



January 15, 1993

Quitting Time Ltd.  
dba Sweeney Town Lift Properties  
P.O. Box 2429  
Park City, UT 84060

NOTICE OF CITY COUNCIL ACTION

Project Name: Sweeney Town Lift Properties  
Project Description: MPD and Sketch and Preliminary Plat  
Date of Meeting: December 30, 1992  
Action Taken By Planning Commission: APPROVED

Findings:

1. The Sweeney Properties Master Plan was approved in 1986 by the City Council. The Master Plan has been determined to be valid and following the approved phasing plan. This proposal is consistent with a portion of that Master Plan and is required by that approval to receive a Small Scale Master Plan approval from the Planning Commission. That approval granted 40 unit equivalents and a height of 55 feet as measured by the Park City Land Management Code to the area of this proposal. The current proposal is within or below those parameters. A project which is no more than 35 feet would be more compatible with the neighborhood.
2. The Town Lift Project received concept approval on September 19, 1991. The area of the current proposal was included in that concept approval and is consistent with the approval. There are a number of conditions of that approval which apply to this project and are covered in the conditions of approval.
3. A portion of Park Avenue in the vicinity of the Town Lift was rezoned to HRC. Commercial uses are permitted in this area and it is anticipated that the area will develop with commercial and residential uses. In order for the project to be compatible with the Park Avenue neighborhood, a number of conditions have been placed on the approval. These conditions are intended to help maintain the pedestrian scale to the Park Avenue portion of the project.

4. The proposal meets the criteria set forth for Small Scale Master Plans as outlined in sections 1.13 and 1.14 of the Land Management Code.
5. Adequate information has been submitted to satisfy the requirements of the subdivision regulations for sketch and preliminary plat.

Conditions of Approval:

1. The plans and Design Guidelines and Volumetrics will be revised to reflect the revised building height as proposed by the applicant with the following modifications:
  - a. The Park Avenue facade of building 1 shall be no more than 2 or 3 stories to be determined at the time of review of the volumetrics by the HDC or Town Lift Design Task Force. The maximum elevation of the building shall be 7035. Parapets and elevator shafts may extend above this height; and
  - b. Building B1 will be setback from the Park Avenue curb a minimum of 20 feet to accommodate additional pedestrian circulation area; or
  - c. Building B1 will be redesigned to relocate the parking garage entrance so that the corner of Park Avenue and 7th Street can be redesigned to provide neighborhood commercial uses with a pedestrian scale.
2. The Town Lift Design Review Task Force or the Historic District Commission shall review and approve volumetrics for buildings B1, B2 and B3. The volumetrics shall be required to be consistent with this approval. Prior to any permit issuance, the Town Lift Design Review Task Force or Historic District Commission will review and approve final building plans which shall be consistent with this approval and with the approved volumetrics.
3. Prior to plat recordation or any permit issuance, a Master Owners Association will be established which will be responsible for the maintenance of all landscaping within the project, the walkways and plazas. The City staff shall review and approve the documents which establish this Master Association. The developer and the City shall enter into an agreement specifying that the Master Owners Association shall be responsible for maintenance of the landscaping and plaza areas and the agreement shall discuss the terms and conditions of the financial guarantee. Said agreement shall indicate the minimum level of maintenance acceptable to the City and shall address changes in ownership and abandonment of the project. This level shall be consistent with the balance of the Town Lift Project. The developer shall provide the City with an acceptable financial guarantee in the amount of one year's

maintenance cost as a part of the agreement.

4. An Open Space Enhancement Plan will be required to be approved prior to plat recordation or permit issuance. That plan shall address the improvement of the open area between Woodside Ave. and Park Ave. This plan shall also include a comprehensive plan to address the lift base which shall include, but not be limited to, public restrooms, drinking fountains, signage, landscaping and lighting. The plan shall address timing of installation of the improvements.
5. A Streetscape and Landscape Plan shall be submitted and approved by staff prior to plat recordation or building permit issuance. The plan shall be consistent with this approval and with the balance of the Town Lift Project. A Security shall be required to be posted to ensure installation of the improvements.
6. Prior to plat recordation, a security shall be required to be posted to cover the cost of all public improvements.
7. The City Engineer shall review and approve all grading, drainage and utility plans prior to any permit issuance.
8. The parking shall be underground and shall comply with the requirements of the Land Management Code at the time of this project approval.
9. 7th Street must be constructed prior to or concurrent with building B1.
10. Any density previously assigned but not used in this portion of the Sweeney MPD or the Town Lift Concept Plan will not be able to be used in later phases.
11. The project is in an identified Flood Plain and will be subject to the Flood Plain Ordinance. If the buildings need to be modified to meet the Ordinance, no additional building height and no parking reduction will be considered. If parking is required to be reduced as a result of compliance with the Flood Plain Ordinance, associated reductions in square footage will also be required.
12. A Construction Staging and Phasing Plan will be required to be submitted and approved by the City staff prior to plat recordation or any building permit issuance.
13. A parks dedication fee of \$1,035 per new parcel created is required to be paid prior to plat recordation.

Date of Expiration:

December 30, 1993

Nora L. Seltenrich  
Nora Seltenrich  
Planning Director

1/15/93  
Date

ACKNOWLEDGEMENT

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

\_\_\_\_\_  
Date \_\_\_\_\_

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

PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
DECEMBER 30, 1992

I ROLL CALL

Mayor Brad Olch called the special meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Wednesday, December 30, 1992. Members in attendance were Sally Elliott, Ruth Gezelius, Roger Harlan, Leslie Miller, Bob Richer, and Brad Olch. Staff present were Toby Ross, City Manager; Nora Seltenrich, Planning Director; Jim Carter, City Attorney. Also in attendance were Dean Berrett and Bruce Erickson, Planning Commission members.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business. Hearing none, the public input session was closed.

III MINUTES OF MEETING OF DECEMBER 17, 1992

Ruth Gezelius, "I move approval of the December 17, 1992 minutes". Bob Richer seconded. Motion unanimously carried.

IV RESOLUTIONS

Mayor Olch read into the minutes a resolution in appreciation of the Summit County Commissioners and their efforts in advancing land use planning and growth management in the Snyderville Basin. Bob Richer I move approval. Ruth Gezelius seconded. Motion unanimously carried.

V NEW BUSINESS

Appeal of Planning Commission's denial of MPD and sketch and preliminary plats for Sweeney Town Lift properties on December 16, 1992 - Quitting Time, Ltd. Planning Director Nora Seltenrich explained this MPD dates back to 1985-86 when the Sweeney Master Plan was approved and amended in 1987. In addition, the Town Lift Concept Plan was approved in September, 1991, which included the properties involved in this appeal. The Sweeney Master Plan is considered a large scale master plan which clustered densities in certain development parcels and then required the majority of the hillside to be zoned recreation open space and left open. Any part of a large scale master plan must come back for small scale master plan review under the conditional use process as set forth in the Land Management Code.

This proposal is consistent in use, density and building height with the original MPD and with the concept plan which was approved for the Town Lift area. What is proposed currently is what is called the Coalition East property which is the property on either side of the Town Lift base. This proposal shows three buildings,

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Building B1 which is the building that has generated the most discussion and two other smaller buildings, B2 and B3. Building B2 is almost entirely subterranean and B3 would replace the current ticket office and has only about 4,000 square feet of retail.

The first proposal that came in for Planning Commission review had Building B1, which is the main building and the one with the highest density, at 62 feet of height at the top of a ridge of a pitched roof. The original Sweeney Master Plan approval indicated that a 55 foot height was permitted for the buildings on both sides of the Town Lift which would be 60 to the top of a pitched roof. The Planning Commission and staff had significant concerns about that even though it was within the parameters identified in the Sweeney properties master plan. Staff felt strongly that the applicant could work with that, gaining the same amount of density but bringing the height down to make it more compatible with the neighborhood.

Based upon the input from the staff and Planning Commission, the applicant revised the plan and brought the height of the building down to about 45 feet. The applicant made this building a flat roof structure and there was a lot of discussion about the flat roof versus the pitched roof and it was felt that there is some precedent in the area for flat roofs. With this issue taken care of, the next concerns were pedestrian issues, especially on Park Avenue.

The conditional use criteria in the Land Management Code discusses neighborhood compatibility. The staff felt that more work could be done on the Park Avenue facade to make it more pedestrian friendly and some conditions were added to the Planning Commission recommendations to address that. This came about because of the parking garage entrance onto Park Avenue and the fact that the long facade wouldn't be viewed as viable commercial space. After a lot of work and soul-searching, the applicant has indicated that they could comply with the conditions recommended by staff in dealing with the facade, ie, stepping the facade back or providing some real retail commercial space.

Ms. Seltenrich went on to explain that the facade on Park Avenue is 46 feet in length and the entire frontage on the property is over 300 feet. The applicant is providing well in excess of 60% open space which is not necessarily part of their requirement. The applicant feels that the skier plaza is a real amenity to their project in the winter and summer and felt they didn't want to compromise that.

Staff felt that, given the MPD approval and the redesigns that the applicant has worked on, they had no problem recommending approval for the project, although neither staff nor the Planning Commission

were wild about the original approval of 55 feet. The trade-offs the City received in 1985-86 have to be taken into consideration and whether the MPD is acceptable by 1992 standards, it was still there.

Ms. Seltenrich described the mixed emotions felt by both staff and the Planning Commission, on how to approach this project. All felt that the mass of the building was more than they were comfortable with on Park Avenue but some felt that with the past agreements and trade-offs it was a reasonable proposal. Others felt that the applicant had come a long way and appreciated his efforts but they could not support the project. The Planning Commission was split on the vote on this application and the chairman voted to deny the application. The denial was basically because of neighborhood compatibility.

Ms. Elliott asked if the Sweeney MPD was bound by the same height restrictions as the Town Lift project and Ms. Seltenrich explained that they were not. They are only bound by the Sweeney MPD agreement. Ms. Miller asked what the proposed setback on Park Avenue was and was advised that the setback is 15 feet from top back of curb. Ms. Miller then clarified that the Park Avenue facade would then be 2-3 stories high depending upon the what the developer and Historic District Commission work out.

Mayor Olch asked if the one year provision in the landscape agreement could be extended or expanded so that the City wouldn't be required to provide landscaping maintenance if the developer was unable to make to project work. Ms. Seltenrich explained that the landscape agreement isn't final and the City could certainly add language to protect the City. Mayor Olch suggested that language be placed on the plat so that future owners of the property would be aware that along with ownership of the property goes landscaping maintenance responsibility. City Manager Toby Ross advised the Council that they might want language stating that the City has the right to maintain the landscaping and place a lien on the property for reimbursement. In the event that a developer or property owner defaults, it is sometimes very difficult to have the bank provide maintenance.

Leslie Miller asked for a historic perspective on the trade-offs that Sweeneys have made on Treasure Mountain regarding trails and what is the intended use of the Coalition West parcel. Ms. Seltenrich explained that the Sweeney MPD was very comprehensive and involves a lot of different properties. Basically, the trade-off was that Treasure Hill which includes the areas where the ski runs are, would be zoned Recreation Open Space and would not be developed as single family subdivisions with roads snaking all over the place. In 1985 there was a provision in the code that indicated that anything under 25% slope could have a density of

basically RD or single family density of three units to an acre. To avoid a situation like that in the Aerie, the Planning Commission and City Council felt it was more appropriate to try and cluster the density and leave the ridgetop and hillside open. The trails were shown as part of the master plan. The majority of the density is in Creole Gulch which is basically on either side of the Creole ski run.

The Town Lift mid-station site was another area that had a fair amount of density and the buildings on either side of the Town Lift were proposed to be 45 feet. Through the process, the density was removed from the Town Lift mid-station site and placed at the base of the Town Lift. The Coalition West properties are proposed to be consistent with the HRC zone which is 35 feet along Park Avenue and 28 feet along Woodside. They are proposed to be primarily residential. The HRC does allow commercial uses at a rate of one floor area ratio but these are proposed to be primarily residential.

Ms. Elliott commented that it appeared the Council was doing design review in this case. Ms. Seltenrich explained that a building has not yet been finally designed. The applicant has gone farther than most do because they wanted to make sure the project would work when they went through the design phase. The next step would be for either the HDC or the Town Lift Task Force to review the volumetrics. Ms. Elliott clarified that the Council is then approving footprints and Ms. Seltenrich agreed, but explained that the conditional use process included massing, volume, height, uses, neighborhood compatibility, pedestrian and circulation issues.

Mr. Richer asked City Attorney Jim Carter for information regarding the validity of Mr. Sweeney's contract and Mr. Carter advised the Council that the Sweeney master plan is valid. Mr. Carter went on to say that the Sweeney's had met the letter of the law in performing their side of the contract.

Mr. Richer asked Ms. Seltenrich what parking ratio was applied to the project. Ms. Seltenrich answered that the parking will be what is determined by the current code. Mr. Harlan, referring to a condition stating that if the flood plain requires a reduction in parking, then the floor space would be reduced accordingly, asked if we anticipate that the flood plain issue will impact the number of space. Ms. Seltenrich stated that a preliminary analysis of the storm drainage and flood plain issues, and it was felt that the applicant would be able to get the underground parking that they needed. Without a final building design, this issue can't be finalized, but the applicant has been put on notice that it is an issue.



Ms. Elliott asked how, if the underlying zoning of the property allows only 35 foot building heights, the reconciliation of the dichotomy of the zoning and the master plan were achieved. Ms. Seltenrich explained that the zoning when the master plan was applied for was HCB and allowed 45 feet. The Planning Commission at that time also granted a height exception to 55 feet. Any changes in zoning that occur after an MPD is approved have no effect on the existing plan. For all practical purposes, the zone is HCB-MPD.

Ms. Miller questioned the volume of Building B1 in regards to the configuration of the project. She asked if it was possible to redistribute the volume and mass of this building over the entire property. Ms. Seltenrich agreed that the 1987 Master Plan showed two big buildings as opposed to one larger building and two very small buildings. Both of those buildings on either side of the Town Lift were 55 feet in height. She went on to explain that the Planning Commissioners felt that the plaza and the open space was a real bonus and that this configuration (67% open space) was more beneficial.

Mayor Olch then invited Pat Sweeney to comment on the appeal. Mr. Sweeney stated that the applicant believes that they had used the master plan process to arrive at a plan that was further defined by the conceptual approval that was granted about 14 months ago. The applicant feels that they have met all the requirements in those rules and that they were fairly arrived at. Mr. Sweeney observed that they had relied on those approvals and had entered into agreements with the ski area concerning open space, among other things. He felt that they can't back-pedal without a substantial financial loss.

Mr. Sweeney explained that the apparent height of the project will really be the ski area plaza level. The height of the plaza will be 6992 or 6993 and is a technical level based on the need for downloading from the lift, lift capabilities, flood plain, parking requirements, etc. The maximum final elevation of the project is 7035 with the exception of the parapets and elevator shaft.

Mr. Sweeney went on to explain that some of the trade-offs questioned earlier by Ms. Miller were trails construction and maintenance, deeding of the Upper Norfolk and Lowell turn-arounds to the City, the pipeline easement and the Crescent Walkway. He remarked that the entire approval process has been fairly exhaustive and quite expensive for the applicant. He clarified that an architect has been consulted even though this isn't the final building plan and his advice was solicited on functional and technical points, ie, what kinds and where should the stairways be located, what can we assume the level is between levels, etc., and

the applicant feels that this could be a preliminary design which will be fine-tuned through the HDC or Town Lift Task Force.

Mr. Sweeney described the process used to determine parking requirements. The applicant allowed three spaces for every 1,000 feet of commercial and three spaces for every 2,000 square feet of residential, with subtractions made for ventilation, mechanical, elevators and stairways. Alliance Engineering was consulted on this issue and the applicant is comfortable with making this work. The same is true of the flood plain. This study has been based on an accurate survey, with a final analysis from Alliance Engineering determining where the flood plain is.

The applicant feels that the amount of open space cannot be tampered with. Their agreement with the other partners specifies the size of Building B1 and other agreements with the ski area specify the amount of open space which will best function with the Town Lift.

In response to questions from Mr. Richer, Mr. Sweeney explained he had lived in Park City for the past 13 years and had been working on this project that entire time. He felt that the project was a very good project, carefully designed, including using the expertise of Eldon Beck who feels that an attractive building could be built in spite of being "boxy". Originally the building was designed 15 feet taller and with a pitched roof. Although originally opposed to replacing the pitched roof with a flat one, the applicant feels that the flat roof would still market well if the architectural detail is done correctly. It would still fit the historic theme in Park City and the Marsac Building and Winters Middle School are prime examples of that fact. Mr. Richer asked what amount was expected to be spent for each parking stall and was told that \$7,000-10,000 would be sufficient.

Mr. Richer then asked the City were to work out a scheme or design that would meet the applicant's marketing requirements but using a smaller square footage would they be receptive. More specifically, if an amount was worked out that the applicant and their investors would like to see returned from the investment and it could be done with 35,000 square feet instead of 56,000, would they be interested? Mr. Sweeney replied that he wouldn't because he felt that they have a really good plan now and it wouldn't get fundamentally better by changing it. Mr. Richer explained that he was uncomfortable with the Planning Commission's apparent debate concerning the fact that on the one hand there is a valid contract and on the other hand there were concerns about how that agreement relates in 1992. Mr. Sweeney answered that he wants a win/win situation also and would be willing to listen to anything, keeping in mind that there is a time line and people who are investors and are anxious to do something really spectacular for Park City.

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Mr. Richer queried Mr. Sweeney further on his time issue and was told that their agreements with McIntosh Mill and the Greater Park City company both expire on ~~January~~ 31. The ski company has expressed a willingness to extend the agreement since they are mostly interested in the Main Street run extension. McIntosh Mill's attorney has indicated that they are not so willing to extend the agreement. Ms. Elliott advised Mr. Sweeney that she had spoken with Harry Reed, one of the partners in McIntosh Mill, who asserted that no one had asked for an extension of the agreement. Mr. Sweeney replied that every attempt had been made to reach the other parties without result. Jeffrey Kuhn explained that offers had been made to McIntosh Mill to replace the agreement but again to no avail. Ms. Elliott explained that she was feeling pressure to hurry through this decision and was uncomfortable with possibly not having explored all the options.

Mr. Sweeney asserted that he would be willing to explain the details of the contract Sweeney's have with McIntosh Mill. City Attorney Jim Carter advised the Council that details of the agreement between Sweeney and McIntosh Mill are not relevant to what the Council's charge was for this meeting. Mr. Carter went on to explain that tonight's meeting was an appeal of a Planning Commission denial. Mr. Richer was concerned that possibly the agreement contained some things that the City should be concerned with, such as construction of 7th Street, and that the City might be able to use as a negotiating tool for lowering the height. Jim Carter advised the Council that while the City has had good luck in acting as intermediaries in some instances, he felt that the Sweeney's need to tell the Council that they would like to embark on that.

Mr. Sweeney responded that he had no problem relaying the contents of that agreement to the Council. He went on to say that he didn't feel the applicants would ask the Council to defer their decision on this project although he would be willing to look at options that could be used in the future, but the agreement with McIntosh Mill hinges on approval from the Council tonight. The two biggest concerns the applicant has with the agreement are a flood plain easement which the entire parking scheme is predicated on and the sliver of land which varies from five to 11 feet between Main Street as currently being built and the applicant's property. McIntosh Mill is obligated to deed that sliver to the applicant under the current agreement. In return the applicant makes 7th Street available to McIntosh, pays a certain sum of money for improvements and build and maintain the open space at the base of the Town Lift.

Mr. Sweeney admitted that they would be willing to take a look at other options such as the ski lift coming down lower in return for other conditions. It would be conceivable that new options would

cause there to be 50% less volume on the hillside and 50% less height with the same amount of open space. Mr. Sweeney's attorney Jeffrey Mangum spoke up advising the Council that even if they are given approval tonight for this project, it doesn't preclude discussions down the road concerning changes in the project. Both the applicant and his attorney emphasized, however, that it was lack of approval from the Council tonight could very easily preclude any other discussions because of the loss of the current negotiated agreements with other parties.

Mr. Sweeney explained to the Council that he felt that McIntosh Mill's priorities had changed since negotiating the current agreement and that they would be unable to have the same deal or even close to it. It could mean that the applicant could carry the entire burden of extending the ski run and that might be financially difficult without getting other partners interested in coming up with more money. Mr. Sweeney also explained that although the size of the buildings is not specified in their agreement with McIntosh, there is a certain amount of open space specified in the agreement with the ski area to allow downloading next to the hotel. Marketability, pride of ownership and other issues all went into the decision to have the building the size it is specified.

A suggestion was made by Councilmember Roger Harlan that an uninterested third party might be used to re-negotiate the agreements. Mr. Sweeney answered that, while the applicant would be willing to extend the agreement for even a year, without a representative of the McIntosh group to discuss the extension, he wouldn't be able to guess whether it would be possible. Mr. Sweeney reiterated that his group would be willing to discuss changes in the project, but still needed an approval tonight for the current project.

Ms. Elliott asked that the members of the Planning Commission in attendance would elaborate on their finding for denial which states that the density guaranteed by the 1986 MPD could be accommodated in a different fashion which would be compatible. Bruce Erickson explained that one of the parameters under which the Planning Commission was working was a request from the developer to deal with the project in an expeditious manner. The developer made three proposals, all of which consisted of three buildings and generally the same buildings. Three members of the Planning Commission felt that there were other alternatives which could be explored for extending the density on the site, including height retention, but a smaller facade on Park Avenue or open space reduced to 60%. Mr. Berrett agreed. Mr. Erickson went on to say that the applicant had originally come in with a much taller building and was directed by the Planning Commission to reduce the height.

Mayor Olch asked if there were any further questions for the applicant from either the Council or the audience. He then went on to remind the Council that their options were to either approve or deny the appeal, remand the project to Planning Commission with specific directions for additional work or approve the project with additional conditions of approval.

Ms. Gezelius explained that she has been in on the process for the Sweeney master plan over the years and felt that the applicant has done everything required under the master plan approval process. She felt that the MPD had improved considerably from the original approval and that height variations were essential to avoid having a lot of boxy-looking buildings. The project has come in within the parameters of height and setback in this specific location. With the 67% open space, the open space requirement is exceeded. The applicant has met the parking standard as currently written and addressed the two issues of street frontage and pedestrian friendly access from all four points. I feel the project is in keeping with what we envisioned on the site.

Mr. Richer felt that even though he understood the stand the Planning Commission had made, the applicant had complied with the spirit and letter of the agreement. While he saw some room for improvement in the project, he did not feel that the City should take an action which would result in a entering a losing legal situation.

Mr. Harlan commented that a quality project will only help our town. He doesn't believe there is a perfect project, but as this project has progressed, it has become a very good one. Mr. Harlan agreed with Ms. Gezelius and Mr. Richer that the applicant has gone through all the hoops and he would like to see the project proceed.

Ms. Elliot stated that the project is now much better than anyone envisioned it would be in 1985-86 when the agreements were constructed. For this parcel to have 67% open space and have an attractive building that meets all the requirements of the agreement, she felt that she would have to vote to overturn the Planning Commission's decision.

Ms. Miller didn't feel that she could support the project. She commented that the only way she could approve the project was with the additional conditions mentioned in the denial by the Planning Commission. If there were some condition that would allow some room for negotiating the volume of the building, then she could vote for it. Mr. Richer agreed that a condition requiring everyone to look at the project again would meet with his approval. Ms. Gezelius suggested adding language that would encourage the applicant to continue working with the staff and Planning Commission in good faith negotiations to consider reducing the

scale and density of the project. This wouldn't be a requirement, just a suggestion. Ms. Miller wanted more of a binding condition that would get the applicant off the hook with his other agreements but still give the Council some flexibility in working through the project.

City Manager Toby Ross suggested that while an outcome that reduces the mass can't be binding, the Council could have language that binds a good-faith discussion, such as, "The applicant agrees to explore, in good faith, options to the design that would lower the height or reduce the mass of the project. During these explorations, the applicant will not seek a building permit for the project". Mr. Mangum asked how long the negotiations would have to continue before they would be considered to be not proceeding. Mr. Ross suggested that they commence within 15 days and proceed so long as they're productive. Either party could, with written notice, determine that they're no longer productive.

Mr. Mangum stated that the applicant would prefer not to have the above condition in writing because it could be construed to be a "condition subsequent". A condition subsequent would imply that there still might not be approval of the project if the "condition" were not met. If that were the case, then the approval that is given may not be the kind of approval the applicant is required to have under their agreement with McIntosh. Mr. Carter stated that he understood the applicant to say that Quittin' Time Ltd is prepared to agree separately to discuss these issues with the City, but the actual attachment of that as a condition of approval that is problematic. Both Mr. Mangum and Mr. Sweeney agreed.

Ms. Gezelius, I move that the Council overturn the Planning Commission's denial of the project, adding language to Condition No. 3 indicating that maintenance on the open space would be performed by the owner of the property. Ms. Elliott seconded the motion.

Sally Elliott	Aye
Ruth Gezelius	Aye
Roger Harlan	Aye
Leslie Miler	Nay
Bob Richer	Aye

Mayor Olch requested that the applicant write a letter to the Council expressing their desire to continue a dialogue with the staff and Planning Commission, trying to make this project better than it is today. Mr. Sweeney agreed.

#### VI. ADJOURNMENT

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December 30, 1992

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

\* \* \* \* \*

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

Prepared by Anita L. Sheldon

\_\_\_\_\_  
City Recorder