

EXHIBIT J

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 its 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.