

**PARK CITY MUNICIPAL CORPORATION  
 PLANNING COMMISSION  
 CITY HALL, COUNCIL CHAMBERS  
 OCTOBER 10, 2012**



**AGENDA**

<b>MEETING CALLED TO ORDER - 5:30 PM</b>		Pg
<b>ROLL CALL</b>		
<b>ADOPTION OF MINUTES OF SEPTEMBER 26, 2012</b>		5
<b>PUBLIC COMMUNICATIONS</b> – <i>Items not scheduled on the regular agenda</i>		
<b>STAFF AND BOARD COMMUNICATIONS/DISCLOSURES</b>		
<b>CONTINUATION(S)</b> – <i>Public hearing and continuation as outlined below</i>		
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 10- Board of Adjustment, Chapter 11- Historic Preservation, Chapter 12- Planning Commission, Chapter 15- Definitions	PL-12-01631	
<i>Public hearing and continuation to October 24, 2012</i>		
<b>REGULAR AGENDA</b> – <i>Discussion, public hearing, and possible action as outlined below</i>		
264 Ontario Avenue – Plat Amendment	PL-12-01628	31
<i>Public hearing and possible recommendation to City Council</i>		
11398 N Snowtop Road, Lot 1 Hidden Hollow – Plat Amendment	PL-12-01637	51
<i>Public hearing and possible recommendation to City Council</i>		
<b>WORK SESSION</b> – <i>Discussion items only. No action taken</i>		
Snow Creek Crossing – Concept plan discussion	PL-12-01529	77
<b>ADJOURN</b>		

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.



**MINUTES – SEPTEMBER 26, 2012**



PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
SEPTEMBER 26, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner; 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 Thomas, who was excused.

**ADOPTION OF MINUTES – September 12, 2012**

Chair Wintzer referred to the first page under Roll Call and replaced Chair Wintzer with Chair **Worel**, to read “Chair Worel called the meeting to order”.

Commissioner Strachan referred to page 18 of the minutes, the Conditions of Approval for 429 Woodside. Condition #4 was corrected to replace footprint with **floor area** to read, “...the maximum **floor area of 660 square feet.**” A typo in Condition #5, first sentence, was corrected from exiting to correctly read **existing**.

Commissioner Hontz referred to page 22 of the minutes, first paragraph and replaced City Council with **our Counsel**, to reflect her stated intent for review by legal counsel

MOTION: Commissioner Strachan moved to APPROVE the minutes of September 12, 2012 as corrected. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously by those in attendance on September 12, 2012. Commissioners Wintzer and Savage abstained since they were absent from that meeting.

**PUBLIC INPUT**

Alan Agle, a credited professional with LEED and a green building consultant, stated that a year ago he received a call from Habitat for Humanity indicating that they were doing a new build on land donated by the City. Habitat for Humanity was enthusiastic about green measures and started

with one certification. Habitat for Humanity was exemplary and the build was incredible. Mr. Agle announced that the building had achieved the Third Green Platinum Certification in the State of Utah. A small ceremony would be held the following day to place the plaque on the building. Mr. Agle stated that Habitat for Humanity not only has a strong commitment to sustainable and green building, but they also recognize it as a payback to the City for the land donation. Mr. Agle remarked that the project would need no irrigation water after the first year and it is totally xeriscaped. Runoff water will be kept on-site and out of the storm water system. He pointed out that many things go with green building, and Habitat for Humanity did it all.

### **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Eddington reported that the Planning Commission meeting on October 24<sup>th</sup> would begin at 5:00 p.m. The City Council has been invited to join the Planning Commission at 5:00 p.m. to hear a presentation from the Gateway Planning Group on the first draft of the Form Base Code for Bonanza Park.

Director Eddington noted that the Staff was still pursuing a date for a joint meeting with the Snyderville Basin Planning Commission.

Chair Worel announced that the Master Planned Development portion of the Land Management Code Amendments would be continued to October 24<sup>th</sup>. Anyone wishing to make comment this evening was welcome to do so; or they could hold their comments for the October 24<sup>th</sup> meeting when the Planning Commission would have that discussion.

### **REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

#### **1. 7700 Stein Way, Stein Eriksen Lodge – Amendment to Record of Survey (Application #PL-12-01616)**

Planner Kirsten Whetstone reviewed the request for an amendment to the Stein Eriksen Lodge Record of Survey Plat. It is the Second Supplemental Sheet for all phases of a Special Sheet called the Common Area. The first Supplemental Sheet was approved in 2009 for the Spa addition.

It is an ownership issue and a designation on the record of survey plat that identifies structures in the common area. The ownership of the land would remain as Common area with the HOA. The request is to add approximately 4300 square feet of support meeting space enclosed in a structure.

The Deer Valley MPD allows 5% of the total residential square footage of 198,000 square feet to be support commercial, which is the Spa and the restaurant; and an additional 5% for support meeting space. Planner Whetstone remarked that Stein Eriksen Lodge currently has approximately 5,566 square feet of meeting space. This request would add an additional 4361 square feet for a total of 9,900+ square feet of support meeting space.

Planner Whetstone noted that significant background and history was outlined in the Staff report. The Staff had reviewed the issues relevant to plat amendments, as well as other issues such as parking and traffic. Since this is additional support meeting space to support the existing residential, the Staff determined that parking demands and traffic would not be increased.

Planner Whetstone reviewed the plat to orient the Planning Commission to the proposed changes. She indicated a proposed Porte Cochere structure that is also part of this application, that would be constructed at the front entrance. Planner Whetstone presented visuals to show how the porte cochere and meeting space would be viewed from various locations. She noted that it was not visible from most locations; and when it was, the visibility was minimal.

The Staff recommended that the Planning Commission conduct a public hearing, consider input, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval outlined in the draft ordinance.

Russ Olsen, CEO of the Stein Eriksen Lodge, acknowledged that he has been before the Planning Commission on several occasions; but the reason is always to enhance what exists at the Lodge and to provide better service. He noted that in 2000 the Plaza was added as open space on top of the conference center, with the intent of using that outdoor facility for events for guests and groups that came to Stein Eriksen Lodge. He stated that due to uncooperative weather, they always end up moving people into space that is not always large enough for the event. Over the years they looked at alternatives and came up with a solution to enclose the open area and use it for events moving forward. It would be out of the weather and the event would not have to be moved.

Mr. Olsen envisioned the meeting space as being able to serve the existing group base who have meetings in the lower ballroom. They could be moved upstairs into the enclosed area and afforded dining opportunities. Mr. Olsen stated that the project would not generate additional traffic or parking. It would be solely to serve the existing group base in a better way than in the past. He pointed out that the porte cochere was a definite enhancement. It would protect arriving guest from weather elements and create a better arrival experience. A rendering was presented showing the enclosed meeting space and the porte cochere. Mr. Olsen stated that the project would be internal and surrounded by existing condos and residences; and it would not be visible. Construction would also be internal and would only impact the guests staying at Stein Eriksen.

Mr. Olsen hoped the Planning Commission would see the justification for this project and how it would enhance what they offer their guests and for the residents/owners.

Commissioner Gross favored the idea because he has been to Stein Eriksen during snow storms. He was concerned about buses and asked about height clearance. Mr. Olsen replied that the clearance was 15 feet and it would allow a bus to turn around underneath the porte cochere.

Commissioner Savage referred to the visuals and asked how they orchestrate a line of sight from those across the street. He asked if it was from ground level, the second story or from another point. Mr. Olsen remarked that the conference center is surrounded by existing Stein Eriksen condominium buildings. The roofline of the Lodge is higher than other Stein Eriksen buildings; however the neighbors are down lower and would not be able to see over the existing condominiums.

Planner Whetstone stated that the vantage points outlined in the LMC are measured 5 feet from ground, essentially at eye level. Commissioner Savage wanted to know what controlled the

vantage points and how the five feet is measured. Commissioner Savage clarified that his question was not related specifically to this application. He wanted a general understanding of the requirement for establishing an acceptable vantage point. Commissioner Strachan pointed out that specific vantage points are identified in the LMC. On projects such as this application, where vantage points are identified in the Code, it is typically a cross canyon view. Planner Whetstone stated that she requested that the applicant provide visuals based on calls she received from surrounding properties of Black Bear, Mount Cervin and Goldener Hirsch wanting to know how this addition would look from their properties.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Gross thought the proposal was a great addition.

Commissioner Hontz echoed Commission Gross. She also believed the porte cochere would add to the arrival statement and help direct the tourists. Commissioner Hontz appreciated Commissioner Savage's comments because it is important to understand where the vantage point is measured from. In looking at the visuals provided, she was comfortable with the fact that they had to go higher before they produced a visual where it could be seen.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the Stein Eriksen Lodge condominium record of survey plat, according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – Stein Eriksen Lodge

1. The property is located at 7700 Stein Way.
2. The Stein Eriksen Lodge is located in the RD-MPD zoning district.
3. The property is subject to the Deer Valley Master Planned Development, as amended.
4. The Deer Valley Master Planned Development (11<sup>th</sup> Amended) allocates 66.75 units of density to the Stein Eriksen Lodge multi-family parcel. There are currently 65 residential units of varying sizes totally 197,858.26 square feet due to the use of unlimited size Deer Valley units when developing this parcel.
5. On August 27, 2009, the City Council approved a First Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area reflecting improvements and addition to the spa

building, as support commercial space, within the existing platted common area. The First Supplemental Sheet was recorded on June 23, 2010.

6. On July 13, 2012, members of the Stein Eriksen Lodge Owner's Association, Inc. voted to expand the common area and enclose the Plaza Terrace and to add a Porte Cochere for the benefit of the members.
7. On July 20, 2012 the Stein Eriksen Lodge Owner's Association submitted an application for a Second Supplemental Sheet for All Phases of the Stein Eriksen Lodge condominium record of survey to reflect proposed changes to the existing platted Common area to construct 4,361 square feet of enclosed meeting space located on the 4<sup>th</sup> level of the Lodge (above the exiting large meeting room). With this addition, there would be a total of 9,927 square feet of support meeting space.
8. The area is currently used as outdoor meeting space and the proposal would enclose this area to be better utilized throughout the year.
9. The additional meeting space is proposed to be constructed primarily on the paved patio area above the existing lower level meeting rooms. An additional 3,600 sf of building footprint is proposed where the building is not proposed over existing footprint.
10. The height of the addition complies with the allowed height of 35' from existing natural grade and is 29' from existing natural grade. A Porte Cochere is also proposed to be constructed to provide protection from the weather and elements at the front entry. Exterior materials and architecture are proposed to match the existing buildings.
11. The application was deemed complete on August 3, 2012.
12. There are currently 5,565 square feet of support meeting space within the Lodge.
13. The Deer Valley MPD allows a square footage amount of support meeting space equal to 5% of the total residential floor area. A total of 9, 927 square feet of meeting space is allowed based on the 197,858.26 square feet of residential floor area.
14. The proposed Supplemental Sheet amended plat record of survey is consistent with the 11<sup>th</sup> Amended Deer Valley Mater Planned Development. The total meeting space would not exceed the allowed 5% of the total residential floor area.
15. No changes are proposed to the support commercial areas or to any residential or private area within the building or site.
16. The proposed amendment maintains a minimum of sixty percent (60%) open space, actual 61.9%.
17. There is good cause for the proposed amendment to the record of survey in that the amendment reflects proposed physical changes to the common area and includes support

meeting space consistent with the Deer Valley MPD. The enclosed meeting space will provide for more all season use of the area.

Conclusions of Law – Stein Eriksen Lodge

1. There is good cause for this amended record of survey.
2. The amended record of survey is consistent with the Park City Land Management Code, the 11<sup>th</sup> Amended Deer Valley MPD, and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed amended record of survey.
4. Approval of the amended record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Stein Eriksen Lodge

1. The City attorney and City Engineer will review and approve the final form and content of the plat 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 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 shall be recorded prior to issuance of a certificate of occupancy for the proposed meeting space.
4. All conditions of approval of the Deer Valley Master Planned Development (11<sup>th</sup> Amendment) shall continue to apply.
5. As common area, the meeting space is not a separate commercial unit or units, and as such may not be separately sold or deeded.
6. All required disturbance and impact fees will be calculated based on the building permit application and are required to be paid prior to issuance of a building permit.

**2. Richards/PCMC Parcel – Annexation Petition  
(Application #PL-12-01482)**

Planner Kirsten Whetstone reviewed the request for an annexation of two parcels. One is the 9.74 open space parcel owned by Park City Municipal Corporation along Highway 224. The property is owned by the City but it is located in the County and under County jurisdiction. The second parcel is 13.5 acres commonly known as the Richards Farm. Planner Whetstone noted that the

application is the Richards/PCMC Annexation and the co-applicants are Frank Richards and Park City Municipal.

Planner Whetstone noted that the Planning Commission previously reviewed this application and the associated materials and exhibits. Since Commissioner Gross was not on the Planning Commission at the time, Planner Whetstone had provided him the same information to review for this meeting.

Planner Whetstone stated that the request was for ROS zoning on the City Parcel and SF, single family zoning, for the Richards parcel. The applicant was requesting a seven lot subdivision plat. Per City requirement, any large parcel annexation application must also include a master planned development. If the annexation area is less than the MPD requirement, the City requests a preliminary subdivision plat, which was submitted with this application.

Planner Whetstone presented the proposed preliminary subdivision plat. She noted that during the meeting on May 9<sup>th</sup>, the Planning Commission requested additional information on house sizes in the area, information regarding the conservation easement, wetlands delineated on the subdivision plat, and location of the building pads; taking into consideration the new required setbacks from the wetlands. Planner Whetstone clarified that a perpetual conservation easement has been provided on the City parcel with no density. The delineated wetlands were identified in orange on the preliminary subdivision plat and a dotted line 50 feet away from the red color were the required wetlands setback areas.

Planner Whetstone identified the changes made to the preliminary plat since the last meeting. One change was that Lot 1 had been reduced in size to 1.29 acres. Lots 3 and 4 were previously one single lot. The Staff would have been comfortable with the larger lot as an equestrian lot; however, the neighbors were concerned that it was not in character with existing development. The applicant was interested in having property in the area that was not horse property. Planner Whetstone remarked that another major change was the addition of Lot 7. Planner Whetstone noted that she had not received the revised preliminary site until after the packets were sent, which was why Lot 8 was not shown in the Staff report. Lot 8 was an approximately 3,000 square foot lot for an indoor riding arena. The applicant had originally talked about removing the arena; however, because it is equestrian property, he realized the arena would be an amenity. The indoor riding arena would be privately owned by the HOA as common area for the subdivision. The Staff recommended that there should be no density associated with Lot 8.

Planner Whetstone remarked that Mr. Richards had wanted the ability to further subdivide the property at a later time, not understanding that when an annexation is presented the City Council would require the density to be known at that time. If changes are made after the annexation, the annexation agreement would need to be amended. Planner Whetstone noted that Mr. Richards worked with Alliance Engineering to divide the first phase of this development. She identified the four lots that would be the first plats of the development.

Planner Whetstone requested Planning Commission input on discussion items outlined in the Staff report. No action was being requested this evening. The Staff recommended that the Planning Commission conduct a public hearing and continue the item to October 24, 2012.

Frank Richards, the applicant, introduced Steve Schuler with Alliance Engineering and Grant McFarlane, a friend and advisor. Mr. Richards commented on a letter he had sent to the Planning Commission outlining past history and his current proposal.

Mr. Richards stated that if Lot 7 is approved, he would clean up the area and remove the rolls of wire, culverts and fence gates and other items he has accumulated over the years that sit behind Mr. McDonald's lot. He also proposed to enclose Lot 7 and all the other proposed lots with white vinyl fencing similar to a farm/ranch atmosphere. Mr. Richards stated that he would also remove the pens behind the indoor arena that was used to house cattle. He would take out the old hay barn which adjoins the indoor arena to the right. It is a 35 year-old structure and still in good condition, but the road to lot 7 would go through where the hay barn is currently located. He would also remove the corrals and pens east of the hay barn and clean up that area. Mr. Richards presented photos he had taken and identified the pens and barns he would remove and the areas where they were located. He pointed out that the area would be cleaned up and the rear most lot would adjoin Lot 6. Each lot would be 3 acres.

Mr. Richards stated that he was persuaded to sell 20 acres of property to the City in 1999 because the City was anxious to maintain a view corridor coming into the Park City. He was not interested in selling at that time, but the City wanted to have control to avoid potential problems in the future. As a trade-off, the City allowed Mr. Richards to continue using the property. Mr. Richards noted that the two lots along Pay Day Drive were half acre lots, and larger than anything else in the neighborhood. The two lots on the east side of the lane were 1.25 acres. They would be horse lots and allowed two horses on each lot. Mr. Richards stated that it was the lot he lives on and the other two 3- acre lots. He was not opposed to maintaining open space and noted that a good portion of his farm has already gone into open space. The footprint on the 3-acre lots would be 5% of the total lot area, and the remainder would be open space. He was also interested in maintaining the equestrian character. Five of the lots would be eligible for horses. Mr. Richard thought the indoor arena should be retained as a place where people can ride in the winter time.

Mr. Richards thought his proposal was reasonable and met all the criteria. In addition to cleaning up the area, Mr. Richards proposes to keep the tree-lined lane and continue it back to Lot 7. He believed this proposal would be a great addition to the City.

Chair Worel noted that in the last sentence of his letter, Mr. Richards indicated that he would be happy to consider offers if someone wanted to purchase this parcel of land and maintain open space. She asked if Mr. Richards wanted to pursue a potential purchase before moving forward with the annexation.

Mr. Richards clarified that he has not had a purchase offer and he questioned whether anyone would make an offer. He noted that Aspen Springs would be the most impacted by Lot 7, and those neighbors support the proposal because it would benefit their property.

Commissioner Gross asked if the cul-de-sac road coming in off of Pay Day would be a public or private road. Mr. Richards replied that it would be a private road, but it would still be required to meet certain standards. Regarding Lot 7, Commissioner Gross assumed Mr. McDonald had been living with the existing condition for a number of years. However, the proposed building envelope

for the house appears to be right in Mr. McDonald's face. Mr. Richards pointed out that Mr. McDonald's house sits farther up. Commissioner Gross noted that currently Lots 3 and 4 were showing 9,000 square foot as the maximum building, and he asked if that was still the correct size. Planner Whetstone replied that Lots 3 and 4 would be 3,525 sf footprints and 6,150 square feet as the approximate house size. She noted that the applicant had agreed to a maximum height of 28 feet on all of the lots. Mr. Richards stated that in looking at the height of the surrounding structures each one is 28 feet plus 5 feet. He suggested that a 30-foot maximum height was reasonable, considering that it was 3-feet lower than all other structures.

Commissioner Gross commented on a for-sale sign on Pay Day next to Lot 10. Once they superimpose what a house would look like on that lot, he questioned whether the proximity of the side yards would be tight with Lot 1 and the adjacent house. Planner Whetstone explained that the lot is already in the City and it was part of another subdivision. Mr. Richards stated that Kevin McCarthy had purchased Lot 10, which was in the previous annexation and a recorded plat. Commissioner Gross clarified that his issue was with the open lot next to Lot 10. He no longer had an issue knowing that the City owns the property. Planner Whetstone pointed out that Lot 10 is part of the Thaynes Creek Phase 2 Subdivision. Mr. Gross was concerned that once a house is built on the lot, it would look tight compared to the Estate size lots that were being created for the adjacent subdivision.

Commissioner Gross appreciated the open space and believes it is a wonderful view corridor.

Steve Schuler, with Alliance Engineering, stated that the house sizes and landscaped areas in the exhibit were only to convey the approximate sizes being proposed in terms of building square footages. It was not necessarily the location of the building envelope that would be part of the plat per se.

Commissioner Gross asked about the locations of the barns. Mr. Richard stated that he spoke with Mr. Jorgensen, the owner of Lot 9 who would be affected, and he had no problems with it. His house sits up high and he likes the livestock.

Commissioner Wintzer pointed out that the Planning Commission was looking at an annexation. Questions regarding density, house size, roads, utilities, etc. should be addressed in the subdivision process rather than the annexation process. Planner Whetstone replied that this was correct. A final subdivision plat would come to the Planning Commission for a recommendation to the City Council once the property is in the City. The Planning Commission would review the final subdivision plat for conformance with the preliminary plat.

Mr. Richards noted that the CC&Rs would require that the barns remain a specific type. The barns would be uniform in style and color. He believed it would improve the appearance and the value of the properties.

Commissioner Hontz noted that the existing buildings and pasture to the west of Lot 8 were not included in the annexation. Mr. Richard replied that it belongs to his neighbors, who were present to speak at the public hearing. When Mr. Richards purchased his property in 1975, the previous owner had sold that one acre parcel to another buyer with a right-of-way coming from Pay Day

Drive over his property. Mr. Richards clarified that he had no control over the right-of-way. Planner Whetstone noted that the one acre parcel is in the City. The vacant parcel to the west of the one acre parcel is not, and it is not contiguous to this annexation.

Chair Worel opened the public hearing.

Haley McDonald spoke on behalf of her family who owns the lot adjacent to Lot 7. She thanked the Planning Commission for considering the impacts to the neighbors and for asking the right questions. She referred to the comment that Lot 7 would be in their face, and she noted that Mr. Richards had visited her family to explain the proposal. Ms. McDonald stated that her only concern is that currently the lot is vacant, but eventually there would be a house in their back yard. She was comfortable with the proposal as explained, however she wanted to make sure that it stayed the same with minimal changes because had already gone from four lots to five lots to now 7 lots. Ms. McDonald believed the current proposal was reasonable. She wanted to make sure the house would not have a reflective roof because it would reflect up into their house.

Mr. Richards stated that the HOA would have an architectural review committee to address those issues.

Ms. McDonald reiterated her concern that major changes would be made without the neighbors being aware. She asked how they would be notified if significant changes were made to this particular plat.

Commissioner Wintzer stated that this was an ongoing process. He urged Ms. McDonald to stay involved with every meeting until the project is approved. The neighbors have the responsibility to communicate with Staff to keep abreast of the process. Commissioner Wintzer remarked that it was also important for Ms. McDonald and others to continue to provide input.

Ms. McDonald appreciated the process and the fact that everyone was doing the right thing to insure minimal impacts. Mr. Richards owns the property and he should be able to develop it.

Kevin McCarthy stated that he spoke at the last public hearing. He has been a neighbor to Frank and Kathy Richards for 25 years and went was involved in a contentious process when Mr. Richards subdivided the lots on Pay Day Drive. Mr. McCarthy stated that Mr. Richards is the personification of the term 'Steward of the Land". As Mr. Richards had mentioned, Mr. McCarthy had purchased the lot and was moving from up the canyon down to level ground. As soon as they know where the other house will be platted, his architect would work his house around it. Mr. McCarthy would be comfortable with whatever plan the City and Mr. Richards come up with.

Vicky Gabey stated that she has been a neighbor to the Richards for 37 years. She annexed into the City in the 1990's. Ms. favored the proposal. She asked the Planning Commission and Mr. Richards to remember the neighbors when planning the specifics of this project.

Chair Worel closed the public hearing.

Commissioner Hontz stated that she went through the materials the Staff supplied to Commissioner Gross, and she could not find a letter from the State verifying that there were no historic or cultural resources. She understood from the Code and in previous annexations that the City contacts the State for verification from their database, and the State provides a certified letter. That has been provided for every annexation and she would like to see it for this annexation.

Commissioner Hontz referred to the fiscal analysis and affordable housing analysis on pages 20 and 21 of the May 9<sup>th</sup> Staff report. She did not agree with the actual numbers that were used for that analysis and she believed the analysis was incorrect. However, after running numbers that she thought were more logical, her recommended change would not necessarily affect the outcome. As an example, Commissioner Hontz rejected the 50/50 split on primary versus secondary homes based on Summit County numbers. She would use the actual numbers from Aspen Springs or the adjacent neighborhoods because it would provide a better reflection of who would purchase in the area. Commissioner Hontz believed there would be less of a benefit with more primary owners that there would be with more secondary owners. Commissioner Hontz remarked that the numbers used in the data creation were not logical towards the reality of the development.

Commissioner Hontz stated that this was definitely the appropriate location for this type of development in terms of lot size and home size. It was also the exact appropriate location per the General Plan and what they were trying to accomplish with the update of the General Plan in terms of maintaining agricultural use in town. On the other hand, when the City does an annexation, particularly in this case where it would be up-zoning, the question is how this benefits the City and whether open space is enough. Commissioner Hontz believed this was an opportunity to think about additional benefits such as TDRs, better conserved open space, and/or affordable housing. It is a benefit for the land owner to go from zero to seven units, and the Planning Commission needs to find the benefits for the City.

Commissioner Wintzer was concerned about putting a fence around Lot 7. He preferred that Lot 7 appear to be more open. He thought it could be done by either reducing the size or shifting it into part of Lot 6. Commissioner Wintzer hated to see a white picket fence around some of the houses because the current appearance of the property is so nice.

Mr. Richards explained that he was only trying to get a farm feeling. He did not feel strongly about white fencing if the Planning Commission preferred a different type of fence. Commissioner Wintzer clarified that his comment was not about the type of fencing. He personally wanted a portion of Lot 7 to appear to be open space. Mr. Richards pointed out that all but 5% of the lot would be open space. Commissioner Wintzer replied that once the property is fenced it loses the appearance of being open. He thought Lot 7 was counterintuitive to the rest of the subdivision. If Lot 7 was moved further to the south, less trees would have to be removed for the road, and there would be less land disturbance and a feeling of more open space. Commissioner Wintzer thought Mr. Richards could do that and still achieve the same density and value. Commissioner Wintzer believed that Lot 7 was too big and pushes too far to the north. It needs to be more consistent with the rest of the subdivision.

Commissioner Strachan concurred with Commissioner Wintzer. He believed the development worked in this location and the annexation was worthwhile. Commissioner Strachan stated that as

part of the annexation process the Planning Commission makes a recommendation to the City Council regarding the zoning. He felt the zoning should be Estate rather than Single Family. It would not upset the proposed development and it would not reduce the number of homes. He read the purposes of the Estate zone and thought they fit perfectly with this proposal; as opposed to the purpose statements of the Single Family zone. The Estate zone is a better fit and it also protects the corridor in the future when Mr. Richards passes and another person owns the property.

Mr. Richard understood that the density was approved with the plat. Commissioner Strachan replied that owners can request a plat amendment that could be approved by a future Planning Commission if it is allowed in the zone. He explained how that might be avoided if the property was zoned Estate.

Commissioner Wintzer questioned whether the Estate zone would work because Mr. Richards would only be allowed four units under the zoning requirements. He suggested that the Planning Commission address the issue through the annexation agreement.

Mr. Richards stated that zoning was not an issue as long as he could achieve seven units.

Commissioner Savage pointed out that this was a co-application with the City related to annexation of the open space, and Mr. Richards has rights to utilize the open space for grazing. He wanted to know what would happen to those rights as a consequence of development. He asked if the right would go into the HOA or remain with the single lot Mr. Richards would continue to own.

Mr. Richards and the Commissioners discussed different scenarios that could occur. Planner Whetstone stated that in her research she found an agreement between Summit Land Conservancy, who holds the deed restriction, and the City. There appears to be a separate agreement that allows Mr. Richards to utilize that property and it had to do with the special warranty deed. Planner Whetstone pointed out that because the agreement regarding what occurs on the property is between the City and Summit Lands Conservancy, they need to find the agreement that allows Mr. Richards to use and maintain the property to see if it can be assigned to an HOA, and whether the restriction agreement between the City and Summit Lands Conservancy needs to be amended. Planner Whetstone would research the matter. Commissioner Wintzer understood from the comments that the main goal is to maintain the same use on the public land.

Commissioner Gross understood that when the City purchased the land, they also purchased water rights from Mr. Richard. Mr. Richards stated that he gave the City seven acre feet and they purchased three additional for a total of 10 acre feet of water. Mr. Richards uses the water to irrigate the property. He has approximately 20 acre feet associated with his 13-1/2 acres. He proposes to sell 2 acre feet to each lot.

Planner Whetstone summarized that the Planning Commission would like to relocate the building pad on Lot 7. Mr. Richards was comfortable with that request. Planner Whetstone asked if the Planning Commission had issues with dividing Lot 3, which was a horse lot, into two lots along Pay Day Drive. The Commissioners had no issue with dividing Lot 3.

Mr. Richards referred to the Staff recommendation to continue this item to October 24<sup>th</sup> and noted that he would not be able to attend that meeting.

MOTION: Commissioner Savage moved to CONTINUE the Richards/PCMC Annexation and Zoning until November 14, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

3. **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 10-Board of Adjustment; Chapter 11-Historic Preservation; Chapter 12-Planning Commission; Chapter 15-Definitions. (Application #PL-12-01631)**

Chair Worel requested that Planner Whetstone review the LMC items that were recommended be continued this evening.

Planner Whetstone stated that the Staff noticed a number of additional changes beyond the analysis and redlined changes in the Staff report, and recommended that those items be continued for further analysis. The 22 items to be continued were outlined on page 79 of the Staff report. Planner Whetstone noted that the items were publicly noticed and they would be continued to the meeting on October 24<sup>th</sup>.

Planner Whetstone stated that the amendment to Chapter 6 regarding MPDs in the Historic District was redlined in the Staff report per the discussion from the last meeting. However, the Planning Commission had requested a history on MPDs, and since the Staff was still compiling that information they recommended continuing that discussion to October 24<sup>th</sup>. Planner Whetstone also recommended that the Planning Commission continue items 3, 5 and 7 in the Analysis Section to October 24<sup>th</sup>.

Commissioner Wintzer suggested that the motion to continue identify the amendments by Chapter as listed on page 80 of the Staff report. Chair Worel clarified that Chapters 2, 6, 7 and 15 would be continued. Commissioner Hontz noted that some items under those chapters were not recommended to be continued. However, she was not prepared to move forward with them this evening and would be comfortable if they were continued as well.

Chair Worel opened the public hearing on the items to be continued.

Chris Schaefer, a property owner in condominiums on Main Street, commented on MPDs in the Historic District, particularly as it pertains to the Kimball Arts Center application. Mr. Schaefer stated that the concept of a master planned development assumes a large area that is going to be developed, possibly multi-use and possibly crossing boundary lines. He noted that the proposed Kimball building does not meet criteria because it is a single building on a single lot within a single zone. He only became aware of the changes that day and had not had time to read and understand the proposed changes. Mr. Schaefer stated that as a property owner and a citizen he was concerned that the Kimball, by applying for master planned development status for their project, was trying to make a run around the Planning Commission. He hoped the proposed

changes would not permit that. The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24<sup>th</sup>. She is on the Board of the Town Lift Condominiums HOA. Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

#### Building Height Measurement and Story Definition

Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope.

She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

Chair Worel asked if this was a City-wide issue and not just in the Historic District. Mr. Root replied that it was City-wide. The majority of complaints to the Building Department come from the Meadows.

Commissioner Savage asked how many of the complaints are legitimate. Mr. Root stated that nearly every complaint has been legitimate. Commissioner Savage asked if the amendment would eliminate the complaints. Mr. Root replied that it would give the Building Department the control to issue a stop work order on a project until they made sure everything was in compliance. City Engineer Cassel noted that it would also allow the City to look at the plat to make sure open space or landscaping requirements were not being violated. Commissioner Savage clarified that currently, anyone who does a project without a building permit, since one is not required, is responsible for making sure their implementation is consistent with all the Code requirements. Requiring a building permit would be preventative maintenance from having to resolve so many issues.

Commissioner Savage asked if a building permit would be required if he wanted to put in a 4 'x 5' concrete slab outside his back door for his trash cans. Mr. Root was unsure how language addresses that type of situation. Planner Astorga stated that the Staff had not proposed a minimum standard but it could be discussed.

Chief Building Official Root stated that another reason for looking at building permits is to address problems in the soils districts where people haul the soils away and the City has no knowledge because there was no permit.

Commissioner Hontz believed the requirement would remedy some situations in the Historic District where owners pull the landscaping and leave it without pouring concrete or laying dirt. The building permit would allow the City to review the plat to see if that space was approved as landscaping. It would also provide a record of improvements that are made over time.

Commissioner Wintzer concurred and commented on several circumstances in Old Town that would not have occurred if this permit process had been in place. He strongly supported the permit process. Director Eddington clarified that the same situations occur in Prospector, the Meadows and everywhere else in the City. Without a proactive measure it is challenging to deal with people once they have done the work and expended the money.

Commissioner Wintzer asked if the permitting process would require inspections or whether it was just a matter of obtain a permit and signing off the plans. Planner Astorga stated that the Staff was working on a preliminary process where the owner would apply for an over-the-counter permit and the Planning Department would check the plan for specific requirements. They were also looking at the first inspection once the forms are in place, and final inspection before the file is closed. The Staff was internally working with the Planning Department to determine who would do the inspections.

Commissioner Savage asked about the cost for a permit. Planner Astorga stated that most building fees are based on the valuation of the work. The fee would be minimal and determined by the Building Department. Chief Building Official Root explained that based on the scale of value of

work, the last driveway permit was a \$32 fee. Mr. Root stated that if a slab or driveway has rebar, it is required by Code to have a permit. He noted that some of the contractors eliminate the rebar to bypass the permit. The building permit fee depends on the amount taking place and they go off the contractor's valuation.

Chair Worel opened the public hearing.

Ruth Meintsma was happy to see this discussion because in Old Town she sees constant paving where there should not be paving. She stated that on the uphill wall of Woodside is approximately 10 feet of City easement. When someone has a project and a lot plan that shows paving and landscaping they put it in, but in many instances the 10 feet from the lot line to the Woodside wall is paved for private parking. Ms. Meintsma noted that much of this work occurs on weekends when no one is around. She wanted to know how they would address weekend projects if a building permit is required and the project is completed by Monday.

Chief Building Official Root stated that the City recently hired a new Code Enforcement Officer to work weekends primarily to catch weekend projects that take place. If someone works without a permit the fee would be doubled. Before the fees begin there would be an outreach to the Homebuilders Association, contractors, and real estate agents to notify everyone of the policy change.

Director Eddington understood that if the policy is codified and a building permit is required, the flatwork would have to be removed if it does not meet Code. Mr. Root replied that this was correct. The City currently does not have that enforcement ability without a permit.

Chair Worel closed the public hearing.

Commissioner Wintzer reiterated his support. Commissioner Strachan stated that he would change his opinion from the last meeting and support it for all zones. However, he did not believe a double permit fee was enough penalty to deter people from violating the requirement. If the policy is put in place for a building permit, the penalty should be to remove any work that was not approved by the Planning Department, particularly in Old Town where it matters most.

Building Official Root explained that the double fee would apply to those who had a plan approved by the Planning Department but did not obtain a building permit or deviated from the approved plans. Any work that was not approved by the Planning Department would need to come out.

Director Eddington recommended that the Planning Commission continue this item to October 24<sup>th</sup> to allow the Staff time to rework some of the language based on the discussion this evening, including adding some of the landscaping architecture language.

MOTION: Commissioner Hontz moved to CONTINUE the proposed LMC amendment requiring a building permit for flatwork to October 24, 2012. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Planner Whetstone recommended that the Planning Commission continue the amendment addressing fences and walls until October 24<sup>th</sup> and discuss everything at the same time.

MOTION: Commissioner Strachan moved to CONTINUE the item regarding fences and walls to October 24, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Removal of "Special Exceptions" that are currently reviewed by the Board of Adjustment.

The Staff recommended removing the entire LMC Section 15-10-8, Special Exceptions for the reasons identified in the Analysis on page 84 of the Staff report. The only other change would be the renumbering of the variances.

The Staff recommended that the Planning Commission review the proposed language and forward a positive recommendation to the City Council on the proposed changes.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Hontz stated that as the liaison to the Board of Adjustment she felt it was best to move this amendment forward.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council to remove Sections 15-10-3 and 15-10-8, Special Exceptions, from the Code. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Streamline Review Process

Planner Astorga had prepared a color coded flow chart to address the Historic District Design Review Appeal process. He noted that the items in Black and Red identified the current process. The Black was an approval with no issues. The Red showed the three types of appeals allowed per Code. An appeal of the Staff determination would be heard by the HPB. An appeal of the HPB determination would go to the Board of Adjustment. Appeal of the BOA decision would go to Third District Court.

Planner Astorga noted that the Green color represented the proposed change in the Staff report where it starts as a typical HDDR application which they would call a streamlined design review. If the design review is not contested it would follow the same process as an approval under the current Code. A neighboring property owner or the applicant, could contest the review. If it is contested it would automatically go to the HPB and the HPB could approve it for a building permit. If the HPB determination is appealed, it would go to the Board of Adjustment and their

determination could be appealed to the Third District Court. Director Eddington noted that the Green flow line clarifies the process and meets State Code.

Planner Astorga introduced an alternative process identified in Blue that would follow the traditional approach. If contested it would go to the HPB and then to Third District Court. The alternative process would remove the Board of Adjustment from the appeal process. Planner Astorga requested input from the Planning Commission on whether the alternative was better than the contested review where it would go to HPB, not on appeal, but simply contested. It would be called a formal review.

Commissioner Strachan asked for clarification on the "streamlined approved (BP) shown on the flow chart. Planner Astorga replied that it would be an approval with no issues and the applicant could apply for a building permit.

Assistant City Attorney McLean clarified that the process also applies to Administrative CUPs. She stated that either process being proposed was legal.

Commissioner Hontz understood that a CUP would go to the Planning Commission and not the HPB. Ms. McLean replied that this was correct. Commissioner Hontz asked if it would then go to the Board of Adjustment or the City Council. Ms. McLean replied that it would go to the City Council.

Assistant City Attorney McLean referred to the alternative process in Blue and stated that the first level of review did not have to be Staff. It would also be legal to designate it to be the HPB. Currently, under the Staff review there is no public hearing process. It is a streamline process because the Staff reviews it and makes written comment. Under the contested version, someone could contest it and ask for formal consideration and it would go directly to the HPB. In the alternative process, the Planning Commission would need to decide the breadth of the initial review and whether it should be a public hearing and whether the Staff should review it or the HPB. If they establish the land use authority, the question is who should be the appeal authority. The Staff was proposing that it be the HPB, with Staff doing the initial review.

Planner Astorga clarified that the Staff does not hold an official meeting but they do notify property owners within a hundred feet and provide a period of 14 days to allow the public to look at the plans and share their thoughts.

Based on his understanding of the process, Commissioner Savage wanted to know the downside of favoring the alternative process in Blue. Ms. McLean stated that the initial review under the blue process would not be a streamlined review and there would be no public hearing at the initial review. Commissioner Hontz noted that there never is public input unless it is appealed. Commissioner Savage pointed out that public is noticed and has the opportunity to submit comment. Commissioner Hontz pointed out that many owners live in California or Florida. She was told that addresses are on file for out-of-state owners and they are sent letters. Director Eddington stated that owners are notified when the application is received and they are notified when a final decision is made. Commissioner Hontz felt it was more powerful when someone takes the time to attend in person and make their comments versus sending a letter.

Commissioner Strachan clarified that Assistant City Attorney McLean was proposing the process in Green. Ms. McLean stated that under the process identified in Green, the applicant would have the ability to expedite the process and request that it go straight to the HPB for formal review. If the application was uncontested it would be approved by Staff.

Chair Worel opened the public hearing.

Jeff Love, a resident at 615 Woodside, passed out pages he copied from the design guidelines, along with pages of the actual court ruling by Judge Kelly. He believed it would shed light on the situation. Mr. Love was amazed at what was not being discussed in the conversation. He stated that the catalyst for the proposed change to the LMC was a lawsuit that he filed against the City and Judge Kelly in Third District ruled in his favor. He had three arguments in court and the ruling states that Park City's Land Management Code violates State law in respects to the appeal process.

Commissioner Wintzer informed Mr. Love that the Planning Commission was trying to correct the process to meet State Code.

Mr. Love believed the ruling from Judge Kelly was an important part of the process. He referred to LUDMA, the Municipal Land Use Development and Management Act. In the ruling it states that LUDMA governs how a municipality such as Park City may regulate land use within its jurisdiction. He also read Conclusions of Law 50 and 51 in the ruling, which talks about how appeal authorities should be established and how LUDMA delineates the scope of the appeal authority and that the City cannot require an adversely affected party to pursue excessive appeals. Mr. Love also read from page 13 of the ruling which stated that the Court concluded that the petition, Mr. Love, was subjected to an illegal procedure because he was required to pursue successive appeals due to the successive appeal provisions found in the Park City Land Management Code. Those provisions are illegal because they violate the LUDMA provisions.

Mr. Love stated that the change proposed by Park City Legal is to essentially change the name of the Historic Preservation Board appeal from "appeal" to "formal consideration". Mr. Love stated that Judge Kelly did not rule that the name of the process was illegal. He rules that the process was illegal. In his opinion, changing the name of one meeting does not make it legal. He believes that Park City Legal is playing a semantics game and creating a loophole for themselves to make something determined to be illegal, legal.

Mr. Love stated that if the Planning Commission recommends the proposed change to the City Council and they adopt it, it would make a mockery of Third District Court and Judge Kelly. If it is adopted by the City Council, Mr. Love guaranteed that it would be challenged in court. Mr. Loves stated that the way to make the process legal is to eliminate one of the two appeals. He personally felt it was logical to eliminate the Board of Adjustment. If there is an issue with a historic design application and it is appealed, the HPB is the Board that should hear it because they are more qualified to hear the appeal. Mr. Love thought the flow chart was a perfect example to support his comments. The only difference between the red and the green was the words "contested review".

Mr. Love asked the Planning Commission to do the right thing and interpret what has occurred and correct the LMC the way it should be corrected.

Ruth Meintsma, 305 Woodside, understood that the 14 day period was after the HDDR when the public could offer their comment. If someone has a different opinion from the Staff review they would be able to contest it and ask to have the HPB review it. Ms. Meintsma believed that was a necessary step and she did not consider it an appeal. The Historic Preservation Board has a particular purview on looking at historic and it makes sense to have that group look at it according to the comments and opinion of the citizen. Ms. Meintsma liked the fact that an applicant would have the choice to request a review by the HPB to streamlined the process. She stated that people in the neighborhood have more insight and information than the Staff. Being able to contest an application and provide input is a benefit for the citizens. She believed this was an incredible addition to the process.

Chair Worel closed the public hearing.

Commissioner Strachan asked if there was anything in the Code that makes the applicant go through the Green process, or if they could always elect to go through the Blue process. Planner Astorga stated that the Blue is an alternative process. Commissioner Strachan understood that the Blue was an alternative process, but he wanted to know if anything in the Code would make an applicant go through the Green only and never the Blue. Planner Astorga replied that as proposed, the applicant would go through the Green process every time. They could never go through the Blue because it is a separate alternative with different language.

Commissioner Savage understood that if they come out of a design review application and the neighbors have an issue, it would be a contested review with the HPB. If they come out of a design review application and there is an issue between the Planning Department and the applicant, the applicant could appeal the Staff decision. If they come out of the design review and no one has surfaced an issue, it is a streamlined approval. Planner Astorga replied that this was correct. Commissioner Savage clarified that a contested review under the HPB is not an appeal. It is the process used to resolve the difference of opinion between the Planning Department and the neighbor. Therefore the Green is not a three appeal process. It is a mechanism by which a neighbor's issue can be addressed by the Historic Preservation Board.

Commissioner Strachan pointed out that if the HPB rules in favor of the applicant and the neighbor has the same issue, the neighbor has the right to appeal and the applicant goes through the process again.

Commissioner Gross questioned how the language read in Section 15-11-12 on page 128 of the Staff report regarding the Historic District or Historic Site Design Review. Planner Whetstone understood his concern and changed the language to read, "...if the application is uncontested the Planning Department shall approve, approve with conditions or deny all historic design review applications involving an Allowed Use...."

Commissioner Hontz was unable to find the definition of an Administrative CUP. Assistant City Attorney McLean explained that Administrative CUP is defined under each zone in the Code.

Commissioner Hontz stated that in order to feel comfortable with the Administrative CUP process, she would have to research each zone.

Commissioner Savage asked if the alternative process in Blue would resolve Mr. Love's contention. Mr. Love answered yes. Commissioner Savage understood that Mr. Love's motive was to eliminate one step in the current process. Mr. Love stated that his motive was that the City's appeal process violates State law. Commissioner Savage asked if Mr. Love had any other objectives regarding the process, other than to make sure that the City process is consistent with the ruling by Judge Kelly. Mr. Love stated that his objective was to follow the Planning Commission process because he did not like what the Park City Legal Department was proposing and he wanted to make sure the appeal process was changed correctly.

Commissioner Savage wanted to know the reasons why the Planning Commission should not choose the process identified in Blue. Ms. McLean stated that the major policy difference was that the Staff would do the initial review with no opportunity for a public hearing process. The Green process would require a public hearing for every application. Commissioner Savage asked if a public hearing could be held by the Staff or if it would require participation from the HBP review or another Board. Planner Whetstone replied that the Staff could hold a public hearing.

Commissioner Savage clarified that along with public notice, the Staff could announce a public hearing at a certain time and date and anyone who wanted to participate in a public hearing could attend. Commissioner Strachan stated that a public hearing could be a step in the design review application. The public hearing would become part of the Blue process. Commissioner Savage explained that if the application is approved by the Planning Staff subject to public input, it would be the end of the process. If the Planning Department denies the application, the applicant would have the option to appeal and it would go to the HPB. If the HPB supports the Staff's decision, the applicant would have the right to appeal that decision to Third District Court. Commissioner Savage believed that would resolve Mr. Love's issue and the City would have a rapid and efficient process. Commissioner Strachan concurred. Planner Whetstone pointed out that an added benefit is that the Board of Adjustment would not be involved in design review.

Director Eddington noted that the process suggested by Commissioner Savage was similar to the current process with the exception of removing the Board of Adjustment and adding a public hearing to the Staff review. The Staff would draft appropriate language for the next meeting.

Planner Cattan asked if Staff reports would be required for the public hearing. Commissioner Savage recommended that the Staff do nothing more than what they currently for a design review, except notice a public hearing and make the information available on the website.

Commissioner Hontz asked if any of the Commissioners were interested in having the Staff go through the zones and list the uses this would affect. Director Eddington stated that he would have someone go through the zones and list the Administrative CUPs.

**MOTION:** Commissioner Strachan moved to CONTINUE the streamlined review and appeals process discussion in Chapters 1, 5, 10 and 11 of the Land Management Code to October 24, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Chair Worel noted that two items were scheduled for work session this evening.

Given the late hour and the amount of time the Planning Commission and Staff would like to give to the General Plan, Director Eddington proposed that the Planning Commission schedule a special work session/informational meeting to hear the presentation and discuss the General Plan. The Planning Commission agreed to meet on Tuesday, October 16<sup>th</sup> at 5:00 p.m. The location would be determined and the Commissioners would be notified. The meeting would be publicly noticed.

The Planning Commission postponed the work session Annual Open and Public Meetings Act to October 10, 2012.

The Park City Planning Commission meeting adjourned at 9:00 p.m.

Approved by Planning Commission: \_\_\_\_\_



## **REGULAR AGENDA**





## Planning Commission Staff Report

**Subject:** 264 Ontario Avenue Subdivision  
**Author:** Kirsten Whetstone, MS, AICP  
**Application:** PL-12-01628  
**Date:** October 10, 2012  
**Type of Item:** Administrative – Plat Amendment

### **Summary Recommendations**

Staff recommends that the Planning Commission review the plat amendment application, conduct a public hearing, and consider forwarding a positive recommendation to the City Council for the 264 Ontario Avenue Subdivision plat amendment according to the findings of fact and conclusions of law outlined in the attached ordinance.

### **Topic**

**Applicant:** David and Patricia Constable, Owners  
**Location:** 264 Ontario Avenue  
**Zoning:** Historic Residential Low Density (HRL)  
**Adjacent Land Uses:** Residential  
**Reason for Review:** Plat amendments require Planning Commission review and City Council approval

### **Proposal**

The applicant is requesting a plat amendment to combine Lots 13, 14, 15 and a portion of Lot 16, Block 60, of the Park City Survey, into one lot of record for an existing "Landmark" Structure located on this property. The house was constructed across property lines and encroaches into the platted Ontario Avenue right-of-way. The applicant desires to construct an addition to the existing historic house. Approximately 96 sf of lot area will be dedicated as McHenry Avenue right-of-way (ROW) and an encroachment easement on Ontario Avenue will be recorded for the existing house and retaining walls.

### **Purposes of the HRL District**

The purposes of the Historic Residential Low-Density (HRL) District are to:

- (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.

### **Background**

On August 1, 2012, the City received an application for a plat amendment for the property at 264 Ontario Avenue. The application was deemed complete on August 10, 2012. 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 (Exhibit A- proposed plat). The resulting lot of record contains 5,677.45 sf. The total property size is 5,773.45 sf and 96 sf will be dedicated with the plat amendment for McHenry Avenue ROW. The proposed lot is 75' wide and 70' deep.

The proposed lot fronts on platted Ontario Avenue to the west. Paved Ontario Avenue is approximately sixteen feet (16') wide and is located entirely outside of the platted ROW in this area. The existing Landmark house, historic porch, and non-historic shed at 264 Ontario encroach up to eight and a half (8 ½) feet into the platted Ontario ROW (Exhibit B- existing conditions).

Platted Ontario Avenue is located on a 45% slope that makes up the front yard of 264 Ontario. The proposed lot also has frontage on existing, paved McHenry Avenue to the east. McHenry Avenue is approximately thirteen feet (13') wide in this location and is also not located within the platted McHenry ROW in this area.

The existing house is listed on the Park City Historic Sites Inventory as a "Landmark" structure. The house was constructed in or around the year of 1890. The existing house crosses over the northerly property line of lot 14 onto adjacent lot 15 and across the southerly property line of Lot 14 onto adjacent lot 13, and also encroaches onto the platted Ontario Avenue. All of the property is owned in common by the owner of the historic structure at 264 Ontario Avenue. The owner does not propose to move the house. The shed is not indicated on the Sanborn maps.

The applicant desires to build an addition to the rear of the Landmark house but cannot do so without a plat amendment to remove internal lot lines that go through the existing house. A plat amendment must be approved and recorded prior to issuance of a building permit. Additionally, a Steep Slope Conditional Use Permit application will be required for construction of more than 1,000 sf because the property exceeds thirty percent (30%) slope.

The property is located within the Historic Residential Low Density (HRL) zoning district. All future applications for construction of an addition must comply with the Land Management Code (LMC) and the Park City Historic District Design (HDDR) Guidelines.

## **Analysis**

The application is a plat amendment to create one lot of record at 264 Ontario Avenue. The existing Landmark structure has existed across the lot lines since it was constructed in or around the year of 1890.

The proposed plat amendment will create one lot of record that is seventy five feet (75') wide by seventy (70') deep. Lot depth is the minimum distance between the front and rear property line and because of the proposed ROW dedication the south property line is seventy (70') deep. The area of the proposed lot is 5,677.45 square feet (this does not include the ninety six (96) square feet of area to be dedicated for McHenry Avenue). The minimum lot size in the HRL zoning district is 3,750 square feet. The minimum lot width in the HRL zone is thirty five feet (35'); measured fifteen feet back from the Front lot line.

The following table explains the site requirements for lots within the HR-1 zoning district and how the proposals comply with the zoning regulations:

Required	Proposed Lot
Lot Size: Minimum 3,750 square feet	5,677.45 square feet- complies with minimum required. Does not include ROW.
Density: Minimum lot size for single family dwelling is 3,750 square feet and duplexes are not allowed.	One single family dwelling- complies and is an allowed use.
Front yard. The minimum front yard is ten feet (10').	Existing historic home encroaches 8.5 feet over the front property line- this is an existing legal non-complying setback.
Rear yard. The minimum rear yard is ten feet (10').	Existing historic home is 55' from rear lot line and complies with the minimum of 10'.
Side yard. The minimum side yard is 5 feet (5') with a combined minimum of 18 feet (18').	Existing historic home is 10 feet from the north side lot line- complies. The existing historic home is 25' from the south side lot line- complies.
Footprint: based on 5,677.45 sf lot is 2,064 sf.	2,064 sf maximum footprint. The existing historic home has a footprint of 793 sf. Maximum additional footprint is 1,271 sf subject to HDDR and Steep Slope CUP.

## **Footprint/House Size Analysis**

The maximum footprint for the lot combination (based on the proposed lot size as permitted by the LMC) is 2,064 sf. The existing historic house has a footprint of 793 square feet, not including the porch. The total permitted additional footprint is 1,271 sf. The plat amendment is consistent with the purposes of the zone to combine lots, decrease the overall density, and preserve the historic home in its existing location. Other plat amendments in the neighborhood have resulted in similar or larger maximum footprints and have not been further restricted by a condition of the plat, but required to comply with the footprint that results from the

footprint formula in the LMC (see Table 1). In this area, the average footprint of combined lots greater than the standard 3,750 sf, is 2,283 sf

The total actual amount of footprint and floor area of any future addition is subject to Historic District Design Review and Steep Slope CUP approval. The applicant has hired an architect to begin designing an addition and has been before the Design Review Team with a pre-HDDR application; however no Steep Slope CUP or HDDR applications have been submitted. The LMC in the HRL zone limits setbacks, building footprint, building height, and maximum number of stories. Additionally, the Steep Slope CUP criteria indicate that an adverse impact could be mitigated by a house size reduction. Given the existing location of the historic structure and the setbacks established with the plat amendment Staff finds that the lot combination would not result in a significantly larger footprint than exists in this neighborhood and is less than the average footprint of larger combined lots in the neighborhood (Exhibit C). Staff finds that the plat amendment complies with the Land Management Code.

**Table 1 – Footprint/House Size Analysis**

Plat name	Map letter	Address	Total Lot Area (sf)	Allowed Footprint per LMC (sf) per Lot	Restricted Footprint per Plat (sf)
Thomas & Dickens Sub	A	265/275 Ontario	Lot 1- 4,081 Lot 2- 3910 ROW-1,788	1,623 1,570	n/a
308 Ontario Subdivision	B	308 Ontario	Lot 1- 5,387	1,991	n/a*
321 McHenry Subdivision	C	321 McHenry	Lot 1- 4,610	1,779	n/a
331 McHenry Subdivision	D	331 McHenry	Lot A- 8,345 Lot B- 3,750 Lot C- 3,750	2,610 1,518 1,518	n/a n/a n/a
335 McHenry Replat	E	335 McHenry	Lot 1- 9,603	2,795	n/a
Baer Subdivision	F	253 McHenry	Lot 1- 3,657 ROW- 2,843 Total- 6,500	2,256	2,256**
Ivers/Baer Replat	G	235 McHenry, et all	Lot 1- 3,750 Lot 2- 6,430 Lot 3- 6,078	1,518 2,241 2,161	n/a n/a n/a
Rossie Hill Subdivision	H	310-350 McHenry	Lot 1- 15,324 Lot 2- 5,908 Lot 3- 9,606 Lot 4- 7,684	3,238 2,119 2,799 2,494	3,118*** n/a 2,627 2,383
<b>264 Ontario Subdivision</b>		<b>264 Ontario</b>	<b>Lot 1- 5,677 ROW- 96 sf Total- 5,773</b>	<b>2,064 (not including the dedicated ROW area)</b>	<b>n/a****</b>

\* n/a indicates that the footprint was not restricted with the plat amendment.

\*\* Plat allows footprint to be based on lot size plus dedicated ROW, then utilize the LMC formula.

\*\*\* Footprints were restricted due to a platted non-disturbance area that didn't count into footprint calculations.

\*\*\*\* Average footprint of re-platted lots (of lots greater than 3,750 sf), in this area, is 2,283 sf. The average footprint for all re-platted lots within these replats is 2,140 sf.

### **Good Cause**

“Good cause”, is defined in the Land Management Code as “Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and Park City and furthering the health, safety, and welfare of the Park City community.” Conditions of approval, stipulated to by the applicant, further enhance the good cause and preserve the character of the neighborhood.

Staff finds good cause for this plat amendment as it will combine all of the property owned by the owner at this location; dedicate property and snow storage easements for McHenry Avenue, decrease density by combining lots and resolve encroachment issues created by the existing house.

### **Process**

This application combines the property associated with the existing historic house and removes interior property lines that the house was constructed over. This process does not approve any future construction. Prior to issuance of any building permits, the applicant would have to submit a Historic District Design Review application, requiring noticing of the adjacent property owners. A Steep Slope Conditional Use Permit (CUP) application is also required per the LMC for any construction of more than 1,000 square feet of floor area on a slope of 30% or greater. The applicant has hired an architect to design the addition and has been before the Design Review Team with a pre-HDDR; however no CUP or HDDR applications have been submitted yet. 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 Planning Department has reviewed this request. The request was discussed at Internal Development Review meetings where representatives from local utilities and City Staff were in attendance. There are no outstanding issues regarding this plat amendment that are not addressed by the conditions of approval.

### **Notice**

Notice of this hearing was sent to property owners within 300 feet and the property was posted fourteen days in advance of the public hearing. Legal notice was also published in the Park Record.

### **Public Input**

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

### **Alternatives**

1. The Planning Commission may forward a positive recommendation to the City Council for the 264 Ontario Avenue Subdivision according to the

- findings of fact, conclusions of law, and conditions of approval in the attached ordinance; or
2. The Planning Commission may forward a negative recommendation to the City Council for the 264 Ontario Avenue Subdivision and direct staff to make findings to do so; or
  3. The Planning Commission may continue the 264 Ontario Avenue Subdivision until a date certain to allow staff to provide any additional requested information.

### **Significant Impacts**

There are not significant impacts from the proposed subdivision.

### **Consequences of not taking the Suggested Recommendation**

An addition could not be built across a property line and the encroachments would need to be addressed prior to issuance of building permits for any additional construction.

### **Recommendation**

Staff recommends that the Planning Commission review the plat amendment application, conduct a public hearing, and consider forwarding a positive recommendation to the City Council for the 264 Ontario Avenue Subdivision plat amendment according to the findings of fact and conclusions of law outlined in the attached ordinance.

### **Exhibits**

Ordinance

Exhibit A – Proposed plat

Exhibit B – Existing conditions survey

Exhibit C – Aerial

Exhibit D – Photos

**Ordinance No. 12-**

**AN ORDINANCE APPROVING THE 264 ONTARIO AVENUE SUBDIVISION  
COMBINING LOTS 13, 14, 15 AND A PORTION OF 16, BLOCK 60, OF THE  
PARK CITY SURVEY, INTO ONE LOT OF RECORD FOR 264 ONTARIO,  
LOCATED IN PARK CITY, SUMMIT COUNTY, UTAH**

**WHEREAS**, the owner of the properties known as 264 Ontario Avenue, has petitioned the City Council for approval of a plat amendment combining Lots 13, 14, 15, and a portion of 16, Block 60 of the Park City Survey; and

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

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

**WHEREAS**, the Planning Commission held a public hearing on October 10, 2012, to receive input on the 264 Ontario Avenue Subdivision; and

**WHEREAS**, the Planning Commission, on October 10, 2012, forwarded a recommendation to the City Council; and

**WHEREAS**, on October 25, 2012, the City Council conducted a public hearing on the 264 Ontario Avenue Subdivision; and

**WHEREAS**, it is in the best interest of Park City, Utah to approve the 264 Ontario Avenue Subdivision.

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

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The 264 Ontario Avenue Subdivision as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

**Findings of Fact:**

1. The property is located at 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 feet (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 crossing 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 ½) 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 Town" 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 fronting 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:

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 plat amendment is consistent with the Park City General Plan.

#### Conditions of Approval

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.

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

APPROVED AND ADOPTED this \_\_\_\_\_ day of October 2012.

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Dana Williams, Mayor

Attest:

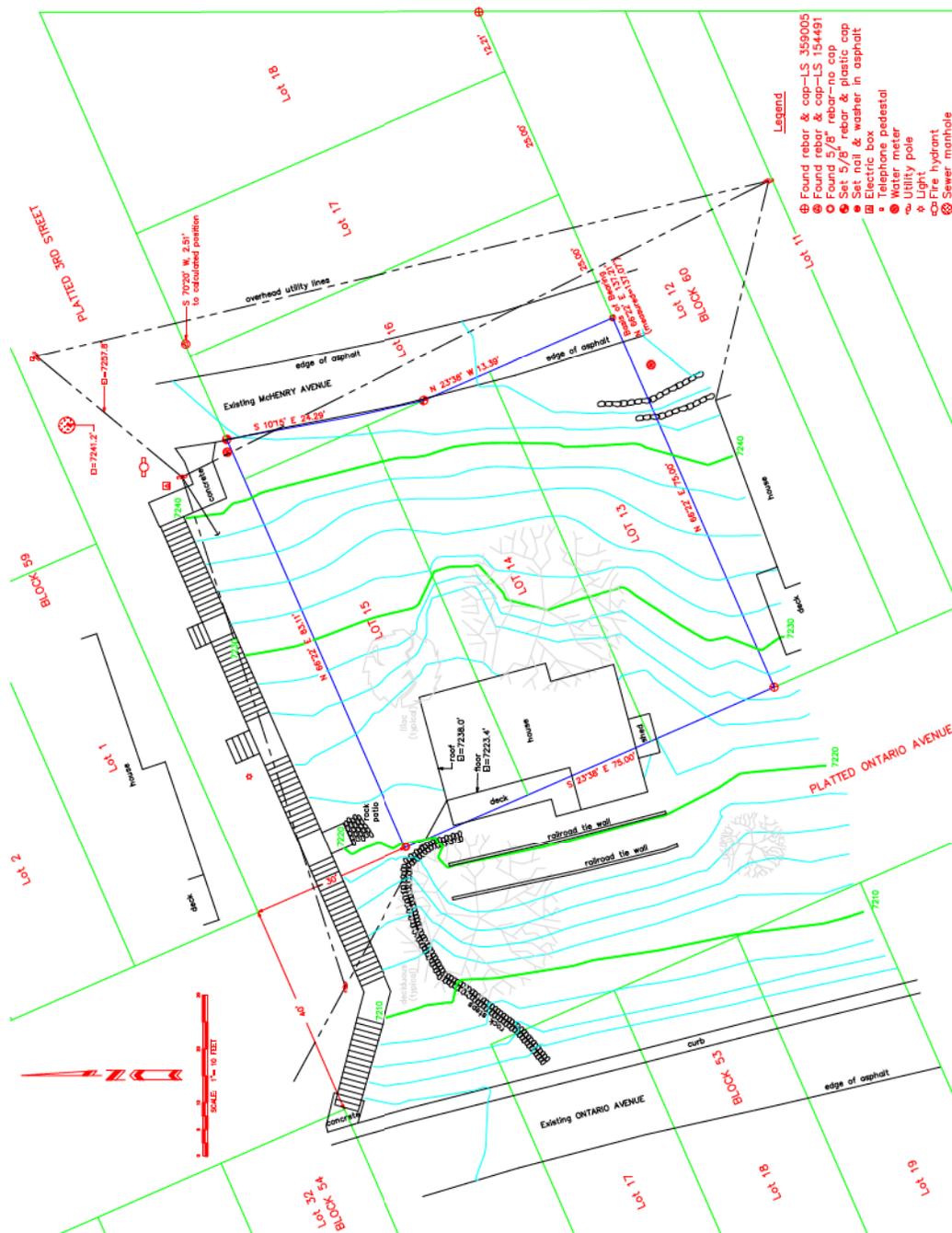
\_\_\_\_\_  
Janet M. Scott, City Recorder

Approved as to form:

\_\_\_\_\_  
Mark D. Harrington, City Attorney



*Park City Survey  
Block 60, Lots 13, 14, 15  
and a portion of Lot 16*



NARRATIVE

1. Survey requested by: David Constable.
2. Purpose of survey: locate the deed description, the improvements and the topographic relief.
3. Basis of survey: found property monuments as shown.
4. Date of survey: June 28, 2012, and as shown.
5. Property monuments as shown.
6. Location in the South-east Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
7. See the official plats of The Park City Survey for other possible easements, restrictions or setbacks.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. The elevation of 7161.75 feet at the Street Monument at the intersection of 4th Street and Orderville is the basis for the Park City Monument Control Map, is the basis of the elevations for this survey.
10. See the previous survey of the property recorded as Survey File No.S-5617 in the office of the Summit County Recorder.

DEED DESCRIPTION

All of Lots 13, 14, 15, and that part of Lot 16 situated westerly of existing McHenry Avenue, Block 60, Park City Survey, as shown on the official plat thereof, on file and of record in the office of the Summit County Recorder.

SURVEYOR'S CERTIFICATE

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

Date \_\_\_\_\_ J.D. Galley RLS#359005

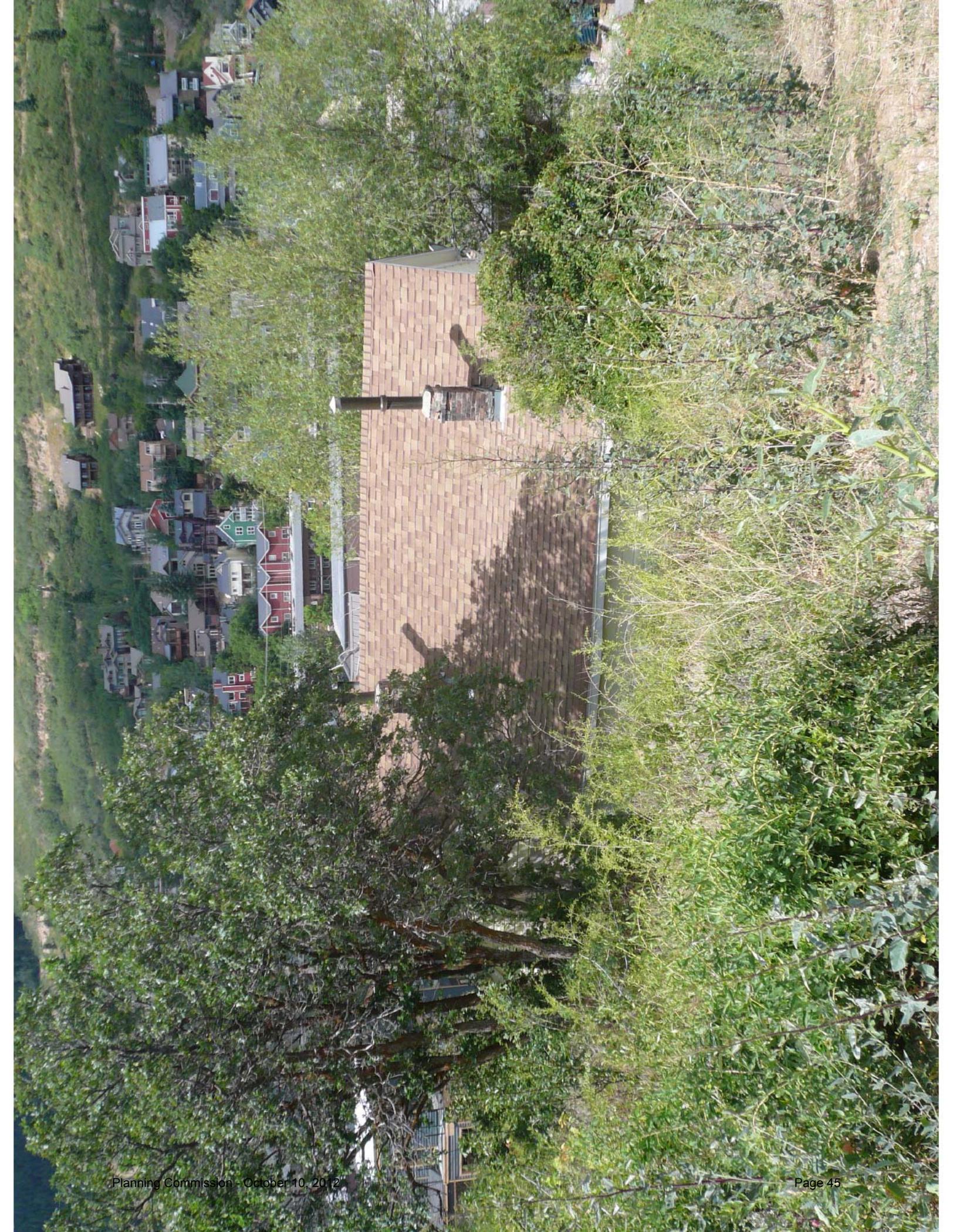




EXBHIT D

















# Planning Commission Staff Report



**Subject:** Lot 1 Amended Hidden Hollow  
Subdivision at Deer Crest Plat  
**Project:** PL-12-01637  
**Author:** Kirsten Whetstone  
**Date:** October 10, 2012  
**Type of Item:** Administrative – Plat Amendment

## Summary Recommendations

Staff recommends that the Planning Commission hold a public hearing for the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest 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 as found in the draft ordinance.

## Description

**Applicant:** Madison Sterling Gulley, applicant and owner of Lot 1 Hidden Hollow for David and Noreen O'Brien, owners of Lot 140 Snowtop Subdivision  
**Location:** 11398 North Snowtop Road  
**Zoning:** Estate (E)  
**Adjacent Land Uses:** Single Family Residential and Open Space.  
**Reason for Review:** Plat amendments require Planning Commission review and City Council approval

## Proposal

This application is a request for a plat amendment to create a 3,452 sf driveway access parcel, "Parcel A", from Lot 1 of the Hidden Hollow Subdivision for the purpose of providing additional area to construct a code compliant driveway for an adjacent lot, namely, Lot 140 of the Snowtop Subdivision. The owner of Lot 1 (Hidden Hollow) has agreed to sell the driveway parcel to the owner of Lot 140 (Snowtop) for the purpose of constructing a driveway, retaining walls, and installing landscaping necessary for a certificate of occupancy for the house. "Parcel A" will be restricted to be used only as a driveway, with associated uses, and when platted, will have no density or further development capabilities associated said parcel. Lot 1 of Hidden Hollow will continue to be a lot of record and exceeds the minimum lot size. Although both are in the City limits, combining "Parcel A" with Lot 140 would create a lot that is within two different Counties (Summit and Wasatch) and is therefore not proposed.

## Background

Lot 1 of the Hidden Hollow Subdivision at Deer Crest is a 9.45 acre, vacant single family lot, located at 11398 North Snowtop Road. The Hidden Hollow Subdivision was approved by the Park City Council on April 13, 2000. The subdivision plat was recorded on July 6, 2001 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 at Summit County on September 9, 1999.

Lot 140 of the Snowtop Subdivision is a 0.83 acre single family lot located at 11380 North Snowtop Road. 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. Both lots are within the “Estate” (E) zone designation as reflected on the City’s official zoning map. 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.

A single family house is currently under construction on Lot 140. 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 an approved building permit and a recorded construction easement from Lot 1 (Hidden Hollow) to Lot 140 (Snowtop).

On April 26, 2012, the Planning Department approved an administrative conditional use permit for the purpose of constructing retaining walls necessary for the driveway to be constructed by the owner of Lot 140. The conditional use permit was required because the retaining wall heights exceed four feet (4’) in the front yard setback and six feet (6’) in the side yard setback areas.

### **Analysis**

The proposed plat amendment does not change any of the allowed uses of the subject lots and each lot is allowed one single family dwelling, subject to the conditions of approval for each respective subdivision plat. Lot 1 of Hidden Hollow subdivision is a vacant parcel of property with entitlements for one single-family dwelling unit. A house is under construction on Lot 140 of Snowtop Subdivision as permitted by the Snowtop Subdivision.

The plat amendment reduces the lot area of Lot 1 from 9.37 acres to 9.29 acres and reduces the building envelope for Hidden Hollow Lot 1 from 38,018 sf to 34,940 sf in order to accommodate the driveway parcel. The plat amendment does not change Lot 140 of Snowtop Subdivision.

The driveway parcel, “Parcel A”, is not proposed to be combined with Lot 140 because said lot is in Wasatch County within the Snowtop Subdivision, and “Parcel A” is located in Summit County within the Hidden Hollow Subdivision. However, 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 causing issues with taxing, school districts, and other issues.

Staff recommends that a note be placed on the plat indicating that "Parcel A" is adjoined in ownership in perpetuity with Lot 140 of Snowtop Subdivision and is not separately developable. The development rights on "Parcel A" are limited to access to the home (driveway), retaining walls, landscaping and incidental accessory uses associated with a driveway, such as those indicated above (landscaping& retaining walls), mailboxes, address plaque, irrigation, etc. for Lot 140. The parcel cannot be used as a separate developable parcel for the construct an additional home or to count towards additional density.

### **Good Cause**

"Good cause", is defined in the Land Management Code as "Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and Park City and furthering the health, safety, and welfare of the Park City community." Conditions of approval, stipulated to by the applicant, further enhance the good cause and preserve the character of the neighborhood.

Staff finds 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. The plat amendment thereby cures the issue of the overly steep driveway. Both lots (Lot 1 and Lot 140) will have to abide by the setbacks required from each of the lots.

### **Process**

Approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Recordation of this plat will allow the owner of Lot 140 to apply for a certificate of occupancy when construction of the house and driveway are complete. Recordation of this plat will allow the owner of Lot 140 to complete the purchase of Parcel A from the owner of Lot 1 Hidden Hollow Subdivision.

### **Department Review**

This project has gone through an interdepartmental review. All of the issues raised by the Development Review Committee (DRC) have been addressed.

### **Notice**

The property was posted and notice was mailed to property owners within 300 in accordance with the requirements in the LMC. Legal notice was also published in the Park Record.

### **Public Input**

No public input has been received by the time of this report; public input may be taken at the regularly scheduled Planning Commission public hearing.

### **Alternatives**

- The Planning Commission may forward a positive recommendation to the City Council for the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest plat amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest plat amendment direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion of this matter to a date certain.

### **Significant Impacts**

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

### **Consequences of not taking the Suggested Recommendation**

The driveway is currently being constructed with a building permit and a recorded construction easement from Lot 1 (Hidden Hollow) to Lot 140 (Snowtop). If the plat is not approved and recorded, the two property owners would have to agree to an encroachment agreement for the driveway or the driveway could not remain in its current location.

### **Recommendation**

Staff recommends that the Planning Commission hold a public hearing for the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest 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 as found in the draft ordinance.

### **Exhibits**

Ordinance

Exhibit A – Proposed Plat

Exhibit B – Existing Plat of Hidden Hollow Subdivision

Exhibit C – Existing Plat of Snowtop Subdivision

Exhibit D – Recorded temporary construction easement agreement

Draft Ordinance

Ordinance No. 12-

**AN ORDINANCE APPROVING THE LOT 1 AMENDED HIDDEN HOLLOW  
SUBDIVISION AT DEER CREST LOCATED AT 11398 NORTH SNOWTOP ROAD,  
PARK CITY, UTAH.**

WHEREAS, the owners of property located at 11398 North Snowtop Road have petitioned the City Council for approval of the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest; and

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

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

WHEREAS, the Planning Commission held a public hearing on October 10, 2012, to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission, on the aforementioned date, forwarded a recommendation to the City Council;

WHEREAS; the City Council, held a public hearing on \_\_\_\_\_, 2012; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Lot 1 Amended Hidden Hollow Subdivision at Deer Crest to provide a separate Parcel A for the construction of a driveway for an existing house under construction at Lot 140 of the Snowtop Subdivision.

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

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Lot1 Amended Hidden Hollow Subdivision at Deer Crest Plat Amendment as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property, 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, 2001 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 at 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 constructing 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 acres 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 envelop 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:

1. There is good cause for this plat amendment.

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, 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 of this plat amendment. A note shall be added to the amended plat to this effect and referencing this 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 buildable 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 construct an additional home or to count towards additional density."

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

PASSED AND ADOPTED this \_\_\_\_\_ day of October, 2012.

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Dana Williams, MAYOR

ATTEST:

\_\_\_\_\_

Jan Scott, City Recorder

APPROVED AS TO FORM:

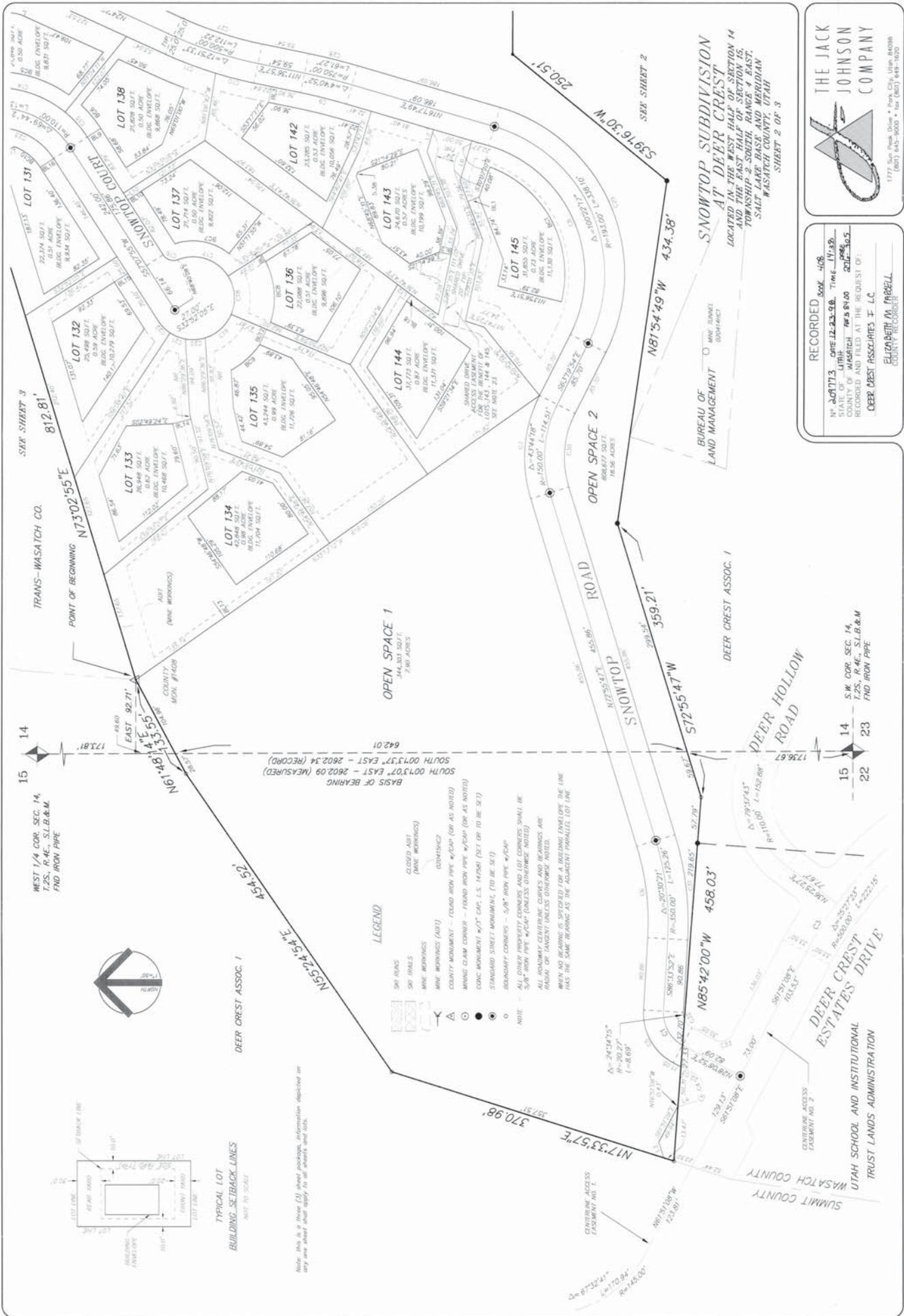
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Mark Harrington, City Attorney

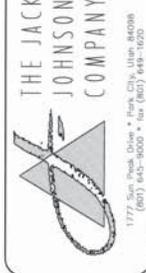




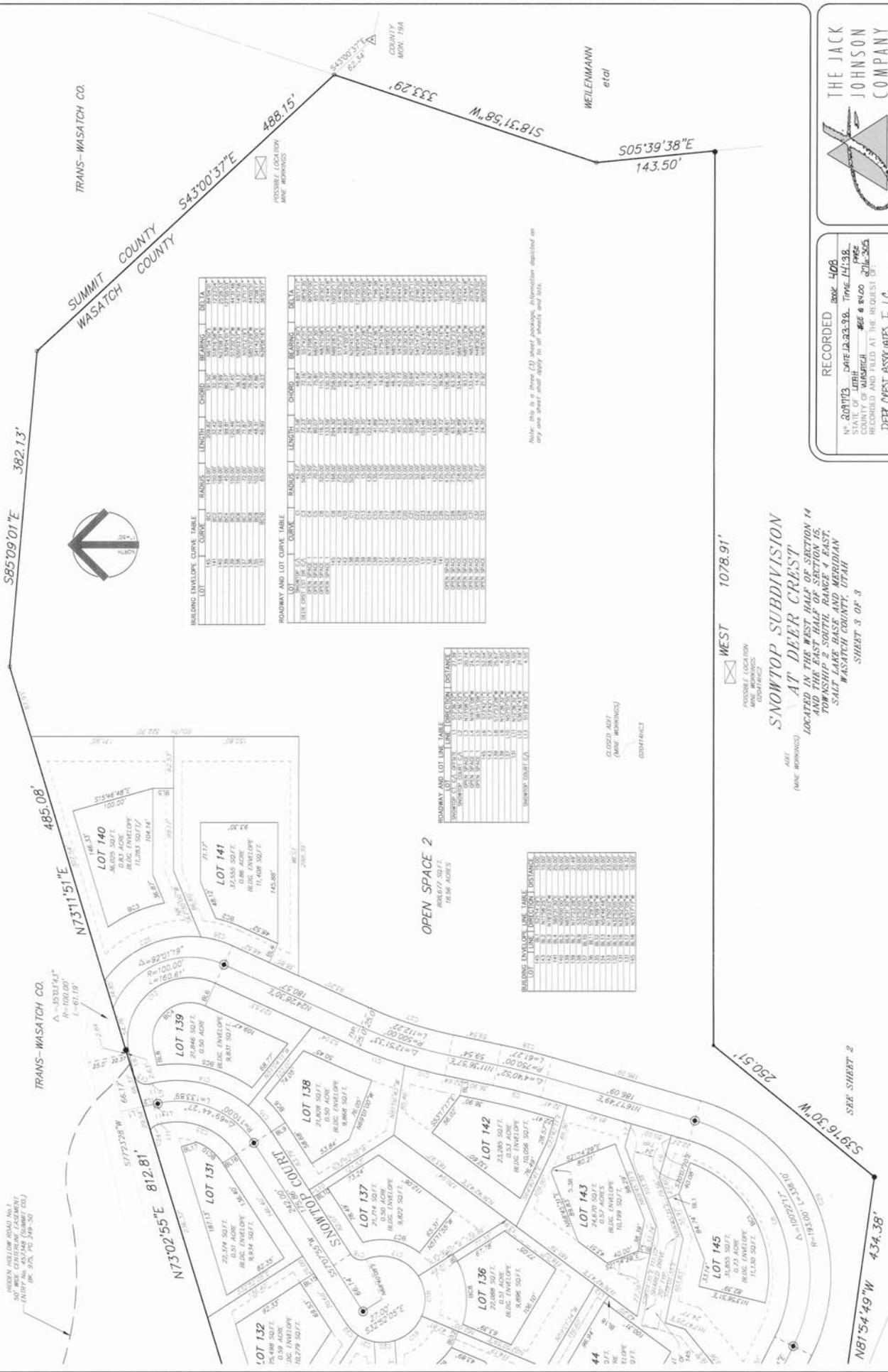




RECORDED 408 408  
 NO. 3087713 DATE 12-23-08 TIME 11:59  
 STATE OF UTAH REF # 84-00 2016-20-5  
 COUNTY OF MARCH 10-5 84-00 2016-20-5  
 RECORDED AND FILED AT THE REQUEST OF:  
 DEER CREST ASSOCIATES, L.C.  
 ELLEN BETH M. ARBELL  
 COUNTY CLERK



UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION  
 WASATCH COUNTY  
 DEER CREST ASSOC. I  
 DEER CREST ASSOC. I  
 BUREAU OF LAND MANAGEMENT  
 SNOWTOP ROAD  
 OPEN SPACE 2  
 OPEN SPACE 1  
 LOT 131 LOT 132 LOT 133 LOT 134 LOT 135 LOT 136 LOT 137 LOT 142 LOT 143 LOT 144 LOT 145  
 TRANS-WASATCH CO.  
 STAR SHEET 3  
 STAR SHEET 2  
 SNOWTOP SUBDIVISION AT DEER CREST  
 LOCATED IN THE WEST HALF OF SECTION 14 AND THE EAST HALF OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERIDIAN 11 WEST, WASATCH COUNTY, UTAH  
 SHEET 2 OF 3  
 THE JACK JOHNSON COMPANY  
 1770 S. Main Street, Provo, Utah 84608  
 (801) 771-1100 FAX (801) 771-1105  
 REGISTRATION 14-15 12-23-08 11:59 AM 2016



**THE JACK JOHNSON COMPANY**

1777 Sun Peak Drive • Park City, Utah 84098  
 (801) 734-1100  
 REC'D 10/10/12 11:52 AM 10/11/12 11:54 AM 10/11/12 11:54 AM

RECORDED BOOK 408  
 STATE OF UTAH DATE 12-23-12 TIME 14:38  
 COUNTY OF WASATCH REF # 81000 076-305  
 DEED WEST ASSOCIATES I LC  
 CLARENCE M. PERRELL  
 COUNTY RECORDER

**SNOWTOP SUBDIVISION AT DEER CREST**  
 LOCATED IN THE WEST HALF OF SECTION 14  
 AND THE EAST HALF OF SECTION 15,  
 TOWNSHIP 2 SOUTH RANGE 4 EAST,  
 SALT LAKE COUNTY UTAH  
 SHEET 3 OF 3

**BUILDING ENVELOPE CURVE TABLE**

LOT	CURVE	RADIUS	CHORD	BEARING	DELTA
132	1	100.00	100.00	0.00	0.00
132	2	100.00	100.00	0.00	0.00
132	3	100.00	100.00	0.00	0.00
132	4	100.00	100.00	0.00	0.00
132	5	100.00	100.00	0.00	0.00
132	6	100.00	100.00	0.00	0.00
132	7	100.00	100.00	0.00	0.00
132	8	100.00	100.00	0.00	0.00
132	9	100.00	100.00	0.00	0.00
132	10	100.00	100.00	0.00	0.00
132	11	100.00	100.00	0.00	0.00
132	12	100.00	100.00	0.00	0.00
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132	14	100.00	100.00	0.00	0.00
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132	17	100.00	100.00	0.00	0.00
132	18	100.00	100.00	0.00	0.00
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132	20	100.00	100.00	0.00	0.00
132	21	100.00	100.00	0.00	0.00
132	22	100.00	100.00	0.00	0.00
132	23	100.00	100.00	0.00	0.00
132	24	100.00	100.00	0.00	0.00
132	25	100.00	100.00	0.00	0.00
132	26	100.00	100.00	0.00	0.00
132	27	100.00	100.00	0.00	0.00
132	28	100.00	100.00	0.00	0.00
132	29	100.00	100.00	0.00	0.00
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132	33	100.00	100.00	0.00	0.00
132	34	100.00	100.00	0.00	0.00
132	35	100.00	100.00	0.00	0.00
132	36	100.00	100.00	0.00	0.00
132	37	100.00	100.00	0.00	0.00
132	38	100.00	100.00	0.00	0.00
132	39	100.00	100.00	0.00	0.00
132	40	100.00	100.00	0.00	0.00
132	41	100.00	100.00	0.00	0.00
132	42	100.00	100.00	0.00	0.00
132	43	100.00	100.00	0.00	0.00
132	44	100.00	100.00	0.00	0.00
132	45	100.00	100.00	0.00	0.00
132	46	100.00	100.00	0.00	0.00
132	47	100.00	100.00	0.00	0.00
132	48	100.00	100.00	0.00	0.00
132	49	100.00	100.00	0.00	0.00
132	50	100.00	100.00	0.00	0.00
132	51	100.00	100.00	0.00	0.00
132	52	100.00	100.00	0.00	0.00
132	53	100.00	100.00	0.00	0.00
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132	55	100.00	100.00	0.00	0.00
132	56	100.00	100.00	0.00	0.00
132	57	100.00	100.00	0.00	0.00
132	58	100.00	100.00	0.00	0.00
132	59	100.00	100.00	0.00	0.00
132	60	100.00	100.00	0.00	0.00
132	61	100.00	100.00	0.00	0.00
132	62	100.00	100.00	0.00	0.00
132	63	100.00	100.00	0.00	0.00
132	64	100.00	100.00	0.00	0.00
132	65	100.00	100.00	0.00	0.00
132	66	100.00	100.00	0.00	0.00
132	67	100.00	100.00	0.00	0.00
132	68	100.00	100.00	0.00	0.00
132	69	100.00	100.00	0.00	0.00
132	70	100.00	100.00	0.00	0.00
132	71	100.00	100.00	0.00	0.00
132	72	100.00	100.00	0.00	0.00
132	73	100.00	100.00	0.00	0.00
132	74	100.00	100.00	0.00	0.00
132	75	100.00	100.00	0.00	0.00
132	76	100.00	100.00	0.00	0.00
132	77	100.00	100.00	0.00	0.00
132	78	100.00	100.00	0.00	0.00
132	79	100.00	100.00	0.00	0.00
132	80	100.00	100.00	0.00	0.00
132	81	100.00	100.00	0.00	0.00
132	82	100.00	100.00	0.00	0.00
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132	84	100.00	100.00	0.00	0.00
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132	97	100.00	100.00	0.00	0.00
132	98	100.00	100.00	0.00	0.00
132	99	100.00	100.00	0.00	0.00
132	100	100.00	100.00	0.00	0.00

**ROADWAY AND LOT CURVE TABLE**

LOT	CURVE	RADIUS	CHORD	BEARING	DELTA
132	1	100.00	100.00	0.00	0.00
132	2	100.00	100.00	0.00	0.00
132	3	100.00	100.00	0.00	0.00
132	4	100.00	100.00	0.00	0.00
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132	9	100.00	100.00	0.00	0.00
132	10	100.00	100.00	0.00	0.00
132	11	100.00	100.00	0.00	0.00
132	12	100.00	100.00	0.00	0.00
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132	16	100.00	100.00	0.00	0.00
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132	18	100.00	100.00	0.00	0.00
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132	20	100.00	100.00	0.00	0.00
132	21	100.00	100.00	0.00	0.00
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132	23	100.00	100.00	0.00	0.00
132	24	100.00	100.00	0.00	0.00
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132	27	100.00	100.00	0.00	0.00
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132	30	100.00	100.00	0.00	0.00
132	31	100.00	100.00	0.00	0.00
132	32	100.00	100.00	0.00	0.00
132	33	100.00	100.00	0.00	0.00
132	34	100.00	100.00	0.00	0.00
132	35	100.00	100.00	0.00	0.00
132	36	100.00	100.00	0.00	0.00
132	37	100.00	100.00	0.00	0.00
132	38	100.00	100.00	0.00	0.00
132	39	100.00	100.00	0.00	0.00
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132	42	100.00	100.00	0.00	0.00
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132	44	100.00	100.00	0.00	0.00
132	45	100.00	100.00	0.00	0.00
132	46	100.00	100.00	0.00	0.00
132	47	100.00	100.00	0.00	0.00
132	48	100.00	100.00	0.00	0.00
132	49	100.00	100.00	0.00	0.00
132	50	100.00	100.00	0.00	0.00
132	51	100.00	100.00	0.00	0.00
132	52	100.00	100.00	0.00	0.00
132	53	100.00	100.00	0.00	0.00
132	54	100.00	100.00	0.00	0.00
132	55	100.00	100.00	0.00	0.00
132	56	100.00	100.00	0.00	0.00
132	57	100.00	100.00	0.00	0.00
132	58	100.00	100.00	0.00	0.00
132	59	100.00	100.00	0.00	0.00
132	60	100.00	100.00	0.00	0.00
132	61	100.00	100.00	0.00	0.00
132	62	100.00	100.00	0.00	0.00
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132	64	100.00	100.00	0.00	0.00
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132	67	100.00	100.00	0.00	0.00
132	68	100.00	100.00	0.00	0.00
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132	70	100.00	100.00	0.00	0.00
132	71	100.00	100.00	0.00	0.00
132	72	100.00	100.00	0.00	0.00
132	73	100.00	100.00	0.00	0.00
132	74	100.00	100.00	0.00	0.00
132	75	100.00	100.00	0.00	0.00
132	76	100.00	100.00	0.00	0.00
132	77	100.00	100.00	0.00	0.00
132	78	100.00	100.00	0.00	0.00
132	79	100.00	100.00	0.00	0.00
132	80	100.00	100.00	0.00	0.00
132	81	100.00	100.00	0.00	0.00
132	82	100.00	100.00	0.00	0.00
132	83	100.00	100.00	0.00	0.00
132	84	100.00	100.00	0.00	0.00
132	85	100.00	100.00	0.00	0.00
132	86	100.00	100.00	0.00	0.00
132	87	100.00	100.00	0.00	0.00
132	88	100.00	100.00	0.00	0.00
132	89	100.00	100.00	0.00	0.00
132	90	100.00	100.00	0.00	0.00
132	91	100.00	100.00	0.00	0.00
132	92	100.00	100.00	0.00	0.00
132	93	100.00			

**WHEN RECORDED, RETURN TO:**

Madison S. Gulley  
 2832 NE 38th Street  
 Ft. Lauderdale, FL 33308

**DRIVEWAY ACCESS EASEMENT AGREEMENT**

THIS DRIVEWAY ACCESS EASEMENT AGREEMENT, ("Agreement") is made as of the \_\_\_\_\_ day of August, 2012, by MADISON S. GULLEY ("Gulley"), whose address is 2832 NE 38th Street Ft. Lauderdale, FL 33308 and DAVID O'BREIN AND NOREEN O'BRIEN (together, "O'Brien"), whose address is 57 Brianclift Road, Mountain Lakes, NJ 07046, with reference to the following facts:

A. O'Brien is the fee owner of Lot 1 in the Hidden Hollow Subdivision at Deer Crest as shown on the official plat thereof in the office of the Summit County Recorder, and Gulley is the fee owner of abutting Lot 140 in the Snowtop Subdivision at Deer Crest, as shown on the official plat thereof in the office of the Wasatch County Recorder (respectively, "Lot 1" and "Lot 140"). The Owners, from time to time, of Lot 1 and Lot 140 are referred to as the "Lot Owners".

B. Gulley desires to purchase a certain portion of Lot 1 for an access driveway for Lot 140, and O'Brien has agreed to sell such portion pending the finalization of a lot line adjustment or plat amendment;

C. In order to enable Gulley to commence construction of the driveway pending the lot line adjustment or plat amendment, O'Brien and Gulley desire and intend to establish an ingress and egress easement over Lot 1 to accommodate an access driveway for the benefit of Lot 140 as more fully described herein, and also a temporary construction easement for a strip of land 15' wide and adjacent to the actual driveway.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, O'Brien and Gulley hereby declare as follows:

1. **Grant of Easement.** O'Brien, as Owner of Lot 1, hereby grants to Gulley, as the Owner of Lot 140, and his successors, assigns, agents, employees, licensees and invitees (the "Benefitted Parties"),

(i) a permanent easement for pedestrian and vehicular ingress and egress (the "Access Easement") over that portion of Lot 1 described on Exhibit "A" and depicted on Exhibit "B," both of which Exhibits are attached hereto and incorporated herein by this reference. The easement area described in Exhibit "A" and depicted on Exhibit "B" is referred to as the "Access Driveway Area;" and

(ii) a temporary construction easement for pedestrian and vehicular ingress and egress and for the excavation, grading and construction of the Driveway Improvements, as defined below (the "Construction Easement"). The Construction Easement shall be over, upon, across and through the Access Driveway Area and extend 15 feet outside but adjacent to the Access Driveway Area on Lot 1 to permit for the grading, stabilization, and construction of the driveway, and re-vegetation of the area adjacent to the Access Driveway Area to its natural condition.

The Access Easement and the Construction Easement may hereafter together be referred to as the "Easements." All use and enjoyment of the Easements by the Benefitted Parties shall be conducted in such manner as to (a) comply with all applicable laws, ordinances and governmental regulations and orders and (b) to not create any nuisance or waste.

2. **Nature of Easements.** Both Easements shall be effective immediately upon execution of this Agreement. The Construction Easement shall terminate upon the earlier of completion of the Driveway Improvements and June 1, 2013.

3. **Termination of Access Easement.** This Agreement shall terminate upon (1) the successful approval of the lot line adjustment or plat amendment and completion of the acquisition of the Access Driveway Area resulting in the incorporation of the Access Driveway Area into Lot 140, or (2) failure of the owner of Lot 140 to close on the purchase of Lot 1 pursuant to the Put Option set forth in the Purchase and Put Option Agreement dated as of the date hereof between the Lot Owners (the "Purchase Agreement"). In the event of termination, either party may record notice of such event.

4. **Consideration.** As consideration for the Easements, Gulley shall pay to O'Brien the sum of Thirty-Five Thousand Dollars (\$35,000) plus O'Brien's reasonable architect, engineering and attorney's fees related to this matter arising from and after July 1, 2012, and submit a cash deposit in the amount of Sixty-Five Thousand Dollars (\$65,000) (the "Deposit") as more particularly set forth in the Purchase Agreement.

5. **Construction of Driveway Improvements.** Gulley and O'Brien have agreed that the Access Driveway Area, and the Construction Easement area as applicable, shall be improved by those driveway improvements and related retaining walls described in the grading plans, erosion control plan, schematic plans, landscape plan, and irrigation

plan and depicted in Exhibit "C" (all such improvements located within the Access Driveway Area are hereinafter referred to collectively as the "Driveway Improvements") at Gulley's sole cost and expense. The retaining walls for the Driveway Improvements will be constructed of "Browns Canyon Sandstone" in the tan, buff and gray colors (the pink tones will be avoided) and the driveway will be heated. Gulley acknowledges that all re-vegetation will need to be irrigated until the plants are established which shall be at least one year. Adjustments to the Driveway Improvements from those shown on Exhibit "C" may be made by Gulley without the further approval of O'Brien, but only if any such adjustments do not increase disturbance to Lot 1, do not negatively impact the appearance of the driveway, are approved by the Deer Crest Master Association (the "Association") and any such adjustments to retaining walls are approved in writing by a structural engineer, a copy of which approval is provided to O'Brien. The final description of the Driveway Improvements shall include those Driveway Improvements as further adjusted and finally approved by Park City and the Deer Crest Master Association if applicable. Gulley agrees to construct the finally approved Driveway Improvements within the Access Driveway Area as provided in Exhibit "C" and as adjusted in accordance with this Section. Gulley shall also be responsible for obtaining all approvals and permits necessary for such construction, including approvals and permits issued by Park City and the Association. All construction work undertaken by Gully shall be completed without warranty other than typical construction warranties granted by the contractor which shall run in favor of both Lot Owners. Further, O'Brien acknowledges that the Driveway Improvements to be constructed by Gulley will be completed solely for the use of the residence to be located on Lot 140 and that such Driveway Improvements will not be subject to further modification after constructed except at the election and sole cost and expense of the Owner of Lot 140. In the event the Owner of Lot 140 elects to modify the Driveway Improvements after constructed, such modification shall be in compliance with the requirements of the Snowtop Subdivision Plat, the Association and Park City and shall be approved by the Owner of Lot 1. Such approval shall not be unreasonably withheld.

6. **Operation, Maintenance and Repair of Access Easement Area.** The Owner of Lot 140, agrees to maintain and repair the Driveway Improvements, including snow plowing, heating and routine maintenance of the Driveway Improvements. In addition, the Owner of Lot 140 shall pay any expenses of operating the Driveway Improvements, including the utility costs to provide the driveway heating and the water and water delivery system costs for all re-vegetation within the Access Driveway Area and re-vegetation of Lot 1, including the Construction Easement, to the stage where such vegetation is consistent with the natural vegetation in such area. Gulley shall repair at his sole expense any damage done to, or suffered by, any Driveway Improvements within the Access Driveway Area or Construction Easement or any portion thereof or on Lot 1 that are caused by Gulley or any of his contractors, subcontractors or other invitees. Notwithstanding anything in this Agreement to the contrary, O'Brien shall have no responsibility whatsoever for construction, operation, maintenance, repair or replacement of the Driveway Improvements except for any damage to such improvements caused by the Owner of Lot 1.

7. **Indemnity.** The Owner of Lot 140 hereby waives all claims and demands against and agree to indemnify, protect, defend (with attorneys acceptable to the Owner of Lot 1) and hold harmless the Owner of Lot 1 from and against any and all claims, obligations, expenses, liabilities and costs, including but not limited to attorneys' fees, for property damage and bodily injury, sickness, disability, disease or death of any person or persons, arising directly or indirectly from activities affecting the Access Driveway Area or Lot 1, including but not limited to within the Construction Easement, by the Owner of Lot 140 and/or that Owner's employees, contractors, agents, licensees, invitees and third parties, except to the extent such claim, obligation, expense, liability or cost arises out of the willful or negligent act or omission of the Owner of Lot 1.

8. **Insurance.** Prior to commencement of construction and during construction of the Driveway Improvements, O'Brien shall be added as an additional named insured to an insurance policy in the amount of Three Million Dollars (\$3,000,000). For purposes of this insurance, the contractor's insurance policy may satisfy this requirement. Upon completion of construction of the Driveway Improvements, Gulley, as the Owner of Lot 140, shall, at his sole cost and expense, procure, pay for and keep in full force and effect a homeowner's insurance policy with liability coverage for Lot 140 and the Access Driveway Area in an amount of not less than Three Million Dollars (\$3,000,000).

9. **Notices.** All notices required or permitted by this Agreement shall be in writing and may be delivered in person to either party or may be sent by registered or certified mail, with postage prepaid, return receipt requested, or delivered by Express Mail or Federal Express, or any other courier service guaranteeing overnight delivery, charges prepaid, or may be transmitted by facsimile transmission and addressed as follows:

If to the Owner of Lot 1: David and Noreen O'Brien  
57 Brianclift Road,  
Mountain Lakes, NJ 07046  
Fax: 212 773 8580

If to the Owner of Lot 140: Madison S. Gulley  
2832 NE 38th Street  
Ft. Lauderdale, FL 33308  
Fax: 954-568-4234

Any such notice sent by registered or certified mail, return receipt requested, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notices delivered by overnight service shall be deemed to have been given at 5:00 p.m. on the next business day after the date of delivery of the same, charges prepaid, to the U. S. Postal Service or private courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof. Any notice or other document sent by any other manner shall be effective only upon actual receipt

thereof. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided and by recording a notice of the changed address, which notice shall refer to this Agreement.

10. **Attorneys' Fees.** In the event either party hereto shall incur attorney's fees and costs in connection with the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other party all such costs and expenses,, including reasonable attorneys' fees .

11. **Captions.** All captions used herein are inserted for convenience only and shall not be used in any way to modify, limit, construe or otherwise affect this Agreement.

12. **Waivers.** No action taken pursuant to this Agreement by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of the complete compliance with representations, warranties, covenants or agreements contained herein. No waiver, modification or change shall be binding unless in writing and signed by the party making the waiver. A waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah applicable to contracts made and to be performed in that state.

14. **Severability.** If any term(s) or provision(s) of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term(s) or provision(s) to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby. Each and every term of this Agreement shall be valid and enforced to the fullest extent permitted by law.

15. **Easements and Covenants to Run with the Land.** The Easements and other rights granted hereby and the covenants contained herein shall run with the respective Lots, and shall bind and inure to the benefit of the owners of the respective Lots and the Association, and their respective successors and assigns.

16. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

17. **Amendments.** Any amendment to this Agreement must in writing and signed by all of the parties benefitted hereby.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the day and year first above written.

[signature pages follow]

*David O'Brien*

DAVID O'BRIEN

*Noreen O'Brien*

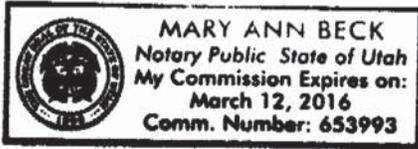
NOREEN O'BRIEN

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of August, 2012, by DAVID O'BRIEN AND NOREEN O'BRIEN.



*Mary Ann Beck*  
Notary Public  
Residing at: Salt Lake City, Utah

My Commission Expires:

3-12-2016

M S Gulley  
MADISON S. GULLEY

STATE OF Florida  
COUNTY OF Broward <sup>SS.</sup>

The foregoing instrument was acknowledged before me this \_\_\_\_ day of August, 2012, by MADISON S. GULLEY



S. Barnett  
Notary Public  
Residing at: 2805 E Oakland

My Commission Expires:

7/5/16

**EXHIBIT A**

**EASEMENT LEGAL DESCRIPTION**

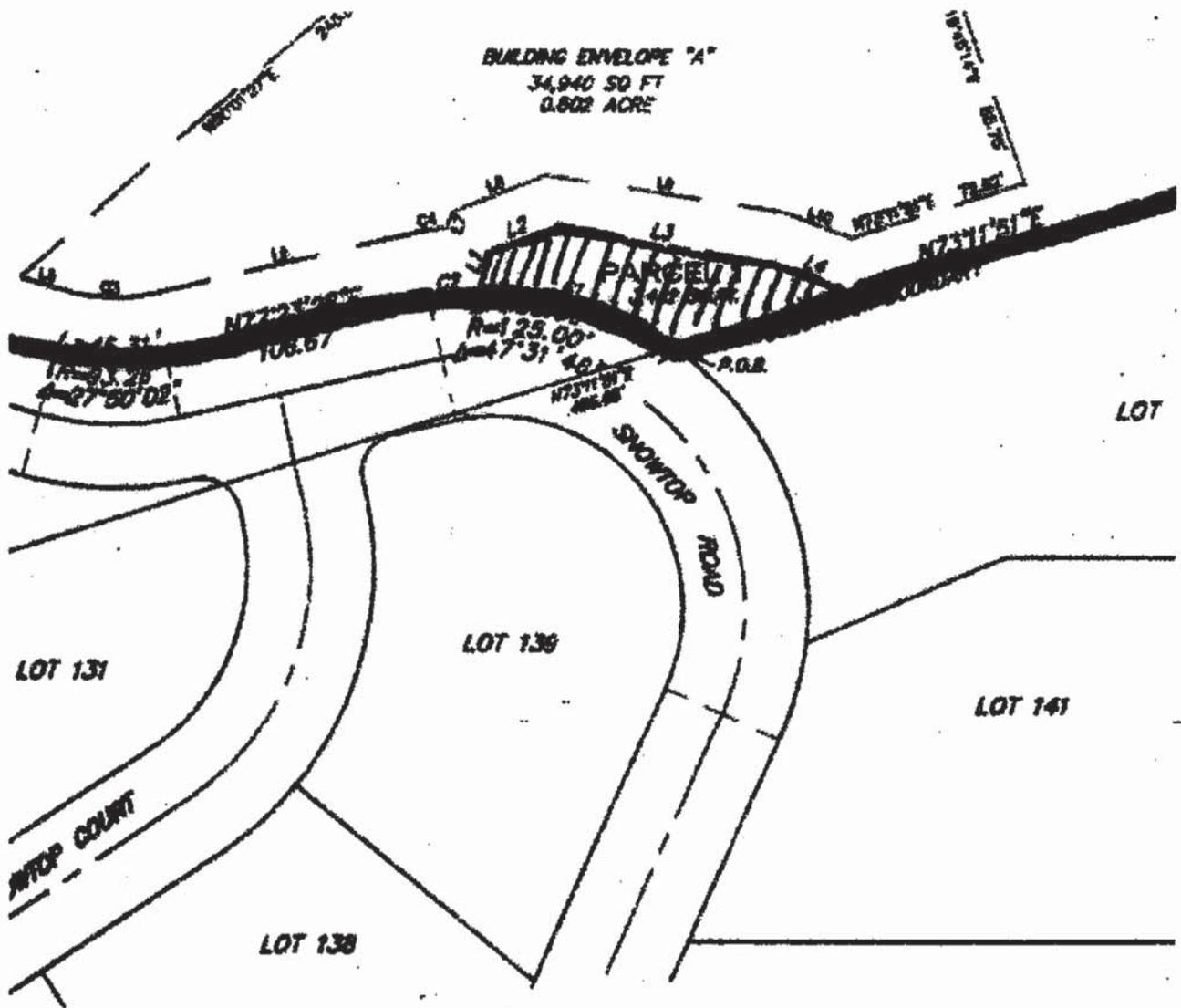
**THAT PART OF LOT 1, HIDDEN HOLLOW SUBDIVISION AT DEER CREST DEPICTED ON EXHIBIT B TO BE COVERED BY A CERTAIN DRIVEWAY IMPROVEMENTS MORE PARTICULARLY DESCRIBED AND DEPICTED ON EXHIBIT C, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**Beginning at a point on the southerly boundary of Lot 1, Hidden Hollow Subdivision At Deer Crest (recorded as Entry No. 592853), said point also being South 00°13'17" East 173.81 feet and East 92.71 feet and North 73°02'55" East 812.81 feet and North 73°11'51" East 89.61 feet from the East Quarter Corner of Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian (Basis of bearings being South 00°13'17" East 2602.09 feet between said East Quarter Corner and the Southeast Corner of said Section 15) and running thence westerly along the arc of a 125.00 foot radius curve to the left, the center of which bears South 34°55'13" West, a distance of 82.99 feet through a central angle of 38°02'32"; thence North 18°27'21" East 15.04 feet; thence North 69°13'54" East 26.07 feet; thence South 81°25'48" East 88.93 feet; thence South 70°30'00" East 33.78 feet; thence South 73°11'51" West 73.71 feet to the point of beginning.**

**Containing 3,451 sq. ft.**

**EXHIBIT B**

**MAP OF EASEMENT LOCATION**



**EXHIBIT C**

**DESCRIPTION AND DEPICTION OF DRIVEWAY IMPROVEMENTS**

**See Attached Plans (which will be omitted for recording purposes only):**

**Schematic Grading Plan for Lot 140 Deer Crest dated August 9, 2012 (Sitio Design Sheet L-G101)**

**Overall Grading Plan and Details for Lot 140 Deer Crest dated August 9, 2012(Sitio Design Sheet L-G102)**

**Erosion Control Plan for Lot 140 Deer Crest dated August 9, 2012 (Sitio Design Sheet L-E101)**

**Erosion Control Notes and Details for Lot 140 Deer Crest dated August 9, 2012 (Sitio Design Sheet L-E501)**

**Landscape Plan for Lot 140 Deer Crest dated March 19, 2012 (Sitio Design Sheet L-L101)**

**Irrigation Plan for Lot 140 Deer Crest dated March 19, 2012 (Sitio Design Sheet L-R101)**

**Rock Wall Detail (Earthtec Engineering Project No 120160 Figure 4)**

**Earthtec Engineering, Inc. Engineering Rock Wall Evaluation Report dated January 25, 2012 (Project 120160)**

Note: All exhibits to agreement are available at the Planning Department.



## **WORK SESSION**



# Planning Commission Staff Report



**Application #:** PL-12-01529  
**Subject:** Snow Creek Crossing Concept Plan  
**Author:** Francisco Astorga, Planner  
**Date:** October 10, 2012  
**Type of Item:** Work Session

## **Summary Recommendations**

Staff recommends that the Planning Commission look at the Snow Creek Crossing Concept Plan located at 1300-1600 Snow Creek Drive during a work session and give preliminary feedback based on the limited information provided<sup>1</sup>, prior to the applicant submitting a formal pre-application for a MPD and the associated public hearing.

## **Description**

**Applicant:** Snow Creek Center, LLC represented by Jill Packham, and Land Solutions Planning, Pete Gillwald  
**Location:** 1300-1600 Snow Creek Drive  
**Zoning District:** RDM, RCO, TDR-R, and part of the Snow Creek MPD  
**Adjacent Land Uses:** Residential, Commercial, & Open Space  
**Reason for Review:** Applicant requested preliminary feedback prior to submittal of Pre-application MPD

## **Background**

The Snow Creek Crossing commercial Master Planned Development (MPD) has a long history. On April 14, 1993 the Planning Commission denied the Large Scale MPD for a 90,500 square foot commercial development with 431 parking spaces, 72 units of 750 square feet totaling 36 unit equivalents, and 30 acres of open space dedicated to the City which could not be built upon. The application was denied due to the large amount of commercial space, the configuration of stores, and the amount of parking and the parking configuration. Furthermore, the Planning Commission found that the mixed use aspect of the project was not workable and interfacing with mixed use within the zone. It was noted that the area was a highly valued site in the eyes of the community because it is in the heart of the community and "well couched in the entry corridor". See Exhibit E.

On May 13, 1993 the City Council heard an appeal of the Planning Commission denial and approved the Large Scale MPD on the Snow Creek parcel. This approval did not include the residential portion of the proposal. The approval included broad site

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<sup>1</sup> The applicant has not filed a complete application or pre-application. This matter is advisory only based upon incomplete data and limited review of historic files. The applicant should not rely on the preliminary feedback received and is not vested under any particular code provision by voluntarily requesting the work session feedback.

planning parameters, some detail on the commercial portion of the site including size and configuration. The City Council indicated that the proposal would increase City services and quality of life by the additional tax revenue generated from the grocery store. The site was determined to be outside of the “entry corridor open space”. The Comprehensive (General) Plan contemplated development on this parcel. The City Council was comfortable with the overall proposal, including circulation, parking, and building locations. This approval included a condition that any adaptive reuse change would be subject to the conditional use process for satellite pad locations. See Exhibit F.

At the time, once a Large Scale MPD was approved, each portion of that MPD was required to go through the Small Scale MPD/Conditional Use process. On September 22, 1993 the Planning Commission approved the Small Scale MPD/Conditional Use Permit which included site specific design for the commercial project and limited the project to 90,500 square foot commercial center with 446 parking spaces and also limited the retail anchor (grocery store) to 52,000 square feet. The vote on the CUP was initially deadlocked 3-3, but then carried after the motion was amended to include two additional conditions of approvals: (1) requiring the parking be phased and limited to 300 spaces initially; and, (2) that no building permits would be issued until final plat approval was obtained with regard to the residential section of the project. See Exhibit G Planning Commission Staff Report dated September 16, 1993 and September 22, 1993 Planning Commission minutes.

On October 14, 1993, the City Council heard an appeal of two (2) conditions the September 22, 1993 approval of the Conditional Use Permit/Small Scale MPD. The decision to overturn the Planning Commission approval and remove the condition regarding parking was based in part on the proposed berming/landscaping of the parking. The condition regarding residential component of the project was amended to be that within 90 days of direction from meetings with the Planning Commission and the City Council that the applicant be required to submit an application for a small scale MPD/CUP for the affordable residential project of the Snow Creek large scale MPD. See Exhibit I and Exhibit J – Final Action letter dated November 9, 1993.

The Subdivision Plat recorded at the Summit County in 1995 further reflects the area that was indeed dedicated to the City as non-developable open space, Parcels A-D, these parcels total 24.137 acres. See Exhibit K.

On April 13, 2006, the City Council executed a Memorandum of Understanding (MOU) with the Utah State Division of Facilities Construction and Management (DFCM) for a liquor store in the Snow Creek Shopping Center. In the MOU, the City and DFCM agreed that best met the DABC’s site selection criteria and local needs. The new store was to be a 12,000 square feet in size and located on a 15,000 square foot lot at the south end of the current shopping center (*immediately behind/to the north of the existing bus stop*). See Exhibit L. The MOU further stated that the following:

- The location is not currently a separate lot of record.

- The owner of the property and/or DFCM will file an administrative subdivision plat to the Planning Department pursuant to UCA 10-9a-605.
- The City will have no land use zoning jurisdiction over the property owned by the State; however, DFCM and DABC have agreed to consult with the City in terms of traffic circulation, pedestrian connections, parking, deliveries, fire and building codes, and construction mitigation.
- The DFCM has also agreed to consult with staff in reasonable efforts to comply with architectural and landscaping regulations.

The property was transferred from Snow Creek Center, LLC to the Utah State Building Ownership Authority in June 2006. The special warranty deed indicates that the property conveyed is not a legal lot of record, but is being conveyed by metes and bound in lieu of condemnation. Staff is still researching whether the City simply approved the deed pursuant to UCA 10-9a-605, or whether a plat still needs to be filed/amended. However, the Planning Commission was debriefed on the DABC's plan to construct this proposed liquor store consisting of 12,000 square feet in June 2006 as a copy of the site plan and elevations was presented to the Commission. The parties agreed that the City had no land use or zoning jurisdiction over development on State owned property by virtue of the agreement, although several provisions voluntarily addressed City planning issues. The Planning Commission was debriefed on this item as informational only and no action was requested/taken. It is estimated that the liquor store removed approximately 42 parking spaces from the development.

#### Proposal

The applicant would like to discuss the possibilities of adding 17,700 square feet of retail throughout the project, which includes an additional 4,400 square foot building (proposed retail "A") next to the parking lot located west of the liquor store, a 10,500 square foot building (proposed retail "B") east of the liquor store, and a 2,800 square foot building (proposed retail "C") between the grocery store and the building to the east. See Exhibit B & C. The applicant would like to expand the existing retail square footage of the site utilizing the recently adopted transfer of development rights within the corporate limits of the City. The anticipated use would be additional retail/commercial similar to what exists on the site today, and a potential drive thru use on retail "A".

#### Approved MPD

The approved MPD includes a 90,500 square foot commercial center consisting of six (6) buildings, including a retail anchor, grocery store limited to no more than 52,000 square feet. The approval also consists of 446 parking spaces. Currently, The Market at Park City contains 51,558 square feet. The site also includes Zion's Bank and Key Bank. Both of these banks have drive-up windows. The site is located in Residential Development-Medium Density (RDM) & Regional Commercial Overlay (RCO) Districts, and also within the Transfer of Development Rights (TDR-R) overlay receiving zone. See Exhibit A & D.

## **District Purposes**

### **Residential Development Medium Density District**

The purpose of the Residential Development Medium Density (RDM) District is to:

- a) allow continuation of medium Density residential and resort related housing in the newer residential Areas of Park City;
- b) encourage the clustering of residential units to preserve Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of construction and municipal services;
- c) allow limited generated businesses and recreational activities that are Compatible with residential neighborhoods;
- d) allow Development in accordance with the Sensitive Lands Ordinance;
- e) provide opportunities for variation in architectural design and housing types,
- f) promote pedestrian connections within Developments and between adjacent Areas; and
- g) minimize impacts of the automobile on architectural design.

### **Regional Commercial Overlay District**

The purpose of the Regional Commercial Overlay (RCO) District is to allow for regional Commercial Uses on Properties not otherwise zoned for Commercial Uses. This overlay zone affords the Owner the option to apply for commercial Development and Use on lands affected by the overlay zone. In the event the Application for Commercial Use is denied, the underlying zoning governs permissible Development of the Property.

### **Transfer of Development Rights (TDR) Overlay District**

The purposes of the Transfer of Development Rights (TDR) Overlay Zone are to:

- a) promote the general health, safety, and welfare of the present and future inhabitants, businesses, and visitors of Park City;
- b) preserve Open Space, scenic views, environmental areas, Steep Slopes and Sensitive Lands;
- c) conserve Agriculture, and forest areas;
- d) protect lands and structures of aesthetic, architectural, and Historic significance;
- e) retain Open Space in which healthful outdoor recreation can occur;
- f) improve upon Park City's well-established park and trail system;
- g) ensure the owners of preserved, conserved, or protected land may make reasonable use of their Property rights by transferring their right to develop to eligible zones;
- h) provide a mechanism whereby Development rights may be reliably Transferred;
- i) ensure Development Rights are transferred to properties in Areas or districts that have adequate community facilities and infrastructure, including transportation, to accommodate additional Development; and
- j) locate receiving zones to improve future traffic circulation

**Analysis**

LMC § 15-6-4(l) indicates that *changes in a Master Planned Development, which constitute a change in concept, Density, unit type or configuration of any portion or phase of the MPD will justify review of the entire master plan and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement. If the modifications are determined to be substantive, the project will be required to go through the pre-Application public hearing and determination of compliance as outlined in Section 15-6-4(B) herein.*

The applicant would like to discuss the possibilities of adding 17,700 square feet of retail throughout the project, including a drive-up window. The approved existing MPD is for 90,500 square feet. The site contains approximately 87,000 square feet excluding the State Liquor store, which consists of an additional 12,000 square feet. The site is almost at capacity for density and the applicant would like to further explore transferring density to accommodate additional square footage.

The approved Snow Creek MPD would have to be amended and the proposal would also have to meet current MPD requirements such as density, setbacks, open space, off-street parking, height, site planning, landscape and streetscape, employee/affordable housing, etc. At the time of approval the City did not require MPD conditions of approval to be recorded on Development Agreements. Staff recommends that if the property owner decides to move forward with the proposed MPD amendment, and TDR credits are obtained, and the Planning Commission approves the amendment, a developer agreement is to be executed and recorded.

The requested additional retail/commercial is a conditional use in the RDM & RCO subject to the provisions of LMC Chapter 15-6 Master Planned Developments. The RDM also indicates that these uses are allowed only as secondary or support use to the primary development or use and intended as a convenience for residents or occupants of adjacent or adjoining residential development. The applicant does not propose any workforce/affordable housing. All of the square footages proposed in the exhibits are single story, similar to the way the existing retail is set up.

In addition to the criterion on LMC Section 15-10-1 Conditional Use Review, Standards of Review, if the applicant requests a drive-up window, a conditional use permit must be applied for in which the applicant must demonstrate that at periods of peak operation of the drive-up window, the Business patrons will not obstruct driveways or Streets and will not interfere with the intended traffic circulation on the site or in the area.

The applicant proposes the improvements on exhibit B and C, also summarized on the following table below:

Site Area	9.222 acres	401,710.32 sq. ft.
Existing parking	300 spaces	
Proposed parking	351 spaces	
Existing footprint	1.99 acres	86,684.4 sq. ft. (excluding DABC)

Proposed footprint	2.39 acres	104,108.4 sq. ft.
Existing landscape areas	2.64 acres	114,998.4 sq. ft.
Proposed landscape areas	1.97 acres	85,813.2 sq. ft.
Existing impervious areas	4.69 acres	204,296.4 sq. ft.
Proposed impervious areas	4.86 acres	211,701.6 sq. ft.

### MPD Requirements

- Density. *The site is almost a MPD capacity of the original MPD, which authorized 90,500 square feet of commercial space. This calculation did not anticipate the State liquor store. The applicant would have to submit a Site Suitability Analysis per LMC 15-6-5(A) to be able to determine if an increase of number of units and density is permitted given that the LMC and MPD process and standards have changed over the last 19 years.*
- Setbacks. *The concept plan meets the required minimum setbacks of twenty-five (25').*
- Open Space. *The concept plan meets current open space requirement. In 1995 19.9444 acres were dedicated to the City as non-developable open space. LMC 15-6-5(D) indicates that all MPDs shall contain a minimum of sixty percent (60%) open space. The applicant would have to review the original MPD areas to make sure that this standard is met.*
- Off-Street Parking. *The LMC requires three (3) parking spaces for each 1,000 square feet of net leasable floor area for retail & service commercial. The LMC increases the parking ratio to five (5) for each 1,000 square feet of net leasable floor area for major retail & service commercial. The net leasable floor area has not been submitted. Also an overall study would also need to be updated to reflect the current uses of the existing buildings.*
- Height. *It is anticipated that the concept plan would meet the maximum height limitation of twenty-eight feet (28') from existing grade. Gable, hip, and similar pitched roofs may extend up to five feet (5') above 28', if the roof pitch is 4:12 or greater. It has been identified that the proposed building would be limited to one story.*
- Employee/Affordable Housing. *MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application. The applicant has indicated that no employee/affordable housing is requested at this time. The applicant will have to comply with this standards outlined in the current Affordable Housing Resolution.*

Additional criteria can be analyzed pending specific additional information to be submitted by the applicant.

### Compliance with the General Plan

The primary goal for the zone (with its overlay) is to maintain the distinctive character of a mountain resort community in developing areas outside the historic core. The General Plan indicates that steps should be taken to prevent the area from developing

with traditional suburban features that would be incompatible with the community's goals. The following policies will help accomplish this goal:

- Design large-scale commercial buildings and development to reflect traditional Park City patterns, character, and site designs. Support the mountain character and charm of the City by making sure that new commercial development relates to the mining/historic architectural heritage of Park City.
- Encourage alternatives to the use of autos, and discourage driving where feasible.
- Maintain and expand open space by employing a variety of approaches, both regulatory and non-regulatory.
- Adopt a program to better define and protect the major entryways to the City.
- New arterial roads should connect to State Highways

The following actions apply to the concept plan:

- Minimize architectural styles and signage that are clearly not in keeping with the mountain resort character of the community. *The existing master site plan would have to be amended for the additional commercial business. The plan would also have to be analyzed to meet this action.*
- Control the intensity and direction of commercial lighting, so that it does not illuminate adjacent residential developments and reduces, to the maximum extent feasible, impacts on the night sky. *In order to meet this criterion, a lighting plan would have to be submitted to analyze the commercial lighting.*
- Consider size limits (e.g., no building larger than 15,000 square feet) on commercial retail developments such as hardware, general merchandise, consumer electronics, and similar uses. Allow larger retail structures--such as supermarkets that serve primarily local residents--only in specified circumstances. *The proposed retain complies with this requirement, however, other regulation is not met such as the required amount of parking, open space, etc.*
- In all new developments, require walks or year-round trails that connect with adjacent areas and encourage private pathways and trail systems to connect with public trail systems. Retrofit areas now lacking sidewalks. *The concept plan keeps the trail access to McLeod Creek Trail and the community trail north of it. The proposal adds another connection to the community trail indicated on the northeast corner of the site.*
- Limit the new construction of drive-up windows in commercial areas. The proposed concept plan adds another drive-up window on the site. *There are currently two drive-ups, one for each bank. The proposal does not meet this criterion of limiting new construction for drive-up windows.*
- Analyze the unique natural habitat and open space potential of individual sites as development proposals are reviewed and as opportunities become available. Meet overall community objectives for visual, passive, and active functions in acquired open space sites. *The proposal removes some existing open space on found on the existing parking lot.*

### **Future MPD Process (LMC § 15-6-49[B])**

In order to provide an opportunity for the public and the Planning Commission to give preliminary input on a concept for a Master Planned Development, all MPDs are required to go through a pre-Application public meeting before the Planning Commission except for MPDs subject to an Annexation Agreement. A pre-Application will be filed with the Park City Planning Department and shall include conceptual plans as stated on the Application form and the applicable fee. The public will be notified and invited to attend and comment in accordance with LMC Chapters 15-1-12 and 15-1-21, Notice Matrix.

At the pre-Application public meeting, the Applicant will have an opportunity to present the preliminary concepts for the proposed Master Planned Development. This preliminary review will focus on identifying issues of compliance with the General Plan and zoning compliance for the proposed MPD. The public will be given an opportunity to comment on the preliminary concepts so that the Applicant can address neighborhood concerns in preparation of an Application for an MPD.

The Planning Commission shall review the preliminary information to identify issues on compliance with the General Plan and will make a finding that the project initially complies with the General Plan. Such finding is to be made prior to the Applicant filing a formal MPD Application. If no such finding can be made, the applicant must submit a modified Application or the General Plan would have to be modified prior to formal acceptance and processing of the Application. For larger MPDs, it is recommended that the Applicant host additional neighborhood meetings in preparation of filing of a formal Application for an MPD. Due to the size of the existing developments, Staff recommends that the applicant hosts additional neighborhood meetings.

### **TDR Program**

This site is located within the TDR-R overlay zone and is eligible to receive Transfer Development Credits within the procedures outlined below:

- All regulations governing zoning, subdividing, and approval processes remain as currently adopted and amended. If any Development within the TDR-R overlay requests a Density greater than permitted by the Base Zoning, the increased Density shall be realized through Development Credits.
- Any Development requesting higher density than the Base Zoning must be reviewed by the Planning Commission as an MPD. The Planning Commission shall consider all factors set forth in LMC Chapter 15-6.
- Any Development requesting the higher densities shall bring evidence of Development Credits in the form of options to purchase, ownership or joint ventures at the time of Master Planned Development approval and evidence of ownership at time of Development Agreement approval.
- Areas may develop at the underlying Base Zoning without purchasing Development Credits. If these Properties desire to increase their Densities beyond the existing zone, then Development Credits shall be required and the

height limitation for the Site may be increased from the Base Zoning limits through an approved MPD.

- Any Development Approval process, using Development Credits, shall adhere to the Base Zoning requirements including the MPD requirements.

The applicant is responsible for obtaining specific development rights to add the proposed addition through the current TDR Ordinance. Staff has not received any documentation outlining any transfer of density.

### **Issues to Discuss**

**This work session preliminary feedback is for general information to answer general questions pertaining to the potential project. This work session discussion is not intended to represent exactly what can be done with project but rather serve as a first step and help educate the applicant in the future process going forward and to familiarize them with the pre-MPD, MPD, TDR, etc. Further, feedback provided via this work session meeting will not be considered binding of any approval or disapproval. Approval occurs in accordance with the requirements of the Land Management Code. Information provided at this meeting is based upon the accuracy and completeness of the information provided by the applicant.**

Staff requests that the Planning Commission provide preliminary direction and input to Staff and the applicant related to the initial concept. See Exhibit C. The applicant requests preliminary feedback prior to completing/submitting a full pre-application for an MPD.

The applicant has indicated that they would prefer to defer the items requested by Staff until after the Planning Commission gives its initial reaction to the submitted concept. These items include the following:

- Plan outlining the existing and proposed utilities
- Proposed building elevations
- Complete landscape plan
- Perspective drawings of proposed development site
- Traffic study from a transportation engineer/planner

Before the Planning Commission starts formally reviewing the Pre-MPD application, the application will have to satisfy the MPD requirements, compliance with the General Plan, and TDR procedure for receiving additional density, and other applicable criteria outlined in the LMC. Does the Planning Commission concur with the preliminary staff analysis outlined in MPD Requirements and Compliance with the General sections of this staff report?

Does the Planning Commission agree that it is appropriate to consider an increase to the overall square footage in order to increase density through the above process?

Are there any particular design or MPD issues that the Planning Commission wishes to identify as important/relevant in its future consideration of whether to approve or deny an application?

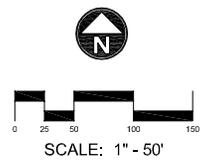
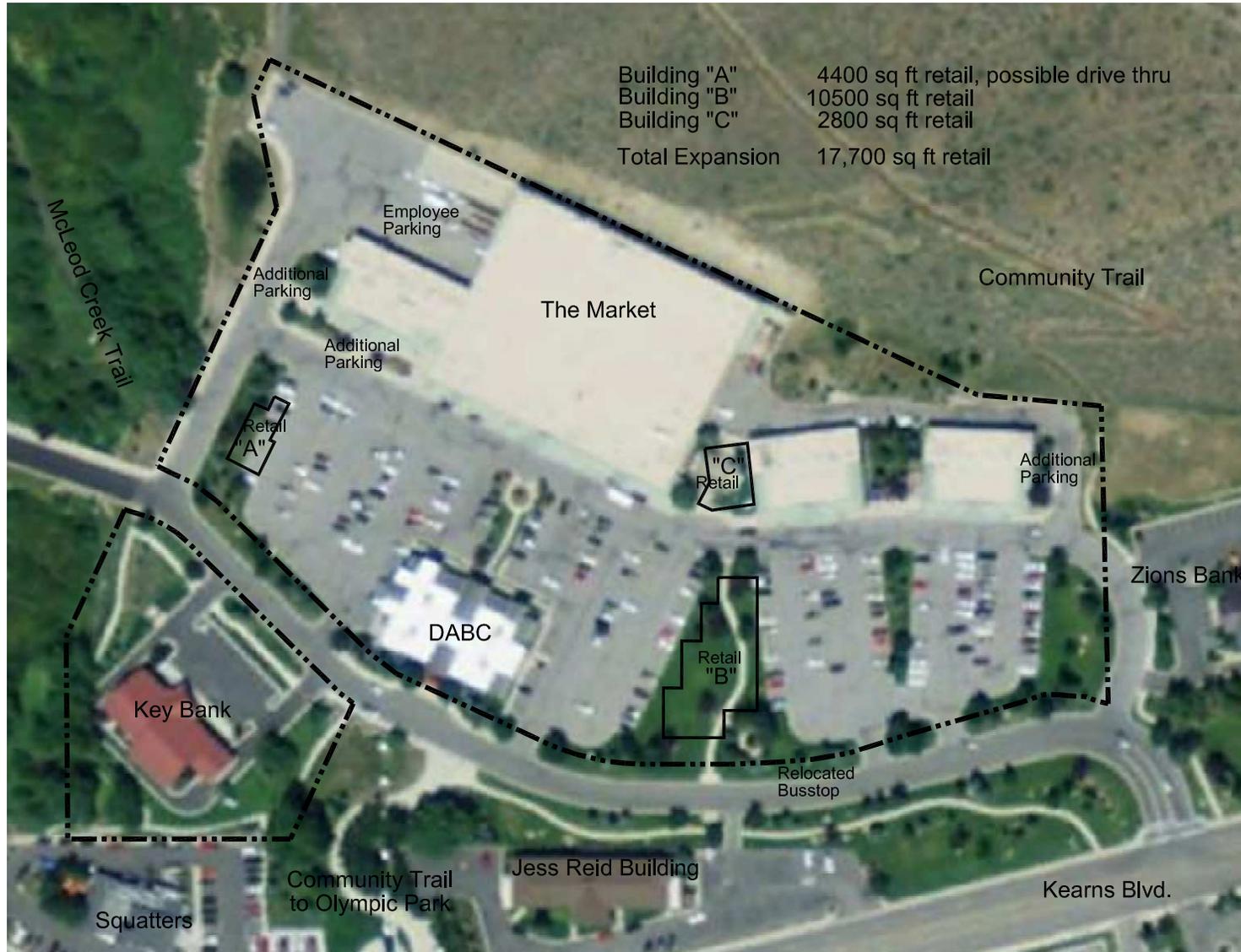
### **Summary Recommendations**

Staff recommends that the Planning Commission look at the Snow Creek Crossing Concept Plan located at 1300-1600 Snow Creek Drive during a work session and give preliminary feedback based on the limited information provided, prior to the applicant submitting a formal pre-application for a MPD and the associated public hearing.

### **Exhibits**

- Exhibit A – Snow Creek Crossing Approved Master Planned Development
- Exhibit B – Aerial Photograph with proposed building locations
- Exhibit C – Retail Expansion Concept Plan
- Exhibit D – Existing Conditions Plan
- Exhibit E – 4.14.1993 Planning Commission minutes
- Exhibit F – 5.13.1993 City Council minutes
- Exhibit G – 9.16.1993 Planning Commission Staff Report
- Exhibit H – 9.22.1993 Planning Commission minutes
- Exhibit I – 10.14.1993 Planning Commission minutes
- Exhibit J – 11.09.1993 Final Action Letter
- Exhibit K – Snow Creek Crossing Subdivision
- Exhibit L – 2006 Memorandum of Understanding for Liquor Store





August 28, 2012  
September 13, 2012

**RETAIL EXPANSION  
AERIAL VIEW  
PRE-TDR APPLICATION**

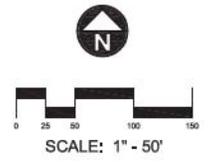
**SNOWCREEK SHOPPING CENTER  
PARK CITY, UTAH**



land planning \* landscape architecture  
Post Office Box 683175  
1685 Bonanza Drive Suite 206  
Park City, Utah 84068  
435.901.3715 f: 435.645.0621  
peteg@landsolutionspc.biz



Building "A" 4400 sq ft retail, possible drive thru  
 Building "B" 10500 sq ft retail  
 Building "C" 2800 sq ft retail  
 Total Expansion 17,700 sq ft retail



**Tabulations:**

Site Area	9.222 Acres
Existing Parking	300 spaces
Proposed Parking	351 spaces
Existing Footprint	1.99 Acres
Proposed Footprint	2.39 Acres
Existing Landscape Areas	2.64 Acres
Proposed Landscape Areas	1.97 Acres
Existing Impervious Areas	4.69 Acres
Proposed Impervious Areas	4.86 Acres

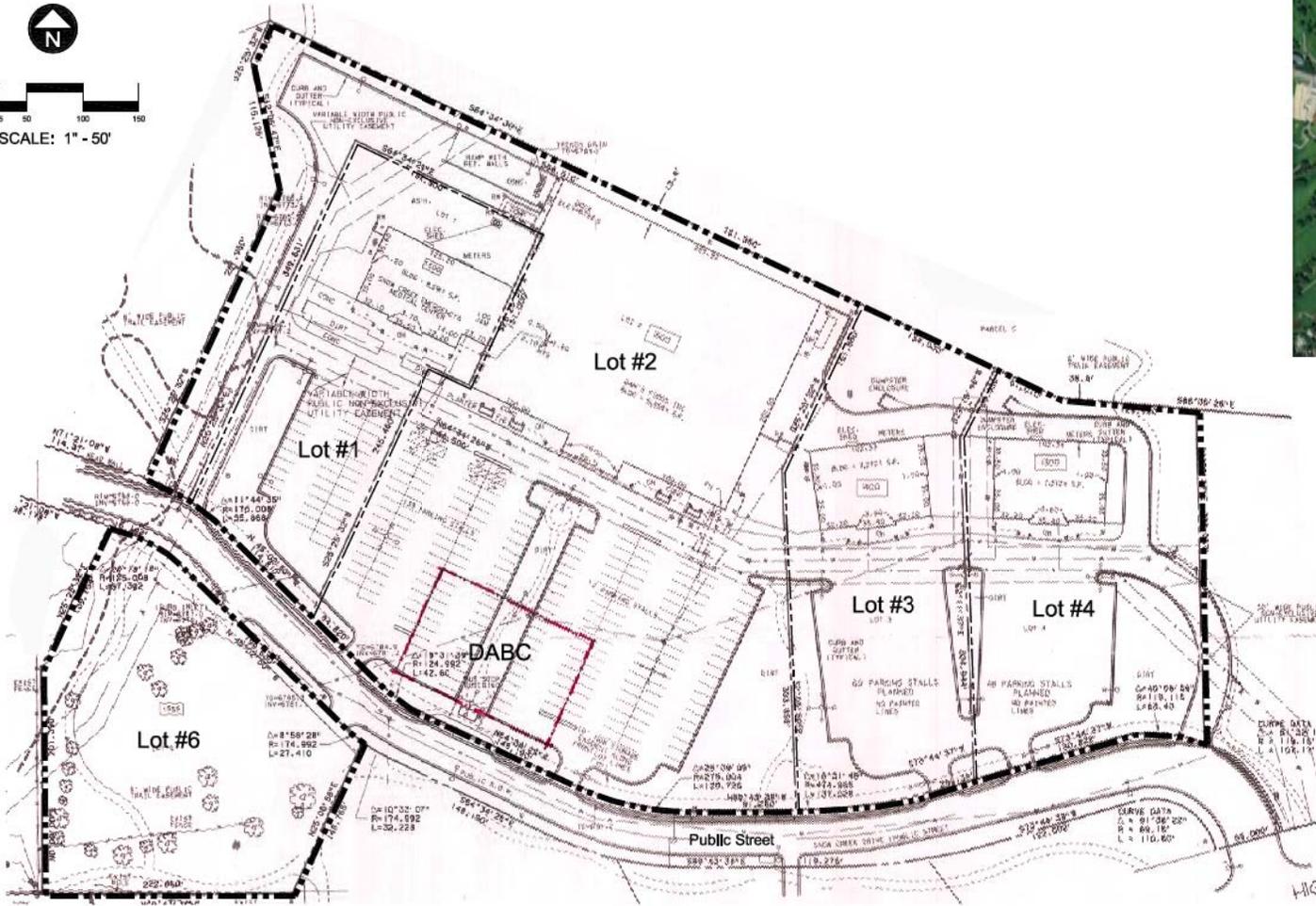
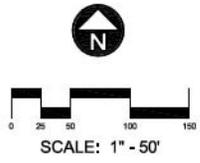
**Notes:**  
 Impervious and Landscape Areas may contain elements of each other within the area calculations.  
 Relocated Bus stop loss of open space is mitigated by area recouped from existing bus stop.  
 Possible expansion could occur between Legers and Flippin Burgers but would require relocating utilities.  
 Additional parking adjacent building on Lot 4 requires relocation of existing trail.  
 Additional parking in front of building on Lot 1 would be handicap accessible.  
 Relocated Busstop would provide enhanced pedestrian access to shopping.  
 Site is currently served by water and sewer and no further extension of utilities is required.  
 Proposed building architecture to match existing buildings at a minimum.  
 Site contains no slopes over 30%.

August 28, 2012  
 September 13, 2012

**RETAIL EXPANSION  
 CONCEPT PLAN  
 PRE-TDR APPLICATION**

**SNOWCREEK SHOPPING CENTER  
 PARK CITY, UTAH**

**Land SOLUTIONS**  
 PLANNING & DESIGN  
 land planning \* landscape architecture  
 Post Office Box 663715  
 1685 Bonanza Drive Suite 206  
 Park City, Utah 84068  
 435.901.3716 F: 435.645.0621  
 pete@landsolutions.com



Vicinity Map

Current Development

Parcel Size	9.222 Acres
Lots 1-4	
Parcel Size	10.739 Acres
Lots 1-4 and 6	
Building Footprint	1.99 Acres
Lots 1-4	
Landscape Space	2.54 Acres
Lots 1-4	
Impervious Area	4.69 Acres
Lots 1-4	
Parking Spaces	300 Spaces
Lots 1-4	

Impervious areas may contain landscaping elements primarily in the area between the buildings on lot 2 and 3  
 Landscape areas may contain impervious site elements such as sidewalks and trails.  
 Parking spaces based on current survey. Some spaces may have been converted to shopping cart gathering areas and building access to the DABC.

August 28, 2012  
 September 13, 2012

**EXISTING CONDITIONS  
 PLAN**  
**PRE-TDR APPLICATION**

**SNOWCREEK SHOPPING CENTER**  
 PARK CITY, UTAH

Planning Commission - October 10, 2012



land planning \* landscape architecture  
 Post Office Box 683175  
 1685 Bonanza Drive Suite 206  
 Park City, Utah 84308  
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Developments approved prior to adoption of the Sensitive Area Overlay Zone are vested in terms of density. Site planning standards can be applied only to the extent that they do not unequivocally reduce vested density. Limits of disturbance, vegetation protection, and building design standards do apply."

2. Snow Creek, Request for Approval of a Master Planned Development for a 90,500 Square Foot Commercial Shopping Center (Intersection of Highways 224 and 248) - Pyramid Construction

Chairman Bruce Erickson excused himself due to a conflict of interest, and Vice-Chair Alison Child assumed the role of Chair.

Senior Planner Suzanne McIntyre summarized the work session discussions. The applicant had requested 90,500 square feet of commercial development with 431 parking spaces and 72 units of 750 square feet totaling 36 unit equivalents. The Planning Staff had reviewed the application for the MPD and application of the RCO zone and recommended approval with the findings and conditions outlined in the Staff report with the addition of Condition 19 stating, "At the Conditional Use Permit stage, the uses shall be specifically approved, and any future revisions in use shall require Planning Commission approval."

Doug Rosecrans, representing the applicant, expressed his opinion that the revisions recommended by the Planning Commission had been made. No other concessions could be made, and he requested approval or denial without further delay. If the application was denied, he requested that the Planning Commission enumerate the reasons for denial.

Vice-Chair Alison Child asked for public input.

Senior Planner Suzanne McIntyre stated that public input had been received from Rob Morris who was concerned about residential development in the entry corridor and requested the Planning Commission consider allowing office uses in that area. Audrey Druen, Wind Drift Condos, called and was opposed to a shopping center on the Snow Creek site and favored keeping the development residential. Max Miller, 12 Thaynes Canyon Drive, sent a letter expressing opposition to the project based upon the high density and potential traffic conflicts and stated that the use would be better suited to the Kimball Junction area. The Park City Chamber Bureau submitted a letter expressing concerns about the project and suggesting possible mitigations. The letter noted divergent points of view from the Board members. Allan Alter was concerned that the parking and traffic impacts would be too great, especially at the

intersection of Highways 224 and 248. He felt the greatest amount of growth was taking place in the County, and a new grocery store should be located there as this site could better accommodate a low density housing development or a retail mall without a supermarket.

Mike Sloan, representing Prospector Square Homeowners Association, discussed the commercial space already available and expressed concern about the addition of another 90,000 square feet. He stated that there is currently 187,000 square feet of vacant ground in Prospector Square. There were some larger parcels surrounding Prospector Square, part of the original platting, which could also be developed. Adding 90,000 square feet of commercial development to an already heavily impacted area was not necessary.

Steve Miner, Director of Real Estate for Associated Food Stores, and representing the proposed tenant, Dan's Foods, commented that there was a definite need for another supermarket in the area since many people were going outside the community to shop. The applicant had tried to be flexible to meet the needs of the community. Some people suggested Kimball Junction as an alternative site, but he did not believe that would be convenient for the citizens of Park City. He was open to additional suggestions, but he felt at this point a definite decision was required.

Mike Ferrigno, Wind Drift Condominium resident, was concerned about the access road through the site and the potential for shortcuts through the residential areas to avoid the intersection of Highways 248 and 224. The building footprints for the 12-plexes were the same size as the 4-plexes in Wind Drift. He felt the proposed residences were too small since only 10% were designated as affordable housing. He was also concerned about traffic noise and requested that the Sensitive Lands Ordinance be applied to the wetlands.

Hearing no further public input, Vice-Chair Alison Child closed the public hearing and asked for comments from Commissioners.

Commissioner Joe Tesch stated that a new grocery store was needed, and it was necessary to place it on a viable site. He disagreed with the site initially, but as the project unfolded, he was more favorable toward it. He was comfortable with the location, the plan, and the parking. His main concern was with the residential area. He was unsure how well the commercial and residential uses would mix. He recommended the number of units be limited to 60 or less and be a breakeven situation for the developer.

Commissioner Chuck Klingenstein commented that he felt good about the site until he walked through it after the snow melted. He felt

there was too much parking and it could be cut to around 310 spaces. He was concerned about the area to the north, especially Building 1 and its related parking, and the bypass road running through a neighborhood. He felt there was too much crammed into a very sensitive site, and the project needed to be trimmed down.

Commissioner Fred Jones appreciated the developer's willingness to work with the Planning Commission to make this a workable project, but he felt he had not seen a plan that adequately addressed the constraints of the site and the needs of the community. He stated that he felt another supermarket was needed, but this project was much more than a supermarket with an additional 40,000 square feet of commercial development and 72 residential dwelling units. The Snow Creek Development did not foster the resort atmosphere which was the basis of the success of Park City and could potentially turn the City into "Any other place USA."

Commissioner Dean Berrett questioned whether the entire development was driven by a perceived or real need for a second grocery store. He had always looked at the base underlying zone as being Residential Development - Medium Density (RDM), as that zoning had been defined as the appropriate use for the corner. Sometime during the process it was decided that a Regional Commercial Overlay Zone was needed, and criteria were developed and applied to one portion of the site. Looking at the total parcel, there were about 8.84 acres of ROS which could not be built upon. There were 43 acres of residential medium density allowing 215 units at 5 units per acre, or 38.4 acres excluding wetlands, allowing 192 units with 384 associated parking spaces. The developers proposed 90,500 square feet of commercial use with 431 parking stalls and 72 residential units with 163 parking stalls, totaling 594 stalls and resulting in a sea of asphalt. There would be 30 acres of open space owned by Park City Municipal Corporation which could not be built upon and which would be taken off the tax rolls. The question was not whether the site was appropriate for commercial development, but how much commercial was appropriate. The Commission assumed that it was appropriate for 192 residential units because of the zoning. If it met certain criteria, a Regional Commercial Overlay Zone could be added. All this would lead to traffic beyond comprehension although everything possible was being done to mitigate the problem.

Commissioner Dean Berrett complimented the developer on providing more detail than was required during the application process. Being a long-time member of the Planning Commission, he had always tried to maintain harmony with Park City as a place to live and Park City as a place to visit, and tried to make decisions with both the resident and the visitor in mind. He realized the need for a grocery store for five months of the year, but not for 12

months. He was trying to keep in mind what the City would win, what they would give up, and what the trade-offs would be. In his opinion, the price of this development was too high, and the City was getting too little. He would vote not to approve this application.

Commissioner Ron Whaley stated that it was the duty of the applicant to supply the information necessary to convince the Commission of the appropriateness of a specific plan, and he had not been convinced of the suitability of this plan.

MOTION: Commissioner Ron Whaley moved to DENY the Snow Creek application based on the following Findings. Commissioner Fred Jones seconded the motion.

Commissioner Chris Erickson stated that he would vote against the motion. He believed the project was a reasonable solution to this type of commercial development. He felt there was too much parking, but he was especially happy with the affordable housing units.

Commissioner Joe Tesch stated he would also vote against the motion. It assumed a lot of community cohesiveness that he did not see, and it was important to have another grocery store to serve the area. He felt the price was too high not to approve it and have another grocery store convenient to the residents.

Commissioner Dean Berrett stated that, if his position voting in favor of the motion became a majority instead of a minority, he hoped the minutes reflected to the owners of the property, (i.e., Park City residents, Summit County residents, State of Utah residents, and all taxpayers), that the RTC represented them and he did not like the way he was being represented. He hoped that, if this motion were adopted, it would send a clear message that the expectations of value on this property were far more than the community would allow at this time. If another applicant came forward and was denied, it would be acceptable to him if the property sat vacant. He also expressed his intention to do something about the Regional Commercial Overlay Zone, which he felt was inappropriate in that area. He asked the Planning Commission and the Staff to work toward removing that zoning. If this was a Regional Commercial Overlay zone, then the property should have the base density of RDM, and any individual who felt that commercial use was appropriate would have to convince the Planning Commission through a re-zone process.

Commissioner Fred Jones clarified that, if the project was denied, he would welcome a modification of this application, because he believed that commercial use of the site could be appropriate if

sensitively done. Also, the price of the underlying ground could be driving the need for density, which he felt was too great for the site, and he did not understand why, since the parcel was owned by the RTC. The value of the ground was determined by what could be built on it. He did not agree that this much density was needed to afford the site; in fact, he felt it was the reverse.

VOTE: The motion passed 5-2, with Commissioners Dean Berrett, Alison Child, Fred Jones, Chuck Klingenstein, and Ron Whaley voting in favor of the motion, and Commissioners Chris Erickson and Joe Tesch voting against the motion.

Findings:

1. Appropriateness of use, particularly
  - a. Amount of commercial space
  - b. Configuration of stores
  - c. Parking amount and configuration
2. Interfacing with mixed use, specifically
  - a. The number of residential units and the siting of those units
  - b. The interface and balance of the residential use vs. commercial
  - c. The interface with the gas station, specifically siting and appropriateness
3. Moreover, all these issues in concert with the total community fabric of desirability, as shared by the people, is not of the tone for acceptability. This is a highly valued site in the eyes of the community. It is in the heart of the community and well couched in the entry corridor. Wholly and separately, the issues of the application do not warrant approval.

Chairman Bruce Erickson resumed the chair.

3. 707 Norfolk, Request for a Conditional Use Permit for a Single Family Residence on the Sheen Parcel (Sweeney Master Plan) Fred Moore

Planner Janice Lew reported that the site was in a very prominent location due to its proximity to the Hurley House and its high visibility from Town Lift. The Planning Staff recommended the Planning Commission deny the application based on the revised findings distributed during the Work Session.

Fred Moore, the applicant, presented a letter from David Belz, the project architect, refuting the reasons for denial. He felt the

Page 2  
City Council Work Session  
May 13, 1993

ensued regarding graffiti in the Deer Valley tunnel and the cement shafts on SR224 South. Pace Erickson reported that the graffiti will be removed in the tunnel by the Chrysalis group. Leslie Miller felt that the graffiti in the tunnel was not offensive and pointed out the merits of having a place for people to freely express themselves. Leslie Miller felt that the monument sign at the Education Center was appropriate and in response to a memo from the City Recorder, to maintain the same election process. Sally Elliott brought up the Grant Thornton conflict of interest issue, and Council directed Craig Smith to contact the attorney for Grant Thornton and report back to them.

3. **Snowcreek Parcel - Appeal by Pyramid Construction.** This matter is scheduled before Council as a Planning Commission denial of a request for approval of a master planned development for a 90,500 square foot commercial shopping center at the Snowcreek site (intersection of SR224 and SR248). The City Manager pointed out that the deadline for a final bid for the property to the RTC is tomorrow. Council needs to seriously consider if the RCO zoning location is appropriate for commercial development. Henry Sigg stated that the applicant is looking for a conditional action on the commercial portion of the MPD. He stated that Pyramid is not committed to the 72 affordable housing project, but would like some positive direction on that proposal. Bob Richer suggested that perhaps this is not an appropriate location for affordable housing. He recommended that after acquisition of the Snowcreek site by Pyramid that the City could purchase the "residential portion" for \$350,000. The City then could rezone it for a commercial use like an office park and sell it for \$850,000, resulting in \$500,000 being allocate in an affordable housing fund for a project in a more suitable location. He emphasized that affordable housing was always a feature of this project.

Ruth Gezelius agreed that the RCO zone is not appropriate for housing. She discussed that the proposed residential development is not compatible with surrounding neighborhoods. Henry Sigg stated that Pyramid was pressured to present an entire MPD on the project. Roger Harlan discussed the possibility of affordable resale housing. Mr. Sigg noted that Pyramid has never sold its property and leases and manages it. Jack Thomas, through illustration of renderings, reviewed the commercial project. Paving materials were discussed and Leslie Miller urged sensitivity to the wet land areas. Suzanne McIntyre added that the Planning Commission wanted a more "town center type development" concept. Ruth Gezelius felt this was unrealistic in consideration of the configuration of the parcel and site constraints. See regular minutes.

4. **707 Norfolk Appeal.** This matter is before Council as an

contractors to help hold down the number of full-time and seasonal staff as part of the city's overall staffing strategy. Three proposals were received as follows:

J. D. Company	\$3,200/month
P.M.A. Inc.	2,875/month
Mike Ferrigno	2,680/month

Landscape maintenance services would begin the week of May 16 and run through until October 16. All bidders have met the minimum qualifications as stated in the RFP. Staff that the bid be awarded to Mike Ferrigno at a cost of \$2,680 per month.

4. Approval of the purchase of approximately 78 acre feet of water from Bank One in the amount of \$90,000 - City staff recommends authorization to purchase 37% of Weber River Decree 827 for \$90,000 from Bank One of Utah. The point of diversion is currently Dorrity Springs. Authorization is subject to confirmation of good title from seller.

5. Award of bid for summer street work to Staker Paving for overlays in the amount of \$242,867; Staker Paving for golf cart path repairs in the amount of \$18,417; G&R Construction for seal coats in the amount of \$64,094; and authorization for the Public Works Director to negotiate bids on sidewalk construction in an amount not to exceed \$45,000 - Staff recommends approval.

## V NEW BUSINESS

1. Appeal of Planning Commission denial of a request for approval of a master planned development for a 90,500 square foot commercial shopping center at the Snowcreek site (intersection of SR224 and SR248) - Pyramid Construction - For the record, the staff report on this matter is as follows:

### I. Background Information.

The staff has scheduled time during Work Session for the Council to discuss the Snow Creek site and the proposed shopping center/multi-family residential MPD. This is an opportunity to bring the Council up to date on the process which the staff has been participating in with Pyramid Construction since January.

The Planning Commission has actually been in the process of reviewing the site since Mariah Properties first approached the City in August 1991 with an interest in developing a commercial center. The Mariah proposal was withdrawn by the applicants when it became apparent that there was little community support or

enthusiasm for a regional "superstore" shopping center of over 150,000 square feet.

The Planning Commission and staff have been studying the Pyramid proposal to determine whether the scale of development is appropriate for the site and whether the impacts associated with a development of this size in this location can be adequately mitigated.

## II. Most Recent Planning Commission Work Session.

On Wednesday, March 10th the Planning Commission held an informational Work Session with Pyramid's representative, Henry Sigg, John Goodell of Dan's Foods, Jack Thomas, AIA, and Doug Rosecrans of the Sear Brown Group. The Work Session was scheduled at the Planning Commission's request and the applicants were invited to provide an update on their progress.

The Work Session went well and the information exchange was constructive. At the outset of the review in January there were significant questions about the mass, size, and scale of the commercial development, traffic and circulation, wetlands disturbance, the housing component, and the impacts on the entry corridor. The Planning Commissioners are mixed in their responses to the proposal but it appears that the larger questions have been answered.

The most critical issues resulting from the Work Session were how the residential units will be priced, with a general consensus that some rent control or other provision for tying the residential to the commercial is appropriate. There is also still concern over the overall size of the commercial center, with some Commissioners saying that they still are not convinced that a center of this size is in the community's best interest.

## III. Updated Project Description:

Commercial: The commercial portion of the site contains approximately 10 acres of land proposed to accommodate the following:

	<u>Original</u>	<u>Rev. 2/3</u>	<u>Rev. 3/10</u>
Anchor:	55,000 sf	55,000 sf	<b>52,500</b>
Contiguous Space:	27,000 sf	<b>10,000 sf</b>	10,000
Reconfigured Space:		<b>15,000 sf</b>	15,000
Satellite Pad:	4,000 sf	4,000 sf	<b>eliminated</b>
Restaurant Pad:	6,000 sf	6,000 sf	6,000
Bank Pad:	7,000 sf	7,000 sf	3000 ft prnt

			7,000
total			
Total Commercial SF: 99,000 sf	<b>97,000 sf</b>	<b>90,500</b>	
Total Proposed Parking:	464 spaces	<b>461 spaces</b>	<b>431 spaces</b>
	4.68/1000	4.75/1000	4.75/1000

Residential: The residential portion of the plan involves about 10 acres proposed to accommodate 72 residential units of 750 square feet each, reduced from the original number of 104 units. The units will be configured in six 12-plexes with 163 parking spaces provided at a rate of 2.2 spaces per unit.

Open Space: The total open space will be approximately 30 acres located on the hillside, and in undisturbed wetlands retained by the City.

The revisions as of 3/10 are highlighted in bold as follows:

Anchor - east wing has been broken off and is now freestanding.  
**Anchor reduced from 55,000 to 52,500**

Square footage - reduced by 2,000 square feet, reconfigured as freestanding space (broken-off wing). **Reduced an additional 6,500 square feet from 97,000 to 90,500**

Parking - reduced by three spaces. Reconfigured more specifically toward each building. **Reduced by additional 30 spaces, new total is 431.**

4,000 sf Satellite pad - reconfigured slightly. **Eliminated.**

Residential portion of plan - general site plan included for MPD review. Six 12-plexes totalling 72 units, reduced from 104 units originally discussed. Parking total: 163 spaces, 2.2 spaces per unit. **No change in density, slight reconfiguration of southern-most building.**

**Road location. The road through the commercial center has been pushed back into the site up to 40 feet in some areas. This is to provide a greater buffer along Hwy. 248.**

IV. ISSUES FOR DISCUSSION (excerpts from the February 10th Planning Commission Staff Report):

1. Explanation of philosophy behind the creation and application of RCO zoning to the Snow Creek site.

A. History of RCO zone.

The City Council adopted the RCO zoning and applied it to the Snow Creek site in February, 1989. This was after extensive staff discussion and public input regarding the costs and benefits of applying it to several different sites in Park City. Early in 1988, the staff was directed by the City Council to evaluate the General Commercial zone and the potential for locating another grocery store in Park City. It was determined that the Snow Creek site, the Frandsen-Blonquist parcel on Hwy. 248 across from the high school, and the City shops/public works site were the only parcels large enough to accommodate a grocery store.

The City shops parcel was and is still is zoned GC, but is not located so as to be attractive to a major retail tenant such as a grocery store. It was determined that the GC zone was too broad to be applied to the other two parcels and that very specific site design criteria should be developed to shape future development. The intent was clearly to plan for the future commercial needs of Park City by providing a location within the city limits for a second grocery store. The residential and tourist populations were expanding and it was recognized that commercial services would have to be expanded to meet the future needs.

The City Council held public hearings and voted on applying the RCO zoning to the two other parcels. There was a great deal of neighborhood opposition to allowing the RCO zone on the Frandsen-Blonquist site and the Council voted against applying it there. That ruling was reinforced in 1991 when the Council voted against a rezone of the site to RCO to accommodate another proposal for a grocery store.

The Council voted in support of the application of the RCO zone to the Snow Creek site based upon the need for a possible location for a second grocery store in town and based upon a positive recommendation from both the staff and the Planning Commission. There was limited public opposition, and what input there was, was related to the cemetery being next door to a commercial center.

B. Benefit and Use of the Overlay zone.

The Council determined at that time that the benefit of having the new zone apply as an overlay was that its application would be discretionary, based upon the ability of the applicant to meet very specific criteria set forth in the ordinance. By adopting the ordinance creating the overlay and applying it to the Snow Creek site, the Council was determining that the commercial use of that parcel was appropriate.

The role of the Planning Commission in the RCO approval process is to review a project for compliance with the criteria in the RCO zone. It is not their role to determine whether the parcel is appropriate or not for commercial use. The Council has already established that position through the adoption of the ordinance creating the zone and its application to the Snow Creek site.

The Council and Planning Commission were being proactive in 1989 by looking ahead and determining that a second grocery store was definitely going to be needed, and by determining the most appropriate location for it within the city limits. The philosophy behind the selection of a location was that the City should prepare to meet the eventual demand which was certain to arise, in a location where the demand was most likely to be centered. This location serves both the local resident population and the tourist population.

C. Benefits to the City.

The benefits of locating within the City limits are not only perceived from a user standpoint of access and convenience, but from the resident and tourist perspectives of increased city services and heightened quality of life afforded by the additional tax revenue generated from the second store. It has not been determined whether the market share will actually increase with the addition of a second store or whether the second store will share the current market with the existing store, but it is certain that the location of the store within the City limits will mean that the additional tax revenue stays within the city and not bleed out as it would if a second grocery were to locate outside the City limits. An analysis of the comparative tax benefits to the City has been prepared and is attached.

D. Snow Creek's value as open space.

One additional question which was raised with regard to the Snow Creek parcel is why the City is anxious to have this parcel developed rather than purchasing it and keeping it as entry corridor open space. The reason is that while the parcel certainly is in Park City's entry corridor, it is well beyond the point of "entry corridor open space". The entry corridor open space effectively ends at the Radisson Hotel and the land beyond that point is consistently zoned for development. This site and the other vacant parcels will all be developed at some point, unless they have specifically been set aside for open space as was Lot 1 of the Thaynes Creek Ranch Phase 1 development.

In addition, the Comprehensive Plan contemplates development on this parcel. Its value as open space is certainly high because of the wetlands and the hillside, but probably not as high as some of

the other parcels which make up the contiguous open space corridor coming into town. The wetlands and hillside will be preserved with this plan while the developable portions of the site will be allowed to be developed.

2. Other Issues for Discussion - Site plan and design details.

In general, the staff is comfortable with the overall proposal, including the circulation, parking, and building locations. The preliminary life/safety and utility issues have been addressed to the satisfaction of Chief Building Official Ron Ivie and City Engineer Eric DeHaan. A memorandum from UDOT was received which states that the two access points (off 224 and 248) are located appropriately.

In analyzing individual aspects of the plan, the staff is generally comfortable with most of the criteria set forth for review in Chapter 10.9 of the Land Management Code. Aspects of the proposal such as its density, parking, open space, drainage, circulation, and utilities are all adequate. Like the Planning Commission, the staff is concerned about crossing the wetlands and would prefer not to. However, the traffic consequences of not crossing are so severe that we do not see how it can be avoided. It appears that the crossing will actually help alleviate some of the potential congestion at the intersection of 224 & 248.

3. Sensitive Lands Ordinance.

The Sensitive Lands Ordinance only applies to the residential portion of the site along Hwy. 224. Within that area, the sensitive lands area would be the wetlands. The City will retain this area and a 50-foot buffer is being provided as required by the Ordinance. Based upon the criteria in the Ordinance, there will be no further restrictions on the residential or commercial portions of the site.

The Frontage Protection Zone (FPZ) applies to the site wherever it is contiguous to the two highways and the required 30-foot setback will be respected.

4. Comprehensive Plan.

The plan is not in strict accordance with the Comprehensive Plan which shows this area to be appropriate for "Medium Density Residential/Mixed Use" defined as follows:

Areas on major roads where a mix of uses could complement the entry experience to Park City. Base zoning should encourage clustering of residential units with limits on scale and density. Ordinance flexibility should allow the

consideration, as a discretionary review, of commercial master planned developments including such uses as office and research parks and hotels with convention facilities. Retail uses should be limited to "in lobby" facilities for hotel guests.

However, the City Council, in adopting the Regional Commercial Overlay zone in 1989, did determine that some other uses might be appropriate if the citizens mandated the need for a commercial center with an anchor in the 30,000 - 65,000 square foot range and if the project's design was exceptional.

\* \* \* \* \*

See discussion in the work session notes. Sally Elliott stated that this location is appropriate for commercial as is the amount of square footage. Ruth Gezelius concurred and recognized that the site is difficult. She stated that she could support a resolution of intent to reverse the Planning Commission action, that the conditions of approval for the commercial are acceptable and that the conditions applied to the residential section be subject to a particular use and density allocation but not given conceptual approval. Toby Ross suggested that if the Council approves the commercial MPD portion of the project that this will not take force until the property is acquired or the offer submitted by Pyramid is accepted by the RTC. Ruth Gezelius, "I move MPD approval on the commercial portion subject to RTC's acceptance of Pyramid's proposal and on the residential portion that we not grant MPD approval and that any subsequent application would be subject to review on the part of the Planning Commission and City Council". For the benefit of Mr. Sigg, it was explained that this is an approval of part of the MPD and there will not be two separate MPDs.

Leslie Miller stated that the design is good and she is satisfied with the presentation. She would prefer less parking and is not totally convinced that the community needs this amount of commercial, however, she feels that Park City will grow and that the Council has to plan and accommodate the needs of the future. Ms. Miller continued that a grocery store centralizes a community and she would rather keep people in Park City. She stated that she was not comfortable with the residential aspect of the project and urged the applicants to be sensitive on the environmental issues affecting the project. Roger Harlan hoped that there was a way to phase the projected parking and felt that the residential portion could be improved to include purchase by Park City residents. He liked the addition of a grocery store and felt that the plan improves the entry corridor and the traffic circulation in the area. Mr. Harlan added that commercial activity will enhance tax revenues and he supported the project.

Bob Richer agreed with the statements made. He noted that there has not been public outcry against this project which occurred with the Smith's proposal. The Prospector Square Association complained about dilution of the commercial base, but Mr. Richer countered that the Prospector area is not suitable for commercial retail, like a grocery store or bank. He stated that affordable housing is an issue for him and should be tied one way or another with the project. Retail grocery use is the absolute best use from a revenue standpoint because it generates both retail, resort cities sales tax, and property tax. Mr. Richer felt that the details of the plan can be worked out. He pointed out that the City Council may be perceived as facilitating growth but the growth was really set in place 15 years ago. It is the fiscal responsibility of the Council to respond to growth with a long term economic plan.

Suzanne McIntyre reported that Frank and Marcia Liberty from Saddleview Drive called, requesting that Council uphold the Planning Commission's denial. Ruth Anderson called and stated that she didn't feel a grocery store should be located across the street from Albertson's and is opposed to an affordable housing project. Ms. McIntyre discussed an additional condition relating to review of parking if a commercial use changes. Ruth Gezelius pointed out that this is already covered in the LMC under the conditional use process. Toby Ross recommended that this be a separate condition so that all uses work well with the center. Ruth Gezelius, "I amend my motion to include a condition that any adaptive reuse change be subject to the conditional use process for satellite pad locations". Sally Elliott seconded. Motion unanimously carried.

2. Appeal of Planning Commission denial of a request for a conditional use permit for a single family residence on the Sheen Parcel (Sweeney Master Plan) 707 Norfolk - Fred Moore - See work session notes. Jack Thomas, architect, stated that the massing is attractive and works well on the site. Chris Erickson, Old Town resident and Planning Commissioner, stated that when he is determining compatibility, he asks himself if something is typical or atypical to its surroundings. In that context, he considers two houses on one lot, a triangular floor plan, and a lot of this size to be atypical features in the Historic District. Mr. Erickson continued that over the years, there has been an incremental widening of what can be justified as compatible. The Mayor pointed out that there is a larger house adjacent to this home. Chris Erickson countered that the square footage may be similar but a triangular shaped house is atypical. Ruth Gezelius added that irregular lots in Old Town are the norm.

Councilmember Gezelius stated that she has attended both Historic District Commission and Planning Commission meetings and

PARK CITY PLANNING DEPARTMENT  
STAFF REPORT

TO: PLANNING COMMISSION  
FROM: PLANNING STAFF  
DATE: SEPTEMBER 16, 1993  
RE: SNOW CREEK CUP

NS

**I. PROJECT STATISTICS**

Project Name: Snow Creek Commercial CUP  
Applicant: Pyramid Construction  
Location: Northeast Corner of Hwys 224 and 248  
Proposal: CUP for Commercial Portion of the Snow Creek MPD  
Zoning: RDM with the RCO overlay applied  
Adjacent Land Uses: Cemetery, Vacant, Commercial, Residential  
Date of Application: September 16, 1993  
Project Planner: Nora Seltenrich  
Staff Recommendation: APPROVAL with Conditions

**II. BACKGROUND INFORMATION**

As was previously reported to the Planning Commission, the City Council approved a Large Scale MPD on the Snow Creek parcel on May 13, 1993. The approval included broad site planning parameters, some detail on the Commercial portion of the site including size and configuration and RDM zoning on the residential portion of the site.

Once a large scale MPD is approved, each portion of that MPD is required to go through the Small Scale MPD/Conditional Use process (Section 1.14a of the LMC). According to Section 10.10 of the Land Management Code, the MPD approval establishes the density and a "site plan" for the development. The CUP process is intended to look in more detail at the specific plan. The MPD process for the Snow Creek parcel was more extensive and detailed than anticipated by the Code since the application of the RCO was also considered. The application of the RCO required findings which required a level of detail more normally required at the CUP stage.

**Planning Commission Role**

Given that the City Council approved the MPD which basically sets the density and the general site plan and parameters, it is the responsibility of the Planning Commission to work with the applicant to work out the details so that it will result in the best project possible. In this case, the conditional use review

should include such items as:

- architectural review
- signage
- landscaping and buffering
- phasing of building and parking
- service and delivery access
- dumpster locations and screening
- location and screening of mechanical equipment
- review of ownership and management structure
- utilities and grading plan
- fire and safety concerns

The conditions of the MPD must also be reviewed as a part of the CUP process. In addition to the items listed above, that includes review of:

- lighting
- trails plan, including timing of construction
- streetscape details
- coordination with the Jess Reid building
- landscape and common area maintenance plan
- public transportation plan

### Master Plan Approval

There has been some confusion over the Large Scale Master Plan. A plan has been prepared which shows the entire site including circulation, trails, buffer areas, wetlands, and the hillside. The area of the residential portion is fairly constrained by the wetlands and the Frontage Protection Zone and is limited by the RDM zoning. This plan will become part of the approval documents of the MPD, so that the Planning Commission can better understand how the commercial portion of the site fits into the whole. During the review of the MPD, it is appropriate to address phasing of the common Master Plan improvements such as roads, trails and landscaping.

### III. PROJECT DESCRIPTION

#### Site Plan

The commercial portion of the site contains about 15 acres. The access to the site will be from a driveway off of Hwy. 248, across from the Yarrow driveway and an access off of Hwy. 224, across from Thaynes Canyon Drive. The access from Hwy. 224 crosses the wetlands to reach the commercial parcel. The access road through the project will be a dedicated City street.

The sensitive lands areas, which consist of wetlands and hillside areas, are not proposed to be built upon as a part of this proposal. The parcel abuts the Park City Cemetery and a buffer of 100 feet to a driveway and 140 feet to a building is being provided. The project is in the Frontage Protection Zone which

requires a buffer of 30 feet. The buffer along Hwy. 248 ranges from 35 feet to 90 feet from the property line in width and in no case is narrower than 100 feet from the edge of the highway. the buildings are generally located against the hillside with the parking in front, between the buildings and Hwy. 248

#### Proposed Project

The total project is proposed to be 90,500 sq. ft. in six buildings. A total of 446 parking spaces is provided. The project will be phased as follows:

##### Phase I

Building B	9,450 sq. ft.	General Retail
Building C	52,500 sq. ft.	Retail Anchor
Building D	7,500 sq. ft.	General Retail
Building E	7,500 sq. ft.	General Retail
Associated Parking:	361 spaces	

##### Phase II (Adjacent to Cemetery)

Building F	7,000 sq. ft.	Bank with Drive/Thru
Associated Parking:	28 spaces	

##### Phase III (Behind Jess Reid Building)

Building A	6,000 sq. ft.	Restaurant
Associated Parking:	57 spaces	

The entire Center is proposed to have a common architectural theme which uses large timbers, rockwork, standing seam metal roofs, split faced block and stucco. Detailed architectural renderings have been reviewed by the Planning Commission on Phase I. Other buildings will be of a similar theme.

A system of pedestrian paths, bus and taxi dropoff areas and gathering spaces have been incorporated into the plan to make this large project more pedestrian friendly.

#### **IV. PUBLIC INPUT STATEMENT**

This project has been discussed for several months with the Planning Commission. In the course of those discussions, there has been surprisingly little public input. The property has been noticed and to date no public input has been received. A Public Hearing has been scheduled for your meeting to receive input on this proposal.

#### **V. ISSUES FOR DISCUSSION**

The Planning Staff and Planning Commission have been reviewing this proposal for quite sometime. Many issues have been discussed and resolved. Most of the issues and details have been resolved to a

point that conditions of approval can adequately address them. There are a few outstanding conditions which are worth mentioning:

Phasing of Parking:

One of the conditions of the City Council approval was that the parking in the first phase be phased so that not all 361 spaces are built initially. There was some question on the part of several Planning Commissioners and City Council members as to whether this amount of parking was really necessary for the first phase. The 361 spaces form a "sea of asphalt" in the minds of some, which should be avoided unless there is a real demonstrated need.

The applicants have evaluated this condition and have determined that they do, in fact, need all 361 spaces and that phasing of the parking is impractical from a construction standpoint. Documentation from the applicant to this effect is attached for your review. The City Engineer, Eric DeHaan, has evaluated the proposal for phasing of parking in Phase I and finds it impractical. Mr. DeHaan advises against a phasing condition.

The Planning Commission has three options:

1. Attach a condition of approval which requires phasing:

"Prior to building permit issuance, the applicant shall submit and the staff shall approve a plan to phase parking for Phase I of the development. No more than 300 spaces shall be permitted to be constructed initially. The areas not to be paved at this time will be landscaped temporarily to blend with the balance of the landscape plan. Within 12 months of full occupancy of Phase I, the Planning Commission will evaluate the demonstrated need for the additional parking."

2. Attach a condition which allows the parking to be built with the ability for the City to utilize some of the parking for special events:

"Prior to building permit issuance, the developer and the City shall enter into an agreement which allows the City to use a portion of the parking lot for overflow for special events. Their agreement shall address:

- Number of spaces
- Method of designation of parking area
- Times when special event parking is appropriate
- Management by the City of the event parking

3. Not place restrictions on the construction of the parking.

**STAFF ANALYSIS:** The staff shares many of the Commissioners' concerns over the "sea of asphalt" and initially supported the phasing of parking in Phase I. Upon further evaluation of the

practicalities of such a condition and upon recognition of the increasing parking demands in Park City, the staff would support Option #2.

#### Architectural Details:

The staff finds that the proposed architecture materials and colors are generally consistent with the Park City Design Guidelines and would be compatible with architecture in the vicinity. Conditions of approval have been drafted which require that:

- The roof detail shall extend along all sides of the buildings, except the back which is against the hillside. This is especially critical on the northwesterly elevation which will be highly visible as you travel south along Hwy. 224.
- The final materials and colors shall be approved by the planning staff prior to building permit issuance.

#### Bus Shelter:

The applicant is proposing to construct a bus shelter along the access road which runs through the site. The final location and details of this area cannot be determined until further consultation occurs with the City Transportation Director. A condition of approval has been added, which emphasizes the importance of this feature and requires additional detail to be approved by the staff.

#### Signage:

The Planning Commission expressed some concern over the mass and design of the proposed freestanding sign. The planning staff supports a freestanding sign which identifies only the center and finds that the two proposed locations are generally satisfactory. The final design of the sign is not being approved at this time and will be required to be brought before the Planning Commission for approval.

#### Top Stop:

Jeff Coleman, representing Pyramid Construction, has indicated that he has had conversations with the owners of the Top Stop which indicate that Top Stop will be requesting modifications to the building. Although Pyramid Construction will obtain the property, there is a lease with the Top Stop which they will have to honor. The property is currently zoned RDM and a gas station is a nonconforming use. The Board of Adjustment is required to act on any change to a nonconforming use. Further, the property is in the Frontage Protection Zone which requires Planning Commission approval.

Although the Top Stop is not a part of this commercial MPD, a condition has been added to require compatibility with this project

when modifications are requested.

#### **VI. STAFF RECOMMENDATION**

The staff recommends APPROVAL of the Snow Creek Commercial MPD, subject to the following conditions of approval:

1. All the standard conditions of approval shall apply.
2. The approval is for a 90,500 sq. ft. commercial center with 446 parking spaces to be developed in three phases. The site development plans dated August 20, 1993 and architectural drawings dated September 1, 1993 shall accompany these conditions of approval. These conditions may require changes or additional detail from those plans.
3. Final grading, drainage and utility plans shall be required to be approved by the City Engineer.
4. A Center maintenance and management plan shall be developed and approved which specifies ownership and maintenance responsibilities. The parking shall be commonly owned and not restricted to any use or structure. The plan shall insure maintenance of public amenities such as trails, walkways, bike racks, bus shelters, drinking fountains, benches and landscaping.
5. No outdoor display of merchandise will be allowed anywhere in the Center. Outdoor dining may be considered by the Planning Commission as a conditional use.
6. A final trails plan shall be submitted and approved prior to building permit issuance which shall be consistent with the proposed trails plan with the following changes:
  - The separated pathway along Hwy. 224 is not necessary since UDOT has constructed a sidewalk.
  - The trail along the old railroad grade shall be 10 ft. asphalt and 4 ft. soft surface as shown on the plan. The section shall be modified to show 6" of compacted base, 3" of asphalt top course and weed barriers under the wood chip soft surface.
  - Trails which cross wetlands will need to be boardwalks. The design shall be approved by the staff.
  - A minimum of 10 ft. of separation is necessary between the pedestrian path and the access road.
  - A trail connection shall occur between the sidewalk along Hwy. 224 and the railroad grade trail.
  - The northerly point of the railroad grade trail may

need to be relocated slightly based upon current negotiations with adjacent property owners.

- The gravel trails shall contain a weed barrier. All trails shall be constructed concurrent with construction of Phase I. A security shall be posted to insure installation of the trails prior to building permit issuance. The trails shall be completed prior to Certificate of Occupancy on the anchor retail space.

7. The Landscape Plan shall be modified to incorporate the comments of the City's Landscape Architect and shall include:

- Final planting details on the planter areas adjacent to the buildings.

- More detail on sod/bed areas which shall include massing of materials.

- Sections are required through the planters along the south end of the parking lot. There shall be some grade change in these areas.

- A specific berming plan shall be required for the storm pond retention areas along the northwesterly facade of the building.

- A temporary landscape plan shall be required for phases not to be built initially.

- Irrigation plans shall be submitted and approved.

- A security shall be posted prior to building permit issuance to insure installation of all landscaping associated with Phase I. The access road along Hwys. 224 and 248 and areas not constructed in Phase I.

8. A detailed streetscape plan shall be submitted by the applicant and approved by the staff which shall address:

- Paving details.

- Benches.

- Structures such as phone booths, drinking fountains, trash receptacles and bike racks.

9. Final lighting details shall be approved by the staff.

10. Restrooms shall be made available to the public between buildings C and D.

11. A plan for the wetlands crossing shall be submitted prior to permits being issued for any improvements on the site. The

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- bridge detail shall address a separated pedestrian crossing.
12. All necessary permits must be obtained from other agencies including the Army Corps of Engineers and UDOT.
  13. Any freestanding signs shall be separately approved by the Planning Commission.
  14. Final architectural details shall be approved by staff prior to building permit issuance which shall include:
    - Final approval of materials and color.
    - Wrapping of the roof detail around all sides of the building, except the rear, which backs up to the hillside.
  15. Final details on screening of dumpsters and the trash compactor shall be approved.
  16. The exact location and design of the bus shelter shall be reviewed and approved by staff. A detailed plan shall be submitted which includes details of the shelter and details of the significant landscaping which shall be required in the area.
  17. Prior to building permit issuance, the developer and the City shall enter an agreement which allows the City to use a portion of the parking lot for overflow for special events. The agreement shall address:
    - Number of spaces.
    - Method of designation of parking area.
    - Times when special events parking is appropriate.
    - Management by the City of the event parking.
  18. When the Top Stop applies for remodeling of the use, the improvements shall be made compatible with this approval.

3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy. 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

Planner Susan Lykes stated the applicant had requested that this item be continued.

MOTION: Commissioner Chuck Klingenstein moved to CONTINUE the Prospector Square public hearing. Commissioner Alison Child seconded the motion.

VOTE: The motion passed unanimously. Commissioner Dean Berrett abstained from the vote due to a conflict of interest

4. Sweeney Subdivisions - Preliminary Plat (King Road and Upper Norfolk)

Planner Janice Lew reported on public input from the property owner at 314 Norfolk who was concerned about having his view obstructed.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

5. Snow Creek - Commercial MPD (Northeast Corner of Hwy 248 and 224)

Due to a conflict of interest, Chairman Bruce Erickson abstained from discussion and action on this matter and turned the meeting over to Vice-Chair Alison Child.

Planning Director Nora Seltenrich explained that the City Council had approved a large-scale Master Plan Development on the Snow Creek parcel on May 13, 1993, setting forth some broad parameters on the parcel at the corner of Highways 224 and 248. The MPD included both commercial and residential portions, with a road running through the site connecting the two highways. A wetlands portion and a hillside portion on the site would be left undisturbed and would be owned by the City. Director Seltenrich reviewed site plans showing the commercial portion and stated that the Planning Commission was now reviewing the site specific design for the commercial project only.

Director Seltenrich explained that the proposed project was a 90,500 square foot shopping center consisting of six buildings to be developed in three phases. Total proposed parking was 446 spaces. The retail anchor, currently proposed as a grocery store, would be 52,500 square feet. Final landscaping details would be

addressed in the conditions of approval. The Staff recommended approval of the Snow Creek plans subject to conditions of approval mostly addressing final details to be worked out between the Staff and applicant.

Vice-Chair Alison Child opened the public hearing.

Linda Haynes was concerned with the issue of inviting more traffic into Park City. She felt Kearns Boulevard would soon look like State Street, and with three schools in the area, she felt traffic would be a major problem.

Susan MacArthur liked the idea of another grocery store, but not across the street from the current grocery store. She felt it was more appropriate in an area to accommodate those living eight or ten miles away.

Jess Reid asked where the entry was in relation to the existing dirt road leading to the abandoned house. Director Seltenrich explained that the entry was just east of the dirt road across the street from the most easterly entrance to the Yarrow. Mr. Reid asked if exterior signage would be the same as the Park City Plaza, and Director Seltenrich responded that it was proposed to be the same with halo illumination. She explained that the freestanding signs were not part of the current approval and would come before the Planning Commission at a later date. Signage details for individual buildings had not been approved and required sign permits.

Mr. Reid asked about something appearing on the plans coming from the road into his parking lot. Director Seltenrich explained it was an option to encourage circulation. The applicant and Mr. Reid could reach an agreement as to whether they wanted a vehicular connection. Mr. Reid asked about trails and sidewalks. Director Seltenrich replied that an extensive trails plan had been proposed showing sidewalks and trails. The applicant had also proposed a bus stop within the development and a special designated area for taxi drop-off adjacent to the anchor. Mr. Reid asked how Highway 248 would connect with the trails. Director Seltenrich offered to set up an appointment to meet with Mr. Reid to further explain the details.

Suzanne McAdams asked for an explanation of improvements to the intersection and how it tied in with the access. Director Seltenrich explained that there would be a stop light at the intersection of Highways 224 and 248. The area would be widened, with acceleration and deceleration lanes facilitating access to the driveways. She suggested Ms. McAdams contact City Engineer Eric DeHaan if she wished to review drawings of the proposed changes.

Myra Strauchan was concerned about proposed lighting for the project and hoped it would not be too bright. Director Seltenrich explained that one of the conditions of approval required that the final lighting plan be approved by the Staff. She asked Mr. Doug Rosecrans, representing the applicant, to explain the proposed lighting. Mr. Rosecrans explained that the proposed lighting would be on a 25-foot pole with a boxed in light shining down and not out. The very minimum lighting required by the International Electrical Society would be installed.

Vice-Chair Alison Child closed the public hearing.

Chairman Bruce Erickson resumed the chair.

**6. Hidden Meadows Annexation, (North of Royal Oaks II and Prospector Square)**

Chairman Bruce Erickson commented that this item would be presented in two parts. The first part would be a presentation discussing the annexation process, and the second part would address the project proposed by the applicant.

Planner Susan Lykes reported that the application was received in December 1992 and had been in process since then. The Planning Commission had reviewed issues of annexation including Master Planned Development approval which would determine the type of development allowed and the zoning applied if the proposed site were annexed. Major issues included road connections, traffic, and density. Planner Susan Lykes explained that, when the Planning Commission takes action on October 13, their decision would be based on reviews over the last year, public input, and the Staff's recommendation. The Planning Commission would only be making a recommendation to the City Council. The City Council would have responsibility for the annexation approval, and they would take public input at their meeting on November 4.

Planner Lykes corrected a media error by explaining that there was no connection planned from Hidden Meadows to Prospector or Chatham Crossing. An option for a secondary access through the Gillmor property to Highway 40 had not been decided. The primary access would be through Solamere.

Representing the applicant, Liz Josephson reviewed plans evolving from an environmental process mapping vegetation, slopes, access, exposure, and soil. The combined criteria led to a series of concepts proposed for Hidden Meadows. The plans were color coded and showed Hidden Meadows, the current Park City boundary, the annexation boundary of Park City and the ridgelines identified in the Park City Sensitive Lands Ordinance. Ms. Josephson explained

6. The City Council shall accept dedication of the open space parcels prior to plat recordation.
7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, prior to plat recordation.
2. Town Lift Phase I, Condominium Plat (738 Main Street) - Marriott Ownership Resorts

The Staff recommended approval with conditions as outlined in the Staff report.

MOTION: Commissioner Alison Child moved to APPROVE the final plat for Town Lift Phase I with conditions as outlined in the Staff report. Commissioner Dean Berrett seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval

1. The City Attorney shall review and approve the Declaration and Covenants.
2. The City Engineer shall review and approve the plat.
3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

The Staff recommended this item be continued at the applicant's request.

MOTION: Commissioner Alison Child moved to CONTINUE the decision regarding the Prospector Square Plat amendment. Commissioner Chuck Klingenstein seconded the motion.

Commissioner Dean Berrett declared he would be abstaining from discussion and voting on this matter due to a conflict of interest.

VOTE: The motion passed unanimously, with Commissioner Dean Berrett abstaining from the vote.

4. Snow Creek Commercial MPD (Northeast corner of Hwy 248 and 224)

Chairman Bruce Erickson stated that he would be abstaining from the discussion and vote on this matter and turned the meeting over to Vice-Chair Alison Child.

Planning Director Nora Seltenrich stated that the Staff recommended approval of the Snow Creek Commercial MPD subject to the conditions of approval outlined in the staff report. She reviewed changes to the conditions:

An addition was made to Condition 2:

The retail anchor shall be no more than 52,500 square feet.

The third item on Condition 7 was amended to add:

The intent is to screen parking areas from Highways 224 and 248.

An additional item was added to Condition 7 to read:

The final plan shall include specifics on size of materials. The materials shall be a significant size and mix to adequately screen parking from Highways 224 and 248.

The last item under Condition 7 was modified to read:

The access road along Highways 224 and 248 and areas not constructed in Phase I shall be included in this security.

The second item of Condition 14 was amended to read:

Wrapping of the roof detail around the northwest side of Buildings B and C and the east side of Building E is required.

Commissioner Chris Erickson asked what effect any action on the Conditional Use Permit had on the residential portion of the MPD. Director Seltenrich responded that it would not have an effect because the residential portion would be a separate application. As part of the Conditional Use Permit approval for the commercial portion, the applicant was required to landscape the area along Highway 224 and establish the location of the road connecting Highway 224 and Highway 40. Those were the only things that would affect the residential development.

Representing the applicant, Jack Thomas addressed the extension of the canopy along the north elevation of Building C, which was the loading dock. The canopy design for the front of the buildings integrated columns on a bay system. The loading dock had an entirely different function, and attaching the canopy to that elevation would be a difficult process. Pyramid Construction understood from their initial discussion that the canopy would extend along the north elevation of Building B, but Building C would be left open with a canopy over the dumpster.

Community Development Director Rick Lewis explained that, when the Staff was on site, it was clear that the corner would be a visible elevation. The Staff felt it presented a peculiar look for the roofline to go only part way. It would take years for vegetation to grow up to screen that side of the building. The Staff felt the overall design of the building would have a more finished look from Highway 224 with the roof detail. Mr. Thomas explained that it would be difficult to integrate the wood columns into the canopy. Community Development Director Rick Lewis responded that the wood columns were not required.

Commissioner Chuck Klingenstein stated that he did not like the intensity or the strip nature of the Snow Creek Development from the beginning, but when the City Council chose to overturn the Planning Commission's original decision, he had worked to the best of his ability to find the best project possible. However, parking was still a major concern. He was not convinced that all the parking would be needed from the start, and he wondered if it would ever be needed. Park City was becoming overpopulated with automobiles, and more parking would invite more cars. He thanked the applicants for their hard work to mitigate many of his concerns, but he still could not support the project.

Commissioner Joe Tesch invited the public to be aware of the public work sessions held for two hours prior to the Planning Meeting. This was where the issues were discussed and most problems resolved. By the time the Commissioners reached the Planning Meeting, they had formed their opinions and were ready to vote. Snow Creek was a difficult parcel that required hours of discussion over many issues. He felt the applicants had worked hard to achieve the best development possible, and he viewed it as a quality development. He felt a second grocery store was needed. It would be competitive with Albertsons and give the citizens a choice, and he thought it was a good use for that piece of property.

Commissioner Fred Jones said Snow Creek had been a difficult project for him from the beginning, and his major concern was the size and configuration of the project. However, the City Council had approved an MPD granting the developers the size of the project. Given the parameters of the City Council decision, he felt the developers had made an effort to design an attractive project and expected them to follow through with the Staff in terms of the intent of the landscaping and screening. He stated that he supported the project, but with reservations about the extent and size of the project.

Commissioner Chris Erickson agreed with Commissioner Fred Jones. He felt it had been handled well and hoped the end result in

reality met or exceeded what they had seen on paper. He was ready to support the project.

Commissioner Dean Berrett stated that, although the City Council had reversed the original decision made by the Planning Commission, it did not mean the Commissioners should forget their responsibilities as Planning Commission members and the process they had been through. The project presented for approval was only a refinement of the same project the Planning Commission denied a few months ago. In his opinion, the site was not appropriate for a 90,500 square feet of retail space configured in five building footprints with asphalt for 446 parking spaces and associated circulation lanes. An ill-defined RDM zone development, inadequate handling of the Top Stop issue, Park City Municipal Corporation ownership of open space, and what he referred to as "we the taxpayers through Park City Municipal Corporation's participation and facilitation of this purchase," purchased it from ourselves. He stated that he had never been comfortable or satisfied with that process. The City Council had overturned the Planning Commission denial and directed the Staff and Planning Commission to refine the project through the CUP process. He stated that he had personally tried to be objective and positive in the process and felt that had been the case given the fact that the Planning Commission was left to approve a project they had already denied. He intended to vote no on this issue.

Commissioner Alison Child commented that she felt the parking was excessive and thought there should have been some concessions.

MOTION: Commissioner Dean Berrett moved to DENY the Conditional Use Permit approval for Snow Creek based upon the findings that the 90,500 square feet of retail space with the associated parking was not appropriate for the site. Commissioner Chuck Klingenstein seconded the motion.

VOTE: The vote was split 3 to 3 and the motion failed, with Commissioners Dean Berrett, Alison Child, and Chuck Klingenstein, voting in favor of the motion and Commissioners Chris Erickson, Fred Jones, and Joe Tesch voting against the motion. Chairman Bruce Erickson abstained from the vote.

MOTION: Commissioner Joe Tesch moved to APPROVE the Snow Creek Conditional Use Permit with the conditions set forth and an additional condition stating that prior to building permit issuance, the applicant would obtain final approval on the remaining portion of the parcel. Commissioner Chris Erickson seconded the motion.

Commissioner Joe Tesch asked Commissioner Dean Berrett why he objected to Snow Creek when it appeared to be the same situation as Nielsen/Korthoff where the Planning Commission had denied it and the City Council overturned their decision. Commissioner Dean Berrett responded that a decision made by a higher body could not force him to change his vote. From the start he had been fundamentally opposed to the application of the RCO zone as applied to the Snow Creek project. He appreciated Commissioner Joe Tesch's attempt to address the RDM site which went one step further toward what the Planning Commission wanted several months before, but it did not overcome his objection to the RCO portion of the project.

VOTE: The vote was split 3 to 3 and the motion failed, with Commissioners Chris Erickson, Fred Jones, and Joe Tesch voting in favor of the motion and Commissioners Dean Berrett, Alison Child, and Chuck Klingenstein voting against the motion. Chairman Bruce Erickson abstained from the vote.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Snow Creek Conditional Use Permit as outlined in the staff report with one modification to attach a condition of approval requiring that the parking be phased as outlined in the staff report on Page 63, Item 1. Commissioner Chris Erickson seconded the motion.

Commissioner Joe Tesch asked Commissioner Chuck Klingenstein to consider an amendment to his motion to include the requirement that no building permits would be issued until final plat approval was obtained with regard to the residential section. Commissioners Chuck Klingenstein and Chris Erickson accepted the amendment.

Vice-Chair Alison Child asked what was gained by amending the motion, how it would change their ability, and what impact it would have in reviewing the residential portion. Commissioner Chuck Klingenstein felt it might be an incentive to the developer to expedite the residential portion and make it more favorable.

VOTE: The motion carried 4 to 2, with Commissioners Chris Erickson, Fred Jones, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioners Dean Berrett and Alison Child voting against the motion. Chairman Bruce Erickson abstained from the vote.

#### Conditions of Approval

1. All the standard conditions of approval shall apply.
2. The approval is for a 90,500 square foot commercial center with 446 parking spaces to be developed in three phases. The site development plans dated August 20, 1993, and

architectural drawings dated September 1, 1993, shall accompany these conditions of approval. These conditions may require changes or additional detail from those plans. The retail anchor should be no more than 52,000 square feet.

3. Final grading, drainage and utility plans shall be required to be approved by the City Engineer.
4. A Center maintenance and management plan shall be developed and approved which specifies ownership and maintenance responsibilities. The parking shall be commonly owned and not restricted to any use or structure. The plan shall insure maintenance of public amenities such as trails, walkways, bike racks, bus shelters, drinking fountains, benches, and landscaping.
5. No outdoor display of merchandise will be allowed anywhere in the Center. Outdoor dining may be considered by the Planning Commission as a conditional use.
6. A final trails plan shall be submitted and approved prior to building permit issuance which shall be consistent with the proposed trails plan with the following changes:
  - The separated pathway along Hwy. 224 is not necessary since UDOT has constructed a sidewalk.
  - The trail along the old railroad grade shall be 10 feet asphalt and 4 feet soft surface as shown on the plan. The section shall be modified to show 6" of compacted base, 3" of asphalt top course and weed barriers under the wood chip soft surface.
  - Trails which cross wetlands will need to be boardwalks. The design shall be approved by the Staff.
  - A minimum of 10 feet of separation is necessary between the pedestrian path and the access road.
  - A trail connection shall occur between the sidewalk along Hwy. 224 and the railroad grade trail.
  - The northerly point of the railroad grade trail may need to be relocated slightly based upon current negotiations with adjacent property owners.
  - The gravel trails shall contain a weed barrier. All trails shall be constructed concurrent with construction of Phase I. A security shall be posted to insure installation of the

trails prior to building permit issuance. The trails shall be completed prior to Certificate of Occupancy on the anchor retail space.

7. The Landscape Plan shall be modified to incorporate the comments of the City's Landscape Architect and shall include:

- Final planting details on the planter areas adjacent to the buildings.

- More detail on sod/bed areas which shall include massing of materials.

- Sections are required through the planters along the south end of the parking lot. There shall be some grade change in these areas. The intent is to screen parking areas from Hwy. 224 and Hwy. 248.

- A specific berming plan shall be required for the storm pond retention areas along the northwesterly facade of the building.

- A temporary landscape plan shall be required for phases not to be built initially.

- Irrigation plans shall be submitted and approved.

- A security shall be posted prior to building permit issuance to insure installation of all landscaping associated with Phase I, the access road along Highways 224 and 248 and areas not constructed in Phase I shall be included in this security.

The final plan shall include specifics on size of materials. The materials shall be a significant size and mix to adequately screen parking from Highways 224 and 248.

8. A detailed streetscape plan shall be submitted by the applicant and approved by the Staff which shall address:

- Paving details

- Benches

- Structures such as phone booths, drinking fountains, trash receptacles and bike racks.

9. Final lighting details shall be approved by the Staff.

10. Restrooms shall be made available to the public between Buildings C and D.

11. A plan for the wetlands crossing shall be submitted prior to permits being issued for any improvements on the site. The bridge detail shall address a separate pedestrian crossing.
12. All necessary permits must be obtained from other agencies including the Army Corps of Engineers and UDOT.
13. Any freestanding signs shall be separately approved by the Planning Commission.
14. Final architectural details shall be approved by staff prior to building permit issuance which shall include:
  - Final approval of materials and color.
  - Wrapping of the roof detail around the northwest side of Building B/C and the east side of Building E is required.
15. Final details on screening of dumpsters and the trash compactor shall be approved.
16. The exact location and design of the bus shelter shall be reviewed and approved by Staff. A detailed plan shall be submitted which includes details of the shelter and details of the significant landscaping which shall be required in the area.
17. Prior to building permit issuance, the developer and the City shall enter an agreement which allows the City to use a portion of the parking lot for overflow for special events. The agreement shall address:
  - Number of spaces.
  - Method of designation of parking area.
  - Times when special events parking is appropriate.
  - Management by the City of the event parking.
18. When the Top Stop applies for remodeling of the use, the improvements shall be made compatible with this approval.

Chairman Bruce Erickson resumed the chair.

#### **X. BACKGROUND INFORMATION**

##### **1. Royal Oaks Phase II Revised Final Plat**

Chairman Bruce Erickson commented that this project would not be easy. The Staff had outlined the issues of road access components with or without the Hidden Meadows annexation. He suggested the

**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
OCTOBER 14, 1993**

**I ROLL CALL**

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, October 14, 1993. Members in attendance were Sally Elliott, Ruth Gezelius, Roger Harlan, Leslie Miller, Bob Richer, and Brad Olch. Staff present were Toby Ross, City Manager; Jodi Hoffman, City Attorney; and Rick Lewis, Community Development Director.

**II PUBLIC INPUT**

The Mayor invited the public to comment on any matter of City business:

Hot air balloons - Brenna Herteaux, 2400 Holiday Ranch Loop Road, described two negative experiences both in the county and the city where her animals were endangered by hot air balloons.

She strongly urged Council to adopt regulations regarding hot air balloon activity. Bob Richer pointed out that in work session, Council unanimously supported that hot air balloon regulations be drafted as soon as possible.

**III MINUTES OF MEETING OF OCTOBER 7, 1993**

Ruth Gezelius, "I move approval as presented". Sally Elliott seconded. Motion unanimously carried.

**IV CONSENT AGENDA**

Ruth Gezelius, "I move approval of the Consent Agenda item". Sally Elliott seconded. Motion carried unanimously.

Approval of master festival license for America's Opening on November 26 - 28, 1993 to be held at the Resort Center - In response to growing crowd control problems and construction impacts on Main Street, all festivities including the opening "street dance" will be held at the Ski Area. The dance will take place on the mountain just west of the Coyote Grill and the fireworks will be higher on the mountain, at the top of the new chair lift. Police officers will still be used at the dance but it is expected that their presence will be reduced considerably. In recognition of current marketing goals, the strategy will be to promote the event as a ski race and not as a party.

**V NEW BUSINESS**

Appeal of two conditions of a Planning Commission approval of a conditional use approval of September 22, 1993 on a

master planned development at the Snowcreek Parcel site - Pyramid Construction - For the record, the parking calculation was originally proposed at 365, which is 4.5 per 1,000 square feet which according to the standard, is considered a moderate parking formula. The revised conditions of approval occurring at the September 22, 1993 Planning Commission meeting are as follows:

17. Prior to building permit issuance, the applicant shall submit and the staff shall approve a plan to phase parking for Phase I of the development. No more than 300 spaces shall be permitted to be constructed initially. The areas not to be paved at this time will be landscaped temporarily to blend with the balance of the landscape plan. Within 12 months of full occupancy of Phase I, the Planning Commission will evaluate the demonstrated need for the additional parking.
  
19. Prior to building permit issuance for the commercial project, a small scale MPD/CUP shall be approved for the residential portion of the Snow Creek Large Scale MPD.

The Mayor invited the appellants to speak.

With regard to the parking issue, Doug Rosecranz, Sear-Brown Group project engineer, pointed out that now 25% of the grocery business bypasses Park City to Salt Lake. Additionally, residents have adjusted their purchasing habits and shop at less convenient times to avoid crowds and a larger parking lot would be used differently than it is currently. He added that a buffer can be designed so that the parking lot is screened. For the benefit of Bob Richer, Mr. Rosecranz emphasized that standards are useful for a number of reasons, and discussed lighting and site distance from curbs standards which are clearly established for safety reasons and the same is true with parking. There is a liability problem if there is insufficient parking.

Steve Miner, Director of Real Estate for Associated Food Stores in Salt Lake City, stated that his company owns a store in Aspen and because of poor planning they are in the process of retro-fitting the store with underground parking which is not desirable for grocery shopping. He described the desired 200 foot radius of parking ideal for grocery stores and the landscaped areas disturbing this area, but the aesthetics are an important consideration. He estimated that 40 employee parking stalls would be required and a customer count of 15,000 trips a week is anticipated. He stated that when Associated did a feasibility study it was clear that Park City fluctuations in seasons is smoothing out because of its diversity. With 15,000 trips a week and employee parking, there is at least a need for 250 stalls just for the grocery store. Safety is an important consideration, especially with the kids associated with grocery shopping.

John Giddell, Dan's Foods, described his experience in purchasing a store in Salt Lake with insufficient parking with a ratio of a little under four stalls per 1,000 square feet. Because of limited parking, he stated that patrons parked across the street and have been injured trying to cross. Roger Harlan pointed out that the adjacent area is much more populated and dense than Park City. Steve Miner stressed that it is irrelevant whether the population is coming from a ten mile radius or within a one or two mile radius. The relevant factors are the size of the store, the project sales volume and the anticipated customer count. He continued that it is not assumed that Park City customers will buy more groceries than anyone else, but if anything, there may be more trips, more intensity within the parking lot at certain times, and smaller transaction than in Salt Lake. Parking is not a function of the density or population but is a function of the building, servicing the needs of the customers.

Jack Thomas, architect, stated that at 365 there is enough parking to make this a viable project. He added that he has been working on this design for a year, and this is not a standard parking lot or development. The massing and design are broken up in components. In response to Mr. Harlan's earlier comments in work session about Park City Plaza being empty, Mr. Thomas commented that this development has a major anchor, Dan's Food Store, and the Plaza does not. With access on both SR224 and SR248, there will be substantial activity on the site.

Rick Lewis, Community Development Director, stated that as staff worked on the project, its position changed. Because of the slope of the site, it was clear that the parking could be easily screened. He pointed out that there has been a shortage of parking throughout town and the City's cost in installing additional parking in its recent Marsac project totaled \$63,000 for 30 stalls. Mr. Lewis suggested that an agreement be reached with the applicant to use excess stalls for special events.

Jeff Coleman, Pyramid Construction project manager, felt that the project will need most of the parking but that they are willing to work with the City. If there are extra spaces, the City can use those in non-peak times. The only thing Pyramid will not commit to is giving x number of stalls to the City. They are amendable to the concept, however, and he felt something could be worked out.

Rick Lewis emphasized that the physical space 60 stalls represents is minimal compared to 300; the landscaping effort may not be worth the effort. The 60 stalls would have to be removed from the road itself, the overall visual impact would not be noticeable, and it would be difficult to add the stalls when needed.

With regard to the other condition concerning the residential development, Mr. Lewis pointed out that the staff, Council and Planning Commission are not close to a consensus and it may take two to three months to resolve this issue. If timing is important to Council for the commercial phase, he suggested that plans be submitted for review prior to pulling the permits for the commercial phase.

Discussion ensued regarding the berming and landscaping and obstructing signage. Bob Richer agreed with the City Engineer's and staff recommendation and felt that it doesn't make any sense to reduce the phasing plan from 365 to 300. He is convinced that the berming, landscaping and nature of the parking will solve aesthetic concerns and create a project that does not appear to have a sea of asphalt. At 365 parking spaces, we are still in a moderate range of acceptable industry standards with approximately 4.6 spaces per 1,000 square feet, where the industry standard is 5 spaces per 1,000. Ruth Gezelius concurred with Mr. Richer and added that she would feel more comfortable in having the spaces completed in this phase as proposed and that the staff review the landscaping plans to detail. She felt that the design is site sensitive. Sally Elliott felt that the applicant has done a good job with the berming and landscaping and will support the project as long as trails are a part of the first phase.

Ms. Miller noted that phased parking as it relates to the environment was a concern of hers six months ago, but recently the lack of parking has become an issue. It is difficult for her to decide what is in the best interest of good planning because the Planning Commission and staff recommendation are contrary, but personally she did not feel that 60 spaces is going to make a whole lot of difference in terms of providing visual open space and would rather air on the side of having a little bit more parking than not enough. Bob Richer emphasized that the Planning Commission recommendation was a result of a compromise and not unanimous.

Roger Harlan stated that he will be the lone dissenter as he feels there is too much parking allocated. He doubted that using the parking area for City use will be possible to regulate and perhaps not available when needed.

The Mayor requested that Condition No. 19 be addressed regarding the residential portion of the project.

Jack Thomas stated that the residential is the most difficult portion of the MPD. Because of the view corridor on SR224 the type of residential development appropriate at the location is very much up in the air. He didn't feel that this could be resolved in two months, but there needs to be a fair amount of time to study this issue and Council input is important.

Bob Richer stated that he has consistently expressed the fact that affordable housing or an affordable housing subsidy is an important component. He was concerned about losing leverage if the commercial is completed and the residential area remains vacant. Mr. Richer stated that the Disposition and Development Agreement provides the City an option to purchase the residential parcel for \$500,000 if Pyramid wishes to sell the property. He suggested that the DDA be amended so that over a time certain that the City's right to purchase the residential parcel increases by the price decreasing. Jeff Coleman understood the Council's concern that Pyramid submit an application, but pointed out that their original commitment was in building affordable housing. He stressed that Pyramid did submit an application for residential, but various members of both the Planning Commission and City Council have different ideas on what should be built. Pyramid stands ready to perform but to make an application without the input of the City Council and Planning Commission would be in vein. He felt it impractical to tie together the residential and commercial as a construction start is anticipated in April. Bob Richer reiterated his concerns and proposals, and Mr. Coleman responded that the biggest thing being held over Pyramid's head is that they're sitting on a vacant piece of land which is not a speculative investment. It is in their best interest to develop.

Sally Elliott stated that she is not in a hurry to have the parcel developed. Ms. Gezelius agreed and is comfortable that the City's interest is protected with the \$500,000 purchase price right of refusal. The developer cannot benefit from holding the land for speculation and it remains in his interest to make application. Bob Richer disagreed and felt that the main elements of the project was that the commercial would build a tax base, a good portion of this sensitive area would be protected, and also the community would be provided with an affordable housing project.

However, if affordable housing at this site is not appropriate, Mr. Richer suggested a housing contribution alternative. He is disappointed that after four years, the Council does not have a tangible affordable housing project. He has no desire to see development on the entry corridor, but has stated consistently that the affordable housing component is as significant as the tax dollars generated from the commercial project. Ruth Gezelius asked Mr. Richer if he would be comfortable with an application being made by a certain date. Mr. Richer stated he felt more comfortable with penalties on the property for delays.

Jeff Coleman again stated that Pyramid stands ready to submit an application and move on with the residential project. However, Pyramid needs direction from both the Planning Commission and City Council regarding expectations on affordable housing. After direction is provided, Mr. Coleman felt that submitting an MPD application after 90 days is reasonable.

Ms. Miller also agreed that her support of the project is critically linked with the affordable housing element. She felt that the site should be planned comprehensively and questioned separating the planning processes. Ms. Miller felt that she has made a commitment to the public on affordable housing, the open space, parking and the commercial tax base. She stated that she supports the Planning Commission recommendation. Ms. Elliott asked if Ms. Miller could support the Council reaching a consensus with the Planning Commission on the residential and then specifying Pyramid with a specific time frame in which to develop a plan. Mayor Olch pointed out that the developer, Council and Planning Commission are all saying that they want a residential project, unfortunately, the residential and commercial portions were separated at the beginning of the process. The Mayor felt that everyone is in basic agreement and that the guidelines, process and time frame can be worked out to develop the residential.

Jeff Coleman emphasized that Pyramid Construction cannot close with the RTC without an approval. Bob Richer stated that if the approval is based on tying the residential with the commercial, the applicant will not be able to initiate construction this year and will be delayed another year. Jeff Coleman reiterated Pyramid's submittal of an affordable housing project and their good faith effort. If he had consensus direction tonight, he could start designing tomorrow, but there probably will not be a clear understanding for months.

Ruth Gezelius noted that the commercial plan before Council is a much better one because it was remanded back to the Planning Commission and has reason to believe that the residential, with directives, will produce a quality plan. Roger Harlan recalled that the residential proposal was not acceptable to the Council and Planning Commission and Pyramid has operated in good faith. He has confidence that Pyramid has enough at stake to move ahead in a timely fashion; to place Pyramid under undue pressure might result in an unacceptable project. Mr. Harlan believed that Pyramid will perform. Mr. Richer added that the Council chose this applicant through an RFP process and there is a higher degree of trust. Mr. Miner added that if Dan's is delayed another year, it places an unfair burden on the anchor. Mr. Coleman reiterated his commitment to produce a plan after 90 days of notification of direction.

The City Manager summarized that some Council members feel comfortable by simply holding land as it would be sufficient to motivate an application. The application would have to be residential but not necessarily be affordable, but a condition could be made to make it affordable. The difficulty with that is the possibility of not getting a majority vote from either the Planning Commission or Council. The other issue is that if the

applicant were to file an application as early as in the next ten days, the action on the application would be made by a new Council.

The City Manager stated that by reversing this condition, the Council would be relying on the zoning in place, the DDA and the motivation of the developer to produce a residential project. If the Council desires a greater level of comfort, the applicant has offered that within 90 days of direction from the Council and/or Planning Commission, an application will be produced. An additional aspect of protection is rendered because there is a time frame. Because the construction of the commercial will be taking place, there will be leverage in place regarding the residential. If the application is to be affordable, "affordable" needs to be defined (i.e., rental, for sale, federal standards, etc.), which delayed consensus initially. The Planning Commission and City Council could determine density, character and intended market for the project and if approved, Pyramid could move forward on its development or not move forward, but the City is protected with its ability to buy the property. Leslie Miller pointed out that generally the City Council doesn't provide an applicant with specific direction. The City Manager stated that the project wouldn't be "designed by committee" but key characteristics could be identified (i.e., affordable, rental, ownership, mix, etc.) and the developer could formulate a variety of options. By giving direction is not granting approval, or not providing due process. The applicant needs guidance regarding expectations of affordable housing and its location on the entry corridor.

Discussion ensued about excluding the word "affordable" from the residential project, but the majority of Council felt it important.

Ruth Gezelius, "I move that we reverse the Planning Commission decision on Condition No. 17 that was appealed before the City Council and substitute the language that notes prior to building permit issuance, the developer and the City shall enter into a mutually acceptable agreement which allows the City to use a portion of the parking lot for overflow for special events and that agreement shall address the number of spaces, method of designation of parking area, times when special event parking is appropriate and management by the City of the event parking. And add an additional sentence which states that all Phase 1 space parking not to exceed 365 spaces can be constructed at the same time. And an additional condition that the landscape plan shall be reviewed and accepted by staff". Bob Richer seconded. Motion carried.

Sally Elliott	Aye
Ruth Gezelius	Aye
Roger Harlan	Nay
Leslie Miller	Aye





Exhibit J

BROOKS  
FYI -  
Final CoFA's

Office of The Mayor

**Snow Creek Crossing**  
**Exhibit B - Final Conditions of Approval for Commercial Portion**

November 9, 1993

Jeffrey Coleman  
Project Coordinator  
Pyramid Construction Company  
P.O. Box 369  
Ramsey, New Jersey 07446-0369

Re: Appeal of two conditions of a Planing Commission approval of a conditional use approval of September 22, 1993 on master planned development at the Snowcreek Parcel site - Pyramid Construction

Dear Jeff:

Enclosed are the approved October 14, 1993 minutes on the above captioned action where the City Council reversed the Planning Commission's conditions.

With regard to Condition No. 17, parking, the City Council requires that before building permit issuance, Pyramid and the City will enter into a mutually acceptable agreement which allows the City to use a portion of the parking lot for overflow parking for special events and that Phase 1 parking not exceed 365 spaces.

With regard to Planning Condition No. 19, the Council substituted language that after a joint meeting(s) with the City Council and the Planning Commission, convened to arrive at a consensus regarding direction to you on the residential element of the project, Pyramid will have 90 days to submit an application for a small scale MPD/CUP for the affordable residential portion.

If you have any questions, please give me a call.

Very truly yours,

Janet M. Scott  
Deputy City Recorder

September 24, 1993

Pyramid Construction  
P.O. Box 369  
Ramsey, NJ 07446

NOTICE OF PLANNING COMMISSION ACTION

Project Name: Snow Creek  
Project Description: Commercial MPD  
Date of Meeting: September 23, 1993  
Action Taken By Planning Commission: APPROVED

1. All the standard conditions of approval shall apply.
2. The approval is for a 90,500 sq. ft. commercial center with 446 parking spaces to be developed in three phases. The retail anchor shall be no more than 52,500 sq. ft. the site development plans dated August 20, 1993 and architectural drawings dated September 1, 1993 shall accompany these conditions of approval. These conditions may require changes or additional detail from those plans.
3. Final grading, drainage and utility plans shall be required to be approved by the City Engineer.
4. A Center maintenance and management plan shall be developed and approved which specifies ownership and maintenance responsibilities. The parking shall be commonly owned and not restricted to any use of structure. The plan shall insure maintenance of public amenities such as trails, walkways, bike racks, bus shelters, drinking fountains, benches and landscaping.
5. No outdoor display of merchandise will be allowed anywhere in the Center. Outdoor dining may be considered by the Planning Commission as a conditional use.
6. A final trails plan shall be submitted and approved prior to building permit issuance which shall be consistent with the proposed trails plan with the following changes:

-The separated pathway along Hwy. 224 is not necessary since UDOT has constructed a sidewalk.

-The trail along the old railroad grade shall be 10 ft. asphalt and 4 ft. soft surface as shown on the plan. The section shall be modified to show 6" of compacted base, 3" of asphalt top course and weed barriers under the wood chip soft surface.

-Trails which cross wetlands will need to be boardwalks. The design shall be approved by the staff.

-A minimum of 10 ft. of separation is necessary between the pedestrian path and the access road.

-A trail connection shall occur between the sidewalk along Hwy. 224 and the railroad grade trail.

-The northerly point of the railroad grade trail may need to be relocated slightly based upon current negotiations with adjacent property owners.

-The gravel trails shall contain a weed barrier. All trails shall be constructed concurrent with construction of Phase I. A security shall be posted to insure installation of the trails prior to building permit issuance. The trails shall be completed prior to Certificate of Occupancy on the anchor retail space.

7. The Landscape Plan shall be modified to incorporate the comments of the City's Landscape Architect and shall include:

-Final planting details on the planter areas adjacent to the buildings.

-More detail on sod-bed areas which shall include massing of materials.

-Sections are required through the planters along the south end of the parking lot. There shall be some grade change in these areas. The intent is to screen parking areas from Hwys. 224 and 248.

-A specific berming plan shall be required for the storm pond retention areas along the northwesterly facade of the building.

-A temporary landscape plan shall be required for phases not to be built initially.

-Irrigation plans shall be submitted and approved.

-A security shall be posted prior to building permit

issuance to insure installation of all landscaping associated with Phase I. The access road along Hwys. 224 and 248 and areas not constructed in Phase I shall be included in this security.

-The final plans shall include specifics on size of materials. The materials shall be of significant size and mix to adequately screen parking from Hwys. 248 and 224.

8. A detailed streetscape plan shall be submitted by the applicant and approved by the staff which shall address:

-Paving details.

-Benches.

-Structures such as phone booths, drinking fountains, trash receptacles and bike racks.

9. Final lighting details shall be approved by the staff.
10. Restrooms shall be made available to the public between buildings C and D.
11. A plan for the wetlands crossing shall be submitted prior to permits being issued for any improvements on the site. The bridge detail shall address a separated pedestrian crossing.
12. All necessary permits must be obtained from other agencies including the Army Corps of Engineers and UDOT.
13. Any freestanding signs shall be separately approved by the Planning Commission.
14. Final architectural details shall be approved by staff prior to building permit issuance which shall include:
- Final approval of materials and color.
  - Wrapping the roof detail around the northwest side of the buildings B and C and the east side of building E is required.
- what is D, E + F*
15. Final details on screening of dumpsters and the trash compactor shall be approved.
16. The exact location and design of the bus shelter shall be reviewed and approved by staff. A detailed plan shall be submitted which includes details of the shelter and details of

the significant landscaping which shall be required in the area.

17. ~~Prior to building permit issuance, the applicant shall submit and the staff shall approve a plan to phase parking for Phase I of the development. No more than 300 spaces shall be permitted to be constructed initially. The areas not to be paved at this time will be landscaped temporarily to blend with the balance of the landscape plan. Within 12 months of full occupancy of Phase I, the Planning Commission will evaluate the demonstrated need for the additional parking.~~
18. When the Top Stop applies for remodeling of the use, the improvements shall be made compatible with this approval.
19. ~~Prior to Building Permit issuance for the commercial project, a small scale MPD/CUP shall be approved for the residential portion of the Snow Creek Large Scale MPD.~~

Nora L. Seltnerich  
Nora L. Seltnerich, AICP  
Planning Director

9/26/93  
Date

cc: Jack Thomas, AIA

ACKNOWLEDGEMENT

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

J. Thomas Date 11/19/93

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



06-0517

**Memorandum of Understanding Regarding Local Consultation between the Utah State Division of Facilities Construction and Management, State of Utah ("DFCM") and Park City Municipal Corporation, a political subdivision of the State of Utah ("City"), for a State Liquor Store operated by the Department of Alcoholic Beverage ("DABC") to be located at Snow Creek Shopping Center in Park City.**

Whereas, the DFCM explored several alternatives for expanding its services within the Park City area; and

Whereas, the DFCM and the City agree that the Snow Creek Shopping Center best meets the DABC's site selection criteria and local needs; and

Whereas, the City acknowledges that the site is or may be acquired under the threat of condemnation by the State of Utah, which is exempt from local land use regulations; and

Whereas, the DFCM wishes to fully consult with the City in developing the store in a manner that considers local land use regulations.

Now therefore, for mutual consideration the receipt and sufficiency of which is hereby acknowledged, the DFCM and City agree as follows:

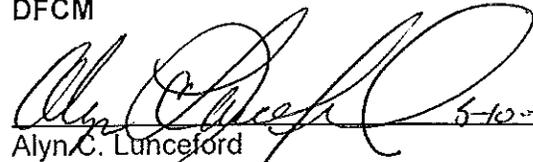
- A. Property. The location of the store will be the south side of the Snow Creek parking lot as approximately shown on Exhibit A.
- B. Subdivision. The location is not currently a separate lot of record. The Owner of the property and/or the DFCM shall file an administrative subdivision plat application to the Planning Department pursuant to UCA § 10-9a-605 to create a new lot of record. The Planning Department shall expedite approval of the plat provided the new lot does not substantially create any new degree of noncompliance with the Park City Land Management Code. The DFCM shall obtain and grant reciprocal cross easements as necessary so that use of the remaining parking area and circulation with the Snow Creek development remains substantially the same as currently exists. As a condition of approval, the Planning Department shall require the Owner (Stanford Sugar) to address traffic circulation, pedestrian connections and parking drainage issues reasonably related to the increase in density and/or construction in the parking lot.
- C. The DFCM will use reasonable efforts to comply with the architectural and landscape regulations attached as Exhibits B and C, respectfully.
- D. The DFCM shall submit a site plan and elevations to the Planning Department. After approval of this MOU by the City Council, the Planning Department shall schedule a courtesy hearing at the first available Planning Commission meeting. The scope of the hearing shall be limited to the DFCM consulting with the Commission regarding the site plan and building design. Public comment may be taken at the discretion of the Planning Commission.
- E. The DFCM agrees to follow applicable sign and lighting regulations. Approved master plans are attached as Exhibit D.
- F. The DFCM agrees to consult with the Chief Building Official regarding construction mitigation, deliveries, fire and building code issues.
- G. Jurisdiction. Nothing herein shall give the City land use jurisdiction over property owned by the State of Utah.
- H. Nothing herein shall be construed as a precedent regarding any requirements of the State in respect to local government regulations.

IN WITNESS WHEREOF, the parties have duly executed this Memorandum of Understanding this 17 day of May, 2006.

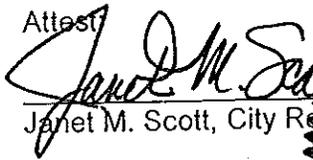
PARK CITY MUNICIPAL CORPORATION

  
Dana Williams  
Mayor

DFCM

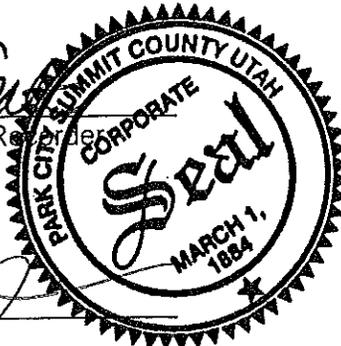
  
Alyn C. Luncelord  
Real Estate and Debt Manager

Attest

  
Janet M. Scott, City Recorder

Approved as to form:

  
Mark Harrington, City Attorney



Approved as to form:

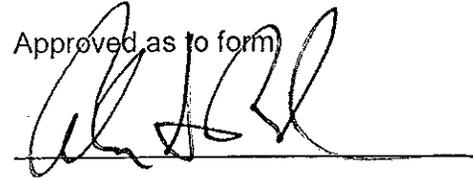
  
Attorney General's Office

EXHIBIT A

