PARK CITY MUNICIPAL CORPORATION HISTORIC PRESERVATION BOARD

COUNCIL CHAMBERS, CITY HALL FEBRUARY 6, 2013



AGENDA

MEETING CALLED TO ORDER AT 5:00 PM ROLL CALL PUBLIC COMMUNICATIONS – Items not on regular meeting schedule. STAFF/BOARD COMMUNICATION & DISCLOSURES Introduction of Board Member Gary Bush Update on artist selection for Historic Awards ACTION ITEMS – Discussion, public hearing, and action as outlined below. 100 Marsac Avenue – Remand of Appeal of Staff's PL-09-00709 Determination

Quasi-Judicial hearing

ADJOURN

Times shown are approximate. Items listed on the Regular Meeting may have been continued from a previous meeting and may not have been published on the Legal Notice for this meeting. For further information, please call the Planning Department at (435) 615-5060.

A majority of Historic Preservation Board members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

Historic Preservation Board
Staff ReportPARK CITYSubject:Appeal of Historic District Design
Review for 100 Marsac Avenue1884Author:Katie Cattan, AICPDate:February 6, 2013 (Continued from January 16, 2013)Type of Item:Quasi-Judicial

Recommendation

Staff recommends that the Historic Preservation Board hear the remand of the appeal of the approval of the Historic District Design Review (HDDR) and consider upholding the design approvals in accordance with the findings of fact, conclusions of law, and conditions of approval within the staff report and Exhibit E.

Project Information

Appellants:	Jeff and Leslie Edison		
	Jamie and Kathleen Thomas		
Location:	100 Marsac Avenue		
Zoning:	Historic Residential (HR-1)		

Background

Ten Historic District Design Review applications for new construction of single family homes were submitted on August 29, 2008. The applications were deemed complete on August 29, 2008. On January 28, 2009, the Planning Department found the HDDR application for ten homes to be located at 100 Marsac Avenue to be in preliminary compliance with the Historic District Design Guidelines. On February 9, 2009, the City received two appeals of the Historic District Design Review approvals for the 10 single family homes. (Exhibit A) The appeal also claimed that the noticing was faulty. The appellants are Jeff and Leslie Edison (128 Ontario Court) and Jamie and Kathleen Thomas (134 Ontario Court). An additional 36 page submittal was received on May 5, 2009 from the 2 appellants jointly. (Exhibit A) All submittals by the appellant are included as Exhibit A.

The Historic Preservation Board ("HPB") heard the appeals of the HDDRs on May 6, 2009. At that time, the appellants wished to raise new issues and discuss new information with the Board based on the supplemental submittal which the appellants had submitted the day before the hearing. Staff and the applicant (Talisker) objected to the new issues and information. After discussion by the HPB (see May 6, 2009 minutes, Exhibit J), the HPB rejected the May 5, 2009 information as it was not submitted in a timely manner.

On May 18, 2009, the Edisons and Thomas' jointly submitted an appeal to the Board of Adjustment (BOA) of the HPB decision under LMC 15-11-11(D)(3) and 15-10-7.

On July 28, 2009, the Board of Adjustment (BOA) heard the appeal of the Historic Preservation Board's decision regarding the staff approval of the Historic District Design Review. The BOA found that the information submitted the day before the HPB hearing should have been considered by the HPB in their review. In a 3-1 vote the BOA directed staff to prepare findings granting the appeal in part as it related to the review design guideline compliance. The BOA denied the appeal in part regarding the issues which were not specific to Design Guideline Compliance including access and lot alignment issues. (Exhibit L July 28, 2009 Minutes).

On August 18, 2009, the Board of Adjustment ratified Findings of Fact, Conclusions of Law, and an Order remanding the appeal back to the HPB for a hearing on those issues raised in the original appeal and supplemented on May 5, 2009. (Exhibit M) The BOA found that the additional materials should have been heard by the Historic Preservation Board. However, the BOA upheld the HPB determination that prior legal notice and actual notice was given. The BOA denied the appeal in part regarding the issues which were not specific to Design Guideline Compliance including access and lot alignment issues.

On September 2, 2009, the remand was scheduled to be heard by the Historic Preservation Board. During this meeting, the applicant and the appellant requested that the appeal be continued. The appeal was continued three (3) times with the consent of all of the parties (October 7, 2009; November 4, 2009; December 2, 2009). No meeting was held on December 2, 2009. The application does not contain a record of correspondence after the December 2, 2009 regarding the appeal. However, Planning staff met several times with various parties to review possible alternatives but no compromise was reached. A related matter was also sent to the Utah Private Property Ombudsman.

Contemporaneously with the HDDR application, the Applicant also applied for a Master Planned Development, a subdivision and Steep Slope Conditional Use Permits for each property. The subdivision was appealed to Third District Court, which upheld the approval on June 25, 2009. The litigation focused primarily on easement and separate notice claims and did not impact the issues of this appeal. The only appeal before the HPB is regarding the HDDRs.

On August 21, 2012, Staff sent the applicant, Talisker, represented by David Smith, a letter to either move forward with a date to review the appeal or formally close the application due to inactivity. Mr. Smith requested that the file remain open and the appeal be heard.

Based on the schedules of all the parties, the first date available was January 16, 2013. The appeal has been re-noticed in compliance with the Land Management Code 15-1-12 for January 16, 2013. During the January 16, 2013 meeting, the applicant and appellant agreed to continue the item to February 6, 2013 at the request of the Historic Preservation Board. The only changes to this report are 1)the full set of documents previously submitted by the applicant (Exhibit I) and 2) one submitted email as public comment (Exhibit P).

Burden of Proof and Standard of Review

Pursuant to LMC 15-1-18(G) and 15-11-11(D)(2), the HPB shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The scope of review by the HPB shall be the same as the scope of review by Staff. Staff reviews a Historic District Design Review by determining compliance with the Guidelines. The original applications were deemed complete on August 29, 2008. The 2009 Guidelines did not become effective until July 9, 2009. Therefore, the 1983 Park City Historic District Design Guidelines for new construction are applicable to this appeal (Exhibit B). As well as the pre-2009 Land Management Code.

<u>Analysis</u>

Staff has included the site plan (Exhibit C), the approved plans for the ten proposed homes (Exhibit D) and planning staff's Historic District Design Review reports for each of the ten homes (Exhibit E) as exhibits. The Order from the Board of Adjustment (exhibit L) to the Historic Preservation Board states:

Order:

- 1. The appeal is granted in part and the matter is remanded back to the Historic Preservation Board ("HPB").
- The HPB shall only hear those items relating to the Design Guideline compliance as raised in the original appeals of February 9, 2009, and as supplemented on April 29th and May 5th. Staff shall include specific written findings of compliance in the remanded staff report.
- 3. Matters raised by Appellants which are not specific to Design Guideline compliance shall not be considered by the HPB, including access and lot alignment issues settled by the Third District Court decision dated 6/25/09 cited in the staff report.
- 4. The appeal with regard to notice is denied.

Accordingly, this order and the HPB's scope of review provide that the HPB's role is the same as Staff's and issues for this appeal are therefore limited to design guideline compliance only. As the applications were received prior to the current Historic Guidelines adoption on July 9, 2009, the previously adopted 1983 Design Guidelines are the applicable review document. Subdivision, notice, CUP, and other issues outside of the design review are not within the HPB's authority to consider.

Both the appellants and the applicant were given the opportunity to submit additional arguments regarding the remand.

The Appeal

The points of the most recent submittal by the appellant on December 14, 2012 (see Exhibit A) have been cut and paste from the submitted appeal and placed into a text box. Only applicable points regarding the design review application have been included. The applicant included further analysis of the points of the appeal that were not cut and paste into the staff report. These may be reviewed by the HPB within Exhibit A.

Staff analysis follows each point. In some places, the appellant has submitted arguments relating to the 2009 Historic District Design Guidelines. However,

complete applications were filed on August 29, 2008. The date of the complete application is the date that the application is vested in the Code unless there is a pending ordinance that would apply to the application. As of August 29, 2008, there was no pending ordinance. Thus, the Land Management Code on the date of the complete application and 1983 Historic District Design Guidelines were applied to the application.

Staff included the full 1983 Historic District Design Guidelines in *italics* following each point of the appeal, where applicable.

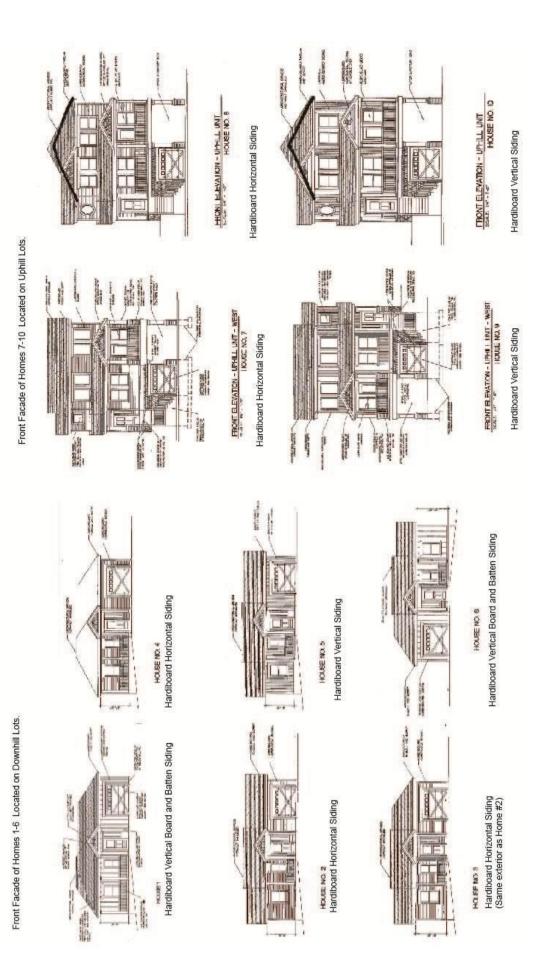
Point of Appeal #1

1) House designs are not sufficiently different as required by the conditions of the MPD

1. Staff Analysis: Discussion Requested.

Condition of Approval #2 of the Master Planned Development approval states "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."

The applications for the Historic District Design Review (HDDR) include 10 single family homes. There are 2 different floor plans included for the submittal. One floor plan for new homes on the downhill lots (homes 1 - 6) and one floor plan for the uphill lots (homes 7 - 10). Within the floor plans there is some variation of garage and entryway locations. The Architect created further variation on the exterior of the homes through changes in location and design of windows, doors, porches, and dormers. The exterior siding of the homes includes the use of board and batten, horizontal lap siding, and vertical siding. Staff found that the design complies with condition of approval #2 of the MPD. This condition of approval was reviewed within the HDDR application, therefore this point is included within the appeal. Staff has compiled the approved exterior front facades for the HPB to review for compliance with Condition of Approval #2 of the Master Planned Development. Exhibit O has been included with the HPB packet as a 11" x 17" printout for the HPB's review.



2) No detail landscaping plans were ever submitted as required by the Conditions of the Master planned development agreement, the required site information, Streetscape and other requirements of the HDDR application were never provided

2. Staff Analysis: Discussion Requested.

Landscape plan: The Master Planned Development condition of approval # 4 states "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." During the review of the Steep Slope CUP and the Historic District Design Review, a landscape plan was not submitted, but conditioned as a requirement prior to building permit issuance. (Condition of Approval #4 SS CUP) This condition of approval continues to apply.

Site plan: The January 20, 2009 site plan (Exhibit C) was approved with the Historic District Design Review application.

Streetscape: A streetscape was included in the original submittal. (Exhibit H) The streetscape does not include the retaining walls. Staff requested that the applicant provide an updated streetscape including the revised retaining walls for the review by the HPB.

Staff requested that the applicant provide the HPB with the following for review by the HPB:

- 1. Provide survey data showing the original land boundary used for the HDDR versus the subdivision as approved. Submit explanation of any difference (.53 acres difference is alleged).
- 2. Provide an updated site plan that shows all proposed improvements superimposed on the approved subdivision plat. Please label the dimensions of each lot
- 3. Roof over topography. Provide an updated roof over topography based on approved roof orientations of the HDDR and the approved Steep Slope Conditional Use Permit. Redline any changes that occurred between the approval of the SSCUP and the HDDR approval.
- 4. Provide all changes in the retaining walls and building footprints between the October 22, 2008 steep slope conditional use permit approved site plan and the January 20, 2009 Historic District Design Review approved site plan and streetscape. Provide redlined site plan of the retaining wall changes.

The information requested was submitted by applicant on January 9, 2013 and included in the packet as Exhibit I. This packet was provided to the Appellants on January 9, 2013. The additional information included the required landscape plan. The Historic Preservation Board shall review the submitted landscape plan as part of the application. The additional submitted did not include an updated streetscape as requested.

3) Final plans are not in compliance with final approved Steep Slope Conditional Use Permit (CUP) plans from the planning commission. There are wide discrepancies between the purported HDDR 'application' set (Aug 2008), those approved by Planning Commission and those drawings submitted in Jan 09 to supplement the HDDR application.

Issues referenced include:

- a. Changed locations
- b. Major changes to the retaining walls with high visibility to all of Old Town
- c. Setback deviations
- d. Density issues
- e. Parking issues (potential)

3. Staff Analysis: Further discussion requested in Point of Appeal #5 and #11.

Changes in the site plan occurred after the Steep Slope Conditional Use Approval on October 22, 2008 (Exhibit F) and the Historic District Design Review preliminary approval on January 29, 2009 (Exhibit C). The applicant submitted a packet on January 9, 2013 including the approved Steep Slope CUP site plan and the Historic District Design Review approved site plan. Within sheet 4 of 7 of Exhibit I the applicant included the height of each ridgeline from existing grade. There were no changes to the lot configuration. The footprint on Unit 9 flip-flopped moving the garage from the north side of the home to the south side of the home. Staff did not find this change to be substantial. The changes in the retaining walls is reviewed in full within point of appeal # 5.

4) Significant subdivision issues were revealed by our ongoing analysis

including; the approved subdivision is approved at 2.7 acres but the site plan only has 2.17 acres including the vacated row. The require ROW is 25' not 24' as shown.

4. Staff Analysis: Complies.

The original subdivision application consisted of two metes and bound parcels and platted Seventh Street encompassing approximately 2.19 acres. (See Exhibit I Part 3)

Parcel 1	1.38 acres
Parcel 2	0.69 acres
Platted Seventh Street	0.12 acres
Total	2.19 acres

When Parcel 1 and Parcel 2 are added together, the area prior to vacation of right of way was 2.07 acres (1.38 + 0.69). Within the subdivision review, staff erred within a typo in the staff report stating the land was 2.7 acres. The zero in 2.07 was dropped. This error does not affect the density of the Master Planned Development. Affordable housing MPDs are allowed up to twenty units per acre. The approved subdivision included ten lots of record, all in compliance with the minimum HR-1 lot area requirement of 1,875 square feet. The 24 feet wide Right of Way was approved by the City Engineer under the previous adopted Park City Streets Master Plan.

70 New retaining walls...

According to this requirement new walls should match the form, texture and color of existing historic walls.

The August 29 2008 application has serious discrepancies between the individual building elevations and the requirements for retaining structures evidenced by the site plan. The Architectural site plan of August 29 2008 indicates concrete (assumed) retaining walls between the downhill units in order to accommodate side yard parking areas. Boulder retaining walls are shown behind the uphill units running the length of the developed lots. These boulder walls are shown to be approx four feet high on the building elevation drawings in the application. This entire plan was revised prior to the approval of the subdivision as (amongst other issues) it was demonstrated that the proposed layout failed to meet setback criteria.

No new site plan(s) is included in the HDDR file. No analysis possible.

The October 8 Architectural layout (not part of the application) has no retaining structures shown to the down hill units.

The October 14 Architectural site plan (not part of the application) shows two tiers of five foot retaining walls between the downhill units. The truck turn around on the uphill side indicates two tiers of nine foot high boulder retaining walls. However the contours indicate a twenty four foot level change in this location. Boulder retaining walls are indicated in the side yards of the uphill units but no corresponding details appear on the building elevation drawings. The rear boulder walls appear to be, as before, approx four feet high.

The only drawings added to the Historic District Design Review file, dated January 2009, show the rear of the uphill units with boulder retaining walls in excess of ten feet. This is discouraged by the Historic District Design Guidelines (current and pending) and is in conflict with the LMC requirements for retaining walls to be less than six feet high in the rear (or side yards).

This item of the Historic District Design Guidelines alone raises significant concerns regarding the suitability of the entire project. One of the stated purposes of the proposed site design was a respect for the historic retaining walls currently existing on site. The proposed walls, indicated as massive boulders, tiered up to ten feet high cannot meet this design criteria. These walls do not conform to the drawings submitted at CUP approval and would need separate approvals. As drawn they satisfy neither HDDG nor LMC criteria.

Specifically with regard units 6 (downhill) and 7 (uphill), chosen because they are closest to Ontario Ct, retaining walls shown on the revised elevation drawings do not match those indicated on any site plans available in the HDDR file. The elevations themselves are inconsistent with each other.

Excavation and retaining walls have been a significant source of concern and debate during recent LMC and Historic District Guideline discussions. The conflicting information in the files and the lack of detail provided with the application should necessitate further review by the HPB.

- 5. Guideline #70 states: <u>New Retaining Walls should be similar in Color</u>. *Retaining walls are a necessity on many sites and their repetition along the street contributes to the visual continuity of the block (see guideline #56).*
- New stone walls are encouraged.
- Stone veneer may be considered if the material and method of installation are typical of that found historically in the district.
- Textured specially formed and sandblasted concrete walls are encouraged. Stucco finish concrete is not appropriate.
- Align new walls with existing ones when feasible.

Staff Analysis: **Discussion Requested**. Changes to the retaining walls occurred between the October 22, 2008 Steep Slope CUP approval and the site plan dated January 20, 2009 within the Historic District Design Review application.

The site plan for the HDDR did not specify the wall heights. Staff requested that the applicant provide an updated site plan identifying all wall heights. The applicant submitted the HDDR site plan with identified wall heights on January 9, 2013.

The January 9, 2013 HDDR site plan locates one "exposed bedrock or soil nail wall" 20 foot high retaining wall at the turn-round. No illustrations of the proposed soil nail wall were submitted. The January 9, 2013 HDDR site plan includes two to three 6 feet tall boulder retaining walls along the rear yard of the uphill properties. Two six foot high boulder walls are proposed above the 20 foot high exposed bedrock/soil nailed 20 foot wall. Retaining in this area will exceed 30 feet within an expanse of thirty feet. No illustrations of the proposed walls were submitted. Boulder size, rock type, and method of construction are unknown. Staff requested an updated streetscape including the retaining walls. A new streetscape was not provided by the applicant.

During the original review of the HDDR, staff found that the proposed boulder retaining walls along the rear and side yards of the properties and the exposed bedrock or soil nailed wall at the turn-around as shown in the January 20, 2009 site plan complied with Guideline #70. The changes between the SS CUP application and the HDDR were not determined to be substantial by staff. Therefore staff approved the changes in the retaining walls within the HDDR application.

Retaining Wall Height: Per the Land Management Code Section 15-4-2: "Fences and retaining walls may be erected or allowed within the buildable area and as allowed in the setback exceptions in Chapter 2. Fences and retaining walls shall not exceed six feet (6') in height measured from Final Grade within any required Rear Yard or Side Yard. Within any required Front Yard or Street Side Yard, Fences and retaining walls shall not exceed four feet (4') in height, measured from Final Grade.

Two terraced boulder retaining walls of 9 feet each were approved at the turn-around as shown on the approved site plan during the Steep Slope conditional use permit review. The retaining wall at the turn-around is located within the property open space and not within a building pad or setbacks. Therefore, the nine foot walls were reviewed by the Planning Commission during the Steep Slope CUP within the site plan but no exception for additional height was required.

#71 Façade width

"typically 15 to 20 feet wide" As these are wider than historically found, one would expect a staff report to comment on the suitability or otherwise. There is no staff report.

[A staff report for the HDDR review of the project came later]

- 6. Guideline #71 states: <u>Maintain the Typical Size and Shape of Historic Facades</u>. *Traditionally, the front of houses facing the street were 15 to 20 feet wide, depending upon the width of the lot, the orientation on the slope, and the floor plan of the house. Building fronts had a vertical emphasis. The similarity in size and the repetition of these similar sizes and shapes is an important element in establishing the "pedestrian scale" of the residential district.*
 - New construction should include facades that have similar widths and heights to those found elsewhere on the street.
 - In cases where a new building is wider than the typical historic building, consider breaking up the façade into smaller components that resemble the scale of typical buildings in the neighborhood.
 - Where the height of new building will exceed the norm on the street, consider ways to minimize the visual impact on the street. One method might be to step the height down as it nears the street.
 - See also specific limits in the Land Management Code.

Staff Analysis: **Complies.** The lots within the subdivision vary in width from 30 to 40feet wide. This is consistent with many 1 ½ to 2 lot wide lot combinations in existence throughout the historic district. The front facades have been broken up through the introduction of covered porches, gables over front doors, and garages set back from the front wall plane.

#72 Spacing

The application drawings do not represent the current approved site layout. No supplemental site drawings exist within the HDDR file. The original site layout failed to meet minimum LMC regulations. (Note the guidelines do make specific reference to the need to satisfy LMC). The Staff report on HDDR should indicate why this has been approved as the only evidence available in the file is contrary.

- Guideline #72 states: <u>Maintain the Typical Spacing Pattern of Street Facades</u>. Historically, combined side yards were 6 to 16 feet wide, and this has established a pattern of building – space – building. Although this is not a rigid pattern of exactly repeating dimensions, it is still an important element in the visual character of the neighborhood.
 - In new construction, consider the relationship of the new building and its side yard setbacks to those of existing buildings.
 - Remember that minimum setback requirements as defined in the Land Management Code must still be met.

Staff Analysis: **Complies.** The closest existing buildings are on Ontario Court to the north. Each of the ten new units maintains a consistent pattern of ten foot spacing between the buildings, meeting the LMC side yard setback requirements. This maintains the pattern of spacing throughout the Historic District.

Point of Appeal #8

#73 Roof orientation

The guidelines refer to typical orientation perpendicular to the street except for a single story house with a full width porch. Whilst this may or may not be relevant in this case a staff report should at least comment on this failure to comply.

- 8. Guideline #73 states: <u>Maintain Typical Roof Orientations</u>. Most houses have the ridge of their roof set perpendicular to the street, but one style exception is the one-story with a gallery porch across the entire front. In this case, the ridge of the roof was parallel to the street. This orientation creates a horizontal street façade, rather than a vertical one.
- Ridges set perpendicular to the street will minimize the mass of roof material visible from the street.

Staff Analysis: **Complies.** All ten homes have ridgelines that run horizontal with the street. Hipped roofs and dormers have been included in the design of each home to decrease the visual impact of the roof mass as viewed from the front facade.

#74 Roof slopes

The guidelines refer to a traditionally "steep roof pitch". The application drawings have no reference to the designed roof pitch. (normally a required piece of information for applications within the HR-1).

The latest code changes supported by HPB, Planning Commission and City Council require a minimum roof pitch of 7:12.

[Information on the Oct site plan with roof over topo information provides little clarity. Do these numbers refer to plate ht? Underside or top of ridge? 5:12?.

Note: Per subdivision regulations current zoning restrictions apply requiring the 7:12 minimum pitchs.

In regard to both roof slope and orientation we would suggest that the downhill houses especially have over-complex roof form. The elevation drawings are inconsistent within themselves as to ridgelines (front and rear views) and location and slopes of hips. Some units appear to deviate in overall height when viewed from different sides]

- 9. Guideline #74 States: Use Roof Shapes Similar to Those Found Historically in the <u>Neighborhood</u>. The majority of roofs are hipped or gabled, and have a steep roof pitch. The repetition of these forms is an important one, especially because the steep slopes expose the roofs to view from above and from across the canyon. Shed roofs usually had a gentler slope when used on attachments to the main part of the building.
- Note that a new roof may be similar to the older roof without exactly mimicking it.
- Given the basic concept of the typical roof pitch and the range of shaped found historically, a wide variety of designs is possible.

Staff Analysis: **Complies.** Hipped roofs, shed roofs, and dormers have been included in the designs to break up the massing and provide complimentary designs to those historically found in the neighborhood. The new guidelines requiring a 7:12 minimum roof pitch do not apply to this application.

#77 Setback

(reference is made to LMC, again reinforcing the idea that HDDR includes LMC provisions) The application set of drawings show a site plan that is inconsistent with the subdivision approval. No current site plan exists within the HDDR file. Setbacks cannot be determined from the information provided. None of the building plans (known to superseded from those in the application but not updated within the file) contain information relating each unit to its lot. This is inconsistent with the requirements of the application and normal HDDR methods.

[The Ordinance approving the Subdivision requires a 25' ROW this is not consistent with the available (un-dimensioned) site plan which scales at 24'. The elevation drawings for the downhill units show a change to the location of the front garage wall reducing the available setback for the outside tandem parking space to less than the required minimum. The uphill units shown on the site plan appear to deviate in plan depth by almost a foot from the unit plan drawings (as scaled from the plan, the downhill units appear to be consistent). Front setbacks cannot be confirmed without dimensions, Unit 10 for example appears to have a full width porch to the second level intruding into the setback. Window wells are only permitted to extend four feet into the sideyard, the Jan 09 elevation drawings show the complete excavation and removal of the sideyards to a depth approx 10' below grade. NB LMC zoning for HR-1 requires additional 10' setback to third story. This will apply to all uphill units.]

- 10. Guideline 77 states: <u>Maintain the typical setback of front facades</u>. Most buildings are set back from the street to provide a front yard. Although this dimension varies, the typical range is from ten to twenty feet. Usually, each block will have a fairly uniform range of setbacks which should be respected.
 - In new construction, set building back from the street in conformance with the typical alignment of facades in the block. Remember that minimum setback requirements in the Land Management Code must be met.

Staff Analysis: **Complies.** The approved January 20, 2009 site plan shows all homes setback a minimum of 10 feet from front property line, compliant with LMC requirements at the time the applications were complete. There is a hatched line on each site showing setback requirements. The site plan is to scale and setbacks have been determined to be in compliance from the information provided within the application.

#78 Minimize visual impact of parkingIs this achieved by the open car ports provided with the uphill units?(Note pending guidelines for new construction "D2.5 Carports should be avoided")

[This guidelines is no longer 'pending' refer to next section for comments on current guidelines]

- 11. Guideline 78 states: <u>Minimize the visual impact of on-site parking</u>. The residential areas of Old Town were developed before the advent of automobiles, and therefore, the site plans of the older lots were not designed to accommodate parking. Typically, the front yards were landscaped and this is an important characteristic of the neighborhood. The trend to provide parking spaces and driveways in front yards is threatening to alter this important visual element of the street. Therefore, innovative design solutions are needed to help minimize the visual impact of cars on the historic areas.
 - When designing multi-family units, consider using a single driveway to provide access to a multiple-space parking garage rather than providing each unit with a separate driveway and garage door. This will also help to minimize the amount of façade that must be broken up with garage doors.
 - Another alternative to consider is to provide a driveway along the side yard of the property. Special zoning provisions allow a shared driveway with the neighboring lot. The side drive can then provide access to parking in the rear of the lot.
 - Also, consider using textured and porous paving materials other than smooth concrete for driveways in front yards.
 - New zoning regulations now permit tandem parking so that one car may be parked behind another.
 - The Land Management Code defines limits for drives that must be met.

Staff Analysis: **Discussion Requested.** Parking on uphill lots is proposed within one space in the garage and one space adjacent within open carport. Homes located on downhill lots proposed tandem parking, with one spot in a single car garage and one spot in the driveway. The LMC does not require tandem parking. Staff found that the proposed design minimized the visual impacts of on-site parking. The new guidelines discouraging carports do not apply to this application.

#80 Materials "Aluminum vinyl and other synthetic materials will not be approved" The application drawings indicate aluminum soffit and fascia and Hardiboard siding. The revised elevations (Jan 09) indicate Hardiboard siding soffit, fascia and shake accents. A 'simulated wood' garage door is shown. This "...will not be approved..."

["Will not be approved" is a uniquely different standard than typically found in the 1983 guidelines. It appears to be an absolute; a code requirement. Notwithstanding prior actions, neither staff nor HPB have the authority to waive or increase any requirement of the code. Interestingly new guidelines consider approval of such products dependent on a demonstrated proof of certain conditions. The applicant has suggested the new code does not apply]

- 12. Guideline #80 states: <u>Use materials that are similar in finish and texture and scale to</u> <u>those used historically</u>. The majority of buildings are made of wood clapboards or drop lap siding, although some brick exists. These building materials have distinct textures, and establish patterns on individual facades that repeat along the street. These materials are important in establishing the scale of buildings.
 - New buildings should continue to reinforce these patterns and textures.
 - Wood and brick are recommended, but other building materials may be considered as long as the finish and texture reinforce the existing characteristic. For example, concrete may be formed to create a horizontal pattern similar in texture to clapboard siding.
 - Historically, clapboard was painted and therefore new construction should not include unfinished wood surfaces.
 - Clapboard lap dimensions should be similar to those of historic structures roughly 4 to 6 inches exposed.
 - Brick was a standard dimension that established a pattern to walls. Jumbo brick sizes are therefore not allowed. Brick is preferred for chimneys.
 - Aluminum, vinyl and other synthetic siding will not be approved.

Staff Analysis: **Complies.** Hardi-board is cement-fiber material that was approved as it mimics the finish and texture of wood. Three styles have been approved within the application including horizontal lap siding, vertical siding, and board and batten. Hardi-board, although it is not natural, has a finish and texture which reinforces the characteristic of wood. It does not have the appearance of aluminum or vinyl which is not appropriate in the historic district.

#81 Ornamental siding Indicated as Hardiboard shake see above

- 13. Guideline 81 states: <u>Reserve the Use of Special Ornamental Siding Materials for</u> <u>Limited Surface Areas</u>. *Historically, shingles were used to create ornamental siding patterns as an accent to the predominant clapboard siding. Shingles were used in the ends of gables, for example, but not as siding for lower portions of walls.*
 - The use of ornamental shingles, and other special siding, in new creative ways is encouraged; however, the amount of surface area allocated to these materials should be limited.

Staff Analysis: **Discussion requested**. Hardi-board shingles are proposed within gables, bump-outs, and wrapping the foundation. Foundation materials are typically stone or concrete.

Point of Appeal #14

#82 Contemporary interpretation of ornament Hardiboard clad columns in a neoclassical style?

14. Guideline 82 states: <u>Contemporary interpretation of building ornamentation are</u> <u>encouraged, but they should be limited in their application</u>. *Historically in Park City, most residences had modest amounts of ornamental details – and typically these were applied to porches, gables, and dormers. Although new concepts for decorations are encouraged, simplicity of building form should remain dominant.*

Staff Analysis: **Discussion Requested.** Windows and doors have simple trim and design. Simple hardi-board wrapped box columns have been approved within the front entryways. The dimensions of the hardi-board wrapped box columns were not specified. Typical historic posts were 4 to 6 inches in width. The HPB may direct the applicant to limit the width for the wrapped box columns or to modify the box columns into posts with a limited width of 4 to 6 inches.

Point of Appeal #15

#84 Door and window sizes

Unit 8, revised elevations indicate a prominent elliptical window on the front façade. This is inconsistent with park City' historic architecture and prior actions of the HPB.

15. Guideline 83 states: <u>Use window and doors of similar size and proportion to those historically seen in Park City</u>. *Windows with vertical proportions similar to those of the original double hung sash are most appropriate. New operating designs, such as casement windows are readily available in well-proportioned sizes. Arched and bay windows may provide interesting accents if used with restraint. Small pane windows as seen on colonial buildings are not appropriate for Park City.*

Staff Analysis: **Complies.** The majority of the windows within all home designs are double hung. Homes 8 and 10 introduced one elliptical window to provide variation in design. Elliptical windows are not prohibited.

Appeal (of the appeal)

Under the current Land Management Code, the action by the Historic Preservation Board on this appeal can be further appealed to the District Court. However, because of the timing of when the appeal was originally filed the Order includes language, allowing that, if both parties consent, the appeal may be heard by the Board of Adjustment pursuant to Land Management Code 15-1-18 and 15-11-12 (E).

Alternatives

- The Historic Preservation Board may deny the appeal and affirm the determination of compliance of the Historic District Design Guidelines, wholly or partly; or
- The Historic Preservation Board may grant the appeal and reverse the determination of compliance of the Historic District Design Guidelines; wholly or partly; or
- The Historic Preservation Board may continue the discussion to a specified or unspecified date and provide direction on items and issues that require further discussion.

Recommendation

Staff recommends that the Historic Preservation Board hear the appeals of the approval of the Historic District Design Review and consider denying the appeals based on the following findings of fact and conclusions of law:

Findings of Fact:

- 1. The property is located at 100 Marsac Avenue and includes ten development lots.
- 2. There are 10 single family homes included within the ten applications for Historic District Design Review.
- 3. The property is located within the Historic Residential (HR-1) zoning district.
- 4. Ten Historic District Design Review applications for new construction of single family homes were submitted on August 29, 2008. The applications were deemed complete on August 29, 2008.
- 5. Complete applications were filed on August 29, 2008. The date of the complete application is the date that the application is vested in the Code unless there is a pending ordinance that would apply to the application. As of August 29, 2008, there was no pending ordinance and the Land Management Code on the date of the complete application and 1983 Historic District Design Guidelines were applied to the application.
- 6. On January 28, 2009, Planning Staff found the ten HDDR applications for new construction of single family homes to be in preliminary compliance with the Historic District Design Guidelines.
- 7. On February 9, 2009, the City received two separate appeals of the Historic District Design Review preliminary compliance for the 10 single family homes. The appellants are Jeff and Leslie Edison (128 Ontario Court) and Jamie and Kathleen Thomas (134 Ontario Court). An additional 36 page submittal was received on May 5, 2009 from the 2 appellants jointly.
- 8. The Historic Preservation Board ("HPB") heard the appeals of the HDDRs on May 6, 2009. At that time, the appellants wished to raise new issues and discuss new information with the Board based on the supplemental submittal which the appellants had submitted the day before the hearing. Staff and the applicant

(Talisker) objected to the new issues and information. After discussion by the HPB, the HPB rejected the May 5, 2009 information as it was not submitted in a timely manner.

- 9. On May 18, 2009, the Edisons and Thomas' jointly submitted an appeal to the Board of Adjustment (BOA) of the HPB decision.
- 10. On July 28, 2009, the Board of Adjustment (BOA) heard the appeal of the Historic Preservation Board's decision regarding the staff approval of the Historic District Design Review. In a 3-1 vote the BOA directed staff to prepare findings granting the appeal in part as it related to the review design guideline compliance. The BOA denied the appeal in part regarding the issues which were not specific to Design Guideline Compliance including access and lot alignment issues.
- 11. On August 18, 2009, the Board of Adjustment ratified Findings of Fact, Conclusions of Law, and an Order remanding the appeal back to the HPB for a hearing on those issues raised in the original appeal and supplemented on May 5, 2009.
- 12. On September 2, 2009, the remand was scheduled to be heard by the Historic Preservation Board. During this meeting, the applicant and the appellant requested that the appeal be continued. The appeal was continued three (3) times with the consent of all of the parties (October 7, 2009; November 4, 2009; December 2, 2009). No meeting was held on December 2, 2009.
- 13. The appellant has the burden of proving that the land use authority erred. The scope of review by the HPB shall be the same as the scope of review by Staff. Staff reviews a Historic District Design Review by determining compliance with the Guidelines for new construction.
- 14. No Design Guideline or LMC section prohibits replicative design or addresses alignment of uphill and downhill lots. However, Condition of Approval #2 of the Master Planned Development approval states "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."
- 15. The ten applications for the Historic District Design Review (HDDR) include 10 single family homes. There are 2 different floor plans included for the submittal. One floor plan for new homes on the downhill lots (homes 1 6) and one floor plan for the uphill lots (homes 7 10). Within the floor plans there is some variation of garage and entryway locations. The Architect created further variation on the exterior of the homes through changes in location and design of windows, doors, porches, and dormers. The exterior siding of the homes includes the use of board and batten, horizontal lap siding, and vertical siding.
- 16. Staff found the proposed application to be in compliance with Condition #2 of the Master Planned Development.
- 17. Exhibit E includes the staff analysis, findings of fact, conclusions of law, and conditions of approval for each of the ten units. These analysis, findings of fact, conclusions of law, and conditions of approval are incorporated herein.
- 18. The analysis and Findings within the staff report are incorporated herein.

Conclusions of Law:

- 1. The Staff did not err in finding that the Design Review Applications comply with the Historic District Design Guidelines.
- 2. The proposed plans comply with the 1983 Park City Historic District Design Guidelines as conditioned.

Conditions of Approval

- 1. A building permit for each of the ten units must be issued within one year of this approval. The Historic Design Review approval will expire for any unit lacking a building permit by January 16, 2014.
- Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to the issuance of any building permit.
- 3. Final building plans and construction details shall reflect substantial compliance with the drawings stamped in on January 9, 2009. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.
- 4. The designer and/or applicant shall be responsible for coordinating the approved architectural drawings/documents with the approved construction drawings/documents. The overall aesthetics of the approved architectural drawings/documents shall take precedence. Any discrepancies found among these documents that would cause a change in appearance to the approved architectural drawings/documents shall be reviewed and approved prior to construction. Failure to do so, or any request for changes during construction may require the issuance of a stop-work order for the entire project by the Chief Building Official until such time that the matter has been resolved.
- 5. A final landscape plan must be submitted prior to Building Permit issuance. Landscape plan may change with approval of the Planning Department prior to installation.
- 6. Cedar railing must be painted or stained with a solid or semi-solid stain.
- 7. All standard conditions of approval shall apply.

Order:

- 1. The appeals are denied and the determinations of compliance with the 1983 Historic District Design Guidelines as conditioned are upheld.
- 2. Any appeal of this Order shall go to a court of competent jurisdiction pursuant to UCA 10-9a-801 unless both parties consent to having the appeal be heard by the Board of Adjustment pursuant to Land Management Code 15-1-18 and 15-11-12 (E).

<u>Exhibits</u>

Exhibit A – Submittals by Appellants of December 14, 2012; August 24, 2009; May 5, 2009; and February 9, 2009

- Exhibit B 1983 Historic District Design Guidelines for New Construction
- Exhibit C Approved HDDR Site Plan dated January 20, 2009
- Exhibit D Approved Architectural Plans for ten new homes
- Exhibit E Historic District Design Review staff findings for each of ten units
- Exhibit F Steep Slope CUP site plan approved October 22, 2009
- Exhibit G October 22, 2009 Steep Slope CUP Conditions of Approval
- Exhibit H Original Streetscape

Exhibit I – Additional information submitted by Applicant. Part B and C submitted on January 9, 2013

- Exhibit J May 6, 2009 Historic Preservation Board Minutes
- Exhibit K May 6, 2009 Historic Preservation Board Findings of Fact, Conclusions of Law, and Order
- Exhibit L July 28, 2009 and August 18, 2009 Board of Adjustment Minutes
- Exhibit M August 18, 2009 Board of Adjustment Findings of Fact, Conclusions of Law, and Order.
- Exhibit N September 2, 2009 HPB Staff Report
- Exhibit O Front facades complied on one 11 x 17 sheet
- Exhibit P Public Comment



July 23, 2009

Mr. Brooks Robinson, Sr. Planner Park City Municipal Corporation 445 Marsac Avenue Park City, Utah 84060

RE: 100 Marsac Avenue

Dear Brooks:

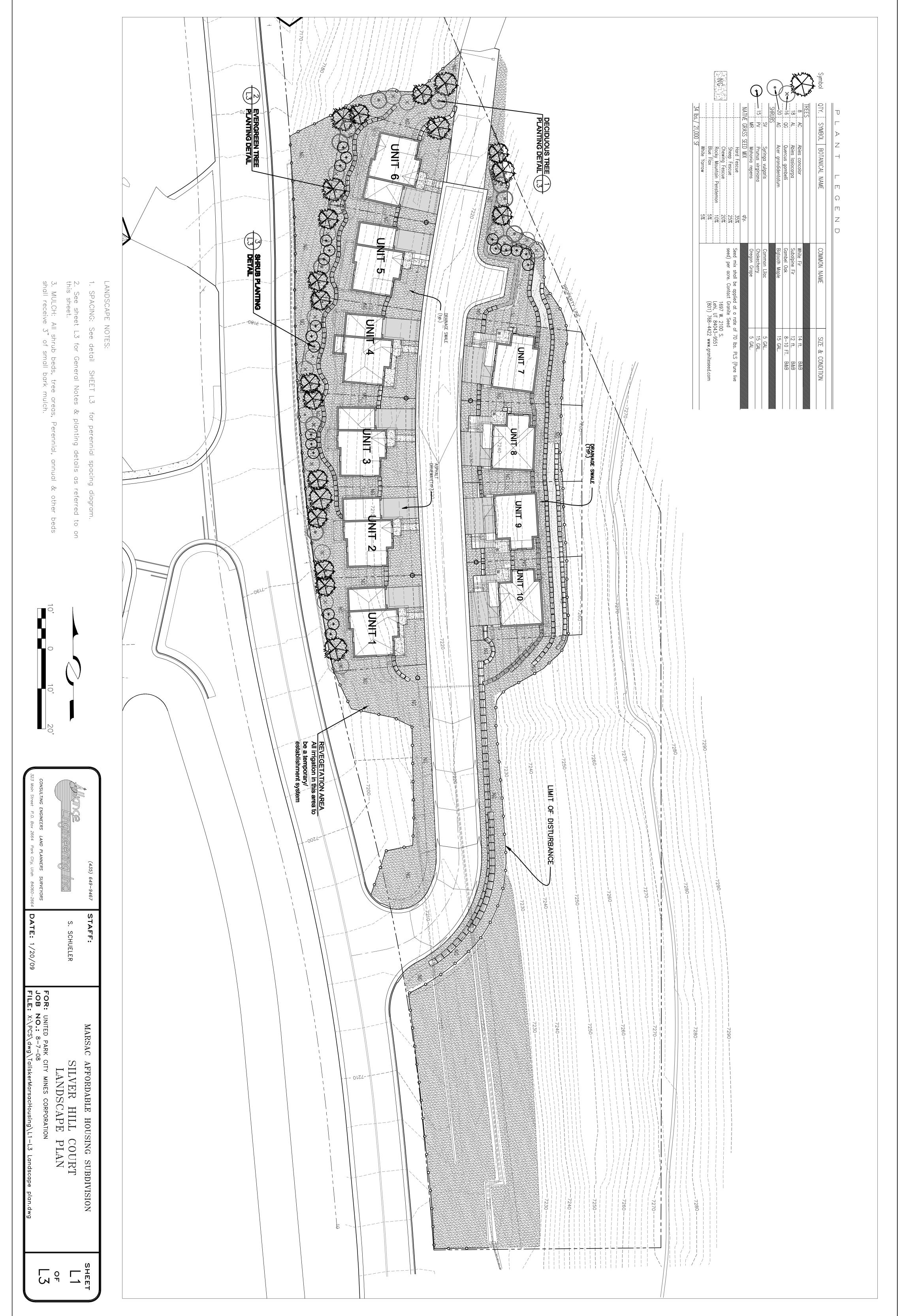
This letter is submitted in connection with issues raised by the appellants in their Design Review Appeal regarding 100 Marsac, and the process associated with that appeal. Fundamentally, we are concerned that the Ontario Court landowners' ongoing efforts to further delay this project unfairly prejudices us and continues to give rise to additional costs and obligations that place substantial undue burdens on United Park.

As you recall from the planning process, we went to great lengths to make sure this project is consistent with both the older homes that border one side of the project, and the new and very different homes on the other side of the project. Further, as established during the course of all of our interaction with the Planning Commission, Staff, Architects, Design Consultants, and others, including multiple iterations of the project plans and designs, we established significant variety in architectural features and colors that not only differentiate the homes from each other, but actually create backs of homes that are as visually interesting as the fronts, with no garages visible from Marsac Avenue. All of this is a remarkable achievement given that this is, as everyone knows, affordable housing.

Finally, it should be noted that the initial iterations of this project contemplated far greater site disruption involving a greater number of units that were spread out. A more clustered configuration was the preferred site solution that evolved during the course of the detailed review and approval process with the Planning Commission and City Council.

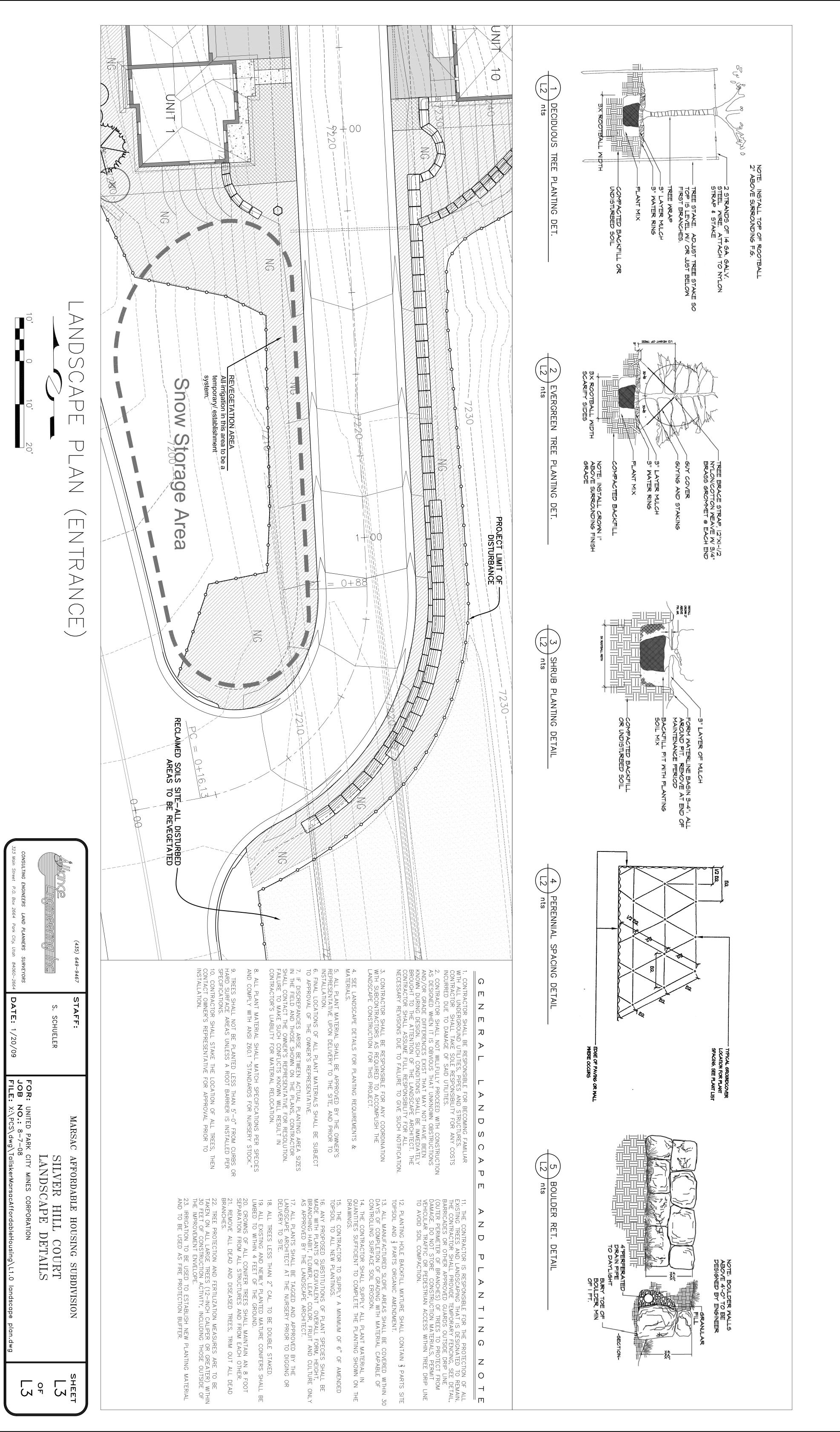
Sincerely,

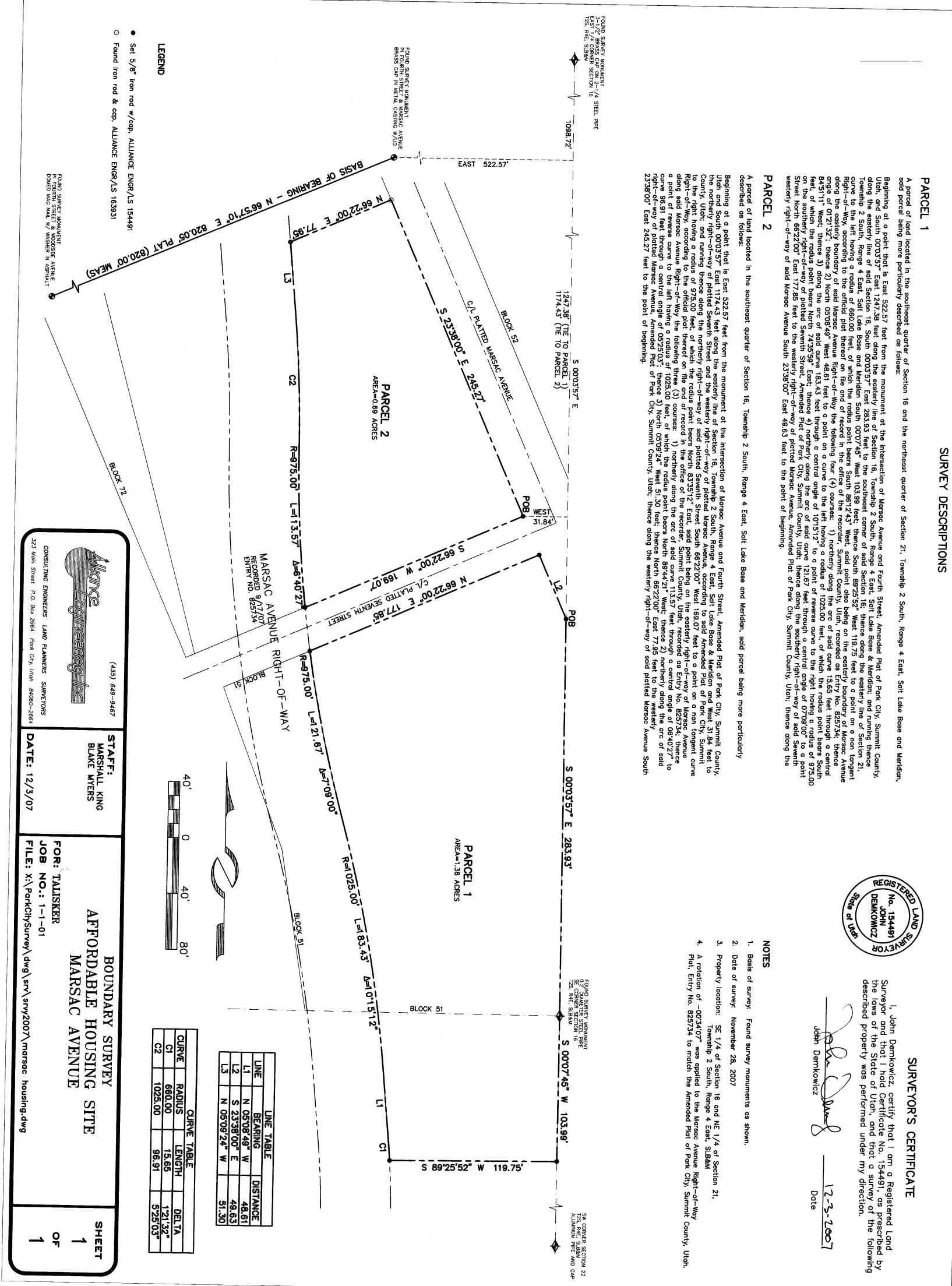
David J. Smith

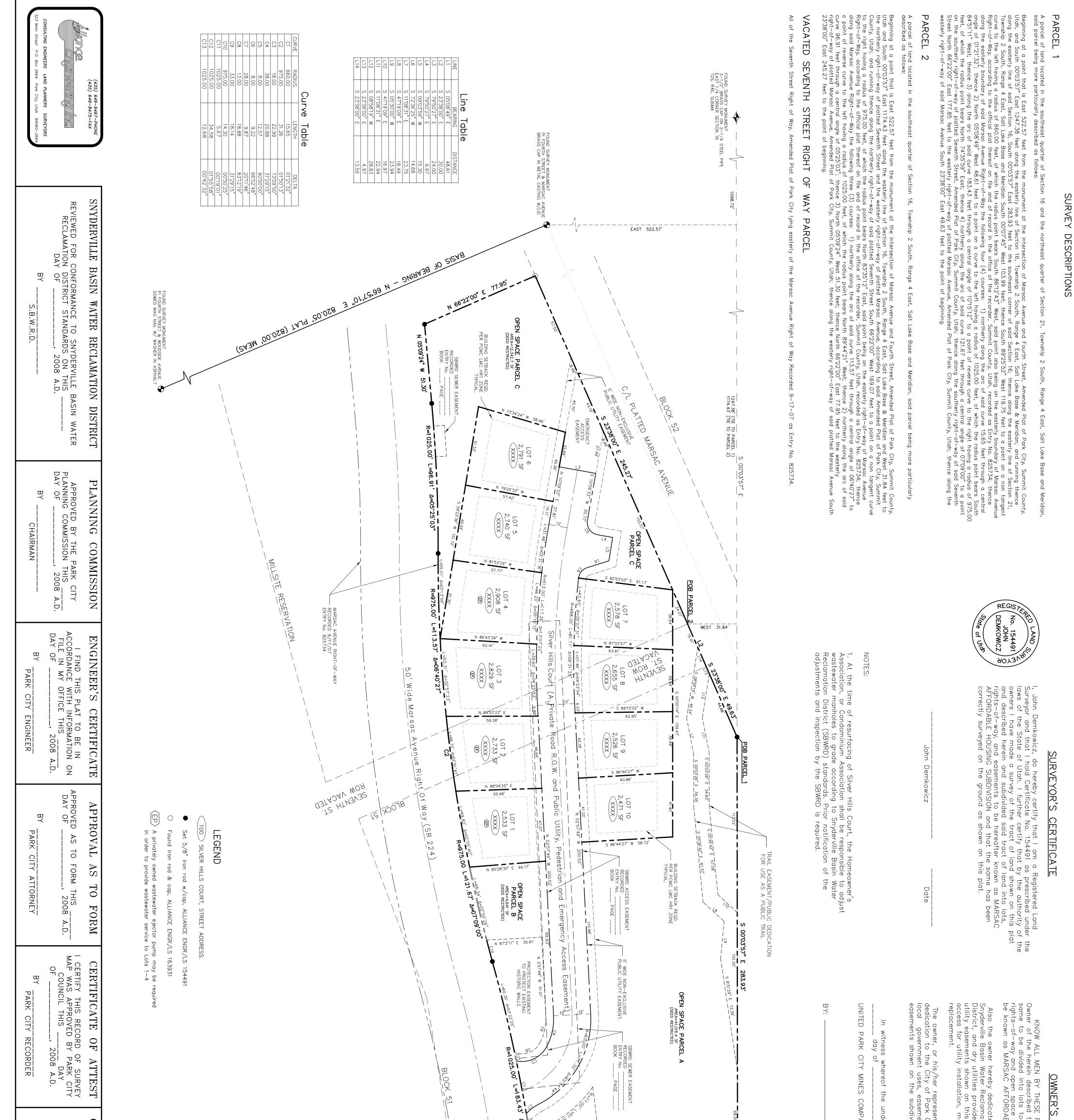






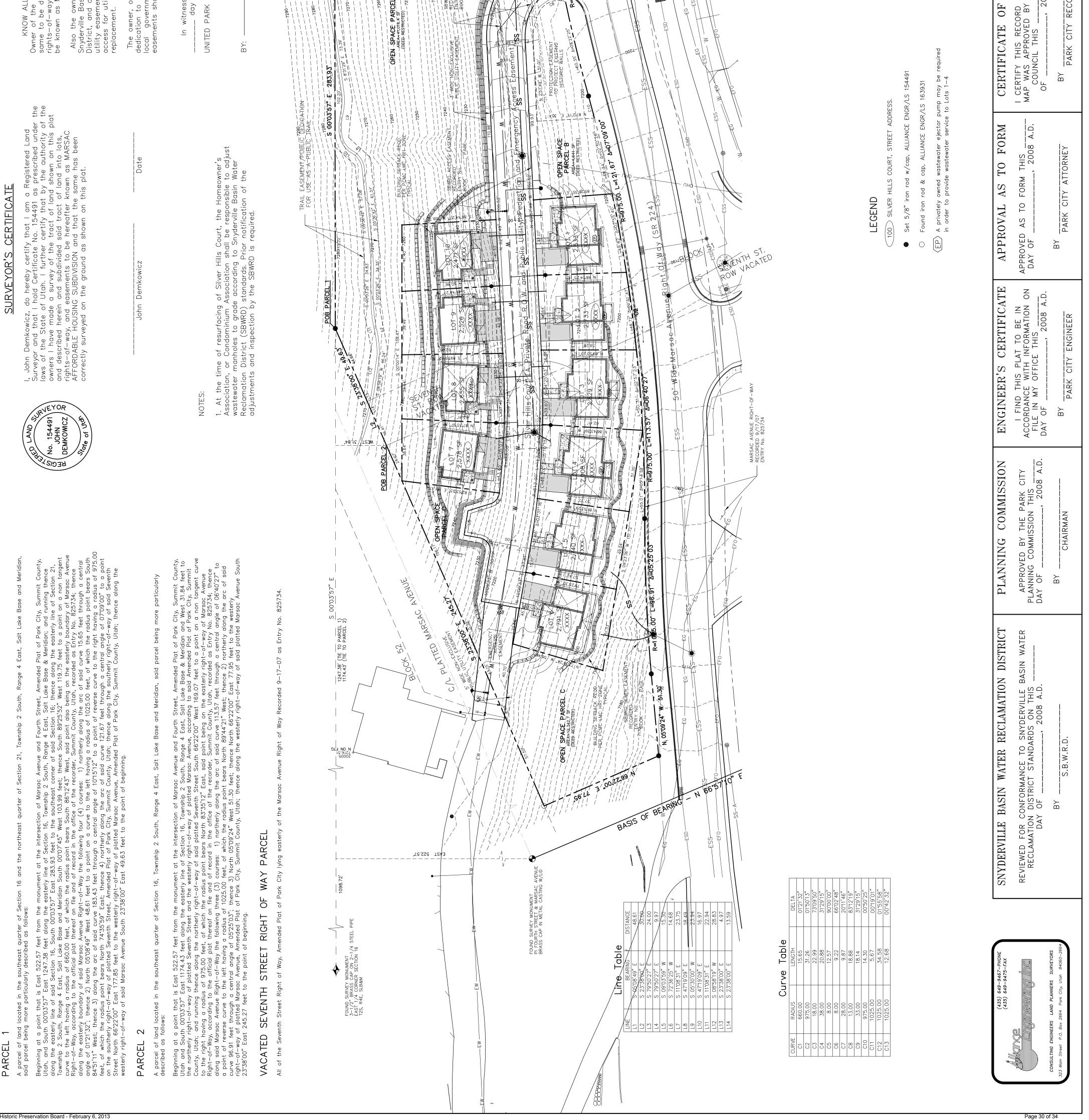






RECORD OF SURVEY MAP MARSAC AFFORDABLE HOUSING

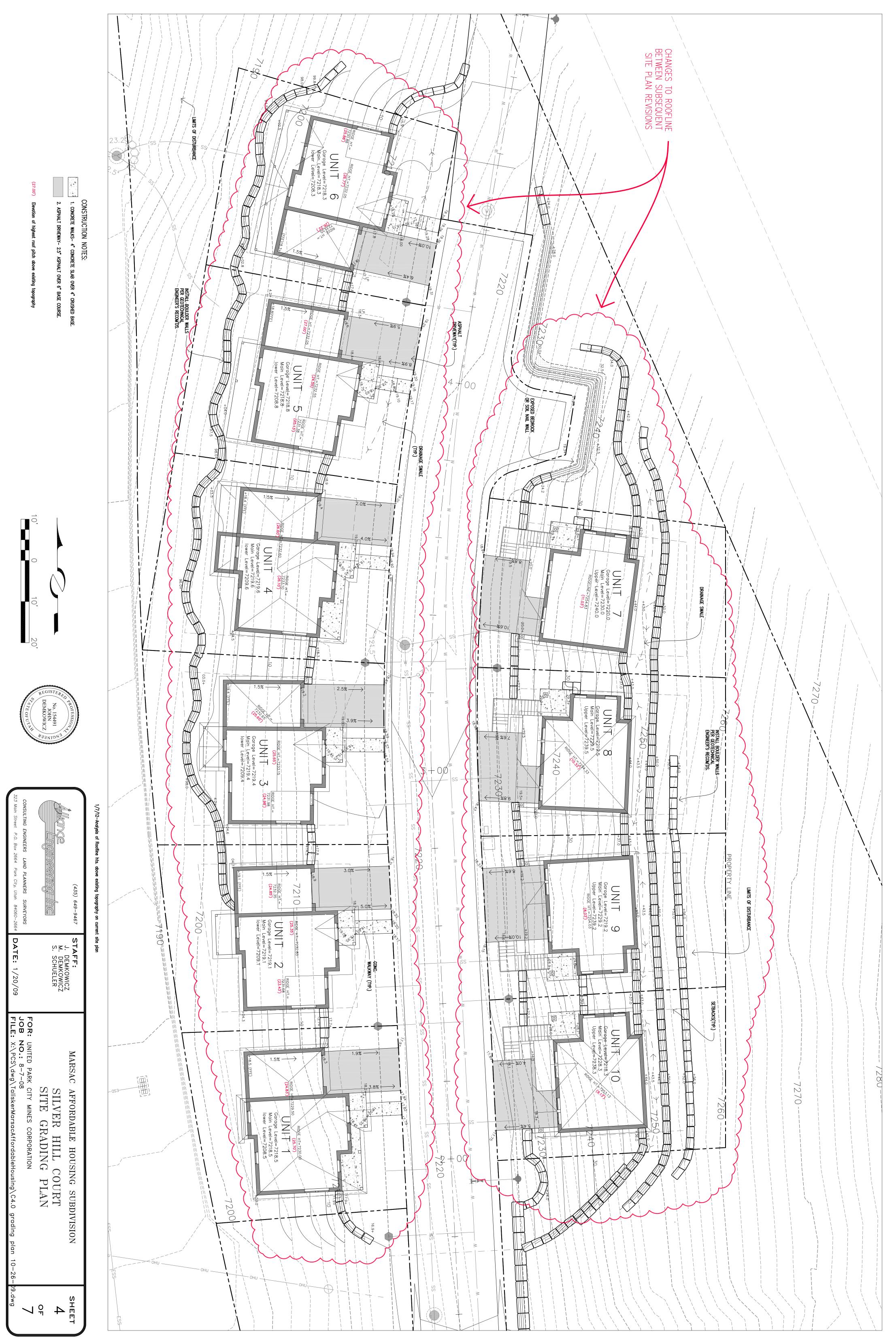
						EXNIDI	it I Addl Submitals from Applicant
	STATE OF UTAH) : SS. COUNTY OF SUMMIT)	On this day of, 2008, personally appeared before me, the undersigned Notary Public, in and for said State and County,, who after being duly sworn, acknowledged to me that he is the of United Park City Mines Company, a Delaware Corporation, and that he signed the foregoing Owner's Consent to Record on behalf of the corporation with full authority of its bylaws.	A NOTARY PUBLIC commissioned in Utah	Printed Name Residing in:	My commission expires:	DABLE HOUSING DABLE HOUSING VISION I THE SECTION 16, OF SECTION 21 TH, RANGE 4 EAST ASE & MERIDIAN	January 7, 2012 Plat 11–17–08 + Improvements.dwg PAGE 1 OF 1 -7–08 FILE: X:\ParkCitySurvey\dwg\Talisker Marsac Housing\Plat\plat.dwg E RECORDED E STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OFBOOKPAGE DATEIMEBOOKPAGE
OWNER'S DEDICATION	herein described tracts of land, and hereby causes the berein described tracts of land, and hereby causes the divided into lots together with public easements, private and open space as set forth on the plat, hereafter to MARSAC AFFORDABLE HOUSING SUBDIVISION.	hereby dedicates to Park (Water Reclamation District, utilities providers, a non-e s shown on this plat for th installation, maintenance,	or his/her representative, hereby irrevocably offers for the City of Park City use of all the streets, land for ment uses, easements, parks, required utilities and hown on the subdivision plat and construction plans.	s whereof the undersigned has set its hand on this of 2008.	ITY MINES COMPANY, α [MARSAC AFFOR SUBDI SUBDI A SUBDIVISION LOCATED IN A SUBDIVISION LOCATED IN AND THE NE AND THE NE AND THE NE SALT LAKE BA	ATTEST COUNCIL APPROVAL AND ACCEPTANC OF SURVEY PARK CITY PARK CITY COUNCIL THISDAY OF



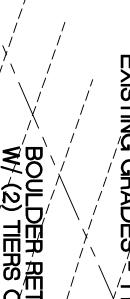
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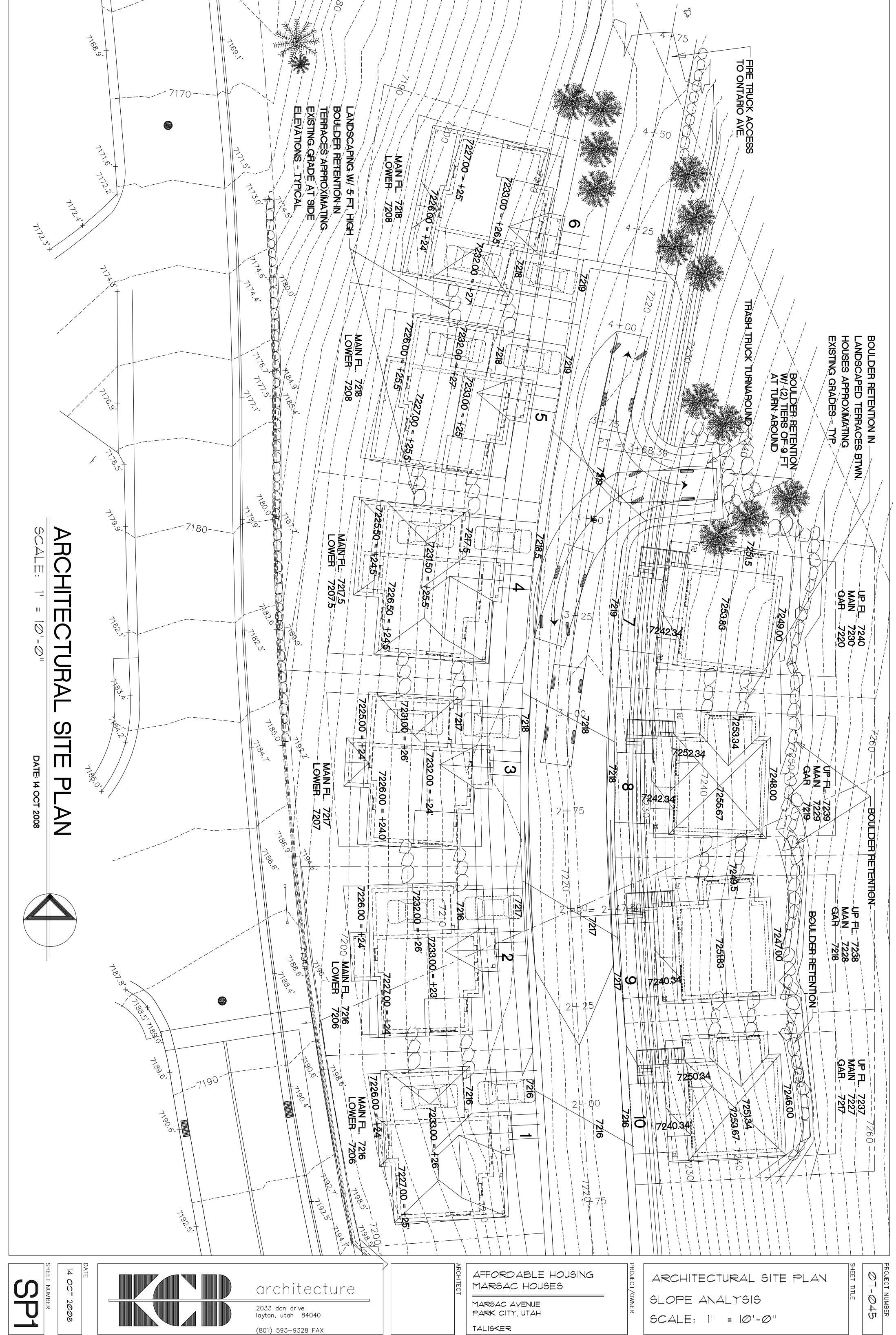
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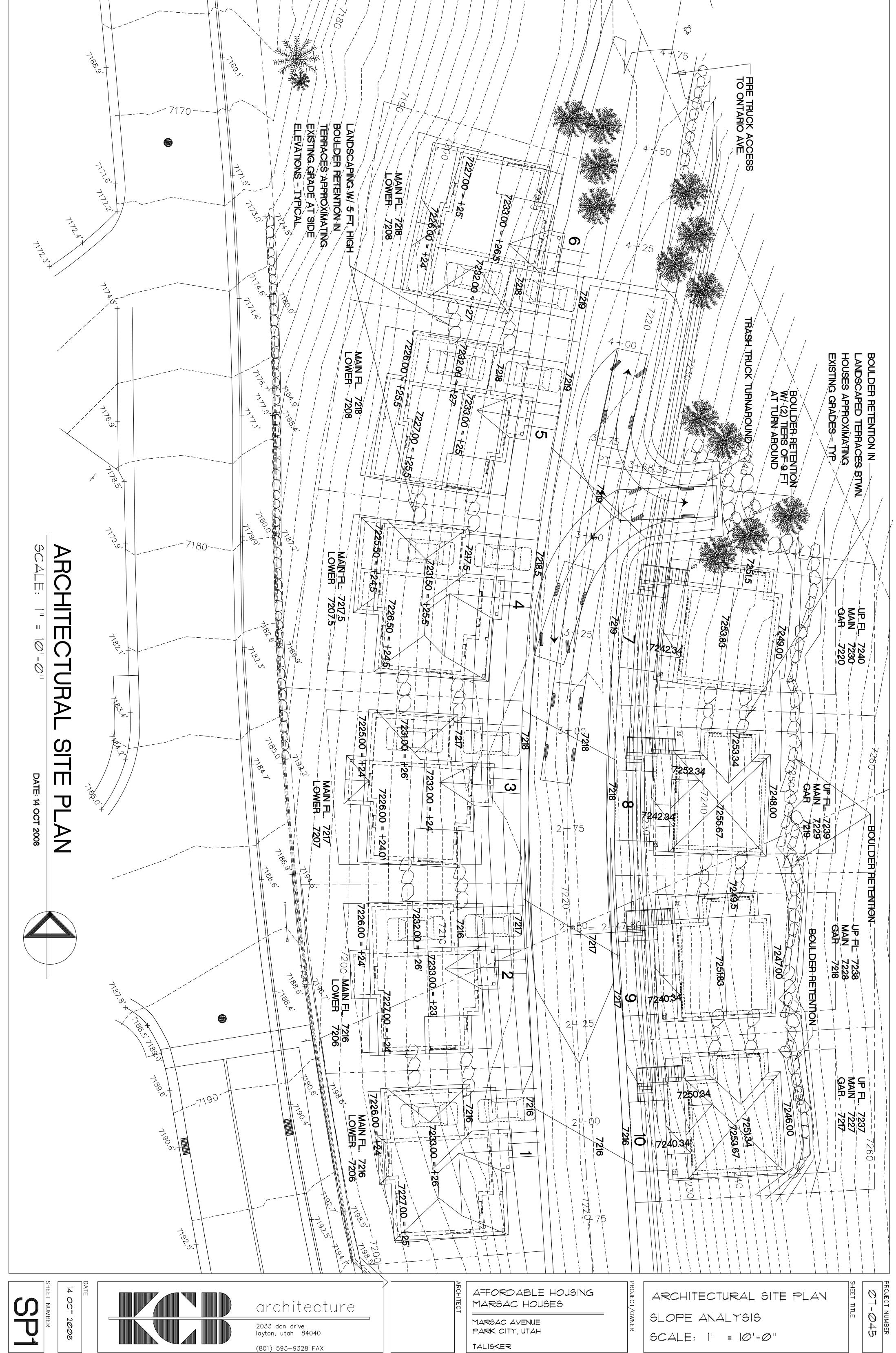
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EXISTING GRADES







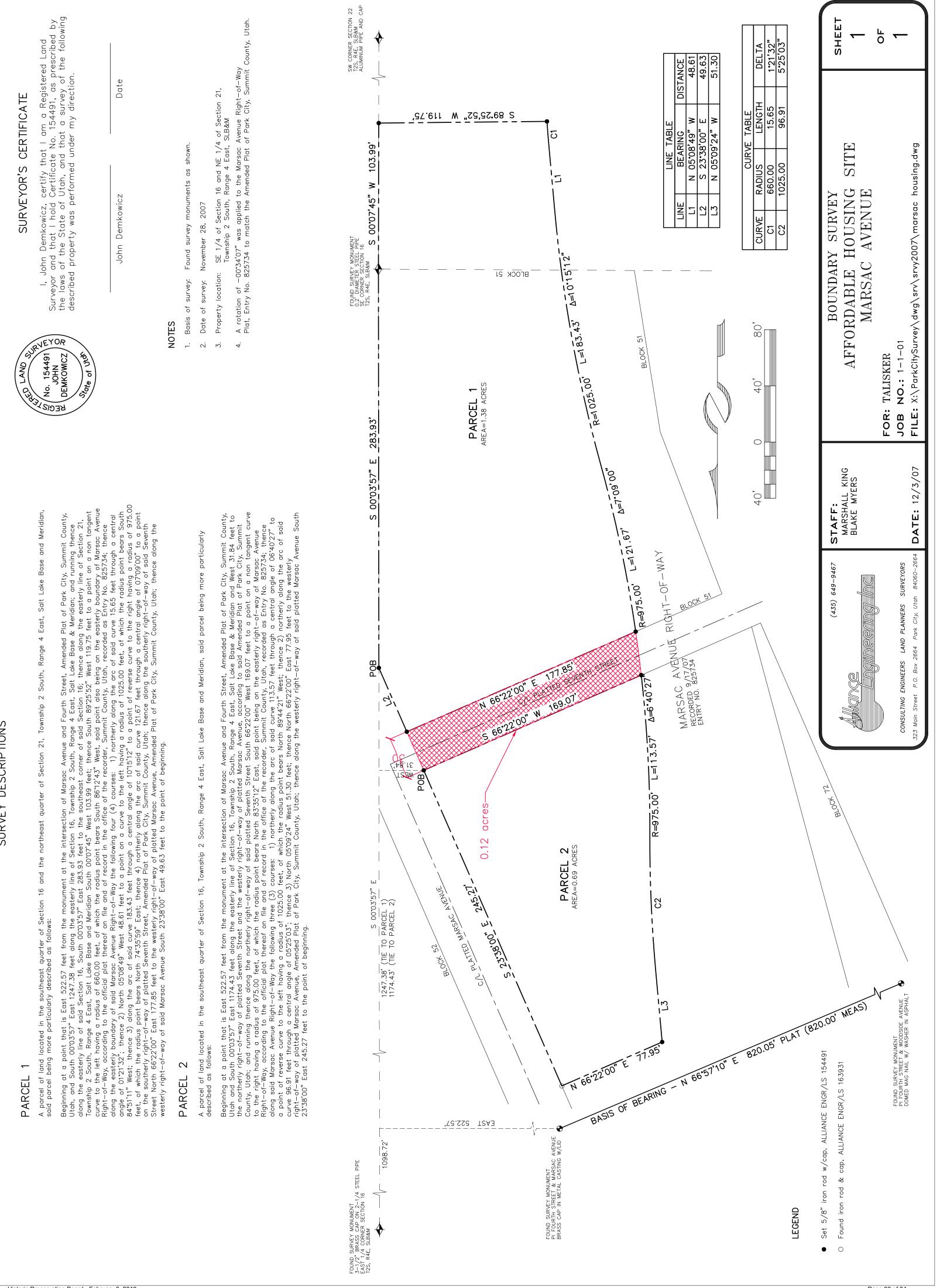
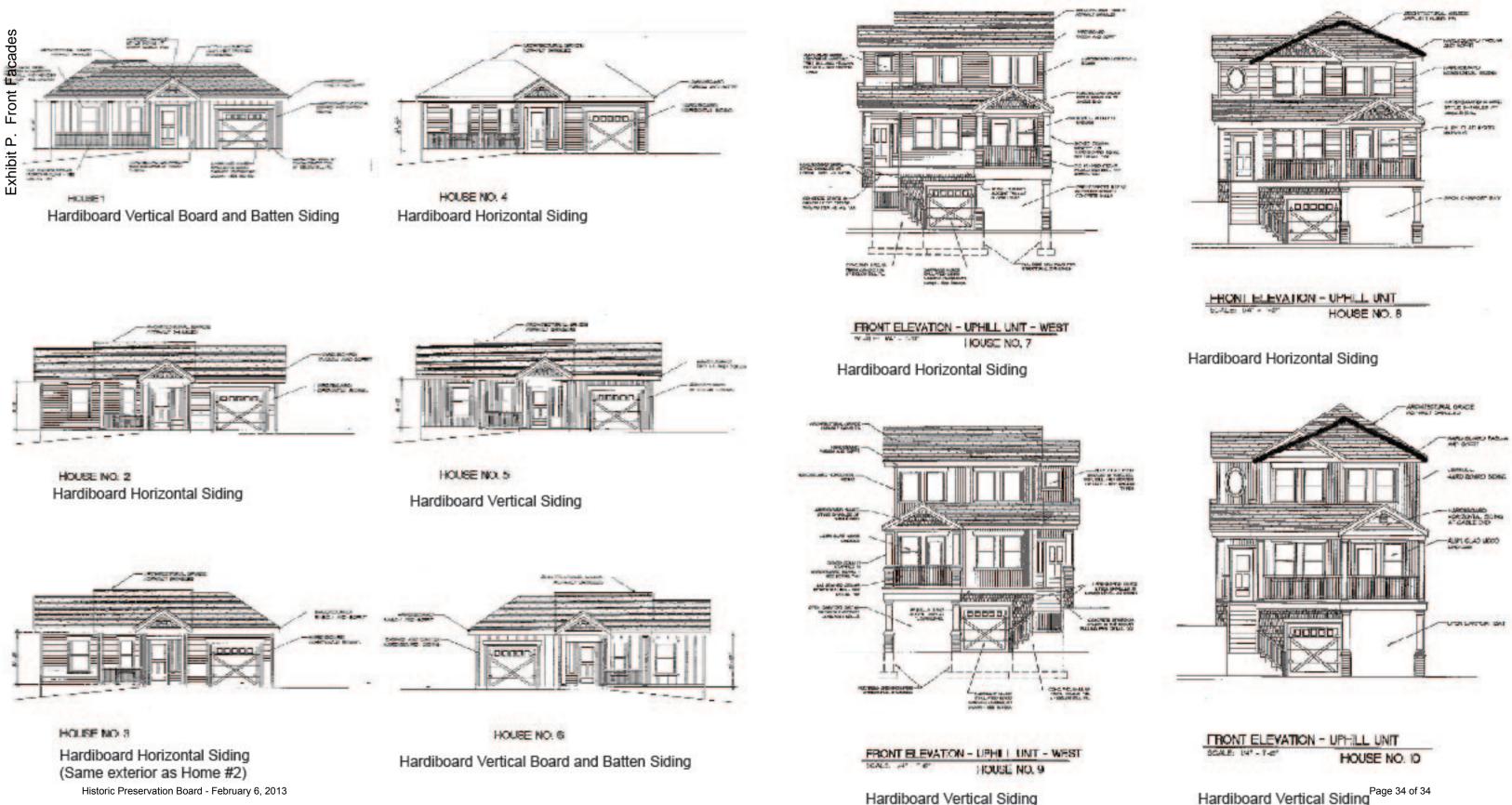


Exhibit I Addl Submitals from Applicant

Front Facade of Homes 1-6 Located on Downhill Lots.

Front Facade of Homes 7-10 Located on Uphill Lots.



Hardiboard Vertical Siding Page 34 of 34