

Treasure Hill

Executive Summary

Square Footage Calculations

**(Addresses MPD Development Parameters and Conditions,
CUP Standards for Review, and
CUP Criteria Nos. 1 to 15 (except as noted otherwise in Footnote 1))**

September 14, 2016 Public Hearing

I. Applicant and Staff Agreement.

MPE, Inc., the Applicant for the Treasure Hill Conditional Use Permit (“CUP”), and Staff are in agreement with respect to the following matters:

A. Applicable Codes.

1. **1985 LMC.** Park City’s 1985 Land Management Code (“LMC”) applies to all matters relating to the interpretation of the 1986 Master Plan Development (“MPD”) Approval for Treasure Hill.

2. **2003 LMC.** Park City’s 2003 LMC applies to all matters related to the review and approval of the 2004 CUP Application. The only apparent point of disagreement between Planning Staff and the Applicant is whether the 1985 LMC or the 2003 LMC controls the calculation of Support Commercial and Meeting Space. See the Applicant’s accompanying Support Commercial and Meeting Space Position Statement.

B. CUP Application Date.

The CUP Application was filed in 2004 and is a vested application as of that date. References to subsequent dates, including the “2009 Revisions” or the “2009 Update”, are merely references to refinements (many at the request of Staff and the Planning Commission) and updates to the 2004 vested CUP Application. The Applicant has only filed one CUP Application for Treasure Hill and that is 2004 CUP Application.

C. Woodruff Drawings.

The Woodruff Drawings were attached to and are part of the 1986 MPD Approval. The Woodruff Drawings were merely a study to determine volumetrics and UEs.

D. Vesting.

The concept of vesting applies to both the 1986 MPD Approval and the 2004 CUP Application in the following manner:

1. **MPD Vesting.** The MPD Approval vested in 1986 and the vested rights thereunder include 197 residential and 19 commercial Unit Equivalents (“UEs”). The MPD Approval established the underlying UEs, not the total square footage that could be built with those UEs. The 1985 LMC and MPD Approval specified that such issues would be addressed in a subsequent CUP process, and the Park City Attorney and Planning Staff confirmed that square footage issues would be addressed under the LMC in effect at the time of the CUP Application—the 2003 LMC.

2. **CUP Vesting.** The CUP Application vested in 2004 and the vested rights include the square footage attributable to the 197 residential and 19 commercial UEs, and all other additional square footage permitted by the 2003 LMC. The Applicants *right* to additional square footage is “vested” with the *amount* of additional square footage to be determined through the CUP approval process.

E. Historic District.

As part of the CUP approval process, the Planning Commission will need to evaluate whether the Treasure Hill design conforms with Park City’s Historic District guidelines in the context of the MPD Approval.

II. Clarifications.

A. Reopening the MPD.

The Applicant has no intent to reopen the 1986 MPD Approval. The fact that Staff and the Applicant have differing interpretations of whether the 1985 LMC or the 2003 LMC applies to the calculation of Support Commercial and Meeting Space, and the fact that the Applicant has made a reasoned and good faith assertion as to why the 2003 LMC applies, does not constitute an amendment to the 1986 MPD Approval. Similarly, the City presumably does not intend to reopen the 1986 MPD Approval as it would result in going back to pre-MPD Approval development which would (i) require the City to give back the open space, easements, rights of way, public trails and associated improvements on Treasure Hill; (ii) result in a reversion to the underlying density allowable in 1985—in excess of 450 unit equivalents; and (iii) result in the Applicant being entitled to construct single family homes (and a related surface street) on Treasure Hill. This would cause Treasure Hill to look like the east side of Deer Crest. .

III. Project Timeline.

As the Applicant has stressed on numerous occasions, fully understanding the history of the refinement of the design of Treasure Hill is critical in evaluating and approving the CUP Application. The attached Project Timeline shows:

A. 1986 MPD.

The 1986 MPD Approval and applicable vesting of 197 residential and 19 commercial UEs. Both the MPD Approval and the 1985 LMC specified that the final development plan would be evaluated during a separate and later conditional use process under the LMC in effect at such time.

B. 1999 Legal Directive.

In an August 25, 1999 letter to the Applicant, Mark Harrington, Park City's then Interim City Attorney, stated that "Square footage and floor areas for the Unit Equivalents (UEs) are calculated as provided in the Land Management Code and Uniform Building Code adopted by Park City, **at the time of application.**" (emphasis added) In reliance thereon, the Applicant expended great amounts of time and money designing a project with the understanding that the LMC in effect at the time of application would govern square footage and floor areas for the allowed UEs.

C. Fire Protection Plan.

The January 9, 2004 Fire Protection Plan agreed to by Park City and the Applicant following months of discussion and analysis. This Plan served as the basis for the ultimate design of the Treasure Hill Project.

D. 2004 CUP Application.

The January 13, 2004 CUP Application and the applicable vesting of 394,000 net square feet of residential space, 19,000 gross square feet of commercial space and all of the additional square footage then permitted under the 2003 LMC.

E. 2004 Legal Directive.

In an April 9, 2004 memorandum to the Planning Commission, Mark Harrington, Park City's then City Attorney, again stated that "Square footage and floor areas for the Unit Equivalents (UEs) are calculated as provided in the Land Management Code and Uniform Building Code adopted by Park City, **at the time of application.**" (emphasis added)

F. 2005 Staff Report.

The March 9, 2005 Staff Report by Kirsten Whetstone notes that the 2004 CUP Application complies with all of the applicable MPD Development Parameters and Conditions, all of the CUP Standards for Review, and almost all of the 15 CUP criteria (collectively, the "Approval Requirements"), including the following:

- "The revised Treasure Hill CUP plans comply with the approved density and all development is contained within the identified development parcels."
- "The current Treasure Hill CUP plans comply with the clustered development concept approved with the Sweeney MPD."
- "The current Treasure Hill CUP plans comply with the cluster concept approved with the Sweeney MPD."
- "The Current plans comply with the MPD open space requirements."

- “Staff has determined that the revised plans for Treasure Hill CUP comply with the height and elevation standards approved with the Sweeney MPD.”
- “The current Treasure Hill CUP plans comply with the Park City General Plan regarding location of medium density resort related development.”
- “The revised Treasure Hill CUP plans are consistent with [previously approved] heights and volumetric.”
- “Meeting space and support commercial (10% of the total approved floor area) per Land Management Code (15-6-8) is allowed per the MPD, in addition to the 19 UEs of commercial uses. Additional square footage is allowed for back of house and other ancillary uses, such as storage, mechanical, common space, etc.”
- “...the location of buildings on the site, grading, slope retention, cliff-scape designs...complies with the site design and site suitability criteria of LMC Section 15-1-10, although specific conditions of approval will be required to address details of the grading plan, cliff scape design, retaining walls, and other elements of the site plan.”

Directives to the Applicant and the Planning Commission in the 2005 Staff Report included:

- Addressing mitigation of construction and traffic impacts
- Addressing maintenance, snow removal, and pedestrian access on Lowell and Empire.
- A more detailed review of the architectural concept.

G. 2006 Staff Report.

The April 12, 2006 Staff Report by Patrick Putt recommends “that the applicant prepare preliminary architectural drawings for each of the proposed buildings which illustrate size, building form and massing, roof shapes, exterior details including materials, window to wall ratios, decks, plaza/outdoor spaces, retaining walls, etc., for Planning Commission review as part of its’ action on the conditional use permit.” Notwithstanding Mr. Putt’s request for additional architectural details, he concludes that the “plans being reviewed currently for the CUP illustrate that the MPD development parameters have been met.” In summarizing Treasure Hill’s entitlements Mr. Putt also notes that in addition to 197 residential UEs and 19,000 square feet of “Commercial Density”, Treasure Hill is entitled to additional Support Commercial equal to 5% of the gross floor area of Treasure Hill and additional Meeting Space equal to 5% of the gross floor area of Treasure Hill.

Based upon Staff’s acknowledgement in the March 9, 2005 Staff Report that the 2004 CUP Application complied with all of the Approval Requirements, with three of the 15 CUP criteria

requiring further evaluation by Staff¹, that the Applicant was entitled to the additional square footage under the 2003 LMC, including 5% additional square footage for Meeting Space and 5% additional square footage for Support Commercial space, and the directive to develop preliminary architectural plans to further illustrate compliance, the Applicant spent approximately \$1,000,000 on architectural drawings and engineering analysis for Treasure Hill.

As the CUP review process progressed after 2006, the preliminary architectural drawings, which provided greater detail and clarity regarding Treasure Hill, resulted in an additional 167,880 square feet being added to Treasure Hill.²

H. 2009 Staff Report.

After all of the updates and refinements made to the design of Treasure Hill between 2004 and 2008 with input from and at the direction of Planning Staff, and after an investment by MPE of approximately \$2,000,000, the April 22, 2009 Staff Report prepared by Katie Cattan (the fourth of five different planners assigned by the City to Treasure Hill), reversed the City's prior position on essentially all previous submissions by MPE. For the *first* time, it also questioned the method for calculating Support Commercial. For all intents and purposes, this Staff Report reflects the end of the refinement of the design of Treasure Hill through the CUP process. Although communications continued after 2009 concerning parking, traffic, and construction of Lowell and Empire, the Applicant continued to pursue approval of the Treasure Hill CUP based upon the 2004 CUP Application, as refined between 2004 and 2009.

IV. Square Footage.

The square footage calculations for Treasure Hill are based upon the UEs established by the 1986 MPD Approval and the square footage and floor areas established by 2003 LMC, which is the approach required and endorsed by the 1985 MPD Approval, the 1985 LMC, the Park City Attorney, the Planning Staff, and Utah statute.³ In accordance with section 15-6-8(A) and (E) of the 2003 LMC, the Applicant and Staff agreed that each Residential Unit Equivalent is equal to 2,000 net square feet of floor area and each Commercial Unit Equivalent is equal to 1,000 gross square feet of floor area.⁴ As addressed in detail in previous Positions Statements and Presentations made by the Applicant to the Planning Commission, based upon these criteria and the directions of Staff, the Applicant has calculated square footage for Treasure Hill follows:

¹ The three remaining CUP criteria will be further addressed in later hearings.

² The bulk of this additional square footage primarily represents the design and inclusion of Support Commercial, Meeting Space, and associated accessory space related to additional Support Commercial equaling 4% of the gross floor area of Treasure Hill and additional Meeting Space equal to 2.4% of the gross floor area of Treasure Hill.

³ Utah Code Ann. § 10-9a-509(1)(a)(i) ("An applicant who has filed a complete land use application . . . is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete . . .").

⁴In an email dated December 18, 2006, then Planning Director Patrick Putt confirmed to MPE that residential UEs are "calculated as follows--2000 square feet equals one (1) U.E."

Vested Square Feet	Authorization
393,911	Residential UEs of 394,000 UEs
17,470	Commercial UEs of 19,000 UEs
26,726	4% of the possible 5% additional Support Commercial ⁵
16,127	2.4% of the possible 5% additional Meeting Space ⁶
136,191	Accessory Uses – No Specific Restrictions ⁷
173,320	Circulation – No Specific Restrictions ⁸
245,063	Parking
1,008,808	Total⁹

V. Conclusion.

The square footage requested by the Applicant in the 2004 CUP Application is authorized by the 1986 MPD Approval and by the 2003 LMC. For all of the reasons detailed in our previous presentations and Position Statements, this square footage is reasonable in the context of what is required to make Treasure Hill a functionally integrated and profitable operating project, and it is reasonable in the context of what Park City has permitted for other similar developments based upon calculations using the same codes.

⁵ Section 15-6-8(C) of 2003 LMC. For the purpose of calculating additional Support Commercial square footage under this Section, the Applicant has advised Staff that all of Treasure Hill, like most resort developments, will be designed to operate as a Hotel or Nightly Rental Condominium with various ownership structures. In addition, as provided in the 2003 LMC, the calculation is based upon above-grade gross square footage of 673,922.

⁶ Section 15-6-8(D) of 2003 LMC. For the purpose of calculating additional Meeting Space square footage under this Section, the Applicant has advised Staff that all of Treasure Hill, like most resort developments, will be designed to operate as a Hotel or Nightly Rental Condominium with various ownership structures. In addition, as provided in the 2003 LMC, the calculation is based upon above-grade gross square footage of 673,922.

⁷ Section 15-6-8(D) of 2003 LMC.

⁸ Section 15-6-8(A), (D), (F) and (G) of 2003 LMC.

⁹ This amount reflects the removal of the mine exhibition and its corresponding 8,069 square feet of commercial and support commercial space.