

EXHIBIT G

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