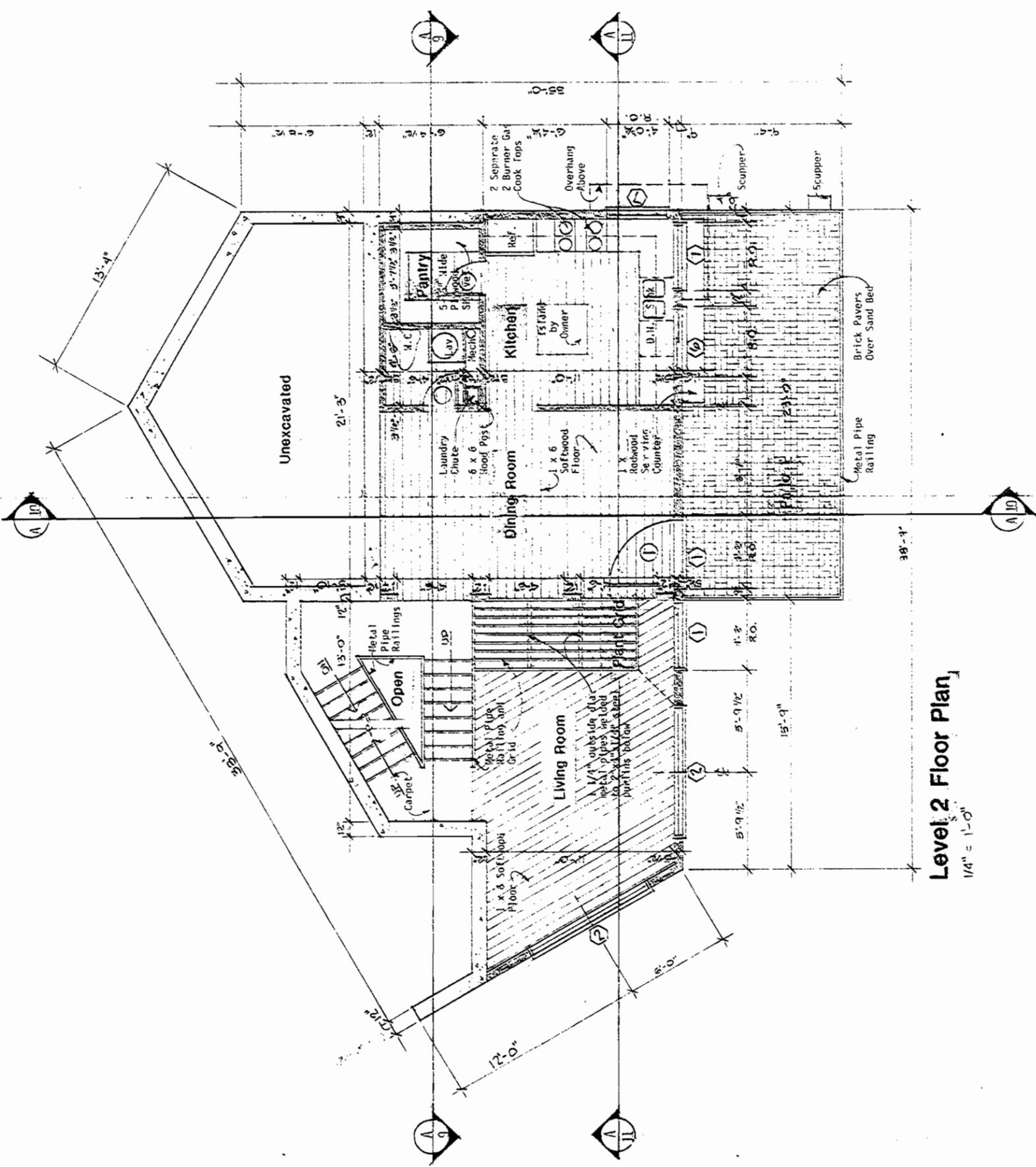
PARK CITY CORPORATION

reynolds & marnen
 architects
 P.O. Box 1720 Park City, Utah 84060 (801)649-8868

sampson avenue
 residence



APPROVED
 JUL 25 1982
 PARK CITY BUILDING
 INSPECTION



Level 2 Floor Plan
 1/4" = 1'-0"

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 NOV 16 2012
 PARK CITY
 PLANNING DEPT.

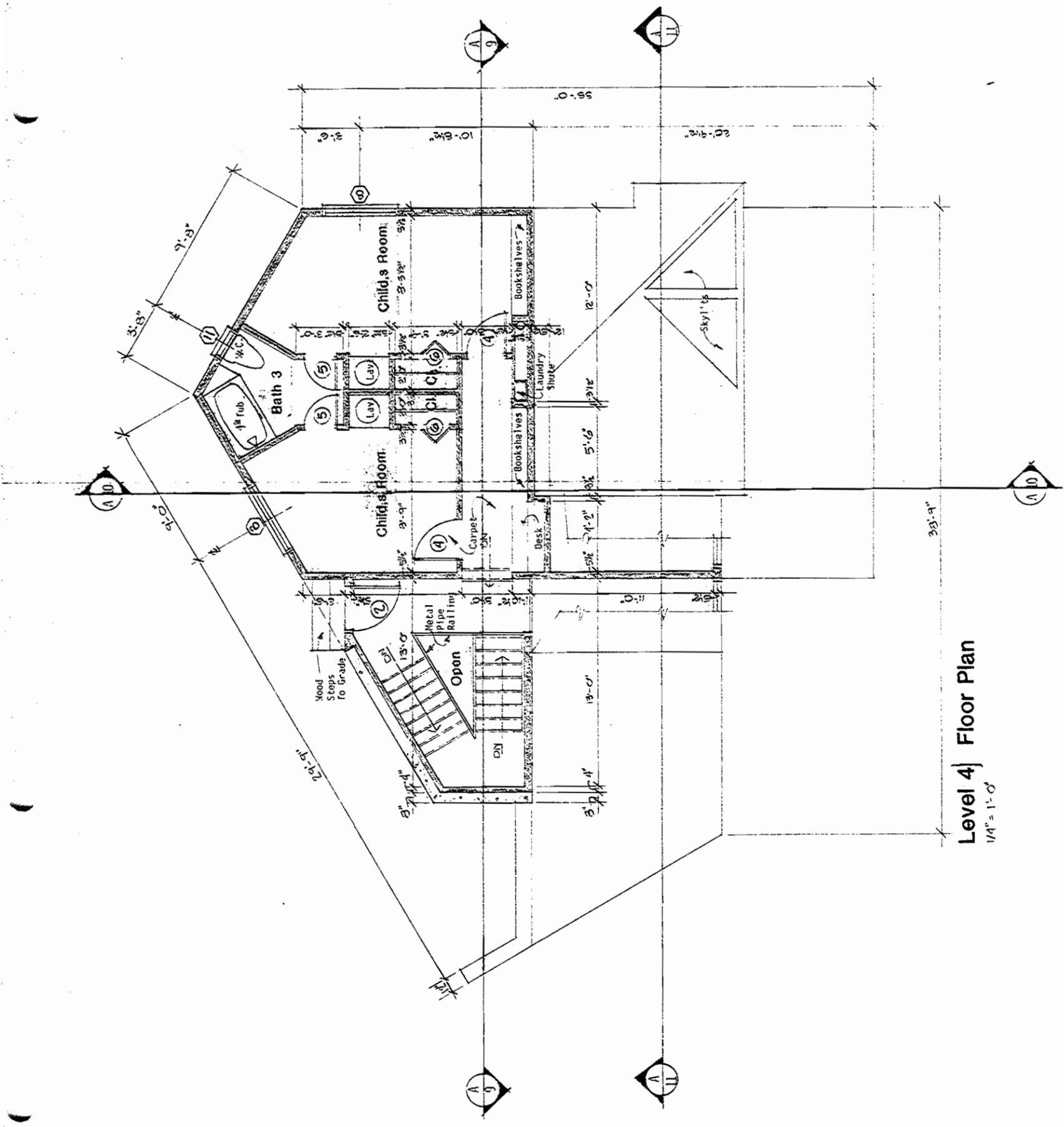
JUN 17 1982
 JUN 17 1982
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 PARK CITY CORPORATION

reynolds & marmen
 architects
 P.O. Box 1720 Park City, Utah 84060 (801)649-8868

sampson avenue
 residence



APPROVED
 JUL 3 1982
 PARK CITY BUILDING
 INSPECTION



Level 4 Floor Plan
 1/4" = 1'-0"

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 NOV 16 2012
 PARK CITY
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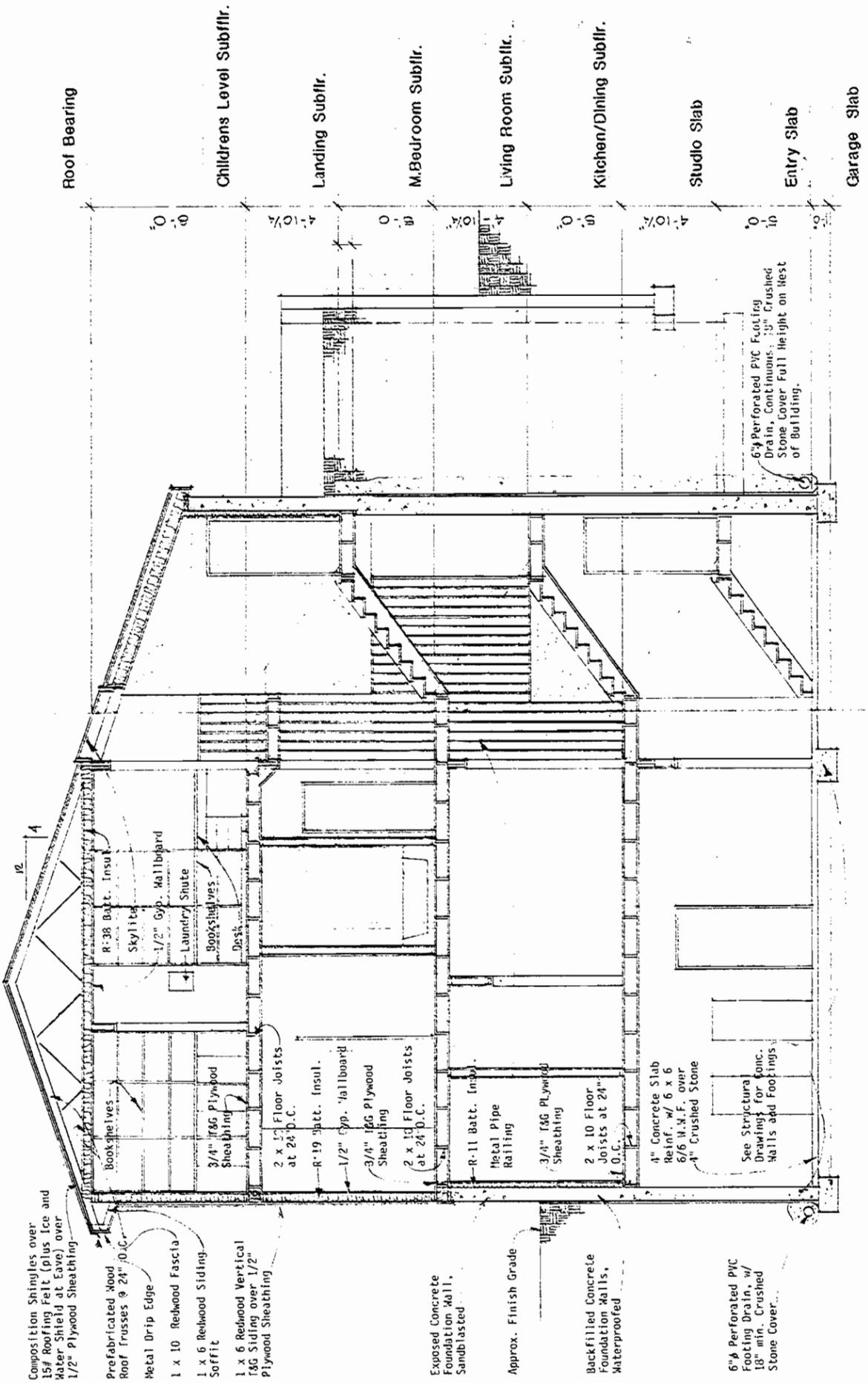
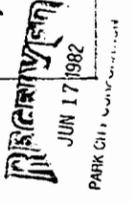
sampson avenue
 residence

P.O. Box 1720 Park City, Utah 84060 (801) 649-8868

reynolds & marmen
 architects

JUN 15 1982

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Building Section
 1/4" = 1'-0"

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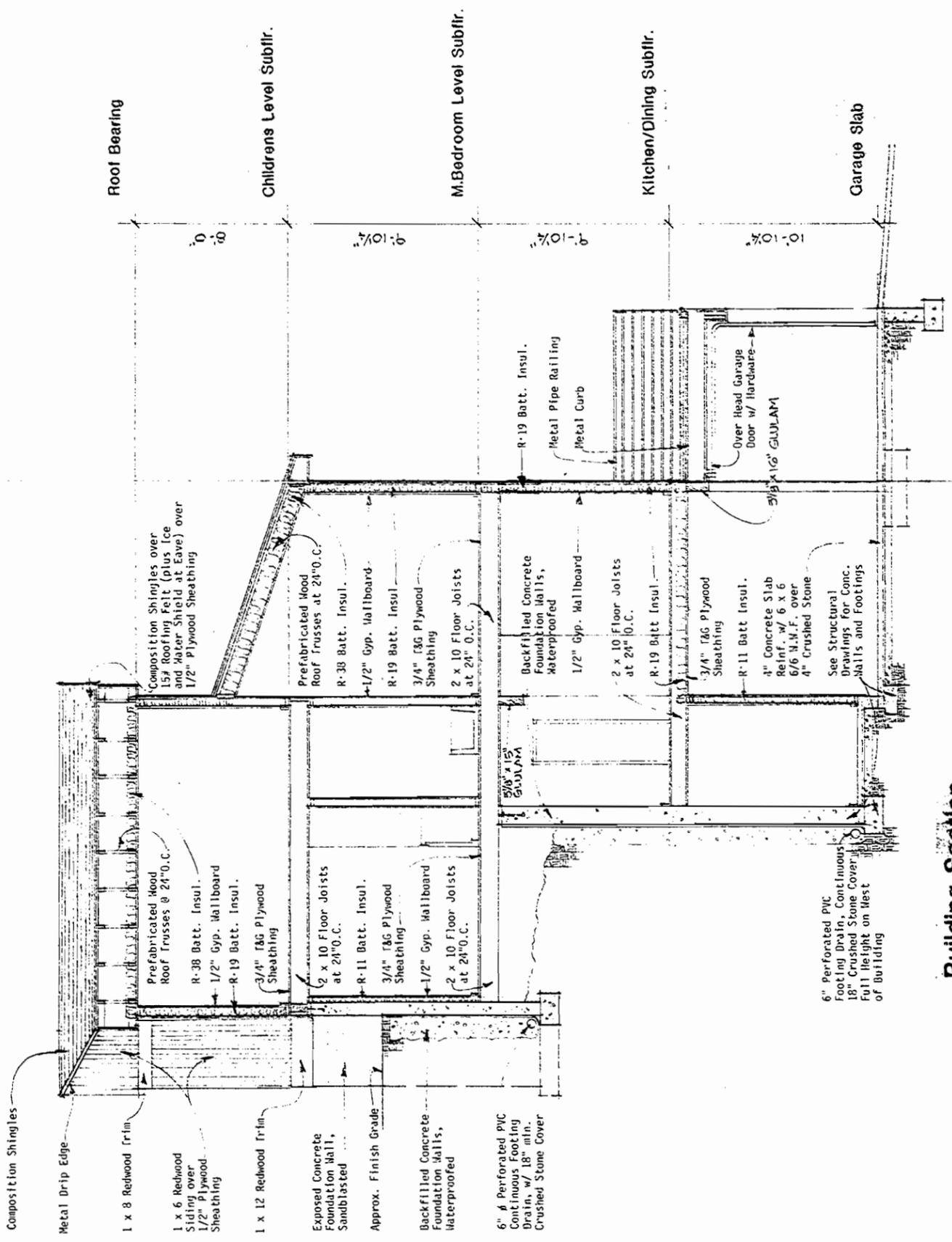


sampson avenue
 residence

reynolds & mammen
 architects
 P.O. Box 1720 Park City, Utah 84060 (801)649-8888

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Building Section
 1/4" = 1'-0"

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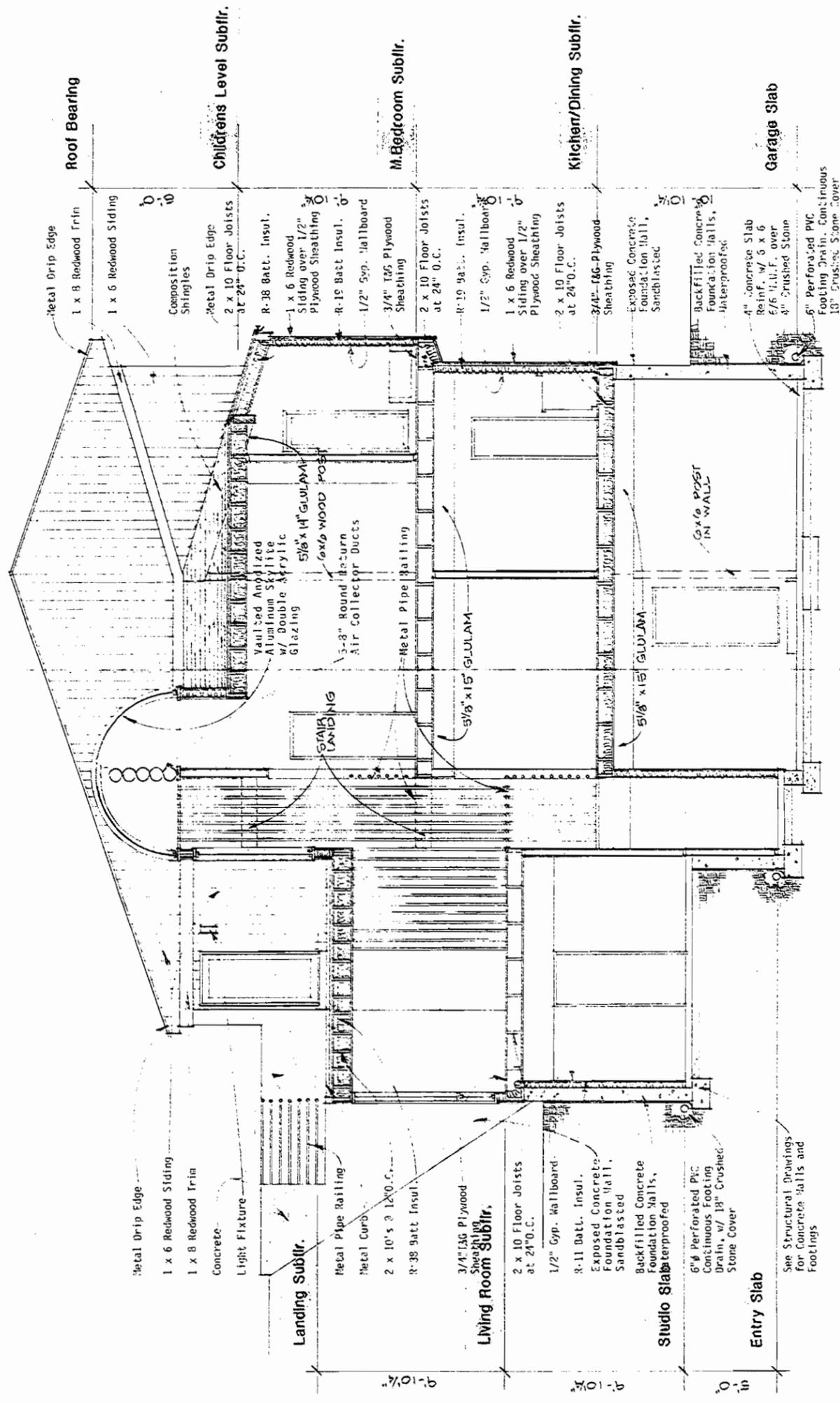
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 JUN 17 1982
 PARK CITY CORPORATION



Building Section
 1/8" = 1'-0"

Proposal

We are asking to allow nightly rentals at 99 Sampson Ave. We would like to provide lodging for people visiting Park City, giving tourists another choice when visiting Park City.

This proposed use will not emit noise, odor or pollution and is suitable for this private home in this area of Old Town. We plan to provide lodging to families and small groups with no more impact to the neighborhood than if the owner's family and friends were to visit. Street parking will not be a problem as we have a 2 car garage.

There is at least one home on this street that provides this same service.





February 23, 2012

Jan Maltby
10 Millard Ave
Sleepy Hollow, NY 10591

NOTICE OF PLANNING COMMISSION ACTION

Project Description: 60 Sampson Avenue – Request for Nightly Rental
Project Number: PL-11-01369
Project Location: Mill-Site Reservation Amended Plat Lot 1, 60 Sampson Ave.
Date of Final Action: February 22, 2012

Action Taken: The Planning Commission conducted a public hearing and Ratified the Findings of Fact and Conclusions of Law Denying the request for a Conditional Use Permit for a Nightly Rental for an existing home located at 60 Sampson Avenue in the HRL Zone Designation, according to the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The property is located at 60 Sampson Avenue. The property is improved with a 3,800 square foot, four bedroom, five full-bath, single family house.
2. The subject property is located within the Historic Residential Low Density (HRL) zoning district.
3. The house at 60 Sampson Avenue is located on an approximately 6,500 square feet (.15 acres) lot. Minimum lot size in the HRL district is 3,570 square feet.
4. The historic portion of the home is 1,818 square feet and was constructed in 1909 with a 1,953 square foot addition completed in 2008. The house has 4 bedrooms
5. Nightly rental uses are subject to a Conditional Use Permit in the HRL district.
6. Access to the subject property is off of Sampson Avenue with frontage onto King Road, both are public streets.
7. Sampson Avenue and King Road are very narrow roadways. The paved width of Sampson Avenue is 12 feet wide, which is not wide enough for two cars to pass each other. There is also no on-street parking available on Sampson Avenue. Testimony from residents suggests that this street has had difficulty being accessed by emergency vehicles in the past.
8. There are no legally established nightly rentals on Sampson Avenue. The Finance Department has confirmed that there are no business licenses issues for Nightly Rentals on Sampson Avenue.
9. Requiring additional cars to park in China Bridge in the rental agreement does not mitigate the impacts of additional cars because it is difficult for the City to enforce such a requirement and the Landlord has no incentive to enforce such a condition.
10. There are three separate sets of stairs and over 250 stairs from China Bridge making it unlikely that nightly rental tenants would actually use China Bridge as an alternative parking area. There is no on street parking in the vicinity of the

residence.

11. Trash is a problem with nightly rentals because tenants often leave on a Monday and the trash is put outside however, the garbage pick-up isn't until Thursday. No mitigation for this impact has been proposed.
12. The Planning Commission finds that Criterion #2 (Traffic) of Section 15-2.1-2, LMC, cannot be mitigated because traffic on the roads leading to the applicant's property, and the street where the proposed nightly rental is located, are narrow roadways that may become subject to closure during a major storm event, such as snow or rain, and that renters may not be able to access the home because there are times when both King Road and Sampson Avenue are not passible by automobile. One must drive on steep hills to access Sampson Avenue, and it is not possible for two cars to pass each other on the road.
13. The Planning Commission finds that Criterion #4 (Emergency Vehicle Access) cannot be mitigated for the same reasons as found in Criterion #2 that the roads leading to and from the proposed nightly rental are narrow road ways that may become impassible during major storm events, such as snow or rain, and that testimony from the Public suggests that emergency vehicles tend to get stuck turning from Sampson Avenue during normal weather, making emergency vehicle access to the nightly rental subject to delay. The Planning Commission further finds that the nightly rental may increase the need for emergency vehicle access to the area, and that such an increase would burden the neighborhood because of the narrow roadways which can become impassible during major storm events as described herein.
14. The Planning Commission finds that Criterion #5 (Location and amount of off-street parking) cannot be mitigated due to the fact that there are only two parking spaces at the proposed location for the nightly rental, and due to the fact that the existing home is 3,800 square feet, has four bedrooms, five bathrooms and sleeps an undetermined number of people and could potentially accommodate a large gathering of individuals, and there is no way for the City to enforce a maximum gathering of occupants for the nightly rental, and the fact that there is no on-street parking available at this location due to the fact that Sampson Avenue is in essence, a 12-foot wide one-way road with no on-street parking near the proposed nightly rental, and that King Road has the same physical conditions as Sampson Avenue, causing a potentially dangerous situation for those trying to park near the home.
15. The Planning Commission finds that Criterion #6 (Internal circulation system) cannot be mitigated due to the fact that both King Road and Sampson Avenue are narrow roadways which in essence, function as one-way streets, and that circulation in the area is usually difficult even if not complicated by frequent major storm events, and that the nightly rental could generate additional trash or additional service needs, and that those could potentially cause in increase of the level traffic generated from outside of the area, and that the streets leading to and from the proposed Nightly Rental are local streets that are more than likely at a failing level of service because they do not meet current City Street Standards for asphalt width and snow storage.
16. The Planning Commission is concerned that Criterion #14 (Expected ownership and management of the property) would be difficult to mitigate due to the fact that there are no provisions in the LMC to require that a local property management company oversee the nightly rental. The owner of 60 Sampson Avenue, who's primary residence is in New York, would be an absentee landlord and would not be able to ensure that issues related to trash and loud parties at the home could be taken care

of to the satisfaction of the neighbors or the City. The burden of dealing with issues related to trash, loud parties, and other issues related to Nightly Rentals, is unfairly shifted to the neighborhood and the City to handle.

17. The Planning Commission finds that the condition to require off-site parking during times when King Road or Sampson Avenue may become impassable during periods of heavy snow, or other inclement weather, un-enforceable, and thus un-reasonable to impose.

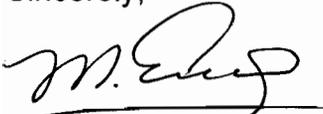
Conclusions of Law

1. The proposed conditional use permit has conditions that cannot be mitigated, including those found in criterion #2, #4, #5, #6 and #14 of Section 15-2.1-2 of the Park City LMC.
2. The condition of approval to require off-site parking during heavy snow events or other inclement weather make King Road or Sampson Avenue impassable is un-enforceable by the City, and thus is an unreasonable condition of approval.

Order: The Conditional Use Permit for Nightly Rental at 60 Sampson Avenue is hereby denied for the reason specified within the Findings of Fact and Conclusions of Law listed herein.

If you have any questions or concerns regarding this letter, please do not hesitate to contact me. I can be reached at 435-615-5063 or via e-mail me at mathew.evans@parkcity.org.

Sincerely,



Mathew W. Evans
Senior Planner



April 20, 2012

Jan Maltby
10 Millard Ave
Sleepy Hollow, NY 10591

NOTICE OF CITY COUNCIL ACTION

Project Description: Appeal of Planning Commission decision to deny request for Nightly Rental
Project Numbers: PL-12-01500
Project Address: 60 Sampson Avenue
Date of Final Action: April 19, 2012

Action Taken: On March 29, 2012, the City Council conducted a public hearing and 3-2 to grant the appeal to overturn the Planning Commission decision to deny a request for a Nightly Rental at the aforementioned address. On April 19, 2012, the City Council Ratified Findings of Fact, Conclusions of Law and Conditions of Approval to grant the request for a Nightly Rental at the aforementioned address as follows:

Findings of Fact:

1. The property is located at 60 Sampson Avenue. The property is improved with a 3,800 square foot, four bedroom, five full-bath, single family house.
2. The subject property is located within the Historic Residential Low Density (HRL) zoning district.
3. The house at 60 Sampson Avenue is located on an approximately 6,500 square feet (.15 acres) lot. Minimum lot size in the HRL district is 3,570 square feet.
4. The historic portion of the home is 1,818 square feet and was constructed in 1909 with a 1,953 square foot addition completed in 2008. The house has 4 bedrooms
5. Nightly rental uses are subject to a Conditional Use Permit in the HRL district.
6. The City Council finds that there is mitigation of the impacts of Criteria 1-15 as outlined in LMC Section 15-1-10(E) if the applicant adheres to the mitigation measures as proposed.
7. The City Council finds that Criterion #2 (Traffic) of Section 15-2.1-2, LMC, has no unmitigated impacts, and that the proposed Nightly Rental may contribute some level of increased traffic, however, the trip generation for long term rentals, seasonal work force rental, and/or housing for permanent residents, is generally greater than that of short term vacation rentals.
8. The City Council finds that Criterion #4 (Emergency Vehicle Access) has no unmitigated impacts. The nightly rental business license triggers an inspection of the house by the Park City Building Department and all IBC and Fire Code requirements have to be met prior to issuance of a business license. Nightly rental use does not change the requirement for, or conditions related to, emergency vehicle access which exists on Sampson Avenue and King Road. The double-

frontage of the home allows emergency access from two sides, Sampson Avenue and King Road.

9. The City Council finds that Criterion #5 (Location and amount of off street parking) has no unmitigated impacts. Pursuant to LMC 15-3-6 parking for the first 6 bedrooms of a Nightly Rental is based on the parking requirement for the unit. The home has five bedrooms, and thus would not exceed the requirement. Furthermore, the parking requirement is the same as that required for the existing home which would be two (2) legal off-street parking spaces and the site has a two existing oversized off-street parking spaces available, 1 space in the large oversized single-car garage, and one space on the driveway leading to, and beyond the garage.
10. The City Council finds that Criterion #6 (Internal circulation system) has no unmitigated impacts. The home is accessible from both Sampson Avenue and King Road. Access to the site could be complicated during winter months, but the same is true for local residence. The internal circulation within the home is not at issue due to the fact that a majority of the home was recently constructed, minus the historic front, and that the home was built to 2006 Uniform Building Code Standards.
11. The City Council finds that Criterion #14 (Expected ownership and management of the property) has no unmitigated impacts. The applicant, who uses the property as a second home, has agreed to use a Property Management Company run the Nightly Rental business. The use of a Property Manager is also a condition of approval for the Conditional Use Permit.
12. Parking at the property is limited to the garage and driveway, which accommodate two legal parking spaces. The Applicant has agreed to limit the number of motor vehicles parked on the Property during any given rental period to no more than 2.
13. All-wheel or 4-wheel drive vehicles may be necessary to access the nightly rental during winter months.
14. Trash can be a problem with nightly rentals because tenants often leave on a Monday and the trash is put outside however, the garbage pick-up isn't until Thursday. Mitigation proposed would require the property management company hired by the applicant to make sure that trash the receptacle(s) are out no more than 15 hours prior to the anticipated pick-up, and are put away no more than 15 hours after the actual trash pick-up time.
15. A property management company based in Summit County will be under contract and responsible for functioning as Applicant's agent with regard to all matters concerning nightly rental of the Property.
16. As proposed, the Applicant will limit the number of people occupying the Property during any given rental period to no more than 8. Applicant shall include express references to this limit in her marketing materials and rental agreements for the Property.
17. The applicant stipulates to the conditions of approval.

Conclusions of Law:

1. Nightly rentals are a Conditional Use in the HRL Zone.
2. The proposed nightly rental use as conditioned is compatible with surrounding structures in use, scale and mass, and circulation.
3. The proposed nightly rental use as conditioned is consistent with the Park City General Plan.
4. Any effects in difference of the nightly rental use have been mitigated through careful planning and conditions of approval.

Conditions of Approval:

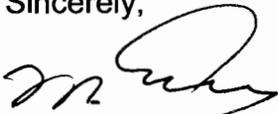
1. All standard project conditions shall apply.
2. A business license and inspection of the property by the building department are necessary to ensure that the business owners are verified and the property meets all applicable fire and building codes.
3. A detailed review against specific requirements of the Uniform Building and Fire Codes in use at the time of business license application is required as a condition precedent to issuance of a business license.
4. No exterior commercial signs are approved as part of this CUP. All signs are subject to the Park City Sign Code.
5. The Applicant shall at all times have a property management company based in Summit County under contract and responsible for functioning as Applicant's agent with regard to all matters concerning nightly rental of the Property.
6. The Applicant shall limit the number of people occupying the Property during any given rental period to no more than 8. Applicant shall include express references to this limit in her marketing materials and rental agreements for the Property.
7. The Applicant shall limit the number of motor vehicles parked on the Property during any given rental period to no more than 2. Applicant shall include express references to this limit in her marketing materials and rental agreements for the Property.
8. Property management shall place trash receptacle(s) out for trash pick-up no more than 15 hours prior to the anticipated pick-up time, and that the receptacle is placed properly back onto the property no more than 15 hours after the actual pick-up time.
9. Applicant shall include that all-wheel drive or 4-wheel drive may be necessary to gain access to the property during winter months in the marketing materials and rental agreements for the Property.
10. Applicant shall come back before City Council after one year from the date of when the business license is issued for a review of the Conditional Use Permit.

Order:

The Conditional Use Permit for Nightly Rental at 60 Sampson Avenue is hereby approved for the reason specified within the Findings of Fact and Conclusions of Law and Conditions of Approval listed herein.

If you have any questions or concerns regarding this letter, please do not hesitate to contact me. I can be reached at 435-615-5063 or via e-mail me at mathew.evans@parkcity.org.

Sincerely,



~~Mathew W. Evans~~
Senior Planner

Planning Commission Staff Report

Application #: PL-12-01672
Subject: 427 Main Street Memorial Building CUP
Author: Kirsten Whetstone, AICP
Date: January 9, 2013
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends the Planning Commission review the proposed Conditional Use Permit application for restaurant, bar, and retail use of an existing 1,261 square foot storage area, located in the lower level of the existing War Memorial building within the HR-2 Sub-zone “A” portion of the property. Staff recommends the Commission conduct a public hearing and consider approving the Conditional Use Permit based on the findings of fact, conclusion of law, and conditions of approval found in this report.

Description

Applicant: Junro Lee for Memorial Building, L.L.C, owner
Location: 427 Main Street
Zoning: Historic Commercial Business (HCB) and Historic Residential 2 (HR-2) Sub-zone “A”
Adjacent Land Uses: Commercial retail, restaurants, bars, office, US Post Office, and residential
Reason for Review: Conditional Use Permits require Planning Commission review and approval

Proposal

This is a request for a Conditional Use Permit (CUP) for commercial uses (restaurant, bar and/or retail uses) for an existing 1,261 square foot space located within the HR-2 Sub-zone “A” portion of the War Memorial Building on the lower level. The building is located at 427 Main Street. The owner was granted a building permit in 2007 for excavation of the subject space. The space is currently used for general storage (back of house uses) for the building and the owner desires to be able to lease this space for additional seating for either a restaurant or bar to be located on the lower level of the building. The applicant has also stated that the space could be utilized for additional retail space, in the event that one of the lower level tenant spaces becomes a retail use.

The Land Management Code requires submittal of a Conditional Use Permit application, with review by the Planning Commission, for commercial uses, including restaurants, bars, and retail uses if located within the HR-2 Sub-zone “A” zoning district. These proposed uses are allowed uses within the HCB District. In order to approve a CUP for these uses in the HR-2 Sub-zone “A”, the Commission must find compliance with specific criteria as stated in LMC Section 15-2.3-8 and any impacts of the proposed

uses must be mitigated by physical changes to the site and/or by specific conditions of approval. No exterior changes are proposed.

Background

On September 28, 2012, the City received an application for the 427 Main Street Memorial Building CUP. The application was deemed complete on December 10, 2012 when additional information was provided. The property is located at 427 Main Street in the Historic Commercial Business (HCB) district and is also located within the adjacent Historic Residential 2 (HR-2 Sub-zone "A") district. The existing structure known as the "War Memorial Building" is designated as a "Landmark" historic building on the Historic Sites Inventory. The building exists partially within each of the two zoning districts (HCB and HR-2 Sub-zone "A") (see Exhibits A, B and C).

Currently, the subject space is utilized as general storage for the owner of the building, and is not related to any specific use or tenant. The applicant proposes to lease this space for commercial uses, specifically for additional seating for either a restaurant or a bar tenant to be located on the same lower level, or possible as a retail space. No exterior changes to the building are proposed with this application.

The building currently contains commercial uses (restaurant, bar, and night club uses). The night club use was approved as a Conditional Use on January 13, 1999 (Exhibit F). Private clubs and bars were changed from conditional use to allowed use in the HCB zoning district with the 2000 LMC Amendments. The existing commercial uses within the building (Park City Live and O'Shucks) are located within both the HCB and the HR-2 Sub-zone "A" zoned portions of the building (Exhibit C). These spaces, as well as the vacant tenant spaces on the lower level of the building, have been utilized continuously for commercial uses since before the HR-2 Sub-zone "A" was created in 2000, and for Special Events during the Sundance Film Festival since 2004. The subject space has not been previously utilized for commercial uses and therefore requires a conditional use permit.

The building has been used for public, quasi-public, and a variety of commercial uses since the building was constructed in 1939. At various times since the late 1970s, the building contained a bowling alley, city offices, a community meeting room, KPCW radio station, a crafts boutique, as well as restaurants, bars, and a variety of night club uses. Current uses include a restaurant, a bar/night club, and a variety of temporary uses and Special Events, permitted through the administrative Conditional Use Permit process.

Owned at one time by the Park City Redevelopment Agency, the building was sold to a private entity in the 1980s. The property continues to be subject to several recorded agreements, including a December 28, 1989 Parking License and Stairway Maintenance Agreement (Exhibit E) and a Grant of Preservation Easement recorded on May 2, 1989 (Exhibit D).

On December 20, 2012, the City Council approved a Land Management Code amendment to include bars as a conditional use within the HR-2 Subzone "A". This

change allowed the applicant to revise the application to include bar uses for the subject space.

Purpose of the HR-2 District

The purposes of the HR-2 District include:

- (A) Allow for adaptive reuse of Historic Structures by allowing commercial and office Uses in Historic Structures in the following Areas:
 - (1) Upper Main Street;
 - (2) Upper Swede Alley; and
 - (3) Grant Avenue.
- (B) Encourage and provide incentives for the preservation and renovation of Historic Structures.
- (C) Establish a transition in Use and scale between the HCB, HR-1, and HR-2 Districts, by allowing Master Planned Developments in the HR-2, Sub-zone A.
- (D) Encourage the preservation of Historic Structures and construction of historically Compatible additions and new construction that contributes to the unique character of the Historic District.
- (E) Define Development parameters that are consistent with the General Plan policies for the Historic core that result in Development that is Compatible with Historic Structures and the Historic character of surrounding residential neighborhoods and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites and the HR-1 regulations for Lot size, coverage, and Building Height.
- (F) Provide opportunities for small scale, pedestrian oriented incubator retail space in Historic Structures on Upper Main Street, Swede Alley, and Grant Avenue.
- (G) Ensure improved livability of residential areas around the historic commercial core.
- (H) Encourage and promote Development that supports and completes upper Park Avenue that is Compatible with the historic character of the surrounding residential neighborhood.
- (I) Encourage residential development that provides a range of housing opportunities consistent with the community's housing, transportation, and historic preservation objectives.
- (J) Minimize visual impacts of the automobile and parking by encouraging alternative parking solutions.

- (K) Minimize impacts of Commercial Uses on surrounding residential neighborhood.

Analysis

According to Land Management Code (LMC) § 15-2.3-2 commercial uses, such as retail, restaurants, and bars are conditional uses in the HR-2 Subzone “A” zoning district, subject to compliance with specific review criteria as listed in LMC § 15-2.3-8- Special Requirements for Commercial Uses in Sub-zone “A” as follows:

15-2.3-8. SPECIAL REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS AND CONDITIONAL USE PERMITS IN SUB-ZONE A.

(A) **SUB-ZONE A.** Sub-zone A consists of Lots in the HR-2 District that are west of Main Street, excluding those Lots within Block 13.

(B) The following special requirements apply only to Lots in Sub-zone A that are part of a Master Planned Development, a Conditional Use Permit, or a Plat Amendment that combines a Main Street, HCB zoned, Lot with an adjacent Park Avenue, HR-2 zoned, Lot or portion of a Lot, for the purpose of restoring an Historic Structure, constructing an approved addition to an Historic Structure, constructing a residential dwelling or Garage on Park Avenue, or expanding a Main Street Business into the HR-2 zoned Lot:

(1) All Commercial Uses extending from Main Street into the HR-2 Zone are subject to the Conditional Use Permit review requirements of Section 15-1-10 and the Master Planned Development requirements of Section 15-6 if the development is part of a Master Planned Development. These Commercial Uses must be located below the Grade of Park Avenue projected across the HR-2 Lot and beneath the Main Floor of a residential Structure or Structures facing Park Avenue. Occupancy of the below Grade Floor Area is conditioned upon completion of the residential structure on the HR-2 Lot.

Complies. The proposed commercial space is located within an existing historic building and below the Grade of Park Avenue. The existing historic Building was constructed seventy feet (70’) onto the HR-2 lots. No residential structures are proposed (or possible) on Park Avenue due to the configuration of the existing Landmark historic building. The area of the building subject to this Conditional Use Permit application is located below the floor level of the existing private club. The subject space is located entirely within the HR-2 Subzone “A” zoning district.

(2) All Buildings within the HR-2 Sub-zone “A” portion of the development must meet the minimum Side and Front Yard Setbacks of the HR-2 District as stated in Section 15-2.3-4, unless the Planning Commission grants an exception to this requirement during the MPD review and the development is consistent with the MPD Section 15-6-5(C). Below Grade Structures, such as parking structures and Commercial Floor Area extending from Main Street beneath a residential Structure or Structures on Park Avenue may occupy Side Yard Setbacks subject to Building and Fire Codes and trespass agreements.

Complies. The proposed commercial space is within an existing building. No changes are proposed to the exterior and no changes are proposed to the existing setbacks. There are no setback requirements in the HCB zone. The building meets the front and south side setbacks of the HR-2 Sub-zone "A" and is non-complying with respect to the north side setback where the existing historic structure was constructed to within two feet of the north property line. The building is considered an existing legal non-complying structure due to its status as an historic structure.

(3) All Buildings within the HR-2 Sub-zone "A" portion of the development must meet the Building Height requirements of the HR-2 District as stated in Section 15-2.3-6.

Complies. The proposed commercial space is located within an existing building and no changes to the building height are proposed. The building does not exceed the maximum building height in either the HCB (45') or the HR-2 (27') zones.

(4) Existing and new Structures fronting on Park Avenue may not contain Commercial Uses, except as permitted in Section 15-2.3-8 (B) (1).

Complies. The proposed commercial space does not front on Park Avenue as it is below the grade of Park Avenue.

(5) A Floor Area Ratio of 4.0 shall be used to calculate the total Commercial Floor Area. Only the Lot Area within the HCB Lot may be used to calculate the Commercial Floor Area.

Complies. The building does not exceed the Floor Area Ratio of 4.0. Lot Area within the HCB zone is 9,375 square feet. The FAR of 4.0 allows up to 37,500 sf of Gross Floor Area. The entire building contains approximately 26,104 square feet of Gross Floor Area including this proposed commercial area.

(6) The number of residential units allowed on the HR-2 portion of the Development is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.

N/A. There are no residential units on the property and no residential units are proposed.

7) All entrances and Access, including service and delivery, for the Commercial Use must be off of a Street or easement within the HCB District. The Commercial Structure must be designed to preclude any traffic generation on residential Streets, such as Park Avenue. Any emergency Access, as required by the Uniform (International) Building Code (UBC), onto the HR-2

portion of the Property must be designed in such a manner as to absolutely prohibit non-emergency Use. Alarms shall be installed on all emergency doors that provide access to Park Avenue.

Complies as conditioned. Access to the proposed commercial space is from within the building utilizing existing access to Main Street. No new access is proposed from Park Avenue. Staff recommends a condition of approval that service and delivery shall only be from Main Street and shall not include use of Park Avenue, except for emergency Access as required by the Building Code. The exception to this is for the owner/managers utilizing the Park Avenue parking spaces.

(8) Commercial portions of a Structure extending from the HCB to the HR-2 Sub-zone "A" must be designed to minimize the Commercial character of the Building and Use and must mitigate all impacts on the adjacent Residential Uses. Impacts include such things as noise, odor and glare, intensity of activity, parking, signs, lighting, Access and aesthetics.

Complies. No exterior changes are proposed and impacts from noise, odor, and glare, intensity of activity, parking, signs, lighting, access and aesthetics are mitigated by the use being located within an existing building and by conditions of approval. An existing fence on Park Avenue screens the existing building. Staff recommends a condition of approval that the fence be repaired and maintained and that the fence and parking area be kept in a well maintained state.

(9) No loading docks, service yards, exterior mechanical equipment, exterior trash compounds, outdoor storage, ADA Access, or other similar Uses associated with the HCB Uses are allowed within the HR-2 portion of the Property, and all such Uses shall be screened for visual and noise impacts.

Complies as conditioned. There are no loading docks, service areas, exterior trash compounds, or outdoor storage associated with the building. ADA Access is within the HCB portion of the building. Staff recommends a condition of approval that trash service be from Main Street as opposed to Park Avenue. No additional exterior mechanical equipment shall be located within the HR-2 portion of the building.

(10) The Property Owner must donate (dedicate) a Preservation Easement to the City for any Historic Structures included in the Development.

Complies. There is an existing Preservation Easement for 427 Main Street (see Exhibit D).

(11) Any Historic Structures included in the development shall be restored or rehabilitated according to the requirements of the LMC Chapter 11- Historic Preservation.

Complies. No exterior changes or alterations are proposed and the Building is subject to an existing Historic Preservation Façade Easement and is considered by the Historic Sites Inventory to be in “good condition- well maintained with no serious problems apparent”.

(12) Any adjoining Historic Structures under common ownership or control must be considered a part of the Property for review purposes of the Conditional Use permit and/or Master Planned Development.

Complies. All Historic Structures under common ownership or control are considered in this Conditional Use Permit Review. The only structure owned by the applicant is the Memorial War building.

(13) The allowed Building Width of any Structure above Final Grade is up to forty (40) feet. Building Widths shall reflect the typical variation, pattern and Historic character of the surrounding residential neighborhood.

N/A. The above grade Building Width is approximately ninety feet (90'). This is an existing condition of the historic building. No changes to Building Width are proposed. The area subject to the CUP is below grade of Park Avenue and within the existing building footprint.

(14) Residential Density transfers between the HCB and HR-2 Zoning Districts are not permitted. A portion of the Gross Floor Area generated by the Floor Area Ratio of the HCB Zoning District and applied only to Lot Area in the HCB Zone, may be located in the HR-2 Zone as allowed by this Section.

N/A. No Residential Density transfers are proposed and no change in existing Floor Area is proposed. In commercial buildings storage uses in basements are counted in the Gross Commercial Floor Area.

(15) Maximum allowed Building Footprint for the HR-2 Lot is subject to Section 15-6-5(B).

N/A. The building exists and no changes to the Building Footprint are proposed.

The Commission must also make a determination that the proposed use meets the CUP criteria found in LMC § 15-1-10 as follows:

1. Size and location of the site. **No unmitigated impacts.** The 1,261 square foot space is located within an existing building, in the basement. The basement level contains a total of 12,970 square feet, including the subject space. The lot area is 18,750 sf and the total Gross Floor Area of the entire building is 26,104 sf, including the subject space. The building does not exceed the maximum allowable FAR of 4.0, when including only the lot area within the HCB zone and

the entire building floor area. No changes to the size and location of the site are proposed.

2. Traffic considerations. **No unmitigated impacts.** There are no significant traffic impacts associated with converting the subject space to a commercial use as the area is less than 5% of the total floor area of the building. The existing building is located on Main Street and the building has no on-site parking for the proposed uses, with the exception of four parking spaces located off of Park Avenue, partially within the Park Avenue ROW and subject to a parking agreement with the City. All visitors, clients, patrons to the building must park off-site and walk. A conditional use permit for the night club requires a parking management plan for large events that exceed the normal occupancy loads for the building and that might generate crowds of people being dropped off to stand in line for tickets.
3. Utility capacity. **No unmitigated impacts.** No significant additional utility capacity is required for this project. No additional water fixtures or bathrooms are proposed.
4. Emergency vehicle access. **No unmitigated impacts.** The building is accessible from both Main Street and Park Avenue for emergency vehicles.
5. Location and amount of off-street parking. **No unmitigated Impacts.** No additional parking is required. The building is exempt from the requirements of the downtown parking improvement district because it was a public building at that time. The building is currently exempt from additional parking requirements because it is an historic building subject to a recorded Historic Preservation Façade Easement.

The building is subject to a Parking License and Stairway Maintenance Agreement recorded January 8, 1990 (see Exhibit E). This Agreement allows the owner to utilize a 36' long by 16' deep area of Park Avenue right-of-way for the exclusive use of four (4) parking spaces as further identified in the Agreement. In exchange for this exclusive parking the owner agrees to maintain and upkeep the staircase between the 427 Main Street building and the Blue Church Lodge and to make other repairs as outlined in the Agreement.

Staff recommends a condition of approval that there shall be no more than four spaces reserved for the exclusive use of 427 Main Street and those four spaces shall only be used by owners or managers associated with 427 Main Street. The spaces shall not be used by employees, patrons, band members or any other non owner or manager of 427 Main Street. The other spaces shall be unsigned and available for the residential uses on Park Avenue on a first come first serve basis.

6. Internal circulation system. **No unmitigated Impacts.** The space has sufficient ingress and egress to the remainder of the building floor area. Staff recommends

a condition of approval that prior to issuance of a certificate of occupancy for use of this space that an occupancy load be submitted by a qualified professional with final certification of this occupancy to be determined by the Chief Building Official. All building code required ingress and egress conditions for safe internal circulation for the entire building shall be addressed prior to final certification of occupancy for the subject space.

7. Fencing, screening and landscaping to separate uses. **No unmitigated impacts.**

No new fencing is proposed. No changes to the exterior landscaping are part of this application. Staff recommends a condition of approval that the existing fence be repaired and maintained prior to issuance of a certificate for the subject space.

8. Building mass, bulk, orientation and the location on site, including orientation to adjacent buildings or lots. **No unmitigated impacts.**

No changes are proposed to the existing building structure and therefore no changes are proposed to the building mass, bulk, orientation, location on site or orientation to adjacent buildings or lots.

9. Usable open space. **No unmitigated impacts.**

The proposal to utilize the basement area does not trigger creation of new open space and does not diminish existing open space.

10. Signs and lighting. **No unmitigated impacts.** The owner has submitted a separate application request to amend the master sign plan for the entire building. That application is being reviewed for compliance with the Park City Sign Code to bring all of the signs and sign area into conformance with the Code. Staff recommends a condition of approval that all exterior lighting be brought into compliance with the LMC prior to issuance of a certificate of occupancy for the subject space.

11. Physical design and compatibility with surrounding structures in mass, scale and style. **No unmitigated impacts.** There are no exterior changes and the proposed use does not create impacts due to mass, scale, and style.

12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site. **Impacts mitigated.** There are no concerns regarding noise, vibration, odor, steam or other mechanical factors that would require mitigation from the use of the subject space. This space is located below the grade of Park Avenue, has no windows or doors directly to the outside, and is located below the dance floor of the space above. No new mechanical equipment is proposed. Prior to the certificate of occupancy for the Harry O's private club, as a condition of the CUP, the owner was required to study the building and provide noise proofing and vibration proofing of all windows, roofs, ducts, vents, and

other areas that allow noise at levels exceeding those allowed by the Park City Municipal Code to project outside of the building, in particular towards Park Avenue. This sound and vibration proofing was completed and inspected by the Building Department prior to issuance of the certificate of occupancy for the night club.

13. Control of delivery and service vehicles, loading and unloading zones, and screening. **No unmitigated impacts.** No significant increase in deliveries is anticipated as a result of utilization of the subject space. The HR-2 zone does not allow deliveries to Main Street businesses to use Park Avenue. Staff recommends a condition of approval that all deliveries to the entire building be restricted to Main Street only. Staff also recommends a condition of approval that all trash service be from Main Street rather than Park Avenue, although trash service from Park Avenue is contemplated in the Parking License and Stairway Maintenance Agreement.
14. Expected ownership and management of the property. **No unmitigated impacts.** The building is owned by Memorial Building, LLC, a Utah limited liability company and leased to various tenants. Ownership and management of the building and tenant leases is expected to continue if the Conditional Use Permit is approved. All existing easements, conditions, and agreements as stated in the current Title Report, shall continue and this Conditional Use Permit shall not change or amend said easements, conditions, or agreements.
15. Sensitive Lands Review. **No unmitigated impacts.** The proposal is not located within the Sensitive Lands Overlay zone.

Process

If the Conditional Use Permit is approved, a Building Permit application for a tenant finish of the space is required. The work shall be inspected prior to issuance of a certificate of occupancy in order to utilize the space to review for compliance with applicable Building and Fire Codes and conditions of this conditional use permit. Approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. A Building Permit is publicly noticed by posting of the permit.

Department Review

This project has gone through an interdepartmental review. No additional issues were raised at the review.

Snyderville Basin Water Reclamation District

No additional water fixtures or bathrooms are proposed for this area. The SBWRD will review the tenant improvement building permit for any additional water reclamation requirements that would have to be addressed, constructed, and upgraded as part of the building permitting process.

Notice

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

Public Input

No public input was received prior to publication of this report. No public input was provided at the December 12, 2012, Planning Commission meeting when the public hearing was opened and continued to January 9, 2013.

Recommendation

Staff recommends the Planning Commission review the proposed Conditional Use Permit application for commercial use of an existing 1,261 square foot storage area, located on the lower level of the existing War Memorial building within the HR-2 Sub-zone "A" portion of the property. Staff recommends the Commission conduct a public hearing and consider approving the Conditional Use Permit based on the findings of fact, conclusion of law, and conditions of approval found in this report.

Findings of Fact

1. The subject space is located with a building that is located at 427 Main Street.
2. The building is located within both the Historic Commercial Business (HCB) and Historic Residential 2 (HR-2) Sub-Zone "A" districts.
3. The building, known as the War Memorial Building, is a Landmark historic building on the Park City Historic Sites Inventory and was constructed in 1939. The building is considered to be in good condition.
4. The building is owned by War Memorial LLC, a Utah limited liability corporation. This owner does not own other adjacent properties that are not included in this application.
5. The historic building is a legal non-complying building with respect to setbacks on the north side. The historic building is exempt from parking requirements.
6. The total lot area for the building is 18,750 sf and the total floor area is 26,104 sf, including the 1,261 sf subject space on the lower level within the building. No additional floor area is proposed.
7. The total lot area within the HCB zoned portion of the property is 9,375 sf. The HCB zone allows a maximum Floor Area Ratio of 4.0 which equates to 37,500 sf of total floor area. The entire building contains approximately 26,104 square feet of Gross Floor Area. The entire basement level contains a total of 12,970 square feet, including the boiler and utility areas. The building does not exceed the maximum FAR of 4.0.
8. Currently the 1,261 sf subject space is utilized as general storage for the building, not related to any specific use or tenant. The applicant proposes to lease out this space for commercial uses for additional seating area for either a restaurant or a bar on the lower level, or as retail space. No exterior changes to the building are proposed with this application.
9. There are no residential units on the property and no residential units on Park Avenue are possible due to the configuration and location of the historic structure.

10. The building contains two stories with a mezzanine level around the main level dance floor.
11. The proposed commercial space is located within an existing building and no changes to building height are proposed. The building does not exceed the maximum building height in either the HCB (45') or the HR-2 Sub-zone "A" (27') zones.
12. The owner was granted a building permit in 2007 for excavation of the 1,261 sf space on the lower level. The space is entirely within the HR-2 Subzone "A" zoned portion of the building.
13. On December 20, 2012, the City Council approved a Land Management Code amendment to include bar uses as a conditional use within the HR-2 Subzone A.
14. The building currently contains commercial uses (restaurant, bar, and night club uses). These uses are allowed uses within the HCB zone. The night club use was originally approved as a Conditional Use on January 13, 1999. Private clubs and bars were changed from conditional uses to allowed uses in the HCB zoning district, with the 2000 LMC Amendments.
15. The existing commercial uses are located within both the HCB and the HR-2 Sub-zone "A" zoned portions of the building. The existing commercial uses within the building (Park City Live and O'Shucks) are located within both the HCB and the HR-2 Sub-zone "A" zoned portions of the building. The existing commercial areas, as well as the currently vacant tenant spaces on the lower level have been utilized continuously for commercial uses since before the HR-2 Sub-zone "A" district was created in 2000, and for temporary Special Events during the Sundance Film Festival since 2004. The subject space has not been previously utilized for commercial uses and therefore requires a conditional use permit to be used as restaurant, bar, or retail space.
16. Restaurants, bars, and retail uses within the HR-2 zone require a Conditional Use Permit (CUP) with review and approval by the Planning Commission.
17. The conversion from storage to commercial use does not change the total Gross Floor Area of the building because storage space is included in the total Gross Floor Area calculations for commercial buildings.
18. The subject space is entirely enclosed within the existing building and no exterior changes are proposed as part of the Conditional Use Permit. Access to the space is from the main entrance to the building on Main Street.
19. There are no significant traffic impacts associated with converting the subject space to a commercial use as the area is less than 5% of the total floor area of the building. The building has only four (4) parking spaces and therefore patrons and employees are required to park elsewhere and walk or take public transportation.
20. No significant additional utility capacity is required for this project and no additional water fixtures or restrooms are proposed.
21. No emergency vehicle access impacts are associated with the project as the building is accessible from Main Street and Park Avenue for emergency vehicles.
22. No additional parking requirements are required. The building was exempt from the requirements of the downtown parking improvement district because it was an historic public building at that time. The building is currently subject to a

Parking License and Stairway Maintenance Agreement recorded January 8, 1990. Use of four existing parking spaces within the City right-of-way on Park Avenue, as described in the Agreement, is subject to the existing revocable Park Agreement.

23. The internal circulation between the subject space and an associated tenant spaces will be identified and approved by the building department prior to issuance of a building permit for the tenant finish to use this space.
24. Additional fencing is not proposed as part of this application. Existing fencing is in a moderate state of disrepair.
25. No signs are proposed at this time. The applicant has submitted an application to amend the current master sign plan. The amended sign plan is being reviewed concurrent with this application. Parking regulation signs on Park Avenue will be part of the amended sign plan.
26. The applicant has indicated that no noise, vibration, odors, steam or mechanical factors are anticipated that are not normally associated with these types of uses within the HCB District and the space is located beneath the existing dance floor.
27. No new mechanical equipment, doors, windows, or any other exterior changes are proposed.
28. The proposal is not located within the Sensitive Lands Overlay zone.
29. Approval of this Conditional Use Permit allows bar, restaurant, or retail use of the subject space subject to the conditions of approval stated herein. Because the building is exempt from parking requirements and because of the relatively small size of the subject space when compared to the remaining commercial areas within the building there are similar impacts to be mitigated for these uses.

Conclusion of Law

1. The proposed application as conditioned complies with all requirements of the Land Management Code.
2. The use as conditioned will be compatible with surrounding structures in use, scale, mass, and circulation.
3. The use as conditioned is consistent with the Park City General Plan.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. All standard conditions of approval shall apply.
2. All conditions of approval of the January 13, 1999 Conditional Use Permit for the Private Club shall continue to apply.
3. Access to the building, including service and deliveries, shall only be from Main Street and shall not include use of Park Avenue, except for emergency Access as required by the Building Code.
4. Trash service shall be provided from Main Street and shall not include the use of Park Avenue.
5. All conditions, stipulations, and requirements of the Z-Place Parking License and Stairway Maintenance Agreement recorded on January 8, 1990 with the Summit County Recorder's Office shall continue to apply to the entire building.

6. Per the Parking License and Stairway Maintenance Agreement, the property owner is provided with exclusive use of four (4) parking stalls on Park Avenue as further described and restricted in the Agreement. These four (4) parking stalls along Park Avenue shall only be used by and for the property owners and managers of the 427 Main Street building and shall not be used by employees, patrons, band members, taxi's, shuttles, or other non-owners and/or managers. The remaining spaces shall remain public parking on a first-come, first serve basis as provided by and stipulated in the Agreement. Per this Agreement the City may revoke this Agreement at any time, following a 60 day written notice to the Licensee. The public spaces may not be used by employees, patrons, band members, or other users associated with 427 Main Street.
7. All conditions, stipulations, and requirements of the Grant of Preservation Easement, Park City Entertainment Center, Inc., shall continue to apply to the entire building.
8. All exterior lighting shall comply with the Land Management Code prior to issuance of a certificate of occupancy for use of the subject space.
9. All fencing and parking stalls along Park Avenue shall be repaired prior to issuance of a certificate of occupancy for use of the subject space. The fence and parking area shall be maintained in good condition.
10. All service and delivery shall only be from Main Street and shall not include use of Park Avenue, except in an emergency.
11. All emergency access doors shall be inspected for compliance with the IBC and shall be equipped with proper equipment and alarms to be able to be used only in emergency situations. Side and rear doors providing access to mechanical equipment, trash enclosures, and other services may be used by employees only when servicing the building.
12. All signs, including existing signs and parking regulation signs on Park Avenue, shall be brought into compliance with the Park City Sign Code and a Master Sign Plan for the building shall be submitted for review by the Planning Department and shall comply with requirements of the Park City Sign Code prior to issuance of a certificate of occupancy for use of the subject space.
13. Prior to issuance of a certificate of occupancy for use of the subject space an occupancy load plan shall be submitted by a qualified professional with final certification of this occupancy to be determined by the Chief Building Official. All building code required ingress and egress conditions for safe internal circulation for the entire building shall be addressed prior to final certification of occupancy for the subject space.

Exhibits

Exhibit A- Applicant's letter

Exhibit B- Floor plans

Exhibit C- Zoning exhibit

Exhibit D- Grant of Preservation Easement

Exhibit E- Parking License and Stairway Maintenance Agreement

Exhibit F- Private Club CUP action letter

Exhibit G- Photos

Exhibit H- Historic Sites Inventory

We are submitting our application to request consistent zoning throughout the building. At the current time, most of the approximately 26,104 square feet of the building located on the Main floor, Balcony and most of the basement is zoned commercial, with the exception of approximately 1,261 square feet of space in the basement. As illustrated on the plans, which accompany this application, the 1,261 square feet in question is located in the basement, below grade with adjoining space under commercial zoning on either side.

Over the past year the Owner's of the building have attempted to secure a tenant for the basement. The 1,261 square feet, which I have been told is only permitted for use as storage, has been an issue when attempting to negotiate a lease agreement with the potential bar, restaurant and retail tenants who have shown interest in the space.

In addition, the Owner's of the building would like to lease out the space so that more jobs and increased tax revenue are available to the City. Lastly, the Owner would like to lease out the space so there is not an unsightly vacant zone right in the middle of Main Street.

How will the proposed use "fit-in" with surrounding uses?

If our request is granted the zoning for the entire building will be consistent. Which we feel will be a better fit than the existing situation where a section of the basement is surrounded by portions of the building with different zoning.

What type of service will it provide to Park City?

If a lease agreement is signed for the space it will provide the City with more jobs, a larger tax base and vibrant functioning space in the center of Main Street.

Is the proposed use consistent with the current zoning district and with the General Plan?
Yes

Is the proposed use similar or compatible with other uses in the same area?

Yes, O'Shucks, No Name and Park City Live occupy similar space with commercial zoning.

Is the proposed use suitable for the proposed site?

Yes, the space in question is suitable for a bar, restaurant or retail space.

Will the proposed use emit noise, glare, dust, pollutants, and odor?

Depending on the tenant selected, they could emit noise but the space in question is below the dance floor and stage in Park City Live. So the likelihood of anyone hearing it outside of the building is slim. None of the other items listed would likely be an issue.

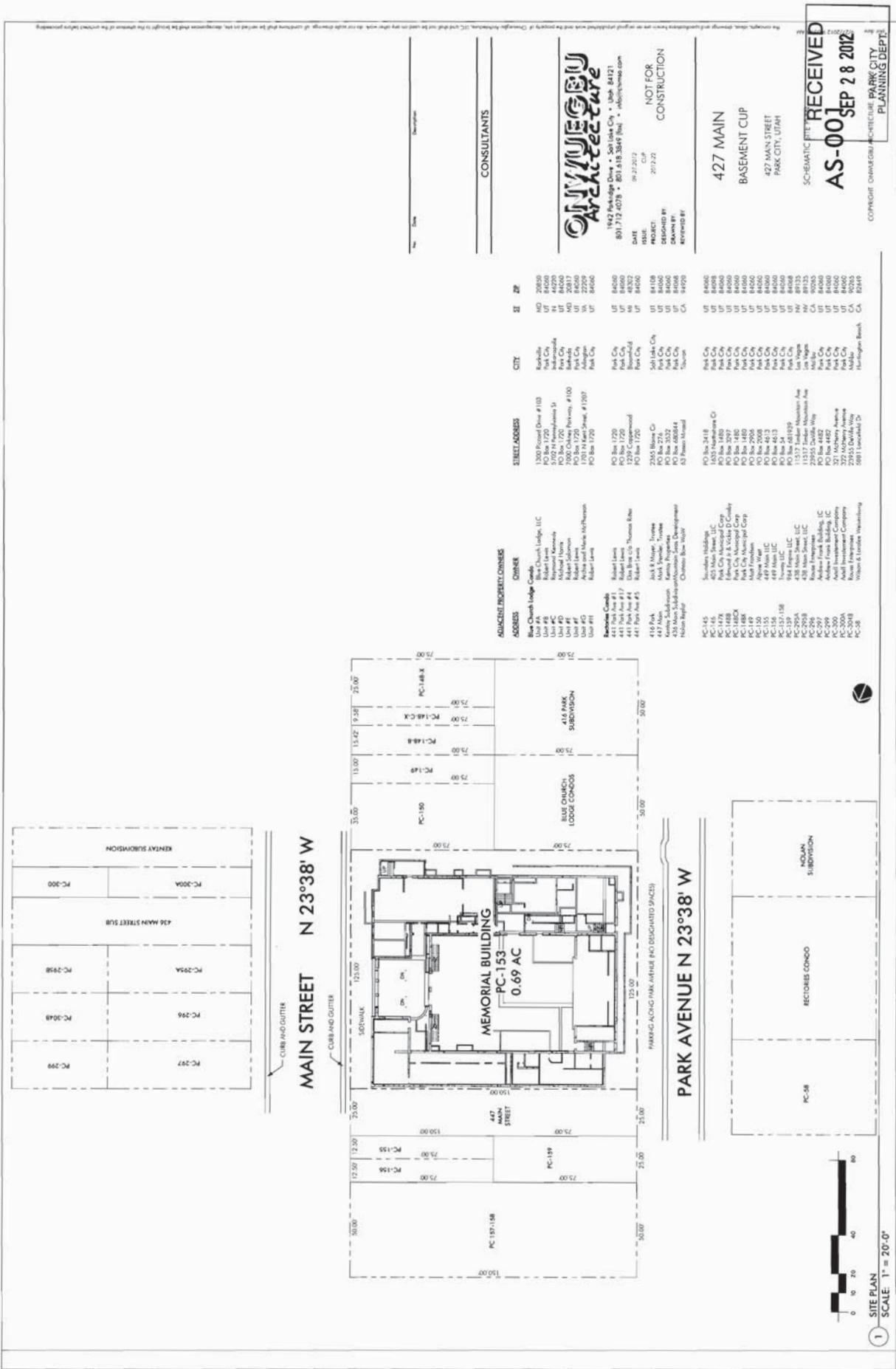
What will be the hour of operation and how many people will be employed?

It depends on the tenant selected.

Are other special issues that need to be mitigated?

Not that I am aware of.





CONSULTANTS



1942 Redwood Drive • Salt Lake City • Utah 84121
 801.712.4078 • 801.618.3849 (fax) • info@pcma.com

DATE: 08/22/2013
 PROJECT: 2012-2
 DESIGNED BY: NOT FOR CONSTRUCTION
 DRAWN BY:
 APPROVED BY:

427 MAIN
 BASEMENT CUP
 427 MAIN STREET
 PARK CITY, UTAH

RECEIVED
 AS-001
 SEP 28 2012
 CITY OF PARK CITY
 PLANNING DEPT.

ADDRESS	OWNER	STREET ADDRESS	CITY	STATE	ZIP
1300 Federal Drive #103	Stacy Church Lodge, LLC	1300 Federal Drive #103	Bohale	MO	20800
Unit #8	Robert Lewis	PO Box 1720	Park City	UT	84060
Unit #9	Michael Lyons	1700 Main Street #100	Park City	UT	84060
Unit #10	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #11	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #12	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #13	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #14	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #15	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #16	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #17	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #18	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #19	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #20	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #21	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #22	Michael Lyons	PO Box 1720	Park City	UT	84060
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Unit #25	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #26	Michael Lyons	PO Box 1720	Park City	UT	84060
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Unit #28	Michael Lyons	PO Box 1720	Park City	UT	84060
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Unit #98	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #99	Michael Lyons	PO Box 1720	Park City	UT	84060
Unit #100	Michael Lyons	PO Box 1720	Park City	UT	84060

1 SITE PLAN
 SCALE: 1" = 20'-0"

This contract, plan, design and specifications have been prepared and approved by the City of Provo, Utah, and shall not be used for any other work, nor shall any other drawings, specifications or plans be used in any way without the written consent of the undersigned architect.

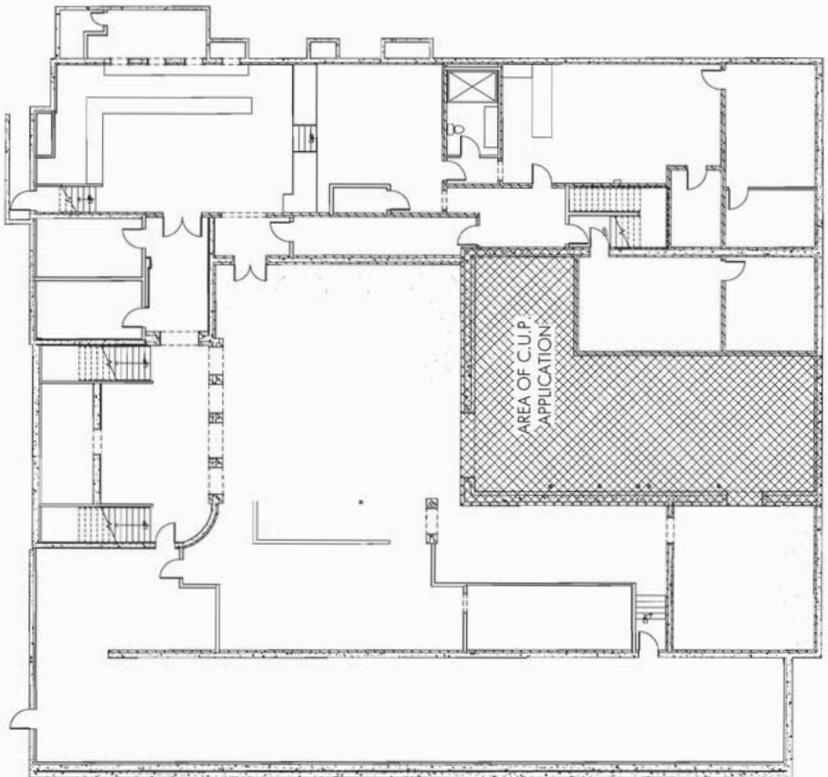
No.	Date	Description
CONSULTANTS		



DATE: 08/27/2012
 ISSUE: C.U.P.
 PROJECT: 2012.22
 DESIGNED BY: [Signature]
 DRAWN BY: [Signature]
 REVIEWED BY: [Signature]

427 MAIN
 BASEMENT CLUP
 427 MAIN STREET
 PARK CITY, UTAH

RECEIVED
 FLOOR PLANS
 AE-10
 SEP 28 2012
 CITY OF PROVO ARCHITECTURE
 PARK CITY
 PLANNING DEPT.



1 SCHEMATIC LOWER LEVEL
 SCALE: 1/8" = 1'-0"



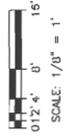
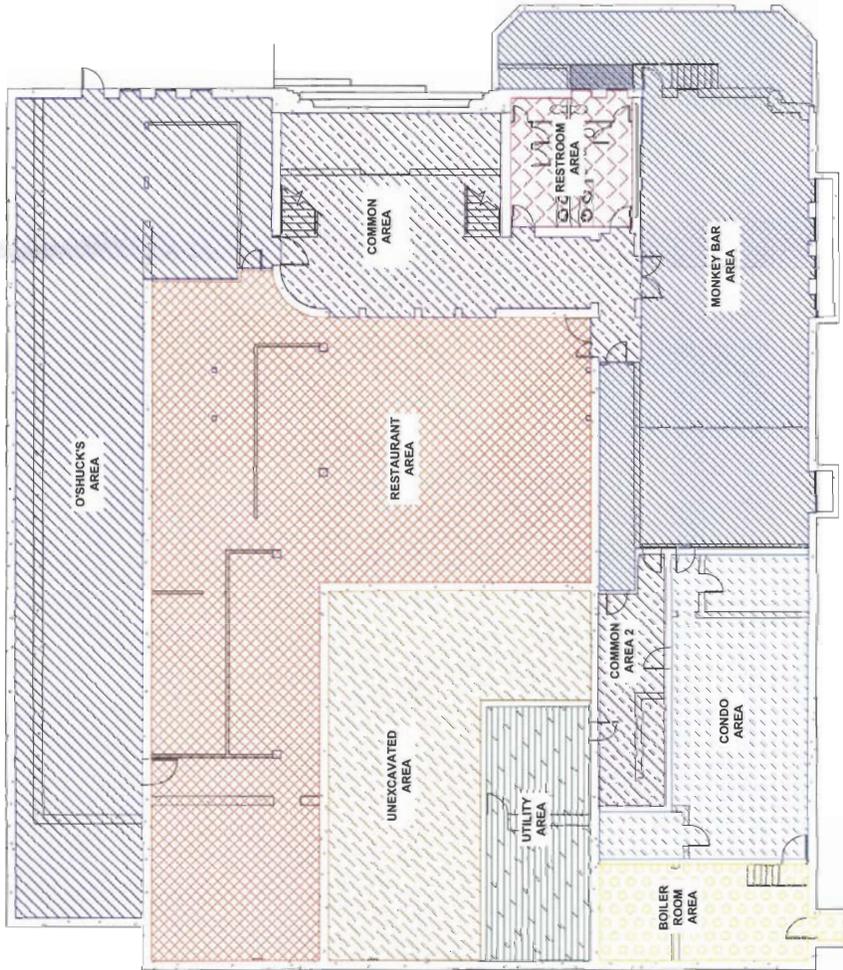


**HARRY O'S
 REMODEL**
**BOTTOM FLOOR
 INTERIOR**

**FOOTAGE
 CALCULATIONS**

DESIGN	CAJ
DRAFTING	CAJ
DATE:	10/23/2005

SQUARE FOOTAGE PER AREA:	
RESERVE'S	1,755
RESTAURANT	3,725
COMMON	1,043
LINE EXCAVATED	1,261
MONKEY BAR	2,015
RESTROOM	481
UTILITY	392
TRAILER	820
CONDO	820
COMMON 2	276
TOTAL	12,870



REVISIONS	DATE

SHEET:

A3



**HARRY O'S
 REMODEL**
**BOTTOM FLOOR
 INTERIOR**
**FOOTAGE
 CALCULATIONS**

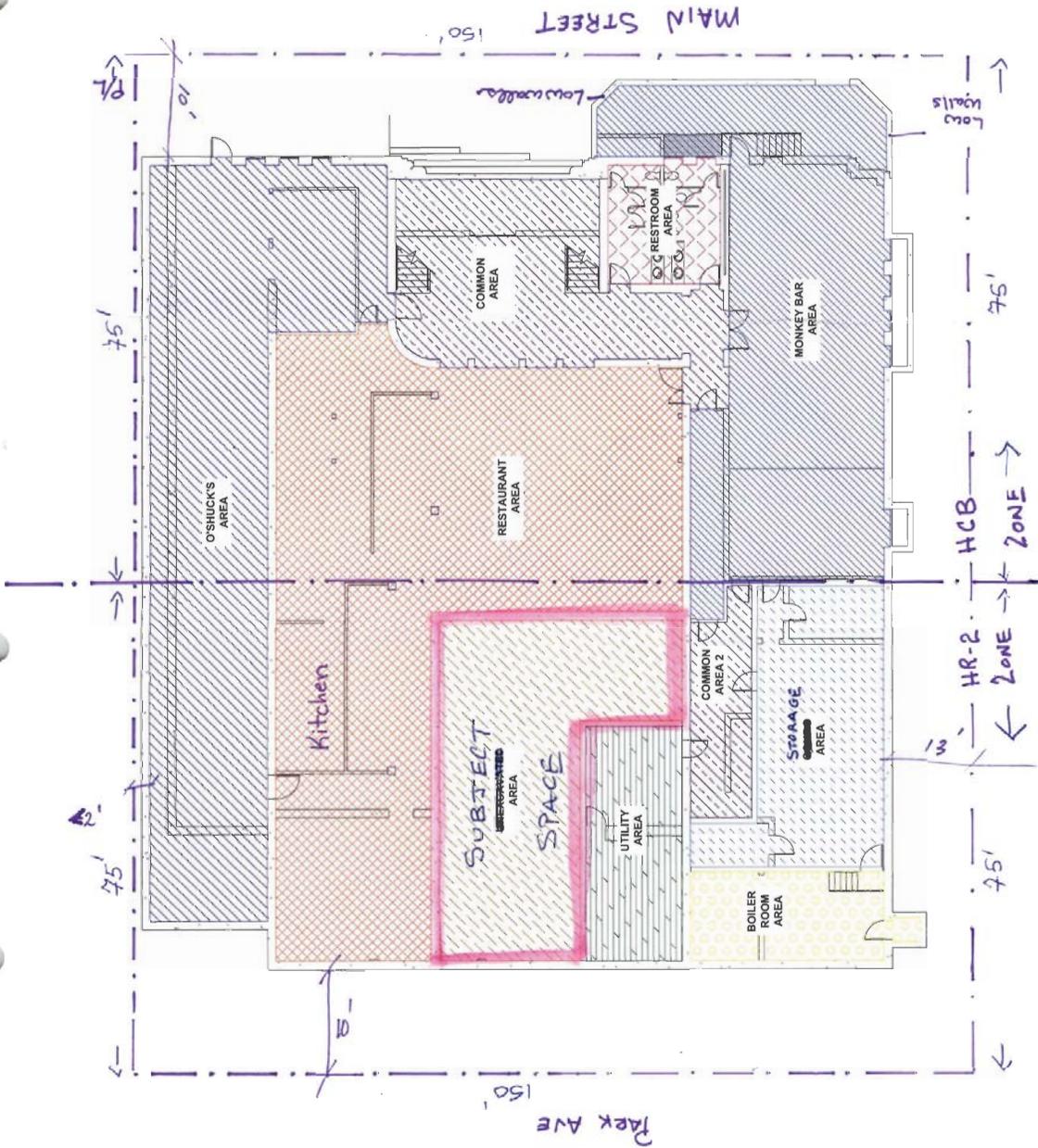
DESIGN	CAJ
DRAFTING	CAJ
DATE	10/23/2005

EXHIBIT

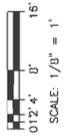
REVISIONS	DATE

A3

SQUARE FOOTAGE PER AREA:	
O'SHUCK'S	1,255
RESTAURANT	3,743
COMMON	3,743
LINE/CAVATED	1,261
MONKEY BAR	2,015
RESTROOM	295
UTILITY	295
BOILER	352
COMMON 2	828
COMMON 2	275
TOTAL	12,970



Zoning Exhibit C



PC Bk 10

Recorded at the request of and return
to: Park City Municipal Corp.
P. O. Box 1480, Park City, UT 84060
ATTN: CITY RECORDER

REC. NOTE AS 5-10-89

EXHIBIT 307575

Park City Municipal Corp.

89 MAY -2 AM 9:38

GRANT OF PRESERVATION EASEMENT
PARK CITY ENTERTAINMENT CENTER, INC. ALAN SPRIGGS
SUMMIT COUNTY RECORDER

REC'D BY BH N.C. Fee Exempt per Utah Cod
Annotated 1953 21-7-2

This Grant of Preservation Easement is executed this 13th day of April, 1989 by and between PARK CITY ENTERTAINMENT CENTER, INC. ("Grantor"), and PARK CITY REDEVELOPMENT AGENCY, ("Grantee").

WITNESSETH:

Grantor is the owner in fee simple of certain real property in Summit County, in the state of Utah, which property is commonly known as Park City War Memorial Building, said property including an historically and architecturally important structure, located at 427 Main Street, Park City, all of which is more particularly described as follows:

- ✓ Lots 8, 9, 10, 11, 12, 21, 22, 23, 24, 25, Block 10, Park City Survey.

The Park City War Memorial Building has played a prominent role in Park City history and should be preserved, if possible, for the benefit of future generations, and the building is a contributory structure in the Main Street Historic District. Grantee has the power to accept and administer grants of real and personal property and interests therein, including easements for land conservation and historic preservation to be held and administered for public benefit.

The state of Utah recognizes restrictions, easements, covenants, conditions, and other agreements appropriate to the

preservation of a structure or site which is historically significant for its architecture, archaeology or historical associations.

Grantee has determined that the grant in perpetuity of a preservation easement will assist in preserving and maintaining the Premises and the building and its architectural, historical and cultural features. To this end, Grantor desires to grant to Grantee and Grantee desires to accept this Grant of Preservation Easement.

NOW, THEREFORE, for good and valuable consideration in the amount of Fifteen Thousand Dollars (\$15,000), receipt of which is hereby acknowledged, and pursuant to Title 63, Chapter 18a of the Utah Code Annotated (1953), as amended, Grantor does hereby grant and convey unto Grantee, its successors and assigns, a perpetual facade preservation easement in gross, as more specifically described herein, in and to that certain real property described above (hereinafter the "Subject Property"). Said easement shall constitute a binding servitude upon the Subject Property in the nature of a restrictive covenants which will run with the land.

In furtherance of the intent of the parties to this instrument, Grantor covenants and agrees on behalf of itself, its successors and assignees that obligations and restrictions attach to the Subject Property as follows:

1. "Facade" shall mean the exterior surfaces of the improvements located on the property, including, without

limitation, the exterior walls and roofs of the improvements, which are visible from the public street adjacent to the Premises. The photographs incorporated in Exhibit "A" hereto depict the condition and appearance of the facade as of the effective date of this instrument.

2. Without the express written permission of the Grantee signed by a duly authorized representative thereof, no construction, demolition, alteration, remodeling, addition or extension shall be undertaken which would affect the Facade or otherwise alter the appearance of the Facade. The reconstruction, repair, maintenance, repainting or refinishing of presently existing parts or elements of the Facade, to which damage due to casualty loss, deterioration or wear and tear has occurred, will be permitted without prior approval of Grantee, provided that such reconstruction, repair, maintenance, repainting or refinishing is performed in a manner which will not alter the appearance of the Facade from that set forth in Exhibit "A" hereto. In all events, Grantor, in painting the Facade, agrees to obtain the prior written consent of Grantee, signed by a duly authorized representative thereof, as to the quality and color of the paint to be used if different from that set forth in Exhibit "A". Grantor agrees to, at all times, maintain the Facade in good and sound state of repair, subject only to the provision of Paragraph 3 hereof. Grantee may, in its sole discretion, waive all or any portion of the requirements of this Paragraph 2.

3. If the Facade, or any part thereof, is damaged or destroyed as a result of casualty, Grantor shall be required to reconstruct or restore the Facade to the condition depicted in Exhibit "A", if such repair or reconstruction can be accomplished within the limits of available insurance proceeds and any additional funds which Grantee might elect to advance as a loan to Grantor. In the event repair or reconstruction cannot be accomplished within the limits of available insurance proceeds and funds advanced by Grantee, Grantor grants to Grantee the right to select and remove from the Facade salvageable architectural fragments without charge. In the event the Facade is damaged by casualty loss to an extent that, in the Grantee's sole judgment, the repair or reconstruction of the Facade is impracticable, the Grantee may permit the erection of a new Facade that duplicates or, in the Grantee's sole discretion, replicates the Facade depicted in Exhibit "A" hereto. Grantor and Grantee agree that the easement created and covenants contained herein shall survive complete or partial destruction of the improvements located on the Property. The interest in real property created hereby may, however, be reconveyed to Grantor at the sole discretion of Grantee.

5. No utility transmission lines, except those required for the existing improvements and uses on the Premises may be erected on the Premises.

6. No dumping of ashes, sawdust, bark, trash, rubbish, or any other unsightly or offensive materials which are visible from public roads or streets shall be permitted on the Premises.

7. Grantor agrees that representatives of Grantee shall be permitted, at all reasonable times, to inspect the Facade. Inspections will normally take place from the adjacent public street.

8. In the event of a violation by Grantor of any covenant herein, the Grantee may, thirty (30) days after written notice to Grantor, institute actions to enjoin by ex-parte, temporary, and/or permanent injunction, such violation and to require the restoration of the Facade to its condition as depicted in Exhibit "A" hereto. In the alternative, representatives of the Grantee may correct any such violation, and hold Grantor responsible for the cost thereof, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month, which sums shall constitute a lien against the Premises. Grantee shall also have available all legal and equitable remedies to enforce Grantor obligations hereunder, including the right to foreclose the lien above mentioned, and, in the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection therewith, including court costs and attorney's fees. In the event of a violation by Grantor deemed by the Grantee to be an emergency which endangers property, Grantee may immediately proceed to seek injunctive relief without written notice to Grantor.

9. Grantor agrees that a reference to this instrument and its restrictions will be inserted by Grantor in any subsequent deed, sales or purchase contract, financing instrument, or other

legal instrument by which Grantor is divested of either the fee simple title or equitable title to a possessory ownership interest in the Premises, or any part thereof. Said reference shall be as follows: "The property conveyed herein is subject to a Preservation Easement which restricts the ability of any owner or other possessor of the Premises to alter the appearance of the Facade. This easement is recorded on Page _____, Book _____, in the records of the Summit County Recorder, state of Utah.

This instrument may be recorded by any party in the land records of Summit County, Utah.

10. In the event that the Grantee shall, at any time in the future, become the fee simple owner of the Premises, Grantee for itself, its successors and assigns, covenants and agrees, in the event of subsequent conveyances of the Premises to another, to create a new easement containing the same restrictions and provisions as are contained herein, and either to retain such easement in itself or to convey such easement to a local or national non-profit organization whose purpose, inter alia, are to promote historic preservation.

11. Grantor agrees to allow the maintenance of a plaque on the street Facade of the Premises giving notice of this Grant of Preservation Easement.

12. Nothing herein or in the Grant shall be construed to limit the ability of Grantor to place appropriate signs and advertising materials on the building which are proper for the

conduct of the business of Grantor, the tenants and businesses on the Premises, pursuant to Park City regulations and ordinances.

13. Grantor shall be prohibited from subsequently transferring this preservation easement, whether or not for consideration, unless the Grantee, as a condition of the subsequent transfer requires that the conservation purposes, which the Grant is originally intended to advance, continue to be carried out.

14. If Grantor subsequently desires to avail itself of benefits offered under Section 170 of the Internal Revenue Code, and if those benefits are not available without reformation of the Grant then this Grant shall be reformed to be consistent with IRS regulations, as applied to Grantor, and the parties hereto shall execute any and all writings necessary to effectuate the intent of this paragraph.

TO HAVE AND TO HOLD UNTO THE GRANTEE FOREVER.

Each and every covenant and restriction imposed and agreed to as aforesaid shall not only apply to and be binding upon Grantor, but also upon Grantor's successors and assigns,, and all other successors in interest to Grantor, and shall continue as a servitude running in perpetuity with the land and shall survive any termination of Grantor or Grantee's existence. All rights reserved herein to Grantee shall run for the benefit of, and may be exercised by, its successors or assigns, or by its designee duly authorized in a deed of appointment executed by its duly authorized officer.

EXHIBIT "A"

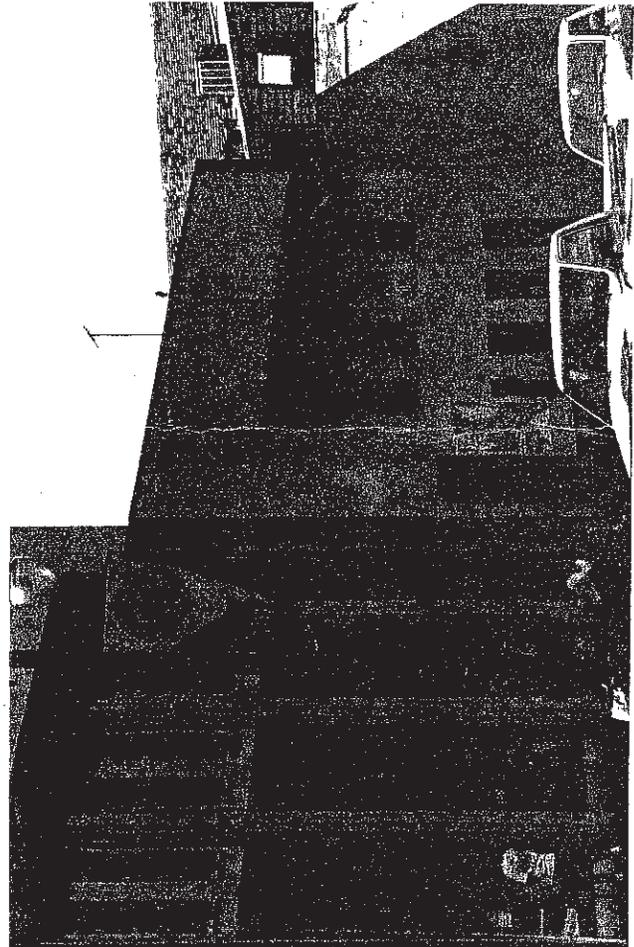
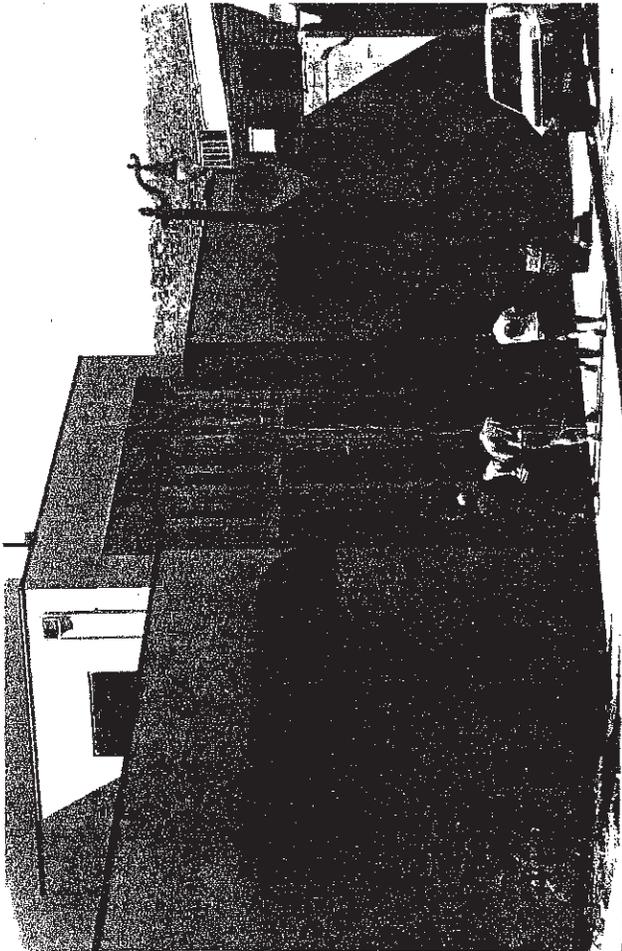
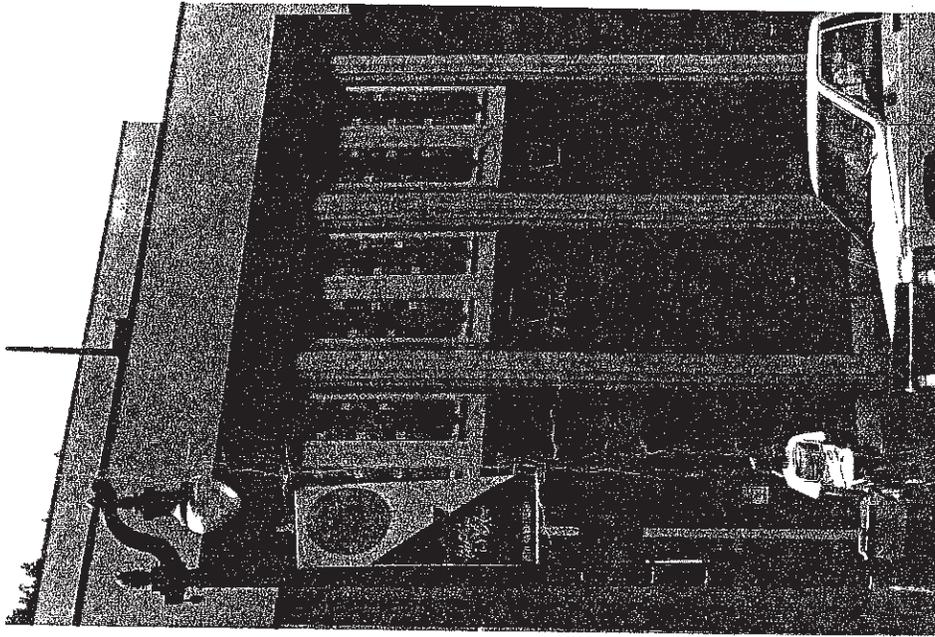


EXHIBIT E

Recorded at the request of and return
to: Park City Municipal Corp.
P. O. Box 1480, Park City, UT 84060
ATTN: CITY RECORDER

RED NOTE AS
318823

Park City Municipal Corp.

90 JAN -8 AM 9:15

Z-PLACE PARKING LICENSE AND
STAIRWAY MAINTENANCE AGREEMENT

Fee Exempt
Submitted to City Recorder

This Parking License and Stairway Maintenance Agreement is executed this 31st day of December, 1989, by and between the Park City Entertainment Center, Inc., (hereinafter referred to as Z-Place) and Park City Municipal Corporation (hereinafter referred to as City).

Whereas, Z-Place is the owner in fee of certain real property in Park City, Summit County, State of Utah, which is commonly known as the Z-Place Entertainment Center, 427 Main Street; this property contains a stairway from Park Avenue to Main Street and a small area to the rear which can be used as parking if additional City right-of-way is also used and which is accessed off of Park Avenue;

Whereas Z-Place desires to enter into an agreement with Park City Municipal Corporation for use of additional City property for parking in the City's right-of-way to the east of Park Avenue and, in consideration for the parking, agrees to maintain and be liable for the stairway between Z-Place and Blue Church Lodge and make other repairs as outlined below;

Whereas, City has determined that this agreement will assist in the maintenance and upkeep of the stairway, a fence and a dumpster, and will further assist in relieving parking congestion in or about the Main Street/Park Avenue area,

NOW THEREFORE, the parties agree to the following terms, conditions and requirements:

1. Z-Place shall assume all responsibility, liability and maintenance of the existing public walkway (approximately ten feet in width) along the southernmost boundary of their property. Said walkway is to be available for the use of the public and to be operated and maintained by and at the sole expense of Z-Place.

2. City agrees to permit Z-Place to use City right-of-way for additional parking in the area to the west of Z-Place on Park Avenue at an approximate length of 36 feet and approximate depth of 16 feet from the property line of Z-Place to the paved surface of Park Avenue. City agrees to provide Z-Place with the exclusive use of four (4) parking stalls to be situated as follows: two stalls approximately 18 feet in width immediately next to the dumpster site located between two power poles at the southwest corner of the property and two stalls 18 feet in width adjacent to the northwest property line. The approximate size of each exclusive parking stall is nine feet by 18 feet which is calculated pursuant to the Land Management Code parking requirements. This will enable the parking of four vehicles, total.

300x 550 PAGE 263 - 265

Z-Place is responsible for installing whatever type of security device would be required to preclude public parking in these stalls. City will not enforce or post "No Parking" for these stalls and will not plow, stripe or pave the property. The remaining parking between the above-described four stalls shall not be the exclusive parking of Z-Place and shall remain public parking on a first-come, first-serve basis.

3. In further consideration, Z-Place agrees to perform the following:

- (a) Appropriately screen and clean the dumpster site which is located at the southwest corner of their property between two power poles. Said screening is to be according to the standards established by the City and to be maintained in a clean and sanitary manner at all times. Screening must be installed and completed by July 1, 1990.
- (b) Maintain in a safe and clean manner the staircase located on the southernmost boundary of their property between Z-Place and the Blue Church Lodge. Z-Place is responsible for the maintenance, repair and liability for the staircase passageway and may enter into whatever agreements they wish to share or shift this responsibility.
- (c) Replace and/or repair the existing fence on the Park Avenue side of their property by July 1, 1990 and to maintain said fence in a clean and aesthetically pleasing manner henceforth.

4. Z-Place agrees to hold the City harmless and indemnify the City for any and all claims which might arise from third parties, who are injured as a result of Z-Place's use or maintenance of the parking and stairway passageway.

5. No permanent right, title, or interest of any kind shall vest in Z-Place in the street right-of-way by virtue of this Agreement. The property interest hereby created is a revocable license as described in Paragraph 7, and not an easement or other perpetual interest.

This license Agreement shall be appurtenant to Lots 8, 9, 10, 11, 12, 21, 22, 23, 24 and 25 of Block 10 of the Park City Survey, as recorded in the office of the Summit County Recorder. It is not transferrable to other property, but is transferrable with the title to these lots. The license and conditions as stated in this Agreement are binding on the successors in title or interest of Z-Place.

6. This Agreement is the only agreement between the parties and replaces any previous agreements and contains all terms pertinent to the agreement between the parties. This Agreement



October 5, 1999

Doug Illman
Harry O's
P O Box 3118
Park City UT 84060

**Department of Community Development
Engineering • Building Inspection • Planning**

NOTICE OF PLANNING COMMISSION ACTION

Project Name Harry O's
Project Description CUP for private club
Date of Meeting January 13, 1999

Action Taken By Planning Commission Approved in accordance with the findings of fact and conclusions of law as outlined in the staff report except that finding #6 as written shall be replaced with the following wording: "Given the size and scope of the request and the potential for noise and vibration impacts on adjacent properties, a sound study is needed". The conditions of approval for the project are listed below.

Conditions of Approval

1. All standard project conditions of approval shall apply.
2. Rear and side exit doors providing access to Park Avenue shall not be used as an entrance or exit to the club by club patrons except in times of emergency.
3. A study shall be conducted by the applicant for noise proofing and vibration proofing. All windows, roofs, ducts, vents, and other areas that allow noise at levels exceeding those allowed by the Park City Municipal Code to projects outside of the building, in particular towards Park Avenue, shall be soundproofed to a reasonable degree, with the inspection and final approval by the Building Department. This sound proofing and vibration proofing shall occur prior to issuance of a final certificate of occupancy.
4. As a condition precedent to issuance of a final certificate of occupancy, all exterior lighting shall be brought into compliance with applicable City ordinances and codes. Any and all new lighting shall comply with City ordinances and codes.
5. A Master Sign Plan meeting requirements for Master Sign Plans as stated in the Sign Code for the existing building shall be submitted by the applicant for approval by the Historic District Commission and Community Development Department within three months of the Conditional Use Permit approval.
6. Pursuant to the Z-Place Parking License and Stairway Maintenance Agreement Book No. 550, Page 263, recorded January 8, 1990, with the Summit County Recorder's Office, the property owner shall assume all responsibility, liability, and maintenance of the public walkway on the south side of the building.
7. A Conditional Use Permit shall be reviewed by the Community Development Department at six months and one year from the date of CUP approval. If complaints are received or violations of

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

Doug Illman
Page two
October 5, 1999

the Conditional Use Permit or any City Code occur (including Sign Code, Lighting Ordinance, and Building Department recommendations on sound proofing), the Community Development Department shall schedule the Conditional Use Permit for the Planning Commission at the time of the complaint to determine whether the Conditional Use Permit should be revoked or additional conditions of approval should be added.

8. An Event Management Plan shall be prepared and reviewed by the Planning Department. The Event Management Plan shall include provisions for ticket sales and arriving and departing guests for those times when the establishment is operating over and above normal night club use and occupancy levels. A Parking Management Plan shall be prepared to identify parking activities and alternatives to parking for above normal operation levels of the club and potential extraordinary operation levels of the club.

Next Review Date

January 13, 2000

Please call me if you have questions. My phone number is 615-5066.

Sincerely,



Kirsten A. Whetstone, AICP
City Planner

KAW/rr

EXHIBIT G









EXHIBIT H

HISTORIC SITE FORM - HISTORIC SITES INVENTORY

PARK CITY MUNICIPAL CORPORATION (10-08)

1 IDENTIFICATION

Name of Property: **War Veteran's Memorial Building**

Address: 427 MAIN ST

AKA:

City, County: Park City, Summit County, Utah

Tax Number: PC-153

Current Owner Name: MEMORIAL BUILDING LLC

Parent Parcel(s):

Current Owner Address: 30833 N WESTERN HWY STE 121, FARMINGTON, MI 48334

Legal Description (include acreage): ALL OF LOTS 8,9,10,11,12,21,22,23,24 & 25 BLK 10 PARK CITY SURVEY, 0.69 AC

2 STATUS/USE

Property Category

- building(s), main
- building(s), attached
- building(s), detached
- building(s), public
- building(s), accessory
- structure(s)

Evaluation*

- Landmark Site
- Significant Site
- Not Historic

Reconstruction

- Date: _____
Permit #: _____
 Full Partial

Use

- Original Use: Public
Current Use: Commercial

*National Register of Historic Places: ineligible eligible
 listed (date: 03/07/1979 - Park City Main Street Historic District)

3 DOCUMENTATION

Photos: Dates

- tax photo:
- prints:
- historic: c.

Drawings and Plans

- measured floor plans
- site sketch map
- Historic American Bldg. Survey
- original plans:
- other:

Research Sources (check all sources consulted, whether useful or not)

- abstract of title
- tax card
- original building permit
- sewer permit
- Sanborn Maps
- obituary index
- city directories/gazetteers
- census records
- biographical encyclopedias
- newspapers
- city/county histories
- personal interviews
- Utah Hist. Research Center
- USHS Preservation Files
- USHS Architects File
- LDS Family History Library
- Park City Hist. Soc/Museum
- university library(ies):
- other:

Bibliographical References (books, articles, interviews, etc.) Attach copies of all research notes and materials.

- Blaes, Dina & Beatrice Lufkin. "Final Report." Park City Historic Building Inventory. Salt Lake City: 2007.
Carter, Thomas and Goss, Peter. *Utah's Historic Architecture, 1847-1940: a Guide*. Salt Lake City, Utah: University of Utah Graduate School of Architecture and Utah State Historical Society, 1991.
Longstreth, Richard. *The Buildings of Main Street; A Guide to Commercial Architecture*. Updated edition. Walnut Creek, CA: Alta Mira Press, a division of Rowman & Littlefield Publishers, Inc., 2000.
Notarianni, Philip F., "Park City Main Street Historic District." National Register of Historic Places Inventory, Nomination Form. 1979.
Roberts, Allen. "Final Report." Park City Reconnaissance Level Survey. Salt Lake City: 1995.

4 ARCHITECTURAL DESCRIPTION & INTEGRITY

Building Type and/or Style: Central Block with Wings / PWA Moderne style

No. Stories: 1 ½

Additions: none minor major (describe below) Alterations: none minor major (describe below)

Number of associated outbuildings and/or structures: accessory building(s), # _____; structure(s), # _____.

General Condition of Exterior Materials:

Researcher/Organization: Preservation Solutions/Park City Municipal Corporation Date: 12-2008

1. Historic Era:

- Settlement & Mining Boom Era (1868-1893)
- Mature Mining Era (1894-1930)
- Mining Decline & Emergence of Recreation Industry (1931-1962)

Park City was the center of one of the top three metal mining districts in the state during Utah's mining boom period of the late nineteenth and early twentieth centuries. However, by the mid-twentieth century, most mines in Park City had closed, the population had dwindled, and building activity nearly ceased. Though the few commercial structures built during this period generally reflect the types and styles used in communities throughout Utah, they were constructed in a way that reinforces the settlement patterns of Park City's significant mining era. They are both modest in scale and tightly packed along Main Street, contributing to the overall character of the business district.

2. Persons (Describe how the site is associated with the lives of persons who were of historic importance to the community or those who were significant in the history of the state, region, or nation):

3. Architecture (Describe how the site exemplifies noteworthy methods of construction, materials or craftsmanship used during the historic period or is the work of a master craftsman or notable architect): This structure represents PWA Moderne style used in Utah during the 1930s.

6 PHOTOS

Digital color photographs are on file with the Planning Department, Park City Municipal Corp.

Photo No. 1: elevation. Camera facing .

Photo No. 2: elevation. Camera facing .

Photo No. 3: elevation. Camera facing .

Photo No. 4: elevation. Camera facing .







Planning Commission Staff Report

PLANNING DEPARTMENT

Subject: RICHARDS/ PCMC
ANNEXATION AND ZONING

Date: January 9, 2013

Planner: Kirsten Whetstone, MS, AICP

Project Number: PL-12-01482

Type of Item: Annexation and Amendment to the Zoning Map

Summary Recommendations

Staff requests the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council on the Richards/PCMC Annexation and zoning map amendment based on the findings of fact, conclusions of law, and conditions of approval in the draft ordinance.

Description

Project Name: Frank Richards/ PCMC Annexation and Zoning

Applicant: Frank Richards and Park City Municipal Corp (PCMC), owners

Representative: Steve Schueler, Alliance Engineering

Location: North of Payday Drive and West of SR 224

Proposed Zoning: Single Family (SF) and Recreation Open Space (ROS)

Neighboring Land Uses: Single family residential subdivisions (Thayne's Canyon, Thayne's Creek Ranch, Iron Canyon, Aspen Springs), dedicated public open space, SR 224, Rotary Park, and Peaks Hotel.

Proposal

The applicants are requesting annexation and zoning approval for two separately owned parcels. The Frank Richards parcel is approximately 13.75 acres and the requested zoning is Single Family (SF). The PCMC parcel is 19.74 acres and the requested zoning is Recreation Open Space (ROS).

The property is located north of Payday Drive (north of the Thayne's Creek Ranch Subdivision), southeast of Aspen Springs Subdivision, east of Iron Canyon Subdivision, and west of Highway 224. The property is surrounded on all boundaries by Park City municipal boundaries and is considered an island of unincorporated land.

The City is not seeking any changes to the 19.74 acre PCMC parcel, except to annex it to the City and zone it as Recreation Open Space (ROS) on the City's Official Zoning Map. Frank Richards is seeking a seven lot single family subdivision.

Background

On February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two parcels currently within the jurisdiction of Summit County and completely surrounded by properties within the Park City municipal boundaries.

The petition was accepted by the City Council on February 16, 2012 and certified by the City Recorder on March 1, 2012. Notice of certification was mailed to affected entities as required by the State Code. The protest period for acceptance of the petition ended on April 1st. No protests to the petition were filed.

The PCMC property is an open space parcel, utilized for grazing and pasture, with a groomed ski trail along Hwy 224. In 1999 the City purchased this 19.74 acre parcel from Frank Richards through a purchase agreement with the Trust for Public Land. The land was originally part of the Frank Richard's property. This PCMC open space parcel is subject to a Deed of Conservation Easement in favor of the Summit Land Conservancy. The PCMC property will remain as open space subject to restrictions of the Conservation Easement.

On May 9, 2012, the Planning Commission conducted a public hearing and discussed the proposed annexation and preliminary subdivision plat. The hearing was continued until May 23, 2012. As there was no May 23rd Planning Commission meeting and all items were continued to June 13th. Staff and the applicants were continuing to work out details of the preliminary plat and were not prepared with a staff report for the June 13th meeting. At that meeting the Commission opened the public hearing and continued the item to the June 27th meeting. There was no input at the June 13th meeting.

At the December 12, 2012 meeting the Planning Commission discussed the following items (see minutes of meeting included in the PC packet):

- **Conservation Easement and Use/Restoration of PCMC parcel.**
- **Incentivize Equestrian component of Subdivision.**
- **Fencing.**
- **Affordable Housing.**
- **Historical and cultural resources.**
- **Zoning.**
- **Preliminary plat lot layout, building pad size, and visual analysis.**
- **Identification of Historic and Cultural resources.**
- **Public benefits.**

Description

The current owner of the Richards parcel, Mr. Frank Richards, is seeking a seven lot single family subdivision on 13.75 acres. The existing house and guest

house would be located on one lot with the potential for six additional single family lots, four of which would be equestrian lots. An eighth lot is proposed for an existing riding arena for the lot owners, to be restricted as a common lot by the future subdivision plat.

The property is located within the Park City Municipal Corporation Annexation Expansion Area boundary, as described in the adopted Annexation Policy Plan (Land Management Code (LMC) Chapter 8) and is contiguous with the current Park City Municipal Boundary along the south property lines with the Thayne's Creek Subdivision Annexation (June 2, 1989) and the Treasure Mountain Annexation (Thayne's Canyon Subdivision) (July 28, 1971). The property is contiguous with the City along the north property lines with the Peterson Property Annexation (February 22, 1993) and the Chamber Bureau Kiosk Annexation. Along the west property line there is contiguity with the Smith Ranch Annexation (July 14, 1988) (aka Aspen Springs Subdivision) and the Iron Canyon Annexation (October 28, 1983). Along the east property lines there is contiguity with the McLeod Creek Annexation (May 7, 1979).

The property is the entirety of properties owned in this location by these applicants that have not already been annexed to the City.

Access to the Richards property is from Payday Drive at the existing driveway to the Richards farm. Access to the PCMC property is also from Payday Drive, just west of Hwy 224 at a stubbed in roadway. This access is used by ski grooming equipment and other municipal vehicles to maintain the property. No access and no curb-cuts are proposed directly off of Highway 224 with this annexation or with the proposed subdivision plat.

Review pursuant to Utah Code Annotated (UCA) Sections 10-2-401, 10-2-402 and 10-2-403

The annexation petition has been reviewed pursuant to the Utah Code Annotated (UCA) Sections 10-2-401, 10-2-402 and 10-2-403.

The annexation petition requirements set forth in these sections of the UCA have been met; including issues of 1) contiguity and municipal annexation expansion area, 2) boundaries drawn along existing local districts, special districts and other taxing entities, and 3) for the content of the petition.

Review pursuant to the Annexation Policy Plan- purpose

Chapter 8 of the Land Management Code is considered Park City's annexation policy plan and declaration. In Section 15-8-1 the Code states the following:

The annexation requirements specified in this Chapter are intended to protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space, enhance parks and trails; ensure environmental quality; protect entry corridors, view sheds and environmentally Sensitive Lands; preserve Historic and cultural

resources; create buffer areas; protect public health, safety, and welfare; and ensure that annexations are approved consistent with the Park City General Plan and Utah State Law.

In addition the Annexation Policy Plan states:

If practical and feasible, boundaries of an Area proposed for annexation shall be drawn:

- (A) Along the boundaries of existing special districts for sewer, water, fire, and other services, along the boundaries of school districts whose boundaries follow City boundaries... and along the boundaries of other taxing entities;*
- (B) To eliminate islands and peninsulas of territory that is not receiving municipal type services;*
- (C) To facilitate the consolidation of overlapping functions of local government;*
- (D) To promote the efficient delivery of services; and*
- (E) To encourage the equitable distribution of community resources and obligations.*

It is the intent of this Chapter to ensure that Property annexed to the City will contribute to the attractiveness of the community and will enhance the resort image which is critical for economic viability, and that the potential deficit of revenue against expense to the City is not unreasonable.

Staff finds that the proposed annexation is consistent with the purpose statements of the Annexation Policy Plan and that as conditioned will protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space, ensure environmental quality; protect entry corridors, view sheds and environmentally Sensitive Lands; enhance pedestrian connectivity, create buffer areas; and protect the general public health, safety, and welfare.

As conditioned, and subject to a Conservation/Wetlands Management Plan for both the PCMC parcel and the Richard's parcel and a Fencing Plan for the Richard's parcel, to be submitted with the Final Subdivision, the property will maintain the agricultural character of the Richard's Farm as viewed from the entry corridor. The future development will provide single family lots that allow for horses that are compatible with development in the surrounding neighborhoods and that enhance the rural and resort image of Park City.

No City roads will be constructed or maintained and the developer will pay for required utility services, including sewer and water. Prior to issuance of permits, the required impact fees, such as the parks fee, will be collected according to the fee schedule at the time of building permit application.

Affordable housing will be provided as set forth in the Park City Affordable Housing resolution in effect at the time of the application. Based on six new dwelling units, the affordable housing requirement is 0.9 AUE to be located on the Richards parcel, unless in-lieu affordable housing fees are approved by the Park City Housing Authority. Any housing provided on the property, such as the manager/caretaker apartment, intended to satisfy the City's affordable housing

requirements, shall be a deed restricted affordable housing unit meeting all requirements of the Park City Affordable Housing Resolution (date).

Review pursuant to the Annexation Policy Plan- requirements

The Annexation Policy Plan (see Section 15-8-5 (B)) requires an annexation evaluation and staff report to be presented that contains the following items:

1. General Requirements of Section 15-8-2

See below for detailed analysis of the annexation as it relates to Section 15-8-2.

2. Map and natural features

The property is contiguous to the Park City Municipal boundary. The parcel is within the Annexation Expansion Area, as described by the adopted Annexation Policy Plan. The property consists of a 19.74 acre open space parcel and a 13.57 acre farm that includes 2 houses, various barns and agricultural buildings, out buildings, horse training facilities, a pond, pastures, fields, irrigation ditches, an accessory apartment for farm help, and other associated uses.

Significant wetlands on the property have been mapped and will be protected from development with ROS zoning designation and/or limits of disturbance areas to be identified on the final subdivision plat .

There are no steep or very steep slopes as the property is relatively flat with an overall slope of less than 15%. Proposed development is outside of the Entry Corridor Protection Overlay area.

3. Density

PCMC, as applicant of the PCMC open space parcel is not requesting any change from the current open space designation and seeks no density.

Frank Richards seeks approval of a 7 lot subdivision on the 13.57 acres for an average density of 0.51 units per acre (1.9 acres per unit net) with lots ranging in size from 0.51 to 3.28 acres. No commercial density is proposed. Two houses currently exist on the property and are proposed to be located on Lot 5 as a main house and a guest house. Single Family (SF) zoning would allow up to 3 units per acre or a total of 40 lots. However, a condition of the annexation restricts further subdivision of the lots beyond the final seven residential lots and Lot 8, a lot to be platted for the riding arena, to be held in common by the HOA, and deed restricted to not be developed in the future as a lot of record for any residential density. The proposed density is consistent with the surrounding neighborhood (see # 5 below).

Four lots (Lots 1- 4) are proposed as Phase One with Lots 5-8 proposed for a future Phase Two subdivision plat.

The 0.51 and 0.63 acre lots west of the entrance driveway may be combined into one lot that would allow a total of two (2) horses. The remaining lots are sufficient in area to allow horses, as permitted by the SF zoning district at a rate of 1 acre per 2 horses, subject to approval of an Animal Management Plan to be submitted with the Final Subdivision plats. Lots 1 and 2 could each have up to 2

horses, Lot 6 could have up to 4 horses and Lot 7 has acreage for up to 6 horses, however given the wetlands area, the number of horses maybe restricted based on an animal management plan submitted at the time of the administrative Conditional Use Permit for raising and grazing of horses.

The preliminary plat identifies maximum building footprints and house sizes for the proposed Lots. The preliminary plat also identifies maximum disturbance areas that are subject to landscaping and irrigation, and maximum footprints and locations for accessory barns. Pasture areas maybe irrigated and utilized by horses and the required maintenance and condition of these pasture areas (in terms of vegetation, control of weeds, etc.) shall be described in the CCRs with enforcement by the HOA.

4. Land Uses-existing and proposed

Wildlife - The applicant provided wildlife information from the Utah Division of Wildlife. Deer, elk, and moose along with a variety of smaller mammals and birds are found on the property. The proposed development configuration will not preclude use of the open areas and water features of the annexation area by wildlife. The area is bounded on three sides by development as it is an infill site. Preserving the wetlands areas with ROS zoning will provide protection for wildlife using those Native and non-native grasses and low shrubs as cover the property. Providing a fencing plan at the time of the final subdivision and with each building permit will allow Staff to review impacts on wildlife movement through the site. In terms of species of special interest, the property is not within areas identified as critical sage grouse habitat.

Environmental Issues

The annexation is outside the City's Soils Ordinance District and does not contain areas of Steep or Very Steep Slopes. Irrigation ditches flow through the property and easements will be required on the final plat to ensure that downstream users have access to their water rights. Wetland areas and required setbacks from these areas are identified on the preliminary plat.

Utility & Access

- At this time the applicant has proposed a preliminary utility and access plan to serve the property. Water is proposed from Payday Drive. Sewer service will be provided by SBWRD. The applicants have met with SBWRD to explore alternatives for providing sewer service to the future north lot, Lot 6. SBWRD shall approve the utility plan and will be a signatory on the subdivision plat. A line extension agreement with SBWRD to extend sewer to the Property is the applicant's responsibility and shall occur prior to recordation of the final subdivision plat. Other utilities are available in the area..
- A final utility plan is required to be submitted with the final subdivision plat, for review and approval by the City Engineer, as a condition precedent to recordation of the subdivision plat.
- Appropriate guarantees for any public improvements associated with development on this property will be required prior to issuance of any

building permits. Fire hydrant locations will need to be addressed to the satisfaction of the City Engineer and Fire Marshall.

- Proposed lots 1, 3, and 4 have direct access to Payday Drive consistent with the pattern of development on the street. Staff recommends a note on the final subdivision plat that these houses front onto Payday Drive, even if the garage access is from the private driveway. Lots 2, 5, and 6 are accessed from Payday Drive via a private road, to be constructed with a fire district approved turn-around and fire hydrants.

5. Character and Development of adjacent property

Surrounding land uses include dedicated open space, Highway 224, single family subdivisions of Thaynes Creek Ranch and Thaynes Canyon, Iron Canyon, and Aspen Springs. The character of development on adjacent properties is generally single family homes on lots ranging from 0.3 acres to 5 acres, with both smaller and larger lots within the established neighborhood. The preliminary subdivision plat indicates limits on both building footprint and maximum house size. See Exhibit H for Staff's analysis of Lot and house sizes comparison in the surrounding area. One characteristic of the neighborhood is the prohibition of Nightly Rentals. The Single Family zoning district designation would also prohibit Nightly Rentals in this subdivision in keeping with the neighborhood character.

6. Zoning- existing and proposed

Existing zoning is Rural Residential. Proposed zoning of the open space parcel is Recreation Open Space (ROS) and proposed zoning of the Richards parcel is Single Family (SF) with the northern wetlands area proposed as ROS. The SF zoning of the Richards parcel is consistent with the zoning on all of the surrounding subdivisions. The SF zone does not allow nightly rental uses and restricting this use is desired by the neighborhood. The Annexation Agreement and preliminary plat would limit the number of lots to six (6) and the final plat would include a note indicating that no further subdivision of lots is allowed.

7. Goals and Policies of the Park City General Plan

(See (B) below.)

8. Assessed valuation

Annexation of the PCMC parcel will have a neutral impact on the property's assessed valuation and annexation of the Richards parcel will have additional property tax revenue for the City associated with the development of new single family homes. The SF zoning would not allow nightly rental use and therefore the properties would likely be full time residents or second home properties without nightly rental. Larger lots as required for horse properties would generally have a higher assessed valuation.

9. Demand for municipal services

All essential services will be provided by existing entities. These services include: Park City Fire District, Park City Water, Snyderville Basin Water Reclamation District (SBWRD - sewer), Park City School District, Questar gas, Rocky

Mountain Power- power, Comcast - cable, Qwest - gas, and BFI trash removal.

10. Effect on City boundaries

This annexation does not create an island, peninsula, or other irregular shaped City boundary, but rather eliminates an existing island. This annexation provides contiguity to the City Limits along all boundaries. The property is within the City's Annexation Expansion Area boundary and the City has expectations that this Property will be part of the City.

11. Timetable for extending services

A final utility plan will be submitted for approval by the City Engineer, as a condition precedent to recordation of the final subdivision plat. A timetable of extending these services shall be provided with the final subdivision plat application. Sewer service is provided by SBWRD who shall approve the utility plan and plat prior to recordation. A line extension agreement with SBWRD to extend sewer to the Property is the applicant's responsibility and shall occur prior to recordation of the final subdivision plat.

12. Revenue versus costs

The applicant provided a brief economic analysis of revenue versus costs, similar to the study provided for the 2 lot Bernolfo Annexation. There will be no public streets to maintain or plow as the driveway for Lots 4 and 5 will be a private road. Impacts to the City and School District are as expected for single family home development, due to typical expenses for residents (library, parks, police, fire, code enforcement, etc.). Some of these expenses are off-set by the maintenance of the pasture lands on the PCMC parcel provided by the property owner and expected to be continued by an established Homeowner's Association for the subdivision, as allowed by the Conservation Agreement.

13. Tax consequences

The Richards property will be entirely privately owned. Revenue will be generated through property taxation. Tax consequences are that there will be some increase for the City if this parcel is annexed and additional homes are constructed, especially true if some of these properties become second home residences.

14. Impact on Summit County

Summit County will lose that portion of sales tax revenue that will be paid to Park City; however Park City not Summit County will be responsible for providing municipal services. Control of the development will be the City's jurisdiction and responsibility.

15. Historic and cultural resources

There are no known historic or cultural resources identified on the property according to information on record at the State, County, and City historic resources. Staff recommends that prior to recordation of a final subdivision plat, an historic and cultural resources survey of the property be conducted by the

applicant in conformance with the City's Historic Preservation Chapter 11 of the Land Management Code and a certification letter regarding any historic and cultural resources be submitted to the City. Any discovered historical structures shall be added to the City's Historic Sites Inventory, and designated as either "Significant" or "Landmark" according to the criteria as listed in LMC Chapter 11.

Review pursuant to the Annexation Policy Plan- Section 15-8-2- General Requirements

City Staff has reviewed the proposed annexation and preliminary plat against the following general requirements established for annexation to Park City as presented in LMC Section 15-8-2, as follows:

- (A) Property under consideration of annexation must be considered a logical extension of the City boundaries.

The property is contiguous to the Park City Municipal boundaries along all property boundaries. It is a logical extension of the City boundaries to annex these properties, as they are an island of County jurisdiction surrounded by the City. The property is within the Park City Annexation Expansion Area boundary.

- (B) Annexation of Property to the City must be consistent with the intent and purposes of this Chapter and the Park City General Plan.

This annexation proposal has been submitted and processed consistent with the intent and purposes of LMC Chapter 8, the Annexation Policy Plan. The annexation petition has been accepted by the City Council and the petition certified by the City Recorder. The applicant submitted all required documents and information, per LMC Section 15-8-3 (A)-(J). Affected entities have been noticed of the petition acceptance by the City Council.

The property is an infill property within the Park City developed neighborhood area and is not within a specific planning area of the Park City General Plan. Applicable goals and objectives of the "Undeveloped, Zoned Land " (pp 57-58) are as follows:

- ***Direct development to the toe of slopes, preserving ridge tops, meadows, and visible hillsides. Open space foregrounds should be incorporated in development proposals to enhance the visual experience of open space.***
- ***Preserve wetlands, drainage ways, and intermittent streams and incorporate them into developments as amenities, rather than as simply undeveloped land.***
- ***Preserve as many large cohesive, unbroken areas of open space and undeveloped land as possible through design, dedication, and acquisition, as development occurs.***
- ***Protect the views along the City's entry corridors by establishing design, setback, and landscape requirements***

- ***Decrease fire risk. Keep development out of certain sensitive areas, such as wildland interface zones and carefully control development where wildfire occurs.***
- ***Incorporate pedestrian trails and open space to allow movement between and through neighborhoods. Trails should link to other recreational and community facilities and provide viable alternatives to vehicular transportation. Trails should be consistent with the Master Trails plans.***
- ***Encourage comprehensive, efficient developments that consider the overall impacts on surrounding properties. Phasing plans for such projects will be necessary to avoid the premature expansion of utilities and other public facilities.***
- ***Encourage distinct neighborhoods surrounded by open space. Develop neighborhood specific design guidelines to promote neighborhood cohesiveness.***
- ***Approve development only when adequate public services and facilities are available or will be available when needed to serve the project.***
- ***Encourage affordable housing in close proximity to lodging, bus routes, resorts, etc.***
- ***Require traffic routing and street design that minimizes grading, minimizes impacts on existing residents, and reduces dependency on the automobile.***

Additionally, the General Plan established goals designed to address foreseeable problems and express community aspirations (General Plan p. 5-10). The applicable key goals include:

- ***Preserve the mountain resort and historic (agricultural too) character of Park City.***
- ***Preserve environmental quality, open space, and outdoor recreational opportunities.***
- ***Maintain the high quality of public services and facilities.***
- ***Maintain the unique identity and character of an historic community.***
- ***Involve the community in decision making.***
- ***Plan for realistic population growth consistent with the City's vision***

Staff finds, as conditioned, that the proposed annexation complies with these established goals for infill development.

(C) Every annexation shall include the greatest amount of Property possible that is a contiguous Area and that is contiguous to the City's municipal boundaries.

The annexation includes all of the Property possible that is a contiguous area and that is contiguous to Park City's boundaries. The remaining 1 acre

“island” to the west is not contiguous and has no access or easements for access to a public street. The City will pursue annexation of this island once the issue of access has been resolved.

(D) Piecemeal annexation of individual small Properties shall be discouraged if larger contiguous Parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

The annexation area constitutes the largest area possible owned by the applicants (see above) and is not a piecemeal annexation of individual small Properties.

(E) Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be avoided.

This annexation does not create an island or peninsula of County property and the other small island is not a contiguous area and is an existing island today. The annexation does not create an island. The City will pursue annexation of that property once the issue of access has been resolved. The proposed annexation does not create an irregular boundary.

(F) In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to the annexed Areas:

- Police protection - ***City Police protection will be provided if annexed.***
- Snow removal on Public Streets- ***The City will not provide snow removal from Private Streets within the property. The owner is proposing a private street to be maintained by the HOA.***
- Street maintenance- ***The City will not be financially responsible for providing maintenance of private property.***
- Planning, zoning, and Code enforcement- ***Currently Summit County Planning and Building Department and would transfer to the City departments of planning, building, and engineering.***
- Availability of municipal sponsored parks and recreational activities and cultural events and facilities ***Parks are public and open to County and City residents. This annexation will provide a public sidewalk connecting from the existing Thayne’s Creek Ranch sidewalk to Iron Mountain Drive to provide pedestrian connectivity to Rotary Park.***
- Water services as the Area is developed. Existing water treatment and storage facilities may currently be inadequate to provide services to the annexed Area. Developers of the annexed Area are required to pay for the cost of improvements related to the extension of and connection with the City lines and systems as well as participate in additional improvements such as storage capacity and distribution as necessary for safe, reliable, and efficient water flows. ***The property is subject to an Annexation Agreement that will spell out the terms of water use and requirements. A final utility plan will be submitted for approval***

by the City Engineer, as a condition precedent to recordation of the final plat.

- (G) If feasible and practical, water and sewer lines shall be extended to the Area proposed for annexation. Expenses associated with such extension shall be the responsibility of the developer of the property. The City shall determine timing and capacity of extending water to the proposed annexation area. The Water Reclamation district shall determine timing and capacity of extending sewer service to the proposed annexation area. ***The property is subject to an Annexation Agreement that addresses the provision of private water rights for irrigation of the pasture areas on individual lots as well as requirements for water development fees and water connection fees for development of each lot. This language is being drafted by the City's legal staff and will be provided to City Council with the final Annexation Agreement. A final utility plan will be submitted for approval by the City Engineer, as a condition precedent to recordation of the final subdivision plat. Sewer service is provided by SBWRD who shall approve the utility plan and plat prior to recordation. Ownership of water rights will not affect the application of the Impact Fee Ordinance to the Property.***
- (H) Before considering requests for annexation the City shall carefully analyze the impacts of annexation of an Area, taking into consideration whether the Area will create negative impacts on the City and considering whether the City can economically provide services to the annexed Area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in Wildfire/Wildland Interface Zones, useable open space and recreation Areas, protection of Sensitive Lands, conservation of natural resources, protection of view corridors, protection and preservation of Historic resources, affordable housing, balance of housing types and ownership, adequate water and sewer capacity to serve the future needs of the proposed annexation Areas shall also be considered. ***Impacts of this development have been taken into consideration in the draft Annexation Agreement. Review of the final subdivision plat will consider issues of fire protection and access, fencing, limits of disturbance, house size, house orientation and access, open space protection, landscaping of public ROW and common areas, landscaping of individual lots, location of barns and horse pastures, sidewalk easements, protection of Sensitive Areas, protection of view corridors, and utility plans.***
- (I) Situations may exist where it is in the public interest to preserve certain lands from Development where there exist Geologic Hazards, excessive Slopes, flood plains or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexation may occur as a means of retaining those lands in a natural state. ***The property of this annexation does not contain***

existing Geologic Hazards, excessive Slopes, or flood plains. The property is currently vacant pasture land with native grasses and existing irrigation ditches. The final subdivision plat will need to address these irrigation ditches, as they have the potential to create flooding during peak flow time, provide easements across private lots, and consider language requiring the HOA to maintain the ditches in a manner as to protect adjacent property from flooding and other negative impacts.

- (J) The City shall consider annexation of unincorporated Areas of Summit County that are within the annexation expansion Area. **The property is within the annexation expansion Area.**
- (K) In general, the City does not favor annexation of territory, which should be located within another municipality, nor does it favor the annexation of unincorporated territory solely for the purpose of acquiring municipal revenues, or for retarding the capacity of another municipality to annex. **The property is not within another municipality and the annexation is not solely for the purpose of acquiring municipal revenues or for retarding the capacity of another municipality to annex this property.**
- (L) Annexations that expand the resort and/or tourist economy provide second home or rental residential Properties, preserve environmentally Sensitive Lands, and provide significant public open space and community facilities are preferred.
- The purpose of this annexation is to bring the City's open space and the Richard's Farm into the City limits to preserve the sensitive lands and view from the Hwy 224 entry corridor, preserve the Richard's Farm to a large extent to retain the agricultural and pastoral character of the property, and to allow for development of single family horse properties, continue to maintain and use the pastures along the Hwy 224 corridor for raising and grazing of horses and other agricultural purposes. The proposed zoning will retain the neighborhood character of single family homes on larger lots with a prohibition on Nightly Rental within the subdivision. Conveyance of significant water rights that will be available to the City by keeping the rights higher in the drainage, local control of development in the prominent 224 entry corridor, pedestrian connectivity along Payday Drive, reduction of potential SF zone density, provision of affordable housing, and LEED Silver housing construction are community benefits of this annexation.**

Annexation Agreement

The Annexation Policy Plan establishes a requirement for an Annexation Agreement to be approved by the City Council to address standard conditions that must be met prior to completion of the annexation. Staff finds that the proposed annexation, as outlined in the draft annexation agreement, attached,

complies with the requirements and criteria of the Park City Annexation Policy Plan regarding Annexation Agreements (Exhibit I).

Public Hearing

On May 9, 2012, the Planning Commission conducted a public hearing on the annexation and zoning proposal. Concerns raised at the public hearing included the following:

- One neighbor, from Iron Canyon subdivision, spoke in favor of the proposed annexation and subdivision and was anxious to see a nice development.
- One neighbor from the Thayne's Creek area was in favor of the equestrian lots but had concerns about someone who didn't want to have horses being able to build a larger house on the pasture area. She also wanted to know whether the subdivision would affect the rights for horses to use the pasture area on the City's open space, as it is now used.

Staff received several emails from the surrounding neighborhood after the courtesy mailing was sent out. These emails consisted of requests for information regarding the annexation, such as requests for a copy of the plat of the property and proposed subdivision, timing of the process, explanation of the open space zoning (ROS), and the size of lots allowed in the SF zone, and whether horses would still be allowed on the pastures along Hwy 224. Staff responding to each email providing the requested information. In follow-up, Staff provided the link to the Planning Commission packets on this proposal.

On December 12, 2012, the Planning Commission conducted a public hearing and public input was received regarding the proposed fences and barn design (see minutes in this Planning Commission packet).

Department Review

The application was reviewed by the Interdepartmental Development Review Committee on February 14th and September 18, 2012. All issues raised have been addressed by the applicant and/or by conditions of approval outlined in the attached Ordinance.

Notice and Public Input

The property was posted, courtesy notices were mailed to surrounding property owners, and legal notice was published in the Park Record according to requirements for annexations in the Land Management Code.

Future Process

Annexations require Planning Commission recommendation and City Council adoption and become pending upon publication of ordinance and compliance with state code filing procedures. City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

A final subdivision plat, to create legal lots of record; dedicate utility, drainage, and irrigation easements; and identify building pads, limits of disturbance areas, address barn location and design, and protection of sensitive lands, etc. is a requirement prior to commencing of site work and issuance of building permits. Subdivision plats are reviewed by the Planning Commission with final approval by the City Council. No development can commence until the final plats are recorded at Summit County and building/construction permits have been issued by the City and all financial guarantees have been posted.

Summary Recommendations

Staff requests the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council on the Richards/PCMC Annexation and zoning map amendment based on the findings of fact, conclusions of law, and conditions of approval in the draft ordinance.

Exhibits

Ordinance

Exhibit A- Annexation Plat

Exhibit B- Vicinity Map and Zoning

Exhibit C- Preliminary Subdivision plat

Exhibit D- Applicant's letter

Exhibit E- Conservation Easement

Exhibit F- Visual Analysis

Exhibit G- Minutes of the December 12th, 2012 Planning Commission meeting
(are included in the PC Packet)

Exhibit H- House size comparison

Exhibit I- Annexation Agreement

Ordinance 13-

AN ORDINANCE ANNEXING APPROXIMATELY 33.74 ACRES KNOWN AS THE RICHARDS/PCMC ANNEXATION LOCATED IN THE SOUTH HALF OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, UTAH AND AMENDING THE OFFICIAL ZONING MAP OF PARK CITY TO ZONE THE PROPERTY ROS (RECREATION OPEN SPACE) AND SF (SINGLE FAMILY DEVELOPMENT).

WHEREAS, on February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two metes and bounds parcels currently within the jurisdiction of Summit County and surrounded by properties that are within the Park City municipal boundaries as shown on the attached Annexation Plat (Exhibit A, the "Property"); and

WHEREAS, the Property is approximately 33.74 acres in area and is located west of SR 224 and north of Payday Drive, as described in the attached Legal Description and Vicinity map (Exhibit B); and

WHEREAS, the Property is included within the Park City Annexation Expansion Area, and is not included within any other municipal jurisdiction; and

WHEREAS, the annexation petition was accepted by the City Council on February 16, 2012; and

WHEREAS, the City reviewed the petition against the criteria stated in Sections 10-2-403 (2), (3), and (4) of the Utah Code, annotated 1953 as amended, and found the petition complied with all applicable criteria of the Utah Code; and

WHEREAS, On March 1, 2012, the City Recorder certified the annexation petition and delivered notice letters to the "affected entities" required by Utah Code, Section 10-2-405, giving notice that the petition had been certified and the required 30-day protest period had begun; and

WHEREAS, no protests were filed by any "affected entities" or other jurisdictions within the 30-day protest period and the petition was considered accepted on April 1, 2012; and

WHEREAS, the Planning Commission, after proper notice, conducted public hearings on the Annexation petition application on May 9th, September 26th, and December 12th, 2012, and on January 9th, 2013; and

WHEREAS, on January 9th, 2013, the Planning Commission forwarded a recommendation to City Council on the proposed annexation and zoning of the Richards/PCMC Annexation; and

WHEREAS, on January 31st, 2013, the City Council conducted public

hearings and discussed the annexation and zoning map amendment and took public testimony on the matter, as required by law; and

WHEREAS, the City Council finds that the requested zoning map amendment is consistent with the Park City General Plan; and

WHEREAS, the preliminary subdivision plat sets forth seven single family development lots and one lot for an existing indoor riding arena to be commonly owned by the HOA of the subdivision. Preliminary platting indicates maximum allowable density, lot sizes, building pad areas for houses and barns, house sizes, building massing and height restrictions, limits of disturbance areas, phasing, and other site planning requirements that have a goal of enhancing rather than detracting from the aesthetic quality of the entry corridor and ensuring that the final plat will result in a development that is compatible with the surrounding neighborhood; and

WHEREAS, an Annexation Agreement, between the City and Petitioners pursuant to the Land Management Code, Section 15-8-5 (C), setting forth further terms and conditions of the Annexation and final subdivision plat, is herein included as Exhibit C.

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

SECTION 1. ANNEXATION APPROVAL. The Property is hereby annexed into the corporate limits of Park City, Utah according to the Annexation Plat executed in substantially the same form as is attached hereto as Exhibit A and according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated below.

The Property so annexed shall enjoy the privileges of Park City as described in the Annexation Agreement attached as Exhibit C and shall be subject to all City levies and assessments, conditions, and restrictions as described in the terms of said Annexation Agreement.

The Property shall be subject to all City laws, rules and regulations upon the effective date of this Ordinance.

SECTION 2. ANNEXATION AGREEMENT. Council hereby authorizes the Mayor to execute the Annexation Agreement in substantially the same form as is attached hereto as Exhibit C and as approved by the City Attorney.

SECTION 3. COMPLIANCE WITH STATE LAW, GENERAL PLAN, AND ANNEXATION POLICY PLAN. This annexation and the proposed zoning meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code, the Park City General Plan, and The Annexation Policy Plan - Land Management Code Chapter 8, Annexation.

SECTION 4. OFFICIAL PARK CITY ZONING MAP AMENDMENT. The Official Park City Zoning Map is hereby amended to include said PCMC parcel in the ROS zoning district and the Richards parcel in the SF zoning district, as shown in Exhibit D.

SECTION 5. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL.

Findings of Fact

1. On February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two parcels currently within the jurisdiction of Summit County and completely surrounded by properties within the Park City municipal boundaries.
2. The applicants are requesting annexation and zoning approval for two separately owned parcels. The Frank Richards parcel is 13.57 acres and the requested zoning is Single Family (SF). The PCMC parcel is 19.74 acres and the requested zoning is Recreation Open Space (ROS).
3. The property is located north of Payday Drive (north of the Thayne's Creek Ranch Subdivision), south of Aspen Springs Subdivision, east of Iron Canyon Subdivision, and west of Highway 224 (Exhibit A). The property is surrounded on all boundaries by Park City municipal boundaries and is considered an island of unincorporated land.
4. The applicants submitted an annexation plat for the two parcels, prepared by a licensed surveyor and additional annexation petition materials according to provisions of the City's Annexation Policy Plan and Utah State Code. A preliminary subdivision plat and an existing conditions survey map were also submitted.
5. The preliminary plat indicates four lots in Phase I and three possible future lots in Phase II. The existing home and horse training facility are in Phase II and may remain un-platted until a final subdivision plat is submitted and approved by the City for that property.
6. The petition was accepted by the City Council on February 16, 2012 and certified by the City Recorder on March 1, 2012. Notice of certification was mailed to affected entities as required by the State Code. The protest period for acceptance of the petition ended on April 1st. No protests to the petition were filed.
7. The PCMC property is a dedicated open space parcel, subject to a March 24th, 2005, Deed of Conservation Easement in favor of the Summit Land Conservancy, in perpetuity. In 1999, the City purchased this 19.74 acre parcel through a purchase agreement with the Trust for Public Land from Frank Richards. The Annexation Agreement specifies that a Lease Agreement between Frank Richards and PCMC be executed prior to recordation of any Final Subdivision plat.
8. The PCMC parcel is currently utilized for grazing and growing of hay, as well as for undisturbed open space along streams, irrigation ditches, and wetlands. The City provides winter time grooming of a ski trail within the parcel, along Hwy 224. The land was originally part of the Frank Richard's property. The PCMC property will remain as open space in

- perpetuity, subject to restrictions of the Conservation Easement.
9. The property is located within the Park City Municipal Corporation Annexation Expansion Area boundary, as described in the adopted Annexation Policy Plan (Land Management Code (LMC) Chapter 8) and is contiguous with the current Park City Municipal Boundary along the south property lines with the Thayne's Creek Subdivision Annexation (June 2, 1989) and the Treasure Mountain Annexation (Thayne's Canyon Subdivision) (July 28, 1971). The property is contiguous with the City along the north property lines with the Peterson Property Annexation (February 22, 1993) and the Chamber Bureau Kiosk Annexation. . Along the west property line there is contiguity with the Smith Ranch Annexation (July 14, 1988) (aka Aspen Springs Subdivision) and the Iron Canyon Annexation (October 28, 1983). Along the east property lines there is contiguity with the McLeod Creek Annexation (May 7, 1979).
 10. The property is the entirety of property owned in this location by these applicants that has not already been annexed to the City.
 11. Access to the Richards property is from Payday Drive at the existing driveway to the Richards farm. Access to the PCMC property is also from Payday Drive, just west of Hwy 224 at a stubbed in roadway. This access is used by ski grooming equipment and other municipal vehicles to maintain the property. No access is proposed directly off of Highway 224 with this annexation or for the subdivision.
 12. The property is subject to the Employee/Affordable Housing requirements of the Affordable Housing Guidelines and Standards Resolution 20-07. One Affordable Unit Equivalent equals 900 square feet. The affordable housing obligation is 15% of 6 new units or 0.9 AUE (810 sf). Affordable house shall be provided on-site according to requirements of the Housing Resolution 20-07, unless payment of fees in lieu is approved by the Park City Housing Authority. Addition requirements regarding affordable housing are spelled out in the Annexation Agreement. Fees in lieu are subject to the dollar amounts established by the Housing Authority and in effect at the time of submittal of building permits.
 13. Land uses proposed in the subdivision include a total of 7 single family lots and 1 common area lot (Lot 8 of the preliminary plat) for an existing riding arena. No density is assigned or permitted to be developed on Lot 8. Only one single family home and one barn are permitted to be constructed on the remaining lots. Lot 5 of the preliminary plat contains an existing single family house and a guest house. These uses are permitted. A maximum of 2 horses per acre of lot area are permitted on lots containing one acre or more, subject to an administrative conditional use permit and an animal management plan. The PCMC parcel allows only uses permitted by the Conservation Easement.
 14. The proposed land uses are consistent with the purpose statements of the SF and ROS zones respectively. The SF zone does not allow nightly rental uses and restricting this use is desired by the neighborhood. The Annexation Agreement and preliminary plat limit the total number of lots to seven (7) and the final plat would include a note indicating that no further subdivision of lots is allowed and no residential or commercial density is

- permitted on Lot 8.
15. Annexation of this parcel will not create an island, peninsula, or irregular city boundary. The annexation is a logical extension of the City Boundary.
 16. Provision of municipal services for this property is more efficiently provided by Park City than by Summit County.
 17. Areas of wetlands and irrigation ditches have been identified on the property.
 18. The annexation is outside the City's Soils Ordinance District and there are no areas of steep slope that would indicate the property should be placed in the Sensitive Lands Overlay Zone. Wetlands and streams are protected by language in the LMC requiring minimum setbacks and protection during construction. The platting and designation of sensitive areas as platted ROS (Recreation Open Space) will further protect these sensitive areas from impacts of development.
 19. The annexation petition has been reviewed pursuant to the Utah Code Annotated (UCA) Sections 10-2-401, 10-2-402 and 10-2-403. The annexation petition requirements set forth in these sections of the UCA have been met; including issues of 1) contiguity and municipal annexation expansion area, 2) boundaries drawn along existing local districts, special districts and other taxing entities, and 3) for the content of the petition.
 20. The proposed annexation is consistent with the purpose statements of the Annexation Policy Plan and as conditioned will protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space and ensure environmental quality; protect a prominent entry corridor, view sheds and environmentally Sensitive Lands; enhance pedestrian connectivity, create buffer areas; and protect the general public health, safety, and welfare.
 21. City Staff has reviewed the proposed annexation and preliminary plat against the general requirements established for annexation to Park City as presented in LMC Section 15-8-2 and as further described in the Analysis section of this report.
 22. The property was posted, courtesy notices were mailed to surrounding property owners, and legal notice was published in the Park Record according to requirements for annexations in the Land Management Code.

Conclusions of Law

1. The Annexation and Zoning Map amendment are consistent with Annexation Policy Plan and the Park City General Plan.
2. Approval of the Annexation and Zoning Map amendment does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The Official Zoning Map shall be amended to designate the PCMC property as Recreation Open Space (ROS) and the Richard's parcel as Single Family (SF).

2. The Annexation Agreement shall be fully executed and recorded at Summit County.
3. A final subdivision plat, to create legal lots of record; dedicate utility, drainage, and irrigation easements; identify building pads for houses and barns; identify limits of disturbance areas; limit maximum house and barn heights; establish general architectural design guidelines for houses and barns, and establish fencing details, and other concerns typically addressed at the time of the final subdivision plat, is a requirement prior to commencing of site work and issuance of building permits on the Property.
4. The final subdivision plat shall be in substantial compliance with the preliminary plat submitted with the Annexation petition and reviewed by the Planning Commission.
5. All exterior lighting shall be reviewed with each building permit application for compliance with best lighting practices as recommended by the Dark Skies organization.
6. Fencing shall be consistent through-out the subdivision and described on the final subdivision plat and in the CCRs. A fencing plan shall be submitted with the final subdivision plat application and with each building permit application to allow Staff to review all fencing for consistency through-out the subdivision and to review impacts of fencing on wildlife movement through the site. The fencing plan shall include location of fences and materials, dimensions, and installation methods.
7. Construction of a five foot wide public side walk along Payday Drive connecting the existing sidewalk on the north side of the street with a pedestrian crossing at Iron Mountain Drive is required and shall be identified on the final subdivision plat. The sidewalk and all required public improvements, including landscaping of the public right-of-way along Payday Drive, shall be completed prior to issuance of a certificate of occupancy for any house on the property.
8. A grading plan and landscape plan shall be submitted with each building permit application and this requirement shall be noted on the final subdivision plat. A landscaping plan for public right-of-way and any common areas shall be submitted with the final subdivision plat.
9. A note shall be included on the final subdivision plats requiring each new house in the development to meet LEED for Homes Silver Rating certification (at a minimum) with required water conservation requirements as further described in the Annexation Agreement.
10. Excavated materials shall remain on site to the greatest extent possible.
11. Use of the PCMC parcel shall be addressed and regulated by a signed and executed License Agreement for Agricultural Use and Grazing between the Property Owner and the City prior to commencing the use. All use of the PCMC parcel shall comply with the March 24, 2005 Deed of Conservation Easement by and between Park City Municipal Corporation and in favor of Summit Land Conservancy and shall be subject to approval by the Summit Land Conservancy and the Park City Council.
12. The application is subject to the City's Affordable Housing Resolution 20-07 and as further described in the Annexation Agreement. Affordable housing obligation shall be provided on the property, unless otherwise

- approved by the Park City Housing Authority.
13. A note shall be added to the final subdivision plats stating that the Planning Director may grant an administrative Conditional Use permit for the raising and grazing of horses on these lots, including a barn located within the building pad identified on the final subdivision plat, provided the application complies with the LMC requirements for raising and grazing of horses and providing an Animal Management Plan is submitted and approved.
 14. Access easements shall be provided on the final plat, along lot lines to facilitate access to the PCMC parcel, for equestrian use and for maintenance of the parcel as allowed by the March 2005 Deed of Conservation Easement.
 15. All conditions and restrictions of the Annexation Agreement shall continue to apply to the Final Subdivision plat.
 16. The final subdivision plat shall dedicate a private access easement for the Ross-Gaebe Property to memorialize the existing private easement across the existing driveway and to extend this easement to the public ROW at Payday Drive.
 17. Prior to recordation of a final subdivision plat, an historic and cultural resources survey of the Property shall be conducted by the Applicants in conformance with the City's Historic Preservation Chapter 11 of the Land Management Code and a certification letter regarding any historic and cultural resources be submitted to the City. Any discovered historical structures shall be added to the City's Historic Sites Inventory, and designated as either "Significant" or "Landmark" according to the criteria as listed in LMC Chapter 11.
 18. Ownership of water rights shall not affect the application of the Impact Fee Ordinance to the Property at the time of development of the lots.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect upon publication of this Ordinance, recordation of the Annexation Plat and Annexation Agreement, and compliance with state annexation filing requirements, pursuant to the Utah Code Annotated Section 10-2-425.

PASSED AND ADOPTED this ___ day of _____, 2013.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Janet M. Scott, CITY RECORDER

APPROVED AS TO FORM:

Mark D. Harrington, CITY ATTORNEY

Richards/PCMC Annexation Vicinity Map



ROS

E

Summit County Zoning

Subject properties

PCMC

RD

Richards

224

Payday Dr

RDM

ROS

ROS

SF

Legend



City Limits

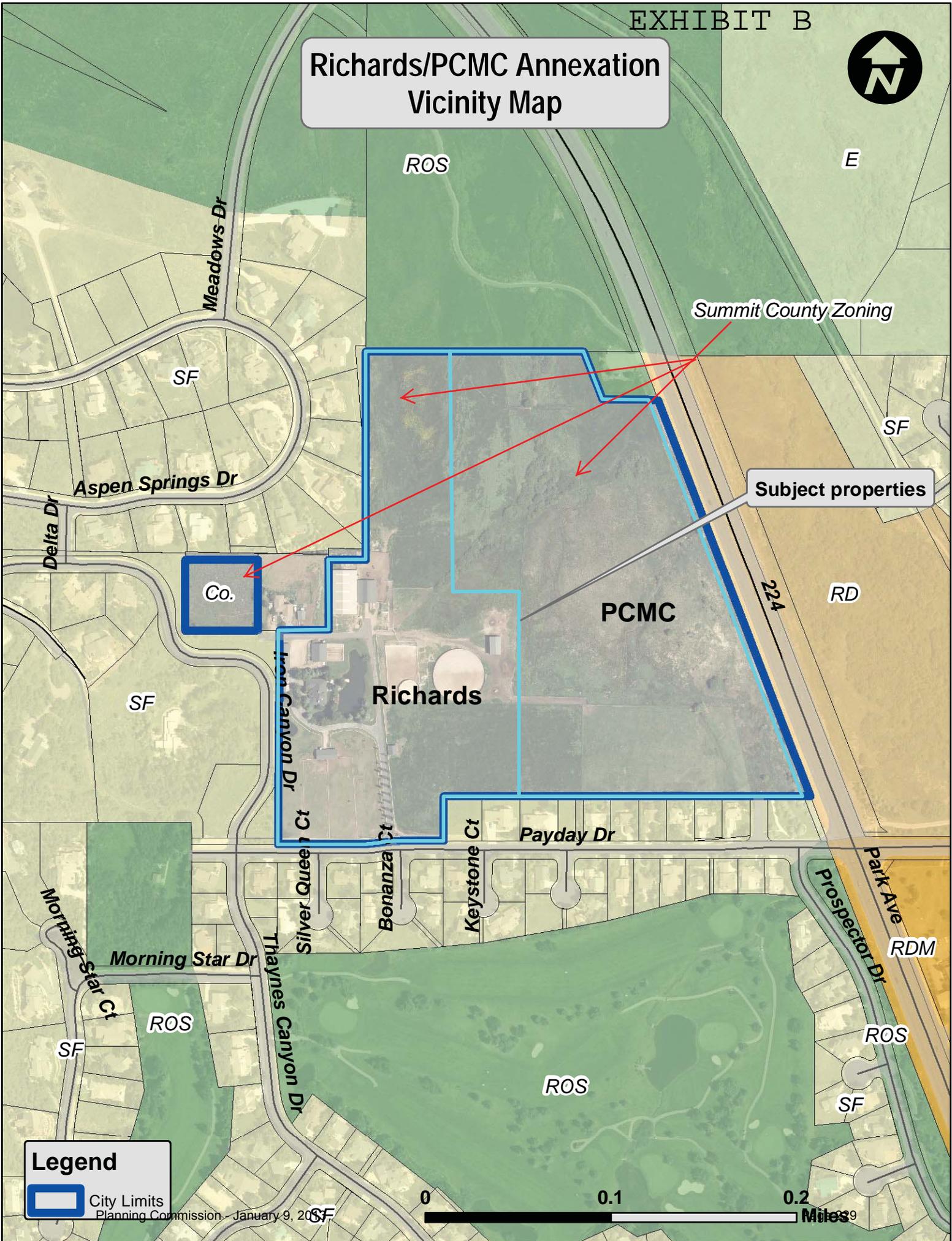
Planning Commission - January 9, 2009

0

0.1

0.2

Miles



September 24, 2012

To: Park City Planning Commission
From: Frank Richards
Re: Annexation of Thaynes Creek Ranch Estates (Richards Property)

As I get older, I realize the importance of getting my affairs in order.

I purchased the subject property in 1975. There were no improvements, not even perimeter fences. I have owned, constructed all of the improvements and farmed it for over 37 years. That was long before Aspen Springs was conceived, when Enoch Smith had a lovely home on the lake and a fine Standard Bred horse operation. We have always tried to maintain the property in a clean orderly manner, so that it would be an attractive addition to the community.

Hundreds of families, with their children, have come to pet the mares and new colts as they came to the fence on Payday Drive.

Dozens of fundraisers for community charities, and other events, have been held in our indoor arena through the years, always free of charge, and all the community was welcome.

I was persuaded by city officials in the year 2000 to sell 20 acres of the property that fronts Highway 224 to maintain open space and a view corridor into the city and at a bargain price.

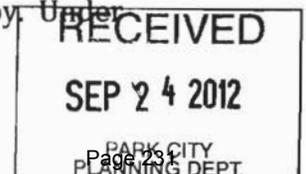
During our years in Park City, I have held several positions: The Summit County Board of Commissioners, the Park City Board of the Chamber of Commerce and Visitor Bureau and the Park City Rotary Club. I served the National Ability Center for eight or ten years as President, Board Member and member of the Finance Committee.

I hope it is clear that my heart and soul are in Park City.

We intend to continue to live on this farm as long as we can, but the time has come for us to arrange our affairs and reduce the work and responsibilities and to divide the property so that others can enjoy it as we have.

The proposed subdivision plat should meet the City's criteria and approval of the various agencies' concerned.

We propose seven residential lots on approximately 14 acres. Two lots on Payday Drive are a little over ½ acre each. The remaining lots on the lane range from 1-¼ acres to a little over 3 acres each. All of the lots are significantly larger than lots across the street or properties adjoining the subdivision. We would like to retain the equine character of the farm, since down where I live, I'm still a cowboy. Under



this subdivision plan, I would propose to make some changes. I would remove some of the treasures I have accumulated over the years in the form of fence posts, pine rails, timbers, surplus rolls of fencing, steel pipes, culverts, metal gates and equipment that adjoin Mr. McDonald's rear yard. I would remove the pipe pens that adjoin his rear yard on the north end of the indoor arena. I would also remove the 150 x 50 foot hay and feed barn that interferes with Mr. McDonald's clear view of the ski slopes to the south and landscape the area. I will remove the corrals, pens and cattle-loading chute east of the hay barn and generally clean up the area.

I would extend the asphalt lane to the south boundary of Lot 7, and line it with trees and white fence like the present entry lane to the property.

It is our plan to re-do and make significant improvements to the entry feature on Payday Drive. It will be a premier residential neighborhood.

There have been some suggestions that part of the property should be left as open space. We have been a part of contributing over half of the farm to open space, and in addition, lots 6 & 7 would be over 90% open space. However, if there are those who would like to maintain complete open space or specific views, I would certainly be happy to consider an offer, based on current Aspen Springs lot values.

DEED OF CONSERVATION EASEMENT
Richards Ranch (SR 224)

EXHIBIT E

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 24th day of MARCH, 2005, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation having an address of 445 Marsac Avenue, Post Office Box 1480, Park City, UT 84060-1480 ("Grantor"), in favor of the SUMMIT LAND CONSERVANCY, a Utah non-profit corporation having an address of Post Office Box 1775, Park City, UT 84060 ("Grantee").

00730831 BK01688 PG00720-00730
ALAN SPRIGGS, SUMMIT CO RECORDER
2005 MAR 30 10:50 AM FEE \$1.00 BY GGB
REQUEST: PARK CITY MUNICIPAL CORP

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of approximately 20.000 acres (871,200 square feet) of real property located west of SR 224 in Park City, Summit County, Utah, described more particularly at Exhibit A, attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Property possesses natural, scenic, recreational, and visual open space values (collectively, "Conservation Values") of great importance to Grantee; the people of Park City, and the people of the State of Utah which are worthy of protection; and

WHEREAS, the Property is prominently visible from one of Park City's two entry corridors, namely SR 224; and

WHEREAS, the Property's proximity to Aspen Springs, the McPolin Farm, Willow Ranch, and the Huntsman Gateway open spaces is significant as it is part of a continuous corridor of open space on the sensitive SR 224 entry corridor; and

WHEREAS, at a November 3, 1998 special bond election, Park City voters authorized the issuance of general obligation bonds in an amount of ten million dollars for the express purpose of acquiring and forever preserving undeveloped park and recreational land; and

WHEREAS, the Property was purchased by Grantor using proceeds of the November 3, 1998 special bond election; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those relating to visual open space existing at the time of this grant, that do not significantly impair or interfere with those values; and

WHEREAS, Grantor further intends as owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

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WHEREAS, Grantee is a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition; and

WHEREAS, Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, which the Parties agree constitute adequate consideration for this agreement, and pursuant to the laws of the State of Utah and in particular Utah Code Annotated, Title 57, Chapter 18, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose.** It is the purpose of this Easement to assure that the Property will be maintained forever (predominately) in open and recreational use, protecting in perpetuity its scenic, open and undisturbed character and recreational value, and preventing any use of the Property that may significantly impair or interfere with the conservation values of the Property. Grantor intends that this Easement will confine the use of the Property to those activities that are consistent with the purpose of this Easement.
- 1.1 **Baseline Documentation.** To establish the present condition of the Property's agricultural, natural, scenic, recreational and/or other conservation resources and the Property's manmade features, so as to make possible the proper monitoring of future uses of the Property and to ensure compliance with the terms of this Easement, the Parties may prepare an inventory of the Property's relevant resources, features and conditions.
2. **Rights of Grantee.** To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:
 - a. To reserve and protect the conservation values of the Property;
 - b. To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
 - c. To enter upon the Property in the case of an emergency as determined by Grantee, in which event Grantee shall notify Grantor prior to entering onto the Property, if possible, or as soon thereafter as is reasonably practical;
 - d. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of

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the Property that may be damaged by inconsistent activity or use, pursuant to Paragraph 6 herein; and

- e. To enforce this Easement by appropriate legal proceedings, after providing Grantor with reasonable notice and reasonable opportunity to cure.
3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are prohibited in perpetuity on the Property:
- a. Construction of buildings, residences, mobile homes, or other structures, or any other permanent improvements for use for human habitation, constructed or placed in, on, under, or upon the Property; and
 - b. Any unanticipated use or activity on or at the Property which would significantly impair the conservation values of the Property, unless such use or activity is necessary for the protection of the conservation values that are the subject of this Easement, in which case such use or activity shall be subject to the prior approval of Grantee, which approval shall not be unreasonably withheld.
4. **Reserved Rights.** Grantor reserves to itself, and to its successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, Grantor expressly reserves the right to:
- a. Use the Property as undeveloped park and recreational land; and
 - b. Construct related amenities.
5. **Continuous Conservation Reserve Program (CCRP).** Part of the property is presently encumbered by a CCRP contract; dated June 1, 2003. The CCRP is a 15- year USDA - Farm Service Agency contractual agreement for the stream corridor that is enrolled is 180' from the stream embankment and the designated land classification is riparian buffer zone. The parties expressly agree that requirements of the CCRP contract are permitted during the CCRP's effective period. Both parties recognize the contract and will honor its terms for its effective period.
6. **Notice of Intent to Undertake Certain Permitted Actions.** The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in Paragraph 4, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement.

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Whenever notice is required, Grantor shall notify Grantee not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question:

- a. in writing; and/or
- b. by electronic notification. Electronic notification is sufficient with proof of receipt.

The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

6.1 **Grantee's Approval.** Where Grantee's approval is required, as set forth in Paragraph 5, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

7. **Grantee's Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. Grantee and Grantor agree to mediate any dispute in a timely manner if the issue of a violation is disputed. If mediation is unsuccessful and Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the thirty (30) day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under this Paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantor's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in

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addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies not or hereafter existing at law or in equity. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee. If Grantee prevails in any action to enforce the terms of this Easement, Grantee's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantor.

- 7.1 **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any right or remedy upon an breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 7.2 **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.
8. **Access.** No right of access by the general public to any portion of the Property is conveyed by this Easement.
9. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
- 9.1 **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon ten (10) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the lesser of two (2) percentage points over the prime rate of interest from time to time charged by Zion's Bank or the maximum rate allowed by law.

- 9.2 Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in Paragraphs 9 and 9.1; and (3) the existence or administration of this Easement.
- 10. Extinguishment.** Grantee shall not voluntarily or willingly allow the extinguishment of any of the restrictions of this Easement, and if any or all of the restrictions of this Easement are nevertheless extinguished by a judicial or other governmental proceeding, any and all compensation received by Grantee as a result of the extinguishment shall be used by Grantee in a manner consistent with the conservation purposes of this Easement.
- 10.1 Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.
- 10.2 Amendment.** This Easement, including the prohibited uses and reserved rights, may be modified only by mutual written agreement of Grantor and Grantee. No amendment shall be made that will adversely affect the status of this Easement as a qualified conservation easement pursuant to Title 57, Chapter 18 of the Utah Code, nor Grantee's status as a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code and applicable laws of the state of Utah. Any such amendment shall be consistent with the stated purposes of this Easement, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation values of the Property. Any such amendment shall be filed in the office of the Summit County Recorder.
- 11. Transfer of Easement.** If Grantee determines that it no longer is able to perform its obligations or enforce its rights under this Easement, or that it no longer desires to enforce said rights, or if Grantee ceases to exist, or is otherwise prevented from enforcing its rights under this Easement, or if Grantee no longer qualifies as a qualified organization under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), Grantee may convey its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under State statute. Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out. Grantee is hereby expressly prohibited from subsequently transferring the Easement, under any circumstances and whether or not for consideration, unless:

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- a. Grantee, as a condition precedent of the transfer, requires that the conservation purposes which this Easement is intended to advance continue to be carried out;
 - b. The transferee is an organization qualifying at the time of transfer as eligible under Paragraph 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable) and regulations promulgated thereunder; and
 - c. Grantor and/or its successor in interest, at its sole discretion, either selected the transferee or consents in writing to the transfer.
12. **Grantor Transfer of Interest.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which he divests himself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
13. **Estoppel Certificates.** Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.
14. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows (or to such other address as either party from time to time shall designate by written notice to the other):
- To Grantee: SUMMIT LAND CONSERVANCY**
 Attn: Executive Director
 Post Office Box 1775
 Park City, UT 84060
- To Grantor: PARK CITY MUNICIPAL CORPORATION**
 Attn: City Recorder
 445 Marsac Avenue
 Post Office Box 1480
 Park City UT 84060-1480
15. **Recordation.** Grantee shall record this instrument in timely fashion in the official records of Summit County, Utah, and may re-record it at any time as may be required to preserve its rights in this Easement.

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16. General Provisions.

- a. Controlling Law. The laws of the state of Utah shall govern the interpretation and performance of this Easement.
- b. Liberal Construction. Any general rule of construction to the contrary notwithstanding this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purposes of Utah statute. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- e. No Forfeiture. Nothing contained herein will result in the forfeiture or reversion of Grantor's title in any respect.
- f. Joint Obligation. If more than one person or entity is the successor or assign of Grantor, the obligations imposed by this Easement upon Grantor shall be jointly and severally binding on each such person or entity.
- g. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.
- h. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that ability for acts or omissions occurring prior to transfer shall survive transfer.
- i. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

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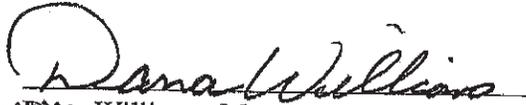
- j. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

GRANTOR:

PARK CITY MUNICIPAL CORPORATION



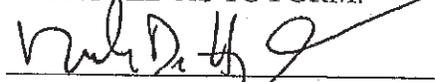
Dana Williams, Mayor

ATTEST:


Janet M. Scott, City Recorder



APPROVED AS TO FORM:


Mark D. Harrington, City Attorney

GRANTEE:

SUMMIT LAND CONSERVANCY


Jennifer Guetschow, Executive Director

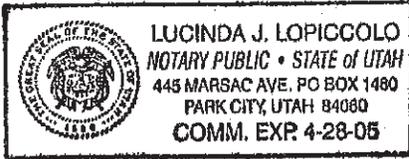
BK1688 PC0723

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this 24th day of MARCH, 2005, personally appeared before me Jennifer Guetschow, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn (or affirmed), did say that she is the Executive Director of the SUMMIT LAND CONSERVANCY by Authority of its Bylaws/Resolution of its Board of Directors, and acknowledged to me that said corporation executed the same.

Lucinda J. Lopigcolo
Notary Public



BK1688 PG0729

EXHIBIT A

Beginning at a point West 2403.70 feet, and North 655.95 feet from the Southeast Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running Thence East 187.26 feet; thence South 577.14 feet to the North line of Thaynes Creek Ranch Subdivisions as recorded; thence East along said North line 831.89 feet to the West line of State Highway U-244; thence North 21°12' West along said West line 1351.47 feet; thence West 539.30 feet; thence South 0°44'37" East 682.93 feet to the point of beginning;

TOGETHER WITH all of the right, title and interest of Grantor in the right of use in and to 8.34% of the irrigation portion of the water and water rights included in the Weber River Decree Award No. 458 being sufficient water for the irrigation of 3.33 acres, or 10 acre feet, heretofore used for the irrigation of the above described lands, reserving unto the Grantor all remaining rights of the Grantor in and to the use of the water evidenced by the said Award No. 458.

SC 1041-8
PCA 1041-87

Excepting all area within 180 feet of the stream embankment covered in the CCRP Agreement.

Subject to all matters of record.

BK1688 PG0730

SPECIAL WARRANTY DEED
(Richards Property)

THE TRUST FOR PUBLIC LAND, a nonprofit California public benefit corporation, authorized to do business in Utah as TPL-Utah, whose principal business address is 116 New Montgomery, San Francisco, CA 94105 ("Grantor"), hereby CONVEYS AND WARRANTS against the Acts of the Grantor only to PARK CITY MUNICIPAL CORPORATION, a municipal corporation and political subdivision of the State of Utah ("Grantee") for the sum of TEN DOLLARS and other good and valuable consideration the following described tract of land in Summit County, State of Utah, to wit:

Beginning at a point West 2403.70 feet and North 655.95 feet from the Southeast Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and running thence East 187.26 feet; thence South 577.14 feet to the North line of Thaynes Creek Ranch Subdivisions as recorded; then East along said North line 831.89 feet to the West line of State Highway U-224; thence North 21° 12' West along said West line 1351.47 feet; thence West 539.30 feet; thence South 0° 44' 37" East 682.93 feet to the point of beginning ("Property");

Together with all of the right, title and interest of Grantor in the right to use in and to 8.34% of the irrigation portion of the water and water rights included in the Weber River Decree Award No. 458 being sufficient water for the irrigation of 3.33 acres, or 10 acre feet, heretofore used for the irrigation of the above described lands, being all of Grantor's water rights received from its predecessor in interest.

SUBJECT TO the covenant that the Property shall be restricted in perpetuity to use as undeveloped park and recreational land and amenities.

SUBJECT TO all easements, covenants, restrictions, rights of way and reservations appearing of record as set forth in Exhibit "A" attached hereto, and taxes for the year 1999 and thereafter.

IN WITNESS WHEREOF, the Grantor has caused its corporate name to be hereunto affixed by its duly authorized officers this 27 day of August, 1999.

THE TRUST FOR PUBLIC LAND

By: *Ted O. Harris*

Name: *Ted O. Harris*

Title: *Vice President*

WARRANTY DEED - Page 1

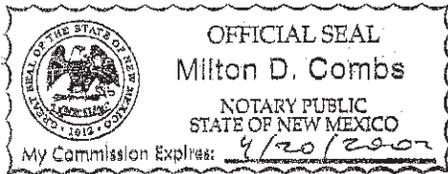
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9-1600
ALAN SPRIGGS, SUMMIT CO RECORDER
1999 AUG 31 09:20 AM FEE \$14.00 BY DMG
REQUEST: FIRST AMERICAN TITLE CO UTAH

aug → 99-08275

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on August 27, 1999, by TEA. O. HARRISON, the VICE PRESIDENT of The Trust for Public Land, a nonprofit California public benefit corporation, on behalf of said corporation.



[Signature]
Notary Public

My Commission Expires:

4/20/2002
(SEAL)

00547638 Bk01285 Pg01141



View (A)
Existing Conditions



View (A)
With Proposed Houses



Key

EXHIBIT F

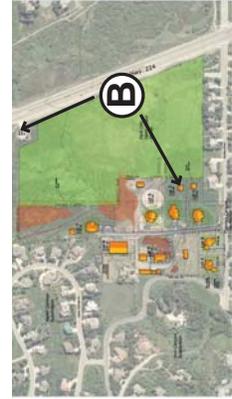
**Frank Richards
Thaynes Creek Ranch Estates
Subdivision Visual Simulations
11-26-12**



View (B)
Existing Conditions



View (B)
With Proposed Houses



Key

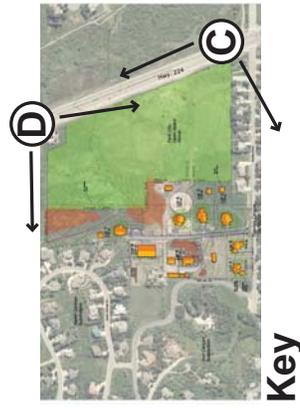
Frank Richards
Thaynes Creek Ranch Estates
Subdivision Visual Simulations
11-26-12



View (C)



View (D)



Key

**Frank Richards
 Thaynes Creek Ranch Estates
 Subdivision Visual Simulations
 11-26-12**

EXHIBIT H

Exhibit H - House Size Comparison in the Neighborhood

Subdivision	Lot sizes	Floor Area/Foot print	Garage	Total Area	Height
Thayne's Creek Ranch II	0.31 acre	3,400 sf- not including garage	600 sf	4,000 sf	28' plus 5' for pitched roof
Thayne's Small	0.20 acre	Not restricted	n/a	Not restricted (approx. 3,000 sf)	28' plus 5' for pitched roof
Thayne's Canyon	0.18- 0.25 acre	Not restricted	n/a	Not restricted (listings range from 2,750 sf to 7,500 sf)	28' plus 5'
Iron Canyon	0.40 to 5.5 acres	Not restricted - 4,000 sf footprint	included	8,000 sf (footprint x 2)	28' plus 5'
Aspen Springs	0.35 to 0.80	5,500 sf	500 sf	6,000 sf	28' plus 5' (some restricted to 30' total ht to ridge)
	4.82 acres ranch lot 1	8,000 sf	500 sf	8,500 sf	
Richards Lots 1 and 2	1.29 acres	4,200 sf footprint	included	6,250 sf	28' max
Richards Lots 3 and 4	0.51 and 0.63 acre	4,000 sf footprint	included	6,000 sf	28' max
Richards 5 and 6	2.69 and 3.48 acres	4,200 sf	included	6,500 sf	28' max

DRAFT

When recorded, please return to:
PARK CITY MUNICIPAL CORPORATION
City Recorder
P O Box 1480
Park City UT 84060

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (this “**Agreement**”) is made by and between Park City Municipal Corporation (hereinafter, “**Park City**” or the “**City**”) and Frank Richards (hereinafter, “**Petitioner**”) to set forth the terms and conditions under which Park City will annex certain land owned by Petitioner (Richards parcel), consisting of approximately 13.57 acres and located in unincorporated Summit County, Utah, north of Payday Drive and west of State Route 224 (as further described below, the “Petitioner’s Property”), and known as Richards/PCMC Annexation, into the corporate limits of Park City, and extend municipal services to the Property. Included in the Richards/PCMC Annexation is a 19.56 acre parcel owned by the City (PCMC parcel). This PCMC parcel is not subject to this Annexation Agreement. The City and Petitioner are sometimes collectively referred to in this Agreement as the “Parties” or individually as a “Party”. This Agreement is made under authority of §§ 10-2-401 et. seq. of the Utah Code, Annotated 1953, as amended “**MLUDMA**”).

WHEREAS, the Richards/PCMC Annexation includes the following parcels: parcel SS-104-1-B-1-X owned by Park City Municipal Corporation (PCMC) and consisting of 19.56 acres and SS-104-1-B owned by Frank Richards and consisting of 13.57 acres.

WHEREAS, in furtherance of the foregoing, the Petitioner desires to annex the Frank Richards Property into the corporate limits of the City and, to that end, a complete annexation petition (the “**Annexation Petition**”) for the Property was filed with the City on February 12, 2012. The petition was accepted by the City Council on February 16, 2012, and certified by the City Recorder on March 1, 2012. The first public hearing was conducted by the Planning Commission on May 9, 2012. Subsequent public hearings were conducted by the Planning Commission on September 26th and December 12th of 2012.

WHEREAS, in connection with any such annexation (the “**Annexation**”), the Property is proposed to be zoned Single Family (SF Zone) for the Richards parcel and Recreation Open Space (ROS Zone) for the City parcel. The SF Zone is a City zoning district allowing for low density, single family home development that maintains existing predominately single family detached residential neighborhoods, maintains the character of mountain resort neighborhoods with compatible design, and requires a streetscape that minimizes impacts on existing residents and reduces the architectural impacts of the automobile. The SF zoning district is more fully described in the City’s Land Management Code.

NOW, THEREFORE, in furtherance of the Annexation Petition, in consideration of Park City’s agreement to annex Petitioner’s property, and in consideration of the mutual promises contained herein,

as well as the mutual benefits to be derived here from, the Parties agree that the terms and conditions of Annexation shall be as follows:

1. **Property.** The Richards parcel property to be annexed is approximately 13.57 acres in area, as depicted on the annexation plat attached as Exhibit A (the “**Annexation Plat**”) and as more fully described in the legal description attached as Exhibit B (hereafter referred to as the “**Property**”). The PCMC parcel consists of 19.56 acres. The total Richards/PCMC Annexation includes both parcels and totals approximately 33 acres.

2. **Zoning.** Upon Annexation, the Petitioner’s Property will be zoned Single Family (SF). The PCMC parcel will be zoned Recreation Open Space (ROS). The official zoning map of Park City shall be amended to include these properties and zoning designations.

3. **Subdivision; Density and Phasing.** Pursuant to Land Management Code Section 15-8-3 on February 12, 2012, a complete revised application for a Preliminary Subdivision plat on the 13.57 acre Richards parcel of the Property was filed with the City. Preliminary Subdivision plat is attached as Exhibit C. The maximum allowable residential density is seven (7) dwelling units with all units to be single family detached houses located within the Richards’ parcel. The PCMC parcel is to be platted as an open space parcel with allowed uses consistent with the ROS zoning district that also comply with the March 24th, 2005, Deed of Conservation Easement entered into by and between Park City Municipal Corporation (Exhibit D), in favor of the Summit Land Conservancy, a Utah non-profit corporation.

The maximum density allowed on the Richards parcel does not include the required affordable housing unit (“**AUE**”) as specified in Paragraph 10 below. The land use development of the Property shall be governed by the zoning designations provided herein and by the Final Subdivision plat, to be finalized as soon as reasonably practicable following completion of the Annexation process pursuant to Utah Code Annotated § 10-2-425(5). Moreover, any substantive amendments to this Agreement shall be processed in accordance with the Park City Land Management Code in effect at the time an application for amendment is filed with the City Planning Department. Further, as part of the Final subdivision approval process, the phasing of the development of the Property shall be determined, to ensure the adequacy of public facilities as may be required to support any such development.

4. **Sidewalks.** A condition precedent to building permit issuance for construction on any Lot within the Final Subdivision plat, is the dedication to the City of a Fifteen (15’) wide, non-exclusive, public easement across the Petitioner’s Property along Payday Drive, for the purposes of access, utilities, irrigation, storm water drainage, landscaping and snow storage. Construction of a five (5’) foot wide non-vehicular public pedestrian sidewalk, to be located within the fifteen (15’) public easement and constructed to City Standards and Specifications as required by the City Engineer, shall be included as part of the required public improvements for the future development. The sidewalks shall connect to the existing sidewalk within the Thayne’s Creek Ranch B Subdivision and shall run to the Property’s western boundary at Iron Mountain Drive, with the final location to be determined by the City Engineer during the Final Subdivision Plat review process. Any obligations or guarantees with respect to the construction of such sidewalks shall be governed by the terms and conditions of the Final Subdivision for the Property.

5. **Fire Prevention Measures.** Because of potential wild land interface issues on the Property, the Petitioner (or, as specified in connection with any such assignment, its assigns) agrees to implement a fire protection and emergency access plan, to be submitted prior to the issuance of any building permits, to be reviewed and approved by the Fire Marshall and Chief Building Official for compliance with applicable building and fire codes. Such plan may include a requirement for residential fire sprinkler systems for all structures. Fire and emergency access and fire hydrants shall be installed as required by the fire protection plan prior to issuance of any full building permits on the Property.

6. **Roads and Road Design.** All streets and roads within the Property are to be private roads designed and retained as private roads. Final design shall be determined during the Final Subdivision Plat review process.

7. **Sanitary Sewer, Line Extensions and Storm Water Detention Facilities.** Construction and alignment of the sanitary sewer shall be established as part of the Final Subdivision Plat for the Property (as accepted by the City and filed in the official real estate records of Summit County, Utah, the "**Subdivision Plat**"). The preferred alignment of the sanitary sewer shall be that alignment which results in the least visual impact and site disturbance while meeting the site design and construction requirements of the Snyderville Basin Water Reclamation District.

In connection with the Final Subdivision Plat review process, on-site storm water detention facilities, or alternatives, as approved by the Park City Engineer, may be required. The timing for the construction of such storm water detention facilities shall be determined by the City Engineer, at the time of final Subdivision Plat review (the "**Storm Detention Facilities**"). Maintenance of on-site storm water detention facilities will be the responsibility of the Property Owners or of a future Homeowner's Association for common facilities.

8. **Water Rights.** Pursuant to the Annexation petition the Petitioner owns 102.5 ac-ft of water under Water Right 35-8458, of which 42 ac-ft is utilized on the 13.57 acres for irrigation. Previously, the Petitioner conveyed from this water right 7.5 ac-ft with the Thayne's Creek Ranch Annexation Agreement and Subdivision approval. An additional 10 ac-ft were conveyed to the Trust for Public Lands in connection with irrigation of the Conservation Easement on the 19.65 acre PCMC parcel. Petitioner agrees to convey 1 acre foot from this water right to each of Lots 3 and 4, 2 acre feet to each of Lots 1 and 2, and 4 acre feet to each of lots 6 and 7 for the purpose of irrigation and stock water for a total of 14 acre feet. Park City also owns a portion of the same water right and uses it along with Park City's other water rights to irrigate the PCMC parcel.

Since filing his annexation petition, the Petitioner has conveyed 86 acre feet of the decreed water right to a third party who is unrelated to the Petitioner's Annexation. The underlying water right which is being segregated to represent the respective interests of the three parties (including the third party) has a priority date of 1882. Thus, this water right will be subject to priority cuts by the Utah Division of Water Rights.

The distribution of water represented by water rights which will be owned by Park City, the Petitioner, and the third party through open ditches, streams, and head gates will present challenges to Park City due to Park City operating the water distribution system above and below the proposed subdivision.

As set forth in the separate water agreement to be approved by City Council, Petitioner and the City have agreed that the City will operate the head gates leading into the Petitioner's Property and proposed subdivision. Park City will operate the head gates in accordance with the water rights of record owned in the aggregate by the individual lot owners. The Petitioner understands that Park City's operation of head gates will be subject to the Utah Division of Water Right's enforcement of water rights. Petitioner further understands that the City will not operate or in any way be responsible for the design, construction, or maintenance of the water delivery system within the subdivision.

The water agreement will also address improvements to the existing ditch system and infrastructure (improvements) that will be required to accurately divert and measure the correct flow rate to the Applicant, Park City, and the third party. The cost of improvements will be shared between the Applicant, Park City, and the third party proportional to each party's quantity of water. Park City may convey its water through the Applicant's proposed subdivision. Flow into the Applicant's subdivision from the Park City operated diversion will be a continuous flow and based on the Utah Division of Water Rights flow for each water right. It will be the responsibility of the water users and water right owners in the subdivision to construct facilities to meet their irrigation needs based on this continuous flow and delivery location. Park City may elect to establish an irrigation turn system.

Petitioner also owns 3.021 acre feet under water right 35-12322 (a30722a), a segregated interest of water right 35-8459, for domestic use and irrigation for the existing residential uses on the Property, as well as stock water for 27 Equivalent Animal Units. This water right may be used according to the terms of the separate water agreement for the irrigation of designated areas within Lot 5 of the proposed subdivision.

9. **Water Impact Fees and Other Water Facilities and Systems Costs.** Certain water facilities and systems internal to Petitioner's Property shall be required to be constructed and, to the extent they are dedicated to the City, easements therefore granted to the City, all of which shall be determined, and agreed to, by the affected parties and the City during the Final Subdivision review process (the "**Water Facilities and Systems**"). Any and all such Water Facilities and Systems shall be constructed to not less than the specifications reasonably required by the City Engineer. Petitioner acknowledges that water impact fees will be collected by City in the same manner and in the same amount as with other development within municipal boundaries and that impact fees so collected will not be refunded to Petitioner or to individual building permit applicants developing within the proposed annexation area. Ownership of water rights will not affect the application of the Impact Fee Ordinance to the Property.

10. **Affordable Housing Requirement.** Affordable/employee housing shall be provided in a manner consistent with the City's Affordable Housing Resolution 20-07. The affordable housing requirement is 0.9 Affordable Unit Equivalent (AUE) determined by applying the requirement for 15% of the six dwelling units to be constructed. One dwelling unit currently exists on the property. The 0.9 AUE equates to 810 square feet of net livable space, as one (1.0) AUE is 900 square feet of net livable space. Payment of fees in lieu of development of affordable units on or off-site is allowed at the discretion of the Park City Housing Authority in compliance with the criteria stated in the City's Affordable Housing Resolution 20-07, with in-lieu fee to be calculated base on the formula identified in the City's Affordable Housing Resolution (25-12). Timing of the completion of affordable units and

timing of payment of fees in lieu of development are subject to the requirements of Affordable Housing Resolution 20-07.

11. **Sustainable Development requirements.** All construction of dwelling units within the Final Subdivision shall utilize sustainable site design, development and building practices and otherwise comply with requirements of the SF Zone. Unless otherwise approved in the Final Subdivision plat, in compliance with the current Environmental/ Sustainability Element of the General Plan, each home in the development must receive National Association of Home Builders National Green Building Standards Silver (or higher) Certification (or other Green Building certification as approved by the Planning Commission at the time of the Final Subdivision plat approval) **OR** reach LEED for Homes Silver (or higher) Rating. Green Building Certification and LEED for Homes Silver rating criteria to be used shall be those applicable at the time of building permit application.

In addition to the builder achieving the aforementioned points on the Green Building or LEED for Homes Silver (or higher), certification checklists, in order to achieve water conservation goals, the builder must also either:

- Achieve at a minimum, the Silver Performance Level points within Chapter 8, Water Efficiency, of the National Association of Home Builders National Green Building Standards; OR
- Achieve a minimum combined 10 points within the 1) Sustainable Sites (SS 2) Landscaping and 2) Water Efficiency (WE) categories of the LEED for Homes Checklist; OR
- Achieve an equivalent water conservation standard applicable at the time of the building permit application.

Points achieved in these resource conservation categories will count towards the overall score. Application for the award certification and plaque commemorating LEED for Homes Silver (or higher) is at the discretion and expense of the Petitioner or individual Lot owner.

12. **Planning Review Fees.** Owner, as to its development portion of the annexed Property, shall be responsible for all standard and customary, and generally-applicable planning, building, subdivision and construction inspection fees imposed by the City in accordance with the Park City Land Management Code and the Park City Municipal Code.

13. **Impact and Building Fees.** All property owners within the annexed property shall be responsible for all standard and customary, and generally-applicable, fees, such as development, impact, park and recreation land acquisition, building permit and plan check fees due and payable for construction on the Property at the time of application for any building permits. Ownership of water rights shall not change the application of the Impact Fee Ordinance to the Property.

14. **Acceptance of Public Improvements.** Subject to fulfillment of all the conditions of the Subdivision Ordinance and, further, Park City’s final approval of the construction of any such public improvements, those water facilities, utilities, fire hydrants, and easements as may be agreed by Parties in connection with the Final Subdivision Plat review and approval process (the “**Public Improvements**”), shall be conveyed and dedicated to the City, for public purposes.

15. **Snow Removal and Storage.** Snow removal from private roads shall be the responsibility of the Property Owners. Park City shall not be obligated to remove snow from private sidewalks unless the sidewalks are classified as part of a community trail system and incorporated into the City wide snow removal program. Public snow storage easements shall be provided along Payday Drive and identified on the Final Subdivision plat.

16. **Fiscal Impact Analysis.** The Fiscal Impact Analysis, prepared by Alliance Engineering for the Petitioner dated January 24, 2012 and updated with the revised preliminary subdivision plat prior to the September 26th 2012 Planning Commission meeting, has been reviewed by the Planning Staff and Planning Commission. The Fiscal Impact Analysis concludes that the Annexation will not result in an overall negative impact on the City or School District. The analysis includes revenue and cost assumptions related to the Annexation and development of the Property, concludes a possible net fiscal gain to the School District is possible, based on the increase in property tax revenue for a mix of primary and secondary homes.

17. **Traffic Mitigation.** A review and analysis of impacts of the development on neighboring streets and major intersections was submitted with the Annexation petition. No mitigation measures are proposed due to the low density and low level of impact of the proposed development on local streets and at major intersections.

18. **License Agreement for Agricultural Use and Grazing on the PCMC Parcel.** The Parties shall enter into a License Agreement for Agricultural Use and Grazing on the PCMC Parcel for use of the PCMC parcel by Frank Richards. Such uses may include grazing of horses and weeding, fertilizing, irrigating, and cutting of hay, as well as other uses that may be identified in the License Agreement and subject to approval by the Summit Land Conservancy. PCMC has no obligation to operate, repair, or maintain any conveyance or infrastructure within the subdivision. All use of the PCMC parcel shall comply with the March 24, 2005 Deed of Conservation Easement by and between Park City Municipal Corporation and in favor of Summit Land Conservancy (Exhibit D).

19. **Effective Date.** This Annexation Agreement is effective upon recordation of the annexation plat and the filing and recordation of the annexation ordinance, and further, the City provides notice of the recordation to the parties of this Annexation Agreement.

20. **Governing Law; Jurisdiction and Venue.** The laws of the State of Utah shall govern this Annexation Agreement. The City and Petitioner agree that jurisdiction and venue are proper in Summit County.

21. **Real Covenant, Equitable Servitude.** This Annexation Agreement constitutes a real covenant and an equitable servitude on the Property. The terms of this Agreement touch and concern and both benefit and burden the Property. The benefits and burdens of this Agreement run with the land, and are intended to bind all successors in interest to any portion of the Property. This Agreement, a certified copy of the ordinance approving the Annexation (**the “Annexation Ordinance”**), and the Annexation Plat shall be recorded in the County Recorder’s Office of Summit County, Utah.

22. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof may be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Petitioner or its successors or assigns; provided that, notwithstanding the foregoing, the City hereby consents to the assignment of the rights and responsibilities, and the benefits, of this Agreement, in whole or in part, upon written notice to the City; and provided that, in connection with and to the extent of any such assignment, Petitioner shall not have any further rights or responsibilities under this Agreement as and to the extent accruing from and after the date of any such assignment.

23. **Compliance with City Code.** Notwithstanding Paragraph 19 of this Agreement, from the time the Park City Council (the "**City Council**") approves of this Agreement and upon completion of the Annexation by recordation of the annexation plat with the County Recorder's Office of Summit County, Utah, the Property shall be subject to compliance with any and all City Codes and Regulations pertaining to the Property.

24. **Full Agreement.** This Agreement, together with the recitals and exhibits attached to this Agreement (which are incorporated in and made a part of this Agreement by this reference), and the written agreements expressly referenced herein, contain the full and complete agreement of the Parties regarding the Annexation of the Property into the City. Only a written instrument signed by all Parties, or their successors or assigns, may amend this Annexation Agreement.

25. **No Joint Venture, Partnership or Third Party Rights.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement among the Parties. Except as otherwise specified herein, this Agreement, the rights and benefits under this Agreement, and the terms or conditions hereof, shall not inure to the benefit of any third party.

26. **Vested Rights.** Subject to the provisions of this Agreement, Petitioner (or its assigns) shall have the right to develop and construct the proposed Subdivision in accordance with the uses, density, and configuration of development approved in the Final Subdivision plat when approved, subject to and in compliance with other applicable ordinances and regulations of Park City.

27. **Nature of Obligations of Petitioner.** Applicant is liable for performance of the obligations imposed under this Agreement only with respect to the portion of property which it owns and shall not have any liability with respect to the portion of the property owned by the City.

28. **Severability.** If any part or provision of this Annexation Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Annexation Agreement except that specific provision determined to be unconstitutional, invalid, or enforceable. If any condition, covenant or other provision of the Annexation Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by the law.

IN WITNESS WHEREOF, the parties hereto have executed this Annexation Agreement as of the _____ day of _____, 2013.

(Signatures begin on following page)

PARK CITY MUNICIPAL CORPORATION,
a political subdivision of the State of Utah

By: _____
Dana Williams, Mayor

Dated this _____ day of _____, 2013.

ATTEST: City Clerk

By: _____
Janet Scott, City Recorder

Dated this _____ day of _____, 2013.

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Dated this _____ day of _____, 2013.

FRANK RICHARDS, Petitioner

By: _____

Name: _____

Dated this _____ day of _____, 2013

Acknowledgement (notary)

Exhibits (see staff report)

- A. Annexation Plat
- B. Legal Descriptions
- C. Preliminary Subdivision plat
- D. Deed of Conservation Easement
- E. Water Agreement (may be separately recorded)

EXHIBIT A
TO
ANNEXATION AGREEMENT
[Attach Annexation Plat]

EXHIBIT B
TO
ANNEXATION AGREEMENT
[Attach Legal Description]

EXHIBIT C
TO
ANNEXATION AGREEMENT
[Attach Preliminary Subdivision Concept Plat]

EXHIBIT D
TO
ANNEXATION AGREEMENT
[Attach Deed of Conservation Easement]

EXHIBIT E
TO
ANNEXATION AGREEMENT
[Attach Water Agreement]