

Treasure Comments

From: John Stafsholt <jstafsholt@aps-tech.com>
Sent: Sunday, July 10, 2016 9:02 AM
To: Adam Strachan; Laura Suesser; Melissa Band; Douglas Thimm; John Phillips; Preston Campbell; Steve Joyce
Cc: Francisco Astorga; Bruce Erickson; Treasure Comments
Subject: Public Input Letter for Treasure Hill Meeting 7/13/16 and beyond
Attachments: Treasure Vested Density V1 7-13-2016.pdf

Dear Planning Commissioners,

Please accept and review my attached letter prior to the meeting Weds 7/13/16.
I will be traveling and unable to attend the meeting in person.
I'm sure that THINC will be well represented.

Thank you for putting in the huge effort that is required to understand Treasure Hill fully.

Best Regards,
John

John Stafsholt
Sales Director, Western Region



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Dear PC Planning Commission,

7/13/2016

This letter is to address the Treasure Hill vested MPD densities for the Mid-station & Creole Gulch parcels. This is also the first letter that I have written since 2010, so I think that there are a few general points that should be brought up first.

GENERAL

The Sweeney Properties Master Plan (SPMP) was approved by the PC Planning Commission on 12/18/1985. After the PC City Council approved the amended project on 10/16/1986, the MPD densities were finalized.

But, this finalized MPD does not give the Sweeney's any rights to build upon the Mid-station & Creole Gulch properties. The SPMP requires a Conditional Use Permit (CUP) to be approved in the here and now. There are 2 wheels on this bicycle and the Sweeney's only have 1 wheel. Why do they need a CUP? Because their designs are not approved uses in the historic zones within which they want to build.

The Sweeney's have come to PCMC and the planning commission many times over the last 30 years. No CUP has ever been approved, each time the size, mass, scale, and densities are disputed and each time the Sweeney's come back with a larger, more impactful project that cannot possibly be mitigated in the neighborhood location where it is proposed.

The latest CUP application is dated 1/13/2004. This is the third time that PC Residents & THINC have had to submit information and provide testimony on the same project design from 2004. This is an unfair burden on the residents of PC & the Planning Commission. We are told that the 2004 CUP application is still in force, yet it has been 12 years. We are told we need to resubmit all our CUP testimony again (for the same application). CUP applications expire after 180 days of inactivity. This project went away in 2006, came back in 2008, and went away in 2010.

There has been no public discussion or input on this project for 6 years. In September, 2010 PCMC and MPE (Sweeney's) stopped the CUP application process to engage in closed door negotiations through a Letter of Intent (LOI). This first LOI expired 4/30/2011 and no evidence of activity or renewed LOIs has been presented to the public. We believe that a new 2016 CUP Application is required under the current PC LMC. If the PC Planning Dept. disputes this requirement, THINC would like to see proof of CUP activity and LOI renewals throughout 2011- 2016.

Waiting for turnover in the Mayor's office, Planning Commission, Planning Department & Vail should not be an allowed strategy for approving the same project from 12 years ago.





Treasure Hill Size, Mass, Scale & Density

NOTE: All cut & pasted items are directly from the PC Planning Department Revised Staff Report: Dated 12/18/1985

Our commissioners must try to level set to 1985/1986 to try to understand what was actually approved for density. Think the Yarrow Hotel vs. the Montage in terms of amenities and back of house sq ft. No convention center, No spa, No Mine Adventure Tour, No timeshares, etc... All of which have been claimed by the Sweeney's to be allowed uses at one time or another. All of which dramatically increase neighborhood impacts and their sq ft must subtract from the original approved density. The only commercial uses that could be allowed support the project. Commercial uses are not allowed to bring traffic to the Treasure Hill site.

1. Approved Density Hillside Properties (pg 8) (Dated 12/18/1985)

Hillside Properties

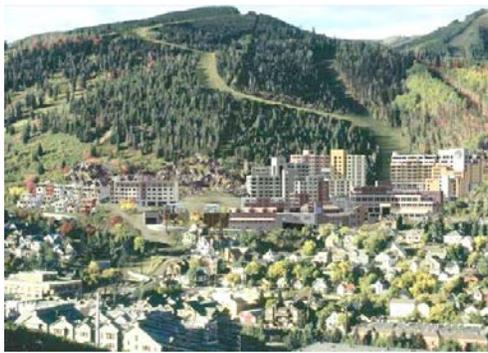
By far the largest area included within the proposed Master Plan, the Hillside Properties involve over 123 acres currently zoned FR-1 (approximately 15 acres) and Estate (108 acres). The development concept proposed would cluster the bulk of the density derived into two locations; the Town Lift Mid-Station site and the Creole Gulch area. A total of 197 residential and an additional 19 commercial unit equivalents are proposed between the two developments with over 90% of the hillside (locally referred to as Treasure Mountain) preserved as open space. As part of the Master Plan, the land not included within the development area boundary will be rezoned to Recreation Open Space (ROS).

A) Please note: This is the original document which gives a density of 197 X 2,000=394,000 residential & 19 X 1,000=19,000 support commercial for a total maximum of 413,000 sq ft.

No comprehensive document exists showing the density transfers between all the previous built parcels over the years, so the real sq ft may certainly be less than 413,000.

B) Please note: Almost all of the Hillside density comes from 15 acres of HR1 zoned properties. It is very important to note that all the Mid-station and Creole Gulch underlying zoning is in the historic zone either HR1 or Estate.





Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood.

- C) Located in the Historic District, this project must be compatible with the scale already established & sensitive to the surrounding neighborhood. The Hillside project is not in any way compatible nor does it show any sensitivity to the district. Just look at the pictures.

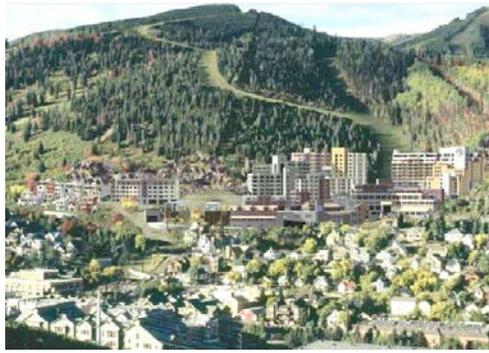
3. Hillside properties are bound by the Historic District Design Guidelines & PC General Plan (ie: Master Plan in 1985) (pg 4) (Dated 12/18/1985)

III. DEVELOPMENT PARAMETERS and CONDITIONS

The staff's recommendation that the Sweeney Properties Large Scale Master Planned Development be approved by the Planning Commission, and subsequently by the City Council, is predicated upon the following terms and conditions. Upon approval, MPE Inc./Sweeney Land Company, its successors or assignees, shall become bound by and obligated for the performance of the following:

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.
- A) At the time of submittal for Conditional Use Approval the project must comply with the adopted codes and ordinances in effect at the time. This includes: Historic District Design Guidelines, LMC, and PC General Plan. That is the intent & the most restrictive governs.
6. At the time of project review and approval, all buildings shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements. No mechanical equipment or similar protuberan-
- B) All buildings must be reviewed for conformance with the Historic District Design Guidelines. This review has not been done to date.





- 10 As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application.
- C) These buildings are required to include required employee housing at the time of CUP submittal. If either affordable and/or employee housing are required, these sq ft are taken out of the approved density (not added to it). Another reduction from 413,000 sq ft.

Treasure Hill Size, Mass, Scale & Density

NOTE: All cut & pasted items below are directly from the PC City Council Meeting Minutes: Dated 10/16/1986.

These minutes are used because the City Council lowered the maximum building heights for the Mid-station and Creole Gulch parcels after the Planning Commission's split approval in 1985.

City Council Minutes (Direct quotes) (Dated 10/16/1986)

3. Creole Gulch Maximum height reduced to 75 ft (pg 5)

4. Approval of Height Exception for Sweeney Master Plan Approval - The City Manager explained that the height exception would pertain to the following parcels: Coalition East on Park Avenue for 40 units for 55 feet (permitted height 28 feet); the Coalition West, zoned for 13 units for 35 feet (HR-1 - permitted height 28 feet); Creole Gulch 161.5 unit equivalents for 95 feet (permitted 28 feet); Town Lift Mid-Station 55.5 unit equivalents for 55 feet (permitted 28 feet). These can be acted on together or individually by Council.

Ann MacQuoid, "I move that with the height exceptions there are four height exceptions requested and that those height exceptions be approved by Council with the following modification. That is that in the what is called the Creole Gulch where the request is for a maximum of 95 feet that that be limited to 75 feet and that specifically the condition that is 5(e) in the conditional permit read:

"The Creole Gulch site shall be limited to a maximum height of 75 feet. An average overall height of less than 45 feet shall be provided and no portion of any building shall exceed either elevation 7,250 feet for the easternmost building or elevation 7,275 feet for the balance of the project."

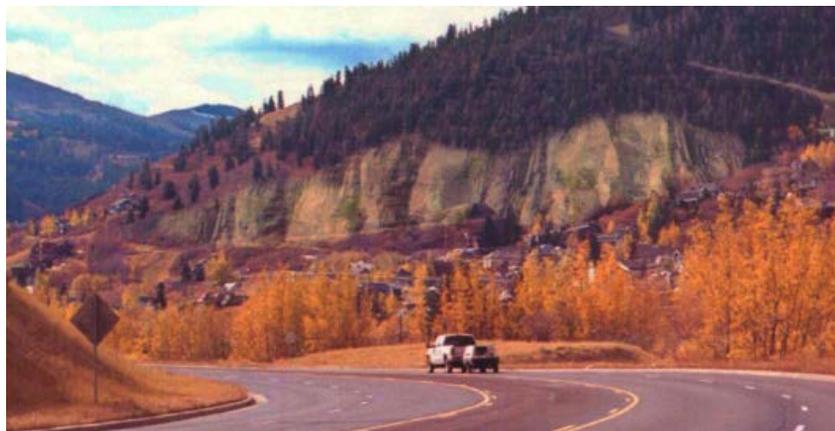




- A) Creole Gulch's original permitted height was 28ft HR-1. MPE requested 95ft and council lowered it to 75ft. This is a maximum building height, period. It is not from either existing grade or final grade. It is not from downhill or uphill. It is the height of the building from the basement to the roof.

If you excavate 100ft vertical and leave a scar for a 137' building. That building is not 37ft.

- B) The council understood the excavation/backfill methods used by developers to game the approval and add significant height. That is why the council added elevations of 7,250' & 7,275' above mean sea level.
- B) Average overall height calculations of less than 45ft are wildly inaccurate. Staff should request these calculations.
- C) Massing issues exist with most bldgs, but especially:
Bldg 5A: 11 stories 150' tall & 60,000 sq ft w/ 39% circulation, common space, & accessory
Bldg 5C: 12 stories 145' tall & 81,000 sq ft w/ 37% circulation, etc...
Bldg 4B: 13 stories 137' tall & 252,000 sq ft w/37% circulation, etc...
- D) The overriding design features on the site are building positioning and orientation to allow for extreme heights through excavation of the existing hillsides. This excavation is proposed at unprecedented volumes and is massively destructive. CUP 15 will address this in the future. But, every tree goes down. The entire 11.5acre site is leveled, then excavated for connecting roads & multiple parking levels. Vertical scars 100ft or more, erosion problems, nowhere to remove toxic soil. Toxic soils from 4 mines can't be disturbed and then expected to be left on site.





City Council Minutes (Direct quotes) (Dated 10/16/1986)

4. Mid-Station Maximum Height Reduced to 45 ft (pg 5)

The other revision would be that at the Town Lift Mid-Station instead of 55 feet, the height be limited to 45 feet and that condition 5(d) be revised:

"The Town Lift Mid-Station development is restricted to a maximum height of 45 feet. The maximum height of 35 feet is required for at least 90% of the total unit equivalent volume of all above grade buildings and an overall average height of less than 25 feet measured from natural undisturbed grade. No portion of any building shall exceed the elevation 7,240 feet above main sea level."

- A) Note Original permitted height was 28ft HR-1. MPE requested 55ft and council lowered it to 45ft. This is a maximum building height, period. It is not from either existing grade or final grade. It is not from downhill or uphill. It is the height of the building from the basement to the roof.
- B) Note: The Mid-Station average building height is now 25ft measured from natural undisturbed grade. Notice that the council added the term "from natural undisturbed grade". This is added purposefully to fit in with the HR-1 zoning of 28ft in 1985. (This wording also shows that council was not allowing the applicants to adjust measurements from existing or final grades in Creole Gulch. This is exactly what MPE is trying to adjust on an unprecedented scale.)
- C) While Mid-station buildings 1A and 2 are possibly the most compatible in the project. Their location & orientation present a road on top of an approximately 22ft vertical wall. The wall will be very visible in old town and it will not be a welcome design feature, nor is the exposed road and traffic welcome just above Woodside.
- D) Bldg 1B is 6 stories and quite massive for its location at the mid-station site, (above Woodside Ave). Bldg 1B should be broken up similar to 1A.
- E) Massing issues also exist with most Mid-station bldgs:
 - Bldg 1A: 4 stories 68ft tall w/ 40ft of excavation
 - Bldg 1B: 6 stories 88ft tall significant excavation
 - Bldg 1C: 7 stories 98' tall w/ 20ft of excavation
 - Bldg 2: 4 stories 50ft tall w/ 27ft of excavation





RESPONSE to MPE ATTORNEY's Presentation 6/8/2016 (responses in red below)

- Sweeneys gave 109 acres to PC as open space:
 - a) 108 acres of these 109 acres were already Estate zoning with extremely low density.
 - b) 15 acres were HR1. Similar to the current 11.5 acres in the CUP application.

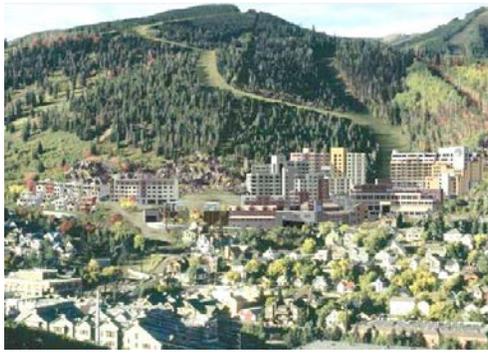
In exchange, Park City promised to:

- Allow development on the Hillside
 - a) Subject to a project that fit into the existing historic neighborhood.
 - b) Subject to the CUP process in place at the time of application.
 - c) Project should have some resemblance to the MPD that was approved in 1986.
- Honor the deal struck
 - a) MPE is the party who has continually changed the deal since 1986.
- Sweeney's attorney repeatedly quoted attorney Jody Burnett's memorandum dated: 4/22/2009
- Jody Burnett states: Sweeneys have vested rights
- Jody Burnett states: Sweeneys have performed under the MPD contract
 - a) Sweeneys may have performed up to the date of the memorandum 4/2009. (7 yrs. ago)
 - b) Sweeneys want to quote the portions of the letter they like, **but not the most critical portion of the Burnett memorandum.**

Jody Burnett's memorandum dated: 4/22/2009 (pg 3)

Finally, I also want to address a question that has been raised as to what standard should apply, in the vesting context, to the calculation of the amount of any additional support commercial and/or meeting space for the Sweeney MPD. From my vantage point, the evaluation of historical vested rights has to be viewed in the context of the land use regulations which were in place at the time the vesting occurred as a result of the original MPD approval. In this case, that means the provisions of the Land Management Code in effect as of the date of that original approval in 1986 should also be applied to the calculation of any additional meeting space and support commercial areas without requiring the use of unit equivalents of density. As you move forward with the conditional use permit approval process, the provisions of Section 10.12 of the 1985 LMC should be used for that purpose, which I understand provide that up to five percent (5%) of the total floor area within a hotel may be dedicated to meeting rooms, and support commercial areas without requiring the use of a unit equivalent of commercial space.





Jody Burnett's Calculations (sq ft back of house)

- a) Sweeneys MPD has vested $413,000 \text{ sq ft} \times 5\% = 20,650 \text{ sq ft}$. (back of house)
- b) Jody Burnett's calculation total MPD sq ft $413,000 + 20,650 = \underline{433,650 \text{ ft sq}}$

Sweeneys CUP Application

- Sweeneys CUP application requests **1,016,887 sq ft**
- $1,016,887 \text{ requested} - 413,000 \text{ allowed} = 603,887 \text{ sq ft}$ (back of house)

**Sweeneys are requesting 30 times the amount of meeting room & support commercial sq ft
Jody Burnett states is vested!**

- a) **20,000 sq ft vs. 600,000 sq ft.**
- b) **You decide who is honoring their side of the deal!**

SUMMARY

The code is in place to protect the citizens of Park City. Follow the code. Enforce the law. This project, as proposed, is incompatible and will do irreversible & irreparable harm to the Historic District of Park City. There is no way that every CUP criteria for this project can be mitigated. This is the future of Park City and you are in the position to end this now.

Respectfully Submitted,

John Stafsholt

