

Treasure Comments

From: Nicole Deforge <ndeforge@fabianvancott.com>
Sent: Friday, November 03, 2017 6:34 PM
To: Francisco Astorga; Treasure Comments
Subject: Treasure Hill Comments - October 25, 2017
Attachments: THINC oct 25 comment letter.pdf; THINC affordable housing 2009.pdf

Dear Francisco,

Please include the attached with the public comments for the Treasure Hill conditional use permit application.

Thank you.

Nikki

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November 3, 2017

VIA E-MAIL (treasure.comments@parkcity.org)

Park City Planning Commission
P.O. Box 1480
Park City UT 84060

**Re: Treasure Hill Conditional Use Permit Application –
October 25, 2017 Planning Commission Meeting**

Dear Commissioners:

I am writing on behalf of THINC, a non-profit organization comprised of hundreds of Park City residents, business owners, and home owners. This letter is intended to supplement the public comments made on behalf of THINC at the October 25, 2017 meeting of the Planning Commission with respect to Project Number PL-08-00370, Treasure Hill Conditional Use Permit Application, Creole Gulch and Town Lift Mid-Station Sites.

Lack of MPD Compliance

In its October 11 and October 25, 2017 staff reports, the Park City Planning Staff correctly identified more than a dozen areas where the Applicant's most recent site plans, labeled as Refinement 17.2, "substantially deviates" from the Master Plan and "does not align with the original intent" of the Master Plan. These include the following:

1. use of retaining walls or cliffscapes that were not reflected in the SPMP;
2. location of retaining walls/cliffscapes outside of the Building Area Boundary as defined in the SPMP;
3. a different number of buildings and a different location for those buildings than approved in the SPMP;
4. inclusion of flat oriented amenities, like plazas and a swimming pool, that was not approved in the SPMP;
5. substantial re-grading of the site that was not reflected in the SPMP;
6. substantial excavation beyond what was reflected in the SPMP;
7. significant cuts towards the rear of each building, which were not approved in the SPMP;

ATTORNEYS AT LAW

8. buildings with cuts from existing grade that exceed the cuts reflected in the SPMP by 3-9 times;
9. fill zones that are different than those reflected in the SPMP;
10. excavation debris to be hauled to those fill zones over new roads to be built into the mountain rather than on a conveyor system, which is not consistent with the SPMP;
11. building heights significantly increased from the SPMP;
12. double the amount of support commercial space approved than what was approved in the SPMP.

Additionally, at the prior meeting, THINC addressed several other areas where Refinement 17.2 did not comply with the SPMP, namely:

1. that the proposed roads and fill on the property dedicated as Recreation Open Space (ROS) is contrary to the ROS designation and the conditions of the SMPM as it will not "preserve the mountain substantial intact and pristine" and will not "avoid cutting and removing significant evergreens existing on the site;" and
2. that the term lobby space as approved in the SPMP is synonymous with the terms accessory/circulation/common space as used in Refinement 17.2, but the square footage requested for accessory/circulation/common space in Refinement 17.2 greatly exceeds the approved square footage for lobby space in the SPMP.

Again, the first step in the Commission's analysis must be whether the current plans comply with the approved plans. This step must be kept purposefully separate from the analysis of the CUP criteria and the related issues of impact and mitigation. In the latest staff report alone, there are over a dozen areas where the current plans do not comply with the approved plans. Because the current plans do not comply with the approved plans, the application cannot be approved as a matter of law—no matter what the impacts are and no matter what mitigation might be proposed.

MPD Exhibits

The SPMP expressly states that "[t]he following plans and exhibits, in addition to this report and the project file, constitute the complete development permit." It then specifically references Exhibit 2 "Sweeney Properties Master Plan document and Fact Sheet, dated May 15, 1985," and Exhibit 3 "Sweeney Properties Master Plan Application." The Applicant was therefore fully on notice that these exhibits were part and parcel of the SPMP approval. And in the October 11 meeting, the Applicant directly acknowledged that it had both documents. The Applicant further agreed to provide a copy of Exhibit 3 to the City but to-date has not done so. Without Exhibit 3, the Commission cannot determine whether the current plans fully comply with the SPMP approval. If the Applicant chooses to withhold that document from the Commission, then the Commission has no choice but to conclude that the Applicant has not provided the information and documentation necessary for a finding of compliance with the SPMP.

Employee Housing and Affordable Housing

In its presentation at the October 25, 2017 Planning Commission meeting, the Applicant claimed that its current plans satisfied the requirements for employee housing and

affordable housing requirements imposed in the SPMP. In fact, as explained in the January 7, 2009 Planning Commission Staff Report, a copy of which is attached, those requirements were calculated based on only 19,000 square feet of commercial space as then proposed by the Applicant. Further, the Staff Report expressly stated: “The AUE calculations are based on the current proposed commercial/residential square footage. The AUEs are subject to change as the residential/commercial mix is refined.” (emphasis added).

The Applicant is now requesting double the amount of commercial space that was used to calculate the AUE requirements. If the Planning Commission approves the additional square footage beyond what was approved in the SPMP, which it legally cannot do at the CUP stage, then the Commission must also recalculate what is required under the relevant ordinances for employee housing and affordable housing based on the final approved amount of commercial space. The Applicant must then comply with those minimums as a condition for approval—not with what was required for a far smaller amount of commercial space than what it is currently seeking.

Compatibility

CUP Criteria 11 requires review of the “physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing.” At the meeting, the Applicant made a brief presentation regarding the architectural style of the project as compared with photographs of current and historic buildings in Park City, claiming that the project was compatible. Nothing in those photographs remotely resembles the mass, scale, bulk, and height of these buildings and structures in the proposed development. There are no 100-foot cliffscapes. There are no 10-11 story buildings dug down 135-feet into the mountainside. And, tellingly, there were no such structures proposed or approved in the SPMP. The buildings in Park City follow the natural grade and are stepped up the hillside. And that is precisely what was approved for this project. Instead, the Applicant intends to remove the entire hillside and destroy the natural grade not only within the building area boundary but also over acres of surrounding open space. The project is not remotely compatible with the Old Town and that impact cannot be mitigated.

Thank you again for your consideration of THINC’s concerns. We appreciate the opportunity to be heard.

Sincerely,


Nicole M. Deforge

Encl.
cc: client

Staff has reviewed the exhibits from the original MPD and found that measuring from existing grade is consistent with the MPD approval. The current design complies with the height limitations placed on the MPD, as shown in pages HL.1 and HL.2. Staff is awaiting a final analysis of compliance with the 90% requirement for the town lift mid-station. This requirement was not demonstrated in the recent application.

Within the current CUP application final grade is consistently lower than existing grade throughout the property. Extensive retaining walls set back from the buildings are proposed to create the new final grade. The applicant has brought the buildings lower into the hillside and lowered final grade in an attempt to create less massing above existing grade. By doing so the overall height of building walls is taller, but the massing above original existing grade is less. Exhibit A states the height restrictions and requirements from the original MPD.

V. Affordable Housing

Affordable housing requirements were stated within the tenth development parameter and condition of the original MPD. Number 10 states “As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application.”

Applicable Housing Resolution

Housing Resolution 17-99 was in effect at the time of application of the Conditional Use Permit. Under this Resolution the applicant is required to mitigate for impacts to affordable housing by satisfying the following requirements.

Affordable Housing Mitigation Requirements

- Fifteen Percent of the total residential units constructed shall be provided as Affordable Unit Equivalents.
- One Affordable Unit Equivalent shall be provided for 20 percent of the employees generated by the retail, restaurant, hotel and office components of the project.
- One Affordable Unit Equivalent is 800 square feet.
- The AUE calculations below are based on the current proposed commercial/residential square footage. The AUEs are subject to change as the residential/commercial mix is refined.

Table 1: Treasure Hill Housing Resolution 17-99 Analysis

Employee Generation (commercial)	17-99
a. Employees per 1,000 sf per Resolution	2.90
b. Proposed Square Feet Commercial per Applicant	19000.00
c. Total Employee Generation Projection (a x b)	55.10
d. Workers per Household per Resolution	1.30
e. Total Worker Households (c ÷ d)	42.38
f. Park City Mitigation Rate per Resolution	0.20
g. Employee Mitigation Required (e x f)	8.48
Subtotal: Affordable UEs (800 sq. feet) Required	4.24
Residential Development	
h. Proposed Residential Units per Applicant	100
i. Park City Mitigation Rate per Resolution	15%
Subtotal: Affordable UEs Required @ 800 sq ft. (h X i)	15
Employee Generation (hotel/commercial)	
j. Employees per hotel room per Resolution	0.60
k. Proposed Number of Room per Applicant	200.00
l. Total Employee Generation Projection (j x k)	120.00
m. Workers per Household per Resolution	1.30
n. Total worker households (l ÷ m)	92.31
o. Park City Mitigation Rate per Resolution	0.20
p. Employee Mitigation Required (n x o)	18.46
Subtotal: Affordable UEs Required	9.23
Total: Affordable Square Feet Required (Total AUEs x 800 square feet per AUE)	22,775.38
Total: Affordable UEs Required	28.47
Total: Affordable UEs proposed to be on-site	5.0
Outstanding AUES	23.47

Location of Affordable Unit Equivalentents

Affordable Unit Equivalentents (AUEs) shall be constructed on the project site, unless the developer can demonstrate to the Housing Authority compelling evidence (density or design) that the project should not accommodate on-site units. Subject to Housing Authority approval, the following alternatives, in order of preference are available:

- Construction of units within the Park City Limits
- Construction of affordable units within the Park City School District Boundaries
- Land donation
- Acquisition of off-site units
- Payment of in-lieu fees. The fee in effect at the time of application is \$59,828 per Affordable UE.

Proposed Housing Mitigation Plan

There are two key elements to the Applicant’s Employee Housing Plan.

1. The application is proposing 4,000 net square feet of on-site dorm style seasonal employee housing.

2. The applicant is requesting the option of providing an in-lieu payment to the City for the remaining affordable housing obligation. Attachment D is the Employee Housing Contribution Plan proposed by the Applicant.

On-Site Units

The Applicant is proposing 4,000 net square feet of seasonal dorm-style housing within the project and without increasing the building footprint or height. There is a significant demand in the community for seasonal housing in the community. It is the most difficult type of housing to encourage a developer to provide. The proposed 4,000 square feet would house approximately 26 employees or approximately 15 percent of the projected employees. The Applicant maintains that additional on-site employee housing would require additional density within the project site. As a result the Applicant is requesting the option to make an in-lieu fee payment for the remaining Affordable Unit Equivalents.

In-Lieu Fee

Recognizing that an in-lieu fee is the least preferred option in meeting the employee housing obligation, the Applicant voluntarily offered to meet the more stringent requirements of Housing Resolution 20-07. While this option does not result in any additional AUEs provided by the Applicant, the in-lieu payment option, if approved, would increase significantly. Under Housing Resolution 20-07 the in-lieu payment for the remaining required AUEs would be \$3,569,093. The in-lieu payment under Housing Resolution 17-99 for the remaining required AUEs would be \$1,404,163. One-half of the in-lieu fee shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the market rate project. The remainder of the fee shall be paid before a certificate of occupancy (temporary or permanent) is issued for any unit in the Residential Development.

Payment of in-lieu fees may be approved if in the Housing Authority's determination (1) no other alternative is feasible, (2) such a payment would result in more immediate development of housing or (3) such a payment would leverage additional resources. The Applicant is proposing an in-lieu payment for the remaining outstanding 18,775 square feet. Assuming an average per unit size of 1,200 square feet this is equivalent to 15.6 affordable units with a construction cost excluding land of approximately \$240,000. The proposed in lieu fee of \$3,569,033 would fund the full construction of a nearly equivalent number of units (14.8 units). The proposed in-lieu payment could be used as a source of construction funding and subsidy for the redevelopment of the Park Avenue Fire Station/Woodside Avenue Senior Center sites for which we are beginning a master plan. Initial concepts include a mix of affordable units along with a Senior Center. While the project is still very conceptual, it is likely that at least 15 units would be programmed within this area. Targeting the in lieu fee to this project does not increase the total supply of affordable housing in Park City because units are already anticipated on this site. The availability of the in lieu fee does, however, significantly increase the affordability of these units thus creating a greater range of housing affordability. While this would be a significant benefit to this project and to the range of affordable housing options in Park City, it does shift the burden and risk for the development, sales and or lease up and management of these units from the Applicant to the City.

Comparison of Housing Resolution 17-99 and 20-07 Housing Mitigation

Employee Generation (commercial)	Resolution 17-99 AUE = 800 sq. ft	Resolution 20-07 AUE = 900 sq. ft
a. Employees per 1,000 sf per Resolution	2.90	2.9
b. Proposed Square Feet Commercial per Applicant	19000	19000
c. Total Employee Generation Projection (a x b)	55.10	55.10
d. Workers per Household per Resolution	1.30	1.5
e. Total Worker Households (c ÷ d)	42.38	36.73
f. Park City Mitigation Rate per Resolution	0.20	.20
g. Employee Mitigation Required (e x f)	8.48	7.35
Subtotal: Affordable UEs Required	4.24	3.67
Residential Development		
h. Proposed Residential Units per Applicant	100	100
i. Park City Mitigation Rate per Resolution	15%	15%
Subtotal: Affordable UEs Required (h X i)	15	15
Employee Generation (commercial)		
j. Employees per hotel room per Resolution	0.60	.60
k. Proposed Number of Room per Applicant	200	200
l. Total Employee Generation Projection (j x k)	120	120
m. Workers per Household per Resolution	1.30	1.5
n. Total worker households (l ÷ m)	92.31	80
o. Park City Mitigation Rate per Resolution	0.20	.20
p. Employee Mitigation Required (n x o)	18.46	16.0
Subtotal: Affordable UEs Required	9.23	8.0
Total: Affordable Square Feet Required (Total AUEs x square feet per AUE)	22,775.38	24006.00
Total: AUEs Required	28.47	26.67
Total: Affordable AUEs proposed to be on-site	5.0	4.44
Total outstanding AUES proposed for in lieu fee	23.47	22.23
In-Lieu Contribution per AUE per Resolution	\$59,828	\$160,553
Total: Proposed In-Lieu Contribution (In lieu contribution x outstanding AUES)	\$1,404,163	\$3,569,093

Note: The AUE calculations are based on the current proposed commercial/residential square footage. The AUEs are subject to change as the residential/commercial mix is refined.

Staff is requesting that the Planning Commission discuss and provide input to Staff on the Applicant's proposed housing plan. This input will be forwarded to the Housing Authority to be considered as part of their review and determination. In particular, Staff is asking for Planning Commission input on the following issues:

1. **On-site units.** The Applicant is proposing 4,000 square feet, or 17% of their obligation, to be provided on-site. The Applicant maintains that providing additional units will require additional density on the site. *Is the Planning Commission comfortable with this general level of on-site units? If not, is the Planning Commission will to consider additional massing to accommodate additional units?*
2. **In Lieu Fee.** The Applicant is proposing to meet the remainder of their housing obligation in an in lieu fee. Staff has identified the Park Avenue/Woodside Avenue redevelopment as a possible area for these funds to be used as discussed above. *Is the Planning Commission willing to consider an in-lieu fee subject to the application of Housing Resolution 20-07 as outlined by the Applicant? If not, would the Planning Commission be willing to recommend an in- lieu fee payment for fewer AUEs than requested by the Applicant, and if so, under what conditions?* Please note that this request for a discussion of alternatives should not be construed as an alternative offer by the Applicant.

Review of Conditional Use Permit

The current application has been before the Planning Commission twenty-three times between 2004 and 2006. In the interest of moving forward efficiently, the Planning Staff plans to prioritize the review of the CUP criteria and MPD parameters. Staff will begin the review of the project by focusing on the major issues raised in previous Planning Commission meetings which have not been determined to be mitigated during the previous review of the project.

The first item to be addressed will be affordable housing. A determination of whether or not the applicant's proposal is adequate must be made by the Planning Commission. If additional affordable housing is to be placed on site, this will effect the design of the development and the review of the current plans.

The second item to be reviewed by the Planning Commission will be traffic consideration including capacity of the existing streets in the area. Much of the Planning Commission and Public's concern with the project was in the interest of traffic and health and safety issues of the roads leading to the project. No final conclusion on traffic has been made in terms of mitigation by the Planning Commission. Included in this discussion will be the proposed uses within the project and how use impacts traffic, analysis of the unit equivalents of the project and total square footage, and an update on the requirements of the original MPD and the current standards outlined by the City Engineer.

The next items of review will include the CUP criteria #8, #11, and #15 as follows:

8. building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;
11. physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;