



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
July 16, 2015**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 16, 2015.

CLOSED SESSION

2:30 pm To discuss Property, Personnel and Litigation

STUDY SESSION

3:30 pm Lower Park Avenue Design Studio Presentation **MOVED** TO CITY HALL
445 Marsac Ave. Council Chambers PG 3

WORK SESSION

5:00 pm Council Questions and Comments and Manager's Report

Managers Reports Included Are: Business Expansion and Recruitment and Daly West Update PG 4 & 18

5:15 pm Water Surcharge - Energy Discussion PG 19

5:30 pm Old Town Curbside Waste and Recycling Ordinance Discussion PG 28

REGULAR MEETING

6:00 PM

- I. ROLL CALL
- II. COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF
- III. PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)
- IV. SWEARING IN CEREMONY PG 38
Swearing in Ceremony
- V. CONSENT AGENDA

Consideration of Authorization of the City Manager to Execute a Professional Service Contract in a Form Approved by the City Attorney's Office with Economic & Planning Systems, Inc. (EPS) in an Amount Not to Exceed Seventy Five Thousand Dollars (\$75,000) for Housing Resolution Review PG 39

VI. NEW BUSINESS

1. Consideration of the First Amended Upper Norfolk Subdivision Plat Pursuant to Findings of Fact, Conclusions of Law and Conditions of Approval in a Form Approved by the City Attorney. PG 66

Public Hearing/Action

Consideration of Multiple Land Management Code Amendments to Include Setbacks for Patios and Hot Tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR- 2 Chapter 2.3, HRM- Chapter 2.4, and RC Chapter 2.16; Applicability of Steep Slope Conditional Use Permits in HRL, Chapter 2.1, HR-1 Chapter 2.2, and HR-2 Chapter 2.3; Combination of Condominium Units Procedure in Chapter 7; Annexations Procedure and Review in Chapter 8; Non-Conforming Uses and Non-Complying Structures in Chapter 9; and Board of Adjustment Standard of Review and Appeals in Chapters 1 and 10 PG 176

Public Hearing/Action

3. Consideration of a Plat Amendment Extension of the Lots 30 and 31 Holiday Ranchettes Subdivision Located at 2519 Lucky John Drive in Pursuant to the Findings, Facts, Conclusions of Law and Conditions of Approval in a Form Approved by the City Attorney. PG 177

Public Hearing/Action

VII. ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting. Wireless internet service is available in the Marsac Building on Wednesdays and Thursdays from 4 p.m. to 9 p.m. Posted: 07/13/15 See: www.parkcity.org



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

The Lower Park Avenue Design Studio concludes on Thursday, July 16 with a presentation from the team of local and regional architects, planners and developers. The team will present its concepts and recommendations for the city-owned properties to City Council. The presentation will be in the Community Room of the Park City Library at 3:30p.

Respectfully:

Phyllis Robinson, Public & Community Affairs Manager



MANAGER'S REPORT – 7/16/2015

Submitted by: Jonathan Weidenhamer
Subject: Business Expansion and Recruitment Letter of Support

Overview

Summit County's Economic Development Director, Jeff Jones is seeking a letter of support from Park City to pursue a grant to continue the Business Expansion and Retention (BEAR) Program facilitated through the Governor's Office of Economic Development (GOED) (Draft letter - Exhibit A). The application seeks \$27,800 to identify and target businesses for expansion and retention as well as continue or expand supporting BEAR programs (Exhibit B). Summit County also seeks representation from Council and/or Mayor as Ambassador of the program, which is expected as a quarterly meeting.

If the Mayor and Council do not endorse a letter of support to support the application they should indicate that to staff. Additionally, staff recommends the Council Liaisons to Economic Development, Beerman and Henney agree to participate in Ambassador Roles for the program, which identifies quarterly meeting requirements.

Background

In February of 2013 Park City similarly supported Summit County's grant application to begin the first phase of this BEAR program, which has resulted in individual interviews with over 114 Summit County businesses, including a series of businesses in western Summit County and Kimball's Junction. The program additionally started a 15 week entrepreneurship certificate training program.

The targeted industries/clusters for BEAR's next phase were identified by evaluating weighted performance metrics including: Earnings; Growth; Regional Competitiveness; Regional Specialization; and Gross Regional Product. The weighting allowed for local preference on the balance of those metrics, for example less emphasis was placed on job creation and more on earnings.

Moving forward, if funded, the Program will include:

- Industry/facility tours for elected and appointed officials;
- Continuation of entrepreneurship training programs for existing businesses and residents;
- Web-page development training for existing small businesses;
- Focus groups based on North American Industry Classification System (NAICS) codes;
- Business surveys based on NAICS codes
- Certification of practitioners in BEAR

The goal of the next phase of the program is to deliver a coordinated and proactive delivery system of BEAR, and to fill gaps between the services and programs that are available and the knowledge of the services by the existing business community. Success of the program is incumbent on a host of individuals at local, regional and state level participating to create a regional network of support. With Summit County as the lead agency, responsible for achieving goals and delivering results, defining goals and implementation strategies and monitoring and reporting on progress, other partners are needed.

Summit County's application (Exhibit B) identifies:

- Service Delivery Model;
- Quarterly Performance Metrics; and
- Budget & Activity by Quarter

Lastly, Summit County seeks Practitioners, including Park City representation as Ambassadors to convey quarterly:

Practitioners

Local

Jeffrey B. Jones, Summit County (Economic Development)
Jonathan Weidenhamer, Park City (Economic Development)
Ted McAleer, PandoLabs & Park City Angel Network (Economic Development/Incubator/Accelerator/Finance)
Jon Beutler, Park City Business Resource Center (Economic Development)
Bill Malone, Park City Chamber and Visitor's Bureau (Economic Development)

Regional

Dan Royal, Governors Office of Economic Development (Economic Development/Incentives)
Brad Baird , edcUtah (Economic Development/Incentives)
Michelle Carroll, Mountainland Association of Governments (Finance /Revolving Loan)
LuAnn Wilson, United States Department of Agriculture (Finance/ Federal Agricultural Programs)
Bryan Kessinger, Utah Department of Workforce Services (Workforce Development)

Ambassadors

Summit County Council (Elected)
Jack Thomas, Mayor, Park City ; or Appointed City Council Liaisons (Elected)
Trevor Johnson, Mayor, Coalville City (Elected)

PROPOSED BEAR TEAM MEETINGS

Practitioners (Local) Monthly

Practitioners (Regional) Every Two Months

Industry Champions (Every Two Months)

Ambassadors (Quarterly)

Exhibits

- A - Draft Letter of Support
- B - Application Form

Respectfully:

Jonathan Weidenhamer, Economic Development Manager



Office of Sustainability

July 16, 2015

Ms. Linda Clark Gillmor
Director, Office of Rural Development
Associate Managing Director, Urban & Rural Business Services
Economic Development
60 E. South Temple, 3rd Floor
Salt Lake City, UT 84111

Dear Ms. Gillmor,

Park City Municipal Corporation is excited to support Summit County's application for a Business Expansion and Retention (BEAR) program. Cultivating a coordinated and proactive delivery system of business recruitment and retention that fills gaps between the available services and programs is an endeavor that should sustain and grow existing businesses and identify possible new businesses opportunities.

We look forward to participating as practitioners and local staff to develop the relationships with the local business community.

Please do not hesitate to contact me if I can provide further assistance.

Sincerely,

Jack Thomas

Park City Mayor

Exhibit B - BEAR Application

SUMMIT COUNTY, UTAH



Business Expansion and Retention Program GRANT APPLICATION

Presented to:
**UTAH GOVERNOR'S OFFICE OF ECONOMIC
DEVELOPMENT (GOED)**



Summit County, Utah Business Expansion & Retention and Program GRANT APPLICATION

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Prepared by:

June 2015



Cover Page

Summit County, UT Business Expansion & Retention and Program GRANT APPLICATION

Date Submitted: June 19, 2015

Proposing Organization Tax ID: 87-6000295

Key Organization Contact: Jeffrey B. Jones, AICP
Economic Development Director
PO Box 128
Coalville, UT 84017
email: jjones@summitcounty.org

Anita Lewis
Assistant County Manager
email: alewis@summitcounty.org

Name of Sponsoring Entity: Summit County, UT
Name of Fiscal Agent: Jeffrey B. Jones, AICP
Amount of Request: \$27,800
Grant Period: July 1, 2015 - June 30, 2016

Contractor's Signature: _____
Tom Fisher, County Manager

Prepared by: Jeffrey B. Jones, AICP
Economic Development Director
jjones@summitcounty.org
Phone: 435-336-3221

June 2015



**ECONOMIC
DEVELOPMENT**

SUMMIT COUNTY, UT - BUSINESS EXPANSION & RETENTION GRANT

TARGET INDUSTRIES AND REASON FOR SELECTION

Screen 1: Industry Growth and Size on a National Scale

The growth performance of an industry is a key factor in target industry analyses since business expansion and new market development are two of the most common reasons underlying the need for additional production or service capacity. The following statistical measures will be used to analyze growth performance on a national scale. These include:

- o Historical employment growth 2004-2014 and 2013-2014 by industry category.
- o Historical establishment growth nationally, from 2004-2014 and from 2013 to 2014.

Industries will be retained for further analysis if they exhibit growth in the number of employees between 2004 and 2014 equal to or above the national average for their respective major industry group. However, if growth in the number of establishments exceeds the national average by 2% percent or more, regardless of employment growth, the industry was retained.

Screen 2: Geographic Distribution of Economic Activities

The industries that survived the growth analysis were further evaluated to determine their level of investment in Summit County, as well as the type of business opportunity they present. The purpose of this analysis is to define those industries whose location patterns favor Summit County and its market attributes.

A Locational Quotient Index (LQ) was calculated for Summit County. The LQ compares the relative level of employment in an industry in an area with the relative level of employment in that industry on a national basis. As a standard, if the national LQ equals 1.00, then the area (such as Summit County) LQ over or under 1.00 represents either a higher or low concentration of employment in that industry.

Those industries which exhibit an LQ of 1.00 or higher in Summit County were retained for additional screening.

Screen 3: Earnings, Growth, Regional Competitiveness & Gross Regional Product

Industries within the following NAICS Codes shall be given priority within Summit County under BEAR.

NAICS	Jobs	Western Summit County	NAICS	Jobs	Eastern Summit County
713920	2,370	Skiing Facilities	212325	50	Clay and Ceramic and Refractory Minerals Mining
721110	2,397	Hotels and Motels	212321	30	Construction Sand and Gravel Mining
532292	132	Recreational Goods Rental	517110	52	Wired Telecommunications Carriers
713990	83	All Other Amusement and Recreation Industries	425120	19	Wholesale Trade Agents and Brokers
334310	165	Audio and Video Equipment Manufacturing	722513	86	Limited-Service Restaurants
523930	19	Investment Advice	722511	55	Full-Service Restaurants
523920	16	Portfolio Management	518210	23	Data Processing, Hosting, and Related Services
523120	20	Securities Brokerage	713990	12	All Other Amusement and Recreation Industries
336413	234	Other Aircraft Parts and Auxiliary Equipment Manufacturing	336413	38	Other Aircraft Parts and Auxiliary Equipment Manufacturing
454111	350	Electronic Shopping	711510	49	Independent Artists, Writers, and Performers
551114	114	Corporate, Subsidiary, and Regional Managing Offices	445110	76	Supermarkets and Other Grocery (except Convenience) Stores
541690	26	Other Scientific and Technical Consulting Services	561730	71	Landscaping Services
512110	27	Motion Picture and Video Production	444220	29	Nursery, Garden Center, and Farm Supply Stores
541512	102	Computer Systems Design Services	112000	35	Animal Production and Aquaculture



BEAR TEAM MEMBERS & PAST PERFORMANCE

Most economic development professionals would agree that keeping and growing the existing businesses in their community is vitally important. Most would also agree that, done correctly, what we label business expansion and retention (BEAR) requires some sort of relationship between these private sector customers and economic development practitioners.

Despite the world's growing reliance on technology and all things digital, the relationship with our customers is more paramount today than ever before. A true relationship with our private sector customers is critical to understanding the “who, what, when and how” dynamics that impact these wealth and job generators.

However, when economic developers choose to engage only through a survey-centric BEAR program, it provides the economic development professional with an economic development placebo effect. It implies that “touching” a customer every 6 months or so will be sufficient to create and, more importantly, nurture a relationship with them. Keeping up with customers requires that the practitioner intersect and engage as much as possible. The rule here is simple. The more actual or potential value a company provides, the more frequent the interactions and engagements should be.

To fill in the blanks, economic developers need to use other tools like industry tours, business walks, focus groups and, of course, social media. Furthermore, a team approach can be highly effective in connecting the dots between a company's needs and available economic, workforce and community development programs and services. Towards that end, Summit County proposes the following BEAR team members:

Practitioners

Local

Jeffrey B. Jones, Summit County ([Economic Development](#))

Jonathan Weidenhamer, Park City ([Economic Development](#))

Ted McAleer, PandoLabs & Park City Angel Network ([Economic Development/Incubator/Accelerator/Finance](#))

Jon Beutler, Park City Business Resource Center ([Economic Development](#))

Bill Malone, Park City Chamber and Visitor's Bureau ([Economic Development](#))

Regional

Dan Royal, Governors Office of Economic Development ([Economic Development/Incentives](#))

Brad Baird, edcUtah ([Economic Development/Incentives](#))

Michelle Carroll, Mountainland Association of Governments ([Finance /Revolving Loan](#))

LuAnn Wilson, United States Department of Agriculture ([Finance/ Federal Agricultural Programs](#))

Bryan Kessinger, Utah Department of Workforce Services ([Workforce Development](#))

Ambassadors

Summit County Council ([Elected](#))

Jack Thomas, Mayor, Park City ; or Appointed City Council Liaisons ([Elected](#))

Trever Johnson, Mayor, Coalville City ([Elected](#))

BEAR TEAM MEMBERS & PAST PERFORMANCE

Ambassadors

Wade Woolstenhulme, Mayor, Oakley City (Elected)
R. Lee Snelgrove, Mayor, Francis City (Elected)
Randy C. Ovard, Mayor, Henefer City (Elected)
Lewis Marchant, Mayor, Kamas City (Elected)

Industry Champions By (NAICS Codes)

Within 60 days, the BEAR Team will identify and invite a number of potential industry champions classified by NAICS Codes to join the BEAR team effort. Furthermore, representatives from the region's various utility companies shall be invited to participate.

PROPOSED BEAR TEAM MEETINGS

- Practitioners (Local) Monthly
- Practitioners (Regional) Every Two Months
- Industry Champions (Every Two Months)
- Ambassadors (Quarterly)

Proposed Meeting Locations

Meetings would take place in Kimball Junction (Richins Building) and the Summit County Courthouse in Coalville. The final schedule will be developed in partnership with other BEAR Team Members.

County wants residents to find the entrepreneurial spirit
Bubba Brown, The Park Record
Posted: 05/01/2015 04:59:45 PM MDT ParkRecord.com

It is hosting an entrepreneurship program this summer

It doesn't have to be the next Facebook or turn into a multi million-dollar company.

But Jeff Jones, economic development director for Summit County, claims those with an entrepreneurial spirit should dive in and start their own businesses. That's why the county is piloting an Ice House Entrepreneurship Program this summer. The program, created by the Kansas City-based Kauffman Foundation, is designed to teach participants about business and foster entrepreneurial mindsets in them.

"Entrepreneurship isn't just about starting a business," Jones said. "It's also about how to manage aspects of your life. going through the Ice House process, I think people are going to have a better understanding of what they would need to do if they wish to start a business, or if they currently have a business, it may give them tools to help them pivot the business in a new direction."

Jones said the program will delve into several topics, including: recognizing opportunities, turning ideas into action, the pursuit of knowledge, creating wealth, building a brand and the power of persistence. Local entrepreneurs and business leaders will be invited to share their stories with participants, as well.

The program, which will meet weekly from May 14 through August, will be held at the Summit County Courthouse in Coalville.

Jones said the location was chosen because Summit County is focusing on developing economic diversity on the East Side of the county.

"We felt like there are a number of folks out here with entrepreneurial ideas, and maybe they need some help with how to better formalize their business plan and approach," Jones said.

There are 10 spots available for the program. To apply, visit the economic development section of the Summit County website, summitcounty.org.

Effective business expansion and retention programs employ a "portfolio mindset" through regular data collection, analysis and proactive responses to business issues.

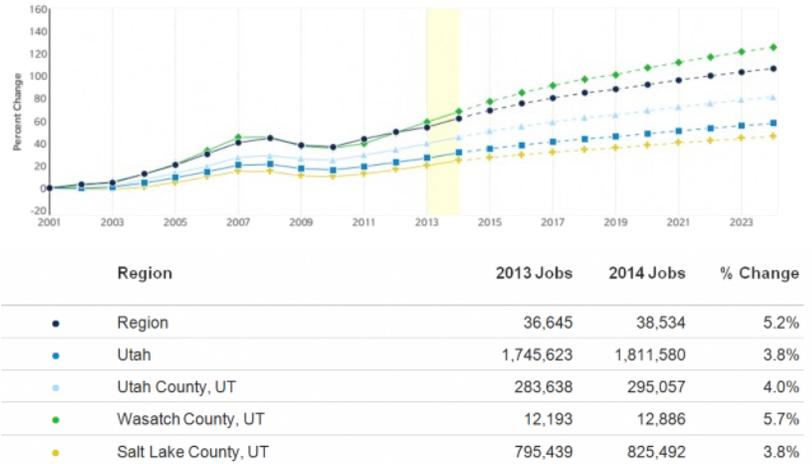
To be effective, the effort needs to be a consistent, multi-year effort that forms a key part of the region's economic development strategy.

Under BEAR FY2015, Summit County conducted 114 interviews and started a 15 week entrepreneurship certificate training program.



MARKET ANALYSIS AND NEEDS

Population (2014)	39,323
Jobs (2014)	38,534
Average Earnings (2014)	\$41,815
Unemployed (2/2015)	566
GRP (2013)	\$2,962,972,070
Exports (2013)	\$3,185,799,686
Imports (2013)	\$3,976,528,483



NAICS	Industry	2014 Jobs
11	Crop and Animal Production	689 <div style="width: 20px; height: 10px; background-color: blue; display: inline-block;"></div>
21	Mining, Quarrying, and Oil and Gas Extraction	430 <div style="width: 15px; height: 10px; background-color: blue; display: inline-block;"></div>
22	Utilities	52 <div style="width: 5px; height: 10px; background-color: blue; display: inline-block;"></div>
23	Construction	2,057 <div style="width: 40px; height: 10px; background-color: blue; display: inline-block;"></div>
31	Manufacturing	1,007 <div style="width: 25px; height: 10px; background-color: blue; display: inline-block;"></div>
42	Wholesale Trade	451 <div style="width: 18px; height: 10px; background-color: blue; display: inline-block;"></div>
44	Retail Trade	4,116 <div style="width: 60px; height: 10px; background-color: blue; display: inline-block;"></div>
48	Transportation and Warehousing	617 <div style="width: 22px; height: 10px; background-color: blue; display: inline-block;"></div>
51	Information	510 <div style="width: 18px; height: 10px; background-color: blue; display: inline-block;"></div>
52	Finance and Insurance	2,400 <div style="width: 45px; height: 10px; background-color: blue; display: inline-block;"></div>
53	Real Estate and Rental and Leasing	4,952 <div style="width: 70px; height: 10px; background-color: blue; display: inline-block;"></div>
54	Professional, Scientific, and Technical Services	2,894 <div style="width: 55px; height: 10px; background-color: blue; display: inline-block;"></div>
55	Management of Companies and Enterprises	178 <div style="width: 8px; height: 10px; background-color: blue; display: inline-block;"></div>
56	Administrative and Support and Waste Management and Remediation Services	1,222 <div style="width: 25px; height: 10px; background-color: blue; display: inline-block;"></div>
61	Educational Services	574 <div style="width: 18px; height: 10px; background-color: blue; display: inline-block;"></div>
62	Health Care and Social Assistance	1,562 <div style="width: 30px; height: 10px; background-color: blue; display: inline-block;"></div>
71	Arts, Entertainment, and Recreation	4,391 <div style="width: 65px; height: 10px; background-color: blue; display: inline-block;"></div>
72	Accommodation and Food Services	6,008 <div style="width: 80px; height: 10px; background-color: blue; display: inline-block;"></div>
81	Other Services (except Public Administration)	1,508 <div style="width: 28px; height: 10px; background-color: blue; display: inline-block;"></div>
90	Government	2,915 <div style="width: 48px; height: 10px; background-color: blue; display: inline-block;"></div>
99	Unclassified Industry	<10 <div style="width: 2px; height: 10px; background-color: blue; display: inline-block;"></div>

Region Served: Summit County

Business support services residing in Summit County include the Economic Development offices of Summit County and Park City, PandoLabs, the Park City Angel Network, the Park City Chamber of Commerce and Visitor's Bureau and the Park City Business Resource Center.

Although job growth and gross regional product have been strong, the average earnings per job are lower than both the national and state averages. This problem is compounded by the high cost of living—particularly as it relates to housing.

Higher wage industries should be given a priority focus and a talent gap analysis prepared comparing the region's educational supply (graduates) to occupation demand in higher-wage clusters.

The County should continue to make entrepreneurship programs available to existing residents.



Business Expansion and Retention Targets

As identified on Page 1, the County’s targeted industries/clusters were determined by the performance metrics listed below. By adjusting the relative importance of each metric to the needs of the region, the analysis was “weighted” in favor of those metrics that were most appropriate to the region. For example, Summit County has low unemployment (particularly in the Snyderville Basin). As such, less emphasis was placed on job creation and more emphasis on earnings.

Earnings

- How important is it that industries have high earnings per worker? (Very Important)

Growth

- How important is it that industries have high overall job growth? (Low Importance in Snyderville Basin /Very Important in Eastern Summit County)

Regional Competitiveness

- How important is it that regional job growth exceeds the national average job growth for an industry? (Moderate Importance)

Regional Specialization

- How important is it that regional job concentration is higher than the national average job concentration for an industry? (Moderate Importance)

Gross Regional Product

- How important is it that industries make a high contribution to overall gross regional product? (Very Important)

Service Partners and Functions Performed

A successful BEAR program does not rely on one paid professional, but on a host of individuals and resources at the state and local level. Summit County proposes a team consisting of

- Practitioners
 - Local
 - Regional
- Ambassadors
- Industry Champions (within NAICS Targets), and
- Utility Companies

Needed Programs

- Industry/facility tours for elected officials
- Continue entrepreneurship training programs for existing businesses and residents
- Web-page development training for existing small business
- Focus groups based on NAICS Codes
- Business surveys based on NAICS Codes
- Certification of practitioners in business expansion and retention through **Business Retention and Expansion International**

Benefit of BEAR Program

The BEAR program can provide funding that would not otherwise be available to establish focus groups, design industry specific surveys, provide training for entrepreneurship, web-page development training, hosted industry tours and certification opportunities for practitioners.

SCOPE OF WORK, MILESTONES & BUDGET

Delivery Needs/Challenges

- Uncoordinated and reactive economic development delivery system
- Overlapping client contact from different levels of the system
- Gap between the services and programs that are available and the knowledge of the services by the existing business community

Proposed Service Delivery

The BEAR program would provide Summit County with the support necessary to create a network among practitioners, ambassadors, industry champions and utility companies through face-to-face meetings, training materials, technical assistance and best practices and coordinated Internet content. Summit County as the lead agency will outline and calendar the plan in partnership with the BEAR team.

Quarterly Performance, Metric and Milestones

How do you know if an agency/grantee is performing well? And, how can its performance be effectively measured? The following interrelated program areas have been identified by Summit County as key for program assessment:

- **Achieving Impact:** Making progress towards the organization's quarterly goals and delivering measurable results and outcomes.
- **Setting the Agenda:** Defining the organization's vision and mission, specific goals and strategies and overall approach to the work.
- **Managing Operations:** Monitoring internal processes and managing the organization's human and financial resources.

The Summit County model includes three (3) types of or dimensions of measurement:

- **Progress:** Carrying out the program activities on schedule and within budget.
- **Effectiveness:** Determining whether efforts achieve prescribed objectives.
- **Impact:** Measuring positive changes in the economic environment and relating those changes to specific program efforts and activities.

Budget & Activity By Quarter

Activity	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Cost
Industry Visits @\$100 Per Visit	32 \$3,200	32 \$3,200	32 \$3,200	32 \$3,200	\$12,800
Ice House Entrepreneurship Program		10 Students \$1,600		10 Students \$1,600	\$3,200
Web Page Development Training (Instructor Cost)		10 Students \$2,000	10 Students \$2,000	10 Students \$2,000	\$6,000
Hosted Industry/Facility Tours	1 \$450	1 \$450	1 \$450	1 \$450	\$1,800
BEAR Team Meetings	3 \$1000	3 \$1000	3 \$1000	3 \$1000	\$4,000
Total Grant Request	\$4,650	\$8,250	\$6,650	\$8,250	\$27,800



-In Progress-





MANAGER'S REPORT – 7/16/2015

Submitted by: Matt Dias
Subject: Daly West Update

This Manager's Report is an update from the previous report submitted in early June, 2015. As you know, on Wednesday, June 16, 2015, contractors working at the Daly-West mine shaft were able to successfully remove the headframe from the shaft opening in one piece. Moving the headframe ended up taking two full days and necessitated two very large cranes and light excavating equipment. The headframe is now lying adjacent to, and west of, the mine shaft. Both the shaft and structure are surrounded with fencing and posted for no trespassing. City officials from Building and Planning were on-hand during the excavation efforts and worked with the contractor (Xcavation Company, Inc.) and abutting property owners to help monitor progress. By and large, staff believes that moving the headframe, though technically challenging and spanning multiple days, exceeded expectations and resulted in a positive outcome that removed the structure in one piece.

To date, the Jordanelle Special Services District (JSSD), Montage, Deer Valley, and Xcavation have been cooperative with City requests. JSSD and the Montage, for example, are working together on a Soils Management Plan with the Environmental Protection Agency (EPA) prior to any further excavation efforts. On another front, JSSD and the City are working together with structural engineers to better assess any and all physical damages to the Headframe, as well as a host of structural elements for the proposed plan to cap and remediate the unstable mine shaft opening.

Recent geotechnical testing and the load/weight of the headframe appear to indicate that the structural and mining engineers contracted by Jordanelle will recommend that the headframe no longer occupy the area directly over the mine shaft. Though initial assessments and recommendations, they have been fairly consistent ever since the structure was removed and found to be heavier than expected.

The structural engineering firm is making a final site visits early this week.

As requested, any new information regarding the Daly-West mine shaft will continue to be shared with you and the community in an ongoing manner.

Respectfully:

Matt Dias, Asst City Manager



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

Water Fees Currently Capture the Economic Cost of Delivery But Do Not Include the Environmental or Social Cost of Delivery. This Report Explores the Environmental Cost of Our Water System and Suggests that Staff Focus be Directed to Potential Energy Conservation and Generation Opportunities in Our System.

Respectfully:

Matthew Abbott, Environmental Program Manager



City Council Staff Report

Subject: Water Surcharge – Energy
Author: Matt Abbott and Jason Christensen
Department: Sustainability and Public Utilities
Date: July 16, 2015
Type of Item: Informational

Summary Recommendations:

Staff recommends Council direct staff to return with a Utility Mitigation Surcharge, in place of the Carbon Surcharge. Staff is also seeking Council direction on the timing of a surcharge; whether this should be included as part of the Fiscal Year 2017 fee adoption, or whether a surcharge should be added during the current Fiscal Year. Staff's recommendation is that the surcharge be adopted as part of the Fiscal Year 2017 budget.

Executive Summary:

Water fees currently capture the economic cost of delivery but do not include the environmental or social cost of delivery. This report explores the environmental cost of our water system and suggests that staff focus be directed to potential energy conservation and generation opportunities in our system.

Abbreviations:

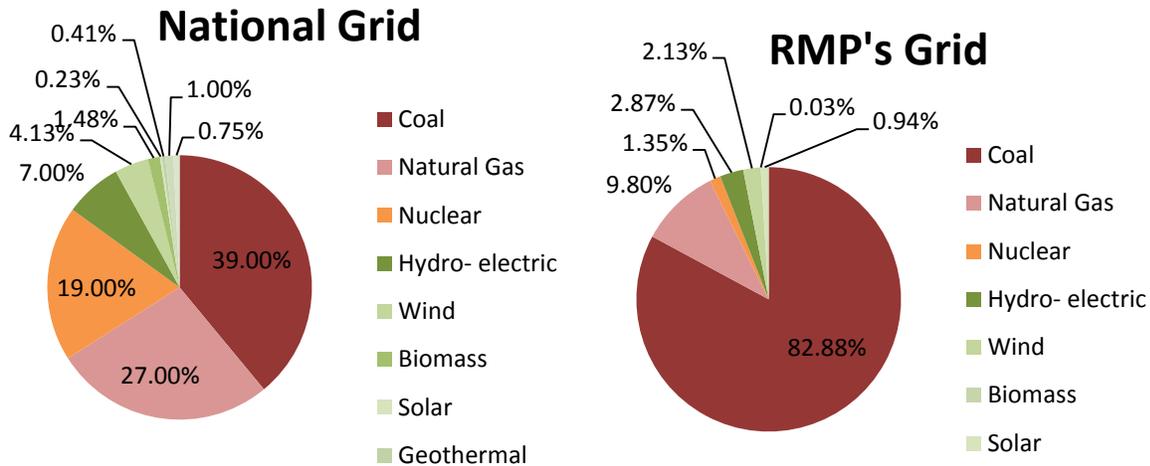
BAU	business as usual
CO ₂ e	carbon dioxide equivalent
kWh	kilowatt hour
PRV	pressure reducing valve
PV	photovoltaic

Background:

On May 28, 2015 Council requested that staff return to discuss a potential water rate surcharge that captures the carbon cost of our water delivery system.

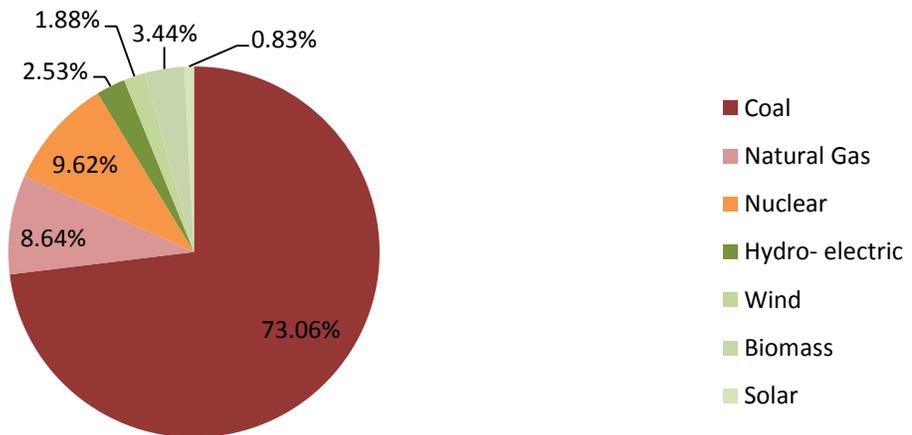
Our Grid

As compared to the national grid, which aggregates all US generation resources, Rocky Mountain Power relies heavily on coal for electricity generation. Coal generates the most pollutants of any energy source and our grid power is at least four times more carbon polluting than the national average.



Park City's commitment to renewable energy projects and to Rocky Mountain Power's Blue Sky Program has made our electricity resource blend less polluting, but is still significantly more carbon intensive than the US average.

PCMC - 2015



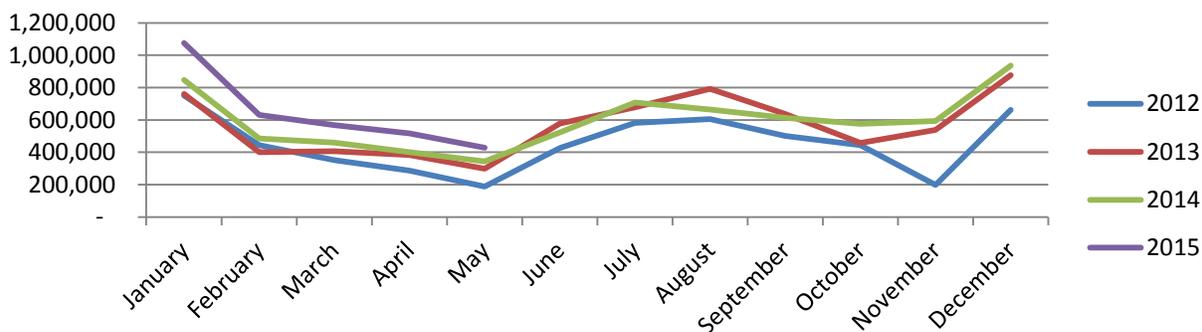
Water Department Energy Use & Energy Costs

Park City's Water Department used roughly 7.1 million kWh of electricity in 2014. Annual electricity consumption has been increasing by an average rate of 8.3% per year. We assume a 5.5% annual electricity rate increase, resulting in a 13.8% increase in annual Water Department electricity costs. Electricity consumption is driven by water resources, operations, and customer demand. For example, low snowfall in December/January of this year resulted in increased snowmaking, which resulted in increased pumping and therefore increased energy costs. Electricity costs are imbedded in our water rates and the recently adopted pumping surcharge.

In addition to the 7.1 million kWh of electricity the Water Department used, we rely on water delivered from the Rockport Pump Station, owned and operated by the Mountain

Regional Water District. This resource used an estimated 3.4 million kWh in 2014, or 3,018 tons CO₂e.

PCMC - Water Department Monthly Electricity Use (kWh)

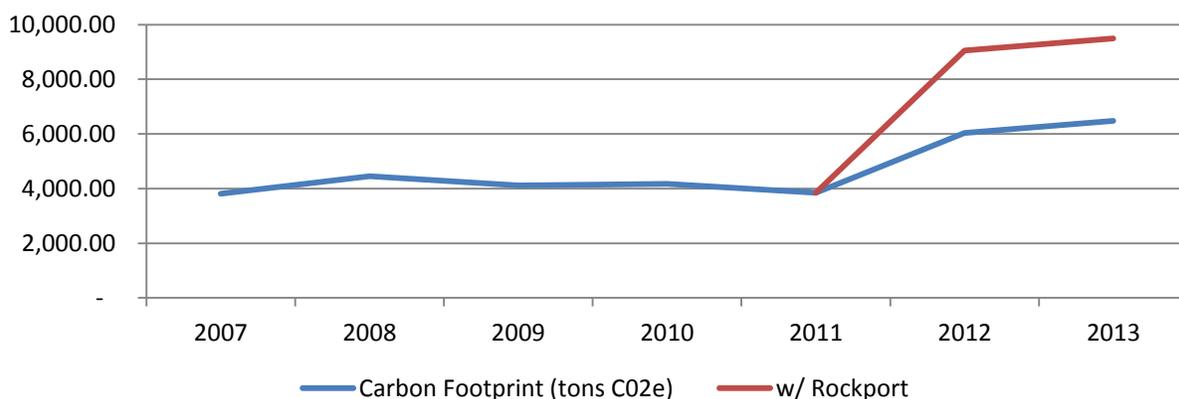


Park City’s Water Department used roughly 65,000 therms of natural gas in 2014. Natural gas usage is tied to Quinns Junction Water Treatment Plant, Spiro Water Treatment Plant, and Chatham Pump Station.

Water Department Carbon Footprint

Carbon emissions are categorized into three scopes. Scope 1 emissions are pollutants we have direct control over, like tailpipe emissions. Scope 2 emissions are pollutants where we control the use but not the intensity of pollution, like electricity usage. Scope 3 emissions are all other pollutants that relate to our overall operations, like visitor airline travel. Park City’s water delivery-related carbon footprint is approximately 6,500 tons of CO₂e. This figure is calculated using scope 1 and scope 2 greenhouse gas emission protocols. For simplicity, staff has excluded office energy consumption and fleet fuel use. Emissions from Rockport are considered scope 3 emissions and would add an additional 3,018 tons of CO₂e, bringing the total to 9,518 tons of CO₂e, a 20% increase to our overall carbon footprint.

Carbon Footprint (tons CO₂e)



The chart above summarizes the Water Departments carbon emissions. The increase in 2012 is attributed to Quinn's Water Treatment Plant coming online. The addition of Rockport carbon footprint is summarized in red.

The Water Department has averaged the annual growth in water demand at 2.4% for the next 15-years. The Water Department also anticipates that the future replacement Spiro Water Treatment plant could be energy intensive and could result in an increase in the Water Department's carbon footprint outside of the projected growth rate. This carbon impact will be even greater if it proves infeasible to locate the treatment plant at or near its current location. The further it is moved from its current location, the more water will need to be moved downhill, and then pumped back uphill to the headwaters of McLeod Creek.

Current Energy Efficiency Work

The Water Department has been utilizing two high-value resources from Rocky Mountain Power. The first is participation in the Energy Cohort. This cohort, with Mountain Regional and North Salt Lake, provides Water with access to engineering resources to analyze and improve current operations, energy saving ideas from other utilities, and potential funding for capital projects that provide an energy saving potential. The second is Rocky Mountain Power's Energy Project Manager Program. Bina Skordas, Park City's Sustainable Energy Project Manager started March, 2015. Her salary is paid by Rocky Mountain Power with half of her salary being granted upfront and the other half becoming available after achieving 1M kWh of approved savings.

Kyle MacArthur, Bina, and other staff have been leveraging both of these resources to generate a comprehensive energy and operational plan for the Water Department targeting energy and financial savings.

Analysis:

Council requested that staff assess a carbon equivalent, CO₂e, surcharge. Philosophically, this surcharge is rooted in the carbon intensity of our electricity and the high value our Council places on the Council goal of Preserving and Enhancing the Natural Environment. Our current pricing structures include the financial costs of delivering water but excludes the environmental and social costs.

Staff has estimated that the annual cost of offsetting delivery related carbon emissions at \$57K – \$120K, depending on the market used. This cost would increase annually at least as much as our annual increase in water use and would be subject to carbon market volatility. Carbon market volatility is a major factor and it is difficult for staff to predict long-term trends.

While the EPA has identified CO₂ as a pollutant and there are active carbon markets and offset markets available, staff does not recommend pursuing a surcharge that can be seen or interpreted as any sort of environmental tax, carbon or otherwise. The State

political implications of such an action are unlikely to be positive. Beyond political implications, any money spent on offsets does not address root causes. In effect, Park City would be committing itself to two costs that are projected to inflate in the coming years: the cost of energy and the cost of carbon.

Staff is instead recommending a more aggressive action in the form of a Utility Mitigation Surcharge. Income generated from this surcharge would be used to directly address system efficiencies and renewable energy generation through capital project and operational enhancements. The intent of this surcharge is to protect rate payers from future rate increases as they relate to the energy required to source, treat, and deliver water in our system. Investments in efficiency will reduce the fixed cost of utilities associated with water delivery. Energy capture projects will allow us to secure fixed utility prices while gas and electric utility rates are projected to increase. Finally, this work will allow staff to fully understand, strategize, and plan for water delivery that best utilizes available resources.

Below is a list of the types of changes that could be implemented. These changes would either reduce the cost of power, the reduction of power consumed, or both. If directed to pursue a Utility Mitigation Surcharge, staff would identify actual projects that fall under these categories that could be completed using the revenue from a Utility Mitigation Surcharge.

Rate Optimization

- Timing: By managing time of use and pumping rates to fit within existing rate schedules, the Water Department can reduce costs and potentially peak loads.

Efficiencies

- Source Efficiency: Understanding the cost of each source and minimizing it.
- Operations Efficiency: Creating a system dynamic enough to change with seasonal demand patterns to reduce energy costs.
- Facilities/Assets: Identify capital and operational improvements to reduce energy usage.
- System Leakage: Reduce the volume of water pumped and treated by reducing system leakage.

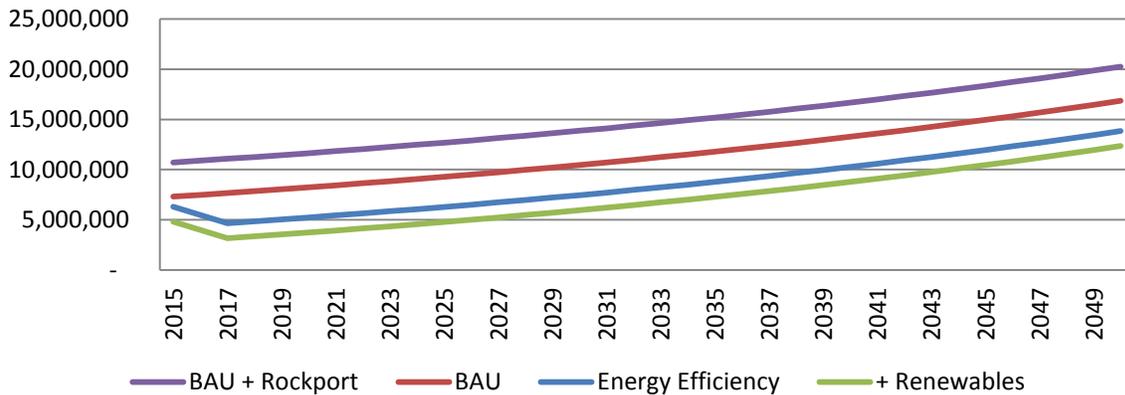
Energy Capture/Generation

- Source Energy Capture: Some sources contain excess energy (Judge/Spiro/Rockport) which could be captured with hydro powered turbines.
- Distribution Energy Capture: Some points in the system contain excess energy that might be able to be captured through hydro powered generators used in parallel with PRVs to power telemetry and other onsite functions

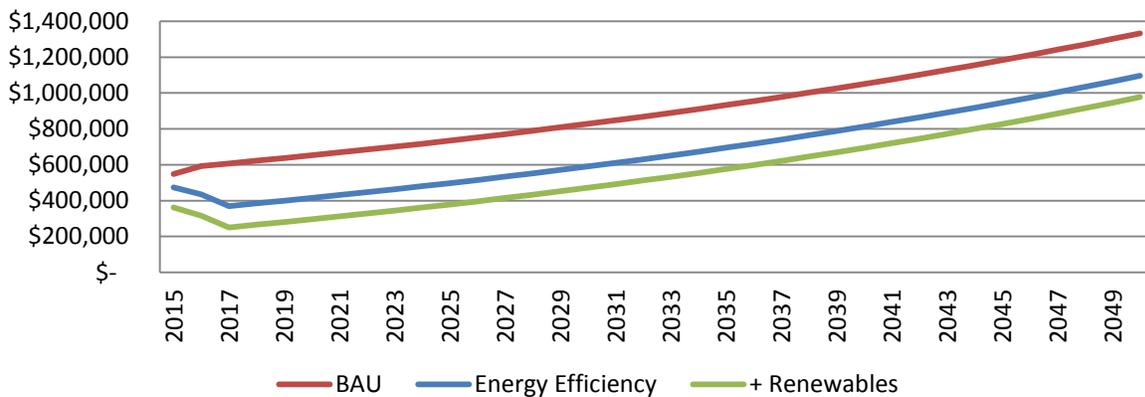
Renewables: Water Department facilities could be evaluated for solar PV, heat exchange from water piping and/or sewer trunk lines, and other renewable generation. Staff is in the process of fully assessing our energy reduction/generation potential. We estimate that we can cut 3M kWh with efficiencies and potentially gain 1.5M kWh with

renewable energy generation. The following charts summarize the long-term kWh and dollar impacts of these actions:

Water Department Energy Reduction Scenarios (kWh)



Water Department Energy Reduction Scenarios (\$)



The cost of this program has not been fully scoped by staff, but will be greater than CO₂e surcharge. A rough estimate places the cost of this program at \$150,000 to \$300,000 per year. It is anticipated that such a surcharge would be tied to water consumption so as to assign this cost to customers creating the energy demand. If Council is interested in exploring this option further, staff will create an internal work plan and attach actual costs to this work plan.

Staff is still evaluating whether either surcharge is permissible under the terms of existing bonds; staff is currently researching this issue.

Staff is also recommending that any surcharge be adopted as part of the Fiscal Year 2017 budget process. This would give the community more notice of a proposed rate increase, will allow staff time to complete research to determine if the surcharge is allowed under the terms of our existing bonds and will also allow for the creation and scoring of a Utility Mitigation Surcharge through the Budgeting for Outcomes Process. If directed otherwise, staff would work to adopt this fee as a mid-fiscal year adjustment to the water fee schedule.

Direction

Staff is seeking Council direction on whether to expend further staff time developing a Carbon Surcharge or whether to expend those resources developing a Utility Mitigation Surcharge. Staff's recommendation is to pursue the more aggressive and outcome oriented goal of a Utility Mitigation Surcharge.

Staff is also seeking direction on the timing of this effort. Is Council interested in a mid-fiscal year adjustment to the water fee schedule or is Council interested in seeing this surcharge proposed as part of next fiscal year's budget process, as recommended by staff?

Department Review: Public Utilities, Sustainability, Budget, Finance, Legal, and Executive.

Alternatives:

A. Approve:

Direct Staff to return with a Utility Mitigation Surcharge, in place of a Carbon Surcharge. The surcharge would be adopted as part of the Fiscal Year 2017 budget. **(STAFF RECOMMENDATION)**

B. Deny:

Deny all, or parts, of Staff's recommendations to return with a Utility Mitigation Surcharge, in place of a Carbon Surcharge. Deny the Fiscal Year 2017 budget adoption timing.

C. Modify:

Modify all, or parts, of Staff's recommendations to return with a Utility Mitigation Surcharge, in place of a Carbon Surcharge. Modify the Fiscal Year 2017 budget adoption timing.

D. Continue the Item:

Continue the item with a request for more information or an alternate strategy regarding a Utility Mitigation Surcharge or Carbon Surcharge. Continue any adoption schedule discussions.

E. Do Nothing:

Do nothing. Do not ask staff to return with a Utility Mitigation Surcharge, in place of a Carbon Surcharge. Do not adopt a surcharge.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	<ul style="list-style-type: none"> + Multi-seasonal destination for recreational opportunities + Internationally recognized & respected brand 	<ul style="list-style-type: none"> + Managed natural resources balancing ecosystem needs + Enhanced water quality and high customer confidence + Adequate and reliable water supply + Reduced municipal, business and community carbon footprints 	<ul style="list-style-type: none"> + Skilled, educated workforce 	<ul style="list-style-type: none"> + Fiscally and legally sound + Engaged, capable workforce + Well-maintained assets and infrastructure + Streamlined and flexible operating processes
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Positive 	Very Positive 	Positive 	Very Positive 
Comments: A Utility Mitigation Surcharge would help to achieve a variety of Council, Community, and Staff goals.				

Funding Source:

Staff is not seeking a funding source at this time.

Consequences of not taking the recommended action:

Taking alternate actions or no action may result in unclear funding for efficiency and energy capture projects, possibly delaying their deployment and any social, environmental, or economic benefits.

Recommendation:

Staff recommends Council direct Staff to return with a Utility Mitigation Surcharge, in place of the Carbon Surcharge. Staff is also seeking Council direction on the timing of a surcharge; whether this should be included as part of the Fiscal Year 2017 fee adoption, or whether a surcharge should be added during the current Fiscal Year. Staff's recommendation is that the surcharge be adopted as part of the Fiscal Year 2017 budget.



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

Park City's Old Town neighborhood has a history of poor curbside collection performance due to a variety of factors. The areas geography, population, and physical limitations have contributed to inconsistent containers, high contamination rates, missed pick-ups, and 'orphan' totes and an impression of disarray. This report focuses on a proposed ordinance, potential budget strategies to fund staff's recommended solution, and a proposed education/enforcement timeline.

Respectfully:

Matthew Abbott, Environmental Program Manager



City Council Staff Report

Subject: Park City Waste and Recycling Receptacle Ordinance
Author: Matt Abbott and Michelle Downard
Department: Sustainability & Building
Date: July 16, 2015
Type of Item: Legislative

Summary Recommendations:

Per Council direction, staff is providing City Council with a possible curbside waste and recycling receptacle ordinance for Old Town. Should Council choose to proactively enforce this ordinance, staff has provided possible budget options and education/enforcement timelines. Staff is recommending that the City pass the proposed ordinance Citywide and enforce using existing resources.

Executive Summary:

Park City's Old Town neighborhood has a history of poor curbside collection performance due to a variety of factors. The areas geography, population, and physical limitations have contributed to inconsistent containers, high contamination rates, missed pick-ups, and 'orphan' totes and an impression of disarray. This report focuses on a proposed ordinance, potential budget strategies to fund staff's recommended solution, and a proposed education/enforcement timeline.

Acronyms:

BFO Budgeting for outcomes
PCMC Park City Municipal Corporation
PSA Public Service Announcement
RFID Radio-frequency Identification

Background:

For several years, residential curbside waste and recycling collection efforts in Old Town have not met the expectations of residents, business owners, Councilmembers, staff, and Republic Services, our waste/recycling contract hauler.

In an effort to resolve this ongoing issue, staff has presented to information to Council on the following dates:

- February 3, 2005 – Consideration of Trash Container Removal Ordinance (pg. 3)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=3507>
- September 8, 2005 – General Discussion about Old Town Trash Issues (pg. 6)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=3485>
- December 8, 2005 – Trash Container Ordinance (pg. 62)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=3476>
 - City Council rejected a Citywide tote ordinance on 12/8/05

- April 19, 2007 – Main Street Recycling & Old Town Trash Container Issues (pg. 127)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=2992>
- June 27, 2013 – Old Town Curbside Recycling (pg. 7)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=11388>
- May 29, 2014 – Waste Container Ordinance & Old Town Curbside Recycling (pg. 107)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=12859>
- May 14, 2015 – Old Town Curbside Collection Performance (pg. 68)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=14837>
- June 11, 2015 – Old Town Curbside Collection Performance – Budget (pg. 6)
 - <http://www.parkcity.org/Modules/ShowDocument.aspx?documentid=15075>

Most recently, on June 11, 2015, City Council directed staff to return with a draft ordinance. This report contains a draft ordinance, a proposed rollout schedule for proactive enforcement, and possible budget solutions.

Analysis:

Current Enforcement

Park City Code Enforcement responds to all waste and recycling complaints. Code Enforcement shares in Republic Services' difficulty in identifying the toter's owner/responsible party. The research process is time-consuming and often results in feedback that is delayed or potentially out-of-date. In addition, under current staffing conditions, Code Enforcement cannot proactively enforce in Old Town without impacting other enforcement responsibilities.

Since June 11, and as requested by City Council, staff has increased community and educational outreach efforts, including KPCW PSAs, online Park Record advertisements, and social media outreach, and email newsletters.

Potential Enforcement

City Council has reviewed a potential waste and recycling ordinance in Old Town as recently as 2005. Staff's December 8, 2005 *Trash Container Ordinance* cited the following analysis:

Confiscation is a remedy; however, proper notice must be given to the responsible party. Cost may be recovered. Penalties available in Utah range from voluntary correction, to six months in jail and a \$1,000 fine. A summary of the conclusions from Legal's research is:

- *An ordinance requiring residents to retrieve their garbage container within a specified time from the curbside after collection is consistent with many other municipalities in Utah as well as other resort communities in the region.*
- *The Park City Municipal Code identifies the responsibility of the Fire Marshall to designate a City Inspector to perform related inspections for violations of the abatement of garbage ordinances.*
- *A criminal penalty for not removing a trash can off the street is likely too severe.*
- *A monetary fine and costs to abate a condition that is not promptly remedied are much more likely to be a reasonable punishment.*

- *Notice of the violation may be placed in conspicuous place on the property, mailed, or served in another acceptable manner consistent with civil action. A potential issue is matching the trash can to the property.*
- *An ordinance should have a provision where the city manager or designee could make exceptions for those locations where compliance “will impose practical difficulties or unnecessary hardship.”*

Under current conditions, Code Enforcement would be responsible for enforcement and has the necessary authority and structure to enforce the proposed ordinance. However proactive enforcement would require increased staff time. Should Council wish to prioritize enforcement of a new trash and recycling container ordinance, either other current priorities will need to shift or staffing levels will need to be increased. In addition, efficient enforcement and timely citations would likely require labeled totes with RFID tags.

Draft Waste and Recycling Ordinance

Staff is proposing the following ordinance and requesting Council feedback:

Ordinance No. 15-
AN ORDINANCE AMENDING TITLE 6, HEALTH, NUISANCE ABATEMENT, AND
NOISE OF THE MUNICIPAL CODE OF PARK CITY, UTAH BY ADOPTING
REGULATIONS FOR STORAGE OF TRASH RECEPTACLES

WHEREAS, in July 2012 the waste collection process in Park City expanded to include multiple waste related receptacles; and

WHEREAS, the City received feedback and complaints regarding receptacles being left out for extended periods, which has caused blocked sidewalks, contamination, restricted parking, and increased litter from spilled receptacles; and

WHEREAS, in July 2001, the City Council adopted an ordinance addressing private trash containers on Main Street; and

WHEREAS, the beauty and appearance of the City is of great importance; and

WHEREAS, trash receptacles left out for extended periods of time constitute a visual blight;

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

SECTION 1. AMENDMENT TO MUNICIPAL CODE. The recitals above are incorporated herein as findings of the City Council, Park City’s legislative body. The Municipal Code of the City of Park City, Utah, is hereby amended by adding a new Section 11, Chapter 1, Title 6, which said Section shall read as follows:

6-1-11. COLLECTION TIME - PLACEMENT OF PRIVATE TRASH RECEPTACLES.

Private trash receptacles to be collected and emptied curbside by the County, or a licensed collector, shall be set out for collection at the places and at such times as may be designated by the County, or licensed contractor. Such receptacles must not be set out upon or adjacent to the street for collection prior to 10:00 PM of the day before collection.

With the exception for property in the HCB Zone which is regulated by 15-2.6-11, all empty trash receptacles must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street and prior to 10:00 PM the day they are emptied.

Each day that a violation of this section occurs shall constitute a separate offense. This section does not apply to municipal receptacles or dumpsters approved pursuant to Section 6-1-9.

Violation of this provision is an infraction, punishable by a fine, fee or civil penalty, including confiscation of the garbage container by the City, but not imprisonment. Violations of this ordinance are punishable by a monetary fine not to exceed One Thousand Dollars (\$1,000). Each day of the violation shall constitute a separate offense of One Hundred Dollars (\$100).

Contested violations of this provision shall be heard by the Park City Parking Adjudication Officer.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this _____ day of July, 2015

How it works

Citywide

Staff is recommending a Citywide waste and recycling receptacle ordinance. If the ordinance is accepted as proposed, all waste receptacles should be removed from the streets by 10:00PM on collection days.

Old Town Only

The Historic Commercial Business (HCB) zone requires commercial business waste and recycling containers to be curbside no sooner than 10:00PM the night before collections and to be removed from the curb by 10:00AM the day of collections (LMC 15-2.6-11). Park City Municipal Code has a 24-hour curbside limit for waste and recycling containers from nightly rentals (MCPC 4-2-18(C)). The draft ordinance is very similar to LMC 15-2.6-11 and MCPC 4-2-18(C). Staff is proposing that the ordinance include the following zones: HCB, HR-1, HR-2, HRC, HRL, and HRM. If the ordinance is accepted as proposed, all waste receptacles should be removed from the streets in Old Town by 10:00PM on collection days (currently Thursdays).

Under a FY2016 scenario, from August 1, 2015 through October 31, 2015, any waste receptacle left on the street after 10:00PM on collection days will be tagged with an educational notification. Staff is assuming that 'orphan' totes will be identified during this educational warning period.

Starting November 1, 2015, any trash or recycling receptacle left on the street after 10:00PM on collection days will be in violation of the ordinance and could be cited and fined one hundred dollars (\$100), with total fines not to exceed one thousand dollars (\$1,000). If citations do not resolve the situation, staff will request that the holder of the residential waste hauling contract remove the . Staff views removal as a last resort, as it may increase dumping. After the educational period, the ordinance could either be proactively or reactively enforced.

Labeling

Staff is not recommending a labeling requirement. The primary violators are already demonstrating apathy and it is unlikely that they will voluntarily label their totes. More importantly, this step will further complicate efforts to enforce an ordinance and substantially increase program costs.

The primary enforcement obstacle is connecting the tote to the owner/responsible party. This is obstacle has been discussed in previous Council presentations and can be resolved with labeled, RFID tagged totes.

Exceptions

Staff has attempted to address City Council's request for exceptions by creating an ordinance that only requires that the waste and recycling receptacles be removed from the street. Previous ordinances addressed property setbacks, greatly limiting receptacle storage. Staff is seeking Council feedback on possible exceptions.

Proposed Program Rollout

Depending on Council direction, this program can reprioritize the existing budget and initiate in FY2016 or go through the FY2017 BFO and Capital budget prioritization process.

Staff's recommended option is a or FY2017 implementation, which would allow for the budget-related elements to go through the BFO process. Staff is proposing the following steps for a program roll-out:

1. July 16 or 23, 2015 – Finalize the Waste and Recycling Receptacle Ordinance
2. July 1, 2016 – 3-month educational warning period
3. October 1, 2016 – Start proactive or reactive enforcements

If City Council prefers a for FY 2016 rollout, staff would propose the following steps:

1. July 30 or August 6, 2015 – Finalize the Waste and Recycling Receptacle Ordinance
2. August 7, 2015 – 3-month educational warning period
3. November 7, 2015 – Start proactive or reactive enforcement

Recommended Program Budget

The biggest obstacle is interacting with 100% of existing toters in Old Town. Republic Services estimates that no more than 75% of toters are routinely available. A complete replacement of existing toters with recommended labeling or chipping is the most complete solution, as it eliminates confusion and allows staff to efficiently deliver education/enforcement.

The toter replacement solution includes replacing all 1,028 waste and 1,028 recycling toters with new, paint pen labeled, and RFID chipped toters for an approximate cost of \$64,000 (\$30 per toter \$61,680), \$1 per RFID chip \$2,056).

While staff is suggesting possible funding sources for these replacement costs, additional steps and associated funding will be needed to proactively address this problem, at a minimum:

- Enforcement \$52,000
 - Fifty hours/week, \$20/hr
- RFID Scanner \$3,000
- RFID database \$3,600
- Data management \$8,320
 - Eight hours/week, \$20/hr

In summary, an effective response to this problem may cost between \$64,000 and \$67,000 in capital investments, and an additional \$40,000-\$60,000 in ongoing operational expenses. These estimates exclude opportunity and management costs.

Opportunity costs, for example, represent anything that has higher priority or more beneficial for the amount of time/money spent. Management costs represent the administrative and managerial burden of implementing a program expansion in one specific area of our community.

As you will recall, City Council just recently approved the FY2016 budget. An increase to the City's operating budget for this program did not go through the regular budget process and was not recommended. If Council decides that they would like to increase funding for this program, it is recommended that the Building Department pay for the increase within existing resources (which will be a burden for the Building Department) or Council should open up the FY16 Budget and readopt. Currently, the Building Department may not have the bandwidth to absorb added responsibilities without a budget increase (added staff) due to the increased building activity created by a rebounding economy. Council could adopt an ordinance and look to add enforcement budget allocations during the next budget cycle for FY2017.

Moreover, staff is concerned that this type of ordinance sets precedent with implications we need to further consider. First, we are investing into a waste management system that we neither contract for, nor collect revenue to operate. Second, we are reprioritizing

capital and operational budgets outside of the context of institutional and departmental needs. Third, and importantly, there is an extremely limited history of citizen complaints regarding waste and recycling receptacles in Old Town on record.

Budget Options

Staff has identified the following potential budget options for funding the receptacle replacement portion of the issue, as well as the ongoing operating costs:

1. Reprioritize

Since Council recently authorized a prioritized and balanced FY2016 capital budget, City Council could reprioritize the following programs that scored the lowest in the BFO process. For example, these programs scored the lowest and could be put on hold in order to fund the programs mentioned above:

- Legal Software \$35,000
- Remote Snow Storage \$25,000
- Library Equipment Replacement Fund \$24,000

These funds could be available in FY2016 (after July 1, 2015).

2. Wait for Possible Budget Surplus

Depending on revenues over expenses, there may be a budget surplus from FY2015. If this option becomes possible, Council could direct Budget Department staff to fund the additional Old town waste and recycling replacement program by transferring available fund balance from the General Fund. This would avoid the need for a budget adjustment mid-year.

These funds could be available in FY2016.

3. FY2017 Capital Budget

Direct staff of apply funding in the FY2017 Capital Budget.

These funds could be available FY2017 (July 1, 2016).

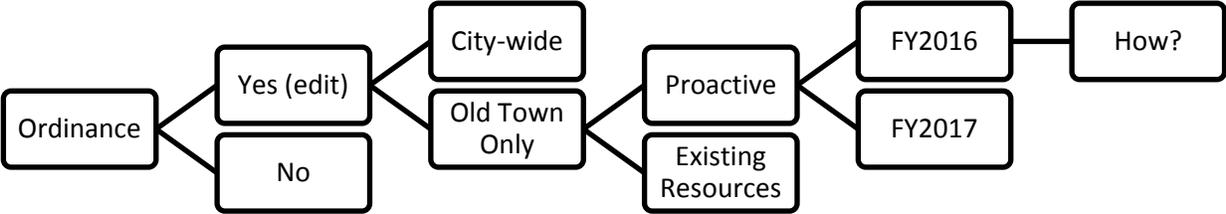
4. Main Street RDA

Old Town is a part of the Main Street RDA. Main Street RDA funds are currently budgeted for debt repayment, Historic Preservation Grants, Historic Abetment projects, an Old Town Stair Replacement projects.

These funds could be available immediately, FY 2016.

Summary

Staff is seeking Council direction on the following decision tree:



Department Review:

Sustainability, Budget, Building, Finance, Legal, Planning, and Executive.

Alternatives:

A. Approve:

Staff is recommending an ordinance. Due to the existing level of complaints, staff is only recommending reactive enforcement. Staff is recommending no budget increase.

(STAFF RECOMMENDATION)

B. Modify:

City Council may direct staff to proactively enforce a waste and recycling ordinance and reprioritize capital and operational budgets.

C. Modify:

City Council may approve the staff recommendation, but with some modifications outlined by Council during Work Session.

D. Continue the Item:

City Council may request that staff return with more information to help inform their decision and priorities.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	<ul style="list-style-type: none"> ~ Balance between tourism and local quality of life - Internationally recognized & respected brand 	<ul style="list-style-type: none"> ~ Reduced municipal, business and community carbon footprints 	<ul style="list-style-type: none"> ~ Part-time residents that invest and engage in the community ~ Primarily locally owned businesses 	<ul style="list-style-type: none"> ~ Ease of access to desired information for citizens and visitors
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Negative	Neutral	Neutral	Neutral
Comments: Staff believes that an effective and accessible waste and diversion program is the foundation of a sustainable community and economy. Staff also believes that tax dollars should be invested based on priority and existing precedents.				

Funding Source:

Potential funding sources for the Old Town receptacle replacement program is detailed above. Any increase to the City’s operating budget for this program has not gone through the regular budget process. If Council decides that they would like to provide funding for this program, it is recommended to cut spending from another BFO program or pay for it within existing resources, as noted previously.

Consequences of not taking the recommended action:

Demoted budget allocations will resubmit for FY2017 and any associated outcomes will be delayed.

Recommendation:

Per Council direction, staff is providing City Council with a possible curbside waste and recycling receptacle ordinance for Old Town. Should Council choose to proactively enforce this ordinance, staff has provided possible budget options and education/enforcement timelines. Staff is recommending that the City pass the proposed ordinance Citywide and enforce using existing resources.

Attachments:

None



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

Swearing in ceremony for Park City police officers Dan Cherkis and Zach Nakaishi.

Respectfully:

Claire Marlin, Executive Assistant for Police



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

Staff has conducted a thorough RFP process and is recommending that the City sign a contract with EPS to complete an examination of the City's Housing Resolution. In light of recent and likely future economic and demographic trends, recommendations will be made for updating City housing policies, Land Management Code and related regulations, methodologies and calculations.

Respectfully:

Rhoda Stauffer, Housing Specialist



Sustainability

City Council Staff Report

Author: Rhoda Stauffer
Subject: Professional Service Contract for Housing Resolution Review
Date: July 16 2015
Type of Item: Consent Item

RECOMMENDATION: Staff recommends that City Council authorize the City Manager to execute a Professional Service Contract in a form approved by the City Attorney's Office with Economic & Planning Systems, Inc. (EPS) in an amount not to exceed Seventy Five Thousand Dollars (\$75,000).

EXECUTIVE SUMMARY: Staff has conducted a thorough RFP process and is recommending that the City sign a contract with EPS to complete an examination of the City's Housing Resolution. In light of recent and likely future economic and demographic trends, recommendations will be made for updating City housing policies, Land Management Code and related regulations, methodologies and calculations.

ACRONYMS USED IN THIS REPORT:

EPS = Economic & Planning Systems, Inc.

RFP = Request for Proposal

BACKGROUND: Beginning in the early 90's City Council instituted a Housing Resolution which established a system of calculating the impact of development on the community's need for affordable housing. The most recent amendment to the Housing Resolution was adopted this year.

Goals for the work with EPS are to:

- Complete a thorough regulatory review to identify potential barriers to affordable housing development;
- Determine the best approach to mitigating the impact of both new construction as well as redevelopment on affordable housing needs within the community;
- Assess true employee generation formulas for Park City's primary employers; and
- Examine current formula for in-lieu fee calculation as well as the trigger mechanism for housing obligations to determine most defensible, equitable and best fit.

The purpose also includes an assessment of the connection between the impacts generated by development and the housing mitigation required. In addition, a new review of Park City's Land Management Code – especially Section 15-6-7 Master Planned Affordable Housing Developments – is needed to identify any regulatory obstacles to the development of affordable housing.

ANALYSIS: Beginning in the early 90's City Council instituted a Housing Resolution which established a system of calculating the impact of development on the community's need for affordable housing. The most recent amendment to the Housing Resolution was adopted this year however the formulas used for assessing impact were last updated prior to 2009. The goal of this RFP is to update those formulas as well as examine any other regulatory barriers that affect the ability to develop affordable housing.

Staff conducted a RFP process to solicit proposals from consulting teams with experience in a number of applicable fields: data analysis of development impacts on affordable housing needs; employee generation assessments; and policy and legal ramifications of housing resolutions and/or ordinances. The analysis will include testing existing resolution assumptions and methodologies to determine if they adequately address the target impacts.

The internal review panel included:

- Nate Rockwood, Budget
- Christy Alexander, Planning
- Phyllis Robinson, Sustainability
- Rhoda Stauffer, Sustainability

The review panel ranked the proposals and short-listed two firms. After requesting additional work samples, the panel was in agreement that EPS was a good match for the City's project goals. This is based on similar policy, legal and analytical work they completed in Portland, Oregon and Fort Collins, Colorado. The firm has a breadth of experience that will benefit the City through their examination of the City's historical methods of meeting housing needs while comparing to best practices as well as new regulatory tools and policies for fulfilling affordable housing goals. EPS has experience in pressure testing potential regulatory avenues by reviewing legal ramifications as well as policy issues. They've worked with diverse communities all across the country and will be able to bring new ideas to address the development impacts on Park City's need for affordable housing.

The Scope of Work is detailed in **Exhibit A** attached and will include the following:

Description of Task	Deadline
Task 1 - Project Initiation	July 23
Task 2 - Data collection and Background Research	August 28
Task 2:1 -- Primary Data Collection & Existing Policy Review	August 28
Task 2:2 -- Secondary Data Collection	August 28
Task 3 -- Recalibration of in-Lieu Fee Calculation	September 4
Task 4 -- Mid-Course Check-in	September 11
Task 4:1 -- Present to Blue Ribbon Commission on Affordable Housing	September 11
Task 4:2 -- Present update to Council	September 18

Task 5 -- Methodologies and Legal Review	October 9
Task 5:1 -- Policy Options and Analysis	October 9
Task 5:2 -- Legal Review	October 9
Task 6 -- Recommended Policies	October 16
Task 7 -- Final Report & Presentation	October 30
Task 7:1 -- Joint Study Session with Blue Ribbon Commission and City Council	October 30
Task 7:2 -- Finalize amendments to Housing Resolution	November 6

A full timeline is attached as **Exhibit B**.

Staff is requesting Council authorize the City Manager to execute a contract with EPS in a form acceptable to the City Attorney for the Scope of Work above in an amount not to exceed \$75,000. Contract is attached as **Exhibit C**.

DEPARTMENT REVIEW: This staff report has been reviewed by Sustainability, Legal and the City Manager.

ALTERNATIVES:

- A. Approve:** Approval of the contract will keep the affordable housing work on schedule. **Staff's Recommendation.**
- B. Deny:** Denial of the contract will require that Staff begin again with the RFP process and thus add several months to the process.
- C. Modify:** Modification of the contract and discussion will require that staff return to council with additional information and will add time to the process. Depending on the length of the delay it may be necessary to renegotiate the contract or re-issue an RFP.
- D. Continue the Item:** Continuance of the discussion will require that staff return to council with additional information and will add time to the process. Depending on the length of the delay it may be necessary to renegotiate the contract or re-issue an RFP.
- E. Do Nothing:** Doing nothing basically will be the same as B above. All existing housing regulations will remain in place. The City will miss opportunities to address gaps in our current housing policy that may result in falling behind in meeting City housing goals.

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	+ Balance between tourism and local quality of life	- (Select Desired Outcome)	+ Residents live and work locally	+ Fiscally and legally sound
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Positive 	Neutral 	Very Positive 	Positive 
Comments: Updating the Housing Resolution and regulatory methods for addressing housing needs is important to future housing diversity and balance between tourism and local issues.				

FUNDING SOURCE: The Professional Services contract will be funded through the Affordable Housing Capital Improvements Program budget.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Taking no action at this time will delay the process for ensuring that the City is using all avenues to meeting the impacts of development on the City’s affordable housing needs.

RECOMMENDATION: Staff recommends that City Council authorize the City Manager to execute a Professional Service Contract in a form approved by the City Attorney’s Office with Economic & Planning Systems, Inc. (EPS) in an amount not to exceed Seventy Five Thousand Dollars (\$75,000).

Attachments:

- Exhibit A – Detailed Scope of Work
- Exhibit B – Timeline
- Exhibit C – Professional Services Contract

SCOPE OF SERVICES

The following is a revised and more detailed work plan to address the scope of services outlined in the original RFP dated April 23, 2015.

Task 1: Project Initiation

EPS will consult with City staff to identify major issues and/or questions it would like EPS to address, and identify important dates for possible travel to Park City or major project milestones. We will then modify and finalize the scope of services, budget, and schedule as necessary. At this point, it will also be appropriate to identify individuals, stakeholders, or organizations that should be involved throughout this process, particularly regarding the Blue Ribbon Group that the City is forming as an advisory committee for the study findings and recommendations.

Task 2: Data Collection & Background Research

Task 2.1: Primary Data Collection & Existing Policy Review

The two primary purposes of this task are to: 1) collect primary data in support of updates to the employee generation rates by land use for Park City's commercial linkage program; and 2) to review existing policies. Following the initial meeting, EPS will work with staff to develop a cost-effective approach for updating its employee generation rates. Because a few different methods can be used to collect such information, EPS will work with staff to identify the most appropriate. Following are three options to consider along with their merits and limitations:

- Geocoded assessor and employment data – When geocoded data, such as County Assessor records on parcel size/location and Department of Labor employment microdata (i.e., point data) are available, this approach is useful for both large cities and resort communities during off-season when only a small portion of establishments are open.
- Door-to-door surveying – Door-to-door surveys, while labor intensive (EPS has relied upon and appreciated client/city staff support in these efforts), can potentially consume the least amount of time. The limitations of this approach are: 1) that the survey is being conducted during off-season when many establishments (or certain types) are not open; and 2) that staff present are not familiar with the critical pieces of survey information being collected (e.g., floor area of the establishment).
- Electronic survey – The least time-intensive option for implementing the survey is to send an electronic survey to all establishments in Park City requesting the information from proprietors or managers/supervisors. The limitation of this methodology is that it, like most surveys, requires follow-up to ensure fuller participation. Whereas using secondary data ensures a robust dataset from which to estimate employee generation rates and walking door to door ensures timely provision of information, electronic surveys typically have a 20 percent response rate unless diligent and targeted follow up is made.

Regardless of methodology, the purpose of this task is to collect geocodable data for the City related to employment generation rates by land use categories. Several of the key pieces of information collected could be:

- Type of business
- Floor level
- Length of operation
- Size of space
- Staffing by season, hours per week, and FT vs. PT
- Effects of housing availability on employment
- Staffing demand volatility (i.e., needs under varying market conditions)
- Future staffing plans

The second component of the task involves reviewing existing policy and will occur concurrently. The EPS team, including legal counsel, will review the City's existing policies, such as the Land Management Code and Resolution 25-12, which adopted updated affordable housing guidelines and standards, including residential development provisions for the inclusionary housing set-aside and commercial development employee housing mitigation rates, size and design standards, and other methods for meeting minimum requirements. The purpose of this portion of the task is to document relevant land use or development/entitlement processes that impact affordable housing and to formulate an analysis of their continued relevance through an assessment of the market conditions.

Task 2.2: Secondary Data Collection & Analysis

This task involves collecting and analyzing economic and demographic data. It will include an evaluation of population, employment/commuting, income, and housing market conditions and form the foundation of a broader needs and conditions analysis. Because EPS understands the City is interested in understanding where conditions are present that may give rise to a new, unique, or amended policy solution, the primary objective of this task is to identify which conditions most significantly impact affordable housing need. To do this, and while using existing Park City area studies and information to the greatest extent possible, EPS will document the following:

- Population and households
- Employment by industry (i.e. land use categories at a minimum) and commuting patterns
- Income and wages
- Ownership housing market trends (average price appreciation, volume, etc.)
- Rental housing market trends

This analysis will be useful for structuring the broader affordability conditions analysis, such as looking at affordability gaps between market rate housing prices and incomes, or looking at the gaps between the distribution of housing by price level and the distribution of households by tenure by income level. Another important objective of this task will be to integrate data analysis and research to identify differences among current employment factors, mitigation rates, in-lieu fee calculations, and general housing obligations of existing policy.

Task 3: Validation of Existing In-Lieu Fees

The collection of secondary data related to housing prices and incomes will facilitate an update (if necessary) to the in-lieu fees used as an alternative mitigation option in methods for meeting minimum requirements of the Affordable Housing Resolution. EPS will review the extent to which the existing fees remain valid in the current market and utilize them to provide calculations in support for modified fees in a later portion of the study that will evaluate the level of impact of housing policy obligations on residential and/or commercial development.

Task 4: Mid-Course Check-In

The purpose of this task is to ensure that, following the data analysis, there is ample opportunity to review and discuss its findings. EPS recognizes that this may be a good opportunity for an initial report, presentation, or work session with Council and/or the Blue Ribbon Group. Such a setting would be appropriate to guide EPS's subsequent research on specific policy options. The intent is also to establish a milestone that ensures the project remains on schedule and permits quality and timely feedback from City staff, its leadership, and other stakeholders.

Task 5 Policy Options Analysis

Task 5.1: Policy Options & Analysis

This task will examine whether modification of existing policy tools or the introduction of new policies would be more effective at addressing housing needs and how these might fair under current State law. The objective is to outline, evaluate, and rank a menu of feasible policy tools that could be employed by the City, including modifications or amendments to existing policy, i.e. whether a more effective way can be determined of sharing the cost of employee housing mitigation and/or whether a new trigger mechanism might be considered.

The outcome of this task will be a list of the potentially most effective policy options, how similar techniques have been used in other cities, how successful they have been, how difficult they may be to administer, and an estimate of what level of impact they might have toward effecting change, as well as an estimate of the level of impact they are likely to have on development.

Task 5.2: Legal Review

The objective of this task is to provide the City with advice regarding the legal implications and processes implied by any of the regulatory or policy recommendations outlined in the previous task. Whether regarding impact and linkage fees or other regulatory tools, the EPS Team will provide the City with an understanding of how such options would fair under current State law, what legal issues or potential challenges may arise as a result of any of the policy options, whether and to what extent any of the policy options have faced legal challenges around the country and/or in Utah, and what specific processes are necessary for the approval of such policies.

Task 6: Recommended Policies & Impacts

The purpose of this task is to provide the City with recommendations regarding potential modification of existing policies and recommendations regarding other policies that could be implemented in the future. EPS, City staff, and possibly the Blue Ribbon Group, will review the findings from the analysis and list of policy options, including possible amendments to the existing Affordable Housing Resolution and Land Management Code. The objective is to rank the list of policy options or land use tools that have the greatest potential to address the City's affordable housing goals.

Recommendations will be accompanied by a rationale using the analysis of economic and demographic conditions, as well as by an evaluation of the policy's legal implications and their likely impacts on development (i.e. an evaluation of the burden placed on development by the housing obligations). Policies that are identified for potential future application will also be described, including rationales for why such policies may not be appropriate at this time under specific economic and demographic conditions, legal implications, etc.

Task 7: Deliverables & Work Session

The final product of EPS's work will be an Excel dataset of the primary business survey data collected and a written report describing the methodology, analysis, findings, and recommendations. A draft report will be prepared for staff review and comment, followed by a revised document for final presentation and delivery. EPS will also be available to make a presentation to staff and Council, and/or be available for the Council work session, which has preliminarily been identified as September 30, 2015.

PROFESSIONAL SERVICES AGREEMENT STATEMENT

EPS accepts the language of Park City's standard Professional Services Agreement as is.

Fee Schedule

The following are billing rates for the EPS Team. Related, EPS proposes to provide Park City with services to be finalized later for a fee not to exceed \$75,000.

Managing Principal	\$225
Principal	\$225
Vice President	\$180
Senior Associate	\$150
Associate	\$125
Research Analyst II	\$100
Research Analyst I	\$80
Production and Administrative Staff	\$80
Mark White, Esq. or Tyson Smith, Esq.	\$185

Detailed Budget Draft

EPS estimates completing the scope of services described above for a fee not to exceed \$75,000 as shown by task and staff in the table below. Hours shown under the "Production/Research" column are using an average of the \$100 Research Analyst II rate and \$80 Production rate.

Table
Draft Budget by Task by Staff

	EPS Staff			White & Smith, LLC	White & Smith, LLC		Total
	Principal in Charge	Vice President	Production/Research		EPS	Smith, LLC	
Billing Rate	\$225	\$180	\$90	\$185			
Labor Costs							
Task 1: Project Initiation	6	6	6	4	\$2,970	\$740	\$3,710
Task 2: Data Collection & Background Research							
Task 2.1: Primary Data Collection & Existing Policy Review	6	30	60	12	\$12,150	\$2,220	\$14,370
Task 2.2: Secondary Data Collection	2	8	20	0	\$3,690	\$0	\$3,690
Task 3: Recalibration of In-Lieu Fee Calculation	4	12	0	0	\$3,060	\$0	\$3,060
Task 4: Mid-Course Check-In	6	6	6	6	\$2,970	\$1,110	\$4,080
Task 5: Methodologies & Legal Review							
Task 5.1: Policy Options & Analysis	14	36	20	0	\$11,430	\$0	\$11,430
Task 5.2: Legal Review	2	4	0	40	\$1,170	\$7,400	\$8,570
Task 6: Recommended Policies	0	30	10	0	\$6,300	\$0	\$6,300
Task 7: Report & Presentation	24	48	20	20	\$15,840	\$3,700	\$19,540
Subtotal	64	180	142	82	\$59,580	\$15,170	\$74,750
as % of Total Staff Hours	14%	38%	30%	18%			
Total Staff Hours					386	82	468
Direct Costs							
<u>Data Acquisition</u>					<u>\$250</u>	<u>\$0</u>	<u>\$250</u>
Subtotal					\$250	\$0	\$250
Total Project Cost					\$59,830	\$15,170	\$75,000

Source: Economic & Planning Systems
G:\Blank Budget and Schedule-2015.xlsx\BUDGET

Description of Task

July 20 - 24

Task 1 - Project Initiation

X

Task 2 - Data collection and Background Research

Task 2:1 -- Primary Data Collection & Existing Policy Review

Task 2:2 -- Secondary Data Collection

Task 3 -- Recalibration of in-Lieu Fee Calculation

Task 4 -- Mid-Course Check-in

Task 4:1 -- Present to Blue Ribbon Commission on Affordable Housing

Task 4:2 -- Present update to Council

Task 5 -- Methodologies and Legal Review

Task 5:1 -- Policy Options and Analysis

Task 5:2 -- Legal Review

Task 6 -- Recommended Policies

Task 7 -- Final Report & Presentation

Task 7:1 -- Joint Study Session with Blue Ribbon Commission and City Council

Task 7:2 -- Finalize amendments to Housing Resolution

July 27 -31	Aug 3-7	Aug 10-15	Aug 17-21	Aug 24-28	Aug 31-Sept 4	Sept 7-11
X	X	X	X	X		
X	X	X	X	X		
		X	X	X		
				X	X	
						X
						X

Sept 14-18	Sept 21-25	Sept 28-Oct 2	Oct 5-9	Oct 12-16	Oct 19-23	Oct 26-30
X						
	X	X	X			
	X	X	X			
		X	X			
				X		
					X	X
					X	X

EXHIBIT C

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT TO REVIEW THE CITY'S HOUSING RESOLUTION

THIS AGREEMENT is made and entered into in duplicate this 25th day of June, 2015 by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Economic & Planning Systems, Inc., a Colorado corporation ("Service Provider").

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. **SCOPE OF SERVICES.**

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed **Seventy Five Thousand dollars (\$75,000)**.

2. **TERM.**

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on December 31, 2015 or earlier, unless extended by mutual written agreement of the Parties.

3. **COMPENSATION AND METHOD OF PAYMENT.**

A. Payments for services provided hereunder shall be made monthly following the performance of such services.

- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- C. For all “extra” work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as “Exhibit B,” or if none is attached, as subsequently agreed to by both parties in writing.
- D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.
- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. RECORDS AND INSPECTIONS.

- A. The Service Provider shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement, including (but not limited to) that which is necessary to sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement.
- B. The Service Provider shall retain all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement for six (6) years after expiration of the Agreement.
- C. The Service Provider shall, at such times and in such form as the City may require, make available for examination by the City, its authorized representatives, the State Auditor, or other governmental officials authorized by law to monitor this Agreement all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement. The Service Provider shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider’s activities, which relate directly or indirectly to this Agreement.

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. HOLD HARMLESS INDEMNIFICATION.

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-

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105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

- B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

- A. General Liability insurance written on an occurrence basis with limits no less than two million dollars (\$2,000,000) combined single limit per occurrence and four million dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage.

The Service Provider shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

- B. Automobile Liability insurance with limits no less than two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
- C. Professional Liability (Errors and Omissions) insurance written on claims made basis with annual limits no less than one million dollars (\$1,000,000) combined single limit per occurrence.
- D. Workers Compensation insurance limits written as follows:
Bodily Injury by Accident \$500,000 each accident;
Bodily Injury by Disease \$500,000 each employee, \$500,000 policy limit
- E. The City shall be named as an additional insured on general liability and auto liability insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

Certificate of insurance shall warrant that, should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. The City reserves the right to request certified copies of any required policies.

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

9. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.
- C. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- D. If this Agreement is entered into for the physical performance of services within Utah the Service Provider shall register and participate in E-Verify, or equivalent program. The Service Provider agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall

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

- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.
- D. Each subcontractor that physically performs services within Utah shall submit an affidavit to the Service Provider stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. § 63G-12-302.

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. PROHIBITED INTEREST.

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

15. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

16. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for

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services performed in accordance with the manner of performance set forth in this Agreement.

17. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered within the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

20. SEVERABILITY.

A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

**PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

21. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
Post Office Box 1480
Park City, UT 84060-1480

Diane Foster, City Manager

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

**PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

EXHIBIT "A"

SCOPE OF SERVICES

**PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

EXHIBIT “B”

PAYMENT SCHEDULE FOR “EXTRA” WORK

Managing Principal	\$225
Principal	\$225
Vice President	\$180
Senior Associate	\$150
Associate	\$125
Research Analyst II	\$100
Research Analyst I	\$80
Production and Administrative Staff	\$80
Mark White, Esq. or Tyson Smith, Esq.	\$185



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

This is a request to remove Conditions of Approval on executed Ordinance No. 06-55 adopted in 2006 which approved the Upper Norfolk Subdivision Plat. One of the conditions of approval in the ordinance called for construction access to take place from King Road rather than from Upper Norfolk Avenue. Construction access was to be made possible through temporary access agreements with adjacent property owners with access from King Road. The agreement was executed and recorded in October 2006, with a stipulation that it would become void December 2009. The Upper Norfolk Subdivision received approval in July 2006 and the plat was recorded in June 2007.

Respectfully:

Francisco Astorga, Senior Planner

City Council Staff Report



PLANNING DEPARTMENT

Application No: PL-15-02665
Subject: 259, 261, 263 Norfolk Avenue
Upper Norfolk Subdivision Plat
Author: Francisco J. Astorga, Senior Planner
Date: July 16, 2015
Type of Item: Administrative – Amending Conditions of Approval on
Ordinance No. 06-55

Summary Recommendations

Staff recommends the City Council hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend Findings of Fact and Conditions of Approval on Ordinance No. 06-55 adopted in 2006 and consider approving the amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

This Staff report reflects the professional recommendation of the Planning Department. The City Council, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicants: 259 Upper Norfolk, LLC, Amos Fiat, member
261 Upper Norfolk, LLC, Amos Fiat, member
263 Upper Norfolk LLC, John Pellouchoud, member
Represented by Jerry Fiat
Location: 259/261/263 Norfolk Avenue
Zoning: Historic Residential-1 District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Executive Summary/Proposal

This is a request to remove Conditions of Approval on executed Ordinance No. 06-55 adopted in 2006 which approved the Upper Norfolk Subdivision Plat. One of the conditions of approval in the ordinance called for construction access to take place from King Road rather than from Upper Norfolk Avenue. Construction access was to be made possible through temporary access agreements with adjacent property owners with access from King Road. The agreement was executed and recorded in October 2006, with a stipulation that it would become void December 2009. The Upper Norfolk Subdivision received approval in July 2006 and the plat was recorded in June 2007. The applicant has not built on the three (3) lots and the temporary access agreement has expired.

Background

On January 21, 2015, the City received a request for the Upper Norfolk Subdivision Plat Amendment located at 259/261/263 Norfolk Avenue in the Historic Residential-1 District. The request is to remove Conditions of Approvals required in the executed ordinance. The access and layout of the lots are not being amended with this application. The subdivision is comprised of Lots 1, 2, and 3. The lots are accessed from Upper Norfolk Avenue. There is a single shared drive from the northern section of the lots. The property owners of Lots 1, 2 and 3 are currently listed as co-applicants in this Application request to remove modify the Conditions of Approval. The applicants are represented by Jerry Fiat.

In July 2006, the City Council approved the Upper Norfolk Subdivision Plat Amendment in Ordinance No. 06-55. In 2006 the applicant addressed some neighborhood concerns, such as designing the driveway to retain the landscape berm, proposing construction phasing and staging on King Road, etc. The proposal included a request to demolish a three (3) unit non-historic condominium structure (the triplex had lockout units, therefore the reference in the minutes is a six (6) unit building), vacate the existing condominium plat, and establish three (3) lots of record with the intention of building three (3) single-family dwellings, one (1) on each lot. The plat was recorded at Summit County on June 1, 2007. The Upper Norfolk Avenue Condominiums Plat (prior triplex) was retired by Summit County on June 13, 2007. The triplex was demolished in February 2010.

The Plat Amendment contained the following Conditions of Approval outlined in the executed ordinance:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The lots are to be used for the construction of single family houses.
4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.
6. A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issue of a building permit.
7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

These conditions above were not added as notes on the plat with the exception of condition no. 7 regarding prohibiting accessory apartments. Conditions of Approval 4 and 5 stipulated that construction access would be from King Road via a construction

access that would cross separately owned adjacent property through the finalization of construction easement agreements prior to receiving building permits.

When the plat amendment was originally approved in 2006, the three (3) lots in the subdivision were owned by the same entity and construction of all three (3) structures was anticipated to occur at the same time. Since that time the three (3) lots have been transferred to different entities, two (2) with the same managing partner.

The reason for the requirement of the access agreement was to reduce the construction impact of building three (3) structures all at the same time on the neighborhood. This access was made possible through an agreement that had a specific time frame before it became void. In 2006, Jerry Fiat, had control of the three (3) lots as well as the adjacent property to the rear, west, with the access easement directly from King Road. The time period has since lapsed making the construction access from King Road no longer an option for the applicant. The easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.

The 2006 Ordinance had Findings of Fact stating that due to the steepness of the lots, a Steep Slope Conditional Use Permit would be required. Since that time, the triplex building was demolished and a more detailed analysis of the slope was evaluated by the Planning Department.

The Planning Commission reviewed this application during their March 25, 2015, meeting and continued this item to a future date. The Planning Commission reviewed the Findings of Fact, Conclusions of Law, and Conditions of Approval of ordinance No. 06-55. The Planning Commission also reviewed the July 26, 2006, Planning Commission minutes and the July 27, 2006, minutes which indicated the following:

Planning Commission (July 26, 2006) meeting

- *Planner Maloney stated that the proposed access is from the north side of the lot. He presented a conceptual site plan that was submitted to the Planning Department for the purpose of verifying that it is reasonable to access the three lots. Through Staff discussion and meetings with the applicant, the Staff has determined that the plat amendment proposed is reasonable and can be accessed from the north side of the lot.*
- *Planner Maloney commented on concerns raised at the last public hearing about preserving the existing landscaping along the front of the site. In addition, the driveway being proposed on the conceptual site plan is 19 feet wide and issues were raised regarding the excessive width.*
- *The Staff recommended approval of the proposed plat for the purpose of establishing lot lines and creating three lots of record. Planner Maloney noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit.*

- During the public hearing: Keesler, a resident at 302 Norfolk, remarked that the structure encroaches into the City right-of-way and if the applicant demolishes the building, the City would have the opportunity to do something with it. Mr. Keesler wondered why the applicant needed a 19 foot wide driveway when Norfolk Avenue is only 8 feet wide. He could not understand why the City would allow pavement in an area that could be landscaped and could give something back to the public that the structure has possessed for so long. Mr. Keesler urged the Planning Commission to address this issue before the plat amendment is granted.
- Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process.
- Jerry Fiat, the applicant, explained that the driveway will be shared by three homes and the reason for making it 19 feet wide is to allow two cars to pass or for one car to pass if another car is parked. Mr. Fiat pointed out that the existing house encroaches 18 feet on to the public right-of-way and the new homes would sit at least 10 feet back. The area that the driveway sits in is already disturbed and the net effect is that paved space will be returned to green space with a berm and planters.
- Planner Maloney stated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. They would also look at landscaping at that point.
- Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the proposed Upper Norfolk subdivision according to the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Staff report and subject to the amendments as discussed (regarding accessory apartments). Commissioner Wintzer seconded the motion. The motion passed unanimously.

City Council (July 27, 2006) meeting:

- To better understand the action, Mayor Williams noted that he and staff walked the property today.
- Dave Maloney summarized the application as staff found that the conceptual site plan proposed provided reasonable access from Norfolk Avenue. Because of the steep slope feature, the applicant had the ability to request a height increase but no increase in the floor area (LMC has changed since, and the height increase is no longer an option).
- Mr. Maloney added that it appears that the design of the driveway will retain the landscape berm and the conditional use process will finalize the design. Roger Harlan noted that a year ago, many Upper Norfolk Avenue residents were against this project. The applicant has done a good job of addressing neighborhood objections, but he is still concerned about construction impacts. Jerry Fiat discussed proposed construction phasing and staging on King Road.
- The Mayor opened the public hearing, and hearing no input, closed the hearing.

- *Jim Hier, "I move we approve Consent Agenda Items 1 through 5". Roger Harlan seconded. Motion unanimously carried.*

See Exhibit B – 25 March 2015 Planning Commission Minutes.

The Planning Commission continued its review of the application during the June 24, 2015, Planning Commission meeting. During this meeting there was a lengthy discussion regarding the Construction Mitigation and the Steep Slope Conditional Use Permit analysis. The Planning Commission forwarded a unanimous recommendation to the City Council to amend Ordinance 06-55 based on the Findings of Fact, Conclusions of Law, and Conditions of Approval, found in the draft ordinance.

During the June 24, 2015, Planning Commission meeting the Commission asked the applicant if the following points from the drafted Construction Mitigation Plan to be adopted as actual Conditions of Approval:

- a. The applicant shall request to build all three (3) units at the same time.
- b. Staging area has been secured along the rear of the properties of approximately 2,000 square feet.
- c. Materials shall not be staged on the street.
- d. No parking shall be permitted anywhere other than on the shared private drive and on the lots themselves. Neighborhood parking space shall not be used. The applicant shall not request any street parking passes.
- e. No vehicles shall back up or down Upper Norfolk as there is sufficient room to turn all the vehicles around.
- f. The applicant shall store spoils from the excavation and reuse it for back fill to reduce the loads out of the site.
- g. The applicant shall encourage car-pooling to further reduce traffic.
- h. The applicant shall not allow any vehicles to queue on Upper Norfolk
- i. No road closures other than utility upgrades shall be needed
- j. All deliveries and unloading shall be off the shared driveway, and shall not block the street.
- k. All other normal Construction Mitigation Plan requirements in Old Town shall apply.

The applicant stipulated all of these items to serve as actual Conditions of Approval. The Planning Commission vote was unanimous (5-0).

Analysis

The applicant requests to remove the two Conditions of Approval outlined in executed Ordinance No. 06-55 dealing with the construction access the applicant proposes access from Upper Norfolk Avenue, which is the legal access to the properties. In 2006, the applicant secured staging area behind to property. Regarding the construction mitigation, which was heavily discussed during the March 25, 2015, meeting the applicant submitted the following documents two (2) documents: Exhibit C – Proposed Mitigation, and Exhibit D – Proposed Mitigation Plan over Site Plan. The Park City Building Department drafted Exhibit E – Draft Construction Mitigation Plan.

The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items need to be addressed at this time. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement. The work is to terminate in two (2) years or less as the easement agreement indicates such.

The Planning Department recognizes that all three (3) lots would have to be utilized for the construction of each structure. Staff recognizes that construction cross access easements for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced. As staff reviewed the current staging area easement when this amendment application was first submitted, staff found that two (2) legal descriptions were incorrectly drafted in the document, and that the language needs to be corrected. Applicant has shown to Staff the corrected language to date.

The Construction mitigation plan of the three (3) lots has been reviewed by the Park City Building Department and they find that as proposed, it meets construction mitigation standards. Staff recommends adding a condition of approval that would indicate that the property owner and/or property owner shall be responsible of notifying property owner within 300 feet of any changes/amendments to the Construction Mitigation Plan as reviewed and approved by the Chief Building Official or his designees.

Steep Slopes

In 2006, the site contained a triplex. See Exhibit F – Former Structure and Exhibit G – 2006 Existing Site Plan. When the plat amendment was reviewed by the City in 2006 an existing conditions survey was submitted for review which was dated July 2005, see Exhibit H. This 2005 survey showed the existing triplex which covered 2/3s of the subject area. The applicant also presented an existing conditions site plan, Exhibit I, a proposed site plan, Exhibit J, and corresponding cross section comparing the two site plans, Exhibit K. Staff has spent and considerable amount of time reviewing these exhibits which revealed that the sites would need Steep Slope Conditional Use Permits.

In 2010, there were two (2) determinations made by the Planning Director, See Exhibit L – SSCUP Memo 06.03.2010 and Exhibit M – 08.09.2010 SSCUP Memo. Exhibit L indicated that the Planning Director reviewed the request for a determination of the grade on the three lots relative to the Steep Slope Conditional Use Criteria (CUP) and found that the three (3) lots will be required to submit for a Steep Slope Conditional Use Permit under the current LMC. Exhibit M, determined two (2) months later, also by the Planning Director, clarified the disturbed area which included the demolished triplex and found that the three (3) lots will not necessitate a steep slope CUP application. The memo further clarifies that on August 3, 2010 staff inspected the site to estimate the grades on the three (3) disturbed lots as indicated on the submitted site plan. Using a laser range finder, staff measured the slope in areas that appeared not to have been

disturbed and found the following grades:

- Lot 1 contained slopes of up to 19.4%.
- Lot 2 contained slopes of up to 18.4%.
- Lot 3 contained slopes of up to 24.8%.

Staff does not find that when the Planning Director reviewed the slopes that he was aware of the specific finding of fact regarding the steep slope which indicates the following:

Finding of Fact #13: The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.

The later memo makes no mention of the approved ordinance or the July 2006 Planning Commission/City Council meeting minutes which discusses the steep slope review. As indicated on Exhibit T – 26 July 2006 Planning Commission Minutes & Exhibit U – 27 July 2006 City Council Minutes, there were specific comments that the impacts of the proposal would be further mitigated and understood when reviewing the Steep Slope Conditional Use Permits.

The project Planner at the time (2006) noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit. During the Planning Commission public hearing, to address Keesler's concern in the form of public comment regarding the 19 foot wide driveway, Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process. The project Planner indicated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. The project Planner noted that the conditional use process will finalize the design.

When the Planning Director made the determination in 2010 that the sites did not necessitate Steep Slope Conditional Use Permit review, staff was unaware of the comments made during the July 2006 Plat Amendment public hearings.

The recently submitted site plan for the construction mitigation has an overlay of the topography which matches the 2005 survey provided by the applicant. Without looking at the disturbed topography, the site indeed reveals that the all three (3) lots would necessitate a steep slope Conditional Use Permit as the three (3) structures lots would be built on slopes that are 30% of greater. See Exhibit N – Current Survey Slope Analysis.

Staff, including the Planning Director reviewed the recorded plat; however, the finding of fact regarding the Steep Slope Conditional Use Permit review was not placed as a plat

note, nor was it placed as a condition of approval, it was left in the approved Ordinance as a finding of fact. Staff recommends the Planning Commission not amend Finding of Fact #13 and allow it to remain in place.

The Land Management Code indicates the following regarding steep slopes:

LMC § 15-2.2-6. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Historic District Design Guidelines.

(A) **ALLOWED USE.** *An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.*

(B) **CONDITIONAL USE.** *A Conditional Use permit is required for any Structure in excess of one thousand square feet (1,000 sq. ft.) if said Structure and/or Access is located upon any existing Slope of thirty percent (30%) or greater.*

For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and driveway.

The Planning Department shall review all Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review Conditional Use permit Applications as Consent Calendar items. Conditional Use permit Applications shall be subject to the following criteria:

(1) **LOCATION OF DEVELOPMENT.** *Development is located and designed to reduce visual and environmental impacts of the Structure.*

(2) **VISUAL ANALYSIS.** *The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:*

(a) *To determine potential impacts of the proposed Access, and Building mass and design; and*

(b) *To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.*

- (3) **ACCESS.** Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged.
- (4) **TERRACING.** The project may include terraced retaining Structures if necessary to regain Natural Grade.
- (5) **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.
- (6) **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage.
- (7) **SETBACKS.** The Planning Department and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.
- (8) **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Department and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.
- (9) **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HR-1 District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.2-5. The Planning Department and/or Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures.

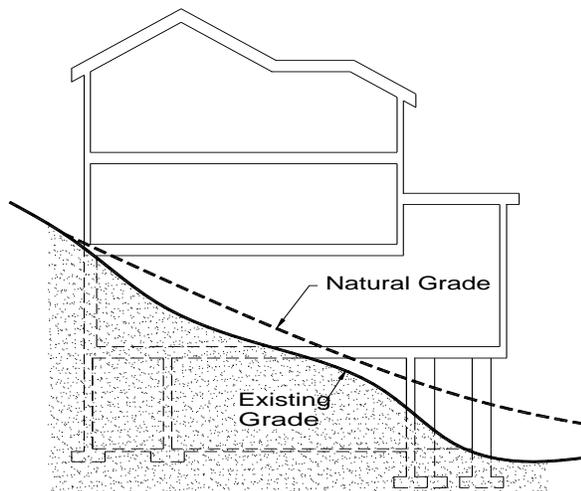
[...]

The Land Management Code has the following Grade definitions:

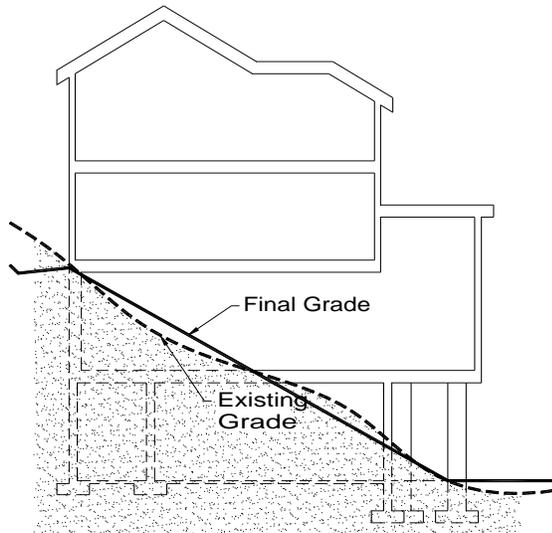
1.114 **GRADE.** *The ground surface elevation of a Site or Parcel of land.*

(A) **Grade, Existing.** *The Grade of a Property prior to any proposed Development or Construction Activity.*

(B) **Grade, Natural.** *The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or Grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property. The estimated Natural Grade shall tie into the elevation and Slopes of adjoining Properties without creating a need for a new retaining wall, abrupt differences in the visual Slope and elevation of the land, or redirecting the flow of run-off water.*



(C) **Grade, Final.** *The finished or resulting Grade where earth meets the Building after completion of the proposed Development Activity.*



Staff finds that in order to review the disturbed area and how that applies to Steep Slope Conditional Use review, an updated survey showing the existing conditions could be further examined and compared to the 2005 survey which included the now demolished triplex. As of this time, an updated survey has not been submitted for review. The Planning Commission and Staff finds the impacts of the site have been alleviated with the stipulated Conditions of Approval and that the proposal should follow the Land Management Code regarding the Steep Slope Conditional Use Permit. After this application is finalized, the applicant will need approval of a Historic District Design Review. At that stage once the application is deemed complete, staff would be able to determine whether the proposal requires a Steep Slope Conditional Use Permit.

Good Cause

Staff finds good cause for this request to remove condition of approval no. 4 and 5 from executed Ordinance No. 06-55 due to the expiration of the recorded temporary construction access easement. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include that the lots are to be used for the construction of single-family houses, a utility/grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit, and that a note is added to the plat prior to recordation that prohibits accessory apartments on the newly created lots. Also, the findings of fact and conclusion of law shall continue to apply, including the determination which states that the lots need a steep slope CUP review.

Staff also recommends adding a condition of approval that indicated that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record according to requirements of the Land Management Code.

Public Input

Public input was received by a concerned neighbor, see Exhibit H – of the March 25, 2015, Planning Commission staff report. Additional comments were made during the March 25, 2015 and the June 24, 2015, Planning Commission public hearings, see Exhibit B – 25 March 2015 Planning Commission Minutes and Exhibit X – 24 June 2015 Planning Commission Minutes.

Alternatives

- The City Council may approve the Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed Ordinance No. 06-55 as conditioned or amended; or
- The City Council may deny the Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed Ordinance No. 06-55 and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed Ordinance No. 06-55; or
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

Significant Impacts

There are no significant fiscal or environmental impacts from this application. They property owners would not be able to build on the lots because they wouldn't have construction access as indicated on the previous condition of approval.

Consequences of not taking the Suggested Recommendation

Condition of approval no. 4 of Ordinance 06-55 cannot be met and therefore either some amendment to Ordinance 06-55 will have to occur.

Recommendation

Staff recommends the City Council hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend Findings of Fact and Conditions of Approval on Ordinance No. 06-55 adopted in 2006 and consider approving the amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft ordinance

Exhibit B – 25 March 2015 Planning Commission Minutes

Exhibit C - Proposed Mitigation

Exhibit D - Proposed Mitigation Plan over Site Plan

Exhibit E - Draft Construction Mitigation Plan
Exhibit F - Former Structure
Exhibit G - 2006 Existing Site Plan
Exhibit H - Existing Conditions Survey
Exhibit I - 2006 Existing Conditions Site Plan
Exhibit J - 2006 Proposed Site Plan
Exhibit K - 2006 Section Comparisons
Exhibit L - SSCUP memo 06.03.2010
Exhibit M - SSCUP Memo 08.09.2010
Exhibit N - Current Survey Slope Analysis
Exhibit O – Executed Ordinance 06-55
Exhibit P – Upper Norfolk Subdivision Plat
Exhibit Q – Vicinity Map
Exhibit R – Temporary Construction Access Easement (200 King) [expired]
Exhibit S – Temporary Construction Access Easement (220 King)
Exhibit T – 26 July 2006 Planning Commission Minutes
Exhibit U – 27 July 2006 City Council Minutes
Exhibit V – Original Lot Configuration
Exhibit W – Public Comments
Exhibit X – 24 June 2015 Planning Commission Minutes
Exhibit Y – Comment from 283 Upper Norfolk, Brabender

Exhibit A – Draft Ordinance No. 15-XX

AN ORDINANCE APPROVING THE FIRST AMENDED UPPER NORFOLK SUBDIVISION PLAT AMENDING CONDITIONS OF APPROVAL ON ORDINANCE NO. 06-55 AT 259, 261, 263 NORFOLK AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 259, 261, 263 Norfolk Avenue, have petitioned the City Council for approval of the First Amended Upper Norfolk Subdivision Plat Amendment; and

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

WHEREAS, the executed and recorded temporary construction access easement agreement (document no. 00793227) expired on December 31, 2009; and

WHEREAS, the three (3) lots need to have specific construction mitigation due to the narrowness of built Norfolk Avenue and steepness of the neighborhood; and

WHEREAS, Ordinance No. 06-44 approving the Upper Norfolk Subdivision authorized the three (3) lot Plat Amendment with specific findings of fact and conclusion of law.

WHEREAS, Ordinance No. 06-44 indicated specific conditions of approval regarding construction access from King Road through the adjacent property to the west, as per submitted construction easement agreements.

WHEREAS, this ordinance amends Ordinance No. 06-44 due to the expiration of construction easement agreements and certain facts have changed.

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

WHEREAS, the Planning Commission held a public hearing on March 25, 2015, and June 24, 2015, to receive input;

WHEREAS, the Planning Commission, on June 24, 2010, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 19, 2015, the City Council conducted a public hearing and reviewed the First Amended Upper Norfolk Subdivision Plat Amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the First Amended Upper Norfolk Subdivision Plat Amendment.

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

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

Findings of Fact:

1. The properties are located at 259/261/263 Norfolk Avenue.
2. Prior to 2006, the property was platted as the 'Upper Norfolk Condominiums'
3. There was an existing triplex structure located on the property.
4. The existing structure did not conform to the height and setback requirements of the Historic Residential-1 District.
5. The applicant demolished the triplex structure in 2010.
6. The applicant vacated the existing 'Upper Norfolk Condominiums' plat.
7. Through Ordinance 06-55 the applicant established three (3) lots of record - identified on the recorded plat as Lot 1, Lot 2, and Lot 3.
8. Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 2812.33 square feet.
9. Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.
10. The proposed access to the lots is from Norfolk Avenue on the north side of the property.
11. The three (3) proposed lots would share one (1) driveway.
12. The proposed lots are for the purposes of building single-family dwellings.
13. The proposed lots appear to have slopes of greater than 30%. If they do, based upon a certified survey of existing conditions at the time of Historic District Design Review application, they would be subject to Conditional Use Permit, Construction on a steep slope review by the Park City Planning Commission as indicated on the Land Management Code.
14. There is sufficient area on the Lots and the obtained temporary construction easement to conduct construction staging.
15. Upper Norfolk Avenue is substandard, narrow street on steep hillsides.
16. On-street and off-street parking in the Norfolk Avenue /Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
17. Snow removal and emergency access to the Norfolk Avenue /Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
18. LMC § 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
19. Accessory apartments are conditional uses in the HR-1 District and require one parking space per bedroom.
20. Accessory apartments would increase the parking demand in the Norfolk I Upper Norfolk Avenue neighborhood
21. In July 2006 the City Council approved the Upper Norfolk Subdivision plat by Ordinance 06-55.

22. The plat was recorded at Summit County on June 01 2007.
23. The property owners request to remove the following two (2) conditions of approval from Ordinance 06-55:
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
24. All other conditions of approval in Ordinance 06-55 will remain in effect.
25. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property.
26. The access was made possible through a temporary construction access easement agreement that expired in December 2009, and the owners have not secured an extension of this easement.
27. The temporary construction access easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.
28. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time.
29. The proposed temporary construction easement over 220 King Road, behind the subject site, is set to terminate in two (2) years or less from the construction initiation.
30. Cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.
31. The dimension of the Lots will not change with this Plat Amendment. The only change to the Upper Norfolk Subdivision by this First Amended Upper Norfolk Subdivision will be the plat notes and conditions of approval as contained herein.
32. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include:
 - The lots are to be used for the construction of single family houses.
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit.
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.
33. Staff recommends adding a condition of approval that indicates that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.
34. The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items to be addressed at this time.

Conclusions of Law:

1. There is good cause for this Plat Amendment to amend the conditions of approval of executed ordinance no. 06-55 and add notes to the plat due to the expiration of the recorded temporary construction access easement.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The following conditions of approval from Ordinance No: 06-55 shall continue to apply.
 - The lots are to be used for the construction of single-family houses
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots
4. An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way. No access and/or staging shall take place north of a line perpendicular to platted Norfolk Avenue from the northeast corner of 263 Norfolk.
5. Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
6. Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.
7. The applicant shall submit a detailed existing conditions landscape plan and survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.
8. The applicant shall build all three (3) units at the same time. Building permits will only be granted simultaneously for all three lots.
9. Staging area has been secured along the rear of the properties of approximately 2,000 square feet.
10. Materials shall not be staged on the street.
11. No parking shall be permitted anywhere other than on the shared private drive and on the lots themselves. Neighborhood parking space shall not be used. The applicant shall not request any street parking passes.
12. No vehicles shall back up or down Upper Norfolk as there is sufficient room to turn all the vehicles around.
13. The applicant shall store spoils from the excavation and reuse it for back fill to reduce the loads out of the site.
14. The applicant shall encourage car-pooling to further reduce traffic.

- 15. The applicant shall not allow any vehicles to queue on Upper Norfolk.
- 16. No road closures other than utility upgrades shall be needed.
- 17. All deliveries and unloading shall be off the shared driveway, and shall not block the street.
- 18. All other normal Construction Mitigation Plan requirements in Old Town shall apply.

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

PASSED AND ADOPTED this ___ day of _____, 2015.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

Marci Heil, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

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(6') in height measured from final grade.

12. As part of the Construction Mitigation Plan, an access plan for 421 and 417 Ontario will be provided.

5. **259, 261, 263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55.** (Application PL-15-02665)

Commissioner Phillips recused himself and left the room.

Planner Astorga introduced Jerry Fiat and John Pelichoud, representing the applicants. He handed out two letters of public comment that he received after the packet was prepared.

Planner Astorga reviewed the administrative application amending conditions of approval of an approved ordinance 06-55. He stated that originally there was a triplex on the site that had illegal lockout units. The triplex structure was demolished and the site was replatted to three lots of record; 259, 261, and 263 Norfolk. When that application was approved in 2006, there were seven conditions of that approval, as outlined on page 316 of the Staff report. Condition #4 read, "Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements." Condition #5 read, "The construction easement agreements must be finalized and submitted to the City prior to receiving building permits". Planner Astorga noted that the application met all the conditions of approval. At that time the applicant's representative had the ability to secure access easement for construction through King Road; and not through Upper Norfolk, which was part of the condition of approval.

Planner Astorga reviewed a 2012 aerial photograph on page 330 of the staff report, which showed the three lots. He noted that there was secured staging area behind each of the lots which went over the 220 King Road property that is currently owned by Robert Sfire. In addition to the staging areas there was also an easement through 220 King Road to through the lot known as the Herman Property. Planner Astorga stated that the issue is that the Herman property lot had an expiration date and the construction easement would cease on December 31st, 2009. Therefore, when the property owners failed to receive their approvals through both the Planning Department through design reviews, and subsequently for building permits, they were in violation of the ordinance that approved the plat amendment creating the three subject lots.

Planner Astorga stated that since the King Road access is no longer an option, the applicant is requesting to come off Norfolk Avenue but still utilize the staging area that was obtained through the proper easements. He noted that the language on the 220 King

Road lot indicated the use of a construction staging area for two years from the time construction begins. Planner Astorga remarked that it was a difficult situation because due to circumstances the applicants were currently not meeting those specific conditions of approval.

Planner Astorga explained that the Staff asked the applicants to submit the plat amendment application again. The reason was not to amend the plat but rather to remove the conditions of approval, and to comply with the new plan as indicated by the applicant's representative in his project description. The language of the project description was included on page 317 of the Staff report, indicating what they would do to mitigate the construction.

Planner Astorga stated that since the applicant only has two years to build and they have a good area for staging construction materials, they would like to move forward and build each single family dwelling on all three lots at the same time. The Staff believed their proposal was an appropriate method of construction.

Jerry Fiat clarified that at the time he was the representative for the property owner and he had secured two different easements. One was for construction staging, which was the easement with Robert Sfire, and it would remain the same because the construction staging has not changed.

Chair Strachan asked if that easement would expire. Mr. Fiat stated that it expires two years after the start of construction. He clarified that the easement was purchased from Mr. Sfire to facilitate building the homes. The intent was always to build all three homes at one time. Mr. Fiat stated that what has changed is that he was the owner of the adjoining property at 200 King Road and he granted an easement across the property that expired after two years. The reason for the expiration was in case he wanted to build on that lot. Mr. Fiat pointed out that the condition of approval was in the ordinance but not on the plat.

Mr. Fiat stated that there was confusion over the matter and Assistant City Attorney McLean informed them that they had to go through the process of amending the ordinance with the condition of approval requiring access off of King Road. Mr. Fiat explained that the plan is to have all the staging materials and all the parking, dumpster and porta-pottys will all be off of Upper Norfolk.

Chair Strachan asked if they would be building a road from Norfolk through one of the lots to access the staging area. Mr. Fiat answered no. They would simply lift it up and over the site. Mr. Fiat clarified that even though he had granted that access, he never thought it was a viable access. It is a 1,000 feet of disturbance to get from King Road and 20,000 feet of re-vegetating. The property owner at the time gave the easement but they never

thought of it as a viable access. Mr. Fiat stated that there would be no parking or construction staging on Upper Norfolk. It would only be used for access.

Chair Strachan asked Mr. Fiat to explain how it would work when a cement truck goes up to pour the foundation. Mr. Fiat replied that there is a shared driveway for all three lots and the truck would pull into the unimproved upper Norfolk right-of-way. Chair Strachan wanted to know what would happen while the driveway was being built. He was concerned about the lack of room on Upper Norfolk. Mr. Fiat remarked that there was enough room because they had paid for an easement on the back. Chair Strachan was comfortable with the staging area but the issue was getting it ready. Mr. Fiat assured him that there was room to pull everything off the road.

Commissioner Joyce noted that many issues were brought up during the plat amendment discussions that were brushed off to be addressed during the Steep Slope CUP process. He understood that the Staff had re-evaluated the site and a Steep Slope CUP was not required. Commissioner Joyce pointed out that it was in a finding of fact that those issues would be addressed with the Steep Slope CUP. In reading the minutes for the plat amendment there was a lot of discussion regarding the position and location of the driveway and how it would be accessed. That was only one of the items that was mentioned throughout the minutes that was put off until the Steep Slope CUP.

Commissioner Joyce pointed out that some of the checks and balances that the previous Planning Commission relied on were now gone because the site was re-evaluated and it was determined that the percentage of slope was under 30%. Planner Astorga explained that removing the triplex completely changed the topography of the site. Based on that fact former Planning Director Eddington went on site and measured the grades. Planner Astorga stated that if Commissioner Joyce was more concerned with the access that was part of the original approval, none of that would be changing. Construction access would be the only change. Commissioner Joyce clarified that his issue was that when the Planning Commission approved the plat they chose not to address a number of their concerns as part of the plat amendment because they planned to address those concerns as part of the Steep Slope CUP. Now there is no CUP process he was concerned about addressing those issues.

Mr. Fiat stated that he did not have the list of concerns that Commissioner Joyce was referring to, but he could address the driveway. He explained that originally the proposal was to have individual driveways. That was met with opposition and they instead proposed two driveways. Since there was still opposition they opted for a single shared driveway. Mr. Fiat remarked that a full detail of the proposed shared driveway was provided at the time and the City should have it on file. He pointed out that the driveway is in the City right-of-way and the City Engineer would have absolute control over it. The applicants have to

secure an agreement with the City for the driveway, which is the normal process. Mr. Fiat felt certain that there were no outstanding issues with the driveway.

Commissioner Astorga understood that Commissioner Joyce was concerned when the determination was made that the site no longer required a Steep Slope CUP, because when the Planning Commissioner approved the plat amendment they believed that the mitigating factors would be reviewed in that future process. Commissioner Joyce clarified that he would not have an issue with it if he had not read through the past meeting minutes and saw how many times specific concerns were pushed off to the CUP process. Chair Strachan recalled that nightly rentals and lockouts were two concerns that they intended to address with the Steep Slope CUP. Mr. Fiat noted that the applicants had volunteered not to have lockouts. That was specified in the conditions of approval and it would not change.

Assistant City Attorney McLean clarified that the language in the conditions of approval says no accessory apartments. Mr. Fiat was unclear on the difference between a lock out and an accessory apartment. Planner Astorga understood that when the concern was raised, the applicant stipulated to adding that specific plat note and that would not change.

Planner Astorga asked if Commissioner Joyce would feel more comfortable if the Staff conducted a Steep Slope CUP analysis to try and mitigate the identified concerns from 2006. Commissioner Joyce understood that it would be an additional burden on the Staff but he thought it was a necessary step.

Commissioner Worel referred to page 350 of the Staff report, and noted that the Minutes from 2006 reflect that Planner Maloney said that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit. That clarified that the Planning Commission intended to look at all 14 criteria. Planner Astorga remarked that in that same paragraph in the minutes Planner Maloney, who was the project planner at the time, also that noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He pointed out that the plat amendment was done prior to demolition of the triplex, which is why the Steep Slope CUP was referenced.

Commissioner Campbell wanted to know who tore down the triplex. Mr. Fiat provided some background. He stated that the property was sold to an individual, David Dewer. The structure was 45' in height and it was built on the unimproved right-of-way. It had six units, three of which were illegal. When Mr. Dewer purchased the property and what was not included in the conditions of approval for the plat amendment, was the requirement to demolish the triplex structure before the plat was recorded. However, plat was recorded before the structure was demolished, creating an illegal structure that spanned all three

lots. When they looked at rebuying the property, they had conversations with Ron Ivie and found that the City was actually looking at demolishing the triplex. In those conversations, Mr. Fiat told Ron Ivie that if they purchased the property they would demolish the structure immediately, which they did. The grade was interpolated once the structure was removed. Mr. Fiat remarked that having to go through a Steep Slope CUP is a large burden and a time consuming process. They would like to build the houses this year.

Commissioner Campbell clarified that he was not pushing for the applicant to go through the Steep Slope CUP process. However, he thought it was important to at least look at the 14 criteria that the former Planning Commission thought they would be reviewing to address their concerns. Mr. Fiat stated that from his reading of the minutes, the Planning Commission was not saying that they had 14 concerns. He believed it was more to the point that 14 points are reviewed in a conditional use permit.

Commissioner Campbell was curious how the topography of the lot changed during the demolition. Mr. Fiat replied that the structure spanned the entire property and there were overhanging decks, which made it difficult to accurately determine the grade. Once the structure was removed the Planning Department measured all the way across from the high point to the low point and it was found to be 17% or 18% slope. Mr. Fiat clarified that the grade had not changed, it was just more accurately.

Chair Strachan asked if the determination that it would be subject to a Steep Slope CUP was made before or after the structure was removed. Planner Astorga replied that the determination for a Steep Slope CUP was made as part of the plat amendment. Mr. Fiat was uncertain whether a formal determination was ever made because it was never really addressed. He stated that he never actually read the conditions of approval and it was his fault for not paying attention to the comments. He has since learned a hard lesson that they need to read the conditions and the plat notes.

Assistant City Attorney asked if there was a determination letter by Thomas Eddington regarding steep slopes. Planner Astorga answered yes. However, the letter was not included in the Staff report because the applicant was requesting to remove the two conditions of approval. Planner Astorga noted that Finding #13 of Ordinance 06-55 reads, "The proposed lots have slopes of greater than 30% and are subject to a conditional use permit, construction on a steep slope review." Planner Astorga stated that he does not like doing that on the plats that he reviews because he never knows whether the applicant will choose to put their footprint on those exact slopes. He addresses that issue with the design review and building permits and when he receives a certified survey. That is when he can honestly say that the slope hits the threshold. Planner Astorga felt it was premature to make that determination at the time of the plat amendment unless it can be verified that the entire lot is over 30%.

Assistant City Attorney McLean stated that because the Finding of Fact was part of the plat amendment approval, and the Staff has indicated that the finding may not be accurate, in re-opening the ordinance, the Planning Commission needs evidence to show that it is no longer accurate so the Finding of Fact could be removed. Planner Astorga agreed. He suggested that the applicant could submit a survey for the Staff to review. He noted that a survey could not be submitted without a footprint and a proposed floor plan on the survey. At that point the Staff would be able to make a determination of whether or not the slope was 30% or greater. Ms. McLean thought they already knew the footprint because the discussion this evening is about where the construction will take place. Planner Astorga clarified that the Staff did not know the exact location of the footprints of the three lots. He would ask the applicant to provide a certified survey and to identify an approximate location of the footprint.

Commissioner Campbell thought that was unnecessary because when the applicant comes in for a building permit it would not be approved if the slope is over 30%. Planner Astorga stated that if he sees 30% or greater slopes, independent of what may have been said in a previous memo, he has the obligation to say that it hits the threshold. Commissioner Campbell understood that it would come back to the Planning Commission if the slope was found to be over 30%. Planner Astorga answered yes. However, he understood Commissioner Joyce's concern about the previous Planning Commission waiting for the CUP to address the issues.

Commissioner Campbell believed Mr. Fiat was right in saying that the 14 criteria in the LMC would have to be addressed in a Steep Slope CUP, but they were not 14 specific concerns that were raised. Commissioner Campbell pointed out that if the slope is less than 30% those 14 criteria would not apply to these lots. Assistant City Attorney McLean stated that the concern she was hearing was that according to the 2006 Minutes there was further discussion about factors related to the original subdivision, and those concerns would be addressed with the Steep Slope CUP. In this case the Staff is finding that a Steep Slope CUP is not required. However, since there is an existing Finding of Fact that talks about a Steep Slope Cup, and because they were re-opening the ordinance, she recommended that the issue be addressed to determine whether or not the Finding of Fact is accurate. If a certified survey shows that a Steep Slope CUP is not needed, the Planning Commission could determine whether other issues needed to be addressed as part of the subdivision.

Chair Strachan opened the public hearing.

Jeff Braebender, a property owner at 283 Upper Norfolk, adjacent to 263 Norfolk. Mr. Braebender appreciated that the applicants have a right and an opportunity to build on their

project, and they should. However, he was concerned with the staging area behind 263. There is a large stand of mature scrub oak, and he would not want that disturbed or torn out for the convenience of a staging area because they would not be able to return it to its existing condition. Mr. Braebender requested that the language be strengthened to address the impacts to the staging area. He pointed out that there was still a significant amount of space that could accommodate the staging without disturbing the stand of scrub oak. Mr. Braebender stated that his second issue was treating all three lots as though they were the same, because they are not. When looking at the slope he thought the lots need to be addressed individually and not together. Mr. Braebender commented on access and he referred to the 25 feet of green space by Norfolk Avenue that is owned by the City. He understood that the applicants intend to cut a driveway where the bare land is but leave that green space. He did not believe that made sense and he thought the Commissioner would draw that same conclusion if they visited that area. Mr. Braebender stated that no one should dig a tunnel through there and leave dirt alongside of the road. The road is one car length wide in that spot. He thought it would be an opportunity to take out that space and provide direct access into those spots and to provide additional parking spaces. It would improve the road at the same time. Mr. Braebender believed his suggestion would also resolve the staging area problem. In his opinion, this was an opportunity for the City to work with the developer and spend City money to fix problems that already exist, especially for the people living from 302 through 256 who have difficulty getting in and out of their driveways now. He believed that at some point the City would have to address fixing Norfolk Avenue and this would fix at least 25% of it in conjunction with this project.

Ed DiSisto, a resident at 244 Upper Norfolk, stated that the original plan to stage the access and the mitigation behind was considered because of the problems that would occur if it was done on Norfolk Avenue. He noted that five years ago two people died on Norfolk Avenue and it is uncertain what can happen or when it will happen. There have always been problems with emergency vehicles getting all the way down the street to assist people in need. Mr. DiSisto remarked that the proposal says nothing about construction parking, particularly when three lots are being built at the same time. He also had a personal concern. He indicated a retaining wall and noted that the City gave Mr. Pack and Don Holbrook permission to build a retaining wall to create parking spaces for 244, 238 and 236 Norfolk. In one of the first plans that Mr. Fiat proposed, he wanted to cut down half that wall to create an ingress and egress to the project. That plan was reviewed and it was determined to be a bad idea primarily because of the slope. There was also an agreement with the City to have that wall there. Mr. DiSisto was concerned about a precedent of the City giving permission to someone and then taking it away and giving it to someone else. Mr. DiSisto wanted to make sure that nothing is allowed to creep in that would allow something like that to happen again. He remarked that there is nowhere for large construction trucks to turn around on the road, and traffic would be backed up or blocked waiting for those trucks to move. He was also concerned about storing the

excavated dirt, and he questioned how much of the staging area would be taken away for storing. Mr. DiSisto had not seen a mitigation plan, and he was left to rely on a few sentences in the Staff report, which he believed left it open for the applicants to do whatever they want.

Chair Strachan closed the public hearing.

Commissioner Campbell felt that he had sent the wrong message by misreading the 2006 Minutes. In re-reading them, he reiterated that the applicant was correct in stating that the 14 points of the Steep Slope CUP has nothing to do with particular application. He believed the question was whether or not a Steep Slope CUP was required, and Planner Astorga was indicating that it was not. Commissioner Campbell pointed out that if that assumption is wrong and the Staff finds that a Steep Slope CUP is required, it would come back to the Planning Commission.

Chair Strachan asked what legal standard was being applied. He personally has never been involved in amending an ordinance. Assistant City Attorney stated that it was not called out in the Code; and she believed it goes back to the original ordinance. The applicants have the right to build on their property and they have platted lots. The objective is to correct what was previously done. She believed it was more akin to a regular subdivision process when amending the original ordinance. Chair Strachan agreed. Using the example of an MPD, when a design is materially changed from an approved MPD, the whole MPD comes back for review. He believed that changing or removing one or two selected conditions of approval is like a stack of dominoes because they are all intertwined. Ms. McLean stated that the Planning Commission needs evidence to show that the slope is less than 30% so the Finding of Fact that talks about the Steep Slope CUP can be removed. Chair Strachan could not find a Code section that allows an applicant to amend a past ordinance. The closest process is when an applicant fails to record the plat on time and they have to start the process over. He was unsure which Code section they could cite to validate that they were following the Code by amending this ordinance to eliminate a condition of approval. He was uncomfortable doing that without following something specific in the Code.

Assistant City Attorney McLean stated that ordinances, by their own nature, can be amended. It would be a new ordinance that amends the prior ordinance. She noted that it has been done before and cited examples. Ms. McLean clarified that the lot lines were not being changed to change the plat. The request is to change the access that was identified in the conditions of approval. She stated that the Planning Commission has the purview to look into whether or not it is a Steep Slope CUP because that is a specific Finding of Fact #13. They also need to understand why the conditions of approval are there, and that those concerns have been met.

Commissioner Joyce stated that separating his issue with the Steep Slope CUP, and focusing on the access issue, he would need to delve into some of the impacts addressed in a construction mitigation plan before he could be comfortable removing the requirements. He needed to be convinced that their plans for construction staging, etc., would not greatly impact the neighbors or the road. Mr. Fiat noted that he specifically stated that there would be no parking on the street. He currently has three projects in progress and not one construction worker's car is parked in any part of the public right-of-way. He noted that he is allowed two parking passes to park on the street and he never takes them. He secures off-street parking for all of the workers, and sometimes that involves a shuttle to the work site, renting parking spaces or paying people to use their parking spaces. He lived on a street and he knows how angry he gets when someone takes is parking. Commissioner Joyce thought the problem was greater than just upsetting a neighbor. The street is very narrow and if one construction truck is stopped to unload, emergency vehicles are blocked from accessing the road. He needed to hear and understand their plan before he would consider removing the conditions of approval.

Mr. Fiat was prepared to talk about the specifics of the plan. Chair Strachan understood that Commissioner Joyce was looking for evidence that the plan would work, as opposed to having Mr. Fiat just talk about it.

Commissioner Thimm agreed with Commissioner Joyce. He noted that a condition was made and to whatever degree is was part of the premise for the approval. He thought that issue needed to be revisited so the Commissioners could understand exactly how the access would happen. He was willing to accept that it may work, but at that moment the Planning Commission had nothing in front of them to support it, other than Mr. Fiat telling them that it will work based on examples of other sites. Commissioner Thimm asked Assistant Attorney McLean how they should address the Finding regarding the Steep Slope CUP. Planner Astorga stated that if he had been the project planner in 2006 he would have written the Finding to say, "if there are any slopes of 30% or greater and the house sits on them, then it shall require the Steep Slope CUP application." Commissioner Thimm agreed that it would be better language, but the Finding was not written that way. Planner Astorga clarified that they could rewrite the Finding with that language. Ms. McLean agreed that it could be one way to address the issue. The other way would be to come back with a copy of a certified survey.

Commissioner Joyce was comfortable that if the steep slopes were determined, it would come back to the Planning Commission. He reiterated that his frustration was that the previous Planning Commission had concerns, but they did not spend time on them because throughout the minutes they kept saying it would be addressed in a Steep Slope CUP. He thought it was a fundamental assumption of their approval, and they disregarded

some concerns in an effort to deal with them later. The problems that were kicked down the road now have nowhere to go to be addressed. Commissioner Joyce remarked that a having a certified survey would not address his concern.

Commissioner Band thought her fellow Commissioners had done a good job stating the problem.

Commissioner Worel was still hung up on the statement by Planner Maloney that all three lots were on slopes greater than 30% which would require a CUP. He hoped that he had based his statement on something that could back it up, such as a survey or something else that was submitted as part of the proposal. Commissioner Worel believed that all of the decisions made by the Planning Commission and the City Council at that point in time were, in part, based on the Steep Slope CUP. She asked the Staff to research whether or not there was a past survey that they could compare with a current survey. Planner Astorga noted that there was not a current survey on the land.

Commissioner Band asked if they needed to treat this as a new application. Assistant City Attorney McLean stated that the applicant submitted an application to amend the ordinance. It was called the First Amended of the Subdivision, and the applicant was requesting to amend the subdivision plat to remove two conditions, and to address the finding of fact was not accurate.

Chair Strachan noted that Findings of Fact 13-17 say that the proposed lots have steep slopes greater than 30%; that there is not sufficient area on the property to conduct construction staging; Norfolk Avenue and Upper Norfolk are substandard narrow streets on steep hillside; on-street and off-street parking on Upper Norfolk and Norfolk is significantly limited due to steep narrow streets; snow removal and emergency access. Chair Strachan remarked that at a minimum, they needed to get evidence in the record to mitigate those findings. He thought it should be done through a very detailed construction mitigation plan or some type of submittal that addresses, for example, Finding #17, snow removal and emergency access. Without some type of plan to address those particular findings of fact, he was not sure they could say the potential impacts have been mitigated, which they are required to do by Code.

John Pack, stated that he flew in from Chicago to attend this meeting. He used to live in Park Meadows and he now lives in Chicago. He and his wife purchased the property at 263 Norfolk from the bank. He understood that the Planning Commission wants to be responsible to all the parties involved and work towards solutions, and he appreciated that. Mr. Pack stated that when he purchased the property in 2010 he and his wife did a significant amount of research to make sure it was a good parcel. They looked at the plat, the title record, and consulted an attorney. He noted that none of the issues raised this

evening were ever mentioned. There was never a hint that these issues could have existed. Therefore, they purchased their property believing it was a buildable lot. It was only later that they realized that the ordinance had not been properly recorded on to the plat. Mr. Pack felt like an innocent party in the matter because after doing his due diligence he still had no knowledge of these prior issues. He thought the Commissioners had a legitimate concern regarding emergency access, and he agreed that it was important to address those issues because it is a matter of public safety. Mr. Pack asked the Planning Commission to be sensitive of the fact that he was not involved in the previous process and he and his wife thought they were buying a piece of property in a beautiful part of Park City where they could build a nice, historically relevant home. He hoped they could reach a conclusion that meets the City's needs as well as those of the applicants.

Assistant City Attorney McLean understood that people do not always know where to look for ordinances; however, this ordinance was correctly passed and published and met all the legal requirements. She clarified that ordinances do not always get recorded against the property. Ms. McLean stated that thanks to the efforts of Mr. Fiat, the City has changed its procedure to give people more notice of the ordinance numbers and the ordinance number now put on the plat. But at that time the ordinance was legal. Not having it on the plat did not create a deficiency in the ordinance.

Mr. Fiat stated that the hard language is his letter that was included in the Staff report says that all staging, parking, deliveries, cranes, dumpster, porta-potty's, etc., will be off the driveway servicing the three lots, or on the properties and additional staging area in the rear of the properties. No shall park in the neighbors' parking spaces or outside the driveway servicing the lots. He believed that language was stronger than anything he has typically done in Old Town. He thought it was clear that they would not impede any emergency vehicles or snow removal. Mr. Fiat was comfortable making the language part of the construction mitigation plan, or even part of the ordinance.

Chair Strachan stated that there still needs to be evidence that a fire truck or other emergency vehicles are certain dimensions and how much right-of-way they need for access. Mr. Fiat was unsure how he could provide that evidence. Assistant City Attorney McLean told Mr. Fiat that the Planning Commission was asking for a construction mitigation plan in writing, and that there be some analysis of the other terms, which were pushed off at the original plat based on there being a Steep Slope CUP, as well as some analysis from Staff as to how those are addressed currently.

Commissioner Campbell thought construction mitigation plans were the purview of the Building Department. Ms. McLean replied that the Building Department handles the construction mitigation plan, but when there are issues related to the platting, the Planning Commission can add conditions of approval related to the construction mitigation plan.

Commissioner Campbell agreed with Chair Strachan that the letter from the applicant did not give enough teeth. He clarified that if the Planning Commission was forwarding an amendment to the City Council which would basically become a new ordinance, they could add anything they wanted to the ordinance. Ms. McLean replied that this was correct. Commissioner Campbell thought they could add a condition stating that these notes would be incorporated in the new ordinance and move this forward this evening.

Commissioner Band agreed. She thought they could add conditions of approval regarding the staging, construction vehicles, dumpsters, etc. that holds the applicants to do what they have stated they intend to do. She believed they could do that this evening rather than require the applicant to come back. Commissioner Band stated that she was trying to find a solution without requiring the applicant to do studies.

Commissioner Joyce pointed out that the original intent of the conditions of the approval was to take construction off of Upper Norfolk and keep it on King Road. The fact that they are building three houses simultaneously puts three pieces of construction traffic in a significantly small area at one time.

Chair Strachan clarified that he was not suggesting that the applicant do a study. He just wanted to see something in writing showing how they propose to keep the trucks off the road. Chair Strachan thought it was important to see the construction mitigation plan. Mr. Fiat stated that he has already submitted a full construction plan to the Building and Planning Departments. Planner Astorga clarified that what they received was a site plan. There was nothing regarding construction mitigation. Planner Astorga understood that Chair Strachan wanted to see a mitigation plan that addresses Findings 13-17 to see how the applicant intends to mitigate the findings from 2006. Chair Strachan was not opposed to drafting new findings if that was a better approach.

Mr. Fiat pointed out that if they make it a condition of approval, Code Enforcement would make sure that the conditions are met. Chair Strachan wanted mitigation measures that would keep it from going as far as Code Enforcement. In order to fulfill their responsibility to mitigate what they know are impacts, they need something in writing to support an approval.

Chair Strachan called for a motion.

MOTION: Commissioner Joyce moved to CONTINUE 259, 261, 263 Norfolk Avenue, consideration of First Amended Upper Norfolk Subdivision Plat to May 13, 2015. Commissioner Worel seconded the motion.

Planning Commission Meeting
March 25, 2015
Page 69

VOTE: The motion passed 4-1. Commissioner Campbell voted against the motion.
Commissioner Phillips was recused.

The Park City Planning Commission Meeting adjourned at 10:15 p.m.

Approved by Planning Commission: _____

Exhibit C – Proposed Mitigation

Jerry Fiat
Po Box 4581
Park City, Utah 84060
435 513 1273
Jfiat727@gmail.com

April 2, 2015

Re; Construction access for 259, 261, 263 Upper Norfolk (three single family lots “Properties”)

Back ground

In the ordinance that approved the re-plat of the above property there was a condition of approval which required construction access from King Rd.

This access is over two private properties, 200 King Rd, and 220 King Rd. This access was created by two separate agreements.

The agreement with the property owner of 200 King Rd has expired.

The owner of 200 King Rd is not willing to renew the agreement.

The reason the owner of 200 King Rd is not willing to extend the agreement is;

1. The access would have to be cut and would disturb about 10,000 sq. ft.
2. The access would impact their access to the public trails (lower Sweeny switchbacks).

There is no condition in the approved ordinance about construction staging, parking, etc.

We are requesting that the condition in the ordinance requiring construction access from King Rd be removed and allow access through the adjoining right-of-way; Upper Norfolk.

The Properties are currently owned by two different owners.

In order to further entice the Planning Commission and the City to remove the above condition in the ordinance we have provided the following Construction Mitigation Plan. Should the Commission wish to make this Construction Mitigation Plan a condition of approval, we are hereby agreeing to such a condition.

Construction mitigation Plan

1. Sequence

We believe the best way to build these properties is all together, sequentially, and as much as possible by one GC, one excavator, one roofer, etc. this will both save construction costs, but more significantly it will reduce, the amount of construction time, conflicts, parking, and staging area needed.

There seems to be a miss conception that there will be more impact because it is three houses at one time. That would be true if it was three deferent builders with deferent subs building at the same time. What we are proposing is more like building one larger house. I reality the number of cars, deliveries, workers and subcontractor scheduling would be same if we built one of these house as building all three.

If the construction was staggered, it would take three times longer and major issues would come up if one or more of these houses were occupied when the other/s were under construction.

If it was three deferent builders that used deferent subs, schedule, and did not share items like dumpster, porta potty, crane, fork lift, supervisors etc. the staging area, parking, conflicts would in increase. More over issues over access do to the shared driveway could be a major issue if one of the homes was occupied.

Therefore we believe the best option is to build all three in one time, with one GC and the same subs

2. Space

We have secured an area along the rear of the three properties from the adjoining property 220 King Rd. this area is 20 feet deep by 98 feet wide or 1960 sq. ft. (just over the size of a single old town lot). This agreement expires two years from the start of construction.

In addition, the shared driveway and space in front of the houses provides an additional 4550 sq. ft. of area available for, parking, staging, dumpster, porta potty, deliveries, unloading and turn around.

Total area available for the above is 7010 sq. ft. (equal to 3.5 city lots)

3. Staging

We have sufficient space to stage all the materials within the lots, additional area in the rear, and the shared driveway. No materials will be staged on the street.

4. Parking

No parking shall be permitted anywhere other than on than on the shared private drive and on the lots themselves. No neighborhood parking space shall be used. We will not request any street parking passes (6 allowed total).

The plan attached shows sufficient space within the shared drive way whereby we can provide 10 8.5' by 20' parking spaces and 2 11' by 25' parking spaces, and still have room for staging, dumpster, porta potty, deliveries, and unloading

5. Turn around

There is sufficient room to turn all the truck and cars around so no trucks will need to back up or down Upper Norfolk.

6. Traffic

As we have the additional area in the rear and have access between the future houses can store spoils from the excavation and reuse it for back fill. This will greatly reduce the loads out of the site, as well as the site is partially excavated already, and the demolition is completed.

We will encourage car pulling to further reduce traffic

7. Que

We will not allow any trucks to que on Upper Norfolk

8. Road closures

No road closures other than utility upgrades will be needed

9. Deliveries and unloading

All deliveries and unloading will be off the shared driveway, and will not block the street

10. Other

All other normal requirements for construction in old town shall apply;

1. Screening of the porta potty
2. 6 foot security fence
3. Erosion and run off controls
4. LOD fencing
5. Hours of operations
6. Limits on noise
7. Signage



CONSTRUCTION MITIGATION PLAN

Subject to Change at Any Time

PERMIT # NO PLANS HAVE BEEN SUBMITTED SO MITIGATION IS SUBJECT TO CHANGE

ADDRESS: 259-261-263 UPPER NORFOLK

CONTRACTOR: _____

Contact Person, 24/7 Phone Numbers

1. Hours of Operation are 7:00 a.m. to 9:00 p.m. Monday through Saturday and 9:00 a.m. to 6:00 p.m. on Sundays. Construction activity is not permitted to occur on dates that it would have a negative impact on Special Events and/or Holidays.

Other work hour limitations may be placed on Main St and Old Town area Construction sites. No work in lower main area on Sunday's during Silly Sunday events.

Anticipated events at this time are Sundance, Savor the Summit, July 4th, Tour of Utah, Food & Wine, Triple Crown, Art Festival, Miners Day, Pioneer Day, Halloween.

Limitations and other main street events:

There will be NO WORK during Art Festival, Sundance and on the weeks of Thanksgiving, Christmas and New Year's (Dec 23-Jan5). Additional dates may be added by PCMC at their discretion.

If minimal work can be accommodated within the site during any of the events or holidays and can be proven to not have a negative impact on the Event or holiday, it can be considered by the Building Department for approval. If your construction site is in the Main Street or Old Town areas your work areas will be impacted.

During Events you will be required to comply with any requests from the Special Events Coordinator.

Work hour extensions may be approved by the Park City Building Official when needed.

In order to be approved, a written request for the extension must be received a minimum of 48 hours in advance and must include the dates and times for the extension and a description of any of the anticipated impacts, (deliveries, outdoor lighting, noise, etc.). The request will not be automatically approved once submitted. It must be considered, and a determination will be made.

2. Parking will not block reasonable public and safety vehicle access. An approved parking plan will be obtained from the Public Works Department prior to permit being issued.

Comments: Any parking in city lots, city property or on street parking must be approved by the Parking Dept. and is not approved with the building permit. No Construction equipment, (fork lifts, cranes, backhoes, etc.) are permitted to be driven or parked on a city street or any other property unless otherwise approved (this includes staging materials, unloading of deliveries, See Deliveries below.)

****No Main St Parking is approved with this building permit for any construction activity or vehicles. Only a very limited amount of parking passes are available at any given time and must be applied for with our Parking Department. Please count on the vast majority of your employees/workers having to car pool to minimize your impacts in the Main Street Corridor. The Construction activity cannot block city sidewalks unless approved with the Building and Engineering Depts.**

Additional staff must carpool from an approved area not located in the Main Street corridor. Transportation/shuttle will be the responsibility of the contractor(s)

Comments: All construction parking will be on site

3. Deliveries will be during hours of operation only. Contractor will get the appropriate Partial Road Closure Permits approved for Deliveries that take over one hour or close the road. Unless approved otherwise Deliveries will follow the PCMC code for deliveries on Main St. A FULL road closure requires approval from the Chief Building Official no less than 48 hours in advance.

Comments: _____

4. Stockpiling & Staging will be on site and within the approved limits of disturbance fence. Comments: If storage cannot be accommodated on site, an off premise site will have to be obtained. Any additional site must be approved including a LOD fence and bond by PCMC.

Comment: All stockpiling and staging will be on site.

5. Construction Phasing if necessary may be required and will be authorized by the Building Official and a copy will be put in the building file.

Comments: During hours of Operation the crane cannot boom over the street without an approved partial road closure permit that includes a traffic control plan meeting MUTCD. _____ See section 14

6. Trash Management & Recycling - Construction site will provide adequate storage and program for trash removal and will keep site clean daily. Recycling is encouraged. If the port of potty is installed behind the Construction fencing and is visible to the public it will be required to be screened. Comments: _____

7. **Control of Dust & Mud** will be controlled daily. Gravel will be placed in the egress and ingress areas to prevent mud and dirt from being tracked on streets. Water will be on site to prevent dust. Comments: _____

8. **Noise** will not be above 65 decibels which violates the noise ordinance and will not be made _____ outside _____ the _____ hours _____ of _____ operation. Comments: _____

9. **Grading & Excavation** will be during hours of operation and trucking routes may be restricted to prevent adverse impacts. Truck Route to be preapproved by Park City Engineering Department.

Cubic Yards to be removed: _____ Destination: _____
Comments: _____

10. **Temporary Lighting** if used, will be approved by the Planning Department. Lighting will be required in a boardwalk if it is determined to be needed. See sec 16
Comments: _____

11. **Construction Sign** will be posted on site and in a location that is readable from the street. The sign will not exceed 12 square feet in size and 6 feet in height. The lettering will not exceed 4 inches in height and will include the following information: Contractor name, address, phone number and emergency contact information.
Comments: _____

12. **Other Issues:** Dogs will be prohibited from construction site. Information will be provided to neighboring property owners to help them be aware of project and to keep the lines _____ of _____ communication _____ open.
Comments: _____

13. **Erosion Control:** Storm Water Management Plan - Attachment A - will be reviewed, signed and attached to this construction mitigation plan. Comments: Contractor will monitor entry into job site and ensure that no mud or debris enters the gutter or street area that may empty into the city's storm drains. It will also be cleaned daily. _____

14. **Cranes:** All cranes must be preapproved with the Chief Building Official. Contractor will provide a drawing/plan showing radius of boom over neighboring properties.

The boom CANNOT with or without loads be swung over a city street or neighboring properties without prior approval. If approval is given, flaggers will be required. Airspace or trespass agreements will be required to be in place and a copy in the file before the crane can be installed on the property.

Comments: Crane will be maintained on site

15. **Right Of Way Permits:** Right of way permits are required from the City Engineers Office for any work, damage or reconstruction in the Public Right of Way.

A separate Right of Way Permit is required if materials, dumpsters or toilets are to be placed in the Public Right Of Way.

11-14- 2. FENCING OF PUBLIC

RIGHT-OF-WAY. In those zones, which permit construction of buildings up to property lines or within five feet (5') of property lines, leaving a very limited or no setback area, the building official may permit construction fences to be built across sidewalk area where there are sidewalks, or into the parking lane of the street where there is no sidewalk. Where street width will permit, in the judgment of the building official, the construction fence shall also provide a temporary sidewalk area, which may be built in the parking lane of the street. Any sidewalk built as a part of a construction site fence must be covered with a structural roof, which complies with Section 3306 of the International Building Code. The International Building Code requirements for construction of a temporary sidewalk may be reduced or waived by the Building Official where conditions will not permit the full four foot (4') width. The location of fencing within the public way and the determination of whether to require sidewalk shall be made by the Building Official, subject to review by the City Manager. In the event that changes in parking regulations are required by the construction of such a fence, the Police Chief is authorized to post signs prohibiting or otherwise regulating parking in the area adjoining the construction site.

16. **Damage of sidewalks and roadways in construction areas:** Boardwalks are required by code and will be required. Boardwalk will have a mine theme and will be required to have lights and/or reflectors. Hand out available with specs.

Sidewalks inside the LOD will be considered a loss and it is expected that the sidewalk will be rebuilt to current city standards. Any damage to existing sidewalks crossed over or under boardwalks during construction will be rebuilt back to city standards, Before Certificate of Occupancy, No exceptions. Bond money may be required by the Engineering Department for Road damage.

***If a boardwalk is required you can get guidelines at the Building Department.

17. Toilet Facilities: All construction sites shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees = two toilets and so on). Portable toilets will be screened from public view. Suggestions are 3 sheets of Plywood painted dark green or black. Door facing job site. If you would like to do something different to make them aesthetically pleasing it may be approved by Community Service.

18. FENCING. Construction fencing is required. If the excavation is 4' or deeper a six foot chain link will be required for safety. If not it can either be out of dark green or black plastic fencing. We will require wattle or silt fencing in the areas that may be of concern for erosion control. If there is a storm drain(s) in the vicinity the contractor will be required to protect it.

PCMC give no guarantee of partial CO's.

PCMC reserves the right to take abatement action as they determine necessary for inactive construction sites.

PCMC may require the contractor to complete neighborhood noticing to their satisfaction as needed.

** Special Instructions may be given at any time.

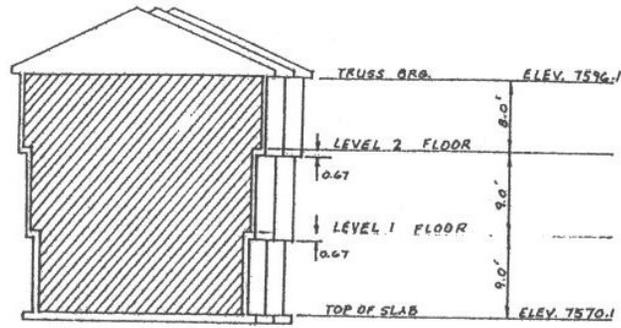
Contractor _____ **Signature:** _____
Date: _____

Approved _____ **By:** _____
Date: _____

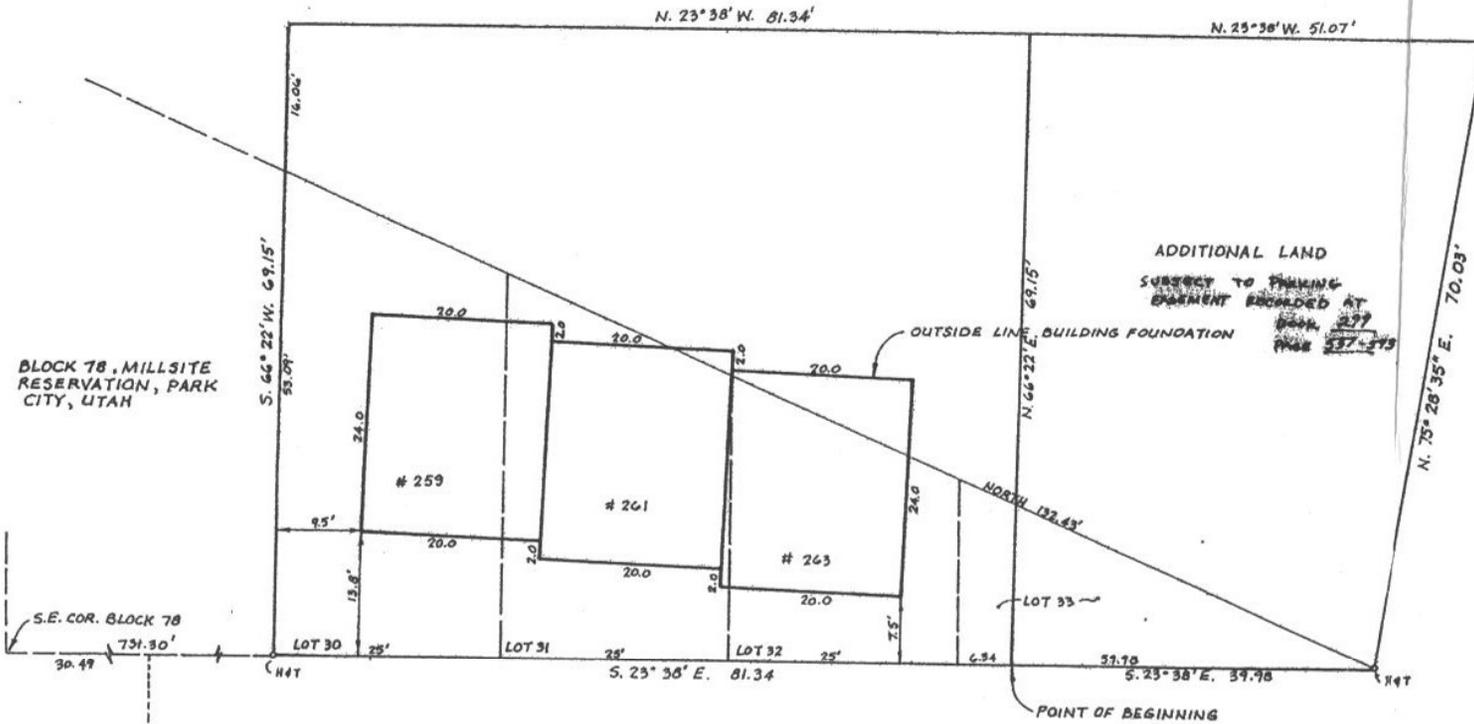


10/05/2006

Exhibit G – 2006 Existing Site Plan



NORTH ELEVATION



NORFOLK AVENUE

N. 23° 38' W. (BASIS OF BEARING)

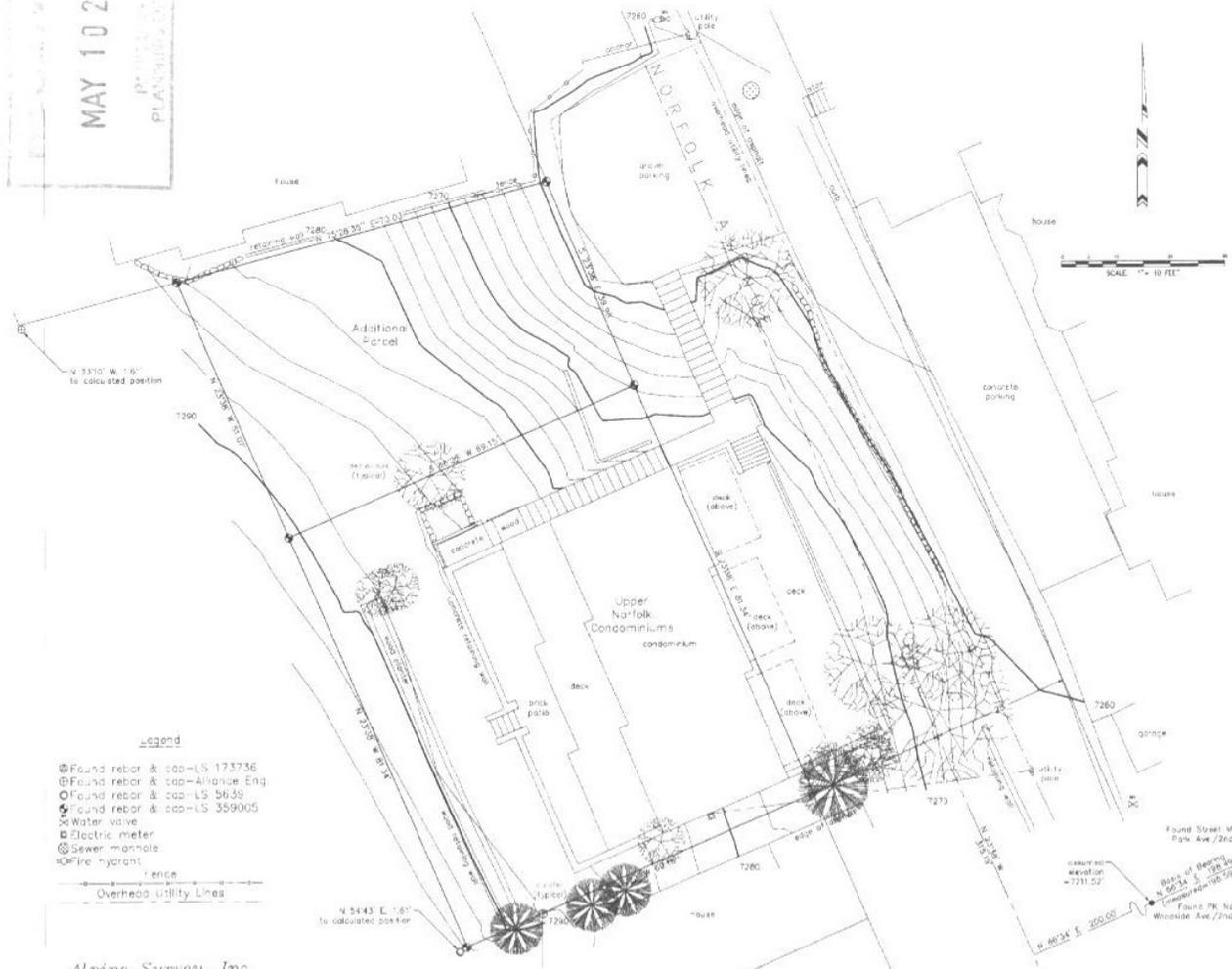
SITE PLAN
 SCALE: 1" = 10'

RECEIVED
 AUG 16 2005
 PARK CITY
 PLANNING DEPT.

♦ BM. ± NORFOLK AVE & THIRD ST. ELEV. 7555.53

Upper Norfolk Avenue Condominiums

MAY 10 2005
PLANNING DEPT.



- Legend**
- ⊙ Found rebar & cap-LS 173736
 - ⊙ Found rebar & cap-Alliance Eng
 - ⊙ Found rebar & cap-LS 5639
 - ⊙ Found rebar & cap-LS 359005
 - ⊙ Water valve
 - ⊙ Electric meter
 - ⊙ Sewer manhole
 - ⊙ Fire hydrant
- Overhead Utility Lines

Alpine Survey, Inc.
15 Prospector Drive
Park City, Utah 84060
(435) 655-8016

- NARRATIVE**
1. Survey requested by: Jerry Fiat.
 2. Purpose of survey: locate the deed description, improvements, and the topographic relief, according to the Upper Norfolk Avenue Condominium Plat, Recorded as No. 220280 in the office of the Summit County Recorder.
 3. Basis of survey: found streets monuments as shown. Block dimensions from the Amended Park City Monument Control Map by Bush & Guggell, Inc. Recorded as Entry No. 198887 in the office of the Summit County Recorder, and the Plat of Subdivision No.1 of Millsite Reservation, Park City, Utah, dated June 20, 1887.
 4. Date of survey: July 29, 2005.
 5. Property monuments set or found as shown.
 6. Located in the Southeast 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 and restrictions.
 8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
 9. For previous surveys in the area, see Record of Survey File No.s S-1317, S-1662, S-1457, S-2674 & S-2752 on file in the office of the Summit County Recorder.
 10. An elevation of 7211.52 feet was assumed at the PK nail found at the intersection of Woodside Avenue and 2nd St., from the Monument Control Map of Park City, Recorded as Entry No.198887 in the office of the Summit Co. Recorder.

LEGAL DESCRIPTION

Beginning at a point which lies North 23°38' West, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite reservation, Park City, Utah; and running thence South 23°38' East, 81.34 feet to the southeast corner of Lot 30 of said Block 78; thence South 66°22' West, 69.15 feet; thence North 23°38' West, 81.34 feet; thence North 66°22' East, 69.15 feet to the point of beginning; contains 0.129 acres, more or less.

Additional land: Beginning at a point which lies North 23°38' West, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah; and running thence South 66°22' West, 69.15 feet; thence North, 23°38' West, 81.07 feet; thence North 75°28'35" East, 70.03 feet to the northerly corner of said lot 33; thence South 23°38' East, 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

SURVEYOR'S CERTIFICATE

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

3-1-06
Date

J.D. GALLEY
359005

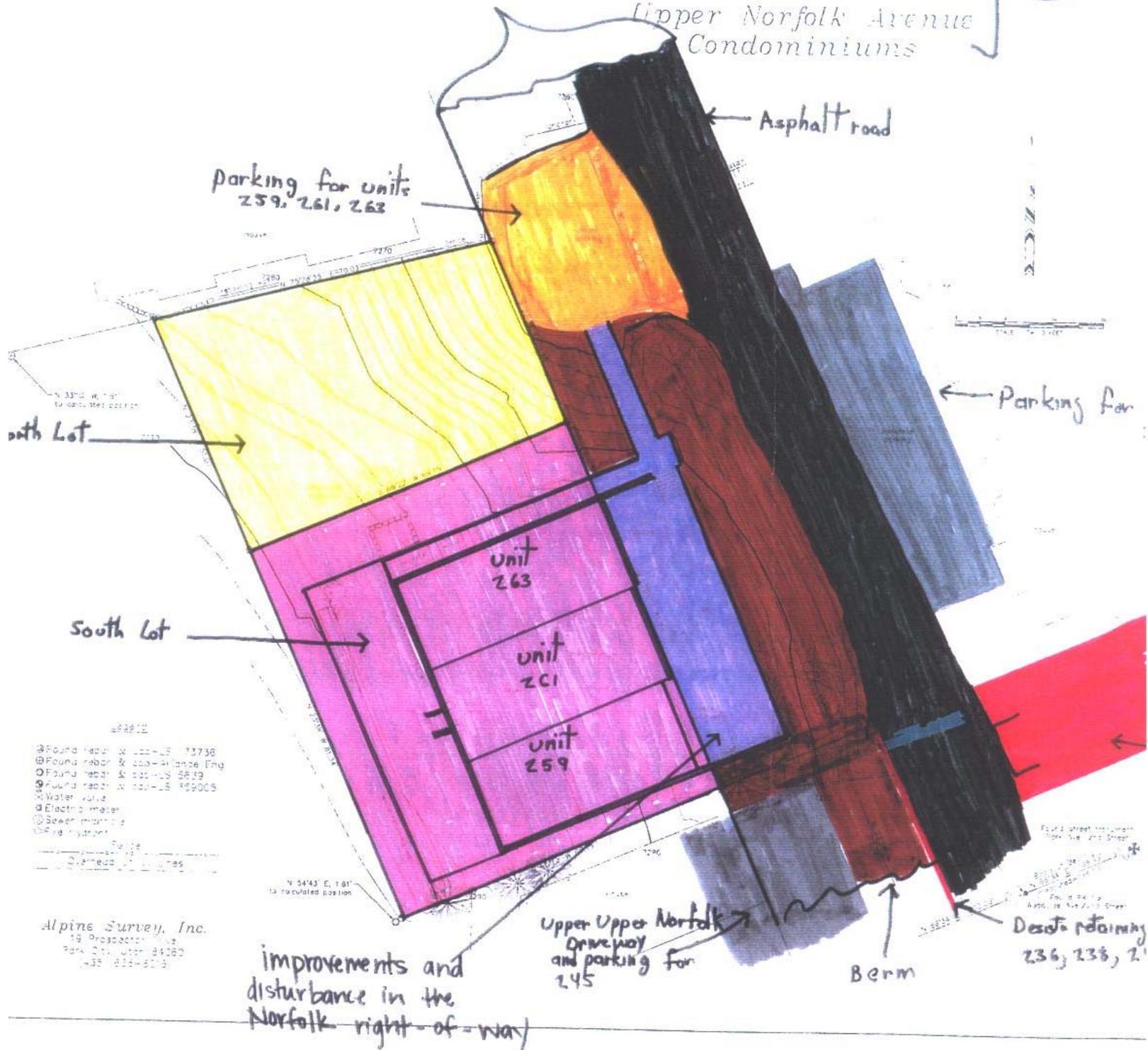


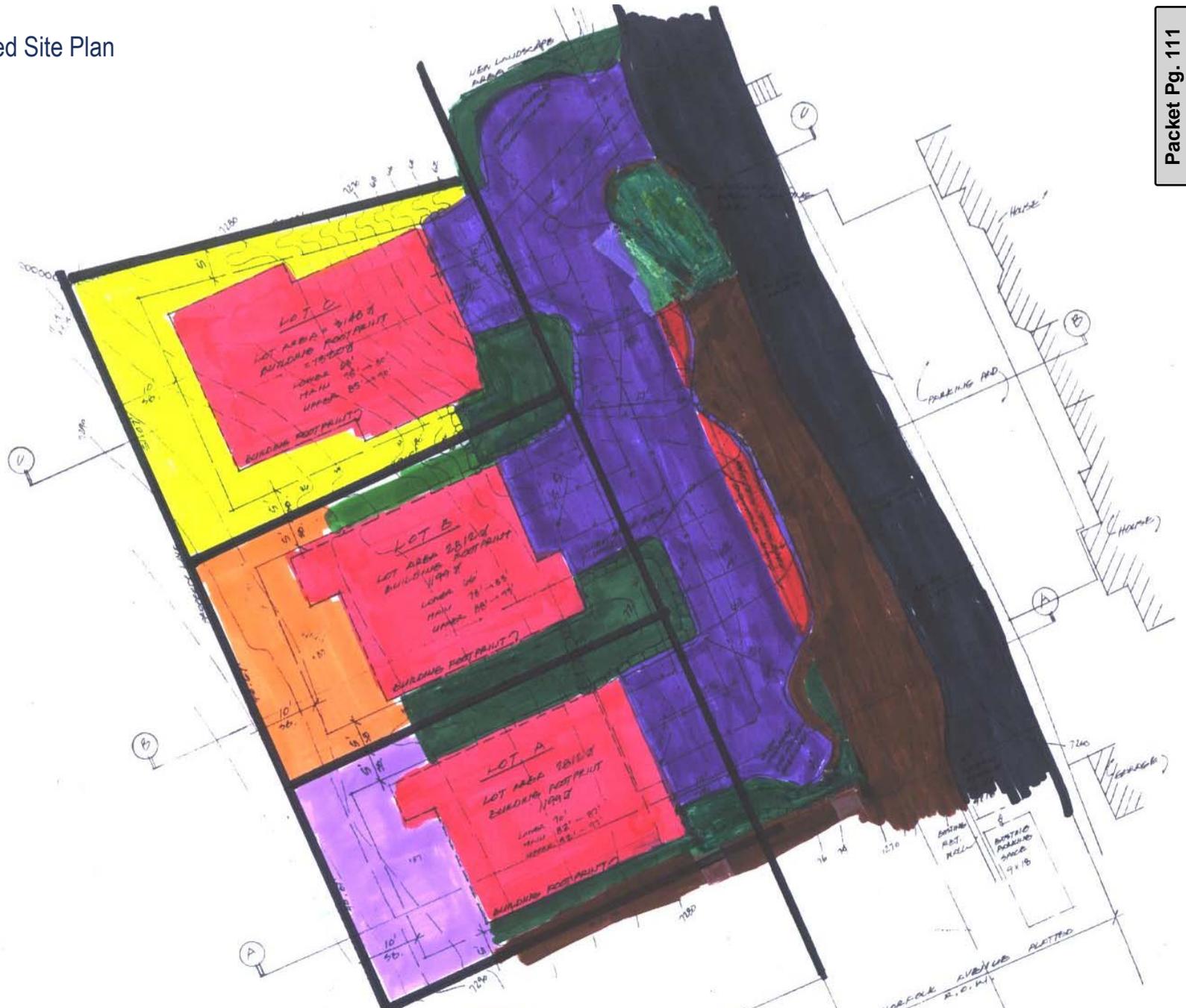
Exhibit H – Existing Conditions Survey

Upper Norfolk right-of-way

Existing Cond

Upper Norfolk Avenue Condominiums





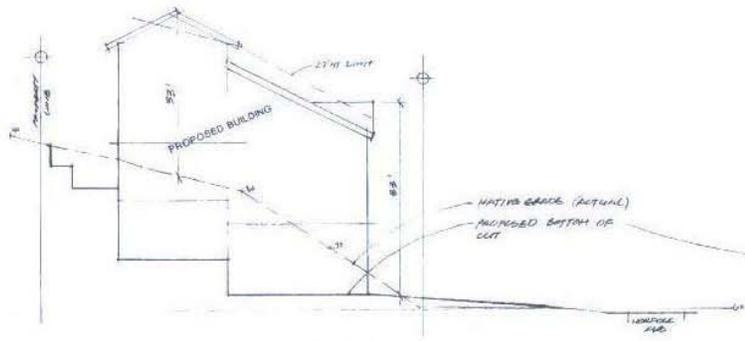
RECEIVED
MAY 10 2006
FRANK CITY
PLANNING DEPT.

LEGEND

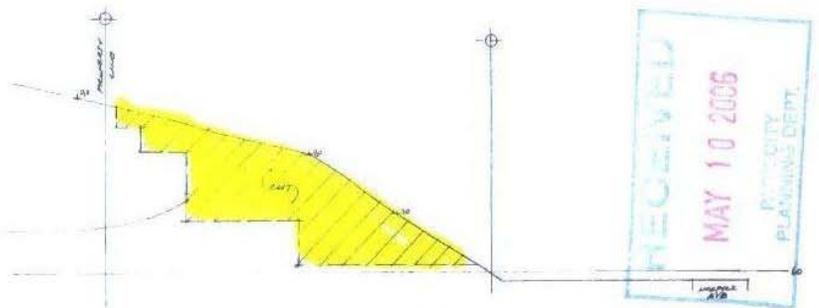
---	PROPERTY LINE
---	SETBACK LINE
---	BUILDING FOOTPRINT
---	1200' HORIZ. CONTOUR
---	1200' ELEVATION CONTOUR
○	WELL
⊕	NOTICE
⊖	SEWER

SITE PLAN

SCALE: 1" = 10' 00"

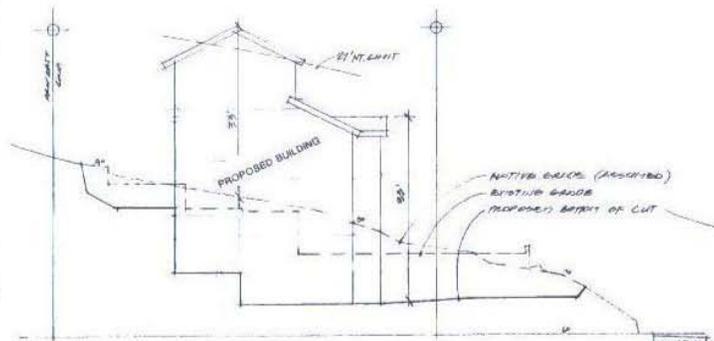


① SITE SECTION - PROPOSED
SCALE: 1" = 10.00'

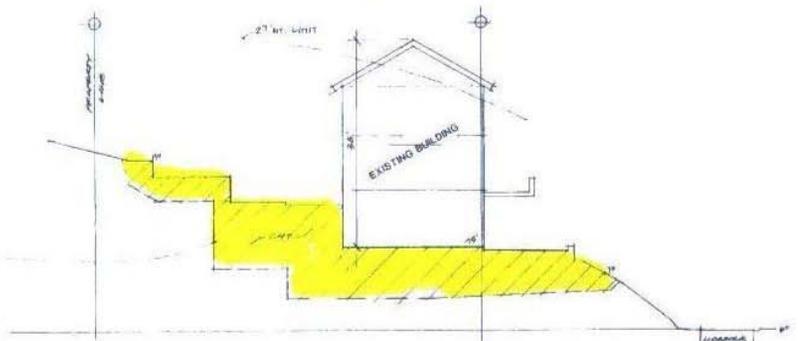


① SITE SECTION - EXISTING CONDITIONS
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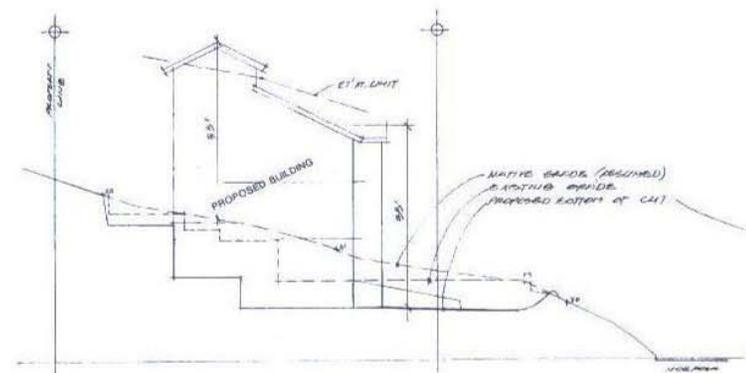
RECEIVED
MAY 10 2006
PARK CITY
PLANNING DEPT.



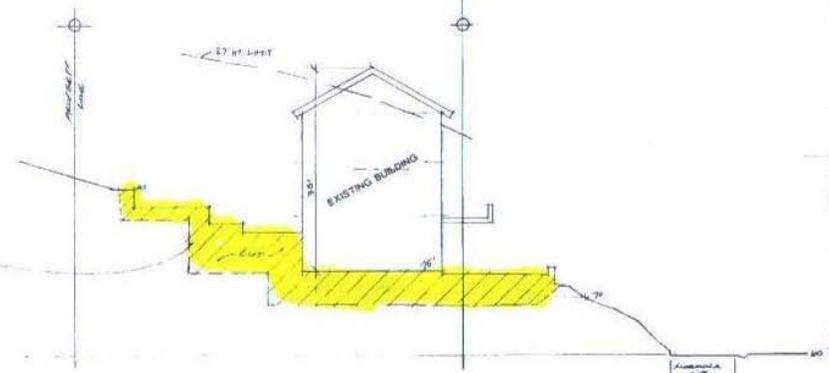
② SITE SECTION - PROPOSED
SCALE: 1" = 10.00'



② SITE SECTION - EXISTING CONDITIONS
SCALE: 1" = 10.00'



③ SITE SECTION - PROPOSED
SCALE: 1" = 10.00'



③ SITE SECTION - EXISTING CONDITIONS
SCALE: 1" = 10.00'

Jonathan DeGray
Architect
P.O. Box 1874, 214 Main Street, Suite 207, Park City, Utah 84060
Tel: 435-649-7323, Email: jon@jonathandegray.com

259, 261 & 263 UPPER NORFOLK
259, 261 & 263 UPPER NORFOLK AVENUE, PARK CITY, UTAH

DATE	BY

A-1



June 10, 2010

TO: Jonathan DeGray, Architect
FROM: Thomas Eddington, Jr., Planning Director
SUBJECT: Upper Norfolk Subdivision, Lots 1, 2, and 3

I have reviewed your request for a determination of the grade on the three lots relative to the Steep Slope Conditional Use Criteria (CUP). Under the current Land Management Code, Natural Grade is defined as: "The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property." Certainly, the lots in question have been previously disturbed with the construction and subsequent demolition of the previous building and staff is charged with estimating grade.

Under the requirements for a Steep Slope CUP (LMC 15-2.2-6(B)), if the structure and/or Access is located upon any existing Slope of 30% or greater over a minimum distance of 15 feet. Staff has estimated the grade from the edge of asphalt on the south side of Lot 1 and the north side of Lot 2 to the rear property corners. On Lot 1 the grade change is 34 feet over a length of 107 feet for a average grade of 31.78%. Between Lot 2 and 3, the elevation difference is 32 feet over 105 feet for an average grade of 30.48%.

Based on these factors, I find that the three lots will be required to submit for a Steep Slope Conditional Use Permit under the current LMC. Appeals to the Planning Director's determination can be appealed to the Planning Commission per LMC 15-12-15 (8).

Cc: Brooks Robinson



August 9, 2010

TO: Jerry Fiat
FROM: Thomas Eddington, Jr., Planning Director
SUBJECT: Upper Norfolk Subdivision, Lots 1, 2, and 3

I have reviewed your request for a determination of the grade on the three (3) lots on Upper Norfolk Subdivision relative to the Steep Slope Conditional Use Criteria (CUP). Per the current Land Management Code (LMC), Natural Grade is defined as: *“The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property. [...]”*

Certainly, the lots in question have been disturbed with the construction and subsequent demolition of the previous building and staff is charged with estimating grade. Our prior calculations did not correctly take into account these construction disturbances.

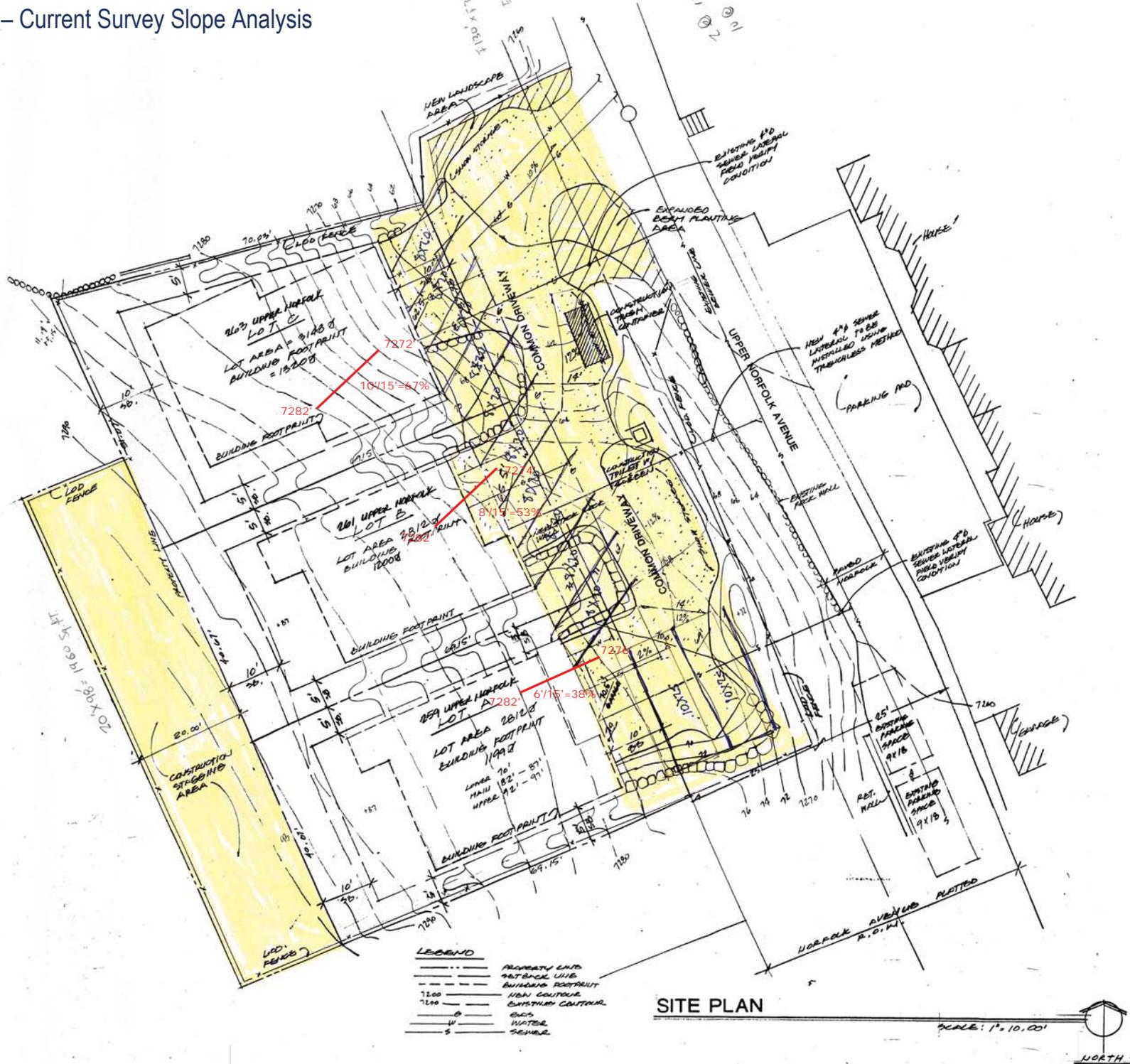
Based upon the requirements for a Steep Slope CUP (LMC 15-2.2-6(B)), the analysis takes into account whether the structure and/or access are located upon any existing Slope of thirty percent (30%) or greater over a minimum distance of fifteen (15) feet (measured perpendicular to the contour lines on the certified topographic survey). The measurement shall quantify the steepest Slope within the Building Footprint and driveway/access areas.

On August 3, 2010 staff inspected the site to estimate the grade on the three (3) disturbed lots as indicated on the submitted site plan. Using a Laser range finder, staff measured the slope in areas that appeared not to have been disturbed and found the following grades: Lot 1 contained slopes of up to 19.4%. Lot 2 contained slopes of up to 18.4%. Lot 3 contained slopes of up to 24.8%.

Based on these factors, I find that the three (3) lots will not necessitate a steep slope CUP application. Appeals to the Planning Director’s determination can be appealed to the Planning Commission per LMC 15-12-15(8).

cc: Francisco Astorga

Exhibit N – Current Survey Slope Analysis



Ordinance No. 06-55

**AN ORDINANCE APPROVING THE UPPER NORFOLK SUBDIVISION
LOCATED AT 259-263 NORFOLK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owners of the property located at 259-263 Norfolk Avenue have petitioned the City Council for approval of the Upper Norfolk Subdivision; 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 July 12, 2006, to receive input on the Upper Norfolk Subdivision;

WHEREAS, the Planning Commission, on July 26, 2006, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 27, 2006, the City Council approved the Upper Norfolk Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Upper Norfolk 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 Upper Norfolk 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 259-263 Norfolk Avenue.
2. Currently the property is platted as the 'Upper Norfolk Condominiums'
3. There is an existing triplex structure located on the property.
4. The existing structure does not conform to the height and setback requirements of the HR-1 zoning district.
5. The applicant is proposing demolishing the existing structure.
6. The applicant is proposing vacating the existing 'Upper Norfolk Condominiums' plat.
7. The applicant is proposing establishing three lots of record – identified on the proposed plat as Lot 1, Lot 2, and Lot 3.

8. Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 2812.33 square feet.
9. Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.
10. The proposed access to the lots is from Norfolk Avenue on the north side of the property.
11. The three proposed lots would share one driveway.
12. The proposed lots are for the purposes of building single family houses.
13. The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.
14. There is not sufficient area on the property to conduct construction staging.
15. Norfolk Avenue and Upper Norfolk Avenue are substandard, narrow streets on steep hillsides.
16. On-street and off-street parking in the Norfolk / Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
17. Snow removal and emergency access to the Norfolk / Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
18. LMC Section 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
19. Accessory apartments are conditional uses in the HR-1 zoning district and require one parking space per bedroom.
20. Accessory apartments will increase the parking demand in the Norfolk / Upper Norfolk Avenue neighborhood.

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 is subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

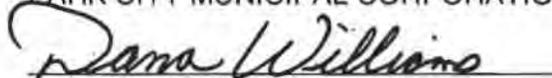
1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year

- from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The lots are to be used for the construction of single family houses.
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.
 6. A Utility / Grading Plan is required to be reviewed and approved by the City Engineer prior to the issuance of building permits.
 7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

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

PASSED AND ADOPTED this 27th day of July, 2006.

PARK CITY MUNICIPAL CORPORATION



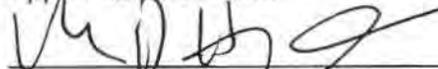
Mayor Dana Williams

Attest:



Janet M. Scott, City Recorder

Approved as to form:



Mark D. Harrington, City Attorney



Exhibit P – Upper Norfolk Subdivision Plat

Upper Norfolk Subdivision An Amended Lot Line Plat in A Portion of Block 78 Millsite Reservation

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned is a member of Upper Norfolk Properties, L.L.C., the owner of the herein described Upper Norfolk Subdivision, Millsite Reservation to the Park City Survey, and having caused this Plat Amendment to be made, does hereby consent to the recording of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law. Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned has set his hand this 10 day of October, 2006.
By: David Hanson
Member, Upper Norfolk Properties, L.L.C.

- Legend**
- ⊕ Found Street Monument
 - ⊗ Found rebar & cap-LS 173736
 - ⊕ Found rebar & cap-LS 154941
 - ⊕ Set rebar & cap-LS 359005
 - ⊕ Set nail & washer-LS 359005
 - ⊕ Address on Norfolk Avenue

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 herein described property and that this plat is a true representation of said property.



9/2/06
Date
J.D. Galley, License No. 359005

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned is a member of Upper Norfolk, L.L.C., the owner of the herein described Upper Norfolk Subdivision, Millsite Reservation to the Park City Survey, and having caused this Plat Amendment to be made, does hereby consent to the recording of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law. Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned has set his hand this 10 day of September, 2006.

By: Jerry Flat
Member, Upper Norfolk, L.L.C.

STATE OF UTAH
County of Summit:

On this 10 day of Sept, 2006, Jerry Flat personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is a member of Upper Norfolk, L.L.C., that he has signed the above Owner's Dedication and Consent to Record on behalf of said Upper Norfolk, L.L.C. and that he has been duly appointed as member by Upper Norfolk, L.L.C. and that he executed this document in his capacity as member as the act of said Upper Norfolk, L.L.C., for the purpose set forth hereon.

My commission expires: Nov 29 2009

Robert C. Lee
NOTARY PUBLIC
RESIDING IN UTAH COUNTY, SUMMIT

NARRATIVE

1. Survey requested by: Jerry Flat.
2. Purpose of survey: amended lot line plat.
3. Basis of survey: found streets monuments as shown. Block dimensions from the Amended Park City Monument Control Map by Bush & Gudgeil Inc., recorded as Entry No. 199887 in the office of the Summit County Recorder, and the Plat of Subdivision No.1 of Millsite Reservation, Park City, Utah, dated June 20, 1887.
4. Date of survey: July 29, 2005.
5. Property monuments set or found as shown.
6. Located in the Southeast 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 and restrictions.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. Accessory apartments are prohibited on the newly created lots.

OLD LEGAL DESCRIPTION

Beginning at a point which lies North 23'38" West, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah; and running thence South 23'38" East, 81.34 feet to the southeast corner of Lot 30 of said Block 78; thence South 66'22" West, 69.15 feet; thence North 23'38" West, 81.34 feet; thence North 66'22" East, 69.15 feet to the point of beginning; containing 0.129 acres, more or less.
Additional Land: Beginning at a point which lies N 23'38" W, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah; and running thence S 66'22" W, 69.15 feet; thence N 23'38" W, 51.07 feet; thence N 75'28'35" E, 70.03 feet to the northerly corner of said Lot 33; thence S 23'38" E, 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

NEW LEGAL DESCRIPTIONS

Lot 1: Beginning at a point which lies South 23'38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 355.86 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23'38' East, along the westerly right of way of Norfolk Avenue, 40.67 feet; thence South 66'22' West, 69.15 feet; thence North 23'38' West, 40.67 feet; thence North 66'22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2: Beginning at a point which lies North 23'38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 396.53 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23'38' East, along the westerly right of way of Norfolk Avenue, 40.67 feet; thence South 66'22' West, 69.15 feet; thence North 23'38' West, 40.67 feet; thence North 66'22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3: Beginning at a point which lies North 23'38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 396.53 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence North 23'38' West, along the westerly right of way of Norfolk Avenue, 39.98 feet; thence South 75'28'35" West, 70.03 feet; thence South 23'38' East, 51.07 feet; thence North 66'22' East, 69.15 feet to the point of beginning, containing 3148.12 square feet, more or less.

<p>Alpine Survey, Inc. 19 Proscpector Dr. Park City, Utah 84060 (435) 655-8016</p>	<p>SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR COMPLIANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THE 15th DAY OF <u>Sept</u>, 2006.</p>	<p>PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 26th DAY OF JULY 2006 A.D. By: <u>Jack Thomas</u> CHAIRMAN</p>	<p>ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS <u>27th</u> DAY OF <u>SEPTEMBER</u>, 2006 A.D. By: <u>Chris Watson PE</u> PARK CITY ENGINEER</p>	<p>APPROVAL AS TO FORM APPROVED AS TO FORM THIS <u>21</u> DAY OF <u>September</u> 2006 A.D. By: <u>Robert C. Lee</u> NOTARY PUBLIC</p>	<p>CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 27th DAY OF <u>July</u>, 2006 A.D. By: <u>David Williams</u> PARK CITY RECORDER</p>	<p>COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 27th DAY OF JULY, 2006 A.D. By: <u>David Williams</u> MAYOR</p>	<p># <u>814949</u> RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF <u>Coalition Title</u> DATE <u>6-27-07</u> TIME <u>4:58 PM</u> BOOK <u>---</u> PAGE <u>---</u> <u>3300</u> FILE <u>---</u> RECORDER <u>---</u></p>
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Exhibit D - Vicinity Map
Upper Norfolk Subdivision
259, 261, 263 Norfolk Avenue



Legend

- Address
- Parcels
- Streets

Temporary Construction Access Easement (200 King) [expired]

ALAN SPRIGGS, SUMMIT CO RECORDER
2006 OCT 06 12:47 PM FEE \$29.00 BY BW
REQUEST: COALITION TITLE AGENCY, INC.
Electronically Recorded by Simplifile

WHEN RECORDED RETURN TO
Upper Norfolk, LLC
PO Box 244
Park City, UT 84060

TEMPORARY CONSTRUCTION ACCESS EASEMENT

This Agreement, made this 6 day of October 2006, between P.C. Estate Development, LLC., owner of legal and equitable title of the Servient Parcel, hereinafter designated Grantor, and the Upper Norfolk, LLC., hereinafter designated Grantee, owner of legal and equitable title to the Dominant Parcel.

Recitals.

1. The purpose of this Agreement is to provide an access road to the Dominant Parcels to receive construction materials and equipment. It is not intended to be used for any other purpose, including but not limited to parking, ingress and egress of construction workers.
2. Grantee intends to limit the use of the Road to the minimum and create the least possible disturbance in connection with the construction of the structures on the Dominant Parcel.
3. This Agreement is shall become effective upon approval by Park City of the plat and plans for construction on the Dominant Parcels, and the agreed consideration is paid.

NOW THEREFORE, for good and valuable consideration does hereby grant unto the Grantee, its heirs, successors, assigns, agents, contractors, subcontractors, and employees:

A. a temporary non-exclusive right of way for ingress and egress over and across the existing driveway ("Road") on the property described on Exhibit A ("Servient Parcel") for all vehicles, trucks, and construction equipment related to Grantee's performance of any and all construction activities necessary for Grantee to construct three residential homes on Grantee's three properties, which properties are more fully described on Exhibit B (the "Dominant Parcels"). Grantee will be required to construct a temporary road (the "Road") across the Servient Parcel in the approximate location as drawn on Exhibit C to gain access to the Dominant Parcel for construction purposes.

IT IS UNDERSTOOD that the Easement rights herein granted shall terminate 2 years from the date that construction begins on the Dominant Parcels, in no event later than December 31, 2009. Grantee shall use all reasonable efforts to minimize use of the Road. When the last structure on the Dominant Parcels are dried in and the exterior grading is complete, Grantor may request to vacate this Easement for the Road prior to the termination date, which request will not be unreasonably denied.

IT IS ALSO UNDERSTOOD that the Easement herein granted does not convey any right or interest in the above described property, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not interfere with the Grantee's rights herein granted.

In addition, the Grantee, including its successors, assigns, agents, contractors, and employees agree to

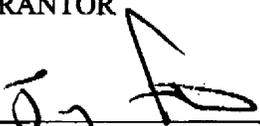
the following conditions:

1. **CONSTRUCTION OF ROAD:** Grantee shall construct the Road and take appropriate measures to control erosion and to avoid trespass on adjacent properties.
2. **DAMAGE TO PROPERTY:** Grantee shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued, and shall restore any damaged property to its original condition or a reasonably equivalent condition.
3. **COOPERATION WITH GRANTOR:** Grantee shall at all times cooperate with Grantor(s) and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued. It is understood that Grantor is not a full time resident of the Servient Parcel. Grantee shall reasonably curtail any noise causing or dust causing construction activity on the access road, in such a way to not affect Grantor's and others' reasonable use of the ski easement and trail easement. Grantee will use its best efforts to accommodate Grantor's requests and use all reasonable efforts to limit the use and schedule the use of the access road .
4. **PARKING:** No part of the Servient Parcel may be used for parking construction vehicles or construction employee vehicles, other than for temporary loading or unloading.
5. **CLEAN-UP:** Grantee will keep the Servient Parcel free of construction related litter and debris. The construction site shall be kept clean and organized, and related litter shall be removed daily. Grantee shall inspect the site to ensure the site is free of construction debris. As necessary, during construction, Grantee shall clean the windows on Grantor's homes that face the construction site on a quarterly basis in any quarter during which the construction activities cause dust. Grantee shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.
6. **CONSTRUCTION MAINTENANCE.** Grantee shall comply with all applicable building codes, including but not limited to providing: silt fencing, erosion controls, maintain limits of disturbance, as well as provide a safe way for area residents, adjoining property owners, and the general public to use and access the Sweeney Master Plan Trails ("Trails"). Grantee will not disturb the Trails, and will make all necessary repairs to keep the Trails in their pre-construction condition.
7. **RE-LANDSCAPING.** Within 90 days after completion of construction (the date on which the local government grants a permanent certificate of occupancy), Grantee shall uniformly grade the Work Area, and the Road and re-landscape the Road and Work Area according the plan attached as Exhibit C.
8. **INDEMNITY & INSURANCE.** Grantee will use the Road, the Work Area and the Servient Parcel at its sole risk and expense. Grantee will indemnify and defend Grantor from and against all claims and liabilities, including reasonable attorneys' fees arising out of Grantee's use of the Servient Parcel. During construction, Grantee shall maintain a property and liability insurance policy in the amount of \$2 million, for its use of the Servient Parcels, naming Grantor as an additional insured.
9. **GATE ENCLOSURE:** All individuals accessing the property shall close and lock the gate entrance to the Servient Parcel at every entrance and exit.

10. GRANTOR'S RIGHT OF PERFORMANCE: If Grantee fails to comply with the terms of this Easement, including but not limited to cleaning up, restoring Grantor's property, obtaining insurance, and locking the gate enclosure, Grantor shall provide Grantee a written notice of any such failure and seven calendar days to cure. If Grantee fails to cure, Grantor may perform in place of Grantee and shall charge Grantee all costs of Grantor's performance, plus a fee of 20% of the costs of performance. If Grantor reasonably determines that Grantee continues to fail to comply with the terms herein after a written notice to cure, Grantor may rescind this Easement. Notwithstanding anything herein to the contrary, in the case of emergency, Grantor reserves the right to cleanup, lock up, and perform any other act required of Grantee and to charge Grantee for the same plus a fee of 20% of the cost of performance, without any prior notice.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed this 6 day of October 2006.

GRANTOR



 Jerry Fiat, Member
 P.C. Estate Development, LLC

GRANTEE

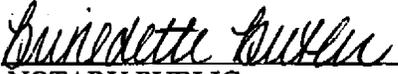


 Jerry Fiat, Member
 Upper Norfolk, LLC

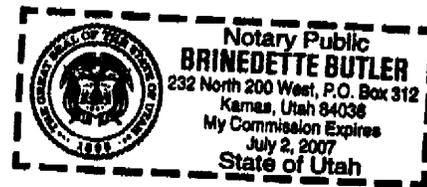
State of Utah)
) ss.
 County of Summit)

Before me, the undersigned, a Notary Public within and for said County and State, on this 6 day of October 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument stating that he had authority of P.C. Estate Development, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



 NOTARY PUBLIC



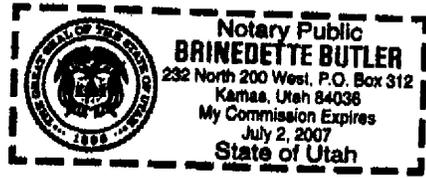
State of Utah)
) ss.
 County of Summit)

Before me, the undersigned, a Notary Public within and for said County and State, on this ___ day of October 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument, stating that he had authority of Upper Norfolk, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

BK1822 PG0041

Brinedette Butler
NOTARY PUBLIC



BK1822 PG0042

00793227

Exhibit A
(Servient Parcel)

LOT 1 TREASURE HILL SUBDIVISION PHASE 1; ACCORDING TO THE OFFICIAL PLAT ON
FILE IN THE SUMMIT COUNTY RECORDERS OFFICE CONT 37,283 SQ FT OR 0.86 AC 958-
299 (REF:671-90; 951-682; 1345-1078; 1413-76& 1483-1699; 1483-1702; 1484-1142; 1486-1022)
1678-1202

BK1822 PG0043

00793227

Exhibit B
(Dominant Parcels)

Lot 1

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 396.53 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 355.86 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3

Beginning at a point which lies South 23°38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, and running thence South 66°22' West, 69.15 feet; thence North 23°38' West, 51.07 feet; thence North 75°28'35" East, 70.03 feet to the northerly corner of said Lot 33, thence South 23°38' East 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

BK1822 PG0044

00793227


Packet Pg. 127

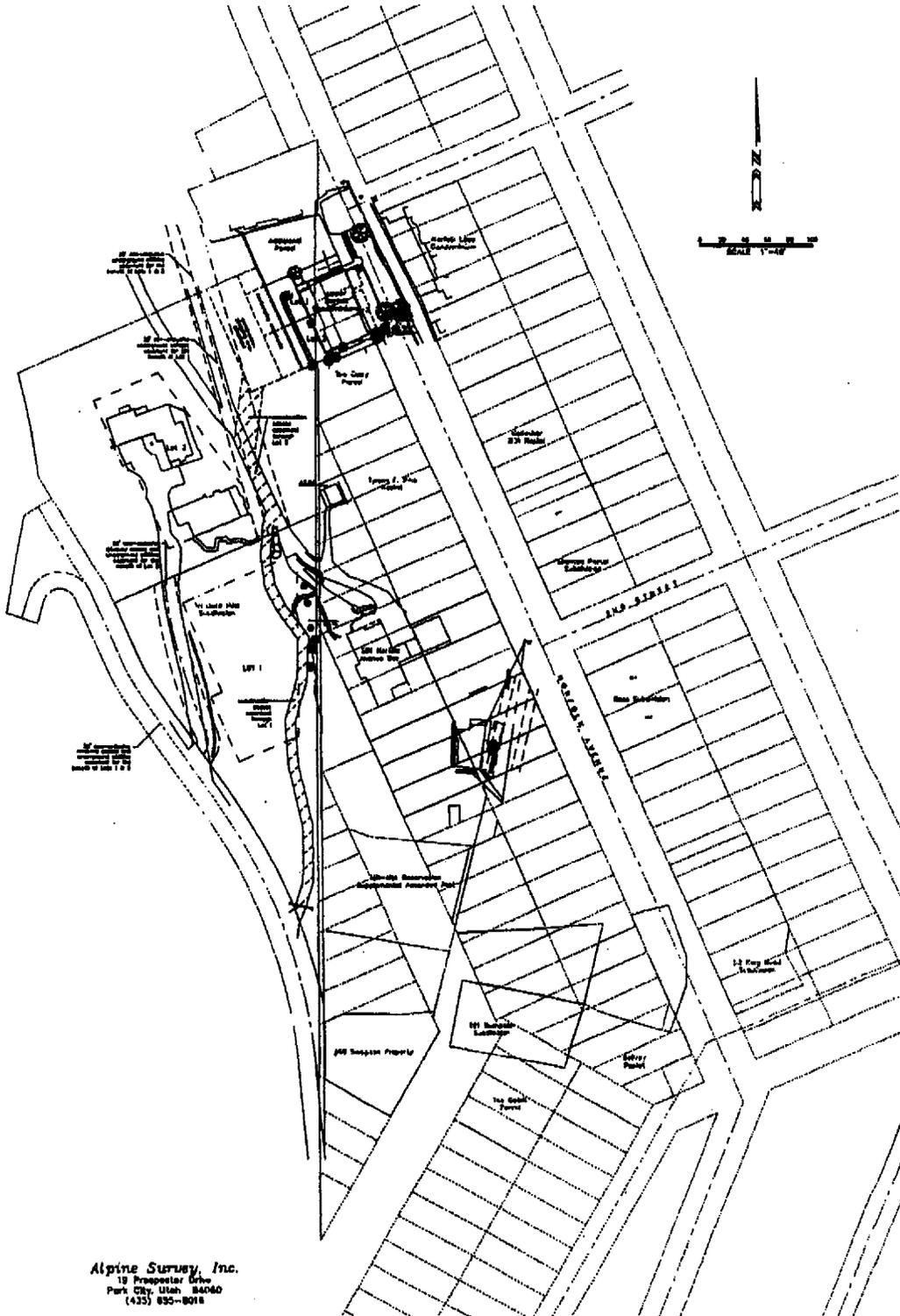
Exhibit C
(Map of Road and Relandscaping Plan)

BK1822 PG0045

00793227



Park City Survey
Blocks 31, 32, 77, 78 & 79

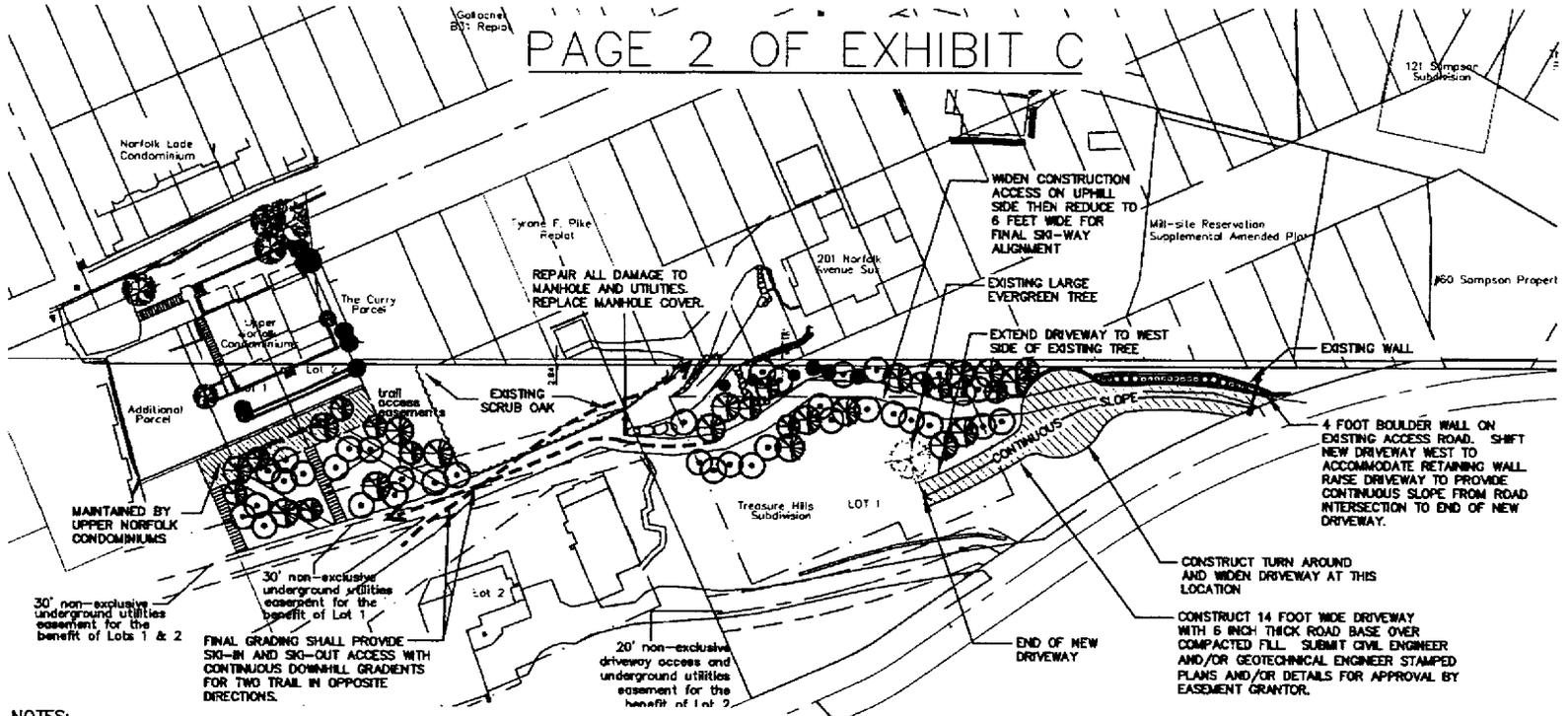


Alpine Survey, Inc.
18 Prospectors Drive
Park City, Utah 84060
(435) 835-8018

BK1822 PG0046

00793227

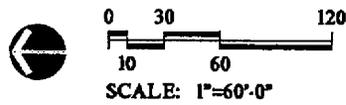
PAGE 2 OF EXHIBIT C



NOTES:

1. THIS DOCUMENT ILLUSTRATES THE DESIGN INTENT ON THE AGREEMENT. GRANTEE SHALL PROVIDE EASEMENT GRANTOR WITH CONSTRUCTION ACCESS PLANS INCLUDING ACCESS LAYOUT, EROSION CONTROL PLAN, REVEGETATION PLAN, PLANTING PLAN, AND IRRIGATION PLAN FOR APPROVAL BY EASEMENT GRANTOR PRIOR TO START OF ASSOCIATED CONSTRUCTION.
2. ALL PLANT LOCATIONS SHALL BE STAKED BY THE GRANTEE AND APPROVED BY THE EASEMENT GRANTOR PRIOR TO INSTALLATION.
3. EXISTING TREES REMOVED OR DAMAGED SHALL BE REPLACED IN KIND.
4. ALL AREAS CUT OR FILLED TO WIDEN ACCESS ROAD SHALL BE RETURNED TO ORIGINAL GRADES.
5. ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE BROUGHT TO FINISH GRADES. INSTALL 6 INCHES OF TOPSOIL, SEED WITH APPROVED NATIVE GRASS AND WILDFLOWER MIX, AND MULCHED. SLOPES 3:1 OR STEEPER AND ALL DRAINAGE SWALES SHALL BE COVERED WITH EROSION BLANKET.
6. ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE IRRIGATED.
7. ALL TREES, SHRUBS, AND GROUND COVERS SHALL BE IRRIGATED.
8. GRANTEE SHALL PROVIDE 2 YEAR WARRANTY FOR ALL PLANT MATERIAL AND REVEGETATION.

30' non-exclusive driveway access and underground utilities easement for the benefit of Lots 1 & 2



	DECIDUOUS TREE (ASPEN) 50% SINGLE STEM @ 3" CAL 50% CLUMP MULTI-STEM @ 16'-0" HEIGHT MIN.
	EVERGREEN TREE (WHITE FIR) 10% @ 4' 20% @ 8' 20% @ 12' 20% @ 14' 20% @ 16' 10% @ 20'
	DECIDUOUS SHRUB (CURRANT)
	EVERGREEN SHRUB (JUNIPER)

Upper Norfolk Condominiums

Perk City, Utah

00793227

L1

Temporary Construction Access Easement (220 King)

ALAN SPRIGGS, SUMMIT CO RECORDER
2006 SEP 14 10:21 AM FEE \$33.00 BY BW
REQUEST: SUMMIT ESCROW AND TITLE INSURA
Electronically Recorded by Simplifile

WHEN RECORDED RETURN TO
Upper Norfolk, LLC
PO Box 244
Park City, UT 84060

Accommodation Recording

TEMPORARY CONSTRUCTION & ACCESS EASEMENT

This Agreement, made this 2th day of August 20 06, between Robert R. Sfire, owner of legal and equitable title of the Servient Parcel, hereinafter designated Grantor, and the Upper Norfolk, LLC., hereinafter designated Grantee, owner of legal and equitable title to the Dominant Parcel,

Recitals.

1. The purpose of this Agreement is to provide access to the Dominant Parcels to receive construction materials and equipment and to stage construction. It is not intended to be used for any other purpose, including but not limited to parking, ingress and egress of construction workers.
2. Grantee intends to limit the use of the Work Area and Road to the minimum and create the least possible disturbance in connection with the construction of the structures on the Dominant Parcel.
3. This Agreement ~~X~~ shall become effective upon approval by Park City of the plat and plans for construction on the Dominant Parcels, and the agreed consideration is paid.

JF meach
M/S

NOW THEREFORE, for good and valuable consideration does hereby grant unto the Grantee, its heirs, successors, assigns, agents, contractors, subcontractors, and employees:

A. a temporary non-exclusive right of way for ingress and egress over and across the property described on Exhibit A ("Servient Parcel") for all vehicles, trucks, and construction equipment related to Grantee's performance of any and all construction activities necessary for Grantee to construct residential homes on each of Grantee's three properties, which properties are more fully described on Exhibit B (the "Dominant Parcels"). Grantee will be required to construct a temporary road (the "Road") across the Servient Parcel from the property with the address 200 King Road to the Dominant Parcel in the approximate location as drawn on Exhibit C to gain access to the Dominant Parcel for construction purposes.

JF meach
M/S

B. a temporary easement for a work area for the staging of any and all materials and equipment (including without limitation, cranes, back hoes, lifts, and any other reasonably necessary piece of equipment), on that portion of the Servient Parcel as described on Exhibit D ("Work Area") for the purpose of constructing a residential homes on each of Grantee's three properties.

C. a temporary easement and the right to erect and use construction equipment, including a crane, on the Work Area and to use the airspace above portions of the Servient Parcel for moving said crane and materials to and around the site of Grantee's construction herein described, except that a long-term crane (a crane which stays for more than two weeks) shall only be placed on the 20 most Eastern feet of the Construction Area on the Servient Parcel.

IT IS UNDERSTOOD that the Easement rights herein granted shall terminate 2 years from the date that construction begins on the Dominant Parcel. Grantee shall use all reasonable efforts to minimize use of the Road. When the last structure on the Dominant Parcels are dried in and the exterior grading is complete, Grantor may request to vacate this Easement for the Road prior to the termination date,

which request will not be unreasonably denied.

IT IS ALSO UNDERSTOOD that the Easement herein granted does not convey any right or interest in the above described property, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not materially interfere with the Grantee's rights herein granted.

In addition, the Grantee, including its successors, assigns, agents, contractors, and employees agree to the following conditions:

1. **CONSTRUCTION OF ROAD:** Grantee shall construct the Road and take appropriate measures to control erosion and to avoid trespass on adjacent properties.
2. **DAMAGE TO PROPERTY:** Grantee shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued, and shall restore any damaged property to its original condition or a reasonably equivalent condition.
3. **COOPERATION WITH GRANTOR:** Grantee shall at all times cooperate with Grantor(s) and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued. It is understood that Grantor is not a full time resident of the Servient Parcel. Grantee shall reasonably curtail any noise causing or dust causing construction activity on the access road, in such a way to not affect Grantor's and others' reasonable use of the ski easement and trail easement. Grantee will use its best efforts to accommodate Grantor's requests and use all reasonable efforts to limit the use and schedule the use of the access road .
4. **PARKING:** No part of the Servient Parcel may be used for parking construction vehicles or construction employee vehicles, other than for temporary loading or unloading.
5. **CLEAN-UP:** Grantee will keep the Servient Parcel free of construction related litter and debris. The construction site shall be kept clean and organized, and related litter shall be removed daily. Grantee shall inspect the site to ensure the site is free of construction debris. As necessary, during construction, Grantee shall clean the windows on Grantor's homes that face the construction site on a quarterly basis in any quarter during which the construction activities cause dust. Grantee shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.
6. **CONSTRUCTION MAINTENANCE.** Grantee shall comply with all applicable building codes, including but not limited to providing: silt fencing, erosion controls, maintain limits of disturbance, as well as provide a safe way for area residents, adjoining property owners, and the general public to use and access the Sweeney Master Plan Trails ("Trails"). Grantee will not disturb the Trails, and will make all necessary repairs to keep the Trails in their pre-construction condition.
7. **RE-LANDSCAPING.** Within 90 days after completion of construction (the date on which the local government grants a permanent certificate of occupancy), Grantee shall uniformly grade the Work Area, and the Road and re-lanscape the Road and Work Area according the plan attached as Exhibit C.
8. **INDEMNITY & INSURANCE.** Grantee will use the Road, the Work Area and the Servient Parcel at its sole risk and expense. Grantee will indemnify and defend Grantor from and against

Before me, the undersigned, a Notary Public within and for said County and State, on this 8th day of August 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument, stating that he had authority of Upper Norfolk, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Tassie Williams
NOTARY PUBLIC

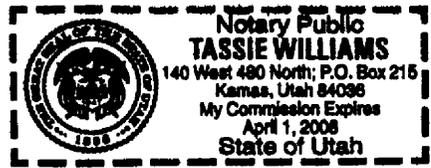


Exhibit A
(Servient Parcel)

The following adjacent parcels:

THILL-2-A-AM

A PORTION OF LOT 2, TREASURE HILL SUBDIVISION PHASE 1 AMENDED, MORE PARTICULARLY DESC AS FOLLOWS: BEG AT A PT WH IS S 66°22' W 21.67 FT & S 00°08'50" E 81.95 FT M/L FROM THE NE COR OF LOT 32 BLK 78 MILLSITE RESERVATION TO PARK CITY UTAH SD PT ALSO BEING S 66°40' W 240.50 FT & S 00°08'50" E 599.26 FT FROM A PARK CITY MONUMENT AT THE INT/SEC OF PARK AVENUE & 4TH STREET; & RUN TH S 00°08'50" E 136.08 FT; TH S 66°22' W 201.18 FT; TH N23°31'34" W 17.11 FT; TH N 31°26'11" W 109 FT TO THE PT OF BEG & RUN TH N 31°26'11" W 7.94 FT TO A PT ON A 605 FT RAD CUR TO THE LEFT (LONG CHORD BEARS N 11°00' W 94.07 FT); TH RUN NW'LY ALONG THE ARC OF SD CUR 94.16 FT (DELTA=08°55'04"); TH N 66°22' E 234.29 FT; TH S 23°38' E 100.00 FT; TH S 28°32'08" W 115.445 FT; TH W 177.49 FT TO THE PT OF BEG CONT 0.77 AC 958-302-311-313 973-487-4891433-946-950 (REF:671-90; 951-682; 1345-1078; 1413-76 & 1483-1699;1483-1702; 1484-1142; 1486-1022)

THILL-2-B-AM

A PORTION OF LOT 2 TREASURE HILL SUBDIVISION PHASE 1 AMENDED, MORE PARTICULARLY DESC AS FOLLOWS: BEG AT A PT WH IS S 66°22' W 21.67 FT & S 00°08'50" E 81.95 FT M/L FROM THE NE COR OF LOT 32 BLK 78 MILLSITE RESERVATION TO PARK CITY UTAH SD PT ALSO BEING S 66°40' W 240.50 FT & S 00°08'50" E 599.26 FT FROM A PARK CITY MONUMENT AT THE INT/SEC OF PARK AVENUE & 4TH STREET; & RUN TH S 00°08'50" E 136.08 FT; TH S 66°22' W 201.18 FT; TH N23°31'34" W 17.11 FT; TH N 31°26'11" W 109.00 FT; TH E 177.49 FT; TH N 28°32'08" E 115.445 FT; TH N 66°12'00" E 16.39 FT TO THE PT OF BEG CONT 0.47 AC958-302-315-317 1433-948-952 (REF:671-90; 951-682; 1345-1078; 1413-76& 1483-1699; 1483-1702; 1484-1142; 1486-1022)CONSTANCE M SFIRE AN UND 1/2 INT 958-315-317; & 220 KING ROAD LLC AN UND1/2 INT 1433-952;

BK1816 PG1551

Exhibit B
(Dominant Parcels)

Lot 1

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 396.53 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2

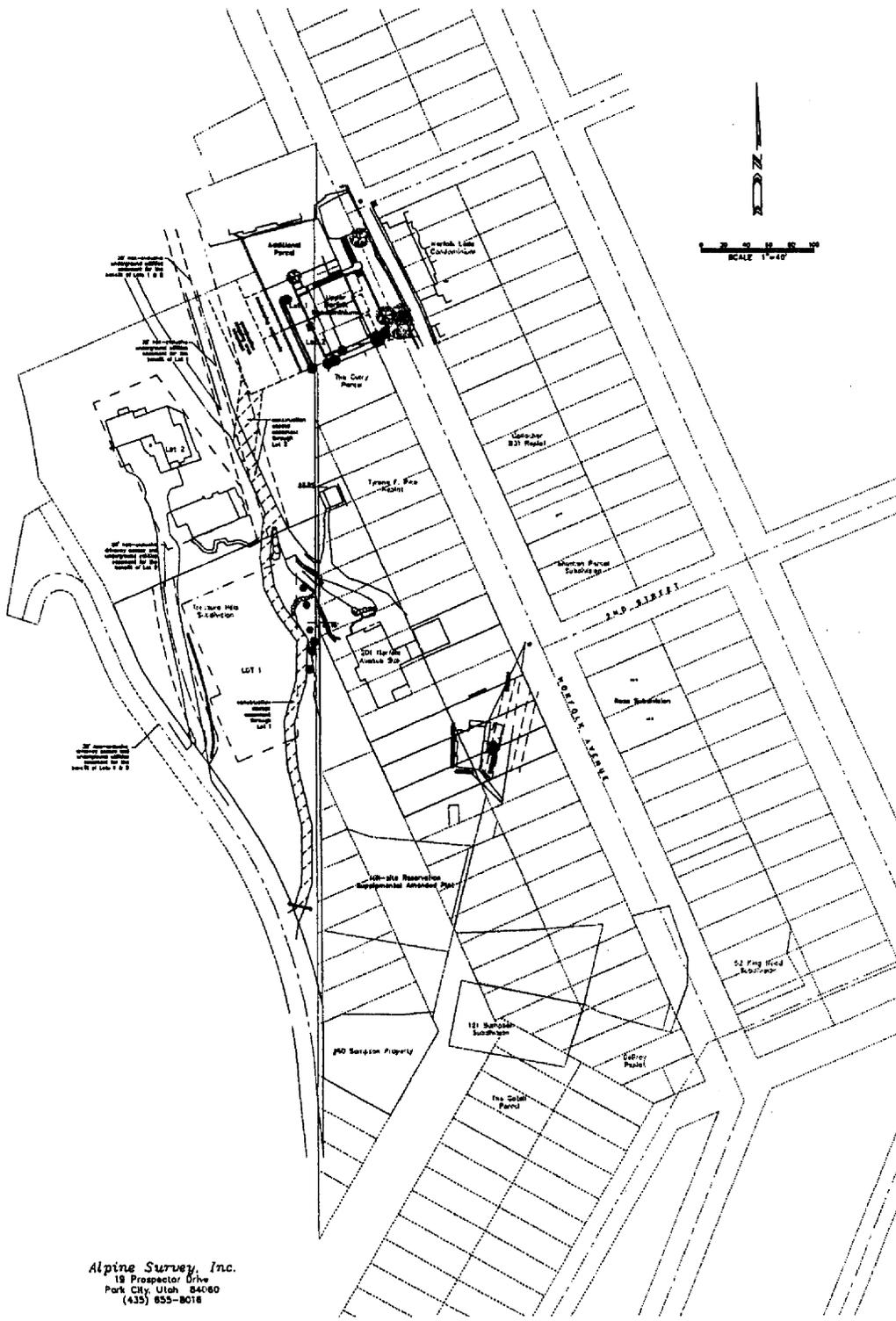
Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 355.86 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3

Beginning at a point which lies South 23°38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, and running thence South 66°22' West, 69.15 feet; thence North 23°38' West, 51.07 feet; thence North 75°28'35" East, 70.03 feet to the northerly corner of said Lot 33, thence South 23°38' East 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

Exhibit C
Location of Road across Servient Parcel

Park City Survey
 Blocks 31, 32, 77, 78 & 79



Alpine Survey, Inc.
 19 Prospector Drive
 Park City, Utah 84080
 (435) 855-8018

Exhibit D
(Work Area)

Upper Norfolk, Lot 1

Beginning at the northwesterly corner of Lot 1, Upper Norfolk Subdivision, according to the official plat thereof, on file and f record in the office of the Summit County Recorder, and running thence S 23°38' E, along the westerly line of said Lot 1, 40.67 feet to the southwesterly corner of said Lot 1; thence S 66°22' W, 20.00 feet; thence N 23°38' W 40.67 feet; thence N66°22' E, 20.00 feet to the point of beginning; containing 813.4 square feet, more or less.

Upper Norfolk Lot 2

Beginning at the northwesterly corner of Lot 2 Upper Norfolk Subdivision, according to the official plat thereof, on file and of record in the office of the Summit County Recorder, and running thence S 23°38' E, along the westerly line of said Lot 1, 40.67 feet to the southwesterly corner of said Lot 2 thence S 66°22' W, 20.00 feet; thence N 23°38' W 40.67 feet; thence N66°22' E 20.00 feet to the point of beginning; containing 813.4 square feet, more or less.

Lot 3

Beginning at the northwesterly corner of Lot 1, Upper Norfolk Subdivision, according to the official plat thereof, on file and f record in the office of the Summit County Recorder, and running thence S 66°22' W, 20.00 feet; thence N 23°38' W 18.35 feet to the northerly line of Lot 2, 20.00 feet to the westerly line of the Lot 3, north of the Upper Norfolk Subdivision; thence S 23°38' W 18.35 feet to the point of beginning; containing 367.0 square feet, more or less.

Planning Commission Meeting
Minutes of July 26, 2006
Page 2

MOTION: Commissioner Barth nominated Commissioner O'Hara to be Chair and for Commissioner Thomas to continue as Vice-Chair. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

At this time, Commissioner O'Hara assumed the Chair.

IV CONSENT AGENDA

1. 320 Woodside Avenue - CUP for construction on a slope greater than 30%

V. REGULAR AGENDA/PUBLIC HEARINGS

1. 1104 & 1118 Lowell Avenue - Steep Slope Conditional Use Permit
2. 7745 Bald Eagle - Plat Amendment
3. 1335 Lowell Avenue, The Gables - Amendment to the Record of Survey
4. 2409 Iron Mountain Road - Plat Amendment
5. 101 Prospect Street

MOTION: Commissioner Wintzer made a motion to CONTINUE the Consent Agenda, 1104 & 1118 Lowell Avenue, 7745 Bald Eagle, and 1335 Lowell Avenue to August 9, 2006 and to CONTINUE 2409 Iron Mountain Road and 101 Prospect Avenue to August 23. Chair Barth seconded the motion.

VOTE: The motion passed unanimously.

6. 259-263 Norfolk Avenue - Condominium plat vacation/subdivision

Planner David Maloney reviewed the application for a three lot subdivision and noted that the Planning Commission has reviewed this item a number of times. The last time this was before the Planning Commission the Commissioners visited the site and discussed the contents of the Staff report and the applicant's proposal. The Planning Commission requested that the Staff return with findings and conditions for approval.

For the benefit of the public, Planner Maloney explained that an existing six unit structure on the property does not meet the Code in terms of height and setbacks, and a portion of the front decks are within the City right-of-way. The application is to demolish the existing structure and dissolve the existing condominium on the land, and to plat three new lots for the purpose of constructing three single family homes. Planner Maloney stated that the proposed access is from the north side of the lot. He presented a conceptual site plan that was submitted to the Planning Department for the purpose of verifying that it is reasonable

to access the three lots. Through Staff discussion and meetings with the applicant, the Staff has determined that the plat amendment proposed is reasonable and can be accessed from the north side of the lot.

Planner Maloney commented on concerns raised at the last public hearing about preserving the existing landscaping along the front of the site. In addition, the driveway being proposed on the conceptual site plan is 19 feet wide and issues were raised regarding the excessive width.

The Staff recommended approval of the proposed plat for the purpose of establishing lot lines and creating three lots of record. Planner Maloney noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council on the proposed three lot subdivision called the "Upper Norfolk Subdivision".

Commissioner Barth wanted to know what would happen if they voted to vacate the condominium plat and adopt the ordinance but the property is never built. Planner Maloney explained that the lots would remain platted until someone applies for a conditional use permit. The applicant would demolish the existing structure before the lots would be recorded so the lots would be vacant.

Chair O'Hara opened the public hearing.

Jim Keesler, a resident at 302 Norfolk, remarked that the structure encroaches into the City right-of-way and if the applicant demolishes the building, the City would have the opportunity to do something with it. Mr. Keesler wondered why the applicant needed a 19 foot wide driveway when Norfolk Avenue is only 8 feet wide. He could not understand why the City would allow pavement in an area that could be landscaped and could give something back to the public that the structure has possessed for so long. Mr. Keesler urged the Planning Commission to address this issue before the plat amendment is granted.

Chair O'Hara closed the public hearing.

Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process

Jerry Fiat, the applicant, explained that the driveway will be shared by three homes and the reason for making it 19 feet wide is to allow two cars to pass or for one car to pass if another car is parked. Mr. Fiat pointed out that the existing house encroaches 18 feet on to the public right-of-way and the new homes would sit at least 10 feet back. The area that the driveway sits in is already disturbed and the net effect is that paved space will be returned to green space with a berm and planters.

Planner Maloney stated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. They would also look at landscaping at that point.

Commissioner Barth asked if Mr. Keesler will be within the noticing boundary when those proposal are reviewed. Planner Maloney replied that he would.

Commissioner Pettit stated that she is very familiar with Upper Norfolk and the challenges it presents to the neighborhood. Her concern was tied to density and traffic. She understood that there may be a benefit in demolishing the current existing non-conforming structure and that it may resolve some of the parking issues. Ms. Pettit asked about the number of bedrooms in the six unit condominium. Mr. Fiat replied that there are 3 bedrooms per unit. There are three townhouse units and each one has a lock out. These new structures would be single family homes and most likely second homes based on the nature of Upper Norfolk. Mr. Fiat saw this as a significant decrease in density. In addition, parking will be underneath the structure, as well as in front of the homes in the setback. Mr. Fiat noted that he did not ask for the maximum density that would be allowed for the size of the lot. Planner Maloney clarified that the minimum lot size in the zone is 25' x 75' and these lots are roughly 40 feet in width and 70 feet deep.

Ms. Pettit assumed that the single family homes would have the ability to submit a CUP application for accessory apartments. What might appear to be a reduction in density could change if that happens and that presents other issues. Ms. Pettit understood that the proposal is to access the site from up above through Mr. Fiat's property, and she was very concerned about any construction vehicle access on Norfolk because of the challenges of the street.

Planner Maloney stated that a condition of the plat approval requires that the construction easement agreements be finalized and submitted to the City prior to receiving building permits. This would insure that construction access is from King Road through the adjacent properties in the rear. Ms. Fiat stated that he has tried to do everything possible to minimize the impacts through the neighborhood and every neighbor who is adversely affected supports his proposal.

To address the concerns of accessory apartments, Planner Maloney noted that the Planning Commission has the option of a plat note stating that the structures should remain single family homes without any accessory or lock out units. Ms. Pettit stated that another concern is whether or not the homes could be used as nightly rentals. Planner Maloney replied that nightly rentals are permitted in the zone.

Commissioner O'Hara clarified that accessory apartment or nightly rental constraints are typically done on the plat rather than through a condition of the CUP. Planning Director Patrick Putt stated that it would be appropriate to establish a finding that speaks to the reason for a specific condition of approval.

Planner Maloney referred to Condition of Approval #6 and requested that the language "prior to plat recordation" be replaced with "prior to issuing a building permit". This revision was made based on a recommendation from the City Engineer.

Commissioner Sletten was not interested in regulating nightly use at this point, but he felt the issue of restricting accessory apartments could be addressed in a condition of approval. Mr. Fiat was not opposed to a plat note that restricts accessory apartments.

Polly Samuels McLean, Assistant City Attorney, stated that generally the City tries to steer away from plat notes that restrict these types of uses. It is more appropriate to make findings for a condition of approval. Ms. McLean noted that if the City Council adopts their recommendation, it will become part of the ordinance and the Building Department is very careful about reading all the conditions before they issue a building permit. Planner Maloney remarked that this property is also in the Historic District and the Planning Department would review any future plans for an amendment to the design. If there appears to be an accessory apartment, it would require a conditional use permit process.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the proposed Upper Norfolk subdivision according to the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Staff report and subject to the amendments as discussed; the revision to Condition of Approval #6 to delete "plat recordation" and insert "issue of a building permit", and the addition of Condition of Approval #7 that would preclude accessory apartments. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 259-263 Norfolk Avenue

1. The property is located at 259-263 Norfolk Avenue.

2. Currently the property is platted as the "Upper Norfolk Condominiums",
3. There is an existing triplex structure located on the property.
4. The existing structure does not conform to the height and setback requirements of the HR-1 zoning district.
5. The applicant is proposing demolishing the existing structure.
6. The applicant is proposing vacating the existing "Upper Norfolk Condominiums" plat.
7. The applicant is proposing establishing three lots of record - identified on the proposed plat as Lot 1, Lot 2, and Lot 3.
8. Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 281.33 square feet.
9. Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.
10. The proposed access to the lots is from Norfolk Avenue on the north side of the property.
11. The three proposed lots would share one driveway.
12. The proposed lots are for the purposes of building single family houses.
13. The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.
14. There is not sufficient area on the property to conduct construction staging.

Conclusions of Law - 259-263 Norfolk Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.

4. Approval of the plat amendment is subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval - 259-263 Norfolk Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The lots are to be used for the construction of single family houses.
4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
6. A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issue of a building permit.

Chair O'Hara took this time to welcome Julia Pettit and Evan Russack, the new Planning Commissioners, and thanked them for their willingness to serve the City.

7. 3605 & 3615 Oakwood Drive - Plat Amendment

Planner Maloney reported that a plat amendment that was approved in July 2004 created a lot and a half from Lot 64 and half of Lot 63 in the Oaks Deer Valley Subdivision. This current proposal is to revert back to the originally platted lots within the subdivision for Lots 63 and 64. This would eliminate the lot and a half that was created in 2004. This item was presented to the Planning Commission on July 12, at which time there was some discussion regarding the reasoning behind the original approval. Planner Maloney had researched the minutes and found that the owner at that time wanted to create a lot and a half so he could build a larger house than what was allowed on Lot 64 alone. He had ownership of half of Lot 63 and combined with Lot 64 to make a lot and a half into one lot. That action increased the square footage of the house they could build per the CC&R's. Planner Maloney stated that the adjacent owners of the other half of Lot 63 and all of Lot

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 27, 2006**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 27, 2006. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; David Maloney, Planner; Kirsten Whetstone, Planner; and Ben Davis, Planning Intern.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Resolution naming and honoring Sally Elliott as the Mayor's Choice for the 2006 Award in the Humanities – The Mayor read the resolution into the record and thanked Ms. Elliott for her many contributions to the community both as a former City Council member and current Summit County Commissioner.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JULY 6, 2006 AND JULY 13, 2006

Roger Harlan, "I move approval of the work session notes and minutes of the meetings of July 6 and July 13, 2006". Candace Erickson seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

Appointments to the Police Review and Complaint Committee – Mayor Williams recommended the reappointment of Jerry Bush, and appointments of Charles Neal and Coady Schueler for terms expiring July 2008.

VI CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance amending the Prospect Street Subdivision Plat, Park City, Utah (motion to continue to September 14, 2006) – The Mayor requested a motion to continue. Candace Erickson, "I so move". Roger Harlan seconded. Motion unanimously carried.

2. Continuation of a public hearing of an Ordinance approving a subdivision plat for 259-263 Norfolk Avenue, Park City, Utah – To better understand the action, Mayor

Williams noted that he and staff walked the property today. Dave Maloney explained that the condominium plat is being vacated. The owner intends to demolish the existing structure and establish three lots of record to construct three single family homes. The lots are on steep slopes and subject to a conditional use permit prior to the issuance of a building permit. Staff finds that the conceptual site plan proposed provides reasonable access from Norfolk Avenue. He added that the existing structure doesn't meet current HR-1 height and setback requirements and encroaches 18 feet into the Norfolk Avenue right-of-way. Because of the steep slope feature, the applicant has the ability to request a height increase but no increase in the floor area. At its meeting last night, the Planning Commission recommended approval with additional findings. Mr. Maloney distributed a revised ordinance and pointed out modifications and additions, including prohibition of accessory apartments. Mayor Williams relayed that this action relates to platting property, not designing structures.

Applicant Jerry Fiat stated that the existing structure encroaches on City right-of-way and he is proposing a 19 foot driveway where disturbance already exists. One driveway will serve three homes and is wide enough to accommodate trucks. He felt it is a benefit eliminating three units of density, removing a non-conforming structure, adding on-site parking which did not exist, and providing construction access from King Road at considerable expense. Additionally, he has agreed to prohibit accessory units. The disturbed area of the existing structure is greater than the net affect of new three structures and the driveway. There will be more green space.

Mr. Maloney added that it appears that the design of the driveway will retain the landscape berm and the conditional use process will finalize the design. Roger Harlan noted that a year ago, many Upper Norfolk Avenue residents were against this project. The applicant has done a good job of addressing neighborhood objections, but he is still concerned about construction impacts. Jerry Fiat discussed proposed construction phasing and staging on King Road.

Dave Maloney stated that he received a correspondence from an adjacent neighbor, Kevin King, who wrote that his letter is a formal notice of appeal if the plat is approved tonight and referenced LMC Section 15-7.34 which deals with road design requirements. Mr. Maloney pointed out that this section of the Code deals with new subdivisions and does not apply to this application.

The Mayor opened the public hearing, and hearing no input, closed the hearing.

3. Ordinance approving the Lot 5 April Mountain Subdivision Plat Amendment, located at 1315 Mellow Mountain Road, Park City, Utah – Ben Davis, Intern Planner, explained that the application is to adjust building pads by moving the lot further north, which will preserve natural landscaping. The Planning Commission forwarded a

positive recommendation. He explained limitations on the access road for construction of the driveway. The Mayor opened the public hearing, and closed it as there were no comments from the audience.

4. Ordinance approving the Kampai Plat Amendment, located at 586 Main Street, Park City, Utah – Ben Davis explained that the request is to combine Lot 22, Lot 24 and a metes and bounds parcel into one lot of record. There is an existing historic building where the Kampai Restaurant operates. There is no impact on the pedestrian walkway easement in the area, and there are no objections by neighboring owners. The Planning Commission forwarded a positive recommendation. The Mayor opened the public hearing. There was no public input and the hearing was closed.

5. Ordinance approving a plat amendment for Lots 63 and 64, The Oaks at Deer Valley, located at 3615 and 3605 Oakwood Drive, Park City, Utah – Planner Dave Maloney explained that Lots 62, 63 and 64 were owned by two separate parties and in 2004, a plat amendment was approved to combine Lot 64 and half of Lot 63, although the property owners of the other half of Lot 63 and Lot 62 felt that they didn't receive proper notice. The plat amendment proceeded and a lot and a half was created and there was a verbal agreement between the parties that Lot 63 would remain open space. The owners of Lot 64 and half of Lot 63 could have increased the size of the residence by 150% with the lot combination. Since that time, the owners of Lot 62 and half of Lot 63 have purchased the other half of Lot 63 and Lot 64, and are requesting to revert to the way the lots were originally platted in 1989. All three lots are still vacant, the ownership is under one party, and approval eliminates remnant parcels.

The Mayor opened the public hearing and with no comments, closed the public hearing.

VII CONSENT AGENDA

Jim Hier, "I move we approve Consent Agenda Items 1 through 5". Roger Harlan seconded. Motion unanimously carried.

1. Ordinance approving a subdivision plat for 259-263 Norfolk Avenue, Park City, Utah – See staff report and public hearing.

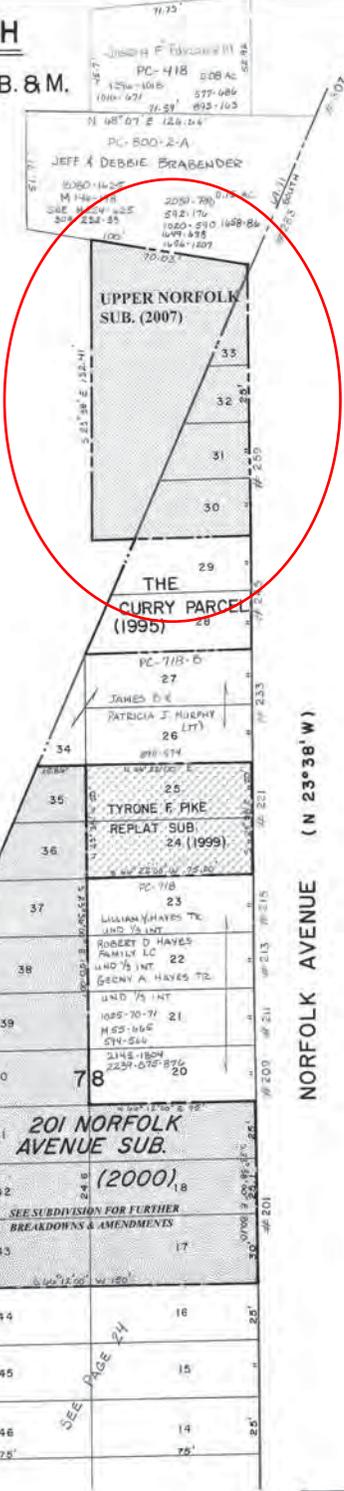
2. Ordinance approving the Lot 5 April Mountain Subdivision Plat Amendment, located at 1315 Mellow Mountain Road, Park City, Utah - See staff report and public hearing.

3. Ordinance approving the Kampai Plat Amendment, located at 586 Main Street, Park City, Utah - See staff report and public hearing.

Exhibit V – Original Lot Configuration

SUMMIT COUNTY UTAH

PARK CITY - BLOCK 78 LOTS (14-46), SECTION 16, T2S R4E, S.L.B. & M.



NOTE: ## REFERS TO STREET ADDRESS



SCALE
ONE INCH 40 FEET

SALT LAKE BLUE 10/13/14

March 18, 2015

Dear Francisco Astorga and the Planning Board,

Thirty-two years ago, Don and Betty Holbrook built their house at 238 Upper Norfolk Street. It is now owned by Michael Kaplan. The same contractors renovated 244 Upper Norfolk Street, which is owned by Edward DeSisto. Part of the construction involved erecting a retaining wall, which was approved and later inspected by the city. (The city issued an encroachment permit, a copy of which is included with this letter.) This wall was built with the intent of providing parking spaces for the residents of 238 and 244 Upper Norfolk Street. The city has allowed both owners to post signs which read, "The parking along the wall is reserved for 238 and 244 Norfolk Street." Over the years we have made improvements to the wall, including a red sandstone rock face, and maintained the landscape behind the wall.

Jerry Fiat is the owner of three lots on the uphill side of Upper Norfolk, beyond one end of the retaining wall. One of Jerry Fiat's early plans was to create an ingress and egress by cutting down half of the wall, which is on a 30-degree slope. The Planning Department has previously rejected the plan. We are concerned that the new proposals may try to do the same as the first plan. We would like to have assurance that the retaining wall will not be disturbed.

The construction mitigation for this project is a real concern for the whole neighborhood. We would like to see a plan that includes the following:

- 1) There would be no contractor parking on the street where the residents normally park. A carpool plan for the contractors would be helpful.
- 2) Construction vehicles would not impede the flow of traffic along the street. Of special concern is the ready access for emergence vehicles.
- 3) Residents would have the authority to have vehicles fined and/or towed that are in violation.
- 4) City inspectors and police and police would monitor their compliance.
- 5) There should be a detailed construction mitigation plan.



The residents of Upper Norfolk wish to maintain the historic, mountainous nature of the neighborhood and we trust your leadership will follow the spirit of the Park City Municipal Code.

Thank you,

Edward DeSisto
244 Upper Norfolk Street



Fee Exempt per Utah Code
Annotated 1953 21-7-2

44-200

REQUEST OF Park City Municipal

FEE \$ D.H. ALAN SPENCER, CLERK & RECORDER

RECORDED 7-9-84 at 9:10 M

Packet Pg. 152

ENCROACHMENT PERMIT
 236,238, 240 UPPER NORFOLK AVENUE
 DONALD B. HOLBROOK, BETTY J. HOLBROOK
 AND DEBRA PACK

INDEXED: _____
 GRANTOR: _____
 GRANTEE: _____
 RELEASED: _____
 ABSTRACTED: A 1, 2, 3
 STAMPED: _____

THIS AGREEMENT is made by and between PARK CITY MUNICIPAL CORPORATION ("City") AND DONALD B. and BETTY J. HOLBROOK and DEBRA PACK ("Owners") to set forth the terms and conditions under which the City will permit the Owners to build certain improvements to their lots within the right-of-way at 236-238, 240, Upper Norfolk Avenue, Park City, Utah. Subject to the following terms and conditions of this Agreement, Owners shall have the right to construct and maintain a retaining wall to support a driveway and parking area within the platted right-of-way

1. This Encroachment Agreement shall be appurtenant to the following described property:

- ✓ Lots 21, 22 and 23, Block 29 Park City Survey (Upper Norfolk Avenue).

This Agreement is not transferrable to other property, but is freely transferrable with the title to these lots. The license and conditions as stated in the Agreement, are binding on the successors in title or interest of Owners.

2. The improvements permitted within the street right-of-way for Upper Norfolk Avenue shall consist of a concrete retaining wall of a design approved by the City as being structurally sufficient to retain the earth and the loadings that are reasonably anticipated. The extent of the encroachment is shown on plans approved by the City in conjunction with construction on the Holbrook-Pack property.

3. Although it is not currently planned, and somewhat unlikely because of the expense involved, the

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(# 1)

City may, at some future date, elect to make improvements to Upper Norfolk Avenue at this location and widen the street to the full width of the right-of-way for Upper Norfolk Avenue. To the extent that any street improvements require the removal, relocation, replacement, and/or destruction of the improvements the Owners may have built within the right-of-way, the Owners waive any right to compensation for the loss of the use of the street right-of-way and/or any change in the grade and elevation of the street. This waiver of compensation, in the event the improvements are removed for street widening purposes, is the consideration given for the granting of this encroachment permit.

4. Prior to widening the street in a manner that will require the removal or relocation of the improvements, the City will give the Owners thirty (30) days notice, in which time the Owners shall make adjustments and remodel the access to the lots necessary to accommodate the changes in the street width and/or grade at Owners' cost.

5. No permanent right, title, or interest of any kind shall vest in the Owners in the street right-of-way by virtue of this Agreement. The property interest hereby created is a revocable license, and not an easement or other perpetual interest. No interest shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

6. The Owners or their successors shall maintain the retaining wall in a good state of repair at all times, and upon notice from the City, will repair any damaged, weakened, or failed sections of the wall. The Owners agree to hold the City harmless and indemnify the City for any and all claims which might arise from third parties who

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are injured as a result of the Owners' use of the right-of-way for private purposes, or from the failure of the Owners' improvements.

7. This Agreement shall be in effect until the license is revoked by the City. Revocation shall be effected by the City regarding a notice of revocation with the Summit County Recorder and sending notice to Owners or their successors.

Dated this 5th day of July, 1984.

PARK CITY MUNICIPAL CORPORATION

John C. Green, Jr.
Mayor John C. Green, Jr.

ATTEST:

William R. Gasthousen
City Recorder



Donald B. Holbrook
Donald B. Holbrook

Betty J. Holbrook
Betty J. Holbrook

Debra Pack
Debra Pack

BOOK 306 PAGE 563

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 7 day of July, 1984, personally appeared before me JOHN C. GREEN, JR. and WILLIAM R. GATHERUM, who being duly sworn did say, each for themselves, that he the said John C. Green, Jr. is the Mayor and he, the said William R. Gatherum is the City Recorder of PARK CITY MUNICIPAL CORPORATION, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its City Council, and they duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Thomas E. Chase
Notary Public
Residing at Park City, Utah



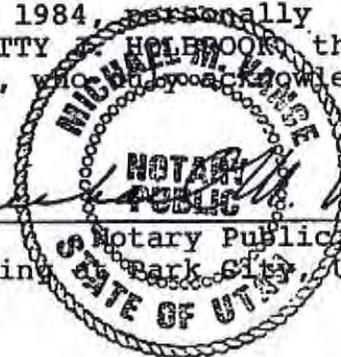
My Commission Expires:

Oct 17, 1986

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

On the 2nd day of July, 1984, personally appeared before me DONALD B. and BETTY S. HOLEBROOK, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Michael M. Vance
Notary Public
Residing at Park City, Utah



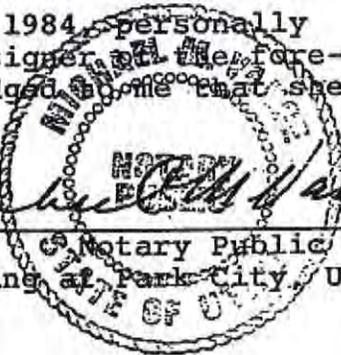
My Commission Expires:

6/18/88

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STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 2nd day of July, 1984, personally appeared before me DEBRA PACK, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same.


Michael E. Hance
Notary Public
Residing at Park City, Utah

My Commission Expires:
6/18/88

BOOK 306 PAGE 565

Planning Commission Meeting
June 24, 2015
Page 17

2. **259, 261, 264 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55. (Application PL-15-02664)**

Commissioner Phillips recused himself and left the room.

Planner Astorga reviewed the application to amend the original ordinance 06-55, which approved the Upper Norfolk subdivision in 2006. Jerry Fiat was representing the three entities that own each lot.

Planner Astorga stated that in 2006 a specific condition of approval indicated that construction access to the lots would be from King Road. In 2009 the applicant lost that access easement and, therefore, they were in violation of the condition of approval. Planner Astorga reported that the Planning Commission first reviewed this amendment to the ordinance on March 25, 2005 and it was continued until this evening. The two conditions of approval requiring access from King Road were outlined on page 190 of the Staff report. The applicant was requesting to amend those two conditions. Planner Astorga noted that the construction easement agreements were granted; however, the one with the access had a specific time frame and it had expired.

Planner Astorga stated that when the Planning Commission reviewed this application on March 25th they talked about construction mitigation and the Steep Slope conditional use that was discussed in the original approval in 2006. Pages 191 and 192 of the Staff report outlined some of the items that were discussed in 2006 regarding the Steep Slope CUP.

Planner Astorga commented on the first part of this application, which was construction mitigation. Exhibit C in the Staff report was the actual letter written by Jerry Fiat concerning the construction mitigation. The first is the desire to build all three units at the same time. The second is that staging area has been secured in the back of the sites on Mr. Sfire's property. An easement agreement was obtained and that agreement expires two years after the start of construction. Planner Astorga noted that in his letter Mr. Fiat indicated that no materials would be staged on the street, that parking will take place in a shared private driveway, and there is sufficient space for cars and trucks to turnaround without having to back up or down Upper Norfolk. Mr. Fiat also indicated in his letter that they intend to encourage carpooling to further reduce traffic. Trucks will not be allowed to queue up on Upper Norfolk. The road would only be closed for specific utility upgrades. Deliveries could be accommodated in the area of the three lots.

Planner Astorga noted that the letter was reviewed by the Building Department. The Building Department does not approve the actual construction mitigation until the building permit is issued; however, they had no issues with what was being proposed. Planner

Astorga noted that language was drafted in the Building Department's form and the information was placed on the actual construction mitigation plan, with a disclaimer that it was subject to change at any time. Planner Astorga stated that the Chief Building Official has the ability to amend a construction mitigation plan to address specific concerns that may arise during construction.

Planner Astorga stated it was unfortunate that the applicants lost the access off of King Road because there is no other way to accommodate construction other than through King Road. Based on recommendations by the Building Department, Planner Astorga recommended that the Planning Commission approve the specific ordinance that amends the original plat from 2006. The lots have always been viewed as buildable lots of record, but access would be more difficult.

Planner Astorga commented on the issue regarding construction on steep slope. He explained that as the Staff further examined the minutes from 2006 they found that many questions and concerns were not addressed because they would be discussed with the Steep Slope CUP. He noted that whenever an issue was raised by either the public or the Commissions, the re-occurring answer was that all of the items would be addressed through a Steep Slope Conditional Use Permit.

Planner Astorga noted that Exhibit F showed the actual site with the triplex that has since been demolished. The next Exhibit was the actual survey that was submitted in 2006 that showed a large encroachment of the triplex over the City right-of-way. Planner Astorga presented the existing conditions site plan that was submitted in 2006, as well as a preliminary proposed site plan that was submitted. He pointed to the existing berm and the shared driveway. Planner Astorga stated that the trucks would come in, make the turn and then make an applicable turnaround in that area where it would not affect the neighborhood. Planner Astorga noted that the construction easement he mentioned earlier was behind the lots towards the west.

Planner Astorga presented an Exhibit that was shown in 2006. One imaged showed the existing conditions with the triplex. Another image represented the proposed with each single family dwelling at approximately the same section cut.

Planner Astorga stated that in June 2010 a memo was written by the Planning Department indicating that this site required a Steep Slope CUP. In August 2010 another memo was written by the Planning Department stating that a Steep Slope CUP was not required. Planner Astorga explained that when the Staff reviewed the site at the applicant's request, they looked at the plat but failed to look at the Findings of Ordinance 06-55. Finding 13 of the Ordinance indicated that the sites were on steep slopes and required a Steep Slope conditional use permit. Planner Astorga stated that this application was the reason why

plat notes are now placed on new plats referencing the actual ordinance recorded with the City. The plat note would direct people to the findings of fact, conclusions of law, and conditions of approval for the plat.

Planner Astorga reviewed the site plan that was recently submitted by the applicant regarding construction mitigation. The area in yellow in the back was the construction staging area, which is the shared driveway. Planner Astorga referred to the survey and verified that the topo lines match the submitted survey. He noted that Lot C, before the area was disturbed, had a slope of 67%. Regarding the other two lots, he indicated a slope of 53% and 38%. Planner Astorga remarked that it could be debated as to whether or not it meets the Steep Slope CUP requirement because of the disturbance that took place. He noted that the survey was done before the triplex was removed, but at that time it had a slope of 67%. Based on that information the Staff recommended that they honor the original Finding of Fact requiring the applicant to come back with a Steep Slope CUP for each lot.

The Staff recommended that the Planning Commission amend the ordinance to allow building three single family dwellings. He reiterated that there is no longer access through King Road and they would have to use Upper Norfolk. Specific conditions of approval address vegetation and changes to the construction mitigation plan. If the construction mitigation plan changes for any reason, the applicant has the responsibility to inform the neighbors. Planner Astorga reported on a technical aspect of the easement in the back that was an error in the survey, and he recommending making that change. Another condition of approval requires a cross access temporary construction easement over the three lots so staging during construction could occur on the three properties.

Planner Astorga clarified that the only way to amend an ordinance is to apply for another ordinance which amends it. A memo by the Planning Director is not sufficient to remove a specific finding, conclusions of law, or condition of approval.

Jerry Fiat, representing the applicants, remarked that the condition regarding access in the rear was not in the plat. They were new owners who were not aware of the condition. A plan was submitted in 2009 to build, at which time the Planning Department discovered the access issue and suggested that they amend the ordinance. He clarified that the applicants had no issue with amending the Ordinance.

Mr. Fiat thought the major issue was the Steep Slope CUP. He recognized that either he or the buyers should have checked for findings of fact, but it was not on the plat and they had a clear letter from the Planning Director. Mr. Fiat explained that in 2009 plans were submitted to determine whether or not it required the Steep Slope CUP process. After the Planning Department determined that it was steep slope he met with Planner Astorga and

former Planning Director Thomas Eddington because he did not think it was right. Mr. Fiat noted that the area on the third lot is steep because they dug it out for parking. It is a disturbed area and not the natural topography of the area. Mr. Fiat stated that in looking at pictures of the triplex, it is evident that the triplex fully extended on to the berm. He noted that the public right-of-way was used for parking and the triplex was also on the public right-of-way. Mr. Fiat emphasized that the site was disturbed. Mr. Fiat remarked that the site was measured which is why the Planning Director which is why the Planning Director wrote another letter in conflict with the first letter.

Mr. Fiat stated that they have been trying to build these lots for a while and they have almost lost this season. They have a letter that was written in good faith stating that a Steep Slope CUP is not required. Mr. Fiat noted that they removed a six unit structure that was 47' in height and encroached on to the public right-of-way. They would like to build three homes and create a better situation on the site.

Commissioner Band asked Planner Astorga to explain the construction mitigation process if the approved construction mitigation plan is changed. Planner Astorga clarified that changes normally do not occur. He added a condition of approval due to the issues related to the narrowness of Norfolk and the expectation of the neighborhood that access would occur off King Road. Planner Astorga stated he followed the same noticing criteria for a plat amendment, which is to notify property owners within 300 feet. The applicants would have to provide an updated list of neighbors within 300 feet and to notify the neighbors that the x-component of their construction mitigation plan has been amended. Planner Astorga stated that the Chief Building Official has the authority to approve, amend or deny construction mitigation plans.

Commissioner Band asked if there was a specific time frame for notifying the neighbors. Planner Astorga offered to include language in the condition requiring that letters be sent the day the amended construction mitigation plan is approved. Commissioner Band thought the neighbors should be noticed a day or due prior to something that would affect them so they would know what to expect and could plan accordingly. Planning Manager Sintz noted that something similar occurred with the construction of the Main Street Mall and a system was put in place that notified property owners when changes would be occurring on the street. She believed they would use that model.

Commissioner Worel noted that pages 193 and 194 talks about construction easements and that two of the legal descriptions were incorrect. She asked if that should be in the conditions of approval. She also noted that in the redlined Condition #5 was struck where it talks about construction easement agreements. Planner Astorga stated that he wanted the Planning Commission to understand the original findings of fact, conclusions of law and conditions of approval. For example, page 201 contained the existing findings of fact and

those were redlined to show the changes proposed for the amended ordinance. On page 202, Conditions 4 and 5 would be struck because Condition #4 addressed the King Road access; and Condition #5 was tied to Condition #4.

To answer Commissioner Worel's first question, Planner Astorga referred to the Condition #6 in the proposed draft ordinance. He noted that the easement was drawn appropriate, but once they looked at distances and angles it did not quite close. The intent is to have the surveyor address that item. Planner Astorga stated that Mr. Fiat was already working on the language to address the technical aspects that were not appropriate drafted in the recorded documents. Planner Astorga referred to Condition #7 and stated that since they would be staging on Mr. Sfire's property, the Planning Department wanted an inventory of the landscaping to make sure it is brought back up to what is was.

Commissioner Thimm stated that if they were making a finding of fact that there is sufficient area on the property to conduct construction staging, he questioned why an off-site area was shown for staging as part of the presentation. Planner Astorga replied that the off-site area is what makes the area sufficient for construction staging. Commission Thimm thought Finding #14 did not reflect that intent. Planner Astorga agreed and revised Finding #14 to read, "There is sufficient area on the property and adjacent to it to conduct construction staging."

Commissioner Joyce thought Finding of Fact #14 should be changed to read, "between the property and the easement there is sufficient property for construction staging."

Chair Strachan opened the public hearing.

Debbie Brabender, a resident at 283 Upper Norfolk, believed her property would be the most impacted by the construction. She emphasized that the applicants have the right to build their house and she encourages it because beautiful homes will improve the neighborhood value. Ms. Brabender stated that her only concern is that the road that comes in in front of these houses would drive on the City property right in front of her guest house that she rents as nightly rentals. She will lose the parking spot and that section will be the turnaround spot for everyone else. Ms. Brabender was not pleased with that prospect. She has spoken with Planner Astorga and there are ongoing discussions with regard to how they can square up their property and not lose the privacy in front of their guest house. Ms. Brabender liked that the Planning Commission was going back to the original documents to make sure everything was being done appropriately. Ms. Brabender reiterated that she was not opposed to the project. As the only person on the end of the street who lives there full time she understands the traffic situation. She was pleased to see the plans for the driveway, but she disagreed with how the driveway circles around in front of her lot because it would be the turnaround spot.

Michael Kaplan stated that he owns the property at 236 and 238 Upper Norfolk, where it becomes a choke point on the street. Mr. Kaplan cited an incident where cars were parked on both sides of the street and there was an emergency with a toddler, but because the road is narrow the emergency vehicles could not get through. Luckily, everything worked out fine, but since his property is nightly rental he put up signs allowing people to park on one side of the street but not the other. Mr. Kaplan emphasized that the road is very narrow and he requested that everything possible be done to leave room for emergency vehicles. He had done his part and he hoped others would be considerate of the situation.

Chair Worel closed the public hearing.

Commissioner Worel was impressed with the construction mitigation plan and she thought Mr. Fiat was working hard to lessen the impacts on the neighborhood as much as possible. She has always had concerns with Upper Norfolk. She was interested to hear the comment about the shape of the driveway.

Commissioner Joyce referred to the site plan on page 226 of the Staff report and pointed out where the property line comes across for the house next door. Mr. Fiat noted that the hatched areas on the site plan are the areas that were historically used for parking and they were reclaiming it as berm. Mr. Fiat stated that their original intent was to reduce or eliminate the parking that was in the unimproved right-of-way and return some of the berm to screen it better. He was willing to move it more, but they were not trying to create parking because they have the shared driveway for parking.

Mr. Fiat remarked that no one puts together a construction mitigation plan like he does. He believed he was the only developer who rents parking spaces and never uses City parking for construction sites. They always rent parking and they also enforce it. He thought they did an exemplary job of controlling the situation on all of their projects and he could not recall a single complaint. Mr. Fiat understood the comment about losing the parking, but the narrowness of the road is caused by the amount of parking that occurs on the public right-of way and not by the project.

Commissioner Joyce asked if Mr. Fiat had an easement on the City right-of-way that would allow them to turn it into private driveway. Mr. Fiat stated that most of the improved public right-of-ways are not in a platted right-of-way. There is usually a significant difference between the improved right-of-way and the lots and it is typically crossed. He pointed out that this occurs on every project throughout Old Town. He noted that usually it is a single driveway for each lot. They would prefer a single driveways but they were specifically requested to eliminate the number of driveways. They came in with a proposal for two and they were asked to do one.

Planner Astorga presented an exhibit of the outer edge of the Park City survey. He noted that the red area in the circle represented the subject property. The area above it was the next property and it was not included in the Park City survey. That was the reason for the unique angle. Planner Astorga reviewed the aerial photograph and pointed out that platted Norfolk ends on the angle. Everything north was private property with an easement over those areas to access the other three or four homes. Planner Astorga understood that Commissioner Joyce was questioning whether 283 or 263 would have access. That was the reason why another condition of approval was added stating that any improvements to the right-of-way would have to be filed and appropriately approved by the City Engineer. Planner Astorga clarified that the parking that has taken place was never formalized by the City. He understood that it was illegal parking that has been enjoyed up to this point.

Commissioner Joyce expected that one property would not be allowed to come up in front of another property on the right-of-way. He assumed that the access would be associated with Lot 283 rather than Lot 263. City Engineer Matt Cassel stated that the City tries to keep the driveways within the boundaries of the property lines to avoid causing impacts to the neighbors. There is nothing written prohibiting drives to extend beyond the property lines but it is a guiding principle.

Commissioner Joyce sympathized with the applicants regarding the steep slope issue. However, as he read through all the past minutes, the driveway was the one issue that kept coming up but kept getting pushed to the steep slope CUP. The concerns related to the berms, how amount of cut, retaining walls and other issues. Commissioner Joyce believed that when the previous Planning Commission gave approval for the plat, it was done based on the assumption that they would have a secondary level of approval to shape the plan. Commissioner Joyce was comfortable with the construction mitigation plan and he would like the applicant to be able to move forward, but he was uncomfortable with the driveway piece and making sure it gets done right.

Mr. Fiat noted that they were not disturbing any of the berm. They were actually bringing back and revegetating the berm. With City Engineer approval, Mr. Fiat was willing to move the driveway 90 degrees off the public right-of-way to stay away from being in front of 283 Norfolk. Commissioner Joyce asked if Mr. Fiat was convinced that they could bring the driveway up to the first house and not encounter driveway steepness issues. Mr. Fiat replied that the Code would not allow them to exceed 14%. He commented on a driveway was currently being torn out because the grade was 16%. Mr. Fiat remarked that everyone in town was very aware of the strict rules. If he moved the driveway he would have to make it work within the 14% requirement.

Commissioner Band asked if they were using the public right-of-way to stage pouring the driveway. She had walked the lot and questioned how they would get everything to the back staging area. Mr. Fiat stated that they would grade the driveway either use a crane over a forklift to move everything to the staging area. He explained that a small crane usually fits within the space. Mr. Fiat realized that the concrete truck would have to be on the road when the last piece of the driveway is poured, but he believed there was sufficient space on-site to build the project. Mr. Fiat stated that relative to other sites this was a very manageable project.

Commissioner Thimm thanked Mr. Fiat for a thorough and detailed construction mitigation plan. In terms of the right-of-way and the driveway, Commissioner Thimm stated that he tends to look at a piece of property from the right-of-way line to the edge of curb or sidewalk as frontage. He favored moving the driveway perpendicular off of Norfolk because it was more in line with how he defines frontage.

Commissioner Thimm commented on the steep slope issue. He agreed with the applicant that a letter is on file saying that it was not steep slope; however, another letter on file says that it is. In addition, the Planning Staff was recommending that the condition of approval having it be a steep slope should remain. Commissioner Thimm asked Planner Astorga if there was an outstanding issue that made the Staff draw that conclusion. Planner Astorga replied that it was the review of the minutes from 2006 and the number of items that were not addressed on the belief that it would be reviewed under a Steep Slope CUP.

Planner Astorga admitted that he had written the last memo on behalf of the former Planning Director and that they had not looked at the ordinance. They only looked at the plat and there was not a plat note. They went on-site but since none of the planners are certified surveyors they made their determination based on what they knew. As a professional planner, after reading all the minutes, he thought it clearly reflected that all of the items regarding the driveway and the design of the house were to be reviewed through the Steep Slope CUP process.

Commissioner Campbell thought there was a perception in the neighborhood that the right-of-way extends perpendicular from the roadway. His only objection was using the triangular section above. He felt that piece should stay with the house to the north. If Mr. Fiat was willing to move it perpendicular and felt comfortable that he could meet the driveway grade, Commissioner Campbell could support it. After driving by the site, he thought the steep slope situation was created by the prior excavation. He believed the natural grade would not have met the steep slope requirement. Commissioner Campbell pointed out that the previous Planning Commission talked about reviewing a steep slope CUP because they were under the assumption that the property was a steep slope. That does not mean that it actually was a steep slope.

Commissioner Band was inclined to lean towards the Staff recommendation to keep the condition for a Steep Slope CUP because of the minutes from 2006. However, if they choose to remove the condition, she thought it was important to address the issues that were kicked down the road if there was not going to be a Steep Slope CUP process.

Commissioner Campbell questioned whether they were technically able to discuss those issues this evening. City Attorney Harrington replied that the Staff had not framed the issues for discussion. He suggested that the Planning Commission outline the specific issues so the Staff could prepare a recommendation for the next meeting.

Commissioner Band understood that the two options were 1) approve the ordinance as amended, keeping the Steep Slope CUP; or 2) Continue this item to another meeting when the Planning Commission could discuss some of the issues.

Chair Strachan felt this was one circumstance where the equities weigh in favor of the developer. He understood the issue of getting two conflicting letters and the mixed message it sends. In his opinion, where there is a tie it goes to the "runner", and in this case that would be the developer. Chair Strachan remarked that the question was whether or not they could adequately mitigate the potential impacts in the context of a plat amendment application. He believed they could mitigate the impacts without going through the Steep Slope CUP process, especially since the developer was given mixed messages.

Chair Strachan thought the greatest impacts and the ones that could be mitigated related to construction impacts, the driveway, and construction staging. He pointed out that the CUP process would get them to the same point they were at this evening, and many of the conditions that the Planning Commission would end up imposing had already been agreed to by the construction mitigation plan. If Mr. Fiat was willing to take all of the bullet points outlined on page 193 of the Staff report and make them conditions of approval to this plat amendment, Chair Strachan believed that would achieve the goal of mitigating the impacts.

Mr. Fiat agreed to what Chair Strachan was suggesting, and noted that he had originally suggested that it become a condition of approval.

Commissioner Melissa clarified that if the Commissioners agreed they would be removing Finding of Fact #13.

Commissioner Thimm concurred with Chair Strachan. He believed the LMC and the Planning Staff would enforce the mitigation of impacts. Commissioner Thimm liked the adage of the tie going to the runner. He appreciated Mr. Fiat's persistent effort.

Commissioner Band asked if they needed to add language to the construction mitigation plan to address the comment by Planning Manager Sintz that a specific system was in place to notify the neighbors if changes to the Plan occur. Planner Astorga pointed out that the condition should be removed entirely because those items would become conditions of approval and the Chief Building Official would not have the ability to amend the construction mitigation plan.

Chair Strachan suggested that the Planning Commission take a break and move to the next item on the agenda to give Planner Astorga the opportunity to draft the revised findings of fact and conditions of approval and bring it back to the Planning Commission for action this evening. The Commissioners concurred.

Chair Strachan noted that since the majority of the public were present for the LMC amendment regarding Vertical Zoning storefronts, the Planning Commission would move that to the next agenda item.

Commissioner Phillips returned to the meeting.

3. Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC), Chapter 15-2.6-2 Uses in Historic Commercial Business (HCB), and associated Definitions in Chapter 15-15 Defined Terms (Application PL-15-02810)

Planner Whetstone reviewed the proposed amendments to Chapter 2.5 and 2.6, as well as changes to the definitions in Chapter 15. The Staff recommended that the Planning Commission conduct a public hearing and continue the item to July 22nd to allow time for the Staff to consider input from both the Planning Commission and the public. Planner Whetstone stated that the Staff intends to provide noticing to the business owners prior to the July 22nd, meeting. She noted that every property owner within the area of the vertical zoning ordinance was noticed for this meeting; and it would be beneficial to hear from the businesses.

Planner Whetstone stated that Goal 16 in the General Plan stated, "To maintain Historic Main Street District as the heart of the City for residents and encourage tourism in the District." Objectives talk about limiting uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to passing pedestrians. Uses that should be discouraged included office space, real estate, show rooms, parking, etc. An implementation strategy is to re-examine the City's vertical zoning ordinance that requires commercial retail shops along Main Street and to consider strengthening that ordinance.

4. **Continued discussion on 259, 261, 263 Norfolk Avenue - Amending Conditions of Approval on Ordinance No. 06-55.**

Commissioner Phillips recused himself and left the room.

Planner Astorga stated that the findings and conditions could be revised for the Planning Commission to make a recommendation, but he did not feel the Staff could support it when it goes to City Council based on the fact that Lot 1 on the north has not been disturbed. Therefore, it met the Steep Slope CUP criteria then and the Staff finds that it would still meet the Steep Slope CUP criteria. Planner Astorga pointed out that the Planning Commission addressed a number of items regarding construction mitigation, but the Steep Slope CUP addresses volume, massing, and other items not related to construction mitigation. Planner Astorga stated that if the Planning Commission moves forward this evening, but he wanted the applicant to understand that the Staff would have an alternate recommendation for the City Council. He reiterated that as written in the Code, any development on a slope 30% or greater requires the applicant to submit a Steep Slope CUP application.

Chair Strachan suggested that the Planning Commission stay with their earlier plan to send it to the City Council and let the City Council make the final decision. City Attorney Harrington stated that an alternative would be to clarify that by removing Finding of Fact #13 the Planning Commission was not saying a CUP is or is not required. They were only removing it as a statement of fact and the actual determination would be made during the application when the property is surveyed. Mr. Harrington was unclear as to why so many iterations of determinations were made outside of the normal process.

Commissioner Joyce stated that part of the problem is that when the Planning Commission reviews a plat amendment and they have questions about what it will look like once it is built, often times that discussion is deferred because they know it will go through a CUP process and they will see it again with more detail. He thought it was evident from the minutes that the previous Planning Commission made the same decision thinking that it would be coming back for a Steep Slope CUP. Commissioner Joyce thought the question was whether it is less than 30% because it was disturbed or is it more than 30% because it was disturbed.

City Attorney Harrington understood the argument; however, a Staff determination prior to having a complete application is a preliminary guess and interpretation. In his opinion, the two conflicting letters bear less weight than a final action and a finding of fact and condition of approval that is not appealed by the current applicant at the time. Mr. Harrington recommended that the Planning Commission base their decision to remove the condition

for a steep slope CUP on the issues they have identified. At the same time, if the Planning Commission was affirmatively stating that a Steep Slope CUP is not required, that needs to be based on substantial evidence as well. Unless they have a complete application by which that determination is traditionally made, they did not have evidence in the record to make that determination.

Commissioner Campbell thought there was consensus among the Commissioners that the applicant was dealt an unfair hand because of the two letters. He suggested that the Planning Commission take a straw poll to let the applicant know there was support to move forward with the project and they should feel comfortable taking it to the next level of planning.

Commissioner Joyce understood from Mr. Harrington that the Commissioners could remove the Finding of Fact requiring a steep slope, without saying for certain whether or not there is a need for a Steep Slope CUP. If the survey determines that it is a steep slope, then it would come back to the Planning Commission. Commissioner Joyce preferred that approach rather than taking a straw poll. Commissioner Band concurred. Commissioner Worel favored removing Finding #13.

Mr. Fiat stated that there was a finding of fact that it was steep sloped based on a survey that was given when a house was still on the property; and he did not question or comment on it. Then a complete application was submitted and they followed the process to build a house. At that point they received a letter stating that the applicant needed to go through a steep slope CUP. He questioned it at that time and met with the Planner Astorga and former Planning Director Eddington to explain why they disagreed with the determination. After looking through survey and hearing the explanation, Planner Astorga and Director Eddington agreed that it was altered grade and that all the grades were under 30%. Mr. Fiat pointed out that they had followed the correct process and that the second letter was not a letter of confusion. The Planning Department was aware of both letters and they responded with the awareness of both letters. Mr. Fiat remarked that what the Planning Department was not aware of was the finding of fact in the ordinance that it was steep slope, and that is the part that was out of process. The finding of fact from 2006 was not the normal process because it could be easily determined that a lot is not steep slope, but what cannot be determined is whether or not it requires a CUP. Mr. Fiat explained that the criteria for a Steep Slope CUP is whether it or not it is more than 30% grade measuring a 15% distance where the lot is being disturbed. The lot might have a very steep section but that does not mean it requires a Steep Slope CUP. In his opinion, saying that it is a Steep Slope CUP was wrong in that process. Mr. Fiat thought they had been dealt an unfair hand, but he was willing to follow what Mr. Harrington had suggested. His concern was prolonging the process further.

Chair Strachan informed Mr. Fiat that there was only so much the Planning Commission could do under the Code, but they would try to do the best they could to move this forward; recognizing that it might not be as far as Mr. Fiat would like.

Chair Strachan understood from the comments that if they were to strike Finding of Fact #13 and incorporate the conditions of approval that Planner Astorga had drafted during the break, the Planning Commission could be in a position to make a viable motion. The Commissioner concurred.

Commissioner Band understood that the only revisions were to add the construction mitigation plan to the conditions of approval and to strike Finding #13. Planner Astorga replied that other findings also needed to be removed.

The Commissioners reviewed and amended the findings and conditions and made additional corrections. Findings 23 and 24 were removed. Findings 4 and 5 were removed from the 2006 Ordinance No. 06-55.

Condition of Approval #4 was revised to read, "An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way. No access and/or staging shall take place north of a line perpendicular to platted Norfolk Avenue from the northeast corner of 263 Norfolk."

Finding #4 was revised to read, "There is sufficient area on the Lots and the obtained temporary construction easement to conduct construction staging.

Condition #7 was revised to require an existing conditions landscape plan and a survey of the staging plan. Condition #8 was deleted as written and replaced with a new Condition #8 adding the construction mitigation plan in condition format.

Planner Astorga clarified that if the survey reflects 30% or greater slopes, it would be tied to specific LMC criteria. He was told this was correct. Commissioner Joyce pointed out that if the natural grade has been disturbed he believed the numbers would be subjective. Based on earlier comments by his fellow Commissioners, if it is subjective the applicant should be given the benefit of the doubt.

Planner Astorga explained that the next step would be for the applicant to record a document indicating these specific conditions of approval. They would then have to submit for a HDDR, which they would be required to submit a survey with the site plan over that survey to conduct the analysis. The question was whether the 2006 survey would be utilized or whether it should be an updated survey since the demolition of the triplex. Mr. Fiat remarked that he already an updated survey. He did not believe they could interpret

anything from the survey because it is just a hole in the ground. Planner Astorga requested that Mr. Fiat provide the updated survey to the Planning Department.

Mr. Fiat was confused about the process. He understood that this would not be a plat recording that requires signatures from the City Engineer, the City Attorney and the Mayor. Planner Astorga replied that it was a full plat. This was done before with an amendment for Risner Ridge. It followed plat format but there were two or three plat notes in the middle without technical drawings that said these conditions of approval shall apply. He had spoken with the Legal Department and the City has consistently followed specific amendments to plats that need to have notes added. Mr. Fiat asked if he needed to prepare a plat. Chair Strachan answered yes.

Chair Strachan agreed that the numbers from the survey would be subjective, but he did not think there was a mechanism to give the benefit of the doubt to the applicant if the Staff concludes that the slope is greater than 30%. Commissioner Joyce agreed that if the determination is that the slope is greater than 30% it should be a Steep Slope CUP without question. However, he believed it would come down to guessing the natural slope of the land. Chair Strachan remarked that the Staff and the applicant were better experienced than the Planning Commission to gather the evidence and find the answer. Commissioner Thimm assumed that Commissioner Joyce's comment was duly noted by Staff in the event that the percentage is slightly close to 30%.

Commissioner Campbell thought it was important that the Planning Commission stay within the bounds of what they are allowed to do, and they do not have the ability to determine steep slope. However, he believed they had the right to tell the applicant that if he has to come back with a CUP they will try to make it as painless as possible. Chair Strachan was uncomfortable making that statement because if the applicant comes back with an application that does not meet the Code they would be held to the same standards as anyone else. Commissioner Campbell agreed. His point was that they would try to move the process along as quickly as possible.

MOTION: Commissioner Melissa moved to forward a POSITIVE recommendation for 259, 261, 263 Norfolk Avenue – Consideration of the first amended Upper Norfolk Subdivision plat, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was recused.

Findings of Fact – 259/261/263 Norfolk Avenue

1. The properties are located at 259/261/263 Norfolk Avenue.

2. The three (3) proposed lots would share one (1) driveway.
3. The proposed lots are for the purposes of building single-family houses.
4. There is sufficient area on the Lots and the obtained temporary construction easement to conduct construction staging.
5. Norfolk Avenue is a substandard, narrow street on steep hillside.
6. On-street and off-street parking in the Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
7. Snow removal and emergency access to the Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
8. LMC § 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
9. In July 2006 the City Council approved the Upper Norfolk Subdivision plat by Ordinance 06-55.
10. The plat was recorded at Summit County on June 01 2007.
11. The property owners request to remove the following two (2) conditions of approval from Ordinance 06-55:
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
12. All other conditions of approval in Ordinance 06-55 will remain in effect.
13. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property.

14. The access was made possible through a temporary construction access easement agreement that expired in December 2009 and the owners have been unable to secure and extension of this easement.

15. The temporary construction access easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.

16. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement.

17. The proposed construction is to terminate in two (2) years or less as the easement agreement indicates such.

18. Cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.

19. The dimension of the Lots will not change with this Plat Amendment. The only change to the Upper Norfolk Subdivision by this First Amended Upper Norfolk Subdivision will be the plat notes and conditions of approval as contained herein.

20. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include:

- The lots are to be used for the construction of single family houses.
- A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit.
- A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

21. Staff recommends adding a condition of approval that indicates that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

22. The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items to be addressed at this time.

Conclusions of Law – 259/261/263 Norfolk Avenue

1. There is good cause for this Plat Amendment to amend the conditions of approval of executed ordinance no. 06-55 and add notes to the plat due to the expiration of the recorded temporary construction access easement.
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 – 259/261/263 Norfolk Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The remaining conditions of approval from Ordinance No: 06-55 shall continue to apply.
 - The lots are to be used for the construction of single-family houses
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots
4. An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way. No access and/or staging shall take place north of a line perpendicular to platted Norfolk Avenue from the northeast corner of 263 Norfolk.
5. Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
6. Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the

easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.

7. The applicant shall submit a detailed existing conditions landscape plan and survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

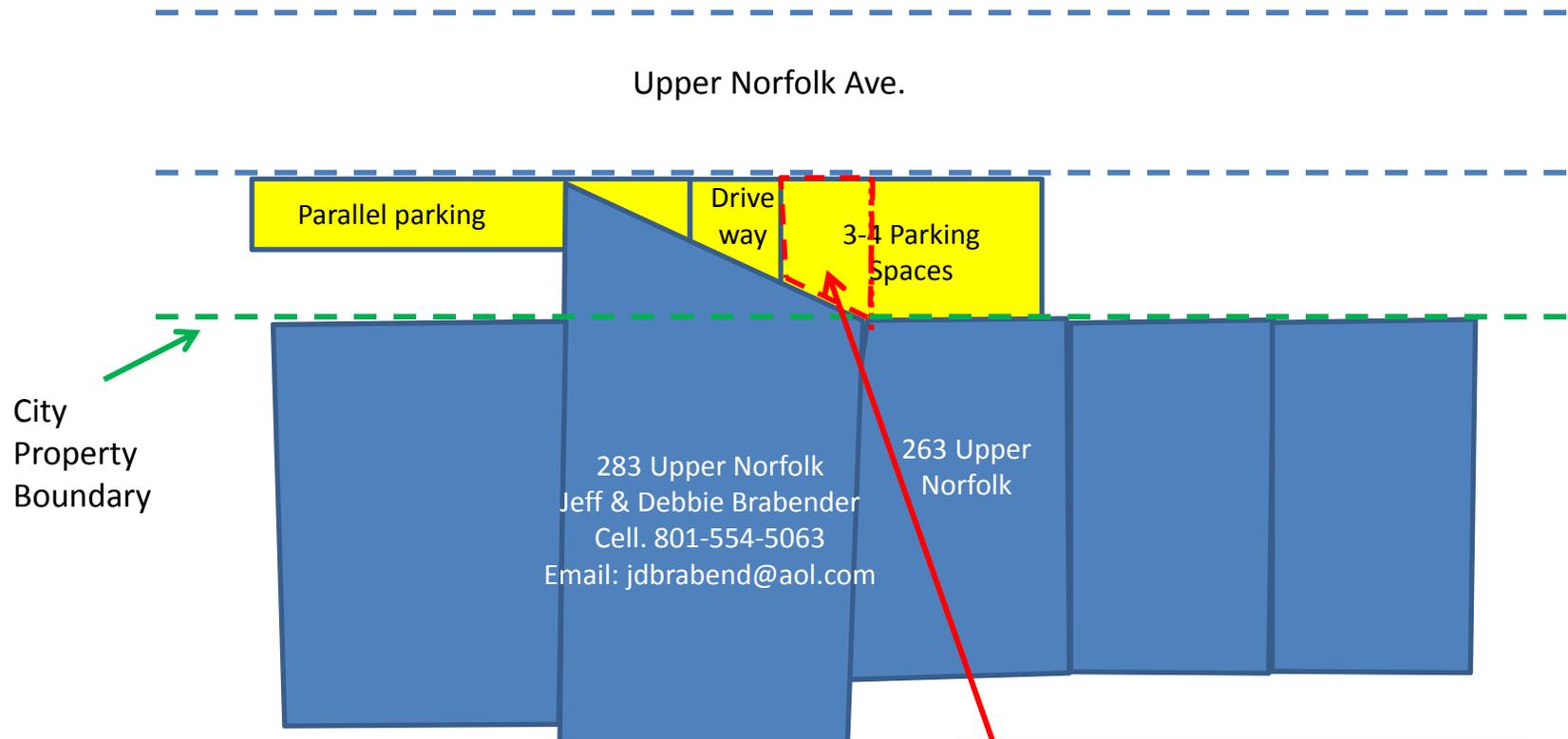
8. Planning Commission Conditions:

- a. The applicant shall request to build all three (3) units at the same time.
- b. Staging area has been secured along the rear of the properties of approximately 2,000 square feet.
- c. Materials shall not be staged on the street.
- d. No parking shall be permitted anywhere other than on the shared private drive and on the lots themselves. Neighborhood parking space shall not be used. The applicant shall not request any street parking passes.
- e. No vehicles shall back up or down Upper Norfolk as there is sufficient room to turn all the vehicles around.
- f. The applicant shall store spoils from the excavation and reuse it for back fill to reduce the loads out of the site.
- g. The applicant shall encourage car-pooling to further reduce traffic.
- h. The applicant shall not allow any vehicles to queue on Upper Norfolk
- i. No road closures other than utility upgrades shall be needed
- j. All deliveries and unloading shall be off the shared driveway, and shall not block the street.
- k. All other normal Construction Mitigation Plan requirements in Old Town shall apply.

5. **Land Management Code Amendments regarding 1) Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16; 2) Annexations procedure and review in Chapter 8; 3) Non-conforming uses and non-complying structures in Chapter 9; 4) Definitions of carports, essential municipal and public utilities, facilities, and uses and others in Chapter 15; 5) Applicability of Steep Slope Conditional Use Permits in HRL, HR-1, and HR-2; 6) Conditional Use Permit review and site requirements in HRM Section 15-2.; 7) Board of Adjustment standard of review and appeals in Chapter 1 and Chapter 10; and 8) Combination of condominium units procedure in Chapter 7. (Application PL-14-02595)**

Commissioner Phillips returned to the meeting.

Approximate Plat of Upper Norfolk Around Addresses 283 & 263



Area of Interest:
The purpose of submitting this file is to advise the city that I have an interest in preserving the city property directly in front of my house as-is. I do not support the potential repurposing of the property as driveway access to the lots adjacent to me.



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

Executive Summary

The Planning Staff conducted an annual review of the Land Management Code (LMC) and the Planning Commission forwarded a positive recommendation on these amendments to the City Council for consideration. This annual review includes various administrative and substantive items to align the LMC with State Code, to address issues and inconsistencies that have come up over the past year, and to address specific goals of the newly adopted Park City General Plan. Proposed amendments include the following:

- Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, HRM- Chapter 2.4, and RC Chapter 2.16;
- Applicability of Steep Slope Conditional Use Permits in HRL, Chapter 2.1, HR-1 Chapter 2.2, and HR-2 Chapter 2.3;
- Combination of condominium units procedure in Chapter 7;
- Annexations procedure and review in Chapter 8;
- Non-conforming uses and non-complying structures in Chapter 9; and
- Board of Adjustment standard of review and appeals in Chapters 1 and 10

Staff recommends the City Council hold a public hearing and consider approving various amendments to the Land Management Code (LMC) as described in this report as part of the annual LMC review and update.

Staff also recommends the City Council continued the public hearing and discussion regarding 1) Chapter Fifteen (Definitions) and 2) Chapter 15-2.4-3 (HRM Zoning District) regarding applicability of Conditional Use Permits to a date uncertain. These items were noticed for review by the Council at this meeting, however additional time is required for Planning Commission review and recommendation.

Respectfully:

Kirsten Whetstone, Senior Planner



DATE: July 16, 2015

TO HONORABLE MAYOR AND COUNCIL

This application is a request for a one year extension of the May 8, 2014, City Council approval of the plat amendment to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision located at 2519 Lucky John Drive.

Respectfully:

Kirsten Whetstone, Senior Planner

City Council Staff Report



Subject: Extension of approval of Lots 30 and 31 of the Holiday Ranchettes Subdivision plat amendment
Author: Kirsten Whetstone, Senior Planner
Date: July 16, 2015
Type of Item: Administrative – Plat Amendment Extension of approval
Project Number: PL-15-02815 (extending PL-13-01980)

Summary Recommendations

Staff recommends the City Council hold a public hearing for the Lots 30 and 31 Holiday Ranchettes Subdivision plat amendment extension of approval, located at 2519 Lucky John Drive, and consider approving it based on the findings of fact, conclusions of law, and conditions of approval as found in the attached ordinance.

Description

Applicant: Costa Rican Ventures, LLC, owner
Applicant Representative: Marshall King, Alliance Engineering
Location: 2519 Lucky John Drive
Zoning: Single Family (SF) Residential District
Adjacent Land Uses: Residential and Open Space
Reason for Review: Extension of approvals require City Council approval

Executive Summary of the Proposal

The applicants are requesting a one year extension of the May 8, 2014, City Council approval of the plat amendment to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision located at 2519 Lucky John Drive. (Exhibit A- approved plat).

Acronyms used in this report

CCR- Conditions covenants and restrictions
HOA- Homeowner's Association
LMC- Land Management Code
SF- Single Family
SBWRD- Snyderville Basin Water Reclamation District

Purpose

The purpose of the Residential Single Family (SF) Zoning District is to:

- (A) Maintain existing predominately Single Family detached residential neighborhoods,
- (B) Allow for Single Family Development Compatible with existing Developments,
- (C) Maintain the character of mountain resort neighborhoods with Compatible residential design; and
- (D) Require Streetscape design that minimizes impacts on existing residents and reduces architectural impacts of the automobile.

Background

In 1974, the Holiday Ranchettes Subdivision plat (Exhibit B), was approved by Council and recorded. The subdivision was ultimately constructed in the neighborhood area now generally known as Park Meadows. Lots in the originally platted subdivision, in the vicinity of Lots 30 and 31, range in area from 0.96 acres to 1.77 acres with a majority of the lots being about one acre in area. There are few vacant lots left in this single family lot subdivision.

In August, 1999, John D. Cumming and Kristi Terzian, owners of Lots 30 and 31 of the Holiday Ranchettes Subdivision, were approved to combine Lots 30 and 31 into one parcel containing approximately 2 acres (Exhibit C). The 1999 approval was an administrative lot line adjustment approved by the Planning Director. Lot 30 (2545 Lucky John Drive) and Lot 31 (2519 Lucky John Drive) effectively became one lot with an address of 2519 Lucky John Drive. A single family house with an attached garage and a detached garage with a shared driveway are located on the lot (Exhibit D).

On July 8, 2013, the applicants applied to re-establish the previous lots. On July 18, 2013, the application was determined by staff to be complete.

On September 25, 2013, the Planning Commission reviewed the application and conducted a public hearing on the matter. Following public input and discussion by the Commission, the item was continued to a date uncertain to allow the applicant to meet with the Homeowner's Association (HOA) to understand their concerns. Issues raised at the public hearing included items related to CCR violations, landscaping maintenance, lack of communication between the owner and the HOA, and a concern that grading done on Lot 31 elevates existing grade for that lot and a future house would be taller as a result.

On February 18, 2014, the Planning Staff arranged a meeting between the HOA and the owner's representative. The applicant's representative provided a proposal to the HOA concerning the property and indicated what the owner intended to do with the property in the future. The owner acknowledges that in the future he does intend to sell the lot as a separate single family lot. The HOA requested a continuation to the next meeting to allow additional time to work issues out. The applicant agreed and on February 26th the Commission conducted a public hearing and continued the item to March 12, 2014.

On March 12, 2014, the Planning Commission conducted a public hearing and forwarded a positive recommendation to the City Council with a 4 to 2 vote. The first motion to continue the item failed on a 4 to 3 vote with the Chair breaking the tie.

City Council held a public hearing on April 24, 2014, and continued the item to May 8, 2014 at the applicant's request. On May 8, 2014, the City Council conducted a public hearing and voted to approve the plat amendment with conditions of approval as reflected in the Ordinance 14-18 (Exhibit E).

On April 8, 2015, the applicant submitted the final mylar to the City for recordation at Summit County. Due to the time required to obtain City signatures, the City was unable to record the plat prior to the May 8, 2015 expiration date. On May 8th the applicant

submitted a written request for an extension to provide the City additional time to obtain necessary City signatures and to record the plat at Summit County.

Analysis

According to Land Management Code § 15-7.1-6(C)(5) applicants may request time extensions of City Council plat amendment approvals by submitting in writing to the Planning Department prior to the expiration of the approval. The City Council may grant an extension to the expiration date when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the General Plan or the LMC in effect. Change in circumstance includes physical changes to the property or surroundings.

The plat amendment extension contains no modifications to the approved plat amendment and there have been no physical changes to the property or surroundings that would render the approval invalid. There have been no relevant changes to the Land Management Code since the approval. Therefore, Staff finds that the extension request meets the code criteria and recommends approval of the extension.

The following two conditions of approval required additional work to be done on the property prior to being able to record the plat:

1. Prior to recordation of this plat amendment, cross access easements for the shared driveway shall be recorded at Summit County and reflected on the plat. Cross access easements would not be required if the shared driveway is modified and the access encroachments are removed prior to plat recordation. *This has been done and is noted on the plat.*
2. Prior to recordation of the plat, any existing utilities that cross the common property line, shall be relocated as required by the utility providers (*this has been completed*). If relocation is not required, then encroachment easements shall be recorded at the County (*this is no longer applicable*).

This work caused a delay in getting the final mylar to the City, however the final signed mylar (signed by the owner, SBWRD, and Surveyor) was delivered to the City on April 8, 2015, one month prior to the expiration date of May 8, 2015. There were delays in obtaining Planning Commission Chair and City Engineer signatures and the plat was not forwarded to the City Attorney's until May 19, 2015, eleven days after the plat had expired. Due to the condition of approval which states that the plat is void if not recorded within one year of the approval, the City Attorney's Office did not have authority to sign off on the plat and forward to the County since the condition was not met. The condition reads as follows:

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.

On May 8, 2015, prior to 5pm, the applicant submitted a written request for an extension to allow the City additional time to obtain necessary signatures and time to record the

plat at Summit County.

Good Cause

Planning Staff finds good cause for the extension. The proposed plat re-establishes the original two-lot configuration. The proposed plat causes no nonconformities with respect to setbacks, lot size, maximum density, or otherwise. The proposed plat does not increase the original overall density of the Holiday Ranchettes Subdivision. All original drainage and utility easements shall be platted as they were on the original plat. New snow storage easements and easements to address shared access and encroaching utilities will be provided. Conditions regarding access from Holiday Ranch Loop are also re-instated with this plat.

Staff finds that the plat, as conditioned, will not cause undo harm on any adjacent property owner or any property within the subdivision because the proposal is consistent with the approved 1974 Holiday Ranchettes Subdivision plat, meets the requirements of the Land Management Code, and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements. Proposed conditions of approval require the applicant to provide to the City a letter from the HOA outlining concerns and recommendations regarding any proposed changes to the property, prior to issuance of any building permits. The CCRs include a site layout exhibit showing house, barn, and driveway locations.

The existing home is typical of the existing development in Park Meadows, and the subdivision will allow for another home of similar size to be built in the subdivision as originally planned when the Holiday Ranchettes Subdivision was approved. Shared driveways are encouraged by the LMC. The plat provides for a restriction of access to Lucky John Drive and protects the safe routes to school pedestrian and bike path from additional primary access across it.

Process

Approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This project has gone through an interdepartmental review. Staff wanted to assure that all originally platted easements were re-established and that all wet and dry utilities that cross over the proposed lot lines (water, sewer, and electricity) be relocated to be on the respective lots and not cross property lines, as required by individual utilities. Limiting access to Lucky John Drive was also discussed. Issues related to the existing grade and building height calculations were also brought up. These issues are included as conditions of approval. Shared access is permitted provided cross access easements are already recorded.

Notice

On July 2, 2015, the property was re-posted and notice of the extension request was mailed to property owners within 300 feet in accordance with the requirements in the LMC. Legal notice was also published in the Park Record on July 1, 2015, in accordance with the requirements of the LMC.

Public Input

No public input has been received on the extension request application at the time of writing this report. Staff received one phone call from a neighbor requesting clarification of the application.

Alternatives

- The City Council may approve the extension of approval for the Lot 30 and Lot 31 Holiday Ranchettes Subdivision replat, located at 2519 and 2545 Lucky John Drive, as conditioned or amended; or
- The City Council may deny the extension request and direct staff to make Findings for this decision; or
- The City Council may continue the discussion and provide direction to staff and the applicant regarding additional information required to make a recommendation.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

If the extension is not granted then the applicant will not be able to record the plat. The applicant could re-apply for the plat amendment. If the plat is not recorded, the lots will not be re-established and the two lots would remain as re-platted into one lot in 1999. This would also allow for an addition to the existing house to be proposed. A letter from the HOA would be required prior to building permit issuance as long as the HOA is registered with the City.

Recommendation

Staff recommends the City Council hold a public hearing for the Lots 30 and 31 Holiday Ranchettes Subdivision plat amendment extension of approval, located at 2519 Lucky John Drive, and consider approving it based on the findings of fact, conclusions of law, and conditions of approval as found in the attached ordinance.

Exhibits

Ordinance

Exhibit A- Approved plat

Exhibit B- Original Holiday Ranchettes Subdivision plat (1974)

Exhibit C- Existing plat (1999 lot line adjustment re-plat)

Exhibit D- Existing conditions survey

Exhibit E- Ordinance 14-18 from May 8, 2014 approval

Exhibit F- Applicant's request for extension

Ordinance No. 15-

AN ORDINANCE APPROVING AN EXTENSION OF ORDINANCE 14-18 AND THE MAY 8, 2014, APPROVAL OF THE RE-ESTABLISHMENT OF LOTS 30 AND 31 OF HOLIDAY RANCHETTES SUBDIVISION, LOCATED AT 2519 AND 2545 LUCKY JOHN DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of property located at 2519 and 2545 Lucky John Drive have petitioned the City Council for approval of a plat amendment to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision;

WHEREAS, proper legal notice was published in the Park Record according to requirements of the Land Management Code;

WHEREAS, the property was posted and notice was provided according to requirements of the Land Management Code;

WHEREAS, the Planning Commission held public hearings on September 25, 2013, February 26, 2014, and March 12, 2014 to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission forwarded a positive recommendation to City Council on March 12, 2014;

WHEREAS, the City Council, held a public hearing on April 24, 2014 and continued the item to May 8, 2014 at the applicant's request;

WHEREAS, on the City Council, held a public hearing on May 8, 2014, and approved the plat amendment; and

WHEREAS, on April 8, 2015, there was delivered to the City, one month prior to the expiration date of May 8, 2015, the final signed mylar plat for recordation; and

WHEREAS, due to the time required to obtain required City signatures, the City was unable to record the plat prior to the May 8, 2015 expiration date;

WHEREAS, on May 8, 2015, prior to 5pm, the applicant submitted a written request for an extension to allow the City additional time to obtain necessary signatures and to record the plat at Summit County; and

WHEREAS, the plat amendment extension contains no modifications to the approved plat and there have been no changes that would render the approval invalid; and

WHEREAS, there have been no relevant changes to the Land Management Code since the approval and Staff finds that the findings of fact, conclusions of law and conditions of approval from the approved plat amendment are still valid; and

WHEREAS, there is good cause for the extension request and it is in the best interest of Park City, Utah to approve the plat amendment extension as conditioned below.

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 extension request for the approval of the re-establishment of Lots 30 and 31 Holiday Ranchettes Subdivision plat amendment, located at 2519 and 2545 Lucky John Drive, as shown in Exhibit A, is approved subject to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Findings of Fact

1. The property is located at 2519 and 2545 Lucky John Drive in the Single-Family (SF) zoning district.
2. The property consists of a two-acre lot, known as Lot 1 of the 2519 Lucky John Drive Replat approved and recorded on September 2, 1999. Lot 1 was created when a lot line adjustment removing the common lot line between Lots 30 and 31 of the Holiday Ranchettes Subdivision (recorded on May 31, 1974) was approved and recorded at Summit County on September 2, 1999.
3. The owners wish to re-establish the original platted lot configuration of Lots 30 and 31 of the 1974 Holiday Ranchettes Subdivision.
4. Each lot will be one-acre in area, consistent with the 1974 Holiday Ranchettes Subdivision platted configuration.
5. The proposed density for this plat amendment is one (1) dwelling unit per acre.
6. There are no house size limitations within the Holiday Ranchettes subdivision.
7. The minimum setback requirements are twenty feet (20') for the front yard and twelve feet (12') for the side yards. Front facing garages require a twenty-five (25') foot front setback. The rear setback requirement of fifteen feet (15') is not applicable due to the double frontage nature of both lots.
8. There is an existing single family house on Lot 30 that complies with all required setbacks.
9. There is an existing garage/storage structure built on Lot 31 that complies with all required setbacks.
10. Both Lots 30 and 31 have double frontage onto Lucky John Drive and Holiday Ranch Loop Road. The 1974 Holiday Ranchettes Subdivision plat includes notes restricting access from Lucky John Drive.
11. The pattern of development in the neighborhood includes primary access to these double frontage lots from Lucky John Drive and not from Holiday Ranch Loop Road, providing consistent building setback areas along Lucky John Drive and Holiday Ranch Loop.
12. The plat provides for a restriction of access to Lucky John Drive and protects the safe routes to school pedestrian and bike path from additional primary access across it.
13. A shared driveway provides access to Lots 30 and 31.
14. The LMC (Section 15-3-3 (H)) states that shared driveways are strongly recommended. Shared driveways decrease impervious surface, and storm water run-off. Shared drives provide for greater landscaping/open space areas and provide

opportunities for designs that lessen visual impacts of garages, while decreasing the number of curb cuts on streets. Shared driveways necessitate access easements and maintenance agreements between property owners.

15. The proposed plat re-establishes the original two-lot configuration.
16. The proposed plat causes no nonconformities with respect to setbacks, lot size, maximum density, or otherwise.
17. All original drainage and utility easements will be re-established.
18. New snow storage easements and easements to address shared access and encroaching utilities will be provided.
19. Conditions banning access from Holiday Ranch Loop will be re-instated with this plat.
20. There is Good Cause to approve the proposed plat amendment as conditioned as the plat amendment does not cause undo harm on any adjacent property owners, the built conditions are consistent with requirements of the Land Management Code, future development will be reviewed for compliance with requisite Building and Land Management Code requirements with review by the HOA, cross access easements and utility relocation and/or utility easements will be recorded to resolve encroachment issues, and public snow storage easements will be provided along Lucky John Drive and Holiday Ranch Loop Road.
21. The proposed plat, as conditioned, is consistent with the approved 1974 Holiday Ranchettes Subdivision plat, meets the requirements of the Land Management Code.
22. Proposed conditions of approval require the applicant to provide to the City a letter from the HOA outlining concerns and recommendations regarding any proposed changes to the property, prior to issuance of any building permits.
23. The existing house is typical of the existing development in Park Meadows, and the subdivision will allow for another home of similar size to be built in the subdivision as originally planned when the Holiday Ranchettes Subdivision was approved.
24. On March 12, 2014, the Planning Commission conducted a public hearing and forwarded a positive recommendation to the City Council.
25. On April 24, 2014, the City Council held a public hearing and continued the item to May 8th at the applicant's request.
26. On May 8, 2014, the City Council approved the requested plat amendment.
27. On April 8, 2015, the applicant submitted the final mylar to the City for recordation at Summit County.
28. Due to the time required to obtain required City signatures, the City was unable to record the plat prior to the May 8, 2015 expiration date
29. On May 8, 2015, prior to 5pm, the applicant submitted a written request for an extension to allow the City additional time to obtain necessary signatures and to record the plat at Summit County.

Conclusions of Law

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

4. The applicant demonstrated no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the General Plan or the LMC in effect.
5. The plat amendment extension request contains no modifications to the approved plat amendment and there have been no physical changes to the property or surroundings that would render the approval invalid.
6. There have been no relevant changes to the Land Management Code since the approval.
7. The findings of fact, conclusions of law and conditions of approval from the May 8, 2014, City Council approval and Ordinance 14-18 are still valid, as repeated in this Ordinance.

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. Prior to making any physical changes to the property and prior to occupancy of the detached garage located on Lot 31, for any use other than as a detached garage and storage building, the applicant shall meet with the HOA (provided that there is an established HOA at the time of the building permit application) and shall provide to the City, with any building permit application, a detailed letter from the HOA outlining the HOA's concerns and recommendations with said building permit application. This is noted on the plat.
4. A certificate of occupancy, issued by the City, is a condition precedent to occupation of the garage on Lot 31 for any use other than as a detached garage or storage building. This is noted on the plat.
5. Any construction on Lots 30 and 31 shall use the original existing grade (USGS topography that existing prior to any construction on the lots) in the calculation of Building Height. This is noted on the plat.
6. The garage structure on Lot 31 may not be used as a dwelling unit until separate utilities and sewer services are provided for this lot, as required by the various utility providers, and until a certificate of occupancy is issued by the City. Utility work, including grading and landscape changes, requires a building permit. A letter from said HOA, stating that the HOA is aware of the proposed work and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for this work. This is noted on the plat.
7. Prior to recordation of this plat amendment, cross access easements for the shared driveway shall be recorded at Summit County and reflected on the plat. Cross access easements would not be required if the shared driveway is modified and the access encroachments are removed prior to plat recordation. This has been done and is noted on the plat.
8. Prior to recordation of the plat, any existing utilities that cross the common property line, shall be relocated as required by the utility providers (this has been completed).

If relocation is not required, then encroachment easements shall be recorded at the County.

9. Prior to proposed construction on Lots 30 and 31, including additions, remodels, driveway re-locations, grading, landscaping, fencing, and any other construction that requires a permit from the City, a letter from said HOA, stating that the HOA is aware of the proposed work, and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for utility work. This is noted on the plat.
10. No access to Lots 30 and 31 is permitted from Holiday Ranch Road. This is noted on the plat.
11. A ten foot (10') wide public snow storage easement is required along the frontage of the Lots on both the Holiday Ranch Road and Lucky John Drive frontages. This easement is on the plat.
12. A note shall be added to the plat that modified 13-D sprinklers will be required for new construction as required by the Chief Building Official at the time of review of the building permit. This is noted on the plat.

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

PASSED AND ADOPTED this _____ day of July, 2015.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

Marci Heil, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

EXHIBIT A



SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938730, as prescribed by the laws of the State of Utah, and that by authority of the owner, I have prepared this Record of Survey map of LOTS 30 & 31, HOLIDAY RANCHETTES and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

2519 LUCKY JOHN DRIVE REPLAT FKA Lots 30 and 31, Holiday Ranchettes Subdivision, according to the official plat thereof on file and of record in the Summit County Recorder's office.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that the undersigned owner of the herein described tract of land, to be known hereafter as LOTS 30 & 31 HOLIDAY RANCHETTES, does hereby certify that it has caused this Re-establishment of the Original Plat of Lots 30 and 31, Holiday Ranchettes Subdivision, to be prepared, and Costa Rican Ventures, LLC, a Nevada limited liability company, hereby consents to the recordation of this Re-establishment of the Original Plat of Lots 30 and 31, Holiday Ranchettes Subdivision.

In witness whereof, the undersigned set her hand this 27 day of April, 2015.

Kirsten Lonkowsky
Costa Rican Ventures, LLC, a Nevada limited liability company
Kirsten Lonkowsky, Manager

ACKNOWLEDGMENT

State of NEVADA
County of CLARK

On this 27th day of APRIL, 2015, Kirsten Lonkowsky personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Kirsten Lonkowsky acknowledged to me that Costa Rican Ventures, LLC, a Nevada limited liability company, is the owner of the herein described tract of land and that she, as manager of Costa Rican Ventures, LLC, a Nevada limited liability company, is authorized to sign the above Owner's Dedication and Consent to Record freely and voluntarily.

Gary S. Gubitz
Notary Public
Printed Name GARY S. GUBITZ
Residing in: CAS VEGAS, NEVADA
My commission expires: 9-22-2015

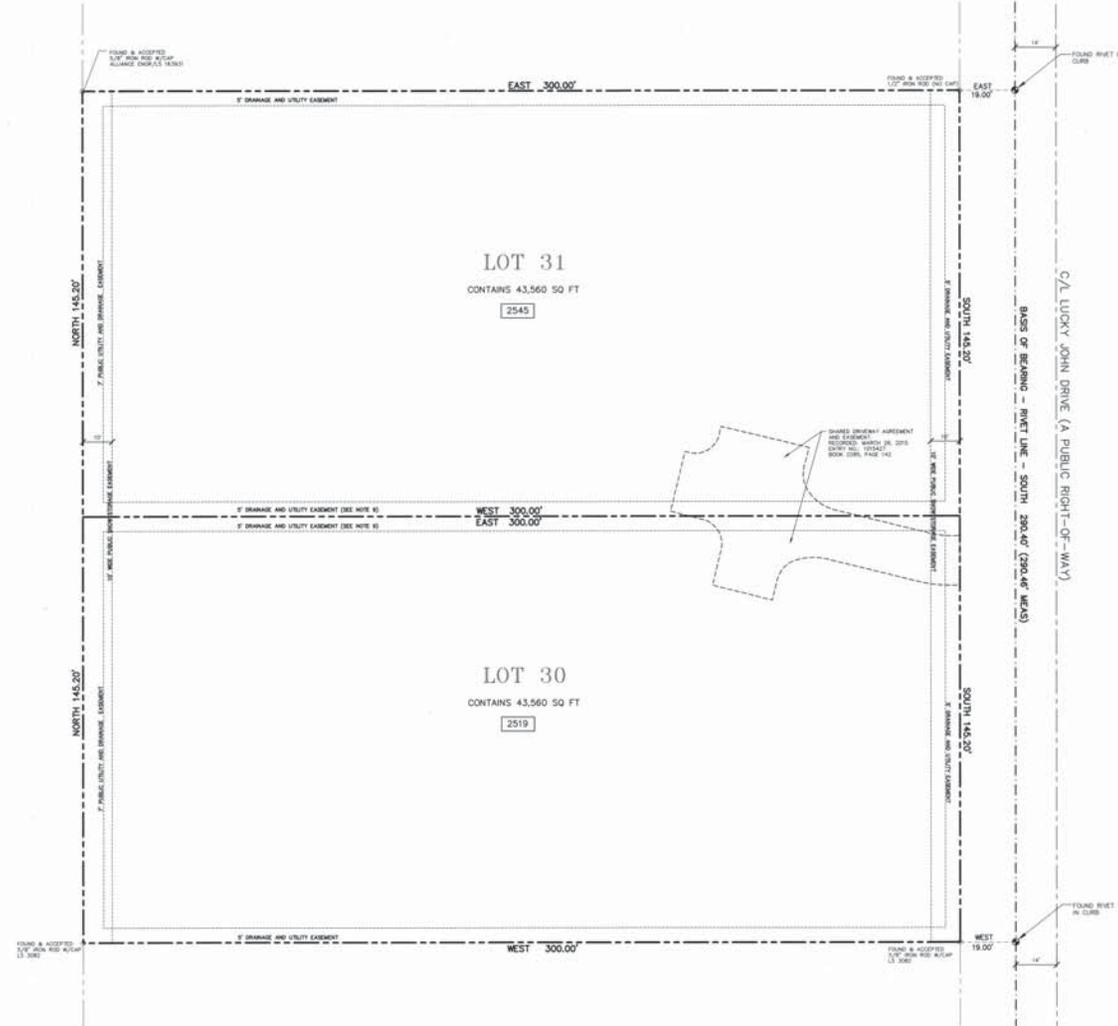


NOTES

- XXXX Street address on Lucky John Drive
- No access to Lots 30 and 31 is permitted from Holiday Ranch Loop Road.
- This plat is subject to the Conditions of Approval in Ordinance 14-18.
- Prior to making any physical changes to the property and prior to occupancy of the detached garage located on Lot 31, for any use other than as a detached garage and storage building, the applicant shall meet with the HOA (provided that there is an established HOA at the time of the building permit application) and shall provide to Park City Municipal Corporation (PCMC), with any building permit application, a detailed letter from the HOA outlining HOA concerns and recommendations with said building permit application.
- A certificate of occupancy, issued by PCMC, is a condition precedent to occupation of the garage on Lot 31 for any use other than as a detached garage or storage building.
- Any construction on Lots 30 and 31 shall use the original existing grade (USGS topography that was existing prior to any construction on the lots) in the calculation of building height.
- The garage on Lot 31 may not be used as a dwelling unit until separate utilities and sewer services are provided for this lot, as required by the various utility providers, and until a certificate of occupancy is issued by PCMC. Utility work, including grading and landscape changes, requires a building permit. A letter from the HOA, stating that the HOA is aware of the proposed work and outlining any concerns and recommendations, shall be provided to PCMC prior to issuance of any permits for utility work.
- 13-D fire sprinklers are required for new construction as required by the Chief Building Official at the time of review of a building permit.
- Existing drainage and utility assessment as shown on the Holiday Ranchettes Subdivision Plat.
- Prior to proposed construction on Lots 30 and 31, including additions, remodels, driveway re-locations, grading, landscaping, fencing, and any other construction that requires a permit from the City, a letter from said HOA, stating that the HOA is aware of the proposed work, and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for utility work.

RE-ESTABLISHMENT OF THE ORIGINAL PLAT OF LOT 30 AND LOT 31, HOLIDAY RANCHETTES SUBDIVISION LOTS 30 & 31 HOLIDAY RANCHETTES

LOCATED IN SECTION 4
TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE
AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH



SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS 24th DAY OF April, 2015
BY *[Signature]*
S.B.W.R.D.

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 12th OF MARCH, 2014
BY *[Signature]*
CHAIR

ENGINEER'S CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 27th DAY OF April, 2015
BY *[Signature]*
PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____, 2015
BY _____
PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2015
BY _____
PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 8th DAY OF MAY, 2014
BY _____
MAYOR

RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF _____
DATE _____ TIME _____ ENTRY NO. _____
FEE _____ RECORDER _____

Packet Pg. 188

ALLIANCE CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 West Street P.O. Box 2884 Park City, Utah 84002-2884
(435) 648-6487

EXHIBIT B

SURVEYOR'S CERTIFICATE

I, JAMES G. WEST DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO 3082 AS PROVIDED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY THE AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACTS OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND STRAITS, HEREIN KNOWN AS HOLIDAY RANCHETTES SUBDIVISION AND THIS SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT.

March 8 1973
DATE

James A. West
JAMES G. WEST, SURVEYOR

NOTE:
All lots have a 2-foot drainage of utility easement on their lot and are set back 7.0 feet from utility easement on each lot lines as shown.



ACKNOWLEDGMENT

STATE OF CALIFORNIA }
COUNTY OF SAN FRANCISCO }
ON THIS 22ND DAY OF MARCH AD 1973 PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, W. SCOTT WARD SECOND VICE-PRESIDENT AND JAMES M. DONNELL VICE-PRESIDENT, WHO AFTER BEING DULY SWORN ACKNOWLEDGED TO ME THAT THEY ARE THE SECOND VICE-PRESIDENT AND THE VICE-PRESIDENTS OF WESTERN MORTGAGE COMPANY A DIVISION OF UNIONBANKERS INC. A CALIFORNIA CORPORATION, THAT THEY HAVE THE OWNERS' EXECUTION POWER AND VOLUNTARILY COME AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSE THEREIN MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

James G. West
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 21 1975
RESIDING IN SAN MATEO COUNTY, CALIF.

ACKNOWLEDGMENT

STATE OF UTAH }
COUNTY OF SUMMIT }
ON THIS 22ND DAY OF MARCH AD 1973 PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, W. SCOTT WARD SECOND VICE-PRESIDENT AND JAMES M. DONNELL VICE-PRESIDENT, WHO AFTER BEING DULY SWORN ACKNOWLEDGED TO ME THAT THEY ARE THE SECOND VICE-PRESIDENT AND THE VICE-PRESIDENTS OF WESTERN MORTGAGE COMPANY A DIVISION OF UNIONBANKERS INC. A CALIFORNIA CORPORATION, THAT THEY HAVE THE OWNERS' EXECUTION POWER AND VOLUNTARILY COME AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSE THEREIN MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

James G. West
NOTARY PUBLIC
MY COMMISSION EXPIRES 11-1-76
RESIDING IN SUMMIT COUNTY, UTAH

ACKNOWLEDGMENT

STATE OF UTAH }
COUNTY OF SUMMIT }
ON THIS 22ND DAY OF MARCH AD 1973 PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, J. WARREN KING PRESIDENT AND JACK J. JOHNSON VICE PRESIDENT WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT THEY ARE THE PRESIDENT AND VICE-PRESIDENT OF GREATER PARK CITY COMPANY A UTAH CORPORATION, THAT THEY SIGNED THE FINANCIAL DECLARATION FREELY AND VOLUNTARILY AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSE THEREIN MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

James G. West
NOTARY PUBLIC
MY COMMISSION EXPIRES 11-1-76
RESIDING IN SUMMIT COUNTY, UTAH

ACKNOWLEDGMENT

STATE OF UTAH }
COUNTY OF SUMMIT }
ON THIS 11th DAY OF APRIL AD 1973 PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED Notary Public in and for said State and County Edgar B. Stern Jr., Chairman of the Board and Robert W. Wells Assistant Treasurer, who after being duly sworn, acknowledged to me that they are the Chairman of the Board and the Assistant Treasurer of Royal Street Corporation, a Louisiana Corporation, that they signed the Owners' Declaration freely and voluntarily for and in behalf of said Corporation for the purpose therein mentioned and that said Corporation executed the same.

James G. West
NOTARY PUBLIC
My Commission Expires 6-1-77
Residing in Summit County, Utah

PREPARED BY
GREATER PARK CITY CO.
BOX 39
PARK CITY, UTAH
84060
PHONE 649-8111

CITY PLANNING COMMISSION
APPROVED AND ACCEPTED BY THE
PARK CITY PLANNING COMMISSION
THIS 27th DAY OF MAY AD 1973

ENGINEERS CERTIFICATE
APPROVED AND ACCEPTED BY THE
PARK CITY ENGINEERING
DEPARTMENT THIS 27th
DAY OF MAY AD 1973

APPROVAL AS TO FORM
APPROVED AS TO FORM
THIS 27th DAY OF MAY
AD 1973

CERTIFICATE OF ATTEST
ATTEST THIS 11th DAY OF
MAY AD 1973

COUNCIL APPROVAL & ACCEPTANCE
APPROVED AND ACCEPTED BY THE
PARK CITY COUNCIL THIS 16th DAY
OF MAY AD 1973

RECORDED 123087
STATE OF UTAH COUNTY OF SUMMIT,
RECORDED AND FILED AT THE REQUEST OF:
Greater Park City Co.

DATE: 3.11.74 TIME: 10 BOOK PAGE
39.50
FEE \$
Wanda Y. Spang
SUMMIT COUNTY RECORDER

BY: STAN VINCENT

Victor A. Brook
CHAIRMAN

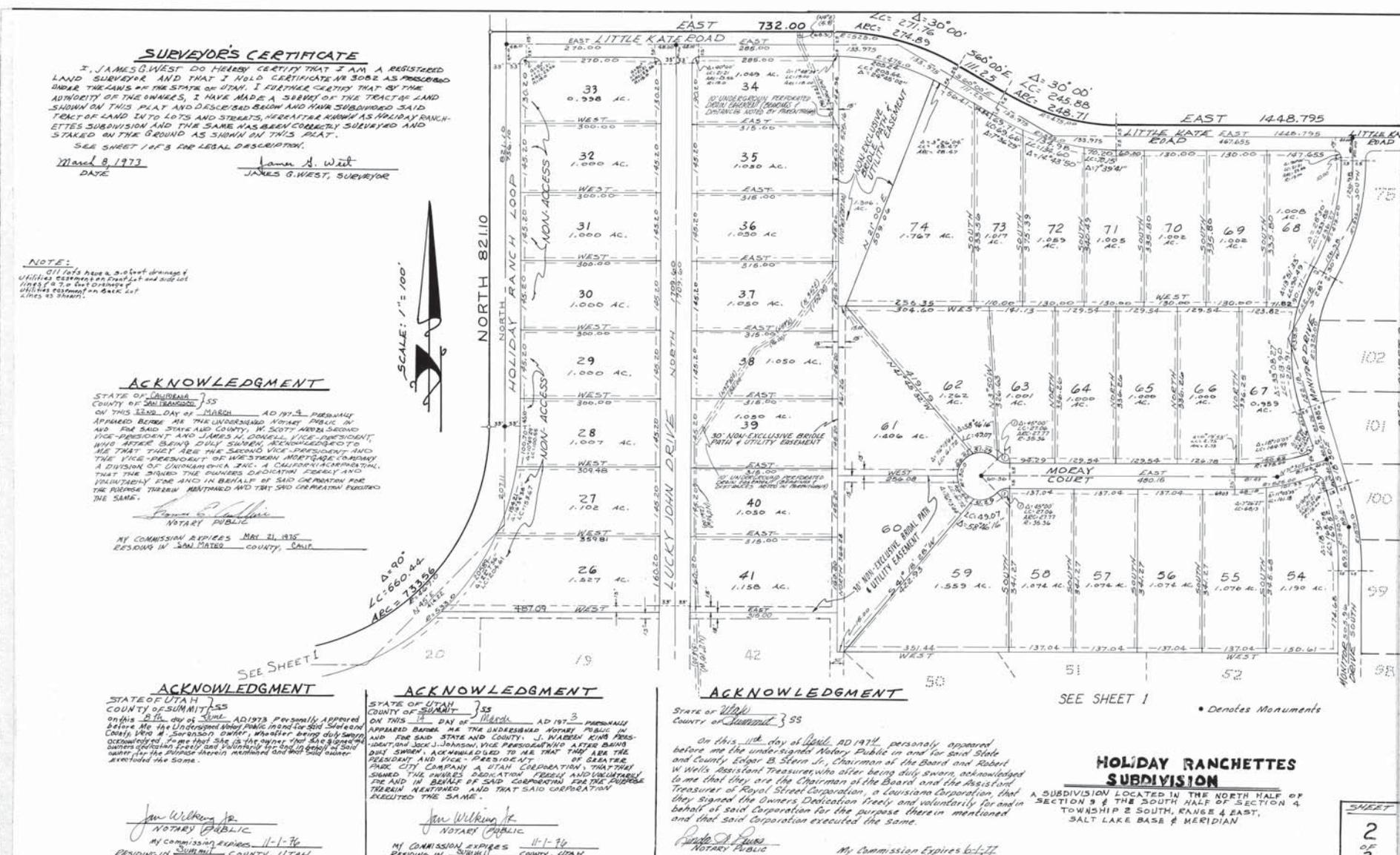
John G. Gortner
PARK CITY ENGINEER

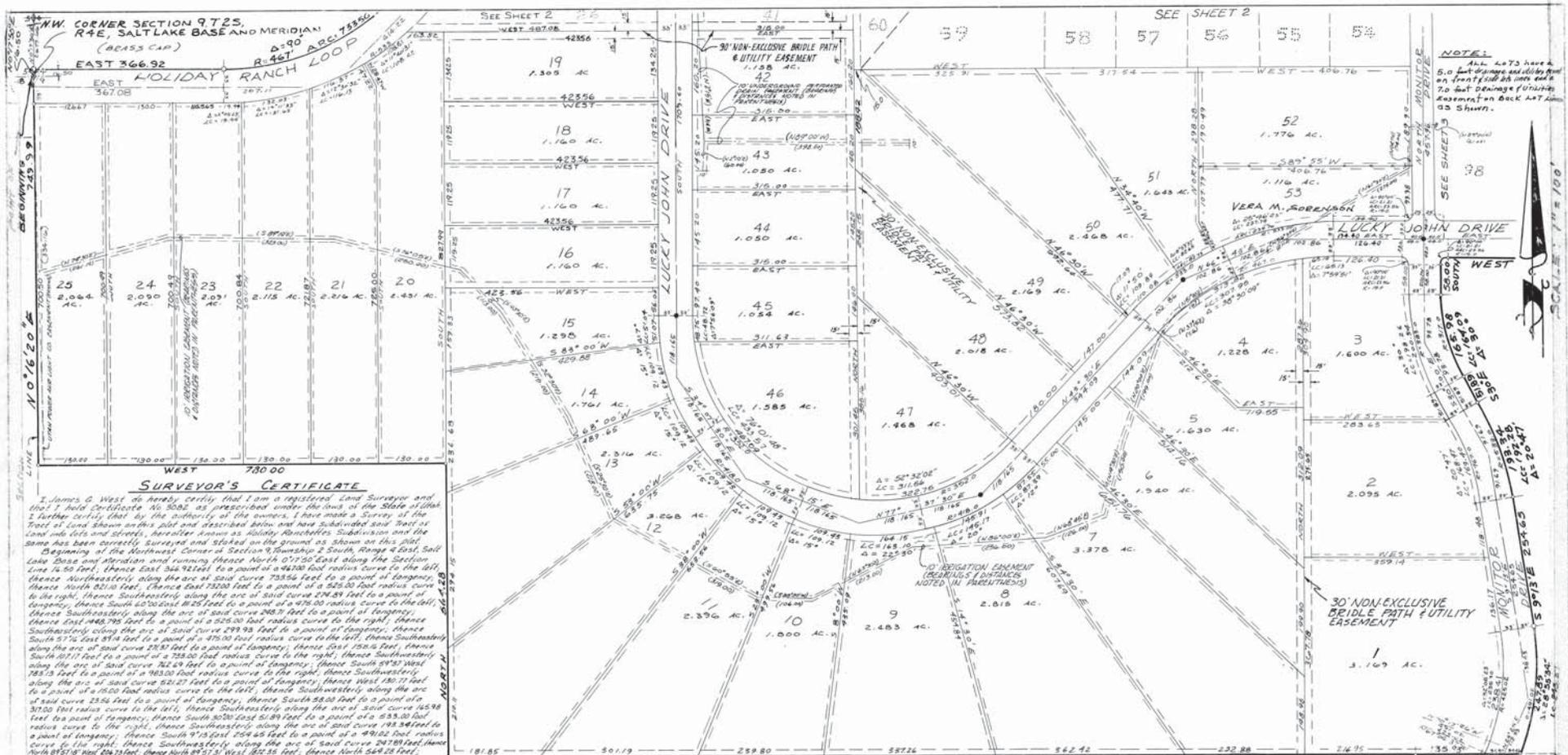
Paul C. Decker
PARK CITY ATTORNEY

Paul C. Decker
PARK CITY RECORDER

John P. Hill
MAYOR

SHEET
2
OF
3
SHEETS





NOTE:
 All lots have a 5.0 foot drainage and utility easement on front 500.00 feet and a 7.5 foot drainage and utility easement on back 400.00 feet.

SURVEYOR'S CERTIFICATE

I, James G. West, do hereby certify that I am a registered Land Surveyor and that I hold Certificate No. 5082, as prescribed under the laws of the State of Utah. I further certify that by the authority of the owners, I have made a Survey of the Tract of Land shown on this plat and described below and have subdivided said Tract of Land into lots and streets, hereafter known as Holiday Ranches Subdivision and the same has been correctly surveyed and staked on the ground as shown on this plat. Beginning at the Northwest Corner of Section 9, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence North 07°50' East along the Section Line 14.50 feet, thence East 334.92 feet to a point of a 487.00 foot radius curve to the left, thence Northeast along the arc of said curve 733.56 feet to a point of tangency, thence North 82°10' East, thence East 737.00 feet to a point of a 528.00 foot radius curve to the right, thence South 60°50' East 112.25 feet to a point of a 476.00 radius curve to the left, thence Southeast along the arc of said curve 298.77 feet to a point of tangency, thence East 448.78 feet to a point of a 252.00 foot radius curve to the right, thence South 57°15' East 81.91 feet to a point of a 475.00 foot radius curve to the left, thence Southeast along the arc of said curve 232.97 feet to a point of tangency, thence East 250.00 feet, thence South 60°11' East to a point of a 733.00 foot radius curve to the right, thence Southwesterly along the arc of said curve 742.89 feet to a point of tangency, thence South 89°37' West 787.13 feet to a point of a 743.00 foot radius curve to the right, thence Southwesterly along the arc of said curve 521.27 feet to a point of tangency, thence West 130.77 feet to a point of a 78.00 foot radius curve to the left, thence Southwesterly along the arc of said curve 23.84 feet to a point of tangency, thence South 58.00 feet to a point of a 30.00 foot radius curve to the left, thence Southwesterly along the arc of said curve 165.98 feet to a point of tangency, thence South 302.00 East 51.09 feet to a point of a 533.00 foot radius curve to the right, thence Southwesterly along the arc of said curve 182.94 feet to a point of tangency, thence South 97.00 feet to a point of a 494.00 foot radius curve to the right, thence Southwesterly along the arc of said curve 247.89 feet, thence North 81°51' West 224.25 feet, thence North 81°51' West 181.35 feet, thence North 54°25' East, thence West 780.00 feet, thence North 07°50' East 799.99 feet to the point of beginning. Contours 120-880 Acres.

OWNERS DEDICATION
 Know all men by these presents that we the undersigned owners of the herein described tract of land having caused same to be subdivided into lots and streets to be hereafter known as Holiday Ranches Subdivision do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use, in witness whereof we have hereunto set our hands this 11th day of April, AD 1974.

Witness my hand and seal this 11th day of April, AD 1974.

James G. West
 Surveyor
 License No. 5082

ACKNOWLEDGMENT

ACKNOWLEDGMENT

State of Utah } 55
 County of Summit }
 On this 11th day of April, AD 1974, I, James G. West, Surveyor, personally appeared before me the undersigned Notary Public in and for said State and County, W. Warren King, President and Jack J. Johnson, Vice President, who after being duly sworn acknowledged to me that they are the President and Vice President of Greater Park City Company, a Utah Corporation that they signed the Owners Dedication freely and voluntarily for and in behalf of said Corporation for the purpose therein mentioned and that said Corporation executed the same.

State of Utah } 55
 County of Summit }
 On this 11th day of April, AD 1974, I, James G. West, Surveyor, personally appeared before me the undersigned Notary Public in and for said State and County, Vera M. Sorenson, who after being duly sworn acknowledged to me that she is the owner, and that she signed the Owners Dedication freely and voluntarily for the purpose therein mentioned and that said owner executed the same.

My Commission Expires 11-1-76
 Notary Public

My Commission Expires 11-1-76
 Notary Public

PREPARED BY
 GREATER PARK CITY CO.
 Box 39
 Park City, Utah
 Phone 649-8111

CITY PLANNING COMMISSION
 APPROVED AND ACCEPTED BY THE
 PARK CITY PLANNING COMMISSION
 THIS 8th DAY OF MAY AD 1974

ENGINEERS CERTIFICATE
 APPROVED AND ACCEPTED BY THE
 PARK CITY ENGINEERING
 DEPARTMENT THIS 8th
 DAY OF MAY AD 1974

APPROVAL AS TO FORM
 APPROVED AS TO FORM
 THIS 10th DAY OF MAY
 AD 1974

CERTIFICATE OF ATTEST
 ATTEST THIS 16th DAY OF
 MAY AD 1974

COUNCIL APPROVAL & ACCEPTANCE
 APPROVED AND ACCEPTED BY THE
 PARK CITY COUNCIL THIS 16th DAY
 OF MAY AD 1974

REG. CODE 123387
 STATE OF UTAH, COUNTY OF SUMMIT
 RECORDED AND FILED AT THE REQUEST OF
 Greater Park City Company
 DATE 5.31.1974 TIME 2:10 BOOK PAGE
 37-50 2404 Springs
 FEB 2 A 3 SUMMIT COUNTY RECORDER

BY: STAN VINCENT

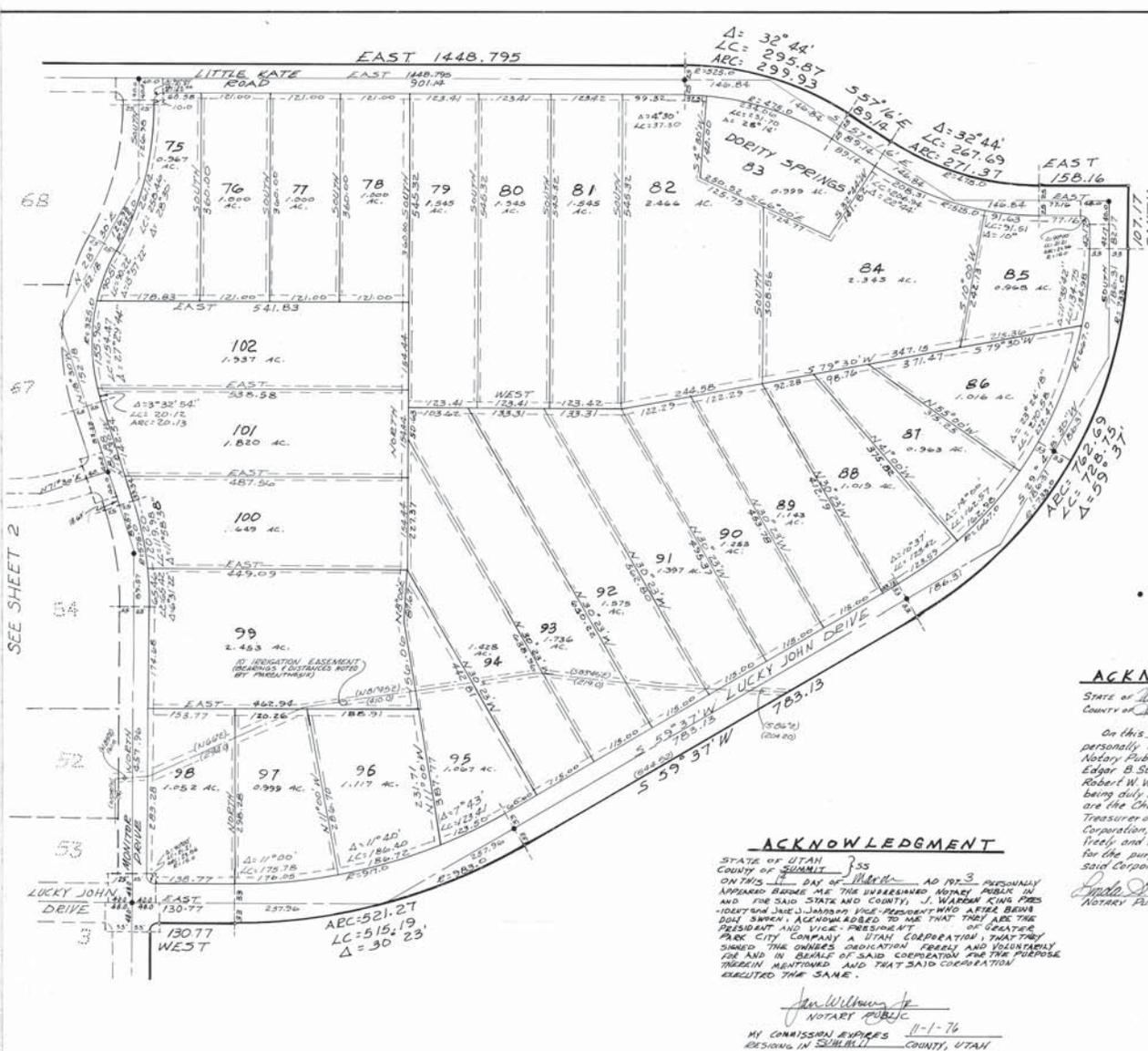
Walter C. Buch
 CHAIRMAN

John C. Jackson
 PARK CITY ENGINEER

Parsons
 PARK CITY ATTORNEY

Ernie E. Decker
 PARK CITY RECORDER

John Elmer
 MAYOR



SURVEYOR'S CERTIFICATE

I, JAMES G. WEST DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO 3082 AS PROVIDED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY THE AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND STREETS, HEREAFTER KNOWN AS HOLIDAY RANCHETTES SUBDIVISION AND THE SAME HAS BEEN CAREFULLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT.

SEE SHEET 1 OF 3 FOR LEGAL DESCRIPTION.

MAY 8, 1973
DATE

James G. West
JAMES G. WEST, SURVEYOR

NOTE:

All lots have a 3.0 foot drainage of utilities easement on front lot lines and a 10.0 foot drainage of utilities easement on back lot lines as shown.

ACKNOWLEDGMENT

STATE OF UTAH } 55
COUNTY OF SUMMIT }
On this 8th day of MAY, AD 1973, personally appeared before me the undersigned Notary Public in and for said State and County, W. Scott Hines, second vice-president, and James H. Donnell, vice-president, who after being duly sworn, acknowledged to me that they are the second vice-president and the vice-president of Western Mortgage Company, a Division of Union America Inc. a California Corporation, that they signed the owners' Declaration (hereinafter referred to as said Declaration) for the purpose therein mentioned and that said Corporation executed the same.

Notary Public
My Commission Expires MAY 21, 1975
Residing in SALT LAKE County, UTAH



ACKNOWLEDGMENT

STATE OF UTAH } 55
COUNTY OF SUMMIT }
On this 16th day of MAY, AD 1973, personally appeared before me the undersigned Notary Public in and for said State and County Edgar B. Stern Jr., Chairman of the Board, and Robert W. Wells, Assistant Treasurer, who after being duly sworn, acknowledged to me that they are the Chairman of the Board and the Assistant Treasurer of Royal Street Corporation, a Louisiana Corporation, that they signed the Owners' Declaration for the purpose therein mentioned and that said Corporation executed the same.

Notary Public
My Commission Expires 6-1-77
Residing in Salt Lake County, UTAH

ACKNOWLEDGMENT

STATE OF UTAH } 55
COUNTY OF SUMMIT }
On this 16th day of MAY, AD 1973, personally appeared before me the undersigned Notary Public in and for said State and County Vera M. Sorenson owner, who after being duly sworn, acknowledged to me that she is the owner that she signed the owners' Declaration (hereinafter referred to as said Declaration) for the purpose therein mentioned and that said Corporation executed the same.

Notary Public
My Commission Expires 11-1-76
Residing in SUMMIT County, UTAH

ACKNOWLEDGMENT

STATE OF UTAH } 55
COUNTY OF SUMMIT }
On this 16th day of MAY, AD 1973, personally appeared before me the undersigned Notary Public in and for said State and County, J. WARDEN KING PRESIDENT OF THE LUCKY JOHN DRIVE AREA HOME OWNERS ASSOCIATION, ACKNOWLEDGED TO ME THAT THEY ARE THE PRESIDENT AND VICE-PRESIDENT OF CREATORS PARK CITY COMPANY A UTAH CORPORATION, THAT THEY SIGNED THE OWNERS' DECLARATION FOR AND VOLUNTARILY FOR AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSE THEREIN MENTIONED AND THAT SAID CORPORATION EXECUTED THE SAME.

Notary Public
My Commission Expires 11-1-76
Residing in SUMMIT County, UTAH

HOLIDAY RANCHETTES SUBDIVISION

A SUBDIVISION LOCATED IN THE NORTH HALF OF SECTION 9 & THE SOUTH HALF OF SECTION 4 TOWNSHIP 2 SOUTH RANGE 4 EAST SALT LAKE BASIN & MERIDIAN

SHEET
3
OF
3
SHEETS

<p>PREPARED BY GREATER PARK CITY CO. BOX 39 84000 PHONE 649-8111</p> <p>DEC. 72 BY: STAN VINCENT</p>	<p>CITY PLANNING COMMISSION APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION THIS 8th DAY OF MAY, AD 1973</p> <p>Chairman</p>	<p>ENGINEERS CERTIFICATE APPROVED AND ACCEPTED BY THE PARK CITY ENGINEERING DEPARTMENT THIS 8th DAY OF MAY, AD 1973</p> <p>Park City Engineer</p>	<p>APPROVAL AS TO FORM APPROVED AS TO FORM THIS 16th DAY OF MAY, AD 1973</p> <p>Park City Attorney</p>	<p>CERTIFICATE OF ATTEST ATTEST THIS 16th DAY OF MAY, AD 1973</p> <p>Park City Recorder</p>	<p>COUNCIL APPROVAL & ACCEPTANCE APPROVED AND ACCEPTED BY THE PARK CITY COUNCIL THIS 16th DAY OF MAY, AD 1973</p> <p>Mayor</p>	<p>RECORDED 123347 STATE OF UTAH COUNTY OF SUMMIT, RECORDED AND FILED AT THE REQUEST OF: Greater Park City Co. DATE 5-23-74 TIME 2:10 BOOK - PAGE - 39,50 FILE 3 Wanda J. Springs SUMMIT COUNTY RECORDER</p>
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EXHIBIT C

SURVEYOR'S CERTIFICATE

I, John D. Williams, certify that I am a Registered Land Surveyor and that I have surveyed the above described land in accordance with the requirements of the Utah Land Surveying Act, Chapter 2, Title 20, Utah Code, and that the plat hereon is a true and correct copy of the original survey as shown to me by the owner of the land.

John D. Williams 8-10-99
 Surveyor

BOUNDARY DESCRIPTION

LOTS 30 & 31, HOLEY BROSSETTE SUBDIVISION, according to the official plat thereof, recorded May 31, 1974, on Entry No. 123247 of the official records in the office of the Summit County Recorder.

NOTES

1. [30] Street address on Lucky John Drive.
2. Easement shown is not recorded and follows Record Line.
3. Existing drainage and utility easement as shown on the plat.

LEGEND

- Road Easement

2519 LUCKY JOHN DRIVE REPLAT

LOT LINE AMENDMENT PLAT

2519 LUCKY JOHN DRIVE REPLAT

LOCATED IN SECTION 4
 TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE
 AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH

OWNER'S DESIGNATION AND CONSENT TO RECORD

BEFORE ME, the undersigned authority, on this 10th day of August, 1999, personally appeared *John D. Williams*, known to me to be the owner of the above described land, and acknowledged to me that he executed the foregoing plat for the purposes and consideration therein expressed.

My commission expires Aug. 26, 2000.

ACKNOWLEDGMENT

State of Utah
 County of Summit

On this 10th day of August, 1999, John D. Williams, known to me to be the owner of the above described land, and acknowledged to me that he executed the foregoing plat for the purposes and consideration therein expressed.

My commission expires Aug. 26, 2000.

ACKNOWLEDGMENT

State of Utah
 County of Summit

On this 10th day of August, 1999, John D. Williams, known to me to be the owner of the above described land, and acknowledged to me that he executed the foregoing plat for the purposes and consideration therein expressed.

My commission expires Aug. 26, 2000.

<p>SYDNEYVILLE BASIN SEWER IMPROVEMENT DISTRICT</p> <p>REVIEWED FOR CONFORMANCE TO SYDNEYVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS <u>10th</u> DAY OF <u>August</u>, 1999 A.D.</p> <p><i>John D. Williams</i> S.E.E. 10/10/99</p>	<p>ENGINEER'S CERTIFICATE</p> <p>I FIND THIS PLAN TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS <u>10th</u> DAY OF <u>August</u>, 1999 A.D.</p> <p>BY <i>John D. Williams</i> PARK CITY ENGINEER</p>	<p>APPROVAL AS TO FORM</p> <p>APPROVED AS TO FORM THIS <u>10th</u> DAY OF <u>September</u>, 1999 A.D.</p> <p>BY <i>John D. Williams</i> PARK CITY ATTORNEY</p>	<p>COMMUNITY DEVELOPMENT DIRECTOR</p> <p>APPROVED BY ADMINISTRATIVE AUTHORITY OF THE PARK CITY COUNCIL THIS <u>10th</u> DAY OF <u>August</u>, 1999 A.D.</p> <p>BY <i>John D. Williams</i> A.P. COMMUNITY DEVELOPMENT DIRECTOR</p>	<p>JOB NO. 2-4-99 FILED 17:01:00 JOHN D00486.doc</p> <p># 597887 RECORDED</p> <p>STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE OFFICE OF SUMMIT COUNTY RECORDER DATE <u>08-26-99</u> TIME <u>09:00</u> AM.</p> <p><i>John D. Williams</i> RECORDER</p>
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SURVEYOR'S CERTIFICATE



I, Martin A. Morrison, do hereby certify that I am a registered land surveyor and that I hold certification no. 4938739 as prescribed under the laws of the State of Utah. I further certify that a topographic survey has been made under my direction of the lands shown and described herein. I further certify that this topographic survey is a correct representation of the land surveyed at the time the field work was completed and is in compliance with generally accepted industry standards for accuracy.

NOTES

1. Site Benchmark/Sanitary Sewer Manhole Elevation = 8741.36'
2. See record of survey plot for easements and restrictions.
3. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
4. This topographic map is based on a field survey completed on June 3, 2013.
5. Property corners were not set.



EXHIBIT D

	STAFF: SUPERVISOR: 2010 BLAKE MYERS HARRISON HOLLEY	TOPOGRAPHIC MAP 2019 LUCKY JOHN DRIVE REPLAT HOLIDAY RANCHETTES SUBDIVISION	SHEET 1 OF 1
	DATE: 6/17/13	FOR: JOB NO.: 4-5-13 FILE: X:\ParkMeadows\dwg\sr\topo2013\040513.dwg	

Ordinance No. 14-18

AN ORDINANCE APPROVING THE RE-ESTABLISHMENT OF LOTS 30 AND 31 OF HOLIDAY RANCHETTES SUBDIVISION, LOCATED AT 2519 AND 2545 LUCKY JOHN DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of property located at 2519 and 2545 Lucky John Drive have petitioned the City Council for approval of a plat amendment to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision;

WHEREAS, proper legal notice was published in the Park Record according to requirements of the Land Management Code;

WHEREAS, the property was posted and notice was provided according to requirements of the Land Management Code;

WHEREAS, the Planning Commission held public hearings on September 25, 2013, February 26, 2014, and March 12, 2014 to receive input on the proposed plat amendment;

WHEREAS, the Planning Commission forwarded a positive recommendation to City Council on March 12, 2014;

WHEREAS, the City Council, held a public hearing on April 24, 2014 and continued the item to May 8, 2014 at the applicant's request;

WHEREAS, the City Council, held a public hearing on May 8, 2014; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the plat amendment as conditioned below.

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 re-establishment of Lots 30 and 31 Holiday Ranchettes Subdivision plat amendment, located at 2519 and 2545 Lucky John Drive, as shown in Exhibit A, is approved subject to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 2519 and 2545 Lucky John Drive in the Single-Family (SF) zoning district.
2. The property consists of a two-acre lot, known as Lot 1 of the 2519 Lucky John Drive Replat approved and recorded on September 2, 1999. Lot 1 was created when a lot line adjustment removing the common lot line between Lots 30 and 31 of the Holiday Ranchettes Subdivision (recorded on May 31, 1974) was approved and recorded at Summit County on September 2, 1999.

3. The owners wish to re-establish the original platted lot configuration of Lots 30 and 31 of the 1974 Holiday Ranchettes Subdivision.
4. Each lot will be one-acre in area, consistent with the 1974 Holiday Ranchettes Subdivision platted configuration.
5. The proposed density for this plat amendment is one (1) dwelling unit per acre.
6. There are no house size limitations within the Holiday Ranchettes subdivision.
7. The minimum setback requirements are twenty feet (20') for the front yard and twelve feet (12') for the side yards. Front facing garages require a twenty-five (25') foot front setback. The rear setback requirement of fifteen feet (15') is not applicable due to the double frontage nature of both lots.
8. There is an existing single family house on Lot 30 that complies with all required setbacks.
9. There is an existing garage/storage structure built on Lot 31 that complies with all required setbacks.
10. Both Lots 30 and 31 have double frontage onto Lucky John Drive and Holiday Ranch Loop Road. The 1974 Holiday Ranchettes Subdivision plat includes notes restricting access from Lucky John Drive.
11. The pattern of development in the neighborhood includes primary access to these double frontage lots from Lucky John Drive and not from Holiday Ranch Loop Road, providing consistent building setback areas along Lucky John Drive and Holiday Ranch Loop.
12. The plat provides for a restriction of access to Lucky John Drive and protects the safe routes to school pedestrian and bike path from additional primary access across it.
13. A shared driveway provides access to Lots 30 and 31.
14. The LMC (Section 15-3-3 (H)) states that shared driveways are strongly recommended. Shared driveways decrease impervious surface, and storm water run-off. Shared drives provide for greater landscaping/open space areas and provide opportunities for designs that lessen visual impacts of garages, while decreasing the number of curb cuts on streets. Shared driveways necessitate access easements and maintenance agreements between property owners.
15. The proposed plat re-establishes the original two-lot configuration.
16. The proposed plat causes no nonconformities with respect to setbacks, lot size, maximum density, or otherwise.
17. All original drainage and utility easements will be re-established.
18. New snow storage easements and easements to address shared access and encroaching utilities will be provided.
19. Conditions banning access from Holiday Ranch Loop will be re-instated with this plat.
20. There is Good Cause to approve the proposed plat amendment as conditioned as the plat amendment does not cause undo harm on any adjacent property owners, the built conditions are consistent with requirements of the Land Management Code, future development will be reviewed for compliance with requisite Building and Land Management Code requirements with review by the HOA, cross access easements and utility relocation and/or utility easements will be recorded to resolve encroachment issues, and public snow storage easements will be provided along Lucky John Drive and Holiday Ranch Loop Road.

21. The proposed plat, as conditioned, is consistent with the approved 1974 Holiday Ranchettes Subdivision plat, meets the requirements of the Land Management Code.
22. Proposed conditions of approval require the applicant to provide to the City a letter from the HOA outlining concerns and recommendations regarding any proposed changes to the property, prior to issuance of any building permits.
23. The existing house is typical of the existing development in Park Meadows, and the subdivision will allow for another home of similar size to be built in the subdivision as originally planned when the Holiday Ranchettes Subdivision was approved.

Conclusions of Law:

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. 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. Prior to making any physical changes to the property and prior to occupancy of the detached garage located on Lot 31, for any use other than as a detached garage and storage building, the applicant shall meet with the HOA (provided that there is an established HOA at the time of the building permit application) and shall provide to the City, with any building permit application, a detailed letter from the HOA outlining the HOA's concerns and recommendations with said building permit application. This shall be noted on the plat.
4. A certificate of occupancy, issued by the City, is a condition precedent to occupation of the garage on Lot 31 for any use other than as a detached garage or storage building. This shall be noted on the plat.
5. Any construction on Lots 30 and 31 shall use the original existing grade (USGS topography that existing prior to any construction on the lots) in the calculation of Building Height. This shall be noted on the plat.
6. The garage structure on Lot 31 may not be used as a dwelling unit until separate utilities and sewer services are provided for this lot, as required by the various utility providers, and until a certificate of occupancy is issued by the City. Utility work, including grading and landscape changes, requires a building permit. A letter from said HOA, stating that the HOA is aware of the proposed work and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for this work. This shall be noted on the plat.
7. Prior to recordation of this plat amendment, cross access easements for the shared driveway shall be recorded at Summit County and reflected on the plat. Cross

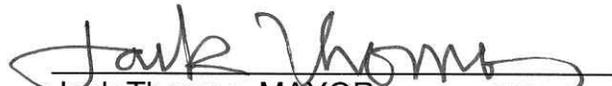
access easements would not be required if the shared driveway is modified and the access encroachments are removed prior to plat recordation. This shall be noted on the plat.

8. Prior to recordation of the plat, any existing utilities that cross the common property line, shall be relocated as required by the utility providers. If relocation is not required, then encroachment easements shall be recorded at the County.
9. Prior to proposed construction on Lots 30 and 31, including additions, remodels, driveway re-locations, grading, landscaping, fencing, and any other construction that requires a permit from the City, a letter from said HOA, stating that the HOA is aware of the proposed work, and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for utility work. This shall be noted on the plat.
10. No access to Lots 30 and 31 is permitted from Holiday Ranch Road. This shall be noted on the plat.
11. A ten foot (10') wide public snow storage easement is required along the frontage of the Lots on both the Holiday Ranch Road and Lucky John Drive frontages.
12. A note shall be added to the plat that modified 13-D sprinklers will be required for new construction as required by the Chief Building Official at the time of review of the building permit.

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

PASSED AND ADOPTED this 8th day of May 2014.

PARK CITY MUNICIPAL CORPORATION



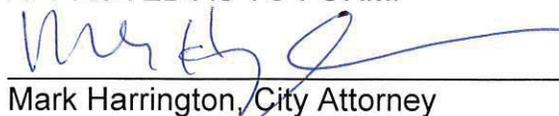
Jack Thomas, MAYOR

ATTEST:



Marci Heil, City Recorder

APPROVED AS TO FORM:



Mark Harrington, City Attorney



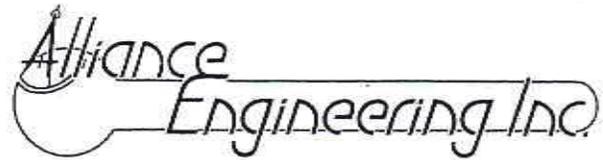


EXHIBIT F

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS

May 8, 2015

Kirsten Whetstone
Planning Department
Park City Municipal Corporation
PO Box 1480
Park City, UT 84060

RE: Holiday Ranchettes, Lots 30 & 31

Dear Kirsten,

The Mylar for the above-referenced project was submitted to the city on April 8, 2015, for municipal signatures and recording with the Summit County Recorder's Office and as of this date has not been recorded. We are requesting a one-^{year}~~month~~ extension in order to allow time for the municipal signature process and recording.

We appreciate your consideration of this request.

Sincerely,
ALLIANCE ENGINEERING, INC.

A handwritten signature in cursive script that reads "Marshall King".

Marshall King