



PLANNING DEPARTMENT

Planning Commission Staff Report

Subject: Treasure Hill
Project #: PL-08-00370
Author: Francisco Astorga, AICP, Senior Planner
Date: 13 July 2016
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 1 *Size and Scale of the Location of the Site* and no. 9 *Usable Open Space* as analyzed in the staff report and presented by the applicant. Staff recommends that the Planning Commission provide input and direction to Staff and the Applicant. Staff recommends that the Planning Commission conduct a public hearing and continue it to the August 10, 2016 Planning Commission meeting.

Description

Property Owner: Sweeney Land Company and Park City II, LLC
represented by Patrick Sweeney
Location: Creole Gulch and Mid-station Sites
Sweeney Properties Master Plan
Zoning: Estate District –Master Planned Development
Adjacent Land Use: Ski resort area and residential
Topic of Discussion: CUP Criterion no. 1 Size and scale of the location of the Site
CUP Criterion no. 9 Usable open Space
Reason for Review: Conditional Use Permits are required for development per the Sweeney Properties Master Plan. Conditional Use Permits are reviewed by the Park City Planning Commission.

Background

The Sweeney Properties Master Plan (SPMP) was approved by the Planning Commission on December 18, 1985. The City Council called up the project for review. On October 16, 1986, the City Council approved the SPMP with amendments to the maximum allowed building heights in Hillside Properties known as the Town Lift Mid-Station and the Creole Gulch sites.

The SPMP approval involves a number of individual development parcels. Combined, a total of 277 unit equivalents (UE) were approved, including 258 residential UEs and 19 UEs worth of support commercial space. The Sweeney Properties were located throughout the western edge of the historic district of Park City. The SPMP included the Coalition properties by the town lift plaza (1.73 acres), the HR-1 properties (0.45 acres), the Hillside Properties (123 acres), and three (3) single-family lots within Old Town.

The SPMP was amended in October 14, 1987 to provide for the Woodside (ski) Trail. It was then amended December 30, 1992 with respect to the Town Lift Base. It was amended once again on November 7, 1996 to provide for the Town Bridge. The Woodside Trail (now commonly referred to as the Town Run), the Town Lift Base, and Town Bridge have subsequently been built.

The Hillside Properties consists of the Town Lift Mid-Station (Mid-station) and the Creole Gulch sites. These Hillside Properties are the last two (2) parcels to be developed within the SPMP. The following is the maximum density allowed for each of the sites:

- Creole Gulch, 7.75 acres
 - 161.5 residential UEs
 - 15.5 support commercial UEs
- Mid-station, 3.75 acres
 - 35.5 residential UEs
 - 3.5 support commercial UEs

A combined total of 197 residential UEs and 19 support commercial UEs was approved for the 11.5 acre remaining development sites. Of the 123 acres of Hillside Property, 110 have become zoned recreation open space (ROS) due to the agreement within the SPMP.

Under the SPMP, each development site is required to attain the approval of a Conditional Use Permit (CUP) from the Planning Commission. On January 13, 2004, the applicant submitted a CUP application for the Creole Gulch and Mid-station sites. The CUP was reviewed by the Planning Commission from April 14, 2004 to April 26, 2006. A complete set of revised plans was received by staff on October 1, 2008. Additional materials were received by staff on December 18, 2008. The CUP was reviewed by the Planning Commission from January 7, 2009 to February 10, 2010.

In response to their submitted application, some sheets were revised in January 2009 and others were updated in March 2009. The City Council decided to proactively engage the applicant to explore additional alternatives and negotiate as a buyer in 2010. The negotiations, which included several public updates, surveys, and an open house, concluded in 2014 without a solution. Since then, the applicant has been meeting with the Planning staff to review and work on its application. On April 8, 2016, the Applicant submitted a letter requesting that their CUP application be placed back on the agenda for the Planning Commission's consideration. The Planning Commission held an introduction of the project and held a public hearing during the June 8, 2016 Planning Commission meeting.

Proposal

The applicant's [written & pictorial explanation](#) indicates the following regarding their proposal:

“The plan is to build a dense, compact, pedestrian oriented, extension of the historic district. The design is contemporary within a traditional framework. It leaves the vast majority of Treasure Hill as open space. The buildings are nested in the open space at the base of the Creole Gulch. The units are moderately sized and will provide a steady customer base for historic Main Street. The design incorporates a variety of building styles including single family, row houses, flats, apartments, hotel, and industrial.”

According to the applicant’s calculations found on [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#), the current proposal consists of the following:

Summary of Building Area by Use									Basement Spaces				Grand Total
Bldg. No.	Residential (net)	Common Space & Circulation (gross)	Allotted Commercial (MPD UE's) (gross)	Support Commercial (gross)	Meeting space (gross)	Accessory Space (gross)	Parking (gross)	Subtotal	Parking (gross)	Common Space & circulation	Accessory Space	Subtotal	
Prkng							3,661	3,661	218,535	6,753	33,175	258,463	262,124
R&R									22,867			22,867	22,867
1A	12,230	1,353						13,583					13,583
1B	30,803	12,028				1,220		44,051		5,365	4,382	9,747	53,798
1C	23,478	2,002						25,480		739	5,681	6,420	31,900
2	6,369	654	1,397			750		9,170				9,170	9,170
EH						6,669		6,669				6,669	6,669
3A			3,746					3,746				3,746	3,746
3B	23,781	9,093	8,273			3,936		45,083				45,083	45,083
3C	8,191	1,176	4,054					13,421				13,421	13,421
Plaza		450				972		1,422				1,422	1,422
4A	17,231	18,077		21,100	16,127	26,709		99,244					99,244
4B	152,608	57,678		5,626		24,517		240,429		5,148	6,634	11,782	252,211
5A	36,926	15,473				1,692		54,091		5,944	237	6,181	60,272
5B	9,445	1,070						10,515			4,426	4,426	14,941
5C	42,939	1,9079	1,393	6,686		2,833		72,930		3,182	5,012	8,194	81,124
5D	29,910	7,522				1,074		38,506		424	6,382		45,312
Total	393,911	145,655	18,863	33,412	16,127	70,372	3,661	682,001	241,402	27,555	65,929	334,889	1,016,887

Prkng – Parking, R&R – Ramp & Roadway, EH – Employee Housing, Plaza – Plaza Buildings.

The following table below is a summary of the category specific totals:

Building area by Use	Square feet
Residential (net):	393,911
Commons space & circulation (gross)	145,655
Allotted Commercial (MPD UE's, gross)	18,863
Support Commercial (gross)	33,412
Meeting Space (gross)	16,127
Accessory Space (gross)	70,372
Parking (gross)	3,661
Subtotal	682,001
<i>Basement areas:</i>	
Parking (gross)	241,402
Common Space & Circulation (gross)	27,555

Accessory Space (gross)	65,929
Subtotal	334,886
Grand Total	1,016,887

The applicant divided the building area by use into two categories as the 2004 definition of Gross Floor Area below does not basement spaces:

15-15-1.91. **Floor Area.**

(A) **Floor Area, Gross.** *The Area of a Building, including all enclosed Areas designed for human occupation. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Floor Area. Garages, up to a maximum Area of 600 square feet, are not considered Floor Area. Basement Areas below Final Grade are not considered Floor Area.*

(B) **Floor Area, Net Leasable.** *Gross Floor Area excluding common hallways, mechanical and storage Areas, and restrooms.*

The proposal consists of 46 residences, 202 hotel rooms, and 67 club units. The proposal consists of the following residential units:

Type	Units < 650 s.f.	Units 650-1,000 s.f.	Units 1,000-1,500 s.f.	Units 1,500-2,000 s.f.	Units > 2,000 s.f.	Total by Type
Residences				4	42	46
Hotel	161	4	35	1	1	202
Club			13	11	33	67
Total by size	161	4	48	16	76	305

The proposal consists of a combined total of 305 units in the form of residences, hotel rooms, and club units. Staffs choose to utilize the same categories on the table above to be consistent with the parking standard which will be analyzed with the Planning Commission in a future meeting. For the exact calculation of each unit please review [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#). The proposal consists of 424 parking spaces to be discussed in a future Planning Commission meeting. The following table below shows a square footage breakdown by residential size:

Unit Size	Quantity	Overall area in Square feet
Units < 650 s.f.	161	76,330
Units 650-1,000 s.f.	4	3,936
Units 1,000-1,500 s.f.	48	43,702
Units 1,500-2,000 s.f.	16	29,159
Units > 2,000 s.f.	76	230,781

Total	305	393,911
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The proposed residential net area is 393,911 square feet. The proposed gross common and circulation space is 145,655 square feet. The proposed gross allotted commercial is 18,863 square feet. The proposed gross support commercial is 33,412 square feet. The proposed gross meeting space is 16,127 square feet. The proposed gross accessory space is 70,372 square feet. The proposed gross parking is 3,661 square feet. The proposed subtotal of all of these spaces consists of 682,001 square feet. All of these spaces above are above grade as they are not considered basement areas below final grade per the 2004 adopted definition.

The proposed gross parking (basement space as indicated by the applicant) is 241,402 square feet. The proposed gross common and circulation space (basement) is 27,555 square feet. The proposed gross accessory space (basement) is 65,929 square feet. The proposed gross basement subtotal is 334,886 square feet.

The proposed project grand total is 1,016,887 square feet. The combined areas are summarized below:

Overall Building area by Use	Square feet
Residential (net):	393,911
Commons space & circulation (gross)	173,210
Allotted Commercial (MPD UE's, gross)	18,863
Support Commercial (gross)	33,412
Meeting Space (gross)	16,127
Accessory Space (gross)	136,301
Parking (gross)	245,063
Grand Total	1,016,887

On [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) the Applicant takes the proposed net residential square footage of 393,911 and divides by 2,000 (UE residential factor) which equates to 196.96 unit equivalents. The Applicant also takes the proposed gross allotted commercial square footage of 18,863 and divides by 1,000 (UE commercial factor) which equates to 18.86 unit equivalents.

Furthermore, the applicant, also on Sheet P.16, takes the proposed gross support commercial of 33,412 square feet and divides by the proposed subtotal of all spaces consisting of 682,001 square feet (except basement space) which equates to 4.9%. Also, the applicant, takes the proposed gross meeting space of 16,127 square feet and divides by the same proposed subtotal of all spaces consisting of 682,001 square feet (except basement space) which equates to 2.36%. The Applicant shows these two (2) percentages which are both under 5% of the gross area as they believe that the project can be assigned an additional 5% of support commercial space and an additional 5% of meeting space.

Analysis - Size and Scale of the Location of the Site

Finding of Fact no. 4 of the Master Plan indicates the following:

The commercial uses proposed will be oriented and provide convenient service to those residing within the project.

Development parameter/condition no. 3 of the Master Plan indicates the following:

The approved densities are those attached as an Exhibit, and shall be limited to the maximums identified thereon. Parking shall be provided on-site in enclosed structures and reviewed in accordance with either the table on the approved Restrictions and Requirements Exhibit or the adopted ordinances at the time of project approval. All support commercial uses shall be oriented and provide convenient service to those residing within the project and not designed to serve off-site or attract customers from other areas.

Section V. Narrative indicates:

The Sweeney Properties Master Plan involves a number of individual development parcels. Combined, a total of 277 unit equivalents are proposed; including, 258 residential and 19 unit equivalents worth of support commercial space. Based upon the zoning in effect at this time, in excess of 450 units could be requested. While this may be somewhat misleading due to certain physical and technical constraints (i.e.: access, slope, utilities), it does reveal that a significant reduction in total density proposed has been incorporated into the project. Each area proposed for development has been evaluated on its own merits. During the course of review, numerous concepts were considered with densities shifted around.

The various parcels of land included within the Sweeney Properties Master Plan are scattered about the Historic District and are detailed on the attached Exhibit. For additional clarity a brief narrative description of each development area follows:

[...]

Hillside Properties

By far the largest area included within the proposed Master Plan, the Hillside Properties involve over 123 acres currently zoned HR-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).

The Town Lift Mid-Station site contains roughly 3.75 acres and is located west of Woodside Avenue at approximately 6th Street. The majority of the developable area

is situated southeast of the mid-station loading area. A total of 35.5 residential unit equivalents are proposed with 3.5 equivalents worth of support commercial space as well. The concept plan shows a number of low profile buildings located on the downhill side of the access road containing 9 unit equivalents. Two larger buildings are shown above the road with 9.5 and 17 units envisioned. The average building height for the Town Lift site is less than 25' with over 85% of the building volume fitting within a 35' height envelope. Parking will be provided within enclosed structures, accessed via a private road originating from the Empire-Lowell switchback. The closest neighboring residence is currently located in excess of 200 feet away.

The Creole Gulch site is comprised of 7.75 acres and situated basically south of the Empire-Lowell switchback at approximately 8th Street. The majority of the property is currently zoned Estate (E). A total of 161.5 residential unit equivalents are proposed. In addition, 15.5 unit equivalents of support commercial space is included as part of the Master Plan. Average building heights are proposed to be less than 45' with a maximum of 95' for the highest point. As conceptually proposed, in excess of 80% of the building volume is within a 75' height envelope measured from existing grade. It is expected that the Creole Gulch site will be subdivided into specific development parcels at some future date. Parking is accessed directly from the Empire-Lowell switchback and will be provided within multi-level enclosed structures. Depending upon the character of development and unit configuration/mix proposed at conditional use approval, the actual numbers of parking spaces necessary could vary substantially. Buildings have been set back from the adjacent road approximately 100' and a comparable distance to the nearest adjoining residence.

Section VI. Major Issues indicates the following under the Land Uses subsection:

Land Uses - The predominant land uses envisioned at this time are transient-oriented residential development(s) with some limited support commercial. The building forms and massing as well as location lend themselves to hotel-type development. Although future developers of projects within the Master Plan have the flexibility to build a variety of unit types in different combinations or configurations, the likelihood is that these projects will likely be geared toward the visitor looking for more of a destination-type of accommodation. The property involved in the Master Plan is directly connected to the Park City Ski Area and as such can provide ski-to and ski-from access. A number of smaller projects in the area are similarly oriented to the transient lodger. Although certainly a different kind of residential use than that which historically has developed in the old town area, it is still primarily residential in nature. The inclusion of attached townhomes serving to buffer between the existing residences and the denser areas of development will also help provide a transition of sorts. The amount of commercial space included within the Master Plan will be of the size and type to provide convenient service to those residing within the project, rather than possibly be in competition with the city's existing commercial areas.

As indicated on development parameter/condition no. 3 of the Master Plan: *The approved densities are those attached as an Exhibit, and shall be limited to the maximums identified thereon.* The copied table below is the SPMP Density Exhibit:

SWEENEY PROPERTIES MASTER PLAN DENSITY EXHIBIT					
Parcel	Acres	Residential Unit Equivalents	Commercial Unit Equivalents	Maximum Building Height ²	Minimum Open Space (%)
Coalition Properties					
East	0.986	40	Maximum Commercial space not to exceed FAR of 1:1	55'	39.8 ¹
West	0.543	13	---	35'	54.9
Hillside Properties					
Creole Quich	7.75	161.5	15.5	98' * 75	70
Town Lift Mid-Station	3.75	35.5	3.5	55' * 45	70
Three 1/4-acre Single Family Lots	1.5	3	---	25'	83.9
Develop IIR-1 Properties					
Carr-Sheen	0.288	3	---	28'	60
HPE	0.161	$\frac{2}{258 \text{ U.E.}}$	$\frac{19}{19 \text{ U.E.}}$		

¹ Does not include Town Lift base facility
² Maximum roof height, excludes elevator shaft

* Subject to revised conditions as stated in the Motion by City Council (10/16/18)

From these statements Staff makes the following findings:

1. The commercial uses proposed will be oriented and provide convenient service to those residing within the project.
2. The approved densities are those attached as an Exhibit, and shall be limited to the maximums identified thereon.
3. All support commercial uses shall be oriented and provide convenient service to those residing within the project and not designed to serve off-site or attract customers from other areas.
4. The Sweeney Properties Master Plan involves a number of individual development parcels. Combined, a total of 277 unit equivalents are proposed; including, 258 residential and 19 unit equivalents worth of support commercial space.
5. The various parcels of land included within the Sweeney Properties Master Plan are scattered about the Historic District and are detailed on the attached Exhibit.

6. For additional clarity a brief narrative description of each development area follows:
 - a. 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.
 - b. 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.
 - c. The Town Lift Mid-Station site contains roughly 3.75 acres and is located west of Woodside Avenue at approximately 6th Street. The majority of the developable area is situated southeast of the mid-station loading area.
 - d. A total of 35.5 residential unit equivalents are proposed with 3.5 equivalents worth of support commercial space as well.
 - e. The Creole Gulch site is comprised of 7.75 acres and situated basically south of the Empire-Lowell switchback at approximately 8th Street.
 - f. A total of 161.5 residential unit equivalents are proposed. In addition, 15.5 unit equivalents of support commercial space is included as part of the Master Plan.
 - g. It is expected that the Creole Gulch site will be subdivided into specific development parcels at some future date.
7. Depending upon the character of development and unit configuration/mix proposed at conditional use approval, the actual numbers of parking spaces necessary could vary substantially.
8. The predominant land uses envisioned at this time are transient-oriented residential development(s) with some limited support commercial. The building forms and massing as well as location lend themselves to hotel-type development.
9. Although future developers of projects within the Master Plan have the flexibility to build a variety of unit types in different combinations or configurations, the likelihood is that these projects will likely be geared toward the visitor looking for more of a destination-type of accommodation.
10. The property involved in the Master Plan is directly connected to the Park City Ski Area and as such can provide ski-to and ski-from access. A number of smaller projects in the area are similarly oriented to the transient lodger.
11. Although certainly a different kind of residential use than that which historically has developed in the old town area, it is still primarily residential in nature.
12. The amount of commercial space included within the Master Plan will be of the size and type to provide convenient service to those residing within the project, rather than possibly be in competition with the city's existing commercial areas.

Support Commercial Incompliance

The Hillside Properties (Mid-station and Creole Gulch sites) of the SPMP known as the Treasure Hill project is allowed a total of 197 residential and an additional 19 support commercial unit equivalents between the two (2) developments. As described in the Hillside Properties narrative description: *"The Town Lift Mid-Station site contains roughly 3.75 acres and is located west of Woodside Avenue at approximately 6th Street.*

The majority of the developable area is situated southeast of the mid-station loading area. A total of 35.5 residential unit equivalents are proposed with 3.5 equivalents worth of support commercial space as well.” Also, “The Creole Gulch site is comprised of 7.75 acres and situated basically south of the Empire-Lowell switchback at approximately 8th Street. The majority of the property is currently zoned Estate (E). A total of 161.5 residential unit equivalents are proposed. In addition, 15.5 unit equivalents of support commercial space is included as part of the Master Plan.”

The Master Plan was approved under the 1985 LMC Third Edition. Any additional support commercial and meeting space areas above the 19 UEs must be in compliance with the LMC at the time of the MPD vesting. These figures are maximum possible allowances as long as any adverse impacts attributed to the density have been mitigated. Any additional support commercial above the 19 UEs is not vested. For additional articulation regarding this matter, see published [Staff Report dated September 23, 2009](#) (starting on staff report page 19) and [Planning Commission meeting minutes](#) (Planning Commission comments start on page 3) as staff generally agrees with this and the applicant does not. The Planning Department will be prepared to cover this in detail during the next meeting

Difference in approved MPD and current application

The approved Master Plan, included exhibits showing calculations for the units within the project. Two (2) major differences have been identified in the review by staff of the current project versus the original master plan approval. The total square footage of the project is larger than originally anticipated within the master plan approval and original CUP submittal.

The original Master Plan exhibits did not quantify total square footage. The original Master Plan exhibits showed the total unit equivalents utilized within the Creole and Mid-station sites. The totals represented are 197 UEs of residential and 19 UEs of support commercial. No additional support commercial units were shown on these exhibits. Parking was also shown on the original Master Plan exhibits with 464 total parking spaces and approximately 203,695 square feet of area.

The original CUP application in 2004 for Planning Commission review indicated a total of 849,007 square feet. The following is a breakdown of the project from the 2004 submittal:

Use	Square Footage
Residential	483,359
Ancillary	86,037
Support Commercial	22,653
Parking	256,958
Total	849,007

In 2006, the Planning Commission asked the applicant to provide more details on the current plan. The revisions to the plan (that are now the current application under

review) include an additional 167,880 square feet. The following is a breakdown of the current submittal.

Use	Square Footage
Residential (net):	393,911
Common space & circulation, Accessory Space (gross)	309,511
Allotted Commercial (MPD UE's, gross)	18,863
Support Commercial (gross)	33,412
Meeting Space (gross)	16,127
Parking (gross)	245,063
Grand Total	1,016,887

The additional space has been added to the support commercial, meeting space, circulation, common space, and accessory space since the original 2004 submittal. This increase in area accounts for 16.5% of the current total square footage of the project.

The proposed square footage of this project does not comply with the purpose statements of the Land Management Code and the goals and actions listed within the General Plan. Within the Master Plan, the area was assigned a specific number of unit equivalents. The way in which these unit equivalents are designed within the project area must meet the General Plan. According to the LMC CUP Standard of Review, the City Shall not issue a CUP unless the Planning Commission concludes that the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. See LMC 50th § 15-1-10(D).

The project is located in the Estate zoning district of Park City. The purpose statements within the Estate zone, purpose statement 8 states “encourage comprehensive, efficient, compatible development which results in distinct and cohesive neighborhoods through application of the sensitive lands ordinance.” Although the application is not required to meet the standards of the Sensitive Lands Overlay, the design should be efficient and compatible. The current application is excessive and inefficient.

Within Chapter 2 of the Park City General Plan several goals are stated that address massing and scale. Specifically the following:

“new development, both commercial and residential, should be modest in scale and utilize historic and natural buildings materials. New structures should blend in with the landscape.”

“Preserve an attractive, healthy environment with clean air and natural landscapes. To preserve the natural views of the mountains and meadows, new development should not be allowed on ridges, but rather focused between the middle and the base of hills and in other less visible areas. New development

should retain the maximum possible amount of natural vegetation, to screen structures and preserve the natural quality of the landscape.”

“Park City should manage new development to control the phasing, type, appearance, location, and quantity of community growth by adopting and enforcing growth management strategies”

“The community’s growth should be managed so that direct and indirect adverse impacts can be anticipated, identified, and mitigated to the extent possible.”

The intent of Chapter 3, Community Character Element of the Park City General Plan, is to “sustain the character and image of the Park City community through specific policies, recommendations, and actions that will accomplish the primary goal of maintaining the community’s development patterns and way of life”. Within this section the downtown area is described as “with its historic character marked by buildings of simple design, modest scale, and modest height, is the community’s “crown jewel.” The discussion continues with “new commercial and residential development, modest in scale, and utilizing historic and natural building materials”. Staff has concerns with the requested amount of square footage requested. The amount of circulation area, lobby areas, parking circulation, etc. are not modest in scale and compatible to the surrounding area. Below is the side by side comparison of the 2004 application and the 2008 Update:

Use	2004 Square Footage	2008 Update Square Footage
Residential	483,359	393,911
Ancillary / Common space & circulation, and Accessory Space	86,037 (identified as Ancillary)	309,511 (identified as common space & circulation, and accessory space)
Support Commercial	22,653	(18,863 + 33,412 +16,127) = 68,402
Parking	256,958	245,063
Total	849,007	1,016,887

Ancillary includes common, circulation, accessory space, etc.

In comparison the 2008 updated included: a residential reduction of 89,448 square feet; an ancillary (including common, circulation, accessory space) increase of 223,474 square feet; a support commercial increase of 45,749 square feet, and a parking area reduction of 11,895 square feet. Overall the project increased by 167,880 square feet.

Discussion Requested. Staff requests discussion and direction on that fact that proposal has not decreased in size since it’s originally submittal in 2004. The project has increased in size by 167, 880 square feet. Staff acknowledges that this is a numeric analysis and will be prepared to discuss the mass, volume, etc., changes from the 2004 submittal to the 2008 update should the Planning Commission find it necessary for the CUP review and determination of

compliance, or lack thereof, of the CUP mitigating criteria, compliance with the Master Plan and 2004 LMC, etc.

Analysis – Circulation, Accessory Uses, Back-of-House

In 2011 the Planning Department's Planning Director completed an analysis of existing hotels to determine net/gross square footage including a back-of-house calculation. See Exhibit W. Based on the 2011 research by the Planning Director, an average of the five (5) hotels, excluding the proposed Treasure Project from the 2008 update, equates to 34.4% for circulation and common space/back-of-house areas/accessory uses. Based on the Department's research, there is generally a trend towards wider hallways, more open lobby and check-in space, a desire by guests for socializing space, sitting spaces with views, etc.

Discussion Requested. Does the Planning Commission find that the Planning Department should considering limiting the amount of Back-of-House/Circulation/Accessory Uses? The Planning Department is still confirming the calculations identified in Exhibit W as the source was the former Planning Director in 2011.

Analysis - Usable Open Space

The approved Master Plan indicates that the Creole Gulch and Town Lift Mid-Station sites are to have a minimum of 70% open space. When the Master Plan was approved it included the rezoning of the hillside (approximately 110 acres) to Recreation Open Space (ROS) District. Finding of Fact no. 3 states:

“The open space preserved and conceptual site planning attributes resulting from the cluster approach to the development of the hillside is sufficient justification for the requested height variation necessary, and that the review criteria outlined in Section 10.9 (e) have been duly considered.”

The following narrative below is the Open Space section written under section VI Major Issues:

Open Space - A key element of the proposed cluster approach is to preserve usable open space in perpetuity. A total of 97% (120 acres) of the hillside will be maintained as open space as a part of the proposed Master Plan. In excess of 110 acres will actually be rezoned to Recreation Open Space (ROS) in addition to 70% open space provided within each of the development parcels. Alternative concepts reviewed involving the extension of Norfolk Avenue would significantly have reduced the amount of open space retained. The potential for the subdivision and scattered development of the hillside would also have drastically affected the goal of preserving the mountain substantially intact and pristine.

The applicant indicates that the two (2) sites contain a combined of 70% open space. [Sheet SP.1 – Site & Circulation Plan](#) shows that the Mid-station site is 3.75 acres and contains 84.94% of open space. The same sheet SP.1 shows that the

Creole Gulch site is 7.75 acres and contains 70.58% of open space. The entire area consisting of 500,928 square feet or 11.5 acres contain a total of 75.26% open space. The applicant submitted the following exhibit below identified as [Sheet V-11 - Usable Open Space within Development Parcels](#) which shows the three (3) categories identified as Open Space not intended for Recreation use, usable Open Space, and dedicated open space outside of project area:



The 2004 LMC contains the following Open Space definition:

15-15-1.151. Open Space.

(A) Open Space, Landscaped. Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, but excluding Buildings or Structures.

(B) Open Space, Natural. A natural, undisturbed Area with little or no improvements. Open space may include, but is not limited to, such Areas as Ridge Line Area, Slopes over thirty percent (30%), wetlands, Stream Corridors, trail linkages, Subdivision or Condominium Common Area, or view corridors.

(C) Open Space, Transferred Development Right (TDR). That portion of a Master Planned Development, PUD, Cluster Plan or other Development plan from which Density is permanently transferred. This Area may be either Natural or Landscaped Open Space.

Discussion Requested. Staff finds that the proposal complies with the open space requirements identified in the Sweeney Properties Master Plan. Does the Planning Commission agree with this?

Additional Discussion Requested. Staff would like to explore with the Planning Commission the possibility of scheduling a site visit as a work session on August 10, 2016. Staff would like to schedule the site visit at 4:30 pm.

Notice

The property was posted and notice was mailed to property owners within 300 feet on May 11, 2016. Legal notice was published in the Park Record on April 27, 2016 and May 11, 2016 according to requirements of the Land Management Code. The Planning Commission continued this item to the July 13, 2016 Planning Commission meeting.

Public Input

Public input has been received by the time of this report. See the following [website](#) with public input received as of April 2016. All public comments are forwarded to the Planning Commission via the staff report link above and kept on file at the Planning Office. Planning Staff will not typically respond directly to the public comments, but may choose to address substantive review issues in subsequent staff reports. There are four (4) methods for public input to the Planning Commission:

- Attending the Planning Commission meetings and giving comments in the public hearing portion of the meeting.
- Preparing comments in an e-mail to treasure.comments@parkcity.org.
- Visiting the Planning office and filling out a Treasure CUP project Comment Card.
- Preparing a letter and mailing/delivering it to the Planning Office.

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 1 *Size and Scale of the Location of the Site* and no. 9 *Usable Open Space* as analyzed in the staff report and presented by the applicant. Staff recommends that the Planning Commission provide input and direction to Staff and the Applicant. Staff recommends that the Planning Commission conduct a public hearing and continue it to the August 10, 2016 Planning Commission meeting.

Exhibits/Links

[Exhibit A - Public Comments](#)

[Exhibit B - Approved MPD Narrative](#)

[Exhibit C - Approved MPD Plans](#)

[Exhibit D - Proposed Plans – Visualization Drawings1](#)

Sheet BP-01 The Big Picture

Sheet V-1 Illustrative Plan

Sheet V-2 Illustrative Pool Plaza Plan

Sheet V-3	Upper Area 5 Pathways
Sheet V-4	Plaza and Street Entry Plan
Sheet V-5	Building 4b Cliffscape Area
Sheet V-6	Exterior Circulation Plan
Sheet V-7	Parking and Emergency Vehicular Access
Sheet V-8	Internal Emergency Access Plan
Sheet V-9	Internal Service Circulation
Sheet V-10	Site Amenities Plan
Sheet V-11	Usable Open Space with Development Parcels
Sheet V-12	Separation-Fencing, Screening & Landscaping
Sheet V-13	Noise Mitigation Diagrams
Sheet V-14	Signage & Lighting
Sheet V-15	Contextual Site Sections - Sheet 1
Sheet V-16	Contextual Site Sections - Sheet 2

[Exhibit E - Proposed Plans – Visualization Drawings2](#)

Sheet V-17	Cliffscapes
Sheet V-18	Retaining Systems
Sheet V-19	Selected Views of 3D Model - 1
Sheet V-20	Selected Views of 3D Model – 2
Sheet V-21	Viewpoints Index
Sheet V-22	Camera Viewpoints 1 & 2
Sheet V-23	Camera Viewpoints 3 & 4
Sheet V-24	Camera Viewpoints 5 & 6
Sheet V-25	Camera Viewpoints 7 & 8
Sheet V-26	Camera Viewpoints 9 & 10
Sheet V-27	Camera Viewpoint 11
Sheet V-28	Illustrative Plan – Setback

[Exhibit F - Proposed Plans – Architectural/Engineering Drawings 1a](#)

Sheet VM-1	Vicinity & Proposed Ski Run Map
Sheet EC.1	Existing Conditions
Sheet SP.1	Site & Circulation Plan
Sheet GP.1	Grading Plan
Sheet HL.1	Height Limits Plan
Sheet HL.2	Roof Heights Relative to Existing Grade
Sheet FD.1	Fire Department Access Plan

[Exhibit G - Proposed Plans – Architectural/Engineering Drawings 1b](#)

Sheet P.1	Level 1 Use Plan
Sheet P.2	Level 2 Use Plan
Sheet P.3	Level 3 Use Plan
Sheet P.4	Level 4 Use Plan
Sheet P.5	Level 5 Use Plan
Sheet P.6	Level 6 Use Plan
Sheet P.7	Level 7 Use Plan
Sheet P.8	Level 8 Use Plan
Sheet P.9	Level 9 Use Plan
Sheet P.10	Level 10 Use Plan
Sheet P.11	Level 11 Use Plan

- Sheet P.12 Level 12 Use Plan
- Sheet P.13 Level 13 Use Plan
- Sheet P.14 Level 14 Use Plan
- Sheet P.15 Level 15 Use Plan
- Sheet P.16 Area, Unit Equivalent & Parking Calculations

[Exhibit H – Proposed Plans – Architectural/Engineering Drawings 2](#)

- Sheet E.1AC2.1 Buildings 1A, 1C& 2 Exterior Elevations
- Sheet E.1B.1 Building 1B Exterior Elevations
- Sheet E.3A.1 Building & Parking Garage Exterior Elevations
- Sheet E.3BC.1 Building 3BC Exterior Elevations
- Sheet E.3BC.2 Building 3BC Exterior Elevations
- Sheet E.3BC.3 Building 3BC Exterior Elevations
- Sheet E.4A.1 Building 4A Exterior Elevations
- Sheet E.4A.2 Building 4A Exterior Elevations
- Sheet E.4B.1 Building 4B Exterior Elevations
- Sheet E.4B.2 Building 4B Exterior Elevations
- Sheet E.4B.3 Building 4B Exterior Elevations
- Sheet E.4B.4 Building 4B Exterior Elevations
- Sheet E.5A.1 Building 5A Exterior Elevations
- Sheet E.5B.1 Building 5B Exterior Elevations
- Sheet E.5C.1 Building 5C Exterior Elevations
- Sheet E.5C.2 Building 5C Exterior Elevations
- Sheet E.5D.1 Building 5D Exterior Elevations
- Sheet S.1 Cross Section
- Sheet S.2 Cross Section
- Sheet S.3 Cross Section
- Sheet S.4 Cross Section
- Sheet S.5 Cross Section
- Sheet S.6 Cross Section
- Sheet S.7 Cross Section
- Sheet S.8 Cross Section
- Sheet S.9 Cross Section
- Sheet UP.1 Concept Utility Plan

[Exhibit I – Applicant’s Written & Pictorial Explanation](#)

- | | |
|-------------------------|------------------------------|
| I. Overview | VII. Lift Improvement |
| II. Master Plan History | VIII. Construction Phasing |
| III. Site plans | IX. Off Site Amenities |
| IV. Special Features | X. Material Board |
| V. Landscape | XI. Submittal Document Index |
| VI. Management | |

[Exhibit J – Fire Protection Plan \(Appendix A-2\)](#)

[Exhibit K – Utility Capacity Letters \(Appendix A-4\)](#)

[Exhibit L – Soils Capacity Letters \(Appendix A-5\)](#)

[Exhibit M – Mine Waste Mitigation Plan \(Appendix \(A-6\)](#)

[Exhibit N – Employee Housing Contribution \(Appendix A-7\)](#)

[Exhibit O – Proposed Finish Materials \(Appendix A-9\)](#)
[Exhibit P – Economic Impact Analysis \(Appendix A-10\)](#)
[Exhibit Q – Signage & Lighting \(appendix A-13\)](#)
[Exhibit R – LEED \(Appendix A-14\)](#)
[Exhibit S – Worklist \(Appendix A-15\)](#)
[Exhibit T – Excavation Management Plan \(Appendix A-16\)](#)
[Exhibit U – Project Mitigators \(Appendix A-18\)](#)
[Exhibit V – Outside The Box \(Appendix A-20\)](#)
Exhibit W – Space Comparison
Exhibit X – Applicant’s Compliance w/SF Limitation & Requirements

Additional Exhibits/Links

[2009.04.22 Jody Burnett MPD Vesting Letter](#)
[Staff Reports and Minutes 2016](#)
[Staff Reports and Minutes 2009-2010](#)
[Staff Reports and Minutes 2006](#)
[Staff Reports and Minutes 2005](#)
[Staff Reports and Minutes 2004](#)
[2004 LMC 50th Edition](#)
[1997 General Plan](#)
[1986.10.16 City Council Minutes](#)
[1985.12.18 Planning Commission Minutes](#)
[1986 Comprehensive Plan](#)
MPD Amendments:
[October 14, 1987 - Woodside \(ski\) Trail](#)
[December 30, 1992 - Town Lift Base](#)
[November 7, 1996 – Town Bridge](#)

Exhibit W

	Proposed Treasure 197 Res. UEs & 19 Com UEs = 413K SF			Montage* 183 Res. UEs & 63 Com. UEs = 429K SF		
Residential	SF	%		SF	%	
Commercial	393,911	51%		370,235	50%	
Meeting	52,275	7%		57,569	8%	
Circulation	16,127	2%		21,187	3%	
Back of House / Acc. Uses	173,210	22%		93,865	13%	
Deck / Outdoor Space / Attic	136,301	18%	40%	193,157	26%	39%
Total	<u>NA</u>	<u>NA</u>		<u>NA</u>	<u>NA</u>	
	771,824	100%		736,013	100%	

	St. Regis* 130 Res. UEs & 0 Com. UEs = 260K SF			Sky Lodge* 23 Res. UEs & 14 Com. UEs = 37K SF		
Residential	SF	%		SF	%	
Commercial	186,937	50%		43,419	59%	
Meeting	43,023	11%		4,953	7%	
Circulation	0	0%		3,493	5%	
Back of House / Acc. Uses	49,583	13%		9,220	13%	
Deck / Outdoor Space / Attic	95,196	25%	39%	12,649	17%	30%
Total	<u>Deck = 25K</u>	<u>NA</u>		NA	NA	
	375,097	100%		73,734	100%	

	Yarrow* ? Res. UEs. & ? Com. UEs			Marriott Mountainside* ? Res. UEs. & ? Com. UEs		
Residential	SF	%		SF	%	
Commercial	143,522	58%		206,800	65%	
Meeting	33,094	13%		0	0%	
Circulation	0	0%		300	0%	
Back of House / Acc. Uses	52,655	21%		60,713	19%	
Deck / Outdoor Space / Attic	19,997	8%	29%	36,996	12%	35%
Total	Deck = 53K	NA		13,083	4%	
	249,268	100%		317,892	100%	



DATE: July 6, 2016

SUBJECT: Treasure Hill Properties' Compliance with Square Footage Limitations and Requirements

1. Introduction.

The following memorandum demonstrates how the Conditional Use Permit Application (“CUP Application”) for the Treasure Hill Properties, which is currently pending before the Park City Planning Commission, complies with the provisions of the applicable Land Management Code (“LMC”) relating to unit equivalents (“UE”) and additional allowed square footage. The memorandum also addresses how the current CUP Application is consistent not only with the express terms of the 1985 Master Planned Development (“MPD”) approval (“MPD Approval”), but also with the expectations of the parties to the 1985 MPD.

This memorandum does not address in detail all of the numerous issues raised in the draft staff report of the Planning Department,¹ which covers a variety of issues beyond those identified by the Planning Commission at the hearing on June 8, 2016. MPE, Inc.,² objects to the staff’s attempt to preemptively address issues beyond those that the Planning Commission directed MPE to address at the July 13, 2016, CUP hearing. In footnotes throughout the memorandum, MPE has identified some of the issues addressed by the draft staff report that are beyond the scope of the hearing scheduled for July 13, 2016, and provided a brief response. MPE intends to address each of these issues in a more substantive fashion when the Planning Commission directs MPE to do so, consistent with the applicant’s due process rights.

2. The Fiftieth Edition of Park City’s Land Management Code Applies to the CUP Application.

Utah law provides that MPE is entitled to substantive review of its CUP Application under the LMC in effect at the time the Application was submitted, which is the Fiftieth Edition of the LMC revised on July 10, 2003 (“2003 LMC”). *See* Utah Code Ann. § 10-9a-509(1)(a)(i)

¹ The Planning Department shared a draft of its staff report with MPE on July 1, 2016. This memorandum references certain statements contained in the draft report. Since the final staff report may be different from the draft report, it is possible the final report may not contain the referenced passages.

² The draft staff report continues to erroneously refer to the applicant as “Sweeney Land Company and Park City II, LLC.” MPE, Inc., is the applicant. Additionally, the CUP Application was submitted January 26, 2004, not January 13.

“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”). Indeed, the MPD Approval recognized that “[a]t the time of conditional use . . . review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time.” (MPD Revised Staff Report at 3.) The LMC in effect at the time of the MPD Approval (the “1985 LMC”) also provided that MPE was permitted to “take advantage of changes in zoning that would permit greater density or more intense use of the land,” further providing that the later CUP Application would be evaluated under the LMC in effect when MPE submitted its CUP Application in 2004. 1985 LMC § 1.22.

Before MPE initiated preparation of its current CUP Application, it sought confirmation from the Park City Attorney that the LMC in effect when MPE submitted the CUP Application would govern the City’s review of the Application, including its calculations of allowable square footage and floor areas. In a letter dated August 25, 1999, Mark Harrington, the City Attorney, confirmed to MPE that “[s]quare 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).

Over the course of the next several years, MPE expended millions of dollars preparing its current CUP Application in reliance on Park City’s confirmation that square footage and floor area calculations would be governed by the LMC in effect at the time of the CUP Application—the 2003 LMC.³ MPE has invested enormous amounts of time and money since the CUP Application was first submitted to revise the plans and submission, all in reliance on Park City’s confirmation that square footage and floor area calculations are governed by the 2003 LMC.⁴

³ The Planning Department’s draft staff report suggests that the square footage and floor area calculations are governed by something other than the 2003 LMC, such as the LMC in effect when the original MPD was approved—the 1985 LMC. Even though the draft staff report’s interpretation of the 1985 LMC is erroneous in several respects, it is not applicable in any event. Notably, the Planning Department staff acknowledged that square footage and floor area calculations were governed by the 2003 LMC in numerous reports submitted to the Planning Commission in 2004. (*See, e.g.*, Staff Reports, dated April 14, 2004, May 26, 2004, July 14, 2004, August 11, 2004, and August 25, 2004.) Staff provides no explanation for its change in position.

⁴ MPE and its representatives, including its principals, architects, land planners, engineers, and attorneys, have spent tens of thousands of hours, and MPE and its principals have incurred well in excess of \$2 million in fees and expenses, in connection with their design efforts, preparation of the Application, and pursuit of MPE’s development rights as granted in the MPD Approval.

MPE has relied on the City’s representations that the 2003 LMC would apply to the CUP Application, including with respect to its calculations of the square footage and floor area permitted by the vested UEs. Had MPE used the square footage and floor area calculations permitted by the 1985 LMC, it could have potentially requested significantly more square footage and floor area. For example, under § 10.12 of the 1985 LMC, a 15,000 square foot

3. The Square Footage and Floor Area Requested in the CUP Application Is Permitted under the 2003 LMC.

Density for the MPD known as the Treasure Hill Project (the “Project”) was approved by the Park City Planning Commission on December 19, 1985, and then approved by the Park City Council on October 16, 1986. The MPD vested the applicant with certain densities for residential and commercial space. The Project is entitled to 197 residential UEs and 19 commercial UEs between the two development areas under the MPD.

Under the provisions of the 2003 LMC, these UEs establish the baseline for allowable square footage and floor area calculations for the Project. *The 2003 LMC contains a number of important provisions relating to additional allowable square footage and floor areas over and above this baseline.*⁵ As noted below, this additional square footage and floor area is vested space.

The draft staff report includes a number of incorrect statements regarding the 1985 MPD.⁶

3.1 The CUP Application’s Square Footage for Residential and Allotted Commercial Uses Complies with the 2003 LMC.

First, the 2003 LMC provides the square footage permitted for each UE. One residential UE equates to 2,000 net square feet, and one commercial UE equates to 1,000 net square feet. 2003 LMC § 15-6-8(A), (E). As such, the Project is entitled to 394,000 net square feet in residential space and 19,000 net square feet in allotted commercial space.

As set forth on [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) of MPE’s submittals, MPE’s Application seeks 393,911 in net residential square footage, which is less than vested residential square footage permitted under the MPD. Likewise, MPE’s Application

condominium only counted as 1.5 UEs; under the 2003 LMC, that same condominium counts as 7.5 UEs.

⁵ The draft staff report discusses at length differences between the 2004 submission and the current version of the submission. The 2004 submission has been superseded by the current revision, and any differences are legally immaterial to the question of whether the current submission under consideration complies with the 2003 LMC and is therefore entitled to approval. Per the letter from Geoffrey Mangum, one of MPE’s attorneys, to Park City Attorney, Mark Harrington, dated July 6, 2016, MPE will address these issues, among others, in subsequent written submissions and at future CUP hearings, as directed by the Planning Commission and consistent with MPE’s due process rights.

⁶ For example, the report concludes that “[t]he total square footage of the project is larger than originally anticipated within the master plan approval.” That is incorrect.

requests 18,863 in allotted net commercial square footage, which is less than the allotted commercial square footage allowed under the MPD.⁷

3.2 The CUP Application’s Square Footage for Support Commercial and Meeting Space Complies with the 2003 LMC.

Next, the 2003 LMC provides additional square footage—over and above square footage for UEs—for Support Commercial and Meeting Space uses.⁸ This too is vested space under applicable legal doctrines.⁹

Section 15-6-8(C)–(Support Commercial) provides that “within a Hotel or Nightly rental Condominium project, up to five percent (5%) of the total floor Area may be dedicated to support Commercial Uses . . . *without the Use of a Unit Equivalent for commercial space.*”¹⁰ (emphasis added).

Similarly, section 15-6-8(D) (Meeting Space) provides that “[w]ithin a Hotel or Condominium Project, up to five percent (5%) of the total floor Area may be dedicated for meeting room space without the use of Unit Equivalents. . . . Accessory meeting Uses, such as back of house, administrative Uses, and banquet offices, are Uses normally associated and necessary to serve meeting and banquet spaces. *These accessory meeting Uses do not require the use of Unit Equivalents.*” (emphasis added).

In order to calculate the additional square footage allowed for Support Commercial and Meeting Space uses, the total floor area of the Project must be determined. Section 15-15-1.91 defines “Gross Floor Area” to include the “Area of a building, including all enclosed Areas designed for human occupation. Unenclosed porches, Balconies, patios and decks, vent shafts

⁷ As explained further below, in 2009, MPE informed the Planning Department that it was eliminating the mine exhibit from its proposal, which accounted for 1,393 square feet of allotted commercial space, in addition to the support commercial space described below. As a result, MPE’s Application only seeks 17,470 net square feet in allotted commercial space.

⁸ The draft staff report claims that “[t]he applicant utilized the 2008/2009 LMC to calculate the support commercial area and meeting space within the development.” That too is incorrect.

⁹ See, e.g., *W. Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 396 (Utah 1980).

¹⁰ Without explanation or justification, the Planning Department’s draft staff report takes the position that the Project is not entitled to any square footage for Support Commercial uses and that the Project is limited to the commercial UEs set forth in the MPD. Not only is this position contrary to (1) the law, (2) the MPD Approval, (3) the prior representations of the Park City Attorney, and (4) the positions taken in numerous previous staff reports, it is also contrary to the LMC in effect when the MPD was approved in 1985. Staff’s claim that “[a]ny additional support commercial and meeting space areas above the 19 UEs must be in compliance with the LMC at the time of the MPD vesting” is a manifestly incorrect statement of the law on several accounts. The staff errs when it suggests that the Project is not entitled to any square footage for Support Commercial uses in addition to the square footage for allotted commercial UEs.

and courts are not calculated in Gross Floor Area. . . . Basement Areas below Final Grade are not considered Floor Area.”

Applying this definition of Gross Floor Area to the CUP Application, [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) calculates the Application’s Gross Floor Area as 682,001 square feet.

As the Planning Department previously pointed out (and as draft staff report repeats), in order to calculate the additional square footage allowed for Support Commercial and Meeting Space under the 2003 LMC, those spaces must be removed from the Gross Floor Area before the calculation is made.¹¹ Removing that square footage from the Gross Floor Area calculation—33,412 for Support Commercial and 16,127 for Meeting Space—yields a total of 632,462 square feet of Gross Floor Area ($682,001 - 49,539 = 632,462$).

Thus, under the 2003 LMC, the Project is entitled to 31,623.1 square feet in Support Commercial uses and 31,623.1 square feet in Meeting Space uses.

Although [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) indicates that the CUP Application seeks 33,412 square feet in Support Commercial space, in 2009, MPE informed the Planning Department that it intended to eliminate the mine exhibit from the proposal (Building 5.C), which accounts for 6,686 square feet of Support Commercial space. The elimination of this space from the proposal puts the Support Commercial uses requested under the Application at 26,726 square feet, which represents 4.2% of the Gross Floor Area—less than the 5% allowed under the 2003 LMC.

Similarly, the CUP Application seeks 16,127 square feet in Meeting Space uses, which represents approximately 2.5% of the Gross Floor Area—again, well under the 5% allowed by the 2003 LMC.

Furthermore, all of the floor area requested in the CUP Application qualifies as Support Commercial and Meeting Space uses, respectively. For example, MPE has identified the possible Support Commercial uses as a restaurant, bar, clothing store, coffee shop, sporting goods store, convenience store, lounge, and deli. Likewise, the Meeting Space uses identified in the Application, both the meeting space itself and associated back-of-house and administrative uses (e.g., “banquet prep”), qualify under the 2003 LMC. See [P.1-P.5 – Level Use Plans](#).

¹¹ [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) contains a minor error on this point—it fails to deduct the square footage for Support Commercial and Meeting Space uses from the Gross Floor Area total before calculating the additional 5% square footage allowed for Support Commercial and Meeting Space uses. However, as set forth herein, MPE is aware of the error and has already proposed revisions to the Application to correct for it.

3.3 The CUP Application’s Square Footage for Residential Accessory and Resort Accessory Uses Complies with the 2003 LMC.

The 2003 LMC also provides for square footage and floor area for Residential Accessory and Resort Accessory uses over and above the area allowed for UEs. Again, the Project is legally entitled to this vested space.

Section 15-6-8(F) states that “Residential Accessory Uses” include uses that are for the benefit of the residents of a commercial residential use and *do not require the use of UEs*. Such residential accessory uses include, but are not limited to, ski/equipment lockers, lobbies, concierge, mechanical rooms, laundry facilities, back-of-house uses, elevators and stairs, and employee facilities.

Similarly, section 15-6-8(G) provides that “Resort Accessory Uses,” which also “*do not require the use of a Unit Equivalent*,” are “incidental to and customarily found in connection with . . . the principal resort Use,” and include uses such as administration, maintenance and storage, public restrooms, ski school/day care facilities, ticket sales, equipment check, and circulation and hallways.

The CUP Application includes 216,027 square feet of Residential Accessory and Resort Accessory uses above grade, as well as 93,484 square feet below grade.¹² All of these uses qualify under the 2003 LMC as accessory uses that do not require UEs. For example, the CUP Application includes the following uses under these categories: circulation (e.g., pedestrian tunnels and hallways); back-of-house uses (e.g., service tunnels, receiving); maintenance and storage (e.g., service tunnels, storage space); lobbies; ticket sales (e.g., lift ticket area); employee facilities (e.g., lockers); public restrooms; elevators and stairways; ski storage; laundry facilities; and hotel offices. See [P.1-P.5 – Level Use Plans](#).¹³

3.4 The CUP Application’s Square Footage for Parking Complies with the 2003 LMC and MPD Approval.

Although this issue will be addressed more fully in subsequent written submissions and at future CUP hearings, MPE notes at this time that (1) its Application seeks far less parking space than allowed under the 2003 LMC, (2) its Application requests less parking space than what was contemplated in the MPD Approval, and (3) the vast majority of the square footage devoted to parking is below grade.

¹² The square footage for Residential Accessory and Resort Accessory uses are identified on [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) under the headings “Common Space & Circulation” and “Accessory Space.”

As explained above, square footage and floor areas below final grade are not counted as part of the Gross Floor Area. 2003 LMC § 15-15-1.91.

¹³ Accessory space in [Sheet P.16 – Area, Unit Equivalent & Parking Calculations](#) includes square footage for employee housing (6,669 square feet).

4. The CUP Application Complies with the Applicable Open Space Requirements.

MPE agrees with the draft staff report that the CUP Application “complies with the open space requirements identified in the” MPD Approval. Indeed, the CUP Application fully complies with the open space requirements of the MPD Approval and 2003 LMC.

5. Conclusion.

The CUP Application complies with the provisions of the 2003 LMC, under which it is vested, with respect to allowed square footage, floor area, and open space.

BJM: