



AGENDA

			<i>Pg</i>
SITE VISIT – <i>No action will be taken.</i>			
5:00 PM	Alice Claim – Please meet at site	60 min	
WORK SESSION – <i>Discussion items only</i>			
6:00 PM	Echo Spur Development – Proposed retaining wall discussion	20 min	5
ROLL CALL			
ADOPTION OF MINUTES OF MAY 27, 2009			23
PUBLIC COMMUNICATION – <i>Items not on regular meeting schedule.</i>			
STAFF / COMMISSIONER COMMUNICATIONS AND DISCLOSURES			
CONTINUATION(S) – <i>Public hearing and continue as specified</i>			
6:20 PM	1177 Empire Avenue – Steep Slope Conditional Use Permit <i>Public hearing and continue to June 24, 2009</i>	5 min	
6:25 PM	253 Deer Valley Drive – Conditional Use Permit <i>Public hearing and continue to a date uncertain</i>	5 min	
6:30 PM	7620 Royal Street East, Royal Plaza – Amendment to Record of Survey <i>Public hearing and continue to a July 24, 2009</i>	5 min	
REGULAR MEETING – <i>Discussion, public hearing, and possible action</i>			
6:35 PM	9100 Marsac Avenue, Montage – Record of Survey <i>Public hearing and possible recommendation to City Council</i>	20 min	65
6:55 PM	3800 Richardson Flat, Quinn’s water treatment plant – Pre Master Planned Development <i>Public hearing and possible action</i>	30 min	105
7:25 PM	158 – 166 King Road, King Ridge Estates driveway access – Extension of Conditional Use Permit <i>Public hearing and possible action</i>	20 min	125
7:45 PM	1251 Kearns Boulevard, The Yard – Conditional Use Permit <i>Public hearing and possible action</i>	30 min	139
ADJOURN			

Times shown are approximate. Items listed on the Regular Meeting may have been continued from a previous meeting and may not have been published on the Legal Notice for this meeting.

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted. For further information, please call the Planning Department at (435) 615-5060.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

Park City Vicinity & Zoning Map

June 10, 2009 Planning Commission Agenda

3800 Richardson Flat
Quinn's water treatment plant
Pre MPD

1251 Kearns Boulevard, The Yard
CUP

158 - 166 King Road,
King Ridge Estates driveway access
Extension of CUP

9100 Marsac Avenue, Montage
Record of Survey

Zoning Legend

- Street Labels
- SLO
- Park City Limits
- FPZ Overlay
- ECPZ Overlay

Zoning ZoneType

- CT
- E
- GC
- HCB
- HR-1
- HR-2A
- HR-2B
- HRC
- HRL
- HRM
- LI
- MPD Overlay
- POS
- PUT
- R-1
- RC
- RCO Overlay
- RD
- RDM
- RM
- ROS
- SF
- County
- Edge-of-road
- Parcels



0 0.25 0.5 Miles

WORK SESSION

Planning Commission Staff Report



Subject: Echo Spur Development
Proposed Retaining Walls
Author: Matt Cassel, City Engineer
Date: June 10, 2009
Type of Item: Informational Item

Description

The City Engineer recommends that the Planning Commission review the proposed retaining walls for the Echo Spur Development. This review is an informational update for the Planning Commission.

Background

Construction on the Echo Spur development (McHenry Avenue extension) started in late fall of 2008. A grading permit was issued by the City to allow the developer/contractor to perform the earthwork necessary to bring the site and the road to a rough grade. This grading work was completed in November 2008.

In a meeting with the developer on May 12, 2009, they indicated that they are ready to move forward with the construction of the retaining walls for the project. Attached is the location of the retaining walls and the type/possible finish of the walls. The developer proposed to use a crib wall for the retaining wall running north/south along the east edge of the proposed McHenry Avenue extension. The concrete walls are proposed for the detention facilities located at the north end of the proposed McHenry Avenue extension.

The proposed retaining walls were discussed with the Planning Commission during their May 27 work session. Comments from that meeting have been incorporated into the location and layout of the proposed retaining walls.

Process

The retaining walls approval process will require an Administrative CUP (review and sign off by both the Planning Director and the City Engineer) and a presentation to the Planning Commission during work session as an informational update. The contractor will also be required to post a financial guarantee equaling 125% of the value of the wall construction and payment of an inspection fee equaling 4% of the construction cost. The guarantee and inspection fee will be required prior to them receiving their permit for construction.

Department Review

This project has not gone through an interdepartmental review.

Public Input

No public input has been requested at the time of this report.

Recommendation

The City Engineer recommends that the Planning Commission review the proposed retaining walls for the Echo Spur Development. This review is an informational update for the Planning Commission.

Exhibit

Exhibit – Roadway and Plan and Profile
 Conceptual Retaining Wall Images

I:\Cdd\Brooks\Planning Comm\Plat Template.doc



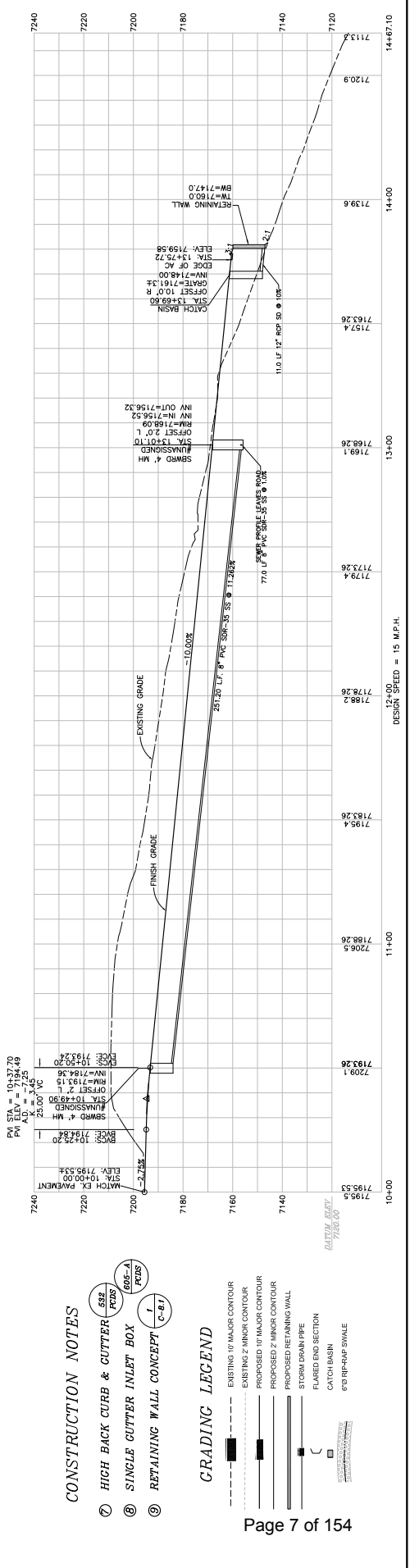
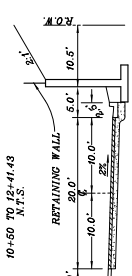
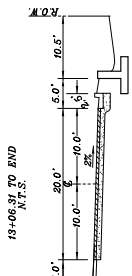
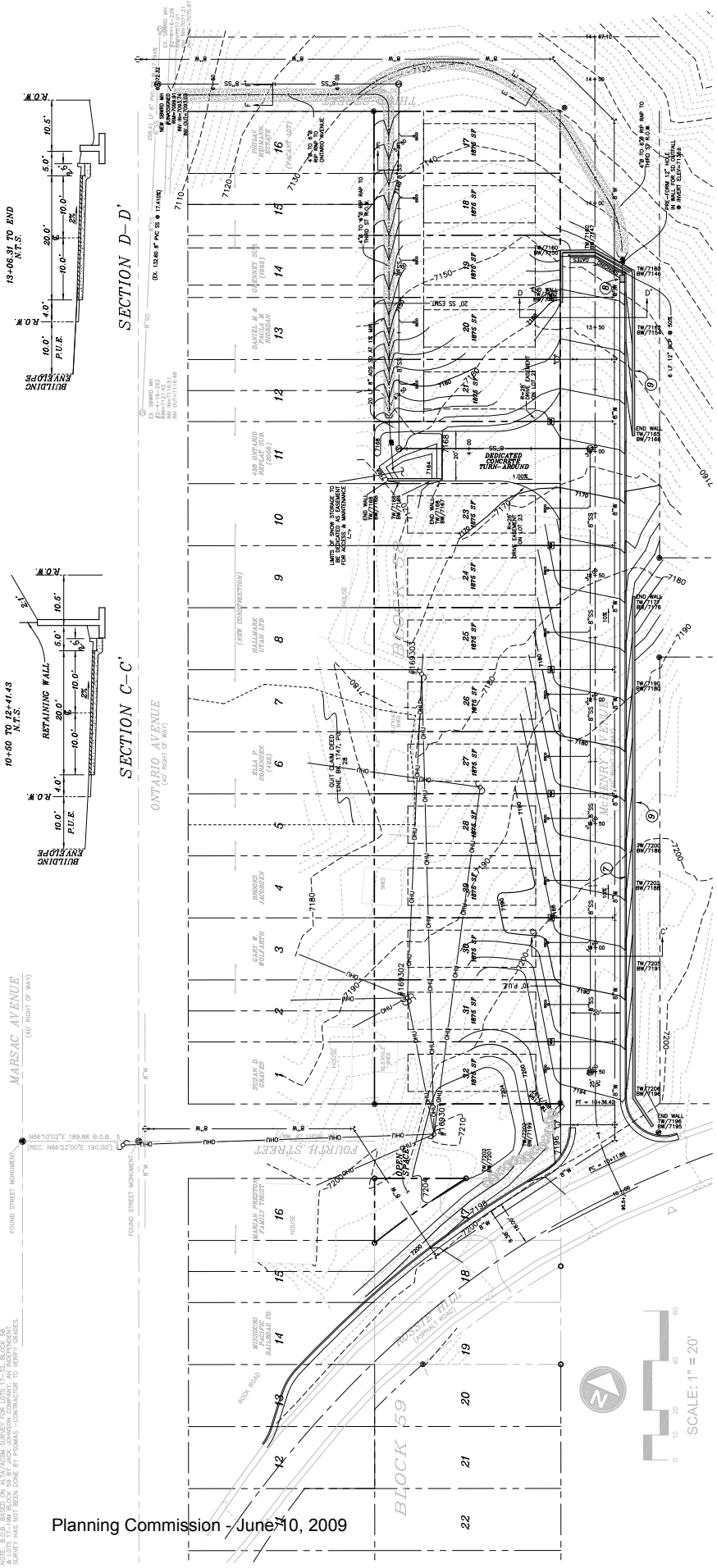
DATE 10-03-08
 SCALE 1" = 20'
 PROJECT NO. BPC001010

ECHO SPUR ON ROSSI HILL
 ROADWAY PLAN & PROFILE
 PARK CITY, UTAH
 FOR REVIEW ONLY

P S O M A S
 4179 Riverton Road, Suite 200
 Salt Lake City, Utah 84123
 (801) 270-5777 (801) 270-5782 (FAX)

DESIGNED	JR
DRAWN	BP/AN
CHECKED	JR

SHEET
 C-6.1
 14



- CONSTRUCTION NOTES**
- ① HIGH BACK CURB & CUTTIP 600-A
 - ② SINGLE CUTTIP INLET BOX 600-A
 - ③ RETAINING WALL CONCEPT C-81

- GRADING LEGEND**
- EXISTING 10' MAJOR CONTOUR
 - EXISTING 2' MINOR CONTOUR
 - PROPOSED 2' MAJOR CONTOUR
 - PROPOSED 2' MINOR CONTOUR
 - PROPOSED RETAINING WALL
 - STORM DRAIN PIPE
 - FLARED END SECTION
 - CATCH BASIN
 - 6" R/R RAP SWALE

3
C-8.1
MECHANICAL JOINT TAPPING SLAVE
 N.T.S.

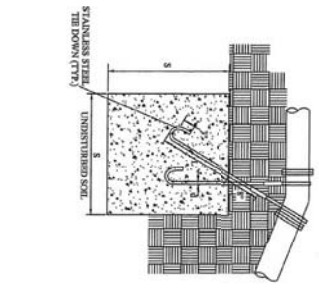
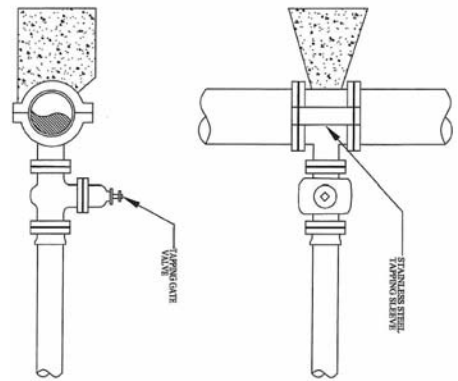


TABLE OF DIMENSIONS FOR 45° VERTICAL BENDS

VERT. BEND DEGREE	NO. OF CU. Y. OF CONC. BLOCKING	SIDE OF CUBE FEET	DIAMETER OF SLACK	DEPTH OF ROOS IN CONCRETE FT.
45°	1	1.0	3/8"	2.0
60°	2.17	4.0	5/8"	2.3
75°	3.57	4.25	5/8"	2.0
90°	3.04	4.25	5/8"	2.0
105°	17.24	7.25	3/4"	4.0
120°	4.25	4.25	5/8"	2.0
135°	4.25	4.25	5/8"	2.0
150°	10.00	10.00	3/4"	4.0
165°	4.25	4.25	5/8"	2.0
180°	11.63	11.63	3/4"	4.0

1
C-8.1
MECHANICAL JOINT TAPPING SLAVE
 N.T.S.



4
C-8.1
MECHANICAL JOINT TAPPING SLAVE
 N.T.S.



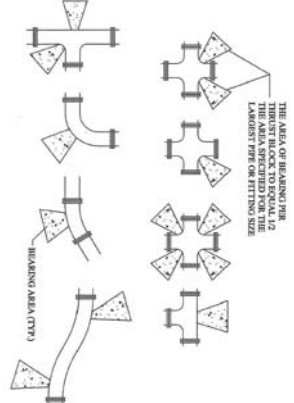
TYPE 'B' RESISTANT FOR 45° VERTICAL BENDS

2
C-8.1
MECHANICAL JOINT TAPPING SLAVE
 N.T.S.

- NOTES:**
- INSTALLATION SHALL BE ACCORDING TO THE TAPPING SLAVE MANUFACTURER'S INSTRUCTIONS.
 - INSTALLATION SHALL BE ACCORDING TO THE TAPPING SLAVE MANUFACTURER'S INSTRUCTIONS.
 - FOR JOINTS THAT ARE NOT COVERED BY CONCRETE, LEAVE COMPLETELY ACCESSIBLE.
 - GLUESE APPLY POLYURETHANE GLUE TO ALL SHEET METAL SURFACES, WEAP WITH A 3/16" BEAD.
 - SPECIAL CONSTRUCTION REQUIREMENTS:
 - A. TAPPING SLAVE FOR 90° BENDS ON CONNECTIONS NOT SHOWN, REQUIRE SPECIAL DESIGN.
 - B. REMOVE ALL VALVES, ALSO SPECIAL DESIGN BLOCKING DETAILS SHOWN ON CONNECTIONS.
 - C. REINFORCING STEEL BARS TO BE BROKE COATED AT LEAST 1/8" DIA. THICK. MINIMUM 3/8" DIA. BARS TO BE USED FOR CONNECTION WITH CONCRETE THREAT.
 - D. THICKS YIELD STRENGTH OF THE TAPPING SLAVE IS 70,000 PSI.
 - E. RESISTANT DESIGN IS BASED UPON A MAXIMUM OPERATING PRESSURE OF 150 PSI. FOR OTHER OPERATING PRESSURES IN EXCESS OF 150 PSI OR BODIES WITH LESS THAN 2000 PSI TENSILE STRENGTH, CONSULT WITH MANUFACTURER FOR DESIGN TREATMENT FOR 45° VERTICAL BENDS.
 - F. CONNECTIONS SHALL BE INSTALLED IN ACCORDANCE WITH THE TAPPING SLAVE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
 - G. PRESSURIZED WATER LINES ON HAVE ADDITIONAL APPROVED THREAT RESISTANT.
 - H. APPROVALS REQUIRED ON ALL FITTINGS.

MINIMUM BEARING AREA

SIZE OF PIPE	90° BENDS	45° BENDS	22 1/2° BENDS	SHOULDER ENDS
2"	3	2	2	2
2 1/2"	3	2	2	2
3"	3	2	2	2
3 1/2"	3	2	2	2
4"	3	2	2	2
4 1/2"	3	2	2	2
5"	3	2	2	2
5 1/2"	3	2	2	2
6"	3	2	2	2
6 1/2"	3	2	2	2
7"	3	2	2	2
7 1/2"	3	2	2	2
8"	3	2	2	2
8 1/2"	3	2	2	2
9"	3	2	2	2
9 1/2"	3	2	2	2
10"	3	2	2	2
10 1/2"	3	2	2	2
11"	3	2	2	2
11 1/2"	3	2	2	2
12"	3	2	2	2



DESIGNED: JR
 DRAWN: BP/AN
 CHECKED: JR

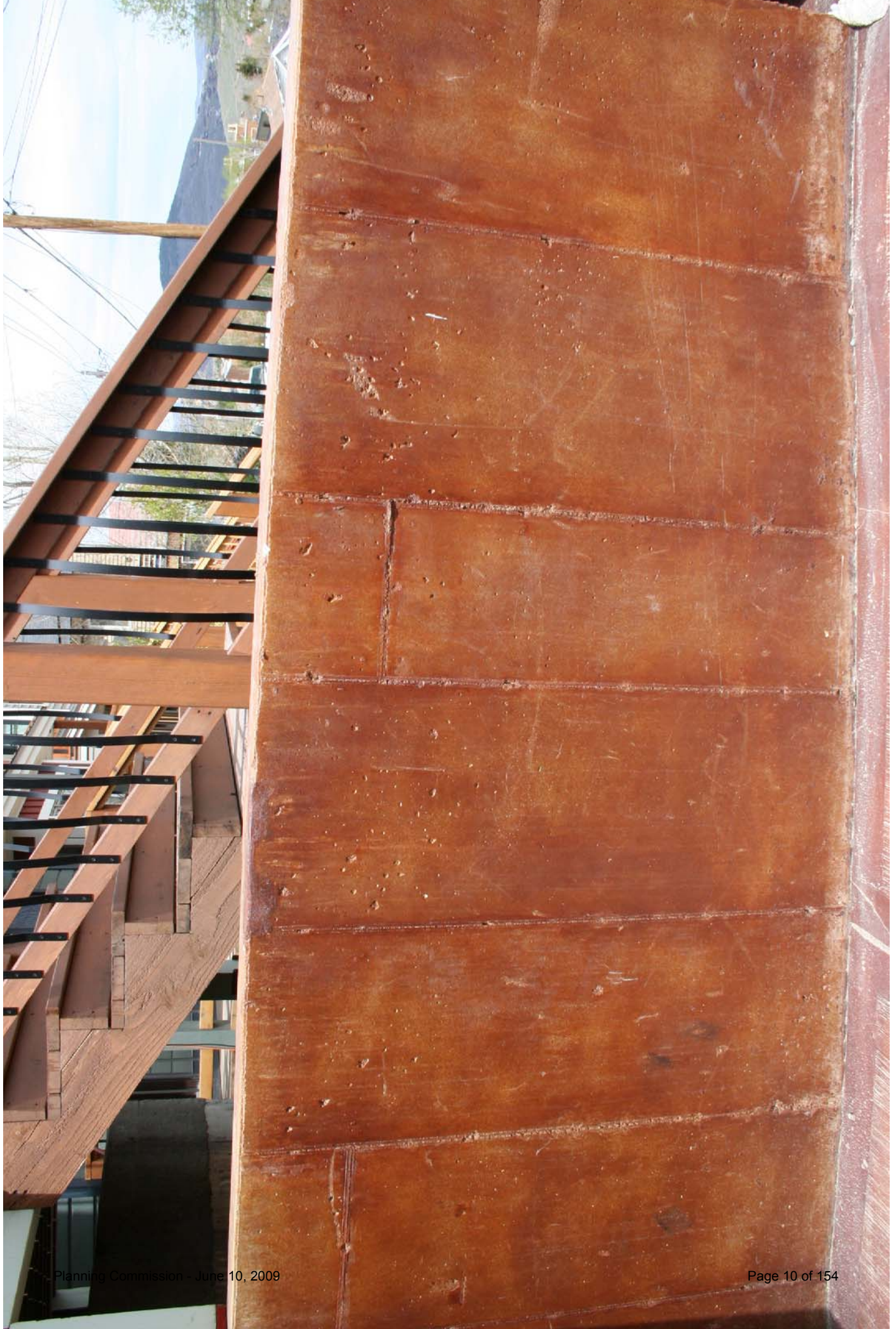
PSOMAS
 4179 Riverboat Road, Suite 200
 Salt Lake City, Utah 84143
 (801) 270-5777 (801) 270-5782 (FAX)

Planning Commission - June 10, 2009

ECHO SPUR ON ROSSI HILL
 DETAILS (PARK CITY & OTHER)
 PARK CITY, UTAH
 FOR REVIEW ONLY

DATE: 10-03-08
 PLOT DATE:
 SCALE: N.T.S.
 PROJECT NUMBER: BPC010100
 SHEET: 14 of 154







WORK SESSION NOTES – MAY 27, 2009

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
May 27, 2009**

PRESENT: Chair Jack Thomas, Rory Murphy, Dick Peek, Julie Pettit, Evan Russack, Adam Strachan, Charlie Wintzer, Thomas Eddington, Katie Cattan, Matt Cassel

Land Management Code Update

Planner Katie Cattan provided an update on changes to the LMC that were recommended by the Planning Commission and reviewed or changed by the City Council.

In the building height section for the HR-1, HR-2 and HRL, the height stayed the same at 27 feet from existing grade. Final grade must be within four feet of the existing grade around the periphery of the structure. Planner Cattan stated that the structure may have a maximum of three stories. A basement counts as the first story.

Planner Cattan noted that the maximum story height that the Planning Commission had added was removed by the City Council.

A ten foot minimum horizontal step on the downhill facade is required for the third story of a structure. Planner Cattan commented on an exception on structures in which the first story is located completely under finished grade, the side or rear entrance in to the garage, which is not visible from the front facade or street right-of-way is allowed. She pointed out that this was allowed to be able to incorporate a garage that was not visible from the front street on routes that would allow it.

Chair Thomas wanted to know why the story height was removed. Commissioner Strachan had attended the City Council meeting and Council member Erickson had stated that the overall height restriction would govern and it should not matter if someone wants to build a 27 foot high building with only one floor. Commissioner Pettit understood that there was another historic district design guideline element with respect to the appearance of the front facade.

Council member Liza Simpson explained that the City Council determined that the issue would be addressed within a design review and the historic district guidelines. Basically, someone could build a 27 foot house with one story, but based on the design review guidelines it would need to look like two or three stories.

Planner Cattan continued with the updates. There is a ten foot horizontal step for the third floor. If the first floor is completely under grade that requirement would not apply because only two stories would be visible from the right-of-way. In terms of roof pitch, Planner Cattan stated that a 7:12 to 12:12 pitch is required. An exception was added for green roofs or a roof that is not part of the primary roof design.

Commissioner Wintzer asked Planner Cattan how green roofs are defined. Planner Cattan replied that there is a definition for green roofs and that definition needs to be met.

Planner Cattan commented on building height exceptions and noted that antennas and chimneys have a five foot exception. Water towers are also existing exceptions. Planner Cattan noted that

elevators were added as a new exception if it meets the ADA requirements and does not add to the square footage living space of the home. For houses on a downhill lot there is an exception to accommodate a single car garage in a tandem configuration. There can be one space in front outside of the structure and a single car garage behind.

Planner Cattan noted that the height exception was completely removed for the steep slope CUP and two definitions were added. One was for a green roof and the other was an amended definition for story.

Commissioner Peek asked if there was an exception on a green roof for pavers or gravel elements. Planner Cattan replied that the definition speaks to vegetation and soil and being a growing medium. She did not believe pavers would be allowed.

Commissioner Wintzer wanted to know where green roofs would be allowed. Planner Cattan stated that there are no limits to the green roof. However, the design guidelines would control specific situations. She noted that green roofs would only apply for new construction.

Commissioner Pettit asked Planner Cattan to read the definition of a roof pitch. Planner Cattan read, "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." Chair Thomas pointed out that a green roof would need to be a much flatter roof to support the soils.

Commissioner Murphy asked about maintenance on green roofs. Planner Cattan was unprepared to answer his question.

Chair Thomas stated that he did a green roof on a structure eight years ago. It supports the soil and the grass and it is watered. It has an internal drainage system. It is a single ply roof membrane. Chair Thomas noted that some architects and structural engineers would argue that a flat green roof is better in snow country than a sloped roof.

Commissioner Winters understood that Commissioner Murphy was concerned about the look of the roof and a fire safety hazard if the vegetation is not watered. Commissioner Russack suggested attaching a landscape plan to green roofs. Planner Cattan offered to check with the Building Code regarding fire issues and report back to the Planning Commission. Planning Director, Thomas Eddington stated that the Staff would work with the Building Department to enforce the review for a particular development and stamp the plans with a maintenance agreement. Commissioner Murphy was comfortable that a maintenance agreement would be address the concerns.

Planner Cattan noted that green roofs are allowed in the H zones, which requires a historic district design review. An ongoing maintenance agreement could be required as a standard condition of approval for every steep slope application with a green roof.

Commissioner Peek favored the suggestion for a landscape plan. As landscape matures it can significantly change the structural load on a flat roof.

Planner Cattan noted that the LMC changes were adopted by the City Council on April 9th. She

noted that the Planning Commission could expect to receive new Land Management Codes within the next two weeks. Due to the number of changes, the entire LMC was being reprinted.

Planner Kayla Sintz distributed copies of the HR-1 District to the Planning Commission. Director Eddington noted that once the City Council adopts the LMC language for the historic district guidelines that the Planning Commission forwarded, they will be done with the LMC amendments.

Echo Spur Development

City Engineer, Matt Cassel updated the Planning Commission on the retaining walls for the Echo Spur development. Mr. Cassel noted that the retaining walls require an administrative conditional use permit that is reviewed and signed off by the City Engineer and the Planning Director.

The objective this evening was to have the Planning Commission look at the aesthetics of the walls and try to incorporate their comments.

Mr. Cassel stated that he met with the developer a week ago and they are ready to move forward. They would like to start construction on the retaining walls by the middle of June.

Mr. Cassel presented slides on the retaining wall elements and requested feedback from the Planning Commission. The first slide was the wall on the east side of McHenry Avenue. He noted that the wall being proposed is the wall seen at Silver Star.

Commissioner Wintzer understood that there was 20 feet of retaining plus the guardrail. Mr. Cassel stated that 20 feet included the guardrail. Commissioner Wintzer noted that the drawings showed the wall retaining 20 feet of dirt plus a guardrail. He assumed it would be 23 to 24 feet. Mr. Cassel did not believe it was that large and offered to double check. He noted that this was only the beginning of the process. They still need to review the structure, the layout and the issues regarding the wall. The first step was to define the look of the wall and then detail out the grading and other elements.

Commissioner Murphy asked how the developer plans to access the lots. Mr. Cassel replied that the lots would be on the other side to the west. He noted that the current 6 foot rise would be eliminated and the lots would be leveled.

Commissioner Peek asked if each lot would require a steep slope CUP. Director Eddington stated that the houses would be built opposite the retaining wall. The first level, which is the garage level, would be built into the existing slope. As it falls off to the back that house will pop out of the landscape. They will try to preserve as much of the slope as possible at the front elevation of each of the houses.

Commissioner Wintzer asked if the road was public or private. Mr. Cassel stated that it would be a public road and the City would maintain the retaining wall. Chair Thomas asked if the wall could be stepped and made less vertical, similar to what was done for the Hillside project. Mr. Cassel replied that the space is already tight and to address the concerns of the neighbors, they are cutting a thin line on the wall location and its impacts to the neighbors.

Mr. Cassel presented a slide showing the sections that cut through the wall and the potential height. Another slide presented a view of the layout and location of the road and the wall. The wall is on the east side of the road and the lots are on the west side. Commissioner Russack wanted to know why the space was tight. Mr. Cassel remarked that there is approximately 15 feet of space on the back side of the wall. There will be a landscaping buffer on the east side of the wall. They have been working with the landowners on the east to create a larger space between the back of the wall and the property lines.

Commissioner Wintzer believed that when driving east on Rossi Hill you would be looking at a 20 foot high wall. Mr. Cassel stated that the wall starts low at Rossi Hill Drive and gathers height rather quickly. He agreed that the height is 20 feet at section B or C, therefore it does gather height within 30 to 40 feet on Rossi Hill Drive. Commissioner Wintzer stated that based on the drawing, the wall would be 20 feet high within a fifteen foot span. Chair Thomas pointed out a landscape buffer on the west side of the wall. Mr. Cassel stated that the landscape buffer might be eliminated in response to a request to push the wall as far west as possible. The wall is currently at the edge of curb and gutter.

Commissioner Murphy was unsure if it made sense to have a vegetation barrier because of snow storage, etc. Mr. Cassel remarked that there is space at the end of the road, but the City sacrificed some snow storage on that side of the road.

Commissioner Wintzer asked about the distance from the edge of the road to the retaining wall. Mr. Cassel answer zero and explained that the back of curb and gutter is the front of the retaining wall. Director Eddington stated that the 2-1/2 foot wide curb and gutter goes straight up against the retaining wall. Mr. Cassel remarked that there was a 2-1/2 foot gutter, 2-1/2 feet of vegetation and then the retaining wall. Director Eddington clarified that the 2-1/2 foot vegetation would probably be eliminated.

Commissioner Pettit asked about narrowing the road. Mr. Cassel felt the road was already as narrow as it could be. Commissioner Russack thought the wall should be stepped. Based on the purpose statement, Commissioner Wintzer did not think the retaining wall fit within the zone. Commissioner Russack agreed. He suggested that stepping the wall and using rocks and boulders would reduce ongoing maintenance costs as opposed to the wood and steel materials proposed.

Chair Thomas was comfortable with the materials. Treated timbers integrated with the steel should last a long time and he thought it was more attractive than a concrete surface. Chair Thomas preferred a step or a landscape buffer between the edge of the road and the retaining wall. Otherwise cars will be ricocheting off the wall, which could impact the structural integrity of the wall.

Mr. Cassel noted that there is another retaining wall at the lower end of the development. The lower wall is a structure that will be used to hold snow that is pushed to the end of the road. It will also be used as a best management practice where storm water will be held and slowly trickled down into the storm water system below. That wall is a concrete structure and the goal is to make it disappear into the vegetation at the bottom of the development. The plan is to stain the concrete to a natural color that will blend in with the vegetation and the hillside itself. There are two walls that

are approximately seven to eight feet tall and tiered one below the other. Landscaping will be incorporated between the two bays.

Commissioner Russack had a hard time fitting either of the walls into the purpose statement for the district. This is a prominent site and he encouraged doing whatever was possible to soften the appearance and reduce the height. Commissioner Russack felt the walls were inconsistent with the zone and what they are trying to do around Old Town.

Commissioner Wintzer agreed with Commissioner Russack. He asked if the City would snow plow the road. Mr. Cassel answered yes. Commissioner Wintzer clarified that it would be a City road and asked if Public Works had been contacted for their input on snow removal and maintenance. Mr. Cassel stated that it has gone through preliminary review and Public Works will have an opportunity to review the final layout. He commented on a fire truck turnaround two-thirds of the way down that would also be used to store snow if needed. Commissioner Wintzer felt the City was backed into a corner that they could not get out of. He did not believe the walls could meet the Code and he did not think it met practical design guidelines for the City.

Commissioner Murphy concurred with his fellow Commissioners that the wall needs to be softened. However, he was cautious about impacting the neighbors to the east anymore than they are already impacted. Commissioner Murphy felt this was a delicate balancing act for Mr. Cassel.

Commissioner Peek agreed that the wall is too large for the historic district. A 20 foot high wall in a single plane does not fit. Stepping is important. Commissioner Peek stated that mitigating the impacts was a problem for the developer and not for the neighbors to the east. He pointed out that storing snow in a fire truck turnaround was not right from a health and safety standpoint.

Commissioner Strachan concurred with his fellow Commissioners. Commissioner Pettit concurred with the comments regarding the disruption to the historic district. She felt the wall was completely out of character. Commissioner Pettit stated that they need to be careful about the wall appearance and the visual perspective because this could set a precedent for other platted streets in Old Town that could have similar challenges.

Director Eddington stated that he and Mr. Cassel would provide more design detail and try to incorporate a tier effect based on their comments. Once that is done, they would bring this back to the Planning Commission at another work session.

MINUTES – MAY 27, 2009

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 27, 2009

COMMISSIONERS IN ATTENDANCE:

Chair Jack Thomas, Rory Murphy, Dick Peek, Julia Pettit, Evan Russack, Adam Strachan, Charlie Wintzer.

EX OFFICIO:

Planning Director, Thomas Eddington; Brooks Robinson, Principal Planner; Kirsten Whetstone, Planner; Katie Cattan, Planner; Kayla Sintz, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Chair Thomas called the meeting to order at 6:40 p.m. and noted that all Commissioners were present.

II ADOPTION OF MINUTES

MOTION: Commissioner Murphy moved to APPROVE the minutes of May 13, 2009 as written. Commissioner Wintzer Russack seconded the motion.

VOTE: The motion passed unanimously. Commissioner Pettit abstained since she had not attended that meeting.

III. PUBLIC COMMUNICATIONS

Chair Thomas allowed comments regarding the Echo Spur Development, which was discussed during work session.

Bill Tew stated that he and his wife have more intimate knowledge of this project than anyone else in town because it is literally in their back yard. When they built their house they erroneously thought it would be impossible for anyone to build a road in that location. Mr. Tew invited the Planning Commissioners to stand on his back patio to get a sense of the space. He felt that they have lost every attempt to control this development. The last thing the closest residents have is a buffer between their property and this hideous fence. He met with the City Engineer, Matt Cassel, who agreed to take out the 2-1/2 foot gravel bed to give them a few more. Mr. Tew believed that stepping the wall would push the fence back in to their face.

Mr. Tew commented on a solution he had previously proposed, which is to eliminate the sidewalk to nowhere. It does not serve the community because people will not walk from Deer Valley and through the brush. Eliminating the sidewalk would provide five additional feet, which

would allow room to step the wall and give Silver Point a 13 foot buffer. Mr. Tew pointed out that his proposal was rejected because the City has a walkability bond.

Mr. Tew urged the Planning Commission to consider the fact that if they build the wall, the fence would be right up against his patio and his neighbor's patio. He felt that the pictures presented during the work session were intentionally deceiving. He has spoken with the developer on many occasions and his intention is to slope the grade from the property line down, thereby minimizing the height of the fence. Mr. Tew agreed with Commissioner Wintzer's comment that it would be a 20 foot wall, not a 12 foot wall as reflected in the photos. Mr. Cassel has assured him that the area would remain flat so to accommodate a landscape buffer. Mr. Tew agreed that stepping the wall would look nicer, but it would significantly impact his property.

Mrs. Tew hoped to preserve the few 100 year old gamble oaks that remain. Preserving the existing vegetation would eliminate the need for watering, which is a major issue for the City. She pointed out that the wall would still require a large fence because of safety issues.

IV. STAFF & COMMISSIONERS' COMMUNICATIONS

Commissioner Russack had sent the other Commissioners an email encouraging them to watch a PBS special that talked about infrastructure and had used Denver, Portland and New York City as three different examples. He found it to be very enlightening and suggested that the Commissioners and the public view it on PBS.org.

Commissioner Wintzer noted that during the special work session on May 20th, the Planning Commission was in favor of encouraging the City to move ahead with a transportation study. At that time the Planning Commission was not able to make a motion because it was a work session. Commissioner Wintzer wanted to know how their message could be forwarded to the City Council.

Planning Director, Thomas Eddington asked if Commissioner Wintzer was talking about an overall transportation study. Commissioner Wintzer remarked that the Planning Commission talked about Park Bonanza and how to bring in some kind of transportation. Commissioner Pettit stated that when Mark Fisher made his presentation, he started by asking if the Planning Commission was willing to recommend to City Council that the City undertake a transportation corridor study.

Assistant City Attorney, Polly Samuels McLean, suggested that the Staff schedule it as an agenda item for the next meeting and the Planning Commission could forward a recommendation at that time. Director Eddington stated that he talk with Kent Cashel and Matt Cassel and provide a holistic transportation update at the next meeting.

Commissioner Strachan disclosed that he would recuse himself from the discussion on 16 Sampson Avenue and 201 Norfolk because the owners, Eric and Susan Fredston-Hermann are current clients.

Chair Thomas disclosed that he would recuse himself from the discussion on the Silver Lake Lot 2B project.

PUBLIC HEARING AND CONTINUE TO A DATE CERTAIN

1. 1251 Kearns Boulevard, the Yard - Conditional Use Permit

The applicant, Mark Fisher, requested that the Planning Commission continue this item to June 10th. He has a lot of business activities, including a Farmer's Market, that would like to be there every Friday throughout the summer, starting June 26th. The only thing pending is the permit and it has become time sensitive with summer time activities and the commercial parking area.

Planner Robinson stated that he also recommended a June 10th date. The Staff had requested specific information and Mike Sweeney assured him that the information would be submitted so the Staff could finalize their review for the June 10th Staff report.

Chair Thomas opened the public hearing.

Mary Cook, a Homestake resident, felt it was important for the owners to keep the Homestake owners aware of the plans for the Yard. She stated that the apartments are full of small children and approximately 25 children under the age of 8 live in her complex. Ms. Cook pointed out that this is no longer a business district. It is a residential district and she already has a hard time keeping the kids off the street. She was not opposed to their plans for the Yard but it is important that they communicate with the neighbors.

Chair Thomas informed Ms. Cook that there would be ample opportunity for public hearings when this item comes back for discussion and public hearing on the regular agenda. Commissioner Wintzer suggested that Ms. Cook ask a representative from her neighborhood to attend the meeting on June 10th. He also encouraged her to send a letter with her comments in writing. He assured Ms. Cook that the Planning Commission was interested in listening to her because they are all concerned about safety issues. Commissioner Peek told Ms. Cook that the Staff report for this project would be available on the City's website and she could download the same documents that are provided to the Planning Commission.

Chair Thomas continued the public hearing.

MOTION: Commissioner Russack made a motion to CONTINUE the CUP for 1251 Kearns Boulevard, the Yard to June 10, 2009. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

Regarding the transportation study, Mr. Fisher stated that he received a number of calls from people who recommended that the walkability bond could fund that study. He noted that there is plenty of money in that bond and paths for walkability are planned along the transportation corridors.

V. CONSENT AGENDA

1. 1177 Empire Avenue - Plat Amendment

MOTION: Commissioner Pettit moved to MOVE 1177 Empire Avenue to the Regular Agenda for discussion. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA/PUBLIC HEARINGS

1. 1177 Empire Avenue - Plat Amendment

Planner Kayla Sintz reported that the City received this application on January 27, 2009. Due to the pending ordinance that took place on October 22nd, 2008, this application has been in a holding pattern. Planner Sintz stated that the Planning Department received modified information from the applicant on April 14th, May 4th, and May 12th. That information was included in the Staff. Concurrently, a historic district design review is in process.

Planner Sintz reviewed the application for a 2591 square foot single family residence in the HR-1 District. She noted that this was the third application to be reviewed under the new Steep Slope CUP criteria. The first two were 16 Sampson and 201 Norfolk. Planner Sintz referred to two items for discussion under Criteria 8 in the Staff report. She stated that the applicant has been responsive in providing modified information. In addition, they have already provided reciprocal show shed easements with adjacent property owners on both sides. Under an early review, Ron Ivie wanted to make sure that information was provided.

Ms. Sintz stated that two discussion items specifically related to the stepped facade. The first paragraph on page 55 of the Staff report talks about a proposed design for a covered deck on the upper level. She remarked that a ten foot minimum horizontal step in the downhill facade is required for the third story of a structure, unless the first story is located completely under finished grade on all sides of the structure. Ms. Sintz presented an elevation drawings and requested input from the Planning Commission as to whether the design meets the intent of a stepped facade and whether the covered deck measuring approximately 10 feet in depth should be moved back to the building facade at the upper level.

Commissioner Pettit assumed that if the upper deck was moved back ten feet to begin at the facade of the second level, it would push the building back but still remain under the height requirement. Planner Sintz explained that there would be two floors and a ten foot step before the third floor starts. The height would not change.

Commissioner Murphy asked if the Staff was requesting discussion on the roof over the porch. Kayla Sintz stated that they were looking for input on the roof form specifically. The LMC amendments provide new criteria and new elements for steep slopes and the project was designed based on interpretation of the new criteria. The Staff had identified this as a

discussion item based on the question of whether or not the mass and scale meets the intent of the stepped facade.

Commissioner Peek noted that the definition states that the facade will step back ten feet; however the roof, missing the facade, now extends out at the same plane as the lower level.

Commissioner Russack understood that the reason for requiring the stepping was to reduce the visual massing of the structures as they are faced on the street. Having a double porch and having the porch continue on the second floor with a roof does not step the facade or reduce the visual mass of the building.

Chair Thomas echoed Commissioner Russack. The perception of the mass of the structure was amplified by the roof form. He understood that the roof forms would be shifting back and not just the facade of the building, thereby leaving the roof. Chair Thomas remarked that the visual impact from up the street or across the canyon looks like a three story element. He was concerned that in the future someone would request a modification to the CUP to enclose the screened porch. Chair Thomas stated that his interpretation would be to eliminate the roof off the porch to conform with the intent of the Code. Commissioner Wintzer concurred. Commissioner Strachan clarified that the deck would still be allowed without the roof.

Cynthia Fowler, the applicant, pointed out that the roof protected the living space below the deck from snow. Chair Thomas stated that snow would be blowing in from the sides with or without a roof. Craig Kitterman, the project architect, felt the two-dimensional drawing made the massing appear larger than it actually would be with shadow lines and view through. Mr. Kitterman stated prior to the new criteria, they were required to step back because they could not exceed the 27 foot height. That was accomplished by stepping back from the decks. He noted that the decks projecting out provide the relief by setting the roof back. Mr. Kitterman asked if he had the option of either removing the extra deck from the support or removing the roof.

Chair Thomas felt the Code was specific and required a ten foot shift of the mass of the structure and the facade of the building. If the roof stepped down or was a flat trellis across the covered deck or was a green roof, he believed it could work. Given the mass and height, he did not think it was consistent as proposed. The Commissioners concurred. Commissioner Peek remarked that not stepping back the fully developed roof form did not meet the intent of what they tried to achieve by modifying the steep slope criteria.

Commissioner Murphy felt an argument could be made that the second floor deck takes into account a visual step back from the road. He believed the massing was broken up more than what the other Commissioners thought.

Mr. Kitterman clarified that the issue was stepping and trying to reduce the two or three story facade from the street. Mr. Kitterman suggested that the proposed deck that projects out could be stepped back half the distance and the covered roof could be set back another three or four feet. He asked for the opportunity to work with Staff to look at other options that meet the spirit of the Code.

Chair Thomas remarked that the Planning Commission was not interested in a three or four foot shift and preferred to negotiate something less. Chair Thomas believed a trellis or flat roof option would meet the intent of the Code. Planner Sintz indicated the second floor living space and noted that it correlates with what occurs over the top of that space. If it is not a green roof, it must meet the minimum roof pitches. Commissioner Peek clarified that a flat surface over a living space without a roof must be a green roof. Planner Sintz replied that it has to be a green roof or meet minimum roof pitches.

Commissioner Strachan believed the Planning Commission envisioned this exact scenario of having a pitched roof over living space when they chose to allow green roofs as an exception for an environmentally good cause.

Commissioner Murphy asked if eliminating the extension of the second porch would meet the spirit of the Code. Commissioner Russack noted that the roof element would need to be re-worked because it did not meet Code as proposed.

Planner Sintz moved to the second item for discussion. She reviewed a section drawing and indicated a storage/mechanical space in the upper gable. The space is approximately 270 square feet with a 6 foot ceiling height. In the future the applicants plan to do solar panels and the equipment for that could go into that space, as well as storage. Planner Sintz requested discussion on whether or not that meets the definition of the three story limit. She noted that the International Building Code defines that space as being uninhabitable because it does not meet the height requirements.

Commissioner Strachan stated that when another story is added, whether livable space or not, it creates additional mass, which is what the Code amendment was intended to prevent. He believed this application was a good example of pushing the boundaries.

Chair Thomas could see other solutions. He suggested stepping a low roof off the master bedroom level instead of a deck. Mr. Kitterman pointed out the requirement for have a 7:12 pitch on the top roof. Whether the space just has trusses or installation or is used for storage does not change the mass of the building because of the 7:12 pitch. Commissioner Wintzer agreed that the mass and scale of the building is not changed; however the use changes because there is more usable space.

Commissioner Russack was not concerned about the storage/mechanical space if it is truly used for that purpose. If the use is defined that use needs to be demonstrated at the time of the certificate of occupancy. He preferred to define the space as mechanical and not storage. Commissioner Russack was more concerned with the roof element on the front over the porch, which clearly did not step the building back by ten feet per the Code.

Chair Thomas clarified that the building is under the 27 foot height requirement and the mechanical space is above the header line of the prefab trusses. He noted that the City Council was not concerned about story height as long as the structure does not exceed the maximum height. Chair Thomas was comfortable with the storage space because 6 feet is under the

minimum height required for habitable space.

Commissioner Pettit was concerned about the stairs going to the attic and storage space. Regardless of the height, she felt that it could be habitable space. Ms. Fowler explained that she has an illness that makes it difficult for her to use a pull down ladder typical for attic access.

She requested that the architect include the stairs to aid in her medical condition. The space was designed strictly for storage because the storage capacity of the home is minimal. In stepping the building back ten feet they lost a lot of closet space on the third level. Nathan Anderson, the applicant, stated that the storage space would be used for mechanical equipment and recreation equipment.

Commissioner Strachan reversed his initial opinion on the 4th floor storage and mechanical space. If the roof pitch is required, he felt this was a creative use of otherwise dormant space. Considering the restrictions imposed under the new Land Management Code, Commissioner Strachan suggested that creative use of space should probably be encouraged.

Assistant City Attorney, McLean, noted that the LMC defines story as, "The vertical measurement between floor taken from finished floor to finished floor. The first story is the lowest level of a structure and includes livable and non-livable space. For the top most story, the vertical measurement is taken from the top finished floor to the top of the wall plate for the roof structure". She stated that the Planning Commissioner needs to determine if the storage space adds an additional story based on that definition.

Chair Thomas explained why he believed the mechanical and storage space was acceptable and could be allowed under the LMC. Commissioner Peek agreed that the use of a six foot high space for storage and mechanical was appropriate. If the space was designed to the height allowed in the zone, there would be enough headroom to make it a functional space and he would be more concerned.

Chair Thomas stated that a maximum height of 6 feet for that space should be addressed in a condition of approval.

Commissioner Strachan referred to the definition of story and the language that the first story is the lowest level and includes livable and non-livable space. He felt that definition uniquely points to the first story as acceptable for livable or non-livable. However, for all other stories, any non-livable space would not fit within the definition.

Assistant City Attorney, McLean, stated that she would not make that blanket statement because there have been issues with past applications in trying to determine whether or not basements or under ground storage count as a first story. She believed the definition tried to address those issues. Ms. McLean agreed that the sentence Commissioner Strachan read appears to modify the first floor, but she could see other scenarios that would be acceptable. Chair Thomas opened the public hearing.

John Stafsholt, a resident at 633 Woodside stated that he grappled with this application the same as the Planning Commission. He pointed out that none of this was personal to one applicant, but the issue is how a decision would play out for future applications throughout the District. Ms. Stafsholt felt it was important to see the first response from the design community

to the new LMC changes. Mr. Stafsholt believed this project was a cleverly designed way to maximize height, mass and scale. The structure is 2591 square feet plus 600 additional square feet of decks fronting Empire and 3-1/2 or four stories high, depending on how you look at it. He stated that the intent of the LMC changes was to decrease the square footage and the mass and scale. He urged the Planning Commission to take the time to consider that there are many varied issues in addition to the ones raised this evening. He encouraged them to avoid unwanted precedent in the HR-1 zone.

Mr. Stafsholt stated that some of the problems related to definitions. He noted that roof is not defined in the Code and suggested adding that definition. Lacking an LMC definition, Webster defines a roof as to cover up a building. Mr. Stafsholt went through the elevations and explained why he disputed various design issues. He stated that until they add a definition for structure or roof in the Code, they need to go with the intent.

Don Bloxom stated that a fourth story would easily fit under the 27 foot height limit with another ten foot step back. He believed the house is 600 feet smaller than it would have been under the previous Code. Mr. Bloxom thought the structure was well-defined in both the LMC and the IRC. The setback in Old Town is ten feet and he believed the deck is ten feet. Mr. Bloxom stated that he is doing a lot of work with green roofs and he can achieve a short span green roof in less than 16 inches of overall depth with a recycled plastic substrate carrying the planted material. He felt they could make the roof over the deck a green roof and still meet Code.

Chair Thomas closed the public hearing.

Chair Thomas summarized that the Planning Commission was generally comfortable with the mechanical space within the structure. They were concerned about the roof over the deck and that roof would either have to drop to a 7:12 at a lower elevation or be a green roof. Chair Thomas stated that the Planning Commission did not intend to design the project. The applicants and their architect need to resolve the issues and meet Code.

Commissioner Julia recalled that the project architect had suggested that he could work with Staff on finding possible solutions. She was willing to continue this item to allow that opportunity.

MOTION: Commissioner Pettit moved to CONTINUE 1177 Empire Avenue, steep slope CUP to June 10th. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

2. 575 Park Avenue - Plat Amendment

Planner Sintz reviewed the application for a plat amendment for 575 Park Avenue, located in the HR-1 zoning district. The proposed plat would combine Lot 19 with the south half of Lot 20, Block 5 of the Park City Survey, into one lot of record. The proposed lot would be 2,813 square feet. The existing structure on the property is listed as a Landmark structure on the new Historic Sites Inventory. It is an existing non-conforming structure due to a footprint size and

non-compliance with side yard setbacks.

Planner Sintz stated that the intent of the plat amendment is to allow the applicant to come up with a second story expansion of the house, which would meet all current setbacks without increasing the non-compliance of the footprint.

The Staff recommended that the Planning Commission conduct a public hearing and considering forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Chair Thomas opened the public hearing.

There was no comment.

Chair Thomas closed the public hearing.

MOTION: Commissioner Murphy moved to forward a POSITIVE recommendation to the City Council for the plat amendment at 575 Park Avenue according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 575 Park Avenue

1. The property is located at 575 Park Avenue in the Historic Residential (HR-1) zoning district.
2. There is an existing historic structure on the property. The structure is listed as 'Landmark' on the Park City Historic Sites Inventory.
3. The subject property encompasses Lot 19 and portions of Lot 20, Block 5 of the Park City Survey.
4. A recorded Reciprocal Encroachment Easement Agreement for steps and retaining walls exists between owners of Lot 18 and owners of Lots 19 and 20, Entry No 638805 in Book 1489 at Page 1705 of the official records.
5. The proposed amended plat would result in one lot of record of 2,813 square feet.
6. The maximum footprint for a lot of this size is 1,210 square feet. The existing non-conforming footprint is 1,460.5 square feet.
7. The proposed plat amendment will not create substandard lots on the neighboring lots.
8. The applicant is proposing the combination of the lots in order to facilitate an

expansion/addition to the second story of part of the house at the rear.

9. A Historic District Design Review application has been submitted to the Planning Department for this property.

Conclusions of Law - 575 Park Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. 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.

Conditions of Approval - 575 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.
3. No additional building footprint is allowed on this lot.
4. A 10 foot wide snow storage easement will be provided along Park Avenue.

3. 1502 Seasons Drive - Conditional Use Permit

Planner Kirsten Whetstone reviewed the request for a conditional use permit for construction of a single family home on Lot 21 of April Mountain Subdivision, located at 1502 Seasons Drive, at the easternmost portion of this subdivision, located above Deer Valley Drive. The lot is on the downhill side of Seasons Drive at the end of the cul-de-sac. The property is currently vacant and has native vegetation.

Planner Whetstone stated that development of Lot 21 is subject to a conditional use permit per the April Mountain subdivision and the April Mountain Master Plan development. Plat notes require use of the HR-1 and HRL Steep Slope Review criteria as additional review criteria. The lot is approximately 35,700 square feet in lot area.

Planner Whetstone reported that the applicant previously submitted a plat amendment to

reconfigure the platted reserved open space (ROS), located towards the east and the south, to shift the building pad location in order to accommodate the plans for the single family house. The Planning Commission reviewed the plat amendment and after concerns were raised by the neighbors, the applicant formally withdrew that plat amendment. Planner Whetstone clarified that there are no longer requested changes to the platted ROS area.

Planner Whetstone stated that the Planning Commission held a work session on this item and a number of issues were discussed, as outlined in the Staff report. She noted that the applicant previously requested a height exception from the 19 foot height restriction that was part of the CUP in the master planned development. However, since that time, the applicant had lowered the house and is no longer requesting a height exception. Planner Whetstone stated that the revised plans are now consistent with the 19 foot restriction from existing grade to the peak of the roofs.

Planner Whetstone reported that prior to the meeting on May 13th, the applicant requested that this item be continued to the meeting this evening to allow time to address additional concerns raised by a neighbor. The Staff met with the neighbor to review the plans and the applicant revised the plans to increase the east side setback to 90 feet to 71 feet. The east side is completely compliant with the approximate building zone identified on the plat. The setback was increased from four feet to fifteen feet. The applicant also provided a roof over topo, elevation and site plan to demonstrate that the house steps towards the center and up the slope with the lot. The retaining wall greater than 4 feet were moved out of the fifteen foot front yard setback.

Planner Whetstone stated that the request is for a 10,000 square foot house, including all basement floor areas. The building footprint is approximately 7800 square feet. There are not floor area restrictions on the plat in the RD zone. House sizes are a function of the building zone, the height and the setbacks. The applicant proposes to use the USBC green building standards, passive solar heating, active solar water heaters, photo voltaic solar cells and a 1,000 square foot green roof and a clay rammed earth north wall. The exterior is proposed to be a natural ledge stone. The roof is a combination of sheets and tiles in gray zinc. Aluminum clad wood windows are proposed, as well as stone chimneys and stone sills.

Chair Thomas felt the drawings submitted were lacking and asked if the applicant had more complete drawings to submit. Don Bloxom, the project architect, stated that all of the elevations, floor plans and roof over topo were available. He noted that they had not detailed the final finishes other than to just call out stone on 80% of the exterior facade.

Chair Thomas understood plans, elevations and sections delineating the exterior materials was part of the minimum package for a conditional use permit. Planner Whetstone noted that the applicants has indicated that 80% of the exterior would be stone. Chair Thomas did not think the elevations provided were sufficient enough to understand the character of the exterior. He noted that the Planning Commission was being asked to evaluate the visual impact, the massing, and integration into the adjacent neighborhood. The model presented helped a lot but he expected to see more articulated in the elevations. He also expected to see building cross sections across the facade. Chair Thomas found it hard to make an accurate evaluation without a complete package.

Mr. Bloxom reviewed the front and rear elevations showing the glass fenestration. He noted that the west elevation is primarily subterranean and there are no windows on that side at all.

Planner Whetstone stated that the conditional use application does not spell out the type of detail Chair Thomas was requesting. Chair Thomas noted that the Planning Commission has previously asked the Staff for minimum standards for conditional use permit applications, which include plans, elevations and sections that articulate the materials graphically or visually in the elevations.

Mr. Bloxom offered to provide the requested plans. He stated that his primary concern was making sure the project was compliant with the requirements of the CUP for height, setbacks, shape and massing of the building. He noted that the 90 foot setback from the east side is not on the plat but it is in the development agreement. He was willing to put more detail on a set of drawings; however before going that far, he was looking for input on whether the form and mass and configuration on the site is acceptable.

Planner Whetstone stated that the Staff reviewed this application against the conditional use criteria, as well as the steep slope criteria for the HR-1 and HRL zones, and recommended a variety of conditions to insure compliance with the criteria.

Chair Thomas opened the public hearing.

Jody Hoffman, representing Bill and Molly Morris, residents at 1511 Seasons Drive, stated that she was a former City Attorney for Park City and she is familiar with the Code the Planning Commission and the Staff struggles with on a regular basis. Ms. Hoffman stated that she currently represents every city and town in the State in land use matters, and she has been responsible for drafting every land use law in the State of Utah over the last eight years. Ms. Hoffman commented on other things she is involved with that makes her qualified to discuss matters on behalf of her clients.

Ms. Hoffman stated that the Staff report as written is a good argument for why this structure should be approved as a CUP, but it was not a balanced report relative to the restrictions on this lot. It is an A-typical lot with tremendous massing restrictions, with which the developer has yet to comply. Ms. Hoffman was heartened by the fact that Chair Thomas also had trouble reading the drawings because she had a lot of difficulty trying to figure out the project from a massing standpoint. Ms. Hoffman remarked that she has met twice with the Staff and the developer in an attempt to understand the drawings and to convey her clients perception of the restrictions on these lots. The intent was to negotiate a meaningful solution and avoid a combative argument before the Planning Commission. She pointed out that negotiations were not successful.

Ms. Hoffman remarked that the concessions Mr. Bloxom identified in his revisions were not concessions to the neighbor, but rather an acknowledgment that the plans submitted did not comply with the existing restrictions on the lot. Ms. Hoffman reported that this lot has seven

different documents controlling its destiny. In exchange for density outlined in the MPD, certain restrictions were placed on very few lots, and this was the primary restricted lot. In addition to the MPD, the development agreement has 22 restrictions. The subpart of one of those restrictions has ten additional plat requirements, however, only one is shown on the plat. Ms. Hoffman commented on a number of requirements that the Planning Commission has not seen addressed in the Staff report, but she has been discussing with the developer. Ms. Hoffman stated that the plat amendment minimizes the requirements of the development without amending the development agreement or the MPD. She remarked that the CC&R's basically mimic the development agreement requirements. The CUP process, which the LMC defines is allowed only if certain measures are taken to mitigate or eliminate potential impacts. She pointed out that these are impacts to the neighbors and not from vantage points. Ms. Hoffman remarked that the HR1, HRL Steep Slope Criteria is another controlling document. The final documents are the Sellers Warranties and representations to her client and to the lot owners immediately north of 1511 Seasons Drive, representing protection of their views and how this lot would be restricted.

Ms. Hoffman pointed out that even though the Staff report did not include the controlling documents, they are still valid because the City Council has not amended the development agreement. Ms. Hoffman read from the development agreement, "The central mass of the dwelling shall step down in height and reduce in bulk as it reaches the edges of the dwelling". She reviewed a slide showing what she believed to be the central mass of the building with a tower behind. She pointed out that the mass steps up, not down and therefore does not comply with the development agreement. Ms. Hoffman stated that if the mass stepped down there would not be an issue. She noted that when the development agreement was drafted, the language identified floor area as opposed to mass. Therefore, there are a lot of high pitch ceilings and the mass and volume of the structure exceeds what is typical. In addition to requirements on the massing, Ms. Hoffman noted that the development agreement states, "on all lots with special height reductions, strict adherence to the height reduction, roof orientation, massing and landscaping shall take precedence over the limits of disturbance areas and the rear setback requirements.

Ms. Hoffman remarked that two conditions allow the developer to propose mass balancing on this lot. The development agreement specifically states that the entire construction disturbance including grading, excavation and storage of excavated materials must be contained within the limits of disturbance. Ms. Hoffman stated that the limits of disturbance must be contained by the ROS boundary and by the minimum side yard and rear yard setbacks. She pointed out that the boundaries cannot be moved without amending the development agreement, yet those are two proposed conditions for this proposal. Ms. Hoffman stated that the developers took the site restriction standards in the development agreement relating to setbacks and put them on the plat, as if that would somehow amend the development agreement. Ms. Hoffman stated that she needed to do a GRAMA request to get all the exhibits to the development agreement and she had still not obtained the MPD. Ms. Hoffman noted that the CC&R's parrot the development agreement.

Ms. Hoffman felt the main issue was this current CUP process. She reiterated that the Code states that the Planning Commission does not have to issue a CUP unless the developer has

mitigated or offered to mitigate every impact. Ms. Hoffman stated that there were specific representations to the neighbors about protecting their view sheds and they are not going to stand aside and let their rights be trampled. Ms. Hoffman urged the Planning Commission to do what is required to protect the neighbors.

Chair Thomas closed the public hearing.

Mr. Bloxom stated that the design complies with the 90 foot setback, as well as the rear setback plus 15 feet. Every lot in the subdivision has a minimum five foot height restriction. He showed how the tapering of the other houses in the neighborhood occur from the center to the edges. Mr. Bloxom stated that when he has certified surveys done at the beginning of the process, he has the views of the other homes put on that survey. He remarked that the upper highest points of the building were held to 7'8" below a 19 foot height restrictions. He indicated a portion of the roof that was less than twelve feet above existing grade. The tower structure is taller than it is wide or long. Mr. Bloxom stated that the main floor lines of both of the houses behind are in excess of ten feet higher than the highest point of roof. He worked very hard to keep the elements from damaging view sheds. At the very most, this house might remove some of the walls of the condos below, but it has no affect on the view of the mountains. Mr. Bloxom noted that the restrictions apply to every lot in the subdivision except for Lots 1, 2, 3, 17 and 18. He explained additional design considerations that were done to mitigate impacts to the neighbors and stated that every criteria in the development agreement and the plat have been met.

Henry Sigg, the developer, stated that he was a partner in the April Mountain Development. He noted that the neighbor across the street did not purchase their lot directly from the April Mountain developers. It was purchased in a sale after the sale from the April Mountain developers.

Commissioner Strachan favored Chair Thomas' comments regarding the detail of drawings because he has the expertise in reading drawings. Commissioner Strachan stated that if he cannot understand the drawings he is uncomfortable making findings of fact, such as Finding #12, which states, "massing requirements of the MPD are met" or Conclusion of Law #1, "the CUP as conditioned in consistent with the Park City Land Management Code." He felt this application was only slightly more detailed than other applications where the applicant was directed to come back with more detail. He recommended that the Planning Commission continue this item with direction that the applicant come back with more specific drawings.

Chair Thomas suggested that the Commissioners look at the model the applicants had available this evening to get a sense of the massing.

Planner Whetstone recognized that the Planning Commission was at a disadvantage because she had full sized drawings and had done a full analysis of the various floor areas. She commented on the calculations and noted that the floor area was 85%. Chair Thomas clarified that he could read and comprehend the plans and he trusted her evaluation with regard to the area calculations. His concern was with the elevations and the building cross sections. He requested three or four cross sections and a longitudinal cross section to help them understand

how the building steps. Chair Thomas also requested that the section drawings include existing natural grade and modified finished grade.

Commissioner Peek stated that if the Planning Commission was comfortable with the bulk, mass and orientation, they could move forward with that direction. He agreed that the elevations and detailed materials needed to be provided before they could determine compatibility with the neighborhood as outlined in Finding #11. Commissioner Murphy concurred

Commissioner Wintzer referred to photos in the Staff report taken from the Stew Pot. He thought it looked like a white blob and he needed additional detail to understand how the structure would be seen from those vantage points. Commissioner Wintzer also needed to better understand the wall finishes the neighbors would be seeing from the back elevation.

Chair Thomas suggested that Mr. Bloxom slice the elevations into the graphic representation so they could see a more complete picture of what is going on.

Commissioner Pettit agreed with all comments. She referred to Jodi Hoffman's comments and the additional analysis that needs to be done for the Planning Commission under the development agreement and the MPD in terms of the restrictions that were placed on the lot. She recognized that this was a CUP application, but the lot has history and the Planning Commission needs that information in order to make findings that the project complies with the other key agreements.

Planner Whetstone stated that she was the planner on April Mountain and she was versed on the requirements. She noted that many of the requirements of the MPD were transferred directly into the development agreement, which were then put directly on the plat. She was willing to provide that information for the next meeting.

Commissioner Russack wanted to know why those requirements were not included in the Staff report. Planner Whetstone replied that she had not realized they would go back to that much detail. She pointed out that every other lot has been developed through the Building Department. This lot had a specific requirement for a conditional use permit primarily because it is on the end of the cul-de-sac and the concern was the visual from Stew Pot. Planner Whetstone stated that this house is below the grade of the street. She remarked that Don Bloxom had to draw her a picture so she could understand the massing of the one-and-a-half story after Ms. Hoffman talked to her about the volume.

Commissioner Russack agreed with the comments made by his fellow Commissioners. He felt it would be helpful to review the MPD and the development agreement at the next meeting and to see Planner Whetstone's analysis so they could make a fair assessment of this application.

MOTION: Commissioner Murphy moved to CONTINUE the CUP discussion for 1502 Seasons Drive to July 8, 2009. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

4. North Silver Lake, Lot 2B of North Silver Lake Subdivision - CUP
Chair Thomas recused himself from this item and left the meeting.

Vice-Chair Russack assumed the chair.

Planner Katie Cattan noted that the Planning Commission previously reviewed this project during a work session and three separate meetings. Planner Cattan commented on minor modification to the site plan since the last meeting. She noted that 54 units are allowed on this parcel. Sixteen homes are on the periphery. Three are duplexes and the rest are single family. There are 38 condominiums within the center of the project, as well as a common area with a pool and locker room space.

Planner Cattan reported that part of the master plan is a 45 foot height limit with an additional five feet for pitched roofs. She presented a display showing a 33 foot cloud over existing grade and noted that the applicant has self-imposed a 33 foot height limitation around the periphery. The project is above 33 feet in the central four units and in small portions around the periphery. For the most part they stayed under the self-imposed 33 foot height limit. The allowed height is 45 feet maximum.

Planner Cattan reviewed the modifications to site plan since the last meeting in February. She noted that the total combined footprint decreased by 1400 square feet. The applicant offset the increase of the footprints towards their open space requirement of 60% by decreasing impervious surface areas. After making the changes, the total open space increased from 73.9% to 74%. Planner Cattan explained that the purpose of the 1400 square foot difference was to add architectural interest to the exterior of the buildings.

Planner Cattan requested discussion on Condition of Approval #10. The applicant had requested that a 30 month approval be tied to this plan. Language was also added stating that in no case shall there be a lapse of twelve months between individual building permits or the remaining elements of the CUP are deemed void. Planner Cattan reported that Ron Ivie, the Chief Building Official, recommended eliminating the second portion of that condition of approval because it encourages people to start permits but not finish them. The building process is tied to a 180 days lapse. If the project is inactive, the head building official can set standards for completing a project. Mr. Ivie preferred not to set start dates and instead continue with the completion dates once a permit has been pulled. The Staff recommended removing the last sentence from Condition of Approval #10.

Planner Cattan presented a list of requests and concerns by the Planning Commission during the last meeting.

Doug Clyde, representing the applicant, provided a brief overview of what had been done to respond to comments and concerns raised at the last meeting. They spent a lot of time meeting with consultants and the Staff to address the issues. He felt they had come to full agreement with Staff in responding to the questions. Mr. Clyde noted that Commissioner Strachan had requested a wildlife mitigation report. That report was done and focuses on native plants and

provides reasonable mitigation for foraging birds and small mammals.

Mr. Clyde stated that they seriously considered the comments regarding a parking reduction and looked at many examples of similar projects that were parked at less than what the LMC required. The result was to reduce the co-mingled parking by 25%, which is common parking under stacked units. In response to a question regarding the amount of protection for vegetation on site, Mr Clyde stated that the arborist had prepared a tree protection plan that would be implemented as soon as the project is underway. It involves physical protection as well as educating those working on the site. Mr. Clyde noted that the engineers had prepared a utility plan show how the utilities can be installed in a way that is compatible with the tree preservation plan. Additional screening was provided on the north end of the project with vegetation.

Mr. Clyde stated that the Commissioners were given a large package of detailed data on the project that resulted from positive feedback from the Planning Commission on the general direction the plan was going in terms of the site plan and mitigation measures. The package contained a variety of examples of architectural elevations from different viewpoints, as well as a materials board.

Mr. Clyde presented several renderings of the project. Based on comments from the Planning Commission, several additional specimen trees would be planted in front of Building 3. Mr. Clyde reported on a call from Planner Cattan regarding positive comments from the public on how this plan compares with the previously approved Horne plan. Mr. Clyde stated that an analysis prepared for the City in January showed that this project has improved in all areas over the previously approved plan. There is more open space, the total building footprint is smaller, and substantially more buildings are built at the 33 foot level. The footprint of the buildings over 33 feet are substantially smaller than the previous plan. In addition, the gross building area of this plan is significantly smaller than the gross building area of the Horne plan.

Mr. Clyde remarked that based on direction from the Planning Commission to work up a green building plan, the applicants hired Dale Bates to help with that plan. Mr. Bates had vetted the plan with Diane Foster and Ms. Foster was pleased that they were actually doing the hard work and not just green washing the buildings.

Dale Bates stated that he has practiced eco-conscious architecture and environmental design for 30 years in Ketchum, Idaho and he is familiar with mountain climates and the limitations. When he was asked to design an effective and applicable green building strategy, he first researched Park City's vision, goals and policy and action statements. He then began to develop a green plan that fit within the City's goals to reduce the community's carbon footprint and water use, increase building efficiency, practice conservation and recycling, and to use renewable energy.

Mr. Bates remarked that a compact development that puts people closer together is inherently more environmental than spreading 54 single family units across a large parcel of land. It is also more efficient to place development along existing infrastructure, bus lines and ski and hiking trails. In addition, keeping three-quarters of the project in open space provides a buffer to

adjacent properties. Mr. Bates pointed out that it is also more energy efficient to build multi-family units because the walls are shared and the neighbors use each others insulation. In addition, multi-family units only required one set of amenities that are used by everyone.

Mr. Bates stated that he looked through the entire LEEDS standards for multi-family and single family homes and identified the LEEDS aspects for silver level. They have not committed to completing LEEDS certification, but they are using the LEEDS checklist at the silver level for what they want to achieve. Mr. Bates stated that the project will meet or exceed energy star standards and they intend to look at using high performance insulation. He pointed out that they are using technology in appropriate places. As an example, control systems for air conditioning and heating will have occupancy sensors. Heat and cooling will be monitored based on the current outdoor weather. High efficiency lighting and appliances would also be used. Mr Bates commented on using renewable energy systems and a solar voltaic system to offset electricity use in the common areas. A solar thermal system would be used to offset some of the hot water needs for the pool and spa. Mr. Bates showed an evacuated tube solar collector that works well at high elevations and on cloudy days. The single family homes will provide options for solar panels at the homeowner's discretion.

Mr. Bates stated that there would be a well integrated construction waste management plan. Construction generates a lot of waste and that material needs to go somewhere. He noted that LEEDS outlines a waste management plan that they intend to follow. Framing waste would be eliminated by panelizing construction. Wall panels will arrive on site already cut, which avoids having to truck leftover material to a landfill. Recycled materials will be stored on site during construction.

Mr. Clyde identified the materials proposed and stated that regional materials would be used.

Mr. Bates stated that landscaping will be native or native compatible and drought tolerant. A controlled system will monitor local weather conditions and not turn on sprinklers if it is raining or the ground is sufficiently wet. This provides the opportunity to use water more efficiently. A water filtration system will be provided on site to all the multi-family units. Bottle quality water would be delivered to every tap to minimize the waste problem related to plastic water bottles.

Mr. Bates stated that one problem with the green movement is distinguishing between what is green and efficient and what is truly environmental and effective. He noted that the applicant has committed to the green elements talked about this evening. Many more that will be evaluated as they move forward.

Planner Cattan reported that the Planning Commission was provided with public comment that was received after the Staff reports were prepared. She had also received eleven emails today that were given to the Planning Commission this evening.

Vice-Chair Russack opened the public hearing.

Eric Lee stated that he was representing a group of property owners in a number of subdivision surrounding this project, as well as the American Flag Homeowners Association. Mr. Lee referred to a letter from Robert Dillon that was included in the Staff report. Mr. Dillon is his

partner but was unable to attend the meeting this evening and asked Mr. Lee to speak on his behalf.

Mr. Lee felt that Mr. Dillon's letter adequately addressed the issues that have caused concern for their clients and many of the issues are reflected in the history of the Planning Commission's recent review of the project. In August, the Planning Commission was concerned about the scale and mass of the buildings, inadequate spacing between the units, visual impacts from various vantage points, and overall disturbance and impact on the site. In October, the developer presented a new site plan, and the Planning Commission still had a number of concerns, including compatibility of the proposed density, overall limits of disturbance and construction staging. In February, the applicant came back with further changes and the Planning Commission still had concerns and the scale of the North Building, in particular, was deemed problematic by the Planning Commission in February. He understood that the problem was the visibility of the North Building from different vantage points in the City. Mr. Lee pointed out that the same problem remains. As far as he could tell, neither the location nor the scale of the North Building has been address in any way by the applicant. Planner Lee remarked that in February the Planning Commission recognized the scale and location of the North Building as a detrimental impact that had not been mitigated. In his opinion, the North Building was still not mitigated today.

Mr. Lee stated that the main issue is incompatibility of this project with surrounding structures in terms of mass and scale. If the Planning Commission cannot conclude that the scale and mass of the project are compatible with surrounding structures, the LMC prohibits issuance of the CUP. He highlighted a point raised in Mr. Dillon's letter, which is that the master plan that created this project does not create static rights. The rights must be assessed on the day this applicant comes before the Planning Commission for a conditional use permit. What the master plan allowed thirty years ago is not relevant if the compatibility of the project today is not consistent with the surrounding structures.

Mr. Lee remarked that in the time since this master plan was put in place, single family subdivisions have grown around this piece of property. Those subdivisions created a mass and scale for surrounding development and aspects of this proposed development are completely incompatible. Mr. Lee recognized the efforts the applicants have made for sustainability, green building, etc., but they have not focused on the issue that the Planning Commission directed them to focus on in February, which is mass and location of the North Building.

Mr. Lee noted that the applicants have not addressed construction phasing and mitigation. This is a unique project given its location in the subdivision and construction mitigation and phasing plans should be known at this point and available to the surrounding neighbors for vetting and input.

Mr. Lee stated that the request from the developer for an extended permit validity is not justified. The adjoining neighborhoods have had to live with this blighted project site for more than six years. It is a hole in the ground with a chain link fence. If the developer cannot use a permit within the twelve months allowed by Code, they should come back to the Planning Commission and request a permit when they are ready to use it. He believed that 2-1/2 years of uncertainty regarding this project is unjustified.

Dave Milne, a Utah licensed architect, stated that he has been working off and on in Park City, Wasatch County and Summit County for the past 25 years. He has watched this project evolve over time and supports the current design. From a visual standpoint, Mr. Milne agreed that the issue is compatibility with Park City and Deer Valley, and specifically with the adjacent properties. In looking at the massing, he was comfortable with the materials, the density, and the open space. Mr. Milne believed this project would be a good neighbor to existing developments. He stated that this project is similar to other projects he has worked on in the Park City/Deer Valley area. As a resort area there are a lot of infill type projects that are different from how the City originally evolved. Mr. Milne stated that this is typical resort construction and he supports it.

Hillary Reiter an eight year resident and avid skier, stated that she has worked in the ski industry and in real estate marketing and other destination resorts around the country and around the world. Ms. Reiter noted that she was also involved in the Park City vision project and a lot of the concerns expressed in that project have been about green development. In the eight years she has lived in Park City she has had heard a lot of talk about green development but she has not seen any developers embrace it in their projects. Having seen the plans presented this evening for green building initiatives she was excited to see a developer who really looked at the project and the community concerns and is finally adopting green practices in their buildings. Regarding the compatibility issue, Ms. Reiter stated that Deer Valley is a real estate development, probably more than a ski resort at this point. In her opinion, this development is no different from what they have seen over the last several years in Deer Valley, especially with the St. Regis and other projects that have been approved. Ms. Reiter felt this project was appropriate given the nature of the resort.

Tom Boone, a neighbor to the project, thanked the developer and the Planning Commission for requesting that the developer eliminate the homes around the perimeter and leaving more open space. There is no question that it has improved the project from the original proposal. Mr. Boone stated that the challenge for the neighbors is that the homes that were eliminated from the perimeter were added to the center mass. The structures in the center were pulled closer together and became larger. Therefore, the North Building became much larger than originally intended. Mr. Boone remarked that the project has evolved and the massing was located in the center, making it environmentally better, but the structures are clearly not compatible with the surrounding community. He noted that the North Silver Lake section of the MPD was originally intended to be multi-family community, but through previous development it did not turn out that way. Mr. Boone stated that the area was developed with approximately 50% less density than what was originally intended in the master plan. He commented on the reference to the amount of open space and noted that the open space is significant because Lot 2D was included as open space in the master plan. He pointed out that the 6.59 acre project site is very dense. Therefore, the actual impacts to the site are very substantial. Mr. Boone agreed that eliminating units from the perimeters and planting trees mitigates the appearance of 50 foot towers in the center of the site, but it does not mitigate the mass of the structures contemplated. Mr. Boone understood there was an entitlement to build 54 units but he did not believe there was an entitlement to a certain mass. Throughout the Staff reports he has not seen an analysis of the mass and scale of this project.

Mr. Boone commented on the difficulty of trying to obtain the Staff report and related drawings early enough to be prepared to comment at the meeting the following Wednesday. In addition, there is no ability to separate the drawings and share them electronically with his neighbors because it is part of a blocked PDF file. Mr. Boone pointed out that the process is not community friendly. He only found out last week that this project was scheduled before the Planning Commission this evening, even though he is a neighbor within 300 feet. He did not receive a courtesy notice and he is not on the mailing list. Brad Wilson informed the neighbors after he drove by and saw a sign posted on the site.

Mr. Boone agreed with Mr. Lee that 30 months for a CUP on a site that has been in front of the Planning Commission since 2001 is ridiculous. For whatever reason, if the developer is not ready to move forward they should not be granted this CUP until they are ready. He found no justification in the Staff report for granting a CUP longer than 12 months.

Steve Jury, a Park City resident for 15 years stated that he is a real estate broker in town and a Deer Valley resident. Mr. Jury stated that Harrison Horne is his friend and he is intimately familiar with Mr. Horne's original plan for the project from 2001. Mr. Jury remarked that the currently proposed plan is a dramatic improvement over the plans Harrison Horne originally laid out. In terms of compatibility, Mr. Jury pointed out that there are many projects of a similar nature within a couple hundred yards of the proposed project. He named Belle Arbor, Belltaire, Belleview, and Lookout as projects in the area that were not as well-thought out or as well designed. Mr. Jury agreed that the site has been an eyesore for many years and it is time that it be developed. The unit equivalents have been specified and are unarguable. The tax revenue for the County will be substantial at build out. As far as a nuisance for the homeowners, Mr. Jury believed that 90% of the homeowners in the neighborhood are second or third home owners. The average time spent in their homes is under one month per year. While there are some full-time residents, 90% or more will not be impacted by this project. Mr. Jury fully supports this project.

Lisa Wilson stated that she is a full time resident with three children and they live on Silver Lake Drive. Ms. Wilson stated that she tried to purchase this lot in 1993 and was told that Deer Valley wanted density like the Goldner Hirsch. They thought that was great and purchased property down the street. Ms. Wilson remarked that the mass proposed this evening is nothing like the Goldner Hirsch. She noted that the master plan was different 30 years ago and buildings were smaller back then. Ms. Wilson stated that a previous developer for this site divided up the parcel. The steep rocky slope that barely supports vegetation was removed and the slope was approved as open space. Now all the density is on the forest or on the flat hilltop. Ms. Wilson stated that the forest or the trees was a concern of the Planning Commission and the homeowners. At the last meeting it was suggested that a number of old growth trees would be protected. She hikes the Silver Dollar ski trail nearly every day and after that meeting, she noticed six trees adjacent to the trail that are marked with hot pink surveyor tape. As she drove by this evening, she met Dale Bates and after walking around the lot she asked him if the marked trees were the ones that would be saved. Mr. Bates had no idea. However, they also saw hot pink surveyor tape on the development site. Ms. Wilson noted that the trees are in the backyard of the Belletown Homes and also on the open space parcel.

Ms. Wilson stated that prior to the meeting she spoke with Doug Clyde and asked him about the trees. Mr. Clyde told her that those trees would have been numbered by arborists. Ms. Wilson told Mr. Clyde that there was orange tape and hot pink tape. Ms. Wilson stated that when she walked by those trees she saw numbers on each piece of tape. She wanted to know of those were the trees they were referring to. Ms. Wilson asked for clarification on the original trees that were suggested to be saved. She asked if it was customary for the Planning Commission to issue a conditional use permit without a total square footage identified. When her plans were approved she had to provide the square footage. If this project is approved this evening, she worried that it would set a precedent for applicants to provide a footprint only without square footage.

Mr. Wilson asked if it was typical to request a permit without notifying adjacent homeowners. She noted that the neighbors had to scramble at the last minute to prepare their comments and attend the meeting this evening. Ms. Wilson pointed out that Regent Properties is an L.A. Engineering Firm. She asked if Regent Properties intends to develop the site, or if they are an out-of-town firm who wants to get the project permitted now but obtain financing when these desperate economic times are over. If permitted tonight, would Regent Properties do the site work but not be able to find investors. Ms. Wilson stated that this has happened before and the neighbors would not want it to happen again. Ms. Wilson echoed Mr. Boone's comments about obtaining information from the website and requested that the neighbors be given more time before the CUP is granted.

Brent Glissmeyer, general manager of the Stagg Lodge, stated that some of his homeowners have retained Eric Lee's firm and he believed Mr. Lee articulated their concerns. Mr. Glissmeyer stated that what he heard this evening pleased him from an ecology standpoint but he worried about the visual impacts from solar panels facing south. He wondered if they needed to be concerned about reflective properties of the panels. While he applauded the ecology aspects he was unsure about the aesthetics. Mr. Glissmeyer expressed concern over the requested time frame for a building permit. From personally being involved in development in California, he knows that developers rush to get their entitlements and try to extend the period for construction as long as possible. Mr. Glissmeyer reiterated his previous comments about a time frame, construction staging, and compatibility issues. On a flat drawing the project looks nice; but in reality, when looking down, the project will look like one giant building. The structures will be massive and substantial and to some extent out of character with the perimeter units and single family units. Mr. Glissmeyer felt these were legitimate concerns that had not been addressed.

Brad Wilson, a resident on Silver Lake Drive, stated that his primary concern was mass and scale. He noted that the Staff report says that the mass and scale issues have been mitigated by decreasing the footprint. Mr. Wilson remarked that mass and scale is not a footprint issue. Mass and scale is a square footage and ceiling height issue. The issue is volume and no volume has been given up in this project. The square footage has been moved around but none has been eliminated. He disagreed with the statement that the mass has been changed.

Mr. Wilson understood that the Harrison Horne project was limited to 3500 square feet per unit based on negotiations by the Planning Commission at that time. This current project proposes 5,000 to 7,000 square foot units. He questioned the math on how the square footage was

reduced from the Horne plan. Mr. Wilson stated that he requested square footage numbers at the last meeting and Planner Cattan had indicated that she would have those numbers for this meeting.

Planner Cattan stated that she did have square footage numbers for all the units.

Mr. Wilson asked her to provide those numbers so the neighbors could see if the mass of the project was changing. Mr. Wilson acknowledged that the revised project is better and he liked how they moved the units around and saved some trees. However, it is still important to understand the mass and volume of the project. Mr. Wilson commented on the amount of mass that was moved into the North Building. The North Building will be six stories from the ground to the top, plus a roof. He estimated the structure would be 70+ feet and noted that it would be the view looking straight up Main Street. It would be the largest wall in the entire subdivision. Instead of mitigating the problem, Mr. Wilson believes the problem has grown worse through the different versions of this project.

Linda Samons, a resident at the Woods, which is south of the project. Ms. Samons thanked Mr. Wilson for notifying the neighbors because no one was notified by the City. Ms. Samons has lived in Park City since 1985 and when she first came to town very little was built in their area. As time moved on, development occurred but most were twin homes or single homes. Ms. Samons was concerned about the density and the height. She did not understand why the Planning Commission would have to grant a height variance. Ms. Samons wanted to know why the Planning Commission must adhere to what was approved years ago when everything is so different now. She believed this project needed to be reviewed in the context of what has already been developed for the area.

Bob Wells, representing Deer Valley Resort, recalled comments Michael O'Hara made during the last public hearing, in that there is a distinction in a large project between master plan development approval and the conditional use process. In the MPD for Deer Valley, a land use plan was adopted and that land use plan carried with it development parameters on a parcel by parcel basis. When an applicant comes before the Planning Commission in the conditional use process created by the master plan, he believes the compatibility issue should relate to the land use plan that was previously approved. If that is not the case, then there is something wrong with the bargain. Mr. Wells stated that the developer developed the land and installed the roads and utility systems on the expectation that the master planned development land use plan would be complied with. In looking at compatibility, they need to look at compatibility with the land use plan and not whether someone next door elected to develop less density.

Vice-Chair Russack closed the public hearing.

Mr. Clyde asked for the opportunity to respond to some of the public comments. He stated that construction mitigation plans are typically submitted and reviewed at building permit. However, based on a previous comment, the applicants met with Ron Ivie and Planner Cattan and presented a conceptual construction mitigation plan. Mr. Clyde understood that Ron Ivie thought the plan was feasible and the impacts could be contained entirely within the site. Planner Cattan stated that feasible was Mr. Ivie's exact term.

Mr. Clyde stated that there has been very limited, if any, change to the site plan from the February meeting. The site plan is basically identical but with more detail. He understood the comment about not being able to see the information, but the basic information has not changed. Mr. Clyde clarified that the applicants were not asking for a height variance. All buildings within the project meet the zone height and they voluntarily reduced the height on many buildings below the zone height. The full zone height is used in the center of the project because they believe the mass belongs in the center. Mr. Clyde stated that the North Building is an excellent place for the most density because it does not front any of the neighbors. He pointed out that the North Building steps down the slope and does not create additional impact over what has previously been modeled. Mr. Clyde stated that the buildings behind the North Building are taller. Removing the North Building would not change the visual simulation from any of the vantage points.

Mr. Clyde explained the reason for the 30 month extension. Times are tight and financing is currently impossible. The lender requires an approved development plan to show that they can get the project financed in an appropriate amount of time. The applicants believed it was preferable to request an extension as opposed to coming back to the Planning Commission every twelve months until financing can be obtained.

Mr. Clyde commented on the open space and noted that substantial open space is provided on the actual development parcel. The fact that a parcel was added to their parcel in order to increase the amount of land that could be counted as open space, speaks to the fact that this was intended to be a very dense parcel.

Tom Bennett, representing the applicant, clarified that Regent Properties is a full-service real estate development firm and not an engineering firm as stated by Ms. Wilson. Regent Properties intends to develop this property. They have developed properties of this size and larger throughout the Country.

Mr. Bennett addressed the issue of compatibility. He remarked that some of the neighbors would suggest that simply having a 50 foot building and 54 units on this property is incompatible. He supported Bob Wells' comment that compatibility has to be reviewed in connection with the overall master plan for Deer Valley. The decision as to whether this sort of density, height and mass is compatible with the neighbor was made when the Deer Valley MPD was approved. Mr. Bennett felt the neighbors make a good point about that being thirty years ago, but it is important to understand that the MPD has not been a static document and has been amended nine times. At any time, the City Council could have requested that the density be amended, but that was not done. A legislative decision was made that this is a compatible use and that decision was reaffirmed in 2001 when the Planning Commission approved a CUP for this project that had 15% more square footage than the currently proposed project.

Mr. Bennett stated that with respect to mass and scale, the Planning Commission needs to make a determination that the effects of any differences in use scale have been mitigated through careful planning. He hoped that through the many meetings throughout this process the level of planning has been recognized. The applicants believe all the impacts have been

effectively mitigated as reflected in the Staff report.

Mr. Clyde noted that Mr. Lee implied that the Planning Commission found the North Building problematic. He agreed that Commissioner Strachan had expressed concern but he recalled that other Commissioners felt the North Building was the appropriate place for density.

Mr. Bates stated that the concern of glare off of solar collectors is usually more fear based than actual. They are proposed two kinds of solar collectors. One is to collect electricity and those collectors will have anti-glare glass because they are flat plates. He noted that the hot water collectors are round tubes and that eliminates 90% of the glare.

Commissioner Strachan liked the approach with respect to the green building and suggested a condition of approval that would require them to build what they say. Commissioner Strachan wanted to see an environmental plan detailing exactly what they plan to do. Commissioner Strachan felt there was no basis for the extended permit. Financing difficulties are true for every applicant and granting an exception would set a bad precedent. Commissioner Strachan believed the North Building was still problematic. His concerns remained the same because the North Building has remained the same. He had not seen anything that demonstrates that the visual impact has been mitigated and he has not seen any attempt to step the building back. Commissioner Strachan pointed out that no effort has been made to step any of the center buildings to mitigate the visual impacts they create.

Commissioner Strachan asked if Mr. Clyde had submitted an exhibit showing the evolution of square footage reduction between the different plans. Mr. Clyde replied that the last package submitted to the Planning Commission included a page that showed the changes from one phase to the next. Commissioner Strachan acknowledged that he had that at home but had not brought it this evening.

Planner Cattan stated that the total reduction from the first plan to the current plan was probably 18,000 square feet. Commissioner Strachan asked if the square footage of the central buildings had been reduced. Mr. Clyde stated that the square footage of the central buildings were not broken out and the square footage of the building footprint was lumped in the analysis. He was unable to answer with any specificity. Mr. Clyde pointed out that the central buildings have changed significantly. Some were made smaller and others were made larger. The ADA units originally on the plaza were incorporated into the central buildings. Moving the road created the opportunity to place the owners amenities package and the pool in the North Building. Mr. Clyde reiterated that the North Building fronts on open space and does not impact the neighbors.

Commissioner Strachan was not prepared to approve this plan without seeing the environmental plan document, as well as an attempt to mitigate the visual impact of the North Building. Commissioner Strachan also wanted something that shows that the mass and scale of the central buildings was reduced to make them more compatible with the surrounding area.

Commissioner Peek concurred with Commissioner Strachan regarding the sustainable elements as a condition of approval. He noted that extending the CUP as requested with a possible one year extension would put the project out 3-1/2 years. He was willing to consider an additional

one year extension, but a two and a half year extension puts too much burden on the neighbors. Commissioner Peek understood that pre-cutting the panels would cut down on waste; but he was concerned that it would increase the cubic volume of materials and the number of trucks going to the site. Commissioner Peek stated that an urban high rise cube of a quarter of a million square feet would not be compatible in mass and scale. However, in this project the massing is broken up into elements with a perimeter of single family units and duplexes. Commissioner Peek believed the mass and scale elements have been mitigated. He also wanted to see the allowed square footage detailed so they could understand what would be allowed as support commercial.

Commissioner Murphy appreciated the wildlife plan and sensitivity to the existing vegetation. He also appreciated the reductions in square footage in the building area, as well as the amended building placement. Commissioner Murphy pointed out that the public has stayed very involved in this project and it helps to clarify the issues. He thanked the public for their continued efforts to attend the Planning Commission meetings. Commissioner Murphy remarked that density has been assigned to this parcel which presents a Catch-22. The Planning Commission is in a situation that was decided long before their time. Commissioner Murphy stated that the 30 month request was unacceptable because a CUP is twelve months. After spending a considerable amount of time looking at the visual impacts of the project from a number of sites in town, he came to the conclusion that Units 11 and 12 are still very impactful to the view corridors and he could not support the placement of those units. Commissioner Murphy wanted to see the square footage tables before voting for approval. He noted that the applicants had done a good job outlining the sizes of the homes, but he wanted to know the size of the flats, the town homes and the support commercial.

Commissioner Wintzer felt this applicant had listened to the Planning Commission and responded to their concerns. He recommended striking Condition of Approval #10 in its entirety because there is no reason to change the process for a CUP or the length of time. Commissioner Wintzer stated that he had not focused enough on Units 11 and 12 to concur or disagree with Commissioner Murphy. He recalled seeing an aerial photograph of the hillside at a previous meeting and requested that the applicants provide that again to see the impacts from the buildings. Commissioner Wintzer agreed that the North Building is large, but he felt it was an appropriate place for density because it sits lower on the hill and steps down. Commissioner Wintzer could see some articulation on the side elevations and he was less concerned about the North Building. Commissioner Wintzer agreed with the comments about seeing the environmental plan in writing.

Commissioner Wintzer asked if the Planning Commission would see the construction mitigation plan if this CUP is approved. Planner Cattani stated that the construction mitigation plan is typically done by the Building Department in conjunction with the project planner. Commissioner Wintzer stated that in many cases the construction mitigation is not practical and cannot be done. He thought it would be helpful if the neighbors could be assured that the construction mitigation proposed could be done successfully. Commissioner Wintzer suggested discussing construction mitigation in another public meeting.

Commissioner Pettit agreed that it is a Catch-22 situation when dealing with a 30 year old MPD

in terms of looking forward and evaluating compatibility issues. Based on revisions to the plan over time, she was getting more comfortable with the project from a compatibility standpoint. Commissioner Pettit felt there was good buffering between the neighboring properties and this project. She would have preferred to see less massing on the North Building and shared Commissioner Strachan's comments. Commissioner Pettit appreciated the efforts on the green building and LEEDS elements and encouraged that to be carried over into a condition of approval. She was excited about potential renewable energy elements to the project that would take the community forward into the future.

Commissioner Pettit referred to the letter from Robert Dillon dated May 22nd and the discussion related to the prior approval with respect to the size of the units being 3500 square feet. She requested more history on that discussion to help evaluate compatibility. Commissioner Pettit believed she would feel more comfortable after seeing the square footage tables for each of the units and understands how that is distributed through the project. She thought it would be helpful to know how they calculated the reduction in the square footage from the prior approval to this approval and whether the prior approval had back of house type square footages that were not incorporated into this project.

Commissioner Wintzer commented on the importance of making the staff report and related documents easier to download for the public. He suggested the possibility of an executive summary that is shorter and easier to read so the public does not need to sift through a hundred pages of information. Commissioner Pettit understood that the public wanted the same information the Planning Commission receives but they were having trouble accessing that information. She suggested ways to make the material more accessible and user friendly.

Planner Cattan offered to set up the same system that was set up for the Treasure Hill project. Planning Director Eddington stated that the Staff is working on ways to tab the PDF so one application could be downloaded without downloading the entire Staff report.

Vice-Chair Russack stated that the Commissioners' comments have been consistent and the applicants have done a good job responding to their comments. He remarked that the issue is the defined use in the MPD and the Planning Commission needs to weigh the criteria of the CUP against that MPD for this location. Vice-Chair Russack felt it was important to memorialize the sustainable attributes of the project. It is a key component to the project and to the future development of the community. He did not think it was wise to allow a CUP longer for than 12 months and pointed out that an extension process is already in place.

Commissioner Pettit read from the section of the LMC that talks about expiration. "Unless otherwise indicated, conditional use permits expire one year from the date of Planning Commission approval, unless conditionally allowed use has commenced on the project". She asked if the, "unless otherwise indicated" meant unless otherwise indicated in the CUP approval. Planner Cattan replied that this was correct. Planner Cattan stated that she had asked other planners about larger projects and found that it has typically been twelve months with possible extensions.

Vice-Chair Russack felt the comments were consistent relative to the North Building and the

applicants could choose whether or not to take that direction. He suggested that the applicants update the visual analysis from a prior meeting and provide it at the next meeting.

MOTION: Commissioner Murphy moved to CONTINUE Lot 2B of the North Silver Lake Subdivision to June 24, 2009. Commissioner Strachan seconded the motion.

Commissioner Pettit noted that the public hearing had been closed and asked if the motion needed to be definitive that the public hearing would also be continued.

Commissioner Murphy amended his motion to include a continuance of the public hearing.

VOTE: The motion passed unanimously.

Commissioner Murphy commented on the lateness of the hour and the difficulty after 10:00 to concentrate with the attention and detail these projects deserve. He proposed that the Planning Commission discuss 16 Sampson and 201 Norfolk and continue the last three agenda items to June 10th.

Planning Director Eddington recommended that the Planning Commission take public comment on all the items before moving to continue.

The applicants for King Ridge Estates and 7700 Stein Way objected and requested that their projects be heard. The Planning Commission deferred to the applicants' request and agreed to continue with the meeting.

5. 16 Sampson Avenue - Steep Slope Conditional Use Permit

Commissioner Strachan recused himself from this item and left the room.

Planner Robinson reported that the Planning Commission had continued this item at the last meeting because the site plan and other documents the applicant had submitted were not included in the Staff report. He noted that the requested documents were included in the Staff report for the discussion this evening.

During the last meeting the Staff had requested discussion on two issues. The first issue was whether the stairs on the north side of the building going to a flat green roof of the new addition complies with the new LMC requirement that final grade must be within four feet of existing grade around the structure. Planner Robinson noted that the existing historic house was shown through the cross section; however, there is a patio that creates 10-12 feet of open space before reaching the structure wall. Planner Robinson stated that the matter was discussed but there was no consensus as to whether that met the LMC requirement.

A second issue was whether the number of stories meets the intent of the three-story maximum requirement, even though there are four different floor levels. Planner Robinson reviewed the plans and pointed out that only two stories are visible from the front facade.

Ken Pollard, representing the applicant, provided a full panorama of the hillside, the new addition and the existing house. He had also prepared a model to give the Planning Commission a three-dimensional idea of how it all works together. He noted that the intent was to engage the landscape and keep the two projects separated visually on the hillside to mitigate the mass and scale. Mr. Pollard stated that the project has two types of green roofs; intensive and semi-intensive. The type of roof depends on the depth of the soil and the type of vegetation proposed. Mr. Pollard recalled a discussion at the last meeting about using materials that would help mitigate the mass on the hill. He noted that the plan is to use different colored stone and to shift the colors of the plane of the building to blend more with the hillside.

Commissioner Peek referred to the flat roof area shown on the rendering and thought the color indicated a hard surface. Mr. Pollard replied that there was a walking area and patio on the green roof. The hard surface would be stone. Commissioner Murphy understood that hard surfaces were not allowed on green roofs.

Mr. Pollard understood that the Code did not address how pavers are used within the roof. Based on the definition of semi-intensive, intensive or extensive green roof, there needs to be a walkway to access the roof for maintenance. Commissioner Murphy asked about language in the Code. Planner Robinson stated that the LMC does not address that particular issue. Director Eddington felt the applicants were crossing the line between a permissible green roof and a permissible deck. It is a gray area because the Code does not specify whether that type of decking or paving is allowed on a green roof.

Commissioner Murphy stated that a previous applicant was told they could not have pavers on a green roof. Director Eddington clarified that the Planning Commission had said a green roof needed to be a living roof. He noted that there is a living green roof component to 16 Sampson; however, there is also a walking area in conjunction with the vegetation. Director Eddington reiterated that a walkway is not defined in the ordinance or the definition. Planner Robinson suggested that the Planning Commission could set a precedent by saying that no more than 10% or 20% can be hard surface. If that is done, that precedent could be incorporated into other LMC changes to further define green roof elements.

Commissioner Wintzer felt it was annoying to be handed an issue that the City Council made a decision on and the Planning Commission was not aware of until this matter came before them. He was unaware that flat roofs were allowed until this applicant made their presentation at the last meeting. Commissioner Wintzer did not believe this was good practice and expressed concern about this same thing happening again.

Commissioner Pettit noted that the Staff report indicated that the HPB had met on May 6, 2009 and found that the house on 16 Sampson was historically significant and would remain on the Historic Sites Inventory. In addition, the HPB was favorable to the overall design concept of the project. Commissioner Pettit wanted to know why the HPB favored the design concept and why the minutes from that HPB meeting had not been provided in the Staff report.

Planner Robinson explained that the HPB was given a presentation on the entire project. However, the matter was for determination of significance and not a design review. Planner Robinson reiterated that the HPB found the historic structure to be significant and after the presentation by Mr. Pollard the HPB expressed appreciation for his work and expressed

favorable comments for the general design concept.

Commissioner Pettit asked if the HPB only saw the plan in the context of 16 Sampson, without the benefit of seeing the proposal for 201 Norfolk. Planner Robinson stated that the HPB only focused on 16 Sampson. He noted that the HPB Staff report was based on the criteria used for determination of significance. The presentation by the applicant was broader in terms of showing the building design.

Vice-Chair Russack opened the public hearing.

Gary Bush, a resident at 164 Norfolk, stated that he had not had enough time to talk with the applicant about the artist renditions. Mr. Bush did not think the rendering showed a true context in which the building was being proposed. He believed that is the most important aspect of the review for Old Town. Mr. Bush remarked that he was unable to adequately critique the proposal and he did not think the Planning Commission could do so either without better understanding its context. Mr. Bush understands that everyone is excited about green roofs because it is a fun, new architectural element. However, he was unsure if Old Town was the appropriate place for green roofs. He had serious concerns about a semi-intensive green roof and was unsure what that actually means. Mr. Bush asked if the material was crushed blue stone or a big slab of stone. In his opinion, it is nothing more than a roof deck with potted plants. He pointed out that Park City has winter six months out of the year and he wondered what the roof would like during the winter. Mr. Bush stated that Carol Sletta was unable to attend this meeting and asked him to mention her concerns about water and snow shed on to Sampson. In terms of setbacks, Mr. Bush that in looking at the site plan provided in the Staff report, he could not locate the asphalt to the front property line and the setback from that asphalt.

Vice-Chair Russack closed the public hearing.

Commissioner Pettit apologized for not being at the last meeting and she was thankful for the opportunity to make comments on the application this evening. However, Commissioner Pettit had read the minutes and noted that Commissioner Murphy had pointed to the purpose statements for the Districts that would be impacted by this project and 201 Norfolk. Commissioner Pettit noted that this project sits in the HRL District and their guidance from the purpose statement is to encourage construction of historically compatible structures that contribute to the character and scale of the historic district and maintain existing residential neighborhoods. Commissioner Pettit had used Google Earth to look at this project in the context of its neighborhood. After looking at the model this evening, she believes this project is not historically compatible. She struggled the most with having a 768 square foot historic home that would end up being 4,000 square feet in total with the addition. In looking at the elements of the CUP criteria, she could not find compliance with Criteria 2, 6 and 8. Commissioner Pettit was concerned about the green roof element, which is new to the historic district. She was interested in hearing from the HPB on whether or not a green roof fits within the historic district in terms of the size of the roof proposed for this project. Commissioner Pettit wanted to either see the minutes from the HPB discussion regarding 16 Sampson, or send this back to the HPB for a detailed review and recommendation of compliance with the Historic District Design Guidelines.

Commissioner Peek felt the stair element to the north was a landscaping element that accesses landscaping on the roof. He thought it was a creative retaining structure but it does not comply with returning final grade to within four feet of existing grade. He assumed the side yard exceptions were the same for both the HRL and the HR-1 districts. He referred to side yard exception #3 and read, "Window wells or light wells projecting not more than four feet into the side yard." Based on the site plan, it appeared that the window well was actually touching the property line and he did not find that compatible with the Code. Commissioner Peek stated that if the lowest level to the highest level is within the three level, they could grant exceptions for a multi-level structure. Commissioner Peek found that to be compatible.

Commissioner Murphy stated that he was initially concerned about cross canyon views, but that became less of a concern knowing that the applicants are proposing to break up the materials. Commissioner Murphy was comfortable with the number of stories and did not believe that was an issue. He was warming to the idea of a green roof and noted that it is part of the LMC. However, in his opinion, a green roof does not have pavers or stones. Commissioner Murphy stated that the pavers and stones needed to be eliminated before he could vote favorably for this project.

Commissioner Wintzer echoed the previous comments.

Vice-Chair Russack agreed with Commissioner Murphy's comments, but he was uncomfortable with how a green roof is defined. Without a clear definition they could create a precedent for green roofs to be stone. Vice-Chair Russack was comfortable with the green roof because it helps to mitigate the mass of the addition on to the historic home. He was not comfortable with the mixed use on the green roof without knowing a true definition for a green roof.

Commissioner Wintzer thought the green roof application on this building was very appropriate and he agreed that it does reduce the mass. He was not comfortable with the hard surface and worried about issues during the winter.

Planner Robinson read the definition of a green roof. "A roof of a building that is covered with vegetation and soil or a growing medium, planted over a waterproofing membrane. 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.

Commissioner Peek felt the definition was clear. Vice-Chair Russack agreed that based on the definition, the roof should be all vegetation and not hard surface.

MOTION: Commissioner Murphy made a motion to CONTINUE 16 Sampson Avenue pending a revision of the roof material to reflect the intention of the Code.

Planner Robinson asked if there was consensus issue of final grade vs. existing grade with the stair element around the perimeter on the north side and creating the patio area.

Commissioner Murphy believed it was a landscape element and he was not concerned.

Commissioner Peek was not willing to vote in favor of this project based on those design elements because it did not comply with Code. Commissioners Pettit and Wintzer agreed with Commissioner Peek.

Commissioner Peek stated that he was comfortable with a green roof as long as it complies with the definition. He believed the location of the green roof on this particular site was compatible with the Historic District.

Planner Robinson summarized that the stair element needs to be substantially changed to meet the requirements on existing grade and final grade being within four feet of each other. He suggested continuing this item to July 8th to allow time for the applicants to redesign that element. Another option was to deny the application. Commissioner Murphy was not comfortable denying the application if the applicant was willing to address their concerns.

Vice-Chair Russack noted that there was a motion on the table to continue and the question was whether to continue to a date certain or a date uncertain.

Commissioner Murphy amended his motion to CONTINUE 16 Sampson Avenue to a date uncertain. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

Ken Pollard suggested that the Planning Commission understand the definition of a green roof. He stated that a green roof can have pavers and stone as long as it is a living roof. There needs to be access to maintain the vegetation and most green roofs have pavers. He recommended that the Planning Commission look at intensive, semi-intensive, and extensive definitions, which shows assemblies of different types of green roofs. Commissioner Russack agreed with Mr. Pollard, but pointed out that the Planning Commission did not write the Code but they are obligated to follow it. Commissioner Russack was not opposed to a green roof that could be walked on for maintenance reasons.

Director Eddington offered to look at the issue and calculate appropriate percentages for hard surface that the Commissioners could discuss.

6. 201 Norfolk Avenue - Steep Slope Conditional Use Permit

Commissioner Strachan had recused himself from this item and was not present during the discussion.

Planner Robinson stated that on May 13th the primary discussion for 201 Norfolk related to the vegetated roof. The matter was continued because the site plan was not included in the Staff report.

Ken Pollard, representing the applicant, had no additional comments.

Vice-Chair Russack opened the public hearing.

John Greenwell a resident across the street from this project, was concerned that the front of the structure was closer to the street than shown and if the walkway is extended it would hang over the street. Mr. Greenwell suggested that the walkway be moved back slightly.

Mr. Pollard pointed out that it was a deck and not a walkway. Regardless of what it is, Mr. Greenwell believed it would still hang extend over the street. Mr. Pollard disagreed.

Gary Bush reiterated Mr. Greenwell's concern and believed that the front porch of the existing structure would extend over the asphalt.

Vice-Chair Russack closed the public hearing.

NOTE: Due to recording problems, the remainder of the meeting was not recorded and the minutes were prepared from handwritten notes.

Commissioner Pettit read the purpose statements for the HR1 District that she believed were applicable in terms of how this project should be evaluated against the CUP criteria. She did not believe this project was compliant with Criteria 2,6, and 8 and that the structure was not historically compatible. Based on the intent of the purpose statements and the stated criteria, Commissioner Pettit could not make findings to approve this project.

Commissioner Murphy stated that he previously had the same concerns with this project as he did 16 Sampson. However, those concerns were alleviated by changes in the materials. Commissioner Murphy preferred to add a condition of approval requiring that the fenestration be different from the building it would be attached to.

Commissioner Peek was comfortable approving this application. He felt the green roof element was compatible. He agreed with Commissioner Murphy that the fenestration materials should be dissimilar from the second structure.

Commissioner Wintzer stated that after looking at the model, one green roof was appropriate and one was not. He was comfortable with the green roof for 201 Norfolk. Vice-Chair Russack felt the structure was subordinate to the rest of the design and he agreed that the cross canyon views were mitigated.

MOTION: Commissioner Murphy moved to APPROVE the steep slope CUP for 201 Norfolk Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report, with an additional condition stating that the fenestration materials shall be different from what exists on the structure at 201 Norfolk. Commissioner Peek seconded the motion.

VOTE: The motion passed 3-2. Commissioner Pettit voted against the motion.

Findings of Fact - 201 Norfolk

1. The property is located at 201 Norfolk Avenue within the Historic Residential (HR-1)

zoning district.

2. The existing building started as a duplex built circa 1970's. In 2000, the 201 Norfolk Avenue subdivision was approved and recorded. The subdivision created two lots, one for the duplex and the second for a new building located at 205 Norfolk. In 2002, the duplex was rehabilitated and converted into a single family dwelling at the same time as the construction of the adjacent (to the north) 205 Norfolk Avenue by a previous owner.
3. The existing house at 201 Norfolk is approximately 2,310 square feet.
4. The First Amended 201 Norfolk Avenue subdivision was approved in 2007, which included the adjacent (to the south) 16 Sampson Avenue. The First Amended 201 Norfolk Avenue subdivision made the 201 Norfolk property larger in order to create a garage to the south with shared access with 16 Sampson.
5. This lot is adjacent to the HRL zone and is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
6. Access to the property is from a shared driveway with 16 Sampson Avenue.
7. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet.
8. Under the current LMC, the minimum rear yard setback is 10 feet.
9. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 19 feet.
10. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed.
11. The maximum number of stories allowed is three stories.
12. The roof pitch in the HR-1 zone is required to be a minimum of 7:12, unless the roof is a flat vegetated roof.
13. The addition is two stories with a flat, vegetated roof under the 27-foot height requirement.
14. The applicant is proposing two parking spaces within a double car garage with a shared access driveway with 16 Sampson. The garage doors face away from the street.
15. The maximum footprint for the lot is 2,168 square feet, subject to Steep Slope CUP review by the Planning Commission. The proposed footprint is 2,165 square feet with the addition.
16. The findings in the Analysis section of this report are incorporated herein.

Conditions of Approval - 201 Norfolk Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 201 Norfolk Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped and signed by a licensed structural engineer if required by the Building Department.
8. This approval will expire on May 13, 2010, if an application for a building permit has not been submitted prior to this date.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission.

10. The fenestration materials shall be different from the existing structure at 201 Norfolk.
7. 156-166 King Road, King Ridge Estates driveway access - extension of conditional use permit

Planner Robinson stated that this application was an extension of a conditional use permit that was approved by the Planning Commission on February 13, 2008 for construction within a platted, unbuilt right-of-way. The CUP had an expiration date of one year from the date of approval. He reported that on February 12, 2009 the City received a request for a one year extension of the approval for the driveway. No building permit was received and no construction has taken place.

Planner Robinson noted that the history and time lines of the plat amendment and the CUP approvals were outlined in the Staff report.

The Staff recommended that the Planning Commission conduct a public hearing and discuss the request for a one year extension of the approval of the driveway in a platted, unbuilt City right-of-way. The Staff had provided findings of fact, conclusions of law and conditions of approval for consideration.

Commissioner Pettit noted that the minutes reflecting the discussion and vote for the original approval were not included in the Staff report. She was not prepared to vote on the extension without the benefit of reviewing those minutes. She recalled significant and lengthy discussions regarding the driveway and retaining wall and she could not remember how she had voted. Commissioner Pettit preferred to continue this item and direct the Staff to provide the minutes for their review. Vice-Chair Russack agreed that the minutes would be helpful.

Duane Seiter, the applicant, stated that nothing had changed since the approval and they were only requesting an extension of the original CUP. Mr. Seiter remarked that if the Planning Commission re-reviewed the application, the result would be the same because everything else has remained the same.

Vice-Chair Russack opened the public hearing.

There was no comment.

Vice-Chair Russack closed the public hearing.

Commissioner Peek was comfortable granting the extension because there were no changes. He asked if the CUP for the three homes would also expire. Planner Robinson recalled that the CUP for the homes was approved in September and the applicants still had time before those expired.

Assistant City Attorney McLean clarified that because the LMC has changed for steep slope conditional use permits, an extension was not automatic in this case and the Planning Commission could re-review the application under the new Code.

Commissioner Wintzer recalled that the Planning Commission had raised concerns regarding the road and the applicants had gone to the Board of Adjustment for a variance before the Planning Commission voted to approve the CUP.

Commissioner Strachan stated that he was not on the Planning Commission when the original CUP was approved. He felt the Staff report was unclear as to what had actually transpired and how the impacts were mitigated. He wanted the opportunity to review the minutes from that meeting before making a decision.

MOTION: Commissioner Strachan made a motion to CONTINUE the King Ridge Estates driveway access CUP extension to June 10, 2009, with a request that the June 10th Staff report include the Staff report from February 13, 2008 and the minutes from the original approval. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

8. 7700 Stein Way, Stein Eriksen Lodge - Modification of Conditional Use Permit

Planner Robinson reviewed the application for an expansion of the spa facility at the Stein Eriksen Lodge located at 7700 Stein Way in the Silver Lake area of Deer Valley. As part of the Deer Valley MPD, each parcel is subject to a condition use permit. Substantial amendments to a CUP are required to be reviewed and approved by the Planning Commission. Planner Robinson stated that the existing spa is approximately 7,200 square feet. The spa expansion will increase the size to 16,487 square feet. An amendment to the condominium record of survey is required following any approval of the expansion. Planner Robinson reported that the original Lodge was constructed in 1981. Expansion to the Lodge has occurred in 1996, 1999 and is contemplated in 2009.

Planner Robinson reviewed the Staff analysis as outlined in the Staff report.

Assistant City Attorney McLean explained that this analysis is consistent with other applications. The MPD in effect when a project is built is what controls. The Stein Erickson Lodge was built in the early 1980's, which is why they went back to that MPD.

Vice-Chair Russack opened the public hearing.

There was no comment.

Vice-Chair Russack closed the public hearing.

Commissioner Wintzer asked how far this would be to the property line. He was told that it was 12 feet and the setback was 12 feet.

MOTION: Commissioner Murphy moved to APPROVE the conditional use permit for expansion of the spa facility at Stein Eriksen Lodge based on the Findings of Fact, Conclusions of Law and

Conditions of Approval contained in the Staff report. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Stein Eriksen Lodge

1. The property is located at 700 Stein Way.
2. The zoning is Residential Development within the Deer Valley Master Planned Development (RD-MPD).
3. There are no Commercial Unit Equivalents assigned to the Stein Eriksen Lodge.
4. The spa, restaurant, bar and lounge, and retail space within the Lodge are confined to Support Commercial as defined by the Deer Valley MPD.
5. Support Commercial is limited to 5% of the Floor Area of the Building. The expanded spa will increase the total support commercial to 4.96% of the total floor area.
6. The open space requirement within Each Valley MPD project is 60%. With the proposed expansion, open space will be 63.9% of the lot.
7. Height for the zone is 33 feet with a pitched roof. The expansion area has a maximum height of 33 feet above existing grade.
8. The east side of the project has a side yard setback of 12 feet. The expansion meets this requirement at 12 feet.
9. The extent of the Lodge is further than 150 feet from the nearest fire hydrant or fire connection.

Conclusions of Law - Stein Eriksen Lodge

1. The CUP modification is consistent with the Deer Valley Master Planned Development and the Park City Land Management.
2. The CUP modification is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have ben mitigated through careful planning.

Conditions of Approval - Stein Eriksen Lodge

1. The application for a Building Permit must be in substantial compliance with the plans reviewed by the Planning Commission on May 27, 2009.
2. The applicant will submit and record an amended condominium record of survey prior to Certificate of Occupancy of the renovated and expanded spa. Any Building Permit issued prior to recordation of the plat is considered "at-risk" in the event that the amended record of survey is denied or not recorded within the specified time frame.
3. A fire protection plan must be submitted to and approved by the Chief Building Official prior to Certificate of Occupancy.
4. The spa is for guests and owners of the Lodge only. No marketing for outside traffic may be generated by the spa.
5. The Planning Department shall review the use of the spa one year after the Certificate of Occupancy.
6. All conditions of approval of the Deer Valley Master Planned Development and the Stein Eriksen Lodge CUP shall continue to apply.
7. No further expansion of support commercial areas can exceed a total of 17,250 square feet.
9. 9100 Marsac Avenue, Montage - Record of Survey

Assistant City Attorney McLean noted that the applicants had agreed to continue this item to the next meeting due to the late hour. Ms. McLean advised the Planning Commission to open the public hearing before making a motion to continue.

Vice-Chair Russack opened the public hearing.

There was no comment.

Vice-Chair Russack closed the public hearing.

MOTION: Commissioner Peek moved to CONTINUE 9100 Marsac Avenue to June 10, 2009. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 11:20 p.m.

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May 27, 2009
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Approved by Planning Commission: _____

REGULAR AGENDA

Planning Commission Staff Report



Subject: The Hotel and Residences at Empire Canyon Resort Record of Survey
aka The Montage

Author: Brooks T. Robinson

Date: May 27, 2009

Type of Item: Administrative – Condominium Record of Survey

Summary Recommendations

Staff recommends the Planning Commission open a public hearing and discuss the request for approval of the Hotel and Residences at Empire Canyon Resort record of survey plat and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: DV Luxury Resort, LLC
Talisker Empire Pass Hotel, LLC

Location: 9100 Marsac Avenue, adjacent to the Deer Valley Empire Day Lodge. Lot C of the Parcel B-2 Empire Village Subdivision.

Zoning: Residential Development as part of the Empire Pass Master Planned Development (RD-MPD)

Adjacent Land Uses: Ski terrain of Deer Valley Resort

Reason for Review: Condominium Record of Survey plats require Planning Commission review and recommendation to City Council

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel.

The Development Agreement (DA) specifies that only 147 acres of the 1,655-acre annexation may be developed. The remainder of the annexation area is to be retained as passive and recreational open space. On February 1, 2007, the City Council approved amendments to the DA allowing additional density and three additional acres to be utilized in the B-2 area. In exchange, United Park City Mines Company petition the City for annexation of the Park City Mountain Resort ski lease area (removing all

residential development potential) and agreed to construct a Park and Ride facility at Richardson Flats.

Ordinance 99-30 also required that the applicant submit 14 specific technical reports for review and approval by the City. The 14 studies, along with the Land Management Code and the Development Agreement (99-30) form the standards under which any MPD and preliminary/final plat will be reviewed.

On March 29, 2007, the City Council approved the Parcel B-2 Empire Village Subdivision final plat. The plat includes the former Parcel A of the Empire Village Subdivision (the location of the Empire Day Lodge) and created two additional lots for the Jordanelle Special Services District (JSSD) ownership of the Daly West Head Frame (Lot B) and Lot C, the location of the proposed Montage Resort and Spa. A future subdivision will encompass the proposed condominiums to the east of the Empire Day Lodge. Concurrent with the subdivision application was the Master Planned Development (MPD) for B-2 and the Conditional Use Permit for phase one of the MPD, which is the Montage hotel. The Planning Commission approved both the MPD and the CUP on March 14, 2007. An excavation permit was issued on June 6, 2007, and a building permit for construction of the hotel was issued on March 12, 2008.

On March 3, 2009, the City received a completed application for the Hotel and Residences at Empire Canyon Resort record of survey plat. Talisker Empire Pass Hotel, LLC is the fee simple owner of the land and DV Luxury Resort, LLC has a 999-year leasehold interest.

The proposed condominium record of survey contains 174 hotel rooms and 84 condominiums utilizing 181.7 Unit Equivalents. In addition, the record of survey memorializes 59,765 square feet of commercial space and approximately 15,000 square feet of meeting rooms and support space to the meeting rooms. No support commercial is proposed other than room service, which does not utilize additional space. Ten Affordable Housing Units are provided in the building. The ten Affordable Housing Units totaling 6,235 square feet (7.8 Affordable Unit Equivalents) are provided within the hotel. The units are platted as private space and are proposed to be owned by the Montage. In addition, five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted are Private and counts towards the unit counts and UEs.

Analysis

The zoning for the subdivision is Residential Development. The MPD is subject to the following criteria:

	Permitted through MPD/CUP	Proposed
Height	A height exception to 114 feet above a benchmarked grade (USGS 8346') was requested and granted in the Master Plan. (i.e. height may go to USGS 8460)	Maximum height is at USGS 8458, under the USGS 8460 height maximum.
Front setback	20', 25' to front facing garage	No setback reductions. Approximately 280 feet from all buildings to front property line
Rear setback	15' from Lot boundary	87' from Lot boundary
Side setbacks	12' from Lot boundary	13' from Lot boundary at closest point to south.
Unit Equivalents	183.6 UEs	181.7 UEs
Hotel Rooms	192 rooms	174 rooms
Condominium units	94 units	84 units
Commercial space	63,000 square feet	59,765 square feet
Meeting Rooms and Support (5% of Gross Floor Area (GFA))	Gross Floor Area, excluding the garage, is approximately 780,173 square feet. 5% is 39,000 square feet.	Approximately 15,000 square feet.
Support Commercial (5% of GFA)	39,000 square feet	None proposed (room service only)
Parking	530 spaces with 192 spaces in tandem (valet parking)	526 total with 184 in tandem

For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.

The 84 Condominium units range in size from 1,221 square feet to 6,858 square feet. The condominiums are located on levels four through nine with the exception of three units on level three and three ADA units on levels two and three. The 174 hotel rooms and the ten Affordable Housing Units (level B1 and platted as private space) are located on the floors below level four.

Transfer Fund

Section 3.2 of the Amended and Restated Development Agreement for Flagstaff Mountain requires payment into an Open Space/Transit Management Fund on “each transfer of land...a 1%... fee on the gross sales price of all real property within the project.” The leasehold from Talisker Empire Pass Hotel, LLC (fee simple owner of the land) to DV Luxury Resort, LLC is for 999 years. Staff finds the 999 year lease is structured to capitalize initial development and/or secure financing for the hotel portion and condominium units which the Development Agreement exempts from the transfer fund. The DV Luxury trust deed (\$234,000,000) recorded with Summit County is a construction financing trust deed with the bank (not a mortgage purchase price deed) and does not represent a purchase price or value of lease payments.

Talisker will be signing the initial condo unit deeds (DV Luxury signing purchase agreements) as Grantors and getting payment with each condo unit sale. DV Luxury agrees each unit sale is subject to the transfer fund and to memorialize such as a finding of fact in the condo plat approval. Accordingly, the 1% will be collected with the sale of each condominium unit.

Environmental Management

The hotel and property on which the hotel is located are within the Upper Silver Creek watershed and within the Empire Canyon CERCLIS boundary and is regulated under a USEPA post-site management plan.

As stated in the Mine Soils Hazard Mitigation Plan, Talisker is responsible for the management of the environmental engineering controls and emergency response issues that may require the generation of mine tailings (i.e. utility work etc.) at the Montage Resort. As a result, a Post Closure Site Control Plan specific to the Montage Resort will be required as an addendum to the Mine Soils Hazard Mitigation Plan that identifies contingencies for the management and disposal of generated soils. DV Luxury Resort LLC must co-sign the Post Closure Plan.

The run-off from the project flows into downstream detention ponds that mitigate run-off from the hotel but are not located on the hotel property. The City is not responsible for maintenance or management for the detention ponds. Furthermore, PCMC recognizes that Empire Canyon is a CERCLA Site (UT0002005981) regulated under an Administrative Order on Consent (Dated May 14, 2002, USEPA Docket Number CERCLA -08-2002-05) and as stated in the October 10, 2006, Action Memo:

- A Post-Removal Site Control Plan, as required in the Administrative Order on Consent, will set forth long-term management plans and responsibilities for Empire Canyon once the removal action is complete.

As a result, the long-term maintenance and UPDES permitting of these detention units shall be identified within the Empire Canyon Post-Removal Site Control Plan and associated properties retaining deed restrictions, identifying the plan as the working

institutional control. Lastly, this plan shall be placed as an addendum to the Mine Soils Hazard Mitigation Plan along with the recorded deed restriction. This is a condition of approval.

Finally, the Chief Building Official, acting as the Fire Marshall, suggests a plat note that requires maintenance of the approved fire plan.

Staff finds good cause for this amended record of survey as this condominium is consistent with the development pattern envisioned in the MPD and the 14 Technical Reports, with the conditions of approval as found in the ordinance.

Department Review

This project has gone through an interdepartmental review on March 24, 2009. All issues are resolved with the plat or by conditions of approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has not received any public input at the time of this report.

Future Process

The approval of this condominium record of survey application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 15-1-18.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Hotel and Residences at Empire Canyon Resort record of survey plat as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to the City Council for the Hotel and Residences at Empire Canyon Resort record of survey plat and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the Hotel and Residences at Empire Canyon Resort record of survey plat and provide Staff and the Applicant with specific direction regarding additional information necessary to find compliance with the criteria listed in this report.
- The Planning Commission and ultimately the City Council may wish to discuss whether the long term lease of the non-condominium hotel portion of the project (174 hotel rooms, 59,765 square feet of commercial, 15,000 square feet of meeting space, and back of house areas) is still a “transfer”.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The units could not be separately sold.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Hotel and Residences at Empire Canyon Resort record of survey plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with plat

Exhibit B – Commercial areas

I:\Cdd\Brooks\Planning Comm\PC2009\Montage condo 051309.doc

Ordinance No. 09-

AN ORDINANCE APPROVING THE HOTEL AND RESIDENCES AT EMPIRE CANYON RESORT RECORD OF SURVEY PLAT LOCATED AT 9100 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Hotel and Residences at Empire Canyon Resort record of survey plat, Lot C of the Parcel B-2 Empire Village Subdivision, have petitioned the City Council for approval of the Hotel and Residences at Empire Canyon Resort record of survey plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on May 13, 2009, to receive input on the Hotel and Residences at Empire Canyon Resort record of survey plat;

WHEREAS, the Planning Commission, on May 13, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, on May 28, 2009, the City Council held a public hearing on the Hotel and Residences at Empire Canyon Resort record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Hotel and Residences at Empire Canyon Resort Record of Survey.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Hotel and Residences at Empire Canyon Resort record of survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 9100 Marsac Avenue, Lot C of the Parcel B-2 Empire Village Subdivision
2. The Hotel and Residences at Empire Canyon Resort record of survey plat is located in the Residential Development zoning district as part of the Flagstaff Mountain Master Planned Development (RD-MPD).
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development

Agreement sets forth maximum densities, location of densities, and developer-offered amenities.

4. The City Council approved an amendment to the Development Agreement on February 1, 2007, that increased the allowable density by 80 Unit Equivalents, including the 192-room Montage Hotel.
5. The Planning Commission approved the B-2 Master Planned Development on March 14, 2007. The Montage is Phase I, while a second, residential, project will be Phase II.
6. The City Council approved the Parcel B-2 Empire Village Subdivision on March 29, 2007.
7. The proposed Hotel and Residences at Empire Canyon Resort record of survey plat is for a 174 room hotel with an additional 84 condominiums utilizing a total of **181.7 Unit Equivalents**. In addition, there is 59,765 square feet of Commercial Space (**59.8 Commercial UEs**) and approximately 15,000 square feet of meeting/conference space and lounge areas (up to 39,000 square feet or 5% of building allowed). Total square footage, excluding the garage, is approximately 780,173 square feet. For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.
8. The proposed record of survey is consistent with the approved Master Planned Development and Conditional Use Permit for Pod B-2.
9. Talisker will be signing the initial condo unit deeds (DV Luxury signing purchase agreements) as Grantors and getting payment with each condo unit sale. DV Luxury agrees each unit sale is subject to the transfer fund.
10. Ten Employee Housing Units (EHUs) totaling 6,235 square feet (**7.8 AUEs**) are provided within the hotel. The EHU units are platted as private space and are proposed to be owned by the Montage, although this is not a requirement.
11. Five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted as Private and counts towards the unit counts and UEs.
12. Parking is provided at less than 75% of the Code requirement consistent with the Development Agreement.

Conclusions of Law:

1. There is good cause for this record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats and with the approved Master Planned Development and Conditional Use Permit for the Montage Resort and Spa at Pod B-2.
3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval of the record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and

content of the record of survey 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 record of survey 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.
3. All conditions of approval of the Montage Resort Master Planned Development and the Parcel B-2 Empire Village Subdivision plat shall continue to apply.
4. Applicant DV Luxury Resort, LLC shall comply with the terms of the EPA Agreement, the provisions of the Construction Work Plan for Montage Hotel, Empire Canyon, and EPA's requirements for post-construction site maintenance. DVL R shall record with the Summit County Recorder's Office a notice of the EPA Agreement, in a form consistent with Paragraph 37 of the EPA Agreement and approved by the EPA, which notice shall identify the EPA Agreement and EPA-approved requirements for post-construction site maintenance as the working institutional controls. The EPA-approved Post-Closure Site Control Plan will be placed as an addendum to the Mine Soils Hazard Mitigation Plan. DVL R will also provide environmental disclosure to the buyers of residential units at the property.
5. A plat note shall be added requiring the maintenance of the approved fire protection plan.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ___th day of ____, 2009.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Exhibits

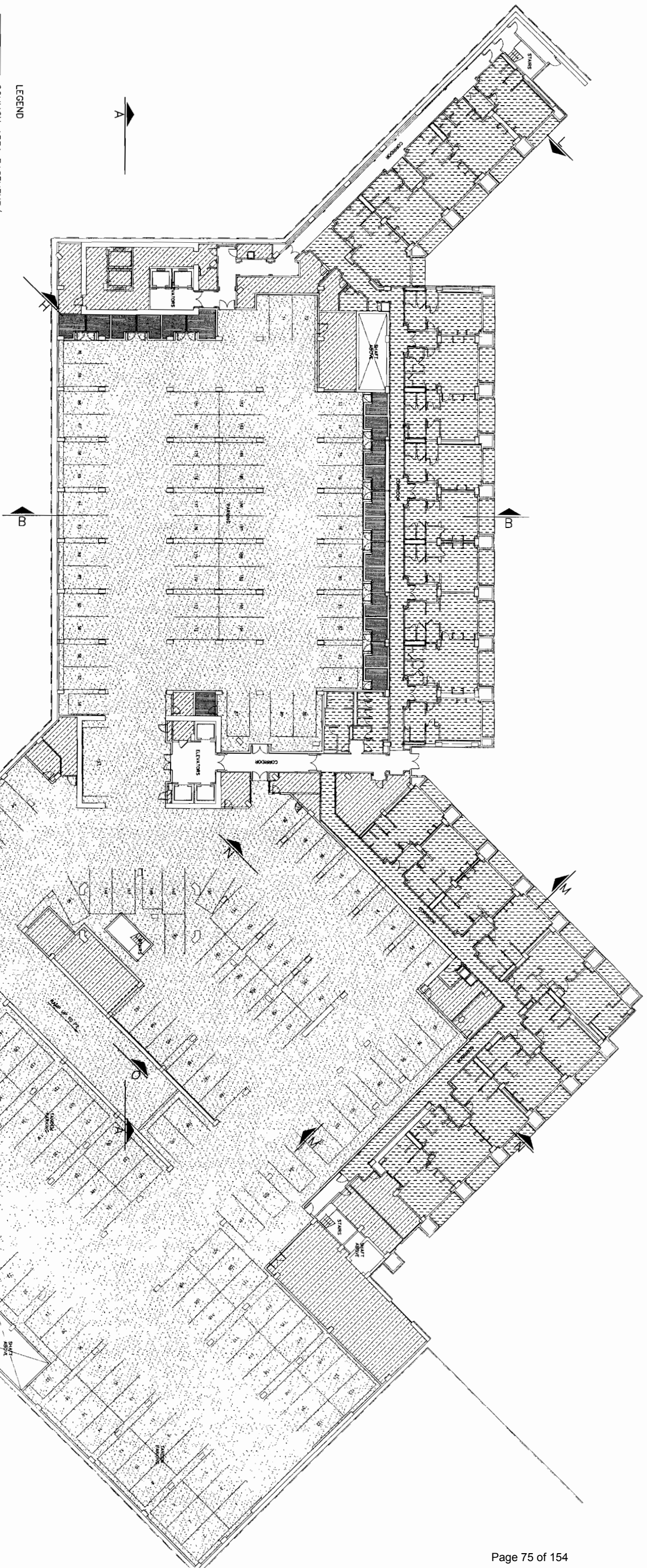
Exhibit A – Record of Survey plat

- LEGEND**
- COMMON AREA EASEMENT / ACCESS AREA
 - COMMON AREA EASEMENT / PARKING AREA (SEE NOTE 1)
 - COMMON AREA EASEMENT / STORAGE AREA (SEE NOTE 2)
 - NON-CONDOMINIUM PROPERTY / HOTEL AREA
 - NON-CONDOMINIUM PROPERTY / RESTRICTED AREA

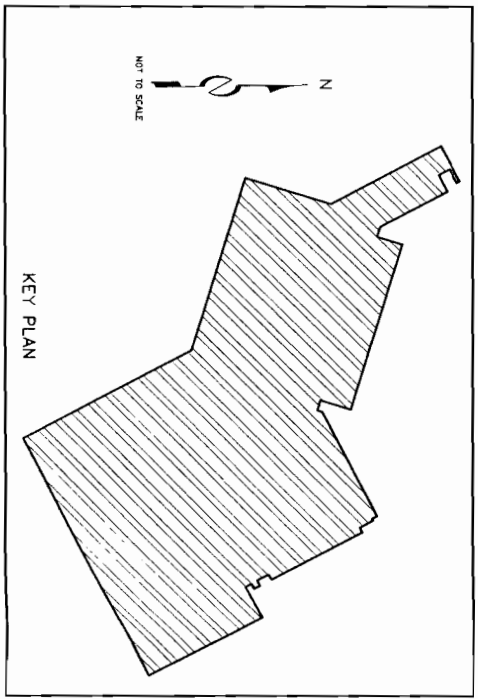
NOTES

1 Pursuant to the Declarations and subject to the Hotel Rules and Regulations established by Hotel Owner for all Parking Areas and payment of expenses in accordance with the Master Declaration, all Unit Owners, as well as their Permitted Users, shall have a non-exclusive, irrevocable license to use one (1) parking space for each Unit in accordance with the Hotel Rules and Regulations, to be located within the Parking Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer the license for such a parking space except in connection with a transfer of such Unit Owner's Unit. Hotel Owner shall provide to a Unit Owner such license for a specific parking space upon the closing of the acquisition of the Unit by such Unit Owner. Hotel Owner shall have the right to reassign the parking spaces at its discretion. Subject to the Hotel Rules and Regulations established by Hotel Owner, Hotel Owner shall have the exclusive right to use the remainder of the parking spaces in the Parking Areas that are not licensed to the Unit Owners pursuant to the Master Declaration.

2 Pursuant to the Declarations and subject to Hotel Rules and Regulations established by Hotel Owner for the Storage Areas and payment of expenses in accordance with the Master Declaration, Hotel Owner may, but is not obligated to, upon the closing of the acquisition of a Unit by a Unit Owner grant to such Unit Owner, as well as its Permitted Users, a non-exclusive license to use one (1) storage unit for each Unit, to be located within the Storage Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer a license for such a storage unit except in connection with a transfer of such Unit Owner's Unit and with the prior written consent of Hotel Owner. Hotel Owner shall have the right to reassign the storage units at its discretion.



PARKING LEVEL 3
FLOOR LEVEL ELEVATION 8,296.0'



**THE HOTEL & RESIDENCE
EMPIRE CANYON RESORT**

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28 AND THE EAST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE MERIDIAN, SHELBY COUNTY, UTAH

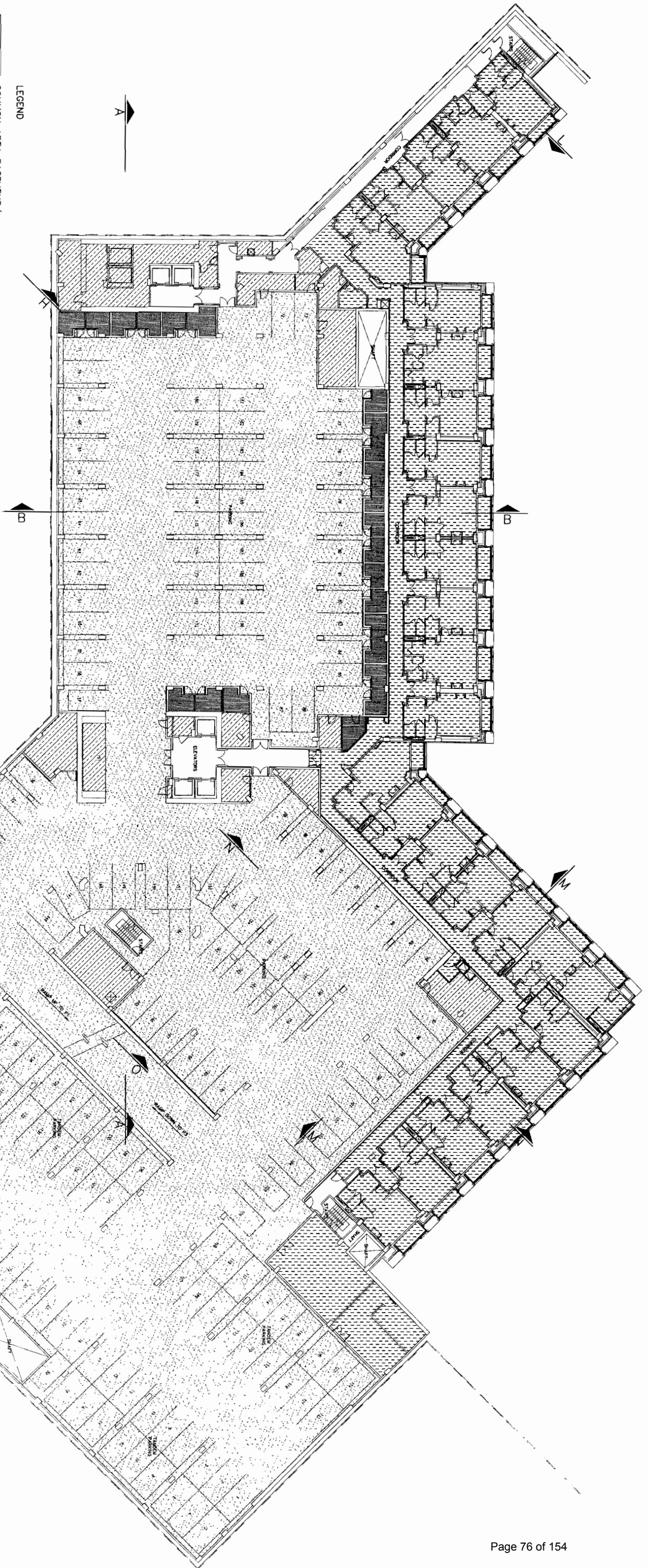
JOB NO. 2-1-08
RECORDED
STATE OF UTAH COUNTY OF SUMMIT
AT THE REQUEST OF BOOK: _____
DATE: _____ TIME: _____
FEE RECORDED

- LEGEND**
- COMMON AREA EASEMENT / ACCESS AREA
 - COMMON AREA EASEMENT / PARKING AREA (SEE NOTE 1)
 - COMMON AREA EASEMENT / STORAGE AREA (SEE NOTE 2)
 - NON-CONDOMINIUM PROPERTY / HOTEL AREA
 - NON-CONDOMINIUM PROPERTY / RESTRICTED AREA

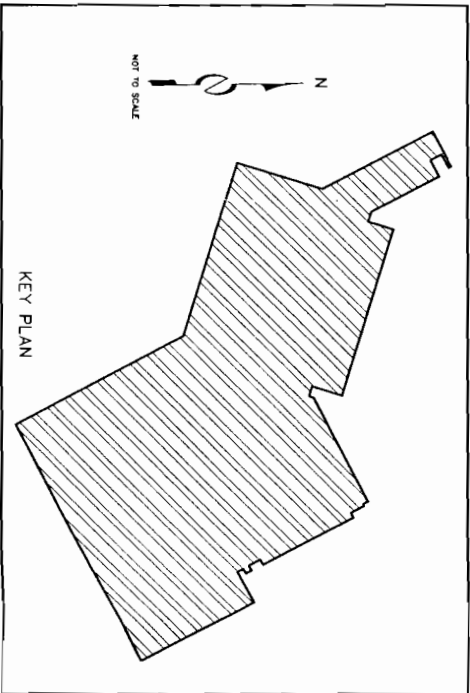
NOTES

1. Pursuant to the Declarations and subject to the Hotel Rules and Regulations established by Hotel Owner for all Parking Areas and payment of expenses in accordance with the Master Declaration, all Unit Owners, as well as their Permitted Users, shall have a non-exclusive, irrevocable license to use one (1) parking space for each Unit in accordance with the Hotel Rules and Regulations, to be located within the Parking Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer the license for such a parking space except in connection with a transfer of such Unit Owner's Unit. Hotel Owner shall provide to a Unit Owner such license for a specific parking space upon the closing of the acquisition of the Unit by such Unit Owner. Hotel Owner shall have the right to reassign the parking spaces of its discretion. Subject to the Hotel Rules and Regulations established by Hotel Owner, Hotel Owner shall have the exclusive right to use the remainder of the parking spaces in the Parking Areas that are not licensed to the Unit Owners pursuant to the Master Declaration.

2. Pursuant to the Declarations and subject to Hotel Rules and Regulations established by Hotel Owner for the Storage Areas and payment of expenses in accordance with the Master Declaration, Hotel Owner may, but is not obligated to, upon the closing of the acquisition of a Unit by a Unit Owner grant to such Unit Owner, as well as its Permitted Users, a non-exclusive license to use one (1) storage unit for each Unit, to be located within the Storage Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer a license for such a storage unit except in connection with a transfer of such Unit Owner's Unit and with the prior written consent of Hotel Owner. Hotel Owner shall have the right to reassign the storage units at its discretion.



PARKING LEVEL 2
FLOOR LEVEL ELEVATION 8,306.0'



**THE HOTEL & RESIDENCE
EMPIRE CANYON RISO**

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASIN MERIDIAN

CONDOMINIUM PLAT



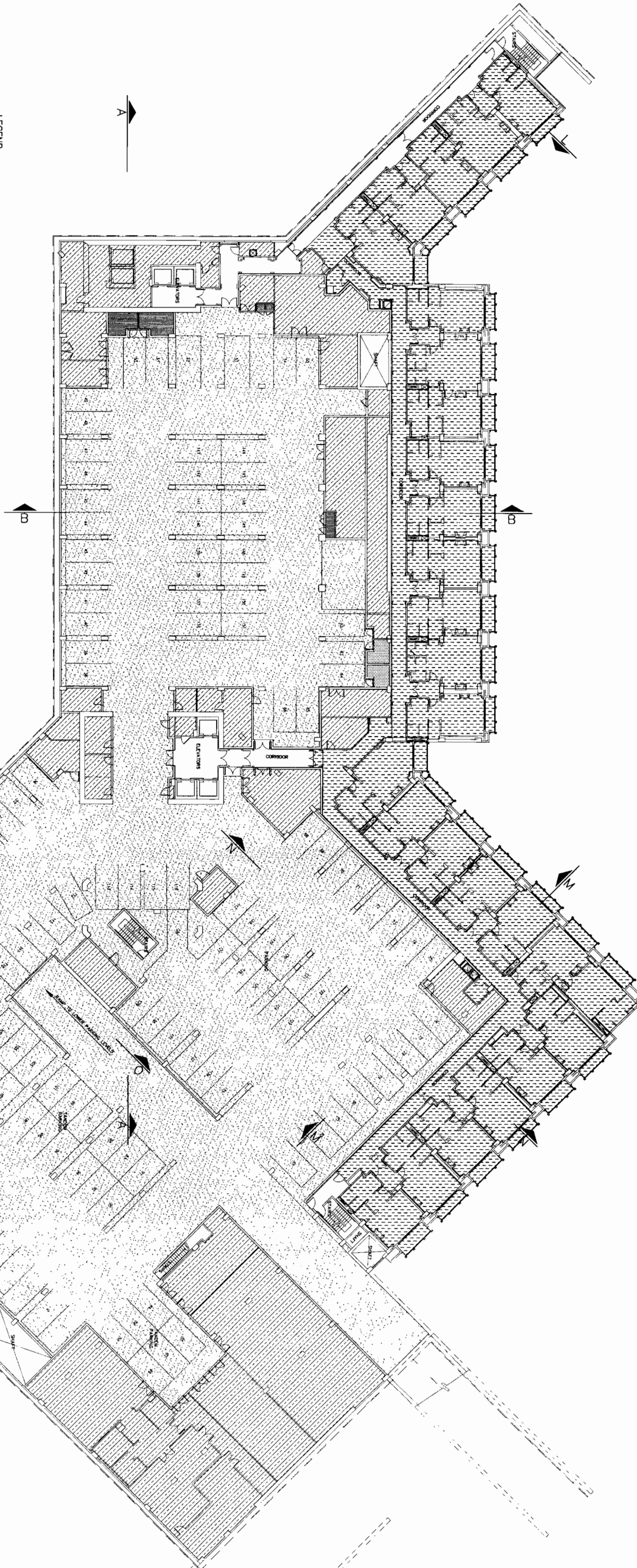
JOB NO.: 2-1-08
RECORDED
STATE OF UTAH COUNTY OF SALT LAKE
DATE: _____ TIME: _____ BOOK: _____
FEE _____ RECORD NO. _____

- LEGEND**
- COMMON AREA EASEMENT/ ACCESS AREA
 - COMMON AREA EASEMENT/ PARKING AREA (SEE NOTE 1)
 - COMMON AREA EASEMENT/ STORAGE AREA (SEE NOTE 2)
 - NON-CONDOMINIUM PROPERTY/ HOTEL AREA
 - NON-CONDOMINIUM PROPERTY/ RESTRICTED AREA

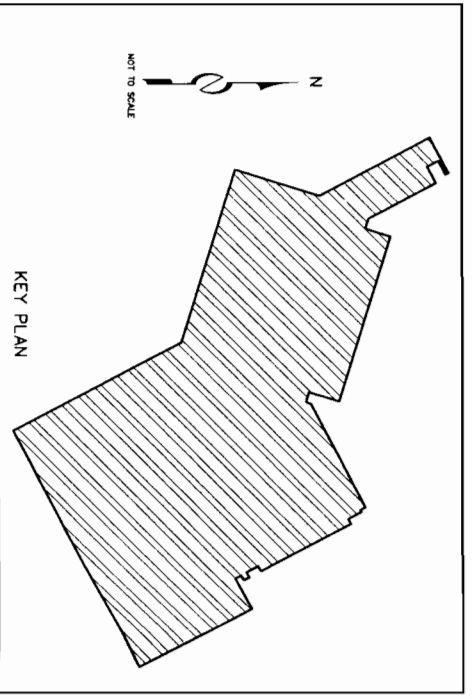
NOTES

1. Pursuant to the Declarations and subject to the Hotel Rules and Regulations established by Hotel Owner for all Parking Areas and payment of expenses in accordance with the Master Declaration, all Unit Owners, as well as their Permitted Users, shall have a non-exclusive irrevocable license to use one (1) parking space for each Unit in accordance with the Hotel Rules and Regulations, to be located within the Parking Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer the license for such a parking space except in connection with a transfer of such Unit Owner's Unit. Hotel Owner shall provide to a Unit Owner such license for a specific parking space upon the closing of the acquisition of the Unit by such Unit Owner. Hotel Owner shall have the right to reassign the parking spaces at its discretion. Subject to the Hotel Rules and Regulations established by Hotel Owner, Hotel Owner shall have the exclusive right to use the remainder of the parking spaces in the Parking Areas that are not licensed to the Unit Owners pursuant to the Master Declaration.

2. Pursuant to the Declarations and subject to Hotel Rules and Regulations established by Hotel Owner for the Storage Areas and payment of expenses in accordance with the Master Declaration, Hotel Owner may, but is not obligated to, upon the closing of the acquisition of a Unit by a Unit Owner grant to such Unit Owner, as well as its Permitted Users, a non-exclusive license to use one (1) storage unit for each Unit, to be located within the Storage Areas as designated by Hotel Owner from time to time. No Unit Owner may sell or otherwise transfer a license for such a storage unit except in connection with a transfer of such Unit Owner's Unit and with the prior written consent of Hotel Owner. Hotel Owner shall have the right to reassign the storage units at its discretion.



PARKING LEVEL 1
FLOOR LEVEL ELEVATION 8,316.0'



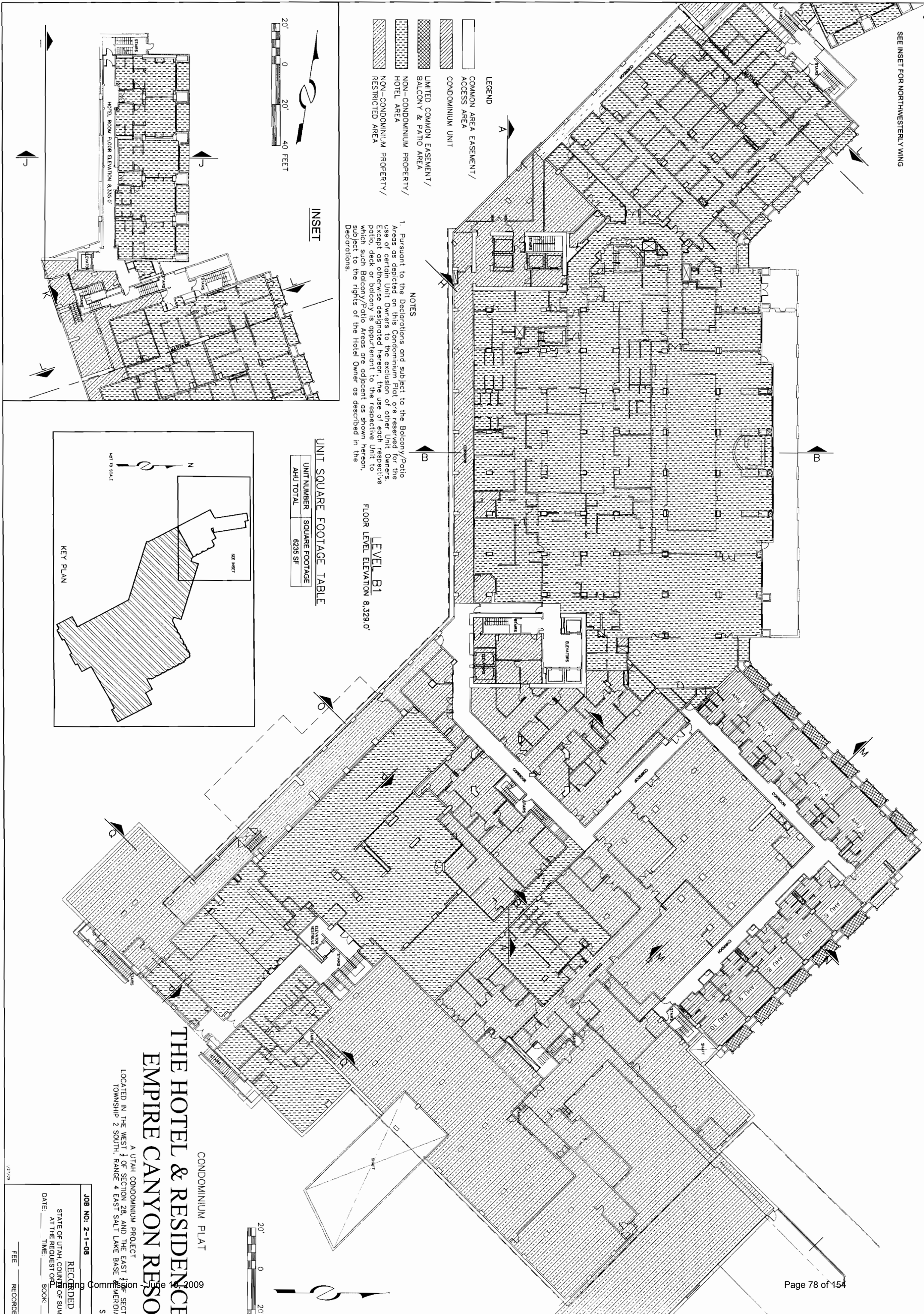
**THE HOTEL & RESIDENCE
EMPIRE CANYON RESORT**

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASIN MERIDIAN, SHERIDAN COUNTY, UTAH

CONDOMINIUM PLAT



JOB NO: 2-1-08
RECORDED
STATE OF UTAH, COUNTY OF SUMMIT
AT THE REQUEST OF _____
DATE: _____ TIME: _____ BOOK: _____
FEE RECORDER



- LEGEND**
- COMMON AREA EASEMENT / ACCESS AREA
 - CONDOMINIUM UNIT
 - LIMITED COMMON EASEMENT / BALCONY & PATIO AREA
 - NON-CONDOMINIUM PROPERTY / HOTEL AREA
 - NON-CONDOMINIUM PROPERTY / RESTRICTED AREA

NOTES

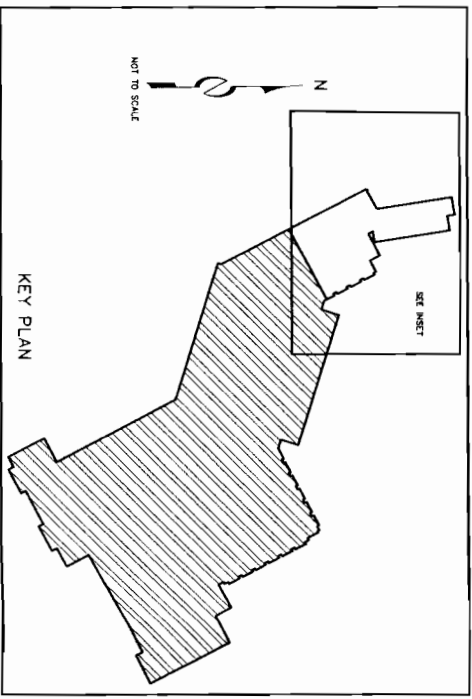
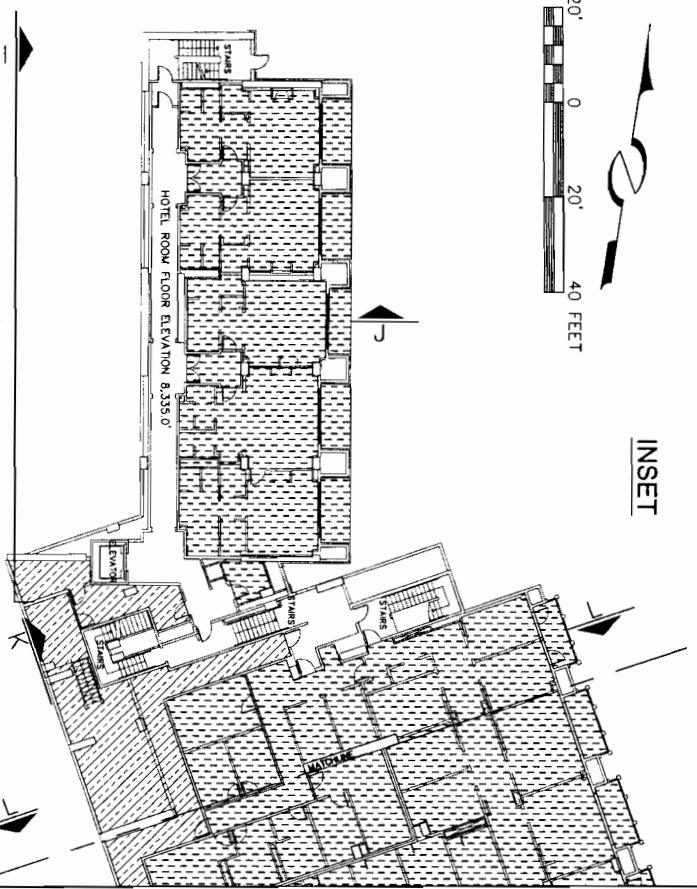
1. Pursuant to the Declarations and subject to the Balcony/Patio Areas as depicted on this Condominium Plat are reserved for the use of certain Unit Owners to the exclusion of other Unit Owners. Except as otherwise designated herein, the use of each respective patio, deck or balcony is appurtenant to the respective Unit to which such Balcony/Patio Areas are adjacent as shown herein, subject to the rights of the Hotel Owner as described in the Declarations.

FLOOR LEVEL ELEVATION 8,329.0'

UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
AHU TOTAL	6235 SF

INSET



**THE HOTEL & RESIDENCE
EMPIRE CANYON RESORT**

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN MERIDIAN

CONDOMINIUM PLAT

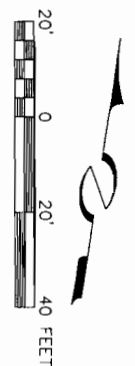
JOB NO: 2-1-08

RECORDED
STATE OF UTAH, COUNTY OF SUMMIT
AT THE REQUEST OF:
DATE: _____ TIME: _____ BOOK: _____

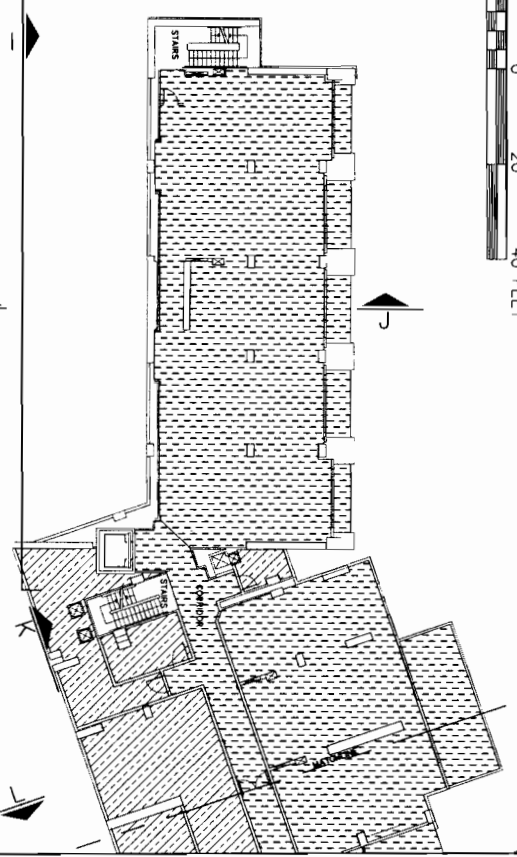
FEE _____ RECORDED _____

SEE INSET FOR NORTHWESTERLY WING

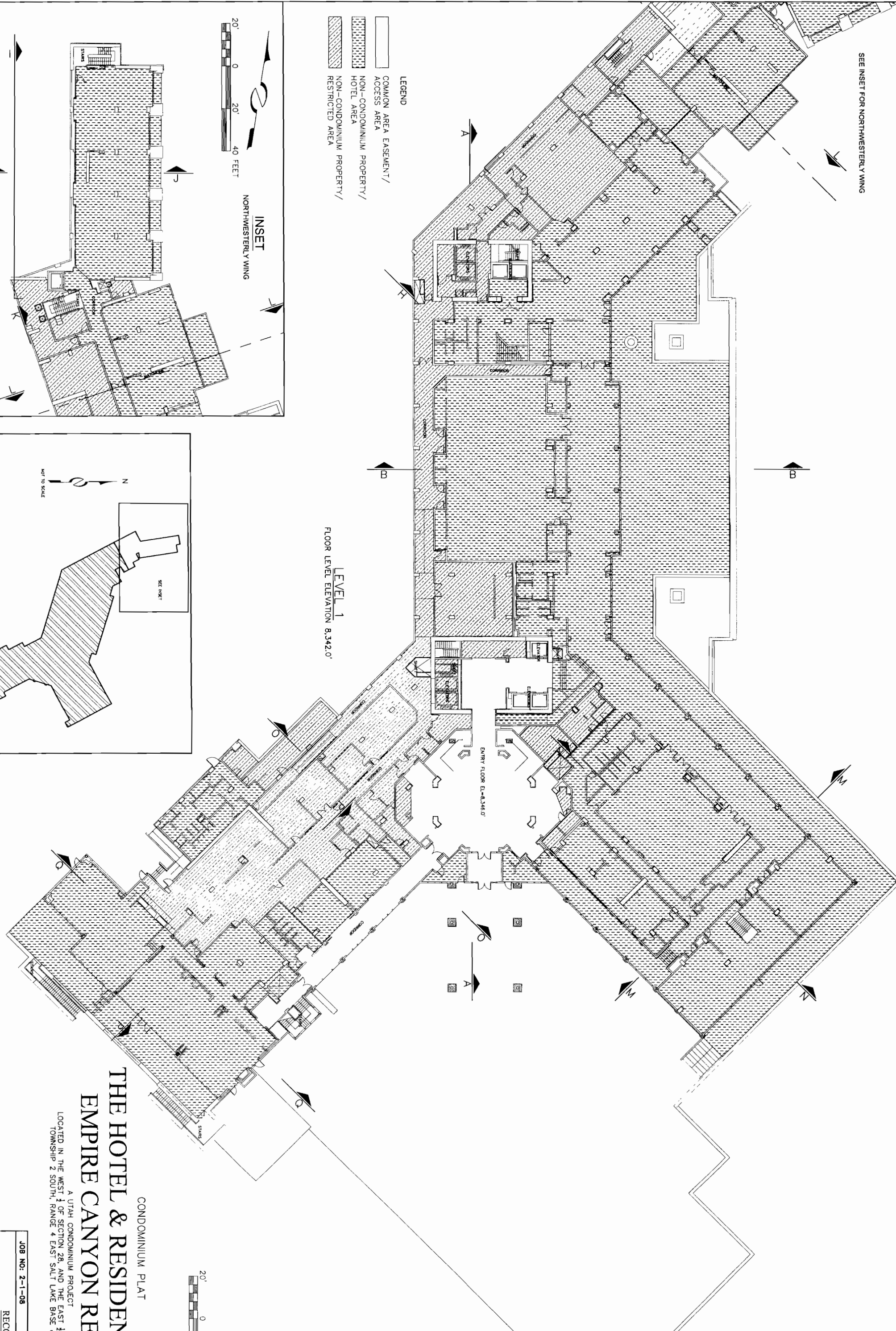
- LEGEND**
- COMMON AREA EASEMENT / ACCESS AREA
 - NON-CONDOMINIUM PROPERTY / HOTEL AREA
 - NON-CONDOMINIUM PROPERTY / RESTRICTED AREA



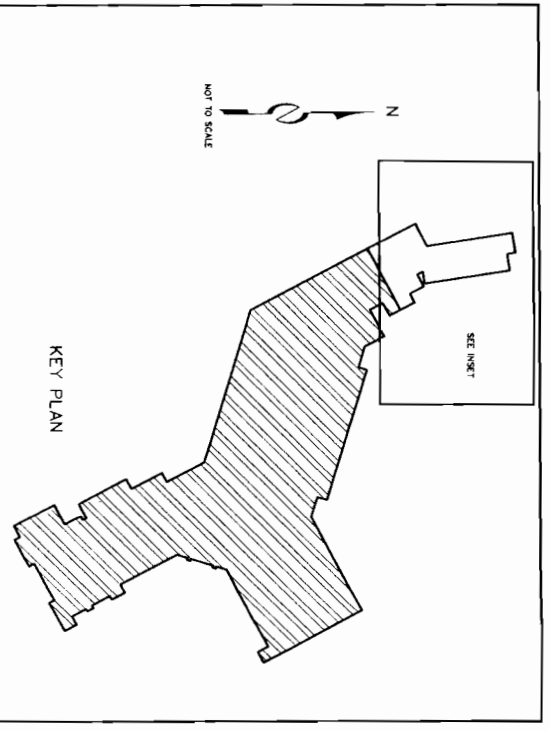
INSET
NORTHWESTERLY WING



LEVEL 1
FLOOR LEVEL ELEVATION 8,342.0'



KEY PLAN



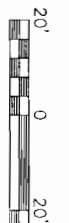
**THE HOTEL & RESIDENCE
EMPIRE CANYON RESOI**

CONDOMINIUM PLAT
A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN MERIDIAN

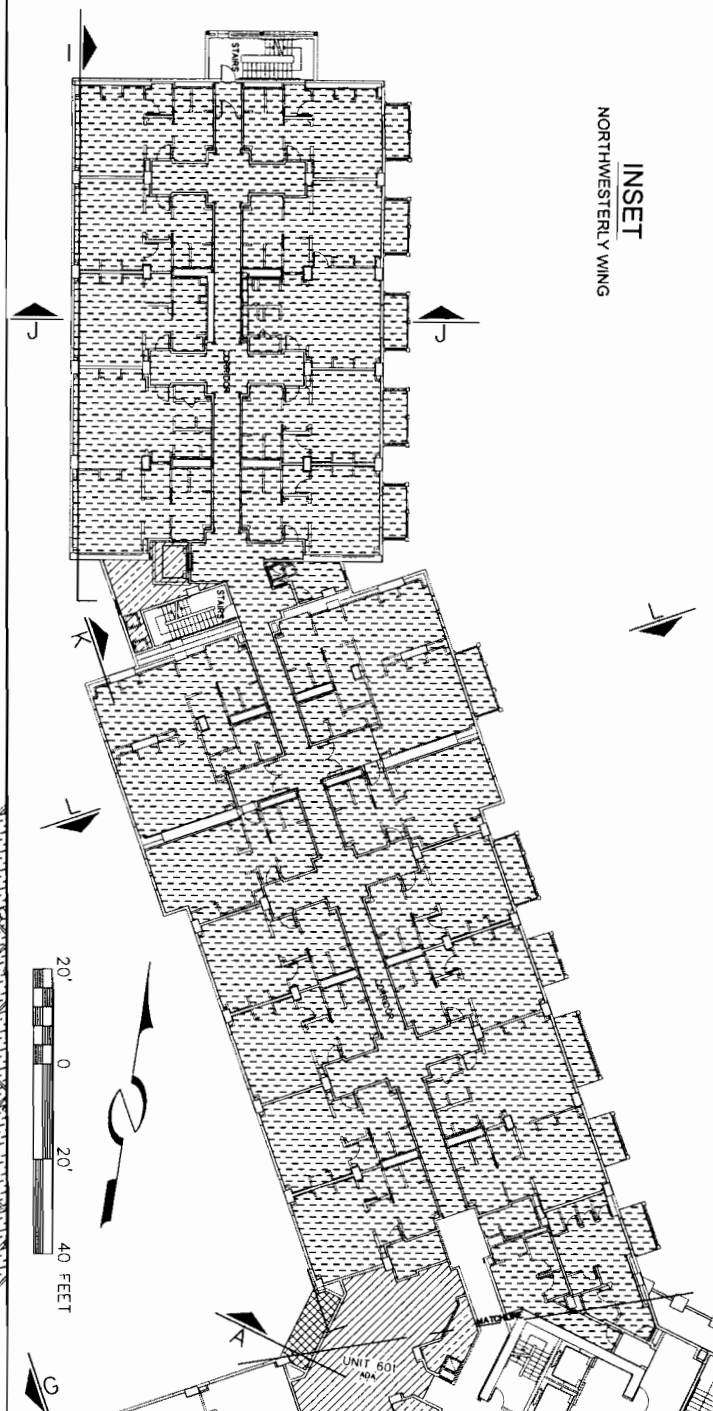
JOB NO: 2-1-08

RECORDED
STATE OF UTAH, COUNTY OF SUMMIT
AT THE REQUEST OF _____
DATE: _____ TIME: _____ BOOK: _____

FEE RECORDED



INSET
NORTHWESTERLY WING

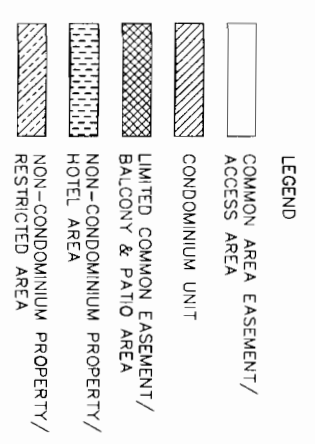


NOTES

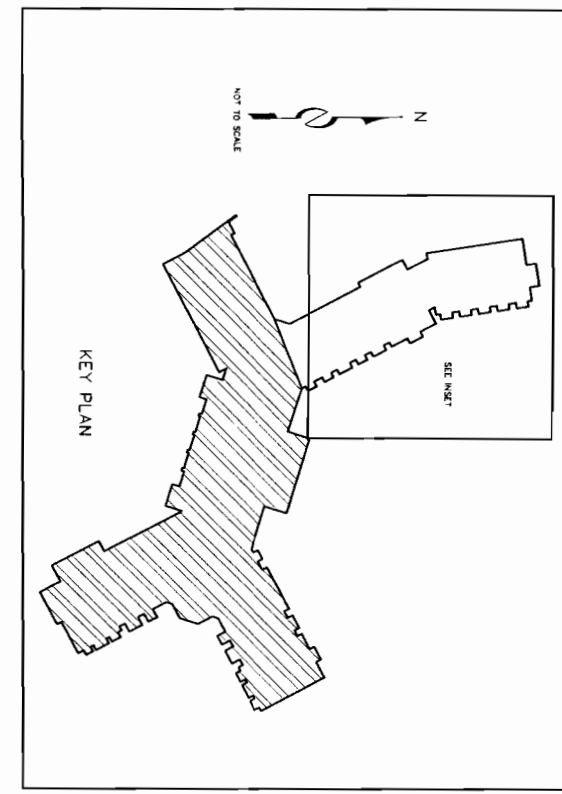
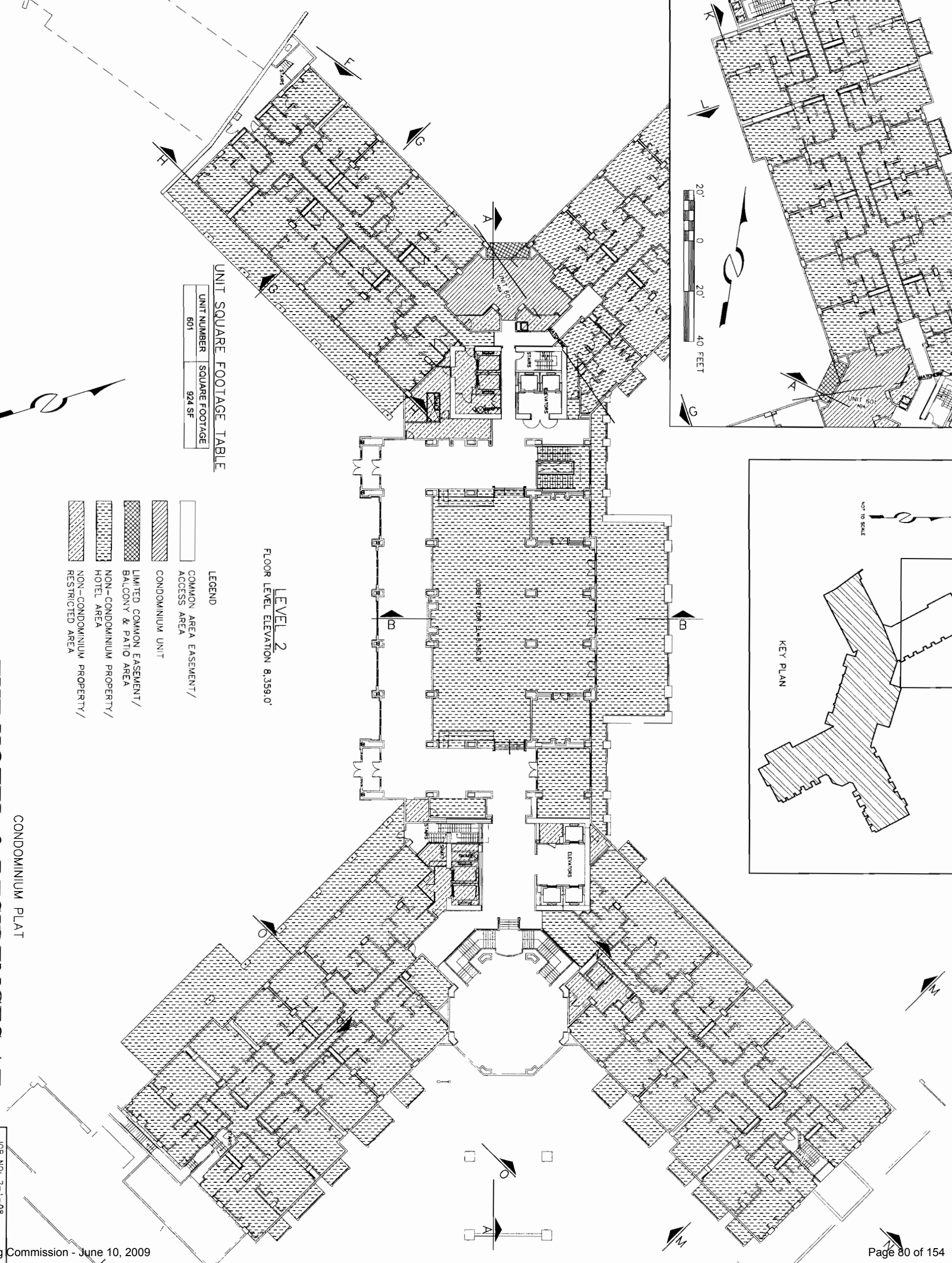
1. The dimensions of the Units and square footage calculations shown on this Condominium Plat are based on drawings supplied by HKS Architects. The square footages shown on this plat are calculated in accordance with the Act and the Residential Declaration. Such calculation typically differs somewhat from the square footage determined by the architect or others using different methods of determining unit size. It is the intent that the private ownership area of the Units will be as constructed. Upon the completion of each Unit ("Completed Unit"), the boundaries of the Completed Unit shall be automatically adjusted to be the boundaries of such as-built Completed Unit as described in the Declarations.
2. Although columns, bearing walls and other structural elements within a Unit may not contain any crosshatching, such elements shall not be deemed Access Areas. All common structural elements are designated as Non-Hotel Use and Support Areas, as described in the Declarations. Pursuant to the Declarations, each Unit Owner and the Residential Association (in common with Hotel Owner) are granted the following non-exclusive easements, which shall be appurtenant to each Unit: Structural and Mechanical Support, provided by all structural members, columns, footings and foundations which are a part of the Hotel and which are necessary for the support of any Unit.
3. Pursuant to the Declarations the Balcony/Patio Areas as depicted on this Condominium Plat are reserved for the use of certain Unit Owners to the exclusion of other Unit Owners. Except as otherwise designated hereon, the use of each respective patio, deck or balcony is appurtenant to the respective Unit to which such Balcony/Patio Areas are adjacent as shown hereon, subject to the rights of the Hotel Owner as described in the Declarations.

UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
601	924 SF



LEVEL 2
FLOOR LEVEL ELEVATION 8,359.0'



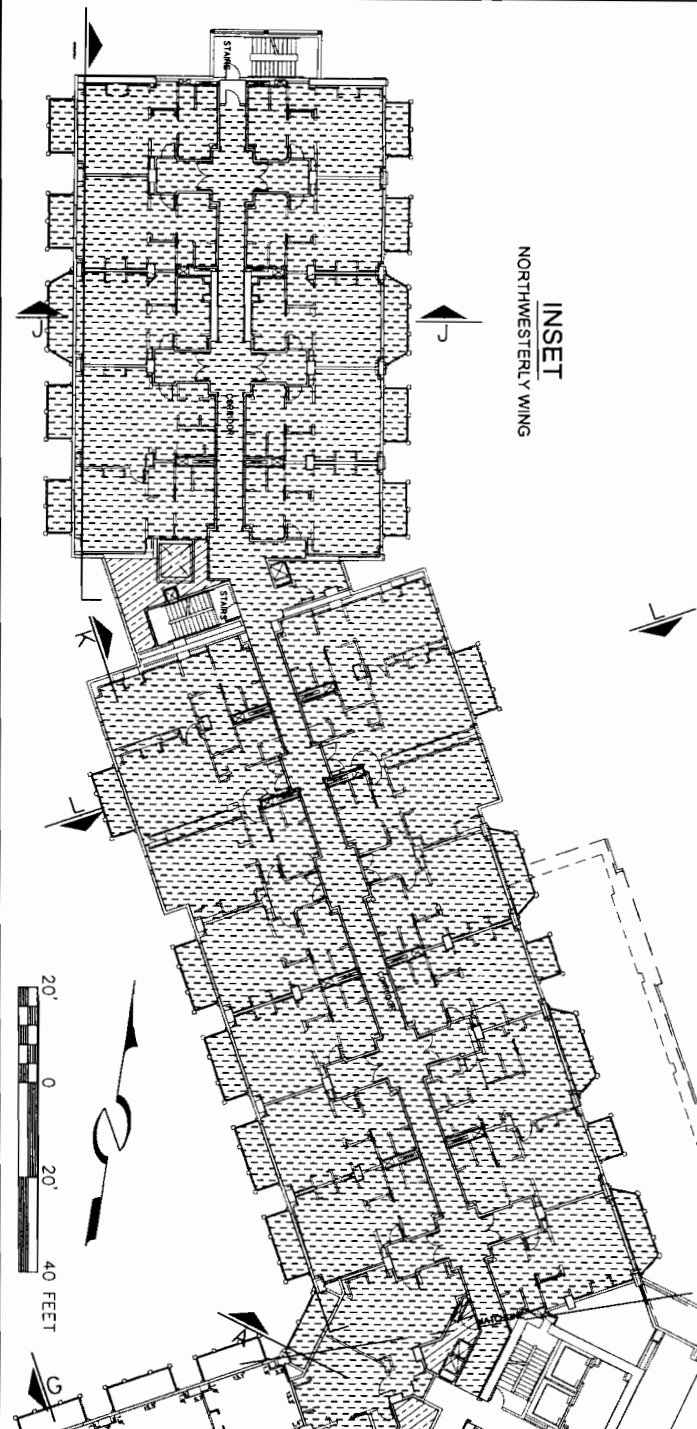
CONDOMINIUM PLAT
**THE HOTEL & RESIDENCES AT
EMPIRE CANYON RESORT**

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29
TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN

JOB NO: 2-1-08
STATE OF UTAH COUNTY OF SUMMIT
RECORDED AT THE REQUEST OF _____
DATE: _____ TIME: _____ BOOK: _____
FEE _____ RECORDED _____

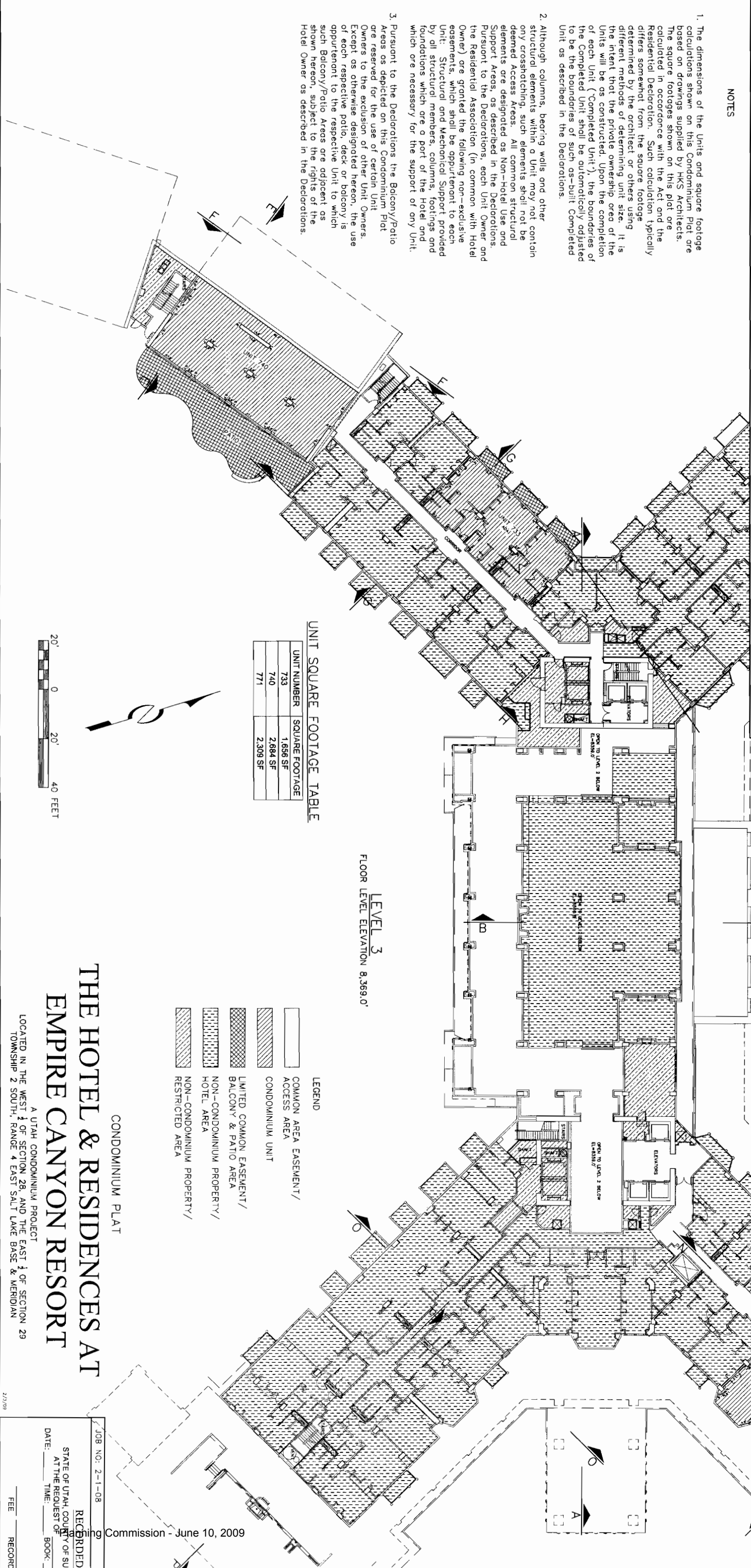
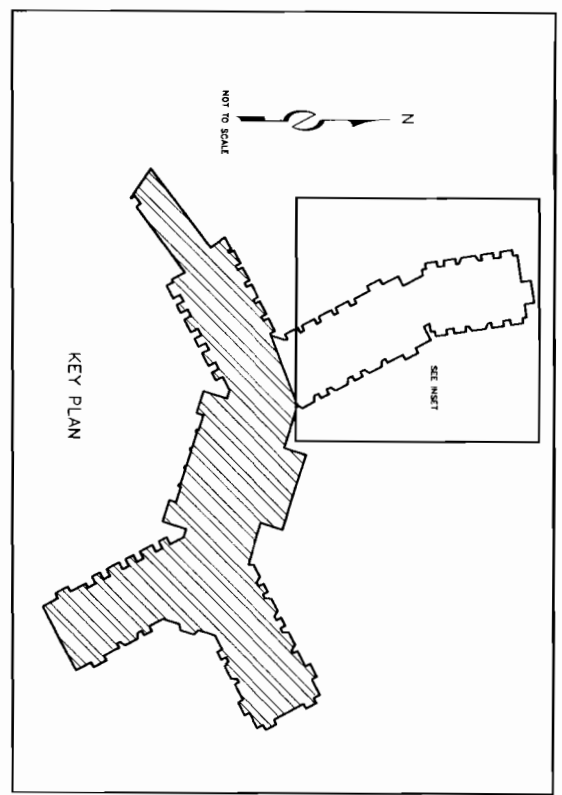
Planning Commission - June 10, 2009

INSET
NORTHWESTERLY WING



NOTES

1. The dimensions of the Units and square footage calculations shown on this Condominium Plat are based on drawings supplied by HKS Architects. The square footages shown on this plat are calculated in accordance with the Act and the Residential Declaration. Such calculation typically differs somewhat from the square footage determined by the architect or others using different methods of determining unit size. It is the intent that the private ownership size of the Units will be as constructed. Upon the completion of each Unit ("Completed Unit"), the boundaries of the Completed Unit shall be automatically adjusted to be the boundaries of such as-built Completed Unit as described in the Declarations.
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UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
733	1,656 SF
740	2,684 SF
771	2,309 SF

LEGEND

[Symbol]	COMMON AREA EASEMENT/ ACCESS AREA
[Symbol]	CONDOMINIUM UNIT
[Symbol]	LIMITED COMMON EASEMENT/ BALCONY & PATIO AREA
[Symbol]	NON-CONDOMINIUM PROPERTY/ HOTEL AREA
[Symbol]	NON-CONDOMINIUM PROPERTY/ RESTRICTED AREA

LEVEL 3
FLOOR LEVEL ELEVATION 8,359.0'

CONDOMINIUM PLAT

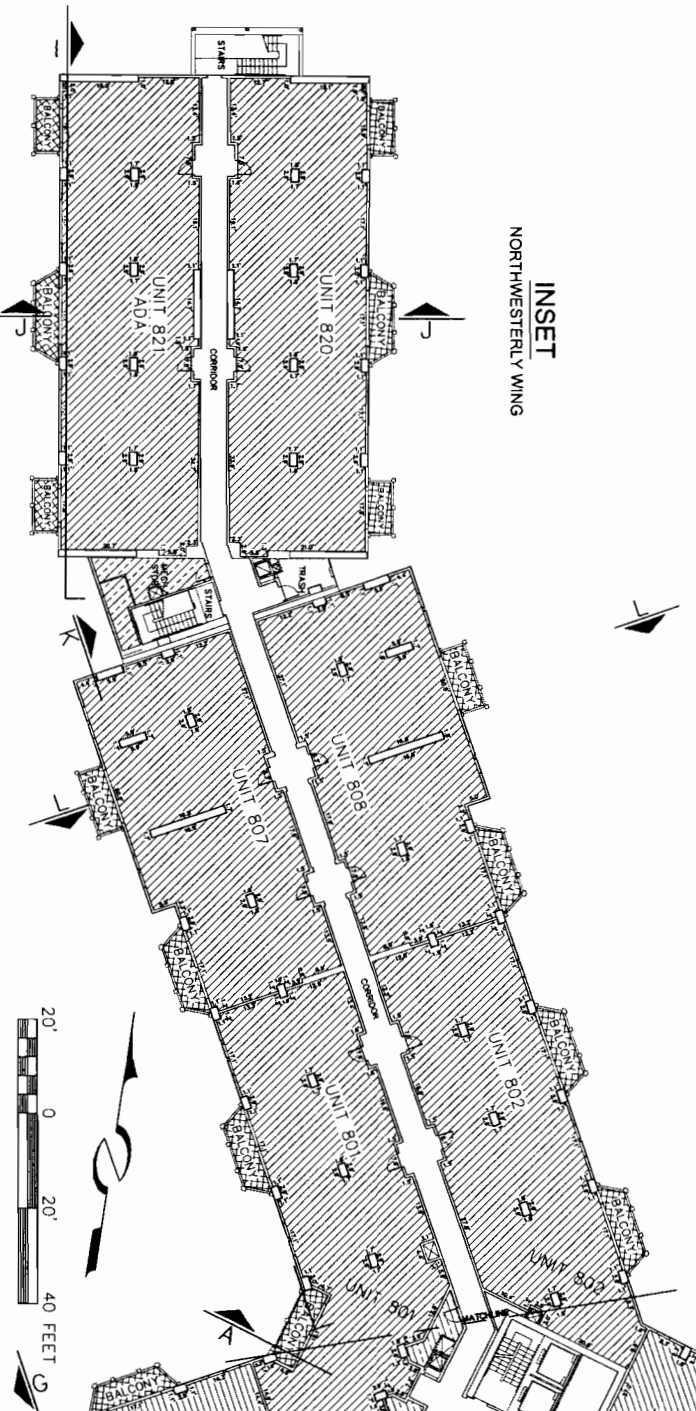
THE HOTEL & RESIDENCES AT
EMPIRE CANYON RESORT

A UTAH CONDOMINIUM PROJECT
LOCATED IN THE WEST 1/4 OF SECTION 28, AND THE EAST 1/4 OF SECTION 29
TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN

JOB NO: 2-1-08
STATE OF UTAH COUNTY OF SUMMIT
AT THE REQUEST OF BOOK: _____
DATE: _____ TIME: _____
FEE RECORDED

Recording Commission - June 10, 2009

INSET
NORTHWESTERLY WING



NOTES

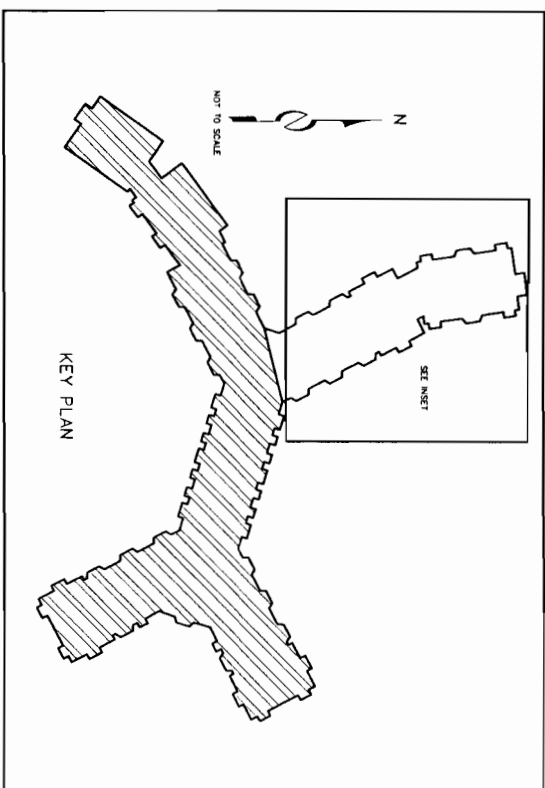
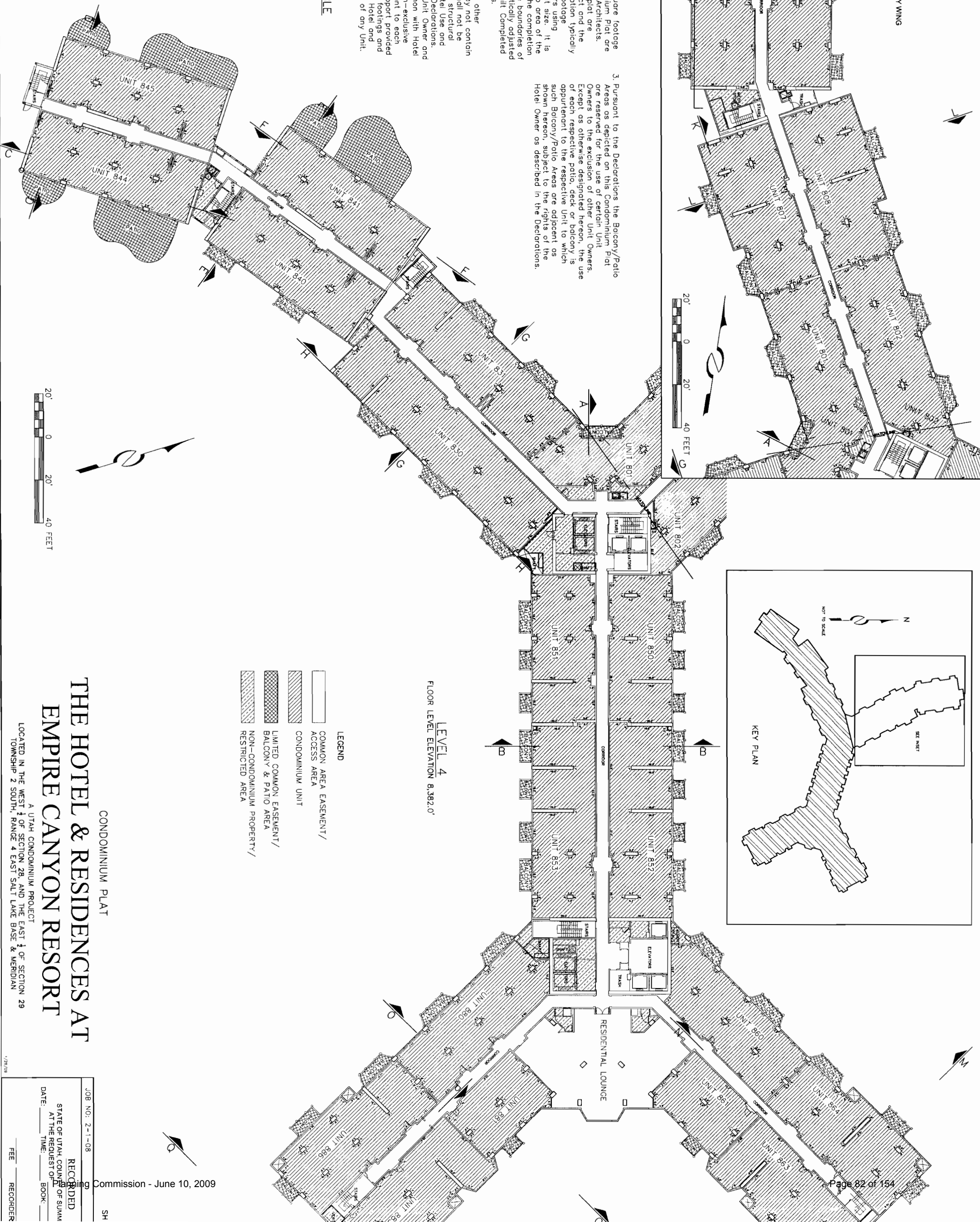
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UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
801	2,827 SF
802	2,470 SF
807	2,325 SF
808	2,325 SF
820	2,787 SF
821	2,789 SF
830	3,383 SF
831	2,630 SF
840	2,212 SF
841	2,212 SF
844	2,215 SF
845	2,215 SF
850	1,889 SF
851	1,891 SF
852	2,477 SF
853	2,489 SF
860	2,127 SF
861	1,233 SF
863	2,284 SF
864	2,224 SF
880	2,216 SF
881	1,221 SF
883	2,284 SF
886	2,249 SF



LEGEND

	COMMON AREA EASEMENT/ ACCESS AREA
	CONDOMINIUM UNIT
	LIMITED COMMON EASEMENT/ BALCONY & PATIO AREA
	NON-CONDOMINIUM PROPERTY/ RESTRICTED AREA

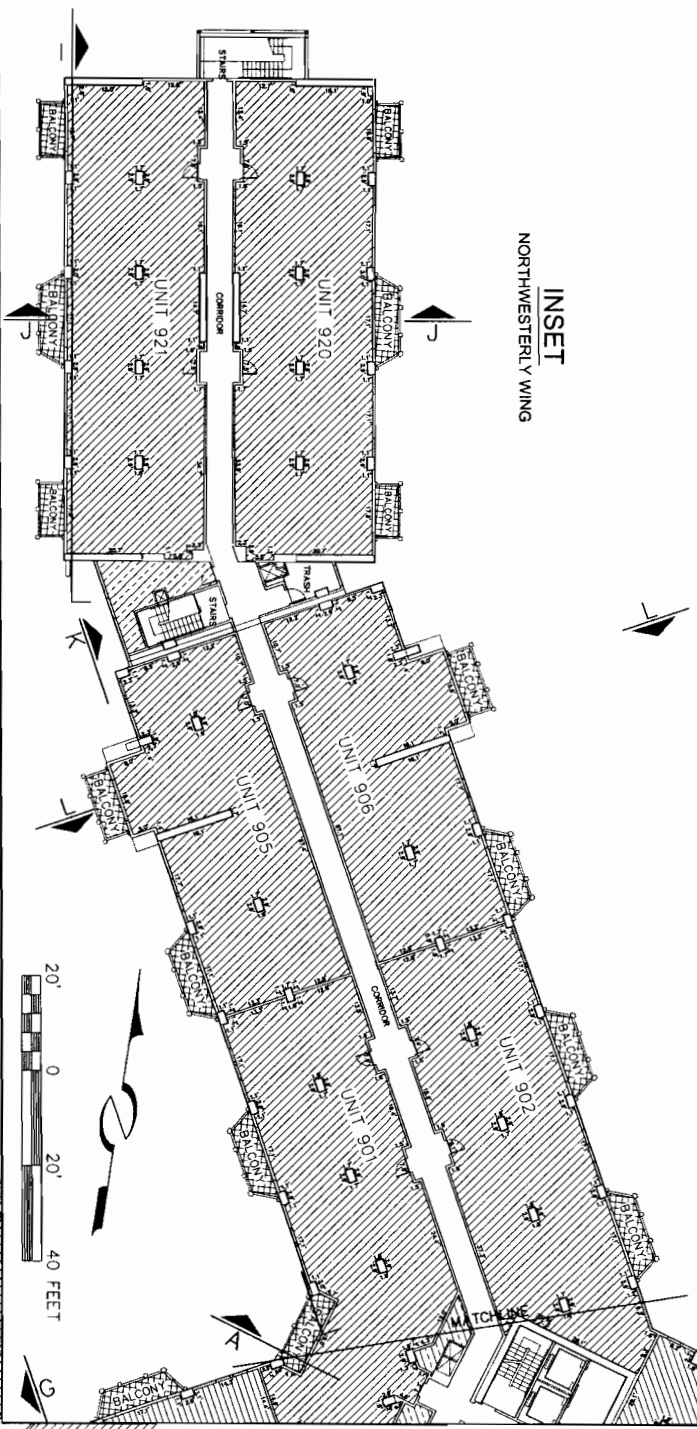
LEVEL 4
FLOOR LEVEL ELEVATION 8,382.0'

**THE HOTEL & RESIDENCES AT
EMPIRE CANYON RESORT**

CONDOMINIUM PLAT
A UTAH CONDOMINIUM PROJECT
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TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN

JOB NO: 2-1-08
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FEE RECORDER _____

INSET
NORTHWESTERLY WING

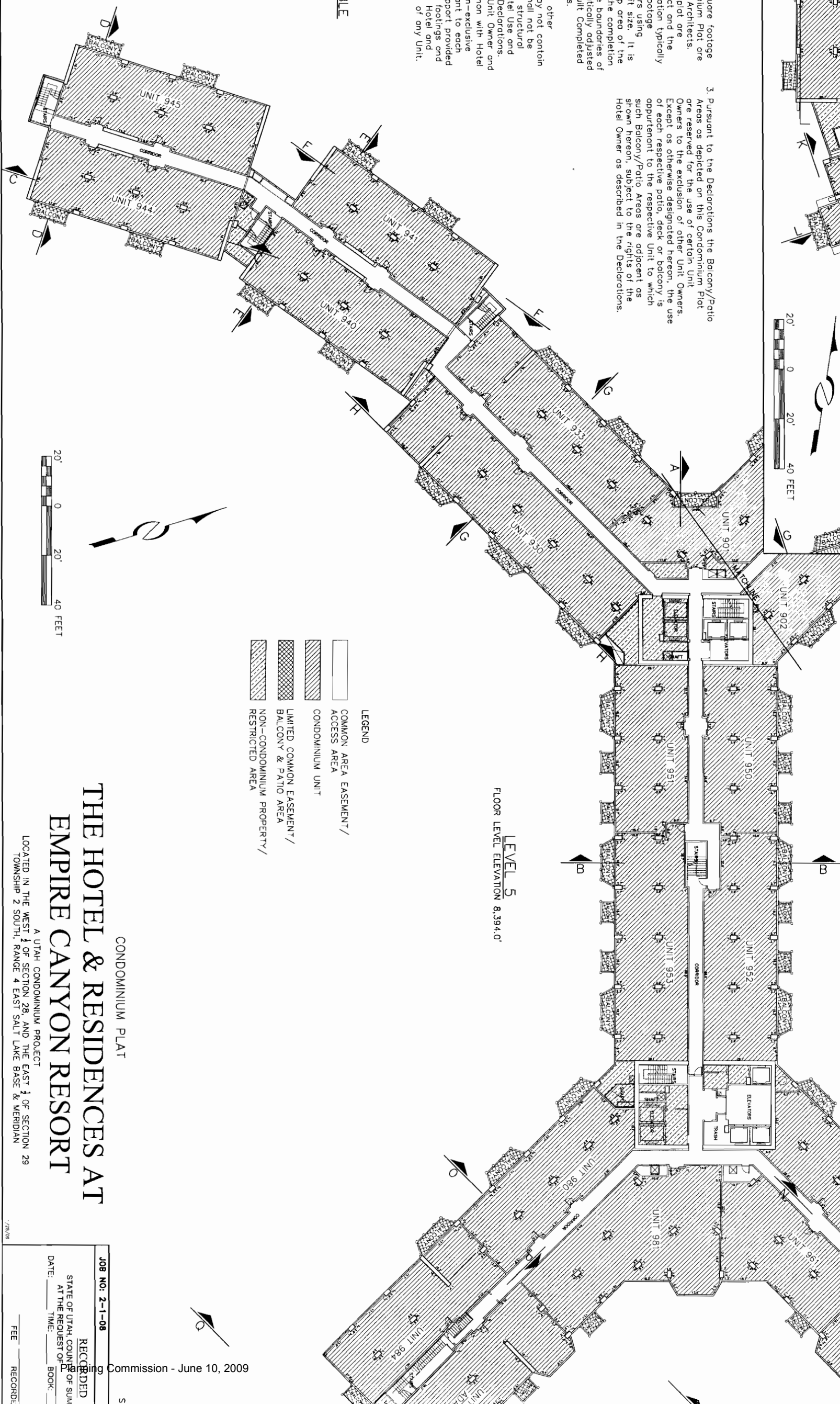


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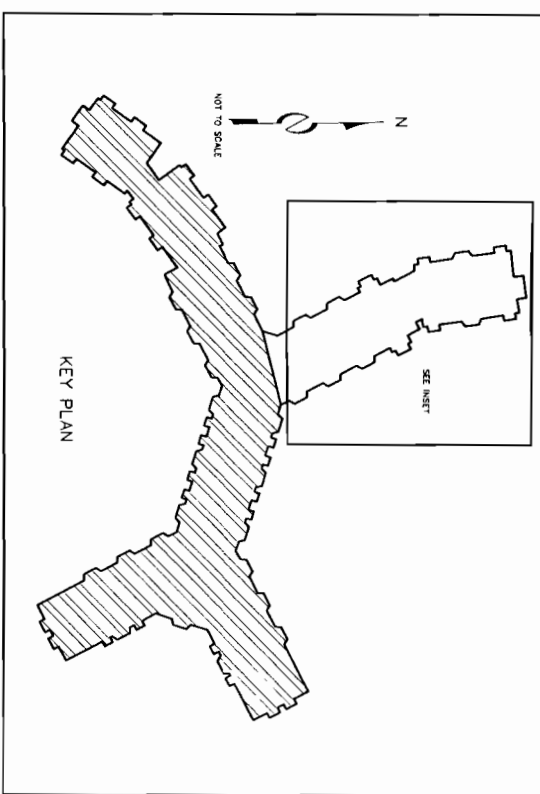
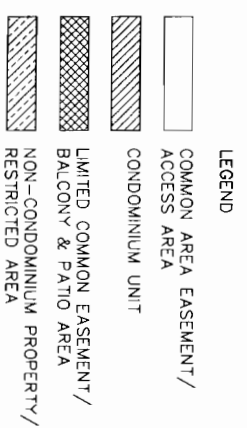
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UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
901	2,853 SF
902	2,515 SF
905	2,130 SF
906	2,127 SF
920	2,787 SF
921	2,789 SF
930	3,376 SF
933	2,644 SF
940	2,247 SF
941	2,240 SF
944	2,238 SF
945	2,231 SF
950	1,886 SF
951	1,877 SF
952	2,251 SF
953	2,605 SF
960	2,120 SF
961	1,999 SF
962	2,080 SF
963	2,196 SF
980	2,204 SF
981	3,090 SF
983	2,180 SF
984	2,071 SF



LEVEL 5
FLOOR LEVEL ELEVATION 8.394.0'



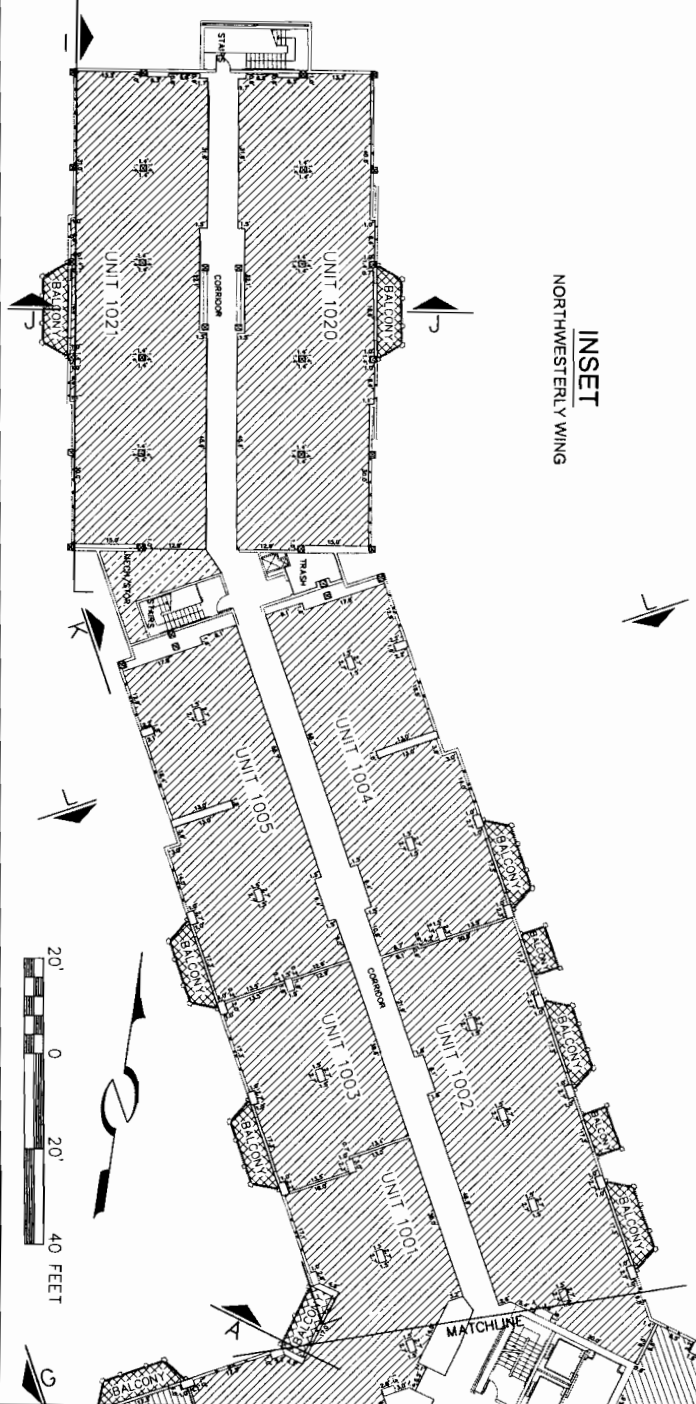
**THE HOTEL & RESIDENCES AT
EMPIRE CANYON RESORT**

CONDOMINIUM PLAT
A UTAH CONDOMINIUM PROJECT
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TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASIN & MERIDIAN

JOB NO: 2-1-08
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AT THE REQUEST OF:
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FEE: _____ RECORDS

Recording Commission - June 10, 2009

INSET
NORTHWESTERLY WING

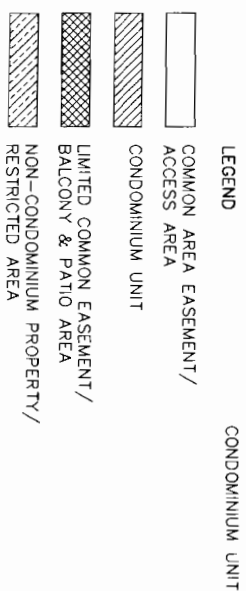
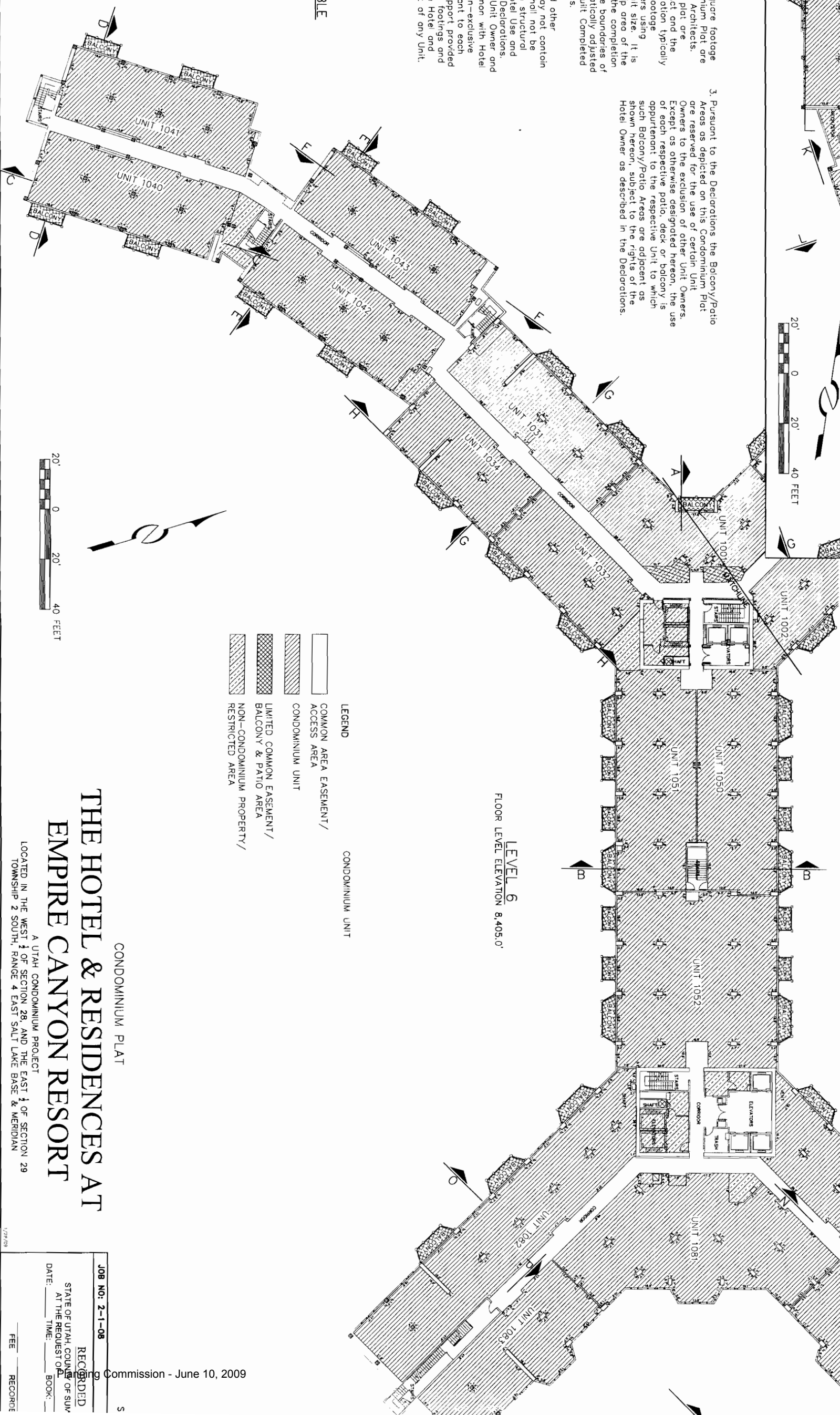
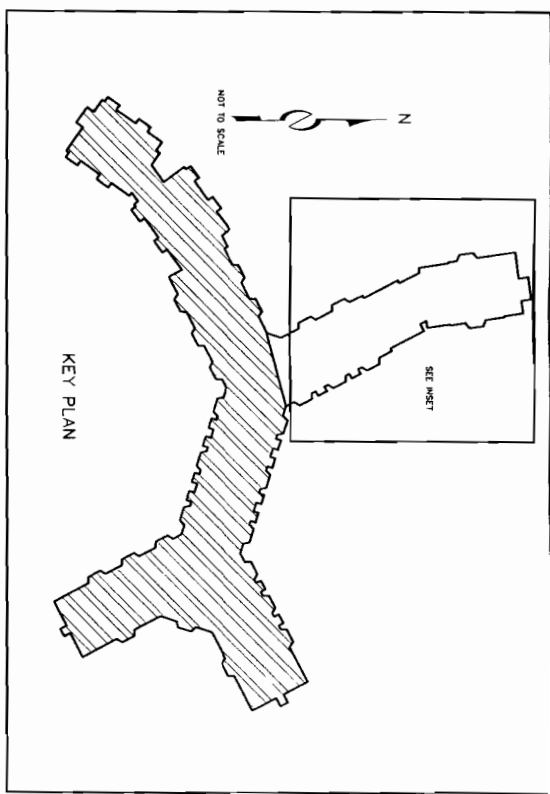


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LEVEL 6
FLOOR LEVEL ELEVATION 8,405.0'

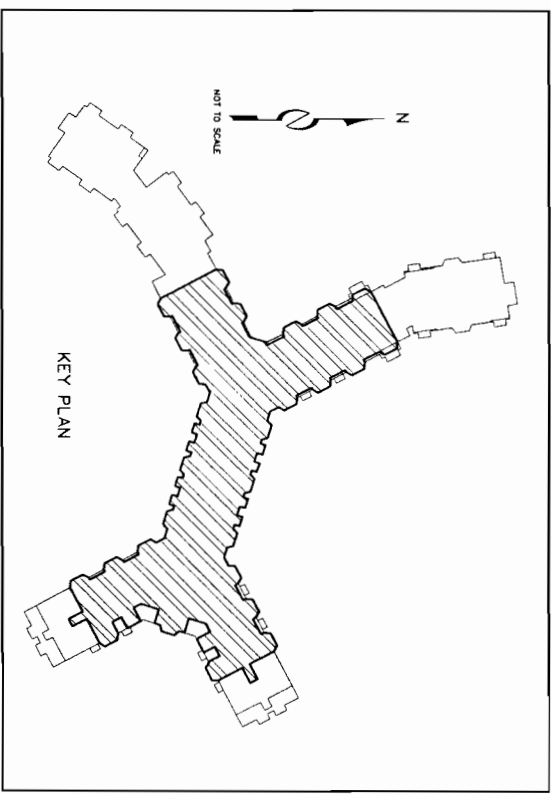
UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
1001	2,148 SF
1002	2,490 SF
1003	1,147 SF
1004	1,997 SF
1005	1,945 SF
1020	2,770 SF
1021	2,770 SF
1031	2,255 SF
1032	1,741 SF
1034	1,688 SF
1040	2,201 SF
1041	2,202 SF
1042	2,195 SF
1043	2,195 SF
1050	2,712 SF
1051	2,683 SF
1052	4,367 SF
1062	3,754 SF
1063	2,228 SF
1081	4,086 SF
1082	4,087 SF
1083	2,251 SF

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TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN

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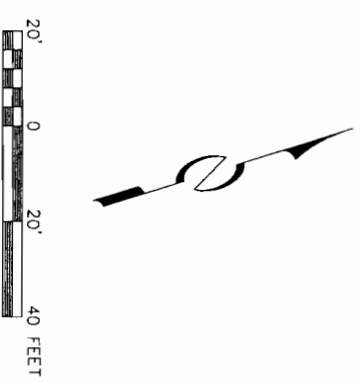
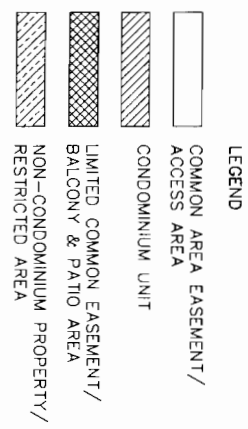
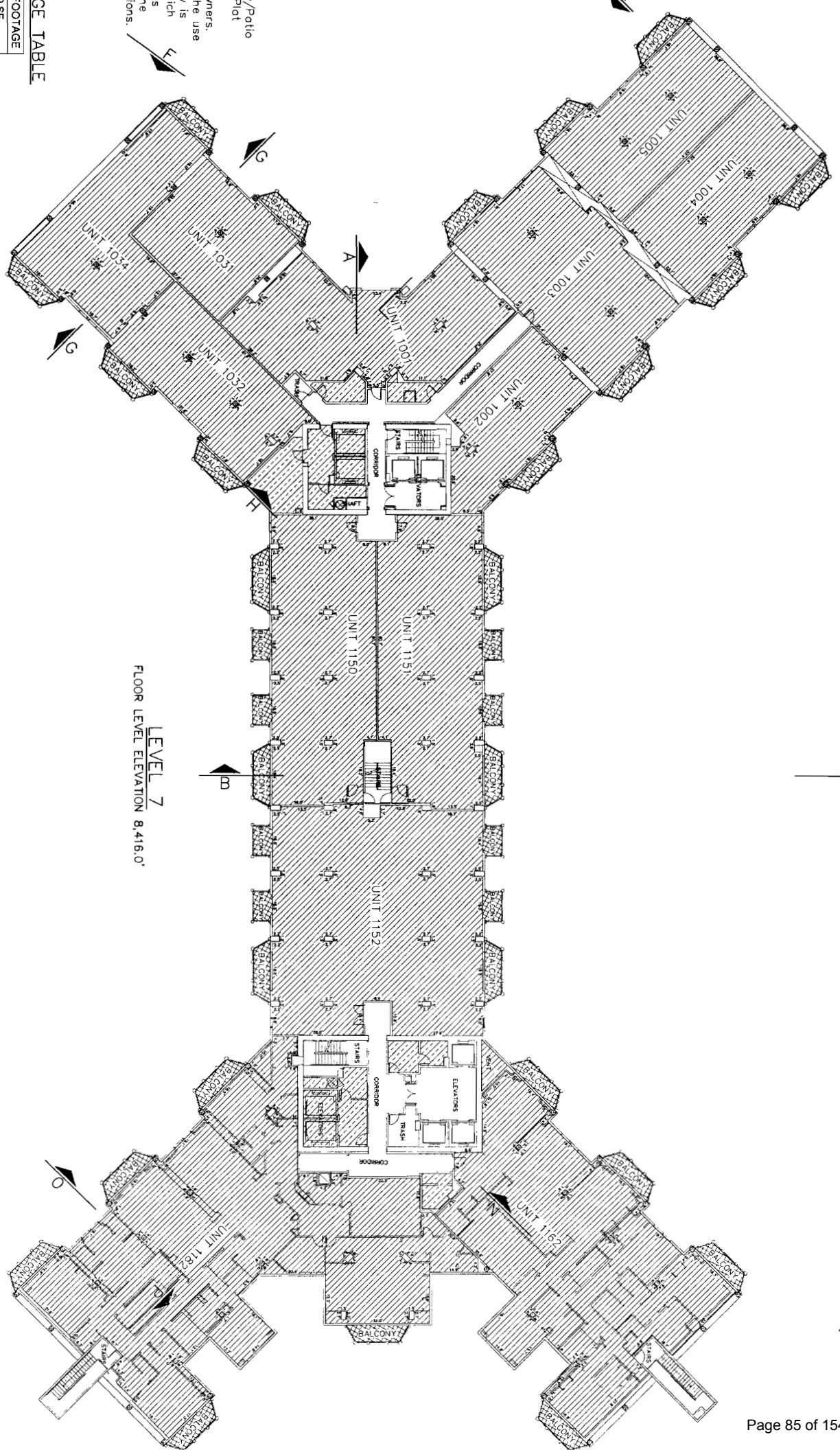
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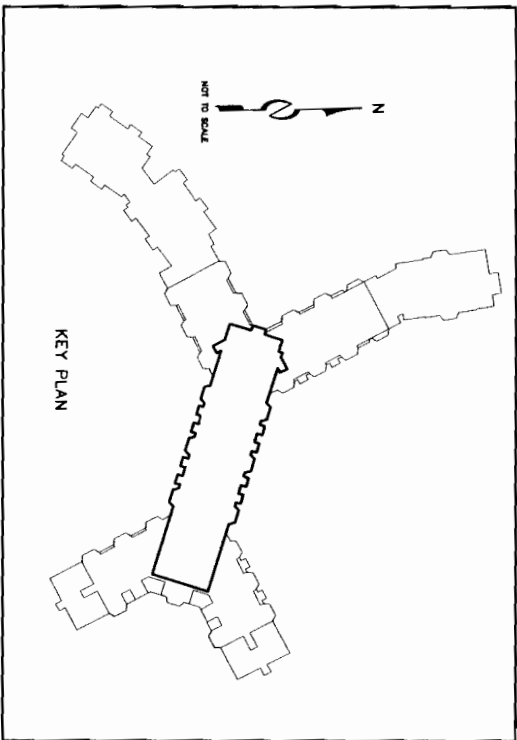
UNIT NUMBER	SQUARE FOOTAGE
1001	2,259 SF
1002	1,310 SF
1003	2,244 SF
1004	1,723 SF
1005	1,723 SF
1031	1,278 SF
1032	1,632 SF
1034	1,729 SF
1150	2,692 SF
1151	2,699 SF
1152	4,367 SF
1162	4,667 SF
1182	6,858 SF



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TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN

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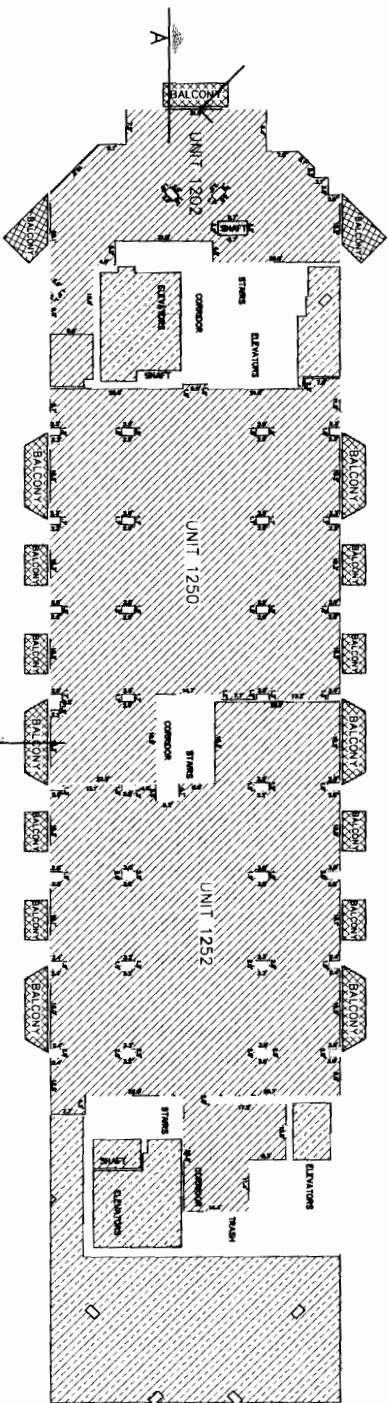


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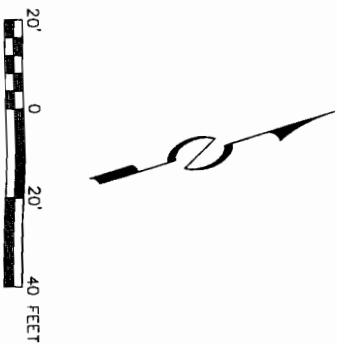
UNIT SQUARE FOOTAGE TABLE

UNIT NUMBER	SQUARE FOOTAGE
1202	1,851 SF
1250	4,883 SF
1252	5,438 SF



LEVEL 8
FLOOR LEVEL ELEVATION 8,427.0'

- LEGEND
- COMMON AREA EASEMENT / ACCESS AREA
 - CONDOMINIUM UNIT
 - LIMITED COMMON EASEMENT / BALCONY & PATIO AREA
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THE HOTEL & RESIDENCES AT EMPIRE CANYON RESORT

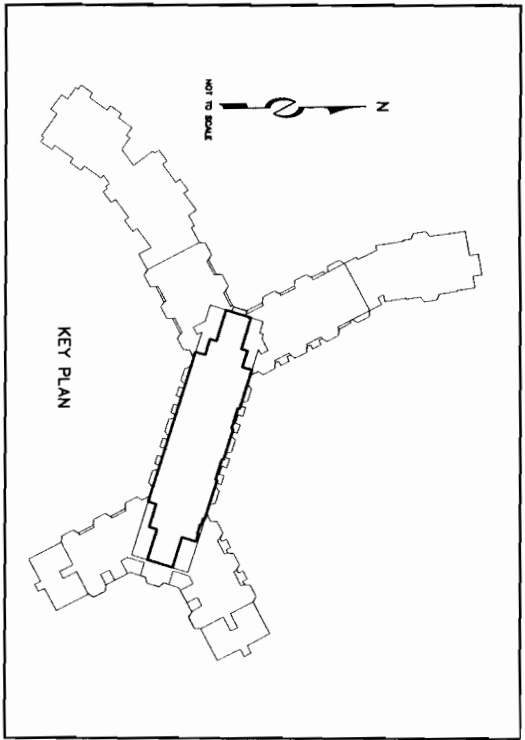
CONDOMINIUM PLAT

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SHEET 13 OF 18

Planning Commission - June 10, 2009

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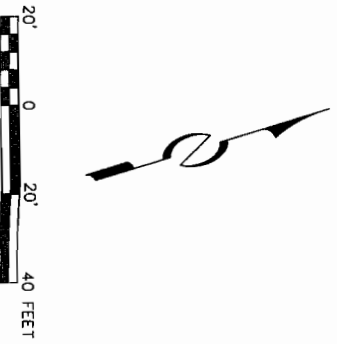
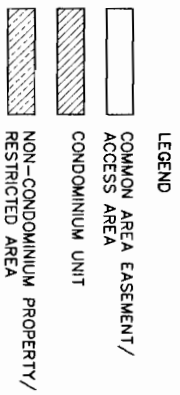
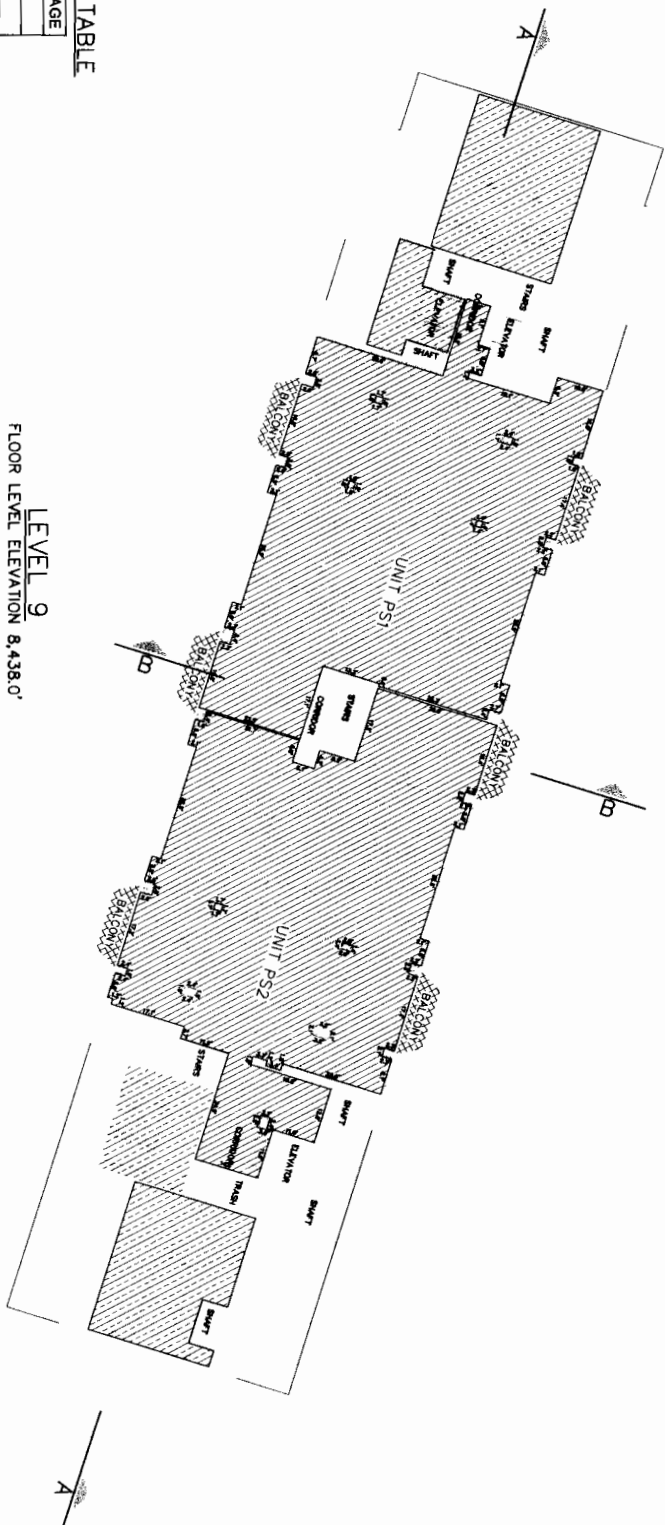


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UNIT SQUARE FOOTAGE TABLE

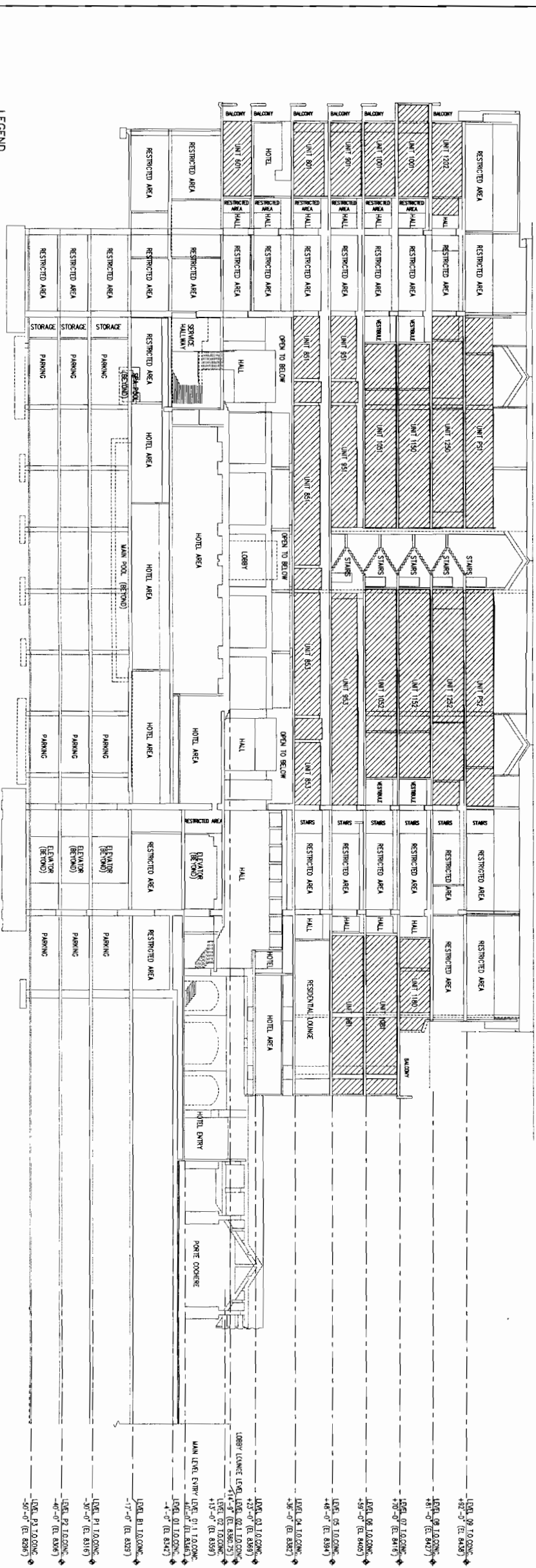
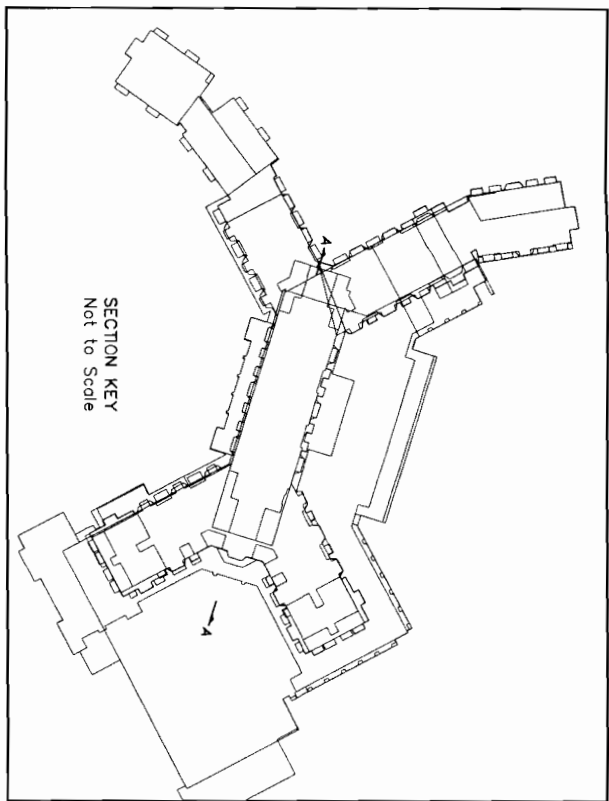
UNIT NUMBER	SQUARE FOOTAGE
PS1	5,030 SF
PS2	5,318 SF



CONDOMINIUM PLAT
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SECTION A



LEGEND
 CONDOMINIUM UNIT

THE HOTEL & RESIDENCES AT EMPIRE CANYON RESORT

CONDOMINIUM PLAT

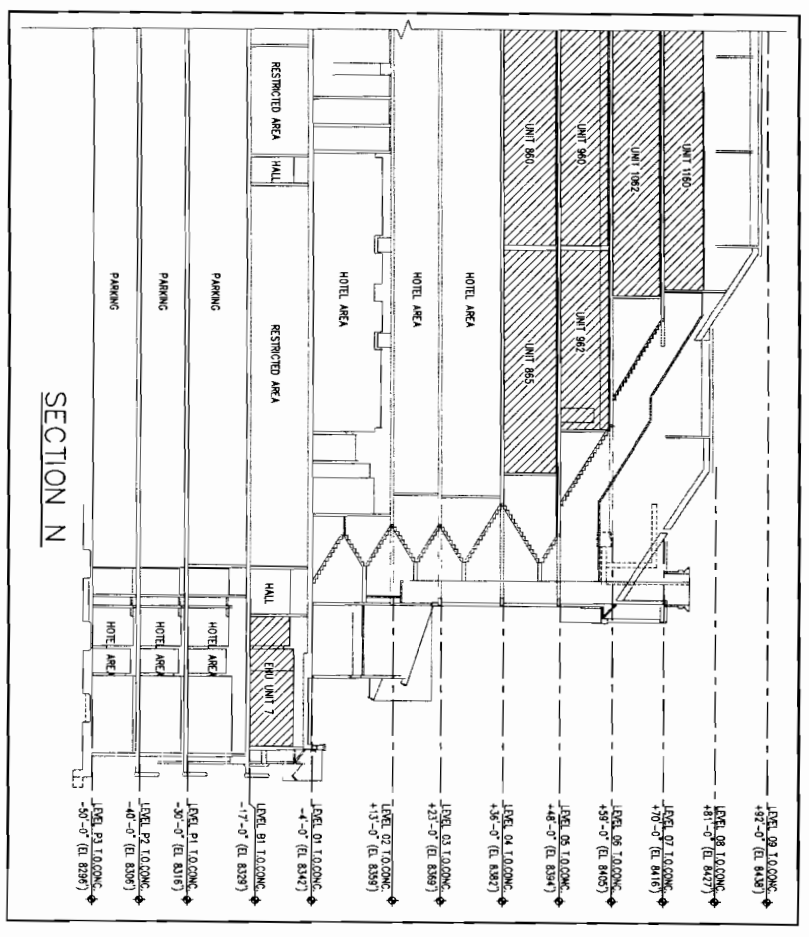
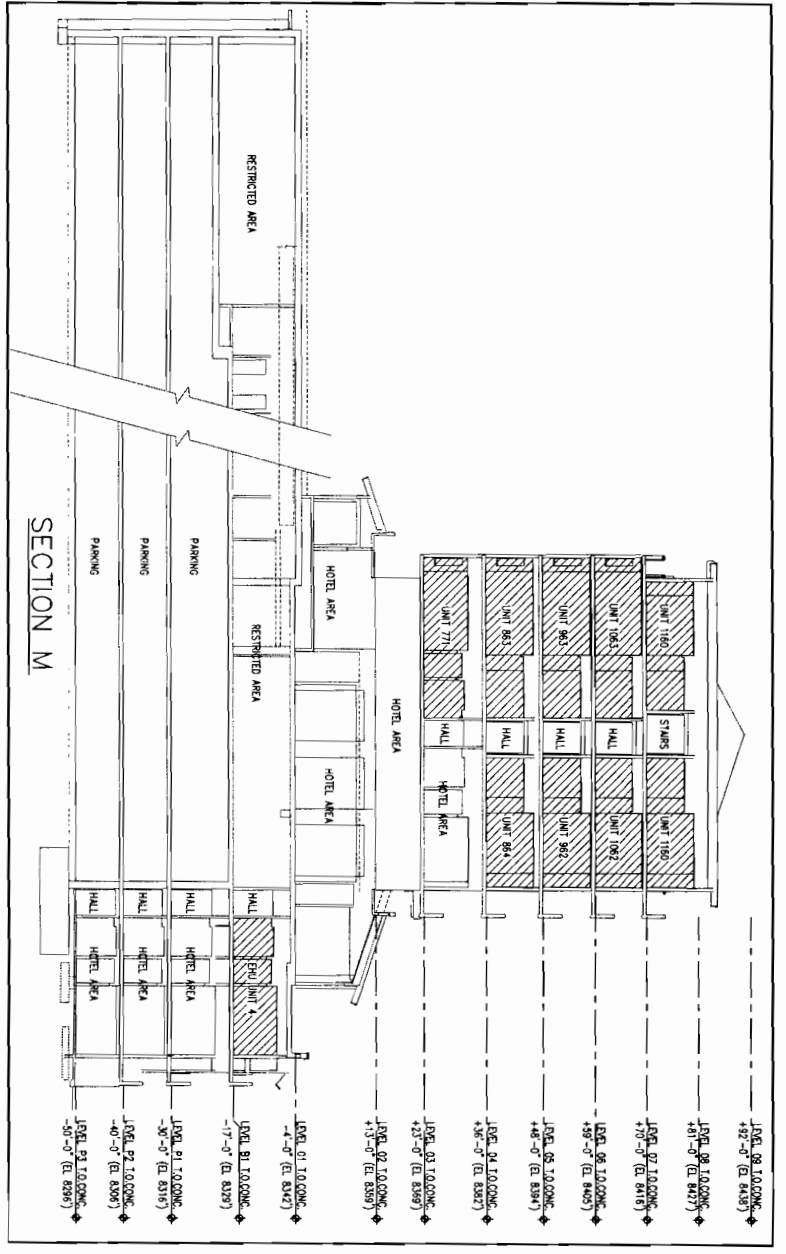
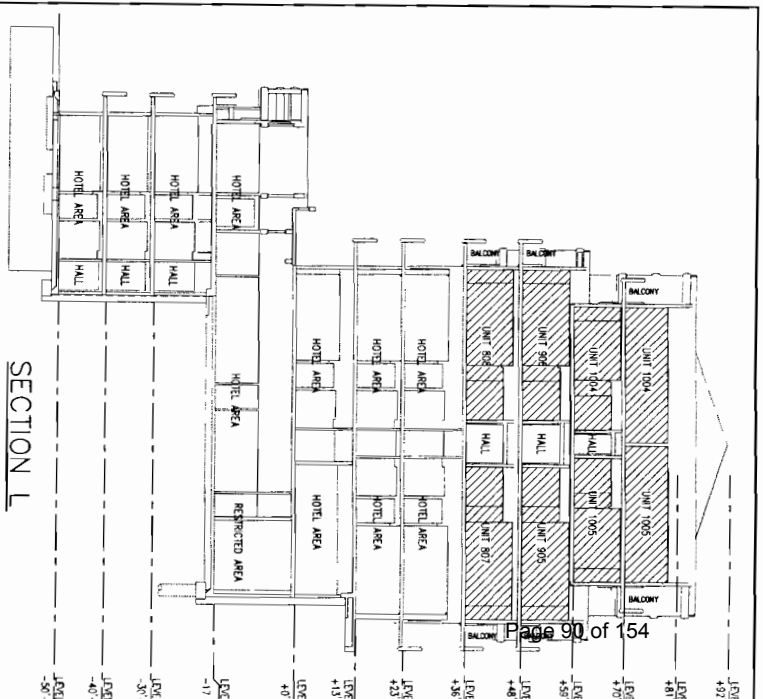
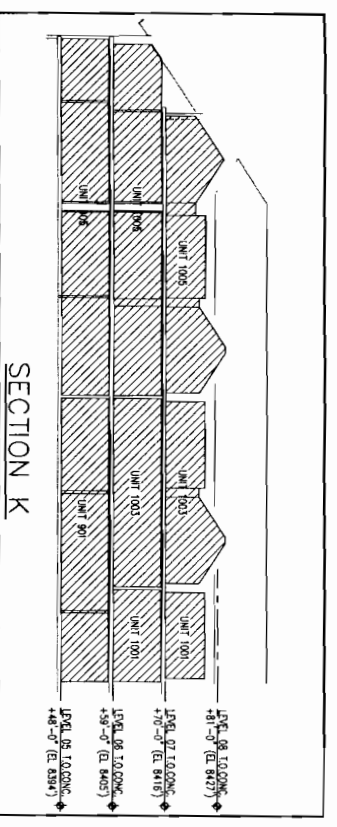
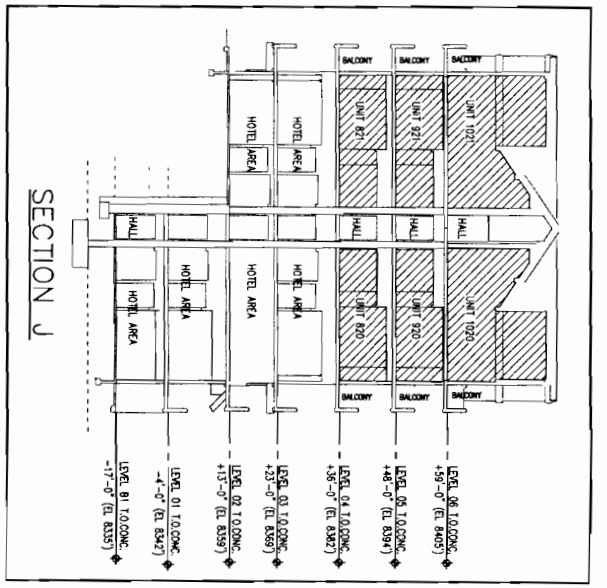
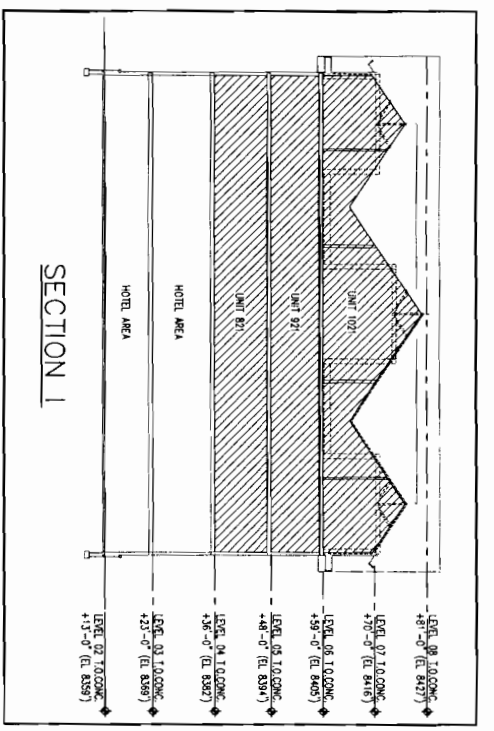
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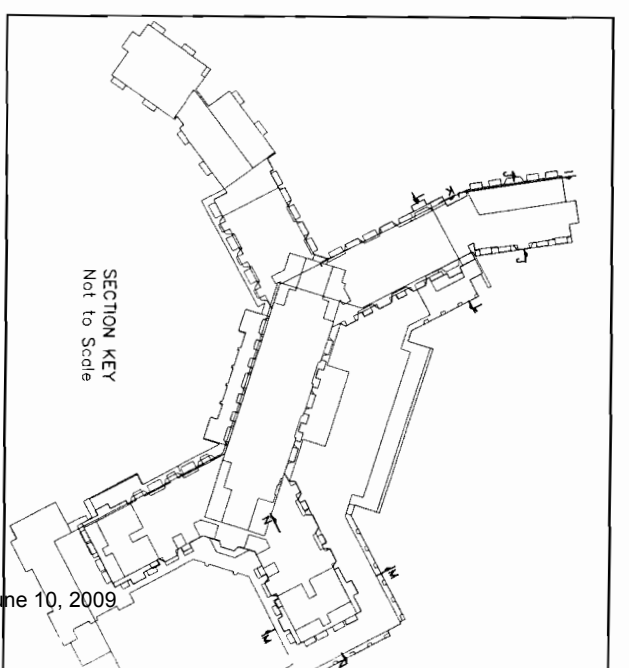
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LEGEND
 CONDOMINIUM UNIT



THE HOTEL & RESIDENCES AT EMPIRE CANYON RESORT

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1/12/09

FEE RECORDE

Planning Commission Staff Report



Subject: The Hotel and Residences at Empire Canyon Resort Record of Survey
aka The Montage

Author: Brooks T. Robinson

Date: May 13, 2009

Type of Item: Administrative – Condominium Record of Survey

Summary Recommendations

Staff recommends the Planning Commission open a public hearing and discuss the request for approval of the Hotel and Residences at Empire Canyon Resort record of survey plat and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: DV Luxury Resort, LLC
Talisker Empire Pass Hotel, LLC

Location: 9100 Marsac Avenue, adjacent to the Deer Valley Empire Day Lodge. Lot C of the Parcel B-2 Empire Village Subdivision.

Zoning: Residential Development as part of the Empire Pass Master Planned Development (RD-MPD)

Adjacent Land Uses: Ski terrain of Deer Valley Resort

Reason for Review: Condominium Record of Survey plats require Planning Commission review and recommendation to City Council

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel.

The Development Agreement (DA) specifies that only 147 acres of the 1,655-acre annexation may be developed. The remainder of the annexation area is to be retained as passive and recreational open space. On February 1, 2007, the City Council approved amendments to the DA allowing additional density and three additional acres to be utilized in the B-2 area. In exchange, United Park City Mines Company petition the City for annexation of the Park City Mountain Resort ski lease area (removing all

residential development potential) and agreed to construct a Park and Ride facility at Richardson Flats.

Ordinance 99-30 also required that the applicant submit 14 specific technical reports for review and approval by the City. The 14 studies, along with the Land Management Code and the Development Agreement (99-30) form the standards under which any MPD and preliminary/final plat will be reviewed.

On March 29, 2007, the City Council approved the Parcel B-2 Empire Village Subdivision final plat. The plat includes the former Parcel A of the Empire Village Subdivision (the location of the Empire Day Lodge) and created two additional lots for the Jordanelle Special Services District (JSSD) ownership of the Daly West Head Frame (Lot B) and Lot C, the location of the proposed Montage Resort and Spa. A future subdivision will encompass the proposed condominiums to the east of the Empire Day Lodge. Concurrent with the subdivision application was the Master Planned Development (MPD) for B-2 and the Conditional Use Permit for phase one of the MPD, which is the Montage hotel. The Planning Commission approved both the MPD and the CUP on March 14, 2007. An excavation permit was issued on June 6, 2007, and a building permit for construction of the hotel was issued on March 12, 2008.

On March 3, 2009, the City received a completed application for the Hotel and Residences at Empire Canyon Resort record of survey plat. Talisker Empire Pass Hotel, LLC is the fee simple owner of the land and DV Luxury Resort, LLC has a 999-year leasehold interest.

The proposed condominium record of survey contains 174 hotel rooms and 84 condominiums utilizing 181.7 Unit Equivalents. In addition, the record of survey memorializes 59,765 square feet of commercial space and approximately 15,000 square feet of meeting rooms and support space to the meeting rooms. No support commercial is proposed other than room service, which does not utilize additional space. Ten Affordable Housing Units are provided in the building. The ten Affordable Housing Units totaling 6,235 square feet (7.8 Affordable Unit Equivalents) are provided within the hotel. The units are platted as private space and are proposed to be owned by the Montage. In addition, five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted are Private and counts towards the unit counts and UEs.

Analysis

The zoning for the subdivision is Residential Development. The MPD is subject to the following criteria:

	Permitted through MPD/CUP	Proposed
Height	A height exception to 114 feet above a benchmarked grade (USGS 8346') was requested and granted in the Master Plan. (i.e. height may go to USGS 8460)	Maximum height is at USGS 8458, under the USGS 8460 height maximum.
Front setback	20', 25' to front facing garage	No setback reductions. Approximately 280 feet from all buildings to front property line
Rear setback	15' from Lot boundary	87' from Lot boundary
Side setbacks	12' from Lot boundary	13' from Lot boundary at closest point to south.
Unit Equivalents	183.6 UEs	181.7 UEs
Hotel Rooms	192 rooms	174 rooms
Condominium units	94 units	84 units
Commercial space	63,000 square feet	59,765 square feet
Meeting Rooms and Support (5% of Gross Floor Area (GFA))	Gross Floor Area, excluding the garage, is approximately 780,173 square feet. 5% is 39,000 square feet.	Approximately 15,000 square feet.
Support Commercial (5% of GFA)	39,000 square feet	None proposed (room service only)
Parking	530 spaces with 192 spaces in tandem (valet parking)	526 total with 184 in tandem

For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.

The 84 Condominium units range in size from 1,221 square feet to 6,858 square feet. The condominiums are located on levels four through nine with the exception of three units on level three and three ADA units on levels two and three. The 174 hotel rooms and the ten Affordable Housing Units (level B1 and platted as private space) are located on the floors below level four.

Transfer Fee

Section 3.2 of the Amended and Restated Development Agreement for Flagstaff Mountain requires payment into an Open Space/Transit Management Fund on “each transfer of land...a 1%... fee on the gross sales price of all real property within the project.” The leasehold from Talisker Empire Pass Hotel, LLC (fee simple owner of the land) to DV Luxury Resort, LLC is for 999 years. Staff finds the 999 year lease is structured to capitalize initial development and/or secure financing for the hotel portion and condominium units. The DV Luxury trust deed (\$234,000,000) recorded with Summit County is a **construction financing** trust deed with the bank (not a mortgage purchase price deed) and does not represent a purchase price or value of lease payments.

Talisker will be signing the initial condo unit deeds (DV Luxury signing purchase agreements) as Grantors and getting payment with each condo unit sale. DV Luxury agrees each unit sale is subject to the transfer fee and to memorize such as a finding of fact in the condo plat approval.

Environmental Management

The hotel and property on which the hotel is located are within the Upper Silver Creek watershed and within the Empire Canyon CERCLIS boundary and is regulated under a USEPA post-site management plan.

As stated in the Mine Soils Hazard Mitigation Plan, Talisker is responsible for the management of the environmental engineering controls and emergency response issues that may require the generation of mine tailings (i.e. utility work etc.) at the Montage Resort. As a result, a Post Closure Site Control Plan specific to the Montage Resort will be required as an addendum to the Mine Soils Hazard Mitigation Plan that identifies contingencies for the management and disposal of generated soils. DV Luxury Resort LLC must co-sign the Post Closure Plan.

The run-off from the project flows into downstream detention ponds that mitigate run-off from the hotel but are not located on the hotel property. Furthermore, PCMC recognizes that Empire Canyon is a CERCLA Site (UT0002005981) regulated under an Administrative Order on Consent (Dated May 14, 2002, USEPA Docket Number CERCLA -08-2002-05) and as stated in the October 10, 2006, Action Memo:

- A Post-Removal Site Control Plan, as required in the Administrative Order on Consent, will set forth long-term management plans and responsibilities for Empire Canyon once the removal action is complete.

As a result, the long-term maintenance and UPDES permitting of these detention units shall be identified within the Empire Canyon Post-Removal Site Control Plan and associated properties retaining deed restrictions, identifying the plan as the working institutional control. Lastly, this plan shall be placed as an addendum to the Mine Soils Hazard Mitigation Plan along with the recorded deed restriction. This is a condition of

approval.

Finally, the Chief Building Official, acting as the Fire Marshall, suggests a plat note that requires maintenance of the approved fire plan.

Staff finds good cause for this amended record of survey as this condominium is consistent with the development pattern envisioned in the MPD and the 14 Technical Reports, with the conditions of approval as found in the ordinance.

Department Review

This project has gone through an interdepartmental review on March 24, 2009. All issues are resolved with the plat or by conditions of approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has not received any public input at the time of this report.

Future Process

The approval of this condominium record of survey application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 15-1-18.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Hotel and Residences at Empire Canyon Resort record of survey plat as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to the City Council for the Hotel and Residences at Empire Canyon Resort record of survey plat and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the Hotel and Residences at Empire Canyon Resort record of survey plat and provide Staff and the Applicant with specific direction regarding additional information necessary to find compliance with the criteria listed in this report.
- The Planning Commission and ultimately the City Council may wish to discuss whether the long term lease of the non-condominium hotel portion of the project (174 hotel rooms, 59,765 square feet of commercial, 15,000 square feet of meeting space, and back of house areas) is still a "transfer".

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The units could not be separately sold.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Hotel and Residences at Empire Canyon Resort record of survey plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with plat

Exhibit B – Commercial areas

I:\Cdd\Brooks\Planning Comm\PC2009\Montage condo 051309.doc

Ordinance No. 09-

AN ORDINANCE APPROVING THE HOTEL AND RESIDENCES AT EMPIRE CANYON RESORT RECORD OF SURVEY PLAT LOCATED AT 9100 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Hotel and Residences at Empire Canyon Resort record of survey plat, Lot C of the Parcel B-2 Empire Village Subdivision, have petitioned the City Council for approval of the Hotel and Residences at Empire Canyon Resort record of survey plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on May 13, 2009, to receive input on the Hotel and Residences at Empire Canyon Resort record of survey plat;

WHEREAS, the Planning Commission, on May 13, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, on May 28, 2009, the City Council held a public hearing on the Hotel and Residences at Empire Canyon Resort record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Hotel and Residences at Empire Canyon Resort Record of Survey.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Hotel and Residences at Empire Canyon Resort record of survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 9100 Marsac Avenue, Lot C of the Parcel B-2 Empire Village Subdivision
2. The Hotel and Residences at Empire Canyon Resort record of survey plat is located in the Residential Development zoning district as part of the Flagstaff Mountain Master Planned Development (RD-MPD).
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development

Agreement sets forth maximum densities, location of densities, and developer-offered amenities.

4. The City Council approved an amendment to the Development Agreement on February 1, 2007, that increased the allowable density by 80 Unit Equivalents, including the 192-room Montage Hotel.
5. The Planning Commission approved the B-2 Master Planned Development on March 14, 2007. The Montage is Phase I, while a second, residential, project will be Phase II.
6. The City Council approved the Parcel B-2 Empire Village Subdivision on March 29, 2007.
7. The proposed Hotel and Residences at Empire Canyon Resort record of survey plat is for a 174 room hotel with an additional 84 condominiums utilizing a total of **181.7 Unit Equivalents**. In addition, there is 59,765 square feet of Commercial Space (**59.8 Commercial UEs**) and approximately 15,000 square feet of meeting/conference space and lounge areas (up to 39,000 square feet or 5% of building allowed). Total square footage, excluding the garage, is approximately 780,173 square feet. For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.
8. The proposed record of survey is consistent with the approved Master Planned Development and Conditional Use Permit for Pod B-2.
9. Talisker will be signing the initial condo unit deeds (DV Luxury signing purchase agreements) as Grantors and getting payment with each condo unit sale. DV Luxury agrees each unit sale is subject to the transfer fee.
10. Ten Employee Housing Units (EHUs) totaling 6,235 square feet (**7.8 AUEs**) are provided within the hotel. The EHU units are platted as private space and are proposed to be owned by the Montage.
11. Five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted as Private and counts towards the unit counts and UEs.
12. Parking is provided at less than 75% of the Code requirement consistent with the Development Agreement.

Conclusions of Law:

1. There is good cause for this record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats and with the approved Master Planned Development and Conditional Use Permit for the Montage Resort and Spa at Pod B-2.
3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval of the record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and

content of the record of survey 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 record of survey 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.
3. All conditions of approval of the Montage Resort Master Planned Development and the Parcel B-2 Empire Village Subdivision plat shall continue to apply.
4. The long-term maintenance and UPDES permitting of the storm water detention units be identified within the Empire Canyon Post-Removal Site Control Plan and associated properties retaining deed restrictions, identifying the plan as the working institutional control. This plan shall be placed as an addendum to the Mine Soils Hazard Mitigation Plan along with the recorded deed restriction. Both DV Luxury Resort, LLC and Talisker Empire Pass Hotel, LLC shall sign this plan.
5. A plat note shall be added requiring the maintenance of the approved fire protection plan.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ___th day of ____, 2009.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

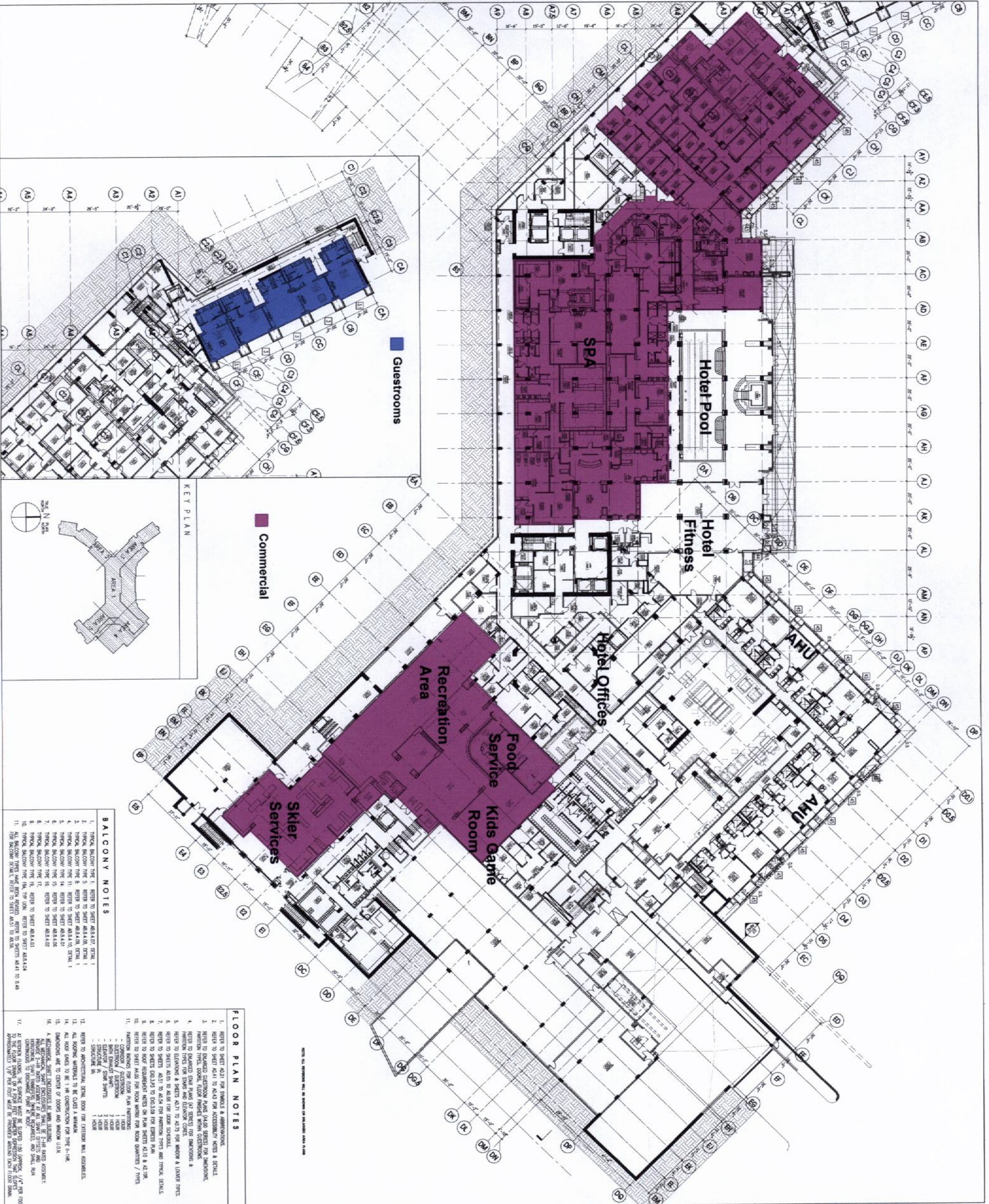
Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Exhibits

Exhibit A – Record of Survey plat



- BALCONY NOTES**
1. TYPICAL BALCONY TYPE 1. REFER TO SHEET A2.10.01, DETAIL 1
 2. TYPICAL BALCONY TYPE 2. REFER TO SHEET A2.10.01, DETAIL 2
 3. TYPICAL BALCONY TYPE 3. REFER TO SHEET A2.10.01, DETAIL 3
 4. TYPICAL BALCONY TYPE 4. REFER TO SHEET A2.10.01, DETAIL 4
 5. TYPICAL BALCONY TYPE 5. REFER TO SHEET A2.10.01, DETAIL 5
 6. TYPICAL BALCONY TYPE 6. REFER TO SHEET A2.10.01, DETAIL 6
 7. TYPICAL BALCONY TYPE 7. REFER TO SHEET A2.10.01, DETAIL 7
 8. TYPICAL BALCONY TYPE 8. REFER TO SHEET A2.10.01, DETAIL 8
 9. TYPICAL BALCONY TYPE 9. REFER TO SHEET A2.10.01, DETAIL 9
 10. TYPICAL BALCONY TYPE 10. REFER TO SHEET A2.10.01, DETAIL 10
 11. TYPICAL BALCONY TYPE 11. REFER TO SHEET A2.10.01, DETAIL 11
 12. TYPICAL BALCONY TYPE 12. REFER TO SHEET A2.10.01, DETAIL 12
 13. TYPICAL BALCONY TYPE 13. REFER TO SHEET A2.10.01, DETAIL 13
 14. TYPICAL BALCONY TYPE 14. REFER TO SHEET A2.10.01, DETAIL 14
 15. TYPICAL BALCONY TYPE 15. REFER TO SHEET A2.10.01, DETAIL 15
 16. TYPICAL BALCONY TYPE 16. REFER TO SHEET A2.10.01, DETAIL 16
 17. TYPICAL BALCONY TYPE 17. REFER TO SHEET A2.10.01, DETAIL 17
 18. TYPICAL BALCONY TYPE 18. REFER TO SHEET A2.10.01, DETAIL 18
 19. TYPICAL BALCONY TYPE 19. REFER TO SHEET A2.10.01, DETAIL 19
 20. TYPICAL BALCONY TYPE 20. REFER TO SHEET A2.10.01, DETAIL 20

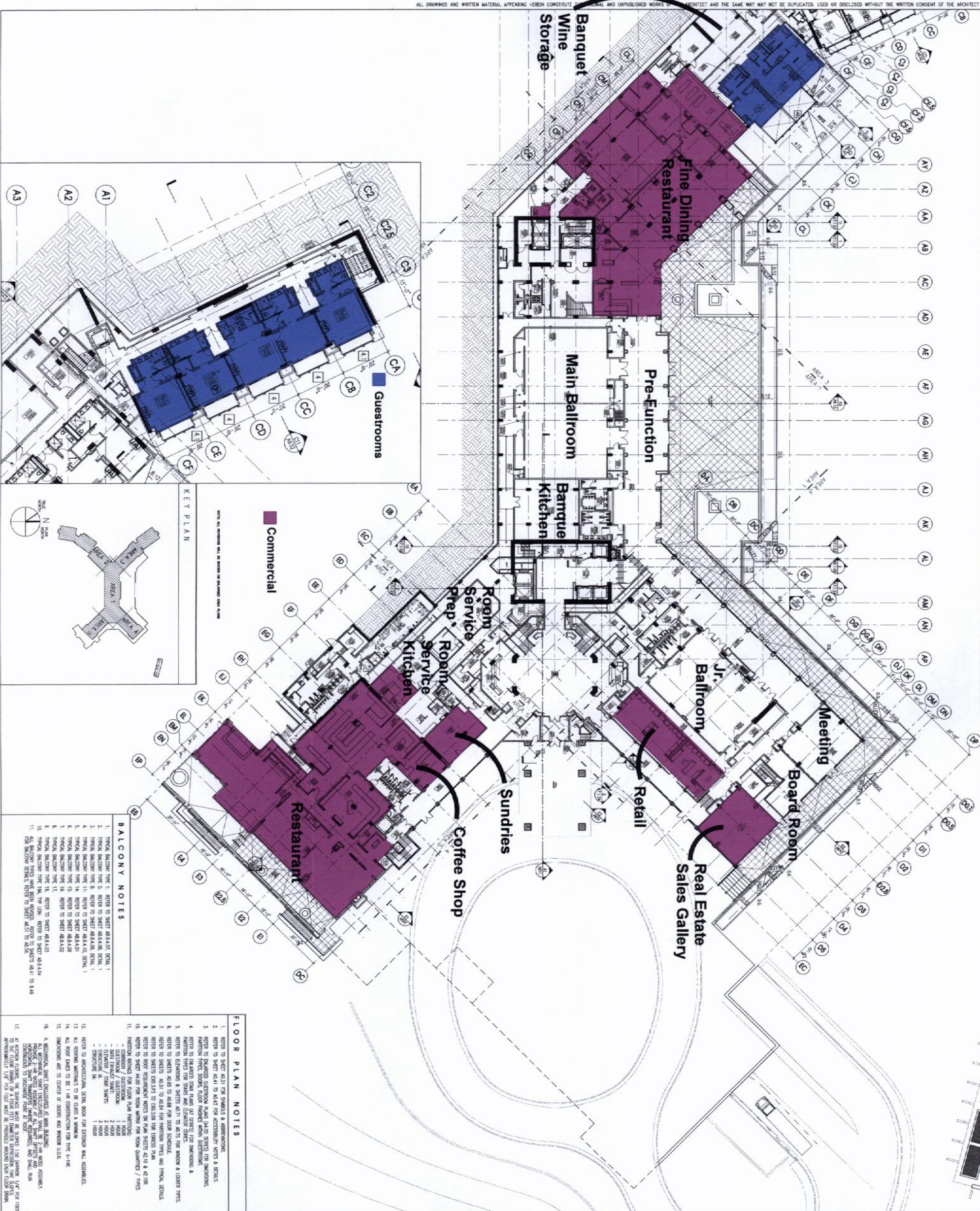
- FLOOR PLAN NOTES**
1. REFER TO SHEET A2.1 FOR SYMBOLS & ABBREVIATIONS.
 2. REFER TO SHEET A2.1 FOR ACCESSIBILITY NOTES & DETAILS.
 3. REFER TO BALANCED GUESTROOM PLANS (ALSO SEE) FOR DIMENSIONS, PARTITION TYPES, DOORS, FLOOR FINISHES, WINDOW TYPES, AND OTHER INFORMATION.
 4. REFER TO SHEET A2.1 FOR WINDOW & DOOR SCHEDULES.
 5. REFER TO SHEETS A2.1 TO A2.14 FOR WINDOW & DOOR TYPES.
 6. REFER TO SHEETS A2.1 TO A2.14 FOR WINDOW & DOOR TYPES.
 7. REFER TO SHEETS A2.1 TO A2.14 FOR WINDOW & DOOR TYPES.
 8. REFER TO SHEETS A2.1 TO A2.14 FOR WINDOW & DOOR TYPES.
 9. REFER TO SHEETS A2.1 TO A2.14 FOR WINDOW & DOOR TYPES.
 10. REFER TO SHEET A2.1 FOR ROOM NUMBER FOR ROOM DIMENSIONS / TYPES.
 11. PARTITION FINISHES FOR FLOOR PLAN FINISHES:
 - COMMON / RECEPTION: 1.000
 - OFFICE: 2.000
 - HOTEL: 3.000
 - ELEVATOR / CORE SHAFTS: 4.000
 - ROOM: 5.000
 - STRUCTURE: 6.000
 12. REFER TO ARCHITECTURAL SERIAL BOOK FOR EXTERIOR WALL ASSEMBLIES.
 13. ALL ROOMS UNLESS NOTED TO BE CLASS A UNLESS.
 14. ALL ROOF SLABS TO BE 1.00 CONSTRUCTION FOR TYPE 1-10K.
 15. DIMENSIONS ARE TO CENTER OF DOORS AND WINDOW U/LIN.
 16. ARCHITECTURAL SERIAL DIMENSIONS AT WALL CENTERLINE.
 17. ALL MECHANICAL, ELECTRICAL, AND PLUMBING SHALL BE 2'-0" BAYED ASSUMED. PROVIDE 2'-0" BAYED ASSUMED AT ALL SHEET CUTS AND CORNERS TO DOCUMENT FROM TO ROOM.
 18. AT RECEPTION FLOOR, THE SURFACE MUST BE SMOOTH, 1/4" RCP (100) POLISHED CONCRETE. PROVIDE 2'-0" BAYED ASSUMED AT ALL SHEET CUTS AND CORNERS TO DOCUMENT FROM TO ROOM.
 19. ALL ROOMS UNLESS NOTED TO BE CLASS A UNLESS.
 20. REFER TO SHEET A2.1 FOR ACCESSIBILITY NOTES & DETAILS.

MONTAGE-RESORT, SPA & RESIDENCES
PARK CITY, UTAH

NO.	DATE	DESCRIPTION
1	01/12/09	ISSUED FOR PERMITTING
2	02/12/09	ISSUED FOR PERMITTING
3	03/12/09	ISSUED FOR PERMITTING
4	04/12/09	ISSUED FOR PERMITTING
5	05/12/09	ISSUED FOR PERMITTING
6	06/12/09	ISSUED FOR PERMITTING
7	07/12/09	ISSUED FOR PERMITTING
8	08/12/09	ISSUED FOR PERMITTING
9	09/12/09	ISSUED FOR PERMITTING
10	10/12/09	ISSUED FOR PERMITTING
11	11/12/09	ISSUED FOR PERMITTING
12	12/12/09	ISSUED FOR PERMITTING
13	01/10/10	ISSUED FOR PERMITTING
14	02/10/10	ISSUED FOR PERMITTING
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63	03/14/14	ISSUED FOR PERMITTING
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95	11/16/16	ISSUED FOR PERMITTING
96	12/16/16	ISSUED FOR PERMITTING
97	01/17/17	ISSUED FOR PERMITTING
98	02/17/17	ISSUED FOR PERMITTING
99	03/17/17	ISSUED FOR PERMITTING
100	04/17/17	ISSUED FOR PERMITTING

HKS
HILL GLAZIER STUDIO
ARCHITECTS

RECEIVED
PARK CITY PLANNING DEPT.
APR 30 2009



- BALCONY NOTES**
1. TYPICAL BALCONY TYPE 1. REFER TO SHEET A2.01-10.
 2. TYPICAL BALCONY TYPE 2. REFER TO SHEET A2.01-11.
 3. TYPICAL BALCONY TYPE 3. REFER TO SHEET A2.01-12.
 4. TYPICAL BALCONY TYPE 4. REFER TO SHEET A2.01-13.
 5. TYPICAL BALCONY TYPE 5. REFER TO SHEET A2.01-14.
 6. TYPICAL BALCONY TYPE 6. REFER TO SHEET A2.01-15.
 7. TYPICAL BALCONY TYPE 7. REFER TO SHEET A2.01-16.
 8. TYPICAL BALCONY TYPE 8. REFER TO SHEET A2.01-17.
 9. TYPICAL BALCONY TYPE 9. REFER TO SHEET A2.01-18.
 10. TYPICAL BALCONY TYPE 10. REFER TO SHEET A2.01-19.
 11. THE BALCONY DETAIL REFER TO SHEET A2.01-10.

- FLOOR PLAN NOTES**
1. REFER TO SHEET A2.01 FOR SYMBOLS & ABBREVIATIONS.
 2. REFER TO SHEET A2.01 FOR ACCESSIBILITY NOTES & DETAILS.
 3. REFER TO DIMENSIONED DETAIL PLANS (ALSO SEE) FOR DIMENSIONS.
 4. REFER TO DIMENSIONED DETAIL PLANS FOR ELEVATION TYPES AND PARTITION TYPES FOR STAIRS AND ELEVATOR CORES.
 5. REFER TO ELEVATION & SHEET A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 6. REFER TO SHEETS A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 7. REFER TO SHEETS A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 8. REFER TO SHEETS A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 9. REFER TO SHEETS A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 10. REFER TO SHEETS A2.01 TO A2.75 FOR WINDOW & GLASS TYPES.
 11. REFER TO SHEET A2.01 FOR ROOM NUMBERING FOR ROOM QUANTITIES / TYPES.
 12. REFER TO SHEET A2.01 FOR ROOM NUMBERING FOR ROOM QUANTITIES / TYPES.
 13. REFER TO SHEET A2.01 FOR ROOM NUMBERING FOR ROOM QUANTITIES / TYPES.
 14. ALL ROOMS SHOWN TO BE CLASS A MINIMUM.
 15. DIMENSIONS ARE TO CENTER OF DOORS AND WINDOW ULSA.
 16. A. MECHANICAL SHUT ENCLOSURES AT MAIN BUILDING.
 17. AT KITCHEN STOODS, THE SURFACE MUST BE SLOPED 1/8" PER FOOT TO THE FLOOR DRAIN OR A FLOOR SLOPE DIMENSION SHALL BE SHOWN APPROXIMATELY 1/8" PER FOOT MUST BE PROVIDED AROUND DOWN FLOOR DRAIN.

MONTAGE-RESORT, SPA & RESIDENCES
PARK CITY, UTAH

HKS
HILL GLAZIER STUDIO

RECEIVED
APR 30 2009
PARK CITY PLANNING DEPT.

A2.01

Planning Commission Staff Report



Subject: Quinn's Water Treatment Plant MPD
Author: Kirsten Whetstone, AICP
Date: June 10, 2009
Type of Item: MPD Pre-Application- Public Meeting

Summary Recommendation

Staff requests that the Commission review and discuss the requested Master Planned Development at a pre-application meeting. Staff has drafted findings of General Plan compliance for the Commission's consideration.

Topic

Project Name: Quinn's Water Treatment Plant MPD
Applicant: Park City Municipal Corporation
Location: South of State Road 248 and North of the wetlands and Rail Trail at the intersection of Richardson's Flat Road
Zoning: Recreation Open Space (ROS)
Reason for review: Master Planned Developments require a pre-application public hearing and finding of compliance with the General Plan prior to submittal of an MPD for Planning Commission review and approval.

Background

On May 18, 2009, the City Water Department submitted an application for a Master Planned Development Pre-application meeting for a 28,745 sf water treatment plant facility to be located south of State Road 248 and north of the wetlands and Rail Trail at the intersection of Richardson's Flat Road in the Quinn's Junction area. Access to the property is via an easement from Richardson's Flat Road (Exhibit A).

The treatment plant is proposed on a metes and bounds parcel of approximately 20 acres owned by Park City Municipal Corporation. A subdivision plat is being prepared to formalize a 4.3-acre lot of record for the treatment plant and to identify existing access and utility easements. The property is currently vacant of structures, however a portion has been graded and paved with milled asphalt and is utilized for snow storage in the winter. Four paved surface parking spaces are proposed for treatment plant employees.

The property is located in the Recreation Open Space (ROS) zoning district. A portion of the property along State Road 248 also lies within the Entry Corridor Protection Overlay zone (ECPO). Essential public utilities, buildings, and facilities require a conditional use permit (CUP) in the ROS district. Projects with greater

than 10,000 sf of commercial or industrial floor area require approval of a Master Planned Development (MPD) prior to issuance of a building permit. The proposal includes a 20,980 sf building housing the water treatment plant, a 1,890 sf maintenance/shop accessory building, a future 4,800 sf pre-treatment building proposed for a second phase, and a 1,075 sf Clear well (underground water storage tank structure). The CUP can be processed simultaneously with the MPD. No specific architectural plans have been submitted.

The concept plan submitted with the pre-application MPD is the result of a comparative study by the Water Department of five potential sites for the Quinn's Water Treatment Plant (Exhibit B). According to the study this particular site best meets the overall site selection criteria.

Analysis and Discussion

Pre-application public meeting

The objective of a pre-application meeting is to determine whether the concept plan and proposed use are in compliance with the Park City General Plan. This finding of compliance is made prior to the applicant submitting a complete Master Planned Development application. As stated in the Land Management Code Section 15-6-4 (B):

“At the pre-Application public meeting, the Applicant will have an opportunity to present the preliminary concepts for the proposed Master Planned Development. This preliminary review will focus on General Plan and zoning compliance for the proposed MPD. The public will be given an opportunity to comment on the preliminary concepts so that the Applicant can address neighborhood concerns in preparation of an Application for an MPD.

The Planning Commission shall review the preliminary information for compliance with the General Plan and will make a finding that the project complies with the General Plan. Such finding is to be made prior to the Applicant filing a formal MPD Application. If no such finding can be made, the applicant must submit a modified application or the General Plan would have to be modified prior to formal acceptance and processing of the Application.”

Zoning

The underlying zoning is Recreation Open Space (ROS). Portions of the site along State Road 248 are within the Entry Corridor Protection Overlay. The property also lies within the Sensitive Lands Overlay (SLO).

The following are minimum lot and site requirements per the Land Management Code for development within the ROS zoning district:

	CODE REQUIREMENT	PROPOSED
SETBACKS:		
*FRONT:	25' (minimum of 100' to SR 248 ROW per ECPO)	Varies from 150' to 270'
*SIDES	25'	25' or greater
*REAR	25'	25' or greater
HEIGHT	28' plus 5' for pitched roof with a minimum slope of 4:12 The Planning Commission may grant additional height through the MPD review subject to compliance with the specific criteria. ECPO restricts building height based on setbacks from the Highway.	34'5" for a flat roof is requested due to the nature of interior mechanical equipment. Tentatively propose a flat, planted, living "green" roof. Proposed buildings do not comply with the ECPO height restriction of 25' for areas with 150' to 200' setbacks.
DENSITY	No Density requirements	28,745 sf of floor area- public utility use and utility support uses, such as offices, maintenance, and storage.
LOT SIZE/FLOOR AREA RATIO	No minimum lot size, no maximum floor area of Floor Area Ratio (FAR)	Approximate FAR of 0.153 (28,745 sf floor area /187,308 sf lot area)
OPEN SPACE	Minimum of 60%	Lot will be created to provide a minimum of 60% open space on the buildable lot with the remaining land dedicated as open space.

*Master Planned Developments require a 25' setback around the perimeter of the Lot, as well. Sensitive Lands and Entry Corridor Protection Overlays require additional setbacks as described below.

Purposes of the ROS zone include the following:

- A) Establish districts for land uses requiring substantial Areas of open land covered with vegetation and substantially free of structures.
- B) Permit recreational Uses and preserve recreational Open Space land.
- C) Encourage parks, golf courses, trails and other Compatible public or private recreational uses.
- D) Preserve and enhance environmentally sensitive lands.
- E) Encourage sustainability, conservation, and renewable energy.

Sensitive Lands Overlay

The proposed development area is located outside of the delineated wetlands. A minimum setback of 50 feet from wetlands and 20' from ditches is required. The access road and utilities can service the site without disturbing the wetlands. A storm water detention pond is proposed between the parking area and existing wetlands. Appropriate wetlands permits (Army Corp of Engineers) would be required prior to any approved construction that directly impacts delineated wetlands. A proposed storm water detention pond, being proposed to collect run-off from the pavement area, may need to be modified to comply with setbacks or otherwise be redesigned to protect and maintain the wetlands.

Entry Corridor Protection Overlay

The intent of the ECPO is to maintain the visual character of Park City as a mountain community with sweeping, attractive vistas. As such, additional building setback requirements apply to all structures on lots adjacent to or within 250' of the entry corridor highways, including SR 248. Access limitations also apply. Setbacks are established by the Planning Department based on a visual assessment of the Property, however in no case shall the setback be less than 100' from the highway right-of-way. Building Height restrictions apply for buildings located less than 200' from the ROW. Between 150' and 200' Building Height is restricted to 25' from existing grade.

The applicants are proposing two buildings. The main building is setback 150' to 270' from SR 248 right-of-way, and is proposed with a maximum height of 34' 5". Other portions of the building are lower. The main building does not comply with the ECPO requirements and also exceeds the zone height of 28'. A secondary maintenance building, setback approximately 180', has a maximum height of 20'.

Staff recommends that the buildings comply with the 250' ECPO setbacks and only then could the Planning Commission consider additional height during the MPD process.

Access

The property does not have direct access onto a public or private street. An access easement across two Utah Department of Transportation (UDOT) parcels and a

separate PCMC parcel to Richardson's Flat Road is proposed. No direct access to State Road 248 is proposed and the parcel does not have direct frontage on SR 248.

General Plan Discussion

The specific elements of the General Plan that apply to this project are included in the following analysis.

Goals

The General Plan, in the Community Direction section, establishes goals designed to address foreseeable problems and express community aspirations. The following key goals are applicable to the proposed Quinn's Water Treatment Plant:

- Preserve the mountain resort and historic character of Park City.
 - Future development should complement the existing historic and resort qualities of our mountain community.
 - New development... should be modest in scale and utilize historic building and natural building materials. New structures should blend in with the landscape.
- Preserve environmental quality, open spaces, and outdoor recreational opportunities.
 - Preserve an attractive, healthy environment with clean air and natural landscapes. To preserve the natural views of the mountains and meadows, new development... should be focused in less visible areas.
 - Retain maximum possible amount of natural vegetation, screen structures, and preserve natural quality of the landscape.
- Maintain high quality of public services and facilities.
 - Community should continue to provide excellence in public services and community facilities to meet the needs and desires of residents and visitors.
- Maintain the unique identity and character of an historic community

Site planning and architectural design of the water treatment plant are critical in meeting the above goals. To be consistent with the General Plan, the buildings should be sited to blend in to the natural environment, using historic and natural materials, preserving existing wetlands and water ways, and buildings should be situated in an unobtrusive manner using native materials, both existing and planted to further screen the buildings in a manner that preserves the view of the mountains and meadows from the entry corridor. Views from the rail trail of the buildings should also be considered. Architecture that is a reminder of Park City's history is appropriate in this area and for these uses. Special attention to the architecture is necessary to maintain the unique identity and character of Park City as an historic community. A water treatment plant in this area of town is critical in the provision of water service to meet the needs of residents and visitors.

Community Character Element

The project is located adjacent to the Highway 40/248 planning area, also in the vicinity of the Quinn's Junction planning area. New and commercial developments should be modest in scale and utilize historic and natural building materials.

Applicable "Developing Areas Actions" include:

- Promote the use of such building materials as wood siding, rock accents, earth tones, and metal roofs that have historic precedents in a mountain community context. *Metal siding similar to historic industrial buildings, such as the mining structures at Silver Star, would also be appropriate. Pre-engineered steel buildings without additional fenestration and detailing are not consistent with this element.*
- Minimize parking expanses between the street and the front facades of buildings. Require landscaped entries that connect with streets to provide easy, safe pedestrian access. *Parking, circulation, and paving are proposed to be located behind the building to be screened by the building as viewed from Highway 248. Additional screening of the building from Rail Trail views should be provided.*
- Minimize architectural styles and signage that are clearly not in keeping with the mountain resort (and historic) character of the community. *Pre-engineered/manufactured steel buildings, without vernacular fenestrations or detailing, are not consistent with this element of the General Plan.*
- On development near City entries, enact special controls regarding setbacks, landscaping, building mass, and character. *Entry Corridor Protection Overlay regulations regarding height and setbacks apply to the site. Landscaping for screening, architectural elements for character, and façade shifts to break up the building massing would be consistent with the General Plan.*

Land Use Element

The General Plan's Land Use Plan identifies the subject site as open space and identifies adjacent property as open space and undeveloped land. *The property is zoned ROS, also subject to the Sensitive Lands Overlay and the Entry Corridor Protection Overlay. Essential Municipal Public Utility Use, Facility, Service and Structures, greater than 600 sf, are conditional uses in the ROS zone to be reviewed for mitigation of potential impacts outlined in Section 15-1-10 of the LMC.*

- The General Plan discusses the following elements for development: architectural character, controlling lighting and size, requiring well-engineered streets, maintain pedestrian linkages from neighborhoods to commercial areas, minimize expanses of parking, enhance landscape buffers at street edge and at entrances, etc. *These items will need to be specifically addressed by the Master Planned Development and Conditional Use permit applications.*

- Community Design policies encourage comprehensive, efficient developments that consider overall impacts on surrounding properties. *Staff recommends final site plan and architectural design that considers the impacts of the proposed project on the surrounding open space, Rail Trail, and SR 248.*
- Specific policies include preserving wetlands, drainage ways and intermittent streams and incorporating them into developments as amenities. *There are wetlands and drainage ways on the property and opportunities to incorporate these elements as amenities in the project.*

Open Space Element

The Open Space element seeks to support a community preference for retaining the openness unique to Park City and avoiding the planning and development pitfalls that can result from urban sprawl. This element also incorporates visual preferences of residents regarding the value of a variety of types of open spaces, including the openness of entry corridors. *The MPD requires a minimum of 60% open space. The project includes a minimum of 60% open space.*

- Demand special attention to the entryway areas, including Highways 40, 224, and 248 with site planning parameters that create open space corridors. *The buildings are sited in a manner to be mostly obscured from Highway 248 by the topography of the site and the natural vegetation along the irrigation ditch that follows the Highway. Visual analysis from the highway corridors will be important during the MPD review process. Architectural character and detailing of the buildings will be critical as to whether the buildings blend in to the site and complement the open space experience. Compliance with Entry Corridor Protection Overlay setbacks and height regulations are recommended, however interior clearance requirements of the water treatment plant equipment may require consideration of additional building height. The MPD process allows variation in building height to accommodate architectural variation.*
- Consider all riparian areas as priorities for protection, and ensure riparian conservation areas at least 50 feet in width on each side of streams and wetlands. *The buildings are setback from the wetlands areas by a minimum of 50'.*

Environment Element

This element focuses on policies and actions that protect and enhance the environment, aesthetics, and unique natural resources of the community.

- Encourage comprehensive, efficient developments that consider the overall impact on surrounding properties. Phasing plans for such projects will be necessary to avoid the premature expansion of utilities and other public facilities. *The proposed project is an essential municipal facility. Adjacent land*

uses include open space, agricultural lands, recreation lands and trails, and undeveloped land. A 4,800 sf pre-treatment building on the southeast portion of the site would be a second phase. Utilities are generally available in close proximity to the site.

- Approve development only when adequate public services and facilities are available, or will be available when needed to serve the project. *Necessary utilities are available or nearby to service this building. One purpose of this project is to provide treatment for water in this area of town.*
- Exercise caution when disturbing or developing on soils that may have the potential of containing contaminants from previous mining operations. *The applicants submitted an environmental report that provides guidelines for special inspection and testing on the site as part of the development permit. The site is within the Prospector Soils Ordinance and those regulations will apply.*
- Wildlife habitat and migration routes should be considered in developments. *The applicants submitted an Environmental Report for the PCMC water pipeline interconnection and the Water Treatment Plant. Recommendations of the report should be taken into consideration during MPD and CUP review of the proposed development.*
- A balance must be maintained between development, recreational activities and the natural environment. It is important to work cooperatively with State and Federal government agencies to resolve issues. Environmental considerations must be part of the community planning, recreational development, and planning of large-scale events. *The proposed buildings meet the Sensitive Lands Ordinance required setbacks from wetlands. Disturbance for a proposed storm water detention pond that is not located more than 50' from the wetlands may need additional consideration during review of the Master Planned Development. The pond will be designed to enhance and safeguard the adjacent wetlands. Appropriate State and Federal permits will be required and obtained, as conditions related to construction of the infrastructure and houses.*
- Water resources, Air quality, Energy, Material Resources, and Aesthetics are important considerations for development in Park City. *The intent and goals of the proposed development include an awareness of the environmental issues raised in the General Plan. The conceptual plan sites the buildings on the least environmentally sensitive portion of the property on the flat area that is currently paved. There are several environmental constraints including wetlands, a 20' sewer easement, irrigation ditch, and SR 248. A green roof is tentatively proposed along with other energy conserving elements. Those specific elements will be further discussed during the MPD process. The proposal includes more than the required 60% open space.*

Department Review

The request was discussed at a Development Review meeting where

representatives from local utilities and City Staff were in attendance. Issues raised included constraints of the site, wetlands and access, existing utilities, entry corridor restrictions, need for a visual analysis, detailed architecture and scaled site plan. These items will be discussed in greater detail during the MPD review to resolve with revised plans and/or conditions of approval.

Notice

Property owners within 300 feet of the project were notified on May 27, 2009. The property was properly posted and legally noticed in the Park Record according to requirements of the Land Management Code.

Public Input

At the time of drafting this report, Staff has not received any public input. Public input is an important element of the pre-MPD application process.

Future Process

Following the direction of the Planning Commission, public input and finding of compliance with the General Plan, the applicant may submit a Master Planned Development application. The MPD application will address additional height, site and building design and compliance with requirements of the SLO and ECPO zones regarding wetlands and building setbacks and height. The applicant may submit an application for a Conditional Use Permit (CUP) for the specific uses concurrent with the MPD. An approval of this pre-application is the first step in the MPD process and focuses on General Plan and zoning compliance for the proposed MPD. Further public input is required with the MPD and CUP applications. Staff review of a Building Permit is neither publicly noticed nor subject to review by the Planning Commission unless appealed.

Recommendation

Staff recommends the Planning Commission open a public hearing, discuss the proposed Master Planned Development, and provide direction to the applicant and staff. Further, staff recommends the Planning Commission find the conceptual plan in compliance with the General Plan based on the findings of fact and conclusions of law outlined below.

Findings of Fact

1. On May 18, 2009, the applicant submitted a complete application for a Master Planned Development Pre-application meeting, for a 28,745 sf public water treatment plant and facility, including accessory utility uses, such as offices, maintenance, and storage.
2. Projects with greater than 10,000 sf of commercial or industrial floor area require approval of a Master Planned Development (MPD) prior to issuance of a building permit.
3. The proposal includes a 20,980 sf treatment plant, 1,890 sf maintenance/shop building, 4,800 sf pre-treatment building, 1,075 sf Clear

- well (underground tank structure).
4. No specific architectural plans have been submitted other than a concept that includes a metal building with a flat roof. A green, planted roof is being considered.
 5. The property is located south of State Road 248 and north of the wetlands and Rail Trail at the intersection of Richardson's Flat Road in the Quinn's Junction area. Access to the property is proposed via an easement across UDOT and PCMC parcels.
 6. A subdivision plat is being prepared to create a 4.3- acre lot of record for the proposed water treatment plant, with the remainder of the property to be dedicated as open space. Approval of the subdivision plat by the Park City Council is required as a condition precedent to Certificate of Occupancy.
 7. The proposed project is located in the Recreation Open Space (ROS) zoning district. The property is also subject to requirements of the Sensitive Lands Overlay (SLO) zone due to delineated wetlands on the site. The property is also in the Entry Corridor Protection Overlay (ECPO) zone.
 8. There are existing utilities nearby to serve the site. A major sewer line traverses the site within an existing 20' easement. Additional construction will be required to bring water lines to and from the site, including a line across (under) SR 248. The site is close to the Rail Trail and connecting bike paths and is located in close proximity to a future transit line.
 9. Surrounding uses include SR 248 and associated UDOT parcels, Richardson's Flat Road, PCMC open space parcels, agricultural and undeveloped land.
 10. The discussion in the analysis section is incorporated herein.
 11. As part of the pending MPD review process, the Planning Commission may require the submittal of a Construction Mitigation Plan prior to final action.
 12. A finding of compliance with the General Plan is required prior to submittal of applications for the Master Planned Development and Conditional Use permit. Compliance with applicable criteria outlined in the Land Management Code, including the ROS, SLO, and ECPO zones and the Master Planned Development requirements (LMC- Chapter 6) and review criteria for a Conditional Use Permit.
 13. Planning Commission action for General Plan compliance does not constitute approval of a Conditional Use Permit or Master Planned Development. Final site plan and building design are part of the conditional use permit and master planned development review. General Plan compliance allows an applicant to submit a formal MPD application for Planning Commission review.

Conclusions of Law

1. The pre-application submittal complies with the Land Management Code, Section 15-6-4(B) Pre-Application Public Meeting and Determination of

Compliance.

2. The proposed Master Planned Development concept complies with the Park City General Plan, as conditioned.

Condition of Compliance

1. The buildings shall comply with the Entry Corridor Protection Overlay zone height and setback regulations (LMC Section 15-2.20-5 (I)). The Planning Commission may consider additional height during the MPD process.
2. A site remediation plan and enhancement of sensitive lands shall be submitted with the MPD application addressing environmental issues such as soils and restoration and enhancement of wetlands.
3. Detailed site plan and architectural elevations shall be submitted with the MPD application. The site planning and architectural objectives shall be consistent with the Community Character and Land Use Elements and General goals as stated in the General Plan.
4. Land not necessary for the water treatment plant, accessory buildings and uses, and circulation, shall be dedicated as open space in perpetuity.
5. Wetlands and other environmentally sensitive lands on the property shall be maintained, enhanced and remediated as necessary per best management practices identified in the March 2009 Environmental Report.

Exhibits

- A. Conceptual Site Plan and Building plans
- B. Site Selection Study matrix
- C. Photos with building schematic from Rail Trail and SR 248



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- LEGEND**
- EC — STRAW WALL
 - CHECK DAM — CHECK DAM
 - DIRECTION OF FLOW — DIRECTION OF FLOW
 - FENCE LINE — FENCE LINE
 - DIRT ROADS — DIRT ROADS
 - STREAMS / DITCHES — STREAMS / DITCHES
 - EXISTING CONTOUR — EXISTING CONTOUR
 - LOD FENCE — LOD FENCE

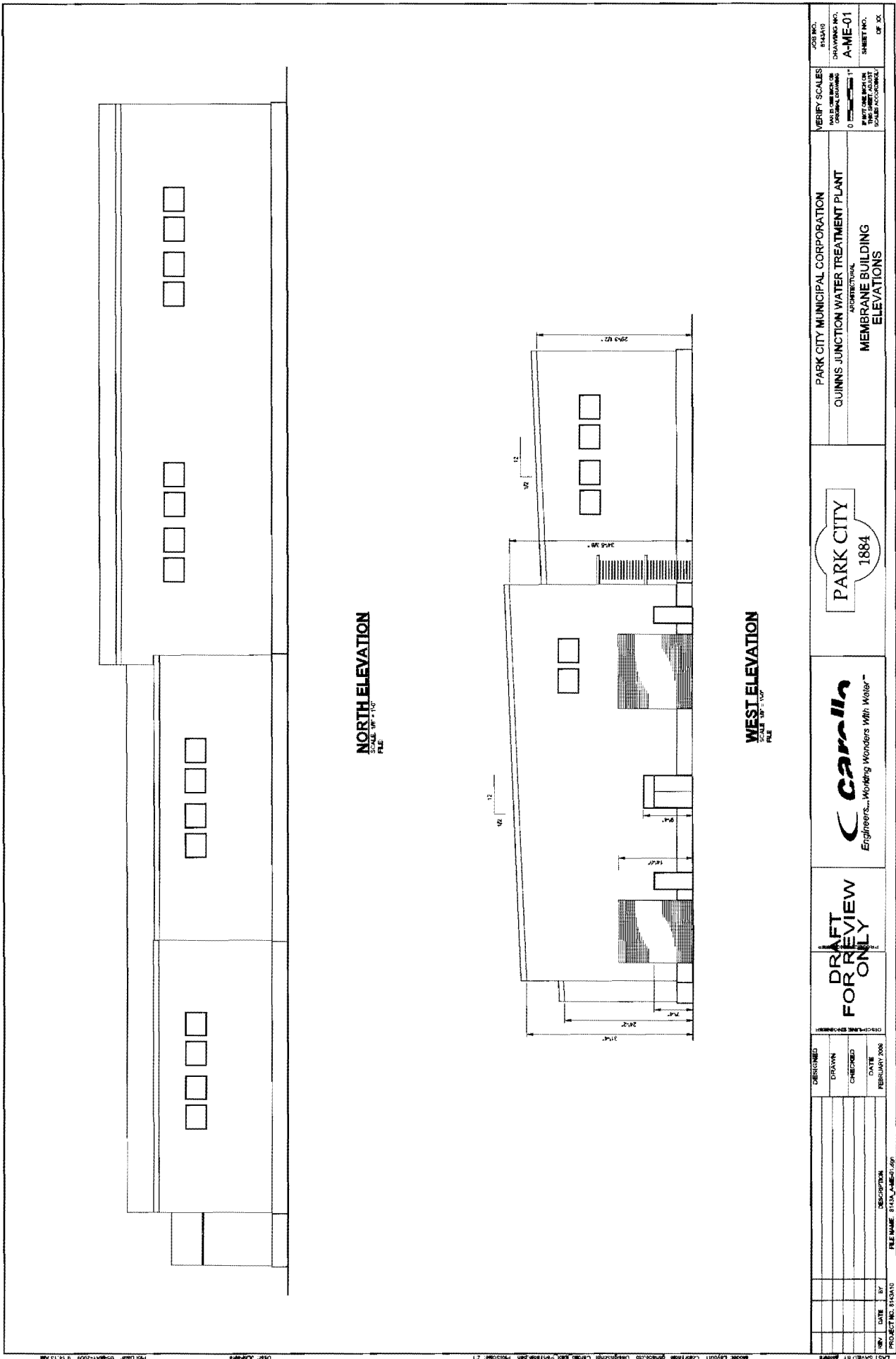


Revision	By	Check	Date	Description

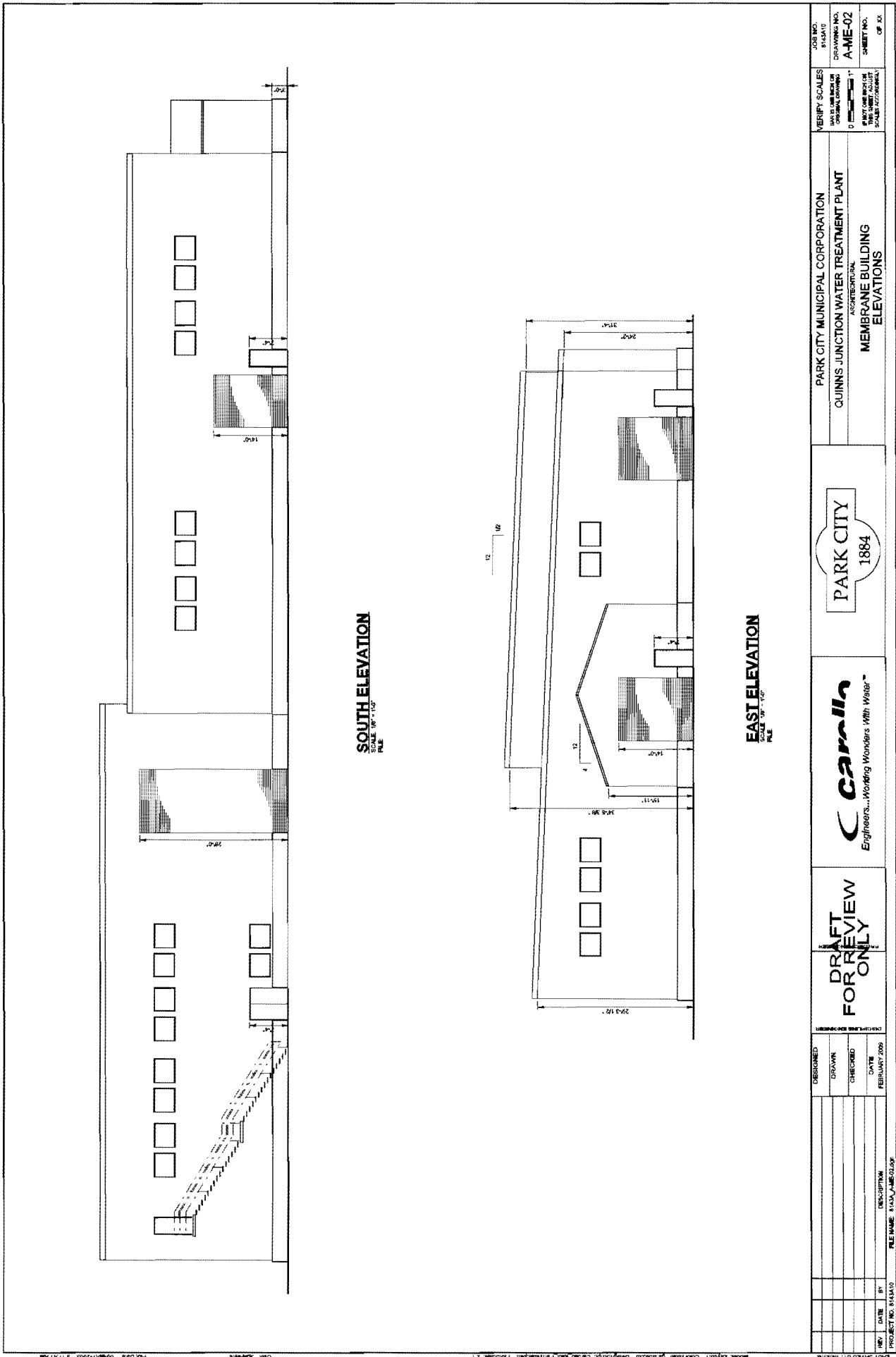
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 Project: Park City Municipal Corporation
 Phase 1 Raw Water Line
 Quinns Junction
 Construction Drawings
 Summit County, UT

THE WATER TREATMENT PLANT AREA

Project No: 18220851
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 Date: D-7
 30 of 36



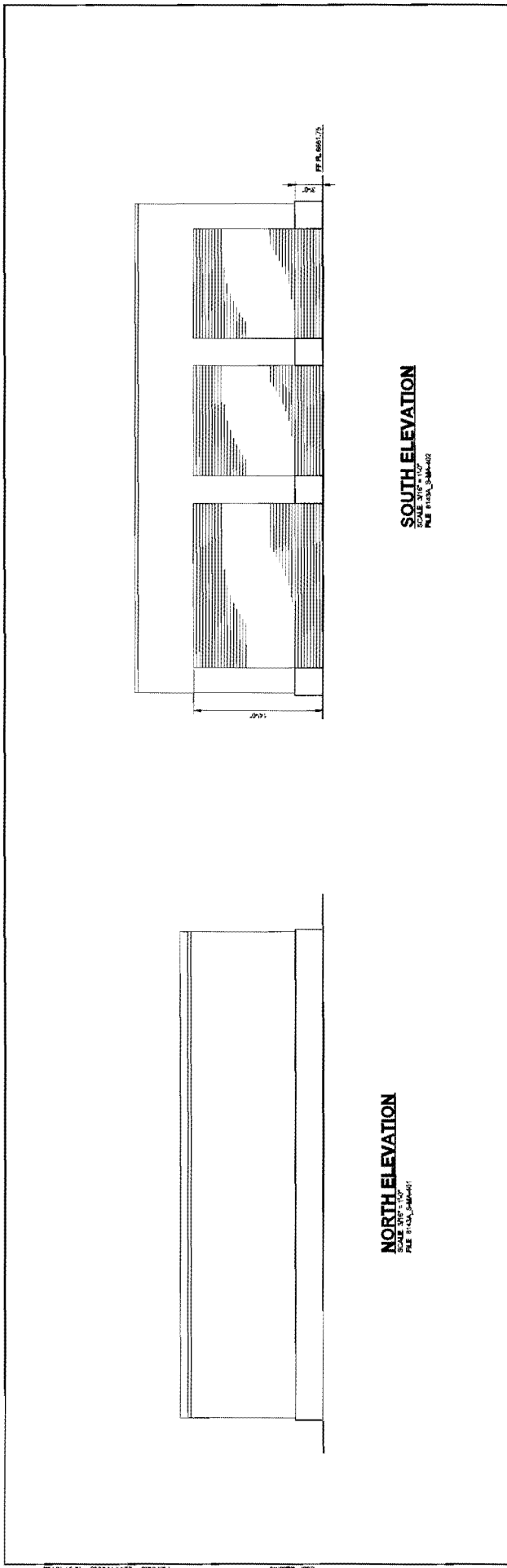
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SOUTH ELEVATION
SCALE 1/8" = 1'-0"

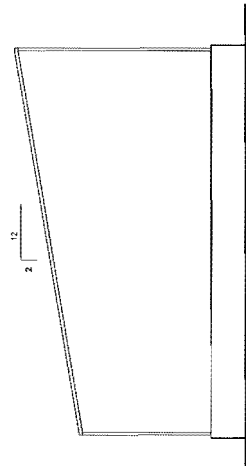
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PARK CITY MUNICIPAL CORPORATION QUINNS JUNCTION WATER TREATMENT PLANT <small>AS OPERATIONAL</small> MEMBRANE BUILDING ELEVATIONS			
DRAFT FOR REVIEW ONLY			
<small>VERIFY SCALES: HAS LAYOUT OR ORIGINAL DRAWING? D # NOT ONE IN EACH SCALE ACCORDINGLY</small>			

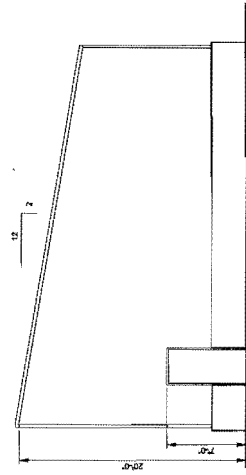


NORTH ELEVATION
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 FILE #14A_5MA-03

SOUTH ELEVATION
 SCALE 3/8" = 1'-0"
 FILE #14A_5MA-03



EAST ELEVATION
 SCALE 3/8" = 1'-0"
 FILE #14A_5MA-03



WEST ELEVATION
 SCALE 3/8" = 1'-0"
 FILE #14A_5MA-03

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DESIGNED CHECKED DATE FEBRUARY 2008	PROJECT NUMBER	CHECKED DATE FEBRUARY 2008	PROJECT NAME 14A_5MA-03
DATE BY	DESCRIPTION	FILE NAME	14A_5MA-03

Quinn's Junction Water Treatment Plant Site Matrix

Five sites were identified for potential location of the proposed water treatment plant. The matrix below provides information of estimated costs associated with each site.

Ranking	Site	Sewer Costs (Including 8-inch lateral length, manholes, asphalt replacement, trunk line relocation)	Additional Pipeline Connections to Quinn's Park Raw Waterline, Judge Tunnel Line, and Boothill Zone Line (length)	Cost for Borings Under Highway 248 (Number of Borings)	Misc. Costs	Total Costs for Sewer, Additional Pipeline, Boring, and Misc.	Planning & Zoning
1	1. PCA-9-95-N-X Snow Storage	\$131,500 (100 lf, also requires relocating 180 lf of existing sewer trunk line)	\$202,000 (2,700lf)	\$0	\$24,000 to buy out 1-year lease.	\$363,000	Snow storage would have to be relocated, lease on SS-95 would need to be purchased.
2	4. SS-95-1 & SS-95-B Cummins Gordon Wilson Jr	\$42,500 (1100 lf)	\$442,000 (5,900lf)	80,000 (2 borings)	\$24,000 to buy out 1-year lease.	\$589,000	Requires Sensitive Land Ordinance analysis. Lease on SS-95 would need to be purchased.
3	3. SS-92 Boyer-Plumb	\$6,250 (250 lf)	\$405,000 (5,400lf)	\$0	\$184,000 Access Road	\$595,500	Requires long access road to proposed building site across Erickson parcel.
4	5. IHC PCMC-5-X Burbs	\$78,000 (1200 lf, also requires asphalt patching on existing roadway)	\$1,080,000 (14,400lf)	\$80,000 (2 borings)		\$1,238,000	IHC annexation states lot is for City Recreation or Open Space only.
5	2. SS-92-A-X-X PCMC - Gilmore	\$7,500 (300 lf)	\$345,000 (4,600lf)	\$0		\$352,500	Designated open space, conservation easement.

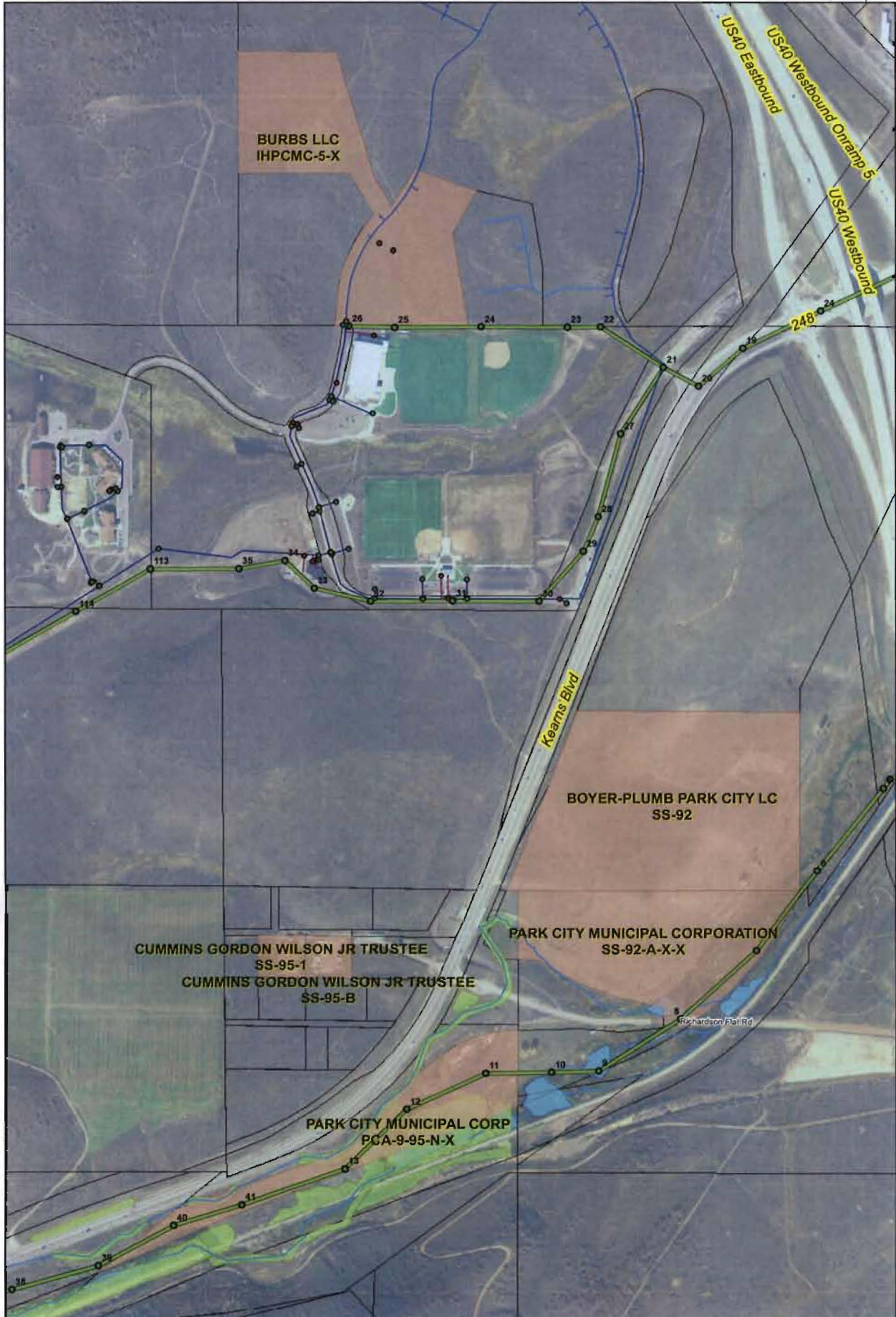
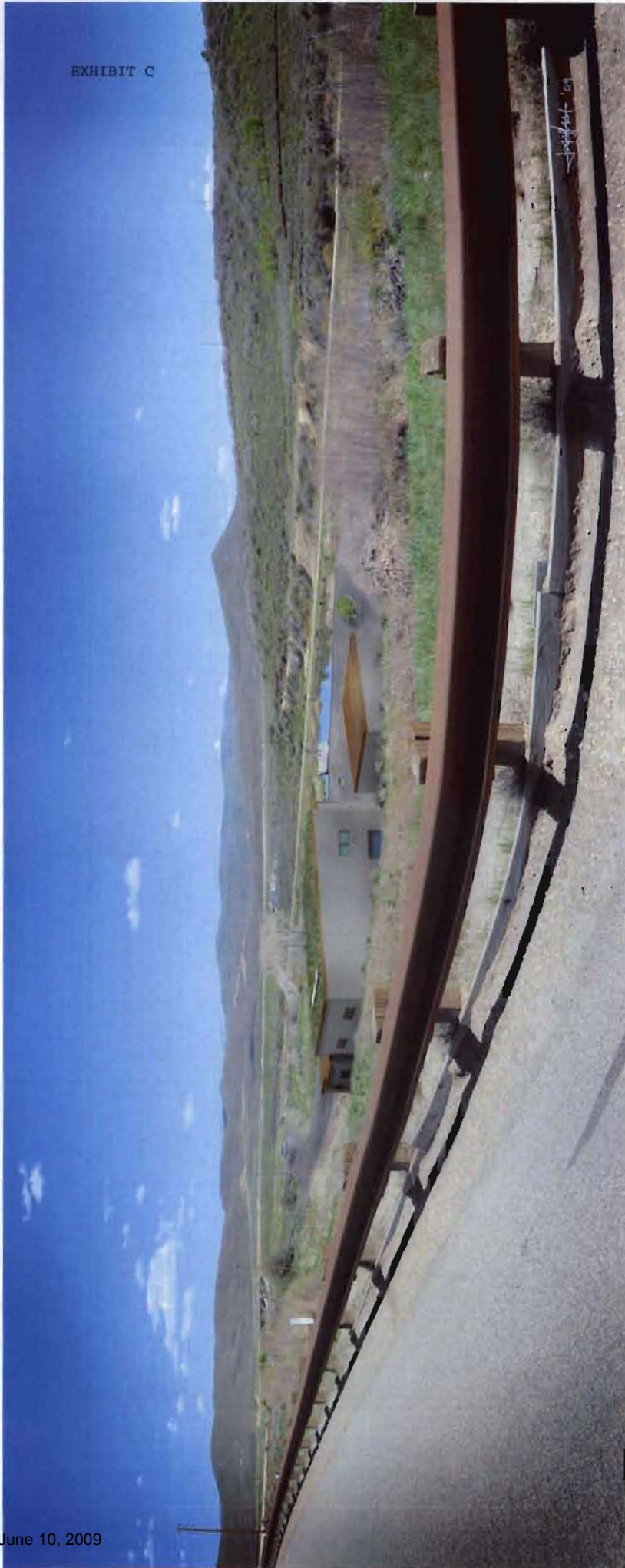


EXHIBIT C





Planning Commission Staff Report



Subject: King Ridge Estates- Construction in
Platted, un-built City Right-of-Way
Author: Brooks T. Robinson
Date: June 10, 2009
Type of Item: Administrative – Conditional Use Permit
Extension of Approval

Summary Recommendations

Staff recommends the Planning Commission re-open a public hearing and discuss the request for a one year extension of the approval of a Conditional Use Permit for a driveway in a platted, un-built City right-of-way. Staff has provided findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

Topic

Applicant: Silver King Resources, LLC
Location: 255 Ridge Avenue
Zoning: Historic Residential Low Density (HRL)
Adjacent Land Uses: Residential
Reason for Review: Conditional Use Permits, and extensions, require Planning Commission review and approval

Background

On October 3, 2006, the City received a completed application for Subdivision No. 1 Millsite Reservation plat amendment. The property is located at 255 Ridge Avenue (north of the switchback) in the Historic Residential Low Density (HRL) zoning district. The Planning Commission held numerous public hearings from February to September on the proposed plat. Concern was expressed on the use of platted, unbuilt Ridge Avenue right of way for a private driveway and the height of retaining walls that would be built for this driveway. At the April 25, 2007, meeting the Planning Commission directed the applicant to submit a Conditional Use Permit for construction of a driveway within unbuilt City ROW to address the standards of Land Management Code Section 15-3-5. The City received a completed application for the Conditional Use Permit for construction of a private driveway within a platted, un-built City street, on May 14, 2007. The application was heard on July 11 and July 25, 2007, and continued to a date uncertain.

Although on September 12, 2007, the Planning Commission forwarded a negative recommendation on the plat amendment, the City Council, after further staff analysis and amendments to the findings of fact and conditions of approval, approved the plat on October 25, 2007. The City Council included Condition of Approval #16 which states:

16. Applicant will seek a Variance or Special Exception for driveway grade in a platted unbuilt City Right of Way prior to proceeding with the Conditional Use Permit for driveway use of the right of way.

The Board of Adjustment, at a public hearing on December 18, 2007, granted a Special Exception to the LMC requirement (15-3-5 (A)) of a maximum grade of 10% within the City's right of way, in this case, the platted Ridge Avenue ROW north of the paved Ridge Avenue. Increasing the driveway slope to 14% (matching the private driveway standard) would reduce the height of the associated retaining wall another 4 feet over the 100 foot length.

On January 23, 2008, the Planning Commission opened the public hearing and requested larger copies of the exhibits. Due to publication and distribution problems, most of the Commission did not have adequate time to review the staff reports in detail for the 23rd's meeting so the Commission continued the item to February 13.

On February 13, 2008, the Planning Commission approved the Conditional Use Permit for construction within a platted, unbuilt right of way (Ridge Ave) with an expiration date of one year from the date of approval (minutes attached). On February 12, 2009, the City received a request for a one year extension of the approval for the driveway. No building permit has been received and no construction has taken place.

On May 27, 2009, the Planning Commission held a public hearing on the application for an extension of the approval of the CUP. The Commission continued the hearing to June 10th so that the minutes of the 2008 hearing and approval could be reviewed.

Analysis

The following analysis was included with the original approval. No change in the LMC or circumstances requiring mitigation has occurred, pursuant to LMC 15-1-10(G) which states in part:

“Unless otherwise indicated, Conditional Use permits expire one year from the date of Planning Commission approval, unless the Conditionally Allowed Use has commenced on the project. The Planning Commission may grant an extension of a Conditional Use permit for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact.”

Thus, the standard of review of an extension is if the “applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact.”

The Land Management Code (15-3-5) sets the following standards of review for the construction of private driveways within platted, unbuilt City streets.

(A) The driveway shall not exceed ten percent (10%) Slope.

Complies. A Special Exception was granted by the Board of Adjustment to increase the slope to a maximum of 14%.

(B) Adequate snow storage area along the downhill side and/or end of the driveway shall be provided.

Complies. The driveway is 19 feet wide with a two foot shoulder on the west side. The right-of-way is 35 feet wide with 14 feet from the edge of curb to the west edge of the right-of-way. With a 14% road slope, a structural retaining wall at the north end is unnecessary. Grade is met with a sloped boulder wall less than four feet in height. The boulder wall at the north end leaves 22 feet from the edge of asphalt to the north end of the property (extended). There is adequate snow storage between the driveways (downhill side) on the individual lots as well as at the north end of the driveway.

(C) The driveway must be paved with asphalt or concrete.

Complies. The driveway will be concrete.

(D) The driveway must not pre-empt any existing physical parking which may occur in the platted Street. If the platted Street has been improved to provide Public Parking, then any driveway proposal must replace such parking with new Public Parking of equal or better convenience and construction.

Complies. There is no formal parking along Ridge Avenue in this location. However, as Ridge Avenue makes the switchback, the City has used the wide area for snow storage and informal parking may occur. The driveway does not pre-empt any existing improved public parking.

(E) The driveway and related improvements such as retaining walls shall be designed and built to minimize present and future conflicts with public utilities and stairs.

Complies. There are no stairs currently or proposed in this location. Further north, platted Ridge Avenue has been vacated. No present or future utilities will be affected by the driveway.

(F) The driveway construction requires a Conditional Use Permit, Section 15-1-10.

Complies. This application is for the Conditional Use Permit. The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use, as conditioned, mitigates impacts of and addresses the following items:

(1) size and location of the Site;

No unmitigated impacts.

The Conditional Use Permit is for construction of a private driveway within a portion of platted, unbuilt Ridge Avenue. The driveway is approximately 100 feet in length and 19 feet in width.

(2) traffic considerations including capacity of the existing Streets in the Area;

No unmitigated impacts.

Ridge Avenue is a very low volume street with only two existing houses accessing directly onto Ridge. It connects upper Daly Avenue to King Road. The driveway will not affect the capacity of Ridge Avenue.

(3) utility capacity;

No unmitigated impacts.

The applicant has worked with the City Engineer to provide adequate utility service. Water, gas and electric service will be provided in the right-of way. A final utility plan is a condition of approval.

(4) emergency vehicle Access;

No unmitigated impacts.

The driveway is accessed from Ridge Avenue from either the west (King Road) or east (Daly Avenue) and adequate emergency access exists.

(5) location and amount of off-Street parking;

No unmitigated impacts.

The driveway does not require additional parking. The three houses proposed with the plat amendment will be required to provide on-site Code required parking.

(6) internal vehicular and pedestrian circulation system;

No unmitigated impacts.

The proposed driveway will be 100 feet long and serve three houses with individual driveways serving each house.

(7) fencing, Screening, and landscaping to separate the Use from adjoining Uses;

No unmitigated impacts.

The proposed driveway will be retained by a retaining wall with a maximum height of seven feet total above existing grade. A landscape plan that includes the driveway area and walls was submitted with the Steep Slope CUPs to help screen and mitigate the visual impact of the walls.

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

No unmitigated impacts.

The retaining walls for the proposed driveway will be within the existing right of way by approximately 10 feet. The driveway runs parallel to the edge of the right of way for a length of 100 feet. The Special Exception granted by the Board of Adjustment will reduce the visible mass of the retaining walls by lowering the road elevation another four feet over the 100 foot length.

(9) usable Open Space;

No unmitigated impacts.

The driveway is 19 feet wide within the 30 foot right of way allowing for open space and snow storage on either side and at the north end.

(10) signs and lighting;

No unmitigated impacts.

No signs are proposed. A stone column and tube steel guardrail system is proposed. Any lighting must be in compliance with the City's lighting requirements.

(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

No unmitigated impacts.

The driveway and retaining wall are smaller than any surrounding building. A landscape plan to mitigate the visual impact was submitted with the Design Review for the three houses.

(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

No unmitigated impacts.

This criterion does not apply.

(13) control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

No unmitigated impacts.

Delivery and service vehicles will be able to use the driveway and the three driveways to the proposed houses without blocking Ridge Avenue.

(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; and

No unmitigated impacts.

This criterion does not apply. However, the City will still maintain ownership of the right of way with an Encroachment Permit designating maintenance as the responsibility of the adjoining property owners.

(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.

No unmitigated impacts.

The site is not within the Sensitive Lands Overlay zone. The retaining walls steps down with the grade and will be screened by vegetation.

(G) An Encroachment Permit for the driveway is required.

Complies. The City Engineer has the authority to grant the Encroachment Permit and has indicated that he will do so.

(H) Private utilities, including snow melt devices, within the platted City Street require approval by the City Engineer.

Complies. Any private utilities and snowmelt devices are subject to the Encroachment Permit.

Department Review

This project has gone through an interdepartmental review. Issues that were brought up at that time have been addressed with revised plans or conditions of approval.

Notice

The property was posted and notice was mailed to the one property owner within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received at the time of this report.

Alternatives

- The Planning Commission may approve the extension to the Conditional Use Permit as conditioned or amended, or
- The Planning Commission may deny the extension to the Conditional Use Permit and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the extension to the Conditional Use Permit and provide specific direction to the applicant and staff.

Significant Impacts

There are no significant fiscal or environmental impacts to the City from this application.

Consequences of not taking the Suggested Recommendation

The Conditional Use Permit would expire and the driveway could not be built without going through the CUP process again.

Recommendation

Staff recommends the Planning Commission re-open a public hearing and discuss the request for a one year extension of the approval of a Conditional Use Permit for a driveway in a platted, un-built City right-of-way. Staff has provided findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

Findings of Fact:

1. The property is located at 158, 162, and 166 Ridge Avenue.
2. The zoning is Historic Residential Low density (HRL).
3. The approved plat combines lots 35-40 and 66-71, portions of lots 33 and 34 Block 75 of the Millsite Reservation to Park City, and the vacated half of Anchor Avenue adjacent to these lots into three lots of record and a parcel dedicated to Park City.
4. Access to the lots is via a private driveway in platted, but unbuilt Ridge Avenue north of the switchback.

5. A Special Exception was granted by the Board of Adjustment to permit a driveway slope up to 14%.
6. The driveway is 19 feet wide with a two foot shoulder on the west side. The right-of-way is 35 feet wide with 14 feet from the edge of curb to the west edge of the right-of-way. With a 14% road slope, a structural retaining wall at the north end is unnecessary. Grade is met with a sloped boulder wall less than four feet in height. The boulder wall at the north end leaves 22 feet from the edge of asphalt to the north end of the property (extended).
7. There is adequate snow storage between the driveways (downhill side) on the individual lots as well as at the north end of the driveway.
8. The driveway will be paved in concrete.
9. A snow melt system, if desired, requires an Encroachment Agreement to be approved by the City Engineer.
10. The staff findings in the Analysis section are incorporated herein.
11. On February 13, 2008, the Planning Commission approved the Conditional Use Permit for a driveway in a platted, un-built City right-of-way (Ridge Avenue) with an expiration date of one year from the date of approval to receive a building permit.
12. On February 12, 2009, the City received a request for a one year extension of the approval for the restaurant.

Conclusions of Law:

1. The extension of the CUP is consistent with the Park City Land Management Code.
2. The extension of the CUP is consistent Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. A final utility plan is required to be approved by the City Engineer prior to plat recordation and implementation of the Conditional Use Permit.
2. An Encroachment Agreement for the private driveway within the platted Ridge Avenue is a condition precedent to plat recordation. Said Agreement shall be approved by the City Engineer as to content and by the City Attorney as to form.
3. A landscape plan to mitigate the visual effects of the retaining walls is required to be submitted with a Steep Slope Conditional Use Permit or Historic District Design Review, whichever is first.
4. A snow removal plan is required to be submitted with a Steep Slope Conditional Use Permit or Historic District Design Review, whichever is first.
5. The retaining wall will be veneered with natural stone.
6. The City Engineer will review the transition slopes to the 15% grade.
7. Parking is restricted on the driveway.
8. The maximum height of the retaining wall can not exceed 6.87 feet above existing grade.
9. The Planning Commission will review the guardrail and lighting considerations at final design.

10. The Conditional Use Permit expires on February 13, 2010, unless a building permit has been granted.

Exhibits

Exhibit A – 11 x 17 Proposed site plan and elevations were distributed for the May 27th public hearing

Exhibit B – Minutes from February 13, 2008, Planning Commission hearing

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respond to emergencies within the subdivision, in a manner acceptable to the Chief Building Official.

8. A fire protection plan shall be provided with any building permit applications and a modified 13-D fire sprinkler system shall be required. A note to this effect shall be added to the plat prior to recordation.
9. Access to Lots 17 and 18 shall not be allowed from Royal Street, unless all conflicts can be mitigated to the satisfaction of the City Engineer.
3. **255 Ridge Avenue - King Ridge Estates**

Planner Robinson reported that this item was a continued discussion of a conditional use permit for construction in a platted, unbuilt City right-of-way. On January 23rd the Staff report was prepared; however, due to distribution and publications problems this item was briefly discussed and continued. At that time the Planning Commission requested larger detailed drawings.

Planner Robinson noted that the CUP is for a private driveway on Ridge Avenue in the Ridge Avenue right-of-way, which has been vacated to the north of this project. Therefore, the road could not continue through as a City street.

When looking at the plat amendment to combine a number of lots into three lots of record, the primary concern was the retaining wall proposed on the west side. The proposal has been modified a number of times, including going to the City Council with a suggestion to reduce the height of the wall by increasing the slope of the road going back into existing Ridge to the yellow house at 147 Ridge Avenue. The applicant has suggested dropping that road to a 14% grade through the private driveway area. Planner Robinson noted that this would drop the retaining walls from approximately 11-12 feet down to 7 feet. The proposed height has now been reduced to 4 feet because the applicant and engineers worked through different design proposals.

Planner Robinson presented a slide showing the retaining wall at its maximum height of 6.87 feet. He noted that the north end of the wall does not have to be boulders stacked at the end rather than an actual wall. Planner Robinson stated that there is adequate access for snow storage to the west side and to the north end. The Staff and applicant would like input from the Planning Commission regarding their preference for the type of wall material. The Staff recommended approval of this conditional use permit following a public hearing and direction from the Planning Commission.

Sean Marquardt distributed pictures to the Planning Commission showing that the most visible point of the wall would be between 85 King and 87 King. He noted that Gus Sherry, the project engineer, has recommended a ready rock wall. There are multiple color choices including sandstone colors. Mr. Marquardt also proposed a concrete wall with a sandstone rock veneer, which is a more expensive option than ready rock. Mr. Marquardt outlined the advantages of each option.

Commissioner Wintzer asked about the next step in the process if the Planning Commission approved this CUP. Planner Robinson stated that the Planning Commission could see this again. The conditions require a landscape plan and a steep slope conditional use permit. The Historic District Design review will be done by Staff. He noted that the Planning Commission has always been careful in their steep slope review and include comments that relate to the design elements.

Commissioner Peek asked if a Building Code guard rail is required for a four foot high wall. If not, he assumed a fence would be required. Planner Robinson replied that the Building Department would probably require some element based on the height. Commissioner Peek thought it would be helpful to hear Ron Ivie's opinion before moving too far forward with the design. Planner Robinson offered to include a guard rail discussion with the Chief Building Official and City Engineer during the steep slope CUP.

Commissioner Russack asked if the wall material would be determined at that same time. Planner Robinson stated that it would be an appropriate time to have that discussion. Commissioner Russack was comfortable agreeing with the specifics in that there is a guardrail and the retaining will be of some material strong enough to hold the height. He felt the design elements would be better served if they were addressed as a whole. Planner Robinson suggested adding a condition of approval stating that final design details will be required to be submitted with the steep slope conditional use permit.

Chair O'Hara opened the public hearing.

There was no comment.

Chair O'Hara closed the public hearing.

Commissioner Thomas understood that the applicant was granted an exception to the maximum slope from the Board of Adjustment. He wanted to know if that takes into consideration the transition slope at the top of the driveway. Mr. Marquardt answered no. He explained that the transition slope Commissioner Thomas referred was more of an embankment and then goes down hill. He believed the slope further above that is over the 10% in current Ridge and then it goes down to a 7% and then back to a 14% slope.

Commissioner Thomas stated his strong preference for natural stone veneers. In looking at the images provided by the applicant of walls around town, every wall is a stone veneer wall. He believes stone veneer fits into the fabric of the Historic District and suggested that it be stipulated in the conditions. Commissioner Thomas referred to the profiles and noted that he could see a maximum height based on the distance above grade. Commissioner Thomas felt the applicant worked hard and held on through the process and he was ready to move forward.

Commissioner Pettit referred to the analysis and the criteria for Number B, adequate snow storage, and asked for additional information as to how the Staff came to the conclusion that it is adequate based on the dimensions of the driveway and the 22 foot area at the toe of the driveway. She

understood that consideration was for using a heated driveway, but she was not comfortable making that finding without having more information on how they came to that conclusions.

Planner Robinson stated typically they look at being able to push the snow off to the side without cascading into someone else's property. He used a slide showing the driveways to the individual houses to demonstrate that there is quite a bit of separation between those driveways, as well as on the west side and past the wall and down towards the property lines of the houses on King Road. Planner Robinson felt the separation was more than what is typically seen in Old Town. In looking at the length and width of the driveway in platted Ridge and the amount of area around it to push snow, the Staff found that to be adequate.

Commissioner Pettit noted that the guard rails are proposed to be to the west and she wondered how they could push snow off the driveway. Planner Robinson replied that it would depend on the type of guardrail and what it looks like. Commissioner Pettit thought that pushing snow to the best would impact people on King Road in terms of it coming over and down into their property. Planner Robinson stated that the current design has 14 feet from the edge of the curb to the edge of the right-of-way and then the properties to the west. He noted that typically when you remove snow from a driveway some is pushed to the side but most of it gets pushed to the end, where they have greater area to store snow.

Commissioner Pettit recalled from prior discussions that a snow easement would be granted to the City for purposes of this general area. She asked if this was still the case. Mr. Marquardt replied that there are snow storage easements in that area and along the curb down to the Ridge Overlook. He noted that the developer for Ridge Overlook dedicate a lot of property to accommodate snow storage. Mr. Marquardt stated that snow storage easements have been allocated and as part of the encroachment agreement they are required to take care of their own snow storage removal on this extension of Ridge.

Commissioner Pettit asked if a heated driveway was still being contemplated. Mr. Marquardt replied that they are looking at a heated driveways. They are also looking at contacting property management companies and landscapers to have someone on retainer to shovel walks, even if the snow melt system is working. Mr. Marquardt believed the snow pack this year has opened everyone's eyes.

Commissioner Pettit referred to Criteria F, subparagraph 4, regarding emergency vehicle access. The language implies that by virtue of the fact that you can access the driveway up Ridge, that somehow satisfies the adequate emergency access. She commented on a number of days this winter where Ridge would not have been accessible to an emergency vehicle based on the way the snow fell and how it was plowed. Commissioner Pettit did not feel comfortable that there would be emergency access at all times.

Planner Robinson stated that the criteria does not speak to an unusual condition based on snow, but rather vehicular access for either a heart attack, fire, ambulance service, etc., to make sure emergency vehicles can get through public roads to reach the site.

Commissioner Pettit asked about the current parking regulations for Ridge Avenue. No one thought the parking was regulated and no signs are posted.

Commissioner Pettit recalled a previous discussion about restricting parking in the driveway; however, she did not see that addressed in a condition of approval. She wanted to make sure the driveway remains open for people to get in and out. Mr. Marquardt felt this was reasonable.

Commissioner Wintzer asked for the height of the wall at its highest point. Mr. Marquardt replied that the highest point is 6.87 feet on the very northwest corner. Commissioner Wintzer requested a condition of approval that references the height of the wall. Commissioner Wintzer noted that he had not seen a design of a storm drain. Mr. Marquardt identified the inlet for a storm drain on one of the drawings. The storm drain is culverted down to Daly Avenue. Commissioner Wintzer wanted a condition of approval that allows the Planning Commission to approve the design of the wall and the guardrail during the steep slope CUP. He agreed with Commissioner Thomas regarding the wall. He is not fond of stacked concrete blocks and he preferred to see a more traditional stone stacking.

MOTION: Commissioner Thomas moved to APPROVE the conditional use permit for a platted driveway on the unbuilt City right-of-way at Ridge Avenue for 255 Ridge Avenue, with the additional conditions of approval as follows:

- Condition #5 - That the retaining wall be veneered with natural stone.
- Condition #6 - That the City Engineer review the transition slopes to the 14% grade.
- Condition #7 - That parking is restricted on the driveway.
- Condition #8 - That the maximum height of the retaining wall not exceed 6.87 feet.
- Condition #9 - That the Planning Commission review the guardrail and lighting considerations at final design.

Commissioner Murphy seconded the motion.

VOTE: The motion passed 5-1. Commissioner Pettit voted against the motion.

Findings of Fact 255 Ridge Avenue

1. The property is located at 255 Ridge Avenue.
2. The zoning is Historic Residential low density (HRL).
3. The approved plat combines lots 35-40 and 66-71 portions of Lots 33 and 34 Block 75 of the Millsite Reservation to Park City, and the vacated half of Anchor Avenue adjacent to these lots into three lots of record and a parcel dedicated to Park City.
4. Access to the lots is via a private driveway in platted, but unbuilt Ridge Avenue north of the switchback.
5. A Special Exception was granted by the Board of Adjustment to permit a driveway slope up to 14%.

6. The driveway is 19 feet wide with a two foot shoulder on the west side. The right-of-way is 35 feet wide with 14 feet from the edge of curb to the west edge of the right-of-way. With a 14% road slope, a structural retaining wall at the north end is unnecessary. Grade is met with a sloped boulder wall less than four feet in height. The boulder wall at the north end leaves 22 feet from the edge of asphalt to the north end of the property (extended).
7. There is adequate snow storage between the driveways (downhill side) on the individual lots as well as at the north end of the driveway.
8. The driveway will be paved in concrete or asphalt.
9. A snow melt system, if desired, requires an Encroachment Agreement to be approved by the City Engineer.
10. The Staff findings in the Analysis section are incorporated herein.

Conclusions of Law - 255 Ridge Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code.
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 255 Ridge Avenue

1. A final utility plan is required to be approved by the City Engineer prior to plat recordation and implementation of the Conditional Use Permit.
2. An Encroachment Agreement for the private driveway within the platted Ridge Avenue is a condition precedent to plat recordation. Said Agreement shall be approved by the City Engineer as to content and by the City Attorney as to form.
3. A landscape plan to mitigate the visual effects of the retaining walls is required to be submitted with a Steep Slope Conditional Use Permit or Historic District Design Review, whichever is first.
4. A snow removal plan is required to be submitted with a Steep Slope Conditional Use Permit or Historic District Design Review, whichever is first.

5. That the retaining wall be veneered with natural stone.
6. That the City Engineer review the transition slopes to the 14% grade.
7. That parking is restricted on the driveway.
8. That the maximum height of the retaining wall not exceed 6.87 feet.
9. That the Planning Commission review the guardrail and lighting considerations at final design.
4. Affordable Employee Housing - Amendment to technical report for Empire Pass

Due to a conflict of interest, Commissioner Thomas recused himself from this item.

Planner Robinson reviewed the amendment request to the employee/affordable housing technical report. This report was originally adopted in December 2001 as one of the fourteen technical reports required with the master planned development of the Flagstaff annexation.

Planner Robinson stated that as they moved through the construction of what is now known as Empire Pass, the number of market units has exceeded the number of affordable housing units that were required to be constructed and fees paid. Planner Robinson reported that currently 96 unit equivalents have certificates of occupancy and another 102.3 in four projects which are Arrow Leaf A, Arrow Leaf B, Grand Lodge and the West Side Larkspur units. These units are occupiable but the landscape and grading has not been finalized because of the lateness of the installation due to weather. Once they hit 150, the Staff believes that before the next density increment is permitted, they would not allow further building permits of any kind.

Planner Robinson stated that the applicant Talisker/Park City Mines Company had requested an amendment initially to meet that commitment with units constructed, units under construction or units subject to a formal and complete application. The Staff disagreed, particularly with the last one, because no one knows what will finally get approved when an application is submitted. The Staff was not comfortable tying the density increment to an unknown.

Planner Robinson stated that in further discussions with the applicant, they talked about some type of financial guarantee. The Staff and applicant had worked out 11 point terms for an amendment to the technical report, which essentially requires a financial guarantee to be posted in the amount of \$2,160,000, which equates to \$140,000 per affordable unit equivalent.

Planner Robinson remarked that following the public hearing, they should consider amending the condition of approval by adding, "to include the following 11 items." Those items would be included into the filed conditions of approval.

Chair O'Hara wanted to know what would happen if the applicant would post a financial guarantee of \$2,160,000 and then decide it is easier to walk away from the guarantee and walk away from the

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: The Yard
Author: Francisco Astorga
Date: June 10, 2009
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staffs recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit (CUP) for one year for an Indoor Entertainment Facility and Commercial Parking Lot at 1251 Kearns Boulevard, The Yard, based on the findings of fact, conclusions of law, and conditions of approval as found in this staff report.

Description

Applicant: Mark Fischer, represented by Michael Sweeney
Location: 1251 Kearns Boulevard
Zoning: General Commercial (GC) with Frontage Protection Overlay Zone (FPZ)
Adjacent Land Uses: Commercial to east, south, and west; cemetery to the north
Reason for Review: Conditional Use Permits require Planning Commission review and approval

Background

On January 15, 2009 the City received a completed application for The Yard Conditional Use Permit (CUP). The property is located at 1251 Kearns Boulevard in the General Commercial (GC) zoning district with Frontage Protection Overlay Zone requirements.

The site was used in the past as a lumber yard until 2007. More recently, the property has been utilized as a Sundance Festival venue and other events, which has been reviewed and permitted by the City's Special Events Coordinator through a Special Event and/or Master Festival License. Part of the complex has been converted to house a medical office, a permitted use within the GC zoning district.

The applicant has indicated that they would like to utilize the site as an indoor and outdoor multi-purpose-use entertainment/recreation facility (14,110 square feet) with the capability to host parties, conferences, programmed events, dinner theater, retail, outdoor retail/food kiosks, indoor/outdoor storage spaces, meeting spaces, and private/commercial/public parties that can accommodate up to 300-plus parking spaces when necessary. They would also like to use the area of the rear parking lot as a commercial parking lot.

During the April 22, 2009 Planning Commission work session, the Commission provided the applicant feedback of the suggested mitigation of impacts as it applies to the two

conditional uses on site: an Indoor Entertainment Facility and a Commercial Parking Lot. The Planning Commission found the applicant's request appropriate given the nature of the events as well as the building (minutes attached as Exhibit E). The concerns expressed during this work session were the frequency of events, temporary nature of the request, leaving the conditional use open for a long period of time, landscape screening, timeframe of the approval, visibility of the storage facility, noise, submittal of detailed description, and application noticing requirements.

The applicant anticipates hosting events twice a month if the conditional use is granted. In the past the City's Special Events Coordinator has reviewed such events at the Yard and has had difficulties reviewing these through a Special Events Permit or a Master Festival License due to the nature of the activities as well as the necessary time outlined in the Park City Municipal Code to review these events.

Analysis

The LMC defines an Indoor Entertainment Facility as an establishment or enterprise for the purpose of amusing or entertaining persons for profit and generally contained within a Structure. Such Uses include, but are not limited to, theater, playhouse, cinema, performing arts, planetarium, discovery center, museum, or bowling alley.

A Commercial Parking Lot is defined as a Parking Lot in which motor vehicles are parked for compensation or for Commercial Uses.

Conditional Use Permit Criteria

The Planning Commission must review each of the following criteria in Land Management Code Section 15-1-10 when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

(1) Size and location of the Site

No unmitigated impacts.

The site is approximately 4.6 acres. The site is located on Kearns Blvd. (Highway 248) between Woodbine Way and Homestake Road. See Exhibit A for an aerial photograph of the site.

(2) Traffic considerations including capacity of the existing Streets in the Area

No unmitigated impacts.

The site is bounded by Kearns Blvd. (Highway 248), Homestead Road, and Woodbine Way. The road capacity and egress/ingress were sufficient to handle the traffic generated when it was an operating venue site during the Sundance Festival in 2008 and 2009.

(3) Utility capacity

No unmitigated impacts.

The site has existing sewer, electrical, and water service. Due to the previous activities/events held at the Yard, the applicant has demonstrated adequate capacity for the increased intensity. Staff finds that it has sufficient utility capacity as a

temporary conditional use. If the site is changed to a permanent facility then the utility capacity would need to be re-evaluated.

(4) Emergency vehicle Access

No unmitigated impacts.

The internal layout of the parking plan will need to be reviewed by the City Engineer and City Fire Marshall for compliance with applicable codes.

(5) Location and amount of off-Street parking

No unmitigated impacts.

The applicant has indicated that the parking area has enough room to handle 329 parking spaces. According to the LMC, an Indoor Entertainment Facility with the square footage of 14,110 will require seventy-two (72) parking spaces (5 parking spaces per 1,000 sq. ft.). The parking spaces are nine feet (9') wide by eighteen feet (18') long. The site plan (shown on Exhibit A) shows parking compliance as well as maintaining drive aisles that meet the spatial requirements of emergency vehicles. The LMC indicates that the minimum driving lanes within the parking area must be twenty-four feet (24') wide. The City Engineer supports this LMC requirement. Currently the medical office uses seven (7) parking spaces mandated by the LMC and located toward the front of the building.

(6) Internal vehicular and pedestrian circulation system

No unmitigated impacts.

In order to safely provide accommodation for pedestrians within the site, the vehicular access of the parking lot will need to be via Homestake Road while the pedestrian circulation system will be located at the entrance to the site directly off Kearns Blvd. leading to the various entrances to the building as well as the back parking lot. The site needs to be free and clear from any obstruction from the pedestrian area to the parking lot. Permanent use of the property must conform to requirements for landscaping, snow storage, lighting and screening.

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses

No unmitigated impacts.

The site is surrounded by a six foot (6') high chain link fence and is landscaped the same as when the site was occupied as a lumber yard. During the previous work session meeting the Planning Commission noted that if the vehicle storage becomes long term then the residential property located to the west should be properly screened with landscaping. Due to the temporary nature of the request, the Commission felt comfortable with the CUP to be reviewed once again within one year to provide an opportunity to re-examine the CUP and see how everything is working, including screening and fence material. Permanent use of the property must conform to requirements for landscaping, snow storage, lighting and screening. Chain link fences are prohibited in all zones except if approved by the Planning Director. Due to the temporary nature of the request the Planning Director has approved the existing material of the fence.

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots

No unmitigated impacts.

The existing buildings on site will not be changed with this application.

(9) Usable Open Space

No unmitigated impacts.

The site does not contain any usable open space. The property owner has worked in the past with the Building Department regarding compliance with the Soils Ordinance. Currently the paved areas are in compliance with such ordinance. A permanent use will require open space as required by the LMC.

(10) Signs and lighting

No unmitigated impacts.

The site has a legal non-conforming sign within the Frontage Protection Zone which has recently been updated. According to the site plan, there are three (3) proposed locations for lighting located towards the back of the site shining towards the parking area. Any proposed lights must meet Park City lighting regulations for height, type, wattage, and shielding.

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing

No unmitigated impacts.

The site has not changed since it was a lumber yard. The existing buildings on site will not be changed with this application.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site

No unmitigated impacts.

The applicant does not expect any issues that might affect people other than what is currently found in a commercial area. The site will need to comply with the Park City Noise Ordinance.

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas

No unmitigated impacts.

The site plans (Exhibit A) shows the drop-off, loading, and (screened) dumpster areas which are located east of the building. The access to these areas is through the front, off Kearns Blvd. The loading/unloading of the event equipment will take place prior and after the actual events making the area free and clear when pedestrians are utilizing the same area for circulation.

(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 unmitigated impacts.

This is planned to be a special events location. The ownership is a limited liability company and has no unusual affects on taxing entities.

**(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 site is not within the Sensitive Land Overlay Zone
No unmitigated impacts**

It is on relatively flat land and requires no slope retention and the buildings are pre-existing (no new buildings or remodeling on the outside on the buildings).

The Chief Building Official has reviewed the floor plan of the facility (Exhibit B) and reviewed the occupancy classification of the building. He has indicated Area A as a *Business* occupancy classification and therefore contains sufficient restroom facilities. Areas B - E on the same Exhibit have been identified as an *Assembly* occupancy classification, requiring one (1) restroom per seventy-five (75) square feet for each sex depending on the floor area being utilized for each event. The applicant requests to use temporary restroom facilities similar to that which is used for special events to meet this requirement depending on the events going on at the Yard.

Staff recommends that each time an activity takes place, the property owner submit a detail description of the event showing the square footage that will be utilized to determine the number of temporary restrooms that need to be accommodated as well as the placement of such facilities. The Chief Building Official has indicated the approval of the temporary restroom as long as the applicant can demonstrate that they can accommodate enough for the requested square footage. This submittal will need to happen at least ten (10) business days in advance of the event to allow the Planning, Building, and Engineering Departments to review such request. This detail description shall also indicate the internal vehicular and pedestrian circulation system as well as the control of delivery and service vehicles, loading and unloading zones.

Staff would also recommend putting a one (1) year approval on this CUP application to be able to evaluate the situation throughout the year as inspections take place to ensure compliance with City codes as well as any mitigation requested by the Planning Commission or any of the City Departments. After the one year temporary CUP, the Planning Commission would then review the mitigation of impacts once again and could extend the uses onward or make changes to the CUP.

The LMC outlines certain outdoor uses within the GC district that are reviewed administratively by the Planning Dept., under specific criteria. These outdoor uses include: Outdoor dining; Outdoor grills/beverages service stations; Outdoor storage and display of bicycles, kayaks, motorized scooters, and canoes; Outdoor events and music; and Display of merchandise. Any other types of outdoor use, activity, and special events, including outdoor entertainment must be approved through a Special Events application or a Master Festival License, which ever is applicable.

The applicant requests to utilize portions of the area not utilized as the required parking area as a Commercial Parking Lot. This area has been labeled as the existing shed structure. In order to accommodate for special events, particularly throughout the Sundance Film Festival events happening at the yard, the owner may choose to temporarily store these motor vehicles found in the commercial parking lot in the back lot, provided that it is not in conflict with any of the required parking.

Frontage Protection Zone Compliance

The LMC indicates that within the FPZ no structure shall be allowed within thirty feet (30') of the nearest highway right-of-way and that all construction activity in the setback area between thirty feet (30') and one hundred feet (100') from the nearest right-of-way (Kearns Blvd.) line requires a Conditional Use Permit. The existing building on the west side of the site is approximately fifty-five feet (55') away from Kearns Blvd. and the existing shed structure located towards the east is approximately eighty feet (80') away from Kearns Blvd. The applicant is not proposing to build any improvements within the FPZ area at this time.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report.

- The Planning Commission may approve the CUP as conditioned or amended; or
- The Planning Commission may deny the CUP and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on CUP.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The building would remain as is and all activities would follow the special events/master festival license procedure.

Recommendation

Staffs recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit (CUP) for one year for an Indoor Entertainment Facility and Commercial Parking Lot at 1251 Kearns Boulevard, The Yard, based on the findings of fact, conclusions of law and conditions of approval as found in this staff report.

Findings of Fact:

1. The property is located at 1251 Kearns Boulevard.
2. The zoning is General Commercial (GC) within the Frontage Protection Overlay Zone (FPZ).
3. The site is approximately 4.57 acres.
4. The site is bounded by Kearns Blvd. (Highway 248), Homestead Road, and Woodbine Way.
5. The site has existing sewer, electrical, and water capacity.
6. The parking area has enough room to handle 329 parking spaces.
7. An Indoor Entertainment Facility with the square footage of 14,110 will require seventy-two (72) parking spaces (5 parking spaces per 1,000 sq. ft.).
8. The medical office uses seven (7) parking spaces mandated by the LMC towards the front of the building.
9. The existing buildings on site will not be changed with this application.
10. The site does not contain any usable open space.
11. The property owner has worked in the past with the Building Department regarding compliance with the Soils Ordinance. Currently the paved areas are in compliance with such ordinance.
12. The site has a legal non-conforming sign within the Frontage Protection Zone which has recently been updated.
13. The site has not changed since it was a lumber yard. The existing buildings on site will not be changed with this application.
14. The applicant does not expect any issues that might affect people other than what is currently found in a commercial area. The site will need to comply with the Park City Noise Ordinance.
15. The site plans (Exhibit A) shows the drop-off, loading, and (screened) dumpster areas located east of the building. The access to these areas is through the front, off Kearns Blvd.
16. The loading/unloading of the event equipment will take place prior to the actual events making the area free and clear when pedestrian are utilizing the same area for circulation.
17. The ownership is a limited liability company and has no unusual affects on taxing entities.
18. It is on relatively flat land and requires no slope retention and the buildings are pre-existing (no new buildings or remodeling on the outside on the buildings).
19. The applicant requests to use temporary restroom facilities similar to that which is used for special events to meet this requirement depending on the events going on at the Yard.

Conclusions of Law:

1. The application complies with all requirements of the LMC;
2. The uses will be compatible with surrounding structures in use, scale, mass, and circulation;
3. The uses are consistent with the Park City General Plan, as amended; and
4. The effects of any differences in uses or scale have been mitigated through careful planning.

Conditions of Approval:

1. The number of events held at the site will not exceed twenty-four in a calendar year.
2. The internal layout of the parking plan must be reviewed by the City Engineer and City Fire Marshall for compliance with applicable codes. The driving lanes must be changed on the site plan to reflect the LMC requirement of twenty-four feet (24') minimum.
3. The parking lot must be accessed via the entrance on Homestake Road while the pedestrian circulation system will be located at the entrance to the site directly off Kearns Blvd as noted on the site plan (Exhibit A).
4. All uses must comply with the Park City Noise Ordinance.
5. The detailed submittal must be submitted to the Park City Planning Dept. at least two (2) weeks (ten business days) before any event for review and approval by the Chief Building Official and the Planning Dept.
6. All exterior lights must conform to Park City lighting regulations for height, type, wattage, and shielding.
7. Permanent use of the property must conform to requirements for landscaping, snow storage, lighting and screening.
8. This application expires one year after approval. The Planning Commission may review an extension of this approval to evaluate the conditions throughout the year as inspections take place to ensure compliance with City codes as well as any mitigation requested by the Planning Commission.

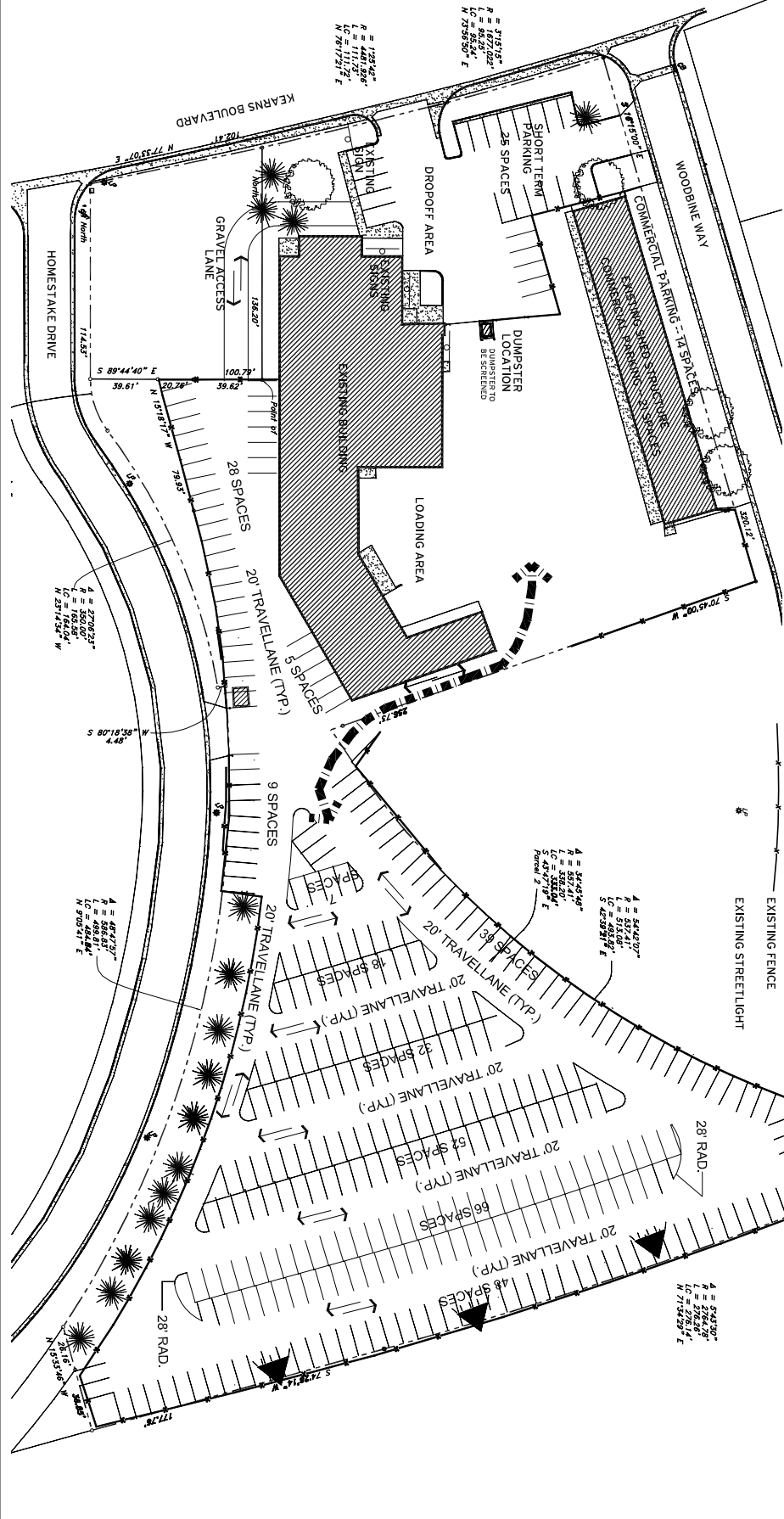
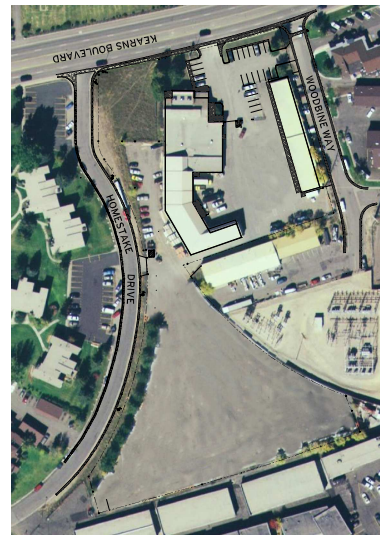
Exhibits

Exhibit A – Site Plan

Exhibit B – Floor Plan

Exhibit C – Applicant's letter

Exhibit D – Planning Commission minutes from April 22, 2009, work session



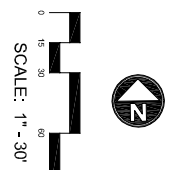
EXISTING CONDITIONS
SCALE: 1" = 100'

LEGEND

- SITE BOUNDARY
- PEDESTRIAN CIRCULATION
- VEHICULAR CIRCULATION
- EXISTING SIGNAGE
- PROPOSED LIGHTING
- LANDSCAPING
- EXISTING STREETFENCE
- EXISTING STREETLIGHT

SITE TABULATIONS

SITE ACREAGE	4.57 ACRES
BUILDING SETBACKS	10 FEET
PROJECT PARKING	329 SPACES
COMMERCIAL PARKING	35 SPACES
TOTAL PARKING	364 SPACES



DATE	ISSUE
05/29/2009	SUBMITTAL
PRELIMINARY SITE PLAN	
PROJECT NO. 083014	
DRAWING FILE: D:\LANDSOLUTIONS\ANDERSON	
DRAWN BY: PJS	PGS 0-1
CHECKED BY: PJS	
Copyright 2009, LANDSOLUTIONS PLANNING & DESIGN LLC	

LandSOLUTIONS
PLANNING & DESIGN

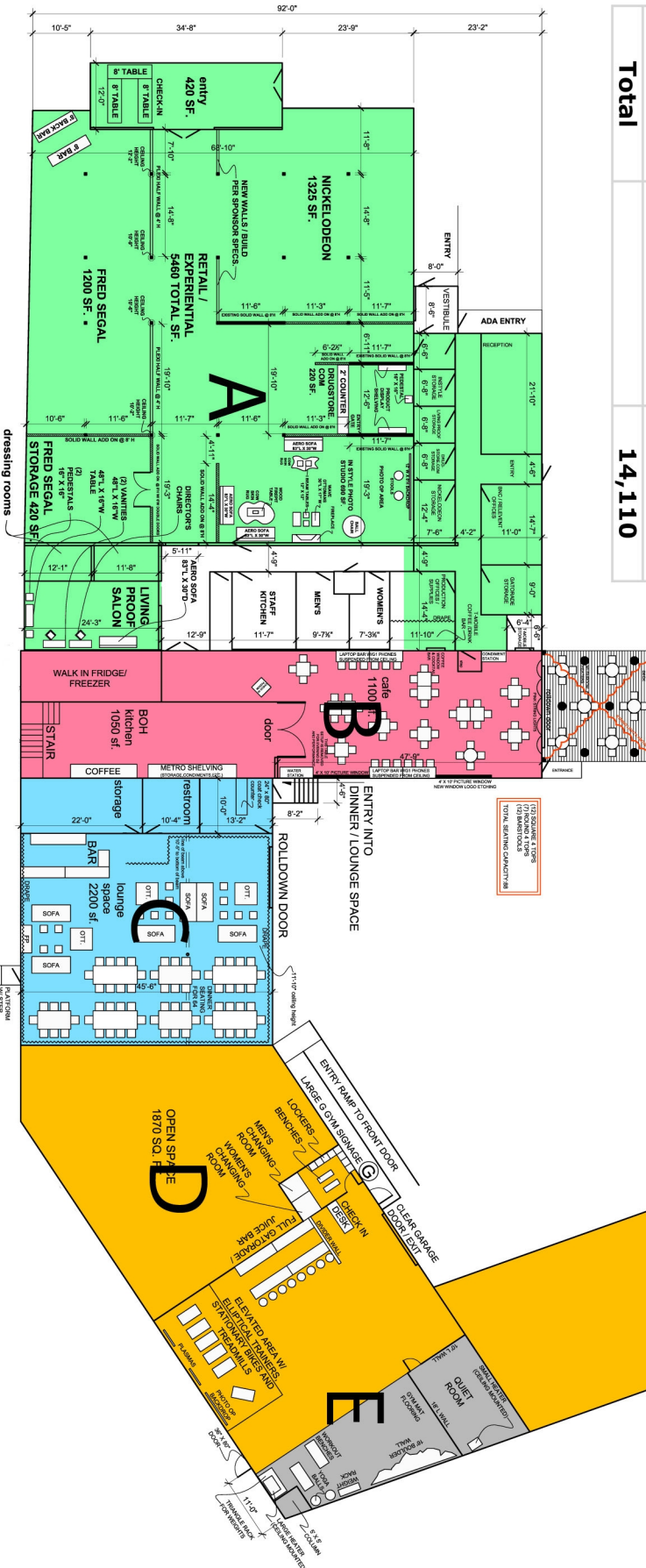
Post Office Box 683175
Park City, UT 84068
435.645.0623
peteg@landsolutionspc.biz

CONSULTANTS

THE YARD
PARK CITY, UTAH

Planning Commission - June 10, 2009

Area	Type of Space	Sq. Ft.
A	Office/Retail	5,460
B	Warehouse	2,150
C	Warehouse	2,200
D	Warehouse	1,870
E	Warehouse	2,430
Total		14,110



27 West 24th Street Suite 202
 New York, New York 10010
 Phone: 212.206.0690
 Fax: 212.206.0693

Event Title:
 The Yard
 Event Date:
 Jan. 16 - Jan. 20, 2009

Location:
 1251 Kearns Blvd.
 Park City, UT
 Guest Count:
 Day: 300 - 400
 Evening: 300 - 800
 (dependent)

Drawing Title:
 Sundanceclassifiers
 Revision Date:
 01/05/09
 Page of Pages:
 1 of 1

Planning Commission - June 10, 2009

Scale:
 1/20" = 1'-0" if printed at

New Ideas Company, Inc.

PO Box 2045
825 Main Street, Suite B
Park City, Utah 84060
Tel: (801) 244-9696
Email mesgold@yahoo.com

Exhibit D

January 14, 2009

Sent Via E-mail and Hand Delivered
Francisco Astorga
Park City Municipal Corporation
1255 Iron Horse Drive
P.O. Box 1480
Park City, Utah 84060-1480

Re: Response to October 14th e-mail from Francisco Astorga The Yard CUP.

Dear Francisco:

This letter addresses only the requested materials to be presented to the Planning Commission for the Yard CUP per your request and does not include materials for the Administrative Conditional Use or Allowed Uses (to be provided latter) required to accomplish the objective to create at the Yard: a indoor and outdoor multi-purpose-use entertainment/recreation facility [flexible, multi-purpose indoor and outdoor event space] with the capabilities of hosting parties, conferences, programmed events, dinner theater, retail, outdoor retail/food kiosk(s), indoor/outdoor storage spaces, meeting spaces, and private/commercial/public parties that can accommodate up to 400 plus parking spaces when necessary.

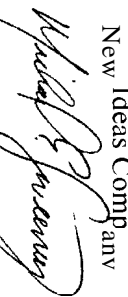
Required:

1. Accurate site planes) showing the location of each proposed use, (site plan to include the parking area) - see attached Exhibit B.
2. Building floor plan(s) with the location of each proposed use - see attached Exhibit C.
3. Written response to the criteria of each Conditional Use depending of its criteria - see below as part of this letter.

These following are the conditional uses and the categories they addressed in the LMC that require a written response with said response attached:

<i>hosting parties, conferences. meeting spaces. concerts. programmed events, dinner theater,</i>	Indoor Entertainment Facility (conditional use) - <i>note</i>
<i>indoor/outdoor storage spaces,</i>	<i>ionul</i> Retail and Service Commercial with Outdoor Storage (conditional Use)

Sincerely,

New Ideas Comp_{any}

 Michael E. Sweeney

cc: Mark Fisher



General:

1. The property consists of a building complex containing approximately 15,300 square feet; courtyard of half acre; covered and uncovered paved storage area and approximately three acres of paved open area (parking and events). Part of the complex has been converted to house the Peoples Health Clinic until its new building is built (late 2009) at the IHC hospital site Quinn's Junction Area.
2. Existing zone: GC w/FPZ (Frontage Protection Zone)
3. SLOZ (Sensitive Land Overlay Zone): No
4. Current use of the property: *small portion (1,000 sq. ft.) of building used to house the Peoples Health Clinic, host parties (with Special Event Permits), most of property is vacant, past use a commercial lumber yard.*
5. Total project area: 5 (5.25) acres
6. Number of residual units: n/a
7. Commercial area: *approximately 7,000 square feet*
8. Types of business activity: *Proposed to allow indoor and outdoor multi-purpose-use entertainment/recreation facility [flexible, multi-purpose indoor and outdoor event space] with the capabilities of hosting parties, conferences, programmed events, dinner theater, retail, outdoor kiosk(s), indoor/outdoor storage spaces, private/commercial/public parties that can accommodate up to 400 plus parking space when necessary. This revised application is requesting that the facility may contain meeting spaces, offices, health clinic, retail, indoor/outdoor storage spaces, outdoor areas for car shows, small carnival (air, other outdoor, entertainment activities and public/commercial/private parking which are uses recognized by the LMC and are either permitted or conditional. Underlined: permitted by either Special Event or Mater Festival License.*

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

Title IS LMC, Chapter I (E):

- (1) Size and location of the Site: approximately 5.25 acres, locations /251 Kearns Blvd. Park City, Utah, know as "The Yard". See Exhibit A.
- (2) Traffic considerations including capacity of the existing Streets in the Area: The Yard is bounded by Highway 248 "Kearns Blvd.", Homestead Drive, Woodbine Road, and Woodbine Way; the road capacity and egress/ingress ("3") are more than sufficient to handle any traffic generated as demonstrated when it was the Anderson Lumber Yard and The Yard during Sundance 2008 and 2009 (parking for special events and Sundance theatres).
- (3) Utility capacity: has excessive sewer, electrical (400+ amps three phase) and water capacity.
- (4) Emergency vehicle access: excellent.
- (5) Location and amount of off-street parking: See Exhibit B - 400+ parking – sufficient to handle all activities planned for The Yard.
- (6) Internal vehicular and pedestrian circulation system: See Exhibit B.
- (7) Fencing, screening, and landscaping to separate the Use from adjoining uses: the property is surround by a six feet high chain link fence and is landscaped same as when the property was occupied by Anderson Lumber. See Exhibits A and B.
- (8) Building mass, bulk, and orientation, and the location of buildings on the site; including

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PARK CITY
DEPT.

orientation to buildings on adjoining lots: Shown on Exhibits A and B.

- (9) Usable Open Space - approximately 3 acres of the 5.25 acres.
- (10) Signs and lighting: Except for the name change and removal of one sign same as when Anderson Lumber.
- (11) Physical design and compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing: Same as when it was Anderson Lumber- has not changed.
- (12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site: None.
- (13) Control of delivery and service vehicles, loading and unloading zones, and screening of trash pickup areas: delivery and service vehicles, loading and unloading zones are all on the Property (was commercial lumber yard) and trash area is screened.
- (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: NA - this is planned to be a special events location. The ownership is a limited liability company and has no unusual affects on taxing entities.
- (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 site is not in the Environmentally Sensitive Lands zone, it is on relatively flat land and requires no Slope retention and the buildings are pre-existing (no new buildings or remodeling on the outside of the buildings.



**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
April 22, 2009**

PRESENT: Chair Jack Thomas, Rory Murphy, Dick Peek, Julie Pettit, Evan Russack, Adam Strachan, Thomas Edgington, Francisco Astorga

1251 Kearns Boulevard, the Yard - Conditional Use Permit

Planner Francisco Astorga stated that the project being discussed in the Yard, located at 1251 Kearns Boulevard. The Yard is currently zoned GC, General Commercial. The applicant submitted an application for an indoor entertainment facility, as well as a commercial parking lot. Both uses are conditional in the GC zone.

Planner Astorga noted that the property was a lumber yard until 2007. Recently the property has been used for special events as permitted by the City's Special Events Coordinator through a Special Event/Master Festival license.

The Staff report contained the criteria for fifteen impacts that must be mitigated in order to grant a conditional use permit. Planner Astorga stated that building occupancy was a primary concern. The Planning Department and the applicant have met several times with Chief Building Official, Ron Ivie, to discuss the applicant's proposal for bathroom facilities that currently do not exist in the building. At this point, Ron Ivie finds the proposed bathroom facilities to be adequate for Area A, which the applicant has identified as an office/retail area. The concern relates to areas B, C, D and E, where there is only one restroom in Unit C. The property owner is proposing to have on-site temporary restrooms that have been used during special events/ Sundance as a way to fulfill that requirement for building occupancy.

The Staff requested input from the Planning Commission on this proposal. Planner Astorga stated that the Staff tried to formulate a plan with the property owner where depending on the type of event, the owner would come to the Planning Department and the Building Department with the number of people expected to attend. At that time, both departments would verify that there would be enough temporary facilities on-site to accommodate the patrons.

Planner Astorga noted that there are specific uses in the General Commercial that are approved administratively through Staff as indicated in the criteria. The Staff would review such requested uses to mitigate the impacts. If the Staff finds the event relates to a festival or an outdoor entertainment, they would work with the Special Events Coordinator and the special events/master festival license criteria.

Planner Astorga stated that this property is within the Frontage Protection Zone, which is the first 100 feet from the right-of-way. No construction can take place within the first 30 feet per the Land Management Code. Construction within the next 30 to 100 feet could be allowed through a conditional use permit. Planner Astorga pointed out that at this point the applicant was not requesting to construct a building. He noted that the existing structure, as well as the sign, is within the first 30 feet and is considered a legal non-complying structure.

Planner Astorga stated that the large area towards the back would be utilized as the main parking

area for this indoor entertainment facility, as well as a commercial parking lot where the property owner is requesting to store RV's, vehicles, boats, etc. The Staff finds that the area is large enough to accommodate that use.

Chair Thomas asked how often events would occur. Max Paap, Special Events Coordinator, stated that the frequency ranges from the ten period of Sundance to six to ten events such as high school graduation parties to, young riders bike swap, etc. Mark Fisher, the applicant stated that outside of Sundance, the events have mainly been non-profit fund raisers. He would like to promote events twice a month if the conditional use permit is granted. Chair Thomas felt it was logical to handle restroom facilities based on the need of a specific event rather than to rely on fixed features.

Mr. Fisher stated that within a year he plans to come back with an application for a permanent structure. The challenge is how to stage events without spending too much money. That is one reason for limiting the number of events. He does not intend to put in a kitchen given the life expectancy of the building. Chair Thoms believed this was a reasonable request.

Commissioner Strachan felt this was a perfect location for the types of events Mr. Fisher identified. He would eventually like to see a permanent structure that serves the same purpose.

Commissioner Murphy disclosed that he went to the site during the Film Festival at the request of Mr. Fisher to see how things were operating. Commissioner Murphy asked Mr. Fisher if this CUP application was prompted by issues during Sundance related to the restroom capacity of the existing facility. Mr. Fisher replied that they were well under the limits. It was only a four day event and the promoter brought in executive bathrooms. Mr. Fisher expected to do the same thing during this interim period. Commissioner Murphy agreed that the site is ideal for these types of events and the location keeps traffic away from other parts of the City.

Commissioner Peek supported the application; however he was concerned with leaving the conditional use open for a long period of time if the economy does not turn around. He was comfortable with the temporary use of the building and temporary sanitation. Commissioner Peek referred to the Code regarding off-street parking requirements. He noted that the property to the west is a residential use and the LMC calls for landscape screening. If the vehicle storage is long term, he felt the requirements in the LMC should be addressed. Commissioner Peek suggested a one-year limit on the conditional use permit.

Commissioner Pettit was supported the request and the proposed use. She agreed with Commissioner Peek regarding a one year review because it would provide an opportunity to re-look at the CUP and see how everything is working. Commissioner Pettit was concerned about the visibility of the storage facility and asked the applicant to consider those who frequent that area or reside in that area.

Mike Sweeney, representing the applicant, stated that the backyard is already screened by the trees planted along the side of the road. The storage is under the shed and stored items would not be visible from the street. Mr. Sweeney stated that lights would be installed in the back. Charlie Wintzer is allowing them to hook into his electrical system so nothing will have to be torn down in the future.

Commissioner Russack supported the use. He referred to the comment that each time an event takes place the owner must submit a detailed description to the Staff. He asked if there were any noise issues during Sundance and whether there was a specified ending time for events.

Mr. Fisher stated that there were no noise issues because all events were held inside the building. In the last two years, the only issue was traffic in the sense that trucks would use Homestead Road and get stuck in of the snow. Commissioner Russack about how noise would be mitigated during the summer for outdoor events. Mr. Fisher stated that the interior space would be used where there are natural sound barriers. Any event planned in the back would have to meet the Code.

Commissioner Russack supported the CUP application and favored a review in one year. He liked the idea of having the owner submit a detailed description of each event because it would allow the Staff to raise any issues that could potentially occur. Commissioner Russack wanted to know what would trigger the sign to become in compliance. Director Eddington replied that if the sign is not altered in any way it can remain legal non-conforming.

Commissioner Murphy asked about negative input from the Homestake Homeowners. Mr. Fisher recalled one compliant the first year during Sundance. He had no complaints this year. He has been coordinating efforts with Homestake and has allowed them to use his lot for parking. They are being good neighbors and he believes it has worked well so far. Commissioner Pettit asked if the Homestake Homeowners would be noticed when the CUP comes before the Planning Commission for approval. Planner Astorga answered yes and noted that anyone within three hundred feet would be notified.