PARK CITY APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
April 30, 2024

The Appeal Panel of Park City, Utah, will hold its regular meeting in person at the Marsac Municipal Building, City Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online and may have options to listen, watch, or participate virtually.

1. MEETING CALLED TO ORDER AT 5:00PM

2. ROLL CALL

3. MINUTES APPROVAL

3.A. Consideration to Approve the Appeal Panel Meeting Minutes from March 4, 2024

4. PUBLIC COMMUNICATIONS

5. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

6. REGULAR AGENDA

6.A. **Appeal of 220 King Road Final Action** - The Appeal Panel Will Review an Appeal of the Final Action taken by the Planning Commission Approving the Proposed Plans to Demolish Two Existing Dwellings to Construct a New Single-Family Dwelling and Accessory Buildings and Outdoor Pool within the Sweeney Master Planned Development, Historic Residential - 1 Zoning District, and Partially within the Sensitive Land Overlay as follows:

(I) PL-22-05318 (Conditional Use Permit, Dwelling);
(II) PL-22-05319 (Plat Amendment);
(III) PL-23-05523 (Conditional Use Permit, Pool); and
(IV) PL-23-05571 (Steep Slope Conditional Use Permit).

BRIEFING BY APPELLANTS WILL BE PUBLISHED IN THE PACKET FRIDAY, APRIL 26, 2024. ALL PARTIES MAY SUBMIT SUPPLEMENTAL MATERIALS BEFORE OR AT THE HEARING.

(A) Public Hearing; (B) Action

7. ADJOURNMENT

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking is available at no charge for meeting attendees who park in the China Bridge parking structure.**

PARK CITY MUNICIPAL CORPORATION
APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
MARSAC MUNICIPAL BUILDING
MARCH 4, 2024

MEMBERS IN ATTENDANCE: Adam Strachan, Esteban Nunez, Matthew Day (attended virtually)

EX OFFICIO: Rebecca Ward, Planning Director; Michelle Kellogg, City Recorder; Spencer Cawley, Planner II; Dave Thacker, Chief Building Official; Mark Harrington, City Attorney

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1. MEETING CALLED TO ORDER AT 5:00 P.M.

The Appeal Panel Meeting was called to order at 5:02 p.m.

Planning Director, Rebecca Ward, reported that this is the first Appeal Panel Meeting. City Recorder, Michelle Kellogg, was present to swear in Esteban Nunez and Adam Strachan. Matthew Day attended virtually. It was noted that he was sworn in prior to this meeting. Recorder Kellogg took a moment to swear in Messrs. Nunez and Strachan.

2. ROLL CALL

All members of the Appeal Panel were present.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

A. Appeal Panel Chair Election – The Appeal Panel will Elect One of Its Members to serve as Chair for a Term of One Year.

Director Ward reported that the Appeal Panel needs to elect a member to serve as Chair for a term of one year. Mr. Day suggested that Mr. Strachan serve as Chair due to his prior experience.

MOTION: Matthew Day moved to APPOINT Adam Strachan as Chair of the Appeal Panel for a term of one year. Esteban Nunez seconded the motion.

VOTE: The motion passed unanimously.

B. Open and Public Meetings Act Training.

Director Ward noted that there was a handout related to Open and Public Meetings Act Training included in the packet. There was a short training video to share with the Appeal Panel as well. The training video explained that the Open and Public Meetings Act is the State Law that ensures that government actions and deliberations are openly conducted. An open and public meeting is

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when a public body quorum, also known as a simple majority, needs to discuss or act upon government business. It includes meetings that are sometimes referred to as Workshops, Executive Sessions, Regular Meetings, Public Hearings, Electronic Meetings, and Emergency Meetings. Open and public meetings do not include chance or social meetings.

A Public Hearing is a type of open and public meeting where citizens have a reasonable opportunity to speak. Public hearings happen when a government adopts a budget, imposes, or increases taxes or fees, or transfers money from an enterprise fund. These meetings have extra noticing requirements. An Electronic Meeting is a type of open and public meeting that is convened electronically. The governing body must adopt a resolution, rule, or ordinance allowing electronic meetings. An Emergency Meeting may be held to discuss an urgent matter due to unforeseen circumstances. In order to hold the meeting, the best notice feasible is provided, with the time, location, and topics to be considered. An attempt also must be made to contact all governing body members. Additionally, the governing body majority must approve the meeting.

An open and public meeting may be closed to discuss any of the following matters:

- The character, competence, or health of an individual;
- Collective bargaining;
- Litigation;
- Certain real property transactions, including water rights or water shares, with specific restrictions;
- Security personnel, devices, or systems deployment;
- Investigations of criminal misconduct; and
- Private or protected information per the Utah Procurement Code.

A Closed Meeting may be held only if a quorum is present and the meeting was properly noticed. Two-thirds of the governing body present at the meeting need to vote “yes” to close a meeting. It was explained that during a Closed Meeting, a governing body cannot do the following:

- Interview someone applying to fill an elected position;
- Discuss filling a mid-term vacancy or temporary absence;
- Discuss the character, competence, or health of a person who had their name submitted for consideration to fill a mid-term vacancy or temporary absence; and
- Approve any ordinance, resolution, rule, regulation, contract, or appointment, or take a vote, unless it is a vote on a motion to end the closed portion of the meeting and return to an open meeting.

When a governing body closes a meeting, the following must be publicly announced and entered into the Meeting Minutes of the open meeting in which the closed meeting was approved:

- The reason or reasons for holding the Closed Meeting;
- The location of where the Closed Meeting will be held; and
- The vote of each member of the governing body either for or against the motion to close the meeting.

If a Closed Meeting is discussing the character, competence, or health of an individual, or security personnel, devices, or systems deployment, no recording or Meeting Minutes are required. However, the presiding member needs to sign a sworn written statement stating such. If the

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Closed Meeting is held for any other reason, a recording must be made, which includes the date, time, and place of the meeting, names of members present and absent, and names of all others, except where disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting. Regular open and public meetings require 24 hours' notice. The public notice includes the meeting agenda, date, time, and place. Public meeting agendas need to include reasonably specified topics to be considered, with each topic listed under a separate agenda item on the meeting agenda. The governing body may not consider a topic in an open meeting that is not included on the agenda. If a new topic, not on the agenda, is raised by the public during an open meeting, the governing body may discuss the topic. However, final action may not be taken on the topic during that meeting. It can be scheduled for discussion in the future.

Entities holding regular meetings scheduled in advance over the course of the year need to provide annual notice of the entire meeting schedule for the year. The notice must include the date, time, and place for each meeting. Notice is posted on the public body's website, in a public location, such as the location where the meeting will be held, and the Utah Public Notice website, in accordance with Utah Code 63G-30-102. Typically, posting on the Utah Public Notice website is done by the Records Officer, Recorder, or Clerk. However, it is the responsibility of the governing body to ensure that notice is provided. It was noted that written Meeting Minutes and a recording are kept for all open meetings, with few exceptions. Written Meeting Minutes include:

- The date, time, and place of the meeting;
- Names of members present and absent;
- The substance of all matters;
- Names of citizens providing comments and the substance of the comments provided;
- Any information a body member requests be entered into the Meeting Minutes; and
- A record by individual members of each vote taken.

A body with elected members must record each vote in list format by category for each action taken by a member, including yes votes, no votes, and absent members. The recording must be a complete and unedited record of all open portions of the meeting from beginning to end and be labeled with the meeting date, time, and place. All or part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting. Pending minutes are minutes of an open meeting in draft form, subject to change, before being approved by the public body that held the open meeting. Pending Meeting Minutes must contain a clear indication, such as a "draft" or "pending" watermark to state that the governing body has not yet approved the minutes and they are subject to change.

Approved Meeting Minutes means written minutes of an open meeting approved by the public body that held the open meeting. Entities must establish and implement procedures for the public body's approval of written minutes. Pending minutes, approved minutes, and recordings are public records under the Government Records and Management Act ("GRAMA"). Any individual who publicly presents information relating to an item on the meeting agenda must provide a copy of the information for inclusion in the public record. Pending minutes must be made available to the public within 30 days. Within three business days after approving written minutes of an open meeting, approved minutes and public materials must be made available on the Utah Public Notice website, the entity's primary office, and the website. Additionally, within three business days after holding an open meeting, an audio recording of the open meeting must be made available to the public to listen to.

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Chair Strachan asked if Planning Staff would handle Meeting Minutes and posting the materials. Director Ward reported that the Meeting Minutes will be written, the Appeal Panel will review those Meeting Minutes, and the Appeal Panel will determine whether it is appropriate to approve or amend them. Staff will ensure that Meeting Minutes are uploaded and made available to the public. Chair Strachan asked about the need to keep track of the votes. Director Ward explained that this is kept as part of the Meeting Minutes. She clarified that with the civic clerk program used for online Meeting Material Packet publication, it is possible to track votes there as well.

4. PUBLIC COMMUNICATIONS

There were no public communications.

5. CONSENT AGENDA

A. Consideration to Adopt Resolution 01-2024 – A Resolution Authorizing Participation in Meetings by Electronic Communication.

MOTION: Matthew Day moved to APPROVE Resolution 01-2024 – Approving Appeal Panel Rules of Order and Procedure and Adopting a Policy Authorizing Participation in Meetings by Electronic Communication. Esteban Nunez seconded the motion.

VOTE: The motion passed unanimously.

6. REGULAR AGENDA

A. 1115 Aerie Drive – Conditional Use Permit for a Private Recreation Facility – The Applicant Appeals the Planning Commission's July 13, 2022, Denial of a Conditional Use Permit (PL-21-05101) for a Private Recreation Facility (Sports Court) located Outside the Building Pad.

Mr. Day shared a disclosure with those present. He explained that he has been on the property and has seen the recreational facility. Several months ago, he had a local window contractor bidding on a personal project. He asked to see what the windows would look like fully installed in a house and the contractor took him to 1115 Aerie Drive to see the windows there. That visit occurred before he was a member of the Appeal Panel. Mr. Day does not know the owner of the property and to his knowledge, he has not spoken to the owner. While on-site, he did briefly see the recreational area. He did not ultimately engage that window contractor for his project. His previous visit to the site will not impact his ability to review the appeal in an unbiased manner.

Planner II, Spencer Cawley, presented the Staff Report and explained that he will now share an overview of the appeal for 1115 Aerie Drive. He noted that the Chief Building Official, Dave Thacker, is present to answer questions related to the Building Permit and Building Department processes. The applicant and applicant representatives are also present at the meeting.

Planner Cawley shared background information about the application. On December 20, 2021, the applicant submitted a Conditional Use Permit ("CUP") application for a sports court. A sports court is identified by the Land Management Code ("LMC") as a private recreation facility, requiring a CUP in the zone where the residence is located. The sports court was constructed without proper approvals or permits and was built outside of the existing building pad indicated on the

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Hearthstone Subdivision Plat, crossing property lines. The applicant proposed to modify the constructed sports court by reducing the size from 4,795 square feet to 2,085 square feet and completing the review and permit process for the construction of the sports court. Also on December 20, 2021, the applicant submitted an Administrative CUP application for retaining walls constructed greater than six feet in height without proper approvals or permits. Planner Cawley informed those present that Administrative CUPs require Staff-level review and final action.

On June 17, 2022, the applicant requested final action on the Administrative CUP, pursuant to Utah Code § 10-9a-509.5(2)(b), requiring Staff to complete the review within 45 days. In order to accommodate the request, Staff took the CUP to the Planning Commission on July 13, 2022. At that time, the Planning Commission reviewed the Private Recreation Facility CUP, held a public hearing, and denied the CUP, as outlined in the Final Action Letter. The findings stated:

- The development is not compatible with prior land use approvals, including the approved Master Planned Development ("MPD") and Final Plat;
- The application lacked information regarding the CUP requirements for screening and landscaping, compatibility with surrounding structures, noise, lighting, sensitive lands, and steep slopes; and
- The proposal is inconsistent with the General Plan.

Planner Cawley reported that public input was received and forwarded to the Appeal Panel prior to the meeting. All public input received as part of the original application was attached as Exhibit I in the Meeting Materials Packet. An aerial view of 1115 Aerie Drive was shared. The property is Lot 8 in the Overlook at Old Town Subdivision. The subdivision is located on Aerie Drive within the two switchbacks of the right-of-way. The subdivision was approved in 1993 and as part of that approval, each lot was allowed a 90-foot by 90-foot building pad. On the image shown, Staff highlighted the existing sports court, the proposed resized sports court pad, and the existing building pad. On January 21, 2021, a Grading/Landscaping Permit was applied for to replace three retaining walls on the northeast corner of the property. The Building Department Staff noted that walls greater than four feet require engineered plans and patios require a separate Building Permit. Planning Department Staff reviewed the application and noted that walls must be outside of the 10-foot Public Snow Storage Easement adjacent to Aerie Drive. It was also stated that all areas that are disturbed during construction must be re-vegetated and no significant vegetation was approved to be removed. The approved Site Plan is attached as Exhibit E.

On September 8, 2021, two stop-work orders were issued. Planner Cawley noted that those are attached to the Meeting Materials Packet as exhibits. On March 15, 2022, the applicant submitted a Plat Amendment application. The application was specific to amending the building pad and the limits of disturbance. He reiterated that July 13, 2022, was the denial of the CUP. On August 1, 2022, the applicant filed an appeal of the CUP denial from the Planning Commission. On August 11, 2022, the Planning Director, with applicant approval, continued the Administrative CUP review of the proposed retaining walls to a date to be determined, due to the appeal of the CUP denial for a Private Recreation Facility. On October 18, 2022, a Perpetual Improvements Easement Agreement was recorded with Summit County. On November 16, 2023, the Utah Property Rights Ombudsman issued an Advisory Opinion regarding the Final Action.

The standard of review for the Appeal Panel is that it shall act in a quasi-judicial manner and review factual matters de novo, without deference to Staff determination of factual matters. The Appeal Panel shall determine the correctness of the Planning Commission's interpretation and

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application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. The applicant has the burden of proving that the Planning Commission erred in denying the CUP. The Planning Commission found the proposal does not mitigate the reasonably anticipated detrimental effects of the proposed use and does not comply with the CUP criteria outlined in LMC § 15-1-10(E). The Utah Property Rights Ombudsman Advisory Opinion outlines four points in their analysis of the Planning Commission's action, which are as follows:

- The proposed development at 1115 Aerie Drive does not violate internal lot restrictions;
- The Commission's findings that the as-built conditions violated the City's Steep Slope Regulations are not supported by the record;
- Final Action on Conditional Use applications must be supported by substantial evidence; the substantive review process allows for obtaining additional necessary information before decision-making, and the City's code suggests that the Planning Commission should have continued the matter, per the applicant's request; and
- The remaining findings according to the City's Conditional Use review must be revisited to consider proper plat interpretation and additional necessary information.

Attorney Todd Godfrey stated that years ago, he represented Valley Mental Health and Valley Behavioral Health. There was a Chief Executive Officer ("CEO") who resembled the property owner in this case. He took a moment to confirm that this was not the same person. Attorney Godfrey introduced himself to the members of the Appeal Panel and explained that is with the firm Hayes Godfrey & Bell. The City has retained him to represent the Appeal Panel at the current Appeal Panel Meeting.

Mr. Nunez asked about the retaining wall. It was stated that engineered plans were requested if it was over four feet, so he wanted to know what process was given to the applicant to be able to submit those engineered plans. Planner Cawley explained that during the review process if there is identification of additional information needed in order to review and approve a Building Permit, a request can be made to the applicant. The permit can be approved and the information submitted later or the information can be submitted prior to issuing the Building Permit.

Mr. Day also had a question about the retaining wall. As he understood the matter, this is not an appeal against the CUP for the retaining wall. That being said, the issues are intertwined in a lot of ways. He wanted to know if it is possible to ask questions about the CUP that is not being appealed. Attorney Godfrey understood the appeal to relate only to the location of the recreational facility and not to the retaining wall. It is possible to ask questions about the retaining wall, but it does not appear to be significant to the appeal determination currently before the Appeal Panel.

Chair Strachan referenced Page 13 of the Staff Report, which included the Site Plan. The existing tennis court pad is outside the setback and part of the existing building pad is outside the setback. He wondered if the setback violations had been discussed. Director Ward confirmed that they were discussed for the existing concrete tennis court pad. The existing building pad on the Site Plan shows that the structure is shifted to the south. She did not believe that was a point of discussion previously but confirmed that the setbacks for the tennis court were discussed.

Chair Strachan noted that the MPD was amended in the late 1990s. He wanted to know if there is anything in the Meeting Minutes or Staff Reports from those meetings that reference items built outside of the building pad or a variance. Planner Cawley explained that he is not able to speak

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to what was discussed during the meetings in the 1990s. However, based on research done as part of the CUP application, in April 1999, the Planning Commission at that time held a Work Session and considered an amendment to the Hearthstone Subdivision to eliminate those building pads. There was no consensus at a Planning Commission level that there was a reason to change the building pad limitations as platted. That plat amendment did not move forward.

Mr. Day believed the question was less about the building pad and more about the limits of disturbance. At some point, there were supposed to be limits of disturbance on the plats, but those were not put onto the lot or any of the other lots. At that time, it was contemplated that there would be limits of disturbance, but those never made it onto the plat. This was confirmed.

Mr. Day asked about the Grading Permit. It appears there was a partial pass in January 2023, where the playground with outdoor kitchen, putting green, fire pit, and hot tub, was approved. He asked for clarification about that. Building Official Thacker referenced the Inspection Report included in the Meeting Materials Packet. An inspection was performed on the landscape features in the rear yard, which included a putting green area, an outdoor kitchen area, and a few other playground features. Those were within the setbacks. In conversation with the Planning Director at the time, it was determined that those could be approved once Building Code standards and requirements were met. That moved forward without approving the tennis court area or any of the retaining walls outside setback areas. Mr. Day pointed out that those items were inside the setbacks but outside the building pad. Building Official Thacker confirmed this.

Chair Strachan asked for additional details about the determination made. He wanted to know if Staff considered that the building pad was the limitation or limit of disturbance. Building Official Thacker explained that Staff looked at the original submittal that came in, which only showed a few modifications to the property. Additional drawings were requested and the retaining walls within the setbacks were included in those drawings. The determination was based on the fact that the retaining walls in the areas that were approved were within the setbacks of the lot and there were no specific areas determined as limits of disturbance. Chair Strachan wanted to know why the sports court was not acceptable but the outdoor kitchen was. He wanted to better understand the distinction that had been made. Building Official Thacker stated that this was described within the Inspection Report. It noted that the retaining walls within the setbacks were encroaching upon the property lines and were not included in the approval, although they are both within the permit. The permit remains open, which is why there is currently a partial pass.

Mr. Day asked if it is possible to conclude that items such as the hot tub, fire pit, and putting green did not comply. Building Official Thacker stated that the intention of the report was to note that everything within the setbacks was approved. Anything outside the setbacks needs to be either approved or denied. From there, modifications can be made, as necessary. Mr. Day noted that one of the reasons the Commission denied the CUP had to do with the definition of structure. He struggled to understand why certain items were considered appropriate and others were not.

The applicant representative, Wade Budge, introduced himself to the Appeal Panel. He explained that he is representing Gary Sutton, who is the owner of the property and is also present at the meeting. Mr. Sutton has written a one-page comment that will be read. Mr. Budge stated that there is a desire to make clear that when the property was purchased in 2020, someone was hired to assist with the work. When the stop-work order was received, Mr. Budge was hired. Before the one-page comment was read, additional information was shared about the situation.

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Mr. Budge referenced Figure 2 in the Staff Report. That was a new figure created by Staff and is now being reviewed. When the MPD was approved, the setbacks did not exist. The setbacks now identified there were adopted subsequent to the MPD and the plat. That is why the Appeal Panel may see the encroachments. It is understood that there needs to be compliance with the setbacks, which is why the applicant has come forward to address that through the current process. The goal is to receive approval for the sports court and make sure it complies with the setbacks. Reasonable conditions can be imposed so it is possible to qualify for the CUP. From there, action can be taken on the Administrative CUP and conditions can be imposed there.

Mr. Budge shared a PowerPoint presentation with the Appeal Panel. He noted that a copy has been submitted into the record and members have a paper copy of the slides as well. One slide included Park City LMC information. Staff accurately covered that information already, but he noted that the City Ordinance 15-1: General Provision and Procedures states: "A Conditional Use shall be approved provided that reasonable conditions can be imposed." He believes the Appeal Panel can approve the CUP on appeal because reasonable conditions can be imposed. An image was shared to illustrate the proposed sports court. The red outline indicates the resized sports court. It will no longer serve a tennis function as originally planned. He pointed out the relocated retaining wall and explained that there was a retaining wall done as part of this work that needs to be removed because it is in the setback and in the vicinity of the snow storage easement. A condition is proposed that as part of the approval, the retaining wall be moved.

Mr. Day asked how high the retaining wall shown in the image is. Mr. Budge stated that it can be up to six feet in that vicinity. At 6-feet, there is a requirement that it be engineered. As a result, it is proposed that a Condition of Approval state that the retaining wall be engineered. Mr. Budge reviewed another image of the sports court area. It better illustrated the retaining walls under the Administrative CUP. Those were shown in blue and green and were retaining walls within the setback. When those were built as part of the 2021 improvements, there were encroachments onto the adjoining property owner. That has since been cured because an Improvements Easement was entered into. There was a letter of support that was submitted into the record.

Mr. Budge reviewed some of the issues determined by the Planning Commission and compared those to the Ombudsman's opinion. He discussed Issue #1 – Building Pad Line:

- Planning Commission Finding:
    - The subdivision plat included a 90x90 building pad and no development can occur outside the building pad. The sports court is outside the building pad and thus violates the plat restriction.
- Ombudsman Advisory Finding:
    - The City wrongfully interpreted platted building pad lines as proscribing any development activity beyond the existing home's footprint, which was not the intent of the plat, according to the MPD approval and ordinances in effect at that time.

Mr. Budge explained that slide nine in his presentation showed that there is no limit of disturbance. He reviewed a set of Conditions of Approval back when the plat was approved. It referenced, "limits of disturbance as specified at the time of Final Plat approval." It also referred to, "limitations on landscaping and irrigation shall be defined at the time of Final Plat." Neither of those limitations were ever imposed on the plat. He shared the Meeting Minutes from August 25, 1993. Based on the Staff response at that time, landscaping could occur outside of limits of disturbance if limits of disturbance were imposed. Additionally, the Staff Report from October 4, 1993, stated that: "Each

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lot reflects a building pad of approximately 8,000 square feet, which designates the general location of the home." The building pad is not a limit of disturbance and is intended to show the limits for the home. The City Council Staff Report from April 14, 1994, was shared. No limits of disturbance were specified. Mr. Budge proposed that all activities occur within the setbacks. That being said, he noted this is a 13-lot subdivision where there are no limits of disturbance imposed.

Discussions were had about the Aerie Subdivision, which was developed around the same time. Chair Strachan wanted to know if that subdivision has limits of disturbance indicated. It was believed that the Aerie Subdivision included limits of disturbance. Mr. Budge noted that he has never seen a limit of disturbance treated the same as the building pad. Those are normally treated differently. Mr. Budge next reviewed information about Issue #2 – Steep Slopes:

- Planning Commission Finding:
    - The applicant failed to provide sufficient information to determine whether the sports court violated the City's steep slope ordinance;
    - The sports court violated the City's steep slope ordinance as it was constructed within 50' of very steep slopes.
- Ombudsman Advisory Opinion:
    - The Commission's finding that very steep slopes have been disturbed is undermined by its other finding that slopes could not be determined and is therefore not supported by the record.

Mr. Budge explained that steep slopes were analyzed by Alliance Engineering. There was a lot of discussion about the post-construction activity slope analysis during the Planning Commission hearing. Evidence has since been submitted from Alliance Engineering related to the pre-construction slopes. The areas that represent very steep slopes, for which a 50-foot setback would be required, are within the circle shown on the presentation slides. The area in the revised pad does not qualify under the definition of a very steep slope, because there is not enough there. The Planning Commission did not have that information at the meeting. Instead of the Commission continuing the item until additional information was presented, they chose to deny it.

Chair Strachan asked what data Alliance Engineering used. Mr. Budge reported that aerial photography and topography pulled from aerial surveys were used. All of that information could be submitted. Additionally, anyone from Alliance Engineering who assisted with the work could speak to the City. Mr. Day wanted to know if the additional information about the very steep slopes has been submitted to Staff. Mr. Budge confirmed that it has been submitted to Staff, but is unsure what the Staff determination is. If there are questions, it is possible for Staff to speak to Alliance Engineering. Mr. Day was interested to hear what the opinion of Staff was on this.

Mr. Budge next reviewed a presentation slide for Issue #3 – Significant Vegetation. It is not believed that any significant vegetation was removed, as it was mostly brush where the development activities occurred. Regardless, the owner wants to put in 11 quaking aspen trees, 9 Austrian pine trees, and 19 gamble oak trees to provide screening to the sports court. Mr. Budge reported that the presentation slides analyzed the 16 criteria in the code and all were met. In addition, 10 proposed Conditions of Approval have been submitted to the City for consideration. One condition was not to allow overhead lighting on the court as that would be inconsistent with the neighborhood and would create impacts. Prohibiting lighting would mitigate the issue.

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Chair Strachan asked Attorney Godfrey if it is possible to direct the Planning Commission to adopt certain Conditions of Approval. It seemed to him the Planning Commission should make the determination on those. Attorney Godfrey had read through the ordinance, and legally, the Appeal Panel has the authority to approve a CUP with attached conditions. Whether that is something the Appeal Panel wants to do is up for discussion, but legally speaking, they have that authority.

Mr. Day believed that some of the information was either not available or the Planning Commission did not feel it was available. Instead of continuing the matter, the Planning Commission denied the CUP request. One option would be to send this back to the Planning Commission and allow that additional information to be presented. Alternatively, the Appeal Panel could ask that additional information be brought back to this body instead of the Planning Commission. He wanted to know what the most appropriate approach is moving forward. Attorney Godfrey reported that the Appeal Panel has the authority to continue this matter and request further information or send it back to the Planning Commission for their consideration with the additional information. The Appeal Panel can decide how to proceed, but both options are within their authority. The ordinance enables the Appeal Panel to make a decision on this matter.

Mr. Nunez referenced the Meeting Minutes shared by Mr. Budge. He wondered whether the language shown was intended to illustrate that there was some ambiguity on what can be disturbed. Mr. Budge noted that Slide 11 does not speak to structures, but it discusses activities occurring outside of the limits of disturbance if those were to be imposed. Those would be landscaping-type activities. Based on his review of the record, there might have been limits of disturbance, but those would be deferred to the Final Plat. Ultimately, the Council did not impose that.

Planner Cawley shared additional information about the Planning Commission's considerations. For steep slopes and vegetation, the LMC talks about what can be developed on a steep slope. In the LMC, there is a definition of a steep slope, which is anything greater than 15%. A very steep slope is anything greater than 40%. In the Planning Commission's findings for denial, it was noted that the subject property contains steep and very steep slopes, which have been disturbed to accommodate the sports court. The submitted maps were reflective of post-development conditions and did not show conditions prior to disturbance. Additionally, the existing conditions slope maps show development within 50 feet of very steep slopes. The exact amount of vegetation could not be determined and the Commission did not feel the addition of impervious surfaces to the site was adequately mitigated in the proposal. The amount of disturbed/landscaped areas outside the building pad was not consistent with other properties.

The Planning Commission also felt that the as-built conditions, including the placement of the sports court and other structures, did not appear to comply with the original plat restrictions. The Planning Commission determined structures, including retaining walls and sports courts, are limited to the building pad. The proposed development cannot extend beyond the platted building pad because the LMC defines limits of disturbance as, “the designated area in which all construction activity must be contained.” As for landscaping, noise, lighting steep slopes, and the sensitive lands overlay, the Planning Commission shared the following findings:

- The application does not meet CUP criteria due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures, potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed structure to the existing topography of the site;

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- Not consistent with the General Plan, as the proposal allows for disturbance of sensitive lands without adequate mitigation;
- Does not comply with revegetation of the site and the site shall be restored to what was approved with Landscaping/Grading Permit #21-122.

Planner Cawley shared some of the options before the Appeal Panel, which are as follows:

- Deny the appeal, uphold the Planning Commission's denial, and direct Staff to prepare Findings and Conclusions upholding the Planning Commission's decision;
- Grant the appeal and grant the Conditional Use Permit and direct Staff to prepare Findings, Conclusions, and Conditions of Approval consistent with the Panel's determination;
- Grant the appeal in part and remand the matter to the Planning Commission with direction to re-evaluate the proposal consistent with the Appeal Panel's determination:
    - Sensitive Lands Analysis, including Steep Slopes;
    - Updated Landscape Plan;
    - Updates project statement addressing the 16 CUP criteria;
    - Geotechnical Report.
- Continue the appeal to a date certain and request additional information.

Chair Strachan opened the public hearing.

Gary Sutton introduced himself as the property owner and applicant. His family owns the home at 1115 Aerie Drive. Two and a half years ago, the family was in the process of doing landscaping work, which included the sports court. It was a shock when the City put a stop-work order on the project. After this, he met with the City to discuss the project. The City explained that the contractor had a permit but was beyond the scope of what the City had approved under the permit. This began a series of many meetings and discussions with the City. Staff was opposed to the project and indicated there were numerous ways the project was out of compliance with City Code. At that point, he hired Mr. Budge at Snell & Wilmer to advise him through this process.

There were many discussions with the City about how to come into compliance. Mr. Sutton stressed that there is a desire to be in compliance. Each time the City brought up a concern, which was addressed. There were hundreds of emails and many reports provided to the City. To address compliance issues related to setbacks and property boundaries, a strip of land was purchased from the neighbor to the east. Tremendous efforts have been made to work with the City. Two separate engineering firms were hired as well as an additional consultant.

Eventually, this project came before the Planning Commission. At that time, a modified application was presented. There was a proposal to reduce the size of the sports court and plant trees around it to block the sports court from view. During the Planning Commission Meeting, he spontaneously offered to make additional modifications based on concerns and comments heard from Commissioners and citizens in attendance. Despite best efforts, the Planning Commission denied the application. He was surprised by the assertion that building occurred on steep slopes. Additionally, he was surprised that the City interpreted the limits of disturbance on the property to be equivalent to the building pad. His attorneys believed the City's reasons for denying the application were in error, which was the reason the denial was appealed to the State of Utah's Ombudsman Office. Ultimately, there was a disagreement about the Park City interpretation.

PENDING APPROVAL

Mr. Sutton hopes that his family will be allowed to finish the project and plant trees around the sports court so it is not noticeable. The proposal includes planting trees along the road and east of the property to obscure the sports court. The sports court and outdoor area are desired to create a special place where the family can make lasting memories. He realized that there were some problems with the original contractor, but expressed frustration that the project has been put on hold for such a long time. Mr. Sutton wanted to see this matter be resolved. He regrets that his neighbors have had to look at an incomplete concrete slab for an extended period of time. He has worked diligently to address the issues as quickly as the system will allow him to. His hope is that this situation will not continue to drag out. If the City allows him to complete the project, it will be completed in a beautiful and natural manner as soon as feasibly possible.

Patricia Kipp explained that she is a neighbor and lives at 1264 Aerie Drive. There was no communication with neighbors about what would happen in the area. She noted that the sports court was continually referenced, but there was no definition of what it would be used for. Currently, there are a lot of issues with pickleball courts and she did not want to see one there. In the last several years, there have been articles published about people who are unable to sell their homes because there is a pickleball court next door. There are also associated noise issues. Ms. Kipp added that neighbors did not know a sports court would be put in until the concrete was being poured, and even then, there was no clarity about the actual use of the sports court. She did not believe the appeal should be approved and reiterated her concerns about the court.

There were no further comments. The public hearing was closed.

Mr. Day believed there were three issues to consider. The first is the building pad and whether building can occur outside of the building pad. It is also important to consider compliance and whether the impacts can be mitigated, as well as fencing, screening, and landscaping. The third issue has to do with the very steep slope requirements. Mr. Nunez agreed with the assessment.

Chair Strachan suggested tackling the building pad issue first. He did not see how it was possible to say there was no limit of disturbance for the outdoor kitchen, but there was for a sports court. That seemed inconsistent to him. If there is a limit of disturbance, and that is the building pad, that should have been consistently applied from the beginning. Mr. Day agreed. Both parties saw a somewhat different history, but both agreed that there was supposed to be a limit of disturbance there. It did not make sense to contemplate a limit of disturbance if it was going to be the exact same as the building pad. By definition, the building pad is not the limit of disturbance. The fact that there is no limit of disturbance might be an error from the past, but that does not feel like a burden that the applicant should have to take on as a new purchaser of the land. He assumed the property owner had the right to rely on the plat that was purchased. Mr. Nunez stated that it is unclear what that limit of disturbance was based on the final plat recording.

Mr. Day referenced the language from the Ombudsman. In a situation where there are uncertain or ambiguous restrictions, it needs to be resolved in favor of the free and unrestricted use of property. He wondered if that is the way the Appeal Panel should be thinking about this. Attorney Godfrey confirmed that this is an accurate statement of the law. Unless a use is clearly restricted by an ordinance, it needs to be construed in favor of an applicant. With that being the case, Mr. Day held the opinion that the Planning Commission made a mistake saying that the building pad equaled the limit of disturbance. Chair Strachan agreed with that. From a procedural level, he wondered whether the Appeal Panel wanted to remand this back to the Planning Commission. Personally, he felt it would be a poor move to take this out of the hands of the Commission. Since

PENDING APPROVAL

there is new information the Planning Commission did not have before, he thought it was worthwhile to send the application back to the Commission with recommended conditions.

Mr. Day pointed out that it has been two and a half years since the stop-work order was put in place. Part of the reason the Appeal Panel was created was to provide more certainty and potentially quicker responses. He was not certain whether it was best to remand the item to the Planning Commission or make a decision at an Appeal Panel level. Mr. Nunez understood that the applicant wanted this matter resolved, which is reasonable, given the length of time this has taken. It might be best for the Planning Commission to look at this again with the new information.

Chair Strachan discussed the proposed conditions from the applicant. He noted that the applicant is willing to stipulate that there will not be pickleball on the sports court and there will not be lighting. Mr. Budge clarified that he would have to sit down and speak to his client about pickleball use, but the conditions of approval were clear that there would be no overhead lighting. Any noise ordinance would need to be complied with as well. Attorney Godfrey believed the Appeal Panel was considering reversing the decision of the Planning Commission as it relates to the limit of disturbance issue and remanding the matter back to the Planning Commission for consideration of the CUP, evaluation of the very steep slope issue at the location of the sports court, the potential detrimental effects of the use, and mitigation measures that could be imposed.

Mr. Day asked what will happen if the matter is sent back to the Planning Commission and the Planning Commission rules that the effects cannot be mitigated. He wanted to know if the applicant will have the right to re-appeal the decision to the Appeal Panel. Attorney Godfrey confirmed this. Mr. Nunez believed there was certain information that the Planning Commission did not have before, which has since been reviewed by the Appeal Panel, such as the very steep slope-related study. As a result, he thought it made sense to send the matter back to the Planning Commission for review. Mr. Day was comfortable taking that approach as well. Discussions were had about a suggested timeline. Attorney Godfrey explained that there is nothing in the ordinance that suggests the Appeal Panel has the authority to place a time limitation on the Planning Commission's action. However, the motion could request a reasonably expedient timeframe.

MOTION: Adam Strachan moved to REVERSE the Planning Commission determination on the issue of the building pad establishing the limits of disturbance and REMAND the issue of whether the sports court is on a very steep slope, as defined under the LMC, and REMAND the issue of whether the sports court has any detrimental effects, and if so, whether those can be mitigated under the LMC. Matthew Day seconded the motion.

VOTE: The motion passed unanimously.

Director Ward reported that there needs to be a Final Action Letter within 15 days. The item can be continued to a date that works for the Appeal Panel. Attorney Godfrey clarified that the ordinance suggests Staff should prepare findings and conclusions on the appeal. It is possible to come back on a date certain to review those, but alternatively, Staff could circulate findings and conclusions among the Appeal Panel members. Once there is approval, Staff can finalize the matter, and at the next meeting, those findings and conclusions can be ratified. In that case, he explained that the findings and conclusions would be circulated by email. Any comments or suggestions would be part of the public record. This will prevent the Appeal Panel from having to convene again for a special meeting, but it depends on what was desired by the City.

PENDING APPROVAL

Chair Strachan thought what was suggested by Attorney Godfrey was a reasonable approach. However, he wanted to make sure the applicant could continue to move the process forward. It was important for the neighbors to be able to review the findings and conclusions ahead of the Planning Commission Meeting as well. There is not a desire to delay the process from moving forward. Attorney Godfrey did not believe there would be any delay as a result of the findings and conclusions process outlined. The Final Action Letter would be ready within 15 days. City Attorney, Mark Harrington, agreed that is an option, but if the decision is made to take that approach, he recommended a second motion be made to authorize the Chair to execute the Final Action Letter after circulation to the other members. This will create a clear record of authority.

MOTION: Matthew Day moved to AUTHORIZE the Chair to execute the Final Action Letter, pending approval by a majority of the Appeal Panel members. Esteban Nunez seconded the motion.

VOTE: The motion passed unanimously.

7. ADJOURNMENT

MOTION: Adam Strachan moved to ADJOURN. There was no second.

VOTE: The motion passed unanimously.

The meeting adjourned at approximately 6:47 p.m.

PENDING APPROVAL

1115 AERIE DRIVE

APPEAL OF CONDITIONAL USE PERMIT DENAIL

PENDING APPROVAL

Appeal Panel
March 4, 2024
PL-21-05101 (CUP)
PL-22-05329 (Appeal)

PARK CITY
1884

SUMMARY

Dec 20, 2021 – CUP application for sports court

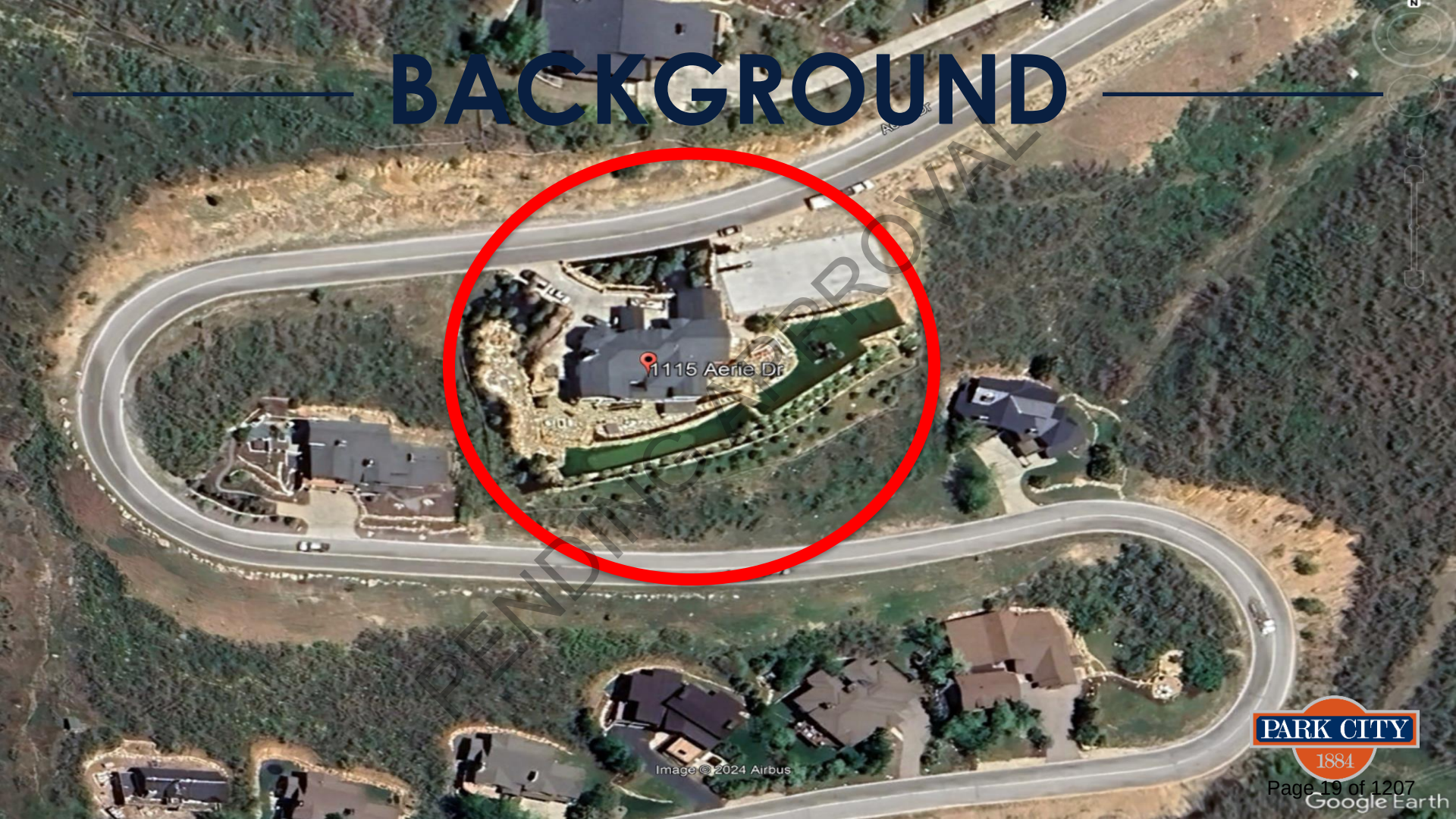
Dec 20, 2021 – Admin. CUP for retaining walls

July 13, 2022 – Planning Commission Review

Public Comment sent to Appeal Panel via e-mail and Exhibit I

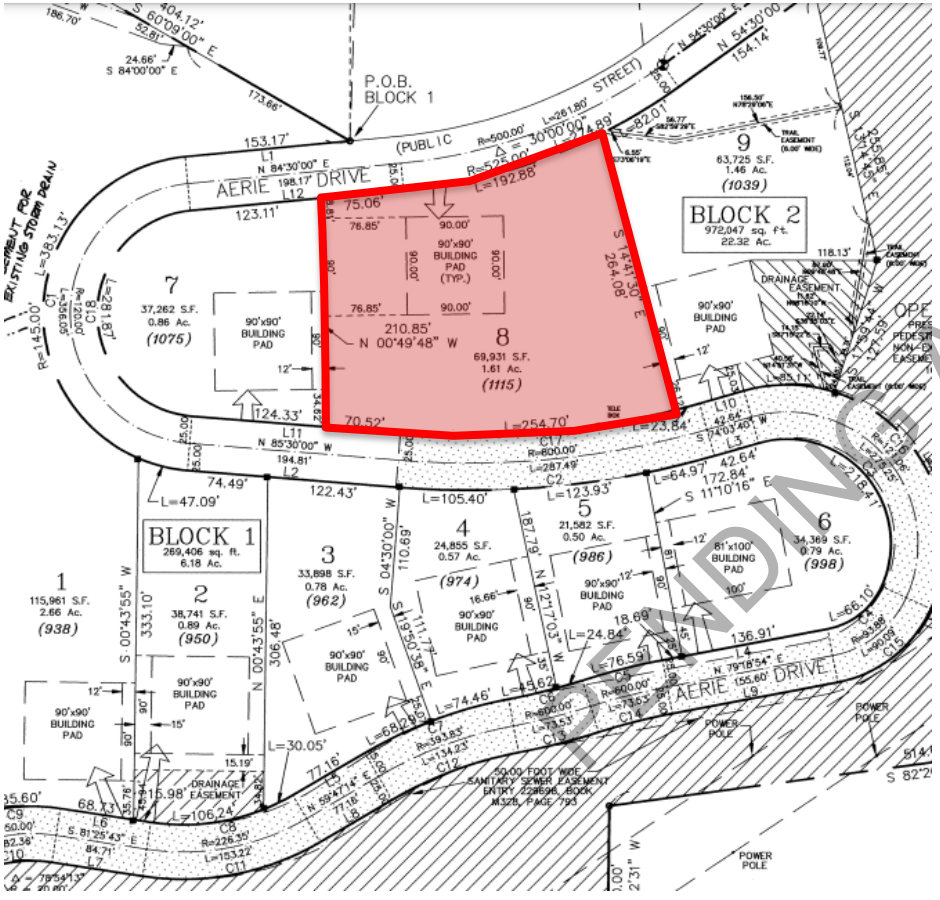
PENDING APPROVAL

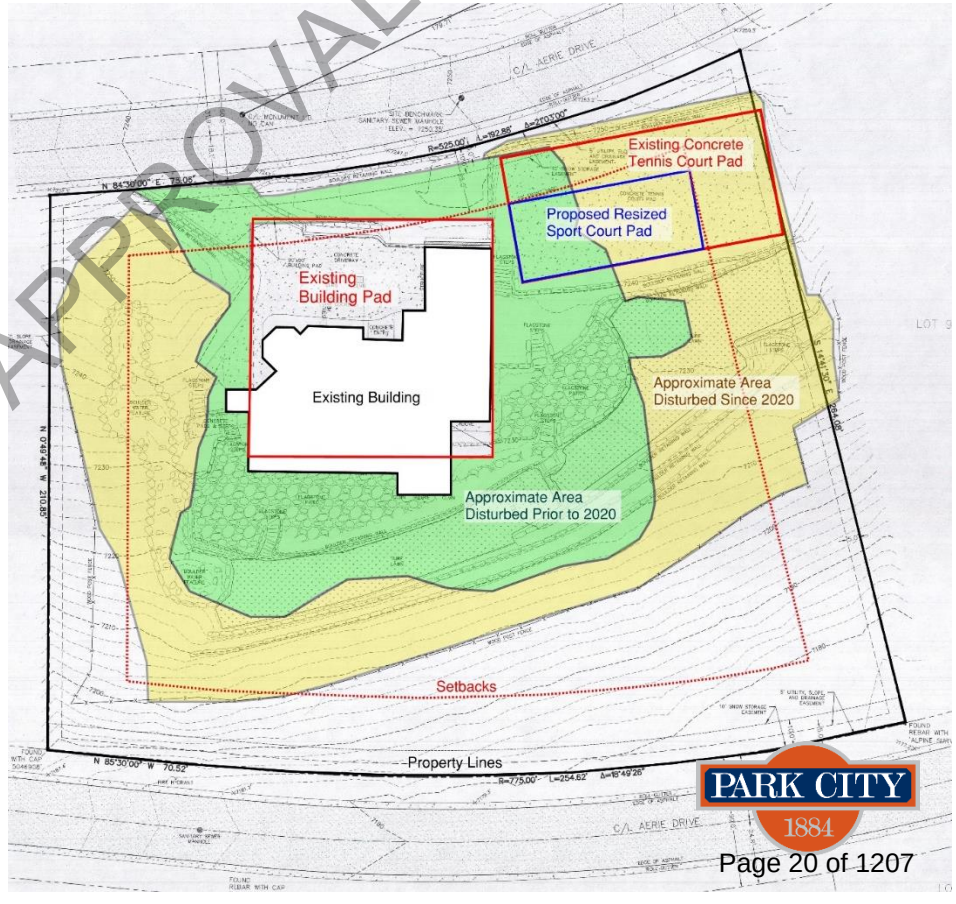
BACKGROUND



PENDING APPROVAL

BACKGROUND





PENDING APPROVAL

PARK CITY 1884

BACKGROUND

Jan 21, 2021 – Grading/Landscaping Permit (21-122)

- Replace three retaining walls in NE corner of property
- Staff note walls greater than 4 feet require engineered plans
- Patios require separate Building Permit
- Walls must be outside 10-foot snow storage easement
- All disturbed areas must be re-vegetated; no Significant Vegetation to be removed

Sept 8, 2021 – Stop Work Orders Issued (21-01142; 21-01143)

PENDING APPROVAL

BACKGROUND

March 15, 2022 – Plat Amendment Application

July 13, 2022 – Denial of CUP

August 1, 2022 – Appeal received by City

August 11, 2022 – Admin CUP Continued, still pending

October 18, 2022 – Perpetual Improvements Easement Agreement

Nov 16, 2023 – Ombudsman Advisory Opinion

PENDING APPROVAL

STANDARD OF REVIEW

Appeal Panel shall act in a quasi-judicial manner and review matters de novo, without deference to Staff determination of factual matters.

Appeal Panel shall determine the correctness of the Planning Commission's interpretation and application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

PENDING APPROVAL

BURDEN OF PROOF

The Applicant has the burden of proving the Planning Commission erred in denying the Conditional Use Permit.

PENDING APPROVAL

ANALYSIS

The Planning Commission found the proposal does not mitigate the reasonably anticipated detrimental effects of the proposed Use and does not comply with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).

- Not compatible with prior land use approvals, MPD, or Final Plat
- Application lacked information for screening, landscaping, development compatibility, noise, lighting, sensitive lands, steep slopes
- Inconsistent with General Plan

PENDING APPROVAL

ANALYSIS

The Ombudsman Advisory Opinion outlines four points in their analysis of the Planning Commission's action.

- The proposed Development does not violate internal Lot restrictions.
- The Commission's Findings that the as-built conditions violated the City's Steep Slope Regulations is not supported by the record.
- Final Action on Conditional Use applications must be supported by substantial evidence; the substantive review process allows for obtaining additional necessary information before decision-making, and the City's code suggests the Planning Commission should have continued the matter per the Applicant's request.
- The remaining findings according to the City's Conditional Use review must be revisited to consider proper Plat interpretation and additional necessary information.

PENDING APPROVAL

STEEP SLOPE & VEGETATION

- LMC § 15-2.21-4: Steep Slope Development
- LMC § 15-15-1: Steep Slopes greater than 15%; Very Steep Slopes greater than 40%
- LMC § 15-2.10-10: Protection of Significant Vegetation during development

Subject Property contains Steep and Very Steep Slopes, which have been disturbed to accommodate the sports court.

Submitted maps are reflective of post-development conditions, and do not interpolate conditions prior to disturbance.

Existing conditions slope map shows development within 50 feet of Very Steep Slopes.

Exact amount of vegetation cannot be determined.

Addition of impervious surfaces to site are not adequately mitigated in proposal

Amount of disturbed/landscaped areas outside of Building Pad not consistent with other properties.

PENDING APPROVAL

STEEP SLOPE & VEGETATION

As-built conditions, including placement of sports court/structures, do not appear to comply with original plat restrictions.

Planning Commission determined structures include retaining walls and sports court and are limited to Building Pad.

Proposed development cannot extend beyond the platted Building Pad because the LMC defines Limits of Disturbance as “the designated Area in which all Construction Activity must be contained”.

PENDING APPROVAL

LANDSCAPING, NOISE, LIGHTING STEEP SLOPES, AND SENSITIVE LAND OVERLAY

Application does not meet CUP criteria due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding Structures, potential noise, lighting, environmentally sensitive lands, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

Not consistent with General Plan as proposal allows for disturbance of Sensitive Lands without adequate mitigation.

Does not comply with revegetation of the site and the site shall be restored to what was approved with Landscape/Grading Permit #21-122.

PENDING APPROVAL

ALTERNATIVES

- Deny the appeal, uphold the Planning Commission's denial, and direct staff to prepare Findings and Conclusions upholding the Planning Commission's decision.

- Grant the appeal and grant the Conditional Use Permit, and direct staff to prepare Findings, Conclusions, and Conditions of Approval consistent with the Panel's determination.

- Grant the appeal in part and remand the matter to the Planning Commission with direction to re-evaluate the proposal consistent with the Appeal Panel's determination.
  - Sensitive Lands Analysis, including Steep Slopes
  - Updated Landscape Plan
  - Updated project statement addressing the 16 CUP criteria
  - Geotechnical Report

- Continue the appeal to a date certain and request additional information.

PENDING APPROVAL

1115 Aerie Dr.

APPEAL:

CONDITIONAL USE PERMIT –
PRIVATE RECREATION FACILITY

PROJECT NUMBER PL-21-05101

PARK CITY APPEAL PANEL

MARCH 4, 2024

PENDING APPROVAL

Property/Project Timeline

PENDING APPROVAL

- 4/14/1981 – 144 units in six (6) 75' multifamily buildings development plan was approved
- 6/14/1993 – Hearthstone MPD Approved
- 8/25/1993 – Preliminary Plat Approved by Planning Commission (includes Lot 8)
- 10/4/1993 – Final Plat Approved by City Council
- 4/14/1994 – Amended Final Plat Approved by City Council (brought in Phase 2)
- 6/16/1994 – Hearthstone Subdivision Recorded (Both Phase 1 and Phase 2)
- 10/15/1998 – 1115 Aerie Dr. Building plans submitted (Lot 8)
- 9/25/2020 – 1115 Aerie LLC purchased property, including existing primary dwelling.
- 2/17/2021 – Retaining wall plan approved – Permit No. Temp 21-052
- 9/8/2021 – Stop work orders, CE-21-01142 and CE-21-01143 placed on site (retaining walls and sports court)
- 10/1/21 – City sends Code Compliance Issues letter
- 12/20/21 – Applications Admin CUP- PL-21-05100 (administrative CUP for retaining walls) and CUP PL-21-05101 (sports Court CUP) were submitted
- 7/13/2022 – Public hearing - CUP Denied by Planning Commission
- 8/2/2022 – Request made to Office of the Property Rights Ombudsman
- 11/16/2023 – Ombudsman Advisory Opinion issued
- 3/4/2024 – Appeal Hearing

Park City Land Management Code – Original Decision

PENDING APPROVAL

15-2.10 Estate (E) District

15-2.10-2 Uses

B. CONDITIONAL USES.

19. Recreation Facility, Public and Private

15-15 Defined Terms

15-15-1 Definitions

RECREATION FACILITIES.

Prior to the April 28, 2022 LMC Amendments, Private Recreation Facilities were defined by LMC § 15-15-1 as, "Recreation facilities operated on private Property and not open to the general public. Including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and guests".

15-1 General Provision And Procedures

15-1-10 Conditional Use Review Process

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 in accordance with applicable standards.

Park City Land Management Code – Appeal

15-1-18.G

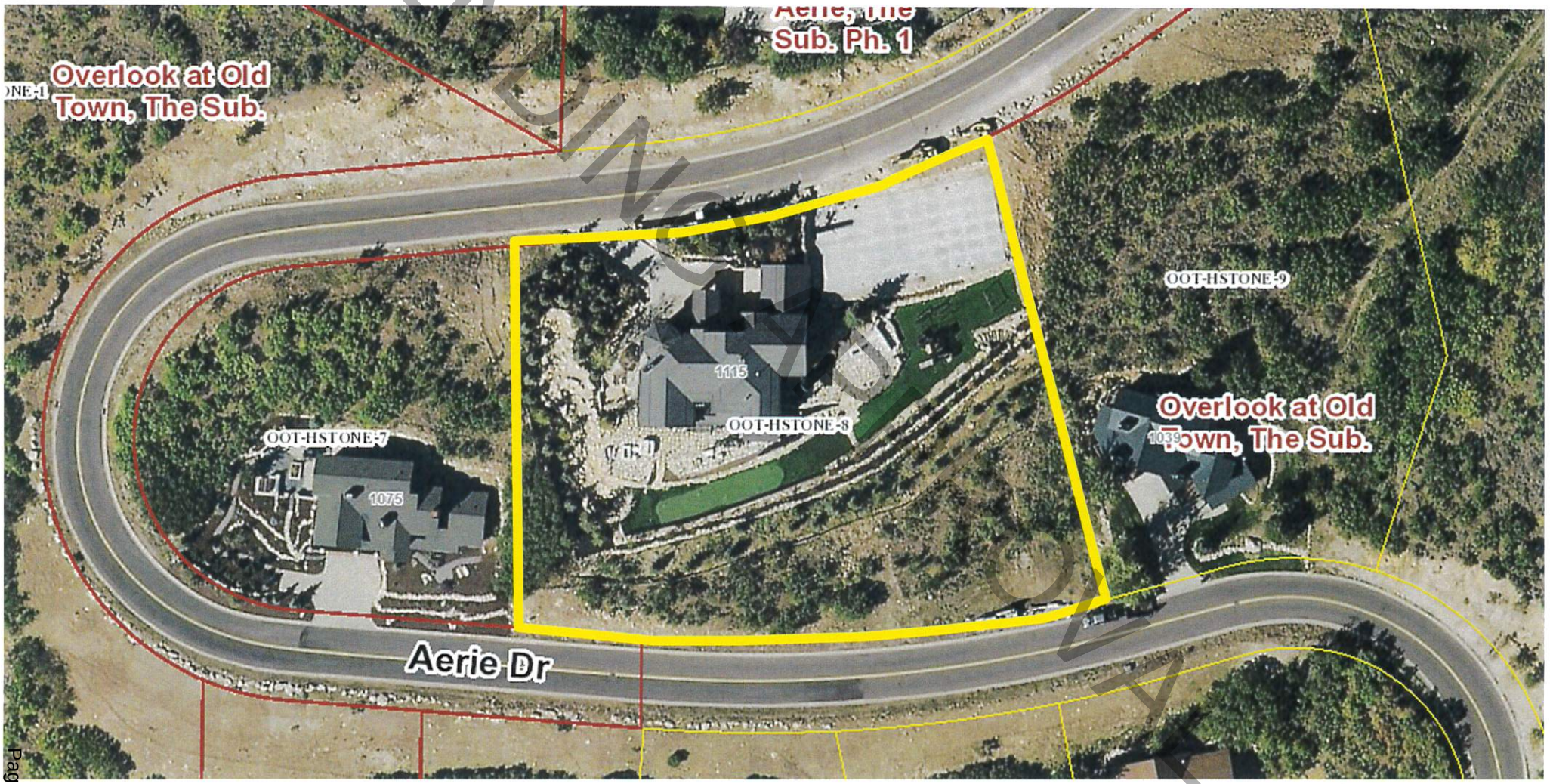
BURDEN OF PROOF AND STANDARD OF REVIEW.

- The appeal authority shall act in a quasi-judicial manner.
- The appellant has the burden of proving that the land use authority erred.
- The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters.
- The appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
- New evidence may be received so long as it relates to the scope of the appeal.

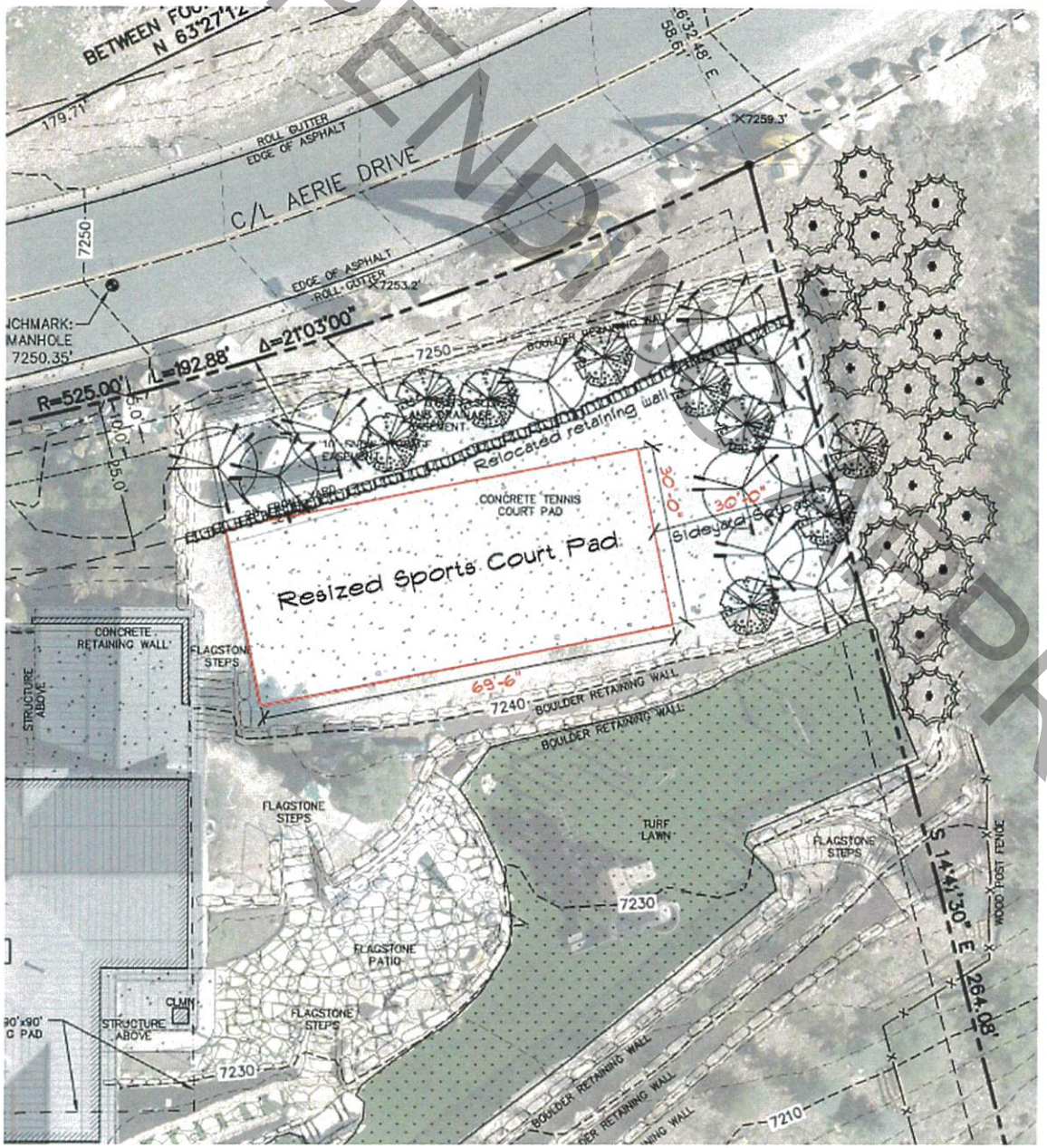
PENDING APPROVAL

Site Location – 1115 Aerie Dr. 5/29/2023

PENDING ONLY



Proposed Sports Court – Part of CUP PL-21-05101



PENDING APPROVAL

LICENSED LANDSCAPE ARCHITECT
LICENSED
108626-5301
STATE OF UTAH
DON B SARGENT

NOT FOR CONSTRUCTION
PRELIMINARY ONLY

NOTES:
1. Boulder retaining wall relocated to front setback line.
2. Concrete tennis court pad resized to smaller sports court within setbacks.
3. Off-site disturbed area regraded to natural contours and revegetated.
4. Landscaping along right-of-way outside of snow storage easement area.
5. Plant materials planted east of sports court for screening.
6. All disturbed areas stabilized with natural ground cover mulch.
7. As-built survey mapping prepared by Alliance Engineering.

PROPOSED PLANT MATERIALS:

9 - Austrian Pine (or equivalent)

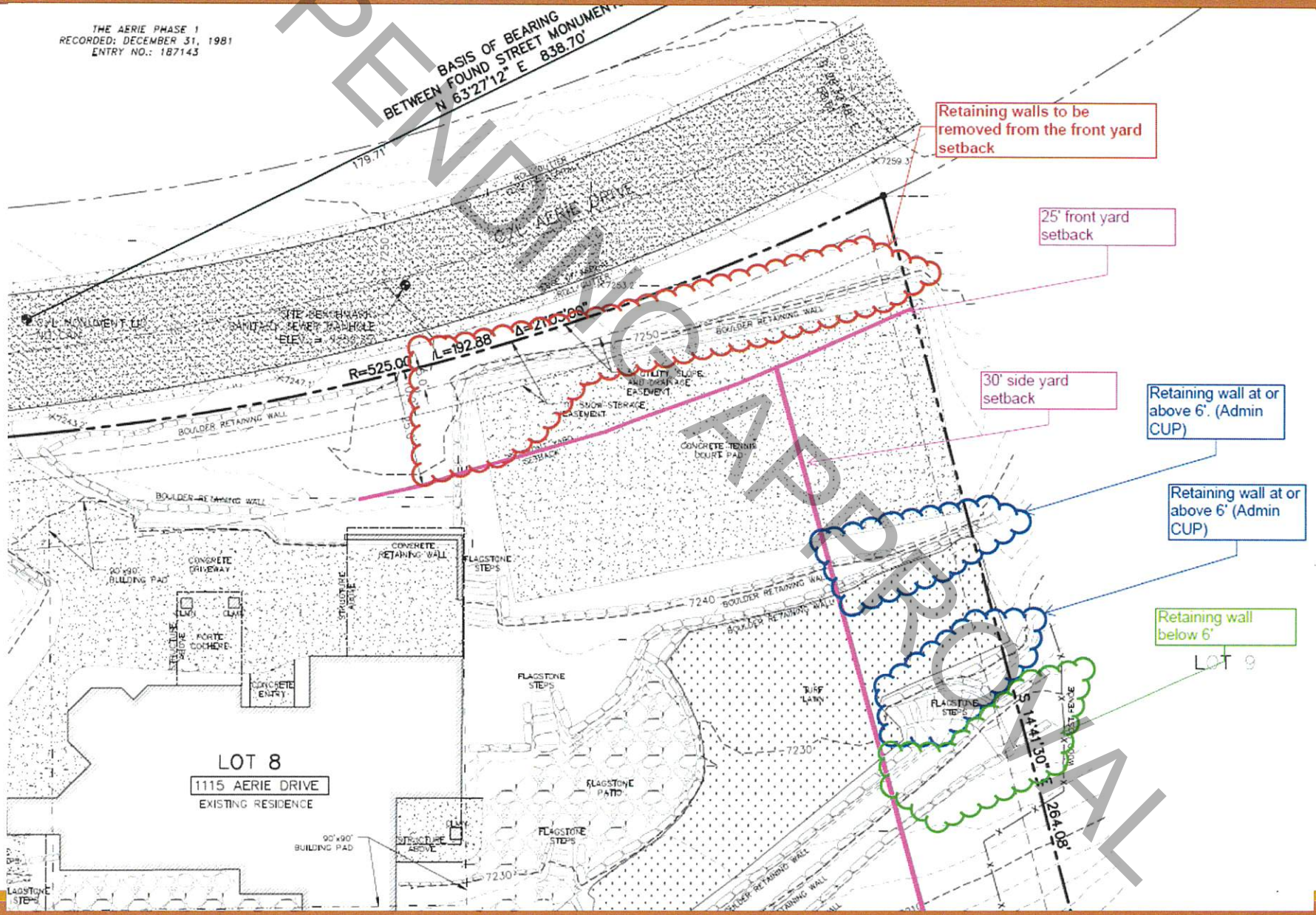
19 - Gamble Oak (or equivalent)

11 - Quaking Aspen (or equivalent)

SPORTS COURT EXHIBIT

SCALE: 1" = 20'-0"

Proposed Sports Court – Part of CUP PL-21-05101



PENDING APPROVAL

Issue #1 – Building Pad Line

PENDING APPROVAL

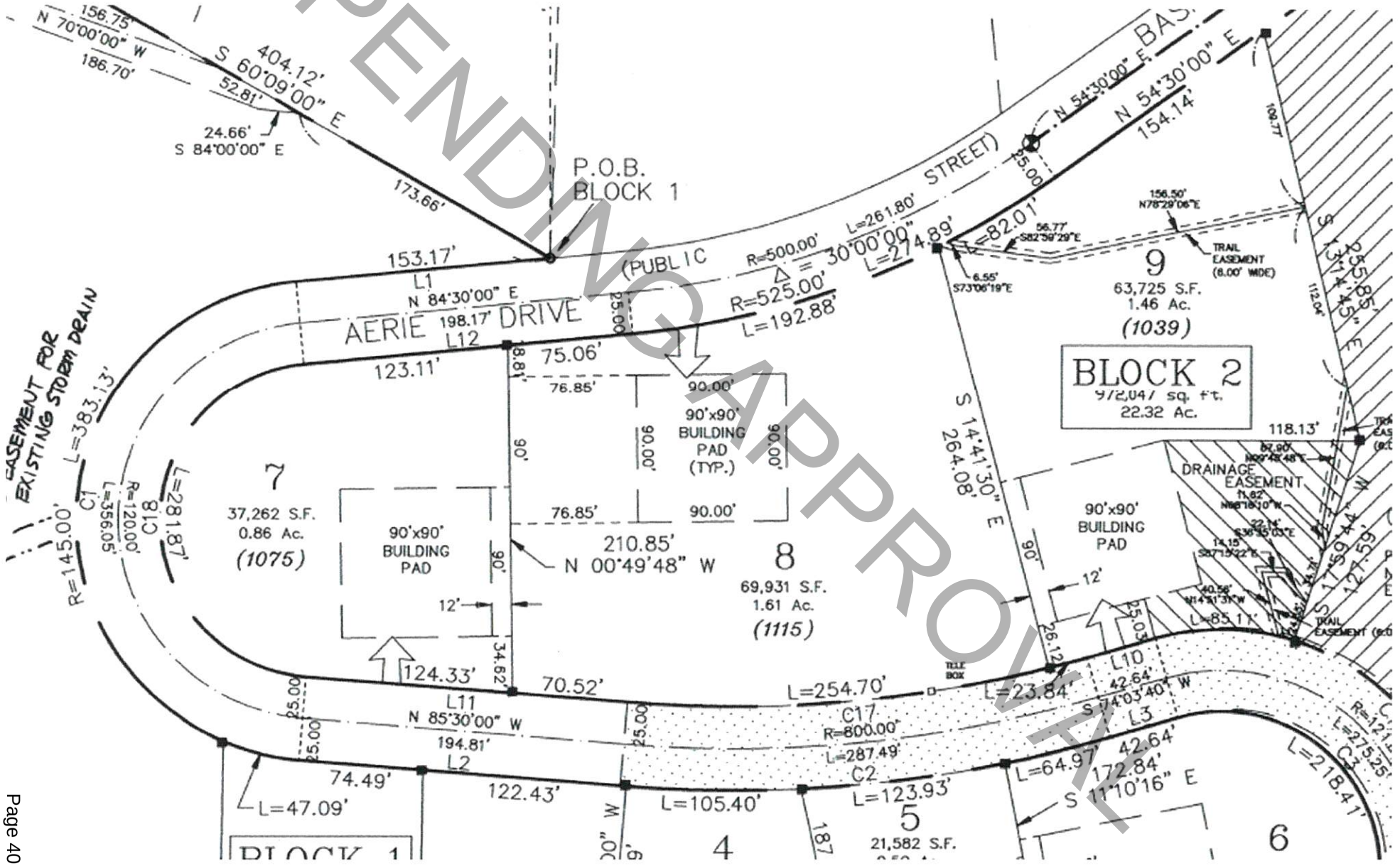
Planning Commission Finding:

The subdivision plat included a 90' x 90' building pad and no development can occur outside the building pad. The sports court is outside the building pad and thus violates the plat restriction.

Ombudsman Advisory Opinion:

The city wrongfully interpreted platted building pad lines as proscribing any development activity beyond the existing home's footprint, which was not the intent of the plat according to the master planned development approval and ordinances in effect at that time.

No Limits of Disturbance on Plat



Limits of Disturbance vs. Building Pad (Preliminary Plat)

Hearthstone MPD– Conditions of Approval - June 14, 1993

1. Lot 7 shall be deleted or relocated to another site which minimizes visual impacts..
2. The applicant shall grant easements for the water line and access to the pump station as approved by the staff.
3. The plat shall contain notes regarding storm water requirements and considerations, wintertime travel restrictions (one-way road), and limits of disturbance as specified at the time of final plat approval.
4. All driveways must include turnarounds to alleviate sight distance concerns. Specific driveway locations must be defined at the time of final plat.
5. All construction must comply with UBC Chapter 70 grading requirements.
6. Block 4 shall be dedicated to the city contingent upon acceptance of the dedication by the City Council and prior to recordation of the plat.
7. The project will be required to provide trails and trail easements consistent with the Park City Trails Master Plan.
8. Limitations on landscaping and irrigation shall be defined at the time of final plat.
9. Structures built in the Nielsen Korthoff subdivision shall be limited by a maximum house size of up to 6,000 squar!=? feet.
10. Storm drainage detention design and a security will be required prior to plat recordation or issuance of building permits, whichever comes first.
11. The subdivision CC&Rs shall include architectural guidelines compatible with those of the Aerie subdivision.
12. **All standard conditions of approval apply.**

The subdivision plat was supposed to delineate the limits of disturbance.

PENDING APPROVAL

Limits of Disturbance vs. Building Pad (Preliminary Plat)

Staff Report/Minutes – **Preliminary Plat**– Planning Commission- August 25, 1993, it states –

PENDING APPROVAL

Hearthstone Subdivision (aka Nielsen/Korthoff)

Planner Susan Lykes reviewed the staff report and distributed house sizes of nearby houses in the Aerie Development. The Staff was concerned with the maximum house size of 6,000 square feet. The house sizes surrounding Hearthstone ranged from 4,100 square feet to 14,000 square feet. Regarding limitations on landscaping and irrigation, the applicants proposed 15,000 square feet. Planner Lykes felt there would be few lots which would be close to that. The limits of disturbance required by policy were 15 feet outside of the building pad, so there should not be a great deal of disturbance or difficulty revegetating.

Commissioner Alison Child asked if the limits on landscaping coincided with the limits of disturbance. The Staff responded that it was greater than the limits of disturbance. Commissioner Child felt there was a problem putting a subdivision in that area because of the circulation and the road in the winter.

LIMITATIONS ON LANDSCAPING AND IRRIGATION. The MPD approval contained a condition of approval that the subdivision have limitations on landscaping and irrigation because of the difficulty of establishing new vegetation on the sparse soil and high bedrock and to conserve water. The staff and applicant have discussed the landscaping and irrigation limitation; the applicant will propose a maximum prior to sketch and preliminary plat approval.

Limits of Disturbance vs. Building Pad (Final Plat)

PENDING APPROVAL

Staff Report – **Final Plat Approval** – Planning Commission - October 4, 1993 –
no "Limits of Disturbance" were specified -

III. PROJECT DESCRIPTION

LOT PARAMETERS. The Hearthstone Subdivision contains twelve lots, configured as per the approved MPD. Lot sizes range from 21,582 to 118,880 square feet. The average lot size is 61,220 square feet.

Each lot reflects a building pad of approximately 8000 square feet, which designates the general location of the home. Driveway locations are loosely specified; driveways must meet all Land Management Code location standards during building permit review.

The building pad was only intended to regulate each Lot's primary structure.

V. STAFF RECOMMENDATION

The staff recommends APPROVAL of the final plat for Hearthstone Subdivision based upon compliance with the purposes of the subdivision ordinance. The staff recommends that the following conditions be attached to the approval.

1. The portion of Mellow Mountain Road traversing this property shall be dedicated to and accepted by the City prior to plat recordation.

2. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994.

3. Maximum house sizes shall be as follows:
   - 3500 square feet for lots 4 and 5,
   - 4000 square feet for lots 3 and 6,
   - 5000 square feet for lots 1, 2, and 9,
   - 6000 square feet for lots 7 and 12,
   - 6500 square feet for lots 8 and 10, and
   - As built for Lot 11 (no additions to the existing house shall be permitted).

   A note shall be placed on the plat outlining the maximum square footages.

4. The front setbacks for lot 2 shall be 35 feet; for lot 4, 35 feet; and for lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.

5. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley Drive intersection. The developer shall also install a street light at the same intersection.

6. The applicant shall make an irrevokable offer of dedication of the open space parcels prior to plat recordation.

7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, in a form acceptable to the City Attorney prior to plat recordation.

PLANNING COMMISSION ACTION. The Planning Commission APPROVED the Hearthstone Final Plat with the conditions of approval as stated above by a five-to-one vote with Commissioner Child opposed.

Building Pad intended to Limit House Size

City Council Staff Report – **Final Plat** - Amendment (Condition of Approval) April 14, 1994 – no "Limits of Disturbance" were specified

PENDING APPROVAL

RECOMMENDATION: The City Council should approve the revised final plat for the Hearthstone Subdivision, subject to the following Conditions of Approval.

1. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994.

2. Maximum house sizes shall be as follows:
   -3500 square feet for lots 4 and 5,
   -4000 square feet for lots 3 and 6,
   -5000 square feet for lots 1, 2, and 9,
   -6000 square feet for lot 7,
   -6500 square feet for lots 8 and 10, and
   A note shall be placed on the plat outlining the maximum square footages.

3. The front setbacks for lot 2 shall be 35 feet; for lot 4, 35 feet; and for lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.

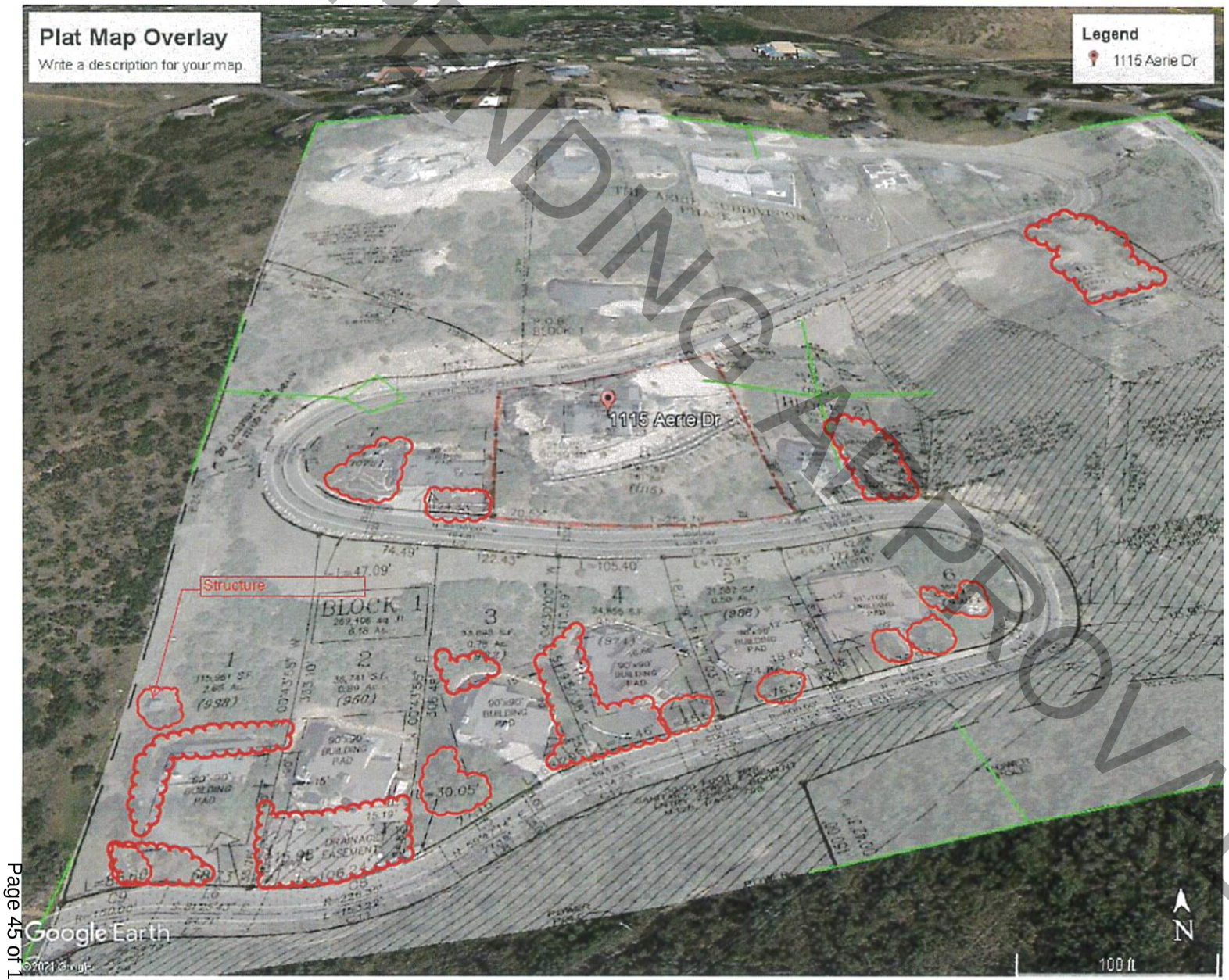
4. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley drive intersection. The developer shall also

5. The applicant shall make an irrevocable offer of dedication of the open space parcels prior to plat recordation.

6. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, in a form acceptable to the City Attorney prior to plat recordation.

Disturbance Areas Outside "Building Pad"

PENDING APPROVAL



All 10 lots in Hearthstone Subdivision Phase 1 have disturbance outside of the building pad.

Issue #2 – Steep Slopes

PENDING APPROVAL

Planning Commission Finding:

- The Applicant failed to provide sufficient information to determine whether the sport's court violated the City's steep slope ordinance.
- The sports court violated the City's steep slope ordinance as it was constructed within 50' of very steep slopes.

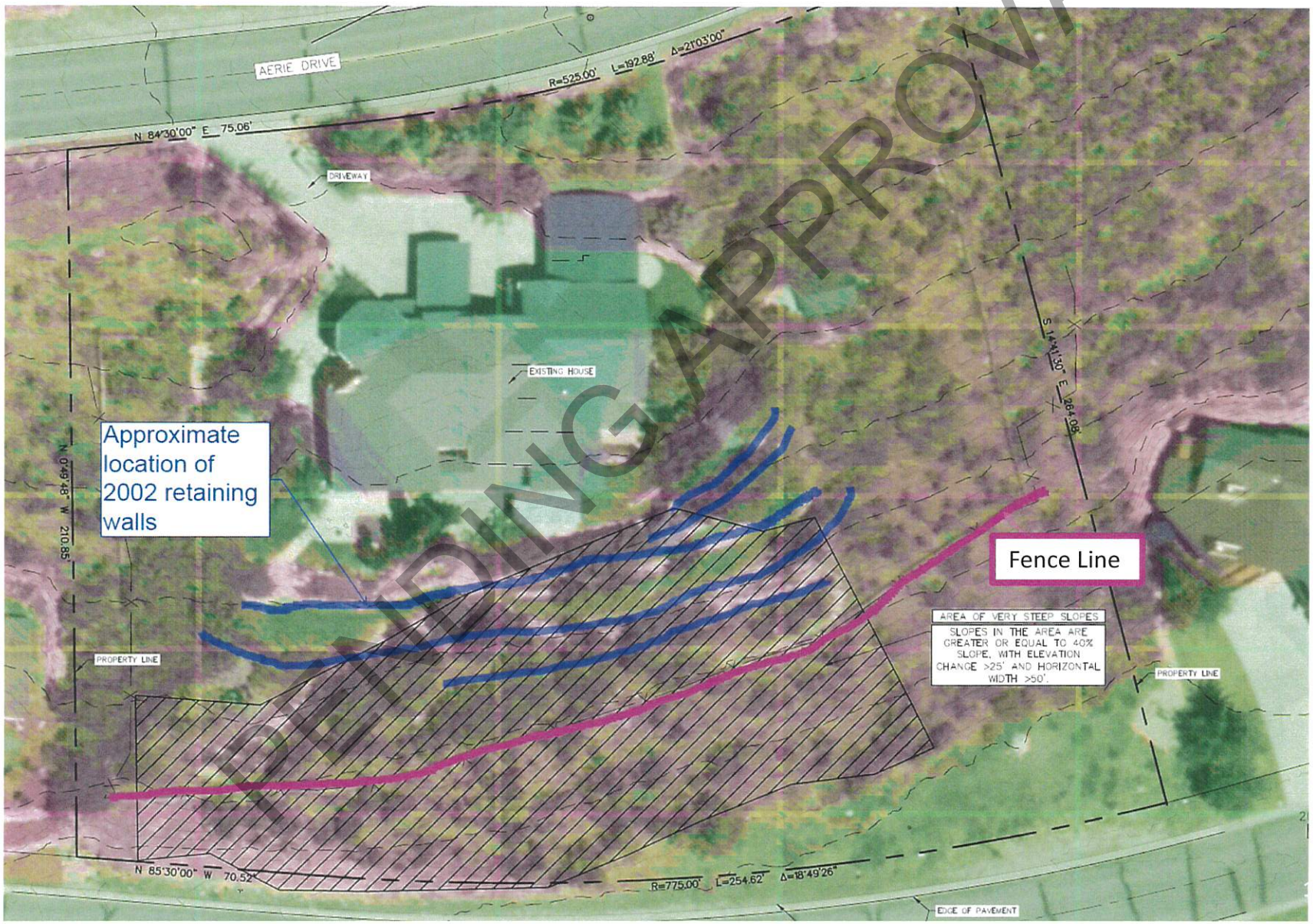
Ombudsman Advisory Opinion:

The Commission's finding that Very Steep Slopes have been disturbed is undermined by its other finding that slopes could not be determined and is therefore not supported by the record.

Alliance Engineering has shown that the sports court is more than 50' from Very Steep Slops

Issue #2 – Steep Slopes

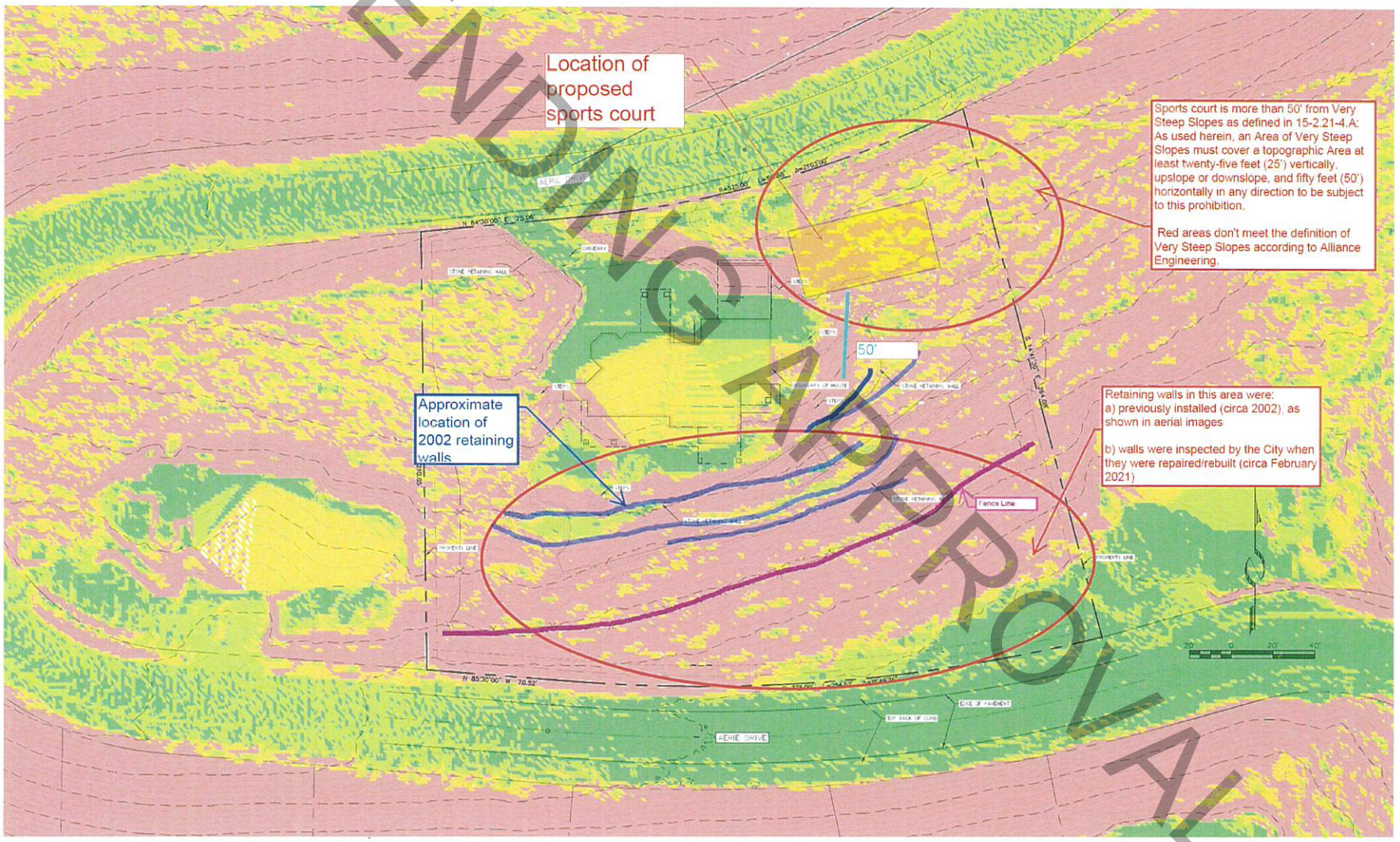
2018 Topography with 2015 Image



PENDING APPROVAL

Issue #2 – Steep Slopes

2018 Topography – Prepared by Alliance Engineering



NOTES:

Slopes Table

Number	Minimum Slope	Maximum Slope	Color
1	0.00%	10.00%	
2	10.00%	20.00%	
3	20.00%	30.00%	
4	30.00%	1000.00%	

STAFF: BRAYLON ROSE COLLIN MILLER

DATE: 10/17/22

SLOPE MAP EXHIBIT
1115 AERIE DRIVE

FOR: JASON BOAL
JOB NO.: 3-9-21

SHEET 1 OF 1

PENDING APPROVAL

Issue #2 -a – Steep Slopes - SLO

SLO Not Applicable to the Subdivision:

City Council overturned the Planning Commissions denial of the MPD and SLO was not applicable (1993)

PENDING APPROVAL

OPTION 2 The second option is to overrule the Planning Commission's decision and approve the MPD: the Sensitive Lands Ordinance would not apply to the Nielsen portion of the project and the density would be either twelve or thirteen lots based upon treatment of lot 7. When a subdivision application is received, the project density would be vested, while the specific parameters of the subdivision would be reviewed and approved by the Planning Commission. If the Council takes this course of action they would be acting on the LMC-1 iteration as shown. The staff would recommend that lot 7 be deleted or relocated because of visual impacts (non-compliance with LMC §10.9(h)4) and serious grading and retaining challenges (Amended 1985 Comprehensive Plan, Natural Resources and Aesthetics sections). The staff would recommend the following conditions of approval.

5. Appeal of Planning Commission denial of a 13 unit Small Scale Master Planned Development - Nielsen/Korthoff - See work session notes. Ruth Gezelius, "I move that we overturn the Planning Commission denial on the Nielsen/Korthoff application and that we approve the master planned development with the 12 lots, deleting specifically the proposal for a dwelling on Lot #7, based on the criteria that it does not meet the delineation in the Land Management Code criteria for a master planned development". J. Craig Smith clarified that although Lot #7 has been deleted, that that property is a necessary part of the master planned development. Sally Elliott seconded. Bob Richer suggested that at the subdivision approval, the Planning Commission should consider the recommendations from the City Engineer regarding Aerie Drive and that the Commission should be made aware of the Council's concerns regarding the vulnerability of the Sensitive Lands Ordinance in its determination. Motion unanimously carried.

Issue #3 –Significant Vegetation

PENDING APPROVAL

Planning Commission Finding:

1115 Aerie may have disturbed significant vegetation, but the City lacked information to make a determination.

Ombudsman Advisory Opinion:

1115 Aerie should have been given the opportunity to supplement its application with additional information.

Issue #3 –Significant Vegetation

Pre-construction vegetation (May 2019)

Pre-construction vegetation (9/11/2020)

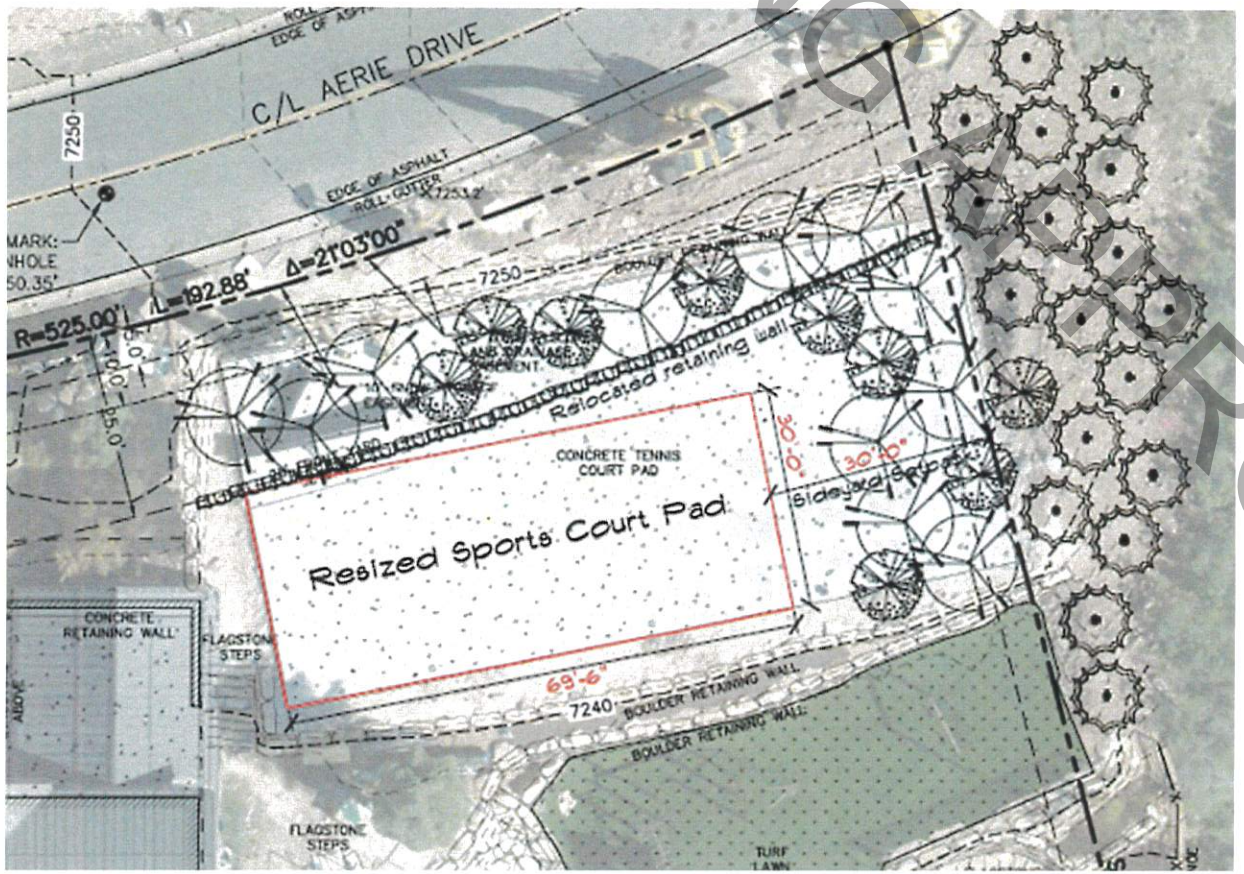
No Significant Vegetation

§15-15:SIGNIFICANT VEGETATION.
Includes all large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, all groves of small trees, and all clumps of oak or maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

PENDING APPROVAL

Issue #3 –Significant Vegetation

The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in Sections 15-3-3 and 15-5-5(N), and Title 14.

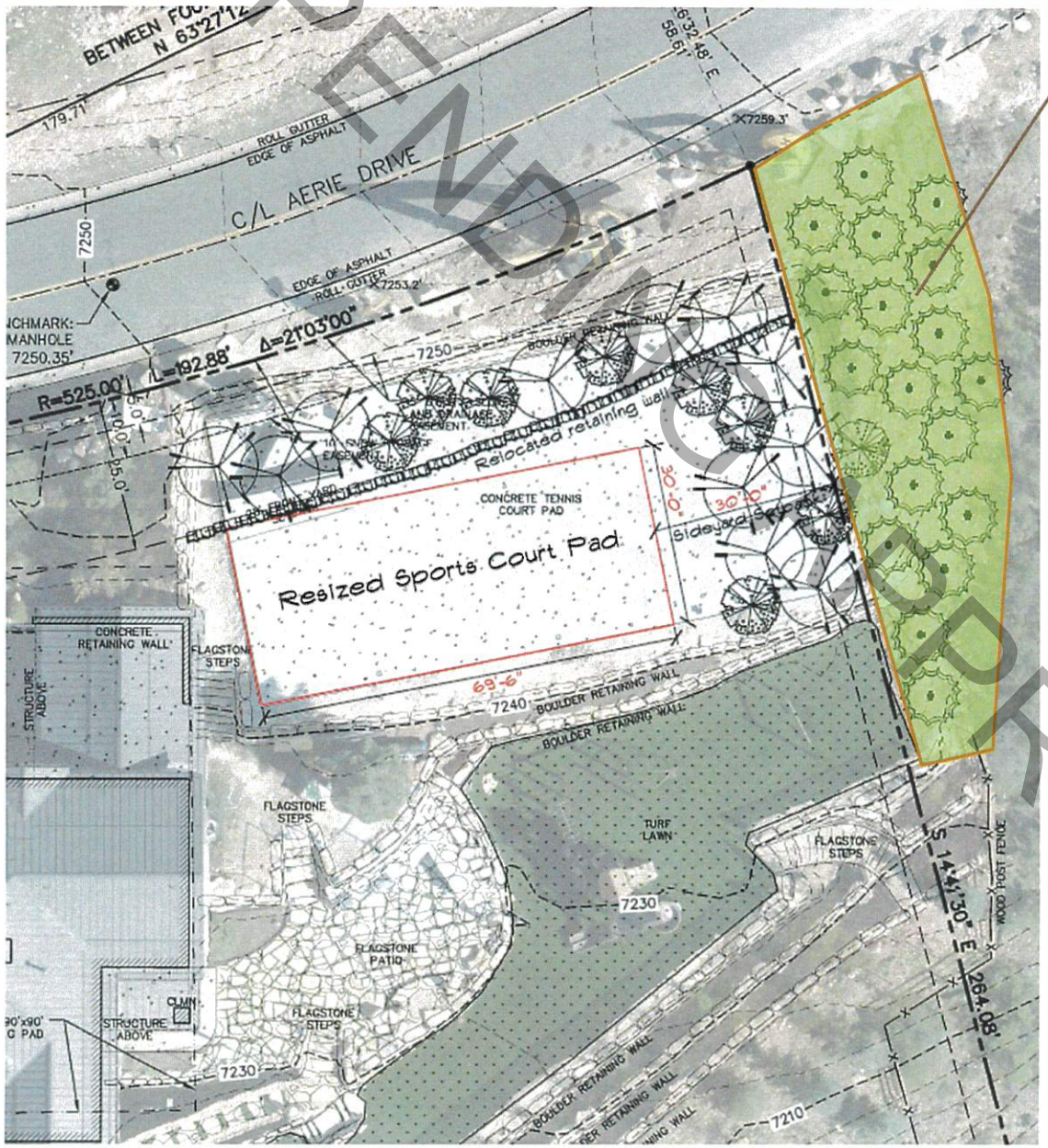


To provide screening to the sports court:

- 11 quaking aspen trees,
- 9 Austrian pine trees, and
- 19 gamble oak trees to provide screening to the sports court

PENDING APPROVAL

Landscaping/Screening



Offsite Vegetation Mitigation

LICENSED LANDSCAPE ARCHITECT
LICENSED
108626-5301
STATE OF UTAH
DON B SARGENT

NOT FOR CONSTRUCTION
PRELIMINARY ONLY

NOTES:
1. Boulder retaining wall relocated to front setback line.
2. Concrete tennis court pad resized to smaller sports court within setbacks.
3. Off-site disturbed area regraded to natural contours and revegetated.
4. Landscaping along right-of-way outside of snow storage easement area.
5. Plant materials planted east of sports court for screening.
6. All disturbed areas stabilized with natural ground cover mulch.
7. As-built survey mapping prepared by Alliance Engineering.

PROPOSED PLANT MATERIALS:

9 - Austrian Pine (or equivalent)

19 - Gamble Oak (or equivalent)

11 - Quaking Aspen (or equivalent)

SPORTS COURT EXHIBIT

SCALE: 1" = 20'-0"

PENDING APPROVAL

LMC § 15-1-10(E)
16 CUP Standards (Red Applicant's Comments

PENDING APPROVAL

REVIEW. The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

1. Size and location of the Site; Residential lot is an appropriate location for the residential use.
2. Traffic considerations including capacity of the existing Streets in the Area; No additional traffic is being added.
3. Utility capacity, including Storm Water run-off; As Conditioned, storm water mitigation to be required, reviewed and approved by the Engineering Department. No additional utility demands.
4. Emergency vehicle Access; No change in access.
5. Location and amount of off-Street parking; No additional off-street parking is needed or proposed.

LMC § 15-1-10(E)
16 CUP Standards (Red Applicant's Comments

PENDING APPROVAL

6. Internal vehicular and pedestrian circulation system; No internal vehicular circulation.
7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses; As Conditioned, sports court will be moved away from property lines and areas between sports court and property lines will be screened with landscaping.
8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots; As Conditioned - Size of sports court is being reduced from what is currently constructed.
9. Usable Open Space; No publicly usable open space is proposed. (Open space parcel was provided when subdivision was approved.)
10. Signs and lighting; As Conditioned - No signs or overhead lighting will be permitted in association with the sports court.
11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing; As Conditioned – the size of the constructed sports court will be reduced.

LMC § 15-1-10(E)
16 CUP Standards (Red Applicant's Comments

PENDING APPROVAL

12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site; As Conditioned – No overhead lights for the sports court. Noise Ordinance will be followed.
13. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup areas; No change in access/delivery.
14. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; No proposed change in ownership for the sports court.
15. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and As Conditioned – the existing concrete surface will be made smaller to ensure no structures existi in the setback.
16. Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding. Not inconsistent with the General Plan.

Staff Recommendation 3/4/2024

i. Sensitive Lands Analysis, including Steep Slopes

a) Subdivision is exempt from the SLO standards. The Hearthstone MPD for 13 lots (Phase 1), which was approved June 1993, says that Sensitive Overlay Zone does not apply to Nelson portion (Lot 8 is in the Nelson portion).

b) Sufficient information has been submitted to show there are no "very steep slopes" that were impacted by the sports court.

c) Applicant will comply with all building and engineering standards for development.

ii. Updated Landscape Plan

a) Current landscaping plan meets code requirements and is sufficient for approval of the CUP.

iii. Updated project statement addressing the 16 CUP criteria in LMC § 15-1-10(E)

a) Proposed conditions address each of the 16 CUP criteria.

iv. Geotechnical Report

a) An engineering report for the existing walls has been submitted and reviewed by the city. The existing walls were inspected by the Park City Building Department. New walls will be engineered and obtain a building permit per LMC §15-4-2.D.

PENDING APPROVAL

Proposed Conditions

PENDING APPROVAL

Application CUP PL-21-05101 is approved, subject to the following conditions:

1. Portions of the sports court and retaining walls currently placed in the front and side setbacks must be relocated outside the front and side setbacks. The area of the front and side setbacks will be revegetated in accordance with the submitted plans.

2. Offsite disturbed area to be revegetated in accordance with submitted plans.

3. Relocate retaining wall that is north of the sports court. Building permit for relocated retaining wall must include engineered plans.

4. The Applicant shall submit a Construction Mitigation Plan for approval by the Chief Building Official that mitigates construction traffic on Aerie Lane. The Applicant shall submit a management and safety plan for the proposed route. Time of operations, truck inspections, and the number of trips hauling shall be outlined and regulated through the Construction Mitigation Plan.

5. Prior to submittal of a Building Permit for the relocated retaining wall located north of the revised sports court, the Applicant shall submit for review the excavation and grading plans for Engineering Department review and approval to ensure no erosion, land subsidence, or avalanche hazard is created.

Proposed Conditions

PENDING APPROVAL

6. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

7. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

8. The Applicant shall notify the Planning Department prior to making any changes to the plans approved as part of the Conditional Use Permit.

9. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

10. No overhead lighting will be permitted for the sports court. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Fully-Shielded ground-level fixtures are encouraged. Final lighting details must be reviewed by Planning Staff prior to installation.

Appeal Authority

10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(4) By ordinance, a municipality may:

(d) **not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and**

PENDING APPROVAL

APPEAL :

CONDITIONAL USE PERMIT – PRIVATE RECREATION FACILITY

PROJECT NUMBER PL-21-05101

PARK CITY PLANNING APPEAL PANEL – MARCH 4, 2024

PENDING APPROVAL

Appeal Panel
Staff Report

Subject: 220 King Road
Applications: PL-22-05318 – Conditional Use Permit
PL-22-05319 – Plat Amendment
PL-23-05523 – Conditional Use Permit, Pool
PL-23-05571 – Steep Slope Conditional Use Permit
Author: Planning Team
Date: April 30, 2024
Type of Item: Appeal of Planning Commission Approval

BRIEFING BY APPELLANTS WILL BE PUBLISHED FRIDAY. ALL PARTIES MAY SUBMIT SUPPLEMENTAL MATERIALS BEFORE OR AT THE HEARING.

Recommendation

(I) Review the Appeal of the Planning Commission's approval of the 220 King Road Plat Amendment, Single-Family Dwelling Conditional Use Permit, Outdoor Pool Conditional Use Permit, and Steep Slope Conditional Use Permit, (II) conduct a public hearing, and (III) affirm, reverse, or affirm in part and reverse in part the Planning Commission's approval and direct staff to make Findings for the Final Action Letter.

Description

Appellants: Adjacent property owners Eric Hermann and Susan Fredston-Hermann, arguing the Planning Commission's approval is in error due to retaining walls within a 20-foot non-exclusive driveway access easement for the benefit of 220 King Road that is platted on the Hermann's property, 200 King Road.

The Hermans, joined by eight residents, argue the Planning Commission's approval is in error because the Commission did not apply the Land Management Code.

David Bennett
David Constable
Ed DeSisto
James Doilney
Martiena Lewis
Nicholas Schapper
Ginger Tolman
John Vrabel

The Appellants are collectively represented by Justin Keys, Hoggan Lee Hutchinson. However, Justin Keys is only legal counsel for the Hermanns.

Location:	220 King Road Treasure Hill Subdivision Lot 2 Phase 1 Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Partially within the Sensitive Land Overlay
Adjacent Land Uses:	Residential, Open Space
Reason for Review:	The Appeal Panel hears appeals of Planning Commission decisions on Conditional Use Permits and Plat Amendments.[1]

CUP	Conditional Use Permit
HR – 1	Historic Residential – 1
LMC	Land Management Code
MPD	Master Planned Development
ROS	Recreation and Open Space
SSCUP	Steep Slope Conditional Use Permit

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC Section 15-15-1.

Summary

220 King Road is a 1.23-acre lot with a 4,235-square-foot Single-Family Dwelling built in 1998 and a 4,189-square-foot Guest House built in 2000. The Applicant proposes demolishing the existing structures to build a new Single-Family Dwelling and Accessory Buildings.

The Applicant submitted the following applications for Planning Commission review:

- PL-22-05318 – Conditional Use Permit, Single-Family Dwelling
- PL-22-05319 – Plat Amendment
- PL-23-05523 – Conditional Use Permit, Outdoor Pool
- PL-23-05571 – Steep Slope Conditional Use Permit

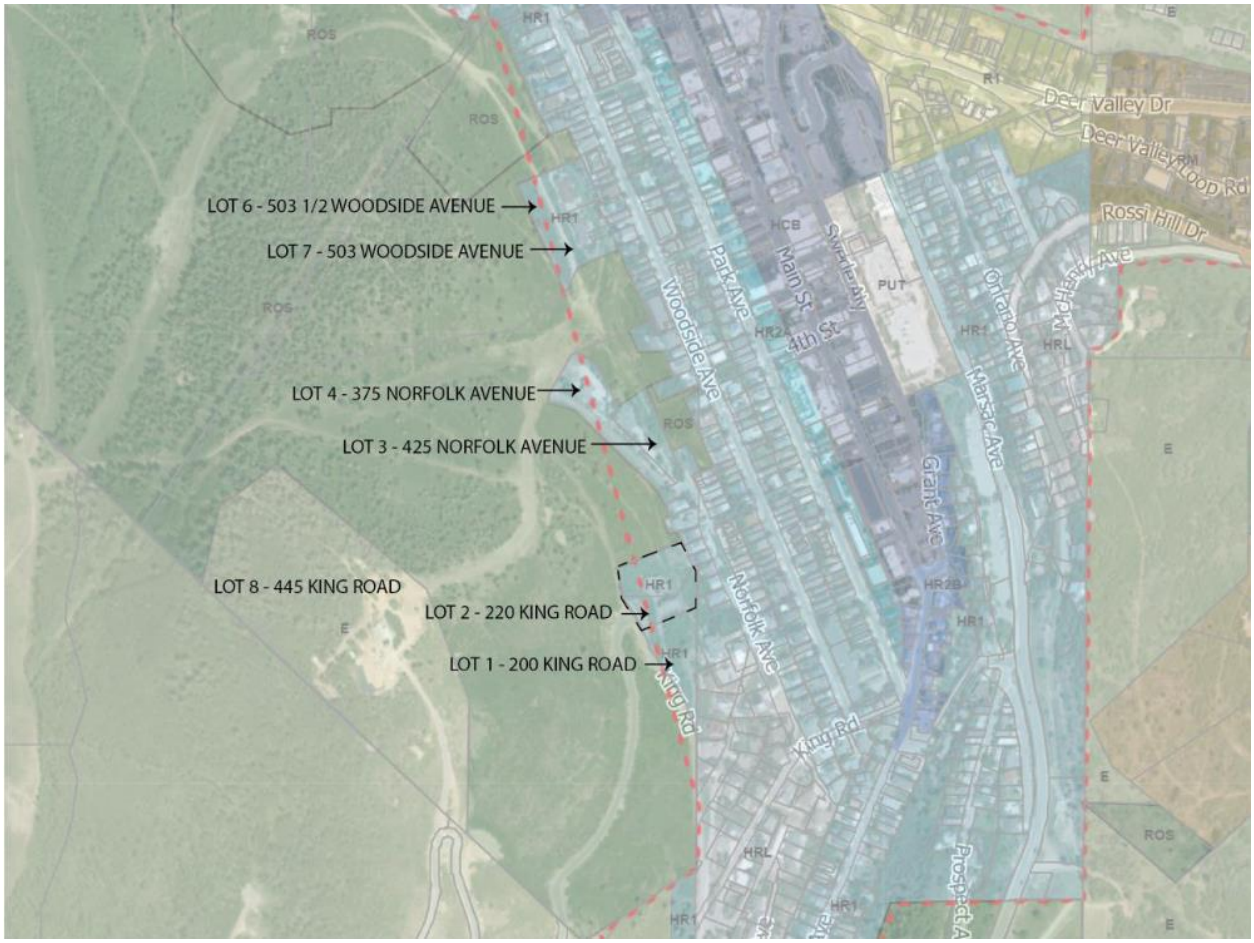
The Applicant proposed:

- A Single-Family Dwelling with:
  - Approximately 7,461 square feet of finished space.
  - Approximately 5,898 square feet of unfinished space.
  - Approximately 1,690 square feet of terrace/patio area.
- A 1,103-square-foot Accessory Building.
- A 243-square-foot outdoor pool.
- A 4,794-square-foot underground parking area (Exhibit C, Applicant's Proposed Plans).

[1] LMC § 15-1-18(C)

On February 14, 2024, the Planning Commission approved the Plat Amendment and Conditional Use Permits (Attachment 1, Final Action Letter). On March 1, 2024, the Appellants appealed the Planning Commission's approval (Attachment 2, Appeal).

220 King Road is Lot 2 of the Treasure Hill Subdivision Phase 1 First Amended Plat. The Treasure Hill Subdivision is part of the Sweeney Master Planned Development (MPD) approved in 1986 and amended in 1987. The map below illustrates the Treasure Hill properties:



Background

On January 24, 2024, the Planning Commission conducted a work session on the 220 King Road proposal (Staff Report; Minutes, p. 2). On February 14, 2024, the Planning Commission conducted a public hearing and voted to approve the Plat Amendment four to two and Conditional Use Permits three to three with the Chair breaking the tie (Staff Report; Minutes, p. 3-37).

On February 21, 2024, the Planning Commission ratified the Applicant's Final Action Letter for the Plat Amendment and Conditional Use Permits (Staff Report; Minutes). The Chair signed the Final Action Letter on February 24, 2024 (Attachment 1).

Standard of Review

Final Action by the Planning Commission may be appealed to the Appeal Panel. The Appeal Panel shall act in a quasi-judicial manner and review factual matters de novo, without deference to the Planning Commission's determination of factual matters. The Appeal Panel shall determine the correctness of the Planning Commission's interpretation and application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.[2]

Burden of Proof

The Appellants have the burden of proving the Planning Commission erred in approving the Plat Amendment and Conditional Use Permits.[3]

The Planning Commission must find Good Cause to approve a Plat Amendment.[4]

The Planning Commission shall approve a Conditional Use if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.[5]

Standing to Appeal

LMC Section 15-1-18(D) establishes those who have standing to appeal:

1. Any Person who submitted written comment or testified on a proposal before the Planning Commission;
2. The Owner of any Property within 300 feet of the boundary of the subject site;
3. Any City official, Board or Commission having jurisdiction over the matter; and
4. The Owner of the subject property.

The Appellants included Exhibit A and B in their appeal submittal. Based on an email the Appellants sent to staff on March 16, 2024, "Exhibit A is all the forms of the individuals with standing to appeal and are officially appealing [Eric Hermann, Susan Fredston-Hermann, and Ed DeSisto]. Exhibit B is all the forms of the other individuals who live in the neighborhood, may not have standing, but are signing on to show support for the appeal [Ginger Tolman, John Vrabel, James Doilney, Nicholas Schapper, David Constable, David Bennett, and Martiena Lewis]." Please see Attachment 2, Appeal, Exhibits A and B.

The Applicant contests some of the Appellant's standing. Please see Attachment 3.

[2] LMC Section 15-1-18(G)
[3] LMC Section 15-1-18(G)
[4] LMC Section 15-7.1-3(B)
[5] LMC Section 15-1-10

Analysis

Please review the following for background:

Work Session

- January 24, 2024 Planning Commission Packet, Work Session 4.A.
- January 24, 2024 Planning Commission Meeting Minutes (Audio).

Public Hearing

- February 14, 2024 Planning Commission Packet, Regular Agenda 6.A.
- February 14, 2024 Planning Commission Meeting Minutes (Audio). *The Applicant submitted a transcript of the meeting prepared by JD Legal Support. Please see Attachment 7.*

Final Action Ratification

- February 21, 2024 Planning Commission Packet.
- February 21, 2024 Meeting Minutes (Audio).

The Appellants make two arguments: one regarding retaining walls within a platted 20-foot-wide non-exclusive driveway easement, and another regarding the Planning Commission's application of the Land Management Code. Both are addressed below:

Retaining Wall Argument – The Appellants contend the Planning Commission erred in their approval because two eight-foot concrete retaining walls are proposed to be constructed within a platted driveway access easement for the benefit of 220 King Road and within the Sensitive Land Overlay. The Appellants err.

The Appellants claim the Planning Commission erred in approving the 220 King Road applications because "two eight-foot retaining walls" are proposed to be constructed within a 20-foot non-exclusive driveway access easement for the benefit of Lot 2 (220 King Road) platted on the Hermann's property (200 King Road) and that the proposed retaining walls are on Very Steep Slopes within the Sensitive Land Overlay requiring Sensitive Lands Analysis.

To clarify the record for the Appeal Panel, there are not "two eight-foot retaining walls" proposed to be constructed within the 20-foot non-exclusive driveway access easement. On February 14, 2024, the Planning Commission provided input to the Applicant requesting reduction of retaining walls. The Applicant updated their plans to reflect the Commission's input and on February 21, 2024, the Planning Commission ratified the updated plans. After the Planning Commission meeting on February 21, 2024, staff

emailed the Appellant's representative a link to the updated grading plan ratified by the Planning Commission. Yet, the Appellants do not reference these updated plans in their appeal submittal, nor do the Appellants base their appeal on the plans approved by the Planning Commission and attached to the Final Action Letter. The approved grading plan for 220 King Road includes rock walls at a maximum height of four feet to the west of the proposed driveway and two feet to the east of the proposed driveway, within the 20-foot non-exclusive driveway easement.

The Appellants claim (I) the Planning Commission improperly granted the Applicant the unilateral right to modify the non-exclusive access easement over the Fredston-Hermanns' property, and (II) the Planning Commission did not require a Sensitive Lands Analysis or Sensitive Lands Determination for the driveway. Simply, no City approval may modify underlying property ownership or easement rights. The Sensitive Land Ordinance arguments are further addressed below.

(I) The Planning Commission's Conditional Use Permit Conditions of Approval that restrict the driveway improvements within the 20-foot-wide driveway easement and future permission from the property owners of 200 King Road is required.

LMC Section 15-1-10 states the Planning Commission reviews Conditional Uses to propose conditions to mitigate the reasonably anticipated detrimental effects of a proposed use according to sixteen codified criteria. Planning Commission approval of a Conditional Use Permit does not authorize an applicant to go and build a proposed project. Rather, the land use approval is required prior to building permit submittal. LMC Section 15-1-8(A) states "[n]o Building Permit shall be valid for any Building project unless the plans for the proposed Structure have been submitted to and have been approved by the Planning, Engineering and Building Departments." The Planning Commission's Conditional Use Permit approval does not grant the Applicant unilateral rights to modify the non-exclusive access easement over 200 King Road. Rather, the Planning Commission imposed Conditions of Approval restricting future driveway improvements that must be addressed prior to building permit submittal:

- Conditional Use Permit Condition of Approval C requires the current access point of King Road to be maintained and the driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road to not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles (Attachment 1, p. 14).

- Conditional Use Permit Condition of Approval GG states "[t]o conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road" (Attachment 1, p. 17).

At the time the Applicant submits a building permit, the Applicant will be required to submit an Access Agreement to the Building Department. Access Agreements are required prior to building permit issuance when "proposed construction related disturbance has the potential to encroach onto adjacent property" or the "proposed site is considered a steep slope." The proposed project at 220 King Road triggers both criteria.

The Access Agreement must include:

- Owners name for both properties
- Address of both properties
- A description of the agreement
- A sketch that illustrates the affected areas of the agreement
- Permit application number for the main property
- Signature and date signed for all owners for both properties

Therefore, the Appellants conflate the Planning Commission Conditional Use Permit approval with the requirements of the building permit issuance and errs.

(II) The driveway easement is not within the Sensitive Land Overlay.

In 1992, the City Council enacted Ordinance No. 92-17 adopting the Sensitive Land Overlay. Please click this link to review the Sensitive Land Overlay Map.

The Appellants claim the Planning Commission erred because the driveway easement is within the Sensitive Land Overlay and therefore the Applicant was required to provide a Sensitive Lands Analysis and staff was required to issue a Sensitive Lands Determination pursuant to LMC Section 15-2.21-2. The Appellant's argument fails because the driveway easement is clearly not within the Sensitive Land Overlay.

Figure 1 Excerpt from the Zoning Map with the Sensitive Land Overlay indicated by the red dashed line. Property to the left of the dashed line is in the Sensitive Land Overlay and property to the right is outside of the Sensitive Land Overlay.

Even if the driveway easement were within the Sensitive Land Overlay, no further analysis is required for construction within platted elements. On September 7, 1995, the City Council adopted Ordinance No. 95-50, approving the Treasure Hill Subdivision Phase 1 plat, creating four Single-Family Lots, including Lot 1 (200 King Road), and Lot 2 (220 King Road) (Attachment 4).

Ordinance No. 95-50 Condition of Approval 2 required the Community Development Department to review and approve notes on the plat addressing limits of disturbance, building footprint, building area limits, building height, and massing prior to final plat recordation (Attachment 5). Therefore, the areas within 200 King Road approved for future improvements were established and platted after enactment of the Sensitive Land Overlay.

In summary, the Appellants fail to meet the required burden of proof outlined in LMC Section 15-1-18(G) demonstrating the Planning Commission erred because the Planning Commission issued Conditions of Approval that require the driveway improvements to be more restrictive than the 20-foot-wide driveway easement, future

permission from the property owners of 200 King Road is required prior to driveway improvements at the building permit phase, and the driveway easement is clearly not within the Sensitive Land Overlay.

The Appellants also argues (III) the Planning Commission's decision relied on the incorrect assertion by the Applicant that only the restrictions in the MPD and Subdivision Plat, rather than the Land Management Code, apply to this property and (IV) the proposed structure does not meet the express requirements of the Park City Land Management Code as expressly required by the MPD and the Restrictive Covenants.

(III) The Planning Commission approved the Plat Amendment and Conditional Use Permits subject to the Land Management Code, the Sweeney Master Planned Development, and the Treasure Hill Subdivision.

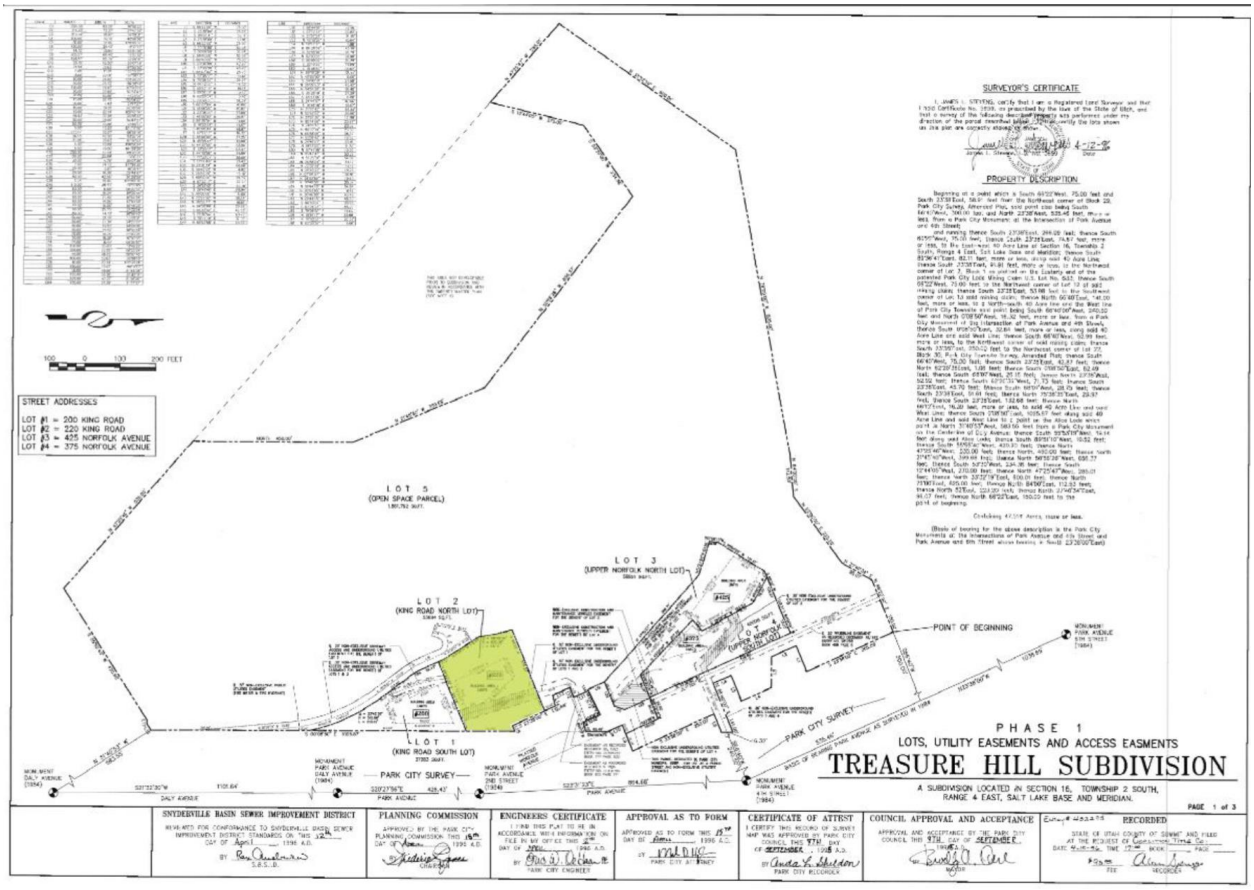
220 King Road is Lot 2 of the Treasure Hill Subdivision, part of the Sweeney Master Planned Development (MPD). The Sweeney MPD was approved in 1986 and amended in 1987. The LMC in effect at the time of the Sweeney MPD approval outlined the following for MPDs, which established a process for concentration of density within a site to:

- Encourage establishment of common open space.
- Allow design flexibility in development.
- Preserve natural and scenic features of open areas.
- Cluster structures.
- Allow densities within clusters to exceed those allowed for standard housing development when appropriate open space and buffer areas are provided elsewhere on the site (Attachment 6).

The 1980s MPD process established Planning Commission authority to grant variations in height requirements, allowing an increase in height up to 25% of the maximum building height (Attachment 6).[6] Today's MPD code grants the Planning Commission similar authority (see LMC Section 15-6-5(F)).

The density within the Treasure Hill Subdivision was clustered toward Old Town as part of the Sweeney MPD and Lot 5 of the Treasure Hill Subdivision contains 1,861,792 square feet (approximately 42 acres) of the upper mountain acreage dedicated as open space. The image below highlights Lot 2 (220 King Road) in green. Lot 5—the open space lot—extends behind the residential lots.

[6] Many of the review criteria are retained in today's LMC Chapter 15-6.



A traditional Old Town lot is 1,875 square feet (25 feet by 75 feet). 220 King Road, Lot 2 of the Treasure Hill Subdivision, is 53,694 square feet, nearly 29 times the size of an Old Town lot. To address the unusually large residential lots within the Treasure Hill Subdivision on the edge of Old Town that are a transition between Old Town and the upper mountain dedicated open space, the Sweeney MPD and Treasure Hill Plat Notes and review processes were established.

The Sweeney MPD 1986 Condition of Approval 1 states, "[a]t 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." Further, for consistent review of the Single-Family Lots within the Treasure Hill Subdivision, Plat Note 9 states the following:

PRECEDENCE.The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.[7]

[7] The Small Scale Master Plan Process later became the Conditional Use Permit process.

Treasure Hill Subdivision Plat Notes 1, 4, and 5 establish Building Footprint, and Height and Façade Height for future construction to address the unique residential properties clustered at the edge of Old Town. The Planning Commission correctly applied the regulations relevant to the residential properties within the Sweeney MPD and Treasure Hill Subdivision, as authorized pursuant to the MPD process established in the LMC.

Building Footprint
LMC Section 15-2.2-3(E) establishes a maximum Building Footprint of 4,500 square feet for lots that exceed 18,750 square feet (equivalent to 10 Old Town lots). However, the Treasure Hill Subdivision is more restrictive and only allows the Single-Family Dwelling a Building Footprint of 3,500 square feet.

Plat Note 1 states:

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

LMC Section 15-15-1 defines Building Footprint:

The total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged, or incorporated into the Main Building.

Staff included the underground parking area in the preliminary Building Footprint calculation for 220 King Road, rather than exclude the underground parking area. After the public hearing, including testimony from Pat Sweeney and upon further review of the Sweeney MPD, the Applicant and Planning Commission interpreted the definition of Building Footprint and its application requires calculation from the outside face of walls on any single level.

The Planning Commission's interpretation of Building Footprint aligns with other approvals within the Sweeney MPD and Treasure Hill Subdivision. Five of the

residential lots within the Treasure Hill Subdivision exclude underground tunnel and parking structures from the Building Footprint calculation.

There is a shared underground tunnel to access Lots 3 and 4. On June 25, 1998, the City issued Building Permit BD-97-02851 for a shared entry tunnel for Lots 3 & 4. Lot 3 (425 Norfolk Avenue) has a Single-Family Dwelling built in 1998. On November 10, 1997, the City issued Building Permit 97-03119 for the Single-Family Dwelling. The Building Footprint is 3,450 square feet. Lot 4 (327 Norfolk Avenue) has a Single-Family Dwelling built in 1998. On September 25, 1997, the City issued Building Permit B97-02863 for the Single-Family Dwelling. The Building Footprint is 3,500 square feet. On June 25, 1998, the City issued Building Permit BD-97-02851 for a shared entry tunnel for Lots 3 and 4.

Lot 6 (503 ½ Woodside Avenue) has a Single-Family Dwelling built in 2005. On November 23, 2005, the City issued Building Permit 05-10657 for the Single-Familiy Dwelling. According to the Conditional Use Permit plans approved by the Planning Commission on March 23, 2005 prior to building permit submittal, the Building Footprint is 3,496 square feet. Lot 7 (503 Woodside Avenue) has a Single-Family Dwelling built in 2006. On October 12, 2005, the City issued Building Permit 05-10509 for the Single-Family Dwelling. The permit reflects the March 23, 2005, Planning Commission approval for a Single-Family Dwelling with a Building Footprint of 3,472 square feet. On June 29, 2004, the City issued Building Permit B03-08481 for a shared tunnel to access Lots 6 and 7 from Woodside Avenue.

The Treasure Hill Subdivision Phase 3 Plat regulates 445 King Road within the Sweeney MPD and Plat Note 1 excludes the following from the Building Footprint calculation:

. . . . *[t]hat Portion of any garage, carport, mechanical space, or living space that is located below existing natural grade and which has landscaping or deck . . . located above it . . .*

The underground tunnels that provide access and parking for the five residential lots within the Treasure Hill Subdivision were not counted toward the Single-Family Dwelling Building Footprint. Accordingly, the Planning Commission reviewed the 220 King Road proposal for compliance with the LMC Building Footprint definition, the Sweeney MPD, and Treasure Hill Subdivision, consistently applying the Building Footprint to the Single-Family Dwelling, and excluding underground access and parking structures from the total Building Footprint calculation.

Building Height and Façade Height
The Sweeney MPD and Plat Notes 4 and 5 of the Treasure Hill Subdivision regulate height for the property.

4. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, between floor levels.

5. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reestablished grade whichever is greater.

As described above, the residential lots within the Treasure Hill Subdivision were clustered on the edge of Old Town and Lot 5 of the Treasure Hill Subdivision dedicated over 40 acres of the upper mountain area as open space and the flexibility established pursuant to an MPD authorized the plat notes for site-specific design requirements.

All residential lots within the Sweeney MPD Treasure Hill Subdivision were constructed in compliance with Plat Notes 4 and 5 regarding Building Height. Prior to 2009, Building Height regulations in the Historic Residential – 1 Zoning District simply stated "[n]o Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height." Starting in 2009, the City amended Building Height regulations for the Historic Residential – 1 Zoning District to better achieve compatible infill within the Historic Districts through regulation of internal height, horizontal steps in height, stepbacks, and roof pitch.

On April 9, 2009, the City Council adopted Ordinance No. 09-14, amending the height regulations for residential Historic Districts in part to encourage the construction of historically compatible additions and new construction that contributes to the unique character of the Historic Districts and decreases environmental impacts to the site, neighborhoods, and Historic Districts. The amendments stated:

- A Structure may have a maximum of three stories. Each story is limited to a maximum of ten (10) vertical feet. A basement counts as a first story within this zone.
- A ten-foot minimum horizontal step in the downhill façade is required for a third story of a Structure unless the first story is located completely under the finish grade on all sides of the structure.
- Roof pitch must be between 7:12 and 12:12. Roofs which are not part of the primary roof design (roofs over a patio, shed roofs, etc.) may be below the required 7:12 pitch.

On November 21, 2013, the City Council adopted Ordinance No. 13-48, replacing the three-story maximum with language that establishes the foundation for the

regulations in today's code, including a maximum internal height of 35 feet measured from the lowest finish floor plane to the top point of the highest wall top plate that supports the ceiling joists or roof rafters. The 2013 ordinance also clarified the minimum horizontal step required in the downhill façade at a maximum height of 23 feet from where the Building Footprint meets the lowest point of existing grade.

Staff included unfinished basement space in calculating the Building Height. However, the current HR-1 Zoning District regulations include the following:

"A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters" (LMC Section 15-2.2-5(A)).

The Applicant agreed to Conditional Use Condition of Approval B that is more restrictive regarding internal height regulations than the Sweeney MPD and Treasure Hill Subdivision Plat Notes that were later enacted:

. . . . *Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.*

Therefore, the Applicant complies with the Sweeney MPD, Treasure Hill Subdivision, and LMC regulations.

Design

The residential lots within the Treasure Hill Subdivision require Planning Commission approval of a Conditional Use Permit for each Single-Family Dwelling. The Planning Commission's authority for Single-Family Dwelling design is established in the Conditional Use Permit review criteria outlined in LMC Section 15-1-10(E), including fencing, screening, and landscaping to separate the use from adjoining uses, building mass, bulk, and orientation, and the location of the buildings on the site, physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing. LMC Section 15-1-10 requires the Planning Commission to approve a Conditional Use if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

The Planning Commission found:

- The property is notably larger than most of the other buildable lots in the Sweeney MPD and the ratio of lot size to the residence is significantly smaller than neighboring residences.
- The residence will be adequately setback and buffered from the surrounding properties.
- Provides new landscaping of native grasses and trees and existing vegetation

will be maintained and managed.
- Perimeter vegetation will continue to provide a visual barrier to the property and mitigate visual impact.
- The residence is designed to break up the perceived mass and follows the plat notes breaking up the structure into at least four massing elements that are each less than 1,500 square feet and has an overall footprint of less than 3,500 square feet.
- The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining walls will be located behind the residence to minimize visible impact on neighboring uses.

The Historic District Design Review authority is separately determined by staff pursuant to LMC Section 15-11-12 *Historic District or Historic Site Review.*

Building Area Limits and the Sensitive Land Overlay

220 King Road is only partially within the Sensitive Land Overlay, which was enacted after the Sweeney MPD approval. The Treasure Hill Subdivision establishes platted building area limits and restricts site disturbance outside of the platted limits. LMC Section 15-7.1-3(B) *Plat Amendment* requires the Planning Commission to find Good Cause to amend a plat. LMC Section 15-15-1 defines Good Cause as "[p]roviding positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community."

The Planning Commission found Good Cause to modify the building area limits because the overall buildable area was reduced, a portion of the buildable area was shifted to the west side of the property where it is less visible from Old Town, and the project provides a fire turnaround in the underground parking area.

Additionally, the Applicant agreed to Conditions of Approval that are more restrictive than what is allowed under the LMC:

- One residence and one guest house are replaced with one residence. Future use is limited to one residence.
- Nightly rentals are prohibited.

(IV) The proposed structure meets the express requirements of the Land Management Code and the Planning Commission does not have authority to impose Restrictive Covenants.

The Appellants argue the Planning Commission erred because they did not review restrictive covenants for the property. The Appellants err. LMC Section 15-1-3 states the City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein.

The Planning Commission has no authority over private restrictive covenants that may be modified by the parties to the restrictive covenants at any time. Rather, the Planning Commission is charged with applying the regulations of the LMC to the applications that come before them. The Planning Commission did just that – they reviewed 220 King Road pursuant to the Sweeney MPD through the MPD process and authority outlined in the LMC, and according to the Treasure Hill Subdivision Plat Notes, which were established through the Sweeney MPD approval as outlined in the LMC, pursuant to the processes and standards outlined in the LMC.

Department Review

The Planning Department, Executive Department, and City Attorney's Office reviewed this report.

Notice

The *Park Record* published notice on April 13, 2024. Staff published notice on the City and Utah Public Notice website, and posted notice to the property on April 16, 2024. Staff mailed courtesy notice to property owners within 300 feet on April 16, 2024.[8]

Public Input

No public input was submitted prior to publication of this Appeal Panel packet.

Alternatives

- The Appeal Panel may affirm the Planning Commission's Final Action on the 220 King Road applications;
- The Appeal Panel may reverse the Planning Commission's Final Action on 220 King Road applications;
- The Appeal Panel may affirm or reverse in part the Planning Commission's Final Action on the 220 King Road applications and remand the manner to the Planning Commission; or
- The Appeal Panel may request additional information and continue the discussion to a date certain.

Attachments

1: Planning Commission Final Action Letter
2: Appellant's Appeal
3: Applicant's Motion Regarding Standing
4: Treasure Hill Subdivision
5: Ordinance No. 95-50
6: 1985 Master Planned Development Code
7: Applicant's Transcript of the February 14, 2024 Planning Commission Meeting

[8] LMC § 15-1-21

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February 21, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	220 King Road Lot 2, Phase I of the Treasure Hill Subdivision Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Sensitive Land Overlay
Applications:	PL-22-05318 – Conditional Use Permit, Single-Family Dwelling PL-22-05319 – Plat Amendment PL-23-05523 – Outdoor Pool PL-23-05571 – Steep Slope Conditional Use Permit
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	February 21, 2024
Project Summary:	The Applicant proposes to demolish a 4,235-square-foot Single-Family Dwelling and 4,189-square-foot Guest House, to construct a: ○ A Single-Family Dwelling with: ▪ Approximately 7,461 square feet of finished space. ▪ Approximately 5,898 square feet of unfinished space. ▪ Approximately 1,690 square feet of terrace/patio area. ○ A 1,103-square-foot Accessory Building. ○ A 243-square-foot Swim Spa. ○ A 4,794-square-foot Underground Parking Area.

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The Applicant proposes to amend Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, and shift Plat Note 9 (Precedence) to Plat Note 1 and add Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and to shift the Building Area Limits to accommodate the proposed project.

Action Taken
On February 14, 2024, the Planning Commission conducted a public hearing and approved the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision, amending Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, shifting Plat Note 9 (Precedence) to Plat Note 1 and adding Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and shifting the Building Area Limits to accommodate the proposed project. The Planning Commission conducted a public hearing and approved the Conditional Use Permit for a Single-Family Dwelling and Outdoor Pool and the Steep Slope Conditional Use Permit for the project according to the following findings of fact, conclusions of law, and conditions of approval:

The January 24, 2024 and February 14, 2024 staff reports and meeting minutes are incorporated herein.

Plat Amendment
File No. PL-22-05318

Findings of Fact

1. The Applicant has proposed a new plat entitled the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision ("Amended Plat"), a copy of which is attached hereto as Exhibit A, which will amend the existing Lot 2, Phase I Treasure Hill Subdivision Plat, including the Amended Plat's notes which are attached hereto as Exhibit B.

2. On July 18, 2022, the applicant Pesky Porcupine LLC ("Applicant") submitted an application for a proposed subdivision plat amendment in connection with a proposed single-family residence to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

3. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat").

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4. The Property is currently being used for one single-family residence and one guest house that the Applicant intends to demolish to construct a new single residence.

5. The Amended Plat differs from the Treasure Hill Subdivision Plat in two ways. First, the Amended Plat modifies plat note 1 on the Treasure Hill Subdivision Plat to align with the Amended Sweeney Properties MPD approval conditions and other phases within the Amended Sweeney Properties MPD. Second, the Amended Plat modifies the buildable area by reducing the overall buildable area and relocating a portion thereof to the west side of the Property, as depicted on the attached Amended Plat.

6. The Applicant submitted all materials required by the Park City Land Management Code ("LMC") for the proposed plat amendment.

7. The Planning Commission has authority to act as the land use authority to approve the Amended Plat pursuant to LMC § 15-7-7.

8. After carefully reviewing the Amended Plat, the Amended Sweeney Properties MPD approval documents, other materials presented by the Applicant, and input received by the Applicant, City staff, and the public in a public hearing, the Planning Commission has determined that good cause exists for amending the Treasure Hill Subdivision Plat via the Amended Plat as more fully specified below. *See* Utah Code § 10-9a-609(1)(a).

9. The Planning Commission further concludes that no public street or municipal utility easement is being vacated or amended by the Amended Plat. *See* Utah Code § 10-9a-609(1)(b).

10. The Planning Commission expressly finds this approval is limited to the Amended Plat of the Amended Sweeney Properties Master Planned Development, and as such shall not create any precedent nor interpretation of general applicability in the Historic Residential-1 Zoning District, for current Land Management Code regulations, or other plat amendments.

Additional Findings

11. The Planning Commission, as the land use authority, finds that there is good cause to approve the Amended Plat based on the following:

a. Note 1 of the Treasure Hill Subdivision Plat contains a development limitation that buildings must have a building footprint of 3,500 square feet or less. That allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;

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ii. Exterior walkways;
iii. Exterior stairs; and
iv. Driveways.

Note 1 was included on the Treasure Hill Subdivision Plat but was not imposed upon the Property via the Amended Sweeney Properties MPD. Other subdivisions within the Amended Sweeney Properties MPD define "building footprint" more broadly and nothing within the Amended Sweeney Properties MPD requires the Treasure Hill Subdivision Plat's more restrictive definition.

b. The Amended Plat also contains a building footprint limitation of 3,500 square feet or less. The allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
ii. Exterior walkways;
iii. Exterior stairs;
iv. Driveways; and
v. That portion of any carport, mechanical space, or living space that is located below existing grade and which has landscaping or deck (as provided in (1(A)) located above it.

c. The Amended Plat's development limitation is more consistent with the Amended Sweeney Properties MPD approval as the building footprint limitation was intended to limit the visual impact of development and subgrade improvements, excluded under the Amended Plat, have a de minimis visual impact on adjacent uses.

d. The overall buildable area of the Treasure Hill Subdivision Plat is 490 square feet larger than the buildable area of Amended Plat. The Amended Plat removes buildable area from portions of the Property that are visible to downtown Park City and relocates such buildable area to the west side of the Property to reduce the visual impact of the buildable area.

e. The Planning Commission finds that good cause exists, *see* LMC §§ 15-15-1 & 15-7.1-3.B, for amending the Treasure Hill Subdivision Plat based on the following:

i. The Amended Plat resolves an existing non-conformity as the two residential units constructed on a single lot will be demolished in favor of a single residential unit on a single lot.

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ii. The Amended Plat preserves the character of the neighborhood and Park City as the Amended Plat is more consistent with the Amended Sweeney Properties MPD approval.

iii. Reducing the buildable area and relocating a portion of the buildable area will reduce the visual impact of the Property's development. This is consistent with best planning and design practices.

iv. The Amended Plat facilitates the construction of a single residence in place of one residence and one guest house that are presently used as short-term rentals. Demolishing the two existing short-term rentals reduces the overall density of the area, alleviates traffic, decreases utility usage, minimizes noise and light pollution, and is more consistent with neighboring uses.

v. The Amended Plat facilitates the termination of the existing short-term rentals. This furthers the health, safety, and welfare of the Park City community as it will decrease the number of unknown persons in the community and increase the overall sense of community by housing long-term residents.

f. The Amended Plat includes all existing public streets and municipal utility easements and does not propose to vacate or amend the same.

Conclusion

Based on the foregoing, good cause exists to approve the Amended Plat as it satisfies the requirements of Utah Code § 10-9a-609(1) and LMC § 15-7-7. The Planning Commission concludes it is appropriate to approve the Amended Plat.

Conditions of Approval

The Conditional Use Permit and Steep Slope Conditional Use Permit Conditions of Approval below are incorporated herein.

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Exhibit A
Amended Plat to be Updated to Reflect Exhibit B

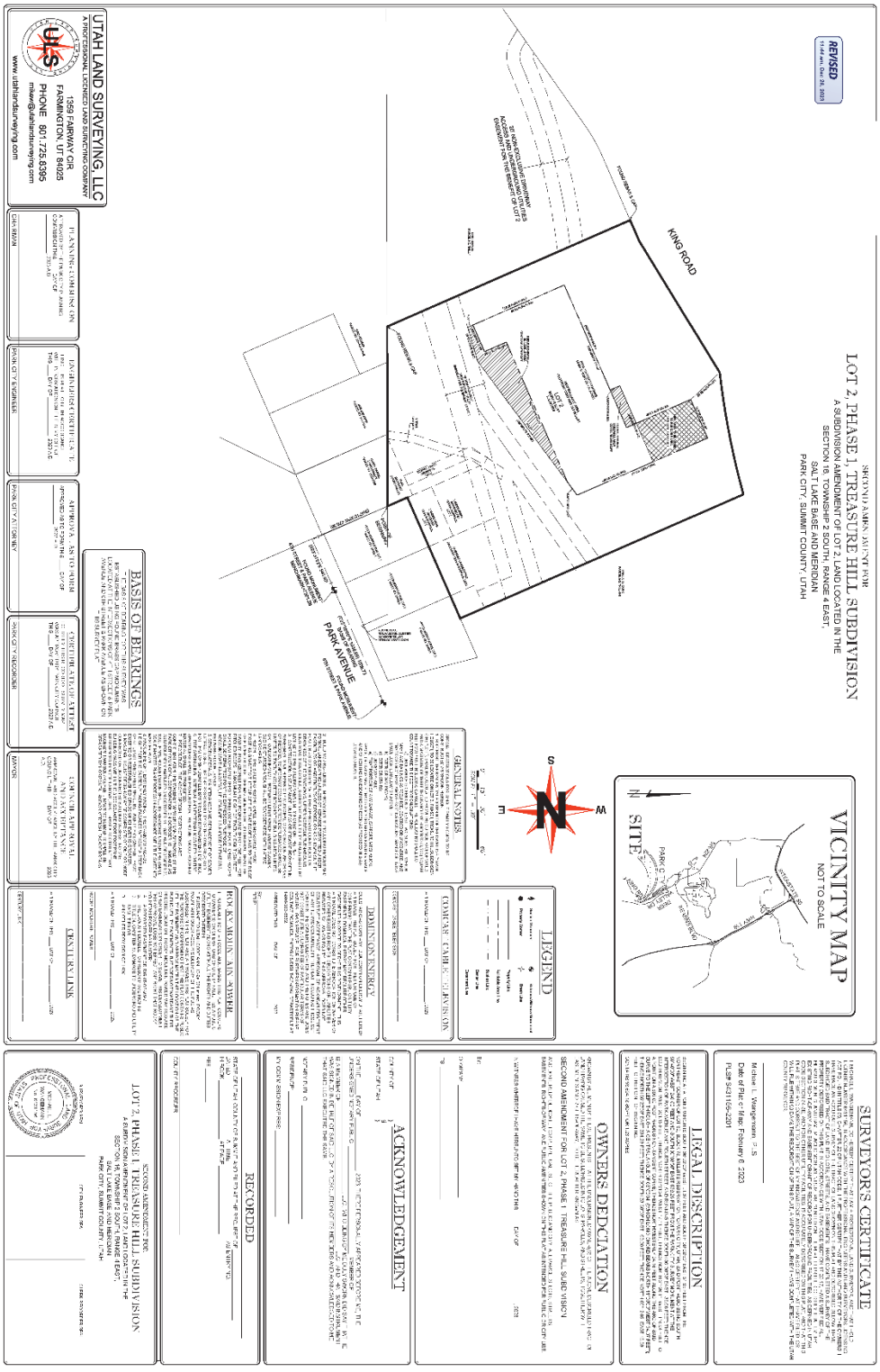

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Exhibit B
Amended Plat Notes

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED AS SHOWN HEREON:

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

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SUCH DISTURBED AREA SHALL BE REVEGETATED WITH NATIVE LANDSCAPING.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FACADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE SEPARATED BY HORIZONTAL AND/OR VERTICAL FACADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERN

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FACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSESORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

Conditional Use
File No. PL-22-05319
File No. PL-23-05523
[220 King Residence and Outdoor Pool]

Findings of Fact

1. On July 18, 2022 the applicant Pesky Porcupine LLC (“Applicant”) submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the “Residence”) to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the “Property”).

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the “Amended Sweeney Properties MPD”). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder’s Office (“Treasure Hill Subdivision Plat”), as amended.

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City’s staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence.

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The existing single-family residence and guest home have been used for short-term rentals.

5. The application is for the construction of the Residence ("Residence CUP") as required by Condition No. 3 of the Amended Sweeney Properties MPD.

6. The Planning Commission has authority to act as the land use authority for the Residence CUP. *See* Condition No. 3 of the Amended Sweeney Properties MPD; LMC § 15-1-10.D.

7. The Applicant submitted all the materials required by the LMC for the Residence and outdoor pool CUP and presented in a public hearing regarding the proposals set forth in Residence CUP application.

8. The Planning Commission, after carefully considering the site plan attached hereto as Exhibit C and other design materials, the Applicant's submittals, and the Applicant's presentation at the public hearing, has determined that the Residence was designed to minimize visual impact on adjacent property owners.

Additional Findings

9. The Planning Commission, as the land use authority, finds that the proposed Residence CUP is in compliance with the standards in LMC § 15-1-10.E, as applied pursuant to the Amended Sweeney Properties MPD. Specifically, the Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, is an appropriate size and location for the Property. *See* LMC § 15-1-10.E.1 This finding is supported further as follows:

i. The Property is notably larger than most of the other buildable lots in the Amended Sweeney Properties MPD. The ratio of lot size to the Residence is significantly smaller than neighboring residences.

ii. The Property's buildable area is being reduced by approximately 490 square feet concurrently with this approval. The Residence will be located within the reduced buildable area.

iii. The Residence will be adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away.

b. Addresses traffic considerations including the capacity of the existing streets in the area. *See* LMC § 15-1-10.E.3. This finding is supported as follows:

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i. The new residence will utilize the same access point as the existing homes. No additional traffic or traffic impacts will result from the new residence. In fact, traffic impacts will be decreased as two homes have more traffic than the single Residence.

ii. The capacity of the existing streets is sufficient to accommodate the new residence and no traffic impact study was necessary.

c. Has sufficient utility capacity, including storm water run-off. *See* LMC § 15-1-10.E.3. This finding is supported as follow:

i. All utilities on the Property were installed with the existing houses and are adequate to service the existing houses.

ii. The Residence will decrease utility usage by utilizing more efficient construction materials and by replacing one existing home and one existing guest house used as short-term rentals.

iii. All storm water run-off from new impervious surfaces will be retained onsite.

d. Provides adequate emergency vehicle access. *See* LMC § 15-1-10.E.4. Specifically, the Residence has been designed to meet all emergency vehicle access and driveway slope requirements as set forth in the LMC, including by providing a fire turnaround in the underground parking area.

e. Provides adequate off-street parking. *See* LMC § 15-1-10.E.5. Specifically, the Residence provides at least two off-street parking stalls as required by LMC § 15-3-6(A).

f. Provides sufficient internal vehicular and pedestrian circulation system. *See* LMC § 15-1-10.E.6. This finding is supported as follow:

i. Vehicles accessing the Property will continue to use existing access points from King Road. The Residence is designed such that vehicles can turnaround and park via the private driveway and the underground parking area.

ii. There is minimum pedestrian traffic in the area as the public roadways do not have sidewalks. There is a 10’ public non-motorized bike, pedestrian trail, and ski easement on the Property for the benefit of a neighboring property. No change is being proposed to those easements.

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g. Provides fencing, screening, and landscaping to separate the use from adjoining uses. *See* LMC § 15-1-10.E.7. This finding is supported as follow:

i. The existing fencing, screening, and landscaping for the existing houses is adequate to separate the use from adjoining uses. No additional fencing is being proposed by the Applicant.

ii. New landscaping will consist of native grasses and trees and existing vegetation will be maintained and managed.

iii. Perimeter vegetation will continue to provide a visual barrier to the Property and mitigate visual impact.

h. As applied pursuant to the Amended Sweeney Properties MPD, is appropriately massed, bulked, and oriented, on the site. *See* LMC § 15-1-10.E.8. This finding is supported as follow:

i. The Residence has been intentionally designed to break up the perceived mass and follows the plat notes relative to massing. Specifically, the plans show the Residence: (i) broken up into at least four (4) massing elements that are each less than 1,500 square feet; (ii) have an overall footprint of less than 3,500 square feet, as measured by the definition on the second amended subdivision plat; and (iii) complies with the seconded amended subdivision plat.

ii. The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining wall areas will be located behind the Residence to minimize any visible impact on neighboring uses.

iii. The Residence meets the height limitation stated on the second amended subdivision plat.

i. Contains usable open space. *See* LMC § 15-1-10.E.9. Specifically, the new residence does not substantially change the existing site's open space. All existing landscape easements will be maintained.

j. Contains no signs but will provide appropriate lighting. *See* LMC § 15-1-10.E.10. The Property will comply with the city's outdoor lighting requirements found at LMC § 15-5-5(J).

k. As applied pursuant to the Amended Sweeney Properties MPD, is physically designed to be compatible with surrounding structures. *See* LMC § 15-1-10.E.11. Specifically, the Residence is consistent with other single-family residences within the Amended Sweeney Properties MPD.

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l. Does not produce noise, vibration, odors, steam, or other mechanical factors that would affect people or off-site property. *See* LMC § 15-1-10.E.12.

m. Properly controls delivery and service vehicles, loading and unloading zones, and screens trash and recycling pickup areas. *See* LMC § 15-1-10.E.13. Specifically, a vehicle control gate will control access to delivery and service vehicles, and the Property is adequately sized to park delivery and service vehicles without impacting adjoining uses.

n. Will not be used as a condominium, time interval ownership, fractional ownership, nightly rental, or for a commercial use. *See* LMC § 15-1-10.E.14. Indeed, the Property will be used only as a single-family residence and the short-term rental uses on the existing home and guest house will be terminated.

o. Is appropriately situated on the existing topography of the Property. *See* LMC § 15-1-10.E.15. This finding is supported as follow:

i. The site is already adequately graded to support the existing houses and minimal additional grading will be required for the Residence.

ii. For the reasons discussed below, a steep slope conditional use permit will be issued for the very steep slope disturbance.

p. Is consistent with the goals and objectives of the Park City General Plan. *See* LMC § 15-1-10.E.16. This finding is supported as follow:

i. The existing houses to be demolished are not historically significant.

ii. The proposed design of the Residence is consistent with the design criteria contemplated by the Amended Sweeney Properties MPD approval.

10. The Planning Commission finds that for the reasons above, the Residence will not have a detrimental impact on surrounding uses. The Planning Commission further finds that by terminating the existing short-term rental uses of the home and guest house currently existing on the Property, the Residence will have a reduced overall impact on surrounding uses.

11. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result

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from the proposed use. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Residence and Outdoor Pool CUP applications meet the standards and requirements of the LMC as applied pursuant to the Amended Sweeney Properties MPD, including the criterial for approving a conditional use per LMC § 15-1-10.E and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Residence CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the Residence.

Conditions

The use approved by the Residence and outdoor pool CUP is conditioned upon the following:

A. Final building plans shall reflect substantial compliance with the plans approved February 14, 2024, by the Planning Commission, and attached as Exhibit D. Any changes modifications, or deviations from the approved design that have not been approved in advance by Park City's Planning and Building Departments may result in a stop work order.

B. The Applicant is responsible for notifying the Planning and Building Departments prior to proposing any changes to this approval. The Applicant shall submit in writing any changes, modifications, or deviations from the approved scope of work for planning review and approval/denial in accordance with the applicable standards prior to construction. Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.

C. The current access point of King Road must be maintained, and no new access points are allowed. The driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road shall not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles.

D. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning

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Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

E. All storm water run-off from new impervious surfaces must be contained on the Property.

F. Applicant shall submit a storm drainage analysis to the Park City Engineering Department. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.

G. Applicant shall submit a soil investigation report, geotechnical report, and slope stability report to the city concurrent with or prior to submitting a building permit application.

H. Prior to obtaining a building permit, the Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized.

I. The proposed development must include a vehicular turnaround that meets applicable fire code standards.

J. The Residence's occupants must use as on-site parking the sub-grade parking area shown on the proposed plans.

K. The proposed development must include a vehicle control gate that allows Park City emergency vehicle access and for vehicles to queue in the Property's driveway and not on King Road.

L. No additional fencing is permitted without further approval by the Park City Planning and Building Departments.

M. After construction of the Residence is completed, Applicant shall revegetate the site consistent with the submitted landscape plan, seen on sheet A1.03 of the approved plans.

N. The Residence must be constructed according to the approved plans.

O. The Applicant shall receive approval through the Historic District Design Review process prior to submitting a building permit.

P. The proposed residence's roof shall be consistent with the plans approved by the Planning Commission on February 14, 2024, and attached as Exhibit D.

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Q. The existing access and landscaping easement shall remain in place.

R. Except for a typical “for sale” sign no signs will be permitted on the Property.

S. The primary use of the Property shall be limited to a single-family residential use. The proposed residence shall not be used for a short-term rental or have fractional ownership.

T. Any areas disturbed during construction shall be restored to the original state after the proposed residence, accessory building and structures, and retaining walls are completed.

U. The railing of the roof terrace shall minimize the visibility when viewed cross-canyon.

V. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City’s outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Ground-level fixtures shall be Fully Shielded. Final lighting details must be reviewed by Planning Staff prior to installation.

W. All proposed mechanical equipment, the pool, and/or a hot tub shall be screened. Any hot tub installation is prohibited on east façade decks or terraces.

X. No more than eight inches of the new foundation shall be visible above Final grade on the primary façade and no more than two feet of the foundation shall be visible above Final Grade on secondary and tertiary facades.

Y. Lower-level glazing on the north, east, and south facades shall be screened with berms and/or vegetation as approved by the Planning Department.

Z. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.

AA. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.

BB. Prior to submittal of a Building Permit, the Applicant shall submit for

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review the excavation and grading plans for Engineering Department review and approval to ensure no additional erosion, land subsidence, or avalanche hazard is created.

CC. Cuts, fills, and retaining walls shall be minimized.

DD. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

EE. The Applicant shall demonstrate adequate turnaround to allow a fire apparatus to maneuver to and from the site as approved by the Park City Fire District prior to submitting a Building Permit. The Applicant shall provide a fire hydrant within 600 feet of the proposed development.

FF.The Applicant should upsize the existing service line to provide adequate pressure to the additional living area and fire sprinkler system. Please note the City operates substantial water lines to the west of the proposed dwelling.

GG. To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road.

HH. Glazing on the east façade shall comply with the Second Amendment for the Lot 2 Phase 1 Treasure Hill Subdivision plat notes. Vinyl and aluminum doors and windows are prohibited. Window and door details shall be reviewed and approved through the Historic District Design Review process.

II. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

Conditional Use
File No. PL-23-05571
[Steep Slope –220 King]

Findings of Fact

1. On February 21, 2023, the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

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2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD").

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence. The existing single-family residence and guest house have been used for short-term rentals.

5. The conditional use permit application is for construction on a steep slope ("Steep Slope CUP") as required by Section 15-2.2-6 of Park City's Land Management Code ("LMC").

6. In connection with the Steep Slope CUP application, the Applicant submitted the following documents prepared by Alliance Engineering Inc. for the Planning Commission's consideration:

a. Existing Conditions Map (Job No. 8-3-23);

b. Conceptual Grading Plan (Job No. 8-3-23);

c. Drainage Plan (Job No. 8-3-23);

d. Steep Slope Map (Job No. 8-3-23);

e. Stormwater Management Plan (Job No. 8-3-23); and

f. Excavation Section View (Job No. 8-3-23).

7. The Planning Commission has authority to act as the land use authority for the Steep Slope CUP. *See* LMC § 15-1-10.D.

8. The Applicant submitted all the materials required by the LMC for the Steep Slope CUP and presented in a public hearing regarding the proposals set forth in Steep Slope CUP application.

9. With respect to the Steep Slope CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development on steep slopes can be reasonably mitigated and comply with the LMC's requirements.

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Additional Findings

10. The Planning Commission, as the land use authority, finds that the proposed Steep Slope CUP complies with the standards in LMC § 15-2.2-6.B. Specifically, the proposed steep slope disturbance and Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, are located and designed to reduce the visual and environmental impacts. *See* LMC § 15-2.2-6.B.1. Specifically, the hillside cuts and impact to the very steep slope will be located behind the Residence and will generally not be visible to the town core of Park City.

b. Will be consistent with the visual analysis and landscaping plan submitted by the Applicant. *See* LMC § 15-2.2-6.B.2. Specifically, the Applicant submitted to the Planning Commission a visual analysis and landscaping plan that showed the proposed steep slope disturbance. The Planning Commission has determined that the steep slope disturbance will generally not be visible from the town core of Park City as it is screened from view by the proposed residence.

c. Are consistent with the applicable access and driveway screening requirements. *See* LMC § 15-2.2-6.B.3. Specifically, access to the Property is not changing as the existing driveway will be used and improved. The driveway improvements will comply with the LMC's requirements.

d. Will be appropriately terraced to regain natural grade. *See* LMC § 15-2.2-6.B.4. Terraced structures will be screened from view of the town core of Park City by the proposed residence.

e. Are designed to preserve the perceived natural topography of the Property. *See* LMC § 15-2.2-6.B.5. Specifically, all cuts to the hillside will be screened from view of the town core of Park City by the Residence.

f. As applied pursuant to the Amended Sweeney Properties MPD, are consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. Specifically, the Residence is divided into several massing elements to reduce massing and to orient against the Property's existing contours. Portions of the Residence have been located below grade to reduce visibility and perceived bulk.

g. Are consistent with the applicable setback requirements. *See* LMC § 15-2.2-6.B.7.

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h. Are consistent with the applicable volume limitations. *See* LMC § 15-2.2-6.B.8.

i. Are consistent with the applicable building height requirements. *See* LMC § 15-2.2-6.B.8. Specifically, the Residence meets the height requirements identified in the Amended Sweeney Properties MPD.

11. The Planning Commission finds that for the reasons above, the steep slope disturbance will not have a detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed steep slope disturbance. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the steep slope disturbance or the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Steep Slope CUP meet the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-2.2-6.B as applied pursuant to the Amended Sweeney Properties MPD, and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Steep Slope CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Steep Slope CUP application.

Conditions

The use approved by the Steep Slope CUP is conditioned upon the following:

JJ. All retaining walls shall be generally placed behind the proposed residence to reduce visibility from the town core of Park City.

KK. The driveway to the proposed residence shall not exceed 12 feet in width unless required by Park City Fire District for emergency vehicle turning radius and access, shall not exceed a 14% grade, and must comply with LMC § 15-3-3(A)(4).

LL. Access to the parking area located on the Property shall not face King Road.

MM. If the proposed development contains any retaining walls that are taller than four feet in height, then the Applicant shall provide engineered plans for the retaining walls at the time the Applicant makes application for a building permit.

NN. Applicant shall maintain vegetative screening in accordance with

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the submitted vegetation plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the east façade glazing.

OO. The limits of disturbance around the proposed residence shall be limited to the minimal area necessary to excavate and backfill the foundation.

PP. Structures on the Property shall conform to the HR-1 setbacks set forth in LMC § 15-2.2-3. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

QQ. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

RR. The Applicant shall provide elevation drawings of all segments of the Accessory Buildings that have an exposed face to Planning staff for review as part of the Historic District Design Review process.

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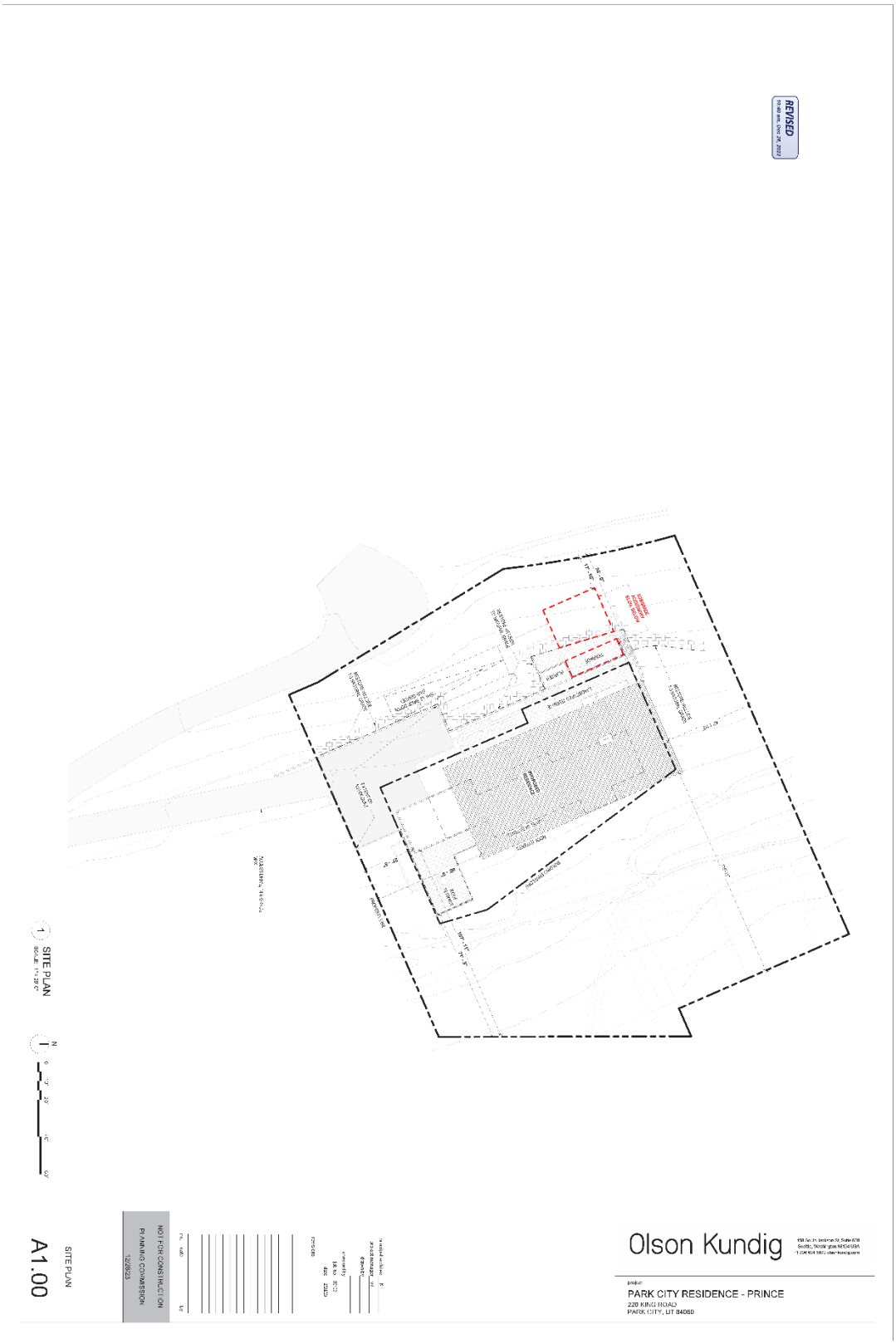
Exhibit C
Site Plan



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If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:
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2/24/2024

Sarah Hall, Planning Commission Chair

CC: Rebecca Ward, Planning Director
Caitlyn Tubbs, Senior Historic Preservation Planner

Exhibit D – Approved Plans

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Building Diagrams

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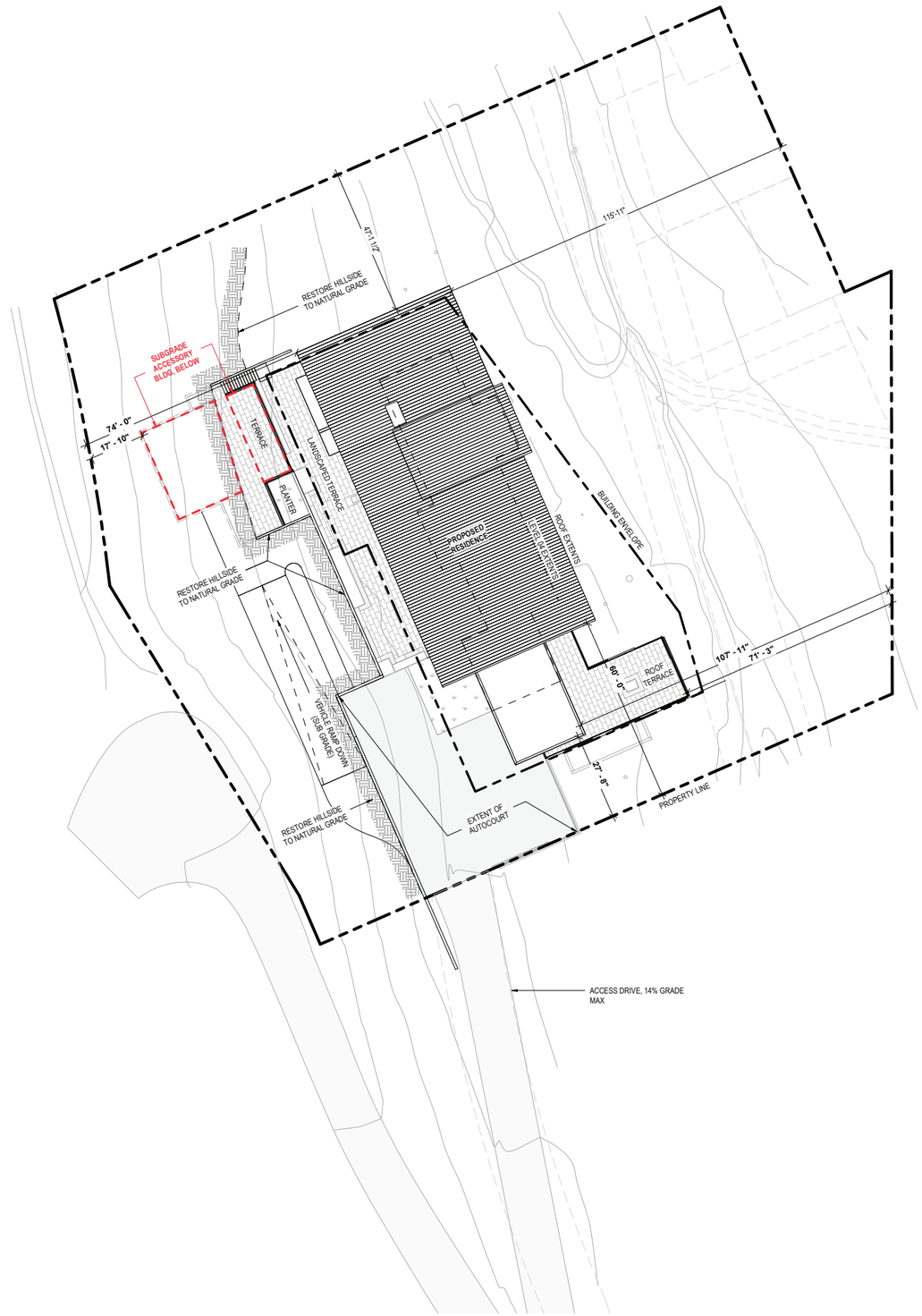

1 SITE PLAN
SCALE: 1" = 20'-0"

N

0 10' 20' 40' 60'

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project:
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060

principal architect TK
project manager SG
drawn by
checked by
job no. 20102
date 12/28/23

revisions:

no. date by

NOT FOR CONSTRUCTION

PLANNING COMMISSION

12/28/23

SITE PLAN

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GENERAL NOTES

- EXISTING STRUCTURES AND HARDSCAPE ON SITE TO BE DEMOLISHED.
- RETURN HILLSIDE TO NATURAL GRADE AFTER DEMOLITION.
- POST-DEMOLITION CONTOUR LINES REPRESENT EXISTING GRADE FOR PROPOSED BUILDING HEIGHT ANALYSIS.

KEY LEGEND

- MINOR CONTOUR, SURVEYED
- 7350 MAJOR CONTOUR, SURVEYED
- MINOR CONTOUR, POST-DEMOLTION
- 7350 MAJOR CONTOUR, POST-DEMOLTION

ROOF SPOT ELEVATION

XXXX' - X" ROOF HEIGHT AT POINT

XX' - X" HT ROOF HEIGHT ABOVE POST-DEMO GRADE

1 ROOF HEIGHT TO GRADE
SCALE: 1" = 20'-0"

N 0 10' 20' 40' 60'

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ROOF HEIGHT TO GRADE

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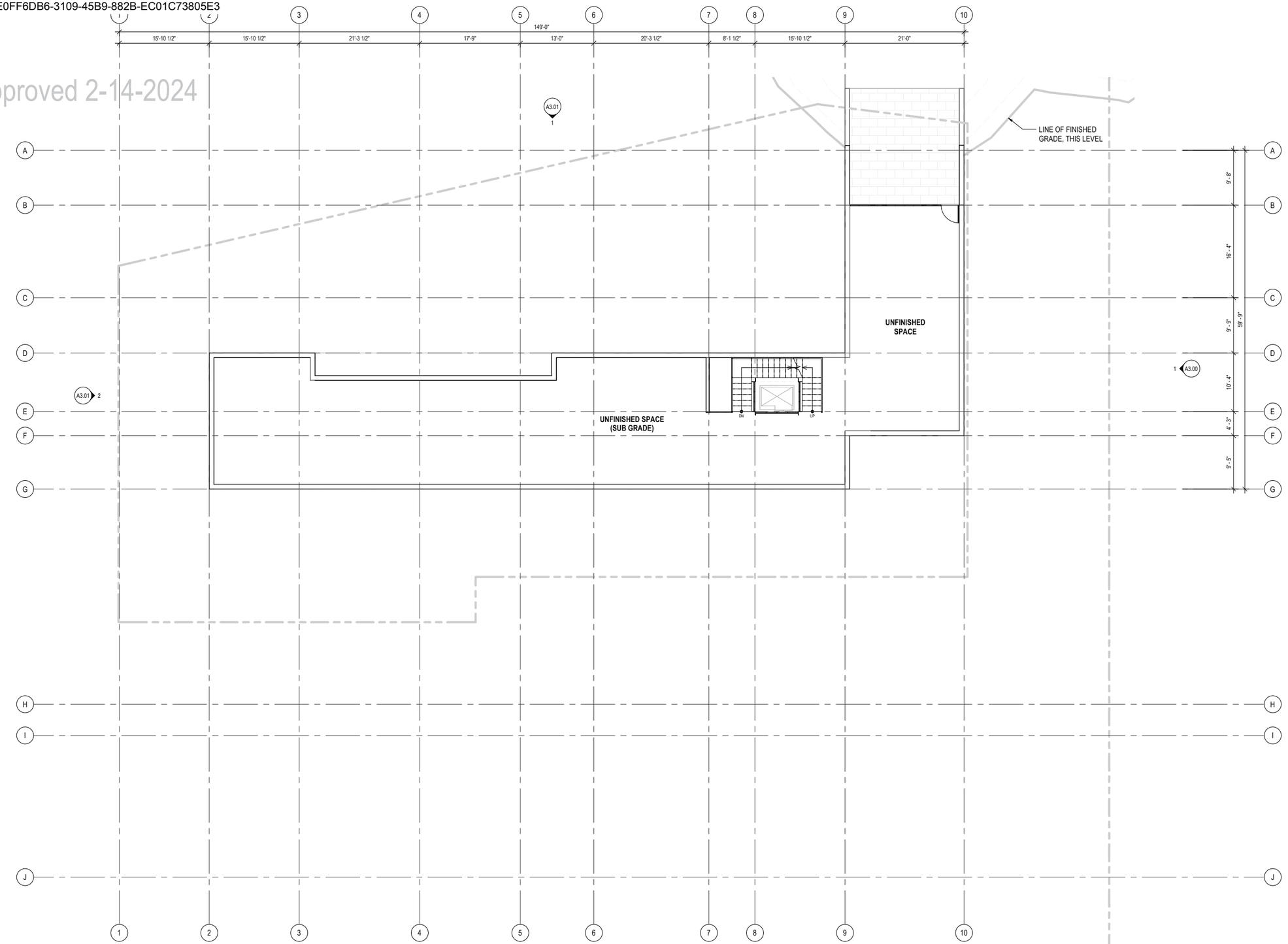

1 LEVEL 01 PLAN
SCALE: 1/8" = 1'-0"

N 0 2' 4' 6' 8' 16' 24'

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PLAN - LEVEL 01

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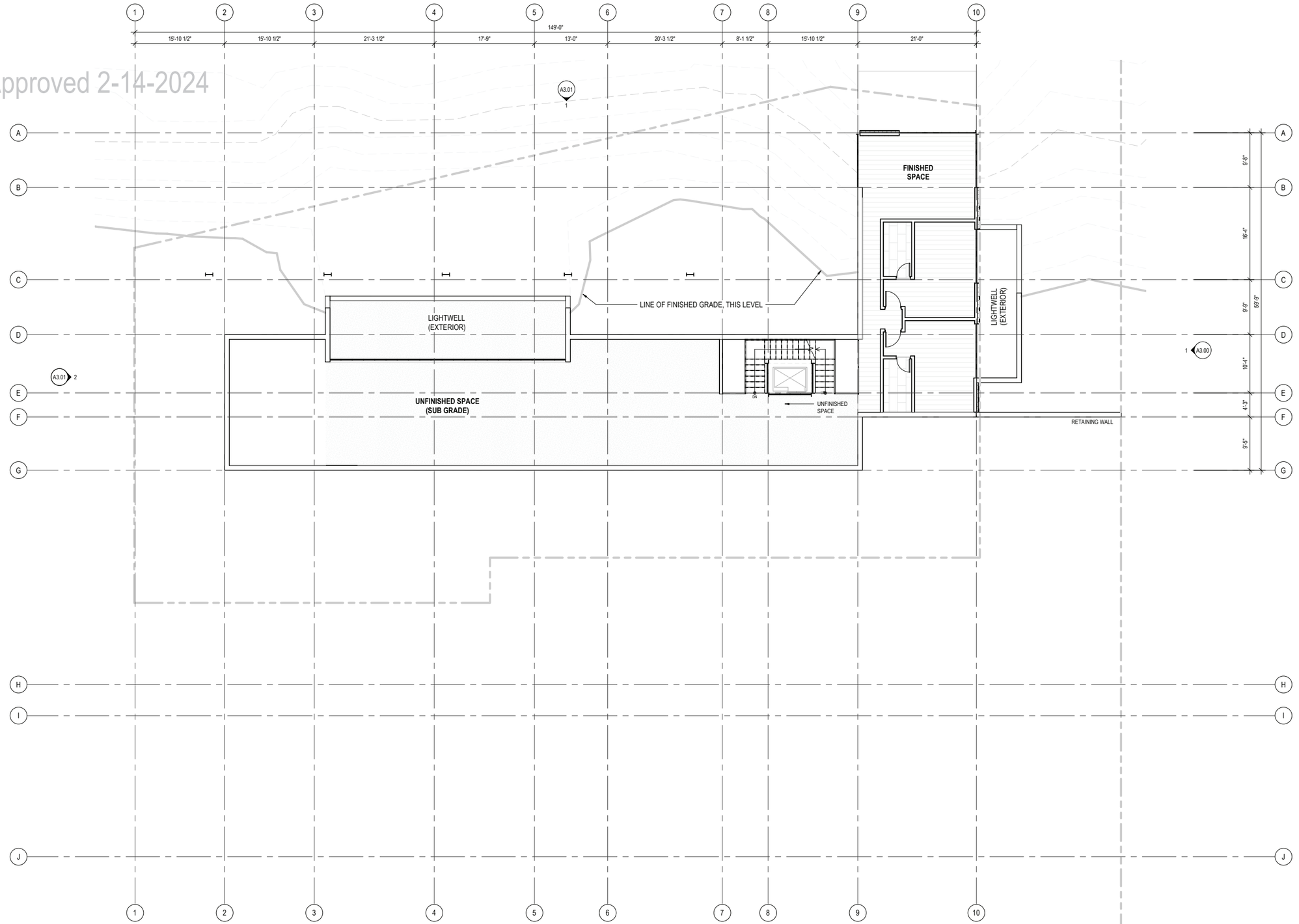

1 LEVEL 02 PLAN
SCALE: 1/8" = 1'-0"

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PLAN - LEVEL 02

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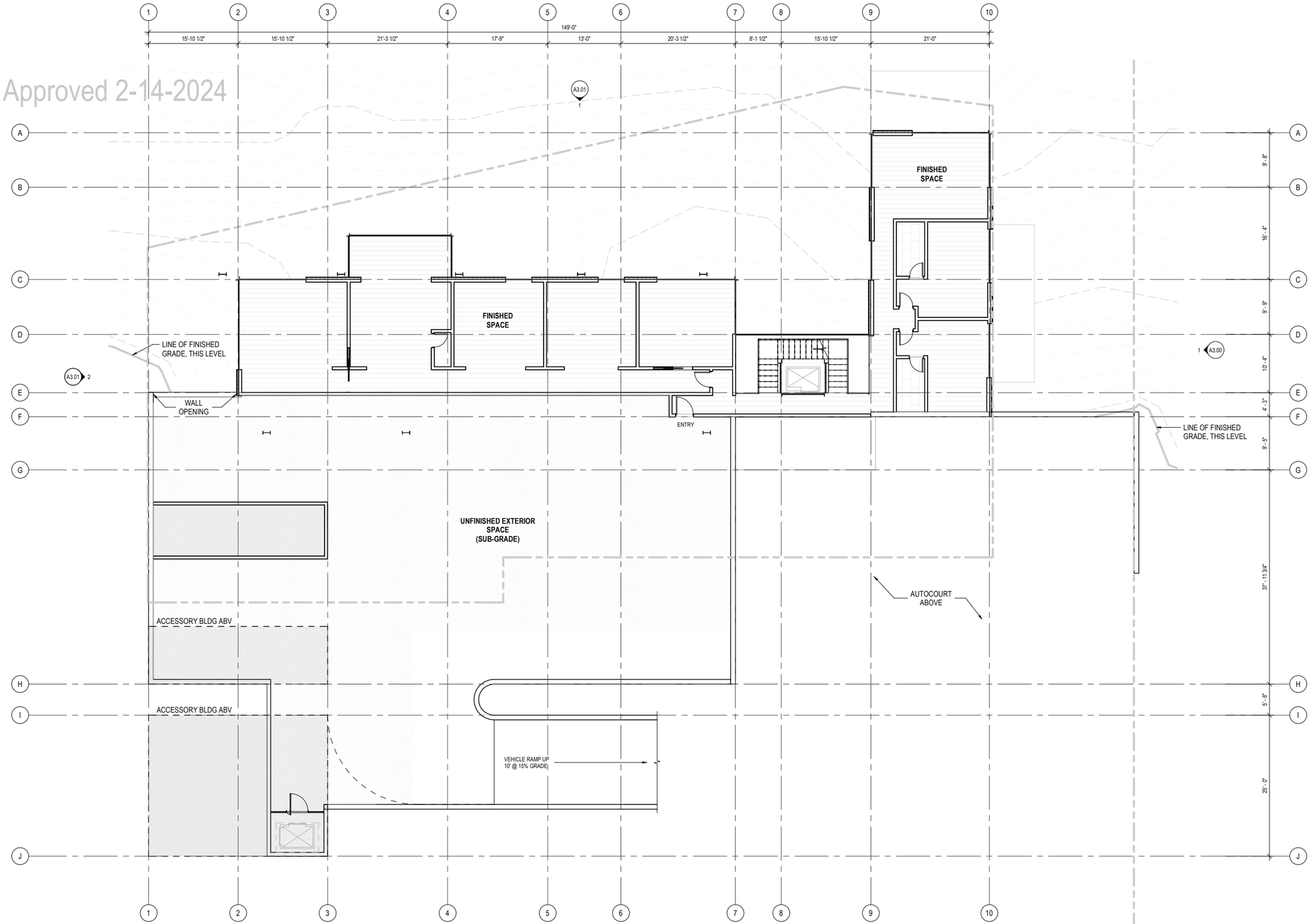

1 LEVEL 03 PLAN
SCALE: 1/8" = 1'-0"

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no.	date	by

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PLAN - LEVEL 03

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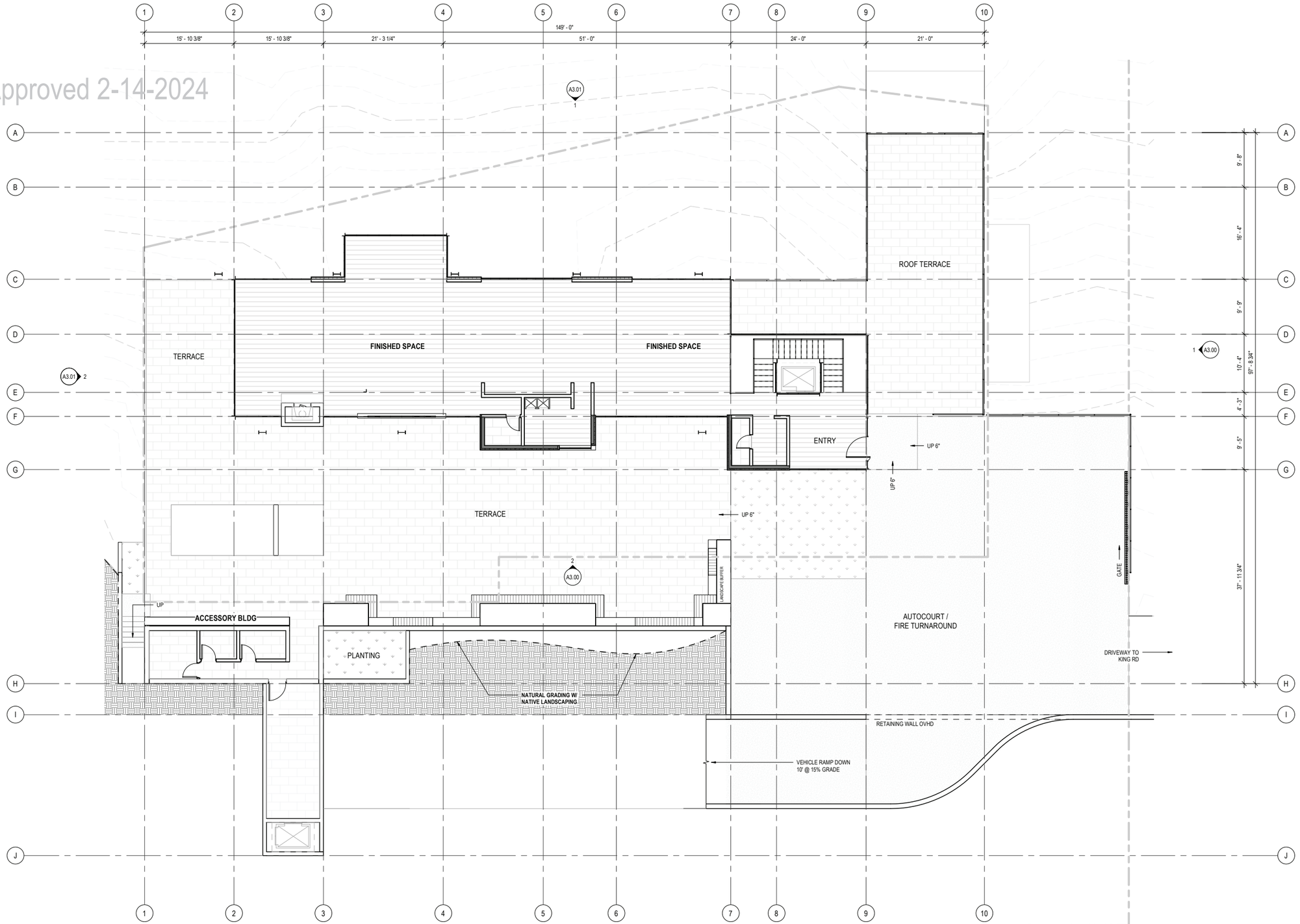

1 LEVEL 04 PLAN
SCALE: 1/8" = 1'-0"

N 0 2' 4' 6' 8' 16' 24'

Olson Kundig
159 South Jackson St, Suite 600
Seattle, Washington 98104 USA
+1 206 624 5670 olsonkundig.com

project:
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060

principal architect TK
project manager SG
drawn by
Author
checked by
job no. 20102
date 12/28/23

revisions:

no.	date	by

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/28/23

PLAN - LEVEL 04

A2.40

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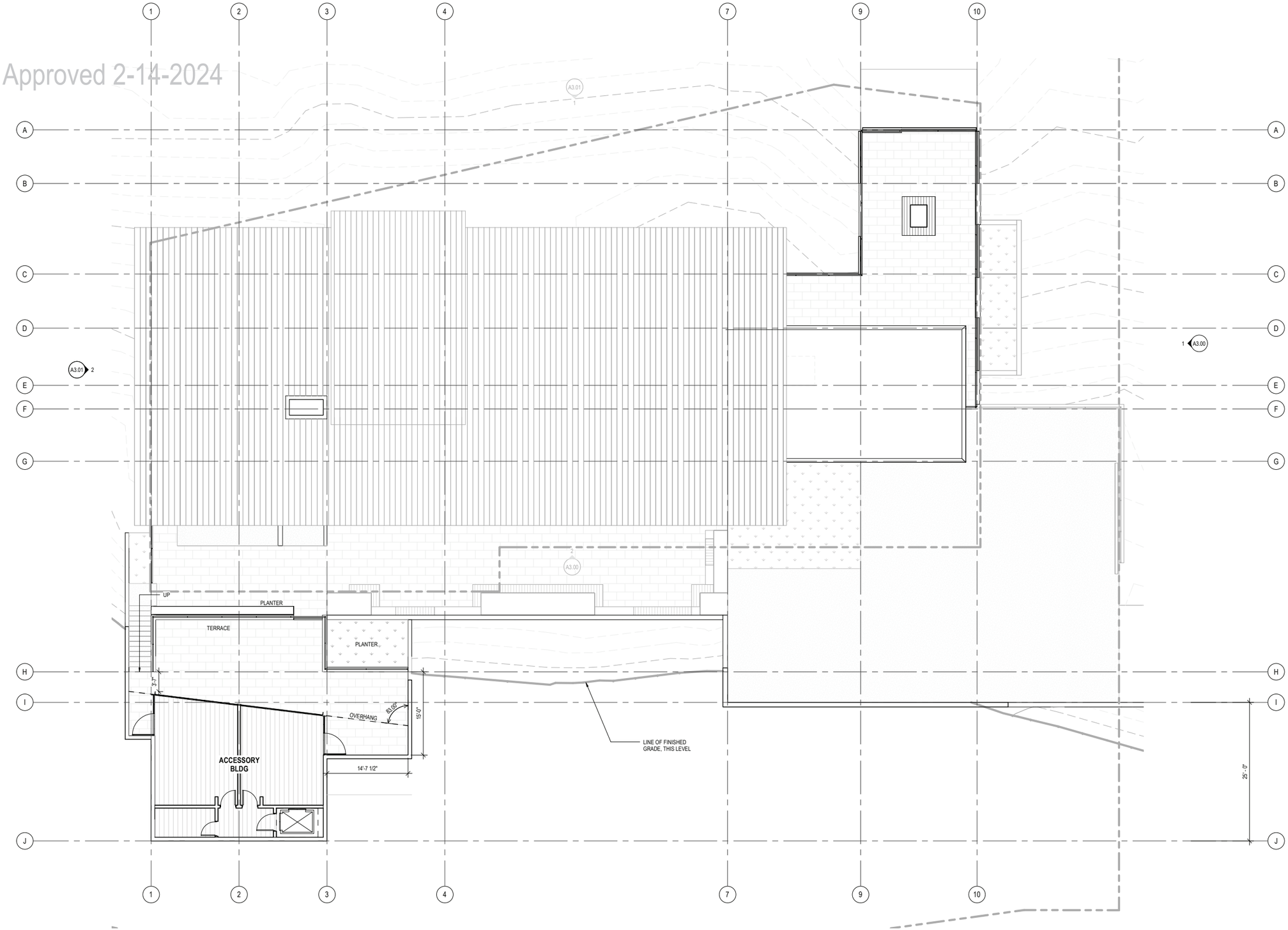

1 LEVEL 05 PLAN
SCALE: 1/8" = 1'-0"

N 0 2' 4' 6' 8' 16' 24'

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checked by Checker
job no. 20102
date 12/28/23

revisions:

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PLAN - LEVEL 05

A2.50

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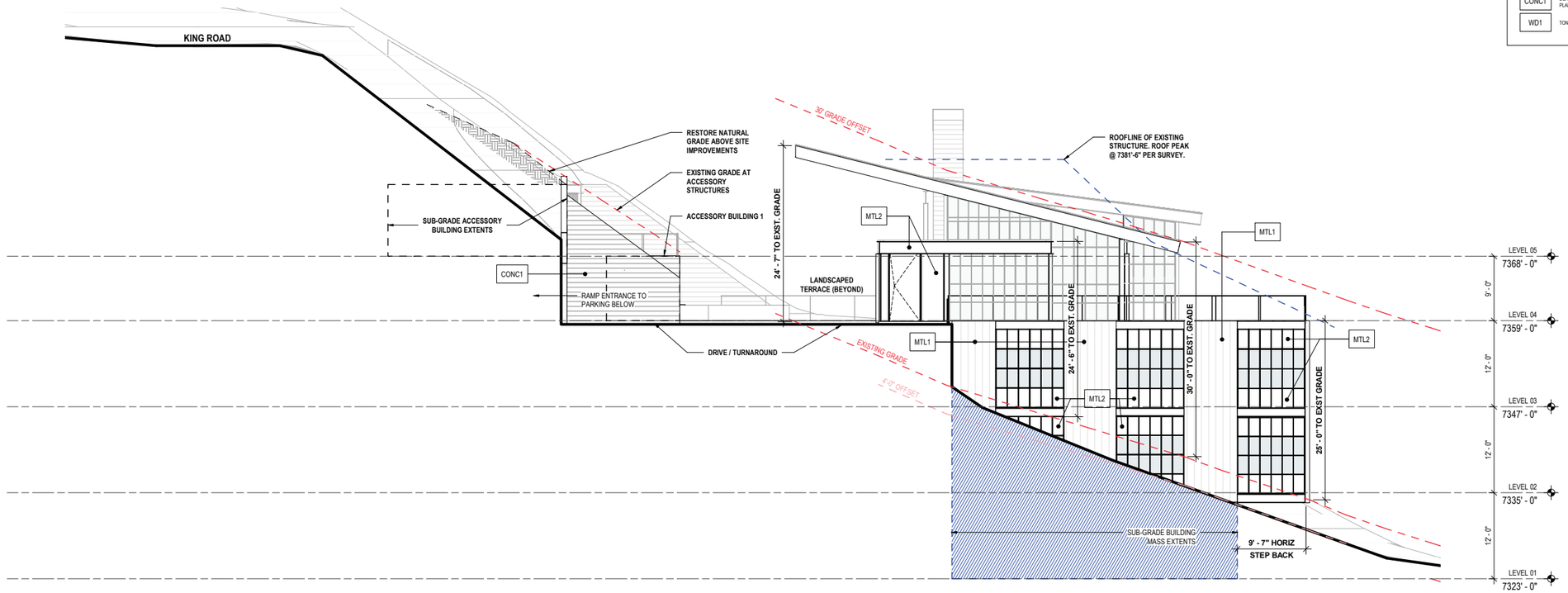
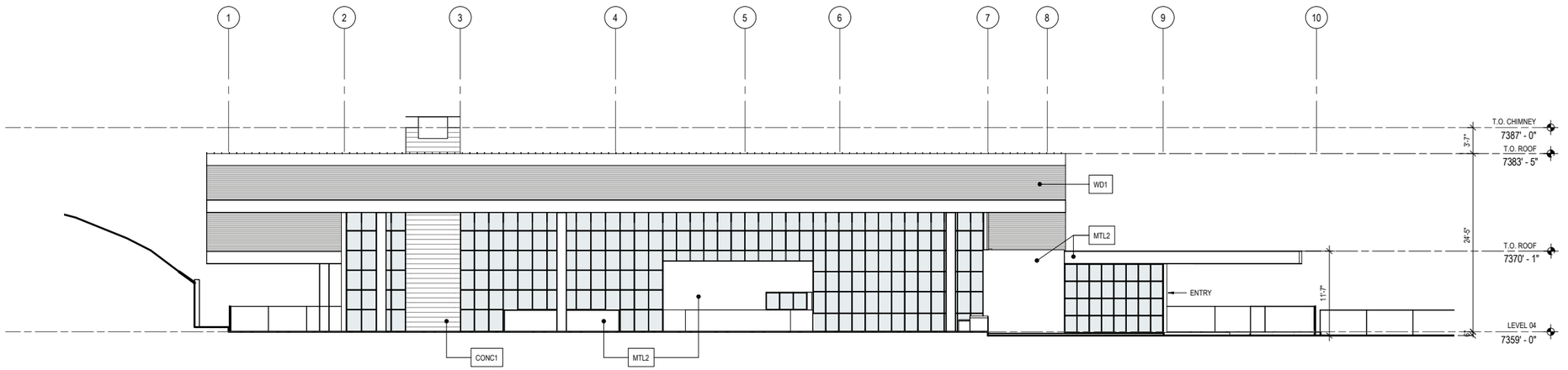


1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 WEST ELEVATION
SCALE: 1/8" = 1'-0"

0 2' 4' 6' 8' 16' 24'

MATERIAL LEGEND

MTL1	METAL PLANK SIDING, VERTICALLY ORIENTED, ZINC FINISH
MTL2	PRE-WEATHERED STEEL
MTL3	STANDING SEAM ROOF PANEL, PRE-WEATHERED STEEL FINISH
CONC1	BOARD FORMED CONCRETE (12" PLANK FORMAT)
WD1	TONGUE AND GROOVE WOOD PLANK

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12/28/23

EXTERIOR ELEVATIONS

A3.00

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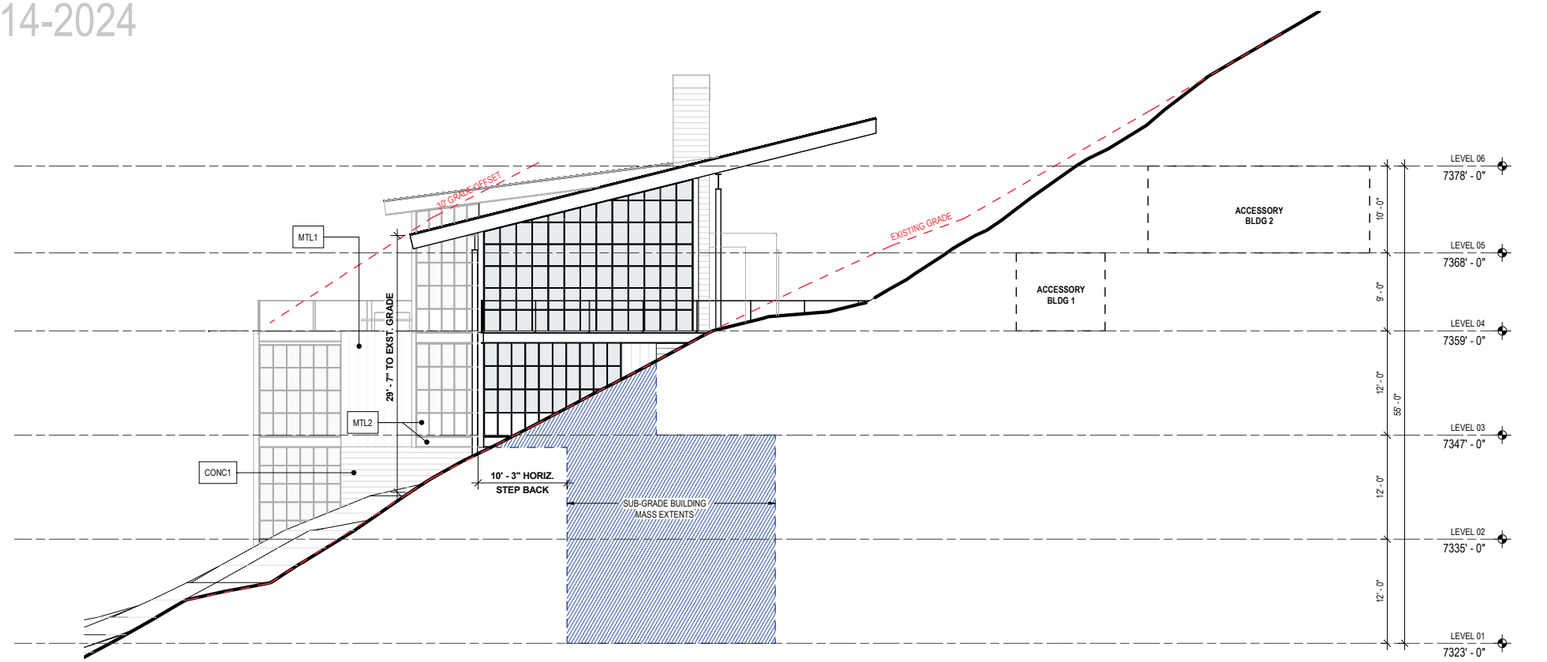
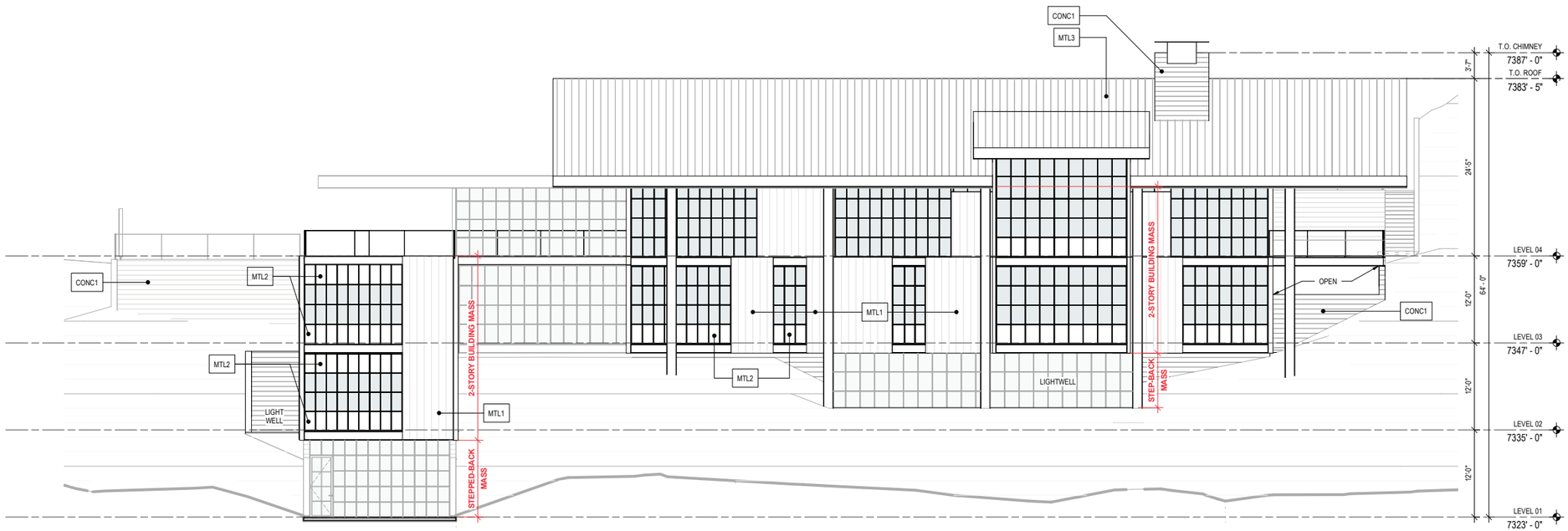
MATERIAL LEGEND

MTL1	METAL PLANK SIDING, VERTICALLY ORIENTED, ZINC FINISH
MTL2	PRE-WEATHERED STEEL
MTL3	STANDING SEAM ROOF PANEL, PRE-WEATHERED STEEL FINISH
CONC1	BOARD FORMED CONCRETE (12" PLANK FORMAT)
WD1	TONGUE AND GROOVE WOOD PLANK



2 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 EAST ELEVATION
SCALE: 1/8" = 1'-0"

0 2' 4' 6' 8' 16' 24'

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project:
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060

principal architect TK
project manager SG
drawn by
checked by
job no. 20102
date 12/28/23

revisions:

no. date by

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PLANNING COMMISSION
12/28/23

EXTERIOR ELEVATIONS

A3.01

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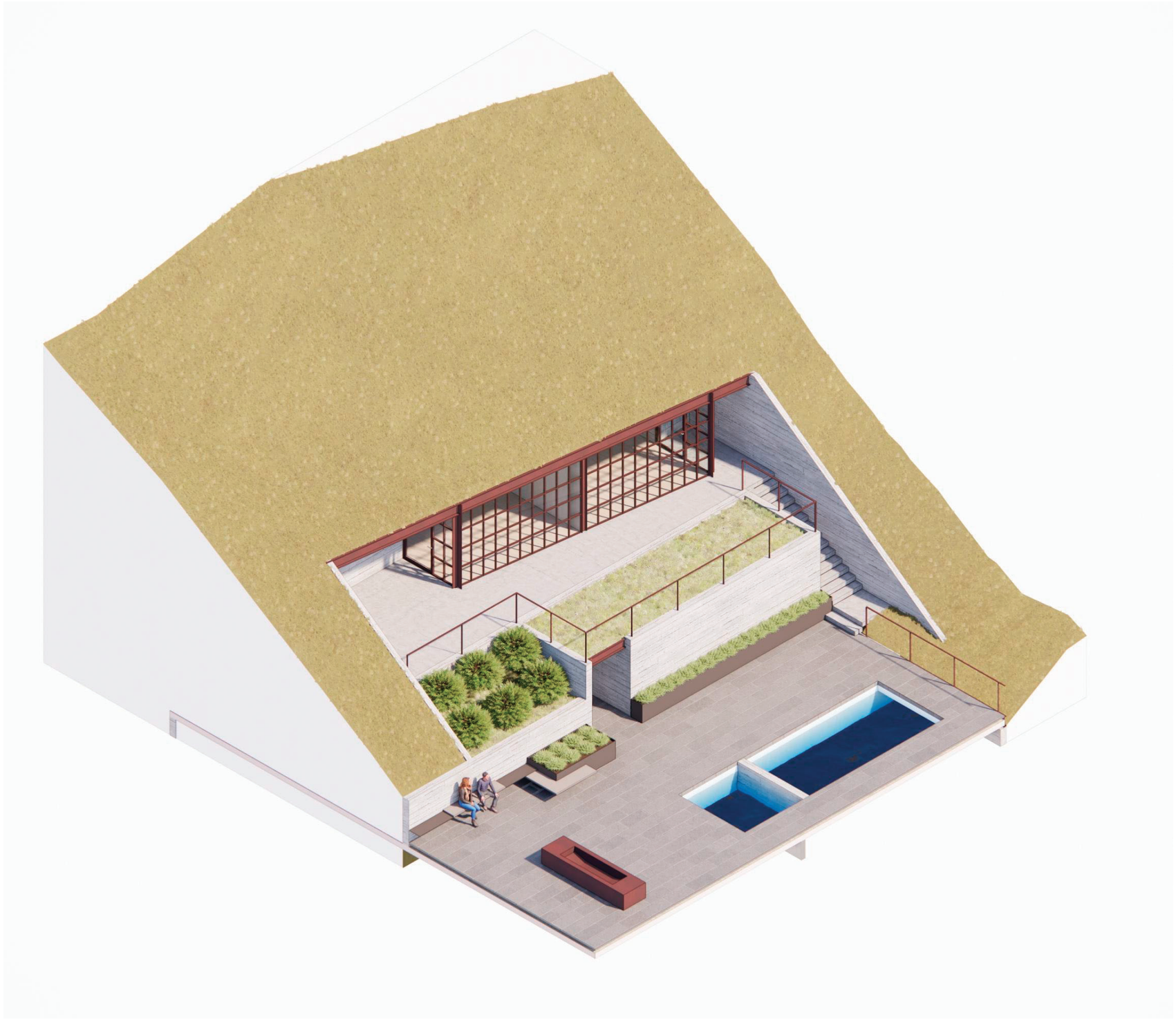

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Grading Plan

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Approved 2-14-2024

EXISTING CONCRETE STAIRS.
EXISTING ROCK WALLS.
EXISTING CONCRETE STAIRS.
6' TRAIL EASEMENT.
7300
7310
7320
7330
7340
7350
7360
7370
7380
7390
7400
7410
EXISTING SS LINE
SS1
SS2
SS3
EXISTING TRAIL
30' NON-EXCLUSIVE UNDERGROUND UTILITY EASEMENT.
EXISTING TRAIL
EXISTING ROCK WALL
EXISTING VEGETATION.
EXISTING WOODEN STEPS
EXISTING ROCK STEPS
EXISTING TREES PLANTED DURING HOUSE CONSTRUCTION
EXISTING HOUSE
EXISTING ROCK WALL
EXISTING TREES PLANTED DURING HOUSE CONSTRUCTION
EXISTING HOUSE
EXISTING ROCK WALL
EXISTING TREES PLANTED DURING HOUSE CONSTRUCTION
EXISTING ROCK STEPS
PROPERTY LINE
EXISTING ROCK WALL
EXISTING TREES PLANTED DURING HOUSE CONSTRUCTION
EXISTING ROCK WALL
EXISTING ROCK WALL
EXISTING LIGHT POLE
EXISTING TRAIL
EXISTING ASPHALT DRIVEWAY
EXISTING DRIVEWAY EASEMENT.
EXISTING LIGHT POLE
KING ROAD
PROPERTY LINE

20' 0 20' 40'

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

EXISTING CONDITIONS
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER - JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

SHEET 1 OF 8

NOTES:
1. EXISTING CONDITION SURVEY IS DONE BY UTAH LAND SURVEYING, LLC.

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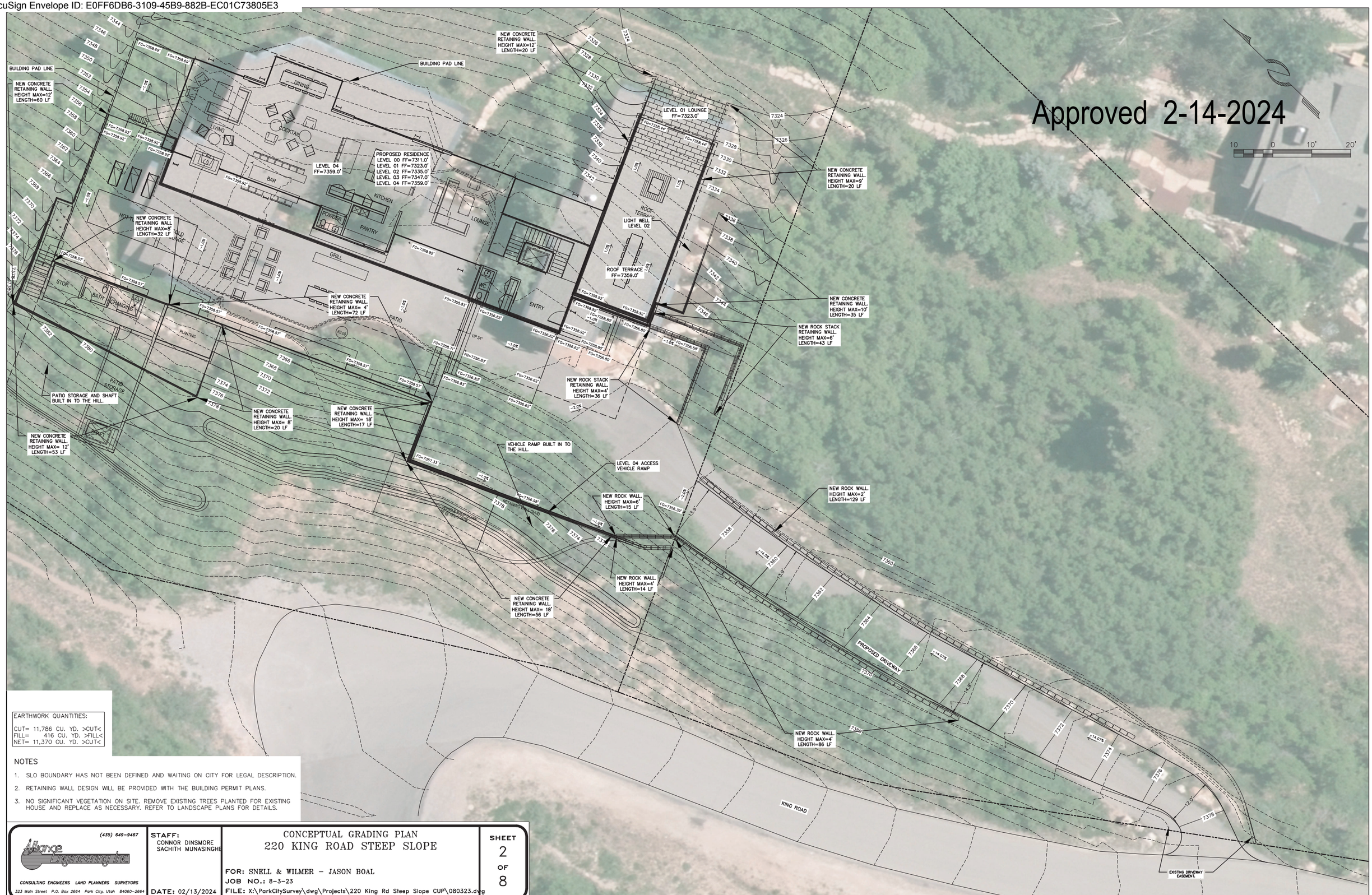

EARTHWORK QUANTITIES:

CUT= 11,786 CU. YD. >CUT<
FILL= 416 CU. YD. >FILL<
NET= 11,370 CU. YD. >CUT<

NOTES

1. SLO BOUNDARY HAS NOT BEEN DEFINED AND WAITING ON CITY FOR LEGAL DESCRIPTION.
2. RETAINING WALL DESIGN WILL BE PROVIDED WITH THE BUILDING PERMIT PLANS.
3. NO SIGNIFICANT VEGETATION ON SITE. REMOVE EXISTING TREES PLANTED FOR EXISTING HOUSE AND REPLACE AS NECESSARY. REFER TO LANDSCAPE PLANS FOR DETAILS.

(435) 649-9467
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323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF: CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

CONCEPTUAL GRADING PLAN
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER – JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

SHEET 2 OF 8

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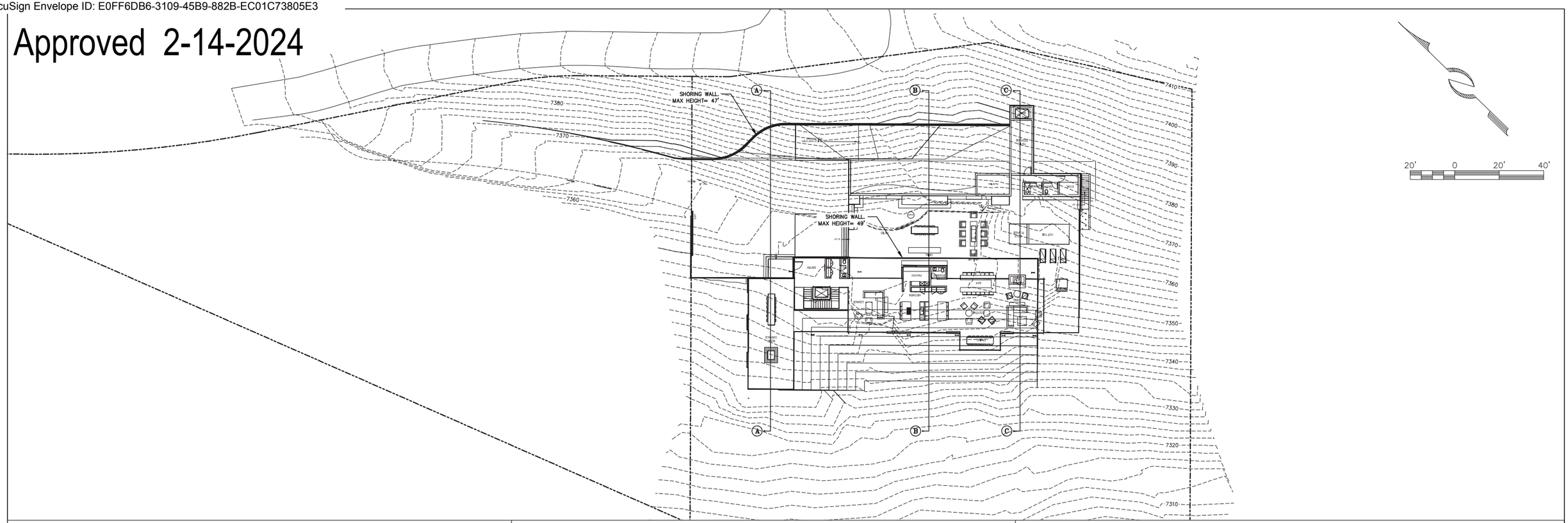
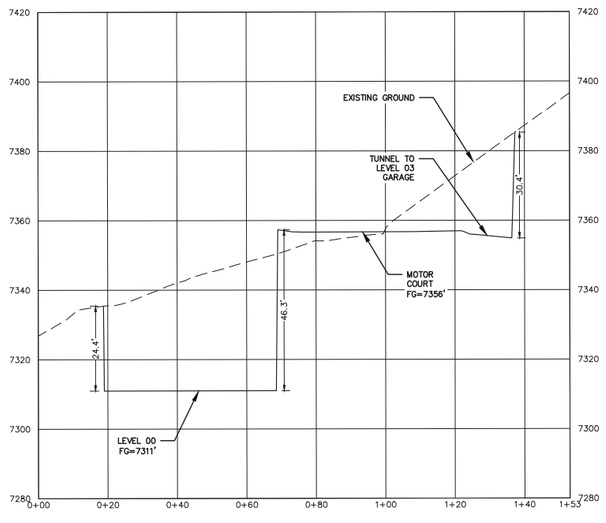
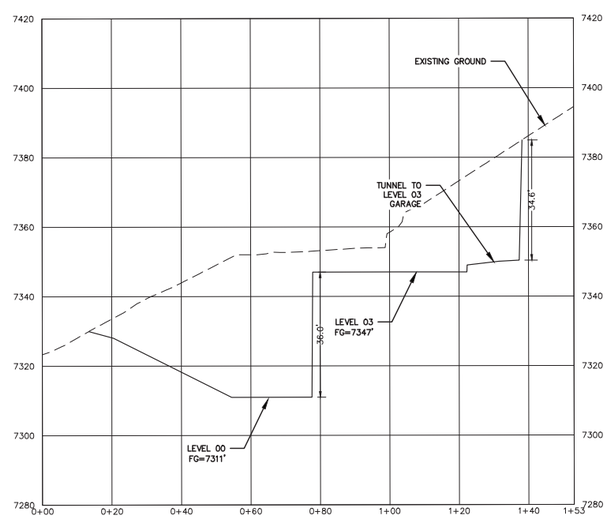


SECTION "A-A"



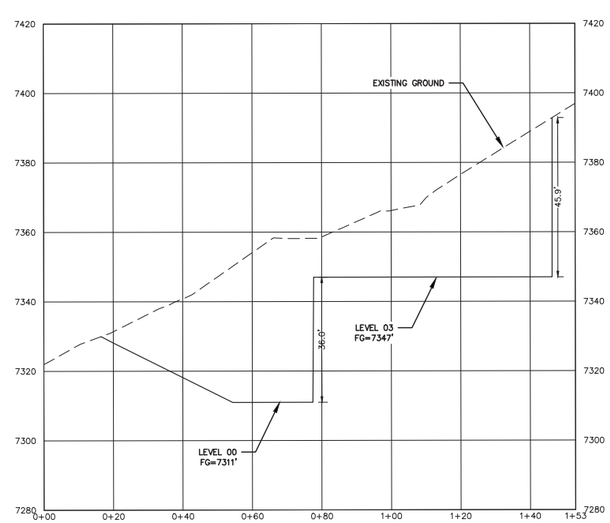
SECTION "B-B"



EARTHWORK QUANTITIES:

CUT= 11,786 CU. YD. >CUT<
FILL= 416 CU. YD. >FILL<
NET= 11,370 CU. YD. >CUT<

SECTION "C-C"



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323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

EXCAVATION SECTION VIEW
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER - JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

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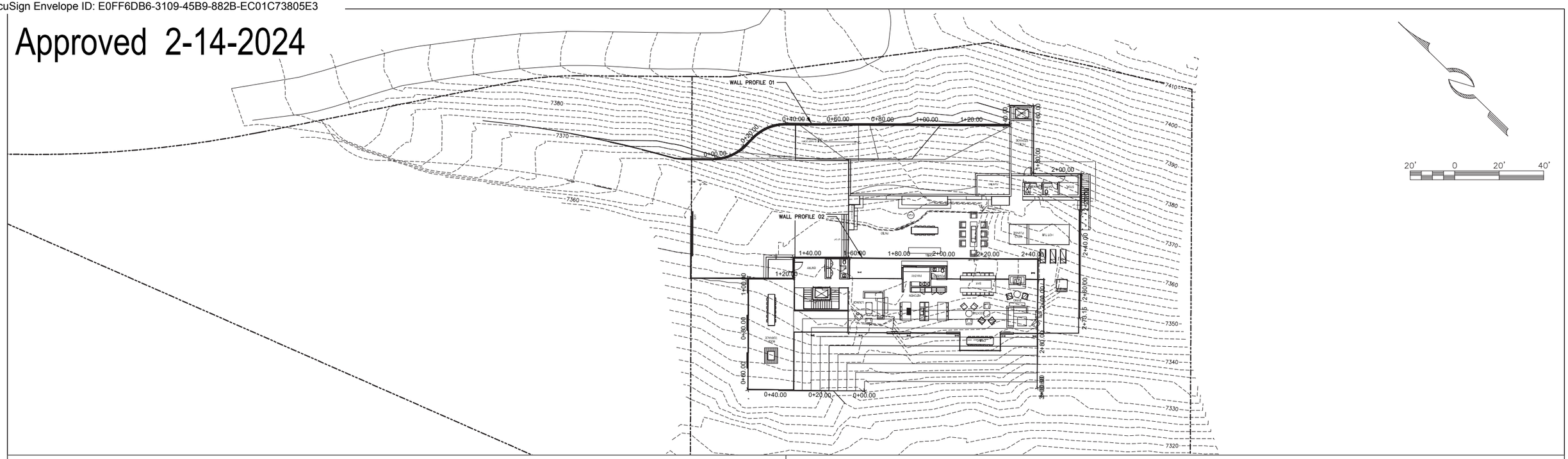
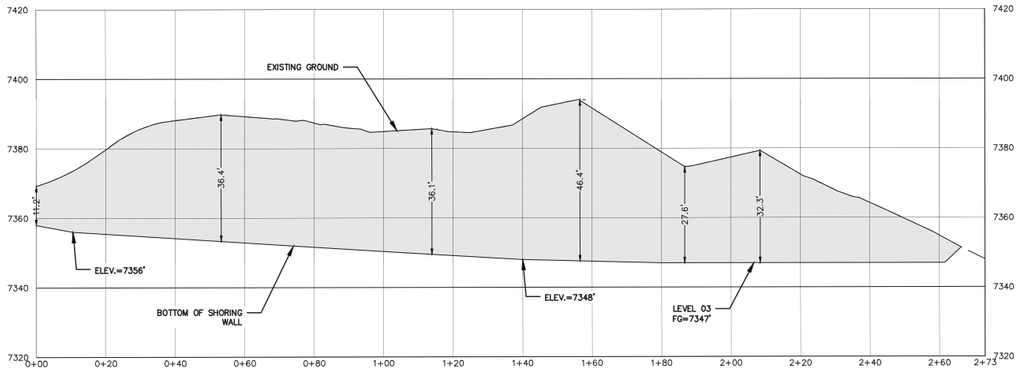
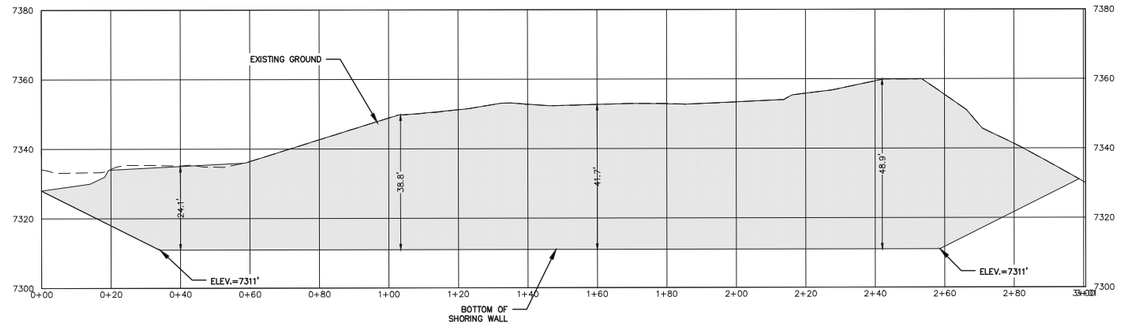


WALL PROFILE 01



WALL PROFILE 02



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323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

PLAN AND PROFILE OF THE SHORING WALL
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER - JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

SHEET 8 OF 8

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Drainage Plan

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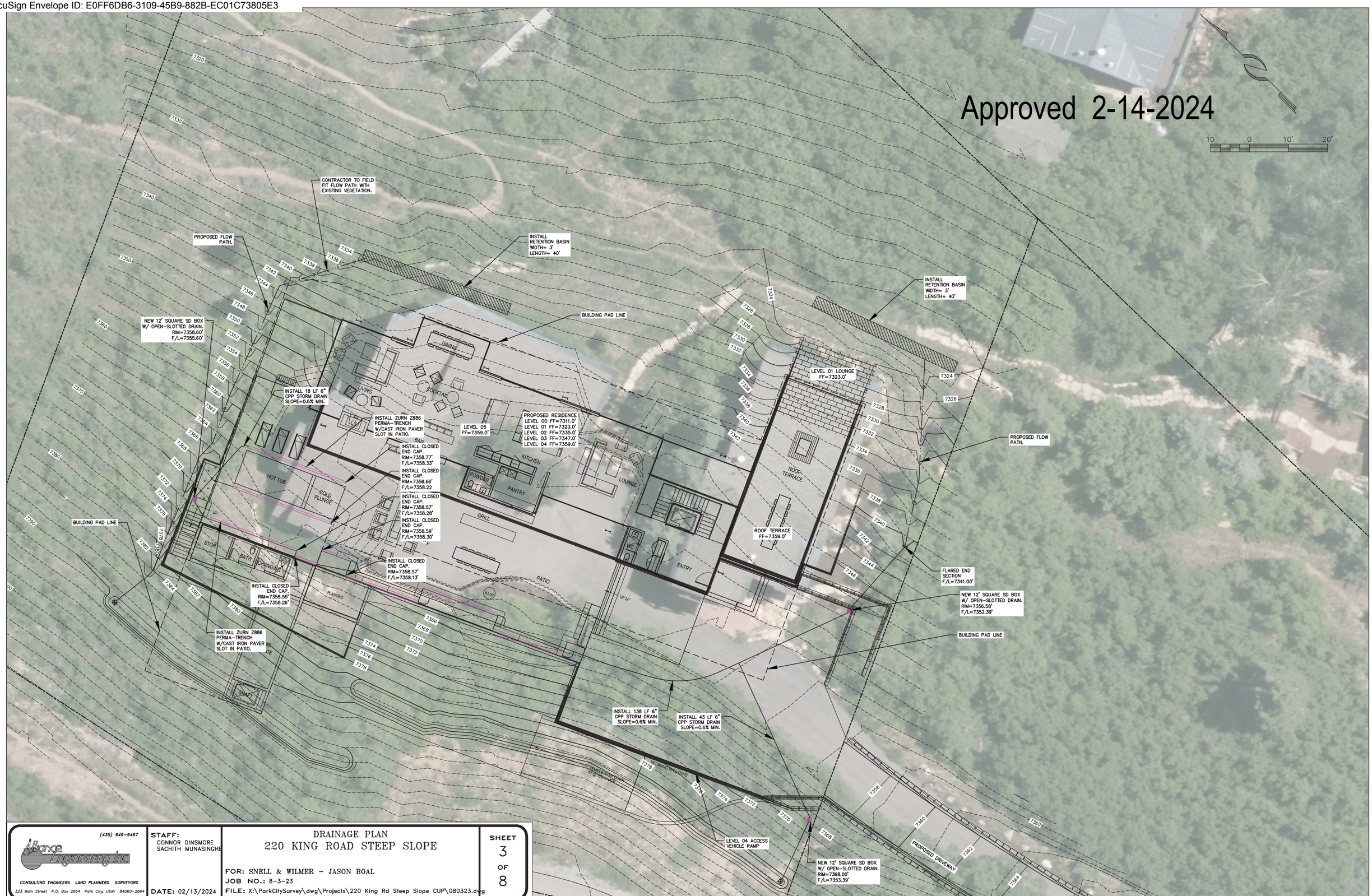
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Alliance Engineering Inc

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323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF: CONNOR DINSMORE SACHITH MUNASINGHE

DATE: 02/13/2024

DRAINAGE PLAN
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER – JASON BOAL
JOB NO.: 8-3-23
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SHEET 3 OF 8

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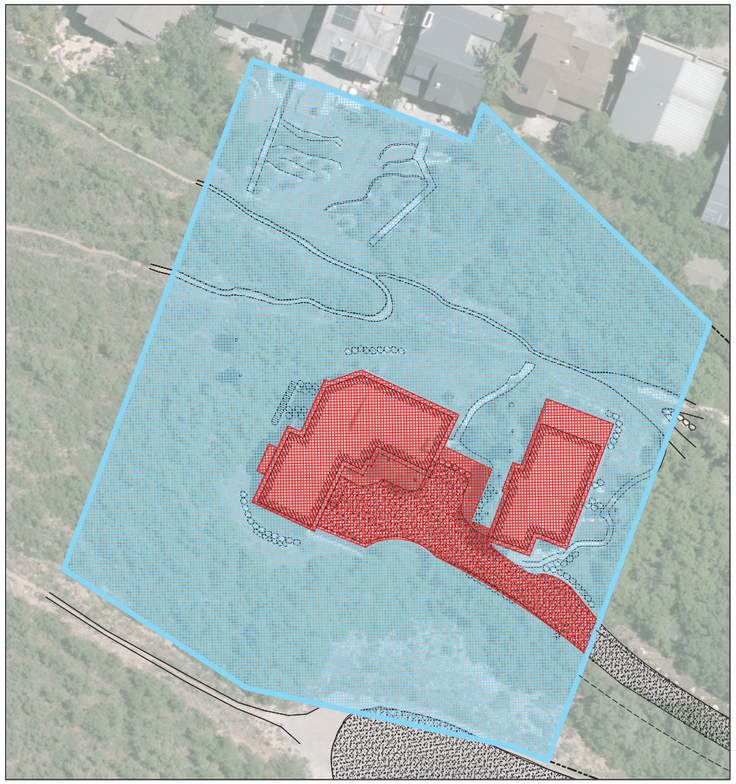

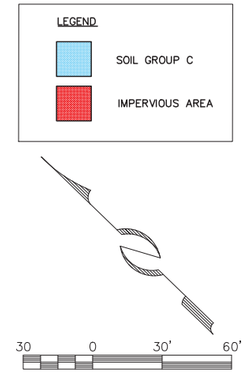

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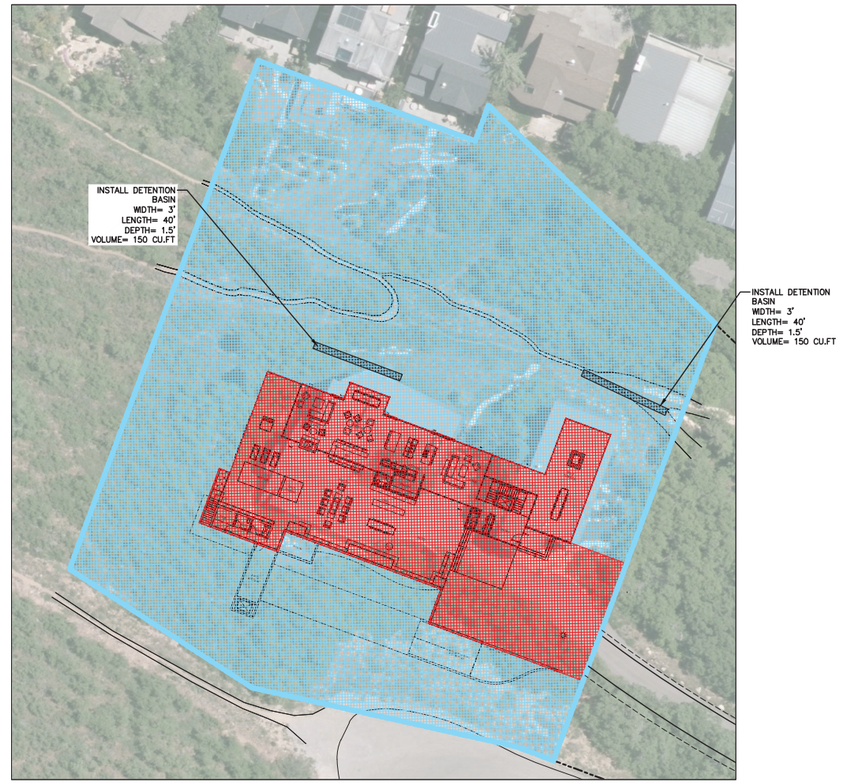


WATER QUALITY VOLUME CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: $WQ_V = CiTA$

DESIGN STORM: *90TH PERCENTILE EVENT*

NOTE: *INTENSITY = 0.60 IN/HR PER SUMMIT COUNTY MS4.*

VARIABLES

Q = RUNOFF FLOWRATE [CUBIC FEET/SEC]

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	*0,07*	*0,10*	*0,14*	*0,18*
AVERAGE (2-6%)	*0,12*	*0,15*	*0,19*	*0,23*
STEEP (>6%)	*0,16*	*0,21*	*0,27*	*0,33*
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	*0,78*		*0,93*	

i = STORM INTENSITY [FT/HR]

T= STORM DURATION (HR)

NOTE: *T= 1 HR PER SUMMIT COUNTY ORDINANCE 381-A.*

A = AREA [FT^2]

PRE-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			*45,298*	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				*8,509*

A= 53,807 FT^2

C= 0,37

i= 0,05 FT/HR

t= 1,00 HR

ΔWQ_V = *1,005 CU FT*

POST-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			*41,322*	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				*12,485*

A= 53,807 FT^2

C= 0,42

i= 0,05 FT/HR

t= 1,00 HR

ΔWQ_V = *1,135 CU FT*

GROUNDWATER RECHARGE VOLUME

ΔWQ_V = *130 CU FT*

PEAK RUNOFF CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: *RATIONAL METHOD Q=CiA*

STORM RETURN PERIOD: *100 YEARS*

NOTE: *FOR THE 100 YR RECURRANCE INTERVAL, THE COMPOSITE "C" VALUE IS ADJUSTED BY A FACTOR OF 1.25 BEFORE COMPUTING Q.*

STORM DURATION: *10 MN.*

SOUCE: *NOAA ATLAS 14 - PARK CITY RADIO STATION 42-6648*

VARIABLES

Q = RUNOFF FLOWRATE [CUBIC FEET/SEC]

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	*0,07*	*0,10*	*0,14*	*0,18*
AVERAGE (2-6%)	*0,12*	*0,15*	*0,19*	*0,23*
STEEP (>6%)	*0,16*	*0,21*	*0,27*	*0,33*
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	*0,78*		*0,93*	

i = STORM INTENSITY [INCHES/HR]

A = AREA [ACRES]

t = TIME OF CONCENTRATION (SEC.)

V = EXCESS RUNNOFF VOLUME (CU FT) = ΔQt

PRE-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	-	-	-	-
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	*1,04*	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE		-		*0,20*

A= 1,24 ACRES

C= 0,37

C_{ADJ} = *0,47*

i= 5,00 IN/HR

Q= 2,88 CFS

POST-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	-	-	-	-
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	*0,95*	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE		-		*0,29*

A= 1,24 ACRES

C= 0,42

C_{ADJ} = *0,53*

i= 5,02 IN/HR

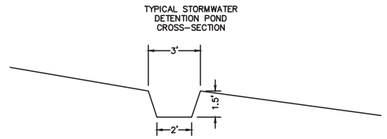
Q= 3,27 CFS

EXCESS RUNOFF STORAGE VOLUME

ΔQ= 0,39 CFS

t= 600 SEC.

V= 232 CU FT



STORMWATER DETENTION REQUIRED = 232 CU. FT.
STORMWATER DETENTION PROVIDED ••300 CU. FT.

NOTES:

1. PEAK RUNOFF VOLUME OF 232 CU. FT. IS TO BE 100% DETAINED IN PROPOSED POND. THE DIMENSIONS OF THE DETENTION BASIN IS NOTED ON THE ABOVE PLAN. CUMULATIVE DETENTION VOLUME = 300 CU. FT.
2. OUTLET ROOF DRAINS SO THAT THE STORM WATER FLOWS FROM HOUSE DOWN GRADING AND INTO DETENTION BASIN.
3. STORMWATER DETENTION POND ALIGNMENT MAY VARY, FOLLOW EXISTING CONTOUR.
4. THE DETENTION POND HAVE BEEN SIZED TO DETAIN 100% OF THE WATER QUALITY VOLUME (PER SUMMIT COUNTY ORDINANCE NO. 381–A, APPENDIX F) MEETING THE COUNTY REQUIREMENTS FOR TSS REMOVAL AND GROUNDWATER RECHARGE.

(435) 649-9467
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323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

STORMWATER MANAGEMENT PLAN
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER – JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

SHEET 5 OF 8

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Landscape/Vegetation Plan

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

Approved 2-14-2024

PLANTING SCHEDULE

TREES

ABBR.	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
PT-1	*Populus tremuloides*	Quaking Aspen	1 1/2" CAL	32
PT-2	*Populus tremuloides*	Quaking Aspen	4" CAL	9
AC	*Abies concolor*	White Fir	#65 (7FT TALL)	55
PM	*Pseudotsuga menziesii*	Douglas Fir	4" CAL, #95/100	16
SA	*(mixed native species)*	Sapling	#5	TBD

SHRUBS

ABBR.	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
QB	*Quercus gambelii*	Colorado Scrub Oak	#10	30

GRASS AND PERENNIAL

TYPE	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
NATIVE GRASS MIX			1 GAL	7,591 SF
	Festuca ovina	Sheep Fescue		
	Bouteloua gracilis	Blue Grama Grass		
	Bouteloua curtipendula	Sideoats Grama		
	Artemisia tridentata var. vaseyana	Vasey's Sagebrush		
	Penstemon strictus	Rocky Mountain Penstemon		
	Achillea millefolium	Common Yarrow		
NATIVE PARTIAL SHADE MIX			1 GAL	7,637 SF
	Festuca ovina	Sheep Fescus		
	Stipa hymenoides	Indian Rice Grass		
	Leymus cinereus	Great Basin Rye		
	Machaeranthera tanacetefolia	Tahoka Daisy		
	Geranium viscosissimum	Wild Geranium		
	Sphaeralcea grossulariifolia	Globemallow		
NATIVE RE-VEGETATION SEEDING MIX			HYDROSEEDING	1,647 SF

KEY LEGEND

- BUILDING FOOTPRINT
- CONCRETE PAD ON GRADE
- STONE PAVER
- CONCRETE RETAINING WALL
- SNOW STORAGE
- PROPERTY LINE
- SUBGRADE STRUCTURE
- OVERHANG
- 7320 EXISTING CONTOURS
- PROPOSED 2FT CONTOURS
- 7330 PROPOSED 10FT CONTOURS

NOTE:

1. SEE SURVEY FOR MORE INFORMATION ON EXISTING VEGETATION AND TREES.
2. CONTRACTOR TO CONFIRM EXISTING TREES AND NOTIFY OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES BETWEEN THE PLAN AND THE EXISTING CONDITIONS BEFORE STARTING WORK.
3. CONTACT LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE PRIOR TO REMOVAL.
4. HARVEST AND PRESERVE TOPSOIL FROM DISTURBED AREAS FOR RE-VEGETATION. ANY EXPOSED OR DISTURBED SLOPE SHALL BE RE-VEGETATED.
5. IMPORTED SOIL MUST BE OF A QUALITY TO SUPPORT PLANT GROWTH.
6. FOLLOW HR-1 CODE FOR DEFINITION OF SIGNIFICANT VEGETATION.
7. PROTECT SIGNIFICANT VEGETATION BY TREE PROTECTION FENCING PROTECTION FENCE, 6'-0" SEMI-PERMANENT CHAINLINK, DRIVEN 2'-0" INTO THE GROUND. PLACE AT LIMITS OF TREE PROTECTION ZONES AND REMOVE AT THE END OF CONSTRUCTION.
8. PROTECTION FENCING SHALL NOT BE MOVED, REMOVED, OR ENTERED BY EQUIPMENT AND MAINTAINED IN GOOD REPAIR THROUGHOUT CONSTRUCTION.
9. APPLY BIODEGRADABLE NETTING AND EROSION CONTROL FOR SLOPES GREATER THAN 3:1
10. ANY APPLICATION OF HERBICIDE TREATMENT SHALL BE PER THE REGULATIONS OF LOCAL JURISDICTIONS, AND ENVIRONMENTAL REGULATORS.

N

0 10' 20' 40' 60'

Olson Kundig
159 South Jackson St, Suite 600
Seattle, Washington 98104 USA
+1 206 624 5670 olsonkundig.com

project:
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060

principal architect TK
project manager SG
drawn by Author
checked by Checker
job no. 20102
date 12/28/23

revisions:

no.	date	by

NOT FOR CONSTRUCTION

PLANNING COMMISSION

12/28/23

SITE PLAN - LANDSCAPE

A1.03

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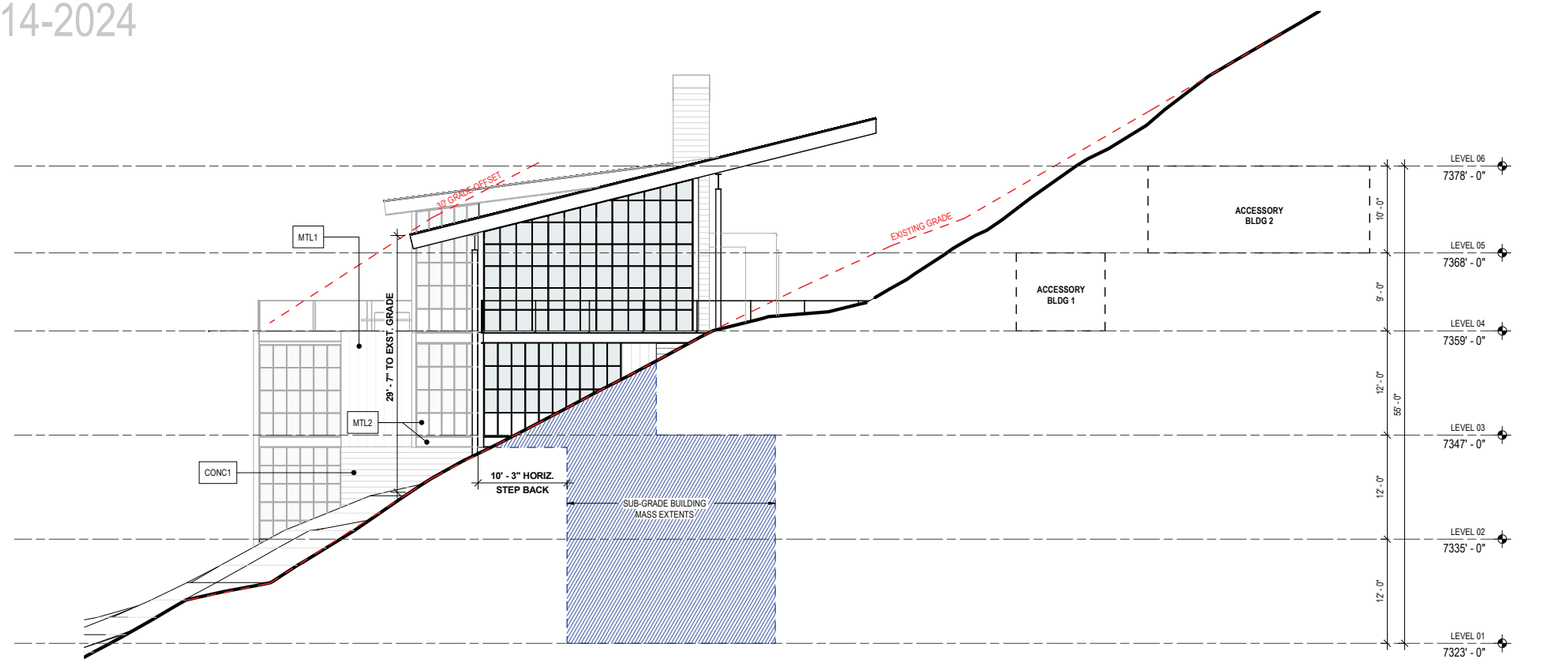
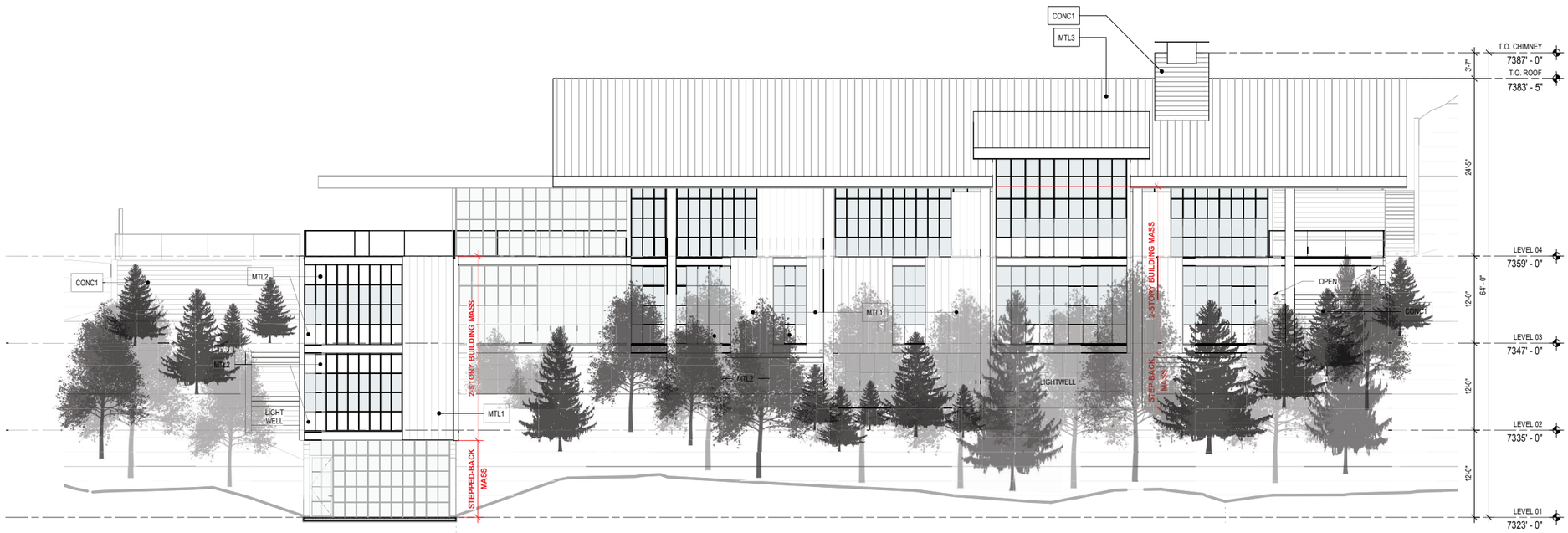
Approved 2-14-2024

MATERIAL LEGEND

MTL1	METAL PLANK SIDING, VERTICALLY ORIENTED, ZINC FINISH
MTL2	PRE-WEATHERED STEEL
MTL3	STANDING SEAM ROOF PANEL, PRE-WEATHERED STEEL FINISH
CONC1	BOARD FORMED CONCRETE (12" PLANK FORMAT)
WD1	TONGUE AND GROOVE WOOD PLANK



2 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 EAST ELEVATION
SCALE: 1/8" = 1'-0"

0 2' 4' 6' 8' 16' 24'

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job no. 20102
date 12/28/23

revisions:

no. date by

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/28/23

EXTERIOR ELEVATIONS

A3.01

HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Ms. Kellogg,

Eric Hermann and Susan Fredston-Hermann ("Appellants") file this petition to appeal approval of the Conditional Use Permit # PL-23-05571 (the "CUP"). Appellants submitted written comment and testified in opposition to the CUPs. They also own property within 300 feet of the boundary of the subject site—indeed, their primary residence is adjacent to the proposed project and the CUP contemplates modification of their property without their approval.

BACKGROUND

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law to (1) Amend the Plat Notes for the Treasure Hill Subdivision, Phase 1, Lot 2; (2) for a Conditional Use Permit for Residential Design of the Proposed Structure and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

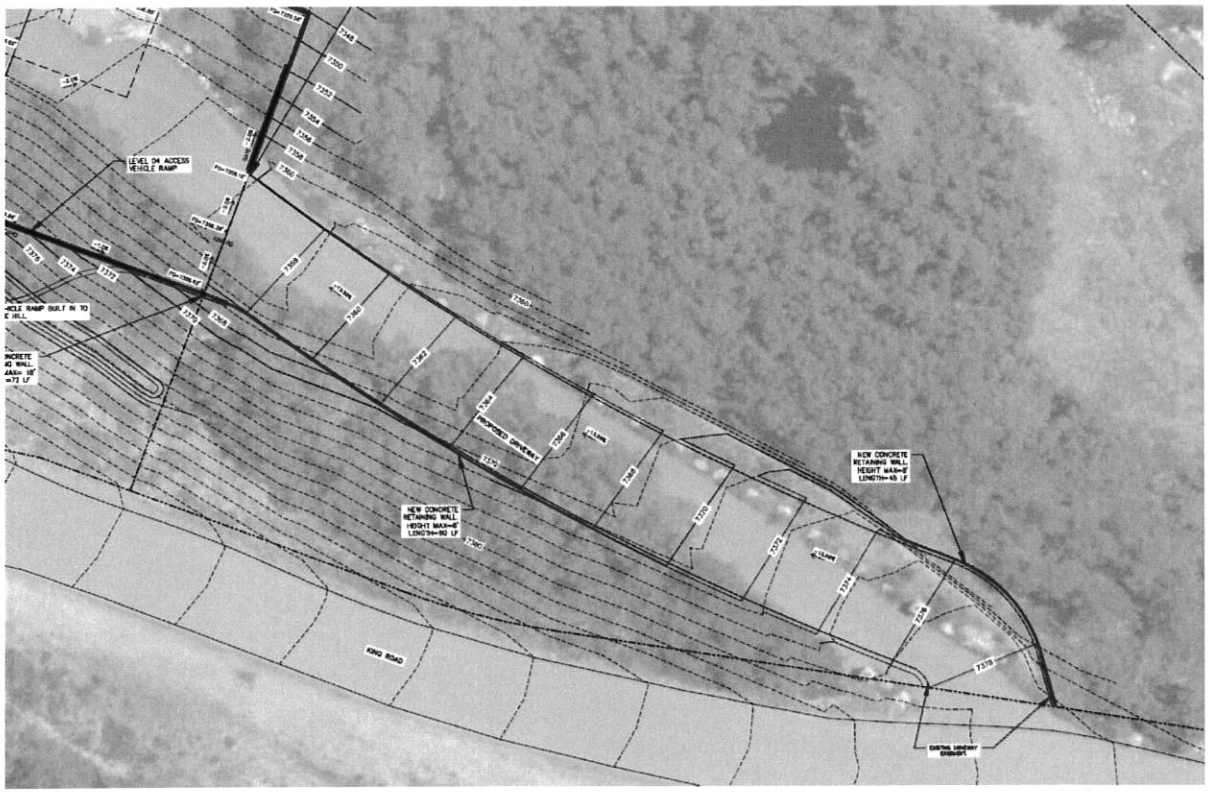
Relative to this appeal, that approval granted the Applicant the unilateral right to cut and re-grade the access driveway that crosses the Fredston-Hermanns' property at 200 King Road. The Applicant, as the owner of 220 King, has a non-exclusive right of access over a twenty-foot-wide driveway that runs the length of 200 King. This same driveway also serves as the access drive for the 200 King building envelope.

In approving the CUP, the Planning Commission incorrectly granted the Applicant the unilateral right to modify the access easement as long as they stay "within the platted easement." In earlier

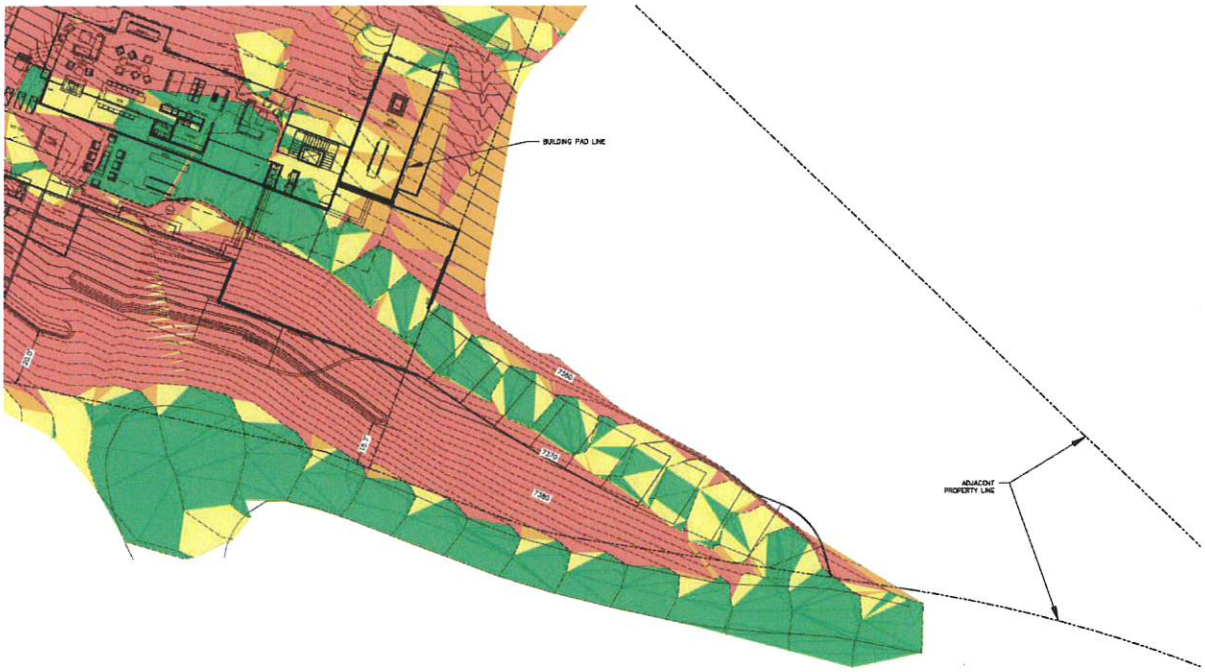
proposed Conditions of Approval Staff recommended that the Planning Commission require that the Applicant obtain my clients' express approval to modify their 200 King property. In the February 14, 2024 hearing, the Applicant objected to this condition of approval. And in the final conditions of approval, City Staff (without any discussion with the Planning Commission) removed this requirement and included only this condition:

> To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited within the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road." *See* February 21, 2024 Staff Report, Exhibit C.

The Applicant is proposing to re-grade and construct retaining walls on much of my clients' property. During the February 14, 2024 hearing discussion regarding the CUP, Commissioner Johnson asked the Applicant whether there would be any eight-foot retaining walls constructed that would not be hidden from view by the Applicant's proposed structure. The Applicant represented that the only over-height retaining walls would be screened from view by the proposed structure. However, what was not discussed in that context were the substantial eight-foot retaining walls the Applicant proposed to construct on my clients' 200 King Road property. Page two of the Applicant's proposed grading plan, shown below, includes two eight-foot concrete retaining walls on my clients' property. One of these walls is ninety feet long and the other is forty-five feet long. The combined eight-foot wall stretches one hundred and thirty-five feet.

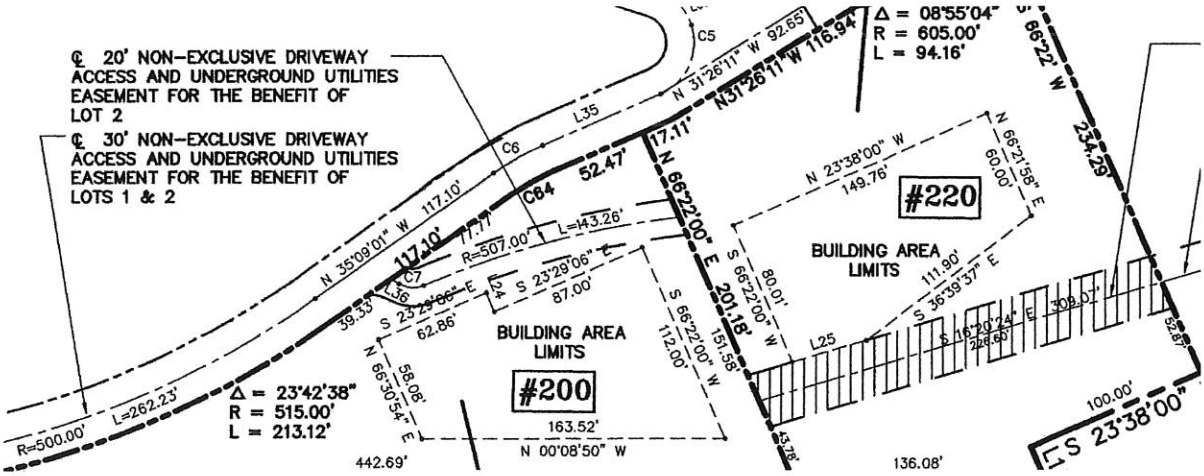


The proposed retaining walls are also located in the Very Steep Slope area of my clients' lot, as demonstrated at page 4 of Alliance Engineering's report provided by the Applicant.



In spite of the fact that they're proposing to install retaining walls along much of my clients' lot, the Applicant did not provide any input on the impact this will have on access for 200 King Road from the non-exclusive easement. Nor have they provided any analysis on the impact this excavation will have on my clients' primary residence, which is located directly down slope from their 200 King lot.

It is important to note that the Applicant's right to access over my clients' 200 King Road property is very limited. The "platted easement" is simply a 20' wide "non-exclusive" driveway and utility access. The entire statement of the easement is included in the following excerpt from the plat:



STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

Through the CUP, The Planning Commission improperly granted Applicant the unilateral right to modify the non-exclusive access easement over the Fredston-Hermanns' property.

It is axiomatic that an easement's use may not unreasonably interfere with the property rights of the servient estate. "Whenever there is ownership of property subject to an easement there is a dichotomy of interests, both of which must be respected and kept in balance. On the one hand, it is to be realized that the owner of the fee title, because of his general ownership, should have the use and enjoyment of his property to the highest degree possible, not inconsistent with the easement. On the other, the owner of the easement should likewise have the right to use and enjoy his easement to the fullest extent possible not inconsistent with the rights of the fee owner."[1]

[1] *Nyman v. Anchor Dev., L.L.C.*, 2003 UT 27.

The rights of the owner of fee title are all the more important where the easement is "non-exclusive" because it is contemplated that they (and potentially others) will also use the easement.

Here, the Fredston-Hermanns reserved the right to use the driveway for access to their lot. The driveway is located directly adjacent to the building area limits for the 200 King Road property. The most efficient means of accessing that building area will be from the already constructed driveway access. The Applicant and Staff are operating under the incorrect assumption that the Applicant may make any modifications to the driveway it desires so long as the work stays within the 20' non-exclusive easement—regardless of the impact that work may have on the Fredston-Hermanns' use of their property.

The flaw in this approach is apparent when you consider other non-exclusive easements in the area. For example, my clients have a non-exclusive access right over the Sweeney trails that run through the 220 King Lot. But this does not mean they have the unilateral right to enter the 220 King property (staying within the boundaries of the easement) and re-grade it to make their use of the Sweeney trails more convenient. Like the Applicant's driveway access, my clients' right to use the Sweeney trails is limited by its non-exclusive nature. Any attempt to re-grade the Sweeney trails would interfere with 220 King's rights—along with others who hold non-exclusive rights to the Sweeney Trails.

If the project proceeds as currently conditioned, it will mean that any applicant who holds a non-exclusive easement over another's property is entitled to modify that easement as it sees fit, so long as it stays within the geographic bounds of that easement. There are literally thousands of non-exclusive easements within Old Town alone. The continued grant and use of those non-exclusive easements depends upon cooperative use of non-exclusive easements, with proper deference to the rights of the property those easements burden.

Finally, it bears repeating that the Applicant is seeking its approval without meeting the Very Steep Slope requirements of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code is very clear about the requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination." *See* Park City Land Management Code § 15-2.21-2. Here, no analysis has been provided and no affirmative determination made.

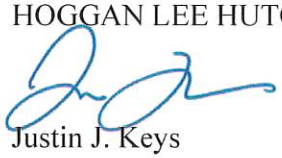
Additionally, where steep slopes are involved, "The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties." LMC § 15-2.21-4 (H)(d). The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land." *Id.*

The Applicant has not and cannot prove any of these elements. To make matters worse, the Applicant is taking the position (and Staff appears to agree) that it does not need my clients' permission to construct retaining walls across much of their property—including an area of Very Steep Slopes.

CONCLUSION

The Planning Commission erred by failing to provide due consideration for the impacts this project will have on the Fredston-Hermanns' property, which will be substantially modified by the grant of the proposed CUP as conditioned—without their participation, review, or approval. For this reason, the Appeal Board should reverse the Planning Commission's grant of the CUP.

Very Truly Yours,
HOGGAN LEE HUTCHINSON



Justin J. Keys

PARK CITY MUNICIPAL CORPORATION
PLANNING DEPARTMENT
445 MARSAC AVE ° PO BOX 1480
PARK CITY, UT 84060
(435) 615-5060

PARK CITY

APPEAL OF A LAND USE DETERMINATION

For Office Use Only

BOARD REVIEW
APPROVED _____
DENIED _____
PROJECT PLANNER _____

APPLICATION # _____
DATE RECEIVED _____
EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME	220 King Road Plat Amendment and Conditional Use Permits
ADDRESS	220 King Rd , Park City, UT 84060
LAND USE AUTHORITY BEING APPEALED	Planning Commission
DATE OF FORMAL ACTION	2/21/24

APPELLANT INFORMATION

NAME	Nicholas J Schapper
MAILING ADDRESS	PO 2757 Park City, UT 84060
PHONE #	435-659-4496
EMAIL	norskic@gmail.com

APPELLANT REPRESENTATIVE

NAME	Justin Keys
MAILING ADDRESS	1225 Deer Valley Drive, Suite 20 Park City, UT 84060
PHONE #	(435) 714-7676
EMAIL	Justin@hlhparkcity com

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www parkcity org

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making an application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am a party whom the City should contact regarding any matter pertaining to this application.

I have read and understood the instructions supplied by Park City for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that my application is not deemed complete until a Project Planner has reviewed the application and has notified me that it has been deemed complete.

I will keep myself informed of the deadlines for submission of material and the progress of this application. I understand that a staff report will be made available for my review three days prior to any public hearings or public meetings. This report will be on file and available at the Planning Department in the Marsac Building.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization with the study.

Signature of Applicant: _____

Name of Applicant: Nicholas Schapper
PRINTED

Mailing Address: PO 2757 Park City Ut 84060

Phone: 435-659-4496 Fax: _____

Email: norsknic@gmail.com

Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org

HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Applications and Plat Amendment Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Panelists,

The undersigned and those listed in the attached Exhibit A file this petition to appeal the approvals of Plat Amendment # PL-22-05319 as well as Conditional Use Permit # PL-23-05571 (the "Steep Slope CUP"), Conditional Use Permit # PL-22-05318 (the "Single-Family Dwelling CUP"), and Conditional Use Permit # PL-22-05523 the "Accessory Uses CUP") (collectively the "CUPs"). Each of the undersigned submitted written comment or testified in opposition to the CUPs and Plat Amendment, or own property within 300 feet of the boundary of the subject site. In addition, attached as Exhibit B is a list of Park City residents who may not have standing under a strict interpretation of Park City Land Management Code §15-1-18(D) but who support this appeal and have consented to expressing that support by allowing us to affix their name to the Exhibit B list.

We and many other residents in the Old Town and Rossi Hill subdivisions believe the approval of the above-mentioned CUPs and Plat Amendment should be reversed.

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law with limited conditions to (1) Amend the Plat Notes to the Treasure Hill Subdivision, Phase 1; (2) for Conditional Use Permits for Residential Design of the Proposed Structure and accompanying pool; and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application

unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

The Appeal Panel should reverse the Planning Commission's decision to Amend the Plat Notes to the Treasure Hill Subdivision and approve the CUPs because the Planning Commission (1) failed to properly apply the Park City Land Management Code, (2) the proposed structure does not meet the express requirements of the Park City Land Management Code, and (3) the Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.

1. *The Planning Commission's decision relied on the incorrect assertion by the Applicant that only the restrictions in the MPD and Subdivision Plat, rather than the Land Management Code, apply to this property.*

The Planning Commission erred in accepting the Applicant's claim that rules from the Land Management Code (LMC) do not apply if they are different from the restrictions in the Sweeney MPD.[1] This assertion directly contradicts the conditions stipulated in the Sweeney MPD. Section III (1) of the Sweeney MPD states that "[a]t 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." Although the Applicant acknowledges this provision in its January 24 letter to the Planning Commission, it argues that the Land Management Code should be ignored where the Plat or MPD have more permissive restrictions. The primary reasoning for this, given by the Applicant, is not based on any law, precedent, or a conflicting provision, but rather that "[o]therwise, the MPD would have no meaning." This argument is groundless. The restrictions in the MPD remain meaningful even if the property is subject to stricter LMC rules. The logical reading of the above clause is that the MPD and LMC work together to set the limits for projects in the development.

The appropriate application of the LMC and MPD is that the stricter of the two restrictions apply. If the LMC is changed to be more permissive, than the restriction from the MPD would be the governing restriction. When the LMC is stricter, it governs. The LMC rules for the HR-1 district apply to every property in the HR-1 district. The rules in the Sweeney MPD apply to every property in the MPD. If the property is in both the Sweeney MPD and the HR-1 district, as 220 King is, then both sets of rules apply. When two equally applicable sets of rules govern an overlapping area, the stricter rule is the one that must be followed. For example, if Park City passed a law making it illegal to serve alcohol after 10 pm and Utah were to later pass a law making it illegal to serve alcohol after 9 pm, the 9 pm cutoff would govern. If the state were to, however, change its rule to 11 pm, the applicable cutoff in Park City would become 10 pm because it is the stricter of the two rules. It would be patently absurd to argue that the less strict rule covering the smaller overlapped area is the applicable cutoff simply because it would be meaningless otherwise. This same principle applies to the MDP and LMC in this case. Within the overlapping area, the stricter rule applies.

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[1] Exhibit C, Letter from Wade R. Budge, Attorney for Applicant, to Planning Commission (January 24, 2024).

The second argument advanced by the applicant for why the LMC does not apply are statements made by City staff. The most notable is a quotation from a 1985 letter by City Attorney Tom Clyde to Ed Sweeney (the original applicant for the Sweeney MPD). He stated: "Having filed your development proposal and paid the fees with the Planning Department, your zoning rights with respect to this particular project and application are vested under the existing zoning and would not be affected by subsequent zone changes." While this appears to support the Applicant's argument, the timing of the statement makes it inapplicable here. The 1985 letter is dated as received June 26, 1985. The Sweeney MPD was approved on December 18, 1985. Thus, even if Tom Clyde's statement was correct at the time, the subsequent inclusion of the provision requiring compliance with the zoning code "at the time of" conditional use review rendered it irrelevant. While standard practice may be that land use applications are governed by the zoning code in place when the application is filed, the specific terms of this MPD dictate that the houses built in the Sweeney MPD are to comply with the LMC as it reads at the time of the conditional use review. There are other statements in the record supporting the idea that properties in the MPD are not subject to code changes, however, these statements have no authority in this case as statements made by staff in direct contradiction of written terms are not binding.

In addition to the Sweeney MPD, 220 King Rd. is bound by restrictive covenants which state that the "zoning ordinances of Park City . . . are in full force and effect" and that "no Lot shall be occupied or used in a manner that is in violation of any such ordinance or code."[2] The argument by the Applicant that the LMC does not apply to this property or only applies when the MPD and Plat are silent is impossible to reconcile with the restrictive covenants stating that the zoning ordinances of Park City (i.e. the LMC) are in "full force." If the LMC does not apply or only applies in a limited manner it is not in "full force and effect." Likewise, because the restrictive covenants were put in place in 1996 (ten years after the Sweeney MPD) it would not make sense for the restrictive covenants to state that the LMC is in "full force and effect" if only the ordinances in place prior to the creation of the Sweeney MPD applied to this property. The restrictive covenants also specifically require that "[a]ll improvements and construction on the Covered Property is subject to the applicable existing architectural and other design and building restrictions in effect now and from time to time in the future." This further reinforces that any structure built on 220 King must comply with all current design rules (i.e., historic design regulations, roof size and shape restrictions, height restrictions, etc.)

2. *The proposed structure does not meet the express requirements of the Park City Land Management Code as expressly required by the Sweeney MPD and the Restrictive Covenants.*

The Applicant's proposed structure on 220 King Rd. violates numerous provisions of the LMC. These include limitation requirements for height, roof shape, building footprint, design, and the Sensitive Land Overlay.

First, the proposed structure exceeds the LMC's height requirements. The LMC limits exterior height for buildings with pitched roofs in the HR-1 district to 27 feet from existing grade.[3] Here,

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[2] Exhibit D, Declaration of Restrictive Covenants (King Road Lots)(2)(a).
[3] LMC § 15-2.2-5.

the plans approved by the Planning Commission (and required to remain the same as a condition of approval) not only exceed the 27 feet required by the LMC but also the 30 foot limit stated in the plat (even after this amendment) and the 25 feet required by the Sweeney MPD. The MPD specifically states in its height restrictions that parcels in the HR-1 district "shall abide by the Land Management Code and no height exceptions will be considered."[4] The external building height here, therefore, violates the MPD, Plat, and LMC.

Additionally, the Applicant has insisted that where LMC § 15-2.2-5(A) says "lowest finish floor plane" what it really means is "lowest finish*ed* floor." This interpretation, however, does not comport with the intention of the Planning Commission and Council when reviewing the staff report and minutes when the ordinance creating this phrasing, Ord. No. 13-48, was approved.[5] The discussion shows that what this change was trying to achieve was to maintain roughly the same height requirements for HR-1 and HR-2 that were previously in place while granting the flexibility to property owners to have split level floor plans that would have conflicted with the previous restrictions–reversing the trend of people going deeper with their bottom floor. The Staff Report when this change was made establishes that the change was intended to maintain a similar restriction of three standard stories, including the basement level, while allowing for split level plans of a similar height to a standard three-story home.

Planning Commission minutes from January 9, 2013 discussing this change show that one of the problems they were concerned about was the depth of basements. With this concern in mind, it does not make sense that they would have intended this provision to mean you can build down as far as you want and have an unlimited internal height if there is only thirty-five feet from the lowest "finished" floor to the point of the highest wall top plate. It appears from the wording[6] that the planning commission forwarded a positive recommendation on that the word "finish" was never intended to be put into the code here but rather was accidently left in Exhibit A of Ordinance No. 13-48 from a previous draft. The word "finish" must be read within the context of what the Planning Commission and Council were trying to achieve. If a floor can be easily converted into livable space (i.e., partially or fully above grade and not exclusively mechanical space or a crawl space) it should be considered for the internal height restrictions. It was clearly not intended that someone would be allowed to build two floors to a depth of twenty-four feet below the point at which the internal height is measured from.

Staff found the internal height of the building to be 53.5 feet, but the Applicant convinced the Planning Commission of the incorrect notion that the internal height requirements did not apply and argued that even if they did apply, they could comply by simply not finishing a massive portion of the house. As the internal height requirements do apply, the house does not comply with the internal height restriction as Council intended it to function when approving it. The Applicant should not be allowed to get around this rule simply by having the plans show the space as "unfinished" (especially considering the Applicant's representative refused to agree to a condition requiring that the Applicant not go in later and finish these floors).

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[4] Exhibit E, Sweeney MPD (III)(5)(a).
[5] Exhibit F, Staff Report for PL-13-01889.
[6] "A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters."

Within the height restrictions of LMC § 15-2.2-5 are also restrictions on roof pitch that the Applicant's proposed structure violates. LMC § 15-2.2-5(C) requires that homes in the HR-1 district have a roof pitch for the Contributing Roof Form[7] of between seven: twelve and twelve: twelve. Here the proposed building's Contributing Roof Form has a roof pitch of three: twelve. Even under the Applicant's theory of Section III(1) of the Sweeney MPD (that the LMC applies only when the Plat and MPD are silent) this is a violation as neither the MPD or Plat mention roof pitch.

Beyond the proposed structure's height violations, it violates the building footprint requirements. The LMC limits the building footprint to 4,500 square feet and MPD and Plat set the building footprint limit at 3,500 square feet. As the MPD is more restrictive, it governs. The MPD does not have a method of calculating building footprint. As it was written to incorporate the LMC, the LMC definition should be used to determine whether the proposed structure complies with the MPD.

The Plat has its own method of measuring the building footprint which has been modified to try to maneuver around its own rules since the proposed structure does not comply with the Plat limits. Even with the Plat Amendment, however, the proposed structure should not be viewed as in compliance with the Plat's building footprint limit. Under the LMC method, the Planning Department calculated the building footprint to be approximately 11,300 square feet, well beyond both the MPD limit and the LMC limit on building footprint.

The calculation would be the roughly the same (still well above the limit) under the Plat's rules both before and after amendment depending on whether or not the space where they intend to park their cars is a garage or not. Plat Note 2 (both before and after amendment) says that footprint "shall be calculated from the outside face of walls on any single level, and a maximum of three thousand five hundred (3,500) square feet footprint including garages." In an attempt to avoid this restriction, the Applicant has chosen to refer to the area where cars will be parked as a "parking area" rather than a "garage" and amend Plat Note 2 by adding to the exceptions from footprint calculation "that portion of any carport, mechanical space, parking area, or living space that is located below existing grade and which has landscaping or deck (as provided in 1(a)) located above it." The Applicant argued to the Planning Commission that the difference between a "garage" and "parking area" is determined by whether the space has a door, but the Applicant's assertion that the subject space is a parking area and not a garage simply because it does not have a door is baseless. "Garage" and "parking area" are not defined by the MPD or the Plat, but they are defined by the LMC. Those definitions support that the relevant space is a garage. The LMC definitions are:

> **Garage, Private**. An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.[8]

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[7] As defined in LMC § 15-15-1: "The most visually prominent roof form viewed from the primary public right-of-way.

[8] LMC § 15-15-1. There are four definitions for Garage in the LMC Defined Terms (Commercial Garage, Front Facing Garage, Private Garage, and Public Garage).

PARKING AREA. An unenclosed Area or Lot other than a Street used or designed for parking.[9]

The space cannot be a parking area because it is enclosed. The plans for the proposed structure show that at the level where cars will be parked is underground, surrounded by walls on all four sides, and has a ceiling and floor. That is the very definition of enclosed.[10] The argument that a space is not enclosed just because there is an entryway twelve feet above the space at the end of a long tunnel despite the space being surrounded by walls is frivolous. The space does, however, fit the definition of Private Garage. It is a portion of the main building that is intended to be used for the storage of motor vehicles by the occupants. The Applicant's requested edits to Plat Note 2 suggest that even the Applicant knows that this space is a garage and not a parking area. Although Plat Note 2 was amended, the Planning Commission did not acquiesce to all the Applicant's requested changes. The Applicant sought to have "including garages" deleted from the section of Plat Note 2 discussing what is included in the footprint calculation and adding "garages" to the list of new exceptions in the note. If this space is not going to be a garage, there would be no reason for the Applicant to try excluding garages. Since the space is a garage, the proposed structure violates the building footprint requirement, regardless of whether the Plat method or the LMC method is used to calculate the footprint.

Further, the proposed structure violates the design requirements of LMC (beyond the roof design issue discussed above). LMC § 15-13-8(A)(4) requires that "new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot." As stated in the report from the from the only Qualified Historic Preservation Profession in the record, the design fails to meet any of the requirements in this LMC section.[11] The report emphasizes that the project is not compatible in size, scale, and proportion and states that the materials and features are compatible with industrial design in the area but not with residential design as required for the HR-1 zone. Likewise, the massing requirements of LMC § 15-13-8(B)(2)(a)(9) were not met since the modules on the primary facades exceed 25 feet in width.

Finally, the approval of the Steep Slope CUP violates the Sensitive Land Overlay Zone (SLO) Regulations.[12] The Applicant is shifting the building envelope into the Very Steep Slope of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code has strict requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination."[13] Here, no analysis has been provided and no affirmative determination made. Where steep slopes are involved, an applicant must also "prove that the Development will have no significant adverse impact on adjacent Properties."[14] The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent

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[9] LMC § 15-15-1.
[10] *See Enclose*, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003).
[11] *See* Exhibit G, SWCA Memo.
[12] LMC § 15-2.21.
[13] LMC § 15-2.21-2.
[14] LMC § 15-2.21-4 (H)(d).

Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land."[15]

The Applicant has not and cannot prove any of these elements. The proposed density of more than 20,000 square feet is not compatible with adjacent properties. The industrial architectural design details with its massing, scale, and height are not compatible with the adjoining residential properties. Nor has the Applicant demonstrated how it is taking any mitigation measures to buffer adjoining properties.

3. *The Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.*

While it is possible to attain exceptions from the requirements of the LMC, CUPs and Plat Amendments are not the legally authorized tool for granting these exceptions. Nor is the Planning Commission the body empowered to make such exceptions. LMC § 15-1-11 requires that any such variance (i.e., exception) must be reviewed and approved by the Board of Adjustment, not the Planning Commission. If the Applicant wants to build this non-conforming structure in the HR-1 district, it must use the same process as anyone else seeking to avoid one of the LMC's requirements. Whether or not the Applicant should be allowed to proceed with the proposed structure, with its many LMC violations, should be determined by the Board of Adjustment under the strict standards of LMC § 15-10-8(C)—not the Planning Commission based on subjective personal preferences.

CONCLUSION

Based on the foregoing, we respectfully request that you reverse the Planning Commission's decision on applications # PL-22-05318, # PL-22-05319, # PL-22-05523, and # PL-23-05571 to ensure that the LMC is properly enforced and the appropriate review process is followed. Thank you for your consideration in this matter. Please feel free to contact us if you have any questions.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys

Encl.

[15] *Id.*

EXHIBIT A

PARK CITY MUNICIPAL CORPORATION
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(435) 615-5060

APPEAL OF A LAND USE DETERMINATION

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PROJECT BEING APPEALED

PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits

ADDRESS: 220 King Rd., Park City, UT 84060

LAND USE AUTHORITY BEING APPEALED: Planning Commission

DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

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ACKNOWLEDGEMENT OF RESPONSIBILITY

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Name of Applicant: Eric Hermann and Susan Fredston-Hermann

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Signature of Applicant: Ginger Tolman

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Co- **APPELLANT INFORMATION**

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Signature of Co-Applicant: David Constable

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APPELLANT REPRESENTATIVE

NAME: Justin Keys
MAILING ADDRESS: 1225 Deer Valley Drive, Suite 201
Park City, UT 84060
PHONE #: (435) 714-7676
EMAIL: Justin@hlhparkcity.com

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making an application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am a party whom the City should contact regarding any matter pertaining to this application.

I have read and understood the instructions supplied by Park City for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that my application is not deemed complete until a Project Planner has reviewed the application and has notified me that it has been deemed complete.

I will keep myself informed of the deadlines for submission of material and the progress of this application. I understand that a staff report will be made available for my review three days prior to any public hearings or public meetings. This report will be on file and available at the Planning Department in the Marsac Building.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization with the study.

Signature of Applicant: [signature]

Name of Applicant: DAVID BENNET (PRINTED)

Mailing Address: 2940 AMERICAN SAILER
PC 84060

Phone: (435) 731-7000 Fax:

Email: DAVIDBENNET@MAC.COM

Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

PARK CITY MUNICIPAL CORPORATION
PLANNING DEPARTMENT
445 MARSAC AVE ° PO BOX 1480
PARK CITY, UT 84060
(435) 615-5060

APPEAL OF A LAND USE DETERMINATION

For Office Use Only

BOARD REVIEW
APPROVED _____
DENIED _____
PROJECT PLANNER _____

APPLICATION # _____
DATE RECEIVED _____
EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits

ADDRESS: 220 King Rd., Park City, UT 84060

LAND USE AUTHORITY BEING APPEALED: Planning Commission

DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

NAME: MARTIENA STAHLKE LEWIS

MAILING ADDRESS: P.O. BOX 808
Park City, UT 84060

PHONE #: 801-550-9985

EMAIL: tinaslewis@aol.com

APPELLANT REPRESENTATIVE

NAME: Justin Keys

MAILING ADDRESS: 1225 Deer Valley Drive, Suite 201
Park City, UT 84060

PHONE #: (435) 714-7676

EMAIL: Justin@hlhparkcity.com

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ACKNOWLEDGEMENT OF RESPONSIBILITY

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I have read and understood the instructions supplied by Park City for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that my application is not deemed complete until a Project Planner has reviewed the application and has notified me that it has been deemed complete.

I will keep myself informed of the deadlines for submission of material and the progress of this application. I understand that a staff report will be made available for my review three days prior to any public hearings or public meetings. This report will be on file and available at the Planning Department in the Marsac Building.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization with the study.

Signature of Applicant: Martiena Stahlke Lewis

Name of Applicant: MARTIENA STAHLKE LEWIS
PRINTED

Mailing Address: P.O. BOX 808 60
PARK CITY, UT 84060

Phone: 801-550-9985 Fax: -

Email: tinaslewis@aol.com

Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

EXHIBIT C

Snell & Wilmer
15 WEST SOUTH TEMPLE
SUITE 1200
GATEWAY TOWER WEST
SALT LAKE CITY, UT 84101
801.257.1900 P
801.257.1800 F

Wade R. Budge
wbudge@swlaw.com

January 24, 2023

Park City Planning Commission
Park City Municipal Corporation
445 Marsac Avenue
Park City, UT 84060

Re: 220 King Road items in advance of 1/24/2024 work session. PL-22-05319; PL-22-05318; PL-23-05571

Dear Commission,

This firm represents Pesky Porcupine, LLC ("**Pesky Porcupine**"), the owner of the real property located at 220 King Road, Park City, Utah, known as Lot 2 in the Treasure Hill Subdivision ("**Lot 2**"). As you know from our October 11th work meeting, our client has two pending applications—a plat amendment and another for conditional use permit[1] for a home[2] ("**Applications**"). These Applications, once approved, will improve the neighborhood. This is because the Applications propose one architecturally significant residence to replace two architecturally insignificant homes built in 1997 and 2000, that had previously been used as nightly rentals.

This letter has two main parts. First, the letter offers a brief preview of important items for our upcoming January 24th work session and second, the letter sets forth a summary of corrections to some of misstatements in the January 19th staff report. We will follow up directly with the planning staff and the legal department regarding the misstatements after today's work session and in advance of the February 14th public hearing. As such, we would like to focus our discussion this evening on understanding the site that is Lot 2 and the details related to the new home itself.

---

[1] According to the Lot 2, Phase I, Treasure Hill Subdivision plat note #9, "[f]inal house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan." Because the city no longer has a Small Scale Master Plan process, we understand we are required to have the house approved through this conditional use permit.

[2] A third application is also pending for a steep slope conditional use permit, which we would anticipate would be rolled into the conditions for approval for the home. The steep slope conditional use permit is numbered PL-23-05571.

A. The Neighborhood.

Lot 2 is one of the seven residential lots in the Treasure Hill subdivision which subdivision was approved by and is included within the Sweeney Large Scale Master Plan Development approved in December 1985. Six lots have residences and one remains vacant. Below is a comparative table that helps orient the Commission to the neighborhood. Of note, the blue field is for the subject Lot 2. The green blocks are the proposed changes to Lot 2 according to the Applications. The Commission will note that our proposal is to reduce the size of the building area by nearly 500 square feet. We also are proposing to reduce the footprint size of the existing structures from 3,936 square feet to the 3,500 square feet. This size of 3,500 square feet meets the requirement in Plat Note 1 of the Lot 2 plat, which notes are attached to this letter as **Exhibit A**.

Plat	Lot #	Building Area Limits (sq ft)	Lot Area (acres)	Building Footprint (approx. sq ft)	Building size (sq ft)
Treasure Hill Subdivision Phase 1 - 1996	Lot 1 (200 KING RD)	12,700	0.86	NA	NA
	Lot - 2 (220 King Rd)	Existing Total - 14,716	1.23	Existing - 3,936 sq ft (survey)	Existing Total - 6,965 sq ft (Summit County Tax Info- both homes)
		Proposed Total - 14,226		Proposed - 3,500 sq ft	Proposed – 7,531 sf (finished) 5,901 sf (unfinished)
	Lot -3 (425 NORFOLK AVE)	17,000	1.31	2,620 sq ft	Total - 3,881 sq ft (Summit County Tax Info)
	Lot - 4 (375 NORFOLK AVE)	7,500	1.1	5,178 sq ft	Total - 10,813 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase II - 2003	Lot - 6 (503 1/2 WOODSIDE AVE)	7,650	0.79	4,268 sq ft	Total - 9,161 sq ft (Summit County Tax Info)
	Lot - 7 (503 WOODSIDE AVE)	7,500	0.92	4,182 sq ft	Total 9,214 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase III Amd 1 -2009	Lot - 8 (445 KING RD)	29,083.90	11.9	4,280 sq ft	Total - 8,738 sq ft (Summit County Tax Info)

The proposed footprint for the new Lot 2 home is smaller than all but one lot, Lot 3, in the Sweeney MPD. The proposed finished space is smaller than all homes except for one lot, Lot 3. The unfinished space is larger than the other homes, but there is no restriction (as described below) on unfinished space. As for height, the issue of what standard applies is stated in the plat, which clearly states in plat Note 4 that a home on this lot may have a total height, measured from existing grade, of "thirty (30) feet." Finally, with respect to plat Note 6, which requires massing to be broken up into areas no larger than 1,500 square feet, the proposed home for Lot 2 achieves this

by including (5) five massing units, the largest one of which is 1,110 square feet and the smallest of which is 345 square feet.

We will present at the work session additional data on the neighborhood so as to assist the Commission's review.

B. Issues Raised by Staff Report

The January 19th staff report attempts to identify issues with the Applications. But, what the report fails to account for is that this home is located in an approved Master Plan Development. This is not a home on a historic, HR-1 lot. Critically, the report does not take into account that the Applications seek, at their essence, to allow a remarkable home, the design of which has garnered written support from significant stakeholders and neighbors, to be built to replace potentially non-conforming homes that all would agree are not architecturally significant. The report also fails to take into account that the new home eliminates existing issues associated with the existing nightly rental of homes on Lot 2. In short, the Applications seek to mitigate the negative impacts associated with bad architecture, bad siting, and bad use and replace it with a conforming, single home with an impeccable design.

Missing from the staff report is the acknowledgment that any item raised as a concern can be fully addressed by this body, the Commission, sitting as the land use authority for these Applications. In both the Sweeney MPD itself, and in plat Note 9 of the Lot 2 plat, it clearly contemplates that each home would be processed using a small scale MPD. But, because small scale MPDs no longer exist in the code, the interpretation, consistent with what was approved first in 1985, is that individual homes would be approved as conditional uses. This is why the Applications here include a conditional use application. Further, with the plat application, we are requesting to modify, and in fact shrink, the buildable area, the Commission is able to make the adjustments to accommodate the design proposed in the Applications.

Another overarching point is that the Sweeney MPD must mean something. It is true that Section III (1) of the MPD states in part that "[a]t the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinance in effect at the time, in addition to ensure conformance with the approved Master Plan." The misunderstanding that is arising, as is reflected in the some of the staff report's comments, is that if the Land Management Code has changed, which it has since 1986, the most restrictive interpretation must apply. This reasoning is circular. The rule of interpretation is that the specific controls. Otherwise, the MPD would have no meaning. Further, as the city has acknowledged with the Treasure settlement, and other actions, the Sweeney MPD includes vested rights on which a party may rely. The language in the actual Sweeney MPDs clearly address height, address footprint, address massing, and address the area appropriate for development. Later adopted rules can apply. But later adopted rules do not apply if they conflict with express approvals in the Sweeney MPD and the plat. Here's a brief summary of the items we intend to address with planning staff and the legal department.

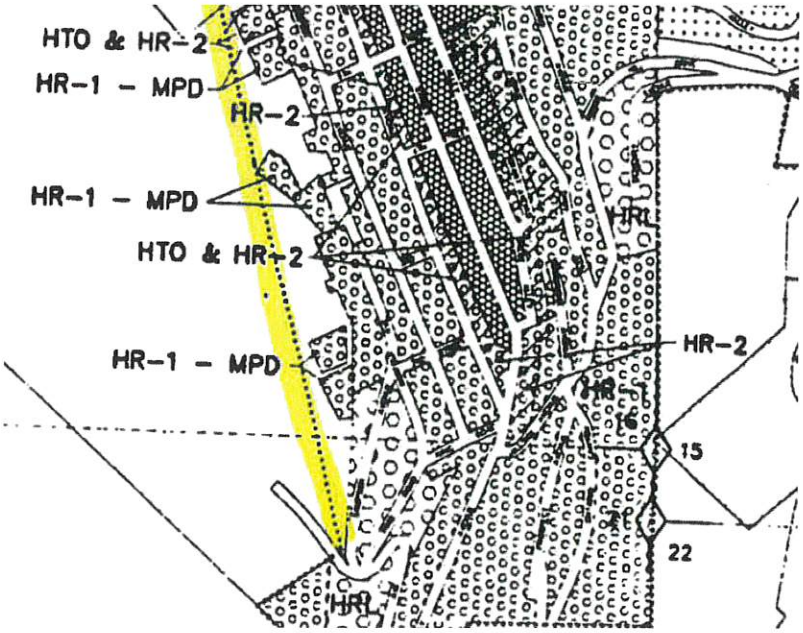
1. **Sensitive Land Overlay (SLO).**

For the very first time, the January 19th staff report raised the supposed issue that some of Lot 2 may be subject to restrictions found in the sensitive lands overlay zone. Specifically, the report states that "a portion of the west side of the Lot is within the Sensitive Land Overlay (SLO)." This statement is incorrect for two reasons. First, nearly two years ago, when the Applications were being prepared, the applicant's team consulted with planning staff on this issue. In February of 2022, Gretchen Milliken (former Planning Director) provided the following in an email to a representative of the applicant regarding the SLO:

> *Additionally, because the MPD (and subsequent amendments) considered the Sensitive Lands Overlay, I don't think we need to request additional SLO materials at the time of application. There does not appear to have been this requirement for other Treasure Hill properties with small portions of the lots within the SLO.*

This analysis was discussed with current planning staff over the last two years. At no point did staff change is previously announced view that the SLO is not implicated here. And even if it does touch a small portion of the site, the SLO does not apply because of the approvals granted in the Sweeney MPD and the associated plat approval govern.

Second, the SLO Boundary did not include the single family lots of the Sweeney MPD when adopted. Specifically, by Ordinance 92-17 the City Council adopted the SLO, without a legal description or a map. The map produced two years later, and depicted below, confirms it does not apply to these lots. See below, yellow line purports to be the SLO boundary, and Lots 1 and 2 are labeled "HR-1 MPD":



Source: 1994 Park City Zoning Map.

No one has produced a zoning map showing that the SLO applies to Lot 2. What has been attached to the staff report are two depictions, Figure 7 and Figure 8, both of which attempt to project an SLO line on the property, but outside of the building area limits. Moreover, even if the SLO were to apply it at most would apply to a small corner where an accessory structure is contemplated, not the area of the main residence. There are two other things to keep in mind. The SLO does not prohibit development. It merely requires additional consideration. Further, the code plainly states that the SLO boundary should not bisect properties. See LMC Section 15-1-6. The boundaries should follow property lines unless there is an express reason for the SLO to bisect a property. There is no such intent or purpose identified here. In other words, the SLO has never applied to the property and even if it does, it would not impact the main residence or frankly the ultimate inclusion of an accessory structure. Finally, the LMC does not support the SLO applying to just a portion of this lot.

2. **Plat Building Footprint Requirements:**

a. The current LMC definition for Building Footprint uses the furthest exterior wall of the Structure projected to Natural Grade. The Planning Department calculates the Applicant's actual building footprint at approximately 11,300 square feet, using the LMC.

We believe the above analysis is incorrect. The Treasure Hill Subdivision, Phase 1 plat includes "Special Restriction for Single Family Homes to be Constructed on Lots 1 Through 4", or "**Plat Notes**". Plat Note 1, attached as Exhibit A-1, states that: "FOOTPRINT. the maximum

footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3,500) square feet including garages….". Based on this language, which provides specific instruction on how the footprint is measured, the Project meets the square foot limitation placed on it by the plat. A later adopted rule does not change this right and obligation set forth in the plat. The area of the lowest floor is below 3,500 sq ft. See Exhibit A-2. Additionally, the area of the cantilevered floor is below 3,500 sq ft. See Exhibit A-2. In other words, the Applications carry forward this same 3,500 sq ft maximum to all levels.

The staff report seems to make a claim that the parking area needs to be included within the buildable area. This is not accurate. And this interpretation is contrary to the MPD and its associated plat notes. For example, the area for subgrade access and parking has not been included in the footprint calculation of any other lots in the Sweeney MPD. For instance, the development of the Upper Norfolk lots (Lots 3 and 4) included an area of disturbance over 45,000 sq ft to accommodate the underground access tunnel and subgrade parking. The development of Woodside Ave lots (Lots 6 and 7) included an area of disturbance on 55,250 sq. ft. for the underground access tunnel. The staff report does not account for this fact in its calculations. And as such, the parking area, because it is underground, should not count towards the 3,500 square foot footprint restriction.

b. The primary Structure has been modulated into 4 segments, each under 1,500 square feet, however, 2 of the 4 segments exceed 25 feet in width.

The Project is broken up into multiple massing elements, all of which are under 1,500 square feet, as required by Plat note #6 of the Treasure Hill Subdivision, Phase 1. The footprint includes Level 2 of the portion of the building that runs mainly north/south and Level 1 of the massing element that runs more east/west. The total footprint is measured at 3,370 square feet, as shown in Exhibit A-2. That footprint is broken up into five (5) different massing elements. These massing elements are separated using vertical façade breaks as required by the plat Note 6. There is not a requirement that the massing elements be limited to twenty-five feet. The staff report references an additional restriction applicable in the zone but outside of the Sweeney MPD. That additional restriction is found in LMC Subsection 15-13-8(B)(2)(a)(9) and is intended to apply to the historic twenty-five foot (25') lots in the city. Again, this requirement does not apply to the Sweeney MPD. And if they were to apply, the code permits greater width, in certain circumstances. As such, even if the width criteria were to apply (which it does not), the LMC in Subsection 15-13-8(B)(2)(a)(9) states – "Modules on a primary façade **should generally** not exceed eleven (11) feet to twenty-five (25) feet in width.) (emphasis added). This generally comment recognizes that in some instances the width restriction may not apply. The Sweeney MPD certainly would be one of those instances.

3. **LMC Building Height Requirements:**

Exterior Building Height Complies however the interior Building Height measures 53.5 ft and does not comply.

The topic of height is clearly addressed in plat Note 4. Notably, that note does not give an internal height restriction. Rather, it says height is measured from "existing grade". The staff has chosen to read the plat note narrowly to argue that existing grade is only for exterior height. This is not a fair reading. Had the city wanted to limit interior height it could have done so in approving the Sweeney MPD and its plat. It did not.

Nevertheless, if one were to assume that the interior height restriction were to apply, the applicant here has modified its Applications to have the bottom level unfinished. This is because the interior height limit, which only came into existence in November 21, 2013, specifically states that interior height is measured from the "lowest finish floor plane." The phrase "lowest first floor plane" is not a defined term. This means that if two meanings are available, the one that supports the land owner's request must be followed. U.C.A. 10-9a-306(2). Here, the Applications have been updated to leave the below ground level unfinished. We think this is a non sensical result given the plat note is specific on items of height and does not require an interior limit. But if the city believes it can apply this later adopted interior restriction on the same topic covered by the Sweeney MPD and the plat to this site, then leaving the bottom level unfinished means the planning staff is measuring the interior height from the wrong beginning point. The applicant's interpretation is bolstered in that the phrase "lowest finish floor plane" must mean the floor of the "First Story", which is a defined term[3]. To achieve another result means one must ignore the words "finish floor" and also ignore the relevant definition of "First Story."

In short, the interior height restriction does not apply to this MPD or plat. If it were to apply, leaving the bottom floor unfinished addresses any issue. The planning staff interpretation is not supportable. And this issue can be addressed in the approval of the Applications.

4. **Sub-Grade Development:**

"The Planning Department is concerned that the proposed amendments promote sub-grade development inconsistent with the MPD's intent . . ."

This comment in the report is problematic for a number of reasons as well. First, sub-grade development is allowed in the Sweeney MPD. Lots, 3, 4, 6 and 8 all have subgrade development, including a tunnels, parking areas, and basements, to name a few. Second, the planning department is aware that a land use regulation must plainly restrict a use to be enforceable. Even if there were an intent to prevent sub-grade development, which there is not, an intent is not controlling unless a land use regulation or control is created that specifically restricts a use. Here, there is no such control.

[3] Park City LMC 15-15: FIRST STORY. The lowest Story in a Building provided the floor level is not more than four feet (4') below Final Grade for more than fifty percent (50%) of the perimeter. Can include habitable or uninhabitable Floor Area.

Finally for your consideration, we have attached a table as Exhibit B showing the Applications meet all of the requirements in the code. We ask that you review these before the February 14th hearing.

We are happy to schedule a time to sit down and meet to walk through the plans for the Project to ensure all of the concerns that have been identified are resolved. We would like to involve the architect and other representatives as needed. Please coordinate such a meeting with Jason Boal.

As always, thank you for your professionalism and attention to this matter.

Very truly yours,

SNELL & WILMER

Wade R. Budge, P.C.

WRB:jcb

Cc: Rebecca Ward
Mark Harrington
Client
Jason Boal
Bruce Baird

4858-7056-7583

Exhibit A-1

FIRST AMENDED RECORD OF SURVEY MAP

LOT 2, PHASE 1, TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON:

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

2. BUILDING AREA LIMITS. Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plat or as consistent with the approved construction drawings of the driveways, Upper Norfolk turnaround, King Road turnaround, ski bridge and utility plans) shall be limited to the Building Area Limits noted on the Plat. Notwithstanding the forgoing, flat areas located on the Ski Trail Easements where they cross Lots 3 and 4 and are directly adjacent to the Building Area Limits of Lots 3 and 4 may be landscaped with irrigated groomed grass.

3. CONSTRUCTION DISTURBANCE. Unless otherwise provided in agreements with Park City Municipal Corporation which are of record, temporary construction disturbance shall be limited to twenty (20) feet beyond the Building Area Limits or to adjoining lot property lines which ever is closer. Such disturbed area shall be revegetated with native landscaping.

4. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, between floor levels.

5. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reestablished grade whichever is greater.

6. MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

7. SEWER LATERALS. Maintenance and replacement of sewer laterals shall be the responsibility of their respective owners and not that of the Snyderville Basin Sewer Improvement District.

8. FIRE SPRINKLING. Internal and external modified 13d fire sprinklers shall be provided for the homes. Wood roofing material shall be prohibited.

9. PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

Exhibit A-2

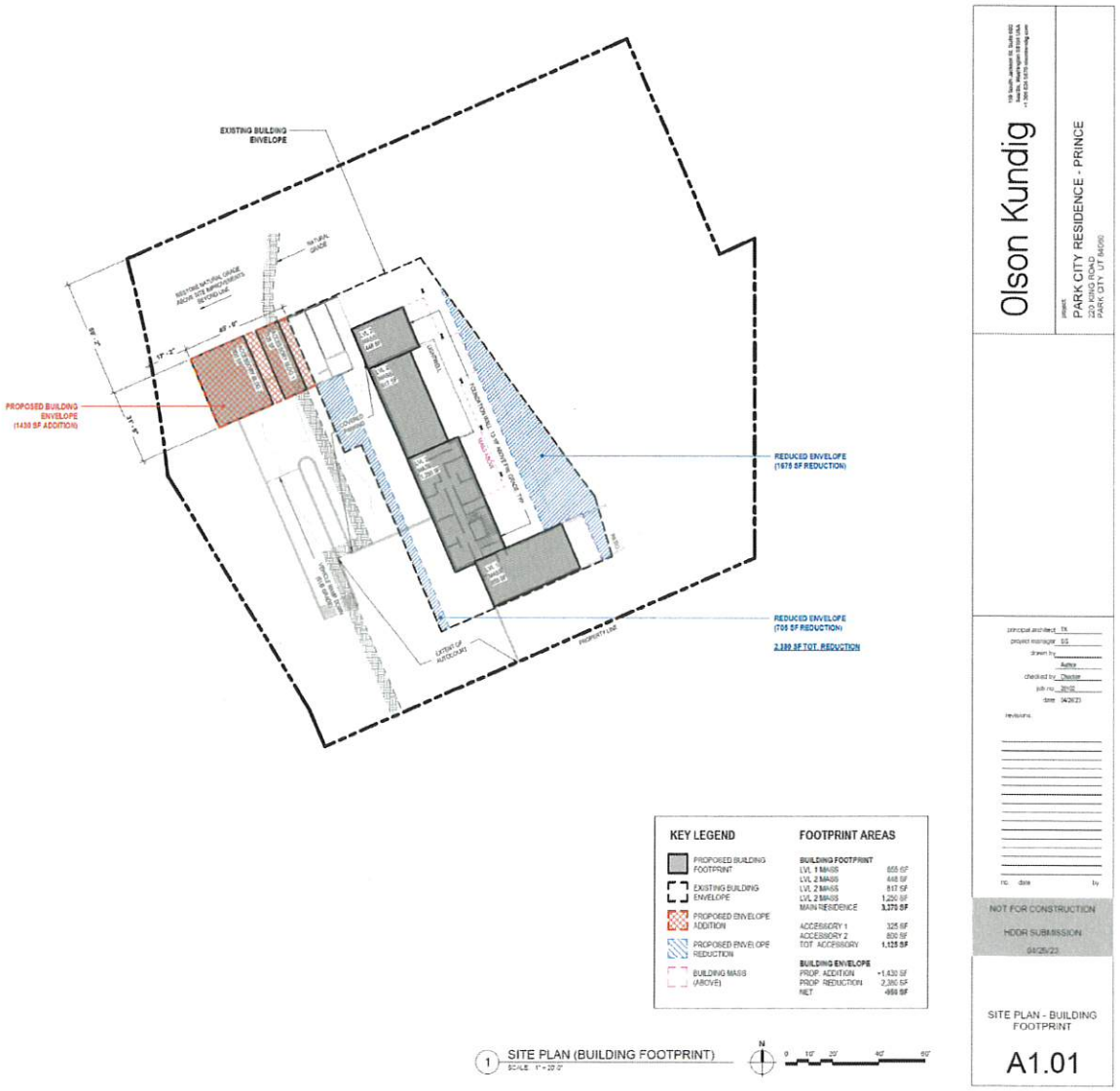

EXISTING BUILDING ENVELOPE
PROPOSED BUILDING ENVELOPE (1430 SF ADDITION)
REDUCED ENVELOPE (1670 SF REDUCTION)
REDUCED ENVELOPE (705 SF REDUCTION)
2,399 SF TOT. REDUCTION
KEY LEGEND
PROPOSED BUILDING FOOTPRINT
EXISTING BUILDING ENVELOPE
PROPOSED ENVELOPE ADDITION
PROPOSED ENVELOPE REDUCTION
BUILDING MASS (ABOVE)
FOOTPRINT AREAS
BUILDING FOOTPRINT
LVL 1 MASS 655 SF
LVL 2 MASS 448 SF
LVL 2 MASS 817 SF
LVL 2 MASS 1,250 SF
MAIN RESIDENCE 3,370 SF
ACCESSORY 1 325 SF
ACCESSORY 2 800 SF
TOT. ACCESSORY 1,125 SF
BUILDING ENVELOPE
PROP. ADDITION +1,430 SF
PROP. REDUCTION -2,380 SF
NET -950 SF
1 SITE PLAN (BUILDING FOOTPRINT)
SCALE: 1" = 20'-0"
N
0 10' 20' 40' 60'
Olson Kundig
project
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060
principal architect TK
project manager SS
drawn by Author
checked by Checker
job no. 20105
date 04/26/23
revisions
no. date by
NOT FOR CONSTRUCTION
HDDR SUBMISSION
04/26/23
SITE PLAN - BUILDING FOOTPRINT
A1.01

EXHIBIT B

Single Family CUP Compliance		
Code Section	**Review Item**	**Owner's Explanation of Compliance**
15-1-10.E.1	size and location of the Site;	**Complies** Existing on the site today are two Single-Family Dwellings, one of which was permitted as a guesthouse. The application is for one Single-Family Dwelling on a 1.24-acre Lot (Lot 2 of the treasure Hill Subdivision, Phase 1). It has already been determined that this location is appropriate for this use, through the MPD, plat review and previous CUP approval. It should be noted that the Lot on which the development is proposed, is much larger than the other lots/parcels in the vicinity. Due to the size of the lot, the structure will be more than adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away, on Norfolk Avenue. The size and location of the Site is consistent with other Single-Family Lots in the Sweeney MPD which generally range from 0.79- 1.31 acres and are also located towards the top of the Historic District.
15-1-10.E.2	traffic considerations including capacity of the existing Streets in the Area	**Complies** The new home will utilize the same access point, 220 King Road. There will be no additional traffic or traffic impacts from what is being proposed. The capacity of existing streets in the area is sufficient to accommodate the proposed development and the new development does not meet the Engineering Department's threshold to warrant a Traffic Impact Study.
15-1-10.E.3	utility capacity, including Storm Water run-off;	**Complies** All utilities to the Site were installed during construction of the existing Dwellings. It is anticipated that utility usage will be decreased with- i) the construction of a newer home, ii) the removal of a dwelling on the property, and iii) the removal of the use of the property as a short-term rental. Proposed Condition- All Storm Water runoff from new impervious surfaces must be contained

		on-site and the Applicant must submit a Soil Investigation Report and a Geotechnical Report prior to the Application being considered complete.
15-1-10.E.4	emergency vehicle Access	**Complies** The proposed development meets fire turnaround and driveway slope requirements.
15-1-10.E.5	location and amount of off-Street parking;	**Complies** The site will meet the requirements of LMC § 15-3-6(A) Off-Street Parking Requirements for Residential Uses (2 parking stalls).
15-1-10.E.6	internal vehicular and pedestrian circulation system;	**Complies** Vehicle Circulation: Vehicles accessing the site will utilize the exiting access point on King Road. The Site is designed to allow vehicles to turn around and park via the private driveway, as it has been done in the past. Pedestrian Circulation: King Road does not have sidewalks and is not ideal road for pedestrians. There is a ten foot (10') public non-motorized bike and pedestrian trail and a ski and pedestrian easement exist on this Property for the benefit of a neighboring lot, per the Amended Treasure Hill Subdivision, Phase 1 Plat. That trail will continue to be on the property; no change to the easements are proposed with this Application.
15-1-10.E.7	Fencing, Screening, and landscaping to separate the Use from adjoining Uses;	**Complies** No additional Fencing is being proposed on the site at this time. The landscaping and revegetation is proposed to be native grasses to blend in with existing vegetation, foliage and trees. The existing vegetation on and around the perimeter of the lot will be maintained and managed with Firewise principles. The perimeter vegetation provides and will continue to provide a visual barrier of the Site and/or structure and assists in mitigating the visual impact.
15-1-10.E.8	Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;	**Complies** 1. The structure has been broken up into separate massing elements to break up the perceived mass, as required by the plat notes. The most visible side of the house is the rear of the house, not the front facade of the home. The footprint of the home meets the requirement found on the plat. 2. Building and site design shall respect the existing topography, the

		character-defining site features, including existing trees and vegetation, and shall minimize cut, fill, and the use of retaining walls, by locating the retaining wall and hillside cut behind the house, so that it is not visible. 3. Building Height of structure meets the limitation placed on the plat; 30 feet measured from Existing Grade. Additionally, the roof has been reduced and secondary roof form has been incorporated in the design. 4. The proposed Structure is consistent with other Single-Family Lots in the Sweeney MPD. The MPD, plat and previous CUP approvals never considered this lot as a "historic lot".
15-1-10.E.9	usable Open Space;	**Complies** The proposed Single-Family Dwelling does not substantially change the Site's Open Space. The area proposed to be added to the "Buildable Area" is on the up-hill side of the Dwelling and not visible from King Rd, or across the valley. The lot will be restored after construction to existing grade and is proposing native grass, shrubs, Pine, and Aspen trees. There are existing trail easements on the Lot and proposed development does not disturb any of these trail easements. There are also several landscape easements on the east side of the property which will be maintained.
15-1-10.E.10	signs and lighting;	**Complies** No signs are proposed for the Single Family Lot. The site will be required to comply with LMC § 15-5-5(J), Outdoor lighting.
15-1-10.E.11	physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;	**Complies** The proposed Structure is consistent with other Single-Family Lots in the Sweeney MPD.
15-1-10.E.12	noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;	**Complies**The proposed Single-Family Dwelling is not expected to generate noise or other factors that will affect people and Property Off-Site.
15-1-10.E.13	control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;	**Complies** The Vehicle Control Gate will control delivery and service vehicles. The Applicant will provide plans where trash and recycling bins will be stored.
15-1-10.E.14	expected Ownership and management of the project as primary residences, Condominiums,	**Complies** The Lot will continue to be owned as a Single Family Lot.

	time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;	
15-1-10.E.15	within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and	**Complies** The site has already been graded for the existing Dwellings. The intent is to utilize the existing site, so that grading will be minimized . Steep Slope CUP information, including a grading plan has been submitted. This Site is not within the Soil Ordinance boundary or within the Sensitive Lands Overlay (SLO). The location and construction of the existing structures was previously approved. It is anticipated this location provides minimal impact on the Slope and Ridge Line of the Site, overall hillside, and adjacent properties and neighborhoods. The height and building size limitations placed on the Plat, along with the existing screening preserve the view from surrounding Sites. There are no wetlands or streams on the Site. This Site includes a trail and/or ski connection for human activity all year long, so impact on wildlife would not be greatly varied by the construction of a new Single-Family Dwelling. The Site is already utilized by the Property owner and the "Building Zone" does not have environmentally sensitive lands. Visibility of the site was contemplated at the time of the MPD and the Plat approval.
15-1-10.E.16	reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding	**Complies** The site and structure are not historically significant. The proposed design complies with design criteria as contemplated during the MPD approval.

Steep Slope CUP Compliance		
Code Section	**Review Item**	**Owner's Explanation of Compliance**
15-2.2-6.B.1	LOCATION OF DEVELOPMENT. Development is located and designed to reduce visual and environmental impacts of the Structure.	**Complies** The lot does contain Very Steep Slopes, which the CUP was submitted for. The location of the Lot is visible, however the cuts to the hillside and impact to the very steep slopes will be located behind the house and not visible from downtown. The SLO is not applicable to this lot. The lots in the Sweeney MPD have not been limited to site improvements only in the "Building Area Limits".
15-2.2-6.B.2	VISUAL ANALYSIS. The Applicant must provide the Planning Department	**Complies** A visual analysis was submitted. The site is visible with the current development. A

	with a visual analysis of the project from key Vantage Points: a) To determine potential impacts of the proposed Access, and Building mass and design; and b) To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities	landscaping plan that identifies additional plantings has been submitted. The impacts to the hillside will be behind the home and not visible from downtown.
15-2.2-6.B.3	ACCESS. Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Shared Driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.	**Complies** Access to the Site is not changing and the existing driveway will be used and improved. Improvements include widening the driveway to approximately 27 feet and retaining walls not to exceed eight feet (8'). Submitted plans indicate the grade of the driveway will not exceed 14%, in compliance with LMC § 15-3-3(A)(4).
15-2.2-6.B.4	TERRACING. The project may include terraced retaining Structures if necessary to regain Natural Grade.	**Complies** The proposed residence is going through Historic District Design Review. Conceptual grading and drainage plans from Alliance Engineering have been submitted.
15-2.2-6.B.5	BUILDING LOCATION. Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.	**Complies** The "perceived natural topography" of the site will remain as it is today. The cuts to the hillside will be located behind the home and will not be visible. The design, including the footprint, meet the criteria identified on the plat and in the Sweeney MPD.
15-2.2-6.B.6	BUILDING FORM AND SCALE. Where Building masses orient against the Lot's existing contours, the	**Complies** Proposed home is divided into several massing elements. Portions of the home are located below grade in order to reduce visibility and reduce the perceived bulk.

	Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage.	
15-2.2-6.B.7	SETBACKS. The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.	**Complies** There will not be any development along a road frontage.
15-2.2-6.B.8	DWELLING VOLUME. The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.	**Complies** The volume and/or massing requirements for home in the Sweeney MPD were established when the MPD and Plat were approved. These requirements included footprint, façade height, and massing. The proposed design meets each of the requirements.
15-2.2-6.B.9	BUILDING HEIGHT (STEEP SLOPE). The Zone Height in the HR-1 District is twenty-seven feet (27')	**Complies** The proposed design meets the height requirements identified in the Sweeney MPD and Treasure Hill Subdivision plat approvals.

	and is restricted as stated above in Section 15-2.2-5. The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and the Historic character of the neighborhood's existing residential Structures.	

EXHIBIT D

When Recorded, Mail To:
Geoffrey W. Mangum
Prince, Yeates & Geldzahler
175 East 400 South
Suite 900
Salt Lake City, Utah 84111

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ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1996 APR 15 17:00 PM FEE $45.00 BY DMG
REQUEST: COALITION TITLE

DECLARATION OF RESTRICTIVE COVENANTS
(KING ROAD LOTS)

THIS DECLARATION OF RESTRICTIVE COVENANTS is made on the 15th day of April, 1996, by **EDMUND J. BEAULIEU, CLYDE CARLIG** and **SWEENEY LAND COMPANY**, a Utah general partnership (collectively, the "Declarant").

RECITALS:

A. Declarant is the Owner of certain real property comprised of two (2) lots located in Summit County, Utah, more particularly described and depicted on Exhibit "A" to this Declaration, which is incorporated herein and which real property shall be covered by this Declaration (the "Covered Property"). Simultaneously herewith, Declarant is recording a subdivision plat ("Plat") of the real property described in Exhibit "A," which plat subdivides the Covered Property as indicated thereon and is entitled "Treasure Hill Subdivision, Phase I". The plat is being recorded as Entry No. 452295, ~~at Book No. _____, pages _____~~, (to be filled in by Coalition Title Agency) in the office of the Summit County Recorder.

B. Declarant intends to sell or deed the two (2) lots (collectively, the "Lots"), shown on the Plat as Lots 1 and 2, comprising the Covered Property for the construction of single-family residential homes. Declarant will develop and/or convey all of the lots within the Covered Property subject to the protective covenants, conditions, and restrictions set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of such lots.

NOW THEREFORE, Declarant declares as follows:

1. Scope and Existence of Declaration. Declarant hereby declares that all of lots within the Covered Property shall be held, sold, conveyed, encumbered, used, occupied, and improved subject to the protective covenants, conditions, restrictions set forth in this Declaration. It is the intention of the Declarant in imposing these covenants,

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conditions, and restrictions to create a general plan of development, to protect and enhance the property values and aesthetic values of the Covered Property, all for the mutual protection and benefit of owners of the Lots. The covenants, conditions, and restrictions contained herein are intended to, and shall in all cases run with the title of the land, be binding upon the successors, assigns, heirs, and any other person holding any ownership or possessory interest in the Covered Property, and shall inure to the benefit of all of the Lots in the Covered Property.

The covenants, conditions, and restrictions shall be binding upon each and all of the Owners, as well as their successors in interest, and may be enforced by the Declarant or by any Owner, as hereinafter defined. Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant (for so long as the Declarant or any of the Declarant is the Owner of any Lot) or any Owner from adding adjacent real property as Covered Property under this Declaration.

For purposes of this Declaration, the term "Owner" or "Owners" shall mean the person(s) or entity holding fee simple title to any Lot, including buyers under any contract for deed, but excluding any person or entity holding title for purposes of securing performance of an obligation, such as a trustee and/or beneficiary under a deed of trust or lender under a mortgage.

2. Restrictions On All Lots. The following restrictions on use shall apply to all Lots within the Covered Property:

(a) Zoning Regulations. The lawfully enacted zoning ordinances of Park City and Summit County and any building, fire, and health codes are in full force and effect in the Covered Property, and no Lot shall be occupied or used in a manner that is in violation of any such ordinance or code.

(b) Limited Business and Commercial Uses. No portion of the Covered Property shall be used for any mining or business use other than home occupations or nightly rentals. Either one guest house or one lockout room or one accessory apartment (with only one of such three possibilities being allowed), in addition to the main residence, shall be permitted per lot.

(c) Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Covered Property shall be underground, including lines within any Lot which service installations entirely within that Lot.

(d) Maintenance of Property. All lots, and the improvements on them, shall be maintained in a clean, sanitary, attractive, and marketable condition at all times. No Owner shall permit his Lot or the improvements on it to fall into disrepair.

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(e) No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

(f) No Hazardous Activity. No activity shall be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners insurance policy. This includes, without limitation, the setting of open fires (other than properly supervised and contained barbecues) and the storage of caustic, toxic, flammable, explosive or hazardous materials in excess or those reasonable and customary for home hobbies, maintenance and household uses.

(g) No Unsightliness. No unsightliness shall be permitted on any Lot. This shall include, without limitation, accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public street.

(h) No Annoying Lights. No outdoor lighting shall be permitted, except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. Notwithstanding the above, Christmas lights shall be permitted in season and on special occasions.

(i) No Annoying Sounds. No speakers, wind-bells, wind chimes, or other noise making devices shall be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

(j) Transient Lodging Uses. The Lots may be rented in whole or in part for nightly rentals, a boarding house or "bed and breakfast," or other uses for providing accommodations to travelers.

(k) No Re-Subdivision. No lot shall be re-subdivided, and no re-subdivision of any Lot shall result in the construction of any additional Dwelling units within the Covered Property.

(l) Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using

reasonable means to dissipate the flow energy. In no case shall water be allowed to be dumped or drained on adjoining lots, other than natural drainage.

(m) Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon any lot except that trash may be burned inside homes that are properly equipped with inside incinerator units. Garbage and trash receptacles shall be permitted when kept in an enclosure or are visually screened.

(n) Vehicles Restricted to Roadways, Driveways and Designated Parking Areas. No motor vehicle shall be operated on the Covered Property, except on improved roads and driveways and as provided to the contrary below. No motorcycles shall be operated on any Lot except for ingress and egress or while loading the equipment for lawful transport on public streets. No vehicle parking shall be permitted except on that portion of designated driveways which will not block ingress and egress to and from such driveways by other vehicles and in designated parking areas and in NO CASE SHALL PARKED VEHICLES AT ANY TIME BLOCK ACCESS TO ANY LOT. The Owner of Lot 2 shall in no event park vehicles, campers, boats or store materials in the non-exclusive driveway access and underground utilities easement ("Lot 2 Driveway Easement") provided for the benefit of Lot 2, as shown on page 1 of the Plat. Notwithstanding the foregoing, temporary parking shall be allowed for visitors and party guests on the Lot 2 Driveway Easement. No automobiles, trucks, motorcycles, trail bikes, snowmobiles, four-wheel drive vehicles or vehicles of any kind shall be operated on any of the Declarant's property wherever the same may be situated or any place in the subdivision other than the public roadways and private driveways unless for the express purpose of maintenance or construction.

3. Architectural Restrictions. All improvements and construction on the Covered Property is subject to the applicable existing architectural and other design and building restrictions in effect now and from time to time in the future.

4. King Road Improvements.

(a) Each Lot Owner shall share equally in the cost of construction and maintenance (including snow removal) for the common King Road improvements ("Improvements") shown on Alliance Engineering Drawings, 1 thru 8, entitled King Road Subdivision Improvements ("Construction Drawings"), attached hereto as Exhibit "B." All of said Improvements are not located on the Covered Property. All decisions regarding the timing, financing, construction management for the improvements shall be made jointly by the Owners. The Owners, acting in good faith and according to the intentions of this agreement, shall devise a joint plan to accomplish the above and shall move expeditiously to pursue said plan. Each Owner shall promptly pay his equal share of costs.

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(b) In the event the Lot Owners cannot agree with respect to the decisions to be made as referenced in subsection (a) above, any dispute shall be submitted to binding arbitration before an arbitrator selected by the American Arbitration Association ("AAA"). The arbitration shall be conducted under the rules of the AAA. Said arbitration shall take place in Park City, Utah and the cost of arbitration shall be shared equally by the Lot Owners. Notwithstanding Section 6(b) below, each party shall bear the cost of its own attorney's fees with respect to the arbitration. The arbitrator's decision shall be final and binding upon the Lot Owners and suit may be filed in any court of appropriate jurisdiction to enforce the arbitrator's decision. In any action brought to enforce the arbitrator's decision, the prevailing party shall be entitled to recover its costs of enforcement including attorney's fees and costs of court from the other party.

5. Access Control Gate. An access control gate currently exists as shown on the Construction Drawings, providing access to Lots. Said access control gate is not located on the Covered Property. It is anticipated that such access control gate will ultimately be removed with a new control gate being built, albeit at a different location. The Owners shall share equally in the cost of removing such gate and in the erection of a new control gate. All decisions regarding the timing of the removal of the access control gate, the location, design, cost and erection of a new access control gate shall be made jointly by the Owners. The Owners, acting in good faith and according to the intentions of this agreement, shall devise a joint plan to accomplish the above and shall move expeditiously to pursue said plan. Each Owner shall promptly pay his equal share of costs.

6. General Provisions. The provisions contained in this Declaration may be enforced as follows:

(a) Violation Deemed a Nuisance. Any violation of this Declaration which is permitted to remain on all or any portion of the Covered Property is deemed a nuisance and is subject to abatement by any Owner.

(b) Remedies.

(i) Without limitation as to any other remedy, any single or continuing violation of the provisions contained in this Declaration may be enjoined in an action brought by the Declarant or any of Declarant (for so long as the Declarant or any of Declarant is the Owner of any Lot) or by any other Owner in its own name. In any action brought to enforce this Declaration, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorneys fees and costs of court. Furthermore, Declarant or any of the persons or entities comprising Declarant (for so long as Declarant or any of the persons or entities comprising Declarant is the Owner of any Lot) or any other Owner of any Lot shall be entitled to lien the Lot of any Owner for any amounts owed by an

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Owner (including damages caused by such Owner) as a consequence of said Owner's failure to observe the terms herein.

(ii) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(iii) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(iv) The failure to take enforcement action shall not be construed as a waiver of the Covenants contained in this Declaration in the future or against other similar violations.

(c) **Severability.** Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

(d) **Amendment.** At any time while this Declaration is in effect, the Owners of the Lots may amend the provisions of this Declaration. Any amendment must be in writing and be approved by the Owners at the time of the amendment. No such amendment will be binding upon the holder of any mortgage or trust deed unless, the holder joins in the amendment.

(e) **Constructive Notice.** Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Covered Property is conclusively deemed to have notice of this Declaration and its contents and to have consented to the application and enforcement of each of the covenants, conditions, and restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

(f) **Notices.** All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage prepaid and be sent to the last known address of the party to receive notice. Notices delivered by hand or by a nationally recognized courier service are effective upon delivery.

(g) **Liberal Interpretation.** The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Covered Property. Paragraph headings are inserted for convenience only and shall not be

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considered an interpretation of the provisions. The singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

(h) Mortgagee Protection Provision. The breach of any of the foregoing covenants shall not defeat or render invalid the lien of any mortgage or deed of trust lien on the Covered Property that is made in good faith and for value; provided, however, that all of the covenants contained herein shall be binding upon and effective against any owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding, from and after the date of such foreclosure, trustee's sale or other foreclosure proceeding.

(i) Other Limitations. This Declaration of Restrictive Covenants does not purport to define all restrictions against the Covered Property. The Covered Property is also subject to such restrictions as are disclosed on the Plat or which are of record.

(j) Benefits and Burdens. This Agreement and the benefits and burdens of the restrictions and covenants contained herein shall run with and bind the Covered Property and shall be binding upon and inure to the benefit of and shall be enforceable by any current and future owners or lessees of the Covered Property, the holders of any deeds to secure debt on such Covered Property, any purchaser at foreclosure on any such deed to secure debt, and their respective heirs, successors, successors in title, assigns and personal representatives.

Executed on the date stated above.

EDMUND J. BEAULIEU

STATE OF ILLINOIS)
:
COUNTY OF Cook)

On the 10th day of April, 1996, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: 6652 N. Chicora
Chgo. IL 60646

My Commission Expires:

OFFICIAL SEAL
JAMES H. WOLF
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-13-98

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CLYDE CARLIG

STATE OF NEW MEXICO)
: ss
COUNTY OF San Juan)

On the 11th day of April, 1996, personally appeared before me CLYDE CARLIG, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Silvia E. Day
NOTARY PUBLIC
Residing at: 220 N. Auburn
Farmington, N.M. 87401

My Commission Expires:

Nov. 15th 1998

SILVIA E. DAY NOTARY PUBLIC STATE OF NEW MEXICO

SWEENEY LAND COMPANY,
a Utah general partnership

By Patrick J. Sweeney
Patrick J. Sweeney
Its Managing General Partner

STATE OF UTAH)
: ss
COUNTY OF ~~SALT LAKE~~ Summit)

On the 15 day of April, 1996, personally appeared before me Patrick J. Sweeney, who being by me duly sworn, did say that he is the Managing General Partner of SWEENEY LAND COMPANY, a Utah general partnership, and that the foregoing instrument was signed on behalf of said partnership, and said Patrick J. Sweeney acknowledged to me that said partnership executed the same.

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE. P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

Robert C Rodman
NOTARY PUBLIC
Residing at: Summit Co Utah

My Commission Expires:
Nov 27, 1997

G:\JACKIE\GWM\SWEENEY\KINGROAD.DRC

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Exhibit "A"

Lot 1, (King Road South Lot), Treasure Hill Plat Phase I

Beginning at a point on the North-South 40 Acre Line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian which is South 66°22' West, 21.67 feet and South 0°08'50" East, 218.03 feet along said 40 Acre Line, more or less from the Northeast Corner of Lot 32, Block 78, Millsite Reservation to Park City, Utah said point also being South 66°40' West, 240.50 feet and South 0°08'50" East, 735.34 feet from a Park City Monument at the Intersection of Park Avenue and 4th Street;

and running thence South 0°08'50" East, 442.70 feet along said 40 Acre Line to a point on a 515.00 foot radius curve to left (Long chord bears North 23°17'42" West, 211.60 feet); thence running Northwesterly along the arc of said curve 213.12 feet (Delta=23°42'38"); thence North 35°09'01" West, 117.10 feet to point of curvature of a 135.00 foot radius curve to the right (Long chord bears North 29°20'18" West, 27.34 feet); thence running Northwesterly along the arc of said curve 27.39 feet (Delta=11°37'27"); thence North 23°31'34" West, 52.48 feet; thence North 66°22' East, 201.18 feet to the point of beginning.

Containing 0.86 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

Lot 2, (King Road North Lot), Treasure Hill Plat Phase I

Beginning at a point which is South 66°22' West, 21.67 feet and South 0°08'50" East, 81.95 feet, more or less, from the Northeast Corner of Lot 32, Block 78, Millsite Reservation to Park City, Utah said point also being South 66°40' West, 240.50 feet and South 0°08'50" East, 599.26 feet from a Park City Monument at the Intersection of Park Avenue and 4th Street;

and running thence South 0_08'50"East, 136.08 feet; thence South 66°22' West, 201.18 feet; thence North 23°31'34" West, 17.11 feet; thence North 31°26'11" West, 116.94 feet to a point on a 605 foot radius curve to the left (Long chord bears North 11°00' West, 94.07 feet; thence running northwesterly along the arc of said curve 94.16 feet (Delta=8°55'04"); thence North 66°22' East, 234.29 feet; thence South 23°38' East, 100.00 feet; thence North 66°12' East, 16.39 feet to the point of beginning.

Containing 1.24 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

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KING ROAD LOTS
TREASURE HILL SUBDIVISION
PHASE 1
MARCH 1996

Exhibit "B"

DEVELOPER

MPE, INC
P.O. BOX 2429
PARK CITY, UTAH 84060
FAX 649-6215
(801) 649-7077

CIVIL ENGINEER

ALLIANCE ENGINEERING INC.
323 MAIN STREET
PARK CITY, UTAH 84060
FAX 649-9475
(801) 649-9467

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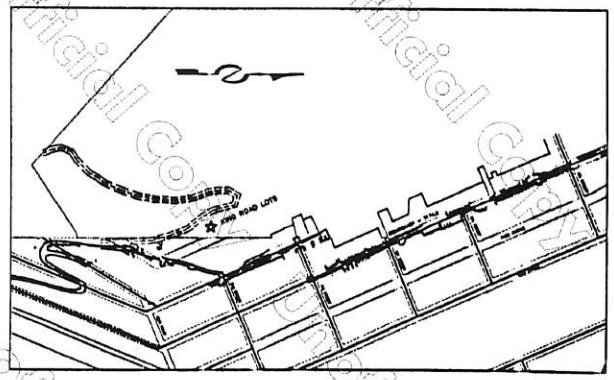
6. PLAT
7. PLAT
8. PLAT

GENERAL SPECIFICATIONS

LOCATION



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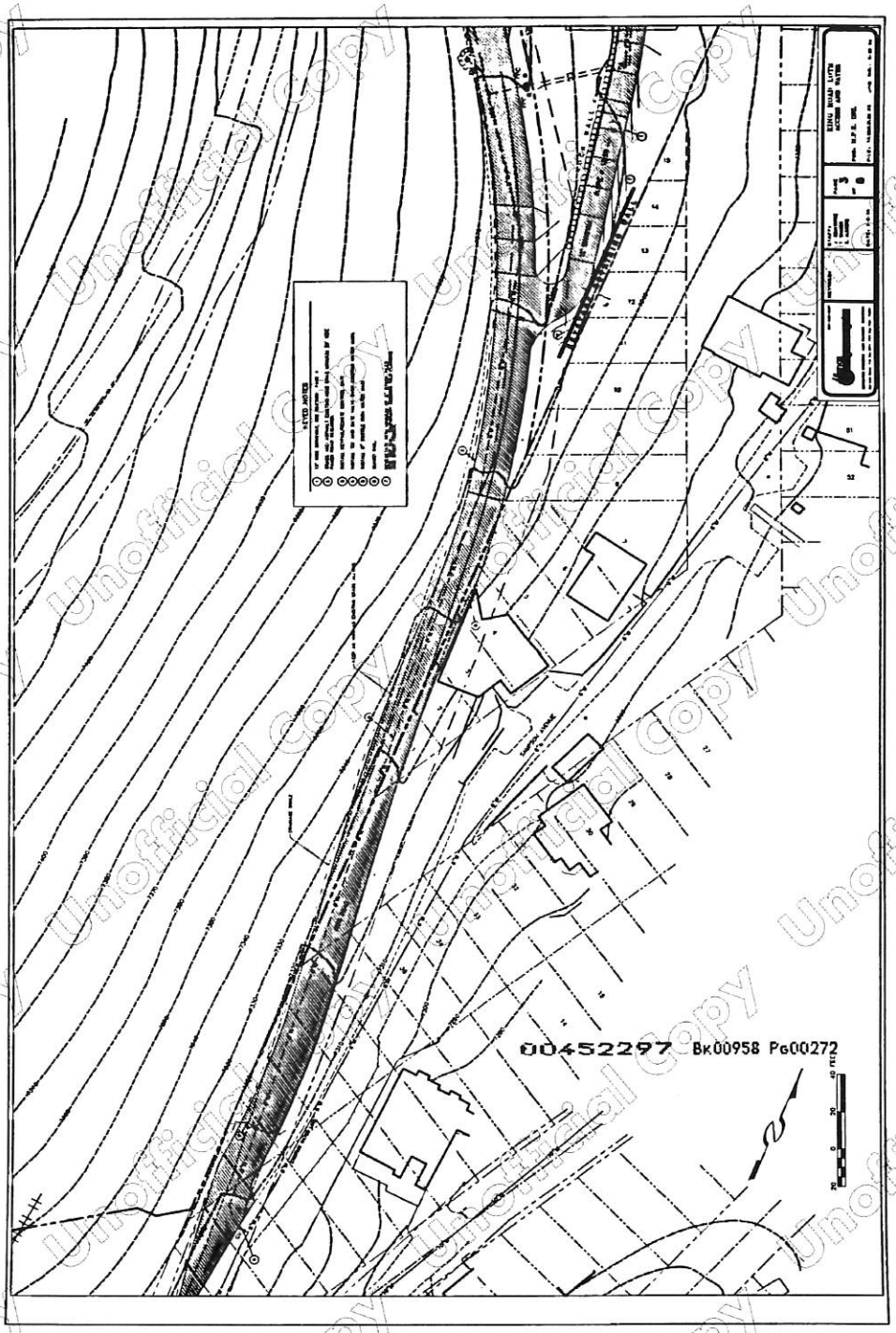

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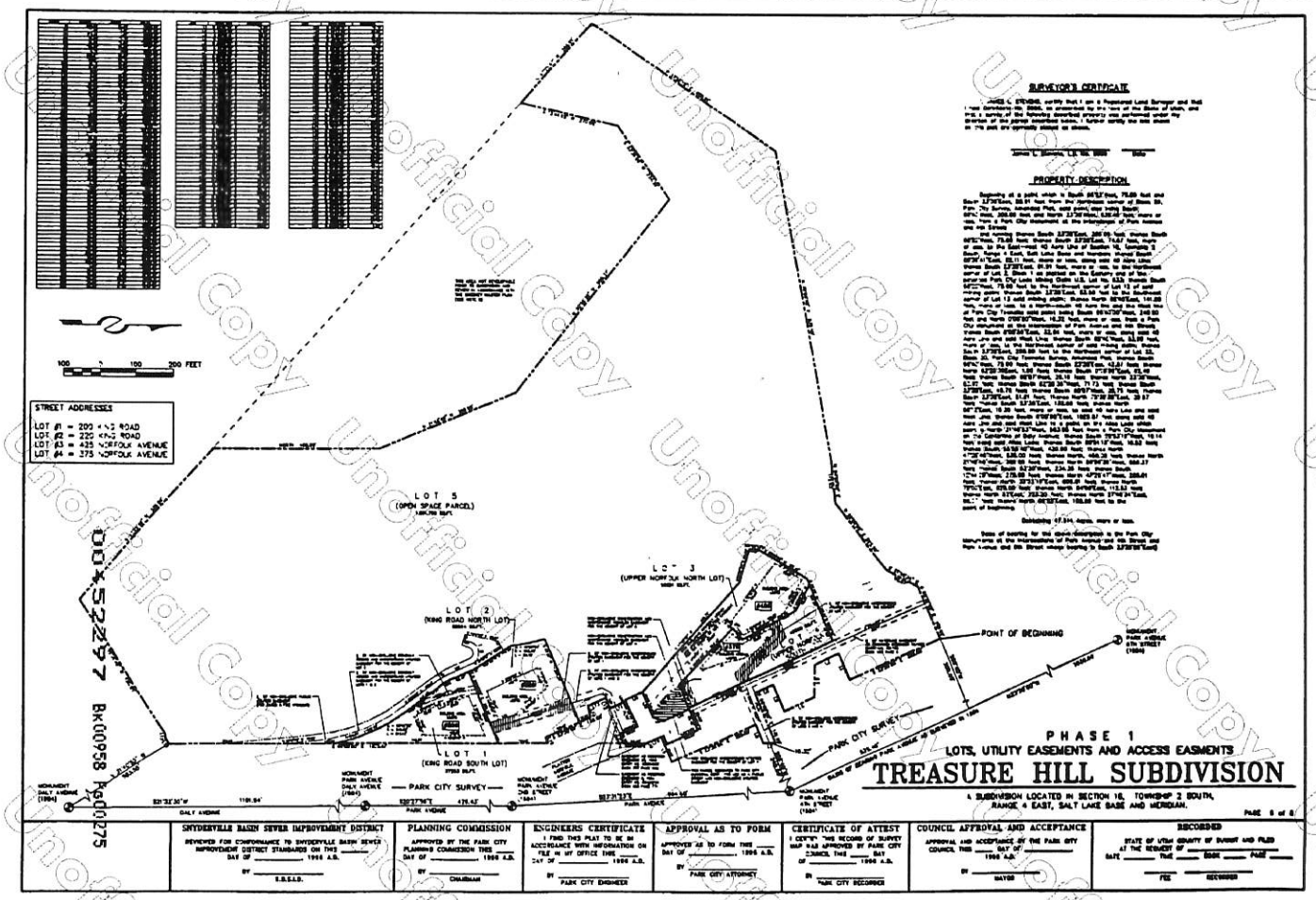

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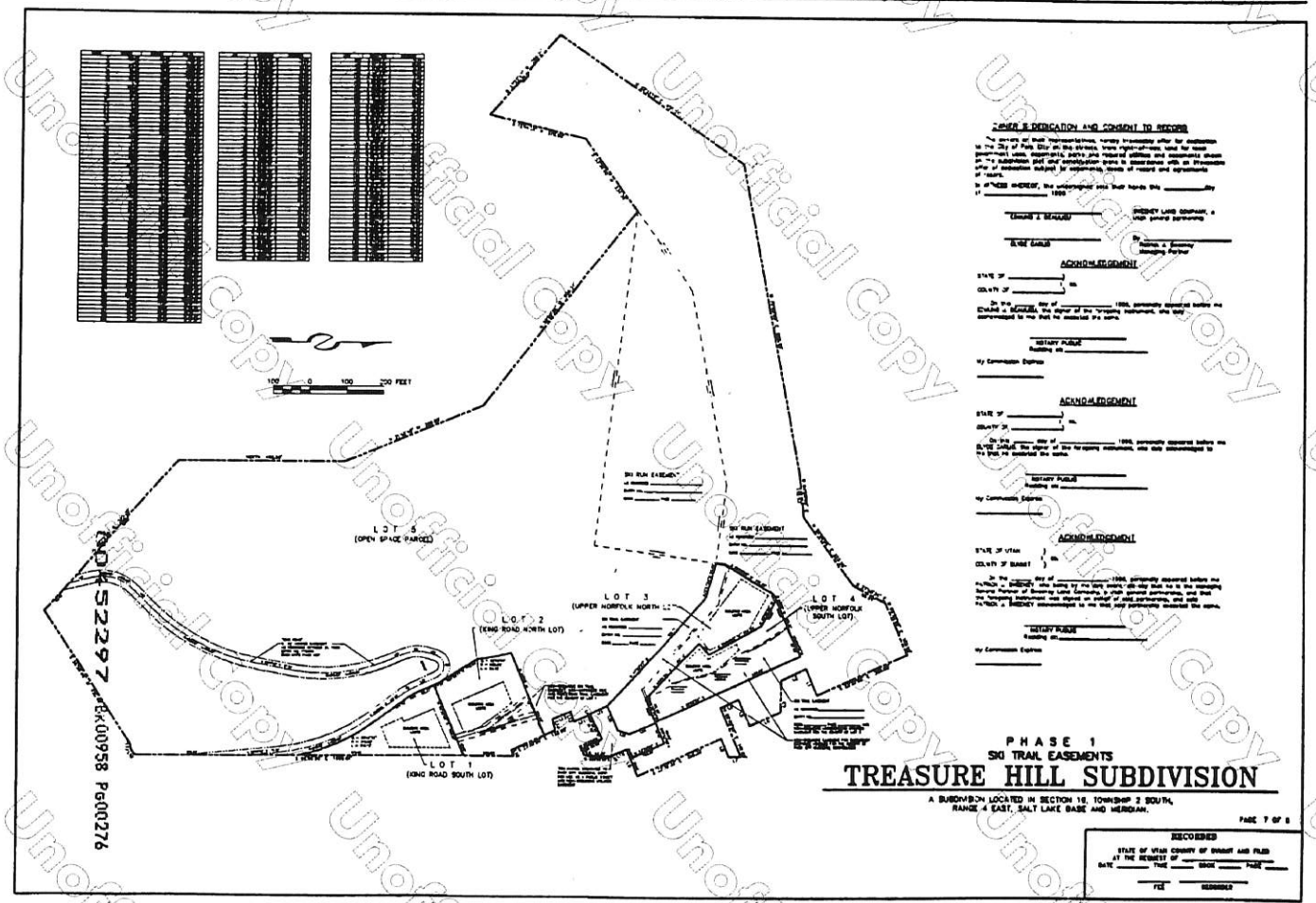

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGEMENT

ACKNOWLEDGEMENT

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PHASE 1
SKI TRAIL EASEMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

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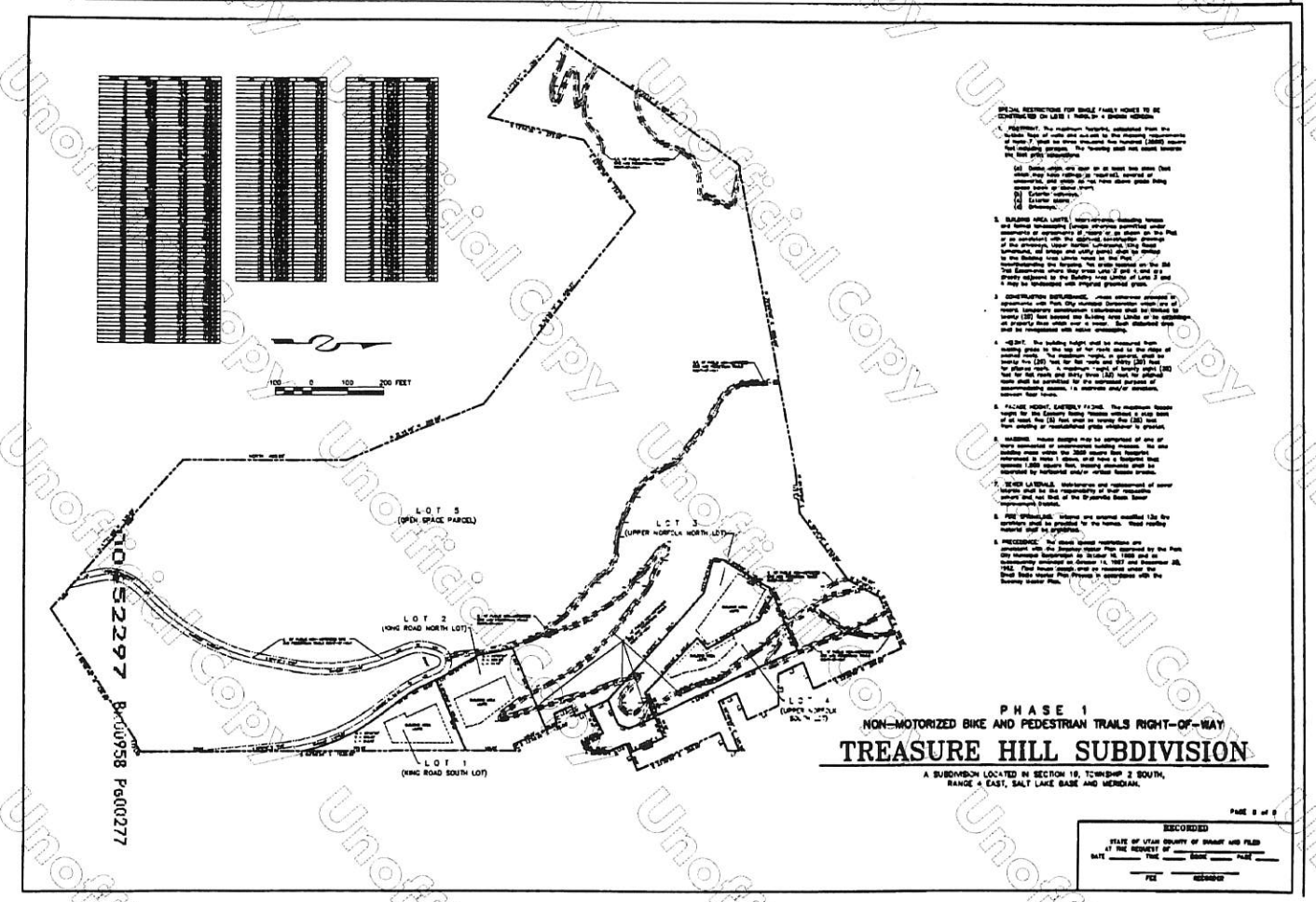

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON.

1. FOOTPRINT. The maximum footprint, established from the outside face of walls and roof to the outermost edge of eaves if present, of any one structure, including garages, shall not exceed three thousand [3000] square feet including garages. The following shall not exceed maximum [sq. foot prints] listed/given:

   (a). Dwelling units that shall be of at least two stories (but which may have cellings or "vaulted" portions of substantial size) shall be of not more square feet including garages.

   (b) Exterior walkways,
   (c) Exterior eaves,
   (d) Balconies.

2. BUILDING AREA LIMITS. Notwithstanding [including] houses and homes incorporating [unique] [attached] [and/or] [detached] appurtenances of [garages] or [open] as shown on the Plat or in accordance with the approved [construction] drawings of the [Planning] [design] [architectural] [site] [road] [architectural] [of bridge and utility plans] shall be limited to the [building] [area] [limits] noted on the Plat. Notwithstanding the foregoing, no [area] located on the Plat [and] [drawings] where [they] cross Lots 2 and 3 and 4 [are] directly adjacent to the [building] [area] [limits] of Lots 2 and 3 may be [developed] with [regular] [planned] [plats].

3. CONSTRUCTION ENFORCEMENT. [Unless otherwise] [allowed] in accordance with [the] City [Planning] [Commission] [and] [any of] [covers]. [Developer's] [landowners] [structures] shall be [limited] to [ninety] [30] feet between the [building] [area] [limits] or [in addition] [of] [property lines which] [and] [a] [home]. [Such] [disturbed] [areas] [and] [is] [integrated] [with] [natural] [vegetation].

4. HEIGHT. The [building height] shall be measured from the [existing] [grade] [to] the [top] [of] [the] [roof] [and] [to] [the] [slope] [of] [pitched] [roofs] [not] [to] [exceed] [thirty] [30] [feet] [as] [for] [flat] [roofs] [and] [thirty] [30] [feet] [for] [pitched] [roofs]. A maximum height of [ninety] [eight] [90] [feet] for flat roofs [and] thirty [30] feet for pitched roofs shall be permitted for the [stairwell] [purposes] of [accessing] [access], [i.e. stairwell] [and/or] [elevator] [tower] [towers].

5. FACADE HEIGHT, EASTERLY FACING. The maximum [facade] height for the Easterly [facing] [facades] without a step back of at least five [5] feet shall be twenty five [25] feet, from existing or [natural] [grade] [elevation] to [eaves].

6. SIDING. [Home] [designs] may be comprised of one or more [combination] of [materials] including [but] not [limited] to the [following] [that] within the [Salt] [Lake] [Valley] [Area]: [stone], [brick], [stucco], [wood], [and] [vinyl] [siding]. [Aluminum] [siding] [is] [prohibited] [except] [as] [approved] [by] [architectural] [and/or] [design] [review] [process].

7. SEWER LATERALS. [Maintenance] [and] [replacement] [of] [sewer] [laterals] [shall] [be] [the] [responsibility] [of] [each] [homeowner] [and] [not] [that] [of] [the] [Granite] [Water] [Sewer] [Improvement] [District].

8. FIRE SPRINKLERS. [Interior] [are] [strongly] [recommended] [but] [fire] [sprinklers] [shall] [be] [provided] [for] [the] [homes] [those] [meeting] [National] [NFPA] [13] [standards].

9. PRECEDENCE. [The above] [stated] [restrictions] [are] [consistent] [with] [Planning] [Commission] [and] [City] [Council] [approvals] [granted] [by] [the] [Park] [City] [Municipal] [Corporation] [in] [October] [15], [1997] [and] [in] [December] [20], [1997] [and] [in] [December] [28], [1998] [and] [in] [December] [28], [1999] [and] [in] [December] [28], [1942]. [Final] [review] [shall] [and] [is] [reserved] [for] [the] [Park] [City] [Planning] [Commission] [and] [the] [Park] [City] [Municipal] [Corporation] [in] [accordance] [with] [the] [Planning] [Master] [Plan].

PHASE 1
NON-MOTORIZED BIKE AND PEDESTRIAN TRAILS RIGHT-OF-WAY

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

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EXHIBIT E

PARK CITY PLANNING DEPARTMENT
REVISED Staff Report

TO: Planning Commission
FROM: Planning Staff
DATE: December 18, 1985
RE: SWEENEY PROPERTIES MASTER PLAN

I. PROJECT STATISTICS:

Applicant:	MPE, Inc. Sweeney Land Company, owner
Proposal:	Large Scale Master Planned Development
Location:	Various parcels throughout Historic District
Parcel Size:	125.6 acres
Existing Zoning:	Historic Residential (HR-1); Estate (E); and, Historic Recreation Commercial (HRC) currently, although Historic Commercial Business (HCB) at the time of formal application
Comprehensive Plan:	Historic Residential and Estate
Surrounding Uses:	Ski area, residential, vacant
Application Date:	May 21, 1985

II. STAFF'S RECOMMENDATION and FINDINGS

The Planning Department Staff recommends that the Planning Commission APPROVE, and forward a positive recommendation to the City Council on the proposed height variation required and rezoning of the hillside (approximately 110 acres) to Recreation Open Space, the proposed Sweeney Properties Large Scale Master Planned Development. The project has been considered in accordance with the review procedures and criteria outlined in Sections 1 and 10 of the Park City Land Management Code, effective January 1, 1984, as amended. The following plans and exhibits, in addition to this report and the project file, constitute the complete development permit.

1. Sweeney Properties Master Plan, sheets 1-16, 19-26, and 38-43 prepared by DelaMare, Woodruff, Stepan Associates, Inc.

2. Sweeney Properties Master Plan document and Fact Sheet, dated May 15, 1985, and subsequent amendments.

3. Sweeney Properties Master Plan Application.

4. Sweeney Properties Master Plan Phasing Exhibit.

5. Sweeney Properties Master Plan Density Exhibit.

6. Sweeney Properties Master Plan Development Restrictions and Requirements Exhibit.

In support of our recommendation to the Planning Commission to approve the proposed Large Scale Master Planned Development, the staff has made the

following Findings based upon the information submitted in conjunction with this application.

1. The proposed clustered development concept and associated projects are consistent with both the Park City Comprehensive Master Plan and the underlying zoning.

2. The uses proposed and general design of the project is or will be compatible with the character of development in the surrounding area.

3. 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.

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

5. The required parking can readily be provided on-site and in enclosed structures.

6. The proposed phasing plan and conditions outlined will result in the logical and economic development of the project including the extension of requisite utility services.

7. The proposed setbacks will provide adequate separation and buffering.

8. The anticipated nightly/rental and/or transient use is appropriate and compatible with the surrounding area.

9. The provision of easements and rights-of-way for existing utility lines and streets is a benefit that would only be obtained without cost to the residents of Park City through such a master planning effort.

10. The site planning standards as set forth in Section 10.9(g) of the Land Management Code have either been satisfied at this stage of review or practical solutions can be reasonably achieved at the time of conditional use review/approval.

III. DEVELOPMENT PARAMETERS and CONDITIONS

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

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.

2. Upon final approval of the proposed Master Plan, a recordable document (in accordance with the Land Management Code) shall be prepared and submitted. The Official Zone Map will be amended to clearly identify those properties included within the Master Plan, and the hillside property not included within either the Town Life Mid-Station or Creole Gulch sites (approximately 110 acres) shall be rezoned to Recreation Open Space. At the time of conditional use review, final building configurations and heights will be reviewed in accordance with the approved Master Plan, applicable zoning codes and related ordinances. A minimum of 70% open space shall be provided within each of the development parcels created except for the Coalition properties.

3. 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.

4. Access to the Town Lift and Creole sites shall be provided by a private roadway with acceptable emergency access and utility easements provided. No city maintenance of these streets is expected. All utility lines shall be provided underground with private maintenance required wherever located in inaccessible locations or outside approved easements.

5. Building heights shall be limited to the maximum envelope described on the Restrictions and Requirements Exhibit. At the time of conditional use approval, projects shall be reviewed for conformance with the heights prescribed thereon, and the following:

   (a) The various parcels located within the Historic Residential (HR-1) zone district shall abide by the Land Management Code and no height exceptions will be considered. Maximum building height on the single

family lots shall be limited to 25' in order to reduce potential visibility.

(b) The Coalition East sites are limited to a maximum building height of 55', subject to compliance with the stepped facade (as shown on the applicable plans) concept submitted and the setbacks provided.

(c) The Coalition West properties are limited to a 35' maximum building height adjacent to Park Avenue and a 28' height along Woodside Avenue; subject to the footprints defined, common underground parking and access, and no commercial uses allowed.

* Reflects City Council 10.16.86 modifications. *

(d) The Town Lift Mid-Station development is restricted to a maximum height of 35' for at least 90% of the total unit equivalent volume of all above-grade buildings (exclusive of elevator shafts, mechanical equipment, and non-habitable areas) and an overall average height of less than 25' measured from natural, undisturbed grade. Additionally, no portion of any building shall exceed the elevation of 7240' above mean sea level.

(e) The Creole Gulch site shall be limited to a maximum building height of 75' for at least 83% of the total unit equivalent volume of all * above-grade buildings combined. An average overall height of less than 45' shall be provided and no portion of any building shall exceed either elevation 7250' for the eastern-most building or the elevation of 7275' for the balance of the project (above mean sea level).

The above building height restrictions are in accordance with the approved Restrictions and Requirements Exhibits submitted, and are in addition to all other codes, ordinances, and standards.

6. At the time of project review and approval, all buildings shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements. No mechanical equipment or similar protuberances (i.e: antennae, flags, etc.) shall be permitted to be visible on any building roof-tops or shall any bright or flashing lights be allowed.

7. All easements, deeds, and/or rights-of-way shall be provided without cost to the city and in accordance with the master plan documents and phasing plan approved. Likewise, it shall be the developer's sole responsibility to secure all easements necessary for the provision of utility services to the project.

8. Master Planned Development approval only conceptually established the ability of local utility service providers to supply service to the projects. It does not constitute any formal approval per se. The applicant has been notified that substantial off-site improvements will be necessary and that the burden is on the future developer(s) to secure various easements and upsize whatever utility lines may be necessary in order to serve this project. Prior to resale of this property in which this MPD approval is carried forward, or prior to any conditional use application for any portion of the MPD, a utility plan addressing water, fire flows, and sanitary sewer, storm drainage, cable utilities, and natural gas shall be prepared for review and approval by City Staff and the

Snyderville Basin Sewer Improvement District. Part of the plan shall be cost estimates for each item of utility construction as it is anticipated that major costs for these utilities will be necessary. All such costs shall be paid by the developer unless otherwise provided. If further subdivision of the MPD property occurs, the necessary utility and access improvements (see below) will need to be guaranteed in accordance with city subdivision ordinances. Public utilities, roads, and access questions which will need to be resolved or upgraded by the developers at their cost (in addition to impact fees, water development and connection fees, and all other fees required by city ordinances) are as follows:

(a) Empire Avenue and Lowell Avenue will be the main access routes to the Creole Gulch site. As such, during construction these roads will need to carry heavy traffic, probably in the vicinity of up to 300 heavy trucks per day. At the present time and until the Creole Gulch site develops, Empire and Lowell south of Manor Way are and will be low-volume residential streets, with a pavement quality, width, and thickness that won't support that type of truck traffic. The City will continue to maintain the streets as low-volume residentials streets, including pavement overlays and/or reconstruction. None of that work will be designed for the heavy truck traffic, but in order to save money for the developer of the Creole Gulch site, he or she is encouraged to keep the City Public Works Director notified as to the timetable of construction at Creole Gulch. If the City is notified that the construction is pending such that an improved pavement section can be incorporated into normal City maintenance projects, then it is anticipated that the incremental additional cost of the additional pavement thickness (which is likely to be in the vicinity of 3 additional inches of asphalt over the entire 4,6000 linear feet [25-foot asphalt width] of Lowell/Empire south of Manor Way, or approximately $80,000 additional cost in 1986 dollars) could be paid by the developer with said amount deducted from future impact fees paid to the City as long as it did not exceed the total future impact fees. However, if the increased pavement section is not coordinated with the City by the developer such that the pavement of Lowell and Empire south of Manor Way remains inadequate at the time the Creole Gulch site is developed, then the developer shall essentially reconstruct the entire 4,600-foot length of Lowell and Empire south of Manor Way at his or her cost, which with excavation and reconstruction of an anticipated 6-inch asphalt thickness on top of 10 inches of roadbase, plus all other normal construction items and costs, would be in the approximate cost range of $300,000 to $400,000 in 1986 dollars. Further, because that reconstruction would be inconvenient to residents and the City, and because delays, impacts, and potential safety hazards would be created over and above normal City maintenance of existing streets, that action by the developer would be a new impact on City residents and the cost therefore would not be deductible from any developer impact fees.

(b) Contribute to the Park City Village, or other water tanks, determined to be necessary by the City Engineer in order to serve the project with culinary and fire storage. Based on a Type 1 fire resistive construction, it is assumed that the contribution would be on the order of 500,000 gallons at a cost of approximately $300,000.00,

although the exact figures would need to be determined in a detailed study using adopted City standards.

(c) Construct pumped pressure system(s) with backup emergency power to provide a means of delivery of fire flows to the project. Construct a meter vault at the edge of the road adjacent to the project, beyond which all water facilities would be privately maintained. It is anticipated that in the vicinity of 2,500 feet of 12-inch water line with appurtenances may be required. Such pipe would cost about $70,000 in 1986 dollars exclusive of the pumps and backup power, which are even more expensive.

(d) Provide an easement, or pay all costs related to condemnation by Park City of an easement, suitable for construction and maintenance of a storm drain from the project site to Silver Creek or McLeod Creek. All City streets and any public utility drainage easements normally provided in the course of other private development shall be available for utility construction related to this MPD subject to reasonable construction techniques and City standards.

(e) Pay for downstream detention basin construction costs in accordance with the ratio of increased runoff from the project during the 50-year flood event to the total design volume of the basin.

(f) Construct a storm drain line to Silver Creek or McLeod Creek adequate to contain the runoff running through and off the site during the 50-year flood event. It is assumed that a minimum of 36-inch concrete storm drain line will need to be installed solely for Creole Gulch drainage. It is further assumed that special cleanout boxes and inlet boxes will need to be designed to address difficult hydraulic problems. Such boxes are expensive.

(g) Provide revegetation over all on-site and off-site areas disturbed for project-related utilities.

(h) Sanitary sewer improvements are assumed to involve replacing in the vicinity of 3,000 feet of sewer line, with new manholes included. Such construction will cost in the vicinity of $100,000, is subject to the approval of SBSID, and is further subject to all District fees and agreements necessary for extension of lines.

9. To minimize additional construction traffic impacts, on-site material stockpiling/staging and parking shall be provided during the course of construction. Similarly, cut and fill shall be balanced and distributed on-site whenever practicable, with any waste material to be hauled over City specified routes. Also at the time of conditional use review/approval, individual projects or phases shall provide detailed landscaping, vegetation protection, and construction staging plans.

10 As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application.

IV. BACKGROUND

An application for Large Scale Master Planned Development was submitted on May 21, 1985, in accordance with Sections 1 and 10 of the Park City Land Management Code. The applicant requested that only general development concept and density be approved at this juncture. Final unit configuration and mix may be adjusted by future developers at the time of conditional use review. A legal description of the total property involved in the area being master planned shall be recorded with Summit County. The general nature of the development and pertinent details of the transferring of densities from one area to another shall be adequately described and of sufficient depth to apprise potential land purchasers or developers that the property has been included within a Master Plan.

A variety of development concepts were submitted during the course of reviewing the proposed Master Plan. A total of eight distinct approaches to the development of the Hillside Properties were evaluated. 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. Several of the alternatives prepared were in response to specific concerns expressed relative to the scale and mass of buildings necessary to accommodate the density proposed. The latest concept developed represents a refined version of the cluster approach originally submitted.

V. NARRATIVE

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:

Coalition Properties

The three sites comprising the Coalition Properties are located adjacent to the new Town Lift base station on Park Avenue at 8th Street, and contain a total of 1.73 acres (1.46 acres HRC, .27 acres HR-1).

The Coalition East North and South parcels are separated by an easement granted for the ski liftway. Although this property was included within the recent rezoning of the Depot Area from Historic Commercial Business (HCB) to Historic Recreation Commercial (HRC), the application was submitted prior to this action and the former zoning is thereby "grandfathered" (if, in fact, the

application is approved). The development concept proposed entails a predominantly residential project with some ground level commercial uses anticipated. In an effort to reduce densities elsewhere within the Master Plan, the originally proposed density has been increased from 37 to 40 unit equivalents. Preliminary building footprints and massing drawings show structures with a stepped facade reaching a maximum height of fifty-five feet. Parking will be provided within an enclosed structure beneath the buildings and in accordance with the Table on the Restrictions and Requirements Exhibit or the Land Management Code (to be determined at the time of conditional use approval).

The Coalition West property is located south of and adjacent to 8th Street in the Historic Recreation Commercial (HRC) zone recently created. The concept for this particular site is in keeping with the previous zoning (Historic Residential, HR-1) and provides a buffer for properties located to its west. Also in response to preferred reductions in density elsewhere in the Master Plan, the originally proposed ten unit equivalents have been increased to thirteen total. In order to accommodate this additional density, a floor was added to several of the buildings. Building heights adjacent to Park Avenue have been shown at 35', while those abutting Woodside Avenue will be restricted to a 28' height. Individual structures have been conceptually designed in keeping with the scale of the Historic District will all code required parking to be provided below the buildings and accessed from a single common driveway.

HR-1 Properties

These project parcels consist of the MPE and Carr-Sheen properties and total less than ½ acre (.45) in size. Zoned HR-1 at present, the Master Plan proposes to limit densities on these sites to 2 and 3 unit equivalents accordingly, or a reduction of 44% (i.e: 4 units total). In addition, easements shall be provided for a stairway connecting the Empire-Lowell switchback to the Crescent walkway. The Fletcher parcel included within the Master Plan will be preserved as open space in addition to several quit claim deeds provided to the city for existing streets located outside platted rights-of-way.

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.

Miscellaneous Properties

In addition to the development areas described above, the proposed Master Plan identifies three distinct single-family lots; one of which is located above Woodside Avenue adjacent to and north of platted 5th Street, a second to be accessed from Upper Norfolk, and a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet.

VI. MAJOR ISSUES

Many concerns were raised and issues identified through the review process. A project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. Because this particular site is located both within and adjacent to the Historic District, many of the concerns expressed related to the more subjective kinds of considerations. The Master Planned Development procedure attempts to deal with the general concept of the proposed development and defer or relegate the very detailed project review elements to the conditional use stage of review. At conditional use review, the following issues will be examined in considerable detail with technical solutions sought.

Comprehensive Plan - The city's Comprehensive Master Plan identifies the Hillside property as a key scenic area and recommends that development be limited to the lower portions of the mountain. The existing HR-1 ground included in the Sweeney Master Plan is shown as being retained for residential use similar to the existing pattern of development. The Coalition West site is also recommended for Historic Residential use with the East parcels included within a Historic Commercial area. The proposed Sweeney

Properties MPD is in conformance with the land use designations outlined in the Park City Comprehensive Master Plan.

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

Zoning - Currently, the land involved in the proposed MPD is comprised of three (actually four) distinct zoning designations. The Coalition East parcel is currently zoned Historic Recreation Commercial (HRC) although it was zoned (and is therefore, technically "grandfathered" or vested) Historic Commercial Business at the time the application was submitted. The West site is also now zoned HRC. The Hillside Properties (i.e: Town Lift Mid-Station and Creole Gulch sites) are zoned Historic Residential (HR-1) and Estate (E). The Carr-Sheen, MPE, and two of the three single-family lots are all zoned HR-1 as well. The single-family lot adjacent to property owned by United Park City Mines is zoned Estate.

The current zoning will basically remain unaltered as a result of the proposed Master Plan except that over 110 acres of the mountain will be rezoned to Recreation Open Space (ROS), and the hillside properties will be designated as being subject to a Master Planned Development document/approval (i.e: E/HR1-MPD).

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

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.

Access - All of the different concepts reviewed would result in similar access concerns. The Coalition properties along Park Avenue have excellent access as a result and efforts were, therefore, limited to combining driveways to minimize the number of curb cuts (i.e: ingress/egress points). The development of the Hillside Properties will undoubtedly impact not only Empire and Lowell Avenues but other local streets as well. While certain assumptions could be made as to the type or character of development proposed and possible corresponding differences in traffic patterns, many of the questions raised would remain unanswered. While it is true that the Norfolk Avenue extended alternative would best deal with the current problem of poor access to that area, it would not have solved all of the access issues. The proposed Master Plan will provide sufficient ground, to be dedicated to the city, for purposes of developing a reasonable turnaround for Upper Norfolk.

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach, although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

Building Height - In order to minimize site disturbance and coverage, the clustering of density necessitated consideration of building heights in excess of that which is permitted in the underlying zoning (28' to the mid-point of a pitched roof with a maximum ridge height of 33'). The various iterations submitted for review demonstrated the trade-offs between height and site coverage. The proposed concept for the Mid-Station area results in buildings that would average only 18' above grade with portions (primarily the elevator access shafts likely to be required) approaching 75' in the worst-case situation. The concept reviewed for the Creole Gulch area entails portions of buildings as high as 100', but with an overall average of less than 40'. The Coalition East property, as a result of transferring additional density to it, is proposed to go as high as 55'; whereas, the Coalition West site approaches 35' along the Park Avenue frontage and 28' adjacent Woodside Avenue. As a part of the Master Planned Development process, height variations can be approved in light of other

planning considerations (see Section 10.9(e) of the Land Management Code). Throughout the review, considerable effort has been directed at minimizing overall building height and related impacts while still accommodating the proposed density in a cluster type of development.

These recommendations were approved by City Council *

The staff has developed a number of recommended conditions in response to the concerns expressed over building heights. An exhibit defining building "envelopes" has been developed to define areas where increased building heights can be accommodated with the least amount of impact. It is our recommendation that maximum building heights be restricted to 35' and 75' at the Town Lift Mid-Station and Creole Gulch sites, respectively, for the bulk of (at lease 83%) the building volumes. Similarly, we recommend that the building envelope proposed for the Coalition properties be limited in accordance with the exhibits prepared and made a part of the approval documents.

Overall Concept - The 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. The Park City Comprehensive Master Plan update that was recently enacted encourages the clustering of permitted density to those areas of the property better able to accommodate development. In order to preserve scenic areas in town and mitigate potentially adverse impacts on the environment, the Master Planned Development concept was devised. The Sweeney Properties MPD was submitted after a number of different development concepts had been reviewed; including, several versions of the Silver Mountain proposal and various designs that were predicated on the extension of Norfolk Avenue through to the Empire-Lowell Avenues area. 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.

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.

Traffic - Any form of development proposed in this area of town would certainly impact existing streets. Although the majority of traffic generated will use Empire and Lowell Avenues, other roads will also be affected. The concept of extending Norfolk Avenue would have improved access to the south end of old town, but would also have added additional traffic to Empire and Lowell as a result. It is expected that both Empire and Lowell will be improved in several years in order to facilitate traffic movement in general. Even without this project, some upgrading has been planned as identified through the development of the Streets Master Plan.

In evaluating traffic impacts, both construction and future automobile demand are considered. Many related issues also come into play, such as efforts to minimize site grading and waste export. The Master Plan review process affords the opportunity to address these issues in considerable detail whereas other reviews would not. Several of the conditions proposed deal with the issue of traffic and efforts directed at mitigating the impacts created. Traffic within the project will be handled on private roadways with minimal impact.

Utilities - The various utility providers have all reviewed the proposed development concept and do not oppose granting Master Plan approval. Substantial improvements to existing infrastructure will be necessary, however, and the developer has been apprised of his responsibility. Considerable off-site work will be required, the details of which will be resolved at the time of conditional use approval. Depending upon the timing of actual development or the possible subdivision of the property, participation in upgrading existing utility lines and roadway improvements may be required ahead of schedule. A number of parameters/conditions recommended further detail these issues and serve to verify the nature of MPD concept approval.

Fiscal - The proposed dense clustering of development is by far the most economic to service. In contrast to other concepts proposed involving the extension of Norfolk Avenue and possible scattered development of the hillside, the cluster approach represents a positive impact on the city's and other public entities budgets. The nature of development anticipated and lack of additional roadway and utility line extensions requiring maintenance will not create significant additional demands for service.

Tenancy - The likely occupancy and tenancy of the projects comprising the Master Plan will be transient in nature. Rather than housing significant numbers of year-round permanent residents, it is expected that the orientation will instead be toward the short-term visitor.

Circulation - Circulation within the primary development sites will be on foot. Private roadways/drives access the project parking areas with vehicular circulation provided between projects and for service/delivery, construction, and emergency purposes. Pedestrian circulation within the projects will be provided via walkways and plazas with off-site improvements made to facilitate area-wide access. Several nearby stairways will be (re)constructed in accordance with the approved phasing and project plans.

Easements/Rights-of-Way - The Sweeneys have included the dedication and and/or deeding of several easements and sections of rights-of-way to improve the city's title. As a part of the Master Plan, several roadway sections and utility/access corridors will be deeded over. In addition, a right-of-way will be supplied for the construction of a hammerhead-type turnaround for Upper Norfolk Avenue.

Norfolk Avenue - Although several staff members supported the idea of extending Norfolk Avenue through to Empire-Lowell, the consensus was in support of the clustering approach to development. Technical as well as fiscal concerns were discussed relative to the access benefits that would result. Similarly, although the resultant scale of HR-1 development that would have been likely is closer to that prevalent in the Historic District today, the spreading-out of the impacts of road and development construction would have been exacerbated. In lieu of extending Norfolk Avenue, the Sweeney's have consented to deed to the city sufficient land for a turnaround and to participate in the formation of a special improvement district for roadway improvements (in addition to providing an easement for the existing water line).

Grading - The proposed cluster concept will result in less grading than the alternatives considered. The MPD review enabled the staff, Planning Commission, and developer the opportunity to consider this kind of concern early in the project design process. The concept plans developed have examined the level of site work required and how potential impacts can be mitigated. Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified.

Disturbance - The eight distinct development scenarios presented each had a varying degree of associated site disturbance. The current concept results in considerably less site clearing and grading than any of the others presented (except the total high-rise approach). A balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts. General development parameters have been proposed for Master Plan approval with the detailed definition of "limits of disturbance" deferred until conditional use review.

Density - The proposed densities are well within the maximum allowed and actually about one-half of that which the underlying zones would permit. While it would not be practical or feasible to develop to the full extent of the "paper density", the proposed Master Plan does represent a considerable reduction from that which could be proposed. During the course of review, numerous comparables were presented which demonstrated that the overall density proposed (1.77 unit equivalents per acre of the Hillside Properties and 2.20 for the entire MPD) is the lowest of any large scale project recently approved. The net densities proposed for the hillside properties, while seemingly quite high, are in actuality lower than the density of the surrounding area. Thus, even though a transferring and congregation of development density is occurring, the overall gross and net densities are well within ranges approved for other projects.

Phasing - The build-out of the entire Master Plan is expected to take somewhere between 15-20 years. The Coalition properties will likely be

developed within 5-10 years with development of the Hillside area not expected for at least 10 years. Because of the scope of the project and the various related improvements necessary to accommodate a project of this nature, a detailed time line has been developed as an attachment to the MPD approval documents. While some flexibility is built-into the approved Master Plan, any period of inactivity in excess of two years would be cause for Planning Commission to consider terminating the approval.

Setbacks - All of the development sites provide sufficient setbacks. The Coalition properties conceptually show a stepped building facade with a minimum 10' setback for the West site (in keeping with the HRC zoning) and a 20' average setback for the East sites. The Hillside properties provide substantial 100'+ setbacks from the road, with buildings sited considerably farther from the closest residence.

Fire Safety - The clustering of development proposed affords better overall fire protection capabilities than would a more scattered form. Buildings will be equipped with sprinkler systems and typical "high-rise" fire protection requirements will be implemented. The proposed development concept locates buildings in areas to avoid cutting and removing significant evergreens existing on the site. Specific parameters have been recommended by the staff with actual details proposed to be deferred until conditional use review.

Snow Removal/Storage - The cluster approach to development results in less roadway or associated hard-surfaced area and thereby reduces the amount of snow storage/removal necessary. Considerable effort has been devoted in looking at everything from snow melting systems to where pitched roofs will shed. No additional snow removal will be required of the city. At conditional use approval, additional consideration will be appropriate to ensure that snow storage can safely and reasonably be handled on-site.

Employee Housing - At the time of conditional use approval, individual projects shall be reviewed for impacts on and the possible provision of employee housing in accordance with applicable city ordinances in effect.

Landscaping/Erosion Control - Detailed landscaping plans and erosion control/revegetation methodologies for minimizing site impacts will be required at the time of conditional use review. Plantings shall be reviewed for their ability to provide visual interest and blend with existing native materials.

Trails - The proposed phasing plan identifies the timing of construction for summertime hiking trails and related pedestrian connections. Trails, stairways, and sidewalks accessing or traversing the various properties will be required in accordance with both the approved phasing plan and at the time of conditional use review/approval.

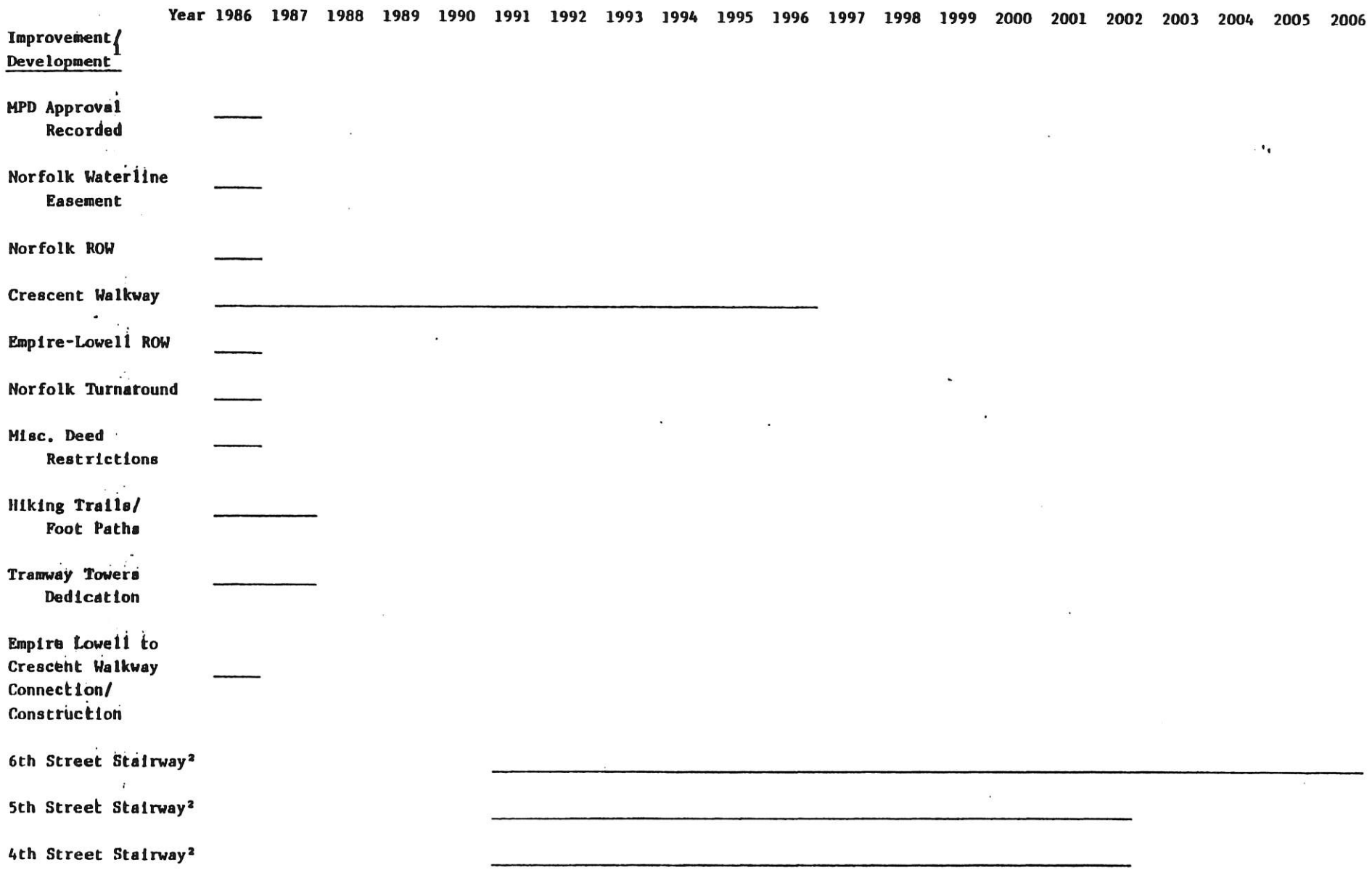
SWEENEY PROPERTIES MASTER PLAN DENSITY EXHIBIT

Parcel	Acreage	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 Gulch	7.75	161.5	15.5	~~98'~~ * 75	70
Town Lift Mid-Station	3.75	35.5	3.5	~~55'~~ * 45	70
Three ½-acre Single Family Lots	1.5	3	---	25'	83.9
Develop HR-1 Properties					
Carr-Sheen	0.288	3	---	28'	60
MPE	0.161	2			
		258 U.E.	19 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 (10/16/8

SWEENEY PROPERTIES MASTER PLAN PHASING EXHIBIT - REVISED



Year	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006

Project Timeframe

Coalition Properties _____

MPE and Carr-Sheen _____

Town Lift _____
Mid Station

Creole Gulch _____

[1]For additional clarification, consult the Planning Department Staff Report and the Sweeney Properties Master Plan document and fact sheet dated May 15, 1985.

[2]Stairways to be constructed concurrently with development of Hillside Properties unless already improved by Park City Resort or adjacent projects.

EXHIBIT F

City Council Staff Report

PARK CITY 1884
PLANNING DEPARTMENT

Application No: PL-13-01889
Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: November 21, 2013
Type of Item: Legislative – LMC Amendments Height in the Historic Residential and the RC Districts.

Summary Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Description

Project Name:	LMC Amendments – Regarding development in the HRL, HR-1, HR-2, and RC Districts
Applicant:	Planning Department
Location:	Old Town and Resort Center
Proposal	Revisions to the Land Management Code

Background

The Planning Commission originally discussed the definition of story during a work session discussion on August 22, 2012. Then during a Planning Commission work session discussion held on September 12, 2012 staff recommended reviewing the interpretation of a "*story*" as currently defined in the Land Management Code (LMC). During this meeting, the Commission showed concerns regarding the current Building Height parameters and how they applied to split-level concepts. It was interpreted that a three (3) story split-level per the current LMC definition of a story would qualify as multiple stories adding up to six (6). Staff introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. Planning Director Eddington indicated that the Planning Staff would work with different scenarios and come back with alternatives.

During a regular meeting dated September 26, 2012, Staff introduced amendments to the LMC to address planning and zoning issues that came up in the past year. The proposed amendments provided clarification and streamlining of processes, procedures, and definitions, etc. During this meeting the same maximum internal height measurement provision was drafted.

During the September 26, 2012 Planning Commission meeting, many items were forwarded to the City Council for review and possible adoption. Regarding Building Height measurement and story definition, the Commission continued the proposed

amendments to a later date. The Planning Commission found the exhibits in the Staff report to be helpful, but expected additional information based on the discussion at the last meeting. The Commission requested to see an exercise on a variety of un-built lots in Old Town, both downhill and uphill, that maximizes the heights using stories as an example to see what the mass and scale and height would do. The Commission requested to see an idea of "worst case" scenarios. The Planning Department committed to provide a variety of examples on un-built lots, however, it was recognized that many lots do not have historic structures on them which can be demolished through an administrative building permit. The Planning Department proposed to come back with the information requested as well as other scenarios they had created for massing and volume on various slopes. The Planning Commission would be able to see how different aspects of the LMC work in each scenario depending on the slope.

During the November 28, 2012 Planning Commission meeting many other items were forwarded to the City Council for review and possible adoption including the new Building Height parameter to limit the maximum internal height of a building. Because of the amount of LMC amendments, staff was unable to deliver the prepared presentation on stories as the Planning Commission requested to continue the presentation to December 12, 2012.

On December 12, 2012 the Planning Department prepared the different scenarios and requested to hear as much input as possible from the Planning Commission. Due to the late hour that evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. Staff briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **downhill** lots.

On February 13, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **uphill** lots.

These last two Planning Commission work session discussions were based on the current Building Height parameters which include the following:

- No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.
- Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.
- A structure may have a maximum of three (3) stories. A basement counts as a first story.

- A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.
- Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.
- Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

The direction received from the Planning Commission, which resulted from the many different meetings shown herein, was to replace the current requirement of a maximum of three (3) stories with an internal maximum height provision. The Planning Commission did not feel inclined to amend the other Building Height parameters such as the maximum building height of twenty-seven feet (27') measured from existing grade, the required roof pitch, etc.

In response to that direction, on May 8, 2013 the Planning Department proposed adding a new parameter to the Building Height. This parameter was to replace the maximum number of stories by adding a provision which indicated a maximum height measured from the lowest floor level to the highest roof form. The actual maximum number proposed was based on a scale factor depending on the roof pitch of said structure. See attached Planning Commission minutes, Exhibit H – Planning Commission regular meeting minutes 05.08.2013. The Planning Commission expressed concerns with how the new provision would relate to the ten foot (10') horizontal step as it was discussed that it may need to have a numeric value other than saying that it would occur on the third floor. The Commission was not comfortable forwarding a recommendation to the City Council without seeing the drafted language regarding the roof pitch exception.

Public comment was also made during this time which focused on the 3-story versus internal height issue, structures with exposed foundations below the first floor, roof pitch options, different ways of controlling visual height and mass. The Planning Commission continued this item to May 22, 2013 to allow staff to address the comments from the Planning Commission and the public. On May 22, 2013 this items was continued to June 26, 2013. On June 26, 2013 this item was continued to July 10, 2013.

During the July 10, 2013 Planning Commission meeting Staff introduced proposed language clarified throughout the subsequent meetings. During this meeting the Planning Commission discussed various items such as the maximum slope for driveways (14%), excavation impacts, window wells, flat roofs, and the specifics parameters introduced as recommended height amendments. The Planning Commission continued this item to a date uncertain to allow staff to tidy up the recommendation and to further analyze the proposed height amendments.

The Recreation Commercial District (RC) District has specific requirements for single family dwellings and duplexes under LMC § 15-2.16-5. Subsection L & M refers to Building Height which mirrors the same language for the HRL, HR-1, and HR-2. If the Building Height is amendment for these three (3) Historic Residential Districts, this same language should also be amended in the RC District to reflect the same standard for consistency.

On October 9, 2013 the Planning Commission reviewed the proposed LMC amendments and forwarded a positive recommendation outlined in Exhibit A.

Building Height Analysis
Existing height provisions:

- **No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.** (*Staff does not recommend amending this provision).*
- **Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.** (*Staff does not recommend amending this provision).*
- **A structure may have a maximum of three (3) stories. A basement counts as a first story.** (*Staff recommends amending this provision).*
- **A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.** (*Staff recommends amending this provision).*
- **Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.** (*Staff recommends amending this provision).*
- **Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.** (*Staff does not recommend amending this provision).*

Currently, the specific height of a story is not codified. The LMC defines a story as:

> *The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.*

There is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet (27'), this is known as the *roof over topo* analysis. After analyzing the impacts of the

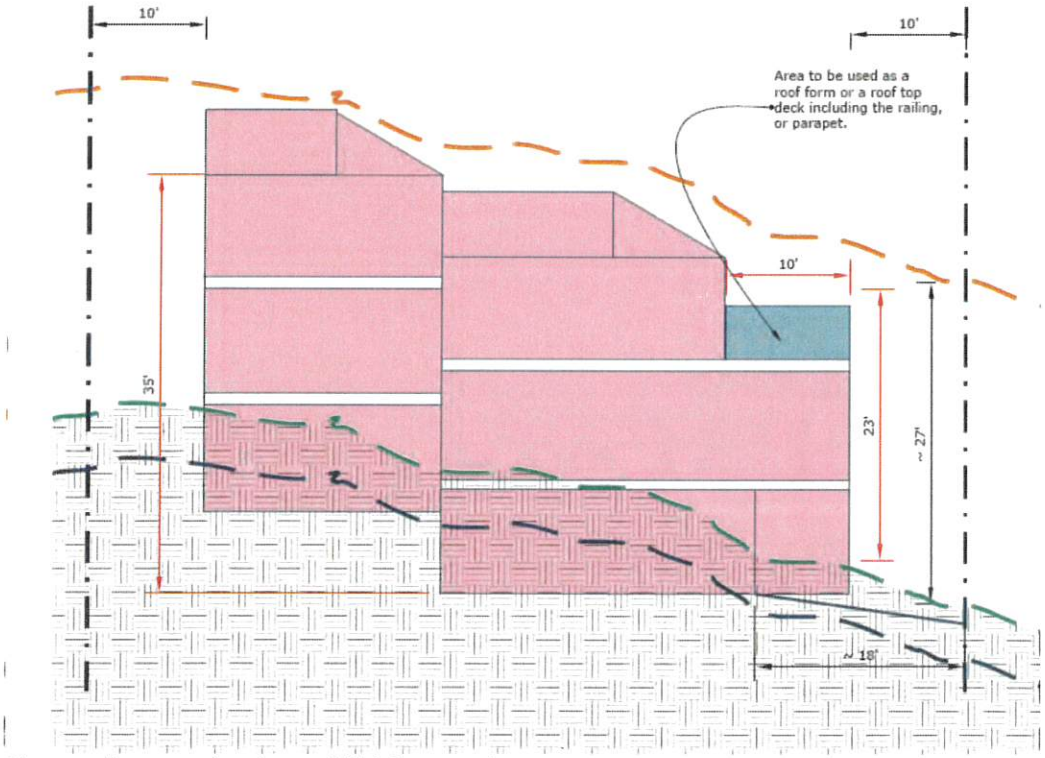
"split-levels" and more specifically "multiple split-levels" concept on a standard lot of record and possibly over longer lots, staff recommends adding provisions to the LMC related to Building Height. By regulating the maximum height measured from the first story floor plane to the point of the highest wall top plate that supports the ceiling joints/roof rafters, the mass, volume, and scale of the "split-level" concept can be limited so that the proposal does not contain multiple numbers of splits stepping up or down the hillside. Planning Staff recommend that the Commission forward a positive recommendation to the City Council by adding the following provisions to the Building Height regulation:

> ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable do not count as a Story.~~

The Planning Commission's recommendation included reducing the maximum height to thirty three feet (33') as they felt that the recommended thirty five (35') was too high. The 35' recommendation is based on the having a three (3) story building at ten foot wall height including floor plate and accommodating a split. Please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The Planning Department and the Planning Commission also recommend adding clarifying language to the ten foot (10') minimum horizontal step. The current Code does not indicate where the step back takes place on a vertical plane. Staff finds that the added language in red below clarifies where the horizontal step should occur. Staff has seen projects that have extended ceilings from the mid-level to the top level that technically removes the required horizontal step as this portion of the structure does not provide a third (3rd) story. The clarifying language requires that projects that have the same massing of a three (3) story building to have such horizontal step. See language to be added:

> A ten foot (10') minimum horizontal step in the downhill façade is required ~~for the third (3rd) Story of a Structure~~, unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.



Above: diagram showing uphill lot scenario

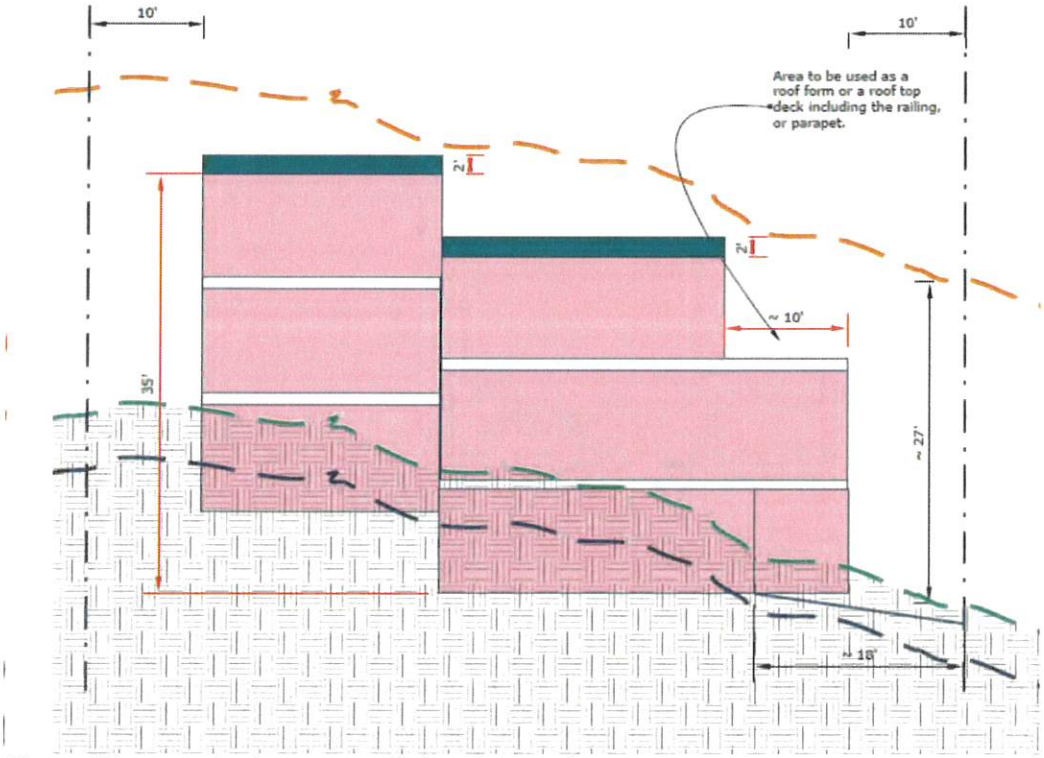
Staff also found that the roof pitch also needs to be clarified to reflect the following:

ROOF PITCH. Roof pitch must be between seven: twelve (7:12) and twelve: twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty-four inches (24") above the highest top plate mentioned above.

The Planning Commission accepted a former Staff recommendation with indicated the following: A Structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including

parapets, railings, or similar features. Staff requests Council consider a change to the recommendation of thirty feet (30') as it does not provide any room to allow for a split level as it would simply consists of three (3) floors. The proposed language simply provides consistent with the massing below a roof whether it is a flat green roof or a higher roof pitch while at the same time not overpower the height of a structure with a flat roof.



Above: Diagram shoring a green flat roof scenario.

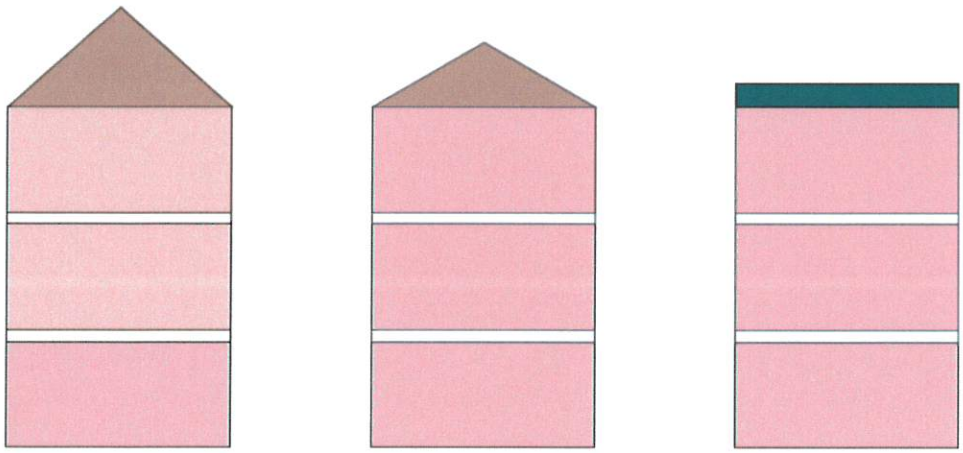
The above provision clarifies the required roof pitch for green roofs as well as it adds a specific parameter of measurement which is not any additional height that what would be required for a standard Old Town roof form. Again, please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The LMC defines a Green Roof as:

> *A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional*

layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles.

This regulation allows the "split-level" concept (internally) but regulates the vertical area that can be used to accommodate such concept. These figures were derived from having three (3) stories (or levels) measuring a maximum ten feet (10') wall height including one foot (1') floor joists. This diagram below shows that the flat green roofs would not be any higher in term of wall height.



Process
Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC § 15-1-18.

Notice
Legal notice of a public hearing was posted in the required public spaces and published in the Park Record.

Public Input
Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. The public hearing for these amendments was properly and legally noticed as required by the Land Management Code. Ruth Meintsma shared public comment during the May 8, 2013 and the July 10, 2013 public hearings. Ms. Meintsma focused on several items found in Exhibit H & I.

Significant Impacts
The proposed amendments provide clarification of the Building Height and Existing Historic Structures as currently outlined in the LMC. The amendments address the

mass and scale of new construction as it relates to residential development in the Historic District. Existing structures which do not conform to these regulations will be treated as non-complying Structures and regulated under LMC § 15-9-6.

Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Exhibits

Exhibit A – Proposed Ordinance
Exhibit B – Planning Commission work session discussion minutes 8.22.2012
Exhibit C – Planning Commission work session discussion minutes 9.12.2012
Exhibit D – Planning Commission regular meeting minutes 9.26.2012
Exhibit E – Planning Commission regular meeting minutes 11.28.2012
Exhibit F – Planning Commission work session discussion minutes 1.09.2013
Exhibit G – Planning Commission work session discussion minutes 2.13.2013
Exhibit H – Planning Commission regular meeting minutes 05.08.2013
Exhibit I – Planning Commission regular meeting minutes 7.10.2013
Exhibit J – Planning Commission regular meeting minutes 10.09.2013

Draft Ordinance 13- __

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTIONS 15-2.1-5, 15-2.2-5, 15-2.3-6, 15-2.16-5(L), & 15-2.16-5(M) REGARDING BUILDING HEIGHT IN THE HRL, HR-1, HR-2, & RC DISTRICTS.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding architectural consistency and excellent design and enhancing the economic viability of Park City's Main Street Business Districts; and

WHEREAS, Chapters 2.1, 2.2, and 2.3 Historic Residential Districts (HRL, HR-1, and HR-2) and Chapter 2.16 Recreation Commercial (RC) District, provide a description of requirements, provisions and procedures specific to these zoning districts that the City desires to clarify and revise. These revisions concern existing historic structures and building height; and

WHEREAS, the Planning Commission held work session discussions on August 22, 2012, September 12, 2012, January 9, 2013, and February 13, 2013 and provided input and direction during their regular meetings on September 26, 2012, November 28, 2012, May 8, 2013, and June 26, 2013 and discussed the proposed LMC amendments as outlined in this report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on October 17, 2013, and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on_____, 2013; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, preserve historic structures, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2- Sections 15-2.1, 15-2.2, 15-2.3, and 15-2.16. The recitals above are incorporated herein as findings of fact. Chapter 15-2.1, 15-2.2, 15-2.3, and 15-2.16 of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ___ day of _____, 2013

PARK CITY MUNICIPAL CORPORATION

_____
Dana Williams, Mayor

Attest:

_____
Janet M. Scott, City Recorder

Approved as to form:

_____
Mark Harrington, City Attorney

Attachment 1

Chapter 2.1 - Historic Residential-Low Density (HRL) District

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.2 - Historic Residential (HR-1) District

15-2.2-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(~~A) A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH.** The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(~~A~~D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed .height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.3 - Historic Residential (HR-2) District

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~ The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from existing Grade.

Chapter 2.16 – Recreation Commercial (RC) District.

15-2.16-5. SPECIAL REQUIREMENTS FOR SINGLE FAMILY AND DUPLEX DWELLINGS.

[…]

(L) **BUILDING HEIGHT.** No Single Family or Duplex Dwelling Structure shall be erected to a height greater than twenty-seven feet (27'). This is the Zone Height for Single Family and Duplex Dwellings. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

(1) ~~A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(2) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finished Grade on all sides of the Structure. ~~On a structure in which the first Story is located completely under finished Grade, a side or rear entrance into a garage which is not visible from the front façade of Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(3) Roof Pitch. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(a) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(M) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) Elevator access. The Planning Director may allow additional height to allow for an elevator compliant with the American Disability Acts standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) Garage on Downhill Lot. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Exhibit B

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
AUGUST 22, 2012

PRESENT: Charlie Wintzer, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Mathew Evans, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code Amendments – General Discussion

Planner Kirsten Whetstone reported that the Staff was doing an annual update of the Land Management Code. She handed out a Staff report that outlined a few of the major changes for consideration. Additional minor changes were not included in the Staff report. Planner Whetstone pointed out that four pages of the Staff report was a pending ordinance for these various amendments.

Planner Whetstone reviewed the redlined packet of amendments. The first was Review Procedure under the Code and addressed different sections of the Code related to review procedures, primarily the appeal process. Planner Whetstone explained that the primary reason for the change was that an applicant could not go through two appeals with the City. It has to move on to a court jurisdiction. She noted that it applied to design reviews, administrative reviews and final actions that get appealed to the Planning Commission and then to the Board of Adjustment.

Planner Whetstone acknowledged that the Planning Commission had only been given the material this evening. She recommended that the Planning Commission read the material and the pending ordinance and come prepared to discuss it at the next meeting on September 12, 2012.

Chair Wintzer asked if the next meeting would be a work session discussion or whether the Planning Commission would be asked to take action. Planner Whetstone stated that the LMC amendments would be noticed for public hearing and discussion, but no action would be requested.

Planner Whetstone referred to the redlined amendment addressing changes to roof pitch, patios and the proposal to require a building permit for certain impervious surfaces in the Historic District.

Planner Whetstone noted that the section titled Master Planned Developments was a relook at various items and issues raised over the past year regarding master planned developments in Old Town and criteria that should be looked at in Master Planned Developments.

Planner Whetstone referred to Chapter 10 – Board of Adjustment and noted that that redlined version removes the Special Exception. The Board of Adjustment is allowed to grant variances and various things, and they can also act on a Special Exception, which is no longer in the State Code. The Staff proposed to delete the Special Exception, but they had not decided what to replace it with. Some of their ideas would be presented to the Planning Commission at the next meeting for discussion.

Planner Whetstone commented on the Definitions Section and the proposal to add definitions for green roofs, impervious surface, split level, story, half-story, and a zero net energy building.

In response to a question of whether or not the Planning Commission would take public input on the proposed amendments, Chair Wintzer believed it was best to hold public comment until the next meeting to give the Planning Commission the opportunity to review the material handed out this evening. Chair Wintzer encouraged the Commissioners to carefully read the proposed amendments and contact the Planning Department with any questions prior to the next meeting. Director Eddington stated that Planner Whetstone was the lead planner on the amendments; however, other Staff members would also be involved. He encouraged the Commissioners to contact Planner Whetstone to schedule a time to meet with her or another Staff person.

Assistant City Attorney McLean commented on the review process for Historic District Design Review, as well as Administrative Conditional Use Permits. She explained that the proposed change came out of litigation involving 811 Norfolk, in which the court ruled that the City process applied in that case had excessive appeals, which is not allowed by State Code. However, Section 302 of the State Code allows for an application process that allows designation of routine land use matters. An application of proper notice will receive informal streamlined review and action if the application is uncontested, and shall protect the right of each applicant and third party to require formal consideration of any application by a land use authority; and that that decision can be appealed. Ms. McLean stated that that portion of State Code reflects the process the City has where the Staff review is a streamlined review that can be taken to the HPB and further appealed to the Board of Adjustment. Ms. McLean remarked that the amendment tailors the language to more closely reflect the State Code language to make clear that their intent is to follow the State Code.

Commissioner Strachan asked for the impetus behind the changes to the MPD portion of the Code, Chapter 6. Director Eddington explained that the Master Planned Development process began in 1994 and at that time it was allowed in most of the zones. It has morphed over the years and MPDs are allowed in some zones and disallowed in others. The language has been altered and it is now at a point where MPDs are allowed in the Main Street zone if it crosses over into another zone. The intent is to clean up the language and make it more applicable.

Director Eddington noted that a related discussion on the Kimball Arts Center was scheduled before the City Council to consider the opportunity to have that project go through an MPD. Projects on infill lots are challenging and currently there is no opportunity to look at an MPD. Director Eddington clarified that the City Council would not take action on the Kimball Arts Center. It would simply be a policy discussion on whether to allow an MPD to be applied in that situation. Director Eddington invited the Commissioners to attend the City Council meeting to hear that discussion. He clarified that it would be a general policy discussion and not specific to the Kimball Arts Center.

Commissioner Strachan pointed out that the information handed out this evening had a definition of story and split level. Therefore, when the Planning Commission provides the Staff direction for the next work session on the story issue, they should not ask for those definitions because they have already been provided.

Commissioner Savage noted that the applicants who had their projects continued this evening had stayed for the work session because the Planning Commission committed to have a discussion regarding the interpretation of story, independent of the proposed amendments. He pointed out

that whatever changes are made to the LMC would not apply to these applications. Commissioner Savage believed the Planning Commission needed to discuss the interpretation question in an effort to provide those applicants some guidelines related to their projects as a consequence of the continuation.

Planner Whetstone agreed that it was a two-prong discussion. One was an interpretation of the current Code and the other would be the LMC amendment that addresses potential reasons for different interpretations.

Commissioner Thomas was unsure if they could resolve both issues this evening without first seeing the minutes from the Planning Commission and City Council meetings when the Steep Slope criteria was established. He vaguely recalled talking about stories and heights and he would like to have those documents to clarify some of the issues.

Assistant City Attorney McLean recalled, and as reflected in the Code, that the three stories was under the Historic District height limitations for each zone; and not part of the Steep Slope CUP. Commissioner Thomas concurred, but he still felt that the previous minutes were important because it pertained to the discussion.

Planner Katie Cattan provided a brief history of the process. She explained that when the Planning Commission went through the Steep Slope process there was a 10 foot limit per story. It was quantifiable for Staff to enforce the 10-foot story limit. However, when the process reached the City Council level, the 10-foot limit per story was removed. That changed the clarity because people could expand the stories and work up the hill.

Planner Cattan recalled that the reason for removing the 10-foot limit was based on construction issues on some of the challenging slopes, particularly for the garage. The City Council decided to take out the 10-foot limit for the garage level to create a garage entrance on grade.

Planner Whetstone remarked that the current definition of story in the LMC does not make sense because the City Council took out the vertical measurement. Commissioner Thomas thought it still made sense, but it changed the definition. Planner Whetstone pointed out that the LMC does not address how the stories should be added up.
Commissioner Savage asked Commissioner Thomas to explain his perspective on the story issue and his concerns.

Commissioner Thomas stated that the issue evolves from the beginning of the Steep Slope criteria. The intent was to reduce the mass and scale of projects that were coming before the Planning Commission. They were seeing projects that cascaded up as high as eight stories. Therefore, size, visual impact, and commonality with other projects in the neighborhood became a primary concern. Steep Slope criteria was established to reduce the mass and scale. Commissioner Thomas believed the Planning Commission clearly intended to have a Code that created buildings that had more commonality with the historic character of the community. He noted that the Steep Slope process included discussions about number of stories, modifying grade, maximum heights, and shifts is building. It was not isolated to the number of stories inside the volume. It was also the impact from across the canyon.

Commissioner Thomas recalled the 10-foot per story limit and he thanked Planner Cattan for reminding him that the City Council had made that modification. Commissioner Thomas stated that the floor to ceiling issue was still defined in the definition. He believed the issues have been clarified and defined, but they need to see the minutes and come together on the interpretation.

Commissioner Savage believed there was a clear misunderstanding on the definitions since three applications came from the Planning Commission with a recommendation to approve, and the Planning Commission would not move forward on those applications based on interpretation. If the Planning Commission thinks the Staff misinterpreted the definition, he wanted like to hear the Staff's reasoning.

Director Eddington stated that part of the challenge was the vertical measurement between finished floor to finished floor. What is not addressed in the definition is the issue of a half floor and/or a split level. Depending on where they take a section drawing, a project could end up with three or six levels if they are split levels. Director Eddington remarked that finished floor to finished floor was ill-defined in the definition section of the Code.

Commissioner Strachan believe there were two separate issues. The first is from which point inside the structure to take the vertical measurement. The second is the issue of getting around the story requirement by creating separate accessory structures. There may not be three stories in one structure, but cumulatively there could be several. Commissioner Savage agreed, and felt they could have divided the applications this evening into those two different parts. Commissioner Savage concurred; however, those projects were still tied to the definition of a story and different interpretations.

Planner Whetstone read the definition of a half-story taken from the Webster definitions. "A half story is an uppermost story, which is usually lighted by dormer windows in which a sloping roof replaces the upper part of the front wall". She clarified that the definition only talks about half stories on the upper portion.

Commissioner Strachan stated that he attended the City Council meeting when they approved the LMC amendments proposed by the Planning Commission. He recalled from the discussion that the Council took the position that what happens inside the structure does not matter if the applicant is bound by the 27 foot requirement. The City Council was not concerned with how large the story could get, which is the problem they have today.

Commissioner Thomas pointed out that the Code does not say you can have 3.5 or 3.25 stories. It specifically says three stories, whether the stories are 10 feet floor to floor, 9 feet floor to floor, or 12 feet. Using an example similar to a plan they saw this evening, Commissioner Savage thought they could keep the outside looking exactly the same and reconfigure the inside to where it would adhere to the three story rule. If applicants have that ability they would be compliant. Beyond that he did not understand why they should care how the inside is configured.

Planner Whetstone explained that the Staff interpreted some projects as three stories because it had a mezzanine or landing. She asked if they should count a landing that gives character inside a

house as a story. Planner Whetstone felt that was the issue that needed clarification.

Chair Wintzer stated that the mistake they continually make is that they write the Code with words and not with pictures. He suggested that the Staff prepare drawings that clarify and interpret the definition of a story. Commissioner Strachan noted that the definition of a basement in the LMC does show a drawing.

Commissioner Hontz stated that she attended the same City Council meeting that Commissioner Strachan had referenced, and the entire reason for removing the 10-foot limitation was to create flexibility between the three stories and the height. The City Council felt that defining 10-feet per story would limit flexibility. Commissioner Hontz thought they were where they were supposed to be based on the idea of flexibility. She understood that the Planning Commission needed to come to some consensus, and believed the City Council had set them up for this.

Commissioner Thomas stated that not allowing the additional half level above three stories reduces the mass of the building. In effect, that is working according to the initial intent of the Code. Commissioner Savage argued from the perspective that if someone presents a plan that is compliant with Code, it is no one's business what it looks like inside. Chair Wintzer and Commissioner Thomas explained why they disagreed with Commissioner Savage. Commissioner Savage thought the criteria should be based upon whether it is consistent with the objectives about how it looks from across the valley. The valley does not know how many stories are in the building. Commissioner Thomas pointed out that if a limit is not set on the number of stories it can cascade up the hill. That was the reason for having the criteria. Commissioner Savage believed that could be constrained by footprint, setbacks and other constraints from the outside.

Chair Wintzer clarified that the Planning Commission could not move forward on any applications as long as they are in conflict with Staff on the definition of story.

Planner Cattan suggested that they talk about whether a story that goes up 5 feet in elevation is considered a half story or one story. She stated that if the Planning Commission agrees that the three applications seen this evening were 3-1/2 stories, then the Staff interpreted the Code wrong by saying that the level of a story could be split.

Planner Whetstone referred to a house on Park Avenue that has a door, two windows, a roof and dormers. The structure is a simple box without a basement. It has a 9 foot ceiling because of the roof pitch. Based on her research, that structure is a 1-1/2 story house.

Chair Wintzer called for public input on the issue of a story. Speakers were advised to keep their comments general and not related to a specific project.

Craig Elliott with the Elliott Work Group asked the Commissioners to clear their minds of their own opinions and listen to his comments. Mr. Elliott regretted that he had not come before the Planning Commission to argue the three-story issue during the amendment process. At the time he thought it dealt primarily with Ridge Avenue and 75' lots that had 50 feet of grade change. Mr. Elliott stated that the interpretation had become such that it was changing the way he thinks about what they were doing in town. Mr. Elliott remarked that the Code definition is nearly identical to the definition

in the International Residential Code and the International Building Code. It talks about a story being vetted from a floor level to the floor level next above. That means perpendicular to the floor or the roof; and not to the side. Mr. Elliott noted that the Building Code never addresses a shift in floor plane. He pointed out that the discussion is about a shift in floor plane and not different floors or different stories. It is all one floor that shifts. He stated that being able to shift the floor plane is a fantastic tool for an architect because it provides variety, the opportunity for interest, and delight. It is something that is valuable and can add interest to the town and the community, and not just the interior of a space.

Mr. Elliott stated that he lives in a split level house in Thaynes. He designed it, built it and has lived there for 18 years. He has been in Park City for 19 years and he never thought they would be having this discussion.

Mr. Elliot stated that an interpretation like this is not going to protect neighboring property owners or Park City. It is not going to provide additional value to the community. It will not reduce the densities in these houses because they will design them differently. Instead of having a garage with a level above it and three stories, the garage will be the top floor with two floors below it, just like all the houses on the east side of Lowell. Mr. Elliott remarked that the solutions they have seen through the shift in the floor plane gives variety and building mass above a garage. It is an opportunity to do something good. Mr. Elliott stated that if everything is pushed down to the same floor, they would be digging a deeper hole. They would be trucking more dirt out of town and driving more dump trucks. It would require more shoring and more concrete to support and retain the earth around it. The result will be more dangerous to the adjacent house than what already exists. Mr. Elliott reiterated that changing the interpretation will not change the amount of square footage that people build, and it will not improve the character of the architecture on the street. It will not change how things look from across the valley.

Mr. Elliott commented on issues that deal with the depth of a lot. Discussions over the past year with Staff have been about building multiple buildings on a lot and the story definition made by individual buildings. Mr. Elliott stated that a story is defined across the entire lot. A 140 feet deep lot is typical of what is going on. Different colors, forms and shapes are unique to Park City and the goal is not to put everything into the same box.

Mr. Elliott stated that he was not interested in doing any more houses on a steep slope in town. He has three under contract that he intends to finish. If the interpretation goes in the direction of their discussion it will not benefit the town and it will not benefit the people who own the property.

Commissioner Thomas stated that Mr. Elliott's interpretation of story and that a story is relative to the immediate space below, goes back to the notion of stepping a house completely up the hillside. He noted that the Code was created to put a limitation on that.

Mr. Elliott drew a sketch of a storied house to make his point.

Commissioner Strachan asked Mr. Elliott for his opinion on how the definition of a story applies to a structure that has a number of detached accessory structures, but has the appearance cross-canyon of seven or eight stories. Mr. Elliott replied that on a lot deeper than 75', separate buildings

in a surrounding context was not a bad thing. Commissioner Strachan asked Mr. Elliott's opinion if the compatibility requirement was the only regulation and there was no objective limitation. Mr. Elliott stated that as some who does design work, he believed the context of the site and where you build is the most important element in any design.

Commissioner Thomas thought Mr. Elliott would agree as a professional that they also have the responsibility to look at how a structure fits into the compatibility of a community and its impact on the historic character of the community in terms of mass, scale and size. He remarked that the Code originated with trying to create a Code that resulted in more commonality with the historic character of the community. Commissioner Thomas stated that the building could still be stepped in the process Mr. Elliott identified in his diagram, but only three stories were allowed.

Chair Wintzer suggested that the Staff schedule this as a work session item and come back with a series of drawings that show different scenarios to help define the definition of a story.

Commissioner Hontz stated that the Code change was precipitated by multiple structures that came in. She was not on the Planning Commission at the time and she opposed one of the structures. She came in a demonstrated that it did not meet the Code. Commissioner Hontz stated that when she came to the Planning Commission with her concerns they agreed with her but could not make that finding, and it went to the City Council. She believed it would have been a better design had it done what they were trying accomplish this evening. That era is the reason why they got to three stories. She did not want to turn back the clock. Commissioner Hontz stated that she lives in a two-story house; however by Staff interpretation, it is actually one story. There are many consequences to contemplate and she thought the Planning Commission should refine what they wanted to see come back. She needed time to read and digest the definitions and personally did not want more input before they had the conversation.

Director Eddington suggested that the Staff come back with a set of clear drawings to help the Planning Commission understand and aid in their discussion. Chair Wintzer noted that the Planning Commission had three applications that were waiting on an answer to the question. He thought the Staff should come back with a professional opinion on the definition of story.

Commissioner Savage acknowledged that he was not on the Planning Commission when the definition was written. However, speaking from logic, he believed the constraint that was applied related to the mass, scale and appearance from the exterior. In his opinion, a story is what is directly above and not what is on the other end of the building.

Director Eddington pointed out that the definition as written talks about the interior and floor plane to floor plane; and that is the challenge. He agreed that the intent may have been misguided in the definition, but they have to work within the definition. Commissioner Savage stated that if floor plane to floor plane is a vertical measurement, he would argue that at least one structure they saw this evening was never more than three stories at any point.

Planner Evans noted that not all development in Old Town require a Steep Slope CUP. Therefore, some structures with the same scenario may have been approved by various Staff members under

the HDDR process and never came before the Planning Commission. Commissioner Savage stated that if that did occur, it would be valid precedence independent of the CUP requirements. Planner Evans noted that he currently has two applications that do not require a Steep Slope CUP that do exactly what they were talking about. Commissioner Thomas felt that was another reason to come to some agreement on interpretation.

Assistant City Attorney McLean explained that the definitions were in the Code. In thinking about this issue, she directed them to the definitions in the last chapter and the key words, 1st story, story and structure. They should also look in the H Districts for guidance on what constitutes a story. Commissioner Savage requested that the Staff email a document to the Planning Commission that includes all the components of the Code that would help prepare them for the next meeting. Director Eddington offered to provide that documentation and include images.

Jonathan DeGray was not opposed to the Planning Commission discussing heights and levels and amending the Code for future projects. However, he agreed with Ms. McLean about looking at the Code as written because the projects currently before them were based on that Code. It was important for the Planning Commission to come back with a solid interpretation on what is written.

Chuck Heath asked about process and the time frame for taking action on the projects that were continued this evening. His project was continued once for additional information and when the information was provided, it was continued again because there was a question about interpretation. He felt it was important for the Planning Commission to define the interpretation of a story so these projects could move forward or go away. Chair Wintzer stated that the issue should be resolved at the next meeting. Once they have that resolution, they could begin discussing projects that were continued for that reason.

Assistant City Attorney McLean pointed out that the applications this evening were continued to a date uncertain. To be fair to the applicants, the Planning Commission should resolve the issue at the September 12th meeting and the items could be re-noticed for the meeting on September 26th.

Commissioner Thomas clarified that he raised the issue because he had heard three different interpretations of a story and he felt it was important to have a consistent interpretation that benefits the community.

The Work Session was adjourned.

Exhibit C

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
SEPTEMBER 12, 2012

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Thomas Eddington, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of Story & Height

The Staff recommended that the Planning Commission discuss the interpretation of story as currently defined in the LMC.

Planner Astorga stated that in 2009 the Planning Commission and City Council held several meetings to discuss amending the Land Management Code. At that time the Steep Slope Conditional Use permit criteria was updated, as well as the overall height and how height is measured. It also addressed specific regulations related to the HR-1, HR-2 and the HRL District. Planner Astorga reviewed the existing regulations using a hand-drawn illustration.

Planner Astorga remarked that the major change in 2009 was the requirement to add a 10 foot setback for the third story. Another regulation indicated that final grade had to be within 4 feet of existing grade. The maximum number of stories was limited to three, and the basement counts as a first story. Planner Astorga pointed out that on a 30% lot and with the 27' height regulation, the numbers for a 10' setback do not work. If the entire lot is 30%, the minimum setback has to be 18 feet. Planner Astorga noted that another item added to the LMC in 2009 was that the roof pitch had to be between 7:12 and 12:12.
On a downhill lot, if the applicant wanted to accommodate a tandem two-car garage, an exception could be authorized for up to 35' instead of 27' to accommodate tandem garages. The Code indicates that a single family dwelling must have at least two parking spaces.

Planner Astorga noted that items were also removed from the LMC in 2009. The Planning Commission had the ability to allow a maximum height of up to 45 feet on lots with slopes 30% or greater, and that was removed.

Planner Astorga read the definition of a story per the current Land Management Code. "The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall pate for the roof structure." Planner Astorga stated that the Staff has recently received several applications on downhill lots, where different architects have introduced a split level concept. He requested that the Planning Commission discuss split level this evening.

Planner Astorga reviewed a diagram to show the shift in levels and the staircases dividing the structure. He noted that the application would meet all the requirements of the LMC, with the exception of the number of stories based on interpretation of the definition.

Commissioner Thomas believed the present interpretation is the same interpretation the Planning Commission has given in the last two meetings. According to the strict definition of the Code as written, the diagram shown exceeds the three-story limit. Commissioner Thomas agreed that the

definition needed to be modified and corrected, and he thought the Planning Commission should consider the modification as suggested by Staff. He favored the idea of varying the floor plates as long as they stay within the maximum height. The Staff had suggested 37-1/2 feet as a discussion point, and Commissioner Thomas thought it was an appropriate height and closer to the intent.

Commissioner Thomas pointed out that when the Code first came before the Planning Commissioner there was a 10-foot story criteria that would have allowed more flexibility. When it went to the City Council, that criteria was modified and changed and the result affected the process. The Commissioners concurred.

Planner Astorga stated that the Staff understood the concerns and was prepared to introduce a solution, which would add a regulation to the Land Management Code. The measurement would be the vertical distance between the lowest finished floor towards the highest point on the highest ridge. The Staff believes that if they could implement that specific regulation, it would stop the terracing affect that could take place on a longer than usual lot.

Planner Astorga presented a diagram to show how the Staff reached the 37-1/2 feet height recommendation.

Commission Thomas felt that the overall maximum height made the story discussion less significant. Director Eddington felt it was best to define a story as one above the other and add a vertical maximum measurement. Planner Astorga pointed out that the intent for the 7:12 to 12:12 range was to encourage variety and avoid every building having the same pitch. Director Eddington remarked that the steeper the slope, the more impacted the project would be by the vertical measurement.

Planner Astorga stated that the Planning Commission researched the definition of story in other ski resort town. Based on that research, The Staff recommended changing the definition of story to, "That portion of a building included between the upper surface of a floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above." He asked for feedback from the Planning Commission on the proposed definition. Planner Astorga noted that the difference between the existing language and the proposed language is the reference to the floor next above it. He remarked that the language mirrors the definition of a story per the International Residential Code.

Commissioner Thomas stated that if they remove the three story restriction and add a new height restriction, the definition of a story has less meaning. However, he liked having some commonality with other communities on what is logical in the building world. Commissioner Thomas thought that cleaning up the story definition was a good idea.

Director Eddington clarified that the Staff had not considered completely removing the three-story issue. They had talked about giving better definition and parameters to a mezzanine or a split level. Commissioner Thomas thought they needed to think of the effects of half-story. Under the current definition, some of the cross sections are six stories. He felt the definition was too restrictive.

Commissioner Gross thought the 25% limitation on the intermediate floor seemed reasonable. Commissioner Thomas wanted to see diagrams of how that would work before making a decision. He suggested taking input from the design community to see if there were other conditions they had not thought about. The idea sounded good and he would like to support it, but he wanted to understand the fallout and what situations could occur under different scenarios. He felt the discussion was going in the right direction, but it needed to come back for further consideration.

Director Eddington stated that the Staff would work with different scenarios and come back with alternatives.

Commissioner Hontz was leaning towards the revised definition of a story because the new language clarifies that it has to be above. She favored keeping the 3-story limitation and the additional height limitation. She agreed with Commission Thomas about looking for unintended consequence.

Commissioner Thomas believed the intent of the Code is to reduce the mass and scale of houses in the Historic District, but there should be some flexibility in doing that.
Commissioner Strachan asked if the definition of mezzanine floor or loft had been pulled from somewhere. Planner Astorga recalled that it was a combination from Crested Butte and other towns. The language was not pulled word for word and the Staff tweaked it specific to Park City. Commissioner Strachan thought it set up inconsistent and vague language in the Code. He felt the revised definition of a story and the 37-1/2 overall height limitation was sufficient. The architects would have the ability to do what they wanted inside those parameters. He believed the mezzanine, loft, or intermediate floor definition was unnecessary and would only create problems. Director Eddington clarified that Commissioner Strachan was not concerned about split levels or mezzanines. Commissioner Strachan replied that this was correct. He thought it everything could be accomplished by the stepping requirement, setbacks, and a change to the height requirement. He was concerned that the 25% floor area calculation would be hard to do because the total floor area of the story in which it is placed would not be calculable. There would be so many half stories and steps that they would never reach the 25% point. Commissioner Thomas agreed.

Commissioner Thomas believed a critical step was the addition of the 37-1/2 foot height limitation, because it restricts the height of the building without being concerned about the stories inside. However, he still wanted time to think it through to make sure they were not opening Pandora's box.

Director Eddington stated that the Staff would come back with code definitions that address that issue, as well as definitions that would address keeping in the story and mezzanine.

Commissioner Hontz suggested keeping the story definition as revised and the 37-1/2-foot height limitation, and not the mezzanine definition. From her reading, when it is stepped, there would never be a loft or a split level. Commissioner Strachan asked if Commissioner Hontz was suggesting that a story is the portion of the building included between the upper surface of any floor and the upper surface of the next floor above, and that measurement could be taken from anywhere in the home. Commissioner Strachan provided a scenario based on Commissioner Hontz's interpretation. He noted that not all the floors in the diagram may expand the width of the home.

Director Eddington stated that it would be the entire width of the home depending on where the sections are drawn.

Commissioner Strachan was concerned about a building cascading up the hillside on a long lot. Director Eddington explained how the 37-1/2 overall height limitation would address that issue. Commissioner Strachan felt the explanation made it more certain that the mezzanine definition and the three story definition were not needed, as long as the height controls the cascade effect up the hillside and the concern for the cross canyon view.

Commissioner Thomas pointed out that the cross sections, like the example they were looking at, was consistent with the Code, as long as it remains under the 37-1/2 foot limit. However, under the current definition, the cross section would show six stories. Commissioner Strachan stated that without a cross canyon view, it would be difficult to know if that home would present the cascade problem. Commissioner Thomas replied that it has a footprint restriction and a maximum height from one point to another point.

Chair Worel thanked Planner Astorga for the background information he provided. It was helpful to see how other communities address these issues.
Chair Worel opened the public hearing.

Craig Elliott, an architect with Elliott Work Group, felt the Planning Commission was headed in the right direction as far as capping maximum height and removing the requirements for floors. He noted that most sites have cross slope in addition to the slopes front and back. Removing the discussion about stories and maximizing the height and using the 27 foot grade makes a lot of sense with respect to a 75-foot deep lot. Mr. Elliott presented an image of homes in Park City that was taken from the Marsac parking lot. He noted that the majority of buildings in the photograph do not meet the existing current Code for various reasons, but it is a great depiction of what Park City is and can be. He chose that photograph because it is one of the steepest sections in Old Town. Mr. Elliott would like to have the discussion on lots greater than 75 feet deep and breaking the building into separate buildings or structures that are not connected. He believed there was an opportunity to maintain the existing character and scale, and still give people with larger lots the ability to create diverse and interesting projects. Mr. Elliott agreed with the discussion about removing the floor definition. He liked the cap of the building and the maximum height and following the 27 foot grade, as long as it pertains to a typical lot depth. Variations in lot depth and shape becomes a separate issue.

Joe Tesch disagreed with Commissioner Thomas' comment that the idea of the Code was to reduce massing and height. That was the case in 2009, but additional suggestions were made in 2011. There were joint meetings with the Planning Commission, Planning Staff and City Council and the idea of reducing height and size further was rejected. Mr. Tesch remarked that they were dealing with what occurred in 2009, but the idea is to not go smaller. Operating today under the impression of a mandate to reduce what has been occurring is a mistake. Mr. Tesch stated that another thing that came out of those joint discussions was that Park City is different neighborhoods and one size does not fit all. His recollection for those discussions was that there was no mandate for any neighborhood to attempt to reduce height or massing.

Chuck Heath, the applicant for 916 Empire, understood that there were recommendations to change the Code and possibly the rules. He wanted to know how this would affect his application, since his application was submitted under the current Code.

Assistant City Attorney McLean explained that Mr. Heath was vested under the Code in place at the time his application was submitted, and the interpretation of that Code. If the changes are less restrictive Mr. Heath could avail himself of that, but if they are more restrictive, he was still vested under the current application.

Mr. Heath asked how the new interpretation would differ from the current Code and how it would affect his application.

Commissioner Thomas clarified that the Planning Commission was talking about general amendments to the LMC with regard to stories, and not specific to any project. He recommended that Mr. Heath talk with the Staff regarding the interpretation to evaluate whether it would be more beneficial to move forward with his current application or wait until the changes are made and adopted and then resubmit his application.

Mary Wintzer commented on Mr. Tesch's remarks about there not being a mandate. She thought the visioning result had brought this to the forefront. Over 400 people responded and the City spent $60,000 to do a survey. People overwhelmingly talked about scale and wanting to keep the small town feel and the historic nature. Ms. Wintzer believed the home on Ontario was the poster child for loopholes and being able to build a house far out of scale of the adjacent historic home. Ms. Wintzer believed there was wide sentiment among many people in Old Town to look at mass and scale to keep with natural setting, historic character and the small town feel.

The Work Session was adjourned.

Exhibit D

changes would not permit that The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24th. She is on the Board of the Town Lift Condominiums HOA . Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

Building Height Measurement and Story Definition
Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope. She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

Exhibit E

by a private, non-private, educational, religious, recreational, charitable, or philanthropic institution serving the general public".

Commissioner Strachan thought Public and Quasi-Public should be capitalized in the definitions, and should say "Public Uses" with "Use" capitalized and "Quasi-Public Use" capitalized.

Commissioner Strachan asked if there was a definition for Industrial, and if so, that should also be capitalized. Director Eddington stated that there was not a definition for Industrial, and the Staff would write one. Commissioner Strachan thought "Commercial and Industrial" was redundant language. Planner Whetstone pointed out that it was actually Light Industrial (LI). Park City does not have a zone that allows straight Industrial business. Planner Whetstone thought that they should also define a "lodging project".

The Planning Commission moved on to the remaining LMC Amendments.

Chair Worel stated that due to the late hour and the number of amendments that still needed to be discussed, Planner Francisco Astorga would give a presentation on Stories and the Planning Commission would discuss the proposed changes at a work session on December 12th.

Planner Astorga referred to page 164 of the Staff report, and an added regulation related to the split level concept. He had failed to put the language in the ordinance and he wanted that mistake clarified. He noted that the regulation language should be added between bullets C and D on pages 198, 200 and 201. The regulation read, "The overall height of a structure measured from the lowest point of the finished floor to the highest exterior ridge point shall not exceed thirty-seven and a half feet (37.5'). Planner Astorga noted that the language was introduced to the Planning Commission on September 12th, at which time the Commissioners had issues with the language and wanted to explore specific scenarios.

Planner Astorga stated that the Staff had prepared the different scenarios and wanted to hear as much input as possible from the Planning Commission. However, due to the late hour this evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. He noted that the regulation was applied to scenarios on a flat lot in the worst case scenario. The same was done on uphill lots at 15% grade, 30% grade, 45% grade and 60% grade. Consideration was given to the fact that many buildings are not historic and could be demolished for brand new construction.

Planner Astorga noted that Commissioner Thomas was absent this evening and his input on the regulation would be valuable based on his professional expertise. Planner Astorga apologized if any members of the public had waited for this discussion, but he felt it was better to wait and give the issue the time it needs to make sure everyone is on the same page and that they fully understand what was adopted in 2009.

Planner Astorga briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

Commissioner Hontz was unsure if she could support the regulation because the historic potion of the structure could be on the bottom. She would like to see the step on new construction. Director Eddington stated that the Staff would have drawings to present at the next meeting to help address her concern. Commissioner Hontz felt that by now the Planning Commission should have a good understanding of the changes made in 2009, but it would be important to understand the effects of applying the new definitions. At this point, she was not comfortable with half stories and split levels shown in the scenarios provided. Commissioner Strachan agreed. He suggested that Planner Astorga redraft a couple of options because the ones shown were difficult to understand.

Planner Astorga clarified that the he was not speaking about stories at this point. His comments related to the regulation regarding overall height on page 164 of the Staff report. Commissioner Strachan requested that Planner Astorga re-draft the definition of split level and story. Commissioner Wintzer suggested that the Staff draft two or three definitions to give the Planning Commission a choice.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, addressed the overall height of 37.5 feet. She assumed the language, "...from the lowest point of the finished floor..." probably means from the lowest point of the lowest finished floor. Ms. Meintsma thought better language would be, "from the lowest point where grade meets footprint", because often the lowest floor is quite a bit above grade and sometimes on piers. She requested that the Planning Commission consider her suggested revision because where the grade meets footprint is where the massing begins visually.

Commissioner Hontz thought Ms. Meintsma made a good point, however, under the current Code you could not build on piers because of the four-foot return to grade regulation. Planner Astorga noted that it would also not be approved through the design guidelines.

Director Eddington agreed that Ms. Meintsma made a good point and the Staff would discuss her revision.

Craig Elliott commented on the Story issue. He was generally comfortable with the resolution, but he wanted to confirm his understanding of how the zone works. On a very large parcel with multiple structures the height resets with each structure. He wanted to make sure that was still the case.

Commissioner Strachan replied that it was subject to discussion at the work session on December 12th.

Mr. Elliott felt it was important to keep because otherwise the Code, particularly in the HR1addresses designers to create smaller buildings in scale and mass. If they do not allow that to happen in this form, they would encourage larger buildings in scale and mass on those types of properties. The unintended consequence of trying to limit something would only create what they do not want. Mr. Elliott wanted to make sure this issue was addressed in the process so they get the right things in the historic district.

Commissioner Wintzer asked Mr. Elliott to give an example. Mr. Elliott stated that he has worked on several properties, but he was hesitant to give an example because those projects may come back to the Planning Commission. Mr. Elliott provided a hypothetical example to explain the importance of keeping with what the Code currently allows to keep structures smaller in the historic district. Chair Wintzer was concerned about the cross canyon views. Mr. Elliott stated that the nature of Park City is that looking across the canyon you see a series of buildings that march up and have different colors, shapes and forms. That was the intent of his comments at a previous meeting when he talked about the quality of design and the ability to solve those issues as designers.

Chair Worel closed the public hearing.

Planner Astorga remarked that interpretation of story was the reason why they were having this story discussion. Based on discussions in July and August the height did not reset. Commissioner Strachan believed there was a difference of opinion as to how to read the Code based on Mr. Elliott's comments. The purpose of the work session is to determine what they uniformly believe the Code says.

Planner Whetstone reviewed the list of topics for discussion on page 154 of the Staff report and identified the ones that were time sensitive for recommendations to the City Council.

1. Pre-application process, review process for Historic District Design Review and revisions to the notice Matrix (Chapters 1 and 11.

Planner Whetstone referred to page 157 and noted that language was added to Strongly recommend that the Owners and/or Owner's representative attend a pre-application conference with the Planning and Building Departments. She clarified that the existing language requires a pre-application conference. She explained that if a pre-application conference is required it becomes an application and can be vested. The Staff felt that changing the language to "strongly recommended" resolved many of the issues. A pre-application conference benefits the applicant and the Staff believed the applicants would still request one.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the amendment to Item 1 as written. Commissioner Hontz seconded the motion.

VOTE: The motion passed by all Commissioners present.

Planner Whetstone stated that (B) on page 157 address proposed language to the Appeals process for administrative applications (HDDRs and Administrative CUPS) including revisions to the Notice

Exhibit F

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JANUARY 9, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matt Cassel, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapter 2 and 15

Commissioner Wintzer provided a topo map of Old Town showing every ridge. He requested that the Staff use the map to prepare for a future discussion regarding ridges.

Planner Astorga remarked that the objective this evening was to make sure the Staff and the Planning Commission were correctly interpreting building height in the Historic Residential Districts; the HR-1, HR-2 and the HRL. He noted that some of the Commissioners have been on the Planning Commission long enough to understand heights in Old Town; while others have only been on the Planning Commission a short time. The Staff believed this work session would be a good exercise for everyone.

Planner Astorga explained that the Staff chose scenarios of different slopes starting at 15%, 30%, 45% and 60% for uphill and downhill lots. The structures were designed to the highest maximums allowed by Code in terms of height and footprint and the setbacks were minimized to create the worst case scenario. Planner Astorga wanted this exercise to be a true discussion and he wanted the Commissioners to ask questions and critique the individual scenarios.

Planner Astorga reviewed the LMC Height Restrictions as outlined in the Staff report. The allowed height is 27-feet maximum from existing grade. Final grade shall be within four-feet of the existing grade around the periphery. A structure may have a maximum of three stories. A ten-foot minimum horizontal stepback is required. The roof pitch must be between 7:12 and 12:12. The downhill lot has an exception for the tandem garage. Planner Astorga recalled previous discussions regarding exceptions to roof pitch; however, until that was adopted he preferred to focus on the existing Code.

Commissioner Savage asked for clarification on how existing grade is defined. Planner Astorga replied that existing grade is the existing topography. Commissioner Savage wanted to know how they could be certain that the grade was not changed. Commissioner Thomas explained that the topo is examined at the beginning of the project and the grade is examined at the end of the project. The Building Department should be able to confirm whether the grade has been manipulated. Commissioner Hontz thought Commissioner Savage made a good point because there are situations where the previous owner changed the grade of the site. She recalled a project where Planner Astorga realized that the grade had been change and suggested that the Planning Commission add a condition that the structure should be built from the previous existing grade and not the current existing grade. Commissioner Hontz stated that if someone moves the dirt now and calls it existing grade ten years later, they would probably get away with it. Commissioner Thomas pointed out that it is supposed to be natural existing grade.

Commissioner Savage asked if there was a way to make a definite determination on grade. Commissioner Thomas replied that if there is an interpolation to be made between the existing grade and the natural grade, the Planning Director has the purview to make that decision. Planner Astorga recalled that when the Code was amended in 2009, a specific definition of existing grade was added. Planning Director stated that existing grade is defined as the grade of a property prior to any proposed development or construction and activity. Therefore, it is the grade prior to any altering of the site. Commissioner Savage pointed out that the language states, "prior to any proposed" altering of the site. Commissioner Hontz agreed. She may not be proposing to do anything, but that would not keep her from moving dirt on the site. Commissioner Savage thought it was important to find a way to tighten the definition with respect to interpolation of some extension of natural topological grade.

Director Eddington explained that the Staff visits the site and assesses the grade. If the existing grade appears to be different than what is shown on the topo, the Staff assesses the natural grade which, by definition, is "The grade of the surface of the land prior to any development activity or any other manmade disturbance or grading. The Planning Department shall estimate the natural grade not readily apparent by reference".

Commissioner Savage was satisfied that the existing definition addressed his concern. Commissioner Thomas remarked that grade is a game that had been played and he expected it to continue.

Planner Astorga reviewed the first scenario, Scenario A, on a downhill lot. A blue line represented the property lines. The lot is 75' in length. The first scenario had the requirement of one exterior and one interior parking space. He noted that the property could be designed with two interior parking spaces. The structure was three stories. In this particular scenario the lot was accessed from the left-hand side. Planner Astorga reminded the Commissioners that these examples were worst case scenarios. Based on the access in this scenario, the front yard setback increased from 10-feet to 18-feet because of the minimum standard of the parking pad. He indicated the 10' stepback on the downhill façade. This scenario was drafted at a 15% grade and it would not require a review by the Planning Commission because it does not reach the 30% or greater requirement. The project could be three stories, meet the 10-foot stepback and still meet the height requirement. Planner Astorga pointed to the line indicating existing grade. Two other redlines showed 4' up or down from grade. This scenario had a one-car garage. The second required parking space was outside.

Commissioner Strachan noted that the basement was almost totally submerged, and he asked how low it could go. Planner Astorga replied that the basement could be completely submerged. Director Eddington referred to the heavy red line indicating existing natural grade, and noted that it could go 4' down from there and expose more light in the basement. Commissioner Strachan pointed out that someone could also make the floor 25' feet high and dig down further. It would provide very little light but they might not care. If someone wanted to excavate more dirt to increase the square footage of the overall home, they could do that. Commissioner Thomas commented on the ramifications that would occur with over-excavation. He questioned whether it was unrealistic to define a basement depth. Commissioner Wintzer thought the control would be shoring engineering to address the issue of digging a large hole three feet away from the neighbor.

Commissioner Strachan remarked that larger basements have been the trend in more recent applications and the amount of excavation continues to grow. Because the lots are so steep, the portion that daylights gets bigger with the slope and results in significantly more excavation in the back. He understood that the LMC states that the effects of excavation must be mitigated, but he believed it was a very loose standard.

Commissioner Thomas was unsure about placing a restriction on the depth of the lowest level. Commissioner Hontz suggested that they continue with the presentation before discussing specific restrictions, since the other scenarios may help provide the answers.

Planner Astorga presented the second scenario, Scenario B, which was also a 15% slope. The difference between this scenario and the previous scenario is that scenario two has two interior parking spaces. The setback was only 10' feet from the front. Planner Astorga noted that in the second scenario, the third floor was completely buried. The Code indicates that window wells could be approved, however, the setbacks must be at least 5' and the window wells could encroach 4' onto the side yard setback. Planner Astorga stated that some of the basement space could be used for mechanical equipment, but he did not believe anyone would use an entire floor for that purpose.

Commissioner Strachan asked why there was not a 10-foot stepback. Planner Astorga replied that the basement was buried completely. The stepback is only required for the third floor above grade.

Planner Astorga presented the third scenario, Scenario C. It was still a 15% slope, however, the difference between the first two scenarios and the next two was that the building would go down the slope. In scenarios one and two the driveway went up 14% positive grade. In the next two scenarios, the driveway goes down 14% negative grade. Planner Astorga noted that the roof pitches in all the scenarios were designed at 7:12 pitch, to again create the worst case scenario.

Commissioner Savage commented on the tendency towards thinking that taking a structure to the maximum allowed by Code is negative. He did not believe the end result was always negative, and sometimes it could be positive. Commissioner Savage stated that maximum utilization of a lot is within the rights of the applicant, and the Planning Commission should not consider that to be a negative independent of subsequent analysis.

Planner Astorga reviewed the scenario, which showed one interior and exterior parking space. Because the grade goes down 14%, the vehicle is stored on the main floor. Due to stepbacks and the roof pitch, the third story is smaller than in the first two scenarios, which affects overall square footage. Planner Astorga stated that the floor area in this structure was 2100 square feet. The floor area in the first scenario was 2400 square feet, and 2500 square feet in the second scenario. He noted that the third scenario would have a walkout level on the lower basement.

Commissioner Thomas noted that most cars are fairly long and the larger vehicles can exceed 18' long. He pointed out that the bumper on larger vehicles touch the front of the house on one end and the property line at the other end. He was not in favor of adding to the front yard setback, but there is a challenge with larger vehicles. Director Eddington stated that if someone has that large of

a vehicle, they would probably reduce the square footage of the house to make the garage larger. Commissioner Hontz remarked that instead of reducing the house size, people build the minimum size garage and park on the street. Either that or they park one car in the garage but leave the door open because the vehicle extends out, and then park their other cars in the street. Commissioner Hontz believed that the standards were not working and there were many questions on how to resolve the garage issue.

Commissioner Savage asked who was responsible for making decisions regarding parking and parking density on the streets. Director Eddington replied that Public Works handles parking issues. Since this was an issue with respect to car length, Commissioner Savage thought it would be appropriate to have Public Works look at a regulation that would prohibit cars greater than a certain length from parking in the driveway unless the driveway is a certain length. Commissioner Thomas pointed out that such a regulation would create an enforcement issue. Commissioner Hontz noted that enforcement is contracted out; therefore, Public Works would not be the enforcers. She believed it was a larger problem than just trying to solve it on paper. Commissioner Hontz thought they needed to look at places with 14% uphill and 14% downhill. She could not think of too many with 14% uphill; and the downhill ones were disasters.

Commissioner Wintzer indicated the potential for a green roof in one area, and noted that it could create living space per the Code. In that situation, the green roof was an issue of increasing square footage, not being compatible with the house. Commissioner Thomas stated that in Park Meadows, for a flat roof less than 4:12, the maximum height is reduced from 33' to 28'. Director Eddington replied that the rule did not apply in Old Town. Commissioner Thomas thought it might be worth considering that for Old Town. If they could encourage green roofs and reduce the heights, the visual impact of the volumetric would be overwhelming. If they allow flat roofs they should have a reduced height below 27'. Commissioner Wintzer thought the green roof issue in Old Town should be revisited because allowing green roofs was passed without any input from the Planning Commission. The language basically allows green roofs in Park City without consideration for compatibility with historic structures or other related issues. Commissioner Wintzer agreed that flat roofs were better in Park City's climate than pitched roofs, but he thought the green roof scenario should be revisited for Old Town.

Planner Astorga reviewed scenario four, Scenario D, which was still at 15% grade. This scenario had two interior parking spaces. The basement was exposed with a rear walkout. The garage was tandem. The house size was 2050 square feet, which was slightly decreased from the previous scenario at 2100 square feet.

Planner Astorga presented scenario five, Scenario E, which was on 30% grade and would require Planning Commission review. It was a downhill scenario because at 30% there was no way to go up. The driveway was 14% grade with one exterior and one interior parking space. The lower level had a rear walkout. Planner Astorga noted that the lot would meet the height requirement and the 10' foot stepback would become 20 feet. The house size at 2200 square feet was slightly larger than some of the 15% grade lots.

Planner Astorga noted that the black lines in all the scenarios indicated the story. The stories in all the scenarios were designed at 10' each.

The sixth scenario, Scenario F, was also 30% grade. There were two interior cars. This scenario breaks the maximum height of 27'; however, the Code states that for a two-car garage in tandem configuration, a height of 35' would be allowed. This scenario would meet the Code.

Commissioner Thomas asked for the allowed length of a tandem garage. Planner Astorga replied that the Staff capped the length at 37 feet. The Code does not indicate the length of a two-car garage in tandem configuration. It only specifies that the garage must be 11' x 20' for a single car and 20' x 20' for a double car garage not in tandem. Commissioner Strachan asked if the garage could be larger than 400 square feet but not smaller. Planner Astorga replied that it could be larger. The 400 square feet is the standard used for allowances. Commissioner Thomas pointed out that the impact of having a tandem garage on a downhill lot over 30% was dramatic. He has a tandem garage on his home and it is less than 32 feet long. He parks two smaller cars in tandem and the larger car on the other side. Commissioner Thomas believed it was realistic to have an 18' car on one side and a 13' car on the other side, parked 16" apart. He expressed concerns about designing to the maximum and suggested that they design for the minimum.

Planner Astorga stated that for consistency with the LMC, the Staff decided to cap the garage length at 37' to achieve a 400 square foot garage. Commissioner Thomas stated that a 400 square foot garage could still be accomplished with a 34' length. Director Eddington stated that the downside of a shorter garage is the inability to park two larger cars, which puts one on the street. Another downside is lack of space to store skis.

Commissioner Hontz remarked that a current problem in Old Town is that people were not using their tandem garages. Rather than focusing on the dimensions of the garage, a better idea might be to have the square footage of the garage count against the overall square footage of the house. If someone wants a larger garage it would reduce the size of their house. Commissioner Thomas stated that his concern was the visual impact of the overall mass. Commissioner Hontz was not opposed to having tandem garages as an option, but they continue to see repercussions resulting from tandem garages. To address Commissioner Thomas' concern, Commission Hontz suggested resolving the problem from a height standpoint rather than square footage. Commissioner Thomas asked if the Code currently has a depth limit for tandem garages. Director Eddington replied that the Code did not specify a depth limit; however, the depth would be defined and limited by the 35' foot height limitation. Commissioner Thomas agreed with Commissioner Hontz's suggestion to stay within the height limitation and not allow height exceptions for tandem garages.

The Commissioners discussed flat roofs on tandem garages. Commissioner Savage asked what advantage that would be for Park City. Commissioner Thomas replied that aesthetically it demasses the volumetrics and it allows the second space in the garage to get a car off the street.

Planner Astorga offered to consider their suggestions to see what would work. He asked if the Commissioners would be more comfortable if the height exception was closer to 32' rather than 35'. Commissioner Savage preferred to leave it alone. Commissioner Thomas outlined the worst that could be done on the premise of a worst case scenario. Director Eddington pointed out that the depth of the garage could not exceed the minimum depth for an internal parking space within the Code, which is 40 feet.

Commissioner Hontz pointed out that Scenario F was on a 30% grade and would require a Steep Slope CUP. She clarified that the Planning Commission currently has the ability under the Steep Slope CUP to deny a height exception. The purpose of this discussion was to codify certain requirements so applicants would know upfront that a height exception would not be granted.

Commissioner Savage understood that the height exception was in place to encourage tandem parking, but now they were concerned that people would use the tandem garage for storage and not cars. Commissioner Strachan stated that whether the garage is used for storage or cars, it would still have the visual impact Commissioner Thomas had mentioned.

Planner Astorga presented the seventh scenario, Scenario G, which was on a 45% grade. He noted that development on steeper slopes was unusual, but it does occur and it was worth the discussion. This scenario was allowed one exterior and one interior parking space. The garage was 11'x 20' and it would meet the exception. The only issue was the 10' setback at the end of the structure. A portion of the house would have to be shaved, otherwise it would be on stilts. Planner Astorga noted that the structure could not accommodate any type of walkout because it would not meet the 4-foot grade provision. Commissioner Gross pointed out that they could build a deck to level it out.

Commissioner Strachan wanted to know why living space could not be stilted. Commissioner Hontz stated that it would violate the 4-foot return to grade requirement. Commissioner Thomas did not believe the Code addressed stilt houses. Planner Astorga believed it was a question for the Historic District Design Review analysis.

Director Eddington noted that a deck could not exceed the setback because it would exceed 30" above final grade. Planner Astorga pointed out that a workable deck in this scenario would require a very creative solution. Commissioner Thomas thought this scenario demonstrated that the steeper the slope, the more difficult it was to build a house. Commissioner Strachan agreed, however, he used the drawing to show how the livable space could be increased. In his opinion, a deck is usable space, even if it is not technically considered livable space. The Commissioners discussed additional issues related to building on the steepest slopes. Commissioner Hontz believed the Code was written on the idea of 15-30% slopes. Planner Astorga noted that steeper slopes push the designers to move forward on a split level. Commissioner Thomas stated that the discussion had focused on stepping the exterior of the facade and the massing of the building. However, in terms of impact to the community and over-excavating the site, he wondered whether they should begin thinking about stepping the foundation to create a reasonable depth and maximum excavation requirement.

Commissioner Hontz referred to scenarios on extremely steep slopes and asked what happens when the driveway exceeds 14%. The average slope may be 45% or 60%, but the initial portion of the slope is 80% or 100% and a14% driveway could not be reached within the setbacks. Commissioner Gross assumed that the percentage was calculated from the edge of the right-of-way to the building envelope. Planner Astorga stated that in his analysis he found that one thing affected another thing in the Code. In his experience, nothing could be built on a slope greater than 30% without a variance. However, Park City is different because of its historic character and

topography and someone could apply for a variance. The 14% grade is a standard in the LMC, which the Board of Adjustment has the ability to override with appropriate findings. Commissioner Hontz pointed out that someone could ask for that variance or a six or four foot front yard setback variance. Commissioner Wintzer stated that a variance request typically goes to hardship. In most cases, the hardship is that the person could not build as large they would like. In his opinion, that hardship could be mitigated by building a smaller house and shifting it on the lot; however, the Board of Adjustment does not take that fact into consideration when reviewing the variance request. Commissioner Wintzer did not believe hardship was valid in those cases.

Commissioner Savage asked how often hardship cases go before the Board of Adjustment and how often they get approved. He questioned whether the Board of Adjustment would actually grant a variance if the only hardship was the inability to build a larger home. Commissioner Strachan pointed out that most people do not give home size as the hardship. Instead, they make the case that their lot is difficult to build on.

Commissioner Thomas asked if a tandem garage could be done on a very steep uphill lot. Director Eddington stated that it would exceed the 35 feet before the second car, and there is no exception on an uphill lot. Commissioner Thomas clarified that he was talking about the impact to grade below ground. He asked them to imagine an uphill lot with a tandem garage on a 100% slope. If the garage depth is 35 feet, there would be a 35' retaining wall on the backsides of that garage, which creates a significant impact. He thought consideration should be given to discouraging tandem garages on super steep slopes. Director Eddington asked if someone should be allowed to put a theater room underground if they chose not do a tandem garage. Commissioner Strachan felt the problem was the requirement for two parking spaces. If the lot is steep enough, it would be impossible to have two cars on site. He stated that one option would be to combine two or three 25' x 75' lots so they could access the driveway on an angle. He believed the issue was how deep to excavate and whether they could step back the problem, similar to stepping back the height problem.

Planner Astorga presented Scenario H, which was at 45% grade and two interior parking spaces. The driveway was 14%. This scenario would require an exception. Mandatory increased setbacks were placed on the rear because of the grade provision. Planner Astorga believed they would most likely see a split level with this scenario.
Commissioner Strachan asked why they were looking at the exceptions assumed. Planner Astorga replied that it was due to the requirement for two interior spaces. Commissioner Thomas clarified that there was an exception in the Code that allows the Staff to make the ratio determination. Commissioner Gross pointed out that they could also apply the green roof scenario that was discussed earlier. Planner Astorga recalled from the Code that a garage in tandem configuration could be as much as 35-feet. Commissioner Strachan stated that going to 35-feet would require an exception. It is not entitled. Planner Astorga read from the Code, "The Planning Director may allow additional height on a downhill lot to accommodate a single-car garage in tandem configuration." Commissioner Thomas pointed out that the tandem configuration could still be achieved by going to a green roof for the other segment and stay within 27-feet. Commissioner Wintzer stated that if half of the roof was a green roof, he was unsure how that could be considered historically compatible. Commissioner Thomas believed that should be a separate discussion. Planner Astorga stated that the Staff was in the process of drafting specific language for the LMC as an

exception to the 7:12, 12:12 provision, if it complies with the guidelines and is granted by the Planning Director. The Commissioners discussed possible alternatives for meeting the requirements in Scenario H without an exception.
Commissioner Thomas recalled that the 7:12, 12:12 provision was established in an effort to find compatibility with the historic character of Old Town. Before the Code change people were flattening out the roof and making the volumetric as large as possible. If they decide to allow green roofs, they need to think it through and define the specifics.

Planner Astorga reviewed Scenarios I and J together. Both were on 60% grade. Scenario I has one exterior parking space, and Scenario J has two interior parking spaces. Planner Astorga noted that there were major issues with variances in both scenarios. If such a lot existed with 60% grade, it would again make sense to try and do a split level concept.

Commissioner Hontz pointed out that in addition to not meeting the height due to the garage, it also would not meet Code because the driveway could not be returned to within 4-feet of natural grade. The bottom two floors would also have to be on stilts. Scenarios I and J could not be built based on all three reasons.

Planner Astorga had prepared another packet of scenarios on uphill lots that he would present at a work session on February 13th.

496 McHenry Avenue, McHenry Subdivision Replat – Plat Amendment.
(Application #PL-12-01717)

Due to a conflict, Commissioner Thomas recused himself from this discussion and left the room.

Planner Astorga reviewed the application for the proposed McHenry subdivision replat. Sean Kelleher was the property owner. Planner Astorga reported that Mr. Kelleher owns approximately 12 lots of record. Three do not meet the minimum lot size; therefore, the lot lines would need to be shifted for development.

Planner Astorga reported that the current plan is to construct seven single-family houses that would be accessed from an underground, shared parking garage. The Staff report outlined specific points for discussion, and Planner Astorga requested that the Planning Commission provide direction to the Staff and the applicant on how to proceed. As part of the discussion, the Staff report also included the minutes from the December 12th meeting, at which time the Planning Commission held a site visit and a work session discussion on the three lots down the street from Mr. Kelleher's property.

Mr. Kelleher provided a power point presentation reviewing the history and background of the property. He has been in the periphery of Rossi Hill for a long time, but he has never come before the Planning Commission. Mr. Kelleher stated that when he first became involved with the property in 2006, he was a tenant in common with Mr. Bilbrey, a former owner. Mr. Bilbrey retained all the development rights for the property and Mr. Kelleher was the traditional silent partner. Mr. Kelleher remarked that his only involvement regarding plat applications that came forth since 2007 was to sign the plat as a co-owner of the property. All discussions and decisions made on the property

Exhibit G

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
February 13, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapters 2 and Chapter 15.

On January 9, 2013 the Planning Commission discussed a number of scenarios prepared by the Staff that could occur on downhill lots. The Commissioners would review scenarios for uphill lots for discussion this evening. Planner Astorga had prepared specific scenarios for 50%, 30%, 45% and 60% slopes. He wanted to make sure the Staff and Commissioners had the same understanding regarding the current Land Management Code height provisions in the HR-1, HR-2 and HR-L zones.

Planner Astorga noted that the blue lines on the drawings in the packet represented the property lines on 75' lots. The red line on the bottom represented the grade. The bold red line was the existing regulation that indicates that the final grade shall be within four feet of existing grade on the periphery of each structure. The red line on top was the maximum height, which was capped at 27'. Planner Astorga noted that the Staff had designed what they considered to be worst case scenarios.

Planner Astorga presented Scenario A at 15% grade. The scenario has one exterior and one interior parking space, which pushed the front yard setback to 18 feet; the minimum area required for the exterior parking. This scenario has a mid-level access and a top level rear walk-out. It would be impossible to have a walk-out on the mid-level because it would not be within four feet of existing grade. Director Eddington pointed that that there could be windows on the mid-level. Planner Astorga agreed, noting that there could also be window wells on the basement level. Commissioner Gross asked about cathedral windows. Planner Astorga replied that cathedral windows would be allowed as long as they comply with the Historic District Design Guidelines. It would be challenging but good designers could make it work. The driveway in this first scenario was the 14% maximum.

Commissioner Thomas pointed out that if the driveway is 14% off the edge of the road and there is no transition, you would hit your bumper before you started driving up the hill. He suggested that practical and logical may be less than 14%.

Planner Astorga noted that Scenario A did not include the 10-foot stepback on the front because the basement is completely buried and stepback is not required. Commissioner Strachan asked if the stepback would be required if the basement was not completely

buried and was within four feet of existing grade. Planner Astorga answered yes because a portion of the basement would be exposed.

Planner Astorga presented Scenario B at 15% grade with two interior parking spaces. The driveway is 14%. The house is slightly larger than Scenario A. Commissioner Savage asked why the front distance in Scenario B was shorter than in Scenario A. Commissioner Gross assumed it was because Scenario B had two interior parking spaces and Scenario A parks one car outside. Planner Astorga replied that this was correct.

The Commissioners discussed house size and footprint. Craig Kitterman, a member of the public, remarked that there is a maximum footprint which determines the size of the house. Planner Astorga agreed. He noted that all the scenarios were governed by the maximum building footprint.

Commissioner Strachan had questions regarding the stepback. Chair Worel asked if a stepback would be require if any part of the bottom level was exposed. Planner Astorga answered yes, except for a window well. He read from Page 3 of the Staff report, second bullet point, "Final grade must be within four vertical feet of existing grade around the periphery of the structure except for the placement of approved window well, emergency egress, and garage entrances". He noted that the basement could still be buried and have a window well, but it would not require the stepback.

Commissioner Thomas noted that emergency egress can be any window or door out of a bedroom, and he found that to be problematic.

NOTE: Due to equipment problems, a portion of the meeting was not recorded. The problem was discovered and resolved.

During the non-recorded portion, Planner Astorga had continued his presentation and the Commissioners discussed the remaining scenarios.

Craig Elliott, as a member of the public, questioned why they were having this discussion. He passed around photos that were taken in 2003 and in 2013. From the standpoint of a big picture for the City, he was trying to figure out whether anything was really causing a problem. Mr. Elliott presented boards illustrating various built structures and noted that the majority of the buildings were over 27 feet tall. He stated that in the last ten years there has not been a significant change in Old Town that has created a negative impact to the visual. Mr. Elliott pointed out that with every application the Commissioners want to see a cross-canyon view, but in looking at the illustrations, there is has been no changes over the years, other than the trees grew larger.

Commissioner Thomas remarked that the boards Mr. Elliott presented showed the

perspective from a distance, and it did not take into consideration the streetscape and the visual impact walking down the street. He believed the purpose of the Steep Slope CUP is to bring down the scale.

Mr. Elliott understood that the neighbors complain whenever the Planning Commission reviews a Steep Slope project, but that just happens. Neighbors always fight new development because they want to keep the land next door vacant. However, people have the right to build. Mr. Elliott stated that the difference is minimal between what was there and what changed in ten years through the largest building boom. He realized that the LMC changes in 2009 were in response to specific projects, and in hindsight he should have attended the public hearings to argue about the 3-story limitation. It was a mistake on his part and he was attending now to have this discussion. Mr. Elliott noted that there were nine statements of purpose in the LMC. They might be accurately discussing one, but the rest were going the wrong way. Applicants are always asked whether they read the purpose statement. He was now asking the Planning Commission if the discussion they were having meets the purpose statement. He could not understand the purpose of their discussion and he did not believe anything in their discussions would improve things through the Land Management Code. Mr. Elliott stated that restricting height on a 75' lot to 35' to 37-1/2' might make sense; but he could not understand it for a lot over 75'. The nature of Park City is that it keeps stepping up the mountain.

Commissioner Strachan asked if there would be a difference if Mr. Elliott had taken the picture 25 years ago. Mr. Elliott believed that most of the structures shown were built before the 1980's. Commissioner Strachan believed that most of the larger houses Mr. Elliot was showing were not built 25 years ago. Mr. Elliot pointed out that the larger houses would never go away. If they were to burn down they would be replaced with the same size structure in the same place. He felt that the Planning Commission has spent the last few months talking about heights and squares and angles, when they should be talking about the big picture and why they were having these discussions. If the discussion is that they want to limit the ability to develop, they were moving in the wrong direction.

Commissioner Savage stated that Mr. Elliott is a professional who presented visuals to support his position. He believed Mr. Elliott had a valid point. They can look at the various scenarios presented, but the reality of importance is the sense from the perspective of where these developments will take place and whether something is or is not consistent with that particular location and a particular set of visuals. Commissioner Savage thought that should be their guiding parameters more than trying to create a formula for calculating volume as a function of lot size.

Mr. Elliott stated that he works in Old Town every day. He experiences the streets every day and he walks to most of his projects. He was confident that the things that have happened over the past ten years have not negatively impacted the quality of the town.

Changes are made and it does not make any difference in the overall impact. These discussions have kept people from building houses for the last six months and will cause them to miss two seasons of construction. Mr. Elliott believed the major question was why they were having these discussions and what it would accomplish.

Commissioner Thomas stated that prior to creating the 2009 LMC, they were seeing buildings stepping up the mountainside to maximize the volumetric. That had a dramatic visual impact on the neighbors, the street and the scale of the community. The reason for these discussions is to have a sense of scale to the historic fabric of the community at the street level. He did not think some of the images Mr. Elliott presented was a fair comparison of what this town is about or the character of the town. Mr. Elliott disagreed. Commissioner Thomas stated that the image does not represent what the neighbors experience when someone builds an enormous house next to an historic house. The purpose of the 2009 changes was to respect the neighbors and what was left of the historic fabric that was being whittled away by these monstrous structures.

Mr. Elliott reiterated that the Planning Commission should address the real question of "why" and if whether the "why" fits within the Land Management Code purpose statement. In his opinion it did not.

Commissioner Strachan asked if Mr. Elliott had any recommendations on how they could bring more families and primary homeowners back into Old Town. Mr. Elliott felt that would be driven by a number of different things. He suggested that current projects would bring people into town. He thought they would be fighting the issue of value for a long time because of its proximity to Main Street.

Ruth Meintsma stated that she lives on a street that is primarily second homes and nightly rentals. She does not mind nightly rentals in her neighborhood because it works. However, the houses in-between where people live are very important and adds cohesion to the neighborhood. Ms. Meintsma understood the reasons for limitations. A house across the street from hers is nightly rental. People come in and out and you never talk to them. The number of cars is astounding and the amount of trash in one weekend is more than she creates in two months. Ms. Meintsma believes there needs to be a balance. In talking about limitations, she understood the three stories limit and size reduction for second homes and nightly rentals because extra space is not needed for that type of living. However, when someone has a family they need to think about a new way of living. They need to think about space for storage, tools, food storage, etc. She believes that if there could be a second criteria of house building where a home or a residence is signed in perpetuity to no nightly rental, it would add to affordable housing because people could come in a rent for a minimum of one year. With larger structures people would create a home and it would allow for families. Sometimes the fourth story is necessary for a family. If someone wants to build a home for their family and wants extra space, the City should

hold them to the family home use by having them sign in perpetuity to no nightly rental.

Planner Cattan stated that limiting nightly rental was not necessarily limiting second homes. Ms. Meintsma agreed, but it would still be someone's home. Commissioner Savage commented on the economic impact. If someone did not have the ability for nightly rental they possibly could not afford the home. In other cases, some people buy second homes on the fact that they can enjoy it themselves and offset some of their expenses by renting when they are not there. Ms. Meintsma understood the concern, but if someone was willing to sign their home into perpetuity from nightly rentals, they should be given some incentive such as extra space in their home.

Mary Wintzer stated that when side yard setbacks were reduced years ago, they saw huge impacts with snow shedding and people began to maximize their houses. The lifestyle of those living in Old Town has been drastically affected. Her neighbors raised four kids in a three-story house. When she was growing up people shared bedrooms. Ms. Wintzer was not totally opposed to the incentive of a fourth story, but if they return to what used to be they would not need monstrous homes.

Ms. Meintsma pointed out that lifestyles are completely different than how they used to live. She clarified that she was not talking about greater height or greater mass. She was only talking about an additional story. She understood that excavation was a major concern, but she believed that could be mitigated.

Ms. Wintzer remarked that several years ago four owners on Rossi Hill imposed a house size restriction on themselves. They realized that it would limit their profit when they decide to sell because the lots could not be maximized, but they did it because they value their neighborhood. Ms. Wintzer stated that they love Old Town, they love the mountain and they love what the community has given them. It is the neighborhood, the people and the land, and they are building up every square inch of the earth in Town. She believed they would pay a price some day. The old timers talk about the years when they had bad spring runoff and mud slides on this side of the Canyon. They have not seen that yet, but it is possible. If it occurs, there is no earth left to absorb it because it is all developed.

Commissioner Hontz felt good about this exercise because it was based on the purpose statements and it came out of the realization and the factual evidence of how many undeveloped lots are left and how tightly constrained they are. In her mind this was an exercise of education, but it also explored whether what they have meets what they want to do, how they need to tweak it, if at all, and if the scenarios were representative of what they thought they were trying to achieve. The discrepancy on the definition of story was another reason that prompted the exercise. Without those reasons they would have never done this and nothing would change. Instead, they went through this very thorough discussion to possibly visit some potential changes. Commissioner Hontz thought this was a useful

"primary" for clarification. Vice-Chair Thomas was comfortable if the language gives the Staff the ability to look at the design and determine the primary roof and that a smaller roof element on the structure is a lower percentage of area and not a significant dominant roof form. He believed the Planning Commissioner needed to trust the judgment of the Staff

Vice-Chair Thomas recalled from the last meeting that the Planning Commission was comfortable with the 7:12 and 12:12 roof pitch in terms of compatibility in Old Town. However, the proposed language on page 71 of the Staff report provides the caveat of allowing a shallow roof it is more compatible with the historic structure. He thought that was appropriate. Planner Astorga clarified that the process for approval is through the HDDR by the Planning Director.

Commissioner Savage commented on green roofs in the Historic District. He noted that they continually talk about historic precedence and to the best of his knowledge green roofs did not exist in those eras. Commissioner Savage asked if the Historic Preservation Board was willing to integrate green roofs into the design guidelines for renovations of historically significant structures. Planner Astorga replied that the Code already allows a green roof if it is under the required roof pitch. That was added as part of the 2009 amendments. He explained that the intent is to clarify the language in terms of measuring. Commissioner Savage asked how a green roof would impact registering the home on the Historic Register. Planner Astorga stated that green roofs would not be allowed on historic structures. Green roofs would be allowed on new construction in the historic district or on addition to historic structures. He noted that the Code applied specifically to the Historic Residential Districts.

Planner Astorga remarked that several people have asked if they could have a flat roof that is not green but has solar panels. He asked the Planning Commission for input on that scenario. The Commissioners pointed out that the panels would have to be on an angle for sufficient use of the solar. Vice-Chair Thomas stated that solar collectors have been used on various roof pitches and they work in a lot of conditions.

Commissioner Hontz referred to the historic structures analysis on page 71 and the recommendation to add building footprint and building height. She pointed out several negative scenarios that could occur, which was why she did not favor adding the language. rector Eddington pointed out that the language only applies to structures listed on the Historic Sites Inventory. Planning Manager Sintz suggested adding, "designated historic structures." Commissioner Hontz was still uncomfortable adding building footprint and height. Under the current process the Planning Director makes the determination and she preferred to keep that review process.

Planner Astorga explained that the Staff recommended the change because they recognized that not all of the historic structures would comply with the height parameters in terms of the 10' setback. Commissioner Hontz still preferred to keep the process of review and determination by the Planning Director for all structures. She was willing to consider the possibility of only allowing the change for structures under 1500 square feet. Director Eddington stated that the Staff would look at revising the language to address the concerns.

Commissioner Hontz referred to a news article regarding a $1 billion deficit the Jordan School District is facing next year because their Planning Department, Planning Commission and City Council approved more density than what they could accommodate for the number of people it generated. Commissioner Hontz pointed out that what the Planning Commission does matters because the number of people in a house affects the amount of traffic on the roads and the number of children in the schools. Vice-Chair Thomas pointed out that the Jordan School District was the best funded school district in the State of Utah. Unfortunately, they lost a lot of their funding due to the transformation Kennecott and how the money was disbursed. He agreed that growth was also a factor, but it is natural to expect some growth to occur. Commissioner Gross thought it was important to plan around growth expectations.

Director Eddington believed the Staff had enough direction to revise the proposed amendments and incorporate their comments. Commissioner Wintzer thought it would be helpful for the Staff to summarize the comments this evening and email it to the Planning Commission for verification and consensus before they make the revisions.

Assistant City Attorney McLean replied that the Staff could send a summary to the Planning Commission, but the Commissioners could only reply and communicate with the Staff. They could not do a "reply all". Vice-Chair Thomas felt a better approach would be for the Commissioners to visit the Planning Department two at a time to meet with the Staff prior to the next meeting. Vice-Chair Thomas thanked Planner Astorga for his patience throughout this process.

MOTION: Commissioner Hontz moved to CONTINUE the Amendments to Chapter 2 to a date uncertain. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

3. <u>Lots 21-32, Echo Spur – 9 Lot Subdivision</u>
(Application PL-12-01717)

with the language in blue. The Commission concurred that the language in the Annexation Agreement allowed the condition to provide a certain level of Green Building to evolve as the standards evolve. The Commission concurred that Finding of Fact 1e. could be amended to include the language from the Annexation Agreement. The Commission agreed that restricting the language to "LEED Silver" did not allow the project to keep up with the Green Building standards as they evolve.

The Commissioners were opposed to heated driveways. Mr. White indicated that they discussed requiring off-sets to heated driveways, such as additional solar panels, consistent with Condition #49 of the MPD.

The Commissioners and Staff point out findings of fact and conditions of approval that may need to be modified due to the amended plat layout and requested changes. Such as Condition #43 regarding wildlife report update, Condition #55 regarding limits of disturbance and retaining walls for streets, Condition #24 regarding the new soils report, and Condition #59 regarding snow storage restrictions on the actual repository. The applicant stated that some conditions have been address by the revised plat, such as Condition #24 regarding the trail access between Lots 89 and 90. Planner Whetstone commented that Condition #56, which refers to lot numbers of the preliminary plat by Ensign Engineering could be updated to match the new preliminary plat.

The Staff and applicants discussed a schedule for future meetings to keep the process moving forward.

MOTION: Commissioner Strachan moved to CONTINUE the proposed Park City Heights MPD amendments and extension to November 6, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

5. Land Management Code – Amendments to Sections 15-2.104, 15-2.1-5, 15-2.2-4, 15-2.2-5, 15-2.3-5, 15-2.3-6, 15-2.16-5(L), 15-2.16-5(M) & 15-2.16-6 regarding existing historic structures and building height in the HRL, HR-1, HR-2 and RC Districts (Application PL-12-02070)

Planner Astorga reported that the Planning Commission originally discussed the definition of a story during a work session in August 2012. During a Planning Commission meeting in September 2012, the Staff recommended reviewed the interpretation of a story as currently defined in the Land Management Code. At that time the Planning Commission had concerns related to the current building height parameters and how they applied to split-level concepts. It was interpreted that a three story split-level, per the current LMC definition of a story, would qualify as multiple stories adding up to six. The Staff had introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. The Staff offered to work with different scenarios and come back to the Planning Commission with alternatives.

Planner Astorga stated that during the September 2012 meeting the Planning Commission forwarded several items to the City Council for review and possible adoption. However, the Commissioner continued the proposed amendments regarding building height measurement

and story definition to a later date, and requested additional information. On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1 & HR-2) relating to downhill lots. Another group of scenarios regarding uphill lots was presented on February 13, 2013. Planner Astorga noted that the January and February work session discussions were based on the current building height parameters outlined on page 260 of the Staff report.

Planner Astorga noted that currently the LMC defines a story as:

> The vertical measurement between floors taken from finish floor to finish floor. For the top most story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof structure.

Planner Astorga stated that there is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet. After analyzing the impacts of split-levels and multiple split-levels concepts on a standard lot of record, the Staff proposed adding provisions to the LMC related to Building Height which would limit the split-level concept so a project would not contain multiple numbers of splits stepping up or down the hillside.

Planner Astorga referred to the proposed amendment language in red on page 263 of the Staff report. He noted that the amendment deals with the alternate language to replace the maximum three-stories and does not replace the maximum height of 27' measured from existing grade. The proposed language reads:

A structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plan to the point of the highest wall top plat that supports the ceiling joists or roof rafters.

The Staff also recommended adding clarifying language to the ten foot 10' minimum horizontal step. Planner Astorga noted that the current code does not indicate where the step back takes place on a vertical plane. The Staff found that the added language in red at the bottom of page 263 clarifies where the horizontal step should occur. The proposed language reads:

The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty-five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic sites and Historic Districts.

Planner Astorga presented a number of exhibits to show what could occur under the exiting Code and with the proposed changes.

The Staff proposed language under Roof Pitch to clarify green roofs. "A green roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 foot pitch." The Staff proposed adding a provision reflected in red on page 265 of the Staff report. Proposed provision clarifies the required roof pitch for green roofs, as well as adding a specific parameter of measurement. The proposed language reads:

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same structure. A structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including parapets, railings, or similar features.

The Planning Commission discussed split levels and whether or not to place a cap on the number of levels. Planner Astorga noted that when the discussions started in August of 2012 the Planning Commission said they would allow a cap. They needed to let the Staff know if they had changed their minds. He noted that there would be less excavation under the new scenario.

The Commissioners discussed footprint. Commissioner Strachan remarked that the footprint discussion trickles down to plat amendments. Planner Astorga noted that last year three applications proposed the split level concept and none required a plat amendment. Commissioner Strachan remarked that the standard 75' x 25' lot was no longer an issue because of plat amendments.

The Planning Commission discussed window wells that become bedroom space. The Commissioners generally did not like the idea of window wells and thought they should be minimized or restricted. Window wells encourage more livable space which generates more people and more traffic. Planner Whetstone pointed out that the Planning Commission wanted like to encourage more families in Old Town, and families require additional living space.

Vice-Chair Thomas opened the public hearing.

Steve Parker stated that he has a child and he would love to live in Old Town. Mr. Parker suggested that instead of limiting everything the Planning Commission should find better ways to design and create better spaces.

Vice-Chair Thomas closed the public hearing.

The Commissioners were not prepared to forward the proposed amendments to the City Council this evening. They requested that the Staff come back with more information on driveways, restrictions on window wells, particularly in setbacks, and footprint analysis. Vice-Chair Thomas referred to the language on page 263 proposing a 35'maximum height. He thought that should be reduced to 33' in the back and 27' in the front.

Commissioner Wintzer stated that this was a good opportunity to address flat roofs and requested that the Staff come back with language to start the discussion. He suggested the possibility of allowing a percentage of a structure to be a flat roof. Director Eddington noted that flat roofs are already addressed in the Design Guidelines. Commissioner Wintzer pointed out that the Planning Commission needed to have a conversation regarding flat green roofs in Old Town because the Design Guidelines are not in their purview. Vice-Chair Thomas agreed.

Commissioner Strachan thought the Planning Commission should forward the amendments they could agree on and discuss the rest at a later meeting. He was comfortable with the proposed horizontal stepping language on page 263.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC Districts with the proposed language at the bottom of page 263 of the Staff report for a horizontal step at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the proposed language at the top of page 263 of the Staff report, with a revision to change the maximum height from 35 feet to 33 feet at the rear. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Strachan referred to the proposed language on page 265. He was comfortable with the second sentence but he thought the first sentence should be part of the green roof discussion.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the second sentence of the proposed language on page 265 of the Staff report regarding the 30' maximum height for a flat roof. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 11:45 p.m.

Approved by Planning Commission: _____

experience. She was unsure what the result would be based on all their opinions, but this was instrumental in educating the Planning Commission to be able to move forward.

Planner Astorga noted that page 2 of the Staff report contained language from the current Code. He asked if the Planning Commission had issues with any of the regulations and whether it needed to be strengthened or rewritten. He believed there was some consensus for spending more time and resources on adding internal maximum height. He asked if any of the other height parameters needed to be fine tuned. Commissioner Strachan felt it was sufficient to have the internal height limitation.

Commissioner Savage had issues with the third bullet point and the definition of three stories, and whether three stories was measured from a vertical point or by some other metric. Commissioner Strachan thought the three story restriction could be eliminated if they use the internal height restriction. Commissioner Thomas agreed. The internal height gives the designers more flexibility with the floor plan.

Director Eddington understood that the Planning Commission would not have as much consternation with regard to split levels and partial stories inside the building. He was told that this was correct. Commissioner Strachan clarified that applicant could do whatever he wanted within his own box as long as it meets the internal height limit.

Commissioner Thomas suggested a site visit to several sites that reflect the conditions discussed on uphill and downhill lots so they could see them in the field.

General Plan – Discussion and Overview of neighborhoods – the neighborhoods to be discussed include: Thaynes Canyon, Park Meadows, and Bonanza Park/Prospector

Nightly Rentals

Planner Cattan reported that the Staff had prepared a discussion on nightly rental because it was one of the more controversial topics to be discussed neighborhood by neighborhood as they decide to rezone and talk about residential neighborhood versus resort neighborhood. She preferred to start with nightly rentals before moving into the neighborhoods discussion.

Planner Astorga read that the current Land Management Code definition of a nightly rental. "The rental of a dwelling unit for less than 30 days." Another clause states, "Nightly rentals do not include the use of dwelling units for commercial uses." Commissioner Savage asked for clarification on the language regarding the use of dwelling units for commercial uses. Assistant City Attorney McLean explained that as an example, gifting parties cannot be held in a home that is a nightly rental.

Exhibit H

Said landscape plan shall incorporate the reintroduction of native landscape materials within this area, and reduce the amount of sod-grass, especially near the creek.

9. No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height (Application PL-13-01889)

Planner Francisco Astorga noted that this item addressed LMC amendments to change some of the parameters of the building height in the HRL, HR1, HR2 and RC Districts. The Planning Commission has had significant work session discussions as reflected in the Minutes from those meetings and included in the Staff report. The Staff was before the Planning Commission this evening with recommended proposed changes for review and a possible recommendation to the City Council.

Planner Astorga reviewed the current height provisions: 1) The height must be within 27 feet of existing grade. This provision was unchanged. 2) Final grade must be within four (4) vertical feet of existing grade around the peripheral of the structure except for approved window wells and access to the structure. Planner Astorga reviewed highlighted changes to this provision. The current language addressing a maximum of three stories would be replaced with an internal height parameter. The 10-foot minimum horizontal step on the downhill façade would remain. The mandated roof pitch would also remain based on direction from the Planning Commission during the February work session. The height exception would also remain.

Planner Astorga noted that the3-story language would be replaced with language regarding internal height that would vary on a specific roof pitch on the roof form, as indicated in the table on page 230 of the Staff report. The language was revised to read, "The internal height of a structure measured from the lowest point of the finished floor level to the highest exterior ridge point shall not exceed the number based on the following table". Planner Astorga explained that they would still achieve the mass and scale of three stories, without saying that the maximum is 3-stories. The Staff thought it was better to use a scale because otherwise people would try to capitalize on their wall height for their stories and then give the lowest roof pitch each time. Therefore, the Staff created an incentive of 1' foot of step per higher roof.

Planner Astorga explained that the logic for the internal height was wall height plus the roof height. The wall height was derived from 3-stories. A ten-foot story including a floor joist may not be doable, and that number was increased to 11 feet for a wall height of 33 feet. The Staff calculated what each roof height might be depending on the pitch of the roof to determine the varying height.

Commissioner Wintzer was unclear why the Staff thought a 9-foot or 10-foot story was not doable. Planner Astorga stated that the scenarios the Staff presented in January and February were based on 10-foot stories, which included a floor joist. The intent was to be more consistent with what the market might drive. He pointed out that the proposed change does not dictate how tall the story might be. It could be less or more and the applicant has the ability to work with the design. Planner

Astorga understood from previous comments that the Planning Commission thought the 10-foot story maximum was too small.

Commissioner Hontz thought believed that 10-feet was adequate and that 11-feet was a gift. However, she recognized that it did allow more flexibility. Commissioner Thomas was not concerned with whether it is 9, 10 or 11 feet on the interior. Commissioner Hontz was concerned that if someone takes the maximum internal height of 43', they would need to grub out again. She pointed out that the 27' would only keep it with the slope. However, internally, the house could continue to go further down. Planner Astorga noted that the internal measurement creates a split level. Commissioner Hontz was comfortable with split levels, but the question is how many splits. They were keeping down the height, but they also wanted to keep the structure from growing bigger side to side. She preferred the ten-foot story because it keeps the building from creeping down the slope too far.

Planner Astorga stated that based on the methodology selected for the scale, if they use the 10-foot measurement it would drop 3-feet from each internal height. Therefore, the internal height would range from 35' to 40'. Commissioner Hontz was more comfortable with those numbers. Commissioner Hontz stated that because the current Code does not allow stepping within the house, the current three-story solution works because it limits how far people are willing to go out and down the hill. Commissioner Hontz wanted to make sure that by allowing more flexibility in terms of steps within the interior, that they were not allowing creep up or down the hill.

Director Eddington asked if the Commissioners wanted to go to 10-foot floor plates and reduce the internal height by 3-feet each. Commissioners Hontz and Wintzer answered yes.

Commissioner Thomas was more concerned with the impact on footprint. They would still have the 27' maximum height from existing grade, but he was interested in knowing the relative difference in footprint between a 10-foot floor plate and an 11-foot floor plate.
Director Eddington did not believe the footprint would change either way because most people max out their footprint. He noted that the City has a formula for footprint for all of the historic zones. Commissioner Thomas stated that he was very comfortable with the 11-foot for interpretation as long as people are held to the 27' maximum height and the footprint could not creep up or down the hillside. Director Eddington clarified that it was a formula of lot size.

Commissioner Savage thought they should stay with the 11-foot floor plate as proposed. Chair Worel was comfortable with 11-feet as long as the footprint could be limited. Commissioner Wintzer was not opposed to 11-feet because people do build to the maximum. Commissioner Wintzer suggested that Planner Astorga include an illustration for clarification to show how it should be interpreted.

Commissioner Hontz asked for the definition of finished floor level? Commissioner Savage suggested that it could defined as, the lowest point of the lowest finished floor level to the maximum vertical height of the structure. The Commissioners supported that definition. Commissioner Savage wanted to know how the number relates to not counting a basement if it is totally subterranean. Planner Astorga clarified that subterranean basements are counted. Commissioner

Savage clarified that regardless of whether or not the basement is buried, the lowest level of the lowest floor is Point A, and Point B is the highest point of the exterior.

Director Eddington clarified that the language indicates the lowest point of the finished floor level and/or any structural element is the lowest point. Commissioner Thomas gave a scenario to show how talking about structure complicates the issue. Commissioner Savage thought the confusing word was internal.

Planner Astorga remarked that the next proposed change was to add two provisions to the Existing Historic Structures. This portion of the Code states that historic structures are valid complying structures in terms of parking and other issues. Planner Astorga noted that the LMC defines a Historic Structure, but it does not include any additions to the structure. The Staff wanted to keep the regulation for valid complying and added Footprint and Height to the existing Code language for the three Historic Residential Districts and the RC District.

Director Eddington clarified that it was already understood that if a structure exists with an existing footprint or building height, it is existing non-complying. Planner Astorga believed that most of the historic structures comply with the building footprint.

Commissioner Hontz noted that someone could take away some of the property associated historically with the historic structure that makes it complying currently. Director Eddington clarified that a building could not violate the Code and be taken into non-compliance. However, he understood Commissioner Hontz's concern. If someone had more than a single Old Town lot they could split a portion of the land and put it on another property. He pointed out that the footprint would be limited to the 844 square feet or whatever it exists as and the building would never get bigger. Commissioner Hontz agreed that the structure could not be bigger, but splitting a portion of the property would allow a larger structure next door.

Planner Astorga stated that the Staff also tried to clean up the section regarding Building Height. A number of historic structures do not comply with the existing heights. One of the parameters is a 7:12 to 12:12 roof pitch. The Staff did not think it was appropriate to do a complete analysis on how a structure is legal non-conforming, when a similar clause in the Code addresses setbacks.

Commissioner Savage asked if complying and conforming were synonyms for purposes of the Code. Director Eddington explained that conforming is for a use and complying is for a structure. Commissioner Savage understood that a valid complying structure could be legal non-conforming.

Planner Astorga noted that the final proposed change was a roof pitch exception. He explained that periodically the Staff encounters a historic structure that may have a 5:12 or 4:12 roof pitch. The Staff felt it would be more appropriate if the addition that comes in for that structure would be held to the same type of roof pitch or possibly lower. Planner Astorga noted that currently the Code would not allow that because it specifies 7:12 to 12:12 roof pitch.

Planner Astorga stated that the Staff was proposing to add language for additions to historic structures, stating that through an HDDR review and compliance with the Historic District

Guidelines, the Planning Director has the ability to approve a roof pitch lesser than the one required in the Code.

Planner Astorga stated that the next question was how that would apply in the case of a split level and the maximum height. He noted that a secondary table was added for these types of exceptions.

Planner Astorga asked if the Planning Commission was comfortable adding the roof exception for additions to historic structures; and whether it would be appropriate to add the same type of scale for the maximum building height. Commissioner Thomas liked the idea because it would allow for a more appropriate design and more flexibility. The Commissioners concurred.

Commissioner Wintzer referred to the table on page 231 of the Staff report and corrected the 5:15 roof pitch to be a 5:12 roof pitch. Commissioner Thomas noted that 5:15 appears several times in the Staff report and it should be corrected throughout.

Commissioner Hontz referred to page 244 of the Staff report and asked what they would do about the 10-foot horizontal step that is referenced in conjunction with a third story, because people would now be able to have three stories. Planner Astorga replied that the provision is based on a 3-story building and it is mathematically impossible to have more than three stories. Commissioner Hontz did not believe it referenced what they were trying to accomplish now. She thought the language should be re-written relevant to where they want the 10-foot horizontal step to occur. Commissioner Thomas agreed that it was no longer clearly defined as the third story. Director Eddington suggested that it may need to be a numeric value.

The Commissioners were not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception and associated illustrations.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 505 Woodside, commented on the 3-story versus internal height issue and did not believe they were accomplishing what they intend to accomplish. Ms. Meintsma understood that they were first trying to accomplish visual height and mass from the exterior, and secondly to control the height and mass from stepping up the side of the hill with a 3-story limit. She thought the height limitation seemed complicated and she believed they would cause other issues. Ms. Meintsma presented a visual to support her concerns. Regarding the discussion about the lowest point of the lowest floor to the highest exterior to limit crawling up the hill, Ms. Meintsma pointed out that many houses in town have an exposed foundation way below the first floor. If they do not consider the exposed foundation and start from the bottom first floor and limit the interior, people will lift their house out of the ground and have an exposed foundation, which will significantly increase the visual mass. Ms. Meintsma stated that the interior measurement from the lowest floor was not accomplishing what they wanted. She believed that starting from grade would accomplish their goal and keep the structure from creeping up the hillside.

Ms. Meintsma commented on the different roof pitch options with different heights. She pointed out that a green roof is 33 feet and a 12:12 is 43 feet. No one will choose a green roof unless they are very environmentally conscientious, because people prefer an open ceiling roof. She believed the

proposed formula would discourage green roofs. Ms. Meintsma also thought it discourages a steeper pitch because with a 27' height limitation a steeper pitch would move the structure further underground. She noted that most people want to be above ground as much as possible for light and windows.

Ms. Meintsma suggested that there were different ways of controlling visual height and mass. She thought it would be better to control the height and visual and put a limitation on cubic dirt moved under the house. That would address both issues separately and in a more appropriate way that the interior number of floors. Ms. Meintsma was pleased that Commissioner Hontz mentioned the third floor, because in her opinion the 3-story step back did not work. She provided different scenarios to explain her point.

Ms. Meintsma thought there needed to be some way to encourage green roofs through some type of height limitation. She asked if a conditional use for a higher height could be used as a negotiating tool for green roofs. Ms. Meinstma pointed out that the advantages of a green roof. She believed everything needed to be thought through to be productive and to have the control the Commissioners wanted.

Commissioner Wintzer asked the Staff to consider Ms. Meintsma's comments and work it through a number of drawings.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments regarding Building Height to May 22, 2013. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioners Gross and Thomas were not present for the vote.

3. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, and Chapter 2.3 and Chapter 2.16 regarding underground parking structures. Amendments to Chapter 2.18 regarding Prospector Overlay. Amendments to Chapter 6 regarding Master Planned Developments. (Application PL-1301888)

Planner Whetstone stated that these were the remaining amendments of the 2012 annual update of the Land Management Code. This agenda item addressed three amendments. The first was to clarify the purpose and the applicability of the Master Planned Development review process throughout Park City. It was not specific to any one area, but it clarifies the language. The second was to clarify and add additional review criteria to the Master Planned Development Review process. This would apply to any Master Planned Development. The review criteria were clarified and updated to make references that are specific to the Code. The third amendment was to clarify the lots within the Prospector Square overlay in the General Commercial (GC zone) that are subject to zero lot line development. Planner Whetstone noted that added language clarifies the lots subject to exceptions in the overlay. One of those exceptions is to have a zero lot line development. Planner Whetstone stated that when the Prospector Square subdivision was amended, the Code was not also amended to identify that those lots are also allowed zero lot line development.

Planner Whetstone referred to the General Commercial Zones, Section 15-2.18-3 of the LMC, Lot and Site Requirements. This section addresses lot and site requirements and several changes were

Exhibit I

amendment.

3. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – 305 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. No building permit for any work that expands the footprint of the home or would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

4. Modified 13-D sprinklers may be required by the Building Official for renovation of the existing structure.

5. A ten foot (10') foot wide public snow storage easement will be provided along the frontage of the property.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3 and Chapter 2.6 regarding Building Height. (Application PL-13-01889)

Planner Francisco Astorga remarked that the proposed amendments address development in the HRL, HR-1, HR-2 and the RC zones. The RC zone was included because specific

standards for single-family dwellings and duplexes mirror the same standards that apply for the Historic Residential Districts.

Planner Astorga requested that the Planning Commission discuss the proposed language shown on Attachment 1. If the language needed to be amended, the changes would be included in a recommendation to the City Council in an effort to move forward.

Planner Astorga reported that the proposed amendments were two-fold. The first one related to the Building Height analysis on pages 66-71 of the Staff report. The second amendment related to the Existing Historic Structures Analysis on pages 71-72.

The Staff recommended that the Planning Commission review the proposed amendments to the Land Management Code for Chapter 2 as described in the Staff report, conduct a public hearing, and forward a positive recommendation to the City Council to adopt the ordinance in Exhibit A with any further changes resulting from the discussion.

Vice-Chair Thomas opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, had prepared a presentation showing various heights, stories and roof shapes. She recalled that stepping was an issue because the Code did not read as stepping three stories, and the Planning Commission wanted the ability to apply the Code in a way that stepping would work.

Ms. Meintsma had prepared a series of drawings. The first one had a third story, ten-foot horizontal step at a 27' foot height which was allowed under the current Code. A second drawing presented was not allowed under the current Code. A third visual showed the same mass in the third story and the fourth story, except there was more mass with the allowed structure versus the structure that is currently not allowed.

Commissioner Savage asked if the difference was attributed to the setback requirements in the front. Ms. Meintsma answered yes, because the only way to fit four stories in the 35' interior top plate ceiling height would be if the four stories had 8' ceilings. Vice-Chair Thomas clarified that the floor to floor heights were 9' floor to floor with an 8' ceiling. Ms. Meintsma believed it was in the best interest of the City to allow a structure that would actually have less mass.

Ms. Meintsma had prepared additional drawings to explain what she believed were the positives for allowing stepping and four stories and why the building would have a smaller appearance. She stated that the horizontal lines on four stories has a tendency to chop up the visual and makes it more attractive. Ms. Meintsma remarked that because the height

would be 35' on top plate, it would possibly allow steeper roof pitches, which everyone would like to see, and still maintain the 27' height. She was working on language regarding a half-story to encourage steeper roof lines and more variety in roof pitches.

Ms. Meintsma stated that if stepping is allowed because it remains under the 35' height, the unintended negative of a split level is that the roof tends to create a roller coaster roof that is reminiscent of the ski slope roof. Ms. Meintsma presented a photograph of the structure that triggered the discussion and explained how the roller coaster roof could be mitigated. Ms. Meintsma believed that stepping could create a smaller structure.

Ms. Meintsma outlined the unintended negative flaws in the language proposed for height and roof pitch. She noted that the language talks about primary roof design; however, primary roof design is not defined in the Code, which makes it arbitrary. She believed they needed a definition for primary roof design. Ms. Meintsma reviewed a series of drawings with different heights, roof pitch and design to show some of the flaws resulting from the language. She suggested that "Primary Roof Design" should be changed to "Primary Roof", and the primary roof should be defined as the main roof structure to keep all the pitches at 7:12 to keep the roof from flattening against the 27' height.

Ms. Meintsma referred to language stating that the roof pitch must be a 7:12. She presented drawings showing that the 7:12 pitch were only small portions of the roof that she had marked.

Commissioner Hontz asked if Ms. Meintsma was saying that adding the word "primary" would make it less likely to see the hip roof. Ms. Meintsma believed that the hip roof was on its own regardless of whether or not it is allowed or now much is allowed. Commissioner Hontz clarified that in her interpretation, if the word "primary" is added it would allow someone to identify a secondary roof. Ms. Meintsma stated that a primary roof would be a 7:12 pitch roof; however, if it has a hip on it that would change the visual.

Mr. Meintsma presented an image of a barge rafter roof, which is one of the two rafters that support the roof and projects beyond the gable wall. She found the image as the best example of a gable roof. She was unsure whether it would flatten the roof or accomplish the visual they wanted.

Planner Astorga stated that the challenge in Old Town is that if the roof forms are perpendicular to the street, there is not an issue. The specific project that Ms. Meintsma used in her examples is parallel to the street. He believed it was a 7:12 roof pitch but the issue is that the ridge is parallel to the road and as it comes down, the massing perceived is different from seeing a gable on the street. The designer's intent is to provide additional

headroom, and that is a challenge. However, the City cannot plainly prohibit these types of structures because historically those types of roof forms existed in Old Town. The Staff faces this challenge on a daily basis with the Historic District Design Review.

Commissioner Wintzer used the image of the house identified as hip, and noted that there was no reason for what was done on that house. The roof is under height everywhere and it could have been higher. He thought they could follow Ms. Meintsma's suggestion to make the roof simpler. Ms. Meintsma clarified that she was not implying that it should not have been done. She only questioned it because the 7:12 pitch was small portions and she wanted to know if this was what the Planning Commission wanted, because it did flatten the roof.

Vice-Chair Thomas closed the public hearing.

Vice-Chair Thomas remarked that someone would always do something creative with a roof that is unfamiliar or unfavorable. For that reason he felt it was hard to write a Code that limits every condition and still gives the applicant the opportunity to design what they think is an attractive house.

Planning Manager, Kayla Sintz, stated that the Historic District Guidelines direct the applicants to choose a style. The language proposed reduces the roof pitch in order to be consistent with other types of historic homes, and that means that someone chooses that style of a home with a shallower roof pitch. It does not mean they could choose all the options and put them on to one house. She believed there was a need for a strong statement and direction to an applicant to select one style. The Historic District is simple and it is not about a conglomeration of roof lines. Planning Manager Sintz thought it was an issue of choosing a style of architecture and one with compatibility through design.

Planning Manager Sintz cautioned against a primary roof form definition because people would eventually challenge the definition. She thought the Planning Commission should be cautious about delineating primary versus secondary or taking a stricter stance.

Commissioner Savage applauded Ms. Meintsma for her insight, efforts and continued participation in these important issues for the City. Commissioner Savage believed that the Planning Commission should focus on the exterior of a building and let the applicant focus on the inside. He noted that the City has an HDDR process and Design Guidelines and the Planning Commission should not be concerned with the design. The Planning Department is mandated with the responsibility of making sure the issue of compatibility is being met. Commissioner Savage stated that he would continue to trust in that process until he is given a good reason not trust the process. Commissioner Savage liked what Ms.

Meintsma had done with the volumetrics and he personally felt it was the right way to look at it. Whether it is three stories or four stories inside, both can be accommodated within the same volumetrics and the external appearance would be essential the same or possibly improved with the multiple stories.

Commissioner Savage was unsure as to how they could draft an appropriate definition for a primary roof and what they would call that roof. He was thought it would be difficult to define a primary roof. Commissioner Savage stated that he had not thought about the roller coaster issue Ms. Meintsma had raised and he was unprepared to comment.

Commissioner Wintzer echoed Commissioner Savage regarding his appreciation to Ms. Meintsma. It makes a difference when someone comes in with a different idea. Commissioner Wintzer agreed that the job of the Planning Commission is to focus on the volumetrics, but they are also challenged with making the structure compatible with the neighborhood and the existing structures. Therefore, he believed the Planning Commission should look at design and compatibility. Regarding the issue of flat roofs, he noted that four 9' floor to floor heights would allow four stories and still be within the height limit and the volumetrics would be totally different than if it was filled in. Commissioner Wintzer felt it was important to understand flat roofs and how they relate to structures in Old Town. He recommended that as they discuss heights that they look at structures with flat roofs in mind.

Commissioner Hontz thought they had made progress and she believed they were getting closer. She stated that some of the things affected by height is the amount of excavation, setbacks, and snow shed and that should be considered as they determine the height definition. Commissioner Hontz referred to the drawing on page 69 of the Staff report and noted that 14% driveways are allowed on uphill lots. Drawing a line at 14% and starting the structure at that point, and then drawing a straight line from the top of car, she pointed out the amount of excavation that would be reduced on an uphill lot. In her scenario, Commissioner Hontz noted that the garage elevation would not start until 15 or 20 feet higher. Therefore, the 27' height is 20 feet higher. Commissioner Hontz remarked that this was the type of house they keep seeing built on both uphill and downhill lots. She remarked that that entrance into a structure is not historic and it ruins how people approach structures and the feel of Old Town. Secondly, it is not useful. The first rainfall on the downhill lots in certain places fills the driveways and garages because it is a good place for water to run. On the uphill lot the garages cannot accommodate the height of an SUV and they end up being parked in the driveway. Commissioner Hontz reiterated that it adds to the height and the steepness of these driveways, which is not historic, and they are not useful.

Commissioner Hontz stated that moving the finished floor plane up puts the structure at 20-30 feet taller from the street, and makes it appear to be 80 feet tall. She believed that needed to be a component in their discussion. Commissioner Hontz thought the biggest failure is the fabric that is eroding due to the driveways, as well as the perceived height.

Commissioner Hontz liked Ms. Meintsma's comment about the benefit of less mass with four floors. However, in looking at the 9' foot ceiling structure of the 4th floor, they would see more bedrooms and more people, which generates more cars and more impacts. Commissioner Hontz agreed that the Planning Commission does not need to regulate the interior, but they still need to regulate the scale and mass, particularly when the mass is also bedrooms and number of people in an area that cannot accommodate the extra traffic.

Commissioner Hontz stated that based on where they allow people to go up in height, because of the retaining required, the limits of disturbance is the lot line and every piece of vegetation on the entire site is eliminated to accommodate the structure. Commissioner Hontz did not believe the proposed solutions address all the concerns. It is difficult to grow vegetation in Park City and when the removed vegetation is replaced, it will not be the same quality.

Commissioner Hontz stated that another proliferation they see on the uphill and downhill is the manipulation of the Code with window wells allowing habitable space, which results in more massing and additional excavation under the house and to the setbacks. She thought disallowing the 14% driveway might resolve the problem because people could no longer dig out that space.

Commissioner Hontz understood that they were still looking at green roof and roof pitch. She thought they needed to consider that a green roof could turn into a brown roof that is never planted or maintained. The needed to find a way to manage it and require that someone continues to manage it. Vice-Chair Thomas suggested that a green roof could be subject to a landscape plan approved by the Planning Director. Commissioner Hontz clarified that a green roof cannot be considered as setbacks or open space.

Commissioner Gross agreed with most of the comments expressed by his Fellow Commissioners. However, he believed that people should be able to do whatever is allowed within the 35' maximum as long as it complies with the Building Codes. The Planning Commission is tasked with looking at the exterior and making sure the impacts are properly mitigated. Commissioner Gross recalled a previous discussion regarding green roofs and that a landscaping plan needs to be part of the package before receiving the certificate of occupancy permit. He was unsure how the green roof could be monitored over time.

Vice-Chair Thomas believed they were moving in the right direction. The intent was to allow flexibility within the volume to have shifted floor planes and accessing grade. He believed the 35' height helps tighten it up, but a few things still need to be resolved and the green roof is one issue, along with the landscape plan relative to the green roof. Vice-Chair Thomas stated that a flat room has a bigger visual impact if it is allowed the same 27' height. In many parts of the community if someone chooses to use a flat roof, there is a reduced height associated with the flat roof. He asked if that had been factored into the flat roof discussion.

Planner Astorga replied that flat roofs were only incorporated with regards to green roofs. The Staff analysis is that when the application comes in the applicant needs to demonstrate that it will not cause any additional shade and it would not be taller than a standard gabled roof. Vice-Chair Thomas asked if a standard roof would be allowed to go up to the ridge height with a flat roof. Planner Astorga explained that the applicant would have to demonstrate how the proposed green roof/flat roof fits in a 7:12, 9:12, all within 27' from existing grade. Commissioner Wintzer asked if they could go up as high as 27'. Planner Astorga replied that it could, but it would be breaking on the corners. Therefore, it would have to be reduced until the entire flat roof is down within a standard compliant mss of roof form.

Director Eddington understood that Vice-Chair Thomas was asking whether a flat roof could appear to be a bigger mass because it does not have the sky on the side of the slope. If that was the question, the answer was no. Commissioner Wintzer asked Planner Astorga to bring back some drawings. Planner Astorga was prepared to do drawings this evening to demonstrate how the green fits at a standard gable. Vice-Chair Thomas clarified that the maximum height of the green roof would have to fit within the 7:12 context. Commissioner Savage understood that the higher the roof, the skinnier the building. Planner Astorga replied that this was correct. Commissioner Savage stated that most people want the square footage and that would keep them from building a taller building. Therefore, the footprint trumps the roof. Planner Astorga reiterated that the Staff analysis only applied it to green roofs and not standard flat roofs. Commissioner Wintzer clarified that green roofs was the only thing allowed in Old Town.

Vice-Chair Thomas stated based on his education and experience, mass, form, scale and compatibility are design; and to that extent the Planning Commission is involved in design.

Vice-Chair Thomas thought Commissioner Hontz made an excellent point about the driveways. There needs to be a transition slope from the street to the driveway and based on industry standards, it is a 5% slope up to 20 feet. The City allows 14% and he

questioned how they could get a transition slope into that realm. He believed that issue needed to be addressed because it is impossible to get a car up those driveways without bottoming out. The impact is that people will park on the street.

Commissioner Gross asked why they could not change the 14% slope. Commissioner Hontz replied that it could be changed but it also affects other things, such as height and mass. Vice-Chair Thomas pointed out that 14% slope would be sufficient with a long enough driveway, but there needs to be a transition slope at the curb approaching the street. Summit County has a code requiring driveways to be within 5% for the first 20 feet of the public street. He recognized that 5% was too restrictive for Old Town, but he thought they should factor it down and consider a more reasonable length that would still allow the transition.

Commissioner Savage asked if the driveway issue was a height issue. Vice-Chair Thomas replied that it is connected because it cascades into the lowest finished floor. Commissioner Savage could not understand why they would need to adjust the building height if they control the driveway slope. Vice-Chair Thomas replied that they would exceed the maximum height. Commissioner Hontz stated that if they add the driveway component and control it through some calculation, they would be addressing the height issue. Vice-Chair Thomas stated that if they lower the slope of the driveway and drop the elevation of the driveway it would increase the excavation of the project. He believed there were ramifications that needed further thought and discussion.

Commissioner Savage felt they needed a robust discussion regarding excavation. He thought the issue warranted further dialogue and education. He personally could not understand why they should care about the amount of excavation as long as the footprint was managed. Vice-Chair stated that they care about the amount of excavation because of the impacts created by the number of truck loads of material hauled through the neighborhood. The issue is life safety, as well as the depth of footings and excavation and cuts.

Commissioner Hontz commented on the vegetation removal that occurs with significant excavation, particularly the vegetation that has existed historically for 50 years and is habitat. She pointed out that projects that required significant excavation take longer because of the process. Some projects take years, which is an impact to the neighbor who lives next to the hole in the ground. Commissioner Savage thought those concerns could be addressed through bonding, obligations, and other requirements. He believed that at some level they need to support people's ability to make choices about how they want to develop their property as long as it fits within the guidelines. Commissioner Savage remarked that people should be able to work to the maximum within the LMC, without

feeling that they are getting more than they should get. The maximum should be what they are allowed to do.

Commissioner Wintzer remarked that the real issue is not how much is being excavated, but how many cars and people it takes to maintain the structure for the rest of its life. He noted that several structures on Deer Valley Drive have 15 cars parked in front for a weekend because it is allowed, but it completely impacts how he gets to his house and how people get around town. The owner built what the LMC said they could build, and the end result was a party house with two parking spaces. Commissioner Wintzer stated that in addition to regulating mass and scale, their job is also to regulate and protect the neighborhood and the integrity of the neighborhood. He commented on a house that he believed had excavated 100 feet and has window wells that are probably 12-14 feet high and have bedrooms behind the garage.

Vice-Chair Thomas remarked that window wells could allow someone to create a building area and usable space or living space below grade. He felt it was important to consider the impact of window wells and the intention for having a window well. If the intent is to create natural light and egress for a bedroom, that would the wrong intention and he would not encourage that type of space.

Commissioner Hontz stated that it is difficult to police and enforce use. By allowing 14% and building to the maximums, she thought they needed to look at whether the maximums are too big. People do not always make good decisions on their use and they tend to do things that are illegal. It generates additional traffic and other things that are not allowed in the community. Commissioner Hontz believed they needed regulations that are easy for everyone to build to and live to so they are not in a constant police state trying to stop people from doing what they are not allowed to do.

Commissioner Savage stated that the Planning Commission has a specific role. A City Councilman attends their meetings and several other organizations within the Park City Municipality have responsibilities for the enactment of legislation and maintenance of that legislature. There are ways to cause people to be appropriately penalized when they abuse the privileges. Commissioner Savage remarked that there was nothing the Planning Commission could do within the Land Management Code to fix the problems that occur in larger homes in terms of overnight rentals and huge parties. However, the City can implement the appropriate Codes and Regulations and taxation rules to ensure that the problem gets minimized and is forced into a more acceptable position. Commissioner Savage felt it was important to make sure they were using the right tools to fix the right problem. He noted that the Planning Commission is not mandated to be the panacea for

all the issues inside Park City. He thought the Planning Commission should focus on their job instead of trying to fix problems outside of their purview.

Commissioner Hontz disagreed. She believed it was 100% design related. Commissioner Wintzer concurred. It is the job of the Planning Commission to find whether something is compatible and fits the Land Management Code. It is also their job to look at neighborhoods and the bigger picture. Commissioner Savage believed it was their job to decide whether an application was compliant with the Land Management Code. Commissioner Wintzer replied that compatibility is addressed in the Land Management Code and the purposes statements talk about compatibility.

Vice-Chair Thomas remarked that the intent of the proposed amendment was to allow flexibility within the footprint of the house for stepping. He thought the general direction they were going with the 35' step was appropriate. Vice-Chair Thomas believed the Planning Commission was willing to consider a maximum slope as a transition slope to a driveway to access the house. In his opinion, it did not make sense to have a 14% grade right from the street curb to the finished floor of the garage. It is not practical and it does not work. It is difficult to get a normal car into a driveway that has a 14% slope without a transition.

Vice-Chair Thomas remarked that the Commissioners had concerns about flat roofs and how they would be planted. He believed they were comfortable with the diagram showing that the height of the roof would come down if it fits within the 7:12 triangle. Commissioner Wintzer asked Planner Astorga do prepare a better diagram for the next meeting.

Vice-Chair Thomas wanted to address the window well. The City Council had opened the window well as a modification to the initial ideas for steep slope. However, it is an issue that that should be looked at again because it creates an unsafe situation as well as other impacts. Commissioner Wintzer thought one alternative would be to define a window well with a specific height requirement.

Planner Astorga pointed out that the Code did not specify a maximum height of a window well. Vice-Chair Thomas agreed and felt it was open to interpretation. He requested clarification regarding window wells.

Planner Astorga understood that Commissioner Wintzer had requested a diagram of the flat roof/green roof and how it fits into a gable roof. Vice-Chair Thomas clarified that the Planning Commission was referring to green roofs and not flat roofs.

Commissioner Hontz referred to the redlined language on page 68 of the Staff report regarding building height. In addition to the items Commissioner Thomas had identified, she asked the Planning Commission to consider removing the language, "finished lowest floor plane." She was concerned that someone could leave the garage floor dirt so it would not be considered a finished floor plan. Commissioner Hontz did not believe the word "finished" made the definition stronger.

Vice-Chair Thomas thought "finished floor" was the elevation of the earth. After further discussion the Commissioners agreed to remove the work "finished" from the sentence. Commissioner Hontz referred to the same paragraph, last sentence, and asked why they were talking about attics as a story. The Commissioners agreed to remove the last sentence.

Commissioner Hontz referred to the second redlined paragraph on page 68 of the Staff report and revised the paragraph to read, "A ten foot minimum horizontal step in the downhill façade is required to take place at a maximum height of 23' from where elevation meets existing grade. An exception is for when the first story is located completely under the finished grade on all sides of the structure. Commissioner Hontz felt it was better to separate what is allowed and what is prohibited for clarity. The Commissioners discussed the revised language and asked Planner Astorga to re-write the language for the next meeting to address some of the issues that were raised. Commissioner Savage requested a visual to help clarify the language.

Vice-Chair Thomas noted that at some point the Planning Commission would have to address separate structures. He believed there would be a tendency for people to pull two buildings apart and have a garage and something else and another structure uphill. The result is the impact of seeing a very tall, large massive structure on lots that are not compatibility with the historic adjacent properties. He asked the Commissioner to begin thinking about how they could approach the issue. He asked the Staff to factor in language that addresses new construction without historic buildings and stops the cascading down the mountainside, regardless of whether the structures are connected.

Planning Manager Sintz stated that in the discussion of whether to define primary roof form and how it is calculated, and because the green roof definition is tied to the primary roof form, she suggested that the Planning Commission direct Staff on how to marry the two together. She offered suggestions on how it could potentially be done. Vice-Chair Thomas was uncomfortable with using a percentage because it becomes mathematical without considering the aesthetics. He suggested that the Staff Architect review primary roof forms and green roofs in terms of their compatibility. Planner Astorga asked if the Commissioners were comfortable with the language as proposed, which added the word

EXHIBIT G

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TECHNICAL MEMORANDUM

To: Gretchen Milliken, Planning Director
Park City Municipal Corporation, Planning Department
445 Marsac Avenue
Park City, Utah 84060

From: Anne Oliver, Principal Architectural Historian, and Christina Olson, Lead Architectural Historian, SWCA Environmental Consultants

Date: April 26, 2023

Re: **Historic District Design Review for 220 King Road**

OVERVIEW

Historic character is one of four core values outlined in the *Park City General Plan* (Park City Planning Department 2014). Park City's historic character derives from more than 400 historic sites, including two National Register Historic Districts (Park City Planning Department 2023). The Main Street Historic District was listed in the National Register of Historic Places in 1979, and the Mining Boom Era Residences Thematic District, which comprises historically significant residential structures built during the mining boom period of 1872 to 1929, was listed in 1984 (Park City Planning Department 2023).

Park City Municipal Corporation has pursued protection of the City's historic resources through local designations on its Historic Site Inventory and through application of the Design Guidelines for Historic Districts and Historic Sites (Design Guidelines), initially adopted in 1983. In 2009, Park City completed a total update of the regulating documents for the historic districts, including an updated Historic Site Inventory, new Design Guidelines, and amendments to the Land Management Code (LMC). The Design Guidelines were updated again and adopted by Ordinance 2019-06 into the LMC in 2019 and are intended to fulfill policy directives provided in the LMC (Park City Planning Department 2023).

As requested by the Park City Planning Department, SWCA Environmental Consultants has prepared this memorandum to assist the City's Design Review Team in evaluating the proposed new residence at 220 King Road, in the Historic Residential (HR-1) zone, for compliance with the Design Guidelines (Figures A-1 and A-2). Specific LMC requirements associated with building height (LMC 15-2.2-5) and development on steep slopes (LMC 15-2.1-6) relevant to the HR-1 district and the proposed residence at 220 King Road, are outside the purview of the Design Guidelines and are being addressed separately by the Planning Department.

HISTORIC DISTRICT DESIGN GUIDELINES REVIEW

Park City's Design Guidelines are intended to protect the historic character of Park City. As identified in LMC 15-2.2-1, the purpose of the HR-1 zone regarding residential infill is to:

- preserve present land uses and character of the Historic Residential Areas of Park City;

- encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;
- encourage single family Development on combinations of 25' x 75' Historic Lots;
- define Development parameters that are consistent with the General Plan policies for the Historic core; and
- establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment. (Park City 2000)

Concerns with the proposed residence at 220 King Road relate primarily to the "construction of Historically Compatible Structures that contribute to the character and scale of the Historic District," particularly the scale of the residence and its component elements. While the Design Guidelines support the proposed industrial design aesthetic inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential scale and do not support the construction of industrial-scale residential buildings within residential districts. The compliance of proposed massing and glazing patterns with the Design Guidelines is an additional concern. Each Design Guideline pertinent to these concerns is provided below, followed by an analysis of the design compatibility of 220 King Road.

15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts

A. Universal Guidelines

15-13-8 A-4: *New infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot.*

The proposed materials and features of the residence at 220 King Road are compatible with industrial designs in and around Park City. However, the size, scale, and proportions of the residence and its component elements, including the shed roof and cantilevered flat roof, are reminiscent of a large-scale industrial building rather than a residential building, which is not compatible with the HR-1 zone. While projecting portions of the building on the downslope elevation provide some modulation of mass, additional size reduction or modulation of the building mass itself (as well as its roofs) is required to reflect the size and massing of historic residential buildings, which were typically built on 25-foot-wide lots in this zone (see Figures A-1 and A-2).

15-13-8 A-6: *Exterior elements – roofs, entrances, eaves, chimneys, porches, windows, doors, steps, garages, etc. – of the new infill residential building shall be of human scale and shall be compatible with neighboring Historic Structures.*

The proposed residence at 220 King Road will span multiple lots, with a single shed roof also spanning multiple lots. While the use of an industrial mining aesthetic is encouraged, the scale of the roof and eaves should be compatible to the scale of historic residences in the HR-1 zone, not to an industrial mining building. To comply with this guideline, the wide shed roof would need to be divided into three to five modules to achieve the appropriate residential scale and the cantilevered flat roof would need to be reduced in size.

15-13-8 A-7: *Scale and height of new infill residential buildings shall follow the predominant pattern and respect the architecture of the Streetscape or character area with special consideration given to Historic Sites.*

The proposed infill references the industrial buildings of the Silver King Mine but the guidelines require that infill residential buildings maintain a historic residential scale appropriate to the historic district or zone in which they are being constructed. The proposed residence at 220 King Road will be on a relatively isolated site and will not be directly adjacent to any Historic Sites. In the absence of a streetscape lined by other buildings, the predominant pattern of the historic district or residential zone applies. The proposed design does not comply with this guideline.

15-13-8 A-8: *Size and mass of a structure shall be compatible with the size of the site so that lot coverage, building bulk, and mass are compatible with Historic Sites within the Streetscape or character area.*

The proposed residential building at 220 King Road will span multiple lots and, while its size is compatible with the size of the lot, its building bulk and mass are not compatible with Historic Sites just downslope in the HR-1 zone. Further reduction or modulation of massing, both of the residence and its shed and cantilevered flat roofs, is required to be compatible with the building bulk and mass of historic residences in the HR-1 zone.

15-13-8 A-10: *New infill residential buildings shall reinforce visual unity within the context of the Streetscape or character area. The specific context of each Streetscape or character area is an important feature of the Historic District. The context of each Streetscape or character area shall be considered in its entirety, as one would see it when standing on the street viewing both sides of the street for the entire length of the Streetscape or character area. Special consideration should be given to adjacent and neighboring Historic Sites in order to reinforce existing rhythms and patterns.*

The proposed residence sits on the hillside above much of the HR-1 zone, in a setting where industrial buildings were once common. An industrial design aesthetic is appropriate in this area; however, this and many other Design Guidelines explicitly require that new infill residential buildings be compatible in mass and scale with historic residential buildings to reinforce visual unity in the historic district and/or residential zone. The prominent and highly visible location of 220 King Road only increases the importance of complying with this and other guidelines to reinforce visual unity and maintain existing rhythms and patterns of the nearby streetscapes. Because the guidelines are so clear on this point, a variance from the Board of Adjustment would be required to permit the design as proposed.

B. *Specific Guidelines (Primary Structures)*

Mass, Scale, and Height

15-13-8 B-2a (1): *The size and mass of a new residential infill building in relation to open spaces, shall be visually compatible with adjacent historic buildings and historic structures in the surrounding Streetscape or character area.*

The proposed residence at 220 King Road is sited on an open slope above much of the HR-1 zone. This provides some flexibility in allowing greater size because of the building's relation to more open space. However, the size of the building and its component elements must be broken into distinct masses more reminiscent of the size and mass of historic buildings in the zone to achieve visual compatibility.

15-13-8 B-2a (3): *Historic height, width, and depth proportions that are important in creating compatible infill and maintaining the historic mass and scale of the Streetscape or character area.*

The height, width, and depth of the proposed residence at 220 King Road are of an industrial scale and not compatible with the residential streetscapes in Park City's historic districts. As noted above, while the large lot and open hillside allow for greater building size, it is necessary to break up the massing and roof forms to be more similar to historical residential massing and scale to achieve compatible infill.

15-13-8 B-2a (5): *The perceived scale of new buildings shall respect the scale established by historic buildings in the character zone. Abrupt change of scale in the character zone is inappropriate, especially when a new, larger building would directly abut smaller historic buildings.*

Both the actual and perceived scale of the proposed residence is significantly greater than a typical historic residence in the HR-1 zone and there are no historic large-scale industrial buildings nearby or anywhere in the zone that establish a precedent for large-scale infill. As stated above, the reference to the industrial aesthetic of the Silver King Mine buildings is encouraged in the design of the structure, but those historic mining buildings are neither in the HR-1 zone nor visible from it. For these reasons, the perceived scale should reflect that of a historic residential building rather than a historic industrial building. Because the proposed residence does not directly abut any historic buildings, and because it is sited on a large lot surrounded by open space, its greater size can be accommodated within the HR-1 zone. However, to comply with other guidelines, the perception of that size must be managed by dividing the building into modules that reflect the massing of a typical historic residence on a 25-foot-wide lot. Breaking up the roof form in a similar fashion would also be necessary.

15-13-8 B-2a (6): *A larger building shall be divided into 'modules' that reflect the mass, scale, proportions, and size of historic buildings within the Streetscape or character area. Modules shall be clearly expressed throughout the entire building and a single form shall remain the dominant element so the overall mass does not become too fragmented. To minimize the scale perceived from the primary public right-of-way, stepping down the mass of a larger building shall be considered.*

See above discussion under multiple guidelines about using modules to break up large masses and manage the perception of scale for residences larger than seen historically. Stepping the mass of these modules back into the hillside, rather than projecting their mass forward from a recessed basement level as currently proposed, can also help manage the perception of scale.

15-13-8 B-2a *(7): Larger-scaled projects shall also include variations in roof height in order to break up the form, mass and scale of the overall structure.*

The proposed design for the residence at 220 King Road incorporates two flat roofs (one that serves as a deck and one that is cantilevered over that deck) and one expansive shed roof. While these roofs vary in height, which helps to break up the form, mass, and scale of the residence, the modules they create are still over-scaled relative to historic residences in the HR-1 zone. Further reduction or modulation of massing, of both the residence and its shed and cantilevered flat roofs, is required to meet this guideline.

15-13-8 B-2a (8): *Buildings constructed on lots greater than 25 feet wide shall be designed so that the facades visible from the primary public right-of-way reinforce the rhythm along the street in terms of traditional building width, depth, and patterns within the façade.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that the modules created to address mass and scale on the downslope (rear) side of the residence will carry through to the opposite (front) side and vice versa.

15-13-8 B-2a (9): *Regardless of lot frontage, the primary façade shall be compatible with the width of surrounding historic buildings. The greater width of a building shall be set back significantly from the plane of the primary façade. The width of a new building shall not appear to be visibly greater than historic buildings in the Streetscape or character area. Modules on a primary façade should generally not exceed eleven (11) feet to twenty-five (25) feet in width.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that historically sized modules of approximately 11' to 25' in width, with attendant setbacks from the primary wall plane of the façade, will be created on the uphill (front) side of the residence and carried through to the downslope (rear) side.

15-13-8 B-2a (10): *When the overall length of a new structure is greater than seen historically, the design shall employ methods—changes in wall plane, roof heights, use of modules, etc. to diminish the visual impact of the overall building mass, form and scale.*

The proposed residence at 220 King Road will span multiple lots and its overall length is much greater than seen historically. Therefore, further variation in wall planes and roof heights to create more historically sized modules is required to diminish the visual impact of the overall building mass, form, and scale.

Windows

15-13-8 B-2d (1): *Ratios of solid-to-void that are compatible with surrounding historic buildings shall be used. Large expanses of glazing are inappropriate on residential structures. Large glass surfaces shall be divided into smaller windows that are in scale with those seen historically. To maximize views, non-historic window patterns may be considered on tertiary facades; however, the overall ratio of solid-to-glass shall still be respected.*

The large, multi-pane windows and fenestration patterns of the proposed design reference historic mine buildings, which incorporated significant amounts of glazing to maximize natural light and illuminate interior workspaces (Figures A-3 and A-4). Typically, long, nearly continuous, relatively narrow bands of windows were present in clerestories that were separated by pitched roofs; glazing in the exterior corrugated-metal walls was also extensive. Hence, the use of an industrial mining aesthetic allows for a greater proportion of void to solid in the proposed residence than would be appropriate with a more traditional residential design. However, glazing in historic exterior walls always had a base of solid wall and never consisted of floor to ceiling windows. In the proposed design, the metal panels at some window bases recreate this pattern, but the floor-to-ceiling windows present elsewhere are inconsistent with industrial patterns and create an incompatible solid-to-void ratio.

15-13-8 B-2d (2): *Windows shall be historic size and shall relate to the human scale of the Historic District. Windows shall be proportional to the scale and style of the building and shall be compatible with the historical buildings in the Historic District.*

See above analysis. With the exception of the floor-to-ceiling windows, the larger-scaled windows are appropriate to the scale and style of the building.

15-13-8 B-2d (3): *The placement and grouping of windows shall be similar to those seen historically.*

See above analysis. With the exception of the floor-to-ceiling windows, the placement and grouping of windows is similar to that seen on historic mining buildings in Park City.

Roofs

15-13-8 B-1e (1): *Roofs of new residential infill buildings shall be visually compatible with roof shapes and orientation of surrounding Historic Sites and adjacent buildings that contribute to the character of the Historic District. Sloping of roof forms, such as gable, hip, and shed, should be the dominant roof shapes. Roofs composed of a combination of roof planes, but simple in form, are also encouraged. Roofs shall be in scale with those on historic structures.*

The roof shapes (flat and shed) and their orientations are generally compatible with surrounding Historic Sites, as are their simple forms. However, the guidelines are clear that the perceived scale of larger residential buildings (on lots wider than 25') should be managed by breaking them into smaller masses or modules that reflect historic residential massing, including their roofs. There is no precedent for exceptions when an industrial aesthetic is used for a residence, or for residences that may be in historically industrial areas. To comply with the guidelines, the roof could be broken into a horizontally stepped series of shed roofs (3 to 5 of them, with differences in roof height of a few feet or more to create shadow lines) that shelter their corresponding modules, or a mix of shed and flat. The cantilevered flat roof would also need to be reduced in scale.

CONCLUSION

In summary, while the Design Guidelines support the industrial aesthetic of the proposed residence at 220 King Road, which was inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential massing and scale, and the proposed design does not comply. The proposed floor-to-ceiling windows are also out of compliance. Recommendations for revisions to achieve a design more compatible with the guidelines are incorporated in the above analyses.

REFERENCES CITED

Historic American Engineering Record (HAER)

1971 *MINE SHAFT BLDG FROM W. - Silver King Mining Company, Mineshaft & Main Hoist, Woodside Gulch, Park City, Summit County, UT (Photos from Survey HAER UT-22-A).* Available at: https://www.loc.gov/resource/hhh.ut0090.photos/?sp=2. Accessed April 21, 2023.

Park City Planning Department

2000 Municipal Code 15 Land Management Code. Available at: https://parkcity.municipalcodeonline.com/book?type=ordinances#name=15-13_Design_Guidelines_For_Historic_Districts_And_Historic_Sites. Accessed April 21, 2023.

2014 *Park City General Plan*. Available at: https://www.parkcity.org/departments/planning/general-plan. Accessed April 21, 2023.

2017 Municipal Code 15-13 Design Guidelines for Historic Districts and Historic Sites. Available at: https://parkcity.municipalcodeonline.com/book?type=ordinances#name=15_Land_Management_Code. Accessed April 21, 2023.

2023 Historic District. Available at: https://www.parkcity.org/departments/historic-district. Accessed April 21, 2023.

ATTACHMENT A

Figures

Figure A-1. Rendering of proposed residence at 220 King Road, downslope (rear) elevation, dated April 18, 2023.

Figure A-2. Rendering of proposed residence at 220 King Road, oblique view (left side and rear elevations), dated April 18, 2023.

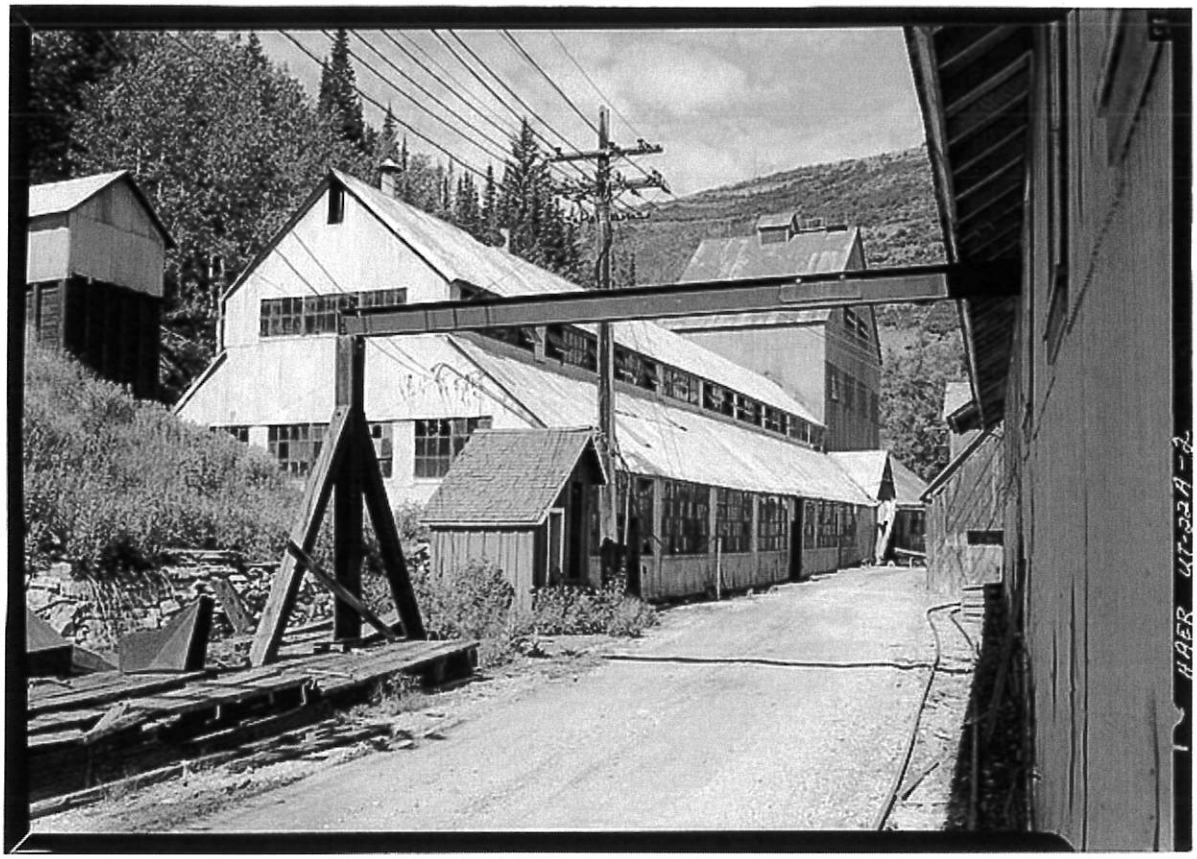

Figure A-3. Silver King Mine Hoist House (view from west), Woodside Gulch, Park City, Summit County, UT (HAER 1971). Note the complex massing of the building and its stepped and varied roofs over the component masses, as well as the multi-pane steel windows, window heights, proportion of solid wall to window openings.

Silver King Mill

Figure A-4. Example of industrial glazing pattern, Silver King Mine building. Note multi-pane steel windows, window heights, and proportion of solid wall to window openings.

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BEFORE THE PARK CITY APPEAL BOARD

DAVID BENNETT, ET. AL., [Purported] Appellants, v. PESKY PORCUPINE LLC, a Utah limited liability company Appellee.	**MOTION TO DISMISS THE "SUPPPORTERS" ATTEMPTED APPEAL** **Attempted Appeal of Approvals for Application Nos. PL-22-05318, PL-22-05319, PL-23-05571**

Pesky Porcupine LLC ("**Applicant**") the land use applicant and owner of the real property located at 220 King Road, Park City, Utah (the "**Property**") respectfully requests that the Appeal Board dismiss the "appeal of David Bennett, David Constable, Ed Desisto, Ginger Tolman, James Doilney, John Vrabel, Martiena Lewis, and Nicholas Schapper (the individuals, collectively, the "**Supporters"** and the "appeal" itself, the **"Supporters' Attempted Appeal**") for the reasons discussed below.

I. Background

The Applicant intends to demolish two existing houses located on the Property and construct a single-family home in their place ("**Proposed Home**"). For the Proposed Home the Applicant submitted applications to the City for a plat amendment ("**Amended Plat**"), single

family home conditional use permit ("**House CUP**"), and a steep slope conditional use permit ("**Steep Slope CUP**" and together with the House CUP and Amended Plat, the "**Approvals**"). On February 14, 2024, the Park City Planning Commission ("**Planning Commission**") held a public hearing and approved the Amended Plat, the House CUP, and the Steep Slope CUP. Thereafter on February 21, 2024, the Planning Commission issued its Findings of Fact and Conclusions of Law for the Approvals, a copy of which is attached hereto as Exhibit A ("**Final Action Letter**").

On or about March 1, 2024, the Supporters purported to appeal the Approvals for the reasons stated in the petition attached to each Supporters' appeal applications as Attachment 1 ("**Supporters' Attempted Petition**"), a copy of the Supporters' Attempted Petition is attached hereto as Exhibit B. On or about March 1, 2024, Eric Hermann and Susan Fredston-Hermann ("**Hermanns**") submitted a separate appeal application supported by a separate petition ("**Hermanns' Petition**") that includes arguments not raised by the Supporters' Attempted Petition and that are specific to the Hermanns' property. A copy of the Hermanns' Petition is attached hereto as Exhibit C.

The Supporters do not have standing to appeal the Approvals, and the Supporters did not pay any fee for their appeal. Thus, the Appeal Board should dismiss the Supporters' Attempted Petition and the arguments raised in the Supporters' Attempted Petition (but not raised by the Hermanns in their separate appeal) should be ignored so as to not poison the record. If, for some reason, the Appeal Board considers the Supporters' arguments, Applicant's responses to the Supporters' meritless arguments will be addressed in a later brief.

II. Argument

A. Supporters Lack Standing and Thus Their Appeal Must be Dismissed.

At its most basic level, standing ensures that a party seeking a legal remedy has a right to participate in the case. *See Alpine Homes, Inc. v. City of West Jordan*, 2017 UT 45, ¶ 2, 424 P.3d 95. If a person lacks standing, then the appeal body has no jurisdiction to hear and decide the dispute. *Id. S*tanding is a jurisdictional prerequisite to deciding the merits of the matter. *Id.*

For land use appeals, only the "land use applicant, a board or officer of the municipality, or an adversely affected party may . . . appeal [a] decision to the appeal authority." Utah Code § 10-9a-703(1); *see also* Utah Code § 10-9a-701(2) ("As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision . . . ."). An adversely affected party means "a person other than a land use applicant who . . . owns real property adjoining the subject property or will suffer damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision." *See* Utah Code § 10-9a-103(2). Property is adjoining if it touches or shares a common boundary. *See Adjoining*, Black's Law Dictionary (11th ed. 2019); *see also Sackett v. EPA*, 598 U.S. 651, 1364–65 (2023) ("Adjoining" means "touching or contiguous, as distinguished from lying near to or adjacent." (cleaned up)).

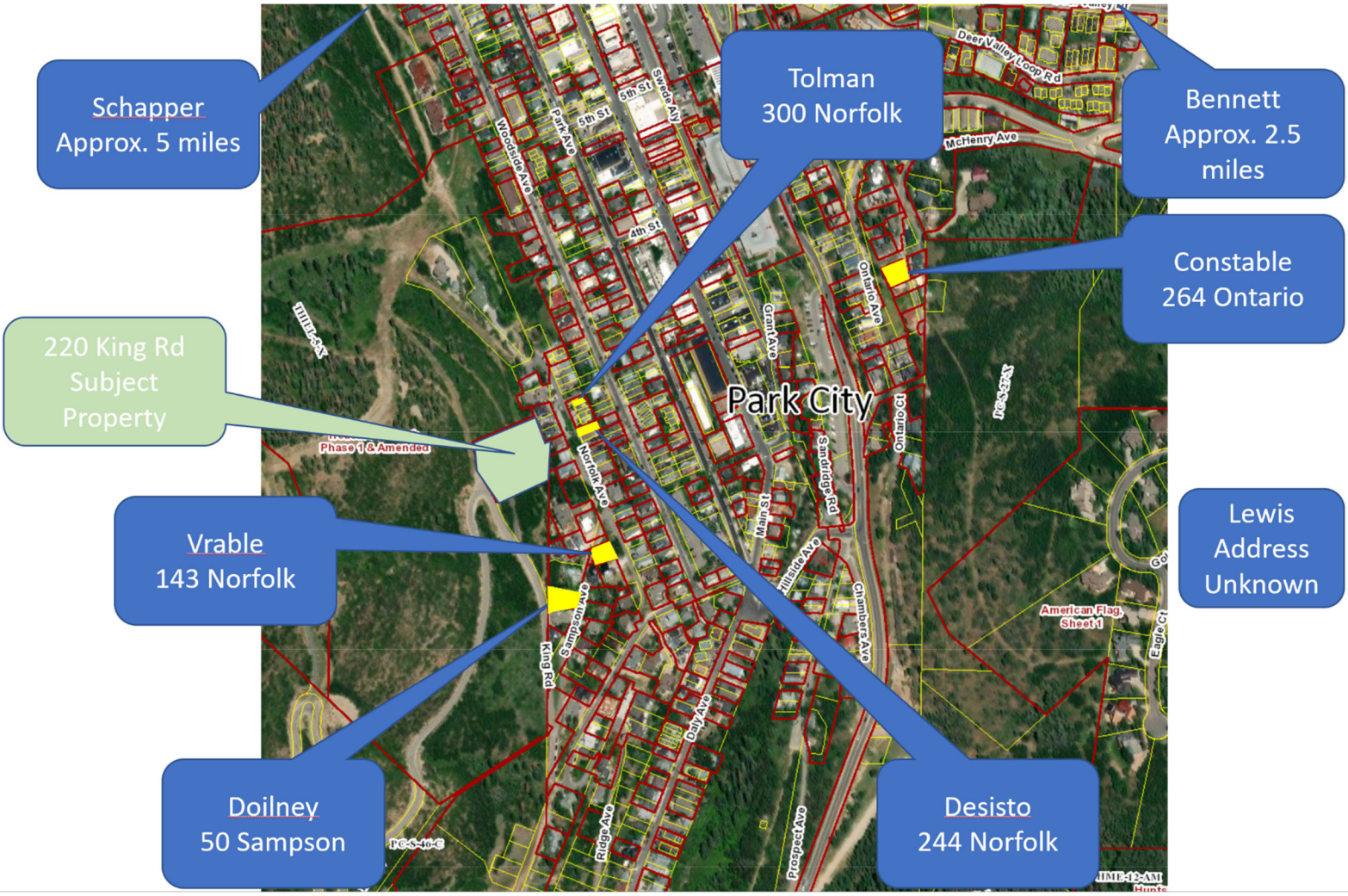
Notably, the Utah Supreme Court has unequivocally determined that, if there are statutorily created grounds for standing, then a party must meet these statutory standing requirements as "traditional or alternative standing cannot excuse a lack of statutory standing where the petitioner

is a statutory claimant." *McKitrick v. Gibson*, 2021 UT 48, ¶ 48, 496 P.3d 147. This is because the petitioner must be "within the class of parties that the legislature has authorized to file suit" and not simply a petitioner that can "identify some sort of 'distinct or palpable injury' or a basis for 'public interest' standing." *Id.* (quoting *Haik v. Jones*, 2018 UT 39, ¶ 41, 427 P.3d 1155 (Lee, A.C.J.)).

Here, none of the Supporters own property that touches or shares a common boundary with the Property. The only adjoining property owners are:

1. Park City Municipal Corporation (Parcel No. THILL-5-X);
2. 263 Norfolk LLC (Parcel No. UPNS-3);
3. Twinkle Weasel Mountain LLC (Parcel No. UPNS-2);
4. Moose XING LLC (Parcel No. UPNS-1);
5. Lynn and Teresa Loriaux (Parcel No. CUR-2829);
6. Hyrax Highway LLC (Parcel No. PC-718-B);
7. Eric Hermann and Susan Fredston-Hermann (Parcel Nos. 201-NA-SUB-2 & THILL-1)

The approximate location of each of Supporters' property is depicted in the image on the following page.



Given that Supporters are not adjoining property owners, under the controlling provisions of CLUDMA the Supporters only have standing if they can show a special damage or injury that is distinct from the general public. Supporters do not even acknowledge or try and meet this high standard. The reason is that the Supporters do not have any "damage" or "injury" caused by the actual land use decision from which they are appealing. They are simply gadflies and dislike the Applicant and the Proposed Home's design.

The Supporters have <u>never</u> stated how they are harmed or damaged by the Approvals. Instead, Supporters justify their opposition by slandering the Applicant, complaining about the Proposed Home's height and size, and/or opining on irrelevant legal issues. For example, the following is a summary of each of the Supporters' public comments with respect to the February 14, 2024, Planning Commission meeting:

1. David Bennet complained about the design of the Proposed Home and how it is not compatible with the HR-1 zone. *See* Email, dated February 5, 2024[1].

2. David Constable complained about how the proposed residence "disregarded" the HR-1 standards and emphasized his support for a Historic Design Review document prepared by Anne Oliver. *See* Email, dated February 7, 2024.

3. Ed Desisto provided no public comment.

4. Ginger Tolman complained about the size and height of the house and opined that "it just doesn't fit." *See* Transcript at p. 55, ll. 2–15. [2]

5. James Doilney slanderously alleged that the Applicant has "BOUGHT preferential treatment" and that "I am extremely upset to think our town's soul is seemingly being sold." *See* Email, dated February 9, 2024.

6. John Vrabel also slanderously alleged that the Applicant is receiving preferential treatment, emphasized his support for Anne Oliver's Historic Design Review document, opined that the Applicant "should go be proud in the Colony . . ." and ranted about several wholly inapplicable projects in other areas of Park City. *See* Email, dated February 8, 2024.

7. Martiena Lewis discussed the historic nature of Park City and emphasized the important role the Planning Commission plays in preserving Park City's history. Martiena provided no comment or opinion on the Approvals. *See* Transcript at p. 45–47, ll. 8–25, 1–25, 1–5.

8. Nicholas Schapper emphasized that the Planning Commission's decisions establish precedent and opined that the Approvals must be analyzed under either the zoning code or Sweeney Master Plan, but not both. *See* Transcript at p. 59–60, ll. 16–25, 1–17.

Notably absent from any of the public comments is even a hint of how the Approvals will damage or harm the Supporters. After reviewing the entire record there is not a single named Supporter that tried to mention or allude to how they would suffer a "damage different in kind than, or an injury district from, that of the general community as a result of a land use decision." Utah Code § 10-9a-103(2). Thus, the Supporters lack standing as they are not adjoining landowners and will not suffer any unique or special injury.

It is worth noting that Park City Code § 15-1-18.D. purports to extend standing beyond the parties allowed under Utah Code § 10-9a-703(1). Specifically, Section 15-1-18.D purports to extend standing for a land use appeal to "any person who submitted written comment or testified on a proposal before the . . . Planning Commission; [and] [t]he Owner of any Property within three hundred feet (300') of the boundary of the subject site . . . ." And that outdated, superseded and

[1] A copy of each of the email referenced herein was included as Exhibit AB in the Staff Report for the February 14, 2024, hearing and is attached hereto for ease of reference as Exhibit D.

[2] A transcript of the Planning Commission meeting is enclosed herewith for ease of reference.

irrelevant Code seems to pretty clearly have driven the selection of the gadfy Supporters as "appellants".

Section 15-1-18.D was adopted by Park City at least two decades ago and at that time was consistent with state law. In 2020, however, the State Legislature approved Utah H.B. 388 (2020) that limited standing for a land use appeal to "adversely affected parties". Current state law preempts Park City Code § 15-1-18.D's more broad standing provisions because they are in direct conflict. *See* Utah Code § 10-9a-104(2)("[A] municipality may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, other state law, or federal law."). Thus, the Supporters cannot claim standing under Section 15-1-18.D as that provision is preempted by Utah Code §§ 10-9a-703(1) & 10-9a-701(2).

This appeal should be dismissed because all the Supporters lack standing and thus the Appeal Board need not address any of the Supporters' arguments. And the dismissal should be determined and ruled on before the Supporters are allowed to poison the record by making their arguments.

B. Supporters Failed to Pay the Required Appeal Fee and Thus Their Appeal Application is Untimely and Must be Dismissed.

A complete appeal application must be submitted within ten (10) calendar days of the Planning Commission's final action. LMC § 15-1-18.E. Failure to pay the appeal fee is fatal to the appeal because "[a]s a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance. The City's ordinances require that "[t]he Appellant[s] shall pay the applicable fee established by resolution when filing the appeal." LMC § 15-1-18.F. The requirement to timely submit a complete appeal application, including the appeal fee, is strictly enforced. *See, e.g.*, *Holladay Towne Center, LLC v. Holladay City*, 2008 UT App 301, ¶ 9, 192 P.3d 302 (affirming the dismissal of an appeal where the appellant did not timely submit an appeal application in the form required by the city's ordinance).

This appeal should not be considered by the Appeal Board because the Supporters failed to timely pay the required fee for this appeal. Specifically, the Planning Commission took final action on this matter on February 21, 2024. Thus, Supporters had until March 4, 2024, at the very latest to submit a complete appeal application and pay the required fee. The Supporters have never paid the required appeal fee and thus have not submitted a complete appeal application as required by LMC § 15-1-18.F. In fact, the Supporters assert in their appeal application that the appeal fee was "(already paid)", as depicted in the image below, but this is wrong because none of the Supporters paid the appeal fee. Any appeal fee paid by the Hermanns in connection with the Hermanns' Petition is inapplicable to the Supporters' Attempted Petition.

SUBMITTAL REQUIREMENTS – All of the following items must be included in order for the Planning Department to take the application.

1. Completed and signed application form.
2. Application Fee: $500 (already paid)
3. Appeals must (a) be by letter or petition, and contain the name, address, and telephone number of the petitioner, their relationship to the project or subject Property, and (b) must contain a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken
4. Any additional information that will assist in clearly understanding the nature of the appeal.
5. An electronic Excel spreadsheet with property owner, Summit County Assessor Parcel Number, and mailing address for all parties who received mailed notice for the action being appealed. Template is available through https://www.parkcity.org/departments/planning.
6. One (1) electronic copy of the required materials in PDF format.

The Appeal Board should dismiss this appeal because the Supporters failed to timely submit a complete appeal application as required by the City's ordinances.

C. The Supporters Cannot Save Their Defective Petition By Conflating It With The Hermanns' Petition.

A complete appeal application requires an appellant to provide "a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken." LMC § 15-1-18.F. The Appeal Board's review is "limited to consideration of only those matters raised in the petition(s), unless the appeal authority grants either party approval to enlarge the scope of the appeal to accept information on other matters." LMC § 15-1-18.G.

The Supporters' Attempted Petition is distinct from the Hermanns' Petition and the two should not be conflated. Indeed, the opening paragraph in both the Supporters' Attempted Petition and Hermanns' Petition acknowledge that they are separate Petitions from one another as depicted in the images below:

The undersigned and those listed in the attached Exhibit A file this petition to appeal the approvals of Plat Amendment # PL-22-05319 as well as Conditional Use Permit # PL-23-05571 (the "Steep Slope CUP"), Conditional Use Permit # PL-22-05318 (the "Single-Family Dwelling CUP"), and Conditional Use Permit # PL-22-05523 the "Accessory Uses CUP") (collectively the "CUPs"). Each of the undersigned submitted written comment or testified in opposition to the CUPs and Plat Amendment, or own property within 300 feet of the boundary of the subject site. In addition, attached as Exhibit B is a list of Park City residents who may not have standing under a strict interpretation of Park City Land Management Code §15-1-18(D) but who support this appeal and have consented to expressing that support by allowing us to affix their name to the Exhibit B list.

Eric Hermann and Susan Fredston-Hermann ("Appellants") file this petition to appeal approval of the Conditional Use Permit # PL-23-05571 (the "CUP"). Appellants submitted written comment and testified in opposition to the CUPs. They also own property within 300 feet of the boundary of the subject site—indeed, their primary residence is adjacent to the proposed project and the CUP contemplates modification of their property without their approval.

For the reasons discussed above the Supporters' Attempted Petition should be disregarded and dismissed without considering the merits. Given the Supporters' obvious lack of standing and failure to timely pay the appeal fee, it is likely they will attempt to conflate their petition with the Hermanns' Petition to preserve their arguments from being summarily dismissed. The Appeal Board should not conflate the two petitions as the Hermanns and Supporters, with the help of legal counsel, elected to file petitions independent from each other and, under LMC § 15-1-18.G., the Appeal Board must consider only those matters raised in each parties' respective petition.

The Appeal Board should also not allow the Supporters or Hermanns to enlarge the scope of the arguments identified in their respective petitions. The Supporters and Hermanns had plenty of opportunity to incorporate each other's arguments in their petitions prior to submitting the same, and again, with the advice of legal counsel, chose not to do so. Allowing the Supporters or Hermanns to borrow the other's arguments at this late of stage prejudices the Applicant and City who are defending the Planning Commission's decisions based upon the arguments identified in each parties' petitions. The Appeal Board should not save the Supporters from their own poor strategic decisions, lack of standing, and failure to pay the appeal fee, by allowing the Supporters to incorporate their doomed arguments into the Hermanns' Petition at this late stage.

III. CONCLUSION

The Appeal Board lacks jurisdiction to consider the Supporters' appeal because none of the Supports have standing and all failed to pay the required appeal fee. Dismissing this appeal without addressing the merits is not unfair to the Supporters because they are not injured in any way by the Approvals. Indeed, if they had suffered any injury caused by the Approvals, they would have at least hinted as such in their bombastic and at times slanderous comments. Similarly, the Supports cannot escape the fact that they do not own land adjacent to the Property. Finally, the Supporters carelessness in failing to pay the requisite appeal fee is fatal to this appeal. The Appeal Board should ignore and disregard the Supporters' Attempted Petition and dismiss the Supporters' appeal without addressing the merits. The Appeal Board should not conflate the Hermanns' Petition with the Supporters' Attempted Petition.

DATED: April 24, 2024.

BRUCE R. BAIRD PLLC

/s/ Bruce R. Baird
Bruce R. Baird

SNELL & WILMER L.L.P.
Wade R. Budge
Michael B. Hutchings

Attorneys for Pesky Porcupine LLC

4855-3386-5656

EXHIBIT A

Final Action Letter

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

February 21, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	220 King Road Lot 2, Phase I of the Treasure Hill Subdivision Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Sensitive Land Overlay
Applications:	PL-22-05318 – Conditional Use Permit, Single-Family Dwelling PL-22-05319 – Plat Amendment PL-23-05523 – Outdoor Pool PL-23-05571 – Steep Slope Conditional Use Permit
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	February 21, 2024
Project Summary:	The Applicant proposes to demolish a 4,235-square-foot Single-Family Dwelling and 4,189-square-foot Guest House, to construct a: o A Single-Family Dwelling with: ▪ Approximately 7,461 square feet of finished space. ▪ Approximately 5,898 square feet of unfinished space. ▪ Approximately 1,690 square feet of terrace/patio area. o A 1,103-square-foot Accessory Building. o A 243-square-foot Swim Spa. o A 4,794-square-foot Underground Parking Area.

The Applicant proposes to amend Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, and shift Plat Note 9 (Precedence) to Plat Note 1 and add Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and to shift the Building Area Limits to accommodate the proposed project.

Action Taken
On February 14, 2024, the Planning Commission conducted a public hearing and approved the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision, amending Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, shifting Plat Note 9 (Precedence) to Plat Note 1 and adding Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and shifting the Building Area Limits to accommodate the proposed project. The Planning Commission conducted a public hearing and approved the Conditional Use Permit for a Single-Family Dwelling and Outdoor Pool and the Steep Slope Conditional Use Permit for the project according to the following findings of fact, conclusions of law, and conditions of approval:

The January 24, 2024 and February 14, 2024 staff reports and meeting minutes are incorporated herein.

Plat Amendment
File No. PL-22-05318

Findings of Fact

1. The Applicant has proposed a new plat entitled the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision ("Amended Plat"), a copy of which is attached hereto as Exhibit A, which will amend the existing Lot 2, Phase I Treasure Hill Subdivision Plat, including the Amended Plat's notes which are attached hereto as Exhibit B.

2. On July 18, 2022, the applicant Pesky Porcupine LLC ("Applicant") submitted an application for a proposed subdivision plat amendment in connection with a proposed single-family residence to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

3. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat").

4. The Property is currently being used for one single-family residence and one guest house that the Applicant intends to demolish to construct a new single residence.

5. The Amended Plat differs from the Treasure Hill Subdivision Plat in two ways. First, the Amended Plat modifies plat note 1 on the Treasure Hill Subdivision Plat to align with the Amended Sweeney Properties MPD approval conditions and other phases within the Amended Sweeney Properties MPD. Second, the Amended Plat modifies the buildable area by reducing the overall buildable area and relocating a portion thereof to the west side of the Property, as depicted on the attached Amended Plat.

6. The Applicant submitted all materials required by the Park City Land Management Code ("LMC") for the proposed plat amendment.

7. The Planning Commission has authority to act as the land use authority to approve the Amended Plat pursuant to LMC § 15-7-7.

8. After carefully reviewing the Amended Plat, the Amended Sweeney Properties MPD approval documents, other materials presented by the Applicant, and input received by the Applicant, City staff, and the public in a public hearing, the Planning Commission has determined that good cause exists for amending the Treasure Hill Subdivision Plat via the Amended Plat as more fully specified below. *See* Utah Code § 10-9a-609(1)(a).

9. The Planning Commission further concludes that no public street or municipal utility easement is being vacated or amended by the Amended Plat. *See* Utah Code § 10-9a-609(1)(b).

10. The Planning Commission expressly finds this approval is limited to the Amended Plat of the Amended Sweeney Properties Master Planned Development, and as such shall not create any precedent nor interpretation of general applicability in the Historic Residential-1 Zoning District, for current Land Management Code regulations, or other plat amendments.

Additional Findings

11. The Planning Commission, as the land use authority, finds that there is good cause to approve the Amended Plat based on the following:

a. Note 1 of the Treasure Hill Subdivision Plat contains a development limitation that buildings must have a building footprint of 3,500 square feet or less. That allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;

ii. Exterior walkways;
iii. Exterior stairs; and
iv. Driveways.

Note 1 was included on the Treasure Hill Subdivision Plat but was not imposed upon the Property via the Amended Sweeney Properties MPD. Other subdivisions within the Amended Sweeney Properties MPD define "building footprint" more broadly and nothing within the Amended Sweeney Properties MPD requires the Treasure Hill Subdivision Plat's more restrictive definition.

b. The Amended Plat also contains a building footprint limitation of 3,500 square feet or less. The allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
ii. Exterior walkways;
iii. Exterior stairs;
iv. Driveways; and
v. That portion of any carport, mechanical space, or living space that is located below existing grade and which has landscaping or deck (as provided in (1(A)) located above it.

c. The Amended Plat's development limitation is more consistent with the Amended Sweeney Properties MPD approval as the building footprint limitation was intended to limit the visual impact of development and subgrade improvements, excluded under the Amended Plat, have a de minimis visual impact on adjacent uses.

d. The overall buildable area of the Treasure Hill Subdivision Plat is 490 square feet larger than the buildable area of Amended Plat. The Amended Plat removes buildable area from portions of the Property that are visible to downtown Park City and relocates such buildable area to the west side of the Property to reduce the visual impact of the buildable area.

e. The Planning Commission finds that good cause exists, *see* LMC §§ 15-15-1 & 15-7.1-3.B, for amending the Treasure Hill Subdivision Plat based on the following:

i. The Amended Plat resolves an existing non-conformity as the two residential units constructed on a single lot will be demolished in favor of a single residential unit on a single lot.

ii. The Amended Plat preserves the character of the neighborhood and Park City as the Amended Plat is more consistent with the Amended Sweeney Properties MPD approval.

iii. Reducing the buildable area and relocating a portion of the buildable area will reduce the visual impact of the Property's development. This is consistent with best planning and design practices.

iv. The Amended Plat facilitates the construction of a single residence in place of one residence and one guest house that are presently used as short-term rentals. Demolishing the two existing short-term rentals reduces the overall density of the area, alleviates traffic, decreases utility usage, minimizes noise and light pollution, and is more consistent with neighboring uses.

v. The Amended Plat facilitates the termination of the existing short-term rentals. This furthers the health, safety, and welfare of the Park City community as it will decrease the number of unknown persons in the community and increase the overall sense of community by housing long-term residents.

f. The Amended Plat includes all existing public streets and municipal utility easements and does not propose to vacate or amend the same.

Conclusion

Based on the foregoing, good cause exists to approve the Amended Plat as it satisfies the requirements of Utah Code § 10-9a-609(1) and LMC § 15-7-7. The Planning Commission concludes it is appropriate to approve the Amended Plat.

Conditions of Approval

The Conditional Use Permit and Steep Slope Conditional Use Permit Conditions of Approval below are incorporated herein.

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Exhibit A
Amended Plat to be Updated to Reflect Exhibit B

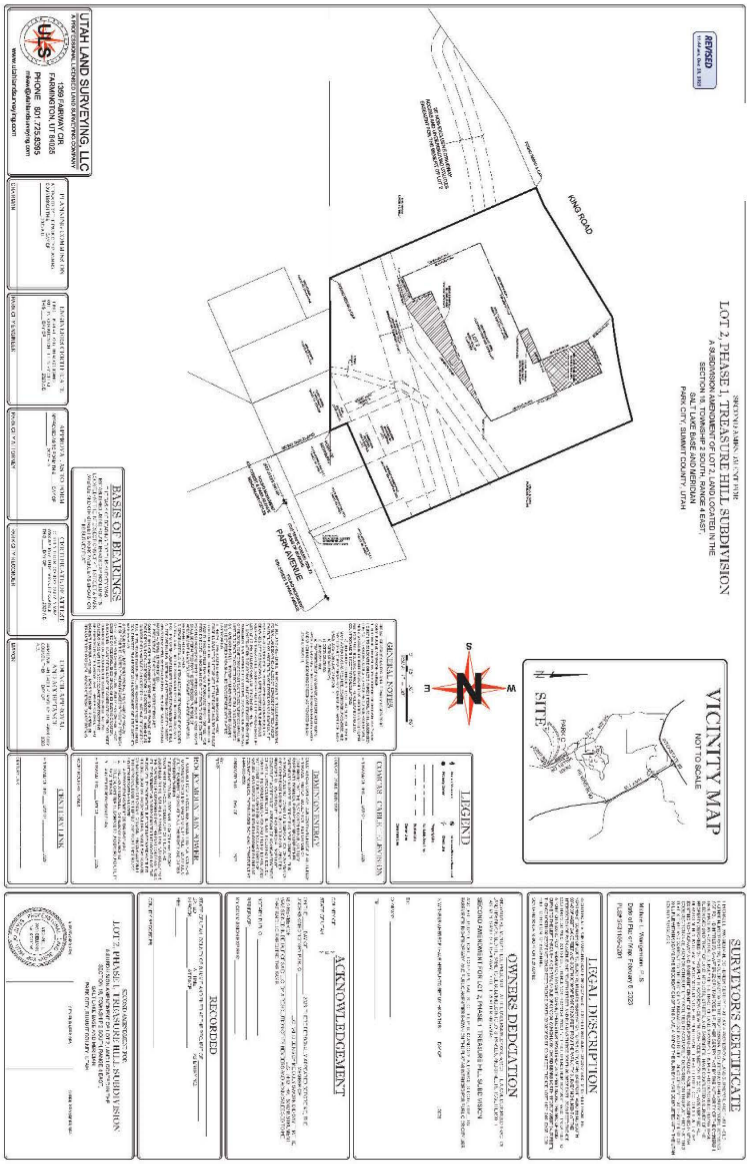


Exhibit B
Amended Plat Notes

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED AS SHOWN HEREON:

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

SUCH DISTURBED AREA SHALL BE REVEGETATED WITH NATIVE LANDSCAPING.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FACADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE
SEPARATED BY HORIZONTAL AND/OR VERTICAL FACADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERN

FACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSESORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

Conditional Use
File No. PL-22-05319
File No. PL-23-05523
[220 King Residence and Outdoor Pool]

Findings of Fact

1. On July 18, 2022 the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat"), as amended.

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence.

The existing single-family residence and guest home have been used for short-term rentals.

5. The application is for the construction of the Residence ("Residence CUP") as required by Condition No. 3 of the Amended Sweeney Properties MPD.

6. The Planning Commission has authority to act as the land use authority for the Residence CUP. *See* Condition No. 3 of the Amended Sweeney Properties MPD; LMC § 15-1-10.D.

7. The Applicant submitted all the materials required by the LMC for the Residence and outdoor pool CUP and presented in a public hearing regarding the proposals set forth in Residence CUP application.

8. The Planning Commission, after carefully considering the site plan attached hereto as Exhibit C and other design materials, the Applicant's submittals, and the Applicant's presentation at the public hearing, has determined that the Residence was designed to minimize visual impact on adjacent property owners.

Additional Findings

9. The Planning Commission, as the land use authority, finds that the proposed Residence CUP is in compliance with the standards in LMC § 15-1-10.E, as applied pursuant to the Amended Sweeney Properties MPD. Specifically, the Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, is an appropriate size and location for the Property. *See* LMC § 15-1-10.E.1 This finding is supported further as follows:

i. The Property is notably larger than most of the other buildable lots in the Amended Sweeney Properties MPD. The ratio of lot size to the Residence is significantly smaller than neighboring residences.

ii. The Property's buildable area is being reduced by approximately 490 square feet concurrently with this approval. The Residence will be located within the reduced buildable area.

iii. The Residence will be adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away.

b. Addresses traffic considerations including the capacity of the existing streets in the area. *See* LMC § 15-1-10.E.3. This finding is supported as follows:

i. The new residence will utilize the same access point as the existing homes. No additional traffic or traffic impacts will result from the new residence. In fact, traffic impacts will be decreased as two homes have more traffic than the single Residence.

ii. The capacity of the existing streets is sufficient to accommodate the new residence and no traffic impact study was necessary.

c. Has sufficient utility capacity, including storm water run-off. *See* LMC § 15-1-10.E.3. This finding is supported as follow:

i. All utilities on the Property were installed with the existing houses and are adequate to service the existing houses.

ii. The Residence will decrease utility usage by utilizing more efficient construction materials and by replacing one existing home and one existing guest house used as short-term rentals.

iii. All storm water run-off from new impervious surfaces will be retained onsite.

d. Provides adequate emergency vehicle access. *See* LMC § 15-1-10.E.4. Specifically, the Residence has been designed to meet all emergency vehicle access and driveway slope requirements as set forth in the LMC, including by providing a fire turnaround in the underground parking area.

e. Provides adequate off-street parking. *See* LMC § 15-1-10.E.5. Specifically, the Residence provides at least two off-street parking stalls as required by LMC § 15-3-6(A).

f. Provides sufficient internal vehicular and pedestrian circulation system. *See* LMC § 15-1-10.E.6. This finding is supported as follow:

i. Vehicles accessing the Property will continue to use existing access points from King Road. The Residence is designed such that vehicles can turnaround and park via the private driveway and the underground parking area.

ii. There is minimum pedestrian traffic in the area as the public roadways do not have sidewalks. There is a 10' public non-motorized bike, pedestrian trail, and ski easement on the Property for the benefit of a neighboring property. No change is being proposed to those easements.

g. Provides fencing, screening, and landscaping to separate the use from adjoining uses. *See* LMC § 15-1-10.E.7. This finding is supported as follow:

i. The existing fencing, screening, and landscaping for the existing houses is adequate to separate the use from adjoining uses. No additional fencing is being proposed by the Applicant.

ii. New landscaping will consist of native grasses and trees and existing vegetation will be maintained and managed.

iii. Perimeter vegetation will continue to provide a visual barrier to the Property and mitigate visual impact.

h. As applied pursuant to the Amended Sweeney Properties MPD, is appropriately massed, bulked, and oriented, on the site. *See* LMC § 15-1-10.E.8. This finding is supported as follow:

i. The Residence has been intentionally designed to break up the perceived mass and follows the plat notes relative to massing. Specifically, the plans show the Residence: (i) broken up into at least four (4) massing elements that are each less than 1,500 square feet; (ii) have an overall footprint of less than 3,500 square feet, as measured by the definition on the second amended subdivision plat; and (iii) complies with the seconded amended subdivision plat.

ii. The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining wall areas will be located behind the Residence to minimize any visible impact on neighboring uses.

iii. The Residence meets the height limitation stated on the second amended subdivision plat.

i. Contains usable open space. *See* LMC § 15-1-10.E.9. Specifically, the new residence does not substantially change the existing site's open space. All existing landscape easements will be maintained.

j. Contains no signs but will provide appropriate lighting. *See* LMC § 15-1-10.E.10. The Property will comply with the city's outdoor lighting requirements found at LMC § 15-5-5(J).

k. As applied pursuant to the Amended Sweeney Properties MPD, is physically designed to be compatible with surrounding structures. *See* LMC § 15-1-10.E.11. Specifically, the Residence is consistent with other single-family residences within the Amended Sweeney Properties MPD.

l. Does not produce noise, vibration, odors, steam, or other mechanical factors that would affect people or off-site property. *See* LMC § 15-1-10.E.12.

m. Properly controls delivery and service vehicles, loading and unloading zones, and screens trash and recycling pickup areas. *See* LMC § 15-1-10.E.13. Specifically, a vehicle control gate will control access to delivery and service vehicles, and the Property is adequately sized to park delivery and service vehicles without impacting adjoining uses.

n. Will not be used as a condominium, time interval ownership, fractional ownership, nightly rental, or for a commercial use. *See* LMC § 15-1-10.E.14. Indeed, the Property will be used only as a single-family residence and the short-term rental uses on the existing home and guest house will be terminated.

o. Is appropriately situated on the existing topography of the Property. *See* LMC § 15-1-10.E.15. This finding is supported as follow:

i. The site is already adequately graded to support the existing houses and minimal additional grading will be required for the Residence.

ii. For the reasons discussed below, a steep slope conditional use permit will be issued for the very steep slope disturbance.

p. Is consistent with the goals and objectives of the Park City General Plan. *See* LMC § 15-1-10.E.16. This finding is supported as follow:

i. The existing houses to be demolished are not historically significant.

ii. The proposed design of the Residence is consistent with the design criteria contemplated by the Amended Sweeney Properties MPD approval.

10. The Planning Commission finds that for the reasons above, the Residence will not have a detrimental impact on surrounding uses. The Planning Commission further finds that by terminating the existing short-term rental uses of the home and guest house currently existing on the Property, the Residence will have a reduced overall impact on surrounding uses.

11. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result

from the proposed use. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Residence and Outdoor Pool CUP applications meet the standards and requirements of the LMC as applied pursuant to the Amended Sweeney Properties MPD, including the criterial for approving a conditional use per LMC § 15-1-10.E and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Residence CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the Residence.

Conditions

The use approved by the Residence and outdoor pool CUP is conditioned upon the following:

A. Final building plans shall reflect substantial compliance with the plans approved February 14, 2024, by the Planning Commission, and attached as Exhibit D. Any changes modifications, or deviations from the approved design that have not been approved in advance by Park City's Planning and Building Departments may result in a stop work order.

B. The Applicant is responsible for notifying the Planning and Building Departments prior to proposing any changes to this approval. The Applicant shall submit in writing any changes, modifications, or deviations from the approved scope of work for planning review and approval/denial in accordance with the applicable standards prior to construction. Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.

C. The current access point of King Road must be maintained, and no new access points are allowed. The driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road shall not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles.

D. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning

Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

E. All storm water run-off from new impervious surfaces must be contained on the Property.

F. Applicant shall submit a storm drainage analysis to the Park City Engineering Department. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.

G. Applicant shall submit a soil investigation report, geotechnical report, and slope stability report to the city concurrent with or prior to submitting a building permit application.

H. Prior to obtaining a building permit, the Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized.

I. The proposed development must include a vehicular turnaround that meets applicable fire code standards.

J. The Residence's occupants must use as on-site parking the sub-grade parking area shown on the proposed plans.

K. The proposed development must include a vehicle control gate that allows Park City emergency vehicle access and for vehicles to queue in the Property's driveway and not on King Road.

L. No additional fencing is permitted without further approval by the Park City Planning and Building Departments.

M. After construction of the Residence is completed, Applicant shall revegetate the site consistent with the submitted landscape plan, seen on sheet A1.03 of the approved plans.

N. The Residence must be constructed according to the approved plans.

O. The Applicant shall receive approval through the Historic District Design Review process prior to submitting a building permit.

P. The proposed residence's roof shall be consistent with the plans approved by the Planning Commission on February 14, 2024, and attached as Exhibit D.

Q. The existing access and landscaping easement shall remain in place.

R. Except for a typical “for sale” sign no signs will be permitted on the Property.

S. The primary use of the Property shall be limited to a single-family residential use. The proposed residence shall not be used for a short-term rental or have fractional ownership.

T. Any areas disturbed during construction shall be restored to the original state after the proposed residence, accessory building and structures, and retaining walls are completed.

U. The railing of the roof terrace shall minimize the visibility when viewed cross-canyon.

V. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City’s outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Ground-level fixtures shall be Fully Shielded. Final lighting details must be reviewed by Planning Staff prior to installation.

W. All proposed mechanical equipment, the pool, and/or a hot tub shall be screened. Any hot tub installation is prohibited on east façade decks or terraces.

X. No more than eight inches of the new foundation shall be visible above Final grade on the primary façade and no more than two feet of the foundation shall be visible above Final Grade on secondary and tertiary facades.

Y. Lower-level glazing on the north, east, and south facades shall be screened with berms and/or vegetation as approved by the Planning Department.

Z. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.

AA. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.

BB. Prior to submittal of a Building Permit, the Applicant shall submit for

review the excavation and grading plans for Engineering Department review and approval to ensure no additional erosion, land subsidence, or avalanche hazard is created.

CC. Cuts, fills, and retaining walls shall be minimized.

DD. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

EE. The Applicant shall demonstrate adequate turnaround to allow a fire apparatus to maneuver to and from the site as approved by the Park City Fire District prior to submitting a Building Permit. The Applicant shall provide a fire hydrant within 600 feet of the proposed development.

FF.The Applicant should upsize the existing service line to provide adequate pressure to the additional living area and fire sprinkler system. Please note the City operates substantial water lines to the west of the proposed dwelling.

GG. To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road.

HH. Glazing on the east façade shall comply with the Second Amendment for the Lot 2 Phase 1 Treasure Hill Subdivision plat notes. Vinyl and aluminum doors and windows are prohibited. Window and door details shall be reviewed and approved through the Historic District Design Review process.

II. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

Conditional Use
File No. PL-23-05571
[Steep Slope –220 King]

Findings of Fact

1. On February 21, 2023, the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD").

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence. The existing single-family residence and guest house have been used for short-term rentals.

5. The conditional use permit application is for construction on a steep slope ("Steep Slope CUP") as required by Section 15-2.2-6 of Park City's Land Management Code ("LMC").

6. In connection with the Steep Slope CUP application, the Applicant submitted the following documents prepared by Alliance Engineering Inc. for the Planning Commission's consideration:

a. Existing Conditions Map (Job No. 8-3-23);

b. Conceptual Grading Plan (Job No. 8-3-23);

c. Drainage Plan (Job No. 8-3-23);

d. Steep Slope Map (Job No. 8-3-23);

e. Stormwater Management Plan (Job No. 8-3-23); and

f. Excavation Section View (Job No. 8-3-23).

7. The Planning Commission has authority to act as the land use authority for the Steep Slope CUP. *See* LMC § 15-1-10.D.

8. The Applicant submitted all the materials required by the LMC for the Steep Slope CUP and presented in a public hearing regarding the proposals set forth in Steep Slope CUP application.

9. With respect to the Steep Slope CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development on steep slopes can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

10. The Planning Commission, as the land use authority, finds that the proposed Steep Slope CUP complies with the standards in LMC § 15-2.2-6.B. Specifically, the proposed steep slope disturbance and Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, are located and designed to reduce the visual and environmental impacts. *See* LMC § 15-2.2-6.B.1. Specifically, the hillside cuts and impact to the very steep slope will be located behind the Residence and will generally not be visible to the town core of Park City.

b. Will be consistent with the visual analysis and landscaping plan submitted by the Applicant. *See* LMC § 15-2.2-6.B.2. Specifically, the Applicant submitted to the Planning Commission a visual analysis and landscaping plan that showed the proposed steep slope disturbance. The Planning Commission has determined that the steep slope disturbance will generally not be visible from the town core of Park City as it is screened from view by the proposed residence.

c. Are consistent with the applicable access and driveway screening requirements. *See* LMC § 15-2.2-6.B.3. Specifically, access to the Property is not changing as the existing driveway will be used and improved. The driveway improvements will comply with the LMC's requirements.

d. Will be appropriately terraced to regain natural grade. *See* LMC § 15-2.2-6.B.4. Terraced structures will be screened from view of the town core of Park City by the proposed residence.

e. Are designed to preserve the perceived natural topography of the Property. *See* LMC § 15-2.2-6.B.5. Specifically, all cuts to the hillside will be screened from view of the town core of Park City by the Residence.

f. As applied pursuant to the Amended Sweeney Properties MPD, are consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. Specifically, the Residence is divided into several massing elements to reduce massing and to orient against the Property's existing contours. Portions of the Residence have been located below grade to reduce visibility and perceived bulk.

g. Are consistent with the applicable setback requirements. *See* LMC § 15-2.2-6.B.7.

h. Are consistent with the applicable volume limitations. *See* LMC § 15-2.2-6.B.8.

i. Are consistent with the applicable building height requirements. *See* LMC § 15-2.2-6.B.8. Specifically, the Residence meets the height requirements identified in the Amended Sweeney Properties MPD.

11. The Planning Commission finds that for the reasons above, the steep slope disturbance will not have a detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed steep slope disturbance. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the steep slope disturbance or the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Steep Slope CUP meet the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-2.2-6.B as applied pursuant to the Amended Sweeney Properties MPD, and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Steep Slope CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Steep Slope CUP application.

Conditions

The use approved by the Steep Slope CUP is conditioned upon the following:

JJ. All retaining walls shall be generally placed behind the proposed residence to reduce visibility from the town core of Park City.

KK. The driveway to the proposed residence shall not exceed 12 feet in width unless required by Park City Fire District for emergency vehicle turning radius and access, shall not exceed a 14% grade, and must comply with LMC § 15-3-3(A)(4).

LL. Access to the parking area located on the Property shall not face King Road.

MM. If the proposed development contains any retaining walls that are taller than four feet in height, then the Applicant shall provide engineered plans for the retaining walls at the time the Applicant makes application for a building permit.

NN. Applicant shall maintain vegetative screening in accordance with

the submitted vegetation plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the east façade glazing.

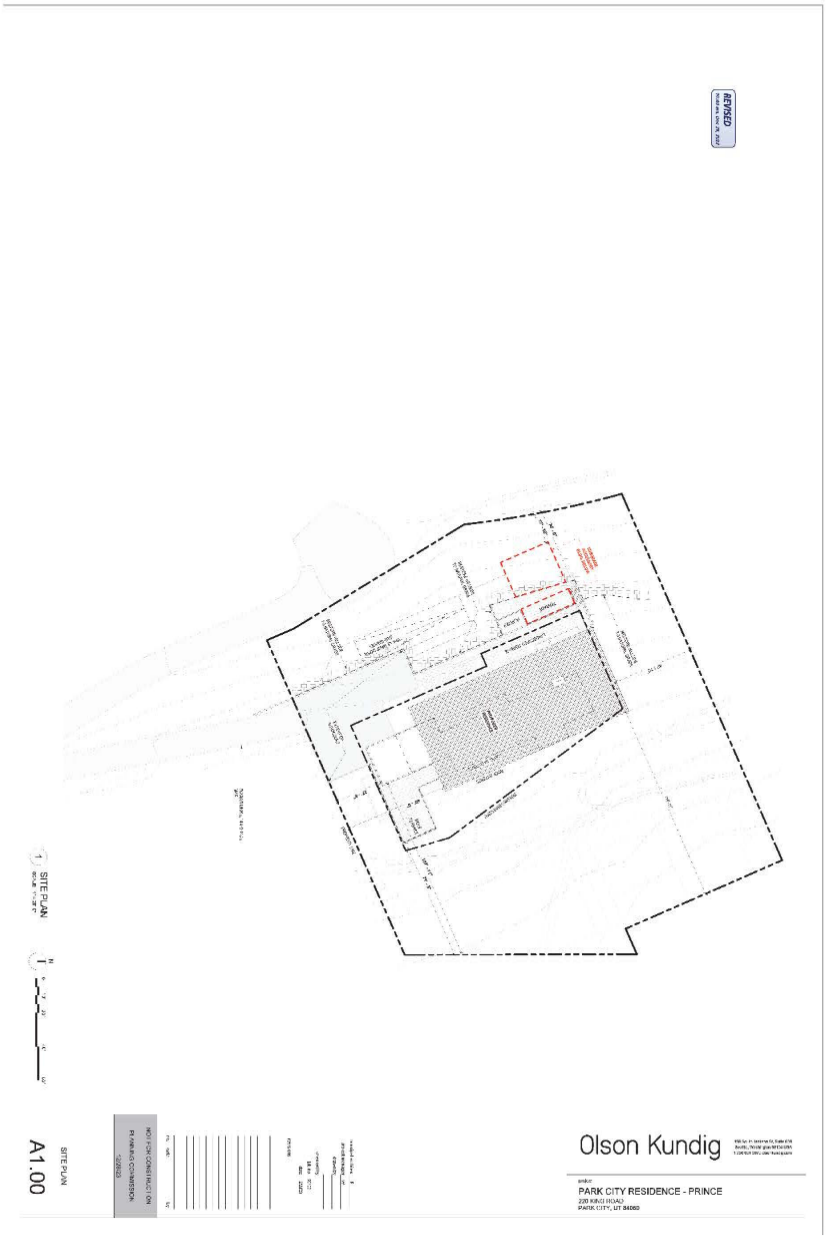
OO. The limits of disturbance around the proposed residence shall be limited to the minimal area necessary to excavate and backfill the foundation.

PP. Structures on the Property shall conform to the HR-1 setbacks set forth in LMC § 15-2.2-3. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

QQ. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

RR. The Applicant shall provide elevation drawings of all segments of the Accessory Buildings that have an exposed face to Planning staff for review as part of the Historic District Design Review process.

Exhibit C
Site Plan



If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:
0449CF71C9B8468...

2/24/2024

Sarah Hall, Planning Commission Chair

CC: Rebecca Ward, Planning Director
Caitlyn Tubbs, Senior Historic Preservation Planner

Exhibit D – Approved Plans

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

Building Diagrams

DocuSign Envelope ID: E8FF8DB6-3109-45B9-882B-EC01C73805E3

Approved 2-14-2024

1 SITE PLAN

Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/22/23

SITE PLAN

A1.00

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Approved 2-14-2024

GENERAL NOTES

- EXISTING STRUCTURES AND HARDSCAPE ON SITE TO BE DEMOLISHED.
- RETURN SITE TO NATURAL GRADE AFTER DEMOLITION.
- POST DEMOLITION CONTOUR LINES REPRESENT EXISTING GRADE FOR PROPOSED BUILDING HEIGHT ANALYSIS.

KEY LEGEND

MINOR CONTOUR, SURVEYED

MAJOR CONTOUR, SURVEYED

MINOR CONTOUR, POST DEMOLITION

MAJOR CONTOUR, POST DEMOLITION

ROOF SPOT ELEVATION

ROOF HEIGHT TO POINT

XX'-XX" HT

ROOF HEIGHT ABOVE POST DEMO GRADE

1 ROOF HEIGHT TO GRADE

SCALE: 1" = 20'-0"

N

0 10' 20' 40' 60'

Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION

PLANNING COMMISSION

12/20/23

ROOF HEIGHT TO GRADE

A1.04

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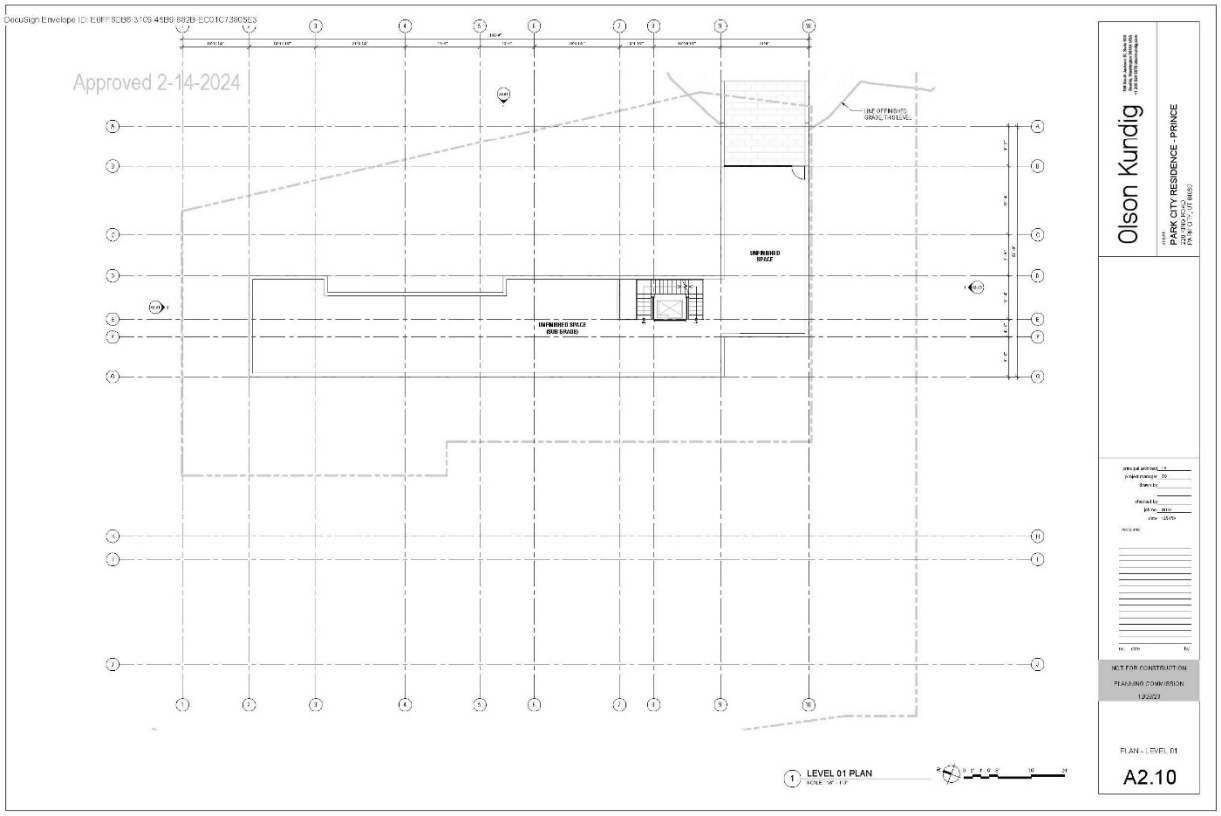

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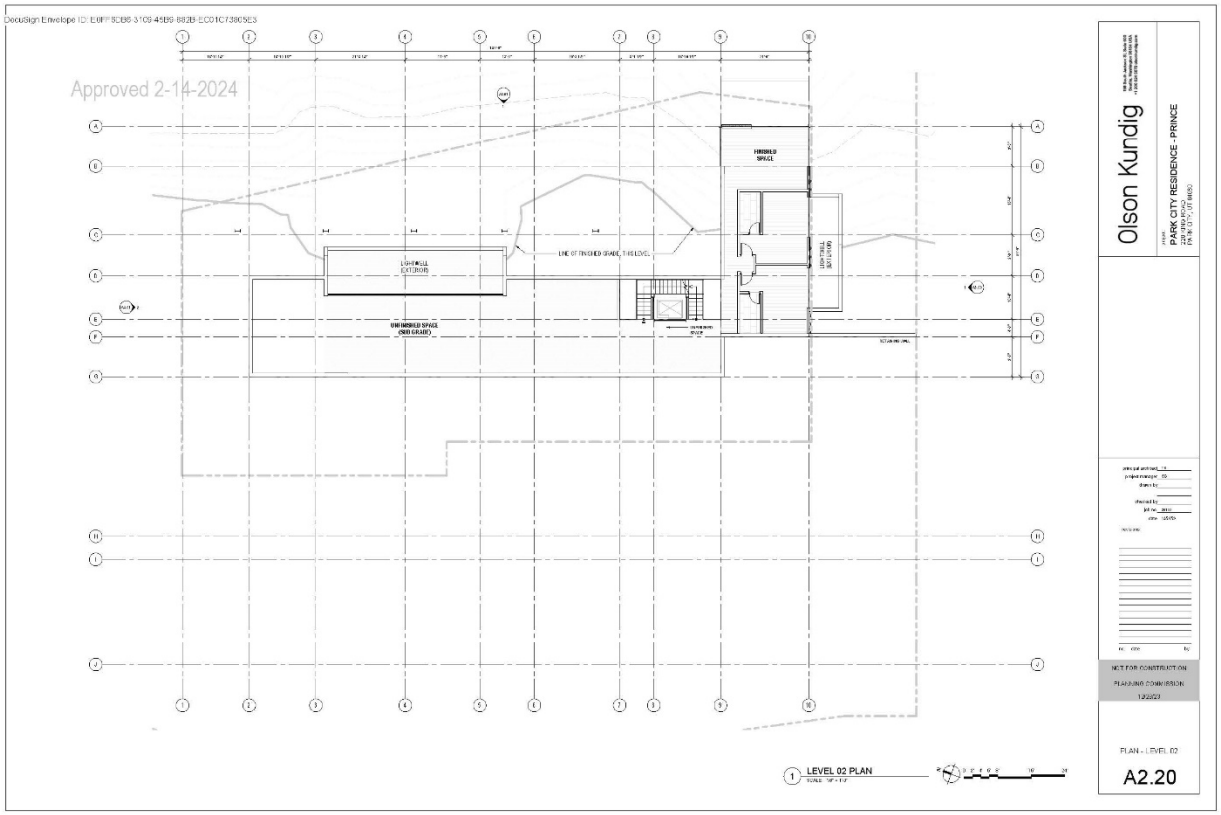

Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/2/23

PLAN - LEVEL 02

A2.20

4855-3386-5656

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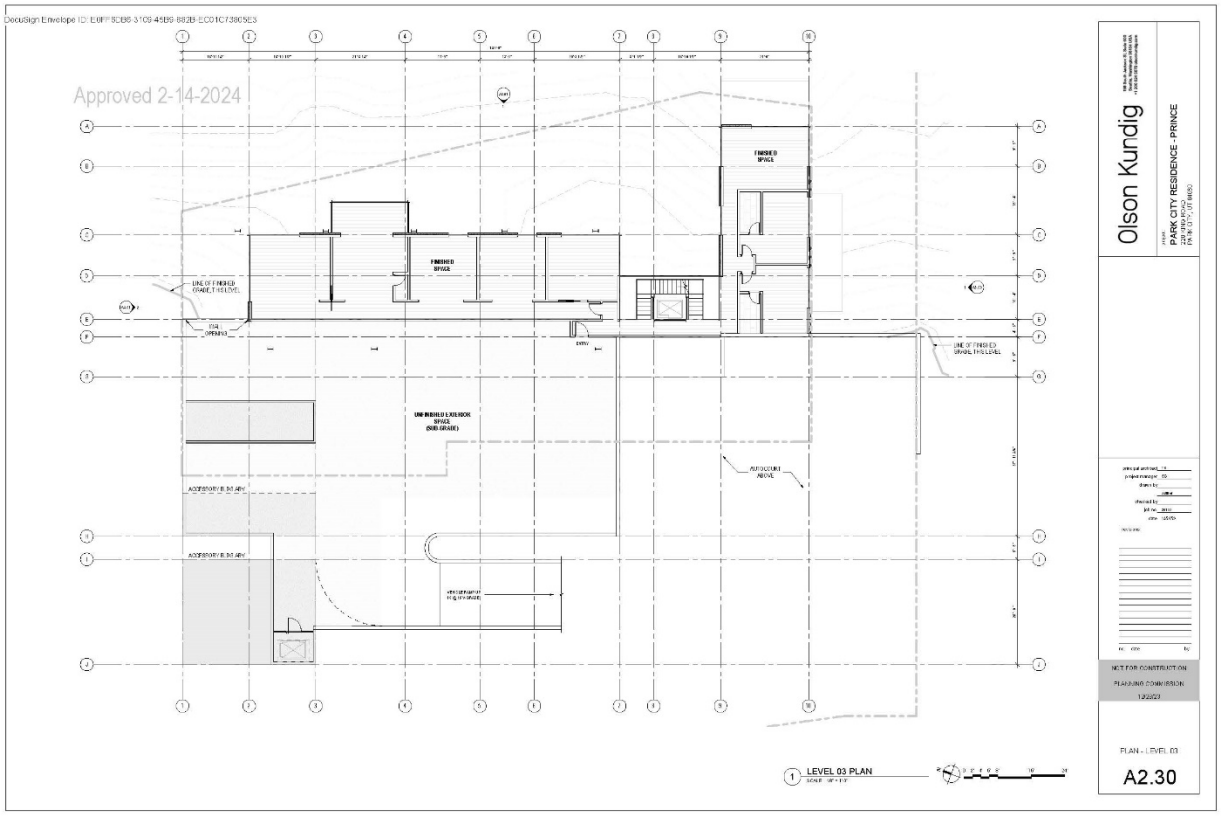


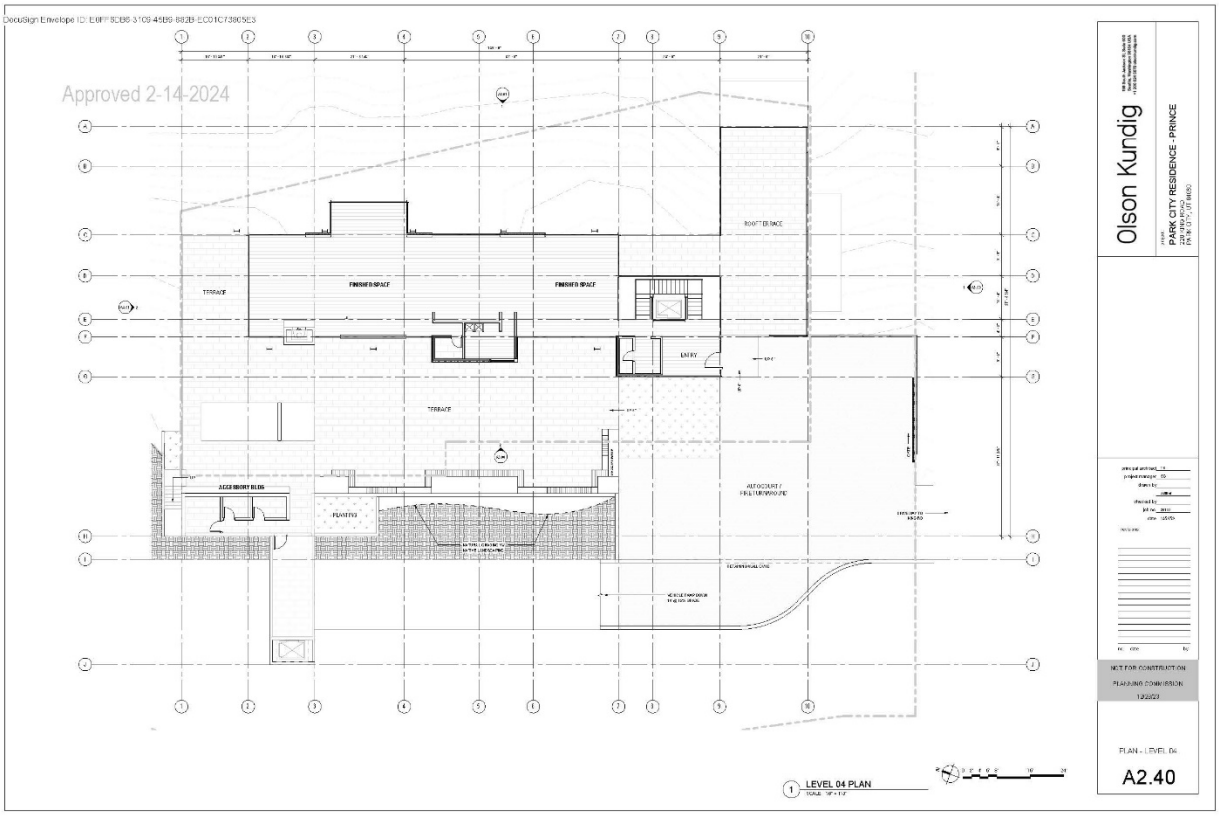
Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/2/23

PLAN - LEVEL 03

A2.30



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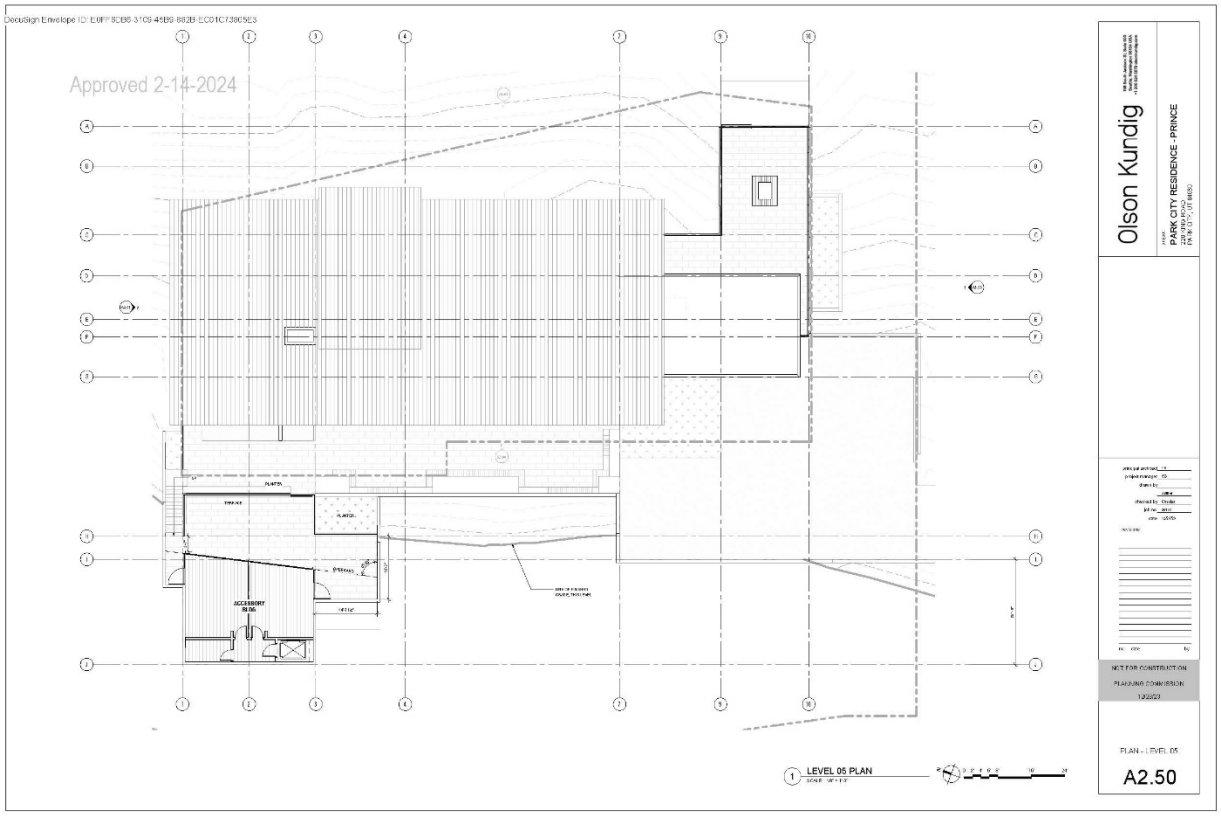

1 LEVEL 05 PLAN

Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/2/23

PLAN - LEVEL 05

A2.50

4855-3386-5656

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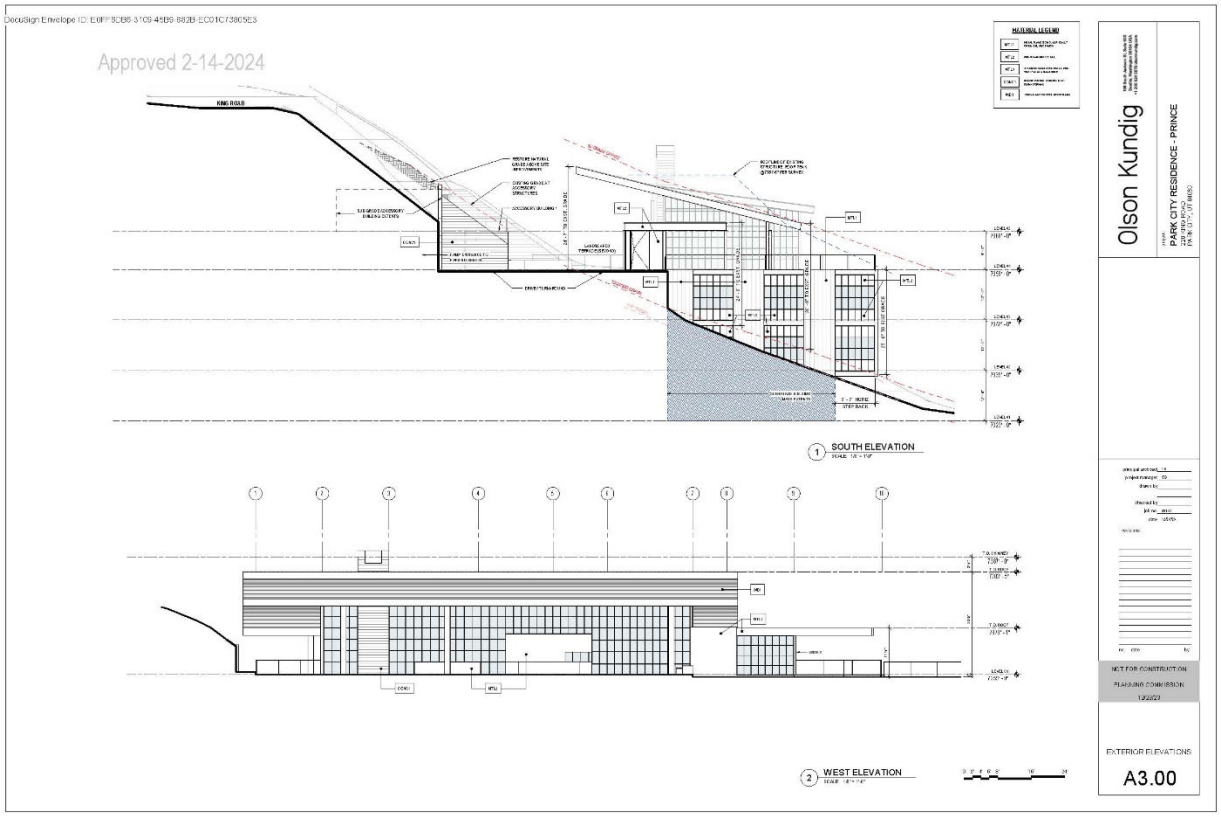
Approved 2-14-2024



Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/20/23

EXTERIOR ELEVATIONS

A3.00

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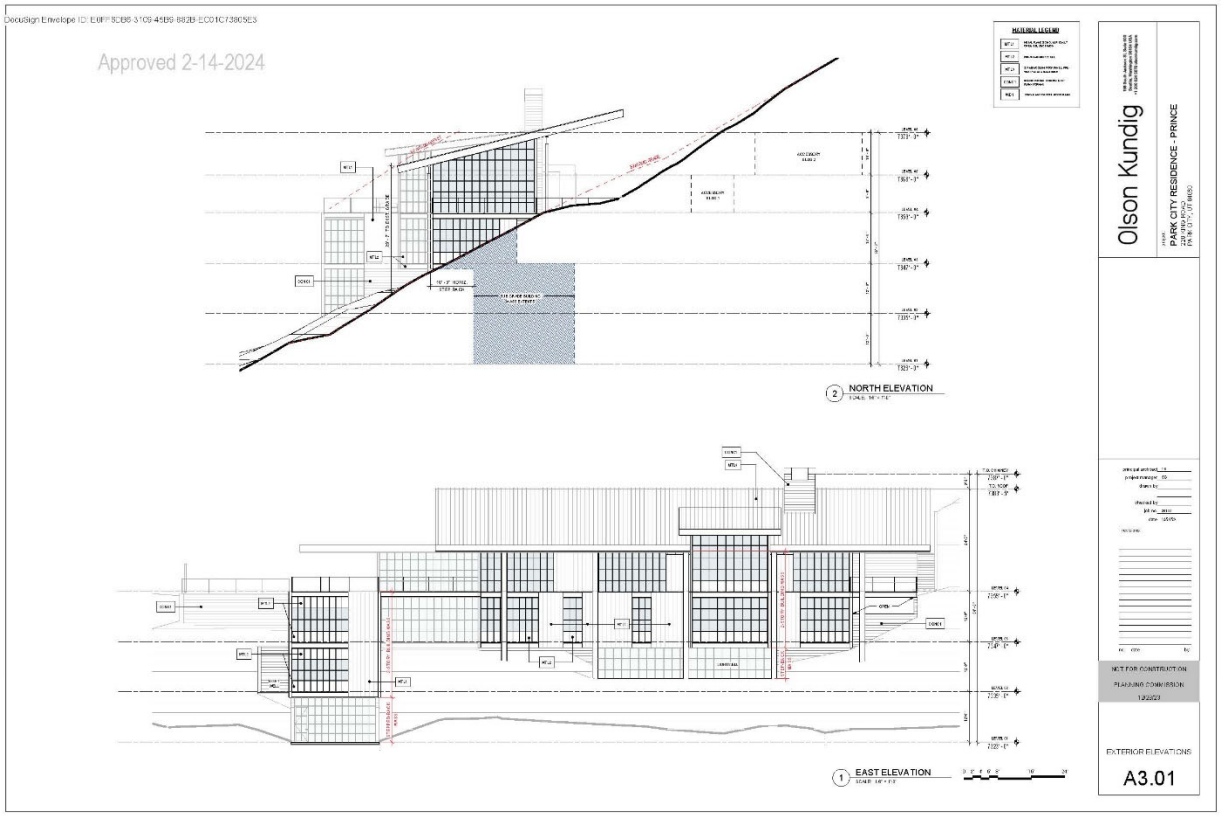

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3D Views - from north

Approved 2-14-2024

4855-3386-5656

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3D Views - from east

Approved 2-14-2024

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

3D Views - from south

Approved 2-14-2024

4855-3386-5656

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Approved 2-14-2024

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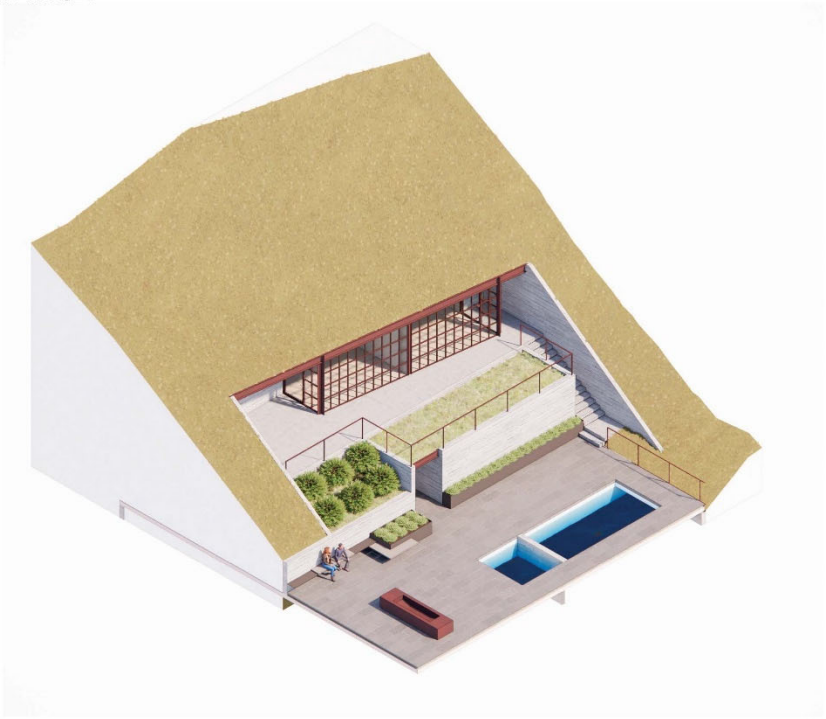

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Grading Plan

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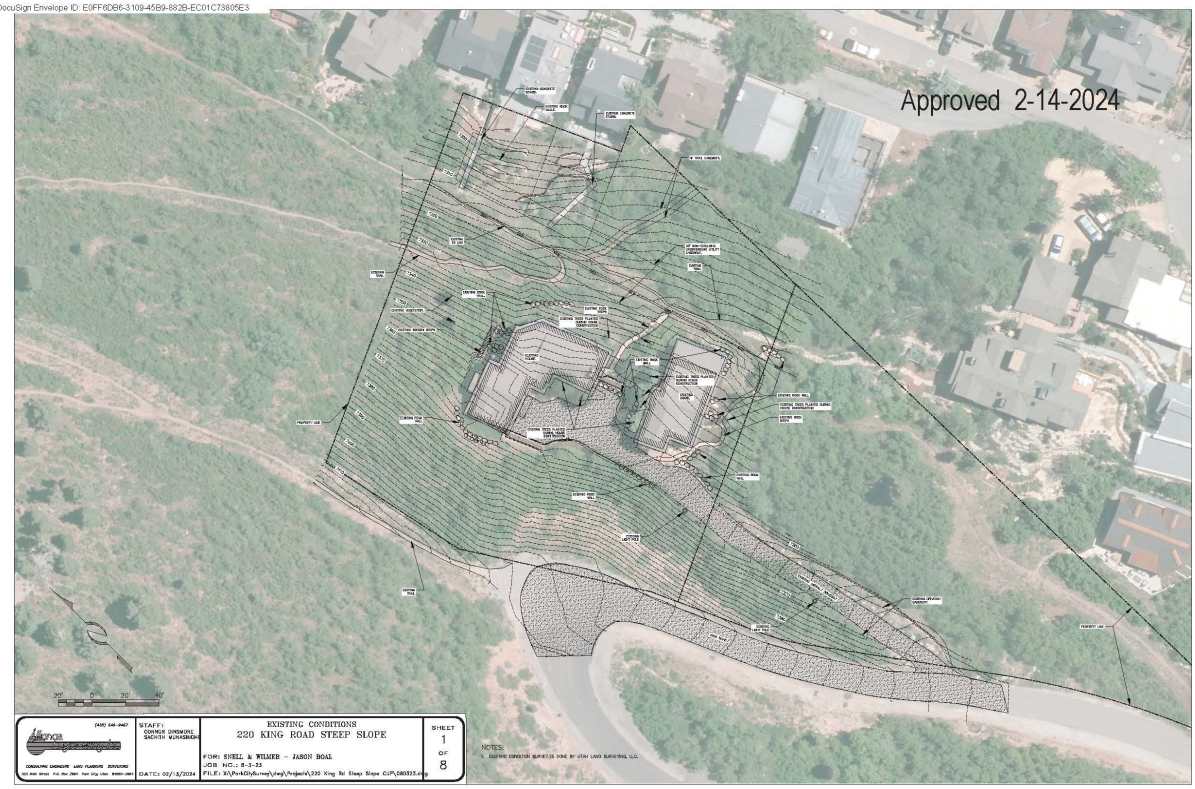

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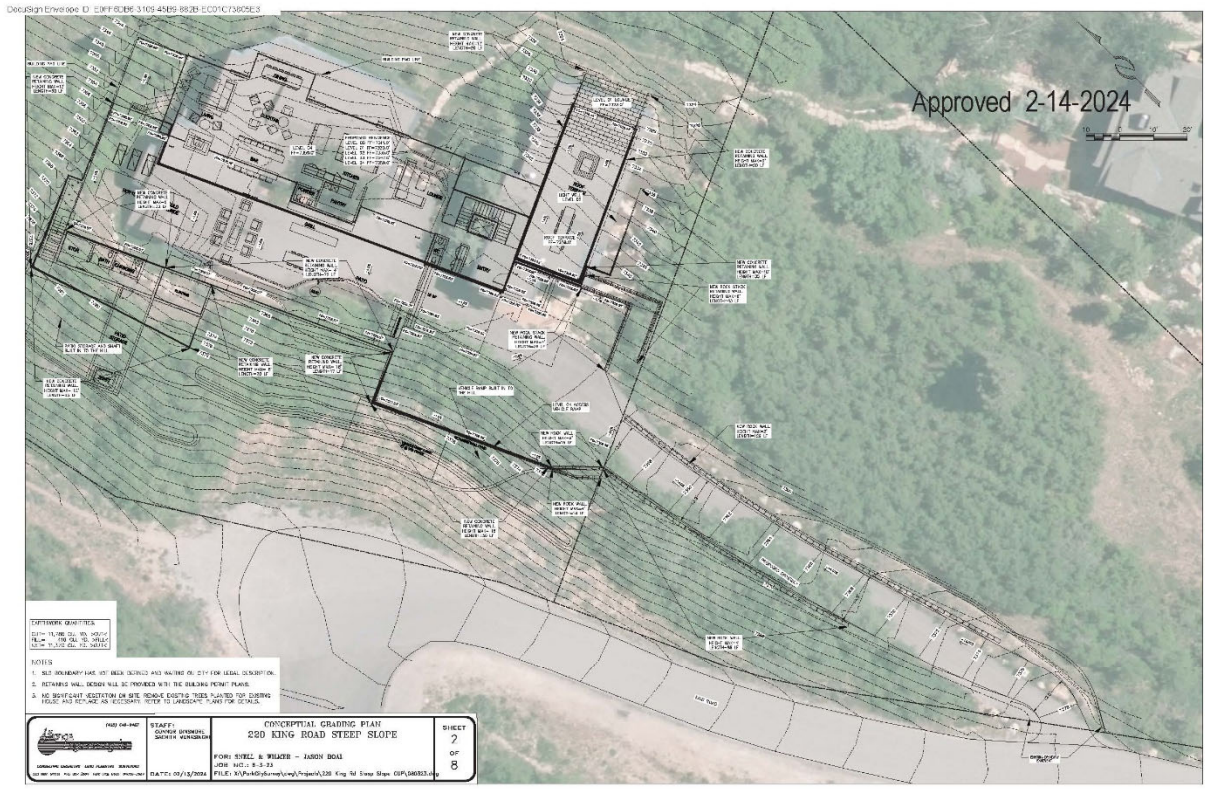

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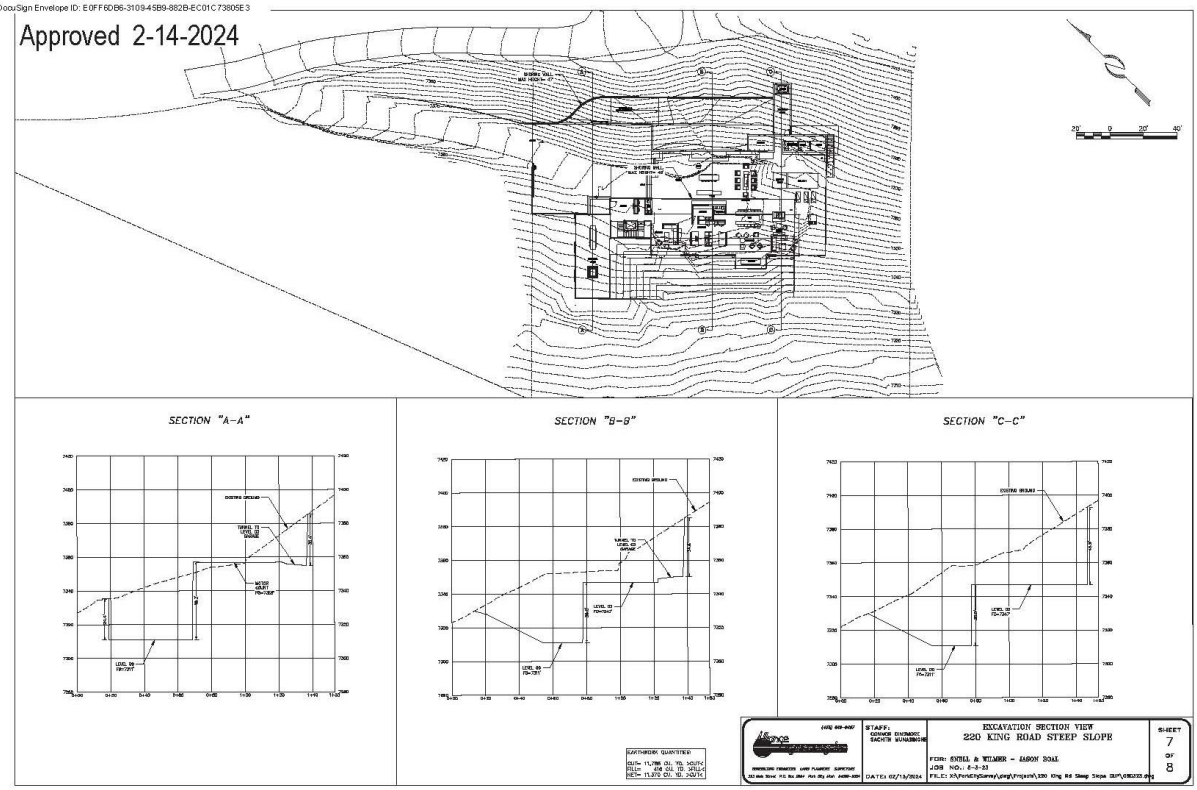

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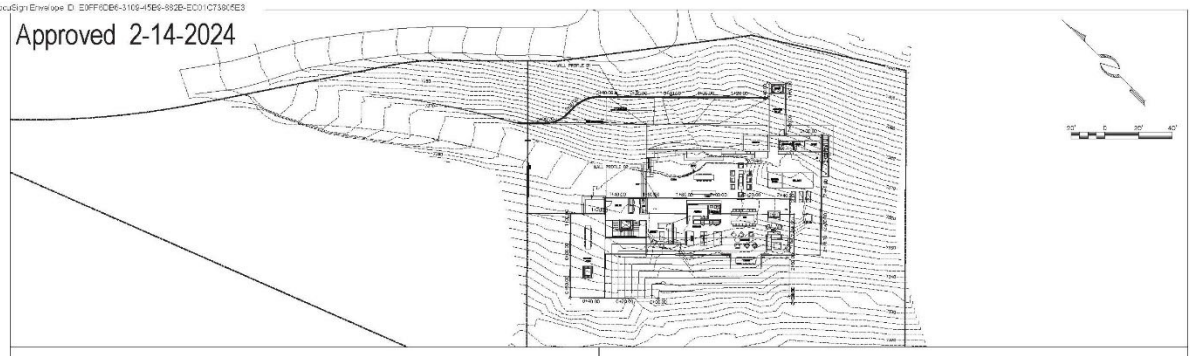
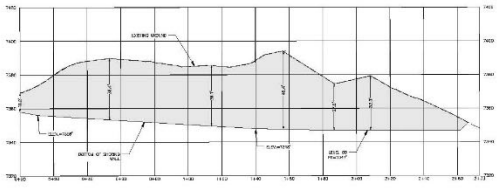
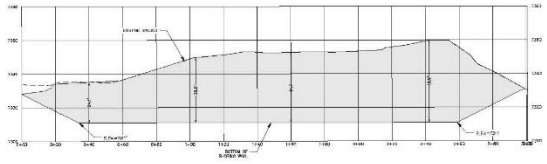


WALL PROFILE 01



WALL PROFILE 02



	STAFF:	PLAN AND PROFILE OF THE SHORING WALL 220 KING ROAD STEEP SLOPE	SHEET 8 OF 8
	DATE: 01/ 3/2024	FOR: SNELL & WILMER - JASON HOAL	

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Drainage Plan

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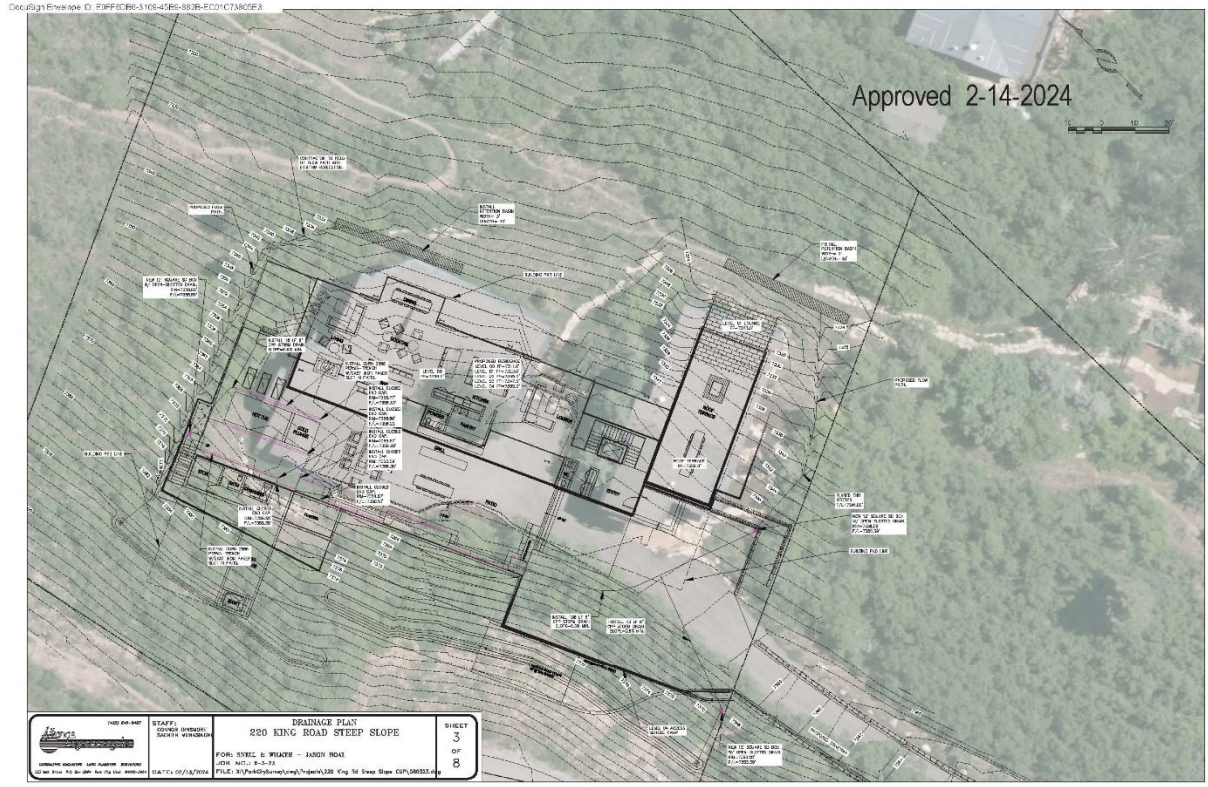

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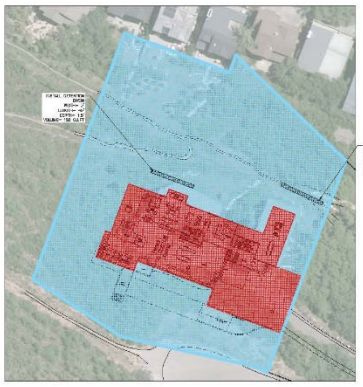

WATER QUALITY VOLUME CALCULATIONS

ASSUMPTIONS
METHOD OF ANALYSIS: WQ_vCUTA
DESIGN STORM: WITH PREVENTIVE EVENT

VARIABLES
Q = RUNOFF FLOWRATE [CUBIC FEET/SEC]
C = RUNOFF COEFFICIENT
(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)
RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.30
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.93	

I = STORM INTENSITY [IN/HR]
Tc STORM DURATION [HR]
NOTE: Tc = 14 MIN SUMMIT COUNTY ORDINANCE SEC A
A = AREA [FT^2]

PRE-DEVELOPMENT WATER QUALITY VOLUME
AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			0.199	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.939

A= 13,907 FT^2
C= 0.97
I= 0.05 IN/HR
I= 1.00 HR
$WQ_{V,PRE}$ = 1,355 CU FT

POST-DEVELOPMENT WATER QUALITY VOLUME
AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			0.202	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.939

A= 13,907 FT^2
C= 0.42
I= 0.05 IN/HR
I= 1.00 HR
$WQ_{V,POST}$ = 1,355 CU FT

GROUNDWATER RECHARGE VOLUME
GWQ_V = 130 CU FT

PEAK RUNOFF CALCULATIONS

ASSUMPTIONS
METHOD OF ANALYSIS: RATIONAL METHOD (CUDA
STORM RETURN PERIOD: 100 YEARS
NOTE: FOR THE GIVEN RECURRENCE INTERVAL, THE COMPOSITE "C" VALUE IS ADJUSTED BY A FACTOR OF 1.25 BEFORE COMPUTING Q.
SOURCE: NOAA ATLAS 14 - PARK CITY RADIO STATION 42-6668

VARIABLES
Q = RUNOFF FLOWRATE [CUBIC FEET/SEC]
C = RUNOFF COEFFICIENT
(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)
RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.30
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.93	

I = STORM INTENSITY [INCHES/HR]
A = AREA [ACRES]
Tc = TIME OF CONCENTRATION [SEC]
V = EXCESS RUNOFF VOLUME [CU FT] = 100-

PRE-DEVELOPMENT PEAK DISCHARGE
AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	-	-	-	-
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	0.199	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.939

A= 0.24 ACRES
C= 0.97
C_{adj} = 0.83
I= 5.00 IN/HR
Q= 1.00 CFS

POST-DEVELOPMENT PEAK DISCHARGE
AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	-	-	-	-
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	0.95	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.939

A= 0.24 ACRES
C= 0.42
C_{adj} = 0.53
I= 5.00 IN/HR
Q= 0.72 CFS

EXCESS RUNOFF STORAGE VOLUME
WQV_{PRE} = 0.09 CFS
V= 100 SEC
V_{POST} = 322 CU FT

STORMWATER DETENTION REQUIRED = 322 CU. FT.
STORMWATER DETENTION PROVIDED **300 CU. FT.

NOTES:

1. PEAK RUNOFF VOLUME OF 232 CU. FT. IS TO BE 100% DETAINED IN PROPOSED POND. THE DIMENSIONS OF THE DETENTION BASIN IS NOTED ON THE ABOVE PLAN. CUMULATIVE DETENTION VOLUME = 300 CU. FT.
2. OUTLET ROOF DRAINS SO THAT THE STORM WATER FLOWS FROM HOUSE DOWN GRADING AND INTO DETENTION BASIN.
3. STORMWATER DETENTION POND ALIGNMENT MAY VARY, FOLLOW EXISTING CONTOUR.
4. THE DETENTION POND HAVE BEEN SIZED TO OBTAIN 100% OF THE WATER QUALITY VOLUME (PER SUMMIT COUNTY ORDINANCE NO. 380 A), AFTERWHICH IT MEETS THE COUNTY REQUIREMENTS FOR TSS REMOVAL AND GROUNDWATER RECHARGE.

(435) 649-9467

STAFF:
CONNOR SIMMONS
KENNETH MONTEVERDE

DATE: 01/12/2024

STORMWATER MANAGEMENT PLAN
220 KING ROAD STEEP SLOPE

FOR: BUELL & WILMER - JASON BOAL
JOB NO.: 8-3-22
FILE: R:\Active\Survey\dwg\Proj\stm\220 King Rd Steep Slope SUP\08322-stm

SHEET 5 OF 8

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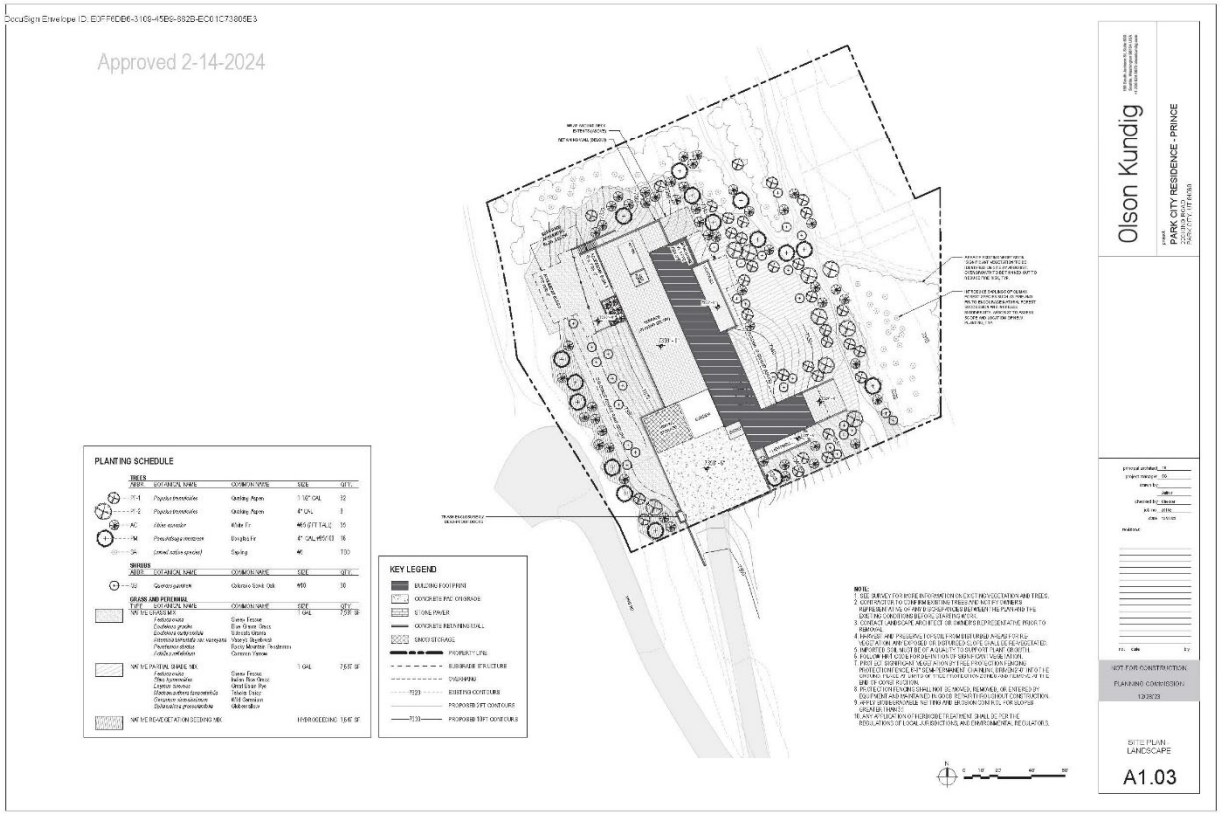
Landscape/Vegetation Plan

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

Approved 2-14-2024



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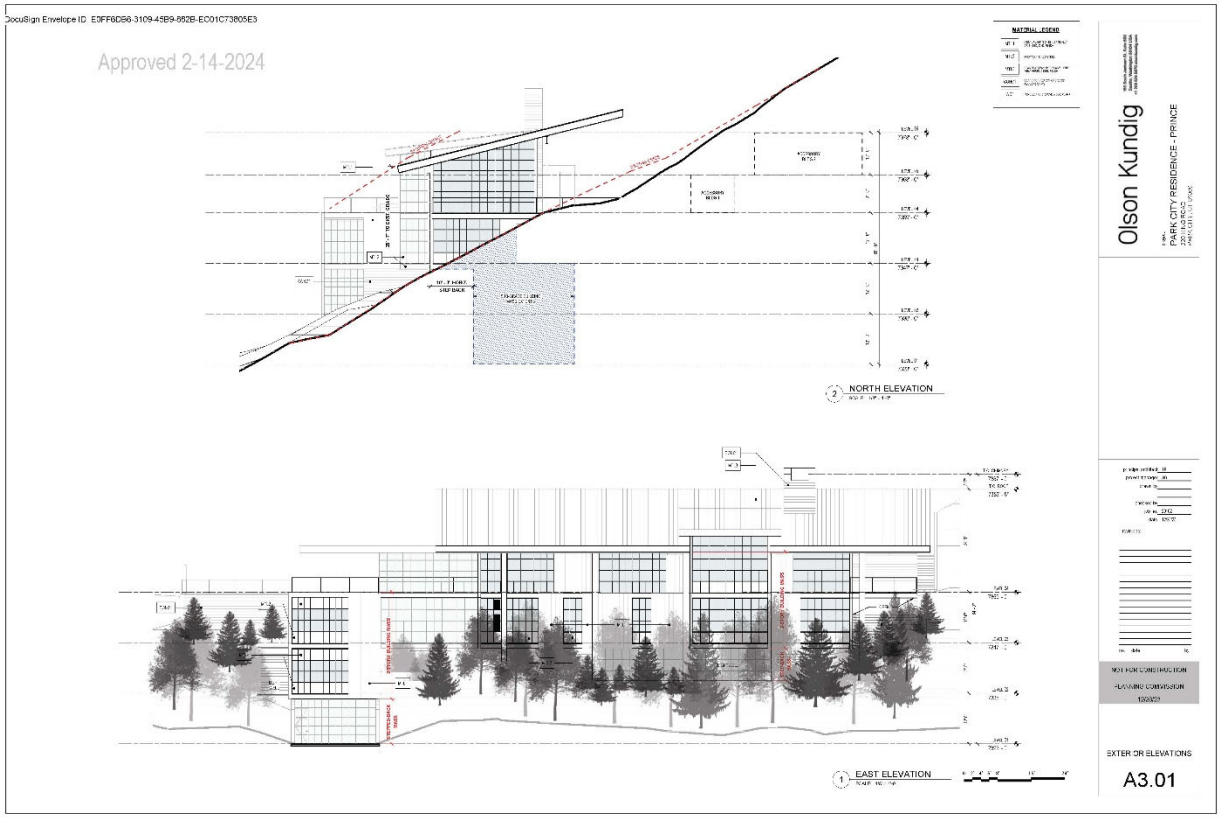
Approved 2-14-2024



4855-3386-5656

EXHIBIT B

Supporters' Attempted Petition

HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Applications and Plat Amendment Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Panelists,

The undersigned and those listed in the attached Exhibit A file this petition to appeal the approvals of Plat Amendment # PL-22-05319 as well as Conditional Use Permit # PL-23-05571 (the "Steep Slope CUP"), Conditional Use Permit # PL-22-05318 (the "Single-Family Dwelling CUP"), and Conditional Use Permit # PL-22-05523 the "Accessory Uses CUP") (collectively the "CUPs"). Each of the undersigned submitted written comment or testified in opposition to the CUPs and Plat Amendment, or own property within 300 feet of the boundary of the subject site. In addition, attached as Exhibit B is a list of Park City residents who may not have standing under a strict interpretation of Park City Land Management Code §15-1-18(D) but who support this appeal and have consented to expressing that support by allowing us to affix their name to the Exhibit B list.

We and many other residents in the Old Town and Rossi Hill subdivisions believe the approval of the above-mentioned CUPs and Plat Amendment should be reversed.

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law with limited conditions to (1) Amend the Plat Notes to the Treasure Hill Subdivision, Phase 1; (2) for Conditional Use Permits for Residential Design of the Proposed Structure and accompanying pool; and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application

unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

The Appeal Panel should reverse the Planning Commission's decision to Amend the Plat Notes to the Treasure Hill Subdivision and approve the CUPs because the Planning Commission (1) failed to properly apply the Park City Land Management Code, (2) the proposed structure does not meet the express requirements of the Park City Land Management Code, and (3) the Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.

1. *The Planning Commission's decision relied on the incorrect assertion by the Applicant that only the restrictions in the MPD and Subdivision Plat, rather than the Land Management Code, apply to this property.*

The Planning Commission erred in accepting the Applicant's claim that rules from the Land Management Code (LMC) do not apply if they are different from the restrictions in the Sweeney MPD.[1] This assertion directly contradicts the conditions stipulated in the Sweeney MPD. Section III (1) of the Sweeney MPD states that "[a]t 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." Although the Applicant acknowledges this provision in its January 24 letter to the Planning Commission, it argues that the Land Management Code should be ignored where the Plat or MPD have more permissive restrictions. The primary reasoning for this, given by the Applicant, is not based on any law, precedent, or a conflicting provision, but rather that "[o]therwise, the MPD would have no meaning." This argument is groundless. The restrictions in the MPD remain meaningful even if the property is subject to stricter LMC rules. The logical reading of the above clause is that the MPD and LMC work together to set the limits for projects in the development.

The appropriate application of the LMC and MPD is that the stricter of the two restrictions apply. If the LMC is changed to be more permissive, than the restriction from the MPD would be the governing restriction. When the LMC is stricter, it governs. The LMC rules for the HR-1 district apply to every property in the HR-1 district. The rules in the Sweeney MPD apply to every property in the MPD. If the property is in both the Sweeney MPD and the HR-1 district, as 220 King is, then both sets of rules apply. When two equally applicable sets of rules govern an overlapping area, the stricter rule is the one that must be followed. For example, if Park City passed a law making it illegal to serve alcohol after 10 pm and Utah were to later pass a law making it illegal to serve alcohol after 9 pm, the 9 pm cutoff would govern. If the state were to, however, change its rule to 11 pm, the applicable cutoff in Park City would become 10 pm because it is the stricter of the two rules. It would be patently absurd to argue that the less strict rule covering the smaller overlapped area is the applicable cutoff simply because it would be meaningless otherwise. This same principle applies to the MDP and LMC in this case. Within the overlapping area, the stricter rule applies.

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[1] Exhibit C, Letter from Wade R. Budge, Attorney for Applicant, to Planning Commission (January 24, 2024).

The second argument advanced by the applicant for why the LMC does not apply are statements made by City staff. The most notable is a quotation from a 1985 letter by City Attorney Tom Clyde to Ed Sweeney (the original applicant for the Sweeney MPD). He stated: "Having filed your development proposal and paid the fees with the Planning Department, your zoning rights with respect to this particular project and application are vested under the existing zoning and would not be affected by subsequent zone changes." While this appears to support the Applicant's argument, the timing of the statement makes it inapplicable here. The 1985 letter is dated as received June 26, 1985. The Sweeney MPD was approved on December 18, 1985. Thus, even if Tom Clyde's statement was correct at the time, the subsequent inclusion of the provision requiring compliance with the zoning code "at the time of" conditional use review rendered it irrelevant. While standard practice may be that land use applications are governed by the zoning code in place when the application is filed, the specific terms of this MPD dictate that the houses built in the Sweeney MPD are to comply with the LMC as it reads at the time of the conditional use review. There are other statements in the record supporting the idea that properties in the MPD are not subject to code changes, however, these statements have no authority in this case as statements made by staff in direct contradiction of written terms are not binding.

In addition to the Sweeney MPD, 220 King Rd. is bound by restrictive covenants which state that the "zoning ordinances of Park City . . . are in full force and effect" and that "no Lot shall be occupied or used in a manner that is in violation of any such ordinance or code."[2] The argument by the Applicant that the LMC does not apply to this property or only applies when the MPD and Plat are silent is impossible to reconcile with the restrictive covenants stating that the zoning ordinances of Park City (i.e. the LMC) are in "full force." If the LMC does not apply or only applies in a limited manner it is not in "full force and effect." Likewise, because the restrictive covenants were put in place in 1996 (ten years after the Sweeney MPD) it would not make sense for the restrictive covenants to state that the LMC is in "full force and effect" if only the ordinances in place prior to the creation of the Sweeney MPD applied to this property. The restrictive covenants also specifically require that "[a]ll improvements and construction on the Covered Property is subject to the applicable existing architectural and other design and building restrictions in effect now and from time to time in the future." This further reinforces that any structure built on 220 King must comply with all current design rules (i.e., historic design regulations, roof size and shape restrictions, height restrictions, etc.)

2. *The proposed structure does not meet the express requirements of the Park City Land Management Code as expressly required by the Sweeney MPD and the Restrictive Covenants.*

The Applicant's proposed structure on 220 King Rd. violates numerous provisions of the LMC. These include limitation requirements for height, roof shape, building footprint, design, and the Sensitive Land Overlay.

First, the proposed structure exceeds the LMC's height requirements. The LMC limits exterior height for buildings with pitched roofs in the HR-1 district to 27 feet from existing grade.[3] Here,

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[2] Exhibit D, Declaration of Restrictive Covenants (King Road Lots)(2)(a).
[3] LMC § 15-2.2-5.

the plans approved by the Planning Commission (and required to remain the same as a condition of approval) not only exceed the 27 feet required by the LMC but also the 30 foot limit stated in the plat (even after this amendment) and the 25 feet required by the Sweeney MPD. The MPD specifically states in its height restrictions that parcels in the HR-1 district "shall abide by the Land Management Code and no height exceptions will be considered."[4] The external building height here, therefore, violates the MPD, Plat, and LMC.

Additionally, the Applicant has insisted that where LMC § 15-2.2-5(A) says "lowest finish floor plane" what it really means is "lowest finish*ed* floor." This interpretation, however, does not comport with the intention of the Planning Commission and Council when reviewing the staff report and minutes when the ordinance creating this phrasing, Ord. No. 13-48, was approved.[5] The discussion shows that what this change was trying to achieve was to maintain roughly the same height requirements for HR-1 and HR-2 that were previously in place while granting the flexibility to property owners to have split level floor plans that would have conflicted with the previous restrictions–reversing the trend of people going deeper with their bottom floor. The Staff Report when this change was made establishes that the change was intended to maintain a similar restriction of three standard stories, including the basement level, while allowing for split level plans of a similar height to a standard three-story home.

Planning Commission minutes from January 9, 2013 discussing this change show that one of the problems they were concerned about was the depth of basements. With this concern in mind, it does not make sense that they would have intended this provision to mean you can build down as far as you want and have an unlimited internal height if there is only thirty-five feet from the lowest "finished" floor to the point of the highest wall top plate. It appears from the wording[6] that the planning commission forwarded a positive recommendation on that the word "finish" was never intended to be put into the code here but rather was accidently left in Exhibit A of Ordinance No. 13-48 from a previous draft. The word "finish" must be read within the context of what the Planning Commission and Council were trying to achieve. If a floor can be easily converted into livable space (i.e., partially or fully above grade and not exclusively mechanical space or a crawl space) it should be considered for the internal height restrictions. It was clearly not intended that someone would be allowed to build two floors to a depth of twenty-four feet below the point at which the internal height is measured from.

Staff found the internal height of the building to be 53.5 feet, but the Applicant convinced the Planning Commission of the incorrect notion that the internal height requirements did not apply and argued that even if they did apply, they could comply by simply not finishing a massive portion of the house. As the internal height requirements do apply, the house does not comply with the internal height restriction as Council intended it to function when approving it. The Applicant should not be allowed to get around this rule simply by having the plans show the space as "unfinished" (especially considering the Applicant's representative refused to agree to a condition requiring that the Applicant not go in later and finish these floors).

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[4] Exhibit E, Sweeney MPD (III)(5)(a).
[5] Exhibit F, Staff Report for PL-13-01889.
[6] "A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters."

Within the height restrictions of LMC § 15-2.2-5 are also restrictions on roof pitch that the Applicant's proposed structure violates. LMC § 15-2.2-5(C) requires that homes in the HR-1 district have a roof pitch for the Contributing Roof Form[7] of between seven: twelve and twelve: twelve. Here the proposed building's Contributing Roof Form has a roof pitch of three: twelve. Even under the Applicant's theory of Section III(1) of the Sweeney MPD (that the LMC applies only when the Plat and MPD are silent) this is a violation as neither the MPD or Plat mention roof pitch.

Beyond the proposed structure's height violations, it violates the building footprint requirements. The LMC limits the building footprint to 4,500 square feet and MPD and Plat set the building footprint limit at 3,500 square feet. As the MPD is more restrictive, it governs. The MPD does not have a method of calculating building footprint. As it was written to incorporate the LMC, the LMC definition should be used to determine whether the proposed structure complies with the MPD.

The Plat has its own method of measuring the building footprint which has been modified to try to maneuver around its own rules since the proposed structure does not comply with the Plat limits. Even with the Plat Amendment, however, the proposed structure should not be viewed as in compliance with the Plat's building footprint limit. Under the LMC method, the Planning Department calculated the building footprint to be approximately 11,300 square feet, well beyond both the MPD limit and the LMC limit on building footprint.

The calculation would be the roughly the same (still well above the limit) under the Plat's rules both before and after amendment depending on whether or not the space where they intend to park their cars is a garage or not. Plat Note 2 (both before and after amendment) says that footprint "shall be calculated from the outside face of walls on any single level, and a maximum of three thousand five hundred (3,500) square feet footprint including garages." In an attempt to avoid this restriction, the Applicant has chosen to refer to the area where cars will be parked as a "parking area" rather than a "garage" and amend Plat Note 2 by adding to the exceptions from footprint calculation "that portion of any carport, mechanical space, parking area, or living space that is located below existing grade and which has landscaping or deck (as provided in 1(a)) located above it." The Applicant argued to the Planning Commission that the difference between a "garage" and "parking area" is determined by whether the space has a door, but the Applicant's assertion that the subject space is a parking area and not a garage simply because it does not have a door is baseless. "Garage" and "parking area" are not defined by the MPD or the Plat, but they are defined by the LMC. Those definitions support that the relevant space is a garage. The LMC definitions are:

> **Garage, Private**. An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.[8]

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[7] As defined in LMC § 15-15-1: "The most visually prominent roof form viewed from the primary public right-of-way.

[8] LMC § 15-15-1. There are four definitions for Garage in the LMC Defined Terms (Commercial Garage, Front Facing Garage, Private Garage, and Public Garage).

PARKING AREA. An unenclosed Area or Lot other than a Street used or designed for parking.[9]

The space cannot be a parking area because it is enclosed. The plans for the proposed structure show that at the level where cars will be parked is underground, surrounded by walls on all four sides, and has a ceiling and floor. That is the very definition of enclosed.[10] The argument that a space is not enclosed just because there is an entryway twelve feet above the space at the end of a long tunnel despite the space being surrounded by walls is frivolous. The space does, however, fit the definition of Private Garage. It is a portion of the main building that is intended to be used for the storage of motor vehicles by the occupants. The Applicant's requested edits to Plat Note 2 suggest that even the Applicant knows that this space is a garage and not a parking area. Although Plat Note 2 was amended, the Planning Commission did not acquiesce to all the Applicant's requested changes. The Applicant sought to have "including garages" deleted from the section of Plat Note 2 discussing what is included in the footprint calculation and adding "garages" to the list of new exceptions in the note. If this space is not going to be a garage, there would be no reason for the Applicant to try excluding garages. Since the space is a garage, the proposed structure violates the building footprint requirement, regardless of whether the Plat method or the LMC method is used to calculate the footprint.

Further, the proposed structure violates the design requirements of LMC (beyond the roof design issue discussed above). LMC § 15-13-8(A)(4) requires that "new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot." As stated in the report from the from the only Qualified Historic Preservation Profession in the record, the design fails to meet any of the requirements in this LMC section.[11] The report emphasizes that the project is not compatible in size, scale, and proportion and states that the materials and features are compatible with industrial design in the area but not with residential design as required for the HR-1 zone. Likewise, the massing requirements of LMC § 15-13-8(B)(2)(a)(9) were not met since the modules on the primary facades exceed 25 feet in width.

Finally, the approval of the Steep Slope CUP violates the Sensitive Land Overlay Zone (SLO) Regulations.[12] The Applicant is shifting the building envelope into the Very Steep Slope of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code has strict requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination."[13] Here, no analysis has been provided and no affirmative determination made. Where steep slopes are involved, an applicant must also "prove that the Development will have no significant adverse impact on adjacent Properties."[14] The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent

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[9] LMC § 15-15-1.
[10] *See Enclose*, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003).
[11] *See* Exhibit G, SWCA Memo.
[12] LMC § 15-2.21.
[13] LMC § 15-2.21-2.
[14] LMC § 15-2.21-4 (H)(d).

Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land."[15]

The Applicant has not and cannot prove any of these elements. The proposed density of more than 20,000 square feet is not compatible with adjacent properties. The industrial architectural design details with its massing, scale, and height are not compatible with the adjoining residential properties. Nor has the Applicant demonstrated how it is taking any mitigation measures to buffer adjoining properties.

3. *The Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.*

While it is possible to attain exceptions from the requirements of the LMC, CUPs and Plat Amendments are not the legally authorized tool for granting these exceptions. Nor is the Planning Commission the body empowered to make such exceptions. LMC § 15-1-11 requires that any such variance (i.e., exception) must be reviewed and approved by the Board of Adjustment, not the Planning Commission. If the Applicant wants to build this non-conforming structure in the HR-1 district, it must use the same process as anyone else seeking to avoid one of the LMC's requirements. Whether or not the Applicant should be allowed to proceed with the proposed structure, with its many LMC violations, should be determined by the Board of Adjustment under the strict standards of LMC § 15-10-8(C)—not the Planning Commission based on subjective personal preferences.

CONCLUSION

Based on the foregoing, we respectfully request that you reverse the Planning Commission's decision on applications # PL-22-05318, # PL-22-05319, # PL-22-05523, and # PL-23-05571 to ensure that the LMC is properly enforced and the appropriate review process is followed. Thank you for your consideration in this matter. Please feel free to contact us if you have any questions.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys

Encl.

[15] *Id.*

EXHIBIT C

Hermanns' Petition

HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Ms. Kellogg,

Eric Hermann and Susan Fredston-Hermann ("Appellants") file this petition to appeal approval of the Conditional Use Permit # PL-23-05571 (the "CUP"). Appellants submitted written comment and testified in opposition to the CUPs. They also own property within 300 feet of the boundary of the subject site—indeed, their primary residence is adjacent to the proposed project and the CUP contemplates modification of their property without their approval.

BACKGROUND

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law to (1) Amend the Plat Notes for the Treasure Hill Subdivision, Phase 1, Lot 2; (2) for a Conditional Use Permit for Residential Design of the Proposed Structure and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

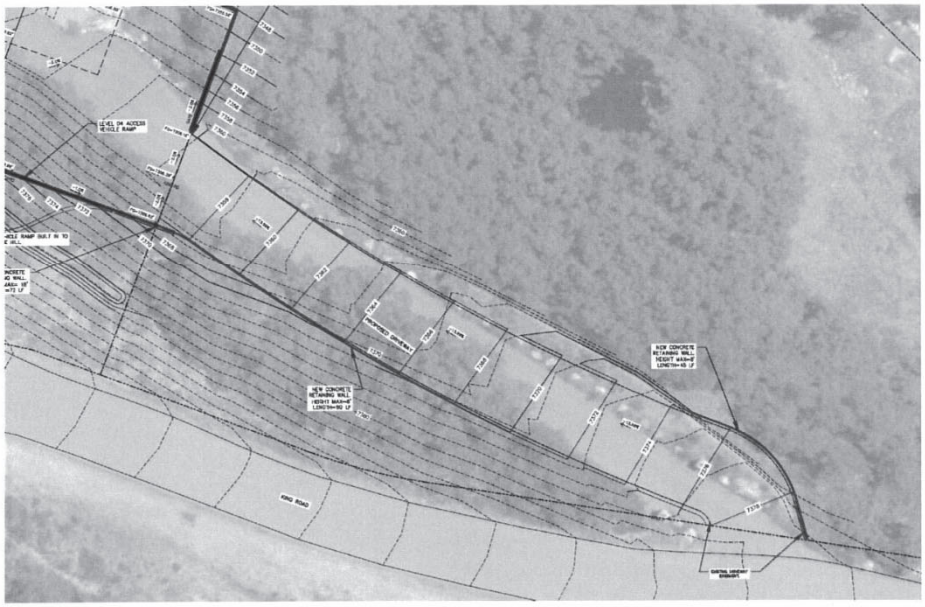
Relative to this appeal, that approval granted the Applicant the unilateral right to cut and re-grade the access driveway that crosses the Fredston-Hermanns' property at 200 King Road. The Applicant, as the owner of 220 King, has a non-exclusive right of access over a twenty-foot-wide driveway that runs the length of 200 King. This same driveway also serves as the access drive for the 200 King building envelope.

In approving the CUP, the Planning Commission incorrectly granted the Applicant the unilateral right to modify the access easement as long as they stay "within the platted easement." In earlier

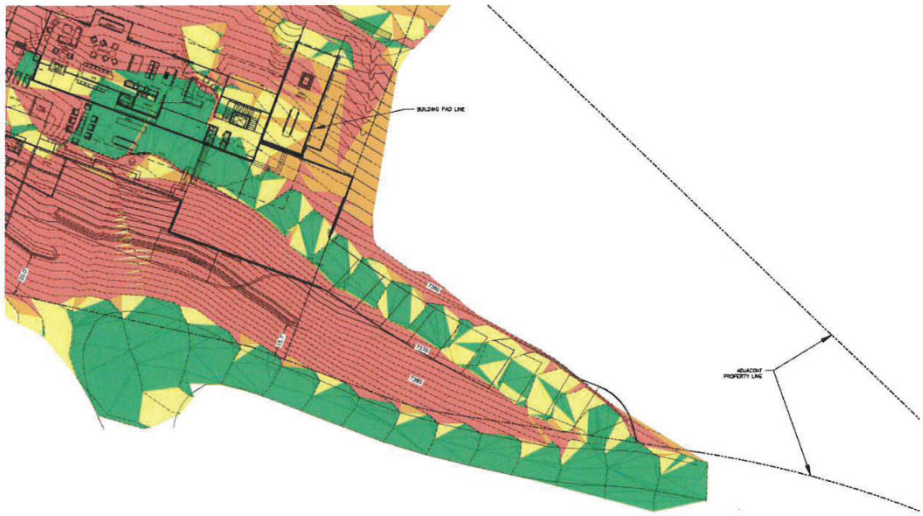
proposed Conditions of Approval Staff recommended that the Planning Commission require that the Applicant obtain my clients' express approval to modify their 200 King property. In the February 14, 2024 hearing, the Applicant objected to this condition of approval. And in the final conditions of approval, City Staff (without any discussion with the Planning Commission) removed this requirement and included only this condition:

> To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited within the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road." *See* February 21, 2024 Staff Report, Exhibit C.

The Applicant is proposing to re-grade and construct retaining walls on much of my clients' property. During the February 14, 2024 hearing discussion regarding the CUP, Commissioner Johnson asked the Applicant whether there would be any eight-foot retaining walls constructed that would not be hidden from view by the Applicant's proposed structure. The Applicant represented that the only over-height retaining walls would be screened from view by the proposed structure. However, what was not discussed in that context were the substantial eight-foot retaining walls the Applicant proposed to construct on my clients' 200 King Road property. Page two of the Applicant's proposed grading plan, shown below, includes two eight-foot concrete retaining walls on my clients' property. One of these walls is ninety feet long and the other is forty-five feet long. The combined eight-foot wall stretches one hundred and thirty-five feet.

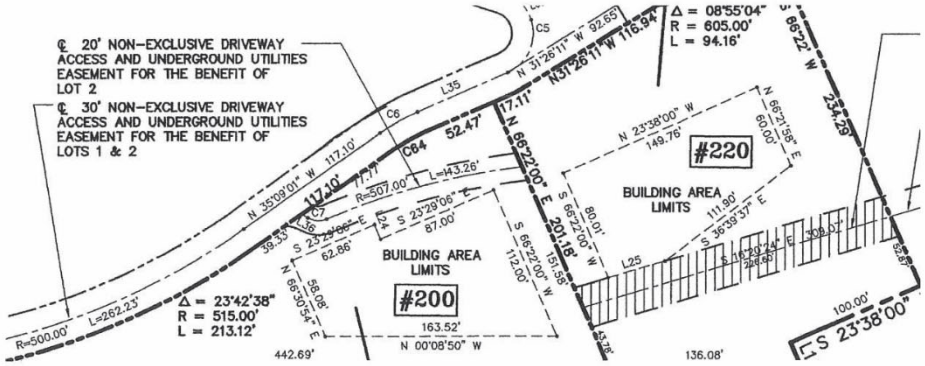


The proposed retaining walls are also located in the Very Steep Slope area of my clients' lot, as demonstrated at page 4 of Alliance Engineering's report provided by the Applicant.



In spite of the fact that they're proposing to install retaining walls along much of my clients' lot, the Applicant did not provide any input on the impact this will have on access for 200 King Road from the non-exclusive easement. Nor have they provided any analysis on the impact this excavation will have on my clients' primary residence, which is located directly down slope from their 200 King lot.

It is important to note that the Applicant's right to access over my clients' 200 King Road property is very limited. The "platted easement" is simply a 20' wide "non-exclusive" driveway and utility access. The entire statement of the easement is included in the following excerpt from the plat:



STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

Through the CUP, The Planning Commission improperly granted Applicant the unilateral right to modify the non-exclusive access easement over the Fredston-Hermanns' property.

It is axiomatic that an easement's use may not unreasonably interfere with the property rights of the servient estate. "Whenever there is ownership of property subject to an easement there is a dichotomy of interests, both of which must be respected and kept in balance. On the one hand, it is to be realized that the owner of the fee title, because of his general ownership, should have the use and enjoyment of his property to the highest degree possible, not inconsistent with the easement. On the other, the owner of the easement should likewise have the right to use and enjoy his easement to the fullest extent possible not inconsistent with the rights of the fee owner."[1]

[1] *Nyman v. Anchor Dev., L.L.C.*, 2003 UT 27.

The rights of the owner of fee title are all the more important where the easement is "non-exclusive" because it is contemplated that they (and potentially others) will also use the easement.

Here, the Fredston-Hermanns reserved the right to use the driveway for access to their lot. The driveway is located directly adjacent to the building area limits for the 200 King Road property. The most efficient means of accessing that building area will be from the already constructed driveway access. The Applicant and Staff are operating under the incorrect assumption that the Applicant may make any modifications to the driveway it desires so long as the work stays within the 20' non-exclusive easement—regardless of the impact that work may have on the Fredston-Hermanns' use of their property.

The flaw in this approach is apparent when you consider other non-exclusive easements in the area. For example, my clients have a non-exclusive access right over the Sweeney trails that run through the 220 King Lot. But this does not mean they have the unilateral right to enter the 220 King property (staying within the boundaries of the easement) and re-grade it to make their use of the Sweeney trails more convenient. Like the Applicant's driveway access, my clients' right to use the Sweeney trails is limited by its non-exclusive nature. Any attempt to re-grade the Sweeney trails would interfere with 220 King's rights—along with others who hold non-exclusive rights to the Sweeney Trails.

If the project proceeds as currently conditioned, it will mean that any applicant who holds a non-exclusive easement over another's property is entitled to modify that easement as it sees fit, so long as it stays within the geographic bounds of that easement. There are literally thousands of non-exclusive easements within Old Town alone. The continued grant and use of those non-exclusive easements depends upon cooperative use of non-exclusive easements, with proper deference to the rights of the property those easements burden.

Finally, it bears repeating that the Applicant is seeking its approval without meeting the Very Steep Slope requirements of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code is very clear about the requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination." *See* Park City Land Management Code § 15-2.21-2. Here, no analysis has been provided and no affirmative determination made.

Additionally, where steep slopes are involved, "The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties." LMC § 15-2.21-4 (H)(d). The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land." *Id.*

The Applicant has not and cannot prove any of these elements. To make matters worse, the Applicant is taking the position (and Staff appears to agree) that it does not need my clients' permission to construct retaining walls across much of their property—including an area of Very Steep Slopes.

CONCLUSION

The Planning Commission erred by failing to provide due consideration for the impacts this project will have on the Fredston-Hermanns' property, which will be substantially modified by the grant of the proposed CUP as conditioned—without their participation, review, or approval. For this reason, the Appeal Board should reverse the Planning Commission's grant of the CUP.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys

EXHIBIT D

Public Comment Emails

From: Nann Worel <nann.worel@parkcity.org>
Sent: Wednesday, February 7, 2024 5:01 PM
To: D Constable; jeremy.rubel@parkcity.org; Ryan Dickey; Tana Toly; Ed Parigian; Bill Ciraco; Rebeccaward@parkcity.org
Cc: D Constable
Subject: Re: 220 King Road

Thanks for taking the time to weigh in Patricia. I've missed seeing you at City Council meetings!

Emails sent to the Council are not entered into the public record unless requested by the author. Would you this this email to be included in the record for the February 14 Planning Commission meeting?

Warm regards,

Nann Worel
she, her, hers
Mayor
Park City Municipal Corporation
www.parkcity.org
445 Marsac Avenue, PO Box 1480
Park City, UT 84060
o: 435.615.5010 | c: 435.513.9955

From: D Constable <[redacted]>
Sent: Wednesday, February 7, 2024 12:45:37 PM
To: Nann Worel <nann.worel@parkcity.org>; jeremy.rubel@parkcity.org <jeremy.rubel@parkcity.org>; Ryan Dickey <ryan.dickey@parkcity.org>; Tana Toly <tana.toly@parkcity.org>; Ed Parigian <ed.parigian@parkcity.org>; Bill Ciraco <bill.ciraco@parkcity.org>; Rebeccaward@parkcity.org <Rebeccaward@parkcity.org>
Cc: D Constable <[redacted]>
Subject: [External] 220 King Road

Warning: Replies to this message will go to [redacted]. If you are unsure this is correct please contact the helpdesk.

[CAUTION] This is an external email.

Honorable Planning Director & City Council,

My husband David and I have recently become aware of the project that Matt Prince is planning to build at 220 King Road, an HR-1 zoned historical district. As we live on McHenry Avenue and would be impacted by this project day and night, we are alarmed by it's apparent disregard of the HR-1 standards set in the PC land management code. We support the Historic Design Review done by Anne Oliver, Principal Architectural Historian and Christina Olsen, Lead Architectural Historian, SWCA Enviromental Consultants, SLC, UT.

Respectably,
David & Patricia Constable
[redacted] McHenry Ave., Park City

From: Rebecca Ward <rebecca.ward@parkcity.org>
Sent: Friday, February 9, 2024 1:37 PM
To: Caitlyn Tubbs
Subject: FW: [External] 220 King

-----Original Message-----
From: Jim Doilney <[redacted]
Sent: Friday, February 9, 2024 1:36 PM
To: Alexandra Ananth <alexandra.ananth@parkcity.org>
Cc: Rebecca Ward <rebecca.ward@parkcity.org>; Max Doilney [redacted]
Subject: [External] 220 King

Warning: Replies to this message will go to [redacted] If you are unsure this is correct please contact the helpdesk.
[CAUTION] This is an external email.

PLEASE treat this application the same as that of any resident.

The applicant has seemingly BOUGHT preferential treatment for his request. A $1,000,000 contribution got him our mining history advocates support! He bought the Park Record to manage his media profile. As an Old Town Parkite and former council member I am extremely upset to think our town's soul is seemingly being sold.

Please treat him like everyone else.

Jim Doilney

Money should never put anyone above the law.
Sent from my iPhone

From: Rebecca Ward <rebecca.ward@parkcity.org>
Sent: Friday, February 9, 2024 9:47 AM
To: Caitlyn Tubbs
Subject: FW: [External] 220 King Road

-----Original Message-----
From: Alexandra Ananth <alexandra.ananth@parkcity.org>
Sent: Monday, February 5, 2024 12:47 PM
To: David Bennett <[redacted]com>
Cc: Rebecca Ward <rebecca.ward@parkcity.org>; Caitlyn Tubbs <caitlyn.tubbs@parkcity.org>
Subject: RE: [External] 220 King Road

Thank you for your comment. We will add it to the public record.

-----Original Message-----
From: David Bennett <[redacted]com>
Sent: Monday, February 5, 2024 12:45 PM
To: Alexandra Ananth <alexandra.ananth@parkcity.org>
Subject: [External] 220 King Road

Warning: Replies to this message will go to [redacted] If you are unsure this is correct please contact the helpdesk.
[CAUTION] This is an external email.

While I am a long time resident of Park Meadows, I spend time in old town and am flabbergasted at the proposed house at 220 King Road.

The Oliver/Olson historical design review is an excellent, professionally prepared document outlining all of the technical issues why this current proposal should be denied.

The above referenced report states, "...the size, scale, and proportions of the residence and its component elements, including the shed roof and cantilevered flat roof, are reminiscent of a large-scale industrial building rather than a residential building, which is not compatible with the HR-1 zone."

Please reject the current proposal and direct the applicant to follow Park City's Design Guidelines.

Thank you

David

From: Rebecca Ward <rebecca.ward@parkcity.org>
Sent: Friday, February 9, 2024 9:46 AM
To: Caitlyn Tubbs
Subject: FW: [External] Comments Regarding 220 King Road for the 2/14/24 Planning Commission Meeting
Attachments: bbab0217-0b73-4f5c-8316-f7607e216470 exhibit J 220 King.pdf

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From: John Vrabel [redacted]
Sent: Thursday, February 8, 2024 5:36 PM
To: Alexandra Ananth <alexandra.ananth@parkcity.org>
Cc: Rebecca Ward <rebecca.ward@parkcity.org>
Subject: [External] Comments Regarding 220 King Road for the 2/14/24 Planning Commission Meeting

Warning: Replies to this message will go to [redacted]. If you are unsure this is correct please contact the helpdesk.
[CAUTION] This is an external email.

C/O Alexandra Ananth & Rebecca Ward:

The above is a Historic Design Review done by Anne Oliver, Principal Architectural Historian and Christine Olsen, Lead Architectural Historian, SWCH Environmental Consultants,
SLC, UT.

Dear Honorable Planning Commissioners:

I am a 56 year resident of [redacted] Upper Norfolk Avenue, in Old Town Park City. My residence is approximately 115 yards from Mr. Prince's 220 King Road project.

I include the above Olsen/Oliver review because the quality, detail and accuracy describing Mr. Prince's project is, in my opinion, beyond reproach.

It then begs the question, "Why dose Mathew Prince deserve special treatment?"
He doesn't! At least not in the historic district of Old Town. Mr. Prince is quoted as saying: "All we want is to be good neighbors, turn two party houses into a single-family home that we can be proud of."
Mr. Prince then should go be proud in the Colony, where this size dwelling is allowed.

For many years I along with the residents of Park City have watched our Planning Department fight the good fight and deal with troublesome development in a kind and orderly manor.
Examples include the Peg development in the PCMR parking lot, where they (Peg) proposed a terrible plan that only benefited themselves. The planners offered several options for improvement but Peg

refused to budge and ultimately departed. (Thank you Planners!)
Next was the Kimball Art Center's 'Monument-to-the-World' plan which (they thought) was so magnificent, that no Planning over-site was even needed! Not so fast! And when they didn't get their way they packed up and moved. (Thank you Planners!)
Next was the original Alice Claim project in Woodside Gulch where the developer had some 13 homesites spread everywhere. The developer refused to change a really bad plan, and waited until the very last day before his permit expired and finally agreed to a sensible plan for a very sensitive, canyon area. 9 home sites were then aligned along the only road, and a difficult problem was solved. (Thank you Planners!)
In closing is 'The Sweeney' project. This was a unique and complex project as there were so many aspects involved, including an unusually long time span, which added another element to the difficulty. Our Planners showed great patience over a long and difficult period. It is my opinion that both the Planning Commission and the City Council are to be commended for their final resolution.

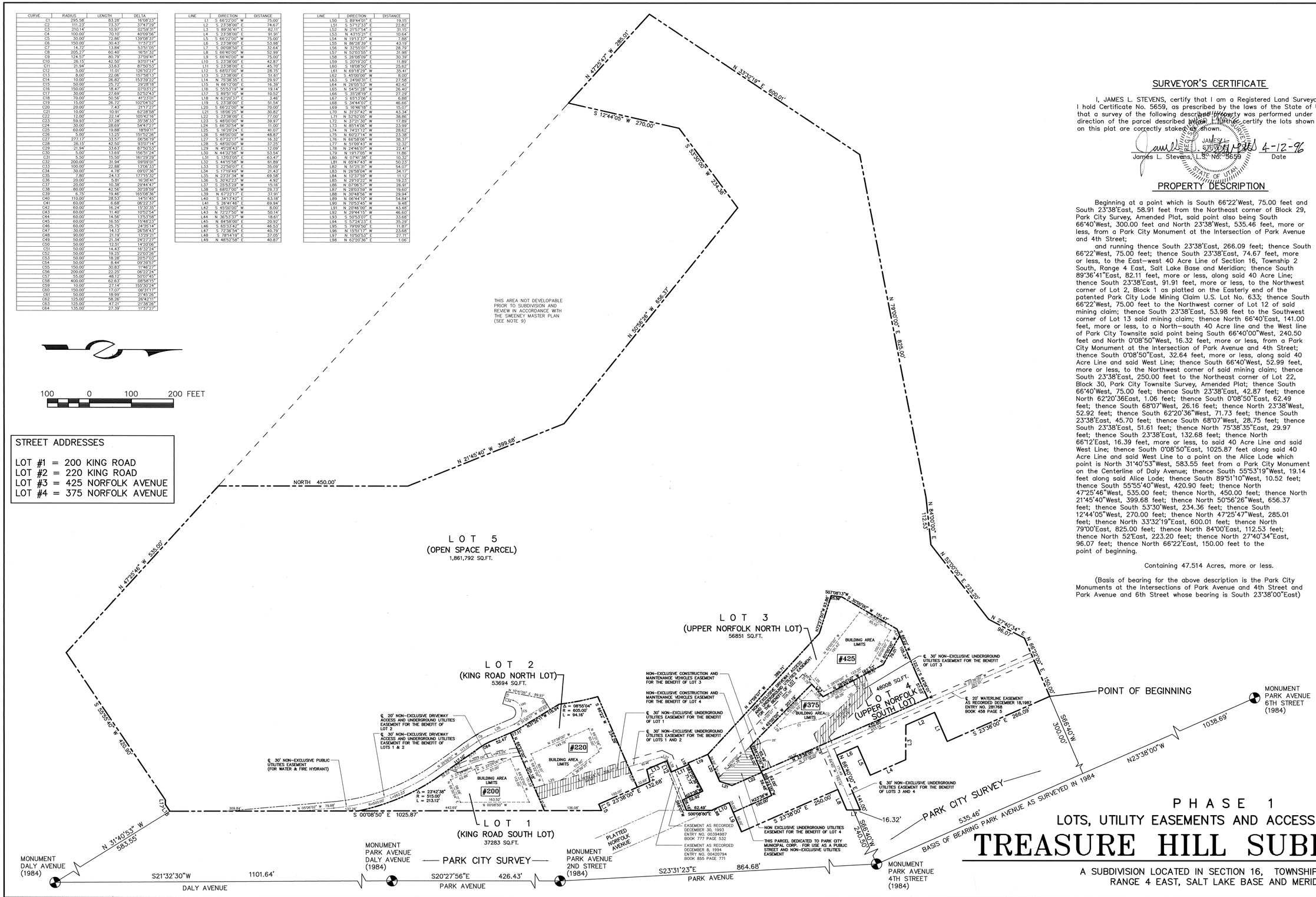
If Mathew Prince really wants to be a good neighbor he would follow the direction of our town's professional planners and help them to maintain the high quality of our town's historic residential neighborhood, an outcome that we can all be proud of.
Thank you!
Respectfully,
John Vrabel
Resident.

Sent from my iPhone

CURVE	RADIUS	LENGTH	DELTA
C1	295.58'	83.28'	16°08'23"
C2	111.23'	71.13'	37°47'59"
C3	210.14'	10.97'	02°59'31"
C4	100.00'	70.10'	40°09'56"
C5	30.00'	72.86'	139°08'37"
C6	150.00'	30.43'	11°37'27"
C7	14.72'	13.84'	53°51'00"
C8	205.27'	60.40'	16°51'33"
C9	124.27'	80.79'	37°09'41"
C10	26.15'	42.50'	93°07'14"
C11	21.94'	33.63'	87°50'53"
C12	5.00'	11.01'	126°10'27"
C13	8.00'	22.06'	157°58'13"
C14	10.00'	26.82'	153°39'22"
C15	50.00'	25.72'	29°28'18"
C16	150.00'	18.47'	07°03'12"
C17	30.00'	27.69'	52°52'43"
C18	70.00'	50.56'	41°23'01"
C19	15.00'	26.72'	102°04'52"
C20	20.00'	7.43'	21°17'29"
C21	10.00'	10.91'	62°28'58"
C22	12.00'	22.14'	105°42'16"
C23	59.93'	57.28'	35°38'33"
C24	30.00'	28.69'	54°47'27"
C25	60.00'	19.88'	18°59'11"
C26	5.00'	13.25'	151°52'28"
C27	277.17'	33.57'	06°56'19"
C28	26.15'	42.50'	93°07'14"
C29	21.94'	33.63'	87°50'53"
C30	5.00'	13.69'	156°51'24"
C31	5.50'	15.50'	161°29'29"
C32	200.00'	31.94'	09°09'01"
C33	100.00'	22.88'	13°06'33"
C34	30.00'	4.78'	09°07'36"
C35	7.80'	24.13'	177°15'33"
C36	20.00'	5.81'	16°38'41"
C37	20.00'	10.38'	29°44'47"
C38	80.00'	40.56'	30°38'59"
C39	5.75'	19.46'	165°08'38"
C40	110.00'	28.53'	14°51'45"
C41	60.00'	6.68'	06°22'37"
C42	60.00'	16.24'	15°30'35"
C43	60.00'	10.52'	10°02'54"
C44	60.00'	14.56'	13°53'58"
C45	60.00'	16.55'	15°48'23"
C46	60.00'	25.75'	24°35'14"
C47	30.00'	14.13'	26°58'43"
C48	90.00'	21.19'	13°29'21"
C49	50.00'	21.34'	24°27'27"
C50	50.00'	12.51'	14°20'06"
C51	50.00'	14.43'	16°32'24"
C52	50.00'	19.25'	22°03'26"
C53	50.00'	18.28'	20°57'03"
C54	50.00'	8.44'	09°39'57"
C55	150.00'	30.83'	11°46'27"
C56	200.00'	22.25'	06°22'34"
C57	55.00'	48.12'	50°07'45"
C58	400.00'	62.63'	08°58'13"
C59	10.00'	27.14'	155°30'24"
C60	150.00'	17.07'	06°31'17"
C61	50.00'	18.99'	21°45'26"
C62	125.00'	58.26'	26°42'11"
C63	125.00'	47.21'	21°38'58"
C64	135.00'	27.39'	11°37'27"

LINE	DIRECTION	DISTANCE
L1	S 66°22'00" W	75.00'
L2	S 23°38'00" E	74.67'
L3	S 89°36'41" E	82.11'
L4	S 23°38'00" E	91.91'
L5	S 66°22'00" W	75.00'
L6	S 23°38'00" E	53.98'
L7	S 00°08'50" E	32.64'
L8	S 66°40'00" W	52.99'
L9	S 66°40'00" W	75.00'
L10	S 23°38'00" E	42.87'
L11	S 23°38'00" E	45.70'
L12	S 68°07'00" W	28.75'
L13	S 23°38'00" E	51.61'
L14	N 75°38'35" E	29.97'
L15	N 66°12'00" E	16.39'
L16	S 55°53'19" W	19.14'
L17	S 89°51'10" W	10.52'
L18	N 62°20'37" E	3.46'
L19	S 23°38'00" E	51.54'
L20	S 66°22'00" W	70.00'
L21	S 18°06'25" W	30.80'
L22	S 23°38'00" E	77.00'
L23	S 48°00'00" W	39.97'
L24	S 66°30'54" W	11.00'
L25	S 16°29'24" E	41.07'
L26	S 48°00'00" W	48.87'
L27	S 67°22'17" W	16.32'
L28	S 48°00'00" W	37.25'
L29	N 45°08'43" E	12.09'
L30	N 44°32'58" W	53.54'
L31	S 13°03'05" E	63.47'
L32	S 44°15'58" W	61.89'
L33	S 22°50'07" E	35.09'
L34	S 17°19'49" W	21.43'
L35	N 23°31'34" W	69.58'
L36	S 30°42'23" W	4.92'
L37	S 25°53'29" W	15.16'
L38	S 68°07'00" W	29.75'
L39	N 67°22'17" E	37.91'
L40	S 34°13'42" E	63.18'
L41	S 26°41'46" E	69.94'
L42	S 45°00'00" W	8.00'
L43	N 72°27'50" W	50.14'
L44	N 36°53'37" W	18.61'
L45	N 84°58'00" E	20.92'
L46	S 65°33'42" E	46.53'
L47	S 72°36'54" E	40.79'
L48	S 78°14'19" E	37.05'
L49	N 48°52'58" E	40.87'

LINE	DIRECTION	DISTANCE
L50	S 89°44'01" E	19.15'
L51	S 57°12'33" E	22.82'
L52	N 21°57'54" E	31.15'
L53	N 43°15'21" E	10.64'
L54	N 19°13'37" W	7.88'
L55	N 86°28'39" E	43.19'
L56	N 32°55'01" E	28.79'
L57	N 52°03'55" E	31.98'
L58	S 26°08'59" E	30.39'
L59	S 20°19'20" E	11.89'
L60	S 18°08'50" E	25.62'
L61	N 69°18'29" W	35.41'
L62	S 45°00'00" W	8.00'
L63	S 24°00'31" E	27.58'
L64	N 26°05'53" W	42.42'
L65	N 54°51'28" W	26.40'
L66	S 35°28'19" E	27.29'
L67	S 65°13'06" E	6.88'
L68	S 34°44'07" E	46.66'
L69	S 16°46'18" E	15.07'
L70	N 31°37'42" W	43.34'
L71	N 52°52'05" W	38.86'
L72	N 37°21'30" W	17.89'
L73	N 85°14'06" W	23.99'
L74	N 74°27'12" W	28.62'
L75	N 60°27'14" W	23.38'
L76	N 66°58'06" W	38.37'
L77	N 51°09'43" W	12.32'
L78	N 24°46'37" W	23.41'
L79	N 19°17'05" W	11.86'
L80	N 07°41'38" E	10.32'
L81	N 09°47'43" W	50.23'
L82	N 51°25'31" W	54.07'
L83	N 26°58'04" W	34.17'
L84	N 12°37'59" W	11.12'
L85	N 29°10'22" W	19.23'
L86	N 07°06'57" W	26.91'
L87	N 28°03'59" W	19.60'
L88	N 30°48'56" W	29.94'
L89	N 06°44'10" W	54.84'
L90	N 70°53'45" W	9.48'
L91	N 28°46'00" W	43.48'
L92	N 29°44'15" W	46.60'
L93	S 50°53'07" E	33.68'
L94	S 57°24'23" E	35.29'
L95	S 78°09'50" E	11.87'
L96	N 15°51'17" W	23.68'
L97	N 10°50'53" E	27.71'
L98	N 62°20'36" E	1.06'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N 33°32'19" E 600.01'
S 12°44'05" W 270.00'
S 53°30'00" W 234.36'
N 50°56'26" W 656.37'
N 79°00'00" E 825.00'
N 84°00'00" E 112.53'
N 52°00'00" E 223.20'
N 27°40'34" E 96.07'
N 66°22'00" E 150.00'
N 47°25'46" W 535.00'
N 21°45'40" W 399.68'
NORTH 450.00'
S 55°55'40" W 220.92'
N 31°40'53" W 583.55'
S 00°08'50" E 1025.87'
S 23°38'00" E 132.68'
S 23°38'00" E 250.00'
S 66°40'W 240.50'
S 66°40'W 300.00'
N23°36'00"W 1038.69'
THIS AREA NOT DEVELOPABLE PRIOR TO SUBDIVISION AND REVIEW IN ACCORDANCE WITH THE SWEENEY MASTER PLAN (SEE NOTE 9)
LOT 5
(OPEN SPACE PARCEL)
1,861,792 SQ.FT.
LOT 3
(UPPER NORFOLK NORTH LOT)
56851 SQ.FT.
LOT 2
(KING ROAD NORTH LOT)
53694 SQ.FT.
LOT 4
(UPPER NORFOLK SOUTH LOT)
48008 SQ.FT.
LOT 1
(KING ROAD SOUTH LOT)
37283 SQ.FT.
#200
#220
#375
#425
BUILDING AREA LIMITS
Δ = 23°42'38"
R = 515.00'
L = 213.12'
R=605.00'
Δ = 08°55'04"
R = 605.00'
L = 94.16'
R=485.00'
Δ = 08°55'04"
R = 485.00'
L = 75.51'
R=515.00'
Δ = 08°55'04"
R = 515.00'
L = 80.15

CURVE	RADIUS	LENGTH	DELTA
C1	295.58'	83.28'	16°08'23"
C2	111.23'	73.37'	37°47'29"
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C15	50.00'	25.72'	29°28'18"
C16	150.00'	18.47'	07°03'12"
C17	30.00'	27.69'	52°52'43"
C18	70.00'	50.56'	41°23'01"
C19	15.00'	26.72'	100°14'59"
C20	20.00'	7.43'	21°17'27"
C21	10.00'	10.91'	62°28'58"
C22	12.00'	22.14'	105°42'16"
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C27	272.17'	33.57'	06°56'15"
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C43	60.00'	11.40'	10°52'54"
C44	60.00'	14.56'	13°53'58"
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C49	50.00'	21.34'	24°27'27"
C50	50.00'	12.51'	14°20'06"
C51	50.00'	14.43'	16°32'24"
C52	50.00'	19.25'	22°03'28"
C53	50.00'	18.28'	20°57'03"
C54	50.00'	8.44'	09°40'57"
C55	150.00'	30.83'	11°46'27"
C56	200.00'	22.25'	06°22'24"
C57	55.00'	48.12'	50°07'45"
C58	400.00'	62.63'	08°58'15"
C59	10.00'	27.14'	155°30'24"
C60	150.00'	17.07'	06°31'17"
C61	50.00'	18.99'	21°45'26"
C62	125.00'	58.26'	26°42'11"
C63	125.00'	47.21'	21°38'38"
C64	135.00'	27.39'	11°37'27"

LINE	DIRECTION	DISTANCE
L1	S 66°22'00" W	75.00'
L2	S 23°38'00" E	74.67'
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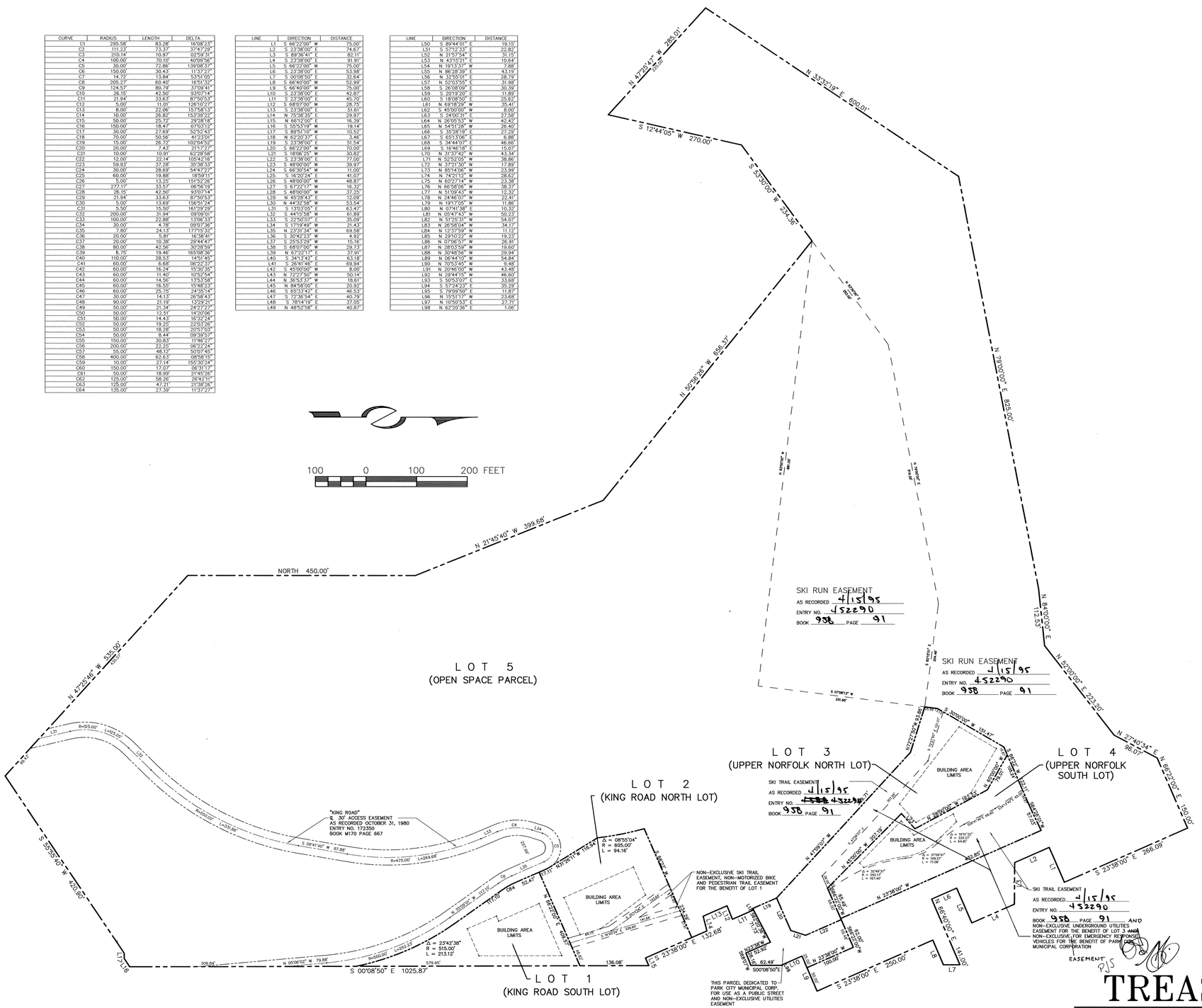
L6	S 23°38'00" E	53.98'
L7	S 00°08'50" E	32.64'
L8	S 66°40'00" W	52.99'
L9	S 66°40'00" W	75.00'
L10	S 23°38'00" E	42.87'
L11	S 23°38'00" E	45.70'
L12	S 68°07'00" W	28.75'
L13	S 23°38'00" E	51.61'
L14	N 75°58'35" E	29.97'
L15	N 66°12'00" E	16.39'
L16	S 55°53'19" W	19.14'
L17	S 89°51'10" W	10.52'
L18	N 62°20'37" E	3.46'
L19	S 23°38'00" E	51.54'
L20	S 66°22'00" W	70.00'
L21	S 18°06'25" W	30.82'
L22	S 23°38'00" E	77.00'
L23	S 48°00'00" W	39.97'
L24	S 66°30'54" W	11.00'
L25	S 16°20'24" E	41.07'
L26	S 48°00'00" W	48.87'
L27	S 67°22'17" W	16.32'
L28	S 48°00'00" W	37.25'
L29	N 45°28'43" E	12.09'
L30	N 44°31'17" W	53.54'
L31	S 13°03'05" E	63.47'
L32	S 44°12'58" W	61.89'
L33	S 22°50'07" E	35.09'
L34	S 17°19'49" W	21.43'
L35	N 23°31'34" W	69.58'
L36	S 30°42'23" W	4.92'
L37	S 25°53'29" W	15.16'
L38	S 68°07'00" W	29.73'
L39	N 67°22'17" E	37.91'
L40	S 34°13'42" E	63.18'
L41	S 26°41'46" E	69.94'
L42	S 45°00'00" W	8.00'
L43	N 72°27'50" W	50.14'
L44	N 36°53'37" W	18.61'
L45	N 84°58'00" E	20.92'
L46	S 60°33'43" E	46.53'
L47	S 72°58'54" E	40.79'
L48	S 78°14'19" E	37.05'
L49	N 48°52'58" E	40.87'

LINE	DIRECTION	DISTANCE
L50	S 89°44'01" E	19.15'
L51	S 57°12'33" E	22.82'
L52	N 21°57'54" E	31.15'
L53	N 43°15'21" E	10.64'
L54	N 19°13'37" W	7.88'
L55	N 86°28'39" E	43.19'
L56	N 32°55'01" E	28.79'
L57	N 52°03'55" E	31.98'
L58	S 26°08'09" E	30.39'
L59	S 20°19'29" E	11.89'
L60	S 18°08'50" E	25.62'
L61	N 69°18'29" E	35.41'
L62	S 45°00'00" W	8.00'
L63	S 24°00'31" E	27.58'
L64	N 26°05'53" W	42.42'
L65	N 54°51'28" W	26.40'
L66	S 33°28'19" E	27.29'
L67	S 65°13'06" E	6.88'
L68	S 34°44'07" E	46.66'
L69	S 16°46'18" E	15.07'
L70	N 31°37'42" W	43.34'
L71	N 52°52'05" W	38.86'
L72	N 37°21'30" W	17.89'
L73	N 85°14'06" W	23.99'
L74	N 74°21'12" W	28.62'
L75	N 60°27'14" W	23.38'
L76	N 66°58'08" W	38.37'
L77	N 51°09'43" W	12.02'
L78	N 24°46'07" W	22.41'
L79	N 19°17'05" W	11.86'
L80	N 07°41'38" E	10.32'
L81	N 05°47'43" W	50.23'
L82	N 51°25'31" W	54.07'
L83	N 26°58'04" W	34.17'
L84	N 12°37'59" W	11.12'
L85	N 29°10'22" W	19.23'
L86	N 07°06'57" W	26.91'
L87	N 28°03'59" W	19.60'
L88	N 30°48'56" W	29.94'
L89	N 06°44'10" W	54.84'
L90	N 70°53'45" W	9.48'
L91	N 20°46'00" W	43.48'
L92	N 29°44'15" W	46.60'
L93	S 50°53'07" E	33.68'
L94	S 57°24'23" E	35.29'
L95	S 78°09'09" E	11.87'
L96	N 15°51'17" W	23.68'
L97	N 10°50'53" E	27.71'
L98	N 62°20'36" E	1.06'



OWNER S DEDICATION AND CONSENT TO RECORD

The owners or their representatives, hereby irrevocably offer for dedication to the City of Park City all the streets, trails right-of-way, land for local government uses, easements, parks and required utilities and easements shown on the subdivision plat and construction plans in accordance with an irrevocable offer of dedication subject to easements, deeds of record and agreements of record.

IN WITNESS WHEREOF, the undersigned sets their hands this 4TH day of April, 1996.

EDMUND J. BEAULIEU

CLYDE CARLIG

SWEENEY LAND COMPANY, a Utah general partnership

By Patrick J. Sweeney
Patrick J. Sweeney
Managing Partner

ACKNOWLEDGEMENT

STATE OF Utah)
: ss.
COUNTY OF Summit)

On this 4th day of April, 1996, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: Summit Co Utah

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE, P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

My Commission Expires:
Nov 27, 1997

ACKNOWLEDGEMENT

STATE OF Utah)
: ss.
COUNTY OF Summit)

On this 4th day of April, 1996, personally appeared before me CLYDE CARLIG, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: Summit Co Utah

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE, P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

My Commission Expires:
Nov 27, 1997

ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 4th day of April, 1996, personally appeared before me PATRICK J. SWEENEY, who being by me duly sworn, did say that he is the Managing General Partner of Sweeney Land Company, a Utah general partnership, and that the foregoing instrument was signed on behalf of said partnership, and said PATRICK J. SWEENEY acknowledged to me that said partnership executed the same.

NOTARY PUBLIC
Residing at: Summit Co Utah

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE, P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

My Commission Expires:
Nov 27, 1997

PJS

PHASE 1
SKI TRAIL EASEMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

ENTRY # 452295 RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF Coalition Title Co.
DATE 4-15-96 TIME 17:00 BOOK _____ PAGE _____
$95.00 FEE
RECORDER

CURVE	RADIUS	LENGTH	DELTA
C1	295.58'	83.28'	16°08'23"
C2	111.23'	73.37'	37°47'29"
C3	210.14'	10.97'	02°59'31"
C4	100.00'	70.10'	40°09'56"
C5	30.00'	72.86'	139°08'37"
C6	150.00'	30.43'	11°37'27"
C7	14.72'	13.84'	53°51'05"
C8	205.27'	60.40'	16°51'32"
C9	124.57'	80.79'	37°09'41"
C10	26.15'	42.50'	93°07'14"
C11	21.94'	33.63'	87°50'53"
C12	5.00'	11.01'	126°10'27"
C13	8.00'	22.06'	157°58'13"
C14	10.00'	26.82'	153°39'22"
C15	50.00'	25.72'	29°28'18"
C16	150.00'	18.47'	07°03'12"
C17	30.00'	27.69'	52°52'43"
C18	70.00'	50.56'	41°23'01"
C19	15.00'	26.72'	102°04'52"
C20	20.00'	7.43'	21°17'27"
C21	10.00'	10.91'	62°28'58"
C22	12.00'	22.14'	105°42'16"
C23	59.83'	37.28'	35°38'33"
C24	30.00'	28.69'	54°47'27"
C25	60.00'	19.88'	18°59'11"
C26	5.00'	13.25'	151°52'26"
C27	277.17'	33.57'	06°56'19"
C28	26.15'	42.50'	93°07'14"
C29	21.94'	33.63'	87°50'53"
C30	5.00'	13.69'	156°51'24"
C31	5.50'	15.50'	161°29'29"
C32	200.00'	31.94'	09°09'01"
C33	100.00'	22.88'	13°06'33"
C34	30.00'	4.78'	09°07'36"
C35	7.80'	24.13'	177°15'32"
C36	20.00'	5.81'	16°38'41"
C37	20.00'	10.38'	29°44'47"
C38	80.00'	42.56'	30°28'59"
C39	6.75'	19.46'	165°08'36"
C40	110.00'	28.53'	14°51'45"
C41	60.00'	6.68'	06°22'37"
C42	60.00'	16.24'	15°30'35"
C43	60.00'	11.40'	10°52'54"
C44	60.00'	14.56'	13°53'58"
C45	60.00'	16.55'	15°48'23"
C46	60.00'	25.75'	24°35'14"
C47	30.00'	14.13'	26°58'43"
C48	90.00'	21.19'	13°29'21"
C49	50.00'	21.34'	24°27'27"
C50	50.00'	12.51'	14°20'06"
C51	50.00'	14.43'	16°32'24"
C52	50.00'	19.25'	22°03'26"
C53	50.00'	18.28'	20°57'03"
C54	50.00'	8.44'	09°39'57"
C55	150.00'	30.83'	11°46'27"
C56	200.00'	22.25'	06°22'24"
C57	55.00'	48.12'	50°07'45"
C58	400.00'	62.63'	08°58'15"
C59	10.00'	27.14'	155°30'24"
C60	150.00'	17.01'	06°30'13"
C61	50.00'	18.99'	21°45'26"
C62	125.00'	58.26'	26°42'11"
C63	125.00'	47.21'	21°38'26"
C64	135.00'	27.39'	11°37'27"

LINE	DIRECTION	DISTANCE
L1	S 66°22'00" W	75.00'
L2	S 23°38'00" E	74.67'
L3	S 89°36'41" E	82.11'
L4	S 23°38'00" E	91.91'
L5	S 66°22'00" W	75.00'
L6	S 23°38'00" E	53.98'
L7	S 00°08'50" E	32.64'
L8	S 66°40'00" W	52.99'
L9	S 66°40'00" W	75.00'
L10	S 23°38'00" E	42.87'
L11	S 23°38'00" E	45.70'
L12	S 88°07'00" W	28.75'
L13	S 23°38'00" E	51.61'
L14	N 75°38'35" E	29.97'
L15	N 66°12'00" E	16.39'
L16	S 55°53'19" W	19.14'
L17	S 89°51'10" W	10.52'
L18	N 62°20'37" E	3.46'
L19	S 23°38'00" E	51.54'
L20	S 66°22'00" W	70.00'
L21	S 18°06'25" W	30.82'
L22	S 23°38'00" E	77.00'
L23	S 48°00'00" W	39.97'
L24	S 66°30'54" W	11.00'
L25	S 16°20'24" E	41.07'
L26	S 48°00'00" W	48.87'
L27	S 67°22'17" W	16.32'
L28	S 48°00'00" W	37.25'
L29	N 45°28'43" E	12.09'
L30	N 44°32'58" W	53.54'
L31	S 13°03'05" E	63.47'
L32	S 44°15'58" W	61.89'
L33	S 22°50'07" E	35.09'
L34	S 17°19'49" W	21.43'
L35	N 23°31'34" W	69.58'
L36	S 30°49'23" W	4.92'
L37	S 25°53'29" W	15.16'
L38	S 68°07'00" W	29.73'
L39	N 67°22'17" E	37.91'
L40	S 34°13'42" E	63.18'
L41	S 26°41'46" E	69.94'
L42	S 45°00'00" W	8.00'
L43	N 72°27'50" W	50.14'
L44	N 36°51'13" W	18.61'
L45	N 84°58'00" E	20.92'
L46	S 65°33'42" E	46.53'
L47	S 72°36'54" E	40.79'
L48	S 78°14'19" E	37.05'
L49	N 48°52'58" E	40.87'

LINE	DIRECTION	DISTANCE
L50	S 89°44'01" E	19.15'
L51	S 57°12'33" E	22.80'
L52	N 21°57'54" E	31.15'
L53	N 43°19'21" E	10.64'
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L55	N 86°28'39" E	43.19'
L56	N 37°52'01" E	28.79'
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L58	S 28°08'09" E	30.39'
L59	S 20°19'20" E	11.89'
L60	S 18°58'50" E	25.62'
L61	N 69°18'29" W	35.41'
L62	S 45°00'00" W	8.00'
L63	S 24°00'31" E	27.58'
L64	N 28°05'53" W	42.43'
L65	N 54°51'28" W	28.40'
L66	S 35°28'19" E	27.29'
L67	S 65°13'06" E	6.88'
L68	S 34°44'07" E	46.66'
L69	S 16°46'18" E	15.07'
L70	N 31°37'42" W	43.34'
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L72	N 37°21'30" W	17.89'
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L75	N 60°27'14" W	23.38'
L76	N 66°58'06" W	38.37'
L77	N 51°09'43" W	12.32'
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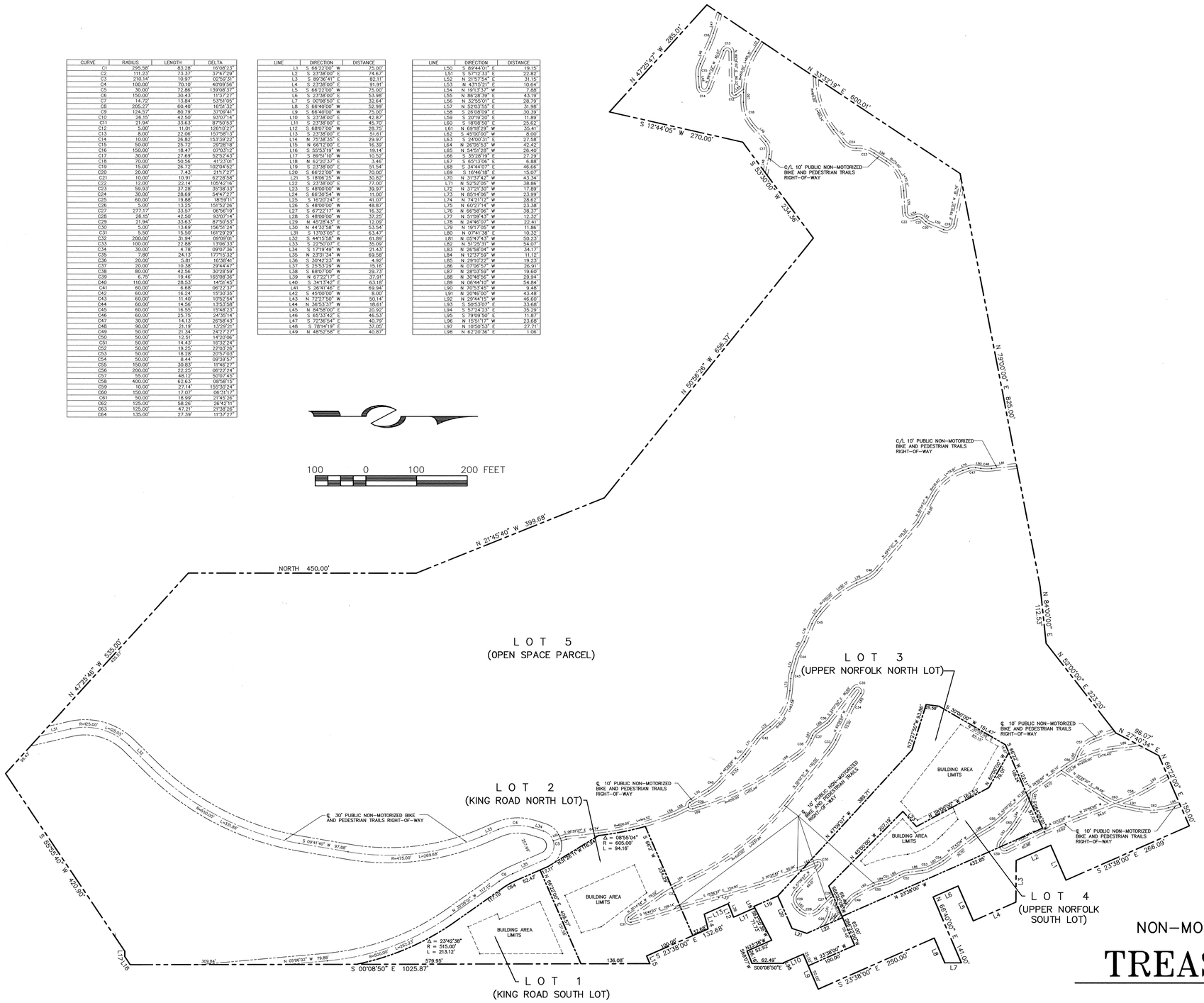
L79	N 19°17'05" W	11.86'
L80	N 07°41'38" E	10.32'
L81	N 05°47'43" W	50.23'
L82	N 51°25'31" W	54.07'
L83	N 26°58'04" W	34.17'
L84	N 12°37'59" W	11.12'
L85	N 29°07'22" W	19.33'
L86	N 07°06'57" W	26.91'
L87	N 28°03'59" W	19.60'
L88	N 30°48'56" W	29.94'
L89	N 06°44'10" W	54.84'
L90	N 70°53'45" W	9.48'
L91	N 20°46'00" W	43.48'
L92	N 29°44'15" W	46.60'
L93	S 50°53'09" E	33.68'
L94	S 57°24'23" E	35.29'
L95	S 79°09'50" E	11.87'
L96	N 15°51'17" W	23.68'
L97	N 10°50'53" E	27.71'
L98	N 62°20'36" E	1.08'



SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON:

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

2. BUILDING AREA LIMITS. Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plat or as consistent with the approved construction drawings of the driveways, Upper Norfolk turnaround, King Road turnaround, ski bridge and utility plans) shall be limited to the Building Area Limits noted on the Plat. Notwithstanding the forgoing, flat areas located on the Ski Trail Easements where they cross Lots 3 and 4 and are directly adjacent to the Building Area Limits of Lots 3 and 4 may be landscaped with irrigated groomed grass.

3. CONSTRUCTION DISTURBANCE. Unless otherwise provided in agreements with Park City Municipal Corporation which are of record, temporary construction disturbance shall be limited to twenty (20) feet beyond the Building Area Limits or to adjoining-lot property lines which ever is closer. Such disturbed area shall be revegetated with native landscaping.

4. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, between floor levels.

5. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reestablished grade whichever is greater.

6. MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

7. SEWER LATERALS. Maintenance and replacement of sewer laterals shall be the responsibility of their respective owners and not that of the Snyderville Basin Sewer Improvement District.

8. FIRE SPRINKLING. Internal and external modified 13d fire sprinklers shall be provided for the homes. Wood roofing material shall be prohibited.

9. PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

PHASE 1
NON-MOTORIZED BIKE AND PEDESTRIAN TRAILS RIGHT-OF-WAY

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

Entry# 452295 RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF Coalition Title Co.
DATE 4-15-96 TIME 17:00 BOOK _____ PAGE _____
$95.00 FEE
RECORDER

TREASURE HILL SUB. 3 of 3

Ordinance No. 95-50

AN ORDINANCE APPROVING THE FINAL PLAT OF TREASURE HILL SUBDIVISION LOCATED AT 200 AND 220 KING ROAD AND 375 AND 425 NORFOLK AVENUE, PARK CITY, UTAH

WHEREAS, the owners of the property indicated above, MPE Inc., petitioned the City Council for approval of the final plat; and

WHEREAS, proper notice was sent and the Planning Commission held a public hearing on August 30, 1995 and the City Council conducted a public hearing on September 7, 1995 to receive testimony on the proposed plat amendment; and

WHEREAS, on August 30, 1995 the Planning Commission forwarded a positive recommendation of approval to the City Council, with conditions regarding building size, public utility, fire protection, trails, the Infrastructure Review Ordinance, and setbacks; and

WHEREAS, it is in the best interest of Park City, Utah to approve the amended plat;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. CONCLUSIONS OF LAW. The City Council hereby concludes that there is good cause for the above-mentioned amendment and that neither the public nor any person will be materially injured by the proposed plat amendment.

SECTION 2. PLAT APPROVAL. The Treasure Hill Subdivision is approved as shown on Attachment A with the following conditions:

1. All original conditions of approval for the Preliminary Plat shall apply (Exhibit B).

2. Prior to final plat recordation, the Community Development Department shall review and approve notes on the plat addressing limits of disturbance, building footprint, building area limits, building height, and massing.

3. Prior to plat recordation, the City Engineer shall review and approve appropriate grading, utilities, water, and access construction plans.

4. Prior to plat recordation, a final site disturbance and re-vegetation plans shall be approved by the Community Development Department. The plans shall include construction staging, erosion control and vegetation protection. A letter of credit shall be posted to cover the costs for re-vegetation and including retaining walls.

5. Prior to plat recordation, final plans for the skier bridge across the Upper Norfolk driveway, all retaining walls, resurfacing of King Road and relocation of the gate shall be reviewed and approved by the Community Development Department.

6. Prior to plat recordation, the City Council, City Attorney, and City Engineer shall review and approve the plat.

7. All Standard Project Conditions shall apply.

8. In conjunction with final plat recordation, an open space agreement in a form approved by the City Attorney shall be entered into and recorded by the applicant which addresses ownership, uses, maintenance and trails.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective immediately.

PASSED AND ADOPTED this 7th day of September, 1995

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

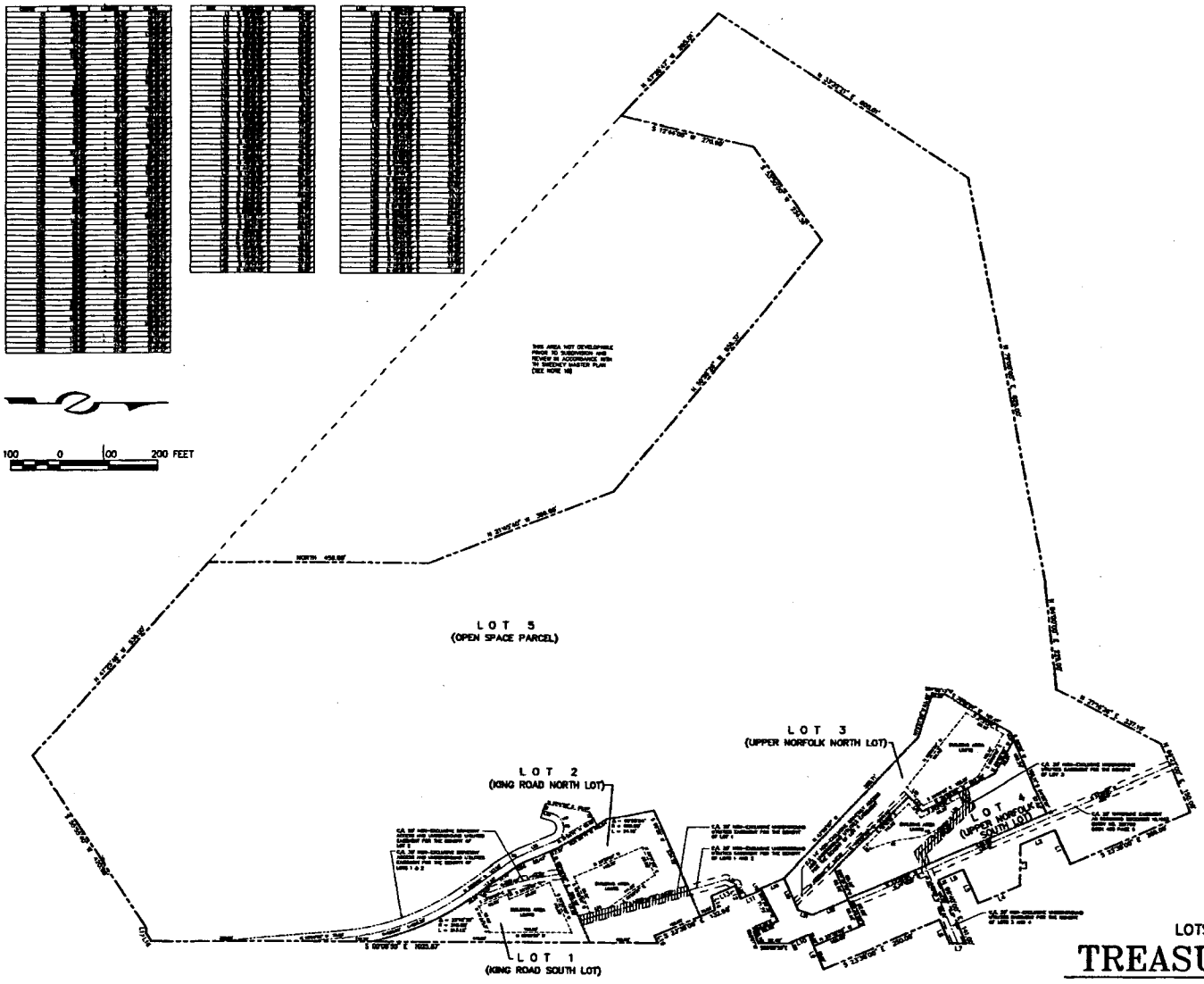
Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Assistant City Attorney

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884



SURVEYOR'S CERTIFICATE

I, JAMES L. STEVENS, certify that I am a Registered Land Surveyor and that I hold Certificate No. 5659, as prescribed by the laws of the State of Utah, and that a survey of the following described property was performed under my direction of the parcel described below.

James L. Stevens, L.S. No. 5659 — Date

PROPERTY DESCRIPTION

Beginning at a point which is South 66°22'West, 75.00 feet and South 23°38'East, 58.91 feet from the Northeast corner of Block 29, Park City Survey, Amended Plat, said point also being South 66°40'West, 300.00 feet and North 23°36'East, 535.46 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street;

and running thence South 23°38'East, 284.08 feet; thence South 66°22'West, 75.00 feet; thence South 23°38'East, 74.67 feet, more or less, to the East-west 40 Acre Line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence South 89°36'41"East, 82.11 feet, more or less, along said 40 Acre Line; thence South 23°38'East, 91.91 feet, more or less, to the Northwest corner of Lot 2, Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim U.S. Lot No. 633; thence South 66°22'West, 75.00 feet to the Northwest corner of Lot 12 of said mining claim; thence South 23°38'East, 53.98 feet to the Southwest corner of Lot 13 said mining claim; thence North 66°40'East, 141.00 feet, more or less, to a North-south 40 Acre line and the West line of Park City Townsite said point being South 66°40'00"West, 240.50 feet and North 0°08'30"West, 16.32 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street; thence South 0°08'30"East, 32.64 feet, more or less, along said 40 Acre Line and said West Line; thence South 66°40'West, 52.98 feet, more or less, to the Northwest corner of said mining claim; thence South 23°38'East, 250.00 feet to the Northeast corner of Lot 72, Block 30, Park City Townsite Survey, Amended Plat; thence South 66°40'West, 75.00 feet; thence South 23°38'East, 42.87 feet; thence North 62°20'38"East, 1.08 feet; thence South 0°08'30"East, 82.49 feet; thence South 66°07'West, 28.18 feet; thence North 23°38'West, 52.92 feet; thence South 62°20'38"West, 71.73 feet; thence South 23°38'East, 40.70 feet; thence South 66°07'West, 28.75 feet; thence South 23°38'East, 59.81 feet; thence North 79°38'39"East, 29.97 feet; thence South 23°38'East, 132.68 feet; thence North 66°12'East, 18.39 feet, more or less, to said 40 Acre Line and said West Line; thence South 0°08'30"East, 1025.87 feet along said 40 Acre Line and said West Line to a point on the Alice Lode which point is North 31°40'53"West, 583.56 feet from a Park City Monument on the Centerline of Daly Avenue; thence South 55°37'19"West, 19.14 feet along said Alice Lode; thence South 88°31'10"West, 10.52 feet; thence South 55°26'40"West, 420.90 feet; thence North 47°25'46"West, 535.00 feet; thence North, 450.00 feet; thence North 21°45'40"West, 399.88 feet; thence North 50°56'28"East, 656.37 feet; thence South 53°30'East, 234.38 feet; thence South 12°44'20"West, 270.00 feet; thence North 47°25'47"West, 285.08 feet; thence North 33°32'21"East, 600.01 feet; thence North 79°00'East, 825.00 feet; thence North 84°00'East, 225.00 feet; thence North 27°16'26"East, 237.10 feet; thence North 66°22'East, 150.00 feet to the point of beginning.

Containing 47.350 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00"East)

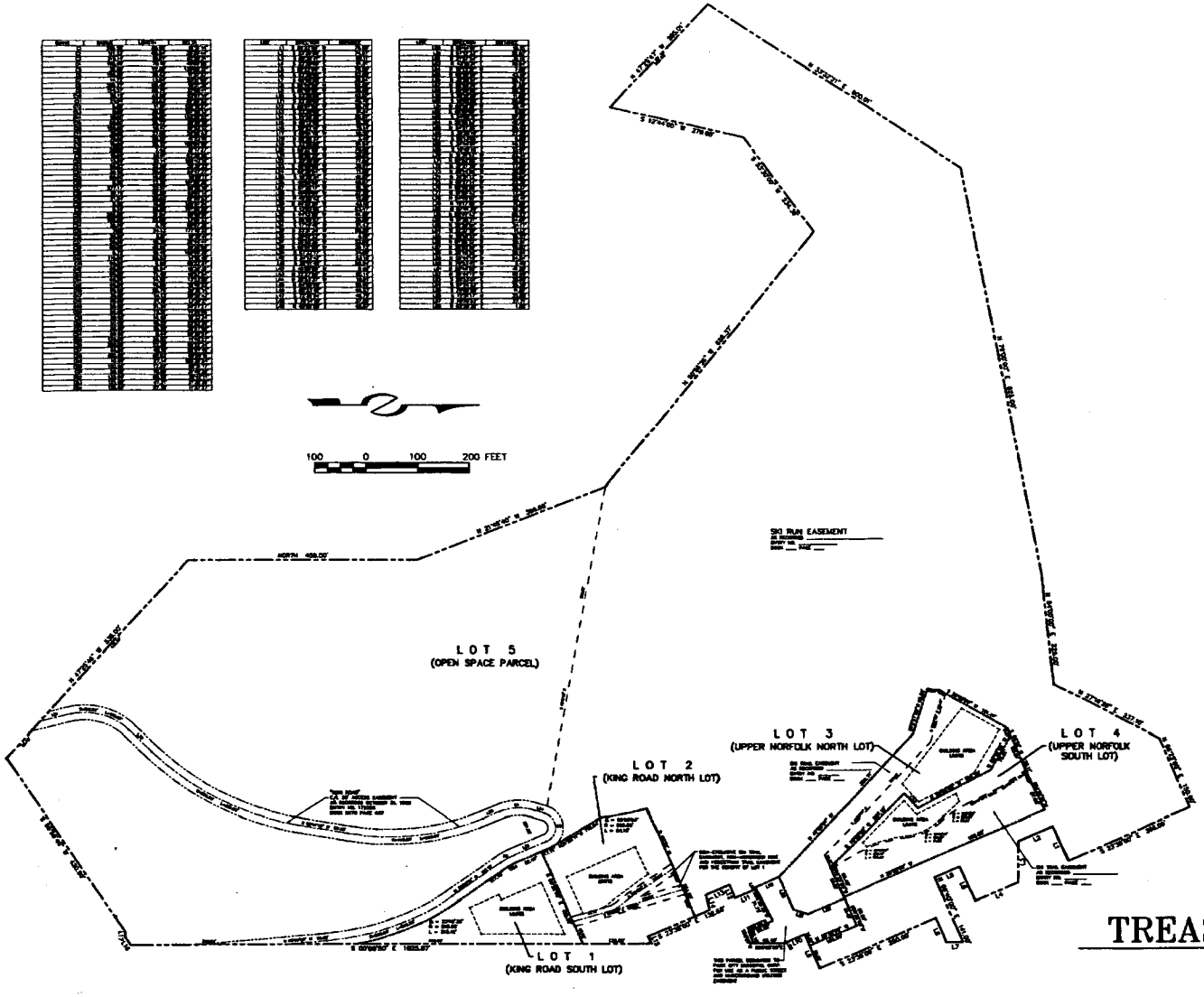
PHASE 1
LOTS, UTILITY EASEMENTS AND ACCESS EASMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

PAGE 1 of 3

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT	PLANNING COMMISSION	ENGINEERS CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS ____ DAY OF _____, 1995 A.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 1995 A.D.	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF _____, 1995 A.D.	APPROVED AS TO FORM THIS ____ DAY OF _____, 1995 A.D.	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF _____, 1995 A.D.	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF _____, 1995 A.D.	STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ BOOK _____ PAGE _____
BY _____ S.B.S.I.D.	BY _____ CHAIRMAN	BY _____ PARK CITY ENGINEER	BY _____ PARK CITY ATTORNEY	BY _____ PARK CITY RECORDER	BY _____ MAYOR	FEE _____ RECORDER



OWNER S DEDICATION AND CONSENT TO RECORD

The owners or their representatives, hereby irrevocably offer for dedication to the City of Park City all the streets, trails right-of-way, land for local government uses, easements, parks and required utilities and easements shown on the subdivision plat and construction plans in accordance with an irrevocable offer of dedication subject to easements, deeds of record and agreements of record.

IN WITNESS WHEREOF, the undersigned sets their hands this _____day of _____ 1995

_____
EDMUND J. BEAULIEU

_____
CLYDE CARLIG

SWEENEY LAND COMPANY, a Utah general partnership

By _____
Patrick J. Sweeney
Managing Partner

ACKNOWLEDGEMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____ 1994, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same

_____
NOTARY PUBLIC
Residing at: _____

My Commission Expires:

_____

ACKNOWLEDGEMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____ 1994, personally appeared before me CLYDE CARLIG, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

_____
NOTARY PUBLIC
Residing at: _____

My Commission Expires:

_____

ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the _____ day of _____ 1994, personally appeared before me PATRICK J. SWEENEY, who being by me duly sworn, did say that he is the managing General Partner of Sweeney Land Company, a Utah general partnership, and that the foregoing instrument was signed on behalf of said partnership, and said PATRICK J. SWEENEY acknowledged to me that said partnership executed the same.

_____
NOTARY PUBLIC
Residing at: _____

My Commission Expires:

_____

PHASE 1
SKI TRAIL EASEMENTS

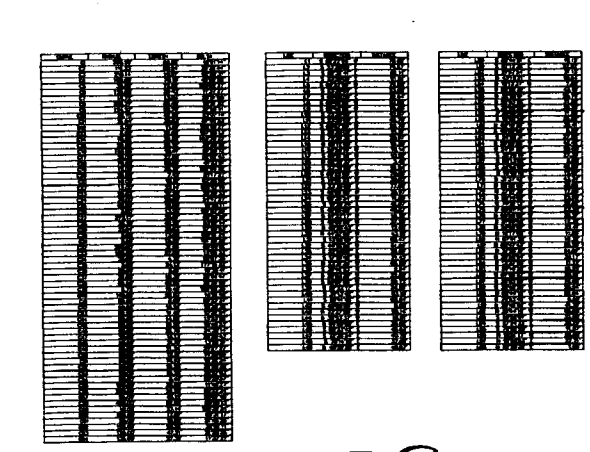
TREASURE HILL SUBDIVISION

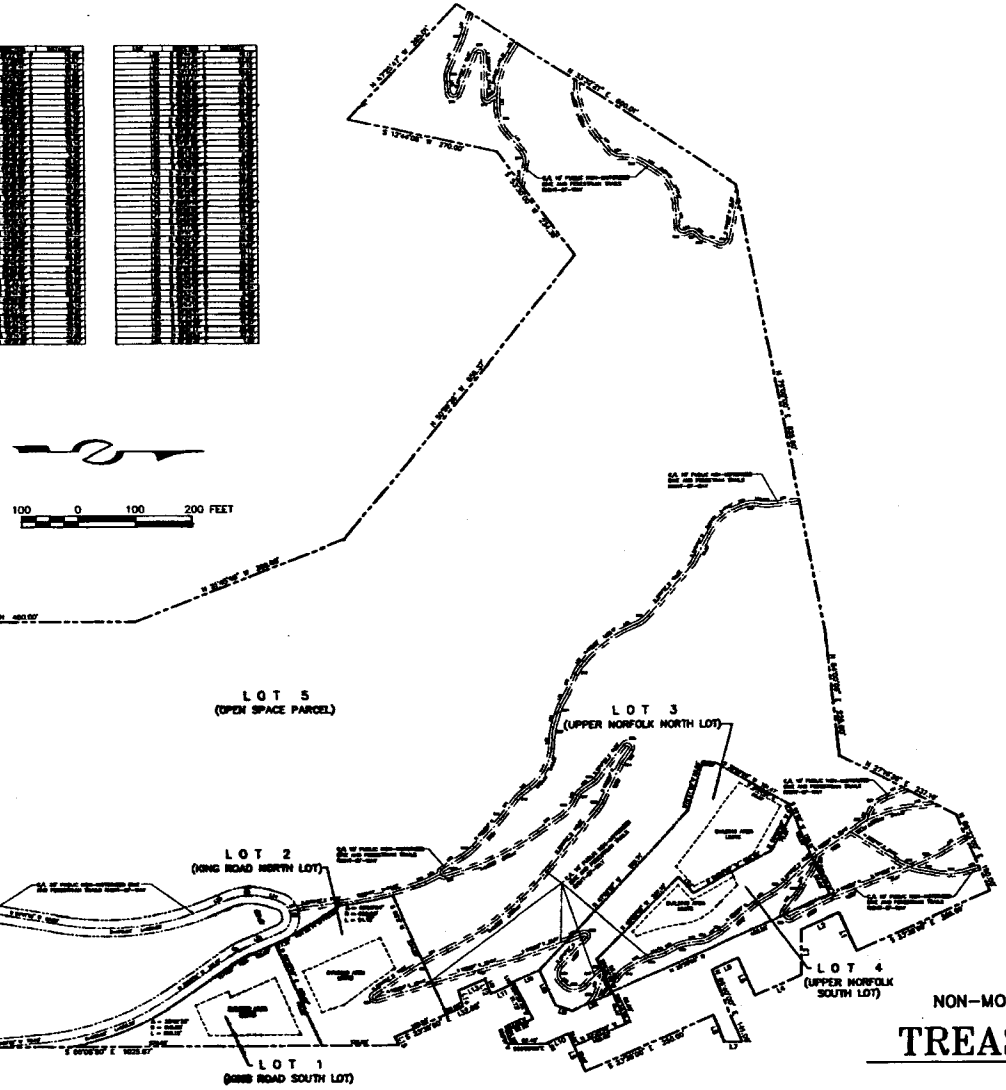
A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____

_____ _____
FEE RECORDER





SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON:

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

2. BUILDING AREA LIMITS. Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plat or as consistent with the approved construction drawings of the driveways, Upper Norfolk, turnaround, King Road turnaround, ski bridge and utility plans) shall be limited to the Building Area Limits noted on the Plat. Notwithstanding the foregoing, that areas located on the Ski Trail Easements where they cross Lots 3 and 4 and are directly adjacent to the Building Area Limits of Lots 3 and 4 may be landscaped with irrigated groomed grass.

3. CONSTRUCTION DISTURBANCE. Unless otherwise provided in agreements with Park City Municipal Corporation which are of record, temporary construction disturbance shall be limited to twenty (20) feet beyond the Building Area Limits or to adjoining lot property lines which ever is closer. Such disturbed area shall be revegetated with native landscaping.

[redacted]

5. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, bathroom floor levels.

6. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reestablished grade whichever is greater.

7. MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

8. SEWER LATERALS. Maintenance and replacement of sewer laterals shall be the responsibility of their respective owners and not that of the Snyderville Basin Sewer Improvement District.

9. FIRE SPRINKLING. Internal and external modified 13d fire sprinklers shall be provided for the homes. Wood roofing material shall be prohibited.

10. PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

PHASE 1
NON-MOTORIZED BIKE AND PEDESTRIAN TRAILS RIGHT-OF-WAY

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

PAGE 3 of 3

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____

FEE _____ RECORDER _____

(k) Architectural Review. All conditional uses are subject to architectural review by the Community Development Department subject to a right of appeal to the Planning Commission for all zones, except those in the Historic District, where appeal is to the Historic District Commission. Within the Historic District zones, conditional uses and permitted uses shall be subject to the architectural guidelines promulgated by the Historic District Commission and adopted by the Council by resolution as a supplement to this Code. In other zones, conditional uses are subject to the General Architectural Guidelines adopted as a part of this Code in Chapter 9. Compliance with the architectural criteria is a condition of approval of all conditional use permits.

1.13. MASTER PLANNED DEVELOPMENT REVIEW PROCESS. Applications for developments to be built according to a master plan which provides for mixed uses, and/or density transfers and concentrations within the site, commonly referred to as planned unit development (without regard to the manner in which title to the project will be held) are divided into two review processes depending on the size and nature of the project. These review processes are described as follows:

(a) Small Scale Master Planned Development Review. Those projects having 50 or fewer Unit Equivalents, and/or less than 15% of the total project floor area (exclusive of parking) devoted to non-residential uses, are reviewed as Small Scale Master Planned Developments. The review process is identical to the conditional use process. Also reviewed as Small Scale Master Planned Developments are individual building projects within a previously approved larged scale master planned development, regardless of the number of unit equivalents or the residential/commercial mix in the development proposal.

(b) Large Scale Master Planned Development Review. Those projects having more than 50 unit equivalents, and/or 15% or more of the total project floor area (exclusive of parking) devoted to non-residential uses shall be reviewed as Large Scale Master Planned Developments according to the procedure described in Chapter 10 of this code. The nature of the density transfers and zoning concessions within the project are set forth in Chapter 10 (see Section 1.14(c) for the application requirements). The substantive requirements for master planned developments are described in Chapter 10 of this Code.

1.14. REVIEW BY PLANNING COMMISSION. General planning and review of specific development projects by the Planning Commission shall be divided into the following functions: (a) City Comprehensive planning and zoning review, (b) subdivision approval, (c) Large Scale Master Planned Development approval (d) notification of conditional use applications, (e) review of decisions from the Community Development Department on appeal,

SECTION 10. MASTER PLANNED DEVELOPMENTS

10.1 PURPOSE. The Master Planned Development (MPD) concept of development is allowed in Park City in order to encourage the establishment of common open space, achieve economy in the provision and maintenance of public facilities, allow design flexibility in development, and to preserve the natural and scenic features of open areas. To this end, the clustering of structures, whether single or multiple, may be undertaken; structures may be joined by party walls or be separated by minimal but adequate side yards, and conditional uses may be integrated into the development. Densities within clusters may exceed those allowed for standard housing development when appropriate open space and buffer areas are provided elsewhere on the site.

10.2. SCOPE. Application for Master Planned Development may be made for land located in any zoning district. Unless expressly provided in this Chapter, there shall be no density increase or height increase in the number of dwelling units which can be constructed under the applicable basic zone regulations however, there may be density transfer between zoning districts provided the proposed Master Planned Development cluster is found to be compatible in terms of building types and character with the surrounding area and would not alter the essential character of the district.

10.3. LAND USE INTENSITY ALLOWANCE. The density and type of development permitted on a given site will be finally determined as a result of impact and site plan analysis, the following table for absolute maximum densities in Master Planned Developments is provided:

GROSS DENSITY ALLOWED
(Total Site)

Zone	Maximum Allowable Density
Residential Development (RD)	Density up to 5 unit equivalents per acre
Residential Development, Medium Density (RDM)	Density up to 8 unit equivalents per acre
All other zones	Density established by Chapter 7

10.4. PROCESSING. An application for approval of a Master Planned Development may be filed by the owners of the property for which the approval is requested and shall be made on a form provided by the City and must include written consent by the owners of all property to be included in the Master Planned Development. The procedure for review is described in Chapter 1.

10.5. PRE-APPLICATION CONFERENCE. A pre-application conference may be held with the Community Development Department in order for the applicant: (1) to become acquainted with the Master Planned Development procedures and related City requirements; (2) to obtain from the department a written list of what the formal application should include; and (3) to obtain from the department copies of guidelines to the interpretation of provisions of this section.

10.6. THE APPLICATION. The Master Planned Development application must be submitted with a completed application form on a form supplied by the City. The application shall be supported by the following (seven sets required):

(a) Map of Existing Site. A map of the existing site shall show the following information for the site prior to demolition of any existing improvement or alterations to natural vegetation and terrain:

Vicinity map (not less than 1"= 100');

Scale and north arrow;

Site boundaries and dimensions;

Topography with contours at no greater than five foot intervals;

Vegetation, location, and type;

Soil quality;

100 year flood plain and high water areas;

Existing structures and their current uses;

Existing roads and other improvements;

Location of public utilities and utility easement; and

Other data as may be required.

(b) The Site Plan. The site plan portion of the application shall consist of a plan showing the major details of the proposed Master Planned Development prepared at a scale of not less than 1" = 100' (or 1" = 50' for sites of less than one acre). The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the Master Planned Development proposed. The site plan shall contain, insofar as applicable, the following minimum information:

Scale and north arrow;

Proposed name of the development;

Identity of a subdivision Master Development Plan of which the site may be a part;

Topography with finished contours at no greater than five foot intervals;

The location and size of all existing and proposed buildings, structures, and improvements;

Natural and proposed vegetation and landscaping, streets, walkways, and easements to be reserved for public use;

Location and general dimension of all impervious paved areas such as streets, walks, parking lots, tennis courts, plazas, etc.;

Proposed open spaces with an indication as to use and ultimate ownership, if applicable;

Proposed drainage system;

Proposed utility distribution;

Proposed traffic circulation with anticipated average daily traffic volumes, and access to the existing street system;

Perspective sketches showing general architectural concepts of all new or remodeled buildings;

Maximum height of all buildings, dimensions, and square footage of all lots or parcels proposed with project;

A general landscape plan at time of initial submission to be followed by a detailed landscaping plan, once the site plan has been approved, showing the spacing, sizes, and specific types of landscaping material;

Lighting plan.

(c) Written Statement. The written statement to be submitted with the Master Planned Development application must contain the following information (only two sets required):

A statement of the present and future ownership and tenancy and a legal description of the land included in the Master Planned Development application, including identification of all mortgages, easements, covenants or restrictions on land use, liens, and judgments which may affect the site;

A development schedule indicating the approximate date when construction of the Master Planned Development, or stages of the development, can be expected to begin and be completed.

Copies of any special agreements, conveyances, restrictions, or covenants, which will govern the use, maintenance, and continued protection of the Master Planned Development and any of its common areas;

A mailing list of the owners of abutting properties and properties located within 100 feet of the property lines of the land included in the Master Planned Development as required by Chapter 1 of this Code.

An explanation of the objectives to be achieved by the Master Planned Development, including building descriptions, variations in building setbacks, parking, height or other requirements that are being sought; sketches of elevations, or other information as may be required to described objectives.

10.7. PROPERTY POSTED, NOTICE MAILED. Upon receipt of a fully completed application form and the submission of the accompanying information, and upon the payment of the fee for review as prescribed by ordinance, the Planning Department shall cause notice to be given as described in Section 1.15.

10.8. FINAL PLAN REQUIREMENTS. The final plan shall be presented in permanent mylar final sheets; all drawings showing proposed site development shall have a scale of no less than 1" = 100' (1" = 50' for sites less than one acre), with one sheet showing the entire project, its vicinity within the City, and a key to the detailed drawings. The final plan shall include all information required by the Master Planned Development application, plus the following:

(a) Accurate dimensions for all lines, angles, and curves used to describe streets and other public right-of-ways sufficient to satisfy final plat requirements of the Park City Land Subdivision Ordinance.

(b) Detailed sizes and dimensions for the utility and drainage systems with specific locations of fire hydrants.

(c) Detailed dimensions and treatment of all common open space, including lighting.

(d) Architectural drawings of proposed new or remodeled structures with floor plans and elevations at a scale no less than one-eighth inch to a foot. Drawings shall indicate all exterior materials and colors.

10.9. GENERAL CRITERIA FOR REVIEW. A Master Planned Development shall implement the purposes of this ordinance and of this section, and in addition, shall meet the following standards and requirements:

(a) Uses Permitted. The uses in a Master Planned Development must be uses are shown on the land use table in Chapter 7 as permitted or conditional uses in the zoning district in which the Master Planned Development is located. In addition the approving agency may permit limited commercial uses (as shown on the Land Use Table) not generally associated with the residential zone if, in the opinion of the approving agency, such uses are primarily for the service and convenience of the residents of the development and the immediate neighborhood. Such uses, if any, shall not change or destroy the predominantly residential character of the Master Planned Development. The amount of area and type of such uses, if any, to be allowed in a residential Master Planned Development shall be established by the approving agency on the basis of these criteria:

1. Relationship to the Purpose and Policies of the Comprehensive Plan. The Master Planned Development must be consistent with the purposes and policies of the Comprehensive Plan as set forth therein.

2. Relationship to Surroundings. The Master Planned Development's relationship to its surroundings shall be considered in order to avoid adverse impacts caused by traffic circulation, building height or bulk, lack of screening, or intrusions on privacy.

(b) Maximum Density Requirements. The requirements of Section 7 (Use Tables) regarding maximum densities shall apply to all Master Planned Development except that the approving agency may increase the number of permitted units to the maximum bonus levels found in this chapter if it finds that the site plan contains areas allocated for usable open space in a common park area as authorized in this section, or that an increase in density is warranted by the design and amenities incorporated in the Master Planned Development site plan, and the needs of the residents for usable open space can be met.

(c) Off-Street Parking. The number of off-street parking spaces in each Master Planned Development may not be less than the requirements stated in Section 13 (Off Street Parking) except that the reviewing agency may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

1. Probable number of cars owned or required by occupants of dwellings in the Master Planned Development;

2. Parking needs of any non-dwelling uses, including the traffic attracted to commercial uses from off-site;

3. Varying time periods of use, whenever joint use of common parking areas is proposed.

4. Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the approving agency shall obtain assurance that the nature of the occupancy will not change. No parking reductions shall be granted for developments requiring eight or fewer parking spaces. Parking requirements are stated in Chapter 13.

(d) Variations in Setbacks. The setback requirements of Section 7 shall apply to Master Planned Developments except that the reviewing agency may reduce setbacks in consideration of site planning issues addressed in this chapter. Variations in setbacks, if requested, shall be addressed in the written statement and shall be specifically called out on the Master Planned Development site plan, or shall be handled through a Master Planned Development control document to be submitted as part of the written statement. Minimum setbacks along the boundaries of the site must be observed.

(e) Variations in Height Requirements. The height requirements of Section 7 shall apply to Master Planned Developments, except that after review by the Planning Commission, the Commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all of the buildings in the development by up to 25% of the maximum building height established for that zone in Chapter 7 of this Code (not including those adjustments permissible under Section 8.17) after due consideration of the following site specific review standards, in addition to the other standards established for Master Planned Developments by this Chapter. If the requested height increase is greater than 25% of the stated zone maximum, the request shall be reviewed by Planning Commission, then submitted to the City Council with recommendations from the Commission, with final approval, disapproval, or approval with modifications of the request to be made by the City Council, based on the same review criteria. The Council may act on the height increase request at any time during the review process following Planning Commission's review of the height request, and may act on the height request prior to final Commission approval of the overall master plan.

1. The geographical position of the building and possible visual effects on existing structures on or off-site;

2. Potential problems on neighboring sites caused by shadows, loss of solar access, loss of air circulation, closing of views, or ridgeline intrusion;

3. The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;

4. Appropriateness of the uses within the building in the neighborhood;

5. Landscaping and buffered areas of other physical separations that may be proposed to buffer the site from adjacent uses;

6. The size of the side yard areas between buildings and adjacent streets and alleys and their relationship to pedestrian traffic and open space;

7. The provision of more than the required 60% open space within the project;

8. Reduction of the height of other buildings or portions of a building to a point that is lower than the underlying zone maximum;

9. In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage or building volume (above grade) over that which is, or would be, possible under normal zone standards for the zone in which the site is located. When determining the possible building square footage and/or volume possible under the underlying zone regulations, the Community Development Department shall consider the unit configuration proposed (i.e., the mix of hotel rooms, apartments, and commercial space) and the reasonable circulation space needed to serve that configuration, exiting requirements, light and air requirements and other requirements of the Uniform Building Code which would affect the location and placement of building volume, and not merely calculate volume based on the zone's setback and yard requirements.

10. The amount of any increased height is not specified for each zone district as the minimum allowable height that is compatible with good planning practices and good design is a site specific review item. The burden of establishing the needs and benefits of a height increase is on the developer, and in the absence of a satisfactory showing that the additional height will result in a superior plan and project, the zone height shall be applied.

11. Height variations shall not be permitted in the HR-1, RM, R-1, and HRL zones.

(f) Nightly Rentals, Timesharing, and Condominiumization to be Declared. If nightly rentals are desired in a Master Planned Development, this must be declared at the time of application. If timesharing, as defined by ordinance or nightly rental use, is desired in a Master Planned Development that has already been approved by the City, a conditional use permit must be obtained and the project instruments must either be drafted initially or amended by the required majority (in no event less than 65%) to explicitly and prominently authorize timesharing within the project. If the Master Planned Development is to be turned into a condominium, as defined in the Code, it must be declared at the time of application, or the condominium conversion fees and review will apply to the subsequent change.

(g) Site Planning. The approving agency must be satisfied that the site plan for the Master Planned Development has met each of the following criteria or can demonstrate that one or more of them is not applicable, and that a practical solution consistent with the public interest has been achieved for each of these elements:

1. The relationship of these areas to other areas, structures, and uses within the Master Planned Development.

2. The degree to which these areas contribute to the quality, livability, and aesthetics of the Master Planned Development.

3. Common park areas are encouraged and may be counted as part of the required open space within a Master Planned Development provided they are to be used and are suitable for scenic, landscaping, or recreational purposes and they are on land which is accessible and available to persons for whose use the common park area is intended, and ownership is vested in a way that preserves the open space.

4. Common open spaces in a Master Planned Development site shall be preserved and maintained as provided for in an irrevocable dedication declaration, or restrictive covenants approved by the reviewing agency and filed and recorded in the office of the County Recorder, or other mechanisms acceptable to the approving agency. The irrevocable dedication, covenant, and declaration shall take place as mutually agreed upon by the approving agency and the applicant, provided, however, no building permit shall be issued for the Master

Planned Development until the dedications, covenants, and declarations have been filed and recorded. The areas designated in the covenants as common open space shall be maintained, repaired, preserved, and retained as open spaces by the owners in common of the property and/or the developer.

5. Circulation in terms of an internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience, access, noise, and exhaust control. Private internal streets may be permitted if they can be used by police and fire department vehicles for emergency purposes. Width, and cul-de-sac design must accommodate fire fighting apparatus. Bicycle traffic shall be considered and provided for and, where appropriate, connection of the bike and pedestrian system to other city systems shall be addressed. Proper circulation in parking areas in terms of safety, convenience, separation, and screening shall also be considered.

6. Utilities shall be addressed in terms of adequacy, availability, and locations of services.

7. Variety shall be addressed in terms of housing type, densities, facilities, and open space.

8. Privacy shall be addressed in terms of the needs of individuals, families and neighbors, and adjoining land owners.

9. Pedestrian traffic shall be addressed in terms of safety, separation, convenience, access to points of destination, and attractiveness.

10. Building type shall be addressed in terms of appropriateness to density, site relationship, and bulk.

11. Building design shall be addressed in terms of orientation, spacing, materials, color and texture, storage, signs and lighting, and compliance with the architectural criteria contained in the Land Management Code appendices.

12. Landscaping of the total site shall be addressed in terms of purpose of planting such as screening or ornamentation; hard surface materials used, if any; maintenance, water needs, suitability; and effect on the neighborhood.

(h) Building and Lot Requirements. Buildings may be attached, semi-detached, or individual units. The uses within

buildings may be mixed. The separation between detached buildings shall be a minimum of ten feet.

1. Structures greater than 60 feet but less than 120 feet in length should exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a ten foot change in roof line height, or a combined change in facade and roof line totaling ten feet.

2. Structure shall not exceed 120 feet in length without complying with the following guidelines:

   A prominent shift in the mass of the structure shall occur at each 120 foot interval (or less) reflecting a change in function or scale. The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in roof line.

   A combination of both a roof line and facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as compliance with this section.

3. At least 60% of the area of any site, subject to a Master Planned Development review shall remain as open space, not counting roads.

(i) Support Commercial Facilities. Within any Master Planned Development in those zones which permit mixed uses within Master Planned Developments, no more than 10% of the total gross floor area may be devoted to support commercial facilities as defined by this Code. All support commercial facilities shall be oriented to the internal pedestrian circulation system of the Master Planned Development. Signage on support commercial facilities must be visible only from within the development, and shall not orient to the adjacent public streets or off-site circulation areas.

10.10. APPROVALS. Approvals of Master Planned Developments shall be granted in the following manner:

(a) Master Plan Approval. The approval for a Master Planned Development shall be given in a form that states the density allocated to the property as a number of units. The configuration and mix of the units can be adjusted by the developer according to the table provided below. Approval shall be given by the Community Development Department on small scale Master Planned Developments (as defined in Chapter 1.13., subject to ratification by the Planning

Commission), and by the Planning Commission on large scale Master Planned Developments, as defined in Chapter 1.13.).

(b) Project Site Plan. Project site plan approval of the site plan for the project or development shall be granted by the Community Development Department for all development within Master Planned Developments as long as the density is within the range of unit equivalents established in the master plan approval, subject to ratification by the Planning Commission. Commission action will still be required for final plat approval, subdivision approval, and any other approvals or reviews required by Chapter 1.

(c) Form or Approval. Once a density range and preliminary plan have been approved by the reviewing agency, a master plan shall be signed by the reviewing agency and the developer. In the case of a large scale Master Planned Development, in which density transfers from one portion of the site to another may have occurred, the approval shall take the form of a recordable instrument which states the legal description of the land affected by the approval, and is sufficient to put subsequent purchasers of all or parts of the tract on notice that the density allowed on that property may be different from what basic zoning would suggest as a result of the Master Plan Approval.

(d) Construction. Construction within two years is required to preserve a large scale Master Plan Approval within the time limits by Chapter 1.13. Construction on a small scale Master Planned Development must commence within one year, or the approval will expire. Extensions may be granted as provided in Chapter 1.

(e) Transferability. Approved Master Plans are transferrable with the title to the property to which the approval pertains, but not portion of the density allocation within any approval may be transferred off site.

10.11. REVIEWING AGENCY. As used in this Chapter, the term "reviewing agency" shall refer to the Planning Commission on the master plan approval of Large Scale Master Planned Developments, and to the Community Development Department on the preliminary and approval of Small Scale Master Planned Developments, and also to the staff when referring to final site plan approvals within Large Scale Master Plan Approvals following density determinations by the Planning Commission.

10.12. UNIT EQUIVALENT. Density of development is a factor of both the use and the size of the structures built within a Master Planned Development. In order to maximize the flexibility in the development of property, the following table of unit equivalents is provided:

Configuration	Unit Equivalent
Hotel room, not exceeding 500 square feet, including bathroom areas, but not corridors outside of room	.25
Hotel suite, not exceeding 650 square feet, including bathroom areas, but not corridors outside of room	.33
One bedroom or studio apartment, not exceeding 1,000 square feet	.50
Apartment of any number of rooms, not exceeding 1,500 square feet	.75
Apartment of any number of rooms, not exceeding 2,000 square feet	1.00
Apartment of any number of rooms, not exceeding 2,500 square feet	1.33
Apartment of any number of rooms, in excess of 2,500 square feet	1.50
Single family house	1.00
Commercial spaces (approved as part of Master Plan Approval), for each 1,000 square feet of gross floor area, exclusive of common corridors, or for each part of a 1,000 square foot interval	1.00

Hotel uses must be declared at the time of site plan approval, and are subject to review for neighborhood compatibility. The election to use unit equivalents in the form of hotel rooms may not be allowed in all areas because of neighborhood conflicts or more intensive traffic generated. Within a hotel, up to 5% of the total floor area may be dedicated to meeting rooms, and support commercial areas without requiring the use of a unit equivalent of commercial space.

Circulation spaces including lobbies outside of units, including lobby areas, do not count as floor area of the unit, or as commercial unit equivalents.

Computation of floor areas and square footage shall be as provided in the Uniform Building Code adopted by Park City.

Where the unit configuration fits one of the above designations, but the square footage exceeds the footage stated for the configuration, the square footage shall control, and the unit equivalent for that size unit shall apply.

10.13. UNIT EQUIVALENCE ELECTION. The developer shall have the right to make his election of how to apply the unit equivalency on his site at any time in the review process, provided, however, that commercial uses and hotel uses of specific development parcels may be designated or prohibited on the Large Scale Master Plan Approval when the Planning Commission finds that there are neighborhood, traffic, or similar considerations for limiting or clustering these uses. The election of the final unit configuration must be made at the time the application for final site plan is submitted, and the election of unit mixes is part of the conditional use process that the final site plan is reviewed under.

10.14. EFFECT ON EXISTING MASTER PLANS. Existing master plans, which have received final approval prior to the date of this Code, may take advantage of the unit equivalency formula as final site plans are submitted on the development parcels identified in those plans, provided however, that limitations on commercial uses will not be removed by this ordinance unless the master plan is amended.

10.15. PARKING. Parking within a Master Planned Development shall be required as provided in Chapter 13, unless the reviewing agency finds that a reduction in parking is justified as provided by this Code. Parking is based on the unit configuration as set forth in Chapter 13, and not on the basis of unit equivalents.

10.16. MASTER PLANNED DEVELOPMENTS IN THE RC ZONE. In the RC Zone, Master Planned Developments are based on a gross density of one unit equivalent for each 2,000 square feet of land area on the site.

In the Matter Of:

In Re: Park City Planning Commission Meeting

COMMISSION MEETING

February 14, 2024

JD Legal Support

2901 W. Bluegrass Blvd., Ste. 200

Lehi, Utah 84043

CERTIFIED COPY

Park City, Utah

Planning Commission Meeting

February 14, 2024

MS. HALL: All right. Motion carries. All right. Now moving on to our regular agenda for 220 King Road. It is my understanding that staff is going to present on the first three items in summary together.

MS. WARD: Rebecca Ward with the planning department joined, um, with Caitlyn Tubbs, also our senior historic preservation planner. We also have John Robertson, the city engineer, and Becky Gutknecht with the engineering department joining us this evening.

So this item as, uh, Commissioner Hall stated, includes several applications, a plat amendment, conditional use permit, and steep slope conditional use permit, and we will address all items in -- in one presentation before turning it over to the applicant.

Um, much of the background regarding these properties has been discussed with the planning commission in an October work session in 2023 and then the January work session last month. So we will highlight some of the updates since that last meeting.

Uh, in summary, the proposal is to demolish a 4,235 square-foot single-family dwelling and 4,189 square-foot, uh, guest house to construct a single-family dwelling. There is approximately 7,500 square feet of finished space, about, uh, 5 -- 5,900 square

feet of unfinished space.

There's terrace, a patio area, um, 1,000 square-foot accessory building, a pool, and a 4,794 square-foot underground parking area that is proposed as part of this application. The applicant has updated their request to amend plat notes 1, 4, 5 and then also to add plat notes 10, 11 and 12 and we'll provide more information on those.

This is one of the applicant's submitted renderings of the proposed structure. Uh, just as a -- an overview, this is Lot 2 of the Treasure Hill subdivision. This was part of the Sweeney Master Plan Development.

Um, there are plat notes restricting the future development on the lots within this subdivision and this map here highlights the -- the single-family properties that are part of the Sweeney Master Plan Development.

That involves Lot 1, which is 200 King Road, a vacant lot, Lot 2, the lot under review, 220 King Road. Uh, Lot 3 and 4 are along Norfolk Avenue, and then lots 6 and 7 along Woodside Avenue. Lot 5 is open space and Lot 8 is the one property within the Sweeney Master Plan Development that is under estate zoning.

Uh, the other single-family homes are all under

the Historic Residential 1 zoning regulations. The red dashed line indicated on this, um, excerpt from the zoning map shows the sensitive land overlay. So everything to the left of that red dashed line is within that sensitive land overlay.

MS. TUBBS: Good evening, commissioners. So as Rebecca mentioned, there are multiple requests that are incorporated into the proposed, um, plat amendment CUP and steep slope CUP, the first of which is an amendment to the plat note that governs the footprints of the structure. So currently, um, plat note 1 reads as follows on the screen.

Um, it outlines a maximum building footprint of 3,500 square feet on this property, and the applicant has proposed the amendment of this plat note to include, let's see -- sorry. To separate the calculation of the square footage area of the garage from that maximum footprint and also to exclude the underground improvements from that footprint calculation.

The applicant's proposal is to calculate this building footprint separately at each level and, um, as the commission is aware, the -- a portion of the structure is cantilevered over, um, some grade or is somewhat offset from levels that are below it.

However, that is the applicant's proposal to address -- - um, address that footprint.

So we have some screenshots from the animation video that was provided to the commission by the applicant during our last meeting and this just goes to show the footprint of the -- of one of the levels, as shown in red here. And then a portion of the area that is proposed to be excluded from that footprint calculation.

Um, so the area that is shown in red would count towards the footprint. The area that is shown in the lighter gray would be that, um, underground improvement area and would not be calculated per this request.

And again, this is just another -- um, sorry. Another, uh, view of the proposed structure showing areas that would be calculated towards that footprint's areas that would not.

MS. SUESSER: Caitlyn, can you just address whether or not we've ever calculated, um, a square footage like as being proposed in the past?

MS. TUBBS: So the way that footprint has been calculated on other structures in the HR-1 zone is through what is called a [inaudible] in, um, Title 15, Chapter 2.2, Section 6 I think it is. Excuse me.

MS. WARD: It's, uh, yeah. In -- in the definition section, it's what -- the footprint, um, is what is, uh, basically constructed over the existing grade and then measured from the furthest wall area of the structure.

MS. SUESSER: And this is -- and what's being proposed is a departure from that traditional calculation; correct?

MS. WARD: The proposed plat note here outlines that, yes. The proposed plat note is to determine the square -- the building footprint based on any single level, um, and then you can see from the, uh, subsection E here to exclude what is, uh, below grade.

MS. SUESSER: Mm-hmm. Thanks.

MS. WARD: Uh, and just highlighting, uh, plat note 11, the -- the accessory buildings would also be proposed to be excluded from that footprint. Um, the next item, there have been some updates to the -- the roof form as the planning commission discuss -- discussed in January.

So just a review of the height. The plat notes for this Treasure Hill subdivision establishes a maximum height for flat roofs and then what the applicant is proposing, a pitched roof at 30 feet.

Um, there is another plat note about façade

height easterly facing where the maximum façade height, um, is required to have a step back of at least 5 feet, um, and be, uh, 25 feet, uh, within that step back.

So under the current land management code for this Historic Residential 1 zoning district, there are four elements to height. That final grade must be within 4 vertical feet of existing grade. That's for the property, um, to -- to preserve natural property -- na- -- the natural grade and then to minimize disturbances to that, um, so that it's -- it's in no more than 4 feet. Uh, that applies to retaining walls and -- and other structures beyond the main structure.

Uh, maximum interior height is 35 feet. This is measured from the lowest finished floor plane to the point of highest wall top plate and then there's this 10-foot minimum horizontal step in the downhill façade. And this is required to happen, um, at a maximum height of 23 feet from where the footprint meets the -- the lowest point of the downhill, uh, portion of the property.

And then roof pitch, which is, um, between 7:12 and 12:12. So there -- the single-family homes within the Sweeney MPD were constructed prior to 2009 as outlined in the staff report. Prior to this time, the

land management code stated that no structure could be higher than 27 feet from existing grade.

Since that time, there have been amendments. So in 2009, the city council adopted ordinance 914, which established a maximum of three stories, each 10 vertical feet, counting the basement as the first.

The 2009 amendments were the first to require a 10-foot minimum horizontal step in the downhill façade and this set the roof pitch. Uh, in 2013, this section was further amended and this is where we get that maximum internal height of 35 feet from the lowest finished floor plane to the top wall plate.

And the specification in 2013 was that this horizontal step, um, happen at the -- the 23 feet, uh, of height from the -- the downhill façade. So these are taken from the applicant's submittal showing, um, that they are proposing to be within the 30-foot height.

There have been some roof modifications that exceed that but, um, this illustrates here, to the right, um, a -- a -- what the applicant is calling an inverted step, uh, where they are stepping out instead of stepping back.

So staff has added, uh, the pink line here and the green to highlight. What is proposed to, um,

cantilever is highlighted in green. Uh, what is shown in pink would be, uh, if the structure were required to have the step back, it would be in the other direction under the current HR-1 zoning district regulations.

Um, in response to the commission's input in January, the applicant did, uh, make some modifications to the roof form. There was discussion of the expanse of the roof form and so what is highl-- staff has highlighted in green, uh, the proposed modifications to that -- that roof form. Um, that does exceed the 30-foot height, um, and -- but that is what is proposed at this time.

So the plat notes that the applicant is proposing would, uh, amend the building height regulations and it would establish the Sweeney MPD and the -- the height regulations that were in effect at the time that that MPD was approved and it would also allow for the step out.

Uh, for the accessory buildings, uh, we have the -- the applicant's submittal for their, uh, steep slope analysis of the site. This is a -- a, um, steep slope predominantly for much of the site, um, and so there is currently a plat note that regulates the building area limits where -- where the structures can

be constructed.

Um, this shows the existing plat for Lot 2 and highlighted by staff in this green is the existing building area limit. Um, the proposal is to readjust this building area limit to shift this area to the west, uh, which is now, uh, partially, uh, including the sensitive land overlay and reducing -- the applicant is proposing to reduce the overall building area limits by shifting some of that limit from the east façade to the -- the west façade.

Through this, um, the underground parking area is excluded from the building area limits. So this is showing, uh, in -- this is showing the proposed shift to the -- the top of the building area limit, um, to accommodate the accessory buildings.

And just as a reminder, everything west of the -- everything left of the red dash line is within the current sensitive land overlay. Um, and this red dash line is superimposed over the -- the proposed building area limit, so you can see that overlap.

So the Sweeney MPD was approved prior to the adoption of the sensitive land overlay in 1991 but the Treasure Hills subdivision was approved after the adoption of SLO and that established the building area limits for this property.

Um, so currently the -- the way that this is platted, it does not encroach into the sensitive land overlay and the applicant is proposing to amend the building area limit to extend that western portion into that overlay.

Um, and just a reminder of the steep slope criteria and the analysis that was provided in the staff report, um, in January of, uh -- January 24th. The -- the considerations that the planning commission evaluates, the location of the development, the visual analysis, access, terracing, building location, the building form and scale, setbacks, the volume overall of the dwelling and the building height.

Um, the applicant's excavation section view does provide the -- the total excavation that is proposed to accommodate what, um -- what is proposed for the site and then the grading plan does illustrate retaining walls, uh, retaining walls for the driveway easement, the vehicle ramp, um, the planting area and then the accessory buildings that are proposed to be built into the hillside and also, um, the -- the parking area entrance into the hillside.

So these are additional screenshots from the -- the video that the applicant shared in the last meeting just highlighted in, uh, green where the

parking area, uh, entrance is proposed to be located and then, um, also highlighting here in green the accessory building, uh, façade.

So there have been some discussions about other, um, underground tunnels or entryways within the Sweeney MPD. So to provide some background, the accessory structures, there was -- uh, there is a shared tunnel for lots 3 and 4. Those are the Norfolk properties, um, that the red, uh, dot here indicating where those are located and then a screenshot, uh, just showing, uh, what was built there.

Um, and then again, there was an accessory structure for, um, this particular structure for the Woodside properties was part of that subdivision review, uh, for an underground -- a common underground driveway within the 5th Street right-of-way.

Um, and so that was a platted element there. Uh, those properties are shown here in red, uh, and with a shared entry. Um, so the applicant is proposing the changes to the plat notes as we've outlined. Additionally, they proposed plat notes for exterior lighting, limiting glazing, um, the -- the glass along the façade to 60 percent on the eastern portion of the façade.

Um, and then as we've -- we've mentioned, the

exceptions for the accessory buildings. The -- as indicated by the applicant in the last work session, they are proposing a plat note that this would be, um, used as a single-family residence. There would be no, um, condominium time interval ownership, fractional ownership, or nightly rentals for the property.

Um, so before the planning commission this evening is the review of the conditional use permits. The standard is whether reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects. Um, and then the plat amendment, the standard is whether there is good cause. And good cause is defined in the land management code.

It's established on a case-by-case basis and it may include things like providing public amenities and benefits, resolving existing issues in nonconformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, and then preserving the character of the neighborhood and of Park City, and furthering the health, safety and welfare of the Park City community.

So, um, I know the -- the applicant has a presentation for the planning commission. We'll bring

this slide back up after, uh, but our recommendation this evening is to open and close a public hearing on all of the applications.

Um, that includes agenda items 6.A, 6.B and 6.C, and then to discuss whether there's good cause to amend the plat notes, uh, and to shift the building area limits and then to determine whether reasonable conditions are proposed or can be proposed to mitigate reasonably anticipate -- anticipated detrimental effects.

And then finally to direct staff to draft a final action letter outlining the findings of fact, conclusions of law, and conditions of approval for ratification on February 21st.

MS. HALL: Thank you. And I believe the applicant -- uh, do you have anything to present tonight? Um, yeah. If each of you could just, uh, introduce yourself for the record, that'd be great.

MS. PRINCE: Uh, I'm Tatiana Prince and, uh, I have actually yet to, uh, really interact at all with, uh, anyone here in this commission so wanted to be sure to introduce myself and, um, also give a bit of -- a bit of my view, uh, to how -- how we got here.

Um, and -- and -- and quite in a -- quite in a literal sense because while, uh, Matthew is very much

a Park City native, I'm, uh, definitely -- definitely newer -- newer to town, um, but since a big part I think of the reason that Matthew agreed to marry me is that we agreed we were going to spend most of our spare time skiing, um, we originally bought a home here, uh, shortly after we got married.

And, uh, it's the home that we currently live in now on Norfolk and, uh, since then, it just became a -- - I think a gradual story of us spending more and more of our free time here until it brings us to maybe late 2019, early 2020, where we kind of looked at each other and realized that we were ready to make a change and, um, had fallen in love with Park City to the degree that we actually wanted to -- wanted to make it our permanent home.

And that was really around the time that we got to know our neighbors much better and -- and think about a deeper -- a deeper involvement in the community and really start -- um, really start to -- to count the, uh -- the -- the closeknit residents of Old Town amongst our -- amongst some of our -- our closest friends.

And so when we, uh -- when we started to really think about putting down roots here, this was before our daughter was born and as we started to think about

sort of our forever home and expanding our family, that was really when this all started to, um -- to talk to our neighbors about our vision for our life here and the home that we wanted to build.

And, uh, it -- it really -- it really kind of grew from there. In fact, it was one of our neighbors who, uh -- who introduced us to the Flyers [ph] who we ended up purchasing the 220 King Road property from.

And, uh, it's -- it's -- it's been a very ongoing conversation really, uh -- really going back years. And as I said, these are people we've come to consider fairly dear -- uh, fairly dear friends right now and so we're quite -- we're -- we're really pleased that we've come to a point where, um, so many of them have taken the time to write in in support of -- of what -- of what we're trying to do here.

Because, uh, as I said, it was -- is -- it was a -- it was a fairly, um, iterative and collaborative process I would say and -- and many of them actually sort of inspired us and had a lot of input into what -- in -- into what we hope to -- to put down as our roots here for -- for our family.

So, uh, let's see. We have, um -- so that's, uh, Joel and Carol, uh, at the top. Um [inaudible] yeah. Joel and Carol, then, uh, Jen and John. Uh, yep. And,

uh, is that -- that -- that's -- that's -- is that [inaudible] um, and, uh, and then of course -- and then of course Pat Sweeney who, um, obviously knows this hillside really better than any of us.

And -- and is, uh -- is wor- -- is worth mentioning and we want to thank him for -- for being, you know, one of the -- one of the people who -- who voiced some very honest early concerns about the project when we started -- when we started to first discuss it about it.

But through -- through conversations over the last couple of years and getting to know him better and learning more about their intentions for the Treasure Hill area has actually, uh, become a very -- a very staunch supporter of what we're trying to do. And -- and we, uh -- we're quite proud of that fact. We really appreciate, uh -- we really appreciate their willingness to -- to get to know us.

So -- um, so as I said, uh, the -- the green areas are really -- uh, all but one of our -- of our immediate neighbors to the lot has, you know, written in -- in support of the project. Uh, we're very -- very proud of that fact. So, um, you know, more details of what they had to say in -- in everyone's packet. But, uh -- uh, yeah.

And -- and -- and, uh, we -- as I said, we've -- we're sa- -- we've said this many times, but we're, um, very proud of the relationships we've been able to build and we're very excited to make, uh, this part of Old Town our -- our long -- our long-term home and, um, want to thank everybody for being part of the discussion and, um, also especially want to thank, uh, the planning commission and city hall staff.

Uh, I want to acknowledge it's been probably about four years now since we -- since we -- since we started to engage with them and there was a lot of wading -- wading through -- wading through documents and talking to people and back and forths to really, uh, figure -- figure out what is allowed for these like truly very special -- very special lots.

So want to acknowledge the -- the work -- the work of a lot of people and, um, thank everybody for coming in on Valentine's Day as well. Um, so I think with that, I'm going to turn it over to Wade, who's going to talk more specific about the -- the application itself. Thank you very much.

MS. HALL: Thank you.

MR. BUDGE: Thank you, Tatiana. And, uh, my name is Wade Budge and I'm here with Jason Boal. I'm also here with Bruce Baird and then Matthew Prince is right

behind me. And we're here to talk about just about eight more slides and then, um, we'll obviously answer questions at any point in this process. But then we're anxious to hear from the public as well.

So if we go to the very next slide, there was a discussion at our last meeting about the roof and about what might be some options to break up that 117 foot length of the roof. And so this is the image that we displayed last, uh, meeting last month.

And so this was, um -- there was a comment about how we might be able to adjust this. And so if you go to the next slide, we have a proposal for you. We're fine with either of these two proposals. In fact, I believe the owners prefer this revised one, but we would be willing to go whichever route the planning commission is willing to pursue here.

We would note that if we were to do this what we're calling the roof option B, which is to break it up with about a 20-foot, um, shed area that breaks up that roof line, then we would have to, um, reflect that height allowance within the plat note, which allows for, uh, a 30-foot height.

But then there's an allowance for more height if there's an access or a similar type item and so we'd want to just make it explicit that it's accommodating

this design item. And if the decision of the planning commission is that that's not something that would work, then I think going with the original, which is at the 30-foot line all the way across, would be another way to, uh, address this.

And so we wanted to present to you what we thought -- what we believe are two ways to have a conforming height but one that addresses the concern relative to that long, uh, length that was discussed. Happy to ta- -- take any questions on this item before we move on to the next.

MS. VAN DINE: How much is the increased height? That wasn't in the packet.

MR. BUDGE: Three feet. And when we get to the plat notes, I can talk a little bit about the language. Um, if we go to the next slide, this is important because there's been some discussion, and it's referenced in the staff report, about what are the influences for this site.

And I think this is important for purposes of confirming for this body that this design is -- is reflective and respectful of the historic themes that exist already in this -- in this community. And that's why we like this slide, because this slide is identifying the areas of influence that are already

described in other city planning documents.

We obviously have the commercial zone that we all know on Main Street and we have a residential zone. Then we have an expanded residential zone. And then this particular property, as well as the other Sweeney properties, are above that.

But we are close to what would be considered the industrial area and so what we are doing is we're drawing influence from the Ontario Mine and some of these other mine structures that were once more prominent in the community and having the themes that would be incorporated into this home reflect that history.

And I believe it is that design that got it to the point where the historic society was endorsing of this proposal. And so we wanted to just share that item so you could understand that there's been a very deliberate and conscious effort to make sure that we're paying homage, if you will, to the historic, um, structures of the community.

Next is the accessory building. And Mr. Johnson had some questions about, um, how we were addressing the SLO at our last meeting and if I'm misstating from my notes who had their primary concern, I don't mean to exclude the others, but that's who I remember

raising this issue. So what we did is we took what we understand to be the estimated SLO line. There's been some discussion about whether or not it's on the property.

But given that we are moving forward with an application for a steep slope CUP and because we are going be meeting the same kind of criteria that you would have to meet for developing in the SLO, we thought, why don't we just go ahead and assume that the SLO does apply to this accessory structure and make sure that the findings we're proposing and the re- -- conditions that we're proposing meet the requirements of the SLO.

And so what we have here is a slide that depicts for you how the SLO gets -- is impacted and then how it is that we're intending to meet those criteria found in the code. And so there are two elements here.

One is to show the -- the terrace. The other is to show the accessory building but then to show how we're going to make sure that there's no ridgeline impact associated with this accessory use and that we're minimizing the limits of disturbance and that we're not creating any additional hazards.

And then when we get into the conditions that we've submitted and are part of the packet, you'll

note that we have a proposal for respect -- with respect to vegetation and making sure that vegetation is accounted for and that the landscaping is respectful of those themes that are identified in the SLO. Any comments or questions on that one? Okay.

MR. JOHNSON: How -- how do you interpret the -- the retaining walls for this -- there -- there would be exposed retaining walls. How tall are those?

MR. BUDGE: So some of the retaining walls are 6 feet for -- some are 4, some are 6, some are 8 and -- and taller up to 12. At -- but the item in that we went back and -- and carefully analyzed the city's land management code with respect to retaining walls, and the requirement is that if you have a retaining wall within the setbacks, then it cannot be any taller than 4 feet.

And so we have made sure that we can meet that standard. Now, this body, the planning commission, can provide an exception for retaining walls within the setbacks, but we -- and our plans do show, in our plans that you reviewed at our last meeting, some retaining walls at 8 feet within the setbacks.

But since then, we've gone back with Alliance Engineering and had them analyze it, and we can achieve a 4-foot terrace and then a -- and then a 4-

foot landing and then another 4-foot terrace for those, um, retaining walls that are within the setback.

As for the other retaining walls, they're not -- they are going to be the height that is needed in order to accommodate the grade and the structure but that's consistent with what's allowed in the land management code. And if you want to see that depicted, we do have a depiction we can show on that.

MR. JOHNSON: I mean, we don't have -- if -- if other commissioners would like to see it, I --

MS. HALL: Um, when we get to the steep slope CUP, maybe we can hone in on that.

MR. BUDGE: That'd be great.

MR. JOHNSON: Okay.

MR. BUDGE: Okay.

MR. JOHNSON: And --

MR. BUDGE: And then the next item is the landscaping plan. We want to just show the commission, and this has been made part of the application, the landscape plan. And right now, the vegetation on the site is sparser than what was planted. There's not a lot of native vegetation.

However, the -- the -- the Princes have been very conscious about making sure they have a landscape plan

that will beautify the area and that affects some of the screening that was discussed at our last meeting. And certainly if there are any comments on this, we'd be happy to take those relative to the site.

But this -- this is actually a very important matter and -- and I don't want to gloss over this. Because in speaking to the owner, when they first engaged Olson Kundig, they provided criteria, musts, if you will, that have to be included into the design and must be accommodated by the site, and landscaping was a primary listed item.

So this is something, an area of emphasis that will be done well and be done to achieve screening and it'd be done further to make sure that it's just a beautified area of -- of our community.

MS. SUESSER: Um, along those lines, um, when they purchased the site, they understood the building area limits on the site; correct? As they were platted. And that it -- the building area limits didn't encroach on the SLO, on the sensitive land overlay, or into the very steep slopes. And -- and the adjustment that they're asking for here is to encroach into that SLO and go beyond the, um, building area limits that were clearly identified on the plat.

MR. BUDGE: Yes, Commissioner. Let me -- let me

try to answer your question this way.

MS. SUESSER: Mm-hmm.

MR. BUDGE: When we -- when -- when our clients purchased it, they knew that the building area limits had been moved once before because that's in the record and in the staff report.

MS. SUESSER: Mm-hmm.

MR. BUDGE: The -- we did not know that the adjustment that we had proposed, both in terms of moving the building area limits uphill but then also reducing the building area limits, because you'll recall that our element of our proposal is to reduce the building area limits by 500 feet. We did not know it was going to be impacting the SLO.

And the reason is, is because the map we had from 1994 showed that these two lots are -- Lot 1 and Lot 2 -- were outside of the SLO. We've since come to understand frankly, since our meeting last -- that we had in -- in January, in talking with staff, that further updates to the SLO map have -- have either shifted or adjusted but the location is now such that it does clip the accessory building.

And so that's why on the prior slide we showed how it would be clipping that accessory building. But because we're going through that steep slope process,

we're believing we can mitigate those detrimental impacts associated with the adjustment.

And then we would also ask that the planning commission take into account the fact that by reducing the building area limits, we're -- we're achieving another goal of making sure that that -- the -- the -- the area of disturbance on site or a building will be lessened by 500 feet.

MS. SUESSER: Okay. Thanks.

MR. FRONTERO: I have a question about -- a question about the landscaping while the slide's up --

MR. BUDGE: Yes.

MR. FRONTERO: -- if I may. I -- I can't read the small print, uh, on the right.

MR. BUDGE: Yeah. Sorry about -- sorry about that.

MR. FRONTERO: That's okay. Um, is there a view -- is there a view from the east looking west? I guess what I'm trying to understand is will -- will the trees -- I assume -- I assume that those are trees on the right. Will they act as a buffer from the valley looking up towards the house?

MR. BUDGE: That's exactly right.

MR. FRONTERO: Because from this, it's hard to see that.

MR. BUDGE: The plan -- it is hard. You're right. An elevation would be better for --

MR. FRONTERO: Yeah.

MR. BUDGE: -- purposes of projecting that. Um, we can get that detail for you. If anyone wants to -- we can -- we can get that detail for you, Mr. Frontero -- Commissioner Frontero.

MR. FRONTERO: Okay.

MR. BUDGE: But --

MR. PRINCE: Intent is to screen. We don't -- we -- the intent is to screen and provide privacy for us. We -- we -- one of the very first things that we asked was, how can we make sure that the -- the building is as private as possible?

And so we would like to plant as large, uh, and screen trees as possible and because we're -- you're looking up the valley as those trees grow, it should make -- um, it should both break up the mass of the building significantly and we hope obscure the building as much as possible. That's in our interest and -- and I think in the public's.

MR. SHAND: Is -- is the photo on page three representative of your landscaping plan? Page three of the, um, presentation or -- or our packet? It's --

MALE: The staff --?

MR. BUDGE: I would say --
MR. SHAND: The staff report.
MR. BUDGE: I would say that it's -- it was certainly inspired by the landscape plan. The landscape plan has been more carefully refined since then. Yeah.
MR. SIGG: This is Commissioner Sigg and I would like to add that I think it would be very helpful that we could see an elevation showing, you know, what the -- uh, the as-built of the landscape plan.
Uh, and I think what would be helpful, uh, to the applicant would be perspective, uh, not only sort of from what we might call Marsac, but, uh, from, uh, directly more in a westerly direction, uh -- uh, across the valley as if it was a full front on view.
Uh, yeah. Something more like this. So is this what we're perceiving to be the -- the as-built land -- landscape plan? Because it looks to me like there's a lot of deciduous in there and a lot -- not a lot of conifer.
MR. BUDGE: Yeah. The -- the landscape plan includes more conifer which provides that screening that Mr. Prince just indicated. And so what this shows is -- is the deciduous so that you could see the structure more and evaluate it.

MR. SIGG: And I understand, you know, what we're trying to convey here but I think for the purposes of, you know, the analysis of screening of, uh, the structure, it -- it might be helpful, uh, for this group -- I don't know. I can't speak for the others, but to see -- see it in the context of the actual conifers.

For example, like you see on the slope side, uh, where you see the -- the conifers and maybe add some scale to what those look like. Well, are those -- are those, you know, 10 footers, 12 footers, 16 footers, uh -- uh -- uh, and that. And -- and I think that would go a long way to, um -- to the visual analysis, at least for me. Thank you.

MR. BUDGE: Thank you, Commissioner Sigg. We're reaching out to the architect for that right now, as we're presenting. Fortunately, they're an hour behind us, so in -- in Seattle, something [inaudible] great increase our chances. Um, and then we can also, um, zoom in and give you more detail on the planning plan so you could see the con- -- the conif- -- the conifer versus deciduous mix.

All right. If you want to go back to the PowerPoint, we'll go to the next slide. I think, um, the staff already did a good job of explaining, um,

some of the changes and these are in this -- in the, um, staff report. I think it's worth just highlighting briefly these proposed plat notes.

So these are intended to -- as we said last week, we talked about how with the MPD, we have something unique, because what we have is the MPD contemplates that when a house is brought forward, that it's going to be processed as CUP.

Back in -- when it was in the 80s, it was a small-scale MPD but we now do it through a CUP. So what that then means, when we couple this CUP with this plat amendment, we can achieve the set of restrictions that this body determines, in its discretion, meet the various values that are -- are -- are intended for this area.

And so what we have here in red is the proposed language of -- which would be the plat notes. You'll note that, um, the outside face of the walls on any single level is just to remove any question on the footprint. That was indicated by staff.

We believe we've honored it because we don't have a single level greater than 3,500 square feet and that was the footprint restriction put into the plat. Relative to foot, um, 1(e), that is a plat note from another plat within the same MPD 445.

And so we are added that here to just clarify that the parking area, which again is not a garage because it's not enclosed, um, will be located underground and will be treated as not counting towards the footprint calculation. If we move to the next --

MR. JOHNSON: Did they -- did they have living space included in their plat note as well?

MR. BUDGE: That wa- --

MR. JOHNSON: I was just curious on that.

MR. BUDGE: Yeah. We just pulled this from -- we pulled this from 445.

MR. JOHNSON: Interesting. Okay. Thank you.

MR. BUDGE: Next is height on the next slide. And you'll note, as staff accurately indicated, the maximum height is 28 feet for flat, 33 feet for pitched, and shall be permitted with the express -- well, I -- I've -- I've jumped over it. You'll notice -- you can read the whole thing. I was just going to highlight the changes which are in red.

And what we say is that in accordance with the Sweeney MPD, and we give the dates of approval, building height shall be measured as outlined in the note and there are no interior height restrictions.

And the intent for that is so that we don't have

to get into this. We're -- we're not creating a precedent where someone else maybe in an HR-1 zone may try to say, well. You didn't apply the interior height and we don't have to get into this debate as to whether it's intended to go to the very lowest floor, or as we contended at our last meeting, the lowest unfinished floor or the lowest finished floor. Excuse me. So we thought we would solve that with this plat note.

MR. FRONTERO: Does this plat note also solve your issue with regard to unfinished versus finished?

MR. BUDGE: Yeah. This would solve the -- the issue as to unfinished versus finished. Now, our plans that are submitted show that as being unfinished but this would make it so that there wouldn't be a limit on the interior height. We wouldn't have to deal with that item. And so, we have not proposed a plat note saying that -- that, um, you could never finish those bottom levels, but on the plans that you're reviewing, they are unfinished.

MR. FRONTERO: So on your current plans -- well, let me ask it a different way. Initially, I was looking at your application from last, uh, meeting.

MR. BUDGE: Yes.

MR. FRONTERO: 7,400 finished, almost 6,000

unfinished.

MR. BUDGE: Correct.

MR. FRONTERO: Is that still the plan?

MR. BUDGE: That's the plan. Correct. That is what we're asking for you to approve. Correct.

MR. FRONTERO: Okay. Thanks for that clarification.

MS. SUESSER: And --

MR. BUDGE: And --

MS. SUESSER: -- could you just, um, clarify the, um -- the, um, interior height as proposed? Is it 53 feet?

MR. BUDGE: I'm sorry?

MS. SUESSER: 53 feet? Is that --?

MR. BUDGE: We haven't measured from the lowest floor but I don't have a reason to dispute what the staff determined. We know that if from the finished floor we're less than 35 feet.

MS. SUESSER: So staff included the unfinished floor in its measurement of 53 feet. Okay. Thanks.

MR. SHAND: This question may be for Rebecca. Uh, what is the intent of the height -- maximum height of the interior space?

MS. WARD: So as we outlined, in 2009, there was the limitation for the stories in, um -- in these

historic residential zones. As the commission --

MS. SUESSER: Three. Yeah. Sorry.

MS. WARD: To three. Yes. As the commission is well aware, there are many properties on -- on steep slopes and so, uh, addressing an interior height helps to, um -- uh, otherwise as -- as the height was originally written, it was 27 feet above the existing grade.

So when you're going up a slope, that -- that could continue up the slope to help mitigate that, uh, and create, uh, an int- -- an internal measurement so that, um, these homes in the historic residential zone that have that stepping up effect but only to a certain limit. And also you see the -- the horizontal step back, um, to help for, um, homes that are at the base of a steep slope to have a compatible height that's reflective of -- of the historic, uh, heights.

MR. SHAND: Okay. Thank you.

MR. BUDGE: And Commissioner Shand, I don't want to, um, belabor the point, but just from an owner's perspective, when we see that into your height, where I've seen it most correctly applied is, you know, you're dealing with a -- a subdivision, maybe 25-foot wide lots, and you don't want to have a home climb too

far up this -- the -- the -- that particular lot, particularly when you're in proximity to adjoining neighbors.

This one, because of the MPD, its history, its specificity and uniqueness with respect to height, we felt that we were coming forward with a proposal that was suitable for the site. I did probably belabor the point so apologies.

Um, I'll now go to the final slide we have. Um, we -- we are cognizant that, um, there's a dy- -- dark sky requirement. We wanted to make it explicit and on the plat, and so we wanted to say that we -- all the lighting that is exterior should be fully shielded and -- and that's the purpose of that.

And then relative to, uh -- um, the glazing, we wanted to make sure that, um, we had some parameters, if you will, relative to that, and then we added a requirement relative to how interior lighting would be handled. And that's in the last two lines of this plat note 11.

And then 11 -- I mean, we have two 11s. I apologize for that. So it's 10, 11, 12, and 13. It's probably a printing error by printing this too quickly so apologies for that. Uh, as for the second 11, detached below grade accessory buildings, this is to,

uh, confirm that it doesn't count towards the footprint. This is really a belt to a suspender.

So whether -- this is why we put that in there, um, just so that there's no confusion as to that accessory structure. We already think that that's achieved by plat note 1 but that's the intent. And then the last comment, of course, is falling through on the owner's commitment to make sure that this is not a nightly rental property, fractional interest, or some other. This is a home or a home for a single family.

With that, we are, um -- that -- those are our points of -- uh, for presentation and then we'll be happy to answer questions that may arise after the public comment, Chair.

MS. HALL: Thank you so much. Um, yes. This is more people we've had for an application for a single-family residence in a very long time, if not ever for me, um, and it's Valentine's Day.

So I think we'll just start with opening the public hearing, uh, for, uh, 6.A, 6.B and 6.C. Um, can I get a show of hands who's wishing to speak just from like my time management standpoint?

Okay. Thank you. Um, yeah. So if you would like to, um, step forward, sign in, state your name for the

record, and then we will take, um, some online as well. Yes. And, uh, just a friendly reminder, uh, to reiterate what Rebecca Ward had said at the beginning of the meeting, that there will be a three-minute time limit. All right. Happy Valentine's Day. Come on up. Or if there's a hand raised online, we can start there as well.

MALE: Sue. Um, Sue Barsamian, you have been promoted. Please unmute yourself and state your name for the record.

MS. BARSAMIAN: Oh. Can you hear me?

MALE: We can.

MS. HALL: Hi.

MS. BARSAMIAN: Great. Hi. This is Sue Barsamian and I'm a Park City local and I go by Treasure Hill every day and I would like to express my support for the project. Uh, as many others have already stated, um, I find this to be a really refreshing design that combines, you know, a -- a nice combination of modern with a real -- I think it was noted a real homage to Park City's mining history.

Um, I -- I think this is very nicely done and I would like to see more people in Park City as they build new modern structures to -- to adopt this approach because I think it's -- it's really exciting.

Um, I also really do appreciate -- it's -- it's obviously a larger structure, but I appreciate the care that's been given to tucking it into the hillside and the ridgeline. Um, I've learned more tonight in this meeting about the extensive expansion to the natural landscaping, which I think does provide a very nice buffer zone. So I believe that this will be a real attribute to the hillside and I'm fully supportive. So thank you.

MS. HALL: Thank you, Sue. Anyone in chambers wishing to step forward or if we have a raised hand on Zoom?

MR. SWEENEY: All right. Good evening. Pat Sweeney. I live at 445 King Road. I appreciate, uh, your time and would like to wish everybody a good evening. How do you fit 45 years of experience in three minutes? I'm going to try it and do it in less than that.

I represent myself, my brothers Ed and Mike, and the various Sweeney entities, uh, that are either owned or con- -- uh, all of the master plan and also which currently have interest in -- or to the master plan.

To be clear, we fully support the application. I think the architecture is stunning. The function is

impressive and it meets the requirement of appropriate infill in a historic district. In particular, the tenet that it reflect but not replicate and that it be contemporary.

With respect to a couple items, I want to make it clear that I think everything with regarding the plat notes that they propose is fine and most of it basically clears up the way it has been handled historically.

There is no difference in the way that, uh, the lots on -- or the houses on 3 and 4, 6 and 7 and 8 have been treated differently. There is space that doesn't count if it's not above grade and has landscaping on it or deck.

With respect to the notion that there's some limit on interior height, then I am personally in gross violation of the code right now, and I don't have a final CO on my current house, and I think I might outdo Matthew in the amount of space that I built under the ground. And some of it doesn't count because it has landscaping on it.

With respect to the people behind me, um, I appreciate the public comment so far. I totally agree with them.

But if there's a concern about what Matthew is --

and Tatia -- I'm sorry, not Tatia, Tatiana, uh, are wanting to build, um, there -- I think the thing to do -- everybody should focus on what's around those homes. If you look at the picture on the wall to my right, five of those homes were built in that picture.

MS. HALL: Thank you. Do I have anyone else in chambers who'd like to step forward?

MR. HERMANN: Good evening. I'm Eric Hermann, zip code 84060, and my wife, Susan, is here with me. We are immediate neighbors of 220 King Road and have owned our home in Old Town since 2006.

We treasure the unique character of our community, and would never initiate conflict with a neighbor. We support the Princes' right to build a home, and look forward to the Princes completing their home as well as meeting the building codes.

Unfortunately, the current staff report and the so-called findings of fact are so unprecedented that we feel compelled to state our concerns.

We built a home in Old Town that was approved subject to meeting LMC and HR-1 rules and guidelines. We wanted more east-facing windows, a larger footprint, and a more contemporary look, but that would have violated code. And we obtained approval and built according to the strict requirements of the HR-1

code.

We are shocked to see staff findings of fact that recommend approval of a structure not by requiring the design to conform to Old Town rules and guidelines, but instead recommending that the rules and guidelines be changed or removed to allow the applicants' design to be approved.

As citizens, we all agree to restrict ourselves for the common good. We all abide by laws and regulations. The Old Town building code maintains Old Town's unique character.

Planning staff has determined that the proposed structure does not comply with rules and regulations regarding: height, roof pitch, massing, window style, percentage of glazing, steep slope, sensitive lands, and footprint. If these rules are discarded, as they are in this application, how will the city enforce the HR-1 zone requirements in the future? Every project will have good cause to demand whatever exceptions it seeks to the rules.

We ask the commissioners: if we choose to remodel our property in Old Town by expanding the footprint and installing floor-to-ceiling glazing that purportedly echoes industrial mining buildings, can we count on you to approve our plan, or would you require

us to change our design and build elsewhere?

We depend upon you, Commissioners, to apply the rules equally to all of us in Old Town. We have a large family spanning four generations, and while Old Town is not always the easiest place to live in Park City, we embrace its unique historic character and sense of community. We count on you, Commissioners, to ensure that it is preserved, today and in the future. Thank you very much.

MS. HALL: Thank you. Do we have any hands raised online?

MR. EHLERS: Not currently.

MS. HALL: Okay. Do we have anyone else in chambers who'd like to speak on this agenda item, 6A, 6B, or 6C?

MR. DAHL: Hi there. My name is Ben Dahl. Um, I'm one of the neighbors that was listed on the map there on Sampson Avenue, so 84060, I guess, since I need to state my zip code.

Uh, I'm fully in support of the Princes' applications for plat amendments here, um, and for their design. Uh, I think it is an inspired design; they have been extremely collaborative with their neighbors as it relates to the impact of the design, what it will mean for all of us.

Um, I, in particular, given that I, uh, have bought Lot 1, um, am concerned about the, um, wildfire risk, and the ability to have fire access and fire truck turnaround that they are proposing is something that I think is an extreme upgrade for the neighborhood generally, uh, and for my home specifically.

Um, I think the design as it relates to being inspired by, uh, the old Park City mining history is something that, uh, is, uh, certainly an upgrade to the homes that exist there now, and from my perspective is a really nice hat tip to the, uh, history of this town.

So, from my perspective, uh, we do not have concerns about, uh, the Princes building their property. We, of course, will be impacted by that construction, and no one looks forward to having construction in your backyard.

Uh, at the same ti- -- at the same time, I think the positive impacts on the neighborhood and the way the Princes have approached this is something that, uh, I wish every neighbor would, uh -- would learn from that -- uh, that example.

So I -- I would encourage you all to, um, support the Princes' application and we, uh, as neighbors that

are, uh, really adjacent to it, are extremely supportive and encourage you to -- to vote for it. Thanks very much.

MS. HALL: Thank you.

MR. EHLERS: Could you please sign in?

MR. DAHL: Okay.

MR. EHLERS: Thank you.

MS. LEWIS: Hello. I'm Tina Lewis, zip code 84060. Uh, I have lived in Park City for 50 years this year. In the early 1980s, I served on the city council, and I w- -- I was a member of the team that wrote Park City's Modern Land Management Code, established the historic district, wrote the historic district guidelines, established the Historic District Commission, now called the Historic Preservation Board, restored the Miners Hospital and established in it the first professional library, restored City Hall, and founded the Park City Museum that occupies it today.

I served for nine years on the board of trustees of the National Trust for Historic Preservation in Washington, D.C., and was chair of the Trust's National Advisory Board. I served for decades on the board of the Utah Heritage Foundation, now called Preservation Utah, and my husband and I restored a

wonderful 1884 miners cottage up on Woodside Avenue, and we lived there for 27 years.

But at this moment in time, you are in charge: the planning commission, the planning department, the city council, the city manager, the city attorney, and the mayor of Park City. You are the stewards of Park City's fragile historic district and the visionaries for Park City's future.

You are the protectors of Park City's international brand that attracts visitors and businesses and organizations and events and residents from around the globe because of the unique magic of this place. You have been elected, or hired, or appointed to protect that magic.

The unbelievable success of Park City's transformation from a mining town to an actually documented ghost town, to a world-renowned destination, came about because of the magnetic allure of the spectacular mountain peaks surrounding a tiny little historic town, and because of the strong, passionate citizens who valued its preservation and were determined that it develop with quality and integrity.

Your responsibility is to make sure that anyone who walks through these doors and wants to add

something or change something to our town respects our codes, our rules, our vision. You are the gatekeepers.

You know, we all live with the consequences of our actions. Park City lives with the consequences of your actions. Thank you very much.

MS. HALL: Thank you.

MR. KEYS: Good evening. Oh, good evening, Chair, Commissioners. Justin Keys. I'm here on behalf of Eric and Susan, who own, uh, Lot 1, the Sweeney development, and also the home right below it; Eric spoke a minute ago.

Um, it's somewhat unusual for me to be here on this side of the aisle; as you probably know, I'm usually here representing applicants, um, not neighbors. Um, but the reason I'm here today is because when I'm representing clients, when they come to my office, right away, when I talk about developing, particularly in Old Town but really anywhere in Park City, the first thing I tell them is, you know, whatever you're proposing, first off, it must either comply with the code on space.

If it doesn't comply with the code on space, we need to find one of the exceptions within the code and see if you can qualify under one of those exceptions, and I've been here vigorously arguing for those

exceptions, right, where I can. Or, if you can't fit into either of those boxes, you've got to lobby, right? You've got to show why your vision is so great that you need to modify the code so that it can allow what you're building.

The staff report today was a little bit unusual for me; I came into this recently, um, and I read the staff report on Friday and over the weekend. And I was surprised because, typically, the way the staff report works is they'll have, you know, 30 pages in this case of analysis, and then a very helpful chart, right, that you can kind of click through and say -- and I'm always going for it -- I -- I sit down with the planners; I want to get that comply, right? Because it either says, comply, does not comply, which you don't want to see, or request discussion.

That report, or -- or that chart is in the 20 -- uh -- uh, the January 24th staff report, but it was not in the staff report leading up to this one. And, interestingly, when I look at the one from January 24th and then kind of generated my own -- and I'm happy to hand it out; I sent it earlier but maybe you didn't get it because I did just send it today, I apologize on the last minute. But if you march through it, there's a lot of does not complies, right?

And I actually kind of heard them concede that today; there's a lot of does not comply, because this home is in the HR-1 zone. Now the -- what the -- what they want to tell you is, well, it's also in the Sweeney development, and so that means something different. Well, it doesn't comply with the Sweeney MPD, either. What they're here to do today, all the red you saw on the page, is to rewrite the rules of the game, right? Let us change the notes on the plat so that we can build what we want to build.

I want to tell you, as the guy that's usually on the other side of the aisle, let's be careful about precedent, right? Because everything has a plat, and everything has plat notes, right? So if you can just use a plat note to upend the HR-1 zone, for example, first one, building footprint, right? It's -- the definition of how to measure a building footprint is very straightforward; it's in the code, right? Commissioner Suesser spoke to it.

According to the January 24th staff report, if you use that definition, the footprint on this building is 11,300 square feet, where the allowance is somewhere between 3,500 to 4,500, whether you go the MP- -- the more strict is the MPD, right? That's the first one.

Building height. They admit today it doesn't comply. Commissioner Frontero wanted to see the massing broke up. Oh my goodness [sic], right, on -- on the -- so what do they propose? An even taller roof, right?

That roof's already got problems. If you look at the code in the HR-1 zone, it's a shall, "The roof shall be 712 to 1,212." This one's 312, right? I could go on and on, right? There are all of these.

What I would encourage you -- I -- I -- I really appreciated the comment that was just made: you are the gatekeepers to what's allowed, and here I think they should comply with the code. I love the home; it's probably just better suited in maybe some other neighborhoods in Park City and not the historic district. Thank you.

MS. HALL: Thank you.

MR. M SWEENEY: Mike Sweeney, and I'm going to yield my time to my brother. Pat. Pat?

MR. P SWEENEY: Pat Sweeney. I guess I didn't make it in three minutes, but neither did the previous gentleman.

It's important that th- -- there is an erroneous, uh, statement in the staff report, and that is that this lot is subject to HR-1. It is subject to HR-

1/MPD. That was a zone specifically passed unanimously by the council in 1990 at the suggestion of Jodi Hoffman to moralize -- uh, to memorialize the understanding with the Sweeneys.

When we first were asked to engage with a clustering master plan with the staff after seven years and, uh, seven previous iterations, Tom Clyde wrote a letter to my brother saying we would be vested under the existing zoning. All this business about subsequent codes applying to the master plan is nonsense, other than fire and safety, which we would fully respect.

MS. HALL: Thank you. Is anyone online with a raised hand?

MR. EHLERS: There are no hands raised.

MS. HALL: All right.

MR. ANDERSON: Hi. My name's Michael Anderson. I live in Park Meadows, uh, 84060 is my, uh, area code. Before tonight, I don't think I ever heard the word plat note; uh, I'll look it up after.

Um, I'm here in support of the Princes and the house they'd like to build; I think it's beautiful. I think all the details are certainly beyond me, but I respect that that's your job and you're, um, pursuing it, uh, very carefully.

Um, I moved here from California about three and a half years ago; we were part of the Covid invasion. We lived about six feet from the Princes in Old Town; they're wonderful neighbors, uh, extremely considerate.

And if anything, Matthew, uh, was encourage me -- encouraging me to go to more museums about the Park City history than -- than I was ready to sign up for. He has a ton of history with this town, very much respects it, and, in my view, the house is very much in keeping with Park City.

And I think we should really encourage this kind of investment in the neighborhood. I think to discourage it is, in my view, kind of going the opposite direction. I love what they're trying to do; I love the investment in the community and the neighborhood. I think it's a wonderful thing, and I think the opposite, to discourage it, would really be a big mistake. Thank you.

MS. HALL: Thank you. Yes, please come up.

MS. FONTANA: My name is Carole Fontana, 84060. I live on the Margarita side of the canyon, and the architectural design is really good. I agree with everything everyone has said: the scale is too much. I think, from my point of view, it's going to look more

like a small resort than a family dwelling, and I'd like you all to maybe scale it down a bit, if you can work with the owners.

MS. HALL: Thank you. Is there anyone online, Jaron?

MR. EHLERS: Yes. There are currently two hands raised.

MS. HALL: Well, let's take someone from online.

MR. EHLERS: Kristin Parker, you have been promoted. Please unmute yourself and state your name for the record.

MS. PARKER: Hi. Uh, my name is Kristin Parker, and I live in 84098 with my husband, TJ, as well as our three young children. Uh, previously to being in the Old Ranch area, we lived in Aerie, uh, directly across the valley, uh, from the Princes' home.

Um, and we -- I have spent a lot of time looking at the landscape plans, the architecture plans; I really do think it's a very beautiful home. Um, I think that the, uh, details that have been -- and the thought that is put into the home, uh, plays a beautiful homage to our mining history.

Um, beyond that, I am, uh, a beekeeper and a farmer, and I care a lot about the impact to the land, and I think that they've done a really good job with

the native species selection, um, and really just trying to keep their lot fitting in with the natural surroundings. So I have no concerns, um, and we're in, uh, huge support of their plans. Thank you.

MS. HALL: Thank you. Jaron, do you want to take the next one that's online with a raised hand?

MR. EHLERS: Yes. Erin Kryzak, you have been promoted. Please unmute yourself and state your name for the record. We cannot hear you currently.

MS. KRYZAK: Hi. I am Erin Kryzak. I own a house on Prospect Avenue. I've lived in Park City on and off since the 1980s.

Um, I've -- I've listened to everything tonight. I just -- one thing about me is -- is the environment, and, um, the one thing that stood out was how important it was for the landscaping to kind of shield the -- the mass and the glazing of the windows.

We live in a mountain environment; we have limited resources. I just -- you know, the water is something that I think about. And if -- if we're going to use landscaping as a way to kind of shield the hugeness of this house, I just wanted to bring up the fact that that landscaping will take water, something that we have a limited resource with. So that's it.

MR. EHLERS: Thank you. Uh, is there anyone in

chambers who'd like to step forward?

MS. TOLMAN: Hi. My name is Ginger Tolman, and it's 84060. I live directly below, on -- on upper Norfolk, so I'm very close to where this will be built.

Um, with everyone else, I feel what I've been hearing is it is -- I've looked at the design, I think it is beautiful; it's a lovely architecture and there's some good thought going into it.

But in terms of the size of that and the height of that in a neighborhood that I've lived in for 25 years, it just doesn't fit. And according to what I've been reading and hearing, it also doesn't fit with the codes that have been, um, implemented, and, um, that's what I have to say. Thank you.

MS. HALL: Thank you. Is there anyone else in chambers? Is there anyone else online? No. Yeah.

MS. PRINCE: Hi. My name's Pamela Prince, I'm Matthew's mother. And we have been in Park City for a long, long time, probably since the late 60s, before Matthew was even born. And, uh, I'm -- I'm really -- I'm really happy that Matthew has reestablished himself and wants to have Park City be his home.

I've actually been -- I'm living up on one of the houses in King Road; I had moved away from Park City

about six years ago, missed it a lot, I came back. And, uh, I -- I'm -- I was allowed to li- -- I -- you know, I've been living up in that house.

And -- but I believe that what Matthew and Tatiana want to build is far superior to what's there. I'm sure I'm prejudiced, but I think he's -- they've done a great job of putting the plan together. And I'm -- I'm so happy that they are going to be in Park City and raise their family and I can be here to -- to be around them and enjoy them.

And I'm sure they're doing a lot for the community. And I -- I brought a picture with Matthew on the Alpine Slide with me when we built the Alpine Slide years ago, and I thought that you ought to see. Anyway, thank you very much. I'm very proud of my son.

MS. HALL: Thank you for that. Additional hands online?

MR. EHLERS: Yes. Emma, you have been promoted. Please unmute yourself and state your full name for the record.

MS. SOPKO: Good evening. Can you hear me okay?

MR. EHLERS: We can.

MS. SOPKO: Thank you. This is Emma Sopko. I own a home in the Old Town historic district directly across from the proposed property. And I believe that

an 11,000 square foot home is well suited to Deer Valley, or The Colony, or Park Meadows, or Thaynes Canyon, or the Aerie, or many of the other large development communities that are in our midst around the Old Town historic district.

I think this is a critical moment for the planning commission because I think what you decide in the coming days will open the floodgates to large-scale building that will forever change the face of our historic treasured town and everything that makes it unique and special. And I think we will have future resort-scale properties built, I think others will do the same thing; they will combine lots, they will, um, build large-scale properties that are better suited to Deer Valley, The Colony, and many, many, many of the surrounding properties.

Um, so I would encourage the planning commission to take into consideration why we have the codes and the zoning that we have, and how current residents have had to, um, you know, do special things to make sure we fit into keeping the historic treasured town the way that it is. So I would please ask you to think about the future implications and the precedent that this sets, and I thank everyone for their time, and Happy Valentine's Day.

MS. HALL: Thank you. Do we have anyone else in chambers? Please step forward.

MS. BRANSFORD: My name is Anne Bransford. I'm a property owner in 84060. I am going to just -- um, I've served on a few boards, not nearly as many as Tina Lewis; I'm very impressed, and thank you for your service.

Um, and I'm just really going to echo what she came up here and said to you all. Um, I -- I don't have any skin in this game, um, but I think what she said here tonight is something that you -- it -- the ball is in your court; you are to make a decision on how this is -- this will set a precedent of some sort in our community.

And my family has owned property here, and still does, for 99 years, so that's the only skin in the game I have, is -- is in respect for you as a board, as a commission, to make what decision your heart tells you to do for our community. Thank you.

MS. HALL: Thank you.

MR. EHLERS: Could you please sign in? Thank you.

MS. HALL: Is there anyone online with a raised hand?

MR. EHLERS: There are currently no hands raised.

MS. HALL: Okay, thank you. Is there anyone else

in chambers? All right. With that, I will close the public hearing.

MR. EHLERS: Wait.

MS. HALL: Uh --

MR. EHLERS: A --

MS. HALL: Oh.

MR. EHLERS: -- hand just came up.

MS. HALL: All right.

MR. EHLERS: Nick, you have been promoted. Please unmute yourself and state your full name for the record.

MR. SHAFFER: Can you hear me all right?

MS. HALL: Hi, Nick.

MR. EHLERS: Yes.

MS. HALL: Yes.

MR. SHAFFER: Uh, N- -- Nicholas Shaffer. Uh, I no longer liver in 84060; I live in 84098 as a -- a lot of us old-time Park City folks get pushed further out. Um, however, I did go to elementary school in the building that you all I think are in.

Um, but I -- I -- I just want to echo the sentiment of -- you know, having been a -- a participant in many of these, uh, meetings, every time a decision is made, it sets a new precedent.

And the -- the comment of being a gatekeeper is,

if you're going to pursue this application, it needs to be binned under either the existing code or the Sweeney Master Plan Development; you can't mix and match those because anybody that comes in behind is going to leverage it, as was -- was said earlier.

So I would ask that, you know, as guardians of Old Town, which, you know, originally was, uh, miner shacks and now we've got something more, every time you make a decision, you open that door a little wider for something new, I've heard the term modern.

And -- and -- and it's an amazing project, but like as others said, it -- it -- it would be very appropriate in many other locations. So I -- I would just ask you just at least bin this, if you're going to process a go, you know, say it's going to be under the Sweeney, uh, Master Plan, um, but don't mix and match. Thank you.

MS. HALL: Thank you. Right, with that, I will close the public hearing on our 6A, 6B and C agenda items, and we'd love to hear some questions from the commissioners, uh, for the staff and/or the applicant. Does someone want to jump in first?

Um, I was thinking that we could -- there is significant overlap with the plat amendment and both conditional use permits. Um, I know Rebecca has a

slide, um, or a couple slides that could maybe guide the discussion since it is complicated with the three applications, um, being done at once. But maybe we could look at the plat amendment first for discussion and then move to the other CUPs, if that make sense to you guys?

FEMALE 1: Sure.

FEMALE 2: Sure.

MR. BUDGE: Two quick comments first. I don't want to interfere with your deliberations, and -- and your questioning. But I -- I thought I --

MR. HARRINGTON: And b- -- before you do, and just I think it would be fair to give both staff and the applicant an opportunity to address any points that were raised either before one another's, um, presentations or the public comment prior to opening up for council questions.

MS. HALL: Okay.

MR. BUDGE: Would you like me to go first? Thank you.

MS. HALL: Sure. Go for it.

MR. BUDGE: Thank you, Chair. Appreciate that. I -- I -- I want to address the comments that were made. Uh, first of all, I'm very heartened to see so many positive comments.

Those that had questions, I can put into two categories. I would say that those who were talking about the size or its -- uh, how it may look when compared to other HR-1 lots, they probably weren't at our meeting last month.

And what was important at our meeting last month is we did a study of the other five homes that are in the MPD, and we compared and contrasted this design to that. And we are happy to take the pu- -- any member of the public that wants to see those slides, but we commissioned -- we had a drone take an image and do a study and do an analysis, and we did a table.

And so, when we're talking about precedent, we're very cognizant of that; we want to make sure we're acting within the rules and what was intended, and that's what we are doing. We compare ver- -- we compare in terms of size when you compare us to what has been built on Lots 3, 4, 6, 7, and, frankly, 8, and those details were all put up.

But for the benefit of the public, we could -- we -- we're happy to show you those slides and anyone who has a question on that, we're happy to discuss that, but our size compares very favorably to that.

Second of all, the s- -- and this bleeds into the second. We're not looking for a code amendment, so

when Mr. Keys indicates we're looking for some sort of exception or change to the code, we're not. We are working within the framework that was intended when the MPD was adopted.

And this intent was reflected in our specific plat, in Plat Note 9, which we're not touching. And what Plat Note 9 talks about is that how this body is the one who reviews the house design and reviews the request for the home, and that is the process we're seeking to have this approved through.

And so, if someone were to come that is outside of the MPD, and, ironically, our -- one of our opponents, who spoke twice, is the -- owns the only unbuilt home in this, um, MPD, so there's really precedent only being set for one other home, and that is Lot 1. That is the only, um, lot that could come forward and talk about anything that was done here and try to have that applied to its property.

If I'm in the HR-1 zone, or if I'm representing someone on Sampson, or something else, an item that was allowed for Mr. Prince's home was not applied to that lot because those lots are not within the MPD for Sweeney.

And so, we are very aware that it's important to the community and important that the way we approach

an application is that it be processed according to what was intended by the MPD and by its plat notes.

And then Matthew just has one brief comment and then we'll be done and we'll yield to the staff and -- and answer questions. Thank you.

MR. PRICE: Thank you. I'm Matthew Prince. Um, I'm, uh, the worst, um, husband to have brought his wife on Valentine's Day to a planning commission meeting with her mother-in-law.

Um, so, but I appreciate -- I appreciate everyone's time. And I want to first of all really thank the staff. Um, we have been working with the staff now, uh, for almost four years on this, and it's been a very iterative process.

Uh, there are a ton of changes that we've made. Uh, we've changed the glazing, we've changed the actual type of glass that we've used, we've -- we've, uh, pushed the property back, uh, a way to make it, uh, more hidden from the hillside.

That's all feedback that we got from the staff over that four years, and I really appreciate, uh, all of their effort and all their time, and it's been a very collaborative process as we've worked with them, uh, figuring this out.

I also wanted to say really thank you to our

neighbors. Um, you know, my wife walked through, said every neighbor except one, uh, signed off on -- on this parti- -- every immediate neighbor but one signed off. Um, I'm really honored that many of them took time on their Valentine's Days to be here.

Uh, and even the Hermanns, I think -- um, I think are -- we've tried to work with them. We've -- we've, uh, met with them, we've talked with them, we talked with what their specific concerns are. One of the things they really wanted was to make sure that the trail wasn't impacted, and so we've moved the home back and further away from the trail to what is existing and there.

I think the important thing to say is that what we're building is smaller, it's lower, it has less footprint than what is existing on that home, on that site, right now. There are buildings that are there, and we're just asking to make sure that -- not that we get special treatment, but that we get the exact same treatment that the Sweeneys originally negotiated.

I -- I -- I -- again, I -- I grew up in Park City. I appreciate precedent; I want Old Town to stay what Old Town is. But there's another precedent that I think is important for you all to consider, and that is the precedent of what the city negotiated with the

Sweeneys.

Um, no family has done more to preserve open space, to maintain the trails, to build what is the town lift infrastructure and the town runs than the Sweeneys have, and we would not have all of those things without -- uh, without that.

And part of what the Sweeneys had the right to do was build 250 homes up the side of Treasure Hill, and they negotiated with the city in order to do that. One of the points of that negotiation was that there would be these seven lots that were created that were special and that were different and that have different rules that apply to them.

And if you look across every single one of them, then every single one of them has a larger home than you see somewhere else, and we're just asking to have the exact same treatment that the other Sweeney lots get.

What I would caution is that if you go back here today and renegotiate the deal that the Sweeneys struck with you, then you're setting a very dangerous other precedent, which is that the deal that is documented by the letters that Pat Sweeney has submitted, that says what previous commissions, what previous city attorneys have said, to say that these -

- the rules that applied at that time, when that was negotiated, those were the rules that were intended to be there -- if you go back and renegotiate effectively that, then it's very difficult for anyone else to trust the city that their word means what their word means over the long term.

And so I'd be cautious of that precedent as well. We want to make sure that we're building something that's respectful; I really appreciate all the comments, uh, on this. We've -- we've again worked on this for four years; I'm happy that this is coming, uh, to a close, uh, tonight.

Uh, I'm hopeful, and again I -- uh, I really appreciate, first and foremost, uh, all of our neighbors, and -- and secondly all the time of the staff. So thank you.

MS. HALL: Thank you. Um, staff, would you like an opportunity to address anything that was recently discussed?

MS. WARD: Y- -- yes, please. Thank you. Um, one point that I think is very important to clarify on the record is that, um, as indicated in the staff report, staff has not drafted fin- -- uh, findings of fact. Uh, as indicated in the staff report, it is the applicant that submitted those that are attached.

The second is that the January 24th report is incorporated into the current report; there is no change to staff findings. Uh, the -- the report for tonight provides the updated information on the background of the Sweeney MPD and the code regulations that were discussed last time.

Um, also, regarding the analysis of the five homes that were presented by the applicant, um, in the January 24th work session, the staff report does go through and provide the documentation that we have on record for what the building permit, CUPs, HDDRs, all -- all of the approval process that were, um -- that were completed for the other lot. So I just wanted to make those few clarifications.

Um, the last item is I -- I understand that there is an updated landscape, uh, rendering. Um, the applicant is not able to receive that, but they're working to e-mail that to us so we could share that. Um, we don't have that yet but that is something that -- that they have updated.

MR. BAIRD: Madam Chair, Mr. Bruce Baird, Co-Counsel. We just sent it to Rebecca, and if we can provide a, uh, link, you got -- you can get it? We can also show it on Zoom if you can allow, uh, Quinn [inaudible] or Steve to be a participant and unmute

them and promote them so they can show it on Zoom.

MALE 1: Yeah. We've got it. Yeah, this is the head-on view that you asked for; it is not the -- the ground view. Obviously, if you take this down about 20 degrees, you're going to see that those trees are blocking essentially everything from the -- the lower level. But this is the one we could get to really, really quickly.

MS. HALL: Thank you.

MS. SUESSER: I have some follow-up questions for Rebecca.

MS. HALL: Um, just one sec. Rebecca, are you finished, uh -- Rebecca, are y- -- are you guys finished with the -- both of you? Okay. Sure.

MS. SUESSER: Rebecca, can you just clarify, um, there are some comments about -- um, about, um, this property not being an HR-1 zone, um, and it's my understanding that it is. Is there some unique zone that this property is in or is it considered within the HR-1 zone?

MS. WARD: So one of the -- the original conditions of approval when the Sweeney Master Plan Development was approved, um, it was Condition of Approval 3 that says, "The planning commission and staff shall review these proposals as conditional

uses." This is specific to the single-family homes. "This shall include review of the design of the structures to ensure that they are designed to minimize the visual impact. The design shall be consistent with the historic district guidelines."

And then another, um -- Condition of Approval 1, um, "At the -- at the time of that 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."

Um, what the applicant indicated is there is a Plat Note 9, um, which references precedents -- uh, "The above special restrictions are consistent with the master -- the Sweeney Master Plan," uh, and then it lists the -- the deeds of approval, "Final house design shall be reviewed under the small scale master plan process," or our CUP process, "in accordance with the Sweeney Master Plan."

MS. SUESSER: And the -- the phrase, um, from Condition of Approval number 1 says, "Shall review projects for compliance with the codes," mea- -- that's a reference to Land Management Code?

MS. WARD: Yes.

MS. SUESSER: "And ordinances in effect at the time," that -- that's a reference to current -- not at the time of the MPD but in effect at the time meaning present day, now?

MS. WARD: And with the final sentence, "In addition to ensuring conformance with the approved master plan." Yes.

MS. SUESSER: Thanks.

MR. SIGG: So can I get some -- this is Commissioner Sigg. Can you give me some, um, better clarification of, "At the time?" Uh, I -- I'm still a little confused; is -- are we at the time that the Sweeney Master Plan is adopted or is at the time of the a- -- current application? Because it's kind of vague on that point; um, y- -- you could interpret that two ways, and so I -- I think that's very important to understand.

MS. WARD: And as was outlined in the staff report, um, the background for it, the changes that have happened, um, since the single family lots were constructed. There have been s- -- changes to the way that height is regulated within the Historic Residential 1 zoning district.

The -- what the applicant is requesting is that the planning commission consider review of this with

the codes that were in effect at the time of the Sweeney Master Plan Development. The information the staff has provided is the analysis under today's Historic Residential 1 zoning district code.

MR. SIGG: So were the h- -- other houses within the, uh, Sweeney Master Plan, they were reviewed in the context of the code at the time that they were reviewed, or they were reviewed i- -- in the context of the code at the time that the Sweeney Master Plan was established?

MS. WARD: They were reviewed at the time, under the code. The code at that time had not changed since the time of the Sweeney MPD.

MR. BUDGE: Sir, if I just may make a brief comment on that. Mr. Sweeney, in his written comments, since our last meeting, detailed all that from his experience and view.

My perspective, as representing the owner, is that at the ti- -- applies unless it's a topic addressed in the MPD, in which case we're governed by the MPD. And so that's why we're making sure that there's removing any ambiguity or -- or question by proposing plat notes that unders- -- that clarify as to why we are where we are relative to these elements. And if you look at Plat Note 9 as it's written right

now, it reflects the fact that there have been multiple updates. And then if you look at the plat, the plat itself has been updated.

And so what all of this means is that, when we talk about the Sweeney MPD, we have a set of values, we have a set of principles, and then the pr- -- entity, the body, the land authority that decides whether we're staying within that range described in the MPD, is this body, the planning commission. And that's why we're bringing these applications to you. So we're not looking for anything other than what was contemplated when the MPD was approved.

MS. HALL: All right. Um, I guess we had discussed kind of, uh, separating the -- since there's three applications and kind of moving forward with, uh, trying to focus on the plat amendment portion before taking into consideration the two CUPs, especially since, um, the steep slope conditional use permit has some very specific requirements that maybe don't overlap as much with the plat amendment.

Um, and since this is a complicated application and we are statutorily, um, required to vote tonight, um, I think if we could maybe pull up the plat notes, that would be a good first step, um, to trigger some discussion by the commissioners. And then if people

have questions or comments, we can discuss, um, with targeting the plat amendment --

MR. JOHNSON: Can --?

MS. HALL: -- for efficiency's sake. Yes, [inaudible].

MR. JOHNSON: I was just thinking, for the -- the plat amendment itself, do we have a -- do you have an updated -- do you have a comparison of the existing building area limits versus what's being proposed? And maybe we could pull that up just for a visual.

MS. HALL: Yeah.

MR. JOHNSON: If that's all right.

MS. HALL: Yeah.

MR. BUDGE: Excuse me. That top cross hatch area is the extension and then the bottom grayed area is where it's being removed, meaning the building limits are being adjusted to mirror what is the -- the black line or the black dash line that I've shown. That explains it well enough, but the net effect is a reduction of about 500 feet.

MR. JOHNSON: Not without the accessory building. Is that what you --

MR. BUDGE: Correct. Excuse me.

MR. JOHNSON: If you -- without the --

MR. BUDGE: Right.

MS. HALL: So, lot 2 in the white includes the accessory structure and the -- the dwelling.

MR. BUDGE: So, that -- the cross hatched area at the top, which reads, um, 2 buildable area contains 1,434 square feet, that is where the accessory use will be located --

MS. HALL: Under --

MR. BUDGE: Underground, right.

MS. HALL: Okay.

MR. BUDGE: And -- and just to note, to get back to Commissioner Suesser’s earlier question about moving into the SLO, in fact, prior representatives of the staff last year told us we weren't in the SLO back then. But I think that’s a moot point at this point because we're going to comply with the SLO.

MR. JOHNSON: Well, I have a question on that, because I -- so maybe you can clarify on that, because -- so anything that's -- that's -- so, the -- the hatched area for the assessor unit, we'll look at that for a second.

MR. BUDGE: Right.

MR. JOHNSON: So, that, however arbitrary the line is where the SLO is --

MR. BUDGE: Correct.

MR. JOHNSON: How -- pardon me?

MR. BUDGE: No, that's correct. I was saying correct.

MR. JOHNSON: Um, how -- so, but we have the 15-2-21-4a, we have no development is allowed on or within 50 feet map distance of a very steep slope, and that's on a steep slope. So, I'm trying to -- because that section, anything new where you're proposing to expand into would be subject to that provision in the code.

MR. BUDGE: Which allows the planning commission to approve that development. So, that's why we're here before the planning commission.

MR. JOHNSON: Okay.

MR. BUDGE: And then if there's a mitigation or element that needs to be added to address any impact, that's what we've tried to anticipate with the red [inaudible] additions.

MR. JOHNSON: Okay. I think I understand now. Thank you.

MS. HALL: Uh, does anyone else have any questions regarding the map since it's up, or it was?

MS. SUESSER: I do. Following up on Commissioner Johnson's remarks, I was curious as to why staff hasn't provided a site suitability determination or a sensitive land determination, depending on where it's

referenced the code. With respect to building in the slow, I think that we need that information before we could reach a determination.

MS. WARD: And as Commissioner Johnson noted, for the analysis that's provided, right now the building area limits do not encroach into the sensitive land overlay. It's the -- the applicant's proposal if there is good cause to realign the building area limits to allow for that.

Um, as the staff report indicates, the accessory building is included in what would be the proposed expanded building area limits. There are, um, exceptions from what is being proposed with not only the underground parking area, but also what would be appearing within the slope to access that underground parking area. That is not included in the building area limits.

MS. SUESSER: Based on the way the applicant is calculating?

MS. WARD: Based on what is proposed, yes.

MS. SUESSER: That's why we haven't gotten a site stability determination?

MS. WARD: So, what would comply with the sensitive land overlay is what is currently the building area limit.

MR. SHAND: But that's proposed to be amended.
MS. WARD: Yes. And so, under the current sensitive land overlay, as Commissioner Johnson indicated, it would not be allowed unless the planning commission determines there's good cause and that it -- it improves the disturbance for the site.
MS. SUESSER: But that's the analysis that I thought the staff would provide to us rather than us make that determination.
MS. WARD: So, that the building area limits as they are plotted right now conforms with the sensitive land overlay because that was established at the time of the subdivision. So, leaving the building area limits complies with the sensitive land overlay.
MR. BUDGE: And we've identified in what we submitted as part of the staff report, and we can hand out paper copies, we have them right there by Mark, is five basis for good cause for moving it.
And so, based on that, we believe you're within your authority to go ahead and reflect the adjustment, move the buildable area that allows lessening of the impact of the structure, and it further affects a reduction in the buildable area. But real quick, just -- you can read the 5, there in the staff report, but we’re reducing the nonconformity of having two

residential structures.

We're preserving the character of the neighborhood as amended and more consistent with the Sweeney MPD. We're reducing the buildable area. We're facilitating the construction of single residents and removing two residences, and it's associated impacts with having 2 residents as opposed to 1.

And then we're also furthering the health welfare, you know, the standard health welfare and safety, and we have some comments relative to that.

MR. JOHNSON: Um, so back to the A -- 15-2-2.1-4, the prohibition section. So, it gives us a list of 7 items that we have to review in order to -- to -- to find -- find that suitability for anything on a very steep slope.

Perhaps you can pull up the retaining wall document you referred to earlier, so we can address number 2, which is building areas and the setback do not create excessive cut or fill slopes, minimal retaining walls to limit disturbance and meet grade.

MR. BUDGE: You bet. And in the staff -- well, while that's being pulled up, let me just orient you as to how we're addressing those specific criteria.

So, what we're doing is, is we have findings that reflect that in the staff report, we have an existing

conditions -- a conceptual grading plan, a drainage plan, a steep slope map, a stormwater management plan and an excavation section view.

And then what this plan is going to do is going -- is going to help you see how, where we're going to have these walls and how they relate to the site. So, what you have here is in the dark black are the -- are the walls that are shown. This is what Alliance prepared for us relative to the site.

And you'll see that when you're in the areas of the setback, the walls are no taller than 4 feet because when you're in the setback, unless the planning commission gives permission, they can't be more than 4 feet.

So, we have this reflected to allow for 4 feet. And then you do have walls that are, um, excavating -- holding back excavation in the area of the accessory structure. And MR. Johnson, I think that's the area you're focused on, and that's the bottom left of the -- of what's on the screen.

MR. JOHNSON: And that would be section C of the excavation plan as well, right?

MR. BUDGE: Right.

MR. JOHNSON: And so, the 45.9 feet. Is that correct?

MR. BUDGE: I'm sorry.
MR. JOHNSON: It says for section C, the deepest shoring we'll call it, for lack of a better word, is 45.9 feet.
MR. BUDGE: That would be -- that would -- if that -- that detail would be underground. That's not a wall.
MR. JOHNSON: Okay. No. But you'd be excavating underground 45.9 feet. I see. Okay.
MR. BUDGE: Yeah, that's a good point. There aren't retaining walls in the SLO themselves. That's an important point, I think, to take into account. The only thing that is in the SLO would be the underground portion of the accessory structure.
MR. JOHNSON: But it has it. I mean, how --
MR. BUDGE: What was that?
MR. JOHNSON: If -- if a section of the accessory building is in the SLO, is that what you're confirming?
MR. BUDGE: I'm saying that a portion of the building is, but there's not a retaining wall in the SLO.
MR. JOHNSON: Okay.
MR. BUDGE: Yes.
MR. JOHNSON: So, that'll just be a -- a footing

with --

MR. BUDGE: That's right.

MR. JOHNSON: Okay. Thank you. That's perfect.

MS. HALL: Does anyone have any other questions related to the photo that's on the screen or request to pull up additional slides? Um, do we want to pull up --

MS. SUESSER: Yes.

MS. HALL: The proposed plat notes. Um, kind of take them one at a time and go through them. Uh, in regards to the footprint of the building, anyone have any questions or comments for the staff or applicant for question or, uh, pat note one?

MS. SUESSER: Just for clarification, Rebecca, the, um, the rest of the HR-1, there's a -- it's only a 400 square foot allowance for garages, correct?

MS. WARD: So, the -- the HR-1, the code that Caitlyn was referring to earlier, what is in our definition section? I'm pulling that up. Um, there -- there is an exception from gross, uh, gross floor area.

MS. SUESSER: Okay.

MS. WARD: That's specific in the historic that's not related to the building footprint.

MS. SUESSER: Okay.

MS. WARD: Um, the way the building footprint is regulated, um, under the current code is that it's the total area of the foundation of the structure.

MS. SUESSER: Yup, to the X.

MS. WARD: Or the furthest exterior wall of the structure projected to natural grade.

MS. SUESSER: Right.

MS. WARD: Um, and there are some exceptions from that exterior stairs, patios, decks, um, and if the accessory building is designated historic.

MS. SUESSER: Right.

MS. HALL: And then, do you have the, uh, 445, uh, King Road, uh, flat map. So, that is just taken straight from the plat? It's in the exact same language for the same MPD?

MS. WARD: Yes. And to clarify, the 445 King Road is the only single family dwelling in the Sweeney MPD within the estate zoning district. Um, would you like me to pull up the 445 King plat?

MS. HALL: I feel like confirmation that it's the exact same wording is sufficient for me, but if other commissioners would like to see it. Further discussion on the footprint or would you guys like to kind of move on to --

MS. SUESSER: I -- I have a concern about, um,

the proposed language here because, um, um, the initial original language in the paragraph says that it includes, that the 3500 square feet footprint includes garages. And then the exception that's added is, um, um, uh, excludes, um, parking area, um, located below grade. Right? So, um, I find that, um, troublesome and -- and --

MS. HALL: Internally contradictory.

MS. SUESSER: Mm-Hmm.

MS. HALL: Um, I would agree with that statement as well. Um, yeah, are you, I guess what would be your proposed, uh, amendment? Um, yeah, just within the body -- the main body of the footprint where it says including garages would be superfluous or internally contradictory to, uh, subsection E, which excludes garage?

MS. WARD: So, I would -- I would edit, um, the exception, not the, um, the original language.

MR. SHAND: I agree if a -- if a garage is in an enclosed space with a door, then it should not be included in E.

MS. HALL: I'm sorry, enclosed space with a door?

MR. SHAND: The differential between, uh, referring to E, uh, parking area versus garage. A garage has a door on it, a parking area does not, so

the internal conflict is the word garage in E as opposed to the main body of the plat note.

MS. WARD: Fair enough.

MS. HALL: Yep. Mm-Hmm.

MS. HALL: Of the plat note fair enough. Yep.

MR. WILSON: I struggle with living space there, but maybe you guys can help me. Why is that there? That’s included in the proposed E.

MS. WARD: And just to -- sorry to answer the question while you're -- you're reviewing that, we did review. So, 445 King, it is the same language except for the, um, working area.

MS. TUBBS: So, the language on the recorded plat 4445 King Road is that portion of any garage, carport, mechanical space, or living space that is located below existing natural grade and which has landscaping or deck as provided in 1A located above it.

MS. SUESSER: I'm sorry, Chair Hall. The -- the importance of comparing it to 445 King Road, given the fact that it's in a different zone, I'm not sure why we're focused on that.

MS. HALL: Oh, just because it was recently done by our commission.

MS. SUESSER: Okay.

MS. HALL: And it's in the Sweeney MPD. So, just

for consistency for the MPD, since I think for the most part, we're looking at this under the lens of consistency with the MPD, since it's a unique MPD.

MS. SUESSER: If we go down that road, I would like to make that, um, very clear in any determination that we make that that would -- that it would be, um, through the lens of the Sweeney MPD and not setting any precedent for the HR-1 district, so. But I don't think we're there yet in terms of, you know, making that distinction, so. Okay, thanks.

MR. SIGG: Should we add unfinished space somewhere in here, because this house has a large amount of unfinished space that -- that's below the existing grade, and should that be excluded, included?

MR. BUDGE: Uh, Commissioner Sigg, would that be, uh, the phrase in section E where it refers to living space that is located below existing grade? Would that satisfy your -- your question as far as unfinished space?

MR. SIGG: Yeah, I mean, this -- this house proposes a large amount of unfinished lower level, uh, below grade space, and I'm assuming that's included, uh, obviously within the footprint, or is it not?

MS. HALL: Yeah, I think that's an important distinction that we can discuss.

MR. SIGG: We talked about it as mechanical space and, you know, it's just going to be a big void or a big mechanical room, or something, you know, could happen. It could be a great place for an accessory office. Um, just saying, uh, but I think we'd -- I'd like to see some sort of reference to -- to that, uh, as part of the footprint.

And then also, as it relates to, um, parking, carport, parking area, does that include, uh, things like cliché, uh, circulation, turnaround, uh, that kind of space as well?

MS. HALL: My assumption would be yes, but I don't know if the applicant it would like to clarify what their intentions are.

MR. BUDGE: Yeah, it's -- this is intended to apply to those items underground. I've never seen a [inaudible] underground, so I would say no to that.

MR. SIGG: Turnaround area.

MR. BUDGE: Yeah, it will have a turnaround area.

MR. SIGG: Particular turnaround area.

MR. BUDGE: Well, yeah, we will have -- we will have that in the underground area because that's something the fire department has requested.

MS. HALL: Okay. Comments questions on this note? Did we want to move on to the next one and we can

always circle back? I just want to be cognizant of time since it is 7:30 and we still have three more agenda items, and we are statutorily required to vote, so I'm just trying to move it along so that we --

MS. SUESSER: I have a bit of an issue with approaching, um, the applications this way, because, um, you know, talking about the C -- without the CEPs appropriate here, rather than, you know, um, wordsmithing the plat notes doesn't, um, seem, um, the best approach here to me, but, um.

MS. HALL: I guess just high level looking at the plat notes.

MS. SUESSER: And we haven't discussed good cause like whether or not any of these are appropriate.

MS. HALL: Okay. Do you want to --

MS. SUESSER: Made it binding of good cause, so that might be a better way to get into this, um, the plat amendments rather than just wordsmithing it, but.

MS. HALL: Okay. Do you want to dive in on good cause?

MR. FRONTERO: Well, I think the applicant should provide good cause. We shouldn't have to draw it out. So, why don't we ask the team? Let's go through all the red items. And if you could give us the good cause, your version of good cause for each of your

amendments on the plat, that would be great.

MS. HALL: Are they changed since the staff report?

MR. BUDGE: The changes are shown.

MS. HALL: Okay.

MR. BUDGE: Commissioner Frontero, relative to good cause, we've looked at the definition of -- the Park City land management code provides, which is nice, because if you look at the case law, the case law says, good cause is whatever a city ends up determining.

It's very wide in latitude. Park City's gone through the effort of defining it and giving a number of criteria, which were very useful in the recent actions that were taken last year, relative to roads and the like. But at any rate, if you look on the page 3 of what I've just handed out, we have under E, in Roman it’s I, II, III, IV and V, a reference to good cause that we believe supports the plat.

And it's really for you to judge how we've proposed those. Um, we believe that the evidence that we've submitted not only today, but in the prior meetings, all support this and that you would be acting within your authority to find good cause here.

MS. HALL: Laura, do you want to jump in first

for good cause related to the plat amendment?

MS. SUESSER: Well, you know, the initial definition of good cause is providing positive benefits and mitigating negative impacts. And there's, you know, an emphasis in the Sweeney MPD and in our land management code about the visual impact that this -- this proposed structure, um, would have.

And we had the city consultants, um, weigh in on that impact on the, um, various established vantage points in town and set the mass scale and, um, with out of -- out of proportion to what's appropriate in the historic district.

So -- and that was from an outside consultant weighing in and stating that, that's not my opinion. So, um, um, how do you mitigate that negative impact?

MR. BUDGE: Well, we believe we have because in April was the last time an outside consultant provided comments on our plan and we have made significant changes, including now we've proposed this roof change tonight. And so, those have addressed and mitigated those impacts.

Whenever you're looking at mitigation, you have to look in the context of are we complying with the requirements relative to the dimensions and the like? And we are -- we're meeting the height, we're meeting

the dimension -- the requirements relative to massing.

And then to address the consultant's ideas, we've reduced the glazing, we've added additional material, and then we've adjusted the roof and now we adjusted it again. So, previously there was an even larger roof section that was referenced in that April report. So, we believe we've mitigated those impacts.

And then you'll recall that from our last month's meeting, we showed how our -- our building compares to those 2 existing structures, and it's actually lower in terms of height relative to those 2 existing structures. And then it's also occupying roughly the same space, so. Go ahead, Commissioner Suesser.

MS. SUESSER: Staff report -- the staff report references the existing buildings is one being about 60 ft wide and the guest house being about 30 ft wide, and the proposed structure is 133 ft wide. So how is that not -- how's that -- how’s that less than the -- the dimensions of the --

MR. BUDGE: Well, yeah, when it was -- when it was -- when the MPD was approved, it was contemplated there could be a footprint of 3,500 feet and that's what we're building to and not over. In fact, we are technically below 3,500 feet, like 3,495 on one of the levels. And then all the rest of the levels are less

than 3,500.

So, um, we're -- we're mitigating impacts in terms of responding to comments as they come in. We're not going to have a, um, 2 structures. So we're not going to replace 2 structures with 2 structures. We're going to replace 2 structures with 1 structure, but --

MS. SUESSER: Plus the accessory building?

MR. BUDGE: Plus the accessory building that is concealed and into the hillside. But the, um, the -- the purpose for that is that we are doing it though within what was contemplated when the MPD was approved.

MS. SIGG: I think if I can just weigh in, this is Commissioner Sigg, on, uh, some of the comments that the consultants made. And as I read through them, you know, although they -- they did say that some of the materials, uh, were consistent, there was -- they were somewhat inconclusive as to how, uh, this project, uh, fits to the unity and context of the mining era, so to speak.

And where I appreciate the changes that have been made and the fact that, you know, it's got some, um, some elements that could be construed to look like a mine, um, you know, I don't see conveyors and stacks and ordinance sheds and smelters and divided light

glazing and elements like that.

So, for me, one of the important aspects is, you know, I -- I've seen some comments by the consultants, uh, from the historic district, but I haven't seen a full fledged report, just like we haven't seen a full-fledged sensitive lands analysis. And you know, the statutory requirement to -- to vote, um, puts a lot of pressure on everybody, right?

We have basically two ways we can go. And I think the more complete information, the better. Um, while I'm just on the subject of the statutory requirement is, you know, notice is going out on the 31st with a public hearing, uh, on, uh, 2 weeks later.

Um, that seems like short trigger to me, and I just want to ensure that the applicant is getting, um, the review that it deserves. Okay? In terms of, uh, being forced into a vote that, uh, could go in an opposite, uh, direction that the applicant wants.

MR. BUDGE: We're not, and I think this goes back to your comment and Commissioner Suesser's, we are not looking for an HDR approval tonight. That's not this bodies.

And we -- we tried to do that initially and we're not trying to short change that, but what we got to in the process was a point where clarity needed to be

given on the actual structure itself before we could go and complete that process, which will involve some future discussion, and I imagine another report from the consultant about this design.

And so, we respect that, but this isn't the end of the road, so to speak, relative to items related to design.

MR. SIGG: I appreciate that, um, that, you know, we're not that body, but, uh, for us to make such an important decision and not have that information, it's a little bit the cart leading the horse.

MS. SUESSER: And Rebecca, could you just clarify that in under, uh, more usual circumstances, the HDR report is, um, they review it before we do?

MS. WARD: No, no. As the staff report indicates, in this -- for the Sweeney MPD and in general, when we review a historic district design review, our first review is what is the underlying zoning regulations, what are the plat regulations, what is -- what governs this site? And when there's compliance with that, then we look at the design elements.

As indicated in the staff report, the process for all of the single family homes in the Sweeney MPD has been to go through the planning commission first through a conditional use permit and then the design

elements are refined through the historic district design review.

In the conditional use permit criteria, the planning commission has discretion to review building mass, bulk and orientation and the location of buildings on the site, including 2 buildings on adjoining lots, and then another criteria is physical design and compatibility with surrounding structures in mass scale, style, design and architectural detailing.

So, the planning commission, um, through the conditional use permit is really establishing what the mass and what the structure allowed on this site will be and the historic district design review ensures that it complies with the materials, the solid -- the glass, the windows in comparison to the solid facade. Those details are worked through the historic district design review process.

MS. SUESSER: Thanks for that clarification.

MS. HALL: So, anyone else want to jump in on the good cause portion? Laura, do you have additional comments?

MS. SUESSER: Um, just that, um, um, the element of whether or not it preserves the character and the neighborhood of Park -- of Park City, um, um, again,

the historic design consultants did not find that compatibility, so I just, um, uh, I'm concerned that, um, that there are some -- there are some problems with finding good cause here based on sort of the framework that the city set up to consider good cause.

MS. HALL: Anybody else have any comments about good cause or about, um --

MR. FRONTERO: Um, yeah, I have a comment about a plat note for the amendment that's being proposed. So, the applicant is proposing to remove the interior height restriction, why is that good cause?

MR. BUDGE: Um, good cause is a separate item, but the reason we're wanting this to be removed is we don't believe that that ordinance was ever intended to apply to the Sweeney MPD. I've heard that from people who are involved with the Sweeney MPD back from the beginning and rather than leave it for a potential future question, why not answer it here?

And so, that's what's intended by that note. Good cause is, again, you only have to find one item of good cause and the list is very long. We've provided five basis, and what jumps to us is removing the nightly rental, which jumps to us is removing two homes.

What jumps to us is those other items identified,

but you don't have to agree with each of them, you could remove whichever ones you didn't agree with or add.

MR. FRONTERO: Okay. Um, the roof, I'm trying to stick to a plat note for -- which is height. Um, I -- I did request at the last meeting I thought the roof straight line was not compatible with, right. And I see that you did come back with a plan B, I think you refer to it as. Um, I have to say I'm disappointed that plan B includes higher than what's allowed.

I would have thought you would have come back with something a little more compatible. Break up the mass without then giving yourself a little extra, um, height. So -- so, I don't like plan B and I don't like plan A. So, now, what do we do? Because there's no time to change it now. Right?

MR. BUDGE: Well, so on plan B, I think there's one thing to look at. Right before the red language in the existing height, there's already the concept built in that says that, uh, that -- that 28 feet for flat roofs and 33 feet, which were within 33 feet for pitch roof shall be permitted for the express purposes of accommodating access.

This is an access, but this is certainly providing a differentiation in design and providing

for in a small area. So, you could say for purposes of accommodating a light access or a light feature, which is what this does. That's no longer than one fifth the length of that, um, particular, um, roof edge, then it could be accommodated.

So, I'm sorry that you're not pleased with the design or the look of it. We endeavored to find something that wouldn't break up that line that was not agreeable.

MR. FRONTERO: Okay. I understand. I mean, that's what you came back with. I'm just -- I'm letting you know it accomplished one item, but I think it, uh, it created another. So -- so, that's going to be a little bit of a challenge on the height. That's all I have on the height. Do you want to just move through this one? It's kind of hard. I'm not sure how you want to --

MS. HALL: Yeah, I don't know if the commission has a preference for like wrapping up good cause and then going to the plat notes before we look at the CUPs. I mean, it is a -- a large application. I'm open to suggestions on how the commission wants to move through. If we want to just move through the good cause first and then continue going through all the footnote or the plat notes.

MS. SUESSER: Um, I'll address some, because I

bring -- I brought up good cause. Um, um, the one positive benefit is that fire turnaround and possible fire mitigation ability, uh, that I see from the project. But in terms of, um, I don't think it -- I don't think the project, um, mitigates the negative impacts -- the visual impacts of, uh, of the size and scale of the project.

Um, there are no public amenities being proposed, um, except again for that fire turnaround that could conceivably consider an amenity that would help the public. Um, uh, the two homes that are up there, I, uh, I don't -- I don't see this larger home being, uh, resolving, um, an existing nonconformity there.

Um, again, I don't -- the historic design consultants didn't agree that it preserved the character of the neighborhood. And, um, further the health, safety and welfare of Park City, other than, again, that fire issue, I don't see how, um, the application, um, meets any of those, you know, suggested criteria and finding good cause. So, I think there's some challenges there.

MS. VAN DINE: I think when -- when we look at good cause, I mean, we're always -- we don't have to meet all of them. Um, and I -- I think it's hard to say that any private residence is going to meet public

benefit really. Like how many -- how many -- how many ever held another house to providing public benefit. Um, and then --

MS. SUESSER: Trails and stuff sometimes.

MS. VAN DINE: And they're -- well, they're preserving trails. I will say that. I mean, it's not going to be a compatible house necessarily with Old Town. The houses that are up there aren't compatible with Old Town.

And I think that it’s location is more to be compatible with the other houses in the MPD, um, which it is if we look at the other five houses, we look at their -- their width, their heights, it is compatible with those. And I am definitely struggling with how we give this many exceptions to a code that we've stuck really -- really to everywhere else.

But I do understand the fact that we -- I think that the code was meant for Old Town lots like there are 25 x 75 or the two lot combinations, and these are very, very different lots. I think to in combination with that, like the -- the pitch roof, I appreciate this roof better than a roof like the houses that are up there now.

I think those roofs -- roof lines stand out more on that hill and are more obtrusive than the three to

one that they've come up with. And these are just -- I think for good cause, I just, I'm struggling because I don't necessarily want to have good cause.

But I do understand like some of these things do and can fit, um, in that -- in that setting of not like, yeah, we're not going to get public benefit, we're not going to get these specific things that we try and piece all of them in and just pulling out some that fit if that's the direction we're going to go. I'm just throwing that out there. That is a totally for it, but if that makes sense.

MS. HALL: Do you guys have anything on good cause?

MR. SHAND: Good cause on item number 4, plat note 4.

MS. HALL: Just on the plat and [inaudible]. Do you just need --

MR. SHAND: Yeah, I -- I find -- I find good cause, um, uh, for -- for a number of reasons. I think the -- the proposed house is architecturally significant. I think that, uh, as one of the online or online callers came in, I believe his name was Nick, this is -- this location is really caught between HR-1 and, um, the Sweeney MPD.

Um, we try to apply the Sweeney MPD in some

instances and we're trying to also apply HR-1 code in other instances. And in fact, what I struggle with, it does lie within the HR-1 code, but as, uh, Commissioner Van Dine pointed out, the HR-1 code, I think -- I feel is geared predominantly towards 25 x 75 lots.

Um, there was a comment, uh, made earlier during the public comments about the roof pitch. Um, I think any steeper of a roof pitch would create more of an impact, uh, from the visibility across -- across the valley, uh, on the Margarita side of the, uh, whole town.

Um, I think that there are definitely concerns and I -- I hear my fellow commissioners loud and clear, but I do think that there is -- there is some good cause, um, for -- for this project, just in general. Um, architecturally significant, uh, single family home versus rental, um, I think it, uh, it creates -- it creates some architectural interest in town.

MS. HALL: Bill, do you have anything to add or? All right. Okay. Um, do you guys want to move on to the plat notes then, or do we want to have consensus on whether or not we find good cause for it first?

MR. SHAND: I do, uh, do have one, um,

Commissioner Frontero, I know that you did request the, uh, that some alteration be made to the roof so that we eliminate the linear portion of that roof. I think it was about 114 feet or something like that.

I guess you mentioned you don't like either, uh, plan A or plan B. I do see plan B as improving that linear visual that we see. Um, you know, I guess I would ask -- well, you already stated that you don't like either one of them.

MR. FRONTERO: Well, I like the breakup.

MR. SHAND: Yeah.

MR. FRONTERO: I don't like that they went up. Would it be possible to take that shed -- that -- that one portion of the shed roof tilted down to become in compliance with the -- with the building height?

MR. BUDGE: So, we looked at a number of different options. We tried everything we could to fit in. The challenge with it going down is you create -- it creates just a very, um, unstable structure in terms of how the -- how the roof is held up. It creates a huge possibility for additional leaks and other problems.

Um, we've -- we've tried a bunch of ways to -- to overcome this. Again, I think that what we were trying to say is there's already a concept in the existing

plat note that there can be exceptions to get up to that 33 feet. That's where we would put it. If you would be more comfortable, we'd be happy to take that down.

So, instead of 3 feet, it was 2 feet. Again, we're trying to break it up. The other thing that I think we haven't talked about as much as the other change that we made was to the materiality where we varied the materiality of that roof to also camouflage and break it up more in the past. And this is actually hard to show in the renderings, because the rendering software doesn't support it very well.

But we wanted it to be like the front of that Ontario mine where there's a little bit of old court and steel. There's a little bit of sort of the zinc that shows as a -- as that, and that that would be an additional way of breaking it up. So, we really did hear the feedback that we broke it up. We tried a number of different things in terms of just keeping the architectural integrity, keeping the structural integrity.

This was the best outcome that we came with. We make that lower, but again, I think that what we're trying to do and what the advice that we got was, was there's an existing concept that you can actually go

up to 33 feet, so let’s -- let's let's keep within that window and break up the roof line.

But we're happy either way and no matter what, we will definitely vary the -- the materiality, which I think does visually break that -- that solid line up, and I think the landscaping where we've added additional trees, those trees will grow and those will also break up that -- that roof line as well.

MR. FRONTERO: Thank you.

MS. VAN DINE: I think that in my initial question, asking how much that variance was what I was getting into, I actually think the 3 feet is -- is fine. I think when we look at what we asked for it’s -- it's accomplishing that without on a -- without going to a huge scale of trying to reaccommodate it. It's 3 feet on a 20 foot line span. Well, this section that your --

MR. BUDGE: It’s about 15 feet.

MS. VAN DINE: 15 feet. Um, the other, um, Rebecca, the current houses that are there, so it’s 60 feet, 40 feet in between, and then the 30 foot width house that we see up on the east facade. Correct?

MS. WARD: Uh, we can verify the distance between, uh, we can do a rough estimate right now, but for the width of the existing structures, one is

approximately 60 feet in width. The other is approximately 30.

MS. VAN DINE: And there's, yeah, and about 40 in between. So, the width of this home would be kind of that combined. Just for kind of picturing that across the hill.

MS. WARD: I believe it is close to the current footprints.

MR. BUDGE: And the -- and the advice that we've got from staff was to the extent that we could follow the existing footprint of the building, and that's what we tried to do so we're not going down further, we're not going wider than those buildings are. We're basically just connecting those buildings together, which is actually also contemplated by the original plat note.

MS. SUESSER: Not taking into consideration the accessory building again, but with -- with regard to, um, um, plat note for it, I don't think that the -- the red line, um, um, brings the, um, proposal into compliance because again, it's 30 -- you have the 33 foot height roof and the language only allows that, um, to accommodate access.

MR. BUDGE: Commissioner Suesser, so we would have to add the words where it says accommodating

access, i.e., stairwells. We say accommodating access or a light feature or a window feature no longer than one fifth of the linear length of the roof. We -- we --

MS. SUESSER: Where specifically --

MR. BUDGE: Presuppose you'd like plat B. I mean, plan B, you know?

MS. SUESSER: Well, it's a very specific, um, you know, plat note, you know, that -- that very clearly restricts the height and -- and you're asking to just -- let’s just change the language here.

MR. BUDGE: And it has been done before. So, that's why I don't feel like I'm being cavalier, because it was done before. This isn't the original set of plat notes. This is the second set of plat notes. The third, sorry, let me clarify.

MS. SUESSER: What's the third?

MR. BUDGE: This is the third set. Hopefully the last because if I heard Mr. Prince indicate, this will be a home his daughter will be married in. So, it's going to be around longer than me.

MS. SUESSER: Um, I just was struck to this note the last phrase about there being no interior height restrictions. Um, um, given the way you've proposed to measure the interior height of the structure, I don't

know why we would need that language.

MR. BUDGE: You can strike it. We feel like it's appropriate. We feel like it's consistent, but you're right, we have measured it from the finish floor and we're within that -- that level. But we -- we have, you know, heard a lot from those who know this plan since our last meeting, and we thought we would add what we think is the clarified result, but.

MS. SUESSER: And you have that language there so that when you finish that unfinished floor, you won't be in violation of the height -- the interior height restriction.

MR. BUDGE: We're resolving the issue definitively. When I say we, meaning you, because you all are the ones who have that authority, not us.

MR. SIGG: Uh, Commissioner Sigg here, uh, about the unfinished area, is there objection to making a plat note that that would remain unfinished?

MS. SUESSER: Yes. Yes, there is. That's why they have that language here in note 4. Well, that's what I heard earlier by the applicant. Yeah.

MR. SIGG: And where -- can you show me where that's memorialized?

MS. SUESSER: I'm sorry, Henry, um, I'm sorry if I jumped in there, but, um, they are not -- they are

not committing to not finishing that, um, floor. In fact, um, they want to add the language in note 4, the last phrase that there'll be no interior height restrictions so that when that unfinished floor is finished, they're not in violation of the interior.

MR. SIGG: So that -- so that bodes the question, uh, is there an objection to a plat note that would establish that that unfinished area cannot be finished space.

MR. FRONTERO: Or why don't we just remove the last phrase and there are no interior height restrictions.

MR. BUDGE: We're fine with that Mr. Frontero.

MR. FRONTERO: I would like to strike that, and I think that solves the future potential issue of the unfinished floor. Would you agree?

MR. BUDGE: Yeah.

MR. FRONTERO: Anyone else think that makes sense? Do we have consensus on that?

MS. HALL: I think that makes sense, but I think that, um, the applicant's clearly indicating that they intend to -- to finish that floor, that it's not going to remain unfinished. I don't think that that's a stretch to-- to state that, so, um, I think we --

MR. JOHNSON: Could we add another plat note that

would require them to come back to, like any -- the -- converting, the unfinished -- unfinished living space would require a new plat.

MS. SUESSER: A conditional use permit?

MR. JOHNSON: No. No. A new plat plat amendment application. No, a new plat note, sorry. Just a suggestion.

MR. SIGG: I'd like the strike the no interior. I think that's a middle ground.

MR. JOHNSON: Okay. Thank you. I think let's move in that direction. Then if anyone has any objections or is that okay?

MR. SHAND: No objections.

MR. JOHNSON: Okay.

MS. HALL: All right. Um, do you want to continue going down the plat notes or back up?

MR. JOHNSON: Yes.

MS. HALL: Yeah.

MR. JOHNSON: I think let's continue down.

MS. HALL: Yeah, it is getting late and we do start to, um --

MR. JOHNSON: Step out.

MS. HALL: Yeah, I do -- sorry. Does anyone need a break? Or would we like to continue this segment and then -- okay. All right, let's continue this segment

and then we'll take a short recess. Um, if you wouldn't mind continuing scrolling.

MS. WARD: Nothing on this step out. Uh, plat note 5, the facade height.

MR. FRONTERO: And that's intended to address the cantilever.

MS. WARD: That's correct.

MR. FRONTERO: Okay. How do we feel about that?

MS. HALL: Anyone want to weigh in on the cantilever of the portion of the house?

MR. HARRINGTON: Mark Harrington, senior city attorney. And this would be one where I think that your prior comments about not being very clear that you're not creating precedent are very important, and that this is unique to this particular master plan in terms of the facade variation, allowing the step out that we do not want to set a precedent for in the rest of HR-1.

And so, I think that can be sufficiently addressed should you decide it's appropriate, but I think you would want to augment the applicant's proposed bindings with directing staff to add language so that it doesn't create a precedent if you determine it's appropriate.

MS. HALL: Can we actually add just an entire,

uh, note that says for the entire thing --

MR. HARRINGTON: But this one in particular, I just wanted to call out.

MS. HALL: Okay. Um, I don't know how people feel about that, but I feel like we have been processing this as a Sweeney, at least my understanding when I make notes to myself, it is a Sweeney MPD specific and it is not applicable to apply to any HR-1.

MR. FRONTERO: I agree, but where would we put this -- something like this?

MS. HALL: Just add it as a --

MR. HARRINGTON: Just general direction when it comes back, we would have it.

MR. JOHNSON: I think we're in agreement on that.

MS. HALL: Okay. Um, so that would also cover that specific portion, but would cover all aspects because that is how I've been also processing this myself. Rebecca will add something to that as well.

MS. WARD: Yes, similar. It's, uh, plat note 9 right now, uh, about the -- the precedence, um, we can work to -- to come up with something, uh, for your review that would clarify that this is specific to these Treasure Hills subdivision properties only within the Sweeney MPD. Thanks.

MS. HALL: And then when we update that for under

the small scale master plan, since we don't use that terminology anymore?

MS. WARD: For conditional use permit, yes.

MS. HALL: Okay, great.

MR. BUDGE: And Madam Chair, we just ask that that be moved to the very bottom because it says in precedence, it says the above special restrictions, and so we might as well capture all to the extent any of the below ones are found to be appropriate.

MS. HALL: That makes sense. Yes.

MS. SUESSER: And then I think we need to be careful about including that reference to the Sweeney MPD, um, in individual ones, um, um, and not all of them.

So, I think we want that, um, that general statement at the bottom rather than indicating each one of the -- of the notes. Mark, how do you feel about that? Like, I -- I'm just -- I don't want to specify like, in the one we just discussed.

MR. HARRINGTON: Well, I think it can exist in two ways, because I think your specific findings in your action letter can distinguish that the ones you're making for this or for this. And then in terms of this amendment only applies to this plat, and so I do agree that it should go down to the bottom.

MS. SUESSER: Yes.

MR. HARRINGTON: And this precedence actually talks about precedence within the MPD, so we'd actually be addressing a different situation for the HR-1, just to be clear. Um, so we would change the context of that no altogether.

MS. WARD: And maybe, could we add that as the very first note, but referencing all of the notes below so that's the first thing that's called to attention.

MR. FRONTERO: Yeah, that's a good suggestion. Rather than putting it at the bottom, put it at the top and say everything below. That makes a little more sense, a little clearer. That's a good suggestion, Rebecca.

MS. HALL: All right, moving right along. Um, exterior lighting. Um --

MS. WARD: May I just clarify just to combine what was in the staff report that we would recommend that this be modified to reflect the dark sky code, which also includes additional shielding of exterior lights when it's on a steep slope. Um, so we would recommend that language.

MS. HALL: That was exactly what I was going to put in there. I was like, why aren't we referencing

dark sky? So, yeah, great. I think we have, uh, consensus on that. Um, moving to the glazing. Rebecca, where else in town do we see like this glazing on windows? Like, is there an example you can think of? I know we talked about like the River Horse. Wait, is it, like, just for my reference, is there somewhere I can --

MS. WARD: In Old Town specifically or --

MS. HALL: Anywhere.

MS. WARD: Or a city -- anywhere. A lot of the new residences that we're seeing Airy Mountain, Upper Deer Valley, um, have more of the -- the glazing for the facade.

MS. HALL: Okay. And they're all kind of at the 60 percent. Is that kind of like the standard or what?

MS. WARD: No. Um, so for the historic district specifically, um, the -- the historic district design guidelines recommend that the solid void ratio, meaning the windows to the facade be similar to the scale of historic residences. So, the floor -- the floor to ceiling glazing is not something as was indicated by [inaudible] report that is compatible with the historic district.

So, minimizing I, um -- we -- 60 percent still does allow for, um, some -- for extensive glazing. One

of the additional conditions of approval that we recommended in the staff report, the, um, lower level has the floor to ceiling glazing through the landscaping and berms. There are ways to mitigate that. And as you've discussed the type of vegetation that's -- that's planted.

So, there are additional ways that we can further reduce that impact. So, our -- our recommendation in the staff would be to, um, also include the vegetation requirements for mitigating this.

MS. HALL: Yes. So, we want to insert that, but -- well, between the 11th or at the end, whatever your preference. And I think we do get into that, uh, if and when we get to the steep slope conditional use permit when we get into more detail with a vegetation plan as well, but I think it's good for that to be inserted in here as well.

MS. SUESSER: Yes, I'd like to see it in here too, because I'm concerned that we're going to have a plat note that -- and then we're going to have a condition of approval, and we're not going to know which one the applicant has to abide by, so I'd like to see that conditional approval that you recommended with respect to the glazing in number 11, so.

MS. HALL: Consensus on that? Yes.

MS. SUESSER: Yeah.
MR. FRONTERO: Yes. Agree.
MS. HALL: Um, all right.
MR. JOHNSON: I'll dig in on 12. I think I'm still stuck on this section of the SLO that is relevant to the application.
So I am just going to ask the applicant would you be because I don't -- I don't find -- I cannot find the findings that consist every single -- so as I have to make all the findings during the suitability review all through seven need to be found. And I don't see two, four, um, or five based on an initial review.
Now we're just in the plat amendment process but I'm asking would you be willing to take the accessory unit out of the buildable area limit, since it is on a very steep slope. It has a risk of landslide, um, and potential erosion in land subsidence or other hazards, essentially above.
MS. PRINCE: Yeah. I think the first thing that I would look to is -- back to the Sweeney letters that they're submitted where very specifically the city attorney, uh, said when a question came up about whether SLO applied to the Sweeney lots, the explicit answer was no it did not.
MR. JOHNSON: What year was that letter written?

MS. PRINCE: That was written in 19 or no 20 -- 2016.

MR. JOHNSON: That's the Tom Clyde one you're referencing or was --

MS. PRINCE: It wasn't Tom.

MS. SUESSER: But the buildable lots are not in the SLO but you're -- you're amending the buildable lot area into the SLO.

MS. PRINCE: But if you look again at the history of the SLO, the SLO has crept down and there is ambiguity about where the SLO looks at. If you look at the 1994 the time the plats were created, the SLO is not in the -- in the lot two, our lot, at all.

MR. JOHNSON: But it is -- but still going back to the Code it's within 50 feet of a very steep slope that is in the SLO, right? So, however arbitrary --

MS. PRINCE: But again I believe that they -- consistent with what was found by the -- the, uh, the Planning Commission in 2016 was that the steep slope conditions did not apply to these particular lots.

MR. JOHNSON: Okay.

MALE 2: And I just think the one thing just real quickly is the trade of taking a structure which is [inaudible] you can have an accessory and putting it up into the hillside in this instance in this

particular area because it shields it from view and makes it so that there's no impact, particularly where we're committing to comply with the requirements relative to disturbing that area and then rehabilitating it and having it covered with soils and then vegetation. So, I mean --

MR. JOHNSON: No, I understand the concern. I think what we've had, you know, through our, you know, our process here in Park City recently we've had a landslide where we noticed snow storage actually and it's -- it's arguable how that landslide was caused. But you could argue that the snow storage caused it and it was a major -- it caused major damage to adjacent properties and it was a health risk to the public.

There was -- that vegetation wasn't actually planted so yes we can take into consideration, you know, vegetation and such but I mean that's -- this is where I'm coming from. And I'm looking at the Code and I'm trying to get there, right? I'm not trying to be adversarial in any way. I love the design --

APPLICANT. No, I hear you. I appreciate it. I will say the thing again that I think differentiates this property from others is the scale and the size. If there's a landslide, it's a slide into our

particular -- our particular home and so we've worked very carefully with the best engineers in town to make sure that we can do this in a way that meets all of the requirements of what is being developed in this.

And again I think that the good cause of doing this was in us trying to move this out of the view of the Herman's, us trying to move the home further away from the trails. I was trying to give us a bit -- to make it so that it isn't impacted otherwise. And so I -- I -- I -- I -- I want to get this built. I understand what your concerns are.

What I -- having lived this now for four years, what is somewhat frustrating about this is I think even -- even Mark has said that the -- the SLO boundaries are extremely fluid and -- and that there's nothing that is really clear about that. What's strange about this particular location of where the SLO is there's no difference from one inch forward to one inch back. The road -- King Road sits right above that.

MR. JOHNSON: Yeah.

MS. PRINCE: So, I -- so I think that -- that -- that I look to the precedent that was, um, articulated in 2016 and I think that that's the -- that's the -- that's the safest place to look to and that we've got

the best engineers in town who have said we can do this and we can do it in a responsible way.

MR. JOHNSON: Yeah, and I think look I'm fully receptive to where you're coming from as well. I but I do, you know, we just worked on an amendment to the SLO which hadn't been updated since 1993 or 2, um, and we're still working on further amendments too. So we know it needs to be tweaked and -- and we're learning those lessons. But I'm just merely looking at the Code and I'm looking at not just that it's going to slide into your home --

MS. PRINCE: Yep.

MR. JOHNSON: -- but I'm also the King Road or the public trail adjacent to it --

MS. PRINCE: Yeah.

MR. JOHNSON: -- that is an easement on somebody else's property. So looking at the health and welfare standpoint and looking at the size of the structure itself, um, just, you know, it seemed to me like, you know, do we really need the accessory structure, you know, as part of this -- this building area limit the owner? Because everything -- because otherwise the SLO is irrelevant to this application without the accessory building essentially because we're -- the rest of the structures are within the existing

building area. So, it basically gets checked off my list.

MS. PRINCE: Right.

MR. JOHNSON: I have no concerns but right now I'm having a hard time getting there by looking at the Code.

MS. PRINCE: Yep. And again I -- I would, um, I would -- I would point and I would invite, um, not my place to do so but I think the Sweeneys are the real experts on what has gone on here. They've lived through this.

They know what -- they know what -- they know what has gone on and again I think that what's challenging about this is that that SLO line could have been arbitrarily anywhere and there's nothing that we can point to that says this particular area is sensitive in any way.

That line has moved over time; it's moved away; it's moved in; it's moved out and -- and so what I look to is this area has been disturbed. It was disturbed when the original building that are there were built.

There's actually -- it abuts right now where the -- there's a -- there's a retaining wall there that is that we're actually going to be taking out to be able

to build this into the -- into the hillside.

So I -- I understand that that's the point but if we just again if we arbitrarily let a line get drawn without any real basis for it, it's, um, becomes very hard to -- to comply with it and this is all in response to -- originally we were outside of this area.

We were further down and the staff asked us to push the hill -- the home lower and further back into the hillside. So we kind of feel like we've been pushed in this direction. We're trying to be responsive to it.

MR. JOHNSON: No, and I --

MS. PRINCE: And I get --

MR. JOHNSON: I mean I don't want to -- I don't mean to cut you off. I want to clearly state that I appreciate that how the design has transformed. Um, I just kind of like list, you know, that hillside which is very steep and has some old Gamble Oaks and whatever else is right there, um --

MS. PRINCE: And putting it behind us, we could move it but then the moving it starts to be more impact visually to the rest of the hillside. So I'm happy to move it slightly more to one side or the other.

We can move it further to the side to get us out of the SLO but now -- but now we've got more impact across Valley which is something that again we don't -- we don't -- makes the view better. It's -- I would prefer that but we're trying to balance all of the different -- I know you're looking --

MR. JOHNSON: But we still have the same problem, right, because unfortunately for your -- your parcel, it's entirely very steep.

MS. PRINCE: For sure. The whole --

MR. JOHNSON: So, that section, at least that what we're going to call I'm going to say the King Road side of your driveway, your existing driveway, right, that's extremely steep with old vegetation and so you can really move it anywhere there if I'm basing it on this determination, right? Again, I'm --

MS. PRINCE: We could actually move it, um, further north but that would then have a much higher visual impact which is -- which again if we're balancing the equities here, um, when we sit down with engineers and say can we do this responsibly? Can we do this safely?

When we look at the history of how arbitrary, again talking with even the city's attorney about how arbitrary where that line has been, we think that we

should be, uh, compliant with what the engineers say we can do responsibly and reasonably with the precedent that was set in 2016 and with minimizing any of the cross valley, uh, views of this particular structure.

MR. JOHNSON: Okay.

MS. SUESSER: I'd just -- I'd like to make a comment, um, based on that discussion that, um, just that the, um, that we're not just talking about an, you know, an arbitrary SLO -- SLO line. Um, we're talking about very steep slopes and those haven't moved.

Those are still there and that's what's being contemplated to be excavated to build this accessory building into. Um, so it's -- it's -- it's not just the -- where the SLO line is identified but it's also the very steep slopes that, um, are within that, um, area.

And also, um, it's my understanding from the staff report and it was a recommendation by the staff that, um, the building area is limited to portions of the site that have previously been disturbed and that doesn't include, um, the area where the proposed accessory building is -- is in the plans. So, um, I just wanted to, um, mention that.

MS. PRINCE: That would then be holding us to a standard that even Pat Sweeney is not meeting on his own land. Um, so just -- I think we -- I understand the concern, um, but these are -- the 2016 specific language was that the very steep slopes and the SLO requirements do not apply to these eight lots and that they were contemplated in that way.

MR. HARRINGTON: Mark Harrington, senior city attorney. I want to try and give some simple clarification to this very simple issue which the Planning Commission has been asked to solve.

Um, a little bit of oversimplifications are occurring here but I think the last public speaker probably actually captured it best in terms of the MPD versus the, um, existing Code and I think where the Commission was last time you did -- when you were focusing on just the house analysis and not the accessory structure, you're appropriately going through that exercise.

Um, it is not, uh, I don't think I've ever used the word arbitrary or capricious affirmatively as you guys know, um, in response to city action and I do not believe that's what occurred here. So I take the line that -- that is reflected on the zoning map as what it is and it's not that the sensitive lane ordinance does

not apply to pre-existing MPDs.

Um, it doesn't apply to change existing rights under existing MPDs unless, um, there's an affirmative application to substantively modify the MPD and so I think the -- the legal opinion from Jim Carter in 1992 as Exhibit AA more succinct -- more directly captures the accurate focus and that is if -- if and I think the question is do the proposed changes rise to the level of, you know, a change in units?

There's -- there's three or four different clarifications in there in terms of what would trigger an SLO review within the Sweeney MPD specifically.

And so if you pull back and say hey prior to any of the seven lots being developed if the Sweeney's came in and proposed an amendment to shift the seven lots to a new location, the -- the SLO would likely prohibit because of the steep slopes on this entire lot a new -- new application of a single-family home on this site at that time.

And if they wanted to move the whole unit, they probably couldn't put it here but that's not where we are. They've got plotted. The unit is in this lot.

You're looking at whether the proposed changes rise to the level of the incompatible expectation that was originally approved and I think where you were

last time was clearly with the house changes, most of you anyway were pretty close to saying as long as these other things are addressed, we may be okay with the home.

Now you're shifting to based on the additional information you got in the interim that you requested, whether the same is true for the accessory space and the parking area as it's an excavation.

From a staff perspective, they give you a middle path that says if you do find it under the MPD track, you still have 15-2.2-6, as Laura has pointed out, the steep slope criteria, to get at 90 percent of the same analysis. Is the placement meeting the steep slope best practices criteria in the steep slope CUP for the siting of that?

It's not prohibited by the 50-foot rule because that's not applied because they're not changing the whole MPD or unit density or configuration. It's whether the siting of that new disturbance meets the steep slope CUP is pretty much the same analysis you can get at and whether that is mitigatable. And you have proposals to take soils uphill instead of downhill.

You have no retaining walls and you have -- are those enough or is the site disturbance and your

public safety concerns and your design and visual impacts from the east outweigh -- outweigh that mitigation to a measure that you find it not compliant?

Not like, don't like, prefer, want to see, not compliant with those standards in 15-2.2-6? And so I don't think you need the -- if you agree that there's no fundamental shift in the MPD like you did last time, that answers Commissioner Johnson's question.

You don't need the additional site suitability information. You're looking at the grading and site-specific information more towards where Commissioner Suesser was and does it meet the steep slope CUP or not.

Uh, but you have to get over that first hurdle first or otherwise you are back in Commissioner Johnson's swim lane and you're -- if you -- if you find that the proposed change to the building area restrictions and the other notes do implicate the MPD as a significant change, then you're back to a broader steep slope analysis.

You may get to the same place or you may get to the words prohibited but then you're really back to none of this works perhaps as well. So that's really why that threshold determination of consistency with

the MPD where you appropriately focused in the first meeting is really critical to the application of the SLO. Hopefully did that mostly make sense?

MS. HALL: Yes. Thank you, Mark. Uh, Laura or Bill, do you have any more follow-up after Mark's discussion? No. Or any other Commissioners? Yes, sorry, or other Commissioners as well. I don't want to leave anyone out.

Um, in terms of, uh, making people comfortable, would, uh, an addition that for number 12 since we are doing these in a bifurcated plot amendment and then we're going to do a more thorough analysis of the steep slope within the CUP saying simply that this is contingent upon a steep slope CUP and then we will get into that discussion at a later point in the evening?

Because I think that there is a lot. Within a steep slope I just don't know how to kind of separate them so that we can work through this application. It's rather complicated. Would that make you guys comfortable?

FEMALE: I guess I appreciate, un, the applicant [inaudible] um, addressed how the application, um, um, accessory building complies with the MPD.

MS. HALL: Okay.

FEMALE: That would be helpful.

MS. HALL: Yeah or not mutually exclusive. Like we can have both the addition of the steep slope conditional use permit as required in order for 12 along the lines of what we should get into later and then also we can discuss separately the MPD.

FEMALE: Yeah.

MS. PRINCE: So, just for clarity are you suggesting putting in -- at the end of the -- at the beginning of the first sentence number 12 subject to a steep slope CUP as applicable, below grade accessory structures --

MS. HALL: That was what I'm proposing but I just want to make sure everyone else is comfortable with that.

MS. PRINCE: Just want to make sure people are clear what she's proposing.

MS. HALL: Yeah, just so that we can have that discussion separate just from like a [inaudible] yeah.

MS. PRINCE: Yes, I agree with that solution.

MS. HALL: Okay. Sorry. And then back to Commissioner Suesser, um, Wade if you want to --

MS. PRINCE: Yes, I'd be happy to. So, we have a set of findings for the steep slope CUP and we called out the specific -- each and every one of the nine criteria for a steep slope CUP and have it tied that

to evidence and I will hand that out because those are the blue sheets. There are different colors so we don't get turned around.

MALE: Well, yeah we can do that on the break.

MS. HALL: Yeah, sorry. I was trying to just separate them a little bit because there's a lot of them --

MALE: When you come back from break, you'll have a blue sheet and that will help you with the SLO.

MS. HALL: Yeah, I would like to separate them a little bit because I feel like there's so much within the steep slope but I would like to preserve that so do we want to move along to number 13 which I feel like we're all pretty happy about.

MALE: Thirteen looks fine.

MS. HALL: Okay.

MALE: Good for me.

MS. HALL: All right. I feel like we're anxious for a break but before we do that, does anyone have anything else that they would like to add to this or are we ready for a motion or how would you like to recommend we proceed?

MALE: Well, can you just go back to the first one because I'm not -- I think you've moved off the first one to go to good cause and I just want to make

sure you get --

MS. HALL: For plat number one?

MALE: Yeah.

MS. HALL: You're correct. Sorry. Um, Rebecca would you mind pulling up number one?

MS. PRINCE: We can -- I heard strike garage. We're fine striking that if that helps the Commissioners because that was an addition. I mean we're not having a garage.

MALE: So, you're referring to E?

MS. PRINCE: I'm referring to E but that's in one, 1E.

MS. HALL: Okay.

FEMALE: So, your, um, your below grade parking area is not going to have a door?

MS. PRINCE: Correct. We will not have a door.

MS. HALL: And that is standard within Sweeney and MPD because there are other subterranean parking areas --

MS. PRINCE: That's correct. It will not have a door.

FEMALE: And then there was the other, um, note, um, that needed some additional language so that, um, now I don't remember what it was but we discussed --

MS. PRINCE: A light feature.

FEMALE: [inaudible] so that it would be compliant.

MS. PRINCE: A light feature.

FEMALE: Yep.

MS. PRINCE: Okay.

MALE: What do we think about striking garage?

MS. HALL: I think they volunteered to strike it.

MALE: Okay. So, that's fine. Let's do that and then and then we're back to the height. So, in general and we have -- is there more consensus towards plan B on the roof and then therefore we would need to create a 33-foot height allowance?

MS. HALL: I think they have --

FEMALE: [inaudible] access.

MALE: It doesn't -- the way it's written, it doesn't fit. You'd have to amend it slightly so [inaudible] would you rather just keep it a straight roof at 30 or do you like the break but we have to concede 15 feet wide is going to go three feet higher?

MALE 2: What gives the historic design view more flexibility? I like the break.

MALE: You like the --

MALE 2: Even though it's only three feet higher. I don't think it's that significant even though it does exceed the maximum height but I like the break.

MS. HALL: So, could we --
MALE 3: I like the break too instead of the long linear roof.
MALE 4: I like the break too. It just, you know, I think I've stated what I was a little concerned about but I do like the break better than a straight line.
MS. HALL: So, can we just add for architectural variation?
MALE: Not to exceed 20 feet or 15 feet in width.
MALE 4: In width.
MS. HALL: In width.
REBECCA: And light features I think would be [inaudible] I like Mr. Budge's -- I think that that's too broad. I think we should just write a light feature. Make it real specific.
MALE: Yeah, light feature no greater -- no longer -- no greater than 20 feet in length and put it right where the -- it says accommodating access right?
MALE: Yep. That's right.
MALE: Thank you, Rebecca.
REBECCA: Okay.
MS. HALL: Okay. Do we want one final review of this? Do you want to just keep scrolling down? I felt -- I feel like we had consensus on the remaining items

but yeah just at the very end was read --

REBECCA: So, just adding the light [inaudible] compliant. And all covered.

MS. HALL: Ah yes, as Commissioner Frontero suggested.

MS. SUESSER: I thought we want to put it at the bottom.

MALE: I think we want to put it at the top and say everything below is applicable to its -- the Sweeney's MPD.

MS. HALL: And then a slight tweak within that one as well for this CUP rather than the small-scale MPD?

MS. SUESSER: We've got to say below.

MALE: Right.

MS. HALL: Yes. Okay. Um, then scrolling down I feel like I know that I have faith that Rebecca will polish this to make it look much better. And then for 12 contingent upon a steep slope CUP.

FEMALE: What is the rationale for not including the accessory building, um, footprint for the overall count?

MS. HALL: Because the original -- am I correct, the original Sweeney's didn't require that. The original Sweeney's MPD did not require, um, accessory

buildings to be included.

MS. PRINCE: Hence the guest house.

MS. HALL: All right. All right. I's been a while. I'm ready for a break but before we get there, what? Oh, do we -- would we like to -- I feel that we can separate these from the other ones so would we like to make -- would someone like to make a motion on this portion, the 6a before we get into the analysis for both of the CUPs or do we want to wait?

FEMALE: [inaudible]

MS. HALL: Yes.

FEMALE: [inaudible]

MS. HALL: Okay. Sorry. I misunderstood. I thought there was consensus that there was good cause before we started going back to all of the plat notes so can I take a poll? Do we have -- would people like to talk more about good cause or weigh in whether or not they --

FEMALE: [inaudible]

MS. HALL: No, like I said before, we need one --

MALE: Yeah, you either can incorporate either staff suggestions in the staff report or the suggestions from the applicant's draft findings or make your own and or modify or make your own individual ones and -- but --

MS. HALL: Okay.

MALE: -- and then we would -- we would modify -- that's why we would come back with a proposed action letter that captures the basis of the majority finding and it doesn't necessarily have to be every individual person has to make singular ones. I think but the Commission as collectively needs to express consensus on a finding of good cause and you can say I agree with the other statements or the statements put forth by the applicant or staff.

MS. HALL: Okay. Yeah, I heard different, uh, pros and cons for different proposed pieces of good cause, things that I heard a public benefit such as preserving trails and fire turnaround, compatibility with the MPD, single-family dwelling without rentals, architectural variation, decrease in density and a decrease in the building area. I could be --

FEMALE: [inaudible] with the Sweeney MPD and --

MS. HALL: But I heard from Laura specifically also like a lack of good cause in terms of preserving the character of the neighborhood but that would be like a subjective -- I don't know.

MALE: No, I think her point had to do more with HDR review and consistency and, um, the lack of, um, structural separation that was contemplated originally

--

MS. HALL: From the --

MALE: -- in fairness.

MS. HALL: Sorry.

MALE: As echoed in the consultant report so again not subjective, not --

MS. HALL: Sorry. I was summarizing that too quickly. I'm getting a little anxious here.

FEMALE 2: And while we look at good cause and how that discussion the applicant just indicated that just so that this is clear, in plat note four, the area of the roof that the shed roof that's been raised is 24 feet in length, just so that is on the record. So, they are proposing to amend from the 20 feet in length to 24 feet in length.

MS. HALL: Um, we're having a proposal of 25. So, I guess at this time we'll take a poll on whether or not each commission -- after what, um, our city attorney has said, that we don't have to find the same good cause but do individuals find sufficient good cause?

MR. SHAND: I find sufficient good cause.

MS. VAN DINE: I'm with Commissioner Shand.

MS. SUESSER: I don't find good cause.

MS. HALL: And then Henry, are you with us?

MR. SIGG: I'm listening. I have a problem with the compatibility and don't find good cause.

MS. HALL: We've heard from Commissioner Shand and Commissioner Van Dine that they found good cause and from Commissioner Suesser and Sigg that they have not found good cause which is a requirement for the plat amendment so I'll be looking to Commissioner Johnson and Frontero for input into this requirement for the plat map, plat amendment.

MR. JOHNSON: I find good cause.

MR. FRONTERO: I have compatibility issues as well but I -- I think that I can also find good cause on the plat amendment.

MS. HALL: Okay. Um, would you want to take that poll and make it an official, uh, vote for the plat amendment or how --

MALE: Yeah, just for clarity --

MS. HALL: It's for good cause and not a motion for the plat amendment.

MALE: Well no, I can be direction to prepare, you know, this isn't the final vote. You'd be a ratifying final action letter pursuant to the changes that you've requested and the opportunity to review the final findings that we would modify pursuant to your discussion and so motion would be we would direct

staff to prepare finding action -- final action letter for the plat amendment -- approving the plat amendment, um, with modifications as discussed at the meeting.

And that would probably be sufficient. Rebecca would you need anything more specific than that at this time?

REBECCA: No, I think it's been clear.

MS. HALL: Okay. Does everyone sound good on that? All right. With that, let's take a short recess. Oh sorry, the vote. Commission, would you prefer to take the vote now? At the end? Okay. At the end. We have a couple for the end?

FEMALE: The end.

MS. HALL: All right. All right. Um, so a quick recess.

MR. SIGG: Hey Sarah would you screenshot the blue sheet handout and, uh, text it to me so I can follow along from here?

SARAH: Sure. We haven't gotten it yet.

MS. HALL: Yeah, we haven't gotten it yet but I think we will --

MR. SIGG: Just so I have it in front of me.

MS. HALL: Yeah.

MR. SIGG: Thank you.

MS. HALL: This meeting on Valentine's Day. Do we have Henry Sigg on Zoom? We have all commissioners who are in the room are present. We have Henry Sigg on zoom?

MR. SIGG: Yes I'm here.

MS. HALL: Hey there.

MR. SIGG: Hello.

MS. HALL: Just making sure the gang's all here.

MR. SIGG: Okay. Thanks.

MS. HALL: All right. Um, before we get started, um, with this portion, um, we are running very behind and I do apologize. I do really try to stay within my time limits for the agenda items and I have blown past this one.

Um, with that being said, I think that we do not have sufficient time to, uh, properly give the last item on the agenda a work session, which is scheduled for 45 minutes, um, adequate time.

I don't know who is the applicant if they're in the room, um, so sorry for making you guys wait so long and not being on time. I think that the best protocol would be to just schedule you, uh, have Rebecca work with you to schedule the work session at a later date unless you would like to stay and, you know, hear the rest.

MS. PRINCE: We would actually rather get it done today if that was possible.

MS. HALL: Okay. We can see where we're going and then the same thing also for the two other applicants. I also apologize for the two other regular agenda items.

If you would like to go home on Valentine's Day, we can reschedule you and otherwise we can see where we get in the agenda tonight. And I don't know who those individual applicants are in the room. I hope so too but no promises.

Okay. Sorry about that. I do try to run a tight ship and I'm failing so with that, let's resume, um, and move on to our CUPs which we also received some new information from the applicant. Are these the same items that are in our staff report or are they --

MALE: They are except for -- except for the separate two things I'd like to note. The yellow is the house. There -- the two things I'd like to know is we have an entire page on the SLO on page five which we should just strike because what that is is where we were talking about why it didn't apply and since we're conceding and we're going to say it's there, what -- why have that page?

And then lastly to answer your question, Chair,

the only thing we added was to, um, the conditions which are started on page six and we added conditions that were in the staff report that we hadn't addressed.

And so obviously the body can decide where it wants to look but I think if I were to prioritize, I think that the conditions starting on page six including those additions are the most important. And then that blue is the steep slope and we can show on the steep slope how we called out each of the nine criteria when we're ready for that.

MS. HALL: Okay. Great. Um, well let's get into, um, Item 6b, um, since that's next on the agenda. Um, officially since we're moving on to that agenda item, I'm going to open the public hearing and incorporate all public comment that was made in the first session of the, um, public comment and incorporate those into the record.

And then we're going to proceed with does staff of anything specific for this CUP that we want to address?

REBECCA: Um, the recommended conditions of approval are outlined in the staff report which have been incorporated.

MS. HALL: Okay. And then yeah does anyone want

to chime in first?

MS. SUESSER: I have a question for Rebecca.

MS. HALL: Mm-hmm.

MS. SUESSER: So you said earlier that the January 24th staff report, um, where you laid out whether or not the application complies or doesn't comply, um, was referenced in tonight's staff report.

And, um, so based on that are you saying that, um, those findings that the staff made in that staff report, um, continue or are still applicable? They have not changed given the additional changes that the applicant made and the additional information provided?

REBECCA: So, it depends. So, if the findings are under the Sweeney master plan development as been discussed with the proposed plat notes, the findings that staff would recommend would be based on the review under the Sweeney MPD.

MS. SUESSER: And you found compliance then with the Sweeney MPD when you -- when you when you review each of those, um, contrasted with the criteria for the CUP or?

REBECCA: As conditioned.

MS. SUESSER: As conditioned. It would have been very helpful to see that breakdown in the staff report

and I'm -- I would -- I would, uh, I know that we have an alternative of requesting further information before we, um, vote on the application here and I would think that that analysis would be very helpful for us to consider. So just an idea there. Seeing how laying out each of the elements and how it's -- what's required under the Sweeney MPD, um, and seeing if it complies but something that the Commission could consider I think requesting.

MS. HALL: Uh, and that would be in addition to what is included in the staff report from -- because the applicant has a chart, sorry, I don't know which pages now.

MR. HARRINGTON: Well, this is Mark Harrington, senior city attorney, another way to approach Laura's question is to ask which issues remain assuming that the plat amendment notes have model -- have clarified prior compliance issues.

And so the ones I've heard that are in this issue still remain that -- did the glazing way -- is the glazing language sufficiently addressed and or not? Is the -- is the, um, is there consistency with the, um, I can't remember if it's in this one or than or the green one or blue one, sorry.

There still seems to be an issue regarding which,

um, retaining walls need to be modified further because I heard the applicant say just the ones within the setback and the staff proposed condition of approval is all east west and north. Is it my ballpark correct in that?

REBECCA: All of the retaining walls that are not, uh, affiliated with the accessory buildings.

MR. HARRINGTON: Okay. So, I think focusing on getting in the weeds and the CUPs this or the -- the design issue compliance and those final site elements is probably worth spending some time on, um, unless you want to jump to the steep slope one first because that may dictate some of your analysis as it relates to the parking area and accessory structure.

MS. HALL: Laura, do you have a -- or do any of the Commissioners have a preference on hearing the steep slope CUP first versus the single-family dwelling CUP first?

MS. SUESSER: I don't have a preference.

MS. HALL: Okay. Okay. Um, then yeah, let's just go with the 6b and then kind of along the lines of what Mark was discussing, um, just kind of narrowing our scope a little bit. Does anyone have any comments? Yes, no, no, 6b is the the single-family dwelling. I was going to do a single-family home but if you guys

want to do steep slope, we can do that too. All right. Let's do 6b, the CUP for the second family dwelling. Does anyone have any comments, questions?

FEMALE: Um, on page four, under let's see additional findings 10 three, the residents meets the 30-foot patient stated on the Treasure Hill subdivision plat or at 33 feet.

MS. HALL: Can we just incorporate the plat in itself rather than the specifics of it so that we don't have any discrepancies, yeah inconsistencies, and just refer to it? Yeah. And then for w, the lighting, I assume this is just from the dark skies? Is that correct?

REBECCA: Uh, yes, that's correct.

MS. HALL: Okay.

MS. SUESSER: Well, okay, because the fully shielded ground level fixtures are encouraged. Could we make them required? Just a thought.

REBECCA: Yeah.

MS. SUESSER: Rebecca?

REBECCA: Yes.

MS. SUESSER: That's okay? Change that to required.

REBECCA: If that's okay with the applicant.

MS. SUESSER: Fully shielded ground level

fixtures are required rather than encouraged.

MS. PRINCE: [inaudible]

MS. SUESSER: Sure.

MALE: Okay. Thank you.

MS. HALL: Yeah, it should be in there.

MS. SUESSER: Do you have a problem with number nine, that SLO doesn't apply to the residents.

MALE: I think that's striked.

MS. PRINCE: Yeah, I said to strike all of page four because of what we said earlier. So, are you on Q?

MS. SUESSER: I was on [inaudible] number nine.

MS. PRINCE: Oh yes, that's right. That's a good catch, so nine as well. It's in addition to Q. So, nine on page one.

MALE: Strike nine?

MS. PRINCE: Yeah.

MR. HARRINGTON: And just for clarity, staff will be tweaking like the findings because that you're not adopting these tonight.

MS. HALL: Yeah --

MR. HARRINGTON: We'll have further refinements. They won't be -- so you'll see that final revision for the 21st so I think the focus is on the conditions of approval. If you're inclined to move towards

affirmative approval, um, or any as a [inaudible] if there's something you definitely don't want to point that out as well.

MS. HALL: Yeah.

MALE: Uh, does this conditional use that we're currently reviewing include the proposal that's being proposed? Did you point that out, uh, what page can I find that on? [inaudible]

MALE 2: I don't think your mic's on.

MS. PRINCE: Apologies. So, on X, we say the proposed mechanical equipment and/or hot tub shall be screened. I think we should just add the word pool.

MALE: Okay. Good.

MS. HALL: Um --

MALE: Can we just add a reference to the plans in number seven that it's clarified?

MS. PRINCE: Yeah. And we -- yeah.

MS. HALL: All right. Do you want to go over the summary of what's already been stricken or modified in the first step or does anyone have any proposed modifications? I find them generally consistent with the LMC, the MPD and with the proposed plat amendment.

Um, so Rebecca, I have we're striking, uh, proposed to strike number nine, to modify, uh, h3 to say plat notes rather than the specific height, um, to

strike Q and to modify that any ground level fixtures would be required rather than encouraged. And then for X slash pool and one that you have as well.

MR. HARRINGTON: Just for clarity in the white picture I think it was modify to say any ground level fixtures shall be fully shielded.

REBECCA: Yes.

MS. HALL: Sorry.

REBECCA: And as a recommendation for review for finding of fact seven, if we could have the applicant submit the most updated plans that include the landscaping plans that were presented to the Commission tonight and date those so that we have one exhibit that contains everything that we can attach so that finding of fact seven would say that it is the plans.

And then we can insert the date that was reviewed by the Planning Commission so that that's clarified moving forward.

MS. HALL: Okay. So, um, all submitted materials dated February 14th or --

REBECCA: Once they have been submitted, yes.

MS. HALL: Has everyone had, uh, sufficient opportunity to review it and if anyone has any proposed additions?

MALE: I don't think your mic's on, Commissioner.
MALE: Just a clarification on W for the exterior lighting.
MS. HALL: Was that any exterior, uh, fixtures shall rather than encouraged be fully shielded.
MALE: Thank you.
MS. PRINCE: I -- for you, any disturbed -- any area disturbed during construction shall be restored to the original state after the proposed residence is completed. I get that in theory like I know we put that and everything but --
MR. JOHNSON: Is there like 11,000 cubic feet of soil being removed from the site?
MS. PRINCE: Right. Um, should -- do we -- because it's in the area -- area referenced the landscaping plan does -- see -- see what I'm getting at?
MS. HALL: Yeah.
MS. PRINCE: Like I don't want to restore it to the original. I want it to be done --
MS. HALL: Improved?
MS. PRINCE: -- improved by the proposed landscaping plan --
MS. HALL: Yes.
MS. PRINCE: -- because it's worse now.

MS. HALL: Yes.
MS. PRINCE: Does that make sense? Yeah, reference the code, uh, something just to make that more than restoring it to what it looks like. I know they [inaudible].
MALE 2: Importance with the plans and --
MS. HALL: I -- I have faith that you --
MALE 2: -- and the code. Yeah.
MS. HALL: Yeah. I have faith that you will just speed that --
MALE 2: Yep.
MS. HALL: -- up a little bit.
MALE 2: That's -- that make sense.
MS. PRINCE: I think that is all good.
MR. JOHNSON: I mean, you could do the same thing on M too, just add like backup. You, you want a little bit more. You want to add a code to that as well just to reference it to make sure there's more.
MR. FRONTERO: Which one? M?
MR. JOHNSON: M.
MS. HALL: M.
MR. JOHNSON: Rebecca, how is O going to work? How is that process going to work given what's going on tonight?
REBECCA: So, um, once the planning commission

takes final action on the conditional use permit, we can then go through and schedule the historic district design review for a public hearing. Uh, that report takes again, uh, all of the underlying regulations that will be approved by the planning commission tonight. And then, um, we'll further go through and work through the details of materials.

And, uh, for example, we were just noticing one of the conditions of approval that did not carry over but that we would evaluate is, um, we had proposed that -- that the applicant shall demonstrate the proposed metal siding and roofing materials, have a solarary [ph] flextivity indexer, SRI of 35 or less, prior to this middle of the building per- -- permit going through, all of these details with the materials, um, the --

MR. JOHNSON: The -- the -- the -- it sounds like there's been so many chances since the initial review. You're going to have to go back through and you'll be looking at the cocessor [ph] use and everything else associated with it.

REBECCA: Correct.

MR. JOHNSON: And so, it's sub -- still subject to their approval, the design of the -- the house, the structure itself.

REBECCA: Yes.

MR. JOHNSON: And this is pretty -- we feel like this is signi, um -- this has enough -- enough strength mark as written. We want to reference guidelines.

MR. FRONTERO: Well, those apply. You don't have to because there -- their analysis is already subject to what's codified --

MR. JOHNSON: Right.

MR. FRONTERO: -- as is, so unless Rebecca needs something more I think there is -- before you finish the next color, I want to circle back and make sure that you've either consciously incorporated all of staff's recommended conditions of approval or agreed not to include them because I think there's still a couple more as I said would be the setbacks to CMP. There's still a few more I think we need to address, which are probably more relevant to the next, the next CUP.

MR. JOHNSON: We're really to make sure, you know, apply the amendments kind of a separate piece but we do have those guidelines in place and we want to respect them. And we want that review to still happen based on this design. So, you know, just because we are looking at the plat, separating that

process and making sure that it gets re-evaluated.

MR. FRONTERO: No. But I think both parties desire a degree of clarity that -- that the guidelines alone are going to kind of reflect that final review and let them, the outstanding issues such as the glazing and the, um -- and -- and whatever the third one was or kind of -- you're in an alignment that -- what's been addressed by virtue of this approval isn't revisited during the HDR, and HDR is refining those -- that typical guideline and material review but not going back to like requiring four separate structures.

REBECCA: Right.

MR. FRONTERO: You're -- you're accepting this. Your design review on the CUP is accepting the main massing they're -- they're refining, the -- the HDR just like the other lots went through. Is that a good characterization?

MR. JOHNSON: Okay.

REBECCA: Okay. Um, do you have proposed language for that suggestion for O?

MR. FRONTERO: I just -- I don't -- I don't Commissioner Johnson's statement to just go beyond that. There's also a revisiting of issues that you're resolving.

REBECCA: Right.

MR. FRONTERO: But I don't think you need additional language.

REBECCA: Okay.

MR. FRONTERO: I just want that clear on your record.

REBECCA: Okay.

MS. HALL: All right. Um, does anyone have anything further on this or should we move to the next colored packet?

REBECCA: Um, can I --

MS. HALL: Yes.

REBECCA: -- just ask the -- the applicants a clarifying question? Were there, uh, any conditions of approval in the staff report that, um, you would not agree to incorporate just as we go --

MR. JOHNSON: No.

REBECCA: -- through review? Okay.

MR. JOHNSON: We -- we agree with them; however, we want to make a clarification and we may have something we need to iron out. So if I could just identify that if that's all right.

So, um, one of the items in the staff report, we've numbered to -- I don't think it's numbered in the staff report, um, talks about, um, making sure that the returning walls within the driveway easement

are located within the driveway easement.

And we are going to make sure that all of our retaining walls are within our driveway easement. So we don't -- what we don't like is the comment saying you have to get property owner approval. What we want to do is we already have that; it's in the easement.

So what we've proposed is all improvements associated with our driveway must be contained within the driveway easement. I think that's a fine comment. I just wanted to make that clarification.

MR. FRONTERO: Right.

MR. JOHNSON: We already -- we -- we include it. I'll -- I'll address that in just one sec. The other one, Rebecca in -- is the retaining walls. So what we've said is that we have to make sure that the site work and restoration must comply with LMC15-2. -- .2-5 regarding the difference between existing and finished grade.

And I think what I had -- had seen in the staff recommended plat note was visible retaining walls to the north -- northeast south and structure shall be terraced so that no more than four feet of existing grade is manipulated.

And the -- the problem we're having is on the backside where no one can see. There will be more than

four feet of retaining wall. And so that's why at the very beginning of the presentation we were saying you have retaining walls that are greater than four feet except if they're in the setbacks because it contemplates they are limited at four feet in the setbacks.

So Rebecca, um, that's -- that's just a clarification. So I think we can iron it out in the process that, um, Mark described that would happen afterwards. But to the extent anyone thinks that it's important that there not be a retaining wall taller than four feet, we should talk about that.

And then the last item -- because here -- here that's a fair point -- there -- there are existing retaining walls on the site that are greater than four feet. But -- but the last item is on the windows. The windows shall be aluminum clad wood. And what we have is that the windows will be -- we -- we haven't picked our windows out. They're certainly not going to be vinyl. We're -- we're certain of that. In fact, we've added that already in the plat note.

MR. FRONTERO: Yeah.

MR. JOHNSON: Um, what we would like to do is work through the HDDR to make sure because they may be aluminum clad wood, which I have, and it's great,

Mathew but, um, it may be a different material.

MR. FRONTERO: Yeah.

MR. JOHNSON: Yeah. It could be steel or some other item like that.

REBECCA: Okay. So --

MR. JOHNSON: I think the -- the good basis for that is that you can get much higher environmental sensitivity, and we're actually going to try and make this elite building. So we want it to be as -- we're not going to -- we're not going to skimp on the windows. I promise you that. They're going to be triple plain high-quality window. So, Rebecca, I hope that answers your question about that -- those.

MS. HALL: Yes. Thank you. Okay. So we're striking aluminum and living vinyl or just leaving it up the HDDR?

REBECCA: Uh, and under -- we'll leave it up to the HDDR.

MS. HALL: That's okay.

MR. FRONTERO: Thank you.

MS. HALL: Okay.

MR. JOHNSON: So the -- the -- the tallest retaining walls that you're -- you're referring though are for the entrance to the parking area, right? That's the only place where it exceeds four feet.

MR. FRONTERO: No. [Inaudible].
MR. JOHNSON: [Inaudible] building?
MALE 2: [Inaudible] by the accessory. Correct. Which --
MR. JOHNSON: We're back at the accessory facility. Chance to [inaudible].
MALE 2: Uh, direct chance [inaudible] to you, Mr. Johnson. Yes.
MS. HALL: So is this all in the blue packet though for this, right?
MALE 2: The blue packet talks about the SLL.
MS. HALL: Okay. So, yeah, that's, uh -- I think if we argue -- I mean, I -- I assume that there are many questions related to the steep slopes, so maybe we should move to the blue packet?
MR. JOHNSON: Sure.
MS. HALL: People are ready? We can always come back to the yellow packet. Um, I don't know if any of the commissioners have any questions for the staff or the applicant or proposed, uh, modifications.
Um, I feel like we haven't really talked in depth about the steep slopes since you're res- -- reserving it to the end, um, in terms of [external ?] water and all of that. Didn't want to --
MR. JOHNSON: External water is part -- is part

of the CUP 2 criteria.

MS. HALL: Yeah.

MR. JOHNSON: But they did provide it. I mean, we could pull that slide up. I thought that that was -- so that's old. Are there -- uh, do -- do you anticipate any real amendments to what you've put in front of us?

MR. FRONTERO: [Inaudible].

MALE 2: So by way of orientation of the blue, page 2 has each and everyone of the nine criteria for being at a steep slope, and we tie it to the plan, which are listed on the first page. And then I think to make sure that we're meeting -- and we love your judgement, of course, on the conditions, and we've added based on the staff report, a new condition, Condition G, which came straight out of the staff report. So that might be a good area to focus for a time on those conditions.

MS. HALL: Okay.

MALE 2: Should we --

MR. JOHNSON: [Inaudible].

MS. HALL: Yeah. [Inaudible].

MR. JOHNSON: [Inaudible].

MALE 2: Commissioner Johnson, you found the issue. The issue is the one that is right there, the

accessory building. That's taller than four feet and then the other one that you identified previously by the parking area.

MR. JOHNSON: [Inaudible].

MALE 2: Twelve exposure and what? That's right. And then by the parking area, they range but --

MR. JOHNSON: Six feet.

MALE 2: That's right. And needed for cla- -- it's for the fire track, so that's why we have a little bit more height than we otherwise would. And so, what we've done there though is it's on the backside so it wouldn't be visible. So we were trying to reflect the locations by making that first comment. The ones that would be visible are the four-foot ones, which are by the setbacks.

MR. JOHNSON: So, in the 12 feet retaining walls for the accessory building are on the side?

MALE 2: That's right.

MR. JOHNSON: But you're saying that the back is actually onto the hill side is going to be a footing with steel or metal studs?

MALE 2: That's right.

MR. JOHNSON: And that's strong enough I guess?

MALE 2: I guess, yeah, [inaudible].

MR. JOHNSON: The engineering is [inaudible]

engineering --

MALE 2: Yeah. Unfortunately, we're not near the setback and we'll have to likely have nails or something in that light. [Inaudible].

MR. JOHNSON: So those are exceptions to our code, both of those retaining walls. How does everybody feel about that?

MS. HALL: I mean, is that like --

REBECCA: May --

MS. HALL: -- for the fire turnaround?

MR. JOHNSON: I -- yeah -- no -- I -- I -- I think that's kind of what I'm landing to. I -- again it all comes back to the accessory building that continuously is ask- -- asking for exceptions. I understand why it's down into the hill side. So, um, but I don't want to just [inaudible] all night. So if you guys have, you know -- if other commissioners have concerns, voice them now and --

REBECCA: Um, may I add one clarification? The four-foot, uh, regulation comes into the height amendments in the HR1 zoning district. Just -- just to clarify. So if it's the -- if those height regulations are not applying and it's the height that was in a fact of the time of the MPD approval, that will change, that four-foot, uh requirement.

MALE 2: And then we could seek and exception but we're not, Mr. -- Commissioner Johnson. We could seek and except as to the retaining walls in the setback, and there's criteria in -- the planning commission has given the power but we're not seeking it.

MS. HALL: Any commissioners have any other comments or questions related to the --

MR. FRONTERO: Yeah. I --

MS. HALL: -- steep slope?

MR. FRONTERO: Just -- just one quick question on the accessory building retaining wall. Is the wall exposed just on one side, on the interior side?

MALE 2: That's right.

MR. FRONTERO: Okay. Out, the outside of the wall would be -- so -- well --

MALE 2: Retaining.

MR. FRONTERO: Oh.

MALE 2: Yes.

MR. JOHNSON: Mark, you're saying that essentially because this is, uh, part of the MPD and it's not a substantial change that since the SLL ordinance like 15.2.2153 number 3 for properties with steep slopes or very steep slopes within 50 feet of the property, the following are also required soil investing -- soil investigation report, GO technical

report and additional slope information, which they've provided one of those. Right? So, we're just not -- that's if it was a brand-new development or they were shipping to a separate parcel within that MPD?

MR. FRONTERO: Right.

MR. JOHNSON: So the SLL doesn't really apply then. Okay.

MR. FRONTERO: Not the standalone ordinance but the SLL site specific criteria in this -- in the HR1 --

MR. JOHNSON: In the [SLL ?].

MR. FRONTERO: -- steep slope CUP section due. So you -- that's where you still have --

MR. JOHNSON: Correct.

MR. FRONTERO: -- mitigation review criteria and one -- so if the commissioner wanted to close the gap between sort of the general language you've seen with some of the retaining walls and what was the original staff commissioner of approval, it seems like you could batch in a condition of approval regarding any retaining wall in excess of four feet that is not screened by the home, shall have additional mitigation such as either --

MS. HALL: Mm-hmm. Landscape.

MR. FRONTERO: -- additional landscaping, uh,

shall be reviewed by the -- during the HDDR for additional mitigation, you know, something that gives, you know, an -- an ability to kind of, like the whole project, bridge the gap between what's vested verses the intent is to not have those exposed [inaudible].

MS. HALL: So, any new retaining wall that's east-facing and not concealed by --

MR. FRONTERO: Correct.

MS. HALL: -- the home should have a vegetation?

MR. FRONTERO: Well, should -- should be --

MS. HALL: Or other [inaudible].

MR. FRONTERO: -- should -- I think you want to focus on the same purpose of having the four feet terracing. Can that -- can the purpose of that visual --

MR. JOHNSON: Achievement.

MR. FRONTERO: -- breakup be achieved through a different mechanism that a- -- allows the physically required height of -- of the retaining wall and just max -- especially -- and -- and I think the -- the garage entr- -- entrance or entrances or the -- excuse me -- parking area, you know, that may be, not be screened as much from the east. Anything on that side might be even more relevant. I don't -- I differ to staff than the stuff on the north for the accessory

structure.

MS. HALL: Yeah, I like having the, um, vegetation more specifically -- vegetation plan more specifically conceal the parking area and incorporating some of those elements within the retaining wall that's exposed to the east.

MALE 2: Yeah. Yeah. Condition E is the one that sounds like it needs to be beefed up to reflect that, because that why we attempted to describe screening of the walls, but I hear with staffing has indicated and commissioners.

MR. FRONTERO: And, Rebecca, didn't you originally have a proposed condition regarding a construction mitigation plan and the -- is that somewhere?

REBECCA: So, that was in the yellow.

MR. FRONTERO: Is that in -- still yellow.

REBECCA: But we would recommend that that also be included in the steep slope CUP conditions of approval. And that is, the applicant shall include in its construction mitigation plan, um, a proposal to direct excavated clean soils for use in Park City Mountain Resort.

Uh, they've reworded it a bit. Um, we would recommend just confirming with the chief building

official, uh, before coming forward with the rock, uh, final proposed condition of approval but that, um, the original proposal I can pull up. Um, yeah --

MR. FRONTERO: But why don't we just -- why don't we work on modifying it for their final action letter. And so for clarity purposes, this would be condition number D on page 6 of the yellow. We've beefed up --

REBECCA: Yellow one.

MR. FRONTERO: -- and transferred to a new condition of approval on page four and blue.

REBECCA: Uh, updated as, uh, indicated -- recommended by staff and approved by -- or reviewed by the chief building official.

MS. HALL: Henry, we haven't heard from you. Do you have any --

MALE 4: I'm following.

MS. HALL: Okay. I don't want to leave you out.

MALE 4: No.

MS. HALL: Do you have any comments or questions?

MALE 4: No.

MS. HALL: Okay. All right. Um, don't know if I officially opened the public hearing and incorporate it into the record, all public comments that were made at the initial portion of the regular agenda, so I'm going to do that now and close the public hearing for

6C. Then I still see some people reviewing their packet. So --

MS. HALL: All right. Does anyone have any further for the steep slope for the staff or the applicant or -- or for the single-family dwelling CUP? Um, if not, um, yeah, we have three agenda items and [structurally ?], we are supposed to take a vote on the three items. Are people prepared to take a vote on that? All right. Um, --

MS. PRINCE: I -- I just have one -- one question about, um, the residence, uh, CUP. Um, there -- there -- it's -- the additional findings, um, all, um, referenced compliance with the LMC rather than the Sweeny MPD. And how is that consistent?

I mean, I think -- I think it's pretty clear that, um, what's being proposed is not consistent with the LMC and maybe we are prepared to give them exception, um, to -- because -- because we're finding that it complies with the Sweeny MPD. Why are -- why is all of these findings geared then toward findings under the LMC?

MS. HALL: Is there like a specific one that you're looking at? Because, I mean, some of them might, you know, adequate street -- off-street parking.

MS. PRINCE: Right.
MS. HALL: I mean, I'm just kind of looking -- like some of them I feel like they are going to be compliant, but I agree we could clarify if there are certain ones that are Sweeny MPD specific.
MR. FRONTERO: When -- when we -- this might --
MS. HALL: And --
MR. FRONTERO: -- this might [inaudible], when we come back we -- as stated we will -- been requested by Commissioner Hall, is we will add references to -- for the present.
MS. HALL: What are we making findings on?
REBECCA: And to --
MS. HALL: Findings on [inaudible] --
MR. FRONTERO: Well, no, you're making findings --
MS. HALL: -- complies with the previous issue?
MR. FRONTERO: -- well, it complies with the existing -- yeah, because you're still making findings with the existing CUP criteria as -- as, um, conformed by the pre-established MPD regulations.
And -- and that's sort of consistent with, um, the first six homes you -- you would -- or at least the five that are in each one where you would have certain regulations that may not have -- wouldn't have

allowed those homes to be what they were originally, but they -- they're making a design -- they're making sure the design is incompatible as opposed to, um, purely compatible with a 25 by 75 design.

So we can add some of that precedent language that Commissioner Hall requested for all three to make it clear that there's a distinction between what is flowing from the MPD [vesting ?] verses the LMC. So I think I'm a -- I'm following you halfway that there needs to be some separation of the references to ones that, um -- it's like height, for example. But if any of these references have current plate but --

MS. HALL: Perfect size, yeah.

MR. FRONTERO: Yeah. Those --

MS. HALL: Okay.

MR. FRONTERO: -- we -- we can modify those to reflect and eliminate the LMC reference and insert the MPD reference or just -- and you can double check that when we bring it back on the 21st.

MS. HALL: Yeah. Because I feel like some of them we do want to keep the LMC references like no signs and the noise, the lights.

MR. FRONTERO: Yeah, there's -- there are things which are not in conflict with the vesting.

MS. HALL: Like 50/50, or I don't know which ones

[inaudible].

MS. PRINCE: But a lot of the main, you know, appropriate size and, um -- and appropriately massed and, um -- and bulk and oriented and, uh, physically designed to be compatible with surrounding structures and appropriately situated on existing [gepography ?] and consistent with the goals and objections of -- of Park City, uh, general plan. Like all those things I think could, um, maybe don't fit.

Um, I -- I don't know -- think we can find compliance on all those things but perhaps under the Sweeny MPD and HUD houses and commission, um, may find it acceptable. But, um, just having trouble finding compliance with the LMC on a number of these items.

MS. HALL: Um, is that something we want to go through now then or, I mean, we can do this -- how about I be the direction for the staff to -- if there's --

MR. FRONTERO: We have two separate issues. One is where there's a -- the consensus decision whether there is or isn't a compliance with the items that you're reviewing as not sort of dropped by the [inaudible] development, or I think you have a couple members that are still trying to convince a couple of you to go with them, which you certainly still can

have that discussion on which items those are --

MS. HALL: Yeah.

MR. FRONTERO: -- versus clarification on the record that the references shouldn't -- where they don't apply, you're not putting in the record that they do comply with things, which we -- we've suggested that the plat notes take -- take out, because the plat notes do conf- -- conform, is the word I -- I used before in terms of the -- like the height is the perfect example.

Like you don't want to reference that the first comment was more clarifying the findings so that there's no height reference to current code because the plat note take -- clarifies that that's not applicable or shouldn't -- in the CUP, there shouldn't be a note that it complies with current height. That's one issue.

MS. HALL: Yes.

MR. FRONTERO: But discussing the merits, which is the second part, Commissioner [inaudible] comment in terms of whether the structural size and some -- revisiting some of the same things and whether she's able to convince a couple of you. But there is still a compliance, so she -- that's a separate discussion. And so I just want to clarify those two points.

MS. PRINCE: All right. Thank you.
MS. HALL: Okay. Yeah, I guess from a high level when we say compliance with the LMC, the LMC also ask for a mass plan development, which also allows for general exceptions to specific requirements. So that's kind of where I was seeing the little bit of the overlap, but I'm, uh, well --
MS. PRINCE: I think the way Mark laid it out, --
MS. HALL: Yeah.
MS. PRINCE: -- um, was a little different than saying, oh, it complies with the LMC because the LMC allows for, um, MPD, uh, uh, uh, specifications.
MS. HALL: So, just like high le- -- high level generically speaking, because we allow for exceptions within MPDs. That should, you know --
MS. PRINCE: I think the -- the process that, um, the commissioners are required to go through and -- and analyzing whether or not an application complies with the CUP, is better not complies with the requirements, you know, specifically laid out in the LMC.
MS. HALL: Uh-huh.
MS. PRINCE: No, um, less exceptions that are in MPD. But -- so, I --
MR. FRONTERO: Well, the other option,

Commissioner [inaudible] is to put up a header like, uh -- to clarify that similar to the plat note that we -- we had an introduction subject to the conditions of approval and the, um, plat amendment, um, notes, uh, consistent with the MP- -- original MPD approval, the commission adopts the following, um, so that --

MS. HALL: That are in compliance with the LMC?

MR. FRONTERO: -- that ties in. Yeah, because it is -- it does. Most of the references, the LMC in this section refer to the CUP section, not the stuff that was in the compliance section for the zoning code. Like -- like I don't see a specific height reference --

MS. HALL: Yep.

MR. FRONTERO: -- su- -- subsection.

MS. HALL: Mm-hmm.

MR. FRONTERO: It says compliance with the overall CUP section. And, and that is, you know, what you're being asked to decide in terms of whether it's out there, in terms of like the steep -- the mitigation criteria in the steep slope CUP and then your -- the design conditions of approval, you've added to -- to ensure that the HDR conforms as best as possible with the plat amendment notes that you've agreed -- that the majority has ag- -- agreed to

modify. So there's a bit of a not -- it's --

MS. HALL: It's convoluted.

MR. FRONTERO: Yeah, it's convoluted. But that's a good clarification but I just -- I also want to bifurcate the clarification for the references versus if you still want to make subsidive [ph] -- have a subsidive discussion on certain particular issues, which is certainly [inaudible].

MS. HALL: Yeah. So, I guess I'm happy to talk more some civilly but I think regardless, we should incorporate what Mark said to the front of this.

MS. PRINCE: Yes.

MS. HALL: Okay. Okay.

MS. PRINCE: I agree. Subject to -- yeah.

MS. HALL: All of Mark's words nothing. All right. Well, it's already 9:30, so I'm definitely not doing my job of staying on task. Um, we have three agenda items we are supposed to be voting tonight. Um, do we have anything further to discuss on any of these agenda items or is anyone ready to make a motion?

MS. PRINCE: Yes, could you just clarify then, um, what we're voting on since there's, um, quite a bit of, uh, changes that, um, have been proposed?

MS. HALL: So my understanding is that we would be voting to approve and make recommendations to staff

to draft a final action letter?

MS. PRINCE: Make findings. Yeah.

MS. HALL: And make findings consistent with our discussion. And then the final review of all of those items would be in the February 21st meeting, which, uh, there will be an online portion available since that will --

MR. FRONTERO: But you would not continue the public hearing but you would be able to make changes to the red lines that would appear, uh, to the -- to the draft findings and conditions of approval?

MS. HALL: And that would be emailed to us on Friday as a regular staff packet, and then we will have a hybrid meeting on the 21st where people could attend virtually or in person to review, um, everything that we've discussed.

MALE 2: And is this one collected vote on the collective matters or individual [inaudible]?

MR. FRONTERO: No. I -- I would recommend you do each one individually because you may have different commissioners with different votes and diff- -- on different applications.

MS. HALL: Um, yeah. So I guess, um, along the lines of, uh, what Mark said, uh, I would just point to 6A if there's further discussions on the Plat

Amendment or if we have a motion and then we'll go through he 6B, and we'll have another opportunity to have a discussion or motion, and then we'll go to 6C before we move to the rest of our agenda. So for 6A, do we have --

MR. JOHNSON: [Inaudible].

MS. HALL: Is there a consensus one way or another to draft the final action letter consistent with the majority of the commissioners?

MS. PRINCE: I'd just like to go on the record with some of my, uh, um, objections to the finds, judicial findings in the residence CUP. Um, um, I object -- I object to the finding 10A, 10G, 10H, 10K, 10O, 10P.

MS. HALL: Uh, can you report that one more time?

MS. PRINCE: Sure. Um, I don't find compliance with, um, the, uh, additional -- with the LMC or the additional findings listed in the proposed additional findings, um, 10A, 10G, 10H, 10K, 10O, 10P. That's it.

MS. HALL: Okay.

MS. PRINCE: Thanks.

MS. HALL: Um, the majority of commissioners or any commissioners want to go in and discuss, um, these ones? Sorry, that was -- what did you say, Bill?

MR. JOHNSON: [Inaudible].

MS. HALL: A and B.
MS. PRINCE: Oh, Q was taken out, correct?
MS. HALL: Okay.
MS. PRINCE: Completely, yes. A and B [inaudible].
MS. HALL: And for K, is it -- sorry, for -- um, this will be for both of you. Is it, uh, both portions of K? So it's incompatible with the starting structures per LMC. And then it's also inconsistent with the other single-family residences with any amended Sweeny. Just the first section. And, Laura, are you for both sections or -- because that's like the -- that's the code for version for the CUP and the analysis underneath it.
MS. PRINCE: [Inaudible].
MS. HALL: So we're saying that the -- the analysis is that -- it is consistent with the other, uh --
MS. PRINCE: I object to the whole -- the entire 10K.
MS. HALL: Okay. So it's inconsistent with the Sweeny MPD, not just --
MS. PRINCE: Yes.
MS. HALL: -- and then the surrounding areas beyond that essentially. Are we getting it -- MS.

PRINCE: And in compliance with --

MS. HALL: -- I guess that's all we're getting?

MS. PRINCE: -- and -- and not in compliance with the LMC on that.

MS. HALL: So then it --

MS. PRINCE: Yeah.

MS. HALL: Okay. So it doesn't comply with the LMC because it's inconsistent with the single-family residences within the Sweeny MPD or are you wanting to add something more to that?

MS. PRINCE: No.

MS. HALL: Okay. Um, all right guys. Sorry, it's getting late. Um, I guess, do we have, uh, a majority for the O or P as well? I guess I'm taking a poll to look for -- if we would like to discuss this more for the -- for the CUP for the single-family dwelling if people feel like it doesn't meet the criteria. Okay. I'm going to table that and go back to the Plat Amendment.

Uh, we took a poll initially, but we had no formal motion. We are statutorily needing to take a motion for the [inaudible] item. So --

MR. FRONTERO: Just for clarity, on this Plat Amendment, we need this evening to -- we need to move -- make a motion to draft the final action letter, um,

--

MS. HALL: To direct staff.

MR. FRONTERO: -- to direct staff to come up with the final action letter to be reviewed February 21.

MALE 2: Yeah. I would like you to specify either approve or deny in the motion.

MR. FRONTERO: In the motion. Yeah. Okay. Oh, okay, I'll make a motion to approve a final action letter on 20, uh -- 220. Is that right? So 220 King Road Plat Amendment.

MALE 2: Sorry -- sorry, Commissioner Frontero, the motion is, um -- we move to direct staff to prepare a -- prepare a final action letter from approval --

MR. FRONTERO: Move staff to direct.

MALE 2: -- of Item 6A subject [inaudible].

MR. FRONTERO: -- final action letter or Agenda Item 6A on February 21, 2024.

MS. HALL: All right, we have first by Commissioner Frontero.

MS. VAN DINE: Second.

MS. HALL: And a second by Commissioner Van Dine. All in favor?

MR. FRONTERO: Aye.

MALE 2: Aye.

MS. PRINCE: Aye.
MS. HALL: All apposed?
MS. PRINCE: Nay.
MR. FRONTERO: Nay.
MS. HALL: All right. Motion carries. Uh, 6B 220 King Road conditional use permit, we're looking for a similar motion one way or another to the di- -- direct staff for a final action letter related to 6B.
MR. JOHNSON: [Inaudible].
MR. FRONTERO: [Inaudible]. I move to direct staff, uh, or a final -- to create a final action letter on 220 King Road conditional use permit for final review, February 21, 2024.
MALE 2: For approval or denial?
MR. FRONTERO: Uh, for approval.
MS. HALL: We have a first by Commissioner Frontero.
MALE 2: Second.
MS. HALL: And a second by Commissioner Shan. All in favor?
MALE 2: Aye.
MS. PRINCE: Aye.
MS. HALL: All apposed?
MALE 2: Nay.
MS. PRINCE: Nay.

MR. FRONTERO: Nay.
MS. HALL: All right. So we have three in support and three against. Um, and this is a unique situation, which has never happened in my very long time here, in which there's a tie that goes to the chair and I will say I in support of the motion to approve. So motion carries. Moving on to 6C 220 King Road steep slope conditional use permit.
MR. FRONTERO: Okay. I'll, um, make a motion to direct staff to create a fine -- a final action letter approving the conditional use permit steep slope for 220 King Road on February 21, 2024.
MS. VAN DINE: Second.
MS. HALL: We have a first by Commissioner Frontero and a second by Commissioner Van Dine. All in favor?
MR. FRONTERO: Aye.
MS. VAN DINE: Aye.
MS. HALL: All opposed?
MR. JOHNSON: Nay.
MALE 2: Nay.
REBECCA: Nay.
MS. HALL: All right. And in the unique situation where there is a tie, I will again vote and I will vote I in favor of the approval. All right, 10:00,

guys. Hear the bell. Um, we'll just powered through real fast for these next two adg- -- agenda items.

MR. FRONTERO: Sure.

MS. HALL: Is the staff -- or sorry -- is the staff and the commission willing to stay on longer than our normally scheduled 9:30? Okay. Um, I'm going to stand and stretch for a moment while the, um, applicants and staff maybe change seats.

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability the above 185 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.

Chris Naaden

April 18, 2024

Chris Naaden

(Park City Planning Commission meeting, 2-14-24)

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April 26, 2024

VIA EMAIL

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Re: Brief Addressing the Relationship between the City's Land Management Code and the Sweeney Master Plan.

Dear Panelists,

During a recent phone conference with the parties, counsel for the City's Appeal Panel requested that the parties provide supplemental briefing specifically addressing the relationship between the City's Land Management Code ("LMC") and the Sweeney Master Plan (the "MPD"). Framed in the context of this case, the inquiry is: does the MPD excuse the applicant from complying with the requirements of the applicable HR-1 zoning district?

This question is necessitated because applicant proposes a novel reading of the underlying record and Utah law. So novel, that courts have not squarely addressed the question. The Appeal Board should reject the applicant's interpretation because it: (1) is not supported by general principles informing land use law in Utah; (2) finds no support in the specific language of the MPD; (3) adopting the applicant's position would be inconsistent with the City's historical approach to the MPD; and (4) the applicant's approach leads to wide-sweeping general implications in other contexts that would undermine the City's zoning authority.

I. General land use principles are critical to the relationship between an MPD and the City's LMC, and they suggest the applicant must comply with both when seeking approval of a conditional use or building permit.

The Utah Legislature has "plenary power for all purposes of civil government," which includes the exercise of legislative power, or power to enact statutes … subject only to the limitations or prohibitions imposed by the state constitution."[1] The legislature has delegated to municipalities the authority to adopt certain land use controls through the Municipal Land Use, Development, and Management Act ("LUDMA"), which not only governs land use controls, but also sets limits on a municipality's authority to adopt ordinances, resolutions, covenants, easements, development agreements for controlling uses, density, structures, and buildings.[2]

LUMDA contains several provisions germane to the question of whether an applicant must comply with existing ordinances *and* a development agreement. The first of these is section 509, which expressly states: "A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations."[3] In essence, this states a foundational principle that should guide the analysis of the issue at hand—specifically, the City is bound by the terms of its own ordinances when assessing a conditional use permit.

LUDMA also requires a municipality processing a complete land use application to conduct a substantive review of the application "under the land use regulations: (A) in effect on the date that the application is complete; and (B) applicable to the application or to the information shown in the application."[4] And when it speaks of approval, the statute references not only the multiple sources of law that must be taken into account, but also addresses timing: "An applicant is entitled to approval … if the application conforms to the requirements of the applicable land use regulations, land use decision, *and* development standards *in effect when the applicants submits a complete application* and pays application fees, unless" certain exceptions not relevant here apply.[5] In other words, the City has a statutory obligation to ensure that any conditional use permit meets actually complies with any ordinances at the time of the completed application.

Along a similar vein, in the section governing district court review, which could be pursued by either party to this case after the Appeals Board makes its determination, LUDMA contemplates the district court must factor into its analysis existing land use regulations,[6] such as the LMC: "A land use decision, which ordinarily would include approval of a conditional use permit,[7] is illegal

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[1] *Utah Sch. Boards Ass'n v. Utah State Bd. of Educ.*, 2001 UT 2, ¶ 11, 17 P.3d 1125 (cleaned up).

[2] *See* Utah Code Ann. § 10-9a-102.

[3] Utah Code Ann. § 10-9a-509(2) (addressing applicant's entitlement to land use application approval).

[4] Utah Code Ann. § 10-9a-509(1)(a).

[5] Utah Code Ann. § 10-9a-509(1)(a)(ii). Similar timing applies to approval of building permits. *Id.* § 10-9a-802 ("A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations *then in* effect.").

[6] LUDMA defines land use regulation as "a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land" but excludes land use decisions, including when the legislative body acts as the land use authority. Utah Code Ann. § 10-9a-103(33).

[7] LUDMA includes within the definition of land use decision both land use permits and applications. Utah Code Ann. § 10-9a-103(31).

if the land use decision: (A) is based on an incorrectly interpretation of a land use regulation; (B) conflicts with the authority granted by this title; or (C) is contrary to law."[8]

The continued importance and relevance of the LMC find further support in the law governing development agreements.[9] Section 532 expressly provides: "A development agreement may not: (i) limit a municipality's authority *in the future* to: (A) *enact a land use regulation*; or (B) take any action allowed under Section 10-8-84[.]"[10] In essence, by prohibiting agreements limiting a legislative body's authority to enact regulations, the statute implicitly recognizes that the land use control rests with the municipality, who has broad latitude to pass subsequent legislation that may affect the area subject to the development agreement, absent a vested right. And while development agreements often contain provisions affecting land use, LUDMA provides that when the agreement "does not *specifically* address a matter or concern … [that] matter or concern is governed by: (i) this chapter; and (ii) any applicable land use regulations[.]"[11]

In summary, LUDMA both grants and governs the scope of a municipality's land use authority. It clearly contemplates approval of a land use decision will be subject to land use regulations, including the LMC, and that the measure of approval should be the regulations in effect at the time of the application. For these reasons, the Appeals Board should reject any argument that the MPD obviates the need to comply with the LMC.

a. The doctrine of vested rights does not support applicant's argument.

It is well established that a landowner holds property "subject to zoning ordinances enacted pursuant to a state's police power."[12] The doctrine of vested rights is a limited exception to the longstanding rule that "the date of application … fixe[s] the applicable zoning laws.[13]

Although the owner generally has "no vested right in existing or anticipated zoning," there are a narrow class of cases when courts recognize that the applicant acquires a vested right under prior existing ordinances or a particular standard.[14] The Utah Supreme Court adopted this general rule in *Western Land Equities v. City of Logan*:

> [A]n applicant is entitled to a building permit or subdivision approval if his proposed development meets the zoning requirements in existence at the time of his application and if he proceeds with reasonable diligence, absent

[8] Utah Code Ann. § 10-9a-801(3)(c).

[9] The MPD would likely qualify as a development agreement, which is statutorily defined as "a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land." Utah Code Ann. § 10-9a-103(12)(a).

[10] Utah Code Ann. § 10-9a-532(2)(a) (emphasis added).

[11] Utah Code Ann. § 10-9a-532(2)(e).

[12] *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390 (Utah 1980).

[13] *Id.* at 391; *see, e.g.*, *Stucker v. Summit Cnty*., 870 P.2d 283, 291 (Utah Ct. App. 1994).

[14] *Western Land Equities, Inc.*, 617 P.2d at 391.

> a compelling, countervailing public interest. Furthermore, if a city or county has initiated proceedings to amend its zoning ordinances, a landowner who subsequently makes application for a permit is not entitled to rely on the original zoning classification.[15]

Despite this exception to the general rule, the Utah Supreme Court noted the importance of allowing municipalities to amend regulations, noting "A city should not be unduly restricted in effectuating legitimate policy changes when they are grounded in recognized police powers."[16]

LUDMA now contains a codified standard. An applicant is entitled to application of regulations in effect at the time of the completed application—in that respect, the right to a particular standard is said to "vest" at the time of the applicable application.[17] This doctrine is still subject to limitations. First, to vest, a complete application must be filed—the municipality remains free to adopt new ordinances and apply the amended regulations until it receives a complete application and payment. Second, the City may still deny an application based on ordinances adopted after filing if the land use authority "formally finds that a compelling, countervailing public interest would be jeopardized by approving the application[.]"[18]

In this dispute, the applicant has at times suggested that its rights vested under the MPD. But the vested rights analysis often turns on the language of the land use regulations and the timing of the precise land use application. Here, it is critical to note that the timing of the building permit sought occurred long after the adoption of the MPD, which significantly undermines the applicant's theory of vested rights. And as discussed further below, nothing in the MPD gives rise to a vested right to ignore the changing effect of land use regulations on a new permit.[19]

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[15] *Id.* at 396.

[16] *Id.* at 396 ("Regardless of the circumstances, a court must cognizant of legitimate public concerns in considering whether a particular development should be protected from the effects of a desirable new law.").

[17] *Supra* Part I; Utah Code Ann. § 10-9a-509(1)(a)(ii); *see also* Vested Rights, Office of the Property Rights Ombudsman, *available at* https://www.propertyrights.utah.gov/find-the-law/legal-topics/vested-rights (last visited on April 25, 2024).

[18] Utah Code Ann. § 10-9a-509(1)(a)(ii). Additionally, the applicant's vested right may dissipate if the applicant fails "to implement the approval with reasonable diligence." *Id.* § 10-9a-509(1)(e).

[19] *Stucker v. Summit Cnty.*, 870 P.2d 283, 288 (Utah Ct. App. 1994) ("Individual lot owners within an approved subdivision, however, generally have no vested right to build under a given zoning ordinance until the municipality has issued a building permit for that specific lot or the lot owner has incurred substantial expense in reliance on the current zoning ordinance.").

b. The applicant's position is contrary to the important distinction between legislative authority and administrative decisions, as set forth in LUDMA and recognized in Utah case law.

Utah law draws an important distinction between legislative and executive (also referred to as administrative) acts in land use.[20] Crucially, "legislative power gives rise to new law, while executive power implements a law *already in existence*."[21] Under LUMDA, it is the legislative body—here, the City Council—which possesses exclusive authority to adopt land use regulation,[22] which is defined as:

> (a) … a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;
>
> (b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
>
> (c) does not include: (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or (ii) a temporary revision to an engineering specification that does not materially: (A) increase a land use applicant's cost of development compared to the existing specification; or (B) impact a land use applicant's use of land.[23]

"Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation."[24]

In stark contrast, the land use authority—here, the Planning Commission—may be delegated a limited right to make land use decisions,[25] which are defined as "an administrative decision … regarding (a) a land use permit; or (b) a land use application[,]"[26] which includes the permits or

[20] *See, e.g.*, *Suarez v. Grand Cnty*., 2012 UT 72, ¶ 19, 296 P.3d 688.

[21] *Id.* (cleaned up).

[22] Utah Code Ann. § 10-9a-501(1)-(3). In contrast,

[23] Utah Code Ann. § 10-9a-103(33).

[24] Utah Code Ann. § 10-9a-501(1).

[25] *See, e.g.*, Utah Code Ann. §§ 10-9a-507(1), -509. While the authority of the planning commission extends to making recommendations about land use regulations, LUDMA does not grant the commission authority to adopt its own land use regulations. Utah Code Ann. § 10-9a-302(1).

[26] Utah Code Ann. § 10-9a-103(31).

approvals sought in this appeal.[27] Crucially, this authority expressly does not include "an application to enact, amend, or repeal a land use regulation."[28] Instead, any land use authority "shall apply the plain language of land use regulations" adopted by the City Council.[29]

The importance of this distinction were illustrated in *Wallingford v. Moab City*,[30] a 2020 decision which arose out of a challenge to development agreement that proposed significant changes to the original plan.[31] In addressing the procedural process, the court recognized that the adoption or modification of a land use ordinance required adherence to the legislative process.[32] This, in turn, required "due process, notice, and hearings" which mitigated against that the powers of the legislative body and rights of the public are not bargained away "without public scrutiny or political accountability."[33] Because the city failed to go through the proper steps in entering into the development agreement, the appellate court reversed the judgment in favor of the municipality and remanded for new proceedings.[34]

While *Wallingford* focused on development agreements, its basic principle still informs this appeal. When a municipality seeks to change land use regulations, it must do through the proper procedures and through the legislative process. While the Planning Commission undoubtedly serves an essential purpose in the administrative context, it does not have the power to change the land use regulations that must be applied to a given application—such amendments must be effected through a legislative process and adopted by City Council.

c. Other considerations relevant to the appeal.

Our office has not yet received a copy of the applicant's supplemental briefing. But out of an abundance of caution, at least two other considerations may be helpful and relevant to the Appeal Panel's consideration of the issues at the hearing.

i. Plat approval is administrative, as opposed to a legislative decision establishing land use regulations for the property.

In general terms, a plat refers to "an instrument subdividing property into lots as depicted on a map or other graphical representation that a licensed land surveyor makes and prepares in accordance"

[27] Utah Code Ann. § 10-9a-103(29), -(32).

[28] *See* Utah Code Ann. § 10-9a-103(29.

[29] Utah Code Ann. § 10-9a-306.

[30] 2020 UT App 12, 459 P.3d 1039.

[31] *Id.* ¶¶ 7-12.

[32] *Id.* ¶ 20.

[33] *Id.* ¶ 24.

[34] *Id.* ¶¶ 30-33 ("While the City unquestionably has the power to pursue [the legislative process or re-classification of the proposed changes], one thing it cannot do is bury an otherwise administrative decision in a broader legislative contract, and then approve that contract by resolution without first holding a public hearing.").

with other provisions of LUDMA.[35] A municipality may enact ordinances requiring that a plat comply with other ordinances before it is filed and recorded, but if it fails to do so, the power of the municipality is limited to the provisions of LUDMA.[36] Ordinarily, LUDMA requires that the original plat conform to a municipality's ordinances as a condition of approval.[37]

In Park City, authority for plat approval and amendment has been delegated to the Planning Commission.[38] While approval by the City Council may, in some cases, give plat approval the force and effective of a land use regulation, it is important to distinguish those plat approvals that have only been approved by the Planning Commission, because neither it nor a private party have legal authority to adopt new land use regulations or law.[39] The improper exercise of legislative authority would be *ultra vires*, meaning that it should not be given effect.[40] To do so would undermine the City Council's authority and run contrary to the proper administration and delegation of legislative powers under LUDMA.[41] Here, the Applicant sought and the Planning Commission granted, via plat amendment, rights greater than allowed by either the LMC or the MPD (both legislative acts) which is a legislative act in clear excess of the Planning Commission's authority.

For that reason, the appellant respectfully asks the Appeals Board to carefully distinguish between those plat amendments approved by City Council, based on broad policy considerations, which *may* qualify as legislative,[42] and those which were merely approved by the Planning Commission and are being improperly used by the applicant to supplant the requirements of the LMC.

ii. Principles of statutory and contractual interpretation will be crucial when evaluating the terms of the LMC.

Courts often have occasion to interpret statutory language. The basic principle is that the interpreter should strive to give meaning to the intent underlying the statute and ordinance.[43] Because the best

[35] Utah Code Ann. § 10-9a-103(49).

[36] Utah Code Ann. § 10-9a-601.

[37] *See* Utah Code Ann. § 10-9a-603(3), -(6); *see also* Utah Code Ann. § 10-9a-609 (addressing authority to amend a plat and requiring a showing of good cause).

[38] Park City LMC §§ 15-12-15(9), 15-7-4.

[39] *Supra* Part I.B.

[40] *Cf. Carter v. Lehi City*, 2012 UT 2, ¶ 17, 269 P.3d 141 (noting that the initiative power could be exercised only for legislative acts, and that it would be ultra vires for administrative decisions); *Weese v. Davis Cnty. Comm'n*, 834 P.2d 1, 3 (Utah 1992) ("Any act by the county in excess of this authority or forbidden by the Utah Constitution is null and void as an ultra vires act.").

[41] *Supra* Part I.B.

[42] As discussed above, even legislative acts may qualify as mere land use decisions, if sought as a part of permit or land use application. *See* Utah Code Ann. § 10-9a-103(31), -(33); *cf. Carter v. Lehi City*, 2012 UT 2, ¶ 71, 269 P.3d 141 (distinguishing between legislative acts, which involve considerations of broad considerations and a degree of general applicability, and administrative or executive acts in the context of a proposed initiative); *but see Krejci v. City of Saratoga Springs*, 2013 UT 74, ¶ 21, 322 P.3d 662 (holding that site-specific zoning may qualify as a legislative act, subject to referendum);

[43] *Stucker v. Summit Cnty*., 870 P.2d 283, 287 (Utah Ct. App. 1994).

evidence of intent is the plain language of the enacted statute, this analysis begins there.[44] Courts will assume that the legislative body "used each term advisedly according to its ordinary and usually accepted meaning."[45] In doing so, the court will attempt to "give meaning to all parts, and avoid[] rendering portions of the statute superfluous."[46] Insofar as the Appeals Board is tasked with interpreting LUDMA, LMC, or MPD (as adopted by ordinance), these principles apply and support the appellants' position, as discussed further below.[47]

It is also worth noting that, in disputes involving development agreements, courts apply principles of contractual interpretation.[48] This analysis begins with assessing the plain language of the contract "to determine its meaning and the intent of the contracting parties."[49] In doing so, courts must consider "each contract provision … in relation to all of the others, with a view toward giving effect to all and ignoring none."[50] Similar to statutes, the goal is to strive to harmonize the provisions while avoiding rendering any meaningless.[51]

II. The Sweeney MPD clearly states that the LMC provisions in place at the time of CUP review governs, and affirming the Planning Commission's interpretation would require the Appeal Panel to ignore these explicit requirements.

Setting aside the requirements of LUDMA, the clear meaning and intent of the Sweeney MPD was for future applicants to comply with the LMC provisions in place at the time of application. There are several provisions that either directly state or reflect this intent. First, Section III(1) of the Sweeney MPD states:

> *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.

This could not be more straightforward. "At the time of conditional use . . . review" and "in effect at the time" can only mean one thing: CUP applications under the Sweeney MPD, like the ones here, must comply with the with the current LMC. "[I]n addition" is unambiguous. It means that the proposed project must comply with both the MPD and the LMC.

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[44] *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 18, 267 P.3d 863

[45] *Id.* ¶ 14.

[46] *Penunuri v. Sundance Partners, Ltd*., 2013 UT 22, ¶ 15, 301 P.3d 984 (cleaned up).

[47] *Cahoon v. Hinckley Town Appeal Auth.*, 2012 UT App 94, ¶ 4, 276 P.3d 1141 (applying plain language approach to evaluating zoning ordinance reviewed by appeal board).

[48] *LD III LLC v. Mapleton City*, 2020 UT App 41, ¶ 11, 462 P.3d 816.

[49] *Cafe Rio, Inc. v. Larkin-Gifford-Overton, LLC*, 2009 UT 27, ¶ 25, 207 P.3d 1235.

[50] *Id.* (cleaned up).

[51] *LD III LLC v. Mapleton City*, 2020 UT App 41, ¶ 12, 462 P.3d 816.

While Section III(1) is the broadest and all encompassing, it is not the only provision of the Sweeney MPD that requires compliance with the LMC in addition to the MPD. Section (III)(10) says:

> As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with the adopted ordinances in effect at the time of application.

Once again, we have the same language: "at the time of application." While unnecessary because Section III(1) requires compliance with all relevant sections of the Park City, it further emphasizes that scheme they had in mind for this long-term development project was to review applications under the code at the time of the application and maintain the flexibility to change the code rather than to lock all of these parcels into the exclusive control of the 1985 code provisions forever. Beyond this, there are several other provisions further referencing compliance with the Code at the time of approval.[52]

Affirming the Planning Commission's decision in this case would require ignoring the unambiguous language of the MPD in contravention of the principles of contractual and statutory interpretation.

III. The historic practice of the City and applicants under the MPD was to treat compliance with the code in place at the time of the CUP application as a requirement.

Beyond the MPD's own language that the applications must be reviewed for compliance with the current LMC at the time of the CUP application, the City has, in prior applications under the MPD, consistently maintained that position. In an August 25, 1999 letter regarding the Sweeney MPD from Mark Harrington, then Interim City Attorney, to Pat Sweeney, the City argued that applications were reviewed under the Land Management Code in place at the time of the application.[53] After becoming City Attorney, he made the same argument in a April 9, 2004 memorandum to the Planning Commission.[54] Likewise, as recently as 2020, the City has applied the current LMC to properties in the Sweeney MPD and required the applicant to comply with the LMC before approving the application. Indeed, the recent staff report for this appeal appears to confirm that the MPD *and* LMC govern, although the parties disagree on the application to the factual circumstances of this case of both sources of law.

The only evidence presented to the Planning Commission suggesting it should ignore the LMC requirements was a 1985 letter presented by Pat Sweeney. The Planning Commission, however, was wrong to accept the reasoning of that decades-old correspondence.[55] As explained in the initial

[52] *See* Exhibit A, Sweeney MPD § (III)(2), (3), (5), and (6).

[53] Exhibit B, Pat Sweeney Position Statement 2016.

[54] *Id.*

[55] Appeal Panel Staff Report, April 30, 2024, at 11.

appeal letter, that letter has no binding or persuasive value as it contradicts the written agreement.[56] Further, it contradicts the argument Pat Sweeney has made many times over the past 20 years.[57] He consistently argued that the zoning code at the time of a CUP application trumped the MPD. In fact, in a document he submitted in 2016, he stated that was one of the things he agreed with the City on.[58] Thus, is opinion should not have been relied on by the Planning Commission.

IV. The implications of only reviewing projects within MPDs under the code in place at the time of MPD approval renders Park City's current citizens powerless to address new concerns through updating the LMC.

To the extent the applicant argues that conditional use applications or building permits need not comply with the current LMC, the implications are far reaching and rife with practical challenges. When an application for a single-single family residence within an MPD comes before the Planning Department or Planning Commission, they do not look back to the code at the time of MPD approval to see what rules govern the project. They always apply the current code. This is true even if the MPD does not specifically require the current code to be applied as it does here. According to the applicant, however, they are required to look back to the historic code to decide what can and cannot be built. Likewise, they argue that if a provision was not a part of the code when the MPD was approved the property does not have to comply with it. Under this reasoning, the current LMC does not apply to any property within an MPD. This not only runs contrary to the legislative authority held by City Council, which should be able to rise to address local needs through zoning, but also threatens to have far reaching effects.

The vast majority of Park City has been developed under the master planned development process. Just a few of the MPDs in Park City include Park Meadows, all the Deer Valley neighborhoods, Park City Heights, Kings Crown, PCMR Base, Prospector Village, Prospector Park, all the larger condo complexes in town, and a large portion of Old Town (under the Sweeney MPD), amongst others. Almost every property in town, minus the true historic mining properties, have been developed under MPDs. If projects within MPDs must only comply with the MPD and the LMC at the time the MPD was approved, the current LMC applies to only a handful of properties in the City limits. It follows that the current citizens of the town, through their elected and appointed officials, have no power to enforce new laws against these developments. Almost all the single-family residences in the SLO zone are within MPDs that were approved prior to the SLO. Under the logic advanced by the Applicant, none of these need to comply with the SLO or any other newer zoning ordinance even if they are building a brand-new home. It could not possibly be the case that Park City has abdicated its authority to regulate development across most of town, but if this Planning Commission decision is not overturned, every property owner within an MPD will be entitled to this treatment moving forward.

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[56]Courts do not look to extrinsic evidence when the language is plain and unambiguous. Similarly, for legislative history, they do not look to the legislative statements if the plain language answers the question.

[57] Exhibit C, Pat Sweeney Position Statement 2017.

[58] Exhibit D, Pat Sweeney Executive Summary 2016.

While the Applicant has and will likely try to argue that there is no precedent established by this decision other than within the Treasure Hill subdivision, this is inaccurate. The legal argument that just the MPD and LMC provisions in place at the time of MPD approval apply to this project similarly applies to all master planned developments in Park City. It cannot be reasonably argued that this legal theory only applies to this MPD. It either applies to all master planned developments or does not apply to any master planned development. This is especially the case considering this MPD specifically says that "[a]t 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." This language is not in every master planned development. Thus, if this does not apply and the MPD only needs to comply with the code at the time of MPD approval, then that must be the case for master planned developments that do not contain this language. If the Planning Commission decision is not overturned, every applicant with a property within an MPD that has competent representation will make this same argument.

Lastly, in addition to these practical concerns, it is worth reiterating that Utah case law and LUDMA reserve special land use authority for municipal legislative bodies. Absent a vested right, which does not exist here, the applicant's approach raises serious separation of powers concerns. Rather that afford a democratically-elected body its authority to develop and adopt land use controls through the legislative process to address modern concerns, the applicant's approach would seem to freeze the application process in the past – or allow, as is the case here, a private party to ignore duly-adopted laws, despite the wishes of the broader community.[59]

V. The proposed structure does not meet the express requirements of the LMC as expressly required by the Sweeney MPD.

The Applicant's proposed structure on 220 King Rd. violates numerous provisions of the LMC. These include limitation requirements for height, roof shape, building footprint, design, and the Sensitive Land Overlay.

a. The proposed structure does not meet the height requirements of both the MPD and LMC, as required by law, despite applicant's arguments to the contrary.

First, the proposed structure exceeds the LMC's height requirements. The LMC limits exterior height for buildings with pitched roofs in the HR-1 district to 27 feet from existing grade.[60] Here, the plans approved by the Planning Commission (and required to remain the same as a condition of approval) not only exceed the 27 feet required by the LMC but also the 30 foot limit stated in the plat (even after this amendment) and the 25 feet required by the Sweeney MPD[61] and the sheets

[59] *Supra* Part I

[60] LMC § 15-2.2-5.

[61] Exhibit A, Sweeney MPD (III)(5)(a).

incorporated into the MPD permit[62]. The MPD specifically states in its height restrictions that parcels in the HR-1 district "shall abide by the Land Management Code and no height exceptions will be considered."[63] The external building height here, therefore, violates the MPD, Plat, and LMC.

Additionally, the Applicant has insisted that where LMC § 15-2.2-5(A) says "lowest finish floor plane" what it really means is "lowest finish*ed* floor." This interpretation, however, does not comport with the intention of the Planning Commission and Council when reviewing the staff report and minutes when the ordinance creating this phrasing, Ord. No. 13-48, was approved.[64] The discussion shows that what this change was trying to achieve was to maintain roughly the same height requirements for HR-1 and HR-2 that were previously in place while granting the flexibility to property owners to have split level floor plans that would have conflicted with the previous restrictions–reversing the trend of people going deeper with their bottom floor. The Staff Report when this change was made establishes that the change was intended to maintain a similar restriction of three standard stories, including the basement level, while allowing for split level plans of a similar height to a standard three-story home.

Planning Commission minutes from January 9, 2013 discussing this change show that one of the problems they were concerned about was the depth of basements. With this concern in mind, it does not make sense that they would have intended this provision to mean you can build down as far as you want and have an unlimited internal height if there is only thirty-five feet from the lowest "finished" floor to the point of the highest wall top plate. It appears from the wording[65] that the planning commission forwarded a positive recommendation on that the word "finish" was never intended to be put into the code here but rather was accidently left in Exhibit A of Ordinance No. 13-48 from a previous draft. The word "finish" must be read within the context of what the Planning Commission and Council were trying to achieve. If a floor can be easily converted into livable space (i.e., partially or fully above grade and not exclusively mechanical space or a crawl space) it should be considered for the internal height restrictions. It was clearly not intended that someone would be allowed to build two floors to a depth of twenty-four feet below the point at which the internal height is measured.

Staff found the internal height of the building to be 53.5 feet, but the Applicant convinced the Planning Commission of the incorrect notion that the internal height requirements did not apply and argued that even if they did apply, they could comply by simply not finishing a massive portion of the house. As the internal height requirements do apply, the house does not comply with the internal height restriction as Council intended it to function when approving it. The Applicant should not be allowed to get around this rule simply by having the plans show the space as "unfinished" (especially considering the Applicant's representative refused to agree to a condition requiring that the Applicant not go in later and finish these floors).

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[62] Exhibit E, Sweeney MPD sheets, at 14.

[63] Exhibit A, Sweeney MPD (III)(5)(a).

[64] Exhibit F, Staff Report for PL-13-01889.

[65] "A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters."

Within the height restrictions of LMC § 15-2.2-5 are also restrictions on roof pitch that the Applicant's proposed structure violates. LMC § 15-2.2-5(C) requires that homes in the HR-1 district have a roof pitch for the Contributing Roof Form[66] of between seven: twelve and twelve: twelve. Here the proposed building's Contributing Roof Form has a roof pitch of three: twelve. Even under the Applicant's theory of Section III(1) of the Sweeney MPD (that the LMC applies only when the Plat and MPD are silent) this is a violation as neither the MPD or Plat mention roof pitch.

b. The proposed structure does not meet the building footprint requirements of the LMC

Beyond the proposed structure's height violations, it violates the building footprint requirements. The LMC limits the building footprint to 4,500 square feet and MPD and Plat set the building footprint limit at 3,500 square feet. As the MPD is more restrictive, it governs. The MPD does not have a method of calculating building footprint. As it was written to incorporate the LMC, the LMC definition should be used to determine whether the proposed structure complies with the MPD.

The Plat has its own method of measuring the building footprint which has been modified to try to maneuver around its own rules since the proposed structure does not comply with the Plat limits. Even with the Plat Amendment, however, the proposed structure should not be viewed as in compliance with the Plat's building footprint limit. Under the LMC method, the Planning Department calculated the building footprint to be approximately 11,300 square feet, well beyond both the MPD limit and the LMC limit on building footprint.

The calculation would be the roughly the same (still well above the limit) under the Plat's rules both before and after amendment depending on whether or not the space where they intend to park their cars is a garage or not. Plat Note 2 (both before and after amendment) says that footprint "shall be calculated from the outside face of walls on any single level, and a maximum of three thousand five hundred (3,500) square feet footprint including garages." In an attempt to avoid this restriction, the Applicant has chosen to refer to the area where cars will be parked as a "parking area" rather than a "garage" and amend Plat Note 2 by adding to the exceptions from footprint calculation "that portion of any carport, mechanical space, parking area, or living space that is located below existing grade and which has landscaping or deck (as provided in 1(a)) located above it." The Applicant argued to the Planning Commission that the difference between a "garage" and "parking area" is determined by whether the space has a door, but the Applicant's assertion that the subject space is a parking area and not a garage simply because it does not have a door is baseless. "Garage" and "parking area" are not defined by the MPD or the Plat, but they are defined by the LMC. Those definitions support that the relevant space is a garage. The LMC definitions are:

[66] As defined in LMC § 15-15-1: "The most visually prominent roof form viewed from the primary public right-of-way.

> **Garage, Private**. An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.[67]
>
> **PARKING AREA**. An unenclosed Area or Lot other than a Street used or designed for parking.[68]

The space cannot be a parking area because it is enclosed. The plans for the proposed structure show that at the level where cars will be parked is underground, surrounded by walls on all four sides, and has a ceiling and floor. That is the very definition of enclosed.[69] The argument that a space is not enclosed just because there is an entryway twelve feet above the space at the end of a long tunnel despite the space being surrounded by walls is frivolous. The space does, however, fit the definition of Private Garage. It is a portion of the main building that is intended to be used for the storage of motor vehicles by the occupants. The Applicant's requested edits to Plat Note 2 suggest that even the Applicant knows that this space is a garage and not a parking area. Although Plat Note 2 was amended, the Planning Commission did not acquiesce to all the Applicant's requested changes. The Applicant sought to have "including garages" deleted from the section of Plat Note 2 discussing what is included in the footprint calculation and adding "garages" to the list of new exceptions in the note. If this space is not going to be a garage, there would be no reason for the Applicant to try excluding garages. Since the space is a garage, the proposed structure violates the building footprint requirement, regardless of whether the Plat method or the LMC method is used to calculate the footprint.

c. The proposed structure does not meet the design requirements of the LMC.

Further, the proposed structure violates the design requirements of the LMC (beyond the roof design issue discussed above). LMC § 15-13-8(A)(4) requires that "new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot." As stated in the report from the from the only Qualified Historic Preservation Profession in the record, the design fails to meet any of the requirements in this LMC section.[70] The report emphasizes that the project is not compatible in size, scale, and proportion and states that the materials and features are compatible with industrial design in the area but not with residential design as required for the HR-1 zone. Likewise, the massing requirements of LMC § 15-13-8(B)(2)(a)(9) were not met since the modules on the primary facades exceed 25 feet in width.

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[67] LMC § 15-15-1. There are four definitions for Garage in the LMC Defined Terms (Commercial Garage, Front Facing Garage, Private Garage, and Public Garage).

[68] LMC § 15-15-1.

[69] *See Enclose*, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003).

[70] *See* Exhibit G, SWCA Memo.

d. The approval violates the Sensitive Lands Overlay Zone

Finally, the approval of the Steep Slope CUP violates the Sensitive Land Overlay Zone (SLO) Regulations.[71] The Applicant is shifting the building envelope into the Very Steep Slope of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code has strict requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination."[72] Here, no analysis has been provided and no affirmative determination made. Where steep slopes are involved, an applicant must also "prove that the Development will have no significant adverse impact on adjacent Properties."[73] The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land."[74]

The Applicant has not and cannot prove any of these elements. The proposed density of more than 20,000 square feet is not compatible with adjacent properties. The industrial architectural design details with its massing, scale, and height are not compatible with the adjoining residential properties. Nor has the Applicant demonstrated how it is taking any mitigation measures to buffer adjoining properties.

VI. Conclusion

With regard to the supplemental question posed by the City, the Appeals Board should find that the proposed use satisfy the requirements of both the MPD *and* the version of the LMC in effect at the time of the application. For the reasons above and those stated in prior briefing, the Planning Commission's decision exceeded its legal authority, the current Land Management Code applies, the Applicant's proposed structure violates the requirements of the LMC, and the Appeal Panel should reverse the decision.

Even if it is determined, however, that the proposed structure only needs to comply with the MPD, or only needs to comply with the LMC where the MPD is silent, or only needs to comply with the MPD and the provisions in place at the time the MPD was approved, the Appeal Panel should still reverse the Planning Commission's decision since the proposed structure does not comply with the terms of the MPD[75] and there was no discussion during any of the Planning Commission meetings about the requirements of the code provisions in place at the time of MPD approval or whether this project meets those requirements.

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[71] LMC § 15-2.21.

[72] LMC § 15-2.21-2.

[73] LMC § 15-2.21-4 (H)(d).

[74] *Id.*

[75] Non-compliance with the Sweeney MPD provisions will be addressed in a subsequent brief.

Thus, regardless of whether the current, past, or no version of the LMC applies, the Planning Commission's decision was arbitrary, capricious, and illegal and should be reversed.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys

EXHIBIT A

PARK CITY PLANNING DEPARTMENT
REVISED Staff Report

TO: Planning Commission
FROM: Planning Staff
DATE: December 18, 1985
RE: SWEENEY PROPERTIES MASTER PLAN

I. PROJECT STATISTICS:

Applicant:	MPE, Inc. Sweeney Land Company, owner
Proposal:	Large Scale Master Planned Development
Location:	Various parcels throughout Historic District
Parcel Size:	125.6 acres
Existing Zoning:	Historic Residential (HR-1); Estate (E); and, Historic Recreation Commercial (HRC) currently, although Historic Commercial Business (HCB) at the time of formal application
Comprehensive Plan:	Historic Residential and Estate
Surrounding Uses:	Ski area, residential, vacant
Application Date:	May 21, 1985

II. STAFF'S RECOMMENDATION and FINDINGS

The Planning Department Staff recommends that the Planning Commission APPROVE, and forward a positive recommendation to the City Council on the proposed height variation required and rezoning of the hillside (approximately 110 acres) to Recreation Open Space, the proposed Sweeney Properties Large Scale Master Planned Development. The project has been considered in accordance with the review procedures and criteria outlined in Sections 1 and 10 of the Park City Land Management Code, effective January 1, 1984, as amended. The following plans and exhibits, in addition to this report and the project file, constitute the complete development permit.

1. Sweeney Properties Master Plan, sheets 1-16, 19-26, and 38-43 prepared by DelaMare, Woodruff, Stepan Associates, Inc.

2. Sweeney Properties Master Plan document and Fact Sheet, dated May 15, 1985, and subsequent amendments.

3. Sweeney Properties Master Plan Application.

4. Sweeney Properties Master Plan Phasing Exhibit.

5. Sweeney Properties Master Plan Density Exhibit.

6. Sweeney Properties Master Plan Development Restrictions and Requirements Exhibit.

In support of our recommendation to the Planning Commission to approve the proposed Large Scale Master Planned Development, the staff has made the

following Findings based upon the information submitted in conjunction with this application.

1. The proposed clustered development concept and associated projects are consistent with both the Park City Comprehensive Master Plan and the underlying zoning.

2. The uses proposed and general design of the project is or will be compatible with the character of development in the surrounding area.

3. 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.

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

5. The required parking can readily be provided on-site and in enclosed structures.

6. The proposed phasing plan and conditions outlined will result in the logical and economic development of the project including the extension of requisite utility services.

7. The proposed setbacks will provide adequate separation and buffering.

8. The anticipated nightly/rental and/or transient use is appropriate and compatible with the surrounding area.

9. The provision of easements and rights-of-way for existing utility lines and streets is a benefit that would only be obtained without cost to the residents of Park City through such a master planning effort.

10. The site planning standards as set forth in Section 10.9(g) of the Land Management Code have either been satisfied at this stage of review or practical solutions can be reasonably achieved at the time of conditional use review/approval.

III. DEVELOPMENT PARAMETERS and CONDITIONS

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

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.

2. Upon final approval of the proposed Master Plan, a recordable document (in accordance with the Land Management Code) shall be prepared and submitted. The Official Zone Map will be amended to clearly identify those properties included within the Master Plan, and the hillside property not included within either the Town Life Mid-Station or Creole Gulch sites (approximately 110 acres) shall be rezoned to Recreation Open Space. At the time of conditional use review, final building configurations and heights will be reviewed in accordance with the approved Master Plan, applicable zoning codes and related ordinances. A minimum of 70% open space shall be provided within each of the development parcels created except for the Coalition properties.

3. 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.

4. Access to the Town Lift and Creole sites shall be provided by a private roadway with acceptable emergency access and utility easements provided. No city maintenance of these streets is expected. All utility lines shall be provided underground with private maintenance required wherever located in inaccessible locations or outside approved easements.

5. Building heights shall be limited to the maximum envelope described on the Restrictions and Requirements Exhibit. At the time of conditional use approval, projects shall be reviewed for conformance with the heights prescribed thereon, and the following:

   (a) The various parcels located within the Historic Residential (HR-1) zone district shall abide by the Land Management Code and no height exceptions will be considered. Maximum building height on the single

family lots shall be limited to 25' in order to reduce potential visibility.

(b) The Coalition East sites are limited to a maximum building height of 55', subject to compliance with the stepped facade (as shown on the applicable plans) concept submitted and the setbacks provided.

(c) The Coalition West properties are limited to a 35' maximum building height adjacent to Park Avenue and a 28' height along Woodside Avenue; subject to the footprints defined, common underground parking and access, and no commercial uses allowed.

(d) The Town Lift Mid-Station development is restricted to a maximum height of 35' for at least 90% of the total unit equivalent volume of all above-grade buildings (exclusive of elevator shafts, mechanical equipment, and non-habitable areas) and an overall average height of less than 25' measured from natural, undisturbed grade. Additionally, no portion of any building shall exceed the elevation of 7240' above mean sea level.

* Reflects City Council's 10.16.86 modifications.

(e) The Creole Gulch site shall be limited to a maximum building height of 75' for at least 83% of the total unit equivalent volume of all above-grade buildings combined. An average overall height of less than 45' shall be provided and no portion of any building shall exceed either elevation 7250' for the eastern-most building or the elevation of 7275' for the balance of the project (above mean sea level).

The above building height restrictions are in accordance with the approved Restrictions and Requirements Exhibits submitted, and are in addition to all other codes, ordinances, and standards.

6. At the time of project review and approval, all buildings shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements. No mechanical equipment or similar protuberances (i.e: antennae, flags, etc.) shall be permitted to be visible on any building roof-tops or shall any bright or flashing lights be allowed.

7. All easements, deeds, and/or rights-of-way shall be provided without cost to the city and in accordance with the master plan documents and phasing plan approved. Likewise, it shall be the developer's sole responsibility to secure all easements necessary for the provision of utility services to the project.

8. Master Planned Development approval only conceptually established the ability of local utility service providers to supply service to the projects. It does not constitute any formal approval per se. The applicant has been notified that substantial off-site improvements will be necessary and that the burden is on the future developer(s) to secure various easements and upsize whatever utility lines may be necessary in order to serve this project. Prior to resale of this property in which this MPD approval is carried forward, or prior to any conditional use application for any portion of the MPD, a utility plan addressing water, fire flows, and sanitary sewer, storm drainage, cable utilities, and natural gas shall be prepared for review and approval by City Staff and the

Snyderville Basin Sewer Improvement District. Part of the plan shall be cost estimates for each item of utility construction as it is anticipated that major costs for these utilities will be necessary. All such costs shall be paid by the developer unless otherwise provided. If further subdivision of the MPD property occurs, the necessary utility and access improvements (see below) will need to be guaranteed in accordance with city subdivision ordinances. Public utilities, roads, and access questions which will need to be resolved or upgraded by the developers at their cost (in addition to impact fees, water development and connection fees, and all other fees required by city ordinances) are as follows:

(a) Empire Avenue and Lowell Avenue will be the main access routes to the Creole Gulch site. As such, during construction these roads will need to carry heavy traffic, probably in the vicinity of up to 300 heavy trucks per day. At the present time and until the Creole Gulch site develops, Empire and Lowell south of Manor Way are and will be low-volume residential streets, with a pavement quality, width, and thickness that won't support that type of truck traffic. The City will continue to maintain the streets as low-volume residentials streets, including pavement overlays and/or reconstruction. None of that work will be designed for the heavy truck traffic, but in order to save money for the developer of the Creole Gulch site, he or she is encouraged to keep the City Public Works Director notified as to the timetable of construction at Creole Gulch. If the City is notified that the construction is pending such that an improved pavement section can be incorporated into normal City maintenance projects, then it is anticipated that the incremental additional cost of the additional pavement thickness (which is likely to be in the vicinity of 3 additional inches of asphalt over the entire 4,6000 linear feet [25-foot asphalt width] of Lowell/Empire south of Manor Way, or approximately $80,000 additional cost in 1986 dollars) could be paid by the developer with said amount deducted from future impact fees paid to the City as long as it did not exceed the total future impact fees. However, if the increased pavement section is not coordinated with the City by the developer such that the pavement of Lowell and Empire south of Manor Way remains inadequate at the time the Creole Gulch site is developed, then the developer shall essentially reconstruct the entire 4,600-foot length of Lowell and Empire south of Manor Way at his or her cost, which with excavation and reconstruction of an anticipated 6-inch asphalt thickness on top of 10 inches of roadbase, plus all other normal construction items and costs, would be in the approximate cost range of $300,000 to $400,000 in 1986 dollars. Further, because that reconstruction would be inconvenient to residents and the City, and because delays, impacts, and potential safety hazards would be created over and above normal City maintenance of existing streets, that action by the developer would be a new impact on City residents and the cost therefore would not be deductible from any developer impact fees.

(b) Contribute to the Park City Village, or other water tanks, determined to be necessary by the City Engineer in order to serve the project with culinary and fire storage. Based on a Type 1 fire resistive construction, it is assumed that the contribution would be on the order of 500,000 gallons at a cost of approximately $300,000.00,

although the exact figures would need to be determined in a detailed study using adopted City standards.

(c) Construct pumped pressure system(s) with backup emergency power to provide a means of delivery of fire flows to the project. Construct a meter vault at the edge of the road adjacent to the project, beyond which all water facilities would be privately maintained. It is anticipated that in the vicinity of 2,500 feet of 12-inch water line with appurtenances may be required. Such pipe would cost about $70,000 in 1986 dollars exclusive of the pumps and backup power, which are even more expensive.

(d) Provide an easement, or pay all costs related to condemnation by Park City of an easement, suitable for construction and maintenance of a storm drain from the project site to Silver Creek or McLeod Creek. All City streets and any public utility drainage easements normally provided in the course of other private development shall be available for utility construction related to this MPD subject to reasonable construction techniques and City standards.

(e) Pay for downstream detention basin construction costs in accordance with the ratio of increased runoff from the project during the 50-year flood event to the total design volume of the basin.

(f) Construct a storm drain line to Silver Creek or McLeod Creek adequate to contain the runoff running through and off the site during the 50-year flood event. It is assumed that a minimum of 36-inch concrete storm drain line will need to be installed solely for Creole Gulch drainage. It is further assumed that special cleanout boxes and inlet boxes will need to be designed to address difficult hydraulic problems. Such boxes are expensive.

(g) Provide revegetation over all on-site and off-site areas disturbed for project-related utilities.

(h) Sanitary sewer improvements are assumed to involve replacing in the vicinity of 3,000 feet of sewer line, with new manholes included. Such construction will cost in the vicinity of $100,000, is subject to the approval of SBSID, and is further subject to all District fees and agreements necessary for extension of lines.

9. To minimize additional construction traffic impacts, on-site material stockpiling/staging and parking shall be provided during the course of construction. Similarly, cut and fill shall be balanced and distributed on-site whenever practicable, with any waste material to be hauled over City specified routes. Also at the time of conditional use review/approval, individual projects or phases shall provide detailed landscaping, vegetation protection, and construction staging plans.

10 As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application.

IV. BACKGROUND

An application for Large Scale Master Planned Development was submitted on May 21, 1985, in accordance with Sections 1 and 10 of the Park City Land Management Code. The applicant requested that only general development concept and density be approved at this juncture. Final unit configuration and mix may be adjusted by future developers at the time of conditional use review. A legal description of the total property involved in the area being master planned shall be recorded with Summit County. The general nature of the development and pertinent details of the transferring of densities from one area to another shall be adequately described and of sufficient depth to apprise potential land purchasers or developers that the property has been included within a Master Plan.

A variety of development concepts were submitted during the course of reviewing the proposed Master Plan. A total of eight distinct approaches to the development of the Hillside Properties were evaluated. 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. Several of the alternatives prepared were in response to specific concerns expressed relative to the scale and mass of buildings necessary to accommodate the density proposed. The latest concept developed represents a refined version of the cluster approach originally submitted.

V. NARRATIVE

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:

Coalition Properties

The three sites comprising the Coalition Properties are located adjacent to the new Town Lift base station on Park Avenue at 8th Street, and contain a total of 1.73 acres (1.46 acres HRC, .27 acres HR-1).

The Coalition East North and South parcels are separated by an easement granted for the ski liftway. Although this property was included within the recent rezoning of the Depot Area from Historic Commercial Business (HCB) to Historic Recreation Commercial (HRC), the application was submitted prior to this action and the former zoning is thereby "grandfathered" (if, in fact, the

application is approved). The development concept proposed entails a predominantly residential project with some ground level commercial uses anticipated. In an effort to reduce densities elsewhere within the Master Plan, the originally proposed density has been increased from 37 to 40 unit equivalents. Preliminary building footprints and massing drawings show structures with a stepped facade reaching a maximum height of fifty-five feet. Parking will be provided within an enclosed structure beneath the buildings and in accordance with the Table on the Restrictions and Requirements Exhibit or the Land Management Code (to be determined at the time of conditional use approval).

The Coalition West property is located south of and adjacent to 8th Street in the Historic Recreation Commercial (HRC) zone recently created. The concept for this particular site is in keeping with the previous zoning (Historic Residential, HR-1) and provides a buffer for properties located to its west. Also in response to preferred reductions in density elsewhere in the Master Plan, the originally proposed ten unit equivalents have been increased to thirteen total. In order to accommodate this additional density, a floor was added to several of the buildings. Building heights adjacent to Park Avenue have been shown at 35', while those abutting Woodside Avenue will be restricted to a 28' height. Individual structures have been conceptually designed in keeping with the scale of the Historic District will all code required parking to be provided below the buildings and accessed from a single common driveway.

HR-1 Properties

These project parcels consist of the MPE and Carr-Sheen properties and total less than ½ acre (.45) in size. Zoned HR-1 at present, the Master Plan proposes to limit densities on these sites to 2 and 3 unit equivalents accordingly, or a reduction of 44% (i.e: 4 units total). In addition, easements shall be provided for a stairway connecting the Empire-Lowell switchback to the Crescent walkway. The Fletcher parcel included within the Master Plan will be preserved as open space in addition to several quit claim deeds provided to the city for existing streets located outside platted rights-of-way.

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.

Miscellaneous Properties

In addition to the development areas described above, the proposed Master Plan identifies three distinct single-family lots; one of which is located above Woodside Avenue adjacent to and north of platted 5th Street, a second to be accessed from Upper Norfolk, and a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet.

VI. MAJOR ISSUES

Many concerns were raised and issues identified through the review process. A project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. Because this particular site is located both within and adjacent to the Historic District, many of the concerns expressed related to the more subjective kinds of considerations. The Master Planned Development procedure attempts to deal with the general concept of the proposed development and defer or relegate the very detailed project review elements to the conditional use stage of review. At conditional use review, the following issues will be examined in considerable detail with technical solutions sought.

Comprehensive Plan - The city's Comprehensive Master Plan identifies the Hillside property as a key scenic area and recommends that development be limited to the lower portions of the mountain. The existing HR-1 ground included in the Sweeney Master Plan is shown as being retained for residential use similar to the existing pattern of development. The Coalition West site is also recommended for Historic Residential use with the East parcels included within a Historic Commercial area. The proposed Sweeney

Properties MPD is in conformance with the land use designations outlined in the Park City Comprehensive Master Plan.

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

Zoning - Currently, the land involved in the proposed MPD is comprised of three (actually four) distinct zoning designations. The Coalition East parcel is currently zoned Historic Recreation Commercial (HRC) although it was zoned (and is therefore, technically "grandfathered" or vested) Historic Commercial Business at the time the application was submitted. The West site is also now zoned HRC. The Hillside Properties (i.e: Town Lift Mid-Station and Creole Gulch sites) are zoned Historic Residential (HR-1) and Estate (E). The Carr-Sheen, MPE, and two of the three single-family lots are all zoned HR-1 as well. The single-family lot adjacent to property owned by United Park City Mines is zoned Estate.

The current zoning will basically remain unaltered as a result of the proposed Master Plan except that over 110 acres of the mountain will be rezoned to Recreation Open Space (ROS), and the hillside properties will be designated as being subject to a Master Planned Development document/approval (i.e: E/HR1-MPD).

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

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.

Access - All of the different concepts reviewed would result in similar access concerns. The Coalition properties along Park Avenue have excellent access as a result and efforts were, therefore, limited to combining driveways to minimize the number of curb cuts (i.e: ingress/egress points). The development of the Hillside Properties will undoubtedly impact not only Empire and Lowell Avenues but other local streets as well. While certain assumptions could be made as to the type or character of development proposed and possible corresponding differences in traffic patterns, many of the questions raised would remain unanswered. While it is true that the Norfolk Avenue extended alternative would best deal with the current problem of poor access to that area, it would not have solved all of the access issues. The proposed Master Plan will provide sufficient ground, to be dedicated to the city, for purposes of developing a reasonable turnaround for Upper Norfolk.

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach, although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

Building Height - In order to minimize site disturbance and coverage, the clustering of density necessitated consideration of building heights in excess of that which is permitted in the underlying zoning (28' to the mid-point of a pitched roof with a maximum ridge height of 33'). The various iterations submitted for review demonstrated the trade-offs between height and site coverage. The proposed concept for the Mid-Station area results in buildings that would average only 18' above grade with portions (primarily the elevator access shafts likely to be required) approaching 75' in the worst-case situation. The concept reviewed for the Creole Gulch area entails portions of buildings as high as 100', but with an overall average of less than 40'. The Coalition East property, as a result of transferring additional density to it, is proposed to go as high as 55'; whereas, the Coalition West site approaches 35' along the Park Avenue frontage and 28' adjacent Woodside Avenue. As a part of the Master Planned Development process, height variations can be approved in light of other

planning considerations (see Section 10.9(e) of the Land Management Code). Throughout the review, considerable effort has been directed at minimizing overall building height and related impacts while still accommodating the proposed density in a cluster type of development.

These recommendations were approved by City Council

The staff has developed a number of recommended conditions in response to the concerns expressed over building heights. An exhibit defining building "envelopes" has been developed to define areas where increased building heights can be accommodated with the least amount of impact. It is our recommendation that maximum building heights be restricted to 35' and 75' at the Town Lift Mid-Station and Creole Gulch sites, respectively, for the bulk of (at lease 83%) the building volumes. Similarly, we recommend that the building envelope proposed for the Coalition properties be limited in accordance with the exhibits prepared and made a part of the approval documents.

Overall Concept - The 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. The Park City Comprehensive Master Plan update that was recently enacted encourages the clustering of permitted density to those areas of the property better able to accommodate development. In order to preserve scenic areas in town and mitigate potentially adverse impacts on the environment, the Master Planned Development concept was devised. The Sweeney Properties MPD was submitted after a number of different development concepts had been reviewed; including, several versions of the Silver Mountain proposal and various designs that were predicated on the extension of Norfolk Avenue through to the Empire-Lowell Avenues area. 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.

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.

Traffic - Any form of development proposed in this area of town would certainly impact existing streets. Although the majority of traffic generated will use Empire and Lowell Avenues, other roads will also be affected. The concept of extending Norfolk Avenue would have improved access to the south end of old town, but would also have added additional traffic to Empire and Lowell as a result. It is expected that both Empire and Lowell will be improved in several years in order to facilitate traffic movement in general. Even without this project, some upgrading has been planned as identified through the development of the Streets Master Plan.

In evaluating traffic impacts, both construction and future automobile demand are considered. Many related issues also come into play, such as efforts to minimize site grading and waste export. The Master Plan review process affords the opportunity to address these issues in considerable detail whereas other reviews would not. Several of the conditions proposed deal with the issue of traffic and efforts directed at mitigating the impacts created. Traffic within the project will be handled on private roadways with minimal impact.

Utilities - The various utility providers have all reviewed the proposed development concept and do not oppose granting Master Plan approval. Substantial improvements to existing infrastructure will be necessary, however, and the developer has been apprised of his responsibility. Considerable off-site work will be required, the details of which will be resolved at the time of conditional use approval. Depending upon the timing of actual development or the possible subdivision of the property, participation in upgrading existing utility lines and roadway improvements may be required ahead of schedule. A number of parameters/conditions recommended further detail these issues and serve to verify the nature of MPD concept approval.

Fiscal - The proposed dense clustering of development is by far the most economic to service. In contrast to other concepts proposed involving the extension of Norfolk Avenue and possible scattered development of the hillside, the cluster approach represents a positive impact on the city's and other public entities budgets. The nature of development anticipated and lack of additional roadway and utility line extensions requiring maintenance will not create significant additional demands for service.

Tenancy - The likely occupancy and tenancy of the projects comprising the Master Plan will be transient in nature. Rather than housing significant numbers of year-round permanent residents, it is expected that the orientation will instead be toward the short-term visitor.

Circulation - Circulation within the primary development sites will be on foot. Private roadways/drives access the project parking areas with vehicular circulation provided between projects and for service/delivery, construction, and emergency purposes. Pedestrian circulation within the projects will be provided via walkways and plazas with off-site improvements made to facilitate area-wide access. Several nearby stairways will be (re)constructed in accordance with the approved phasing and project plans.

Easements/Rights-of-Way - The Sweeneys have included the dedication and and/or deeding of several easements and sections of rights-of-way to improve the city's title. As a part of the Master Plan, several roadway sections and utility/access corridors will be deeded over. In addition, a right-of-way will be supplied for the construction of a hammerhead-type turnaround for Upper Norfolk Avenue.

Norfolk Avenue - Although several staff members supported the idea of extending Norfolk Avenue through to Empire-Lowell, the consensus was in support of the clustering approach to development. Technical as well as fiscal concerns were discussed relative to the access benefits that would result. Similarly, although the resultant scale of HR-1 development that would have been likely is closer to that prevalent in the Historic District today, the spreading-out of the impacts of road and development construction would have been exacerbated. In lieu of extending Norfolk Avenue, the Sweeney's have consented to deed to the city sufficient land for a turnaround and to participate in the formation of a special improvement district for roadway improvements (in addition to providing an easement for the existing water line).

Grading - The proposed cluster concept will result in less grading than the alternatives considered. The MPD review enabled the staff, Planning Commission, and developer the opportunity to consider this kind of concern early in the project design process. The concept plans developed have examined the level of site work required and how potential impacts can be mitigated. Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified.

Disturbance - The eight distinct development scenarios presented each had a varying degree of associated site disturbance. The current concept results in considerably less site clearing and grading than any of the others presented (except the total high-rise approach). A balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts. General development parameters have been proposed for Master Plan approval with the detailed definition of "limits of disturbance" deferred until conditional use review.

Density - The proposed densities are well within the maximum allowed and actually about one-half of that which the underlying zones would permit. While it would not be practical or feasible to develop to the full extent of the "paper density", the proposed Master Plan does represent a considerable reduction from that which could be proposed. During the course of review, numerous comparables were presented which demonstrated that the overall density proposed (1.77 unit equivalents per acre of the Hillside Properties and 2.20 for the entire MPD) is the lowest of any large scale project recently approved. The net densities proposed for the hillside properties, while seemingly quite high, are in actuality lower than the density of the surrounding area. Thus, even though a transferring and congregation of development density is occurring, the overall gross and net densities are well within ranges approved for other projects.

Phasing - The build-out of the entire Master Plan is expected to take somewhere between 15-20 years. The Coalition properties will likely be

developed within 5-10 years with development of the Hillside area not expected for at least 10 years. Because of the scope of the project and the various related improvements necessary to accommodate a project of this nature, a detailed time line has been developed as an attachment to the MPD approval documents. While some flexibility is built-into the approved Master Plan, any period of inactivity in excess of two years would be cause for Planning Commission to consider terminating the approval.

Setbacks - All of the development sites provide sufficient setbacks. The Coalition properties conceptually show a stepped building facade with a minimum 10' setback for the West site (in keeping with the HRC zoning) and a 20' average setback for the East sites. The Hillside properties provide substantial 100'+ setbacks from the road, with buildings sited considerably farther from the closest residence.

Fire Safety - The clustering of development proposed affords better overall fire protection capabilities than would a more scattered form. Buildings will be equipped with sprinkler systems and typical "high-rise" fire protection requirements will be implemented. The proposed development concept locates buildings in areas to avoid cutting and removing significant evergreens existing on the site. Specific parameters have been recommended by the staff with actual details proposed to be deferred until conditional use review.

Snow Removal/Storage - The cluster approach to development results in less roadway or associated hard-surfaced area and thereby reduces the amount of snow storage/removal necessary. Considerable effort has been devoted in looking at everything from snow melting systems to where pitched roofs will shed. No additional snow removal will be required of the city. At conditional use approval, additional consideration will be appropriate to ensure that snow storage can safely and reasonably be handled on-site.

Employee Housing - At the time of conditional use approval, individual projects shall be reviewed for impacts on and the possible provision of employee housing in accordance with applicable city ordinances in effect.

Landscaping/Erosion Control - Detailed landscaping plans and erosion control/revegetation methodologies for minimizing site impacts will be required at the time of conditional use review. Plantings shall be reviewed for their ability to provide visual interest and blend with existing native materials.

Trails - The proposed phasing plan identifies the timing of construction for summertime hiking trails and related pedestrian connections. Trails, stairways, and sidewalks accessing or traversing the various properties will be required in accordance with both the approved phasing plan and at the time of conditional use review/approval.

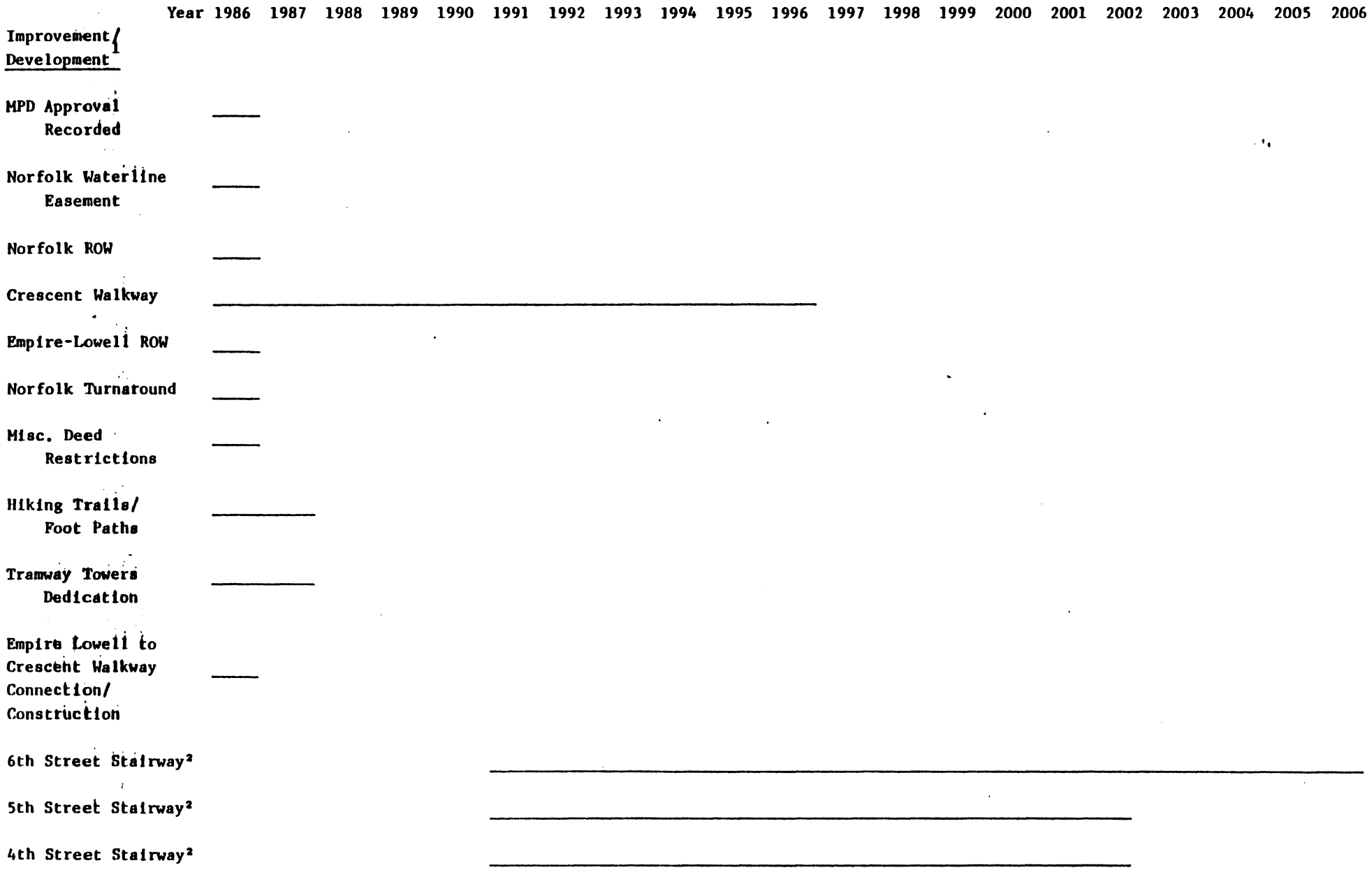
SWEENEY PROPERTIES MASTER PLAN DENSITY EXHIBIT

Parcel	Acreage	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 Gulch	7.75	161.5	15.5	~~98'~~ * 75	70
Town Lift Mid-Station	3.75	35.5	3.5	~~55'~~ * 45	70
Three ½-acre Single Family Lots	1.5	3	---	25'	83.9
Develop HR-1 Properties					
Carr-Sheen	0.288	3	---	28'	60
MPE	0.161	2			
		258 U.E.	19 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 (10/16/8

SWEENEY PROPERTIES MASTER PLAN PHASING EXHIBIT - REVISED



Year	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006

Project Timeframe

Coalition Properties _____

MPE and Carr-Sheen _____

Town Lift _____
Mid Station

Creole Gulch _____

[1]For additional clarification, consult the Planning Department Staff Report and the Sweeney Properties Master Plan document and fact sheet dated May 15, 1985.

[2]Stairways to be constructed concurrently with development of Hillside Properties unless already improved by Park City Resort or adjacent projects.

EXHIBIT B

DATE: September 9, 2016

SUBJECT: Treasure Hill Properties' Compliance with General Plan and Support Commercial Provisions of Land Management Code

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1. Background.

As the Planning Commission Staff report dated July 13, 2016, recites,

> [t]he Sweeney Properties Master Plan (SPMP) was approved by the Planning Commission on December 18, 1985. . . . On October 16, 1986, the City Council approved the SPMP with amendments to the maximum allowed building heights [for the] Hillside Properties known as the Town Lift Mid-Station and the Creole Gulch sites.
>
> The Hillside Properties consists [sic] 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. . . .
>
> 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. (pp.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, and August 10, 2016.

The topics that the Planning Commission directed Staff and MPE to address at these past hearings touch upon a number of criteria under the Conditional Use Review Process set forth in the applicable 2003 LMC.[1] Specifically, the issues the Planning Commission has directed Staff and MPE to address during this and prior hearings cover portions of the following CUP criteria:

1. Size and location of the Site;

4. Emergency vehicle Access;

5. Location and amount of off-Street parking;

6. Internal vehicular and pedestrian circulation system;

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:

2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;

3. the Use is consistent with the Park City General Plan, as amended; 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

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

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 Conforms to the General Plan.

2.1 The Planning Staff Concluded the CUP Application Complies with the Applicable General Plan in 2004 and 2005.

Notwithstanding the Planning Staff's sudden and unexplained change of position on this issue, which is addressed below, Planning Staff has repeatedly concluded in the past that the "**Treasure Hill CUP plans comply with the Park City General Plan regarding location of medium density resort related development**." (*See, e.g.*, March 9, 2005 Staff Report p. 5; April 27, 2005 Staff Report pp. 5–6 (emphasis in original).)

In particular, the Planning Staff wrote in 2005 that:

> **General Plan**
>
> The Park City General Plan indicates that the Creole Gulch and Midstation parcels are an area of Medium Density Residential development. The proximity to the activities of both the Park City Mountain Resort and the Main Street Commercial District were factors in this designation, as well as in the approval of the clustered plan. The Park City Mountain Resort master plan approval for approximately 502 unit equivalents occurred after the Sweeney Master Plan approval. Residential density in Old Town is in the range of 12-15 units per acre. Typical low density residential neighborhoods, such as Park Meadows, Aspen Springs, and Thayne's Canyon are in the range of 3-5 units per acre.
>
> Gross density of the Treasure Hill project is 3.15 unit equivalents per acre (197 u.e. on 62.5 acres, including only the 51 acres of open space associated with this phase of the MPD). Net density is approximately 17 u.e. per acre (197 u.e. on the 11.5 acres development parcel). By comparison, the net density of the Mountainside development is about 30 units per acre.
>
> According to the City's inventory, there are about 424 existing units on Lowell and Empire Avenues in the 5 and 1/2 blocks south of Manor Way to the Empire/Lowell switchback. Sweetwater Condominiums consists of 89 units (located on approximately 50 Old Town lots) and Mountainside Marriot consists of 183 units. There are approximately 82 dwelling units on Empire, not including Victoria Village (24 units) and Skiers Lodge (16 units) condominiums, and 30 units on Lowell Avenue.
>
> In a review of the building permits issued for single family and duplex units on Lowell Avenue south of Manor Way, staff found

> that 28 of the 30 dwelling units on Lowell Avenue were constructed since approval of the Sweeney Master Plan. Although it was platted in 1878, Lowell Avenue is not considered an historic Old Town street and development on Lowell is relatively recent and is more closely associated with Park City's transition to a resort town. In fact, 22 of the 30 dwellings on Lowell Avenue were constructed following the awarding of Salt Lake City as host of the 2002 Olympic Winter Games. **The current Treasure Hill CUP plans comply with the Park City General Plan regarding location of medium density resort related development.**

(March 9, 2005 Staff Report p. 5.)

2.2 Planning Staff's Current Position Relating to General Plan Compliance Is Erroneous and Contrary to the SPMP Approval and Staff's Own Prior Conclusions.

The July 13, 2016, Staff Report fails to identify the version of the General Plan that Staff is supposedly applying to the CUP Application. During the hearing on July 13, 2016, planner Francisco Astorga identified the "1999 General Plan" as supposedly applicable. (Planning Commission Meeting Minutes, p.16, July 13, 2016.) However, Planning Staff has failed to make the 1999 General Plan available for inspection or review. Instead, Planning Staff has appended apparently irrelevant versions of the General Plan to its Staff Reports, including the 1997 General Plan.

Referring to an unknown version of the General Plan, the July 13, 2016, Staff Report claims that the "proposed square footage of this project does not comply with the purpose statements of Land Management Code and goals and actions listed within the General Plan." (July 13, 2016 Staff Report, p. 105.) Even though "purpose statements" and planning "goals" cannot be used to deny the CUP Application for the reasons set forth below, Staff's conclusions about these items are incorrect and contradict Staff's earlier conclusions to the contrary.

First, the July 13, 2016, Staff Report states that "[t]he project is located in the Estate zoning district of Park City" and that "purpose statement 8 [for that zone] states 'encourage comprehensive, efficient, compatible development which results in distinct and cohesive neighborhoods through application of the sensitive lands ordinance.'" (July 13, 2016 Staff Report, p. 105.) The Staff Report acknowledges that the Sensitive Lands Overlay does not apply to the CUP Application, but concludes, *without any analysis or explanation*, that the CUP Application "is excessive and inefficient." (*Id.*)

As an initial matter, the Staff Report fails to explain why the Estate Zone or its purpose statements are even relevant to the CUP Application. Treasure Hill was re-zoned as part of the MPD process. (SPMP Revised Staff Report, p. 8, December 18, 1985.) Moreover, the underlying zoning for the Hillside Properties at the time of the MPD application was both Estate and HR-1. As explained further below, at the time the City approved the SPMP, it determined that the

clustering of density at the Midstation and Creole Gulch sites was not only consistent with the General Plan,[2] it was the best way to effectuate the goals of the General Plan.

Addressing Staff's unexplained and unsubstantiated conclusion that the CUP Application is "excessive and inefficient," the Applicant notes that the idea to "cluster the bulk of the density" at the Midstation and Creole Gulch sites reflected the City's preference for a "high-rise"-type development, and that the current size of the proposed development is a function of the City's own requirements, including its fire protection directives. (SPMP Revised Staff Report, p. 7–8, December 18, 1985.) As the City concluded in the SPMP Approval, "[b]ecause 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." (*Id*. at 12.) Indeed, the ***very first*** "Finding" in the SPMP Approval was that "[t]he proposed clustered development concept and associated projects are consistent with both the Park City Comprehensive Master Plan and the underlying zoning." (*Id*. at 2.)

Moreover, the July 13, 2016, Staff Report does not attempt to harmonize Staff's current position with Staff's contrary conclusions on numerous prior occasions. For example, in its March 9, 2005, Staff Report, Staff concluded:

> The Creole Gulch and Mid-station development parcels are zoned E-MPD, and are subject to the approved Sweeney Properties Master Plan. The Sweeney Properties MPD allows hotel, condominium, townhouse, resort support commercial uses, and ski runs, lifts, etc. with the maximum densities and heights as outlined above. Open space parcels are zoned ROS. **The current Treasure Hill CUP plans comply with the existing zoning.**

(March 9, 2005 Staff Report p. 5 (emphasis in original).) **Ten years ago, Staff concluded that the CUP Application complied with the existing zoning requirements and the General Plan; now, Staff takes the opposite position. Staff offers no explanation for this sudden about-face.**

The July 13, 2016, Staff Report also draws on certain "goal" and "intent" statements from some undisclosed version of the General Plan. (July 13, 2016 Staff Report, p. 105–06.) Staff claims, based on these general purpose statements, that the "amount of circulation area, lobby areas, parking circulation, etc. [requested in the CUP Application] are not modest in scale and compatible to the surrounding area." (*Id*.)

With respect to the assertion that the circulation areas, lobbies, and parking are not "modest" in scale, Staff offers nothing in support of this conclusion. As the Applicant has previously explained on numerous occasions, the square footage and floor areas of the project, including the circulation areas, lobbies, and parking, are a function of the City's fire protection requirements, the 2003 Land Management Code's expressed preferences for such floor areas in resort developments, and modern development trends.

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[2] At the time of the SPMP Approval in 1986, the City's General Plan was known as the "Comprehensive Master Plan."

Indeed, Staff conducted an analysis of other resort developments allowed by the City during the same period of time as the SPMP Approval and CUP Application. As the July 13, 2016, Staff Report itself concludes "[b]ased on the Department's research" into other developments the City has permitted to be built under the auspices of the same General Plan, "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." (July 13, 2016 Staff Report, p. 107.) The City's own analysis concluded that the CUP Application seeks square footage in these categories that is comparable—or less than—other resort developments that this Planning Commission has approved in the City in recent times. (Exhibit W.) The City has permitted these other developments under the same apparent General Plan—with the same language—that Staff now claims precludes approval of the CUP Application. The Staff offers no explanation for this discrepancy in treatment.

As for Staff's claim that the circulation areas, lobbies, and parking are not compatible with the surrounding areas, Staff again fails to articulate any reasons for its conclusion. As the Applicant has noted on numerous prior occasions, the Woodruff Drawings, attached as exhibits to the SPMP Approval (and specifically incorporated into the SPMP Approval), anticipated buildings of the same basic size and volume as those proposed by the CUP Application. In fact, the buildings shown on the Woodruff Drawings were *more* "front loaded" and closer to the surrounding residential areas than the current proposal. The current proposal improves the neighborhood compatibility of the buildings as compared to the Woodruff Drawings.

Nonetheless, Planning Staff, the Planning Commission, and the City Council concluded that the "proposed clustering approach [represented by the Woodruff Drawings] was deemed the ***most compatible***" of the alternative approaches presented for consideration. (SPMP Revised Staff Report, p. 10, December 18, 1985 (emphasis added).) Moreover, the second "Finding" of the SPMP Approval was that "[t]he uses proposed and general design of the project is or will be compatible with the character of development in the surrounding area." (*Id*. at 2.)

Moreover, Staff's current position contradicts Staff's own prior conclusions. For example, in its March 9, 2005, Staff Report, Staff concluded, on the topic of "Compatibility, Scale, and Concentration of density in Creole Gulch area" that the "**current Treasure Hill CUP plans comply with the cluster concept, which was the preferred alternative, as approved with the Sweeney MPD**." (March 9, 2005 Staff Report, p. 14 (emphasis in original).) Unlike the current Staff Reports, which suggest that Staff believes it is writing on a blank slate, the March 9, 2005, Staff Report and others recognize that Staff must analyze the CUP criteria in the context of the findings and determinations of the SPMP Approval. Staff's current analysis contradicts the findings and conclusions set forth in the SPMP Approval without any explanation.

The July 13, 2016, Staff Report's position on compliance with the General Plan fails to account for the prior findings of the SPMP Approval or Staff's own prior reports, and it fails to explain why the development proposed by CUP Application is no longer compatible, when Staff found it to be compatible in 1986 and again in 2005. Absent from the July 13, 2016, Staff Report is any explanation for the Staff's departure from its prior conclusions in 2005 that the CUP application fully complied with the applicable General Plan. Reaching directly contradictory conclusions without providing any explanation or rationale for the change in position is the textbook definition of arbitrary and capricious action.

2.3 Staff's Current Conclusions about General Plan Compliance Fail to Take Into Account the History of the Project and the SPMP Approval.

Staff's current position on General Plan compliance ignores the context and history of the project. As the Applicant has outlined and summarized throughout these proceedings, in order to fully understand the current CUP Application and the reasons it should be granted, it is vital to understand that context and history.

The City has already determined that the development proposed by the CUP Application is consistent with, and the best way to effectuate, the goals of the General Plan. At the time of the MPD Application,

> [t]he city's Comprehensive Master Plan identifie[d] the Hillside property as a key scenic area and recommend[ed] that development be limited to the lower portions of the mountain. . . . The proposed Sweeney Properties MPD is in conformance with the land use designations outlined in the Park City Comprehensive Master Plan.

(SPMP Revised Staff Report, p. 9–10, December 18, 1985.)

The SPMP Revised Staff Report further noted that "[t]he concept of clustering densities on the lower portion of the hillside . . . has evolved from both previous proposals submitted and this most recent review process" and that "[t]he Park City Comprehensive Master Plan update that was recently enacted encourages the clustering of permitted density to those areas of the property better able to accommodate development." (SPMP Revised Staff Report, p. 12, December 18, 1985.) As noted above, the *very first* "Finding" in the SPMP Approval was that "[t]he proposed clustered development concept and associated projects are consistent with both the Park City Comprehensive Master Plan and the underlying zoning." (*Id*. at 2.)

To suddenly suggest that the CUP Application is inconsistent with either the General Plan or the "purpose statements" of the underlying zoning is to ignore the history of the SPMP Approval, in violation of the Applicant's contractual rights and reasonable expectations based on the City's prior representations, upon which the Applicant has relied by making significant investments of time, money, and other resources.

2.4 The General Plan Is Not A Sufficient Basis For Denying the CUP Application.

Finally, neither general policy statements from a General Plan nor "purpose" and "intent" statements contained in a Land Management Code are a sufficient basis to deny the CUP Application, whatever their merit.

As the City's own current General Plan explains, the General Plan "is a long range policy plan that will guide future Land Management Code (LMC) and zoning decisions." (General Plan, p. 8.) However, the "LMC is the regulatory document that addresses specific zoning and land uses within respective zones." (*Id*.) So long as the application complies with the *specific* provisions of the applicable Land Management Code, it is entitled to approval, regardless of supposedly contradictory language in the General Plan.

The same is true for general "purpose" and "intent" statements prefatory to specific sections of code. As the Utah Supreme Court has noted, "a statement of legislative purpose . . . is nothing more than a statement of policy which confers no substantive rights." *Price Dev. Co., L.P. v. Orem City*, 2000 UT 26, ¶ 23, 995 P.2d 1237, 1246. Such "purpose" and "intent" statements cannot be used to "limit th[e rights] actually given by the legislation." *Id*.

3. The Support Commercial Sought in the CUP Application Is Allowed Under the Applicable Code.

3.1 The Planning Staff's Current Position Is Erroneous.

The July 13, 2016, Staff Report states 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." (July 13, 2016 Staff Report, p. 104). The Staff Reports dated July 13, 2016, and August 10, 2016, further state that "[a]ny additional support commercial above the 19 UEs is not vested." (*Id*.)[3] These Staff Reports cite an earlier staff report from September 23, 2009, and associated meeting minutes to justify this position.

While the August 10, 2016, Staff Report appears to focus only on Staff's position on the amount of square footage the Applicant is allowed for Support Commercial uses (August 10, 2016, Staff Report, p. 138), Staff's analysis actually accounts for square footage for both Support Commercial and Meeting Space uses. The vast majority of the Staff Report only references Support Commercial space, while omitting explicit references to Meeting Space, but a careful reading of the Staff Report reveals that Staff's conclusion that the Applicant is only entitled to 11,740 square feet of additional space is for Support Commercial and Meeting Space uses. (*See* August 10, 2016, Staff Report, p. 135.)

The Applicant acknowledges that in 2009, the City brought in a new planner to the project, Katie Cattan, who took positions that were completely contrary to the conclusions previously reached by more senior and more experienced planners. Even though Ms. Cattan arrived at positions contradicting those set forth in prior Staff Reports, Ms. Cattan's Staff Reports, including the cited September 23, 2009 Staff Report, failed to even acknowledge the numerous prior Staff Reports—which spanned years of review—in which more experienced members of the Planning Department Staff reached opposite conclusions. Both Kirsten Whetstone, senior planner for Park City, and subsequently, Pat Putt, former planning director for Park City, recognized throughout the review process in 2004, 2005, and 2006 that the project was allowed an additional 10% of the total floor area for Support Commercial and Meeting Space uses pursuant to Section 15-6-8 of the 2003 LMC. (*See, e.g.*, April 14, 2004, Staff Report; May 26, 2004, Staff Report; July 14, 2004, Staff Report; August 11, 2004, Staff Report; August 25, 2004, Staff Report; April 12, 2006, Staff Report.)

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[3] The August 10, 2016, Staff Report is internally inconsistent on the question of vesting, noting both that "any support commercial above the 19 unit equivalents is not vested" and that the "applicant has vested rights to 19,000 square feet of support commercial [i.e., 19 UEs,] as written on the Master Plan narrative **and [an] additional five percent (5%) of the hotel area**." (August 10, 2016, Staff Report, p. 138 (emphasis added).)

For example, as the March 9, 2005, Staff Report concluded, "[m]eeting 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**." (March 9, 2005 Staff Report, p. 17–18 (emphasis added); *see also* April 12, 2006, Staff Report, p. 13, ("Support Commercial/meeting space" allowed is equal to "5%/5% of gross FA.").)

Apart from the conclusion that the Applicant is entitled to 10% of additional floor area for Support Commercial and Meeting Space uses—5% for each—above the 19 UEs of Support Commercial set forth in the SPMP Approval, this passage also demonstrates that the City has consistently represented to the Applicant that the 2003 LMC resolves the Support Commercial and Meeting Space determination from 2004 through 2006. Staff's explicit reference to Section 15-6-8 of the LMC is a reference to the 2003 LMC, *not* to the 1985 LMC. Staff instructed the Applicant to expend considerable time, money, and other resources further designing the project on the basis of these representations, which are now an integral part of the project's design and functionality.

Staff's current position represents a sharp and unexplained departure from Staff's prior conclusions, specifically (1) that the 2003 LMC—not the 1985 LMC—applies to the Support Commercial and Meeting Space question, and (2) that the Applicant is entitled to an additional 10% of floor area for Support Commercial and Meeting Space uses over and above the 19 UEs of Support Commercial set forth in the SPMP Approval. Staff provides no explanation for this arbitrary and capricious change of position.

3.2 There Is No Basis For Threatening to Reopen the SPMP Over the Support Commercial Issue.

The Applicant takes exception to the outrageous statements in the August 10, 2016, Staff Report suggesting that if the Applicant seeks more square footage for Support Commercial and Meeting Space uses than the Staff presently believes is appropriate, the City will "re-open[] the entire Master Plan" for a "full blown, new compatibility and Master Plan/CUP review." (August 10, 2016 Staff Report, p. 138.)

Although the Staff Report fails to explain the legal basis of this threat, the Planning Commission's Special Counsel, Jody Burnett, has told the Applicant that the position is based on Section 1.22 of the 1985 LMC, titled "Vesting of Zoning Rights." That section provides, in relevant part, that "[t]he project owner may take advantage of ***changes in zoning*** that would permit greater density or more intense use of the land, provided however, that these changes may be deemed a modification of the plan and subject to the payment of additional planning review fees." (emphasis added). The Staff seems to believe that by seeking more space for Support Commercial and Meeting Space uses than the Staff believes is allowed, Staff may unilaterally deem this action to be a modification of the SPMP Approval.

Section 1.22, however, does not apply to the SPMP Approval or the Support Commercial and Meeting Space issue for several reasons. First, Section 1.22 is a general provision addressing the vesting of rights under an existing zoning ordinance when a development application is submitted. Basically, the provision codifies existing Utah Supreme Court precedent holding that an application is vested under the existing code at the time it is submitted. Section 1.22 is not specific to MPD agreements or to amendments to MPD approvals.

Second, even if Section 1.22 were to apply to MPD approvals, it does not state what Staff seems to think it states. The language of Section 1.22 applies to "changes in zoning" that result in "greater density or more intense use of the land." But the Applicant's position that the Support Commercial and Meeting Space provisions of the 2003 LMC apply to the CUP Application, rather than the provisions of the 1985 LMC, has nothing to do with "changes in zoning." **It is not changes in zoning that allow the Applicant to take advantage of the 2003 LMC but the Utah state statutes, as acknowledged by the Park City Attorney and numerous prior Staff Reports.**

Finally, the Applicant believes the City's threat to reopen the SPMP and breach the contract represented by the SPMP Approval over the parties' disagreement about correct application of legal principles—particularly given the City's prior positions—smacks of bad faith in the extreme. Threatening the Applicant with dire consequences that have nothing to do with the issue—a disagreement over less than 4% of the total project square footage—raises serious questions about the City's motives.

3.3 As the Applicant Has Previously Explained, the Fiftieth Edition of Park City's Land Management Code ("2003 LMC") Applies to the CUP Application.

The Applicant previously explained in great detail why the 2003 LMC applies to the CUP Application, including to the Support Commercial and Meeting Space determination, in its submission to the Planning Commission dated July 6, 2016.[4] Without repeating the entire discussion, the Applicant reiterates the following points:

- Utah statutes provide that "[a]n 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** . . . ." Utah Code Ann. § 10-9a-509(1)(a)(i) (emphasis added).

- The SPMP 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 (emphasis added)).

- In an August 25, 1999, letter to the Applicant, Mark Harrington, Park City's then Interim City Attorney, stated that "Square footage and floor areas for the Unit Equivalents (UEs) are calculated as provided in the Land Management Code and Uniform Building Code adopted by Park City, **at the time of application**." (emphasis added).

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[4] Even though the Applicant has ***repeatedly*** informed the City and Planning Staff that its position is that the 2003 LMC governs the Support Commercial and Meeting Space question (*see, e.g.*, July 6, 2016, Applicant Memorandum, p. 4 n.8), Staff continues to claim that the Applicant "utilized the 2008/2009 LMC to calculate the support commercial area and meeting space within the development," which is simply false (August 10, 2016, Staff Report, p. 136). The Applicant is at a loss as to why Staff would continue to misrepresent its position when the Applicant has made that position clear and unambiguous.

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

BJM:

EXHIBIT C

DATE: November 3, 2017

SUBJECT: Treasure Hill Properties' Rights to Place Excavated Materials, Preliminary Response to Staff's Claims about May 1985 Fact Sheet, and Responses to City's Working Issues List

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1. Rights to Place Excavated Material as Proposed.

The Applicant has rights to place excavated material as proposed under its Special Warranty Deed With Possibility of Reverter ("Deed") to the City and its agreements with Vail.

Pursuant to Section 9 of the Deed, a copy of which is attached hereto as Exhibit A, the Applicant and its successors have the unconditional right to "[t]o use the Open Space Parcel as a depository for excess fill generated from construction (in connection with duly issued building permits) in conjunction with the Sweeney Master Plan . . . ." Section 9 provides for the City's engineer to work with the eventual developer about regrading, runoff and erosion control, replacement of topsoil, and revegetation, demonstrating that all parties were aware of the substantial nature of the deposit of excavated material on the hillside. The Deed, including Section 9, was reviewed and approved by the City's Attorney. Thus, the City knowingly and voluntarily accepted the Deed to the open space on the express condition that the Applicant be permitted to deposit excavation material on the open space as necessary to complete development of the Hillside Properties.

Additionally, the Applicant also has rights to place excavation material on portions of Vail's property should the need arise. Attached hereto as Exhibit B is a copy of an agreement between the Applicant (and related entities) and Vail's predecessor-in-interest, Greater Park City Company, providing in Section 3 that the Applicant and its successors may "place excess excavation material on upper Payday as shown" in an attached exhibit. The referenced exhibit identifies the large location on the Payday ski run where such excavation material may be placed.

2. The City Misrepresents Numerous Aspects of the May 1985 Fact Sheet.

2.1 The City Still Has Not Provided the Applicant or the Public with a Complete Set of Relevant Materials and Previously Presented an Incomplete Set to the Commission.

The Applicant is providing this preliminary response to the numerous and myriad misstatements made by Staff regarding the May 1985 Fact Sheet in its report dated October 11, 2017. However, the Applicant previously requested all documents in the City's possession relating to the 1985 Fact Sheet and related submissions, the response to which was due on October 19,

2017. While there have been recent discussions about the City producing records, the City has so far failed to produce records in response the Government Records Access and Management Act requests submitted to the City in late August. Until the City makes a complete production to the GRAMA request and the Applicant is able to review all of the related documents and information, this response is necessarily incomplete and preliminary. Nevertheless, substantial available information demonstrates that Staff's conjecture, speculation, and assumptions are baseless.

Moreover, whether due to ignorance or something more nefarious, Staff has presented a partial and incomplete set of documents in several respects.[1] First, while Staff touted that the May 1985 Fact Sheet was an exhibit to the SPMP, Staff ignored that the reference specifically included "subsequent amendments" to that Fact Sheet. Even though the SPMP explicitly informed Staff that additional relevant documents exist, Staff did not bother to locate or review those documents before jumping to numerous conclusions about the May 1985 Fact Sheet and how it supposedly informs various topics under consideration. As discussed below, there were numerous subsequent versions of the Fact Sheet provided to the City leading up to the SPMP approval. Those subsequent versions omitted all of the portions of the May 1985 Fact Sheet that Staff found so critical to its speculative assumptions.

Second, Staff provided incomplete copies of related documents in its October 11 Staff Report. Specifically, the May 1985 Fact Sheet was actually a summary document of a much larger and longer submission to the City, the details of which are discussed below. Staff cherry-picked portions of the full report and included only those portions that appeared to corroborate its erroneous speculation and conclusions. Staff failed to provide the Commission and public with a full copy of the accompanying submission, which included numerous exhibits providing important context for the May 1985 Fact Sheet and full report. As discussed below, these exhibits to the complete report demonstrate that both the report and the summarized version in the May 1985 Fact Sheet offer little to no guidance in the interpretation of the SPMP.

2.2 Staff's Speculation and Assumptions about the May 1985 Fact Sheet Are Baseless and Demonstrate an Apparent Effort by Staff to Subvert the CUP Process.

As with just about everything in life, context matters. When it comes to historical documents submitted to the City prior the SPMP approval, context matters a whole lot. Yet Staff presented the May 1985 Fact Sheet without any historical context, poaching isolated statements and charts from their context and then drawing wild conclusions about them.

The May 1985 Fact Sheet was part of a starting point for arriving at acceptable master plan parameters. Notably, in the master plan process, the intent was not to submit specific building

[1] Staff was not even forthcoming about how it located the May 1985 Fact Sheet. In its October 11 report, Staff suggested that it had deliberately sought out the information "to research additional consistency with the MPD." (p. 52.) But that is misleading. The only reason that Staff was looking for the May 1985 Fact Sheet is because the Applicant asked the City to do so in its GRAMA request. The impetus behind the efforts to locate the May 1985 Fact Sheet was the Applicant, not Staff's supposed desire to verify "consistency." Staff's dissembling raises troubling questions about its motives.

plans for approval (nor was that the result), but rather the intent was simply to work with the City on various design concepts toward the mutual goal of arriving at a master plan approval with acceptable parameters.

Unlike current Staff, which was not involved in the negotiations and discussions in 1985 and 1986 leading to the SPMP approval, the Applicant's principal, Dr. Pat Sweeney, was personally and directly involved. More to the point, Dr. Sweeney authored the May 1985 Fact Sheet, related submissions, and subsequent revisions. Dr. Sweeney was involved in the process before and after the submission of Fact Sheet, knows the provenance of the information in the Fact Sheet, and was involved in the extensive proceedings subsequent to the Fact Sheet, including the submission of the Woodruff drawings. Simply stated, there is no witness in a better position to contextualize the May 1985 Fact Sheet than Dr. Sweeney. Yet, before submitting the October 11 Staff Report to the Commission or making a number of sweeping conclusions about it, Staff never bothered to contact Dr. Sweeney—even to let him know that the City had located the document (which the Applicant had requested months earlier). Had Staff bothered to approach Dr. Sweeney first, much of the misinformation Staff later peddled to the Commission and public could have been avoided. Regrettably, Staff chose the cavalier approach instead.[2]

As even Staff admitted during the October 11 hearing, the May 1985 Fact Sheet was a very early, preliminary submission to the City proposing multiple alternative to develop the entire area that was eventually included in the SPMP—not just the Hillside Properties. The May 1985 Fact Sheet and its accompanying full report were preliminary starting points for discussion with City officials and look nothing like what was ultimately approved in the SPMP *after more than 17 months of additional negotiations following the submission of the May 1985 Fact Sheet*.

Of course, had Staff been neutral and objective in its assessment of the materials, it would have taken the time to understand that the May 1985 Fact Sheet was nothing more than one of many proposals considered (and rejected) by the City and that the development proposed in the May 1985 Fact Sheet bears no resemblance to the development approved in the SPMP. Instead, Staff adopted an advocacy role, pushing a crowd-pleasing—though demonstrably wrong—view of the May 1985 Fact Sheet.

A simple review of the materials Staff cherry-picked from the full report immediately demonstrates the place of the May 1985 Fact Sheet in the broader discussions that were then ongoing. The very first line of the Introduction to the complete report, from which the Fact Sheet was excerpted, states that the "document presents *a* development concept." (Sweeney Properties Master Plan Proposal, May 15, 1985, p. 1, Exhibit C hereto (emphasis added).) Thus, it was clear

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[2] Incredibly, Staff claims to "interpret" the Fact Sheet to reach several erroneous conclusions despite having never discussed the Fact Sheet with its author, Pat Sweeney. The one person who knows the intent and meaning of the Fact Sheet—including the context in which it was prepared and submitted to the City—is the one the person Staff has failed to consult about these issues. Stated bluntly, Staff is neither empowered nor equipped to "interpret" the Fact Sheet or to draw any conclusions about the meaning or intent of the Fact Sheet.

That Staff is ill-equipped to "interpret" the Fact Sheet is well demonstrated by the numerous errors in Staff's analysis.

that the report and May 1985 Fact Sheet related to "a"—that is, just one—proposal. *That* proposal was the one detailed in the report and Fact Sheet—and it looks nothing like the concept approved in the SPMP. The information in the May 1985 Fact Sheet pertains to that singular proposal set forth in the documents—a proposal that was ultimately rejected by the City. It does not relate to subsequent proposals, of which there were many. There is simply nothing to suggest that the 1985 Fact Sheet had the significance claimed by Staff.

Likewise, the second sentence of the Introduction explains that the proposed development concept "has been modified from the August 24, 1984 version to reflect changes resulting from preapplication discussions with the Park City Planning Staff." (*Id*.) Thus, it is clear that the May 1985 submissions, including the Fact Sheet, were part of an evolving, dynamic, back-and-forth, give-and-take process with the City about the best way to develop the Hillside Properties. There is nothing in the May 1985 Fact Sheet or the longer report that suggests that anything proposed in May 1985 submissions will be binding or unchanged in future discussions. In fact, the content and context suggest the opposite.

The fluid and constantly changing nature of the discussions in the May 1985 time period is further confirmed by the report accompanying the May 1985 Fact Sheet. That report proposed "[a]n alternative plan which would not require rezoning the Hillside Properties" that was "based on the construction of a road from the Lowell-Empire switchback to Upper Norfolk Avenue." (p. 7.) Thus, when the May 1985 Fact Sheet was submitted, the basic development concept for the Hillside Properties had not been settled upon. Various alternatives—vastly different in concept and scope—were still being considered. Given the early and preliminary state of the discussions and negotiations, it is inappropriate for Staff to poach isolated statements out of context and suggest that what amounted to brainstorming has some bearing on the final approval.

Although Staff concedes that information in the May 1985 Fact Sheet contradicts the eventual approvals in the SPMP (i.e., the number of residential UEs), Staff attempts to minimize these discrepancies. Where Staff apparently favors the information in the May 1985 Fact Sheet, Staff "finds" that such information is controlling. However, when information in the May 1985 Fact Sheet is inconvenient, Staff "finds" that information to be irrelevant. Of course, Staff has made these determinations based solely on its preferred outcome, not based on any objective facts and evidence.

2.3 The May 1985 Submissions Contradict the SPMP in Numerous Ways.

In reality, the discrepancies between the May 1985 submissions and the SPMP approval are substantial and irreconcilable.

For example, the May 1985 submissions contemplated a very different development concept. At the time, the Applicant only sought "a height increase to 40 and 50 feet" on the Hillside Properties "to allow dense clustering." (p. 7.) However, as the SPMP approval demonstrates, the clustering concept was vastly expanded in subsequent iterations. Staff later recommended increased height envelopes to 98 feet for the Creole site and 55 feet for Mid-station—more than double the height requested in the May 1985 submissions for the Creole site. While the City Council eventually reduced those heights to 75 and 45 feet, respectively, the enormous difference between the development concept described in the May 1985 submissions and the concept

approved in the SPMP demonstrates that the specifics of the May 1985 Fact Sheet have no bearing on the questions currently before the Commission. But Staff ignored this.

Additionally, had Staff actually reviewed all of the exhibits to the full report accompanying the May 1985 Fact Sheet,[3] particularly the proposed site plans, it would have immediately understood the vast differences between what was proposed in May 1985 and what was eventually approved in October 1986 in the SPMP. Those site plans, attached hereto as Exhibit D, propose developments on the Hillside Properties that have no resemblance to the concept approved in the SPMP, including the development concept depicted in the Woodruff drawings.[4] For example, the proposed buildings on the Creole site are oriented differently, are disconnected from the Mid-Station site, and generally look nothing like the Woodruff drawings. Whereas the Woodruff drawings show an integrated development of the Hillside Properties, as the May 1985 report explains, the May 1985 proposal separated the Mid-Station development from the Creole development by a "550 foot driveway." (p. 8.) Yet again, Staff ignored these discrepancies.

2.4 Following the May 1985 Submissions, the Applicant and the City Considered Numerous Other Concepts and Submissions. The May 1985 Submissions Were Just One Idea Among Many Proposed and Considered.

There were numerous additional submissions and meetings subsequent to the May 1985 Fact Sheet during which substantial changes were made to the application. Indeed, just a few months after the submission of the 1985 Fact Sheet, the City held additional meetings with the Applicant and discussed the "evolving concept" of the project, as summarized in a letter from the City to the Applicant. (July 18, 1985 Letter from City to MPE, Exhibit E hereto.) The City also proposed a contract zoning approach in that correspondence. That letter closed by referencing another future meeting about the application.

The Applicant responded by letter dated August 12, 1985 (Exhibit F hereto), in which the Applicant further described the evolving discussions about the fluid development concept emerging from the discussions. Specifically, the Applicant thanked the City for its "idea of looking at more of a high-rise approach in the Creole Mine Site . . . subject to specific guidelines which would allow several possible development alternatives." The Applicant also suggested the parties continue to discuss the concept of contract zoning that the City raised in its prior letter.

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[3] Staff stated during the presentation on October 11, 2017, that the May 1985 Fact Sheet makes references to two phases for both the Creole and Mid-station sites but that Staff did not understand what that referred to. Had Staff read the full report in its entirety—including the exhibits—it would have been clear to Staff what that reference was to.

[4] It should be noted that while the May 1985 Fact Sheet is identified as an exhibit to the SPMP, the Woodruff drawings are listed as an exhibit before the Fact Sheet. While the SPMP (and numerous subsequent representations by City officials) made it clear that the Woodruff drawings were merely for the purpose of testing volumetrics on the site, and not a restriction on future designs, it is evident that the City approved a development of the size represented by the Woodruff drawings, not the proposed development associated with the May 1985 Fact Sheet.

The parties continued to work on the development concept for several more months, including a needed exception to the height limitations to make the clustered development approach feasible.

Eventually, the Applicant submitted numerous additional versions of the Fact Sheet that eliminated statements about *all* of the areas Staff found so interesting about the May 1985 Fact Sheet. For example, the Applicant submitted a Fact Sheet on December 23, 1985, that contained numerical proposals only for the residential and commercial UEs. (*See* Exhibit G hereto.) There is nothing in the December 23, 1985 Fact Sheet about how much square feet is allotted to lobbies or how the commercial UEs were determined.

Notably, the December 23, 1985 Fact Sheet demonstrates there had been numerous versions and iterations of the Fact Sheet since May of that year. The December 23, 1985 Fact Sheet shows that earlier revisions were made to that form of the Fact Sheet on December 5, December 3, November 12, September 23, and August 12. Of course, Staff knew that there had been revisions to the May 1985 Fact Sheet—after all, the SPMP said so—but Staff did not wait to have all of the relevant information before jumping to all manner of erroneous conclusions based on a superseded submission. Staff's handling of the May 1985 Fact Sheet is deeply distressing.

Additionally, it should be noted that while the various versions of the Fact Sheet are referenced in the SPMP, the Woodruff drawings, which were prepared well after the May 1985 Fact Sheet, are listed as the *first* exhibit. Although the Woodruff drawings were not intended to constrain the ultimate design of the development, they were intended to provide a general approximation of square footage and height in order to arrive at Height Zones, UEs, open space requirements, and parking requirements. As the Applicant has demonstrated before, the Woodruff drawings depict a development of approximately 875,000 square feet, which would necessarily include far more square footage than Staff interprets the May 1985 Fact Sheet to contemplate. If Staff's interpretation of the May 1985 Fact Sheet is correct—and to be clear, there is nothing to suggest it is—then the Woodruff drawings wholly supersede the Fact Sheet.

2.5 Staff's Speculation about the Meaning of the May 1985 Fact Sheet Fails a Basic Reality Check.

Staff suggests that the May 1985 Fact Sheet limits the lobby and circulation space of the development to just 17,500 square feet. (Staff Report October 11, 2017, p. 55.) Of course, that suggestion defies common sense.

A simple "reality check" on that claim demonstrates its patent absurdity. As Staff recognized, the May 1985 submissions proposed 207 residential UEs. If the plan was a simple double-loaded corridor, the most efficient layout possible, with 30-feet deep bays on either side of the hallway and consisted of 414,000 square feet of residential space (207 UEs at 2,000 s.f. per UE), the hallways could be no wider than 2.54 feet without exceeding the purported 17,500 square feet allowed for hallways. The minimum code requirement for a hallway is 3.5 feet. Thus, the absolutely most efficient arrangement would not allow enough space for code compliant hallways. Further, the hotel front desk would have to be located outside, since no space would remain for an actual lobby and there could be no stairs. The entire project would have to be on one level, which would violate the open space requirement in the master plan.

This simple calculation readily demonstrates that the numbers and charts in the May 1985 Fact Sheet were not intended to represent a final or complete development proposal. As demonstrated above, the May 1985 Fact Sheet and full report were very early, preliminary ideas for how to develop the Hillside Properties. The Applicant and City continued to work for a year and a half—through multiple other concepts and designs—before settling on the concept represented in the SPMP.

3. Staff's Claim that the May 1985 Fact Sheet Reveals that the 19 Commercial UEs Were Based on the Support Commercial Allowed Under the 1985 Land Management Code Is Based on a Misreading of the Code.

Staff claims now that the 19 UEs of allotted commercial provided in the SPMP are the only commercial space the applicant is allowed. This is the third different position Staff has taken on the issue since 2006. Staff's original conclusion—that the Applicant is entitled to additional support commercial and meeting space under the 2003 LMC—is correct for the reasons the Applicant has explained many times before.

Staff now suggests that the May 1985 Fact Sheet proves that its third and latest position on this issue is correct because the Fact Sheet shows the 19 UEs were "derived from" the expected residential UEs "which triggered the a maximum of 5% of support commercial spaces (supported by the 1986 Land Management Code)." (Staff Report October 11, 2017, p. 54.)

Staff's claim that the 1985/1986 LMC only allowed for 5% support commercial is demonstrably false. In fact, the 1985 LMC allowed for 10% support commercial, rendering Staff's assumptions and conclusions palpably wrong. Section 10.9(i) of the 1985 LMC provided that "[w]ithin any Master Planned Development" up to "10% of the total gross floor area may be devoted to support commercial facilities." Not only was the allowed amount 10% and not 5%, but the calculation was made based on "total gross floor area," not just the residential floor area permitted under the allotted UEs. Thus, Staff's conclusion that a cryptic line in the May 1985 Fact Sheet somehow limits the Applicant to only 19 UEs of commercial space and prevents the Applicant from taking advantage of the additional support commercial allowed under the 2003 LMC is baseless. Of course, the Applicant has provided numerous additional reasons it is permitted additional support commercial space under the 2003 LMC, including, but not limited to, the fact that state statute mandates it and the City's attorney repeatedly assured the Applicant that it was permitted such space. These points have been made in numerous prior submissions to the Commission and City and will not be repeated here.

4. The Applicant's Responses to the City's "Working Issues List."

Staff previously provided the Applicant with a list of items it believed the Applicant needed to address based on Staff's review of the meeting minutes. As the Applicant demonstrates below, however, the Applicant has already addressed all of those items. Below in black is Staff's list and comments followed by the Applicant's responses in red.

Working Issues List
Treasure Hill CUP Application

The following list was extracted by City staff out of the adopted meeting minutes in order to highlight the issues that have not yet been resolved or fully responded to during the public hearings. This document does not supersede or change the official meeting record. Many of the same issues were raised at several of the public hearings and repeated by several Commissioners in differing variations. This list is not intended to represent an exhaustive list of issues and the Planning Commission may choose to add or revise this list.

June 8, 2016

- Appropriate square footage needs to be established
  - ✓ Project complies with Unit Equivalent and density approvals under Sweeney Properties Master Plan (SPMP).
  - ✓ Other floor areas and uses comply with 2003 LMC (*see, e.g.*, MPE Position Papers dated July 6, 2016; August 5, 2016; September 9, 2016; October 7, 2016; December 9, 2016; MPE Presentations dated July 13, 2016; August 10, 2016; September 14, 2016; October 12, 2016).
  - ✓ City's own analysis demonstrates the project is as efficient as other modern resorts (*see* Exhibit W).
  - ✓ 17.2 significantly improves an already efficient project (*see* MPE Presentation, Project Comparisons Exhibit, September 11, 2017).
- Environmental concerns (How have the Sensitive Lands Ordinance requirements been met for the Estate Zone?)
  - ✓ Sensitive Lands Ordinance does not apply
  - ✓ Project will not affect water quality (*see* Constructability Assessment Report, June 26, 2017)
  - ✓ Project will handle potentially contaminated soil consistent with state and federal standards and practices (*see* Constructability Assessment Report, June 26, 2017)
  - ✓ 17.2 further improves the project by significantly reducing the cliffscape area and requiring less excavation.

July 13, 2016

- Concerned with commercial space proposed intended to draw more people to the project as opposed to just servicing guests
  - ✓ All proposed commercial space is designed to primarily provide service to guests of the Project and not attract customers from other areas.
  - ✓ There is no basis for requiring project to exclude others from patronizing commercial tenants.
  - ✓ "Concerns" about project's "inten[t] to draw" others to the project is not based on any objective evidence.
  - ✓ Proposed commercial space complies with SPMP, 1985 LMC, 2003 LMC, and all other requirements.
- Applicant asked applicant to explain how the 52,000 square feet of commercial would not compete with Main Street.
  - ✓ This is not a requirement of the SPMP or 2003 LMC.

- ✓ The size, orientation, and location of the commercial areas of the project are designed so that they primarily serve the Project. Moreover, the customer experience of shopping and dining on Main Street will be fundamentally different from the experience at the resort. Additionally, the Project will provide additional bed base for Main Street and improved skiing for all of Old Town, particularly the beginner experience, with the obvious result of more business for Main Street and less vehicular trips to other base areas.
- ✓ 17.2 reduces the amount of support commercial sought.

- Concerns with amount of excavation, massing, and building orientation (neighborhood compatibility and impacts) (needs wrap-up discussion)
  - ✓ MPE has repeatedly responded to the "concerns" raised about these issues (*see, e.g.*, MPE Position Papers dated July 6, 2016; August 5, 2016; September 9, 2016; October 7, 2016; December 9, 2016; MPE Presentations dated July 13, 2016; August 10, 2016; September 14, 2016; October 12, 2016).
  - ✓ 17.2 further improves the project design in all of these areas.
  - ✓ SPMP addressed compatibility.
  - ✓ Building orientation was not specified in the SPMP.
  - ✓ Building massing was not specified beyond height zones, UE density, and open space requirement.
  - ✓ Excavation is inherent and was contemplated in the SPMP.

<u>September 14, 2016</u>

- Regarding building mass and bulk: Applicant requested to look at designing a building in such a way that honors the land and steps with the mountain; rather than cutting a huge bench into it and building a building. Asked if there a solution that lessens bulk, mass and other major issues.
  - ✓ These statements appear to reflect a misunderstanding of the applicable legal requirements.
  - ✓ The current design honors the land by concentrating all of the density into a very small footprint, leaving the rest as open space. That was the findings and conclusions of the SPMP—even with all of the excavation necessary, it is still far less than what would have happened without the SPMP.
  - ✓ To the extent practicable, the current design attempts to "step with mountain," with the tallest buildings pushed back against the hillside while locating the stepping on the upper portions of the buildings where it is most visible (as opposed to under the buildings where you cannot see it).
  - ✓ The Woodruff design is not feasible and was never intended to represent the final design. The current design is a feasible plan implementing the basic concepts of the Woodruff analysis scheme while taking into account the realities of fire access and skiing through the project.
  - ✓ Stepping of the building bases up the hillside as shown in the Woodruff scheme does not mitigate building mass and bulk. In fact, it does the opposite and requires that building mass and bulk be pushed forward and upward due to the height zone limits with the result of the tallest portions of building

being located closest to adjacent neighborhoods.
- ✓ The belief that stepping the lower portions of the buildings reduces apparent bulk and mass as visualized offsite is errant.
- ✓ 17.2 brings stepping at the "top" of the buildings, where it makes a difference if you are viewing the project from offsite.
- ✓ "Layering," i.e., significant gaps between steps up the hillside mitigates building mass.

- Regarding the architect's perspective: What specifically were the methods used to mitigate scale and mass (other than mass excavating to lower structures height about existing grade).
  - ✓ See the previous bullet point responses.
  - ✓ The project mitigates scale and mass concerns by breaking the density into multiple separate buildings, which provide for a varied visual appearance and sight lines through the project.
  - ✓ The project further mitigates scale and mass concerns by moving density back from the front edge of the site and pushing taller buildings as back against the hillside.
  - ✓ The project mitigates scale and mass concerns by tucking the bulk of the density into Creole Gulch, as contemplated in the SPMP.
  - ✓ The project likewise mitigates scale and mass concerns by utilizing space efficiently and by minimizing back-of-house and circulation space. As the City's own analysis demonstrates, the current design is more efficient than any other comparable mixed use resort hotel/condo project approved by the City. 17.2 further improves the project's design with respect to efficiency.
- Anything above the SPMP density will require an SPMP amendment (address amount of Support Commercial and Accessory Space)
  - ✓ MPE has extensively and thoroughly debunked the idea that any part of the application requires an amendment to the SPMP (*see, e.g.*, MPE Position Papers dated September 9, 2016; October 7, 2016).
  - ✓ The application does not seek any UEs beyond that allowed in the SPMP.
  - ✓ Nothing about what the Applicant has proposed requires an amendment to SPMP.
  - ✓ Staff misrepresented the amount of allowed support commercial in the 1985 Code.

<u>October 12, 2016</u>

- If the applicant believes they are entitled to more than the 19UEs of commercial space they need to better explain why.
  - ✓ Applicant is entitled to the 19 UEs of allotted commercial space and additional support commercial under the 2003 LMC.
  - ✓ Applicant has addressed this issue in multiple submissions without a direct response from Staff to numerous points raised in those submissions (*see, e.g.*, MPE Position Papers dated July 6, 2016; August 5, 2016; September 9, 2016; October 7, 2016; MPE Presentations dated July 13, 2016; August 10, 2016; September 14, 2016; October 12, 2016).
- Design is not inviting to the pedestrian: Commission commented that the

over-excavation causes a dramatically different pedestrian experience versus originally approved in the SPMP and as consistent with the rest of the zone re: the character and scale.

- ✓ The claims about the design not being inviting to the pedestrian is absurd considering the effort that has been made to make the project pedestrian and skier friendly.
- ✓ The Woodruff drawings illustrate no pedestrian improvements or even allows space for such.
- ✓ The City has made a deliberate decision to make the Lowell Avenue approach area unfriendly to pedestrians, explaining in detail why it decided against installing sidewalks on Lowell Avenue near the project in the Staff's report dated September 13, 2017. The City has made a decision to use pedestrians to create "friction" to slow traffic in the area.
- ✓ The concerns about "pedestrian experience" are amorphous and subjective. By objective measures, the current plans are far superior to any prior for pedestrians due to the improved skier and hiker access to surrounding areas and attractions. The excavation is necessary to make these long-term pedestrian improvements.
- ✓ The claim that cliffscapes/retaining systems lessen the "pedestrian experience" is not supported by objective evidence. Because the density in the current plans is broken up into separate buildings rather than amassed in one large building makes the pedestrian experience far superior. Smaller, separated buildings are more inviting for pedestrians than one large monolithic structure. Pedestrians can walk between and around the buildings in the current version whereas pedestrians would be forced to enter and traverse through larger, single, unbroken structures. Does the City believe that by constructing retaining walls around its offices at the Marsac Building to accommodate parking and a transit center that it has created a pedestrian unfriendly experience?
- ✓ Ironically, the current plans are far more pedestrian friendly for reasons Staff has also criticized. According to a report titled "Creating Walkable Communities" hosted on the website of the Federal Highway Safety Administration,[5] pedestrian friendly designs include "open spaces such as plazas, courtyards, and squares." Yet the Applicant has been criticized for incorporating these elements into its design.
- ✓ Likewise, well understood pedestrian design principles "encourage a mix of land uses," including locating residential and commercial "in close proximity to each other." This is exactly what the proposed plans provide, yet the Applicant has been criticized for doing so.
- ✓ The Woodruff drawings made no provisions for pedestrians whatsoever and failed to provide for adequate pedestrian emergency egress (if the City's interpretation of those drawings is to be credited).

- Commission commented regarding being sensitive to the hillside to step it upthe slope rather than benching it out and building up on the platform. Questioned whether the massive excavations that go beyond the limits of

[5] https://safety.fhwa.dot.gov/ped_bike/docs/marc.pdf.

disturbance are consistent with SPMP and code.

- ✓ Applicant has addressed this issue without a direct response from Staff to Applicant's positions (*see, e.g.*, MPE Position Paper dated January 6, 2017).
- ✓ Staff has presented confusing and contradictory information on the limits of disturbance issue. On one hand, Staff has taken the position that the "limits of disturbance" are defined by the "building area boundary" on Sheet 22 of the Woodruff drawings. But Staff has simultaneously acknowledged, including at the CUP hearing on October 25, 2017, that the SPMP specifically and expressly provides that the definition of the project's limits of disturbance will be "deferred until conditional use review." (SPMP Staff Report, p. 14.) Obviously, nothing on Sheet 22 was intended to define the limits of disturbance since the SPMP made clear that issue would be addressed in the future.
- ✓ Staff's apparent current position—that nothing can be temporarily disturbed in the area zoned Recreation Open Space—contradicts the way the City has treated that land itself. The City disturbed acres of land in the ROS zone when it constructed a water line through the property recently. Clearly, the City's current position cannot be correct or the City itself violated it. The contradictory and discriminatory treatment highlights the infirmity of the City's current position.
- ✓ The Applicant has provided additional information on the agreements it has with Vail and its rights under its deed to the City to place excavated material as proposed. Notably, when the City accepted the Applicant's land with express notice that the Applicant would place excavated material on a portion of the property, the City never objected or raised any concerns. The fact the Applicant expressly notified the City of that intent decades ago and the City accepted the dedication with that restriction without complaint demonstrates the parties' intent with respect to how the limits of disturbance would eventually be defined in the CUP process.
- ✓ The City approved the construction of five single family homes on the hillside portion of the SPMP using the open space within the platted lots and the adjacent ROS for driveways, retaining walls, utilities, regrading, and placement of excess excavation material which directly contradicts the staff's position regarding limits of disturbance as it pertains to the CUP application.
- ✓ To the extent feasible, the Applicant has attempted to design the project to have an appearance of stepping up the hillside by, among other things, placing taller buildings closer to the hillside.
- ✓ The more important consideration of building stepping from a height, massing, and bulk standpoint is not the stepping of the bottom of the buildings but the tops. The Applicant developed a series of "stepped" terraces for the proposed buildings to sit on. This is in consideration of creating phased, constructible, accessible, defensible, efficient buildings, which sit on underground parking structures and are in turn feasible and economic given the site and SPMP constraints. Stepping the buildings up the hill as shown in the Woodruff preliminary concept drawings will result in substantially equal (if not greater) site disturbance and will require significant disturbance well beyond the building area boundaries as well.

- ✓ For the various reasons previously explained, version 17.2 further improves on these areas.

- Commission commented that buildings at curve at Lowell and Empire Avenue to look nothing like the neighborhood and are not compatible.
  - ✓ Applicant has addressed this issue in several submissions without a response from Staff to Applicant's positions (*see, e.g.*, MPE Position Papers dated August 5, 2016; September 9, 2016).
  - ✓ The basic compatibility of the project was already determined at the SPMP stage. (SPMP Revised Staff Report, p. 10, December 18, 1985 (The "proposed clustering approach was deemed the most compatible" of the alternative approaches presented for consideration.); *id*. at 2 ("[t]he uses proposed and general design of the project is or will be compatible with the character of development in the surrounding area.").) The current design of the buildings near the curve is fundamentally the same as what was determined to be compatible in 1985. Staff has provided no response to this point.
  - ✓ There is no requirement for any building to "look like" the current neighborhood.
  - ✓ As Jody Burnett has instructed the Commission already, the determination of compatibility (among others), "must be understood and approached in the context of the findings adopted as part of the original approval of the Sweeney SPMP, . . . which specifically determined that the proposed cluster development concept and associated projects are consistent with the Park City Master Plan, the underlying zoning, is or will be compatible with the character development in the surrounding area." (Jody Burnett Memorandum, April 22, 2009, p. 3.)
  - ✓ Likewise, the City's attorney, Mark Harrington, has provided the same guidance to the Commission, noting that the determination of "Compatib[ility] with surrounding Structures in use, scale, mass and circulation . . . must be in the context of the density that is already approved **as specified in the SPMP versus particular CUP criteria**." (Harrington April 9, 2004 Letter, p.2 (emphasis added).)
- Commission concerned with the time of completion and asked about how much blasting; noisy and disruptive construction activity; amount of construction truck traffic; number of construction employees; adequately protecting adjacent houses; storm-water run-off during construction; adequate water supply and all anticipated utility services; utility service installation impacts.
  - ✓ "Noisy and disruptive construction" is subjective—all construction activites could be so described.
  - ✓ Mitigation of all of these issues was comprehensively addressed in the Constructability Assessment Report submitted on June 26, 2017.
  - ✓ The Applicant expects to submit additional materials from Big D and others that will address these issues further.
  - ✓ Again, for the reasons previously explained, version 17.2 improves upon the prior version in many of these areas.
- Commission asked if sheet A16 was the full and final extent of excavation mitigation plans. Reiterated the same comments as to sheet

A18, project mitigators. Proposed mitigation needs to be brought up forward at this time. Wanted to know which of those project mitigators apply to direction to Criteria 8.

- ✓ As the Commission is aware, the Applicant has proposed numerous additional mitigation aspects beyond what are stated in sheets A16 and A18. The Applicant is working to compile all of the proposed mitigation commitments into a single submission.

- Commission requested updated infrastructure calculations - information appears out-of-date (Utility master plan requirement in SPMP).
  - ✓ These issues were comprehensively addressed in the Constructability Assessment Report submitted on June 26, 2017.
  - ✓ Although certain members of the Commission have requested additional detail about potential upgrading of utility lines upstream of the project, it is not feasible to provide the level of detail requested. Whether any given utility service will need to upgrade its service capacity is a function of demand for such services well beyond what the proposed project will contribute. The general background growth of the area will ultimately dictate when and if utility lines will have to be upgraded. Since utility upgrades may be necessary with or without the project, at most, the project will affect the timing of an upgrade (and even that is unlikely). However, given that the decision rests on numerous stochastic factors, the requested information is simply impossible to provide at this time.
  - ✓ This level detail is not required at the CUP stage—no other comparable project has been required to provide this level of detail in order to obtain a conditional use permit. Requiring the Applicant to provide such information as a condition of obtaining a conditional use permit would be discriminatory and violate the Applicant's due process rights.
  - ✓ To the extent there was (or now exists) good reason for utility upgrades in the streets that access the project in order to provide for future potential needs (of not only the Applicant but others) and such upgrades were feasible, has the City Engineer not taken the initiative in doing so in advance of the recent roadway and utility rebuilds of both Lowell and Empire Avenues? Is the City Engineer not the person in the best position to do this particularly regarding interacting and influencing utility providers? Is it not the City Engineers responsibility as opposed to a private land owner? Why would the Applicant be presumed to manage public right-of-way, particularly, in retrospect. This is further perplexing when the least expensive proposition of reconstructing roads and associated in-ground infrastructure is to increase pipe size.
- Commission requested applicant to let the Planning Commission know and be clear for the record whether they plan to respond or not to their requests.
  - ✓ The Applicant has spent approximately 15 years anticipating (while working with the staff) and responding to the requests of the Planning Commission.
  - ✓ The Applicant has continually endeavored to respond to all of the Commission's reasonable requests for information. Frankly, it is not often clear whether a Commissioner has formally requested information from the Applicant or simply remarked that certain information would be interesting.

Additionally, it is not often clear whether a Commissioner has formally requested information from the Applicant or has directed that request to Staff.

- ✓ The Applicant remains committed to responding to all reasonable and timely requests for information and requests that the Commission and Staff identify any requests they believe are outstanding.

November 9, 2016

- Commission requested images of cliffscapes in finished form.
  - ✓ The Applicant has provided an extraordinary amount of information and numerous images about the cliffscapes costing hundreds of thousands of dollars.
  - ✓ To expect more information than this is unreasonable and, as a practical matter, not feasible prior to final design and, even then, will have to be subject to actual encountered soils conditions and implementing agreed upon treatment options depending on the infield circumstances.
  - ✓ The Applicant has provided information about various treatment options for the cliffscapes, as well as the potential addition of aesthetic effects (like waterfalls, vegetation, etc.). In 2005, Staff described the Applicant's submission on these issues as "fairly extensive plans." However, neither Staff nor the Commission have provided any meaningful feedback or guidance about these design proposals for the cliffscapes.
  - ✓ This is not a requirement at the CUP stage—no other comparable project has been required to provide this level of detail to obtain a conditional use permit. This differential treatment raises serious concerns for the reasons explained previously.
- Commission asked if there a Vail representative that can agree to the soil acceptance; maybe attend one of the public hearings?
  - ✓ All the excavation material (assuming 17.2 is the approved plan) will be placed on the projects property.
  - ✓ The Applicant addressed this issue above.
- Commission commented nothing in plans that mitigate noise (construction), dust and other impacts. (Is the applicant planning to submit additional information with specificity to address concerns?)
  - ✓ All of these issues were comprehensively addressed in the Constructability Assessment Report submitted on June 26, 2017.
  - ✓ The Applicant expects to submit additional materials from Big-D and others that will address these issues further.
  - ✓ Again, for the reasons previously explained, version 17.2 improves upon the prior version in many of these areas.

December 14, 2016

- Commission concerned about site impacts related to slope retention and appropriateness of structures to the topography.
  - ✓ Applicant has addressed this issue in without a response from Staff to

Applicant's positions (*see, e.g.*, MPE Position Papers dated October 7, 2016).

- ✓ 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 SPMP process. For example:
  - building heights were established relative to "mean sea level" because everyone understood the existing grading would be substantially altered (SPMP Staff Report p.4);
  - the SPMP makes explicit reference to anticipated "cut and fill" necessary to construct the buildings (SPMP Staff Report p.6);
  - the SPMP makes explicit reference to "site disturbance" and noted that all of the alternative development plans would have resulted in far more excavation (SPMP Staff Report p.14);
  - 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.
- ✓ To the extent the Commission is concerned about the engineering aspects of building on the slope, those issues have been addressed in the Constructability Assessment Report submitted on June 26, 2017, the presentation of Big-D, and the presentation by Applied Geotechnical Engineering. The geotechnical work has confirmed that the underlying bedrock is ideal for constructing a project of this type and that slope stability is not an issue. In other words, objective, scientific evidence has been presented on this topic to the Commission, and that evidence demonstrates that slope stability is not a problem.
- ✓ The Applicant expects to submit additional materials from AGEC addressing some of these issues.
- ✓ Again, for the reasons previously explained, version 17.2 improves upon the prior version in many of these areas.

January 11, 2017

- Commission asked how is storm run-off addressed?
  - ✓ This issue was comprehensively addressed in the Constructability Assessment Report submitted on June 26, 2017.
  - ✓ Ultimately, this issue will be addressed at the final design stages of the project. It is premature to expect that all of the final design issues will be resolved at the CUP stage.
  - ✓ This is not a requirement at the CUP stage—no other comparable project has been required to provide this level of detail to obtain a conditional use permit.
  - ✓ Storm run-off during construction is addressed through the Storm Water Pollution Prevention Plan (SWPPP) that is a requirement at the State level and is also noted as a requirement for building permit. Post- construction storm run-off is addressed in the Constructability Assessment Report.
- Commission asked how is the applicant discouraging people from using Empire and Crescent Tram?

- ✓ This and broader transportation issues have been comprehensively addressed in the numerous submissions by the Applicant's traffic engineering professional, including in the most recent submission on July 26, 2017 (*see also* MPE Position Paper dated September 8, 2017).
- ✓ The project, as well as the rest of SPMP and associated amenities, provide project residents and guests, and, in addition, residents and guests of much of the Historic District many options other than to use motorized vehicles on City streets.
- ✓ The Applicant's traffic engineer has identified areas where signage could be placed to control the flow of vehicles to the project.
- ✓ The project will eventually use numerous methods to communicate the preferred route of travel to and from the project, including through websites, social media, and written literature/brochures.
- ✓ Ultimately, the control of traffic flow on the streets is an issue the City must address. If there are concerns about these issues, the City can certainly take action to address them.

- Commission inquired about off-site pedestrian staircases: Where do we need staircases and where we don't? Update requested. (Address off-site pedestrian connectivity).
  - ✓ The Applicant has offered to complete the 6th and 8th Street stairs.
  - ✓ The Applicant has also offered to clear snow on the Crescent walkway other than where the ski trail crosses it. Because of right-of-way constraints, conflicting easements of record, in-the-ground utilities, and inherent grades (both for skiers and pedestrians), it is not feasible for the Applicant to construct a tunnel under the ski run.
- Commission on snow removal and storage: If the City is going to own snow removal and snow storage would like to understand a better plan than "make ita priority". *(Note: The May 15, 1985 Sweeney Properties Master Plan Fact Sheet and Unit Breakdown specifies: "No additional City Streets to maintain", and "[n]o additional City snow removal responsibilities".*
  - ✓ First, the City should be doing all necessary snow removal outside of the project boundaries as conditions currently stand.
  - ✓ Secondly, the Commission directed this question to the City, not the Applicant.
  - ✓ The parenthetical is a misrepresentation of the Fact Sheet. One of the main advantages to a clustered development approach was avoiding the construction of new City streets across Treasure Hill. The statements in the Fact Sheet simply point out that a clustered development approach would not add any new snow removal obligations for the City because no new streets would be constructed. The Applicant never suggested it would be responsible for snow removal on existing City streets other than directly adjacent to the project as required by City ordinance.
  - ✓ Version 17.2 provides for snow melt on the project and a 10-foot area for snow storage at the project frontage within the Lowell/Empire right of way, from which piled snow will be removed by the Applicant as necessary.
- Commission questioned limiting access to support commercial: Is there a

way to have patrons be limited to use a room card for commercial transaction for control?

- ✓ There is no basis in the SPMP, the applicable City code, or the CUP factors to impose any type of limitation on access to the commercial spaces in the project.
- ✓ Any such restrictions would be a substantial economic burden on the project and the commercial uses.
- ✓ Any condition limiting access to the commercial uses in this way would be unreasonable and out of proportion to any expected benefit. For example, this limitation would prevent patrons of the ski resort from buying a cup of coffee, having lunch at the project, or purchasing a pair of sunglasses from the apparel shop.
- ✓ The City has never imposed this type of restriction on any other development, and it would be manifestly unjust to impose it here.
- ✓ Such a restriction is patently unreasonable.

- Commission on snow melting stations on site: Is it a possibility?
  - ✓ Version 17.2 provides for snow melt on the project and a 10-foot area within the right of way for snow storage, from which piled snow will be removed by the applicant as necessary.
  - ✓ Such a system has never been implemented by the City nor required of other property owners to serve public right-of-ways.
- Can the use of Crescent Tram be prohibited for guests, employees, and operations of the Treasure Hill proposed development?
  - ✓ It would be discriminatory and illegal to treat those associated with the project differently from other members of the public regarding the use of City streets. However, it is within the City's authority to generally restrict the flow of traffic on the streets in a nondiscriminatory manner.
  - ✓ The project will prohibit deliveries, employees, employee shuttles, and courtesy vans from using Crescent Tram.

March 8, 2017

- Commission requested an updated emergency traffic and fire protection analysis to current codes.
  - ✓ On more than one occasion, staff indicated that responsible officials from the Fire District would make a presentation to the Commission about these issues and staff would make the arrangements. The Applicant expects the City to follow through with its commitment. More recently, in a meeting on October 23, 2017, Staff indicated it does not think it is now necessary. If staff has changed its mind and would like the Applicant to ask the Fire District to speak at a Planning Commission hearing regarding this issue, the Applicant will make such a request. Obviously, it will be up to the Fire District if they will oblige.
  - ✓ The Fire Department has issued a letter to the Applicant stating that design is feasible from a fire protection standpoint.
- Commission on parking: Need to understand off-site (neighborhood

impacts) parking in conjunction with on-site parking. Needs to be part of the parking analysis: Is the parking updated also an addendum or is it part of the transportation update? Parking is important to be reviewed concurrently with the traffic update.

- ✓ The Applicant has agreed as mitigation beyond that required by the SPMP to forfeit the right of its residents, guests, and employees to park on nearby City streets. The operator of the development will use best efforts to promote and enforce this restriction. The City by not issuing necessary permits and enforcing existing ordinances can effectively further enforce this restriction.
- ✓ The Applicant has provided its proposed number of parking spaces and demonstrated that the number of spaces requested is consistent with the SPMP and the applicable City code. Staff has not contradicted that position or provided any material feedback about parking issues.
- ✓ The Applicant has demonstrated that the proposed parking is appropriate and reasonable under well-established industry standards (*see* Triton Engineering Report dated July 26, 2017; MPE Position Paper dated September 8, 2017).
- ✓ The Commission has provided conflicting guidance on this issue, with some Commissioners suggesting the proposed parking is insufficient while others have suggested the opposite.
- ✓ The proposed parking is similar that of other comparable projects.
- ✓ The ultimate developer will be required to propose a parking management plan as a condition to the building permit, which can be reviewed with the City on a periodic basis.

- Planning Commission requested a briefing on the past Planning Commission discussion to lower parking requirement from 424 to 366.
  - ✓ This request appears to have been directed to City Staff, not the Applicant.
  - ✓ The ultimate developer will be required to propose a parking management plan as a condition to the building permit, which can be reviewed with the City on a periodic basis.
- Commission concerned with Finding of Fact #5 from master plan (*5. The required parking can readily be provided on-site and in enclosed structures.)*, and how the applicant has not demonstrated it. Concerned that applicant has not shown how they would manage parking on-site.
  - ✓ The Applicant has demonstrated that the proposed parking spaces are a reasonable expectation of parking demands based on well-established industry standards (*see* Triton Engineering Report dated July 26, 2017; MPE Position Paper dated September 8, 2017). This analysis has not been challenged.
  - ✓ The ultimate developer will be required to propose a parking management plan as a condition to the building permit, which can be reviewed with the City on a periodic basis.
  - ✓ The plan details are many and speak for themselves regarding driveways, associated lobbies, loading, etc..
  - ✓ It is not feasible to provide more specifics at this time.
- Commission does not know specific uses of the commercial space on the site. Can't determine if it would draw additional traffic, adequacy of mitigation measures, proper evaluation.
  - ✓ The Applicant also does not know the specific uses of the commercial space at

this time. Although the Applicant can provide reasonable examples representing the general types of establishments that would make sense for the project, ultimately it will depend on a host of currently unknowable factors and, regardless, it will change from time to time subject to general restrictions in place. These educated assumptions are adequate for analysis under generally accepted engineering standards.

- ✓ Committing to specific commercial uses is not required at the CUP stage. No other CUP applicant has been required to provide this information in order to obtain a conditional use permit.
- ✓ The Applicant's traffic engineering professional made several worst-case assumptions about traffic that could be associated with the commercial uses and determined that there was still more than adequate capacity to handle any such traffic (*see* Triton Engineering Report dated July 26, 2017; MPE Position Paper dated September 8, 2017).

- Commission on parking management plan concerns because the applicant has not demonstrated how they will manage on-site parking (need for a parking management plan) due to the draw of additional traffic of guests that are not over-night guests due to:
  1. Support commercial. Space approved at 19 UEs (19,000 sf.) not 52,000 sf.
  2. Meeting space: 16,000 sf. of proposed space.
  3. Miniature ski base: The potential of day skiers accessing the runs from the new development to avoid crowds at PCMR ski base.
     - ✓ The Applicant disagrees with the statement regarding support commercial for the reasons expressed previously, as identified above.
     - ✓ The Applicant's professional traffic engineer has established that the proposed parking is more than sufficient for the support commercial and meeting space in the hotel. Indeed, based on well-established industry standards, which are based on comprehensive studies, the parking needs of hotels with these types of amenities is well understood. The proposed parking conforms with these industry standards (*see* Triton Engineering Report dated July 26, 2017; MPE Position Paper dated September 8, 2017).
     - ✓ As the Applicant has repeatedly stated, day skiers will not be allowed to park at the project whatsoever.
     - ✓ The ultimate developer will be required to propose a parking management plan as a condition to the building permit, which can be reviewed with the City on a periodic basis.
- Commission concerned with three (3) outlined items and how they related to employee parking in Old Town and taking the cabriolet up without specific management plans/ideas from applicant (how to control employees). Because of location in Old Town, this needs to be thoroughly addressed.
  - ✓ The above bullet point assumes an unreasonable ability to predict the future and control employees beyond what is feasible and legal.
  - ✓ The Applicant subsequently addressed these issues in its updated submission on parking and traffic (*see* Triton Engineering Report, July 26, 2017). The Applicant has proposed specific mitigation measures relating to employee traffic and parking based upon specific conditions (i.e., ski season, local

events).
- ✓ The ultimate developer will be required to propose a parking management plan as a condition to the building permit, which can be reviewed with the City on a periodic basis.

April 12, 2017

- Commission requested:
  - More info on landscaping plans to buffer impacts to neighbors
    - ✓ The Applicant has provided extensive detail and presented numerous times regarding its landscaping plans, including landscaping to separate the project from the neighborhood. It is not clear to the Applicant what additional information has been requested or what information is believed to be missing from what has already been submitted or what possible information relevant to a CUP approval information could be missing.
    - ✓ Comparable projects were not required to provide this for CUP approval. Instead, this level of detail is not usually required until final building permit approval. No explanation has been provided for treating this application any differently than others of a comparable nature.
  - More detail about the cliffscapes
    - ✓ This issue is addressed above. See notes associated with November 9, 2016, issues.
  - More information about the administrative (landscaping) guidelines that will be enforced against during a later approval process
    - ✓ This request seems to be directed to Staff, not the Applicant.
- Commission inquired about noise mitigation of snowmaking.
  - ✓ As the Applicant has previously explained, the project will generally comply in all aspects with the City's noise ordinance. Because the City's noise ordinance defines what constitutes a detrimental effect, there will be no cognizable detrimental effects, the Applicant has nothing to mitigate.
  - ✓ Snowmaking is already approved and has been operating in the area for a number of years without serious problems.
- Commission inquired about compliance with dark-sky standards for all lighting including glare through windows. A photometric plan would be helpful to assess impact on adjacent properties.
  - ✓ It is premature to discuss a possible photometric plan as this requires final design, which is not a requirement of the CUP process.
  - ✓ The Applicant has repeatedly agreed that the project would comply with all applicable City ordinances and with guidelines from the International Dark Sky Association regarding outdoor lighting.
  - ✓ Because the City's ordinances establish what constitutes a detrimental effect, and because the project will comply with all applicable ordinances, there are thus no detrimental effects to further mitigate.

June 14, 2017

- Commission asked about mitigating how people come in to use the

commercial. Suggest again, using a room key for all transactions.

- ✓ This issue is addressed above. See notes associated with January 11, 2017, issues.

- Commission on cabriolet: parking problems? Take away from business? Create congestions? Location of construction workers drop off and impacts? Traffic route displacement? How is the construction work going to function? Closed gondola would be better than the open cabriolet as it could detract people in a winter storm. More cabriolet details needed.
  - ✓ Various Commissioners precise concerns about the cabriolet were not well articulated during the June 14, 2017, hearing. It is not at all clear why Commissioners would speculate that the cabriolet would result in parking problems given that the cabriolet is designed to alleviate such problems.
  - ✓ With respect to construction issues, the Big D presentation suggested that the cabriolet is not expected or anticipated to play a significant role in moving construction employees to the site.
  - ✓ Many of the requested details are simply premature. For example, the eventual developer will have to work out operational issues in consultation with the City and other stakeholders. The details of its operation will likely depend on how the cabriolet is ultimately used by the public, guests of the project, day skiers, and others associated with the project. The Applicant has already proposed that the cabriolet be enclosed (which technically makes it a standup gondola). This will effectively mitigate noise coming from the gondolas as well as make them more user friendly during inclement weather.
  - ✓ Although many details must be worked out in the future, it is important to understand that the City's traffic engineer generally agrees that the cabriolet will significantly mitigate trips to and from the project. Thus, it is unnecessary to know the details of its operation to understand that it will help mitigate traffic issues.

July 12, 2017

- Commission on excavation expansion rate. Need to know why disagree with staff's estimated exaction expansion percentage. Need to know if Vail is ok with using their land to displace dirt and how much (specifically) they approve. Questions Creole-Gulch area as the primary dumping ground, conservation agreement, tree cut down, topsoil scraped off, etc.
  - ✓ AGEC's initial analysis demonstrates that the expansion rate will be approximately 20-25%. The Applicant expects to provide AGEC's final analysis in the near future. It is important to understand that AGEC's expansion analysis is based on significant testing and sampling at the site and bona fide expertise, not based on what some generic website claims to be the expansion factor.
  - ✓ With respect to the other issues, the Applicant will provide further information about its agreements with Vail and its right to place excavated material on the property it gifted to the City.

- Commission requested specificity needed for the entire project, not general info such as the Questar Gas letter example, e.g., how big will the pipes be, how far down Lowell, how far out 224 will it have to go before it taps into a source of gas that's big enough to supply all of that. How many roads will we need to tear up, etc. Need to have geo-technical assurances regarding the project not sliding down.
    - ✓ With respect to the questions about utilities, these issues are addressed above. See notes associated with October 12, 2016, issues.
    - ✓ AGEC addressed the unfounded concern about the project "sliding down." As AGEC representatives explained, the underlying geotechnical conditions are highly conducive to the proposed design and construction plan. AGEC's conclusion is based upon extensive sampling and testing conducted in the area. Notably, nobody has contested AGEC's findings.

August 9, 2017

- Applicant to answer construction employee estimate: How many people are showing up on that work site?
    - ✓ Big-D explained that there could be up to 600 construction employees on-site at a given time, though that would represent a peak number.
    - ✓ During periods that are less conducive to construction, such as during the winter months, Big-D explained that a much smaller workforce would likely be used.
- Applicant to address traffic discussion that took place in the past, regarding traffic flow, roads to be widened, sidewalks, street parking, snow storage, etc.
    - ✓ Mr. Horton addressed these issues exhaustively in both his written submission, as well as during his presentation to the Commission. In particular, Mr. Horton explained the historical discussions with the City regarding a variety of different options and alternatives, his understanding of why City officials made certain decisions, and his own views and opinions on those issues as a long time professional traffic engineer. Based on the written submissions and presentations to the Commission, the Applicant believes that it has adequately addressed these issues. However, if there are particular issues that require additional discussion, the Applicant would be willing to address them.
- Applicant to verify all calculations on final traffic study.
    - ✓ As Mr. Horton explained during his presentation, the calculations in his written submission have all been verified.
- Applicant to verify parking demand (from the Triton study). The 200-unit hotel with commercial and meeting space takes less parking than 100 condos, and considerably less than half as much commercial space.
    - ✓ The Applicant has confirmed the park spaces required for the project.
    - ✓ The Applicant has demonstrated that the proposed parking is appropriate and reasonable under well-established industry standards (*see* Triton Engineering Report dated July 26, 2017; MPE Position Paper dated September 8, 2017).

- ✓ The Applicant has also demonstrated that the proposed parking is consistent with the SPMP and applicable City codes. Notably, nobody has suggested otherwise.

- After seeing the revised plan. Commission will look for specific numbers in terms of the amount of dirt that's reduced, the amount of truck trips applicant thinksthat it reduces, and what other impacts applicant thinks that mitigates and by how much.
  - ✓ The Applicant presented on these topics during recent CUP hearings. The Applicant believes that it has addressed these issues during those presentations, but again, if there are particular issues that require additional discussion, the Applicant would be willing to address them.
  - ✓ The Applicant explained in the MPE Presentation on September 13, 2017 Presentation, dedicated to the effect of the 17.2 refinements, that version 17.2
    - results in a significant reduction in excavation, which reduces the effects of such activity;
    - substantially reduces the cliffscape area and heights;
    - reduces the total floor area of the project;
    - reduces support commercial area;
    - eliminates two buildings closest to the cliffscape area; and
    - improves numerous other aspects of the proposal.

When Recorded, Mail To:
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

00452292 Bk00958 Pg00192-00222
ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1996 APR 15 16:55 PM FEE $73.00 BY DMG
REQUEST: COALITION TITLE

SPECIAL WARRANTY DEED
WITH POSSIBILITY OF REVERTER

I.

EDMUND J. BEAULIEU and CLYDE CARLIG, individuals, and SWEENEY LAND COMPANY ("SLC"), a Utah general partnership (collectively "Grantors"), hereby convey and warrant against all claiming by, through or under them to PARK CITY MUNICIPAL CORPORATION, Grantee ("City"), for the sum of Ten Dollars ($10.00) and other good and valuable consideration, that certain tract of land located in Summit County, State of Utah, as described on Exhibit "A" hereto and shown as Lot 5 on page one of the Treasure Hill Subdivision Plat recorded simultaneously herewith (the "Open Space Parcel"). Notwithstanding the warranty above referenced, this Special Warranty Deed is granted and delivered to the City subject to the following:

(a) All liens, encumbrances easements and matters of record or enforceable in law or equity, including but not limited to those certain matters identified as follows:

(1) Easement recorded August 20, 1987 with the Summit County Recorder as Entry No. 275504, Book 441, pages 599-608;

(2) Easement recorded August 20, 1987 with the Summit County Recorder as Entry No. 275506, Book 441, pages 614-627. The easements referenced in clause (1) immediately above and in this clause (2) are herein referred to as the "GPCC Easements";

(3) Easement recorded December 8, 1994 with the Summit County Recorder as Entry No. 420794, Book 855, pages 771-785 (the easement referenced in this clause (3) is hereinafter referred to as the "Newell Easement").

(b) Those easements and rights-of-way shown on the Treasure Hill Subdivision Plat Phase I ("Treasure Hill Plat") attached as Exhibit "B" hereto;

(c) Unpatented mining claims and reservations or exceptions in patents or in laws authorizing the issuance thereof;

(d) Indian treaty or aboriginal rights, including but not limited to easements or equitable servitudes;

(e) Taxes or assessments which are not now payable or which are not now shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records;

(f) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records;

(g) Discrepancies, conflicts in boundary lines, shortages in area, encroachments or any other facts which a correct survey of the Open Space Parcel would disclose, and which are not shown by the public records;

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(h) Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the Open Space Parcel which may be asserted by persons in possession, or claiming to be in possession, thereof;

(i) The rights of Grantors and others under the GPCC Easements or the Town Lift Agreement (as defined below) to and in connection with the maintenance and operation of the Lift (as defined in the Town Lift Agreement) and related equipment and facilities.

II.

1. With respect to the entirety of the Open Space Parcel, the City agrees that SLC, its successors and assigns shall have the exclusive right, subject to any existing rights of Greater Park City Corporation ("GPCC") under the GPCC Easements or under that certain agreement ("Town Lift Agreement") dated the 30th day of November, 1981, as subsequently amended, among GPCC, SLC, Tramway Properties and Park City Depot Corporation (a copy of which is attached as Exhibit "C") to construct, maintain and operate the Open Space Parcel in such a manner as to comply with the Town Lift Agreement and otherwise in such manner as SLC, its successors and assigns shall determine, so long as the same does not conflict with the subject property being utilized and preserved as open space. The foregoing shall include the right of SLC, its successors and assigns to construct, maintain and operate ski runs and trails and relocate footpaths and non-motorized bike trails over the Open Space Parcel, and to permit GPCC and its successors and assigns, to construct, maintain and operate ski runs and trails and relocate footpaths and non-motorized bike trails over the Open Space Parcel.

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2. The City acknowledges and agrees that SLC and permitted third parties shall have the right to engage in snowmaking activities on the Open Space Parcel.

3. Subject to any existing rights of GPCC, its successors and assigns, under the GPCC Easements and the Town Lift Agreement, the City covenants and agrees to perpetually maintain those non-motorized bike and pedestrian trails (collectively "Bike and Pedestrian Trails") shown on page 3 of the Treasure Hill Plat as the "Non-Motorized Bike and Pedestrian Trails Right-of-Way" [a portion of which Non-Motorized Bike and Pedestrian Trails is not located on the Open Space Parcel, but which are being dedicated to the City under a Right-of-Way Dedication Agreement ("Dedication Agreement") to be executed by the parties and recorded simultaneously herewith]. In connection therewith, the City covenants and agrees that it shall perpetually provide erosion protection and control, clear loose rocks and debris and trim vegetation and perform the other tasks as needed in the City's determination (except to the extent as GPCC is otherwise entitled to direct under the GPCC Easements or the Town Lift Agreement) to provide for and safely maintain clear Bike and Pedestrian Trails, on natural soils, approximately three feet in width. Notwithstanding anything to the contrary herein, the City agrees that the portions or all of the Bike and Pedestrian Trails may be used as or traversed by the ski runs and trails referenced in the last sentence of Section II.1. above.

4. The City covenants and agrees that provided they are not creating a public nuisance, dogs shall be allowed on the Bike and Pedestrian Trails.

5. The City agrees to provide sufficient police control in the Open Space Parcel to prevent unsafe activities or activities unreasonably disturbing to the surrounding owners.

6. Except as provided in Section 9 below, the City covenants and agrees that at no time shall the Open Space Parcel be opened to motorized vehicles of any sort other than as may be necessary for (i) SLC, its successors and assigns to construct, maintain, relocate and operate ski runs and trails and relocate footpaths and non-motorized bike trails (which may include but are not necessarily limited to the Bike and Pedestrian Trails) located or to be located on the Open Space Parcel, and for GPCC to exercise its rights under the GPCC Easements and the Town Lift Agreement; (ii) the City to maintain the Bike and Pedestrian Trails and for the City and Grantors and Grantors' successors to otherwise maintain the Open Space Parcel and associated easements as provided herein; and (iii) emergency response such as fire suppression.

7. The City covenants and agrees that SLC and its successors shall have the right to lay and maintain underground utilities across the Open Space Parcel to service the "Plateau Parcel," as described in Exhibit "D" hereto, and to access the Plateau Parcel by way of King Road, as shown on the Treasure Hill Plat and to in all other manner exercise rights not inconsistent with the grant of open space herein. The laying of utilities and access shall be in accordance with all applicable ordinances existing at the time of development. Notwithstanding the foregoing, should SLC and its successors subsequently conclude that ordinances in existence at the time of development infringe their right to develop as provided in that certain master plan ("Sweeney Master Plan") approved by the City on October 16, 1986, and as amended October 14, 1987 and December 30, 1992, the foregoing shall not preclude SLC and its successors from asserting such claims in a court of appropriate jurisdiction.

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8. Except as otherwise contemplated herein or by the Sweeney Master Plan, the City covenants and agrees that the Open Space Parcel shall be perpetually kept, preserved and maintained, including trash pickup, at least yearly, as open space in its current undeveloped state, and shall be kept free and clear of all liens and encumbrances except as contemplated herein or as may exist as of the date hereof.

9. In all events, Grantors and their successors in interest or assigns shall have the following rights:

(a) To use the Open Space Parcel for construction staging and to accommodate actual construction on the Norfolk and King Road Lots (collectively "Lots"), identified on the Treasure Hill Plat as Lots 1-4 and as contemplated by the Sweeney Master Plan, provided any resulting damage to the Open Space Parcel is repaired by them and appropriate and reasonable precautions as determined by the City Engineer are taken to prevent and control runoff and erosion, including but not necessarily limited to regrading and replacement of top soil, if necessary, and reseeding with drought resistant grasses;

(b) To use the Open Space Parcel as a depository for excess fill generated from construction (in connection with duly issued building permits) in conjunction with the Sweeney Master Plan and the Treasure Hill Subdivision Plat, provided any resulting damage to the Open Space Parcel shall be repaired by Grantors or their successors and assigns and provided that appropriate and reasonable precautions as determined by the City's engineer are taken to prevent and control runoff and erosion, including but not

necessarily limited to regrading and replacement of top soil, if necessary, and reseeding with drought resistant grasses.

(c) To lay and maintain underground utilities under and across the Open Space Parcel, in accordance with existing applicable ordinances, which will service projects to be built on the Plateau Parcel subject to the Sweeney Master Plan, provided any resulting damage to the Open Space Parcel is repaired by them; and

(d) The non-exclusive right, but not the obligation (except as provided in Section 9(a),(b) and (c) above), to repair and maintain the Open Space Parcel consistent with the terms herein and the Sweeney Master Plan, including the right to clear brush and debris to a width of ten (10) feet from the "Non-motorized Bike and Pedestrian Trails" that also serve as ski access to the Lots as shown on the Treasure Hill Plat, and the right to otherwise ski on the Open Space Parcel.

III.

10. Notwithstanding anything to the contrary in this Special Warranty Deed, it is understood and agreed that the conveyance of the Open Space Parcel as provided herein is and shall be subject to a possibility of reversion to the Grantors or their successors, said conveyance being only for so long as the City or another comparable non-profit entity to which the City conveys the Open Space Parcel:

(a) Owns the Open Space Parcel; and

(b) Observes the covenants and agreements set forth in Section II above and in the Dedication Agreement.

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In connection with the foregoing, the parties agree that in the event of an alleged violation of any of the covenants and agreements set forth in Section II above, Grantors and their successors shall be required to give written notice to the City of any such default or violation. The City shall then have thirty (30) days to cure such default or violation, although if the nature of the default or violation is such that it cannot be cured within 30 days, so long as the City is diligently proceeding to cure the default or violation, it shall have such additional reasonable period of time as may be necessary to cure said default or violation. Failure to timely cure any such default shall result in the reversion of the Open Space Parcel to Grantors or their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands and signatures as of the day and year first above written.

00452292 Bk00958 Pg00199

EDMUND J. BEAULIEU

STATE OF ILLINOIS)
:
COUNTY OF Cook)

On this 10th day of April, 1996, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: 6657 N. Chicora
Chgo., Ill. 60646

My Commission Expires:

OFFICIAL SEAL
JAMES H. WOLF
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-13-96

CLYDE CARLIG

STATE OF NEW MEXICO)
:
COUNTY OF San Juan)

On this 11th day of April, 1996, personally appeared before me CLYDE CARLIG, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: 220 N. Auburn
FARMINGTON, N.M. 87401

NOTARY PUBLIC STATE OF NEW MEXICO

My Commission Expires:
Nov. 15th 1998

0452292 Bk00958 Pg00300

SWEENEY LAND COMPANY,
a Utah general partnership

By: Patrick J. Sweeney
Patrick J. Sweeney

Its: Managing General Partner

STATE OF UTAH)
:
COUNTY OF SUMMIT)

On this 15 day of April, 1996, personally appeared before me Patrick J. Sweeney, who being by me duly sworn, did say that he is the Managing General Partner of SWEENEY LAND COMPANY, a partnership, and that the foregoing instrument as signed on behalf of said partnership, and said Patrick J. Sweeney acknowledged to me that said partnership executed the same.

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE. P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

NOTARY PUBLIC
Residing at: Summit Co Utah

My Commission Expires:

Nov 27, 1997

00452292 Bk00958 Pg00201

PARK CITY MUNICIPAL CORPORATION

By: _____
Its: Mayor

ATTEST:

_____
Anita Sheldon,
City Recorder

APPROVED AS TO FORM:

_____
Mark Harrington,
Assistant City Attorney

STATE OF UTAH)
:
COUNTY OF SUMMIT)

On this 15th day of April, 1996, personally appeared before me Bradley Olch who being by me duly sworn, did say that he is the Mayor of PARK CITY MUNICIPAL CORPORATION, and that the foregoing instrument as signed on behalf of said corporation by authority of law, and said he acknowledged to me that said corporation executed the same.

Notary Public
T.L. O'FINNEGAN
335 South 200 East Apt. 18
Salt Lake City Utah 84111
My Commission Expires
February 16, 2000
State of Utah

_____
NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:
2-16-2000

00452292 Bk00959 Pg00202

G:\JACKIE\GHM\SWEENEY\SPECIAL.WAR

Exhibit "A"

Lot 5, (Open Space Parcel), Treasure Hill Subdivision, Phase I

Beginning at a point which is South 66°22' West, 75.00 feet and South 23°38' East, 58.91 feet from the Northeast corner of Block 29, Park City Survey, Amended Plat, said point also being South 66°40' West, 300.00 feet and North 23°38' East, 535.46 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and 4th Street;

and running thence South 23°38' East, 266.09 feet; thence South 66°22' West, 75.00 feet; thence South 23°38' East, 74.67 feet, more or less, to the East-west 40 Acre Line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence South 89°36'41" East, 82.11 feet, more or less, along said 40 Acre Line; thence South 23°38' East, 91.91 feet, more or less, to the Northwest corner of Lot 2, Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim U.S. Lot No. 633; thence South 66°22' West, 75.00 feet to the Northwest corner of Lot 12 of said mining claim; thence South 23°38' East, 53.98 feet to the Southwest corner of Lot 13 said mining claim; thence North 66°40' East, 141.00 feet, more or less, to a North-south 40 Acre line and the West line of Park City Townsite said point being South 66°40' West, 240.50 feet and North 0°08'50" West, 16.32 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and 4th Street; thence South 0°08'50" East, 32.64 feet, more or less, along said 40 Acre Line and said West Line; thence South 66°40' West, 52.99 feet, more or less, to the Northwest corner of said mining claim; thence South 23°38' East, 250.00 feet to the Northeast corner of Lot 22, Block 30, Park City Townsite Survey, Amended Plat; thence South 66°40' West, 50.00 feet; thence North 23°38' West, 100.00 feet; thence South 66°22' West, 62.00 feet; thence North 23°38' West, 432.85 feet; thence South 64°26'01" West, 57.03 feet; thence South 66°22' West, 122.11 feet; thence South 30° West, 151.47 feet; thence South 7°08'13" West, 25.59 feet; thence South 72°27'50" East, 93.86 feet; thence South 47°09'07" East, 389.71 feet; thence South 23°38' East, 51.54 feet; thence North 62°20'31" East, 3.46 feet; thence South 23°38' East, 45.70 feet; thence South 68°07' West, 28.75 feet; thence South 23°38' East, 51.61 feet; thence North 75°38'35" East, 29.97 feet; thence South 23°38' East, 32.68 feet; thence South 66°22' West, 234.29 feet to a point on a 605 foot radius curve to the right (Long chord bears South 11°East, 94.07 feet); thence running southeasterly along the arc of said curve 94.17 feet (Delta=8°55' 04"); thence South 31°26'11" East, 116.94 feet; thence South 23°31'34" East, 69.58 feet to the point of curvature of a 135 foot radius curve to the left (Long chord bears South 29°20'18" East, 27.34 feet); thence running Southeasterly along the arc of said curve 27.39 feet (Delta=11°37'27"); thence South 35°09'01" East, 117.10 feet to the point of curvature of a 515.00 foot radius curve to the right (Long chord bears South 23°17'42" East, 211.60 feet); thence running Southeasterly along the arc of said curve 213.12 feet (Delta=23°42' 38"); thence South 0°08'50" East, 447.09 feet along said 40 Acre Line and said West Line to a point on the Alice Lode which point is North 31°40'53" West, 583.55 feet from a Park City Monument on the Centerline of Daly Avenue; thence South 55°53'19" West, 19.14 feet along said Alice Lode; thence South 89°51'10" West, 10.52 feet; thence South 55°55'40" West, 420.90 feet; thence North 47°25'46" West, 535.00 feet; thence North 450.00 feet; thence North 21°45'40" West, 399.68 feet; thence North 50°56'26" West, 656.37 feet; thence South 53°30' West, 234.36 feet; thence South 12°44'05" West, 270.00 feet; thence North 47°25'47" West, 285.01 feet; thence North 33°32'19" East, 600.01 feet; thence North 79° East, 825.00 feet; thence North 84° East, 112.53 feet; thence North 52° East, 223.20 feet; thence North 27°40'34" East, 96.07 feet; thence North 66°22' East, 150.00 feet to the point of beginning.

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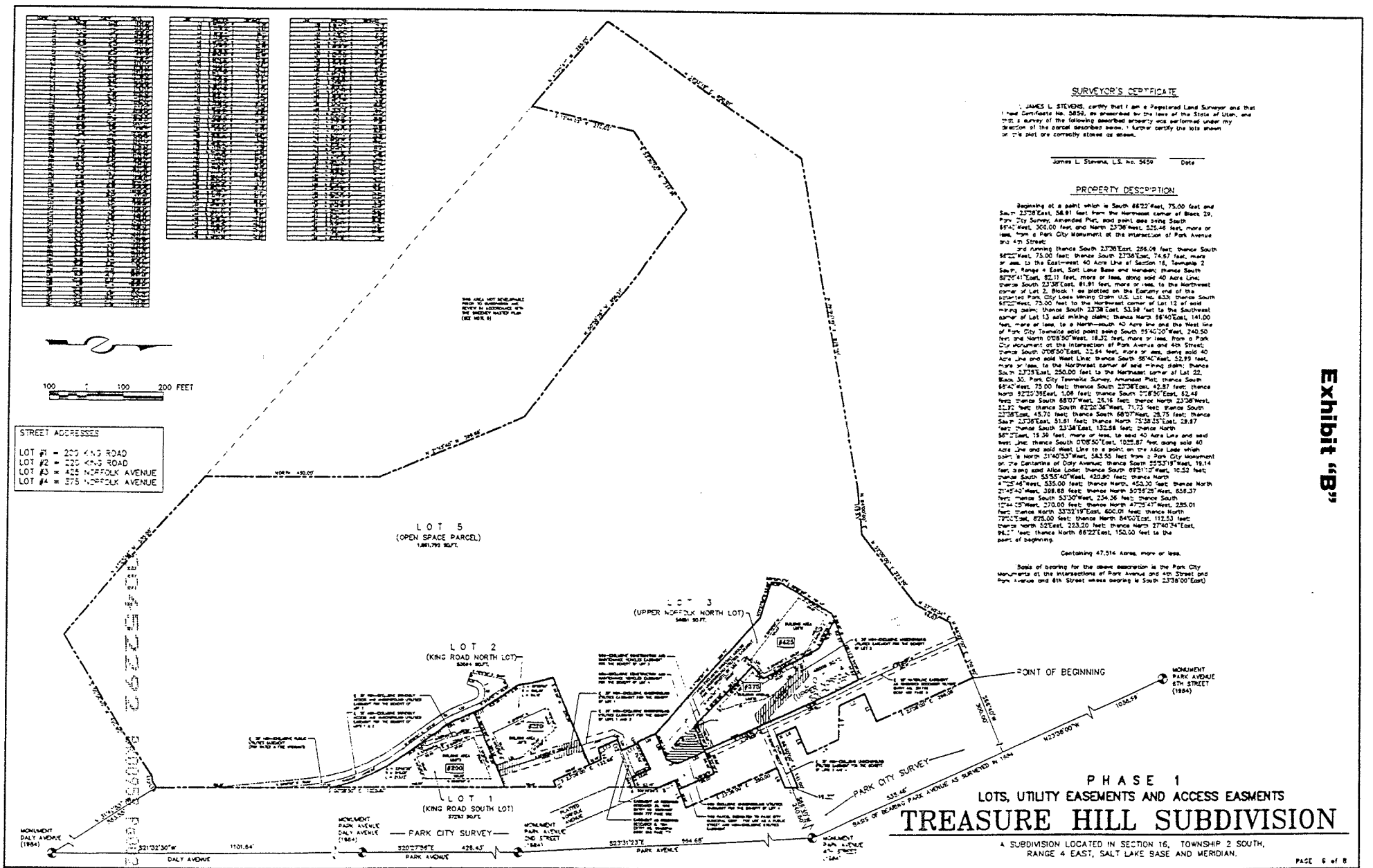
Containing 42.741 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)



SURVEYOR'S CERTIFICATE

I, JAMES L. STEVENS, certify that I am a Registered Land Surveyor and that I hold Certificate No. 5859, as prescribed by the laws of the State of Utah, and that a survey of the following described property was performed under my direction of the parcel described below. I further certify the lots shown on this plat are correctly staked as staked.

James L. Stevens, L.S. No. 5859 — Date

PROPERTY DESCRIPTION

Beginning at a point which is South 88°22' West, 75.00 feet and South 23°38' East, 58.81 feet from the Northeast corner of Block 29, Park City Survey, Amended Plat, said point also being South 88°40' West, 300.00 feet and North 23°38' West, 535.46 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street;

and running thence South 23°38' East, 266.09 feet; thence South 88°22' West, 75.00 feet; thence South 23°38' East, 74.57 feet, more or less, to the East-West 40 Acre Line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence South 88°29'41" East, 82.11 feet, more or less, along said 40 Acre Line; thence South 23°38' East, 81.91 feet, more or less, to the Northwest corner of Lot 2, Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim U.S. Lot No. 633; thence South 88°22' West, 75.00 feet to the Northwest corner of Lot 12 of said mining claim; thence South 23°38' East, 53.59 feet to the Southwest corner of Lot 13 said mining claim; thence North 88°40' East, 141.00 feet, more or less, to a North-South 40 Acre line and the West line of Park City Townsite said point being South 89°40'00" West, 240.50 feet and North 0°08'50" West, 18.32 feet, more or less, from a Park City monument at the intersection of Park Avenue and 4th Street; thence South 0°08'50" East, 32.64 feet, more or less, along said 40 Acre Line and said West Line; thence South 88°40' West, 52.93 feet, more or less, to the Northwest corner of said mining claim; thence South 23°38' East, 250.00 feet to the Northeast corner of Lot 22, Block 30, Park City Townsite Survey, Amended Plat; thence South 88°40' West, 75.00 feet; thence South 23°38' East, 42.87 feet; thence North 92°25'39" East, 1.08 feet; thence South 0°08'50" East, 62.48 feet; thence South 88°07' West, 28.16 feet; thence North 23°38' West, 51.32 feet; thence South 62°22'34" West, 71.73 feet; thence South 23°38' East, 45.70 feet; thence South 88°07' West, 28.75 feet; thence South 23°38' East, 51.81 feet; thence North 75°38'25" East, 29.87 feet; thence South 23°38' East, 132.86 feet; thence North 88°22' East, 15.39 feet, more or less, to said 40 Acre Line and said West Line; thence South 0°08'50" East, 1025.87 feet along said 40 Acre Line and said West Line to a point on the Alice Lode which bears a North 21°40'53" West, 583.55 feet from a Park City Monument on the Centerline of Daly Avenue; thence South 55°53'19" West, 19.14 feet along said Alice Lode; thence South 69°51'07" West, 10.52 feet; thence South 55°53'40" West, 420.90 feet; thence North 4°25'46" West, 535.00 feet; thence North, 450.30 feet; thence North 21°45'40" West, 388.68 feet; thence North 50°59'29" West, 658.37 feet; thence South 53°30' West, 234.36 feet; thence South 17°44'25" West, 270.00 feet; thence North 47°25'47" West, 285.01 feet; thence North 33°32'19" East, 600.01 feet; thence North 79°01' East, 875.00 feet; thence North 84°00' East, 112.53 feet; thence North 52° East, 223.20 feet; thence North 27°40'34" East, 96.21 feet; thence North 88°22' East, 150.00 feet to the point of beginning.

Containing 47.514 Acres, more or less.

Basis of bearing for the above description is the Park City Monuments at the intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East.

Exhibit "B"

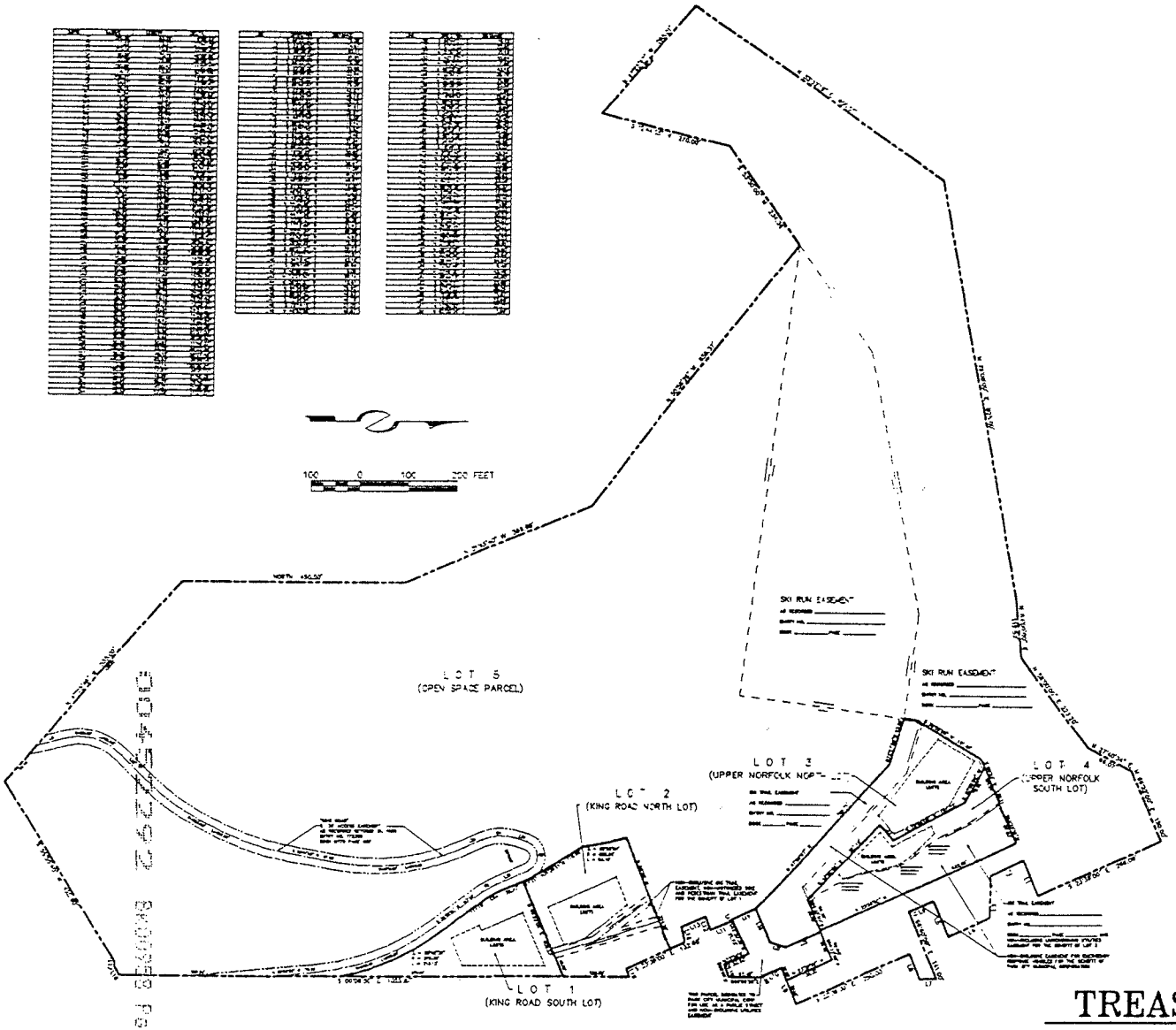
PHASE 1
LOTS, UTILITY EASEMENTS AND ACCESS EASEMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

PAGE 6 of 8

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT	PLANNING COMMISSION	ENGINEERS CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS ____ DAY OF _____, 1996 A.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 1996 A.D.	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ____ DAY OF _____, 1996 A.D.	APPROVED AS TO FORM THIS ____ DAY OF _____, 1996 A.D.	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF _____, 1996 A.D.	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF _____, 1996 A.D.	STATE OF UTAH COUNTY OF _____ AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ BOOK _____ PAGE _____
BY _____ S.B.S.I.D.	BY _____ CHAIRMAN	BY _____ PARK CITY ENGINEER	BY _____ PARK CITY ATTORNEY	BY _____ PARK CITY RECORDER	BY _____ MAYOR	FEE _____ RECORDED _____



OWNER'S DEDICATION AND CONSENT TO RECORD

The owners or their representatives, hereby irrevocably offer for dedication to the City of Park City all the streets, trails right-of-way, land for local government uses, easements, parks and required utilities and easements shown on the subdivision plat and construction plans in accordance with an irrevocable offer of dedication subject to easements, deeds of record and agreements of record.

In WITNESS WHEREOF, the undersigned sets their hands this _____ day of _____ 1996

_____
EDMUND J. BEAULIEU

_____
CLYDE GARLIC

SWEENEY LAND COMPANY, a Utah general partnership

By _____
Patrick J. Sweeney
Managing Partner

ACKNOWLEDGEMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____ 1996, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

_____
NOTARY PUBLIC
Residing at: _____

My Commission Expires:
_____

ACKNOWLEDGEMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____ 1996, personally appeared before me CLYDE GARLIC, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

_____
NOTARY PUBLIC
Residing at: _____

My Commission Expires:
_____

ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the _____ day of _____ 1996, personally appeared before me PATRICK J. SWEENEY, who being by me duly sworn, did say that he is the Managing General Partner of Sweeney Land Company, a Utah general partnership, and that the foregoing instrument was signed on behalf of said partnership, and said PATRICK J. SWEENEY acknowledged to me that said partnership executed the same.

_____
NOTARY PUBLIC
Residing at: _____

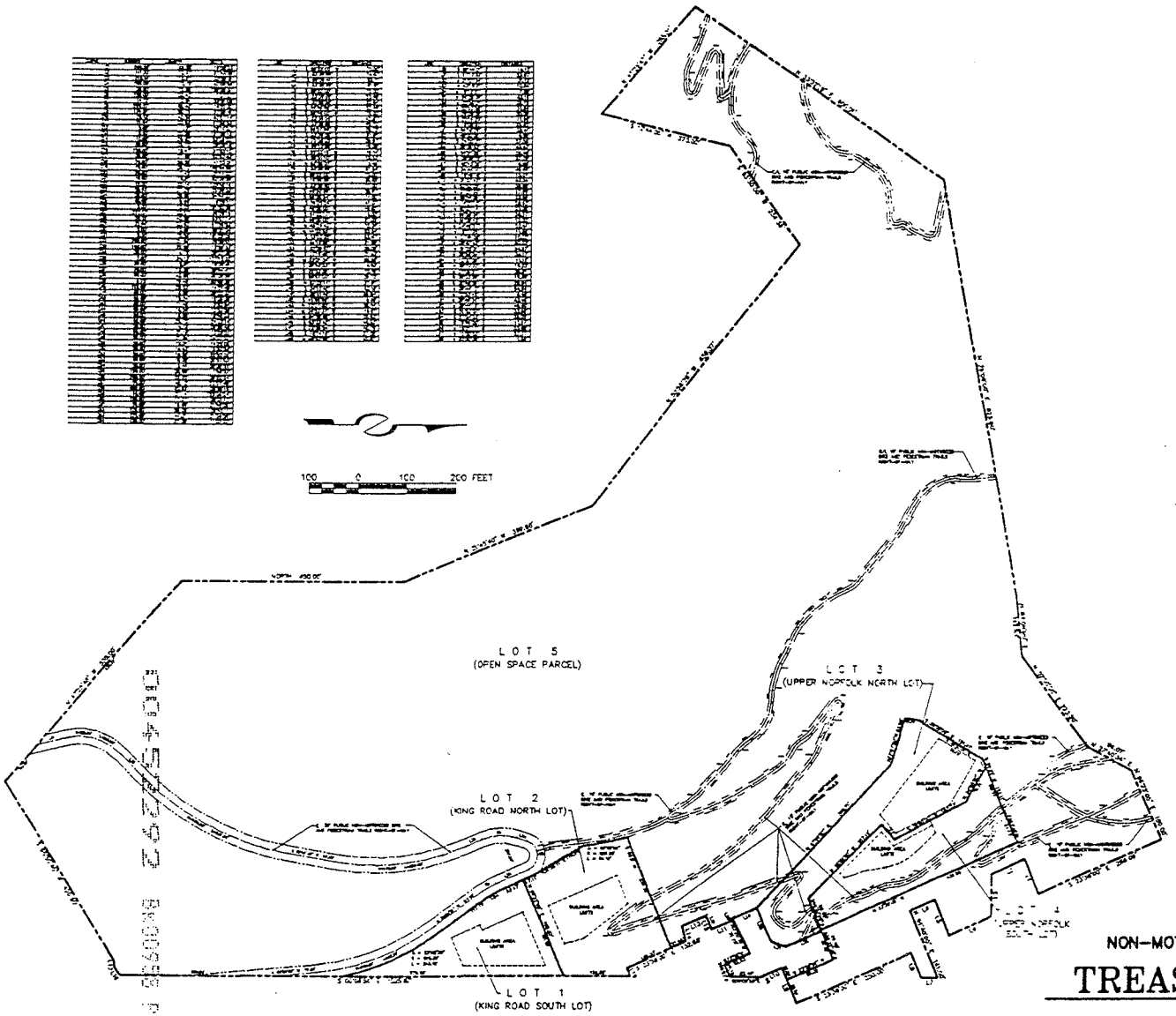
My Commission Expires:
_____

PHASE 1
SKI TRAIL EASEMENTS
TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____

FEE _____ RECORDER _____



SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON:

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3,500) square feet including garages. The following shall not count towards the foot print calculations:
   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

2. BUILDING AREA LIMITS. Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plat or as consistent with the approved construction drawings of the driveways, Upper Norfolk Turnaround, King Road Turnaround, ski bridge and utility pains) shall be limited to the Building Area Limits noted on the Plat. Notwithstanding the foregoing, flat areas located on the Ski Trail Easements where they cross Lots 3 and 4 and are directly adjacent to the Building Area Limits of Lots 3 and 4 may be landscaped with irrigated groomed grass.

3. CONSTRUCTION DISTURBANCE. Unless otherwise provided in agreements with Park City Municipal Corporation which are of record, temporary construction disturbance shall be limited to twenty (20) feet beyond the Building Area Limits or to adjoining lot property lines which ever is lesser. Such disturbed area shall be revegetated with native landscaping.

4. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, and even floor towers.

5. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reasonable grade whichever is greater.

6. MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

7. SEWER LATERALS. Maintenance and replacement of sewer laterals shall be the responsibility of their respective owners and not that of the Snyderville Basin Sewer Improvement District.

8. FIRE SPRINKLING. Interior and external modified 13d fire sprinklers shall be provided for the homes. Wood roofing material shall be prohibited.

9. PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

PHASE 1
NON-MOTORIZED BIKE AND PEDESTRIAN TRAILS RIGHT-OF-WAY

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____

FEE _____ RECORDER _____

Exhibit "C"

AGREEMENT

AGREEMENT, made and executed this 30th day of November, 1981, by and between PARK CITY DEPOT CORPORATION, a Utah corporation ("Depot"), SWEENEY LAND COMPANY, a Utah general partnership ("Sweeney"), TRAMWAY PROPERTIES, a Utah general partnership ("Tramway"), and GREATER PARK CITY COMPANY, a Utah corporation ("GPCC").

RECITALS.

1. Depot is the owner of a parcel of real estate located in Park City, Summit County, State of Utah, more fully described on Exhibit A attached hereto, and by this reference made a part hereof.

2. Sweeney Land Company owns an aerial right-of-way commencing from property now owned by Depot, previously called the "Coalition Property", said right-of-way acquired from United Park City Mines Company, and running in a Southwesterly direction, sometimes hereinafter referred to as "Tramway", as more fully desribed on Exhibit B attached hereto, and by this reference made a part hereof. Tramway Properties owns or controls land on which the "Quittin' Time Ski Run" and the "Creole Ski Run" are to be located and upon which the Ski Trails and the Silver Mountain Development ski-in and ski-out trails, as shown on Exhibit C attached hereto and by this reference made a part hereof, will be constructed.

3. GPCC is the owner and operator of the Park City Ski Resort and desires to own, operate and maintain a base station for a transportation ski lift (sometimes hereinafter called the "Lift") on the property owned by Depot and to construct a Lift and to build Lift towers on the Tram-Right-of-Way to facilitate the Lift. GPCC also wants to construct and maintain the "Quittin' Time Ski Run", the "Creole Ski Run", the Ski Trails (shown on Exhibit C hereto (hereinafter "the Ski Trails"), and

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the Silver Mountain Development ski-in and ski-out trails.

4. Sweeney, Tramway, and Depot are willing to provide property for a base station, an intermediate loading station and for the ski lift, two parking stalls for vehicles for GPCC or its employees, an area for a ticket booth, and restroom facilities for employees and invitees of GPCC during the operation of the Lift, and a Park Avenue bus turn-out and unloading station.

5. Depot, Sweeney and Tramway are willing to lease surface space and air rights to GPCC for a Lift, towers, ticket booth and restrooms, "Quittin' Time Ski Run", "Creole Ski Run", Ski Trails shown on Exhibit C hereto in red, and Silver Mountain Development ski trails, subject to the terms and conditions set forth in this agreement.

6. Depot and Sweeney recognize that if the construction of the Lift is approved by the Park City Council, Depot and Sweeney will receive substantial benefit from the increase in property values for property owned by Depot and Sweeney adjacent to the property to be leased as a base station, and that GPCC will receive substantial benefit from the planned development of the adjacent property by Depot, Sweeney and Tramway.

7. Sweeney and Tramway desire to provide an easement for use by GPCC of the area commonly known as "Quittin' Time Ski Run", "Creole Ski Run", and for the Ski Trails.

8. Depot and Sweeney intend to build condominium units on property adjacent to the leased property.

NOW, THEREFORE, for and in consideration of the property lease by Depot, Tramway and Sweeney and the covenants of GPCC set forth herein and other mutual covenants, it is mutually agreed by and between the parties as follows:

1. Lease. Depot, Tramway and Sweeney hereby agree to lease to GPCC, for a rental of $10.00 per year paid to each Lessor for a period of 70 years, or for the duration of GPCC's master

lease with United Park City Mines Company dated January 1, 1971 and amended May 1, 1975, whichever occurs first, the property set forth on Exhibit A attached hereto and the aerial right-of-way as set forth on Exhibit B attached hereto and by this reference made a part hereof. Tramway shall lease, or grant an easement to use, for a rental of $10.00 per year, the property needed for the Ski Trails, the intermediate station and public thoroughfares as described on Exhibit C attached hereto and by this reference made a part hereof.

2. Construction of Lift.

(a) GPCC agrees, subject to the prior approval of the Park City Council, to construct a triple chair-lift with a base station on the property leased by Depot and using the aerial right-of-way on the property leased by Sweeney, said Lift to have a capacity of not less than 1,200 nor more than 2,400 persons per hour. GPCC will be responsible for all costs incident to the construction, maintenance and operation of the Lift including, but not limited to, the cost of constructing the platform, the Park Avenue bus turn-out and unloading station, the Lift, new towers, power facilities, housing facilities for the power, unloading and off-loading facilities at the top, mid-station and bottom of the Lift, ticket house, public restrooms and all similar and related expenses. In the construction of the base station, the Lift and the Park Avenue bus turn-out and unloading station, GPCC will comply with the plans attached hereto as Exhibit D relating to the supporting pillars and height of the base station so as to facilitiate the construction of Sweeney's underground parking facility to be built on part of the leased property and on adjacent property.

(b) GPCC shall construct, at its own expense, the

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new "Quittin' Time Ski Run" and the "Creole Ski Run" and the necessary ski trails near Norfolk Avenue and in cooperation with Tramway, shall cut the mid-station and ski-in and ski-out trails from Tramway's Silver Mountain Development to GPCC's Nastar and Pay Day Ski Runs. Said runs and trails shall be constructed to complement Tramway's development. Tramway shall indicate where it desires trails. GPCC shall have final right of approval as to where such trails, if approved by GPCC, shall be constructed. Such approval shall not be unreasonably withheld. GPCC shall additionally clear thoroughfares from the proposed ski run near Norfolk Avenue to city property.

(c) GPCC will be solely responsible for all architectural, engineering, and attorney's fees and other expenses related directly to the Lift and appurtenant structures.

(d) GPCC, Depot and Sweeney shall cooperate and work jointly in leasing, exchanging or purchasing property located beneath the existing "Tramway" or for aerial rights which are not now owned by Sweeney and which are necessary for the construction of the Lift. Sweeney and Tramway reasonably believe that the only rights remaining to be acquired are set forth on Exhibit E, which is attached hereto and by this reference made a part hereof.

3. Time of Performance. It is anticipated that the Lift and related facilities should be constructed during the summer of 1983 so as to be available for the 1983-1984 ski season. GPCC, however, agrees to use its best efforts to complete the construction during the summer of 1982 for the 1982-1983 ski season. If construction is not completed by

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December 1, 1983, the lease provided for herein shall terminate as of that date. GPCC shall be responsible for arranging and financing the construction of all such facilities within such time period.

4. Approvals. All parties will proceed as soon as reasonably possible after the execution of the agreement to submit a plan for the Lift, towers, ski runs and trails which are the subject of the agreement. GPCC will be responsible for making all studies and presentations concerning the Lift, towers, ski runs and trails to the Park City Planning Commission and City Council. Included in the presentation will be the following:

(a) All necessary vehicular and pedestrian traffic studies required by the Park City Planning Commission and City Council concerning any questions related to congestion caused by the Lift.

(b) Presentation of a design for the Lift, towers, ski runs and trails, and any other structures pertaining directly to the operation, construction and maintenance of the Lift.

(c) Other impact questions raised by the Planning Commission, City Council and other governmental agencies.

5. Access. Sweeney and Depot will provide in the leased property sufficient space for a bus turnout on Park Avenue for skiers to enter and use the Lift facilities. Depot will provide on the lease property space for a ticket house for GPCC to sell tickets, the design for said space to be approved by Depot. All costs of construction of the ticket space will be paid by GPCC. Depot will also provide on the leased property space for the construction by GPCC, at GPCC's sole expense, of restroom facilities for employees and invitees of GPCC. Depot must approve plans for these facilities prior to the commencement of construction. Depot will also provide on the leased property enough space for GPCC to park two vehicles, but shall not be

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responsible for providing parking for skiers. GPCC shall have the right to provide the loading stations for the Lift at the intermediate point of travel of the Lift shown on Exhibit C.

6. Maintenance. GPCC will be responsible for upkeep and maintenance of the Lift, ticket space, restroom facilities, Tramway and towers, "Quittin' Time Ski Run", "Creole Ski Run", ski trails above Norfolk Avenue and the Silver Mountain Development ski-in and ski-out trails. It is anticipated that the primary drive machinery and all power facilities will be located at the upper end of the Lift and that all possible maintenance work will be performed at the upper end. GPCC will also be responsible for the upkeep and maintenance of platforms, sidewalks, or driveways used by skiers during the ski season. GPCC will be responsible for all snow removal on all walkways, platforms or any areas which GPCC or skiers use for the purpose of entering upon the property comprising the base site. Upon the close of the ski season, GPCC will repair and/or replace all property worn, damaged or destroyed by skiers and/or employees of GPCC and close the Lift in the same manner as the Victoria Station Lift. GPCC will close and secure the ticket space and the restroom facilities, if any, provided. Any Lift equipment which is permanently fixed to the structure shall be maintained so as not to constitute an attractive nuisance under Utah law. In providing the necessary maintenance under this agreement, GPCC will notify Depot and Sweeney of maintenance schedules for major maintenance during the off season for maintaining Lift equipment, said notification to include an outline of what type of maintenance is neessary and when the maintenance crews will have to be at the site. Depot and Sweeney, or the appropriate homeowner's association, shall have the right to landscape the leased property and to maintain it at GPCC's expense. GPCC shall have the right to approve said landscaping prior to its commence-

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ment. Such approval shall not be unreasonably withheld. GPCC shall promptly reimburse Depot and Sweeney for any expenses incurred in this regard.

7. Operating Responsibility. GPCC will be allowed to operate the Lift during the hours of 8:30 a.m. to 6:00 p.m., and will be responsible for controlling all skier traffic, including, but not limited to, pedestrian traffic, bus and auto loading and unloading. GPCC shall use its best efforts to keep skiers out of restricted areas, if any, and out of any condominiums that may be constructed on adjoining space by either Depot, Sweeney or Tramway, and for controlling noise by users of the Lift and related facilities. All restricted areas will be clearly marked by Depot, Sweeney and Tramway. GPCC will provide for adequate wastepaper containers on the base site, and it shall police for garbage and litter as often as is necessary, the leased property and the surrounding areas including the access area as set forth in paragraph 5. This activity shall include being responsible for cleaning as often as necessary the area under the towers, including any property now owned by Sweeny, Tramway and/or Depot and which lies under or is adjacent to the Lift. Subject to the availability of snow, GPCC agrees that in the event it is necessary to cease operation, temporarily or permanently, of any of its ski lifts, the Lift covered by this agreement shall be the last lift in its general area to be closed down. Specifically, if the Pay Day Lift is running, this Lift shall not be closed down. In the event the Lift is closed down or is offered for sale, Depot and Sweeney shall have the first right of refusal to acquire the Lift and appurtenant facilities, at the then appraised value, for a period of 90 days. This right shall not apply to a sale of the Lift as a part of a sale of the Park City Resort.

8. Traffic Control. GPCC, if asked by appropriate authorities, will be responsible for assisting the Park City

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Council and law enforcement officials in drafting ordinances to control pedestrian and vehicular skier traffic during the operation of the Lift and will actively work with the Park City police officials to enforce all parking and traffic ordinances.

9. Access to Aerial Right-of-Way. If GPCC requires additional access not available in the right-of-way leased hereby, GPCC shall be responsible for obtaining permission from property owners to enter upon or to use their land for removing existing tram towers and/or installing and servicing the towers and shall further be responsible for removing any existing tram towers appropriate in constructing the ski lift facilities. The parties understand that GPCC must walk, ski or snowmobile the entire lift line as required by the insurance carrier.

10. Removal of Liens. If, because of any act or omission of GPCC, any mechanics liens shall be filed against Depot, Tramway or Sweeney or against any of the adjacent land utilized for purpose of the ski lift construction, GPCC shall, at its own cost and expense, cause the same to be discharged of record or bonded within 90 days after written notice from Depot, Tramway or Sweeney of the filing and shall indemnify and hold harmless Depot, Tramway and Sweeney from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorney's fees, resulting therefrom.

11. Signs. During the ski season, with the prior approval of Depot, GPCC shall have the right to install, maintain and place in, on or over, and in front of the adjacent property, or in any part thereof, such signs and advertising matter as GPCC may desire, or as may be required by GPCC's insurance carrier, and GPCC shall comply with any applicable requirements of governmental authorities having jurisdiction and shall obtain any necessary permits for such purposes. As used in this paragraph, the word "sign" shall be construed to include any placard, light,

or other advertising symbol or object, irrespective of whether the same be temporary or permanent.

12. Indemnification. GPCC shall indemnify and save harmless Depot, Tramway and Sweeney from and against any and all liability, damage, penalties or judgments arising from injuries to persons or properties sustained by anyone in or about the leased property or resulting from any act or acts or omissions of GPCC's officers, agents, servants, employees, contractors or sub-lessees. GPCC shall, at its own cost and expense, defend any and all just suits or actions which may be brought against Depot, Tramway and Sweeney or in which any one of these parties may be interpleaded with others upon any such above mentioned matter, claim or claims.

13. Obligation of Lessors. Except for affirmative acts or negligence of Depot or the affirmative acts or negligence of officers or employees of Depot, or partners, agents, servants, employees or contractors of Sweeney or Tramway, Depot, Tramway and Sweeney shall not be responsible or liable for any damage or injury to any property, fixtures, buildings or other improvements, or to any person or persons at any time on the leased property or "Tramway", including any damage or injury to GPCC or to any of GPCC's officers, agents, servants, employees, contractors, customers or sub-lessees.

14. Insurance. During the period the Lift and appurtenant parts are installed and in operation, GPCC shall provide at its expense, and keep in force during the term of this agreement, general liability insruance in an insurance company satisfactory to the lessors, in the amount of at least $1,000,000 with respect to injury or death to any one person, $5,000,000 with respect to injury or death to more than one person in any one accident or occurrence and $1,000,000 with respect to property damage. Such policy or policies shall include Depot, Tramway and Sweeney and any mortgagee as named insureds. GPCC

agrees to deliver certificates of such insurance to Depot, Tramway and Sweeney by the date GPCC begins construction of the Lift and/or towers and thereafter not less than 10 days prior to the expiration of any such policy. Such insurance shall be non-cancellable without 10 days written notice to Depot, Tramway and Sweeney and to each mortgagee. Said policy limits shall be increased if GPCC increases its limits for other ski lifts owned or operated by GPCC or related companies.

15. Property Taxes. GPCC shall be responsible for all real property taxes assessed by Summit County, State of Utah for the property set forth on Exhibits A, the tramway shown on Exhibit B and the ski runs outlined in red on exhibit C attached hereto. GPCC shall also be responsible for all taxes lawfully assessed against the personal property of GPCC located in the ski lift, including base site and all appurtenant structures, and shall also be responsible for any sales or use tax and any other tax lawfully assessed against GPCC in its operation of the Lift.

16. Utilities. GPCC shall be responsible for the payment of all utilities related to the operation of the Lift, including, but not limited to, ticket space, restroom facilities and the operation of the Lift itself. Utilities shall include gas, electricity, telephone, water and garbage removal.

17. Abandonment of Lift. If, during the first 10 years of operation, GPCC abandons the Lift, GPCC will do the following:

(a) GPCC shall remove all ski lift equipment and fixtures that are not permanently fixed to the leased property and all of the towers within the "Tramway".

(b) GPCC further agrees to pay to Depot and Sweeney in the following proportion, 50% to Depot and 50% to Sweeney, should GPCC abandon the Lift during the first year after the Lift has been in operation, the amount of $100,000 in cash within 30 days from the date GPCC aban-

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dons the Lift. If GPCC abandons the Lift after the first year of operation as set forth above, the $100,000 will be adjusted by a percentage increase or decrease from the base period as measured by the change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index. The Index published for the calendar year in which the Lift officially opens shall be considered the base period.

(c) In the event the Lift is not abandoned within the first 10 year period, but sometime later, GPCC shall be obligated to remove all ski lift equipment and fixtures that are not permanently affixed to the leased property and all the towers and appurtenances within the "Tramway", the "Quittin' Time Ski Run", "Creole Ski Run" and, if any, the Ski Trails.

(d) In removing the equipment pursuant to this paragraph, GPCC further agrees that it will immediately repair, replace and take whatever other steps are necessary to place the base site and surrounding property in such a state as if the Lift, towers, ski runs and trails had never been installed, constructed or approved.

18. Use of the Property. GPCC hereby agrees that the Lift to be constructed upon the leased property shall be used primarily for the transportation of skiers, transportation of first aid equipment and personnel, and as a utility platform transport.

19. Termination. Notwithstanding any other provisions of this agreement, said agreement as to use of the leased property shall terminate immediately upon the withdrawal of permission by the Park City Council of the operation of a ski lift from and on said property. Such withdrawal shall be considered an "abandonment" for the purpose of paragraph 17, but the payment

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of damages pursuant to paragraph 17 shall not apply.

20. Default. In the event GPCC shall neglect or fail to perform or observe any covenants, provisions or conditions set forth in this agreement, Depot, Tramway and Sweeney shall give 30 days written notice to GPCC designating such default. Default against any one of Depot, Tramway and Sweeney shall constitute a default against all three.

(a) If within 30 days after written notice of default, or if more than 30 days shall be required because of the nature of the default, GPCC fails to proceed diligently to cure such default, then in that event GPCC shall be responsible to Depot, Tramway and Sweeney as their interests appear for any and all damages sustained by them as a result of GPCC's breach unless such damages are or would be covered by insurance provided or required to be provided by GPCC, but limited in all events to the liquidated amount set forth in paragraph 17 hereinabove.

(b) Upon any termination of this agreement by Depot, Tramway and Sweeney pursuant to paragraph 19, or at any time thereafter, Depot, Tramway and Sweeney may, in addition to and without prejudice to any other rights and remedies they shall have at law or in equity, re-enter the space where the Lift, ticket booth and restrooms are located and recover possession thereof and dispossess any or all employees, officers or agents of GPCC in the manner prescribed by the appropriate statute relating to summary proceedings or similar statutes, and GPCC shall in such cases remain liable to Depot, Tramway and Sweeney as provided herein.

(c) Failure of GPCC or Depot, Tramway and Sweeney to complain of any act or omission on the part of the

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other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by any party, at any time, express or implied, of any breach of this agreement shall be deemed a waiver of a breach of any other provisions of this agreement or consent to any subsequent breach of the same or any othe provision.

21. General Provisions.

(a) Time is of the essence in performing all of the obligations of each party under this agreement.

(b) Unless otherwise provided in this agreement, all communications, notices and demands of any kind which either party may be required or desire to give or serve upon the other party shall be made in writing and delivered by personal service to the party or to an officer of the other party or sent by telegram or registered or certified mail, addressed to:

To Depot:	Park City Depot Corporation 1979 South 700 West Salt Lake City, Utah 84104
To Sweeney:	Sweeney Land Company 2640 Maywood Drive Salt Lake City, Utah 84109
To Tramway:	Tramway Properties 2640 Maywood Drive Salt Lake City, Utah 84109
To GPCC:	Nick Badami, Chairman Greater Park City Company P. O. Box 39 Park City, Utah 84060

or to such other address or addresses as the parties hereto shall hereinafter designate in writing. Notices by mail shall be deemed effective and complete at the time of posting and mailing thereof in accordance herewith and all other notices shall be effective upon receipt.

(c) If either party hereto commences an action

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against any other party to enforce any of the terms hereof, or because of the breach of any party of the terms hereof, the losing party shall pay the prevailing party reasonable attorney's fees and costs and expenses incurred in the litigation, as determined by the court.

22. Force Majeure. If, during the term of this agreement, any party hereto is unable to perform the terms and conditions set forth herein due to any acts of God, fires, floods, or restrictions imposed by any government or governmental agency including property moratoriums by Park City or Summit County, inability to obtain appropriate permits or other delays beyond either party's control, this agreement shall continue to be binding and neither party will be relieved of the obligations to perform the terms and conditions set forth herein except as to any time restraints. In all events, if construction is not completed by December 1, 1983, for matters set forth in this paragraph the lease provided for herein shall terminate as of that date and no damages shall be owed by any party.

23. Modifications. This agreement shall not be modified unless in writing and signed by all the parties hereto in the same manner as this agreement is executed.

24. Severability. If any term, covenant, condition or provision of this agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this agreement shall be valid and shall be enforced to the fullest extent permitted by law.

25. Successors and Assigns. This agreement shall be binding and conclusive upon and inure to the benefit of the respective parties hereto and their successors, heirs, assigns,

executors, administrators and legal representatives.

26. Applicable Law. This agreement shall be interpreted in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties have fully executed this agreement as of this 30th day of November, 1981.

PARK CITY DEPOT CORPORATION

By _____
Chairman

SWEENEY LAND COMPANY

By _____
Jack Sweeney, Managing Partner

TRAMWAY PROPERTIES

By _____
Jack Sweeney, Managing Partner

GREATER PARK CITY COMPANY

By _____
Nick Badami, Chairman

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Exhibit "D"

Plateau Parcel

Beginning at a point which is South 89°56'30" West, 101.63 feet and South, 1708.34 feet, more or less, from the Center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, also being South, 1780.21 feet and West, 79.91 feet, more or less, from a Park City Monument at the intersection of Lowell Avenue and 9th Street;

and running thence South 50°56'26" East, 656.36 feet; thence South 21°45'40" East, 399.68 feet; thence South, 450.00 feet; thence North 47°25'45" West, 1229.90 feet; thence North 12°44'05" East, 270.00 feet; thence North 53°30'00" East, 234.36 feet to the point of beginning.

Containing 11.90 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

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Exhibit B

MODIFIED EXHIBIT "C"
SECTION 6 AGREEMENT, PAGE 1

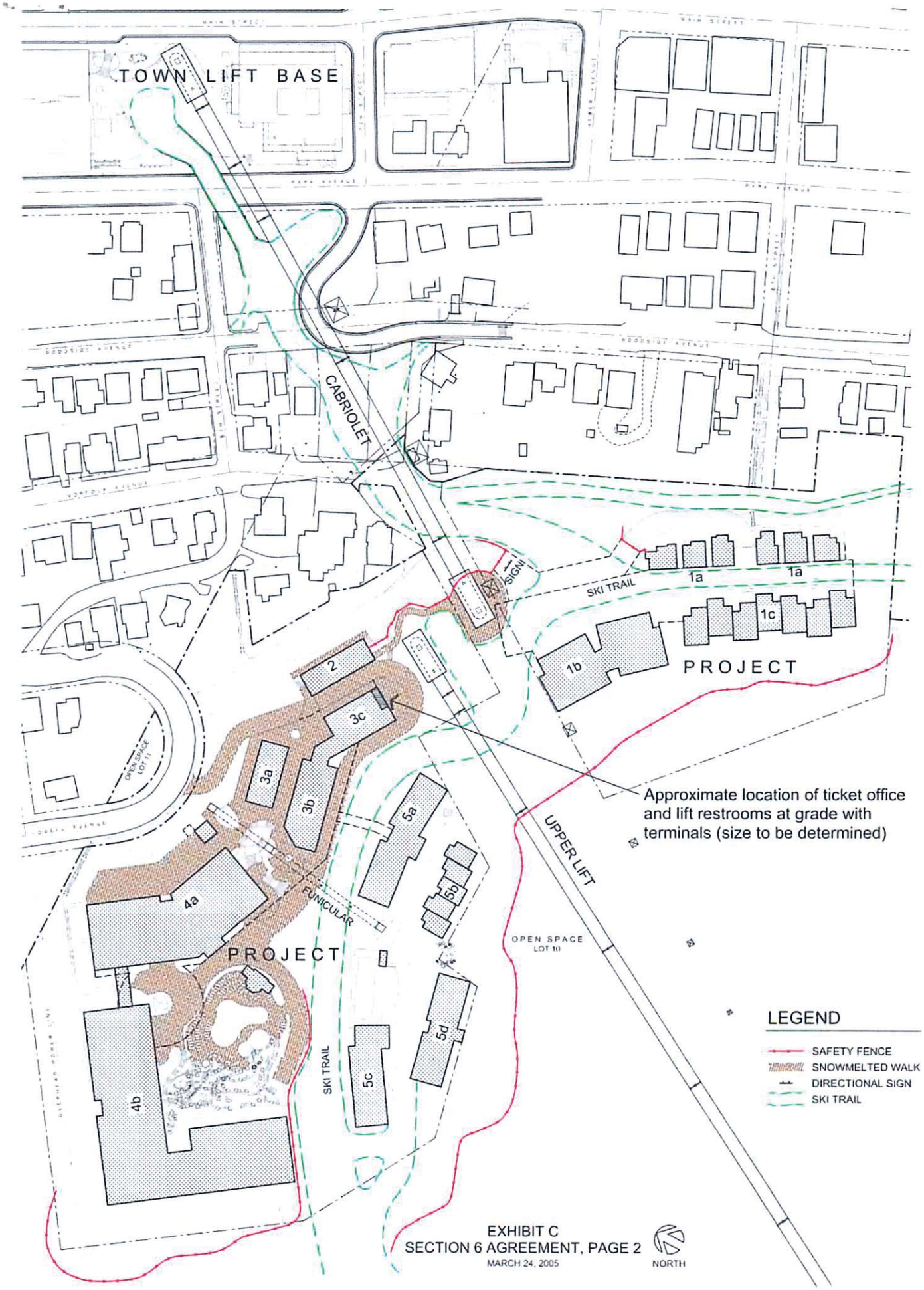
TOWN LIFT BASE
CABRIOLET
SIGN
SKI TRAIL
1a
1a
1c
1b
PROJECT
2
3c
3a
3b
5a
5b
4a
FUNICULAR
PROJECT
OPEN SPACE
LOT 10
UPPER LIFT
OPEN SPACE
LOT 11
4b
SKI TRAIL
5c
5d
Approximate location of ticket office and lift restrooms at grade with terminals (size to be determined)
LEGEND
SAFETY FENCE
SNOWMELTED WALK
DIRECTIONAL SIGN
SKI TRAIL
EXHIBIT C
SECTION 6 AGREEMENT, PAGE 2
MARCH 24, 2005
NORTH

Exhibit C

SWEENEY PROPERTIES MASTER PLAN

May 15, 1985

Including Coalition, Historic
Residential District, and Hillside Properties

MPE Inc.-Applicant
DeLaMare, Woodruff, Stepan-
Architects & Planners
P/S Associates-Engineers & Surveyors
Dr. Pat Sweeney-Responsible Agent
P.O. Box 2429,
Park City, UT 84060
(801) 649-7077

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OUTLINE

I. Concept and Impact

Narrative by Dr. Pat Sweeney; planning by DeLaMare, Woodruff, Stepan Associates, Inc. and P/S Associates, Inc.

A. Introduction .....p. 1
B. Properties .....p. 2
C. Coalition Group (Adjacent to Town Lift Base) .....p. 3
   1. Concept .....p. 3
   2. Access and Utilities .....p. 5
   2. Impact .....p. 5
D. Developed HR1 Group (Along Town Lift ROW) .....p. 5
   1. Concept .....p. 5
   3. Impact .....p. 6
E. Hillside Group (Hillside West of Historic District) .....p. 6
   1. Concept .....p. 6
   2. Access and Utilities .....p. 8
   3. Impact .....p. 9
F. Phasing p.10
G. Fiscal Impact P.10
H. Special Considerations p.11
I. List of Positive Features p.12
J. Summary p.13

II. Appendix

A. Property Descriptions

B. Soils Reports

1. Coalition Properties- by Dames and Moore
2. Hillside Properties- by Rollins, Brown & Gunnell
3. Hillside Properties- by William Lund

C. Phasing and Breakdown of Unit Equivalents- by DeLaMare, Woodruff, Stepan

D. Utilities and Drainage- by P/S Associates

E. Preservation of Old Tram Towers

F. Town Lift Agreements

G. Easements of Record

H. List of Adjacent Property Owners

I. Letter Sweeney Land Company

J. Master Plan Application

K. Rezoning Application

CONCEPT AND IMPACT

Narrative by Dr. Pat Sweeney

Planning by:

The Architectural & Planning Firm of

DeLaMare, Woodruff, and Stepan;

and the Engineering Firm of

P/S Associates

LIST OF TABLES

1. Property Groups, Zones, and Acres
2. Modified HCB Parking
3. Proposed East Park Avenue Constraints
4. Estimated One Time Fees
5. Estimated Annual Property Taxes
6. Examples Related Park City Expenditures

INTRODUCTION

The following document presents a development concept for several Sweeney Historic District and nearby hillside properties. It has been modified from the August 24, 1984 version to reflect changes resulting from preapplication discussions with the Park City Planning Staff which took place in October and early November of 1984. Application is made by MPE Incorporated, P.O. Box 2429, Park City, UT (801) 649-7077, for large scale master plan approval as set forth in Sections 1.13, 1.14, & 10 of the Park City Land Management Code effective January 1, 1984 and subsequently amended. The development concept has been designed to carefully integrate with Park City comprehensive planning and to achieve Park City general goals of:

* a quality residential or visitor experience;
* safety for its citizens;
* usable open space;
* preservation of scenic vistas;
* efficient traffic circulation;
* economy of City services;
* a broad tax base;
* and a healthy economy.

Permission of Sweeney Land Company (fee owner of the land), relevant agreements, and easements of record are provided in the Appendix, Sections I, F, & G respectively. Applications for large scale master plan and necessary

LIST OF DRAWINGS

1. 200 Scale Site Plan
2. 200 Scale Sweeney Properties
3. 100 Scale Site Plan with Boundaries
4. 100 Scale Site Plan with Boundaries
5. 100 Scale Site Plan with Boundaries
6. 100 Scale Site Plan with Boundaries
7. 50 Scale Site Plan and Grading
8. 50 Scale Site Plan and Grading
9. 50 Scale Norfolk Avenue Alternative
10. 50 Scale Norfolk Avenue Alternative
11. 200 Scale Hillside Sewer, Water, & Drainage
12. 50 Scale Hillside Sewer, Water, & Drainage
13. 20 Scale Coalition Boundary and Topo Survey
14. 20 Scale Coalition Topo Survey
15. 20 Scale Coalition Boundary Survey
16. 20 Scale Coalition Elevations and Lift Base Survey
17. 50 Scale Hillside Site Plan, Grading, & Elevations
18. 50 Scale Hillside Cross Section
19. 50 Scale Hillside Parking
20. 50 Scale Hillside Parking
21. 50 Scale Hillside Parking
22. 50 Scale Hillside Parking
23. 50 Scale Hillside Parking
24. 20 Scale Coalition Site Plan
25. 20 Scale Coalition Cross Section
26. 20 Scale Coalition Parking

underlying zoning changes are found in the Appendix, Sections J & K respectively.

In particular, this master plan strives to support the ski industry in a way as to minimize the need for private and public transportation and to maximize the bedroom density adjacent to ski runs, lifts, and existing commercial support. In this regard, the Sweeney properties are unique in their strategic location between the Park City Ski Resort and the Historic Commercial District. **Due to the scenic importance of the properties, especially the hillside property, the aesthetic placement and concentration of density is a fundamental requirement. It is equally if not more important to maintain the existence and integrity of permanent residential neighborhoods in coexistence with the ski and tourist industry. In this master plan, to these ends, Sweeney property permitted use density, fully and safely accessed, has been significantly reduced and redistributed.**

A detailed presentation of concept and impact follows.

PROPERTIES (See Sheets #2-8 & 13-16)

The following table lists the included properties, their zone, and number of acres. The property boundaries are accurately represented on sheet 2 with boundary bearings and distances on sheets 3-6, 13 & 15.

Table 1: Property Groups, Zones, and Acres

	ZONE	ACRES
Coalition Group	HCB & HR1 (1.191 & 0.537 AC)	1.728
Coalition East (South)	HCB	0.612
Coal. East Parking Easement	HCB	0.205
Coalition East (North)	HCB	0.374
Coalition West	HR1	0.537
Developed HR1 Group	HR1	0.449
MPE	HR1	0.161
Carr-Sheen	HR1	0.288
Hillside Group	HR1 & Estate (15.21 & 108.25 AC)	123.467
Royal Street South	HR1 & Estate (6.90 & 51.08 AC)	57.982
Royal Street North	HR1 & Estate (0.38 & 32.09 AC)	32.469
Butkovich South	HR1 & Estate (5.24 & 11.21 AC)	16.453
Butkovich North	HR1 & Estate (0.76 & 5.31 AC)	6.072
GPPC	HR1	0.081
Anderson	HR1	0.517
Keating	HR1	0.633
Tram Right of Way-Royal St.	Estate	1.192
Tram Right of Way-Butkovich	HR1 & Estate (0.20 & 0.94 AC)	1.138
Nastar	Estate	6.427
Lowell-Empire Switchback	HR1	0.272
Lowell Empire	HR1	0.077
Fletcher	HR1	0.154

COALITION PROPERTIES (See Sheets 7, 13-16, & 24-26)

Concept. The Coalition properties consist of four parcels on either side of Park Avenue near the site of the former Coalition Building and the current site of the Town Lift base. The properties are subject to the Town Lift Agreements contained in the Appendix, Section F. Under

the current code, the West (HR1) parcel could support 12 unit equivalents and, allowing for the Town Lift as approved, the East (HCB) parcels 43 unit equivalents. Within the proposed master plan, this **density has been reduced by 14% or 8 unit equivalents** to a total of 47 unit equivalents, 10 on the West parcel and 37 on the East parcels. Modified parking requirements are requested for the East parcels as outlined in Table 2. Justification for parking reduction lies in the close proximity of both skiing and commercial support and that all parking will be enclosed. The structures on the East parcels will be subject to the constraints outlined in Table 3 which increase set backs, slope the building envelope, and limit commercial uses. The structures on the West parcels will be controlled by current HR1 zoning subject to the 10 unit equivalent density limit.

Table 2: Modified Parking

	Hotel Room/ Suite not to Exceed 650 S.F.	Apt.not to Exceed 1000 S.F.	Apt.not to Exceed 1500 S.F.	Apt.not to Exceed 2000 S.F.	Apt. in Excess of 2500 S.F.
# of Parking Spaces	.66	1	1.5	2	3

Table 3: Proposed East Park Avenue Constraints

SETBACKS: Front-15 feet (Park Avenue)
Side- 5 feet
Rear- 5 feet

HEIGHT and BUILDING ENVELOPE:
Front(Park Avenue)-
25 feet high at 15 feet from Park Avenue
35 feet high at 30 feet from Park Avenue
45 feet high at 45 feet from Park Avenue

Rear-30 feet high at 5 feet then sloping toward
Park Avenue at 45°to maximum height of 45 feet

USE: Residential and nightly rentals permitted. Commercial allowed on ground level provided that commercial frontage be located no closer to Park Avenue than 35 feet.

GRADE: The plane described by horizontal lines perpendicular to the Easterly slope of Park Avenue.

Access, Utilities, and Drainage. Vehicular access will be in either direction off Park Avenue with convenient connections to U-224. Pedestrian access to Main Street will be along Park Avenue and through the Depot Project pedestrian corridor. There will be immediate access to the Town Lift. Adequate water, sewer, and storm drainage systems are already located directly adjacent to the proposed structures. Power, cable TV, and natural gas are available near site.

Impact. This concept will allow a residential character to be maintained West of Park Avenue and North of 8th Street because of the gradual transition that it creates from the higher, more transient residential and limited commercial uses on the East side.

DEVELOPED HR1 PROPERTIES (See Sheet 7)

Concept. These properties consist of the MPE and Carr-Sheen parcels currently zoned for 6 and 3 units respectively. In consideration of approval of the proposed master plan, MPE Inc. will reduce the MPE and Carr-Sheen parcels density to 2 and 3 unit equivalents respectively; **a density reduction of 44% or 5 units.** An eight foot easement for a stairway connecting the Crescent Walkway directly to the Lowell-Empire switchback will be provided through the Fletcher hillside parcel. The stairway will be built as part of the Hillside

developments. The Fletcher parcel, a 3 unit developed HR1 parcel, will be zoned Recreation and Open Space (ROS) as part of the Hillside development. MPE Inc. will quit claim to the City the Crescent Walkway, 4 feet either side of center line, as it crosses the Hurley Corner and MPE parcels. MPE Inc. will also quit claim to the City a 30 foot right of way for Norfolk Avenue as indicated on Sheet 7 from the Snyder's Addition boundary to the South side of 7th Street.

Impact. Strengthening of the City's title to Norfolk Avenue and the Crescent Walkway will allow vehicular and pedestrian circulation improvements. The provision, at no cost to the City, of a direct stairway link from the Crescent Walkway to the Lowell-Empire switchback will decrease the distance that Lowell Avenue residents have to walk to reach Main Street.

HILLSIDE PROPERTIES (See Sheets 1-12 & 17-23)

Concept. These properties consist of thirteen parcels totaling 123.5 acres located on the hillside directly West of the Historic District. The density from these parcels (15 acres of HR1 and 108 acres of Estate) will be transferred to a 7.75 acre site near the lower Creole Mine dump and a 3.75 acre site near the Town Lift midstation. (Two single family lots .5 acre each will also be included. One will be located Northwest of Upper Norfolk and the other where the Keating House exists. Building on these lots will be restricted to 25 feet of height and a maximum gross building foot print of 3500 square feet including the garage, but excluding open decks, walks, and stairs.)

The undeveloped portion of the property, approximately 90% or 111 acres, will be dedicated and rezoned Recreation and Open Space (ROS). In addition, 70% usable open space (including the tops of the parking structures at or near grade landscaped or decked for recreational use) will be maintained within the development sites which will be rezoned Recreation Commercial (RC). Ultimately, **97% of the hillside parcels will be open space.** This concept will prevent undue scarring of the hillside, protect its ridge line, and preserve it for recreational use and as a scenic backdrop to the Historic District.

207 unit equivalents are requested for the Creole and Midstation sites: 36 transferred from 108 acres of Estate Zone and 171 transferred from 14.0 acres of HR1. (One acre of HR1 will be divided between the two single family lots.) This represents a **reduction in density of 46% or 176 unit equivalents** from underlying zoning. Further reduction would jeopardize economic viability of the Creole and Midstation sites. On specified portions of these sites, a height increase to 40 and 50 feet is requested to allow dense clustering. Modified parking requirements are requested as outlined in Table 2. Justification is based on visitor orientation, outstanding ski to-ski from access, reasonable pedestrian access to the Historic Commercial District (600 to 1200 L.F.), and enclosed parking. The units will be condominiums or hotel rooms with nightly rental and a limited amount of support commercial.

An alternative plan which would not require rezoning the Hillside Properties is presented on Sheets 9 and 10. It is based on the construction of a road from the Lowell-Empire switchback to Upper Norfolk Avenue. This road could be built to Park City standards and would

provide emergency and limited routine access to the Southwestern Historic District.

Access and Utilities. Vehicular access to the Creole and Midstation sites will be from U-224 via the Park City Resort Center access system to Lowell and Empire Avenues. The Creole Mine Site will be accessed through a parking structure located directly off the Southern end of Lowell Avenue. The Town Lift Midstation Site will be accessed by a 550 foot driveway originating from Lowell and Empire Avenues. The cross section of this driveway will consist of uphill and downhill reinforced concrete retaining walls, 18 feet of pavement, 2 1/2 foot curb and gutters, and a 4 foot sidewalk. Non ski season construction access to both developments will be provided along the 9-9.5% grade Town Lift collector trails. Service access will be integrated into the parking structures and connect directly to the people movers mentioned below. Bus turnouts will be provided on Lowell Avenue. (The two single family lots will be accessed by 10 foot driveways, one from Upper Norfolk Avenue and the other from the Town Lift Midstation Site.)

Pedestrian access to the Creole Mine Site will consist of a short people mover (type to be determined) connecting the buildings with the parking structure and a sidewalk-stairway system connecting to the Crescent Walkway. Pedestrian access to the Town Lift Midstation Site will consist of a short people mover (type to be determined) and a sidewalk-stairway system connecting to 6th Street Stairs. The two sites will be connected by a sidewalk, ski trails, and a summer time foot path. Both will have outstanding ski to-ski from access and many connections to summertime trails.

Utilities to both major sites will be extensions of the middle Norfolk water main and existing services on Lowell and Woodside Avenues. A water tank will be hidden on site. Drainage will be controlled by uphill interceptor drains and downhill street system drains. Detentions systems will be located on the Creole Mine Site and on the Fletcher parcel. A pipe under 8th Street will connect to the City storm drain at Park Avenue. See the P/S Associates report in the Appendix, Section D and Sheets 11 & 12 for further details.

The Creole and Midstation sites will be treated as high-rises in terms of fire safety and construction standards.

Fill from excavation will be used to recontour ski runs on site rather than be hauled off over City streets.

Impact. This development scheme concentrated on 11.5 acres will provide an inventory of clustered, visitor oriented residential units with expansive views, secluded locations, Southeastern exposure, total ski to-ski from capabilities, and pedestrian access to the Main Street Commercial Area. It will leave **111 acres or 90% of the hillside properties to be dedicated and rezoned as Recreation and Open Space (ROS).** Ultimately, with 70% open space being maintained within the building sites, **97% of the hillside properties will be open space.**

There will be two means of vehicular access to the Creole and Midstation sites. No new City maintained roads will be constructed. The City will have no new snow removal responsibilities. Trash pick-up and water services will be concentrated. Cut and fills will be concentrated and revegetated. Drainage will be controlled.

Development will allow the Town Lift System as approved. An extensive system of footpaths-cross country trails in combination with the ski runs and trails will be provided.

Construction will be phased over a number of years and fill from excavation will be used on site rather than be hauled off over City streets.

PHASING (See Sheets #17-26)

Twenty years are requested for completion of this master plan. Because of the separate and diverse nature of the involved development parcels, each may be developed independently subject to the Small Scale Master Plan Process and market demand. Phases for each of the developments are outlined in the Appendix, Section C. It is intended that each individual phase may ultimately be developed under separate ownership.

FISCAL IMPACT

The fiscal impact of the entire Master Plan is shown in Tables 4,5,& 6.

Table 4: Estimated One Time Fees

FEES	CALCULATIONS	TOTAL
Application	256 U.E. x $200/U.E.	51,200
Impact	.02 x Valuation of New Construction or .02 x (256 U.E. x 2000 S.F./U.E. x 1.05 + 19000 S.F.Com. + 19500 S.F.Lobby) x $62.42/S.F. + 553 cars x 300 S.F./car x $29.50/S.F. or .02 x $40,854,212	817,084
Permit	.0075 x Valuation of New Construction	269,701
Plan Check	.004875 x Valuation of New Construction	175,306

Inspection	.03 x Site Improvements Construction Bid or	
	.03 x $2,000,000 (Estimated)	60,000
Water	256 U.E. x $2500/U.E.(Estimated Average)	
	+ 19000 S.F. Com. x $1000/1000 S.F. Com.	659,000
Sewer	256 U.E. x $2600/U.E.(Estimated Average)	
	+ $2000/1000 S.F. Com. x 19000 S.F. Com.	703,600
		$2,735,891

Table 5: Estimated Annual Property Taxes

.20 x Market Value x Mill Levy or
.20 x (256 U.E. x 2000 S.F./U.E. + 19000 S.F. Com.)
x $160/S.F. x .06225 or
.20 x $84,960,000 x .06225 $1,057,752

Table 6: Examples Related Park City Expenditures

Reconstruction of Lowell Avenue	183,000
Reconstruction Empire Avenue	179,000
Four Wheel Drive Bus	28,000
Four Wheel Drive Police Car	13,000
	$403,000

SPECIAL CONSIDERATIONS

All of the property descriptions included in this proposal have been adjusted to the basis of bearing of the City Street Survey and tied to City Street Survey Monuments. Many overlaps and potential title disputes have been eliminated.

The Old Silver King Tram Towers under the control of MPE Inc. will be preserved as historical monuments and dedicated to Park City as outlined in the Appendix, Section E.

In the distant future United Park City Mines Company or it successors might provide access to the upper Hillside

property. If this happens Sweeney Land Company reserves the right to take advantage of such access to build one single family home on the upper Hillside. The home shall be inconspicuously located, shall not exceed 20 feet in height, and shall have a maximum gross building foot print of 3500 square feet including the garage, but excluding open decks, walks, and stairs.

LIST OF POSITIVE FEATURES

* **Preservation of 90% of the hillside West of the Historic District as Recreation and Open Space (ROS)**
* **111 acres of Recreation Open Space available for public use for hiking and skiing**
* **70% open space within the Hillside building sites**
* **Ultimately, 97% open space on the Hillside**
* **Protection of the Hillside ridge line against potential development as 10 acres of RD, i.e. 5 unit equivalents per acre**
* **An end to the uncertainty as to the development fate of the Hillside thus stabilizing adjacent Historic District zones**
* **256 residential unit equivalents with commercial base in the Historic Commercial District**
* **Voluntary reduction of overall density 43% from 451 to 256 unit equivalents**
* Ski to-ski from access
* Pedestrian access to the Historic Commercial District
* Improvement of the Crescent Walkway
* City Right of way for Norfolk Avenue between Snyder's Addition boundary and 7th Street at no cost
* All descriptions adjusted to Park City's street survey basis of bearing

* Creation of a transition zone East of Park Avenue
* Buffer areas between proposed construction and neighboring properties
* Phasing of construction impacts over 20 years
* No additional City streets to maintain
* No additional City snow removal responsibilities
* Concentrated trash pick-up and water services
* Enclosed parking
* Controlled drainage
* Aesthetic clustering of density

SUMMARY

This master plan offers a important opportunity to develop a large inventory of Historic District and nearby hillside properties in harmony with Park City comprehensive planning and to preserve the vast majority of the property as Recreation and Open Space (ROS). This contrasts sharply with piece by piece development of the property under separate ownership. This master plan represents an **overall reduction in density of 43% or 195 unit equivalents** from underlying zoning. It supports the ski industry and existing Historic Commercial District while at the same time respects both the permanent and more transient areas of the Historic Residential Districts. Finally, it leaves the City with a very favorable fiscal impact.

APPENDIX

A. PROPERTY DESCRIPTIONS

COALITION EAST(SOUTH)

Beginning at a point which is North 28°45'41" West, 64.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City said point also being North 28°45'41" West 251.11 feet and North 61°14'19" East, 21.51 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Heber Avenue and running thence North 28°45'41" West, 185.50 feet; thence North 61°14'19" East, 140.00 feet; thence South 28°45'41" East, 141.54 feet; thence North 64°15'19" East, 11.10 feet; thence South 38°22'41" East, 6.36 feet; thence South 42°07'41" East, 38.14 feet; thence South 61°14'19" West, 160.96 feet to the point of beginning.

Containing 0.612 Acres, more or less

Subject to and together with any an all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

Entry No. 45237
REQUEST OF WESTERN STATES TITLE
FEE 9.00 By Susan Robinson
RECORDED JAN 5 1984 at 1109
ALAN SPRIGGS, SUMMIT CO. RECORDER

PARKING EASEMENT

THIS PARKING EASEMENT made and entered into this 29th day of December, 1983, by and between Park City Depot Corporation, a Utah corporation (hereinafter referred to as "Grantor"), and Sweeney Land Company, a Utah general partnership (hereinafter referred to as "Grantee").

WITNESSETH:

WHEREAS, pursuant to that certain Real Estate Exchange Agreement dated November 1, 1981, as modified by that certain Extension Agreement dated November 22, 1983, Grantor and Grantee have exchanged certain real property in Park City, Summit County, State of Utah; and

WHEREAS, pursuant to said Real Estate Exchange Agreement Grantor agreed to convey to Grantee a parking easement covering a portion of the exchanged property and other property owned by Grantor.

NOW, THEREFORE, for and in consideration of the exchange of real estate as provided in said Real Estate Exchange Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually agreed by and between the parties as follows:

1. Grantor hereby grants to Grantee a parking easement (the "Parking Easement") on the property (the "Property") more fully described on Exhibit "A" attached hereto

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and by this reference made a part hereof. Said Parking Easement shall include the right to use a portion of said Property for the purpose of constructing, operating and maintaining a parking, storage and utility facility (the "Parking Facility") which will be constructed substantially as set forth in the plans and specifications attached hereto as Exhibit "B" and by this reference made a part hereof, including such grading, excavation, approaches, footings, foundations, drains, culverts, utility installation, ingresses and egresses as shall be necessary for the construction, operation and maintenance thereof. Said Parking Facility shall be constructed at the sole cost and expense of Grantee and Grantee shall maintain, repair, alter and reconstruct, whenever necessary, said Parking Facility.

2. Grantee agrees to cooperate with Grantor in designing said Parking Facility to reasonably accommodate necessary utilities to Grantor's adjacent property.

3. Grantor shall provide reasonable access for ingress and egress to the Parking Facility over and across the adjacent property owned by Grantor for purposes of constructing, maintaining, repairing or replacing the Parking Facility. Grantee shall be responsible for repair or replacement of any damage caused by such use.

4. Grantee shall not be responsible for any expense whatsoever occasioned by reason of the ski lift base station

improvements and/or operation on the surface of the property, except for replacement or repair of such improvements damaged or destroyed by Grantee resulting from the construction or operation of the Parking Facility. Grantee shall also be responsible for any water problems that may arise during said construction.

5. Grantee shall be responsible for landscaping and maintenance of the surface of the Property prior to completion of proposed ski lift base station.

6. Grantee shall have the right to commence construction of said Parking Facility at any time within twenty (20) years from the date hereof.

7. The covenants, conditions, obligations and restrictions of this Parking Easement shall inure to the benefit of and be binding upon and enforceable against, as the case may be, the heirs, successors and assigns of Grantor and Grantee.

IN WITNESS WHEREOF, the parties to this Parking Easement have signed their names the day and year first above written.

PARK CITY DEPOT CORPORATION

By Todd E Christensen
President

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SWEENEY LAND COMPANY

By John J. Sweeney
Partner

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the 29th day of December, 1983, personally appeared before me Ladd E. Christensen who, being by me duly sworn, did say that he is the President of Park City Depot Corporation, a corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Ladd E. Christensen acknowledged to me that said corporation executed the same.

NOTARY PUBLIC
THACY M. SATALLANTE
STATE OF UTAH

Thacy M. Satallante
NOTARY PUBLIC
Residing at: Salt Lake Co

My Commission Expires:
May 27, 1985

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On this 29th day of December, 1983, personally appeared before me John J. Sweeney, partner of Sweeney Land Company, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same for and on behalf of said partnership.

David L. Gillette
NOTARY PUBLIC
Residing at: Salt Lake Co. Utah

NOTARY PUBLIC
DAVID L. GILLETTE
STATE OF UTAH

My Commission Expires:
9-15-86

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EXHIBIT "A"

Real property located in Park City, Summit County, State of Utah, more particularly described as follows:

Beginning at a point North 28°50' West along the Westerly line of Block 53, a distance of 315.50 feet from the Southwest corner of Block 53, Snyder's Addition, Park City, Summit County, Utah, said point of beginning also being South 28°50' East along the monument line 310.25 feet and North 63°42' East 21.53 feet from the City Survey Monument at the intersection of 9th Street and Park Avenue and running thence North 63°42' East 44.54 feet; thence North 61°10' East 95.50 feet; thence South 28°50' East 63.53 feet; thence South 61°10' West 140.00 feet to the Westerly line of said Block 53; thence North 28°50' West 65.50 feet to the point of beginning. Contains 8,938.0 square feet or 0.205 acre.

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COALITION EAST (NORTH)

Beginning at a point which is North 28°45'41" West, 315.50 feet from the Southwesterly corner of Block 53, Snyder's Addition to Park City said point also being South 28°45'41" East, 310.54 feet and North 63°46'19" East, 21.53 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Shepard Street and running thence North 28°45'41" West, 114.73 feet; thence North 61°14'19" East, 140.00 feet; thence South 28°45'41" East, 116.70 feet; thence South 61°14'19" West, 95.47 feet; thence South 63°46'19" West, 44.57 feet to the point of beginning.

Containing 0.374 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

TOTAL COALITION WEST PARCEL

Beginning at the Northeast corner of Lot 2, Block 1, Snyder's Addition to Park City said point being North 28°45'41" West, 468.78 feet and South 55°56'30" West, 28.61 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Heber Avenue and running thence South 28°45'41" East, 200.00 feet along the East line of Lot 2; thence South 61°54'19" West, 99.30 feet, more or less, to the East-West ¼ Section line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence South 89°56'24" West, 21.66 feet, more or less, along said ¼ Section line to the West line of Lot 2; thence North 31°44'30" West, 176.86 feet along the West line of Lot 2 to the Northwest corner of Lot 2; thence North 55°56'30" East, 128.03 feet along the North line of Lot 2 to the point of beginning.

Containing 0.543 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East.)

MPE PARCEL

Beginning at a point South 23°38' East 5.36 feet from the Northwest corner of Lot 8, Block 26 of the Park City Survey according to the amended plat thereof which point is also South 23°38' East along the monument line 159.53 feet and North 66°33' East 25.00 feet from the city survey monument at the intersection of Norfolk Avenue and 8th Street and running thence North 64°13' East 75.05 feet; thence North 23°38' West 2.54 feet; thence North 66°22' East 67.64 feet; thence South 31°44'30" East 50.50 feet; thence South 66°22' West 149.76 feet; thence North 23°38' West 44.64 feet to the point of beginning.

Area: 7013. S.F.

October 24, 1984
P/S 20502-01
J.L.S.

CARR-SHEEN

Beginning on the Easterly Line of Norfolk Avenue at the Southwest Corner of Block 26, Park City Survey, Amended Plat said point also being North 28°45'41" West, 206.28 feet and South 66°22'00" West, 343.68 feet, more or less, from a Park City Monument at the intersection of Park Avenue and Heber Avenue and running thence North 23°38'00" West 52.02 feet along the Easterly line of Norfolk Avenue; thence South 66°22'00" West 50.00 feet to the Westerly line of Norfolk Avenue; thence South 62°50'00" West; 36.54 feet; thence South 63°20'00" West approximately 20.27 feet; thence South 29°10'28" East, 0.71 feet; thence South 59°47'16" West, 18.48 feet; thence South 23°38'00" East approximately 45.88 feet to a point South 66°22'00" West 125.00 feet from the Southwest corner of Block 26, Park City Survey; thence South 23°38'00" East, 50.00 feet; thence North 66°22'00" East, 125.00 feet to the Easterly line of Norfolk Avenue; thence North 23°38'00" West, 50.00 feet to the point of beginning.

Containing 0.288 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

ROYAL STREET SOUTH

Beginning at the Southwest Corner of Lot 2, Block 29, Park City Survey, Amended Plat also being North 23°38'00" West, 162.85 feet and South 66°22'00" West, 300.00 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and 4th Street and running thence South 23°38'00" East, 91.91 feet, more or less, to the Northwest corner of Lot 2 of Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim, U.S. Lot No. 633; thence South 66°22'00" West, 75.00 feet to the Northwest corner of Lot 12 said mining claim; thence South 23°38'00" East, 53.98 feet to the Southwest corner of Lot 13 said mining claim; thence North 66°40'00" East, 141.00 feet, more or less, to a North-South 40 Acre line and the West line of the Park City Townsite said point being South 66°40'00" West, 240.50 feet and North 0°08'50" West, 16.32 feet, more or less, from a Park City Moument at the Intersection of Park Avenue and 4th Street; thence South 0°08'50" East, 32.64 feet, more or less, along said 40 Acre line and said West line; thence South 66°40'00" West, 52.99 feet, more or less, to the Northeast corner of said mining claim; thence South 23°38'00" East, 122.23 feet, more or less, to said 40 Acre line and said West line; thence South 0°08'50" East, 138.99 feet, more or less, along said 40 Acre line and said West line to the North line of Lot 22, Block 30, Park City Townsite Survey, Amended Plat; thence South 66°40'00" West, 19.61 feet to the Northwest corner of said Lot 22; thence South 23°38'00" East, 42.87 feet; thence South 62°20'36" West, 121.85 feet; thence South 23°38'00" East, 45.70 feet; thence South 68°07'00" West, 28.75 feet; thence South 23°38'00" East, 51.61 feet; thence North 75°38'35" East, 29.97 feet; thence South 23°38'00" East, 132.68 feet; thence North 66°12'00" East, 16.39 feet, more or less, to said 40 Acre line and said West line; thence South 0°08'50" East, 1025.87 feet along said 40 Acre line and said West line to a point which is North 31°40'53" West, 583.55 feet; more or less, from a Park City Monument on the Centerline of Daly Avenue; thence South 55°53'19" West, 19.14 feet; thence South 89°51'10" West, 10.52 feet; thence South 55°55'40" West, 420.90 feet, thence North 47°25'46" West, 2049.91 feet; thence North 33°32'19" East, 1004.37 feet; thence South 0°14'23" West, 219.85 feet; thence South 89°36'41" East, 1207.23 feet to the point of beginning.

Containing 57.982 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

ROYAL STREET NORTH

Beginning at the center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being South 16°50'13" East, 74.98 feet, more or less, from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence South 0°14'23" West, 990.19 feet; thence South 33°32'19" West, 1072.54 feet; thence North 47°25'46" West, 369.11 feet; thence North 33°34'45" East, 86.67 feet; thence North 3°36'05" West, 180.42 feet; thence North 7°36'15" West, 163.67 feet; thence North 7°15'15" West, 383.62 feet; thence North 7°46'15" West, 382.64 feet; thence North 16°05'15" West, 185.87 feet; thence North 18°30'25" West, 183.86 feet; thence North 8°13'03" West, 107.33 feet to the East-West 1/4 section line of Section 16 said point being East, 1558.23 feet and South, 2626.29 feet, more or less, from the Northwest corner of Section 16; thence North 89°56'30" East, 1078.99 feet along said 1/4 Section line to the point of beginning.

Containing 32.469 Acres, more or less

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

January 17, 1985

BUTKOVICH NORTH

Beginning at the center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being South 16°50'13" East, 74.98 feet, more or less, from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence South 35°16'39" East 42.58 feet to a point of curvature of a 125.00 foot radius curve to the left (radius point bears North 54°04'32" East); thence Southeasterly and Northeasterly along the arc of said curve 255.63 feet (Delta = 117°10'13"); thence South 57°40'08" East, 204.42 feet; thence North 60°08'27" East, 11.21 feet; thence South 38°06'27" East, 39.16 feet; thence North 59°47'16" East, 30.78 feet; thence South 23°38'00" East, 90.12 feet to a point which is South 23°38'00" East, 50.00 feet, South 66°22'00" West, 125.00 feet and North 23°38'00" West, 5.76 feet, more or less, from the Southwest Corner of Block 26, Park City Survey, Amended Plat, also being North 28°45'41" West, 156.08 feet, South 66°22'00" West, 473.11 feet and North 23°38'00" West 5.76 feet, more or less, from a Park City monument at the intersection of Park Avenue and Heber Avenue; thence South 33°32'19" West, 924.48 feet; thence North 0°14'23" East, 990.19 feet to the point of beginning.

Containing 6.072 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

GPCC PARCEL

Beginning at the Southeast corner of Lot 21, Block 30, Park City Survey, Amended Plat said point being South 23°38'00" East, 265.00 feet and South 66°40'00" West, 299.77 feet from a Park City Monument at the intersection of Park Avenue and 4th Street and running thence South 66°40'00" West, 55.39 feet, more or less, to a North-South 40 Acre Line and the West Line of the Park City Townsite; thence North 0°08'50" West, 138.99 feet, more or less, along said 40 acre Line and said West Line; thence South 23°38'00" East, 127.77 feet to the point of beginning.

Containing 0.081 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

ANDERSON

Beginning at the Southwest corner of Lot 7, Block 29, Park City Survey in Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being North 23°38'00" West, 270.94 feet, and South 66°22'00" West, 300.00 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street and running thence North 23°38'00" West, 300.00 feet; thence South 66°22'00" West, 75.00 feet to Norfolk Avenue; thence South 23°38'00" East, 300.00 feet along Norfolk Avenue; thence North 66°22'00" East, 75.00 feet to the point of beginning.

Containing 0.517 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

KEATING

Beginning at the Southwest corner of Lot 1, Block 28, Park City Survey said point being North 23°38'00" West, 625.94 feet and South 66°22'00" West, 300.00 feet, more or less, from a Park City Monument of the intersection of Park Avenue and 4th Street and running thence South 66°22'00" West, 75.00 feet; thence North 23°38'00" West, 351.13 feet; thence North 66°52'00" East, 75.00 feet to the Northwest Corner of Lot 14 said Block 28; thence South 23°38'00" East, 300.00 feet; thence South 66°52'00" West, 25.00 feet; thence South 23°38'00" East, 25.00 feet; thence North 66°52'00" East, 25.00 feet; thence South 23°38'00" East, 25.48 feet to the point of beginning.

Containing 0.590 Acres, more or less

Also; beginning at the Southwest corner of Lot 19, Block 29, Park City Survey in Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being North 23°38'00" West, 570.94 feet and South 62°22'00" West, 300.00 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street and running thence North 23°38'00" West, 25.00 feet; thence South 66°22'00" West, 75.00 feet to Norfolk Avenue; thence South 23°38'00" East, 25.00 feet along Norfolk Avenue; thence North 66°22'00" East, 75.00 feet to the point of beginning.

Containing 0.043 Acres, more or less

Total: Containing 0.633 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

TRAM RIGHT-OF-WAY ROYAL STREET

A 50 foot wide Parcel 23 feet Northwest of the Old Tram Right-of-way being more particulary described as follows:

Beginning at a point which is South 23°38'00" East, 50.00 feet, South 66°22'00" West, 41.69 feet and South 33°32'19" West, 1067.48 feet, more or less, from the Southwest corner of Block 26, Park City Survey, Amended Plat, also being North 28°45'41" West, 156.08 feet, South 66°22'00" West, 389.86 feet and South 33°32'19" West, 1067.48 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Heber Avenue and running thence South 33°32'19" West, 1004.37 feet; thence North 47°25'46" West, 50.63 feet to a point which is South 89°56'30" West, 596.72 feet and South 1883.54 feet from the center of Section 16, Township 2 south, Range 4 East, Salt Lake Base and Merdian; thence North 33°32'19" East, 1072.54 feet; thence South 0°14'23" West, 91.07 feet to the point of beginning.

Containning 1.192 Acres, more or less

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

TRAM RIGHT-OF-WAY BUTKOVICH

A 50 foot wide parcel 23 feet Northwest of the Old Tram Right-of-way being more particularly described as follows:

Beginning at a point which is South 23°38'00" East, 50.00 feet and South 66°22'00" West, 41.69 feet, more or less, from the Southwest corner of Block 26, Park City Survey, Amended Plat, also being North 28°45'41" West 156.08 feet and South 66°22'00" West 389.80 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Heber Avenue and running thence South 33°32'19" West, 1067.48 feet; thence North 0°14'23" East, 91.07 feet to a point which is South 0°14'23" East, 990.19 feet from the center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence North 33°32'19" East, 924.48 feet; thence South 23°38'00" East, 5.76 feet; thence North 66°22'00" East, 83.31 feet to the point of beginning.

Containing 1.138 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East.)

NASTAR PARCEL

Beginning at a point which is South 4259.64 feet and East 1768.67 feet from the Northwest corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence North 33°34'45" East, 86.67 feet; thence North 3°36'05" West, 180.42 feet; thence North 7°36'15" West, 163.67 feet; thence North 7°15'15" West, 383.62 feet; thence North 7°46'15" West, 382.64 feet; thence North 16°05'15" West, 185.87 feet; thence North 18°30'25" West, 183.86 feet; thence North 8°13'03" West, 107.33 feet, more or less, to the East-West 1/4 Section Line of Section 16 said point being South 89°56'30" West, 1078.99 feet, more or less, from the center of Section 16 also being South 86°03'27" West, 1059.78 feet from a Park City Monument at the Intersection of Lowell Avenue and Sheppard Street; thence South 89°56'30" West, 2.17 feet along said 1/4 Section line; thence South 2°31'24" East, 503.18 feet; thence South 8°56'27" West, 845.30 feet; thence South 47°25'46" East, 437.00 feet to the point of beginning.

Containing 6.427 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

LOWELL-EMPIRE SWITCHBACK

Beginning at the Center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being South 16°50'13" East, 74.98 feet, more or less, from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence North 89°56'24" East, 61.10 feet; thence South 35°55'28" East, 6.77 feet to a point of curvature of a 75.00 foot radius curve to the left (radius point bears North 54°04'32" East); thence Easterly along the arc of said curve 148.30 feet (Delta=113°17'34"); thence North 89°56'24" East, 54.55 feet to a point on a 125.00 foot radius curve to the right (radius point bears North 72°08'41" West); thence Westerly along the arc of said curve 275.37 feet (Delta=126°13'13"); thence North 35°16'39" West 42.58 feet to the point of beginning.

Containing 0.272 Acres, more or less

(Basis of bearing for the above description is Park City Monuments at the intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

LOWELL-EMPIRE PARCEL

Beginning at a point on the East-West 1/4 Section line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being North 89°56'24" East, 61.10 feet from the center of Section 16 also being South 49°06'59" East, 109.55 feet from a Park City Mounument at the Intersection of Lowell Avenue and Shepard Street and running thence North 89°56'24" East, 129.14 feet along said 1/4 Section line to a point on a 75.00 foot radius curve to the right (radius point bears North 59°13'02" West); thence Southwesterly and Northwesterly along the arc of said curve 148.30 feet (Delta = 113°17'34"); thence North 35°55'28" West, 6.77 feet, more or less, to the point of beginning.

Containing 0.077 Acres, more or less

(Basis of bearing for the above description is the Park City monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

January 17, 1985

FLETCHER HILLSIDE PARCEL

Beginning at a point on the East-West 1/4 section line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being North 89°56'24" East, 244.79 feet, more or less from the center of Section 16 also being South 74°58'49" East, 275.94 feet from a Park City Monument at the intersection of Lowell Avenue and Shepard Street and running thence North 89°56'24" East, 141.17 feet along said 1/4 section line; thence South 27°00'12" East, 15.89 feet; thence South 42°57'14" East 3.40 feet; thence South 55°53'00" West, 93.90 feet; thence North 57°40'08" West, 95.23 feet to a point on a 125.00 foot radius curve to the left (radius point bears North 63°05'41" West); thence Northeasterly along the arc of said curve 19.74 feet (Delta = 9°03'00") to the point of beginning.

Containing 0.154 Acres, more or less

(Basis of bearing for the above description is the Park City monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

January 17, 1985

TOTAL HURLEY CORNER

Beginning at a point on the East-West 1/4 section line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being North 89°56'24" East, 385.96 feet, more or less, from the center of Section 16 also being South 80°04'16" East, 413.87 feet from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence North 89°56'24" East, 160.77 feet; thence South 23°38'00" East, 89.38 feet; thence South 66°22'00" West, 50.00 feet; thence South 62°50'00" West, 36.54 feet; thence South 63°20'00" West, 20.27 feet; thence South 29°10'28" East, 0.71 feet; thence South 59°47'16" West, 49.26 feet; thence North 38°06'27" West, 39.16 feet; thence South 60°08'27" West, 11.21 feet; thence North 57°40'08" West, 109.20 feet; thence North 55°53'00" East, 93.90 feet; thence North 42°57'14" West, 3.40 feet; thence North 27°00'12" West, 15.89 feet to the point of beginning.

Containing 0.571 Acres, more or less.

(Basis of bearing for the above descriptions is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

LOTS 4,5,& 6

The North 9 feet of Lot 4, and all of Lots 5 and 6, as platted on the Easterly end of Park City Lode Mining Claim Lot 633.

LANGE NORFOLK PARCEL

Beginning at a point which is North 23°38'00" West, 110.85 feet from the Northeast corner of Lot 32, Block 78, Park City Survey, Amended Plat also being South 23°38'00" East, 361.11 feet and South 66°12'00" West, 425.00 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and 4th Street and running thence North 68°07'00" East, 26.16 feet, more or less, to a North-South 40 Acre Line and the West Line of the Park City Townsite; thence North 0°08'50" West, 59.84 feet, more or less, along said 40 Acre Line and said West Line; thence North 23°38'00" West, 2.35 feet; thence South 62°20'36" West, 50.12 feet; thence South 23°38'00" East, 52.92 feet to the point of beginning.

Containing 0.048 Acres, more or less

(Basis of bearing for the above description is the Park City monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

B. SOILS

1. COALITION PROPERTIES

BY DAMES AND MOORE

April 21, 1980

DeLaMare-Woodruff, Architects &
Planners
307 West 200 South
Salt Lake City, Utah 84101

Attention: Mr. Gene Woodruff

Gentlemen:

Report
Preliminary Soil, Ground Water
and Foundation Study
Proposed Multi-family Residential
Structures
Coalition Building and Adjacent
Properties
Park Avenue and 8th Street
Park City, Utah
For Jack Sweeney Properties

INTRODUCTION

This report presents the results of our preliminary soils, ground water and foundation study performed on the properties located east and west of Park Avenue at 8th Street near the Coalition Mine Building in Park City, Utah. A layout of the site area showing existing and proposed structures, roadways, property boundaries and the location of exploration test pits excavated in conjunction with this study is presented on Plate 1, Plot Plan.

During the course of this study preliminary conclusions and recommendations were presented verbally to Mr. Gene Woodruff.

PURPOSE AND SCOPE

The purpose and scope of this study were planned in discussions between Gene Woodruff, Architect, and Mr. Bill Gordon of Dames & Moore. The purpose of this study was to evaluate the subsurface soil and ground water conditions at the site, and, based upon those findings, provide preliminary development (earthwork, foundation and dewatering) recommendations. In accomplishing this purpose, the following scope was performed:

1. A field program consisting of the excavation, logging and sampling of five test pits within the site area, ranging in depth from 6.5 to 10.0 feet.
2. An office program consisting of the correlation of available data and the preparation of this summary report.

PROPOSED CONSTRUCTION

Development covered by this study is to include the construction of multiple family housing units in the properties located on both sides of Park Avenue at 8th Street in Park City, Utah.

The housing units will generally consist of three to four total levels with a minimum of one subgrade parking level. At the present time, it is planned that the lower below-grade level be of reinforced concrete construction with the upper levels being of wood-frame construction with possibly some brick veneer.

Detailed information pertaining to loads is not available; however, we estimate that maximum wall and column loads will be on the order of 3 to 5 kips per lineal foot and 40 kips, respectfully.

Site development will consist predominantly of excavation for the parking level.

SITE CONDITIONS

SURFACE

The overall site area consists of two building lots located on opposite sides of Park Avenue, as shown on Plate 1. The individual lots are approximately 150 by 200 feet and 150 by 260 feet in plan dimensions for the western and eastern lots, respectively. At the time of our field investigation, the lots were blanketed with deep snow and little information could be obtained regarding the surficial conditions of the site.

The old Coalition Mine Building is located within the boundaries of the eastern lot, as shown on Plate 1. The eastern lot has minimal topographic relief, with Silver Creek located just off the eastern boundary. The western lot slopes downward to the west and has an old shed located in the southeast corner and an old tram tower within the southwest corner. Detailed topographical data for the site area are not currently available.

SUBSURFACE

FIELD EXPLORATION

The subsurface soil and ground water conditions across the site area were explored by excavating five test pits with a

track-mounted hydraulic backhoe to depths of six and one-half to ten feet below the existing grade. The locations of the exploration test pits are referenced on Plate 1.

The field portion of our study was under the direct control and supervision of an experienced member of our geotechnical staff. During the excavation operations, a continuous log of the excavation operations and the subsurface conditions encountered was maintained. In addition, disturbed samples were obtained for subsequent laboratory examination. Undisturbed samples could not be obtained because of the coarse granular nature of the soils. Soils were classified in the field based upon visual and textural examination. These classifications were later supplemented by subsequent inspection in our laboratory.

SOIL CONDITIONS

The results of our field investigation indicate that the subsurface soils underlying the site area, both lots, consist primarily of reddish-brown, fine to coarse sand and gravel with occasional cobbles and boulder-size rocks. The soils grade from silty in the vicinity of Silver Creek to primarily clayey in the lot to the west of Park Avenue. The soils have been classified as either medium dense or medium stiff and will provide more than adequate support for proposed foundations.

In Test Pits 4 and 5, the natural sand and gravel soils are overlain by a 2.5 to 3.0 foot surficial layer of dark brown, clayey silt with some fine to coarse sand and gravel. The upper four

inches contain the major root mat and have been classified as topsoil. In Test Pit 2, a surficial 3.0 foot layer of fill was encountered which consists of a dark brown, medium dense silty fine to coarse sand and gravel with traces of metal and wood debris.

A tabulated summary of the soil types encountered in the test pits is presented below:

Test Pit Number 1

Depth	Soil Description
0.0 to 8.0 feet	Reddish-brown silty fine to coarse sand and gravel with occasional cobbles and boulders. Medium dense - (SM/GM)
	NOTE: Ground water was not encountered. Excavation of test pit difficult beyond a depth of six feet, due to cobbles.

Test Pit Number 2

0.0 to 3.0 feet	Dark brown silty fine to coarse sand and gravel with traces of metal and wood debris. (Fill) Medium dense (SM/GM)
3.0 to 6.5 feet	Reddish-brown silty fine to coarse sand and gravel with occasional cobbles and boulders. Medium dense (SM/GM)
	NOTE: Ground water was encountered at a depth of 4.5 feet below existing grade. Slotted PVC pipe was installed to record future ground water fluctuations.

Test Pit Number 3

Depth	Soil Description
0.0 to 8.0 feet	Reddish-brown silty fine to coarse sand and gravel with occasional cobbles and boulders - medium dense (SM/GM)
	NOTE: Ground water was recorded at a depth of 7.5 feet below the existing grade. Slotted PVC pipe was installed to a depth of 8.0 feet.

Test Pit Number 4

0.0 to 2.5 feet	Dark brown clayey silt with some fine to coarse sand and fine gravel - major roots to four inches (topsoil) - (fill) soft (ML)
2.5 to 10.0 feet	Reddish-brown clayey fine to coarse sand and gravel with occasional cobbles and boulders - medium stiff (SC/GC)
	NOTE: Ground water was encountered at a depth of 4.0 feet below the existing grade. Slotted PVC pipe was installed to a depth of 10.0 feet.

Test Pit Number 5

0.0 to 3.0 feet	Dark brown clayey silt with some fine to coarse sand and gravel (fill) - soft major roots to four inches (topsoil)
3.0 to 7.0 feet	Reddish-brown clayey fine coarse sand and gravel with occasional cobbles and boulders - medium stiff
	NOTE: Ground water was encountered at a depth of 5.5 feet below the existing grade

The soils were classified in accordance with the nomenclature presented on Plate 2, Unified Soil Classification System.

GROUND WATER CONDITIONS

Ground water conditions were monitored through the installation of slotted PVC pipe in the exploration test pits. A tabulation of the recorded water levels is presented below.

Test Pit Number	Depth to water in feet
1	Ground water not encountered
2	4.5
3	7.5
4	4.0
5	5.5

It should be noted that due to the proximity of Silver Creek, significant seasonal fluctuations in the ground water levels across the site area can be anticipated. It is estimated that these fluctuations could be on the order of 2.0 to 3.0 feet, with maximum levels occurring during the late spring and early summer months. It is our opinion that the levels presented above do not reflect maximum seasonal levels.

DISCUSSIONS AND RECOMMENDATIONS

GENERAL

Supporting data upon which our recommendations are based have been presented in the previous sections of this report. The recommendations presented herein are governed by the physical

properties of the soils encountered in the exploration test pits and the projected ground water conditions, as well as the layout and design data discussed in the PROPOSED CONSTRUCTION section. If subsurface conditions other than those described herein are encountered in conjunction with construction, and/or if design and layout changes are initiated, Dames & Moore should be informed so that our recommendations can be reviewed.

Based upon the results of this study, it is our opinion that both lots are suitable for development. However, due to the relatively high permeability of the foundation soils and the high ground water levels encountered, it is recommended that the proposed structures be limited to one level of subgrade parking. Even by restricting construction to one level below grade, a subdrain system will be required.

Most design-and construction-related problems will be associated with the control of surface and ground water conditions. If possible, it is recommended that excavation operations be delayed at least until the mid-or late summer months when lower ground water levels will occur.

Support for the proposed structures can be continuous wall and spread foundations bearing upon the natural sand and gravel soils or upon replacement fill extending to those soils. The near-surface finer grained alluvial soils and man-made fill soils, although suitable for the support of floor slabs, are unsuitable for foundation support.

In the following section preliminary recommendations for a subsurface drainage system are presented. When final construction plans for the proposed structures become available, detailed discussions pertaining to earthwork, foundation design and installation can be provided.

SUBSURFACE DRAINAGE SYSTEM

The subsurface drainage system should consist of a drain placed around the perimeter of the building and one bisecting the long dimension of the building. The invert of the drains should be at least two feet below the proposed floor slab elevation.

The subsurface drains should consist of perforated four-inch plastic drainage pipe laid with a gradient not less than 0.4 percent. Proper design considerations should be observed during installation to minimize the possibility of long-term plugging of these drains. Such a design would include a drainage pipe having a maximum drainage hole diameter of three-eighths of an inch, and the placement of a suitable drainage envelope around the pipe. The aggregate comprising the drainage envelope should have a gradation such that particles do not migrate into the openings of the pipe. This material should be relatively clean, having less than five percent passing the No. 200 sieve, and should extend at least six inches horizontally, four inches below and twelve inches above the drainpipe. A one-inch minus gravel is considered suitable for this installation. To reduce the possibility of long-term plugging of the drainage aggregate, the aggregate should be completely wrapped in a filter cloth such as Mirafi*, Bidim**, or equivalent.

Backfill above the wrapped gravel and extending at least 12 inches from the below-grade wall should consist of a free-draining sand and gravel. The upper two feet of backfill should, however, consist of relatively impermeable soil.

* Manufactured by Celanese Fibers Marketing Co.

** Manufactured by Monsanto Company

For cleaning purposes, points of access to these drains will be required.

If relative elevations are such that the system cannot be gravity drained, the system will have to be pumped during periods of high ground water. At this time, a flow rate of 25 to 35 gallons per minute may be assumed for each site. This rate should be checked by monitoring ground water inflow during initial construction.

SPREAD AND CONTINUOUS WALL FOUNDATIONS

Foundations exposed to the full effects of frost should be established at least three feet below lowest adjacent final grade. Footings protected from the full effects of frost may be established at higher elevations, although a minimum depth of embedment of 15 inches is recommended for confinement purposes. Minimum recommended width of continuous wall footings is 18 inches. Isolated spread footings should be at least 24 inches wide.

Footings may be established upon the natural silty and clayey sands and gravels and/or replacement structural fill extending to the suitable soils. For preliminary design, a net bearing pressure of 3,000 pounds per square foot may be utilized for real load conditions. This value may be increased by 50 percent for total load conditions.

AT-GRADE SLAB

The parking level slab may consist of concrete or asphalt. In either case, the pavement should be immediately underlain by at least six inches of free-draining gravels.

oOo

We appreciate the opportunity of performing this service for you. If you have any questions regarding this report or require additional information, please contact us.

Very truly yours,

DAMES & MOORE

William J. Gordon
Associate
Professional Engineer No. 3457
State of Utah

James F. Zitnik
Staff Engineer

WJG/JFZ/wb

(2 copies submitted)

Attachments:

Plate 1 - Plot Plan
Plate 2 - Unified Soil Classification System

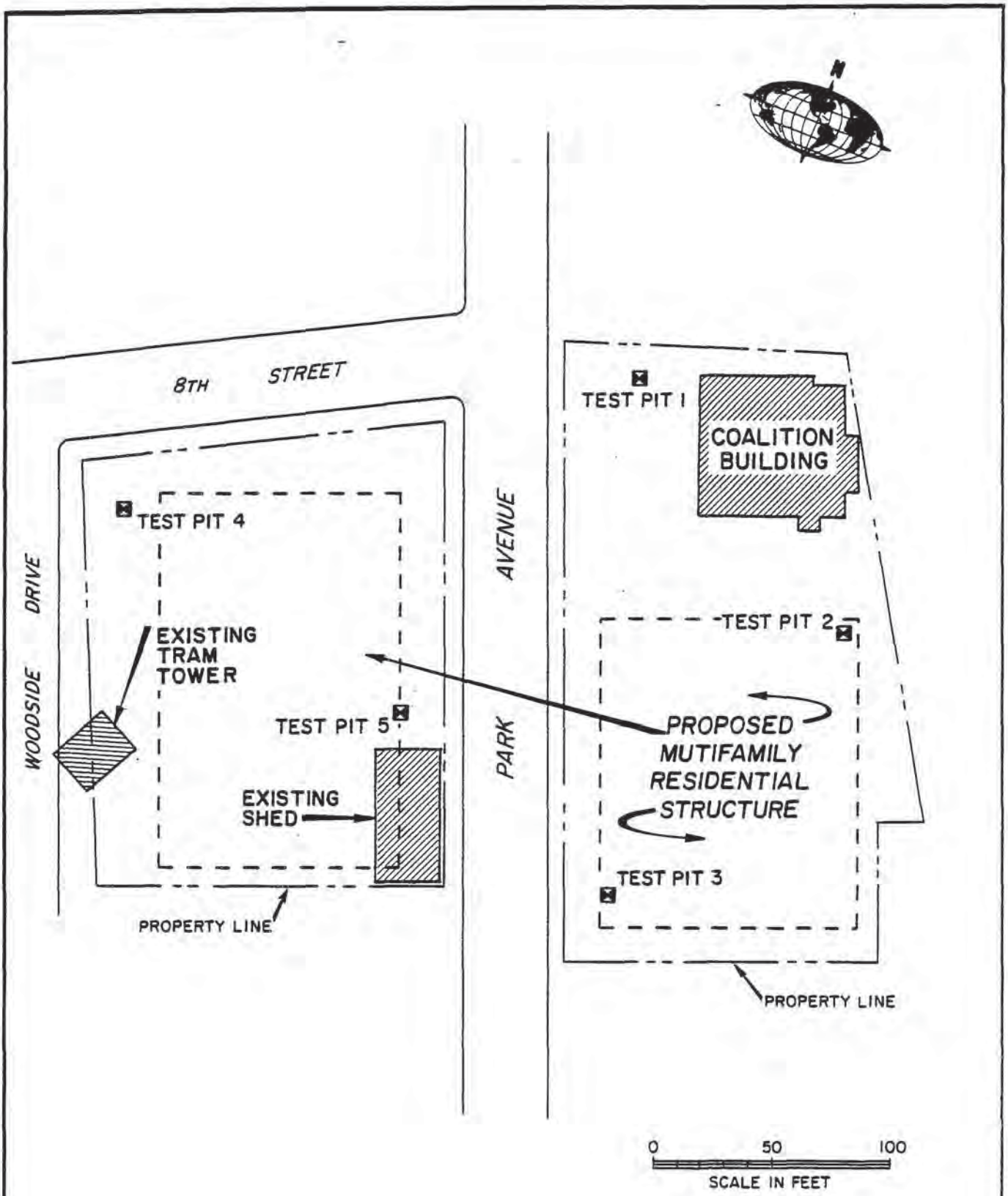
cc: Mr. Edward S. Sweeney
Biele, Haslam & Hatch
80 West Broadway, Suite 300
Salt Lake City, Utah 84101

REVISIONS BY DATE

FILE 11844-001

BY DATE 4-7-80

CHECKED BY



PLOT PLAN

REFERENCE
ADAPTED FROM PRELIMINARY PRINT SUPPLIED BY CLIENT.

DAMES & MOORE

MAJOR DIVISIONS			GRAPH SYMBOL	LETTER SYMBOL	TYPICAL DESCRIPTIONS
COARSE GRAINED SOILS — MORE THAN 50% OF MATERIAL IS LARGER THAN NO. 200 SIEVE SIZE	GRAVEL AND GRAVELLY SOILS — MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS (LITTLE OR NO FINES)		GW	WELL-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES
				GP	POORLY-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES
		GRAVELS WITH FINES (APPRECIABLE AMOUNT OF FINES)		GM	SILTY GRAVELS, GRAVEL-SAND-SILT MIXTURES
				GC	CLAYEY GRAVELS, GRAVEL-SAND-CLAY MIXTURES
	SAND AND SANDY SOILS — MORE THAN 50% OF COARSE FRACTION PASSING NO. 4 SIEVE	CLEAN SAND (LITTLE OR NO FINES)		SW	WELL-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES
				SP	POORLY-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES
		SANDS WITH FINES (APPRECIABLE AMOUNT OF FINES)		SM	SILTY SANDS, SAND-SILT MIXTURES
				SC	CLAYEY SANDS, SAND-CLAY MIXTURES
FINE GRAINED SOILS — MORE THAN 50% OF MATERIAL IS SMALLER THAN NO. 200 SIEVE SIZE	SILTS AND CLAYS	LIQUID LIMIT LESS THAN 50		ML	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY
				CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
				OL	ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
	SILTS AND CLAYS	LIQUID LIMIT GREATER THAN 50		MH	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SAND OR SILTY SOILS
				CH	INORGANIC CLAYS OF HIGH PLASTICITY, FAT CLAYS
				OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
HIGHLY ORGANIC SOILS				PT	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS

NOTE: DUAL SYMBOLS ARE USED TO INDICATE BORDERLINE SOIL CLASSIFICATIONS.

SOIL CLASSIFICATION CHART

UNIFIED SOIL CLASSIFICATION SYSTEM

2. HILLSIDE PROPERTIES

BY ROLLINS, BROWN & GUNNELL, INC.

SOILS INVESTIGATION

NORFOLK AVENUE
PARK CITY, UTAH

JUNE 1977

ROLLINS, BROWN AND GUNNELL, INC.
PROFESSIONAL ENGINEERS
1435 WEST 820 NORTH, P.O. BOX 711, PROVO, UT 84601

ROLLINS, BROWN AND GUNNELL, INC.
PROFESSIONAL ENGINEERS

1435 W. 820 N.
P.O. Box 711
Provo, Utah
84601

JUNE 8, 1977

J. J. JOHNSON AND ASSOCIATES
1515 PARK AVENUE
PARK CITY, UT 84060

GENTLEMEN;

IN ACCORDANCE WITH YOUR REQUEST, A SOILS INVESTIGATION HAS BEEN COMPLETED AT THE SITE OF THE PROPOSED DEVELOPMENT KNOWN AS NORFOLK AVENUE. THIS INVESTIGATION WAS PERFORMED FOR THE PURPOSE OF DEFINING THE SUBSURFACE SOIL AND ROCK CONDITIONS THROUGHOUT THE PROJECT DEVELOPMENT SO THAT SATISFACTORY SUBSTRUCTURES AND SLOPE PROTECTION COULD BE DESIGNED FOR THE PROPOSED FACILITIES IN THIS AREA.

ACCESS TO THE HILLSIDE ABOVE THE ACTUAL DEVELOPMENT AREA WAS LIMITED BECAUSE OF THE DISTURBING EFFECTS WHICH THE SUBSURFACE INVESTIGATION WOULD HAVE ON THE NATURAL VEGETATIVE GROWTH ON THE HILLSIDE.

THE CONCLUSIONS AND RECOMMENDATIONS PRESENTED IN THE REPORT ARE NECESSARILY BASED UPON THE SUBSURFACE CONDITIONS THROUGHOUT THE DEVELOPMENT SITE. THE RESULTS OF THE INVESTIGATION ALONG WITH PERTINENT RECOMMENDATIONS RELATIVE TO SLOPE STABILITY, FOUNDATION DESIGN AND LATERAL EARTH PRESSURES ARE DISCUSSED IN THE FOLLOWING SECTIONS OF THIS REPORT.

1. SITE GEOLOGY AND THE SUBSURFACE SOIL CONDITIONS

THE CHARACTERISTICS OF THE SUBSURFACE SOILS THROUGHOUT THE DEVELOPMENT AREA WERE INVESTIGATED BY EXCAVATING 11 TEST PITS VARYING IN DEPTH FROM APPROXIMATELY 6 FEET TO 15 FEET BELOW THE EXISTING GROUND SURFACE. THE LOCATION OF THE TEST PITS IS PRESENTED IN FIGURE NO. 1 WHILE THE LOGS ARE PRESENTED IN FIGURES NO. 2 THROUGH NO. 7.

IN MOST OF THE TEST PITS, BEDROCK WAS ENCOUNTERED AT A DEPTH OF BETWEEN 7 AND 8 FEET BELOW GROUND SURFACE. HOWEVER, SOME EXCEPTIONS TO THIS GENERAL PATTERN ARE NOTED. IN TEST BORING NO. 2, THE OVERBURDEN EXTENDED TO A DEPTH OF NEARLY 15 FEET WHILE IN TEST BORING NO. 6, BEDROCK WAS ENCOUNTERED AT A DEPTH OF 2 FEET BELOW THE GROUND SURFACE.

THE SUBSURFACE PROFILE THROUGHOUT THE DEVELOPMENT SITE CAN GENERALLY BE DESCRIBED IN TERMS OF 4 ZONES. ZONE NO. 1 CONSISTS OF A BLACK SILTY TOPSOIL WHICH

extends to a depth of between 1.5 and 3 feet below the existing ground surface. The surface zone is underlain by a granular zone varying in depth from 2 to 7 feet. The granular zone is composed of angular fragments in a matrix of silt. The angular fragments vary all the way from sand-size particles through gravels and cobbles. Zone No. 2 is underlain by a medium plastic clay of variable thickness which extends to the bedrock surface.

At all locations encountered during this investigation, the clay was in a medium to stiff condition. It should be noted that the clay zone is absent in test holes No. 1, 3, 4, 6, 8 and 9. However, the clay exists in a sufficient number of test holes throughout the site that its presence in the area cannot be neglected.

The bedrock underlying the overburden material is known as the Weber Quartzite Formation. In general, the Weber Quartzite Formation is a pale gray to tan quartzite and limey sandstone with some interbedded gray and white limestone and dolemite layers. At the proposed development, the Weber Quartzite Formation exposed in the trenches all showed the bedrock to be a light gray quartzite. From a structural standpoint, the development site is located on the northwest limb of the Park City anticline. The Park City anticline plunges to the northeast with the northwest limb having a stratigraphic dip to the northwest. The strike of the Weber Quartzite varies between North 30° West to North 45° West with a dip between 5° and 20° to the northwest. All joint sets observed throughout the development area essentially have high dip angles into the mountain. One joint set, however, was observed which has a low angle dip toward the mountain.

The results of this investigation indicate that there is no apparent joint set which will cause slippage down the slope of the mountain. However, the high angle joints will cause some fallout on any vertical wall cut perpendicular to the face of the mountain. The joint pattern exposed in the adit above Norfolk Avenue is presented in Figure No. 8. The symbols designating the strike and the dip of the joint sets are separated on the diagram for illustration purposes.

During the excavation of the test pits throughout the development area, in-place density tests were performed at three-foot intervals and miniature vane shear tests were performed in the clay materials. The results of the in-place density tests are presented on the boring logs, and it will be observed that the in-place dry density of the granular material varied from 112 pounds per cubic foot to 119 pounds per cubic foot, while the clay material varied from 93 to 95 pounds per cubic foot.

The miniature vane shear tests provide an indication of the undrained shearing strength of the clay materials. The miniature vane shear tests are designated as the torvane value on the test pit logs and are specified in terms of tons per square foot. The results of the miniature vane shear tests indicate that the subsurface clays are in a medium to stiff condition.

Each sample obtained in the field was subsequently classified in the laboratory according to the Unified Soil Classification System. The symbol designating the soil type according to this system is presented on the boring logs. A description of the Unified Soil Classification System is presented in Figure No. 9 and the full meaning of the various soil symbols can be obtained from this figure.

2. Slope Stability Considerations

Based upon the topographic map furnished our organization, the average slope throughout the development area is approximately 2 horizontal to 1 vertical. In order to perform a rigorous stability analysis at this site, it would be necessary to determine the soil profile of the entire hillside above the development area. Since it was not possible to excavate test pits up the hillside due to environmental considerations, the statements made in this section of the report are of necessity based upon the conditions which exist in the development area.

The results of the geological investigation indicate that there is no tendency for any slide to occur within the rock mass along the face of the slope in this area and that any failure that may occur will take place in the overburden material.

In attempting to obtain an estimate of the stability conditions for the overburden material at the site, two cases have been considered. Case No. 1 assumes an infinite slope with a depth of cohesionless soil equal to approximately 8 feet. Soil parameters obtained during the field and laboratory investigation have been used in the stability analysis for this case. A friction angle of 34° and a saturated unit weight of 133 pounds per cubic foot have been used in the analysis. If the entire mass of granular material above the bedrock is assumed to be saturated with seepage occurring parallel to the slope, the results of our analysis indicate that a factor of safety of 0.70 would occur for this site. Failure conditions would obviously occur under the stipulated conditions.

If the overburden material is less than saturated with no seepage occurring parallel to the slope, the results of the stability analysis indicate a factor of safety of 1.40. It is also apparent that the hillside would be stable under these conditions.

Case No. 2 considers the overburden material to consist of clay having the characteristics of the clay material observed in the lower portion of the soil profile at the site. The results of a stability analysis performed for this condition assuming the clay to be near saturated, but with no seepage parallel to the hillside, indicates a factor of safety of greater than 2. It is apparent from the above considerations that the stability of the overburden material at this location is a sensitive function of seepage parallel to the slope. If seepage conditions parallel to the slope can be restricted, the calculations indicate that the overburden material throughout the area

would be stable. Our study of the entire area throughout the development site indicates that no slides or slumps exist throughout the overburden material and that the hillside is stable under its existing conditions.

In order to insure stability throughout the development area, we recommend that adequate subsurface and surface drainage be provided throughout the development area and that all disturbance of existing shrubs and overburden material be minimized as much as possible. We recommend that an interceptor drain be constructed uphill from the proposed development area to restrict downhill seepage. Such a facility will not only prevent water from flowing into the development area, but it will provide a means whereby water uphill from the proposed development can be readily intercepted and removed from the site.

In constructing roads and houses throughout the area, care should be taken to minimize the disturbance of the existing vegetative cover. We also recommend that adequate lateral support be provided in all areas where the overburden material is under cut.

If the above precautions are taken, it is our opinion that the slopes at this location will remain stable during the development of this site.

3. Foundation Considerations

In accordance with our recommendations outlined above, to minimize the disturbance of the existing materials throughout the development area, we recommend that the structures erected at this site be stepped up the hillside in such a way that the maximum cut at any location does not exceed 10 feet and that all foundations supporting the structures be located on bedrock. The normal cut for the proposed facility would expose bedrock over a portion of the building area; however, piers extending to bedrock may be required at other locations. Allowable soil bearing pressures of 3 to 4 tons would be very conservative for the rock existing at this location.

It is recognized that there may be some areas in which minor structural foundations would be located on the overburden material above the bedrock. In order to provide basic information in which foundations in these areas can be proportioned, bearing capacity recommendations are provided in Table No. 1. In providing the bearing capacity recommendations, it has been assumed that the foundations would be located on the existing slopes and that the depth below the existing ground surface may vary considerably. It is apparent from Table No. 1 that the allowable soil bearing pressures for footings placed on the slope is a function of the width of the footing and the depth at which the footing is placed below the actual ground surface.

In preparing Table No. 1, consideration has also been given to differential settlement. If the proposed facilities are designed in accordance with Table No. 1,

the maximum settlement of any footing will not exceed one inch and differential settlements will not likely exceed one-half inch which should be tolerable for the proposed facility.

4. Excavation Procedures and Lateral Earth Pressures

It is our understanding that Norfolk Avenue will be constructed by widening an existing trail throughout the proposed development area. We recommend that the depth of the cut into the hillside along the roadway alignment be minimized by filling downhill for a portion of the roadway. The natural angle of repose for the quartzite rock to be excavated along the roadway alignment will be approximately 1.5 horizontal to 1 vertical. If the rock excavation is performed in such a manner that the cut and fill is balanced, the dump rock should provide a stable roadway on the downhill side of the cross-section.

Prior to the placement of any rock along the alignment, we recommend that all of the topsoil existing throughout the area be removed to eliminate the possibility of slippage along this plane of weakness. It is also recommended in placement of the rock fill that it be densified by rolling the material with at least 4 passes of a D8 cat or with 5 to 6 passes with a vibratory roller having a 10-ton vibratory force.

We also recommend that lateral restraint be provided for the overburden material located above the bedrock surface.

As indicated earlier in the report, the bedrock throughout the site is competent rock and will stand at a near vertical slope. It is our understanding that the retaining facility to be used in providing the lateral restraint for the overburden materials will consist of 4 by 6 woodpiles imbedded into the rock on the inner side of the roadway alignment and that lagging will be placed between the wood piles to provide the necessary lateral support.

In designing the proposed earth retaining facility, we recommend that an earth pressure coefficient of 0.4 be used to determine the lateral earth pressures. We also recommend that the bedrock surface be inclined slightly in order to provide a more aesthetical and efficient design for the pile sections. It may be necessary to anchor the pile sections at the top of the pile in order to resist the applied moment. This could be performed in a relatively simple manner by extending a cable from the pile supports to the bedrock in the hillside.

5. The Results of Field and Laboratory Tests

A number of field and laboratory tests have been performed during this investigation to define the characteristics of the subsurface material throughout the

area. These tests include: in-place unit weight, natural moisture content, Atterberg limits, mechanical analysis, and unconfined compressive strength. A summary of all test data performed during the investigation is presented in Table No. 2, Summary of Test Data. It will be observed that the unconfined compressive strength of the clay layer underlying the granular material in the soil profile varies from 2738 pounds per square foot to 3435 pounds per square foot.

As indicated earlier in the report, the clay is in a relatively stiff condition and is capable of supporting moderate load intensities.

Atterberg limits performed on the clay material indicate that it classified generally as a CL-2 material according to the Unified Soil Classification System. This means that the material has medium plastic characteristics and may possess some slight swell potential if it is permitted to assorb moisture. This material is sufficiently plastic that it should not be used for any kind of backfilling operations behind retaining facilities.

In areas where the natural material will exist adjacent to earth retaining structures, we recommend that it be excavated and replaced with granular material.

The in-place density of the natural granular material is relatively high, and the strength characteristics of this materialare reasonably good.

The conclusions and recommendations presented in this report are based upon the results of the field and laboratory tests which, in our opinion, define the characteristics of the subsurface material in the development area in a reasonable manner. The characteristics of the overburden material, however, uphill from the development area are unknown.

Please advise us if there are any questions relative to the information contained herein.

Yours truly,

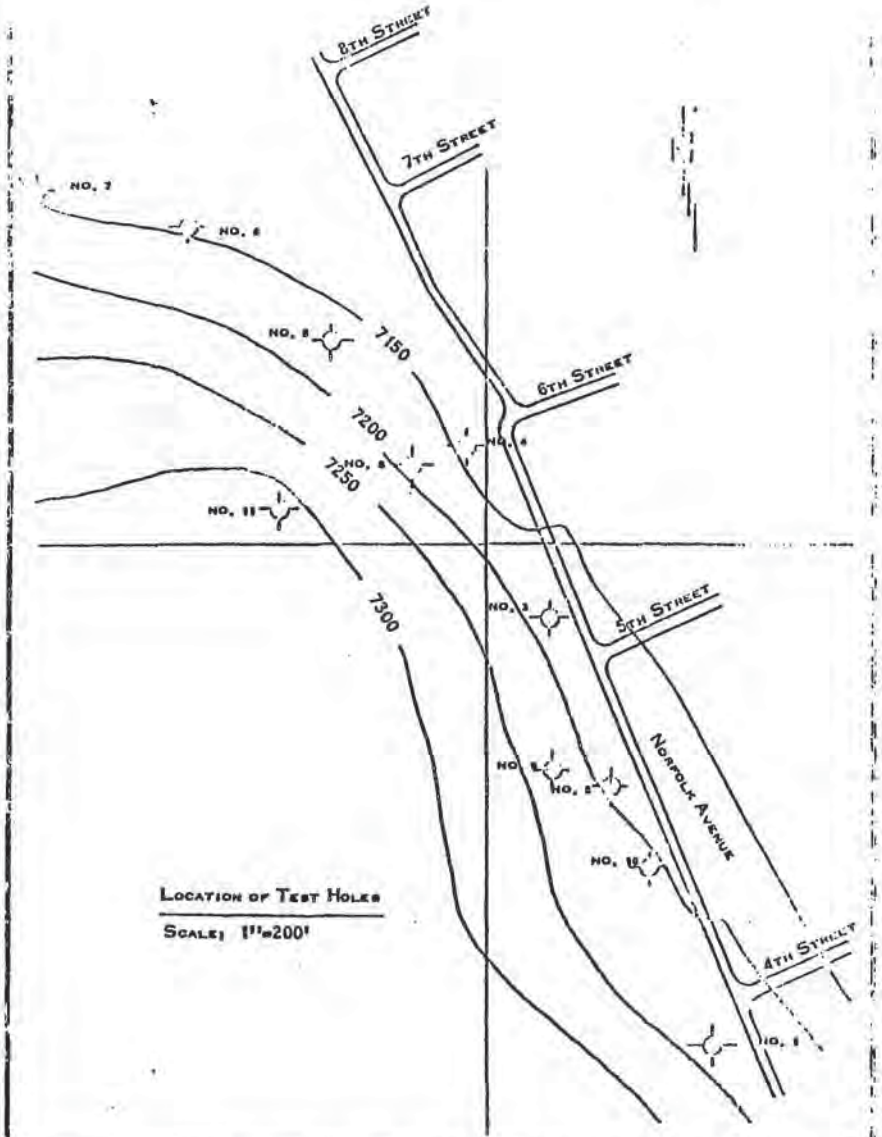
ROLLINS, BROWN AND GUNNELL, INC.

Ralph L. Rollins

Ralph L. Rollins

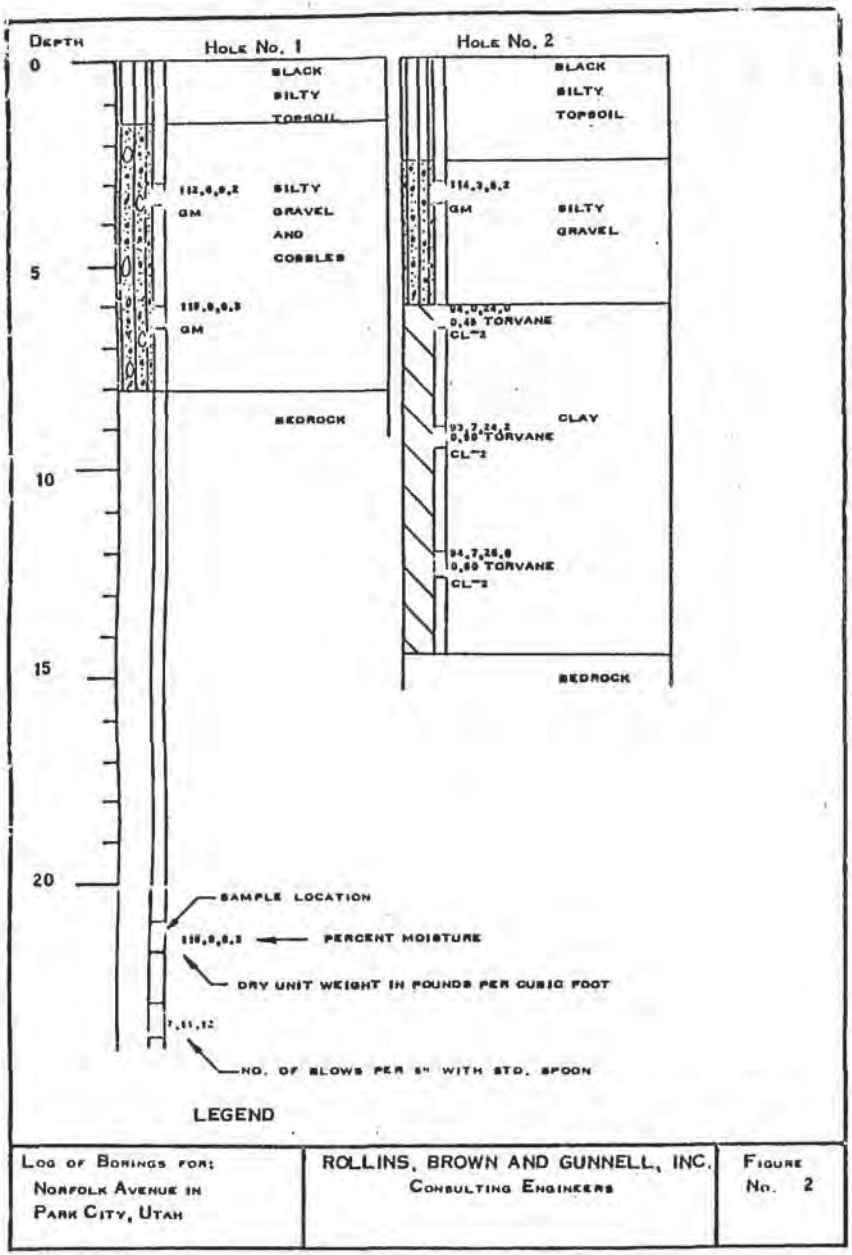
DM

Enclosures

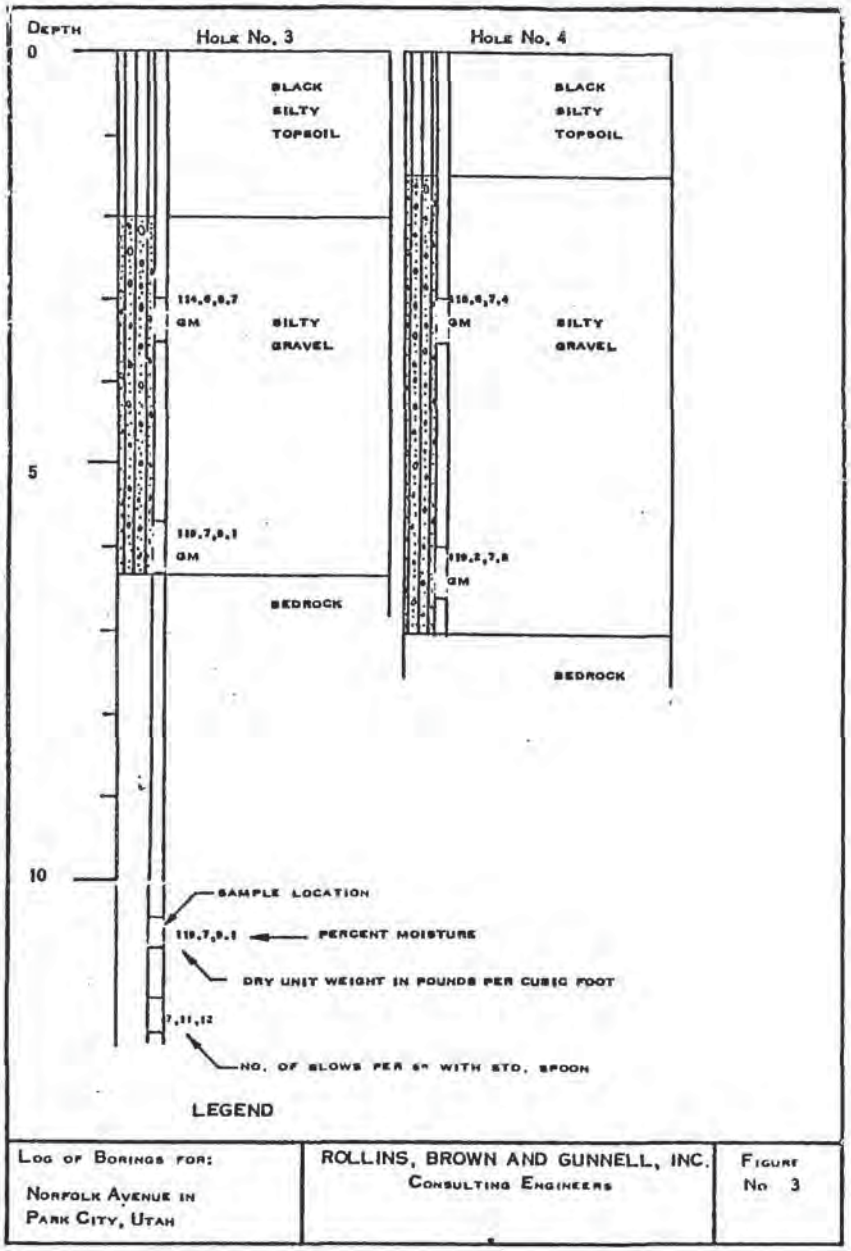


ROLLINS, BROWN & GUNNELL, INC. CONSULTING ENGINEERS	Location of Test Holes For Norfolk Avenue Located In Park City, Utah	Figure No. 1

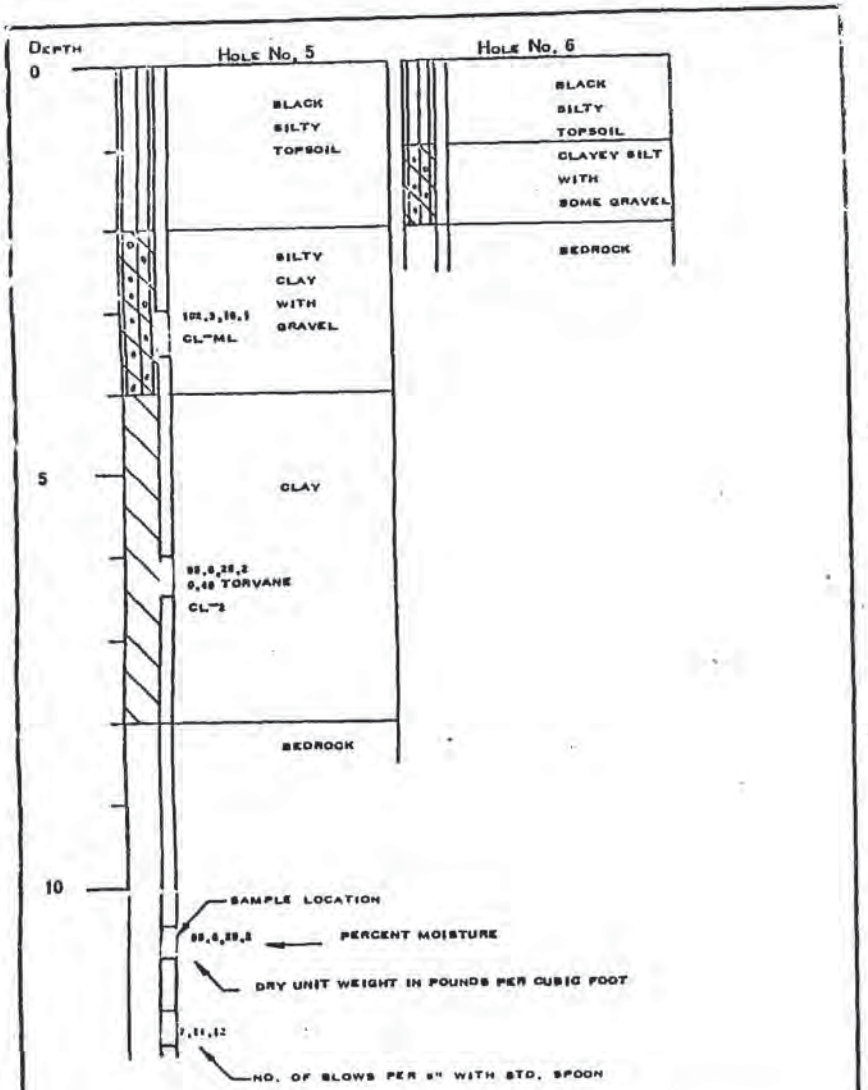
Page 798 of 1207



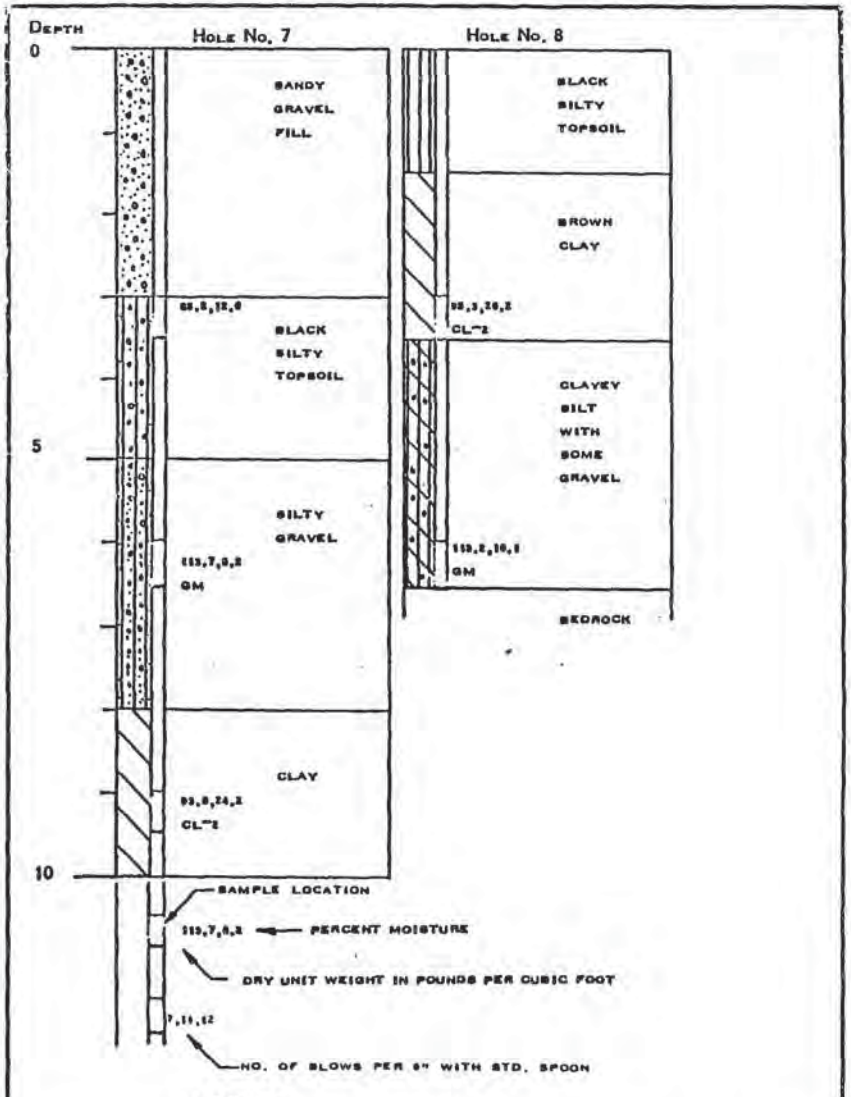
Log of Borings for: Norfolk Avenue in Park City, Utah	ROLLINS, BROWN AND GUNNELL, INC. Consulting Engineers	Figure No. 2



Log of Borings for: Norfolk Avenue in Park City, Utah	ROLLINS, BROWN AND GUNNELL, INC. Consulting Engineers	Figure No 3



LOG OF BORINGS FOR: NORFOLK AVENUE IN PARK CITY, UTAH	ROLLINS, BROWN AND GUNNELL, INC. CONSULTING ENGINEERS	FIGURE No. 4



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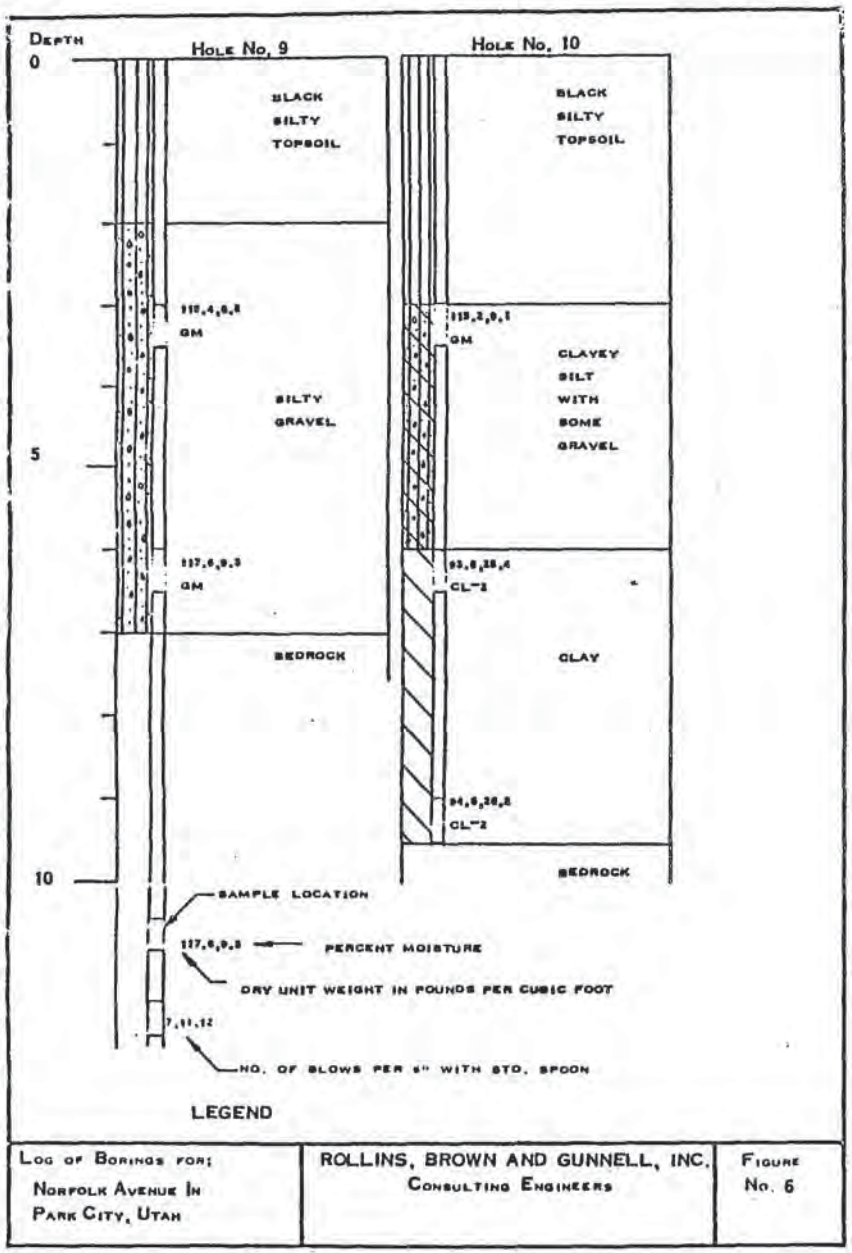
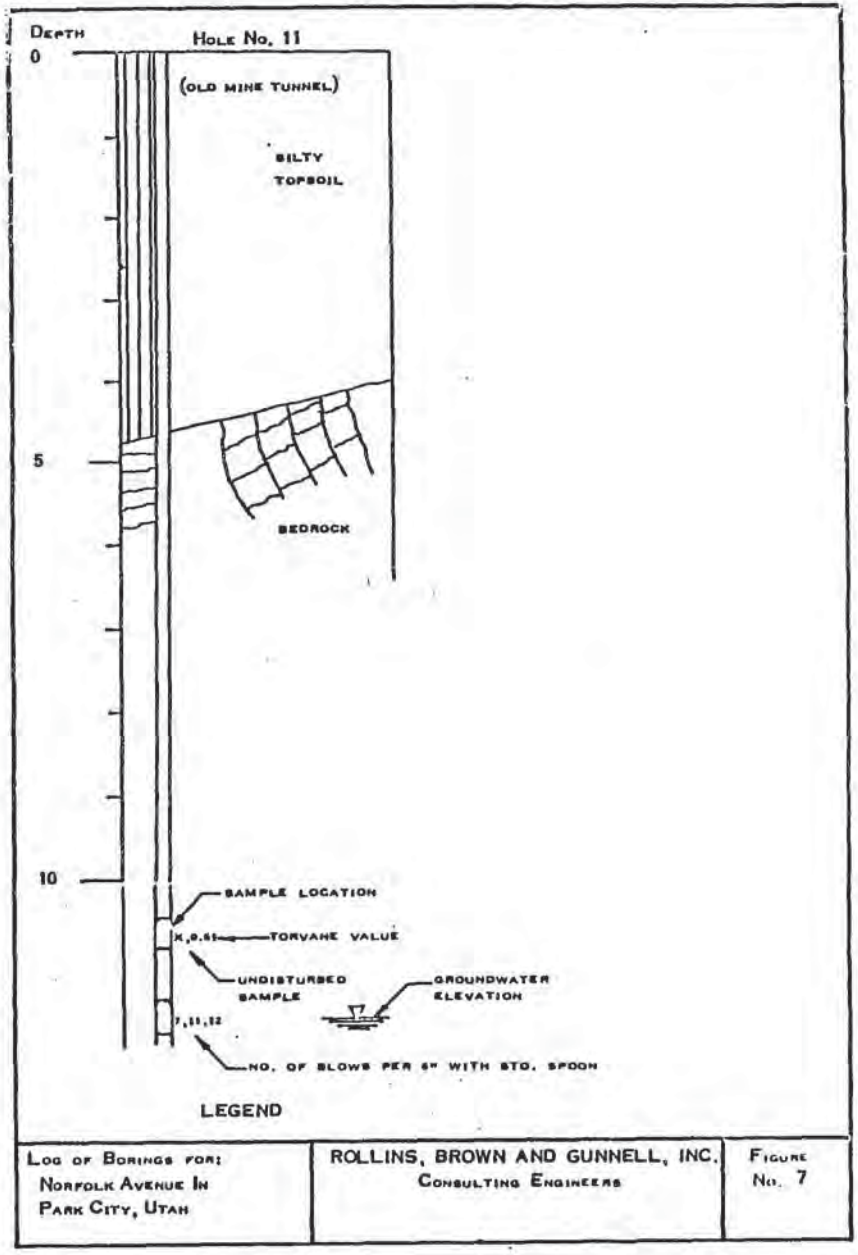
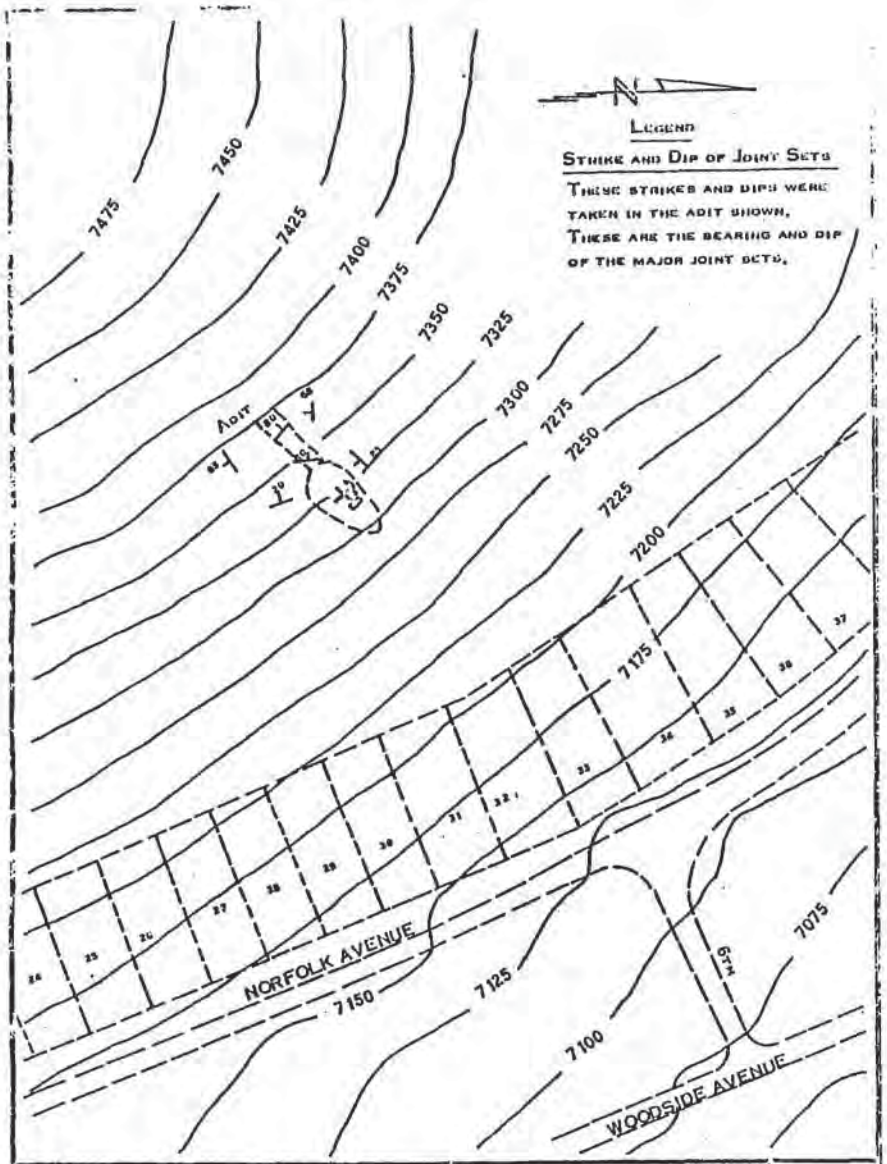


LOG OF BORINGS FOR: NORFOLK AVENUE IN PARK CITY, UTAH	ROLLINS, BROWN AND GUNNELL, INC. CONSULTING ENGINEERS	FIGURE No. 6



LOG OF BORINGS FOR: NORFOLK AVENUE IN PARK CITY, UTAH	ROLLINS, BROWN AND GUNNELL, INC. CONSULTING ENGINEERS	FIGURE No. 7



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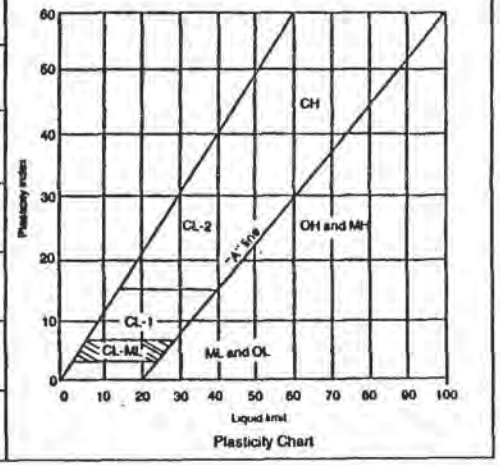
BEARING AND DIP OF JOINT SETS IN WEBER QUARTZIATE ABOVE PROPOSED DEVELOPMENT

FIGURE No. 8

FIGURE NO. 9
Unified Soil Classification System

Major divisions			Group symbols	Typical names	Laboratory classification criteria
Coarse-grained soils (More than half of materials larger than No. 200 sieve size.)	Gravels (More than half of coarse fraction is larger than No. 4 sieve size.)	Clean gravels (Little or no fines)	GW	Well-graded gravels, gravel-sand mixtures, little or no fines	$C_u = \frac{D_{60}}{D_{10}}$ greater than 4, $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ between 1 and 3
			GP	Poorly graded gravels, gravel-sand mixtures, little or no fines	Not meeting all gradation requirements for GW
		Gravels with fines (Appreciable amount of fines)	GM*	Silty gravels, gravel-sand-silt mixtures	Atterberg limits below "A" line or P.I. less than 4 / Above "A" line with P.I. between 4 and 7 are borderline cases requiring use of dual symbols.
			GC	Clayey gravels, gravel-sand-clay mixtures	Atterberg limits above "A" line with P.I. greater than 7
	Sands (More than half of coarse fraction is smaller than No. 4 sieve size.)	Clean sands (Little or no fines)	SW	Well-graded sands, gravelly sands, little or no fines	$C_u = \frac{D_{60}}{D_{10}}$ greater than 6, $C_c = \frac{(D_{30})^2}{D_{10} \times D_{60}}$ between 1 and 3
			SP	Poorly graded sands, gravelly sands, little or no fines	Not meeting all gradation requirements for SW
		Sands with fines (Appreciable amount of fines)	SM*	Silty sands, sand-silt mixtures	Atterberg limits below "A" line or P.I. less than 4 / Limits plotting in hatched zone with P.I. between 4 and 7 are borderline cases requiring use of dual symbols.
			SC	Clayey sands, sand-clay mixtures	Atterberg limits above "A" line with P.I. less than 7
Fine-grained soils (More than half of material is smaller than No. 200 sieve)	Silts and clays (Liquid limit less than 50)		ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands or clayey silts with slight plasticity	Determine percentages of sand and gravel from grain-size curve. Depending on percentage of fines (fraction smaller than No. 200 sieve size), coarse-grained soils are classified as follows: Less than 5 percent — GW, GP, SW, SP. More than 12 percent — GM, GC, SM, SC. 5 to 12 percent — Borderline cases requiring dual symbols**
			CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays	
			OL	Organic silts and organic silty clays of low plasticity	
	Silts and clays (Liquid limit greater than 50)		MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts	
			CH	Inorganic clays of high plasticity, fat clays	
			OH	Organic clays of medium to high plasticity, organic silts	
	Highly organic soils		Pt	Peat and other highly organic soils	



Plasticity Chart

*Division of GM and SM groups into subdivisions of d and u for roads and airfields only. Subdivision is based on Atterberg limits; suffix d used when L.L. is 28 or less and the P.I. is 6 or less, the suffix u used when L.L. is greater than 28.
** Borderline classifications, used for soils possessing characteristics of two groups, are designated by combinations of group symbols. For example: GW-GC, well-graded gravel-sand mixture with clay binder.

TABLE NO. 1

RECOMMENDED ALLOWABLE SOIL BEARING PRESSURES FOR SPREAD FOOTINGS ON GRANULAR SLOPES (2 HORIZONTAL TO 1 VERTICAL)

B	D	D/B	Q(PSF)
2	0	0	544
2	2	1	1824
3	0	0	820
3	3	1	2736
4	0	0	1094
4	4	1	3648
5	0	0	1368
5	5	1	4460

B = Width of Footing, Applicable for rectangular or strip footings.

D = Depth of Footing Below Ground Surface

Q = Allowable Soil Bearing Pressure

Note: For D/B ratios between 0 and 1 interpolate allowable soil bearing pressures linearly between 0 and 1.

TABLE 2 SUMMARY OF TEST DATA

PROJECT NORFOLK AVENUE FEATURE FOUNDATIONS LOCATION PARK CITY, UTAH

HOLE NO.	DEPTH BELOW GROUND SURFACE	STANDARD PENETRA. BLOWS PER FT.	IN-PLACE UNIT WEIGHT LB./FT³	IN-PLACE MOISTURE PERCENT	IN-PLACE VOID RATIO	UNCONFINED COMPRESSIVE STRENGTH LB/FT²	FRICTION ANGLE ϕ	CONSISTENCY LIMITS L.L. %	CONSISTENCY LIMITS P.L. %	CONSISTENCY LIMITS P.I. %	MECHANICAL ANALYSIS % GRAVEL	MECHANICAL ANALYSIS % SAND	MECHANICAL ANALYSIS % SILT & CLAY	SOIL CLASSIFICATION UNIFIED SYSTEM
1	3		112.6	9.2							65.0	8.7	26.3	GM
	6		115.8	8.3							58.8	7.0	34.2	GM
2	3		114.3	8.2							82.3	7.0	10.7	GM
	6		94.0	24.0		3435		40.1	19.8	20.3				CL-2
	9		93.7	24.2		3153		40.4	19.3	21.1				CL-2
	12		94.7	26.8		2987		38.5	17.8	20.7				CL-2
3	3		114.6	8.7							64.0	9.5	26.5	GM
	5.5		119.7	9.1							60.0	10.5	29.5	GM
4	3		118.6	7.4							66.2	7.8	26.0	GM
	6		119.2	7.8							62.2	10.8	27.0	GM
5	3		102.3	18.1				23.2	16.8	6.4				CL-ML
	6		95.6	25.2		2997		38.7	17.8	20.9				CL-2

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TABLE 2 SUMMARY OF TEST DATA

PROJECT NORFOLK AVENUE FEATURE FOUNDATIONS LOCATION PARK CITY, UTAH

HOLE NO.	DEPTH BELOW GROUND SURFACE	STANDARD PENETRA. BLOWS PER FT.	IN-PLACE			UNCONFINED COMPRESSIVE STRENGTH LB/FT²	FRICTION ANGLE ϕ	CONSISTENCY LIMITS			MECHANICAL ANALYSIS			SOIL CLASSIFICATION UNIFIED SYSTEM
			UNIT WEIGHT LB/FT³	MOISTURE PERCENT	VOID RATIO			L.L. %	P.L. %	P.I. %	% GRAVEL	% SAND	% SILT & CLAY	
7	3		85.2	12.6				20.3	15.7	4.6				ML
	6		113.7	8.2							58.6	13.9	27.5	GM
	9		93.8	24.2		2919		37.9	17.6	20.3				CL-2
8	3		95.3	26.2		3299		35.6	19.2	16.4				CL-2
	6		113.2	16.1							54.6	10.4	35.0	GM
9	3		115.4	8.2							62.1	11.1	26.8	GM
	6		117.6	9.3							46.2	31.4	22.4	GM
10	3		115.2	9.1							44.8	31.2	24.0	GM
	6		93.8	25.4		2637		37.5	19.4	18.1				CL-2
	9		94.6	26.2		2738		39.6	19.0	20.6				CL-2

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PROFESSIONAL ENGINEERS

2. HILLSIDE PROPERTIES

BY WILLIAM LUND

Urban and Engineering Geology Section
Utah Geological and Mineral Survey
Salt Lake City, Utah 84108

PRELIMINARY ENGINEERING GEOLOGIC REPORT TO PARK CITY ON THE PROPOSED QUITTIN TIME DEVELOPMENT

by
William Lund, Geologist

Done at the request of the Park City planner.
May 1979

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PRELIMINARY ENGINEERING GEOLOGIC REPORT TO PARK CITY ON THE PROPOSED QUITTIN TIME DEVELOPMENT

INTRODUCTION

This report presents the results of a geologic reconnaissance of the proposed Quittin Time residential and recreational complex located in Park City, Utah. This is to be a hillside development which includes both single family dwellings and condominiums. A ski run and other associated recreational facilities are also planned. The purpose of this reconnaissance was to determine what impact the geologic and hydrologic conditions of the site might have on the proposed development. This study was performed at the request of Mr. David Preece, Park City Planner.

SITE CONDITIONS

Location and Physiography

The proposed development encompossees about 352 acres of ground located on the west side of Park City southwest of Woodside Avenue (Figure 1). This is an area characterized by steep slopes and broad, shallow drainages. Elevations across the site range from about 7110 feet on the east edge of the property to an estimated 7600 feet on the west edge. Vegetative cover is moderate to thick and consists of buckbrush at the lower elevations and evergreens further upslope. There has been no previous residential development on the property, but two municipal waterlines and an abandoned aerial tramway cross the site, and numerous mineral prospects and old mine tunnels dot

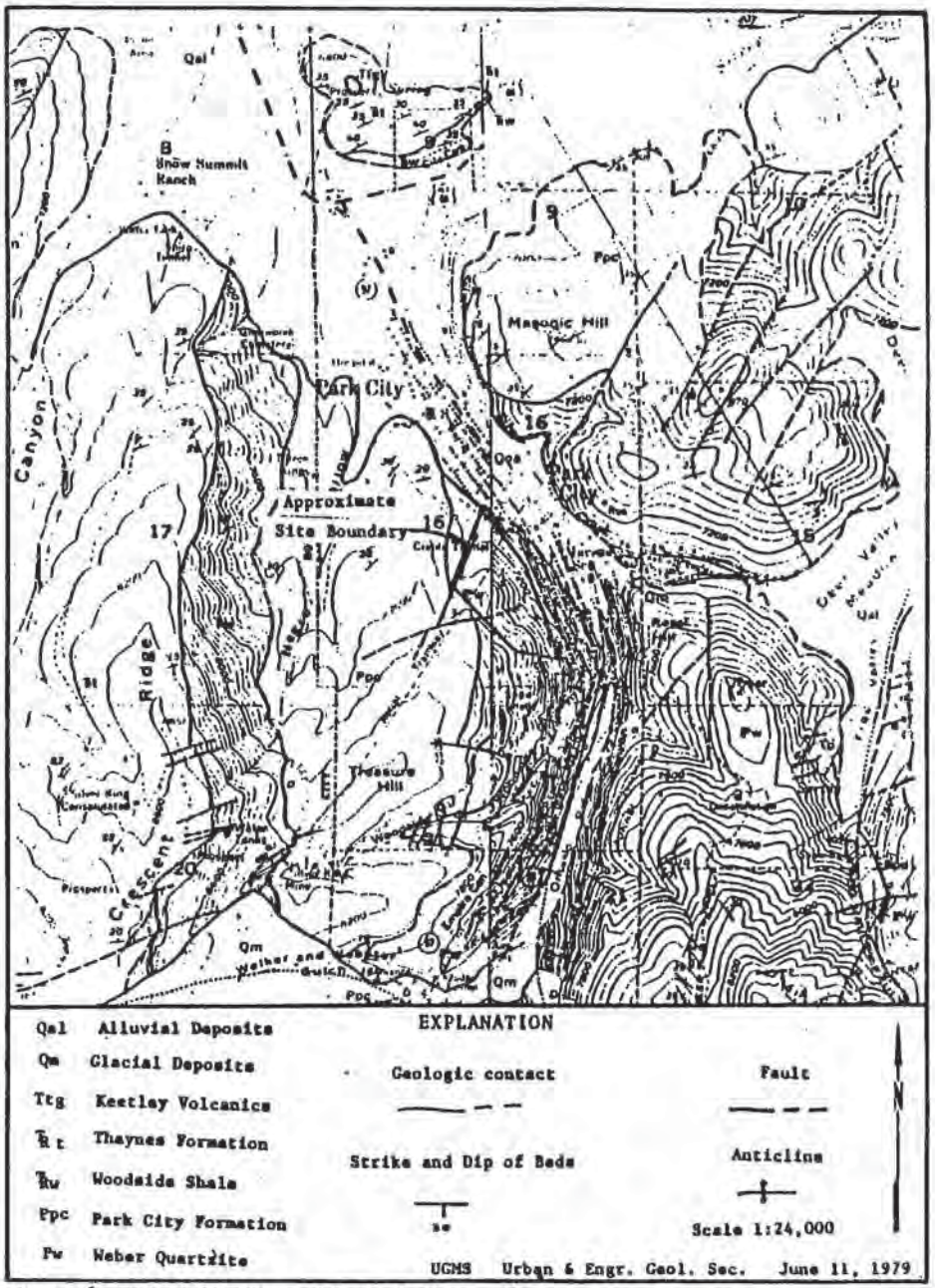

Figure 1 General Location and Geologic Map -2-

the hillside.

Geology and Soils

Lying as it does near the intersection of two major structural lineaments, the Wasatch Front and the Uinta Mountains, the geology of the Park City District has undergone a long and complex history. The major structural features and geologic units in the vicinity of the proposed development are summarized in Figure 1. The ridge upon which the development would be built is underlain by the Weber Quartzite, a pale gray and tan formation of quartzite and limey sandstone with interbedded horizons of limestone and dolomite. The major structural feature in the area is the Park City anticline which lies southeast of the site (Figure 1). Two faults have been mapped by Bromfield and Crittenden (1971) as extending onto the site from the west; however, during the field investigation no surface evidence of these or any other faults was observed.

Bedrock exposures on site are limited to one small, highly weathered, outcrop high on the hillside along the proposed ski run, and to rock exposed in old mine workings. At these localities the quartzite was observed to be hard and durable but fractured and containing numerous, well-developed joint sets. Due to the limited extent of the exposures and to the numerous joints present it was not possible to obtain a reliable strike and dip on a bedding surface, but Bromfield and Crittenden show the quartzite in adjacent areas to be striking to the northeast and dipping 10 to 20 degrees to the northwest. The following table lists the joints observed at the surface outcrop and also

those measured during the site reconnaissance inside a mine tunnel located on the property (Figure 2).

Strike	Dip	Spacing	Fillings of Coatings	Class	Location
N10E	43NW	2-3'	none	major	surface outcrop
N85W	Vert	2-3'	none	major	surface outcrop
N22E	Vert	2-3'	none	major	surface outcrop
N47E	80SE	3"-1'	iron stain	major	mine adit
N52E to N65E	80NW	3"-1'	none	major	mine adit
N10W	83SW	1'-5'	none	*	mine adit
N80W	73NE	1'-5'	iron stain	*	mine adit
N20E to N40E	80SE to Vert	1"-6"	none	minor	mine adit
N50W	Vert	6"-1'	none	minor	mine adit
N-S	21W	1'-5'	none	**	mine adit

* Due to limited size of outcrop and width of joint spacing unable to determine if this is a major or minor joint set.
**Possibly a bedding plane

During this investigation nine of ten backhoe pits excavated by a private consulting firm which had previously prepared a report on this property were examined (Figure 2). Prior to the field reconnaissance, four of these test holes were cleaned out by the Park City backhoe. The five remaining holes were not cleaned, either because they were inaccessible due to installation of a new municipal waterline across the site, or because they could not be located by the equipment operator. The four test holes which were cleaned, nos. 1, 4, 5, and 10 of the consultant's

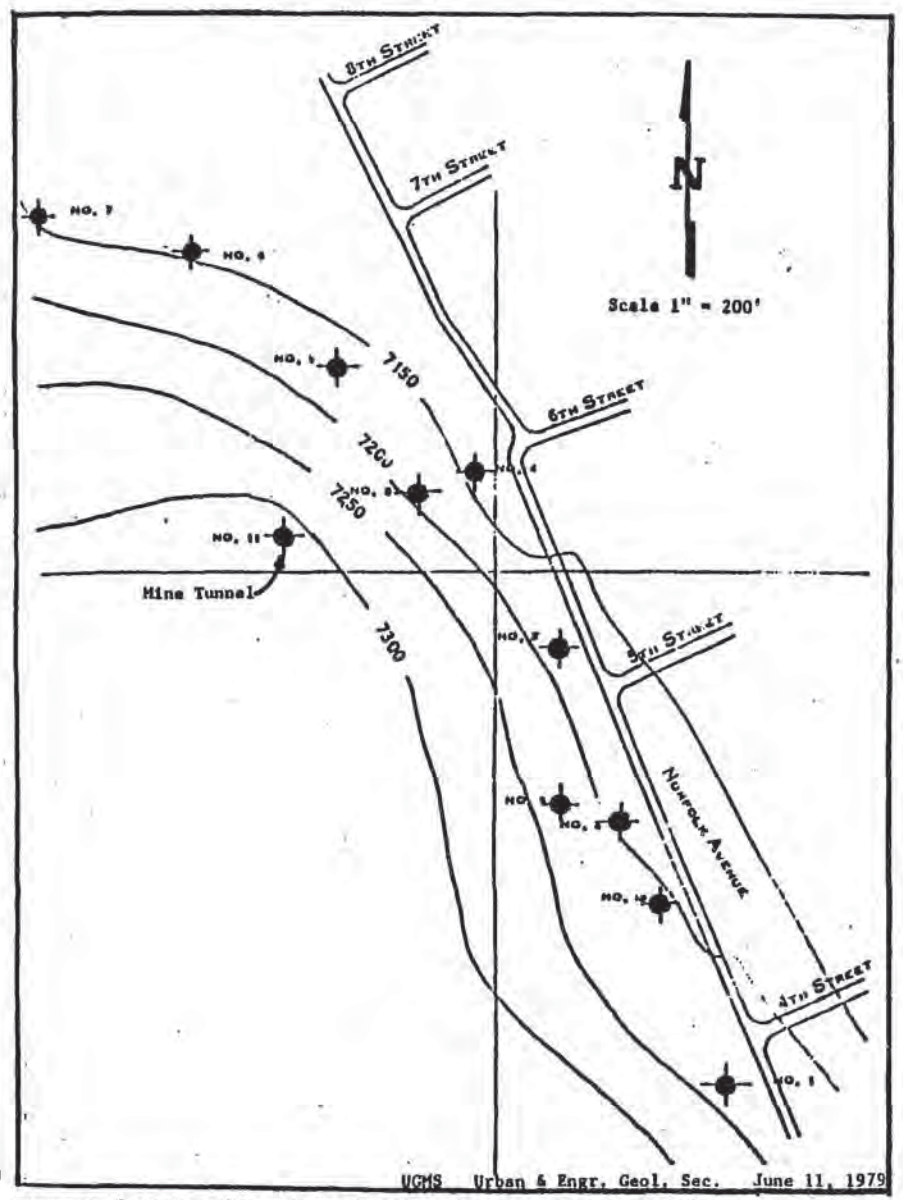

Figure 2 Location of Test Holes (Modified from consultants report)

report, were all reported to have reached bedrock at depths ranging from seven to nine feet below the ground surface. Groundwater was encountered at a depth of eight feet in test hole no.10, and this prevented the excavation from being adequately cleaned. As a result no determination could be made regarding the presence of bedrock. Test holes 1 and 4 were both cleaned to their original depths, but an inspection showed that neither of the two had reached solid, in place rock. Instead, both excavations stopped at a dense, closely packed layer of quartzite cobbles and boulders in a clay matrix. This material appears to be sufficiently compact to resist excavation by all but the largest of backhoes, and may represent the zone of broken and weathered material that commonly mantles in place bedrock. However, since the excavations did not penetrate this horizon, its true thickness and relationship to the underlying bedrock is not known. Test Hole No. 5 was excavated one foot below original grade and bedrock was not encountered. The walls of the five remaining test holes had all sluffed to some degree, consequently, bedrock could be positively identified only in test hole no. 6. The tenth test hole, no. 3 of the consultant's report, had been backfilled and could not be located.

The soils exposed in the test holes generally conform to the descriptions provided in the consultant's report (Apprendix A). The only significant difference concerns the description of the Zone 2 soils. This soil horizon is described in the consultant's report as a granular zone composed of angular fragments in a silt matrix, and is classified in their logs in accordance with the

United Soil Classification System as a silty gravel. Such a description implies that the material is non- to only slightly-cohesive and possesses no or only very low plasticity. The soils which correspond to Zone No. 2 observed in the test holes were found to contain a considerable amount of clay and as a group are probably better classified as a clayey gravel and in some localities even a gravelly clay.

Hydrology

The hillside upon which the proposed site is located receives between 25 and 30 inches of precipitation annually (Baker, 1969). Despite the relatively generous amount of moisture available, a near surface groundwater table exists beneath the site for only a short period of time each year, if it is present at all. The reason for this is the result of a combination of factors which include the manner in which the precipitation occurs at the site, the permeability of the clay-rich soils, and the steep mountain slopes. The majority of precipitation which falls on the site each year accumulates as a thick snow-pack during the winter months. In the spring, the snow melts quickly and releases a large quantity of water to the environment. A portion of this melt water infiltrates into the soil while the remainder flows downslope as surface runoff. The amount of water which soil can absorb is dependent upon its' permeability and the rate at which the water is made available to it. The clayey soils beneath the proposed development have moderate to low permeabilities. Therefore, during periods of warm temperatures and rapid snow melt near surface soils quickly become saturated and can accept no more water. This results in a marked increase in the amount of water which takes the

form of surface runoff. During a cold spring the snow melt proceeds more slowly and the soil has more time to accept the water made available to it. Regardless of whether the melt-water runs off across the surface of the ground or infiltrates into the soil it is immediately acted upon by gravity and moves rapidly downslope. In a normal year the amount and duration of the surface runoff closely parallels the rate at which the snow pack melts and is usually complete by mid- to late-spring. The downslope movement of the water which infiltrated the soil is slower, but it also travels relatively quickly so that by midsummer the soils have drained and there is no near surface groundwater remaining.

The Weber Quartzite which underlies the site is recognized as a major water producing formation in the mines surrounding Park City, however, it should be remembered that these mines drain many square miles of rock. An existing mine tunnel (Figure 2) on the property which has been advanced approximately 60 feet into the Weber Quartzite was found to be dry in mid-May.

Seismicity

Park City is located along the southern portion of the Intermountain Seismic Belt, a north trending zone of earthquakes extending from the Montana-Canada border to Arizona, and historically the second most active seismic area in the continental United States. In Utah earthquake activity associated with the ISB occurs along a complex series of steeply dipping faults having a generally north-south trend. The Wasatch Fault, which at its closest point lies about 16 miles due west of Park City, is one of the largest and most seismically active of these faults.

Although many faults have been recognized in the Park City Mining District none are known to show evidence of recent activity. A compilation of earthquake epicenters, prepared by the University of Utah Seismograph Station, covering the period from 1962 to 1978 lists a total of 22 earthquakes with magntiudes of 1.5 or greater occurring within a 13 mile radius of Park City (Figure 3). The largest of these was the Heber Valley earthquake which occurred in October of 1972 with a magnitude of 4.2. The other 22 events all had magnitudes of 3.9 or less.

ENGINEERING GEOLOGIC CONSIDERATIONS

As a part of this study, a review was made of a geotechnical report previously prepared on this property by a private consulting firm. While overall a good report, the results of our own field investigation are at odds with certain of the consultant's findings. These differences are pointed out in the text. In addition, some other geologic and hydrologic aspects of this site which were not covered in the consultant's report are discussed here.

Foundation Considerations

As previously mentioned in this report (page 6) the granular materials grouped together by the consultant as Zone 2 soils and identified as silty gravels were found to contain a considerably higher percentage of clay than is normally associated with a silty soil. For this reason, it is felt that they are better classified as clayey gravels and locally as gravelly clays. Clay bearing soils may possess a considerable shrink-swell capacity which is primarily related to their ability to adsorb or release water. In addition, many soils are susceptible to compaction and differential settlement with loading. For these reasons, it is recommended that for any

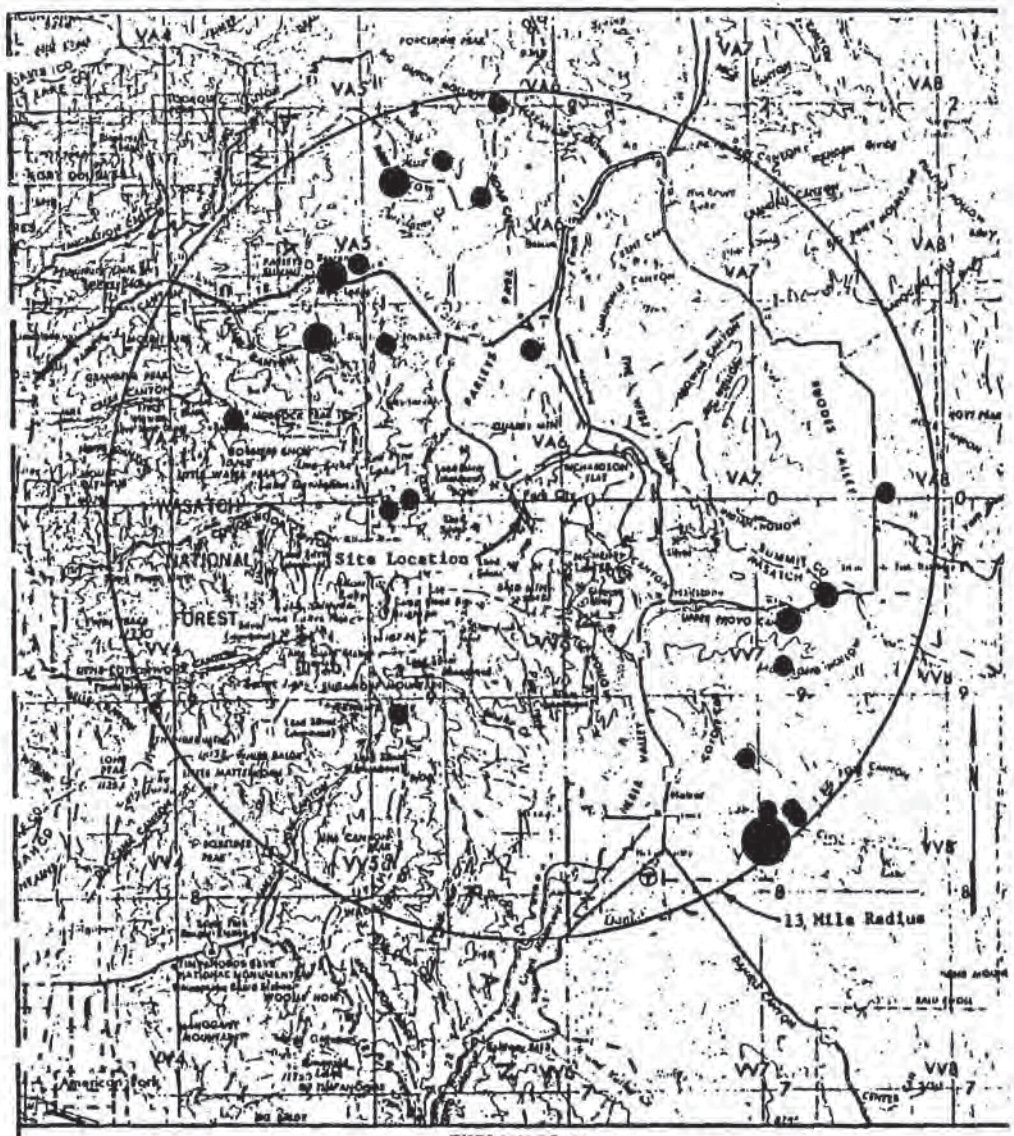

Figure 3 Location of Earthquake Epicenters, 1962 to 1978

structure which will be supported in whole or in a substantial part by a Zone 2 or Zone 3 soil (Appendix A) additional tests be performed to determine the engineering characteristics of the particular soil horizons involved, and that all foundations or retaining walls be designed accordingly. The consultant's report recommends that all structures in the development be founded on bedrock, thereby avoiding a number of foundation and slope stability problems. Based upon our inspection of the consultant's test holes and a comparison with their test hole logs it appears that in at least two instances closely packed quartzite cobbles and boulders were mistakenly indentified as bedrock. Care should be exercised during construction to insure that foundations designed to rest on solid inplace rock do so, and that the zone of broken and weathered material which commonly mantles bedrock is completely removed before the foundations are laid. Observations made at the entrances to several adits and tunnels on the property indicate that this weathered zone is from two to about six feet thick. The depth of the excavations required to reach bedrock can be expected to vary across the site; ranging from only a few feet on the steeper slopes and the high ground between drainages to greater than ten feet along stream channels and on gentle slopes.

In a hillside development of this type, numerous fills will be required both to prepare construction pads and roadbeds, and to backfill behind retaining walls. To prevent excessive settlement and failure of these fill sections it is recommended that a code of minimum construction specifications be adopted which

clearly outline the acceptable gradation limits and compaction requirements for all catagories of fill material. In this regard, it should be noted that the crushed quartzite found in the numerous small mine waste dumps on site would make a very good source of granular, nonplastic fill material. This would seem to be an excellent use for this material since the dumps are too small to provide a foundation for a house or condominium and would probably be considered unsightly in this type of development.

Slope Stability

Natural slopes on site are steep, averaging between 44 and 57 percent gradient (20 to 26 degrees), but appear to be stable under the existing conditions of landuse and vegetative cover. No indications of landsliding or slumping were observed, but there was considerable evidence to indicate that soil creep is occurring. Soil creep is the slow, nearly continuous movement of soil and broken rock downslope under the influence of gravity. It is manifested by the tipping of fence posts and similar rigid objects embedded in the ground. One of the best indicators that creep is occurring is the gentle curving of the base of trees with the convex side pointed downhill in the direction of movement. Generally, creep is confined to the upper 10 to 15 feet of the soil or broken rock mass, and is most rapid close to the ground surface. Soil creep should be considered an indicator of possible problems since it represents a quasi-equilibrium state that can be upset and turned into a much more serious slope failure by unwise construction practices. Ample evidence of this can be seen just to the north of the proposed development in an area of new construction above Lowell Avenue where over-steep cuts

in unconsolidated materials are undergoing extensive sluffing and where at least one landslide/mudflow is reported to have occurred (David Preece, oral communication).

Usually, soil creep cannot be stopped, but its rate of movement can be decreased by providing ample drainage, thereby increasing soil strength and preventing periodic swelling and shrinking of the soil mass. To help insure post construction slope stability of the unconsolidated materials on site it is recommended that cut and fill slopes be designed in accordance with the recommendations of a qualified soils engineer following a detailed stability analysis of the materials involved.

The stability of a bedrock cut is highly dependent upon the orientation of any bedding planes or joints which may be present in the rock mass. Obviously, the critical relationship is one in which a joint or bedding plane strikes in a direction parallel to the cut and dips toward the open slope face. When such a situation exists, blocks of rock, the size of which are determined by the spacing of the joints, can become detached and slide or fall, producing a hazard to both buildings and people. A somewhat less critical situation occurs when joints or bedding are present, but with orientations different from those described above. In such cases there is a tendency for the slope to ravel and produce some fallout of blocks. Rock fall problems can be reduced by establishing slope angles which do not allow potentially troublesome joints or bedding planes to daylinght.

Numerous joints with various orientations (table, page 4) were measured in the bedrock at the site. Again the findings of our field reconnaissance disagree with the consultant's report, in that a joint was found that strikes more or less parallel to the hillside and dips toward the valley (N80W, 73NE). This orientation was measured in the wall of the mine tunnel (Figure 2). The joint was not strongly developed, and the spacing was such that it was difficult to determine from such a small outcrop whether or not it represents a major set of discontinuities in the rock mass. If it does, serious rockfall problems could develop in any steep bedrock cuts which parallel the mountain face. For this reason, and because the orientation of other bedrock cuts made during construction may daylight some of the remaining joint sets, it is recommended that as construction proceeds all rock cuts be inspected by a qualified engineering geologist, and that based upon his recommendations slope designs be modified as necessary to prevent daylighting of joints or bedding.

The material comprising the mine dumps on site is at or near its angle of repose. For that reason, during construction care should be taken not to undercut any dump slopes. If the slopes are undercut they could fail rapidly and at best would probably provide an almost continuous maintenance problem with raveling slopes.

A short term slope stability problem which deserves consideration here is the hazard to the homes along Woodside Avenue from rocks which become dislodged by construction activities and roll downhill. A system should be devised to catch and stop these

rocks before they can cause any property damage or injure anyone.

Site Drainage

Some of the most severe problems associated with hillside developments are related to water. This is nowhere more evident than in Park City where each Spring the homes built on the surrounding hillsides suffer from erosion, sedimentation, localized flooding and water related slope stability problems. Due to the steepness of the slopes upon which it would be built, the proposed development would also be susceptible to such hazards. The number and severity of these problems can be reduced by installation of an adequate site drainage system. Such a drainage system is necessary not only to prevent problems in the new development, but also to protect the homes already in existence along Woodside Avenue from the increased runoff that can be expected to result from construction upslope.

It is recommended that interceptor drains be established both above and below the development, and that site grading be accomplished in such a manner that all surface runoff is collected and funnelled to those drains. In addition, the existing vegetation should be left undisburbed whenever possible and septic tanks are definitely not recommended.

Avalanches

Whenever a hillside is being considered for development at the higher elevations in the Wasatch Mountains, its potential for avalanche hazard must be evaluated. At least one destructive avalanche is known to have occurred on the hillsdie where the proposed development would be built. It is reported to have destroyed a large shed and damaged a house on Woodside Avenue

about 1910 or 1911 (Mrs. Bea Kunner, oral communcation). Photographs dating from the same era show that most of the vegetation on the hillside had been cut down to fire the old steam driven hoists and pumps in the surrounding mines. There has not been a large avalanche on the hillside for at least 40 years (Mr. Mel Flecher, oral communication), a period of time that more or less coincides with the reestablishment of vegetation on the slope. Since slopes with gradients steeper than 35% (approximating 16degrees) can generate avalanches it must be assumed that if large areas of the hillside are again stripped of their vegetative cover avalanches could occur.

It is recommended that a map be prepared by the developer which shows the areas from which the vegetation will be removed. A comparison can then be made with a topographic map to determine if an avalanche hazard would be created; if it is, appropriate control methods should be implemented.

Ground Subsidence

Ground subsidence is not normally associated with a site where bedrock lies as close to the surface as it does at this one. However, the extent of past mining activity in the area raises the possibility of ground collapse over old mine workings. A number of the old prospects and tunnels observed on site during the reconnaissance have caved or collapsed near their entrances, and around others a small circular zone of subsidence has developed. No structures of any type should be built over or directly adjacent to caved, collapsed, or subsided ground nor should heavy structures be permitted directly upslope from shallow mine workings until it can be proven that no danger from ground collapse exists.

Regardless of whether or not construction activity occurs on or near old mine workings, they all should be located and sealed to protect the residents of the property from injury.

Seismic Response

The absence of active faults in close proximity to Park City means that seismic response in the area would most probably be limited to some degree of ground shaking and possible ground failure associated with a large seismic event located along the Wasatch Fault. The intensity and duration of the shaking would depend upon the location of the epicenter and the magnitude of the event. The shallow depth to bedrock at the site would act in its favor, since during an earthquake seismic effects are usually somewhat less severe at bedrock localities. However, the steep slopes upon which the development would be built represent a negative factor in terms of site safety. During strong ground shaking such slopes would be susceptible to both landslides and rock fall. If a seismic event were to occur in the winter months during a period of deep snow pack, avalanches could result.

Park City has experienced a remarkably low level of seismic activity, at least in the 100 years or so since the area has been settled. Nevertheless, because of the town's location relative to a number of active earthquake faults it lies in an area classified as Seismic Zone 3 by the Uniform Building Code, and all structures should be designed accordingly.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Based upon the results of our field investigation, a review of the published literature pertaining to the site, and the consultant's report, the following conclusions and recommendations

are made.

Conclusions

1. Zone 2 soils should be reclassified as clayey gravels and locally as gravelly clays to reflect their cohesive nature and high clay content.
2. A dense layer of quartzite cobbles and boulders in a clay matrix exposed at the bottom of test holes 1 and 4 appears to have been erroneously identified in the consultant's report as bedrock. Bedrock could be positively identified in only one of the nine test holes examined, but five of the pits had not been adequately cleared and therefore a determination as to whether bedrock was present or not couldn't be made. Bedrock was also reported in test hole No. 5, however, the excavation was cleaned a foot below original grade and no sign of any rock was observed (see note test hole No. 5 in Appendix A)
3. A joint orientation was measured in the bedrock which strikes more or less parallel to the hillside and dips toward the valley. Due to the limited size of the exposure no determination could be made concerning the continuity or size of this joint set. However, if itis well developed across the site slope stability problems could develop in rock cuts.
4. A number of other potential geologic hazards have been identified at this site. The extent to which they will prove to be a problem depends in large measure on the degree to which they are recognized and compensated for in the developments design. The list of potential geologic hazards includes:

    a. Foundation and backfill problems associated with clayey soils.

b. Slope stability problems in the unconsolidated materials on site due to the steep hillside on which the development would be built.

c. Potential for property damage and personal injury resulting from rocks rolling down slope during construction.

d. Erosion, sedimentation, and localized flooding during the Spring snow melt.

e. Avalanche hazard, especially if vegetative cover is removed from large areas of the hillside.

f. Ground subsidence and collapse over shallow mine workings.

g. Site sensitivity to landslide, rockfall, and avalanche hazard in the event of a large earthquake along the Wasatch Fault.

Recommendations

1. Foundations of structures to be supported in whole or in a substantial part by Zone 2 and Zone 3 soils should be designed on the basis of the engineering parameters determined for the particular soil horizons involved by laboratory testing.

2. Care should be exercised during construction to insure that those foundations designed to rest on bedrock actually do so, and that the mantle of broken and weathered material lying just above bedrock is completely removed before the foundation is laid.

3. If not already in existence a code of minimum construction standards should be adopted which clearly outlines the acceptable gradation limits and compaction requirements for various catagories of backfill.

4. Cut and fill slopes in unconsolidated materials should be designed by a qualified soils engineer on the basis of detailed stability analyses.

5. As construction proceeds all rock cuts should be inspected by a qualified engineering geologist and based upon his recommendations the cuts should be modified as necessary to prevent daylighting of joints and bedding.

6. Homes located along Woodside Avenue should be protected from rolling and falling rock dislodged by construction activity.

7. Interceptor drains should be installed both above and below the development and site grading should be accomplished in such a manner that all surface runoff is collected and channelled to the drains.

8. A map should be prepared by the developer showing those areas of the site where vegetation will be removed. If, upon comparison of that map with a topographic map it is found that an avalanche hazard will be created appropriate control measures should be taken.

9. Structures should not be built over or adjacent to caved, collapsed or subsided ground, and heavy structures should not be permitted directly upslope of shallow mine workings until it can be proven that no danger from ground collapse exists.

10. All old mine tunnels, shafts, or adits on site should be located and permanently sealed to prevent injury to residents of the development.

11. Numerous small mine dumps exist on site, of these only the old Creole dump appears to be of sufficient size to support a large building. Due to the potential for creating unstable slope

conditions, it is recommended that the smaller dumps be left undisturbed, especially the side slopes, unless they are to be completely removed, possibly for use as backfill material. From a geologic standpoint there is no reason why the Creole dump could not be used as a construction site provided that the foundations for any structures errected on the dump are designed in accordance with the recommendations of a qualified soils engineer.

APPENDIX A

PART I: Summary of Subsurface Soil Conditions as Reported in the Consultants Report

Zone	Thickness	Description	Location (Test Hol
1	1.5' to 3.0'	Black Silty Top Soil	all
2	3.0' to 6.5'	Sand through Cobbles in a silt matrix	1,2,3,4,7,9
*3	1.5' to 8.5'	Medium plasticity clay and clayey silt	2,5,6,7,8,10
4	-	Weber Quartzite	1,2,3,4,5,6, 8,9,10

*Soils reported as clayey silts also placed in this group.

Part II: Logs of Test Holes Examined by UGMS Personnel during May, 1979

Test Hole No.1

0.0-1.7'	Silty Sand-Sandy Silt; (SM-ML), black, loose to medium dense, non- to slightly-plastic, moist, abundant organics.
1.7-8.0'	Silty Clayey Gravel with Boulders; (GM-GC), brown, dense, low plasticity fines, moist.
8.0-9.0'	Quartzite cobbles and boulders in a clay matrix, very dense.

Bedrock was not encountered in test hole.

Test Hole No.2

0.0-2.1'	Silt with fine sand; (ML), black, soft to firm, non- to slightly-plastic, wet, abundant organics, some cobbles and boulders.
2.1-5.7'	Clayey Gravel; (GC), yellowish brown, medium dense to dense, low to moderately plastic fines, wet.
5.7-8.5	Clay; (CL), yellowish brown, stiff, medium plasticity, wet.

Backhoe did not clean test hole below 8.5 feet.

Test Hole No.3

Unable to locate, possibly destroyed during installation of waterline across site.

Test Hole No.4

0.0-1.8'	Silt with sand and clay; (ML), black, firm to stiff, low plasticity, moist, abundant organics, some cobbles and boulders.
1.8-7.0'	Clayey Gravel: (GC), yellowish brown, dense, low plasticity fines, wet, boulders to 1.5' diameter.

Bedrock was not encountered in test hole. Floor consists of densely packed quartzite cobbles and boulders in a clay matrix.

Test Hole No.5

0.0-2.0'	Silt with sand and clay; (ML), black, firm, slightly plastic, moist, abundant organics.
2.0-6.2'	Clayey Gravel; (GC), yellowish brown, dense, low plasticity, moist, boulders to 1.0' diameter.
6.2-9.0'	Clay; (CL), yellowish brown, stiff to very stiff, moderately plastic, moist.

Test hole carried 1' below original grade, did not encounter bedrock. A second backhoe pit was discovered in the vicinity of Test Hole No.5, it had not been cleaned and the soils exposed did not come close to matching the consultant's original log, so it is assumed that the log of the test hole presented here is the correct one.

Test Hole No.6

Inspection showed that this test hole encountered bedrock at depth of about 2.0 feet. Rock exposed was highly fractured.

Test Hole No.7

0.0-3.0'	Sandy Gravel; (GM), fill, portion of old Creole Mine dump.
3.0-5.0'	Silt with Sand; (ML), black, top soil material similar to that described in other borings.

Test Hole No.7 (continued)

5.0-7.5'	Clayey Gravel; (GC), yellowish brown.

Hole sluffed below 7.5'

Thickness of soil horizons approximated in this test hole due to unstable condition of mine dump material above the excavation.

Test Hole No.8

0.0-1.5'	Sandy Silt; (ML), black, firm, slight plasticity, moist, abundant organics, boulders and cobbles.
1.5-5.0'	Clay; (CL), brown, stiff to very stiff, low to moderately plastic.

Test hole has sluffed below 5.0 feet.

Test Hole No.9

0.0-1.5'	Sandy Silt; (ML), black, firm to stiff, non- to slightly-plastic, moist, abundant organics, some cobbles and boulders.
1.5-6.0	Clayey Gravel; (GC), yellowish brown, dense, low to moderately plastic fines, boulders to 1½' diameter.

Test hole has sluffed below 6.0 feet.

Test Hole No.10

0.0-2.0'	Silt with sand and clay; (ML), black, soft, non- to slightly-plastic, wet, abundant organics.
2.0-6.0'	Clayey Silt and Silty Clay; (ML & CL), yellowish brown, firm, low plasticity, wet, some gravel.
6.0-8.0'	Clay; (CL), yellowish brown, firm to stiff, moderately plastic, wet.

Water sanding in test hole at 8.0 feet.

C. PHASING AND BREAKDOWN OF UNIT EQUIVALENTS BY DELAMARE, WOODRUFF, STEPAN ASSOCIATES, INC.

eLaMare, Woodruff,
epan, Associates, Inc.
chitects/Planners

30 April 1985

CREOLE MINE SITE
PARKING
PHASE I

Level	No. Cars
100	33
90	26
5	7
10	24
20	34
30	34
40	34
TOTAL	192

PHASE II

100	33
90	18
5	10
10	30
20	26
30	22
40	17
TOTAL	156

TOTAL PARKING 348

CREOLE MINE SITE

PHASE I

Area No.	No. of Floors	Sq. Ft.	No. Hotel Rooms	Cars Req'd.	Cars Provided	Unit Equivalents
1	5	5,000	10	rooms x .66		
2	5	30,000	60			
3	5	27,500	55			
4	1	5,000	10			
5	3	6,000	12			
6	3	6,000	12			
7	3	6,000	12			
8	3	5,000	10			
Lobby		1,000				
9	4	7,000	14			
Lobby		1,000				
10	4	4,000	8			
11	3	9,000	18			
Comm.		7,000				
Lobby		2,000				
TOTAL		110,500	221	146	192	55.25
TOTAL SUPPORT COMMERCIAL		7,000				
TOTAL LOBBY		4,000				

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30 April 1985

CREOLE MINE SITE

PHASE II

Area No.	No. of Floors	Sq. Ft.	No. Hotel Rooms	Cars Req'd.	Cars Provided	Unit Equivalents
1	5	5,000	10	rooms x .66		
2	5	30,000	60			
3	5	35,000	70			
4	2	10,000	20			
5	1	5,000	10			
Lobby		1,000				
6	1	3,000	6			
Lobby		1,000				
7	2	4,000	8			
8	5	10,000	20			
9	5	10,000	20			
10	5	6,000	12			
Lobby		1,500				
11	4	7,000	14			
Lobby		1,000				
12	4	4,000	8			
13	4	4,000	8			
14	4	8,000	16			
15	2	8,000	16			
Comm.		4,000				
TOTAL		149,000	298	197	156	74.50
TOTAL SUPPORT COMMERCIAL		4,000				
TOTAL LOBBY		4,500				
TOTAL PHASE I AND II		259,500	519	343	348	129.75
TOTAL SUPPORT COMMERCIAL		11,000	(Allowed % .05 = 12,975)			
TOTAL LOBBY		8,500				

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30 April 1985

TOWN LIFT MID STATION SITE

PARKING

PHASE I

Level No.	No. Cars
10	32
20	29
30	29
40	27
TOTAL	117

PHASE II

Level No.	No. Cars
10	35
20	29
30	26
TOTAL	90
TOTAL PARKING	207

TOWN LIFT MID STATION SITE

PHASE I

Area No.	Floor No.	Sq. Feet	Number Hotel Rooms	Cars Required	Cars Provided	Unit Equivalents
1	5	25,000	50	Room x.66		
2	5	25,000	50			
3	1	2,000	4			
4	3	6,000	12			
5	4	13,000	26			
Comm.	1	4,000				
Lobby		3,000				
6	1	3,000	6			
TOTAL		74,000	148	98	117	37.00
TOTAL SUPPORT COMMERCIAL		4,000				
TOTAL LOBBY		3,000				

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rchitects/Planners

30 April 1985

TOWN LIFT MID STATION SITE

PHASE II

1	5	25,000	50	Room x.66		
2	5	25,000	50			
3	2	4,000	8			
4	3	6,000	12			
5	3	3,000	6			
Lobby		3,000				
6	3	4,000	8			
Comm.		2,000				
Lobby		3,000				
7	4	10,000	20			
Comm.		2,000				
8	1	4,000	8			
TOTAL		81,000	162	107	90	40.50
TOTAL SUPPORT COMMERCIAL		4,000				
TOTAL LOBBY		6,000				
TOTAL PHASE I AND II		155,000	310	205	207	77.50
TOTAL SUPPORT COMMERCIAL		8,000	(Allowed % .05 = 7,750)			
TOTAL LOBBY		9,000				

TOTAL PROJECT CREOLE MINE SITE, TOWN LIFT MID STATION SITE

Sq. Ft.	No. Hotel Rooms	Cars Req'd.	Cars Provided	Unit Equivalents
414,500	829	548	555	207.25
			SAY	207

TOTAL SUPPORT COMMERCIAL

19,000 (Allowed % .05 = 20,725)

TOTAL LOBBY 17,500

NOTE: Lobby includes the following NON commercial support amenities: Weight rooms, recreation rooms, saunas, administrative offices, storage, guest ski storage, guest meeting rooms, etc.

Principals
Winter L. DeLaMare, AIA
ugene J. Woodruff, AIA
Keith Stepan, AIA

Associates
chard S. Barrett
ennis B. Patten

466 South 500 East
Salt Lake City, Utah 84102
01 531-6867

uite 201
50 East 100 South
St. George, Utah 84770
01 673-6579

LaMare, Woodruff.
epan, Associates, Inc.
chitects/Planners

Principals
Winter L. DeLaMare, AIA
gene J. Woodruff, AIA
Keith Stepan, AIA

Associates
hard S. Barrett
nnis B. Patten

466 South 500 East
Salt Lake City, Utah 84102
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St. George, Utah 84770
01 673-6579

30 April 1985

COALITION WEST SITE

PHASE I

Area No.	Floor No.	Sq. Ft.	Cars Req'd	Cars Provided	Unit Equivalents
1	1, 2	1,288	2		
2	1, 2	1,288	2		
3	1, 2	1,288	2		
4	1, 2	2,184	3		
5	1, 2	1,428	2		
6	1, 2	1,428	2		
7	1, 2,3	2,673	3		
TOTALS		11,577	16	17	5.79

PHASE II

1	1, 2	1,836	2		
2	1, 2	2,520	3		
3	1, 2	1,440	2		
4	1, 2	1,440	2		
5	1, 2	1,440	2		
TOTALS		8,676	11	11	4.34
TOTAL PHASE I and PHASE II					
		20,553	27	28	10.13

COALITION EAST SITE

PHASE I

Area No.	No. of Floors	Sq. Ft.	No. Hotel Rooms	Cars Req'd.	Cars Provided	Unit Equivalents
1	2, 3	2,520	4			
2	4	1,120	2			
3	1, 2	2,520	4			
4	3	1,120	2			
5	4	784	1			
6	1,2,3	6,720	12			
7	4	1,680	4			
8	1,2,3	6,384	12			
9	4	1,568	4			
10	1	854	1			
11	2,3,4	3,192	6			
12	1,2,3,4	4,480	8			
13	1,2,3	3,360	6			
14	4	980	2			
15	1,2, 3,4	12,578	23			
TOTALS		49,860	91	60.06	71	24.93

LaMare, Woodruff,
epan, Associates, Inc.
chitects/Planners

30 April 1985

Principals
Winter L. DeLaMare, AIA
gene J. Woodruff, AIA
Keith Stepan, AIA

Associates
hard S. Barrett
nnis B. Patten

COALITION EAST SITE

PHASE II

Area No.	No. of Floors	Sq. Ft.	No. Hotel Rooms	Cars Req'd	Cars Provided	Unit Equivalents
1	1,2,3	2,736	3			
2	4	648	1			
3	1, 2	2,240	4			
4	3	1,120	2			
5	4	952	2			
6	1, 2	2,240	4			
7	3	896	2			
8	4	504	1			
9	2, 3	3,780	6			
10	4	1,120	2			
11	1,2,3,4	4,066	8			
12	1,2,3,4	4,480	8			
13	1,2,3,4	3,384	4			
TOTALS		28,166	47	31	20	14.08
TOTAL PHASE I AND PHASE II						
		78,026	138	91.08	91	39.01
Deduct 2 unit equivalents (lobby & support space)						37

NOTE: Hotel space is used as a likely possibility. Unit equivalents may ultimately be condominiums, hotel rooms, or commercial space based on the unit equivalent formula and the restriction that commercial space be limited to the ground level and be located at least 35 feet from Park Avenue.

466 South 500 East
Salt Lake City, Utah 84102
01 531-6867

uite 201
50 East 100 South
St. George, Utah 84770
01 673-6579

D. UTILITIES AND DRAINAGE

BY P/S ASSOCIATES

SUMMARY
of
UTILITY REQUIREMENTS
for the
SWEENEY PROPERTY MASTER PLAN
May 15, 1985

by P/S Associates, Inc.
652 South West Temple
Salt Lake City, Utah 84101
(801) 532-7681
Bruce Whited Project Engineer

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- Source
- Operation Facilities

SEWER IMPROVEMENTS

STORM DRAINAGE

COALITION EAST/WEST
FACILITY IMPROVEMENTS

May 15, 1985

UTILITIES

GENERAL

A study was made to determine the impact that this project would have on existing Park City utilities. The study was limited to an analysis of the Water System, Sewage System, and Storm Drainage facilities. In each category the Project impact was determined and measures taken to either improve existing conditions or mitigate the impact.

The water system improvements incorporated into the project were so selected as to provide Park City with additional and improved water system capabilities.

Storm drainage requirements were established that will improve existing runoff conditions for the 10 year 24 hour design storm.

Sewage load was distributed throughout the sewer system to minimize the impact on any one area.

In general the following proposed Utility Improvements reflect a positive impact on the overall utility service area.

WATER IMPROVEMENTS

STORAGE

The storage requirements are the controlling factor in sizing the water system. Fire flow of 2500 gal/min. for a 3 hr. duration and residential demands of 800 gal/day per equivalent unit were used to set preliminary storage capacities and transmission line sizes.

The equivalent units shown herein include all commercial and residential areas with an equivalent determination of 2000 sq. ft. per/unit.

Final design requirement for both residential and fire protection will be adjusted to comply with the final architectural plans and reflect actual demands.

Fire Flows - All Phases 2500 gal/min 3 hr. duration	450,000 gal.
Potable supply (Residential & Commercial)	
Creole Mine Site	108,200 gal.
Town Lift	65,200 gal.
Coalition West	8,104 gal.
Coalition East	19,944 gal.
Total Storage Required	651,448 gal.
Use	0.7 million gal.

It is proposed to construct a 0.7 million gallon tank on site at elevation 7365. This location will supply minimum roof elevation pressures of 20 P.S.I. and maximum lower zone pressures of 120 P.S.I. A 10 inch distribution line will be required to deliver the required fire flows at acceptable pressures.

SOURCE

The water source will be the 10 inch main transmission line from the Empire Canyon and Woodside storage tanks which already services the area. It is the intent to connect directly to this line on-site and install a 10 inch transmission line to the proposed storage tank location.

A pressure reducing station will be installed in conjunction with the meter and control station to reduce the service pressure from 180 P.S.I. to 120 P.S.I.

During periods of low demand on the water system, water service to the proposed project and new storage facility will be direct gravity flow from the Woodside Tank. However, the present water sources from the Anchor and Judge Tunnels are not sufficient to supply the project during periods of peak demand.

During periods of peak demand the water source for the project will have to be obtained via the booster station located at 13th Street and Empire Avenue. Therefore, to assure a constant water supply to this project the water booster station will be upgraded by replacing existing manual controls with fully automatic equipment. This expenditure will enable potable water to be readily accessible from the lower to the upper pressure zone.

OPERATION FACILITIES

Telemetering controls will be installed in the new 0.7 million gallon reservoir (to be located above the Creole Mine Site), the pressure reducing valve on the new 10" tie in, and the existing booster station at Empire Avenue and 13th Street. All telemetering feed lines will be connected to the main control panels in the City shop building on Ironhorse Drive. This will provide a central point for monitoring and controlling the municipal water system network.

SEWER IMPROVEMENTS

Total development sewage flow from the Creole Mine Site and Town Lift Mid-station Site is approximately 500 gpm. Snyderville Basin Sewer Improvement District personnel indicate the Lowell Avenue sewer could handle this flow without any problems. The placement of planned improvements as well as existing topography limitations, however, dictate the connection of the Creole Mine Site to the Lowell Avenue sewer and the Town Lift Mid-station Site to existing facilities located at 8th Street and Woodside Avenue, thereby, splitting the total flow and mitigating any loading problem which could be encountered.

STORM DRAINAGE IMPROVEMENTS

The total site acreage is 123.5 acres. Only the 64 acres influencing the runoff area was considered as part of the drainage study. The remainder of the area will be preserved as open space in the undeveloped portion of the project.

The storm drainage requirements for the project were set by determining the existing runoff to be expected from a 10 year 24 hour storm. This flow was established as the maximum allowable 10 year 24 hour storm runoff for the new project.

The existing contributory runoff was calculated to be 0.42 cfs/acre, where a more typical, high unit of 0.50 cfs/acre would have been acceptable.

Storm drainage facilities were incorporated into the project to specifically decrease the total runoff by detaining on-site 100% of the peak 1 hour 10 year storm runoff from all hard surface areas. All non-landscaped surfaces were used to determine the detention volume, i.e. roadways, walks, decks, porches, canopies, etc. The runoff coefficient used was set at maximum (C=1.0) to assure total detainment.

Storm water detention basins of 7,200 cu. ft. and 27,000 cu. ft. will be installed on-site and incorporated into the maintained portion of the landscaped open space.

The detention basins will be lined with impervious material to prevent any percolation, planted with grass, and maintained by the project staff to assure trouble free operation.

All eventual drainage discharges will be made into existing storm drains or channels including a 15" pipeline tap to the existing 15" - 18" Park Avenue and 8th Street storm drain.

COALITION EAST/WEST FACILITY IMPROVEMENTS

All utilities in the coalition East and Coalition West developments in the old part of town will be connected directly to the existing facilities in the Park Avenue and 8th Street area including curb and gutter, storm drains, sewer, and water.

E. PRESERVATION OF OLD TRAM TOWERS

PRESERVATION OF SILVER KING TRAM TOWERS

All of the existing Silver King Mine ore tramway towers under control of MPE, Inc. will be preserved. This includes the first fourteen towers. (Towers #1 & 3, however, might have to be removed to make room for construction of the Town Lift.) These towers are the only standing mining structures found in the Historic District and are extremely important in that regard.

The tower bases will be cleared of dirt and debris. Where necessary the bases will be remortared with a 50/50 mixture of mortar and sand mix. The bases of the steel lattice work will be brushed and scraped free of dirt and loose rust scale. Then two coats of high quality rust preventative primer and two coats of high quality enamel paint will be applied by hand.

The first seven towers, highly visible from the Historic District, will be donated to Park City who will then become responsible for their future preservation and upkeep. This will involve the above mentioned maintenance approximately every 25 years. The upper ten towers will remain the responsibility of the MPE Inc.

F. TOWN LIFT AGREEMENTS

REAL ESTATE EXCHANGE AGREEMENT

This Real Estate Exchange Agreement, made and executed as of this 1st day of November, 1981, by and between PARK CITY DEPOT CORPORATION, a Utah corporation, ("Depot") and SWEENEY LAND COMPANY, a Utah general partnership, ("Sweeney").

RECITALS.

1. Depot is the owner of a parcel of real estate in Park City, Summit County, State of Utah, as more fully described on Exhibit A as Parcels B-1 and B-2 attached hereto, and by this reference made a part hereof.

2. Sweeney owns a parcel of real estate in Park City, Summit County, State of Utah, more commonly called "Coalition Property", as more fully described on Exhibit A as Parcels A-1 and A-2 attached hereto, and by this reference made a part hereof.

3. Depot's property is adjacent to Sweeney's property.

4. Depot desires to enter into an agreement with Greater Park City Company, a Utah corporation, sometimes hereinafter called "GPCC", for a parcel of land adjoining Sweeney's land for the purpose of constructing a ski lift. Land in addition to that owned by Depot is necessary for the construction of the base station for that ski lift; acquisition of that land is the basic purpose of the exchange provided for herein.

5. Sweeney is desirous of developing property adjacent to the property set forth on Exhibit A and in so doing it must have underground parking available.

6. The parties desire to exchange their parcels of real estate, subject to the conditions set forth hereinafter.

NOW, THEREFORE, for and in consideration of the exchange of real estate set forth herein, it is mutually agreed by and between the parties as follows:

1. Exchange. Subject to the conditions set forth in paragraph 2, Depot hereby transfers all of its right, title and interest in and to the property described on Exhibit A as Parcels

B-1 and B-2 attached hereto, and by this reference made a part hereof, to Sweeney, and Sweeney hereby transfers to Depot all of its right, title and interest in and to the property described on Exhibit A as Parcels A-1 and A-2 attached hereto, and by this reference made a part hereof.

2. Conditions. The exchange set forth in paragraph 1 shall not be effective until the following conditions are met:

(a) Approval by Park City acceptable to the parties hereto of the ski lift to be constructed using the property to be exchanged by Sweeney as a portion of the base stations in substantially the form set forth on Exhibits D-1, D-2, D-3 and D-4 attached hereto, and by this reference made a part hereof.

(b) Execution of an appropriate agreement, agreed to by Depot, Sweeney, Tramway Properties, an affiliate of Sweeney, and GPCC providing for the construction, operation and maintenance of a triple chairlift and related facilities utilizing certain ground and air rights owned by Depot, Sweeney, Tramway and GPCC. Said lease shall be substantially in the form of the lease agreement attached hereto as Exhibit B.

3. Possession and Title. Each party shall convey, by Special Warranty Deeds, title to the property being transferred by such party upon execution of this Agreement. Said Deeds shall be held by Kenneth J. Hanni, Esq. as Escrow Agent until such time as the conditions set forth in paragraph 2 have been satisfied. If Kenneth J. Hanni is unable to serve as Escrow Agent, David L. Gillette shall serve as Escrow Agent. Upon notice by the parties hereto that the conditions have been satisfied, the Escrow Agent shall forthwith deliver the Special Warranty Deeds to the appropriate parties hereto and such delivery shall constitute transfer of possession of such property and all right to income therefrom as of the date of delivery.

4. Title Insurance. Upon delivery of the Special Warranty Deeds to Sweeney, Depot shall deliver, at its expense, in

the amount of $200,000, an extended coverage ALTA Owner's Policy of Title Insurance, or equivalent, showing title vested as directed by Sweeney, subject only to the exceptions approved by Sweeney, based upon those exceptions set forth on a preliminary title report dated _____ with regard to the property. Upon delivery of the Special Warranty Deeds to Depot, Sweeney shall deliver, at its expense, in the amount of $200,000, an extended coverage ALTA Owner's Policy of Title Insurance, or equivalent, showing title vested in Depot, subject only to the exceptions approved by Depot, based upon those exceptions set forth on a preliminary title report dated _____.

5. Closing. The closing shall be held at the office of Depot on or before January 31, 1982, at 3:00 p.m. At the closing, Depot shall deliver the following to the Escrow Agent:

(a) Special Warranty Deeds in favor of Sweeney for the real estate transferred hereunder.

(b) A partial release of parcels being conveyed by Amsal Service Corporation, beneficiary under a Deed of Trust dated February 27, 1982.

(c) A partial release of parcels being conveyed by Park City Depot, a Utah partnership, under Deed of Trust dated February 27, 1981.

Sweeney shall deliver the following:

(a) Special Warranty Deeds in favor of Depot for the real estate transferred hereunder.

(b) A partial release of parcels being conveyed by Commercial Security Bank under Deed of Trust dated March 25, 1981.

In lieu of the partial releases from Depot in (b) & (c) and from Sweeney in (b), the parties hereto may substitute commitment letters from the secured parties wherein they commit to execute & deliver such partial releases at the time the deeds are delivered by the Escrow Agent as provided herein.

6. Parking. Depot hereby agrees to grant to Sweeney an easement for construction of an underground parking area on the property more fully described on Exhibit C as Parcels C and E attached hereto, and by this reference made a part hereof.* Said underground parking area is more fully set forth on Exhibits D-1, D-2 and D-3. Said property includes the real estate parcels

*Depot agrees, in the exercise of its approval rights in Paragraph 5 of Exhibit B, to restrict such approvals so as not to materially interfere with the underground parking area provided for herein. Sweeney agrees to cooperate in designing the underground parking area to reasonably accommodate necessary utilities.

described on Exhibit A, as well as additional property owned by Sweeney adjoining the parcel described on Exhibit A. Depot agrees to provide reasonable access for ingress and egress to the construction site of the underground parking over and across the adjacent property owned by Depot. Sweeney shall be responsible for replacement or repair of any damage caused by such use. Said underground parking facility shall be constructed at the sole expense of Sweeney, but Sweeney shall not be responsible for any expense whatsoever occasioned by reason of GPCC's ski lift base station improvements and/or operations, except as to replacement or repair of any such improvements damaged or destroyed by Sweeney in the construction of the parking facility. Sweeney shall be responsible for any water problems that may arise from said construction. Sweeney shall also be responsible for landscaping and maintenance of the surface of the property prior to completion of its proposed development.

7. Brokers', etc. Fees. Depot and Sweeney each represents to the other that they have not entered into any agreement or incurred any obligation which might result in an obligation to pay any sales or brokerage commission or finder's fee on this transaction.

Depot and Sweeney each agree to indemnify and hold harmless the other from and against any sales or brokerage commission or finder's fee due or owing to any third party that results from the indemnifying party's action or agreements in connection with the execution or performance of the terms of this agreement.

8. Indemnification. Depot agrees to indemnify and hold harmless Sweeney from any litigation it is involved in with regard to title problems relating to the exchanged property, except those matters as to which Sweeney has accepted pursuant to paragraph 4.

9. Subsequent Exchange. In the event the parties hereto acquire title to the Parcels shown on Exhibit A as A-3 and B-3, said parcels shall be conveyed by Quit-Claim Deeds by Sweeney and Depot respectively.

10. Tax-Free Exchange. The parties intend that the exchanges contemplated by this agreement shall qualify as tax-free exchanges pursuant to the provisions of Section 1031 of the Internal Revenue Code of 1954, as amended.

11. Agreement of the Parties. This agreement represents the entire and integrated agreement of the parties hereto. Both parties hereto expressly acknowledge, warrant and understand that there are no statements, representations, inducements or agreements made between the parties hereto except as expressly set forth herein. No amendment, supplement or termination hereof shall be valid except by way of a writing subscribed by the parties hereto.

12. Attorney's Fees. If either party commences an action against the other party to enforce any of the terms hereof, or because of the breach by any party of the terms hereof, the losing party shall pay the prevailing party reasonable attorney's fees and costs and expenses incurred in litigation, as determined by the court.

13. Cancellation of Exchange. If the ski lift is not constructed by December 1, 1983 or such extended time as agreed to by the parties hereto, the parties hereto hereby agree to terminate this agreement and the Escrow Agent shall return the property which is the subject of this Exchange Agreement, free and clear of any and all liens or encumbrances and at no cost to the other party, and to cancel the easement provided for in paragraph 6.

14. Time. Time is of the essence of this agreement and every provision thereof.

15. Notices. Unless otherwise provided in this agreement, all communications, notices and demands of any kind which either party may be required or desire to give or serve upon the other party shall be made in writing and delivered by personal service to the other party or to an officer of the other party or sent by telegram or registered or certified mail.

To Depot: Park City Depot Corporation
1979 South 700 West
Salt Lake City, Utah 84104

To Sweeney: Sweeney Land Company
2640 Maywood Drive
Salt Lake City, Utah 84109

Notices shall be effective upon receipt or upon deposit in United States Mail, registered or certified mail, return receipt requested.

16. Successors and Assigns. Each and every of the obligations, covenants and conditions and restrictions of this agreement shall inure to the benefit of and be binding upon and enforceable against, as the case may require, the successors and assigns of Depot and Sweeney.

IN WITNESS WHEREOF, the parties to this agreement have hereunto signed their names the date and year first above written.

PARK CITY DEPOT CORPORATION

By _____
President

Attest:

_____

SWEENEY LAND COMPANY

By _____

_____

_____

EXTENSION AGREEMENT

THIS EXTENSION AGREEMENT is made and executed as of this 22nd day of November, 1983, by and between PARK CITY DEPOT CORPORATION, a Utah corporation ("DEPOT") and SWEENEY LAND COMPANY, a Utah general partnership, "(SWEENEY").

Recitals

1. DEPOT and SWEENEY entered into a Real Estate Exchange Agreement as of November 1, 1981, providing for the exchange of certain property in Park City, Summit County, State of Utah, as more fully described in said agreement. Paragraph 13 of said agreement provided for a cancellation of the exchange if the ski lift contemplated under the exchange agreement was not completed prior to December 1, 1983.

2. The parties to the Exchange Agreement subsequently entered into an agreement, commonly called the "TRAM AGREEMENT," on November 30, 1981, with Greater Park City Company for the construction and operation of the proposed ski lift. That agreement was amended as of the 5th day of October 1982 extending the time for performance of the construction of the ski lift until December 1, 1984.

3. Consequently, it is appropriate to amend the Real Estate Exchange Agreement to extend the time for performance until December 1, 1984.

NOW, THEREFORE, for One Dollar ($1.00) and other good and valuable consideration paid by PARK CITY DEPOT CORPORATION to

SWEENEY LAND COMPANY, the receipt and sufficiency of which is hereby acknowledged, the parties hereto extend the time of performance of the Real Estate Exchange Agreement, specifically Paragraph 13 of said agreement, to December 1, 1984.

Except as specifically amended by this document, the Real Estate Exchange Agreement continues in full force and effect between the parties hereto.

IN WITNESS WHEREOF, the parties have executed this EXTENSION AGREEMENT as of the day and year first above written.

PARK CITY DEPOT CORPORATION

By: A. BLAINE HUNTSMAN, JR.
Its: Chairman

SWEENEY LAND COMPANY,
a Utah General Partnership

Jack Sweeney

By: Jack Sweeney
Its: Managing Partner

HAN003/79

EXTENSION AGREEMENT

THIS EXTENSION AGREEMENT is made and executed as of this 30th day of November, 1984, by and between PARK CITY DEPOT CORPORATION, a Utah corporation ("DEPOT") and SWEENEY LAND COMPANY, a Utah general partnership, ("SWEENEY").

Recitals

1. DEPOT and SWEENEY entered into a Real Estate Exchange Agreement as of November 1, 1981, providing for the exchange of certain property in Park City, Summit County, State of Utah, as more fully described in said agreement. Paragraph 13 of said agreement provided for a cancellation of the exchange if the ski lift contemplated under the exchange agreement was not completed prior to December 1, 1983.

2. The parties to the Exchange Agreement subsequently entered into an agreement, commonly called the "TRAM AGREEMENT," on November 30, 1981, with Greater Park City Company for the construction and operation of the proposed ski lift. That agreement was amended as of the 5th day of October 1982 extending the time for performance of the construction of the ski lift until December 1, 1984.

3. The parties to the Exchange Agreement subsequently entered into an Extension Agreement on November , 1983 that extended the time for performance of the construction of the ski lift until December 1, 1984.

4. The Tram Agreement was further amended on the 14th day of August , 1984 extending the time for performance of the construction of the ski lift until December 1, 1985.

5. Consequently, it is appropriate to amend the Real Estate Exchange Agreement to extend the time for performance until December 1, 1985.

NOW, THEREFORE, for One Dollar ($1.00) and other good and valuable consideration paid by PARK CITY DEPOT CORPORATION to SWEENEY LAND COMPANY; the receipt and sufficiency of which is hereby acknowledged, the parties hereto extend the time of performance of the Real Estate Exchange Agreement, specifically Paragraph 13 of said agreement, to December 1, 1985.

Except as specifically amended by this document, the Real Estate Exchange Agreement continues in full force and effect between the parties hereto.

IN WITNESS WHEREOF, the parties have executed this EXTENSION AGREEMENT as of the day and year first above written.

PARK CITY DEPOT CORPORATION

By: A. Blaine Huntsman, JR.
Its: Chairman

SWEENEY LAND COMPANY,
a Utah General Partnership

By: Jack Sweeney
Its: Managing Partner

AGREEMENT

AGREEMENT, made and executed this 30th day of November, 1981, by and between PARK CITY DEPOT CORPORATION, a Utah corporation ("Depot"), SWEENEY LAND COMPANY, a Utah general partnership ("Sweeney"), TRAMWAY PROPERTIES, a Utah general partnership ("Tramway"), and GREATER PARK CITY COMPANY, a Utah corporation ("GPCC").

RECITALS.

1. Depot is the owner of a parcel of real estate located in Park City, Summit County, State of Utah, more fully described on Exhibit A attached hereto, and by this reference made a part hereof.

2. Sweeney Land Company owns an aerial right-of-way commencing from property now owned by Depot, previously called the "Coalition Property", said right-of-way acquired from United Park City Mines Company, and running in a Southwesterly direction, sometimes hereinafter referred to as "Tramway", as more fully desribed on Exhibit B attached hereto, and by this reference made a part hereof. Tramway Properties owns or controls land on which the "Quittin' Time Ski Run" and the "Creole Ski Run" are to be located and upon which the Ski Trails and the Silver Mountain Development ski-in and ski-out trails, as shown on Exhibit C attached hereto and by this reference made a part hereof, will be constructed.

3. GPCC is the owner and operator of the Park City Ski Resort and desires to own, operate and maintain a base station for a transportation ski lift (sometimes hereinafter called the "Lift") on the property owned by Depot and to construct a Lift and to build Lift towers on the Tram-Right-of-Way to facilitate the Lift. GPCC also wants to construct and maintain the "Quittin' Time Ski Run", the "Creole Ski Run", the Ski Trails (shown on Exhibit C hereto (hereinafter "the Ski Trails"), and

the Silver Mountain Development ski-in and ski-out trails.

4. Sweeney, Tramway, and Depot are willing to provide property for a base station, an intermediate loading station and for the ski lift, two parking stalls for vehicles for GPCC or its employees, an area for a ticket booth, and restroom facilities for employees and invitees of GPCC during the operation of the Lift, and a Park Avenue bus turn-out and unloading station.

5. Depot, Sweeney and Tramway are willing to lease surface space and air rights to GPCC for a Lift, towers, ticket booth and restrooms, "Quittin' Time Ski Run", "Creole Ski Run", Ski Trails shown on Exhibit C hereto in red, and Silver Mountain Development ski trails, subject to the terms and conditions set forth in this agreement.

6. Depot and Sweeney recognize that if the construction of the Lift is approved by the Park City Council, Depot and Sweeney will receive substantial benefit from the increase in property values for property owned by Depot and Sweeney adjacent to the property to be leased as a base station, and that GPCC will receive substantial benefit from the planned development of the adjacent property by Depot, Sweeney and Tramway.

7. Sweeney and Tramway desire to provide an easement for use by GPCC of the area commonly known as "Quittin' Time Ski Run", "Creole Ski Run", and for the Ski Trails.

8. Depot and Sweeney intend to build condominium units on property adjacent to the leased property.

NOW, THEREFORE, for and in consideration of the property lease by Depot, Tramway and Sweeney and the covenants of GPCC set forth herein and other mutual covenants, it is mutually agreed by and between the parties as follows:

1. Lease. Depot, Tramway and Sweeney hereby agree to lease to GPCC, for a rental of $10.00 per year paid to each Lessor for a period of 70 years, or for the duration of GPCC's master

lease with United Park City Mines Company dated January 1, 1971 and amended May 1, 1975, whichever occurs first, the property set forth on Exhibit A attached hereto and the aerial right-of-way as set forth on Exhibit B attached hereto and by this reference made a part hereof. Tramway shall lease, or grant an easement to use, for a rental of $10.00 per year, the property needed for the Ski Trails, the intermediate station and public thoroughfares as described on Exhibit C attached hereto and by this reference made a part hereof.

2. Construction of Lift.

(a) GPCC agrees, subject to the prior approval of the Park City Council, to construct a triple chair-lift with a base station on the property leased by Depot and using the aerial right-of-way on the property leased by Sweeney, said Lift to have a capacity of not less than 1,200 nor more than 2,400 persons per hour. GPCC will be responsible for all costs incident to the construction, maintenance and operation of the Lift including, but not limited to, the cost of constructing the platform, the Park Avenue bus turn-out and unloading station, the Lift, new towers, power facilities, housing facilities for the power, unloading and off-loading facilities at the top, mid-station and bottom of the Lift, ticket house, public restrooms and all similar and related expenses. In the construction of the base station, the Lift and the Park Avenue bus turn-out and unloading station, GPCC will comply with the plans attached hereto as Exhibit D relating to the supporting pillars and height of the base station so as to facilitiate the construction of Sweeney's underground parking facility to be built on part of the leased property and on adjacent property.

(b) GPCC shall construct, at its own expense, the

new "Quittin' Time Ski Run" and the "Creole Ski Run" and the necessary ski trails near Norfolk Avenue and in cooperation with Tramway, shall cut the mid-station and ski-in and ski-out trails from Tramway's Silver Mountain Development to GPCC's Nastar and Pay Day Ski Runs. Said runs and trails shall be constructed to complement Tramway's development. Tramway shall indicate where it desires trails. GPCC shall have final right of approval as to where such trails, if approved by GPCC, shall be constructed. Such approval shall not be unreasonably withheld. GPCC shall additionally clear thoroughfares from the proposed ski run near Norfolk Avenue to city property.

(c) GPCC will be solely responsible for all architectural, engineering, and attorney's fees and other expenses related directly to the Lift and appurtenant structures.

(d) GPCC, Depot and Sweeney shall cooperate and work jointly in leasing, exchanging or purchasing property located beneath the existing "Tramway" or for aerial rights which are not now owned by Sweeney and which are necessary for the construction of the Lift. Sweeney and Tramway reasonably believe that the only rights remaining to be acquired are set forth on Exhibit E, which is attached hereto and by this reference made a part hereof.

3. Time of Performance. It is anticipated that the Lift and related facilities should be constructed during the summer of 1983 so as to be available for the 1983-1984 ski season. GPCC, however, agrees to use its best efforts to complete the construction during the summer of 1982 for the 1982-1983 ski season. If construction is not completed by

December 1, 1983, the lease provided for herein shall terminate as of that date. GPCC shall be responsible for arranging and financing the construction of all such facilities within such time period.

4. Approvals. All parties will proceed as soon as reasonably possible after the execution of the agreement to submit a plan for the Lift, towers, ski runs and trails which are the subject of the agreement. GPCC will be responsible for making all studies and presentations concerning the Lift, towers, ski runs and trails to the Park City Planning Commission and City Council. Included in the presentation will be the following:

(a) All necessary vehicular and pedestrian traffic studies required by the Park City Planning Commission and City Council concerning any questions related to congestion caused by the Lift.

(b) Presentation of a design for the Lift, towers, ski runs and trails, and any other structures pertaining directly to the operation, construction and maintenance of the Lift.

(c) Other impact questions raised by the Planning Commission, City Council and other governmental agencies.

5. Access. Sweeney and Depot will provide in the leased property sufficient space for a bus turnout on Park Avenue for skiers to enter and use the Lift facilities. Depot will provide on the lease property space for a ticket house for GPCC to sell tickets, the design for said space to be approved by Depot. All costs of construction of the ticket space will be paid by GPCC. Depot will also provide on the leased property space for the construction by GPCC, at GPCC's sole expense, of restroom facilities for employees and invitees of GPCC. Depot must approve plans for these facilities prior to the commencement of construction. Depot will also provide on the leased property enough space for GPCC to park two vehicles, but shall not be

responsible for providing parking for skiers. GPCC shall have the right to provide the loading stations for the Lift at the intermediate point of travel of the Lift shown on Exhibit C.

6. Maintenance. GPCC will be responsible for upkeep and maintenance of the Lift, ticket space, restroom facilities, Tramway and towers, "Quittin' Time Ski Run", "Creole Ski Run", ski trails above Norfolk Avenue and the Silver Mountain Development ski-in and ski-out trails. It is anticipated that the primary drive machinery and all power facilities will be located at the upper end of the Lift and that all possible maintenance work will be performed at the upper end. GPCC will also be responsible for the upkeep and maintenance of platforms, sidewalks, or driveways used by skiers during the ski season. GPCC will be responsible for all snow removal on all walkways, platforms or any areas which GPCC or skiers use for the purpose of entering upon the property comprising the base site. Upon the close of the ski season, GPCC will repair and/or replace all property worn, damaged or destroyed by skiers and/or employees of GPCC and close the Lift in the same manner as the Victoria Station Lift. GPCC will close and secure the ticket space and the restroom facilities, if any, provided. Any Lift equipment which is permanently fixed to the structure shall be maintained so as not to constitute an attractive nuisance under Utah law. In providing the necessary maintenance under this agreement, GPCC will notify Depot and Sweeney of maintenance schedules for major maintenance during the off season for maintaining Lift equipment, said notification to include an outline of what type of maintenance is neessary and when the maintenance crews will have to be at the site. Depot and Sweeney, or the appropriate homeowner's association, shall have the right to landscape the leased property and to maintain it at GPCC's expense. GPCC shall have the right to approve said landscaping prior to its commence-

Council and law enforcement officials in drafting ordinances to control pedestrian and vehicular skier traffic during the operation of the Lift and will actively work with the Park City police officials to enforce all parking and traffic ordinances.

9. Access to Aerial Right-of-Way. If GPCC requires additional access not available in the right-of-way leased hereby, GPCC shall be responsible for obtaining permission from property owners to enter upon or to use their land for removing existing tram towers and/or installing and servicing the towers and shall further be responsible for removing any existing tram towers appropriate in constructing the ski lift facilities. The parties understand that GPCC must walk, ski or snowmobile the entire lift line as required by the insurance carrier.

10. Removal of Liens. If, because of any act or omission of GPCC, any mechanics liens shall be filed against Depot, Tramway or Sweeney or against any of the adjacent land utilized for purpose of the ski lift construction, GPCC shall, at its own cost and expense, cause the same to be discharged of record or bonded within 90 days after written notice from Depot, Tramway or Sweeney of the filing and shall indemnify and hold harmless Depot, Tramway and Sweeney from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorney's fees, resulting therefrom.

11. Signs. During the ski season, with the prior approval of Depot, GPCC shall have the right to install, maintain and place in, on or over, and in front of the adjacent property, or in any part thereof, such signs and advertising matter as GPCC may desire, or as may be required by GPCC's insurance carrier, and GPCC shall comply with any applicable requirements of governmental authorities having jurisdiction and shall obtain any necessary permits for such purposes. As used in this paragraph, the word "sign" shall be construed to include any placard, light,

or other advertising symbol or object, irrespective of whether the same be temporary or permanent.

12. Indemnification. GPCC shall indemnify and save harmless Depot, Tramway and Sweeney from and against any and all liability, damage, penalties or judgments arising from injuries to persons or properties sustained by anyone in or about the leased property or resulting from any act or acts or omissions of GPCC's officers, agents, servants, employees, contractors or sub-lessees. GPCC shall, at its own cost and expense, defend any and all just suits or actions which may be brought against Depot, Tramway and Sweeney or in which any one of these parties may be interpleaded with others upon any such above mentioned matter, claim or claims.

13. Obligation of Lessors. Except for affirmative acts or negligence of Depot or the affirmative acts or negligence of officers or employees of Depot, or partners, agents, servants, employees or contractors of Sweeney or Tramway, Depot, Tramway and Sweeney shall not be responsible or liable for any damage or injury to any property, fixtures, buildings or other improvements, or to any person or persons at any time on the leased property or "Tramway", including any damage or injury to GPCC or to any of GPCC's officers, agents, servants, employees, contractors, customers or sub-lessees.

14. Insurance. During the period the Lift and appurtenant parts are installed and in operation, GPCC shall provide at its expense, and keep in force during the term of this agreement, general liability insruance in an insurance company satisfactory to the lessors, in the amount of at least $1,000,000 with respect to injury or death to any one person, $5,000,000 with respect to injury or death to more than one person in any one accident or occurrence and $1,000,000 with respect to property damage. Such policy or policies shall include Depot, Tramway and Sweeney and any mortgagee as named insureds. GPCC

agrees to deliver certificates of such insurance to Depot, Tramway and Sweeney by the date GPCC begins construction of the Lift and/or towers and thereafter not less than 10 days prior to the expiration of any such policy. Such insurance shall be non-cancellable without 10 days written notice to Depot, Tramway and Sweeney and to each mortgagee. Said policy limits shall be increased if GPCC increases its limits for other ski lifts owned or operated by GPCC or related companies.

15. Property Taxes. GPCC shall be responsible for all real property taxes assessed by Summit County, State of Utah for the property set forth on Exhibits A, the tramway shown on Exhibit B and the ski runs outlined in red on exhibit C attached hereto. GPCC shall also be responsible for all taxes lawfully assessed against the personal property of GPCC located in the ski lift, including base site and all appurtenant structures, and shall also be responsible for any sales or use tax and any other tax lawfully assessed against GPCC in its operation of the Lift.

16. Utilities. GPCC shall be responsible for the payment of all utilities related to the operation of the Lift, including, but not limited to, ticket space, restroom facilities and the operation of the Lift itself. Utilities shall include gas, electricity, telephone, water and garbage removal.

17. Abandonment of Lift. If, during the first 10 years of operation, GPCC abandons the Lift, GPCC will do the following:

(a) GPCC shall remove all ski lift equipment and fixtures that are not permanently fixed to the leased property and all of the towers within the "Tramway".

(b) GPCC further agrees to pay to Depot and Sweeney in the following proportion, 50% to Depot and 50% to Sweeney, should GPCC abandon the Lift during the first year after the Lift has been in operation, the amount of $100,000 in cash within 30 days from the date GPCC aban-

dons the Lift. If GPCC abandons the Lift after the first year of operation as set forth above, the $100,000 will be adjusted by a percentage increase or decrease from the base period as measured by the change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index. The Index published for the calendar year in which the Lift officially opens shall be considered the base period.

(c) In the event the Lift is not abandoned within the first 10 year period, but sometime later, GPCC shall be obligated to remove all ski lift equipment and fixtures that are not permanently affixed to the leased property and all the towers and appurtenances within the "Tramway", the "Quittin' Time Ski Run", "Creole Ski Run" and, if any, the Ski Trails.

(d) In removing the equipment pursuant to this paragraph, GPCC further agrees that it will immediately repair, replace and take whatever other steps are necessary to place the base site and surrounding property in such a state as if the Lift, towers, ski runs and trails had never been installed, constructed or approved.

18. Use of the Property. GPCC hereby agrees that the Lift to be constructed upon the leased property shall be used primarily for the transportation of skiers, transportation of first aid equipment and personnel, and as a utility platform transport.

19. Termination. Notwithstanding any other provisions of this agreement, said agreement as to use of the leased property shall terminate immediately upon the withdrawal of permission by the Park City Council of the operation of a ski lift from and on said property. Such withdrawal shall be considered an "abandonment" for the purpose of paragraph 17, but the payment

of damages pursuant to paragraph 17 shall not apply.

20. Default. In the event GPCC shall neglect or fail to perform or observe any covenants, provisions or conditions set forth in this agreement, Depot, Tramway and Sweeney shall give 30 days written notice to GPCC designating such default. Default against any one of Depot, Tramway and Sweeney shall constitute a default against all three.

(a) If within 30 days after written notice of default, or if more than 30 days shall be required because of the nature of the default, GPCC fails to proceed diligently to cure such default, then in that event GPCC shall be responsible to Depot, Tramway and Sweeney as their interests appear for any and all damages sustained by them as a result of GPCC's breach unless such damages are or would be covered by insurance provided or required to be provided by GPCC, but limited in all events to the liquidated amount set forth in paragraph 17 hereinabove.

(b) Upon any termination of this agreement by Depot, Tramway and Sweeney pursuant to paragraph 19, or at any time thereafter, Depot, Tramway and Sweeney may, in addition to and without prejudice to any other rights and remedies they shall have at law or in equity, re-enter the space where the Lift, ticket booth and restrooms are located and recover possession thereof and dispossess any or all employees, officers or agents of GPCC in the manner prescribed by the appropriate statute relating to summary proceedings or similar statutes, and GPCC shall in such cases remain liable to Depot, Tramway and Sweeney as provided herein.

(c) Failure of GPCC or Depot, Tramway and Sweeney to complain of any act or omission on the part of the

other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by any party, at any time, express or implied, of any breach of this agreement shall be deemed a waiver of a breach of any other provisions of this agreement or consent to any subsequent breach of the same or any othe provision.

21. General Provisions.

(a) Time is of the essence in performing all of the obligations of each party under this agreement.

(b) Unless otherwise provided in this agreement, all communications, notices and demands of any kind which either party may be required or desire to give or serve upon the other party shall be made in writing and delivered by personal service to the party or to an officer of the other party or sent by telegram or registered or certified mail, addressed to:

To Depot:	Park City Depot Corporation 1979 South 700 West Salt Lake City, Utah 84104
To Sweeney:	Sweeney Land Company 2640 Maywood Drive Salt Lake City, Utah 84109
To Tramway:	Tramway Properties 2640 Maywood Drive Salt Lake City, Utah 84109
To GPCC:	Nick Badami, Chairman Greater Park City Company P. O. Box 39 Park City, Utah 84060

or to such other address or addresses as the parties hereto shall hereinafter designate in writing. Notices by mail shall be deemed effective and complete at the time of posting and mailing thereof in accordance herewith and all other notices shall be effective upon receipt.

(c) If either party hereto commences an action

against any other party to enforce any of the terms hereof, or because of the breach of any party of the terms hereof, the losing party shall pay the prevailing party reasonable attorney's fees and costs and expenses incurred in the litigation, as determined by the court.

22. Force Majeure. If, during the term of this agreement, any party hereto is unable to perform the terms and conditions set forth herein due to any acts of God, fires, floods, or restrictions imposed by any government or governmental agency including property moratoriums by Park City or Summit County, inability to obtain appropriate permits or other delays beyond either party's control, this agreement shall continue to be binding and neither party will be relieved of the obligations to perform the terms and conditions set forth herein except as to any time restraints. In all events, if construction is not completed by December 1, 1983, for matters set forth in this paragraph the lease provided for herein shall terminate as of that date and no damages shall be owed by any party.

23. Modifications. This agreement shall not be modified unless in writing and signed by all the parties hereto in the same manner as this agreement is executed.

24. Severability. If any term, covenant, condition or provision of this agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this agreement shall be valid and shall be enforced to the fullest extent permitted by law.

25. Successors and Assigns. This agreement shall be binding and conclusive upon and inure to the benefit of the respective parties hereto and their successors, heirs, assigns,

executors, administrators and legal representatives.

26. Applicable Law. This agreement shall be interpreted in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties have fully executed this agreement as of this 30th day of November, 1981.

PARK CITY DEPOT CORPORATION

By _____
Chairman

SWEENEY LAND COMPANY

By _____
Jack Sweeney, Managing Partner

TRAMWAY PROPERTIES

By _____
Jack Sweeney, Managing Partner

GREATER PARK CITY COMPANY

By _____
Nick Badami, Chairman

EXHIBIT "A"

A description of the property owned by Depot is included within Exhibit "D" hereof.

EXHIBIT "B"

Tramway Right-of-Way Description

An outline of the tramway right-of-way is contained within Exhibit "D" attached hereto.

EXHIBIT "E"

Rights through the Snead property and the Carr property as shown on Exhibit "D".

J. Sweeney

FIRST AMENDMENT TO TRAM AGREEMENT

THIS First Amendment to Tram Agreement is executed as of this 5th day of October, 1982, by and between PARK CITY DEPOT CORPORATION, A Utah corporation ("Depot"), SWEENEY LAND COMPANY, a Utah general partnership ("Sweeney"), TRAMWAY PROPERTIES, a Utah general partnership ("Tramway") and GREATER PARK CITY COMPANY, a Utah corporation ("GPCC").

R E C I T A L S

1. The parties hereto entered into a certain agreement dated the 30th day of November, 1981, regarding the proposed construction and operation of a tram in Park City, Summit County, State of Utah (the "Tram Agreement").

2. Because of certain delays in the proposed Project, the parties desire to amend portions of the Tram Agreement to allow for a later construction of the Tram.

3. The parties have determined that it is in their best interest to make such an amendment.

NOW, THEREFORE, for Ten Dollars and other good and valuable consideration paid by GPCC to each of the other parties to this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereto amend the Tram Agreement as follows:

1. Paragraph 3 of the Tram Agreement is deleted in its entirety and in its place the following paragraph 3 is inserted:

(3) Time of Performance. It is anticipated that the Lift and related facilities should be constructed during the summer of 1984 so as to be available for the 1984-1985 ski season. If construction is not completed by December 1, 1984, the lease provided for herein shall terminate as of

that date. GPCC shall be responsible for arranging and financing the construction of all such facilities within such time period.

2. Paragraph 22 of the Tram Agreement is amended by deleting the date December 1, 1983, contained in the said paragraph 22 and replacing date by the date December 1, 1984.

3. Except as specifically amended by this document, the Tram Agreement continues in full force and effect between the parties hereto.

4. This document may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this First Amendment as of the day and year written above.

PARK CITY DEPOT CORPORATION

By _____
BLAINE HUNTSMAN, Chairman

SWEENEY LAND COMPANY

By _____
JACK SWEENEY, Managing Partner

TRAMWAY PROPERTIES

By _____
JACK SWEENEY, Managing Partner

GREATER PARK CITY COMPANY

By _____
NICK BADAMI, Chairman of the Board

that date. GPCC shall be responsible for arranging and financing the construction of all such facilities within such time period.

2. Paragraph 22 of the Tram Agreement is amended by deleting the date December 1, 1983, contained in the said paragraph 22 and replacing date by the date December 1, 1984.

3. Except as specifically amended by this document, the Tram Agreement continues in full force and effect between the parties hereto.

4. This document may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this First Amendment as of the day and year written above.

PARK CITY DEPOT CORPORATION

By_____
BLAINE HUNTSMAN, Chairman

SWEENEY LAND COMPANY

By_____
JACK SWEENEY, Managing Partner

TRAMWAY PROPERTIES

By_____
JACK SWEENEY, Managing Partner

GREATER PARK CITY COMPANY

By_____
NICK BADAMI, Chairman of the Board

that date. GPCC shall be responsible for arranging and financing the construction of all such facilities within such time-period.

2. Paragraph 22 of the Tram Agreement is amended by deleting the date December 1, 1983, contained in the said paragraph 22 and replacing date by the date December 1, 1984.

3. Except as specifically amended by this document, the Tram Agreement continues in full force and effect between the parties hereto.

4. This document may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this First Amendment as of the day and year written above.

PARK CITY DEPOT CORPORATION

By_____
BLAINE HUNTSMAN, Chairman

SWEENEY LAND COMPANY

By_____
JACK SWEENEY, Managing Partner

TRAMWAY PROPERTIES

By_____
JACK SWEENEY, Managing Partner

GREATER PARK CITY COMPANY

By Nick Badami
NICK BADAMI, Chairman of the Board

SECOND AMENDMENT TO TRAM AGREEMENT

This Second Amendment to Tram Agreement is executed as of this 14th day of August, 1984, by and between PARK CITY DEPOT CORPORATION, a Utah corporation ("Depot"), SWEENEY LAND COMPANY, a Utah general partnership ("Sweeney"), TRAMWAY PROPERTIES, a Utah general partnership ("Tramway") and GREATER PARK CITY COMPANY, a Utah corporation ("GPCC").

R E C I T A L S

1. The parties hereto entered into a certain agreement dated the 30th day of November, 1981, regarding the proposed construction and operation of a tram in Park City, Summit County, State of Utah (the "Tram Agreement").

2. The Tram Agreement was amended by First Amendment dated October 5, 1982.

3. Because of certain delays in the proposed Project, the parties desire to amend portions of the Tram Agreement to allow for a later construction of the Tram.

4.The parties have determined that it is in their best interest to make such an amendment.

NOW, THEREFORE, for Ten Dollars and other good and valuable consideration paid by GPCC to each of the other parties to this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereto amend the Tram Agreement as follows:

1. Paragraph 3 of the Tram Agreement is deleted in its entirety and in its place the following paragraph 3 is inserted:

(3) Time of Performance. It is anticipated that the Lift and related facilities should be constructed during the summer of 1985 so as to be available for the 1985-1986 ski season. If construction is not completed by December 1, 1985, the lease provided for herein shall terminate as of that date. GPCC shall be

responsible for arranging and financing the construction of all such facilities within such time period.

2. Paragraph 22 of the Tram Agreement is amended by deleting the date December 1, 1984, contained in the said paragraph 22 and replacing date by the date December 1, 1985.

3. Except as specifically amended by this document and the First Amendment, the Tram Agreement continues in full force and effect between the parties hereto.

4. This document may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this Second Amendment as of the day and year written above.

PARK CITY DEPOT CORPORATION

By _____
BLAINE HUNTSMAN, Chairman

SWEENEY LAND COMPANY

By _____
JACK SWEENEY, Managing Partner

TRAMWAY PROPERTIES

By _____
JACK SWEENEY, Managing Partner

GREATER PARK CITY COMPANY

By _____
NICK BADAMI, Chairman of the Board

1826B
C81484

G. EASEMENTS OF RECORD

POLE LINE EASEMENT

SILVER KING COALITION MINES COMPANY.

a corporation doing business in the State of Utah, hereby conveys and warrants to UTAH POWER & LIGHT COMPANY, a corporation, its successors in interest and assigns, Grantee, for the sum of One ($1.00) Dollar and other valuable consideration, a perpetual easement and right of way for the erection and continued maintenance, repair, alteration, and replacement of the electric transmission, distribution and telephone circuits of the Grantee, and 16 guys and 30 poles, with the necessary guys, stubs, cross-arms and other attachments thereon, or affixed thereto, for the support of said circuits, to be erected and maintained upon and across the premises of the Grantor, in Summit County, Utah, along a line described as follows:

Beg. on north boundary line of grantors property at north line of Kentucky No. 10, survey No. 5837 mining claim at a point 2640 ft. north and 250 ft. west, more or less, from the south 1/4 corner of Sec. 16, T. 2 S. R. 4 E. S.L.B. & M., th. running S. 55°11' W. 490 ft., more or less, to angle pole, th. S. 20°49' W. 1617 ft. to angle pole, th. S. 28° 13' W. 3360 ft. to angle pole, th. S. 36° 17' W. 697 ft. to angle pole, th. S. 44° 49' E. ~~497.6 ft.~~ 497.6 ft. to Two pole structure and including a four pole switchrack, and crossing over Kentucky No. 10 survey No. 5837, Kentucky No. 8, survey No. 629 and Kentucky No. 9, survey No. 5840, Creole three, Typo No. 4, survey No. 651, Kentucky No. 7, survey No. 625, Kentucky No. 2, survey No. 620, Kentucky No. 3, survey No. 621, Sheridian survey No. 637, May Flower No. 8, survey No. 618, May Flower No. 2, survey No. 613, May Flower No. 3, survey No. 614, May Flower No. 4, survey No. 615, May Flower No. 5 & 7, survey No. 616, and Engineer survey No. 3441, mining claims, property of grantor in the E 1/2 SW 1/4 and the SW 1/4 SW 1/4 Sec. 16, the NW 1/4 NW 1/4 Sec. 21, the E 1/2 NE 1/4 and the NE 1/4 SE 1/4 Sec. 20, Twp. and Range aforesaid.

SILVER KING COALITION MINES COMPANY

Together with all rights of ingress and egress necessary or convenient for the full and complete use, occupation and enjoyment of the easement hereby granted, and all rights and privileges incident thereto, including the right to cut and remove timber, trees, brush, overhanging branches and other obstructions which may injure or interfer with the Grantee's use, occupation or injoyment of this easement.

WITNESS the hands of the Grantors, this 31st day of October, A.D. 1927

SILVER KING COALITION MINES Company

By W. Mont Ferry V. President.

Attest: James Ivers

Secretary.

STATE OF UTAH,)
)ss.
County of SALT LAKE)

On the 31st day of October, A.D. 1927, personally appeared before me, W. Mont Ferry & Jas. Ivers, who being by me duly sworn, did say that he is the Vice President of and

49' E. ~~497.6 E.~~ 497.6 ft. to two pole structure and including four pole with jack and crossing over Kentucky No. 10 survey No. 5837, Kentucky No. 8, survey No. 629 and Kentucky No. 9, survey No. 5840, Creole three, Typo No. 4, survey No. 651, Kentucky No. 7, survey No. 625, Kentucky No. 2, survey No. 620, Kentucky No. 3, survey No. 621, Sheridian survey No. 637, May Flower No. 8, survey No. 618, May Flower No. 2, survey No. 613, May Flower No. 3, survey No. 614, May Flower No. 4, survey No. 615, May Flower No. 5 & 7, survey No. 616, and Engineer survey No. 3441, mining claims, property of grantor in the E 1/2 SW1/4 and the SW 1/4 SW 1/4 Sec. 16, the NW 1/4 NW 1/4 Sec. 21, the E 1/2 NE 1/4 and the NE 1/4 SE 1/4 Sec. 20, Twp. and Range aforesaid.

SILVER KING COALITION MINES COMPANY

Together with all rights of ingress and egress necessary or convenient for the full and complete use, occupation and enjoyment of the easement hereby granted, and all rights and privileges incident thereto, including the right to cut and remove timber, trees, brush, overhanging branches and other obstructions which may injure or interfer with the Grantee's use, occupation or injoyment of this easement.

WITNESS the hands of the Grantors, this 31st day of October, A.D. 1927

SILVER KING COALITION MINES Company

By W. Mont Ferry V.President.

Attest: James Ivers

Secretary.

STATE OF UTAH,)
)ss.
County of SALT LAKE)

On the 31st day of October, A.D. 1927, personally appeared before me, W. Mont Ferry & Jas. Ivers, who being by me duly sworn, did say that he is the Vice President of and Secretary of the S.K.C.M.C., a corporation, and that said instrument was signed in behalf of said corporation by authority of resolution board of Directors and said W.Mont Ferry acknowledged to me that said corporation executed the same.

My Commission expires: Mar. 20, 1928.

(SEAL)

John F. Flanagan
Notary Public.

Approved as to form & Execution File No. 13154. PLATTED

mc

Recorded at the request of Ut. Power & Light Co. Feb. 18, A.D. 1928, at 2: o'clock P.M.
Viola Zumbrunnen
County Recorder.

Entry No. 40206

IN THE THIRD JUDICIAL DISTRICT COURT, SUMMIT COUNTY, STATE OF UTAH

2

INDEXED: _____
GRANTOR: _____
GRANTEE: _____
RELEASED: _____
ABSTRACTED: _____
STAMPED: _____

Entry No. 130212 Book M76
RECORDED 4-19-76 at 11:02 M Page 282
REQUEST of Summit Co. Title
FEE $ 7.00 WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
INDEXED _____ ABSTRACT _____

GRANT OF EASEMENT

For good and valuable consideration, receipt and sufficiency whereof are hereby acknowledged, RAMSHIRE, INC., a Delaware corporation (hereinafter designated "Ramshire"), hereby grants and quitclaims to ROYAL STREET LAND COMPANY, a Utah corporation (hereinafter designated "Royal"), a non-exclusive easement of general passage by Royal, its agents, employees, invitees and assigns over and across the following described real property (hereinafter designated the "Easement Property") situated in Park City, Summit County, State of Utah:

That portion of Lots 31-32, Block 32; Lots 1-19 and 35-41, Block 77; Lots 13-17, Block 76; and 1-11, Block 79, all in the Park City Survey, Park City, Utah, that fall within a tract thirty (30) feet in width, the centerline of which is described as follows:

Beginning at a point on the East line of Block 1, amended plat of Park City, Summit County, Utah, said point being South 23°54' East 368.94 feet from the Northeast corner of said Block 1 and running thence South 65°52'25" West 348.42 feet; thence South 44°12'20" West 100.00 feet; thence South 30°23'20" West 325.00 feet; thence South 24°05'50" West 125.00 feet; thence South 9°31'15" West 140.00 feet; thence North 65°17'25" West 45.00 feet; thence North 2°53'05" West 590 feet to the West line of Block 79, Park City amended plat, said West line being also a West line of platted Park City; thence North 20°West 30.00 feet, which tract generally follows the street referred to as "King Road" in Park City, Utah.

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Said easement shall be appurtenant to and shall be utilized for the purpose of obtaining access from Main Street in Park City, Utah, to the following described real property (hereinafter designated the "Dominant Property") situated in Park City, Summit County, State of Utah:

Beginning at a point East 1414.80 feet and South 3974.85 feet from the Northwest corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and running thence South 46°54'22" East 2906.65 feet; thence North 56°27'04" East 420.90 feet; thence North 0°28'22" East 1777.87 feet; thence North 89°05'17" West 1332.50 feet; thence North 0°45'47" East 1304.00 feet; thence North 89°32'08" West 1051.35 feet; thence South 2° East 524.76 feet; thence South 9° 32' West 845.46 feet to the point of beginning.

The parties hereto agree as follows:

1. Either party hereto shall have the right, without the necessity of any payment to the other party, to require that the Easement Property be dedicated as a public street, provided that the party electing to have said property so decidated shall pay all costs and expenses incurred in said dedication, as well as all costs of construction of the improvements required in connection with said dedication. The other party shall, if said conditions are met, at the request of the party electing to have such ~~area dedicated, execute such plats and other instruments and documents~~ as are necessary to effectuate such dedication, provided that such party shall not be required to incur any liability, obligation or expense by reason of execution thereof.

2. The rights granted by Ramshire and Royal hereunder are granted without warranty or representation of title or otherwise. It is understood and agreed that this Grant of Easement shall relate only to such rights as Ramshire has in or to the Easement Property.

Executed this 10th day of October, 1975.

RAMSHIRE, INC.

By F G Buhrer

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ROYAL STREET LAND COMPANY

By J. Warren King
Pres.

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 10th day of October, 1975, personally appeared before me F. G. Becker Jr., who being by me duly sworn, did say that he, the said F. G. Becker Jr. is the Vice President of RAMSHIRE, INC., and that the within and foregoing instrument was signed in behalf of said corporation and said F. G. Becker Jr. duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Sharon J. Fleck
Notary Public
Park
Residing at ~~Heber City~~, Utah

SHARON J. FLECK NOTARY PUBLIC STATE OF UTAH

My Commission Expires - ~~June 1, 1977~~ Feb. 11, 1978

BOOK M76 PAGE 284

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 15th day of October, 1975, personally appeared before me J. Warren King, who being by me duly sworn, did say, that he, the said J. Warren King is the President of ROYAL STREET LAND COMPANY, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said J. Warren King duly acknowledged to me that said

corporation executed the same and that the seal affixed is the seal of said corporation.

Notary Public

Residing at ~~Heber~~ Provo City, Utah

My Commission Expires: 2-11-78

~~June 1, 1977~~

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When recorded return to:
BIELE, HASLAM & HATCH
50 West Broadway, 4th Floor
Salt Lake City, Utah 84101

Entry No. 226112
REQUEST OF Biele, Haslam & Hatch
FEE ALAN SPRIGGS, SUMMIT CO. RECORDER
$ 10.00 By Susan Lobenson
RECORDED 10-12-84 at 10:30 M

INDEXED:
GRANTOR:
GRANTEE:
ABSTRACTED:
STAMPED:

DECLARATION OF PROTECTIVE COVENANT

THIS DECLARATION is made this 7th day of June, 1984, by John J. Sweeney, Managing Partner of Tramway Properties (hereinafter referred to as "Owner").

1. PURPOSE OF COVENANT:

1.1 It is the intention of Owner as expressed by execution of this instrument that the property as set forth herein (hereinafter "Property"), and as more specifically described in Exhibit "A' and attached hereto, be maintained as a highly desirable residential property.

1.2 Owner hereby declares that the property and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied and improved and otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of ownership referred to herein and are further declared to be for the benefit of the property and every part thereof and for the benefit of each owner thereof. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes or easements as the case may be and shall constitute benefits and burdens to the Owner and its successors and assigns and to all parties hereafter owing any portion of said property.

2. GENERAL RESTRICTIONS:

2.1 The use of the property shall be limited to single family residences with a minimum of 3,750 square feet per lot. Each lot shall have a minimum of 50 front feet.

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3. **ENFORCEMENT:**

3.1 The obligations and provisions set forth in paragraph 2 contained in this Declaration or any supplemental or amended Declaration with respect to the Property shall be enforceable by any owner of a portion or all of the property, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction and/or specifically provided for herein or by law for recovery of damages or amounts due and unpaid. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration or any supplemental or amended Declaration with respect to a person or entity or property of a person or entity shall be enforceable by the Owner proceeding for a prohibitive or mandatory injunction and/or by a suit or action to recover damages or to recover any amount due or unpaid. If court proceedings are instituted in connection with the rights or enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys fees and costs.

3.2 No violation or breach of any provision, restriction, covenant or condition contained in this Declaration or any supplemental or amended Declaration and no action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith or for value and perfected by recording prior to the time of recording of any instrument giving notice of such violation or breach or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure on any such mortgage or deed of trust. Any such purchaser shall, however, take subject to this Declaration or any supplemental or amended Declaration,

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except only that violations or breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors and assigns.

3.3 Neither Owner nor any agent or employee of the same shall be liable to any party for any action or for any failure to act with respect to any matter in this action taken or failure to act was in good faith and without malice.

4. GENERAL PROVISIONS:

4.1 Any provision, covenant, condition or restriction contained in this Declaration or any supplemental or amended Declaration which is subject to the common law rule sometimes referred to as a rule against perpetuity, shall continue and remain in full force and effect for a period of fifty (50) years. All other provisions, covenants, conditions or restrictions contained in this Declaration or in any supplemental or amended Declaration shall continue and remain in full force and effect until January 1, 2034 AD, provided, however, that unless one (1) year prior to said time of expiration there is recorded an instrument directing the termination of this Declaration executed by Owner of the property or portions of the property, said other provisions, covenants, conditions and restrictions shall continue automatically for an additional ten (10) years and thereafter for successive periods of ten (10) years unless at least one (1) year prior to the expiration of any such extended period of duration this Declaration is terminated by recorded instrument directing termination and signed by the Owners of all of the property.

4.2 No provision, covenant, condition or restriction contained in

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this Declaration or any supplemental or amended Declaration may be amended or repealed by the by the Owners of the property.

4.3 Invalidity or unenforceability of any provision of this Declaration or any supplemental or amended Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration.

4.4 All references to the Owner of the property or portions thereof shall, in the event there is more than one Owner of the property, mean all Owners of the property, and all pronouns shall be deemed referred to the masculine, feminine, singular or plural as the identity of the persons may require.

4.5 Failure to enforce any provision, restriction, covenant or condition of this Declaration or in any supplemental or amended Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provision, restriction, covenant or condition.

IN WITNESS WHEREOF John J. Sweeney as managing partner of Tramway Properties has executed this Declaration the day and year first above written.

TRAMWAY PROPERTIES

By _____
JOHN J. SWEENEY
Managing Partner

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STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the 7th day of June, 1984, personally appeared before me John J. Sweeney, who duly acknowledged to me that he executed the foregoing document.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

My Commission Expires:

12/11/85

NOTARY PUBLIC STATE OF UTAH

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EXHIBIT "A"

Beginning at a point on the West line of the Park City Townsite, said point being North 31°40'53" West 583.55 feet, more or less, from a Park City Monument on the Centerline of Daly Avenue, also being on the boundary of the Alice Claim and running thence South 55°53'19" West 275 feet along said Alice Claim; thence North 10°38'38" East 801.19 feet; thence North 66°34'00" East 85.00 feet to said West line; thence South 0°08'50" East 666.99 feet along said West line to the point of beginning.

Containing 2.394 acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East.)

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Rev. 5-7-85
20505-04

EXHIBIT "A"

Beginning at a point on the West line of the Park City Townsite and the Northwesterly Boundary line of the Alice Claim as filed in the Bureau of Land Management Office, said point being North 31°40'53"West. 583.55 feet, more or less, from a Park City Monument on the centerline of Daly Avenue, and running thence South 55°53'19"West. 19.14 feet along the boundary of the Alice Claim; thence South 89°51'10"West. 10.52 feet; thence South 55°55'40"West. 241.15 feet; thence North 10°38'38"East, 792.68 feet; thence North 66°34'00"East, 85.00 feet to the West line of said Townsite; thence South 0°08'50"East, 666.99 feet along said West line to the point of beginning.

Containing 2.360 Acres, more or less

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00"East.)

H. LIST OF ADJACENT PROPERTY OWNERS

NAME	CARE OF	STREET	CITY	STATE	ZIP	TAX #	DESCRIPTION
31-2 Club Inc.		175 South Main	Salt Lake City	UT	84111	PC 68,69,70	B4 L30-32
Adele D. Langton		4260 S. 27th East	Salt Lake City	UT	84117	PC 360-A	B29 L14-15
Alden T. or Ruth Staker		P.O. Box 72	Park City	UT	84060	SA 138	B14 L2-4
Bamberger Company		163 S. Main	Salt Lake City	UT	84111	SA 321	Various
Burnis & Betty G. Watts		P.O. Box 705	Park City	UT	84060	PC 104	B6 L16-21
C. K. Nelson		P.O. Box 2184	Park City	UT	84060	PC 320	B13 Part
Carmine P. & Phyllis M. Iarrieri		1466 Chippewa Trail	Wheeling	IL	60090	PC 726	B78 L24-25
Carroll Horton		P.O. Box 2446	Park City	UT	84060	PC 341-B	B28 L2-5
Carson Investment Co.	Robert Carson	1002 E. South Temple	Salt Lake City	UT	84102	NR 5	Northstar
Charles R. & Margaret S. Bell		P.O. Box 2801	Park City	UT	84060	PC 369	B30 L6
Charles R. Bell, Etal.		P.O. Box 2801	Park City	UT	84060	PC 368	B30 L4
Charles T. & Phyllis M Bell		P.O. Box 2801	Park City	UT	84060	PC 368-B	B30 L5
Craig Schnechloth		P.O. Box 234	Park City	UT	84060	PC 728-1	B79 L7-15
Damaris D. W. Ethridge	Missing					NR 10	Northstar
Daniel M. Willard		P.O. Box 15548	Salt Lake City	UT	84115	QT 433	Quitting Time
David & Elizabeth Ann Thind	Ronald R. Nash	P.O. Box 3222	Park City	UT	84060	PC 718-C-2	B77 L25-27
David & Linda A. Myers		2680 Holiday Ranch Loop Rd.	Park City	UT	84060	PC 347A	B28 L14-16
David J. Willden, Jr.	Roy Reynolds	P.O. Box 1720	Park City	UT	84060	NF 4	Norfolk Lode
Debra K. Murillo	Craig Schneckloth	P.O. Box 234	Park City	UT	84060	PC 728-1	B79 Part
Delmar C & Beth H. Taylor		P.O. Box 4401	Park City	UT	84060	SA 312	B30 L5-6
Don Jordan		Route 1 - Box 178	Athens	TN	37303	PC 362	B29 L18-19
Dorothy Fay Schreyer		2891 Costa Lane	Salt Lake City	UT	84117	SA 145-A	B14 L19-21
Dr. Gerry Munsen		9039 Katy Freeway Suite 705	Houston	TX	77024	QT 431	Quitting TIme
Ellen C. Anderson		2134 St. Mary's Dr.	Salt Lake City	UT	84108	Alice Claim	Mining Claim
Elmer S. George		2937 Casto Lane	Salt Lake City	UT	84117	PC 373	B30 L9-12
Eva Sanchez	Robert M. Hittner	P.O. Box 231	Park City	UT	84060	SA 120	B11 L1
First Security Financial		135 South Main Street	Salt Lake City	UT	84111	NR 9	Northstar
Gail B. Ciacci		1971 Logan Avenue	Salt Lake City	UT	84108	QT 449	Quitting Time
Gaiski International Unlimited		574 12th Avenue	Salt Lake City	UT	84103	PC 367	B30 L2-3
Gary A. & Jane J. Kimball		P.O. Box 788	Park City	UT	84060	PC 338	B27 L17-18
Geneva A. Butkovich		3632 East Kaibab Circle	Salt Lake City	UT	84109	PC 364 A2	B29 Part
Gilbert J. & Maud Kimball		P.O. Box 535	Park City	UT	84060	PC 337	B27 L12-19
Gladys T. Wilds		1705 Ramona Avenue	Salt Lake City	UT	84108	PC 102	B6 L19
Glendor D. & Margaret R. McAdams		P.O. Box 1778	Park City	UT	84060	QT 443	Quitting Time
Greater Park City Company		P.O. Box 39-D	Park City	UT	84060	Various	Various
Gwendolyn Siddoway	Gwendolyn Larsen	RFD Box 196 A	Coalville	UT	84017	PC 333	B27 L8-9
Hector Mestre		734 Warwick Road	Deerfield	IL	60015	NR 1	Northstar
Henery H. Cate Jr.		P.O. Box 1878	Casper	WY	82602	NF 1	Norfolk Lode
Howard J. Kadwit		P.O. Box 680098	Park City	UT	84068	PC 375	B30 L12-14
Hunter Villa Condo	Daniel C. Hunter III	P.O. Box 78	Park City	UT	84060	PC 344,345	B28 L8-10
J. R. & Carolyn Jelks, Jr.		Star Rt. Box 380	Elgin	AZ	85611	PC 320 A	B13 Part
J. Wayne Carlson, Etal.	Dean S. Berrett	P.O. Box 84	Park City	UT	84060	PC 367 A3	B30 L25
J.Bird Investment Properties Inc.		P.O. Box 231	Park City	UT	84060	PC 349,350	B28 L17-18
Jack Dozier & Dean S. Berrett		P.O. Box 84	Park City	UT	84060	PC 367 A2	B30 L26
James Paul		4265 Marina City Dr.A 507WTN	Marina Del Rey	CA	90292	PC 710-C	B77 L28-29
James R. Huck		2744 Azalea Drive	San Diego	CA	92106	SA 314	B30 L6-7
James W. & Martina Lewis		P.O. Box 808	Park City	UT	84060	PC 361	B29 L16-17
Janet Higham		304 Norfolk Avenue	Park City	UT	84060	PC 367-A1	B30 L27

NAME	CARE OF	STREET	CITY	STATE	ZIP	TAX #	DESCRIPTION
Janice Pett Hart		48 Ichabod St.	Salt Lake City	UT	84117	SA 311 A	B30 LB-10
Jessie G. Hales		P.O. Box 593	Park City	UT	84060	PC 45	B3 L12-14 17-21
Joan R. Stewart	Ray T. Welling	223 W. 700 S.	Salt Lake City	UT	84101	PC 342,343	B28 L6-7
Joe & Shirley Uriarte		P.O. Box 505	Park City	UT	84060	PC 353A	B29 L2-4
John & Lynne M. Roche		1220 Manitou Rd.	Santa Barbara	CA	93101	SA 5	B2 L1
John A. & Shirley M. Durham		2209 E. 6200 S.	Salt Lake City	UT	84121	SA 311-1	B30 L1-4 11
John D. & Bonnie S. Sutton	F. Walter Richard	19021 San Diego Avenue	Lathrup Village	MICH	48076	PC 327	B27 L1-2
John E. Kehoe		555 South Flower 46th Floor	Los Angeles	CA	90071	NR 6	Northstar
John K. Hayes, Etal.		190 S. 300 E.	Provo	UT	84601	PC 718	B78 L20-23
John M. & Sandra T. Anderson		2041 Webster St.	Palo Alto	CA	94301	SA 137	B13 Part
Joseph E. Bernolfo, Jr.		163 S. Main	Salt Lake City	UT	84111	SA 315,321 C	East of Nastar Run
Juistina Provost, Etal.		P.O. Box 377	Park City	UT	84060	PC 728-2	B79 L5-7
Kenneth & Berneil Kunnee	Ted W. Larremore	P.O. Box 1417	Park City	Ut	84060	SA 135	B12 L2-7 B26 L1-5
Kenneth G. Collison	Beaker St. Devel. Co.	1007 Fifth Ave. Suite 700	San Diego	CA	92101	PC 75	B30 L22
Kim & Bonnie Deffebach		P.O. Box 2726	Park City	UT	84060	PC 332	B27 L7-8
Kim Ewig & Mary C. Whitesides		P.O. Box 2189	Park City	UT	84060	SA 146	B14 L17-19
Larry & Marie Romine	Daniel C. Hunter III	P.O. Box 78	Park City	UT	84060	PC 344	B27 L10-11
Leo G. & Margaret H. Rodgers		115 Nimitz Avenue	Redwood City	CA	94061	PC 311	B13 Part
Lila M. Sundquist		164 South Allen	Midvale	UT	84047	PC 353	B29 L1-2 B1 L3-4
Melvin H. Fletcher, Etal.		P.O. Box 51	Park City	UT	84060	SA 343,M3 620	B7 Part
Michael B. & Elizabeth R. duPont		18 Wee Burn Ln.	Darien	CT	6820	PC 800-2	Royal Street
Morton & Ethel Siegel	First Security Bank	405 South Main	Salt Lake City	UT	84111	QT 445	Quitting Time
Nina M. Machael	William Kranstover	P.O. Box 2475	Park City	UT	84060	PC 728	B74 Part
Nina T. Marth		3197 Cape Verde	Costa Mesa	CA	92626	QT 441	Quitting Time
Norfolk Lode Condos	See NF tax numbers						B31 L17-20
North Star Subdivision	See NR tax numbers						
Old Miner's Lodge		P.O. Box 2639	Park City	UT	84060	PC 328	B27 L3-4 29-30
Opal Deeben		P.O. Box 776	Park City	UT	84060	PC 376	B30 L14-16
Patrick J. & Francis Pirraglio		P.O. Box 607	Park City	UT	84060	PC 340	B28 L1
Peggy Prianos		P.O. Box 2184	Park City	UT	84060	SA 137-1	B 13 Part
Philip B. Curry, Etal.		P.O. Box 2312	Rancho Santa Fe	CA	92067	PC 718 C	B78 L28-29
Pricilla Edith Willard		205 Mill St. Plaza	Aspen	CO	81611	PC 360	B29 L10-14
Quittin' Time Condo	See QT tax numbers						
R & R Associates	Phil Rabin	255 West 2nd South	Salt Lake City	UT	84101	NR 8	Northstar
Ranco Custom Homes Co.		17815 Davenport Suite 310	Dallas	TX	75252	SA 340, 400-5	Depot
Ranon & Patsy O. Johnson		527 East 11th Avenue	Salt Lake City	UT	84103	PC 718-8	B78 L26,27,32
Reyenold & Davidson, Part.		258 Norfolk Avenue	Park City	UT	84060	NF 2	Norfolk Lode
Richard A. Trippeer		P.O. Box 3119	Memphis	TN	38103	NR 2	Northstar
Richard Q. Bailey	Bernard P. Lee	350 S. 400 E. Suite G-6	Salt Lake City	UT	84111	PC 371	B30 L7-8
Robert F. Fogelman		6455 Poplar Avenue	Memphis	TN	38119	NR 3	Northstar
Robert G & Dorothy Larson		P.O. Box 87142	San Diego	CA	92138	PC 347	B28 L11-13
Robert J. Colman	Owanah Oil Corp.	1935 S. Main St. Suite 301	Salt Lake City	UT	84115	PC 334 A	B27 Part
Robert L. Dudiak		50 S. Main Suite 930	Salt Lake City	UT	84111	QT 447	Quitting Time
Robert M. Hittner		P.O. Box 231	Park City	UT	84060	PC 349,350	B28 L17-18
Robert T. & Evelyn M. Richards		P.O. Box 1355	Park City	UT	84060	NR 4	Northstar
Ronald H. Snyder		4026 Fairway Avenue	Studio City	CA	91604	QT 435	Quitting Time
Stuart G. Greer Family Trust		Main & S. Temple Hotel Utah	Salt Lake City	UT	84111	QT 437	Quitting Time
Theodore W. & WB Larrimore		P.O. Box 1417	Park City	UT	84060	SA 136	B12 L3-6

PROPERTIES WITHIN 100' AS OF MAY 1, 1985

NAME	CARE OF	STREET	CITY	STATE	ZIP	TAX #	DESCRIPTION
Thomas M. & LaVon Hewitson		P.O. Box 291	Park City	UT	84060	SA 137 A	B14 L1-2
United Park City Mines Co.		309 Kearns Bldg.	Salt Lake City	UT	84101	Various	Various
Upper Norfolk Condo	Christensen, Ladd	1313 E. Maderia Hills Dr	Bountiful	UT	84010	PC 718-C-6	B78 L30-33
Utah Firstbank		3165 S. 1300 E. Box 9159	Salt Lake City	UT	84109	NR 7	Northstar
Victor H. & Irene W. Berriochoa		P.O. Box 315	Park City	UT	84060	PC 63	B1 L1-2 12-13
Walter Davidson		P.O. Box 515	Park City	UT	84060	NF 3	Norfolk Lode
Warner J & Elna D. Cudmore		P.O. Box 3747	Park City	UT	84060	PC 718 C4	B78 L17-18 35-43
Wendy Lavitt		15 East 91st Street	New York	NY	10028	QT 439	Quitting Time
Willain & Elizabeth Schirf		622 Coalition View	Park City	UT	84060	PC 367-A-6	B30 L23
Willian J. Mann		1755 Lynnfield Suite 142	Memphis	TN	38119	PC 291	B23 L6
Willian Kranstover		P.O. Box 2475	Park City	UT	84060	PC 728	B79 L 1-4
Willian L. & Elizabeth Reed	Raeburn V. Coalson	106 West 2950 South	Salt Lake City	UT	84115	PC 346	B28 L11-12

I. LETTER SWEENEY LAND COMPANY

Sweeney Land Company
2640 Maywood Drive
Salt Lake City, Utah 84109
(801) 486-1100
May 1, 1985

To Whom It May Concern:

This letter confirms that MPE Inc. has an agreement with Sweeney Land Company which gives MPE Inc. the right to master plan Sweeney Land Company properties and, if necessary, petition to have them rezoned. A list of these properties is attached.

Sincerely,

John J. Sweeney
Managing Partner
Sweeney Land Company

Sworn to (or affirmed) before me
this 1st day of May, 1985

Notary

My Commission Expires June 19, 1985

	ACRES
Coalition Properties	
Coalition East (South)	0.612
Coalition East Parking Easement	0.205
Coalition East (North)	0.374
Coalition West	0.537
Developed HR1 Properties	
MPE	0.161
Carr-Sheen	0.288
Hillside Properties	
Royal Street South	57.982
Royal Street North	32.469
Butkovich South	16.453
Butkovich North	6.072
GPPC	0.081
Anderson	0.517
Keating	0.633
Tram Right of Way-Royal St.	1.192
Tram Right of Way-Butkovich	1.138
Nastar	6.427
Lowell-Empire Switchback	0.272
Lowell Empire	0.077
Fletcher	0.154
Hurley Corner (Area of title cloud)	0.571
Lots 4,5,6 (Area of title cloud)	undetermined
Buddy Lange Norfolk (Area of title cloud)	0.048

J. MASTER PLAN APPLICATION

PARK CITY
1884

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060
(801) 649-6714

Approved _____ (date)

Denied _____ (date)

Application # _____

Receipt # _____

MASTER PLANNED DEVELOPMENT

APPLICATION FOR: Sweeney Properties Master Plan

PROJECT INFORMATION

Name: Sweeney Properties Master Plan

Address or Location: Various near Park City Historic District

Legal Description: See attached descriptions

APPLICANT (check one)

( ) Owner (x) Optionee ( ) Buyer ( ) Agent ( ) Other

Name: MPE, Inc.

Mailing Address: P.O. Box 2429
Park City, UT 84060

Telephone Number: (801) 649-7077

OWNER(S) OF RECORD

Name: Sweeney Land Company

Mailing Address: 2640 Maywood Drive
Salt Lake City, UT 84109

Telephone Number: (801) 486-1100

* * * * * * * * * * * * * * * * * * DO NOT WRITE BELOW THIS LINE * * * * * * * * * * * * * * * * * *

Application Accepted: _____ (initials)
Project Planner: _____ (name)
Complete Checklist: _____ (initials)

Additional Information Requested:

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am the party who the City should contact regarding any matter pertaining to this application.

I have read and understood the instructions supplied by Park City for processing this application.

The documents and/or information I have submitted are true and correct to the best of my knowledge.

I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization to proceed with the study.

Signature of Applicant: Patrick J. Sweeney (President) Date: May 17, 1985

Name of Applicant: MPE, Inc.
(please print or type)

Mailing Address: P.O. Box 2429
Park City, UT 84060

Telephone Number: (801) 649-7077

Type of Application: Large Scale Master Plan

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

Name of applicant: MPE, Inc.
(please print or type)

Mailing Address: P.O. Box 2429
Park City, UT 84060

Street address/legal description of subject property: See attached descriptions

Signature: Patrick J. Sweeney (President MPE, Inc.) Date: May 17, 1985

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.

THIS AFFIRMATION IS NOT SUBMITTED IN LIEU OF SUFFICIENT TITLE EVIDENCE. YOU WILL BE REQUIRED TO SUBMIT A TITLE OPINION, CERTIFICATE OF TITLE, OR TITLE INSURANCE POLICY SHOWING YOUR INTEREST IN THE PROPERTY PRIOR TO FINAL ACTION.

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

(801) 649-6714

MASTER PLANNED DEVELOPMENT FACT SHEET

PROJECT DESCRIPTION

Proposal is for: Large Scale Master Plan

Existing zoning: HCB, HR1, Estate

Current use of property: Vacant

Total project area: 125.644 (acres) 5,473,052.64 (square feet)

Number of unit equivalents: 256.13 (per Section 10.12)

Number of residential units: To be determined

Commercial area: 19,000 square feet support commercial (gross floor area)
17,100 square feet (net leasable area)

Type(s) of business activity: Hotel, condomeniums, support commercial, single family homes

Number of parking spaces required: 670 proposed: 678
(subject to interpretation)

Project accessed via: (check one)

( ) public road ( ) private road (x) private driveway

Ownership/occupancy (check appropriate)

( ) owner occupied (x) lease (x) nightly rental
(x) condominium ( ) timeshare

Water service availability: (check one)

( ) existing (x) requires extension of city service

APPLICATION REQUIREMENTS

_____ Completed application form

_____ Review fees paid

_____ Names and mailing addresses of property owners within 100'

_____ 7 complete sets of all plans submitted

_____ Written statement provided addressing any variances requested, proposed construction phasing schedule, rezoning or annexation required, and a general description of the project

PARK CITY
1884

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060
(801) 649-6714

Approved _____ (date)

Denied _____ (date)

Application # _____

Receipt # _____

REZONING

APPLICATION FOR: Rezoning Hillside Property

PROJECT INFORMATION

Name: Sweeney Properties Master Plan

Address or Location: Various near Park City Historic District

Legal Description: See Exhibit "A"

APPLICANT (check one)

( ) Owner (x) Optionee ( ) Buyer ( ) Agent ( ) Other

Name: MPE, Inc.

Mailing Address: P.O. Box 2429, Park City, UT 84060

Telephone Number: (801) 649-7077

OWNER(S) OF RECORD

Name: Sweeney Land Company

Mailing Address: 2640 Maywood Drive
Salt Lake City, UT 84109

Telephone Number: (801) 486-1100

* * * * * * * * * * * * * * * * * * DO NOT WRITE BELOW THIS LINE * * * * * * * * * * * * * * * * * *

Application Accepted: _____ (initials)
Project Planner: _____ (name)
Complete Checklist: _____ (initials)

Additional Information Requested:

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am the party who the City should contact regarding any matter pertaining to this application.

I have read and understood the instructions supplied by Park City for processing this application.

The documents and/or information I have submitted are true and correct to the best of my knowledge.

I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization to proceed with the study.

Signature of Applicant: Patrick J. Sweeney (President) Date: May 17, 1985

Name of Applicant: MPE, Inc.
(please print or type)

Mailing Address: P.O. Box 2429
Park City, UT 84060

Telephone Number: (801) 649-7077

Type of Application: Rezoning

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

Name of applicant: MPE, Inc.
(please print or type)

Mailing Address: P.O. Box 2429
Park City, UT 84060

Street address/legal description of subject property: See Exhibit "A"

Signature: Patrick J. Sweeney (President MPE, Inc.) Date: May 17, 1985

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.

THIS AFFIRMATION IS NOT SUBMITTED IN LIEU OF SUFFICIENT TITLE EVIDENCE. YOU WILL BE REQUIRED TO SUBMIT A TITLE OPINION, CERTIFICATE OF TITLE, OR TITLE INSURANCE POLICY SHOWING YOUR INTEREST IN THE PROPERTY PRIOR TO FINAL ACTION.

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

(801) 649-6714

* Special restriction to gross density of 18 unit equivalents per acre

REZONING FACT SHEET

DESCRIPTION

Existing zoning: 15.21 acres HR1 108.25 acres Estate

Proposed zoning: 1.00 acre HR1 11.50 acres RC* 110.96 ROS

Current use of property: Vacant except one single family home

Total project area: 123.467 (acres) 5,378,222.52 (square feet)

Type of project application filed: Large Scale Master Plan

Number of residential units: 209 Unit Equivalents

Commercial area proposed: 19,000 square feet support commercial (gross floor area)
17,100 square feet (net leasable area)

Type(s) of business activity: Hotel, Condomeniums, Support Commercial, Single Family

Number of parking spaces required: 552 proposed: 559
(subject to interpretation)

Project accessed via: (check one)

( ) public road ( ) private road (x) private driveway

Ownership/occupancy (check appropriate)

( ) owner occupied (x) lease (x) nightly rental
(x) condominium ( ) timeshare

Water service availability: (check one)

( ) existing (x) requires extension of city service

APPLICATION REQUIREMENTS

_____ Completed application form

_____ Review fees paid

_____ Names and mailing addresses of property owners within 100'

_____ Copy of any other applications pending (attach)

_____ 3 copies of a certified survey

_____ Written statement provided addressing the specifics of the request and detailing the proposed use of the property, development time frame, and describing any other applications under review

STATEMENT OF PURPOSE

The intention of this rezoning is to allow the Sweeney Properties Master Plan as proposed, in particular the Hillside portion. For a detailed presentation and justification for the rezoning please refer to the Sweeney Properties Master Plan written statement dated May 15, 1985 and the accompanying 26 surveys and drawings. What follows is a overview of the proposed changes, their effect on underlying zone density, and a list of salient points of justification.

The involved property consists of 123.467 acres, 15.21 acres of which is currently zoned HR1, and 108.25 acres of which is currently zoned Estate. It is proposed that one acre remain Historic Residential (HR1) with special restrictions under the Master Plan which would allow only two single family homes each on one half acre; that 11.5 acres be zoned Recreation Commercial (RC), with a special restriction that gross density not exceed 18 Unit Equivalents (U.E.) per acre; and the remaining 110.96 acres be zoned Recreation and Open Space (ROS). The effect on underlining density is shown in the following table:

CURRENT ZONE	# OF ACRES	DENSITY PER ACRE	DENSITY IN U.E.
HR1	15.21	23 U.E.	349
Estate	108.25	3 AC/U.E.	36
			Total 385
PROPOSED ZONE			
HR1	1.00	2 U.E.	2
RC	11.50	18 U.E.	207
ROS	110.96	0 U.E.	0
			Total 209

The advantages to Park City of these proposed changes are:

* Preservation of 90% of the hillside West of the City as Recreation and Open Space with its scenic value
* An end to the uncertainty as to the development fate of the hillside thus stabilizing the other zones in the area
* Concentration of City services with no additional public roads
* A broadened tax base
* Customer base for the Main Street business district

5-16-85
20505-04

SWEENEY HILLSIDE PROPERTIES TOTAL BOUNDARY

Beginning at the Center of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point also being South 16°50'13" East, 74.98 feet, more or less, from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence North 89°56'24" East, 385.96 feet, more or less, along the 1/4 Section Line; thence South 27°00'12" East, 15.89 feet; thence South 42°57'14" East, 3.40 feet; thence South 55°53'00" West, 93.90 feet; thence South 57°40'08" East, 109.20 feet; thence North 60°08'27" East, 11.21 feet; thence South 38°06'27" East, 39.16 feet; thence North 59°47'16" East, 30.78 feet; thence South 23°38'00" East, 95.88 feet; thence North 66°22'00" East, 125.00 feet to a point which is South 23°38'00" East, 50.00 feet from the Southwest corner of Block 26, Park City survey, Amended Plat also being North 28°45'41" West, 156.08 feet and South 66°22'00" West, 348.17 feet from a Park City Monument at the Intersection of Park Avenue and Heber Avenue; thence South 23°38'00" East, 456.97 feet; thence North 66°52'00" East, 75.00 feet to the Northwest corner of Lot 14, Block 28 said survey, said point being South 66°52'00" West, 300.01 feet and South 23°38'00" East, 64.88 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 6th Street; thence South 23°38'00" East, 300.00 feet to the Southwest corner of Lot 3, Block 28; thence South 66°52'00" West, 25.00 feet; thence South 23°38'00" East, 25.00 feet; thence North 66°52'00" East, 25.00 feet to the Northwest corner of Lot 1, Block 28, said survey; thence South 23°38'00" East, 25.48 feet to the Southwest Corner of said Lot 1; thence South 66°22'00" West, 75.00 feet; thence South 23°38'00" East, 30.00 feet; thence North 66°22'00" East, 75.00 feet to the Northwest Corner of Lot 19, Block 29, said survey;thence South 23°38'00" East, 325.00 feet to the Southwest corner of Lot 7, Block 29, thence South 66°22'00" West, 75.00 feet; thence South 23°38'00" East, 74.67 feet, more or less, to a East-West 40 Acre line; thence South 89°36'41" East, 82.11 feet, more or less, along said 40 Acre line; thence South 23°38'00" East, 91.91 feet, more or less, to the Northwest corner of Lot 2 Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim U.S. Lot No. 633; thence South 66°22'00" West, 75.00 feet to the Northwest corner of Lot 12 and said mining claim; thence South 23°38'00" East, 53.98 feet to the Southwest corner of Lot 13 of said mining claim; thence North 66°40'00" East, 141.00 feet, more or less, to a North-south 40 Acre line and the West line of the Park City Townsite said point being South 66°40'00" West, 240.50 feet and North 0°08'50" West, 16.32 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street; thence South 0°08'50" East, 32.64 feet, more or less, along said 40 Acre line and said West line; thence South 66°40'00" West, 52.99 feet, more or less, to the Northwest corner of said mining claim;

thence South 23°38'00" East, 250.00 feet to the Northeast corner of Lot 22, Block 30, Park City Townsite Survey, Amended Plat; thence South 66°40'00" West, 75.00 feet to the Northwest corner of said Lot 22; thence South 23°38'00" East, 42.87 feet; thence South 62°20'36" West, 121.85 feet; thence South 23°38'00" East, 45.70 feet; thence South 68°07'00" West, 28.75 feet; thence South 23°38'00" East, 51.61 feet; thence North 75°38'35" East, 29.97 feet; thence South 23°38'00" East, 132.68 feet; thence North 66°12'00" East, 16.39 feet, more or less, to said 40 Acre line and said West line; thence South 0°08'50" East, 1025.87 feet along said 40 acre line and said West line to a point on the Alice Lode which point is North 31°40'53" West, 583.55 feet from a Park City Monument on the Centerline of Daly Avenue; thence South 55°53'19" West, 19.14 feet along said Alice Lode; thence South 89°51'10" West, 10.52 feet; thence South 55°55'40" West, 420.90 feet; thence North 47°25'46" West, 2906.65 feet; thence North 8°56'27" East 845.30 feet; thence North 2°31'24" West 503.18 feet, more or less, to the 1/4 section line; thence North 89°56'30" East, 1081.16 feet, more or less, along said 1/4 Section line to the point of beginning.

Containing 123.466 Acres, more or less

(Basis of bearing of the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

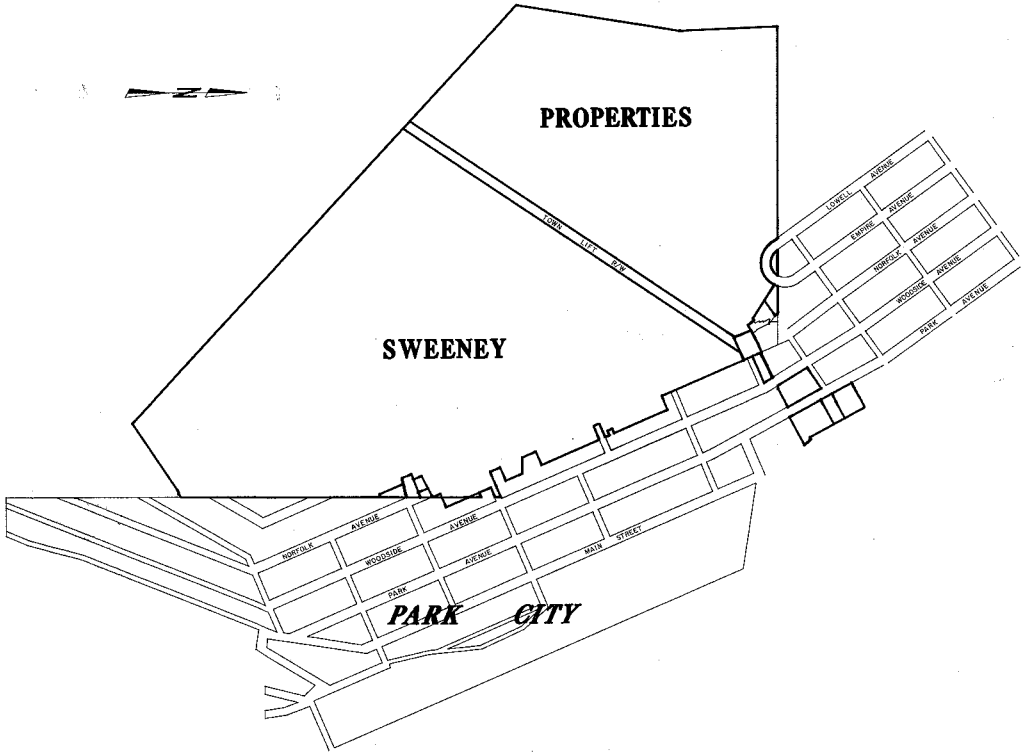
5-16-85
20505-04

RECREATION AND OPEN SPACE (ROS)

PARCEL 1

Beginning at a point on the East-West 1/4 section line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point being South 89°56'30" West, 575.00 feet, more or less, from the Center of said Section 16 said point also being South 82°33'00" West, 557.99 feet, more or less, from a Park City Monument at the Intersection of Lowell Avenue and Shepard Street and running thence South 5°00'00" East, 330.00 feet; thence South 19°04'05" East, 281.75 feet; thence North 75°59'52" East, 186.15 feet; thence North 0°03'30" West, 115.00 feet; thence North 72°22'01" East, 582.74 feet; thence North 33°32'19" East, 180.00 feet; thence South 57°40'08" East, 34.20 feet; thence North 60°08'27" East, 11.21 feet; thence South 38°06'27" East, 39.16 feet; thence North 59°47'16" East, 30.78 feet; thence South 23°38'00" East, 95.88 feet; thence North 66°22'00" East, 62.41 feet; thence South 33°32'19" West, 421.10 feet; thence South 41°38'27" East, 360.38 feet; thence North 49°11'31" East, 257.70 feet; thence North 33°32'19" East, 70.00 feet; thence North 66°52'00" East, 75.00 feet; thence South 23°38'00" East, 101.92 feet; thence South 66°22'00" West, 90.00 feet; thence South 23°38'00" East 249.34 feet; thence North 66°22'00" East, 15.00 feet; thence South 23°38'00" East, 30.00 feet; thence North 66°22'00" East, 75.00 feet; to the Northwest corner of Lot 19, Block 29 said survey; thence South 23°38'00" East, 325.00 feet to the Southwest corner of Lot 7, Block 29; thence South 66°22'00" West, 75.00 feet; thence South 23°38'00" East, 74.67 feet, more or less, to a East-West 40 Acre line; thence South 89°36'41" East, 82.11 feet, more or less, along said 40 Acre line; thence South 23°38'00" East, 91.91 feet, more or less, to the Northwest corner of Lot 2 of Block 1 as platted on the Easterly end of the patented Park City Lode Mining Claim U.S. Lot No. 633; thence South 66°22'00" West, 75.00 feet to the Northwest corner of Lot 12 and said mining claim; thence South 23°38'00" East, 53.98 feet to the Southwest corner of Lot 13 of said mining claim; thence North 66°40'00" East, 141.00 feet, more or less, to a North-south 40 Acre line and the West line of the Park City Townsite said point being South 66°40'00" West, 240.50 feet and North 0°08'50" West, 16.32 feet, more or less, from a Park City Monument at the intersection of Park Avenue and 4th Street; thence South 0°08'50" East, 32.64 feet, more or less, along said 40 Acre line and said West line; thence South 66°40'00" West, 52.99 feet, more or less, to the Northwest corner of said mining claim; thence South 23°38'00" East, 250.00 feet to the Northeast corner of Lot 22, Block 30, Park City Townsite Survey, Amended Plat; thence South 66°40'00" West, 75.00 feet to the Northwest corner of said

SWEENEY PROPERTIES
MASTER PLAN



INDEX TO SHEETS

SHEET NO.	DESCRIPTION
1	200 SCALE SITE PLAN
2	200 SCALE SWEENEY PROPERTIES
3-6	100 SCALE SITE with BOUNDARIES
7-8	50 SCALE SITE PLAN & GRADING
9-10	50 SCALE NORFOLK AVENUE ALTERNATIVE
11	200 SCALE HILLSIDE SEWER, WATER & DRAINAGE
12	50 SCALE HILLSIDE SEWER WATER & DRAINAGE
13	20 SCALE COALITION BOUNDARY & TOPOGRAPHIC SURVEY
14	20 SCALE COALITION TOPOGRAPHIC SURVEY
15	20 SCALE COALITION BOUNDARY SURVEY
16	20 SCALE COALITION ELEVATIONS & LIFT BASE
17	50 SCALE HILLSIDE SITE PLAN, GRADING & ELEVATIONS
18	50 SCALE HILLSIDE CROSS SECTION
19-23	50 SCALE HILLSIDE PARKING
24	20 SCALE COALITION SITE PLAN
25	20 SCALE COALITION CROSS SECTION
26	20 SCALE COALITION PARKING

MPE INC., APPLICANT
DR. PAT SWEENEY
RESPONSIBLE AGENT
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

DELAMARE - WOODRUFF - STEPAN ASSOCIATES, INC.
ARCHITECTS & PLANNERS

P/S ASSOCIATES, INC.
ENGINEERS & SURVEYORS

SCALE : 1" = 200'
CONTOUR INTERVAL : 10'
PHOTO DATE : 11-5-82

P/S

SWEENEY PROPERTIES
200 SCALE SITE PLAN

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY DJF/PAH/JLS DATE 5-10-85
JOB NUMBER 203 APPROVED BY
CHECKED BY FILE NO.

SHEET NO.
1/26

DATA-PHOTOGRAPHY, TOPOGRAPHY & REPRODUCTION BY
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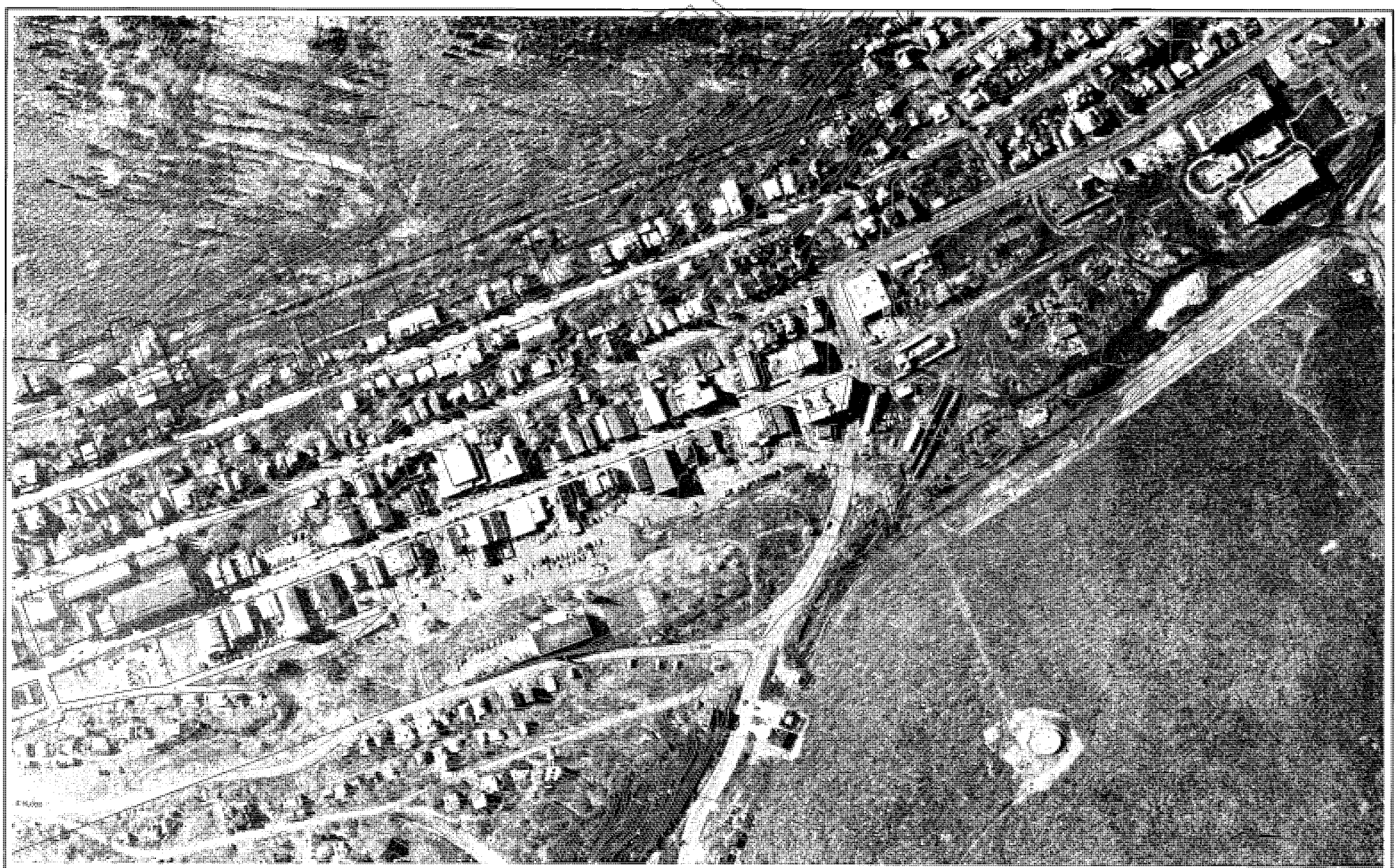
SWEENEY PROPERTIES
200 SCALE PROPERTY PLAN

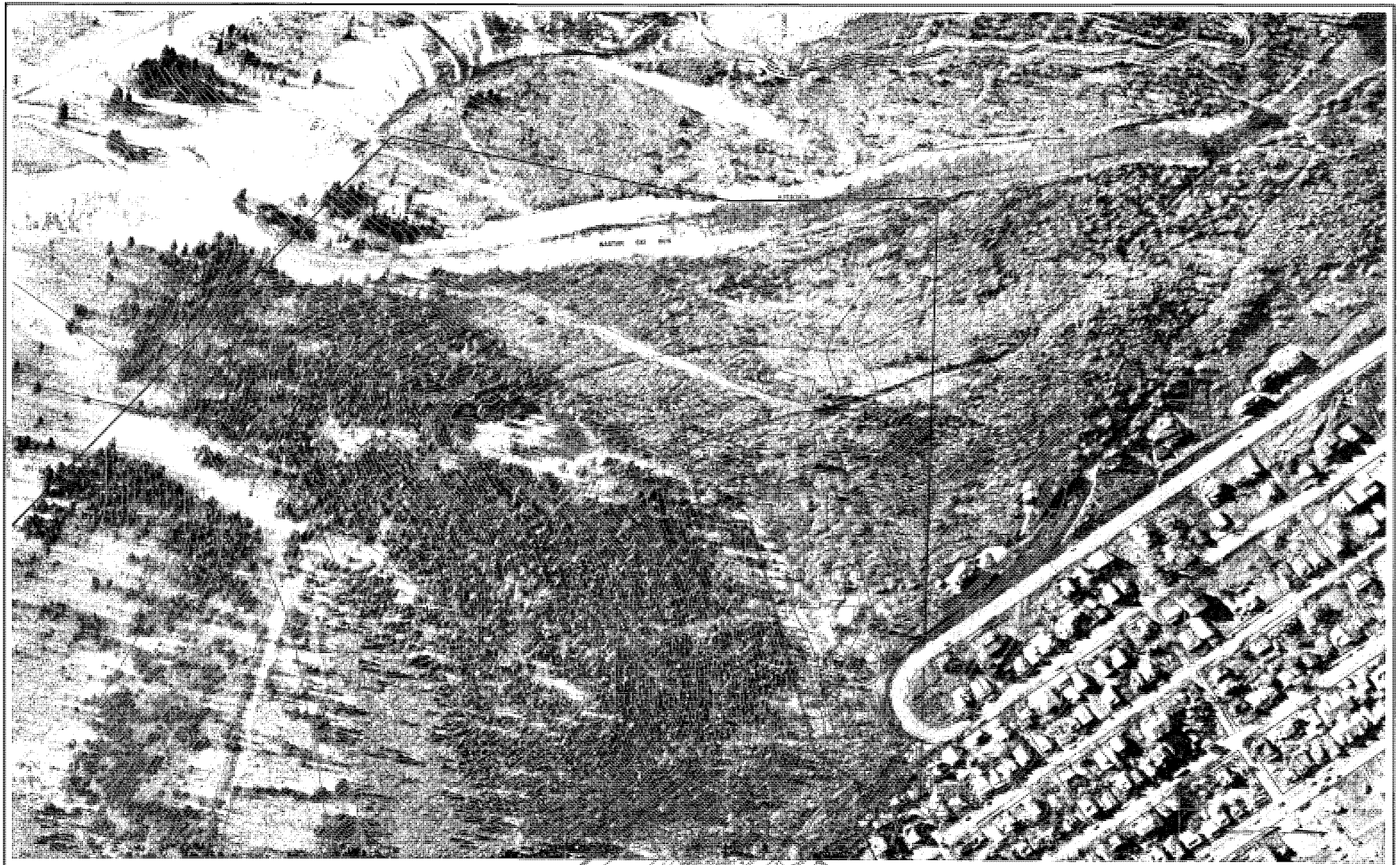
SHEET NO.
2
26



P/S

SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

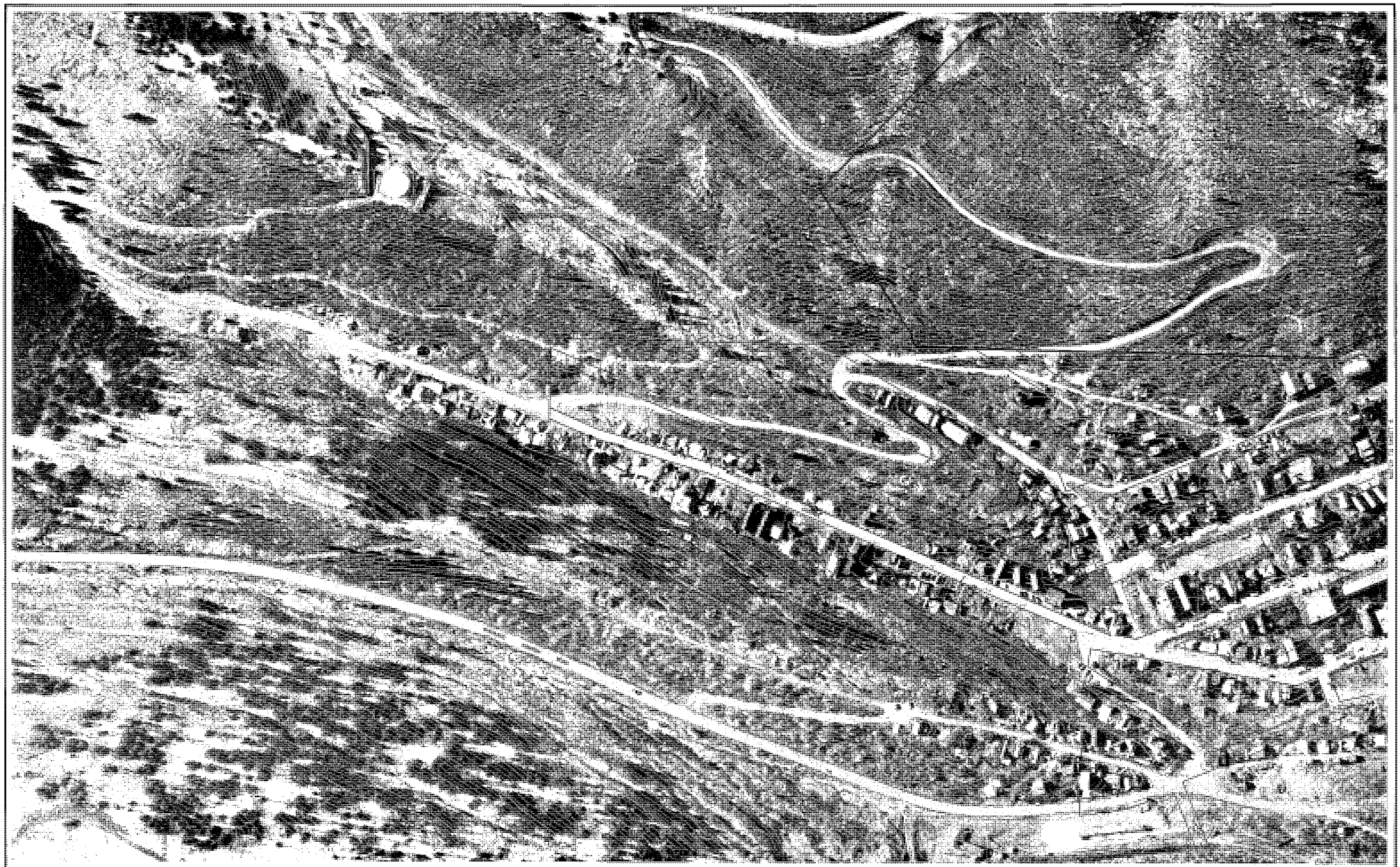
SHEET NO.
3
26



P/S

SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

SHEET NO.
4/26



P/S

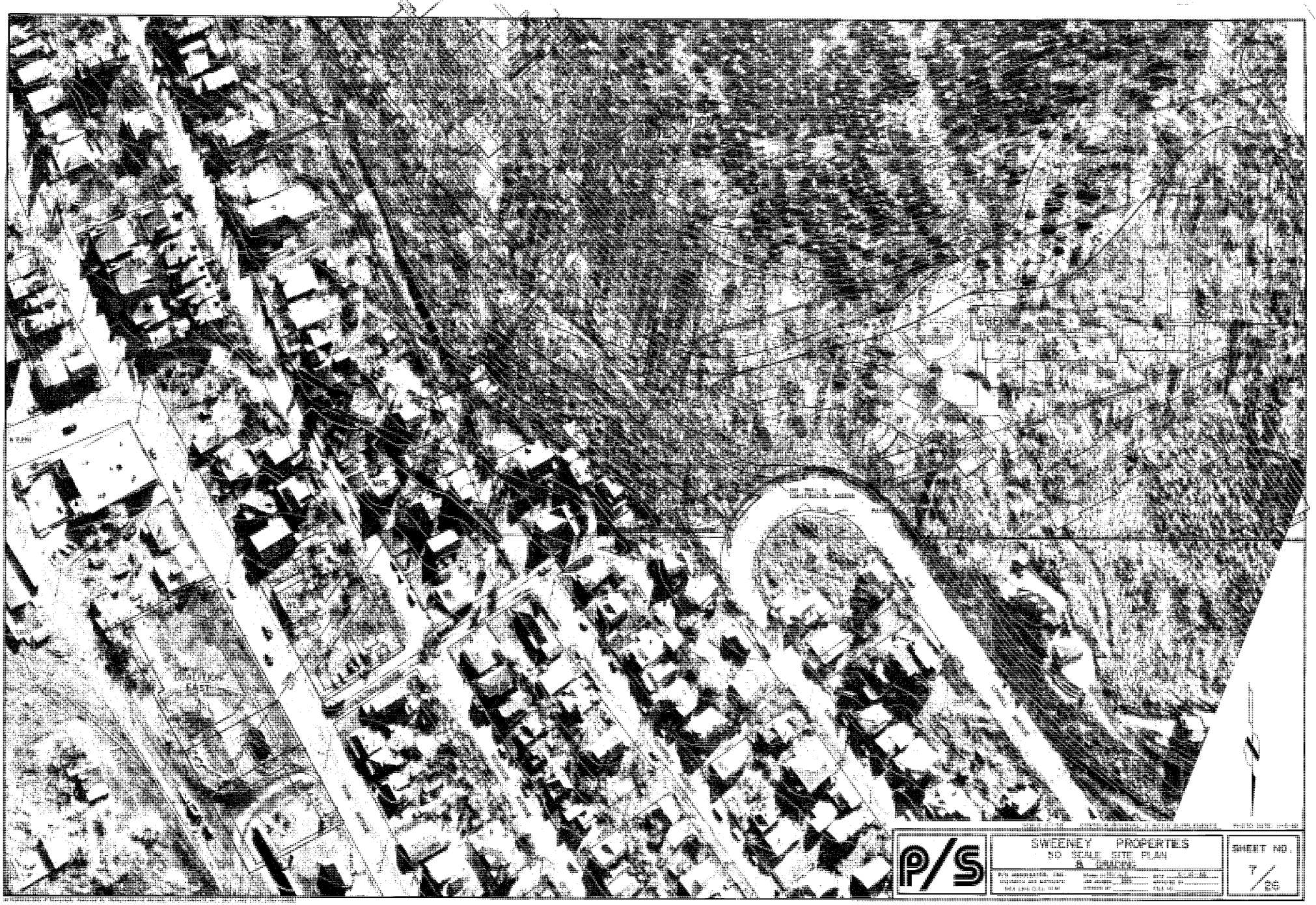
SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

SHEET NO.
5
26

P/S

SWEENEY PROPERTIES
200 SCALE SITE PLAN
WITH BOUNDARIES

SHEET NO.
6
26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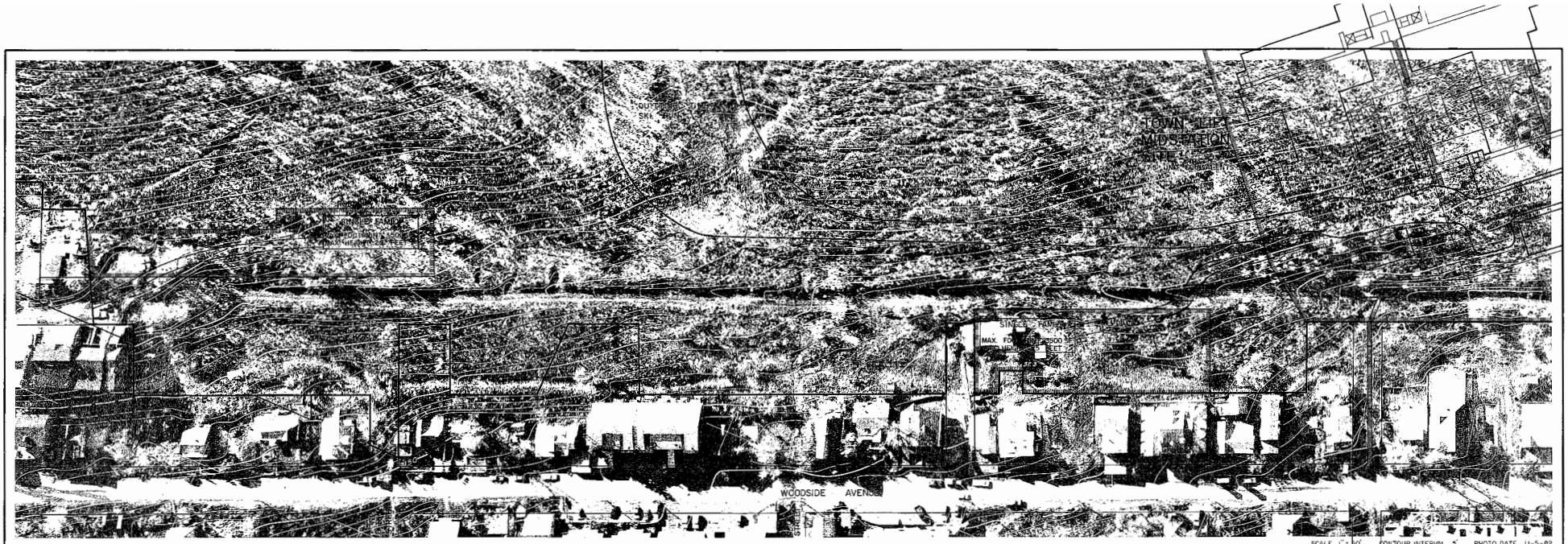
SWEENEY PROPERTIES
50 SCALE SITE PLAN
SHEET NO.
7
26



SCALE 1" = 50' CONTOUR INTERVAL 5' PHOTO DATE 11-5-82

P/S ASSOCIATES, INC.	ENGINEERS AND SURVEYORS
852 SOUTH WEST TEMPLE	SALT LAKE CITY, UTAH 84101
PHONE (801) 532-7891	

DESIGNED BY	DATE	CHECKED BY
DRAWN BY JAMES L STEVENS	DATE 5-10-85	CHECKED BY
DESIGN SURVEY BY	DATE	CHECKED BY
FINAL SURVEY BY	DATE	CHECKED BY

APPROVAL RECOMMENDED
BY _____ PROJECT ENGINEER /SURVEYOR
APPROVED
BY _____ PRINCIPAL ENGINEER /SURVEYOR

SEAL

PROJECT NAME: SWEENEY PROPERTIES
ADDRESS
CITY OF: PARK CITY | COUNTY OF: SUMMIT | STATE OF: UTAH
CLIENT NAME

NO	REVISIONS	BY	DATE

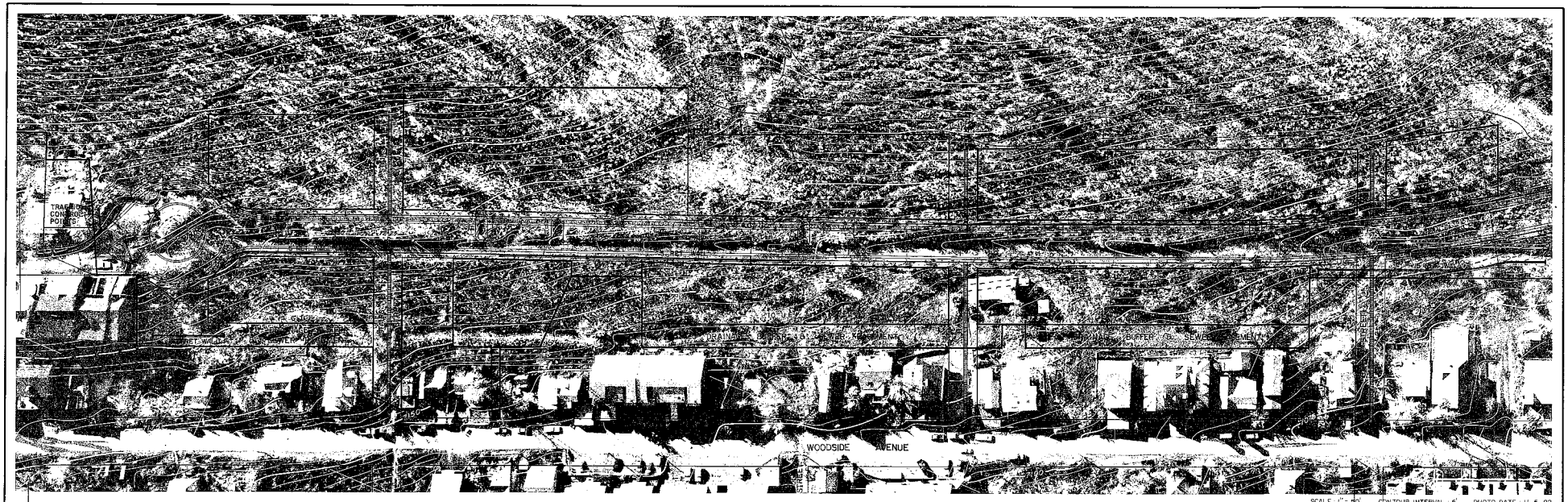
SHEET TITLE: 50 SCALE SITE PLAN & GRADING

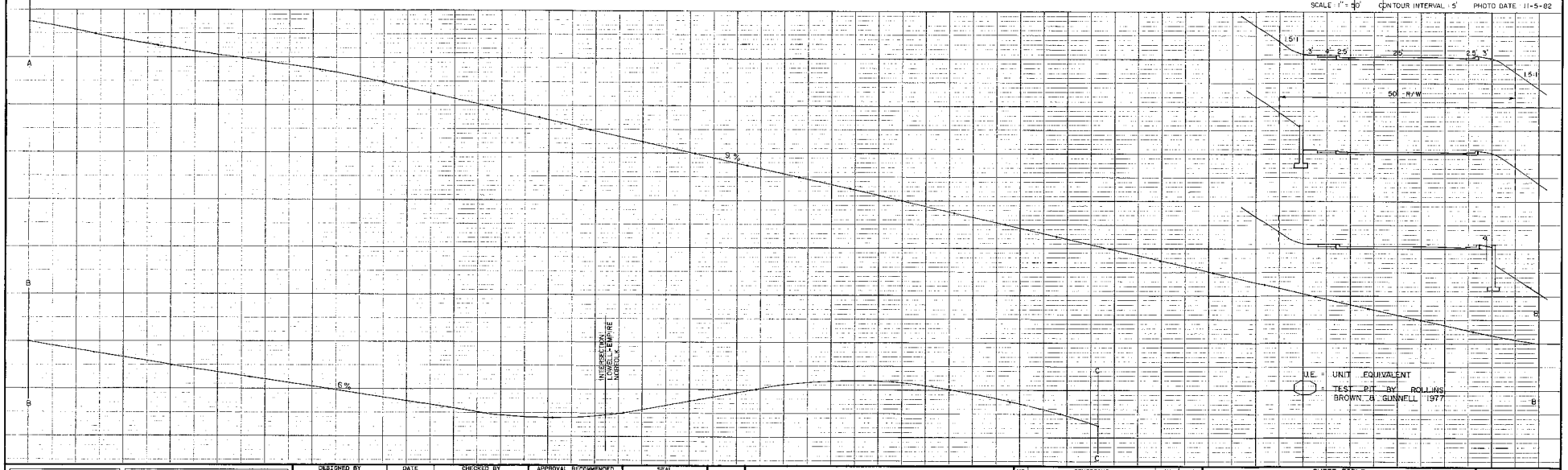
PROJECT NO. P/S _____

SHEET NO. 8 OF 26

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 84595

P/S
NORFOLK AVENUE ALTERNATIVE
PRELIMINARY DESIGN
SHEET NO.
9
26





P/S ASSOCIATES, INC.
ENGINEERS AND SURVEYORS
852 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84101
PHONE (801) 532-7081

DESIGNED BY	DATE	CHECKED BY
DRAWN BY JAMES L. STEVENS	DATE 5-10-85	CHECKED BY
DESIGN SURVEY BY	DATE	CHECKED BY
FINAL SURVEY BY	DATE	CHECKED BY

APPROVAL RECOMMENDED
BY PROJECT ENGINEER /SURVEYOR
APPROVED
BY PRINCIPAL ENGINEER /SURVEYOR

SEAL

PROJECT NAME: SWEENEY PROPERTIES
ADDRESS
CITY OF PARK CITY | COUNTY OF SUMMIT | STATE OF UTAH
CLIENT NAME

NO	REVISIONS	BY	DATE

SHEET TITLE: NORFOLK AVENUE ALTERNATIVE
PRELIMINARY DESIGN

PROJECT NO. P/S
SHEET NO. 10 OF 26

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 84595

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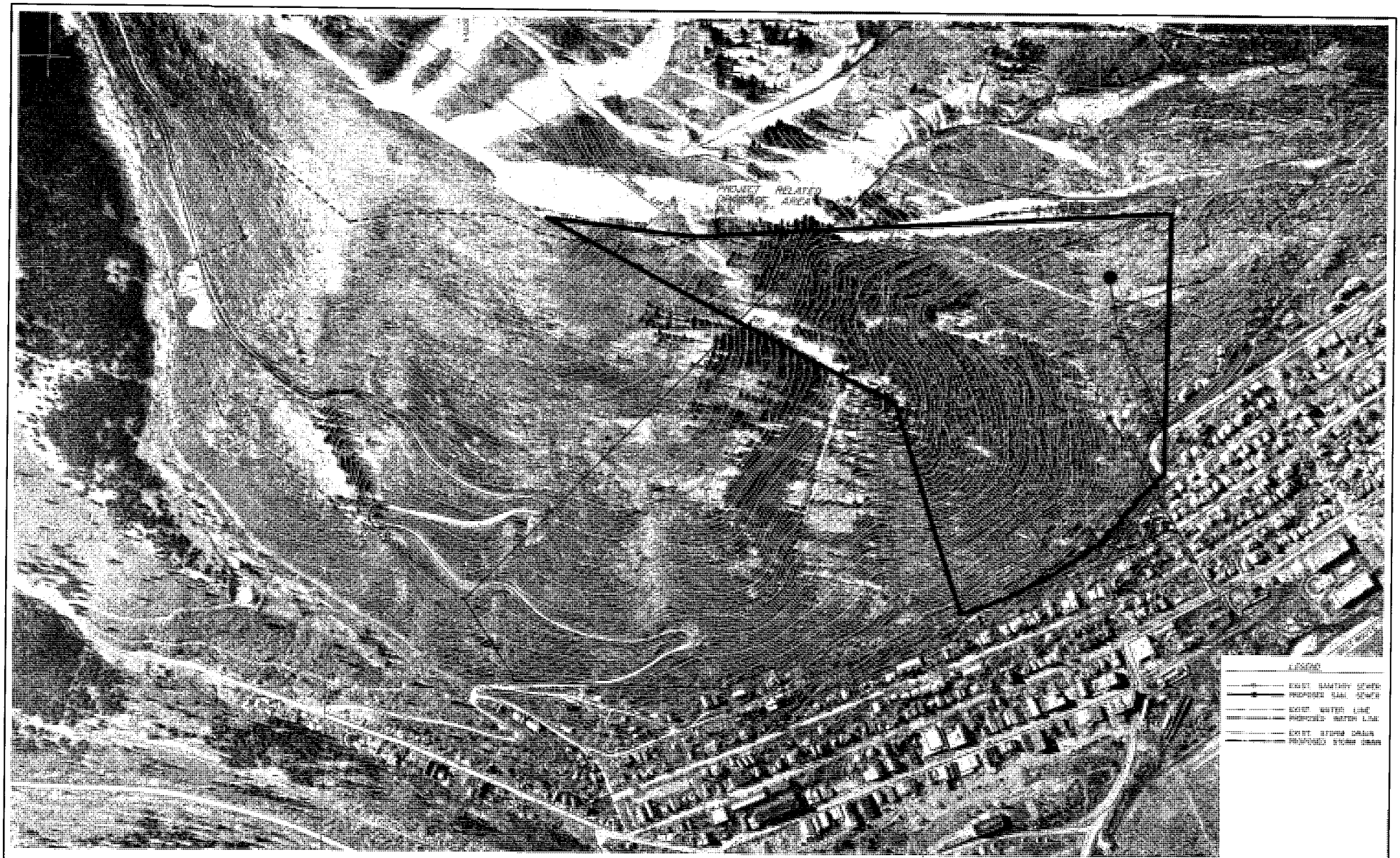


SCALE : 1" = 200'
CONTOUR INTERVAL : 10'
PHOTO DATE : 11-5-82

P/S

SWEENEY PROPERTIES
200 SCALE HILLSIDE
SEWER, WATER & DRAINAGE

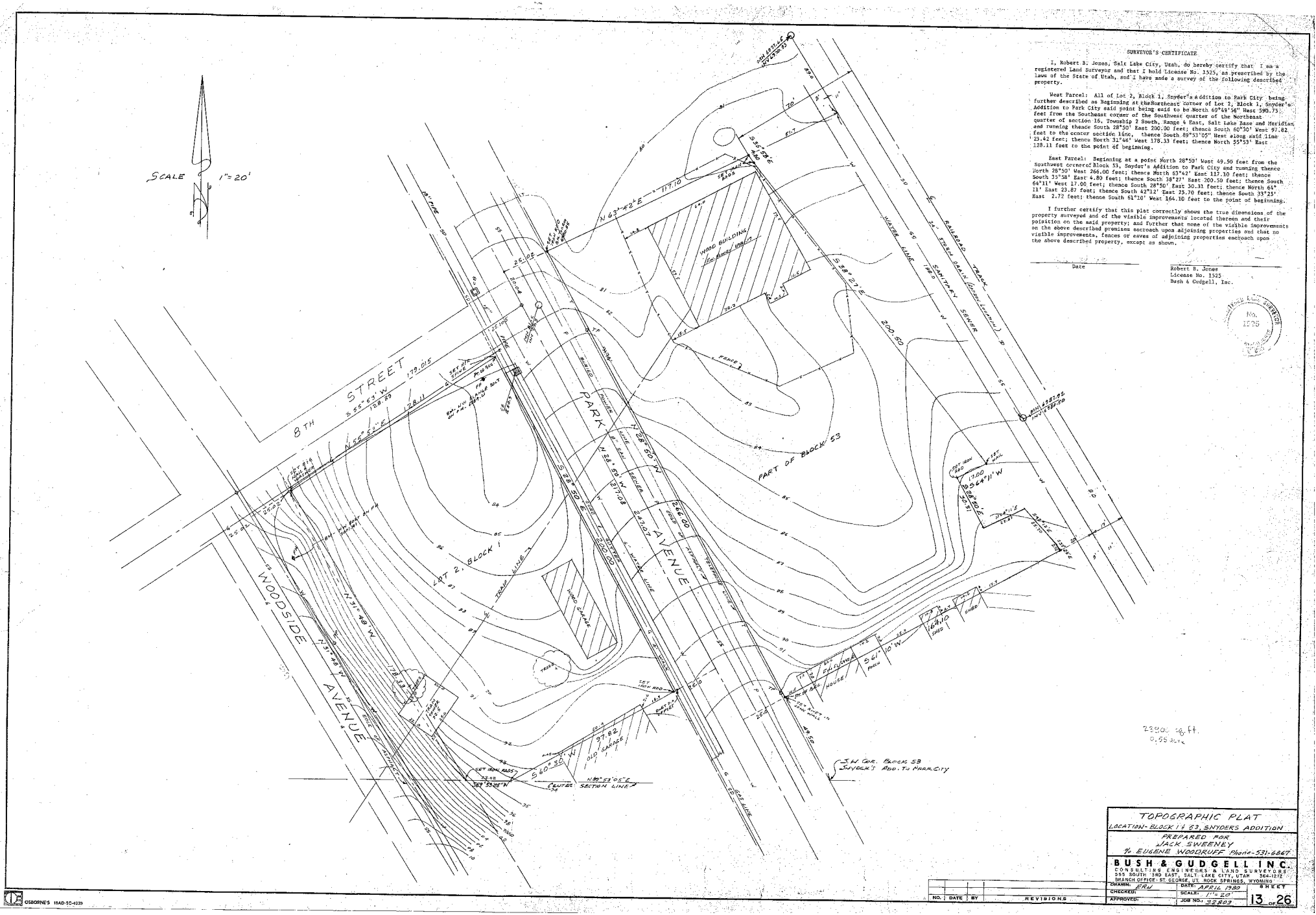
P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY DJF/PAH/LS DATE 5-10-85
JOB NUMBER 205 APPROVED BY
CHECKED BY FILE NO.

SHEET NO.
11/26

ORTHOPHOTOGRAPHY, TOPOGRAPHY & PHOTOGRAMMETRY BY aero-graphics

P/S
SWEENEY PROPERTIES
50' SCALE HILLSIDE
SEWER, WATER & DRAINAGE
SHEET NO.
12
26



SURVEYOR'S CERTIFICATE

I, Robert B. Jones, Salt Lake City, Utah, do hereby certify that I am a registered Land Surveyor and that I hold License No. 1525, as prescribed by the laws of the State of Utah, and I have made a survey of the following described property.

West Parcel: All of Lot 2, Block 1, Snyder's Addition to Park City being further described as Beginning at the Northeast corner of Lot 2, Block 1, Snyder's Addition to Park City said point being said to be North 69°49'56" West 590.75 feet from the Southeast corner of the Southwest quarter of the Northeast quarter of section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence South 28°50' East 200.00 feet; thence South 60°30' West 97.82 feet to the center section line, thence South 89°53'05" West along said line 23.42 feet; thence North 31°48' West 178.33 feet; thence North 55°53' East 128.11 feet to the point of beginning.

East Parcel: Beginning at a point North 28°50' West 49.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City and running thence North 28°50' West 266.00 feet; thence North 63°42' East 117.10 feet; thence South 35°58' East 4.80 feet; thence South 38°27' East 200.50 feet; thence South 64°11' West 17.00 feet; thence South 28°50' East 30.31 feet; thence North 64° 11' East 23.87 feet; thence South 42°12' East 25.70 feet; thence South 33°25' East 2.72 feet; thence South 61°10' West 164.10 feet to the point of beginning.

I further certify that this plat correctly shows the true dimensions of the property surveyed and of the visible improvements located thereon and their poisition on the said property; and further that none of the visible improvements on the above described premises encroach upon adjoining properties and that no visible improvements, fences or eaves of adjoining properties encroach upon the above described property, except as shown.

Date

Robert B. Jones
License No. 1525
Bush & Gudgell, Inc.

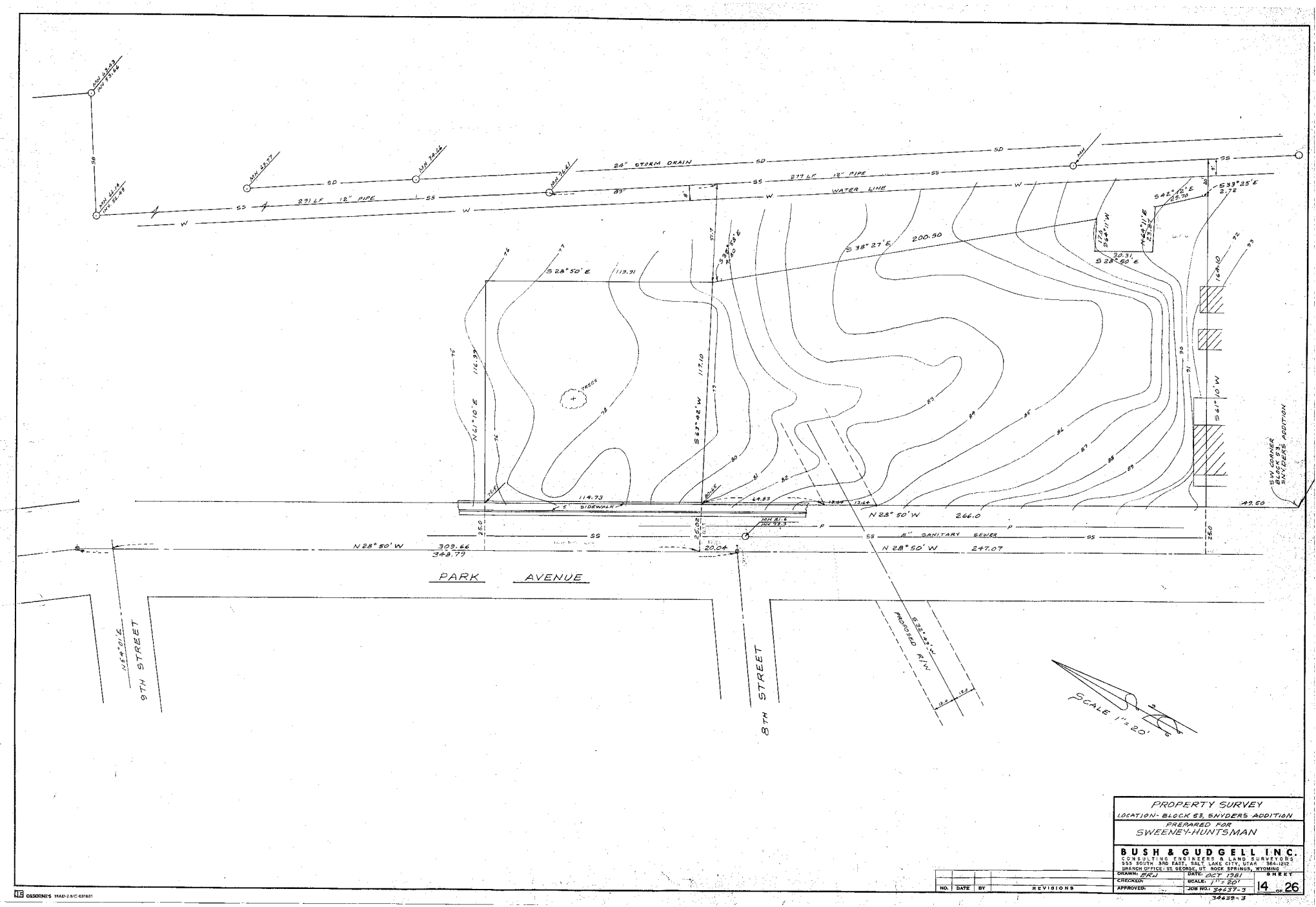
TOPOGRAPHIC PLAT
LOCATION- BLOCK 1 & 63, SNYDERS ADDITION
PREPARED FOR
JACK SWEENEY
% EUGENE WOODRUFF Phone-531-6867

BUSH & GUDGELL INC.
CONSULTING ENGINEERS & LAND SURVEYORS
555 SOUTH 3RD EAST, SALT LAKE CITY, UTAH 364-1212
BRANCH OFFICE: ST. GEORGE, UT. ROCK SPRINGS, WYOMING

DRAWN: ERJ	DATE: APRIL 1980	SHEET	
CHECKED:	SCALE: 1"=20'	13 OF 26	
APPROVED:	JOB NO.: 32809		

NO.	DATE	BY	REVISIONS

OSBORNE'S 18AD-SC-4039



PROPERTY SURVEY

LOCATION- BLOCK 63, SNYDERS ADDITION

PREPARED FOR

SWEENEY-HUNTSMAN

BUSH & GUDGELL INC.

CONSULTING ENGINEERS & LAND SURVEYORS

353 SOUTH 300 EAST, SALT LAKE CITY, UTAH 364-1212

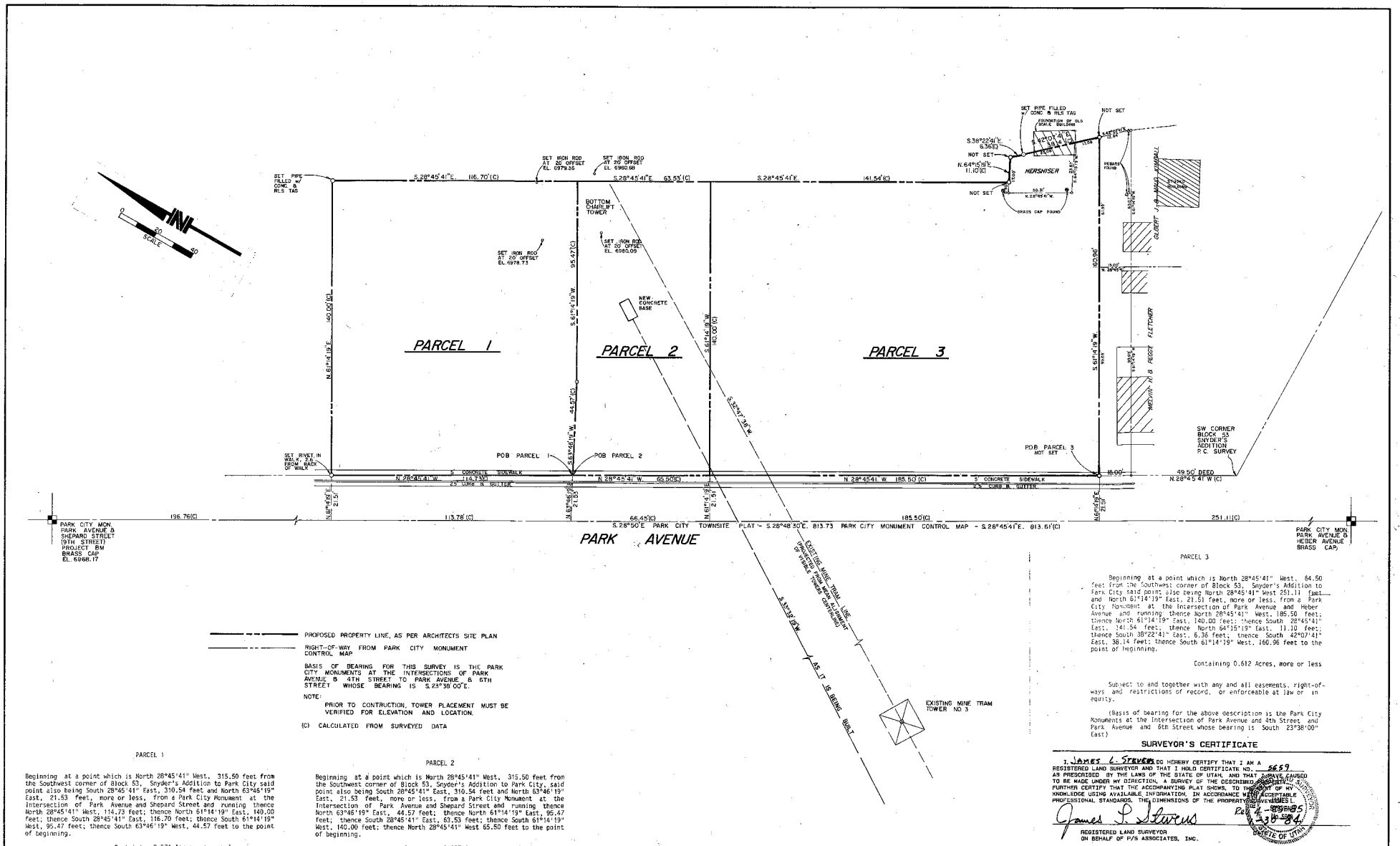
BRANCH OFFICE: ST. GEORGE, UT. ROCK SPRINGS, WYOMING

DRAWN: ERJ	DATE: OCT 1981	SHEET
CHECKED:	SCALE: 1"=20'	
APPROVED:	JOB NO.: 34437-3	14 OF 26

NO.	DATE	BY	REVISIONS

34437-3

OSBORNE'S 11AD-2.5/C-031601



PROPOSED PROPERTY LINE, AS PER ARCHITECTS SITE PLAN

RIGHT-OF-WAY FROM PARK CITY MONUMENT CONTROL MAP

BASIS OF BEARING FOR THIS SURVEY IS THE PARK CITY MONUMENTS AT THE INTERSECTIONS OF PARK AVENUE & 4TH STREET TO PARK AVENUE & 6TH STREET WHOSE BEARING IS S.23°38'00"E.

NOTE:

PRIOR TO CONTRUCTION, TOWER PLACEMENT MUST BE VERIFIED FOR ELEVATION AND LOCATION.

(C) CALCULATED FROM SURVEYED DATA

PARCEL 1

Beginning at a point which is North 28°45'41" West, 315.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City said point also being South 28°45'41" East, 310.54 feet and North 63°46'19" East, 21.53 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Shepard Street and running thence North 28°45'41" West, 114.73 feet; thence North 61°14'19" East, 140.00 feet; thence South 28°45'41" East, 116.70 feet; thence South 61°14'19" West, 95.47 feet; thence South 63°46'19" West, 44.57 feet to the point of beginning.

Containing 0.374 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East.)

PARCEL 2

Beginning at a point which is North 28°45'41" West, 315.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City, said point also being South 28°45'41" East, 310.54 feet and North 63°46'19" East, 21.53 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Shepard Street and running thence North 63°46'19" East, 44.57 feet; thence North 61°14'19" East, 95.47 feet; thence South 28°45'41" East, 63.53 feet; thence South 61°14'19" West, 140.00 feet; thence North 28°45'41" West 65.50 feet to the point of beginning.

Containing 0.205 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at Law or in equity.

(Basis of bearing for the above description is Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

PARCEL 3

Beginning at a point which is North 28°45'41" West, 64.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City said point also being North 28°45'41" West 251.11 feet and North 61°14'19" East, 21.51 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Heber Avenue and running thence North 28°45'41" West, 185.50 feet; thence North 61°14'19" East, 140.00 feet; thence South 28°45'41" East, 141.54 feet, thence North 64°15'19" East, 11.10 feet; thence South 36°22'41" East, 6.36 feet, thence South 42°07'41" East, 38.14 feet; thence South 61°14'19" West, 160.96 feet to the point of beginning.

Containing 0.612 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

SURVEYOR'S CERTIFICATE

I, JAMES L. STEVENS DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 5659 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND THAT I HAVE CAUSED TO BE MADE UNDER MY DIRECTION, A SURVEY OF THE DESCRIBED PROPERTY. I FURTHER CERTIFY THAT THE ACCOMPANYING PLAT SHOWS, TO THE BEST OF MY KNOWLEDGE USING AVAILABLE INFORMATION, IN ACCORDANCE WITH ACCEPTABLE PROFESSIONAL STANDARDS, THE DIMENSIONS OF THE PROPERTY SURVEYED.

James L. Stevens Reg. 5659 7-30-84

REGISTERED LAND SURVEYOR
ON BEHALF OF P/S ASSOCIATES, INC.

PREPARED FOR: PAT SWEENEY

NO.	DATE	REVISION	BY	CKD BY
3	4-25-85	CHANGE NEW TRAM LOCATION	J.L.S.	
2	9-4-84	ADD ADDITION BUILDINGS & REBAR	J.L.S.	
1	1-27-84	REVISED PARCEL 3	J.L.S.	

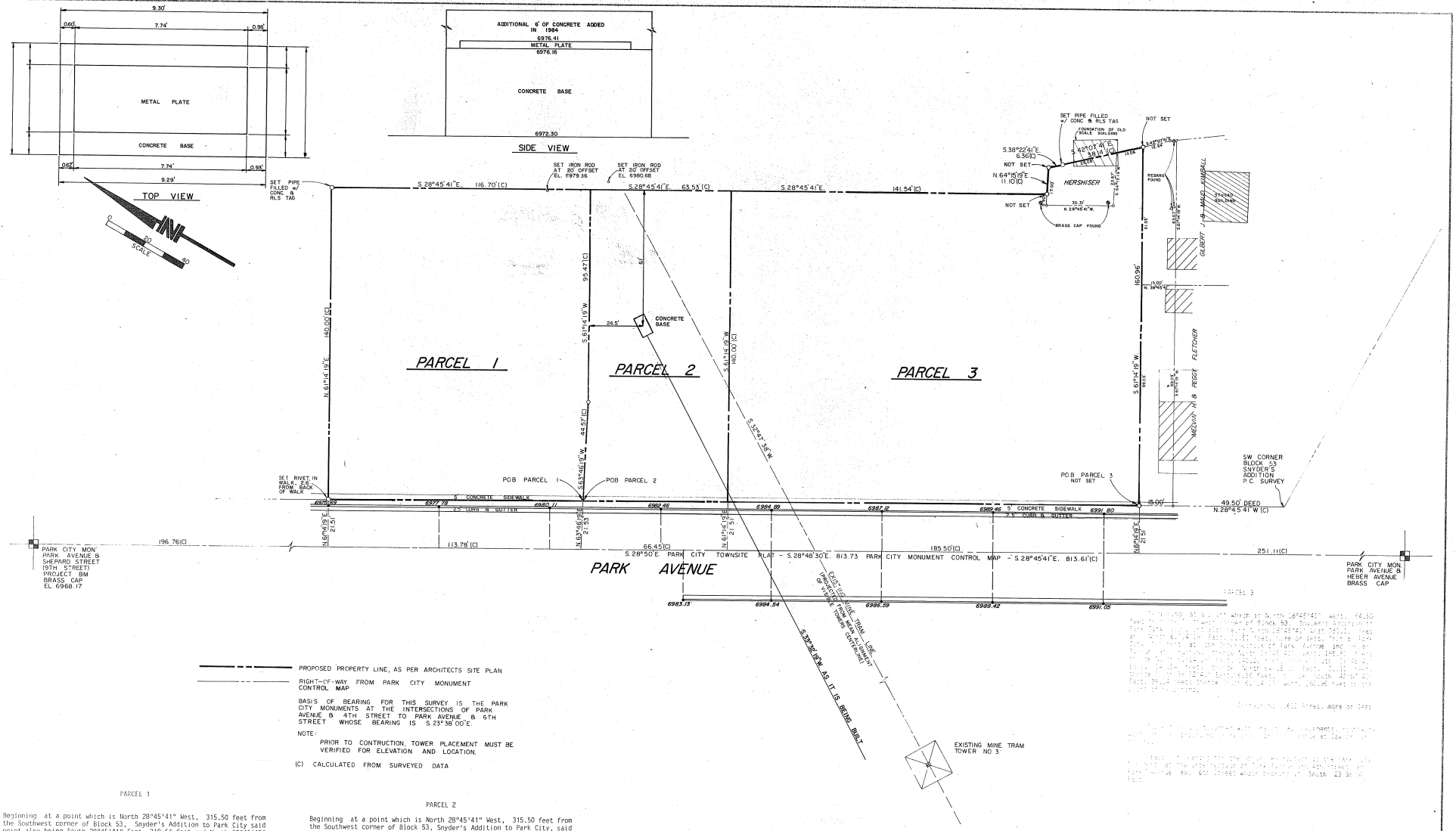
P/S

PROPOSED COALITION PROPERTY & PROPOSED CHAIRLIFT LOCATION BLOCK 53, SNYDER ADDITION, P.C.S. PARK CITY, UTAH

P/S ASSOCIATES, INC. Engineers and Surveyors 261 East Lake City, Utah

DRAWN BY J.L.S. DATE 7-7-83
JOB NUMBER 292 APPROVED BY
CHECKED BY FILE NO. 1A

SHEET NO. 15/26



PROPOSED PROPERTY LINE, AS PER ARCHITECTS SITE PLAN

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Containing 0.374 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

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NO.	DATE	REVISION	BY	CKD BY
2	9-4-84	ADD ADDITION BUILDINGS & REBAR	J.L.S.	
1	1-27-84	REVISED PARCEL 3	J.L.S.	

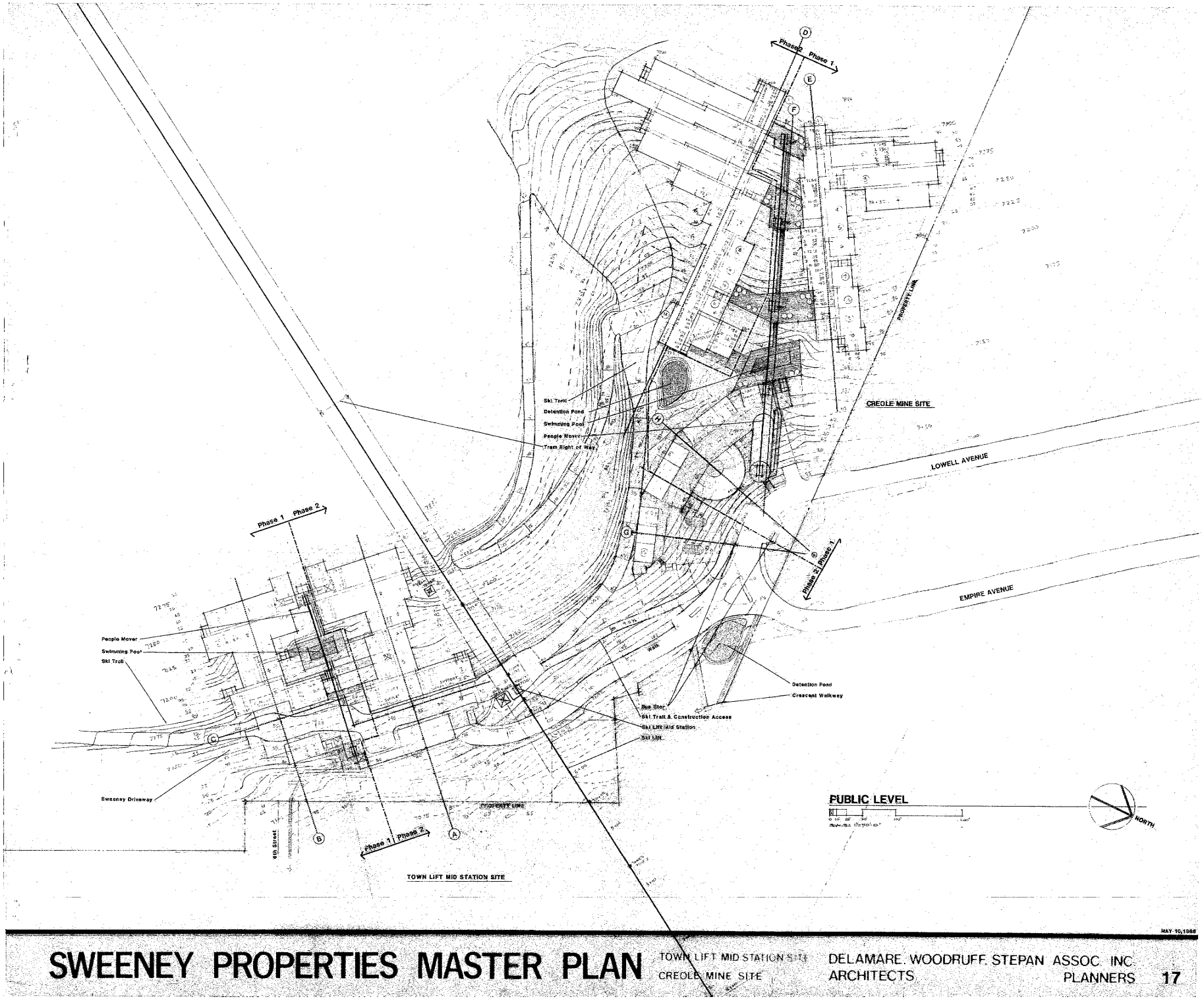
PREPARED FOR: PAT SWEENEY

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

PROPOSED COALITION PROPERTY & PROPOSED CHAIRLIFT LOCATION BLOCK 53, SNYDER ADDITION, P.C.S. PARK CITY, UTAH

DRAWN BY J.L.S. DATE 7-7-83
JOB NUMBER 292 APPROVED BY
CHECKED BY FILE NO.

SHEET NO. 16/26



MAY 10,1988

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

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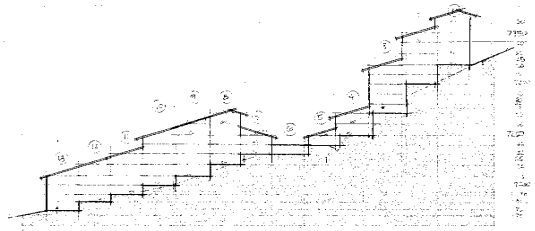

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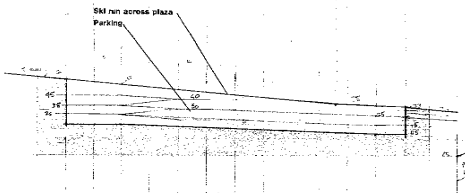

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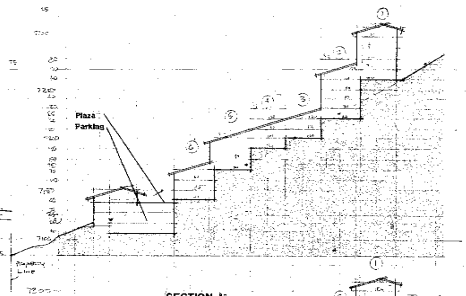

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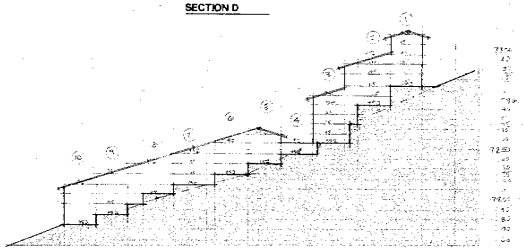

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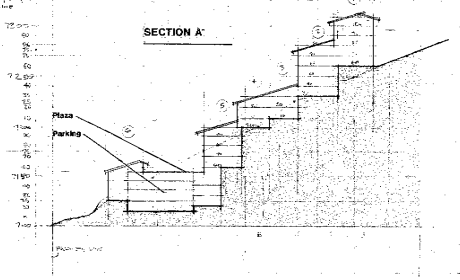

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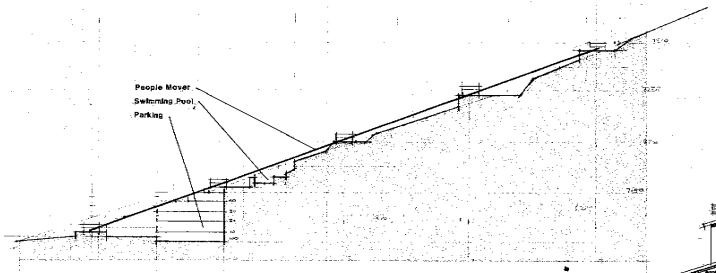

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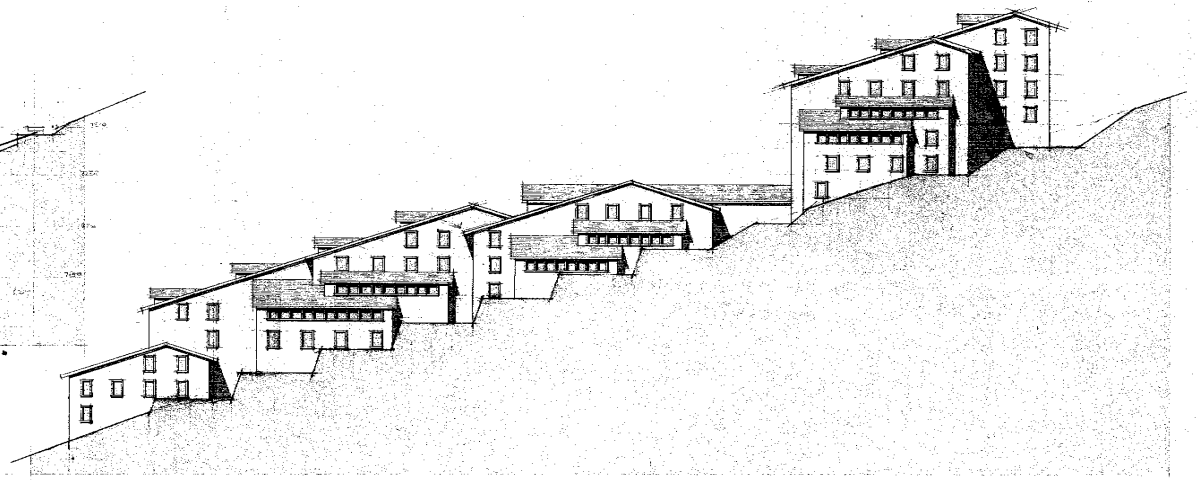
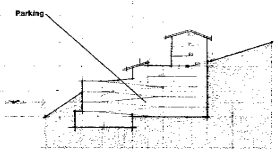


TYPICAL ELEVATION



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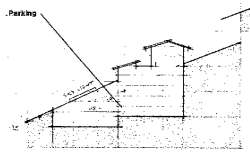


SECTION G

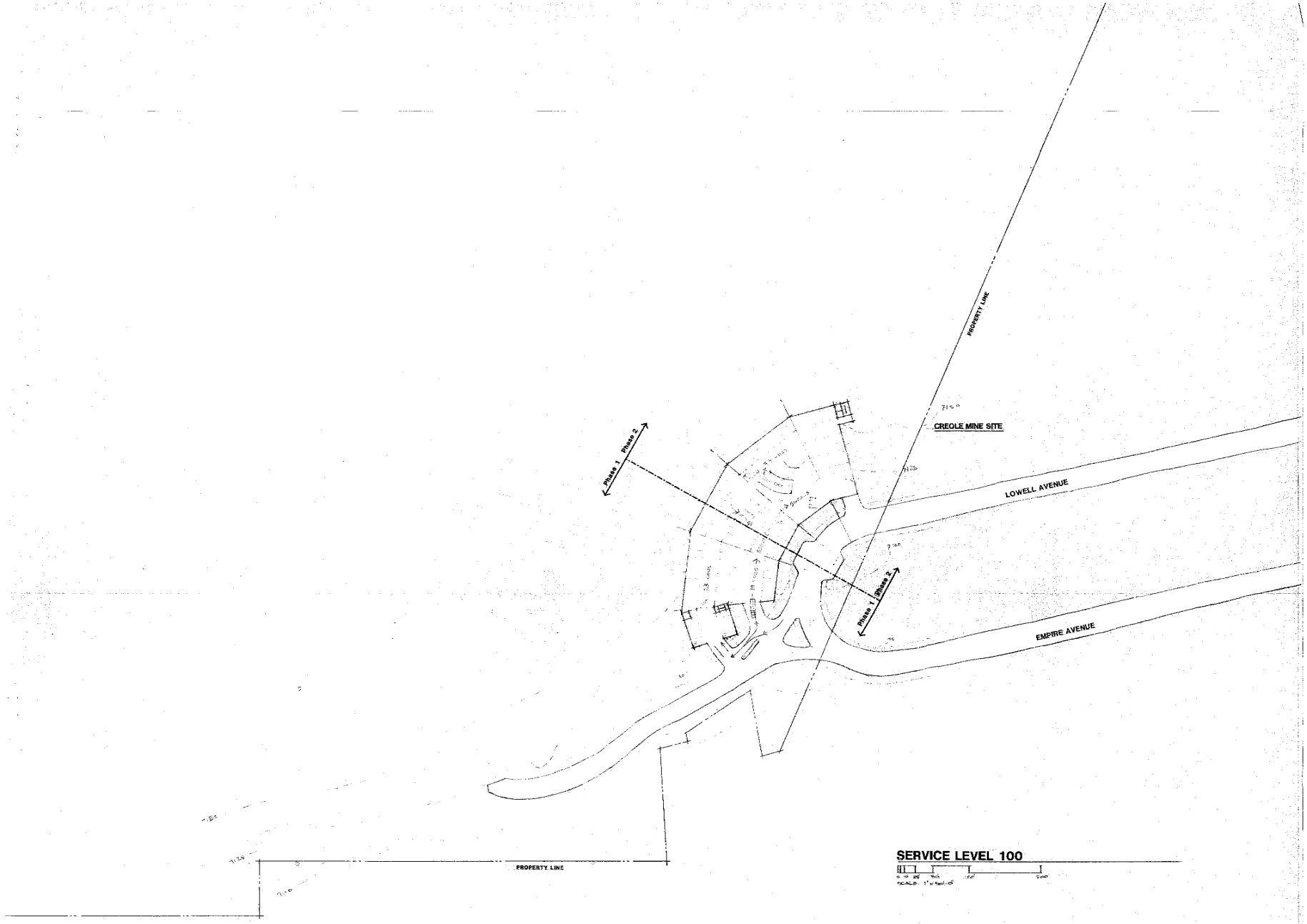
SECTIONS & ELEVATION

MAY 10, 1985

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS



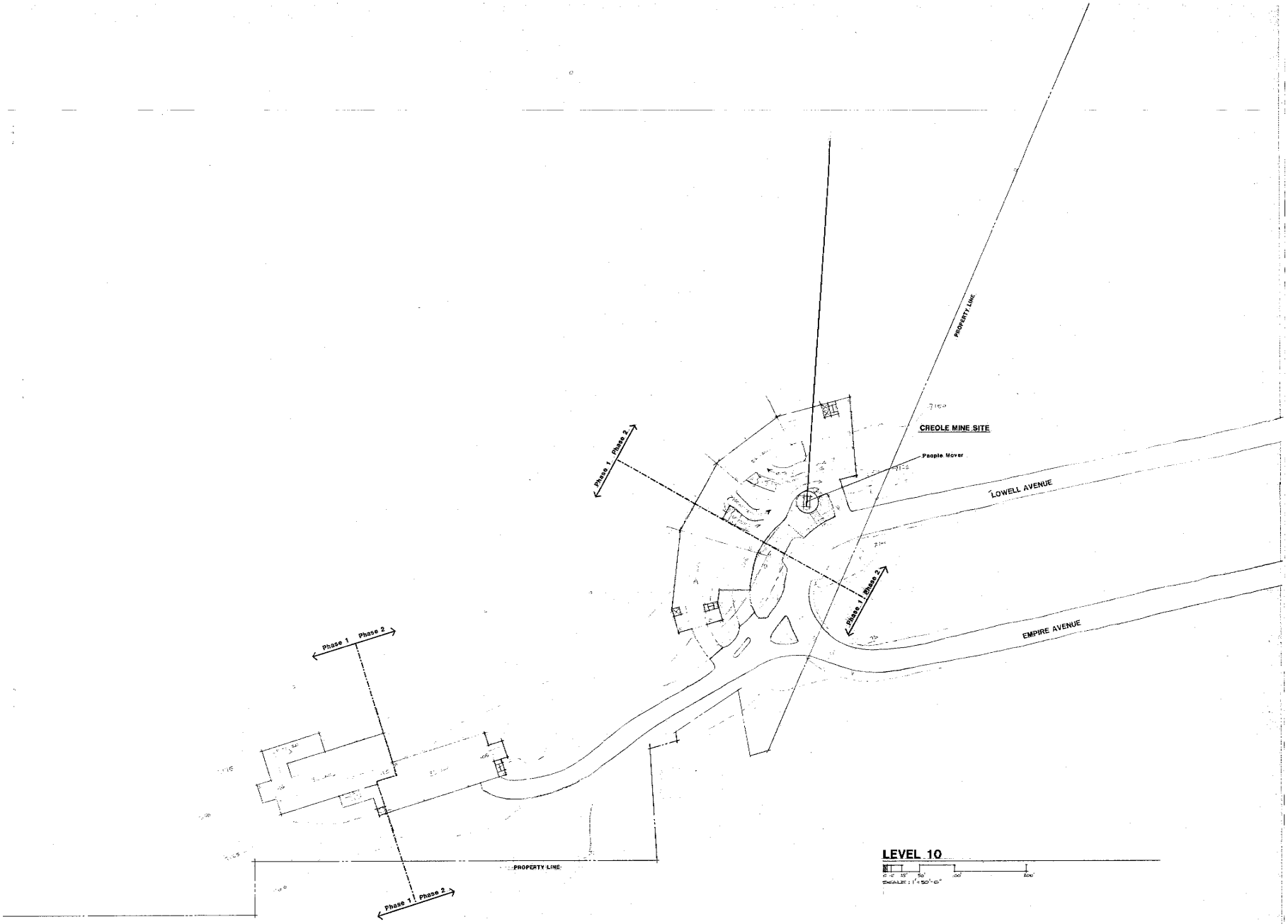
MAY 10, 1988

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

19

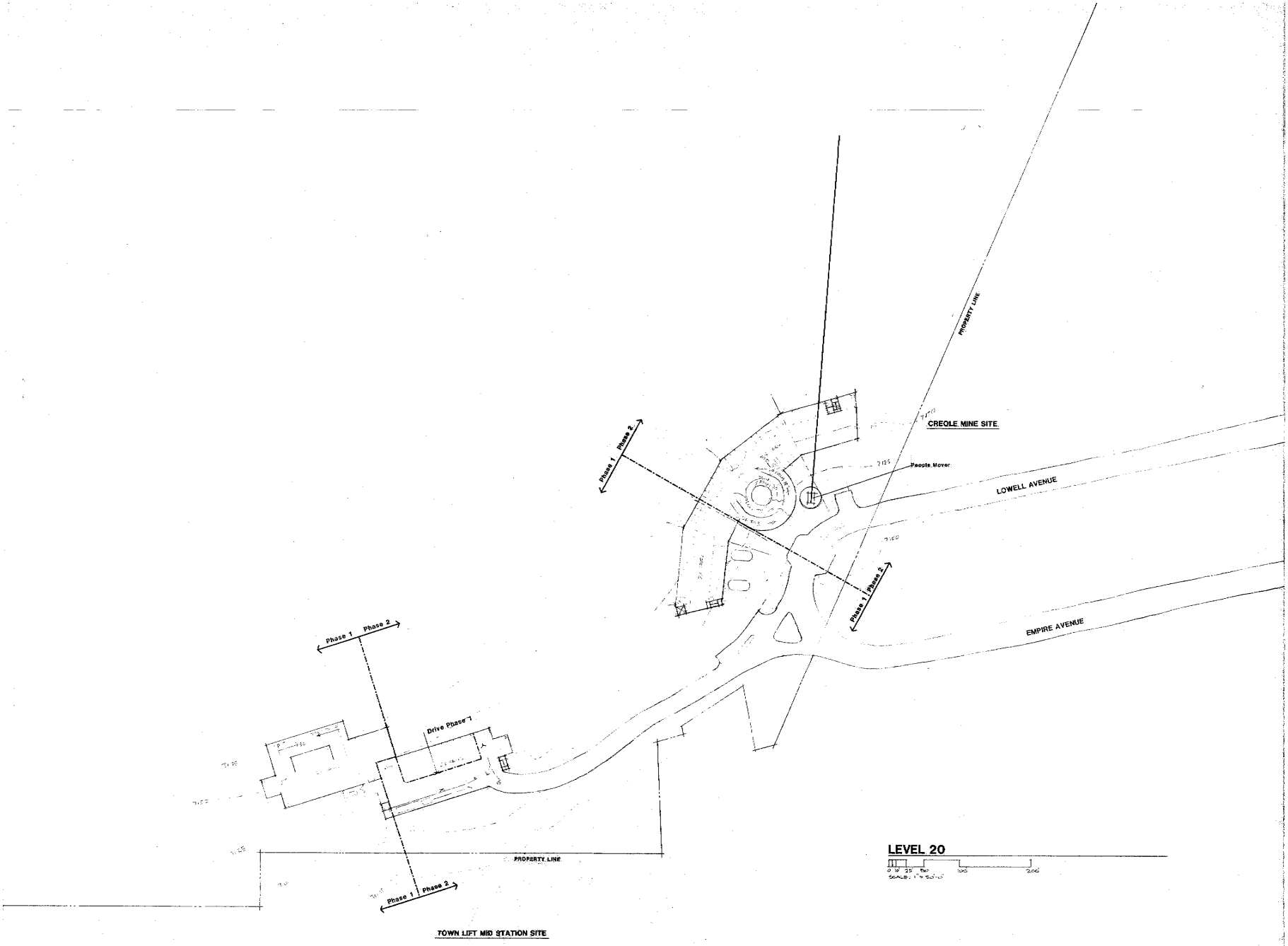


SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

20



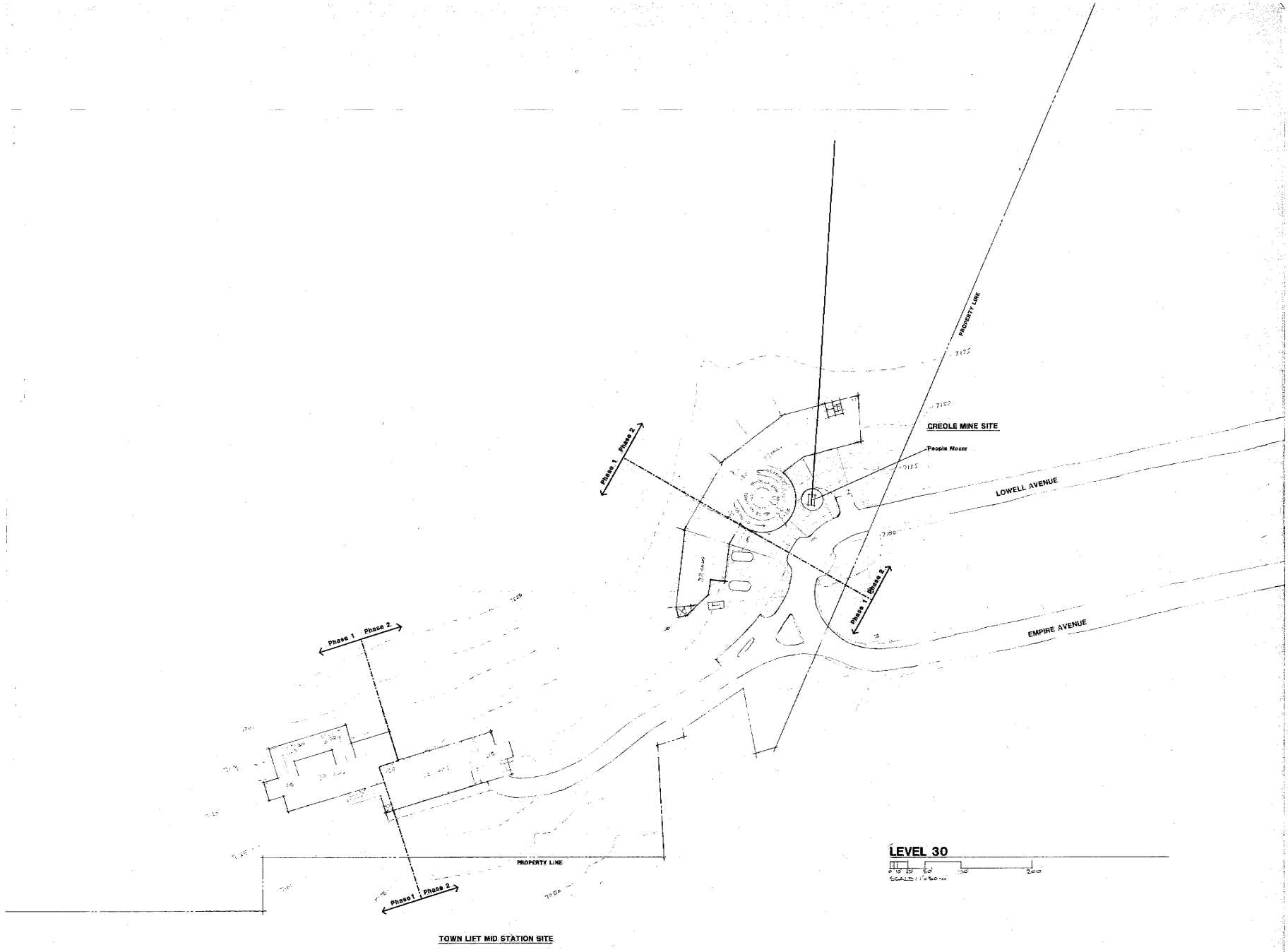
MAY 10,1985

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

21

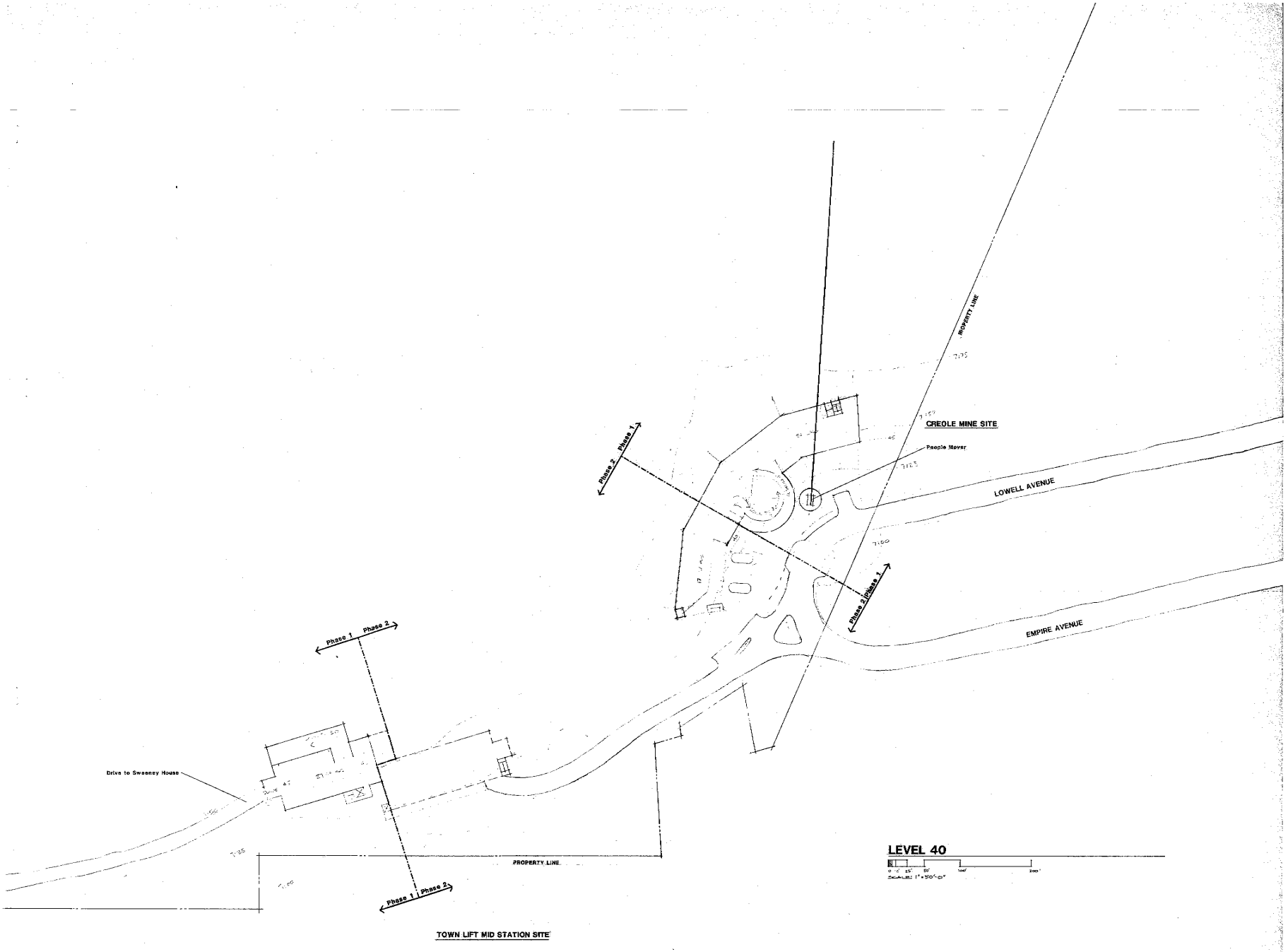


SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

22



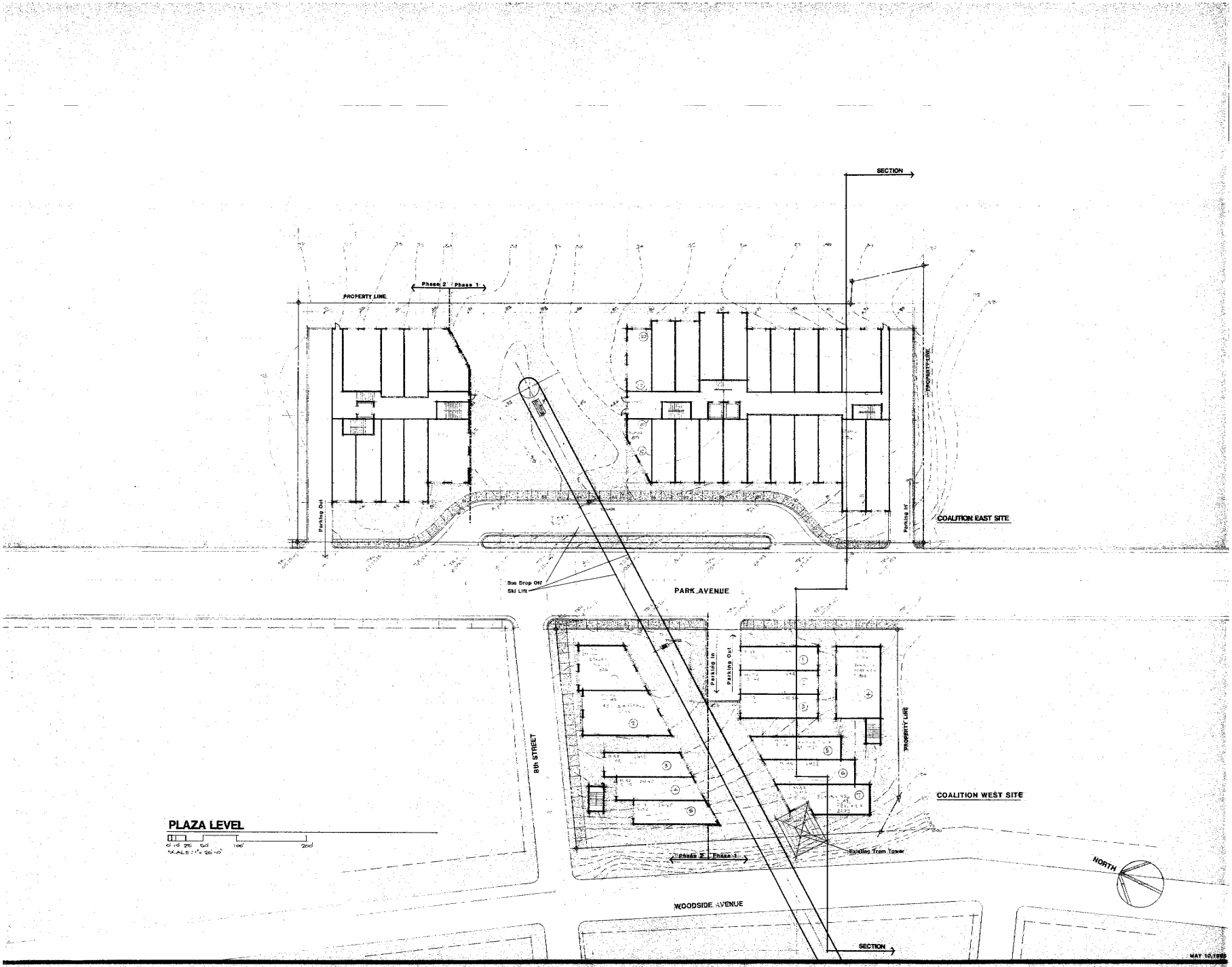
MAY 10,1988

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE MINE SITE

DEL AMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

23

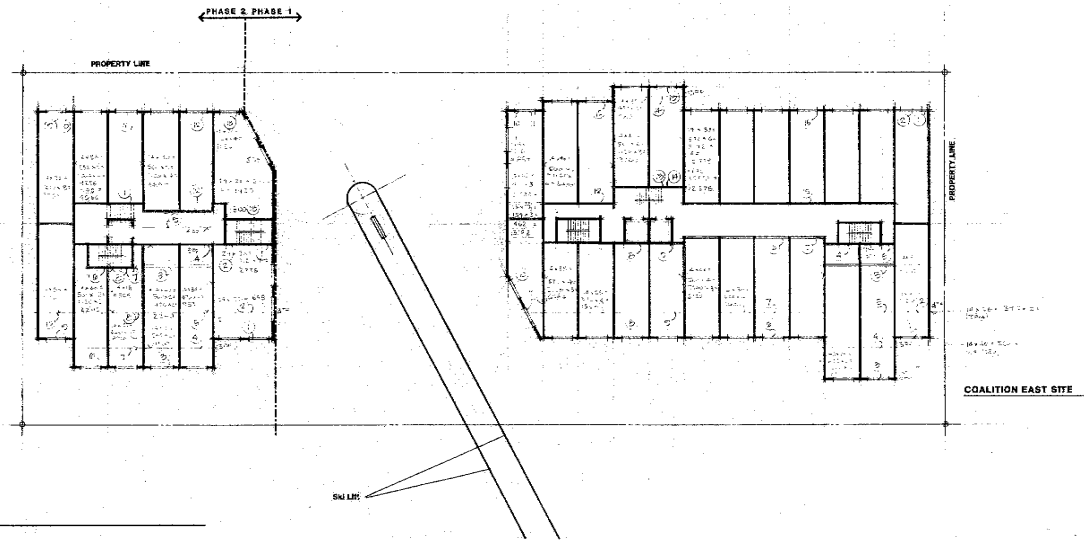


SWEENEY PROPERTIES MASTER PLAN

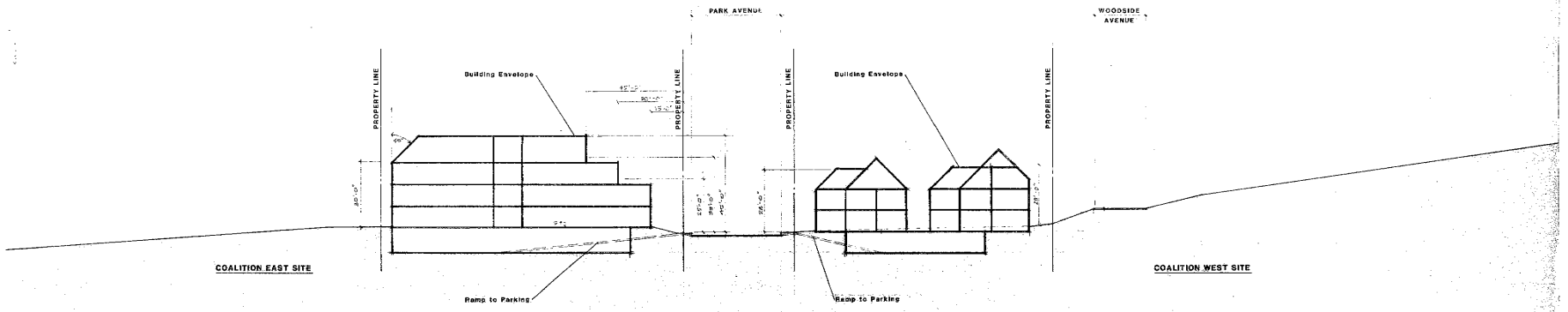
COALITION WEST SITE
COALITION EAST SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

24



ROOM LEVEL



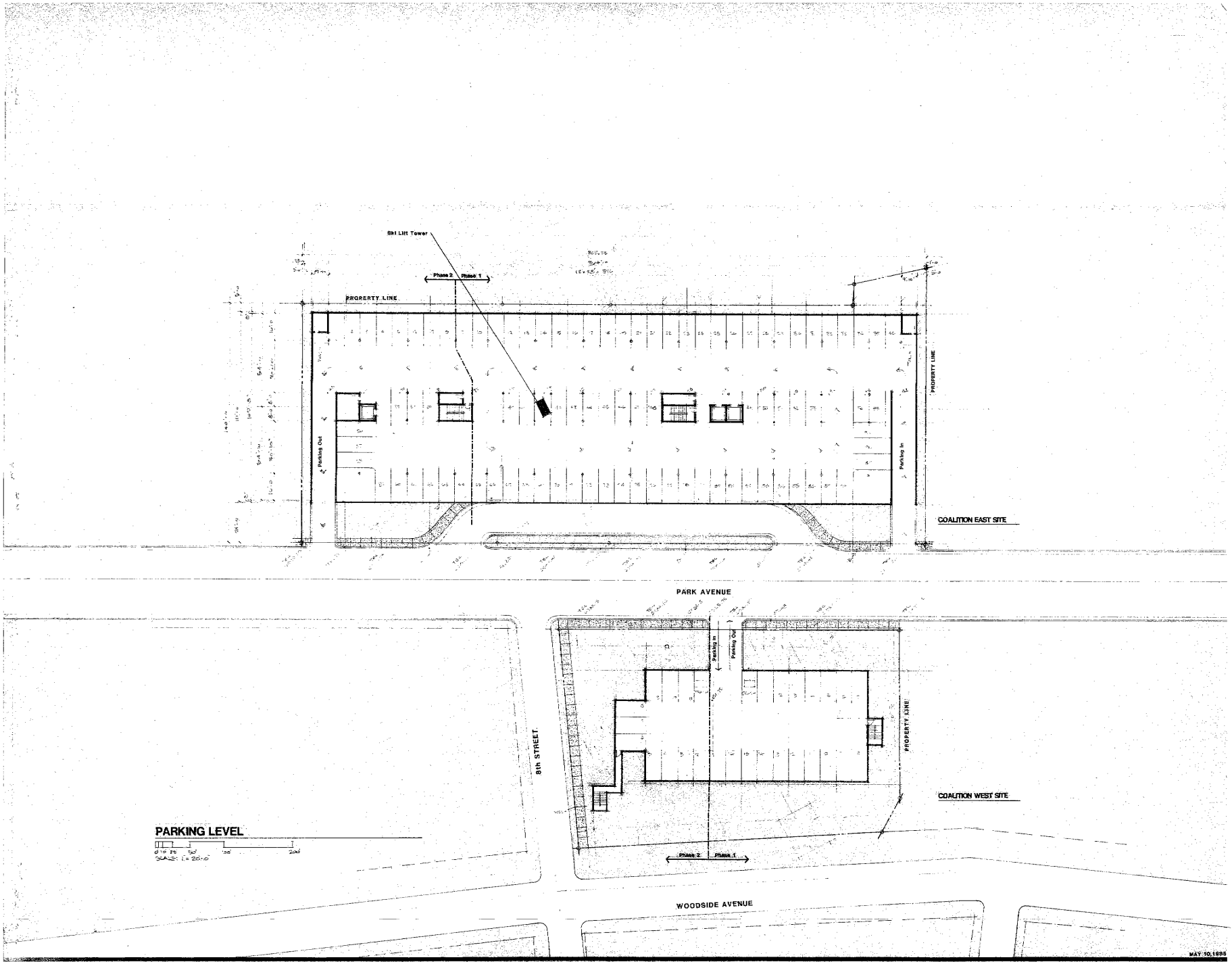
SECTION

MAY 10, 1983

SWEENEY PROPERTIES MASTER PLAN

COALITION WEST SITE
COALITION EAST SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS



SWEENEY PROPERTIES MASTER PLAN

COALITION WEST SITE
COALITION EAST SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

Exhibit E

PARK CITY
1884

Community Development/Engineering
Building and Planning Departments

July 18, 1985

Dr. Patrick J. Sweeney
MPE Incorporated
P.O. Box 2429
Park City, UT 84060

Dear Pat,

During our Staff Review meeting on July 16, 1985, the staff continued our general discussion on the proposed Sweeney Properties MPD and your letter dated July 1, 1985. The following is a summary of the response to your letter:

1. Development Concept. Subsequent to our field trip with both the Planning and Historic District Commissions, a number of the Commissioners expressed major concerns with the scope of development proposed primarily on the hillside sites. Although it is difficult for anyone to envision 200 plus "unit equivalents" and the form they may take, I believe their concerns at this point are very valid. The potential for that many condominiums or hotel rooms is truly staggering. I would anticipate that a number of poignant issues will undoubtedly be raised as they begin to hone in on the evolving concept.

   The staff will now need to review in greater detail how the various sites identified can be reasonably developed with minimal impact on the balance of the community. An analysis that demonstrates what could be physically (and realistically) be built under today's zoning contrasted to the proposed cluster concept would be invaluable.

2. Unit Equivalents. Project application fees are based on the total number of unit equivalents included in the application for the MPD. For Large Scale MPD's, a fee of $50.00 per unit equivalent is due at the time of application. Any unit equivalents that are not paid for will be deleted from the MPD. It is the City staff's position that fees are due on the five developed HR-1 units, if they are to be included in the MPD proposal.

3. Zoning. Through conventional means, the City cannot rezone the hillside property with the restrictions on the HR-1 (2 units per acre) and RC (18 unit equivalents per acre) districts that you are proposing without creating completely

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060 • (801) 649-9321

new zoning districts. However, a concept know as contract zoning will be considered and should allow the City to accomplish this objective.

4. Utilities.

   a. Water System - The City Engineer, Eric DeHaan, still has some major concerns with the proposed water system. The present concept will create unacceptable impacts on the City water system. The City still encourages you to investigate the possibility of combining the proposed water tank with the Park City Village water tank.

   b. Storm Drainage - Eric DeHaan is also very concerned with the proposed storm drainage system, particularly with the detention ponds.

   c. Sanitary Sewer - The Snyderville Basin Sewer Improvement District encourages you to meet with them to discuss service needs and off-site improvements. Off-site improvements may require that you participate with other parties in upgrading lines. Timing of necessary sewer improvements may not coincide with the timeline that you have put forth.

5. Access.

   a. Maintenance of Lowell & Empire Avenues - Because of the long build-out period and phasing proposed for the development of this project, the construction impact on Lowell and Empire Avenues will be spread-out over a 20 year period. These streets may need to be reconstructed as many as three times because of construction impacts. The costs will be above and beyond the standard impact fees and the developer will be responsible for its continued maintenance and probably reconstruction.

   b. Fire Protection Access - The Fire District is very concerned with access, especially in Creole Gulch. Exterior access for fire protection will be very difficult during the winter. Proposed building heights also create serious fire protection concerns. The Fire District does not have the necessary equipment to access the roof of a 50' structure. We recommend that the Fire District be contacted to discuss fire protection issues for the hillside properties, as soon as practicable.

   c. Upper Norfolk - It is apparent that a hammerhead is necessary on Upper Norfolk to improve the circulation in this area. The City staff is agreeable with looking at forming a special improvement district to help pay for these improvements. Your contribution of land necessary to accomplish this end would enable us to seriously consider this possibility.

6. Hiking Trails - All proposed trails must conform with the Trails Master Plan. It is likely that additional trail connections and stairways will be required.

7. Process - The Sweeney Properties MPD will be scheduled for another work session on August 14, 1985 with the Planning Commission. Following this meeting, the Commission has the option of scheduling subsequent work sessions or begin the formal hearings on the applications.

The staff is looking forward to continue working closely with you on the evolution of this project.

Sincerely,

Joel G. Paterson

Joel G. Paterson
Project Planner

JGP:ew

MPE, Inc.
P.O. Box 2429
Park City, UT 84060
(801) 649-7077
August 12, 1985

Joel G. Paterson
Project Planner
Community Development/Engineering
Building and Planning Departments
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

Dear Joel,

Thank you for the letter dated July 18, 1985 in which you responded to MPE's letter of July 1, 1985 and further clarified the staff's concerns regarding the Sweeney Property Master Plan. At this point we feel good about the dialogue which has taken place between ourselves and the staff, that there is a good understanding between the parties, and where differences occur we are not that far apart.

In order to keep the communication clear what follows is a brief response to your letter.

1. Development Concept. Here the main concern seems to be the density requested on the Hillside properties. During the August 14, 1985 Planning Commission work session we will address the density issue in three ways: (1) We will compare the density requested with what has been approved in the recent past in similar projects. (2) We will compare the density requested with the potential density of the Hillside properties. (3) Finally, we will compare the density requested with that which could be achieved using the Norfolk Avenue Alternative as designed on Sheets 9 and 10 of the initial submittal. We feel that the above presentation will demonstrate that the density requested is reasonable. New materials for that presentation will be supplied with this letter.

2. Unit Equivalents. MPE will pay the additional fees ($250.00) at the earliest juncture that you feel appropriate.

3. Zoning. We have no problem with the contract zoning concept. Of course we would like to see the contract before we agree to it completely.

4. Utilities. Our meeting with Eric DeHann on August 7, 1985 was very productive and we feel we can work with Eric on utilities issues. In particular:

a. Water System. We like Eric's rational for a shared water tank near the Resort Center and, provided the economics can be worked out in a practical way, would be very interested in this approach.

b. Storm Drainage. Once again we like Eric's idea of taking the drainage directly to Silver Creek and replacing the large detention ponds with smaller catchment basins. If the necessary easement across the Depot Project can be obtained by the City, MPE will provide a culvert with necessary cleanouts under our Coalition East parking structure.

c. Sanitary Sewer. We will be meeting with the Sewer District in the near future to further discuss these needs. We will also be meeting with Utah Power and Light, Mountain Fuel Supply Company, Mountain Bell, and the cable TV company to discuss these services. Our goal will be to get letters from each to the City indicating their ability to supply service to the Master Plan sites.

5. Access.

a. Maintenance of Lowell & Empire Avenues. MPE is reluctant to take on the complete responsibility for these roads which are already in need of reconstruction and which serve a number of unit equivalents at least equal to those proposed and which also serve as an alternate route to Old Town from the Resort Center. However, if the City were to reconstruct to acceptable standards Lowell and Empire Avenues as currently planned as per the Park City Streets Master Plan, ultimately funding this needed reconstruction with our impact fees, MPE would take responsibility for any subsequent damage we might do to these roads over the years based on standard verification methods.

MPE, Inc.
P.O. Box 2429
Park City, UT 84060
(801) 649-7077
August 12, 1985

b. Fire Protection Access. We will meet with the Fire District in the near future to discuss fire protection needs.

c. Upper Norfolk. MPE will provide the land necessary for a hammerhead and contribute to a special improvement district to help pay for it based on MPE's one single family lot in that area.

6. Hiking Trails. MPE will provide foot paths (unpaved on natural soil) which will conform to Trails Master Plan.

7. Process. We look forward to the August 14, 1985 work session. All of the above commitments on MPE's part are subject to approval of the entire Sweeney Property Master Plan in a form acceptable to MPE and do not stand alone.

We appreciate the productive dialogue we have had thus far with the Staff. In particular, we appreciate your suggestions such as the possible economic impracticality of single loaded corridors planned on the Creole and Midstation sites. In this regard we are very interested in your idea of looking at more of a high-rise approach in the Creole Mine Site with less intense development at the Town Lift Midstation Site both subject to specific guidelines which would allow several possible development alternatives.

Sincerely,

Pat Sweeney M.D.

Patrick J. Sweeney, M.D.
President
MPE Inc.

cc: Dave Boesch, Eric DeHann

KEY QUESTIONS

Is master planning worth it?

Is the density requested reasonable?

- Based on underlying zoning?
- Based on other approved master plans?
- Based on realistic long term possibilities?
- Based on proximity to skiing and Old Town?

What is the best plan?

- Cluster at Creole Gulch and Town Lift Midstation?
- Combination of Norfolk Extension and Creole Gulch?
- Norfolk Extension and King Road Loop?

How important is efficiency of City Services?

How important is unobstructed open space?

What is more important, the impact on the view of the people who live closeby or the view as seen from faraway?

Is it important for the City to allow development formats that can both effectively compete in the hotel and lodging markets and support the Historic Commercial District?

11/12/85

Revised 12/23/85

HILLSIDE POTENTIAL DENSITY vs. REQUESTED

POTENTIAL		
15.21 AC HR1 X 23 U.E./AC =	349	
98.25 AC ESTATE X 3 AC/U.E. =	32	
10.00 AC RD X 5 U.E./AC =	50	
TOTAL	431	UNIT EQUIVALENTS

REQUESTED		
SINGLE FAMILY	3	
CLUSTERED RESIDENTIAL OR HOTEL	197	
SUPPORT COMMERCIAL	19	
TOTAL	219	UNIT EQUIVALENTS

DIFFERENCE

49% REDUCTION

8/12/85

Revised 12/3/85

Revised 12/23/85

APPROVED DENSITY COMPARISONS

PROJECT	DATE APPROVED	# UNITS	# ACRES	UNITS/ACRE
PARK VILLAGE	FEB 1981	795	21	37.86
DEER VALLEY[3]	FEB 1981	2545	1128	2.26
MASONIC HILL	DEC 1981	230	48	4.79
NASTAR HOTEL	JUN 1982	122	18	6.78
FIRESIDE	JUN 1983	48	4.5	10.67
SURPRISE	AUG 1983	170	79	2.15
SNOWCREEK	NOV 1984	245	31	7.90
SPMP HILLSIDE	?	219	123.5	1.77

NOTES

ALL UNIT VALUES INCLUDE PROJECT COMMERCIAL SPACE AT 1000 S.F.= 1 UNIT

DEER VALLEY[3]: THIRD AND LATEST APPROVAL

MASONIC HILL: 144 UNITS HEARTHSTONE AND 86 SINGLE FAMILY LOTS COMPRISING THE BULK OF THE AERIE; RESULT OF SETTLEMENT OF ELWOOD NIELSEN LAWSUIT

SPMP: SWEENEY PROPERTY MASTER PLAN

8/12/85

Revised 12/3/85

SPMP HILLSIDE PERFORMANCE CRITERIA

90% EXPANSIVE OPEN SPACE
70% USABLE OPEN SPACE WITHIN DEVELOPMENT PARCELS
97% TOTAL OPEN SPACE

COMPLETE ACCESS:
- SKIING
- PEDESTRIAN
- ROUTINE VEHICLE
- EMERGENCY
- CONSTRUCTION
- SERVICE

SUFFICIENT PARKING

COMPLETE, EFFICIENT UTILITIES:
- WATER
- SEWER
- GAS
- PHONE

NO NEW CITY MAINTAINED AND PLOWED ROADS

CONCENTRATED TRASH PICKUP

CONTROLLED DRAINAGE, EROSION, AND SNOW STORAGE

AESTHETIC SETTING BOTH FOR UNITS ON SITE AND AS VIEWED FROM THE HISTORIC DISTRICT

ECONOMIC FEASIBILITY IN GOOD MARKET

ADVANTAGES HILLSIDE DEVELOPMENT SCHEME

* 49% REDUCTION OF HILLSIDE DENSITY

* PRESERVATION 90% OF THE HILLSIDE WEST OF THE HISTORIC DISTRICT AS EXPANSIVE, REAL OPEN SPACE TO BE VIEWED AND USED BY THE PUBLIC FOR HIKING AND SKIING

* A TOTAL OF 97% OPEN SPACE ON THE HILLSIDE

* EFFICIENT CITY SERVICES WITH NO NEW ROADS

* A BROADENED TAX BASE (INCOME GENERATOR)

* CUSTOMER BASE FOR MAIN STREET

* COORDINATED DEVELOPMENT OF A LARGE INVENTORY OF HISTORIC DISTRICT PROPERTIES

* STABILIZATION OF SURROUNDING ZONES

* OTHER ADVANTAGES OF MASTER PLAN PACKAGE:

    GREATER SET BACKS AND SLOPED BUILDING ENVELOPE COALITION EAST

    44% REDUCTION IN DEVELOPED HR1 DENSITY

    CITY TITLE TO NORFOLK AVENUE BETWEEN SNYDER'S ADDITION BOUNDARY AND 7TH STREET

    BETTER CITY TITLE TO CRESCENT WALKWAY

    DIRECT STAIR LINK BETWEEN LOWELL-EMPIRE AND CRESCENT WALKWAY

    TITLE TO LOWELL-EMPIRE TURNAROUND

    EASEMENT FOR NORFOLK PIPELINE

    RIGHT OF WAY FOR HAMMERHEAD UPPER NORFOLK

8/12/85, Revised 12/3/85

SPECIAL CONSIDERATIONS HEIGHT EXCEPTION

Section 10.9.e
Park City Land
Management Code

Prefaced on requirement for 97% open space; adequate fully enclosed parking; and no new City streets	7,10
1. Height mitigated by Gulch location; more visible portions of site restricted to less height; and 600 vertical feet of backdrop	1,2,3
2. Surrounded by 120 acres of Open Space	2,4
3. Ample interposed vegetation 15-45 feet high	1,3,4
4. Only one point of building maximum height, i.e. half high rise concept	2
5. Average height overall: Less than 25 feet Town Lift Midstation Less than 45 feet Creole Gulch	7,5
6. Defined setbacks for height exceptions from existing development; setbacks much more restrictive than underlying zoning	1,2,3, 4,6,8
7. Well below density of underlying zoning	9

11/12/85
Revised 12/3/85
Revised 12/23/85

ADVANTAGES TO HIGH-RISE MAXIMUM OPEN SPACE APPROACH

INCREASED USABLE OPEN SPACE
- 98.5%
- UP TO 100% WITH TILED ROOF

SIMPLE COMPLETE DRAINAGE CONTROL
- REDUCED AREA
- FLAT ROOFS

REAL ECONOMIC VIABILITY
- MARKETABLE AS HOTEL (DOUBLE LOADED CORRIDORS)
- REAL SUPPORT FOR RECREATION INDUSTRY
- COMPLETED PROJECTS
- CONSISTENT TAX REVENUE
- CONSISTENT RETAIL SALES SUPPORT
- EASILY PHASED

BETTER SNOW CONTROL
- EASY
- SAFE
- COMPLETE

DIRECT ACCESS
- EMERGENCY
- SERVICE
- ROUTINE
- SKI THROUGH
- PEDESTRIAN

REDUCED VISUAL IMPACT WITH REFLECTIVE GLASS. INVISIBLE?

DECREASED CONSTRUCTION IMPACT

UNCOMPLICATED, SIMPLE, CLEAN, NONDISTRACTING, WORKABLE

9/23/85

FACTS

HILLSIDE

123.5 acres total site

3.5 acres building footprints and driveway (3%)

12.5 acres building sites (10%)

111 acres vast real open space (90%)

120 acres total open space (97%)

35 acres open space for every acre of building or driveway

219 unit equivalents (49% reduction from underlying zone density)

- 35.5 Town Lift Midstation Site plus 3.5 support commercial
- 161.5 Creole Gulch Site plus 15.5 support commercial
- 2 single family (plus 1 upper property if access achieved)

1.77 unit equivalents per acre overall

- 18% less per acre than Surprise
- 22% less per acre than Deer Valley

DEVELOPED HR1

3 unit equivalents Carr-Sheen Parcel (reduced 4 unit equivalents)

2 unit equivalents MPE Parcel (reduced 1 unit equivalent)

COALITION PROPERTIES

13 unit equivalents Coalition West Parcel

40 unit equivalents Coalition East Parcels

TOTAL MASTER PLAN

125.6 Acres

277 unit equivalents

2.21 unit equivalents per acre

12/3/85

Revised 12/5/85

Revised 12/23/85

EXHIBIT D

Treasure Hill

Executive Summary

Square Footage Calculations

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

September 14, 2016 Public Hearing

I. Applicant and Staff Agreement.

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

A. Applicable Codes.

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

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

B. CUP Application Date.

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

C. Woodruff Drawings.

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

D. Vesting.

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

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

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

E. Historic District.

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

II. Clarifications.

A. Reopening the MPD.

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

III. Project Timeline.

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

A. 1986 MPD.

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

B. 1999 Legal Directive.

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

C. Fire Protection Plan.

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

D. 2004 CUP Application.

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

E. 2004 Legal Directive.

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

F. 2005 Staff Report.

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

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

- "Staff has determined that the revised plans for Treasure Hill CUP comply with the height and elevation standards approved with the Sweeney MPD."

- "The current Treasure Hill CUP plans comply with the Park City General Plan regarding location of medium density resort related development."

- "The revised Treasure Hill CUP plans are consistent with [previously approved] heights and volumetric."

- "Meeting space and support commercial (10% of the total approved floor area) per Land Management Code (15-6-8) is allowed per the MPD, in addition to the 19 UEs of commercial uses. Additional square footage is allowed for back of house and other ancillary uses, such as storage, mechanical, common space, etc."

- "…the location of buildings on the site, grading, slope retention, cliff-scape designs…complies with the site design and site suitability criteria of LMC Section 15-1-10, although specific conditions of approval will be required to address details of the grading plan, cliff scape design, retaining walls, and other elements of the site plan."

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

- Addressing mitigation of construction and traffic impacts

- Addressing maintenance, snow removal, and pedestrian access on Lowell and Empire.

- A more detailed review of the architectural concept.

G. 2006 Staff Report.

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

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

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

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

H. 2009 Staff Report.

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

IV. Square Footage.

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

---

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

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

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

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

Vested Square Feet	Authorization
393,911	Residential UEs of 394,000 UEs
17,470	Commercial UEs of 19,000 UEs
26,726	4% of the possible 5% additional Support Commercial[5]
16,127	2.4% of the possible 5% additional Meeting Space[6]
136,191	Accessory Uses – No Specific Restrictions [7]
173,320	Circulation – No Specific Restrictions[8]
245,063	Parking
1,008,808	**Total[9]**

V. Conclusion.

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

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

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

[7] Section 15-6-8(D) of 2003 LMC.

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

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

EXHIBIT E

SITE PLAN
200 SCALE
SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

REVISED 12-10-86 TO REFLECT 10-16-86 APPROVAL
REVISED 2-4-88 TO REFLECT 10-14-87 APPROVAL

SCALE : 1" = 200'
CONTOUR INTERVAL : 10'
PHOTO DATE : 11-5-82

P/S

SWEENEY PROPERTIES
200 SCALE SITE PLAN

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY DJF/PAH/JLS DATE 5-10-85
JOB NUMBER 203 APPROVED BY
CHECKED BY FILE NO.

SHEET NO. 2

ORTHOPHOTOGRAPHIC, TOPOGRAPHY & REPRODUCTION BY aero-graphics

NE SITE WITH BOUNDARIES - 100 SCALE

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

REVISED 12-10-86 TO REFECT 10-16-86 APPROVAL
REVISED 2-4-88 TO REFLECT 10-14-87 APPROVAL

SCALE: 1"=100'
CONTOUR INTERVAL: 5'
PHOTO DATE: 11-5-82

P/S

SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY PS/JLS DATE 5-10-85
JOB NUMBER 205 APPROVED BY
CHECKED BY FILE NO.

SHEET NO. 4

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 83147

MATCH TO SHEET 1

MATCH TO SHEET 4

KING ROAD
SINGLE FAMILY
LOTS 2 UNIT EQUIVALENTS

TRAIL

RIDGE AVENUE

SAMPSON AVENUE

RANCHO AVENUE

DALY AVENUE

NORFOLK AVENUE

WOODSIDE AVENUE

PARK AVENUE

MAIN STREET

ONTARIO CANYON ROAD

SE SITE WITH BOUNDARIES - 100 SCALE

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

REVISED 12-10-86 TO REFLECT 10-16-86 APPROVAL PJS
REVISED 2-4-88 TO REFLECT 10-14-87 APPROVAL

SCALE: 1"=100'
CONTOUR INTERVAL: 5'
PHOTO DATE: 11-5-82

P/S

SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY PS/J.L.S. DATE 5-10-85
JOB NUMBER 205 APPROVED BY
CHECKED BY FILE NO. 1A

SHEET NO. 5

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 83147

SW SITE WITH BOUNDARIES - 100 SCALE

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

REVISED 7-1-86 PJS

SCALE: 1"=100'
CONTOUR INTERVAL: 5'
PHOTO DATE: 11-5-82

P/S

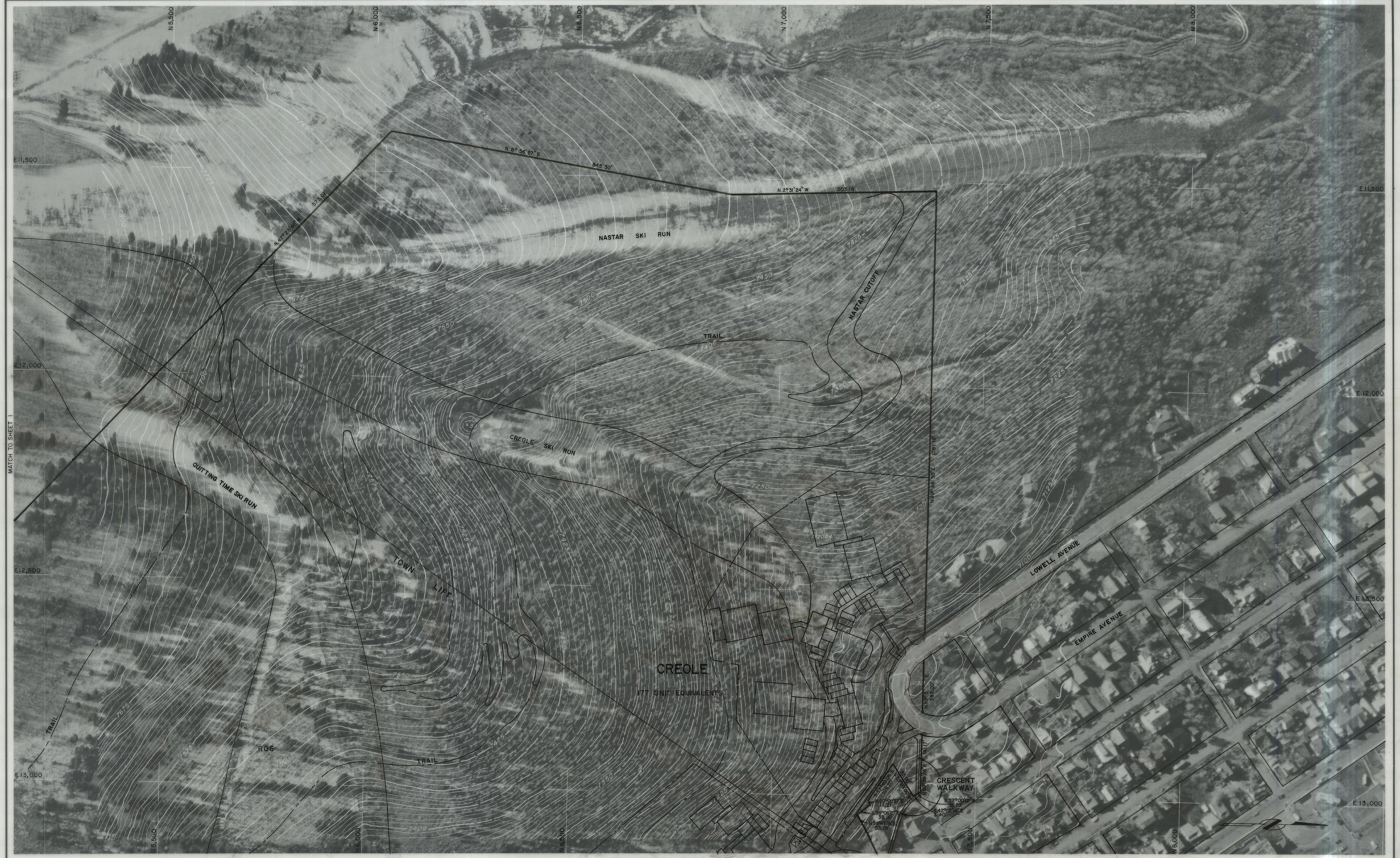
SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY PS/JLS DATE 5-10-85
JOB NUMBER 205 APPROVED BY
CHECKED BY FILE NO.

SHEET NO. 6

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 83147



REVISED 12-10-86 TO REFLECT 10-16-86 APPROVAL
REVISED 2-4-88 TO REFLECT 10-14-87 APPROVAL

NW SITE WITH BOUNDARIES - 100 SCALE

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

SCALE: 1"=100'
CONTOUR INTERVAL: 5'
PHOTO DATE: 11-5-82

P/S

SWEENEY PROPERTIES
100 SCALE SITE PLAN
with BOUNDARIES

P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY PS/JLS
JOB NUMBER 205
CHECKED BY
DATE 5-10-85
APPROVED BY
FILE NO.

SHEET NO.
7

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 83147

SCALE: 1"=50' CONTOUR INTERVAL: 5' W/2.5' SUPPLEMENTS PHOTO DATE: 11-5-82

REVISED 12-16-86 TO REFLECT 10-16-86 APPROVAL PJS

P/S

SWEENEY PROPERTIES
50 SCALE SITE PLAN & GRADING

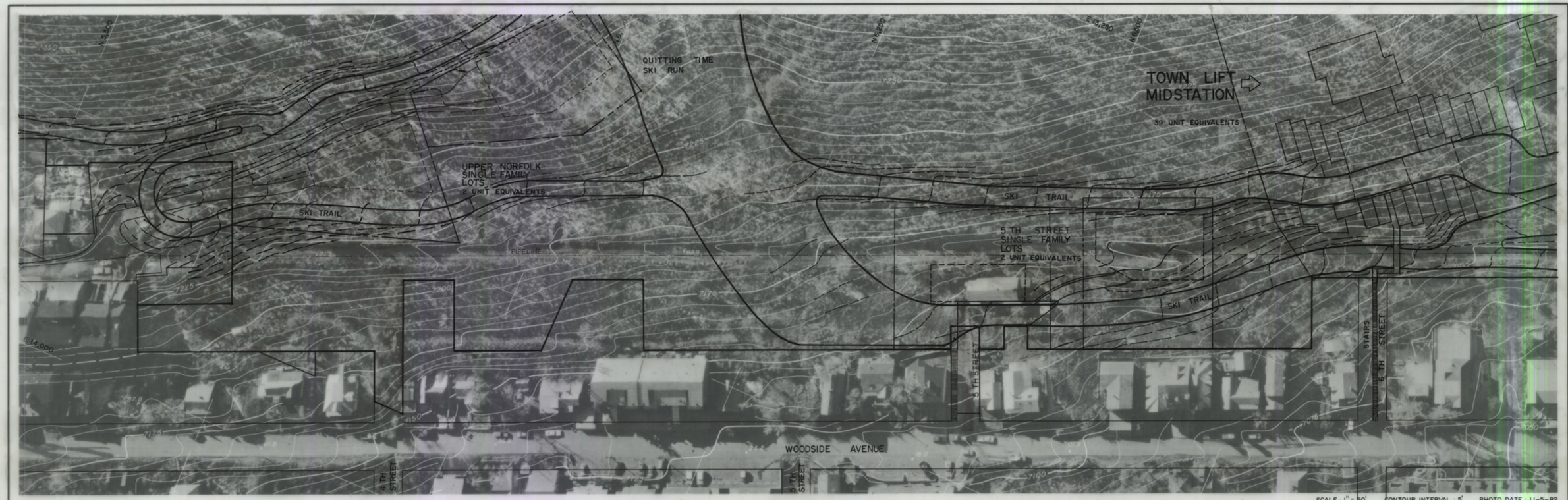
P/S ASSOCIATES, INC.
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY PS/JLS DATE 5-10-85
JOB NUMBER 205 APPROVED BY
CHECKED BY FILE NO.

SHEET NO. 8

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH-84595

REVISED 2-4-88 TO REFLECT 10-14-87 APPROVAL



SCALE : 1" = 50' CONTOUR INTERVAL : 5' PHOTO DATE : 11-5-82

7290

7270

7250

DESIGNED BY	DATE	CHECKED BY	APPROVAL RECOMMENDED
DRAWN BY: JAMES L. STEVENS	DATE: 5-10-85	CHECKED BY	BY _____ PROJECT ENGINEER /SURVEYOR
DESIGN SURVEY BY	DATE	CHECKED BY	APPROVED
FINAL SURVEY BY	DATE	CHECKED BY	BY _____ PRINCIPAL ENGINEER /SURVEYOR

SEAL

P/S ASSOCIATES, INC.
ENGINEERS AND SURVEYORS
852 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84101
PHONE (801) 532-7881

PROJECT NAME: SWEENEY PROPERTIES

ADDRESS

CITY OF: PARK CITY | COUNTY OF: SUMMIT | STATE OF: UTAH

CLIENT NAME

NO	REVISIONS	BY	DATE
1	REDESIGN	PJS	6-19-86
2	AS APPROVAL 10-16-86	PJS	12-8-86
3	REVISED TO REFLECT 10-14-87 APP.	JLS	2-4-88

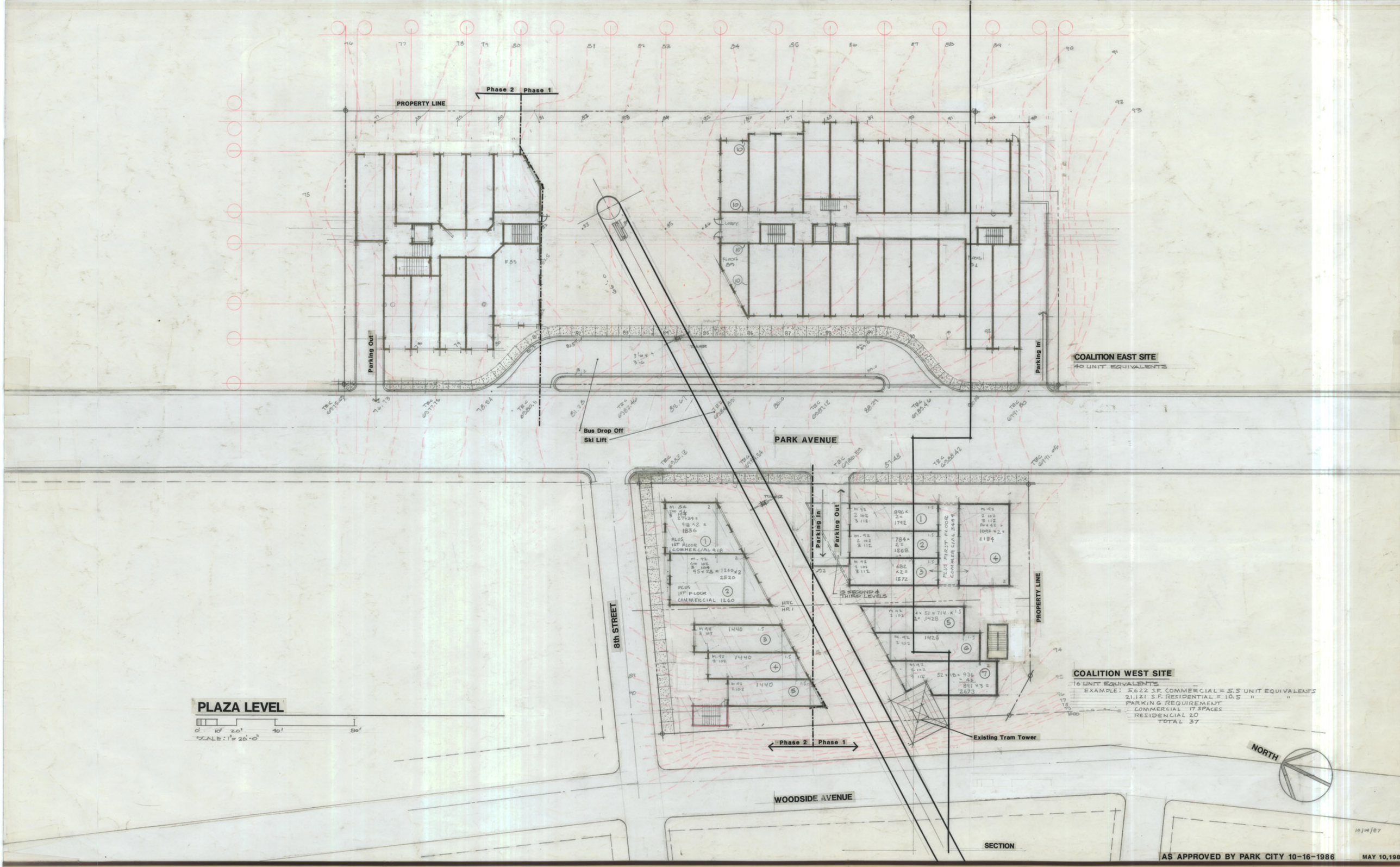
SHEET TITLE: 50 SCALE SITE PLAN & GRADING

PROJECT NO. P/S _____

SHEET NO. 9 OF 30

REPRODUCED BY aero-graphics

Orthophotography & Topography Compiled By Photogrammetric Methods, AERO-GRAPHICS, INC., SALT LAKE CITY, UTAH - 84595

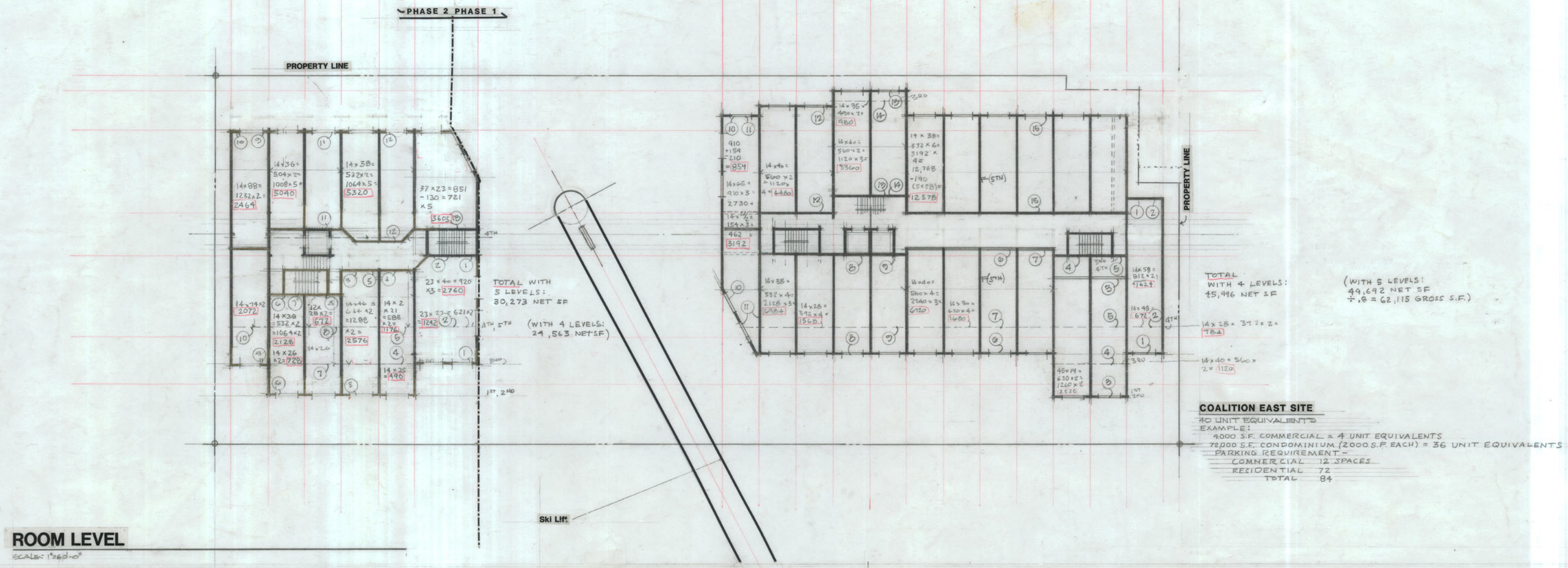


SWEENEY PROPERTIES MASTER PLAN

COALITION WEST SITE
COALITION EAST SITE

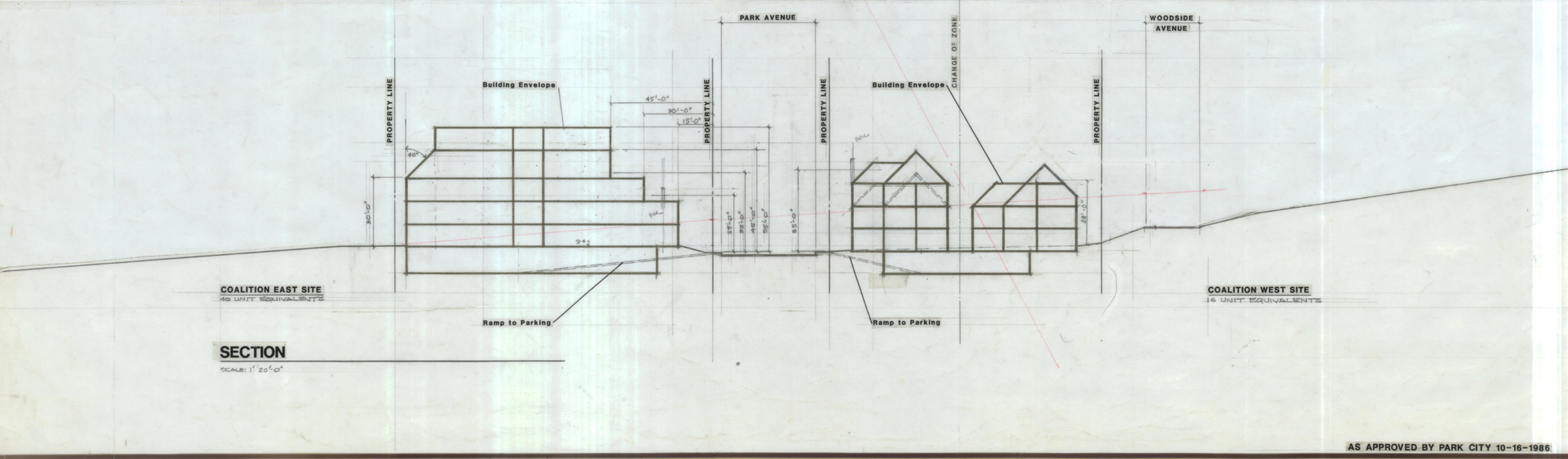
DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

10



ROOM LEVEL

SCALE: 1"=60'-0"



SECTION

SCALE: 1" 20'-0"

AS APPROVED BY PARK CITY 10-16-1986

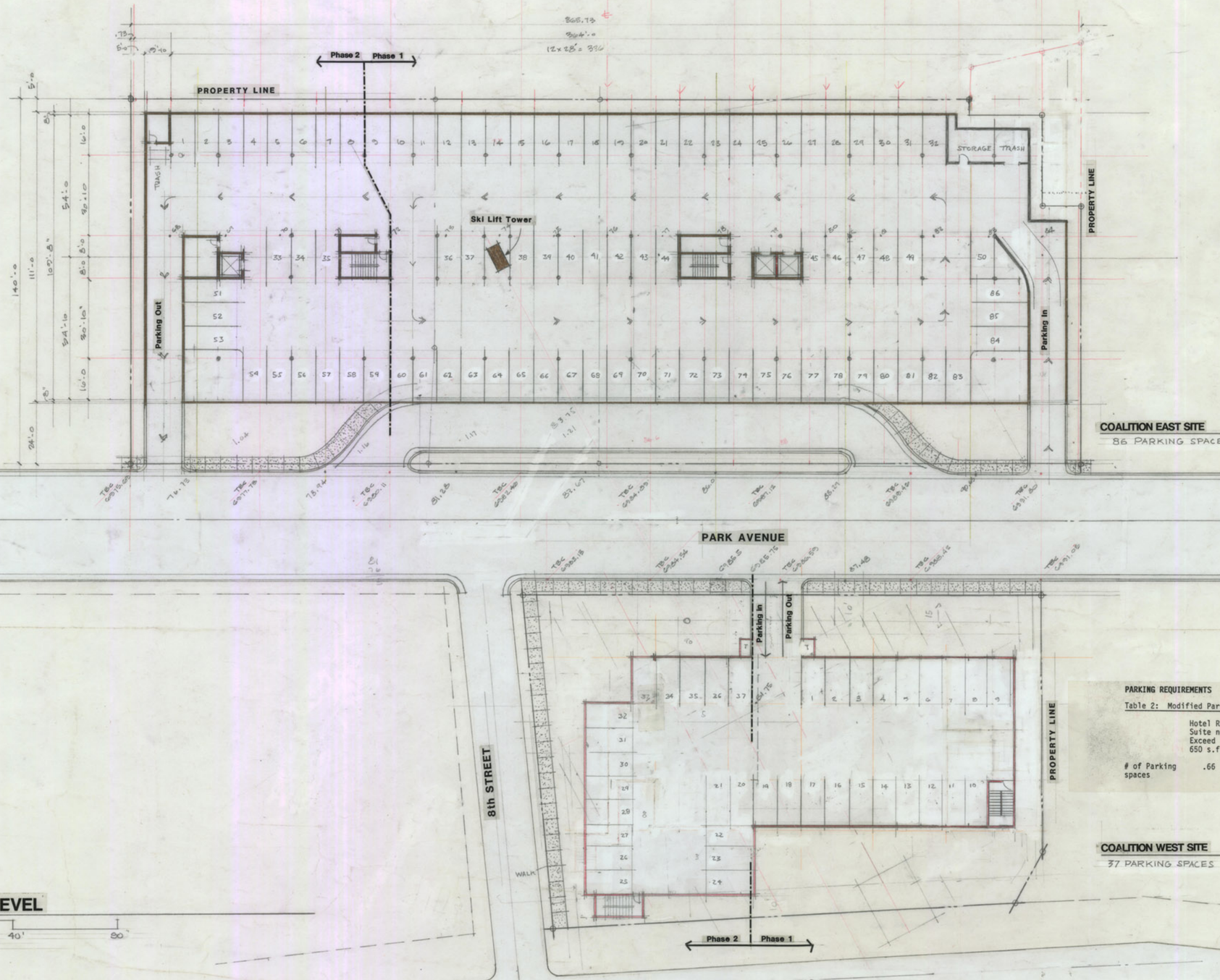
MAY 10, 1985

SWEENEY PROPERTIES MASTER PLAN

COALITION WEST SITE
COALITION EAST SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

11



PARKING REQUIREMENTS

Table 2: Modified Parking

	Hotel Room/ Suite not to Exceed 650 s.f.	Apt. not to Exceed 1,000 s.f.	Apt. not to Exceed 1.500 s.f.	Apt. in Excess of 1,500 s.f.	Commer-cial
# of Parking spaces	.66	1	1.5	2	Per Code

PARKING LEVEL

0 10 20' 40' 80'

SCALE: 1" = 20'-0"

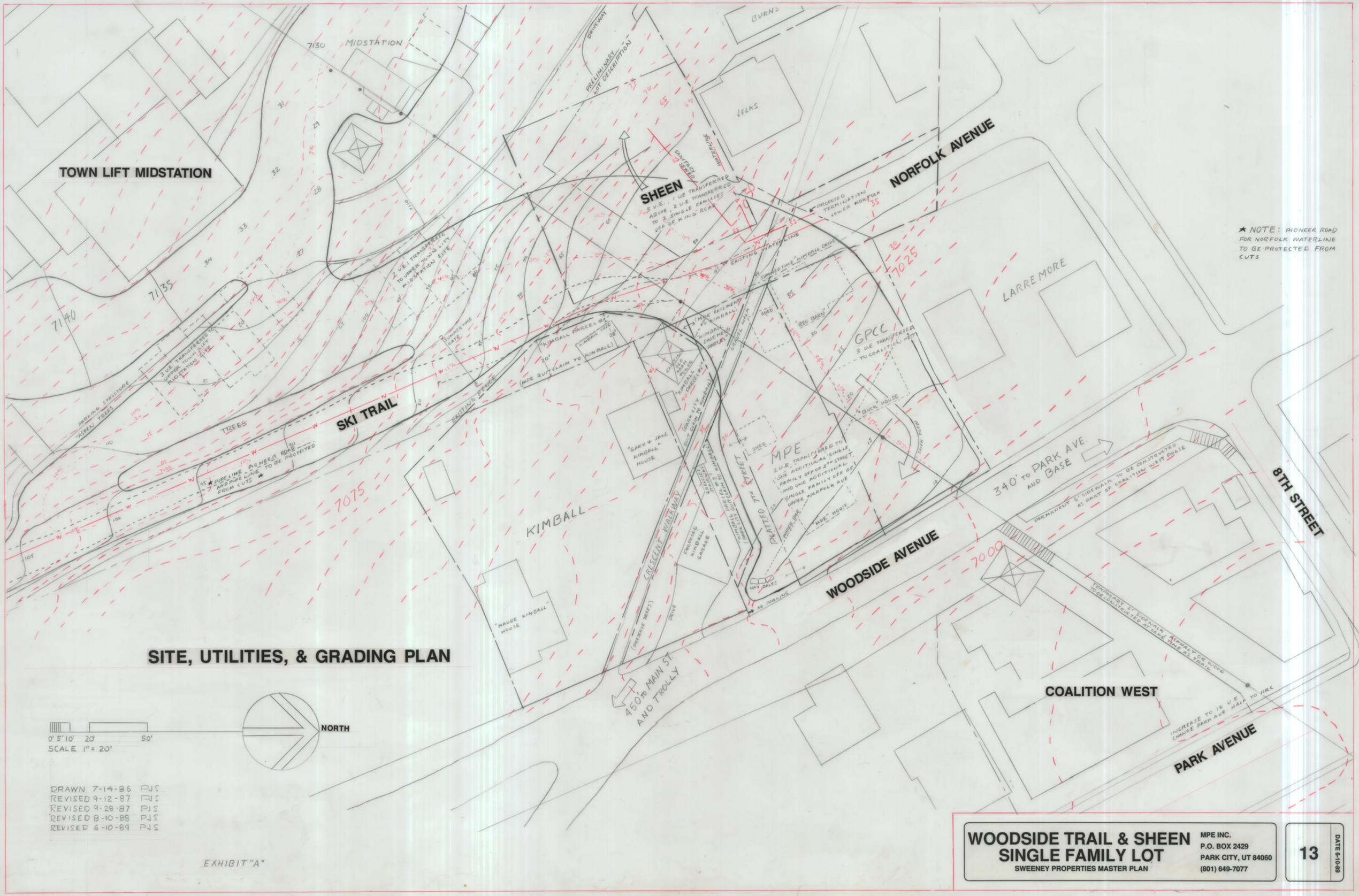
AS APPROVED BY PARK CITY 10-16-1986 MAY 10,198

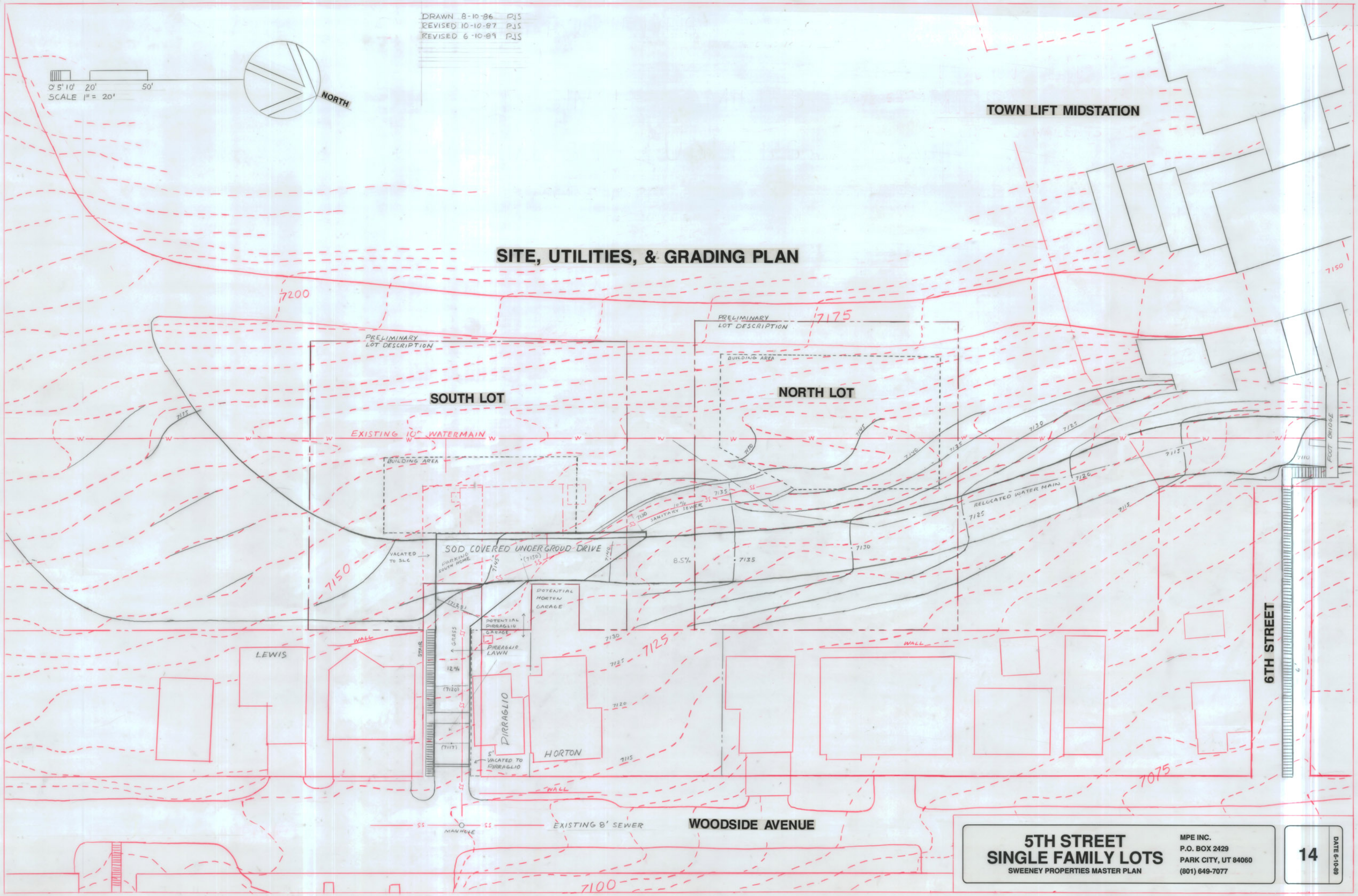
SWEENEY PROPERTIES MASTER PLAN

COALITION WEST SITE
COALITION EAST SITE

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

12


TOWN LIFT MIDSTATION
MIDSTATION
7130
7135
7140
7075
7025
7000
SHEEN
NORFOLK AVENUE
SKI TRAIL
KIMBALL
WOODSIDE AVENUE
8TH STREET
PARK AVENUE
COALITION WEST
LARREMORE
GPCC
MPE
340' TO PARK AVE. AND BASE
450' TO MAIN ST. AND TROLLY
CRESCENT WALKWAY
PLATTED 7TH STREET
PRELIMINARY LOT DESCRIPTION
DRIVEWAY
BURNS
VELKS
★ NOTE: PIONEER ROAD FOR NORFOLK WATERLINE TO BE PROTECTED FROM CUTS
★ PIPELINE PIONEER ROAD AND PIPE LINE TO BE PROTECTED FROM CUTS ★
PARKING STRUCTURE
"ASPEN" TREES
TREES
EXISTING FENCE
"KIMBALL PARCEL #1"
(MPE QUIT CLAIM TO KIMBALL)
"GARY & JANE KIMBALL" HOUSE
"MAUDE KIMBALL" HOUSE
"MPE" HOUSE
"BUCK" HOUSE
"RED BARN"
PROPOSED KIMBALL GARAGE
NO PARKING
HAY BALES
PERMANENT 6' SIDEWALK TO BE CONSTRUCTED AS PART OF COALITION WEST PHASE
TEMPORARY 6' SIDEWALK ASPHALT OR WOOD TO BE CONSTRUCTED AT SAME TIME AS TRAIL
INCREASE TO 16 U.E. CHANGE PARK AVE. HALF TO HRC
SITE, UTILITIES, & GRADING PLAN
NORTH
0' 5' 10' 20' 50'
SCALE 1" = 20'
DRAWN 7-14-86 PJS
REVISED 9-12-87 PJS
REVISED 9-28-87 PJS
REVISED 8-10-88 PJS
REVISED 6-10-89 PJS
EXHIBIT "A"
WOODSIDE TRAIL & SHEEN
SINGLE FAMILY LOT
SWEENEY PROPERTIES MASTER PLAN
MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077
13
DATE 6-10-89


DRAWN 8-10-86 PJS
REVISED 10-10-87 PJS
REVISED 6-10-89 PJS
0 5' 10' 20' 50'
SCALE 1" = 20'
NORTH
TOWN LIFT MIDSTATION
SITE, UTILITIES, & GRADING PLAN
7200
7175
7150
7125
7100
7075
PRELIMINARY LOT DESCRIPTION
SOUTH LOT
NORTH LOT
BUILDING AREA
EXISTING 10" WATERMAIN
SANITARY SEWER
RELOCATED WATER MAIN
FOOT BRIDGE
SOD COVERED UNDERGROUND DRIVE
VACATED TO SLC
PARKING SOUTH HOME
8.5%
POTENTIAL HORTON GARAGE
POTENTIAL PIRRAGLIO GARAGE
PIRRAGLIO LAWN
GRASS
STAIR
12%
WALL
LEWIS
PIRRAGLIO
HORTON
5' VACATED TO PIRRAGLIO
6TH STREET
EXISTING 8' SEWER
MANHOLE
WOODSIDE AVENUE
5TH STREET
SINGLE FAMILY LOTS
SWEENEY PROPERTIES MASTER PLAN
MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077
14
DATE 6-10-89

DRAWN 8-10-86 PJS
REVISED 10-10-87 PJS
REVISED 6-10-89 PJS
REVISED 3-21-90 PJS
REVISED 4-2-90 PJS

0' 5' 10' 20' 50'
SCALE 1" = 20'

NORTH

SITE, UTILITIES, & GRADING PLAN

SKI TRAIL

NORTH LOT .5 ACRES

SOUTH LOT .5 ACRES

NORTH LOT OPEN SPACE PARCEL

SOUTH LOT OPEN SPACE PARCEL

BUILDING AREA LIMITS

HOUSE FOOTPRINT

FIRST PHASE

FUTURE SKI RUN

PRELIMINARY LOT DESCRIPTION

FIRE HYDRANT

DRIVE WAY

CLEANOUT

6" ϕ SEWER LATERAL

20'-0" SEWER EASEMENT

8" ϕ SEWERLINE 255 L.F. @ 10.2%

M.H. RIM 7293 IE 7283

8" ϕ SEWERLINE 135 L.F. @ 24.7%

M.H. RIM 7257 IE 7247

8" ϕ SEWERLINE 180 L.F. @ 16.7%

M.H. RIM 7232 IE 7217

12" CULVERT

BRIDGE 12'-0" CLEAR

DRAINAGE SWALE

85'-0" CUL-DE-SAC TURN RADIUS

DRAINAGE

EXISTING 10" WATER MAIN
* TO BE PROTECTED FROM CUTS *

8" ϕ SEWERLINE 209 L.F. @ 33.5%

SANITARY SEWER

M.H. ASSUME RIM 7152 IE 7147

EXISTING ROAD

EXISTING 8" SANITARY SEWER

8" ϕ SEWERLINE 21 L.F. @ 20%

EXISTING M.H.

NORFOLK AVENUE

PLACE DEAD END SIGN AT INTERSECTION OF SAMPSON AND NORFOLK AVENUES

TURNAROUND

WOODSIDE AVENUE

UPPER NORFOLK SINGLE FAMILY LOTS
SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

15

DATE 6-10-89

DRAWN 8-10-86 RJS
REVISED 10-11-87 RJS
REVISED 6-10-89 RJS
REVISED 10-9-89 RJS
REVISED 11-22 89 RJS

0' 5' 10' 20' 50'
SCALE 1" = 20'

NORTH

DATE 11-22-89

16

KING ROAD
SINGLE FAMILY LOTS
SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429 PARK CITY, UT 84060
(801) 649-7077

KING ROAD
BLACK BASE
LARGEST TYPICAL FIRE APPARATUS TURNAROUND
TRAIL
NEW GATE FIRE DEPT KEY SW
40'-0"
7400
7375
7350
7325
7300
7275
A
B
C
FIRE HYDRANT
W WATER LINE W
NO TRESPASS - PRIVATE DRIVE SIGNS ON OLD GATE
EXISTING ROADBED
DRAINAGE SWALE TO WOODSIDE GULCH
EXISTING GRADED
NEW VEGETATION & SNOW STORAGE
STANDING WALL
FAILED HISTORIC WALL
EXISTING LARGE SCRUB OAK
DRAINAGE SWALE
DRIVEWAY
12" CULVERT
30'-0" SETBACK
SOUTH LOT
OPEN SPACE PARCEL
BUILDING AREA LIMITS
SOUTH LOT
.5 ACRES
MAIN LEVEL 7350
LOWER LEVEL 7340
MAXIMUM HEIGHT 25'-0"
MAXIMUM FOOTPRINT 3500 S.F.
20'-0" SETBACK
GAS @ 14 3/4" 60 #
E SEWER
CLEAN OUT
2.7 C.F. 6" SEWER LATERAL @ 2%
SCHNECKLOTH
PARK CITY
NEWLAND
DELUCIA
NORTH LOT
.5 ACRES
MAIN LEVEL 7340
LOWER LEVEL 7330
MAXIMUM HEIGHT 28'-0"
MAXIMUM FOOTPRINT 3500 S.F.
6" SEWER LATERAL
OPEN SPACE
SKI-BIKE-FOOT TRAIL FROM QUITTING TIME
M.H RIM 7314 FE 7309
20'-0" UTILITY EASEMENT
SKI-BIKE-FOOT TRAIL TO QUITTING TIME
NORTH LOT
OPEN SPACE PARCEL
SAMPSON AVENUE
JOHNSON
HAYES
IANIERI
CURRY
UPPER NORFOLK CONDO
LOT 28 BLOCK 78
LOT 24 BLOCK 78
NORFOLK AVENUE
EXISTING DRIVEWAY
165 / 150 / 342
200 / 315 / 415
270

SITE, UTILITIES, & GRADING PLAN

EXHIBIT "B"

REVISED

DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

Ski Trail

MAXIMUM ENVELOPE HEIGHT 7275

MAXIMUM ENVELOPE HEIGHT 7240

PROPERTY LINE

CREOLE SITE
161.5 UNIT EQUIVALENTS HOTEL-CONDOMINIUM
15.5 UNIT EQUIVALENTS - SUPPORT COMMERCIAL

LOWELL AVENUE

EMPIRE AVENUE

Ski Lift

WOODSIDE TRAIL

PROPERTY LINE

Ski Trail

6th Street

TOWN LIFT MID STATION SITE
35.5 UNIT EQUIVALENTS HOTEL-CONDOMINIUM
5.5 UNIT EQUIVALENTS - SUPPORT COMMERCIAL

TOWN LIFT MIDSTATION & CREOLE SITE PLAN

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

17

DATE 7-10-89

PUBLIC LEVEL

0 10' 25' 50' 100' 200'
SCALE: 1"=50'-0"

NORTH

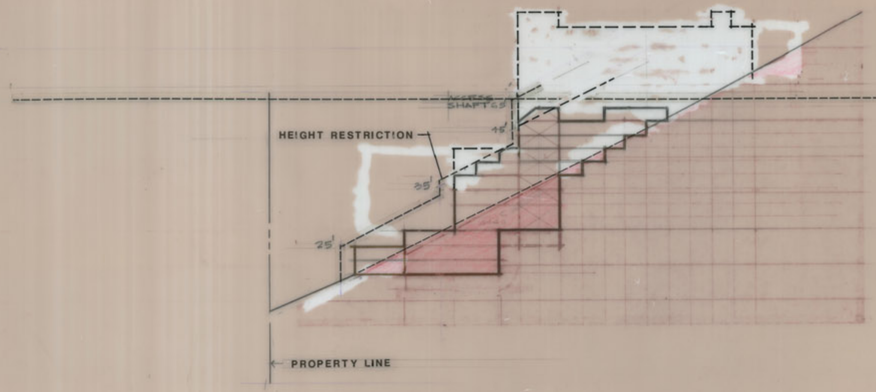
REVISED 12-19-86 TO REFLECT 10-16-86 APPROVAL
REVISED 3-8-89 TO REFLECT 10-14-87 APPROVAL

DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

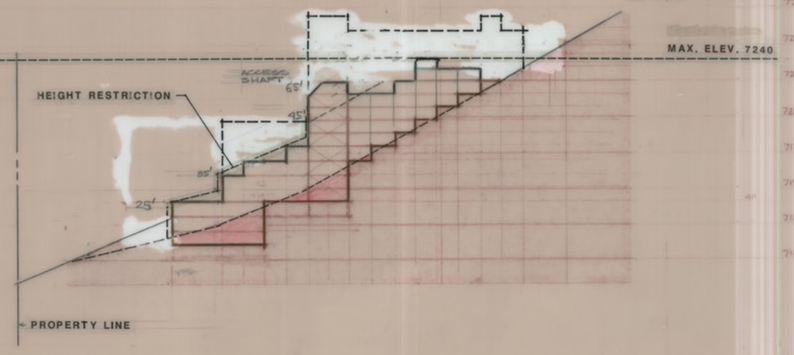
SCHEME E

7 JULY 1986
27 NOVEMBER 1985
13 November 1985



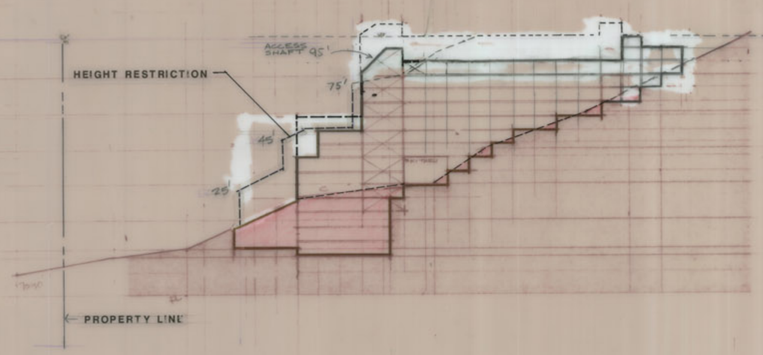
SOUTH
SECTION B

NORTH SIDE 22
SOUTH SIDE 20
42 x 500 = 21,000 ÷ 2,000 = 10.5 U.E.



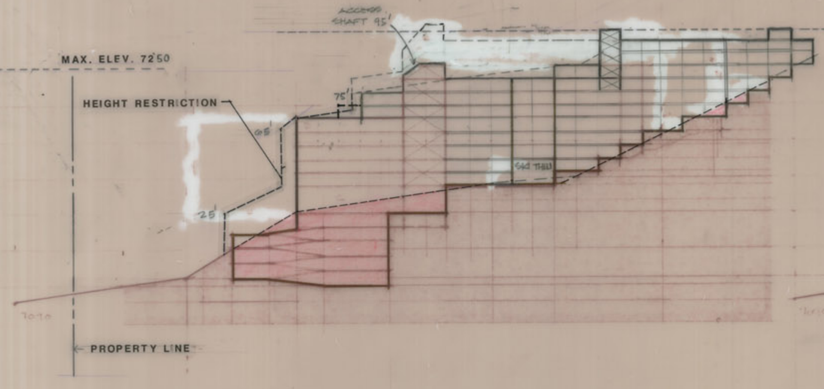
NORTH
SECTION A

NORTH SIDE 26
SOUTH SIDE 22
48 x 500 = 24,000 ÷ 2000 = 12 U.E.



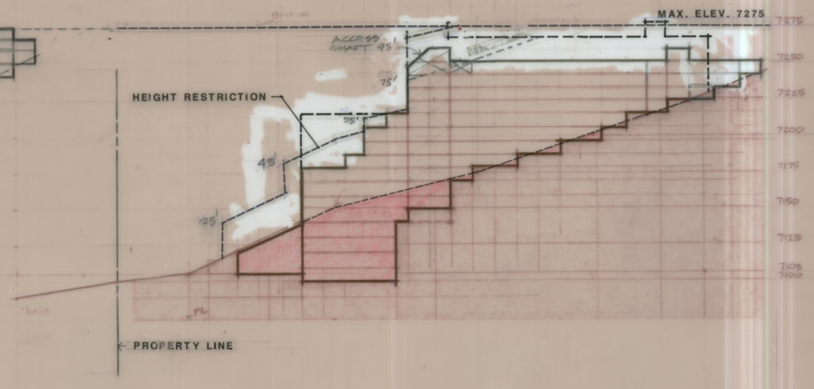
SECTION E

NORTH SIDE 68
SOUTH SIDE 60
128 x 500 = 64,000 ÷ 2,000 = 32 U.E.



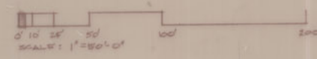
SECTION D

NORTH SIDE 126
SOUTH SIDE 115
241 x 500 = 120,500 ÷ 2,000 = 60.25 U.E.



SECTION C

NORTH SIDE 87
SOUTH SIDE 70
140 x 500 = 83,000 ÷ 2,000 = 41.5 U.E.



REVISED 12-19-86 TO REFLECT 10-16-86 APPROVAL
REVISED 3-8-89 TO REFLECT 10-14-87 APPROVAL

7 JULY 1986
13 JANUARY 1986
27 NOVEMBER 1985
13 November 1985

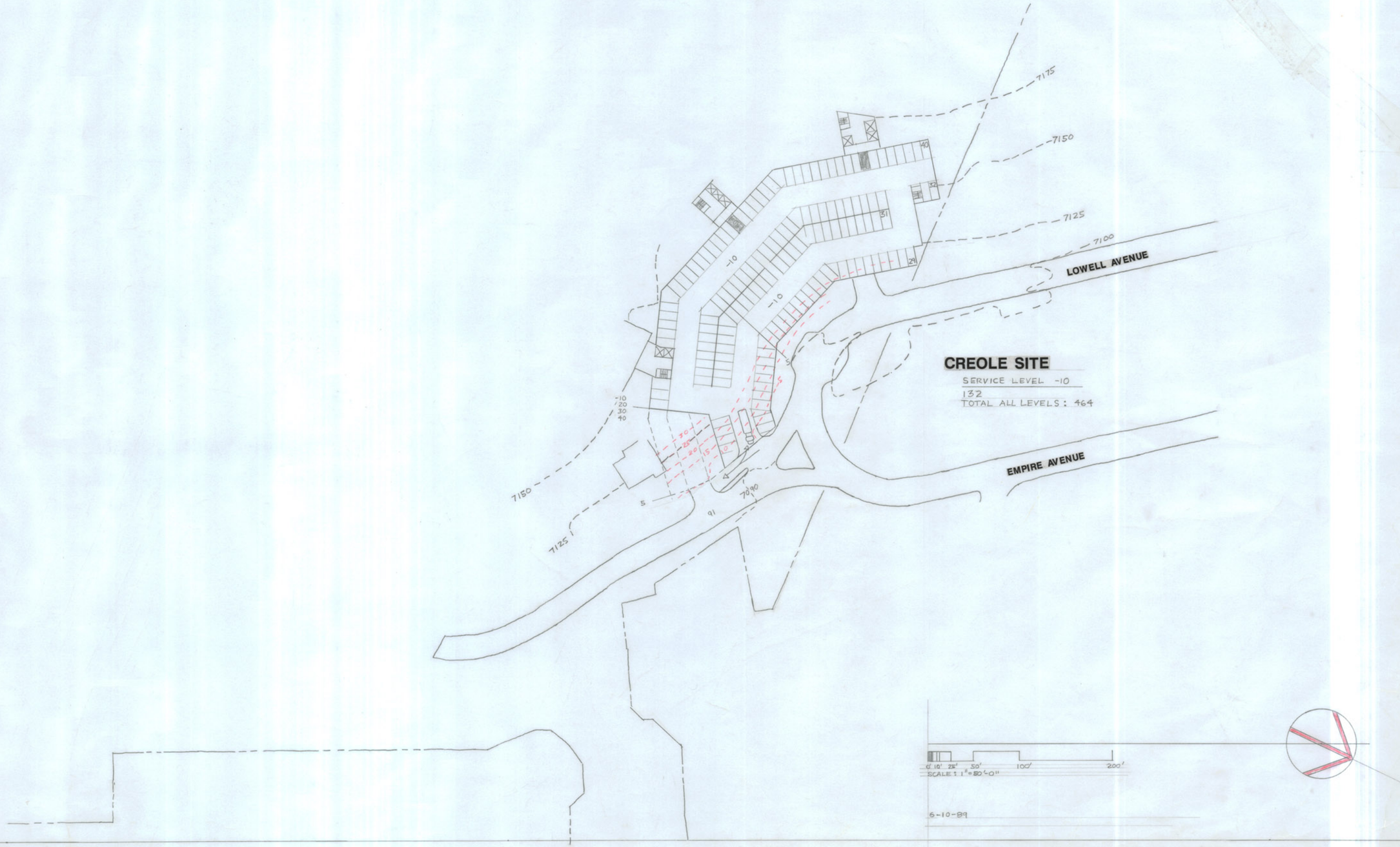
SCHEME E

SWEENEY PROPERTIES MASTER PLAN

TOWN LIFT MID STATION SITE
CREOLE **SITE**

DELAMARE, WOODRUFF, STEPAN ASSOC. INC.
ARCHITECTS PLANNERS

18



DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

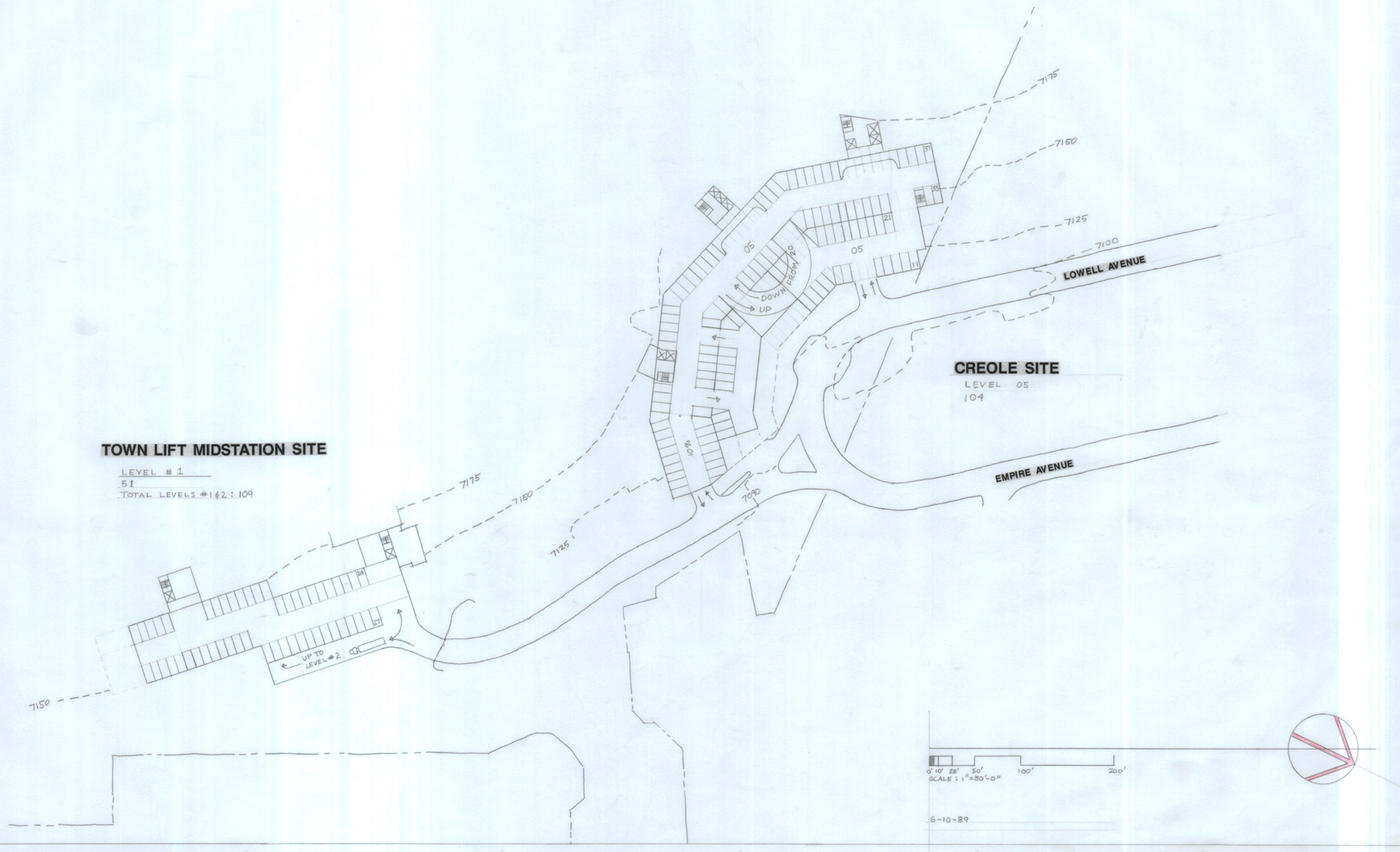
CREOLE PARKING PLAN

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

19

DATE 6-10-89



DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

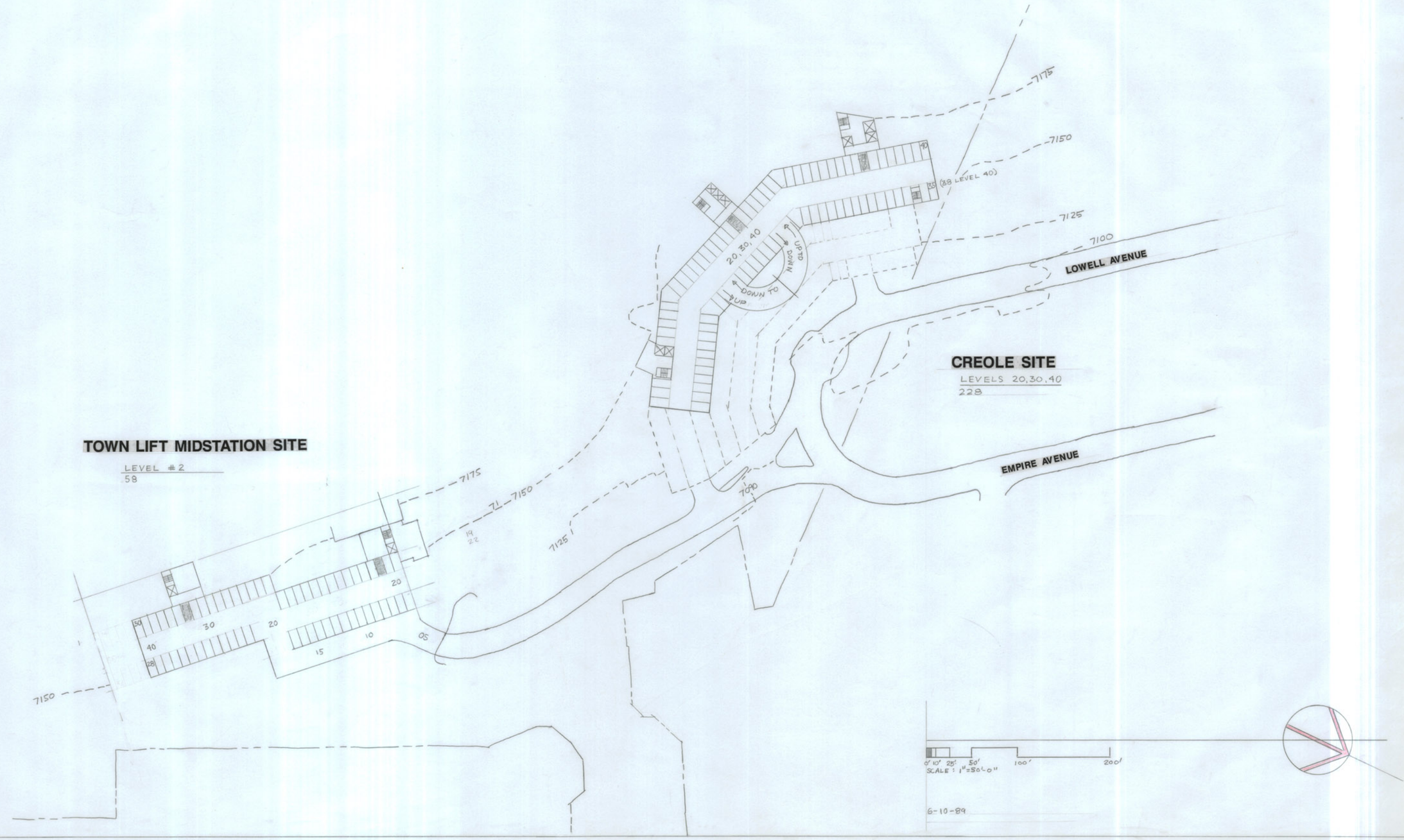
TOWN LIFT MIDSTATION & CREOLE PARKING PLAN

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

20

DATE 6-10-89



DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

TOWN LIFT MIDSTATION & CREOLE PARKING PLAN

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

21

DATE 6-10-89

ROS

max. elevation @ 7275

BUILDING AREA BOUNDARY

max. elevation @ 7275

Access Shaft May Exceed Maximum 20'-0"

max. elevation @ 7250

ROS

Property Line

35'-0" MBH

75'-0" MBH
55'-0" MBH

55'-0" MBH
45'-0" MBH

45'-0" MBH
25'-0" MBH

25'-0" MBH
0'-0" MBH

20'-0"

40'-0"

40'-0"

CREOLE
161.8 UNIT EQUIVALENTS HOTEL-CONDOMINIUM
15.5 UNIT EQUIVALENTS SUPPORT COMMERCIAL

Lowell Avenue

75'-0" MBH
65'-0" MBH

65'-0" MBH
25'-0" MBH

75'-0" MBH
45'-0" MBH

45'-0" MBH
25'-0" MBH

25'-0" MBH
0'-0" MBH

25'-0" MBH
0'-0" MBH

0'-0" MBH

Empire Avenue

35'-0" MBH

Where ski trail passes through building, opening to be a minimum of 40'-0" horizontal, 20'-0" vertical.

35'-0" MBH

35'-0" MBH

Tower

ROS

BUILDING AREA BOUNDARY

max. elevation @ 7240

Access Shaft May Exceed Maximum 20'-0"

ROS

45'-0" MBH
35'-0" MBH

45'-0" MBH
35'-0" MBH

35'-0" MBH
25'-0" MBH

35'-0" MBH
0'-0" MBH

25'-0" MBH
0'-0" MBH

50'-0"

0'-0" MBH

0'-0" MBH

Midstation

15'-0" MBH

15'-0" MBH

Tower

DRIVE HWY MAX. GRD. 6%

0'-0" MBH

Crescent walkway requirement

Property Line

SOUTH BUILDINGS

NORTH BUILDINGS

185'-0"

6th Street

Walkway requirement

Property Line

TOWN LIFT MID STATION
35.6 UNIT EQUIVALENTS HOTEL-CONDOMINIUM
3.5 UNIT EQUIVALENTS SUPPORT COMMERCIAL

REVISED 3-8-89 TO REFECT 10-14-87 APPROVAL

REVISED 12-18-86 TO REFLECT 10-16-86 APPROVAL

TOWN LIFT MIDSTATION & CREOLE HEIGHT ZONES

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

22

DATE 3-8-89

DEVELOPMENT REQUIREMENTS AND RESTRICTIONS

0' 10' 25' 50' 100' 200'
SCALE: 1"=50'-0"

NORTH

PARKING REQUIREMENTS

Table 2: Modified Parking

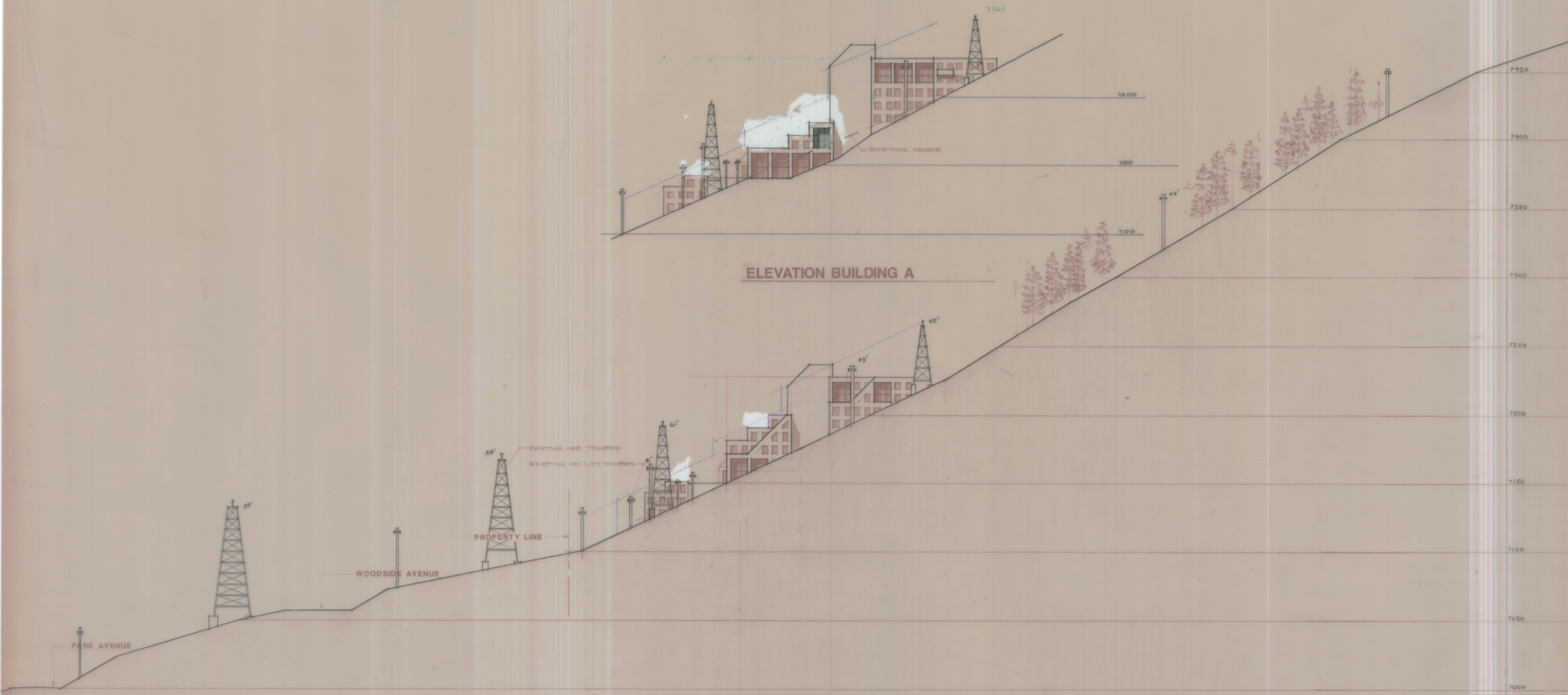
	Hotel Room/ Suite not to Exceed 650 s.f.	Apt. not to Exceed 1000 s.f.	Apt. not to Exceed 1500 s.f.	Apt. not to Exceed 2000 s.f.	Apt. in Excess of 2000 s.f.
# of Parking Spaces -	.66	1	1.5	2	2

MBH = maximum building height above natural grade
ROS = reserve open space

DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

7 JULY 1986
28 JANUARY 1986
15 JANUARY 1986
27 NOVEMBER 1985
13 November 1985



ELEVATION BUILDING A

ELEVATION BUILDING B AND SITE SECTION

0' 10' 25' 50' 100'

SCALE: 1/32"=1'-0"

DWS ARCHITECTS ASSOCIATES INC.

EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

TOWN LIFT MIDSTATION SAMPLE ELEVATIONS

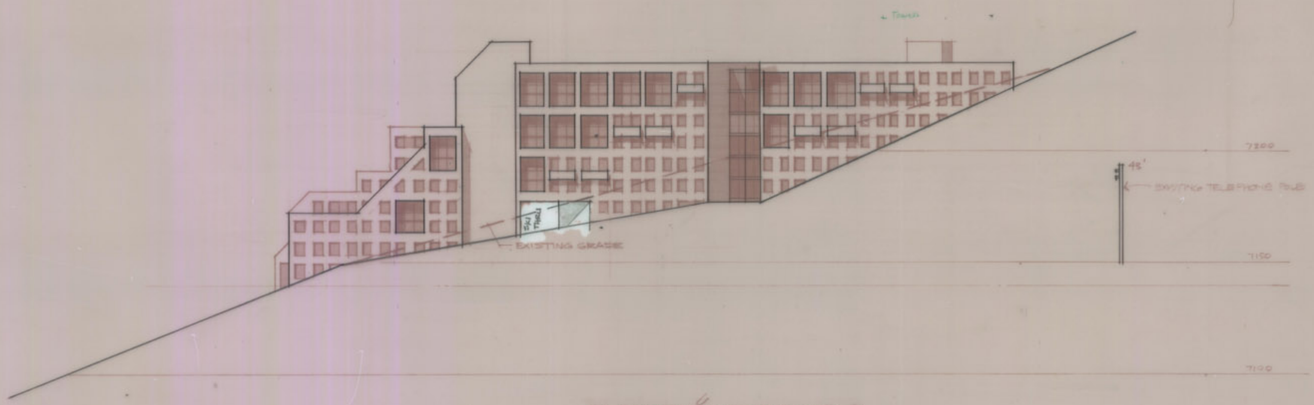
SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

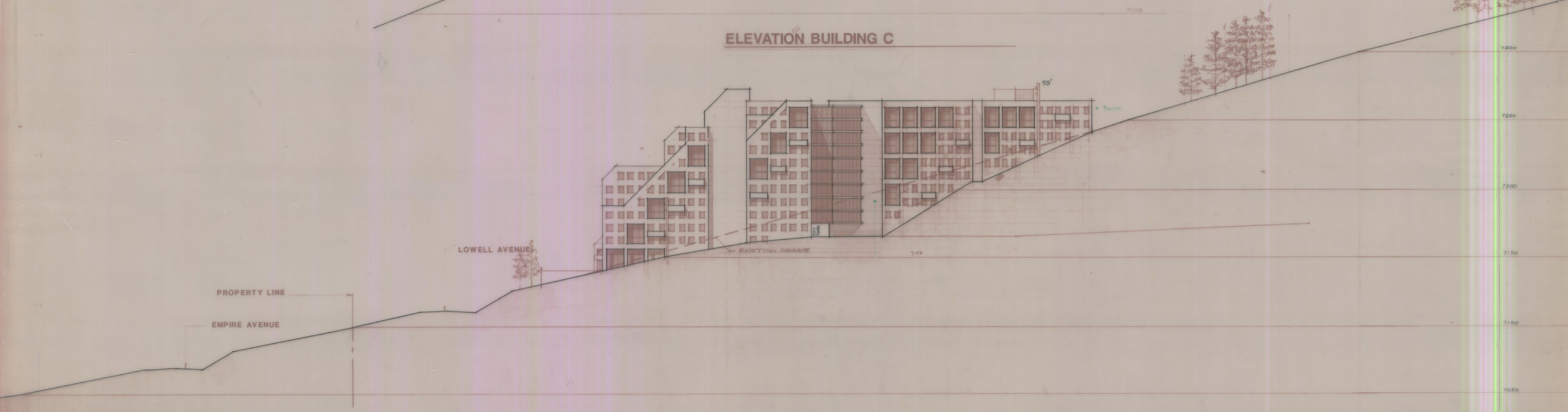
23

DATE 11-27-85

ELEVATION BUILDING E



ELEVATION BUILDING C



ELEVATION BUILDING D AND SITE SECTION

SCALE: 1/32"=1'-0"

DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

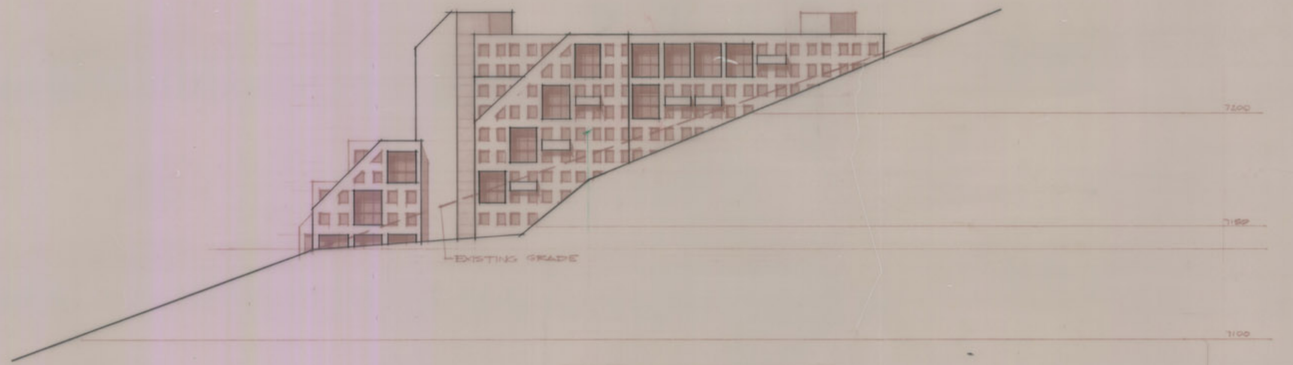
CREOLE SITE SAMPLE ELEVATIONS

SWEENEY PROPERTIES MASTER PLAN

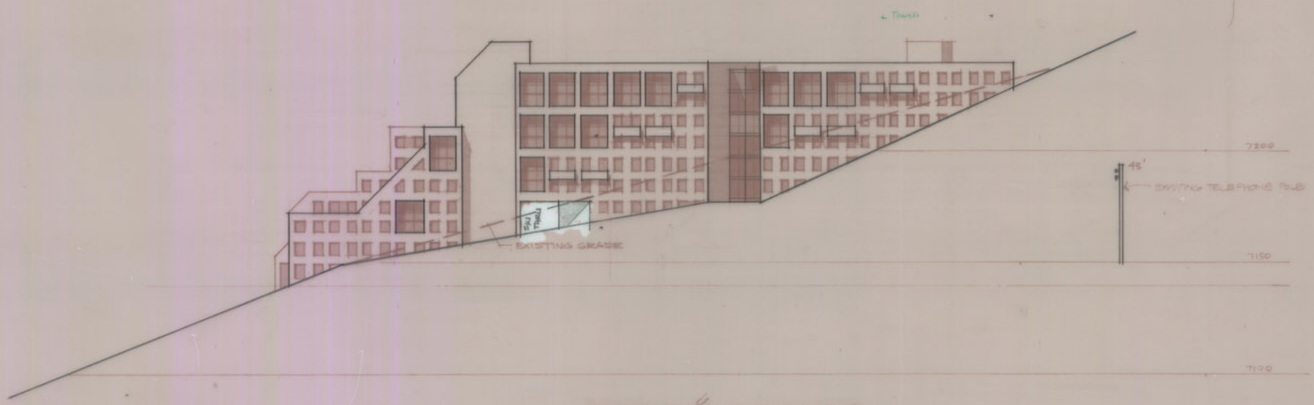
MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

24

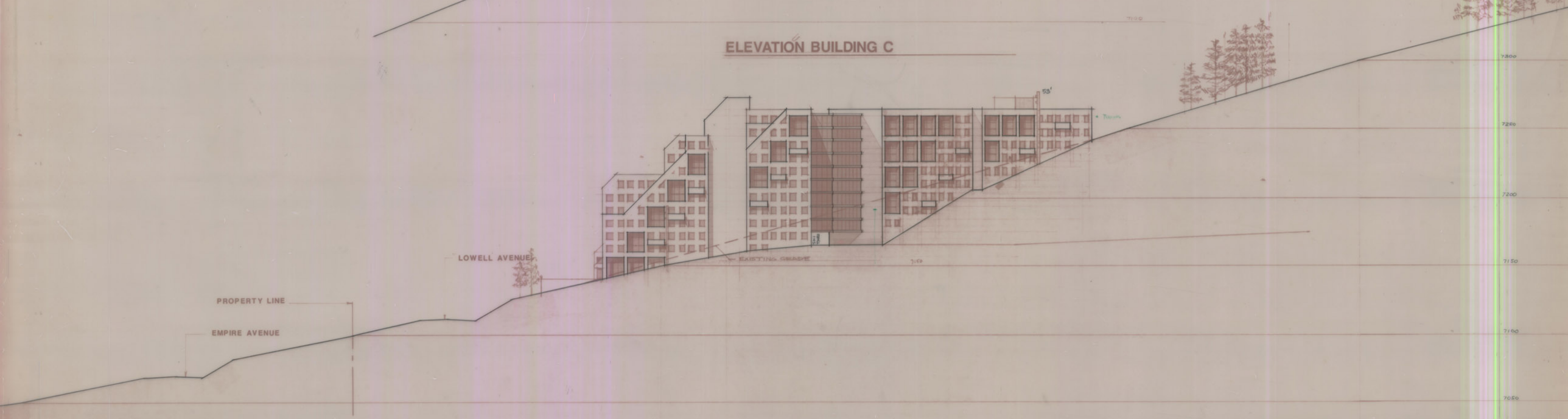
DATE 11-27-85



ELEVATION BUILDING E



ELEVATION BUILDING C



ELEVATION BUILDING D AND SITE SECTION

SCALE: 1/32"=1'-0"

DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867

REVISED

CREOLE SITE SAMPLE ELEVATIONS

SWEENEY PROPERTIES MASTER PLAN

MPE INC.
P.O. BOX 2429
PARK CITY, UT 84060
(801) 649-7077

24

DATE 11-27-85

SCALE 1"=20'

SURVEYOR'S CERTIFICATE

I, Robert B. Jones, Salt Lake City, Utah, do hereby certify that I am a registered Land Surveyor and that I hold License No. 1525, as prescribed by the laws of the State of Utah, and I have made a survey of the following described property.

West Parcel: All of Lot 2, Block 1, Snyder's Addition to Park City being further described as Beginning at the Northeast corner of Lot 2, Block 1, Snyder's Addition to Park City said point being said to be North 69°49'56" West 590.75 feet from the Southeast corner of the Southwest quarter of the Northeast quarter of section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence South 28°50' East 200.00 feet; thence South 60°30' West 97.82 feet to the center section line, thence South 89°53'05" West along said line 23.42 feet; thence North 31°48' West 178.33 feet; thence North 55°53' East 128.11 feet to the point of beginning.

East Parcel: Beginning at a point North 28°50' West 49.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City and running thence North 28°50' West 266.00 feet; thence North 63°42' East 117.10 feet; thence South 35°58' East 4.80 feet; thence South 36°27' East 200.50 feet; thence South 64°11' West 17.00 feet; thence South 28°50' East 30.31 feet; thence North 64° 11' East 23.87 feet; thence South 42°12' East 25.70 feet; thence South 33°25' East 2.72 feet; thence South 61°10' West 166.10 feet to the point of beginning.

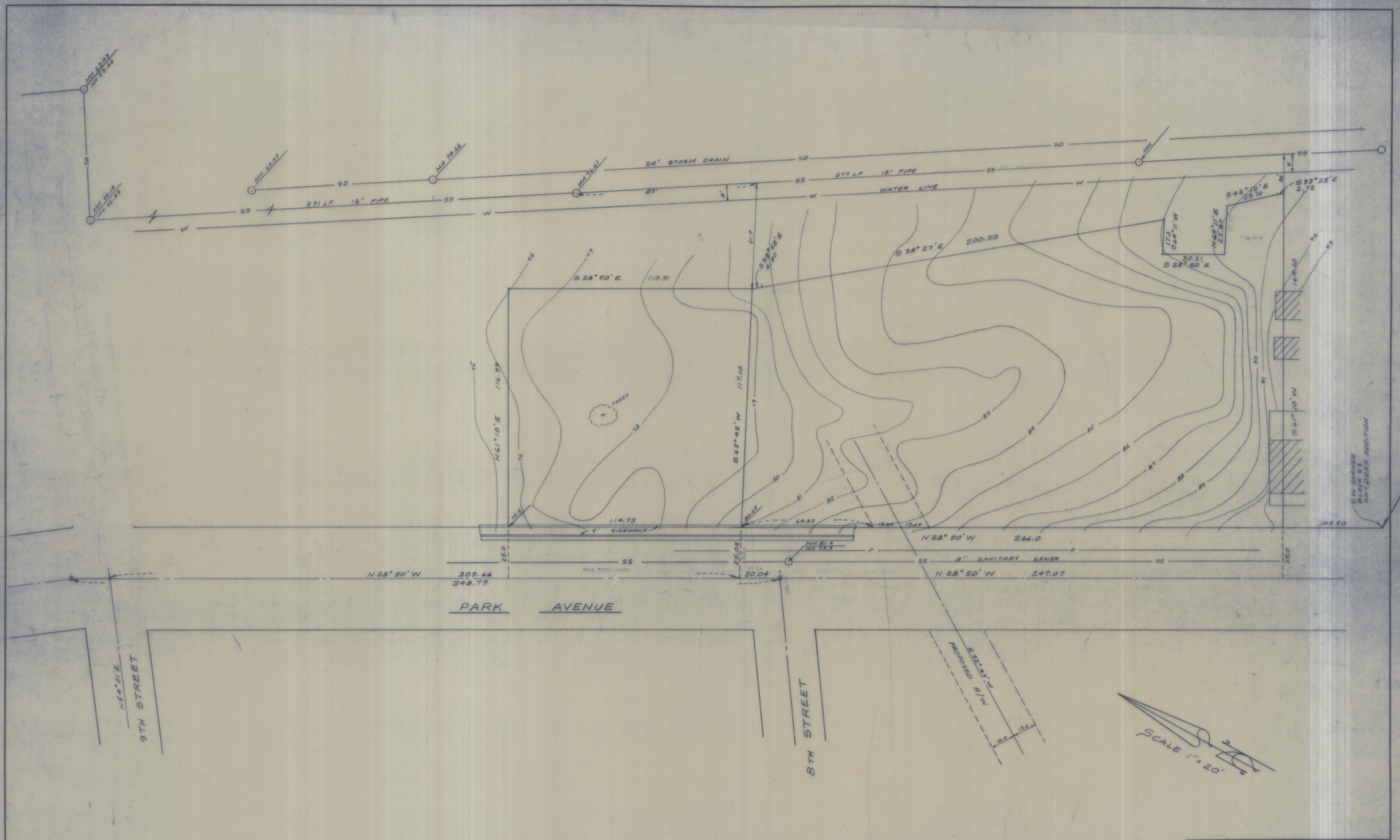
I further certify that this plat correctly shows the true dimensions of the property surveyed and of the visible improvements located thereon and their position on the said property; and further that none of the visible improvements on the above described premises encroach upon adjoining properties and that no visible improvements, fences or eaves of adjoining properties encroach upon the above described property, except as shown.

Feb 29 96
Date

Robert B. Jones
License No. 1525
Bush & Gudgell, Inc.

REGISTERED LAND SURVEYOR No. 1525 STATE OF UTAH

8TH STREET
S 55°53' W 128.89
N 55°53' E 128.11
179.015
SET #4 REBAR WITH YELLOW PLASTIC CAP
SET NAIL & TAG
FD NAIL & TAG
FD #4 REBAR & CAP
SET NAIL & TAG
FD #4 REBAR & CAP
SET NAIL & TAG
FD #4 REBAR & CAP
SET



PROPERTY SURVEY

LOCATION- BLOCK 53, SNYDERS ADDITION

PREPARED FOR

SWEENEY-HUNTSMAN

BUSH & GUDGELL INC.

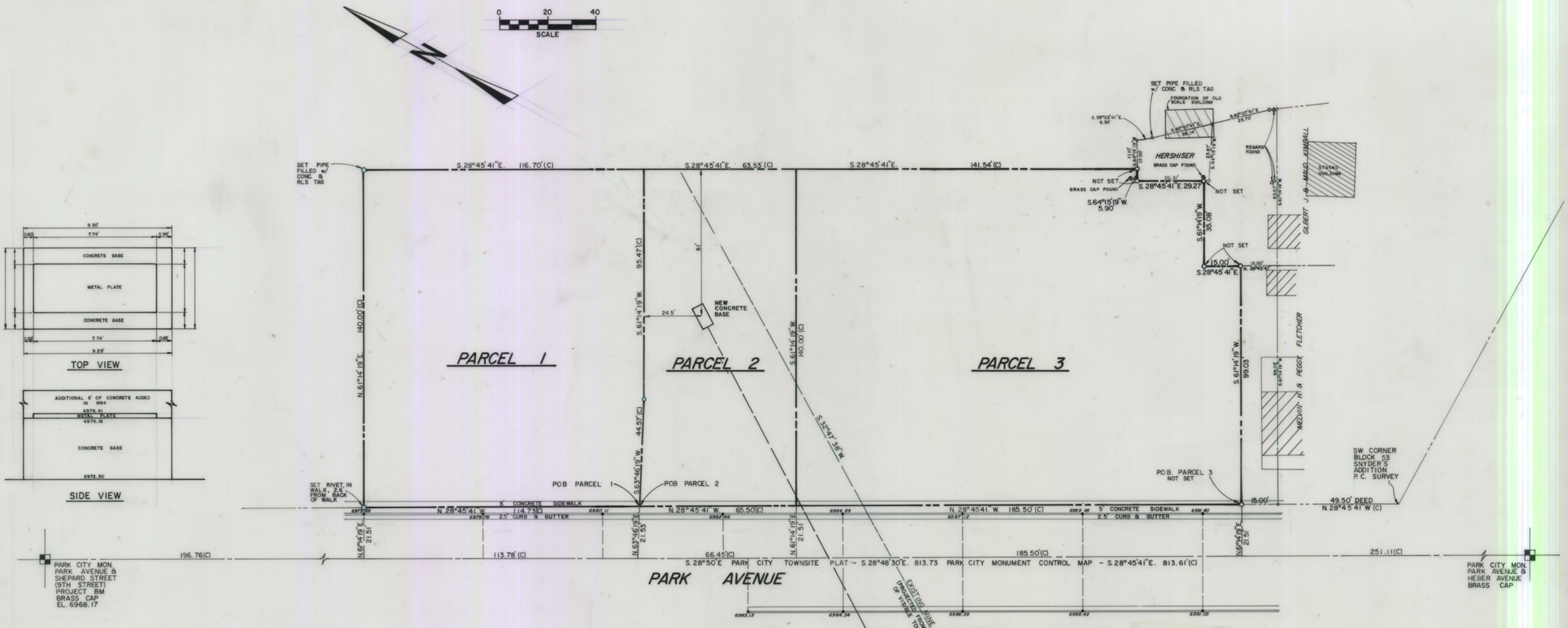
CONSULTING ENGINEERS & LAND SURVEYORS
555 SOUTH 3RD EAST, SALT LAKE CITY, UTAH 364-1212
BRANCH OFFICE: ST. GEORGE, UT. ROCK SPRINGS, WYOMING

NO.	DATE	BY	REVISIONS

DRAWN: ERJ	DATE: OCT 1981	SHEET 26 OF
CHECKED:	SCALE: 1" = 20'	
APPROVED:	JOB NO.: 34637-3	

34639-3

OSBORNE'S 18AD-2.5/C-031681



PROPOSED PROPERTY LINE, AS PER ARCHITECTS SITE PLAN

RIGHT-OF-WAY FROM PARK CITY MONUMENT CONTROL MAP

BASIS OF BEARING FOR THIS SURVEY IS THE PARK CITY MONUMENTS AT THE INTERSECTIONS OF PARK AVENUE & 4TH STREET TO PARK AVENUE & 6TH STREET WHOSE BEARING IS S.23°38'00"E.

NOTE:
PRIOR TO CONTRUCTION, TOWER PLACEMENT MUST BE VERIFIED FOR ELEVATION AND LOCATION.

(C) CALCULATED FROM SURVEYED DATA

PARCEL 1

Beginning at a point which is North 28°45'41" West, 315.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City said point also being South 28°45'41" East, 310.54 feet and North 63°46'19" East, 21.53 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Shepard Street and running thence North 28°45'41" West, 114.73 feet; thence North 61°14'19" East, 140.00 feet; thence South 28°45'41" East, 116.70 feet; thence South 61°14'19" West, 95.47 feet; thence South 63°46'19" West, 44.57 feet to the point of beginning.

Containing 0.374 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

PARCEL 2

Beginning at a point which is North 28°45'41" West, 315.50 feet from the Southwest corner of Block 53, Snyder's Addition to Park City, said point also being South 28°45'41" East, 310.54 feet and North 63°46'19" East, 21.53 feet, more or less, from a Park City Monument at the Intersection of Park Avenue and Shepard Street and running thence North 63°46'19" East, 44.57 feet; thence North 61°14'19" East, 95.47 feet; thence South 28°45'41" East, 63.53 feet; thence South 61°14'19" West, 140.00 feet; thence North 28°45'41" West 65.50 feet to the point of beginning.

Containing 0.205 Acres, more or less

Subject to and together with any and all easements, right-of-ways and restrictions of record, or enforceable at Law or in equity.

(Basis of bearing for the above description is Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00" East)

PARCEL 3

Beginning at a point which is North 28°45'41"West, 64.50 feet from the Southwest Corner of Block 53, Snyder's Addition to Park City said point also being North 28°45'41"West, 251.11 feet and North 61°14'19"East, 21.51 feet, more or less, from a Park City Monument at the intersection of Park Avenue and Heber Avenue;
and running thence North 28°45'41"West, 185.50 feet; thence North 61°14'19"East, 140.00 feet; thence South 28°45'41"East, 141.54 feet; thence South 64°15'19"West, 5.90 feet; thence South 28°45'41"East, 29.27 feet; thence South 61°14'19"West, 35.08 feet; thence South 28°45'41"East, 15.00 feet; thence South 61°14'19"West, 99.03 feet to the point of beginning.

Containing 0.578 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'00"East).

SURVEYOR'S CERTIFICATE

I, JAMES L. STEVENS DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 3659 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND THAT I HAVE CAUSED TO BE MADE UNDER MY DIRECTION, A SURVEY OF THE DESCRIBED PROPERTY. I FURTHER CERTIFY THAT THE ACCOMPANYING PLAT SHOWS, TO THE BEST OF MY KNOWLEDGE USING AVAILABLE INFORMATION, IN ACCORDANCE WITH ACCEPTABLE PROFESSIONAL STANDARDS, THE DIMENSIONS OF THE PROPERTY SURVEYED.

James L. Stevens
REGISTERED LAND SURVEYOR
ON BEHALF OF P/S ASSOCIATES, INC.

DATE Rev 4-25-85 1-30-84 Revised 12-14-87

PREPARED FOR: PAT SWEENEY

NO.	DATE	REVISION	BY	CKD. BY
4	3-15-89	REVISED SURVEY	J.L.S.	
3	4-25-85	CHANGE NEW TRAM LOCATION	J.L.S.	
2	9-4-84	ADD ADDITION BUILDINGS & REBAR	J.L.S.	
1	1-27-84	REVISED PARCEL 3	J.L.S.	

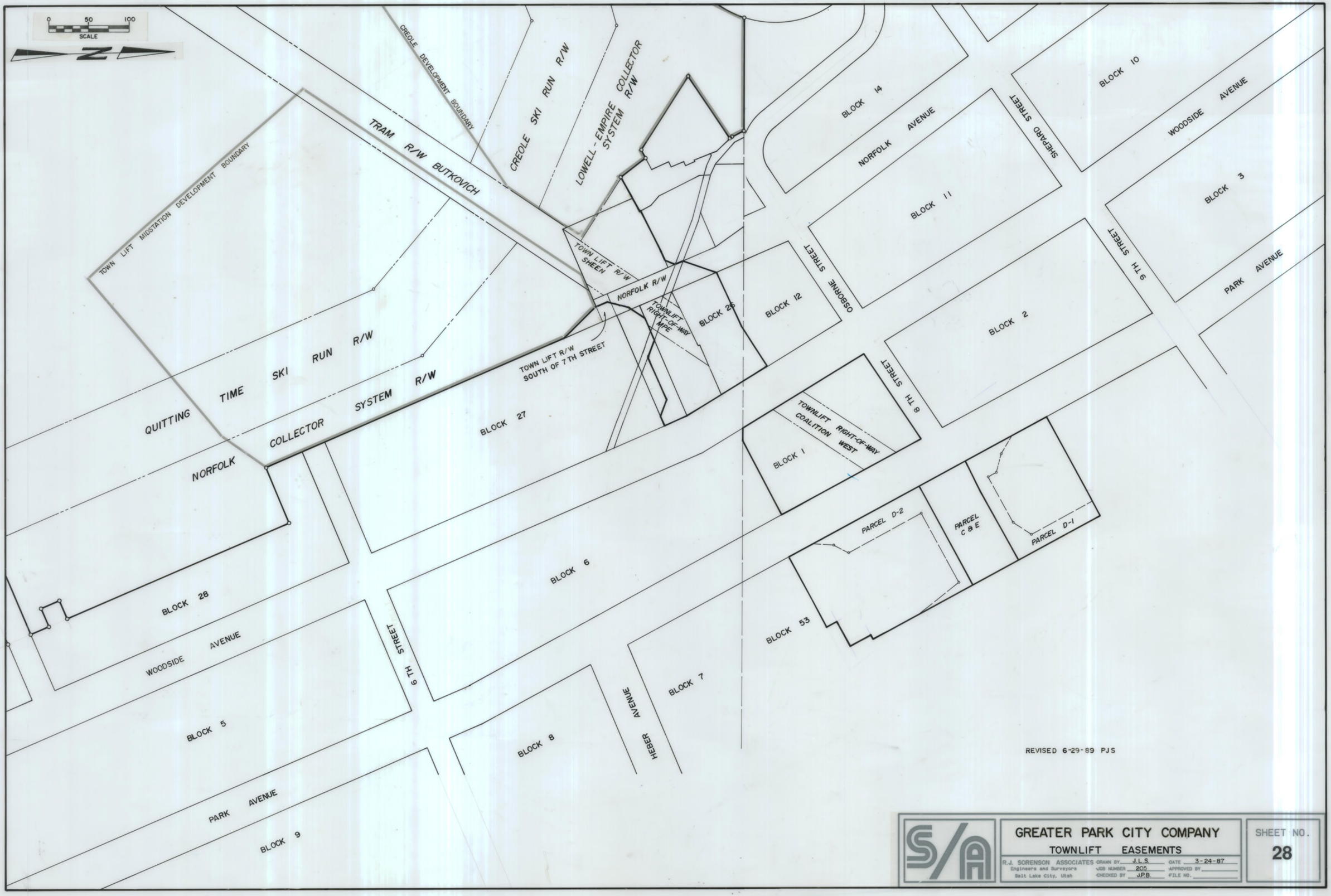
P/S

PROPOSED COALITION PROPERTY & PROPOSED CHAIRLIFT LOCATION BLOCK 53, SNYDER ADDITION, P.C.S. PARK CITY, UTAH

P/S ASSOCIATES, INC. Engineers and Surveyors Salt Lake City, Utah

DRAWN BY J.L.S. DATE 7-7-83
JOB NUMBER 292 APPROVED BY
CHECKED BY BTC FILE NO. 1A

SHEET NO. 27


0 50 100
SCALE
N
CREOLE DEVELOPMENT BOUNDARY
CREOLE SKI RUN R/W
LOWELL-EMPIRE COLLECTOR SYSTEM R/W
TRAM R/W BUTKOVICH
TOWN LIFT MIDSTATION DEVELOPMENT BOUNDARY
TOWN LIFT SHEEN R/W
NORFOLK R/W
TOWNLIFT RIGHT-OF-WAY MPE
TOWN LIFT R/W SOUTH OF 7TH STREET
QUITTING TIME SKI RUN R/W
NORFOLK COLLECTOR SYSTEM R/W
BLOCK 14
NORFOLK AVENUE
SHEPARD STREET
BLOCK 10
WOODSIDE AVENUE
BLOCK 11
BLOCK 3
9TH STREET
PARK AVENUE
BLOCK 26
BLOCK 12
OSBORNE STREET
BLOCK 2
8TH STREET
BLOCK 27
TOWNLIFT RIGHT-OF-WAY COALITION WEST
BLOCK 1
PARCEL D-2
PARCEL C & E
PARCEL D-1
BLOCK 28
WOODSIDE AVENUE
BLOCK 6
6TH STREET
BLOCK 53
BLOCK 5
BLOCK 8
HEBER AVENUE
BLOCK 7
PARK AVENUE
BLOCK 9
REVISED 6-29-89 PJS
GREATER PARK CITY COMPANY
TOWNLIFT EASEMENTS
R.J. SORENSON ASSOCIATES
Engineers and Surveyors
Salt Lake City, Utah
DRAWN BY J.L.S.
DATE 3-24-87
JOB NUMBER 205
APPROVED BY
CHECKED BY J.P.B.
FILE NO.
SHEET NO.
28

CREOLE SKI RUN R/W

TRAM R/W ROYAL STREET

QUITTING TIME SKI RUN R/W

QUITTING TIME GLADE R/W

CREOLE DEVELOPMENT BDRY.

CREOLE SKI RUN R/W

LOWELL-EMPIRE COLLECTOR SYSTEM R/W

TRAM R/W BUTKOVICH

TOWNLIFT MIDSTATION DEVELOPMENT BDRY.

QUITTING TIME SKI RUN R/W

SYSTEM R/W

COLLECTOR

NORFOLK

WOODSIDE AVENUE

6TH STREET

HEBER AVENUE

5TH STREET

PARK AVENUE

MAIN STREET

4TH STREET

3RD STREET

NORFOLK AVENUE

2ND STREET

REVISED 6-29-89 PJS

S/A

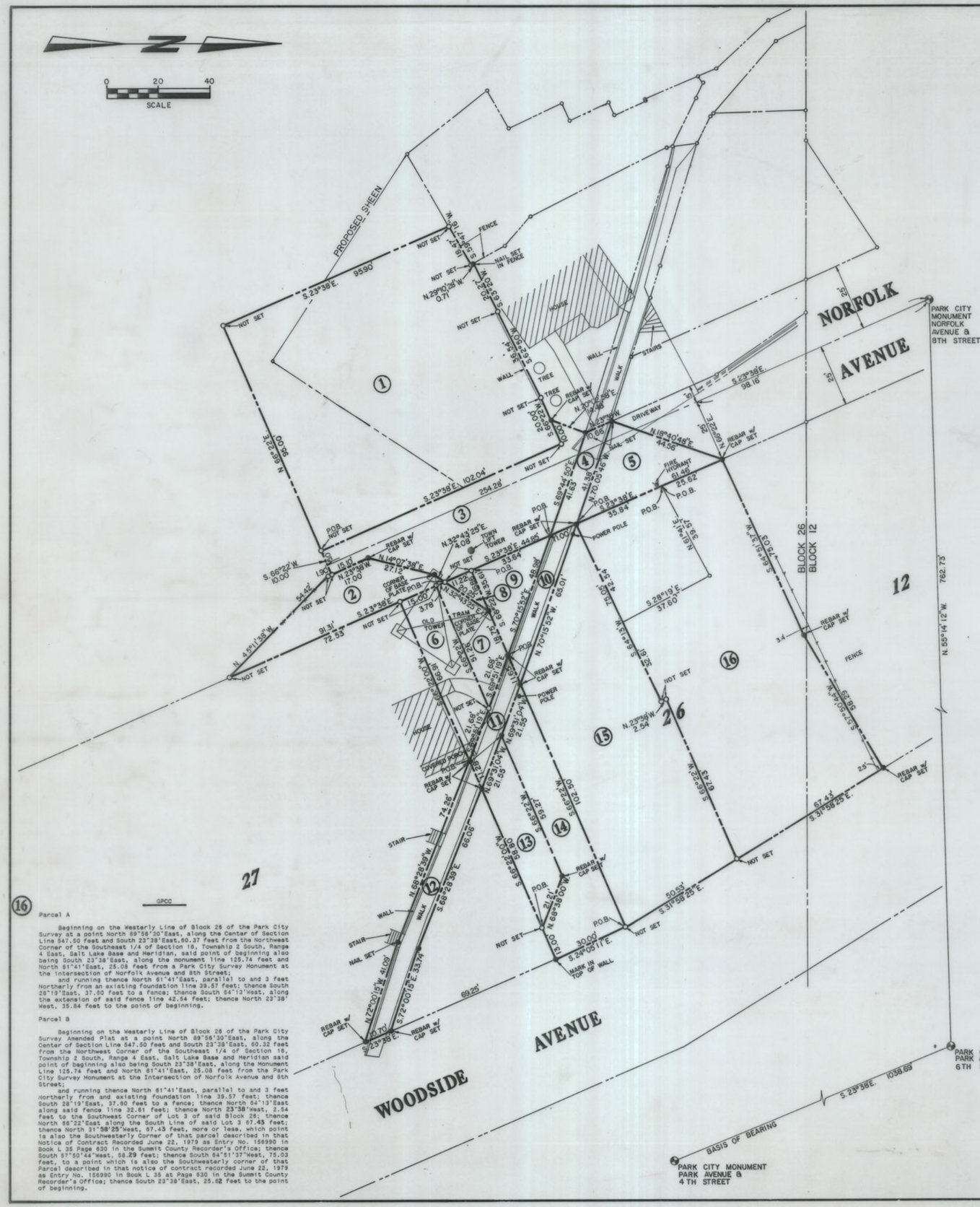
GREATER PARK CITY COMPANY

TOWNLIFT EASEMENTS

R.J. SORENSON ASSOCIATES
Engineers and Surveyors
Salt Lake City, Utah

DRAWN BY JLS
JOB NUMBER 205
CHECKED BY JPB
DATE 3-24-87
APPROVED BY
FILE NO.

SHEET NO.
29



16 GPCC

Parcel A

Beginning on the Westerly Line of Block 26 of the Park City Survey at a point North 89°56'30"East, along the Center of Section Line 547.50 feet and South 23°38'East,60.37 feet from the Northwest Corner of the Southeast 1/4 of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point of beginning also being South 23°38'East, along the monument line 125.74 feet and North 61°41'East, 25.08 feet from a Park City Survey Monument at the intersection of Norfolk Avenue and 8th Street;
and running thence North 61°41'East, parallel to and 3 feet Northerly from an existing foundation line 39.57 feet; thence South 28°19'East, 37.60 feet to a fence; thence South 64°13'East, along the extension of said fence line 42.54 feet; thence North 23°38' West, 35.84 feet to the point of beginning.

Parcel B

Beginning on the Westerly Line of Block 26 of the Park City Survey Amended Plat at a point North 89°56'30"East, along the Center of Section Line 547.50 feet and South 23°38'East, 60.32 feet from the Northwest Corner of the Southeast 1/4 of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian said point of beginning also being South 23°38'East, along the Monument Line 125.74 feet and North 61°41'East, 25.08 feet from the Park City Survey Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 61°41'East, parallel to and 3 feet Northerly from and existing foundation line 39.57 feet; thence South 28°19'East, 37.60 feet to a fence; thence North 64°13'East along said fence line 32.61 feet; thence North 23°38'West, 2.54 feet to the Southwest Corner of Lot 3 of said Block 26; thence North 66°22'East along the South Line of said Lot 3 67.43 feet; thence North 31°58'25"West, 67.43 feet, more or less, which point is also the Southwesterly Corner of that parcel described in that Notice of Contract Recorded June 22, 1979 as Entry No. 156990 in Book L 35 Page 630 in the Summit County Recorder's Office; thence South 87°50'44"West, 58.29 feet; thence South 64°51'37"West, 75.03 feet, to a point which is also the Southwesterly corner of that Parcel described in that notice of contract recorded June 22, 1979 as Entry No. 156990 in Book L 35 at Page 630 in the Summit County Recorder's Office; thence South 23°38'East, 25.62 feet to the point of beginning.

1 SHEEN

Beginning at a point which is South 23°38'East, 50.02 feet and South 66°22'West, 30.00 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat said point also being South 23°38' East, 254.28 feet and South 66°22'West, 5.00 feet from a Park City Monument at the intersection of Norfolk Avenue and 8th Street;
and running thence North 23°38'West, 102.04 feet; thence South 66°22'West, 20.00 feet to the Westerly line of Norfolk Avenue; thence South 82°50'West, 38.54 feet; thence South 63°20'West, 20.27 feet; thence South 29°10'28"East, 0.71 feet; thence South 59°47'18" West, 18.47 feet; thence South 23°38'East, approximately 45.90 feet to a point South 66°22'West, 125.00 feet from the Southwest Corner of said Block 26; thence South 23°38'East, 50.00 feet; thence North 66°22'East, 95.00 feet to the point of beginning.

Containing 0.22 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'East.)

2 KIMBALL NORFOLK

Beginning at a point which is South 23°38' East, 11.22 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat said point also being South 23°38' East, 215.48 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 23°38' East, 91.31 feet; thence North 45°11'38" West, 34.42 feet; thence North 23°38' West, 17.00 feet; thence North 14°07'38" East, 27.12 feet; thence North 32°43'25" East, 4.08 feet to the point of beginning.

Containing 1100 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

3 NORFOLK SHEEN

Beginning at a point which is North 23°38' West 33.64 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 170.62 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 23°38' East, 44.83 feet; thence South 32°43'25" West, 4.08 feet; thence South 14°07'38" West, 27.12 feet; thence South 23°38' East, 15.10 feet; thence South 66°22' West, 10.00 feet; thence North 23°38' west, 102.04 feet; thence South 66°22' west 10.00 feet; thence North 20°02'58" East, 14.48 feet; thence South 69°44'50" East, 41.63 feet to the point of beginning.

Containing 2438 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

4 CRESCENT WALKWAY NORFOLK

Beginning at a point which is North 23°38' West, 44.64 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 159.62 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 23°38' East, 11.00 feet; thence North 69°44'50" West, 41.63 feet; thence North 23°38' West, 10.66 feet; thence South 70°03'46" East, 41.38 feet to the point of beginning.

Containing 323 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

5 NORFOLK GPCC

Beginning at a point which is North 23°38' West 44.64 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 159.62 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 70°03'46" west, 41.38 feet; thence North 18°40'48" East, 44.56 feet; thence South 23°38' East, 61.46 feet to the point of beginning.

Containing 922 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

6 KIMBALL SOUTHWEST 7TH STREET

Beginning at the Northwest Corner of Block 27, Park City Survey, Amended Plat, said point also being South 23°38'East, 234.26 feet and North 66°22'East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 23°38'West, 15.00 feet; thence North 66°22'East, 51.26 feet; thence South 69°51'19"East, 21.68 feet; thence South 66°22'West, 68.91 feet to the point of beginning.

Containing 886 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'East.)

7 KIMBALL NORTHWEST 7TH STREET

Beginning at a point which is North 23°38'West, 15.00 feet from the Northwest Corner of Block 27, Park City Survey, Amended Plat, said point also being South 23°38'East, 219.26 feet and North 66°22'East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 23°38'West, 3.78 feet; thence North 32°43'25"East, 20.25 feet; thence North 66°22'East, 19.75 feet; thence South 69°51'19"East, 21.68 feet; thence South 66°22'West, 51.26 feet to the point of beginning.

Containing 557 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'East.)

8 MPE EASEMENT TO KIMBALL-7TH STREET

Beginning at the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 204.26 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 66°22' East, 16.26 feet; thence South 32°43'25" West, 20.25 feet; thence North 23°38' west, 11.22 feet to the point of beginning.

Containing 99 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

9 MPE EASEMENT TO KIMBALL

Beginning at the Southwest Corner of Block 26, Park City Survey, Amended Plat said point being South 23°38' East, 204.26 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 23°38' West, 33.64 feet; thence South 70°15'52" East, 48.36 feet; thence South 66°22' West, 35.61 feet to the point of beginning.

Containing 599 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

10 CRESCENT WALKWAY MPE

Beginning at a point which is North 23°38' West, 44.64 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 159.62 feet and North 66°22' East, 25.00 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 70°15'52" East, 65.01 feet; thence South 66°22' West, 11.65 feet; thence North 70°15'52" West, 48.98 feet; thence North 23°38' West, 11.00 feet to the point of beginning.

Containing 456 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

11 CRESCENT WALKWAY 7TH STREET

Beginning at a point which is North 66°22' East, 39.61 feet from the Southwest Corner of Block 26, Park City Survey, Amended Plat, said point also being South 23°38' East, 204.26 feet and North 66°22' East, 60.31 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 66°22' East, 11.65 feet; thence South 69°31'04" East, 43.10 feet; thence South 66°22' West 11.28 feet; thence North 69°51'19"West, 43.36 feet to the point of beginning.

Containing 344 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

12 CRESCENT WALKWAY KIMBALL

Beginning at a point which is North 66°22' East, 66.91 feet from the Northwest Corner of Block 27, Park City Survey, Amended Plat, said point also being South 23°38' East, 234.26 feet and North 66°22' East, 91.42 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 66°22' East, 11.28 feet; thence South 68°38'39" East, 66.06 feet; thence South 72°00'15" East, 33.74 feet; thence South 23°38' East, 10.70 feet; thence North 72°00'15" west, 41.09 feet; thence North 68°38'39" West, 74.26 feet to the point of beginning.

Containing 860 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

13 KIMBALL EAST 7TH STREET

Beginning at a point which is South 66°22' West, 13.00 feet from the Northeast Corner of Block 27, Park City Survey, Amended Plat said point also being South 23°38' East, 234.26 and North 66°22' East, 161.70 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 66°22' West, 38.80 feet; thence North 69°31'04" West, 21.55 feet; thence North 66°22' East, 59.27 feet; thence South 68°38'00" East, 21.21 feet to the point of beginning.

Containing 886 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

14 MPE 7TH STREET

Beginning at the Southeast Corner of Block 26, Park City Survey, Amended Plat, said point being South 23°38 East, 204.26 feet and North 66°22' East, 174.46 feet from a Park City Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence South 24°05'11" East, 30.00 feet; thence South 66°22' West, 13.00 feet; thence North 68°38'00" west, 21.21 feet; thence South 66°22' West, 39.27 feet; thence North 69°31'04" West, 21.55 feet; thence North 66°22' East, 102.50 feet to the point of beginning.

Containing 1729 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

15 MPE PARCEL

Beginning at a point which is South 23°38'East, 5.36 feet from the Northwest Corner of Lot 8, Block 26 of the Park City Survey according to the Amended Plat thereof which point is also South 23°38'East along the Monument Line 159.53 feet and North 66°33' 23"38'East along the Monument Line 159.53 feet and North 66°33' 23°38'East along the Monument Line 159.53 feet and North 66°33' East, 25.00 feet from the Park City Survey Monument at the Intersection of Norfolk Avenue and 8th Street;
and running thence North 64°13'East, 75.05 feet; thence North 23°38'West, 2.54 feet; thence North 66°22'East, 67.43 feet; thence South 31°58'25"East, 50.53 feet; thence South 66°22'west, 149.76 feet; thence North 23°38'West, 44.64 feet to the point of beginning.

Containing 7013 S.F., more or less.

Subject to and together with any and all easements, right-of-ways and restrictions of record or enforceable at law or in equity.

(Basis of bearing for the above description is the Park City Monuments at the Intersection of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38'East.)

NARRATIVE

The purpose of this survey is to resurvey a parcel of land for the extension of a ski run for the Park City Resort located in Summit County, Utah. The basis of bearing was the Monuments set by Park City on Park Avenue at the intersections of 4th Street and 6th Street whose bearing is South 23°38'East. The properties were located by tying into the City Monument at the intersection of Norfolk Avenue and 8th Street and using the Survey Control Map prepared by Bush and Gudgell Surveyors.

SURVEYOR'S CERTIFICATE

I, James L. Stevens, do hereby certify that I am a Registered Land Surveyor and that I hold License No. 5659 as prescribed by the laws of the State of Utah, and that I have caused to be made under my direction, a survey of the described property. I further certify that the accompanying plat shows, to the best of my knowledge, using available information, in accordance with acceptable professional standards, the dimensions of the property surveyed.

James L. Stevens 3-7-88
Registered Land Surveyor Date

REGISTERED LAND SURVEYOR JAMES L. STEVENS No. 5659 STATE OF UTAH

WOODSIDE TRAIL
PARCEL MAP

PREPARED FOR: M.P.E., INC.

SECTION 16,T.2S., R.4E.,S.L.B&M.

DRN. BY J.L.S.	DATE 8-2-88	SHEET NO. 30
	JOB NO. - 001	

EXHIBIT F

City Council Staff Report

PARK CITY 1884 PLANNING DEPARTMENT

Application No: PL-13-01889
Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: November 21, 2013
Type of Item: Legislative – LMC Amendments Height in the Historic Residential and the RC Districts.

Summary Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Description

Project Name:	LMC Amendments – Regarding development in the HRL, HR-1, HR-2, and RC Districts
Applicant:	Planning Department
Location:	Old Town and Resort Center
Proposal	Revisions to the Land Management Code

Background

The Planning Commission originally discussed the definition of story during a work session discussion on August 22, 2012. Then during a Planning Commission work session discussion held on September 12, 2012 staff recommended reviewing the interpretation of a "*story*" as currently defined in the Land Management Code (LMC). During this meeting, the Commission showed concerns regarding the current Building Height parameters and how they applied to split-level concepts. It was interpreted that a three (3) story split-level per the current LMC definition of a story would qualify as multiple stories adding up to six (6). Staff introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. Planning Director Eddington indicated that the Planning Staff would work with different scenarios and come back with alternatives.

During a regular meeting dated September 26, 2012, Staff introduced amendments to the LMC to address planning and zoning issues that came up in the past year. The proposed amendments provided clarification and streamlining of processes, procedures, and definitions, etc. During this meeting the same maximum internal height measurement provision was drafted.

During the September 26, 2012 Planning Commission meeting, many items were forwarded to the City Council for review and possible adoption. Regarding Building Height measurement and story definition, the Commission continued the proposed

amendments to a later date. The Planning Commission found the exhibits in the Staff report to be helpful, but expected additional information based on the discussion at the last meeting. The Commission requested to see an exercise on a variety of un-built lots in Old Town, both downhill and uphill, that maximizes the heights using stories as an example to see what the mass and scale and height would do. The Commission requested to see an idea of "worst case" scenarios. The Planning Department committed to provide a variety of examples on un-built lots, however, it was recognized that many lots do not have historic structures on them which can be demolished through an administrative building permit. The Planning Department proposed to come back with the information requested as well as other scenarios they had created for massing and volume on various slopes. The Planning Commission would be able to see how different aspects of the LMC work in each scenario depending on the slope.

During the November 28, 2012 Planning Commission meeting many other items were forwarded to the City Council for review and possible adoption including the new Building Height parameter to limit the maximum internal height of a building. Because of the amount of LMC amendments, staff was unable to deliver the prepared presentation on stories as the Planning Commission requested to continue the presentation to December 12, 2012.

On December 12, 2012 the Planning Department prepared the different scenarios and requested to hear as much input as possible from the Planning Commission. Due to the late hour that evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. Staff briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **downhill** lots.

On February 13, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **uphill** lots.

These last two Planning Commission work session discussions were based on the current Building Height parameters which include the following:

- No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.
- Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.
- A structure may have a maximum of three (3) stories. A basement counts as a first story.

- A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.
- Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.
- Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

The direction received from the Planning Commission, which resulted from the many different meetings shown herein, was to replace the current requirement of a maximum of three (3) stories with an internal maximum height provision. The Planning Commission did not feel inclined to amend the other Building Height parameters such as the maximum building height of twenty-seven feet (27') measured from existing grade, the required roof pitch, etc.

In response to that direction, on May 8, 2013 the Planning Department proposed adding a new parameter to the Building Height. This parameter was to replace the maximum number of stories by adding a provision which indicated a maximum height measured from the lowest floor level to the highest roof form. The actual maximum number proposed was based on a scale factor depending on the roof pitch of said structure. See attached Planning Commission minutes, Exhibit H – Planning Commission regular meeting minutes 05.08.2013. The Planning Commission expressed concerns with how the new provision would relate to the ten foot (10') horizontal step as it was discussed that it may need to have a numeric value other than saying that it would occur on the third floor. The Commission was not comfortable forwarding a recommendation to the City Council without seeing the drafted language regarding the roof pitch exception.

Public comment was also made during this time which focused on the 3-story versus internal height issue, structures with exposed foundations below the first floor, roof pitch options, different ways of controlling visual height and mass. The Planning Commission continued this item to May 22, 2013 to allow staff to address the comments from the Planning Commission and the public. On May 22, 2013 this items was continued to June 26, 2013. On June 26, 2013 this item was continued to July 10, 2013.

During the July 10, 2013 Planning Commission meeting Staff introduced proposed language clarified throughout the subsequent meetings. During this meeting the Planning Commission discussed various items such as the maximum slope for driveways (14%), excavation impacts, window wells, flat roofs, and the specifics parameters introduced as recommended height amendments. The Planning Commission continued this item to a date uncertain to allow staff to tidy up the recommendation and to further analyze the proposed height amendments.

The Recreation Commercial District (RC) District has specific requirements for single family dwellings and duplexes under LMC § 15-2.16-5. Subsection L & M refers to Building Height which mirrors the same language for the HRL, HR-1, and HR-2. If the Building Height is amendment for these three (3) Historic Residential Districts, this same language should also be amended in the RC District to reflect the same standard for consistency.

On October 9, 2013 the Planning Commission reviewed the proposed LMC amendments and forwarded a positive recommendation outlined in Exhibit A.

Building Height Analysis
Existing height provisions:

- **No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.** (*Staff does not recommend amending this provision).*
- **Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.** (*Staff does not recommend amending this provision).*
- **A structure may have a maximum of three (3) stories. A basement counts as a first story.** (*Staff recommends amending this provision).*
- **A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.** (*Staff recommends amending this provision).*
- **Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.** (*Staff recommends amending this provision).*
- **Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.** (*Staff does not recommend amending this provision).*

Currently, the specific height of a story is not codified. The LMC defines a story as:

> *The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.*

There is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet (27'), this is known as the *roof over topo* analysis. After analyzing the impacts of the

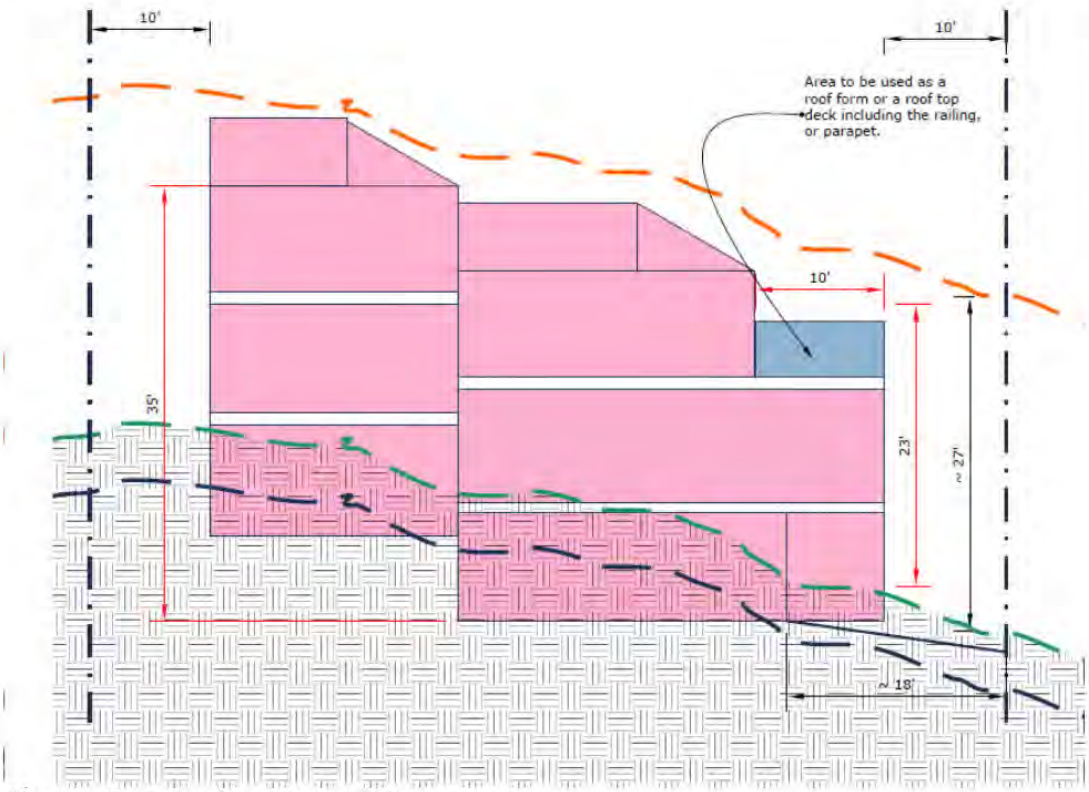
"split-levels" and more specifically "multiple split-levels" concept on a standard lot of record and possibly over longer lots, staff recommends adding provisions to the LMC related to Building Height. By regulating the maximum height measured from the first story floor plane to the point of the highest wall top plate that supports the ceiling joints/roof rafters, the mass, volume, and scale of the "split-level" concept can be limited so that the proposal does not contain multiple numbers of splits stepping up or down the hillside. Planning Staff recommend that the Commission forward a positive recommendation to the City Council by adding the following provisions to the Building Height regulation:

> ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable do not count as a Story.~~

The Planning Commission's recommendation included reducing the maximum height to thirty three feet (33') as they felt that the recommended thirty five (35') was too high. The 35' recommendation is based on the having a three (3) story building at ten foot wall height including floor plate and accommodating a split. Please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The Planning Department and the Planning Commission also recommend adding clarifying language to the ten foot (10') minimum horizontal step. The current Code does not indicate where the step back takes place on a vertical plane. Staff finds that the added language in red below clarifies where the horizontal step should occur. Staff has seen projects that have extended ceilings from the mid-level to the top level that technically removes the required horizontal step as this portion of the structure does not provide a third (3rd) story. The clarifying language requires that projects that have the same massing of a three (3) story building to have such horizontal step. See language to be added:

> A ten foot (10') minimum horizontal step in the downhill façade is required ~~for the third (3rd) Story of a Structure~~, unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.



Above: diagram showing uphill lot scenario

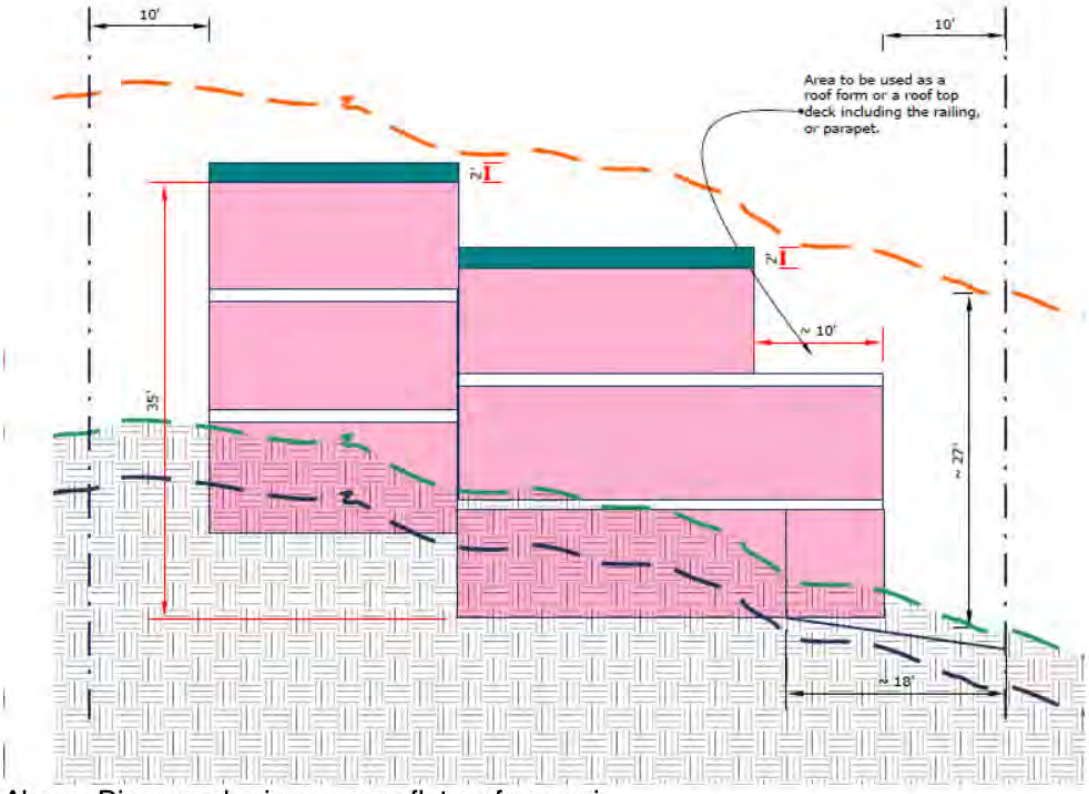
Staff also found that the roof pitch also needs to be clarified to reflect the following:

ROOF PITCH. Roof pitch must be between seven: twelve (7:12) and twelve: twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty-four inches (24") above the highest top plate mentioned above.

The Planning Commission accepted a former Staff recommendation with indicated the following: A Structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including

parapets, railings, or similar features. Staff requests Council consider a change to the recommendation of thirty feet (30') as it does not provide any room to allow for a split level as it would simply consists of three (3) floors. The proposed language simply provides consistent with the massing below a roof whether it is a flat green roof or a higher roof pitch while at the same time not overpower the height of a structure with a flat roof.



Above: Diagram shoring a green flat roof scenario.

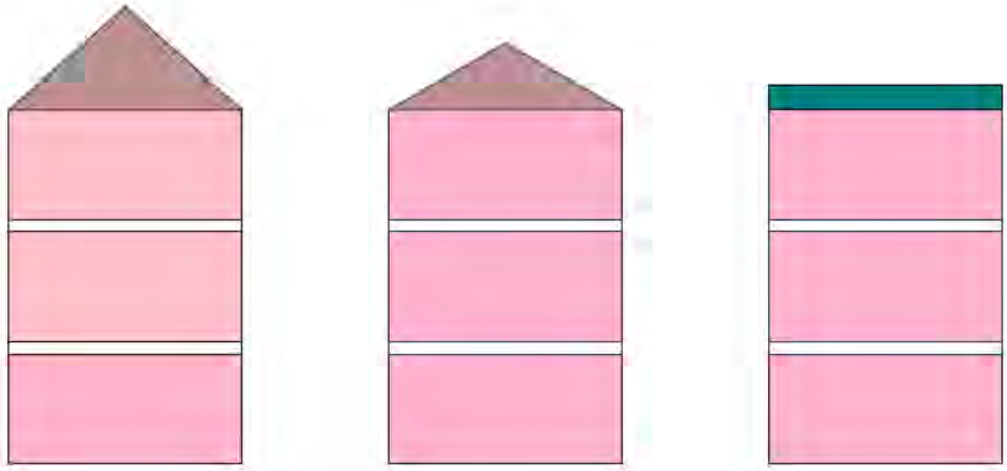
The above provision clarifies the required roof pitch for green roofs as well as it adds a specific parameter of measurement which is not any additional height that what would be required for a standard Old Town roof form. Again, please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The LMC defines a Green Roof as:

> *A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional*

layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles.

This regulation allows the "split-level" concept (internally) but regulates the vertical area that can be used to accommodate such concept. These figures were derived from having three (3) stories (or levels) measuring a maximum ten feet (10') wall height including one foot (1') floor joists. This diagram below shows that the flat green roofs would not be any higher in term of wall height.



Process
Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC § 15-1-18.

Notice
Legal notice of a public hearing was posted in the required public spaces and published in the Park Record.

Public Input
Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. The public hearing for these amendments was properly and legally noticed as required by the Land Management Code. Ruth Meintsma shared public comment during the May 8, 2013 and the July 10, 2013 public hearings. Ms. Meintsma focused on several items found in Exhibit H & I.

Significant Impacts
The proposed amendments provide clarification of the Building Height and Existing Historic Structures as currently outlined in the LMC. The amendments address the

mass and scale of new construction as it relates to residential development in the Historic District. Existing structures which do not conform to these regulations will be treated as non-complying Structures and regulated under LMC § 15-9-6.

Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Exhibits

Exhibit A – Proposed Ordinance
Exhibit B – Planning Commission work session discussion minutes 8.22.2012
Exhibit C – Planning Commission work session discussion minutes 9.12.2012
Exhibit D – Planning Commission regular meeting minutes 9.26.2012
Exhibit E – Planning Commission regular meeting minutes 11.28.2012
Exhibit F – Planning Commission work session discussion minutes 1.09.2013
Exhibit G – Planning Commission work session discussion minutes 2.13.2013
Exhibit H – Planning Commission regular meeting minutes 05.08.2013
Exhibit I – Planning Commission regular meeting minutes 7.10.2013
Exhibit J – Planning Commission regular meeting minutes 10.09.2013

Draft Ordinance 13- __

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTIONS 15-2.1-5, 15-2.2-5, 15-2.3-6, 15-2.16-5(L), & 15-2.16-5(M) REGARDING BUILDING HEIGHT IN THE HRL, HR-1, HR-2, & RC DISTRICTS.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding architectural consistency and excellent design and enhancing the economic viability of Park City's Main Street Business Districts; and

WHEREAS, Chapters 2.1, 2.2, and 2.3 Historic Residential Districts (HRL, HR-1, and HR-2) and Chapter 2.16 Recreation Commercial (RC) District, provide a description of requirements, provisions and procedures specific to these zoning districts that the City desires to clarify and revise. These revisions concern existing historic structures and building height; and

WHEREAS, the Planning Commission held work session discussions on August 22, 2012, September 12, 2012, January 9, 2013, and February 13, 2013 and provided input and direction during their regular meetings on September 26, 2012, November 28, 2012, May 8, 2013, and June 26, 2013 and discussed the proposed LMC amendments as outlined in this report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on October 17, 2013, and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on_____, 2013; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, preserve historic structures, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2- Sections 15-2.1, 15-2.2, 15-2.3, and 15-2.16. The recitals above are incorporated herein as findings of fact. Chapter 15-2.1, 15-2.2, 15-2.3, and 15-2.16 of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ___ day of _____, 2013

PARK CITY MUNICIPAL CORPORATION

_____
Dana Williams, Mayor

Attest:

_____
Janet M. Scott, City Recorder

Approved as to form:

_____
Mark Harrington, City Attorney

Attachment 1

Chapter 2.1 - Historic Residential-Low Density (HRL) District

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.2 - Historic Residential (HR-1) District

15-2.2-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(~~A) A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(~~A~~D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed .height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.3 - Historic Residential (HR-2) District

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~ The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from existing Grade.

Chapter 2.16 – Recreation Commercial (RC) District.

15-2.16-5. SPECIAL REQUIREMENTS FOR SINGLE FAMILY AND DUPLEX DWELLINGS.

[…]

(L) **BUILDING HEIGHT.** No Single Family or Duplex Dwelling Structure shall be erected to a height greater than twenty-seven feet (27'). This is the Zone Height for Single Family and Duplex Dwellings. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

(1) ~~A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(2) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finished Grade on all sides of the Structure. ~~On a structure in which the first Story is located completely under finished Grade, a side or rear entrance into a garage which is not visible from the front façade of Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(3) Roof Pitch. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(a) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(M) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) Elevator access. The Planning Director may allow additional height to allow for an elevator compliant with the American Disability Acts standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) Garage on Downhill Lot. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Exhibit B

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
AUGUST 22, 2012

PRESENT: Charlie Wintzer, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Mathew Evans, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code Amendments – General Discussion

Planner Kirsten Whetstone reported that the Staff was doing an annual update of the Land Management Code. She handed out a Staff report that outlined a few of the major changes for consideration. Additional minor changes were not included in the Staff report. Planner Whetstone pointed out that four pages of the Staff report was a pending ordinance for these various amendments.

Planner Whetstone reviewed the redlined packet of amendments. The first was Review Procedure under the Code and addressed different sections of the Code related to review procedures, primarily the appeal process. Planner Whetstone explained that the primary reason for the change was that an applicant could not go through two appeals with the City. It has to move on to a court jurisdiction. She noted that it applied to design reviews, administrative reviews and final actions that get appealed to the Planning Commission and then to the Board of Adjustment.

Planner Whetstone acknowledged that the Planning Commission had only been given the material this evening. She recommended that the Planning Commission read the material and the pending ordinance and come prepared to discuss it at the next meeting on September 12, 2012.

Chair Wintzer asked if the next meeting would be a work session discussion or whether the Planning Commission would be asked to take action. Planner Whetstone stated that the LMC amendments would be noticed for public hearing and discussion, but no action would be requested.

Planner Whetstone referred to the redlined amendment addressing changes to roof pitch, patios and the proposal to require a building permit for certain impervious surfaces in the Historic District.

Planner Whetstone noted that the section titled Master Planned Developments was a relook at various items and issues raised over the past year regarding master planned developments in Old Town and criteria that should be looked at in Master Planned Developments.

Planner Whetstone referred to Chapter 10 – Board of Adjustment and noted that that redlined version removes the Special Exception. The Board of Adjustment is allowed to grant variances and various things, and they can also act on a Special Exception, which is no longer in the State Code. The Staff proposed to delete the Special Exception, but they had not decided what to replace it with. Some of their ideas would be presented to the Planning Commission at the next meeting for discussion.

Planner Whetstone commented on the Definitions Section and the proposal to add definitions for green roofs, impervious surface, split level, story, half-story, and a zero net energy building.

In response to a question of whether or not the Planning Commission would take public input on the proposed amendments, Chair Wintzer believed it was best to hold public comment until the next meeting to give the Planning Commission the opportunity to review the material handed out this evening. Chair Wintzer encouraged the Commissioners to carefully read the proposed amendments and contact the Planning Department with any questions prior to the next meeting. Director Eddington stated that Planner Whetstone was the lead planner on the amendments; however, other Staff members would also be involved. He encouraged the Commissioners to contact Planner Whetstone to schedule a time to meet with her or another Staff person.

Assistant City Attorney McLean commented on the review process for Historic District Design Review, as well as Administrative Conditional Use Permits. She explained that the proposed change came out of litigation involving 811 Norfolk, in which the court ruled that the City process applied in that case had excessive appeals, which is not allowed by State Code. However, Section 302 of the State Code allows for an application process that allows designation of routine land use matters. An application of proper notice will receive informal streamlined review and action if the application is uncontested, and shall protect the right of each applicant and third party to require formal consideration of any application by a land use authority; and that that decision can be appealed. Ms. McLean stated that that portion of State Code reflects the process the City has where the Staff review is a streamlined review that can be taken to the HPB and further appealed to the Board of Adjustment. Ms. McLean remarked that the amendment tailors the language to more closely reflect the State Code language to make clear that their intent is to follow the State Code.

Commissioner Strachan asked for the impetus behind the changes to the MPD portion of the Code, Chapter 6. Director Eddington explained that the Master Planned Development process began in 1994 and at that time it was allowed in most of the zones. It has morphed over the years and MPDs are allowed in some zones and disallowed in others. The language has been altered and it is now at a point where MPDs are allowed in the Main Street zone if it crosses over into another zone. The intent is to clean up the language and make it more applicable.

Director Eddington noted that a related discussion on the Kimball Arts Center was scheduled before the City Council to consider the opportunity to have that project go through an MPD. Projects on infill lots are challenging and currently there is no opportunity to look at an MPD. Director Eddington clarified that the City Council would not take action on the Kimball Arts Center. It would simply be a policy discussion on whether to allow an MPD to be applied in that situation. Director Eddington invited the Commissioners to attend the City Council meeting to hear that discussion. He clarified that it would be a general policy discussion and not specific to the Kimball Arts Center.

Commissioner Strachan pointed out that the information handed out this evening had a definition of story and split level. Therefore, when the Planning Commission provides the Staff direction for the next work session on the story issue, they should not ask for those definitions because they have already been provided.

Commissioner Savage noted that the applicants who had their projects continued this evening had stayed for the work session because the Planning Commission committed to have a discussion regarding the interpretation of story, independent of the proposed amendments. He pointed out

that whatever changes are made to the LMC would not apply to these applications. Commissioner Savage believed the Planning Commission needed to discuss the interpretation question in an effort to provide those applicants some guidelines related to their projects as a consequence of the continuation.

Planner Whetstone agreed that it was a two-prong discussion. One was an interpretation of the current Code and the other would be the LMC amendment that addresses potential reasons for different interpretations.

Commissioner Thomas was unsure if they could resolve both issues this evening without first seeing the minutes from the Planning Commission and City Council meetings when the Steep Slope criteria was established. He vaguely recalled talking about stories and heights and he would like to have those documents to clarify some of the issues.

Assistant City Attorney McLean recalled, and as reflected in the Code, that the three stories was under the Historic District height limitations for each zone; and not part of the Steep Slope CUP. Commissioner Thomas concurred, but he still felt that the previous minutes were important because it pertained to the discussion.

Planner Katie Cattan provided a brief history of the process. She explained that when the Planning Commission went through the Steep Slope process there was a 10 foot limit per story. It was quantifiable for Staff to enforce the 10-foot story limit. However, when the process reached the City Council level, the 10-foot limit per story was removed. That changed the clarity because people could expand the stories and work up the hill.

Planner Cattan recalled that the reason for removing the 10-foot limit was based on construction issues on some of the challenging slopes, particularly for the garage. The City Council decided to take out the 10-foot limit for the garage level to create a garage entrance on grade.

Planner Whetstone remarked that the current definition of story in the LMC does not make sense because the City Council took out the vertical measurement. Commissioner Thomas thought it still made sense, but it changed the definition. Planner Whetstone pointed out that the LMC does not address how the stories should be added up.
Commissioner Savage asked Commissioner Thomas to explain his perspective on the story issue and his concerns.

Commissioner Thomas stated that the issue evolves from the beginning of the Steep Slope criteria. The intent was to reduce the mass and scale of projects that were coming before the Planning Commission. They were seeing projects that cascaded up as high as eight stories. Therefore, size, visual impact, and commonality with other projects in the neighborhood became a primary concern. Steep Slope criteria was established to reduce the mass and scale. Commissioner Thomas believed the Planning Commission clearly intended to have a Code that created buildings that had more commonality with the historic character of the community. He noted that the Steep Slope process included discussions about number of stories, modifying grade, maximum heights, and shifts is building. It was not isolated to the number of stories inside the volume. It was also the impact from across the canyon.

Commissioner Thomas recalled the 10-foot per story limit and he thanked Planner Cattan for reminding him that the City Council had made that modification. Commissioner Thomas stated that the floor to ceiling issue was still defined in the definition. He believed the issues have been clarified and defined, but they need to see the minutes and come together on the interpretation.

Commissioner Savage believed there was a clear misunderstanding on the definitions since three applications came from the Planning Commission with a recommendation to approve, and the Planning Commission would not move forward on those applications based on interpretation. If the Planning Commission thinks the Staff misinterpreted the definition, he wanted like to hear the Staff's reasoning.

Director Eddington stated that part of the challenge was the vertical measurement between finished floor to finished floor. What is not addressed in the definition is the issue of a half floor and/or a split level. Depending on where they take a section drawing, a project could end up with three or six levels if they are split levels. Director Eddington remarked that finished floor to finished floor was ill-defined in the definition section of the Code.

Commissioner Strachan believe there were two separate issues. The first is from which point inside the structure to take the vertical measurement. The second is the issue of getting around the story requirement by creating separate accessory structures. There may not be three stories in one structure, but cumulatively there could be several. Commissioner Savage agreed, and felt they could have divided the applications this evening into those two different parts. Commissioner Savage concurred; however, those projects were still tied to the definition of a story and different interpretations.

Planner Whetstone read the definition of a half-story taken from the Webster definitions. "A half story is an uppermost story, which is usually lighted by dormer windows in which a sloping roof replaces the upper part of the front wall". She clarified that the definition only talks about half stories on the upper portion.

Commissioner Strachan stated that he attended the City Council meeting when they approved the LMC amendments proposed by the Planning Commission. He recalled from the discussion that the Council took the position that what happens inside the structure does not matter if the applicant is bound by the 27 foot requirement. The City Council was not concerned with how large the story could get, which is the problem they have today.

Commissioner Thomas pointed out that the Code does not say you can have 3.5 or 3.25 stories. It specifically says three stories, whether the stories are 10 feet floor to floor, 9 feet floor to floor, or 12 feet. Using an example similar to a plan they saw this evening, Commissioner Savage thought they could keep the outside looking exactly the same and reconfigure the inside to where it would adhere to the three story rule. If applicants have that ability they would be compliant. Beyond that he did not understand why they should care how the inside is configured.

Planner Whetstone explained that the Staff interpreted some projects as three stories because it had a mezzanine or landing. She asked if they should count a landing that gives character inside a

house as a story. Planner Whetstone felt that was the issue that needed clarification.

Chair Wintzer stated that the mistake they continually make is that they write the Code with words and not with pictures. He suggested that the Staff prepare drawings that clarify and interpret the definition of a story. Commissioner Strachan noted that the definition of a basement in the LMC does show a drawing.

Commissioner Hontz stated that she attended the same City Council meeting that Commissioner Strachan had referenced, and the entire reason for removing the 10-foot limitation was to create flexibility between the three stories and the height. The City Council felt that defining 10-feet per story would limit flexibility. Commissioner Hontz thought they were where they were supposed to be based on the idea of flexibility. She understood that the Planning Commission needed to come to some consensus, and believed the City Council had set them up for this.

Commissioner Thomas stated that not allowing the additional half level above three stories reduces the mass of the building. In effect, that is working according to the initial intent of the Code. Commissioner Savage argued from the perspective that if someone presents a plan that is compliant with Code, it is no one's business what it looks like inside. Chair Wintzer and Commissioner Thomas explained why they disagreed with Commissioner Savage. Commissioner Savage thought the criteria should be based upon whether it is consistent with the objectives about how it looks from across the valley. The valley does not know how many stories are in the building. Commissioner Thomas pointed out that if a limit is not set on the number of stories it can cascade up the hill. That was the reason for having the criteria. Commissioner Savage believed that could be constrained by footprint, setbacks and other constraints from the outside.

Chair Wintzer clarified that the Planning Commission could not move forward on any applications as long as they are in conflict with Staff on the definition of story.

Planner Cattan suggested that they talk about whether a story that goes up 5 feet in elevation is considered a half story or one story. She stated that if the Planning Commission agrees that the three applications seen this evening were 3-1/2 stories, then the Staff interpreted the Code wrong by saying that the level of a story could be split.

Planner Whetstone referred to a house on Park Avenue that has a door, two windows, a roof and dormers. The structure is a simple box without a basement. It has a 9 foot ceiling because of the roof pitch. Based on her research, that structure is a 1-1/2 story house.

Chair Wintzer called for public input on the issue of a story. Speakers were advised to keep their comments general and not related to a specific project.

Craig Elliott with the Elliott Work Group asked the Commissioners to clear their minds of their own opinions and listen to his comments. Mr. Elliott regretted that he had not come before the Planning Commission to argue the three-story issue during the amendment process. At the time he thought it dealt primarily with Ridge Avenue and 75' lots that had 50 feet of grade change. Mr. Elliott stated that the interpretation had become such that it was changing the way he thinks about what they were doing in town. Mr. Elliott remarked that the Code definition is nearly identical to the definition

in the International Residential Code and the International Building Code. It talks about a story being vetted from a floor level to the floor level next above. That means perpendicular to the floor or the roof; and not to the side. Mr. Elliott noted that the Building Code never addresses a shift in floor plane. He pointed out that the discussion is about a shift in floor plane and not different floors or different stories. It is all one floor that shifts. He stated that being able to shift the floor plane is a fantastic tool for an architect because it provides variety, the opportunity for interest, and delight. It is something that is valuable and can add interest to the town and the community, and not just the interior of a space.

Mr. Elliott stated that he lives in a split level house in Thaynes. He designed it, built it and has lived there for 18 years. He has been in Park City for 19 years and he never thought they would be having this discussion.

Mr. Elliot stated that an interpretation like this is not going to protect neighboring property owners or Park City. It is not going to provide additional value to the community. It will not reduce the densities in these houses because they will design them differently. Instead of having a garage with a level above it and three stories, the garage will be the top floor with two floors below it, just like all the houses on the east side of Lowell. Mr. Elliott remarked that the solutions they have seen through the shift in the floor plane gives variety and building mass above a garage. It is an opportunity to do something good. Mr. Elliott stated that if everything is pushed down to the same floor, they would be digging a deeper hole. They would be trucking more dirt out of town and driving more dump trucks. It would require more shoring and more concrete to support and retain the earth around it. The result will be more dangerous to the adjacent house than what already exists. Mr. Elliott reiterated that changing the interpretation will not change the amount of square footage that people build, and it will not improve the character of the architecture on the street. It will not change how things look from across the valley.

Mr. Elliott commented on issues that deal with the depth of a lot. Discussions over the past year with Staff have been about building multiple buildings on a lot and the story definition made by individual buildings. Mr. Elliott stated that a story is defined across the entire lot. A 140 feet deep lot is typical of what is going on. Different colors, forms and shapes are unique to Park City and the goal is not to put everything into the same box.

Mr. Elliott stated that he was not interested in doing any more houses on a steep slope in town. He has three under contract that he intends to finish. If the interpretation goes in the direction of their discussion it will not benefit the town and it will not benefit the people who own the property.

Commissioner Thomas stated that Mr. Elliott's interpretation of story and that a story is relative to the immediate space below, goes back to the notion of stepping a house completely up the hillside. He noted that the Code was created to put a limitation on that.

Mr. Elliott drew a sketch of a storied house to make his point.

Commissioner Strachan asked Mr. Elliott for his opinion on how the definition of a story applies to a structure that has a number of detached accessory structures, but has the appearance cross-canyon of seven or eight stories. Mr. Elliott replied that on a lot deeper than 75', separate buildings

in a surrounding context was not a bad thing. Commissioner Strachan asked Mr. Elliott's opinion if the compatibility requirement was the only regulation and there was no objective limitation. Mr. Elliott stated that as some who does design work, he believed the context of the site and where you build is the most important element in any design.

Commissioner Thomas thought Mr. Elliott would agree as a professional that they also have the responsibility to look at how a structure fits into the compatibility of a community and its impact on the historic character of the community in terms of mass, scale and size. He remarked that the Code originated with trying to create a Code that resulted in more commonality with the historic character of the community. Commissioner Thomas stated that the building could still be stepped in the process Mr. Elliott identified in his diagram, but only three stories were allowed.

Chair Wintzer suggested that the Staff schedule this as a work session item and come back with a series of drawings that show different scenarios to help define the definition of a story.

Commissioner Hontz stated that the Code change was precipitated by multiple structures that came in. She was not on the Planning Commission at the time and she opposed one of the structures. She came in a demonstrated that it did not meet the Code. Commissioner Hontz stated that when she came to the Planning Commission with her concerns they agreed with her but could not make that finding, and it went to the City Council. She believed it would have been a better design had it done what they were trying accomplish this evening. That era is the reason why they got to three stories. She did not want to turn back the clock. Commissioner Hontz stated that she lives in a two-story house; however by Staff interpretation, it is actually one story. There are many consequences to contemplate and she thought the Planning Commission should refine what they wanted to see come back. She needed time to read and digest the definitions and personally did not want more input before they had the conversation.

Director Eddington suggested that the Staff come back with a set of clear drawings to help the Planning Commission understand and aid in their discussion. Chair Wintzer noted that the Planning Commission had three applications that were waiting on an answer to the question. He thought the Staff should come back with a professional opinion on the definition of story.

Commissioner Savage acknowledged that he was not on the Planning Commission when the definition was written. However, speaking from logic, he believed the constraint that was applied related to the mass, scale and appearance from the exterior. In his opinion, a story is what is directly above and not what is on the other end of the building.

Director Eddington pointed out that the definition as written talks about the interior and floor plane to floor plane; and that is the challenge. He agreed that the intent may have been misguided in the definition, but they have to work within the definition. Commissioner Savage stated that if floor plane to floor plane is a vertical measurement, he would argue that at least one structure they saw this evening was never more than three stories at any point.

Planner Evans noted that not all development in Old Town require a Steep Slope CUP. Therefore, some structures with the same scenario may have been approved by various Staff members under

the HDDR process and never came before the Planning Commission. Commissioner Savage stated that if that did occur, it would be valid precedence independent of the CUP requirements. Planner Evans noted that he currently has two applications that do not require a Steep Slope CUP that do exactly what they were talking about. Commissioner Thomas felt that was another reason to come to some agreement on interpretation.

Assistant City Attorney McLean explained that the definitions were in the Code. In thinking about this issue, she directed them to the definitions in the last chapter and the key words, 1st story, story and structure. They should also look in the H Districts for guidance on what constitutes a story. Commissioner Savage requested that the Staff email a document to the Planning Commission that includes all the components of the Code that would help prepare them for the next meeting. Director Eddington offered to provide that documentation and include images.

Jonathan DeGray was not opposed to the Planning Commission discussing heights and levels and amending the Code for future projects. However, he agreed with Ms. McLean about looking at the Code as written because the projects currently before them were based on that Code. It was important for the Planning Commission to come back with a solid interpretation on what is written.

Chuck Heath asked about process and the time frame for taking action on the projects that were continued this evening. His project was continued once for additional information and when the information was provided, it was continued again because there was a question about interpretation. He felt it was important for the Planning Commission to define the interpretation of a story so these projects could move forward or go away. Chair Wintzer stated that the issue should be resolved at the next meeting. Once they have that resolution, they could begin discussing projects that were continued for that reason.

Assistant City Attorney McLean pointed out that the applications this evening were continued to a date uncertain. To be fair to the applicants, the Planning Commission should resolve the issue at the September 12th meeting and the items could be re-noticed for the meeting on September 26th.

Commissioner Thomas clarified that he raised the issue because he had heard three different interpretations of a story and he felt it was important to have a consistent interpretation that benefits the community.

The Work Session was adjourned.

Exhibit C

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
SEPTEMBER 12, 2012

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Thomas Eddington, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of Story & Height

The Staff recommended that the Planning Commission discuss the interpretation of story as currently defined in the LMC.

Planner Astorga stated that in 2009 the Planning Commission and City Council held several meetings to discuss amending the Land Management Code. At that time the Steep Slope Conditional Use permit criteria was updated, as well as the overall height and how height is measured. It also addressed specific regulations related to the HR-1, HR-2 and the HRL District. Planner Astorga reviewed the existing regulations using a hand-drawn illustration.

Planner Astorga remarked that the major change in 2009 was the requirement to add a 10 foot setback for the third story. Another regulation indicated that final grade had to be within 4 feet of existing grade. The maximum number of stories was limited to three, and the basement counts as a first story. Planner Astorga pointed out that on a 30% lot and with the 27' height regulation, the numbers for a 10' setback do not work. If the entire lot is 30%, the minimum setback has to be 18 feet. Planner Astorga noted that another item added to the LMC in 2009 was that the roof pitch had to be between 7:12 and 12:12.
On a downhill lot, if the applicant wanted to accommodate a tandem two-car garage, an exception could be authorized for up to 35' instead of 27' to accommodate tandem garages. The Code indicates that a single family dwelling must have at least two parking spaces.

Planner Astorga noted that items were also removed from the LMC in 2009. The Planning Commission had the ability to allow a maximum height of up to 45 feet on lots with slopes 30% or greater, and that was removed.

Planner Astorga read the definition of a story per the current Land Management Code. "The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall pate for the roof structure." Planner Astorga stated that the Staff has recently received several applications on downhill lots, where different architects have introduced a split level concept. He requested that the Planning Commission discuss split level this evening.

Planner Astorga reviewed a diagram to show the shift in levels and the staircases dividing the structure. He noted that the application would meet all the requirements of the LMC, with the exception of the number of stories based on interpretation of the definition.

Commissioner Thomas believed the present interpretation is the same interpretation the Planning Commission has given in the last two meetings. According to the strict definition of the Code as written, the diagram shown exceeds the three-story limit. Commissioner Thomas agreed that the

definition needed to be modified and corrected, and he thought the Planning Commission should consider the modification as suggested by Staff. He favored the idea of varying the floor plates as long as they stay within the maximum height. The Staff had suggested 37-1/2 feet as a discussion point, and Commissioner Thomas thought it was an appropriate height and closer to the intent.

Commissioner Thomas pointed out that when the Code first came before the Planning Commissioner there was a 10-foot story criteria that would have allowed more flexibility. When it went to the City Council, that criteria was modified and changed and the result affected the process. The Commissioners concurred.

Planner Astorga stated that the Staff understood the concerns and was prepared to introduce a solution, which would add a regulation to the Land Management Code. The measurement would be the vertical distance between the lowest finished floor towards the highest point on the highest ridge. The Staff believes that if they could implement that specific regulation, it would stop the terracing affect that could take place on a longer than usual lot.

Planner Astorga presented a diagram to show how the Staff reached the 37-1/2 feet height recommendation.

Commission Thomas felt that the overall maximum height made the story discussion less significant. Director Eddington felt it was best to define a story as one above the other and add a vertical maximum measurement. Planner Astorga pointed out that the intent for the 7:12 to 12:12 range was to encourage variety and avoid every building having the same pitch. Director Eddington remarked that the steeper the slope, the more impacted the project would be by the vertical measurement.

Planner Astorga stated that the Planning Commission researched the definition of story in other ski resort town. Based on that research, The Staff recommended changing the definition of story to, “That portion of a building included between the upper surface of a floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above.” He asked for feedback from the Planning Commission on the proposed definition. Planner Astorga noted that the difference between the existing language and the proposed language is the reference to the floor next above it. He remarked that the language mirrors the definition of a story per the International Residential Code.

Commissioner Thomas stated that if they remove the three story restriction and add a new height restriction, the definition of a story has less meaning. However, he liked having some commonality with other communities on what is logical in the building world. Commissioner Thomas thought that cleaning up the story definition was a good idea.

Director Eddington clarified that the Staff had not considered completely removing the three-story issue. They had talked about giving better definition and parameters to a mezzanine or a split level. Commissioner Thomas thought they needed to think of the effects of half-story. Under the current definition, some of the cross sections are six stories. He felt the definition was too restrictive.

Commissioner Gross thought the 25% limitation on the intermediate floor seemed reasonable. Commissioner Thomas wanted to see diagrams of how that would work before making a decision. He suggested taking input from the design community to see if there were other conditions they had not thought about. The idea sounded good and he would like to support it, but he wanted to understand the fallout and what situations could occur under different scenarios. He felt the discussion was going in the right direction, but it needed to come back for further consideration.

Director Eddington stated that the Staff would work with different scenarios and come back with alternatives.

Commissioner Hontz was leaning towards the revised definition of a story because the new language clarifies that it has to be above. She favored keeping the 3-story limitation and the additional height limitation. She agreed with Commission Thomas about looking for unintended consequence.

Commissioner Thomas believed the intent of the Code is to reduce the mass and scale of houses in the Historic District, but there should be some flexibility in doing that.
Commissioner Strachan asked if the definition of mezzanine floor or loft had been pulled from somewhere. Planner Astorga recalled that it was a combination from Crested Butte and other towns. The language was not pulled word for word and the Staff tweaked it specific to Park City. Commissioner Strachan thought it set up inconsistent and vague language in the Code. He felt the revised definition of a story and the 37-1/2 overall height limitation was sufficient. The architects would have the ability to do what they wanted inside those parameters. He believed the mezzanine, loft, or intermediate floor definition was unnecessary and would only create problems. Director Eddington clarified that Commissioner Strachan was not concerned about split levels or mezzanines. Commissioner Strachan replied that this was correct. He thought it everything could be accomplished by the stepping requirement, setbacks, and a change to the height requirement. He was concerned that the 25% floor area calculation would be hard to do because the total floor area of the story in which it is placed would not be calculable. There would be so many half stories and steps that they would never reach the 25% point. Commissioner Thomas agreed.

Commissioner Thomas believed a critical step was the addition of the 37-1/2 foot height limitation, because it restricts the height of the building without being concerned about the stories inside. However, he still wanted time to think it through to make sure they were not opening Pandora's box.

Director Eddington stated that the Staff would come back with code definitions that address that issue, as well as definitions that would address keeping in the story and mezzanine.

Commissioner Hontz suggested keeping the story definition as revised and the 37-1/2-foot height limitation, and not the mezzanine definition. From her reading, when it is stepped, there would never be a loft or a split level. Commissioner Strachan asked if Commissioner Hontz was suggesting that a story is the portion of the building included between the upper surface of any floor and the upper surface of the next floor above, and that measurement could be taken from anywhere in the home. Commissioner Strachan provided a scenario based on Commissioner Hontz's interpretation. He noted that not all the floors in the diagram may expand the width of the home.

Director Eddington stated that it would be the entire width of the home depending on where the sections are drawn.

Commissioner Strachan was concerned about a building cascading up the hillside on a long lot. Director Eddington explained how the 37-1/2 overall height limitation would address that issue. Commissioner Strachan felt the explanation made it more certain that the mezzanine definition and the three story definition were not needed, as long as the height controls the cascade effect up the hillside and the concern for the cross canyon view.

Commissioner Thomas pointed out that the cross sections, like the example they were looking at, was consistent with the Code, as long as it remains under the 37-1/2 foot limit. However, under the current definition, the cross section would show six stories. Commissioner Strachan stated that without a cross canyon view, it would be difficult to know if that home would present the cascade problem. Commissioner Thomas replied that it has a footprint restriction and a maximum height from one point to another point.

Chair Worel thanked Planner Astorga for the background information he provided. It was helpful to see how other communities address these issues.
Chair Worel opened the public hearing.

Craig Elliott, an architect with Elliott Work Group, felt the Planning Commission was headed in the right direction as far as capping maximum height and removing the requirements for floors. He noted that most sites have cross slope in addition to the slopes front and back. Removing the discussion about stories and maximizing the height and using the 27 foot grade makes a lot of sense with respect to a 75-foot deep lot. Mr. Elliott presented an image of homes in Park City that was taken from the Marsac parking lot. He noted that the majority of buildings in the photograph do not meet the existing current Code for various reasons, but it is a great depiction of what Park City is and can be. He chose that photograph because it is one of the steepest sections in Old Town. Mr. Elliott would like to have the discussion on lots greater than 75 feet deep and breaking the building into separate buildings or structures that are not connected. He believed there was an opportunity to maintain the existing character and scale, and still give people with larger lots the ability to create diverse and interesting projects. Mr. Elliott agreed with the discussion about removing the floor definition. He liked the cap of the building and the maximum height and following the 27 foot grade, as long as it pertains to a typical lot depth. Variations in lot depth and shape becomes a separate issue.

Joe Tesch disagreed with Commissioner Thomas' comment that the idea of the Code was to reduce massing and height. That was the case in 2009, but additional suggestions were made in 2011. There were joint meetings with the Planning Commission, Planning Staff and City Council and the idea of reducing height and size further was rejected. Mr. Tesch remarked that they were dealing with what occurred in 2009, but the idea is to not go smaller. Operating today under the impression of a mandate to reduce what has been occurring is a mistake. Mr. Tesch stated that another thing that came out of those joint discussions was that Park City is different neighborhoods and one size does not fit all. His recollection for those discussions was that there was no mandate for any neighborhood to attempt to reduce height or massing.

Chuck Heath, the applicant for 916 Empire, understood that there were recommendations to change the Code and possibly the rules. He wanted to know how this would affect his application, since his application was submitted under the current Code.

Assistant City Attorney McLean explained that Mr. Heath was vested under the Code in place at the time his application was submitted, and the interpretation of that Code. If the changes are less restrictive Mr. Heath could avail himself of that, but if they are more restrictive, he was still vested under the current application.

Mr. Heath asked how the new interpretation would differ from the current Code and how it would affect his application.

Commissioner Thomas clarified that the Planning Commission was talking about general amendments to the LMC with regard to stories, and not specific to any project. He recommended that Mr. Heath talk with the Staff regarding the interpretation to evaluate whether it would be more beneficial to move forward with his current application or wait until the changes are made and adopted and then resubmit his application.

Mary Wintzer commented on Mr. Tesch's remarks about there not being a mandate. She thought the visioning result had brought this to the forefront. Over 400 people responded and the City spent $60,000 to do a survey. People overwhelmingly talked about scale and wanting to keep the small town feel and the historic nature. Ms. Wintzer believed the home on Ontario was the poster child for loopholes and being able to build a house far out of scale of the adjacent historic home. Ms. Wintzer believed there was wide sentiment among many people in Old Town to look at mass and scale to keep with natural setting, historic character and the small town feel.

The Work Session was adjourned.

Exhibit D

changes would not permit that The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24th. She is on the Board of the Town Lift Condominiums HOA . Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

Building Height Measurement and Story Definition

Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope. She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

Exhibit E

by a private, non-private, educational, religious, recreational, charitable, or philanthropic institution serving the general public".

Commissioner Strachan thought Public and Quasi-Public should be capitalized in the definitions, and should say "Public Uses" with "Use" capitalized and "Quasi-Public Use" capitalized.

Commissioner Strachan asked if there was a definition for Industrial, and if so, that should also be capitalized. Director Eddington stated that there was not a definition for Industrial, and the Staff would write one. Commissioner Strachan thought "Commercial and Industrial" was redundant language. Planner Whetstone pointed out that it was actually Light Industrial (LI). Park City does not have a zone that allows straight Industrial business. Planner Whetstone thought that they should also define a "lodging project".

The Planning Commission moved on to the remaining LMC Amendments.

Chair Worel stated that due to the late hour and the number of amendments that still needed to be discussed, Planner Francisco Astorga would give a presentation on Stories and the Planning Commission would discuss the proposed changes at a work session on December 12th.

Planner Astorga referred to page 164 of the Staff report, and an added regulation related to the split level concept. He had failed to put the language in the ordinance and he wanted that mistake clarified. He noted that the regulation language should be added between bullets C and D on pages 198, 200 and 201. The regulation read, "The overall height of a structure measured from the lowest point of the finished floor to the highest exterior ridge point shall not exceed thirty-seven and a half feet (37.5'). Planner Astorga noted that the language was introduced to the Planning Commission on September 12th, at which time the Commissioners had issues with the language and wanted to explore specific scenarios.

Planner Astorga stated that the Staff had prepared the different scenarios and wanted to hear as much input as possible from the Planning Commission. However, due to the late hour this evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. He noted that the regulation was applied to scenarios on a flat lot in the worst case scenario. The same was done on uphill lots at 15% grade, 30% grade, 45% grade and 60% grade. Consideration was given to the fact that many buildings are not historic and could be demolished for brand new construction.

Planner Astorga noted that Commissioner Thomas was absent this evening and his input on the regulation would be valuable based on his professional expertise. Planner Astorga apologized if any members of the public had waited for this discussion, but he felt it was better to wait and give the issue the time it needs to make sure everyone is on the same page and that they fully understand what was adopted in 2009.

Planner Astorga briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

Commissioner Hontz was unsure if she could support the regulation because the historic potion of the structure could be on the bottom. She would like to see the step on new construction. Director Eddington stated that the Staff would have drawings to present at the next meeting to help address her concern. Commissioner Hontz felt that by now the Planning Commission should have a good understanding of the changes made in 2009, but it would be important to understand the effects of applying the new definitions. At this point, she was not comfortable with half stories and split levels shown in the scenarios provided. Commissioner Strachan agreed. He suggested that Planner Astorga redraft a couple of options because the ones shown were difficult to understand.

Planner Astorga clarified that the he was not speaking about stories at this point. His comments related to the regulation regarding overall height on page 164 of the Staff report. Commissioner Strachan requested that Planner Astorga re-draft the definition of split level and story. Commissioner Wintzer suggested that the Staff draft two or three definitions to give the Planning Commission a choice.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, addressed the overall height of 37.5 feet. She assumed the language, "...from the lowest point of the finished floor..." probably means from the lowest point of the lowest finished floor. Ms. Meintsma thought better language would be, "from the lowest point where grade meets footprint", because often the lowest floor is quite a bit above grade and sometimes on piers. She requested that the Planning Commission consider her suggested revision because where the grade meets footprint is where the massing begins visually.

Commissioner Hontz thought Ms. Meintsma made a good point, however, under the current Code you could not build on piers because of the four-foot return to grade regulation. Planner Astorga noted that it would also not be approved through the design guidelines.

Director Eddington agreed that Ms. Meintsma made a good point and the Staff would discuss her revision.

Craig Elliott commented on the Story issue. He was generally comfortable with the resolution, but he wanted to confirm his understanding of how the zone works. On a very large parcel with multiple structures the height resets with each structure. He wanted to make sure that was still the case.

Commissioner Strachan replied that it was subject to discussion at the work session on December 12th.

Mr. Elliott felt it was important to keep because otherwise the Code, particularly in the HR1addresses designers to create smaller buildings in scale and mass. If they do not allow that to happen in this form, they would encourage larger buildings in scale and mass on those types of properties. The unintended consequence of trying to limit something would only create what they do not want. Mr. Elliott wanted to make sure this issue was addressed in the process so they get the right things in the historic district.

Commissioner Wintzer asked Mr. Elliott to give an example. Mr. Elliott stated that he has worked on several properties, but he was hesitant to give an example because those projects may come back to the Planning Commission. Mr. Elliott provided a hypothetical example to explain the importance of keeping with what the Code currently allows to keep structures smaller in the historic district. Chair Wintzer was concerned about the cross canyon views. Mr. Elliott stated that the nature of Park City is that looking across the canyon you see a series of buildings that march up and have different colors, shapes and forms. That was the intent of his comments at a previous meeting when he talked about the quality of design and the ability to solve those issues as designers.

Chair Worel closed the public hearing.

Planner Astorga remarked that interpretation of story was the reason why they were having this story discussion. Based on discussions in July and August the height did not reset. Commissioner Strachan believed there was a difference of opinion as to how to read the Code based on Mr. Elliott's comments. The purpose of the work session is to determine what they uniformly believe the Code says.

Planner Whetstone reviewed the list of topics for discussion on page 154 of the Staff report and identified the ones that were time sensitive for recommendations to the City Council.

1. Pre-application process, review process for Historic District Design Review and revisions to the notice Matrix (Chapters 1 and 11.

Planner Whetstone referred to page 157 and noted that language was added to Strongly recommend that the Owners and/or Owner's representative attend a pre-application conference with the Planning and Building Departments. She clarified that the existing language requires a pre-application conference. She explained that if a pre-application conference is required it becomes an application and can be vested. The Staff felt that changing the language to "strongly recommended" resolved many of the issues. A pre-application conference benefits the applicant and the Staff believed the applicants would still request one.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the amendment to Item 1 as written. Commissioner Hontz seconded the motion.

VOTE: The motion passed by all Commissioners present.

Planner Whetstone stated that (B) on page 157 address proposed language to the Appeals process for administrative applications (HDDRs and Administrative CUPS) including revisions to the Notice

Exhibit F

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JANUARY 9, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matt Cassel, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapter 2 and 15

Commissioner Wintzer provided a topo map of Old Town showing every ridge. He requested that the Staff use the map to prepare for a future discussion regarding ridges.

Planner Astorga remarked that the objective this evening was to make sure the Staff and the Planning Commission were correctly interpreting building height in the Historic Residential Districts; the HR-1, HR-2 and the HRL. He noted that some of the Commissioners have been on the Planning Commission long enough to understand heights in Old Town; while others have only been on the Planning Commission a short time. The Staff believed this work session would be a good exercise for everyone.

Planner Astorga explained that the Staff chose scenarios of different slopes starting at 15%, 30%, 45% and 60% for uphill and downhill lots. The structures were designed to the highest maximums allowed by Code in terms of height and footprint and the setbacks were minimized to create the worst case scenario. Planner Astorga wanted this exercise to be a true discussion and he wanted the Commissioners to ask questions and critique the individual scenarios.

Planner Astorga reviewed the LMC Height Restrictions as outlined in the Staff report. The allowed height is 27-feet maximum from existing grade. Final grade shall be within four-feet of the existing grade around the periphery. A structure may have a maximum of three stories. A ten-foot minimum horizontal stepback is required. The roof pitch must be between 7:12 and 12:12. The downhill lot has an exception for the tandem garage. Planner Astorga recalled previous discussions regarding exceptions to roof pitch; however, until that was adopted he preferred to focus on the existing Code.

Commissioner Savage asked for clarification on how existing grade is defined. Planner Astorga replied that existing grade is the existing topography. Commissioner Savage wanted to know how they could be certain that the grade was not changed. Commissioner Thomas explained that the topo is examined at the beginning of the project and the grade is examined at the end of the project. The Building Department should be able to confirm whether the grade has been manipulated. Commissioner Hontz thought Commissioner Savage made a good point because there are situations where the previous owner changed the grade of the site. She recalled a project where Planner Astorga realized that the grade had been change and suggested that the Planning Commission add a condition that the structure should be built from the previous existing grade and not the current existing grade. Commissioner Hontz stated that if someone moves the dirt now and calls it existing grade ten years later, they would probably get away with it. Commissioner Thomas pointed out that it is supposed to be natural existing grade.

Commissioner Savage asked if there was a way to make a definite determination on grade. Commissioner Thomas replied that if there is an interpolation to be made between the existing grade and the natural grade, the Planning Director has the purview to make that decision. Planner Astorga recalled that when the Code was amended in 2009, a specific definition of existing grade was added. Planning Director stated that existing grade is defined as the grade of a property prior to any proposed development or construction and activity. Therefore, it is the grade prior to any altering of the site. Commissioner Savage pointed out that the language states, "prior to any proposed" altering of the site. Commissioner Hontz agreed. She may not be proposing to do anything, but that would not keep her from moving dirt on the site. Commissioner Savage thought it was important to find a way to tighten the definition with respect to interpolation of some extension of natural topological grade.

Director Eddington explained that the Staff visits the site and assesses the grade. If the existing grade appears to be different than what is shown on the topo, the Staff assesses the natural grade which, by definition, is "The grade of the surface of the land prior to any development activity or any other manmade disturbance or grading. The Planning Department shall estimate the natural grade not readily apparent by reference".

Commissioner Savage was satisfied that the existing definition addressed his concern. Commissioner Thomas remarked that grade is a game that had been played and he expected it to continue.

Planner Astorga reviewed the first scenario, Scenario A, on a downhill lot. A blue line represented the property lines. The lot is 75' in length. The first scenario had the requirement of one exterior and one interior parking space. He noted that the property could be designed with two interior parking spaces. The structure was three stories. In this particular scenario the lot was accessed from the left-hand side. Planner Astorga reminded the Commissioners that these examples were worst case scenarios. Based on the access in this scenario, the front yard setback increased from 10-feet to 18-feet because of the minimum standard of the parking pad. He indicated the 10' stepback on the downhill façade. This scenario was drafted at a 15% grade and it would not require a review by the Planning Commission because it does not reach the 30% or greater requirement. The project could be three stories, meet the 10-foot stepback and still meet the height requirement. Planner Astorga pointed to the line indicating existing grade. Two other redlines showed 4' up or down from grade. This scenario had a one-car garage. The second required parking space was outside.

Commissioner Strachan noted that the basement was almost totally submerged, and he asked how low it could go. Planner Astorga replied that the basement could be completely submerged. Director Eddington referred to the heavy red line indicating existing natural grade, and noted that it could go 4' down from there and expose more light in the basement. Commissioner Strachan pointed out that someone could also make the floor 25' feet high and dig down further. It would provide very little light but they might not care. If someone wanted to excavate more dirt to increase the square footage of the overall home, they could do that. Commissioner Thomas commented on the ramifications that would occur with over-excavation. He questioned whether it was unrealistic to define a basement depth. Commissioner Wintzer thought the control would be shoring engineering to address the issue of digging a large hole three feet away from the neighbor.

Commissioner Strachan remarked that larger basements have been the trend in more recent applications and the amount of excavation continues to grow. Because the lots are so steep, the portion that daylights gets bigger with the slope and results in significantly more excavation in the back. He understood that the LMC states that the effects of excavation must be mitigated, but he believed it was a very loose standard.

Commissioner Thomas was unsure about placing a restriction on the depth of the lowest level. Commissioner Hontz suggested that they continue with the presentation before discussing specific restrictions, since the other scenarios may help provide the answers.

Planner Astorga presented the second scenario, Scenario B, which was also a 15% slope. The difference between this scenario and the previous scenario is that scenario two has two interior parking spaces. The setback was only 10' feet from the front. Planner Astorga noted that in the second scenario, the third floor was completely buried. The Code indicates that window wells could be approved, however, the setbacks must be at least 5' and the window wells could encroach 4' onto the side yard setback. Planner Astorga stated that some of the basement space could be used for mechanical equipment, but he did not believe anyone would use an entire floor for that purpose.

Commissioner Strachan asked why there was not a 10-foot stepback. Planner Astorga replied that the basement was buried completely. The stepback is only required for the third floor above grade.

Planner Astorga presented the third scenario, Scenario C. It was still a 15% slope, however, the difference between the first two scenarios and the next two was that the building would go down the slope. In scenarios one and two the driveway went up 14% positive grade. In the next two scenarios, the driveway goes down 14% negative grade. Planner Astorga noted that the roof pitches in all the scenarios were designed at 7:12 pitch, to again create the worst case scenario.

Commissioner Savage commented on the tendency towards thinking that taking a structure to the maximum allowed by Code is negative. He did not believe the end result was always negative, and sometimes it could be positive. Commissioner Savage stated that maximum utilization of a lot is within the rights of the applicant, and the Planning Commission should not consider that to be a negative independent of subsequent analysis.

Planner Astorga reviewed the scenario, which showed one interior and exterior parking space. Because the grade goes down 14%, the vehicle is stored on the main floor. Due to stepbacks and the roof pitch, the third story is smaller than in the first two scenarios, which affects overall square footage. Planner Astorga stated that the floor area in this structure was 2100 square feet. The floor area in the first scenario was 2400 square feet, and 2500 square feet in the second scenario. He noted that the third scenario would have a walkout level on the lower basement.

Commissioner Thomas noted that most cars are fairly long and the larger vehicles can exceed 18' long. He pointed out that the bumper on larger vehicles touch the front of the house on one end and the property line at the other end. He was not in favor of adding to the front yard setback, but there is a challenge with larger vehicles. Director Eddington stated that if someone has that large of

a vehicle, they would probably reduce the square footage of the house to make the garage larger. Commissioner Hontz remarked that instead of reducing the house size, people build the minimum size garage and park on the street. Either that or they park one car in the garage but leave the door open because the vehicle extends out, and then park their other cars in the street. Commissioner Hontz believed that the standards were not working and there were many questions on how to resolve the garage issue.

Commissioner Savage asked who was responsible for making decisions regarding parking and parking density on the streets. Director Eddington replied that Public Works handles parking issues. Since this was an issue with respect to car length, Commissioner Savage thought it would be appropriate to have Public Works look at a regulation that would prohibit cars greater than a certain length from parking in the driveway unless the driveway is a certain length. Commissioner Thomas pointed out that such a regulation would create an enforcement issue. Commissioner Hontz noted that enforcement is contracted out; therefore, Public Works would not be the enforcers. She believed it was a larger problem than just trying to solve it on paper. Commissioner Hontz thought they needed to look at places with 14% uphill and 14% downhill. She could not think of too many with 14% uphill; and the downhill ones were disasters.

Commissioner Wintzer indicated the potential for a green roof in one area, and noted that it could create living space per the Code. In that situation, the green roof was an issue of increasing square footage, not being compatible with the house. Commissioner Thomas stated that in Park Meadows, for a flat roof less than 4:12, the maximum height is reduced from 33' to 28'. Director Eddington replied that the rule did not apply in Old Town. Commissioner Thomas thought it might be worth considering that for Old Town. If they could encourage green roofs and reduce the heights, the visual impact of the volumetric would be overwhelming. If they allow flat roofs they should have a reduced height below 27'. Commissioner Wintzer thought the green roof issue in Old Town should be revisited because allowing green roofs was passed without any input from the Planning Commission. The language basically allows green roofs in Park City without consideration for compatibility with historic structures or other related issues. Commissioner Wintzer agreed that flat roofs were better in Park City's climate than pitched roofs, but he thought the green roof scenario should be revisited for Old Town.

Planner Astorga reviewed scenario four, Scenario D, which was still at 15% grade. This scenario had two interior parking spaces. The basement was exposed with a rear walkout. The garage was tandem. The house size was 2050 square feet, which was slightly decreased from the previous scenario at 2100 square feet.

Planner Astorga presented scenario five, Scenario E, which was on 30% grade and would require Planning Commission review. It was a downhill scenario because at 30% there was no way to go up. The driveway was 14% grade with one exterior and one interior parking space. The lower level had a rear walkout. Planner Astorga noted that the lot would meet the height requirement and the 10' foot stepback would become 20 feet. The house size at 2200 square feet was slightly larger than some of the 15% grade lots.

Planner Astorga noted that the black lines in all the scenarios indicated the story. The stories in all the scenarios were designed at 10' each.

The sixth scenario, Scenario F, was also 30% grade. There were two interior cars. This scenario breaks the maximum height of 27'; however, the Code states that for a two-car garage in tandem configuration, a height of 35' would be allowed. This scenario would meet the Code.

Commissioner Thomas asked for the allowed length of a tandem garage. Planner Astorga replied that the Staff capped the length at 37 feet. The Code does not indicate the length of a two-car garage in tandem configuration. It only specifies that the garage must be 11' x 20' for a single car and 20' x 20' for a double car garage not in tandem. Commissioner Strachan asked if the garage could be larger than 400 square feet but not smaller. Planner Astorga replied that it could be larger. The 400 square feet is the standard used for allowances. Commissioner Thomas pointed out that the impact of having a tandem garage on a downhill lot over 30% was dramatic. He has a tandem garage on his home and it is less than 32 feet long. He parks two smaller cars in tandem and the larger car on the other side. Commissioner Thomas believed it was realistic to have an 18' car on one side and a 13' car on the other side, parked 16" apart. He expressed concerns about designing to the maximum and suggested that they design for the minimum.

Planner Astorga stated that for consistency with the LMC, the Staff decided to cap the garage length at 37' to achieve a 400 square foot garage. Commissioner Thomas stated that a 400 square foot garage could still be accomplished with a 34' length. Director Eddington stated that the downside of a shorter garage is the inability to park two larger cars, which puts one on the street. Another downside is lack of space to store skis.

Commissioner Hontz remarked that a current problem in Old Town is that people were not using their tandem garages. Rather than focusing on the dimensions of the garage, a better idea might be to have the square footage of the garage count against the overall square footage of the house. If someone wants a larger garage it would reduce the size of their house. Commissioner Thomas stated that his concern was the visual impact of the overall mass. Commissioner Hontz was not opposed to having tandem garages as an option, but they continue to see repercussions resulting from tandem garages. To address Commissioner Thomas' concern, Commission Hontz suggested resolving the problem from a height standpoint rather than square footage. Commissioner Thomas asked if the Code currently has a depth limit for tandem garages. Director Eddington replied that the Code did not specify a depth limit; however, the depth would be defined and limited by the 35' foot height limitation. Commissioner Thomas agreed with Commissioner Hontz's suggestion to stay within the height limitation and not allow height exceptions for tandem garages.

The Commissioners discussed flat roofs on tandem garages. Commissioner Savage asked what advantage that would be for Park City. Commissioner Thomas replied that aesthetically it demasses the volumetrics and it allows the second space in the garage to get a car off the street.

Planner Astorga offered to consider their suggestions to see what would work. He asked if the Commissioners would be more comfortable if the height exception was closer to 32' rather than 35'. Commissioner Savage preferred to leave it alone. Commissioner Thomas outlined the worst that could be done on the premise of a worst case scenario. Director Eddington pointed out that the depth of the garage could not exceed the minimum depth for an internal parking space within the Code, which is 40 feet.

Commissioner Hontz pointed out that Scenario F was on a 30% grade and would require a Steep Slope CUP. She clarified that the Planning Commission currently has the ability under the Steep Slope CUP to deny a height exception. The purpose of this discussion was to codify certain requirements so applicants would know upfront that a height exception would not be granted.

Commissioner Savage understood that the height exception was in place to encourage tandem parking, but now they were concerned that people would use the tandem garage for storage and not cars. Commissioner Strachan stated that whether the garage is used for storage or cars, it would still have the visual impact Commissioner Thomas had mentioned.

Planner Astorga presented the seventh scenario, Scenario G, which was on a 45% grade. He noted that development on steeper slopes was unusual, but it does occur and it was worth the discussion. This scenario was allowed one exterior and one interior parking space. The garage was 11'x 20' and it would meet the exception. The only issue was the 10' setback at the end of the structure. A portion of the house would have to be shaved, otherwise it would be on stilts. Planner Astorga noted that the structure could not accommodate any type of walkout because it would not meet the 4-foot grade provision. Commissioner Gross pointed out that they could build a deck to level it out.

Commissioner Strachan wanted to know why living space could not be stilted. Commissioner Hontz stated that it would violate the 4-foot return to grade requirement. Commissioner Thomas did not believe the Code addressed stilt houses. Planner Astorga believed it was a question for the Historic District Design Review analysis.

Director Eddington noted that a deck could not exceed the setback because it would exceed 30" above final grade. Planner Astorga pointed out that a workable deck in this scenario would require a very creative solution. Commissioner Thomas thought this scenario demonstrated that the steeper the slope, the more difficult it was to build a house. Commissioner Strachan agreed, however, he used the drawing to show how the livable space could be increased. In his opinion, a deck is usable space, even if it is not technically considered livable space. The Commissioners discussed additional issues related to building on the steepest slopes. Commissioner Hontz believed the Code was written on the idea of 15-30% slopes. Planner Astorga noted that steeper slopes push the designers to move forward on a split level. Commissioner Thomas stated that the discussion had focused on stepping the exterior of the facade and the massing of the building. However, in terms of impact to the community and over-excavating the site, he wondered whether they should begin thinking about stepping the foundation to create a reasonable depth and maximum excavation requirement.

Commissioner Hontz referred to scenarios on extremely steep slopes and asked what happens when the driveway exceeds 14%. The average slope may be 45% or 60%, but the initial portion of the slope is 80% or 100% and a14% driveway could not be reached within the setbacks. Commissioner Gross assumed that the percentage was calculated from the edge of the right-of-way to the building envelope. Planner Astorga stated that in his analysis he found that one thing affected another thing in the Code. In his experience, nothing could be built on a slope greater than 30% without a variance. However, Park City is different because of its historic character and

topography and someone could apply for a variance. The 14% grade is a standard in the LMC, which the Board of Adjustment has the ability to override with appropriate findings. Commissioner Hontz pointed out that someone could ask for that variance or a six or four foot front yard setback variance. Commissioner Wintzer stated that a variance request typically goes to hardship. In most cases, the hardship is that the person could not build as large they would like. In his opinion, that hardship could be mitigated by building a smaller house and shifting it on the lot; however, the Board of Adjustment does not take that fact into consideration when reviewing the variance request. Commissioner Wintzer did not believe hardship was valid in those cases.

Commissioner Savage asked how often hardship cases go before the Board of Adjustment and how often they get approved. He questioned whether the Board of Adjustment would actually grant a variance if the only hardship was the inability to build a larger home. Commissioner Strachan pointed out that most people do not give home size as the hardship. Instead, they make the case that their lot is difficult to build on.

Commissioner Thomas asked if a tandem garage could be done on a very steep uphill lot. Director Eddington stated that it would exceed the 35 feet before the second car, and there is no exception on an uphill lot. Commissioner Thomas clarified that he was talking about the impact to grade below ground. He asked them to imagine an uphill lot with a tandem garage on a 100% slope. If the garage depth is 35 feet, there would be a 35' retaining wall on the backsides of that garage, which creates a significant impact. He thought consideration should be given to discouraging tandem garages on super steep slopes. Director Eddington asked if someone should be allowed to put a theater room underground if they chose not do a tandem garage. Commissioner Strachan felt the problem was the requirement for two parking spaces. If the lot is steep enough, it would be impossible to have two cars on site. He stated that one option would be to combine two or three 25' x 75' lots so they could access the driveway on an angle. He believed the issue was how deep to excavate and whether they could step back the problem, similar to stepping back the height problem.

Planner Astorga presented Scenario H, which was at 45% grade and two interior parking spaces. The driveway was 14%. This scenario would require an exception. Mandatory increased setbacks were placed on the rear because of the grade provision. Planner Astorga believed they would most likely see a split level with this scenario.
Commissioner Strachan asked why they were looking at the exceptions assumed. Planner Astorga replied that it was due to the requirement for two interior spaces. Commissioner Thomas clarified that there was an exception in the Code that allows the Staff to make the ratio determination. Commissioner Gross pointed out that they could also apply the green roof scenario that was discussed earlier. Planner Astorga recalled from the Code that a garage in tandem configuration could be as much as 35-feet. Commissioner Strachan stated that going to 35-feet would require an exception. It is not entitled. Planner Astorga read from the Code, "The Planning Director may allow additional height on a downhill lot to accommodate a single-car garage in tandem configuration." Commissioner Thomas pointed out that the tandem configuration could still be achieved by going to a green roof for the other segment and stay within 27-feet. Commissioner Wintzer stated that if half of the roof was a green roof, he was unsure how that could be considered historically compatible. Commissioner Thomas believed that should be a separate discussion. Planner Astorga stated that the Staff was in the process of drafting specific language for the LMC as an

exception to the 7:12, 12:12 provision, if it complies with the guidelines and is granted by the Planning Director. The Commissioners discussed possible alternatives for meeting the requirements in Scenario H without an exception.
Commissioner Thomas recalled that the 7:12, 12:12 provision was established in an effort to find compatibility with the historic character of Old Town. Before the Code change people were flattening out the roof and making the volumetric as large as possible. If they decide to allow green roofs, they need to think it through and define the specifics.

Planner Astorga reviewed Scenarios I and J together. Both were on 60% grade. Scenario I has one exterior parking space, and Scenario J has two interior parking spaces. Planner Astorga noted that there were major issues with variances in both scenarios. If such a lot existed with 60% grade, it would again make sense to try and do a split level concept.

Commissioner Hontz pointed out that in addition to not meeting the height due to the garage, it also would not meet Code because the driveway could not be returned to within 4-feet of natural grade. The bottom two floors would also have to be on stilts. Scenarios I and J could not be built based on all three reasons.

Planner Astorga had prepared another packet of scenarios on uphill lots that he would present at a work session on February 13th.

496 McHenry Avenue, McHenry Subdivision Replat – Plat Amendment.
(Application #PL-12-01717)

Due to a conflict, Commissioner Thomas recused himself from this discussion and left the room.

Planner Astorga reviewed the application for the proposed McHenry subdivision replat. Sean Kelleher was the property owner. Planner Astorga reported that Mr. Kelleher owns approximately 12 lots of record. Three do not meet the minimum lot size; therefore, the lot lines would need to be shifted for development.

Planner Astorga reported that the current plan is to construct seven single-family houses that would be accessed from an underground, shared parking garage. The Staff report outlined specific points for discussion, and Planner Astorga requested that the Planning Commission provide direction to the Staff and the applicant on how to proceed. As part of the discussion, the Staff report also included the minutes from the December 12th meeting, at which time the Planning Commission held a site visit and a work session discussion on the three lots down the street from Mr. Kelleher's property.

Mr. Kelleher provided a power point presentation reviewing the history and background of the property. He has been in the periphery of Rossi Hill for a long time, but he has never come before the Planning Commission. Mr. Kelleher stated that when he first became involved with the property in 2006, he was a tenant in common with Mr. Bilbrey, a former owner. Mr. Bilbrey retained all the development rights for the property and Mr. Kelleher was the traditional silent partner. Mr. Kelleher remarked that his only involvement regarding plat applications that came forth since 2007 was to sign the plat as a co-owner of the property. All discussions and decisions made on the property

Exhibit G

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
February 13, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapters 2 and Chapter 15.

On January 9, 2013 the Planning Commission discussed a number of scenarios prepared by the Staff that could occur on downhill lots. The Commissioners would review scenarios for uphill lots for discussion this evening. Planner Astorga had prepared specific scenarios for 50%, 30%, 45% and 60% slopes. He wanted to make sure the Staff and Commissioners had the same understanding regarding the current Land Management Code height provisions in the HR-1, HR-2 and HR-L zones.

Planner Astorga noted that the blue lines on the drawings in the packet represented the property lines on 75' lots. The red line on the bottom represented the grade. The bold red line was the existing regulation that indicates that the final grade shall be within four feet of existing grade on the periphery of each structure. The red line on top was the maximum height, which was capped at 27'. Planner Astorga noted that the Staff had designed what they considered to be worst case scenarios.

Planner Astorga presented Scenario A at 15% grade. The scenario has one exterior and one interior parking space, which pushed the front yard setback to 18 feet; the minimum area required for the exterior parking. This scenario has a mid-level access and a top level rear walk-out. It would be impossible to have a walk-out on the mid-level because it would not be within four feet of existing grade. Director Eddington pointed that that there could be windows on the mid-level. Planner Astorga agreed, noting that there could also be window wells on the basement level. Commissioner Gross asked about cathedral windows. Planner Astorga replied that cathedral windows would be allowed as long as they comply with the Historic District Design Guidelines. It would be challenging but good designers could make it work. The driveway in this first scenario was the 14% maximum.

Commissioner Thomas pointed out that if the driveway is 14% off the edge of the road and there is no transition, you would hit your bumper before you started driving up the hill. He suggested that practical and logical may be less than 14%.

Planner Astorga noted that Scenario A did not include the 10-foot stepback on the front because the basement is completely buried and stepback is not required. Commissioner Strachan asked if the stepback would be required if the basement was not completely

buried and was within four feet of existing grade. Planner Astorga answered yes because a portion of the basement would be exposed.

Planner Astorga presented Scenario B at 15% grade with two interior parking spaces. The driveway is 14%. The house is slightly larger than Scenario A. Commissioner Savage asked why the front distance in Scenario B was shorter than in Scenario A. Commissioner Gross assumed it was because Scenario B had two interior parking spaces and Scenario A parks one car outside. Planner Astorga replied that this was correct.

The Commissioners discussed house size and footprint. Craig Kitterman, a member of the public, remarked that there is a maximum footprint which determines the size of the house. Planner Astorga agreed. He noted that all the scenarios were governed by the maximum building footprint.

Commissioner Strachan had questions regarding the stepback. Chair Worel asked if a stepback would be require if any part of the bottom level was exposed. Planner Astorga answered yes, except for a window well. He read from Page 3 of the Staff report, second bullet point, “Final grade must be within four vertical feet of existing grade around the periphery of the structure except for the placement of approved window well, emergency egress, and garage entrances”. He noted that the basement could still be buried and have a window well, but it would not require the stepback.

Commissioner Thomas noted that emergency egress can be any window or door out of a bedroom, and he found that to be problematic.

NOTE: Due to equipment problems, a portion of the meeting was not recorded. The problem was discovered and resolved.

During the non-recorded portion, Planner Astorga had continued his presentation and the Commissioners discussed the remaining scenarios.

Craig Elliott, as a member of the public, questioned why they were having this discussion. He passed around photos that were taken in 2003 and in 2013. From the standpoint of a big picture for the City, he was trying to figure out whether anything was really causing a problem. Mr. Elliott presented boards illustrating various built structures and noted that the majority of the buildings were over 27 feet tall. He stated that in the last ten years there has not been a significant change in Old Town that has created a negative impact to the visual. Mr. Elliott pointed out that with every application the Commissioners want to see a cross-canyon view, but in looking at the illustrations, there is has been no changes over the years, other than the trees grew larger.

Commissioner Thomas remarked that the boards Mr. Elliott presented showed the

perspective from a distance, and it did not take into consideration the streetscape and the visual impact walking down the street. He believed the purpose of the Steep Slope CUP is to bring down the scale.

Mr. Elliott understood that the neighbors complain whenever the Planning Commission reviews a Steep Slope project, but that just happens. Neighbors always fight new development because they want to keep the land next door vacant. However, people have the right to build. Mr. Elliott stated that the difference is minimal between what was there and what changed in ten years through the largest building boom. He realized that the LMC changes in 2009 were in response to specific projects, and in hindsight he should have attended the public hearings to argue about the 3-story limitation. It was a mistake on his part and he was attending now to have this discussion. Mr. Elliott noted that there were nine statements of purpose in the LMC. They might be accurately discussing one, but the rest were going the wrong way. Applicants are always asked whether they read the purpose statement. He was now asking the Planning Commission if the discussion they were having meets the purpose statement. He could not understand the purpose of their discussion and he did not believe anything in their discussions would improve things through the Land Management Code. Mr. Elliott stated that restricting height on a 75' lot to 35' to 37-1/2' might make sense; but he could not understand it for a lot over 75'. The nature of Park City is that it keeps stepping up the mountain.

Commissioner Strachan asked if there would be a difference if Mr. Elliott had taken the picture 25 years ago. Mr. Elliott believed that most of the structures shown were built before the 1980's. Commissioner Strachan believed that most of the larger houses Mr. Elliot was showing were not built 25 years ago. Mr. Elliot pointed out that the larger houses would never go away. If they were to burn down they would be replaced with the same size structure in the same place. He felt that the Planning Commission has spent the last few months talking about heights and squares and angles, when they should be talking about the big picture and why they were having these discussions. If the discussion is that they want to limit the ability to develop, they were moving in the wrong direction.

Commissioner Savage stated that Mr. Elliott is a professional who presented visuals to support his position. He believed Mr. Elliott had a valid point. They can look at the various scenarios presented, but the reality of importance is the sense from the perspective of where these developments will take place and whether something is or is not consistent with that particular location and a particular set of visuals. Commissioner Savage thought that should be their guiding parameters more than trying to create a formula for calculating volume as a function of lot size.

Mr. Elliott stated that he works in Old Town every day. He experiences the streets every day and he walks to most of his projects. He was confident that the things that have happened over the past ten years have not negatively impacted the quality of the town.

Changes are made and it does not make any difference in the overall impact. These discussions have kept people from building houses for the last six months and will cause them to miss two seasons of construction. Mr. Elliott believed the major question was why they were having these discussions and what it would accomplish.

Commissioner Thomas stated that prior to creating the 2009 LMC, they were seeing buildings stepping up the mountainside to maximize the volumetric. That had a dramatic visual impact on the neighbors, the street and the scale of the community. The reason for these discussions is to have a sense of scale to the historic fabric of the community at the street level. He did not think some of the images Mr. Elliott presented was a fair comparison of what this town is about or the character of the town. Mr. Elliott disagreed. Commissioner Thomas stated that the image does not represent what the neighbors experience when someone builds an enormous house next to an historic house. The purpose of the 2009 changes was to respect the neighbors and what was left of the historic fabric that was being whittled away by these monstrous structures.

Mr. Elliott reiterated that the Planning Commission should address the real question of "why" and if whether the "why" fits within the Land Management Code purpose statement. In his opinion it did not.

Commissioner Strachan asked if Mr. Elliott had any recommendations on how they could bring more families and primary homeowners back into Old Town. Mr. Elliott felt that would be driven by a number of different things. He suggested that current projects would bring people into town. He thought they would be fighting the issue of value for a long time because of its proximity to Main Street.

Ruth Meintsma stated that she lives on a street that is primarily second homes and nightly rentals. She does not mind nightly rentals in her neighborhood because it works. However, the houses in-between where people live are very important and adds cohesion to the neighborhood. Ms. Meintsma understood the reasons for limitations. A house across the street from hers is nightly rental. People come in and out and you never talk to them. The number of cars is astounding and the amount of trash in one weekend is more than she creates in two months. Ms. Meintsma believes there needs to be a balance. In talking about limitations, she understood the three stories limit and size reduction for second homes and nightly rentals because extra space is not needed for that type of living. However, when someone has a family they need to think about a new way of living. They need to think about space for storage, tools, food storage, etc. She believes that if there could be a second criteria of house building where a home or a residence is signed in perpetuity to no nightly rental, it would add to affordable housing because people could come in a rent for a minimum of one year. With larger structures people would create a home and it would allow for families. Sometimes the fourth story is necessary for a family. If someone wants to build a home for their family and wants extra space, the City should

hold them to the family home use by having them sign in perpetuity to no nightly rental.

Planner Cattan stated that limiting nightly rental was not necessarily limiting second homes. Ms. Meintsma agreed, but it would still be someone's home. Commissioner Savage commented on the economic impact. If someone did not have the ability for nightly rental they possibly could not afford the home. In other cases, some people buy second homes on the fact that they can enjoy it themselves and offset some of their expenses by renting when they are not there. Ms. Meintsma understood the concern, but if someone was willing to sign their home into perpetuity from nightly rentals, they should be given some incentive such as extra space in their home.

Mary Wintzer stated that when side yard setbacks were reduced years ago, they saw huge impacts with snow shedding and people began to maximize their houses. The lifestyle of those living in Old Town has been drastically affected. Her neighbors raised four kids in a three-story house. When she was growing up people shared bedrooms. Ms. Wintzer was not totally opposed to the incentive of a fourth story, but if they return to what used to be they would not need monstrous homes.

Ms. Meintsma pointed out that lifestyles are completely different than how they used to live. She clarified that she was not talking about greater height or greater mass. She was only talking about an additional story. She understood that excavation was a major concern, but she believed that could be mitigated.

Ms. Wintzer remarked that several years ago four owners on Rossi Hill imposed a house size restriction on themselves. They realized that it would limit their profit when they decide to sell because the lots could not be maximized, but they did it because they value their neighborhood. Ms. Wintzer stated that they love Old Town, they love the mountain and they love what the community has given them. It is the neighborhood, the people and the land, and they are building up every square inch of the earth in Town. She believed they would pay a price some day. The old timers talk about the years when they had bad spring runoff and mud slides on this side of the Canyon. They have not seen that yet, but it is possible. If it occurs, there is no earth left to absorb it because it is all developed.

Commissioner Hontz felt good about this exercise because it was based on the purpose statements and it came out of the realization and the factual evidence of how many undeveloped lots are left and how tightly constrained they are. In her mind this was an exercise of education, but it also explored whether what they have meets what they want to do, how they need to tweak it, if at all, and if the scenarios were representative of what they thought they were trying to achieve. The discrepancy on the definition of story was another reason that prompted the exercise. Without those reasons they would have never done this and nothing would change. Instead, they went through this very thorough discussion to possibly visit some potential changes. Commissioner Hontz thought this was a useful

experience. She was unsure what the result would be based on all their opinions, but this was instrumental in educating the Planning Commission to be able to move forward.

Planner Astorga noted that page 2 of the Staff report contained language from the current Code. He asked if the Planning Commission had issues with any of the regulations and whether it needed to be strengthened or rewritten. He believed there was some consensus for spending more time and resources on adding internal maximum height. He asked if any of the other height parameters needed to be fine tuned. Commissioner Strachan felt it was sufficient to have the internal height limitation.

Commissioner Savage had issues with the third bullet point and the definition of three stories, and whether three stories was measured from a vertical point or by some other metric. Commissioner Strachan thought the three story restriction could be eliminated if they use the internal height restriction. Commissioner Thomas agreed. The internal height gives the designers more flexibility with the floor plan.

Director Eddington understood that the Planning Commission would not have as much consternation with regard to split levels and partial stories inside the building. He was told that this was correct. Commissioner Strachan clarified that applicant could do whatever he wanted within his own box as long as it meets the internal height limit.

Commissioner Thomas suggested a site visit to several sites that reflect the conditions discussed on uphill and downhill lots so they could see them in the field.

General Plan – Discussion and Overview of neighborhoods – the neighborhoods to be discussed include: Thaynes Canyon, Park Meadows, and Bonanza Park/Prospector

Nightly Rentals

Planner Cattan reported that the Staff had prepared a discussion on nightly rental because it was one of the more controversial topics to be discussed neighborhood by neighborhood as they decide to rezone and talk about residential neighborhood versus resort neighborhood. She preferred to start with nightly rentals before moving into the neighborhoods discussion.

Planner Astorga read that the current Land Management Code definition of a nightly rental. “The rental of a dwelling unit for less than 30 days.” Another clause states, “Nightly rentals do not include the use of dwelling units for commercial uses.” Commissioner Savage asked for clarification on the language regarding the use of dwelling units for commercial uses. Assistant City Attorney McLean explained that as an example, gifting parties cannot be held in a home that is a nightly rental.

Exhibit H

Said landscape plan shall incorporate the reintroduction of native landscape materials within this area, and reduce the amount of sod-grass, especially near the creek.

9. No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height (Application PL-13-01889)

Planner Francisco Astorga noted that this item addressed LMC amendments to change some of the parameters of the building height in the HRL, HR1, HR2 and RC Districts. The Planning Commission has had significant work session discussions as reflected in the Minutes from those meetings and included in the Staff report. The Staff was before the Planning Commission this evening with recommended proposed changes for review and a possible recommendation to the City Council.

Planner Astorga reviewed the current height provisions: 1) The height must be within 27 feet of existing grade. This provision was unchanged. 2) Final grade must be within four (4) vertical feet of existing grade around the peripheral of the structure except for approved window wells and access to the structure. Planner Astorga reviewed highlighted changes to this provision. The current language addressing a maximum of three stories would be replaced with an internal height parameter. The 10-foot minimum horizontal step on the downhill façade would remain. The mandated roof pitch would also remain based on direction from the Planning Commission during the February work session. The height exception would also remain.

Planner Astorga noted that the3-story language would be replaced with language regarding internal height that would vary on a specific roof pitch on the roof form, as indicated in the table on page 230 of the Staff report. The language was revised to read, "The internal height of a structure measured from the lowest point of the finished floor level to the highest exterior ridge point shall not exceed the number based on the following table". Planner Astorga explained that they would still achieve the mass and scale of three stories, without saying that the maximum is 3-stories. The Staff thought it was better to use a scale because otherwise people would try to capitalize on their wall height for their stories and then give the lowest roof pitch each time. Therefore, the Staff created an incentive of 1' foot of step per higher roof.

Planner Astorga explained that the logic for the internal height was wall height plus the roof height. The wall height was derived from 3-stories. A ten-foot story including a floor joist may not be doable, and that number was increased to 11 feet for a wall height of 33 feet. The Staff calculated what each roof height might be depending on the pitch of the roof to determine the varying height.

Commissioner Wintzer was unclear why the Staff thought a 9-foot or 10-foot story was not doable. Planner Astorga stated that the scenarios the Staff presented in January and February were based on 10-foot stories, which included a floor joist. The intent was to be more consistent with what the market might drive. He pointed out that the proposed change does not dictate how tall the story might be. It could be less or more and the applicant has the ability to work with the design. Planner

Astorga understood from previous comments that the Planning Commission thought the 10-foot story maximum was too small.

Commissioner Hontz thought believed that 10-feet was adequate and that 11-feet was a gift. However, she recognized that it did allow more flexibility. Commissioner Thomas was not concerned with whether it is 9, 10 or 11 feet on the interior. Commissioner Hontz was concerned that if someone takes the maximum internal height of 43', they would need to grub out again. She pointed out that the 27' would only keep it with the slope. However, internally, the house could continue to go further down. Planner Astorga noted that the internal measurement creates a split level. Commissioner Hontz was comfortable with split levels, but the question is how many splits. They were keeping down the height, but they also wanted to keep the structure from growing bigger side to side. She preferred the ten-foot story because it keeps the building from creeping down the slope too far.

Planner Astorga stated that based on the methodology selected for the scale, if they use the 10-foot measurement it would drop 3-feet from each internal height. Therefore, the internal height would range from 35' to 40'. Commissioner Hontz was more comfortable with those numbers. Commissioner Hontz stated that because the current Code does not allow stepping within the house, the current three-story solution works because it limits how far people are willing to go out and down the hill. Commissioner Hontz wanted to make sure that by allowing more flexibility in terms of steps within the interior, that they were not allowing creep up or down the hill.

Director Eddington asked if the Commissioners wanted to go to 10-foot floor plates and reduce the internal height by 3-feet each. Commissioners Hontz and Wintzer answered yes.

Commissioner Thomas was more concerned with the impact on footprint. They would still have the 27' maximum height from existing grade, but he was interested in knowing the relative difference in footprint between a 10-foot floor plate and an 11-foot floor plate.
Director Eddington did not believe the footprint would change either way because most people max out their footprint. He noted that the City has a formula for footprint for all of the historic zones. Commissioner Thomas stated that he was very comfortable with the 11-foot for interpretation as long as people are held to the 27' maximum height and the footprint could not creep up or down the hillside. Director Eddington clarified that it was a formula of lot size.

Commissioner Savage thought they should stay with the 11-foot floor plate as proposed. Chair Worel was comfortable with 11-feet as long as the footprint could be limited. Commissioner Wintzer was not opposed to 11-feet because people do build to the maximum. Commissioner Wintzer suggested that Planner Astorga include an illustration for clarification to show how it should be interpreted.

Commissioner Hontz asked for the definition of finished floor level? Commissioner Savage suggested that it could defined as, the lowest point of the lowest finished floor level to the maximum vertical height of the structure. The Commissioners supported that definition. Commissioner Savage wanted to know how the number relates to not counting a basement if it is totally subterranean. Planner Astorga clarified that subterranean basements are counted. Commissioner

Savage clarified that regardless of whether or not the basement is buried, the lowest level of the lowest floor is Point A, and Point B is the highest point of the exterior.

Director Eddington clarified that the language indicates the lowest point of the finished floor level and/or any structural element is the lowest point. Commissioner Thomas gave a scenario to show how talking about structure complicates the issue. Commissioner Savage thought the confusing word was internal.

Planner Astorga remarked that the next proposed change was to add two provisions to the Existing Historic Structures. This portion of the Code states that historic structures are valid complying structures in terms of parking and other issues. Planner Astorga noted that the LMC defines a Historic Structure, but it does not include any additions to the structure. The Staff wanted to keep the regulation for valid complying and added Footprint and Height to the existing Code language for the three Historic Residential Districts and the RC District.

Director Eddington clarified that it was already understood that if a structure exists with an existing footprint or building height, it is existing non-complying. Planner Astorga believed that most of the historic structures comply with the building footprint.

Commissioner Hontz noted that someone could take away some of the property associated historically with the historic structure that makes it complying currently. Director Eddington clarified that a building could not violate the Code and be taken into non-compliance. However, he understood Commissioner Hontz's concern. If someone had more than a single Old Town lot they could split a portion of the land and put it on another property. He pointed out that the footprint would be limited to the 844 square feet or whatever it exists as and the building would never get bigger. Commissioner Hontz agreed that the structure could not be bigger, but splitting a portion of the property would allow a larger structure next door.

Planner Astorga stated that the Staff also tried to clean up the section regarding Building Height. A number of historic structures do not comply with the existing heights. One of the parameters is a 7:12 to 12:12 roof pitch. The Staff did not think it was appropriate to do a complete analysis on how a structure is legal non-conforming, when a similar clause in the Code addresses setbacks.

Commissioner Savage asked if complying and conforming were synonyms for purposes of the Code. Director Eddington explained that conforming is for a use and complying is for a structure. Commissioner Savage understood that a valid complying structure could be legal non-conforming.

Planner Astorga noted that the final proposed change was a roof pitch exception. He explained that periodically the Staff encounters a historic structure that may have a 5:12 or 4:12 roof pitch. The Staff felt it would be more appropriate if the addition that comes in for that structure would be held to the same type of roof pitch or possibly lower. Planner Astorga noted that currently the Code would not allow that because it specifies 7:12 to 12:12 roof pitch.

Planner Astorga stated that the Staff was proposing to add language for additions to historic structures, stating that through an HDDR review and compliance with the Historic District

Guidelines, the Planning Director has the ability to approve a roof pitch lesser than the one required in the Code.

Planner Astorga stated that the next question was how that would apply in the case of a split level and the maximum height. He noted that a secondary table was added for these types of exceptions.

Planner Astorga asked if the Planning Commission was comfortable adding the roof exception for additions to historic structures; and whether it would be appropriate to add the same type of scale for the maximum building height. Commissioner Thomas liked the idea because it would allow for a more appropriate design and more flexibility. The Commissioners concurred.

Commissioner Wintzer referred to the table on page 231 of the Staff report and corrected the 5:15 roof pitch to be a 5:12 roof pitch. Commissioner Thomas noted that 5:15 appears several times in the Staff report and it should be corrected throughout.

Commissioner Hontz referred to page 244 of the Staff report and asked what they would do about the 10-foot horizontal step that is referenced in conjunction with a third story, because people would now be able to have three stories. Planner Astorga replied that the provision is based on a 3-story building and it is mathematically impossible to have more than three stories. Commissioner Hontz did not believe it referenced what they were trying to accomplish now. She thought the language should be re-written relevant to where they want the 10-foot horizontal step to occur. Commissioner Thomas agreed that it was no longer clearly defined as the third story. Director Eddington suggested that it may need to be a numeric value.

The Commissioners were not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception and associated illustrations.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 505 Woodside, commented on the 3-story versus internal height issue and did not believe they were accomplishing what they intend to accomplish. Ms. Meintsma understood that they were first trying to accomplish visual height and mass from the exterior, and secondly to control the height and mass from stepping up the side of the hill with a 3-story limit. She thought the height limitation seemed complicated and she believed they would cause other issues. Ms. Meintsma presented a visual to support her concerns. Regarding the discussion about the lowest point of the lowest floor to the highest exterior to limit crawling up the hill, Ms. Meintsma pointed out that many houses in town have an exposed foundation way below the first floor. If they do not consider the exposed foundation and start from the bottom first floor and limit the interior, people will lift their house out of the ground and have an exposed foundation, which will significantly increase the visual mass. Ms. Meintsma stated that the interior measurement from the lowest floor was not accomplishing what they wanted. She believed that starting from grade would accomplish their goal and keep the structure from creeping up the hillside.

Ms. Meintsma commented on the different roof pitch options with different heights. She pointed out that a green roof is 33 feet and a 12:12 is 43 feet. No one will choose a green roof unless they are very environmentally conscientious, because people prefer an open ceiling roof. She believed the

proposed formula would discourage green roofs. Ms. Meintsma also thought it discourages a steeper pitch because with a 27' height limitation a steeper pitch would move the structure further underground. She noted that most people want to be above ground as much as possible for light and windows.

Ms. Meintsma suggested that there were different ways of controlling visual height and mass. She thought it would be better to control the height and visual and put a limitation on cubic dirt moved under the house. That would address both issues separately and in a more appropriate way that the interior number of floors. Ms. Meintsma was pleased that Commissioner Hontz mentioned the third floor, because in her opinion the 3-story step back did not work. She provided different scenarios to explain her point.

Ms. Meintsma thought there needed to be some way to encourage green roofs through some type of height limitation. She asked if a conditional use for a higher height could be used as a negotiating tool for green roofs. Ms. Meinstma pointed out that the advantages of a green roof. She believed everything needed to be thought through to be productive and to have the control the Commissioners wanted.

Commissioner Wintzer asked the Staff to consider Ms. Meintsma's comments and work it through a number of drawings.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments regarding Building Height to May 22, 2013. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioners Gross and Thomas were not present for the vote.

3. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, and Chapter 2.3 and Chapter 2.16 regarding underground parking structures. Amendments to Chapter 2.18 regarding Prospector Overlay. Amendments to Chapter 6 regarding Master Planned Developments. (Application PL-1301888)

Planner Whetstone stated that these were the remaining amendments of the 2012 annual update of the Land Management Code. This agenda item addressed three amendments. The first was to clarify the purpose and the applicability of the Master Planned Development review process throughout Park City. It was not specific to any one area, but it clarifies the language. The second was to clarify and add additional review criteria to the Master Planned Development Review process. This would apply to any Master Planned Development. The review criteria were clarified and updated to make references that are specific to the Code. The third amendment was to clarify the lots within the Prospector Square overlay in the General Commercial (GC zone) that are subject to zero lot line development. Planner Whetstone noted that added language clarifies the lots subject to exceptions in the overlay. One of those exceptions is to have a zero lot line development. Planner Whetstone stated that when the Prospector Square subdivision was amended, the Code was not also amended to identify that those lots are also allowed zero lot line development.

Planner Whetstone referred to the General Commercial Zones, Section 15-2.18-3 of the LMC, Lot and Site Requirements. This section addresses lot and site requirements and several changes were

Exhibit I

amendment.

3. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – 305 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. No building permit for any work that expands the footprint of the home or would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

4. Modified 13-D sprinklers may be required by the Building Official for renovation of the existing structure.

5. A ten foot (10') foot wide public snow storage easement will be provided along the frontage of the property.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3 and Chapter 2.6 regarding Building Height. (Application PL-13-01889)

Planner Francisco Astorga remarked that the proposed amendments address development in the HRL, HR-1, HR-2 and the RC zones. The RC zone was included because specific

standards for single-family dwellings and duplexes mirror the same standards that apply for the Historic Residential Districts.

Planner Astorga requested that the Planning Commission discuss the proposed language shown on Attachment 1. If the language needed to be amended, the changes would be included in a recommendation to the City Council in an effort to move forward.

Planner Astorga reported that the proposed amendments were two-fold. The first one related to the Building Height analysis on pages 66-71 of the Staff report. The second amendment related to the Existing Historic Structures Analysis on pages 71-72.

The Staff recommended that the Planning Commission review the proposed amendments to the Land Management Code for Chapter 2 as described in the Staff report, conduct a public hearing, and forward a positive recommendation to the City Council to adopt the ordinance in Exhibit A with any further changes resulting from the discussion.

Vice-Chair Thomas opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, had prepared a presentation showing various heights, stories and roof shapes. She recalled that stepping was an issue because the Code did not read as stepping three stories, and the Planning Commission wanted the ability to apply the Code in a way that stepping would work.

Ms. Meintsma had prepared a series of drawings. The first one had a third story, ten-foot horizontal step at a 27' foot height which was allowed under the current Code. A second drawing presented was not allowed under the current Code. A third visual showed the same mass in the third story and the fourth story, except there was more mass with the allowed structure versus the structure that is currently not allowed.

Commissioner Savage asked if the difference was attributed to the setback requirements in the front. Ms. Meintsma answered yes, because the only way to fit four stories in the 35' interior top plate ceiling height would be if the four stories had 8' ceilings. Vice-Chair Thomas clarified that the floor to floor heights were 9' floor to floor with an 8' ceiling. Ms. Meintsma believed it was in the best interest of the City to allow a structure that would actually have less mass.

Ms. Meintsma had prepared additional drawings to explain what she believed were the positives for allowing stepping and four stories and why the building would have a smaller appearance. She stated that the horizontal lines on four stories has a tendency to chop up the visual and makes it more attractive. Ms. Meintsma remarked that because the height

would be 35' on top plate, it would possibly allow steeper roof pitches, which everyone would like to see, and still maintain the 27' height. She was working on language regarding a half-story to encourage steeper roof lines and more variety in roof pitches.

Ms. Meintsma stated that if stepping is allowed because it remains under the 35' height, the unintended negative of a split level is that the roof tends to create a roller coaster roof that is reminiscent of the ski slope roof. Ms. Meintsma presented a photograph of the structure that triggered the discussion and explained how the roller coaster roof could be mitigated. Ms. Meintsma believed that stepping could create a smaller structure.

Ms. Meintsma outlined the unintended negative flaws in the language proposed for height and roof pitch. She noted that the language talks about primary roof design; however, primary roof design is not defined in the Code, which makes it arbitrary. She believed they needed a definition for primary roof design. Ms. Meintsma reviewed a series of drawings with different heights, roof pitch and design to show some of the flaws resulting from the language. She suggested that "Primary Roof Design" should be changed to "Primary Roof", and the primary roof should be defined as the main roof structure to keep all the pitches at 7:12 to keep the roof from flattening against the 27' height.

Ms. Meintsma referred to language stating that the roof pitch must be a 7:12. She presented drawings showing that the 7:12 pitch were only small portions of the roof that she had marked.

Commissioner Hontz asked if Ms. Meintsma was saying that adding the word "primary" would make it less likely to see the hip roof. Ms. Meintsma believed that the hip roof was on its own regardless of whether or not it is allowed or now much is allowed. Commissioner Hontz clarified that in her interpretation, if the word "primary" is added it would allow someone to identify a secondary roof. Ms. Meintsma stated that a primary roof would be a 7:12 pitch roof; however, if it has a hip on it that would change the visual.

Mr. Meintsma presented an image of a barge rafter roof, which is one of the two rafters that support the roof and projects beyond the gable wall. She found the image as the best example of a gable roof. She was unsure whether it would flatten the roof or accomplish the visual they wanted.

Planner Astorga stated that the challenge in Old Town is that if the roof forms are perpendicular to the street, there is not an issue. The specific project that Ms. Meintsma used in her examples is parallel to the street. He believed it was a 7:12 roof pitch but the issue is that the ridge is parallel to the road and as it comes down, the massing perceived is different from seeing a gable on the street. The designer's intent is to provide additional

headroom, and that is a challenge. However, the City cannot plainly prohibit these types of structures because historically those types of roof forms existed in Old Town. The Staff faces this challenge on a daily basis with the Historic District Design Review.

Commissioner Wintzer used the image of the house identified as hip, and noted that there was no reason for what was done on that house. The roof is under height everywhere and it could have been higher. He thought they could follow Ms. Meintsma's suggestion to make the roof simpler. Ms. Meintsma clarified that she was not implying that it should not have been done. She only questioned it because the 7:12 pitch was small portions and she wanted to know if this was what the Planning Commission wanted, because it did flatten the roof.

Vice-Chair Thomas closed the public hearing.

Vice-Chair Thomas remarked that someone would always do something creative with a roof that is unfamiliar or unfavorable. For that reason he felt it was hard to write a Code that limits every condition and still gives the applicant the opportunity to design what they think is an attractive house.

Planning Manager, Kayla Sintz, stated that the Historic District Guidelines direct the applicants to choose a style. The language proposed reduces the roof pitch in order to be consistent with other types of historic homes, and that means that someone chooses that style of a home with a shallower roof pitch. It does not mean they could choose all the options and put them on to one house. She believed there was a need for a strong statement and direction to an applicant to select one style. The Historic District is simple and it is not about a conglomeration of roof lines. Planning Manager Sintz thought it was an issue of choosing a style of architecture and one with compatibility through design.

Planning Manager Sintz cautioned against a primary roof form definition because people would eventually challenge the definition. She thought the Planning Commission should be cautious about delineating primary versus secondary or taking a stricter stance.

Commissioner Savage applauded Ms. Meintsma for her insight, efforts and continued participation in these important issues for the City. Commissioner Savage believed that the Planning Commission should focus on the exterior of a building and let the applicant focus on the inside. He noted that the City has an HDDR process and Design Guidelines and the Planning Commission should not be concerned with the design. The Planning Department is mandated with the responsibility of making sure the issue of compatibility is being met. Commissioner Savage stated that he would continue to trust in that process until he is given a good reason not trust the process. Commissioner Savage liked what Ms.

Meintsma had done with the volumetrics and he personally felt it was the right way to look at it. Whether it is three stories or four stories inside, both can be accommodated within the same volumetrics and the external appearance would be essential the same or possibly improved with the multiple stories.

Commissioner Savage was unsure as to how they could draft an appropriate definition for a primary roof and what they would call that roof. He was thought it would be difficult to define a primary roof. Commissioner Savage stated that he had not thought about the roller coaster issue Ms. Meintsma had raised and he was unprepared to comment.

Commissioner Wintzer echoed Commissioner Savage regarding his appreciation to Ms. Meintsma. It makes a difference when someone comes in with a different idea. Commissioner Wintzer agreed that the job of the Planning Commission is to focus on the volumetrics, but they are also challenged with making the structure compatible with the neighborhood and the existing structures. Therefore, he believed the Planning Commission should look at design and compatibility. Regarding the issue of flat roofs, he noted that four 9' floor to floor heights would allow four stories and still be within the height limit and the volumetrics would be totally different than if it was filled in. Commissioner Wintzer felt it was important to understand flat roofs and how they relate to structures in Old Town. He recommended that as they discuss heights that they look at structures with flat roofs in mind.

Commissioner Hontz thought they had made progress and she believed they were getting closer. She stated that some of the things affected by height is the amount of excavation, setbacks, and snow shed and that should be considered as they determine the height definition. Commissioner Hontz referred to the drawing on page 69 of the Staff report and noted that 14% driveways are allowed on uphill lots. Drawing a line at 14% and starting the structure at that point, and then drawing a straight line from the top of car, she pointed out the amount of excavation that would be reduced on an uphill lot. In her scenario, Commissioner Hontz noted that the garage elevation would not start until 15 or 20 feet higher. Therefore, the 27' height is 20 feet higher. Commissioner Hontz remarked that this was the type of house they keep seeing built on both uphill and downhill lots. She remarked that that entrance into a structure is not historic and it ruins how people approach structures and the feel of Old Town. Secondly, it is not useful. The first rainfall on the downhill lots in certain places fills the driveways and garages because it is a good place for water to run. On the uphill lot the garages cannot accommodate the height of an SUV and they end up being parked in the driveway. Commissioner Hontz reiterated that it adds to the height and the steepness of these driveways, which is not historic, and they are not useful.

Commissioner Hontz stated that moving the finished floor plane up puts the structure at 20-30 feet taller from the street, and makes it appear to be 80 feet tall. She believed that needed to be a component in their discussion. Commissioner Hontz thought the biggest failure is the fabric that is eroding due to the driveways, as well as the perceived height.

Commissioner Hontz liked Ms. Meintsma's comment about the benefit of less mass with four floors. However, in looking at the 9' foot ceiling structure of the 4th floor, they would see more bedrooms and more people, which generates more cars and more impacts. Commissioner Hontz agreed that the Planning Commission does not need to regulate the interior, but they still need to regulate the scale and mass, particularly when the mass is also bedrooms and number of people in an area that cannot accommodate the extra traffic.

Commissioner Hontz stated that based on where they allow people to go up in height, because of the retaining required, the limits of disturbance is the lot line and every piece of vegetation on the entire site is eliminated to accommodate the structure. Commissioner Hontz did not believe the proposed solutions address all the concerns. It is difficult to grow vegetation in Park City and when the removed vegetation is replaced, it will not be the same quality.

Commissioner Hontz stated that another proliferation they see on the uphill and downhill is the manipulation of the Code with window wells allowing habitable space, which results in more massing and additional excavation under the house and to the setbacks. She thought disallowing the 14% driveway might resolve the problem because people could no longer dig out that space.

Commissioner Hontz understood that they were still looking at green roof and roof pitch. She thought they needed to consider that a green roof could turn into a brown roof that is never planted or maintained. The needed to find a way to manage it and require that someone continues to manage it. Vice-Chair Thomas suggested that a green roof could be subject to a landscape plan approved by the Planning Director. Commissioner Hontz clarified that a green roof cannot be considered as setbacks or open space.

Commissioner Gross agreed with most of the comments expressed by his Fellow Commissioners. However, he believed that people should be able to do whatever is allowed within the 35' maximum as long as it complies with the Building Codes. The Planning Commission is tasked with looking at the exterior and making sure the impacts are properly mitigated. Commissioner Gross recalled a previous discussion regarding green roofs and that a landscaping plan needs to be part of the package before receiving the certificate of occupancy permit. He was unsure how the green roof could be monitored over time.

Vice-Chair Thomas believed they were moving in the right direction. The intent was to allow flexibility within the volume to have shifted floor planes and accessing grade. He believed the 35' height helps tighten it up, but a few things still need to be resolved and the green roof is one issue, along with the landscape plan relative to the green roof. Vice-Chair Thomas stated that a flat room has a bigger visual impact if it is allowed the same 27' height. In many parts of the community if someone chooses to use a flat roof, there is a reduced height associated with the flat roof. He asked if that had been factored into the flat roof discussion.

Planner Astorga replied that flat roofs were only incorporated with regards to green roofs. The Staff analysis is that when the application comes in the applicant needs to demonstrate that it will not cause any additional shade and it would not be taller than a standard gabled roof. Vice-Chair Thomas asked if a standard roof would be allowed to go up to the ridge height with a flat roof. Planner Astorga explained that the applicant would have to demonstrate how the proposed green roof/flat roof fits in a 7:12, 9:12, all within 27' from existing grade. Commissioner Wintzer asked if they could go up as high as 27'. Planner Astorga replied that it could, but it would be breaking on the corners. Therefore, it would have to be reduced until the entire flat roof is down within a standard compliant mss of roof form.

Director Eddington understood that Vice-Chair Thomas was asking whether a flat roof could appear to be a bigger mass because it does not have the sky on the side of the slope. If that was the question, the answer was no. Commissioner Wintzer asked Planner Astorga to bring back some drawings. Planner Astorga was prepared to do drawings this evening to demonstrate how the green fits at a standard gable. Vice-Chair Thomas clarified that the maximum height of the green roof would have to fit within the 7:12 context. Commissioner Savage understood that the higher the roof, the skinnier the building. Planner Astorga replied that this was correct. Commissioner Savage stated that most people want the square footage and that would keep them from building a taller building. Therefore, the footprint trumps the roof. Planner Astorga reiterated that the Staff analysis only applied it to green roofs and not standard flat roofs. Commissioner Wintzer clarified that green roofs was the only thing allowed in Old Town.

Vice-Chair Thomas stated based on his education and experience, mass, form, scale and compatibility are design; and to that extent the Planning Commission is involved in design.

Vice-Chair Thomas thought Commissioner Hontz made an excellent point about the driveways. There needs to be a transition slope from the street to the driveway and based on industry standards, it is a 5% slope up to 20 feet. The City allows 14% and he

questioned how they could get a transition slope into that realm. He believed that issue needed to be addressed because it is impossible to get a car up those driveways without bottoming out. The impact is that people will park on the street.

Commissioner Gross asked why they could not change the 14% slope. Commissioner Hontz replied that it could be changed but it also affects other things, such as height and mass. Vice-Chair Thomas pointed out that 14% slope would be sufficient with a long enough driveway, but there needs to be a transition slope at the curb approaching the street. Summit County has a code requiring driveways to be within 5% for the first 20 feet of the public street. He recognized that 5% was too restrictive for Old Town, but he thought they should factor it down and consider a more reasonable length that would still allow the transition.

Commissioner Savage asked if the driveway issue was a height issue. Vice-Chair Thomas replied that it is connected because it cascades into the lowest finished floor. Commissioner Savage could not understand why they would need to adjust the building height if they control the driveway slope. Vice-Chair Thomas replied that they would exceed the maximum height. Commissioner Hontz stated that if they add the driveway component and control it through some calculation, they would be addressing the height issue. Vice-Chair Thomas stated that if they lower the slope of the driveway and drop the elevation of the driveway it would increase the excavation of the project. He believed there were ramifications that needed further thought and discussion.

Commissioner Savage felt they needed a robust discussion regarding excavation. He thought the issue warranted further dialogue and education. He personally could not understand why they should care about the amount of excavation as long as the footprint was managed. Vice-Chair stated that they care about the amount of excavation because of the impacts created by the number of truck loads of material hauled through the neighborhood. The issue is life safety, as well as the depth of footings and excavation and cuts.

Commissioner Hontz commented on the vegetation removal that occurs with significant excavation, particularly the vegetation that has existed historically for 50 years and is habitat. She pointed out that projects that required significant excavation take longer because of the process. Some projects take years, which is an impact to the neighbor who lives next to the hole in the ground. Commissioner Savage thought those concerns could be addressed through bonding, obligations, and other requirements. He believed that at some level they need to support people's ability to make choices about how they want to develop their property as long as it fits within the guidelines. Commissioner Savage remarked that people should be able to work to the maximum within the LMC, without

feeling that they are getting more than they should get. The maximum should be what they are allowed to do.

Commissioner Wintzer remarked that the real issue is not how much is being excavated, but how many cars and people it takes to maintain the structure for the rest of its life. He noted that several structures on Deer Valley Drive have 15 cars parked in front for a weekend because it is allowed, but it completely impacts how he gets to his house and how people get around town. The owner built what the LMC said they could build, and the end result was a party house with two parking spaces. Commissioner Wintzer stated that in addition to regulating mass and scale, their job is also to regulate and protect the neighborhood and the integrity of the neighborhood. He commented on a house that he believed had excavated 100 feet and has window wells that are probably 12-14 feet high and have bedrooms behind the garage.

Vice-Chair Thomas remarked that window wells could allow someone to create a building area and usable space or living space below grade. He felt it was important to consider the impact of window wells and the intention for having a window well. If the intent is to create natural light and egress for a bedroom, that would the wrong intention and he would not encourage that type of space.

Commissioner Hontz stated that it is difficult to police and enforce use. By allowing 14% and building to the maximums, she thought they needed to look at whether the maximums are too big. People do not always make good decisions on their use and they tend to do things that are illegal. It generates additional traffic and other things that are not allowed in the community. Commissioner Hontz believed they needed regulations that are easy for everyone to build to and live to so they are not in a constant police state trying to stop people from doing what they are not allowed to do.

Commissioner Savage stated that the Planning Commission has a specific role. A City Councilman attends their meetings and several other organizations within the Park City Municipality have responsibilities for the enactment of legislation and maintenance of that legislature. There are ways to cause people to be appropriately penalized when they abuse the privileges. Commissioner Savage remarked that there was nothing the Planning Commission could do within the Land Management Code to fix the problems that occur in larger homes in terms of overnight rentals and huge parties. However, the City can implement the appropriate Codes and Regulations and taxation rules to ensure that the problem gets minimized and is forced into a more acceptable position. Commissioner Savage felt it was important to make sure they were using the right tools to fix the right problem. He noted that the Planning Commission is not mandated to be the panacea for

all the issues inside Park City. He thought the Planning Commission should focus on their job instead of trying to fix problems outside of their purview.

Commissioner Hontz disagreed. She believed it was 100% design related. Commissioner Wintzer concurred. It is the job of the Planning Commission to find whether something is compatible and fits the Land Management Code. It is also their job to look at neighborhoods and the bigger picture. Commissioner Savage believed it was their job to decide whether an application was compliant with the Land Management Code. Commissioner Wintzer replied that compatibility is addressed in the Land Management Code and the purposes statements talk about compatibility.

Vice-Chair Thomas remarked that the intent of the proposed amendment was to allow flexibility within the footprint of the house for stepping. He thought the general direction they were going with the 35' step was appropriate. Vice-Chair Thomas believed the Planning Commission was willing to consider a maximum slope as a transition slope to a driveway to access the house. In his opinion, it did not make sense to have a 14% grade right from the street curb to the finished floor of the garage. It is not practical and it does not work. It is difficult to get a normal car into a driveway that has a 14% slope without a transition.

Vice-Chair Thomas remarked that the Commissioners had concerns about flat roofs and how they would be planted. He believed they were comfortable with the diagram showing that the height of the roof would come down if it fits within the 7:12 triangle. Commissioner Wintzer asked Planner Astorga do prepare a better diagram for the next meeting.

Vice-Chair Thomas wanted to address the window well. The City Council had opened the window well as a modification to the initial ideas for steep slope. However, it is an issue that that should be looked at again because it creates an unsafe situation as well as other impacts. Commissioner Wintzer thought one alternative would be to define a window well with a specific height requirement.

Planner Astorga pointed out that the Code did not specify a maximum height of a window well. Vice-Chair Thomas agreed and felt it was open to interpretation. He requested clarification regarding window wells.

Planner Astorga understood that Commissioner Wintzer had requested a diagram of the flat roof/green roof and how it fits into a gable roof. Vice-Chair Thomas clarified that the Planning Commission was referring to green roofs and not flat roofs.

Commissioner Hontz referred to the redlined language on page 68 of the Staff report regarding building height. In addition to the items Commissioner Thomas had identified, she asked the Planning Commission to consider removing the language, "finished lowest floor plane." She was concerned that someone could leave the garage floor dirt so it would not be considered a finished floor plan. Commissioner Hontz did not believe the word "finished" made the definition stronger.

Vice-Chair Thomas thought "finished floor" was the elevation of the earth. After further discussion the Commissioners agreed to remove the work "finished" from the sentence. Commissioner Hontz referred to the same paragraph, last sentence, and asked why they were talking about attics as a story. The Commissioners agreed to remove the last sentence.

Commissioner Hontz referred to the second redlined paragraph on page 68 of the Staff report and revised the paragraph to read, "A ten foot minimum horizontal step in the downhill façade is required to take place at a maximum height of 23' from where elevation meets existing grade. An exception is for when the first story is located completely under the finished grade on all sides of the structure. Commissioner Hontz felt it was better to separate what is allowed and what is prohibited for clarity. The Commissioners discussed the revised language and asked Planner Astorga to re-write the language for the next meeting to address some of the issues that were raised. Commissioner Savage requested a visual to help clarify the language.

Vice-Chair Thomas noted that at some point the Planning Commission would have to address separate structures. He believed there would be a tendency for people to pull two buildings apart and have a garage and something else and another structure uphill. The result is the impact of seeing a very tall, large massive structure on lots that are not compatibility with the historic adjacent properties. He asked the Commissioner to begin thinking about how they could approach the issue. He asked the Staff to factor in language that addresses new construction without historic buildings and stops the cascading down the mountainside, regardless of whether the structures are connected.

Planning Manager Sintz stated that in the discussion of whether to define primary roof form and how it is calculated, and because the green roof definition is tied to the primary roof form, she suggested that the Planning Commission direct Staff on how to marry the two together. She offered suggestions on how it could potentially be done. Vice-Chair Thomas was uncomfortable with using a percentage because it becomes mathematical without considering the aesthetics. He suggested that the Staff Architect review primary roof forms and green roofs in terms of their compatibility. Planner Astorga asked if the Commissioners were comfortable with the language as proposed, which added the word

"primary" for clarification. Vice-Chair Thomas was comfortable if the language gives the Staff the ability to look at the design and determine the primary roof and that a smaller roof element on the structure is a lower percentage of area and not a significant dominant roof form. He believed the Planning Commissioner needed to trust the judgment of the Staff

Vice-Chair Thomas recalled from the last meeting that the Planning Commission was comfortable with the 7:12 and 12:12 roof pitch in terms of compatibility in Old Town. However, the proposed language on page 71 of the Staff report provides the caveat of allowing a shallow roof it is more compatible with the historic structure. He thought that was appropriate. Planner Astorga clarified that the process for approval is through the HDDR by the Planning Director.

Commissioner Savage commented on green roofs in the Historic District. He noted that they continually talk about historic precedence and to the best of his knowledge green roofs did not exist in those eras. Commissioner Savage asked if the Historic Preservation Board was willing to integrate green roofs into the design guidelines for renovations of historically significant structures. Planner Astorga replied that the Code already allows a green roof if it is under the required roof pitch. That was added as part of the 2009 amendments. He explained that the intent is to clarify the language in terms of measuring. Commissioner Savage asked how a green roof would impact registering the home on the Historic Register. Planner Astorga stated that green roofs would not be allowed on historic structures. Green roofs would be allowed on new construction in the historic district or on addition to historic structures. He noted that the Code applied specifically to the Historic Residential Districts.

Planner Astorga remarked that several people have asked if they could have a flat roof that is not green but has solar panels. He asked the Planning Commission for input on that scenario. The Commissioners pointed out that the panels would have to be on an angle for sufficient use of the solar. Vice-Chair Thomas stated that solar collectors have been used on various roof pitches and they work in a lot of conditions.

Commissioner Hontz referred to the historic structures analysis on page 71 and the recommendation to add building footprint and building height. She pointed out several negative scenarios that could occur, which was why she did not favor adding the language. rector Eddington pointed out that the language only applies to structures listed on the Historic Sites Inventory. Planning Manager Sintz suggested adding, "designated historic structures." Commissioner Hontz was still uncomfortable adding building footprint and height. Under the current process the Planning Director makes the determination and she preferred to keep that review process.

Planner Astorga explained that the Staff recommended the change because they recognized that not all of the historic structures would comply with the height parameters in terms of the 10' setback. Commissioner Hontz still preferred to keep the process of review and determination by the Planning Director for all structures. She was willing to consider the possibility of only allowing the change for structures under 1500 square feet. Director Eddington stated that the Staff would look at revising the language to address the concerns.

Commissioner Hontz referred to a news article regarding a $1 billion deficit the Jordan School District is facing next year because their Planning Department, Planning Commission and City Council approved more density than what they could accommodate for the number of people it generated. Commissioner Hontz pointed out that what the Planning Commission does matters because the number of people in a house affects the amount of traffic on the roads and the number of children in the schools. Vice-Chair Thomas pointed out that the Jordan School District was the best funded school district in the State of Utah. Unfortunately, they lost a lot of their funding due to the transformation Kennecott and how the money was disbursed. He agreed that growth was also a factor, but it is natural to expect some growth to occur. Commissioner Gross thought it was important to plan around growth expectations.

Director Eddington believed the Staff had enough direction to revise the proposed amendments and incorporate their comments. Commissioner Wintzer thought it would be helpful for the Staff to summarize the comments this evening and email it to the Planning Commission for verification and consensus before they make the revisions.

Assistant City Attorney McLean replied that the Staff could send a summary to the Planning Commission, but the Commissioners could only reply and communicate with the Staff. They could not do a "reply all". Vice-Chair Thomas felt a better approach would be for the Commissioners to visit the Planning Department two at a time to meet with the Staff prior to the next meeting. Vice-Chair Thomas thanked Planner Astorga for his patience throughout this process.

MOTION: Commissioner Hontz moved to CONTINUE the Amendments to Chapter 2 to a date uncertain. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

3. <u>Lots 21-32, Echo Spur – 9 Lot Subdivision</u>
(Application PL-12-01717)

with the language in blue. The Commission concurred that the language in the Annexation Agreement allowed the condition to provide a certain level of Green Building to evolve as the standards evolve. The Commission concurred that Finding of Fact 1e. could be amended to include the language from the Annexation Agreement. The Commission agreed that restricting the language to "LEED Silver" did not allow the project to keep up with the Green Building standards as they evolve.

The Commissioners were opposed to heated driveways. Mr. White indicated that they discussed requiring off-sets to heated driveways, such as additional solar panels, consistent with Condition #49 of the MPD.

The Commissioners and Staff point out findings of fact and conditions of approval that may need to be modified due to the amended plat layout and requested changes. Such as Condition #43 regarding wildlife report update, Condition #55 regarding limits of disturbance and retaining walls for streets, Condition #24 regarding the new soils report, and Condition #59 regarding snow storage restrictions on the actual repository. The applicant stated that some conditions have been address by the revised plat, such as Condition #24 regarding the trail access between Lots 89 and 90. Planner Whetstone commented that Condition #56, which refers to lot numbers of the preliminary plat by Ensign Engineering could be updated to match the new preliminary plat.

The Staff and applicants discussed a schedule for future meetings to keep the process moving forward.

MOTION: Commissioner Strachan moved to CONTINUE the proposed Park City Heights MPD amendments and extension to November 6, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

5. Land Management Code – Amendments to Sections 15-2.104, 15-2.1-5, 15-2.2-4, 15-2.2-5, 15-2.3-5, 15-2.3-6, 15-2.16-5(L), 15-2.16-5(M) & 15-2.16-6 regarding existing historic structures and building height in the HRL, HR-1, HR-2 and RC Districts (Application PL-12-02070)

Planner Astorga reported that the Planning Commission originally discussed the definition of a story during a work session in August 2012. During a Planning Commission meeting in September 2012, the Staff recommended reviewed the interpretation of a story as currently defined in the Land Management Code. At that time the Planning Commission had concerns related to the current building height parameters and how they applied to split-level concepts. It was interpreted that a three story split-level, per the current LMC definition of a story, would qualify as multiple stories adding up to six. The Staff had introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. The Staff offered to work with different scenarios and come back to the Planning Commission with alternatives.

Planner Astorga stated that during the September 2012 meeting the Planning Commission forwarded several items to the City Council for review and possible adoption. However, the Commissioner continued the proposed amendments regarding building height measurement

and story definition to a later date, and requested additional information. On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1 & HR-2) relating to downhill lots. Another group of scenarios regarding uphill lots was presented on February 13, 2013. Planner Astorga noted that the January and February work session discussions were based on the current building height parameters outlined on page 260 of the Staff report.

Planner Astorga noted that currently the LMC defines a story as:

> The vertical measurement between floors taken from finish floor to finish floor. For the top most story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof structure.

Planner Astorga stated that there is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet. After analyzing the impacts of split-levels and multiple split-levels concepts on a standard lot of record, the Staff proposed adding provisions to the LMC related to Building Height which would limit the split-level concept so a project would not contain multiple numbers of splits stepping up or down the hillside.

Planner Astorga referred to the proposed amendment language in red on page 263 of the Staff report. He noted that the amendment deals with the alternate language to replace the maximum three-stories and does not replace the maximum height of 27' measured from existing grade. The proposed language reads:

A structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plan to the point of the highest wall top plat that supports the ceiling joists or roof rafters.

The Staff also recommended adding clarifying language to the ten foot 10' minimum horizontal step. Planner Astorga noted that the current code does not indicate where the step back takes place on a vertical plane. The Staff found that the added language in red at the bottom of page 263 clarifies where the horizontal step should occur. The proposed language reads:

The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty-five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic sites and Historic Districts.

Planner Astorga presented a number of exhibits to show what could occur under the exiting Code and with the proposed changes.

The Staff proposed language under Roof Pitch to clarify green roofs. "A green roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 foot pitch." The Staff proposed adding a provision reflected in red on page 265 of the Staff report. Proposed provision clarifies the required roof pitch for green roofs, as well as adding a specific parameter of measurement. The proposed language reads:

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same structure. A structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including parapets, railings, or similar features.

The Planning Commission discussed split levels and whether or not to place a cap on the number of levels. Planner Astorga noted that when the discussions started in August of 2012 the Planning Commission said they would allow a cap. They needed to let the Staff know if they had changed their minds. He noted that there would be less excavation under the new scenario.

The Commissioners discussed footprint. Commissioner Strachan remarked that the footprint discussion trickles down to plat amendments. Planner Astorga noted that last year three applications proposed the split level concept and none required a plat amendment. Commissioner Strachan remarked that the standard 75' x 25' lot was no longer an issue because of plat amendments.

The Planning Commission discussed window wells that become bedroom space. The Commissioners generally did not like the idea of window wells and thought they should be minimized or restricted. Window wells encourage more livable space which generates more people and more traffic. Planner Whetstone pointed out that the Planning Commission wanted like to encourage more families in Old Town, and families require additional living space.

Vice-Chair Thomas opened the public hearing.

Steve Parker stated that he has a child and he would love to live in Old Town. Mr. Parker suggested that instead of limiting everything the Planning Commission should find better ways to design and create better spaces.

Vice-Chair Thomas closed the public hearing.

The Commissioners were not prepared to forward the proposed amendments to the City Council this evening. They requested that the Staff come back with more information on driveways, restrictions on window wells, particularly in setbacks, and footprint analysis. Vice-Chair Thomas referred to the language on page 263 proposing a 35'maximum height. He thought that should be reduced to 33' in the back and 27' in the front.

Commissioner Wintzer stated that this was a good opportunity to address flat roofs and requested that the Staff come back with language to start the discussion. He suggested the possibility of allowing a percentage of a structure to be a flat roof. Director Eddington noted that flat roofs are already addressed in the Design Guidelines. Commissioner Wintzer pointed out that the Planning Commission needed to have a conversation regarding flat green roofs in Old Town because the Design Guidelines are not in their purview. Vice-Chair Thomas agreed.

Commissioner Strachan thought the Planning Commission should forward the amendments they could agree on and discuss the rest at a later meeting. He was comfortable with the proposed horizontal stepping language on page 263.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC Districts with the proposed language at the bottom of page 263 of the Staff report for a horizontal step at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the proposed language at the top of page 263 of the Staff report, with a revision to change the maximum height from 35 feet to 33 feet at the rear. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Strachan referred to the proposed language on page 265. He was comfortable with the second sentence but he thought the first sentence should be part of the green roof discussion.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the second sentence of the proposed language on page 265 of the Staff report regarding the 30' maximum height for a flat roof. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 11:45 p.m.

Approved by Planning Commission: _____

EXHIBIT G

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TECHNICAL MEMORANDUM

To: Gretchen Milliken, Planning Director
Park City Municipal Corporation, Planning Department
445 Marsac Avenue
Park City, Utah 84060

From: Anne Oliver, Principal Architectural Historian, and Christina Olson, Lead Architectural Historian, SWCA Environmental Consultants

Date: April 26, 2023

Re: **Historic District Design Review for 220 King Road**

OVERVIEW

Historic character is one of four core values outlined in the *Park City General Plan* (Park City Planning Department 2014). Park City's historic character derives from more than 400 historic sites, including two National Register Historic Districts (Park City Planning Department 2023). The Main Street Historic District was listed in the National Register of Historic Places in 1979, and the Mining Boom Era Residences Thematic District, which comprises historically significant residential structures built during the mining boom period of 1872 to 1929, was listed in 1984 (Park City Planning Department 2023).

Park City Municipal Corporation has pursued protection of the City's historic resources through local designations on its Historic Site Inventory and through application of the Design Guidelines for Historic Districts and Historic Sites (Design Guidelines), initially adopted in 1983. In 2009, Park City completed a total update of the regulating documents for the historic districts, including an updated Historic Site Inventory, new Design Guidelines, and amendments to the Land Management Code (LMC). The Design Guidelines were updated again and adopted by Ordinance 2019-06 into the LMC in 2019 and are intended to fulfill policy directives provided in the LMC (Park City Planning Department 2023).

As requested by the Park City Planning Department, SWCA Environmental Consultants has prepared this memorandum to assist the City's Design Review Team in evaluating the proposed new residence at 220 King Road, in the Historic Residential (HR-1) zone, for compliance with the Design Guidelines (Figures A-1 and A-2). Specific LMC requirements associated with building height (LMC 15-2.2-5) and development on steep slopes (LMC 15-2.1-6) relevant to the HR-1 district and the proposed residence at 220 King Road, are outside the purview of the Design Guidelines and are being addressed separately by the Planning Department.

HISTORIC DISTRICT DESIGN GUIDELINES REVIEW

Park City's Design Guidelines are intended to protect the historic character of Park City. As identified in LMC 15-2.2-1, the purpose of the HR-1 zone regarding residential infill is to:

- preserve present land uses and character of the Historic Residential Areas of Park City;

- encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;
- encourage single family Development on combinations of 25' x 75' Historic Lots;
- define Development parameters that are consistent with the General Plan policies for the Historic core; and
- establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment. (Park City 2000)

Concerns with the proposed residence at 220 King Road relate primarily to the "construction of Historically Compatible Structures that contribute to the character and scale of the Historic District," particularly the scale of the residence and its component elements. While the Design Guidelines support the proposed industrial design aesthetic inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential scale and do not support the construction of industrial-scale residential buildings within residential districts. The compliance of proposed massing and glazing patterns with the Design Guidelines is an additional concern. Each Design Guideline pertinent to these concerns is provided below, followed by an analysis of the design compatibility of 220 King Road.

15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts

A. Universal Guidelines

15-13-8 A-4: *New infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot.*

The proposed materials and features of the residence at 220 King Road are compatible with industrial designs in and around Park City. However, the size, scale, and proportions of the residence and its component elements, including the shed roof and cantilevered flat roof, are reminiscent of a large-scale industrial building rather than a residential building, which is not compatible with the HR-1 zone. While projecting portions of the building on the downslope elevation provide some modulation of mass, additional size reduction or modulation of the building mass itself (as well as its roofs) is required to reflect the size and massing of historic residential buildings, which were typically built on 25-foot-wide lots in this zone (see Figures A-1 and A-2).

15-13-8 A-6: *Exterior elements – roofs, entrances, eaves, chimneys, porches, windows, doors, steps, garages, etc. – of the new infill residential building shall be of human scale and shall be compatible with neighboring Historic Structures.*

The proposed residence at 220 King Road will span multiple lots, with a single shed roof also spanning multiple lots. While the use of an industrial mining aesthetic is encouraged, the scale of the roof and eaves should be compatible to the scale of historic residences in the HR-1 zone, not to an industrial mining building. To comply with this guideline, the wide shed roof would need to be divided into three to five modules to achieve the appropriate residential scale and the cantilevered flat roof would need to be reduced in size.

15-13-8 A-7: *Scale and height of new infill residential buildings shall follow the predominant pattern and respect the architecture of the Streetscape or character area with special consideration given to Historic Sites.*

The proposed infill references the industrial buildings of the Silver King Mine but the guidelines require that infill residential buildings maintain a historic residential scale appropriate to the historic district or zone in which they are being constructed. The proposed residence at 220 King Road will be on a relatively isolated site and will not be directly adjacent to any Historic Sites. In the absence of a streetscape lined by other buildings, the predominant pattern of the historic district or residential zone applies. The proposed design does not comply with this guideline.

15-13-8 A-8: *Size and mass of a structure shall be compatible with the size of the site so that lot coverage, building bulk, and mass are compatible with Historic Sites within the Streetscape or character area.*

The proposed residential building at 220 King Road will span multiple lots and, while its size is compatible with the size of the lot, its building bulk and mass are not compatible with Historic Sites just downslope in the HR-1 zone. Further reduction or modulation of massing, both of the residence and its shed and cantilevered flat roofs, is required to be compatible with the building bulk and mass of historic residences in the HR-1 zone.

15-13-8 A-10: *New infill residential buildings shall reinforce visual unity within the context of the Streetscape or character area. The specific context of each Streetscape or character area is an important feature of the Historic District. The context of each Streetscape or character area shall be considered in its entirety, as one would see it when standing on the street viewing both sides of the street for the entire length of the Streetscape or character area. Special consideration should be given to adjacent and neighboring Historic Sites in order to reinforce existing rhythms and patterns.*

The proposed residence sits on the hillside above much of the HR-1 zone, in a setting where industrial buildings were once common. An industrial design aesthetic is appropriate in this area; however, this and many other Design Guidelines explicitly require that new infill residential buildings be compatible in mass and scale with historic residential buildings to reinforce visual unity in the historic district and/or residential zone. The prominent and highly visible location of 220 King Road only increases the importance of complying with this and other guidelines to reinforce visual unity and maintain existing rhythms and patterns of the nearby streetscapes. Because the guidelines are so clear on this point, a variance from the Board of Adjustment would be required to permit the design as proposed.

B. Specific Guidelines (Primary Structures)

Mass, Scale, and Height

15-13-8 B-2a (1): *The size and mass of a new residential infill building in relation to open spaces, shall be visually compatible with adjacent historic buildings and historic structures in the surrounding Streetscape or character area.*

The proposed residence at 220 King Road is sited on an open slope above much of the HR-1 zone. This provides some flexibility in allowing greater size because of the building's relation to more open space. However, the size of the building and its component elements must be broken into distinct masses more reminiscent of the size and mass of historic buildings in the zone to achieve visual compatibility.

15-13-8 B-2a (3): *Historic height, width, and depth proportions that are important in creating compatible infill and maintaining the historic mass and scale of the Streetscape or character area.*

The height, width, and depth of the proposed residence at 220 King Road are of an industrial scale and not compatible with the residential streetscapes in Park City's historic districts. As noted above, while the large lot and open hillside allow for greater building size, it is necessary to break up the massing and roof forms to be more similar to historical residential massing and scale to achieve compatible infill.

15-13-8 B-2a (5): *The perceived scale of new buildings shall respect the scale established by historic buildings in the character zone. Abrupt change of scale in the character zone is inappropriate, especially when a new, larger building would directly abut smaller historic buildings.*

Both the actual and perceived scale of the proposed residence is significantly greater than a typical historic residence in the HR-1 zone and there are no historic large-scale industrial buildings nearby or anywhere in the zone that establish a precedent for large-scale infill. As stated above, the reference to the industrial aesthetic of the Silver King Mine buildings is encouraged in the design of the structure, but those historic mining buildings are neither in the HR-1 zone nor visible from it. For these reasons, the perceived scale should reflect that of a historic residential building rather than a historic industrial building. Because the proposed residence does not directly abut any historic buildings, and because it is sited on a large lot surrounded by open space, its greater size can be accommodated within the HR-1 zone. However, to comply with other guidelines, the perception of that size must be managed by dividing the building into modules that reflect the massing of a typical historic residence on a 25-foot-wide lot. Breaking up the roof form in a similar fashion would also be necessary.

15-13-8 B-2a (6): *A larger building shall be divided into 'modules' that reflect the mass, scale, proportions, and size of historic buildings within the Streetscape or character area. Modules shall be clearly expressed throughout the entire building and a single form shall remain the dominant element so the overall mass does not become too fragmented. To minimize the scale perceived from the primary public right-of-way, stepping down the mass of a larger building shall be considered.*

See above discussion under multiple guidelines about using modules to break up large masses and manage the perception of scale for residences larger than seen historically. Stepping the mass of these modules back into the hillside, rather than projecting their mass forward from a recessed basement level as currently proposed, can also help manage the perception of scale.

15-13-8 B-2a *(7): Larger-scaled projects shall also include variations in roof height in order to break up the form, mass and scale of the overall structure.*

The proposed design for the residence at 220 King Road incorporates two flat roofs (one that serves as a deck and one that is cantilevered over that deck) and one expansive shed roof. While these roofs vary in height, which helps to break up the form, mass, and scale of the residence, the modules they create are still over-scaled relative to historic residences in the HR-1 zone. Further reduction or modulation of massing, of both the residence and its shed and cantilevered flat roofs, is required to meet this guideline.

15-13-8 B-2a (8): *Buildings constructed on lots greater than 25 feet wide shall be designed so that the facades visible from the primary public right-of-way reinforce the rhythm along the street in terms of traditional building width, depth, and patterns within the façade.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that the modules created to address mass and scale on the downslope (rear) side of the residence will carry through to the opposite (front) side and vice versa.

15-13-8 B-2a (9): *Regardless of lot frontage, the primary façade shall be compatible with the width of surrounding historic buildings. The greater width of a building shall be set back significantly from the plane of the primary façade. The width of a new building shall not appear to be visibly greater than historic buildings in the Streetscape or character area. Modules on a primary façade should generally not exceed eleven (11) feet to twenty-five (25) feet in width.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that historically sized modules of approximately 11’ to 25’ in width, with attendant setbacks from the primary wall plane of the façade, will be created on the uphill (front) side of the residence and carried through to the downslope (rear) side.

15-13-8 B-2a (10): *When the overall length of a new structure is greater than seen historically, the design shall employ methods—changes in wall plane, roof heights, use of modules, etc. to diminish the visual impact of the overall building mass, form and scale.*

The proposed residence at 220 King Road will span multiple lots and its overall length is much greater than seen historically. Therefore, further variation in wall planes and roof heights to create more historically sized modules is required to diminish the visual impact of the overall building mass, form, and scale.

Windows

15-13-8 B-2d (1): *Ratios of solid-to-void that are compatible with surrounding historic buildings shall be used. Large expanses of glazing are inappropriate on residential structures. Large glass surfaces shall be divided into smaller windows that are in scale with those seen historically. To maximize views, non-historic window patterns may be considered on tertiary facades; however, the overall ratio of solid-to-glass shall still be respected.*

The large, multi-pane windows and fenestration patterns of the proposed design reference historic mine buildings, which incorporated significant amounts of glazing to maximize natural light and illuminate interior workspaces (Figures A-3 and A-4). Typically, long, nearly continuous, relatively narrow bands of windows were present in clerestories that were separated by pitched roofs; glazing in the exterior corrugated-metal walls was also extensive. Hence, the use of an industrial mining aesthetic allows for a greater proportion of void to solid in the proposed residence than would be appropriate with a more traditional residential design. However, glazing in historic exterior walls always had a base of solid wall and never consisted of floor to ceiling windows. In the proposed design, the metal panels at some window bases recreate this pattern, but the floor-to-ceiling windows present elsewhere are inconsistent with industrial patterns and create an incompatible solid-to-void ratio.

15-13-8 B-2d (2): *Windows shall be historic size and shall relate to the human scale of the Historic District. Windows shall be proportional to the scale and style of the building and shall be compatible with the historical buildings in the Historic District.*

See above analysis. With the exception of the floor-to-ceiling windows, the larger-scaled windows are appropriate to the scale and style of the building.

15-13-8 B-2d (3): *The placement and grouping of windows shall be similar to those seen historically.*

See above analysis. With the exception of the floor-to-ceiling windows, the placement and grouping of windows is similar to that seen on historic mining buildings in Park City.

Roofs

15-13-8 B-1e (1): *Roofs of new residential infill buildings shall be visually compatible with roof shapes and orientation of surrounding Historic Sites and adjacent buildings that contribute to the character of the Historic District. Sloping of roof forms, such as gable, hip, and shed, should be the dominant roof shapes. Roofs composed of a combination of roof planes, but simple in form, are also encouraged. Roofs shall be in scale with those on historic structures.*

The roof shapes (flat and shed) and their orientations are generally compatible with surrounding Historic Sites, as are their simple forms. However, the guidelines are clear that the perceived scale of larger residential buildings (on lots wider than 25') should be managed by breaking them into smaller masses or modules that reflect historic residential massing, including their roofs. There is no precedent for exceptions when an industrial aesthetic is used for a residence, or for residences that may be in historically industrial areas. To comply with the guidelines, the roof could be broken into a horizontally stepped series of shed roofs (3 to 5 of them, with differences in roof height of a few feet or more to create shadow lines) that shelter their corresponding modules, or a mix of shed and flat. The cantilevered flat roof would also need to be reduced in scale.

CONCLUSION

In summary, while the Design Guidelines support the industrial aesthetic of the proposed residence at 220 King Road, which was inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential massing and scale, and the proposed design does not comply. The proposed floor-to-ceiling windows are also out of compliance. Recommendations for revisions to achieve a design more compatible with the guidelines are incorporated in the above analyses.

REFERENCES CITED

Historic American Engineering Record (HAER)

1971 *MINE SHAFT BLDG FROM W. - Silver King Mining Company, Mineshaft & Main Hoist, Woodside Gulch, Park City, Summit County, UT (Photos from Survey HAER UT-22-A).* Available at: https://www.loc.gov/resource/hhh.ut0090.photos/?sp=2. Accessed April 21, 2023.

Park City Planning Department

2000 Municipal Code 15 Land Management Code. Available at: https://parkcity.municipalcodeonline.com/book?type=ordinances#name=15-13_Design_Guidelines_For_Historic_Districts_And_Historic_Sites. Accessed April 21, 2023.

2014 *Park City General Plan*. Available at: https://www.parkcity.org/departments/planning/general-plan. Accessed April 21, 2023.

2017 Municipal Code 15-13 Design Guidelines for Historic Districts and Historic Sites. Available at: https://parkcity.municipalcodeonline.com/book?type=ordinances#name=15_Land_Management_Code. Accessed April 21, 2023.

2023 Historic District. Available at: https://www.parkcity.org/departments/historic-district. Accessed April 21, 2023.

ATTACHMENT A

Figures

Figure A-1. Rendering of proposed residence at 220 King Road, downslope (rear) elevation, dated April 18, 2023.

Figure A-2. Rendering of proposed residence at 220 King Road, oblique view (left side and rear elevations), dated April 18, 2023.

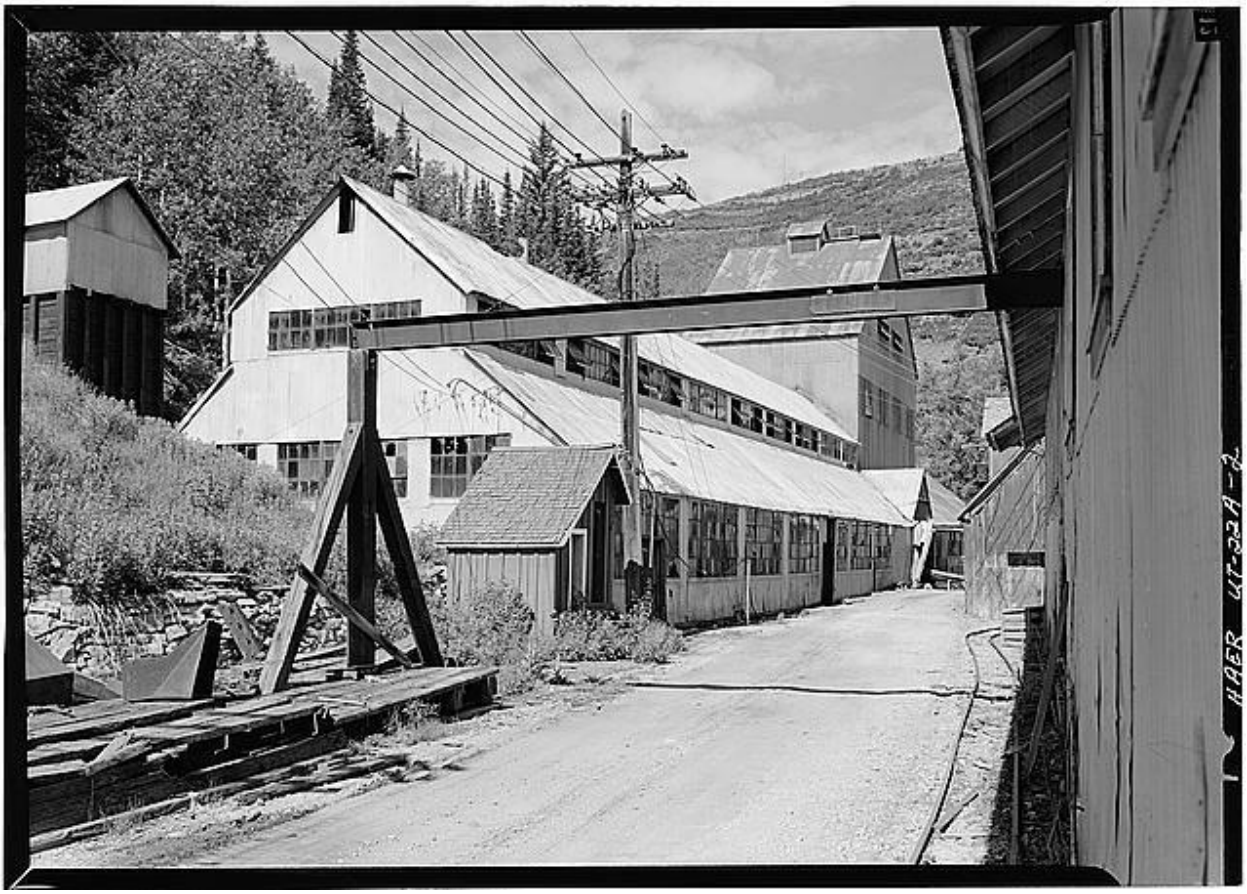

Figure A-3. Silver King Mine Hoist House (view from west), Woodside Gulch, Park City, Summit County, UT (HAER 1971). Note the complex massing of the building and its stepped and varied roofs over the component masses, as well as the multi-pane steel windows, window heights, proportion of solid wall to window openings.

Figure A-4. Example of industrial glazing pattern, Silver King Mine building. Note multi-pane steel windows, window heights, and proportion of solid wall to window openings.

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BEFORE THE PARK CITY APPEAL BOARD

DAVID BENNETT, ET. AL., Appellants, v. PESKY PORCUPINE LLC, a Utah limited liability company Appellee.	**BRIEF IN OPPOSITION TO SUPPORTERS' PURPORTED APPEAL** **Appeal of Approvals for Application Nos. PL-22-05318, PL-22-05319, PL-23-05571**

Pesky Porcupine LLC ("**Applicant**") the land use applicant and owner of the real property located at 220 King Road, Park City, Utah (the "**Property**") respectfully requests that the Appeal Board deny the appeal of David Bennett, David Constable, Ed Desisto, Ginger Tolman, James Doilney, John Vrabel, Martiena Lewis, and Nicholas Schapper (collectively, the "**Supporters"** and the appeal itself, the **"Supporters' Appeal**") for the reasons discussed below.

By addressing the substance of the issues herein, the Applicant is not waiving its claim that these "appellants" do not have legal standing. Nor is the Applicant in any way acknowledging that the Hermanns' raised these issues when they did not. The Applicant's arguments as to why the Appeal Board should completely ignore the "appellants'" arguments because they lack standing is set forth in a separate brief.

I. Background

On May 21, 1985, Sweeney Land Company submitted an application to Park City ("**City**") for a Large-Scale Master Planned Development commonly known as the Sweeney Master Planned Development ("**Sweeney MPD**"). The Sweeney MPD was approved on December 18, 1985, and subsequently amended on or about October 14, 1987, and December 30, 1992. Consistent with the Sweeney MPD, the City Council adopted Ordinance No. 95-50 approving the Treasure Hill Subdivision Phase 1 plat, creating four single-family lots within the Sweeney MPD. The Property is Lot 2 on that subdivision plat. The City Council subsequently approved the Lot 2, Phase 1 Treasure Hill Subdivision Plat, which amended the original plat ("**Lot 2 Plat**").

There are two historically insignificant and non-conforming houses currently on the Property that the Applicant intends to demolish and construct a single impeccably designed house in their place ("**Proposed Home**"). To facilitate the approvals for the Proposed Home, the Applicant submitted applications to the City for a plat amendment ("**Amended Plat**"), single family home conditional use permit ("**House CUP**"), and a steep slope conditional use permit ("**Steep Slope CUP**" and together with the House CUP and Amended Plat, the "**Approvals**").

On February 14, 2024, the Park City Planning Commission ("**Planning Commission**") held a public hearing and approved the Amended Plat, the House CUP, and the Steep Slope CUP. Thereafter on February 21, 2024, the Planning Commission issued its Findings of Fact and Conclusions of Law for the Approvals, a copy of which is attached hereto as Exhibit A ("**Final Action Letter**"). The vast majority of the neighboring residents support the Proposed House, and the Supporters are a vocal minority. *See* Map of Neighbor Support, attached hereto as Exhibit B.

On or about March 1, 2024, the Supporters appealed the Approvals for the reasons stated in the petition attached to each Supporters' appeal applications as Attachment 1 ("**Supporters' Petition**"). The Supporters have not met their burden to prove that the Planning Commission erred. Thus, the Appeal Board should affirm the Planning Commission's decision.

II. Standard of Review

On appeal, the Supporters have "the burden of proving that the land use authority erred." Park City Land Management Code ("**LMC**") § 15-1-18.G; *see also* Utah Code § 10-9a-705. In making this determination, "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." LMC § 15-1-18.G. In other words, the Supporters must show that the applicable land use regulations unambiguously support their arguments, and that the Planning Commission's interpretation was clearly wrong.

The Appeal Board must review factual matters de novo, "without deference to the land use authority's determination of factual matters." LMC § 15-1-18.G. The Supporters' Petition only raises purely legal questions and thus it is unnecessary and would be improper for the Planning Commission to revisit any factual matters.

III. Analysis

A. The Planning Commission Did Not Error in Granting the Approvals and thus Supporters' Appeal Should be Rejected.

On appeal, the Planning Commission's decision is presumed correct unless the Supporters can prove that the Planning Commission erred. *See* Utah Code § 10-9a-705; LMC § 15-1-18.G. The Appeal Board must "interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Utah Code § 10-9a-707(4)(b); LMC § 15-1-18.G. In other words, any ambiguities in interpreting the City's land use regulations must be resolved in the Applicant's favor. *See Staker v. Town of Springdale*, 2020 UT App 174, ¶ 17, 481 P.3d 1044. This is because land use regulations are "in derogation of a property owner's use of land . . . [and] any ordinance prohibiting a proposed use should be strictly construed in favor of allowing the use." *Carrier v. Salt Lake Cty.*, 2004 UT 98, ¶ 31, 104 P.3d 1208 (*abrogated on other grounds by Outfront Media, LLC v. Salt Lake City Corp*., 2017 UT 74, 416 P.3d 389).

Supporters have not shown that the Planning Commission erred in granting the Approvals. Indeed, the Supporters' arguments illustrate a fundamental misunderstanding of the LMC, the Sweeney MPD, and state law. The Planning Commission, however, correctly understood and interpreted the LMC, Sweeney MPD, and state law in granting the Approvals.

1. *The Property has a Vested Right to the Sweeney MPD and that Right Preempts Later Changes to the LMC.*

Vested rights prevent the retroactive application of changes in zoning or land use law. *See Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390–91 (Utah 1980). The purpose of vested development rights is to foster predictability, promote fundamental fairness, and prevent excess zoning estoppel litigation. *Id.* In Utah, development rights vest at the time an applicant submits a complete land use application. *See id.* at 396; *see also* Utah Code § 10-9a-509(1)(a)(ii) ("[a]n applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application . . . .").

The Property is located within the Sweeney MPD and is thus vested under the approvals associated with the Sweeney MPD. Those approvals contemplated that each home within the Sweeney MPD would be approved individually using a small scale MPD approval process. *See, e.g.*, Plat Note #9 of the Lot 2 Plat. That process has been replaced with the conditional use permit process because the City's ordinances no longer include small scale MPDs.

Section III (1) of the Sweeney MPD states in part that "[a]t the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinance in effect at the time, *in addition to ensure conformance with the approved Master Plan*." (emphasis added). Thus, the Sweeney MPD controls as to items addressed by the Sweeney MPD, and the LMC controls as to items not addressed by the Sweeney MPD. Such a reading is consistent with Utah's well-established statutory interpretation principle that the specific provision controls over the general. *See, e.g., South Utah Valley Electric Service Dist. v. Payson City*, 2021 UT 68, ¶ 43, 502 P.3d 272 ("when a specific statute conflicts with a more general provision, courts typically follow the directions of the more specific statute because the

specific provision comes closer to addressing the very problem posed by the case at hand is thus more deserving of credence.") (internal quotation marks omitted). That reading is also consistent with Utah's vested right law, as well as the City's ordinances.

At the February 14th meeting, the City's attorney, Mark Harrington, confirmed the foregoing principles when he noted that the Sweeney MPD applies in place of the LMC unless "there's an affirmative application to substantively modify the [Sweeney] MPD . . . ." *See* Transcript at p. 127, ll. 3–4. Put differently, the Property is vested under the Sweeney MPD unless a "proposed change[] rise[s] to the level of [being] incompatible [with the] expectation that was originally approved . . . ." *See* Transcript at p. 127, ll. 24–25. Mr. Harrington's statements are very persuasive given that he is the person most familiar and knowledgeable about the Sweeney MPD and the vested rights flowing therefrom.

The Planning Commission correctly recognized the Property's vested rights in the Sweeney MPD and applied the Sweeney MPD when applicable. All of the Supporters' arguments critiquing the House CUP are premised upon a fundamental misunderstanding of the Property's vested rights in the Sweeney MPD and the Planning Commission's authority.

2. *The Planning Commission was Authorized to Amend the Subdivision Plat, and the Amended Plat is Consistent with the Sweeney MPD.*

The City previously approved subdivision plats to facilitate development consistent with the Sweeney MPD. For example, the Lot 2 Plat contains building height limitations imposed within the Sweeney MPD. The Lot 2 Plat also contains restrictions not expressly found within the Sweeney MPD, but that the City deemed necessary to carry out the purpose and intent of the Sweeney MPD. One such example is the 3,500 square foot restriction on building footprints for single-family homes. At the Planning Commission hearing, Mr. Harrington confirmed that plat amendments are appropriate to "clarif[y] prior compliance issues" within the Sweeney MPD. *See* Transcript at p. 146, ll. 17–18. The Planning Commission, consistent with this established pattern, approved the Amended Plat.

Pursuant to LMC § 15-7-7, the Planning Commission may "resolve at a public hearing any proposed . . . amendment of a Subdivision plat . . . as provided in Section 10-9a-608 through 10-9a-611 of the Utah Code as amended." The Planning Commission may approve a plat amendment if it finds that "(a) there is good cause for the vacation or amendment; and (b) no public street or municipal utility easement has been vacated or amended." Utah Code § 10-9a-609(1); *see also* LMC § 15-7.1-3.B. The Appeal Board is not tasked with deciding whether there was good cause for the plat amendment, but instead must only determine whether the Planning Commission made a legal error in reaching its good cause conclusions. *See* Utah Code § 10-9a-705. Good cause is defined as "[p]roviding positive benefits and mitigating negative impacts" and includes "providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community." LMC § 15-15-1.

Here, the Planning Commission correctly determined that no public street or municipal utility easement was affected by the Amended Plat and there was good cause for the amendment.

The Amended Plat is different from the Lot 2 Plat it two ways. First, the Amended Plat adds clarifying language to the Lot 2 Plat to harmonize the same with the intent of the Sweeney MPD. Second, the Amended Plat reduces and shifts the building area on the Property, thus reducing the Proposed Home's visual impact.

There was good cause to include the modified plat notes on the Amended Plat. For example, modified Plat Note #2 clarifies that carport, mechanical space, parking areas and living space this exist below the existing grade are not counted towards the applicable building footprint calculation. There is good cause to support this amendment because the Sweeney MPD intended to limit the visual intrusiveness of development in the Sweeney MPD by imposing a building footprint limitation. Subterranean improvements have little to no effect visually on surrounding uses and are analogous to the other items not counted towards a building's footprint identified in the Lot 2 Plat. The amended Plat Note #2 clarifies the Sweeney MPD's intent and makes it so the Lot 2 Plat notes allow for underground uses similar to other homes in the Sweeney MPD.

Likewise, the modified Plat Note #5 clarifies that certain dwelling elements such as maintenance areas, access areas, and minor light features can exceed the building height limitation by a couple of feet, and also clarifies that building height shall only be measured as outlined in the Amended Plat. The good cause supporting this amendment is that it clarifies the Sweeney MPD's height limitation calculation and harmonizes the building height limit for access and light features to be consistent with prior plat notes. Most of the remaining plat note changes impose additional restrictions on development to minimize visual intrusions on adjacent users. There is good cause for the amended plat notes.

There was also good cause to support the reduction and shift of the building area identified on the Amended Plat. Specifically, the Lot 2 Plat's building area was approximately 490 square feet larger than the Amended Plat's building area. The Amended Plat reduces the potential structure size that can be built on the Property thereby reducing the visual impact on adjacent users. The shift in building area facilitates the construction of a single-family residence to replace the existing two non-conforming structures on the Property, and the shift mitigates visual impact. This benefits the entire City as it replaces two non-conforming uses currently used as short-term rentals with a single residence to be occupied by a year-round resident.

The Planning Commission concluded that Plat Amendment satisfied the City's good cause requirements by:

- Resolving existing non-conformities by removing the two-nonconforming structure on the Property in place of a single, conforming structure.
- Addressing issues related to density by reducing two dwelling units on the Property to a single dwelling-unit and reducing the Property's buildable footprint.
- Preserving the character of the neighborhood and of Park City by modifying the Lot 2 Plat to be more consistent with the purpose and intent of the Sweeney MPD.
- Furthering the health, safety, and welfare of the community by decreasing the number of unknown persons in the community that occupy the Property's current short-term rentals and replacing the same with a long-term resident.
- Promotes excellent and sustainable design by reducing the visual impact of the Property's development through reducing the Property's potential buildable area.

- Providing a fire turnaround in the underground parking area for a hill side that has a significant fire risk.

See Final Action Letter, at Pgs. 4–5, 11. These findings support the Planning Commission's Plat Amendment approval and further the purpose and intent of the Sweeney MPD. In short, the Amended Plat recognizes and applies the Property's vested rights under the Sweeney MPD.

3. *The Proposed Home Complies with the Sweeney MPD's External Height Requirements.*

Plat Note #4 of the Lot 2 Plat prior to the amendment memorializes the external building height requirements of the Sweeney MPD as follows:

> [b]uilding height shall be measured from existing grade to the top of the flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty-five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty-eight (28) feet for flat roofs and thirty-three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, between floor levels.

The Amended Plat confirms that the above standards remain as to height and that the existing exception for access and mechanical features also applies to light features so long as the light feature is no greater than 24' feet in length. This is consistent with the Sweeney MPD's intent incorporated into prior plat notes.

Here, the maximum height of the Proposed Home's pitched roof is 30' which complies with the Amended Plat's height restriction. Additionally, there is a light feature that is less than 24' in length that extends 3' above the roof and is therefore also compliant with the Amended Plat. This feature was added to the design at the Planning Commission's request to break up the roofline. There is no question that the Proposed Home complies with the Sweeney MPD as memorialized in the Amended Plat.

The Supporters ignore the clear height limitations imposed by the Sweeney MPD in favor of the height limitations in the LMC. Supporters claim that if there is a conflict between the Sweeney MPD and the current LMC, the more restrictive requirement controls. This is not the law in Utah. As noted above, once vested rights attach to a property, land use ordinances that are adopted after the vested rights attach cannot be retroactively enforced. *See Western Land Equities, Inc.* 617 P.2d at 390–91 (Utah 1980); Utah Code § 10-9a-509. With respect to Proposed Home's exterior building height, the LMC is inapplicable. The Supporters' contrary interpretation ignores Utah's vested rights law and the whole purpose of the Sweeney MPD.

4. *The Proposed Home Complies with the Sweeney MPD's Internal Height Requirements*.

The Sweeney MPD and Amended Plat impose building height restrictions based on existing grade and thus are only applicable to a building's exterior. In approving the Sweeney MPD, the City chose not to limit interior height. This has been clarified by the Amended Plat

which states that building height is measured according to the Amended Plat. In fact, the City chose not to regulate interior heights anywhere in the City until November 21, 2013, decades after the Sweeney MPD approval. The Proposed Home complies with the Sweeney MPD because it imposed no interior height restriction.

Nevertheless, the Proposed Home complies with the LMC. LMC § 15.2.2-5(A) states that a "[s]tructure shall have a maximum height of thirty-five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters." The phase "lowest finish floor plane" is not a defined term and presumably means the floor plane of the lowest finished floor in the Proposed Home. If there is any ambiguity as to the meaning of "lowest finish floor plane" such ambiguity must be resolved in the Applicant's favor. *See* Utah Code § 10-9a-306(2) ("If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application."). Here, the interior height measured from the lowest finished floor plane to the wall top plate is 31' which is less than 35' restriction found in LMC § 15.2.2-5(A).

Supporters argue that the Sweeney MPD should be ignored and that the word "finish" in "lowest finish floor plane" should be also ignored. By ignoring the Sweeney MPD and the actual text of LMC § 15.2.2-5(A), Supporters conclude that the Proposed Home's interior height is 53.5 and thus not compliant with LMC § 15.2.2-5(A). This is obviously wrong because the Sweeney MPD height restriction applies only to the Proposed Home's exterior, and to the extent LMC § 15.2.2-5(A) applies, each word was used intentionally and must be given effect. *See, e.g., Alliant Techsystems, Inc. v. Salt Lake Bd. of Equalization, 2012 UT 4, ¶ 21, 270 P.3d 441.* (the appeal authority must presume that the legislative body "used each word advisedly and read each term according to its ordinary and accepted meaning."). In other words, the appeal authority cannot ignore the word "finish" in LMC § 15.2.2-5(A) to reach the conclusion suggested by the Supporters. In sum, the only way to agree with the Supporters' argument is to ignore the Property's vested rights and ignore the LMC's plain language.

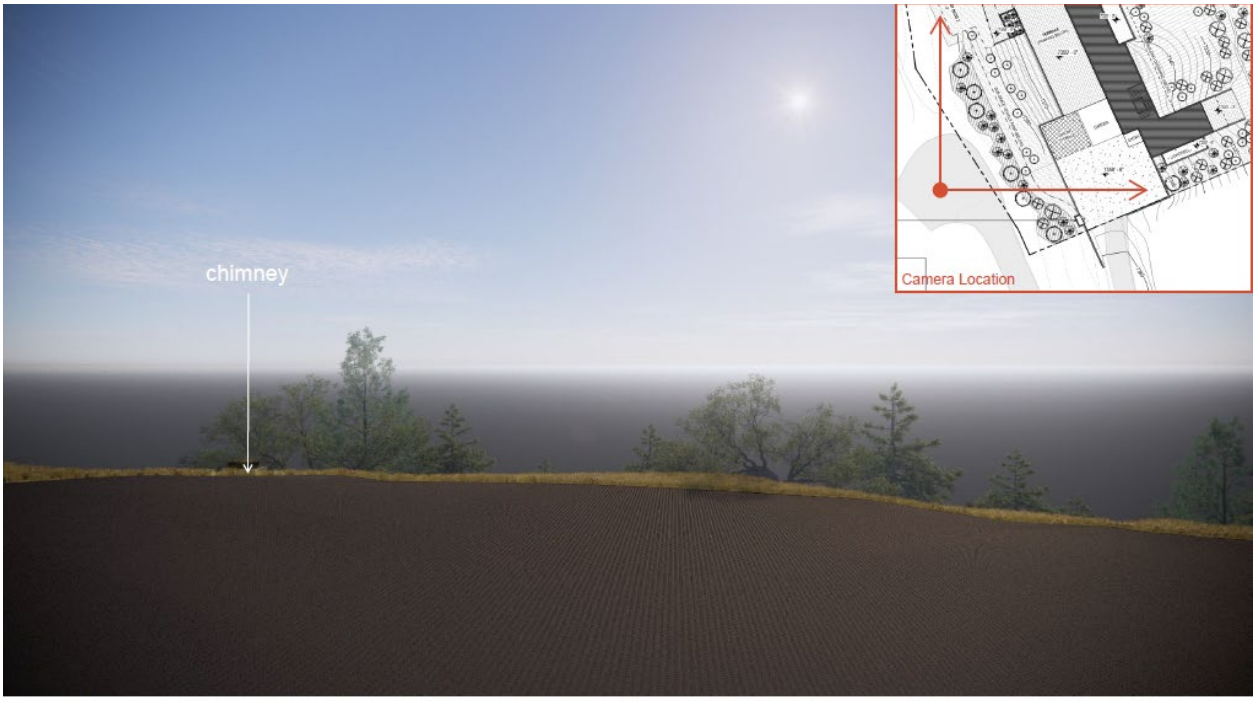
5. *The Proposed Home Complies with the Sweeney MPD's Roof Pitch Requirements.*

The Sweeney MPD contemplated a variety of roof pitches and did <u>not</u> impose a roof pitch requirement. To wit, the Sweeney MPD and Amended Plat presumed that residences would have a variety of roof pitches such as flat roofs and pitched roofs because it tied exterior building height to the roof pitch type. The Sweeney MPD did not limit roof pitch and the City also did not regulate roof pitch until 2009—decades after the Sweeney MPD vested. Thus, the Sweeney MPD contemplated a variety of roofs and there was no intent to restrict roofs to a certain pitch range. The Proposed Home was not required to comply with the LMC's roof pitch requirement as it was vested under the Sweeney MPD.

Even if the LMC's roof pitch requirements applied, the Proposed Home's roof pitch does not violate those provisions. Supporters argue that entire roof of the Proposed Home must be pitched between "seven: twelve (7:12) and twelve: twelve (12:12)." *See* Supporters' Petition, at 5. This is not what the LMC requires. LMC § 15-2.2-5 states that "[t]he roof pitch of a **Structure's Contributing Roof Form** shall be between seven: twelve (7:12) and twelve: twelve (12:12) . . . ." (emphasis added) The term "Contributing Roof Form" means "[t]he most visually prominent roof

form viewed from the primary public right-of-way. Contributing Roof Form is determined by a three-dimensional visual roof analysis." *See* LMC § 15-15-1.

Here, the Proposed Home has no Contributing Roof Form because the Proposed Home's most prominent roof is not visible from a primary public right-of-way. Specifically, there is no public right-of-way immediately adjacent to the Property as the Property is accessed via a privately-owned section of King Road. The Proposed Home's roof is not visible from this private section of King Road as depicted in the image below. The publicly owned section of King Road is located approximately 1,000 feet away from the Proposed Home, and the Proposed Home is not visible from the public section of King Road given the steep hillside adjacent to the road as depicted in the image below. Likewise, even if Old Town Park City or another public right-of-way located in Old Town Park City is considered the primary public right-of-way for purposes of identifying a structure's contributing roof form, the Proposed Home's roof is not visible from that area, as depicted in the image below. In short, the Proposed Home's roof pitch is not an issue given the Property's contour and the Proposed Home's design. The Proposed Home has no Contributing Roof Form and in turn LMC § 15-2.2-5 is inapplicable.



Eye Level View from King Road

Eye Level View from King Road

Eye Level View from City Hall

Even if the Supporters could show a technical violation of LMC § 15-2.2-5, they cannot show how they are harmed by the Proposed Home's roof pitch. *See Potter v. South Salt Lake City*, 2018 UT 21, ¶ 33, 422 P.3d 803 (holding that an appellant must show "proof of prejudice" when challenging a land use decision). Specifically, the Proposed Home's roof pitch is significantly less visually intrusive than a 7:12 or 12:12 roof pitch. It is ironic that Supporters complain about the Proposed Home's roof pitch because it actually benefits the Supporters by minimizing the Proposed Home's visual impact.

The Planning Commission correctly decided that the Proposed Home's 3:12 pitched roof is consistent with the Sweeney MPD and mitigates the house's visual impact on the neighbors. The Planning Commission had authority to make this determination as part of its conditional use permit review that was required by the Sweeney MPD.

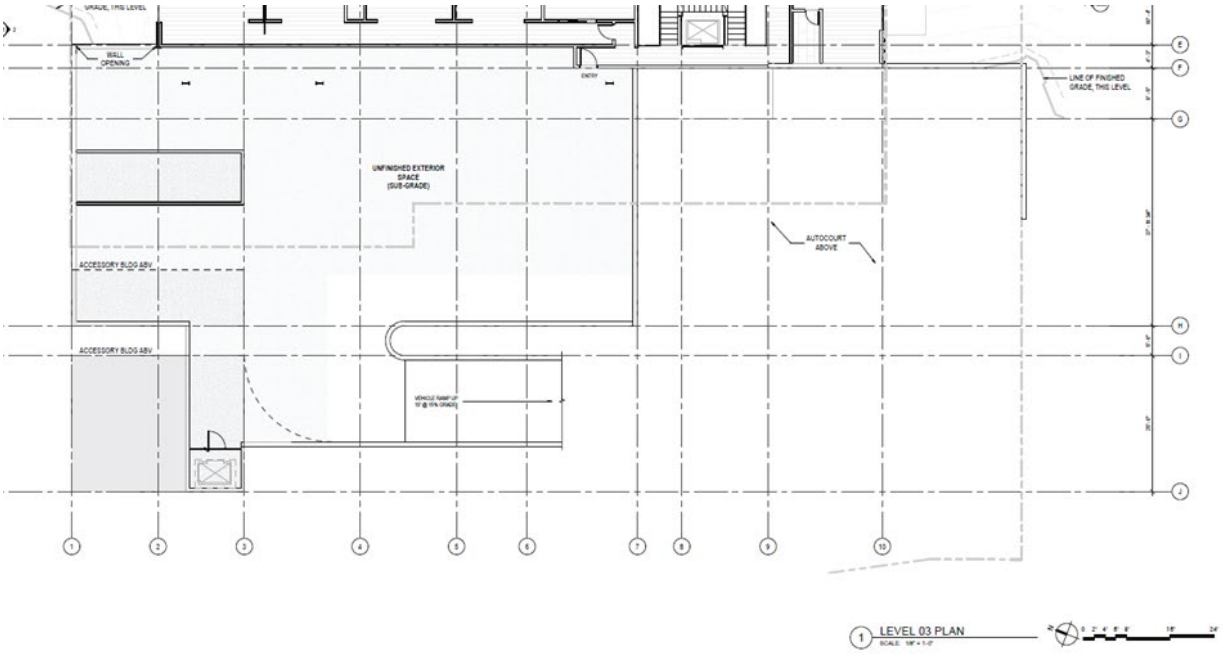
6. *The Proposed Home Complies with the Sweeney MPD's Building Footprint Requirements.*

The Amended Plat limits the Proposed Home's footprint to 3,500 square feet and explains what is and is not included in the footprint calculation. This 3,500 square foot limit existed before and after the plat amendment. Decks, exterior walkways, exterior stairs, driveways, and any carport, mechanical space, parking area, or living space that is below grade and which has landscaping or deck above it is excluded from the building footprint calculation. This makes sense because the foregoing items are ancillary to and do not materially change the visual impact of the Proposed Home on the Property. This is especially true for subterranean improvements as they have little to no visual impact on adjacent uses. Under the foregoing principles, the Proposed Home has a building footprint that is at most 3,475 square feet which is less the 3,500 square feet footprint limitation. Thus, the Proposed Home complies with the Sweeney MPD's building footprint requirements.

Supporters ignore those provisions of the Sweeney MPD that support the Proposed Home and instead argue for a strict misapplication of the LMC. Specifically, the Supporters attempt to redefine the Proposed Home's below-grade parking as a garage and thus argue that the below-grade parking area's square footage must count towards the building footprint. This is wrong for two reasons. First, the Sweeney MPD imposed building footprint limitation to ensure that buildings were appropriately massed when viewed from Old Town Park City and other adjacent areas. Subterranean improvements are not visible from Old Town and other adjacent areas and thus should not be counted towards the building's footprint. Second, the Proposed Home's parking area is not a garage, as defined by the LMC. LMC § 15-15-1 defines a "Garage, Private" as "[a]n Accessory Building, or portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public." A Parking Area is defined as "An unenclosed Area or Lot other than a Street used or designed for parking." LMC § 15-15-1.

The key distinction between these definitions is whether the parking is enclosed within a building or whether parking occurs in an unenclosed area. Here, the Proposed Home contains a subterranean parking area and not a garage because the parking area in not enclosed. As depicted below the Proposed Home's parking area has no garage door and remains open to the outside at all times. Besides the entrance, other portions of the parking area are completely open to the outside

world. The parking area can never be closed off from the outside world without structural modifications. This is different from a garage that is closed off from the outside world each time the garage door rises and falls. It is worth noting, that several other houses within the Sweeney MPD have subterranean parking and driveways none of which are counted towards the building footprint limitation. The same rules should apply to the Proposed Home.



The Supporters argue that the parking area is enclosed and is thus a garage because the area has four walls, a ceiling, and a floor. This definition, however, is too narrow as it undoubtedly describes all parking structures, none of which could reasonably be classified as a "garage" under the LMC. Again, even if there is any ambiguity as to whether the Proposed Home's parking area is a "garage" or "parking area" such ambiguity must be resolved in the Applicant's favor. *See* Utah Code § 10-9a-707(4)(b) (regulations are to be interpreted and applied "to favor a land use application unless the land use regulation plainly restricts the land use application.").

B. The Planning Commission Was Not Required to Make Historic Design Review Determinations and thus Did Not Error by Failing to Make a Historic Design Review Determination.

LMC § 15-11-12 states that the "Planning Department shall review and approve, approve with conditions, or deny, all Historic District/Historic Site review Applications involving an Allowed Use, a Conditional Use, or any Use associated with a Building Permit . . . ." The Planning Commission is not required make historic design determinations as those determinations are made by the Planning Department in connection with a building permit application. Indeed, the House CUP approval is expressly conditioned upon the Applicant receiving "approval through the Historic District Design Review process prior to submitting a building permit." *See* Condition O, Final Action Letter at Pg. 15. The City's planning staff correctly confirmed to the Planning Commission that historic design review in the Sweeney MPD can occur only after the Planning Commission's determination. *See* Transcript at p. 94–95. ll. 12–25, 1–19. The Applicant is unable to proceed with the historic review process for the Proposed House because of the Supporters' Appeal. *See* LMC § 15-1-18.M ("Upon the filing of an appeal, any approval granted under this Title will be suspended until the appeal body, pursuant to this Section 15-1-18 has acted on the appeal.").

Supporters argue that the Planning Commission erred in approving the House CUP because it supposedly did not confirm that the Proposed Home complied with the historic design requirements of the HR-1 District. Supporters, once again, willfully misunderstand and misrepresent the approval process. The issue before the Planning Commission was whether to grant a conditional use permit for the Proposed Home based upon whether the Proposed Home was consistent with the Sweeney MPD and applicable requirements of the LMC. Historic Design Review is a separate process that occurs at the building permit stage. The Planning Commission correctly declined to engage in the historic design review process as part of its conditional use permit review and correctly conditioned its approval on the Applicant receiving historic design review approval through the established historic design review process. Supporters' concerns about whether the Proposed Home complies with the City's historic design requirements will be dealt with at a later stage.

C. The Planning Commission's Steep Slope CUP Determination Was Correct.

LMC § 15-1-10.D authorizes the Planning Commission to grant a steep slope conditional use permit thereby authorizing development on a steep slope. The Planning Commission correctly determined that the Applicant had submitted all materials required by the LMC, and that based on the sensitive land determination by the City's staff, the Steep Slope CUP complied with LMC § 15-2.2-6.B. *See* Final Action Letter at Pages 18–20.

Supporters argue that the Applicant failed to provide a "Sensitive Lands Analysis" and that staff failed to issue a "Sensitive Lands Determination". The Planning Commission supposedly erred because it approved the Steep Slope CUP in spite of the Applicant's and staff's alleged failures. The Supporters are wrong.

To supports its Steep Slope CUP application, the Applicant submitted:

- An existing condition map;
- Conceptual grading plan
- Drainage plan
- Steep Slope Map
- Stormwater management plan; and
- Excavation section view exhibit.

These submittals constitute the "Sensitive Lands Analysis" required by LMC § 15-2.21-2 and satisfy the content requirements described in LMC § 15-15-1. Likewise, the City's staff included its "Sensitive Lands Determination" in the Staff Report issued for the January 24, 2024, Planning Commission meeting as well as in the Staff Report issued for the February 14, 2024, Planning Commission meeting. Supporters' arguments that the Applicant and staff did not comply with LMC § 15-2.21 are factually and legally inaccurate. After considering the Applicant's submittals and the analysis of the City's staff, the Planning Commission correctly issued the Steep Slope CUP.

IV. **Conclusion**

Each of the Supporters arguments are premised upon the incorrect belief that the Sweeney MPD can be ignored and that the Property has no vested rights. This is wrong. The Approvals facilitate the demolition of two historically insignificant houses that will be replaced with a beautifully designed home. This majestic home will be occupied year-round by a resident born and raised Park City. The Approvals are in the City's best interest and are consistent with Utah law, and the Supporters have not provided any argument or evidence to the contrary. The Appeal Board should deny or dismiss this meritless appeal.

DATED: April 26, 2024.

BRUCE R. BAIRD PLLC

/s/ Bruce R. Baird
Bruce R. Baird

SNELL & WILMER L.L.P.
Wade R. Budge
Michael B. Hutchings

Attorneys for Pesky Porcupine LLC

EXHIBIT A

Final Action Letter

(Attached)

February 21, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	220 King Road Lot 2, Phase I of the Treasure Hill Subdivision Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Sensitive Land Overlay
Applications:	PL-22-05318 – Conditional Use Permit, Single-Family Dwelling PL-22-05319 – Plat Amendment PL-23-05523 – Outdoor Pool PL-23-05571 – Steep Slope Conditional Use Permit
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	February 21, 2024
Project Summary:	The Applicant proposes to demolish a 4,235-square-foot Single-Family Dwelling and 4,189-square-foot Guest House, to construct a: o A Single-Family Dwelling with: ▪ Approximately 7,461 square feet of finished space. ▪ Approximately 5,898 square feet of unfinished space. ▪ Approximately 1,690 square feet of terrace/patio area. o A 1,103-square-foot Accessory Building. o A 243-square-foot Swim Spa. o A 4,794-square-foot Underground Parking Area.

The Applicant proposes to amend Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, and shift Plat Note 9 (Precedence) to Plat Note 1 and add Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and to shift the Building Area Limits to accommodate the proposed project.

Action Taken
On February 14, 2024, the Planning Commission conducted a public hearing and approved the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision, amending Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, shifting Plat Note 9 (Precedence) to Plat Note 1 and adding Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and shifting the Building Area Limits to accommodate the proposed project. The Planning Commission conducted a public hearing and approved the Conditional Use Permit for a Single-Family Dwelling and Outdoor Pool and the Steep Slope Conditional Use Permit for the project according to the following findings of fact, conclusions of law, and conditions of approval:

The January 24, 2024 and February 14, 2024 staff reports and meeting minutes are incorporated herein.

Plat Amendment
File No. PL-22-05318

Findings of Fact

1. The Applicant has proposed a new plat entitled the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision ("Amended Plat"), a copy of which is attached hereto as Exhibit A, which will amend the existing Lot 2, Phase I Treasure Hill Subdivision Plat, including the Amended Plat's notes which are attached hereto as Exhibit B.

2. On July 18, 2022, the applicant Pesky Porcupine LLC ("Applicant") submitted an application for a proposed subdivision plat amendment in connection with a proposed single-family residence to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

3. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat").

4. The Property is currently being used for one single-family residence and one guest house that the Applicant intends to demolish to construct a new single residence.

5. The Amended Plat differs from the Treasure Hill Subdivision Plat in two ways. First, the Amended Plat modifies plat note 1 on the Treasure Hill Subdivision Plat to align with the Amended Sweeney Properties MPD approval conditions and other phases within the Amended Sweeney Properties MPD. Second, the Amended Plat modifies the buildable area by reducing the overall buildable area and relocating a portion thereof to the west side of the Property, as depicted on the attached Amended Plat.

6. The Applicant submitted all materials required by the Park City Land Management Code ("LMC") for the proposed plat amendment.

7. The Planning Commission has authority to act as the land use authority to approve the Amended Plat pursuant to LMC § 15-7-7.

8. After carefully reviewing the Amended Plat, the Amended Sweeney Properties MPD approval documents, other materials presented by the Applicant, and input received by the Applicant, City staff, and the public in a public hearing, the Planning Commission has determined that good cause exists for amending the Treasure Hill Subdivision Plat via the Amended Plat as more fully specified below. *See* Utah Code § 10-9a-609(1)(a).

9. The Planning Commission further concludes that no public street or municipal utility easement is being vacated or amended by the Amended Plat. *See* Utah Code § 10-9a-609(1)(b).

10. The Planning Commission expressly finds this approval is limited to the Amended Plat of the Amended Sweeney Properties Master Planned Development, and as such shall not create any precedent nor interpretation of general applicability in the Historic Residential-1 Zoning District, for current Land Management Code regulations, or other plat amendments.

Additional Findings

11. The Planning Commission, as the land use authority, finds that there is good cause to approve the Amended Plat based on the following:

a. Note 1 of the Treasure Hill Subdivision Plat contains a development limitation that buildings must have a building footprint of 3,500 square feet or less. That allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;

ii. Exterior walkways;
iii. Exterior stairs; and
iv. Driveways.

Note 1 was included on the Treasure Hill Subdivision Plat but was not imposed upon the Property via the Amended Sweeney Properties MPD. Other subdivisions within the Amended Sweeney Properties MPD define "building footprint" more broadly and nothing within the Amended Sweeney Properties MPD requires the Treasure Hill Subdivision Plat's more restrictive definition.

b. The Amended Plat also contains a building footprint limitation of 3,500 square feet or less. The allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
ii. Exterior walkways;
iii. Exterior stairs;
iv. Driveways; and
v. That portion of any carport, mechanical space, or living space that is located below existing grade and which has landscaping or deck (as provided in (1(A)) located above it.

c. The Amended Plat's development limitation is more consistent with the Amended Sweeney Properties MPD approval as the building footprint limitation was intended to limit the visual impact of development and subgrade improvements, excluded under the Amended Plat, have a de minimis visual impact on adjacent uses.

d. The overall buildable area of the Treasure Hill Subdivision Plat is 490 square feet larger than the buildable area of Amended Plat. The Amended Plat removes buildable area from portions of the Property that are visible to downtown Park City and relocates such buildable area to the west side of the Property to reduce the visual impact of the buildable area.

e. The Planning Commission finds that good cause exists, *see* LMC §§ 15-15-1 & 15-7.1-3.B, for amending the Treasure Hill Subdivision Plat based on the following:

i. The Amended Plat resolves an existing non-conformity as the two residential units constructed on a single lot will be demolished in favor of a single residential unit on a single lot.

ii. The Amended Plat preserves the character of the neighborhood and Park City as the Amended Plat is more consistent with the Amended Sweeney Properties MPD approval.

iii. Reducing the buildable area and relocating a portion of the buildable area will reduce the visual impact of the Property's development. This is consistent with best planning and design practices.

iv. The Amended Plat facilitates the construction of a single residence in place of one residence and one guest house that are presently used as short-term rentals. Demolishing the two existing short-term rentals reduces the overall density of the area, alleviates traffic, decreases utility usage, minimizes noise and light pollution, and is more consistent with neighboring uses.

v. The Amended Plat facilitates the termination of the existing short-term rentals. This furthers the health, safety, and welfare of the Park City community as it will decrease the number of unknown persons in the community and increase the overall sense of community by housing long-term residents.

f. The Amended Plat includes all existing public streets and municipal utility easements and does not propose to vacate or amend the same.

Conclusion

Based on the foregoing, good cause exists to approve the Amended Plat as it satisfies the requirements of Utah Code § 10-9a-609(1) and LMC § 15-7-7. The Planning Commission concludes it is appropriate to approve the Amended Plat.

Conditions of Approval

The Conditional Use Permit and Steep Slope Conditional Use Permit Conditions of Approval below are incorporated herein.

Exhibit A
Amended Plat to be Updated to Reflect Exhibit B

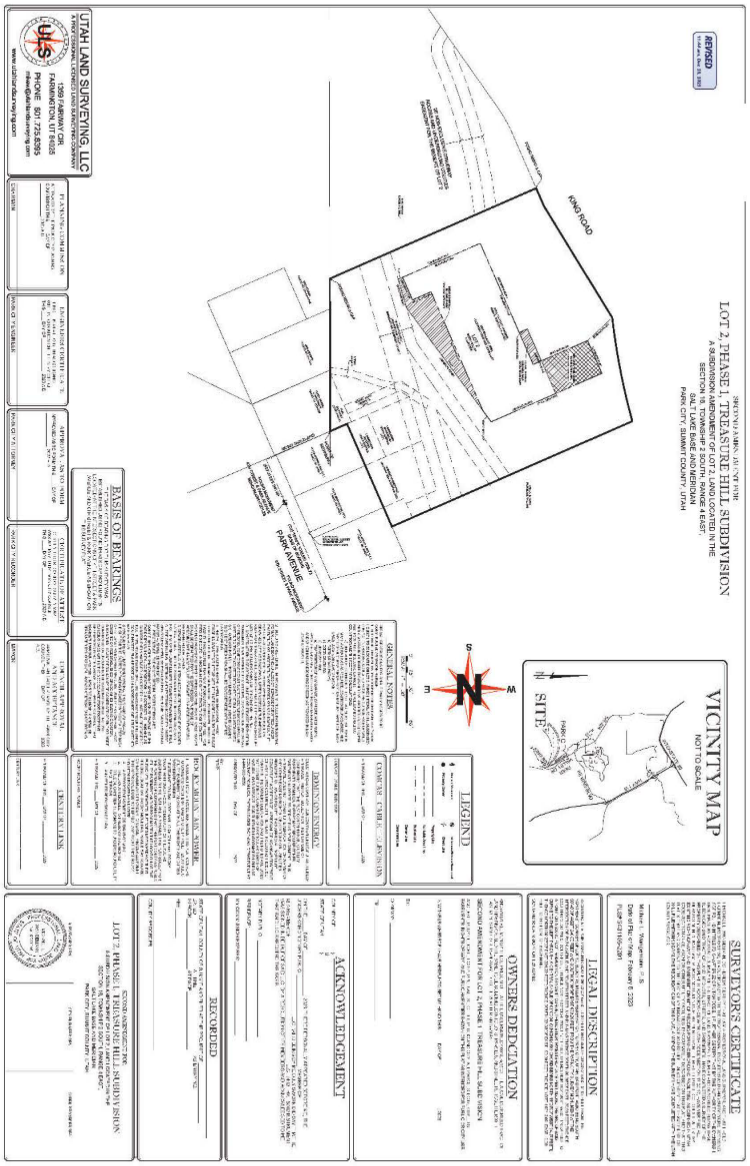


Exhibit B
Amended Plat Notes

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED AS SHOWN HEREON:

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

SUCH DISTURBED AREA SHALL BE REVEGETATED WITH NATIVE LANDSCAPING.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FACADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE SEPARATED BY HORIZONTAL AND/OR VERTICAL FACADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERN

FACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSESORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

Conditional Use
File No. PL-22-05319
File No. PL-23-05523
[220 King Residence and Outdoor Pool]

Findings of Fact

1. On July 18, 2022 the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat"), as amended.

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence.

The existing single-family residence and guest home have been used for short-term rentals.

5. The application is for the construction of the Residence ("Residence CUP") as required by Condition No. 3 of the Amended Sweeney Properties MPD.

6. The Planning Commission has authority to act as the land use authority for the Residence CUP. *See* Condition No. 3 of the Amended Sweeney Properties MPD; LMC § 15-1-10.D.

7. The Applicant submitted all the materials required by the LMC for the Residence and outdoor pool CUP and presented in a public hearing regarding the proposals set forth in Residence CUP application.

8. The Planning Commission, after carefully considering the site plan attached hereto as Exhibit C and other design materials, the Applicant's submittals, and the Applicant's presentation at the public hearing, has determined that the Residence was designed to minimize visual impact on adjacent property owners.

Additional Findings

9. The Planning Commission, as the land use authority, finds that the proposed Residence CUP is in compliance with the standards in LMC § 15-1-10.E, as applied pursuant to the Amended Sweeney Properties MPD. Specifically, the Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, is an appropriate size and location for the Property. *See* LMC § 15-1-10.E.1 This finding is supported further as follows:

i. The Property is notably larger than most of the other buildable lots in the Amended Sweeney Properties MPD. The ratio of lot size to the Residence is significantly smaller than neighboring residences.

ii. The Property's buildable area is being reduced by approximately 490 square feet concurrently with this approval. The Residence will be located within the reduced buildable area.

iii. The Residence will be adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away.

b. Addresses traffic considerations including the capacity of the existing streets in the area. *See* LMC § 15-1-10.E.3. This finding is supported as follows:

i. The new residence will utilize the same access point as the existing homes. No additional traffic or traffic impacts will result from the new residence. In fact, traffic impacts will be decreased as two homes have more traffic than the single Residence.

ii. The capacity of the existing streets is sufficient to accommodate the new residence and no traffic impact study was necessary.

c. Has sufficient utility capacity, including storm water run-off. *See* LMC § 15-1-10.E.3. This finding is supported as follow:

i. All utilities on the Property were installed with the existing houses and are adequate to service the existing houses.

ii. The Residence will decrease utility usage by utilizing more efficient construction materials and by replacing one existing home and one existing guest house used as short-term rentals.

iii. All storm water run-off from new impervious surfaces will be retained onsite.

d. Provides adequate emergency vehicle access. *See* LMC § 15-1-10.E.4. Specifically, the Residence has been designed to meet all emergency vehicle access and driveway slope requirements as set forth in the LMC, including by providing a fire turnaround in the underground parking area.

e. Provides adequate off-street parking. *See* LMC § 15-1-10.E.5. Specifically, the Residence provides at least two off-street parking stalls as required by LMC § 15-3-6(A).

f. Provides sufficient internal vehicular and pedestrian circulation system. *See* LMC § 15-1-10.E.6. This finding is supported as follow:

i. Vehicles accessing the Property will continue to use existing access points from King Road. The Residence is designed such that vehicles can turnaround and park via the private driveway and the underground parking area.

ii. There is minimum pedestrian traffic in the area as the public roadways do not have sidewalks. There is a 10' public non-motorized bike, pedestrian trail, and ski easement on the Property for the benefit of a neighboring property. No change is being proposed to those easements.

g. Provides fencing, screening, and landscaping to separate the use from adjoining uses. *See* LMC § 15-1-10.E.7. This finding is supported as follow:

i. The existing fencing, screening, and landscaping for the existing houses is adequate to separate the use from adjoining uses. No additional fencing is being proposed by the Applicant.

ii. New landscaping will consist of native grasses and trees and existing vegetation will be maintained and managed.

iii. Perimeter vegetation will continue to provide a visual barrier to the Property and mitigate visual impact.

h. As applied pursuant to the Amended Sweeney Properties MPD, is appropriately massed, bulked, and oriented, on the site. *See* LMC § 15-1-10.E.8. This finding is supported as follow:

i. The Residence has been intentionally designed to break up the perceived mass and follows the plat notes relative to massing. Specifically, the plans show the Residence: (i) broken up into at least four (4) massing elements that are each less than 1,500 square feet; (ii) have an overall footprint of less than 3,500 square feet, as measured by the definition on the second amended subdivision plat; and (iii) complies with the seconded amended subdivision plat.

ii. The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining wall areas will be located behind the Residence to minimize any visible impact on neighboring uses.

iii. The Residence meets the height limitation stated on the second amended subdivision plat.

i. Contains usable open space. *See* LMC § 15-1-10.E.9. Specifically, the new residence does not substantially change the existing site's open space. All existing landscape easements will be maintained.

j. Contains no signs but will provide appropriate lighting. *See* LMC § 15-1-10.E.10. The Property will comply with the city's outdoor lighting requirements found at LMC § 15-5-5(J).

k. As applied pursuant to the Amended Sweeney Properties MPD, is physically designed to be compatible with surrounding structures. *See* LMC § 15-1-10.E.11. Specifically, the Residence is consistent with other single-family residences within the Amended Sweeney Properties MPD.

l. Does not produce noise, vibration, odors, steam, or other mechanical factors that would affect people or off-site property. *See* LMC § 15-1-10.E.12.

m. Properly controls delivery and service vehicles, loading and unloading zones, and screens trash and recycling pickup areas. *See* LMC § 15-1-10.E.13. Specifically, a vehicle control gate will control access to delivery and service vehicles, and the Property is adequately sized to park delivery and service vehicles without impacting adjoining uses.

n. Will not be used as a condominium, time interval ownership, fractional ownership, nightly rental, or for a commercial use. *See* LMC § 15-1-10.E.14. Indeed, the Property will be used only as a single-family residence and the short-term rental uses on the existing home and guest house will be terminated.

o. Is appropriately situated on the existing topography of the Property. *See* LMC § 15-1-10.E.15. This finding is supported as follow:

i. The site is already adequately graded to support the existing houses and minimal additional grading will be required for the Residence.

ii. For the reasons discussed below, a steep slope conditional use permit will be issued for the very steep slope disturbance.

p. Is consistent with the goals and objectives of the Park City General Plan. *See* LMC § 15-1-10.E.16. This finding is supported as follow:

i. The existing houses to be demolished are not historically significant.

ii. The proposed design of the Residence is consistent with the design criteria contemplated by the Amended Sweeney Properties MPD approval.

10. The Planning Commission finds that for the reasons above, the Residence will not have a detrimental impact on surrounding uses. The Planning Commission further finds that by terminating the existing short-term rental uses of the home and guest house currently existing on the Property, the Residence will have a reduced overall impact on surrounding uses.

11. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result

from the proposed use. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Residence and Outdoor Pool CUP applications meet the standards and requirements of the LMC as applied pursuant to the Amended Sweeney Properties MPD, including the criterial for approving a conditional use per LMC § 15-1-10.E and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Residence CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the Residence.

Conditions

The use approved by the Residence and outdoor pool CUP is conditioned upon the following:

A. Final building plans shall reflect substantial compliance with the plans approved February 14, 2024, by the Planning Commission, and attached as Exhibit D. Any changes modifications, or deviations from the approved design that have not been approved in advance by Park City's Planning and Building Departments may result in a stop work order.

B. The Applicant is responsible for notifying the Planning and Building Departments prior to proposing any changes to this approval. The Applicant shall submit in writing any changes, modifications, or deviations from the approved scope of work for planning review and approval/denial in accordance with the applicable standards prior to construction. Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.

C. The current access point of King Road must be maintained, and no new access points are allowed. The driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road shall not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles.

D. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning

Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

E. All storm water run-off from new impervious surfaces must be contained on the Property.

F. Applicant shall submit a storm drainage analysis to the Park City Engineering Department. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.

G. Applicant shall submit a soil investigation report, geotechnical report, and slope stability report to the city concurrent with or prior to submitting a building permit application.

H. Prior to obtaining a building permit, the Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized.

I. The proposed development must include a vehicular turnaround that meets applicable fire code standards.

J. The Residence's occupants must use as on-site parking the sub-grade parking area shown on the proposed plans.

K. The proposed development must include a vehicle control gate that allows Park City emergency vehicle access and for vehicles to queue in the Property's driveway and not on King Road.

L. No additional fencing is permitted without further approval by the Park City Planning and Building Departments.

M. After construction of the Residence is completed, Applicant shall revegetate the site consistent with the submitted landscape plan, seen on sheet A1.03 of the approved plans.

N. The Residence must be constructed according to the approved plans.

O. The Applicant shall receive approval through the Historic District Design Review process prior to submitting a building permit.

P. The proposed residence's roof shall be consistent with the plans approved by the Planning Commission on February 14, 2024, and attached as Exhibit D.

Q. The existing access and landscaping easement shall remain in place.

R. Except for a typical "for sale" sign no signs will be permitted on the Property.

S. The primary use of the Property shall be limited to a single-family residential use. The proposed residence shall not be used for a short-term rental or have fractional ownership.

T. Any areas disturbed during construction shall be restored to the original state after the proposed residence, accessory building and structures, and retaining walls are completed.

U. The railing of the roof terrace shall minimize the visibility when viewed cross-canyon.

V. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Ground-level fixtures shall be Fully Shielded. Final lighting details must be reviewed by Planning Staff prior to installation.

W. All proposed mechanical equipment, the pool, and/or a hot tub shall be screened. Any hot tub installation is prohibited on east façade decks or terraces.

X. No more than eight inches of the new foundation shall be visible above Final grade on the primary façade and no more than two feet of the foundation shall be visible above Final Grade on secondary and tertiary facades.

Y. Lower-level glazing on the north, east, and south facades shall be screened with berms and/or vegetation as approved by the Planning Department.

Z. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.

AA. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.

BB. Prior to submittal of a Building Permit, the Applicant shall submit for

review the excavation and grading plans for Engineering Department review and approval to ensure no additional erosion, land subsidence, or avalanche hazard is created.

CC. Cuts, fills, and retaining walls shall be minimized.

DD. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

EE. The Applicant shall demonstrate adequate turnaround to allow a fire apparatus to maneuver to and from the site as approved by the Park City Fire District prior to submitting a Building Permit. The Applicant shall provide a fire hydrant within 600 feet of the proposed development.

FF.The Applicant should upsize the existing service line to provide adequate pressure to the additional living area and fire sprinkler system. Please note the City operates substantial water lines to the west of the proposed dwelling.

GG. To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road.

HH. Glazing on the east façade shall comply with the Second Amendment for the Lot 2 Phase 1 Treasure Hill Subdivision plat notes. Vinyl and aluminum doors and windows are prohibited. Window and door details shall be reviewed and approved through the Historic District Design Review process.

II. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

Conditional Use
File No. PL-23-05571
[Steep Slope –220 King]

Findings of Fact

1. On February 21, 2023, the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD").

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence. The existing single-family residence and guest house have been used for short-term rentals.

5. The conditional use permit application is for construction on a steep slope ("Steep Slope CUP") as required by Section 15-2.2-6 of Park City's Land Management Code ("LMC").

6. In connection with the Steep Slope CUP application, the Applicant submitted the following documents prepared by Alliance Engineering Inc. for the Planning Commission's consideration:

a. Existing Conditions Map (Job No. 8-3-23);

b. Conceptual Grading Plan (Job No. 8-3-23);

c. Drainage Plan (Job No. 8-3-23);

d. Steep Slope Map (Job No. 8-3-23);

e. Stormwater Management Plan (Job No. 8-3-23); and

f. Excavation Section View (Job No. 8-3-23).

7. The Planning Commission has authority to act as the land use authority for the Steep Slope CUP. *See* LMC § 15-1-10.D.

8. The Applicant submitted all the materials required by the LMC for the Steep Slope CUP and presented in a public hearing regarding the proposals set forth in Steep Slope CUP application.

9. With respect to the Steep Slope CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development on steep slopes can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

10. The Planning Commission, as the land use authority, finds that the proposed Steep Slope CUP complies with the standards in LMC § 15-2.2-6.B. Specifically, the proposed steep slope disturbance and Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, are located and designed to reduce the visual and environmental impacts. *See* LMC § 15-2.2-6.B.1. Specifically, the hillside cuts and impact to the very steep slope will be located behind the Residence and will generally not be visible to the town core of Park City.

b. Will be consistent with the visual analysis and landscaping plan submitted by the Applicant. *See* LMC § 15-2.2-6.B.2. Specifically, the Applicant submitted to the Planning Commission a visual analysis and landscaping plan that showed the proposed steep slope disturbance. The Planning Commission has determined that the steep slope disturbance will generally not be visible from the town core of Park City as it is screened from view by the proposed residence.

c. Are consistent with the applicable access and driveway screening requirements. *See* LMC § 15-2.2-6.B.3. Specifically, access to the Property is not changing as the existing driveway will be used and improved. The driveway improvements will comply with the LMC's requirements.

d. Will be appropriately terraced to regain natural grade. *See* LMC § 15-2.2-6.B.4. Terraced structures will be screened from view of the town core of Park City by the proposed residence.

e. Are designed to preserve the perceived natural topography of the Property. *See* LMC § 15-2.2-6.B.5. Specifically, all cuts to the hillside will be screened from view of the town core of Park City by the Residence.

f. As applied pursuant to the Amended Sweeney Properties MPD, are consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. Specifically, the Residence is divided into several massing elements to reduce massing and to orient against the Property's existing contours. Portions of the Residence have been located below grade to reduce visibility and perceived bulk.

g. Are consistent with the applicable setback requirements. *See* LMC § 15-2.2-6.B.7.

h. Are consistent with the applicable volume limitations. *See* LMC § 15-2.2-6.B.8.

i. Are consistent with the applicable building height requirements. *See* LMC § 15-2.2-6.B.8. Specifically, the Residence meets the height requirements identified in the Amended Sweeney Properties MPD.

11. The Planning Commission finds that for the reasons above, the steep slope disturbance will not have a detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed steep slope disturbance. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the steep slope disturbance or the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Steep Slope CUP meet the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-2.2-6.B as applied pursuant to the Amended Sweeney Properties MPD, and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Steep Slope CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Steep Slope CUP application.

Conditions

The use approved by the Steep Slope CUP is conditioned upon the following:

JJ. All retaining walls shall be generally placed behind the proposed residence to reduce visibility from the town core of Park City.

KK. The driveway to the proposed residence shall not exceed 12 feet in width unless required by Park City Fire District for emergency vehicle turning radius and access, shall not exceed a 14% grade, and must comply with LMC § 15-3-3(A)(4).

LL. Access to the parking area located on the Property shall not face King Road.

MM. If the proposed development contains any retaining walls that are taller than four feet in height, then the Applicant shall provide engineered plans for the retaining walls at the time the Applicant makes application for a building permit.

NN. Applicant shall maintain vegetative screening in accordance with

the submitted vegetation plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the east façade glazing.

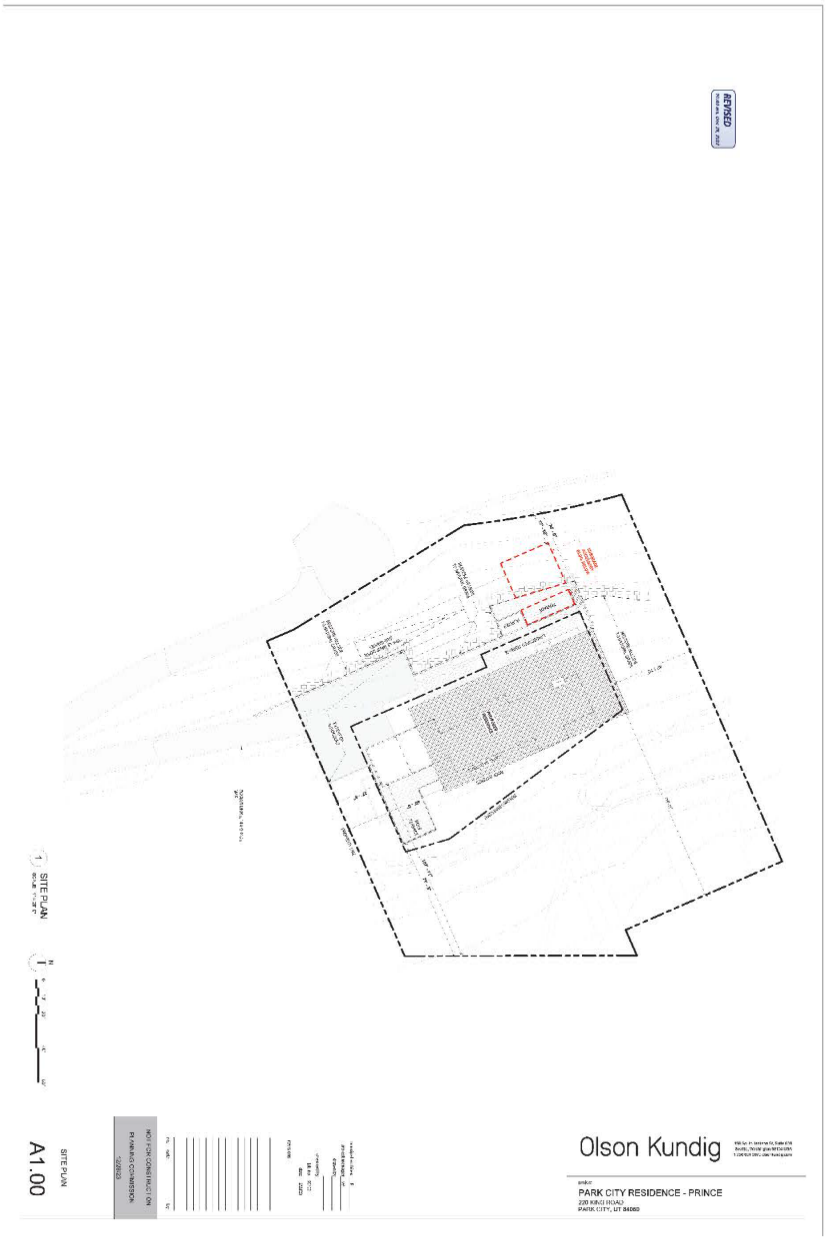
OO. The limits of disturbance around the proposed residence shall be limited to the minimal area necessary to excavate and backfill the foundation.

PP. Structures on the Property shall conform to the HR-1 setbacks set forth in LMC § 15-2.2-3. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

QQ. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

RR. The Applicant shall provide elevation drawings of all segments of the Accessory Buildings that have an exposed face to Planning staff for review as part of the Historic District Design Review process.

Exhibit C
Site Plan



If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:
0449CF71C9B8468...

2/24/2024

Sarah Hall, Planning Commission Chair

CC: Rebecca Ward, Planning Director
Caitlyn Tubbs, Senior Historic Preservation Planner

Exhibit D – Approved Plans

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Building Diagrams

DocuSign Envelope ID: E8FF8DB6-3109-45B9-882B-EC01C73805E3

Approved 2-14-2024

Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/20/23

1 SITE PLAN
STAGE: 1" = 30'-0"

SITE PLAN
A1.00

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Approved 2-14-2024

GENERAL NOTES

KEY LEGEND

1 ROOF HEIGHT TO GRADE

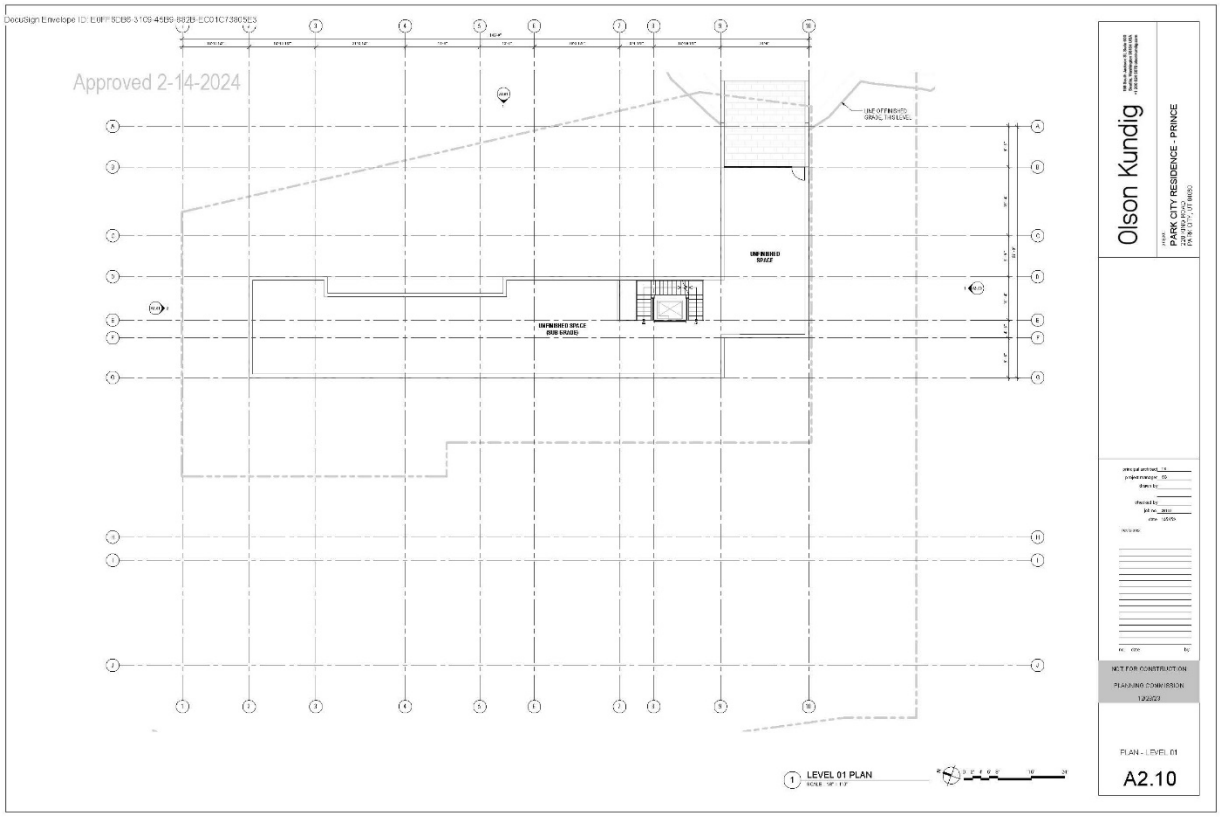
Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/22/23

ROOF HEIGHT TO GRADE

A1.04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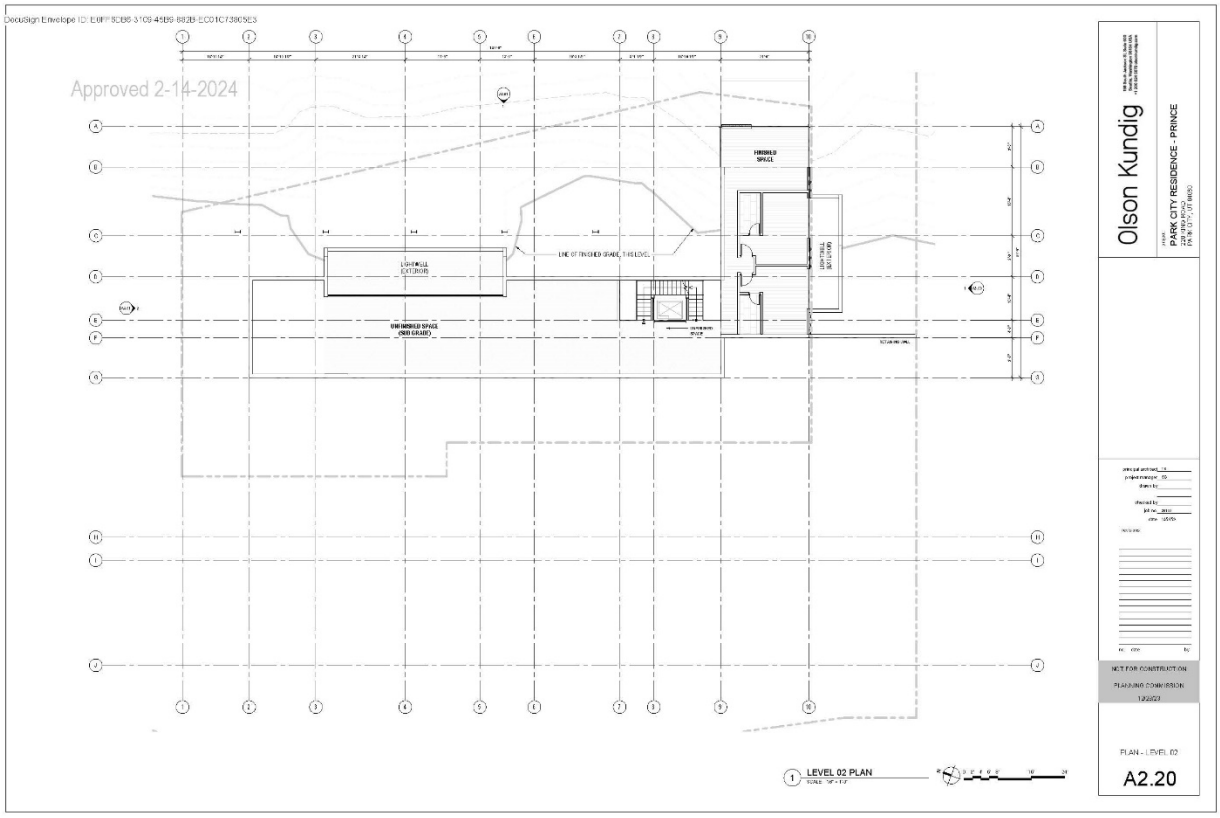
Approved 2-14-2024
UNFINISHED SPACE
UNFINISHED SPACE
1 LEVEL 01 PLAN
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 01
A2.10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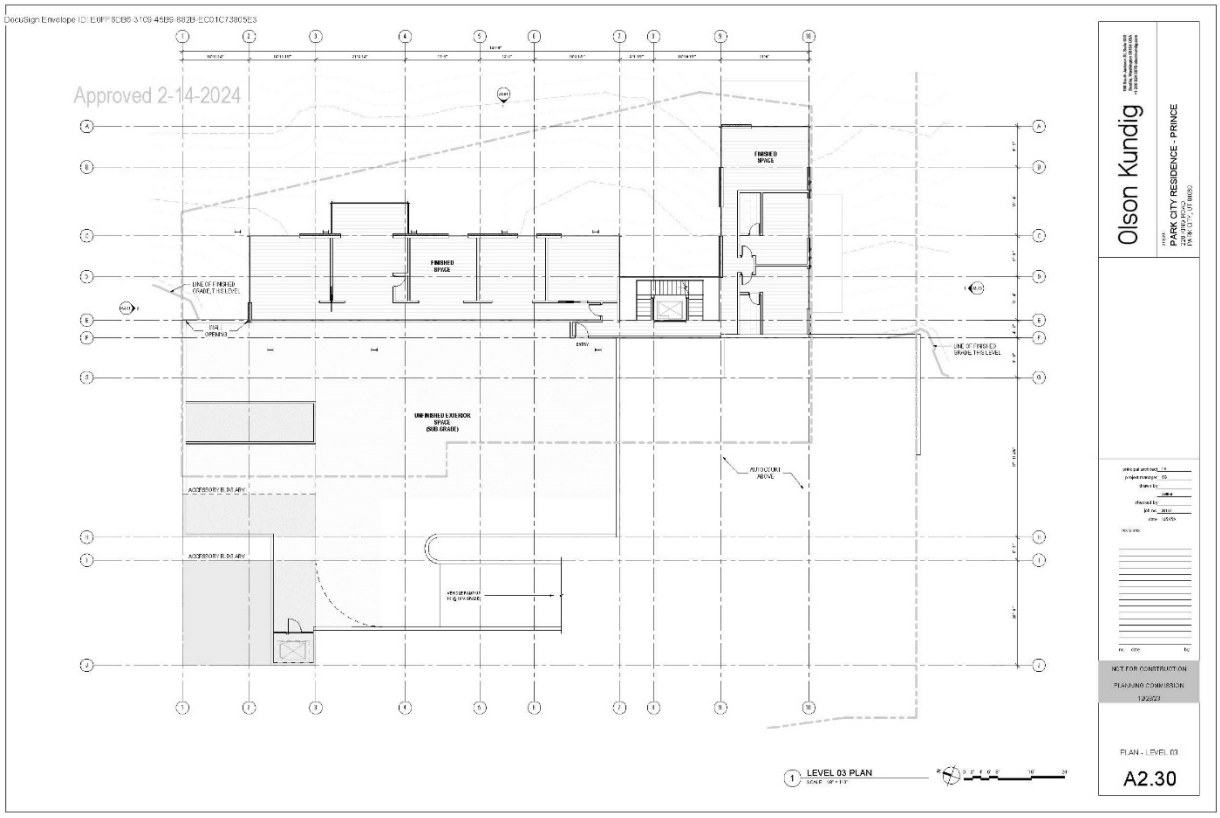
Approved 2-14-2024
LIGHTWELL EXTENDS
UNHEATED SPACE (NEW GRADE)
LINE OF FINISHED GRADE, THIS LEVEL
HEATED SPACE
SKYLIGHT
1 LEVEL 02 PLAN
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 02
A2.20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Approved 2-14-2024
FINISHED SPACE
FINISHED SPACE
LINE OF FINISHED GRADE, 1'HS LEVEL
FUEL OPENING
ENTRY
LINE OF FINISHED GRADE, 1'HS LEVEL
UNFINISHED HABITABLE SPACE (SUB-GRADE)
AUTO COURT ABOVE
ACCESSORY BLDG ABV
ACCESSORY BLDG ABV
1 LEVEL 03 PLAN
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 03
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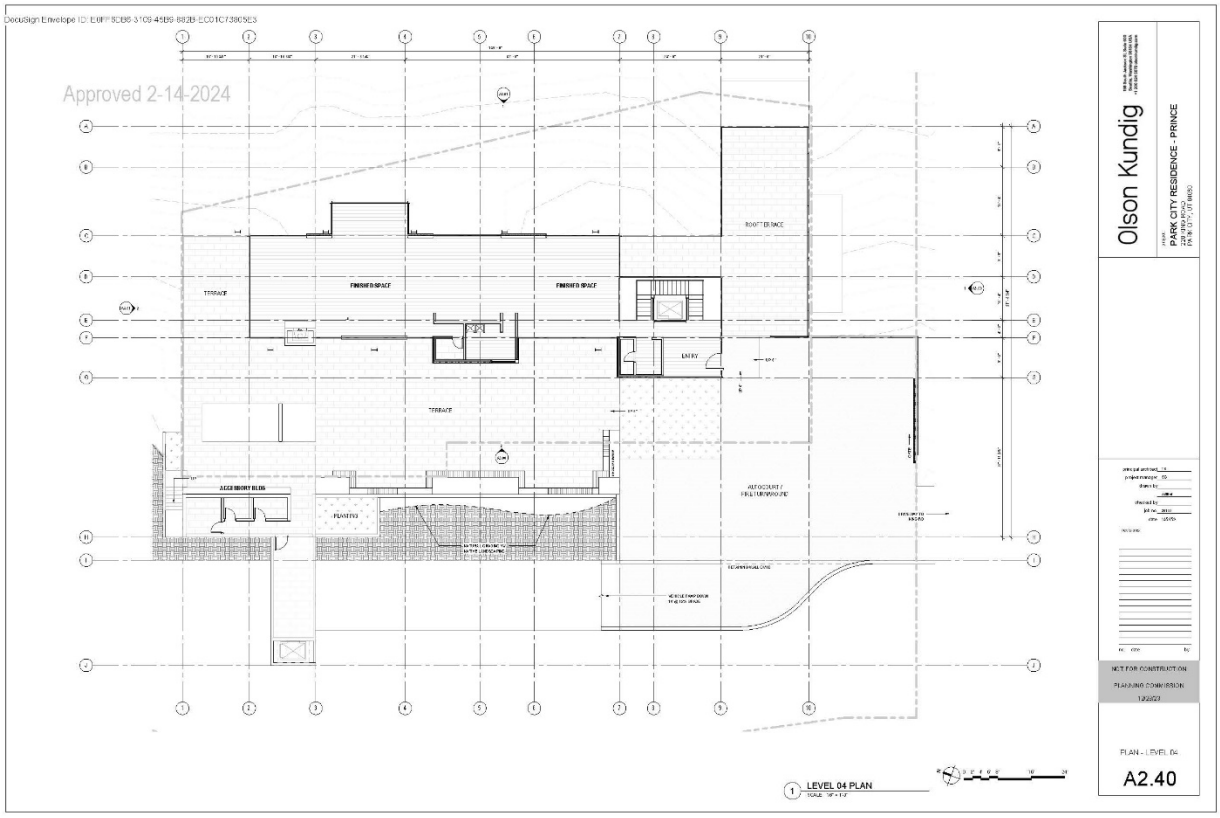
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Approved 2-14-2024
Olson Kundig
PARK CITY RESIDENCE - PRINCE
FINISHED SPACE
FINISHED SPACE
TERRACE
TERRACE
ENTRY
ROOFTOP SPACE
PLANTING
AUTO COURT / FIRE TURNAROUND
TECHNICAL ZONE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 04
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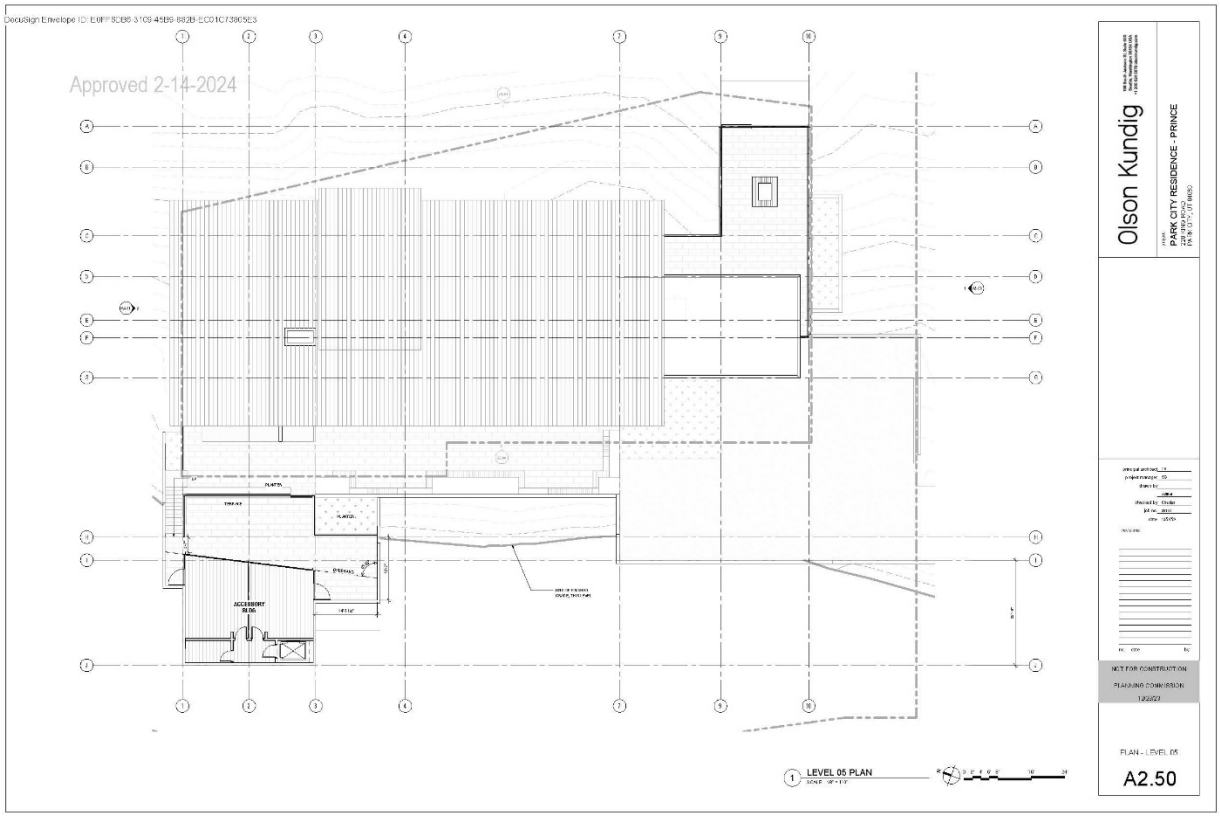
1 LEVEL 04 PLAN



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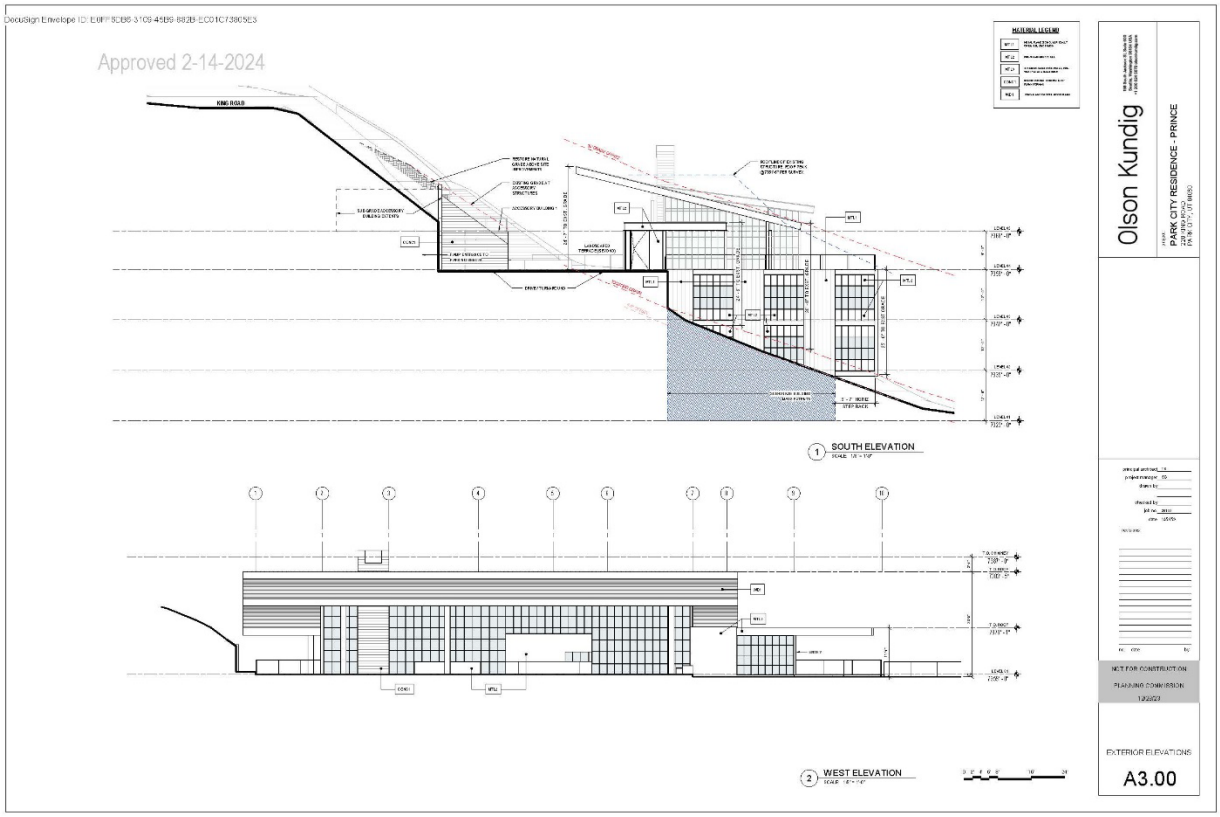

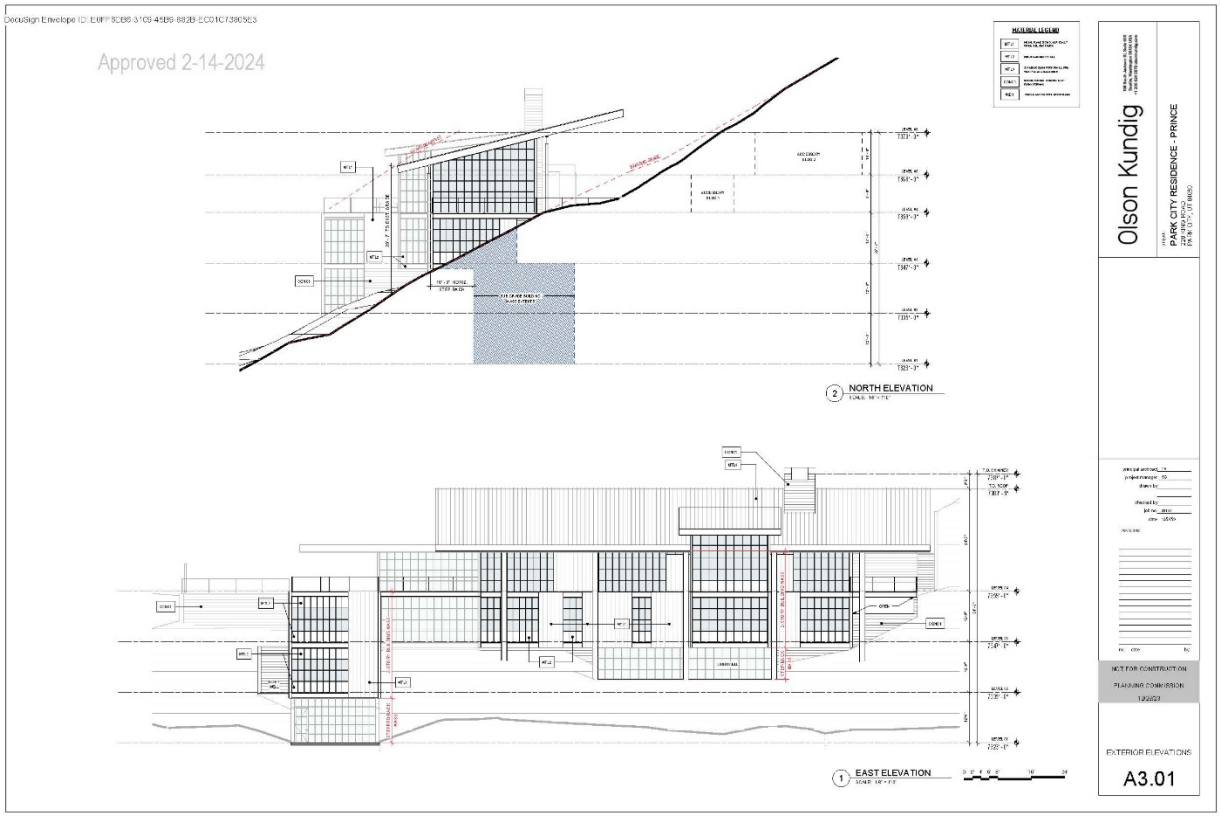

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3D Views - from north

Approved 2-14-2024

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3D Views - from east

Approved 2-14-2024

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3D Views - from south

Approved 2-14-2024

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Grading Plan

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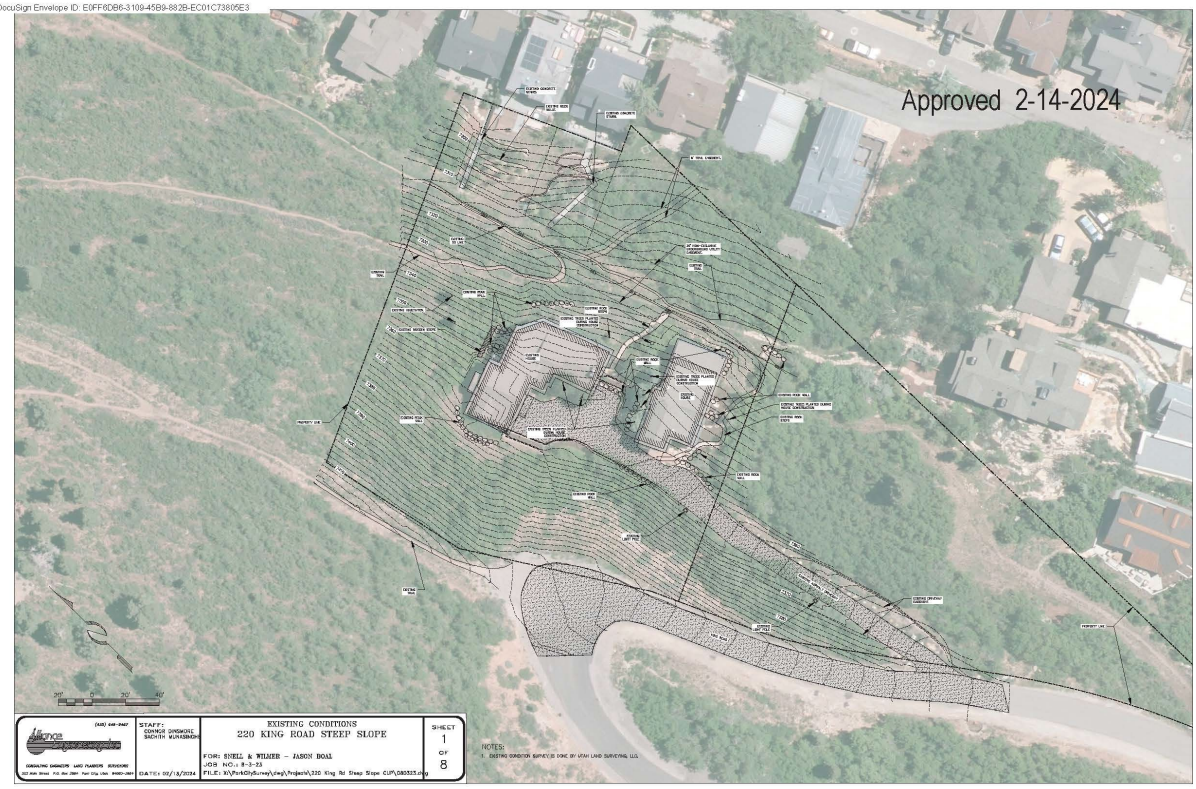

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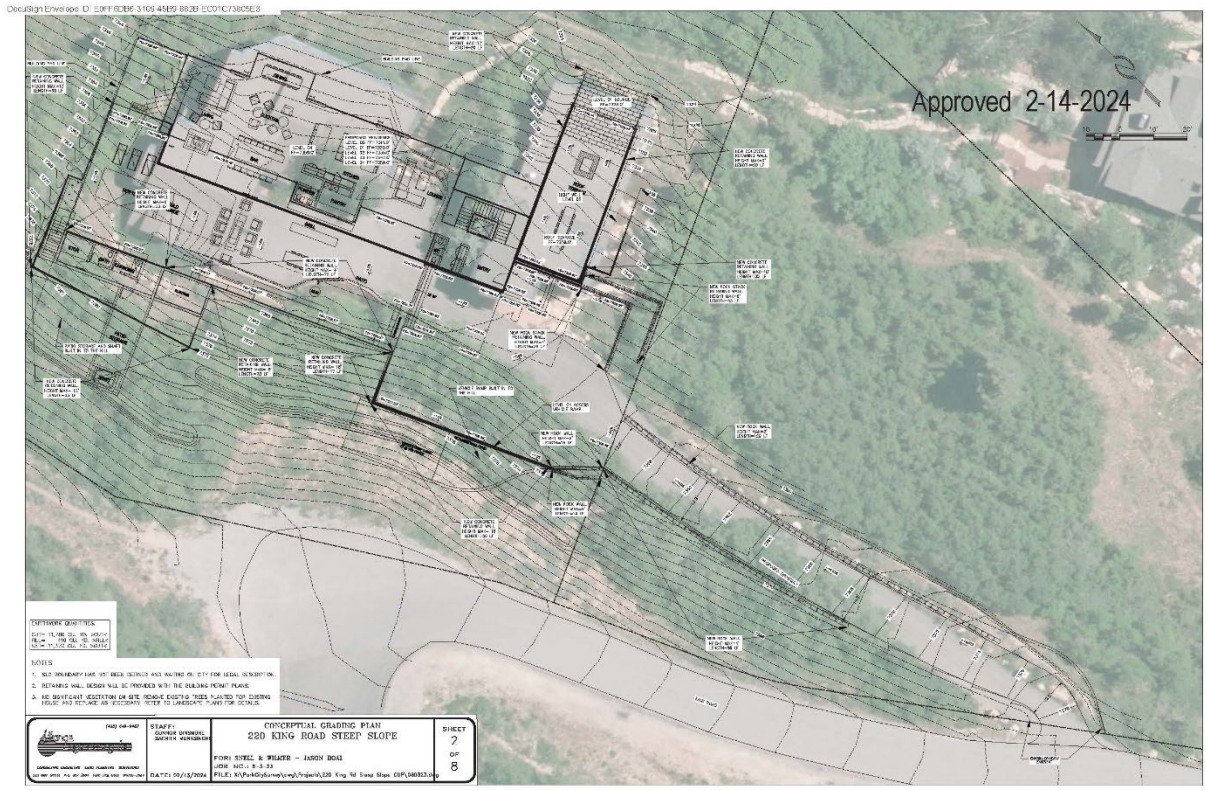

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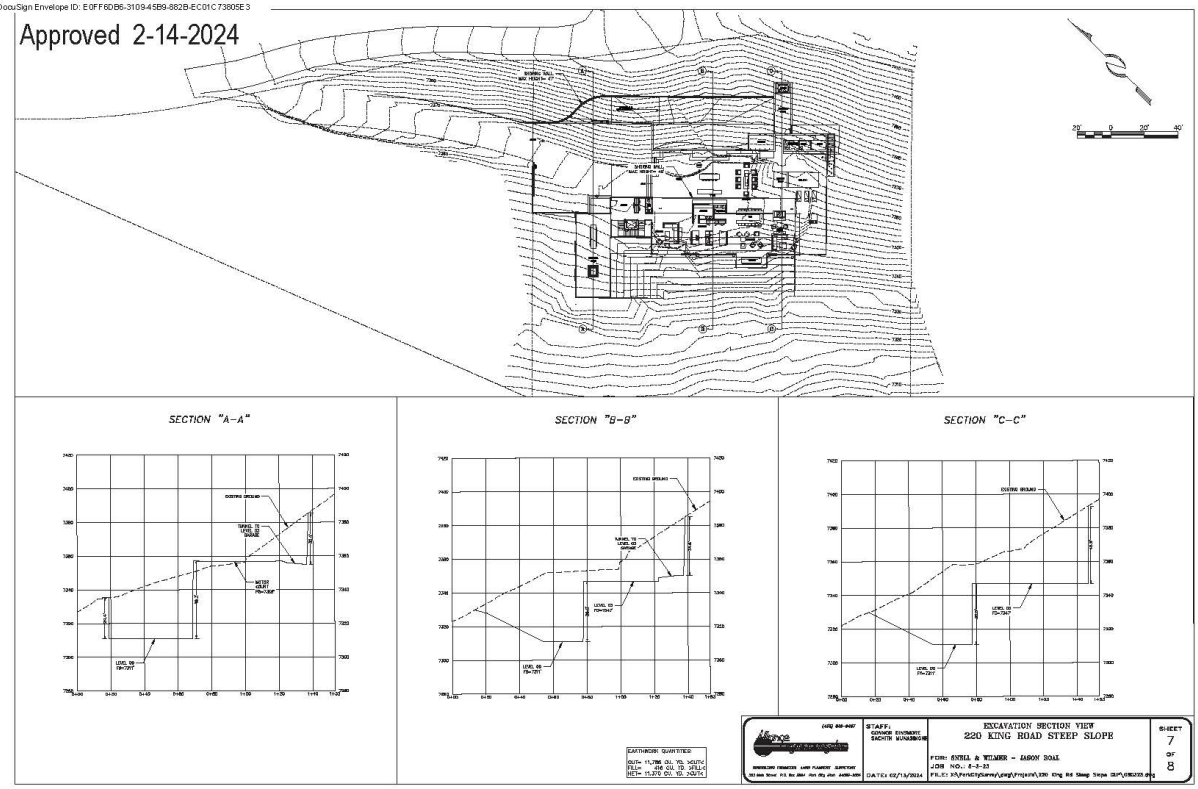

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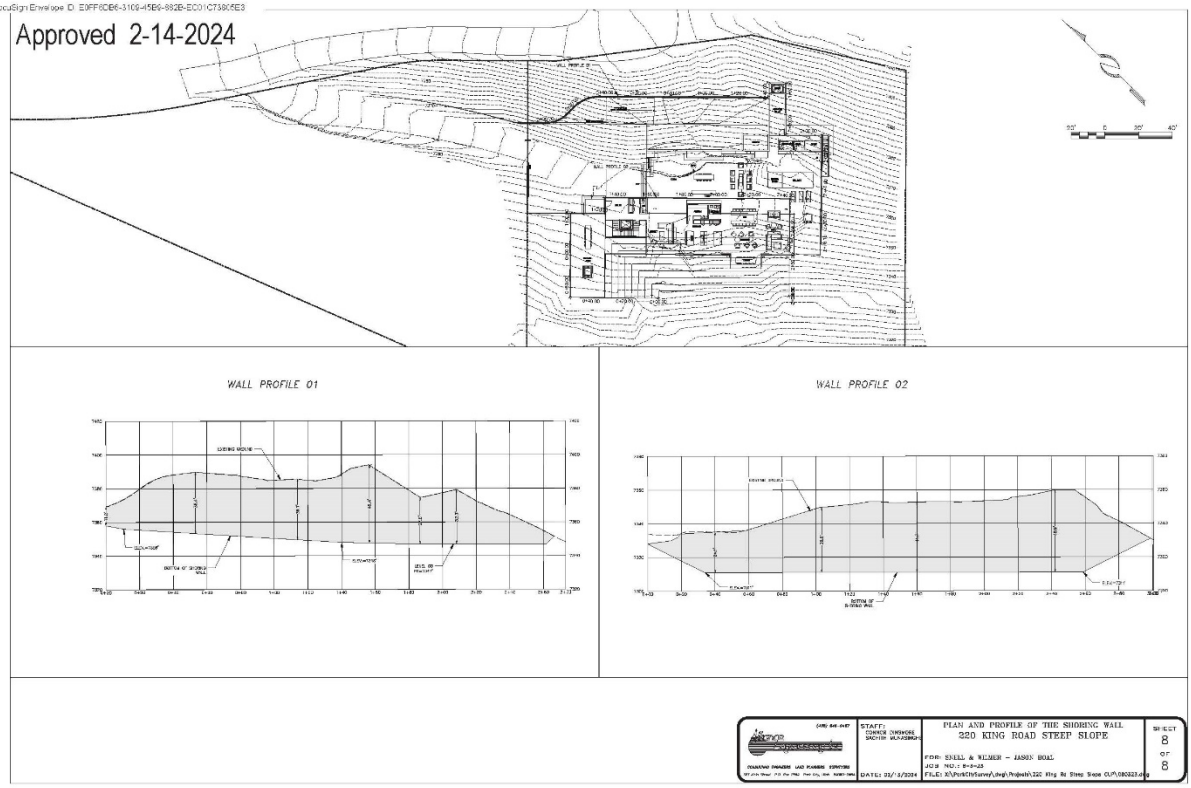

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Drainage Plan

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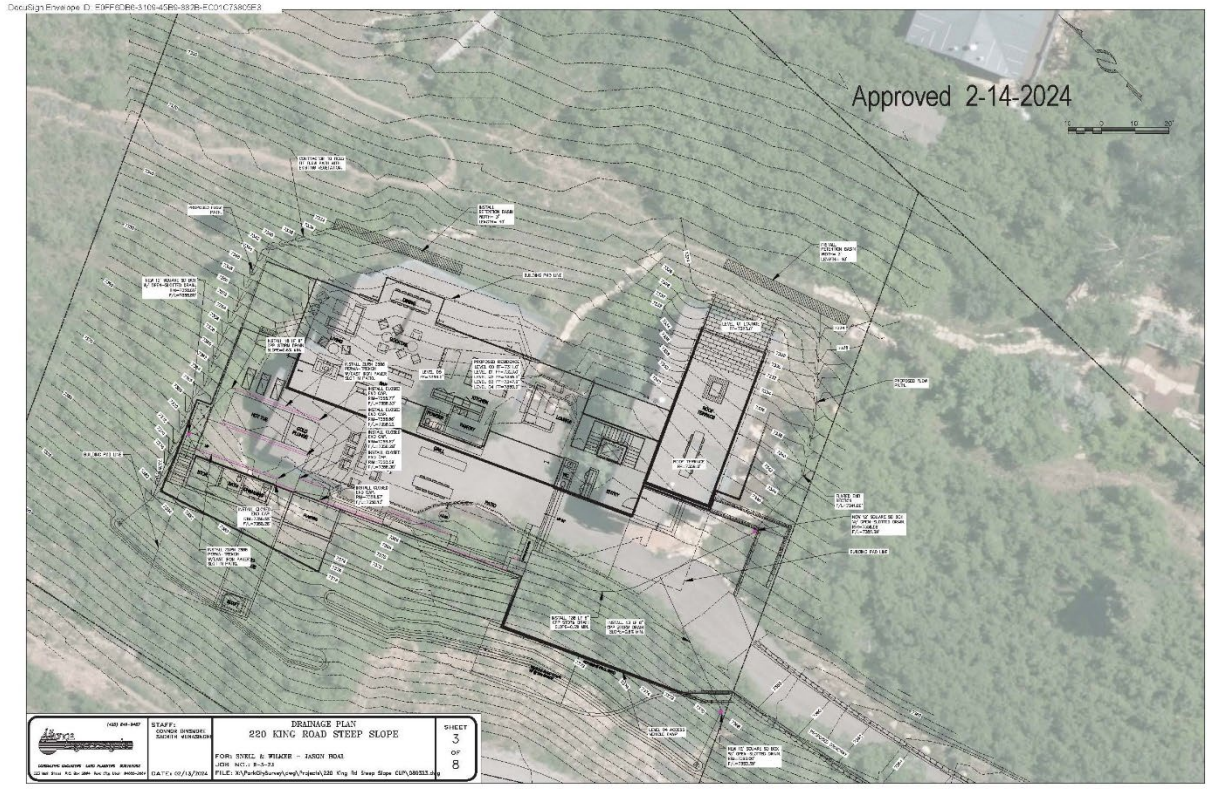

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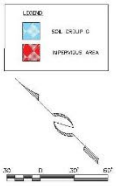
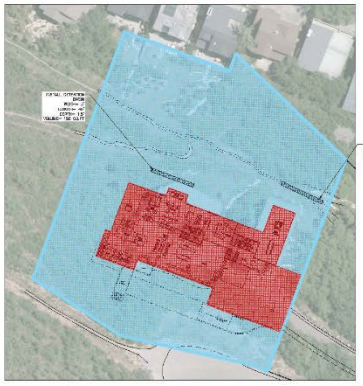


Approved 2-14-2024



WATER QUALITY VOLUME CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: WQ_v-DTA

DESIGN STORM: WATER PRECIPITATION EVENT

NOTE: WATER QUALITY VOLUME PER SUMMIT COUNTY MEA

VARIABLES

Q = RUNOFF FLOWRATE (CUBIC FEET/SEC)

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.35
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.89	

I = STORM INTENSITY (IN/HR)

Tc STORM DURATION (HR)

NOTE: P= 2 HR PER SUMMIT COUNTY ORDINANCE SEC 6

A = AREA (FT²)

PRE-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			11,228	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				8,508

A= 19,867 FT²

C= 0.37

I= 0.65 IN/HR

WQ_{V-P} = 1,606 CU FT

POST-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			11,322	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				12,545

A= 19,867 FT²

C= 0.42

I= 0.65 IN/HR

WQ_{V-P} = 1,135 CU FT

P= 1.00 IN

GROUNDWATER RECHARGE VOLUME

GWQ_{V-P} = 130 CU FT

PEAK RUNOFF CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: RATIONAL METHOD (CHOA

STORM RETURN PERIOD: 100 YEARS

NOTE: FOR THE DESIGN RECURRENCE INTERVAL, THE COEFFICIENT "C" VALUE IS ADJUSTED BY A FACTOR OF 1.25 BEFORE COMPUTING Q

STORM DURATION: 10 MIN

SOURCE: NOAA ATLAS 14 - PARK CITY RADIO STATION 42-6648

VARIABLES

Q = RUNOFF FLOWRATE (CUBIC FEET/SEC)

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.35
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.89	

I = STORM INTENSITY (IN/HR) (P=100 YR)

A = AREA (ACRES)

Tc = TIME OF CONCENTRATION (MIN.)

V_{EX} = EXCESS RUNOFF VOLUME (CU FT) = (Q)

PRE-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			0.89	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.89

A= 0.34 ACRES

C= 0.37

Q_{P-P} = 1.08 CFS

POST-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP			
	A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			0.89	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.89

A= 0.34 ACRES

C= 0.42

C_{AVG} = 0.53

I= 3.20 IN/HR

Q_{P-P} = 1.27 CFS

EXCESS RUNOFF STORAGE VOLUME

V_{EX} = 0.39 CFS

t = 600 SEC

V_{EX} = 232 CU FT

STORMWATER DETENTION REQUIRED = 932 CU. FT.
STORMWATER DETENTION PROVIDED = 900 CU. FT.

NOTES:

1. PEAK RUNOFF VOLUME OF 232 CU. FT. IS TO BE 100% DETAINED IN PROPOSED POND. THE DIMENSIONS OF THE DETENTION BASIN IS NOTED ON THE ABOVE PLAN. CUMULATIVE DETENTION VOLUME = 300 CU. FT.
2. OUTLET ROOF DRAINS SO THAT THE STORM WATER FLOWS FROM HOUSE DOWN GRADING AND INTO DETENTION BASIN.
3. STORMWATER DETENTION POND ALIGNMENT MAY VARY, FOLLOW EXISTING CONTOURS.
4. THE DETENTION POND HAVE BEEN SIZED TO DETAIN 100% OF THE WATER QUALITY VOLUME PER SUMMIT COUNTY ORDINANCE NO. 380-A, AMENDED TO MEET THE COUNTY REQUIREMENTS FOR TSS REMOVAL AND GROUNDWATER RECHARGE.

(435) 649-9467

STAFF:
CONNOR DESIMONE
KENETH MEMMOTT

DATE: 01/15/2024

STORMWATER MANAGEMENT PLAN
220 KING ROAD STEEP SLOPE

FOR: SHELL & WILMER - JASON HOAL

JOB NO.: 8 3 21

FILE: X:\Work\Survey\dwg\Projects\220 King Rd Steep Slope CUP\083221.dwg

SHEET 5 OF 8

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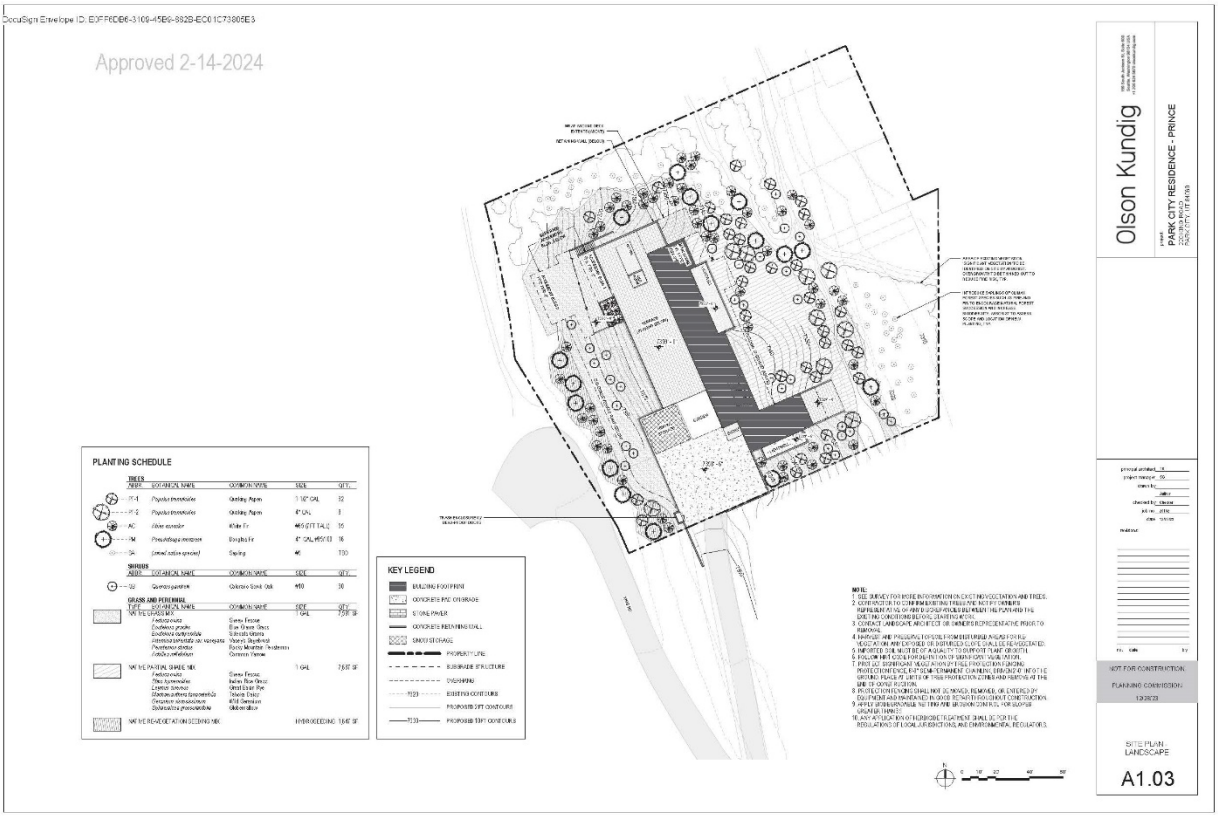
Landscape/Vegetation Plan



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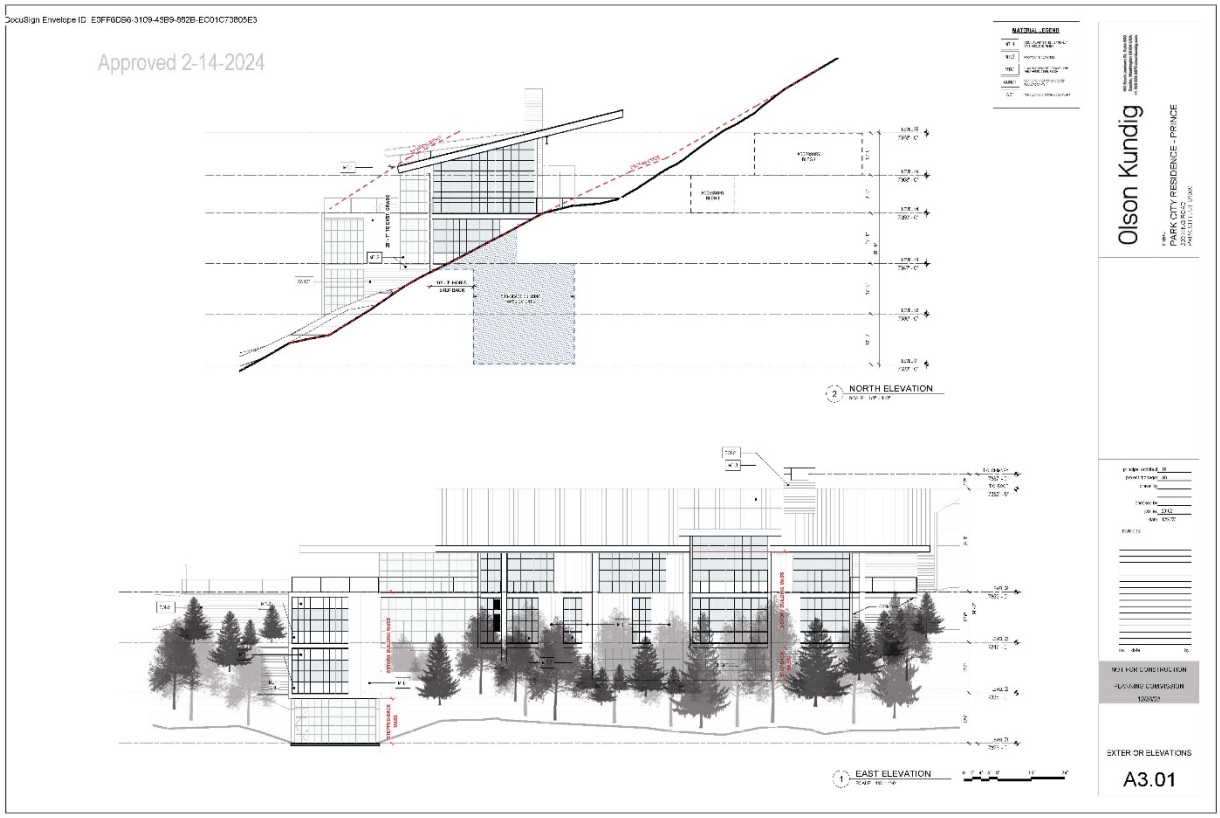


4891-7313-4004

EXHIBIT B

Map of Neighborhood Support

(attached)

Neighborhood Support

Properties that have submitted letters of support through 2-14-2024.

Open Space/Vacant Lot

I understand Mr./Mrs. Prince wish to build on lot 2, 220 King Road, and I wish them well. Their approach is no different than what Pat and I did back in the 90s. The quality of their plans and architecture are very impressive. I fully support their application and look forward to having Mr. Prince and family as neighbors.

Carol and I are residents of 314 Norfolk Ave, Park City, UT. We know the owners of 220 King Road and totally support the rebuilding of the property as a single family home. The Prince's are very active in the community and will work for a better Park City both past and present. Carol and I strongly encourage the Planning Commission to approve the proposed changes to 220 King.

We have talked with the owners of 220 King (Matthew and Tatiana Prince) and seen their plans for a new home. I am supportive of their request to rebuild a single family home on the property and convert it from a part-time rental property to a residence. Matthew Prince is a long term Utah resident who grew up here and has the community's interest in mind. He and Tatiana have been a great addition to the neighborhood. The plans for he and Tatiana's house appear to be in keeping with the mining tradition of Park City and will replace two dwellings that look both dated and out of sync with Park City. I encourage the Planning Commission to approve their project.

For more than a decade the existing two homes on 220 King Road have been nightly rentals that are within our close visual and aural range. From our perspective, it will be nice to see these two nightly rentals converted to a single family home that will be owner-occupied by full-time residents who love their community.

Alexandra - My family owns and spends a great deal of time at our home located at 263 Norfolk Avenue. Our home is adjacent to the 220 King property that is currently the subject of discussion involving proposed redevelopment by Matthew and Tatiana Prince). We know Matthew and Tatania and are aware of their plans for 220 King. We support these plans and look forward to the conversion of a part-time rental property to a single family residence. Further, we are familiar with the architectural plans for 220 King and think this new residence will be a welcome addition to our "neighborhood" in particular and community more generally. Importantly, Matthew and Tatiana are thoughtful, responsible and engaged members of the Park City community (Matthew grew up in Park City and has returned to make Park City his home). The project at 220 King reflects their commitment to our town. Please do not hesitate to contact me if you would like to discuss our strong support for this project in greater detail.

I represent the owner of 261 Norfolk Ave (held in Twinkle Weasel Mountain LLC). 261 Norfolk Avenue shares a property border with 220 King Road.
My client, the owner of 261 Norfolk Avenue, has reviewed and is supportive of the plans for 220 King Road, including eliminating it as a nightly rental, converting it into a single-family home, and honoring the historic architectural heritage of the community.
The owner of 261 Norfolk Avenue encourage the Planning Commission to approve the requested amendments to the 220 King Road plat.

We are writing to express our support for the plans that our neighbors, Matthew and Tatiana Prince, have for 220 King Road. Our home is on Upper Norfolk Avenue, and their property is adjacent to ours. We have reviewed the plans and trust that the permanent residence they are proposing to build will enhance the property, and we appreciate that the plans purposefully honor the area's historic mining past. The Princes have long-standing ties to Park City, and we would like to encourage the Planning Commission to support them and their exciting project.

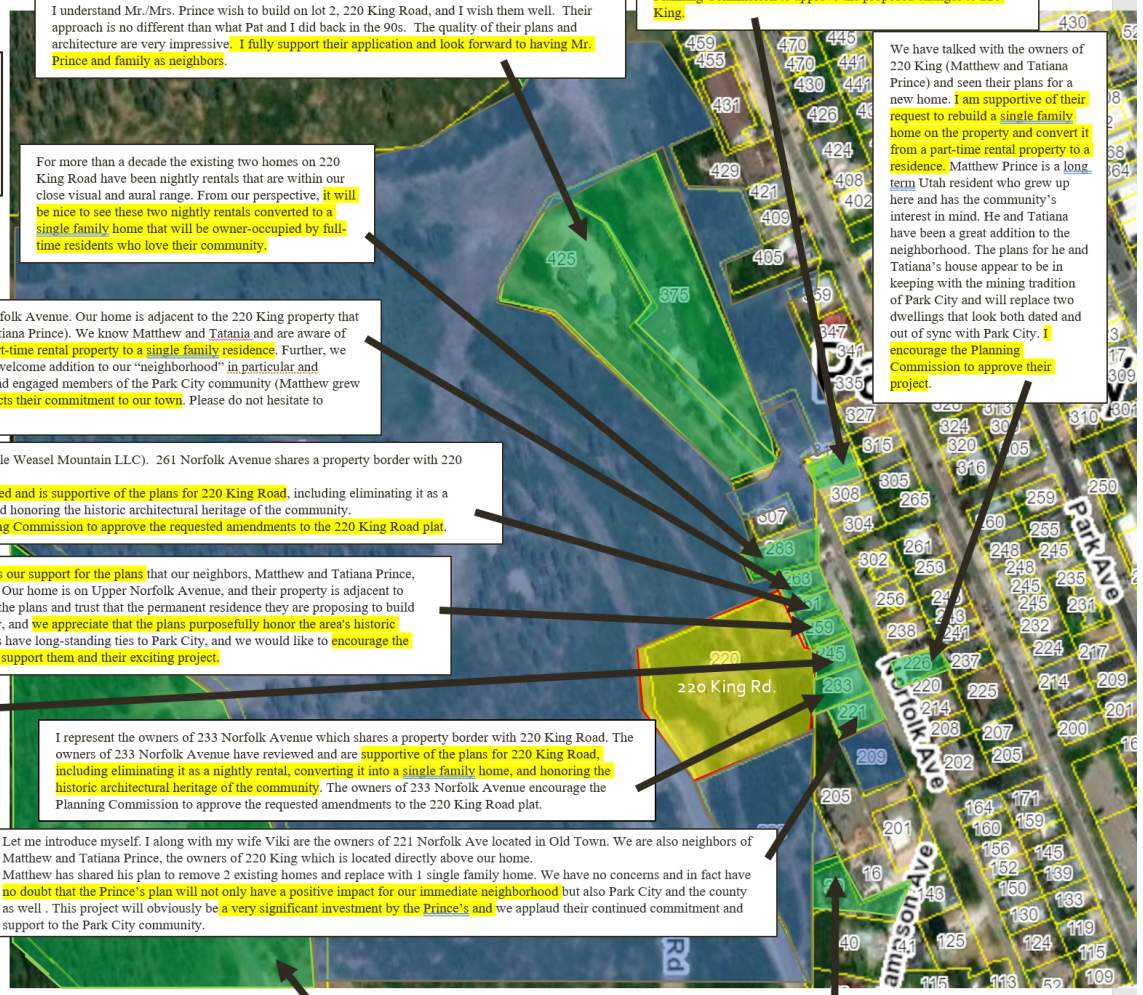
I own 245 Norfolk Avenue. My property is immediately adjacent to 220 King Road (directly downhill). I had a few concerns about the project since it is literally in my back yard... Based on these explanations, I support their plans to build a single family home at 220 King Road.

I represent the owners of 233 Norfolk Avenue which shares a property border with 220 King Road. The owners of 233 Norfolk Avenue have reviewed and are supportive of the plans for 220 King Road, including eliminating it as a nightly rental, converting it into a single family home, and honoring the historic architectural heritage of the community. The owners of 233 Norfolk Avenue encourage the Planning Commission to approve the requested amendments to the 220 King Road plat.

Let me introduce myself. I along with my wife Viki are the owners of 221 Norfolk Ave located in Old Town. We are also neighbors of Matthew and Tatiana Prince, the owners of 220 King which is located directly above our home.
Matthew has shared his plan to remove 2 existing homes and replace with 1 single family home. We have no concerns and in fact have no doubt that the Prince's plan will not only have a positive impact for our immediate neighborhood but also Park City and the county as well . This project will obviously be a very significant investment by the Prince's and we applaud their continued commitment and support to the Park City community.

I fully support Matthew's effort to amend the plat. Please feel free to call or email me with any questions you may have concerning this or related matters.

In summary, we urge the Planning Commission to approve the replat. Please do not hesitate to contact us with any questions regarding our support.



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Attorneys for Pesky Porcupine LLC

BEFORE THE PARK CITY APPEAL BOARD

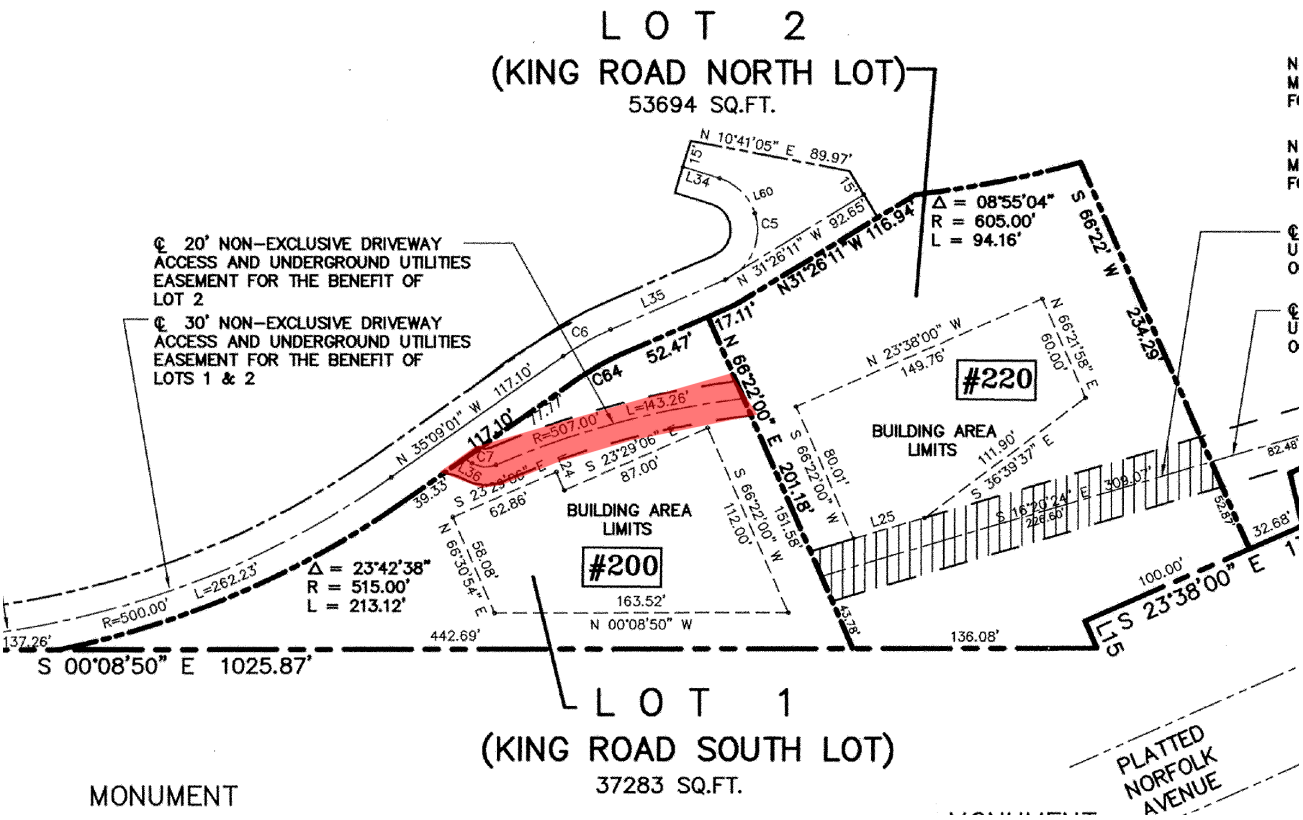
ERIC HERMANN and SUSAN FREDSTON-HERMANNS, Appellants, v. PESKY PORCUPINE LLC, a Utah limited liability company Appellee.	**BRIEF IN OPPOSITION TO HERMANNS' APPEAL** **Appeal of Approvals for Application Nos. PL-22-05318, PL-22-05319, PL-23-05571**

Pesky Porcupine LLC ("**Applicant**") the land use applicant and owner of the real property located at 220 King Road, Park City, Utah (the "**Applicant's Property**") respectfully requests that the Appeal Board deny the appeal of Eric Hermann and Susan Fredston-Hermann (collectively, the "**Hermanns"** and the appeal itself, the **"Hermanns' Appeal**") for the reasons discussed below.

I. Background

There are two non-conforming houses ("**Existing Houses**") currently on the Applicant's Property. The Existing Houses are currently accessed by a driveway ("**Existing Driveway**") over the real property located at 200 King Road, Park City, Utah pursuant to a driveway easement identified on the Treasure Hill Subdivision Plat (Phase 1) ("**Subdivision Plat**"), a copy of which

is attached hereto as Exhibit A. The driveway easement is described as a "20' non-exclusive driveway access and underground utilities easement for the benefit of Lot 2" and is highlighted in the image below ("**Driveway Easement**"):

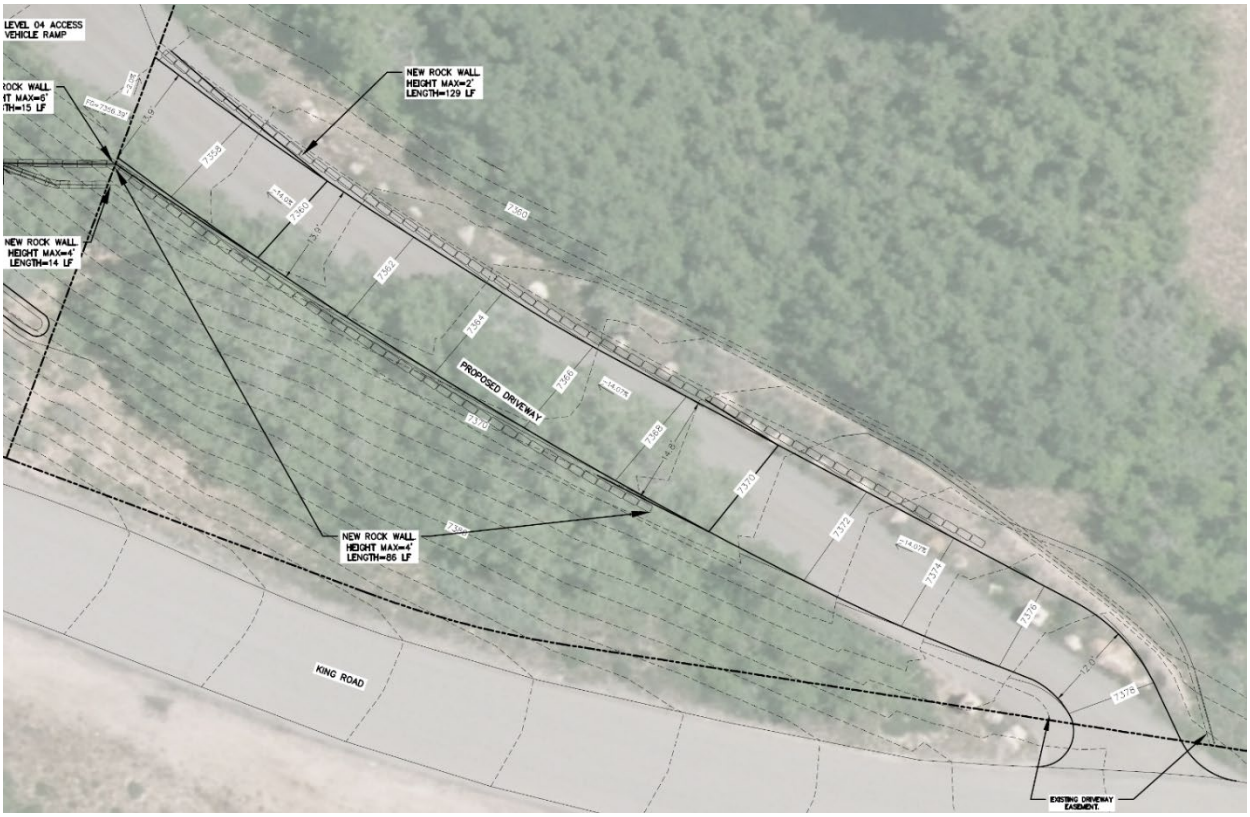


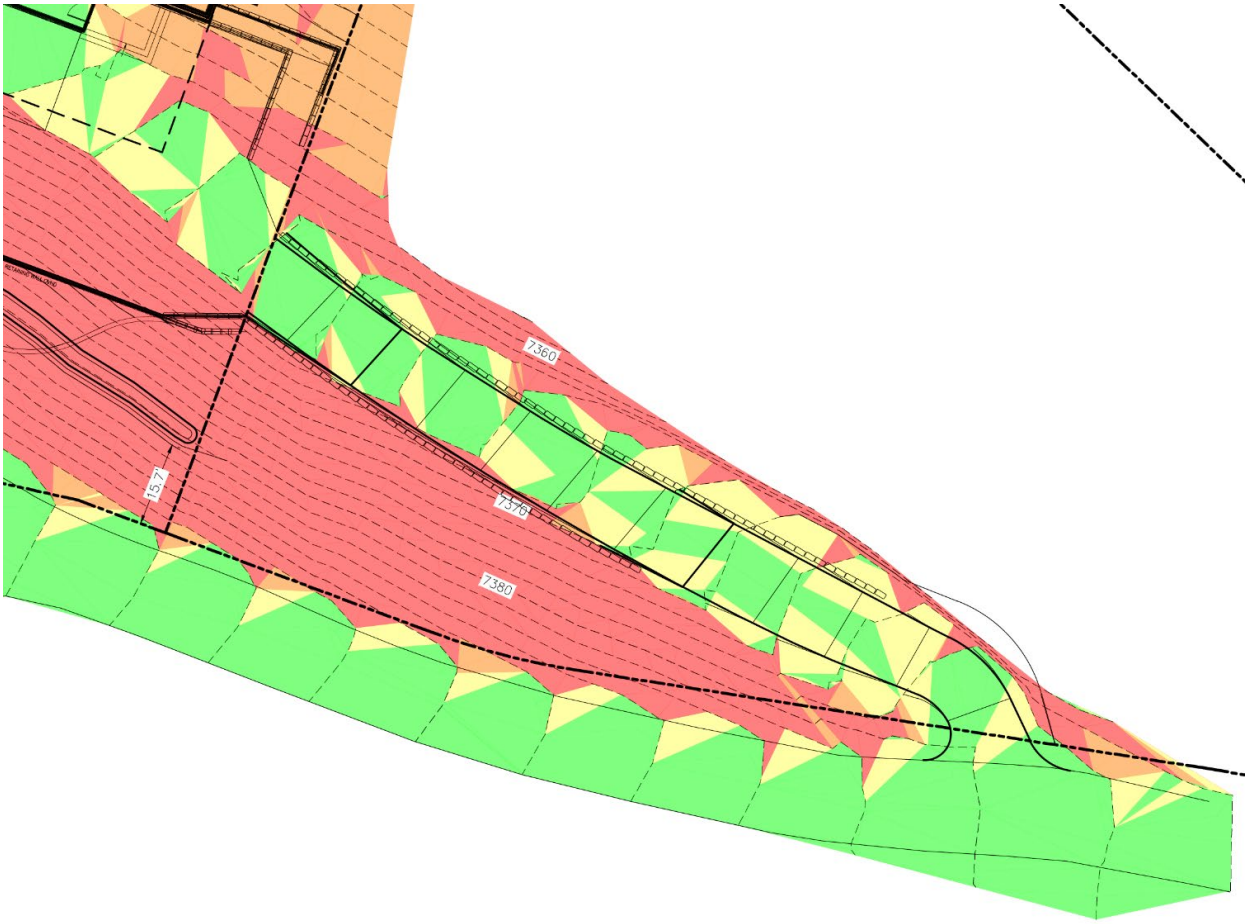
The Applicant intends to demolish the Existing Houses and construct a new single home in their place ("**Proposed Home**"). The Applicant also intends to modify the Existing Driveway within the Driveway Easement to access to the Proposed Home. To facilitate the approvals for the Proposed Home, the Applicant submitted applications to the City for a plat amendment, single family home conditional use permit ("**House CUP**"), and a steep slope conditional use permit ("**Steep Slope CUP**" and together with the House CUP the "**CUPs**").

On February 14, 2024, the Park City Planning Commission ("**Planning Commission**") held a public hearing and approved the amended plat and CUPs. Thereafter on February 21, 2024, the Planning Commission issued its Findings of Fact and Conclusions of Law, a copy of which is attached hereto as Exhibit B ("**Final Action Letter**").

On or about March 1, 2024, the Hermanns appealed the CUPs' approval ("**Hermanns' Petition**"). The only bases or alleged errors stated in the Hermanns' Petition relates to the Actual Driveway (identified below) and a "steep slope" issue discussed in *Section C* below. The Hermanns' Petition includes two depictions of what the Hermanns wrongly believed to be the

Actual Driveway ("**Wrong Images**"), but do not accurately reflect the Actual Driveway approved by the Planning Commission. *See* Hermanns' Petition at pgs. 2 and 3. Specifically, the Wrong Images are taken from an early version of the development plans for the Proposed Home but were subsequently replaced with the driveway plans attached hereto as Exhibit C ("**Driveway Plans**" showing the "**Actual Driveway**"), and depicted, in part, in the image below. The Driveway Plans were approved and attached to the Final Action Letter. *See* Final Action Letter at Pg. 1.





The Driveway Plans are different from the Wrong Images in two critical ways. First, the Wrong Images depict two eight-foot-high retaining walls running alongside the depicted driveway. The Actual Driveway, however, contemplate a 4' tall retaining wall along a portion of the west side of the Actual Driveway and a 2' tall retaining wall along the east side. Second, the Wrong Images depict a much larger driveway that extends beyond the Driveway Easement area. The Actual Driveway, however, is fully within the Driveway Easement. In fact, the Actual Driveway largely tracts the Existing Driveway's width.

Most of the Hermanns' arguments are based upon and tainted by the Wrong Images. The Hermanns' appeal should be denied as there is no factual basis for their arguments and the legal reasoning is equally as faulty.

II. **Standard of Review**

On appeal, the Hermanns have "the burden of proving that the land use authority erred." Park City Land Management Code ("**LMC**") § 15-1-18.G; *see also* Utah Code § 10-9a-705. In making this determination, "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." LMC § 15-1-18.G. In other words, the

Hermanns must show that the applicable land use regulations unambiguously support their arguments, and that the Planning Commission's interpretation was clearly wrong.

The Appeal Board must review factual matters de novo, "without deference to the land use authority's determination of factual matters." LMC § 15-1-18.G. The Hermanns' Petition only raises purely legal questions and thus it is unnecessary and would be improper for the Planning Commission to revisit any factual matters.

III. **Analysis**

A. The Planning Commission was Not Authorized to Interpret and Enforce the Driveway Easement.

The Planning Commission was limited with respect to the standards it could consider in reaching its decision. Utah Code § 10-9a-509(1)(a)(ii) states that "[a]n applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application." Likewise, "[a] municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in: (i) [Title 10, Chapter 9a of the Utah Code] or (ii) a municipal ordinance in effect on the date the applicant submits a complete application . . . .". Utah Code § 10-9a-509(1)(f).

The Planning Commission "shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects . . . ." Utah Code § 10-9a-507(2)(a)(i); LMC § 15-1-10. In making the anticipated detrimental effect determination, the LMC provides 16 factors the Planning Commission can consider, none of which includes an assessment of the use's impact on adjacent private property rights. *See* LMC § 15-1-10.E. In fact, the City expressly states that in applying the LMC to land use applications, "**the City does not enforce private covenants**." LMC § 15-7-5.B.2.

Consistent with the foregoing principles, the Planning Commission analyzed the CUPs and determined that they complied with the applicable laws and would not cause unmitigable detrimental effects on the adjacent uses. *See* Final Action Letter at Pgs. 14 and 20. The Planning Commission correctly limited its standard of review to the applicable land use regulations.

The Hermanns' argue that the Planning Commission wrongly approved the House CUP because it did not consider whether the Actual Driveway exceeds the scope of the Driveway Easement. The Hermanns' cite no provision in Title 10, Chapter 9a of the Utah Code or in the LMC imposing such a requirement.

The Planning Commission did not error in approving the House CUP because it was not required to interpret or enforce the private Driveway Easement. In fact, had the Planning Commission denied the House CUP based on the Hermanns' claims that the Actual Driveway exceeds the scope of the Driveway Easement, that determination would have been in error because it would have been based on a requirement not expressed in the applicable land use regulations. In fact, LMC § 15-7-5.B.2 prohibits the Planning Commission from considering private easements in making conditional use permit determinations.

In short, the scope of the Driveway Easement is a private matter between the Applicant and the Hermanns and has no bearing on the Planning Commission's decision. The Appeal Board should likewise ignore the Hermanns' arguments because they have no bearing on the CUPs approval. Even if the Planning Commission was required to factor the Driveway Easement's scope into its analysis, the Actual Driveway is consistent with the scope of the Driveway Easement.

B. The Actual Driveway is Squarely Within the Scope of the Driveway Easement.

Utah law has long recognized that the "owner of the dominant estate may enjoy to the fullest extent the rights conferred by his easement" provided that such use does "not alter its character so as to further burden or increase the restriction upon the servient estate." *Metro. Water Dist. of Salt Lake & Sandy v. SHCH Alaska Tr.*, 2019 UT 62, ¶ 24, 452 P.3d 1158. Unless an express easement states otherwise, "[w]hen reasonably necessary to the convenient enjoyment of an easement, the holder of the easement may make improvements and construct improvements on the servient estate for the enjoyment of the easement." *See, e.g.*, *C-B-K Ranch LLC v. Glenna R. Thomas Tr.*, 2023 UT App 110, ¶ 30, 537 P.3d 280 (quoting Restatement (Third) of Property: Servitudes § 4:10, cmt. e); *see also Homer v. Smith*, 866 P.2d 622, 629 (Utah Ct. App. 1993) (confirming that an easement holder had a right to replace a three-foot sidewalk with a five-foot sidewalk and add a curb because the granting document did not expressly prohibit those improvements); 3 Tiffany Real Prop. §810 (3d ed.) ("The grant of easement includes, by implication and as an incident thereto . . . [the right to] change the grade of an easement of way to make it usable and convenient for the purposes for which it was granted . . . .").

The Actual Driveway is constructed entirely within the Driveway Easement and only slightly modifies the Existing Driveway. That is, the Actual Driveway will largely track the location of the Existing Driveway, but the grade will be slightly changed to facilitate access to the Proposed Home. The Driveway Easement expressly states that the easement may be used for a "driveway access" and implicit in this grant is a right to construct and reconstruct improvements thereon that are typically associated with a driveway. Indeed, the Existing Driveway has been used for several years without any concerns raised by the Hermanns. The Applicant is fully within its right to modify the Existing Driveway in connection with the Proposed Home.

The Hermanns argue that the "Planning Commission improperly granted the Applicant the unilateral right to modify the non-exclusive access easement . . . ." *See* Petition at Pg. 4. This is wrong because the Subdivision Plat, not the Planning Commission, granted the Driveway Easement to the Property. It would also be up to the courts, not the Planning Commission, to determine the extent of the Driveway Easement and compliance therewith. Inherent with the Driveway Easement is the Applicant's unilateral right to modify the details of the Existing Driveway to enjoy the same to its fullest extent. No action by the Planning Commission granted the Applicant any right above and beyond the Applicant's preexisting rights to the Driveway Easement.

The Hermanns also argue that because the Driveway Easement is "non-exclusive", the Applicant is prohibited from modifying the Existing Driveway. *See* Petition at Pg. 5. This argument is legally wrong. A non-exclusive easement is an easement "where the [easement] holder can exclude anyone except the servient owner and others authorized by the servient owner" from using the easement. Restatement (Third) Property: Servitudes § 1.2, cmt. c. Whether an easement

is exclusive or non-exclusive does not prohibit the easement holder from replacing improvements within the easement area to facilitate the use and enjoyment of the easement. *See, e.g.*, *Homer*, 866 P.2d at 629 (affirming that improvements could be installed within a non-exclusive easement area). Applicant can modify the Existing Driveway if the Actual Driveway was contemplated within the grant of easement and if it does not unreasonably interfere with the Hermanns' property. *See Metro. Water Dist. of Salt Lake & Sandy*, 2019 UT 62 at ¶ 24.; Restatement (Third) of Property: Servitudes § 4:10, cmt. e.

The Actual Driveway is undoubtedly contemplated by the easement grant because the Subdivision Plat states that the easement is for "driveway access". Likewise, the Actual Driveway does not unreasonably interfere with the Hermanns' use and enjoyment of their property as they can continue to utilize their entire Property.

In fact, given the non-exclusive nature of the Driveway Easement, the Hermanns can utilize the Actual Driveway to access the buildable area on their property. But this is a moot point because the Hermanns have told the Applicant that they have no intentions of ever developing their property[1]. The Hermanns also have a separate driveway area onto King Road as depicted in the image below, and thus do not need to ever utilize the Actual Driveway. Nevertheless, there is nothing about the Actual Driveway that unreasonably restricts the Hermanns' use of their Property and their arguments to the contrary seem to be based entirely on assumptions about the Wrong Images.

[1] In an email from Eric Hermann to Applicant's principal dated August 17, 2022, Mr. Hermann stated "[a]s for 200 King, we have no plans to build and bought the property to prevent construction above us."

The Actual Driveway is comfortably within the scope of the Driveway Easement, and the Hermanns' arguments ignore well-established legal principles and are based on faulty factual assumptions. Even if the Planning Commission could lawfully consider the Driveway Easement's scope in its analysis, it could have easily concluded that the CUPs are consistent with the Driveway Easement.

C. The Planning Commission Correctly Approved the Steep Slope CUP and the House CUP did Not Violate any Steep Slope Requirements.

The Heramnns argue that the Applicant supposedly did not obtain the necessary approvals to disturb "Very Steep Slopes" and "Steep Slopes." This argument seems to be limited solely to "steep slope" issues related to the construction of the Actual Driveway. The Hermanns' argument, however, confuses the "Very Steep Slope" requirements of the Sensitive Land Overlay ("SLO") with the "Steep Slope" requirements of the City's HR-1 Zone. Within the SLO, "[n]o Development is allowed on or within fifty feet (50') map distance, of Very Steep Slopes." LMC § 15-2.21-4.A. That requirement, however, can be modified by the Planning Commission. *Id.*

In the HR-1 Zone, "[a] Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred square feet (200 sq. ft.) if the Building Footprint is located on or project over an existing Slope of thirty percent (30%) or greater." LMC § 15-2.2-6.A.1. The standards for obtaining a steep slope conditional use permit are substantially similar to the standards the Planning Commission must consider in modifying the Very Steep Slopes setback. *Compare* LMC § 15-2.21-4.A with 15-2.2-6.B.

To the extent the Steep Slope or Very Steep Slope requirements apply, the Applicant sought and obtained the Steep Slope CUP, which resolved any potential Very Steep Slope or Steep Slope issues. The Planning Commission made specific findings for the criteria required to modify the applicable steep slope setbacks. *See* Final Action Letter, at Pgs. 17–20. Each of these findings are sound and supported by substantial evidence in the record.

The Hermanns' argue that the Applicant failed to provide a "Sensitive Lands Analysis" and that staff failed to issue a "Sensitive Lands Determination". The Hermanns are wrong. To supports its Steep Slope CUP application, the Applicant submitted:

- An existing condition map;
- Conceptual grading plan
- Drainage plan
- Steep Slope Map
- Stormwater management plan; and
- Excavation section view exhibit.

These submittals constitute the "Sensitive Lands Analysis" required by LMC § 15-2.21-2 and satisfy the content requirements described in LMC § 15-15-1. Likewise, the City's staff included its "Sensitive Lands Determination" in the Staff Report issued for the January 24, 2024, Planning Commission meeting as well as in the Staff Report issued for the February 14, 2024, Planning Commission meeting. The Hermanns' argument—that the Applicant and staff did not comply with LMC § 15-2.21— is factually wrong.

The Hermanns also cite to LMC § 15-2.21-4.H.2.d[2] and argue that the Applicant failed to prove that the House CUP would not adversely impact adjacent properties. To the extent it applies to the Property, LMC § 15-2.21-4.H.2.d requires that an Applicant that develops on steep slopes prove that: (1) the density is compatible with adjacent properties; (2) the architectural details are compatible with adjacent properties; and (3) the Applicant has appropriate mitigation measures such as landscaping, screening, or illumination standards to buffer the adjacent properties from the developed area.

The Applicant's submittals proved each of these requirements and the Planning Commission made findings supporting the same. *See* Final Actions Letter at Pgs. 17–19. Had the Hermanns' carefully read the LMC and Final Action Letter, they likely would not have brought this appeal or at the very least would have not made this argument.

First, the density is compatible with the adjacent properties as the Proposed Home is a single-family residence on a platted lot within the Sweeney MPD. *See* Final Action Letter, Pg. 17–18, at Findings 1–2. This density is consistent with the other single-family homes within the Sweeney MPD. *See Id.* The Proposed Home also has a smaller building footprint than the existing houses on the Property and will reduce two non-conforming structure to a single conforming structure. *See* Final Action Letter, Pg. 10, at Finding 9.a. The Proposed Home will replace the existing short-term rentals currently occupying the Property. *See* Final Action Letter, Pg. 9–10, at Finding 4. Each of these findings support the conclusion that the density is compatible with the adjacent properties. Second, the architectural details are compatible with adjacent properties. Specifically, the Planning Commission found that "[a]s applied pursuant to the Amended Sweeney Properties MPD, [the Proposed Home] is consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. *See* Final Action Letter Pg. 19, at Finding 10.f. The Planning Commission made other factual findings that the Proposed Home's massing, volume, and building height limitations were consistent with applicable law. *See* Final Action Letter, Pgs. 19-20, at Findings 10.f.–10.i. Third, the Planning Commission expressly determined that the Applicant's landscaping plan and visual analysis adequately mitigated the Proposed Home's visual impact on adjacent users. *See* Final Action Letter, Pg. 19, at Findings 10.b–10.c. The Hermanns' argument that the Planning Commission failed to make factual findings for LMC § 15-2.21-4.H.2.d. has no factual basis.

IV. **Conclusion**

The Hermanns have no legal or factual basis for this appeal. First, the Hermanns' Petition depicts a driveway that the Planning Commission did not approve, and the Hermanns rely on the Wrong Images to make arguments with no basis in reality. Second, the Hermanns claim that the Planning Commission erred in not enforcing their private property rights. Utah law and the LMC are clear that the Planning Commission cannot consider the Hermanns' private contentions about the scope of the Driveway Easement. Finally, the Hermanns claim that the Planning Commission erred in approving development on steep slopes. Had the Hermanns' carefully read the LMC and the Final Action Letter, they would have discovered that the Planning Commission's decision was

[2] The Hermanns actually cited to "LMC § 15-2.21-4 (H)(d)" but no such provision exists.

consistent with the LMC and supported by specific factual findings that justified the Steep Slope CUP. For these reasons, the Appeal Board should deny this appeal.

DATED: April 26, 2024.

BRUCE R. BAIRD PLLC

/s/ Bruce R. Baird
Bruce R. Baird

SNELL & WILMER L.L.P.
Wade R. Budge
Michael B. Hutchings

Attorneys for Pesky Porcupine LLC

EXHIBIT A

Subdivision Plat

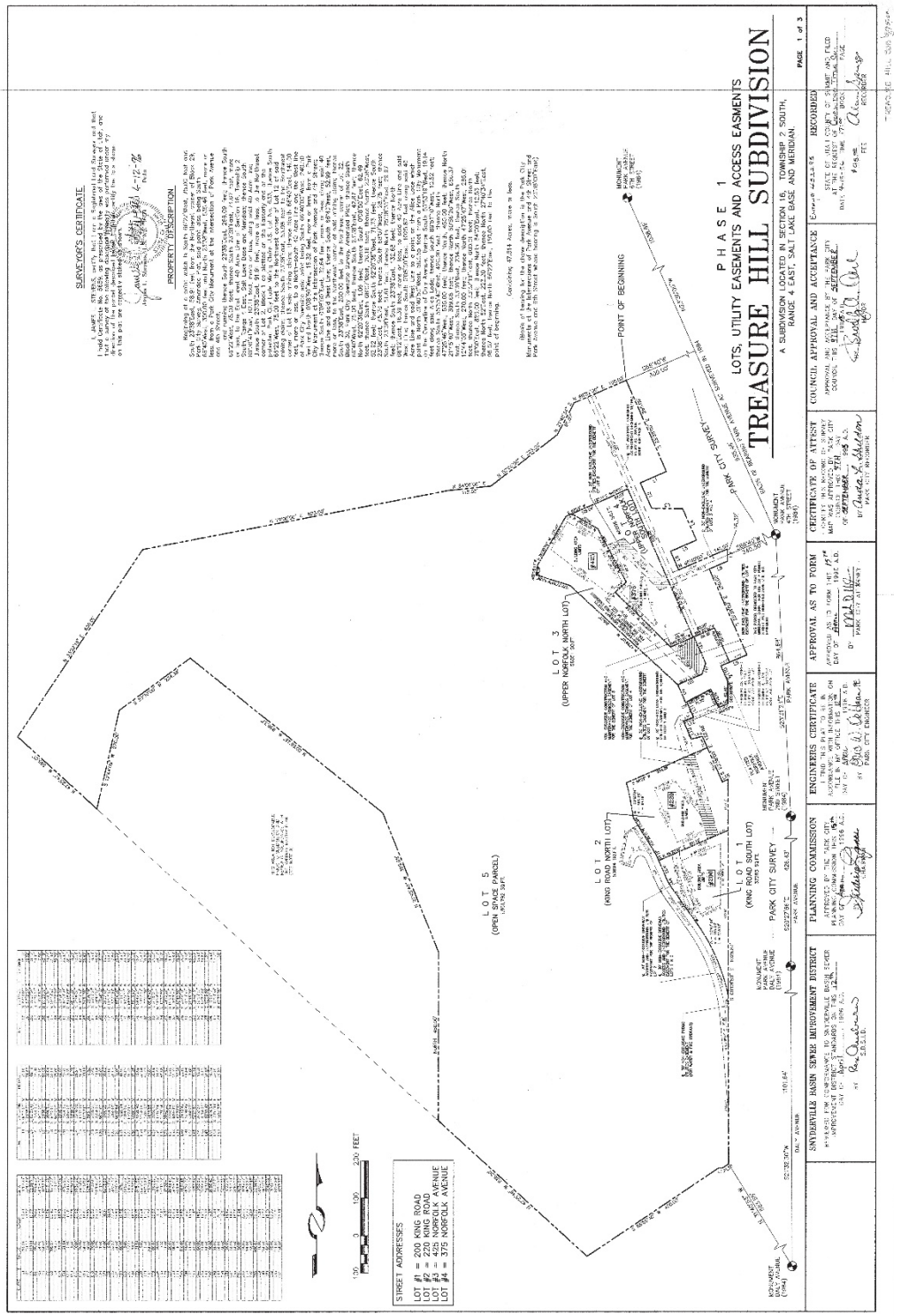


EXHIBIT B

Final Action Letter

February 21, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	220 King Road Lot 2, Phase I of the Treasure Hill Subdivision Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Sensitive Land Overlay
Applications:	PL-22-05318 – Conditional Use Permit, Single-Family Dwelling PL-22-05319 – Plat Amendment PL-23-05523 – Outdoor Pool PL-23-05571 – Steep Slope Conditional Use Permit
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	February 21, 2024
Project Summary:	The Applicant proposes to demolish a 4,235-square-foot Single-Family Dwelling and 4,189-square-foot Guest House, to construct a: o A Single-Family Dwelling with: ▪ Approximately 7,461 square feet of finished space. ▪ Approximately 5,898 square feet of unfinished space. ▪ Approximately 1,690 square feet of terrace/patio area. o A 1,103-square-foot Accessory Building. o A 243-square-foot Swim Spa. o A 4,794-square-foot Underground Parking Area.

The Applicant proposes to amend Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, and shift Plat Note 9 (Precedence) to Plat Note 1 and add Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and to shift the Building Area Limits to accommodate the proposed project.

Action Taken
On February 14, 2024, the Planning Commission conducted a public hearing and approved the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision, amending Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase I Treasure Hill Subdivision, shifting Plat Note 9 (Precedence) to Plat Note 1 and adding Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and shifting the Building Area Limits to accommodate the proposed project. The Planning Commission conducted a public hearing and approved the Conditional Use Permit for a Single-Family Dwelling and Outdoor Pool and the Steep Slope Conditional Use Permit for the project according to the following findings of fact, conclusions of law, and conditions of approval:

The January 24, 2024 and February 14, 2024 staff reports and meeting minutes are incorporated herein.

Plat Amendment
File No. PL-22-05318

Findings of Fact

1. The Applicant has proposed a new plat entitled the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision ("Amended Plat"), a copy of which is attached hereto as Exhibit A, which will amend the existing Lot 2, Phase I Treasure Hill Subdivision Plat, including the Amended Plat's notes which are attached hereto as Exhibit B.

2. On July 18, 2022, the applicant Pesky Porcupine LLC ("Applicant") submitted an application for a proposed subdivision plat amendment in connection with a proposed single-family residence to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

3. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat").

4. The Property is currently being used for one single-family residence and one guest house that the Applicant intends to demolish to construct a new single residence.

5. The Amended Plat differs from the Treasure Hill Subdivision Plat in two ways. First, the Amended Plat modifies plat note 1 on the Treasure Hill Subdivision Plat to align with the Amended Sweeney Properties MPD approval conditions and other phases within the Amended Sweeney Properties MPD. Second, the Amended Plat modifies the buildable area by reducing the overall buildable area and relocating a portion thereof to the west side of the Property, as depicted on the attached Amended Plat.

6. The Applicant submitted all materials required by the Park City Land Management Code ("LMC") for the proposed plat amendment.

7. The Planning Commission has authority to act as the land use authority to approve the Amended Plat pursuant to LMC § 15-7-7.

8. After carefully reviewing the Amended Plat, the Amended Sweeney Properties MPD approval documents, other materials presented by the Applicant, and input received by the Applicant, City staff, and the public in a public hearing, the Planning Commission has determined that good cause exists for amending the Treasure Hill Subdivision Plat via the Amended Plat as more fully specified below. *See* Utah Code § 10-9a-609(1)(a).

9. The Planning Commission further concludes that no public street or municipal utility easement is being vacated or amended by the Amended Plat. *See* Utah Code § 10-9a-609(1)(b).

10. The Planning Commission expressly finds this approval is limited to the Amended Plat of the Amended Sweeney Properties Master Planned Development, and as such shall not create any precedent nor interpretation of general applicability in the Historic Residential-1 Zoning District, for current Land Management Code regulations, or other plat amendments.

Additional Findings

11. The Planning Commission, as the land use authority, finds that there is good cause to approve the Amended Plat based on the following:

a. Note 1 of the Treasure Hill Subdivision Plat contains a development limitation that buildings must have a building footprint of 3,500 square feet or less. That allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;

ii. Exterior walkways;
iii. Exterior stairs; and
iv. Driveways.

Note 1 was included on the Treasure Hill Subdivision Plat but was not imposed upon the Property via the Amended Sweeney Properties MPD. Other subdivisions within the Amended Sweeney Properties MPD define "building footprint" more broadly and nothing within the Amended Sweeney Properties MPD requires the Treasure Hill Subdivision Plat's more restrictive definition.

b. The Amended Plat also contains a building footprint limitation of 3,500 square feet or less. The allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
ii. Exterior walkways;
iii. Exterior stairs;
iv. Driveways; and
v. That portion of any carport, mechanical space, or living space that is located below existing grade and which has landscaping or deck (as provided in (1(A)) located above it.

c. The Amended Plat's development limitation is more consistent with the Amended Sweeney Properties MPD approval as the building footprint limitation was intended to limit the visual impact of development and subgrade improvements, excluded under the Amended Plat, have a de minimis visual impact on adjacent uses.

d. The overall buildable area of the Treasure Hill Subdivision Plat is 490 square feet larger than the buildable area of Amended Plat. The Amended Plat removes buildable area from portions of the Property that are visible to downtown Park City and relocates such buildable area to the west side of the Property to reduce the visual impact of the buildable area.

e. The Planning Commission finds that good cause exists, *see* LMC §§ 15-15-1 & 15-7.1-3.B, for amending the Treasure Hill Subdivision Plat based on the following:

i. The Amended Plat resolves an existing non-conformity as the two residential units constructed on a single lot will be demolished in favor of a single residential unit on a single lot.

ii. The Amended Plat preserves the character of the neighborhood and Park City as the Amended Plat is more consistent with the Amended Sweeney Properties MPD approval.

iii. Reducing the buildable area and relocating a portion of the buildable area will reduce the visual impact of the Property's development. This is consistent with best planning and design practices.

iv. The Amended Plat facilitates the construction of a single residence in place of one residence and one guest house that are presently used as short-term rentals. Demolishing the two existing short-term rentals reduces the overall density of the area, alleviates traffic, decreases utility usage, minimizes noise and light pollution, and is more consistent with neighboring uses.

v. The Amended Plat facilitates the termination of the existing short-term rentals. This furthers the health, safety, and welfare of the Park City community as it will decrease the number of unknown persons in the community and increase the overall sense of community by housing long-term residents.

f. The Amended Plat includes all existing public streets and municipal utility easements and does not propose to vacate or amend the same.

Conclusion

Based on the foregoing, good cause exists to approve the Amended Plat as it satisfies the requirements of Utah Code § 10-9a-609(1) and LMC § 15-7-7. The Planning Commission concludes it is appropriate to approve the Amended Plat.

Conditions of Approval

The Conditional Use Permit and Steep Slope Conditional Use Permit Conditions of Approval below are incorporated herein.

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Exhibit A
Amended Plat to be Updated to Reflect Exhibit B

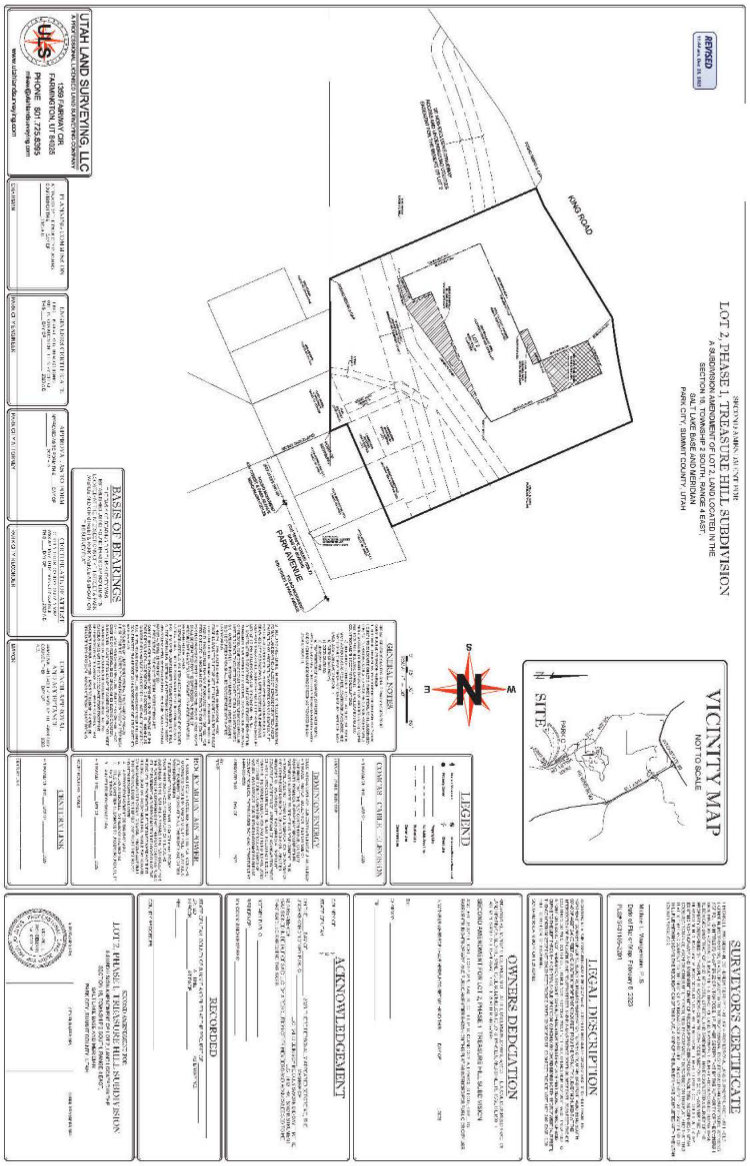


Exhibit B
Amended Plat Notes

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED AS SHOWN HEREON:

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

SUCH DISTURBED AREA SHALL BE REVEGETATED WITH NATIVE LANDSCAPING.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FACADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE
SEPARATED BY HORIZONTAL AND/OR VERTICAL FACADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERN

FACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSESORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

Conditional Use
File No. PL-22-05319
File No. PL-23-05523
[220 King Residence and Outdoor Pool]

Findings of Fact

1. On July 18, 2022 the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat"), as amended.

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence.

The existing single-family residence and guest home have been used for short-term rentals.

5. The application is for the construction of the Residence ("Residence CUP") as required by Condition No. 3 of the Amended Sweeney Properties MPD.

6. The Planning Commission has authority to act as the land use authority for the Residence CUP. *See* Condition No. 3 of the Amended Sweeney Properties MPD; LMC § 15-1-10.D.

7. The Applicant submitted all the materials required by the LMC for the Residence and outdoor pool CUP and presented in a public hearing regarding the proposals set forth in Residence CUP application.

8. The Planning Commission, after carefully considering the site plan attached hereto as Exhibit C and other design materials, the Applicant's submittals, and the Applicant's presentation at the public hearing, has determined that the Residence was designed to minimize visual impact on adjacent property owners.

Additional Findings

9. The Planning Commission, as the land use authority, finds that the proposed Residence CUP is in compliance with the standards in LMC § 15-1-10.E, as applied pursuant to the Amended Sweeney Properties MPD. Specifically, the Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, is an appropriate size and location for the Property. *See* LMC § 15-1-10.E.1 This finding is supported further as follows:

i. The Property is notably larger than most of the other buildable lots in the Amended Sweeney Properties MPD. The ratio of lot size to the Residence is significantly smaller than neighboring residences.

ii. The Property's buildable area is being reduced by approximately 490 square feet concurrently with this approval. The Residence will be located within the reduced buildable area.

iii. The Residence will be adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away.

b. Addresses traffic considerations including the capacity of the existing streets in the area. *See* LMC § 15-1-10.E.3. This finding is supported as follows:

i. The new residence will utilize the same access point as the existing homes. No additional traffic or traffic impacts will result from the new residence. In fact, traffic impacts will be decreased as two homes have more traffic than the single Residence.

ii. The capacity of the existing streets is sufficient to accommodate the new residence and no traffic impact study was necessary.

c. Has sufficient utility capacity, including storm water run-off. *See* LMC § 15-1-10.E.3. This finding is supported as follow:

i. All utilities on the Property were installed with the existing houses and are adequate to service the existing houses.

ii. The Residence will decrease utility usage by utilizing more efficient construction materials and by replacing one existing home and one existing guest house used as short-term rentals.

iii. All storm water run-off from new impervious surfaces will be retained onsite.

d. Provides adequate emergency vehicle access. *See* LMC § 15-1-10.E.4. Specifically, the Residence has been designed to meet all emergency vehicle access and driveway slope requirements as set forth in the LMC, including by providing a fire turnaround in the underground parking area.

e. Provides adequate off-street parking. *See* LMC § 15-1-10.E.5. Specifically, the Residence provides at least two off-street parking stalls as required by LMC § 15-3-6(A).

f. Provides sufficient internal vehicular and pedestrian circulation system. *See* LMC § 15-1-10.E.6. This finding is supported as follow:

i. Vehicles accessing the Property will continue to use existing access points from King Road. The Residence is designed such that vehicles can turnaround and park via the private driveway and the underground parking area.

ii. There is minimum pedestrian traffic in the area as the public roadways do not have sidewalks. There is a 10' public non-motorized bike, pedestrian trail, and ski easement on the Property for the benefit of a neighboring property. No change is being proposed to those easements.

g. Provides fencing, screening, and landscaping to separate the use from adjoining uses. *See* LMC § 15-1-10.E.7. This finding is supported as follow:

i. The existing fencing, screening, and landscaping for the existing houses is adequate to separate the use from adjoining uses. No additional fencing is being proposed by the Applicant.

ii. New landscaping will consist of native grasses and trees and existing vegetation will be maintained and managed.

iii. Perimeter vegetation will continue to provide a visual barrier to the Property and mitigate visual impact.

h. As applied pursuant to the Amended Sweeney Properties MPD, is appropriately massed, bulked, and oriented, on the site. *See* LMC § 15-1-10.E.8. This finding is supported as follow:

i. The Residence has been intentionally designed to break up the perceived mass and follows the plat notes relative to massing. Specifically, the plans show the Residence: (i) broken up into at least four (4) massing elements that are each less than 1,500 square feet; (ii) have an overall footprint of less than 3,500 square feet, as measured by the definition on the second amended subdivision plat; and (iii) complies with the seconded amended subdivision plat.

ii. The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining wall areas will be located behind the Residence to minimize any visible impact on neighboring uses.

iii. The Residence meets the height limitation stated on the second amended subdivision plat.

i. Contains usable open space. *See* LMC § 15-1-10.E.9. Specifically, the new residence does not substantially change the existing site's open space. All existing landscape easements will be maintained.

j. Contains no signs but will provide appropriate lighting. *See* LMC § 15-1-10.E.10. The Property will comply with the city's outdoor lighting requirements found at LMC § 15-5-5(J).

k. As applied pursuant to the Amended Sweeney Properties MPD, is physically designed to be compatible with surrounding structures. *See* LMC § 15-1-10.E.11. Specifically, the Residence is consistent with other single-family residences within the Amended Sweeney Properties MPD.

l. Does not produce noise, vibration, odors, steam, or other mechanical factors that would affect people or off-site property. *See* LMC § 15-1-10.E.12.

m. Properly controls delivery and service vehicles, loading and unloading zones, and screens trash and recycling pickup areas. *See* LMC § 15-1-10.E.13. Specifically, a vehicle control gate will control access to delivery and service vehicles, and the Property is adequately sized to park delivery and service vehicles without impacting adjoining uses.

n. Will not be used as a condominium, time interval ownership, fractional ownership, nightly rental, or for a commercial use. *See* LMC § 15-1-10.E.14. Indeed, the Property will be used only as a single-family residence and the short-term rental uses on the existing home and guest house will be terminated.

o. Is appropriately situated on the existing topography of the Property. *See* LMC § 15-1-10.E.15. This finding is supported as follow:

i. The site is already adequately graded to support the existing houses and minimal additional grading will be required for the Residence.

ii. For the reasons discussed below, a steep slope conditional use permit will be issued for the very steep slope disturbance.

p. Is consistent with the goals and objectives of the Park City General Plan. *See* LMC § 15-1-10.E.16. This finding is supported as follow:

i. The existing houses to be demolished are not historically significant.

ii. The proposed design of the Residence is consistent with the design criteria contemplated by the Amended Sweeney Properties MPD approval.

10. The Planning Commission finds that for the reasons above, the Residence will not have a detrimental impact on surrounding uses. The Planning Commission further finds that by terminating the existing short-term rental uses of the home and guest house currently existing on the Property, the Residence will have a reduced overall impact on surrounding uses.

11. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result

from the proposed use. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Residence and Outdoor Pool CUP applications meet the standards and requirements of the LMC as applied pursuant to the Amended Sweeney Properties MPD, including the criterial for approving a conditional use per LMC § 15-1-10.E and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Residence CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the Residence.

Conditions

The use approved by the Residence and outdoor pool CUP is conditioned upon the following:

A. Final building plans shall reflect substantial compliance with the plans approved February 14, 2024, by the Planning Commission, and attached as Exhibit D. Any changes modifications, or deviations from the approved design that have not been approved in advance by Park City's Planning and Building Departments may result in a stop work order.

B. The Applicant is responsible for notifying the Planning and Building Departments prior to proposing any changes to this approval. The Applicant shall submit in writing any changes, modifications, or deviations from the approved scope of work for planning review and approval/denial in accordance with the applicable standards prior to construction. Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.

C. The current access point of King Road must be maintained, and no new access points are allowed. The driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road shall not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles.

D. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning

Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

E. All storm water run-off from new impervious surfaces must be contained on the Property.

F. Applicant shall submit a storm drainage analysis to the Park City Engineering Department. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.

G. Applicant shall submit a soil investigation report, geotechnical report, and slope stability report to the city concurrent with or prior to submitting a building permit application.

H. Prior to obtaining a building permit, the Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized.

I. The proposed development must include a vehicular turnaround that meets applicable fire code standards.

J. The Residence's occupants must use as on-site parking the sub-grade parking area shown on the proposed plans.

K. The proposed development must include a vehicle control gate that allows Park City emergency vehicle access and for vehicles to queue in the Property's driveway and not on King Road.

L. No additional fencing is permitted without further approval by the Park City Planning and Building Departments.

M. After construction of the Residence is completed, Applicant shall revegetate the site consistent with the submitted landscape plan, seen on sheet A1.03 of the approved plans.

N. The Residence must be constructed according to the approved plans.

O. The Applicant shall receive approval through the Historic District Design Review process prior to submitting a building permit.

P. The proposed residence's roof shall be consistent with the plans approved by the Planning Commission on February 14, 2024, and attached as Exhibit D.

Q. The existing access and landscaping easement shall remain in place.

R. Except for a typical "for sale" sign no signs will be permitted on the Property.

S. The primary use of the Property shall be limited to a single-family residential use. The proposed residence shall not be used for a short-term rental or have fractional ownership.

T. Any areas disturbed during construction shall be restored to the original state after the proposed residence, accessory building and structures, and retaining walls are completed.

U. The railing of the roof terrace shall minimize the visibility when viewed cross-canyon.

V. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Ground-level fixtures shall be Fully Shielded. Final lighting details must be reviewed by Planning Staff prior to installation.

W. All proposed mechanical equipment, the pool, and/or a hot tub shall be screened. Any hot tub installation is prohibited on east façade decks or terraces.

X. No more than eight inches of the new foundation shall be visible above Final grade on the primary façade and no more than two feet of the foundation shall be visible above Final Grade on secondary and tertiary facades.

Y. Lower-level glazing on the north, east, and south facades shall be screened with berms and/or vegetation as approved by the Planning Department.

Z. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.

AA. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.

BB. Prior to submittal of a Building Permit, the Applicant shall submit for

review the excavation and grading plans for Engineering Department review and approval to ensure no additional erosion, land subsidence, or avalanche hazard is created.

CC. Cuts, fills, and retaining walls shall be minimized.

DD. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

EE. The Applicant shall demonstrate adequate turnaround to allow a fire apparatus to maneuver to and from the site as approved by the Park City Fire District prior to submitting a Building Permit. The Applicant shall provide a fire hydrant within 600 feet of the proposed development.

FF.The Applicant should upsize the existing service line to provide adequate pressure to the additional living area and fire sprinkler system. Please note the City operates substantial water lines to the west of the proposed dwelling.

GG. To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road.

HH. Glazing on the east façade shall comply with the Second Amendment for the Lot 2 Phase 1 Treasure Hill Subdivision plat notes. Vinyl and aluminum doors and windows are prohibited. Window and door details shall be reviewed and approved through the Historic District Design Review process.

II. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

Conditional Use
File No. PL-23-05571
[Steep Slope –220 King]

Findings of Fact

1. On February 21, 2023, the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD").

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence. The existing single-family residence and guest house have been used for short-term rentals.

5. The conditional use permit application is for construction on a steep slope ("Steep Slope CUP") as required by Section 15-2.2-6 of Park City's Land Management Code ("LMC").

6. In connection with the Steep Slope CUP application, the Applicant submitted the following documents prepared by Alliance Engineering Inc. for the Planning Commission's consideration:

a. Existing Conditions Map (Job No. 8-3-23);

b. Conceptual Grading Plan (Job No. 8-3-23);

c. Drainage Plan (Job No. 8-3-23);

d. Steep Slope Map (Job No. 8-3-23);

e. Stormwater Management Plan (Job No. 8-3-23); and

f. Excavation Section View (Job No. 8-3-23).

7. The Planning Commission has authority to act as the land use authority for the Steep Slope CUP. *See* LMC § 15-1-10.D.

8. The Applicant submitted all the materials required by the LMC for the Steep Slope CUP and presented in a public hearing regarding the proposals set forth in Steep Slope CUP application.

9. With respect to the Steep Slope CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development on steep slopes can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

10. The Planning Commission, as the land use authority, finds that the proposed Steep Slope CUP complies with the standards in LMC § 15-2.2-6.B. Specifically, the proposed steep slope disturbance and Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, are located and designed to reduce the visual and environmental impacts. *See* LMC § 15-2.2-6.B.1. Specifically, the hillside cuts and impact to the very steep slope will be located behind the Residence and will generally not be visible to the town core of Park City.

b. Will be consistent with the visual analysis and landscaping plan submitted by the Applicant. *See* LMC § 15-2.2-6.B.2. Specifically, the Applicant submitted to the Planning Commission a visual analysis and landscaping plan that showed the proposed steep slope disturbance. The Planning Commission has determined that the steep slope disturbance will generally not be visible from the town core of Park City as it is screened from view by the proposed residence.

c. Are consistent with the applicable access and driveway screening requirements. *See* LMC § 15-2.2-6.B.3. Specifically, access to the Property is not changing as the existing driveway will be used and improved. The driveway improvements will comply with the LMC's requirements.

d. Will be appropriately terraced to regain natural grade. *See* LMC § 15-2.2-6.B.4. Terraced structures will be screened from view of the town core of Park City by the proposed residence.

e. Are designed to preserve the perceived natural topography of the Property. *See* LMC § 15-2.2-6.B.5. Specifically, all cuts to the hillside will be screened from view of the town core of Park City by the Residence.

f. As applied pursuant to the Amended Sweeney Properties MPD, are consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. Specifically, the Residence is divided into several massing elements to reduce massing and to orient against the Property's existing contours. Portions of the Residence have been located below grade to reduce visibility and perceived bulk.

g. Are consistent with the applicable setback requirements. *See* LMC § 15-2.2-6.B.7.

h. Are consistent with the applicable volume limitations. *See* LMC § 15-2.2-6.B.8.

i. Are consistent with the applicable building height requirements. *See* LMC § 15-2.2-6.B.8. Specifically, the Residence meets the height requirements identified in the Amended Sweeney Properties MPD.

11. The Planning Commission finds that for the reasons above, the steep slope disturbance will not have a detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed steep slope disturbance. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the steep slope disturbance or the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Steep Slope CUP meet the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-2.2-6.B as applied pursuant to the Amended Sweeney Properties MPD, and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Steep Slope CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Steep Slope CUP application.

Conditions

The use approved by the Steep Slope CUP is conditioned upon the following:

JJ. All retaining walls shall be generally placed behind the proposed residence to reduce visibility from the town core of Park City.

KK. The driveway to the proposed residence shall not exceed 12 feet in width unless required by Park City Fire District for emergency vehicle turning radius and access, shall not exceed a 14% grade, and must comply with LMC § 15-3-3(A)(4).

LL. Access to the parking area located on the Property shall not face King Road.

MM. If the proposed development contains any retaining walls that are taller than four feet in height, then the Applicant shall provide engineered plans for the retaining walls at the time the Applicant makes application for a building permit.

NN. Applicant shall maintain vegetative screening in accordance with

the submitted vegetation plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the east façade glazing.

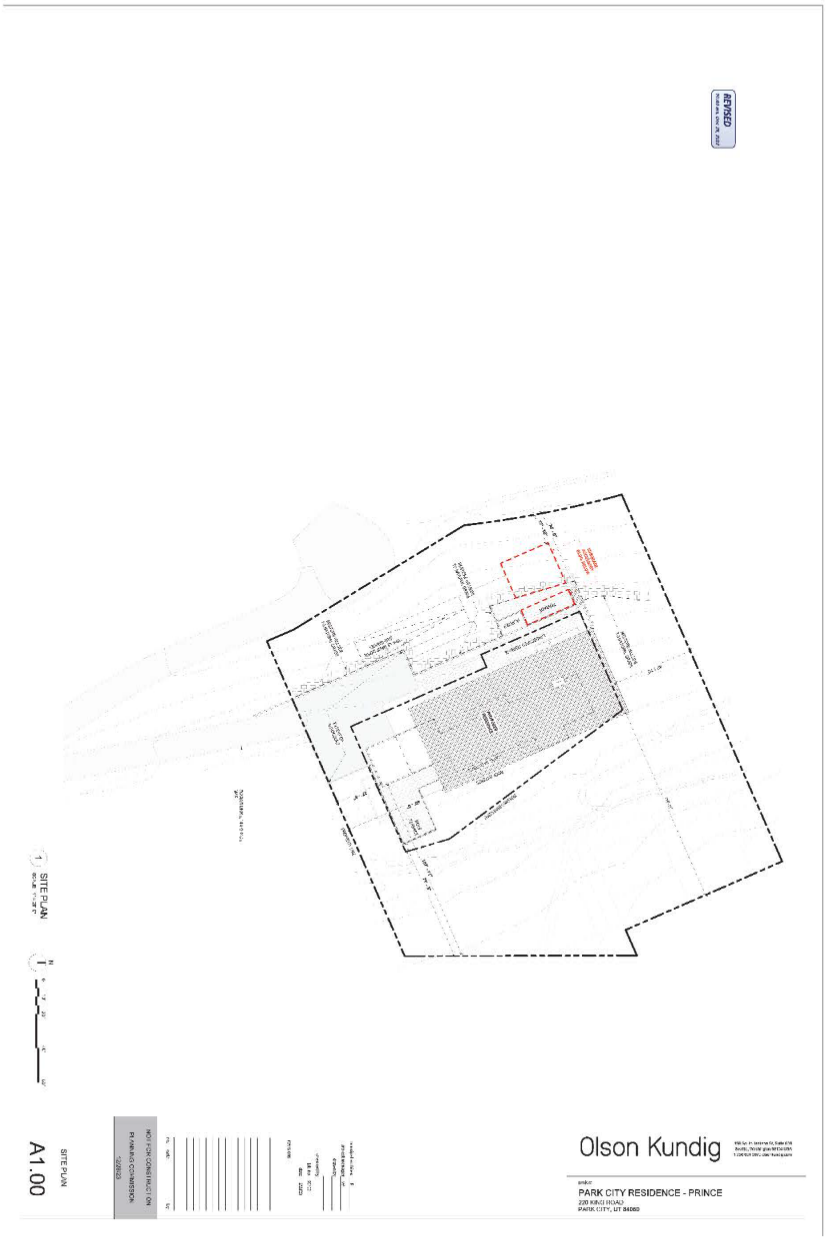
OO. The limits of disturbance around the proposed residence shall be limited to the minimal area necessary to excavate and backfill the foundation.

PP. Structures on the Property shall conform to the HR-1 setbacks set forth in LMC § 15-2.2-3. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

QQ. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

RR. The Applicant shall provide elevation drawings of all segments of the Accessory Buildings that have an exposed face to Planning staff for review as part of the Historic District Design Review process.

Exhibit C
Site Plan



If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:
0449CF71C9B8468...

2/24/2024

Sarah Hall, Planning Commission Chair

CC: Rebecca Ward, Planning Director
Caitlyn Tubbs, Senior Historic Preservation Planner

Exhibit D – Approved Plans

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Building Diagrams

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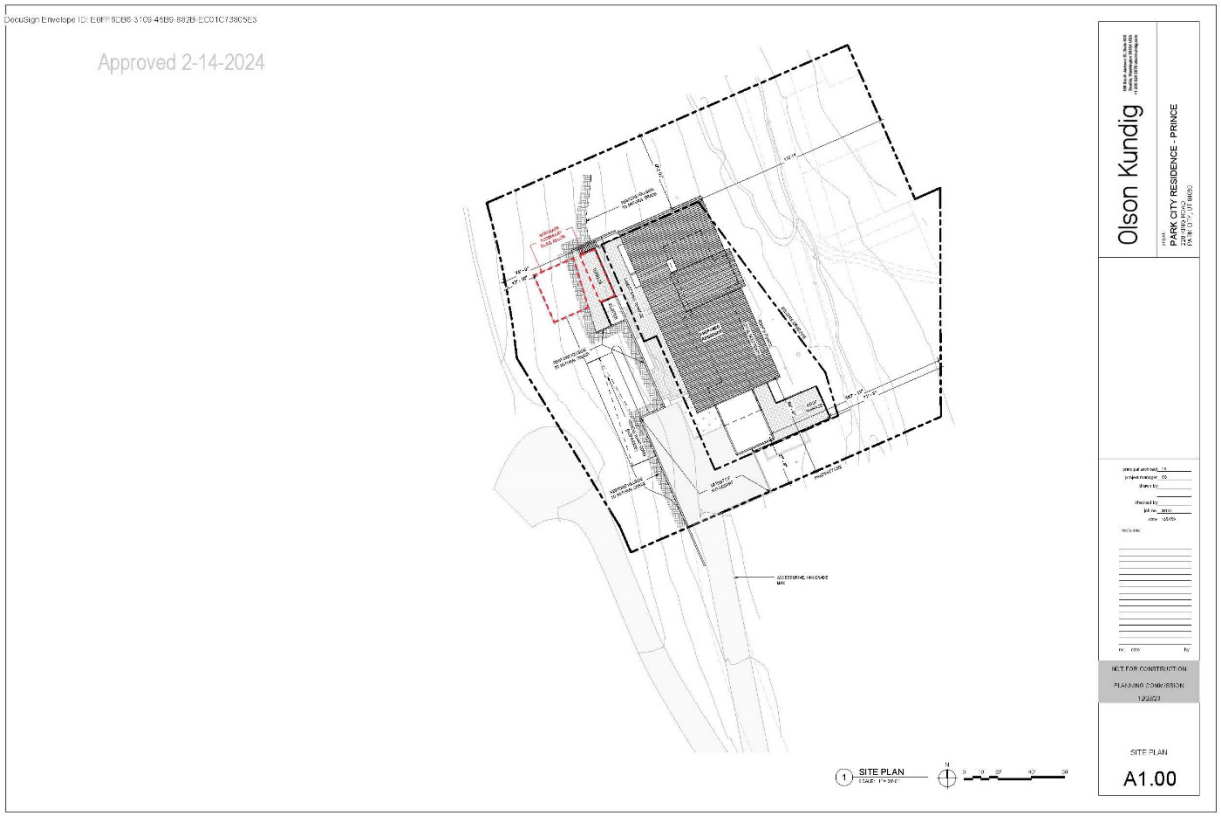
Approved 2-14-2024



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Approved 2-14-2024

GENERAL NOTES

KEY LEGEND

1 ROOF HEIGHT TO GRADE

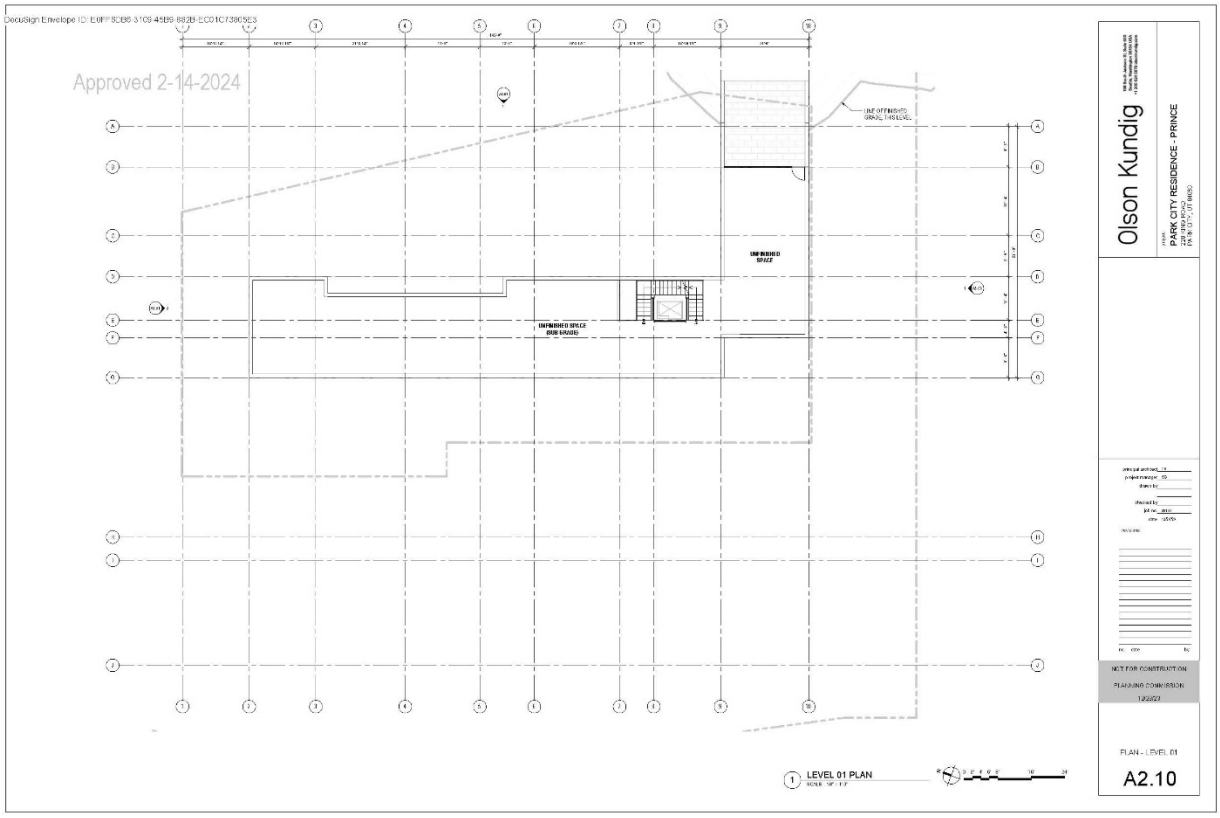
Olson Kundig

PARK CITY RESIDENCE - PRINCE

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/20/23

ROOF HEIGHT TO GRADE

A1.04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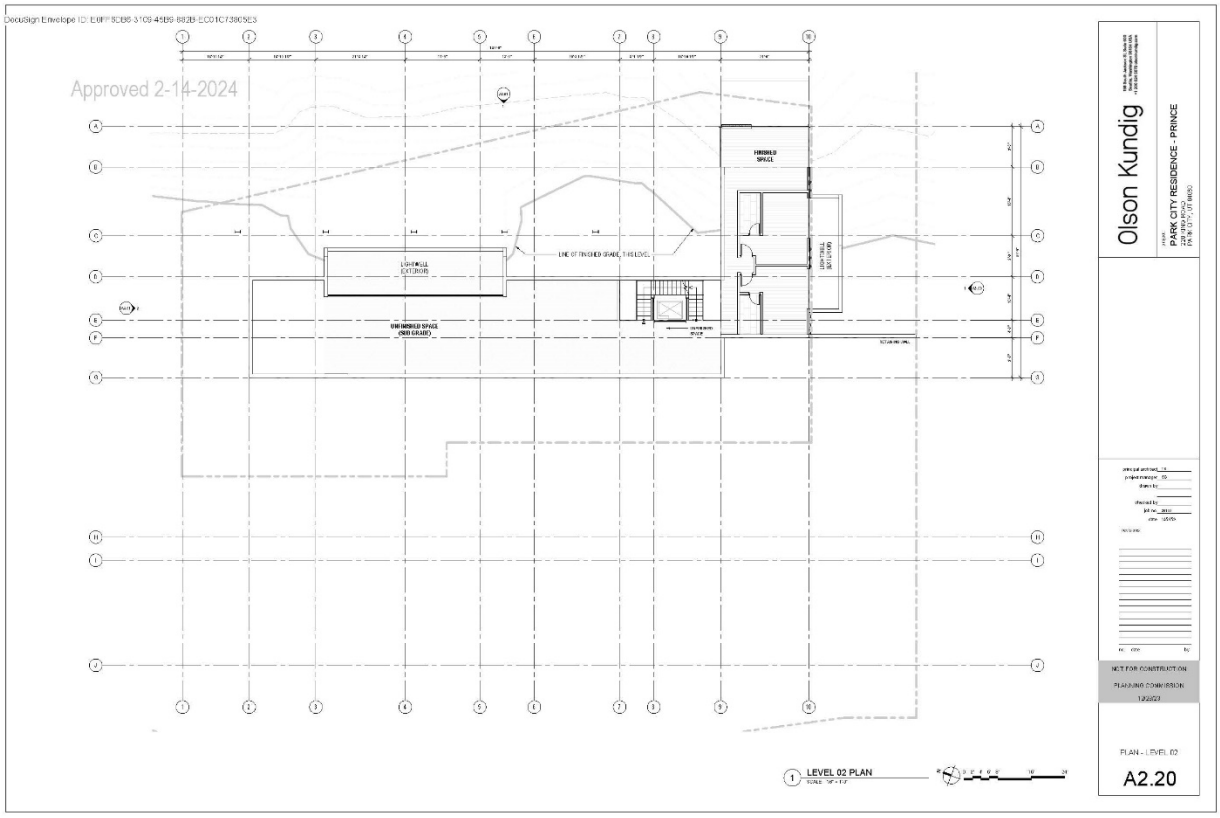
Approved 2-14-2024
UNFINISHED SPACE
UNFINISHED SPACE
1 LEVEL 01 PLAN
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 01
A2.10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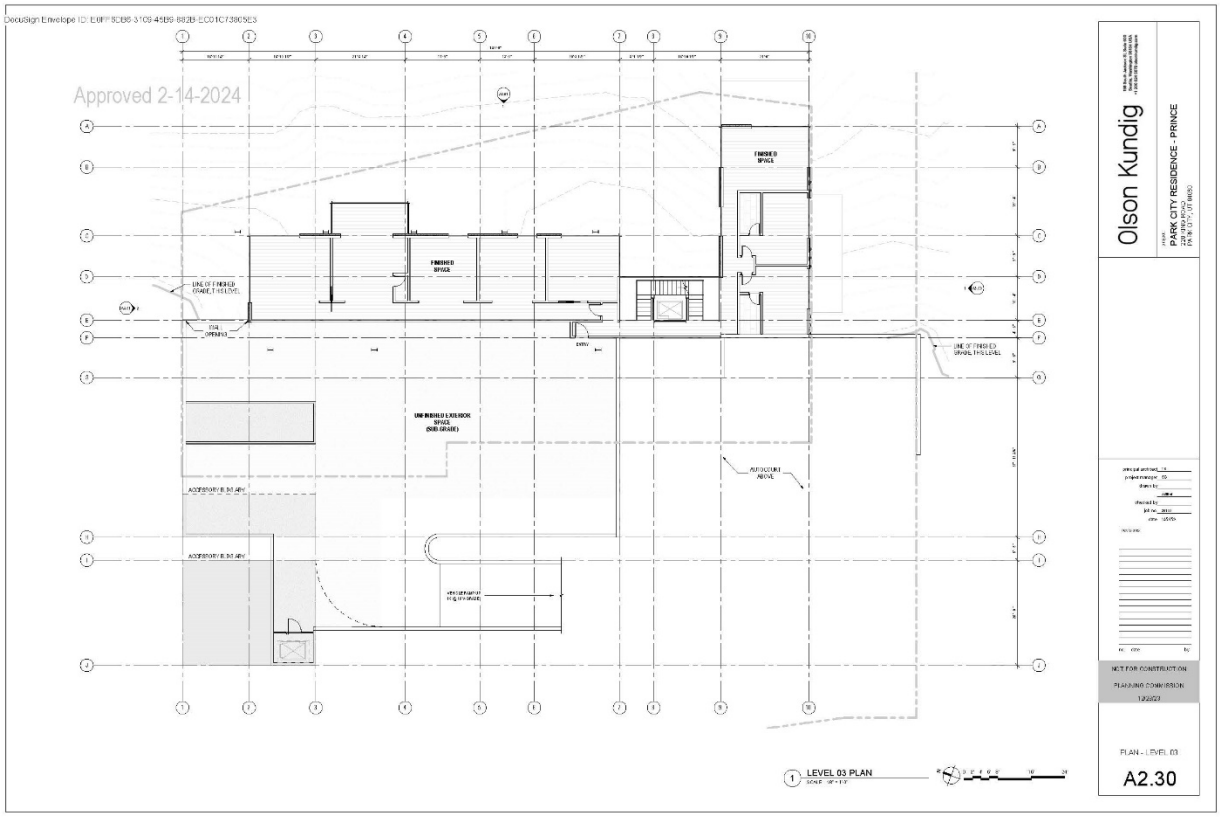
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/20/23
PLAN - LEVEL 02
A2.20
1 LEVEL 02 PLAN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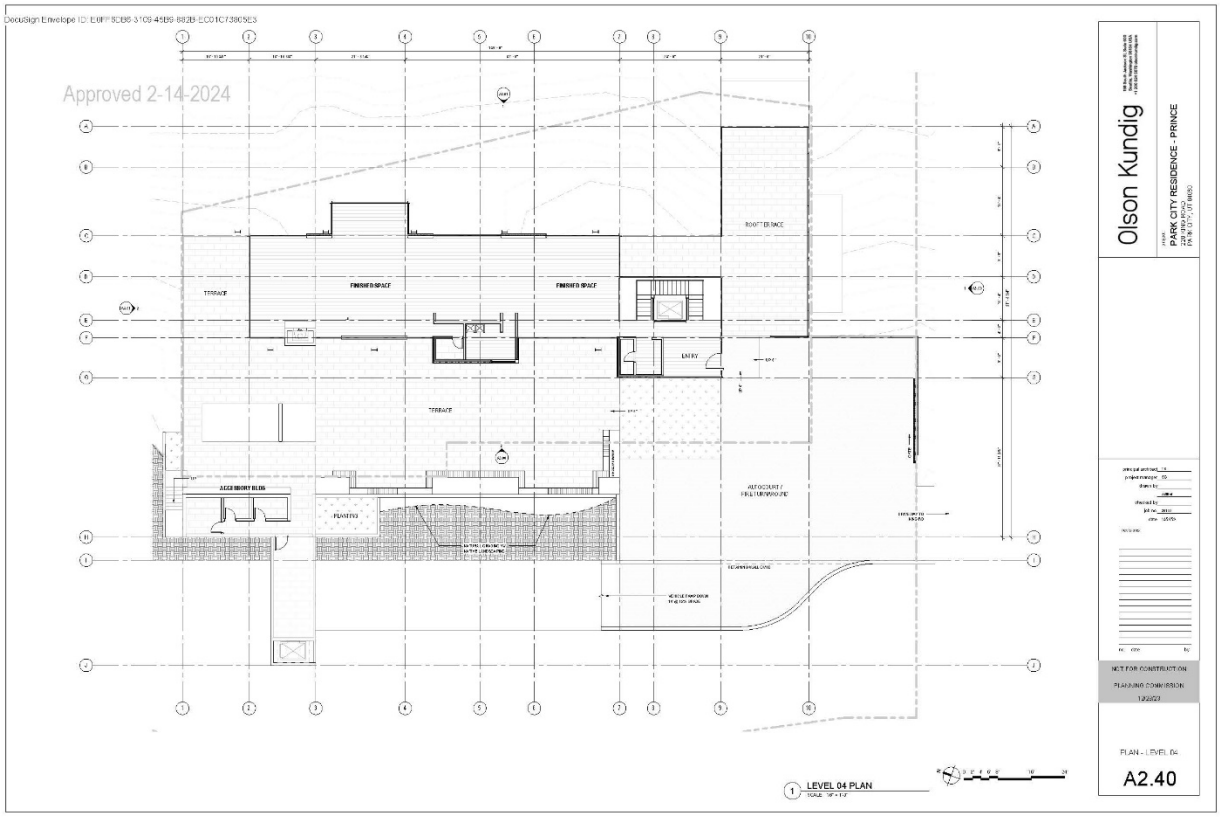
Approved 2-14-2024
FINISHED SPACE
FINISHED SPACE
LINE OF FINISHED GRADE, 1'HS LEVEL
STAIR OPENING
UNFINISHED STORAGE SPACE (SUB-GRADE)
ACCESSORY BLDG ABV
ACCESSORY BLDG ABV
AUTO COURT ABOVE
LINE OF FINISHED GRADE, 1'HS LEVEL
1 LEVEL 03 PLAN
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 03
A2.30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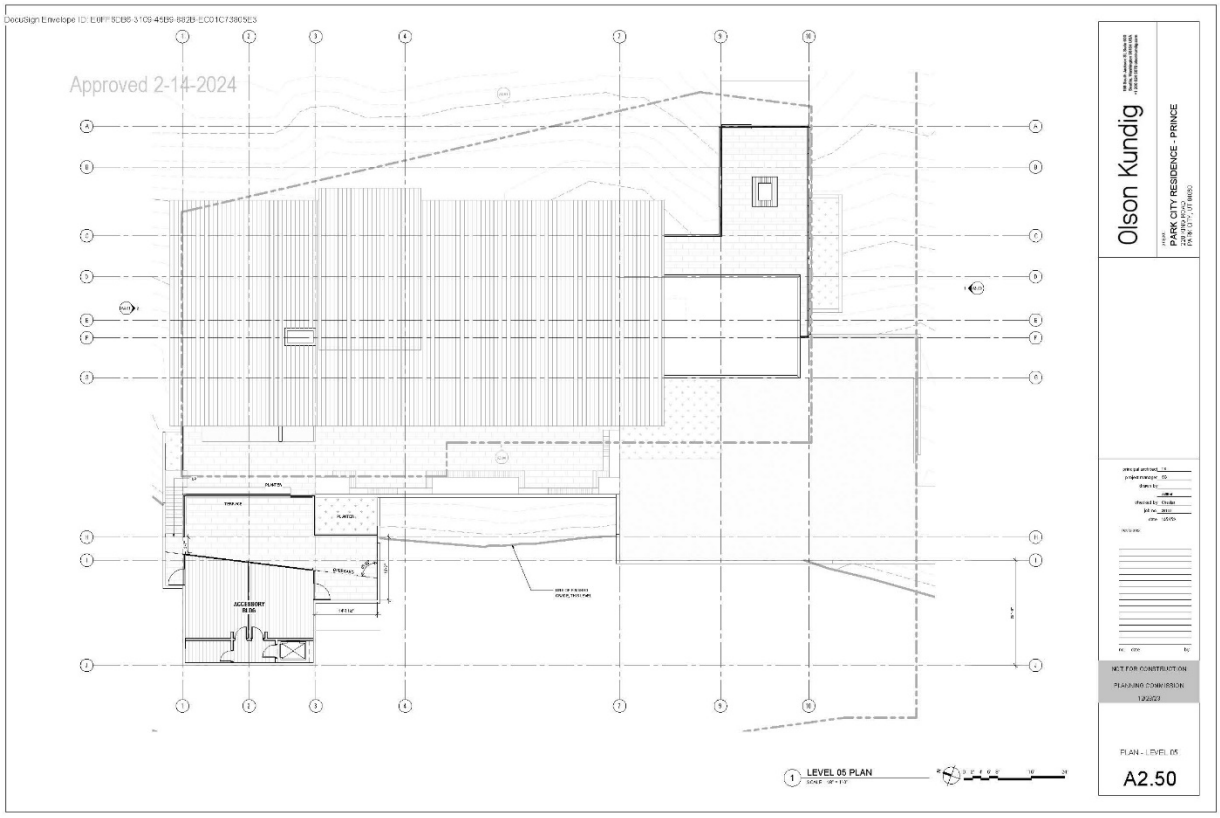
FINISHED SPACE
FINISHED SPACE
TERRACE
TERRACE
ENTRY
ROOFTOP DECK
PLANTING
ACCESSORY BLDG
Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/20/23
PLAN - LEVEL 04
A2.40
1 LEVEL 04 PLAN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Olson Kundig
PARK CITY RESIDENCE - PRINCE
NOT FOR CONSTRUCTION
PLANNING COMMISSION
PLAN - LEVEL 05
A2.50
1 LEVEL 05 PLAN

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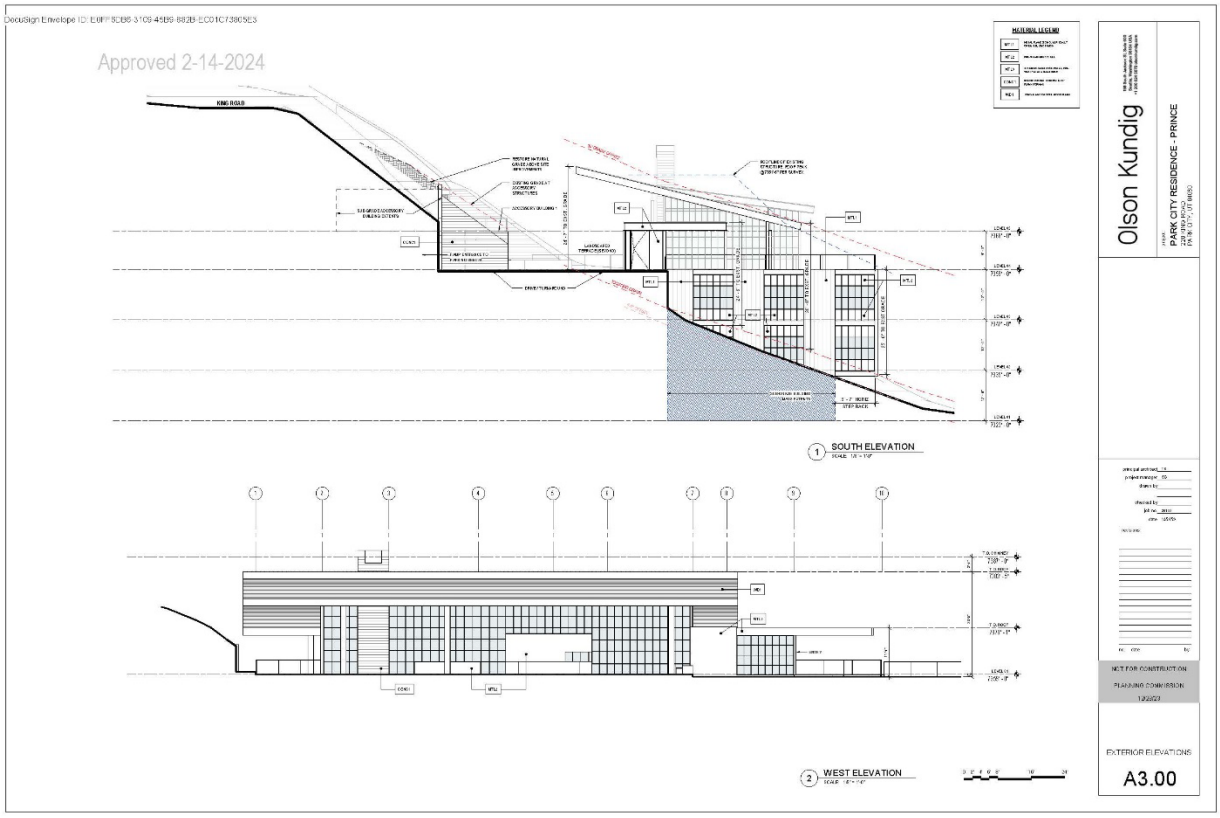

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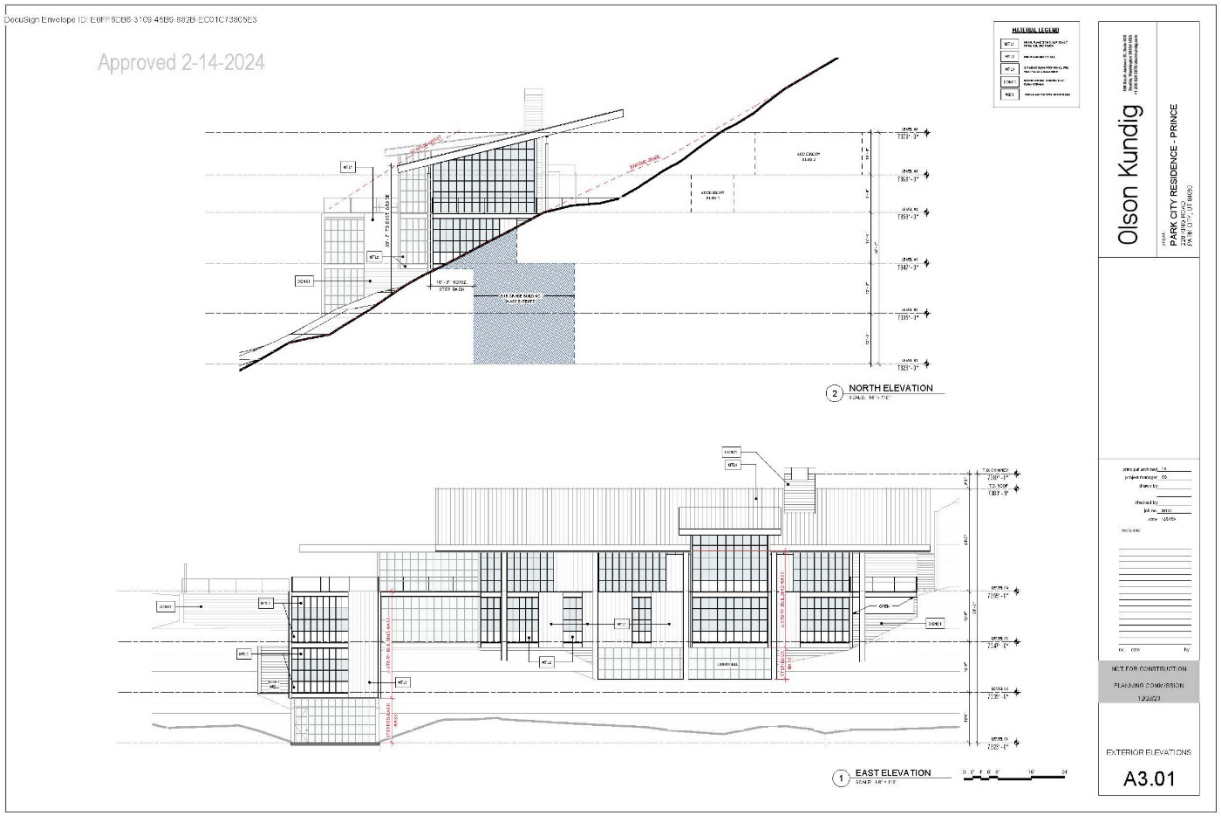

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3D Views - from north

Approved 2-14-2024

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3D Views - from east

Approved 2-14-2024

DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73805E3

3D Views - from south

Approved 2-14-2024

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Approved 2-14-2024

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Approved 2-14-2024

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Grading Plan

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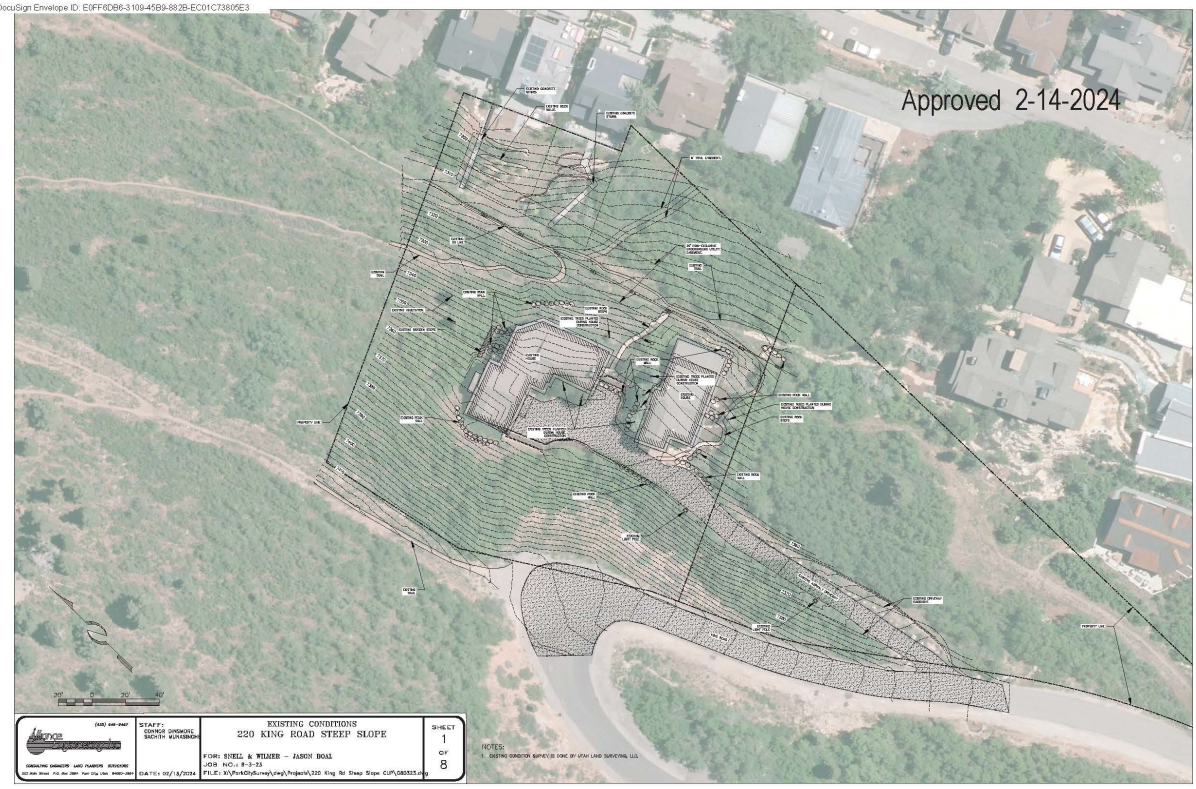

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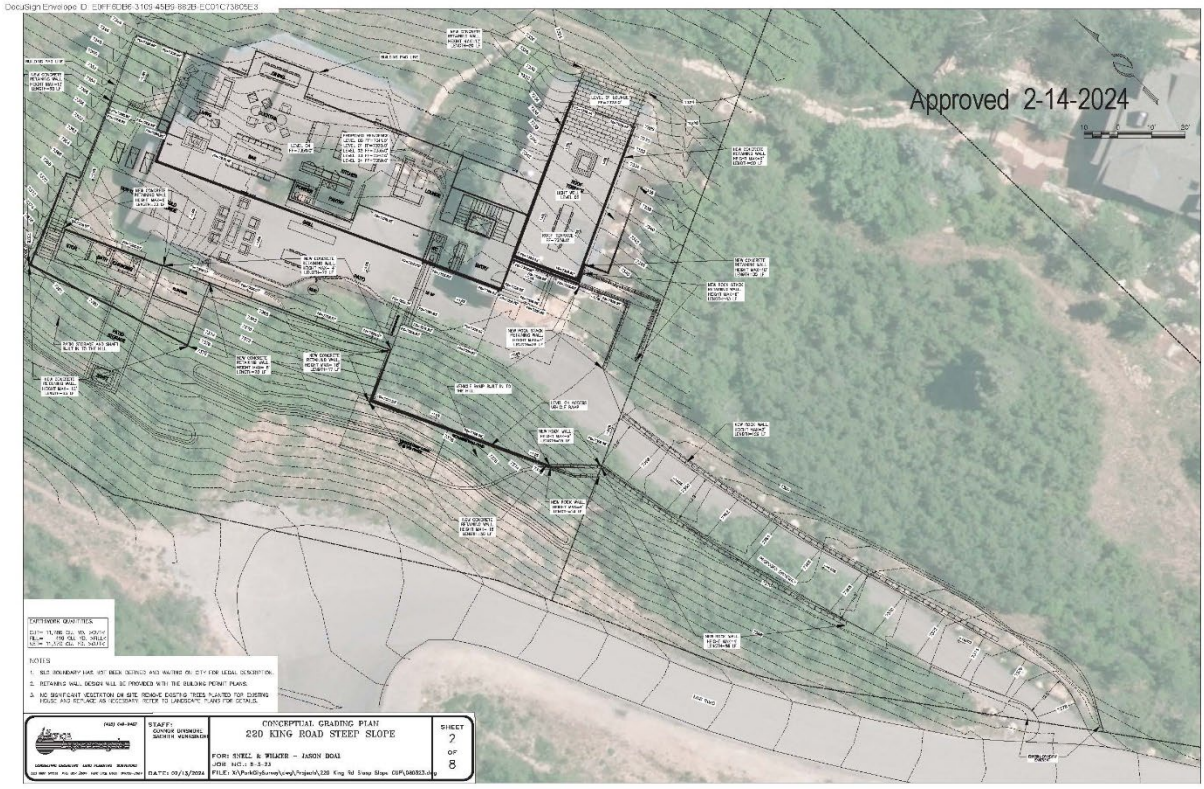

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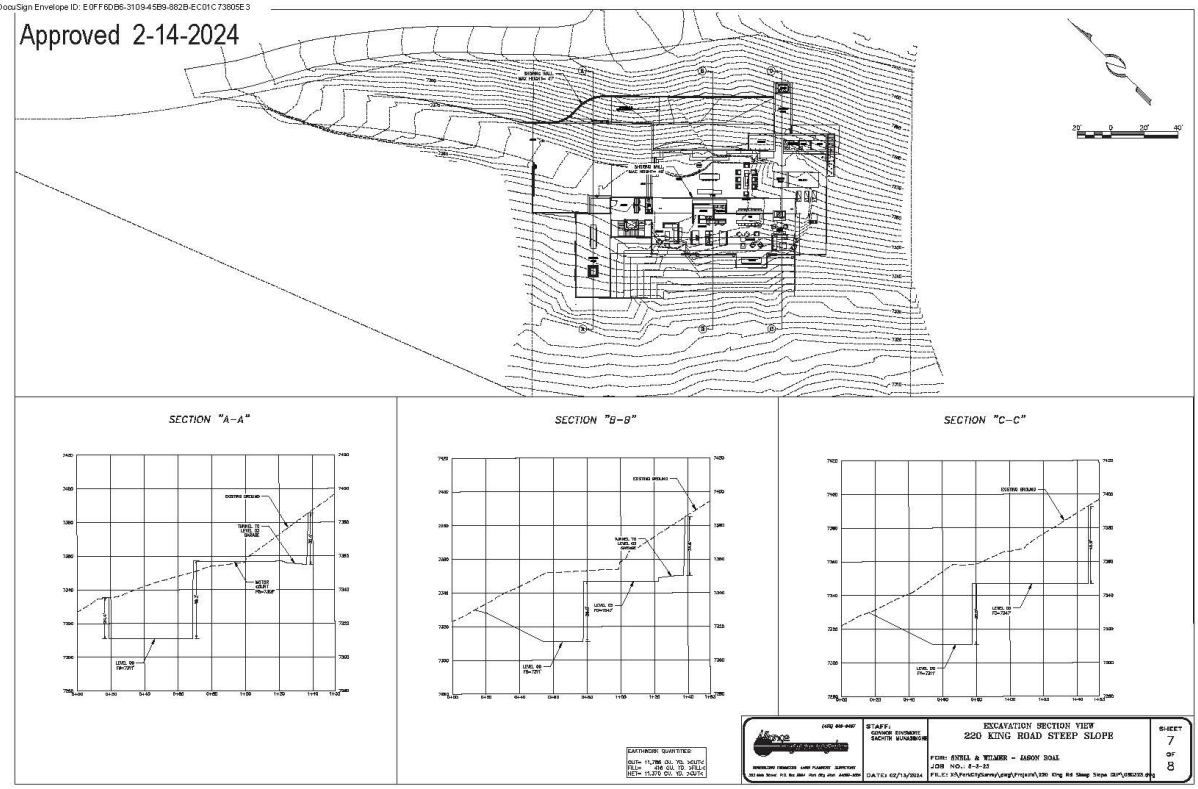

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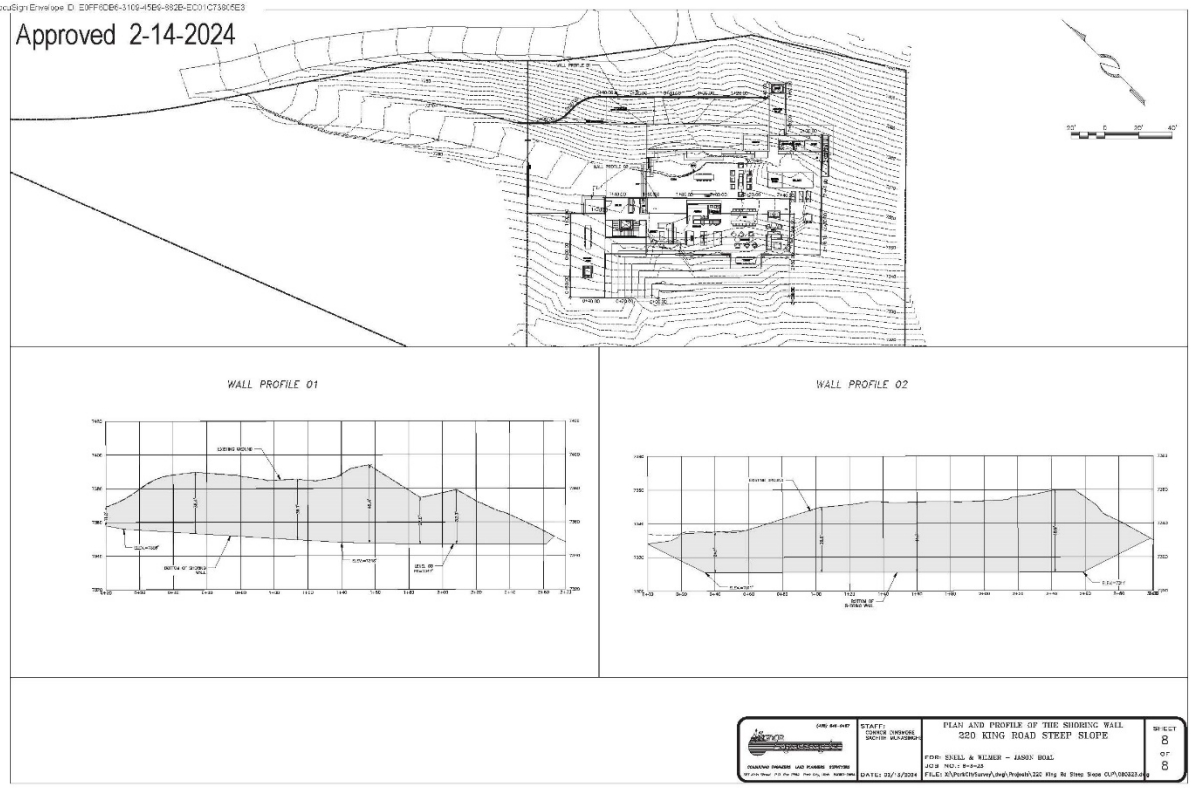

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Drainage Plan

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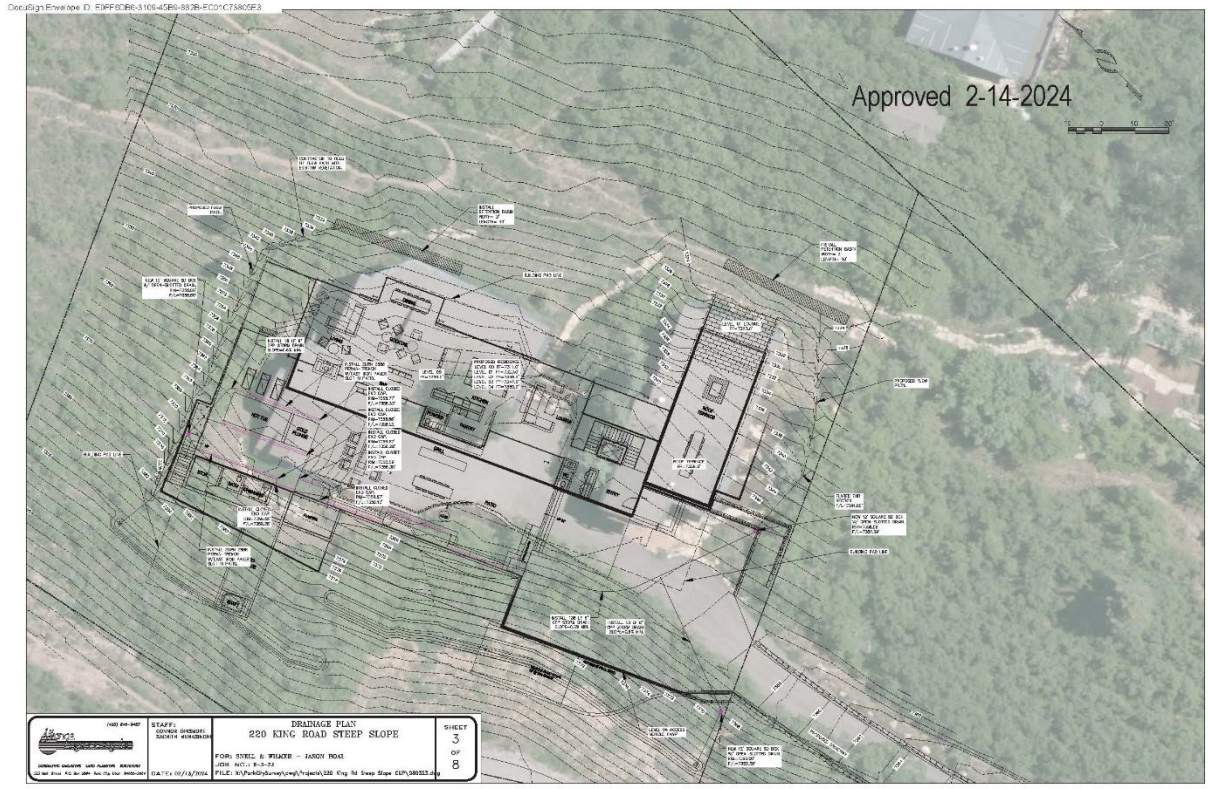

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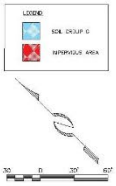
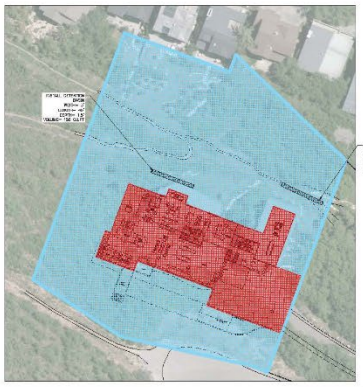


Approved 2-14-2024



WATER QUALITY VOLUME CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: WQ_v-RTA

DESIGN STORM: WATER QUALITY EVENT

NOTE: INTENSITY = 0.43 IN/HOUR SUMMIT COUNTY MSA

VARIABLES

Q = RUNOFF FLOWRATE (CUBIC FEET/SEC)

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.31
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.89	

I = STORM INTENSITY (IN/HR)

Tc STORM DURATION (HR)

NOTE: I= 2.68*(Tc)^-0.645 SUMMIT COUNTY ENGINEERING MSA-A

A = AREA (FT²)

PRE-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			41,338	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				8,508

A= 49,847 FT²

C= 0.37

I= 0.65 IN/HR

WQ_{v-RTA} = 1,606 CU FT

POST-DEVELOPMENT WATER QUALITY VOLUME

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)				
STEEP (>6%)			41,338	
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				12,508

A= 53,847 FT²

C= 0.42

I= 0.65 IN/HR

WQ_{v-RTA} = 1,735 CU FT

I= 1.09 IN

GROUNDWATER RECHARGE VOLUME

GWQ_{v-RTA} = 130 CU FT

PEAK RUNOFF CALCULATIONS

ASSUMPTIONS

METHOD OF ANALYSIS: RATIONAL METHOD (CHOA

STORM RETURN PERIOD: 100 YEARS

NOTE: FOR THE GIVEN RECURRENCE INTERVAL, THE COMPOSITE "C" VALUE IS ADJUSTED AS A FUNCTION OF LOCATION'S COMPUTING Q

STORM DURATION: 10 MIN

SOURCE: NOAA ATLAS 14 - MAM CITY RADIO STATION 42-6048

VARIABLES

Q = RUNOFF FLOWRATE (CUBIC FEET/SEC)

C = RUNOFF COEFFICIENT

(WEIGHT AVERAGE BY SOIL GROUP AND AREA TYPE)

RUNOFF COEFFICIENTS "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	0.07	0.10	0.14	0.16
AVERAGE (2-6%)	0.12	0.15	0.19	0.22
STEEP (>6%)	0.16	0.21	0.27	0.31
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE	0.39		0.89	

I = STORM INTENSITY (IN/HR/FT²)

A = AREA (ACRES)

t = TIME OF CONCENTRATION (MIN.)

Q = EXCESS RUNOFF VOLUME (CU FT) = (Q)

PRE-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)				
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	0.89	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.89

A= 0.34 ACRES

C= 0.37

Q_{P-RTA} = 1.08 CFS

I= 3.00 IN/HR

POST-DEVELOPMENT PEAK DISCHARGE

AREAS FOR WEIGHT AVERAGE "C":

SLOPE	HYDROLOGIC SOIL GROUP A	B	C	D
FLAT (0-2%)	-	-	-	-
AVERAGE (2-6%)	-	-	-	-
STEEP (>6%)	-	-	0.89	-
SURFACING	PERVIOUS		IMPERVIOUS	
HARDSCAPE				0.89

A= 0.34 ACRES

C= 0.42

C_{AVG} = 0.53

Q_P = 1.27 CFS

I= 3.00 IN/HR

EXCESS RUNOFF STORAGE VOLUME

ΔQ_P = 0.19 CFS

t_C = 600 SEC

V_P = 232 CU FT

STORMWATER DETENTION REQUIRED = 332 CU. FT.
STORMWATER DETENTION PROVIDED = 900 CU. FT.

NOTES:

1. PEAK RUNOFF VOLUME OF 232 CU. FT. IS TO BE 100% DETAINED IN PROPOSED POND. THE DIMENSIONS OF THE DETENTION BASIN IS NOTED ON THE ABOVE PLAN. CUMULATIVE DETENTION VOLUME = 900 CU. FT.
2. OUTLET ROOF DRAINS SO THAT THE STORM WATER FLOWS FROM HOUSE DOWN GRADING AND INTO DETENTION BASIN.
3. STORMWATER DETENTION POND ALIGNMENT MAY VARY, FOLLOW EXISTING CONTOURS.
4. THE DETENTION POND HAVE BEEN SIZED TO DETAIN 100% OF THE WATER QUALITY VOLUME PER SUMMIT COUNTY ORDINANCE NO. 38-A, AMENDED TO MEET THE COUNTY REQUIREMENTS FOR TSS REMOVAL AND GROUNDWATER RECHARGE.

(435) 649-9467

STAFF:
CONNOR DESIMONE
KENETH MEMMOTT

DATE: 01/15/2024

STORMWATER MANAGEMENT PLAN
220 KING ROAD STEEP SLOPE

FOR: SHELL & WILMER - JASON HOAL

JOB NO.: 8 3 31

FILE: X:\Work\Survey\dwg\Projects\220 King Rd Steep Slope CUP\083123.dwg

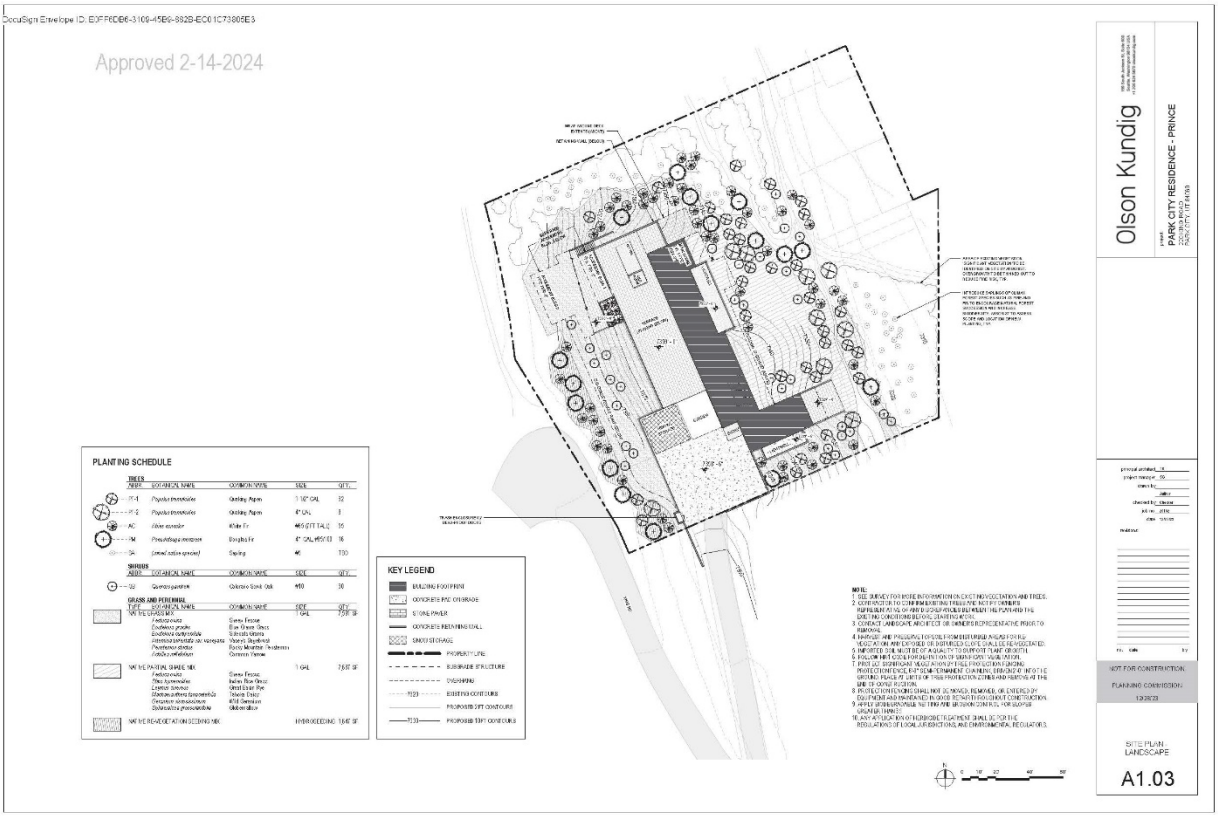
SHEET 5 OF 8

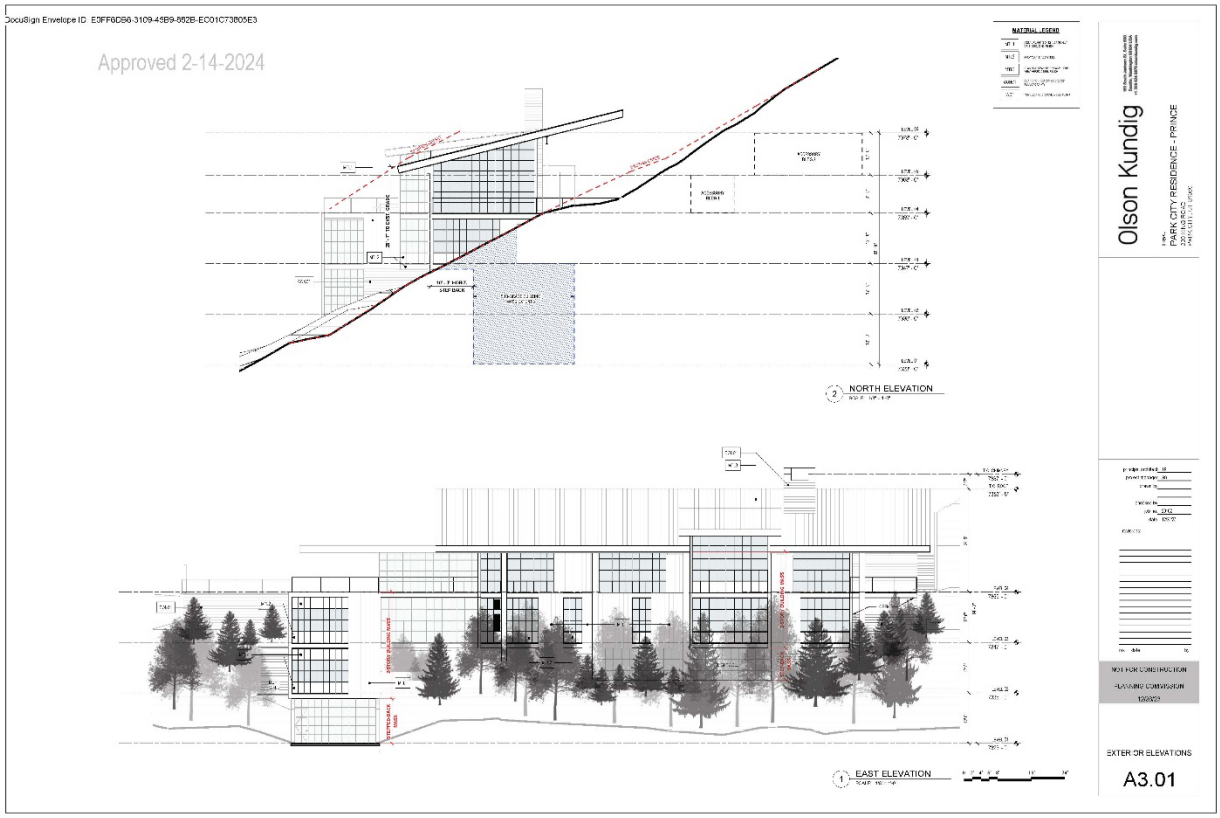
DocuSign Envelope ID: E0FF6DB6-3109-45B9-882B-EC01C73605E3

Landscape/Vegetation Plan

DocuSign Envelope ID: B3FF6DB6-3109-45B9-882B-EC01C73805E3

Approved 2-14-2024

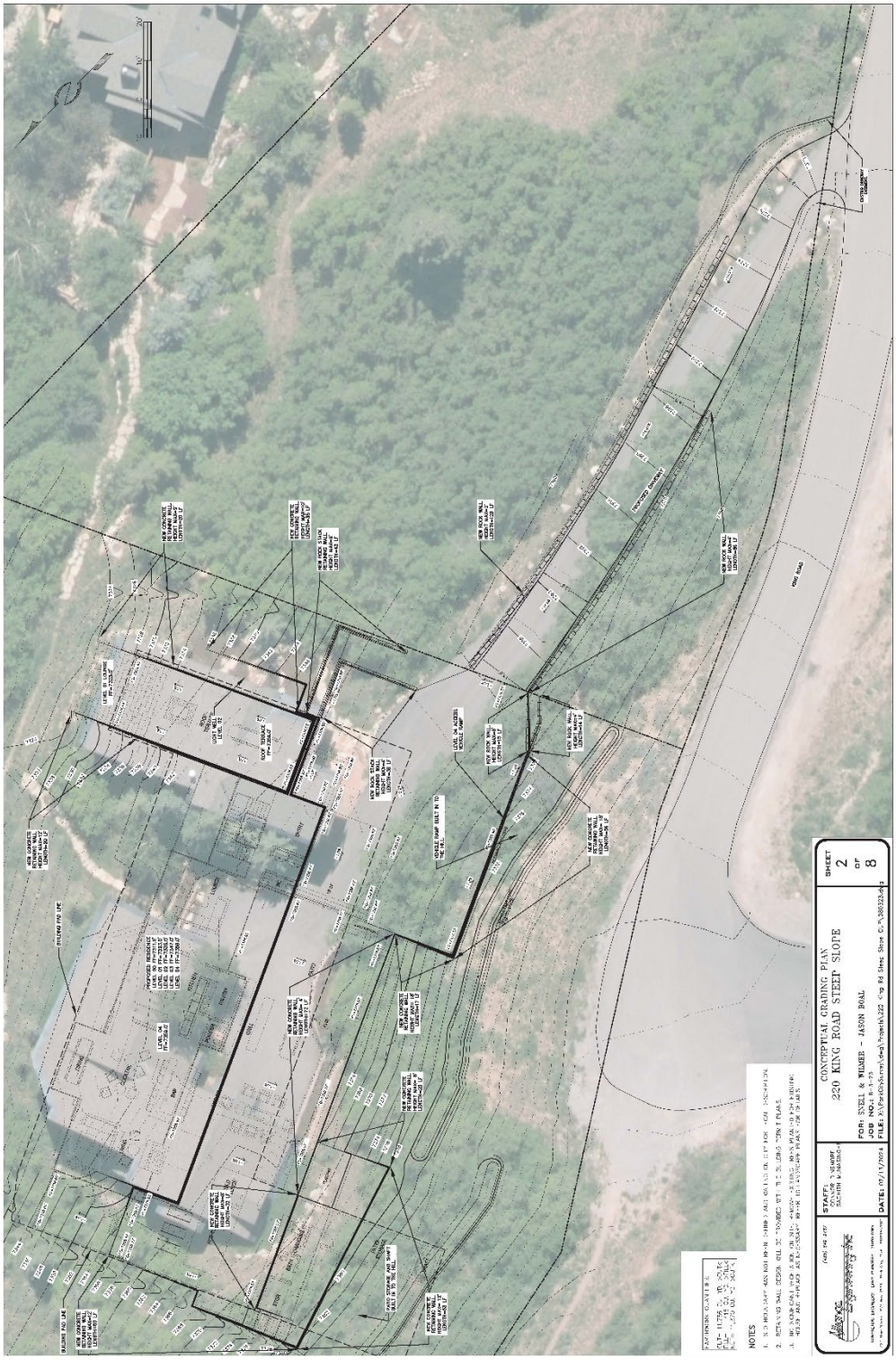




4869-1668-1912

EXHIBIT C

Driveway Plans



4869-1668-1912

Slopes Table
Number
Minimum Slope
Maximum Slope
Area
Color
1
0.0%
15.0%
2961.5 SF
2
15.0%
30.0%
2651.1 SF
3
30.0%
45.00%
3350.2 SF
4
45.0%
MAX=57%
1440 SF
BUILDING PAD LINE
BUILDING PAD LINE
PROPERTY LINE
SLOPE MAP
220 KING ROAD STEEP SLOPE
FOR: SNELL & BAKER - JASON LOAL
JOB NO.:
FILE:
STAFF:
DESIGNER
SCALE:
DATE: 12/13/2024
SHEET
4
OF
8

LAW OFFICES OF
WILLIAMS & HUNT
A PROFESSIONAL CORPORATION

257 EAST 200 SOUTH, SUITE 500
P.O. BOX 45678
SALT LAKE CITY, UTAH 84145-5678

JODY K BURNETT

TELEPHONE (801) 521-5678
FAX (801) 364-4500
E-MAIL jburnett@wilhunt.com

MEMORANDUM

To: Members of the Park City Planning Commission

From: Jody K Burnett

Date: April 22, 2009

Re: Advisory Opinion regarding vested rights with respect to Sweeney Master Plan Development

---

Pursuant to your request, I have been asked to render an independent public advisory opinion to you regarding whether, and to what extent, the Sweeney Master Plan Development ("Sweeney MPD") has vested rights with continuing validity for the purpose of assisting you in your review of the pending application for the final phase of development of the Treasure Hill Conditional Use Permit under the Sweeney MPD.

In the process of preparing this opinion, I have reviewed the extensive City files regarding both the original approval of the Sweeney MPD as well as the more recent events focusing on the application for approval of the final phases consisting of the Creole Gulch and Mid-Station components of the Project, for which I understand an application for a conditional use permit has been pending and in various stages of review and discussion since January 13, 2004.

Based on my independent review of the City's records and relevant legal authorities, for the reasons more fully set forth below, I conclude that the Sweeney MPD has continuing vested rights which are valid and therefore advise you to continue processing the pending application for a conditional use permit under the development parameters and conditions established as part of the original Sweeney MPD approval and the conditional use permit review criteria set forth in the Park City Municipal Code.

While I understand and appreciate the community concerns that naturally arise in the context of a historical master plan approval such as the one presented here, it is important to recognize and understand that Utah law establishes earlier and more favorable vesting conditions for applicants and property owners than may be true in a number of other jurisdictions. See generally Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah 1980). In addition, while those principles were originally established as a matter of common law by the Utah courts, they have since been codified as part of the Land Use Development and Management Act, Utah Code Ann. § 10-9a-509.

In this specific instance, the Sweeney MPD was granted historical vested rights as part of the original approval effective as of the date of final City Council action on October 16, 1986. As a result, the question presented here is whether the applicant has proceeded with reasonable diligence. In light of the extensive materials that have been submitted in support of the application for this final phase of the Project, together with the numerous meetings with the Planning Commission and continuing dialog with staff by the applicant since that time, one would be hard pressed to argue that they have not proceeded with reasonable diligence under these particular facts and circumstances. That same analysis also applies to the concerns that have been raised as to whether those historical vested rights the Project possessed by virtue of the original MPD approval have expired or lapsed through inaction on the part of the owner/developer.

In articulating the vested rights rule in Utah, our Supreme Court specifically recognized the challenge presented by large, long term multi-phase projects, but specifically observed that, "...the tests employed by most other jurisdictions tend to subject landowners to undue and even calamitous expense because of changing city councils or zoning boards... Tests currently followed by the majority of states are particularly unsatisfactory in dealing with the large multistage projects. The threat of denial of a permit at a late stage of development makes a developer vulnerable to shifting governmental policies... ." Western Land Equities, 617 P.2d at 395.

Although I view this as primarily a vested rights issue, my conclusion is further supported by the partial performance on the part of the Sweeneys of what might be characterized as the quasi-contractual elements of the original MPD approval in the form of the rezoning of a substantial portion of the hillside area to recreation open space, the imposition of deed restrictions for the purpose of the long term preservation of open space, the granting of easements, dedication and construction of trails, etc. Such activities might be also be characterized as establishing the elements of an equitable estoppel theory based

on the notion that the applicant has substantially changed their position in good faith reliance on affirmative action by the City in the form of the original MPD approval.

I also note from my review of the extensive files and records in this matter a common misunderstanding about the nature and degree of discretion afforded to the City under the conditional use process which merits further discussion. The issue has been appropriately framed by City staff in advising you that under both state law and local ordinance, an application for a conditional use permit shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. See, Utah Code Ann. § 10-9a-507(2)(a). In this particular instance, while I recognize that the Planning Commission must make a finding that the pending application will be compatible with surrounding structures in use, scale, mass and circulation, that determination must be understood and approached in the context of the findings adopted as part of the original approval of the Sweeney MPD, with particular emphasis on items 1, 2 and 3, which specifically determined that the proposed cluster development concept and associated projects are consistent with the Park City Master Plan, the underlying zoning, is or will be compatible with the character development in the surrounding area, and that the preservation of open space and other site planning attributes resulting from the cluster approach to the development of this hillside area is sufficient justification for the height and other review criteria approved at that time.

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

In conclusion, the Sweeney MPD has vested rights of continuing validity in the Creole Gulch and Mid-Station components of the project at the maximum densities as calculated by staff subject to compliance with the development parameters and conditions adopted as part of the original MPD approval and the conditional use permit review criteria under the Park City Municipal Code.

I am and will continue to be available to answer any questions you may have in order to assist you in proceeding with the further review and processing of this pending application.

cc: Mayor Williams and Members of the City Council
Mark Harrington, City Attorney

158761.1

HOGGAN LEE HUTCHINSON

April 26, 2024

VIA EMAIL

Park City Appeal Panel
Todd Godfrey, Outside Counsel for the Appeal Panel
tjgodfrey@hgblaw.net
Rebecca Ward, Planning Director
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mark@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Response to the Applicant's Motion to Dismiss for Lack of Standing

Dear Panelists,

Pesky Porcupine LLC ("Applicant") moves to dismiss the appeal of individual property owners who reside or own property near the Applicant's property at 220 King Road, Park City, Utah ("Property"). Susan Fredsont-Hermann and Eric Hermann along with David Bennett, David Constable, Ed Desisto, Ginger Tolman, James Doilney, John Vrable, Martiena Lewis and Nicholas Schapper, collectively "Property Owners") respectfully ask the Appeal Panel to deny the Applicant's motion to dismiss for the reasons articulated below.

I. As a threshold matter, the Applicant failed to timely seek dismissal, and their Motion fails to provide an adequate basis for dismissal at this stage.

If this was a judicial proceeding, a party would invoke specific procedural rules that permit the party to seek dismissal and provide a fair opportunity for the party opposing the motion to be heard,[1] including sufficient time to assess, analyze, and respond to the arguments.[2] The problem with the Applicant's request in this appeal is two-fold. First, the Applicant does not cite or raise any procedural rule or standard that permits seeking dismissal at this stage of the proceeding. Second, the Applicant filed the Motion on the eve of the hearing scheduled for the appeal.

[1] *See* Utah R. Civ. P. 12(b).

[2] Utah R. Civ. P. 7(d) (allowing 14 days to respond).

While in a judicial proceeding standing may be raised at any time, each of these points provides ample reason for the Appeal Board to decline reaching the merits of the Motion. As a practical matter, there does not appear to be any process contemplated for dismissal in the sections of the Code addressing such a motion—such an argument, if raised, should be done at the judicial stage—after the parties have exhausted their administrative remedies.[3] But even more fundamentally, the Appeal Panel should decline to grant the relief sought when doing so would deprive the Property Owners a fair and full opportunity to respond to the Motion, as required by principles of due process.[4] Here, the Applicant's procedural maneuverings—filing lengthy briefs and the Motion with less than a week before the hearing—undermined the Property Owners' ability to substantively respond to the legal arguments and factual averments contained in the Motion. Basic principles of fairness and concepts of waiver weigh in favor of the denying the Motion.

II. The Property Owners possess standing under the city ordinances empowering the Appeal Panel to conduct a thorough review of the issues raised in the letter.

Even if the Applicant had timely filed its motion to dismiss or properly invoked a procedural mechanism for securing relief on that basis, the Motion should be denied because the Property Owners possess standing under both the City's Land Management Code ("LMC") and provisions of Utah's Land Use Development and Management Act ("LUDMA").[5]

a. Property Owners qualify as individuals entitled to seek review of the land use decision under the LMC.

The LMC clearly defines the parties with standing to appeal a final land use decision, which include both (a) "[a]ny person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;" *and* (b) the "Owner of any Property within three hundred feet (300') of the boundary of the subject site."[6] Here, nearly all of the Property Owners meet at least one of these requirements.

---

[3] Under the Code, "procedural hearings and reviews established by the City's regulatory procedures do[] not adopt or utilize the adversary or civil justice system used in the courts." LMC § 15-1-18(1). While the Applicant points to provisions of LUDMA, those provisions do not preclude the City from providing greater protections for review by an appeal board, as the City appears to have done here.

[4] *See Dairy Product Services, Inc. v. Wellsville*, 2000 UT 81, ¶ 49 ("[D]ue process is flexible and, being based on concepts of fairness, should afford the 'procedural protections that the given situation demands.' The minimum requirements are adequate notice and an opportunity to be heard in a meaningful manner.") (citations omitted).

[5] The Applicant invokes *McKitrick v. Gibson*, 2021 UT 48, for the proposition that a party must possess statutory standing to invoke a statutory right. Motion at 2-3. In that case, a party had to show statutory standing to invoke a claim under GRAMA, and the city's appeal provisions expressly incorporated that statute. *Id.* ¶ 42. But the case is of limited utility in this context, where the rights invoked and the appeal process itself are based upon and predicated on the LMC. In other words, *McKitrick* does not support the proposition that the Appeal Panel must limit its analysis to LUMDA, as suggested by the Motion, but instead suggests that the decision maker should look to the nature of the proceeding and apply that law when assessing standing. Because the governing law for this procedure is set forth in the LMC, its provisions on standing should apply.

[6] LMC § 15-1-18(D).

With respect to the written comment or testimony provision, the Applicant's own brief acknowledges that David Bennet, David Constable, John Doilney, and John Vrabel submitted written comments about the circumstances sounding the Applicant's proposed development—indeed, despite Applicant's characterization, the emails appear to have been attached in the staff report for the February 14, 2024 hearing.[7]

Others unquestionably spoke at the hearing. For example, Ginger Tolman raised concerns about the size and height, noting that she lived very close to the property.[8] Martiena Lewis spoke about her past experience and urged the planning commission to be stewards of Park City's fragile historical district and invoked its role as gatekeepers to ensure that anyone proposing a change respected the code, rules, and vision of the City.[9] Nicholas Schapper also emphasized that the commission served as guardians of Old Town and expressed concerns about the compliance with the correct governing regulations.[10] Of the Property Owners, Ed Desisto is the only one who did not provide a written comment or statement prior to the planning commission's decision.

Fortunately, the right to appeal is not limited to public comment. Under the LMC, anyone living within 300 feet of the boundary of Applicant's property retains a voice and right to participate in these proceedings. In the case of Mr. Desisto, his property is located directly downhill from the subject Property and well within the 300 feet requirement.[11] While the measurements differ from property owner to property owner, it appears clear that the Tolman, Vrable, and Doilney are easily located within viewing distance of the proposed development, which explains in part their concerns about the nature of the project and the reasons for their appeal.

The Applicant appears to discount these bases for standing, suggesting that the Appeals Board should instead apply the language of section 702 of LUDMA. But it is important to note that LUDMA merely sets basic requirements on what type of appeal protections must be provided in a land use context—it is the floor, not a ceiling.[12] Nothing within its provisions prohibit municipalities from affording greater public input or procedural protections beyond the basic requirements of the statute, which is precisely what the City has done here by creating the Appeals Board process and retaining broad definitions of who may participate in the City's proceedings.[13] And

[7] *See* Motion at 5.

[8] Feb. 14, 2022 Tr. at 55.

[9] Feb. 14, 2022 Tr. at 45-47.

[10] Feb. 14, 2022 Tr. at 59-60.

[11] *See* Motion at 4.

[12] Utah Code Ann. § 10-9a-104 ("This chapter does not prohibit a municipality from adopting the municipality's own land use standards.").

[13] *See* LMC § 15-1-18(D). The Applicant briefly argues that the City's standing provision is outdated and predates some 2020 amendments to LUDMA. But this argument does not carry the day. Importantly, the City amended this section of the LMC on at least three occasions since 2020—at no point did the City Council adopt an ordinance that would prescribe or limit standing notwithstanding the opportunity to do so. Also, as a practical matter, the concept of an adversely affected party long predated 2020, which further undermines Applicant's characterization of the legislative history.

contrary to Applicant's argument, affording greater protections does not conflict with LUDMA—it furthers its underlying purpose of affording due process, rather than frustrating it.[14]

For all these reasons, the Appeals Board should find that the Property Owners possess standing to participate in these proceedings under the LMC.

b. Even if LUDMA applied, several of the Property Owners satisfy the definition of adversely affected parties.

Section 703 does not contain the "only" language suggested by Applicant in their argument that LUMDA limits the class of person who may seek review on the municipal level.[15] But setting that aside, several of the Property Owners qualify as an adversely affected party, which is defined as those who "will suffer a damage different in kind than, or an injury district from, that of the general community as a result of the land use decision[.]"[16]

While few cases have interpreted this language since the 2020 amendment, courts have often addressed the similar context of particularized injury. For example, in 2010, the court cited older decisions for the proposition that parties may show a particularized stake in the outcome by "claiming injuries to their health, property, and recreational activities" or a direct effect on themselves or their families.[17] More recently, it was undisputed that a company comprised of landowners adjacent would be adversely affected by approval of a nearby wind farm.[18]

Because the concept of being adversely affected is deeply ingrained in land use law, but it is rarely addressed in Utah appellate decisions, cases in other jurisdictions may prove useful. In general, the proximity to a proposed development is often indicative of an injury distinct from the general community.[19] This is common sense; a person next door would likely be affected more than someone on the other side of town. But courts also consider other factors, such as the nature of the proposed activities, immediacy to nearby property owners, and the nature and degree of the effect of the land use decision on the challenger.[20] Courts remain flexible depending on the facts and circumstances of the case—and the risk of environmental harm, vandalism, potential trespassers, safety, parking congestion, and (importantly) reduction in property values may be sufficient

[14] In analogous contexts, courts have noted that an "ordinance need not be identical to the controlling state statute to be consistent with it." *Salt Lake City v. Newman*, 2005 UT App 191, ¶ 10 (cleaned up). An ordinance is in conflict "if it forbids that which the statute permits" but not inconsistent when the ordinance and state law "share a common purpose and are closely related in subject matter." *Id.* ¶ 11 (cleaned up).

[15] *Compare* Motion at 2 (claiming "only" three groups may seek review), *with* Utah Code Ann. § 10-9a-701.

[16] Utah Code Ann. § 10-9a-103(2).

[17] *See Morra v. Grand Cnty*., 2010 UT 21, ¶ 21 (cleaned up) (holding citizens had standing to challenge development based upon threat of dangerous increases in pollution).

[18] *Northern Monticello All., LLC v. San Juan Cnty*., 2022 UT 10, ¶ 19; *see also Johnson v. Hermes Assocs., Ltd.,* 2005 UT 82, ¶ 15; *Cedar Mountain Env't, Inc. v. Tooele Cnty. ex rel. Tooele Cnty. Comm'n,* 2009 UT 48, ¶ 13, 214 P.3d 95, 99, *abrogated on other grounds by McKitrick v. Gibson*, 2021 UT 48, ¶ 13, 496 P.3d 147.

[19] *Saugatuck Dunes Coastal All. v. Saugatuck Twp*., 983 N.W.2d 798, 816 (Mich. 2022).

[20] *Id.*

to establish an injury different for an nearby landowner than the general community.[21] And at least one court has noted that loss of view may give rise to special damages.[22]

Here, as noted by the Applicant, several of the property owners are located in the immediate neighborhood of the Property—indeed, several are located just down the hill.[23] The purposes of height restrictions include promoting privacy, ensuring unobstructed views, and preserving the character of the immediate surrounding areas. The proposed construction not only exceeds what would be permitted under the current LMC and MPD, but also would adversely affect nearby property owners (and the potential value of property) for those owners—such as the Mr. Desisto, Mr. Vrable, Mr. Doilney, and Ms. Tolman—in much more particularized and distinct manner from the general community or those located across town.

The nature of the proposed construction is also relevant. Applicant proposes a massive property, well outside the scale contemplated in the area. It also proposes an immense garage, which presents a risk of high traffic to the area and more events. Such a development adversely affects the nearby Property Owners' interest in the value of owning property within a historical district that conforms to certain standards and remains of the same character as a residential neighborhood. Here, the proposed impacts on their specific properties are different and distinct from others in the community, who may be located so far away as to experience little impact from the increased height, massive scale, and intensive use contemplated by the proposed improvements.

For all these reasons, even if the Appeals Board elects to apply standards used for judicial proceedings (notwithstanding the timing of the Motion) and concludes that LUDMA's definition is determinative, it should nevertheless deny the Motion, because at least some of the Property Owners qualify as nearby owners adversely affected by the decision.

III. The Appeals Board should decline to dismiss the concerns of nearby Property Owners based upon Applicant's fee argument.

The Applicant argues for dismissal in part because (a) it takes issue with the absence of a fee payment by Property Owners, even though the Hermanns clearly paid the fee; and (b) it argues that the Property Owners cannot conflate their appeal with the Hermanns. The Appeals Board should reject these technical arguments for three reasons.

First, as a threshold matter, the City has neither requested the fee, nor treated it as a basis for summary disposition of Property Owners' appeal. In fact, on March 14, 2024, counsel reached out and expressly raised the issue with City staff:

> Regarding the fees, we considered this a single appeal when filed. We separated the two arguments into two letters in order to separate the general

[21] *See, e.g.*, *id.*; *Cherry v. Wiesner,* 781 S.E.2d 871, 879 (2016); *Conrad v. Jackson*, 107 So. 2d 369, 371 (Fla. 1958) (assessing particular injuries of wall that blocked circulation of air).

[22] *Sanchez v. Town of Beaufort*, 710 S.E.2d 350, 356 (N.C. App. 2011).

[23] *See* Motion at 4.

> issues with the Planning Commission's approval of this project from the specific issue that only effects the Hermann's (the approval of a plan that violates the non-exclusive easement across their property). While we consider this one appeal, if you feel it should be treated as two separate appeals, we are happy to pay the additional fee. As I understand, in order for us to pay, there will need to be a separate application number created by your department. Please, let us know when that is ready and we can come by and pay the bill.[24]

To date, the City has not responded to the inquiry, nor has it requested a separate fee. Instead, it seems to have treated the letters as constituting a single appeal, which would be heard at one instance by this panel. Given the unique context—including the lack of clarity stemming from the ordinance—the City should be estopped from seeking dismissal on that basis, and the Applicant has no grounds to do so now.

Second, the LMC states, "The Appellant shall pay the applicable fee established by resolution when filing the appeal."[25] However, timing is crucial. The Appeals Board was only recently created. Since its inception, the City Council does not appear to have adopted a specific fee for this proceeding—the codified fee schedule, which appears to have been last update in 2021, has no fees listed for the Appeal Panel.[26] Insofar as there has been no fee adopted by resolution, the absence of a fee (notwithstanding the willingness of Hermanns and the Property Owners to pay one) does not supply a basis for dismissing the appeal.

Third and finally, even if a fee was required, the challengers intended the filings to constitute a single appeal. In support of its argument, the Applicant points to provisions of the LMC that require a complete application, but none of the provisions referenced preclude the application from being in multiple parts. The general thrust is that the application be complete and contain all of the arguments raised on appeal. Here, while it is true that multiple documents were submitted to clarify the issues in this complicated case, there is nothing within the LMC or the Motion which would preclude this body from reviewing the documents as a single appeal.[27]

In sum, the Property Owners respectfully ask the Appeal Panel to reject the Applicant's blatant attempt to avoid substantive review of the Planning Commission's decision through a motion that is not even contemplated under the non-adversarial process in the Code.[28]

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[24] Email from Charles Pearlman to Rebecca Ward (March 14, 2024).

[25] LMC § 15-1-18(F).

[26] LMC § 1.1.12.

[27] The Code contemplates that a single appeal may involve multiple arguments. *See* LMC § 15-1-18(J). While it recognizes multiple petitions, it does not expressly address whether multiple payments would be required where, as here, a coalition of parties seek singular review by the Appeal Panel. *See generally id.*

[28] LMC § 15-1-18(H).

IV. The Hermann's have standing to appeal under the Applicant's legal theory.

Even if one accepts the arguments for dismissal from the Applicant, the Hermanns still have standing to appeal and are the named Appellant on this appeal. The Applicant's motion to dismiss attempts to characterize the arguments made under the general appeal arguments letter as not including the Hermanns. This is despite the fact that document clearly includes the Hermann's as the Appellants and the above listed "Property Owners" as "supporting" the Hermann's appeal. The reason for this baseless exclusion is that the Hermanns clearly satisfy the LUDMA standing requirement cited by the Applicant. The Applicant motion states:

> An adversely affected party means "a person other than a land use applicant who . . . owns real property adjoining the subject property or will suffer damage different in kind than, or an injury distinct from, that of the general community as a result of a land use decision." See Utah Code § 10-9a-103(2). Property is adjoining if it touches or shares a common boundary. See Adjoining, Black's Law Dictionary (11th ed. 2019); see also Sackett v. EPA, 598 U.S. 651, 1364–65 (2023) ("Adjoining" means "touching or contiguous, as distinguished from lying near to or adjacent." (cleaned up)).

The Hermann's own two properties (200 King Rd. and 205 Norfolk Ave.) directly touch the 220 King Parcel. Indisputably, under the law cited by the Applicant, the Hermanns have standing. The attempt to remove them from being considered a part of the arguments in the relevant appeal document directly contradicts the terms of the documents and the underlying facts surrounding its filing.

V. Conclusion

The Applicants lack a procedural basis for seeking dismissal, especially on the eve of the hearing. Nevertheless, if the Motion is seriously entertained, it should be denied because the Property Owners possess standing under both LMC and LUDMA. Lastly, the LMC does not clearly articulate a fee for proceedings before the Appeal Panel and, given the unique circumstances of this case, dismissal on that basis would not only be error, but also unfairly deprive this body from creating a record of its decision on the substantive issues raised in this appeal. For all these reasons, Applicant's Motion should be denied.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys