

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

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

Closed Session

2:30 p.m. Property and personnel

Work Session

3:45 p.m. Council questions and comments

4:00 p.m. Museum public art obligation and use of artifacts P. 5 - 15

4:30 p.m. Quarterly goal status report P. 16 - 31

Field Trip

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

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

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

1. Consideration of an Ordinance approving a plat amendment known as 308 Ontario Avenue Subdivision combining Lots 1, 2 and most of Lot 3, of Block 57 of the Park City Survey into one lot of record, Park City, Utah P. 32 - 43

(a) Public hearing

(b) Action

2. Consideration of a Master Festival License including a partial street closure of Main Street from Heber Avenue to 9th Street and amplified music for the World Cup to be held on January 29, 2009 P. 44 - 52

(a) Public hearing

(b) Action

3. Consideration of an Ordinance amending Section 14-4-9, Sidewalks to be Cleared, Section 4-2-17(G), Transportation Service, and Section 14-4-10, Fire Hydrants to be Uncovered, in the Municipal Code of Park City, Utah P. 53 - 63

- (a) Public hearing
- (b) Action

4. Consideration of award of contract to H W Lockner in the amount of \$359,602 for the Bonanza Drive design, in a form approved by the City Attorney P. 64 - 74

5. Consideration of an Ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City to require all sexually oriented businesses operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation P. 75 - 85

- (a) Public hearing
- (b) Action

6. Consideration of a Letter of Intent in a form approved by the City Attorney between Summit County and the City related to joint property acquisition (Kimball Junction, Round Valley) with Boyer Snyderville Junction, L.C. P. 86 - 130

- (a) Public Input
- (b) Action

7. Consideration of a Purchase Agreement in a form approved by the City Attorney between Boyer Snyderville Junction, L.C. (Seller) and Summit County and Park City (collectively Buyers) in the amount of \$25,000,000 for two parcels of land located at Kimball Junction and Round Valley composed of approximately 727 acres for open space acquisition and limited other public uses. P. 86 - 130

- (a) Public Input
- (b) Action

V OLD BUSINESS (*Continued public hearings*)

Consideration of an Ordinance approving the Marsac Avenue Affordable Housing Subdivision located at 100 Marsac Avenue, Park City, Utah P. 131 - 195

- (a) Public hearing
- (b) Action

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

VII ADJOURNMENT

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.

**CITY COUNCIL AND PLANNING COMMISSION SOCIAL
THE SIDECAR
NOVEMBER 6, 2008**

A majority of City Council members and Planning Commission members may meet socially after the meeting at The Sidecar located at 333 Main Street at approximately 7 p.m. Formal City business will not be conducted.

Posted: 10/27/08

See: www.parkcity.org

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

November 2008

- 13 Update on SR248 (30 min)
Street closure policy - work
Community Vision Contract with ____, in the amount of \$____, in a form approved
by the City Attorney
PC Heights Annexation – Old Business
- 14 *Management Team quarterly meeting (tentative)*
- 20 **Joe gone**
Transportation Strategic Plan Update (30 min) - KC
- 27 **Thanksgiving**

December 2008

- 4 Consideration of an Ordinance – LMC amendments – KW
201 Heber Avenue amendment to record of survey – BR
7888 Aster Lane plat amendment - KW
Resolution authorizing staff to complete and file an application for renewal of the
Recycling Market Development Zone within Park City
- 11 Park City Institute for Public Policy update
Center for Applied Media update
Acceptance of audit
2009 insurance renewal
- 18 2300 Meadows Drive subdivision plat - BR
- 25 **Holidays**

Pending Items:

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

City Council



Subject: Public Art and Artifacts at Museum
Author: Sharon Bauman
Department: Executive
Date: November 6, 2008
Type of Item: Informational

Summary Recommendations:

Staff recommends City Council:

1. Approve relocation of a statue to the west side of the Dolly's walkway from the original location on the east side of the plaza.
2. Provide direction if they are willing to consider display of historic artifacts in the walkway. If so, they should direct the Historical Society to provide a detailed proposal for location and type of any artifacts for Council's affirmation to proceed.
3. Direct the Public Art Advisory Board to provide recommendations on all proposals for art and/or artifacts in the Dolly's walkway by amending the Public Art Advisory Board Policies to include artifacts.

Background:

The Historical Society submitted an Administrative CUP application for Outdoor Display of Works of Art on City-owned Property. They are proposing to place a "Skiing Miner" statue on the walkway between the Park City Museum and Dolly's Bookstore (Exhibit A). The Land Management Code requires review by Planning, Engineering and Building Divisions to ensure compliance with criteria identified in Chapter 4 - Supplemental Regulations of the LMC, with final review and action by City Council.

The Construction MOU with the Park City Historical Society states:

G. The PCHS shall meet the City's budget policy of dedicating at least 1% of the cost of construction towards the provision of public art on the Property. Such art may include the display of "historical artifacts" outside the buildings on the Property. Such display must be approved the City Risk Management Team, such approval not to be unreasonably withheld.

Regarding "G" of the MOU, review of the October 11, 2007 Lease approval, the staff report indicates:

- Public Art/Artifacts: *The Historical Society has committed 1% of the construction budget to public art. Section 15-4-15(C) of the LMC states the Council "may" seek recommendations on such requests from the art advisory board. Although it is currently the policy of the Public Art Advisory Board that all "art" be reviewed by them, staff believes that most of the displays will be "historical artifacts" and recommends that "artifacts" be exempt from the Public Advisory Board process.*

Furthermore, staff would recommend that the LMC be amended to further consider and clarify and differentiate “historical artifacts” from public art.

Staff originally anticipated the Historical Society to also propose artifacts in this location. Both parties seek direction from Council if this is an appropriate use of public space. If Council would like the Art Board to review this, then Staff suggests we return at a later date and ask Council to formally amend the Art Board Policies (Exhibit D).

Analysis:

The statue was to be placed on the east side of the plaza facing Swede Alley. The plaza was modified to address unanticipated grade and drainage issues. Subsequently the east side was reconfigured into a divided stair, planter box and street lamp to light the stairs. In light of the revisions, the architects have recommended the relocation of the statue to the more open west side (Exhibit B).

- The value of the sculpture is estimated to be \$60,000, which exceeds the City’s budget policy of dedicating at least 1% of the cost of construction towards the provision of public art on the Property. ($\$60,000/\$3.1M = 1.7\%$ The Historical Society is not requesting funding from the Public Art Advisory Board CIP fund.
- In addition to review by Planning and Building, an encroachment permit and review by Risk Management will be required for the art on public property.
- Public Art Advisory Board may review art on public property at Council’s request.

Alternatives:

Approve the Request: Staff recommends that City Council approve the relocation of the statue to the west side of the walkway and provide direction regarding display of historic artifacts in the walkway.

Deny the Request: Council could direct Staff to do all, or a combination of, the following: 1) Do not allow relocation of the statue. The proposed statue would remain in the location proposed at the western side of the plaza; 2) Direct Historical Society not to display historic artifacts on the plaza; 3) Direct Staff to return to Council with a review of the proposed public art without review of the PAAB.

Continue the Item: Council could request that the item be continued to provide additional information.

Do Nothing: This would be the same as denying the request.

Significant Impacts: Relocation of the art may be inconsistent with a Council goal of attracting people from Swede Alley to Main Street.

Consequences of not taking the recommended action:

Not allowing relocation of the art may necessitate redesigning the plaza to accommodate art at the eastern side.

Recommendation

Staff recommends City Council:

1. Approve relocation of a statue to the west side of the Dolly's walkway from the original location on the east side of the plaza.
2. Provide direction if they are willing to consider display of historic artifacts in the walkway. If so, they should direct the Historical Society to provide a detailed proposal for location and type of any artifacts for Council's affirmation to proceed.
3. Direct the Public Art Advisory Board to provide recommendations on all proposals for art and/or artifacts in the Dolly's walkway by amending the Public Art Advisory Board Policies to include artifacts.

Exhibit A - Description of Art

Exhibit B - Site Plan

Exhibit C - LMC Supplemental Regulations

Exhibit D - Public Art Advisory Board Policy

Exhibit A - Description of Art

3. Two (2) complete sets of 8 ½ x 11" site plans showing:
- site plan
 - location of display

See page 2 attached

4. Installation details for base and/or electrical connections.

No electrical installation

Artist Peter Fillerup will install the bronze statue on the 4x4 concrete pad. Peter will drill into the concrete pad and install 4 lag bolts. The bolts will go into the bottom of the statue. This installation is the same as the installation Peter used for his Jim Ivers statue in the Miners Park on Main Street.

5. Written description of proposal.

Skiing Miner bronze monument. Statue will be 7' tall, heroic size. Image below is of the clay model.



9

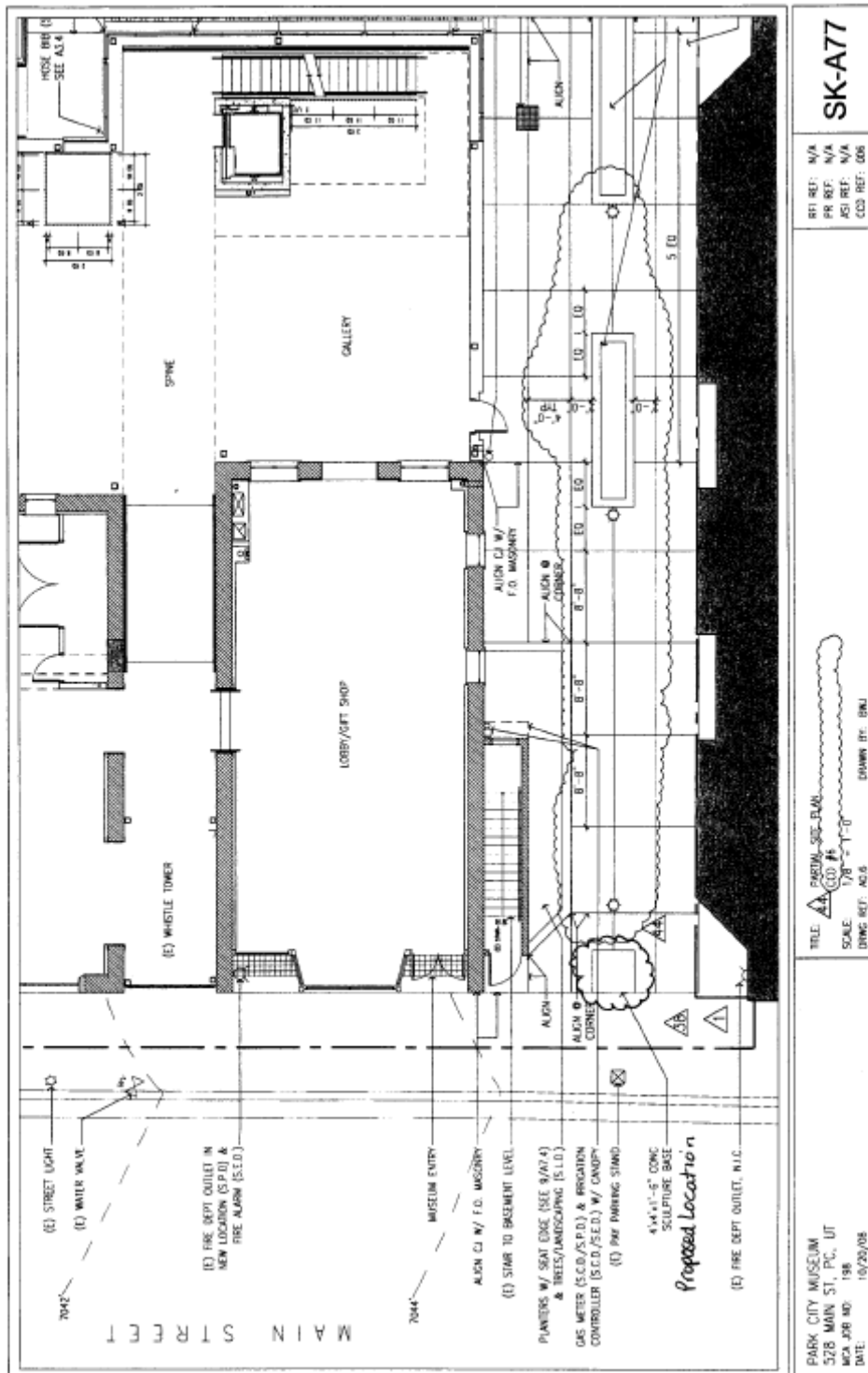


Exhibit C - Land Management Code Supplemental Regulations

15-4 -15. OUTDOOR DISPLAY OF WORKS OF ART ON CITY-OWNED PROPERTY.

(A) **POLICY AND PURPOSE.** It is the intent of Park City to encourage and accommodate the placement and enjoyment of outdoor public works of art. Therefore, certain public/City-owned Properties are available for the display of art that promotes the visual interest, and economic vitality of Park City's Historic, resort-based community; promotes aesthetic enhancement through artistic expression; and contributes to the festive nature of Park City's world class resort atmosphere. Accordingly, the City has adopted the following criteria:

(B) **REVIEW CRITERIA.** The outdoor display of works of art on City-owned Property shall be reviewed by the Planning, Engineering, and Building Departments for compliance with the following criteria:

- (1) The outdoor display of works of art must comply with the height and Setback requirements of the Zoning District where it is located.
- (2) Outdoor display of works of art that are displayed in excess of six (6) months must be designed and created with materials that will withstand the weather conditions and the elements.
- (3) The outdoor display of works of art must comply with all applicable Building Codes;
- (4) In cases where the City is not the Owner of record of the work of art displayed, the City accepts no liability in cases of damage or theft of the art.
- (5) No sale price may appear on the work of art, however, the name of the artist, the name of a gallery sponsoring the art, the name of the art work, and/or a brief narrative specific to the work of art, not exceeding one square foot (1 sq. ft.), may be attached to the work of art or its support base.
- (6) The outdoor display of works of art shall not create a hazard to the public due to moving parts, sharp edges, or extension into public Rights-of-Way, including sidewalks, or pedestrian and vehicular Areas; nor shall the display restrict vision at intersections.
- (7) All lighting shall conform to the lighting regulations in Land Management Code Chapter 15-5-5(I) Lighting.

(C) **CITY COUNCIL REVIEW.** Upon compliance with all criteria set forth in this section, the City Council shall review and take final action on all requests for the outdoor display or works of art on City-owned Property. The City Council may seek a recommendation on requests for the outdoor display or works of art on City-owned

Property from the Planning Commission, arts-related advisory boards, or a specific task force that may be appointed by the City Council prior to taking final action. The City and the Applicant shall execute all necessary agreements prior to installing any approved public art on City-owned/public Property.

(Amended by Ord. Nos. 03-13; 06-22)

Exhibit D - Public Art Advisory Board Policy

Public Art Policy

PURPOSE OF THE POLICY

The purpose of this policy is to establish a process for the selection, purchase, commission, placement, and maintenance of works of art via the expenditure of the monies generated through the Public Art fund established in the Park City Municipal budget for FY 2003-04 and FY 2004-05 and subsequent funding mechanisms.

INTENT OF THE POLICY

It is the stated intent of the Public Art Policy to direct the inclusion of public art in order to expand Park City citizens' experience with works of art and enable them to better understand their communities and their individual lives. By encouraging artists capable of creating works of art in public places, the Public Art Policy shall strive to stimulate the vitality and economy of the City and enhance Park City's standing as a leading cultural destination. Thus, it is the goal of the Public Art Policy to expend the funds on and facilitate works of art and art projects of redeeming quality, which advance public understanding of visual art and enhance the aesthetic quality of daily life and provide a sense of place.

GENERAL TERMS

"Public Art" means any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, inside any city-owned facility in areas designated as public areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

"Work of art" includes, but is not limited to the **art forms** of; sculpture, monument, mural, fresco, relief, fountain, banner, benches, architectural furniture, and performance art facilities. Works of art include, but is not limited to the **art mediums** of weaving, carving, painting, assemblage, collage, welding, casting, and sculpting.

ADMINISTRATION OF THE PUBLIC ART ADVISORY BOARD AND POLICY

The Public Art Advisory Board and Public Art Policy will be administered by the Park City Summit County Arts Council. The administration of the Public Art Board and Public Art Policy shall be a separate and additional cost to the \$200,000 Public Art Fund. City Council has approved an additional \$6,750 for the annual administration of the Public Art Advisory Board to be distributed to the Arts Council in monthly installments of \$562.50. This would be in addition to their current special service contract with the city. It is understood that with the funds the City provides for specific projects, the administrator of the funds will work to leverage funds for additional projects and works of art.

COMPOSITION AND FUNCTION OF THE PUBLIC ART ADVISORY BOARD

The Public Art Advisory Board shall have seven (7) members appointed by the City Council. Composition of the Board will include representation from the professional art community and the general public, and should consist of visual artists, performing or film artists, a design professional, an art educator, art professional, producer, designer, gallery director, or curator, and representatives from the Park City community and business community who are interested in serving on the Public Art Advisory Board. Board members shall live in Park City proper. Board members shall be appointed to serve two-year terms and may serve no more than two consecutive terms. The Budget, Debt and Grants Manager or designee shall serve ex-officio without vote. It is also encouraged that students from the community be included on the panel to serve ex-officio without vote. Staggered terms shall be assigned by the City Council in the selection process. This board shall be reviewed as part of the annual budget process.

The primary functions/responsibilities of the Public Art Advisory Board are:

1. Review a cultural assessment of the Park City cultural community.
2. Create a strategic public art plan that would include public art policy refinements and recommendations of expenditures of the Public Art Fund. Ensure that public art is safe, accessible, durable, and compatible with community standards.
- 2a. Upon completion of the strategic public art plan and review of the cultural assessment, the Public Arts Advisory Board shall meet with City Council in a work session to obtain approval.
3. Establish guidelines for implementation of the Public Art Policy, including methods of selecting artists and commissioning works of art. Process must be consistent with City purchasing procedures.
4. Process public art proposals submitted to Park City Municipal and make recommendations regarding appropriations for works of art and art projects to the City Manager.

5. Review, on an annual basis, the artwork projects of the Public Art Policy as a reflection of the program's intent, and recommend appropriate maintenance requirements.
6. Make recommendations for future funding of the Public Art Fund.
7. Make recommendations for the establishment of a contribution percentage for art based on construction cost of public and private development.
8. Make annual updates to the City Council on the progress of the Public Art Policy.

After the Public Art Advisory Board makes recommendations to City Council, the Council shall have final approval.

APPROPRIATION AND ALLOCATION OF FUNDS

The Public Art Advisory Board shall develop recommendations to the City Council regarding the specific allocation of the \$200,000 public art fund established in July 2003. The following are several options to be considered. Consistent with these policies, art will not be approved without review by City staff and the approval of City Council.

1. **“Art on the Corner” Concept:** Art on the Corner is a unique outdoor sculpture project designed to recognize the arts, develop community pride and draw people to the Main Street. This exhibit would be free to the public and can include many sculptures in a variety of media and styles. A small portion of the \$200,000 could be allocated as seed money for this type of program after which the program would become self-sustaining.
2. **Public Art at Existing Public Buildings:** City buildings may be selected for site-specific Public Art. Possible Locations are Marsac Building, Carl Winters Library and Education Center, Miners Hospital Plaza, McPolin Farm. At the Transit Center, seven of the nine muses currently exist. The infrastructure for two additional muses is in place. The Board should consider commissioning the final two muses.
3. **Art in Parks and Trails:** Art parks and art along our city trail system would enhance the value of both. Specifically along the Poison Creek Trail system that would encourage pedestrian activity from City Park to Main Street. This program could include, but not be limited to sculpture, sound gardens, Murals painted inside the 4 remaining bare tunnels, performance kiosks, etc.
4. **Specific Proposals by Artists or Purchase of Existing Art:** The Public Art Advisory Board will consider specific proposals from artists, as well as the purchase of existing work. The commission will determine policy and criteria for the selection process.

5. **Maintain and/or complete existing Public Art Property:** The existing six Public Art pieces/sites owned by Park City Municipal Corporation are in a variety of disrepair and completion. The Public Art Advisory Board should consider value and original contracts to consider investing additional funds in this inventory. This might include completion of the Transit Center art and Poison Creek tunnel murals projects, cleaning of the Bronze Miner, and plaster/paint repair of the Swede Alley Mural.

MEMO



Executive Department

To: City Council
From: Tom Bakaly, City Manager
Subject: 3rd Quarter (July - September)
Date: November 6, 2008

445 Marsac Avenue
P.O. Box 1470
Park City, UT 84060
Tel 435.615.5180
Fax 435.615.4901
www.parkcity.org

On November 6, 2008, we have scheduled time in work session for City Council to review goals and action items.

We continue to tentatively add new action items to your goal status report based upon individual input from Council members, the Mayor and staff. Those items are in bold and need to be affirmed by Council.

The report also includes quarterly summaries related to traffic calming and neighborhood service requests. This work session will provide an opportunity to for departments to provide operational updates on Council goals if requested.

Staff has reformatted the report and requests input on your preference of formats. Goal 1 is shown in both formats for comparison purposes. The rest of the goals are in the new format.

2008 Park City Goals and Targets for Action – 3rd Quarter Report (July - September) OLD FORMAT

TOP PRIORITY					
Goal 1 Quality and Quantity of Water - Dana Williams and Candace Erickson; Alternate, Jim Hier					
Target for Action Staff Coordinator	Actions	Initial Target Date	Revised Target Date	Status	
1. Pipeline/Preferred Project Agreements Kathy Lundborg	Determine a preferred project with Weber Basin and Bureau of Reclamation 1. Design of Pipeline Improvements 2. Pipeline Construction Begins	01/07 04/09	01/09 03/09	Pending Pending	
2. Judge Water Treatment Plants Kathy Lundborg/Jerry Gibbs	1. Resolve Pump Station location 2. Determine Scope and timing for Plant Design and Construction (now part of Quinn's Water Treatment Plant) 3 NPDES Permit 4 PCMC conceptual design for treatment at proposed Quinn's water treatment plant 5. Judge delivery system to Quinn's Water Treatment Plant construction	12/05 08/04 09/05 04/06	03/09 06/09 06/09 08/09 12/10	Pending Pending Pending Pending Pending	
3. Other Water Solutions – Supply Options/Conservation Jerry Gibbs/Kathy Lundborg	1. Summit County, Snyderville Basin Water Reclamation District Cooperation Discussions / Stream Flow Enhancements 2. JSSD Water Discussions 3. Water Rate Methodology Discussions 4. Water Demand Reduction Plan 5. Supply/Demand Update 6. Water Demand Reduction Plan - Review landscaping Requirements/Limits	Annual Annual 03/08 12/07	 07/08 12/08 07/09	Ongoing Ongoing Complete Complete Pending Pending	
4. Water Funding Strategy Jerry Gibbs	1. Pursue future appropriations and authorizations	Annual		Ongoing	

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)				
Top Priority				
Goal 1 Quality and Quantity of Water - Dana Williams and Candace Erickson; Alternate, Jim Hier				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Pipeline Preferred Project Agreements - Kathy Lundborg				
Determine a preferred project with Weber Basin and Bureau of Reclamation				
1. Design of Pipeline Improvements	Jan-07	Jan-09		Pending
2. Pipeline Construction Begins	Apr-09	Mar-09		Pending
2. Judge Water Treatment Plants - Kathy Lundborg/Jerry Gibbs				
1. Resolve Pump Station location	Dec-05	Mar-09		Pending
2. Determine Scope and Timing for Plant Design and Construction (now part of Quinn's water treatment plant)	Aug-04	Jun-09		Pending
3. NPDES Permit	Sep-05	Jun-09		Pending
4. PCMC conceptual design for treatment at proposed Quinn's water treatment plant		Aug-09		Pending
5. Judge delivery system to Quinn's Water Treatment Plant construction	Apr-06	Dec-10		Pending
3. Other Water Solutions - Supply Options/Conservation - Jerry Gibbs/Kathy Lundborg				
1. Summit County, Snyderville Basin Water Reclamation District Cooperation Discussions/Stream Flow Enhancements	Annual			Ongoing
2. JSSD Water Discussions	Annual			Ongoing
3. Water Rate Methodology Discussions	Mar-08			Complete
4. Water Demand Reduction Plan	Dec-07	Jul-08		Complete
5. Supply/Demand Update		Dec-08		Pending
6. Water Demand Reduction Plan - Review landscaping requirements/limits		Jun-09		Pending
4. Water Funding Strategy - Jerry Gibbs				
1. Pursue future appropriations and authorizations	Annual			Ongoing

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)			
Top Priority			
Goal 2 Preservation of Park City Character - Liza Simpson and Dana Williams; Alternate, Candace Erickson			
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
1. Old Town Improvements - Jonathan Weidenhamer and Dave Gustafson			
Downtown Projects			
1. Town Plaza/Swede Alley • Small Plaza/Historic Wall - Concept Plan		Feb-09	Pending
2. Shell Space • Construction complete	Apr-07	Oct-08	Complete
3. Marsac Building - move to temp location complete/construction begun • Construction complete	Oct-08	Nov-09	In Progress
2. Affordable Housing - Phyllis Robinson			
1. Snow Creek Affordable Housing • Pre-MPD application for Snow Creek Parcel • Subdivision/MPD application • Groundbreaking • Completion in 2009	Jun-07 Jun-07	Jan-08 Aug-08 Nov-08 Oct-09 Nov-08 Dec-08	Complete In Progress Pending Pending In Progress Pending Ongoing Pending In Progress Ongoing
2. Seasonal Housing Needs Assessment - Overcrowding Issues			
3. Quarterly Housing Status Report - Set 2008 in lieu fees			
4. Monitor Developer Obligations	Jun-08		
5. Housing General Plan Element Review and Update	Ongoing		
6. Analysis of deed restrictions and selection criteria	Aug-08		
7. Seasonal Housing Workgroup	Nov-07 Ongoing		
3. Trash and Recycling - Jerry Gibbs			
1. Decision on recycling facility relocation		Mar-09	Pending
2. Joint County Trash and Recycling Study		Mar-09	In Progress

Target for Action / Actions / Staff Coordinator		Initial Target Date	Revised Target Date	Status
4. Environmental Initiatives - Diane Foster				
1. Implement Strategic Plan		Ongoing		Ongoing
2. Wasatch Back Environmental Alliance		Ongoing		Ongoing
3. Inventory CO2 emissions from City Operations		Oct-07	Aug-08	Completed
4. Internal Recycling Program (City Operations)		Jun-08	Aug-08	Completed
5. Measure environmental footprint of City operations			Aug-08	Complete
6. Explore mandatory green building initiatives			Jan-09	In Progress
7. Develop Municipal Department Level CO2 Emission Reduction Plans		Nov-08	Mar-09	In Progress
8. Inventory CO2 emissions and water consumption from entire PC community		Dec-08	Mar-09	In Progress
9. Develop employee carpool campaign			Jul-09	In Progress
10. Communication to encourage community participation in environmental initiatives		Sep-08		Complete
11. Energy audits of Council member homes		Oct-08	TBD	In Progress
12. Implement general municipal building efficiency measures		Apr-09		In Progress
13. Install solar panels at Park City Ice Arena		May-09		In Progress
14. Implement community CO2 emission and water consumption reduction program in conjunction with partners		Aug-09		In Progress
15. Rocky Mountain Energy Grant Use		Jun-07	Oct-09	In Progress
5. Historic Preservation - Thomas Eddington				
1. Develop Landmark/Significant Status Inventory		Ongoing	Dec-08	In Progress
2. Amend LMC as needed; including Steep Slope			Dec-08	In Progress
3. Historic District Guideline Revisions		Oct-08	Nov-09	In Progress
6. Senior Issues - Phyllis Robinson				
1. Conduct assessment of Senior Center and other services			Feb-09	Pending
7. Staffing Plan for Sustainable Vision and Implementation				
1. Revise self-managed teams work plan to frame policy direction and implement Council Goals		Ongoing		Ongoing
8. Park City Heights Task Force and Annexation - Thomas Eddington				
1. Completion of Task Force Discussion		Jun-07		Complete
2. Annexation - PC review and recommendation to CC on Development Agreement		Dec-07	Apr-08	Complete
3. Annexation - City Council Determination		Jul-08	Dec-08	Pending
9. Emergency Transitional Needs (Peace House) - Phyllis Robinson				
1. Needs Assessment		Oct-08	May-09	In Progress
10. City Owned Property Master Plan (Park Ave/Woodside Ave) - Phyllis Robinson				
1. Identify site alternatives		Oct-08	May-09	In Progress

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)				
Top Priority				
Goal 3 Effective Transportation and Parking System - Jim Hier and Roger Harlan; Alternate, Liza Simpson				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Neighborhood Traffic Management - Kent Cashel				
See Attached Neighborhood Traffic Management Summary Report				
1. Review Neighborhood Traffic Management Policy	Jan-08	Mar-08	Complete	
2. Regional Transportation - Kent Cashel				
1. Enhance Transit Marketing	Annual		Ongoing	
2. Implement employee carpool incentive program	Annual		Ongoing	
	Jun-08		Complete	
3. Complete Environmental Assessment work on Ironhorse Site for expanded Transit Facility			In Progress	
4. Secure land for future satellite transit maintenance storage facility	Sep-09			
3. Transportation Strategic Plan - Kent Cashel				
1. Alternative Transportation/Walkability Study	Jun-06	Mar-07	Complete	
2. Annual Progress Report to City Council	Annual		Annual	
3. Implement Transportation Plan Strategies	Ongoing		Ongoing	
4. Implement Task Force Recommendations	Sep-07		Ongoing	
5. Increase Bio-Fuel Mix - Run 50/50 bio-pilot program in Trolley	Sep-08	Aug-09	In Progress	
6. Update Strategic Plan to include pedestrian-bicycle and transit modes	Dec-08		Pending	
4. Public Parking - Brian Andersen, Kent Cashel				
1. Winter Usage Report and review paid parking hours	Mar-08	May-08	Complete	
2. Discussion with HMBA re: drop off zones	Apr-08	Aug-08	Complete	
3. Conduct Main Street Circulation Study	May-09		In progress	
5. Community Transportation Plan - Kent Cashel, Jonathan Weidenhamer				
1. Park and Ride			In Progress	
2. Entry Corridor			Ongoing	

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
6. Highway 248			
1. Short Term Assessment and Options (Phase I)	Apr-08	May-08	Complete
2. Long Term Assessment and Options (Phase II)	Apr-08	Nov-08	In Progress
7. Snow Removal - Pace Erickson			
1. Assess, compile and address small action items	Jun-08	Nov-08	In Progress
2. Update on timeliness, cost, storage and hauling tradeoffs	Jun-08	Nov-08	In Progress
3. Plan for future enhancements including walkability	Jun-08	Nov-08	In Progress
4. Snow Removal Sidewalk Ordinance Discussion		Nov-08	In Progress

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)			
Top Priority			
Goal 4 World Class, Multi-Seasonal/Resort Community - Jim Hier and Liza Simpson; Alternate, Joe Kernan			
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
1. Economic Development - Jonathan Weidenhamer			
1. Implementation of 2008-10 Economic Development Plan	Ongoing		Ongoing
2. ED Grant follow-up - Park City Institute	Oct-08		Pending
3. Tents and Temporary Structures	Dec-08	Dec-08	In Progress
4. City-wide market analysis & carrying capacity study		Jan-09	In Progress
2. Support for Arts - Sharon Bauman			
1. Art in Public Places Implementation	Ongoing		Ongoing
2. Police Facility Lobby Art Installation		Sep-08	Complete
3. Poison Creek Fish Sculpture Installation	Oct-08	Nov-08	In Progress
4. Bus Shelter Implementation - Completion of ArtsKids Shelter	Oct-08	Nov-08	In Progress
•Release RFP for additional shelters (Phase II)		Nov-08	In Progress
3. Community Amenities and Events: Evaluation, Future Direction - Sustainability - Economy Team			
1. Museum Expansion	In Progress		In Progress
2. Strategic Plan for farm - Fire access, trail and display of artifacts	Jan-09		In Progress
3. KPCW Sale	May-09		In Progress
4. Event Calendar			Complete
•Criterion to prioritize and allow Main Street closure	Jun-09		In Progress
•Event Fees, revenues and enforcement	Jun-09		In Progress

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)

High Priority

Goal 5 Recreation, Open Space and Trails - Candace Erickson and Liza Simpson; Alternate, Joe Kernan

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
1. Ongoing Open Space Acquisition - Diane Foster, Matt Twombly			
1. Flagstaff - Distribution of open space contribution	Mar-04		Ongoing
2. Gambel Oak - Legislation	Oct-04	Nov-08	Ongoing
3. Red Maple/Air Force	Oct-04	May-09	Ongoing
4. Kimball Junction and Round Valley parcels with County	Dec-08		In Progress
5. Other Properties	Ongoing		Ongoing
2. Conservation Easements - Myles Rademan, Diane Foster			
1. Additional easement monitoring on new acquisitions	Aug-05		Pending
2. Conservation Easement on Clissold	Jun-08	Dec-08	In Progress
3. Trails - Matt Twombly			
1. Round Valley Trails - Friends of Trails	Sep-07	Dec-08	In Progress
•Quinn's Loop Trails			In Progress
2. Trailhead Parking Phase II - as sites are available		Dec-08	In Progress
•Cove and Round Valley Way			In Progress
3. Implementation of miscellaneous WALC Recommendations			In Progress
4. Review funding level required for trail maintenance standards in trails master plan and present during budget hearings			
5. Inventory to Develop Maintenance Plan and Budget for FY 2010	Mar-08		Complete
6. Investigate maintenance standards compared to Basin Recreation for trails	May-08	Mar-09	In Progress
May-08			In Progress
4. Neighborhood Parks/City Park - Ken Fisher/Matt Twombly			
1. Lights on basketball and volleyball courts	Jun-07	Jun-08	Complete
2. Old Town Park (Wisniewski) Construction Contract Issued	Feb-08	Aug-08	Complete
•Construction Complete	Jun-08	Apr-09	In Progress
3. Dog Park - Construction Complete	Jan-08	Aug-08	Complete
•Dog Park - Formation of Friends Group	Jan-08	Feb-09	In Progress
4. Neighborhood Park on Holiday Ranch Loop - Conceptual Design presented to CC	Aug-08		Complete
•CUP for Park Development	Oct-08	Jan-09	Pending
•Bid for park construction	Feb-09		Pending
•Begin park construction	May-09		Pending

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
5. Ice Rink - Stacey Noonan			
1. Install Exterior lighting from overflow parking lot	Apr-08		Complete
2. Ice Fundraising and Naming Rights Campaign		Aug-08	Complete
3. Install Natural Gas Line for Facility	Nov-08		In Progress
4. Ice Arena Completion - final punch list	Aug-06	Dec-08	In Progress
5. Purchase and Install Video Display System for Lobby	Dec-08		In Progress
6. Work with PAAB to install art murals	Dec-08		In Progress
7. Upgrade Sound System	Apr-08	Jan-09	In Progress
8. Redesign Ice Arena Website	Apr-08	Jan-09	Ongoing
6. Recreation and Racquet Club: Next Steps - Ken Fisher			
1. Dirt Jump Park - See Holiday Ranch Loop Park			
2. Racquet Club/Recreation			
•Recommendation - future capital improvements		Jan-08	Complete
•Recommendation to City Council for funding		Jun-08	Complete
3. Racquet Club Renovation			
•RFP for Design Services, Selection of Design Firm, Contract for Council approval			Complete
•Development of schematic design	Dec-08		In Progress
•Presentation of design to Public and Council	Dec-08		Pending
7. Outdoor Recreation Complex - Matt Twombly			
1. Phase II Improvements	FY'10		Pending
8. Walkability Implementation Phase I - Matt Twombly, Heinrich Deters			
1. Bond and Walkable Advisory Liaison Committee Prioritization	Mar-08	May-08	Complete
2. Project approved during budget process	Mar-08	Jun-08	Complete
3. Implementation	2009/10		Ongoing
•Little Kate	Aug-09		Pending

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)				
High Priority				
Goal 6 Regional Collaboration and Partnerships				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Transportation - Kent Cashel See Goal 3				
2. Flagstaff-Wasatch County - Tom Bakaly 1. Work with Wasatch County re SR-224 and public versus private access	Ongoing		Ongoing	
3. Recreation - Ken Fisher See Goal 5				
4. Health - Pace Erickson 1. Noxious weed coordination and enforcement on private property	Ongoing		Ongoing	
5. Water - Jerry Gibbs See Goal 1	Ongoing		Ongoing	
6. Solid Waste - Jerry Gibbs and Joe Kernan 1. Implementation of Solid Waste Alternatives	Ongoing		Pending	
7. Mosquito Abatement - Pace Erickson 1. Continued coordination with Summit County	Ongoing		Ongoing	
8. Wasatch Back Alliance - Diane Foster 1. Restart Group and Ongoing Participation	Ongoing		Restarted	
9. Library - Linda Tillson 1. Work with Wasatch County re SR-224 and public versus private access	Ongoing		Ongoing	
10. Inter-Agency Task Force 1. Continued Participation	Ongoing		Ongoing	
11. Open Space Acquisition See Goal 5	Ongoing		Ongoing	

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)				
Other Priorities				
Goal 7 Open and Responsive Government to the Community - Roger Harlan and Joe Kernan; Alternates, Jim Hier				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Community Vision 2015 and Beyond - Phyllis Robinson, Craig Sanchez				
1. Community Visioning Plan				
a. Council Direction on RFP	Jun-08		Complete	
b. Facilitator Proposals Due	Sep-08		Complete	
c. Project Deliverables				
1. Implement Community Dialogues (1-4 months)	Jan-09		Pending	
2. Develop Core Values and Community Ideals (5-6 months)	Mar-09		Pending	
3. Vision Action Plan (6-9 months)	Jul-09		Pending	
2. Update Material for Vision Presentations Annually following Council Visioning sessions	Annual		Annual	
3. Review 2nd Homeowners Social	Annual		Annual	
27				
2. Budget Review & Benchmark - Bret Howser				
1. Phase II Benchmarks determined with CAST		Nov-08	In Progress	
2. Monthly Budget Monitoring Program Implementation		Nov-08	In Progress	
3. Finance/Citywide software system conversion				
a. Position Budgeting - pending Budget Module		Dec-08	Scheduled	
b. Budget		Dec-08	Scheduled	
3. Customer Service: Evaluation and Action Plan - Craig Sanchez, Myles Rademan				
1. Accountability/responsibility training for Staff	Quarterly		Ongoing	
2. City "Fam" Tours	Annual		Ongoing	
3. Employee Survey & Training - communication of results	Annual		Ongoing	

Target for Action / Actions / Staff Coordinator		Initial Target Date	Revised Target Date	Status
4. Public Safety - Wade Carpenter				
1. Develop Policy and Implement Tasers - Training Complete		Nov-07	Sep-08	Complete
2. Emergency Resopnse Plan Update				
a. Staff Training NIMS ICS-400		Aug-07	Dec-08	Ongoing
b. Reformatting in process		Dec-07	Dec-08	In Progress
3. Community Oriented program - Citizens Academy		Dec-07	Apr-09	In Progress
4. Lexipol Service Evaluation (Comprehensive Police Policy Manual Program based on model policies developed by a national board)		Dec-08	Sep-09	Pending Legal Review
5. Communications - Phyllis Robinson, Scott Robertson, Myles Rademan				
1. Leadership 101		Ongoing		Ongoing
2. Media Seminars		Ongoing		Ongoing
3. Sustainability Promotion		Ongoing		Ongoing
4. Park City University		Ongoing		Ongoing
5. Communications Strategic Plan and Website Upgrade		Apr-08	Mar-09	In Progress

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)

Neighborhood Traffic Management Summary Report Attachment "A" to Quarterly Status Report

Location	Date Received/ Phase 1 Mtg	Citizen Concerns	Phase 1 Follow-up	Date Completed
Aerie Drive				
	Sep-08 Oct-08	•Speed signs on Aerie	•Field Study •Committee meeting and Action Plan •Install Signs	Sep-08 Oct-08 Nov-08
McHenry/Rossi Hill				
	Sep-08 Oct-08	•Sight lines at intersection	•Field Study and Data Gathering •Committee Meeting •Implement Action Plan	Oct-08 Oct-08 Nov-08
American Saddler				
	Sep-08 Nov-08	•Need for stop sign at Ashley Ct. Intersection •Need for lane striping	•Field Study and Data Gathering •Committee Meeting •Implement Action Plan	Oct-08 Nov-08 Apr-09
Moray Court and Bonanza Drive				
20	Sep-08 Nov-08	•Vehicle speeds and intersection sight lines	•Field Study and Data Gathering •Committee Meeting •Implement Action Plan	Oct-08 Nov-08 Nov-08
Lucky John Drive (Monitor to Little Kate)				
	Sep-08 Nov-08	•Vehicle speeds •Parking	•Field Study and Data Gathering •Committee Meeting •Implement Action Plan	Oct-08 Nov-08 Nov-08
Venus Court				
	Sep-08 Oct-08	•Need No Outlet Sign	•Field Study and Data Gathering •Committee Meeting •Implement Action Plan	Oct-08 Oct-08 Nov-08
Woodside Avenue				
	Mar-08 Apr-08	•Wintertime traffic flow (request for one-way)	•Meet with neighborhood to understand request •Develop initial response and timeline to process request •Gather and analyze data on request •Final response to request	Jun-08 Aug-08 Jan-09 Mar-09

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)

Neighborhood & Business District Needs Assessment

Request for Elevated Levels of Service Request (RELS) Attachment "B" to Quarterly Report

Status Report

Staff met with neighborhood and prioritized requests - Project 1 sidewalk on Deer Vally Drive completed. Bus stop installed. School bus stop pending completion by private developer.

Target for Action / Actions / Staff Coordinator

Target Date Status Budget

1. Pedestrian Lighting - Matt Twombly

1. Install street and pedestrian lights from Stonebridge condos to roundabout

Dec-07 Cost identified

No City funding;
private funds: Deer
Valley Resort;
Neighborhood SID

30

2. Bus Stop - Jonathan Weidenhamer

1. Construction of permanent school bus stop as a public improvements associated with construction of 601 & 605 Deer Valley Drive (NE corner of DV Dr. & Sunnyside)
2. Concrete pad installed. Shelter to be installed winter 08-09. Concrete pad was installed too close to fire hydrant. Bus shelter redesigned and reordered to accommodate concrete pad and fire hydrant

Oct-08

Pending

Private

Aug-07

Aug-08

Existing PW

2008 Park City Goals & Targets for Action - 3rd Quarter Report (July - September)

Neighborhood & Business District Needs Assessment

Request for Elevated Levels of Service Request (RELS) Attachment "B" to Quarterly Report

Status Report

Traffic Calming process evolved into Walkability Study / Bond process to address capital projects requested.

Walkable Implementation - Approved with 2008 budget

Formation of Walkability Advisory Liaison Committee (WALC) - contingent on bond passing 10/078

Approval of Walkability Bond - 11/07

WALC recommendations finalized and adopted by City Council during FY2009 budget

Implementation Plan and Schedule assigned to staff project managers

City Council Staff Report

Subject: 308 Ontario
Author: Kirsten A Whetstone, MS, AICP
Date: November 6, 2008
Type of Item: Administrative – Subdivision



Summary Recommendations

Staff recommends the City Council conduct a public hearing for the 308 Ontario Subdivision and consider approving the plat according to the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Topic

Applicant: William P. Mammen, AIA, for Hamilton and Barbara Easter
Location: 308 Ontario Avenue
Zoning: Historic Residential Low Density (HRL)
Adjacent Land Uses: Residential Single Family
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On April 18, 2008, the City received an application for a plat amendment to combine three lots into one lot of record for an existing 1,700 sf historic single-family house. The house is listed on the Park City Historic Building Inventory. Additional materials were received on August 28 and this application was considered complete.

The property is located within the Historic Residential Low Density (HRL) Zone. If approved, all of Lots 1 and 2 and most of Lot 3, Block 59, Park City Survey would be combined into one lot containing 5,387 sf. (Exhibit A). The existing house at 308 Ontario straddles Lots 2 and 3.

Access to the subject property is from Ontario Avenue. The property also has frontage on platted, unimproved Third Street along the south property line. The property does not have frontage on or access to McHenry Avenue to the east.

The owners propose to construct an addition to the house, including a driveway and garage off of Ontario Avenue. The additions would be located on Lot 1, connecting to the existing house with a 12' by 8' hall/stair element. The maximum footprint allowed in the HRL zone, for the proposed Lot is 1,993.23 square feet, subject to Steep Slope CUP review by the Planning Commission. The existing building footprint is 869 square feet. The proposed footprint, including the garage is 1850 square feet. Applications for a Steep Slope CUP and Historic Design Review were submitted with the plat amendment and are currently being reviewed.

On August 19, 2008, the Board of Adjustment granted a variance to allow a 1' front setback for the garage and covered deck over the garage. The garage doors would be

approximately 44' from the edge of paved Ontario Avenue.

On October 22, 2008, the Planning Commission conducted a public hearing and forwarded a positive recommendation to the City Council. There was no public input and the Planning Commission forwarded the recommendation based on the findings of fact, conclusions of law, and conditions of approval as outlined in the draft ordinance.

Analysis

Staff reviewed the proposed subdivision plat amendment for compliance with the Land Management Code, and made the following findings:

The property is steeply sloped (30% or greater) and Ontario Avenue is a narrow street located almost entirely outside of (west of) the platted ROW in this location. Limited off-street parking exists on the east side of Ontario Avenue. The owners of 308 Ontario currently park parallel to the paved portion of Ontario and access their house via a series of steps and foot paths. Adjacent Third Street ROW is steeper than typically desired for an improved City Street (maximum 10% slope) or driveway (maximum 14% slope). A public stairway within the Third Street ROW is not currently identified on the Trails Master Plan.

Due to the distance from the edge of paved Ontario to the property line (40' to 44') a 5% to 10% driveway grade is possible and the height of resulting retaining walls can be minimized. Proposed plans describe a driveway with a portion covered and landscaped (creating a tunnel) with garage doors recessed approximately 16' back from the tunnel opening (approximately 44' back from paved Ontario). The owner has agreed to improve a parking space along Ontario Avenue, in a location where the owner currently parks, for off-street parking for neighbors and guests. This parking would be located within the Ontario Avenue platted ROW, adjacent to the paved street.

Utilities exist for the Lot. Overhead power lines serving the property are proposed to be placed under ground during construction of the addition. Easements for existing power lines will be identified on the plat prior to recordation. Alternatively, these lines may be relocated underground within the Third Street or Ontario ROW. Due to the location and steepness of the Lot, Staff recommends a note be placed on the plat requiring modified 13-D residential fire sprinklers be installed for any new construction on the Lot. Snyderville Basin Water Reclamation District has reviewed the plat and indicated that easements for sanitary sewer lines shall be shown on the plat prior to recordation.

Construction on this lot will create site disturbance, shoring, and project staging that could have impacts on the neighborhood, as there is limited area on Ontario for project staging and construction. A Construction Mitigation Plan is required to be submitted with any application for building permits. The CMP plan for this property should clearly identify mitigation measures for staging, construction parking, on-time delivery of materials, etc. and take into consideration site constraints of the property. Any use of the Third Street ROW for construction staging requires an encroachment agreement approved by the City Engineer. Construction impacts will be mitigated by the fact that the proposed Lot is larger and setbacks to existing houses are greater than typical in

Old Town. However, the proposed lot size is not out of character with the size of Lots in the general area. The property is adjacent to the Third Street ROW that provides additional separation and open space.

A remnant portion of Lot 3 was previously quit claimed to Lot 4 to resolve a setback issue for the existing house on Lot 4. This remnant portion of Lot 3 is not separately developable.

The underlying zoning is Historic Residential (HRL). The minimum lot size in the HRL zone is 3,750 square feet. The following are the minimum lot and site requirements per the Land Management Code Section 15-2.1-3 for development within the HRL zoning district:

	CODE REQUIREMENT	PROPOSED
SETBACKS		
*FRONT	10'	1' for garage and decks (per Variance granted) and 10' for new floor area.
*SIDES	5' minimum (total 14' for 2 side yards) Side setback along platted un-built ROW is allowed at 5', new construction on the north side requires 9' setback.	Existing setback on north side is non-conforming at 3.5' for historic house and existing setback on south side is 27'.
*REAR	10'	(existing is 20')
HEIGHT	27'	27'
MINIMUM LOT SIZE	3,750 sf	5,387 sf (if plat amendment is approved)
MINIMUM LOT WIDTH	35 feet	59 feet
MAXIMUM FOOTPRINT FOR LOT SIZE	1,993 sf	1,850 sf

Staff finds there is good cause for the proposed subdivision as the plat will bring the lots into compliance with state law by removing interior lot lines under an existing house and the potential density is reduced. Staff finds that the plat will not cause undo harm to adjacent property owners as the lot combination reduces potential density and the Lot complies with requirements of the Land Management Code. The plat amendment facilitates construction of off-street parking, by removing interior lot lines. Future development is reviewed for compliance with requisite Building and Land Management Code requirements and conditions of approval of this plat amendment.

Notice

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

Public Input

No public input on the plat has been received.

Alternatives

- City Council may approve the 308 Ontario Subdivision plat as conditioned or amended; or
- City Council may deny the 308 Ontario Subdivision plat and direct staff to make Findings for this decision; or
- City Council may continue discussion to a date certain.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The land would remain as is and the existing house would remain a non-conforming structure. No driveway, garage, or additions could be constructed across interior property lines.

Process

Plat amendments require a public hearing and recommendation by the Planning Commission with final action by the City Council. City Council's decision on a plat amendment may be appealed to a court of competent jurisdiction per LMC Section 15-1-18. Prior to building permit issuance for construction in the HRL District plans must be submitted to and reviewed by the Planning Department for compliance with the Historic District Design Guidelines. Construction located on slopes of 30% or greater requires a Steep Slope Conditional Use Permit with review and approval by the Planning Commission. Steep Slope CUP and Historic Design Review applications are currently being reviewed.

Recommendation

Staff recommends the City Council conduct a public hearing for the 308 Ontario Subdivision and consider approving the subdivision plat according to the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits

Ordinance

Exhibit A- Proposed Subdivision plat

Exhibit B- Existing Conditions and photos

Exhibit C- Location on Zone Map

Ordinance No. 08-

AN ORDINANCE APPROVING A PLAT AMENDMENT KNOWN AS 308 ONTARIO AVENUE SUBDIVISION COMBINING LOTS 1, 2, AND MOST OF LOT 3, OF BLOCK 59 OF THE PARK CITY SURVEY, INTO ONE LOT OF RECORD, PARK CITY, UTAH

WHEREAS, the owner of the property known as 308 Ontario Avenue, has petitioned the City Council for approval of a plat amendment; and

WHEREAS, proper notice was sent and the property posted according to requirements of the Land Management Code and State Law; and

WHEREAS, on October 22, 2008, the Planning Commission held a public hearing to receive public input on the proposed plat amendment ; and

WHEREAS, on October 22, 2008 the Planning Commission forwarded to City Council a positive recommendation; and

WHEREAS, on November 6, 2008 the City Council held a public hearing on the proposed subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 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 308 Ontario 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 in the Historic Residential Low Density (HRL) zone.
2. The HRL zone is characterized by medium sized historic residential structures and larger contemporary houses on larger lots, and is a transitional zone from the historic HR-1 district to the R-1 and RM zoning districts.
3. The subdivision plat combines Lot 1, 2, and most of Lot 3 of Block 59 of the Park City Survey into one lot of record. The Area of proposed Lot 1 is approximately 5,387 square feet. The Lot Width of proposed Lot 1 is 59' measured 15' from the front lot line.
4. The minimum lot size (Area) in the HRL zone is 3,750 square feet. The minimum Lot Width in the HRL is 35 feet.
5. There is an existing 1,700 sf historic single-family home straddling Lots 2 and 3. The house has a non-conforming 3.5' setback to the north property line and is located 27' from the proposed south property line. Lot 1 is currently vacant, with the exception of stairs, paths, and landscaping.
6. Access to the property is from Ontario Avenue. The property has no frontage or

access onto McHenry Avenue to the east. The property has frontage on platted, unimproved Third Street ROW along the south property line.

7. Off-street parking is currently limited due to the steeply sloped front yard. The lot slopes steeply from Ontario Avenue towards McHenry Avenue and the front property line is located approximately 44' back from the edge of the pavement of Ontario.
8. Adjacent Third Street ROW is steeper than typically desired for an improved City Street or driveway. A public stairway within the Third Street ROW is not currently identified on the Trails Master Plan.
9. On August 19, 2008, the Board of Adjustment granted a variance to allow a 1' front setback for a garage and covered deck over the garage.
10. The maximum building footprint allowed for the proposed Lot 1 is 1,993.23 square feet, subject to Steep Slope CUP review by the Planning Commission. The existing building footprint is 869 square feet.
11. Setbacks for proposed Lot 1 are 1' in the front for the garage and covered deck (per approved variance), 10' in the front for new floor area, 10' in the rear, 9' minimum on the north side for new construction (existing house has a non-conforming 3.5' setback), and 5' on the south corner side yard adjacent to Third Street ROW.
12. Construction on these lots will create grading, terracing, site disturbance, shoring and project staging that could have impacts on the neighborhood, as there is limited area on Ontario for project staging and construction. A Construction Mitigation Plan that specifically addresses these issues will be necessary prior to issuance of any building permits.
13. The applicant stipulates to the conditions of approval as listed.

Conclusions of Law

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

Conditions of Approval

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Prior to the receipt of a building permit for construction on any of the lots, the applicant shall submit an application for Historic Design Review for review and approval by the Planning Department for compliance with applicable Historic District Design Guidelines.
3. A financial security for all public improvements shall be in place prior to plat recordation. The financial guarantee shall have been approved by the City Engineer as to amount and the City Attorney as to form prior to plat recordation.

4. The applicant will submit the final mylar to the City for recordation of the plat amendment at the County within one year of the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
5. A remnant portion of Lot 3 was previously quit claimed to Lot 4 to resolve a setback issue for the existing adjacent house on Lot 4. This remnant portion of Lot 3 is not separately developable.
6. The owner shall enter into an encroachment agreement with the City for any use of platted Third Street for access, construction staging, and relocation and undergrounding of utilities.
7. Utilities exist for the proposed Lot. Overhead power lines serving the property will be placed under ground during construction of the addition. Easements for all existing power lines shall be identified on the plat prior to recordation. Alternatively, these lines may be relocated underground within the Third Street or Ontario ROW with approval by the City Engineer. Easements for sanitary sewer lines shall be identified on the plat prior to recordation as required by the Snyderville Basin Water Reclamation District.
8. A note shall be added to the plat stating that modified 13-D residential fire sprinklers are required for new construction on this Lot.
9. A Construction Mitigation Plan that specifically addresses the limited area on Ontario for project staging and development constraints of the property shall be submitted to the Building Department for review prior to issuance of any building permits

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

PASSED AND ADOPTED this -- day of ---- 2008.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

39

Exhibit B

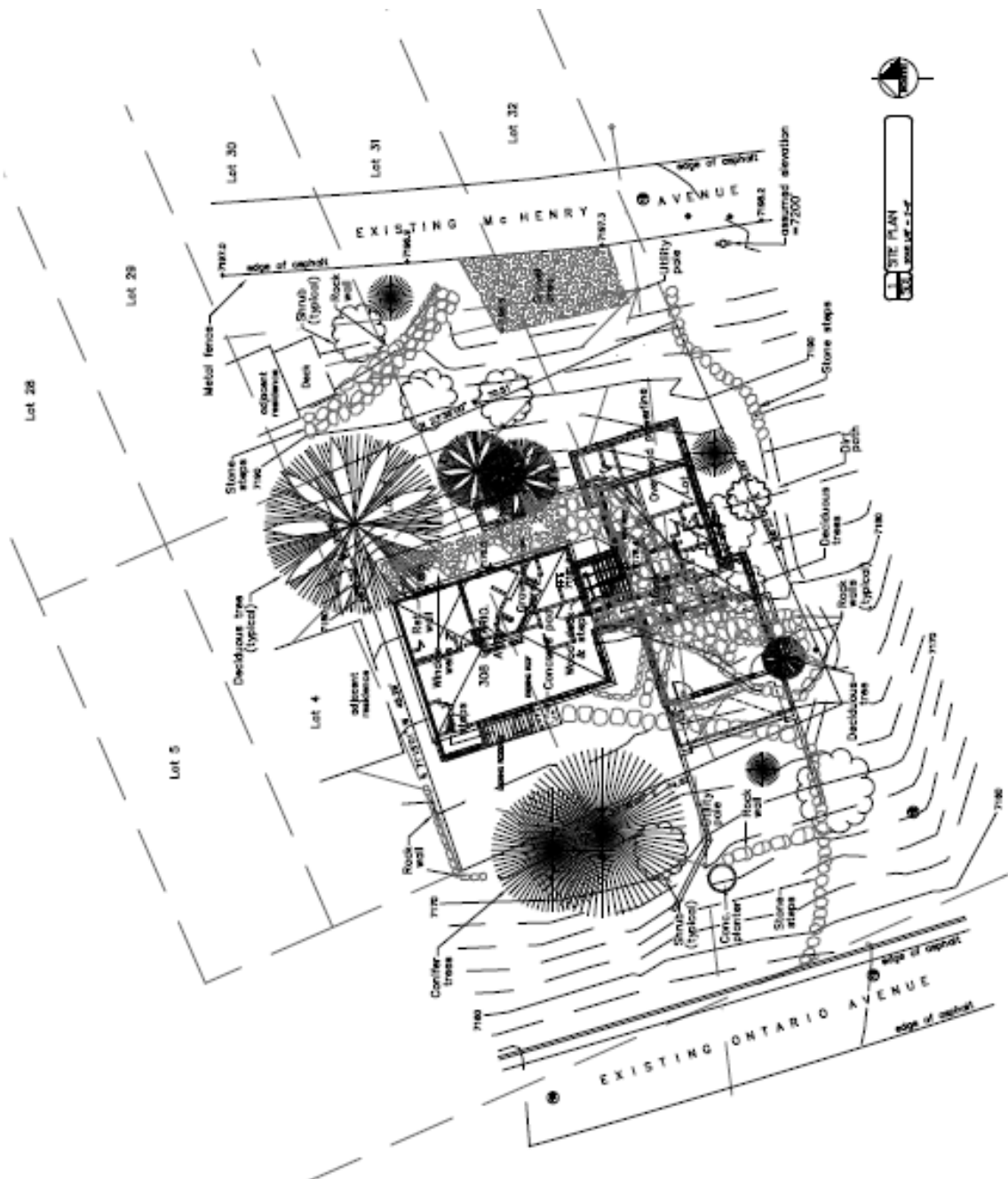


Exhibit C





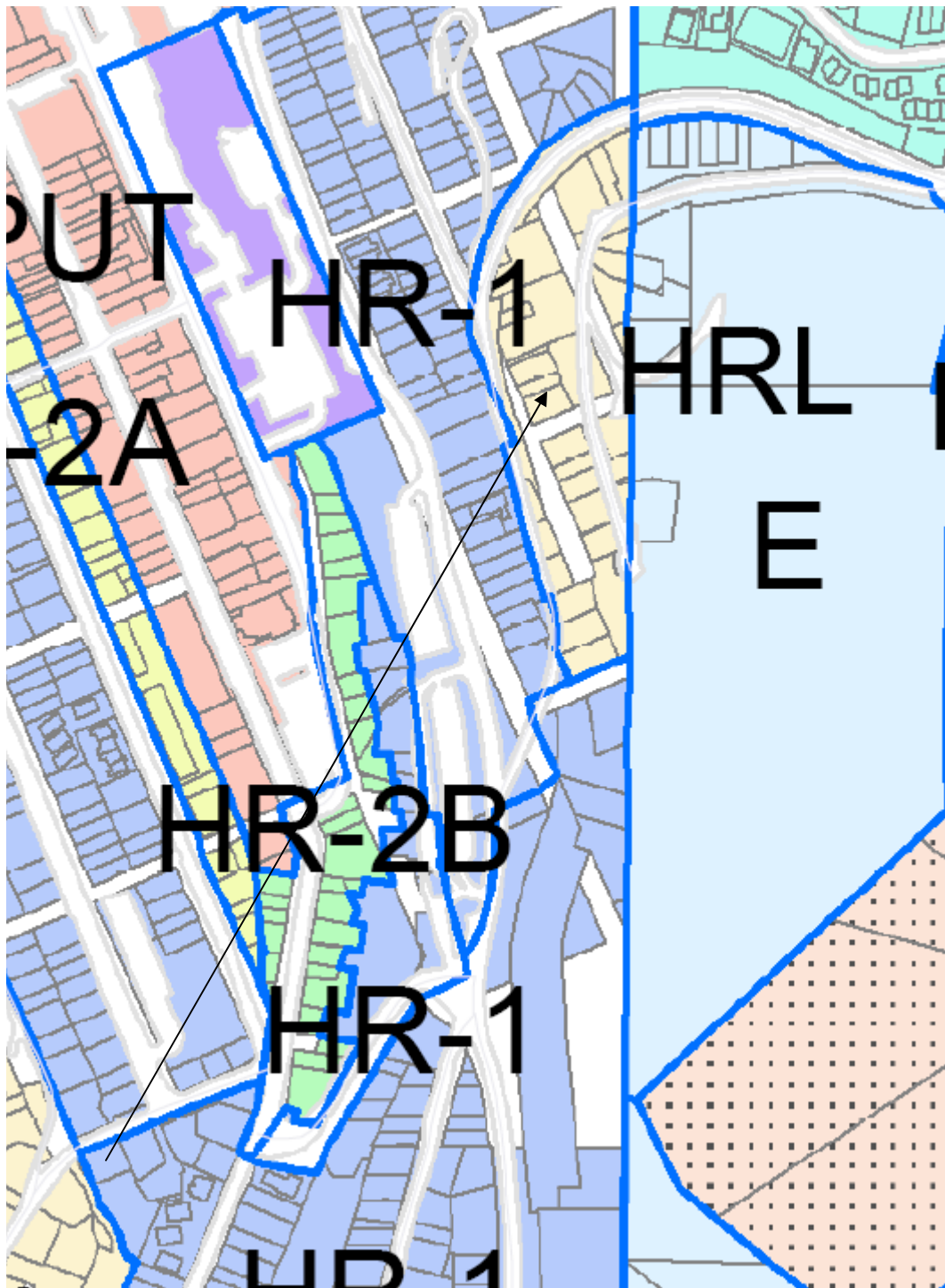


Exhibit D- Site location



City Council Staff Report

Subject: 2009 FIS Freestyle World Cup
Author: Max J. Paap
Department: Sustainability
Date: November 6, 2008
Type of Item: Administrative – Master Festival License

Summary Recommendations:

Review the Master Festival License application, conduct a public hearing, and approve the license for The 2009 FIS Freestyle World Cup, as conditioned, on January 29 - 31, 2009 to be held at Park City Mountain Resort, Deer Valley Resort, and Main Street between Heber Avenue and 9th Street.

Description:

Topic:

Review the Master Festival License Application, submitted by Park City Mountain Resort and Deer Valley Resort for the 2009 FIS Freestyle World Cup at Park City Mountain Resort, Deer Valley Resort, and Main Street between Heber Avenue and 9th Street on January 29 - 31, 2009.

Background:

Park City Mountain Resort and Deer Valley Resort submitted an application requesting a Master Festival License to hold a FIS Freestyle World Championship test event in Park City. The event includes a Superpipe event at Park City Mountain Resort and Aerials, Mogul, and Dual Moguls at Deer Valley Resort. An opening night concert is being planned on Thursday, January 29th on Lower Main Street between Heber Avenue and 9th Street. This closure would be very similar to the closure for the Park Silly Sunday Market. The concert would run from 7:00 pm until 9:00 pm. This concert had previously been held directly at the race venue at Deer Valley. Because both Deer Valley and Park City Mountain Resort are hosting test events in 2009 the proposal for the concert to be held on Main Street would be a joint effort between the resorts to bring people to Main Street. A short fireworks display from the Masonic Water Tower will immediately follow the concert. HMBA Executive Board has been notified of the partial closure to Main Street and has no negative comment on the temporary closure.

The 2009 FIS Freestyle World Cup is consistent with the City Council's Goal #4 which is to continue to promote Park City as multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this and to increase the number of events.

Analysis:**Music event and fireworks display**

The event organizers have requested to hold their event on Thursday, January 29, 2009. The event organizers would begin to take over Main Street between Heber Avenue and 9th Street at 5:00 am to facilitate the build out of the stage and any other sponsor activities on the street. The organizer will be purchasing pay and display parking spaces on Main Street to create the street venue. Sponsor activities would be orchestrated and managed by USSA. The concert would begin at 7:00 pm and run until 9:00 pm; a short fireworks display will follow the concert slated to end by 9:10 pm. The tent that will be in place for Sundance on the Town Lift Plaza, not the tent that will be in place on Main Street for the festival will be programmed as a VIP venue for sponsors and other spectators for the concert. At this time the musical act has yet to be determined. Operationally the stage will be removed by 12:00 am and the street returned to vehicular traffic.

Parking

Parking for the anticipated crowd can be accommodated with the remaining pay and display spaces on Main Street, and public and private parking lots near the venue. Satellite parking lots will be available, with public transit, and Park City Mountain Resort and Deer Valley due to the fact that there is no competition at either venue. Electronic signs directing spectators to China Bridge will be implemented.

This application is being reviewed as a Master Festival License due to the request to play amplified music, attraction of large crowds (over 500), partial street closure, use of off site parking facility, and use of City property. The applicant has indicated the amplified music would take place only between the hours of 7:00 pm and 9:00 pm on Lower Main Street.

Department Review:

All applicable departments have reviewed The 2009 FIS Freestyle World Cup and their comments have been incorporated into the report.

Alternatives:**Approve the Request:**

Approve the Master Festival License allowing The 2009 FIS Freestyle World Cup as described.

Deny the Request:

Deny the Master Festival License, preventing the addition of The 2009 FIS Freestyle World Cup Park City's schedule of events.

Continue the Item:

The City Council may continue the discussion in order to receive additional information.

Significant Impacts:

Park City has held many similar events to The 2009 FIS Freestyle World Cup. The activities will be contained within the venue and will conclude by 9:00 pm. The street will be opened to the public by 12:00 am on Friday, January 30, 2009.

Consequences of not taking the recommended action:

The 2009 FIS Freestyle World Cup would not take place.

RECOMMENDATION:

Staff recommends the City Council conduct a public hearing and approve a Master Festival for The 2009 FIS Freestyle World Cup on January 29 - 31, 2009 based on the following Findings of Fact, Conclusions of Law and Conditions of Approval.

Findings of Fact:

1. The 2009 FIS Freestyle World Cup Street Concert will be Thursday, January 29, 2009. The event will last from 7:00pm to 9:00 pm and will occur at the Town Lift Plaza and the lower portion of Main Street, between Heber Avenue and 9th Streets.
2. Parking for the anticipated crowd of 5000 people can be accommodated with the existing private and public parking lots in and around the venues. Should the need arise satellite parking lots at both PCMR and Deer Valley could be utilized as there are no competitions at either venue on the evening. The conduct of The 2009 FIS Freestyle World Cup will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
3. The events associated with The 2009 FIS Freestyle World Cup will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The event will be held at the Town Lift Plaza and lower Main Street. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. No other Master Festival or Special Event Licenses have been issued for February 22, 2008. The 2009 FIS Freestyle World Cup Open will not substantially interfere with any other Special Event or Master Festival for which a license has already been granted or with the provision of City services in support of other such events or governmental functions.
6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

1. The applicant, at its' cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.
2. Applicants shall provide proof of liability insurance in the amount of two million dollars (\$2,000,000) or more as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as additional insured. All Applicants shall further indemnify the City from liability occurring at the event except for any claim arising out of the sole negligence or intentional torts of the City or its employees.
3. All amplified music may begin at 7:00 pm and at least cease by 9:00 pm on Thursday, January 29, 2009 on Lower Main Street.
4. Applicant shall notify all adjacent neighbors 48 hours prior to the event.
5. The applicant will work with City Staff to orient the music stage so as to minimize sound impacts to the neighborhood and the applicant shall monitor the following:
 - (A) The program manager, or his/her designee, shall provide on-site management for the event.
 - (B) A sound technician shall provide on-site monitoring for the event with music, amplified or otherwise, and any amplified event.
 - (C) The program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage.
6. All plans for tents, fireworks, stages and other temporary structures shall be submitted to the Building Department for review and permitting by January 9, 2009.
7. The applicant shall barricade and provide detour signage for the street closure in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) for the duration of the event.

Attachments

Exhibit A- Applicant's Summary of Activities

Exhibit B- Event Schedule

Exhibit A-

**PARK CITY MUNICIPAL CORPORATION
SPECIAL EVENT AND MASTER FESTIVAL LICENSE
EVENT APPLICATION-PART I**

A completed electronic copy submitted to the Special Events Department



**Special Events and Facilities
Department**
435.615.5150
specialevents@parkcity.org

APPLICATION FORM

Part I of the application form (pages 1 and 2) must be completed and submitted **electronically** to the Special Events Department no less than 90 days prior to a Master Festival or no less than 60 days prior to a Special Event. Part II of the application form (pages 3-6) which are more comprehensive, must be submitted 45 days before all events. **Parts I and II of the application must be sent electronically** to the Special Events Department at specialevents@parkcity.org. The application will be reviewed by the Special Events Department and compared to master calendar for date availability. Applicant must schedule a meeting with City Staff 30 days prior to the event to review logistics. Granting of the permit is not guaranteed.

EVENT NAME: 2009 FIS Freestyle World Cup

FIRST TIME OR ANNUAL EVENT (IF ANNUAL, HOW MANY YEARS): Annual, 9 years

EVENT DATE(S): January 29-31, 2009

EVENT TIME(S): Please see attached schedule

EVENT LOCATION(S): *Please describe in detail the exact location(s)*
Deer Valley Resort - Snow Park Lodge, Champion and White Owl ski runs. Park City Mountain Resort - Eagle Superpipe.

ANTICIPATED ATTENDANCE: January 29- 1,500 people; January 30- 7,000 people (night event); January 31- 3,500 people for day event at Park City Mountain Resort and 7,000 people for night event at Deer Valley Resort.

EVENT DESCRIPTION: *Please describe in detail the activities associated with the event*

FIS Freestyle World Cup - aerial, mogul, dual mogul and ski halfpipe competitions

APPLICANT: *(name of organization)* Deer Valley Resort and Park City Mountain Resort

CONTACTS

Event Manager: Carrie Budding, Deer Valley Resort
Mailing Address: P.O. Box 1525, Park City, UT 84060
Phone: 435-645-6504

Fax: 435-645-6939

Cell Phone: 435-513-2786
E-Mail: carrie@deervalley.com

Assistant Event Manager: Meisha Lawson, Park City Mountain Resort
Mailing Address: P.O. Box 39, Park City, UT 84060
Phone: 435-658-5502 Fax: 435-647-5374
Cell Phone: 435-659-9283
E-Mail: meishal@pcmr.com

TYPE OF EVENT: *to be confirmed by the Special Events Department*

☒ **Master Festival;** *(If even one box is checked, the event is automatically a Master Festival)*

A public event which any one of the following:

- ☒ attraction of large crowds, (Over 500)
- ☒ street closure,
- ☒ use of City park, building or property,
- ☒ use of off-site parking facility,
- ☒ use of amplified music.

☐ **Special Event;**

A private or public event, which creates significant public impacts through:

- ☐ causes significant public impacts via disturbance, crowd, traffic/parking,
- ☐ disruption of the normal routine of the community or affected neighborhood,
- ☐ necessitates temporary business or liquor licensing
- ☐ event signs, visible from public property
- ☒ temporary structures

CITY SERVICES (SERVICES WILL REQUIRE ADDITIONAL APPROVAL AND FEES)

- request for street closure(s)? ☒ yes ☐ no
if yes, then list street(s) and closure time and date: Lower Main Street, closed Thursday, January 29, from 7 a.m. to 2 a.m. on Friday, January 30.
- request for closure of or access to any public parking spaces? ☒ yes ☐ no
if yes, then list lot and closure times and dates: Access for overflow parking in the China Bridge parking structure on event days (January 29-31).
if yes, complete and attach [Request for Special Use of Public Parking](#) form.
- request for use of any City owned bleachers? ☒ yes ☐ no

SALES AND FOOD VENDING

- will there be beer, wine and/or liquor sales during the event? ☒ yes ☐ no
if yes, have you filed a [Beer and Liquor License Application](#) with Park City Finance Department? ☐ yes ☐ no
if yes, have you filed a [Single Event or Temporary Beer Permit](#) application w/ UDABC? ☐ yes ☒ no

APPLICATION FEES

All new applications require a \$100 processing fee, all applications for returning events require a \$50 application fee, due at the time of application. Additional fees for other

services, including Health Department and Fire Department, will be estimated and provided to the applicant. A final bill for services will be delivered to the applicant approximately two weeks after the event concludes. Please remit application check to:

Park City Municipal Corporation
Attn: Special Events and Facilities
P.O. Box 1480
Park City, UT 84060

INSURANCE

Park City Municipal requires proof of liability insurance in the amount of two million dollars (\$2,000,000) or more, and applicant shall further name Park City Municipal Corporation as an additional insured. This must be submitted 10 days prior to the event.



FIS FREESTYLE WORLD CUP

DEER VALLEY RESORT *in conjunction with* PARK CITY MOUNTAIN RESORT

Park City, Utah

January 26 – January 31, 2009

As of 10/27/08 - OFFICIAL

MONDAY, JANUARY 26TH, 2009 – ARRIVAL

12:00 p.m. - 8:00 p.m. Team Arrival / Registration / Information
- MOGUL + AERIAL Team Arrival

The Lodges

TUESDAY, JANUARY 27TH, 2009 – ARRIVAL + TRAINING

8:00 a.m. - 4:00 p.m. Registration / Information
9:00 a.m. - 11:00 a.m. Aerials Jump Shaping
9:00 a.m. - 4:00 p.m. Press Room
10:30 a.m. - 2:00 p.m. Mogul Open Session/Inspect/Train
12:00 p.m. - 3:00 p.m. Aerials Open Training
5:00 p.m. Team Captains Welcome Meeting
5:30 p.m. Doctors Meeting

The Lodges
White Owl
Snow Park Lodge
Champion
White Owl
The Lodges
The Lodges

WEDNESDAY, JANUARY 28TH, 2009 – ARRIVAL + TRAINING

8:00 a.m. - 4:00 p.m. Registration / Information
-SKI HALFPIPE TEAM ARRIVAL
9:00 a.m. - 4:00 p.m. Press Room
10:00 a.m. - 10:15 a.m. Aerials Group 1 Speed Check
10:15 a.m. - 12:15 p.m. Aerials Group 1 Official Training
10:30 a.m. - 2:00 p.m. Mogul Open Session/Inspect/Train
12:30 p.m. - 12:45 p.m. Aerials Group 2 Speed Check
12:45 p.m. - 2:45 p.m. Aerials Group 2 Official Training
5:00 p.m. Mogul Draw

The Lodges
Snow Park Lodge
White Owl
White Owl
Champion
White Owl
White Owl
The Lodges

THURSDAY, JANUARY 29TH, 2009 – ARRIVAL + TRAINING + MOGUL COMPETITION

8:00 a.m. - 3:00 p.m. Registration / Information
8:00 a.m. - 5:00 p.m. Press Room
8:30 a.m. - 9:15 a.m. Ladies' Mogul Qualifications Training
9:30 a.m. - 10:15 a.m. Ladies' Mogul Qualifications
10:00 a.m. - 1:00 p.m. Ski Halfpipe Official Training (L/M)
10:30 a.m. - 11:15 a.m. Men's Mogul Qualifications Training
10:45 a.m. - 11:00 a.m. Aerials Group 2 Speed Check
11:00 a.m. - 1:00 p.m. Aerials Group 2 Official Training
11:30 a.m. - 12:15 p.m. Men's Mogul Qualifications
12:30 p.m. - 1:00 p.m. Ladies' and Men's Mogul Finalist Training
12:30 p.m. - 2:30 p.m. VIP Tent Hospitality – Lunch Served
1:15 p.m. - 2:15 p.m. Ladies' and Men's Mogul Finals
2:30 p.m. - 2:45 p.m. Awards immediately following competition
1:15 p.m. - 1:30 p.m. Aerials Group 1 Speed Check
1:30 p.m. - 3:30 p.m. Aerials Group 1 Official Training
5:00 p.m. Aerial Draw
6:30 p.m. - 7:30 p.m. Aerials Open Training (L/M)
7:00 p.m. - 9:00 p.m. Featured Entertainment
9:00 p.m. - 9:10 p.m. Fireworks

The Lodges
Snow Park Lodge
Champion
Champion
PCMR Superpipe
Champion
White Owl
White Owl
Champion
Champion
Competition Venue
Champion
Finish Area
White Owl
White Owl
The Lodges
White Owl
Lower Main Street

FRIDAY, JANUARY 30TH, 2009 – TRAINING + AERIAL COMPETITION

8:00 a.m. - 3:00 p.m. Registration / Information
8:00 a.m. - 10:00 p.m. Press Room
9:00 a.m. Ski Halfpipe Draw
9:30 a.m. Dual Mogul Draw
10:00 a.m. - 1:00 p.m. Ski Halfpipe Official Training (L/M)
11:15 a.m. - 11:30 a.m. Ladies' Aerials Speed Checks
11:30 a.m. - 1:00 p.m. Ladies' Aerials Official Training
1:00 p.m. - 1:50 p.m. Ladies' Aerials Qualifications

Snow Park Lodge
Snow Park Lodge
Snow Park Lodge
Snow Park Lodge
PCMR Superpipe
White Owl
White Owl
White Owl

1:50 p.m. - 2:00 p.m.	Men's Aerials Speed Checks	White Owl
2:00 p.m. - 3:30 p.m.	Men's Aerials Official Training	White Owl
3:45 p.m. - 4:45 p.m.	Men's Aerials Qualifications	White Owl
4:00 p.m. - 6:00 p.m.	Mogul Open Session/Inspect/Train	Champion
5:30 p.m. - 6:05 p.m.	Ladies' and Men's Aerials Finalist Official Training (12/12)	White Owl
5:30 p.m. - 7:30 p.m.	VIP Tent Hospitality - Dinner served	Competition Venue
6:10 p.m. - 6:20 p.m.	Aerial Finalist Showcase	White Owl
6:30 p.m. - 7:00 p.m.	Ladies' Aerials Finals (12)	White Owl
7:00 p.m. - 7:30 p.m.	Men's Aerials Finals (12)	White Owl
7:45 p.m. - 8:00 p.m.	Awards immediately following competition	Finish Area
8:00 p.m. - 8:10 p.m.	Fireworks	

SATURDAY, JANUARY 31ST, 2009 – SKI HALFPIPE + DUAL MOGUL COMPETITION

8:00 a.m. - 3:00 p.m.	Registration / Information	Snow Park Lodge
8:00 a.m. - 3:00 p.m.	Ski Halfpipe Press Room(PCMR)	Lodge at Mt. Village
11:00 a.m. - 10:00 p.m.	Dual Moguls Press Room(DVR)	Snow Park Lodge
8:15 a.m. - 9:15 a.m.	Ladies' and Men's Ski Halfpipe Qualifications Training	PCMR Superpipe
9:30 a.m. - 11:30 a.m.	Ladies' and Men's SKI Halfpipe Qualifications	PCMR Superpipe
11:00 a.m. - 1:00 p.m.	VIP Tent Hospitality – Brunch Served	PCMR Superpipe
11:45 a.m. - 12:15 p.m.	Ladies' and Men's Ski Halfpipe Finalist Training (12/12)	PCMR Superpipe
12:30 p.m. - 1:30 p.m.	Ladies' and Men's SKI Halfpipe Finals (12/12)	PCMR Superpipe
1:45 p.m. - 2:00 p.m.	Awards immediately following competition	Finish Area
3:00 p.m. - 3:15 p.m.	Dual Moguls Inspection	Champion
3:30 p.m. - 4:30 p.m.	Ladies and Men's Competition Training	Champion
4:45 p.m. - 5:30 p.m.	Ladies' Dual Moguls Qualifications	Champion
5:45 p.m. - 7:00 p.m.	Men's Dual Moguls Qualifications	Champion
6:00 p.m. - 8:30 p.m.	VIP Tent Hospitality - Dinner served	Competition Venue
7:15 p.m. - 7:45 p.m.	Ladies' and Men's Dual Moguls Finalist Training (16/16)	Champion
8:00 p.m. - 9:30 p.m.	Ladies' and Men's Dual Moguls Finals (16/16)	Champion
9:35 p.m. - 9:50 p.m.	Awards immediately following competition	Finish Area
9:50 p.m. - 10:00 p.m.	Fireworks	

SUNDAY, FEBRUARY 1ST, 2009 - DEPARTURE

8:00 a.m. - 12:00 p.m.	Departure/Travel Day
------------------------	----------------------

City Council Staff Report



Subject: Sidewalk Snow Removal
Author: Pace Erickson, Operations Manager
Department: Public Works
Date: November 6, 2008
Type of Item: Legislative

SUMMARY RECOMMENDATIONS: Hold a public hearing, consider input, and adopt ordinance change **14- 4-9. SIDEWALKS TO BE CLEARED** amending the sidewalk snow removal ordinance to a three tiered plowing priority list designating which sidewalks and paths would receive city augmented services, which would be property owner responsibility and which would be exempt from the ordinance.

Hold a public hearing, consider input, and adopt ordinance change **4-2-17 (G) TRANSPORTATION SERVICE** to implement a regulatory element into private snow plow operator licensing and heighten enforcement of current ordinances.

Hold a public hearing, consider input, and adopt ordinance change **14- 4-10. FIRE HYDRANTS TO BE UNCOVERED** which increases public awareness through education the importance of removing snow from fire hydrants during winter months.

DESCRIPTION:

Topic Winter Snow Removal Enforcement and Ordinance changes

Background

At the September 11, 2008 Council meeting, staff discussed with Council options regarding sidewalk snow removal, private contractors and fire hydrant snow removal. Council directed staff to return with the following amendments to the municipal code:

- Amend the sidewalk snow removal ordinance and develop a three tiered plowing priority list designating which sidewalks and paths would receive City augmented services, which would be property owner responsibility and which would be exempt from the ordinance.
- Develop a strategy to implement a regulatory element into private snow plow operator licensing and heighten enforcement of current ordinances.

- Increase public awareness through education of the importance of removing snow from fire hydrants during winter months.

ANALYSIS

Considerations for City Provided Sidewalk and Path Snow Removal:

In order to provide the greatest efficiency and cost effective method for removing snow from sidewalks and paths and to provide the greatest benefit for the largest number of residents and guests, the following criteria were utilized for establishing city enhanced snow removal services:

- Can be done with existing equipment and resources
- Sidewalks and paths that are at least 5 feet wide and free of obstructions or 4 feet wide when adjacent to a curb
- Sidewalks or paths that connect to other trails which are receiving service
- Path cannot unload or end at an unsafe situation or intersection
- Sidewalks or paths that are along roadsides which have a speed limit greater than 35 MPH

Considerations for Private Sidewalk and Path Snow Removal:

Staff looked at areas which have received inquiries regarding the lack of snow removal and the lack of enforcement on certain sections of sidewalk. Staff also looked at sidewalks critical to pedestrian movement. For the most part Park City Municipal Corporation is removing snow from sidewalks which are connecting neighborhoods to business areas, municipal services, emergency services and the resorts. The sidewalks listed as requiring snow removal are sidewalks which are contiguous to business areas and have not been receiving consistent snow removal. Sidewalks which meet this criterion are:

Outside loop of Prospector Square from Bonanza Dr./ Hwy 248 to Gold Dust Ln.

South and North sides of Royal Street near Silver Lake Village

Considerations for Exemption from the Snow Removal Ordinance:

Many sections of sidewalk and paths are on private property, do not connect to other sidewalks or paths, service only one or two residents or businesses, are used for cross country skiing or would present a danger to individuals using them if they were plowed. For this reason it makes no sense to remove snow from many sidewalks or paths within Park City. Those paths and sidewalks exempt from the snow removal ordinance are not listed in the snow removal guide or in the ordinance.

Recommended Ordinance Changes

14- 4-9. SIDEWALKS TO BE CLEARED. ~~*It shall be the duty of every property owner to clear the sidewalks and stairways at the perimeter of his property from accumulation of snow within a period of eight hours from the end of each storm. It shall be unlawful to*~~

~~permit an accumulation of more than eight inches (8") of snow to remain on the sidewalk for more than eight (8) hours at a time.~~

Tier I

Park City Municipal Corporation will provide snow removal services on the pedestrian Spine System Sidewalks, as identified in the "Park City Snow Removal Guide." Property owners are not required to remove snow from stairs and sidewalks at the perimeter of their property if those stairs and sidewalks are included within the Spine System Sidewalks.

Tier II

It shall be the duty of a property owner to clear the sidewalks and stairways at the perimeter of his property within eight (8) hours from the end of each storm if the sidewalks and stairways do not receive City services and are identified as critical to pedestrian movement in the "Park City Snow Removal Guide." It shall be unlawful for a property owner under a duty to remove snow to permit an accumulation of more than eight inches (8") of snow to remain on the sidewalks or stairs for more than eight (8) hours at a time.

Tier III

Park City Municipal Corporation will not remove snow from sidewalks not listed in the "Park City Snow Removal Guide" nor are adjacent property owners required to remove snow from sidewalks and stairs not listed in the "Park City Snow Removal Guide".

Property owners required to remove snow may request relief from this ordinance through the City's "Request for Elevated Level of Service" process. A decision under this process will be based on the seasonality, location and outlet of the path or sidewalk. Property owners not under a duty to remove snow may request a higher level of service through the same process

Considerations for Fire Hydrant Snow Removal:

Language in the current snow removal ordinance regarding snow removal from around fire hydrants is vague as to responsibility. The term "on owner's property" was confusing as many fire hydrants are not on the owner's property but are adjacent to their property. This confusion made it difficult for Code Enforcement Officers to address non compliance and or site delinquent property owners. The intent of the ordinance is to require residents and businesses that have a fire hydrant contiguous to their property to remove snow from around those fire hydrants. The change in language clarifies the responsibility and enforcement.

14- 4-10. FIRE HYDRANTS TO BE UNCOVERED. *It shall be the duty of every property owner to mark, uncover and remove accumulated snow and windrows of snow from over and around fire hydrants located ~~on his/her~~ at the perimeter of the owner's property. The hydrants shall be uncovered for a distance of not less than three feet (3') on all sides so the hydrants are accessible for emergency use. Hydrants shall be*

*uncovered within seventy-two (72) hours of the time they are buried by **snowfall**; a plowed windrow of snow or from the time they become buried from drifts.*

Considerations for Private Contractor Snow Removal Code Enforcement:

Issues arise when private snow plow companies plow snow into the public right of way, on private property other than the owner employing the contractor or store snow on the street. Many residents assume the city is plowing or involved in the plowing of this snow. All of these practices are counter to the municipal code.

A landscaping business license in Park City allows a licensed landscaping contractor to provide private snow removal services. In recent years the number of private snow removal companies has risen dramatically. The license does not require any specific equipment. For the most part, snow removal is unregulated and is a side benefit of a landscaping business license.

The recommended approach would be to require contractors who are engaged in private snow removal business to obtain a sticker to perform such services. It is contained in the ordinance regulating taxi's and other commercial vehicles. The sticker designating a snow removal contractor would be free of charge as long as they have a contractor or business license. Each contractor engaged in snow removal will be given a copy of the snow removal ordinances and sign a letter of compliance with Park City Municipal Corporation similar to the method used for taxi's.

4- 2-17 (G). TRANSPORTATION SERVICE, PASSENGER AND **SNOW REMOVAL OPERATORS AND FREIGHT, SERVICE AND DELIVERY TRUCKS. License certificates shall take the form of a sticker to be placed on each licensed vehicle. The ~~division~~ **City** shall design stickers that are suitable for this use and non-removable without the sticker being destroyed. Various kinds of stickers may be used to show the term of a license if issued for less than one (1) year. The sticker shall be displayed on ~~all-service, freight-delivery~~ **snow removal vehicles**, passenger service **vehicles, shuttles** and taxis at all times. If no sticker is displayed, it is prima facie evidence that no license was issued. Delivery and service vehicles with a business location in Park City, on which a license fee is issued on a square footage basis, shall be exempt.**

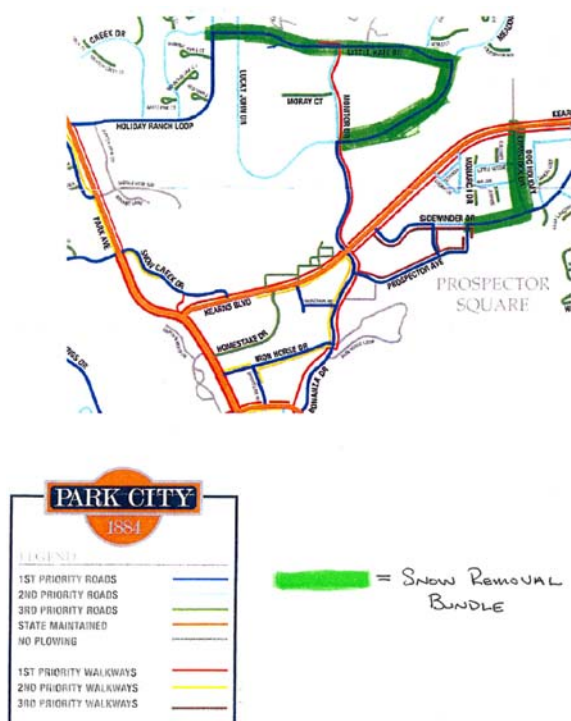
(1) Ready-mix concrete trucks, ore hauling trucks, dump trucks, drilling apparatus trucks, cranes, concrete pumping trucks, and other truck-based construction or excavation equipment shall be assessed as set forth in the rate tables per business engaged in such business.

(2) Businesses which utilize trucks in construction activity are subject to both the fee provisions of this section and also those for contractors except that an unlimited number of trucks, not exceeding nine thousand pounds gross vehicle weight (9,000 lbs. gvw), may be used in the construction activity without any charge applied to the vehicle.
(Amended by Ord. Nos. 03-02; 05-78)

Future Walkability Projects and Connections:

A portion of the walkability discussion involved snow removal or lack thereof on certain sidewalks. The walkability committee stipulated that an expectation of snow removal for new projects was created by the public's approval of the Walkability Bond. While the walkability task force did not make specific recommendations as to how to address the lack of snow removal, they did recommend that at minimum the City consider removing snow on spine and major neighborhood collector routes. As part of their recommendations a snow removal "bundle" for walkability was suggested by staff and adopted by City Council in the budget. Depending on the approved level of service for new projects, providing additional capacity at a basic level of service (2nd priority) is estimated at **\$67,045** annually. This service provides snow removal service 5 days a week before 8 a.m. To provide additional capacity at a high priority level of service, costs are estimated at **\$94,317** annually. This service will provide snow removal service 7 days a week before 8 a.m. with additional hauling and is not in the current budget for service.

The following map represents the proposed sidewalks in the "bundle" in green.



Trails Master Plan

The Trails Master Plan was updated to recognize walkability principles on 10/16/08. The Update to 14-4-9 is consistent with Section 6 of the Trails Master Plan update, which includes the following goals, policies and implementation measures related to snow removal:

Goal 2

To ensure good maintenance of existing and future walking and biking facilities

Policy: Ensure that snow removal is adequate to safely facilitate walking during winter months.

Implementation Measure: Review and update as appropriate the snow removal plan for all facilities comprising the Park City walking/ biking “Spine System”.

Implementation Measure: Review and modify existing snow removal policy for non-“Spine System” facilities to ensure legislation is implementable and enforceable.

Implementation Measure: Review, modify and enforce as appropriate the snow removal policy for non-“Spine System” facilities by adjacent land owners and/or operators.

Community Process for Elevated Level of Service or Relief from Ordinances:

As part of the snow removal program, if a neighborhood would like to be considered for a higher level of service than currently exists, the City has a process in place.

Neighborhoods and businesses can request increased services from Park City through the Request for Elevated Level of Service (RELS) process,.

If for some reason a sidewalk or path does not have a useful benefit in the winter months, the homeowner and businesses can request an exemption or relief from the ordinance mandating snow removal through the City’s RELS process,.

Requests for elevated levels of service must be prioritized as part of the annual budget process. Requests must be completed and submitted prior to December 31st to be considered for the following budget year.

Department Review:

Public Works, Building Department, Police, Sustainability, Office of the City Manager and Legal have reviewed the options described in this staff report.

Alternatives:

City Council could consider several alternatives to address impacts caused by the lack of snow removal on sidewalks, impacts caused by private snow plow operators removing snow and placing it in the public right of way and the lack of snow removal around fire hydrants.

A. Snow removal on sidewalks:

- Adopt ordinance change **14- 4-9. SIDEWALKS TO BE CLEARED** amending the sidewalk snow removal ordinance to a three tiered plowing priority list designating which sidewalks and paths would receive city augmented services, which would be property owner responsibility and which would be exempt from the ordinance. **(Staff Recommended)**

- Direct staff to formulate alternatives for the ordinance change and return at a later date.
- Do not change the ordinance and enforce the current ordinances.
- Do nothing and continue to enforce on a complaint basis only.

B. Private contractors:

- Adopt ordinance change **4-2-17 (G) TRANSPORTATION SERVICE** to implement a regulatory element into private snow plow operator licensing and heighten enforcement of current ordinances. **(Staff Recommended)**
- Leave the licensing requirement as is and direct staff to heighten enforcement of current ordinances.
- Do nothing and continue to enforce on a complaint basis only.

C. Fire Hydrants:

- Adopt ordinance change **14- 4-10. FIRE HYDRANTS TO BE UNCOVERED** which increases public awareness through education the importance of removing snow from fire hydrants during winter months. **(Staff Recommended)**
- Direct staff to develop a strategy to heighten enforcement of current ordinances.
- Do nothing and continue to enforce on a complaint basis only.

Significant impacts:

Changing behavior will be the most difficult challenge both in terms of increased enforcement and public responsibilities. However, staff believes that the ordinance changes are necessary and over time reduce issues and confusion regarding snow removal on sidewalks, around fire hydrants and private contractors conducting business.

Recommendation:

Adopt ordinance change **14- 4-9. SIDEWALKS TO BE CLEARED** amending the sidewalk snow removal ordinance to a three tiered plowing priority list designating which sidewalks and paths would receive city augmented services, which would be property owner responsibility and which would be exempt from the ordinance.

Adopt ordinance change **4-2-17 (G) TRANSPORTATION SERVICE** to implement a regulatory element into private snow plow operator licensing and heighten enforcement of current ordinances.

Adopt ordinance change **14- 4-10. FIRE HYDRANTS TO BE UNCOVERED** which increases public awareness through education the importance of removing snow from fire hydrants during winter months.

Ordinance No. 08-

**ORDINANCE AMENDING SECTION 14-4-9, SIDEWALKS TO BE CLEARED,
SECTION 4-2-17(G), TRANSPORTATION SERVICE , AND
SECTION 14-4-10. FIRE HYDRANTS TO BE UNCOVERED, IN THE
MUNICIPAL CODE OF PARK CITY, UTAH**

WHEREAS, the Mayor and City Council deem it prudent to regularly examine municipal service levels and the efficient delivery of services to the public to ensure the health and safety of both residents and visitors alike; and

WHEREAS, it is important that City ordinances and laws are easily interpreted by the public and by City staff, specifically with regard to clear guidelines and consistent application of regulations; and

WHEREAS, emphasizing owner responsibility to clear sidewalks, establishing a tier system for sidewalk snow removal, enforcing private snow removal violations in a fair and consistent manner, and increasing public awareness of the importance of clearing fire hydrants during winter months were addressed by Council members during their work session held on September 11, 2008; and

WHEREAS, the Mayor and Council unanimously support modifying the Municipal Code, held a public hearing on proposed amendments at its regularly scheduled meeting on October 6, 2008, and deem it in the best interest of the community to amend the above-referenced sections as written below;

NOW, THEREFORE, BE IT ORDAINED that:

SECTION 1. AMENDMENTS ADOPTED. The following amendments are hereby adopted as follows:

14- 4-9. SIDEWALKS TO BE CLEARED. ~~*It shall be the duty of every property owner to clear the sidewalks and stairways at the perimeter of his property from accumulation of snow within a period of eight hours from the end of each storm. It shall be unlawful to permit an accumulation of more than eight inches (8") of snow to remain on the sidewalk for more than eight (8) hours at a time.*~~

Tier I

Park City Municipal Corporation will provide snow removal services on the pedestrian Spine System Sidewalks, as identified in the "Park City Snow Removal Guide." Property owners are not required to remove snow from stairs and sidewalks at the perimeter of their property if those stairs and sidewalks are included within the Spine System Sidewalks.

Tier II

It shall be the duty of a property owner to clear the sidewalks and stairways at the perimeter of his property within eight (8) hours from the end of each storm if the sidewalks and stairways do not receive City services and are identified as critical to pedestrian movement in the "Park City Snow Removal Guide." It shall be unlawful for a property owner under a duty to remove snow to permit an accumulation of more than eight inches (8") of snow to remain on the sidewalks or stairs for more than eight (8) hours at a time.

Tier III

Park City Municipal Corporation will not remove snow from sidewalks not listed in the "Park City Snow Removal Guide" nor are adjacent property owners required to remove snow from sidewalks and stairs not listed in the "Park City Snow Removal Guide".

Property owners required to remove snow may request relief from this ordinance through the City's "Request for Elevated Level of Service" process. A decision under this process will be based on the seasonality, location and outlet of the path or sidewalk. Property owners not under a duty to remove snow may request a higher level of service through the same process.

14- 4-10. FIRE HYDRANTS TO BE UNCOVERED. *It shall be the duty of every property owner to mark, uncover and remove accumulated snow and windrows of snow from over and around fire hydrants located ~~on his/her~~ at the perimeter of the owner's property. The hydrants shall be uncovered for a distance of not less than three feet (3') on all sides so the hydrants are accessible for emergency use. Hydrants shall be uncovered within seventy-two (72) hours of the time they are buried by **snowfall**; a plowed windrow of snow or from the time they become buried from drifts.*

4- 2-17 (G). TRANSPORTATION SERVICE, PASSENGER AND SNOW REMOVAL OPERATORS AND FREIGHT, SERVICE AND DELIVERY TRUCKS. License certificates shall take the form of a sticker to be placed on each licensed vehicle. The ~~division~~ City shall design stickers that are suitable for this use and non-removable without the sticker being destroyed. Various kinds of stickers may be used to show the term of a license if issued for less than one (1) year. The sticker shall be displayed on ~~all-service, freight-delivery~~ snow removal vehicles, passenger service vehicles, shuttles and taxis at all times. If no sticker is displayed, it is prima facie evidence that no license was issued. Delivery and service vehicles with a business location in Park City, on which a license fee is issued on a square footage basis, shall be exempt.

(1) Ready-mix concrete trucks, ore hauling trucks, dump trucks, drilling apparatus trucks, cranes, concrete pumping trucks, and other truck-based construction or excavation equipment shall be assessed as set forth in the rate tables per business engaged in such business.

(2) Businesses which utilize trucks in construction activity are subject to both the fee provisions of this section and also those for contractors except that an unlimited number of trucks, not exceeding nine thousand pounds gross vehicle weight (9,000 lbs. gvwt), may be used in the construction activity without any charge applied to the vehicle.

(Amended by Ord. Nos. 03-02; 05-78)

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

PASSED AND ADOPTED this 6th day of November, 2008.

PARK CITY MUNICIPAL CORPORATION

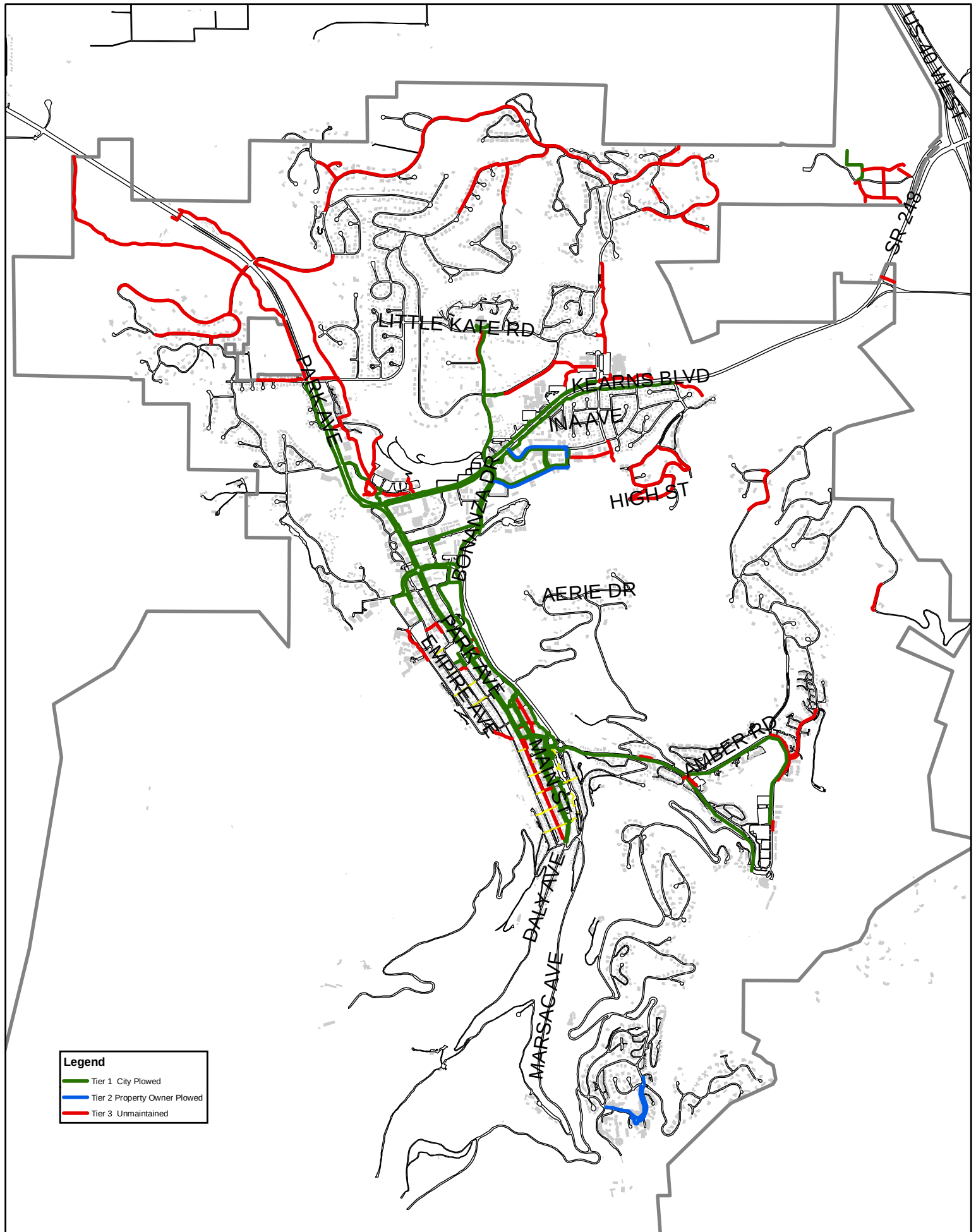
Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



63
TRAIL/SIDEWALK PLOWING PLAN





City Council Staff Report

Subject: UDOT Consultant Services Agreement
and Professional Service Agreement for
Bonanza Drive Design

Author: Matthew Cassel, P.E., City Engineer

Department: Engineering

Date: October 30, 2008

Type of Item: Administrative

Summary Recommendations:

The Council should authorize the City Manager to execute the UDOT Consultant Services Agreement along with a Professional Service Agreement in a form approved by the City Attorney with H. W. Lochner Inc. for engineering/environmental services related to the design of Bonanza Drive in the amount of \$359,601.93.

Topic/Description:

In January 2008, H. W. Lochner completed the Bonanza Drive Corridor and Pedestrianization Plan. City Council reviewed and approved this concept plan during their January 24, 2008 meeting. The plans purpose was to outline improvements for roadway, bicycle and pedestrian facilities along Bonanza Drive. This contract with H. W. Lochner is to start and complete the design of the recommended elements from the Plan. Construction bidding is anticipated to occur in early or mid spring with construction to occur during the 2009 construction season. Along with the design of the recommended facilities, the contract with H. W. Lochner includes providing environmental, survey and geotechnical services and most importantly preparing and implementing a Public Involvement process.

The design will include raised medians along Bonanza Drive, a traffic signal at the Bonanza Drive/Iron Horse intersection, acceleration lanes at Prospector Avenue, "no left turn" restrictions, Bicycle lanes, northbound bus pull-out, trail connection including a pedestrian tunnel at the Iron Horse intersection, mid-block pedestrian crossing, consistent 6 foot wide sidewalks, speed limit feedback signs, right turn lane at Iron Horse and lengthened southbound left turn lane at Deer Valley Drive. As part of this work, the existing sewer line will be relocated due to the pedestrian tunnel and replaced to SR-248, the existing water line will be relocated due to the pedestrian tunnel and a new distribution water line will be installed.

The waterline will be designed by Bowen, Collins & Associates through their contract with the City's Water Department and incorporated into the construction plans. The sewer will also be designed by Bowen, Collins and Associates in a separate contract with Snyderville Basin Water Reclamation District (SBWRD) and incorporated in the construction plans.

The Council has approved funding for this project as follows:

Capital Project cp0097 (Bonanza Drive Reconstruction) contains \$1,757,671 for the project and \$1,150,000 has been allocated in the walkability bond. Additional monies in the amount of \$1,072,616 have been encumbered through UDOT's STP Small Urban Funds Program. SBWRD will provide funding for the replacement of their sewer line and our Water Department will provide funding for the new distribution waterline.

Background:

In August 2007 H. W. Lochner was hired by Park City to develop a corridor and pedestrianization plan for Bonanza Drive. The purpose of the plan was to outline and prioritize short-term and long-term improvements for roadway, bicycle and pedestrian facilities along Bonanza Drive. The plan aimed to improve traffic flow, improve intersection operations throughout the corridor and provide bicycle/pedestrian access and safety. The plan provided short-term recommended improvements (2009 – 2016) and long-term recommended improvements (2016 – 2030). This project addresses the short-term recommendations.

Analysis:

Because this project will be administered by UDOT, the consultant was selected directly from UDOT's Consultant Pool. This pool is operated similar to the State Contract where Park City is allowed to purchase items directly. The pool comprises of 27 different categories including environmental services, road design and structural design. The consultants in UDOT's pool are required to submit a Statement of Qualification (SOQ) every two years. These SOQs are then stringently evaluated by UDOT to determine which consultants are qualified to perform in each category. Because they qualified in all of the categories we deemed necessary and important for the Bonanza Drive design, their successful work history in Park City and their involvement with the Bonanza Drive Corridor and Pedestrianization Plan, H. W. Lochner, Inc. was determined to be the best choice for providing professional design services to the City on this project. The scope of services and fee were negotiated with H. W. Lochner, Inc.

Department Review:

This report has been reviewed by City Manager, Planning, Public Works, Sustainability, and Legal. All issues have been resolved.

Alternatives:

A. Approve the Request:

This is the staff's recommendation.

B. Deny the Request:

This would make it impossible to complete the design and prepare a construction package for the 2009 construction season.

C. Continue the Item:

If the Council needs more information the item can be continued, but this could cause the design costs to increase since surveying in snow is more time-consuming, less accurate and error prone.

D. Do Nothing:

This option would make it impossible to complete the design in a timely manner.

Significant Impacts:

The engineering design will have no significant impacts other than staff time and contract oversight, however the actual construction of Bonanza Drive will heavily impact the adjacent businesses. These impacts will be minimized through appropriate detour routing of traffic and implementation of an aggressive public involvement program to warn businesses and address their issues and concerns. The funds for both the engineering contract and the 2009 construction have already been appropriated, and there are no budget impacts which the Council hasn't already considered in the FY2009 budget.

Consequences of not taking the recommended action:

Bonanza Drive is an important commuter link for the City. but is seeing a significant increase in traffic congestion. Not commencing an engineering design contract now would delay the necessary improvements to start relieving the congestion.

Recommendation:

The Council should authorize the City Manager to execute the UDOT Consultant Service Agreement along with a Professional Service Agreement in a form approved by the City Attorney with H. W. Lochner, Inc. for engineering/environmental services related to the design of Bonanza Drive in the amount of \$359,601.93.

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this 6th day of November, 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and H. W. Lochner, Inc., a Utah 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 "Addendum A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed **\$359,601.93** Dollars.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on November 15, 2009 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 "Addendum 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. REPORTS AND INSPECTIONS.

- A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.
- B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and 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.

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-2-105; 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 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

- B. Automobile Liability insurance with limits no less than two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
- C. Professional Liability (Errors and Omissions) insurance written on claims made basis with 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 the 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 Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. 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. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

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 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.

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. MAINTENANCE AND INSPECTION OF RECORDS.

- A. The Service Provider shall maintain books, records and documents, which 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. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. PROHIBITED INTEREST.

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

17. 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.

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

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.



City Council Staff Report

Subject: Amending Chapter 4-9 of the PCMC
Author: Rick Ryan
Department: Police Department
Date: November 6, 2008
Type of Item: Legislative

Summary Recommendations:

Staff recommends that the City Council review the attached amendments to PCMC Chapter 4-9, conduct a public hearing, and adopt an Ordinance to implement amendments, requiring all Sexually Oriented Businesses ("SOBs") operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation.

Topic/Description:

An ordinance amending Title 4, Chapter 9 of the Municipal Code of Park City to require all sexually oriented businesses operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation.

Background:

In 1995, the Council created Title 4 Chapter 9 in the PCMC to regulate and license SOBs. In 1996, amendments were incorporated to limit where SOBs could situate within the City. In 2006, the Council adopted amendments to include escort services as sexually oriented businesses and to establish additional requirements for all adult businesses. The effect of the 2006 amendments was to reduce the number of SOBs obtaining licenses from PCMC and the number of SOBs operating in Park City. However, the current PCMC Chapter 4-9 does not require all SOBs operating in Park City to obtain a license and consequently there are a significant number of SOBs who operate within the City using licenses from other cities. These businesses and their secondary effects continue to require a disproportionate level of police investigation, prosecution and enforcement.

Analysis:

U.C.A. § 10-1-203(5)(a)(i)(C) allows cities to require a license as long as the city can show that the business causes enhanced costs and requires extra City services. The City must show why the license should be required, under § 10-1-103(5) (d).

The majority of SOBs operating in the City now come from outside the City and are not licensed by PCMC. However, the SOB licensing standards of other cities are frequently lower than those of PCMC. Drugs, violence, gangs and prostitution are all secondary

criminal effects related to SOBs. SOBs and their secondary effects cause a significant increased need for time and resources from the Police Department and the Back Net Joint Task Force. The Task Force costs the City \$5000 and one of its responsibilities is to police SOBs and their secondary effects. The supervision, management and control of the crime associated with the SOBs will be facilitated by local business license records and easily accessible location and contact information. Access to this information will ultimately ease the strain on Park City law enforcement resources.

Additional amendments include § 4-9-11(D), which requires all SOB applicants to sign a statement of understanding. This change will ensure that applicants are fully informed of their duties under the license and may improve compliance and lessen the demand for enforcement efforts. The addition of § 4-9-23(m) has a similar effect, by requiring all Employees of Sexually Oriented Businesses who appear before any customer or patron in a State of Partial Nudity to have their employee license on their person or in their immediate control. Enforcement officers will spend less time looking for the license.

Several minor grammar and spelling changes were also completed.

Department Review:

The Legal Department and the Police Department have reviewed this report.

Alternatives:

- A. Approve the Request:** Accept the amendments by passing the Ordinance.
- B. Deny the Request:** Do not accept the amendments or request revisions to the amendments.
- C. Continue the Item:** Council may continue the item to a later date.
- D. Do Nothing:** Do not pass Ordinance and do not request further research.

Significant Impacts:

Requiring every SOB operating within the City to have a license will (a) contribute resources towards policing the secondary effects of SOBs, through the contribution of license fees; and (b) allow the Police Department and the Joint Task Force to better manage the SOBs who do choose to get licensed and operate within the City.

Consequences of not taking the recommended action:

Without these amendments, SOBs with licenses from outside Park City and their secondary effects will continue to put a disproportionate strain on the City's law enforcement resources.

Recommendation:

Staff recommends that the City Council review the attached amendments to PCMC Chapter 4-9, conduct a public hearing, and adopt the Ordinance to implement amendments, requiring all Sexually Oriented Businesses (“SOBs”) operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation.

Exhibits (attached):

Exhibit A – Draft Ordinance to implement Amendments

Exhibit B – PCMC Chapter 4-9, showing proposed Amendments

Exhibit A – Ordinance

Ordinance No. 08-XX

AN ORDINANCE AMENDING TITLE 4, CHAPTER 9 OF THE MUNICIPAL CODE OF PARK CITY TO REQUIRE ALL SEXUALLY ORIENTED BUSINESSES OPERATING WITHIN THE BOUNDARIES OF PARK CITY TO OBTAIN BUSINESS LICENSES FROM PARK CITY MUNICIPAL CORPORATION

WHEREAS, the majority of Sexually Oriented Business operating within the Park City boundaries come from outside the boundaries of Park City;

WHEREAS, the Sexually Oriented Business licensing requirements of other municipalities may be more lenient than those of Park City;

WHEREAS, the Park City Police find that there are significant secondary effects associated with Sexually Oriented Businesses such as prostitution, drugs, gangs, robberies and assaults;

WHEREAS, the Park City Police and the Back Net Joint Task Force spend a significant amount of time and resources to investigate, enforce, and prosecute crimes associated with Sexually Oriented Businesses, above and beyond the basic level of resources otherwise required;

WHEREAS, pursuant to U.C.A. § 10-1-203(5)(d), Sexually Oriented Businesses operating in Park City, along with their secondary effects, require an enhanced level of municipal services and resources;

WHEREAS, the supervision, management and control of the crime associated with Sexually Oriented Businesses will be facilitated by local business license records and easily accessible location and contact information;

WHEREAS, public hearings were duly held before the City Council on XX, 2008;

WHEREAS, public notice and opportunity to comment were provided, pursuant to the Municipal Code;

WHEREAS, to protect the health, safety, and welfare of the citizenry, the City Council finds that it is in the best interests of the residents of Park City to implement the proposed amendments in Appendix A, which require all Sexually Oriented Businesses operating within the boundaries of Park City to obtain business licenses from Park City Municipal Corporation;

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

SECTION I. FINDINGS. The above-recitals are hereby incorporated herein as findings.

SECTION II. AMENDMENT. Title 4, Chapter 9, of the Municipal Code is amended to read as outlined in Exhibit A.

SECTION III. EFFECTIVE DATE. This ordinance shall become effective upon publication.

PASSED AND ADOPTED this Xth day of X, 2008

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to Form:

Mark Harrington, City Attorney

EXHIBIT B – Amendments to Title 4 Chapter 9

4- 9- 6. BUSINESS LICENSE REQUIRED, EMPLOYEE LICENSE REQUIRED .

It shall be unlawful for any person to engage in a Sexually Oriented Business within the boundaries of Park City, Utah, as specified herein, without first obtaining a Sexually Oriented Business license from Park City Municipal Corporation. Providing Escort Services within Park City shall be considered engaging in business. The business license shall specify the type of Sexually Oriented Business for which it is obtained. It shall be unlawful of any Employee of a Sexually Oriented Business to perform any services in the boundaries of Park City, Utah without first obtaining a Sexually Oriented Business Employee license from Park City Municipal Corporation. Any person operating as an independent contractor in Park City, Utah shall obtain both a Sexually Oriented Business license and an Employee license from Park City Municipal Corporation.

(Amended by Ord. 06-81)

4- 9-10. BUSINESS LICENSE APPLICATION.

Before any Applicant may be licensed to operate a Sexually Oriented Business in Park City, Utah pursuant to this Chapter, the Applicant shall submit to the Business License Clerk, on a form to be supplied by the Park City Business License Clerk, the following:

- (A) The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name.
- (B) If the Applicant is a corporation, partnership or limited partnership or individual or entity doing business under an assumed name the information required below for individual Applicants shall be submitted for each partner and each principal of an Applicant and for each officer or director. Any holding company, or any entity holding more than ten percent of an Applicant, shall be considered an Applicant for purposes of disclosure under this Chapter.
- (C) All corporations, partnerships or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership or non-corporate entity to sign the checks for such corporation, partnership or non-corporate entity.
- (D) For all Applicants the application must also state:
 - (1) any other names or aliases used by the individual;
 - (2) present physical address and telephone number of the Business Premises;
 - (3) any internet websites that the business operates;
 - (4) present residence and telephone number;

- (5) Utah drivers license or identification number; and
 - (6) Social security number.
- (E) Acceptable written proof that any individual is at least twenty-one (21) years of age;
- (F) In the event the Applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the Applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;
- (G) A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the Sexually Oriented Business intends to operate. This description shall also include:
- (1) the hours that the business or service will be open to the public and the methods of promoting the health and safety of Employees and patrons and preventing them from engaging in illegal activity;
 - (2) the methods of supervision preventing the Employees from engaging in acts of prostitution or other related criminal activities;
 - (3) the methods of supervising Employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;
 - (4) the methods of screening Employees and customers in order to promote the health and safety of Employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.
- (H) Each applicant is required to attach to the application form the additional items listed under Section 4-9-12 of this Chapter.
- (I) Each applicant is required to meet with the Police Chief or his/her designee.

(Amended by Ord. 06-81)

4- 9-11. EMPLOYEE LICENSE APPLICATION.

- (A) Applications for an Employee license to work and/or perform services in a Sexually Oriented Business in Park City, Utah whether original or renewal, must be made to the Park City Business License Clerk by the person to whom the Employee license shall be issued. Each

application for an Employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the Park City Business License Clerk. Applications must be submitted to the office of the Park City Business License Clerk during regular working hours. Each applicant shall be required to give the following information on the application form:

- (1) The correct legal name of the applicant, and any other names or aliases used by the applicant or by which the applicant is known;
 - (2) Present residence address, and telephone number;
 - (3) Present business name, address, and telephone number;
 - (4) Utah driver's license or identification number;
 - (5) Social security number;
 - (6) Age, date, and place of birth; and
 - (7) Height, weight, hair color, and eye color.
- (B) Each applicant shall provide acceptable written proof that the applicant is at least twenty-one (21) years of age;
- (C) Each applicant is required to attach to the application form the additional items listed under Section 4-9-12 of this Chapter.
- (D) Each applicant is required to meet with the Police Chief or his/her designee and sign a statement of understanding of the applicable laws and regulations.

(Created by Ord. 06-81)

4- 9-12. ADDITIONAL APPLICATION REQUIREMENTS .

Attached to the application form for any license under this ordinance shall be the following:

- (A) Two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Park City Police Department. For persons not residing in Park City, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;
- (B) A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant possessed or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated, or presently owns or operates a Sexually

Oriented Business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do business denied, revoked, or suspended in this or any other county, city, state, or territory. In the event of any such denial, revocation, or suspension, state the date, the name or issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application; and

(C) A statement detailing all criminal convictions, pleas of no contest except those which have been expunged, and pleas that are currently being held in abeyance and have not yet been dismissed, for the applicant, individual, or entity subject to disclosure under this Chapter for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses, any traffic offense designated as a felony shall not be construed as a minor traffic offense; stating the date, place, nature of each conviction, plea of no contest, except those which have been expunged, and plea that is currently being held in abeyance and has not yet been dismissed, and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers.

(Created by Ord. No. 06-81)

4- 9-16. EMPLOYMENT OF PERSONS WITHOUT PERMITS UNLAWFUL.

It is unlawful for any Sexually Oriented Business operating in or engaging employees in Park City, Utah to employ, retain, or contract, or for any individual to be employed or contracted by a Sexually Oriented Business in the capacity of a Sexually Oriented Business Employee in Park City, Utah, unless that Employee first obtains and possesses a Sexually Oriented Business Employee license from Park City Municipal Corporation. It is not sufficient that the owner or employee of Sexually Oriented Business has a business license in any other location or jurisdiction.

For purposes of this Chapter, all owners, corporations, partnerships, or anyone who has any ownership interest in the Sexually Oriented Business doing business in Park City, Utah shall be criminally liable as a party to any violation of this Chapter. In addition, any manager or person with supervisory status over the unlicensed Employee doing business in Park City, Utah shall be criminally liable as a party to any violation of this Chapter.

Any Employee who knowingly, intentionally, recklessly, or with criminal negligence introduces, furnishes, arranges, transports, assists or refers, or offers to introduce, furnish, arrange, transport, assist or refer any unlicensed Employee to provide, or for the purpose of providing Escort Services in Park City, Utah shall be criminally liable.

(Created by Ord. 06-81)

4- 9-20. POSSESSION AND DISPLAY OF EMPLOYEE LICENSE.

It is unlawful for any individual licensed pursuant to this Chapter to fail to, at all times while engaged in licensed activities within the corporate boundaries of the City, carry their Park City

Municipal Corporation Sexually Oriented Business license on their person. If the individual is Semi-Nude, such license shall be visibly displayed within the same room as the Employee is performing. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

(Created by Ord. 06-81)

4- 9-22. TRANSFER LIMITATIONS.

Sexually Oriented Business licenses granted under this Chapter are not transferable. It is unlawful for an individual to transfer a Sexually Oriented Business license. It shall be unlawful for a Sexually Oriented Business license held by a corporation, partnership or other non-corporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a Sexually Oriented Business licensee occurs, the license is immediately null and void and the Sexually Oriented Business shall not operate in Park City, Utah until a separate new license has been properly issued by the City as herein provided.

4- 9-23. GENERAL REGULATIONS.

It is unlawful for any Sexually Oriented Business to:

- (A) Allow persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by applicable liquor ordinance, on the Business Premises, except that in Adult Businesses, which exclude minors from less than all of the Business Premises, minors shall not be permitted in excluded areas;
- (B) Allow, offer or agree to conduct any Escort Services with persons under the age of eighteen (18) years;
- (C) Allow, offer or agree to allow any alcohol being stored, used or consumed on or in the Business Premises;
- (D) Allow the outside door to the premises to be locked while any customer is in the Business Premises;
- (E) Allow, offer or agree to gambling on the Business Premises;
- (F) Allow, offer or agree to any Employee of a Sexually Oriented Business touching any patron or customer;
- (G) Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the Business Premises;
- (H) Allow Sexually Oriented Business Employees to possess, use, sell or distribute controlled substances, while engaged in the activities of the business;

(I) Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the Business Premises, or in the event of an Escort or Escort Services, the Escort or Employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

(J) Allow, offer, commit or agree to any Specified Sexual Activity in the presence of any customer or patron;

(K) Allow, offer or agree to allow a patron or customer to commit Specified Sexual Activities in the presence of an Employee or on the Business Premises;

(L) Allow, offer or agree to any Employee of a Sexually Oriented Business appearing before any customer or patron in a State of Nudity unless licensed as an Adult Theater;

(M) Allow, offer or agree that any Employee of a Sexually Oriented Business should appear before any customer or patron in a State of Partial Nudity without their employee license on their person or in their immediate control

(N) Allow, offer, or agree to commit an act of lewdness as defined in Section 8-4-20 of this Code; or

(O) Not permit the Police Department or other proper City official to have access at all times to all premises licensed or applying for a license under this Chapter, or to make periodic inspection of said Business Premises whether the officer or official is in uniform or plain clothes.

(Amended by Ord. 06-81)



City Council Staff Report

Subject: Proposal to Purchase Open Space
Author: Diane Foster
Department: Sustainability
Date: November 6, 2008
Type of Item: Administrative

Summary Recommendations:

Review the proposal to purchase, in conjunction with Summit County, approximately 727 acres at Kimball Junction and Round Valley to preserve as open space and for water infrastructure. Staff recommends City Council hold a public hearing and consider approving the Purchase Agreement and the Letter of Intent.

Description:

The purchase agreement describes the potential acquisition of two parcels that total approximately 727 acres, of which at least 680 acres will be preserved as open space. One parcel, totaling approximately 330 acres comprised of all but 89 acres of parcels PP-62 and PP-81, is located on the west side of Hwy 224 at Kimball Junction. The other land, totaling 397 acres, made up of parcels SS-57 and SS-57-2-A, is located adjacent to Round Valley across Hwy 40 from the Utah Department of Transportation (UDOT) facility. 10 to 20 acres of parcel SS-57 may be used for future water infrastructure.

Background:

The City and County open space committees, Citizens Open Space Advisory Committee (COSAC) and the Basin Open Space Advisory Committee (BOSAC), unanimously recommended use of up to \$25 million of open space bonds towards the total land acquisition to the Park City Council and the Summit County Commission, respectively. The City and County will contribute \$12.5 million each to the purchase. Pending completion of the acquisition both the City and the County will share ownership of the Kimball Junction parcel, while Park City Municipal will own the new open space in Round Valley, adjacent to Park City's existing 1,300 acres of Round Valley open space.

Analysis:

The Kimball Junction parcel is valued at approximately \$48,000 per acre. The proposal suggests Park City allocate \$3.5 million of open space funds to the Kimball Junction parcel, however the City will share responsibility for the parcel equally with Summit County.

The Round Valley parcel is valued at approximately \$25,000 per acre. The proposal suggests that Park City allocate up to \$500,000 of general funds to purchase 10 to 20 acres for future water infrastructure needs and the balance of the property purchased with City open space funds. Park City will own this parcel outright. Please see the following table for a financial summary.

Land	City Amount	County Amount	Total
Kimball Junction Parcel	\$3,500,000	\$12, 500,000	\$16,000,000
Round Valley Parcel (OS)	\$8,500,000	0	\$8,500,000
Round Valley Parcel (Water)	\$500,000	0	\$500,000
Total	\$12,500,000	\$12,500,000	\$25,000,000

The Letter of Intent (LOI), Exhibit A, defines the ownership of these parcels and sets some guidelines for the acquisition. The City and County have had success using LOIs to clearly state how they will cooperation on various issues.

Each parcel will be restricted by a Declaration and Notice of Use Restrictions which prohibit most uses inconsistent with natural open space character of the parcels. See Exhibits E-(1-2) of the Purchase Agreement. Exceptions for the Kimball Junction Parcel include 10-15 acres for County uses including a park-n-ride/transit hub, visitor information, a cemetery, public connector road, and 3 acres (as previously committed) to UOP for athlete support/dorms. Round Valley parcel restrictions allow water and utility uses, including the possibility of pond/reservoir.

Recommendation:

Review the proposal to purchase, in conjunction with Summit County, approximately 727 acres at Kimball Junction and Round Valley to preserve as open space and for water infrastructure. Staff recommends City Council hold a public hearing and consider approving the Purchase Agreement and the Letter of Intent.

Attachments:

Exhibit A – Letter of Intent with Summit County
Exhibit B - Purchase Agreement

Summit County and Park City Municipal Corporation Letter Of Intent: PRI/Boyer Joint Property Acquisition

This Letter of Intent is made and entered into this ____ day of _____ 2008, by and between Summit County (“County”) and Park City Municipal Corporation (“City”) (jointly referred to herein as the “Parties”).

Purpose: The purpose of this Letter Of Intent (hereinafter referred to as the “LOI”) is to clarify the understanding of Summit County and PCMC regarding cooperation on the joint acquisition of approximately 727 acres of property currently configured as two parcels owned by PRI and Summit Reserve, Inc consisting of (a) 419 acres less the Boyer parcel (approximately 89 acres) totaling approximately 330 acres located near Kimball Junction in Summit County, State of Utah (the “**Kimball Junction Parcel**”), and (b) parcel SS-57 (approximately 368 acres) and parcel SS-57-2-A (approximately 29 acres) totaling approximately 397 acres located immediately to the west of Highway 40 in the “Round Valley” area of Summit County, State of Utah (the “**Round Valley Parcel**”).

Whereas, the Parties wish to pool resources to maximize their respective ability to acquire important undeveloped tracts of land for open space and other public uses; and

Whereas, the Parties do not individually possess the funding sources to acquire these properties unilaterally; and

Whereas, the Parties have mutual public health, safety, and welfare purposes for some parts of the property but mutually exclusive public health, safety, and welfare purposes for other parts. Therefore, this LOI is intended to clarify the Parties’ intent with respect to those differences by identifying different funding sources and restrictions for use of the various parcels as necessary and appropriate.

Therefore, the Parties intend to work cooperatively, and in good faith, on the following:

1. The Parties agree to use best efforts to approve and execute jointly an acceptable Purchase Agreement and all necessary closing documents in a timely manner. The purchase agreement shall be for the Kimball and Round Valley Parcels.
2. The deeds to the parcels shall reflect the following ownership breakdown and corresponding purchase amount due from each party for each parcel:

Land	City Amount	County Amount	Total
Kimball Junction Parcel	\$3,500,000	\$12, 500,000	\$16,000,000
Round Valley Parcel (OS)	\$8,500,000	0	\$8,500,000
Round Valley Parcel (Water)	\$500,000	0	\$500,000
Total	\$12,500,000	\$12,500,000	\$25,000,000

Accordingly, the Kimball Junction Parcel(s) will be owned as Tenants in Common as open space (with approximately 10-15 acres broken out for other County uses) and the Round Valley Parcel will be owned by the City as open space (with approximately 10 - 20 acres broken out for other City uses).

3. Closing costs attributed to buyers at closing shall be split equally.
4. The Parties agree that the Purchase Agreement **will** require a survey and an ALTA title report of the PRI Parcels, payment of which will be split equally between the County and City.
5. The Parties agree that the deeds may be executed directly by PRI and held in escrow pursuant to a Buyer purchase agreement and mutually acceptable closing instructions.
6. Joint contribution to mutual goals: a) transit hub within the proposed, but unapproved, Kimball Research Park; b) visitor's information center; c) park and ride facility within the proposed, but unapproved, Kimball Research Park; d) athlete support services for the Utah Olympic Park; and e) a public cemetery within the Kimball Junction open space parcel.
7. Any party may cancel the Purchase Agreement prior to closing for any reason.
8. Either party will give advanced notice to the other if a different course of action or

decision contrary to the terms herein is contemplated.

IN WITNESS WHEREOF, the parties have duly executed this LOI the day and year written above.

SUMMIT COUNTY

Ken Woolstenhulme, Chair
Summit County Board of Commissioners

Attest:

Kent Jones
Summit County Clerk

Approved as to form:

David L. Thomas
Chief Civil Deputy
Summit County Attorney

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

PURCHASE AGREEMENT

(Open Space Parcels)

THIS PURCHASE AGREEMENT (this "Agreement") is made this ____ day of _____, 2008, by and between BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company ("Seller"), and SUMMIT COUNTY, a body corporate and politic of the State of Utah (the "County") and PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah (the "City") or their respective assigns (the County and the City, together with their respective assigns, shall collectively be referred to herein as "Buyers"). Seller and Buyers are sometimes referred to in this Agreement collectively as the "Parties" or individually as a "Party."

RECITALS

- A. Seller has entered into a purchase agreement or agreements (collectively, the "SLR/PRI Contract") with Suburban Land Reserve, Inc., a Utah corporation ("SLR") and Property Reserve, Inc., a Utah corporation ("PRI"), to purchase certain parcels of real property (collectively, the "SLR/PRI Property") owned by SLR and/or PRI and located in Summit County, State of Utah.
- B. Subject to Seller's actually acquiring the SLR/PRI Property pursuant to the SLR/PRI Contract, Seller desires to sell to Buyers, and Buyers desire to purchase from Seller, certain portions of the SLR/PRI Property, as more particularly described below, to be used as open space, and Seller and Buyers desire to consummate said purchase and sale simultaneously with the closing (the "SLR/PRI Closing") of the transactions contemplated by the SLR/PRI Contract (collectively, the "SLR/PRI Transaction"), all subject to the terms and conditions set forth below.

TERMS

NOW, THEREFORE, to those ends, and in consideration of the terms and conditions hereof, together with the mutual benefits to be derived herefrom, the Parties hereby agree as follows:

1. **Property.** Seller agrees to sell and convey to Buyers approximately 727 acres of land consisting of (a) 419 acres less the Boyer parcel (approximately 89 acres) totaling approximately 330 acres located near Kimball Junction in Summit County, State of Utah (the "**Kimball Junction Parcel**"), and (b) parcel SS-57 (approximately 368 acres) and parcel SS-57-2-A (approximately 29 acres) totaling approximately 397 acres located immediately to the west of Highway 40 in the "Round Valley" area of Summit County, State of Utah (the "**Round Valley Parcel**," and collectively with the Kimball Junction Parcel, the "**Land**"). The legal description of the Land is set forth on Exhibit A attached hereto. The sale and conveyance also includes all of Seller's right, title and interest in all improvements to the Land (the "**Improvements**") and all appurtenances to the Land including, but not limited to, Seller's interest in any and all strips between the Land and abutting properties and in any street, highway, alley, easement or right-of-

way, existing or proposed, on or adjacent to the described real property, and in any and all easements, rights-of-way, rights, permits, titles, privileges, entitlements, and licenses relating to or benefiting the Land unless expressly excluded pursuant to this Agreement (collectively, the “**Appurtenances**,” and together with the Land, the “**Property**”). In addition, the sale and conveyance shall be subject to the following:

(a) Following the Closing (as such term is defined in Section 13 below), the Property shall be maintained and preserved as open space, and the use of the Property shall be restricted to recreation and other uses consistent with its preservation as open space, in accordance with the use restrictions set forth in the Notices of Use Restrictions described in Section 14 below, to be recorded in the official real estate records of Summit County, Utah, against the Property and for the benefit of the Retained Commercial Parcel.

(b) The Parties acknowledge and agree that the Corporation of the Presiding Bishop of The Church of Jesus-Christ of Latter-day Saints (“**CPB**”), an affiliate of SLR, owns a family and youth recreational camp and facility (the “**Church Camp**”) adjacent to the Kimball Junction Parcel and a certain portion of the SLR/PRI Property to be retained by Seller for commercial development (the “**Retained Commercial Parcel**”). In connection with their acquisition and ownership of the Property as contemplated hereunder, Buyers hereby acknowledge, and agree to recognize, the legally vested easements, rights, titles, privileges and entitlements applicable to the Church Camp, including, without limitation, an existing private road which runs from State Highway 224 to the Church Camp over the Kimball Junction Parcel (the “**Existing Road**”), along the north and west sides of the “Bear Hollow” development and between the west side of said Bear Hollow development and the east side of a Rocky Mountain Power transformer facility (the “**RMP Facility**”). Further, Buyers acknowledge and agree that, SLR and Seller shall, in connection with Seller’s acquisition of the SLR/PRI Property, and prior to the Closing, agree upon a form of, and Buyers shall accept the Property subject to, an easement agreement that will (i) allow for the relocation of the Existing Road to the west of the RMP Facility, (ii) provide for the expansion of the area of the Existing Road in the future so as not to limit the entitlements that CPB may otherwise be able to obtain for the Church Camp based on a use that is authorized or permitted in the future, which is currently anticipated to be a width of approximately seventy (70) to one hundred (100) feet, (iii) provide for the additional relocation of the road and easement area to the extent necessary or appropriate to meet governmental requirements and good engineering practices in connection with any future permitted use of the Church Camp, (iv) impose an easement on the land immediately surrounding the expanded area of the Existing Road for lateral support of the road, (v) provide that, to the extent the relocated road and easement are not located in any part of the fee title area of the Existing Road, such unused and abandoned portion of the Existing Road shall be conveyed to Buyer or its successor owner of the land adjacent to such unused or abandoned portion, and (vi) provide that, so long as the Existing Road remains private, Buyer or its successor owner shall have the right to use the Existing Road in connection with the use and maintenance of the Property following the Closing.

(c) The Parties acknowledge and agree that the Utah Olympic Park (the “**UOP**”) owns an existing unimproved private road adjacent to the Kimball Junction Parcel so as to access its UOP Parcel A. In connection with their acquisition and ownership of the Property

as contemplated hereunder, Buyers hereby acknowledge and agree to recognize this legally vested easement.

(d) Seller shall have the right, following the Closing, to construct underground utility lines running through the Property for the benefit of the Retained Commercial Parcel, and, in that connection, the parties shall enter into and cause to be recorded in the official real estate records of Summit County, Utah, an easement agreement (the “**Utility Easement**”) to that effect, as provided in Section 14 below, against the Property and for the benefit of the Retained Commercial Parcel.

(e) Buyers shall covenant and agree that, following the Closing, Buyers will permit the common boundary between the Kimball Junction Parcel and the Retained Commercial Parcel to be adjusted, on an even acreage basis, as reasonably necessary in connection with Seller’s development of the Retained Commercial Parcel, and, in that connection, the parties shall enter into and cause to be recorded in the official real estate records of Summit County, Utah a recordable covenant (the “**Covenant to Adjust Boundary**”) to that effect, as provided in Section 14 below, against the Property and for the benefit of the Retained Commercial Parcel.

2. **Consideration.** The consideration for the conveyance of the Property shall be as follows:

(a) **Purchase Price.** The purchase price for the Property shall be the sum of Twenty Five Million and No/100 Dollars (\$25,000,000.00) (the “**Purchase Price**”), allocated between the two Parcels comprising the Property as follows: Sixteen Million Two Hundred and Fifty Thousand and No/100 Dollars (\$16,250,000.00) for the Kimball Junction Parcel and Eight Million Seven Hundred and Fifty Thousand and No/100 Dollars (\$8,750,000.00) for the Round Valley Parcel.

(b) **Earnest Money.** Not later than five (5) days after execution of this Agreement by all parties, Buyers shall deposit Fifty Thousand and No/100 Dollars (\$50,000.00) with First American Title Insurance Company, Attn: Neil Moffat (the “**Title Company**”) as earnest money (the “**Earnest Money**”). The Earnest Money shall be held by the Title Company until Closing in a federally insured interest-bearing account. If Buyers or Sellers terminate this Agreement pursuant to a right of termination granted by this Agreement prior to the end of the Due Diligence Period, the Earnest Money and all interest earned thereon shall be returned to Buyers. If Buyers do not so terminate this Agreement prior to the expiration of the Due Diligence Period, then the Earnest Money and all interest earned thereon while held by the Title Company shall be paid to Seller, shall be non-refundable (except in the event that Seller fails to perform its obligations under this Agreement), and shall be applied as a credit against the Purchase Price. No interest will be deemed to accrue on the Earnest Money after it has been released to Seller.

3. **Escrow.** Within five (5) business days of Buyers’ receipt of a fully executed copy of this Agreement, Buyers shall open an escrow with the Title Company, by depositing with Title Company the Earnest Money and an executed copy of this Agreement. This Agreement, together with other written instructions as may be provided by Buyers and Seller to the Title Company, shall constitute its escrow instructions to the Title Company. The “**Effective**

Date” of this Agreement shall be deemed to be the date a fully executed copy of this Agreement, together with Buyers’ check for the Earnest Money, is deposited with the Title Company, as evidenced by the date inserted by Title Company beneath its signature of receipt at the end of this Agreement.

4. **Title Commitment.** Seller shall cooperate with Buyers to cause the Title Company to issue a commitment for an ALTA Extended Coverage Owner’s Policy of Title Insurance (the “**Title Commitment**”) in the full amount of the Purchase Price, issued by First American Title Insurance Company, showing all matters affecting title to the Property, including all exceptions, easements, restrictions, rights-of-way, covenants, reservations and other conditions or encumbrances, together with legible copies of all recorded documents creating such title exceptions (the “**Title Documents**”). Seller shall also deliver to Buyers copies of all written leases, tenancies, occupancy agreements, rental agreements and other similar agreements affecting the Property and a full written description of any such agreements which are not written.

5. **Survey.** Buyers, at their own cost and expense, shall obtain an ALTA/ACSM Land Title Survey of the Property (the “**Survey**”) prepared by a licensed surveyor, certified to and in a form acceptable to Buyers, Seller and the Title Company, which (except to the extent waived by Buyers) shall show:

(a) The correct legal description of the Property by metes and bounds, which, after approval by Buyers, Seller and the Title Company, shall become the description of the Property for all purposes under this Agreement except for the legal description for the SW Deed (as defined below).

(b) All dimensions of the Property.

(c) The location of all ditches, easements, rights-of-way, adjacent public streets and designated drainage areas, and the location of any flood plains (as determined by the United States Corps of Engineers).

(d) The number of acres of land contained within the Property.

(e) Any encroachments on the Property.

(f) The definitions of topographical contours at one-foot intervals, and other topographical characteristics of the site.

(g) Such other title exceptions as are reflected in the Title Commitment.

(h) All the parcels which share interior boundary lines with the other constituent parcels.

6. **Title and Survey Objections.**

(a) No later than November 21, 2008 (the “**Title Review Deadline**”), Buyers shall give notice to Seller of any matters contained in the Title Commitment, Title Documents or

the Survey to which Buyers object (the “**Objection Notice**”). Any matters in the Title Commitment or Survey to which Buyers do not so object prior to the expiration of the Title Review Deadline shall be “**Permitted Exceptions**.” Notwithstanding the preceding sentence, taxes for 2008 and subsequent years shall be Permitted Exceptions but shall be prorated as of the Closing. Seller shall have thirty (30) days after receipt of the Objection Notice (“**Seller’s Curing Period**”) to cure or to agree to cure at or before Closing such of the title and Survey objections (“**Objections**”), to the satisfaction of Buyers, as Seller may choose, in its sole discretion, to cure. If Seller fails to timely act in accordance with the preceding sentence during Seller’s Cure Period, Seller will be deemed to have chosen not to cure any Objections. If Seller timely gives notice to Buyers that Seller is unable or unwilling to cure any of the Objections, or if Seller otherwise fails to cure the Objections, then Buyers may, by written notice that Buyers must give to Seller and the Title Company prior to the expiration of the Due Diligence Period: (i) waive any such Objections, and proceed to Closing; or (ii) terminate this Agreement and receive back the Earnest Money. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, at Closing, Seller shall be obligated to (i) remove all of the following all deeds of trust, mortgages and all other security documents encumbering the Property which secure the payment of any indebtedness (to the extent arising by, through or under Seller or its affiliates); and (ii) shall either remove or, but only with the prior written consent of Buyers, cause the Title Company to affirmatively insure against the following to the extent arising by, through or under Seller and/or its affiliates: (x) any mechanic’s or materialmen’s liens against the Property arising by, through or under Seller; and (y) any tax or judgment liens or charges against Seller and the Property.

(b) Notwithstanding anything to the contrary in the preceding Section or elsewhere in this Agreement, Seller hereby notifies Buyers of the following, and Buyers will purchase the Property subject to the following if Buyers elect to purchase the Property:

(i) The existing grazing or farming lease pertaining to any part of the Property described on Exhibit B;

(ii) The existing lease with the County for the “welcome center;”

(iii) The existence of the grave sites on the Property previously disclosed to Buyers, and any and all legal or other implications, impacts, liabilities and responsibilities pertaining thereto; and

(iv) The existing lease for the existing radio tower on the Land and an easement to access the radio tower. Buyers acknowledge that (A) Seller will lease back to SLR the portion of the Land on which the radio tower is located for the term of the radio tower lease (including any extensions thereof) and Seller shall have no rights to the leased premises or easement thereafter, (B) the location of the portion of the Land to be leased back to SLR, the form of the lease back agreement, the location of the access easement and form of the access easement will all be mutually agreed to in writing by SLR and Seller as part of the SLR/PRI Transaction, and (C) SLR will not assign its rights in the radio tower lease to Seller, but rather will remain the landlord thereunder and will continue to receive all revenues associated with the radio tower.

7. **[reserved]**

8. **Investigations.**

(a) From the Effective Date until the first to occur of the termination of this Agreement or the Closing, Buyers and their respective representatives shall have the right to enter upon the Property to conduct any and all investigations it deems necessary or advisable, including without limitation, obtaining or performing the Survey and surveys, soils and/or water tests, engineering studies, feasibility studies, environmental assessments and inspections, tenant interviews, evaluations of the availability of utilities, drainage, and access, and performance of such other investigations as Buyers may desire to determine the suitability of the Property for Buyers' intended use (the "**Investigations**"). Seller agrees that the Buyers and its authorized agents or representatives shall be entitled to enter upon the Property upon reasonable advance notice to Seller (which notice may be oral) to make the Investigations; provided, however, Buyers shall not contact or disturb any tenant unless, if required by Seller, a representative of Seller is present. Prior to performing any of the Investigations, Buyers shall obtain all permits and authorizations and shall pay all applicable fees required by any public body or agency in connection therewith.

(b) If any inspection or test by Buyers or Buyers' agents materially damages any portion of the Property, Buyers shall restore the Property to substantially the same condition as existed prior to any such inspection or test except that Buyers will not return any samples taken. Buyers shall utilize reasonable efforts to perform its Investigations in such a manner as to minimize its interference with the operation of the tenants of the Property, or any other persons providing service to the Property. Buyers agree to keep the Property free and clear of any liens arising from its actions or the Investigations and will indemnify, defend and hold Seller harmless from all losses, costs and damages including reasonable attorney's fees arising out of Buyers' inspection activities, provided however, that such indemnification obligations of Buyers shall not extend to: (i) any such loss, cost, damages or fees arising out of pre-existing conditions at the Property; and (ii) any such loss, cost, damages or fees resulting from compliance by Buyers with applicable laws. The provisions of this Section shall survive termination of the Agreement. Buyers shall maintain adequate liability coverage for its officers, employees, agents, and representatives inspecting the Property or conducting sampling or testing and, at Seller's request, shall provide Seller with evidence of the same. Without limiting the generality of the foregoing sentence, Buyers shall furnish to Seller a Commercial General Liability Insurance Policy with a limit of not less than \$2,000,000.00 each occurrence, covering the activities of Buyers and its employees, contractors and agents while on the Property, and naming Seller as an additional insured, which policy shall be non-cancelable without thirty (30) days notice to Seller.

(c) Upon Seller's request and at no cost to Seller, Buyers shall furnish Seller with copies of written sampling and test results prepared by third persons. Seller represents that to its Actual Knowledge, as defined below, that it has provided Buyers with copies of all studies, site analyses, engineers certificates, existing surveys, existing title insurance policies, contracts, leases, licenses, permits, operating agreements and architects certificates with respect to the Property in the possession or control of Seller or Seller's affiliates, including without limitation: (i) any site analyses with respect to oil, asbestos, underground storage tanks, or hazardous waste on the Property; and (ii) any reports regarding compliance with laws (including, but not limited

to, ADA, zoning and all other land use matters). Seller agrees to make such items available to Buyers or Buyers' agents, but Seller makes no representation as to the accuracy or completeness of any of the documents delivered to Buyers pursuant to this subsection.

(d) Buyers agree that, except for Seller's express representations, warranties and covenants specifically set forth in this Agreement, Buyers are purchasing the Property on an "AS IS, WHERE IS, AND WITH ALL ITS FAULTS" basis, in its present state and condition, and in reliance solely upon Buyers' own investigation of the Property. Neither Seller nor any agents, employees, or affiliates of Seller have made representations, warranties or covenants, expressed or implied, which concern the Property or which have induced Buyers to enter into or to consummate this Agreement, except as are expressly set forth in this Agreement. Except for Seller's express representations, warranties and covenants specifically set forth in this Agreement, neither Seller nor any agent, employee, officer, director, broker, contractor or representative of Seller has made, and Seller specifically disclaims, any representations or warranties of any kind or nature whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Property, including, without limitation, any representation or warranty of condition, suitability, income potential, merchantability, or fitness for a particular purpose. All representations and warranties, other than those expressly contained in this Agreement, are hereby disclaimed by Seller and waived by Buyers.

9. **The Due Diligence Period.** Seller agrees that Buyers shall have until December 1, 2008 (the "**Due Diligence Period**"), to (i) conduct, at Buyers' sole expense, the Investigations, and (ii) finally approve or disapprove of the status of title and survey matters. Prior to performing any of the Investigations or pursuing any entitlement matters as contemplated hereunder, Buyers shall obtain all permits and authorizations and shall pay all applicable fees required by any public body or agency in connection therewith. Buyers shall indemnify, defend and hold Seller and the Property harmless from all damage, loss or liability, including, without limitation, attorney fees and costs of court, mechanics' liens or claims, or claims or assertions thereof which shall be actually incurred by Seller as a result of the Investigations. If Buyers determine in their sole and absolute discretion that circumstances exist which render the Property unsuitable for Buyers' intended use, Buyers may terminate this Agreement by giving written notice to Seller and Title Company during the Due Diligence Period, in which event this Agreement shall be canceled and the Earnest Money shall be returned to Buyers. If Buyers fail to give such notice prior to the expiration of the Due Diligence Period, then Buyers will be deemed to have acknowledged that Buyers have satisfied themselves as to those aspects of the Property required to be examined during the Due Diligence Period.

10. **[reserved]**

11. **[reserved]**

12. **Conditions to Closing.** Buyers' obligation to purchase the Property, and Seller's obligation to sell the Property, are subject to the following conditions (provided, however, that the Parties acknowledge and agree, that the failure of any of the following conditions shall only allow the Party who would have benefited from such condition to be excused from performing

under this Agreement or to terminate this Agreement, but shall not extend the Closing Date or any other date hereunder):

(a) Seller's may choose not to sell the Property to Buyers should any of these condition not be met: (i) Buyers shall have satisfied and performed each and every obligation of Buyer under this Agreement; (ii) Buyer shall not have terminated this Agreement pursuant to Section 9 hereof; (iii) the Development Agreement for the Kimball Junction Research Park (the "**Development Agreement**"), in form and content satisfactory to Seller and Buyers, shall have been approved by the Board of County Commissioners of Summit County (the "**County Board**"), shall have been fully executed and acknowledged by the required parties thereto, and shall have been recorded in the official real estate records of Summit County, Utah; and (iv) Seller shall have closed on its purchase of the SLR/PRI Property pursuant to the terms and conditions of the SLR/PRI Contract. With respect to the Development Agreement, the Parties further acknowledge and agree that the County Board shall retain its full legislative authority to approve or reject the Development Agreement consistent with state law and applicable development codes, and Seller, at its option, may refuse to close should the County Board reject the Development Agreement. However, in such a case, Buyers shall be entitled to receive their Earnest Money and interest from the Escrow Agent, and Seller shall not be entitled to any liquidated damages therefor.

(b) Buyers' obligation to purchase the Property from Seller shall be subject to the following conditions: (i) Seller shall have satisfied and performed each and every obligation of Seller under this Agreement; (ii) Buyer shall not have terminated this Agreement pursuant to Section 9 hereof; and (iii) Seller shall have closed on its purchase of the SLR/PRI Property pursuant to the terms and conditions of the SLR/PRI Contract.

13. **Closing.** The closing (the "**Closing**") of the purchase and sale of the Property pursuant to this Agreement shall occur simultaneously with the SLR/PRI Closing, which shall in no event be later than December 31, 2008 (the "**Closing Date**"), at the office of the Title Company, it being acknowledged and agreed by the Parties that (a) the Closing and the SLR/PRI Closing will occur simultaneously through coordinated escrow accounts established at the Title Company, (b) the Purchase Price will be used by Seller to fund its acquisition of the SLR/PRI Property, (c) the SW Deed, the Quitclaim Deed and the Notice of Use Restrictions (as such terms are defined in Section 14 below) will be recorded immediately following the conveyance and other instruments to be recorded pursuant to the SLR/PRI Contract, and (d) the Parties shall use commercially reasonable, good faith efforts to cooperate in coordinating the SLR/PRI Closing and the Closing hereunder as contemplated by this Section 13.

14. **Closing Deliveries.** The following shall be delivered at Closing:

(a) **Special Warranty Deed.** Seller shall execute, acknowledge and deliver a Special Warranty Deed (the "**SW Deed**"), the form of which is attached hereto as Exhibit C. The SW Deed shall include a legal description of the Property, the first being the legal description by which Seller took title to the Property (less any parcels conveyed away by Seller since it took title). Notwithstanding the foregoing, however, Seller may elect to have SLR and/or PRI, as applicable, convey the Property directly to Buyers by executing, acknowledging and

delivering separate Special Warranty Deeds pertaining to the respective property of such party in favor of Buyers at Closing.

(b) Quitclaim Deed. Seller shall execute, acknowledge and deliver a Quitclaim Deed (the “**Quitclaim Deed**”), the form of which is attached hereto as Exhibit D. The Quitclaim Deed shall include a legal description of the Property agreed upon by the Parties from the Survey (the “**As-Surveyed Description**”). Notwithstanding the foregoing, however, Seller may elect to have SLR quitclaim its interest in the Property as described in the As-Surveyed Description directly to Buyers by executing, acknowledging and delivering the Quitclaim Deed in favor of Buyers at Closing.

(c) Notices of Use Restrictions. Seller and Buyers shall execute, acknowledge and deliver the following:

(i) a Declaration and Notice of Use Restrictions (the “**Kimball Junction Notice of Use Restrictions**”), the form of which is attached hereto as Exhibit E-1, which shall include, and shall be recorded against, the Kimball Junction Parcel as described in the As-Surveyed Description, and shall be for the benefit of the owner of the undeveloped portions of the Retained Commercial Parcel, and thereafter, in favor of Seller; and

(ii) a Declaration and Notice of Use Restrictions (the “**Round Valley Notice of Use Restrictions**,” and, collectively with the Kimball Junction Notice of Use Restrictions, the “**Notices of Use Restrictions**”), the form of which is attached hereto as Exhibit E-2, which shall include, and shall be recorded against, the Round Valley Parcel as described in the As-Surveyed Description, in favor of Seller.

(d) Utility Easement. Seller and Buyers shall execute, acknowledge and deliver the Utility Easement, the form of which is attached hereto as Exhibit F. The Utility Easement shall include, and shall be recorded against, the Property as described in the As-Surveyed Description, and shall be for the benefit of the Retained Commercial Parcel.

(e) Covenant to Adjust Boundary. Buyers shall execute, acknowledge and deliver the Covenant to Adjust Boundary, the form of which is attached hereto as Exhibit G. The Utility Easement shall include, and shall be recorded against, the Property as described in the As-Surveyed Description, and shall be for the benefit of the Retained Commercial Parcel.

(f) Title Policy. Seller shall furnish an ALTA Extended Coverage Owner’s Title Insurance Policy issued by Title Company. Seller shall pay the cost of standard coverage, and Buyers shall pay the cost of extended coverage and such endorsements as Buyers request and the Title Company is willing to issue. The policy shall be in the amount of the Purchase Price and shall guarantee that Buyers’ title to the Property is good and indefeasible subject only to the Permitted Exceptions.

(g) FIRPTA. Evidence of compliance with an exemption from the Foreign Investment in Real Property Tax Act (FIRPTA).

(h) Purchase Price. Buyers shall pay the Purchase Price in cash or by wire transfer.

(i) Further Assurances. Each Party shall execute and deliver such additional instruments and agreements as may reasonably be required to consummate the transactions contemplated by this Agreement.

15. Closing Costs. Closing costs and prorations shall be prorated as follows:

(a) Taxes and Utilities. All ad valorem and excise taxes and utilities shall be prorated to the date of Closing. If the current year's taxes are not known as of the date of Closing, the proration of taxes shall be based upon the previous year's taxes with an adjustment made between Seller and Buyers when the current year's taxes are known. Buyers will pay any agricultural assessment rollback taxes, if any, that may be owing or which may become owing at the Closing or that will arise because of the change in use of the Property contemplated by the Final Development Plan and Documents.

(b) Fees. Any escrow fee charged by the Title Company shall be shared equally by Seller and Buyers. Each Party will pay its own attorneys' fees. Buyers shall pay the cost of recording the Special Warranty Deed, the Quitclaim Deed and the Notice of Use Restrictions.

(c) Other. All other bills or charges including other recording fees, any state or local documentary stamps, transfer taxes or fees, assessments for improvements completed or initiated prior to Closing, whether levied or not, pertaining to the Property as of the date of Closing, shall be allocated by the Title Company between Seller and Buyers according to local custom or as otherwise agreed by the Parties at or prior to Closing. All rents and other similar payments shall be prorated to the date of Closing.

16. Possession. Possession of the Property shall be delivered to Buyers at Closing. Seller agrees that any improvements remaining on the Property after such date shall belong to Buyers.

17. Seller's Representations and Warranties. Seller makes the following representations, warranties and covenants as of the date of this Agreement and as of the date of Closing such representations and warranties shall be deemed to have been made again, with the exception that every written notice delivered to Buyers from Seller that sets forth in reasonable detail facts that contradict any of the following representations and warranties will be excluded from the representations and warranties to the extent described in the written notice. In the event of a breach of any of these representations, warranties and covenants, Buyers, in their sole discretion, may terminate this Agreement and all Earnest Money and interest earned thereon shall be refunded to Buyers.

(a) Organization and Standing. Seller is duly formed, validly existing and in good standing under the laws of the State of Utah. Seller has full power and authority to enter into and perform this Agreement and all documents, instruments and agreements entered into by Seller pursuant to this Agreement, and to carry out the transactions contemplated hereby and thereby. This Agreement has been authorized by Seller and has been executed, and such other documents, instruments and agreements have been or will be executed, by a duly authorized representative of Seller.

(b) Binding Agreement. Upon Seller's execution of this Agreement, this Agreement shall be binding and enforceable against Seller in accordance with its terms, and upon Seller's execution of the additional documents contemplated by this Agreement, they shall be binding and enforceable against Seller in accordance with their terms.

(c) No Condemnation. Seller has not received any notice of condemnation or eminent domain proceedings with respect to the Property, and no condemnation or eminent domain proceedings or negotiations have been commenced or, to Seller's Actual Knowledge, threatened, in connection with the Property.

(d) Hazardous Materials. Except for herbicides, pesticides and other materials traditionally used in farming in the area where the Property is located, and Seller, without any specific inquiry, has no Actual Knowledge of the presence or existence of any Hazardous Materials (as defined below) or petroleum underground storage tanks on the Property. From the Effective Date through Closing, Seller shall not cause or permit the presence, use, generation, release, discharge, storage, disposal, or transportation of any Hazardous Materials on, under, to or from the Property, except for herbicides, pesticides and other materials traditionally used in farming in the area where the Property is located. As used in this Agreement, the term "Hazardous Materials" shall mean any hazardous or toxic waste, substance or material as presently defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 5101, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et seq.; and any State environmental laws.

(e) No Proceedings. There are no actions, suits, claims, assessments or proceedings pending or, to Seller's Actual Knowledge threatened which, if adversely determined, could individually or in the aggregate have an adverse effect on the title to or the use and enjoyment or value of the Property or any part thereof, or which could in any way interfere with the consummation of the transaction contemplated by this Agreement.

(f) No Contracts, Leases or other Agreements. To Seller's Actual Knowledge, after the Effective Date, Seller has not and will not enter into any written contracts, agreements, leases or listings, or be a party to any oral understandings or agreements affecting the Property which may become binding upon the Property or Buyers without the consent of Buyers, except that Seller may renew the current farm lease on the Property on a year to year basis and any tenant or lessee having extension or renewal rights may exercise the same.

(g) No Violations. Except as disclosed by Seller to Buyers in writing making reference to this subsection within ten (10) business days after the Effective Date, Seller has not received any written notification from any governmental or public authority that the Property is in violation of any applicable fire, health, building, use, occupancy or zoning laws where such violation remains outstanding ("Violations").

The truth of the foregoing representations and warranties on and as of the Effective Date and on and as of the Closing shall be a condition precedent to Buyers' obligations to purchase the

Property and otherwise perform under this Agreement. All representations and warranties by Seller set forth in this Agreement shall survive the execution and delivery of this Agreement, the recording of the SW Deed and the Closing for a period of 12 months. All claims for breach of such representations and warranties must be made during such 12-month period. All claims made during such 12-month period shall survive such 12-month period until resolved. Seller's "Actual Knowledge" or similar phrases throughout this Agreement means the actual knowledge of H. Roger Boyer and Steven B. Ostler. Buyers' "Actual Knowledge" or similar phrases through this Agreement means the actual knowledge of Bob Richer, Summit County Commissioner and Tom Bakaly, Park City Manager.

18. **Buyers' Representation and Warranties.** Buyers, as of the date of this Agreement and again at the Closing, represent and warrant to Seller that:

(a) **Organization and Standing.** Buyers are duly formed, validly existing and in good standing under the laws of the State of Utah. Buyers have full power and authority to enter into and perform this Agreement and all documents, instruments and agreements entered into by Buyers pursuant to this Agreement, and to carry out the transactions contemplated hereby and thereby. This Agreement has been executed, and such other documents, instruments and agreements have been or will be executed, by duly authorized representatives of Buyers.

(b) **Binding Agreement.** Upon Buyers' execution of this Agreement, this Agreement shall be binding and enforceable against Buyers in accordance with its terms, and upon Buyers' execution of the additional documents contemplated by this Agreement, they shall be binding and enforceable against Buyers in accordance with their terms.

(c) **No Proceedings.** There are no actions, suits, claims, assessments or proceedings pending or, to Buyers' Actual Knowledge threatened which, if adversely determined, could individually or in the aggregate have an adverse effect on the title to or the use and enjoyment or value of the Property or any part thereof, or which could in any way interfere with the consummation of the transaction contemplated by this Agreement.

All representations and warranties by Buyers set forth in this Agreement shall survive the execution and delivery of this Agreement, the recording of the SW Deed and the Closing for a period of 12 months. All claims for breach of such representations and warranties must be made during such 12-month period. All claims made during such 12-month period shall survive such 12-month period until resolved.

19. **Notices.** Any notice or designation to be given hereunder shall be given by placing the notice or designation in the United States mail, certified or registered, properly stamped and addressed to the address shown below or such other address as the respective Party may direct in writing to the other, or by personal delivery to such address by a Party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received upon such placing in the mails or such delivery:

SELLER: Boyer Snyder Junction, L.C.
90 South 400 West, Suite 200
Salt Lake City, Utah 84101
Attn: H. Roger Boyer

With a copy to: Thomas A. Ellison, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

BUYERS: Summit County
ATTN: County Manager
60 N. Main St., P.O. Box 128
Coalville, Utah 84017

Park City Municipal Corporation

Attn: _____

With a copy to: David L. Thomas
Chief Civil Deputy
60 N. Main St., P.O. Box 128
Coalville, Utah 84017

20. **Condemnation, Dedication.** If prior to Closing, any portion of the Property is taken by eminent domain or condemnation, or if any improvements on the Property are destroyed or materially damaged, then Buyers may: (a) terminate this Agreement; or (b) complete this purchase in which event the entire award or right to an award (including all severance damages) shall be the property of Buyers.

21. **Remedies; Termination.**

(a) **Remedies.** In the event Seller defaults in any of its agreements, covenants, representations, warranties or other obligations under this Agreement ("**Seller's Default**"), Buyers shall give Seller written notice of such default and thereafter Seller shall have ten (10) days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, provided that Seller commences such cure within the initial ten (10) day period and thereafter diligently pursues the cure to completion). In the event that Seller fails to cure a Seller's Default within the cure period, Buyers may, as Buyers' sole remedies for such Seller's Default: (i) waive the effect of such default and proceed to Closing; (ii) terminate this Agreement and receive back the Earnest Money with interest; or (iii) bring an appropriate action for specific performance of this Agreement. No action for damages shall be brought against Seller, either separately or in conjunction with its actions for specific performance unless Seller knowingly violated the Representations and Warranties of Seller set forth above. All rights and remedies contained in this Section shall be non-cumulative and exclusive.

(b) In the event Buyers default in any of their agreements, covenants, representations, warranties or other obligations under this Agreement ("**Buyers' Default**"), Seller shall give Buyers written notice of such default and thereafter Buyers shall have ten (10) days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, provided that Buyers commence such cure within the initial ten (10) day period and thereafter diligently pursues the cure to completion). In the event that Buyers fail to cure a Buyers' Default within the cure period, Seller may, as Seller's sole remedy for such Buyers' Default, retain the Earnest Money as liquidated damages. SELLER SHALL HAVE NO OTHER RIGHT OR CLAIM UNDER THIS AGREEMENT, UNLESS BUYERS KNOWINGLY VIOLATE THE REPRESENTATIONS AND WARRANTIES OF BUYERS SET FORTH ABOVE. SELLER AND BUYERS AGREE THAT IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES TO SELLER IN THE EVENT OF BUYERS' DEFAULT UNDER THIS AGREEMENT. THE PARTIES HEREBY AGREE THAT A REASONABLE ESTIMATE OF SUCH DAMAGES IS AN AMOUNT EQUAL TO THE EARNEST MONEY, AND IN THE EVENT OF BUYERS' DEFAULT UNDER THIS AGREEMENT, SELLER SHALL BE ENTITLED TO RECEIVE AND RETAIN AS FULLY AGREED LIQUIDATED DAMAGES THE ENTIRE EARNEST MONEY, ALL OTHER REMEDIES BEING HEREIN EXPRESSLY WAIVED BY SELLER.

Seller's Initials

Buyers' Initials

(c) **Termination**. If this Agreement is terminated or Closing does not occur because of the failure of any condition or the occurrence of an event giving rise to a termination by Buyers as set forth herein, all monies deposited by Buyers hereunder will be delivered to the Party entitled thereto in accordance with the provisions of this Agreement.

22. **Real Estate Commissions**. Each Party agrees and represents to the other that it has not been represented by any broker, finder or other Party entitled to a real estate brokerage commission, finder's fee or other compensation. Each Party agrees to indemnify, defend and hold the other Party harmless from and against any commissions, fees or other compensation which is claimed by any third person with whom the indemnifying Party has allegedly dealt.

23. **Entire Agreement**. This Agreement contains all agreements between the Parties, and no agreement not contained herein shall be recognized by the Parties.

24. **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.

25. **Governing Law**. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah.

26. **Time of Essence**. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

27. **Counterparts**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same document and agreement. A copy or facsimile transmission of any part of this

Agreement of any part of this Agreement, including the signature page, shall have the same force and effect as an original.

[Signatures on following page]

IN WITNESS WHEREOF, each of the Parties has executed this Agreement to be effective as of the Effective Date.

SELLER:

BOYER SNYDERVILLE JUNCTION, L.C.,
a Utah limited liability company

By: THE BOYER COMPANY, L.C., a Utah limited
liability company, its Manager

By: _____
Name: _____
Its: _____

EXECUTED: _____, 2008.

[Signatures continued on following page]

BUYERS:

COUNTY

SUMMIT COUNTY, a body corporate and politic of
the State of Utah

By: THE BOARD OF COUNTY
COMMISSIONERS

By: _____
Ken Woolstenhulme
Chairman

EXECUTED: _____, 2008.

ATTEST:

Kent Jones
County Clerk

APPROVED AS TO FORM:

David L. Thomas
Chief Civil Deputy Summit County Attorney

CITY

[INSERT SIGNATURE BLOCK FOR CITY]

RECEIPT OF EARNEST MONEY

The undersigned hereby acknowledges receipt of a check in the amount of \$50,000.00 as Earnest Money under the foregoing Purchase Agreement. The undersigned will promptly deposit the check and hold the proceeds as Earnest Money in accordance with the terms of the Purchase Agreement. The undersigned will promptly notify the Parties if these instructions are for any reason not carried out.

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____
Name: _____
Its: _____

EXECUTED: _____, 2008.

**EXHIBIT A
TO
PURCHASE AGREEMENT**

Legal Description of the Land

**EXHIBIT B
TO
PURCHASE AGREEMENT**

Existing Grazing or Farming Lease

**EXHIBIT C
TO
PURCHASE AGREEMENT**

Form of Special Warranty Deed

WHEN RECORDED, RETURN TO:
Thomas A. Ellison, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

SPECIAL WARRANTY DEED

In consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company (the "Grantor"), hereby conveys and warrants against all who claim by, through or under it to SUMMIT COUNTY, a body corporate and politic of the State of Utah, whose address is 60 N. Main St., P.O. Box 128, Coalville, Utah 84017, PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah, whose address is _____, as tenants-in-common (collectively, the "Grantee"), the real property (the "Real Property") located in Summit County, Utah, and described as follows:

See Exhibit A attached hereto and incorporated herein by this reference;

TOGETHER with all easements, rights and hereditaments appurtenant thereto and all improvements located thereon;
SUBJECT TO current taxes and assessments and to the reservations, easements, covenants, conditions, restrictions, and other rights or interests set forth on Exhibit B attached hereto and incorporated herein by this reference; and
RESERVING specifically unto Grantor all water and water rights, including shares of stock in water companies, provided that Grantor does not reserve the right to use the subject property or other substances from the subject property above a depth of 500 feet, nor does Grantor reserve the right to use or enter upon the surface of the subject property in connection with the rights reserved herein.

**IN WITNESS WHEREOF, Grantor has executed this Special Warranty
Deed this ____ day of _____, 20__.**

BOYER SNYDERVILLE JUNCTION, L.C.,
a Utah limited liability company

By: THE BOYER COMPANY, L.C., a Utah limited
liability company, its Manager

By: _____
Name: _____
Its: _____

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

**On this ____ day of _____, 20__, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of The
Boyer Company, who acknowledged to me that he signed the
foregoing instrument as _____ for said
corporation.**

Notary Public for Utah

**EXHIBIT D
TO
PURCHASE AGREEMENT**

Form of Quitclaim Deed

WHEN RECORDED, RETURN TO:
Thomas A. Ellison, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

QUITCLAIM DEED

In consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company (the "Grantor"), hereby quitclaims without any warranty whatsoever to SUMMIT COUNTY, a body corporate and politic of the State of Utah, whose address is 60 N. Main St., P.O. Box 128, Coalville, Utah 84017, PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah, whose address is _____, as tenants-in-common (collectively, the "Grantee"), the real property (the "Real Property") located in Summit County, Utah, and described as follows:

See Exhibit A attached hereto and incorporated herein by this reference;

RESERVING specifically unto Grantor all water and water rights, including shares of stock in water companies, provided that Grantor does not reserve the right to use the subject property or other substances from the subject property above a depth of 500 feet, nor does Grantor reserve the right to use or enter upon the surface of the subject property in connection with the rights reserved herein.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed this
_____ day of _____, 20____.

BOYER SNYDERVILLE JUNCTION, L.C.,
a Utah limited liability company

By: THE BOYER COMPANY, L.C., a Utah limited
liability company, its Manager

By: _____
Name: _____
Its: _____

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this _____ day of _____, 20____, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of The
Boyer Company, who acknowledged to me that he signed the
foregoing instrument as _____ for said
corporation.

Notary Public for Utah

**EXHIBIT E-1
TO
PURCHASE AGREEMENT**

Form of Kimball Junction Notice of Use Restrictions

WHEN RECORDED, RETURN TO:
Thomas A. Ellison, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

DECLARATION AND NOTICE OF USE RESTRICTIONS
(Kimball Junction)

This DECLARATION AND NOTICE OF USE RESTRICTIONS (this "Declaration and Notice"), dated as of the ____ day of _____, 2008 (the "Effective Date"), is entered into and made by SUMMIT COUNTY, a body corporate and politic of the State of Utah, whose address is 60 N. Main St., P.O. Box 128, Coalville, Utah 84017, PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah, whose address is _____ (collectively "Declarant").

RECITALS

A. Declarant is the owner of certain parcels of real property located in Summit County, Utah, as more particularly described in attached Exhibit "A" (the "Property").

B. Boyer Snyderville Junction, L.C., a Utah limited liability company ("Boyer"), owns certain other parcels of real property located adjacent to the Property in Summit County, Utah, as more particularly described in attached Exhibit "B" (the "Benefited Property").

C. As and to the extent specified herein, Declarant desires that the Property shall be held, conveyed, encumbered, leased, used, occupied, and improved subject to the restrictions, rights, conditions, and covenants set forth in this Declaration and Notice, for the benefit of the owner of any undeveloped portion of the Benefited Property and, at such time as no undeveloped portions of the Benefited Property remain, thereafter for the benefit of Boyer.

D. This Declaration and Notice is made for and in consideration of, pursuant to, and in furtherance of the terms and conditions of that certain Purchase Agreement by and between Boyer and Declarant, dated as of _____, 2008 (the "Agreement").

TERMS

NOW, THEREFORE, for and in consideration of the covenants and promises set forth in the Agreement and this Declaration, together with the mutual benefits to be derived herefrom and therefrom, Declarant hereby covenants and declares that the Property, and every part or

interest therein, is now held and shall hereafter be held, conveyed, encumbered, leased, used, occupied and improved subject to the restrictions, rights, conditions and covenants herein set forth, each and all of which is and are for, and shall inure to the benefit of and pass with, the Property, and every part or interest therein, and shall apply to every owner and occupant thereof, and their successors and assigns, with the effect that all restrictions, rights, conditions and covenants in this Declaration shall run with and burden the Property and shall be binding on the Property and all other persons having or acquiring any interest in the Property, for the benefit of the Benefited Property and other persons having or acquiring any interest in the Benefited Property.

1. Declarant desires to maintain and preserve the Property as open space and to restrict the use of the Property to recreational and other uses that are consistent with its preservation as open space. In that connection, the following uses of the Property and/or activities upon the Property are expressly prohibited in perpetuity (collectively, the "Use Restrictions"):

(a) Division, subdivision or de facto subdivision (through long-term leasing or otherwise) of any parcel of the Property into more than one (1) separately owned parcels of real property;

(b) Construction or location of any structure or other improvement on the Property except for structures or improvements that are reasonably consistent with the use of the Property as open space or a portion thereof as a public cemetery, including grave monuments, plot map kiosks, observation blinds and towers, trails, cattle guards or other fencing as may reasonably be required to preserve the Property in its present condition;

(c) Exploration and drilling for and extraction of oil and gas from any site on the Property;

(d) Dumping or storing of ashes, trash, garbage or junk on the Property;

(e) Quarrying, mining, excavation, depositing or extraction of sand, gravel, soil and rocks and/or, without limitation, any mineral or similar materials from the Property;

(f) Dumping, depositing, discharging, releasing or abandoning any solid or hazardous wastes, hazardous substance or material, pollutant or debris in, on or under the Property or into the surface or groundwater on or under the Property;

(g) Burning of any materials on the Property;

(h) The use of vehicles, including snowmobiles and other recreational vehicles, except the use of vehicles is permitted to the extent necessary to maintain the Property, and to maintain and construct utility lines running through the Property;

(i) Hunting or trapping for any purpose other than predatory, scientific research or problem animal control on the Property;

(j) Establishment or maintenance of any grazing or livestock feedlots on the Property;

(k) Any industrial use of the Property not expressly permitted;

(l) The placement or maintenance of commercial signs, billboards or any other outdoor advertising of any kind or nature on the Property except for signs relating to the use or limitations on use applicable to the Property, directional and regulatory signs relating to the Property and signs of an informational or educational nature relating to the Property or the Utah Olympic Park and the preservation of the Property as open space;

(m) All other uses and practices inconsistent with and significantly detrimental to the preservation of the Property as open space.

2. The following uses and practices, though not an exhaustive recital of consistent uses and practices, are consistent with the preservation of the Property as open space and are hereby expressly permitted, provided that each such use or practice is effected in a manner that is not inconsistent with the purpose of the Use Restrictions and that each such use or practice shall neither significantly impair the public's view of and over the Property nor, in general, result in significant injury to or the destruction of the open space conservation value of the Property:

(a) To plant and maintain native trees and bushes and grasses to protect, preserve and enhance the aesthetic and open space values of the Property;

(b) To hunt or trap animals and to control predatory or problem animals by the use of selective control measures and techniques;

(c) To remove such trees and other flora as are reasonably determined to be hazardous to the uses and practices herein reserved;

(d) To build, maintain and repair observation blinds and towers, trails, cattle guards or other fencing reasonably appropriate for wildlife and agricultural protection purposes, for the protection of natural and planted vegetation, observation blinds and towers, trails, cattle guards or other fencing as may reasonably be required to preserve the Property in its present condition;

(e) To engage in grazing and other agricultural activities;

(f) To use the Property for educational and recreational purposes consistent with the preservation of the Property as Open Space;

(g) To use the Property for commercial or noncommercial photography consistent with the preservation of the Property as open space;

(h) To construct, use and maintain natural and man-made ponds, including ponds used for the storage of treated effluent to the extent authorized or required by applicable governmental entities;

(i) To construct and maintain utility lines running through the Property, and the incidental use of vehicles required to maintain the Property and such utility lines;

(j) To install signs relating to the use or limitations on use applicable to the Property, directional and regulatory signs relating to the Property and signs of an informational or educational nature relating to the Property and the preservation of the Property as open space; and

(k) To use a portion of the Property as a public cemetery.

(l) To construct public roads, including the connector road from the Landmark Roundabout to Olympic Parkway.

(m) To construct athlete support services for the Utah Olympic Park on no more than three (3) acres contiguous to the existing UOP Parcel A.

3. With the agreement and understanding that, in the event the Use Restrictions shall, in any respect, as reasonably determined by the owner of the Benefited Property, fail to be performed or complied with, the owner of the Benefited Property may not have an adequate remedy at law for the breach or threatened breach thereof, the owner of the Benefited Property may (a) take or cause to be taken such actions as may be necessary or appropriate to satisfy any such covenants, agreements, conditions, and/or obligations, and/or (b) file a suit in equity to enjoin the breach or threatened breach of the Use Restrictions, as the case may be, and/or for specific performance thereof.

4. This Declaration shall continue in full force for a period of 100 years from the Effective Date (the "Term"). Within the last year of the Term, the owner of the Benefited Property shall review the Use Restrictions and, in such owner's sole discretion, determine whether and for how long the Use Restrictions, in whole or in part, shall remain in effect. Unless the owner of the Benefited Property determines otherwise, as evidenced by an instrument recorded in the official real estate records of Summit County, Utah within the last year of the Term, then the Term shall extend for another 100 years.

5. This Declaration may be amended only by duly recording an instrument executed and acknowledged by the owner of the Benefited Property and the owner(s) of the Property.

6. All restrictions, rights, conditions and covenants in this Declaration shall run with and bind the Property as covenants running with the land and shall inure with and burden the Property and shall be binding on the Property and any persons having or acquiring any interest in the Property, for the benefit of the Property and other persons having or acquiring any interest in the Property. Further, this Declaration and the restrictions created hereby shall inure to and be binding upon all occupants, tenants, licensees and invitees of the Property, and upon any person acquiring the Property, or any part thereof or any interest therein, whether voluntarily, involuntarily, by operation of law or otherwise. The owner(s) of the Property, including, without limitation, any owner or lien holder, who acquires any interest in the Property, by foreclosure, trustee's sale or otherwise, shall be liable for all obligations arising under this Declaration with respect to the Property after the date of sale and conveyance of title.

7. In the event of any legal action or proceeding in any way connected with this Declaration, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

8. Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

9. All notices given pursuant to this Declaration shall be in writing and shall be given by personal service (receipted), by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested.

10. The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

11. The Use Restrictions specified herein shall be subject to no prior liens, restrictions or encumbrances, except general real property taxes and assessments not yet due and payable. In the event that any liens or encumbrances shall hereafter accrue against the Property, the lien or indebtedness evidenced by any such liens shall be subordinate to the Use Restrictions specified herein.

IN WITNESS WHEREOF, the undersigned have caused this Declaration and Notice to be executed as of the date first written above.

IN WITNESS WHEREOF, the parties have executed this Notice this
_____ day of _____, 20____.

COUNTY

SUMMIT COUNTY, a body corporate and politic of
the State of Utah

By: THE BOARD OF COUNTY
COMMISSIONERS

By: _____
Ken Woolstenhulme
Chairman

EXECUTED: _____, 2008.

ATTEST:

Kent Jones
County Clerk

APPROVED AS TO FORM:

David L. Thomas
Chief Civil Deputy Summit County Attorney

CITY

[INSERT SIGNATURE BLOCK FOR CITY]

[acknowledgments on following pages]

STATE OF UTAH)
 :SS
COUNTY OF _____)

**On this ____ day of _____, 20____, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of
SUMMIT COUNTY, who acknowledged to me that he signed the
foregoing instrument in that capacity.**

Notary Public for Utah

STATE OF UTAH)
 :SS
COUNTY OF _____)

**On this ____ day of _____, 20____, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of PARK
CITY MUNICIPAL CORPORATION, who acknowledged to me that he signed
the foregoing instrument in that capacity.**

Notary Public for Utah

**EXHIBIT E-2
TO
PURCHASE AGREEMENT**

Form of Round Valley Notice of Use Restrictions

WHEN RECORDED, RETURN TO:
Thomas A. Ellison, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

DECLARATION AND NOTICE OF USE RESTRICTION
(Round Valley)

This DECLARATION AND NOTICE OF USE RESTRICTIONS (this "Declaration and Notice"), dated as of the ____ day of _____, 2008 (the "Effective Date"), is entered into and made by SUMMIT COUNTY, a body corporate and politic of the State of Utah, whose address is 60 N. Main St., P.O. Box 128, Coalville, Utah 84017, PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah, whose address is _____ (collectively "Declarant"), in favor of BOYER SNYDERVILLE JUNCTION, L.C., a Utah limited liability company ("Boyer").

RECITALS

A. Declarant is the owner of certain parcels of real property located in Summit County, Utah, as more particularly described in attached Exhibit "A" (the "Property").

B. As and to the extent specified herein, Declarant desires that the Property shall be held, conveyed, encumbered, leased, used, occupied, and improved subject to the restrictions, rights, conditions, and covenants set forth in this Declaration and Notice, for the benefit of Boyer.

C. This Declaration and Notice is made for and in consideration of, pursuant to, and in furtherance of the terms and conditions of that certain Purchase Agreement by and between Boyer and Declarant, dated as of _____, 2008 (the "Agreement").

TERMS

NOW, THEREFORE, for and in consideration of the covenants and promises set forth in the Agreement and this Declaration, together with the mutual benefits to be derived herefrom and therefrom, Declarant hereby covenants and declares that the Property, and every part or interest therein, is now held and shall hereafter be held, conveyed, encumbered, leased, used, occupied and improved subject to the restrictions, rights, conditions and covenants herein set forth, each and all of which is and are for, and shall inure to the benefit of and pass with, the Property, and every part or interest therein, and shall apply to every owner and occupant

thereof, and their successors and assigns, with the effect that all restrictions, rights, conditions and covenants in this Declaration shall run with and burden the Property and shall be binding on the Property and all other persons having or acquiring any interest in the Property, for the benefit of the Benefited Property and other persons having or acquiring any interest in the Benefited Property.

1. Declarant desires to maintain and preserve the Property as open space and to restrict the use of the Property to recreational and other uses that are consistent with its preservation as open space. In that connection, the following uses of the Property and/or activities upon the Property are expressly prohibited in perpetuity (collectively, the "Use Restrictions"):

(a) Construction or location of any structure or other improvement on the Property except for structures or improvements that are reasonably consistent with the use of the Property as open space or a portion thereof as a public cemetery, including grave monuments, plot map kiosks, observation blinds and towers, trails, cattle guards or other fencing as may reasonably be required to preserve the Property in its present condition; facilities necessary for importation, storage, and exploration of water;

(b) Exploration and drilling for and extraction of oil and gas from any site on the Property;

(c) Dumping or storing of ashes, trash, garbage or junk on the Property;

(d) Quarrying, mining, excavation, depositing on extraction of sand, gravel, soil and rocks and/or, without limitation, any mineral or similar materials from the Property;

(e) Dumping, depositing, discharging, releasing or abandoning any solid or hazardous wastes, hazardous substance or material, pollutant or debris in, on or under the Property or into the surface or groundwater on or under the Property;

(f) Burning of any materials on the Property;

(g) The use of vehicles, including snowmobiles and other recreational vehicles, except the use of vehicles is permitted to the extent necessary to maintain the Property, and to maintain and construct utility lines running through the Property;

(h) Hunting or trapping for any purpose other than predatory, scientific research or problem animal control on the Property;

(i) Establishment or maintenance of any grazing or livestock feedlots on the Property;

(j) Any agricultural or industrial use of the Property not expressly permitted;

(k) The placement or maintenance of signs, billboards or any other outdoor advertising of any kind or nature on the Property except for signs relating to the use or limitations on use applicable to the Property, directional and regulatory signs relating to the Property and signs of an informational or educational nature relating to the Property and the preservation of the Property as open space;

(l) All other uses and practices inconsistent with and significantly detrimental to the preservation of the Property as open space.

2. The following uses and practices, though not an exhaustive recital of consistent uses and practices, are consistent with the preservation of the Property as open space and are hereby expressly permitted, provided that each such use or practice is effected in a manner that is not inconsistent with the purpose of the Use Restrictions and that each such use or practice shall neither significantly impair the public's view of and over the Property nor, in general, result in significant injury to or the destruction of the open space conservation value of the Property:

(a) To plant and maintain native trees and bushes and grasses to protect, preserve and enhance the aesthetic and open space values of the Property;

(b) To hunt or trap animals and to control predatory or problem animals by the use of selective control measures and techniques;

(c) To remove such trees and other flora as are reasonably determined to be hazardous to the uses and practices herein reserved;

(d) To build, maintain and repair observation blinds and towers, trails, cattle guards or other fencing reasonably appropriate for wildlife and agricultural protection purposes, for the protection of natural and planted vegetation, observation blinds and towers, trails, cattle guards or other fencing as may reasonably be required to preserve the Property in its present condition;

(e) To engage in grazing and other agricultural activities;

(f) To use the Property for educational and recreational purposes consistent with the preservation of the Property as Open Space;

(g) To use the Property for commercial or noncommercial photography consistent with the preservation of the Property as open space;

(h) To construct, use and maintain natural and man-made ponds, including ponds used for the storage of treated effluent to the extent authorized or required by applicable governmental entities;

(i) To develop, construct and maintain water and utility lines running through the Property, and the incidental rights of access and use of vehicles required to maintain the Property and such utility lines; and

(j) To install signs relating to the use or limitations on use applicable to the Property, directional and regulatory signs relating to the Property and signs of an informational or educational nature relating to the Property and the preservation of the Property as open space.

3. With the agreement and understanding that, in the event the Use Restrictions shall, in any respect, as reasonably determined by the owner of the Benefited Property, fail to be performed or complied with, the owner of the Benefited Property may not have an adequate remedy at law for the breach or threatened breach thereof, the owner of the Benefited Property may (a) take or cause to be taken such actions as may be necessary or appropriate to satisfy

any such covenants, agreements, conditions, and/or obligations, and/or (b) file a suit in equity to enjoin the breach or threatened breach of the Use Restrictions, as the case may be, and/or for specific performance thereof.

4. This Declaration shall continue in full force for a period of 100 years from the Effective Date (the "Term"). Within the last year of the Term, the owner of the Benefited Property shall review the Use Restrictions and, in such owner's sole discretion, determine whether and for how long the Use Restrictions, in whole or in part, shall remain in effect. Unless the owner of the Benefited Property determines otherwise, as evidenced by an instrument recorded in the official real estate records of Summit County, Utah within the last year of the Term, then the Term shall extend for another 100 years.

5. This Declaration may be amended only by duly recording an instrument executed and acknowledged by the owner of the Benefited Property and the owner(s) of the Property.

6. All restrictions, rights, conditions and covenants in this Declaration shall run with and bind the Property as covenants running with the land and shall inure with and burden the Property and shall be binding on the Property and any persons having or acquiring any interest in the Property, for the benefit of the Property and other persons having or acquiring any interest in the Property. Further, this Declaration and the restrictions created hereby shall inure to and be binding upon all occupants, tenants, licensees and invitees of the Property, and upon any person acquiring the Property, or any part thereof or any interest therein, whether voluntarily, involuntarily, by operation of law or otherwise. The owner(s) of the Property, including, without limitation, any owner or lien holder, who acquires any interest in the Property, by foreclosure, trustee's sale or otherwise, shall be liable for all obligations arising under this Declaration with respect to the Property after the date of sale and conveyance of title.

7. In the event of any legal action or proceeding in any way connected with this Declaration, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

8. Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

9. All notices given pursuant to this Declaration shall be in writing and shall be given by personal service (receipted), by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested.

10. The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

11. The Use Restrictions specified herein shall be subject to no prior liens, restrictions or encumbrances, except general real property taxes and assessments not yet due

and payable. In the event that any liens or encumbrances shall hereafter accrue against the Property, the lien or indebtedness evidenced by any such liens shall be subordinate to the Use Restrictions specified herein.

IN WITNESS WHEREOF, the undersigned have caused this Declaration and Notice to be executed as of the date first written above.

IN WITNESS WHEREOF, the parties have executed this Notice this
____ day of _____, 20____.

COUNTY

SUMMIT COUNTY, a body corporate and politic of
the State of Utah

By: THE BOARD OF COUNTY
COMMISSIONERS

By: _____
Ken Woolstenhulme
Chairman

EXECUTED: _____, 2008.

ATTEST:

Kent Jones
County Clerk

APPROVED AS TO FORM:

David L. Thomas
Chief Civil Deputy Summit County Attorney

CITY

[INSERT SIGNATURE BLOCK FOR CITY]

[acknowledgments on following pages]

STATE OF UTAH)
 :SS
COUNTY OF _____)

**On this ____ day of _____, 20____, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of
SUMMIT COUNTY, who acknowledged to me that he signed the
foregoing instrument in that capacity.**

Notary Public for Utah

STATE OF UTAH)
 :SS
COUNTY OF _____)

**On this ____ day of _____, 20____, personally appeared
before me _____, known or
satisfactorily proved to me to be the _____ of PARK
CITY MUNICIPAL CORPORATION, who acknowledged to me that he signed
the foregoing instrument in that capacity.**

Notary Public for Utah

**EXHIBIT F
TO
PURCHASE AGREEMENT**

Form of Utility Easement

**EXHIBIT G
TO
PURCHASE AGREEMENT**

Form of Covenant to Adjust Boundary

City Council Staff Report



Subject: Marsac Avenue Affordable Housing
Subdivision
Author: Brooks T. Robinson
Date: November 6, 2008
Type of Item: Administrative – Subdivision

Summary Recommendations

Staff recommends the City Council open the public hearing, discuss the proposed Marsac Avenue Affordable Housing Subdivision, and consider approval based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: United Park City Mines Company
Location: 100 Marsac Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: State Route 224 to west, residential zones to east and north, open space to south.
Reason for Review: Subdivisions require Planning Commission review and City Council approval

Background

On January 9 and February 27, 2008, the Planning Commission held public hearings on the MPD pre-application. The Commission directed staff to return with findings for compliance with the General Plan. On March 12, 2008, the Commission ratified the findings for compliance with the General Plan and directed the applicant to work with the neighborhood to provide a more compatible design in keeping with the historic development pattern. The Commission was also not in favor of the intensity of the use and directed the applicant to reduce the density from what was originally proposed.

On May 28, 2008, the Planning Commission held a work session discussion on the Master Planned Development with preliminary plat application and a public hearing was held on June 11th. An additional public hearing only was held on June 25th. On July 9th, the Planning Commission approved a Master Planned Development with a preliminary plat for ten single family homes located on a private street. No appeal of the MPD approval was received.

On August 18, 2008, the City received an application for a ten-lot and two parcel subdivision. Additional materials (a plat with appropriate title blocks) were received on August 28 and the application was considered complete. The property is currently two metes and bounds parcels and platted Seventh (First) Street and encompasses approximately 2.7 acres.

The property does not include any lots created by the Park City Survey. As identified on the Park City Survey, the Ontario Millsite Reservation encompassed the North east corner of Section 21; Block 51 with no lots is between the south east corner of the adjacent Section 16 and platted Seventh Street with the Ontario flume running through the middle; thirty six lots were created on Block 72 which are the current Sandridge Avenue and Grant Avenue lots; and another Millsite Reservation for the Marsac Mill extends north from platted Seventh Street through Block 72. Staff interprets 15-6-2 to read that Property that is part of the original Park City Survey is only those lots that were created by the Survey. Thus only lots created by the Survey are subject to the MPD restriction in LMC 15-6-2(C). As no lots were created by the Park City Survey that is part of the MPD application, the restriction does not apply..Other areas of town in which there is HR-1 zoning but no lots created by the Park City Survey are Daly Avenue south of the intersection with Ridge Avenue and the Alice Claim area south of the Ridge Avenue-King Road intersection.

Ten residential lots from 2,410 square feet to 2,803 square feet are proposed. In addition, four deed restricted open space parcels encompassing 1.63 acres are proposed. The open space parcels would be owned by the Homeowners Association. A public trail easement is dedicated for an existing trail on the property. The vacation of platted Seventh (First) Street was discussed by the Planning Commission during the MPD review

The proposed access road, Silver Hills Court, is approximately 400 feet long and intersects Marsac Avenue approximately 200 feet south of the Hillside – Marsac intersection. Silver Hills Court is proposed as a private road with public pedestrian, public utility and emergency access easement within the 24 –foot right of way. The road includes a vehicular turnaround at the northern terminus and an fire truck access easement onto platted Marsac Avenue and Ontario Court, a private driveway. The location of Silver Hills Court will preserve a substantial (approximately 78%) length of the historic stone walls from the Ontario Loading Station. The Ontario Loading Station includes the former railroad bed created with the use of the stone retaining walls and the mine portal itself (to the south of the subject property). The walls are located within and protected by an easement on the proposed plat.

On September 10, 2008, the Planning Commission held a public hearing and forwarded a positive recommendation to the City Council. The Council held a public hearing on October 2. Members of the public expressed concerns that houses wouldn't fit on lots that are approximately dimensioned as 50 feet deep by 55 feet wide and the buildings would be overheight. The review of the buildings had not been completed by staff or the Planning Commission at that time as the Steep Slope CUP was pending and would obviously have to meet the Land Management Code requirements. The Council remanded the subdivision back to the Planning Commission to be reviewed concurrently with the Steep Slope Conditional Use Permits.

Subsequent to the City Council action and in response to the Planning Commission discussion of October 8th on the Steep Slope CUPs, the applicant redesigned the buildings and amended the plat. The revised plat responds to a redesign of the units in that the exterior parking pad is no longer to the side of the downhill buildings (Lots 1-6) but are in tandem configuration on the driveway. This design allowed the lots to be narrower (approximately 46 feet versus 52 feet). With the southern edge of Lot 1 remaining constant to preserve the historic walls the narrower lots shifted the northern line of Lot 6 approximately 40 feet to the south. Also, Lot 10 shifted to be adjacent to Lot 9 reducing the amount of disturbance and further clustering the development. The lots are also deeper than previously proposed (60-66 feet versus 50-53 feet) to allow for additional building articulation in the front and rear.

On October 22, the Planning Commission approved the ten Steep Slope CUPs (see Exhibit D) and forwarded a positive recommendation to the City Council on the subdivision. The applicant presented a computer simulation of the subdivision and buildings. The re-design of the buildings provided greater articulation facing Marsac Avenue although there was still concern about the visibility of the foundation walls. A Condition of Approval that was added to the Steep Slope CUPs states: "The landscape plan will include grading, retaining boulders and plant material to further screen the foundation walls of the downhill units (#1-6)." The Commission granted a height exception of 1'-9" for a subordinate gable on the rear of unit 6.

Analysis

The underlying zoning is Historic Residential (HR-1). The minimum lot size in the HR-1 zone is 1,875 square feet. Included in the application is a request for the vacation of the platted, unbuilt Seventh (First) Street right of way.

Development in the HR-1 zoning district is subject to the following criteria:

	Permitted	Proposed
Height	27 feet above existing grade	No height exception granted in MPD. Planning Commission granted a minor (1'-9") height exception for a subordinate gable on Unit #6.

Footprint (Lot Area below)	Permitted	Proposed
Lot 1: 2410.4	Based on Lot area	Each house will be required to meet the footprint restriction. As approved in the Steep Slope CUPS, the footprint for each lot is 25-30% less than what is permitted based on lot area.
Lot 2: 2553.1	1052.533	
Lot 3: 2803.4	1105.941	
Lot 4: 2731.8	1197.405	
Lot 5: 2731.8	1171.526	
Lot 6: 2791.2	1171.526	
Lot 7: 2610.2	1193.011	
Lot 8: 2771.1	1127.053	
Lot 9: 2662.2	1185.759	
Lot 10: 2583	1146.152	
	1117.015	
Front setback	10 feet	No setback reductions in MPD
Rear setback	10 feet	10 feet
Side setbacks	5 feet for lots 37.5 feet to 75 feet in width.	Houses would need to comply (5 feet for all lots).
Parking	Two spaces required	2 per unit

The approved MPD showed a preliminary plat layout with seven units on the downhill (west) side of the private road and three units on the uphill (east) side. The proposed final subdivision plat shifts one unit from the downhill side to the uphill side in order to stay further away from the north end of the historic stone walls. Another benefit to this revised layout is further clustering on the site with the uphill unit (#10) partially screened by the unit on Lot 1. At the September 10th hearing, the Planning Commission concurred that the shift of one downhill unit to the uphill was in substantial compliance with the MPD.

Staff finds good cause for this subdivision as it complies with the approved MPD, with the concurrence of the Planning Commission on the moving of one unit, the HR-1 zoning restrictions, and the Park City subdivision regulations.

Vacation of Right of Way

The applicant is requesting the vacation of platted Seventh (First) Street. The Planning Commission reviewed this aspect of the proposal during the MPD review. Staff has provided the same analysis below.

In order to execute the vacation, the City Council, after receiving a recommendation from the Planning Commission must make findings of compliance with Resolution No. 8-98, "Resolution adopting a policy statement regarding the vacation of public right-of-ways within Park City, Utah." The resolution is divided into three sections; each with reviewable criteria necessary for a finding of compliance.

SECTION 1 Good Cause: The City may generally find “good cause” when a proposal evaluated as a whole demonstrates a “net tangible benefit” to the immediate neighborhood and to the City as a whole.

Criteria 1: No increase in density. Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street right-of-ways will generally not be vacated to facilitate greater density, floor area or area disturbance.

COMPLIES

An Affordable Housing MPD is allowed a density up to 20 units per acre or approximately 54 units on the 2.7 acre site. The right of way is approximately 5,250 square feet or 0.12 acres reducing the potential number of units to 51 units. The proposed 10 units is a significant decrease in the number of possible units.

Criteria 2: Neighborhood Compatibility: The proposal shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall consider the 15 criteria for a conditional use located in Chapter 15-1-10 of the LMC when considering compatibility.

COMPLIES

Staff finds that no variances are required and that all requirements of the LMC are met. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

The Land Management Code (15-1-10) sets the following standards of review:

(1) size and location of the Site;

NO UNMITIGATED IMPACTS.

The site is approximately 2.7 acres and zoned HR-1. The ten units are a substantial reduction from the 51 units that are possible with the given land area.

(2) traffic considerations including capacity of the existing Streets in the Area;

NO UNMITIGATED IMPACTS.

The site is served by Marsac Avenue, aka State Route 224. Marsac Avenue, although carrying a large volume of traffic, has sufficient capacity for these ten units. The nearby intersection of Marsac Avenue and Hillside Avenue has stop signs on the downhill travel lane of Marsac and on Hillside. The uphill travel lane of Marsac does not have a stop sign but the posted speed limit is 20 miles per hour. The Master Planned Development required the developer to work with UDOT to provide a sidewalk and crosswalk.

(3) utility capacity;

NO UNMITIGATED IMPACTS.

Adequate utilities exist nearby.

(4) emergency vehicle Access;

NO UNMITIGATED IMPACTS.

Emergency access is from Marsac Avenue. In addition an emergency vehicle access is proposed from the north end of the site through Ontario Court, a private street. Two neighbors on Ontario Court have objected to the use of Ontario Court for emergency access. The City asserts a right to provide emergency access to all properties within Park City.

(5) location and amount of off-Street parking;

NO UNMITIGATED IMPACTS.

Each unit will have two parking spaces, one in a garage and one exterior (on the driveway for Lots 1-6 and adjacent carport for Lots 7-10).

(6) internal vehicular and pedestrian circulation system;

NO UNMITIGATED IMPACTS.

A sidewalk and crosswalk connect this project to the west side of Marsac Avenue. A turnaround is proposed on the north end of Silver Hills Court.

(7) fencing, Screening, and landscaping to separate the Use from adjoining Uses;

NO UNMITIGATED IMPACTS.

A landscape plan is required with both a Steep Slope CUP and the Historic District Design review. The site is mostly surrounding by natural open space.

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

NO UNMITIGATED IMPACTS.

The Planning Commission approved the Steep Slope Conditional Use Permits for these ten lots concurrent with the subdivision. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

(9) usable Open Space;

NO UNMITIGATED IMPACTS.

Approximately 60% or 1.63 acres of the 2.7 acres is proposed as dedicated open space. An existing trail to the east will be within the open space. This open space will be owned by the HOA and deed restricted as open space.

(10) signs and lighting;

NO UNMITIGATED IMPACTS.

Any signs will require a separate sign permit and lighting must comply with the City lighting regulations.

(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

NO UNMITIGATED IMPACTS.

The Planning Commission approved the Steep Slope Conditional Use Permits for these ten lots concurrent with the subdivision. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed. Staff recommends that the specific house designs be sufficiently different to provide variety and interest. House design will be reviewed more closely by Staff during the Historic District Design Review.

(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

NO UNMITIGATED IMPACTS.

These factors would be typical of any residential street.

(13) control of delivery and service vehicles, loading and unloading zones, and

Screening of trash pickup Areas;

NO UNMITIGATED IMPACTS.

During construction, staging will be on-site. Post-construction, the amount of service and delivery will be typical of a residential street. A turnaround is provided at the end of the street.

(14) expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; and

NO UNMITIGATED IMPACTS.

Each lot and unit will be deed restricted as affordable housing and owner occupied.

(15) within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

NO UNMITIGATED IMPACTS.

The site, as with all HR-1 zoned properties, is not within the Sensitive Lands Overlay. The site is near the location of the Judge Aerial Tram, Loading Station, and Ontario Mill. As such, the soil will be tested for compliance with the Park City Soils Ordinance and clean-up, if necessary, to meet the regulatory standards applicable to Empire Pass. Staff and the applicant agreed to this condition of approval.

Criteria 3: Consideration: Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon square footage); open space dedication above and beyond normal

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

Complies

The platted Seventh (First) Street Right of way that is proposed to be vacated is 30 feet wide and 175 feet long for a total of 5,250 square feet. An Affordable Housing MPD requires a minimum of 50% open space that can be reduced to 40% by the Planning Commission. The proposed MPD has 60% open space and provides protection for an existing trail. The layout of the site is primarily predicated on the preservation to the greatest extent possible of the historic stone walls. Previous designs did not require the vacation of the right of way but also nearly completely removed the stone walls. Staff finds that the affordable housing itself is a community benefit in addition to the amount of open space, platting of a trail, and preservation of the historic stone walls.

Criteria 4: Utility of existing Right-of-Way. The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan, the recommendation to the City Engineer, existing improvements and utilities within the right-of-way and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Streets Master Plan, unless otherwise reduced by the City Engineer.

Complies

The 1984 Streets Master Plan lists the platted Seventh (First) Street R-O-W as "Existing Rights of Way considered Unbuildable" with the comment to "use as exchange parcel to extend Ontario Avenue to by-pass "slide for life hill"". With the re-platting and development of Ontario Court, such an exchange has been precluded short of an eminent domain action by the City.

Pursuant to State Law, (UCA 10-9a-609.5) a street vacation may not impair the right of way or easements of any lot owners or franchise rights of any public utility. The City Engineer reviewed this application and found no easements or utilities within the right of way.

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

Complies

The proposed vacation will not materially injure the adjoining properties. United Park City Mines Company owns the land on either side of the First Street right of way.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council and Historic Preservation Board, as necessary are encouraged early in the process for large projects and master planned developments, which propose vacation and reconfiguration of public right-of-ways.

The Planning Commission may determine whether a joint meeting would be necessary for this project. During the MPD review, the Planning Commission did not express a need for a joint meeting.

Notice

The property was posted and notice was mailed to property owners within 300 feet. The original posted notice and courtesy mailing occurred on August 27th, 14 days prior to the first Planning Commission hearing. Legal notice was also put in the Park Record 18 days prior to the hearing. A remand from the City Council required published notice only.

Public Input

Staff has received correspondence from two adjacent property owners on Ontario Court during the initial subdivision discussion. A “Comments on Staff Report” was received the day of the October 22nd Planning Commission meeting. Copies were handed to the Commissioners at the meeting. Neighbors from Ontario Court and Prospect Avenue spoke at the previous Planning Commission and City Council hearings. No further public input has been received since the October 22, 2008 Planning Commission Meeting.

Alternatives

- The City Council may approve the Marsac Avenue Affordable Housing Subdivision as conditioned or amended, or
- The City Council may deny the Marsac Avenue Affordable Housing Subdivision and direct staff to make Findings for this decision, or
- The City Council may continue the discussion on the Marsac Avenue Affordable Housing Subdivision.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property would remain as two metes and bounds parcels and platted Seventh (First) Street.

Department Review

The project has been reviewed by the Planning, Building, Engineering and Legal departments as well as the utility providers.

Future Process

A subdivision plat to create legal lots of record is required. Other applications that have been received are the Steep Slope Conditional Use Permit (concurrent review by the Planning Commission and approved on October 22; no appeal timely received) and the Historic District Design Review for each of the ten houses. The approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Recommendation:

Staff recommends the City Council open the public hearing, discuss the proposed Marsac Avenue Affordable Housing Subdivision, and consider approval based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with plat

Exhibit B – Minutes from City Council meeting of October 2, 2008.

Exhibit C – Minutes from Planning Commission meeting of October 22, 2008.

Exhibit D – Findings for the SS CUP approved October 22, 2008.

Exhibit E – MPD findings and conditions

Ordinance No. 08-

**AN ORDINANCE APPROVING THE MARSAC AVENUE AFFORDABLE HOUSING
SUBDIVISION LOCATED AT 100 MARSAC AVENUE, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Marsac Avenue Affordable Housing Subdivision, have petitioned the City Council for approval of the Marsac Avenue Affordable Housing 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, on January 9 and February 27, 2008, the Planning Commission held public hearings on the MPD pre-application. The Commission directed staff to return with findings for compliance with the General Plan. On March 12, 2008, the Commission ratified the findings for compliance with the General Plan and directed the applicant to work with the neighborhood to provide a more compatible design in keeping with the historic development pattern. The Commission was also not in favor of the intensity of the use and directed the applicant to reduce the density from what was originally proposed.

WHEREAS, on May 28, 2008, the Planning Commission held a work session discussion on the Master Planned Development application and a public hearing was held on June 11th. An additional public hearing only was held on June 25th. On July 9th, the Planning Commission approved a Master Planned Development for ten single family homes located on a private street.

WHEREAS, the Planning Commission held a public hearing on September 10, 2008, to receive input on the Marsac Avenue Affordable Housing Subdivision;

WHEREAS, the Planning Commission, on September 10, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, on October 2, 2008, the City Council held a public hearing on the Marsac Avenue Affordable Housing Subdivision and remanded the subdivision back to the Planning Commission for review concurrently with the Steep Slope Conditional Use Permits; and

WHEREAS, the Planning Commission, on October 22, 2008, forwarded a positive recommendation to the City Council on an amended subdivision application; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Marsac Avenue Affordable Housing 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 Marsac Avenue Affordable Housing 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 proposed Marsac Avenue Affordable Housing Subdivision is located at 100 Marsac Avenue and encompasses 2.7 acres, including the platted Seventh (First) street right of way and two metes and bounds parcels.
2. The zoning for this property is Historic Residential (HR-1).
3. Ten single family lots are proposed. Fifty-one affordable housing units could potentially be built on the property based on lot area.
4. Four deed-restricted Open Space Parcels encompassing a total of 1.63 acres are proposed. These parcels will be owned and maintained by the Homeowners Association.
5. A 10-foot trail easement is dedicated to public use.
6. Silver Hills Court is a 25-foot wide private road with public pedestrian, public utility and emergency access easement located in the right of way.
7. A gate or other device approved by the Chief Building Official will restrict access to Ontario Court to emergency vehicles only. The emergency access easement through this subdivision must be kept clear of snow at the responsibility of the Marsac Avenue Affordable Housing Subdivision Homeowners Association
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. Open Space in the amount of 60% exceeds the 50% requirement.
12. Approximately 80% of the historic stone walls are preserved and a preservation easement is provided on the plat.
13. The applicant proposes pedestrian access to Old Town in a safe and efficient manner.
14. There is good cause for the street vacation based on the decrease in density, neighborhood compatibility, consideration, utility of existing right of way, and no material injury.
15. The site is near the location of the Judge Aerial Tram, Loading Station, and Ontario Mill.
16. The **Analysis** section of this staff report is incorporated herein.

Conclusions of Law:

1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and

applicable State law regarding subdivision plats.

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision 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 subdivision 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. All conditions of approval of the Marsac Avenue Affordable Housing Master Planned Development shall continue to apply.
4. A fire protection plan requiring the use of modified 13D sprinklers is required for review by the Building Department prior to any building permit.
5. A Preservation Easement for the historic walls must be recorded concurrently with the plat. A financial guarantee for the protection of the historic walls during construction will be determined by the Chief Building Official with the Construction Mitigation Plan.
6. A gate or other device approved by the Chief Building Official will restrict access to Ontario Court to emergency vehicles only. The emergency access easement through this subdivision must be kept clear of snow at the responsibility of the Marsac Avenue Affordable Housing Subdivision Homeowners Association.
7. Open space deed restrictions must be recorded prior to or concurrently with the plat.
8. The soil will be tested for compliance with the Park City Soils Ordinance and clean-up, if necessary, to meet the regulatory standards applicable to Empire Pass.
9. The applicant will work with the City and UDOT to provide safe pedestrian sidewalk, crosswalk, and warning signs along SR 224.

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

PASSED AND ADOPTED this 6th day of October, 2008.

3. Consideration of a construction contract to DRD Paving LLC for Round Valley Way and The Cove Trailheads in the amount of \$121,816, in a form approved by the City Attorney – See staff report.

4. Consideration to authorize to execute Change Order #1 to the Construction Contract for the Prospector Drain Biocell, in a form approved by the City Attorney's Office, to Counterpoint Construction Company, Inc., in the amount of \$86,383 – See staff report.

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

1. Consideration of an Ordinance approving the Ivers/Baer Subdivision combining Lots 12, 16-18 of Block 52, Lots 6-9 Block 60 of the Park City Survey, and Lot One of the Ivers Replat, with adjacent remnant parcels into three lots of record, located at 154 McHenry Avenue, Park City, Utah – Kirsten Whetstone explained the request for a three lot subdivision located at the south end of McHenry where the zoning is HRL. If approved, a portion of Lot 12, Block 52 would be dedicated to the RDA to be combined with other RDA parcels. About 1,500 square feet of property will be dedicated as McHenry Avenue right-of-way. The Planning Commission conducted a public hearing and forwarded a positive recommendation to the Council on September 10, 2008. Neighborhood concerns were addressed. Liza Simpson encouraged the steps to be located in an area to minimize snow removal efforts and constructed to municipal specifications in the event City takes over maintenance at some point. The Mayor opened the public hearing; there was no comment.

Jim Hier, “I move we approve the Ivers/Baer Subdivision based on the findings of fact, conclusions of law, and conditions of approval as modified this evening”. Roger Harlan seconded. Motion unanimously carried.

2. Consideration of an Ordinance approving the Marsac Avenue Affordable Housing Subdivision located at 100 Marsac Avenue, Park City, Utah – Brooks Robinson explained that the application is for a ten lot subdivision and described the location of the project area. The old railroad bed will be used for the access road and there will be two open space lots, a trail easement, and a preservation easement for the historic stone walls. In January 2008, the Planning Commission held pre-application MPD hearings where there was input from the Prospect Avenue residents. Eventually, the Commission found compliance with the General Plan, the project moved on to the MPD stage in May and June and in July, the ten lot MPD was approved. In the meantime, Talisker, as the owner, and the construction team met with neighbors concerned with the density, design, or the entire development. The design morphed over time and initially the pre-MPD application proposed ten duplex units for a total of 20 units located

in front of the historic stone wall. The project was dropped to ten single family homes located further south on the site, preserving nearly 80% of the stone wall. One of the issues brought up recently is emergency access from the end of the private street, but the Fire District has the authority to access private driveways for health, safety reasons. Finding No. 6 addresses emergency access which Mr. Robinson read. Staff believes that the City has the ability to request the emergency access easement at the location and has provided Council with an ordinance with findings of fact, conclusions of law, and conditions of approval. He advised that the application also contemplates a vacation of platted 7th Street, aka 1st Street, which exists through the middle of the property. There are no utilities in that right-of-way and the Planning Commission found good cause for the vacation. In response to a question from Jim Hier, Brooks Robinson stated that this project represents 15 affordable housing unit equivalents. Mr. Hier felt it important that the number of AUEs represented in the project is documented in either the findings for the Steep Slope CUP or the MPD so it is memorialized in a document.

Peter Barnes, agent for Jamie Thomas homeowner on Ontario Court, explained that he was contacted by Mr. Thomas to monitor the project at the subdivision stage. He complained about not being able to download the staff report on the date of the Planning Commission meeting for the subdivision action. There should have been a two-stage process but there was no preliminary plat approval process. The minimum notice requirement for a subdivision is 14 days. The application was deemed complete on August 28 and 13 days later it was approved by the Planning Commission and on its face, the application does not meet the minimum noticing requirements. He didn't feel there is enough time for an interested neighbor to analyze the project. The subdivision regulations estimates 90 days to complete the application process not 13 days. He understands the project has been discussed for over a year but not the subdivision process. The first meeting they attended was on May 28 when a completely different project was presented. Mr. Barnes felt it was a better design than the current proposal because it had very little impact on Ontario Court. He again complained about not being able to get accurate information from the website the date of the meeting and a review of a preliminary plat was never conducted by the Planning Commission. The neighbors have zero time to analyze the project. He stated that Planning Commission approval of a major subdivision in 13 days is not acceptable.

Ontario Court is not a private street; it is a private driveway. He questioned imposing emergency access on Ontario Court when there are other alternatives and someone should have talked with the neighborhood beforehand. There are other design solutions but the project would need to return to the Planning Commission for review. He read the findings of fact noting there is no height exception in the MPD which is misleading because the buildings are not single story structures. Mr. Barnes stated that the visual impacts of the project are phenomenal and it may be last affordable housing project in town because of its design. The original proposal was better. Mr. Barnes stated that

the building does not fit on the site with the setbacks applied. Exceptions will be required for parking, retaining walls and side yard areas. In order for the foundation walls to reach natural grade under the houses, the buildings must be three stories high on the downhill side. The density, as described is not true because no analysis has been done. The project is not compatible with the neighborhood. The footprints are 892 square feet not 705 square feet as indicated in the staff report. If the applicants went through the subdivision process as described in the LMC, the project would not exist in the form it does today. There is no visual analysis and the streetscape does not show buildings in relationship to grade. He questioned raising the railroad bed seven feet to put the road in; the house foundations are holding the road in place. The amount and cost of civil engineering required for this project to house 30 people in Old Town can not be affordable. Mr. Barnes felt that if Talisker has been forced to move on this project because of deadlines, it is a huge mistake. This project will have a huge visual impact and he reiterated comments on the grade of the road. Talisker has been ill-served by the process and he suggested remanding the plat to the Commission. He repeated all of his concerns in a continued lengthy dialog to again communicate the basic request to remand to the Planning Commission and to redesign the project.

Ruth Gezelius, Prospect Avenue resident, felt there are no winners associated with this project location. From the very beginning, neighbors objected to the site. Talisker should be required to build affordable housing on site instead of trying to cram it in Old Town. This site is the visual corridor for the entire Treasure Mountain side of upper Old Town. This is not a good situation for Talisker; it is a very expensive site for building, it is located in a prominent location with heavy traffic. Traffic is expected to double on the Mine Road in the next five to ten years. Building on this site will not solve any of the affordable housing problems and this property should be left as open space. Affordable housing should be constructed in a decent part of town along bus routes. Trying to stack everything on the entry corridor is not a good resort experience and Ms. Gezelius encouraged Council to arrive at a different solution.

Jamie Thomas, Ontario Court resident, stated that he disagrees with the City's findings that emergency access to 100 Marsac Avenue be granted because the driveway is private and services five houses only which is clear on the plat. The neighborhood may consider granting emergency access but were involved late in the process. The original design was disconnected from his neighborhood and was a better clustered design but then the design changed and the approval process was accelerated. The proposal can work with more scrutiny and Mr. Thomas pointed out the 16 foot retaining wall that will be required to be constructed on the north end. Visual impacts can be better minimized and he again addressed at length the private driveway issue, specifically maintenance by five home owners and the difficulty in negotiating Ontario Avenue in a fire truck. Mr. Thomas stated that he supports affordable housing and it can work on that site but it the

design should fit the grade better with clustering. He would prefer reaching a design solution rather than a legal solution.

With regard to emergency access, Candace Erickson clarified for the benefit of Jamie Thomas that the City and the Fire District are separate entities. The Council has no design information tonight, only a two dimensional plat map and in order to appreciate public input, she would need more information. Ms. Erickson recalled the private driveway request years ago which was approved under threat of a lawsuit from the applicant. The driveway was not an option, but a demand. She does not have enough information to get a sense of the relationship of 100 Marsac to Ontario Court. Liza Simpson acknowledged the difficulty in approving a plat when there is little design information. She is concerned about procedures and conflicting information on the project.

Brooks Robinson explained that the preliminary and final subdivision plat reviews can be combined into one process. Noticing occurred prior to the public hearing; it was published and the property was posted in advance, meeting all LMC requirements. He explained that the Commission prefers to have some information on design during the subdivision process, but the renderings are conceptual. All requirements, including height and setbacks must be met including all conditions of the MPD.

Discussion ensued regarding the emergency access on the private road/driveway and the possibility of accepting Ontario Court as a public roadway. Candace Erickson emphasized that the Ontario Court homes were landlocked at the time the application was submitted and the City accommodated access by approving the private driveway proposal as opposed to the option of being sued.

Jim Hier explained that 13 days elapsed before the Commission *recommended* approval to the City Council. The Commission can not render final plat approval. It is difficult to understand grade and height issues without more information. Brooks Robinson noted that more information has been submitted as part of the Steep Slope CUP, which was not available during the subdivision review. Discussion ensued regarding problems downloading the Planning Commission meeting information. Mr. Robinson detailed the status of Talisker's affordable housing obligations and Mayor Williams emphasized that Talisker has a year to comply and dead lines should not be an argument in this instance. Jim Hier agreed that affordable housing dead lines should not be a consideration in reviewing plat amendments and should not be argued here. He felt the Council should consider remanding the project to the Planning Commission for interpretation with the schematics for the grade analysis for the property and processing the Steep Slope CUP concurrently could be a more efficient approach. With regard to emergency access, Mark Harrington emphasized that the intent of the

easement is to provide improved fire services to Ontario Court not 100 Marsac Avenue Project which has been misunderstood.

David Smith, Esq. explained that Talisker began the process a long time ago, and about 25 to 30 internal iterations of the layout were prepared. About six designs made it to public hearing in different stages of iteration and this has probably been the most intensely vetted series of submittals. The project has received a lot of publicity and the public has been very involved. All of the changes made to the plan are the result of specific direction from the Planning Commission. At the end of the day, Talisker is not married to any particular design other than the hope it looks congruous with Old Town. Talisker will produce a quality project recognizing the challenges of the site. He didn't believe that returning to the Commission will produce a vastly different product because of the level of involvement to date.

Roger Harlan expressed that he needs more information and supports a remand. Joe Kernan stated that he could actually support a denser multi-family project because of the need for community housing. However, he felt that single family homes is a good solution for the neighborhood and the Council must act in the interest of the community not just one household. Jim Hier, "I move to remand to the Planning Commission to reevaluate the specific plat arrangement in light of the grade changes that would be required". He asked that Council be notified of the meeting date and added that the process would have gone a lot quicker if the density was proposed lower than the original 22 units. Mr. Hier felt the subdivision plat should be scheduled concurrently with the CUP review next week. Brooks Robinson stated that noticing requirements would not meet next week's meeting and Mark Harrington encouraged holding a work session at that time. Jim Hier encouraged Messes. Barnes and Thomas to attend the Planning Commission meeting. Liza Simpson seconded. Motion unanimously carried.

3. Consideration of Professional Services Agreement, in a form approved by the City Attorney, with Ward Engineering Group for the design and construction management of Hillside Avenue in the amount of \$168,220 – Matt Cassel explained that the Hillside Project was part of the 2002 OTIS Study and the reconstruction will include replacement of the existing utilities, possibly the retaining wall, improved walkability and resurfacing of the road. Eleven contractors bid on the project and staff recommends the award to Ward Engineering. An open house was held on September 25 and a public outreach effort will be continued. In response to a question from Liza Simpson, Mr. Cassel noted that most requests were for a sidewalk. There was no strong opinion on a connector to Main Street. The Mayor invited public input.

Ruth Gezelius, Prospect Avenue resident, felt this is a good opportunity for the City to coordinate this project with improvements to the trolley turn-around parking lot. It is not attractive and should be cleaned up.

4. 100 Marsac Avenue, Lot 1 through 10

Planner Brooks Robinson reviewed the applications for ten steep slope conditional use permits for 100 Marsac Avenue. He reported that modifications had been made to the CUP since the last meeting. Modifications were also made to the subdivision, which was the next agenda item. Planner Robinson noted that at the last meeting the Planning Commission had requested more architectural interest and variation on the backs of the buildings that face Marsac.

As a point of process, Commissioner Murphy wanted to know why the Planning Commission would not address the subdivision before the conditional use permit. Planner Robinson stated that it was appropriate for the Planning Commission to approve the conditional use permit and then forward a recommendation on the subdivision. He explained that the subdivision creates the lots and the remand from the City Council was to make sure the proposed designs fit the lots being proposed. Commissioner Strachan pointed out that the City Council had remanded the subdivision back to the Planning Commission and asked them to look at the exact design of these homes before approving the subdivision. Chair Thomas felt that in this particular situation they needed to look at the buildings first.

Planner Robinson stated that the current form of the buildings removed the parking pads on the side and a tandem parking configuration was created, which moved the north lot line approximately 40 feet from its previous location. The south lot line of Lot 1 remains the same to protect the historic stone wall. As the lots narrowed with the change in the building form and the parking pads, they became more clustered together and further away from the northern property line. Planner Robinson pointed out that Unit 10 was moved closer to Unit 9. The grades of the roads are currently within two feet of existing grade. At the north end, the 7220 is existing grade and the 7220 diagonals between Unit 5 and Unit 7.

Planner Robinson provided the Planning Commission with correspondence he had received that day from Peter Barnes, who had previously represented Jamie Thomas. He noted that the Staff had not had time to review the material from Mr. Barnes and was not prepared to respond. Planner Robinson stated that Mr. Barnes made the same comments in his submittal that he has made in public before the Planning Commission and the City Council, and these comments are factually not true. Planner Robinson remarked that repeating something over and over again does not make it true. He disputed Mr. Barnes' comments because the property can be considered for an affordable housing MPD. To say that noticing was inaccurate was also not true. The Staff has explained the process to Mr. Barnes several times and it has also been explained during public hearings.

Planner Robinson stated that the applicant had provided a representation of what the proposed buildings would look like compared to the houses on Ontario Court. In reviewing the comparisons, he felt it was ludicrous for the Ontario homeowners to complain about the scale of the proposed buildings compared to their houses. He

recalled a comment by Ruth Gezelius at the last public hearing that these affordable housing units should be compared to units on Prospect and not the Ontario Court homes. Planner Robinson stated that the proposed homes have footprints that are 25% to 30% less than what is allowed on the lots. The units are small in both footprint and floor area. A scale of the back wall, even with some exposed foundation element, is still under the 27 foot height requirement. The only exception is a small gable over a kitchen window on Unit 6 that breaks the height limit by 1'-9". He noted that the gable adds interest to the building as requested by the Planning Commission.

Planner Robinson stated that the backs of Units 1-6 add a different architectural element such as porches, roofs, bays, and changes in roof forms to provide a more interesting look on the backs that face Marsac.

Commissioner Peek asked about the length of the retaining wall between Marsac and this property. Planner Robinson believed it was on the UDOT right-of-way. Planning Robinson responded to a question from Commissioner Russack at the last meeting as to why they could not have stairs going down to the intersection instead of making people walk down Silver Hills Court and down the sidewalk. He explained that the retaining wall in that location is 8 feet high and they would be chasing grade all the way up to about the middle of the buildings. In addition, someone would have to keep it free of snow and that is not practical for an affordable housing project.

Commissioner Peek asked if the proposed property line is inside the back edge of the retaining wall. Planner Robinson replied that the existing parcel is there and lots 1, 2, and most of 3 go to the back of that retaining wall. Lots 4, 5 and 6 would not and there would still be open space around the backs of those lots. Commissioner Peek asked if there is an encroachment agreement for the retaining wall if it ever needs to be replaced, since the footing goes underneath the properties. Planner Robinson was unsure what had happened when Talisker re-did the highway in that location to meet UDOT standards.

Commissioner Pettit commented on the change in speed limits from 40 mph to 20 mph on Marsac. In terms of the approximate location where the 20 mph speed limit begins, she was concerned that people do not reduce their speed until they are much closer to the stop sign. Commissioner Pettit suggesting working with UDOT on ways to warn people to slow down sooner. Chair Thomas felt this was a good point to refer to the Public Safety Department. Planner Robinson stated that the City and the applicant have been working with UDOT on the sidewalk and the crosswalk in that area, as well as additional pedestrian-ways in the area of the Hillside reconstruction.

Dave Smith, representing the applicant, stated that the changes made to the project in the last 30 days responded to Planning Commission direction, direction from the City Council when the subdivision was remanded, and concerns raised in meetings with the

Marsac Court Homeowners. Mr. Smith noted that the overall development footprint for the project was reduced 3200 square feet from the last version. This was a result of removing side parking, more tightly clustering the units, and a lot of retaining. He pointed out that the site has become more compressed and clustered from an earlier version. Mr. Smith stated that they took to heart the mandate not to move the south boundary any further in order to protect the stone wall. Compression has happened by moving both the uphill and the downhill units further away from Marsac Court.

Mr. Smith remarked on a significant evolution in the project architecture. They have done 360 degree architecture on these units, which means that the backs look like fronts. He noted that there is significant variation in overall elevations using porches across the back, bay windows and other elements. Mr. Smith stated that the average footprint of the units was approximately 800 square feet. They could be as high as 1100+ square feet. Mr. Smith provided a comparison of where the project began over a year ago to what is proposed now to show how the plan has evolved.

Mr. Smith and Keith Bennet, the project architect, presented a computer model of the current proposal. Chair Thomas asked about the material on the downhill face of the foundation. Mr. Bennett stated that the plan is to do an inflated foundation system. They are proposing a hardy board system all the way to the ground so any exposed foundation would not be exposed concrete. It would be the continuation of an accent material of color and shape to articulate the bottom level as a base. It will show as another texture of siding.

Mr. Smith noted that the garages would not be seen from Marsac Avenue. Commissioner Peek indicated that the model did not show the proposed gable on Unit 6. Mr. Bennett explained that it was left off in case the Planning Commission did not grant the exception. The drawing in the Staff report showed the requested gable.

Commissioner Peek referred to the view going down to the north and indicated a ten foot slope in the newly proposed grading next to the turnaround. Mr. Bennett stated that the crown of the road at the north is at grade. However, due to the road width, some retention is needed on the uphill side. Commissioner Peek clarified that the grading beyond that would be steeper and require boulder retaining. Mr. Bennett replied that this was correct.

Mark Cohen, representing Talisker, stated that the units will be small two-bedroom units presumably for couples or young people starting a family. He noted that storage is always a problem and they want the garages to be used for cars. In working with the foundation people, they believe there is an opportunity to create space underneath the garage that could be used for storage. Mr. Cohen pointed out that this is just an idea at this point and it is not reflected in the current plans. He noted that the space would not be livable or visible from the outside. Mr. Bennett clarified that in order to articulate the

elevations, windows were added to the area below the garage and to the back wall of the garage to avoid the look of a solid wall.

Chair Thomas wondered if the space under the garage could become livable if it has a window and whether that is an issue. Planner Robinson stated that it would not expand the footprint because the garage already counts towards the footprint of the building. Commissioner Wintzer agreed that the window adds necessary articulation but it does create the possibility of livable space. Chair Thomas was unsure how it would impact the approval if the space did become livable. Commissioner Murphy believed that the problem of the space becoming a bedroom for an additional person would be self-correcting if parking is not allowed on the road and there is no place to park on-site.

Commissioner Wintzer favored finding a way to provide space under the garage, as long as it could be done without requiring additional parking. In looking at the floor plan, he believed that space could end up being a family room.

Chair Thomas opened the public hearing.

Don Bloxom asked if each building would go through their own separate CUP.

Chair Thomas stated that there would be a separate motion for each individual lot.

Mr. Bloxom remarked that the side looking up from Marsac appears to be two stories of completely wasted space. He felt it was ludicrous to go through a construction process where all the earth will have to be hauled and stored and then brought back to fill up the spaces. Mr. Bloxom stated that the houses are very close to Marsac and he believed it would be 60 feet from Ridge Avenue to Marsac on the farthest side. He did not think there was any vertical articulation in the back wall and nothing that makes it less intrusive. He thought it would be far superior to fill those lower spaces with living space and step back the top floor. In looking at the landscape, Mr. Bloxom was unsure how they could plant an evergreen on the slope. He did not think the slope would carry from the rear elevations down to the wall without having extremely deep footings. He could not see using all that foundation just to create this very tall mass, when just moving the living space down in the building would allow them to take the rear mass off the top floor. Mr. Bloxom remarked that there is something going on in Park City where they call things affordable when they are really subsidized. This is not inexpensive construction for the amount of square footage offered. If the units are going to be affordable, they should think about cost per square foot. Mr. Bloxom congratulated the applicant for doing affordable housing. He is comfortable with subsidized but it is not affordable. This project is high end. Mr. Bloxom stated that he has done enough conditional use permits in Park City to know that he is required to step three story buildings uphill.

Ruth Gezelius stated that when they talk about the size and scale of these units, she recognizes they are small; however, they are still larger than many of the homes in the neighboring area. At the same time, if you allow an additional excavated space that meets the requirements of a legal bedroom, you are adding two people to the density of this complex. Two more cars would only spill into Sandridge, which was actually built for employee housing, and the frontage parking along Chambers, which is overflow for the high density they have in their neighborhood. In addition, there is park and ride lot for people who work at the Empire Pass level. Ms. Gezelius stated that if they are going to talk about increasing bedroom space by 50%, they cannot ignore the parking requirement. In earlier discussions the neighbors had opposed a larger surface parking lot. This is not a neighborhood for large surface parking and she felt they needed to revise their thinking. She understood that it would be nice to have more space, but if they intend to have smaller housing units, they need to understand that they cannot provide all the space people desire. Ms. Gezelius remarked that if you provide any space that looks like bedroom with a window, you will have two people sleeping there.

Liza Simpson stated that she was speaking as a neighbor. She commended all the hard work that went into this project from both the applicant and the Planning Commission and Staff. In looking at the presentation this evening, it struck her that none of the roof lines look like Old Town. She believed the articulation and the revisions the applicant made have helped, but all the roof lines look flat from across the street.

Jamie Thomas a resident at 134 Ontario Court, commended the applicant on providing the renderings to help everyone better understand the project being proposed. He was disappointed with the comments Planner Robinson had made about Peter Barnes.

Chair Thomas asked Mr. Thomas to focus his comments on the project and not about non-issues.

Mr. Thomas referenced the Land Management Code with respect to the MPD. He read from LMC Section 15-6-2, applicability, "MPD's are allowed in historic residential HR-1 zone only when 1) the HR-1 parcels are combined with adjacent HRC or HCB zoned properties as part of an allowed MPD; 2) the property is not a part of the original Park City Survey or the Snyder's Addition to the Park City Survey and which may be considered for affordable housing MPD's consistent with Section 15-6-7 herein."

Planner Robinson stated that the second item Mr. Thomas had read applies to this application. This property was not part of the Park City survey and it is an affordable housing MPD.

Mr. Thomas noted that because the Staff report for the CUP and the subdivision was not available on the website in a timely manner, they were not able to respond until

Monday morning. Because of this, their comments are not included in the report given to the Planning Commission. He hoped the Commissioners had been given these comments and had a chance to look at them. Mr. Thomas read a response related to the CUP criteria #2, visual analysis, where the Staff had determined that there were no unmitigated impacts. "At the previous Planning Commission meeting, further information was requested in order to make a determination. Chair Thomas specifically requested a site model and asked for dimension information to be noted on the drawings." Mr. Thomas stated that the plans in the packet do not show the individual buildings in relation to their proposed lots. No U.S.G.S. data information is shown on the building plans floor elevations, as required, for the application. No sections are provided. No lot shown for the individual applications and the project site plan has no lot dimension nor setbacks. The streetscape is incorrect. A cursory inspection of the site/topo plans shows an incorrect relationship between the proposed buildings and the grade level. Mr. Thomas stated that the south corner of Unit 1 and the north corner of Unit 6 are both shown on the site plan to intersect existing grade at approximately the same contour, 7202 feet. The streetscape drawing does not represent this condition. The streetscape drawing also fails to illustrate the retaining walls shown on the site plan. He asked them to note the trees located north of Unit 7, which according to streetscape drawing, a located in the truck turnaround. Mr. Thomas remarked that potential impacts cannot be determined from the information provided. Mr. Thomas encouraged the Planning Commission to consider their response to other criteria in the Staff report. Mr. Thomas remarked that two weeks ago they could not determine the impacts without more information and this evening they have a rendering that shows buildings that are too large, too tall and too massive. He did not believe the rendering did justice to the visual impact. Mr. Thomas stated that Ontario Court buildings are built on the concave part of the slope on the uphill side. From the vantage point of Prospect Hill you cannot see the Ontario Court buildings because they are protected by the hillside. The rendering presented shows that the Marsac development is built on the prow of the hill in the most conspicuous place on the east side of Old Town.

Chair Thomas closed the public hearing.

Chair Thomas appreciated the computer model because it helped him understand the massing and scale. He also appreciated the elevations drawings and the building cross sections. Chair Thomas pointed out that the buildings are within the 27 feet height requirement and the exterior elevations on each of the units is very clear. He was not too concerned with the scale. Chair Thomas believed there was articulation and elements on the downhill elevations that enhance the project and requested that it be continued in the future.

Chair Thomas commented on the hardy board at the downhill elevation and the way that downhill elevations are treated on the lower level units. With a little bit of work and some boulder retaining he thought the lower level of foundation could be minimized with boulders to help break up the vertical heights. Chair Thomas noted that the garage is at

the upper level and the lower level is called out in the plans as living space. Mr. Bennett stated that there is a basement but it is not under the garage. He felt it was important that the foundation material for the level below the lower level be expressed as a foundation anchor. He noted that the Empire Pass design guidelines reference expressing an anchor. Chair Thomas requested additional information on the hardy board to better understand how it can be expressed as a foundation material. Chair Thomas was comfortable with sandblasted concrete but he was unsure if that would be consistent with the Land Management Code. Planner Robinson replied that sandblasted concrete would be acceptable. Chair Thomas requested a landscape plan with the caliper of trees defined. He assumed the trees shown were 15-18 feet tall. Mr. Cohen stated that they are looking at trees averaging 10-12 feet high.

Chair Thomas asked about a remediation process since it was a mining site. Mr. Smith stated that as soon as they receive positive indication to move forward, they have a remediation plan that must meet the Empire Pass regulatory standards.

Planner Robinson stated that under the subdivision he would add a finding of fact and condition of approval relative to testing and remediation.

Chair Thomas was comfortable with the direction the project was moving, but he wanted to see the articulation of the downhill elevation.

Commissioner Wintzer agreed that if they carry the boulder retaining across the front of the downhill elevation, they would reduce it by four feet. Chair Thomas also thought their plans for cut and fill created balanced excavation and would not require exporting a lot of export material off the site.

Commissioner Wintzer was not opposed to granting the 1'-9" height exception if it was the only exception out of all ten buildings. He felt it was important to have some architectural feature in front. He preferred to reduce the three-story look and he believed this could be done by slightly manipulating the grade. With regard to the comments from Jamie Thomas, Commissioner Wintzer recalled that it took two years to get the Ontario Court subdivision approved because the neighbors did not want it. This is an ongoing process and whoever is last in the neighborhood gets the wrath of all the neighbors before them. Commissioner Wintzer believed the Ontario Court subdivision had the same impacts to others as this one does to them, but this project has a lot less mass per area. Commissioner Wintzer commended the applicant on the model, which was a great feature to help them better understand the project. They rarely see this on high-end projects and to have that type of model for this project is commendable.

Commissioner Murphy echoed the comments from Commissioners Thomas and Wintzer. He wanted a better idea of what the Hardy Board looks like. Mr. Bennett stated that Hardy Board was used on the Poison Creek building. He presented a

material sample showing the proposed three color system, which is a field color, an accent color, and a trim color.

Commissioner Wintzer asked about the color warranty. The manufacturer's representative stated that there is a 15 year warranty on the pre-color.

Commissioner Murphy reiterated the request for a landscape plan, as well as the appreciation for the model. It was extraordinarily helpful and he appreciated the continued efforts towards breaking up the back facade and making it blend with the surroundings.

Commissioner Peek agreed with all comments. He requested a grading plan for some areas of the site that are not fully flushed out. He would like to see the interaction of the road with the historic wall and where the new construction stops and the historic wall remains and how that ties together. He suggested that the grading plan show a section from Marsac between lots 4 and 5 and through the turnaround, to get a sense of the retaining plan for the steepest section, with a ghosting of the buildings in the background.

Commissioner Strachan echoed all previous comments. He favored Commissioner Wintzer's comment about stepping the buildings or somehow eliminating the appearance of the three-story wall. He pointed out that a row of flat walls will not look good, even if they are different colors with trees in front. Commissioner Strachan stated that these units are 1100 and 1200 square feet, which is not big by Park City standards.

He was unsure if the space underneath the garage would trigger the requirement for an additional parking spot if the space is not made to be habitable. The space is proposed to be storage and under the definition in the Land Management Code, storage space with or without a window, is not habitable.

Commissioner Strachan recommended that the applicant show the evolution of this project to the City Council so they can realize what this project has gone through over many, many months. The project has changed considerably and the applicants have done a good and responsive job of addressing many difficult comments.

Commissioner Pettit asked about snow storage. Mr. Smith replied that snow storage was created on the north side when the houses were clustered. Commissioner Pettit concurred with all the comments made by the Commissioners. This project has come a long way and she especially appreciated the modeling and the materials in the packet were superior and easy to read. Commissioner Pettit stated that her concern with the units is the function of trade-off by not showing the garages on the downhill units and the parking and changing the back facades. However, there is still a wall effect and not a lot of articulation. She believed that the landscaping as suggested and the ability to mask the foundation element at the bottom will help a little. Overall the project has come a long way and she believed that some of the suggestion made this evening might reduce some of her other concerns.

Chair Thomas clarified that the square footage on the unexcavated space would be 11' x 18' or 200 square feet. Commissioner Peek liked the idea of adding storage and suggested restricting the ceiling height of that space to eliminate a potential parking problem. Planner Robinson stated that they could look at how the floor plan lays out and possibly make the two bedrooms and the family room larger with added storage, without triggering a third bedroom that would trigger the third parking space.

Chair Thomas suggested adding a condition of approval that would restrict a third bedroom. The suggestion was made to separate the space into storage closets. Commissioner Wintzer felt they needed to assume that people will go in and do whatever they want.

Commissioner Murphy was not opposed to storage space but enforcement of the surface is the key factor.

Chair Thomas stated that he was hung up on the materials of the foundation and how that is facilitated. He was not completely opposed to the idea of the Hardy Board. Mr. Bennett pointed out that the foundation system they are using allows the Hardy Board to go all the way to the ground. Chair Thomas stated that he could be comfortable with that if they could find something at the lowest foundation level on the downhill units that did not read like Hardy Board. Commissioner Peek suggested using multiple techniques such as boulders on some, board and batt, hardy plank on others. Commissioner Murphy suggested using board formed concrete, which is consistently used on buildings in Old Town. Chair Thomas remarked that board formed concrete is relatively expensive for an affordable housing project.

Commissioner Wintzer suggested that a landscape plan with boulders and grading would resolve the problem. Planner Robinson asked if the Planning Commission wanted to see the landscape plan and grading. Chair Thomas was comfortable leaving it to the Staff.

Chair Thomas stated that if they can reduce the mass of the downhill wall he would be comfortable with the Hardy Board, but he wanted to see it distinguishable with different material from the next level in terms of color and texture.

Commissioner Peek asked if construction on the site, in relation to the historic wall, would be an administrative permit signed off by the Planning Department. Planner Robinson replied that a grading permit would probably be the initial one to put in a road cut. Commissioner Peek wondered if they should require a preservation guarantee on the historic wall. Planner Robinson stated that a preservation guarantee could be addressed with the subdivision approval.

Planner Robinson suggested amending Condition of Approval #4, which talks about the landscape plan, to add a sentence that the landscape plan will include grading, retaining boulders and plant material to further screen the foundation walls on the downhill units, 1-6.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 1 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 2 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 3 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 4 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 5 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 6 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with the modification to Condition of Approval #4 as outlined by Planner Robinson. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Pettit pointed out that the modification to Finding of Fact #4 would not apply to units 7-10.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 7 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 8 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 9 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy moved to APPROVE the steep slope conditional use permit for Lot 10 at 100 Marsac Avenue with the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 100 Marsac Avenue CUP - Units 1-6

1. The property is located at 100 Marsac Avenue.
2. The zoning is Historic Residential (HR-1).
3. The approved plat created 10 residential building lots and four open space parcels.
4. Access to the lots from Marsac Avenue is via a private driveway (Silver Hills Court).
5. The minimum front yard setback for lots of this size is 10 feet.
6. The minimum rear yard setback is 10 feet.
7. The minimum side yard setback is 5 feet for the lots as proposed. The applicant proposes 5 feet on all side yards.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD. A minor height exception of 1'-0" is proposed for a subordinate gable on the rear of Unit 6.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. The applicant is proposing two on-site parking spaces within a single car garage and an exterior space for each of the ten two-bedroom units.
12. The maximum footprints for these lots are 1052 to 1197 square feet, based on lot size.
13. The proposed footprints are 746 to 910 square feet.
14. The total floor area of the ten buildings is 12, 275 square feet, representing 15 Affordable Housing Unit Equivalents.
15. The findings in the Analysis Section of this report are incorporated herein.

Conclusions of Law - 100 Marsac Avenue CUP - Units 1-6

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 100 Marsac Avenue CUP - Units 1-6

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance. The landscape plan will include grading, retaining boulders and plat material to further screen the foundation walls on the downhill units, 1-6.
5. No building permits shall be issued for this project unless and until the design of the houses are reviewed and approved by the Planning Department Staff for compliance with the Historic District Design Guidelines.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
8. A height exception of 1'-9" is granted for the subordinate gable on the rear of Unit 6.

9. Building permit plans must substantially comply with drawings reviewed and approved by the Planning Commission on October 22, 2008.
10. This approval will expire on October 22, 2008, if a building permit has not been issued.

Findings of Fact - 100 Marsac Avenue CUP - Units 7-10

1. The property is located at 100 Marsac Avenue.
2. The zoning is Historic Residential (HR-1).
3. The approved plat created 10 residential building lots and four open space parcels.
4. Access to the lots from Marsac Avenue is via a private driveway (Silver Hills Court).
5. The minimum front yard setback for lots of this size is 10 feet.
6. The minimum rear yard setback is 10 feet.
7. The minimum side yard setback is 5 feet for the lots as proposed. The applicant proposes 5 feet on all side yards.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD. A minor height exception of 1'-0" is proposed for a subordinate gable on the rear of Unit 6.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. The applicant is proposing two on-site parking spaces within a single car garage and an exterior space for each of the ten two-bedroom units.
12. The maximum footprints for these lots are 1052 to 1197 square feet, based on lot size.

13. The proposed footprints are 746 to 910 square feet.
14. The total floor area of the ten buildings is 12, 275 square feet, representing 15 Affordable Housing Unit Equivalents.
15. The findings in the Analysis Section of this report are incorporated herein.

Conclusions of Law - 100 Marsac Avenue CUP - Units 7-10

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 100 Marsac Avenue CUP - Units 7-10

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the houses are reviewed and approved by the Planning Department Staff for compliance with the Historic District Design Guidelines.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.

7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
 8. A height exception of 1'-9" is granted for the subordinate gable on the rear of Unit 6.
 9. Building permit plans must substantially comply with drawings reviewed and approved by the Planning Commission on October 22, 2008.
 10. This approval will expire on October 22, 2008, if a building permit has not been issued.
4. 100 Marsac Avenue - Remand of Subdivision from City Council

Planner Robinson stated that the applicant had adjusted and modified the subdivision based on direction from the City Council and changes in the building form as discussed earlier this evening. The Staff found that the subdivision complies with the applicable elements of the Land Management Code and provided a draft ordinance.

The Staff recommended that the Planning Commission review the draft ordinance and forward a positive recommendation to the City Council with the findings of fact, conclusions of law and conditions of approval found in the draft ordinance. Planner Robinson added finding of fact #16, "The site is near the location of the Judge Aerial Tram Load Station and Ontario Mill." He also added Condition of Approval # 8, "The soil will be tested for compliance with the Park City Soils Ordinance and cleaned up, if necessary, to meet the regulatory standards applicable to Empire Pass." Planner Robinson added a sentence to Condition of Approval #5, "A financial guarantee for the protection of the historic walls during construction will be determined by the Chief Building Official with the construction mitigation plan."

Commissioner Pettit mentioned the speed limit issue she had raised earlier in the meeting. Planner Robinson stated that within the MPD there was a condition of approval about the applicant working with UDOT regarding the sidewalk and crosswalk within the right-of-way. They could amend that language to include speed or other safety warning devices as allowed by UDOT.

Commissioner Wintzer noted that it is a UDOT road, which makes it hard for the City to dictate what should be done. Commissioner Wintzer stated that Marsac is the hardest street in town to walk. Chair Thomas asked if they could push the 20 mile an hour speed limit further up the canyon. Commissioner Wintzer stated that it is a hard road to slow down on and he was unsure what they could do. Chair Thomas suggested that the applicant express their concerns to UDOT.

Commissioner Strachan remarked that the last time this subdivision went to the City Council there was a legality of the easement between Ontario Court and this project. Planner Robinson stated that the City Attorney had reviewed that and addressed it with language in Condition of Approval #6 stating that the emergency access easement must be kept clear of snow at the responsibility of the HOA.

Commissioner Strachan understood that the subdivision is where the Planning Commission discusses lot placement. He wondered about staggering the downhill lots. Commissioner Wintzer did not think there was enough room to do that. He thought it might be possible on Lots 6, 5, and 4. Commissioner Strachan thought they should look at staggering the units where topographically possible to create some space between the units. Chair Thomas felt they had addressed that issue with the landscaping concerns in the previous application. Commissioner Wintzer pointed out that sliding the units down the hill would increase the height appearance of the built.

Chair Thomas opened the public hearing.

Jamie Thomas, as resident at 134 Ontario Court, stated that Ontario Court has been discussing the dedication of an easement for access across Ontario Court Driveway. He noted that the subdivision is contingent upon fire access and they have explored this with the Fire Marshall and the Chief Building Official. Mr. Thomas stated that City Attorney, Mark Harrington's opinion is only a legal opinion and a condition was made based on a legal opinion. The Ontario Court Driveway Association has given their legal position to the City and he hoped that the Planning Commission and the City Council had seen that. Mr. Thomas stated that at the City Council meeting, when the subdivision was remanded back to the Planning Commission, Mr. Harrington said that the access was misunderstood and that 100 Marsac Avenue was to benefit Ontario Court. Mr. Thomas remarked that Ontario Court, by way of the subdivision process, has it's own fire access and involved access. It is a stand alone project. It has been approved, implemented and constructed. Therefore, Ontario Court does not need 100 Marsac Avenue's access. He felt it was erroneous to assume they did based on what is already in place. Mr. Thomas stated that Ontario Court Driveway Association supports affordable housing and early in the process, they put forth a proposal with five elements to be considered. They have never heard back from the applicant on their proposal. The first one was massing, condensing and a visual disconnect to help with safety for Ontario Court and the neighborhood as a whole. They have tried to work towards massing and condensing off the hillside to the south and to have more of a compression. Mr. Thomas remarked that each time the applicant comes back they have worked towards that, but there is still massive inconsistencies in the application with regards to dimensions and setbacks. Ontario Court Driveway Association thinks this can be achieved quite easily. It would have been nice to create the lots on a favorable topography and then built the houses accordingly. Mr. Thomas reiterated that

Mr. Harrington only gave a legal opinion that has not been tested. There are two arguments to the story and they feel very strongly about the access. It can be achieved but they have not come far enough to meet that goal.
Chair Thomas closed the public hearing.

Chair Thomas stated that the Marsac affordable housing site plan showed the delineation of the lots and the bearings and distances of the lots. He understood that the dashed line was the building setback line. Mr. Smith replied that it was showing the 10 foot front yard and the 5 foot five yard setbacks.

Commissioner Wintzer asked if they had already dealt with the vacation. Planner Robinson explained that it officially goes through with the subdivision; however, the Planning Commission had discussed it at the MPD stage. Commissioner Wintzer asked if they were approving the vacation at the same time as the subdivision. Planner Robinson answered yes.

Commissioner Pettit asked for clarification on the plan for emergency access. Keith Bennett stated that the intent is to add landscaping so it looks like the end of the road. It also decreases the width and eliminates the formal gutters on each side. It is a driveable walk and it meets the fire truck access requirements.

Commissioner Murphy asked if there would be a crash gate. He was told there would be.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation for 100 Marsac Avenue subdivision to the City Council in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended by Staff.

Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 100 Marsac - Subdivision

1. The proposed Marsac Avenue Affordable Housing subdivision is located at 100 Marsac Avenue and encompasses 2.7 acres, including the platted Seventh (First) street right-of-way and two metes and bounds parcels.
2. The zoning for this property is Historic Residential (HR-1).
3. Ten single family lots are proposed. Fifty-one units could potentially be built on the property based on lot area.

4. Four deed-restricted Open Space parcels encompassing a total of 1.63 acres are proposed. These parcels will be owned and maintained by the Homeowners Association.
5. A 10-foot trail easement is dedicated to public use.
6. Silver Hills Court is a 25-foot wide private road with public pedestrian, public utility and emergency access easement located in the right-of-way.
7. A gate or other device approved by the Chief Building Official will restrict access to Ontario Court to emergency vehicles only. The emergency access easement must be kept clear of snow at the responsibility of the Homeowners Association.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional use permit may grant a height exception.
9. No additional roof height was proposed or approve with the MPD.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. Open Space in the amount of 60% exceeds the 50% requirement.
12. Approximately 80% of the historic stone walls are preserved and a preservation easement is provided on the plat.
13. The applicant proposes pedestrian access to Old Town in a safe and efficient manner.
14. There is good cause for the street vacation based on the decrease in density, neighborhood compatibility, utility of existing right-of-way, and no material injury.
15. The Analysis section of this staff report is incorporated herein.
16. The site is near the location of the Judge Aerial Load Station and Ontario Mill.

Conclusions of Law - 100 Marsac - Subdivision

1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.

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

Conditions of Approval - 100 Marsac - Subdivision

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision 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 subdivision 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. All conditions of approval of the Marsac Avenue Affordable Housing Master Planned Development shall continue to apply.
4. A fire protection plan requiring the use of modified 13D sprinklers is required for review by the Building Department prior to any building permit.
5. A Preservation Easement for the historic walls must be recorded concurrently with the plat. financial guarantee for the protection of the historic walls during construction will be determined by the Chief Building Official with the construction mitigation plan.
6. A gate or other device approved by the Chief Building Official will restrict access to Ontario Court to emergency vehicles only. The emergency access easement must be kept clear of snow at the responsibility of the Homeowners Association.
7. Open space deed restrictions must be recorded prior to or concurrently with the plat.
8. The soil will be tested for compliance with the Park City Soils Ordinance and cleaned up, if necessary, to meet the regulatory standards applicable to Empire Pass.

Planning Commission Staff Report



Subject: 100 Marsac Avenue, Lots 1-10
Author: Brooks T. Robinson
Date: October 22, 2008
Type of Item: Administrative – Steep Slope
Conditional Use Permits

Summary Recommendations

Staff recommends that the Planning Commission review the proposed steep slope CUPs for construction on a slope greater than 30%. Steep slope CUPs can be considered as consent items; however, staff requests removing these items from the consent agenda and holding a public hearing. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration. A separate motion to approve each of the ten CUPS is required.

For the purpose of paper conservation and brevity, the review of each of the ten properties has been consolidated into one report.

Topic

Applicant: United Park City Mines Company (Talisker)
Location: 100 Marsac Avenue, Marsac Avenue Affordable Housing
Subdivision
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Residential
Reason for Review: Conditional Use Permits require Planning Commission
review and approval

Background

On August 29, 2008, the City received completed applications for ten steep slope Conditional Use Permits (CUPs) to be located on the ten-lot Marsac Avenue Affordable Housing Subdivision. Each application is a request for approval of a single-family home of approximately 1,175 square feet (downhill units) to 1,290 square feet (uphill units) each on their own lots. Lot sizes range from 2410 square feet to 2803 square feet. Because the proposed dwelling square footage is greater than 1,000 square feet, and would be constructed on a slope greater than 30%, the applicant is required to file a Conditional Use Application for review by the Planning Commission, pursuant to Section 15-2.1-6 of the LMC.

On October 8, 2008, the Planning Commission held a public hearing and provided feedback on the proposed buildings. Subsequent to that meeting and in response to the direction from the Planning Commission, the applicant has amended the plans to provide more architectural interest and variation to the buildings, minimize retaining walls and grading and to further cluster the buildings.

Analysis

The underlying zoning is Historic Residential (HR-1). The minimum lot size in the HR-1 zone is 1,875 square feet. Each of the ten lots complies with this requirement as shown on the table below.

Development in the HR-1 zoning district is subject to the following criteria:

	Permitted	Proposed
Height	27 feet above existing grade	No height exception granted in MPD. A one foot, nine inch height exception is requested for a subordinate gable for Lot 6 (see criteria 10)
Footprint (Lot Area below) Lot 1: 2410.4 Lot 2: 2553.1 Lot 3: 2803.4 Lot 4: 2731.8 Lot 5: 2731.8 Lot 6: 2791.2 Lot 7: 2610.2 Lot 8: 2771.1 Lot 9: 2662.2 Lot 10: 2583	Based on Lot area 1052.533 1105.941 1197.405 1171.526 1171.526 1193.011 1127.053 1185.759 1146.152 1117.015	Includes garage Lot 1: 878.5 Lot 2: 862.5 Lot 3: 862.5 Lot 4: 910.47 Lot 5: 862.5 Lot 6: 862.5 Lot 7: 746.7 Lot 8: 746.7 Lot 9: 746.7 Lot 10: 746.7
Front setback	10 feet	No setback reductions in MPD. 10 feet
Rear setback	10 feet	10 feet
Side setbacks	Depends on lot width. 5 feet for lots between 37.5 and 50 feet and greater in width.	5 feet for each house as each of the lots are greater than 37.5 feet and less than 62.5 feet in width.
Parking	One space for each bedroom in an Affordable Housing MPD. Two spaces required for each two-bedroom unit.	2 per unit; one in a garage, the second exterior.

Section 15-2.1-6 of the LMC provides for development on steep lots in excess of one thousand square feet (1,000 sq. ft.) within the HR-1 zone, subject to the following criteria:

Criteria 1: Location of Development. Development is located and designed to reduce visual and environmental impacts of the structure.

NO UNMITIGATED IMPACTS

The MPD and subdivision clustered the units to the north end of the 2.7 acre property. Ten residential lots from 2410 square feet to 2803 square feet are proposed. In addition, four deed restricted open space parcels encompassing 1.63 acres are proposed. Each building is two stories and have footprints approximately 25-30% smaller than allowed by the zone. The uphill units (#7-10) are situated behind the downhill units when viewed from the west so they are partially obscured. The location also saves approximately 78% of the historic Ontario Loading Station stone retaining walls.

Criteria 2: Visual Analysis. The applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine the potential impacts of the project.

NO UNMITIGATED IMPACTS

The proposed buildings are in an area of Old Town where there are both larger contemporary buildings (Ontario Avenue and Court) and smaller historic homes (Prospect Avenue area). The applicant has submitted a streetscape of the ten proposed buildings demonstrating the visual impacts of the buildings as viewed from the west. The two closest houses on Ontario Court are drawn in for perspective. The project site is not visible from the LMC-defined Vantage Points. The downhill units (1-6) are proposed with two stories; however, there are additional exposed foundation walls of varying heights (2 to 9 feet in height). Even with the exposed foundations, the buildings are 2-3 feet under the 27 foot height maximum (see height exception for Lot 6).

Criteria 3: Access. Access points and driveways must be designed to minimize grading of the natural topography and to reduce overall building scale.

NO UNMITIGATED IMPACTS

Each of the ten homes will take access from a private road (Silver Hills Court) with access to Marsac Avenue (SR 224). Silver Hills Court utilizes the existing railroad grade thereby eliminating the need for substantial grading for access. The driveways to the garages on Lots 1-6 provide for the second Code required parking space. On the uphill Lots 7-10, the buildings are at the front setback with short driveways as the second parking space is under the buildings in an open carport.

Criteria 4: Terrace. The project must provide terraced retaining structures to regain natural grade.

NO UNMITIGATED IMPACTS

Minimal retaining structures are necessary. The four uphill units (7-10) have boulder retaining walls of less than four feet in height behind the units. The downhill lots (1-6) also have 4'-5' high walls between the buildings. The vehicular turnaround will also

require a retaining wall approximately 18 feet high into the east hillside. As units 5 and 6 are directly across Silver Hills Court from the turnaround, they will help mitigate the visual impact. In addition, the wall is proposed to be separated into two nine-foot high walls with landscaping between the tiers.

Criteria 5: Building Location. Building, Access and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the site.

NO UNMITIGATED IMPACTS

The 740-900 square foot footprint buildings are placed onto the hillside with natural grade remaining along the sides of the buildings, with the exception of the small boulder walls to help maintain existing grade. Access and infrastructure will be along the existing railroad grade minimizing the need for excessive site disturbance and grading.

Criteria 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.

NO UNMITIGATED IMPACTS

The buildings have footprints of approximately 740 to 900 square feet and minimal stepping. Each building is slightly rectangular in shape (37 feet wide by 28 feet deep on Lots 1-6, 30'-8" wide by 28'-8" on Lots 7-10) oriented with the existing contours. Each building has horizontal and vertical articulation in keeping with the simple forms of the Historic District. The uphill units have greater stepping in the foundation and building form as this is the steeper part of the property.

Criteria 7: Setbacks. The 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 rear Property Line. The Setback variation will be a function of the building, site constraints, proposed Building scale, and Setbacks on adjacent Structures.

NO UNMITIGATED IMPACTS

There are no other houses along the east side of Marsac Avenue for several hundred feet to the north. The backs of the downhill units face Marsac but curve away from the street up to 50 feet and more based on the lot layout. All buildings have a minimum of five feet of setback in the side yards. The lots are sized to fit the building configurations. The lots could be larger thereby increasing the technical setbacks to the lot lines, but from a practical standpoint there would be no visible difference in the front and rear setbacks. Increasing the side setbacks would cause the buildings to be spread further across the property and closer to the Ontario Court homes.

Criteria 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 Commission may further limit the volume of a proposed structure to minimize its visual mass and/or to mitigate difference in scale between a proposed structure and existing structures.

NO UNMITIGATED IMPACTS

The design is compatible with the volume of the smaller historic homes to the west and south. The contemporary single family homes in the Ontario Avenue area are substantially larger with three to four stories and several thousand square feet of floor area.

Criteria 9: Building Height (Steep Slope). The maximum Building Height in the HR-1 District is twenty-seven feet (27'). The 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.

NO UNMITIGATED IMPACTS

Due to the smaller sizes of the units, especially compared to the nearby Ontario Court homes, staff does not recommend further reduction in heights. The proposed heights of the buildings are at or below the 27-foot height restriction. The roof of the small gable over the kitchen window on Unit 6 exceeds the height maximum by less than two feet. A redesigned roof form could be accommodated to meet the height requirement.

Criteria 10: Height Exceptions (Steep Slope). The Planning Department and/or the Planning Commission may grant a Building Height exception for a portion or portions of a proposed structure if the applicant proves compliance with each of the criteria.

NO UNMITIGATED IMPACTS, minor height exception requested for building 6.

- a) Height exception to 28'-9" does not exceed 40 feet.
- b) Building has horizontal and vertical step backs to achieve increased articulation.
- c) The proposed design and articulation are similar to other buildings in the project and the mass is substantially smaller than buildings on Ontario Court.
- d) No snow release issues identified by the Chief Building Official.
- e) All other elements of the building are under the 27-foot height requirement.
- f) The height exception does not allow for additional floor area as a continuation of the roof would be under the 27-foot height.
- g) The gable breaks up the roof and provides architectural interest.
- h) The height exception is compatible with good planning practices and design by providing more articulation to the roof form.
- i) The height increase of 1'-9" will result in a superior plan with greater building articulation and interest.
- j) The small gable and height exception have no impacts needing mitigation as outlined in LMC 15-1-10 Conditional Use Review.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time. A final utility plan has been submitted with the plat amendment and shall be approved by the City Engineer prior to plat recordation.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record. The public hearing was properly continued from the October 8th meeting.

Public Input

Public input on this proposal was provided during the October 8th public hearing. Public input from neighbors to the west and southeast was also received during the MPD and subdivision processes.

Future Process

A subdivision plat to create legal lots of record is required (concurrent review by the Planning Commission). The Historic District Design Review for each of the ten houses is under review by staff. The approval of this application by the Planning Commission constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Alternatives

- The Planning Commission may approve the Conditional Use Permits as conditioned or amended, or
- The Planning Commission may deny the Conditional Use Permits and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the Conditional Use Permits.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The houses could not be constructed as designed.

Recommendation

Staff recommends that the Planning Commission review the proposed steep slope CUPs for construction on a slope greater than 30%. Steep slope CUPs can be considered as consent items; however, the Planning Commission may request removing this item from the consent agenda and holding a public hearing. Staff has prepared findings of fact, conclusions of law and conditions of approval for the Commission's consideration.

For the purpose of paper conservation and brevity, the review of each of the ten properties has been consolidated into one report. However, the Commission must take a separate action on each of the properties. Motion to be for Lot 1, Lot 2, Lot 3, etc.

Findings of Fact:

1. The property is located at 100 Marsac Avenue.
2. The zoning is Historic Residential (HR-1).
3. The approved plat created 10 residential building lots and four open space parcels.
4. Access to the lots from Marsac Avenue is via a private driveway (Silver Hills Court).
5. The minimum front yard setback for lots of this size is 10 feet.
6. The minimum rear yard setback is 10 feet.
7. The minimum side yard setback is 5 feet for the lots as proposed. The applicant proposes 5 feet on all side yards.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD. A minor height exception of 1'-9" is proposed for a subordinate gable on the rear of unit 6.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. The applicant is proposing two on-site parking spaces within a single car garage and an exterior space for each of the ten two-bedroom units.
12. The maximum footprints for these lots are 1052 to 1197 square feet, based on lot size.
13. The proposed footprints are 746 to 910 square feet.
14. The total floor area of the ten buildings is 12,275 square feet, representing 15 Affordable Housing Unit Equivalents.
15. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law:

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B)
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the houses are reviewed and approved by the Planning Department staff for compliance with the Historic District Design Guidelines.

6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
 7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
 8. A height exception of 1'-9" is granted for the subordinate gable on the rear of unit 6.
 9. Building permit plans must substantially comply with the drawings reviewed and approved by the Planning Commission on October 22, 2008.
 10. This approval will expire on October 22, 2009, if a building permit has not been issued.
- .

Exhibits

Exhibit A – Site plan, floor plans, and elevations

Planning Commission Staff Report



Subject: Marsac Avenue Affordable Housing
Author: Brooks T. Robinson
Date: July 9, 2008
Type of Item: Administrative – Master Planned Development

Summary Recommendations

Staff recommends the Planning Commission re-open the public hearing and discuss the proposed Master Planned Development. Staff has provided findings of fact, conclusions, of law and conditions of approval for the Commission's consideration.

Topic

Applicant: United Park City Mines Company
Location: 100 Marsac Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: State Route 224 to west, residential zones to east and north, open space to south.
Reason for Review: Master Planned Developments require Planning Commission review

Background

On January 9 and February 27, 2008, the Planning Commission held public hearings on the MPD pre-application. The Commission directed staff to return with findings for compliance with the General Plan. On March 12, 2008, the Commission ratified the findings for compliance with the General Plan and directed the applicant to work with the neighborhood to provide a more compatible design in keeping with the historic development pattern. The Commission was also not in favor of the intensity of the use and directed the applicant to reduce the density.

On April 15, 2008, the City received a completed application for a Master Planned Development. On May 28, 2008, the Planning Commission held a work session discussion on the application and a public hearing was held on June 11th. An additional public hearing only was held on June 25th.

In the intervening months from the application to June 25th, the applicant has responded to staff, public, and Planning Commission comments to further revise and refine their site plan. The current plan is substantially different from the original proposal. The density has been reduced from 20 units with a number of duplexes to ten single family houses. The surface parking lot has been removed; instead each unit has a single car garage and a second exterior parking space. The location of the access road and the units has been shifted to the north to preserve a substantial (approximately 78%) of the stone walls from the Ontario Loading Station. The Ontario Loading Station includes the

former railroad bed created with the use of the stone retaining walls and the mine portal itself (to the south of the subject property). Other accessory and more contemporary buildings have been removed with the highway reconstruction. Ore from the Ontario mine was transported through mine tunnels to this portal and transferred to railroad cars at this location. The site was identified as a historic resource with possible inclusion in the National Register of Historic Places during the reconstruction of State Route 224. A road project including Federal highway funds requires the cultural inventory that was performed. As no tax credits were sought, the property owner chose not to have the site listed on the NRHP. The City's Inventory of Historic Buildings does not include structures such as retaining walls, and, therefore, the stone walls are not on the Inventory.

Analysis

The underlying zoning is Historic Residential (HR-1). The minimum lot size in the HR-1 zone is 1,875 square feet. Under the Land Management Code (LMC) section 15-6-7, Master Planned Affordable Housing Development, the Planning Commission can grant a density bonus up to twenty (20) dwelling units per acre. Proposed are 10 dwelling units on approximately 2.2 acres. Included in the application is a request for the vacation of the platted, unbuilt Seventh (First) Street right of way.

All **Master Planned Developments** shall contain the following minimum requirements in accordance with Section 15-6-5 of the Land Management Code.

*(A) **DENSITY.** The type of Development, number of units and Density permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety and the Density located in the most appropriate locations.*

Complies

Under an Affordable Housing MPD (LMC 15-6-7), the Planning Commission can grant a density bonus up to twenty (20) dwelling units per acre. Proposed are 10 dwelling units on approximately 2.2 acres. The access road is on the flatter portion, which was the site of the former railroad spur to the Ontario Loading Station. The units are configured with seven on the downhill (west) side and three on the uphill (east) side of the road.

(B) MAXIMUM ALLOWED BUILDING FOOTPRINT FOR MASTER PLANNED DEVELOPMENTS WITHIN THE HR-1 DISTRICT.

Complies as conditioned

A subdivision is required in order to create lots of record. The property is currently described as two metes and bounds parcels and the platted Seventh (First) Street. Without legal lots of record, no development can take place. A standard Old Town lot is 1,875 square feet with an allowed footprint of 844 square feet. The concept plan shows units with a footprint of 705 square feet. A subdivision is a condition of approval.

*(C) **SETBACKS.** The minimum Setback around the exterior boundary of an MPD shall be twenty five feet (25') for Parcels greater than one (1) acre in size.*

Complies

The Planning Commission can reduce this requirement to the underlying HR-1 zone setbacks. The proposed plan shows a setback of 20 feet for the rear of the downhill (west) units due to the narrow site constraints. Staff recommends that the HR-1 zone setbacks be applied.

*(D) **OPEN SPACE.** All Master Planned Developments shall contain a minimum of sixty percent (60%) open space. Within an Affordable MPD, the minimum Open Space requirement is 50% which may be reduced to 40% by the Planning Commission for additional project amenities.*

Complies

The proposal identifies over 61.1% of the site as open space.

*(E) **OFF-STREET PARKING.***

Off-Street Parking is required at a rate of one (1) space per Bedroom in an Affordable Housing MPD.

Complies

There are 20 parking spaces proposed for the 20 bedrooms; 10 spaces in garages and 10 surface spaces.

*(F) **BUILDING HEIGHT.** The height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in height based upon a Site specific analysis and determination.*

No height exception is proposed.

*(G) **SITE PLANNING.** An MPD shall be designed to take into consideration the characteristics of the Site upon which it is proposed to be placed. The project should be designed to fit the Site, not the Site modified to fit the project. The following shall be addressed in the Site planning for an MPD:*

(1) Units should be clustered on the most developable and least visually sensitive portions of the Site with common open space separating the clusters. The open space corridors should be designed so that existing Significant Vegetation can be maintained on the Site.

Complies

The access road generally follows the old railroad grade. Seven of the stand alone houses back towards Marsac Avenue with three of the units on the uphill side. A primary consideration in the design is the preservation of approximately 80% of the stone retaining walls. The plan identifies 1.34 acres of dedicated open space.

(2) Projects shall be designed to minimize Grading and the need for large retaining Structures.

Complies

The site is disturbed the previous mining activities and contain existing rock retaining walls. Although only at a concept design phase, the houses will step with the contours minimizing the amount of retaining walls necessary and the additional excavation and

construction costs.

(3) Roads, utility lines, and Buildings should be designed to work with the Existing Grade. Cuts and fills should be minimized.

Complies

The proposed road and buildings may meet this criterion. Specific grading plans and building plans have not been submitted. The road is proposed to be on the old railroad grade.

(4) Existing trails should be incorporated into the open space elements of the project and should be maintained in their existing location whenever possible. Trail easements for existing trails may be required. Construction of new trails will be required consistent with the Park City Trails Master Plan.

Complies

A trail exists on the eastern edge of the property. There will be no impact from this project to the existing trail. The trail is located on proposed dedicated open space. The proposed emergency access and trail to the north would provide access to Ontario Court. In addition, to encourage pedestrian access to Main Street, a sidewalk along a portion of Marsac Avenue and a crosswalk at the uphill side of the Hillside/Marsac intersection is proposed. There is a stop sign for downhill traffic at the location of the crosswalk.

(5) Adequate internal vehicular and pedestrian/bicycle circulation should be provided. Pedestrian/ bicycle circulations shall be separated from vehicular circulation and may serve to provide residents the opportunity to travel safely from an individual unit to another unit and to the boundaries of the Property or public trail system. Private internal Streets may be considered for Condominium projects if they meet the minimum emergency and safety requirements

Complies.

No sidewalk is provided within the project. A sidewalk is proposed along a portion of Marsac Avenue with a crosswalk at the Marsac/Hillside intersection. The emergency access/trail would connect to Ontario Court. There is a turnaround for fire trucks or garbage collection vehicles at the end of the access driveway.

(6) The Site plan shall include adequate Areas for snow removal and snow storage. The landscape plan shall allow for snow storage Areas. Structures shall be set back from any hard surfaces so as to provide adequate Areas to remove and store snow. The assumption is that snow should be able to be stored on Site and not removed to an Off-Site location.

Complies

There are sufficient areas for snow storage along the access driveway and the south end.

(7) It is important to plan for refuse storage and collection and recycling facilities. The Site plan shall include adequate Areas for dumpsters and recycling containers. These facilities shall be Screened or enclosed. Pedestrian Access shall be provided to the

refuse/recycling facilities from within the MPD for the convenience of residents and guests.

Complies

Each unit will have trash cans. A turnaround for trucks is provided at the end of the access road.

(8) The Site planning for an MPD should include transportation amenities including drop-off Areas for van and shuttle service, and a bus stop, if applicable.

None provided for the ten units. The sidewalk and crosswalk have previously been discussed.

(9) Service and delivery Access and loading/unloading Areas must be included in the Site plan. The service and delivery should be kept separate from pedestrian Areas.

Complies

Service and delivery for the ten units are usual and customary for a residential street. A turnaround is provided at the end of the road.

*(H) **LANDSCAPE AND STREETScape.** To the extent possible, existing Significant Vegetation shall be maintained on Site and protected during construction. Where landscaping does occur, it should consist primarily of appropriate drought tolerant species. Lawn or turf will be limited to a maximum of fifty percent (50%) of the Area not covered by Buildings and other hard surfaces and no more than seventy-five percent (75%) of the above Area may be irrigated. Landscape and Streetscape will use native rock and boulders. Lighting must meet the requirements of LMC Chapter 15-5, Architectural Review.*

Complies as conditioned

There is little significant vegetation as this site has been disturbed in the past. At this time a landscape plan has not been provided. At the time of the Steep Slope Conditional Use Permit and the Historic District Design Review, detailed landscape plans are required. This requirement is memorialized in a condition of approval.

*(I) **SENSITIVE LANDS COMPLIANCE.** All MPD Applications containing any Area within the Sensitive Areas Overlay Zone will be required to conduct a Sensitive Lands Analysis and conforms to the Sensitive Lands Provisions, as described in LMC Section 15-2.21.*

Complies

The project site, as with all HR-1 zoned property, is outside of the Sensitive Lands Overlay.

*(J) **EMPLOYEE/AFFORDABLE HOUSING.** MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application.*

Complies

This is an Affordable Housing MPD that does not generate additional affordable housing requirements.

*(K) **CHILD CARE.** A Site designated and planned for a Child Care Center may be*

required for all new single and multi-family housing projects if the Planning Commission determines that the project will create additional demands for Child Care.

Complies

Staff does not recommend a Child Care center due to the low density of the project.

Vacation of Right of Way

The applicant is requesting the vacation of platted Seventh (First) Street. In order to execute the vacation, the City Council, after receiving a recommendation from the Planning Commission must make findings of compliance with Resolution No. 8-98, "Resolution adopting a policy statement regarding the vacation of public right-of-ways within Park City, Utah." The resolution is divided into three sections; each with reviewable criteria necessary for a finding of compliance.

SECTION 1 Good Cause: The City may generally find "good cause" when a proposal evaluated as a whole demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole.

Criteria 1: No increase in density. Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street right-of-ways will generally not be vacated to facilitate greater density, floor area or area disturbance.

Complies

An Affordable Housing MPD is allowed a density up to 20 units per acre or approximately 43 units on the 2.2 acre site. The right of way is approximately 5,100 square feet or 0.12 acres reducing the potential number of units to 41 units. The proposed 10 units is a significant decrease in the number of possible units.

Criteria 2: Neighborhood Compatibility: The proposal shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall consider the 15 criteria for a conditional use located in Chapter 15-1-10 of the LMC when considering compatibility.

Complies

Staff finds that no variances are required and that all requirements of the LMC are met. The ten single family houses have a footprint of approximately 705 square feet, which is smaller than found on a typical 1,875 square foot HR-1 lot. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

The Land Management Code (15-1-10) sets the following standards of review:

(1) size and location of the Site;

No unmitigated impacts.

The site is approximately 2.2 acres and zoned HR-1. The ten units is a substantial reduction from the possible 43 that are possible with the given land area.

(2) traffic considerations including capacity of the existing Streets in the Area;

No unmitigated impacts.

The site is served by Marsac Avenue, aka State Route 224. Marsac Avenue, although carrying a large volume of traffic, has sufficient capacity for these ten units.

(3) utility capacity;

No unmitigated impacts.

Adequate utilities exist nearby.

(4) emergency vehicle Access;

No unmitigated impacts.

Emergency access is from Marsac Avenue. In addition an emergency vehicle access is proposed from the north end of the site through Ontario Court, a private street with an easement for emergency vehicles.

(5) location and amount of off-Street parking;

No unmitigated impacts.

Each unit will have two parking spaces.

(6) internal vehicular and pedestrian circulation system;

No unmitigated impacts.

A sidewalk and crosswalk connect this project to the west side of Marsac Avenue.

(7) fencing, Screening, and landscaping to separate the Use from adjoining Uses;

No unmitigated impacts.

A landscape plan is required with both a Steep Slope CUP and the Historic District Design review. The site is mostly surrounding by natural open space.

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

No unmitigated impacts.

The ten single family houses have a footprint of approximately 705 square feet, which is smaller than found on a typical 1,875 square foot HR-1 lot. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

(9) usable Open Space;

No unmitigated impacts.

Approximately 61.1% or 1.34 acres of the 2.2 acres is proposed as dedicated open space. The applicant is not counting the proposed development lots into the open space calculation. An existing trail to the east will be within the open space.

(10) signs and lighting;

No unmitigated impacts.

Any signs will require a separate sign permit and lighting must comply with the City lighting regulations.

(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

No unmitigated impacts.

The ten single family houses have a footprint of approximately 705 square feet, which is smaller than found on a typical 1,875 square foot HR-1 lot. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed. Staff recommends that the specific house designs be sufficiently different to provide variety and interest.

(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

No unmitigated impacts.

These factors would be typical of any residential street.

(13) control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

No unmitigated impacts.

During construction, staging will be on-site. Post-construction, the amount of service and delivery will be typical of a residential street. A turnaround is provided at the end of the street.

(14) expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; and

No unmitigated impacts.

Each lot and unit will be deed restricted and owner occupied.

(15) within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

No unmitigated impacts.

The site, as with all HR-1 zoned properties, is not within the Sensitive Lands Overlay.

Criteria 3: Consideration: Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon square footage); open space dedication above and beyond normal subdivision or development requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of right-of-way dedication; and/or any public amenity deemed in the best interests of Park City's citizens.

Complies

An Affordable Housing MPD requires a minimum of 50% open space that can be reduced to 40% by the Planning Commission. The proposed MPD has 61.1% open space and provides protection for an existing trail. The layout of the site is primarily predicated on the preservation to the greatest extent possible of the historic stone walls. Previous designs did not require the vacation of the right of way but also nearly completely removed the stone walls. Staff finds that the affordable housing itself is a community benefit in addition to the open space, trail, and preservation of the stone walls.

Criteria 4: Utility of existing Right-of-Way. The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan, the recommendation to the City Engineer, existing improvements and utilities within the right-of-way and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Streets Master Plan, unless otherwise reduced by the City Engineer.

Complies

The 1984 Streets Master Plan lists the platted Seventh (First) Street R-O-W as "Existing Rights of Way considered Unbuildable" with the comment to "use as exchange parcel to extend Ontario Avenue to by-pass "slide for life hill"". With the re-platting and development of Ontario Court, the exchange has been precluded.

Pursuant to State Law, (UCA 10-9a-609.5) a street vacation may not impair the right of way or easements of any lot owners or franchise rights of any public utility. The former City Engineer reviewed this application and found no easements or utilities within the right of way.

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

Complies

The proposed vacation will not materially injure the adjoining properties. The owners on either side of the First Street are the current applicants.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council and Historic Preservation Board, as necessary are encouraged early in the process for large projects and master planned developments, which propose vacation and reconfiguration of public right-of-ways.

The Planning Commission may determine whether a joint meeting would be necessary for this project.

Department Review:

The project has been reviewed by the Planning, Building, Engineering and Legal departments as well as the utility providers.

Future Process

The Master Planned Development application must be approved prior to proceeding with the proposed development. In addition, a subdivision plat to create legal lots of record is required. Other applications that can be reviewed concurrently are the Steep Slope Conditional Use Permit and the Historic District Design Review. The approval of this application by the Planning Commission constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Recommendation:

Staff recommends the Planning Commission open a public hearing and discuss the proposed Master Planned Development. Staff has provided findings of fact, conclusions of law and conditions of approval for the Commission's consideration.

Findings of Fact:

1. The proposed Affordable Housing Master Planned Development is located at 100 Marsac Avenue and encompasses 2.187 acres, including the platted Seventh (First) street right of way and two metes and bounds parcels.
2. The zoning for this property is Historic Residential (HR-1).
3. The Planning Commission may increase the allowable density in an Affordable Housing MPD up to 20 units per acre.
4. Ten single family units are proposed.
5. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
6. No additional roof height is proposed.
7. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
8. Twenty parking spaces are proposed with a single car garage and an exterior parking space for each unit.
9. Open Space in the amount of 61.1% exceeds the 50% requirement.
10. Approximately 80% of the historic stone walls are preserved.

11. The applicant proposes pedestrian access to Old Town in a safe and efficient manner.
12. The Planning Commission finds good cause for the street vacation based on the decrease in density, neighborhood compatibility, consideration, utility of existing right of way, and no material injury.
6. The Planning Commission found compliance with the General Plan at its regular meeting of March 12, 2008.
7. The **Analysis** section of this staff report is incorporated herein.

Conclusions of Law:

1. The MPD, as conditioned, complies with all the requirements of the Land Management Code.
2. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 of this Code.
3. The MPD, as conditioned, is consistent with the Park City General Plan.
4. The MPD, as conditioned, provides the highest value of open space, as determined by the Planning Commission.
5. The MPD, as conditioned, strengthens and enhances the resort character of Park City.
6. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
7. The MPD, as conditioned, is Compatible in Use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility.
8. The MPD provides amenities to the community so that there is no net loss of community amenities.
9. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
10. The MPD, as conditioned, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The project has been designed to place Development on the most Developable Land and least visually obtrusive portions of the Site.
11. The MPD, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections.
12. The MPD has been noticed and public hearing held in accordance with this Code.

Conditions of Approval:

1. All standard conditions of approval apply to this MPD.
2. All buildings will be required to be reviewed under the Historic District Design Guidelines. The specific house designs shall be sufficiently different to provide variety and interest.
3. A steep slope Conditional Use Permit is required for any house on a slope greater than 30%.
4. A final water efficient landscape and irrigation plan that indicates snow storage areas is required to be submitted with the Steep Slope CUP or Historic District Design Review, whichever is first.
5. The applicant will coordinate with the City and UDOT for construction of the sidewalk, crosswalk, and required safety signs.

6. All exterior lights must conform to the City lighting regulations.
7. All exterior signs require a separate sign permit. Application for a sign permit shall be made to the Planning Department prior to installation of any temporary or permanent signs.
8. Utility and grading plans, including all public improvements and trails, must be approved by the City Engineer prior to Building Permit issuance. A guarantee for all public improvements, including trails and required landscaping, is required prior to issuance of a full building permit.
9. The Construction Mitigation Plan must be approved by staff as a condition precedent to issuance of any building permits. The CMP must specifically address the preservation of the historic stone walls.
10. A storm water run-off and drainage plan shall be submitted with the building plans and approved prior to issuance of any building permits. The plan shall follow Park City's Storm Water Management Plan and the project shall implement storm water Best Management Practices.
11. Approval of a fire protection plan for each building shall have been made by the Building Official prior to any full building permit being issued.
12. A detailed review against the Uniform Building and Fire Codes in use at the time of building permit submittal is a condition precedent to issuance of full building permit.

Exhibits

Exhibit A – Site plan

100 MARSAC AVENUE SUBDIVISION

**COMMENTS SUBMITTED
NOVEMBER 3, 2008**

BY PETER BARNES AND JAMIE THOMAS

**ON BEHALF OF THE
ONTARIO COURT DRIVEWAY ASSOCIATION**

100 Marsac Avenue Subdivision application

The following response was made by Peter Barnes at the request of Jamie Thomas on behalf of the Ontario Ct Driveway association.

Comments on Staff report to Oct 22 Planning Commission: Extracts from original report included, comments are shown in italics.

Additional comments, subsequent to the Oct 22 Planning Commission meeting, are indicated with an asterisk ().*

Background

On January 9 and February 27, 2008, the Planning Commission held public hearings on the MPD pre-application. The Commission directed staff to return with findings for compliance with the General Plan. On March 12, 2008, the Commission ratified the findings for compliance with the General Plan and directed the applicant to work with the neighborhood to provide a more compatible design in keeping with the historic development pattern. The Commission was also not in favor of the intensity of the use and directed the applicant to reduce the density from what was originally proposed. On May 28, 2008, the Planning Commission held a work session discussion on the Master Planned Development application and a public hearing was held on June 11th. An additional public hearing only was held on June 25th. On July 9th, the Planning Commission approved a Master Planned Development for ten single family homes located on a private street.

The original proposal ('pre-application') consisted of 10 duplex buildings located on Block 51 of the Park City survey. The current proposal consists of ten single family dwellings strung along the hillside with the majority of units located on Block 72 of the park City survey. A substantially different scheme with different impacts on the neighborhood and significant impacts on a new set of immediate neighbors. The LMC states that where an application goes through substantial changes it would be appropriate to repeat the 'pre app' stages for the benefit of those newly impacted.

** For each of the pre-application public hearings the project illustrations indicated the majority of units located on Block 51 with one unit intruding on to a portion of Seventh Street. The private street accessing the units ended approximately 200ft south of its current location. As a result of information provided to the public, the residents of Ontario Ct concluded that the scheme then proposed would have little impact on them. This opinion was reinforced by Planning staff reiterating in the May 28th staff report; "Most of the units are within the flatter portion of the site. This area was the former railroad loading area from the Ontario portal."*

**... "David Smith, representing Talisker, stated that this plan is dramatically different from where they started..." May 28th And so it is again*

On August 18, 2008, the City received an application for a ten lot and two parcel subdivision. Additional materials were received on August 28 and the application was considered complete. The property is currently two metes and bounds parcels and platted Seventh (First) Street and encompasses approximately 2.7 acres. The vacation of platted Seventh (First) Street was discussed by the Planning Commission during the MPD review.

The application requires review as a "Major Subdivision". It should be noticed and processed as such. The original recommendation for approval by the Planning Commission was made thirteen days after the application was deemed complete by staff. The minimum noticing requirement for a public hearing is fourteen days. The LMC Subdivision regulations anticipate a reasonable time frame of ninety days for an appropriate analysis by staff before recommendation to the Planning Commission.

A Major Subdivision requires approval of a Preliminary Plat and then a recommendation of a final Plat to City Council. These approvals can be combined at one meeting as the sole prerogative of the Planning Commission. This is not mentioned in the staff report. No discussion on this method has taken place, no motion yet offered. Is this action proposed? Has it been properly noticed?

MPD's are not allowed in the HR-1 District

LMC 15-6 -2. APPLICABILITY.

(C) MPD's are allowed in Historic Residential (HR-1) Zone **only** when:

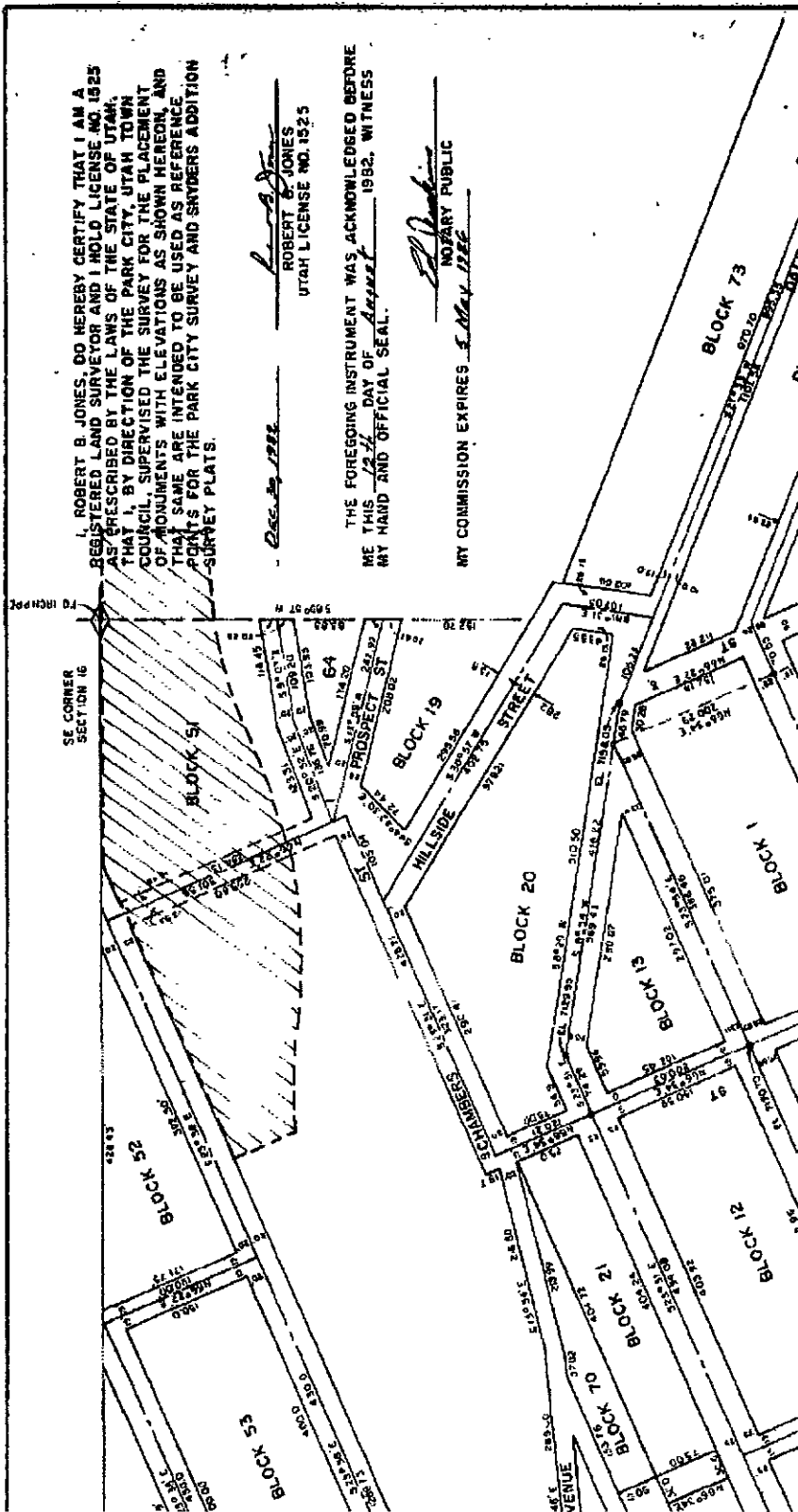
- (1) HR-1 zoned parcels **are combined with** adjacent HRC or HCB zone Properties as part of an allowed MPD (see criteria above; or
- (2) Property is **not** a part of the original Park City Survey or Snyder's Addition to the Park City Survey **and** which may be considered for Affordable Housing MPDs consistent with Section 15-6-7 herein.

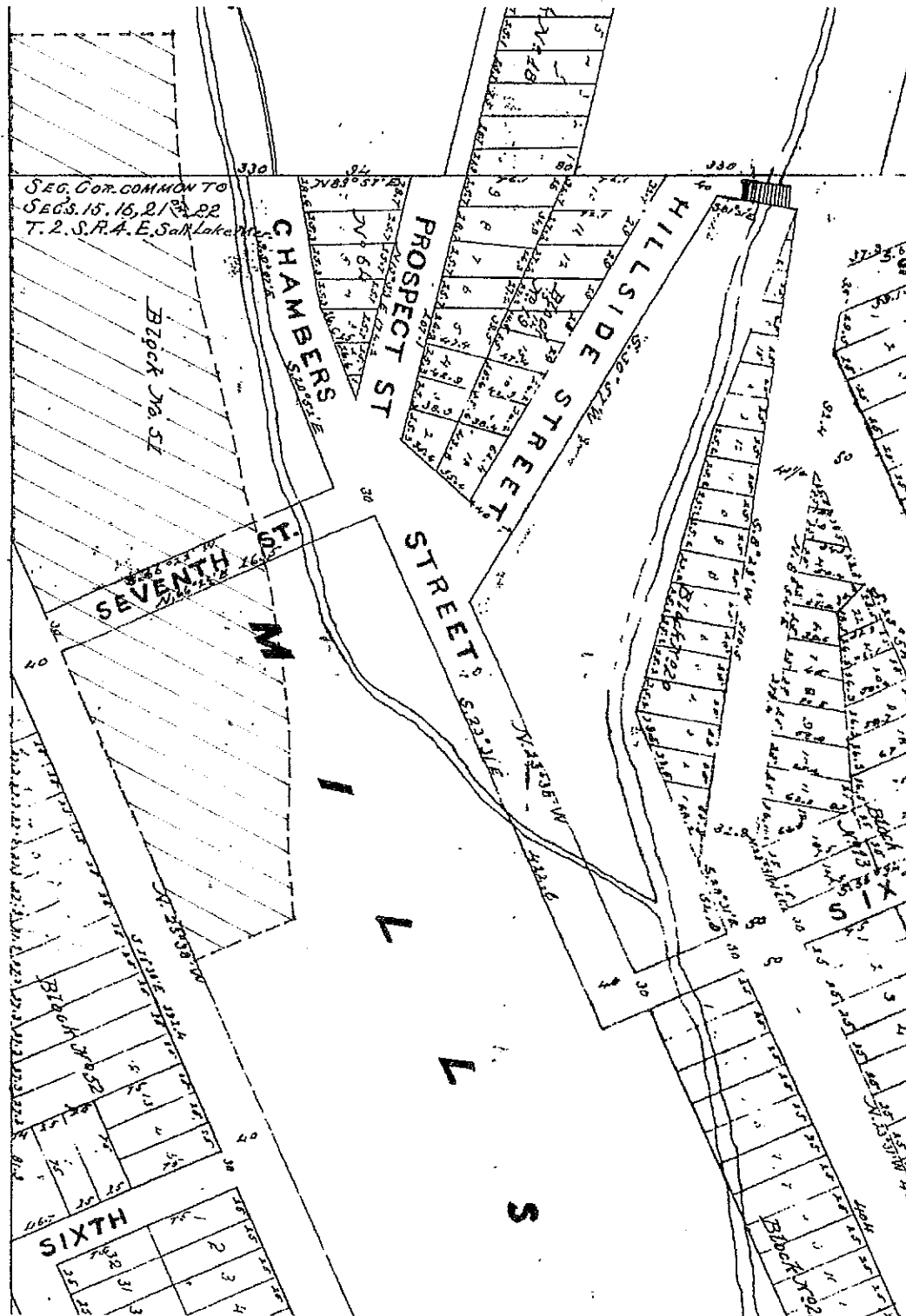
This project fails both criteria.

**At the Planning Commission meeting of October 22nd Planning Staff contended that despite evidence to the contrary the project is in fact located outside the Park City Survey.*

**The idea that the project is located within the Park City Survey was reached by reference to the official Park City Monument Survey of 1982 "...intended to be used as reference points for the Park City Survey and Snyders Addition Survey Plats". Further justification was reached by consultation of the 1911 City map "...a true, and correct copy of a map made by Charles P Brooks and filed with the Co Recorder Aug 3rd 1880."* *Extracts attached.*

**It is difficult to see why one holding the reasonable opinion that the project thus be considered "a part of the Park City Survey" should be treated as if 'repeating a lie'.*





Extract 1911 survey being
 "a true, and correct copy of a map made by Charles P Brooks and filed with the Co
 Recorder Aug, 3rd 1880"

Ten residential lots from 2,410 square feet to 2,803 square feet are proposed. In addition, four deed restricted open space parcels encompassing 1.63 acres are proposed. The open space parcels would be owned by the Homeowners Association. A public trail easement is dedicated for an existing trail on the property.

The proposed access road, Silver Hills Court, is approximately 400 feet long and intersects Marsac Avenue approximately 200 feet south of the Hillside – Marsac intersection. Silver Hills Court is proposed as a private road with public pedestrian, public utility and emergency access easement within the 24 –foot right of way. The road includes a vehicular turnaround at the northern terminus and an fire truck access easement onto platted Marsac Avenue and Ontario Court, a private driveway. The location of Silver Hills Court will preserve a substantial (approximately 78%) length of the historic stone walls from the Ontario Loading Station. The Ontario Loading Station includes the former railroad bed created with the use of the stone retaining walls and the mine portal itself (to the south of the subject property). The walls are located within and protected by an easement on the proposed plat.

The original proposal utilized an access road approx 250' long. In attempting to mitigate physical impacts of the development on the historic rubble walls, a substantial increase in visual and environmental impacts has occurred.

Much discussion has centered on the proposed fire truck access at the North end of the proposal. Ontario Ct Driveway association has challenged the claimed easement right. At the City Council meeting of October 2 the City Attorney attempted to clarify the City's position:

"With regard to emergency access, Mark Harrington emphasized that the intent of the easement is to provide improved fire services to Ontario Court not 100 Marsac Avenue Project which has been misunderstood." (minutes of city council meeting 10 2 08)

This statement appears at odds with prior claims and discussions. (Note the previous recommendation for approval was conditioned on a legal opinion regarding the status of this access, opinions vary, a judicial decision has yet to be sought).

Ontario Ct has significant fire protection infrastructure in place, this was a requirement of their Subdivision approval. Whilst the offer of increased protection under the responsibility of Silver Hills Ct is an interesting one; without modification it is an offer not yet acceptable. Please remove the proposed access.

(The International fire code allows dead end access roads up to 150' without turn around provision. Roads between 150 and 500' require specified turn around. Thirty dwelling are contemplated on single access roads.)

**"Mr. Smith remarked that another benefit of this revision is the creation of a hammerhead that provides emergency access..." (May 28th work session notes). It seems that the road length has been increased unnecessarily with the consequent increase in site disturbance.*

** During the May 28th work session it was suggested that any connection proposed to Ontario Ct should be discussed with those homeowners. Mr Smith makes many claims regarding*

neighborhood involvement and yet has singularly failed to be proactive with the Ontario Ct homeowners. Indeed, at the Oct 2nd City Council meeting Mr Smith criticized the Ontario Ct homeowners for not staying involved and for assuming the project would remain substantially as presented as late as May of this year.

On September 10, 2008, the Planning Commission held a public hearing and forwarded a positive recommendation to the City Council. The Council held a public hearing on October 2. Members of the public expressed concerns that houses wouldn't fit on lots that are approximately dimensioned as 50 feet deep by 55 feet wide and the buildings would be overheight. The buildings had not been reviewed by staff or the Planning Commission and would obviously have to meet the Land Management Code requirements. However, the Council remanded the subdivision back to the Planning Commission to be reviewed concurrently with the Steep Slope Conditional Use Permits. Subsequent to the City Council action and in response to the Planning Commission discussion of October 8th on the Steep Slope CUPs, the applicant redesigned the buildings and amended the plat. The revised plat responds to a redesign of the units in that the exterior parking pad is no longer to the side of the downhill buildings (Lots 1-6) but are in tandem configuration on the driveway. This design allowed the lots to be narrower (approximately 46 feet versus 52 feet). With the southern edge of Lot 1 remaining constant to preserve the historic walls the narrower lots shifted the northern line of Lot 6 approximately 40 feet to the south. Also, Lot 10 shifted to be adjacent to Lot 9 reducing the amount of disturbance and further clustering the development. The lots are also deeper than previously proposed (60-66 feet versus 50-53 feet) to allow for additional building articulation in the front and rear.

Public comments from the City Council meeting can be referenced within the meeting minutes.

** Concerns regarding the building design can be found in the response to the CUP staff report. Whilst this subdivision proposal may be an improvement on that presented on Oct 2nd, one should still ask how we got here from earlier proposals. It may suffice to ask how a sixty percent increase in the required driveway length over that proposed through May of this year and a relocation of buildings from the 'flatter part of the site' to the steepest most visually intrusive part of the site can be considered an improvement in site planning and design.*

Analysis

The underlying zoning is Historic Residential (HR-1). The minimum lot size in the HR-1 zone is 1,875 square feet. Included in the application is a request for the vacation of the platted, unbuilt Seventh (First) Street right of way.

The approved MPD showed a layout with seven units on the downhill (west) side of the private road and three units on the uphill (east) side. The proposed subdivision shifts one unit from the downhill side to the uphill side in order to stay further away from the north end of the historic stone walls. Another benefit to this revised layout is further clustering on the site with the uphill unit (#10) partially screened by the unit on Lot 1. At the September 10th hearing, the Planning Commission concurred that the shift of one downhill unit to the uphill was in substantial compliance with the MPD.

Staff finds good cause for this subdivision as it complies with the approved MPD, with

the concurrence of the Planning Commission on the moving of one unit, the HR-1 zoning restrictions, and the Park City subdivision regulations.

See previous comments regarding MPD and Subdivision regulations

Vacation of Right of Way

The applicant is requesting the vacation of platted Seventh (First) Street. The Planning Commission reviewed this aspect of the proposal during the MPD review. Staff has provided the same analysis below.

In order to execute the vacation, the City Council, after receiving a recommendation from the Planning Commission must make findings of compliance with Resolution No. 8-98, "Resolution adopting a policy statement regarding the vacation of public right-of-ways within Park City, Utah." The resolution is divided into three sections; each with reviewable criteria necessary for a finding of compliance.

SECTION 1 Good Cause: The City may generally find "good cause" when a proposal evaluated as a whole demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole.

Criteria 1: No increase in density. Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street right-of-ways will generally not be vacated to facilitate greater density, floor area or area disturbance.

COMPLIES

An Affordable Housing MPD is allowed a density up to 20 units per acre or approximately 54 units on the 2.7 acre site. The right of way is approximately 5,250 square feet or 0.12 acres reducing the potential number of units to 51 units. The proposed 10 units is a significant decrease in the number of possible units.

Density must be determined by a site suitability analysis not a claim to the legal maximum. The counterargument is that the existing condition is two large parcels guaranteeing only a maximum building footprint of 4500SF (LMC HR-1 footprint criteria). An early planning staff report alerted the Planning Commission to this possibility.

Building permits could not be obtained for units 2,3,8, and arguably 7 and 9 without a plat amendment. Consequently the request fails Criteria 1

**The building department will not issue any permits for a parcel that crosses a property line. Witness the many plat amendments that are processed every year for Old Town properties that incorporate parts of more than one historically platted parcel.*

A site suitability analysis should at least demonstrate that the equivalent number of similarly sized lots (including the stated open spaces) could actually be accommodated without the street vacation.

Criteria 2: Neighborhood Compatibility: The proposal shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use

will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall consider the 15 criteria for a conditional use located in Chapter 15-1-10 of the LMC when considering compatibility.

COMPLIES

Staff finds that no variances are required and that all requirements of the LMC are met. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

The Land Management Code (15-1-10) sets the following standards of review:

(1) *size and location of the Site;*

NO UNMITIGATED IMPACTS.

The site is approximately 2.7 acres and zoned HR-1. The ten units are a substantial reduction from the 51 units that are possible with the given land area.

See above. No site analysis has demonstrated that 51 units are possible.

If the MPD is found to be not applicable as seems to be the case given LMC 15-6-2 (c) then the entire process so far has been subject to a flawed and misleading analysis. All conclusions are thus thrown into question.

**On May 28th the applicant stated “ In response to issues about visible parking, overall massing and unit count they achieved a better product. Photo studies were done of all the neighboring streets and as a result they looked at putting what are now true single family units fronting Marsac. Their scale has dropped from three or four visual stories to two...That change responded to community feedback. Based on design review, the front units are envisioned to be bungalow style or something that fits with the neighborhood...”*

** ‘Two visual stories...bungalow style’*

(2) *traffic considerations including capacity of the existing Streets in the Area;*

NO UNMITIGATED IMPACTS.

The site is served by Marsac Avenue, aka State Route 224. Marsac Avenue, although carrying a large volume of traffic, has sufficient capacity for these ten units. The nearby intersection of Marsac Avenue and Hillside Avenue has stop signs on the downhill travel lane of Marsac and on Hillside. The uphill travel lane of Marsac does not have a stop sign but the posted speed limit is 20 miles per hour. The Master Planned Development required the developer to work with UDOT to provide a sidewalk and crosswalk.

Will infrastructure improvements including the sidewalks and crosswalk be required in advance of building permit issuance as is typical? The subdivision drawings make no reference to the sidewalks and crosswalk on Marsac Ave.

(3) *utility capacity;*

NO UNMITIGATED IMPACTS.
Adequate utilities exist nearby.

No Comment

(4) *emergency vehicle Access;*
NO UNMITIGATED IMPACTS.

Emergency access is from Marsac Avenue. In addition an emergency vehicle access is proposed from the north end of the site through Ontario Court, a private street. Two neighbors on Ontario Court have objected to the use of Ontario Court for emergency access. The City asserts a right to provide emergency access to all properties within Park City.

See previous comments above

(5) *location and amount of off-Street parking;*
NO UNMITIGATED IMPACTS.

Each unit will have two parking spaces, one in a garage and one exterior (on the driveway for Lots 1-6 and adjacent carport for Lots 7-10).

*Is it possible to reverse out of Unit 6 without accessing the area reserved for fire trucks?
Commssioner Peek asked the applicant to look at combined underground parking for the uphill units.*

(6) *internal vehicular and pedestrian circulation system;*
NO UNMITIGATED IMPACTS.

A sidewalk and crosswalk connect this project to the west side of Marsac Avenue. A turnaround is proposed on the north end of Silver Hills Court.

The two nine foot high rock walls proposed at the truck turnaround do not satisfy the required grade change 7219 to 7242

(7) *fencing, Screening, and landscaping to separate the Use from adjoining Uses;*
NO UNMITIGATED IMPACTS.

A landscape plan is required with both a Steep Slope CUP and the Historic District Design review. The site is mostly surrounding by natural open space.

The landscape planting shown on the site plan streetscape and unit plans is inconsistent yet critical to the perceived visual impacts of the project. More consistent details and guarantees should be provided prior to any approval

(8) *Building mass, bulk, and orientation, and the location of Buildings on the Site;
including orientation to Buildings on adjoining Lots;*
NO UNMITIGATED IMPACTS.

The Planning Commission is reviewing the Steep Slope Conditional Use Permits for these ten lots concurrent with the subdivision. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The

houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed.

See comments on the Steep Slope CUP

**See especially comments regarding required retaining structures, excavation and grading.*

(9) usable Open Space;

NO UNMITIGATED IMPACTS.

Approximately 60% or 1.63 acres of the 2.7 acres is proposed as dedicated open space. The applicant is not counting the proposed development lots into the open space calculation. An existing trail to the east will be within the open space. This open space will be owned by the HOA and deed restricted as open space.

To what extent is the open space 'usable'? Some areas seem difficult to maintain and thus prone to neglect.

(10) signs and lighting;

NO UNMITIGATED IMPACTS.

Any signs will require a separate sign permit and lighting must comply with the City lighting regulations.

No comment

(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

NO UNMITIGATED IMPACTS.

The Planning Commission is reviewing the Steep Slope Conditional Use Permits for these ten lots concurrent with the subdivision. The houses to the west, in the Prospect Avenue area are a mix of historic and contemporary homes of varying sizes. The houses to the northeast in the Ontario Avenue area are predominately contemporary and substantially larger than the homes proposed. Staff recommends that the specific house designs be sufficiently different to provide variety and interest.

See comments provided for Steep Slope CUP

(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

NO UNMITIGATED IMPACTS.

These factors would be typical of any residential street.

(13) control of delivery and service vehicles, loading and unloading zones, and

Screening of trash pickup Areas;

NO UNMITIGATED IMPACTS.

During construction, staging will be on-site. Post-construction, the amount of service and delivery will be typical of a residential street. A turnaround is provided at the end of the street.

(14) expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how

the form of Ownership affects taxing entities; and
NO UNMITIGATED IMPACTS.

Each lot and unit will be deed restricted as affordable housing and owner occupied.

No comment

(15) within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.
NO UNMITIGATED IMPACTS.

The site, as with all HR-1 zoned properties, is not within the Sensitive Lands Overlay.

Slope retention and relationship to topography are considerations independent of the criteria within the Sensitive Lands overlay zone. How can a claim of "No unmitigated impacts" be made?

Criteria 3: Consideration: Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon square footage); open space dedication above and beyond normal subdivision or development requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of right-of-way dedication; and/or any public amenity deemed in the best interests of Park City's citizens.

Complies

The platted Seventh (First) Street Right of way that is proposed to be vacated is 30 feet wide and 175 feet long for a total of 5,250 square feet. An Affordable Housing MPD requires a minimum of 50% open space that can be reduced to 40% by the Planning Commission. The proposed MPD has 60% open space and provides protection for an existing trail. The layout of the site is primarily predicated on the preservation to the greatest extent possible of the historic stone walls. Previous designs did not require the vacation of the right of way but also nearly completely removed the stone walls. Staff finds that the affordable housing itself is a community benefit in addition to the amount of open space, platting of a trail, and preservation of the historic stone walls.

See previous comments especially the applicability of MPD

Criteria 4: Utility of existing Right-of-Way. The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan, the recommendation to the City Engineer, existing improvements and utilities within the right-of-way and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Streets Master Plan, unless otherwise reduced by the City Engineer.

Complies

The 1984 Streets Master Plan lists the platted Seventh (First) Street R-O-W as "Existing Rights of Way considered Unbuildable" with the comment to "use as exchange parcel to extend Ontario Avenue to by-pass "slide for life hill"". With the re-platting and

development of Ontario Court, the exchange has been precluded short of an eminent domain action by the City.

Pursuant to State Law, (UCA 10-9a-609.5) a street vacation may not impair the right of way or easements of any lot owners or franchise rights of any public utility. The City Engineer reviewed this application and found no easements or utilities within the right of way.

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

Complies

The proposed vacation will not materially injure the adjoining properties. United Park City Mines Company owns the land on either side of the First Street right of way.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council and Historic Preservation Board, as necessary are encouraged early in the process for large projects and master planned developments, which propose vacation and reconfiguration of public right-of-ways.

The Planning Commission may determine whether a joint meeting would be necessary for this project. During the MPD review, the Planning Commission did not express a need for a joint meeting.

However this is a "Major Subdivision" if appropriately classified and analysed as such that opinion may change

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record. A remand from the City Council required published notice only.

The appropriateness of previous notices has been challenged elsewhere.

Has this application and public hearing been noticed as a Major Subdivision?

Public Input

Staff has received correspondence from two adjacent property owners on Ontario Court during the initial subdivision discussion. No further public input has been received regarding the remand. Neighbors from Ontario Court and Prospect Avenue spoke at the previous Planning Commission and City Council hearings.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Marsac Avenue Affordable Housing Subdivision as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to the City

100 Marsac Avenue, Steep Slope CUP Design Review.

First response to Planning Staff report (10 22 08) by Peter Barnes at the request of Jamie Thomas on behalf of Ontario Ct Driveway Association

Much of the original report is reproduced here with responses shown in italics.

Criteria 1: Location of Development. Development is located and designed to reduce visual and environmental impacts of the structure.

NO UNMITIGATED IMPACTS

The MPD and subdivision clustered the units to the north end of the 2.7 acre property. Ten residential lots from 2410 square feet to 2803 square feet are proposed. In addition, four deed restricted open space parcels encompassing 1.63 acres are proposed. Each building is two stories and have footprints approximately 25-30% smaller than allowed by the zone. The uphill units (#7-10) are situated behind the downhill units when viewed from the west so they are partially obscured. The location also saves approximately 78% of the historic Ontario Loading Station stone retaining walls.

All references to the MPD should be removed:

LMC 15-6 -2. APPLICABILITY.

(C) MPD's are allowed in Historic Residential (HR-1) Zone **only** when:

- (1) HR-1 zoned parcels **are combined with** adjacent HRC or HCB zone Properties as part of an allowed MPD (see criteria above; or
- (2) Property is **not** a part of the original Park City Survey or Snyder's Addition to the Park City Survey and which may be considered for Affordable Housing MPDs consistent with Section 15-6-7 herein.

This project fails both criteria.

The Subdivision process is incomplete and remains a 'proposal' at best. The visual and environmental impacts of the proposal are significant. (NB this is a "Major Subdivision as defined by the Land Management Code and should be processed accordingly.)

The impacts of this proposal may, in part be a result of attempting to mitigate the physical impact on the existing rubble walls. However, moving the proposed buildings to the North absolutely and without question, increases their visibility and perceived massing over previous proposals. The applicant has consistently failed to provide suitable visual analysis justifying staff's claim.

Criteria 2: Visual Analysis. The applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine the potential impacts of the project.

NO UNMITIGATED IMPACTS

The proposed buildings are in an area of Old Town where there are both larger contemporary buildings (Ontario Avenue and Court) and smaller historic homes (Prospect Avenue area). The applicant has submitted a streetscape of the ten proposed buildings demonstrating the visual impacts of the buildings as viewed from the west. The two closest houses on Ontario Court are drawn in for perspective. The project site

proposed with two stories; however, there are additional exposed foundation walls of varying heights (2 to 9 feet in height). Even with the exposed foundations, the buildings are 2-3 feet under the 27 foot height maximum (see height exception for Lot 6).

At the previous Planning Commission meeting further information was requested in order to make a determination. Chair Thomas specifically requested a site model and asked for dimension information to be noted on the drawings. The plans in the packet do not show the individual buildings in relation to their proposed lots, no USGS datum information is shown on the building plans, or elevations as required for the application. No sections are provided. (No lots shown for the individual applications, the project site plan has no lot dimension nor setbacks). The streetscape is incorrect. A cursory inspection of the site/topo plan shows an incorrect relationship between the proposed buildings and the grade level. For example the south corner of Unit 1 and the north corner of Unit 6 are both shown on the site plan to intersect existing grade at approximately the same contour (7202'). The streetscape drawing does not represent this condition. The streetscape drawing also fails to illustrate the retaining walls shown on the site plan; note especially the trees located north of unit 7, which according to the streetscape drawing are located in the truck turnaround.

Potential impacts cannot be determined from the contradictory information provided.

Criteria 3: Access. Access points and driveways must be designed to minimize grading of the natural topography and to reduce overall building scale.

NO UNMITIGATED IMPACTS

Each of the ten homes will take access from a private road (Silver Hills Court) with access to Marsac Avenue (SR 224). Silver Hills Court utilizes the existing railroad grade thereby eliminating the need for substantial grading for access. The driveways to the garages on Lots 1-6 provide for the second Code required parking space. On the uphill Lots 7-10, the buildings are at the front setback with short driveways as the second parking space is under the buildings in an open carport.

It is typical to require infrastructure improvements to be completed prior to the issuance of individual building permits (as was the case for the Ontario Ct driveway). The North end/West side of the proposed street lies substantially higher than the existing grade requiring the downhill buildings to act as retaining structures for the road. It is doubtful if the access road could exist without the buildings on the downhill side.

As a result of the relative levels of floors and grade from uphill to downhill sides the lower level foundation walls of buildings 5 and 6 especially, have the same impact as an additional occupied storey. This would suggest a proposal incompatible with the natural topography.

Can cars enter and exit the driveway and garage of Lot 6 without cars maneuvering over the portion of road required for fire access "ONLY"?

An initial comparison of the site/topo plan and the unit plans show marked discrepancies with the information provided. For example the "side elevation" of unit seven (both sides) fail to show the required retaining structures indicated on the site plan. If existing grade was shown on these elevations it would reveal the substantial regrading required.

At the last meeting Commissioner Peek discussed the option of combining garages on the uphill buildings in an effort to reduce grading and visual impacts

As is typical throughout this staff report; the conclusion 'no unmitigated impacts' cannot be drawn from the information supplied. No appropriate level of analysis can be performed.

Criteria 4: Terrace. The project must provide terraced retaining structures to regain natural grade.

NO UNMITIGATED IMPACTS

Minimal retaining structures are necessary. The four uphill units (7-10) have boulder retaining walls of less than four feet in height behind the units. The downhill lots (1-6) also have 4'-5' high walls between the buildings. The vehicular turnaround will also require a retaining wall approximately 18 feet high into the east hillside. As units 5 and 6

are directly across Silver Hills Court from the turnaround, they will help mitigate the visual impact. In addition, the wall is proposed to be separated into two nine-foot high walls with landscaping between the tiers.

The uphill units have retaining walls labeled as 8' high (but drawn closer to 10' high, see Unit 7) between the units. Walls shown on individual unit elevations do not match the walls shown on the site/topo plan. The information shows four foot high walls to the rear with a very steep slope rising from the top of these walls. Requirements for excavation and backfill of these lots will have a significant impact on the final design, and height of these walls.

What is the visual impact of the turnaround as viewed from the entry to Ontario Court from Ontario Avenue?

Some retaining walls are not shown on the individual building plans.

No retaining walls are shown on the elevations of the down hill units.

Potential impacts cannot be determined from the contradictory information provided.

Criteria 5: Building Location. Building, Access and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the site.

NO UNMITIGATED IMPACTS

The 740-900 square foot footprint buildings are placed onto the hillside with natural grade remaining along the sides of the buildings, with the exception of the small boulder walls to help maintain existing grade. Access and infrastructure will be along the existing railroad grade minimizing the need for excessive site disturbance and grading.

For the reasons stated above, this conclusion cannot possibly be reached from the information provided. At this stage it seems necessary to ask why the staff report consistently fails with regard to any critical analysis. Conclusions appear to ignore the information provided presenting conclusions as unsubstantiated facts.

Criteria 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.

NO UNMITIGATED IMPACTS

The buildings have footprints of approximately 740 to 900 square feet and minimal stepping. Each building is slightly rectangular in shape (37 feet wide by 28 feet deep on Lots 1-6, 30'-8" wide by 28'-8" on Lots 7-10) oriented with the existing contours. Each building has horizontal and vertical articulation in keeping with the simple forms of the Historic District. The uphill units have greater stepping in the foundation and building form as this is the steeper part of the property.

No comment

Criteria 7: Setbacks. The 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 rear Property Line. The Setback variation will be a function of the building, site constraints, proposed Building scale, and Setbacks on adjacent Structures.

NO UNMITIGATED IMPACTS

There are no other houses along the east side of Marsac Avenue for several hundred feet to the north. The backs of the downhill units face Marsac but curve away from the street up to 50 feet and more based on the lot layout. All buildings have a minimum of five feet of setback in the side yards. The lots are sized to fit the building configurations. The lots could be larger thereby increasing the technical setbacks to the lot lines, but from a practical standpoint there would be no visible difference in the front and rear setbacks. Increasing the side setbacks would cause the buildings to be spread further across the property and closer to the Ontario Court homes.

No comment

Criteria 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 Commission may further limit the volume of a proposed structure to minimize its visual mass and/or to mitigate difference in scale between a proposed structure and existing structures.

NO UNMITIGATED IMPACTS

The design is compatible with the volume of the smaller historic homes to the west and south. The contemporary single family homes in the Ontario Avenue area are substantially larger with three to four stories and several thousand square feet of floor area.

The perceived scale of the downhill homes seems at odds with the accommodation provided. This is a direct result of the design proposal and planning methodology. Typically old town lots leave little choice in this regard. Not so for this site.

Criteria 9: Building Height (Steep Slope). The maximum Building Height in the HR-1 District is twenty-seven feet (27'). The 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.

NO UNMITIGATED IMPACTS

Due to the smaller sizes of the units, especially compared to the nearby Ontario Court homes, staff does not recommend further reduction in heights. The proposed heights of the buildings are at or below the 27-foot height restriction. The roof of the small gable over the kitchen window on Unit 6 exceeds the height maximum by less than two feet. A redesigned roof form could be accommodated to meet the height requirement.

No information regarding building height is shown on the individual unit plans and elevations. Levels are required as part of an application. Planning Commission chair Thomas asked that staff ensure that dimensions were provided, as requiring commissioners to scale drawings was unacceptable. No building or site sections are provided. An initial review of the drawings provided in the packet makes measurement difficult. There needs to be clarification of the levels shown on the site plan for floors, plate hts and ridgelines. When comparing the Unit elevation drawings with the site plans the uphill lots appear to show underside of ridge not top of ridge, is this correct? This may be a problem with reproduction of the drawings which would not be an issue if the required application information was present.

If the proposed road was lowered, especially at the North end to follow more closely the existing grade then the downhill lots would be reduced in overall height. Uphill lots in this scenario would be negatively impacted unless they were clustered more to the South.

Criteria 10: Height Exceptions (Steep Slope). The Planning Department and/or the Planning Commission may grant a Building Height exception for a portion or portions of a proposed structure if the applicant proves compliance with each of the criteria.

NO UNMITIGATED IMPACTS, minor height exception requested for building 6.

- a) Height exception to 28'-9" does not exceed 40 feet.
- b) Building has horizontal and vertical step backs to achieve increased articulation.
- c) The proposed design and articulation are similar to other buildings in the project and the mass is substantially smaller than buildings on Ontario Court.
- d) No snow release issues identified by the Chief Building Official.
- e) All other elements of the building are under the 27-foot height requirement.
- f) The height exception does not allow for additional floor area as a continuation of the roof would be under the 27-foot height.
- g) The gable breaks up the roof and provides architectural interest.
- h) The height exception is compatible with good planning practices and design by providing more articulation to the roof form.
- i) The height increase of 1'-9" will result in a superior plan with greater building articulation and interest.
- j) The small gable and height exception have no impacts needing mitigation as outlined in LMC 15-1-10 Conditional Use Review.

No comment

Findings of Fact:

1. The property is located at 100 Marsac Avenue.
2. The zoning is Historic Residential (HR-1).
3. The approved plat created 10 residential building lots and four open space parcels.
4. Access to the lots from Marsac Avenue is via a private driveway (Silver Hills Court).
5. The minimum front yard setback for lots of this size is 10 feet.
6. The minimum rear yard setback is 10 feet.
7. The minimum side yard setback is 5 feet for the lots as proposed. The applicant proposes 5 feet on all side yards.
8. The maximum building height in the HR-1 zone is 27 feet. The Planning Commission, in reviewing a Steep Slope Conditional Use Permit may grant a height exception.
9. No additional roof height was proposed or approved with the MPD. A minor height exception of 1'-9" is proposed for a subordinate gable on the rear of unit 6.
10. Parking in an Affordable Housing MPD is required at a rate of one space per bedroom. Ten two-bedroom houses are proposed requiring 20 parking spaces.
11. The applicant is proposing two on-site parking spaces within a single car garage and an exterior space for each of the ten two-bedroom units.
12. The maximum footprints for these lots are 1052 to 1197 square feet, based on lot size.
13. The proposed footprints are 746 to 910 square feet.
14. The total floor area of the ten buildings is 12,275 square feet, representing 15 Affordable Housing Unit Equivalents.
15. The findings in the Analysis section of this report are incorporated herein.

See previous comments

Conclusions of Law:

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B)
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

For the reasons stated above, this conclusion cannot possibly be reached from the information provided.

Conditions of Approval:

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation,

public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.

4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.

5. No building permits shall be issued for this project unless and until the design of the houses are reviewed and approved by the Planning Department staff for compliance with the Historic District Design Guidelines.

6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.

7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.

8. A height exception of 1'-9" is granted for the subordinate gable on the rear of unit 6.

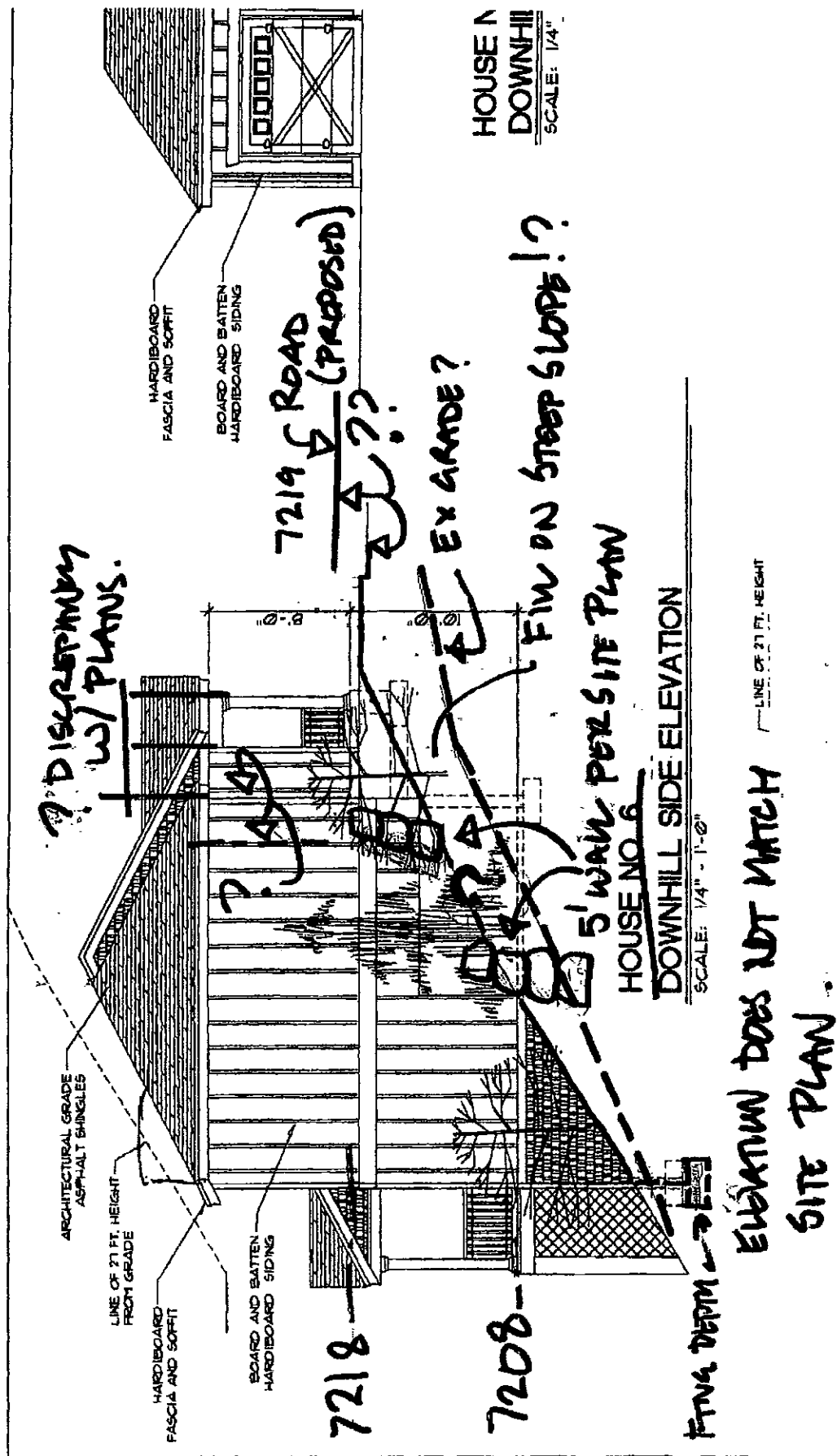
9. Building permit plans must substantially comply with the drawings reviewed and approved by the Planning Commission on October 22, 2008.

10. This approval will expire on October 22, 2009, if a building permit has not been issued.

Exhibits

Exhibit A – Site plan, floor plans, and elevations

Planning Commission - October 22, 2008



Hand-drawn architectural sketch of a house with various annotations and dimensions. The drawing includes the following elements:

- Annotations:**
 - ARCHITECTURAL GRADE ASPHALT SHINGLES
 - HARDBOARD FASCIA AND SOFFIT
 - HARDBOARD HORIZONTAL SIDING
 - HARDBOARD SHAKE STYLE SHINGLES AT GABLE END
 - ALUM. CLAD WOOD WINDOWS
 - OPEN CARPORT BAY
 - 8 FT BOULDER WALL
 - 8 FT BOULDER WALL
 - SEAVES AT 10 H.
 - PER SITE PLAN
 - PER SITE PLAN
 - PER SITE PLAN
- Dimensions:**
 - 7240
 - 7230
 - 7220
 - 50
 - 45
 - 40
 - 35
 - 30
 - 25
 - 20
 - 23'-4"
 - 10'-0"
- Other Features:**
 - A dashed line representing a roofline or boundary.
 - A small circular feature on the roof.
 - A small rectangular feature on the side of the house.
 - A small circular feature on the ground level.

EXISTING CAPS
PER TORD.
(year)

UNIT 7
SOUTH AFRICA

552

architecture

2015 don 4/40
10/10/15 4/40

(801) 993-9328 FAX

AFFORDABLE HOUSING

MANPAD AVENUE
PARK CITY, UTAH

TALISMAN

ARCHITECT

Edison's Ontario Court

MEMORANDUM

TO: PARK CITY PLANNING COMMISSION
FROM: JEFF AND LESLIE EDISON
SUBJECT: 100 MARSAC
DATE: OCTOBER 31, 2008

We are writing to express our concern about the Planning Commission's actions at the last meeting to approve the 100 Marsac Avenue project. We have addressed our concerns both in writing and in direct conversation with the Planning Commission and to the developer (please see attached letter). However, we do not believe our concerns have been addressed. The project continues to be concentrated at the northern edge of the property and we believe it creates a visual connection between our driveway and the new access road. The plan also continues to use our driveway as an emergency access road to the proposed project.

Unless we can get to some concession to reduce the potential vehicular traffic on Ontario Court and to redistribute the concentration of the homes in the proposed development to the southern end of the property, we will be forced to move forward to pursue our legal property rights.

As I have discussed with the developer and the planning staff, this is not our preferred route. However, we appear to be left with few options at this point.