



PLANNING DEPARTMENT

Planning Commission Staff Report

Subject: Treasure
Project #: PL-08-00370
Author: Francisco Astorga, AICP, Senior Planner
Date: 12 October 2016
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 8, 11, and 15 as analyzed in the staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the November 9, 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 Planning Commission reviewed this application during the September 14, 2016 Planning Commission meeting. During the last meeting Staff focused on restating applicable codes for review and diagrams associated with the approved master plan, addressing the Fire Protection Plan, reviewing the proposed uses, and finally transitioning into the volumetric analysis (mass, bulk, scale, compatibility, design, site design, etc.).

The Planning Department and Planning Commission must review each of the CUP criteria when considering whether or not the proposed conditional use mitigates impacts. The focus of this staff report is to review the following criteria related to mass, bulk, scale, compatibility, design, and site design, etc., as listed below:

8. building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;

11. physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;

15. within and adjoining the site impacts on environmentally sensitive lands, slope retention, and appropriateness of the proposed structure to the topography of the site.

The Planning Commission is moving from discussions of the use of Unit Equivalents and support space (Conditional Use Criteria 1.) under the terms of 1986 Master Plan approval document Section III DEVELOPMENT PARAMETERS item 1: "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." The Planning Commission will make the required determinations at the completion of the entire review process.

The Planning Commission is ready to review the Conditional Use Permit criteria 8, 11, and 15 which deal with bulk, mass, scale, architectural details, and appropriateness of the proposed structure(s) to the topography of the site, etc. The Planning Commission will also review these elements for conformance to the approved Master Plan. Conditional use Permit criteria 8, 11 and 15 are interrelated and it is prudent to review them as a group.

The process for the next three (3) meetings is designed to allow the applicant to present their information relating to the criteria being reviewed under the standards of review established in the 2003 Land Management Code (the Code in effect at the time of Application). One of the conclusions the Planning Commission must make at the completion of the process is "(4) the effects of any differences in Use or scale have been mitigated through careful planning." Careful planning for mitigation of differences in use or scale requires that the mitigation effort be effective in application, that the mitigation be effective of the life of the project, and that the effects or consequences of the mitigation are non-negative.

Staff anticipates the following to take place in the next meetings:

October 12, 2016

- The Staff will make a short presentation regarding the status of the review process and the Criteria under review.
- The applicant will make a presentation using computer generated graphics regarding the Criteria under consideration and the proposed mitigation strategies.
- A public hearing will be conducted.
- Planning Commissioners may provide questions and comments regarding the proposed project.

November 9, 2016

- A Work Session will be conducted where the applicant and Planning Commission may discuss various aspects of the computer modeling had potential mitigations
- The Planning Commission will end the Work Session.
- A public hearing will be conducted.

December 14, 2015

- The staff will provide a staff report on the Criteria efficacy of the applicant proposed migration strategies.
- The applicant will make a presentation responding to Planning Commissions questions and comments and the staff report.
- A public hearing will be held.
- The Planning Commission may determine to continue the discussion on the Criteria or move to begin the discussion on the remaining elements of the Conditional Use Criteria and Master Plan Compliance.

Analysis

As indicated on the September 14, 2016 Planning Commission meeting, the Planning Department agrees with the findings identified by staff during the September 23, 2009 and the January 10, 2010 Planning Commission meetings. An outline consisting of summaries made over the years compiled by various City Planners assigned to work on this CUP application taken directly from staff reports and meeting minutes was presented to the Planning Commission, also on September 14, 2016. The compiled summaries/outlines mostly identified with CUP criterion no. 8 building mass, bulk, and orientation... and criterion no. 11 physical design and compatibility in mass, scale, style, design...

Staff continues to agree with the analysis made in September 2009 by Planner Cattan and after additional review, refines her conclusions as follows:

Criteria 8

- The current application complies with the maximum height elevations set forth in the Master Plan, but the design modifies existing grade well beyond the anticipated amounts shown in the exhibits of the Master Plan. The applicant submitted nine (9) sheets identifies as S.1 - S.9. These sheets consist of nine (9) cross sections throughout the proposed project which show existing grade being excavated significantly. The change in grade ranges from approximately 52 feet to 115 feet.
- Staff finds that the inefficient and excess square footage included in the project is creating adverse impacts from the building massing and bulk. The building mass and bulk is also resulting in the orientation of the buildings on the site that is inconsistent with the Master Plan.
- The current application places more massing and bulk below the existing grade. Not only is the massing placed below the existing grade, the grade is then altered dramatically creating taller building walls, taller retaining walls, and greater massing.

- By creating a lower final grade, the buildings visual impacts magnify so they are taller from redefined grade and the bulk and massing becomes larger. The pedestrian walking through the project will experience higher building walls due to the change in final grade. Also, the view from other parts of town is of building with greater massing due to the change in final grade from existing.
- The extent to which existing grade is being altered is far beyond the anticipated amount within the Master Plan and is creating greater impacts to mass and scale. The excavation grade change ranges in some parts of the site from approximately 52 feet to 115 feet.
- The Master Plan was clear that the height measurement would occur from natural grade and were within height envelopes. By modifying natural grade over 100 feet, the height envelopes do not serve the purpose for which they were created.
- Staff finds that the current design is very excessive adding over 300,000 square feet (30%) of accessory space, storage, and circulation which is creating impacts on the overall massing and bulk of the buildings. See table below:

-

Criteria 11

- The Master Plan created an area of greater height allowances and density next to a historic neighborhood with low height and medium density. Staff acknowledges that it will be difficult to achieve a project massing that is similar to the existing neighborhood context given the previously approved density and volumetrics set forth in the Master Plan. The Master Plan anticipated the difficulty of designing higher density adjacent to the historic district. See Scale section under Major Issues in the approved Master Plan.
- Staff continues to have concerns for massing within specific buildings. The areas of largest concern from a visual massing and streetscape compatibility perspective were identified to the Planning Commission.
- The visual massing of buildings 3Bb and 5A are of concern due to the visible location of these buildings from Main Street and Heber as well as driving up Empire Avenue and Lowell Avenue.
- Staff continues to have concerns with compatibility of the development along the Empire Avenue and Lowell Avenue switchback at building 4A. There is a dramatic contrast between the project's streetscape and the adjacent residential streetscape. Staff would recommend that the applicant make this area compatible with the adjacent streetscape. The commercial entry at building 4A has heights that are not compatible with the adjacent neighborhood, e.g., the HR-1 District has a maximum building height of 27 feet from existing grade with a maximum grade manipulation around the periphery of the structure of four feet (4'). Building 4A has heights adjacent to the switchback from (final grade) of 45 feet towards the north end. The same building has building heights of 46 feet right at the entry level. The same building has a height from the main plaza/staircase of 64 feet from final grade to the top of the building.
- Staff recommends that the applicant improve the streetscape to show the entire visual experience for a pedestrian walking by the development with all portions of the development that are visible to be shown.

- In the past, the Planning Commission provided feedback regarding mass, scale, volume, compatibility, etc. The applicant's 2008/2009 changes created new and/or worsen mitigating factors rather than addressing prior Planning Commission feedback. These issues were addressed during the September 23, 2009 Planning Commission meeting and have also been reiterated during this last 2016 review. The original CUP application in 2004 for Planning Commission review indicated a total of 849,007 square feet. The updated 2008 CUP application consisted of 1,016,887 square feet.

Criteria 15

- The proposed design requires a very large excavation and re-grading of the entire site. The project is located on the mountain side on steep topography. The impacts to the slope and existing topography are substantial and unmitigated. The project as designed will create a very large hole on the site. The project does not step with the natural topography of the site as shown on the Master Plan. As discussed previously, staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 Master Plan approval.
- The exhibits within the master plan showed the building volumes stepping with the existing grade with the exception on the underground garage.
- By stepping with the natural grade, there is less excavation. The exhibits within the master plan are guiding documents. The exhibits show minimal impacts on excavation.
- The excavation management plans estimates a total of 960,000 cubic yards of excavation to be relocated from the site. The plan includes moving excavated material up the mountain on a conveyor system to re-grade portions of the ski runs. The submitted plan identifies specific locations for only 415,000 cubic yards. The remaining 625,000 cubic yards are outlined in the plan but not detailed in for the volumes in any one location. No grading plan has been submitted for any of the locations. Staff is not able to determine the depth of filling in any one location and its effects on drainage, mitigating factors, etc. The proposed primary and secondary zones are all on ski runs and other slopes that contains grades that are 25% and greater. One of the secondary zones removes all of the vegetation and places fill (unknown depth) just below the Treasure Hollow and Creole Gulch ski run intersection at the top of the Sweeney Property, zoned ROS, with no areas of designated ski runs.
- The excavation management plan includes the areas on the mountain which will be re-graded. This methodology may create less construction traffic on the adjacent streets. The overall impact of excavating 960,000 cubic yards of existing earth will be a great impact to the site and the existing topography. Staff has not yet seen an analysis of the drainage and soil stability, once the excavated material is placed on site.
- There is significant mine waste on the development site. In 2009 the Park City Environmental Coordinator indicated that he was not in agreement with the applicant's environmental proposal. The development is within the Spiro Drinking Water protection zone. All contaminated materials must be handled to

meet local, state, and federal regulations. The letters written between the City's Environmental Coordinator and the applicant were attached as an exhibit on the September 23, 2009 staff report. The specifics of a proposed plan have not been submitted.

- Staff can address other concerns regarding excavation material placement areas as the 2008 addendum, Treasure Excavation Plan, does not match sheet BP-01, updated in 2009, regarding these specific exaction placement areas. Staff will prepare a complete excavation mitigation review solely focusing in this CUP criterion in the future.

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, August 10, 2016, September 14, 2016, and to this October 12, 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. 8, 11, and 15 as analyzed in the staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the November 9, 2016 Planning Commission meeting.

Exhibits/Links

[Exhibit A - Public Comments](#)

[Exhibit B - Approved Sweeney Properties Master Plan \(Narrative\)](#)

[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	<i>Viewpoints Index</i>
Sheet V-22	<i>Camera Viewpoints 1 & 2</i>
Sheet V-23	<i>Camera Viewpoints 3 & 4</i>
Sheet V-24	<i>Camera Viewpoints 5 & 6</i>
Sheet V-25	<i>Camera Viewpoints 7 & 8</i>
Sheet V-26	<i>Camera Viewpoints 9 & 10</i>
Sheet V-27	<i>Camera Viewpoint 11</i>
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 – Applicant’s Position Paper-Volume and Mass
Exhibit X – Applicant’s Draft Presentation
Exhibit Y – Applicant’s Visualizations Sheets V-21 – V-27
Exhibit Z – Applicant’s Cross Section Sheets S.1 – S.9
Exhibit AA – Applicant’s Computer Renderings (from applicant’s website)
Exhibit BB – Applicant’s Photo Composites (from applicant’s website)

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](#)

[1985 Minutes](#)

[1985 LMC 3rd Edition](#)

MPD Amendments:

[October 14, 1987 - Woodside \(ski\) Trail](#)

[December 30, 1992 - Town Lift Base](#)

[November 7, 1996 – Town Bridge](#)



DATE: October 7, 2016

SUBJECT: Treasure Hill Properties’ Square Footage and Volume Are Allowed and Appropriate under the Applicable Standards and Criteria

1. Background.

The Planning Commission Staff Report dated July 13, 2016, recites the applicable background of the Sweeney Properties Master Plan (“SPMP”) and current Conditional Use Permit (“CUP”) Application. (*See* p. 1–2.)

In April 2016, the Applicant, MPE, Inc., requested that the Planning Commission place its CUP Application for the development of the Hillside Properties back on the Commission’s agenda and to review the Application for compliance with the applicable Land Management Code (“LMC”) and SPMP Approval. The Planning Commission held public hearings on the CUP Application on June 8, July 13, August 10, and September 14, 2016.

The topics that the Planning Commission directed Staff and MPE to address at these past hearings and at the hearing scheduled for October 12 address portions of several criteria under the Conditional Use Review Process set forth in the applicable 2003 LMC,¹ and in particular address the following criteria:

- 8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
- 11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing; and
- 15. Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

The topics also touch upon several of the CUP Standards for Review, including, in particular:

¹ Staff and MPE agree that the Fiftieth Edition of the LMC revised on July 10, 2003 (“2003 LMC”) applies to the CUP Application.

2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation; and
4. the effects of any differences in Use or scale have been mitigated through careful planning.

The topics that MPE has discussed with the Planning Commission during the previous hearings in 2016 have also included several of the conditions of the SPMP Approval, including the building height and building envelope limits established by the SPMP Approval.

The CUP Application satisfies the CUP Standards for Review, each of the criteria set forth in the 2003 LMC, and the associated conditions of the SPMP Approval, including the criteria, standards, and conditions covered by the issues addressed during the prior hearings.

Because “[a] conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use,” and because the CUP Application conforms to the conditions of the SPMP Approval and proposes additional mitigating factors to address the impacts of square footage and volume, the Planning Commission should conclude that the CUP Application meets the criteria, standards, and conditions relating to these issues. Utah Code § 10-9a-507(2)(a).

2. The CUP Application Complies with the SPMP and the CUP Criteria and Standards for Review Relating to Square Footage, Mass, and Volume.

As the Applicant has demonstrated during the prior hearings and in prior submissions, the CUP Application complies with all SPMP conditions and all CUP Criteria and Standards for Review touching upon square footage, mass, and volume issues. The Applicant has likewise demonstrated, and will emphasize again at the October 12, 2016 hearing, how it has reasonably mitigated any effects of the square footage, mass, and volume of the proposed project. The Applicant developed these mitigation measures in collaboration with and at the direction of the Planning Commission and Staff during earlier phases of the application process.

2.1 The Planning Commission Should Honor the Directions It Has Given to the Applicant in the Past.

The Applicant is deeply troubled by statements from current Commissioners that they do not care what the Planning Commission or former Commissioners may have said or done with respect to the current Application in prior phases and that the current Commissioners do not feel constrained by any direction the Planning Commission has given in the past. The Applicant reminds the Planning Commission that it is a continuously existing public board and that while the individuals appointed to the Commission may change, the Planning Commission itself is the same entity. The Applicant is entitled to rely upon directives from the Planning Commission regardless of who comprises it.

Statements to the effect that the Planning Commission is free to contradict any direction and instructions that it gave to the Applicant during earlier phases not only raises serious due process concerns, it erodes the public’s confidence in the process. The public and those who come before the Planning Commission should be assured that they will not be subject to the whim and

caprice of each individual Commissioner who comes and goes. If the Applicant cannot rely in good faith upon any directions or instructions it is given by the Planning Commission in the past, then the Applicant cannot be sure that responding to any current directions from the Planning Commission will be honored by the Commission in the future. That the mere change in personnel would result in a complete about-face by the Commission on a number of issues is the epitome of arbitrary and capricious action.

2.2 Planning Staff Previously Concluded that the CUP Application, Including the Application's Proposed Support Commercial, Complied with Density Conditions and Criteria.

Notably, Staff concluded that the CUP Application fully complied with the applicable CUP criteria during earlier review periods, before the Applicant refined the design at the behest of and under guidance of the Staff and Planning Commission. But after expending enormous amounts of money and time to refine the project's design as requested by Staff and the Planning Commission, Staff—albeit lead now by a new, less experienced City Planner—suddenly and without explanation ignored Staff's prior findings and conclusions on criteria relating to square footage, mass, and volume.

For example, in 2005, Staff found and concluded that the "Treasure Hill CUP plans comply with the approved density." (*See, e.g.*, March 9, 2005 Staff Report p. 2.) Staff likewise concluded that "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 UE of commercial uses. Additional square footage is allowed for back of house and other ancillary uses, such as storage, mechanical, common space, etc." (p. 7.) Thus, contrary to statements by Commissioner Joyce and others suggesting that any commercial space beyond on the 19 commercial UEs designated in the SPMP exceeds what is allowed, Staff determined more than a decade ago that the Applicant was allowed 5% of additional Support Commercial space "in addition to the 19 UEs of commercial uses" set forth in the SPMP and that such space "compl[ie]d with the approved density."

2.3 Planning Staff Previously Concluded that the CUP Application Complied with the Other Mass and Volume Criteria.

Planning Staff also made a number of other important findings about conditions and criteria relating to mass and volume, including:

- "[T]he revised plans for the 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 the[] heights and volumetrics" set forth in the SPMP;
- "Staff has reviewed the Treasure Hill CUP site plan for site suitability from the perspective of both the location of buildings on the site, grading, slope retention,

cliff-scape designs and the visual analysis from a variety of vantage points, . . . and finds that the project complies with the site design and site suitability criteria of the LMC Section 15-1-10.”

(*See, e.g.*, March 9, 2005 Staff Report p. 4, 5, 7, 8.)

Although Staff now takes a different position on certain of these issues, it has failed to provide any reasons for departing from its prior findings and conclusions. It is well-established that administrative determinations that contradict prior conclusions on the same issue without a rational basis are, by definition, arbitrary and capricious. Moreover, if the criteria and standards used to evaluate the project allow Staff to reach directly conflicting conclusions based on essentially the same record, those criteria are constitutionally suspect and fail to provide proper guidance in the exercise of the Planning Commission’s limited authority.

3. Specific Issues Raised During Past Hearings.

In order to provide a complete record, the Applicant believes it is prudent to respond to various statements made by specific Commissioners and members of the public during prior hearings that related to issues of square footage, mass, and volume.

3.1 The 2003 LMC Does Not Require an Amendment to the SPMP to Approve the CUP Application.

Although neither Staff nor special counsel to the Planning Commission has taken the position that the CUP Application presently requires an amendment to the SPMP, a lawyer engaged by a group opposed to the CUP Application suggested that the provisions of the 2003 LMC require an amendment to the SPMP. That statement is incorrect.

The relevant provision states that “[c]hanges in a Master Planned Development which constitute a change in concept, Density, unit type or configuration of any portion or phase of the MPD will justify review of the entire master plan and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement.” (2003 LMC 15-6-4(I).) Only “substantive” changes require the Applicant to submit to a new MPD review process.

There is no basis for concluding that the CUP Application represents a change in concept, Density, or unit type or configuration.

First, Staff has already concluded that “[t]he current Treasure Hill CUP plans comply with the clustered development concept approved with the Sweeney MPD.” (*See, e.g.*, March 9, 2005 Staff Report p. 2.) Staff’s conclusion is squarely grounded in the SPMP, which clearly contemplated a development concept like that proposed in the CUP Application.

Second, “Density” is a defined term in the 2003 LMC and refers only to UEs. Specifically, the 2003 LMC defines “Density” as “[t]he intensity or number of non-residential and residential Uses *expressed in terms of Unit Equivalent*s per acre or Lot or units per acre.” (2003 LMC 15-15-1.67 (emphasis added).) Aside from the minor issue of certain residential UEs having been shifted between the development sites at the City’s prior request (September 14, 2016 Staff Report p. 86), which is addressed below, Staff has never deviated from its prior conclusion that with respect to

the question of Unit Equivalents, the “Treasure Hill CUP plans comply with the approved density” of the SPMP (*see, e.g.*, March 9, 2005 Staff Report p. 2).

Finally, the CUP Application has not changed any “unit types or configurations” from the original SPMP because those issues were expressly reserved in the SPMP for the CUP Process. As the SPMP Staff Report provides, “[f]inal unit configuration and mix may be adjusted by future developers at the time of conditional use review.” (p. 7.)

Because the Applicant has not made any substantive changes to the development approved in the SPMP, there is no basis for requiring the Applicant to submit to a new MPD process.

3.2 The Site Grading and Excavation Contemplated by the CUP Application Were Contemplated by the SPMP and Are Necessary to Mitigate Other Aspects of the Project.

The excavation proposed by the CUP Application is a function of the density allotted to the project, the site requirements imposed by the fire protection plan, and efforts to mitigate the perceived mass and volume of the proposed project. The SPMP and the attachments incorporated into the SPMP Staff Report contemplated that a significant amount of excavation would be necessary in order to cluster the density at the site selected by the City during the MPD process. Indeed, the SPMP Staff Report established building heights relative to “mean sea level” precisely because it was understood that excavation would necessarily change the existing grading at the site and that a reference point for maximum building heights that would not be affected by excavation was required. (SPMP Staff Report p.4; *id.* at 6 (“[C]ut and fill shall be balanced and distributed on-site whenever practicable”).)

The SPMP Staff Report also established that the parties to the MPD agreement understood the proposed site grading and excavation was the price of mitigating other, more important concerns, particularly the perceived size and volume of the project. As the SPMP Staff Report explains, “[a] balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts.” (p. 14.) The City understood in the course of the MPD process that there was a basic trade-off between excavation and grading and the perceived mass, scale, and volume of the development.

The City also recognized that basic concept during earlier phases of the CUP Application review process. Staff and the Planning Commission directed the Applicant to reduce the perceived mass and volume of the project by pushing the project back into the hillside. Of course, such revisions to the project design do not come without consequences, one of the most obvious of which is the need to excavate and re-grade to a much greater degree than otherwise.

The City also understood that the alternative development concepts considered during the MPD review process would actually result in more total excavation, re-grading, and site disturbance due to the roadways and other improvements that would be necessary to service a diffused development. As the SPMP Staff Report explains, “[t]he current concept results in considerably less site clearing and grading than any of the others presented.” (p. 14.) Additionally, each individual development parcel in a non-clustered development would require its own grading, excavation, and site disturbance. Although the cluster approach certainly results in the need to

excavate and re-grade a portion of the properties, the aggregate total of such excavation and re-grading is far less than any of the alternatives.

Indeed, the proposed development plan, because it is part of the broader strategy outlined in the SPMP Staff Report, honors the Hillside Properties far better than any of the other proposed alternatives. Rather than excavate roadways and building sites for hundreds of single-family residences, the clustered development approach concentrates the entirety of the impact from excavation and re-grading on a small portion of the hillside. But the excavation and re-grading of the development sites, upon which all of the density is clustered, is the only way that the conservation of more than 100 acres of open space is made possible.

Additionally, the Woodruff Drawings also reflected a significant amount of excavation at the site. In fact, the City's representations in its September 14, 2016 Staff Report about the existing grade in the Woodruff Drawings are erroneous. The Applicant informed the City years ago that such representations were inaccurate and misleading, yet Staff continues to perpetuate these misrepresentations in the face of clear evidence to the contrary.

While Staff and certain Planning Commissioners have questioned the Applicant's integrity concerning representations about the effect of the fire protection plan on the project design and need for excavation and re-grading of the site, Staff members who were actually involved during these phases of the CUP Application have confirmed the Applicant's claims to be correct:

The applicant worked with a consultant who specializes in fire protection plans to revise the originally submitted plans significantly to come up with a site plan, circulation system, general building and plaza layout, and other technical additions that address the Fire Department and Building Department concerns regarding these issues. **The fire protection plan and technical documents are complete to the extent that the Fire Marshall and Chief Building Official are in agreement that the site plan, circulation, building locations, access, etc. are acceptable and defensible. The technical documents spell out a wide range of conditions that have to be met and maintained throughout the life of the project in order for the project to continue to be in compliance.**

(*See, e.g.*, March 9, 2005 Staff Report p. 2 (emphasis in original).) Thus, the proposed site plan, which necessitates the contemplated excavation and re-grading, is in fact a function of the requirements of the fire protection plan, which includes detailed and specific requirements for the project.

3.3 Staff Has Already Identified and Approved Conditions for Mitigating the Effects of Excavation and Re-Grading.

During earlier phases of the review of the CUP Application, Staff praised the Applicant for its extensive and detailed proposals for mitigating the effects of the excavation and re-grading. For example, Staff explained that

[t]he applicants have fairly extensive plans for the grading, retaining, and revegetation of the cut-slopes, in what is termed “cliff-scapes”. The design booklet explains this concept in detail indicating that these cliff-scapes will be a combination of natural rock, block retaining walls, exposed rock "cliffs" with varying degrees of stepping and landscaping.

(*See, e.g.*, March 9, 2005 Staff Report p. 9.) Although Staff understood that “[s]pecific conditions will be required to address this issue,” Staff certainly did not suggest that the CUP Application could not be approved due to the necessary excavation. Instead, Staff recognized that certain mitigation measures would be necessary at the time of approval. Of course, the Applicant remains open to discussing such mitigation conditions.

Indeed, certain mitigation measures are already built into the plans. For example, the vast majority of the areas of excavation will not be visible from the City since the project’s buildings will visually buffer those areas from the rest of the City. In the few areas of excavation that will be visible from the City, as the March 9, 2005 Staff Report explains, the Applicant will diligently remediate those areas with a variety of tested and proven techniques, including landscaping.

3.4 The “Limits of Disturbance” May Extend Beyond the Building Sites.

It has also been suggested that because certain areas of excavation extend beyond the building sites, the CUP Application violates the SPMP or other applicable standards. That, however, is also incorrect.

Staff previously concluded that according to the submitted plans for the Hillside Properties, which include areas of disturbance and excavation outside of the specific building sites, “**all development is contained within the identified development parcels.**” (*See, e.g.*, March 9, 2005 Staff Report p. 2 (emphasis added).) Although a new, less experienced planner later concluded that the areas of excavation were outside the limits of disturbance, that conclusion is both contrary to the SPMP Staff Report and earlier staff reports which concluded the opposite. The less experienced planner never even attempted to explain how the more experienced planner’s prior conclusion was erroneous.

In fact, the less experienced planner’s conclusion is contrary to the SPMP Staff Report, which states that “**the detailed definition of ‘limits of disturbance’ [would be] deferred until conditional use review.**” (SPMP Staff Report p. 14.) Thus, the limits of disturbance are to be established as part of the CUP Application review process. This language from the SPMP Staff Report highlights that the building site area is not coextensive with the allowed limits of disturbance. **If the limits of disturbance were the same as the building site area, there would have been no need to defer defining the limits of disturbance to a subsequent process.**

Moreover, it is well-established practice at the City to permit disturbance outside of the building area limits. Numerous other development phases of the very same SPMP included disturbance outside the defined building area sites. Likewise, the City has allowed other similar developments, such as the Montage, to disturb and excavate areas outside the building area limits. It would be patently arbitrary for the City to suddenly impose a strict requirement on the Applicant

when it has routinely allowed others who are similarly situated to excavate outside the building area limits.

3.5 The Applicant Will Amend the CUP Application to Address the 2.2 Residential UEs at the Creole Site.

The September 14, 2016 Staff Report concludes that “[t]he current proposal exceeds the maximum residential UEs at the Creole-Gulch site by 2.20 residential UEs” but notes that “[t]he CUP can be amended by reducing the number of proposed residential UEs at the Creole-Gulch site.” (p. 86.) The Staff Report fails to note that the additional UEs at the Creole Gulch site were a result of the Applicant shifting some density from the Midstation site to Creole Gulch site after Staff directed the Applicant to treat the two building sites as a single, unitary development. (*See, e.g.*, March 9, 2005 Staff Report p. 9 (“Staff recommends that all building/parking development associated with the proposed Treasure Mountain CUP be located on a single lot, rather than 2 parcels.”).) Nevertheless, because this is a minor point, the Applicant will amend the CUP Application as recommended by current Staff.

BJM:



MPD Requirements

Standards for Review

CUP Criteria Nos. 8, 11 & 15

Overview of Presentation:

- Treasure Hill Project Planning
- Treasure Hill Planning and Development Challenges
- Treasure Hill Planning Objectives
- Excavation and Cliffscapes
- SketchUp Review

Mixed Use Destination Resort Projects:

- Warm beds
- Ski-in / Ski-out
- Pedestrian orientation
- On-site guest amenities

MPD Approval:

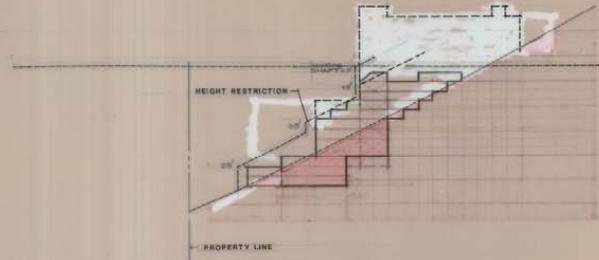
“The predominant land uses envisioned at this time are transient-oriented residential development(s) with some limited support commercial. The building forms and massing as well as location lend themselves to hotel-type development. Although future developers of projects within the Master Plan have the flexibility to build a variety of unit types in different combinations or configurations, the likelihood is that these 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.”

MPD Planning Issues:

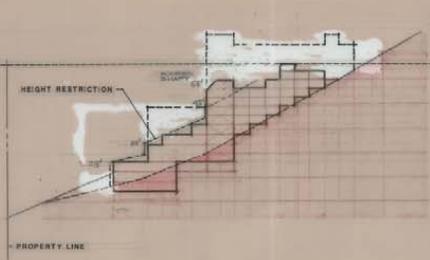
- Single Point of Vehicular Access
- Steep Slopes
- 70% Open Space within Project
- Height Limits
- Ski Run and Lift Improvements
- Fire Protection
- Neighborhood Impacts and Mitigation

MPD Agreement:

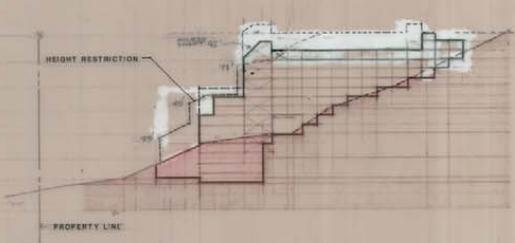
“...future developers of projects within the Master Plan have the flexibility to build a variety of unit types in different combinations or configurations...”



SOUTH SECTION B
 NORTH SIDE 22
 SOUTH SIDE 25
 42' x 500' x 31,000' ± 2,000' ± 11.5 U.S.



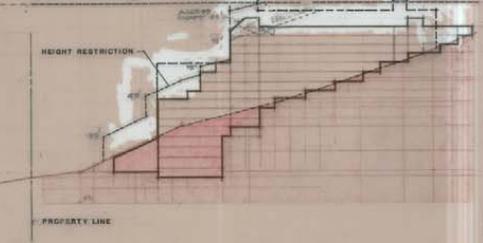
NORTH SECTION A
 NORTH SIDE 24
 SOUTH SIDE 23
 41' x 500' x 24,500' ± 2,000' ± 12 U.S.



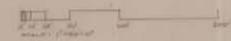
SECTION E
 NORTH SIDE 6.5
 SOUTH SIDE 4.0
 12.5' x 500' x 64,000' ± 2,000' ± 22 U.S.



SECTION D
 NORTH SIDE 124
 SOUTH SIDE 115
 241' x 500' x 130,500' ± 2,000' ± 60.25 U.S.



SECTION C
 NORTH SIDE 27
 SOUTH SIDE 25
 105' x 500' x 25,000' ± 2,000' ± 41.5 U.S.



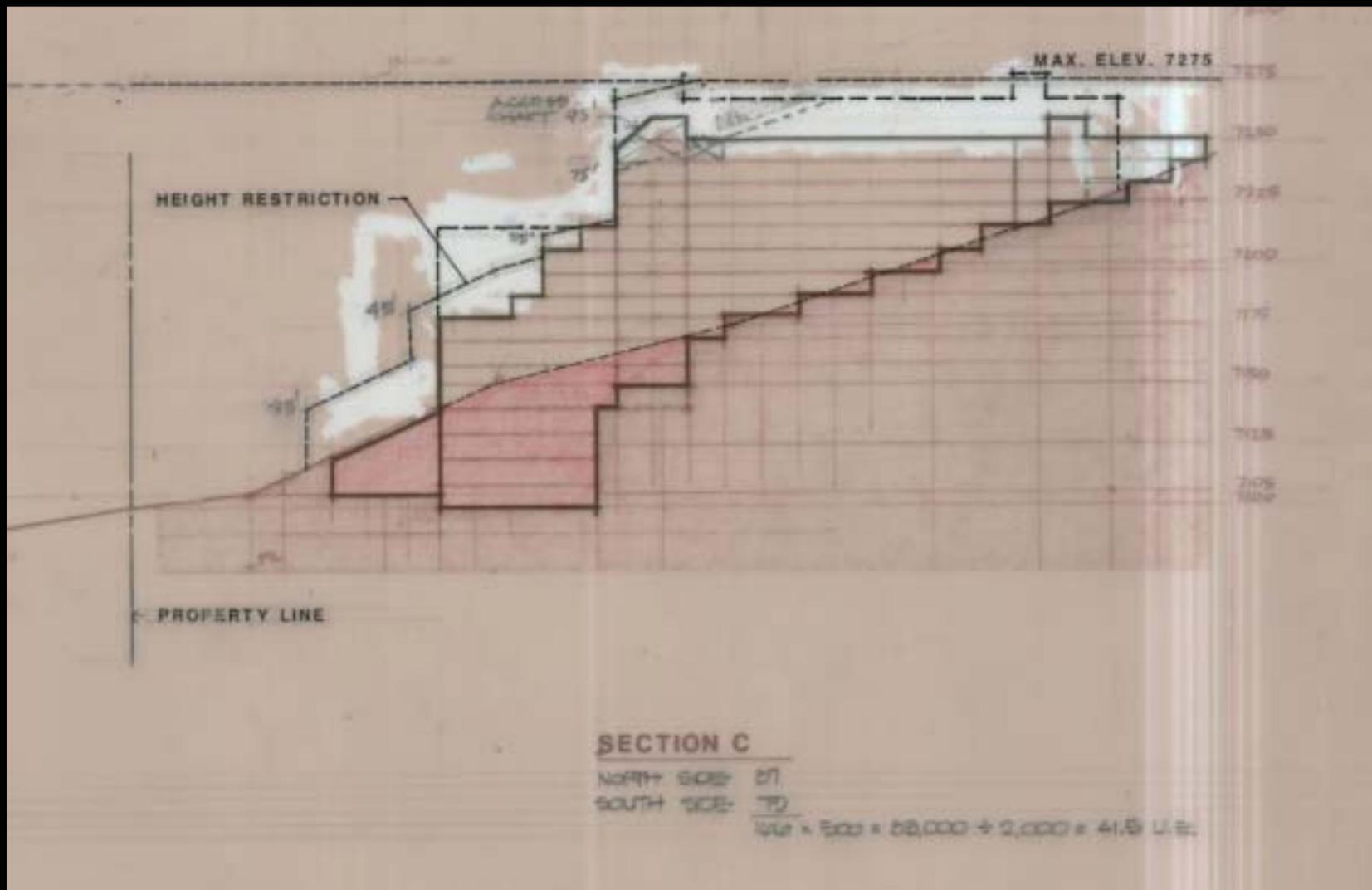
REVISED 0-14-04 TO REFLECT 0-16-04 APPROVAL
 0-16-04 TO REFLECT 0-16-04 APPROVAL
 7 JULY 1984
 11 JANUARY 1985
 27 NOVEMBER 1985
 15 SEPTEMBER 1987

SCHEME E

SWEENEY PROPERTIES MASTER PLAN

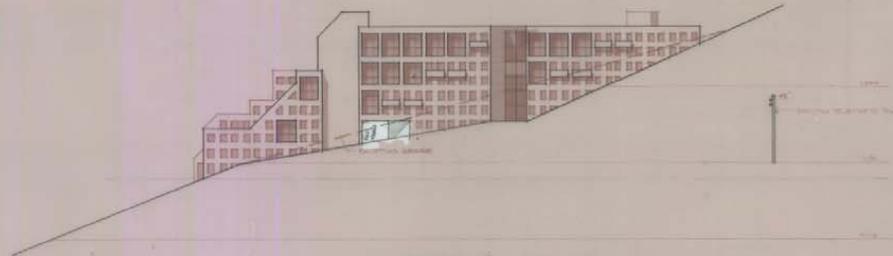
TOWN LIFT MID STATION SITE
 CREOLE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
 ARCHITECTS PLANNERS

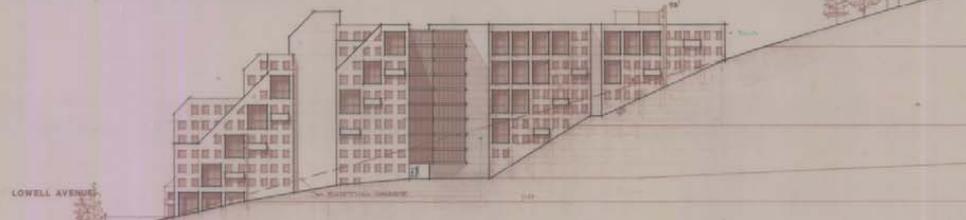




ELEVATION BUILDING E



ELEVATION BUILDING C



ELEVATION BUILDING D AND SITE SECTION

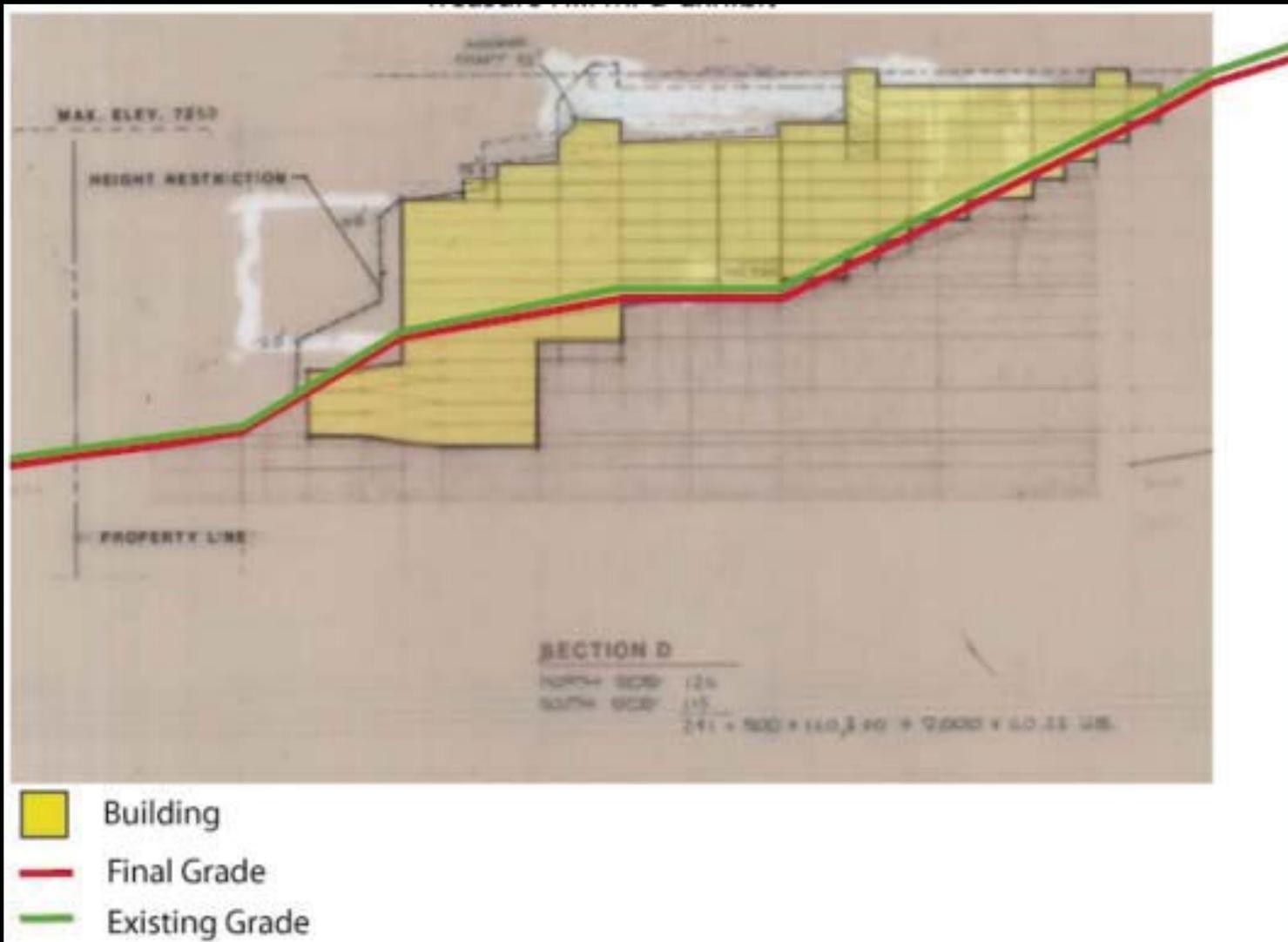
DWS ARCHITECTS ASSOCIATES INC.
 EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
 466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-8867

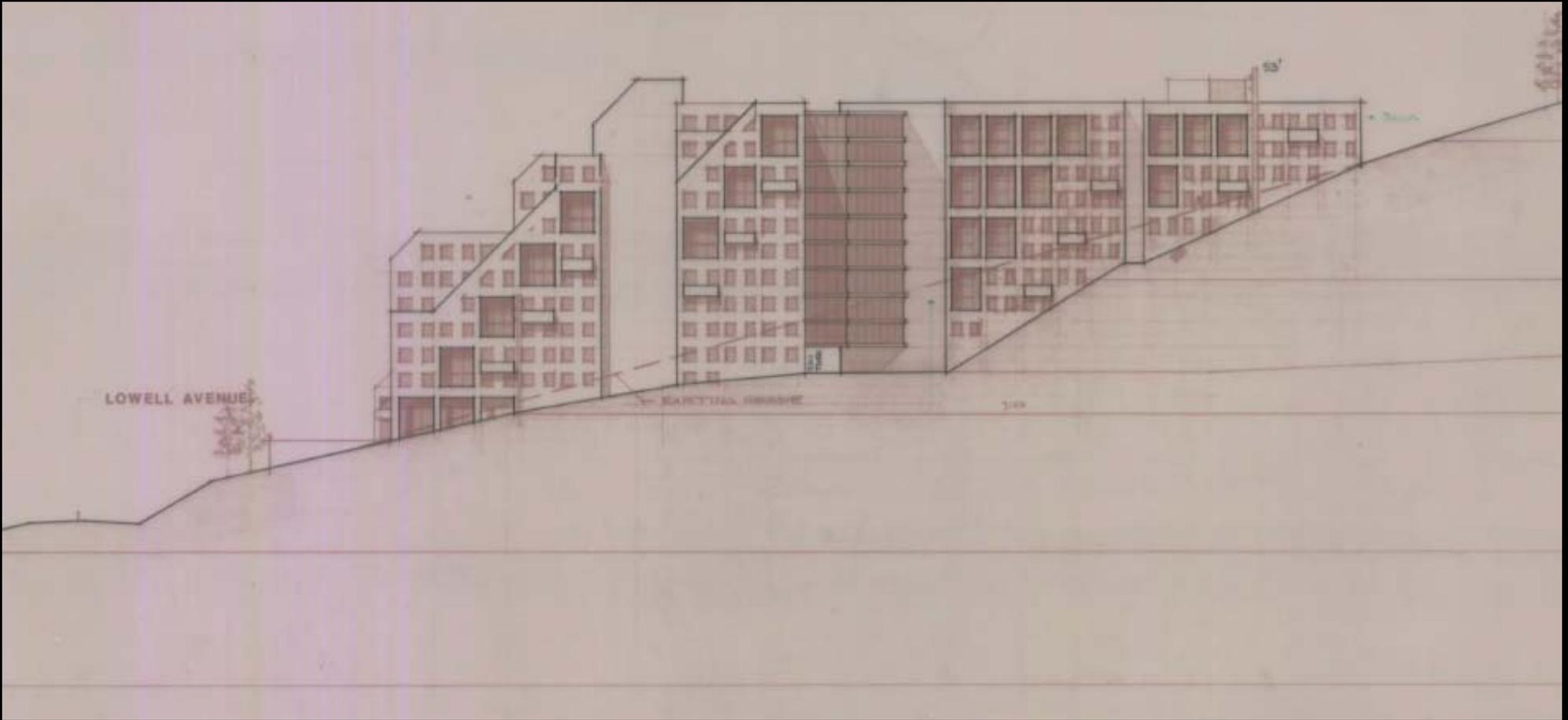


CREOLE SITE SAMPLE ELEVATIONS
 SWEENEY PROPERTIES MASTER PLAN

MPE INC.
 P.O. BOX 2429
 PARK CITY, UT 84060
 (801) 848-7077

24
 09-25-11 8:10 AM







REVISIONS:
12/9/08

ids
1100 S. GARDEN
SALT LAKE CITY, UT 84119
801.488.1100
www.idsinc.com

DESIGNED BY
MPE, INC. 801.226.4400
PERKINS + TILDEN
ASSOCIATES

MPE
INCORPORATED

Illustrative Plan
Developed by
MPE, INC., PO Box 2427, Park City, UT 84060
email: info@treasureparkcity.com

treasure
PARK CITY, UTAH

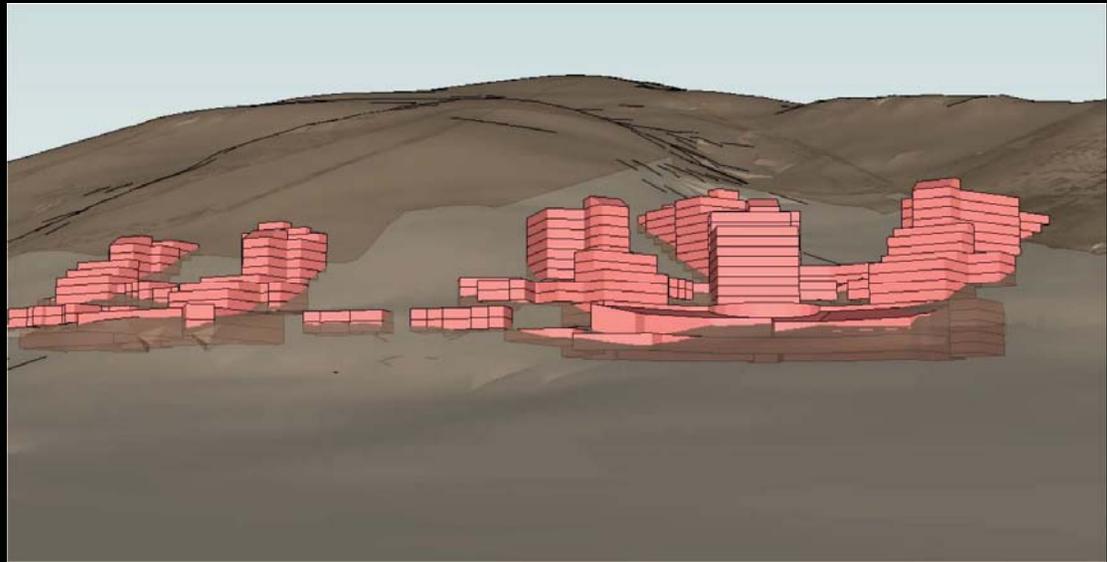
SHEET NUMBER
V-1
4/12/2008

Insert picture of Coalition Building

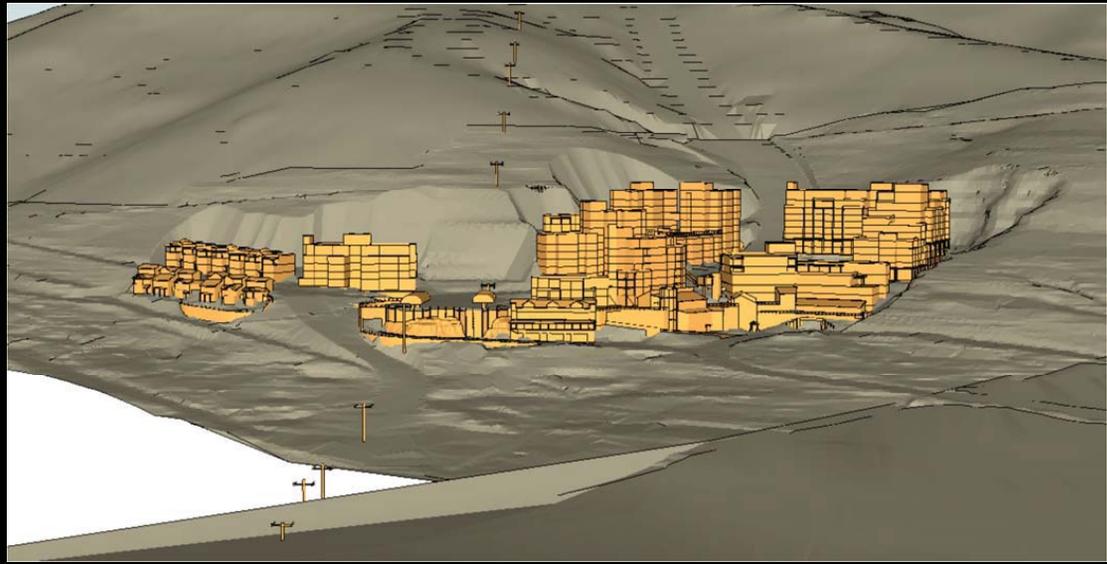
9th '09



9th Woodruff



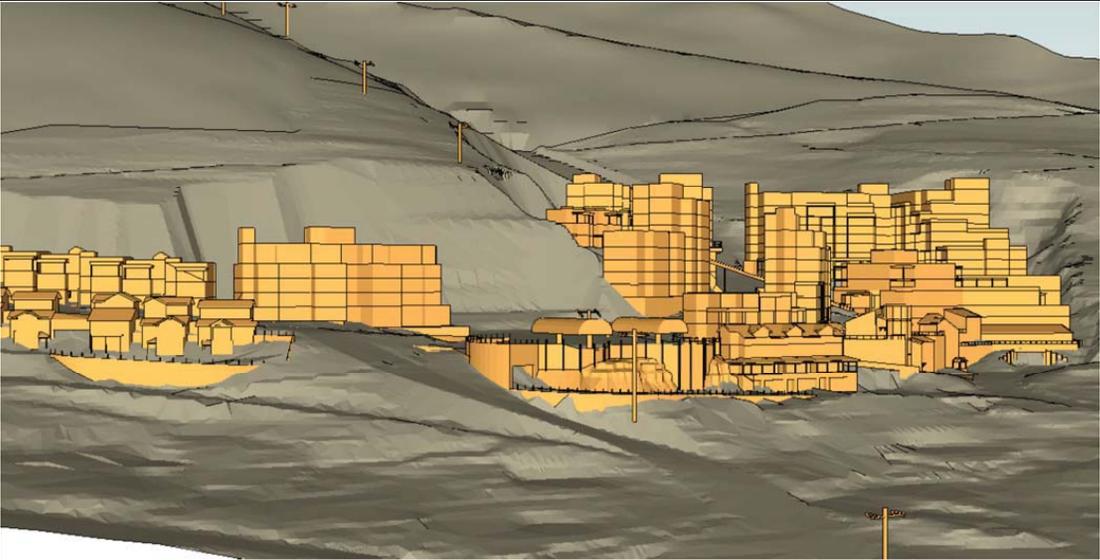
Aerie '09



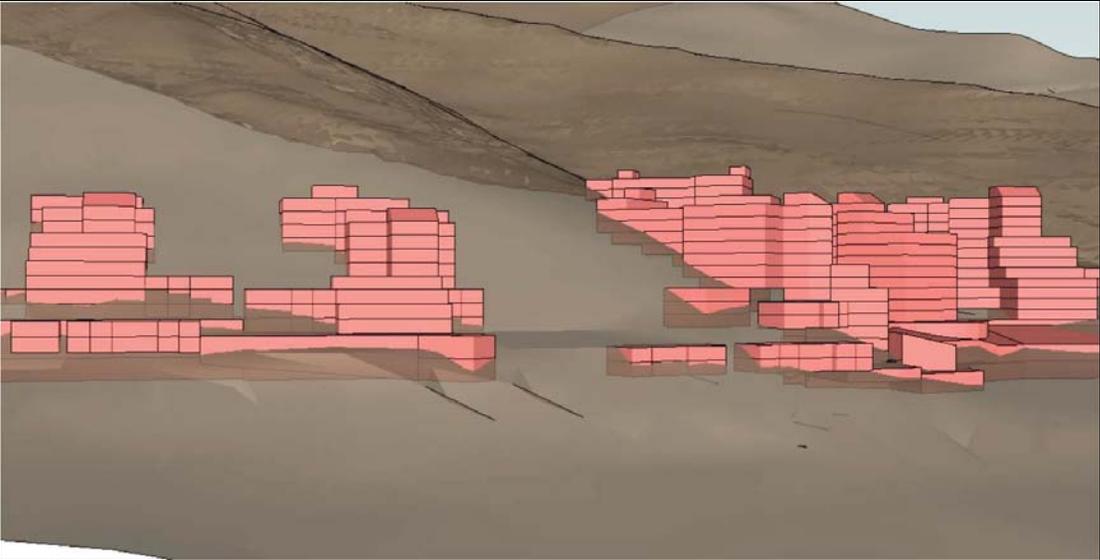
Aerie Woodruff



Marsac '09



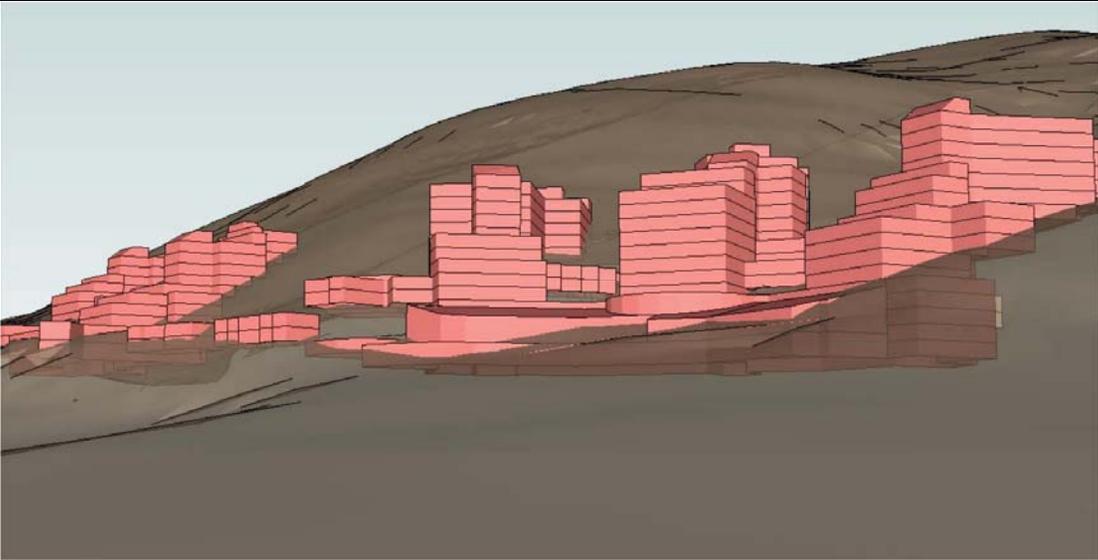
Marsac Woodruff



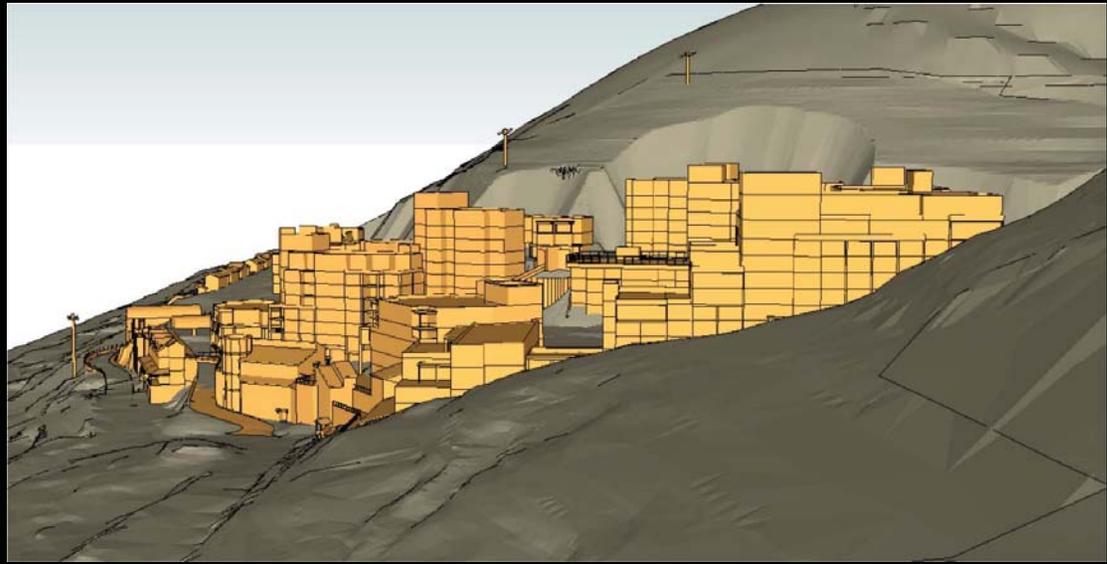
Nearby '09



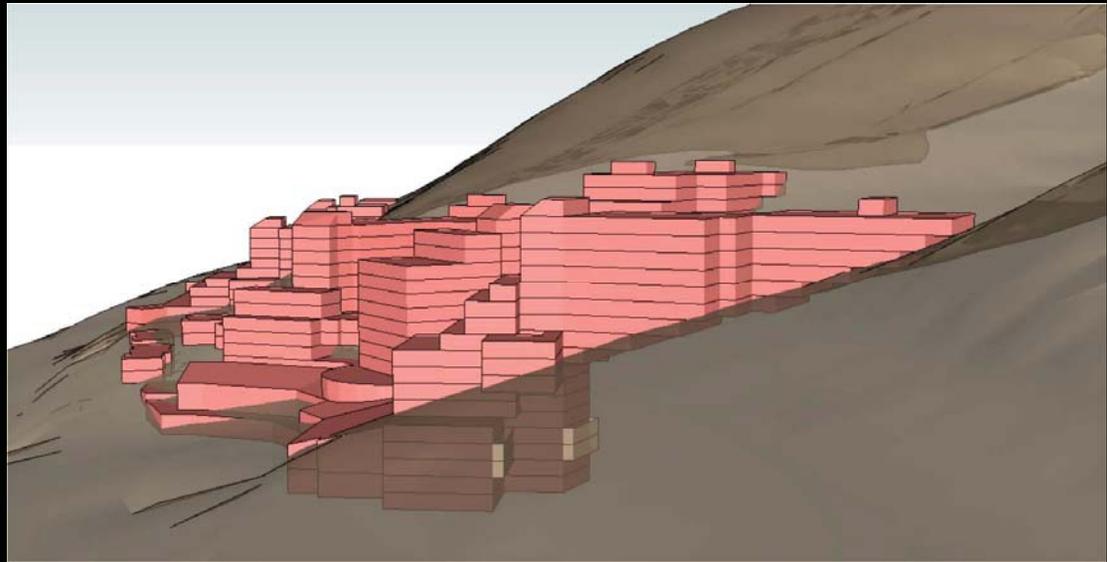
Nearby Woodruff



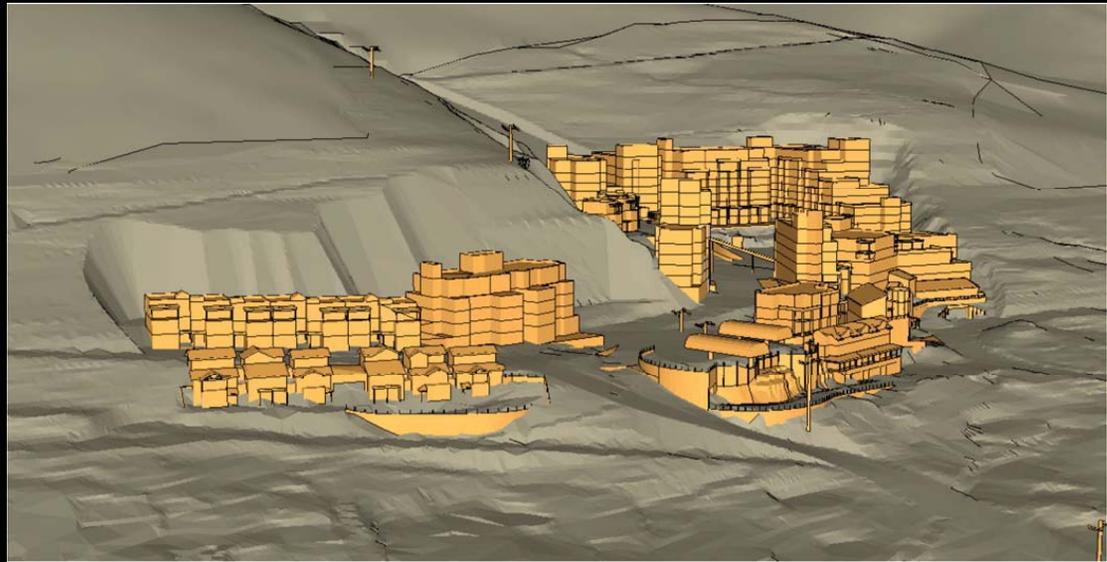
Northstar '09



Northstar Woodruff



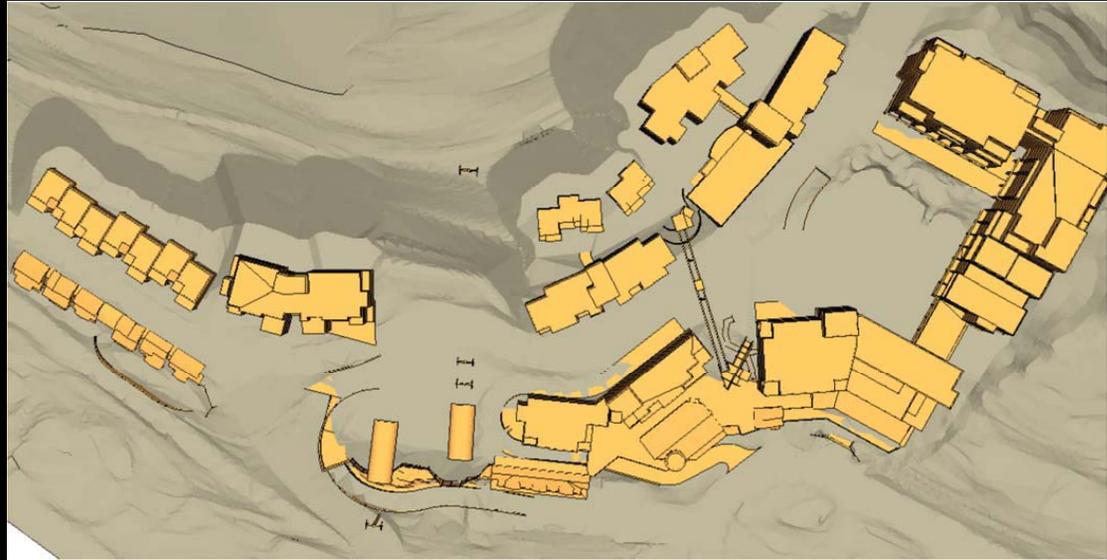
Ontario '09



Ontario Woodruff



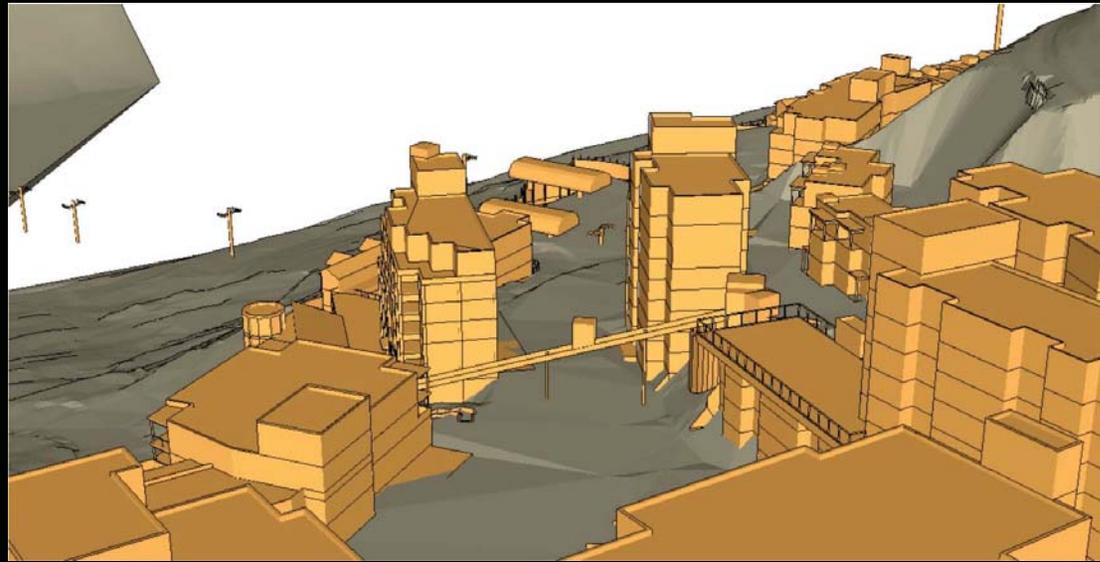
Plan View '09



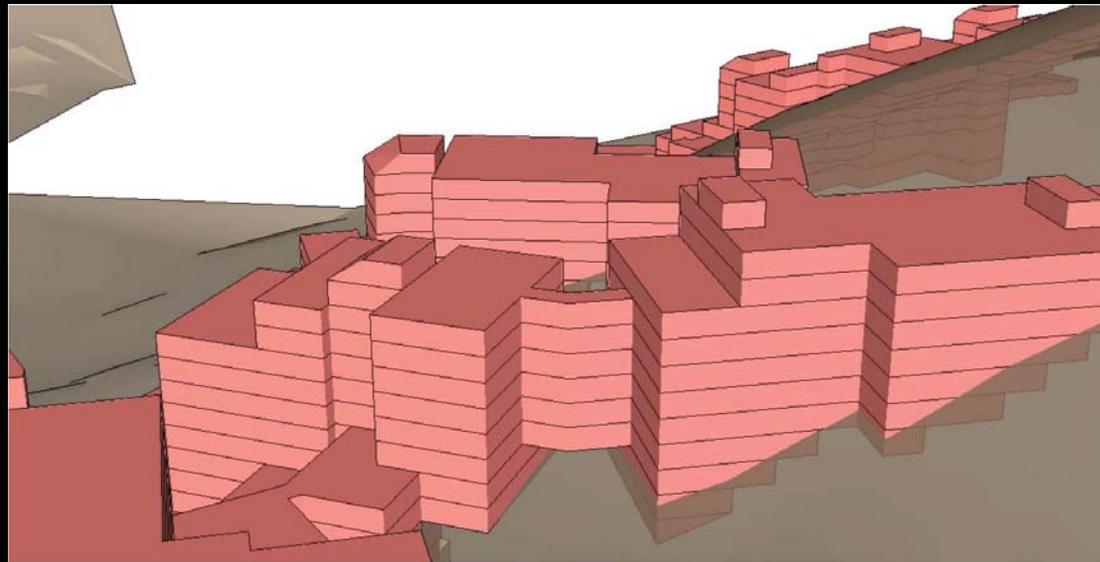
Plan View Woodruff



Ski Run '09



Ski Run Woodruff

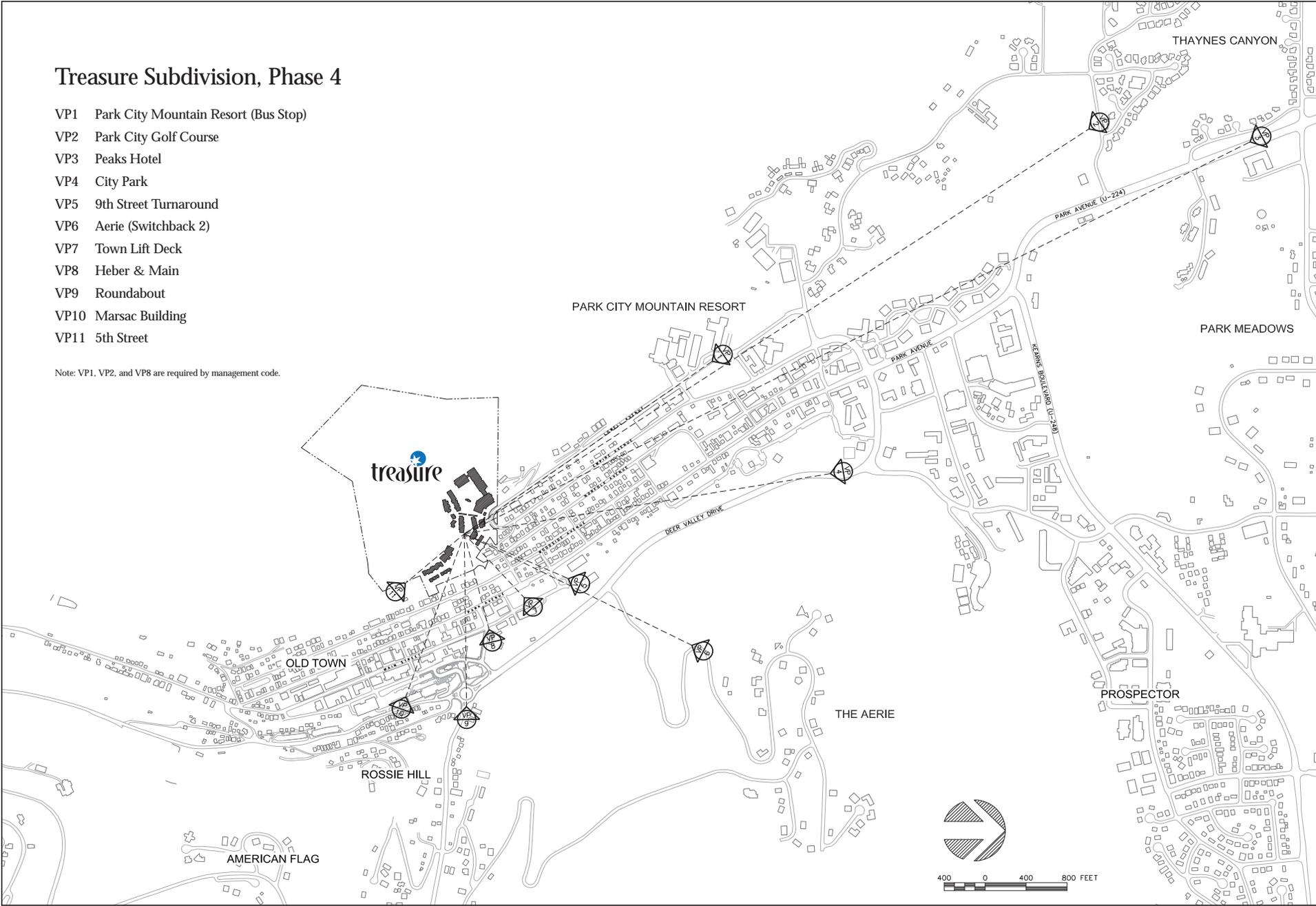




Treasure Subdivision, Phase 4

- VP1 Park City Mountain Resort (Bus Stop)
- VP2 Park City Golf Course
- VP3 Peaks Hotel
- VP4 City Park
- VP5 9th Street Turnaround
- VP6 Aerie (Switchback 2)
- VP7 Town Lift Deck
- VP8 Heber & Main
- VP9 Roundabout
- VP10 Marsac Building
- VP11 5th Street

Note: VP1, VP2, and VP8 are required by management code.



REVISIONS:

SDI
 614 Main Street, Suite 404
 P.O. Box 4560, Park City, Utah 84060
 435-643-4469

MPE
 INCORPORATED

Viewpoints Index
 Developed by
 MPE, INC., PO Box 2429, Park City, UT 84060
 eMail: info@treasureparkcity.com

treasure
 PARK CITY, UTAH

SHEET NUMBER
V-21
 6/12/2008



Viewpoint 1 Park City Mountain Resort



Viewpoint 2 Park City Golf Course

REVISIONS:

SDI
614 Main Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-694-4466



MPE
INCORPORATED

Camera Viewpoints 2
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com



SHEET NUMBER

V-22

6/12/2008



Viewpoint 3 Peaks Hotel



Viewpoint 4 City Park

REVISIONS:

SDI
614 Main Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-648-4466



MPE
INCORPORATED

Camera Viewpoints 4
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com



SHEET NUMBER

V-2

6/12/2008



Viewpoint 5 9th Street Turnaround



Viewpoint 6 Aerie (Switchback 2)

REVISIONS:

SDI
614 Mall Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-643-4469



MPE
INCORPORATED

Camera Viewpoints 6
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

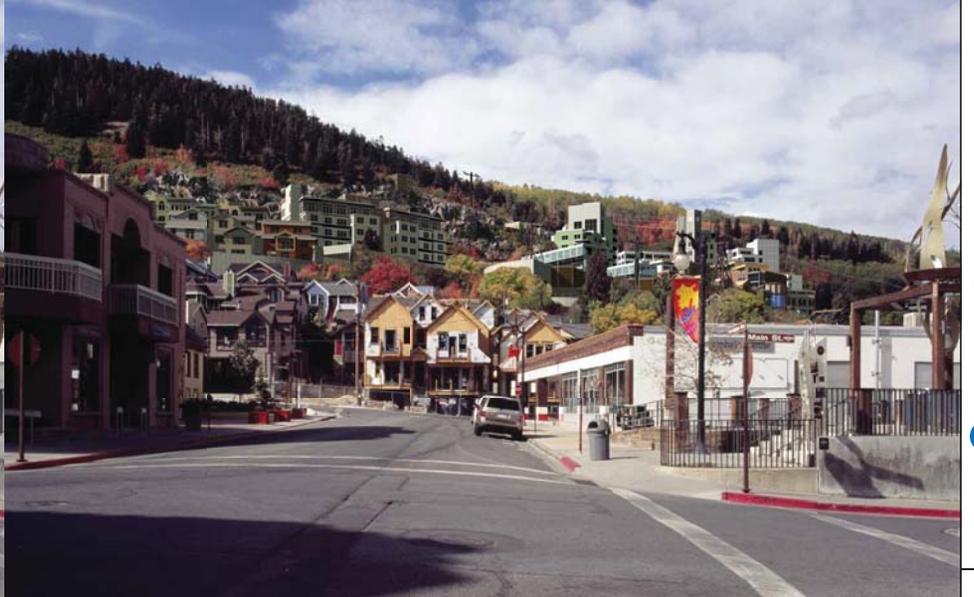
SHEET NUMBER

V-2

6/12/2008



Viewpoint 7 Town Lift Deck



Viewpoint 8 Heber & Main

REVISIONS:

SDI

614 Mall Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-643-4469



NORTH

MPE
INCORPORATED

8

Camera Viewpoints

Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

SHEET NUMBER

V-2

6/12/2008



Viewpoint 9 Roundabout



Viewpoint 10 Marsac Building

REVISIONS:

SDI
614 Main Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-648-4469



MPE
INCORPORATED

Camera Viewpoints 9 0
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com



SHEET NUMBER

V-26

6/12/2008



Viewpoint 11 5th Street

REVISIONS:

SDI
614 Main Street, Suite 404
P.O. Box 4560, Park City, Utah 84060
435-643-4469



MPE
INCORPORATED

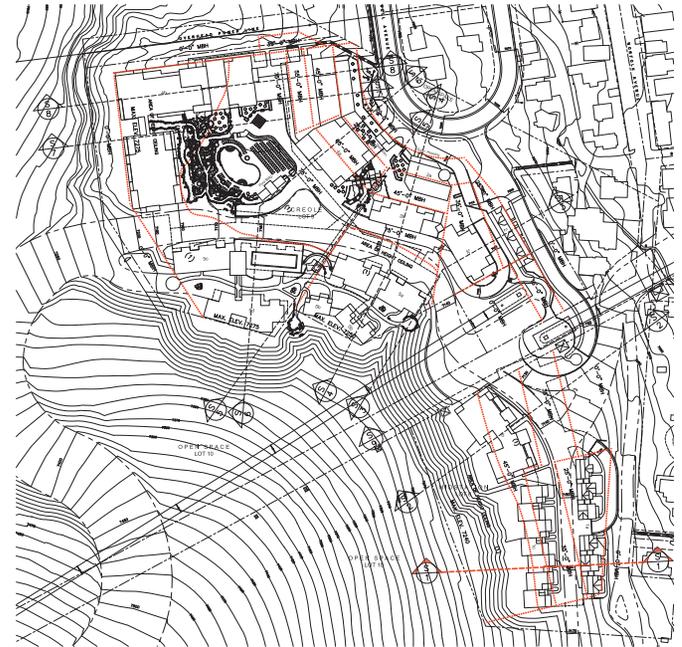
Camera Viewpoint
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

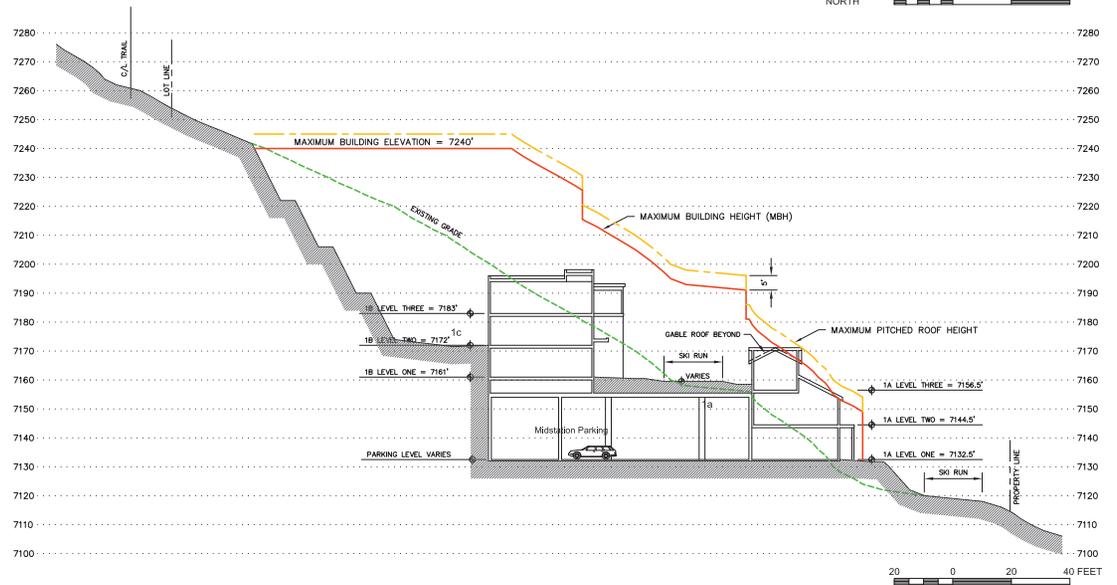
SHEET NUMBER

V-2
6/12/2008

Exhibit Z – Applicant’s Cross Section Sheets S.1 – S.9



KEY PLAN
NORTH
100 0 100 200 FEET



REVISIONS:
1/2 /200

ELDRIDGE & NICHOLSON
ARCHITECTS
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 384-6667



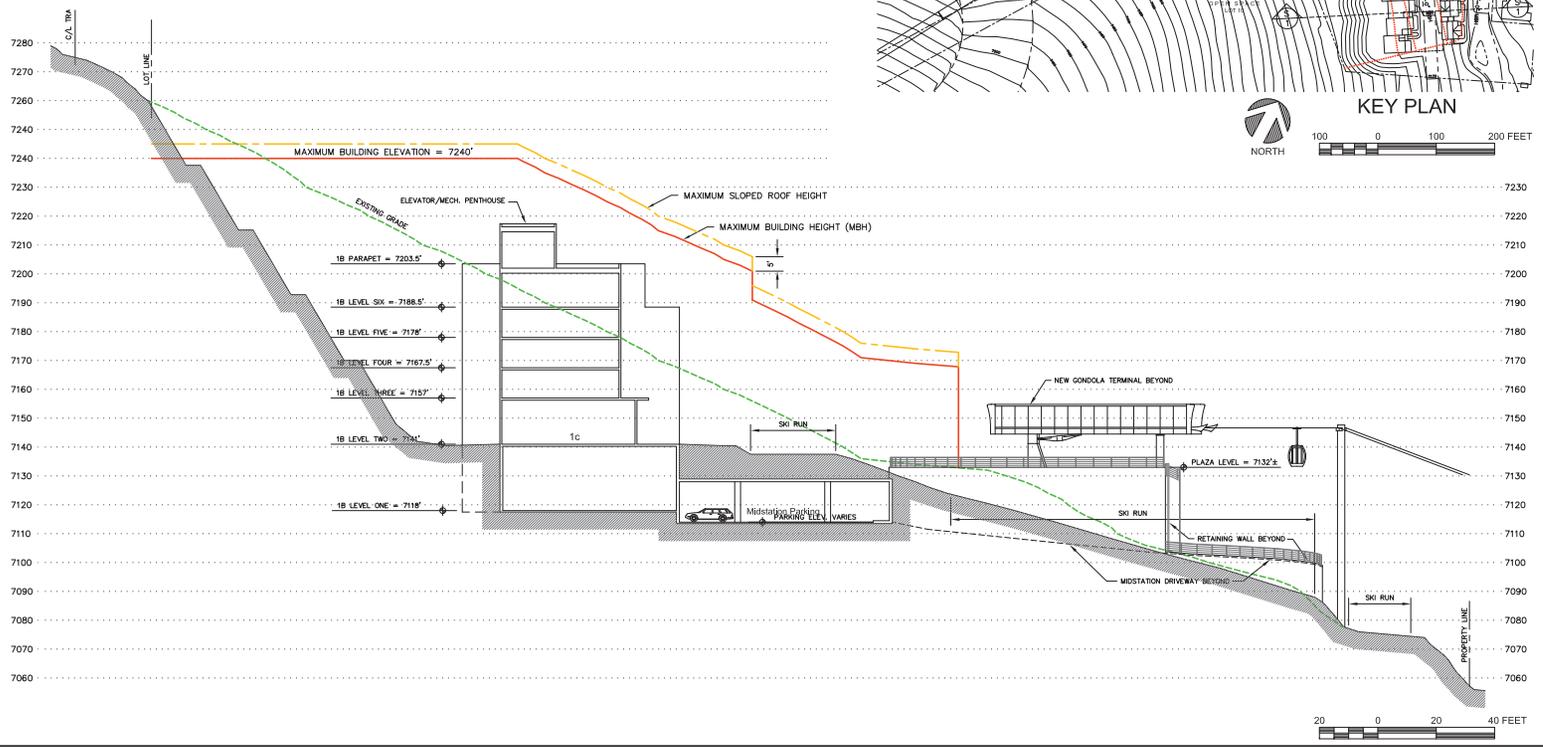
MPE
INCORPORATED

Cross section
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com



SHEET NUMBER

S 1
6/12/2008



REVISIONS:
1/2 /200

ELDRIDGE & NICHOLSON
ARCHITECTS
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 384-6667

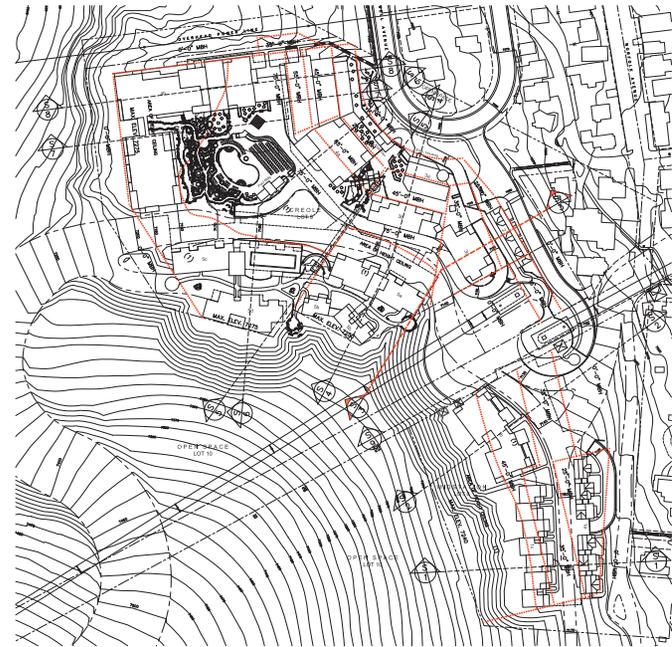


MPE
INCORPORATED

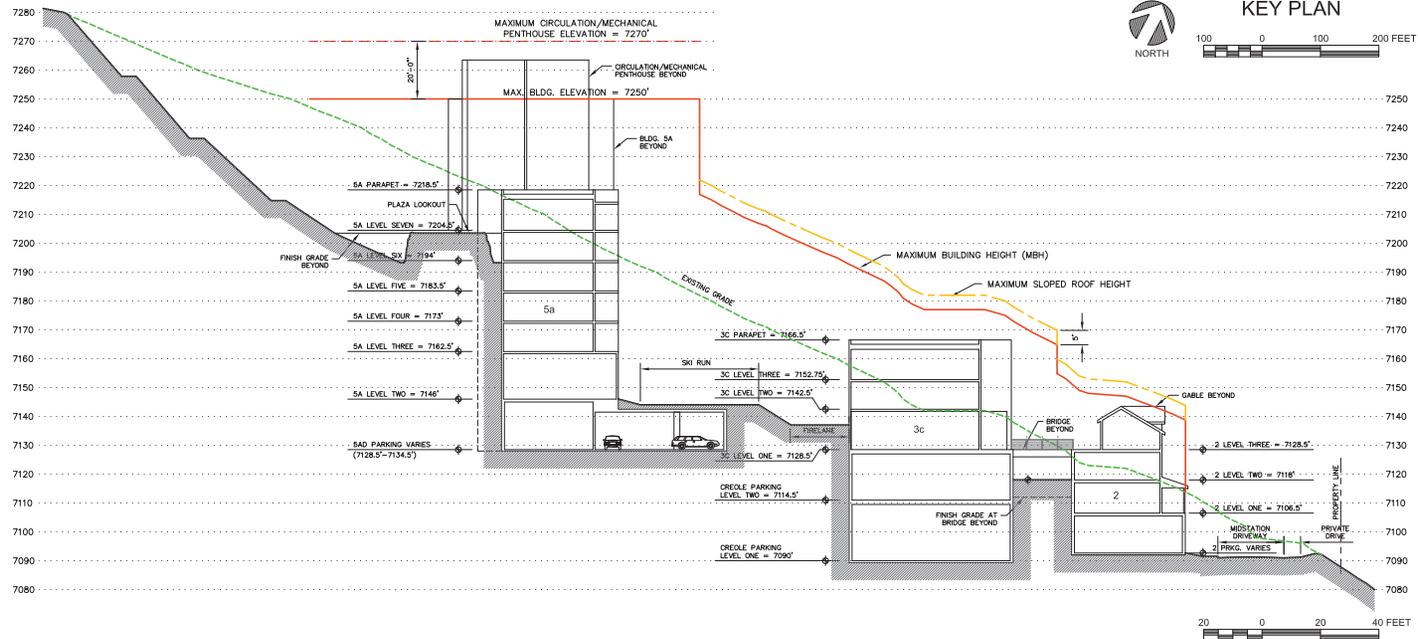
Cross section
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

SHEET NUMBER
S 2
6/12/2008



KEY PLAN



REVISIONS:
1/2 /200

ELDRIDGE & NICHOLSON
ARCHITECTS
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 384-6667

EN

MPE
INCORPORATED

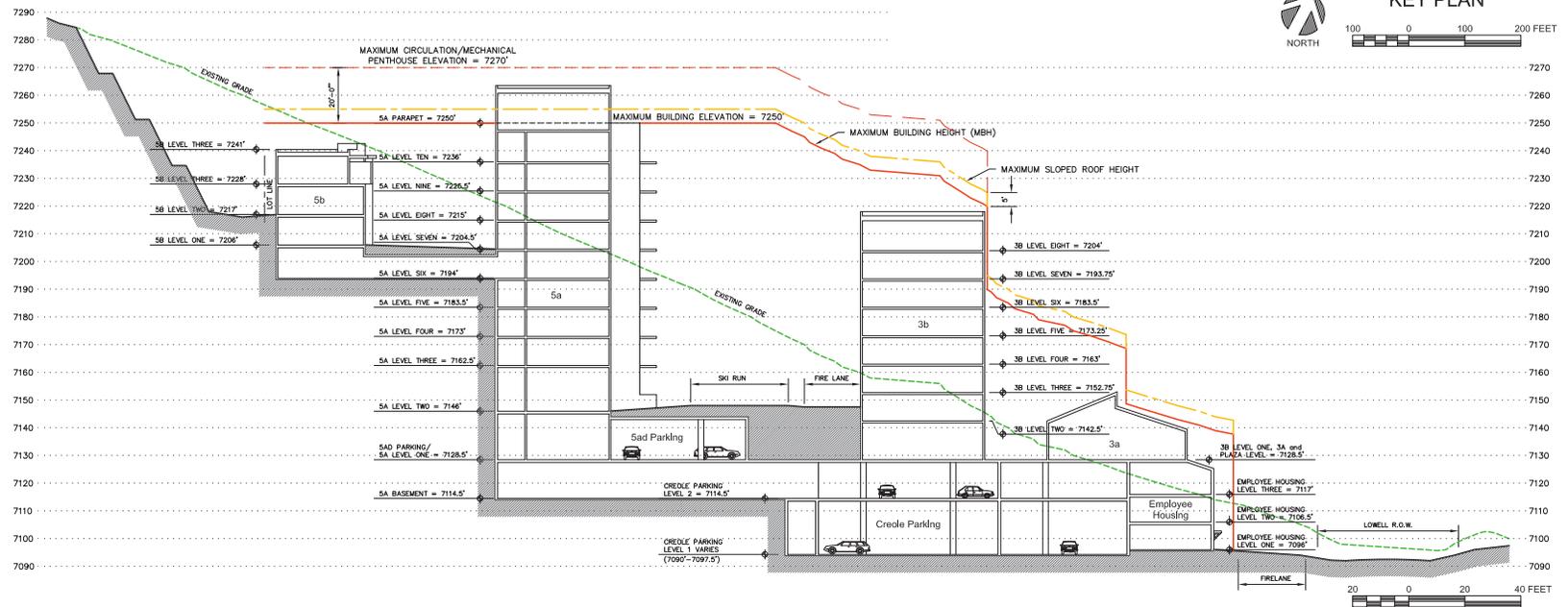
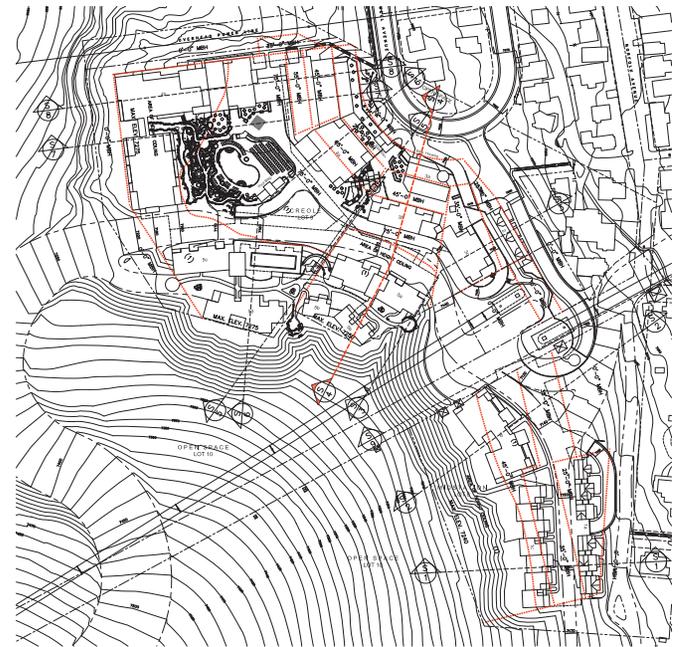
Cross section
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

SHEET NUMBER

S

6/12/2008



REVISIONS:
1/2 /200

ELDRIDGE & NICHOLSON
ARCHITECTS
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 384-6667

IN

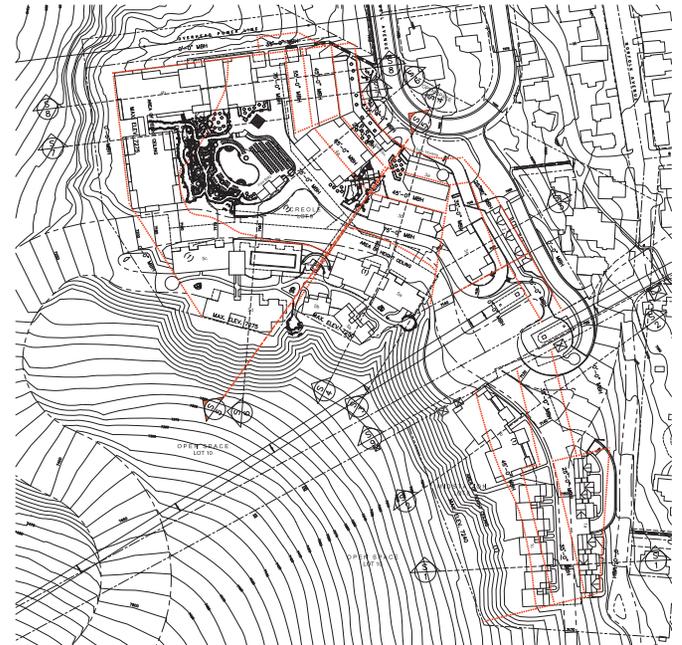
MPE
INCORPORATED

Cross section
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

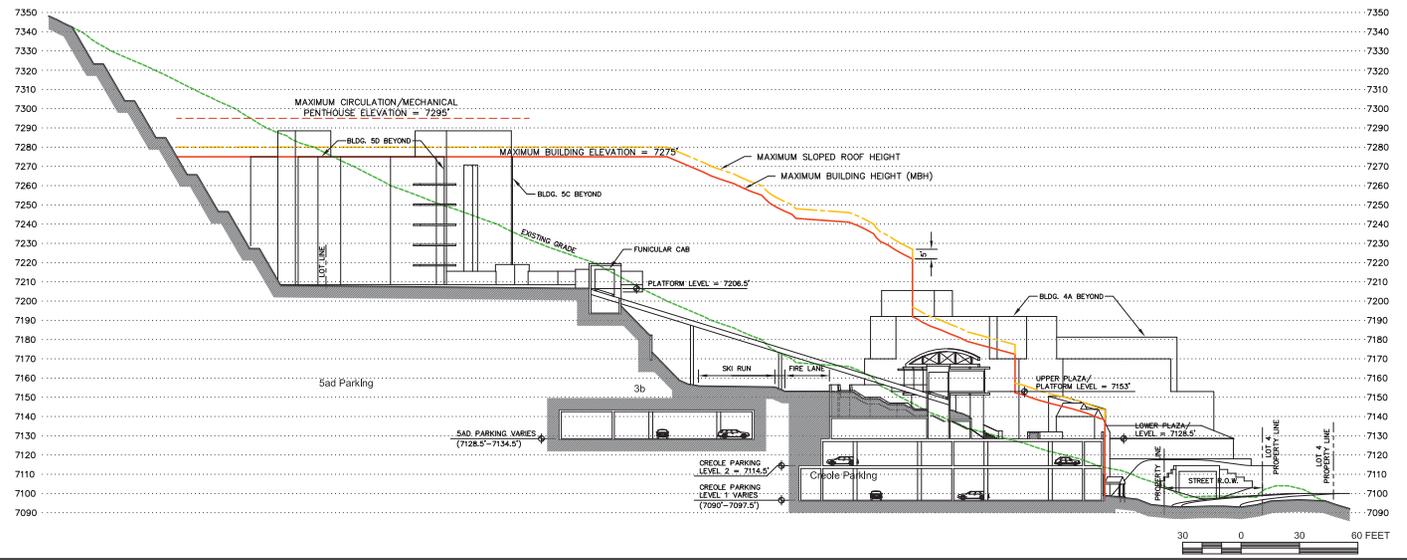
treasure
PARK CITY, UTAH

SHEET NUMBER

S
6/12/2008



KEY PLAN
 NORTH
 100 0 100 200 FEET



REVISIONS:
 1/2 /200

ELDRIDGE & NICHOLSON
 ARCHITECTS
 175 WEST 200 SOUTH
 SALT LAKE CITY, UTAH 84101
 (801) 384-6667

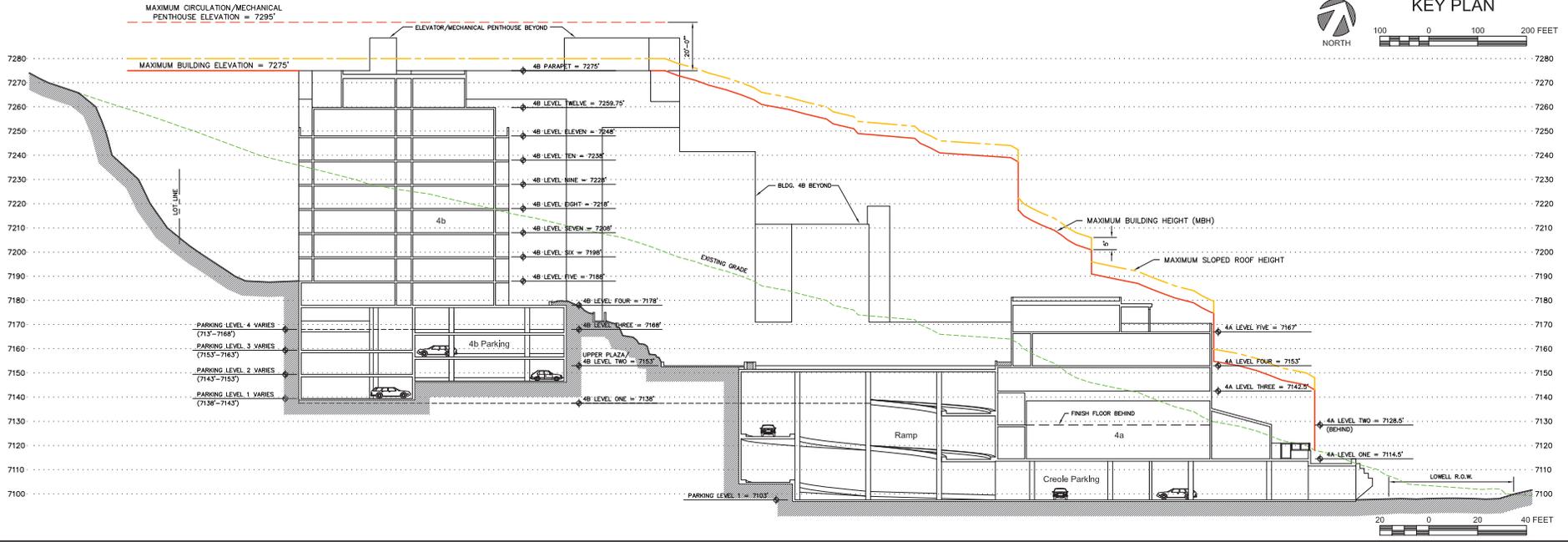
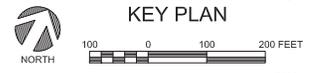
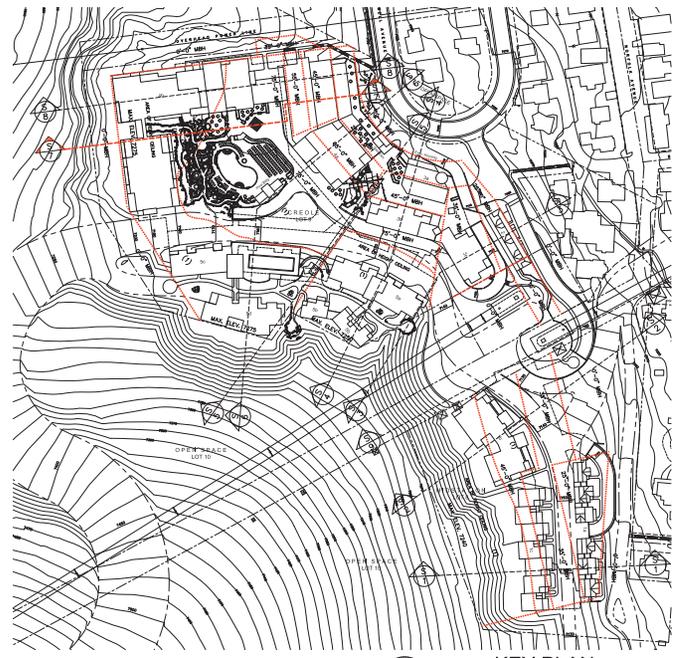
IN

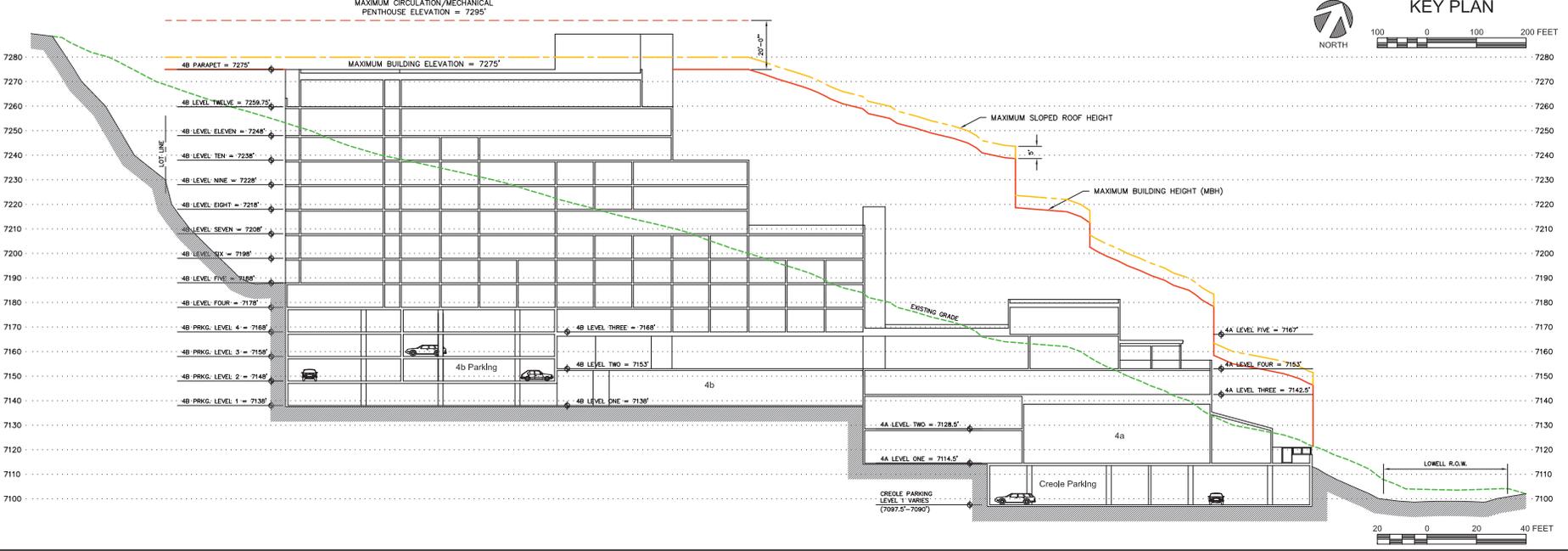
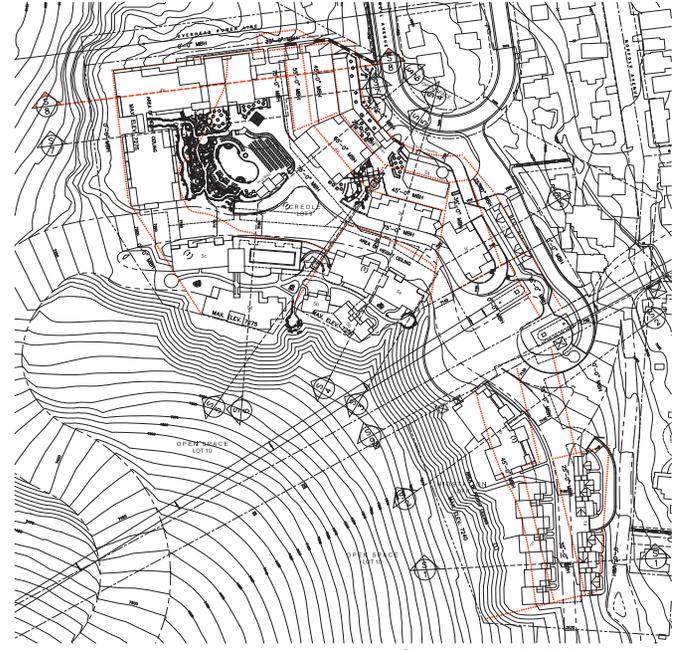
MPE
 INCORPORATED

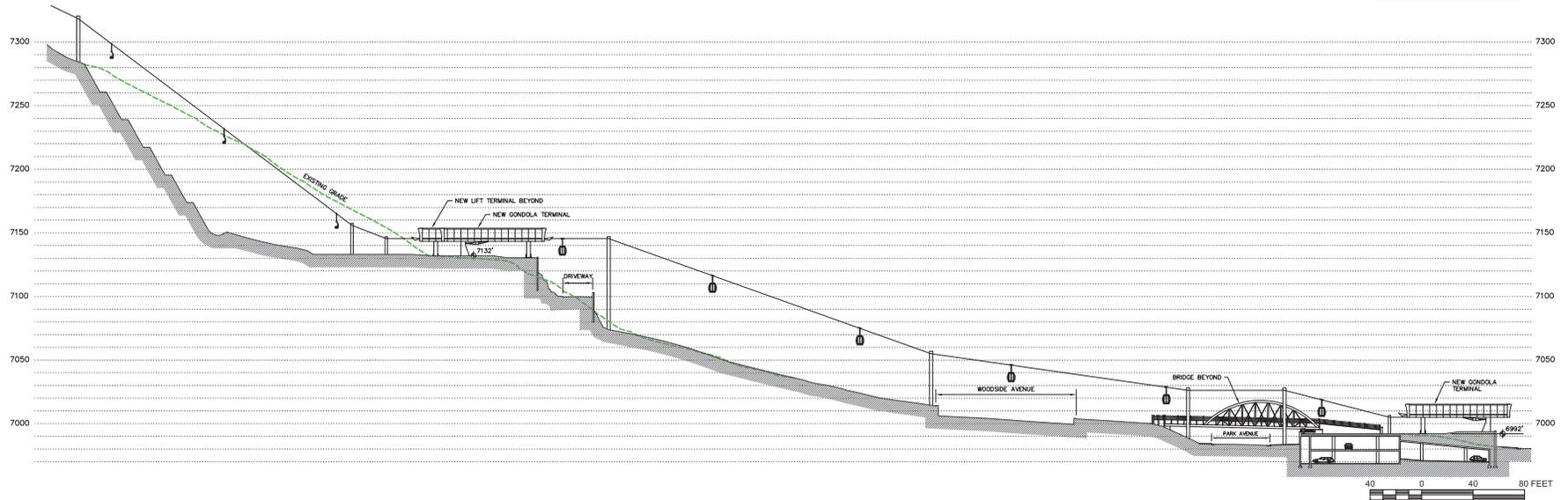
Cross section
 Developed by
 MPE, INC., PO Box 2429, Park City, UT 84060
 eMail: info@treasureparkcity.com

treasure
 PARK CITY, UTAH

SHEET NUMBER
S
 6/12/2008







REVISIONS:
1/2 /200

ELDRIDGE & NICHOLSON
ARCHITECTS
175 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101
(801) 384-6667

IN

MPE
INCORPORATED

Cross section
Developed by
MPE, INC., PO Box 2429, Park City, UT 84060
eMail: info@treasureparkcity.com

treasure
PARK CITY, UTAH

SHEET NUMBER

S

6/12/2008

Exhibit AA – Applicant’s Computer Renderings (from applicant’s website).
[Building label added, also measurements shown in red taken from submitted plans]





CR-02-All Creole



CR-03-EmpireFrontage



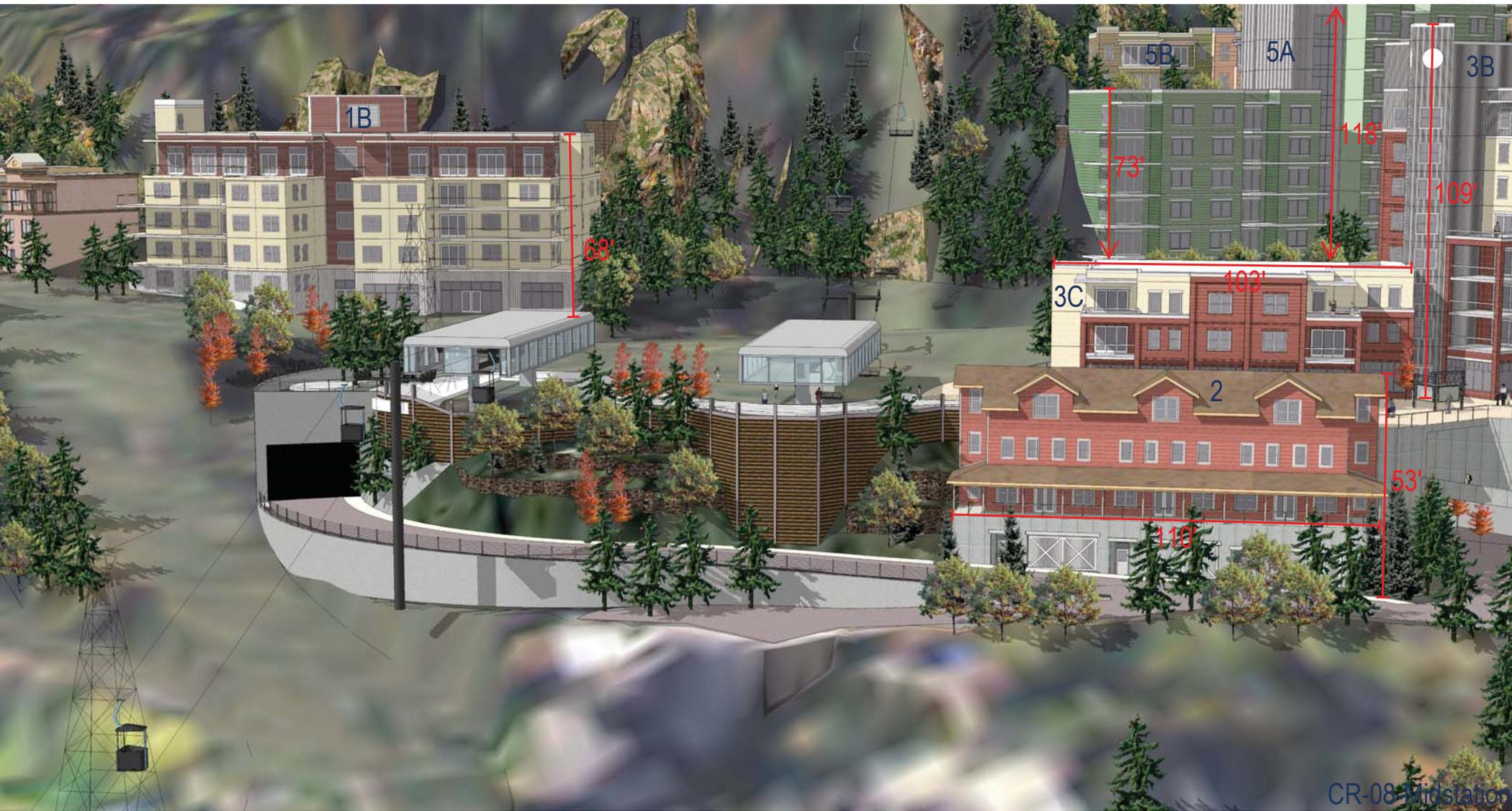
CR-04-GrandStair





CR-06-LiftCabriolet





CR-08 Midstation





CR-10-LowellEmpireFrontage



CR-11-LookingDownOnLift



4B

4B

5A

45'

4A

3B

65'





CR-14-ViewFromNorthEast



CR-15-ViewFromEast





4B

4A

3B

3A

3C

2

CR-17-CommercialArea







CR-20-1B



Exhibit BB – Applicant’s Photo Composites (from applicant’s website)





















