PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 10, 2011

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, March 10, 2011.

Closed Session
1:00 p.m. Property and litigation

Work Session
3:00 p.m. Council questions/comments
3:10 p.m. Legislative update
3:30 p.m. Transfer of Development Rights Overlay Zone P. 18 - 75
4:00 p.m. HPB interviews
4:45 p.m. Break

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. Swearing in of Police Officers Miguel Contreras and Travis Orawiec

2. American Way article on Park City - American Airlines

III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*

IV WORK SESSION NOTES AND MINUTES OF MEETING OF FEBRUARY 17, 2011 P. 5 - 17

V NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

Consideration of amendments to the Land Management Code considering adding Chapter 2.24, Transfer of Development Rights Overlay Zone and related amendments to Chapter 15, Definitions P. 18 - 75
(a) Public hearing
(b) Motion to continue to March 31, 2011

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

VII ADJOURNMENT

A majority of members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting. Wireless internet service available in the Marsac Building on Wednesdays and Thursdays – 4 p.m. to 9 p.m.

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 17, 2011

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, March 17, 2011.

Posted: 03/07/11
See: www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

March 2011

24 Monthly budget update
Review of two year special event policy
PC-SLC Bus Service (45 min)
Christopher Homes plat amendment 29 - 83 Silver Strike Trail - KW
Christopher Homes plat amendment 29 & 39 Silver Strike Trail - KW
573 Main Street plat amendment - KW
2800 Deer Valley Drive – KW
44 Prospect Street plat amendment - JM

31 BFO and revenue policy
Professional services contract – Bonanza Phase 3
Addendums to facility leases extending terms – Library and Education Center, and Miners Hospital
Continuation of TDR Ordinance

April 2011

7 Delivery ordinance update
14 **No meeting**
21 Monthly budget update
28

May 2011

5 **Tom gone**
12 Monthly budget update
19 **No meeting - Liza gone**
26

Pending Items:

RAB interviews
U S Postal Service gang boxes in Old Town

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
FEBRUARY 17, 2011

Present: **Mayor Dana Williams; Council members Alex Butwinski; Candace Erickson; Joe Kernan; Liza Simpson; and Cindy Matsumoto**

Tom Bakaly, City Manager; Mark Harington, City Attorney; Michael Kovacs, Assistant City Manager; Scott Robertson, IT Manager; Spencer Lace, IT Analyst; Matt Twombly, Project Manager; Ken Fisher, Recreation Manager; Shelly Hatch, Business Licensing Analyst; Sayre Brennan, Transportation Analyst, Brooks Robinson, Transportation Planner; Wade Carpenter, Chief of Police, Polly Samuels McLean, Assistant City Attorney

Steve Brown, Millcreek Consulting Project Manager; Ari Ioannides, BoardDocs; Dennis Dale, Double D Taxi; Richard Bizaro, owner All Resort Express, Park City Transportation and Express for Less; Rob O'Brien, 649-TAXI

1. Council questions/comments. Alex Butwinski reported on business conducted at a Public Art Advisory meeting and a HPCA meeting held during the week. Mayor Williams discussed presenting a proclamation of appreciation to a well loved band in town, The Radiators, who retired.

2. Legislative update. Michael Kovacs noted that the sales tax redistribution bill died in committee and the effort now is to keep it out of interim study. SB76 is also a redistribution bill but has very little impact on Park City. With regard to school equalization, he reported that HB72 is dead but HB65 and HB301 are out and are being analyzed. Mayor Williams pointed out that cities should approve the maximum mill levy to support schools before equalization is considered so communities that voluntarily increase their taxes, can't be subject to equalization. Giving money to cities that have voted down their school bonds and taking from school districts that have approved school bonds is not fair. Mr. Kovacs explained that all income tax revenues are equalized and there are local levies. Tom Bakaly interjected that the point raised by the Mayor is discussed and is one of the reasons other similar bills have not moved forward in the past. This is an argument that should continue to be reinforced.

Mr. Kovacs commented that HB78, developer fees has passed the House and has been placed on a reading calendar. SB231, film enterprise zone, is very controversial and the ULCT has taken a strong stance against it. There is no language yet. The ULCT is also opposed to SB243, historic areas amendments, and the City will oppose it as well. If Salt Lake City assures Senator Niederhauser that they will not approve any new historic district this year, the bill will be dropped, but it appears that it is gaining support. Discussion ensued on how this bill would affect Park City and the associated deadline of May 10, 2011 to make historic preservation amendments. Mark Harrington explained that amendments to de-regulate would be permitted but not to increase powers. The historic inventory was addressed and the City Attorney explained that the City no longer assumes a presumption of significance for buildings over 50 years old. He reminded members that the limitations are proposed for a year.

Michael Kovacs stated that SB246, restaurant tax elimination, is a placeholder boxcar, SB203 is the codification of state and fire codes but does not contain the energy code. Many of the provisions suggested by the ULCT were incorporated in HB70, illegal immigration enforcement. Costs and legal exposure imposed on cities have been addressed and much of the language now reads *may* rather than *shall*. Floor amendments are expected in the Senate. Negative impacts to tourism were discussed as well as driver privilege cards.

3. City Council meeting technology. Scott Robertson referred to the proposed funding of the iPad option which is intended to eliminate paper. If the City purchases the equipment for members, the equipment must be managed from an IT perspective and policy adjustments need to be made. He referred to his staff report pointing out that with this option there are limitations on internet service, add-ons and accessories and administrative concerns.

The stipend provides members with the ability to purchase any equipment but staff encourages some consistency with regard to choosing Apple, PC, or Android based. The stipend also offers more personal flexibilities in use of the equipment, but Council is still subject to GRAMA requests and discovery. In response to a comment from the Mayor, Mr. Robertson explained that members assume risks and liabilities by what they install on their devices. Liza Simpson felt that if Council agrees to go paperless that the City should buy the equipment. She acknowledged the challenges in creating policies but they may be necessary because she views the tablets as City property. Ms. Simpson added that she could also support buying the equipment back at an amortized amount.

Alex Butwinski referred to the staff report and asked what *significant administrative overhead* means. Scott Robertson explained he was referring to managing the life cycle of the product through updates, maintenance and/or replacement. Mr. Butwinski felt this would be the case whether members owned them or the City owned the tablets. Mr. Robertson clarified that IT support would be limited if members own their devices and could only make recommendations. Mr. Butwinski pointed out that GRAMA requests would be treated the same in either case. Mark Harrington stated that privacy expectations are markedly different between the two and the records themselves, in the case of a stipend, are electronic records for viewing and storing only. If it is City equipment, our policies make everything on that machine the property of the City's which are subject to the City's harassment policy, campaign rules, etc. In some instances, external emails may have to be sent back. Discussion ensued on the likelihood of members accessing personal emails on an iPad regardless of policy. Joe Kernan interjected that he receives more external mail on his City account. In response to a question from Mr. Butwinski, Mr. Robertson pointed out that 200 MG per month has been determined more than sufficient to handle packet downloads and basic functions with the presumption that members have Wi-Fi service available.

Candace Erickson admitted that she has not tried the iPad made available to members but has not heard any compelling reason how this makes her life better. Michael Kovacs pointed out that over four years, the City will save about $18,000 to $19,000 in printing costs. He clarified that not all members have to switch; it is an individual decision but the commitment to the type of tablet should be final to support the cost model. It is contemplated to present this proposal to the Planning Commission where the cost savings could potentially be higher. Ms. Erickson explained her difficulty when reading from screens, including glare, and she asked about taking notes which is why she prefers paper. Mr. Robertson believed that the tablet may not entirely eliminate paper and there is annotation software available.

Mr. Kovacs stated that iPads could be ordered for members, acknowledging that it is mid-term and in the future assigned on a four year depreciation schedule so it is better timed with terms of office. Cindy Matsumoto understood that Kindle tablets are much more readable than iPads. Mr. Robertson felt the iPad is very functional and readable but the Kindle has received great reviews on its readability. Cindy Matsumoto believed that if this approach is environmentally related that the project should proceed and that the City should own and pay for the equipment.

Joe Kernan agreed that reading a computer screen is sometimes difficult and he ends up printing a lot of information but is willing to try the iPad. Alex Butwinski found the iPad easy to use because it is a lot different than sitting behind a computer screen and the Mayor agreed. Spencer Lace pointed out that the iPad is capable of carrying 1,000 binders worth of information which plays into the green savings and a GIS application was discussed. Ms. Simpson agreed that reading from a computer screen is tiring but reading the iPad is completely different and feels natural. She spoke about the ability to enlarge plat maps. Joe Kernan again stated that he is willing to try it but some training will be necessary. Mayor Williams encouraged all members to try the iPad and summarized that he and Council members Butwinski and Simpson would like to switch and there is no hurry for others. Candace Erickson stated that she is not interested since her term ends in ten months. Michael Kovacs understood that the majority decided that the City should own the equipment and the equipment could be purchased by members on an amortized basis.

Ms. Simpson asked about the timeline to purchase and Mr. Robertson explained that it could happen pretty quickly but there are new products on the horizon. The Mayor encouraged staff to wait a couple of weeks and then make a decision.

Scott Robertson explained that the Granicus proposal is a service that the City would pay for that allows management of the agenda and indexing minutes and audio recordings for easy retrieval. With regard to minutes, he explained that form can vary from summaries to very complex minutes. Granicus offers a whole series of modules, including streaming video. Liza Simpson stated that she has gone on-line to see how other cities are using Granicus which is helpful. She is not necessarily interested in live streaming but wants citizens to have information quickly while encouraging people to attend meetings. There should not be a substitute for personal citizen participation but there is a benefit of having a recording available to the public while the minutes are being prepared. The Mayor agreed. Discussion ensued on the ability to stream on both PC and Apple devices. Alex Butwinski asked about continuing to provide detailed minutes or switching to an integrated public record (recording and summary). Mark Harrington explained that the level of detail is dependent on state law and its position on new technology. Currently, written minutes are required, regardless of the link capability in some shape or form but there may more clarity in the state code eventually regarding new technology. Currently Utah cities vary with regard to the level of detail in minutes. He stated that Council will still have written minutes because state law requires that the substance of a meeting is captured in writing. There is debate over that in terms of whether the audio can completely supplement the written portion or whether minutes should be detailed with the link as an enhancement. He stated that the written minutes have to provide a sense of what occurred at the meeting independently. He felt that cities need to continue to work with the legislature on changing meeting technology.

Joe Kernan favored detailed minutes because it is easier to review written material but supports the audio feature. Liza Simpson asked if hardware will need to be replaced and Mr. Robertson explained that Granicus provides a server which plugs into the microphone feeds, captures the recording and delivers the links. The Mayor invited public input.

Ari Ioannides, BoardDocs, stated that his company has hosted about 40,000 public meetings nationwide over ten years. Staff is located in Park City and they are experts in government and now hold workshops here on paperless meetings. One will be held in September and they have invited staff in the past. The Park City School District has been paperless since 2004 and he explained the ease of searching topics discussed by Council. There are three things to consider when going paperless. First, it has to reduce staff time and using BoardDocs can reduce staff time by 75% in the production and distribution of packets. There is also an increase of the public’s access to this information. Second, costs need to be reduced and the payback usually occurs in the first year. Third, the City should receive tools to actually govern better. He again addressed searching capabilities to find information. He urged members to think beyond what is being done now and consider BoardDocs and hoped that the selection of a provider would be local. Mr. Ioannides relayed that he is a technologist and advised not purchasing iPads until March or April and the Android is a great option. He recommended that Council direct staff to look at more solutions and more options as far as vendors, especially those that are local.

Mayor Williams asked if BoardDocs provides the same services as Granicus. He stated no and explained that Granicus began as a video streaming system and now also archives. BoardDocs focuses on the document workflow and the approval process for getting the documents into the system and eventually getting them to Council. The audio is then overlaid on top of that so that members can listen to the meeting if desired. BoardDocs' strength is in the generation of the packets, the ability to look at them and consolidate the data. BoardDocs go beyond meetings and codifies municipal codes. Facebook and Twitter could be added and BoardDocs is not based on Microsoft technology.

Scott Robertson asked about the location of his corporate offices. Ari Ioannides responded that offices are a thing of the past and BoardDocs is about the greenest company you can find. All of their staff works from home. The director of sales and marketing lives in Park City and he is the president of the company and lives in Park City. Two directors live in Salt Lake City. There are three people in Atlanta, two people in Missouri, one in California and Austin but he felt there is a bigger presence here. The corporation is filed in Georgia. Scott Robertson pointed out that BoardDocs' website indicates it is located in Georgia. In response to a question from Ms. Simpson, Mr. Ioannides stated that clients include Culpeper County, Virginia, there's another city in Georgia, there are hundreds and he would be glad to give Council a list. Mayor Williams suggested that staff meet with Mr. Ioannides who suggested not purchasing devices before deciding on a vendor. He also encouraged forming a committee with staff members, a Council representative, and the media. The City Manager summarized that staff will meet with BoardDocs and update Council in about a month.

4. Recreation Center update. Matt Twombly acknowledged that it has been awhile since Council last reviewed the project which is not yet into the term of the actual scheduled construction. Inclement weather has impacted the project somewhat. Consultant Steve Brown remarked on closing down yesterday because of high winds which can be common building in the winter time but the project is on schedule. There have been some challenges but the completion date is still targeted in November. He pointed out the movement in the subcontractor market and explained the process to ensure performance when subs are closing their doors or leaving the job for some reason. He remains pleased that Oakland Construction was awarded the project because it is very capable and has excellent relationships in the event subcontractors have to be replaced. Some days have been lost but at this stage, are recoverable and the completion date should still be realistic. He is pleased with the speed of work to this point. Oakland feels it has a handle on the balance of the subcontractors on the project and is not overly concerned. Alex Butwinski assumed weather delays are considered in the schedule and Mr. Brown stated that they do and not all days have been used. Interior work is slated to begin the end of July.

5. Taxi ordinance amendments. Shelley Hatch explained that on November 18, 2010, staff returned to Council with an ordinance addressing a free market approach, ten year vehicle age limit, drug-free workplace, background checks, posting fares, education, and processing. After lengthy discussion, Council directed staff to return with more information on exceptions to a vehicle age limit for ADA accessibility, background checks for all vehicle drivers, requirements for for-hire firms to adopt a drug-free workplace, and the ability to hold for-hire firms accountable. On December 2, 2010, Gary Moss provided public input requesting that the City amend the Municipal Code to allow street legal ATVs to operate on the street within the City limits.

The Mayor asked about the inconvenience of waiting for a background check before operators can drive. Sayre Brennan explained that drivers can go to the Park City Police Department for a FBI background check. Another option is to apply at the Salt Lake City Ground Transportation Division which is a more expedited process than the FBI process in Park City and a TSA security assessment can be done at the Salt Lake City International Airport. He advised that if the ordinance passes, an operator could not drive without providing a qualified background check. Chief Wade Carpenter explained the FBI check process. Joe Kernan asked how these requirements compare to City operations. Brooks Robinson explained that City transit operators are subject to random drug testing and background checks. Ms. Simpson pointed out that drug testing is required when federal dollars are involved and believed that the City's standards are higher than the for-hire requirements. She understood that companies must contact the City within 10 days after receiving notice that a driver had been convicted of a drug or alcohol related violation. She asked if transportation companies have to drug test drivers and Mr. Robinson stated that it is not required as the drug-free workplace is more of an educational feature. Ms. Hatch also pointed out that convicted operators would also lose their driver's license to the state which should stop the individual from driving. The Mayor invited public input, noting that a public hearing is scheduled this evening.

Dennis Dale, Double D Taxi, feared that local companies asking the City for protection from Salt Lake businesses really opened the door. He asked if we should become more like Salt Lake or should they become more like us. He spoke about green initiatives and clean fuel. It takes an incredible amount of energy to recycle vehicles and placing a limit of ten years seems in conflict. Internal combustible engines running on clean fuel may last millions of miles. He encouraged not blocking this possibility with new laws.

Richard Bizaro stated that his companies include All Resort Express, Park City Transportation and Express for Less. Ninety seven cab licenses were issues this year and the year before there were 88, and the year before that 73. Currently there are 426 vehicles that have been approved for Park City, of those 90 relate to the above-mentioned transportation companies. Most of the licenses in the City are singles and he believes this creates too much congestion and there have been a few unsavory operators which creates a visitor issue. Mr. Bizaro disagreed with Mr. Dale and felt that ten years is too long and there is a safety issue with the current process. In essence, for $75 applicants have the ability to use their vehicles for hire. He spoke about the congestion during Sundance and seeing license plates on taxis from Wyoming, Montana, California, Nevada, etc. This is an environmental issue as vehicles are not thoroughly checked out. These out of state drivers are congesting the highways. Mr. Bizaro suggested five years as a vehicle age limit because of significant mileage. His businesses support the community 12 months out of the year and again he spoke about pirate companies obtaining a license to drive ten days in Park City. Vail and Aspen have a limit on the number of taxi companies and he encouraged consideration of a limit on the number of licenses issued here. Doing business at the airport requires a security check and they will not hire a driver without a background check and a badge from the airport. In addition, they conduct pre-drug testing before hiring and random testing afterward. He understood that a study must be performed by the City in order to limit the number of licenses and they are very much in favor of this. As a company owner, he pledged to pay for half of the study as the City should not be making major changes on such a vital issue without one. As many as 1,500 people per day are delivered to Park City through his companies and vacations can be ruined with a bad transportation experience. There are too many licenses being issued indiscriminately and they are too inexpensive. He added that many taxies don't even have a sticker.

Rob O'Brien, 649-TAXI, stated he was surprised that this came up again and understood in November, that the matter had been tabled until spring. This is a busy time of year for operators to attend meetings to discuss policies. He stated that the airport has changed its rules and there is now a seven year vehicle age limit. However, he is against the ten year age limit in general and clarified that at the last hearing, he meant that ten is better than six years. Almost all of the for-hire vehicles in town are in excellent condition and the rules are designed for the few that do not meet that standard. The airport already regulates the condition of the vehicle without the age limit rules. More expensive four wheel drive SUVs are needed in Park City and even a three or four year old Suburban still costs $35,000 to $40,000. The age limit is a burden and will affect his business dramatically. The Mayor understood his comment to be that there should not be an age limit on vehicles. Mr. O'Brien felt that the condition of vehicles is already tightly regulated and there are only one or two cars in town that do not meet an acceptable standard. His business has had a drug policy in place for the past 18 years and there have been no problems. He is pleased that Park City will accept the Salt Lake City badges. Since January 1 his company has submitted over 100 complaint forms on violators who are stealing from licensed legitimate businesses and he encouraged continued enforcement efforts.

Polly Samuels pointed out that with regard to Ms. Simpson's comments on a drug free environment, the wording, *or alcohol related*, should be added to Subsection (e) and under the background check section, there is actually a stricter requirement that operators must report a conviction of any disqualifying criminal offense to the City within 24 hours. See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 17, 2011

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, February 17, 2011. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Heinrich Deters, Trails Coordinator; Shelley Hatch, Licensing Analyst, Brooks Robinson, Transportation Planner; and Wade Carpenter, Chief of Police.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JANUARY 27, 2011

Joe Kernan, "I move we approve the notes and minutes of January 27th". Candace Erickson seconded. Motion carried unanimously.

V NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of a Resolution adopting a policy for memorial and community project donations on public property in Park City, Utah – Heinrich Deters explained that on January 27, 2011, Council directed staff to return with a resolution requiring Council approval for donations on City property. This policy addresses the use of City property because in the past, there has been lack of clarity on the process. The resolution establishes a point of contact, guidelines, timelines, etc. He asked for direction on the degree of public notification and what applications should go to Council. Members agreed on minimal noticing, publishing the public hearing on the agenda. Joe Kernan felt that adjacent home owners should be contacted in some manner. Mr. Deters noted that there is some notification to the Summit Land Trust since properties often have conservation easements. He explained that the internal review process provides consideration of adjacent properties. The Mayor invited public input.

Cheryl Fox, Summit Land Trust, believed that a policy for donations is appropriate but would like to broaden the discussion to address the number and types of donations. SLT has been talking with the City and Mountain Trails Foundation about how many benches are appropriate in an area. Not everyone wants to have benches in open space and there is a limited number and she asked who will decide who gets one. She believes that Round Valley is a treasure and if there is going to be a bench there, the name on the bench should be someone who has made a contribution to Round Valley or open space and asked what a significant contribution means. Ms. Fox stated that SLT is looking for ways to ensure that open space is protected forever and stewardship endowments are set aside to monitor the properties in perpetuity. Trails are another huge benefit and perhaps large donations toward the endowment for the future of trails is an option.

Cindy Matsumoto shares Ms. Fox's concern about the number of benches in Round Valley. Candace Erickson suggested that people be encouraged to donate in perpetuity to open space rather than requesting that a memorial bench be placed somewhere on a trail. Ms. Fox acknowledged that memorial benches are popular and if the number needs to be limited, she suggested auctioning the locations and the proceeds could then be allocated to endowment funds. Mr. Deters pointed out that as written, the resolution allows for a program to be formulated. Tom Bakaly suggested that if this is a concern, the policy should be clear that the goal is not to acquire more benches and donations would be used to fund trees or something else. The Mayor recommended wording, *may include but be limited to benches or trees*. Mr. Deters pointed out the inclusion of a donations list which guides people toward things the City could use. Mayor Williams relayed Marianne Cone's idea to install a memory wall in the City Cemetery which may be the most appropriate location to memorialize individuals. Alex Butwinski felt that memorial benches in open space locations have the potentiall of raising money to preserve easements. Candace Erickson supported the donations list idea and if people select a bench, the City should have the discretion to select the right location. Liza Simpson described urban green area locations that seem more suitable for benches than Round Valley open space. She stated that she prefers to keep Round Valley natural and requests for memorials there is something Council should review while wish list donations intended in urban green areas could be handled administratively. She favored more conversation about managing open space areas and the Mayor agree and suggested that memorials in open space areas have different criteria. Mark Harrington understood Council's direction to revise the resolution into three separate categories, a streamline administrative process for things on the pre-approved wish list. There would be a manager's report on these applications but no review by Council. Other requests would require public notice, public hearing and would require Council approval. The third category is open space or trails which may take some time to formulate a policy. Members agreed.

Candace Erickson, "<u>I move we continue the Resolution to a date uncertain</u>". Joe Kernan seconded. <u>Motion unanimously carried</u>.

2. <u>Ordinance amending Title 4, Chapter 15 of the Municipal Code of Park City, Utah to include a vehicle age limit requirement, a background check requirement, and a drug free workplace policy requirement for for-hire vehicle licensing</u> – Mayor Williams referred to the work session discussion. In response to a question about inspections from Alex Butwinski, Shelly Hatch explained that not all for-hire vehicles are regulated by airport security. She inspects the VIN and license plate numbers, and makes sure fees are posted. The Mayor invited public input.

Gary Moss, Trigger Taxis, stated that he has no objection to the proposed amendments. He read a statement indicating that his for-hire permit was denied this past October because the vehicle type falls into the category of vehicle that according Traffic Code 41681509 is prohibited in municipalities with populations greater than 7,500. Under Section 412210.5, municipalities may permit off highway vehicle use on streets under the jurisdiction. Mr. Moss stated that his reason for requesting this is twofold. The Traffic Code was initially written and adopted to prevent Type 1 ATVs from operating in cities of higher density, not this type of utility vehicle specifically. The Type 1 ATV, as defined in Section 41222, states any motor vehicle 52 inches in width or less with an unladed drive weight of 1,500 lbs or less traveling on three or more road pressure tires having a seat designed to be straddled by the operator and capable of traveling over unimproved terrain. That clearly does not strike our vehicles. The restricting Traffic Code includes utility type vehicles in the same category as a catch-all phrase for any variation or modified version of a Type 1 ATV. Mr. Moss stated that the state and federal transportation departments have given him a license that says that it is safe and legal for him to transport up to six passengers potentially from Snyderville to Kanab. It is merely a misguided and ambiguous code that is preventing them from driving at the lower speed limit and on the safer streets in Park City. The second reason for the request is that these vehicles are already being used on a daily basis by several companies, including Park City Municipal Corporation on City streets. These vehicles have not and do not pose a safety hazard or opposition by the public as evidenced by the fact that no complaints or enforcement measures have taken place even though their illegal operation on City streets has occurred for years. He provided evidence at an earlier meeting. Illegal operations on City streets have become more prevalent during the warmer months. The transient ATV today is smaller and greener not bigger. His Rangers are smaller but they are still as big or bigger than a lot of the newer vehicles which he named. They transport the same amount of passengers using a third of the horsepower of a typical vehicle. He asked that this not be rejected just because it is new and unusual. The popularity of the vehicles is undeniable and he discussed the introduction of the Hummer to the general public. Trigger Taxi is more of a touring company than a taxi. Mr. Moss relayed that the open-sided vehicles provide a better experience for the customer to see the local sights. They offer historical tours, wild life and nature tours as well as general sightseeing and provide a service to handicap people who unable to participate in a walking tour. They provide free tours to disabled vets and Mr. Moss asked that Council consider these benefits as well.

Candace Erickson was unclear about formally addressing Mr. Moss' request as it isn't specified on the agenda. Mark Harrington replied that action is not slated for approval of his actual permit but if members want to enable his permit, direction would need to be given to staff to amend the ordinance to accommodate ATVs. Mayor Williams pointed out that the examples of illegal ATV use Mr. Moss referred to are instances where people are not charged to ride with them. The Mayor polled Council members. Liza Simpson and Candace Erickson were opposed. Joe Kernan believed that the ATV experience may appeal to some people and there is a demand. However, he felt there is a risk because they are not as safe as typical taxis, and patrons should understand this. He is willing to try this with a limited number of vehicles. Alex Butwinski expressed his safety concerns. Cindy Matsumoto asked what would be changed to allow this use. Chief Wade Carpenter explained the ordinance would allow any vehicles to operate on Park City streets that are street legal ATVs not just this business. Mr. Moss explained that he is not suggesting that it be opened up and Ms. Matsumoto understood that the City might not have a choice. Joe Kernan believed additional requirements could be added if ATV is limited to for-hire taxis. Mark Harrington advised that additional restrictions could be added with regard to for-hire vehicles that may weed out some of the other ATVs, however the City probably could not otherwise restrict the eligible class of ATVs on the streets once the door is opened. The Mayor polled members and the majority were not supportive of Mr. Moss' request.

Gary Moss stated that the Federal Transportation Department and UDOT have the expertise in determining the safety of a vehicle and have given him a license to operate from Snyderville to Kanab. Safety should not be a Council concern. Mr. Butwinski commented that opening the door to other ATV use on City streets is whole other issue. Mr. Moss suggested he be issued an individual special use permit. Mr. Kernan felt that ATVs could be limited to operating in a certain part of town. Chief Carpenter pointed out that these are open-sided vehicles. Passengers do not have airbags and the vehicles are not designed to take impact. At this point, all members decided to deny the request.

Mr. Moss stated that *he feels like Rosa Parks*. These things are being driven on the streets and he is being told he can't drive his on the streets.

Matt Begane, Old Town resident, stated that he has been driving taxis for six years and started his own business with a natural gas vehicle which has less than 50,000 miles and is a 2001. He has all of the maintenance records and it is in excellent condition. There is no reason why this vehicle should be excluded from service next year when the 10 year limit comes into play. All taxis should be natural gas or clean fuel vehicles. There should be incentives to support clean fuel vehicles. Just because a vehicle is three or four years old doesn't necessarily mean that it is a safe vehicle. He spoke about businesses like All Resort Express who put many more miles on their vehicles a year. Mr. Begane pointed out that he only has one his vehicle which is an important income source and there are other operators like him.

Cindy Matsumoto referred to exceptions in state code, *make or models that are of unique interest or historic value* and asked if unique interest could be applied to natural gas vehicles. Mark Harrington explained that that is not written to address this and but it could be reviewed to see if it could be added as an additional exception to the 10 year. Mr. Harrington asked if his vehicle has a special license. Mr. Begane responded that it is a clean fuel vehicle and there is a different license plate process separate from a special interest vehicle. The City Attorney explained that a different exception for those vehicles but additional standards could be added to meet the intent of the 10 year limitation. Ms. Matsumoto understood that the Council is reviewing the taxi ordinance now because of Mr. Moss' request. Mr. Harrington noted that is one of the reasons and another was to return while the discussion is fresh in members' minds. This also provides operators enough time to make adjustments before renewals in the fall. In response to a question from Ms. Simpson, Brooks Robinson believed that Salt Lake's ordinance specifies 350,000 miles up to seven years. Part of the reason for imposing an age limit relates to current safety features. Mr. Begane emphasized that a 2001 vehicle has airbags and all of the safety features of a new vehicle.

Gordon Cummings thanked Council members and Shelley Hatch for continually addressing the taxi ordinance. Ms. Hatch has come up with many great ideas which he supports. No other mountain resort town has taxi service like Park City. Operating a taxi business is cost intensive and All Resort runs year-round. There may be other options, aside from franchising, to control the number of taxis. Park City should align itself with Salt Lake and airport regulations. He was actively involved on the last committee. The age limit provision needs guidelines including exceptions. He urged members to form another committee before next season.

Rob O'Brien interjected that a check list is already in place for vehicles licensed in Park City but not the airport. He spoke at length about the age limit and the need to purchase four wheel drive vehicles in Park City which are more expensive than two wheel drive cabs. His fleet is well under 350,000 miles.

Donnie Novelle, Park City Transportation, thanked City staff for its time and making recommendations. She strongly urged members to act on these amendments and move on. She asked not to table the ordinance again.

Dennis Dale reiterated his arguments about imposing an age limit.

With no further comments from the audience, the public hearing was closed.

All Council members agreed with the free market approach, drug free workplace, background checks and enforcement. Mr. Kernan interjected that if enforcement is increased, the cost should be reflected in the business license fee. Current enforcement practices and unpaid violations were discussed. With regard to Mr. Kernan's comment, Ms. Hatch explained that the fee for enforcement is included in the business license cost. Mayor Williams stated he is not interested in raising fees and Joe Kernan believed that the industry raising costs should bear the costs. Other members expressed an interest in knowing what increased enforcement would cost. Gordon Cummings explained that these rates and subsequent increases reflect the cost of enforcement. Issuing citations for unlicensed taxis was explained.

Mayor Williams supported exempting natural gas vehicles from the age limit as long as they meet all other standards. Ms. Simpson agreed and would like a category including hybrids, CNGs and alternative fuel cars but this doesn't have to be framed tonight. There should be incentives to use these types of vehicles. Alex Butwinski spoke about the age limit and Mr. Harrington stated that the amendments could be passed tonight with direction to review the 10 year age limit and exemptions and return with a specific recommendation on this issue. He noted that there are a number of ways to restrict the number of licenses but Council has not directed staff to do this because it is not a free market approach. Candace Erickson questioned the number of qualified vehicles out there over 10 years old. Mr. Cummings interjected that the airport won't allow them. She suggested making it 15 years now to avoid placing a burden on operators. Rob O'Brien stated that 10 years may affect a couple of his vehicles. Gordon Cummings reminded members that 15 years will apply to the outside companies. He stated that 4 x 4 vehicles are really difficult to convert. Matt Begane stated that he prefers a 15 year age limit with a mileage limit as opposed to a 10 year limit. Ms. Simpson suggested that older vehicles have a higher inspection level. Alex Butwinski felt that 15 years is too much. Dennis Dale spoke about vehicle computer systems being standardized for 15 years.

Alex Butwinski supported 10 years and a higher standard of inspection for a fee. Mark Harrington explained that Council can pass the ordinance as is with direction to return with an amendment relating to Section 4-15-7. The second approach is to amend the draft to provide 15 years or a 10 year cut-off with some exceptions, higher inspection standards, and address the green car issue. The third option is to agree on specific language addressing older stock with criteria.

Alex Butwinski, "I move that we approve all of these changes for taxi cabs with the provision that staff come back to us with further specific language on vehicle age limit, as Mark just outlined, in other words a higher standard of inspection". Mr. Harrington clarified that the 10 years would remain in the ordinance in the meantime. Shelly Hatch expressed concerns about her personally inspecting the condition of cars and prefers setting an age limit. The City Attorney understood the motion to adopt the ordinance as drafted, including the 10 year age limit as drafted, and with direction to staff to return with further amendments prior to October 1 addressing exceptions and inspections. Brooks Robinson interjected that during work session, Ms. McLean mentioned suggested language to the drug free workplace section and Mr. Butwinski indicated this is included in his motion. Liza Simpson seconded. Motion unanimously carried.

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Diane Foster, Sustainability Manager, Jonathan Weidenhamer, Economic Development Manager; Thomas Eddington, Planning Manager; and Mark Harrington, City Attorney. Joe Kernan, "I move to close the meeting to discuss property and litigation". Cindy Matsumoto seconded. Motion carried unanimously. The meeting opened at approximately 4 p.m. Candace Erickson, "I move to open the meeting". Joe Kernan seconded. Motion unanimously carried.

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott, City Recorder

City Council Staff Report

Subject: Transfer of Development Rights (TDR) Ordinance
Author: Thomas Eddington, Planning Director
Katie Cattan, Senior Planner
Project Number: PL-10-01104
Date: March 10, 2011
Type of Item: Legislative

PARK CITY 1884
PLANNING DEPARTMENT

Summary Recommendation

Staff recommends that the City Council review the proposed Transfer of Development Rights (TDR) ordinance, open a public hearing, and continue the TDR ordinance to March 31st, 2011.

Background

On November 10, 2010, the Planning Staff provided the Planning Commission with a brief overview of the Transfer of Development Rights (TDR) concept. TDRs are a planning tool that facilitates a transfer of density from one property to another for the purpose of protecting important community assets such as open space, view corridors, wildlife, historic preservation, etc. and for purposes of directing growth to an area with existing infrastructure, better accessibility, improved connectivity to existing development, etc. The Planning Commission provided staff with feedback on purpose statements and possible locations for sending and receiving overlay zones.

On December 1, 2010, the Planning Commission reviewed the TDR concept as a Work Session item. An overview of the process was introduced by staff. The Planning Commission had many questions about the process and asked staff to return with additional information on the following:

- Staff recommendation on sending and receiving overlay zones
- Model of build-out potential for the receiving overlay zones
- Explanation of conservation easements and future care for property
- Public Noticing
- Timeline for Ordinance

On December 15, 2010, the Planning Commission reviewed a TDR ordinance presented by the Planning Staff. During this meeting, Staff introduced a method to calculate unit equivalents on sending parcels that are not within a Master Planned Development (MPD). Possible sending sites were identified which included Treasure Hill and various undeveloped lots in Old Town (Ridge Avenue, Bamberger Lots, Alice Lode and Daly Avenue). Staff also provided information on possible Receiving Overlay Zones including Bonanza Park, Deer Valley Snow Park Area and Park City Mountain Resort parking lots. The Planning Commission requested that the staff return with a model of the Bonanza Park receiving overlay zone visually demonstrating the potential density transfer on the receiving area. The Planning Commission also requested a list of the pros and cons of TDRs. (Exhibit E)

On February 3, 2011, Architect Jack Thomas, presented a model of the Bonanza Park area showing existing conditions and potential build-out under the existing code. City Council and five members of the Planning Commission were present.

On February 9, 2011, the Planning Commission reviewed the build-out model again. During this Planning Commission meeting, the Planning Staff recommended that the Planning Commission consider including half the density of Treasure Hill in the sending zone and not including Alice Lode or the Ridge Avenue properties until a later date. The below table reflects Staff's February 9th recommendation.

	Unit Equivalents UEs	***Proposed Multiplier***	***Total UEs***	***Square Feet***
Treasure Hill	*216/2 = 108*	*2*	*216*	*432,000*
TOTALS	*108*	*NA*	*216*	*432,000*

Staff also recommended to the Planning Commission to include the following work program to supplement the TDR ordinance:

- The creation of a complete Project Area Plan for the Bonanza Park district, including:
    - Detailed renderings illustrating the proposed neighborhood
    - Proposed Design Guidelines
    - Estimated square feet of each use in the proposed mixed use development
- Recommended expansion of the Redevelopment Area and the implementation of a Tax Increment Financing (TIF) district
- Examination of tax abatement opportunities to incentivize local, small scale, mixed use development
- The creation of a new zoning designation and/or form based code (possible overlay) for the BOPA area.

During the February 9, 2011 meeting, the Planning Commission reviewed the staff recommendation and decided to amend the ordinance to include additional sending and receiving areas. The following recommendation to the City Council was passed by a four to two vote:

- Adoption of the TDR Ordinance
- Include the following areas with corresponding densities within the Sending Overlay Zone:

	Unit Equivalents (UEs) previously requested by owner	Proposed Multiplier	Total UEs	Square Feet
Alice Claim	9	2	18	36,000
Upper Ridge	8	2	16	32,000
Lower Ridge	3	2	6	12,000
Treasure Hill	22	2	44	88,000
TOTALS	42	NA	84	168,000

- Add Snow Creek Commercial MPD area to the receiving zone.

The Planning Commission stressed to staff that they were recommending a positive recommendation with the understanding that the work plan for the BOPA area would be put into place as well. They discussed that a detailed project area plan for the receiving area is imperative to the success of the TDR ordinance. They urged staff to begin working on a form based code ordinance for the receiving area as well.

Analysis

Purpose Statements
The following is the purpose statement for the TDR ordinance:

(A) promote the general health, safety, and welfare of the present and future inhabitants, businesses, and visitors of the City;
(B) preserve open space, scenic views, environmental areas, and sensitive lands;
(C) conserve agriculture and forest areas;
(D) protect lands and structures of aesthetic, architectural, and historic significance;
(E) retain open space in which healthy outdoor recreation can occur;
(F) improve upon Park City's well established park and trail system;
(G) ensure the owners of preserved, conserved, or protected land may make reasonable use of their property rights by transferring their rights to develop to eligible zones;
(H) provide a mechanism whereby development rights may be reliably transferred;

(I) ensure development rights are transferred to properties in areas or districts that have adequate community facilities and infrastructure, including transportation, to accommodate additional development; and
(J) locate receiving zones to improve future traffic circulation;

Utah Code
The following are the regulations for TDRs under Utah state code:

> *10-9a-103 Definitions*
> (42) "Receiving zone" means an area of a municipality that the municipality's land use authority designates as an area in which an owner of land may receive transferrable development rights
> (46) "Sending zone" means an area of a municipality that the municipality's land use authority designates as an area from which an owner of land may transfer transferrable development rights to an owner of land in a receiving zone.
> (52) “Transferrable development right” means the entitlement to develop land within a sending zone that would vest according to the municipality's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.
>
> *10-9a-509.7. Transferrable Development Rights:*
> A municipality may adopt an ordinance:
> (1) designating sending zones and receiving zones within the municipality; and
> (2) allowing the transfer of transferrable development rights from an owner of land within a sending zone to an owner of land within a receiving zone.

TDR Report from Office of the Legislative Auditor General
In December of 2010, the Office of the Legislative Auditor General of the State of Utah issued a report to the Utah Legislature called “A Performance Audit of County and Municipal TDR Use in Utah.” (Report Number 2010-15) (Auditor’s TDR Report) The recommendation within the report was to require structure in TDR use, as follows:

> “1. We recommend the Legislature consider requiring communities using TDRs to establish an administrative structure in ordinance. This operating structure would likely include:
>
> > (a) A purpose and goals for the program
> > (b) The TDR transfer process, which includes both TDR transfer ratios and receiving area density bonuses.
> > (c) A method for tracking density transfers and recording transfers in the county’s property records within a specific time period.

(d) Sending and receiving zones designation where logical
(e) Administrative procedures for cash-in-lieu options, including restrictions on expenditures
(f) Conservation easements or deed restrictions on sending property to ensure a zoning change will not allow the property to be developed in the future. A third-party conservation easement is encouraged."

The proposed ordinance includes all items suggested by the legislature except for suggestion E, an administrative procedures for cash-in-lieu options including restrictions on expenditures. The proposed ordinance is entirely for use by the public market without the creation of a "bank" to receive cash-in-lieu and therefore that recommendation doesn't apply to the proposed ordinance.

Sending Zones
The Planning Commission recommended three (3) sending districts from Old Town (the Alice Claim site, the Ridge Avenue sites, and the Treasure Hill site). With the exception of the Treasure Hill site which has designated Unit Equivalent (UE) counts, the Planning Commission decided that the UEs for these areas should be based on the number of lots requested in previous subdivision applications and recommended a multiplier of two (2) as an economic incentive. The following table illustrates the possible numbers, in square feet, that could be transferred from the sending areas based upon the Planning Commission's recommendation on February 9, 2011:

	Unit Equivalents (UEs)	**Proposed Multiplier**	**Total Development Credits**	**Square Feet**
Alice Claim	9*	2	18	36,000
Upper Ridge	8*	2	16	32,000
Lower Ridge	3*	2	6	12,000
Treasure Hill (MPD)	22 (10% of project)	2	44	88,000
TOTALS	42	NA	84	168,000

*Note: The UE totals are based on the amount of units previously requested by the owner within subdivision applications and are not vested units.

Concerned with the uncertainty and/or ambiguity of this method as it was based on how many units were requested by the owner in pending subdivision applications, Staff did additional analysis that resulted in a purely quantitative equation to determine development credits for the Transfer of Density Rights (TDR).

In the original proposal for TDRs, staff had calculated the Unit Equivalents based on one (1) development credit per existing minimum lot area within the underlying zone. There was no multiplier included because this calculation created far greater density than could be achieved. Staff utilized this method because it was predictable, quantifiable, and could be applied in the future if additional sending areas were added to the overlay zone.

The following illustrates the Planning Commission’s recommended method compared to Staff’s originally proposed method for quantifying development credits not part of an MPD (note the following does not include the MPD UEs for Treasure Hill – those UEs are calculated differently):

		Planning Commission Recommended Method			Staff’s Initial Recommended Method		
	Acres	Previous Lots Requested	Multiplier	Develop. Credits	1 UE per existing minimum lot area within	Multiplier	Develop. Credits
Alice Claim	8.65	9	2	18	43.64	1	43.64
Upper Ridge	1.52	8	2	16	17.65	1	17.65
Lower Ridge	.65	3	2	6	7.56	1	7.56
TOTAL		20		40			68.85

Although a slight deviation from Planning Commission’s recommendation to Council, Staff would recommend that the City Council consider adopting the Staff’s new methodology of utilizing underlying lot size to calculate possible density and include:

- a multiplier of 1 for areas with existing platted lots
- a multiplier of ½ for areas in metes and bounds parcels
- a multiplier of ¼ for areas in the Sensitive Lands Overlay.
- If a property is in two of the above mentioned areas the multipliers are added together. (example: Platted Lots in the SLO = 1.25 multiplier)

This creates a consistent methodology that can be applied to future properties within a sending zone. The following table compares the Planning Commission’s recommendation with the new method created by Staff:

		Planning Commission Method			Staff's NEW Recommended Method		
	Acres*	Previous Lots Requested	Multiplier	Development Credits	1 UE per existing minimum lot area within underlying zone	Multiplier	Development Credits
Alice Claim (E/SLO)* Metes and Bounds parcel	6.87	9	2	18	2.29	.75	1.72
Alice Claim* (HR-1) Metes and Bounds parcel	1.78	See above	See above	See above	41.51	.5	20.75
Upper Ridge* (HRL)	1.52	8	2	16	17.65	1	17.65
Lower Ridge* (HRL)	.65	3	2	6	7.56	1	7.56
TOTAL				**40**			**47.68**

* Acreage must be verified by certified survey and Park City zoning map

The resulting Development Credits per Staff's new method are roughly equivalent to what the Planning Commission recommended yet more easily quantified and much more predictable. It is important to have clear methods creating clear expectations when writing a TDR ordinance. Predictability was a key concern called out in the Auditor's TDR Report concerning TDRs statewide. In the report, Summit County's methodology for TDRs was criticized for not being predictable and received a poor review. The Planning Commission's recommendation for number of sending units was based on how many units were requested in received applications. It is not predictable for future sending areas in which a subdivision application has not been received. Also, the Planning Commission's methodology, if put into the ordinance, would most likely result in future subdivision requests for higher density. By utilizing minimum lot area, there is a consistency with all applications.

Staff returned to the Planning Commission on February 23, 2010 during work session to discuss staff's new recommendation. The Planning Commission was supportive of Staff's new recommendation. The Planning Commission suggested that properties within the Sensitive Lands Overlay (SLO) should be given more incentive to transfer because the lands are sensitive. Lands within the SLO are given the addition multiplier of .25 added to the multiplier for either metes and bounds parcels (1/2) or existing plotted lots (1). For example, a metes and bounds parcel (multiplier ½) within the SLO (additional multiplier of .25) would have a total multiplier of .75.

Treasure Hill Sending Zone
The staff had recommended that ½ of the Treasure Hill density be considered a sending zone. Treasure Hill has the following density:

Residential	197	Unit Equivalents (UEs)
Commercial	19	Unit Equivalents (UEs)
Total	**216**	**Unit Equivalents (UEs)**

A multiplier of 2 was recommended by staff due to the value of 2000 square feet located on the mountainside in old town versus 2000 square feet located within the receiving zone. The multiplier provides an economic incentive for the property owner in the sending site to realize the value of the mountainside property within the receiving zone. This multiplier was suggested by the Economic Development Director based on property values in each location and subsequent cost of development.

Staff recommendation to Planning Commission was to consider sending 108 UEs of the Treasure Hill density or fifty percent (50%) with a multiplier of 2. The current recommendation by the Planning Commission is to send 22 UEs or approximately ten percent (10%) of the MPDs total UEs with a multiplier of 2. This would result in a total of 44 development credits in the receiving zone or 88,000 square feet maximum.

TREASURE HILL

	Unit Equivalents UEs	**Proposed Multiplier**	**Total Development Credits**	**Square Feet**
Planning Commission Recommendation	22	2	44	88,000
Original Staff Recommendation	216/2 = 108	2	216	432,000

The following chart shows the total square footage which could be developed in the receiving zones based on staff's new recommendation on quantifying sending parcels that do not have assigned density and the Treasure Hill units recommended by the Planning Commission:

	Unit Equivalents UEs	Multiplier	Development Credits	Square Feet Maximum
Alice Claim* **Unplatted E/SLO**	2.29	.75	1.72	3,440
Alice Claim* **Unplatted HR-I**	41.51	.5	20.75	41,500
Upper Ridge* **Platted HRL**	17.65	1	17.65	35,300
Lower Ridge* **Platted HRL**	7.56	1	7.56	15,120
Treasure Hill **MPD**	22	2	44	88,000
TOTALS	90.85		90.53	183,360

*Note: Acreage must be verified by certified survey and Park City zoning map

Receiving Zones

Bonanza Park

Based upon the research and analysis, Bonanza Park (BOPA) appears to be a location that has the capacity to receive additional density for development. This is based upon its topography, existing infrastructure, and the existing redevelopment opportunity that could utilize the additional density. Through thoughtful planning, the additional density could be applied to create a sense of place in Bonanza Park that is unique to Park City.

The Bonanza Park district is the second oldest commercial district in Park City, second to the historic Main Street area. As a planning area, the boundaries are Bonanza Drive and those properties just east of this right-of way (e.g. Park Plaza, the Park Record Building, etc.) to the East, Park Avenue to the west, Kearns Boulevard to the north, and Deer Valley Drive to the south. The district encompasses 86.5 acres; almost five times the area of the City's Main Street Historic District (approx. 18 acres).

The area is currently a broad mix of land uses ranging from resort commissary and parking, to shops and restaurants, banking, public works buildings, and a special events venue. Other uses include a storage area, small art and consignment shops, banks, restaurants, and real estate offices. The only movie theater in the City is within the area as well as one of the City's two main grocery stores. The area includes housing along Kearns Boulevard (Claimjumper and Homestake Condos) and some units located within the Rail Central development.

The area is currently zoned General Commercial (GC) and Light Industrial (LI) with the areas along Kearns Blvd and Park Avenue in the Frontage Protection Zone (FPZ). There are no set unit equivalents in this area. Massing is the end result of the setbacks, height restrictions, architectural requirements and MPD criteria (when applicable). The following are the setback and height restrictions within the zones:

The following are the setback and height restrictions within the zones:

General Commercial (GC)

Front Yard	20' minimum. May be reduced to ten feet (10'), provided all on-Site parking is at the rear of the property or under ground.
Rear Yard	10' minimum
Side Yard	10' minimum
Height	35' maximum from existing grade; exceptions allowed.

Light Industrial (LI)

Open Space	30% of the total site area
Lot Size	10,000 SF minimum
Front Yard	30' minimum
Rear Yard	10" minimum
Side Yard	10' minimum
Height	30' maximum from existing grade plus exceptions

Frontage Protection Overlay Zone (FPZ)

The FPZ is an overlay zone that includes those properties with frontage on and within one hundred feet (100') of the right of way of Park Avenue and Kearns Boulevard. All construction activity, including permanent signs, in the setback area between thirty feet (30') and one hundred feet (100') from the nearest right-of-way line requires a conditional use permit.

It should be noted that Master Planned Developments (MPD) are permitted in these zones. Per LMC Section 15-6-2, an MPD is required if one of the following is applicable:

(1) Any Residential project larger than ten (10) Lots or units.
(2) All Hotel and lodging projects with more than fifteen (15) Residential Unit Equivalents.
(3) All new Commercial or industrial projects greater than 10,000 square feet Gross Floor Area.

Under an MPD application height exceptions are allowed if certain criteria are met (e.g. no increase in building volume, minimize visual impacts, adequate landscaping, more open space, provision of a transition in roof elements, etc.). MPDs require a minimum open space of sixty percent (60%) for new development and thirty percent (30%) for redevelopment

Within the proposed ordinance, projects utilizing TDR credits are allowed greater height so as to use the additionally density. The proposed ordinance sets the limits for projects utilizing TDR credits as follows:

Receiving Overlay Zone Limits				
Current Zoning Designation	Base Density		Maximum Density With TDR Development Credit	
	GC	LI	GC	LI
Height	35’	30’	55’	55’
Front Yard Setback	20’ (10’ if parking below or in rear)	30’	20’ (10’ if parking below or in rear)	30’
Side Yard Setback	10’	10’	10’	10’
Rear Yard Setback	10’	10’	10’	10’
Setback required if MPD	25’	25’	25’	25’
Open Space	Must comply with MPD requirement	Must comply with MPD requirement	Must comply w/ MPD requirement	Must comply w/ MPD requirement

Snow Creek Commercial Master Planned Development

The Planning Commission’s recommendation added the Snow Creek Commercial Master Planned Development area to the TDR receiving overlay zone. The Snow Creek Commercial Area includes Zions Bank, Key Bank, The Fresh Market, and the stores within the plaza on either side of Fresh Market. The Snow Creek Commercial MPD is built close to its maximum allowable MPD density with 90,500 square feet of commercial area. The tax records indicate that 87,239 square feet of commercial area. An official survey of the total commercial area would be required at the time of MPD application to verify. The state liquor store is located as an island within the Snow Creek Commercial MPD, but is not part of the MPD, and therefore would not count toward the maximum square footage. The commercial area is on 15.3 acres and the overall Snow Creek Large Scale MPD created 22 acres of open space, most of which is on the hillside behind the commercial buildings and along the pedestrian path between the commercial area and the police station. The open space would remain open space and not be impacted by the TDR ordinance.

The area is within the Residential Development-Medium Density (RDM) zoning district and the Regional Commercial Overlay (RCO) Zoning District. The RCO requires that any commercial development be reviewed as a Master Planned Development (MPD) and be considered under the criteria listed in LMC Section 15-2.17-4. Height exceptions within the RCO are allowed to a maximum of twenty-five percent (25%) above the underlying zone height. The underlying zone height is twenty-eight feet (28’). An additional twenty-five percent would result in an overall height of thirty-five feet (35’). The ordinance allows an exception up to fifty-five feet (55’) for a project utilizing development credits.

LMC Section 15-2.24-7(A)(3) states “Areas may develop at the underlying Base Zoning without purchasing Development Credits. If these properties desire to increase their densities beyond the existing zone, then Development Credits shall be required and the height limitation for the site may be increased from the Base Zoning limits to fifty-five (55) feet.”

The TDR Process

There are five steps included in the Transfer of Development Rights process.

Step 1: Establishment of Sending and Receiving Zones

The City Council may establish sending and receiving districts as overlay zones to the zoning district map by ordinance in the manner of amending the zoning map pursuant to Land Management Code (LMC) Section 15-1-7. The designations “TDR-S” shall be the prefix title for the overlay zone for a sending district, the designation “TDR-R” shall be the prefix title of the overlay zone for a receiving district.

Step 2: Development Credit Determination Letter

The Planning Director may calculate the density of a sending parcel utilizing the methodology outlined in LMC Section 15-2.24-4(A). The Planning Director will put the determination in the form of a letter for property owner. The letter is simply an explanation of the maximum density within the sending parcel and does not have a market value.

Step 3: Review of development plans for receiving area.

All regulations governing zoning, subdividing, and approval processes remain as currently adopted. If any development within the TDR-R overlay requests a density greater than the Base Zone Density or existing Master Planned Development density, the increased density shall be realized through development credits. The proper review authority (Planning Department and/or Planning Commission) shall review the application for compliance with the LMC. Per LMC 15-6-2 a Master Planned Development (MPD) is required for (1) residential projects larger than ten lots or units, (2) all hotel and lodging projects with more than fifteen (15) residential unit equivalents, and (3) all new commercial or industrial projects greater than 10,000 square feet gross floor area. MPDs require Planning Commission approval. It is anticipated by staff that projects utilizing development credits will be subject to the MPD review by the Planning Commission due to the large parcels sizes in the receiving area.

Step 4: Approval of a Project in the Receiving Zone utilizing the Development Credits.

The final transfer of development credits will be completed upon development approval on a receiving site or if the owner of the development credits chooses to forfeit development rights and records a deed restriction to do so. Any development requesting the higher densities shall bring evidence of Development Credit Certificate in the form of options to purchase, ownership, or joint ventures at the time of master plan approval and evidence of ownership at time of development agreement approval. If a development agreement is not required, evidence of Development Credit Certificate in the form of options to purchase, ownership, or joint ventures must be evidenced prior to planning review of a building permit and evidence of ownership at time of planning approval.

Step 5: Record Conservation Easement for Sending Site

When all available development credits on a sending site have been purchased, no uses other than those enumerated in the conservation easement are allowed. Responsibility for any required maintenance or abatement remains with the fee title owner.

It is important to understand that the development credits do not transfer from the site until a project is approved in the receiving area or the owner chooses to forfeit the development rights. Once a project is approved in the receiving overlay zone the development credits are transferred and a conservation easement is recorded.

Also important to note, is that within the Old Town sending area (TDR-SOT), property owners must sell, transfer, or joint venture <u>all contiguous</u> development rights within the TDR-SOT overlay zone. Proposed LMC Section 15-2.24-5(A)(8) states:

> "Within the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District, property owners must sell, transfer, or joint venture all of the Development Rights within the overlay zone. Portions of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District shall not be developed if any portion of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District has been sent to a Receiving Site. An owner of land within the TDR-SOT overlay Zoning District will not be eligible to Transfer Development Credit if they chose to sell or develop any portion of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District. The TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay zoning districts must be transferred in whole. "

Within the Treasure Hill (TDR-STH) sending area, portions of development rights may be sent to a receiving overlay zone and a document will be recorded indicating how many Unit Equivalents have been removed from the Treasure Hill MPD approval.

Receiving Area Model

A model of the worst-case scenario build-out was presented during the City Council Visioning Session in February and during the February 9th, 2011 Planning Commission meeting. The model illustrated build-out with the minimum required 30% open space and no articulation in the buildings. The worst-case scenario would not be a reality due to the set of tools the Planning Commission has within the MPD process to insure good design and site planning, appropriate massing, and circulation. Any future submittal would have to comply with MPD requirements which include improved articulation within the building design and improved internal circulation.

The model does a great job of showing the disconnected circulation in Bonanza Park and the unusable open space. Based on the model, the feedback from the Planning Commission was to do an area plan for the Bonanza Park area and to introduce form based code. These suggestions were made to improve future circulation and create design guidance for future density in the area.

Within LMC Section 15-6-5(D) for Open Space within MPD it states "wherein cases of redevelopment of existing developments the minimum open space requirement shall be thirty percent (30%). For applications proposing redevelopment of existing developments (which are most of the possible sites in BOPA), the Planning Commission may reduce the required open space to 30% in exchange for project enhancements in excess of those otherwise required by the LMC that may directly advance policies reflected in the applicable General Plan sections or more specific area plans. Such project enhancements may include, but are not limited to, increased affordable housing, greater landscaping buffers along public ways and public/private pedestrian areas that provide a public benefit, increased landscape material sizes, public transit improvements, public pedestrian plazas, pedestrian way/trail linkages, public art, and rehabilitation of Historic Structures." An applicant could not bring forth a Master Plan Development proposal for thirty percent (30%) open space without including the project enhancements as previously listed.

The Conceptual Framework for the Redevelopment of the Bonanza Park District

The proposed BOPA concept includes:

- Re-oriented streets plan introducing a grid system by which redevelopment would be organized; the basis of the grid master plan is Smart Growth concepts.
- A new master planned neighborhood identity which intentionally contemplates an improved entry/focal point for the Kearns Boulevard (SR 248) and Bonanza Drive intersection as well as the Park Avenue (SR 224) and Bonanza Drive intersection.
- Introduction of usable open space in the form of entry corridors, a central park, pocket parks, and pedestrian/bike pathway.
- The City's major transportation corridors frame the area and these three (3) arterials providing easy access to this district and the potentially rich development potential on the interior. This framed in area needs a plan which focuses on mixed use development, useable large green spaces, walkability concepts, affordable housing, market rate housing, "local" shopping, etc.
- A Transit Hub with connectors to Park City Mountain Resort, Main Street and Deer Valley is another key concept of BOPA. This transit hub could take the form of underground parking garages minimizing the expansive parking lot asphalt identity currently associated with development in this district. Connectors could take the form of smaller shuttle service, future rail, and/or gondolas.

A new urbanist, walkable, and sustainable village concept is vital to tie all of the pieces together for a successful neighborhood. Mixed-use residential and commercial spaces will allow residents to live/work in the area, limiting auto usage and doubling up on the transit opportunities of the hub. A well thought-out Master Plan contemplating reduced or zero-lot-line setbacks, varying building heights and architectural styles, useable open and green gathering areas, low energy building designs, and support commercial retail focused on everyday living needs would be necessary. Incorporating existing grocery stores, drug stores, movie theaters, restaurants, recycle center and hotel uses into the new Master Plan is essential to the creation of the "local" business/residential node that is imagined for BOPA.

Pedestrian connections are nearly nonexistent in the area currently. Park City's extensive trails system does not pass through the area, but predominately travels along its northeast borders. Bus and transit connections require pedestrians to maneuver across Park Avenue (SR 224) and gather along the fringes of expansive asphalt parking lots, losing any connection with human scale. Relocation of the transit connections will allow engagement in the center of the zone. Moving transit stops from Park Avenue (SR224) and Kearns Boulevard (SR 248) provides a clean slate to beautify and green the city rights-of way.

BOPA's redevelopment potential is important to Park City as a whole and serves as an ideal case study in sub-area or district planning. BOPA has many site specific advantages as a redevelopment area:

- Land contiguous to the City's major transportation corridors
- Limited property owners given the large number of lots; and owners willing to work with the City to plan for redevelopment of the area
- An abundance buildings that have reached their planned financial and/or structural obsolescence
- A right-of-way system that lacks connectivity

The plan for BOPA is not intended to compete with Main Street. Main Street exists as the gem of the City, a destination for visitors that maintains a unique ambiance which cannot be duplicated. The plan is designed to create a complementary node for Main Street that provides opportunities for local commercial (and some visitor/resort commercial) development, transit connections, mixed residential development, and public gathering spaces.

TDRs can be realized within a clearly articulated Master Plan for BOPA. By applying New Urbanist principles, higher density can be realized with less impact. By locating more buildings, residences, shops and services closer together, the outcome is ease of walking, a more efficient use of resources, and the creation of a more convenient and enjoyable place to live. Additional density, done well, can lead to a better quality of life. Additional building mass spread over approximately 100 acres that promotes walking and public transportation could be less impactful than building mass located on a steep hillside accessed through a historic district. The key to success is through a design that balances smart growth principles with the City's core values – clearly defined in a Master Plan for the BOPA district.

Recommended Revisions to the Land Management Code (LMC)

The current zoning in the Land Management Code does not allow the flexibility required to implement New Urbanist concepts due to setback minimums, parking minimums, building height maximums without contemplation of architectural form or use, and compartmentalized open space requirements. Opportunities to overlay or incorporate Form Based Coding for BOPA exist and should be explored. Form Based Code places emphasis on the appearance and quality of the built environment while tying in smart growth principles of mixed use, compact development, increased density, community character, connectivity, etc.

The Challenges

The following issues were raised by staff in the evaluation of transferring density to the BOPA area:

- The primary policy question is whether or not Park City as a community believes that density is better located in BOPA or to continue to allow additional development in Old Town and on our hillsides.
- How much is too much – is 183,000 square feet of additional development too much for BOPA? Is it realistic in terms of market conditions and carrying capacity?
- Given the variations in development potential based upon the possible use of MPDs and the two different zones in BOPA, should the City Council and Planning Commission consider setting a single zone standard for BOPA – this would allow for a very straight-forward assessment of what CAN be built currently vs. what COULD be built with TDRs. This could be accomplished via the creation of a new zoning layer by the use of a Floor Area Ratio (FAR) in Bonanza Park or a Form Based Code.

Planning Commission recommendation for Work Program

During the February 9, 2011 Planning Commission meeting , the Commission stressed to staff that they were recommending a positive recommendation with the understanding that the work plan would be put into place as well. They discussed that a master plan for the receiving overlay zone is imperative to the success of the TDR ordinance. They urged staff to begin working on a form based code ordinance for the receiving overlay zone as well. The Planning Staff and Commission both recognized that this initial recommendation is the first phase of the use of TDRs in Park City. It is anticipated that the staff will continue to analyze the concept, assess its value in the market, and return with additional recommendations in terms of sending and receiving overlay zones. The following work program was outlined by staff and recommended by the Planning Commission to accompany the TDR ordinance:

- The creation of complete Project Area Plan for the Bonanza Park district, including:
    - Detailed renderings illustrating the proposed neighborhood
    - Proposed Design Guidelines
    - Estimated square feet of each use in the proposed mixed use development
- Recommended expansion of the Redevelopment Area and the implementation of a Tax Increment Financing (TIF) district
- Examination of tax abatement opportunities to incentivize local, small scale, mixed use development
- The creation of a new zoning designation and/or form based code (possible overlay) for the BOPA area.

Development Review
Staff has brought the TDR concept to a Development Review meeting in which different City Departments were present as well as utility companies. General feedback during this meeting was that sending density to the Bonanza Park (BOPA) area would be favorable relative to transportation, water, and sewer resources. Increased density will require some expansion of existing infrastructure (water, sewer, roads) but the expansion can be accommodated. Infrastructure in the proposed sending areas is more difficult due to location, slopes, and existing infrastructure.

Public Comment
One letter from the public was received concerning TDRs and is attached as Exhibit F. The member of the public is concerned with the impacts of back-of-house within the transfer of development rights. To address this issue, the ordinance states that One (1) Development Credit is equivalent to one thousand (1,000) square feet of Gross Commercial Floor Area or two thousand (2,000) square feet of Gross Residential Floor Area in the Receiving Site overlay Zoning District. Floor Area is defined in the LMC as follows:

1.100. FLOOR AREA.

(A) Floor Area, Gross Residential. The Area of a Building, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet[1], are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

(B) Floor Area, Gross Commercial. The Area of a Building including all enclosed Areas excluding parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.

Staff Recommendation
Staff recommends that the City Council review the attached ordinance, open a public hearing, and continue the item to the March 31, 2011 meeting. In addition, staff recommends moving forward on a number of planning studies to create a comprehensive analysis of the receiving areas.

Exhibits
Ordinance
Exhibit A – Chapter 2.24
Exhibit B – Chapter 15
Exhibit C - Zoning map
Exhibit D – Snow Creek Crossing Subdivision
Exhibit E – Pros and Cons to TDRs
Exhibit F – Public Comment
Exhibit G – Planning Commission DRAFT minutes 02.09.2011

Ordinance 11-

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, TO CREATE A PROCEDURE TO TRANSFER DEVELOPMENT RIGHTS (TDR) FROM AN AREA LOCATED WITHIN A DESIGNATED SENDING ZONE TO AN AREA WITHIN A DESIGNATED RECEIVING ZONE BY ADDING CHAPTER 15-2.24 AND TO ADD DEFINITIONS REGARDING TRANSFER OF DEVELOPMENT RIGHTS BY AMENDING CHAPTER 15-15.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote and protect the health, safety and welfare of the present and future residents, businesses, visitors, and property owner's of Park City;

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan and promote Council goals to protect and enhance the vitality of the City's resort-based economy, overall quality of life, historic character, and unique mountain town community; and

WHEREAS, the City reviews the Land Management Code and identifies amendments that address planning and zoning issues, and to align the Code with the Council's goals:

WHEREAS, Chapter 2.24 TRANSFER OF DEVELOPMENT RIGHTS (TDR) OVERLAY ZONE REGULATIONS, provides procedures, requirements, and specifications regarding the transfer of development rights from designated sending areas to designated receiving areas; and

WHEREAS, Chapter 15 - Definitions, provides definitions of terms used in the LMC and the City desires to add additional terms utilized in the process of transferring development rights; and

WHEREAS, the Planning Commission duly noticed and conducted a public hearing on December 15, 2010 and February 9, 2011 and forwarded a positive recommendation to City Council during the February 9, 2011 meeting; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on March 10, 2011; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health, safety, and welfare; to maintain and enhance quality of life for its residents and visitors; preserve and protect the environment, ensure preservation of the community's unique character, and enhance the vitality of Park City's resort economy.

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.24- 1- Transfer of Development Rights Overlay Zone. The recitals above are incorporated herein as findings of fact. Chapter 2.24 of the Land Management Code of Park City is hereby adopted (see Exhibit A). The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 2.24 .

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15- Definitions. The recitals above are incorporated herein as findings of fact. Chapter 15 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B). The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ___ day of March, 2011

PARK CITY MUNICIPAL CORPORATION

____

Dana Williams, Mayor

Attest:

____

Janet M. Scott, City Recorder

Approved as to form:

____

Mark Harrington, City Attorney

Exhibit A

TITLE 15 – LAND MANAGEMENT CODE (LMC)
CHAPTER 2.24 - TRANSFER OF DEVELOPMENT RIGHTS (TDR) OVERLAY ZONE REGULATIONS

Section 15-2.24-1 PURPOSE.

The purposes of the Transfer of Development Rights Overlay Zone are:

(A) promote the general health, safety, and welfare of the present and future inhabitants, businesses, and visitors of Park City;
(B) preserve open space, scenic views, environmental areas, steep slopes and sensitive lands;
(C) conserve agriculture, and forest areas;
(D) protect lands and structures of aesthetic, architectural, and historic significance;
(E) retain open space in which healthful outdoor recreation can occur;
(F) improve upon Park City's well established park and trail system;
(G) ensure the owners of preserved, conserved, or protected land may make reasonable use of their property rights by transferring their right to develop to eligible zones;
(H) provide a mechanism whereby development rights may be reliably transferred;
(I) ensure development rights are transferred to properties in areas or districts that have adequate community facilities and infrastructure, including transportation, to accommodate additional development; and
(J) locate receiving zones to improve future traffic circulation;

Section 15-2.24-2 ESTABLISHMENT OF SENDING AND RECEIVING DISTRICTS

(A) The City Council may establish Sending Sites and Receiving Sites as TDR Zoning Districts within the Official Zoning Map by ordinance in the manner of amending the Official Zoning Map pursuant to Section 15-1-7 of this code. The designations "TDR-S" shall be the prefix title for the overlay Zoning District for Sending Sites, the designation "TDR-R" shall be the prefix title of the overlay Zoning District for Receiving Sites.

(B) Sending Sites and Receiving Sites shall be consistent with the General Plan and the purpose statements of Chapter 2.24.

Section 15-2.24-3 SENDING SITE ELIGIBILITY.

All properties located within the TDR-S overlay zone are eligible to transfer Development Credits.

Section15-2.24-4 DEVELOPMENT CREDIT DETERMINATION LETTER.

(A) The total number of Development Credits available to a Sending Site shall be determined as follows:

(1) TDR - Sending Treasure Hill (TDR-STH). For properties within TDR-STH, two (2) Development Credits per existing MPD Unit Equivalent may be calculated. A maximum of twenty-two (22) MPD Unit Equivalents may be sent from the TDR-STH Sending Site.

(2) TDR – Sending Old Town1 (TDR-SOT1), Sending Old Town 2 (TDR-SOT2), and Sending Old Town 3 (TDR-SOT3). For properties within TDR-SOT1, TDR-SOT2, and TDR-SOT3, one unit may be calculated per existing minimum lot area within the underlying Zoning District. The total number of units is then multiplied by the following multiplier:

(i) a multiplier of 1 for areas with platted lots; or

(ii) a multiplier of ½ for areas in metes and bounds parcels; and/or

(iii) a multiplier of ¼ for areas in the Sensitive Lands Overlay

For properties in which two multipliers exist, the multipliers are added together and the total multiplier is applied. For example, a metes and bounds parcel (multiplier ½) within the Sensitive Lands Overlay (multiplier ¼) would apply a multiplier of ¾.

(B) If requested, this calculation will be made by the Park City Planning Director in the form of a determination letter. If the calculation results in a fraction it shall be rounded to the nearest hundredth. Such letter will indicate the Development Credits at the time the request is made. The letter is an indication of possible Development Credits that may Transfer. The Development Credits are not Base Zone Density. The number of Development Credits may change if an MPD is amended or expires, or if the LMC is amended. A determination letter is not a binding document and does not grant a vested right.

Section 15-2.24-5 SENDING SITE PROCEDURE.

(A) The following is the Sending Site procedure that must be followed to send Development Credits.

(1) TDR-S property owners may choose to develop their property under Base Zoning, or they may choose to sell, transfer, or joint venture their development rights.
(2) TDR-S fee property owners may request a Development Credit determination letter from the Park City Planning Director.
(3) A TDR-S property owner is eligible to negotiate the sale, transfer, or joint venture of their properties Development Credits.
(4) A Development Credit may only be sold, conveyed, or otherwise transferred by the owner(s) or their legal representative.

(5) The sale, conveyance, or transfer shall occur upon surrender of the Development Credits which authorizes the Park City Planning Director, or designee to Transfer the Development Credits to the stated transferee by reissuing the Development Credits in the transferee's name, and recording a development credit certificate in the real property records of Summit County.

(6) With each transfer or sale, a Conservation Easement and/or deed restriction shall be recorded covering the entire site, or if only a portion of the available Development Credits are sold then the Conservation Easement and/or deed restriction shall cover a proportional amount of the site to be determined by the Park City Planning Director or a designee.

(7) Within TDR-STH, portions of Development Rights may be sent to a Receiving Site. Within the TDR-STH portions of Development Rights up to the maximum of twenty-two (22) MPD unit equivalents may be sent to a Receiving Site overlay Zoning District. Twenty-two (22) MPD Unit Equivalents in the TDR-STH zone equates to forty-four (44) Development Credits in a Receiving Site overlay Zoning District.

(8) Within the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District, property owners must sell, transfer, or joint venture all of the Development Rights within the overlay zone. Portions of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District shall not be developed if any portion of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District has been sent to a Receiving Site. An owner of land within the TDR-SOT overlay Zoning District will not be eligible to Transfer Development Credit if they chose to sell or develop any portion of the TDR-SOT1, TDR-SOT2, and TDR-SOT3 overlay Zoning District. The TDR-SOT1, TDR-SOT2, and TDR-SOT2 overlay zoning districts must be transferred in whole.

(9) When all available Development Credits on a Sending Site have been purchased, no Uses other than those enumerated in the Conservation Easement are allowed. Responsibility for any required maintenance or abatement remains with the fee title owner.

(10) The final Transfer of Development Credits will be completed upon development approval on a Receiving Site or if the owner of the Development Credits chooses to forfeit Development Rights and records a deed restriction and/or conservation easement to do so.

(11) TDR-S property owners shall notify any lien or mortgage holders of the sale of the Development Credits, and such notification shall be demonstrated by written approval submitted to the City prior to Transfer.

(12) TDR-S property owners shall be responsible for notification of the county tax assessor regarding possible changes in property value.

Section 15-2.24-6 RECEIVING SITE ELIGIBILITY.

All properties located within the TDR-R overlay zone are eligible to receive Transfer Development Credits within the procedures outlined in 15-2.24.7.

Section 15-2.24-7 RECEIVING SITE PROCEDURES.

(A) The following is the Receiving Site procedure that must be followed to receive Transfer Development Credits.

(1) All regulations governing zoning, subdividing, and approval processes remain as currently adopted and amended. If any development within the TDR-R overlay requests a density greater than the Base Zoning or existing Master Planned Development density, the increased density shall be realized through Development Credits.

(2) Any development requesting the higher densities shall bring evidence of Development Credits in the form of options to purchase, ownership, or joint ventures at the time of Master Plan Development approval and evidence of ownership at time of Development Agreement approval. If a Master Planned Development is not required, evidence of Development Credits in the form of options to purchase, ownership, or joint ventures must be evidenced prior to planning review of a building permit and evidence of ownership at time of planning approval of a building permit.

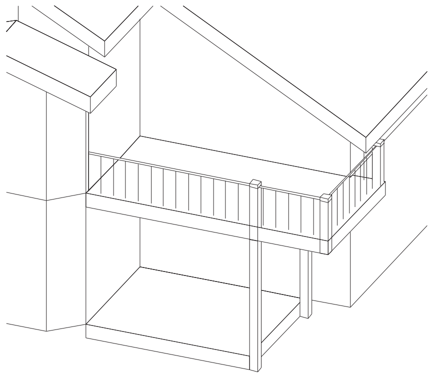
(3) Areas may develop at the underlying Base Zoning without purchasing Development Credits. If these properties desire to increase their densities beyond the existing zone, then Development Credits shall be required and the height limitation for the site may be increased from the Base Zoning limits to fifty-five (55) feet.

(4) Any development approval process, using Development Credits, shall adhere to the Base Zoning requirements including Master Planned Development requirements, with the exception of Height as outlined above.

Section 15-2.24-8 Unit Equivalents of Development Credits

(A) The following is the value of a Development Credit that may be applied to a receiving overlay zone:

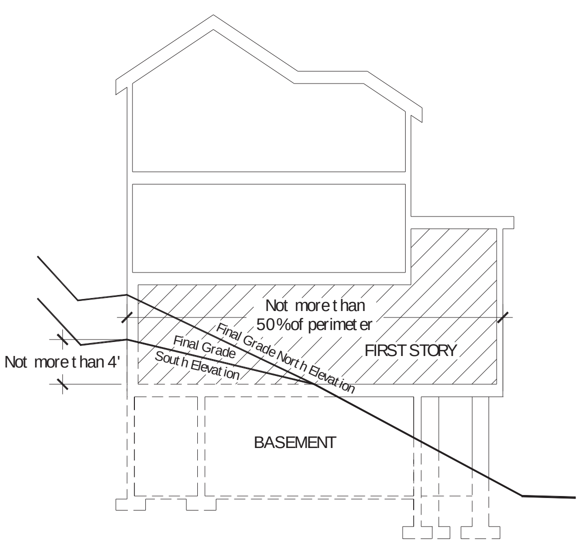
(1) One (1) Development Credit is equivalent to one thousand (1,000) square feet of Gross Commercial Floor Area or two thousand (2,000) square feet of Gross Residential Floor Area in the Receiving Site overlay Zoning District.



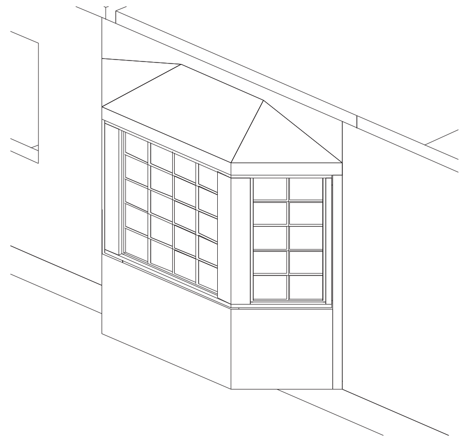
1.23. **BAR**. A Business that primarily sells alcoholic beverages for consumption on the premises; includes Private Clubs.

1.XX. **BASE ZONING.** Existing zoning without the addition of the Transfer of Development Rights overlay zone.

1.24. **BASEMENT**. Any floor level below the First Story in a Building. Those floor levels in Buildings having only one floor level shall be classified as a Basement, unless that floor level qualifies as a First Story as defined herein. See First Story.



1.25. **BAY WINDOW**. A window or series of windows forming a recess or bay from a room and projecting outward from the wall. A Bay Window does not include a window directly supported by a foundation.



1.26. **BED AND BREAKFAST INN**. A Business, located in an Owner or on-Site manager occupied dwelling, in which up to ten (10) Bedrooms are rented nightly or weekly, and where one (1) or more meals are provided to the guests only, the price of which is usually included in the room rate. Bed and Breakfast Inns are considered a lodging Use where typical lodging services are provided, such as daily maid service.

1.27. **BEDROOM**. A separate room designed for or used as a sleeping room.

1.28. **BILLBOARD**. A separate room designed for or used as a sleeping room.

1.29. **BLANK WALL**. A wall of a Building faced with a single material of uniform texture and color on a single plan with less than thirty percent (30%) of the surface of the wall as openings or windows.

(A) **Commercial Use, Support**. A Commercial Use oriented toward the internal circulation of a Development, for the purpose of serving the needs of the residents or users of that Development, and not Persons drawn from Off-Site.

(B) **Commercial Use, Resort Support**. A Commercial Use that is clearly incidental to, and customarily found in connection with, the principal resort Use, and which is operated and maintained for the benefit or convenience of the Owner, occupants, employees, customers of, or visitors to, the principal Use.

1.54. **COMMON AREA**. Facilities and yards under Common Ownership, identified within projects, for the Use and enjoyment of the residents.

1.54. **COMMON OWNERSHIP**. Ownership of the same Property by different Persons.

1.56. **COMPATIBLE OR COMPATIBILITY**. Characteristics of different Uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding Area or neighborhood. Elements affecting Compatibility include, but are not limited to, Height, scale, mass and bulk of Building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography, environmentally sensitive Areas, and Building patterns.

1.57. **CONDITIONAL USE**. A land Use that, because of its unique characteristics or potential impact, is allowed only if certain measures are taken to mitigate or eliminate the potential impacts.

1.58. **CONDOMINIUM**. Any Structure or Parcel that has been submitted to fractionalized Ownership under the provisions of the Utah Condominium Ownership Act.

1.59. **CONSERVATION ACTIVITY**. A process to restore, enhance, protect, and sustain the quality and quantity of ecosystems and natural resources.

1.XX **CONSERVATION EASEMENT**. An easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural state, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat, or other use or condition consistent with the protection of open land. Conservation easement(s) granted from the Transfer of Development Rights Ordinance shall be subject to The Land Conservation Easement Act, Sections 57-18-1 (et seq.), Utah Code Annotated, 1953 as amended.

1.60. **CONSTITUTIONAL TAKING**. Final Actions(s) by the City to physically take or exact private real Property that requires compensation to the Owner because of the mandates of the Fifth or Fourteenth Amendment to the Constitution of the United States, or of Article I, Section 22, of the Utah Constitution.

1.61. **CONSTRUCTION ACTIVITY**.

function of both number and type of Dwelling Units and/or non-residential units and the land Area.

1.73. **DESIGN GUIDELINE**. A standard of appropriate activity that will preserve the Historic and architectural character of a Landmark, Building, Area, or Object.

1.74. **DETACHED**. Completely separate and disconnected. Not sharing walls, roofs, foundations, or other structural elements.

1.75. **DEVELOPABLE LAND**. That portion of a Master Planned Development or Cluster Development within the Sensitive Lands Overlay that is designated for Density.

1.76. **DEVELOPER**. The Applicant for any Development.

1.77. **DEVELOPMENT**. The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or Demolishing any Structure or improvement to Property including Grading, clearing, Grubbing, mining, excavating, or filling of such Property. Includes Construction Activity.

1.78. **DEVELOPMENT AGREEMENT**. A contract or agreement between an Applicant or Property Owner and the City pursuant to the provisions in this Code and used as an implementation document for Master Planned Developments.

1.79. **DEVELOPMENT APPROVAL APPLICATION**. Includes any Application for any Development approval including, but not limited to Grubbing, Grading, an alteration or revision to an approved MPD, Conditional Use permit (CUP), zoning or rezoning, Subdivision, or annexation. The term "Development Approval Application" shall not include any Building Permits associated with construction within an approved Subdivision or on an existing platted Lot unless otherwise specified.

1.XX **DEVELOPMENT CREDIT.** A credit measured in unit equivalents that denotes the amount of density on a Sending Site which may be transferred.

1.XX **DEVELOPMENT CREDIT CERTIFICATE**. The certificate issued by the Planning Director of Park City that represents the total number of development credits recognized for and derived from the sending site that may be transferred.

1.XX **DEVELOPMENT RIGHT**. The right held by a fee simple property owner to build on a legally established parcel of real property. This right is limited by applicable zoning ordinances.

1.80. **DISABLED CARE**. A long-term care residential facility for disabled Persons, Persons suffering from a physical or mental impairment that substantially limits one (1) or more of a Person's major life activities, including a Person having a record of such an impairment or being regarded as having such an impairment.

1.81. **DISSIMILAR LOCATION**. A location that differs from the original location in terms of vegetation, topography, other physical features, and proximity of Structures.

1.82. **DWELLING**.

space or Structure, Lot improvement, or other facility for which the City may ultimately assume responsibility, or which may effect a City improvement.

1.195. **PUBLIC USE**. A Use operated exclusively by a public body, to serve the public health, safety, or general welfare.

1.196. **QUALIFIED PROFESSIONAL**. A professionally trained Person with the requisite academic degree, experience, and professional certification or license in the field or fields relating to the matter being studied or analyzed.

1.197. **QUASI-PUBLIC USE**. A Use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, serving the general public.

1.XX. **RECEIVING SITE.** A Parcel of real property denoted as a receiving site in the Transfer of Development Rights Overlay Zone, as shown on the Park City zoning map. A receiving site is the site to which development credits may be transferred.

1.198. **RECONSTRUCTION**. The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving Site, landscape, Building, Structure or object for the purpose of replicating its appearance at a specific period of time and in its Historic location.

1.199. **RECREATION EQUIPMENT, OUTDOOR**. Playground equipment and accessory park related amenities, such as swing sets, slides, jungle gyms, sand boxes, picnic tables, volleyball nets, baseball backstops, basketball standards, frisbee golf holes, soccer goals, and similar amenities.

1.200. **RECREATION FACILITIES**.

(A) **Recreation Facilities, Commercial**. Recreation Facilities operated as a Business on private or public Property and open to the public for a fee.

(B) **Recreation Facilities, Private**. Recreation facilities operated on private Property and not open to the general public. Including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and guests.

(C) **Recreation Facilities, Public**. Recreation facilities operated by a public agency and open to the general public with or without a fee.

1.201. **RECYCLING FACILITY**. A building, structure or land area used for the collection, processing or transfer of recyclable materials such as glass, paper, plastic, cans, or other household scrap materials.

(A) **Recycling Facility, Class I**. Recycling containers totaling up to 60 cubic yards of capacity per residential lot or business used for the collection and temporary storage of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard. These facilities are generally, but not limited to the use by a specific residential neighborhood, civic facility, or commercial business park, and

(A) Park City Municipal Corporation or Venue name and/or logo provided said information does not exceed twenty percent (20%) of the display area; and/or

(B) Master Festival Event identification provided said information does not exceed twenty percent (20%) of the display area, and is not displayed for more than two (2) weeks unless otherwise approved as part of the Master Festival License.

1.218. **SATELLITE RECEIVING STATION**. Any apparatus or device designed for the purpose of transmitting and/or receiving radio, television, satellite microwave, or other electromagnetic energy signals between terrestrially and/or orbitally based Uses. This definition includes but is limited to what are commonly referred to as satellite earth stations, satellite microwave Antennas, TVRO's or dish Antennas. This definition does not include conventional television Antennae.

1.219. **SBWRD**. Snyderville Basin Water Reclamation District.

1.220. **SCREEN OR SCREENED**. The act, process, or result of visually and/or audibly shielding or obscuring a Structure or Use from adjacent Property by Fencing, walls, berms, densely planted vegetation or other landscaping features.

1.221. **SECONDARY LIVING QUARTERS**. An Area within a main dwelling which is used by the Property Owner or primary tenant as a dwelling for the private Use of the Property Owner's relatives, domestic help, caretakers, nursing staff, house guest, or similar user.

1.XX. **SENDING SITE**. A parcel of real property denoted as a sending site in the Transfer of Development Rights Overlay Zone, as shown on the Park City zoning map. A sending site is the site from which development credits may be transferred.

1.222. **SENSITIVE LAND**. Land designated as such by a Sensitive Lands Analysis and as reflected on the Official Zoning Map.

1.223. **SENSITIVE LANDS ANALYSIS**. A comprehensive analysis performed by a qualified professional(s) that examines, identifies, and delineates on a map and in a written report all Areas of a Property deemed to be environmentally and aesthetically important to the community as expressed in the Park City General Plan, including, but not limited to, Steep Slopes, Very Steep Slopes, Significant Ridge Line Areas, wetlands, streams and lakes, wildlife habitat Areas, entry corridors, Vantage Points, Significant Vegetation, and Wildfire/ Wildland Interface Zones.

1.224. **SENSITIVE OR SPECIALLY VALUED SPECIES**. Federally Threatened and Endangered Species; State of Utah Threatened and Endangered Species; State of Utah Species of Concern as identified in the document; animals and plants of special concern to the Park City Community as identified in the General Plan and in need of special protection.

1.225. **SETBACK**. The required minimum distance between a Building Pad and the closest of the following:

1.265. **TIMESHARE PROJECT**. Any Property that is subject to a Timeshare Instrument, including a Timeshare Conversion.

1.266. **TIMESHARE SALES PRESENTATION**.

(A) An offer to sell or reserve a Timeshare Interval;

(B) An offer to sell an option to purchase a Timeshare Interval;

(C) The sale of a Timeshare Interval, or an option to purchase a Timeshare Interval; or

(D) The reservation of a Timeshare Interval, whether the Timeshare Interval is located within or without the State of Utah.

1.267. **TIMESHARE UNIT**. That unit of Property and time where possession and Use are allowed under a contract from seller to purchaser, excluding Private Residence Club units.

1.268. **TIMESHARE USE**. Any contractual right of exclusive occupancy created by a Timeshare Instrument which does not fall within the definition of "Timeshare Estate", including, without limitation, a vacation license, general partnership interest, limited partnership interest, vacation bond, or beneficial interest in a trust, and the documents by which the right of exclusive occupancy is transferred, excluding Private Residence Club Use.

1.XX. **TRANSFER**. Any action which results in the sale, exchange, or joint venturing of development credits from one property to another property.

1.269. **TRANSFERRED DEVELOPMENT RIGHT (TDR) OPEN SPACE**. That portion of a Master Planned Development, PUD, Cluster Plan or other Development plan from which Density is permanently transferred. This Area may be either Natural or Landscaped Open Space.

1.270. **TRANSPORTATION SERVICES**. A Business involving transit operations, taxis, shuttle services, rental cars, or similar transit-related services.

1.271. **UDOT**. Utah State Department of Transportation, an agency that maintains and regulates State Highways.

1.272. **UNIFORMITY RATIO**. The ratio between the average and minimum light distribution or luminance across a given Area.

1.273. **UNIT EQUIVALENT**. The Density factor applied to different sizes and configurations of Dwelling Units and commercial spaces.

1.274. **USE**. The purpose or purposes for which land or Structures are occupied, maintained, arranged, designed, or intended.

(A) **Use, Intensity of**. The maximum number of residential units, or commercial, or industrial space within a specified land Area designated for that purpose.

1.275. **VANTAGE POINTS**. A height of five feet (5') above a set reference marker in the following designated Vantage Points

1.281. **ZONE HEIGHT**. The base Building height permitted in the Zoning District prior to Application of any allowable height exceptions.

1.282. **ZONING DISTRICT**. An Area identified on the Official Zoning Map to which a uniform set of regulations applies as set forth herein, which districts are co-terminus with, and which are designed to implement the Park City General Plan.

1.283. **ZONING MAP, OFFICIAL**. The map adopted by the City Council depicting the geographic scope of the City's land Use designations.

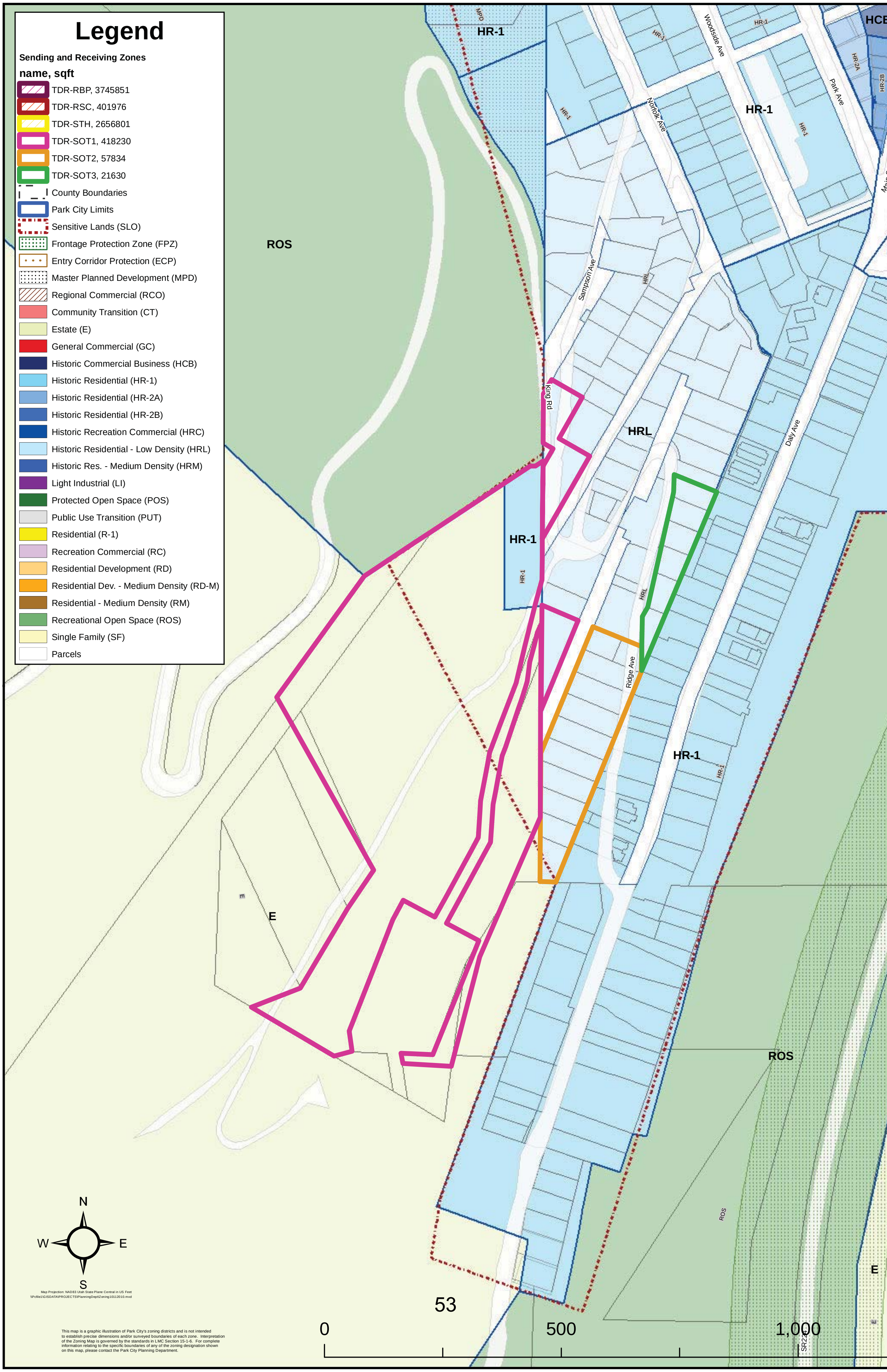
(Amended by Ord. Nos. 02-07; Ord. No. 02-38; 04-39; 05-01; 06-86; 07-25; 07-55; 08-07; 09-05; 09-09; 09-10; 09-14; 09-23; 09-40; 11-05)

15-15-2. LIST OF DEFINED TERMS.

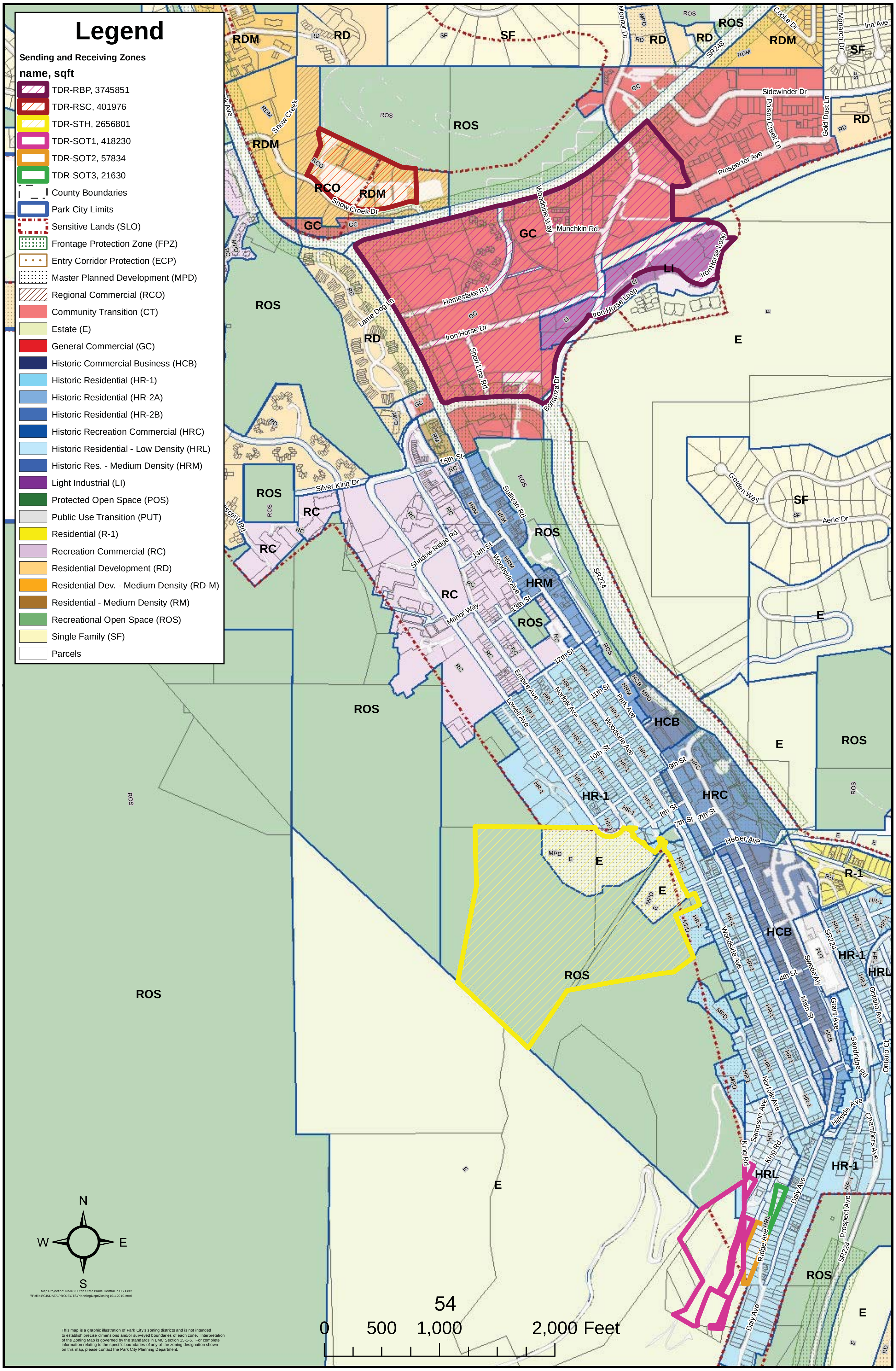
-A-
Access
Accessory Apartment
Accessory Building
Accessory Use
Active Building Permit
Administrative Permit
Affordable Housing
Agent
Agriculture
Allowed Use
Alteration, Building
Ancillary Structure
Anemometers and Anemometer Towers
Antenna
Antenna, Test Drive
Antenna, Enclosed
Antenna, Freestanding
Antenna, Roof Mounted
Antenna, Temporary
Antenna, Wall Mounted
Apartment
Applicant
Application
Application, Complete
Architectural Detail
Area or Site
Attic

-B-
Bakery
Balcony
Bar
Base Zoning
Basement
Bay Window
Bed and Breakfast Inn
Bedroom
Billboard
Blank Wall
Block
Boarding House
Building
Building, Attached
Building, Detached
Building, Main

Park City Zoning Map with TDR Zones Detail



Park City Zoning Map with TDR Zones Detail



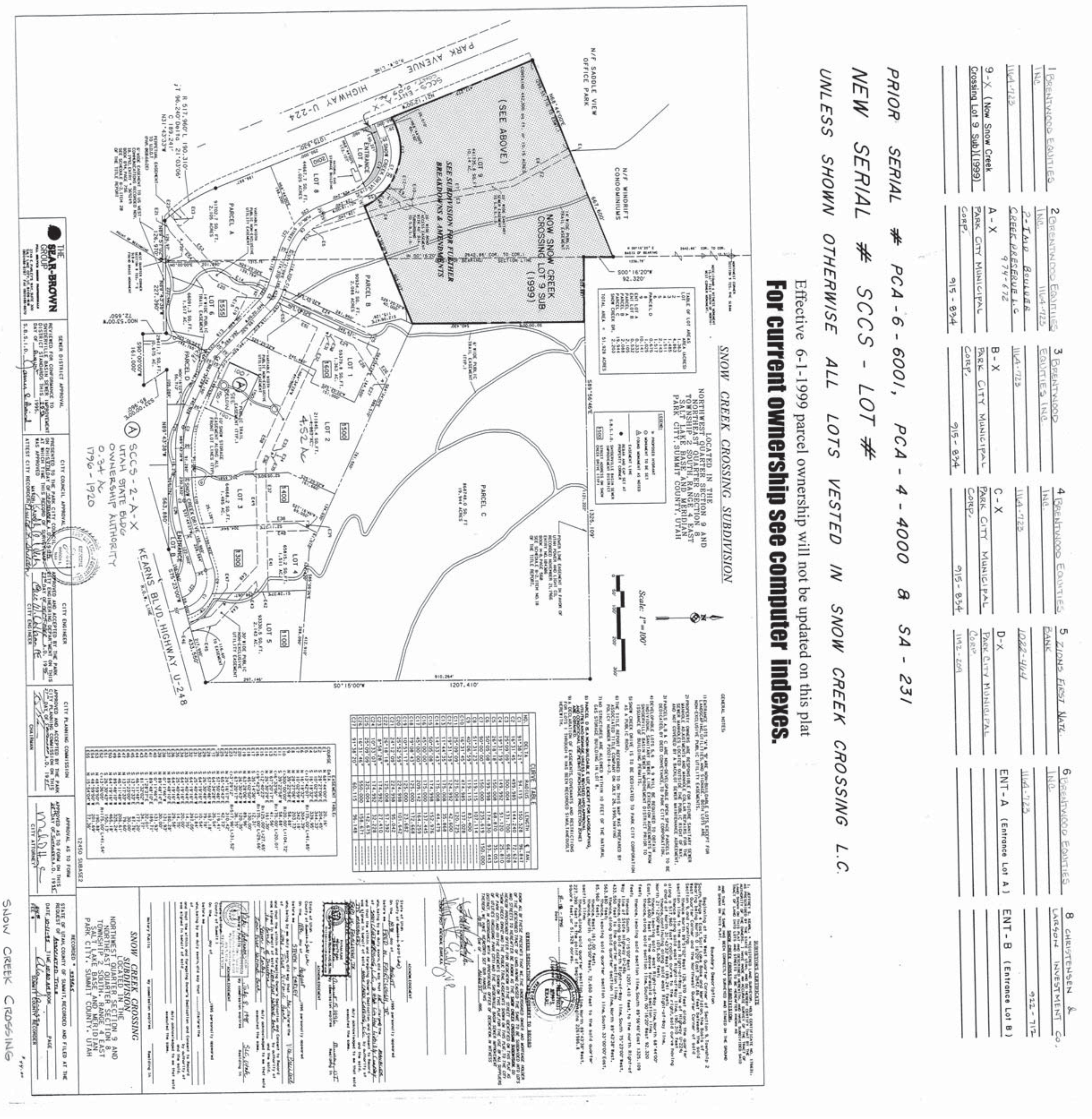

PRIOR SERIAL # PCA-6-6001, PCA-4-4000 & SA-231
NEW SERIAL # SCCS - LOT #
UNLESS SHOWN OTHERWISE ALL LOTS VESTED IN SNOW CREEK CROSSING L.C.
Effective 6-1-1999 parcel ownership will not be updated on this plat
For current ownership see computer indexes.
SNOW CREEK CROSSING SUBDIVISION
PARK AVENUE
HIGHWAY U-224
KEARNS BLVD. HIGHWAY U-248
PARCEL A
PARCEL B
PARCEL C
NOW SNOW CREEK CROSSING LOT 9 SUB (1999)
SNOW CREEK CROSSING

EXHIBIT E

PROS and CONS of TDR
Commissioner Savage asked that staff return with a list of Pros and Cons of TDRs. Staff compiled the following list:

PROS

- TDR programs are more permanent than zoning. Zoning ordinances can change over time and with different administrations. In contrast, because TDR programs use deed restrictions or conservation easements to limit development rights, public values such as view corridors, open space and historic buildings are more permanently protected.
- TDR programs give local governments an alternative to buying land in fee simple, can reduce the harshness of restrictive zoning, and can result in a “win-win” outcome. The sending area is protected and the receiving area landowner is able to build at greater densities, thereby realizing the market value of the land.
- TDR focuses development into a few specific locations/centers, which may minimize sprawl, reduce the cost of providing infrastructure and services, and promote alternative modes of travel.
- The sale of development rights generates revenue for individual landowners who may otherwise find it unattractive or challenging to build on or sell their land.
- TDR increases development and economic activity in town centers where existing zoning may limit development potential.
- TDR uses free market mechanisms to create necessary funding to preserve natural resources, thereby reducing government expenditures and the use of non-profit foundation funding sources.
- TDR banks can store development rights that may be transferred to any buyer developing within specified receiving areas.

CONS

- What works well in theory may not be effective in practice. While TDRs appear to be an effective method of preserving open space, natural resources, and directing growth to more desirable locations, the reality of the situation is that they have had little effect. Where considerable sprawl exists within the sending area, it could be too late for a TDR program to be successful.
- TDR programs may also be more complicated and expensive to implement than traditional zoning. Local governments must administer and enforce the program, including overseeing the market, enforcing deed restrictions, and defending them in court.
- A critical problem associated with the implementation of TDR programs is that communities may not support them. It may be difficult to find areas willing to accept higher density development (receiving areas), since it is

often perceived that high density development decreases property values and quality of life.
- No single TDR program or model works for every community. Must tailor one to fit local needs and conditions.
- TDR is voluntary rather than compulsory program. It will not work unless there is a willing number of property owners to sell and buy development rights in the designated sending and receiver locations.
- TDR programs can be complex and administratively challenging; they require strong comprehensive planning and a local administrative apparatus capable of monitoring market conditions.
- If development rights of potential donor sites are overvalued, developers of potential receiver sites will not buy. On the other hand, a surplus supply of donor sites undervalues the development rights on those properties, so owners are unwilling to sell.
- Length of time for the process
- Fluctuating value and demand for TDRs
- Possible negative impact of higher density on receiving area

Additional Considerations
- Ensuring a market exists
- Prioritizing the locations of sending and receiving areas
- Determining the maximum number of rights to be sold.
- Density bonus determination, fast and easy TDR approvals and monitoring and enforcement are also critical areas for the local government to consider.
- For a successful TDR program, it has generally been found that there needs to be more receiver sites than donor sites.
- TDR requires a good public education program for both citizens and potential developers.
- TDR programs generally protect preservation values permanently. This can be viewed as both a benefit and a drawback. The drawback is that TDR programs limit the future options of an area, regardless of the shifts in societal values or community characteristics.

Dear City Council and Planning Commission,

Currently, Treasure Hill has a vested right for 616,695 square feet. A public fear has been created that Treasure Hill has a vested right for 1,016,887 square feet. The additional 400,000 plus square feet is not a vested right nor grandfathered under the 1986 agreement. 40% of Treasure Hill's proposed million square feet is not vested. Treasure Hill's 1 million square feet vested right presented in the press is fabricated. The break down of the Treasure Hill's 616,695 sq. ft. vested right is spelled out in the Sept 23, 2009 Treasure Hill Staff report.

Original proposed square footage under 1986 Treasure Hill agreement

197 UE's x 2000 Residential
19 UE's x 1000 Commercial
203,695 SF Parking in 1986

394,000 + 19,000 + 203,695 = 616,695 SF Treasure Hill Vested Right

The majority of Treasure Hill's extra 400,000 sq. ft. is from the Accessory Use section of the Land Management Code. According to Planning Staff, "Under today's code there is unlimited accessory space which includes lobbies, hallways, etc. This is where a building can become much larger than another and it doesn't count toward entitlements." Planning Staff is referring to 15-6-15 F & G, the Accessory Uses section of the code. Accessory Uses allows the public to use space within a Condo Hotel that is commercial space and does not count against entitlements. In the code areas such as lobbies, registration, ski equipment locker rooms, common pools, saunas and hot tubs, public restrooms, hallways and circulation, public lockers, ski school/day care facilities, emergency medical facilities, ticket sales, ski check, etc are areas that serve the public but do not count against commercial entitlements. The Accessory Use section of the code was added after the 1986 Treasure Hill approval and accounts for approximately 400,000 square feet beyond the vested rights.

September 23, 2009 Treasure Hill Staff report defines area beyond vested right:

Additional Support Commercial & Accessory - 33,412
Additional Meeting Space - 16,127
Circulation, Common & Accessory Space - 309,511

33,412 + 16,127 + 309,511 = 359,050

In the September 23, 2009 Treasure Staff Report there is a additional 41,368 square feet of parking beyond the original 1986 Treasure Hill agreement.

41,368 + 359,050 = 400,418

There is 400,418 additional sq. ft. beyond the vested rights established in the 1986 Treasure Hill agreement.

400,418/1,016,887 = 39.38%

There is 40% more square footage proposed for Treasure Hill than vested under the 1986 Treasure Hill agreement.

To give an idea of what 400,000 square feet is, recently the City and County offered MIDA a parcel with 350,000 square feet to build a commercial project including Costco. One City Council person in a KPCW interview called 350,000 square feet '"massive, massive!" The extra square footage in the current Treasure Hill model and proposal is 400,000 square feet. The extra square footage beyond the vested rights and entitlements is "massive".

Recently, the City Council unanimously approved another Hotel in Deer Valley. The North Silver Lake Lodge is a 332,000 square foot Condo Hotel above the top of Main St. 100,521 sq. ft. of the project is common area, another term for Accessory Uses. 30% of the project can be attributed to the Accessory Use code. The 332,000 sq. ft. hotel is similar in size to the "massive" controversial 350,000 sq. ft. MIDA commercial project. The North Silver Lake Lodge CUP took place July 1, 2010. This is an example of another approval and demonstrates how Accessory Uses are abused for “massive” Condo Hotels.

100,521/332,493 = 30.2%

30% of North Silver Lake Lodge is additional space beyond entitlements. The Lobby, spa, work out rooms, sauna, locker rooms, registration, hallways etc in the North Silver Lake lodge is primarily common area. These areas open to the public do not count against entitlements in the CUP.

Some may wonder how big hotels have begun to appear in Park City, such as the St. Regis and Montage. The St. Regis is approximately 450,000 sq. ft. and the Montage around 750,000 sq. ft. If 40% of the Treasure Hill’s proposal is extra space beyond entitlements and the North Silver Lake Lodge is 30% beyond entitlements, what percentage of space in the Montage and St. Regis is due to space that does not count toward entitlements?

Please visit the Montage Vista Lounge (massive). Lobbies do not count against entitlements. The Vista Lounge, that serves drinks and food to the public, takes up nearly and entire floor of the Montage. Store your boots in the ski locker room open to the public while having lunch. Ski locker rooms are an Accessory Use. There are 29 treatment rooms in the Spa. Get a massage or take a class and then the public can swim in the indoor pool modeled after Hearst Castle. Common pools, saunas and hot tubs not open to the public are an Accessory Use and do not count against entitlements. The spa, workout room, sauna, jacuzzi etc take up another floor of the Montage. Just how much of the Montage is Accessory Use and space that does not count against entitlements?

Currently, the City has the ability to refuse 400,000 of Treasure Hill's requested square footage based upon the extra space is not a vested right under the 1986 agreement. If TDRs are approved by City Council, the current Accessory Uses code becomes vested when the density rights are transferred to the buyer. The buyer becomes vested under the new code that permits unlimited Accessory uses. Treasure Hill's Unit Equivalents when transferred are to be doubled. The TDR recommendation entitles the buyer to double the Unit Equivalents plus an added bonus, a vested right in double the unlimited Accessory Uses (15-6-15 F & G).

TDRs are not a new process within Park City. TDRs are done within Deer Valley all the time unbeknownst to affected property owners. It appears the Sweeny's would like to reap the same benefits that Deer Valley has experienced for years.

The Planning Commission has recommended only a portion of Treasure Hill's UE's be transferred at this time. The current proposal leaves open the door to more TDRs in the future and unlimited density within Park City. It is easy to request something small and keep adding TDR's when the public guard is down. Treasure Hill TDRs open the door for developers to build unlimited accessory space in Park City.

<u>Questions for City Council</u>

1. What is the worst case scenario for Park City if all Treasure Hill's UE's are approved as TDRs?

2. How many additional square feet could be added to Park City?

3. Will TDRs create the Unlimited Density Loophole for developers?

Previously, Accessory Uses were not a vested development right in the original 1986 Treasure Hill agreement. Treasure Hill TDR's will create unlimited density in Park City, when previously there where restrictions. Treasure Hill's TDRs will add unlimited square footage via the Accessory Uses section of the code. Treasure Hill TDRs double the Unit Equivalents and include the added bonus of unlimited Accessory Use as a vested right.

The people of Park City have been misled that Treasure Hill has a vested right for 1 million square feet. The misrepresentation has resulted in the TDR loophole that permits new "unlimited accessory space" within Park City that does not count against entitlements. The public is unaware Treasure Hill TDRs add density to Park City far beyond the Treasure Hill Unit Equivalents.

Please investigate the misuse of the Accessory Use code to build "massive" hotels and the potential to compound the misuse with TDRs.

Solution: Remove the Accessory Use section of the LMC (15-6-15 F & G).

If anything is incorrect, please let me know.

Respectfully,

Lisa Wilson

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 these conditions of approval.

2. The applicant will record the plat amendment at the County within one year from the date of City Council approval unless an extension to the recordation date is granted.

3. All construction requires a Building Permit and approvals from the Building and Planning Departments. Any exterior changes to the buildings or site require a pre-HDDR application and subsequent Historic District Design Review.

4. The recorded Snyderville Basin Water Reclamation District (SBWRD) easements on the property shall be shown on the plat with the recording information noted.

5. A note shall be added to the plat stating that "At the time of any resurfacing of the common driveways, the Resort Townhomes Condominium Association shall be responsible to adjust wastewater manholes to grade according to the SBWRD standards. Prior notification of the adjustments and inspection by the SBWRD is required."

6. The property is located within the Park City Soils Ordinance and compliance with the requirements of this Ordinance are required for all construction and/or disturbances of the soil or landscaping on the site.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

7. <u>Land Management Code - Consideration of an additional chapter titled Chapter 2.24 Transfer of Development Rights Overlay Zone and related amendments to Chapter 15 - Definitions</u>
(Application #PL-10-01104)

Jack Thomas introduced Ron Lee and Ken Pollard, and noted that the three of them were asked by the City to develop a massing model of Bonanza Park, showing the existing conditions and existing building massing in context with the topography of the site.

Mr. Thomas explained that the model was based on several assumptions. The first was to get the existing heights of the existing buildings. He reviewed the model and drawings of the Bonanza Park District and identified roadways to orient the Planning Commission with the area. Mr. Thomas stated that they started with the topography and tried to build in actual topographic information into the site to better understand the volumetrics. The second step was to introduce the existing roads and existing footprints into the site. Everything shown in gray was the existing parking.

Mr. Thomas presented another level, which was the existing buildings present day. Everything that exists within the Bonanza Park District was represented in brown. Anything shown in white was outside of the District.

Mr. Thomas remarked that the first step was to get a sense of what could be done with the massing under the existing Code. He presented a volumetric that made several assumptions. The first version is that everything is done under an MPD and respects the existing setbacks. It also respects the entry corridors, which has a hundred foot setback on both Kearns Boulevard and Park Avenue. The first version had 30% open space. Mr. Thomas believed this version provided a sense of what the massing could be without planning. He was certain that every developer would manipulate open space and create their own project. Mr. Thomas noted that the 30% open space was in narrow strips around the perimeter of the buildings. He thought it raised the question of the definition of open space and how is it perceived in the community.

Mr. Thomas stated that they were also asked to introduce square footage from two other parts of the community. He noted that the blue represented 485,000 square feet as a one to one TDR from the Sweeney project. The yellow represented 87,000 square feet of TDR as transferred from Old Town. Mr. Thomas clarified that the locations were arbitrarily selected. The orange color represented a buildout of 35 feet, which is the existing maximum height. The blue area added another level of height above that 35 feet, spread across the site. It gave a sense of the footprint that would result from that amount of square footage.

Commissioner Luskin asked about the parking with that much buildout. Mr. Thomas replied that the parking was underground in this scenario. He pointed out that putting the parking underground on the pads and providing 30% open space is doable under the existing Code and the existing zoning.

Mr. Thomas presented another slide that imposed the existing footprints on what could be built out. He intended to have DVDs available to the Planning Commission and the community so they could have the opportunity to digest and understand the impacts and the direction this would be taking.

Mr. Thomas presented a second version with the same basic parameters, but with 60% open space. Comparing that with the 30% open space version, he noted that doubling the open space had minimal impact. He thought this begged for an interpretation of open space. The question is whether open space can be strips of land around buildings or if it should be conglomerated into a single place or a number of single places. Mr. Thomas reiterated that there was no planning in any of the scenarios presented. It was only a matter of following the Code under the existing guidelines and allowances.

Mr. Thomas noted that the Frontage Protection Zones were shown at 100 feet as required by Code, unless an applicant moves forward with a CUP. A CUP can reduce the Frontage Protection Zone to 30 feet.

Mr. Thomas reviewed a number of images taken from various points to demonstrate height, mass, and setbacks. He noted that in looking at computer simulations and visual images, different angles can change the picture. He had taken the pictures himself and tried to provide an accurate representation. Mr. Thomas presented fly-arounds to give a sense of what it would look like from the air. Mr. Thomas remarked that currently the General Plan suggests moving the verticality to the interior of the blocks. He thought the images showed why that would be a favorable idea. He stated that their intention was to explore further possibilities and introduce some of the amenities they would like to see in the Bonanza Park District, as well as to show three different massing options that increase verticality at the inner blocks and reduce it at the edges. That would not avoid impacting the view corridor. Another option is to open and close the buildings to create a variation in the facade treatment.

Mr. Thomas stated that they would eventually show optional massing in various locations on the site and collect more open space in more definable areas. They would also explore ways to introduce walkways, etc.

Mr. Thomas noted that if you build up to the 100 feet of setback with a 35 foot building, the shadows will extend all the way across Kearns Boulevard at some part of the day. He commented on the impacts related to that scenario. Park City craves sunlight and open space and those have to work in conjunction with each other.

Mr. Thomas remarked that Bonanza Park is a ripe area for redevelopment and it is disturbing to think about what could occur under the existing Code.

Chair Wintzer disclosed that he owns property in the Bonanza Park area.

Chair Wintzer asked Director Eddington what direction they should take with the information they have obtained. After seeing the presentation this evening, he agreed with Mr. Thomas that it can be frightening. He did not want the model to stop at this point and not go any further.
Director Eddington replied that the model illustrates what could be built under the current zoning. That was one reason for wanting to see a model and for looking at TDRs in a number of sub-planning areas as they go into the General Plan. The objective is to know what is out there rather than wait for the regulatory process. Director Eddington requested input from the Planning Commission in terms of what they would like to see.

Chair Wintzer stated that he was surprised to see that there was very little difference between the 30% and 60% open space. Director Eddington remarked that the way the Code is set, some of the open space is not much different from the setback lines. He questioned how usable some of the open space really is as part of the MPD. It is mostly utilizing setbacks, parking lots and walkways to create open spaces. None of those are bad in and of themselves, but they do not create the type of planned open space they would like to see.

Commissioner Savage asked if Director Eddington was asking what the Planning Commission wanted the Planning Department to do as it relates to a plan for Bonanza Park, or whether he was talking about TDRs.

Director Eddington clarified that he was talking about what the Planning Commission wanted to see in terms of planning for Bonanza Park. However, the TDRs are part of that discussion. Commissioner Savage stated that from his perspective, the plan for Bonanza Park is neo-natal at this point in time, and a lot of work needs to be done to formulate a master plan for that area. In his opinion, it represents the best opportunity Park City has to have a meaningful, differentiated, high

quality area as part of the community on a 15 to 30 year basis. He felt it was important to do the work necessary to get it right. Commissioner Savage stated that from a preliminary point of view, everything being done is important and valuable. He thought they should work hard to build on that information to achieve a vision for that community that results in a product that the residents will love and those who participated can be proud. Commissioner Savage believed that had nothing to do with TDRs. There is no reason to think that the current density allowed in that area is insufficient to achieve the vision people are talking about with Bonanza Park.
Director Eddington agreed that they need to plan for this area. However, the issue regarding TDRs, is not specifically tied to Bonanza Park. The Planning Commission will also be looking at Treasure Hill, Alice Claim and Ridge Avenue. The issue will be the most appropriate place to put density.

Planner Katie Cattan requested that the Planning Commission provide their comments on the model.

Commissioner Pettit thought the model demonstrated the need to master plan the area in order to take advantage of different variations to improve the circulation, create more meaningful open space, and create a more desirable walkable/livable community. She believed the presentation this evening clearly pointed out the reason why they need to pay attention to how the area is built out, and the importance of having a vision for the entire area instead of facilitating piecemeal development.

Commissioner Luskin found it hard to comprehend the model. He understood that they need to move density into Bonanza Park and he was impressed that it could fit. However, he could not decipher what that amount of density would look like in reality and how it would work with underground parking and limited traffic flow. Commissioner Luskin believed the model was a starting point, but he would like to flush out different scenarios and how they might work. In his opinion, knowing how much building space can fit in one area is only the first step in a series of processes. In terms of the TDRs, Commissioner Luskin believes the Bonanza Park area has the potential for transferring density.

Commissioner Hontz stated that the model begs for another solution in terms of the Code. She thought form based code was a great solution. In her opinion, a logical way to get to the next step is to apply form based code principles and apply it to a development scenario master plan to see how it works. She believed that tool was necessary regardless of TDRs or whatever else happens in the community.

Chair Wintzer favored the idea of looking into form based code and using it in a model of a specific scenario. He agreed that form base code is a great tool and this would be a good opportunity to see if it works.

Commissioner Peek agreed that it would be nice to see a model using form base code and to phase it according to the current ownership of the land. Developer X could come in with specific plat amendments, and they could phase the form base code into the District in this scenario. As it grows through the area it should all work in its own phasing.

Commissioner Strachan understood that Commissioner Peek was suggesting that they put a form base code overlay on it and have the City try to predict which developers would come in first and which parcels of land they would try to do under an MPD.

Commissioner Savage felt the Planning Commission needed to spend time on what they think this area should be within the context of the guidelines from both the existing and the evolving General Plan and the Visioning. He suggested that they develop a set of conceptual designs for Bonanza Park that would fulfill the "should be" diagram that includes consideration for economic development, work force housing, and sustainability, and incorporate some of the deliverables along the lines of a conference center and whether or not a film studio or other uses would make sense in that location. Commissioner Savage believed this was an opportunity to think about a development plan that would help secure the desire for a long term relationship with Sundance. If they could come up with three or four ideas of how it would look and be positioned in that space, it would give them something to work from. They could then form a time line with a set of constraints and a set of objectives, and start matching up the "should be" statement with the "is now" statement to come up with a game plan and a way to move from where they are now to where they want to be. As these proposals come in, they would have a guideline and a reference framework they could use to make intelligent decisions. Commissioner Savage did not believe any of this related to TDRs at this time.
Mr. Thomas stated that during the phasing portion he failed to point out that the existing square footage in Bonanza Park is approximately 780,000 square feet. With the 35 foot buildout scenario, underground parking allows approximately 5 million square feet, with 30% open space. At 60% open space the square footage decreases with the MPD process. Mr. Thomas remarked that there is no magic number or density that would achieve what they are looking for in the community. He believed that form base code would help to focus on the things that they value such as open space, walkability, mixed-use, affordable housing, etc. Mr. Thomas encouraged the Planing Commission to begin thinking about how those values could be integrated into a master plan.

Planner Cattan clarified that transfer of development rights was an option and not a mandatory requirement. Therefore, a density transfer requires someone who wants to buy the rights and another person to sell them. Planner Cattan wanted it clear that in talking about the buildout of Bonanza Park, the numbers were calculated through a formula to quantify the number of UEs in certain locations, but the numbers are not a base density. The full planning process would be required.

Planner Cattan noted that at the last meeting, Commissioner Hontz had asked the Staff to look into the Snow Creek Subdivision as a receiving zone. She pointed out that in going through the Bonanza Park model they learned that nothing is predictable because each developer would come in with their specific project. However, the Snow Creek area is already developed and according to the original annexation agreement and the master plan, 90,500 square feet was allowed. The Snow Creek area is built to capacity, however, it could potentially become a receiving zone in the future, after additional analysis on the annexation agreement. Planner Cattan reported that the Snow Creek area is 15.3 acres with a maximum square footage of 90,000 square feet. Twenty-two acres of open space was dedicated in the proposal. Planner Cattan stated that Snow Creek is a single-story area that could be looked at as a receiving area. Since it has met its maximum density, it is more predictable in terms of what additional density would look like.

Planner Cattan noted that previous requests to the Planning Commission for Alice Claim was nine lots. Upper Ridge was eight lots. Lower Ridge had an approval for three lots and recently returned with a request for six lots. She explained that her equation to incentivize sending by allowing more density would be creating one unit equivalent per existing minimum lot area within the underlying zone. The lot area includes existing right-of-ways that go through these parcels. Planner Cattan requested discussion on the numbers this evening. The acreage for Alice Claim was 6.65 acres. Portions of Alice Claim are in the Estate zone, which requires a three acre minimum per unit. The acreage for Upper Ridge is 1.52 and 1.65 for Lower Ridge.

Commissioner Savage referred to the proposed multiplier and asked Planner Cattan to explain the rationale for having a multiplier of two for Treasure Hill and only one at the other locations. Planner Cattan replied that for Alice Claim and Upper Ridge, their multiplier took into consideration what was asked for by the Planning Commission, compared to the calculation of one UE per existing minimum lot area. As an example, for Upper Ridge one UE for existing minimum lot area results in 17 unit equivalents. The developer had asked for eight units, therefore, the formula doubles the density. There is a multiplier in the way it is calculated because through the planning process and the subdivision process, they would not be able to realize the 17 units based on existing conditions of the land.

Commissioner Savage did not understand the point of having a larger number. Planner Cattan replied that the larger number benefits ski in/ski out properties on the hillside. She explained how the lot area is calculated. Commissioner Savage clarified that the analysis was based upon the existing zoning relative to a flat piece of property. However, the property is not flat, but the numbers calculated give full credit as if it were flat. Planner Cattan replied that this was correct. Commissioner Savage wanted to know the rationale for Treasure Hill having two. Planner Cattan explained that Jonathan Weidenhamer, the Economic Development Director, was asked to look at values comparing a property such as Treasure Hill to Bonanza Park and what the value would be in the analysis. Mr. Weidenhamer determined that two to one was the correct calculation.

Commissioner Savage understood that the Staff was using a multiplier methodology for Treasure Hill that was different than the methodology applied to other the locations. Director Eddington replied that it was different, however, part of the issue is looking to incentivize some of the relocation of density from Treasure Hill. Another issue is the difference in property values with regard to ski in/ski out slope sites and Bonanza Park property values. In comparing one square foot on Treasure Hill to one square foot in Bonanza Park, Treasure Hill would have a higher per square foot value. Commissioner Savage clarified that the formula makes the assumption that a square foot of property in a high end home on an Estate lot is lower by a factor of two, than a condo in Treasure Hill. Director Eddington replied that this was correct.

Director Eddington remarked that the Staff was not suggesting that the Planning Commission was tied to believing that value assumption. Commissioner Savage pointed out that the Planning Commission was being asked to approve an ordinance that codifies that assumption. Director

Eddington noted that there are various values and different appraisals would result in different multipliers.

Commissioner Strachan remarked that the ordinance does not ask the Planning Commission to codify the values. The ordinance asks the Planning Commission to determine the best sending and receiving areas. Director Eddington remarked that most TDR ordinances have various multipliers and much of it is based on either appraised value or anecdotal value, or where density should be transferred to and from. The Planning Commission could determine that it is better to go straight across the board and keep it all equal. His concern with that approach is that the tool may not be as effective for slope side development on Treasure Hill as it may be for Upper Ridge and Alice Claim. He assumed those people would sell their TDRs first. A straight across the board method is acceptable, but it may not be as effective in the private market.

Planner Cattan pointed out that they are not comparing apples to apples in this situation. Treasure Hill has unit equivalents at 2,000 square feet per unit, but they cannot determine a house in Alice Claim without knowing what will be built. The Staff derived what they thought was the most consistent way to quantify something, so the developer or property owner has an expectation. In TDRs it is important to make sure the economic analysis works, because if that fails the tool will never be used.

Director Eddington noted that the Staff had also discussed other multipliers for the Old Town areas in terms of Planning Commission review numbers. Planner Cattan reviewed a slide showing other options to be considered if the Planning Commission wanted the Staff to look at different methods for calculating the areas.

Director Eddington reiterated a previous question regarding how much information the Planning Commission wanted the Staff to provide on Bonanza Park in terms of planning, renderings, 3-D graphics, street network, etc. Based on earlier comments, he assumed that the Planning Commission wanted in-depth detail and a sub-MPD for that area.

Chair Wintzer stated that based on the model presented this evening, he was not comfortable adding any additional density without first seeing a master plan. Director Eddington believed that tied back to what the Commissioners requested earlier in terms of examining the use of form base code and additional analysis.
Commissioner Peek was interested in seeing additional analysis. He believed the TDR is a valuable tool and they should proceed with looking at other receiving zones. Commissioner Peek explained why adding an additional story to the Snow Creek density would create very little impact. He stressed the importance of getting the TDR tool on the books.

Chair Wintzer felt it was important to do an inventory of the town. There may be other scenarios like Snow Creek that they have not considered. He felt the incentive for Bonanza Park is not workable right now because so much density is still unbuilt. It could be ten to fifteen years before additional density is needed in Bonanza Park. Chair Wintzer thought an area that has reached its maximum density under the zone might be more interested in the incentive if the density could be increased.

Commissioner Savage clarified that he was not opposed to TDRs as a tool and he thought it was a good idea. However, it should be implemented thoughtfully and with consideration of the economics to make sure there is enough demand on the buy side to provide an incentive on the sell side. He did not believe this was the case based on the proposal as presented today. Commissioner Savage thought it was important to understand how it would be administered from an organizational point of view and from a budgetary point of view. He did not think they had a clear understanding of who would be responsible for the long term maintenance of properties that become open space as a consequence of a TDR. The ordinance states that it is the responsibility of the title holder, but in his opinion that was not sufficient in terms of long term care of those properties. Commissioner Savage did not think they had a clear understanding of the mechanism and how the "banking" process would work with the City. If there is meaningful incentive to include Treasure Hill, an interim banking solution would be necessary if it becomes part of a long-term solution.
Commissioner Savage believed there were conflicting agendas related to the upcoming bond season, as well as other negotiations in process. He was certain there were conflicting agendas regarding the implementation of TDRs, in the absence of a more robust discussion of their context relative to the evolving General Plan. Commissioner Savage stated that if they intend to approach an ordinance for TDRs, it must be based upon more thoughtful analysis and simple understanding of sending and receiving zones, where they can believe the economics will justify what they are trying to accomplish.

Planner Cattan addressed the concern regarding thoughtfulness. The reason for recommending the sending of Treasure Hill and not the Alice Claim, Upper Ridge and Lower Ridge was based on the Treasure Hill meeting that was held at the Yarrow to accommodate the number of people who wanted to speak at the public hearing. As planners, they have the job of trying to consider the interest of the public.

Planner Cattan presented a table showing traffic count calculations. The top part of the table was for Treasure Hill. The bottom portion was the Alice Claim development. She thought it was interesting to show the difference between a residential development. One would think that a large hotel would generate more traffic trips, however, because it is in a walkable location, the traffic counts for Treasure Hill were lower and the impact evaluation between the two were comparable.

Planner Cattan reviewed a comparison of the view shed analysis. One was a rending of the view from the corner of Heber and Main, looking up at the Treasure project. A second was the view shed analysis for Alice Claim.

Commissioner Savage asked if Planner Cattan had a before and after of the Treasure impact picture. Planner Cattan replied that there was one, but she did not have it with her.
Assistant City Attorney McLean remarked that there were two parts to the issue. The first was whether or not they want the tool. If they do, they should possibly consider starting with something smaller before getting into master planning and other major analysis. She advised that if they move into another level of layering, they would not have the TDR tool for a long time. Ms. McLean recommended that the Planning Commission begin their discussion with whether or not they want

the tool and if so, what is the minimal amount they feel comfortable putting into place in an effort to move it forward. Once the TDR is in place, additional density and locations could be added or changed in the future.

Commissioner Savage recalled that previously there was a sense of urgency with respect to TDRs and pending State legislation that may prohibit an ordinance in the future. Ms. McLean stated that to her knowledge, nothing has been raised in the State legislature concerning TDRs. However, there is a current bill limiting historic districts and she intends to follow that discussion. Ms. McLean pointed out that the Legislature is still in session and it is difficult to know what issues will come up between now and when they adjourn in March. She emphasized that getting the tool through the process would be helpful to the City and the public in terms of using it as a possibility for Treasure Hill.

Commissioner Savage stated that with respect to Treasure Hill or any TDR process, he asked if the City was willing to state that it does not intend to be a bank as it relates to TDRs. Ms. McLean replied that it would depend on how the Planning Commission institutes the tool. The Planning Commission can address that issue in approving a TDR. Commissioner Savage clarified that he was asking about the City's intention on being a bank. Ms. McLean believed that was up to the City Council and she was unprepared to answer that question on their behalf.

City Council Member Liza Simpson stated that if the Planning Commission makes a recommendation on a proposed ordinance, they could include that as part of their recommendation. Assistant City Attorney McLean remarked that the Planning Commission would either put a tool in place that allows for banking or one that does not. If the ordinance is adopted with that framework, the market and other factors would dictate whether or not it is actually used.

Director Eddington clarified that currently the proposed ordinance does not recommended that the City would be a bank. It would be through private transactions. Commissioner Savage understood that under the Staff recommendation, a TDR would require one seller and one buyer without a third party holding the asset. Director Eddington replied that this was correct. Commissioner Savage clarified that as proposed, the ordinance would preclude the City from participating. Planner Cattan replied that there would not be an intermediary step. The density would be transferred upon approval of a master plan in the receiving zone. Director Eddington explained that a seller of TDRs would negotiate with a buyer of TDRs. The person buying it would come before the Planning Commission and request approval for an increased density MPD. The Planning Commission would know the number of TDRs and the Staff would have a calculation sheet with regard to certificates. They are not proposing to be a bank.

Commissioner Savage stated that in the case of Treasure Hill, if the Planning Commission was to approve sending a 1,000 square foot unit to a receiving area, that mechanism would not generate cash until such time a the receiving unit had implemented an MPD that had gone through the approval process. They would be entitled to take advantage of that incremental density and receive that approval. Planner Cattan noted that at the same time, a conservation easement would be adopted on the sending zone.

Chair Wintzer opened the public hearing.

John Stafsholt, a resident at 633 Woodside, stated that the model was very good and helpful, but it was showing a 100% underground parking. Mr. Stafsholt suggested that they also look at the model with a 100% above ground parking. Since Bonanza Park does not currently have underground parking, he thought it would be more realistic to see the maximum density in the current situation.

Director Eddington replied that without underground parking the maximum density would be approximately 1.5 million square feet.

Mr. Stafsholt stated that based on public input on Treasure Hill over several years, he urged the Planning Commission to consider moving forward to adopt TDRs as a tool. He thought it was a great idea to look at additional receiving zones.
Mary Cook, representing the Homestake Homeowners Association, asked for clarification on the correct pronunciation and spelling of form base planning.

Director Eddington replied that it is form base code, spelled f-o-r-m. He noted that the Planning Department has a number of documents available if Ms. Cook or anyone else was interested in reading about form base code.

Chair Wintzer closed the public hearing.

Commissioner Hontz referenced pages 152-153 of the Staff report outlining the pros and cons and additional considerations. She understood that Planner Cattan was asked to compile a list of pros and cons, however, she would characterize those differently because in her opinion the cons were not true cons, etc. Commissioner Hontz wanted it clear for the record that she had a hard time finding the bullet points as a strong pro or a strong con.

Commissioner Hontz understood from previous discussions that the Planning Commission wanted to start with a good ordinance that was essentially basic. That would allow them to move towards more specifics once they find out how it works and as the market changes. As they learn more, they could add to it and make it work better for the community. Commissioner Hontz stated that she wanted the TDR tool and she wanted it in place now.

Commissioner Hontz was comfortable about forwarding a recommendation to the City Council this evening, if the recommendation includes matters they have already discussed. She understood the rationale for including some of Treasure Hill, and the concern for what they would end up with in a receiving zone. Commissioner Hontz was comfortable adding a percentage of Treasure Hill as the total amount that could go forth in the TDR ordinance if they could also open up Snow Creek and include it as a potential receiving zone. She did not favor specifying a percentage of Treasure Hill if Bonanza Park was the only receiving zone. At the same time, she would not forward a positive recommendation unless they also included all Old Town lots as sending zones. Commissioner Hontz remarked that the economics need to work and if they include Alice Lode, Upper and Lower Ridge and some of Treasure Hill, it creates the potential for sellers to price their TDRs more realistically. Commissioner Hontz stated that the potential positive impact of eliminating all density on some of the Old Town sites would be a positive traffic benefit.

Planner Cattan asked if Commissioner Hontz had a definite percentage in mind for Treasure Hill. Commissioner Hontz replied that up to 20% would be reasonable. Commissioner Hontz stated that she struggled with the numbers in the middle column of the sending zones as outlined in the Staff report.

Commissioner Luskin stated that he was a strong advocate of TDRs because the more tools they have available the better they can do their job. He was still digesting all the numbers and information presented. Commissioner Luskin felt it was important to keep moving forward and to keep working on the ordinance. He was prepared to advocate for a positive recommendation this evening.

Commissioner Pettit concurred with Commissioner Luskin. She wanted the ordinance and she wanted it sooner rather than later. She agreed with Commissioner Hontz on having a variety of landowners designated as sending zones to promote competition and the opportunity to test the market. Commissioner Pettit thought they should also be thinking about more than one receiving zone.

Commissioner Strachan stated that he generally thinks the tool is good, however, he thought it was premature to forward a positive recommendation this evening. He believed they had already covered their bases by having a pending ordinance. If the Legislature changes the State law they would still be able to have a TDR ordinance because a public hearing was held this evening. Commissioner Strachan was uncomfortable mandating the ratios and felt it was best to leave it up to the private market. He did not believe the City should dictate a ratio in the ordinance. For that reason, Commissioner Strachan was hesitant to forward a positive recommendation this evening.

Assistant City Attorney McLean stated that the Planning Commission needed to define the ratio, otherwise, they would not know what receiving density would be allowed. She noted that it could be changed in the future or determined on a case by case basis. From a legal perspective, she was uncomfortable leaving the numbers unpredictable. Commissioner Strachan wanted to know the difference between that thought and subparagraph B, which states that, “if requested, the calculation will be made by the Planning Director”. Planner Cattan replied that the Staff tried to make it predictable within the ordinance. Ms. McLean clarified that the language was intended to mean that the Planning Director would provide a letter specifying the number of units agreed upon in a specific transfer. Commissioner Strachan thought the language was improperly worded to reflect that intent. Planner Cattan offered to reword the language. Commissioner Strachan suggested adding the criteria into the ordinance. Ms. McLean agreed that they could remove the language and make sure the ordinance itself was very predictable.

Planner Cattan pointed out that it would be necessary to re-visit the multiplier and adjust it as the market demands. If they find it is not working, they would need to evaluate why and also do an economic analysis.

Chair Wintzer asked if the Planning Commission passes an ordinance with specific numbers, could the Planning Department request that the ordinance be re-opened to change the numbers. If so, could it be opened to only address one specific area. Assistant City Attorney McLean answered yes to both questions. Commissioner Strachan questioned whether that provided enough flexibility and gave an example to explain his concern. Chair Wintzer felt it would be foolish not to have a number in the ordinance. The City can control the number and two private individuals can decide if there is enough incentive to do it.

Commissioner Strachan stated that his concern was whether or not there was enough incentive to encourage a sender to send. Chair Wintzer was unsure, but he thought price would also be a factor.

Commissioner Peek was comfortable proceeding with the ordinance to get something on the books. He thought a high priority was extending the receiving areas to create more demand. In terms of the UEs in the sending zones, Commissioner Peek was concerned about creating a specific number and giving the incentive through the transfer of a UE number. He thought it was better to give a realistic number and then possibly increase the ratio. Assistant City Attorney McLean stated that if Commissioner Peek was talking about sending zones outside of Treasure Hill, she was comfortable that only having the multiplier was a good approach.

Commissioner Savage fully supported a mechanism to implement TDRs. However, he felt that it was premature at this juncture because there was a lot of ambiguity surrounding the question of implementation and the market associated with TDRs. Commissioner Savage was mindful of the recent discussions that have taken place in the community relative to MIDA and how an early expectation was set for 2,200,000 square feet being appropriate for a particular type of development. He believed they should earnestly try avoid that same situation with this matter. He noted that the Staff report contained a list of pros and cons that were thoughtfully prepared, but had not been addressed. In addition, the urgency associated with legislative actions appears to be less urgent. Commissioner Savage pointed out that there is no indication from any party that there is a demand on the receiving zone side of the equation. In addition, it has been clearly indicated that the implementation of TDRs is not a concern as it relates to the negotiation with Treasure Hill. In light of all those considerations, Commissioner Savage recommended that the Staff come back with a simplified version of a TDR ordinance that properly addresses the question of economics, and to the best degree possible, address the unaddressed pros and cons and other considerations prepared by Planner Cattan.

Commissioner Savage strongly recommended that the Planning Commission delay forwarding a recommendation to the City Council until they have clarity on those particular issues. He believed the change in events allows them time to do it more thoughtfully.

Chair Wintzer stated that after looking at the model and walking the neighborhood, he was not convinced that Bonanza Park could handle more density. At this point, it is the only receiving zone proposed. Chair Wintzer was uncomfortable specifying 20% of Treasure Hill. He could support the ordinance without Treasure Hill in the mix at this time. If someone wants to look at that size of a project, they need to show him that it can fit in an area and there is a demand for it. Chair Wintzer recommended that the Planning Commission forward a recommendation for the TDR ordinance without Treasure Hill. He also recommended that the Planning Commission direct Staff to inventory the City for other receiving zones.

Planner Cattan stated that she had calculated 20% of Treasure Hill and that number with a multiplier of 2 is 86.4 units. She explained that 20% is 43.2 multiplied by 2. The credits would be 86.4 and the MPD units would be 43.2.

Chair Wintzer felt it was important to know the amount of bulk and mass they would be sending, rather than the number of units. He believed additional analysis was needed. He was also concerned about sending density to Bonanza Park without knowing how it would be used.

Commissioner Savage requested an analysis on viable buyers who have an interest for being on the other end of the equation. Director Eddington replied that the City may not always know the buyer, but it would be no different than the current zoning. Not knowing who would or would not build out without TDRs makes it difficult to provide that analysis. The City is not involved in TDR transactions and they will not seek out buyers or sellers.

Director Eddington noted that there is a preliminary concept for Bonanza Park in terms of planned heights, networking, road networks, etc. He did not believe the Staff had done a good job of presenting that plan to the Planning Commission and they would present that plan again with a more visual presentation.

Commissioner Luskin clarified that if the Planning Commission recommends the ordinance, they would not be bound to the sending and receiving zones discussed and they could always add or subtract. Director Eddington replied that this was correct.

Commissioner Hontz was prepared to make a motion based on her understanding that a master plan for Bonanza Park would be done in conjunction with form base code, and that they would continue to refine the TDR ordinance and ask more questions about receiving zones. She understood that they would go back and verify the values of what would be proposed in her motion.

MOTION: Commissioner Hontz made a motion to forward a positive recommendation to the City Council that amends the proposed TDR ordinance and adds: 1) add Snow Creek as an additional receiving zone; 2) includes all of the other Old Town areas as identified in the Staff report as sending zones, 3) takes those sending zone values from the middle column on page 157 of the Staff report, which takes 43.46 for Alice Claim down to 9 with a multiplier of two to match Treasure Hill. It would be 9 times 2, so it would be 18, 8 times 2, so on and so forth; 4) reduces the amount of Treasure Hill as recommended in the draft TDR ordinance to 22 MPD units or 44 development credits. Commissioner Luskin seconded the motion.

Planner Cattan clarified that Lower Ridge had a previous approval of three lots and recently came back to the Planning Commission requesting six lots. Commissioner Hontz suggested that Planner Cattan base the calculation on three lots.

Chair Wintzer felt it was important to specify new numbers for all of the middle column mentioned in the motion. Alice Claim changes from 9 to 18, Upper Ridge from 8 to 16, and Lower Ridge from 3 to 6. Treasure Hill goes from 22 units to 44 credits.

Commissioner Savage pointed out that the Planning Commission was making decisions and changing the Staff recommendation without any reason or consideration. He felt they were shooting from the hip and he could not support it.

VOTE: The motion passed 4-2. Commissioners Hontz, Pettit, Luskin and Peek voted in favor. Commissioners Strachan and Savage voted against the motion.

The Park City Planning Commission meeting adjourned at 9:30 p.m.

Approved by Planning Commission: ___________________________________