treasure
PARK CITY, UTAH

DATE: December 9, 2016

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

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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:

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[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 Is Efficient.

2.1 Staff Has Failed to Provide an Explanation of Its Conclusions about Efficiency, Despite the Applicant's Request.

In its July 13, 2016, report, Planning Staff concluded, without any explanation or justification, that the "current application is excessive and inefficient." (July 13, 2016 Staff Report, p. 105.) In its September 9, 2016, submission, the Applicant noted that this conclusion lacked "any analysis or explanation." (September 9, 2106 Position Paper, p. 4.)

Instead of providing an explanation or support for its conclusion, in its October 12, 2016, report, Staff again concluded, without providing any explanation, that "inefficient and excess square footage included in the project is creating adverse impacts from the building massing and bulk." (October 12, 2016 Staff Report, p. 51.) Despite the Applicant's request for an explanation of what square footage is "excess" and how the current Application is "inefficient," Staff has failed to provide a response to the Applicant's request.

2.2 Staff Continues to Repeat Inaccurate Analyses from Prior Staff Reports.

Although Staff has been unable to provide the Applicant with an explanation of its conclusions about efficiency, recent Staff reports have repeated false claims in older Staff reports about the design's efficiency. In particular, in the Staff Report of September 14, 2016, Staff quoted the following from the report dated September 23, 2009:

> Within Exhibit A, staff has calculated the common space, circulation, and accessory space as a percentage of each building.

> The percentage is up to 41% in some buildings creating an inefficient design.

(September 14, 2016 Staff Report, p. 97 (quoting September 23, 2009 Staff Report, p. 28).)

But Staff's analyses, as set forth in Exhibit A to the September 23, 2009, report—including Staff's claim about certain buildings having 41% of their square footage in common, circulation, and accessory space—are riddled with errors. Nonetheless, Staff compounded these errors by repeating them verbatim in recent Staff reports, without bothering to verify their accuracy.

First, Staff's September 23, 2009, efficiency calculations are based on imaginary numbers. The claimed 41% figure—which Staff touted in 2009 and continues to tout to this very day—comes from Staff's analysis of Building 1B. (September 23, 2009 Staff Report, Ex. A, p. 39.) In its analysis, Staff claimed that Building 1B has a total of 60,816 square feet, of which 25,079 square feet—or 41%—is common, circulation, and accessory space. (*Id*.)

Although it is uncertain where Staff obtained these numbers, it did not obtain them from the CUP Application. Attached hereto as Exhibit 1 is a spreadsheet titled "Efficiency Ratios of Above-Grade Spaces," which the Applicant has prepared based on its Application. (*See also* Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009 rev. (setting forth correct building square footages for Staff in early 2009).) As demonstrated by Exhibit 1 and Sheet P.16, Building 1B actually has a total of 44,051 square feet of above-ground space, of which 13,248 is common, circulation, and accessory space. The percentage of such space to the total is therefore 30%, making the building 70% efficient.[2]

Similar errors are found in Staff's analysis of other buildings, including significant discrepancies for Building 4B, which Staff claimed to have 94,257 square feet of common, circulation, and accessory space[3] when, in reality, the building only includes 82,195 square feet of such space. (*Compare* September 23, 2009 Staff Report, Ex. A, p. 43 *with* Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009 rev.)

Second, even where Staff used square footage information from the CUP Application, it failed to follow industry standards and the City's own Land Management Code when it calculated building efficiencies by including below-ground space, including parking. By including parking square footage in the common, circulation, and accessory category, the City made the Application artificially appear less efficient that it is.

As the Applicant has noted previously, the City's own definition of "Gross Floor Area" provides that "[b]asement Areas below Final Grade are not considered Floor Area." 2003 LMC § 15-15-1.91(A). Thus, such areas should not be included in any analysis of efficiency, which essentially looks at the ratio of residential/commercial unit space to the total amount of space. Penner, Richard H., *et al*., Hotel and Design Planning and Development (Second Edition,

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[2] Even if parking space is included in the calculations, which, as explained below, is not appropriate, Staff's calculations are off by more than 7,000 square feet—or nearly 15%.

[3] Even with parking space included, which is not appropriate, Staff's calculations are still based on incorrect numbers.

December 2012) at 318 ("The relative efficiency of typical hotel floors can be compared most directly by calculating the percentage of the total floor area devoted to guestrooms."). Of course, including parking space in any such analysis has the obvious effect of putting a thumb on the scale, making the project appear less efficient than it actually is.

The exclusion of parking space from the efficiency calculation is also consistent with industry standards. For example, the Cornell University School of Hotel Administration has explained, in a paper addressing hotel efficiency issues, that "[t]otal hotel gross area is the entire hotel, ***excluding parking***." deRoos, J. A. (2011), Planning and Programming a Hotel, at 5 (Fig. 21.3), Cornell University, School of Hospitality Administration (available at http://scholarship.sha.cornell.edu/articles/310) (emphasis added). Thus, in determining the efficiency of various hotel designs, the hotel industry excludes parking areas from the calculation of total space, as does Park City's Land Management Code.

2.3 By Objective, Industry Standards, the Proposed Design Is Efficient.

Measured against common, typical, and objective standards, the design proposed in the Application is highly efficient. As set forth in Exhibit 1, the vast majority of the project's floors have efficiency ratios greater than 70%, with many exceeding 80%. Common floor-efficiency standards within the hotel industry range between 60% and 75%. *See* Penner, Hotel and Design Planning and Development at 318 ("The relative efficiency of typical hotel floors . . . varies from below 60 percent in an inefficient atrium plan to more than 75 percent in the most tightly designed double-loaded slab."); *see id*. at 319 (Fig. 15.2).

Thus, even though a small handful of floors have ratios between 60% and 70%, these floors are still well within hotel-industry guidelines. Moreover, the floors in this range of efficiency often have unique uses that explain such lower ratios, such as employee facilities and ski ticket offices.

The very few floors with efficiency ratios less than 60% are explained by necessary hotel amenities and floor-area uses, such as lobbies, employee housing, ballrooms and associated facilities, and laundry/maintenance facilities. Obviously, such uses and facilities are common in hotels and will typically reduce the efficiency of particular floors within the hotel.

Indeed, in terms of overall square footage, the Applicant's design is efficient by industry standards. A typical hotel design that includes features and amenities similar to those proposed by the Applicant will have a total efficiency ratio in the range of 46–48%. *See* Penner, Hotel and Design Planning and Development at 308 (Fig. 14.6-"Summary Hotel Area Program"). Here, by contrast, the Applicant's design has an overall efficiency of 68%—far above typical hotel efficiency ratios.

2.4 The City's Own Analysis Confirms the Applicant's Design Is Efficient.

Contrary to the City's unsupported and unexplained statements about "excess" space and inefficient design, the City's own objective analysis proves otherwise. The City's Exhibit W, which is an analysis by the City's Planning Director of the percentage of square footage devoted to circulation and "back of house" uses in other hotels in the City, the Applicant's design is at least as efficient as the most comparable hotels in the City. According to the City's own analysis, the Applicant's design has less circulation and "back of house" than St. Regis, the same as The

Montage, and virtually the same as Marriott Mountainside. Moreover, the Applicant's review of publicly available information suggests the City's analysis includes significant errors that underestimate the percentages for the other hotels, but the City has been unwilling to provide the underlying data for Exhibit W despite repeated requests by the Applicant.

3. The Proposed Parking Is Also Efficient as Possible.

Although parking is specifically addressed under CUP criteria not currently before the Commission, including criteria 5 and 13, attached as Exhibit 2 is an analysis setting forth the average space per parking stall for each of the proposed parking areas in the CUP Application. The Applicant is submitting this information at this time to respond to specific inquiries by the Commission regarding this issue.

The proposed parking design takes into account numerous design requirements and approval parameters in the SPMP, including the need to accommodate all parking needs in underground facilities, the unique topography of the site, fire and safety concerns, service parking and staging requirements, access issues, guest expectations, minimizing neighborhood impacts, and other operational considerations. Exhibit 2 identifies how these considerations have impacted the overall square footage of certain portions of the proposed parking areas.

4. The Current Proposal Is the Same Concept as Approved in the SPMP.

Both the November 9, 2016 (p. 8), and the October 12, 2016 (p. 53), Staff Reports contain the same statement: "*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" (emphasis added). However, a search of the record for a prior discussion by Staff of compliance with the concept approved by the SPMP yields nothing. This same language is contained, verbatim, in the September 23, 2009, Staff Report, which itself provides no reference to any prior Staff discussions about such issue. (September 23, 2009 Staff Report, p. 34.) Thus, it appears that the City keeps repeating a purported finding for which it has never provided any explanation or analysis.

Moreover, these conclusory statements stand in sharp contrast to Staff's prior conclusion, stated in several other contemporary Staff reports, 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.)

Unlike Staff's current conclusory statement, as repeated from the September 23, 2009, Staff Report, Staff's earlier conclusion actually refers to the language of the SPMP approval.

Indeed, the SPMP refers to the proposed development "concept" several times. For example, Finding 1 refers to the "proposed clustered development concept." (SPMP Report, p. 2.) The SPMP Report provides additional context for this statement, explaining that

> [a] variety of development concepts were submitted during the course of reviewing the proposed Master Plan. . . . The alternative concepts ranged from a "conventional" subdivision approach involving the extension of Norfolk Avenue, to a modern high—rise

> concept. The staff, Planning Commission and general public have all favored the clustering of development as opposed to spreading it out. . . . The latest concept developed represents a refined version of the cluster approach originally submitted.

(SPMP Report, p. 7.) The SPMP further provides that "[t]he 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." (SPMP Report, p. 8.)

Similarly, under the heading "Overall Concept," the SPMP Report explains that

> [t]he concept of clustering densities on the lower portion of the hillside with some transferring to the Coalition properties has evolved from both previous proposals submitted and this most recent review process. . . . After considerable staff discussion and input, the cluster concept was developed. Because of the underlying zoning and resultant density currently in place, the cluster approach to developing on the hillside has been favored throughout the formal review and Hearing process.

(SPMP Report, p. 12.)

Nothing about the Applicant's proposed design varies from the development concept approved in the SPMP. The application continues to cluster the density in the two locations identified in the SPMP for development. Thus, contrary to Staff's current unexplained finding, which itself conflicts with Staff's prior finding, the Applicant's current design is exactly the same as the concept approved in the SPMP.

BJM:

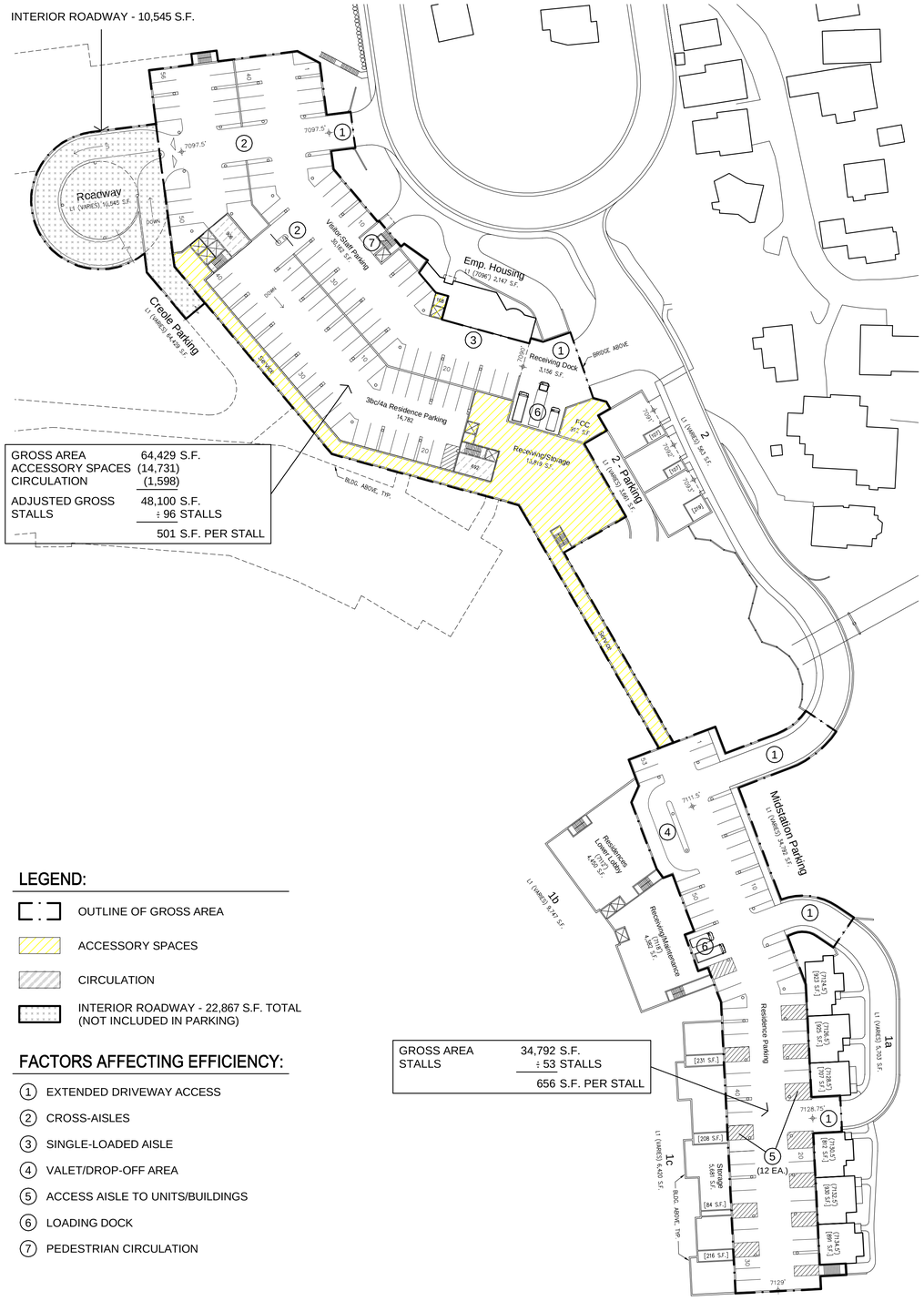
EXHIBIT 1

EFFICIENCY RATIOS OF ABOVE-GRADE SPACES

USEABLE SPACE | EFFICIENCY RATIO BETWEEN 60% & 70% | EFFICIENCY RATIO < 60%

BUILDING		ABOVE GRADE SPACES								EFFICIENCY RATIO	NOTES
BLDG. No.	LEVEL	UNITS * (NET)	COMMON & CIRCULATION	ACCESSORY	PARKING (GROSS)	VESTED COMM. * (GROSS)	SUPPORT COMM. * (GROSS)	MEETING SPACE * (GROSS)	TOTAL ABOVE GRADE (GROSS)	USEABLE AREA (*) ÷ TOTAL AREA	
PARKING	Midstn - L1								0	Below Grade	Note: Below grade spaces not included in efficiency ratios.
1A	3-Story Townhouses	2,146	249						2,395	89.60%	
		2,113	234						2,347	90.03%	
		1,776	200						1,976	89.88%	
		1,818	214						2,032	89.47%	
		2,171	229						2,400	90.46%	
		2,206	227						2,433	90.67%	
	SUBTOTAL	**12,230**	**1,353**	**0**	**0**	**0**	**0**	**0**	**13,583**		
1B	L1								0	Below Grade	
	L2	3,690	5,528	244					9,462	39.00%	3,880 s.f. lobby for 1 Buildings (38% of total)
	L3	7,164	1,647	244					9,055	79.12%	
	L4	7,164	1,647	244					9,055	79.12%	
	L5	7,164	1,647	244					9,055	79.12%	
	L6	5,621	1,559	244					7,424	75.71%	
	SUBTOTAL	**30,803**	**12,028**	**1,220**	**0**	**0**	**0**	**0**	**44,051**		
1C	L1								0	Below Grade	
	3-Story Townhouses	23,478	2,002						25,480	92.14%	
	SUBTOTAL	**23,478**	**2,002**		**0**	**0**	**0**	**0**	**25,480**		
MIDSTATION TOTAL		**66,511**	**15,383**	**1,220**	**0**	**0**	**0**	**0**	**83,114**	**80.02%**	
PARKING	Creole								0	Below Grade	
	4AB								0	Below Grade	
	5AD								0	Below Grade	
RAMP & ROADWAY									0	Below Grade	
2	L1	433	130		3,661				4,224	10.25%	Only stairs to units within parking garage are "useable space"
	2-Story Townhouses	5,936	524						6,460	91.89%	
	L4			750		1,397			2,147	65.07%	Ticket office, classified "resort accessory"
	SUBTOTAL	**6,369**	**654**	**750**	**3,661**	**1,397**	**0**	**0**	**12,831**		
EMPLOYEE HOUSING	L1			2,147					2,147	0.00%	Added per City's request
	L2			2,261					2,261		
	L3			2,261					2,261		
	SUBTOTAL			**6,669**	**0**	**0**	**0**	**0**	**6,669**		
3A	L1					3,746			3,746	100.00%	
	SUBTOTAL				**0**	**3,746**	**0**	**0**	**3,746**		
3B	L1		1,333	2,816		8,273			12,422	66.60%	Service corridor behind commercial uses, classified "accessory"
	L2	3,541	1,105	160					4,806	73.68%	
	L3	3,541	1,105	160					4,806	73.68%	
	L4	3,541	1,105	160					4,806	73.68%	
	L5	3,429	1,113	160					4,702	72.93%	
	L6	3,429	1,113	160					4,702	72.93%	
	L7	3,429	1,113	160					4,702	72.93%	
	L8	2,871	1,106	160					4,137	69.40%	Upper story stepped, decreasing useable area
	SUBTOTAL	**23,781**	**9,093**	**3,936**	**0**	**8,273**	**0**	**0**	**45,083**		
3C	L1		404			4,054			4,458	90.94%	
	L2	4,189	386						4,575	91.56%	
	L3	4,002	386						4,388	91.20%	
	SUBTOTAL	**8,191**	**1,176**		**0**	**4,054**	**0**	**0**	**13,421**		
PLAZA BLDGS.	STAIR		450	180					630	0.00%	Public access from Lowell
	POOL			792					792	0.00%	Public restrooms & snack bar
	SUBTOTAL		**450**	**972**					**1,422**		
4A	L1		7,574	8,763				10,815	27,152	39.83%	Ballroom lobby, breakout space & prep area (60% of total)
	L2		4,654	7,299				5,312	17,265	30.77%	Ballroom lobby, breakout space & prep area (69% of total)
	L3		377	4,663			10,994		16,034	68.57%	2,604 s.f. employee locker room (16% of total)
	L4		2,500	4,676			10,106		17,282	58.48%	2,274 s.f. project offices + 1,168 s.f. ski storage (20% of total)
	L5	11,290	1,735	654					13,679	82.54%	
	L6	5,941	1,237	654					7,832	75.86%	
	SUBTOTAL	**17,231**	**18,077**	**26,709**			**21,100**	**16,127**	**99,244**		
4B	B1								0	Below Grade	
	L1								0	Below Grade	
	L2		6,720	620			5,626		12,966	43.39%	3,098 s.f. lobby and registration area (24% of total)
	L3	4,700	2,687	2,218					9,605	48.93%	1,598 s.f. maintenance facility (17% of total)
	L4	13,316	6,003	10,737					30,056	44.30%	9,528 s.f. laundry facility (32% of total)
	L5	19,774	7,063	1,209					28,046	70.51%	
	L6	20,192	6,277	1,209					27,678	72.95%	
	L7	14,917	5,159	3,883					23,959	62.26%	2,674 s.f. sitting area/lounge for guests (11% of total)
	L8	17,503	5,247	1,209					23,959	73.05%	
	L9	16,354	5,153	1,209					22,716	71.99%	
	L10	15,469	4,980	1,209					21,658	71.42%	
	L11	16,001	4,202	507					20,710	77.26%	
	L12	14,382	4,187	507					19,076	75.39%	
	SUBTOTAL	**152,608**	**57,678**	**24,517**			**5,626**		**240,429**		
5A	B1								0	Below Grade	
	L1								0	Below Grade	
	L2	2,787	4,520	97					7,404	37.64%	3,119 s.f. lobby for 5 Buildings (42% of total)
	L3	5,281	1,494	214					6,989	75.56%	
	L4	5,281	1,494	214					6,989	75.56%	
	L5	5,281	1,494	214					6,989	75.56%	
	L6	5,281	1,494	214					6,989	75.56%	
	L7	5,281	1,611	97					6,989	75.56%	
	L8	2,578	1,122	214					3,914	65.87%	Number of units half of levels below
	L9	2,578	1,122	214					3,914	65.87%	
	L10	2,578	1,122	214					3,914	65.87%	
	SUBTOTAL	**36,926**	**15,473**	**1,692**					**54,091**		
5B	B1								0	Below Grade	
	3-Story Townhouses	9,445	1,070						10,515	89.82%	
	SUBTOTAL	**9,445**	**1,070**						**10,515**		
5C	B1								0	Below Grade	
	L1								0	Below Grade	
	L2	3,303	1,577	304					5,184	63.72%	Number of units half of levels above
	L3	6,606	2,477	304					9,387	70.37%	
	L4	6,606	2,477	304					9,387	70.37%	
	L5	6,606	2,477	304					9,387	70.37%	
	L6	3,303	1,991	97					5,391	61.27%	Number of units half of levels below
	L7	3,303	1,616	304					5,223	63.24%	
	L8	3,303	1,726	194					5,223	63.24%	
	L9	3,303	1,616	304					5,223	63.24%	
	L10	3,303	1,616	304					5,223	63.24%	
	L11	3,303	1,616	304					5,223	63.24%	
	SUBTOTAL	**42,939**	**19,189**	**2,723**					**64,851**		
5D	B1								0	Below Grade	
	L1	4,985	1,176	179					6,340	78.63%	
	L2	4,985	1,176	179					6,340	78.63%	
	L3	4,985	1,642	179					6,806	73.24%	
	L4	4,985	1,176	179					6,340	78.63%	
	L5	4,985	1,176	179					6,340	78.63%	
	L6	4,985	1,176	179					6,340	78.63%	
	SUBTOTAL	**29,910**	**7,522**	**1,074**					**38,506**		
CREOLE TOTAL		**327,400**	**130,382**	**69,042**	**3,661**	**17,470**	**26,726**	**16,127**	**590,808**	**65.63%**	
PROJECT TOTAL		**393,911**	**145,765**	**70,262**	**3,661**	**17,470**	**26,726**	**16,127**	**673,922**	**67.40%**	

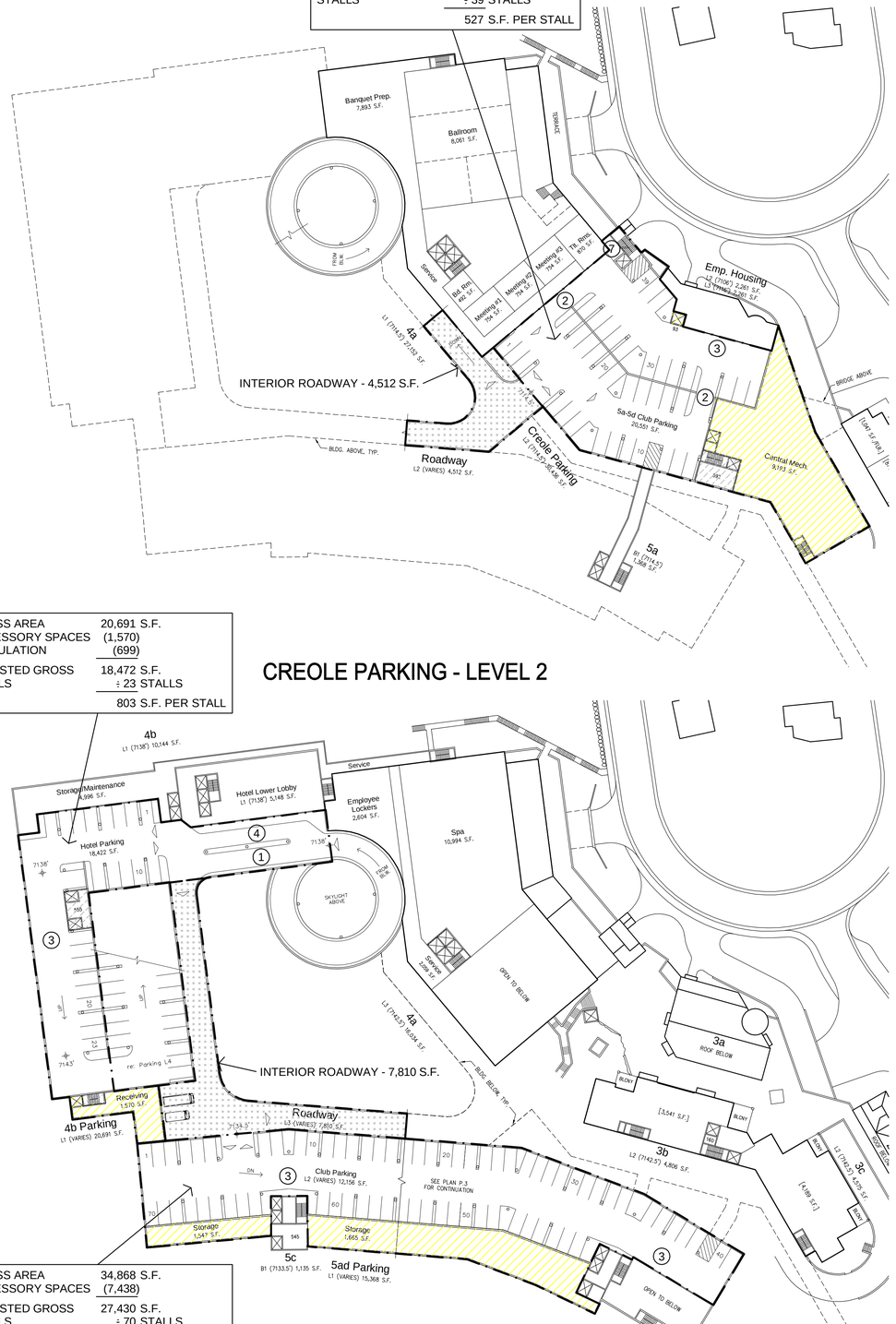
EXHIBIT 2



GROSS AREA	64,429 S.F.
ACCESSORY SPACES	(14,731)
CIRCULATION	(1,598)
ADJUSTED GROSS	48,100 S.F.
STALLS	÷ 96 STALLS
	501 S.F. PER STALL

GROSS AREA	34,792 S.F.
STALLS	÷ 53 STALLS
	656 S.F. PER STALL

CREOLE & MIDSTATION PARKING - LEVEL 1



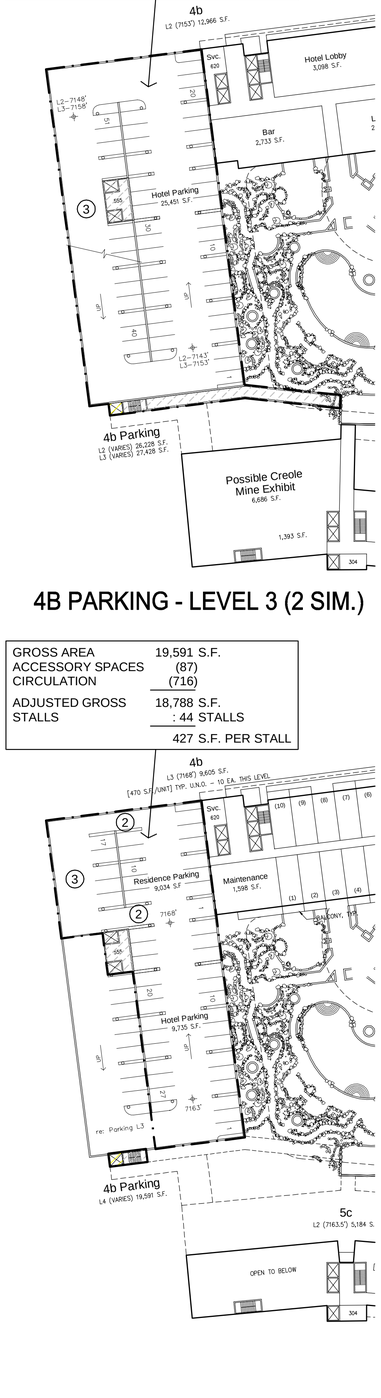
GROSS AREA	30,436 S.F.
ACCESSORY SPACES	(9,193)
CIRCULATION	(692)
ADJUSTED GROSS	20,551 S.F.
STALLS	÷ 39 STALLS
	527 S.F. PER STALL

CREOLE PARKING - LEVEL 2

GROSS AREA	20,691 S.F.
ACCESSORY SPACES	(1,570)
CIRCULATION	(699)
ADJUSTED GROSS	18,472 S.F.
STALLS	÷ 23 STALLS
	803 S.F. PER STALL

GROSS AREA	34,868 S.F.
ACCESSORY SPACES	(7,438)
ADJUSTED GROSS	27,430 S.F.
STALLS	÷ 70 STALLS
	392 S.F. PER STALL

4B & 5AD PARKING - LEVEL 1



GROSS AREA	27,428 S.F.
ACCESSORY SPACES	(78)
CIRCULATION	(1,899)
ADJUSTED GROSS	25,451 S.F.
STALLS	÷ 51 STALLS
	499 S.F. PER STALL

4B PARKING - LEVEL 3 (2 SIM.)

GROSS AREA	19,591 S.F.
ACCESSORY SPACES	(87)
CIRCULATION	(716)
ADJUSTED GROSS	18,788 S.F.
STALLS	: 44 STALLS
	427 S.F. PER STALL

4B PARKING - LEVEL 4

LEGEND:

- OUTLINE OF GROSS AREA
- ACCESSORY SPACES
- CIRCULATION
- INTERIOR ROADWAY - 22,867 S.F. TOTAL (NOT INCLUDED IN PARKING)

FACTORS AFFECTING EFFICIENCY:

1. EXTENDED DRIVEWAY ACCESS
2. CROSS-AISLES
3. SINGLE-LOADED AISLE
4. VALET/DROP-OFF AREA
5. ACCESS AISLE TO UNITS/BUILDINGS
6. LOADING DOCK
7. PEDESTRIAN CIRCULATION