



**PARK CITY REGULAR PLANNING COMMISSION MEETING
SUMMIT COUNTY, UTAH
November 17, 2021**

PUBLIC NOTICE IS HEREBY GIVEN that the Planning Commission of Park City, Utah will hold its Regular Planning Commission Meeting at the City Council Chambers, 445 Marsac Avenue, Park City, Utah 84060 for the purposes and at the times as described below on Wednesday, November 17, 2021.

MEETING CALLED TO ORDER AT 5:30 PM.

Notice of Electronic Meeting and How to Comment Virtually

The Chair issued a written determination that because of the public health emergency, conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may attend in person. This determination is based on the ongoing risks and infection rates statewide and in Summit County. For these reasons, this meeting will be an electronic meeting without an anchor location.

Planning Commission members will connect electronically. Public comments will be accepted virtually. To comment virtually, use eComment or raise your hand on Zoom. Written comments submitted before or during the meeting will be entered into the public record but will not be read aloud. For more information on attending virtually and to listen live, please go to www.parkcity.org.

1.ROLL CALL

2.MINUTES APPROVAL

- 2.A. Consideration to Approve the Planning Commission Meeting Minutes from November 5, 2021.
[11.05.21 Planning Commission Minutes](#)

3.PUBLIC COMMUNICATIONS

4.STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

5.WORK SESSION

- 5.A. Park City Mountain Resort Base Parking Lots - MPD Modification Work Session- Replace Expired Exhibit D of the DA, the 1998 PCMR Base Area Master Plan Study Concept Master Plan, With a New Master Plan, Known as the Park City Base Area Lot Redevelopment Master Plan Study. The Commission Will Discuss Off-Site Parking and Transportation, Draft Findings of Fact, Draft Conditions of Approval and Other Issues Raised in the Staff Report. PL-20-04475.
Public Input will be taken via e-comments and Zoom
(A) Work Session, No Action Will Be Taken
[PEG Staff Report](#)

[Exhibit A: Applicant's Ordinance Interpretation](#)

[Exhibit B: Applicant's Open Space Exhibit](#)

6.ADJOURN

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 validations will be provided for meeting attendees that park in the China Bridge parking structure.**



**PARK CITY MUNICIPAL CORPORATION
SPECIAL PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
November 5, 2021**

COMMISSIONERS IN ATTENDANCE: Chair John Phillips, John Kenworthy, Sarah Hall, and Bill Johnson.

EX OFFICIO: Gretchen Milliken, Planning Director and Mark Harrington, City Attorney

1. ROLL CALL

Chair Phillips called the special meeting to order at approximately 9:30 a.m.

2. REGULAR SESSION

A. To Adopt a Resolution for Electronic Meetings or Hybrids Moving Forward.

City Attorney, Mark Harrington, reported that the Council's Emergency Order expired on October 31, 2021. In order for the City to retain its ability to hold electronic meetings, it is necessary to adopt its own rule. The best way to do that without disruption was to hold a special meeting. Mr. Harrington explained that the City operates under COVID regulation C-1, which involves a Chair determination of public health. The proposed resolution would extend the Chair's ability to make those determinations and operate status quo. It also codifies another exception should the State or City Council again adopt an emergency resolution or declaration. In that case, it would automatically prohibit the need for an anchor location.

Item A of the proposed Resolution involves the general authorization that has expanded since COVID. Previously, this section was not allowed, and one to three members could be authorized to participate electronically with an anchor location and a quorum in attendance. The new legislation does not mandate that a quorum be present. Item A requires an anchor location. Although a meeting is held electronically, the public can still come to City Hall along with one to three members of the Commission. Only options B or C allow the Chair to make a determination when there is no anchor location.

Mr. Harrington recommended that the Commission adopt the Resolution to allow for the most flexibility moving forward with hybrid formats. If the Commission wishes to discuss the matter in greater detail, they can include the issue on a future work session agenda. The current redlined document is the most flexible and the Commission has the option to add rules and restrictions if desired.

Mr. Harrington confirmed that the document was been sent to all Commission Members with the exception of the corrected redline.

In response to a question raised as to whether under 1.A. the public can be present along with one to three Commission Members, Mr. Harrington explained that that would be the case if a meeting is advertised as having an anchor location only for the public. He stated that all options must be advertised 24 hours in advance. A meeting cannot be noticed without a quorum at the anchor location and then have a quorum present. He explained that the State citations require certain notices. A meeting can also be noticed with an anchor location for the quorum in addition to the public so that both scenarios are addressed. It must, however, be noticed that way in advance.

Under C.1. the assumption is that the Chair would continue to make a determination regarding the current COVID health risk and not require an anchor location. Chair Phillips had made it clear that he is open to discussing it with the full Commission.

MOTION: Commissioner Hall moved to APPROVE the Resolution approving Planning Commission Rules of Order for Electronic Meetings. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

3. ADJOURN

MOTION: Commissioner Hall moved to adjourn. The motion was not seconded and no vote was taken.

The meeting adjourned at approximately 9:37 a.m.

Planning Commission Staff Report



Subject: Park City Mountain Base Area Development
Project #: PL-20-04475
Authors: Alexandra Ananth
Date: November 17, 2021
Type of Item: MPD Modification

Summary Recommendation

Staff recommends the Planning Commission conduct a Work Session to review: 1) Applicant update on Transportation and Parking; and 2) Applicant's Ordinance Interpretation. The applicant is expected to be prepared to answer remaining questions and concerns.

No action on the proposed [Park City Base Area Lot Redevelopment Master Plan Study](#) is expected until the Commission has completed its review of the entire project. ***The next Planning Commission meeting for this project is tentatively scheduled for December 15, 2021, starting at 5:30 PM.***

Project Description

Applicant: PEG Development c/o Robert Schmidt
Location: PCMR Base Parking Lots including Parcels SA-402E, SA-402-A-1-A, SA-402-A-2, SA-253-B, SA-253-B-2-A, and SA-253-C
Zoning District: Recreation Commercial (RC)
Adjacent Land Uses: Park City Mountain Ski Resort, Resort Support, Hotel, Single Family and Multi-Unit Residential, Open Space
Reason for Review: MPD amendments require Planning Commission review and approval and a finding of compliance with the Park City General Plan and the Land Management Code

Acronyms

Average Vehicle Occupancy (AVO)	Land Management Code (LMC)
Bus Rapid Transit (BRT)	Level of Service (LOS)
Comfortable Carrying Capacity (CCC)	Master Planned Development (MPD)
Condition of Approval (COA)	Park City Mountain Resort (PCMR)
Conditional Use Permits (CUP)	Park City Mountain (PCM)
Development Agreement (DA)	Parking Management Plan (PMP)
Finding of Fact (FOF)	Recreation Commercial (RC)
Recreational Open Space (ROS)	Return on Community (ROC)
Traffic Impact Study (TIS)	Transportation Network Companies (TNCs)

Transportation Demand Management
Plan (TDM)
Trip Reduction Plan (TRP)

Utah Department of Transportation
(UDOT)
VR CPC Holdings, Inc. (VRCPC)

Terms that are capitalized as proper nouns throughout this staff report are defined in [LMC § 15-15-1](#).

Background Information

The Planning Commission held public meetings (and took public input during all but the August 18, 2021, meeting) on this application on:

1. [August 26, 2020](#)
2. [September 23, 2020](#)
3. [October 28, 2020](#)
4. [November 18, 2020](#)
5. [December 16, 2020](#)
6. [January 20, 2021](#)
7. [March 24, 2021](#)
8. [April 21, 2021](#)
9. [May 19, 2021](#)
10. [June 16, 2021](#)
11. [July 21, 2021](#)
12. [August 18, 2021](#)
13. [September 15, 2021](#)
14. [September 29, 2021](#)
15. [October 20, 2021](#)

Analysis

The applicant specifically requested this work session regarding transportation and parking. Further staff analysis of the issues raised by the Commission and public at prior hearing and review of the Draft Findings of Fact and Draft Conditions of Approval is anticipated to resume at the December meeting, unless the Commission directs otherwise.

Parking and Transportation Mitigation

The applicant is requesting to replace the existing 1200 day skier parking stalls, remove the prior MPD requirement to construct an additional 600 skier parking stalls, and seeks a 502-stall exception from the LMC parking requirements for the new development, for which the site overall is proposing to rely on City and County Park and Ride facilities served by transit on peak days.

Land Use	Parking Required	Parking Proposed	Percent Change
Day Skier Parking	1,200 existing	1,200 proposed	0%
1997 MPD	+ 600 stalls	0 new Resort stalls	
Residential Parking	555 required	450 proposed	-19%
Commercial Parking	468 required	71 proposed	-85%
Totals	2,823 required	1,721 proposed	40%

At the last meeting the applicant agreed to consider supplementing their application with additional off-site options, possibly including a fee similar to the Parking In Lieu Fee and a Transportation Mitigation Fee).

As noted last month, AECOM is finalizing a report on the costs to the City associated with serving the Resort with enhanced transit capacity and level of service from the Quinn's Junction/County area, including the Quinn's Park and Ride facility which is the assumed overflow parking location of choice for the Resort. The applicant's own analysis estimates that on peak days the Resort will need up to 422 off-site parking stalls served by transit during the peak hour. The AECOM study will also include an operations model that includes a cost per mile factor that can be applied to other projects if warranted. Once AECOM's study is complete (expected for the December 2021 Planning Commission meeting) the City will provide these costs to the applicant and Planning Commission.

The applicant will need to decide whether to amend their application to add alternative off-site parking proposal(s) by reaching additional commitments with Summit County, the City, the School District or a third party. The AECOM information could then be used to determine costs of additional or enhanced level of service.

The applicant has not agreed with City Executive staff on an approach to or number for off-site parking and transportation. Therefore, the applicant requested this work session to continue to directly discuss their proposal with the Planning Commission ***despite staff's recommendation to request a continuation.***

Ordinance Interpretation

The applicant submitted a letter addressing the applicant's interpretation of the LMC with respect to Maximum Allowed Building Height and perimeter Setback exceptions for Master Planned Development projects (Exhibit A). The applicant is proposing reduced Setbacks to the zone required setback on portions of two facades of Parcel B, specifically along portions of the Shadow Ridge Road and Empire Avenue facades.

Open Space

At the October Work Session some members of the Planning Commission asked staff to clarify the intent of the Ordinance language with respect to exceptions for Building Height, Setbacks and Open Space.

LMC Section [15-6-5\(D\)](#) requires that MPD projects contain a minimum of sixty percent (60%) Open Space as defined in Chapter 15-15. Chapter 15-15 contains three definitions of Open Space as follows:

1. **Open Space, Landscaped.** Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, ***public landscaped and hard-scaped plazas, and public pedestrian amenities***, but excluding Buildings or Structures.
2. **Open Space, Natural.** A natural, undisturbed Area with little or no improvements. Open space may include, but is not limited to, such Areas as Ridge Line Area, Slopes over thirty percent (30%), wetlands, Stream Corridors, trail linkages, Subdivision or Condominium Common Area, or view corridors.
3. **Open Space, Transferred Development Right (TDR).** That portion of a Master Planned Development, PUD, Cluster Plan or other Development plan from which Density is permanently Transferred. This Area may be either Natural or Landscaped Open Space.

LMC Section [15-6-5\(D\)](#) further states that “The Planning Commission shall designate the preferable type and mix of Open Space for each Master Planned Development. The Commission's determination shall be based on the guidance given in the General Plan. Landscaped Open Space may be utilized for project amenities such as gardens, greenways, pathways, plazas, and other similar Uses. Open Space may not be utilized for Streets, roads, driveways, Parking Areas, Commercial Uses, or Buildings requiring a Building Permit.”

Although the Planning Commission is tasked with designating the preferable type and mix of Open Space for MPDs, as noted in the definition of Landscaped Open Space, public landscaped and hard-scaped plazas and public pedestrian amenities are acceptable forms of Open Space.

The applicant is proposing Open Space area that includes 11.8 acres of the Resort that is zoned ROS. They are also including Open Space on Parcels B, C, D and E and have excluded all of Parcel A and the footprint of the future NAC building from their calculations. The applicant's Open Space includes property around the proposed Buildings including sidewalks and landscape areas, pedestrian amenities such as the proposed cut through on Building B, the area in front of the townhomes, hard-scaped plazas, and the proposed ski beach in front of the hotel.

Open Space does not include driveways or roadways, the hotel pool, loading areas, or areas covered by buildings.

The City's General Plan for the [Resort Center](#) neighborhood notes that the PCMR parking lots are entitled to future redevelopment of a mix of resort oriented residential and commercial uses. The hard-scaped plazas in the applicants plan could be used as public gathering places in the off season, similarly to how the parking lots are used now for the Park City Farmers Market.

Finding #5 of the 1997 Planning Commission Approval states “The Large Scale MPD proposes over 70% open space in the form of pedestrian plazas and walkways, ski runs, and landscaped areas. Special conditions will be placed on the Master Plan to ensure the long-term maintenance and quality of those open space areas and that they remain open to the public, subject to reasonable restrictions.”

The applicant submitted revised Open Space calculations (Exhibit B) including CAD files and staff believes the applicant meets the minimum LMC Open Space requirements as consistently applied to other projects. Although staff notes a small math error in the Build Area calculation, ***the Planning Department believes the Open Space area meets the minimum LMC requirements of 60% (although less than the 1997 MPD approval), and that the proposed type and mix of Open Space is appropriate for the site*** given that it is adjacent to the Park City Ski Resort and Park City Municipal Golf Course, which are largely comprised of Open Space.

NAC

At the October Work Session Commissioners requested information on how the National Ability Center’s access and parking will work. The applicant is expected to present this information at the Work Session.

Additional Perspectives

At the October Work Session some Commissioners requested additional perspectives, including from the Empire Avenue Shadow Ridge Road intersection and from the 14th Street corridor. The applicant declined to submit additional perspectives.

Final Plan Set

The applicant submitted a final plan set on Wednesday November 10, 2021. Staff is working to get this plan set posted on the City’s project webpage.

The applicant specifically requested this work session regarding transportation and parking. Further staff analysis of the issues raised by the Commission and public at prior hearing and review of the Draft Findings of Fact and Draft Conditions of Approval is anticipated to resume at the December meeting, unless the Commission directs otherwise.

Notice

On May 13, 2020, notice of the May 27, 2020, Work Session was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and in the Park Record on May 13, 2020. A second mailing was sent to property owners within 300 feet of the base area on January 6, 2021. A third notice will be mailed to property owners for the next public hearing and prior to a vote on this project.

Notice for this public meeting was published on the Utah Public Notice Website on November 11, 2021.

Public Input

Public comments received since the last Staff Report will be attached to the December Staff Report and has been forwarded to the Planning Commission. Public input received after the publication of this Staff Report will also be forwarded to the Planning Commission and attached to subsequent Staff Reports.

Exhibits

- Exhibit A – Ordinance Interpretation from the Applicant's Attorney
- Exhibit B – Applicant's Open Space Calculations

Robert A. McConnell
Attorney at Law
rmcconnell@parrbrown.com

November 5, 2021

Park City Planning Commission
Mark Harrington, City Attorney
Gretchen Milliken, Planning Director
Alexandra Ananth, Senior Planner
Park City Municipal Corp.
445 Marsac Avenue
Park City, UT 84060

Re: Property Enhancement Group 2021 Concept Master Plan Proposal – Ordinance Interpretation

During the Planning Commission’s meeting of October 20, 2021, which addressed the 2021 Concept Master Plan proposed by Property Enhancement Group (“PEG”), several LMC definitions and specific code provisions were discussed in connection with PEG’s request for Building Height and Setback exceptions. This letter is written to articulate PEG’s position with respect to those definitional and interpretive issues and to respond to interpretations of the LMC suggested by Ms. Deforge that are unsupported by the language of the LMC and requirements of Utah law.

As PEG has previously noted in correspondence with the City, PEG’s requests are entirely consistent with both the development approvals memorialized in the 1998 Development Agreement and the previously approved 1998 Master Plan, as well as the fact that those development approvals were granted in consideration of a significantly more robust designation and restriction of Open Space than typically required by City ordinance.

When the original MPD was considered in 1998, a very specific discussion ensued with respect to the City’s decision to allow increased Building Heights in the proposed village core as part of its approval. Recital E of the Development Agreement indicates that the “City granted development rights and height variations contained in the PCMR Concept Master Plan in exchange for, inter alia, development restrictions on both the Open Space designations within the 1997 Master Planned Area and within the Park City Alpine Terrain.” PEG’s current proposal reflected in the 2021 Concept Master Plan does not include any proposal to modify the Open Space designations or requirements set forth in and/or governed by the 1998 Development Agreement pertaining to Open Space. For that reason, while PEG’s proposed 2021 Concept Master Plan

requires exceptions to current Building Height standards and Setback requirements, it is not altering the status quo with respect to allowed Building Heights and Setbacks and is substantively consistent with the previously granted development approvals.

Stated differently, the 2021 Concept Master Plan substantively complies with the Building Heights, massing and Setbacks allowed pursuant to the previously approved 1998 Master Plan. The 2021 Concept Master Plan strikes a refined balance amongst multiple competing factors so that PEG can advance a viable project for the City's approval. The factors carefully considered and studied by PEG include the depth of excavation, required haul-off, short construction seasons for excavation and concrete placement, ski season parking requirements, and the total allowed density and square footage limitations set forth in the Development Agreement. The resulting proposal is a thoughtfully designed village core and proposed Master Plan that allows for 1,200 day skier parking stalls and a reduced amount of density and square footage when compared against the 1998 Master Plan.

The LMC defines a “Master Planned Development” or “MPD” as “[a] form of Development characterized by a comprehensive and unified Site plan and design reviewed under the Master Planned Development review processes described in LMC Chapter 15-6. The MPD generally includes a number of housing units; a mix of Building types and land Uses; clustering Buildings and providing Open Space; *flexibility in Setback, Height, and Density allocations*; and providing additional valued community amenities” (emphasis added).

Section 15-6-5(F) of the LMC specifically permits the Planning Commission to increase the Building Height limitation applicable to any given MPD based upon a Site-specific analysis if the Planning Commission is able to make certain specified findings. Sub-Section 15-6-5(F)(4) of the LMC sets forth the following required finding: “Increased Setbacks and separations from adjacent projects are proposed.”

Sub-Section 15-6-5(C) of the LMC requires a twenty-five foot (25') Setbacks for Parcels within an MPD “greater than two (2) acres in size,” subject to the Planning Commission's ability to reduce the general Setback requirement to the zone-specific Setback of the underlying zoning district when “necessary to provide desired architectural interest and variation.” Unlike Sub-Section 15-6-5(C), Sub-Section 15-6-5(F) does not make a distinction between Parcels within an MPD that are more or less than two (2) acres in size, nor does it specify whether the increased Setbacks are to be evaluated against the Sub-Section 15-6-5(C) Setback for Parcels larger than two (2) acres in size or “the applicable zone-specific Setback of the underlying zoning district” in which a Parcel is located, which in this case is twenty feet (20').

Sub-Section 15-6-5(F) also does not specify whether a particular quantum of additional Setback is required or whether such additional Setback is required on a particular block face (e.g. the block face where the additional Building Height is approved) or on all block faces. That said, use of the undefined term

“projects,” as opposed to the defined terms “Lot” or “Parcel” in Sub-Section 15-6-5(F)(4), should be viewed as a deliberate choice by the legislative body adopting the LMC, and use of the term “projects” lends itself to a reading of the Sub-Section pursuant to which the Planning Commission should evaluate the Building Height and Setback equation holistically over the entire MPD area, effectively utilizing the “flexibility” reflected in both the definition of MPD quoted above and Section 15-6-1 of the LMC, which sets forth the purpose of the MPD process.

Utah law requires the LMC to be liberally construed in favor of approving the PEG 2021 Concept Master Plan.¹ “[B]ecause zoning ordinances are in derogation of a property owner’s common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.”² This standard is similarly articulated in Section 10-9a-707(4)(b) of MLUDMA, which sets forth the standard of review pursuant to which an appeal authority, and therefore a land use authority, is required to “interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.” Thus, in the absence of language in the LMC prohibiting the PEG Master Plan or a particular element thereof, the LMC should be interpreted to allow PEG’s proposed uses and its proposed site designs.

With the exception of specifically identified portions of Building B on two street fronts, the PEG Master Plan maintains the increased twenty-five foot (25’) setback generally required by Sub-Section 15-6-5(C) and it proposes increased Setbacks and separations from other adjoining projects at both ground and upper levels in a variety of areas throughout the PEG Master Plan area, including on Parcel B in particular. The two areas of reduced Setback proposed by PEG seek a Setback reduction to the zone-specific Setback of 20-feet, as specifically permitted pursuant to Sub-Section 15-6-5(C) of the LMC. As noted above, this Sub-Section authorizes the Planning Commission to reduce the generally required perimeter Setback to the applicable zone-specific Setback when “necessary to provide desired architectural interest and variation.” There is no provision in the LMC that indicates that both a Building Height Exception and a Setback exception cannot be sought with respect to any given MPD or any particular parcel within an MPD.

In addition, the Building Height for the townhome product across the street from the single-family product on Empire Avenue is only 43 in height, with the taller portions of Building B occurring further away and separated from the Empire Avenue single-family homes by no less than 90 feet.

Given the foregoing provisions of the LMC and requirements of Utah law, PEG respectfully submits that the Building Heights proposed in the PEG Master Plan satisfy the requirements of Sub-Section 15-6-5(F) of the LMC and support each of the findings proposed by the City Staff, which are set forth on

¹ *Patterson v. Utah County Board of Adjustment*, 893, 602, 606 (Utah Ct. App. 1995).

² *Id.*

Exhibit A attached hereto for your convenience in reviewing. PEG also submits that the limited Setback exceptions proposed in the PEG Master Plan satisfy the requirements of Sub-Section 15-6-5(C) of the Land Management Code and support each of the findings proposed by the City Staff pertaining to Setbacks, which are set forth on Exhibit B for your convenience.

The definition and calculation of Open Space was also raised in the last Planning Commission meeting, with Ms. Deforge suggesting that landscaped plazas and hardscaped areas could not be counted towards Open Space if located atop a Building or Structure, even if such landscape plazas are open to public use. PEG disagrees, as the qualification, as read pursuant to Ms. Deforge's interpretation, would eviscerate the specifically allowed categories of Open Space identified in the definition itself.

The LMC defines Landscaped Open Space as "Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and hard-scaped plazas, and public pedestrian amenities, but excluding Buildings or Structures." The inclusion in this definition of "playground equipment, recreation amenities," and "hard-scaped plazas" make clear that there is no requirement that the open space be limited to areas that are not man-made. In fact, many of the identified amenities would themselves be "Structures," which are defined in the LMC as "[a]nything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground"

The Utah Supreme Court counsels that items in a list should be given related meanings. The Court stated that "[u]nder the interpretive canon *noscitur a sociis*, we read associated words as bearing similar contextual meanings to each other."³ Here, the inclusion of phrases like "playground equipment, recreation amenities," and "hard-scaped plazas" establishes that the defining feature of "Open Space" is simply its openness and outdoor location. Outdoor space that is "hard-scaped" and open to the public is still Open Space. Ms. Deforge points to the exclusion of "Buildings or Structures" at the end of the Open Space definition for Landscaped Open Space. But here the LMC is simply establishing another feature of Open Space—it has to be outdoors—a developer cannot satisfy its Open Space requirements with an indoor plaza, no matter how accommodating. Nothing in this definition, however, forecloses placing the Open Space on top of a Structure, and the inclusion of "hard scaped plazas" in the definition of Open Space makes clear that such a use is permitted.

In addition, while PEG has, for purposes of comparison to the 1998 Master Plan, provided Open Space calculations utilizing the Open Space and Master Planned Area acreages used in the 1998 Master Plan, the 2015 Amendment of the 1998 Development Agreement annexed into the Master Planned Area

³ See *Richards v. Cox*, 2019 UT 57, ¶ 34, 450 P.3d 1074 (2019) (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 195 (2012) (explaining that "words grouped in a list should be given related meanings" (citation omitted))).

governed by the 1998 Development Agreement an additional approximately 2,800 acres of mountainside property (the “Annexed Property”).⁴ Incorporating the Annexed Property into the Open Space calculation, as the findings supporting the Planning Commission’s approval of the 2015 Amendment specifically did, dramatically increase the percentage of Open Space for the Master Planned Area. In fact, the Planning Commission’s specific findings supporting the 2015 Amendment indicate that “[o]f the approximately 3,700 acres in the ski resort, nearly 95% of the property is considered recreation/open space (i.e. trails and forested areas).”⁵ Even if no portion of Parcels B, C, D or E are included in the Open Space calculation, therefore, the Master Planned Area still vastly exceeds the Open Space requirements of the LMC.⁶

Finally, PEG has provided CAD drawings to the City Staff for purposes of their independent verification of the amount of Open Space proposed by PEG pursuant to the 2021 Concept Master Plan.

We trust that the foregoing information is helpful to your analysis and that it will help inform the narrative you advance in describing the requested exceptions. We hope that with this background, you will be able to support the requested exceptions.

Sincerely,



Robert A. McConnell

cc: Property Enhancement Group

⁴ First Amendment to Development Agreement, dated [INSERT], Section 3.

⁵ Planning Commission Staff Report, dated March 25, 2015, Administrative - Master Planned Development, Development Agreement, and Mountain Upgrade Plan Amendments & Conditional Use Permit, Findings 26 and 27; Planning Commission Meeting Minutes, March 15, 2015, 1345 Lowell Avenue – Amendments to Master Planned Development and Mountain Upgrade Plan; and Conditional Use Permits – Proposed Interconnect Gondola between Canyons and PCMR & Snow Hut on-mountain restaurant expansion (Application PL-14-02600), Findings 26 and 27.

⁶ Parcels B, C, D and E total approximately 805,977 square feet, which represents less than one percent (1%) of the Master Planned Area subject to the 1998 Development Agreement.

Exhibit A
To
Letter of November 5, 2021

Proposed Building Height Findings

1. The RC District allows for structures up to thirty-five feet (35') in height from Existing Grade.
2. Section 15-6-5(F) of the Land Management Code allows the Planning Commission to "...consider an increase in Building Height based upon a Site specific analysis."
3. The 1998 Development Agreement and 1997 Approvals, allowed for exceptions to Building Height, and the 2021 Master Plan is seeking exceptions to Building Height consistent with the 1997 approved plans. The 1997 Approvals allowed for the following approximate maximum building heights as measured under the current Land Management Code:
 - a. Parcel B maximum Building Height of 78 feet.
 - b. Parcel C maximum Building Height of 75 feet.
 - c. Parcel D maximum Building Height of 60 feet.
 - d. Parcel E maximum Building Height of 83 feet.
4. These height exceptions expired with the site plan and the applicant has applied for new height exceptions with respect to the 2021 Concept Master Plan.
5. The Planning Commission finds that the increase in Building Height as shown in the 2021 Concept Master Plan set dated _____ does not result in increased square footage or Building volume over what was approved in the 1998 Development Agreement and 1998 PCMR Concept Master Plan.
6. Height exceptions are appropriate given that in 1997 the City Council determined that clustering density at the base area was preferable to spreading density up the mountain, and that the clustering preserves open space, provides opportunities for view corridors, and increases the effectiveness of public transportation.
7. The Planning Commission finds that buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss of air circulation have been mitigated through building placement and increased Setbacks.
8. The Planning Commission finds there is adequate buffering in the form of Setbacks from adjacent Properties and Uses; In addition, Landscape buffering and detailed landscape plans will be required for the CUP application process.
9. The Planning Commission finds there is adequate room for Landscaping for adjacent Properties and Uses. Landscaping details will be required at the CUP process to ensure adequate buffering for adjacent Properties and Uses.

10. The Planning Commission finds that building Setbacks are increased, resulting in an overall average approximately 9-10 feet in excess of the zone setbacks after including setback reductions for portions of Building B, with additional Building Height in order to provide increased separation from adjacent properties.
11. The Planning Commission finds that the proposed additional Building Height results in more than the minimum Open Space required, and results in Open Space that is publicly accessible.
12. The Planning Commission finds that additional Building Height is designed in a manner that provides a transition in roof elements in compliance with Chapter 15-5, Architectural Review, including the Façade Length and Variation requirements of §15-5-8.
13. The Planning Commission finds that additional Building Height shall only apply to the specific plans reviewed and approved by the Planning Commission as represented in the 2021 Master Plan. This results in the following maximum Building Heights from Existing Grade for the following parcels:
 - a. Parcel B maximum Building Height of [87] feet and [6] stories from Existing Grade. The nearest abutter is approximately [65] feet away from this Building Height.
 - b. Parcel C maximum Building Height of [103] feet and [7] stories from Existing Grade. The nearest abutter is approximately [70] feet away from this Building Height.
 - c. Parcel D maximum Building Height of [71] feet and [5] stories from Existing Grade. The nearest abutter is approximately [40] feet away from this Building Height.
 - d. Parcel E maximum Building Height of [84] feet and [6] stories from Existing Grade. The nearest abutter is approximately [50] feet away from this Building Height.

Exhibit B
To
Letter of November 5, 2021

Proposed Setback Findings

1. LMC 15-6-5(C) requires the minimum Setback around the exterior boundary of a Master Planned Development shall be twenty-five feet (25') for Parcels greater than 2 acres.
2. Section 15-6-5 of the Land Management Code allows the Planning Commission to decrease the required perimeter Setback to the zone-required Setback "...if it is necessary to provide desired architectural interest and variation."
3. The zone-required Setback is twenty feet (20') for the Recreation Commercial (RC) District and the 1998 PCMR Concept Master Plan expressly contemplated twenty foot (20') setbacks for Parcel B.
4. The limited areas of 20-foot setback requested for Parcel B provide both vertical and horizontal architectural articulation.
5. The applicant currently requests and the Planning Commission hereby approves reductions in the perimeter setbacks to twenty feet (20') for the north (floors 2,3 and 4 only), and west façade of Parcel B only, specifically finding that the twenty-feet (20') Setbacks for Parcel B are consistent with the Recreation Commercial zone and are necessary to provide desired architectural interest and variation because the reduced setbacks:
 - a. Are necessary to transition the scale of the proposed building from the Resort to the surrounding neighborhood and to decrease the perceived scale of the proposed building on Parcel B;
 - b. Are necessary for vertical and horizontal architectural articulation providing increased architectural interest and variation both desired and required by the Planning Commission, both at the ground level and at the above-ground level stories for the proposed Parcel B building, that would not be achieved if the applicant was required to meet the twenty-five feet (25') Setback requirements;

- c. Are necessary to include architectural elements that are similar to those allowed to extend into the front Setback pursuant to the Recreation Commercial District (i.e. decks, porches, bay windows, roof overhangs, eaves and cornices); and
 - d. Are necessary to implement additional horizontal façade variations while remaining compatible with the setbacks for neighboring streetscape and residential development. The resulting architecture and variation is desired to mitigate the transition to the residential areas of the zone. The 2021 Master Plan provides for adequate space for a minimum of twelve feet (12') multi-use trails, landscaping and snow storage area, even in the areas where architectural elements extend beyond the twenty-five feet (25') Setback requirements.
- 6. The 2021 Master Plan provides no perimeter Setbacks less than twenty feet (20'). Any potential canopy over the transit station on Lowell Avenue will be reviewed in accordance with right of way regulations and the LMC, if applicable, at the time of CUP.
- 7. The 2021 Master Plan provides that all parking structures above Existing Grade meet the twenty-five feet (25') MPD Setback requirements. No setback reductions are proposed for any façade of a parking structure.



PARK CITY MOUNTAIN RESORT
MASTER PLAN STUDY

OPEN SPACE:

 PARCEL AREA COUNTED AS OPEN SPACE

NOTE: PER EXHIBIT A OF THE DEVELOPMENT AGREEMENT, AN 11.40 ACRE PARCEL OF THE MOUNTAIN WAS RESERVED FOR OPEN SPACE AND WAS TO BE COUNTED AS PART OF THE OVERALL OPEN SPACE FOR THE DEVELOPMENT. THIS PARCEL IS INCLUDED IN THE OPEN SPACE CALCULATIONS BELOW. OPEN SPACE ON EACH PARCEL WAS DETERMINED BY LMC 15-15-1 DEFINITION FOR LANDSCAPED, OPEN SPACE AND INCLUDES RECREATION AMENITIES AND LANDSCAPE AND HARDSCAPED PLAZAS BUILT OVER PARKING GARAGES AND OTHER SPACES.

PARCEL B - VILLAGE

BUILT AREA: 93,705 SF
OPEN SPACE: 43,786 SF

PARCEL C - HOTEL

BUILT AREA: 82,556 SF
OPEN SPACE: 70,670 SF

PARCEL D - CONDOMINIUMS

BUILT AREA: 37,358 SF
OPEN SPACE: 50,225 SF

PARCEL E - CONDOMINIUMS & CLUB

BUILT AREA: 41,738 SF
OPEN SPACE: 34,917 SF

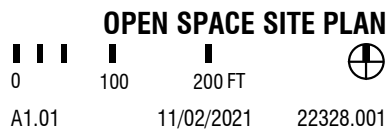
EXHIBIT A, PARCEL A, & NAC

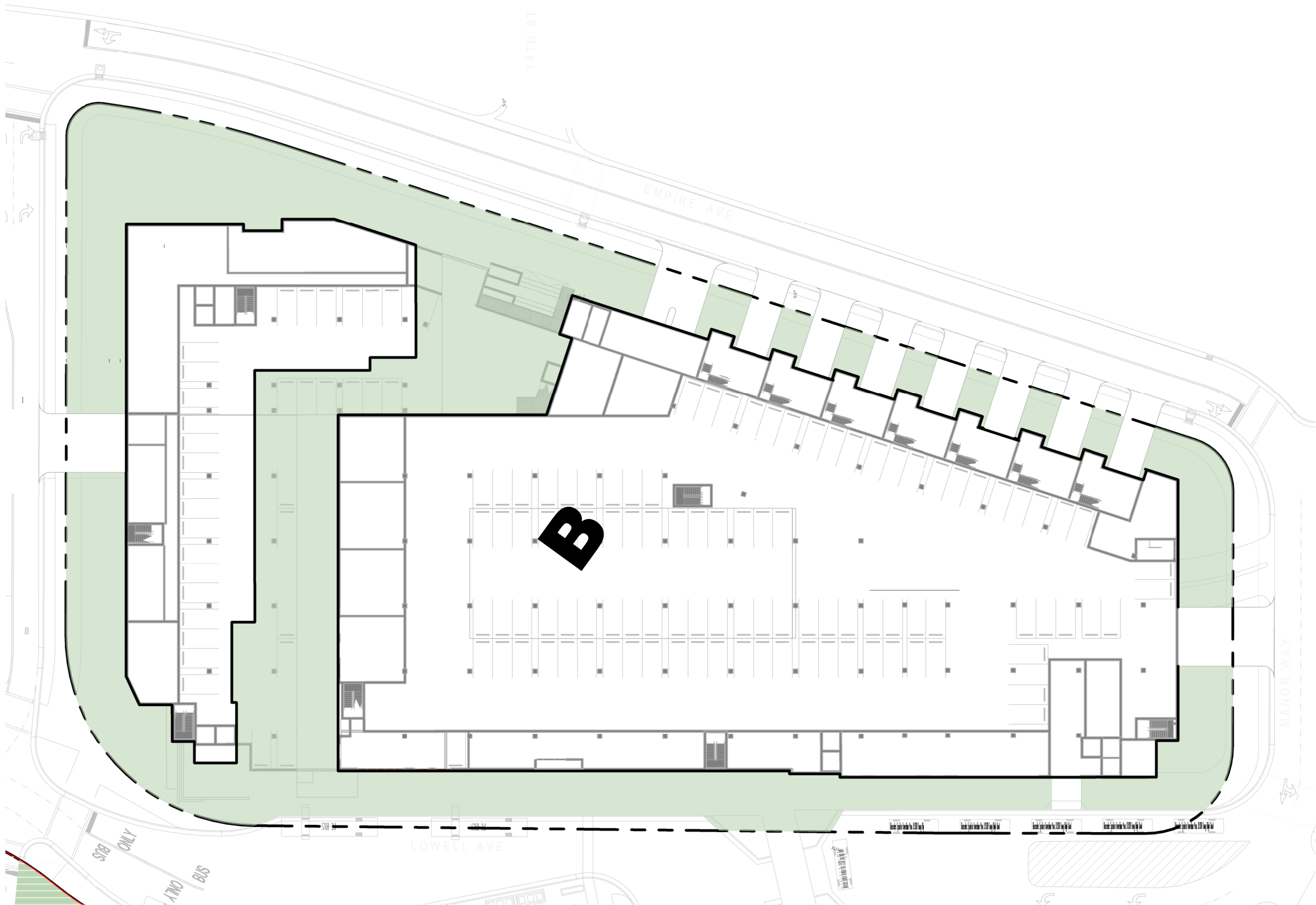
BUILT AREA (PARCEL A): 148,975 SF
OPEN SPACE: (EXHIBIT A): 517,270 SF
NAC BUILDING FOOTPRINT: 5,000 SF
* NOTE: NO OPEN SPACE ACCOUNTED FOR ON PARCEL A

TOTAL MASTER PLANNED DEVELOPMENT

TOTAL BUILT AREA: 408,972 SF
TOTAL OPEN SPACE: 716,868 SF
TOTAL SF: 1,125,840 SF

% OPEN: 63.67%





OPEN SPACE:

PARCEL AREA COUNTED AS OPEN SPACE

NOTE: PER EXHIBIT A OF THE DEVELOPMENT AGREEMENT, AN 11.40 ACRE PARCEL OF THE MOUNTAIN WAS RESERVED FOR OPEN SPACE AND WAS TO BE COUNTED AS PART OF THE OVERALL OPEN SPACE FOR THE DEVELOPMENT. THIS PARCEL IS INCLUDED IN THE OPEN SPACE CALCULATIONS BELOW. OPEN SPACE ON EACH PARCEL WAS DETERMINED BY LMC 15-15-1 DEFINITION FOR LANDSCAPED, OPEN SPACE AND INCLUDES RECREATION AMENITIES AND LANDSCAPE AND HARDSCAPED PLAZAS BUILT OVER PARKING GARAGES AND OTHER SPACES.

PARCEL B - VILLAGE

BUILT AREA: 93,705 SF
OPEN SPACE: 43,786 SF

PARCEL C - HOTEL

BUILT AREA: 82,556 SF
OPEN SPACE: 70,670 SF

PARCEL D - CONDOMINIUMS

BUILT AREA: 37,358 SF
OPEN SPACE: 50,225 SF

PARCEL E - CONDOMINIUMS & CLUB

BUILT AREA: 41,738 SF
OPEN SPACE: 34,917 SF

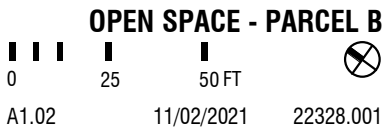
EXHIBIT A, PARCEL A, & NAC

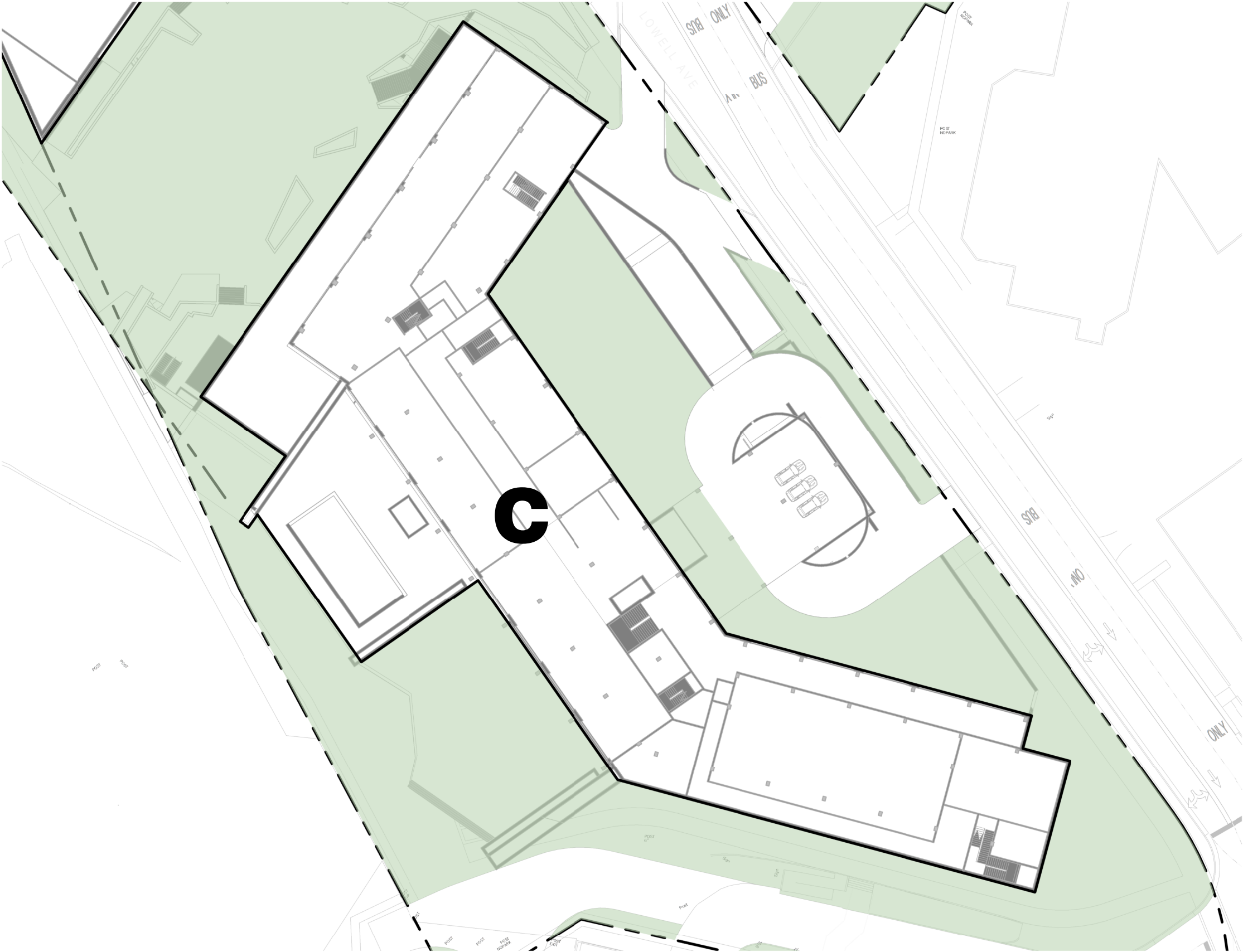
BUILT AREA (PARCEL A): 148,975 SF
OPEN SPACE (EXHIBIT A): 496,584 SF
NAC BUILDING FOOTPRINT: 5,000 SF

TOTAL MASTER PLANNED DEVELOPMENT

TOTAL BUILT AREA: 408,972 SF
TOTAL OPEN SPACE: 696,182 SF
TOTAL SF: 1,105,154 SF

% OPEN: 62.99%





OPEN SPACE:

 PARCEL AREA COUNTED AS OPEN SPACE

NOTE: PER EXHIBIT A OF THE DEVELOPMENT AGREEMENT, AN 11.40 ACRE PARCEL OF THE MOUNTAIN WAS RESERVED FOR OPEN SPACE AND WAS TO BE COUNTED AS PART OF THE OVERALL OPEN SPACE FOR THE DEVELOPMENT. THIS PARCEL IS INCLUDED IN THE OPEN SPACE CALCULATIONS BELOW. OPEN SPACE ON EACH PARCEL WAS DETERMINED BY LMC 15-15-1 DEFINITION FOR LANDSCAPED, OPEN SPACE AND INCLUDES RECREATION AMENITIES AND LANDSCAPE AND HARDSCAPED PLAZAS BUILT OVER PARKING GARAGES AND OTHER SPACES.

PARCEL B - VILLAGE

BUILT AREA: 93,705 SF
OPEN SPACE: 43,786 SF

PARCEL C - HOTEL

BUILT AREA: 82,556 SF
OPEN SPACE: 70,670 SF

PARCEL D - CONDOMINIUMS

BUILT AREA: 37,358 SF
OPEN SPACE: 50,225 SF

PARCEL E - CONDOMINIUMS & CLUB

BUILT AREA: 41,738 SF
OPEN SPACE: 34,917 SF

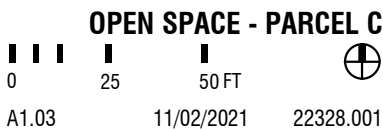
EXHIBIT A, PARCEL A, & NAC

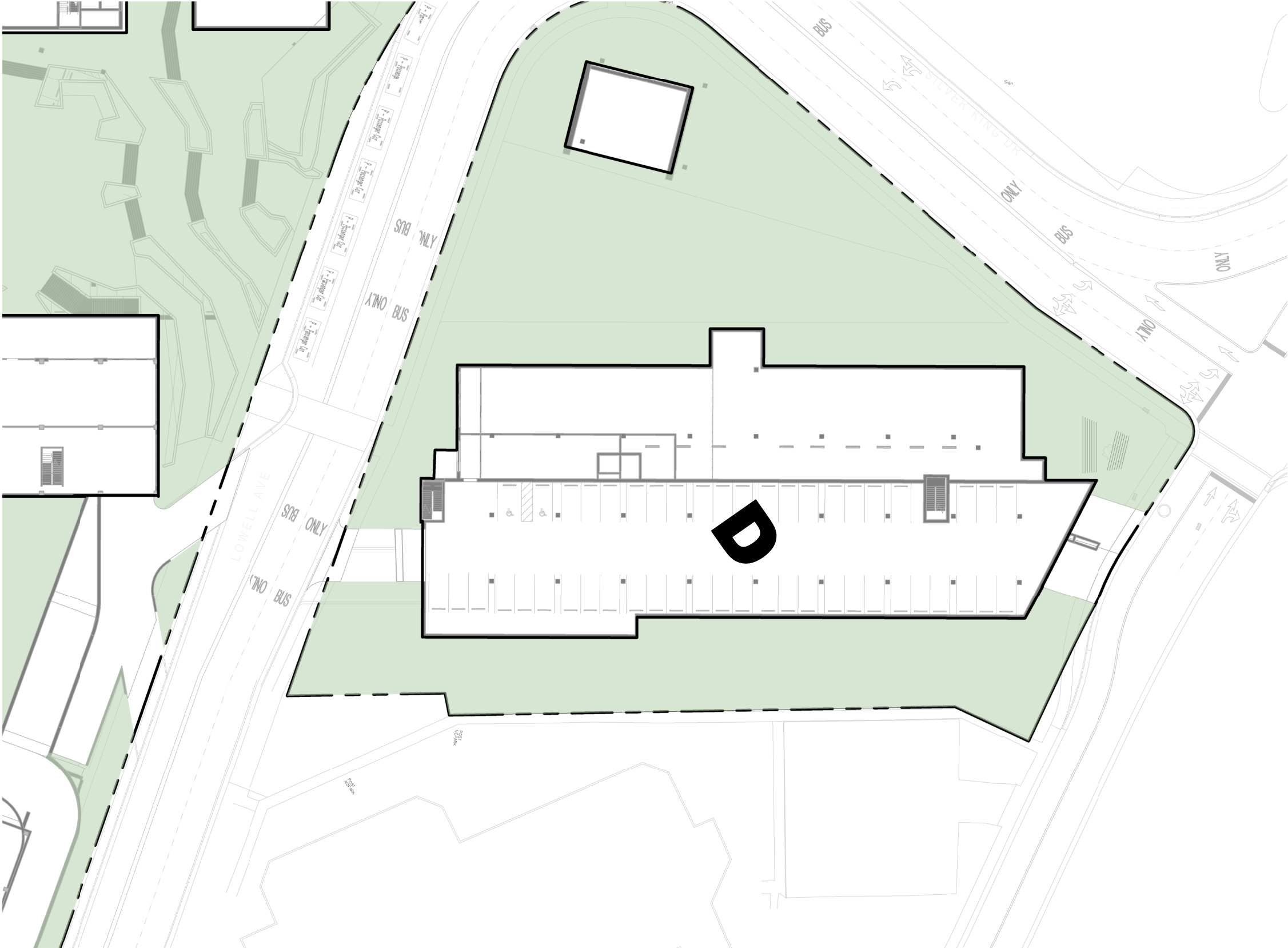
BUILT AREA (PARCEL A): 148,975 SF
OPEN SPACE (EXHIBIT A): 496,584 SF
NAC BUILDING FOOTPRINT: 5,000 SF

TOTAL MASTER PLANNED DEVELOPMENT

TOTAL BUILT AREA: 408,972 SF
TOTAL OPEN SPACE: 696,182 SF
TOTAL SF: 1,105,154 SF

% OPEN: 62.99%





OPEN SPACE:

PARCEL AREA COUNTED AS OPEN SPACE

NOTE: PER EXHIBIT A OF THE DEVELOPMENT AGREEMENT, AN 11.40 ACRE PARCEL OF THE MOUNTAIN WAS RESERVED FOR OPEN SPACE AND WAS TO BE COUNTED AS PART OF THE OVERALL OPEN SPACE FOR THE DEVELOPMENT. THIS PARCEL IS INCLUDED IN THE OPEN SPACE CALCULATIONS BELOW. OPEN SPACE ON EACH PARCEL WAS DETERMINED BY LMC 15-15-1 DEFINITION FOR LANDSCAPED, OPEN SPACE AND INCLUDES RECREATION AMENITIES AND LANDSCAPE AND HARDSCAPED PLAZAS BUILT OVER PARKING GARAGES AND OTHER SPACES.

PARCEL B - VILLAGE

BUILT AREA: 93,705 SF
OPEN SPACE: 43,786 SF

PARCEL C - HOTEL

BUILT AREA: 82,556 SF
OPEN SPACE: 70,670 SF

PARCEL D - CONDOMINIUMS

BUILT AREA: 37,358 SF
OPEN SPACE: 50,225 SF

PARCEL E - CONDOMINIUMS & CLUB

BUILT AREA: 41,738 SF
OPEN SPACE: 34,917 SF

EXHIBIT A, PARCEL A, & NAC

BUILT AREA (PARCEL A): 148,975 SF
OPEN SPACE: (EXHIBIT A): 496,584 SF
NAC BUILDING FOOTPRINT: 5,000 SF

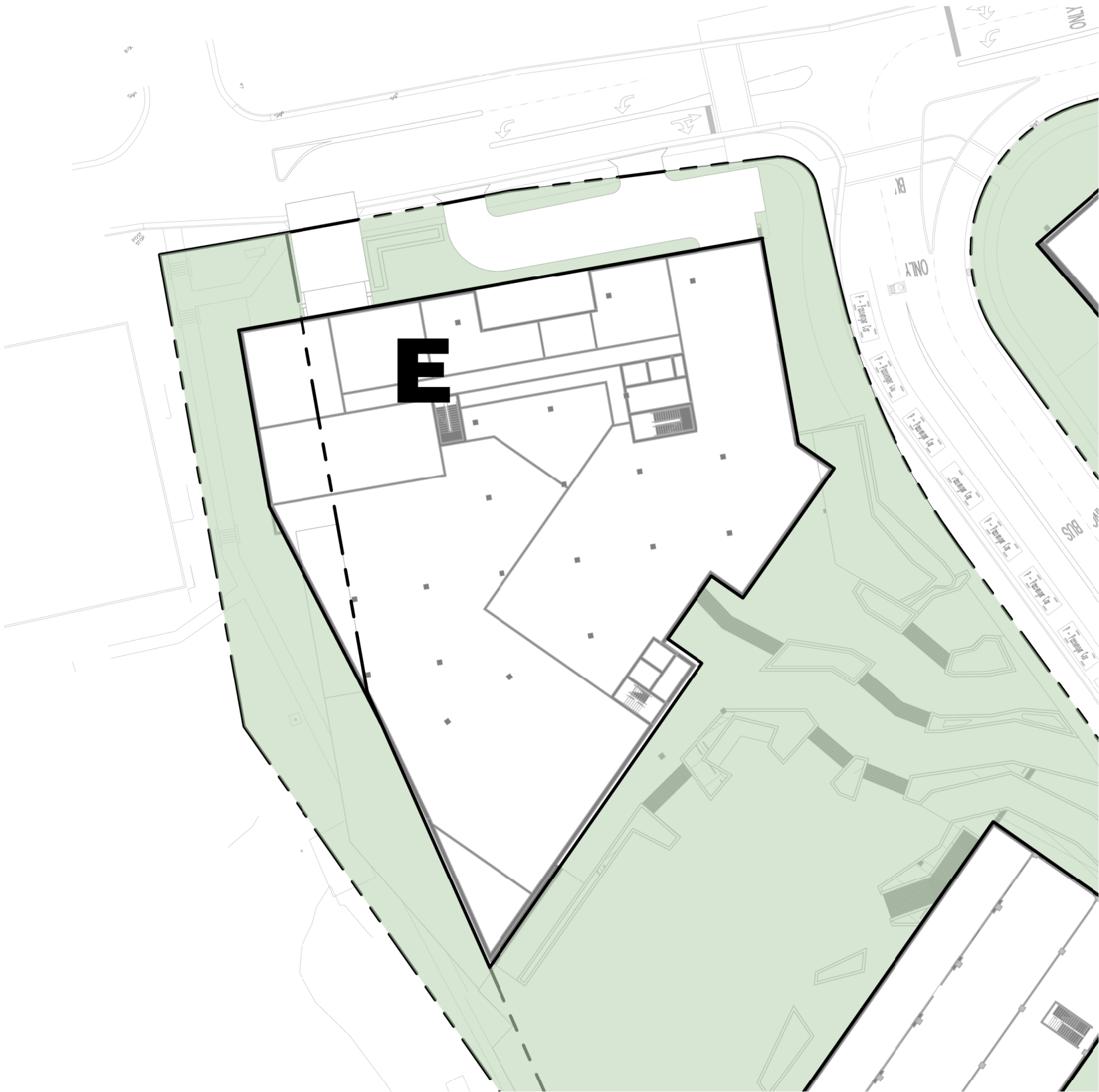
TOTAL MASTER PLANNED DEVELOPMENT

TOTAL BUILT AREA: 408,972 SF
TOTAL OPEN SPACE: 696,182 SF
TOTAL SF: 1,105,154 SF

% OPEN: 62.99%

OPEN SPACE - PARCEL D





OPEN SPACE:

 PARCEL AREA COUNTED AS OPEN SPACE

NOTE: PER EXHIBIT A OF THE DEVELOPMENT AGREEMENT, AN 11.40 ACRE PARCEL OF THE MOUNTAIN WAS RESERVED FOR OPEN SPACE AND WAS TO BE COUNTED AS PART OF THE OVERALL OPEN SPACE FOR THE DEVELOPMENT. THIS PARCEL IS INCLUDED IN THE OPEN SPACE CALCULATIONS BELOW. OPEN SPACE ON EACH PARCEL WAS DETERMINED BY LMC 15-15-1 DEFINITION FOR LANDSCAPED, OPEN SPACE AND INCLUDES RECREATION AMENITIES AND LANDSCAPE AND HARDSCAPED PLAZAS BUILT OVER PARKING GARAGES AND OTHER SPACES.

PARCEL B - VILLAGE

BUILT AREA: 93,705 SF
OPEN SPACE: 43,786 SF

PARCEL C - HOTEL

BUILT AREA: 82,556 SF
OPEN SPACE: 70,670 SF

PARCEL D - CONDOMINIUMS

BUILT AREA: 37,358 SF
OPEN SPACE: 50,225 SF

PARCEL E - CONDOMINIUMS & CLUB

BUILT AREA: 41,738 SF
OPEN SPACE: 34,917 SF

EXHIBIT A, PARCEL A, & NAC

BUILT AREA (PARCEL A): 148,975 SF
OPEN SPACE: (EXHIBIT A): 496,584 SF
NAC BUILDING FOOTPRINT: 5,000 SF

TOTAL MASTER PLANNED DEVELOPMENT

TOTAL BUILT AREA: 408,972 SF
TOTAL OPEN SPACE: 696,182 SF
TOTAL SF: 1,105,154 SF

% OPEN: 62.99%

