

**PARK CITY PLANNING COMMISSION  
WORK SESSION NOTES  
NOVEMBER 10, 2010**

PRESENT: Charlie Wintzer, Brooke Hontz, Dick Peek, Julia Pettit, Mick Savage, Adam Strachan, Thomas Eddington, Katie Cattan, Polly Samuels McLean

Commissioner Luskin was excused.

**WORK SESSION ITEMS**

**Discussion of Density Transfer Option - General Plan**

Planner Katie Cattan stated that the concept of Transfer of Development Rights has not been utilized in Park City and it is not currently incorporated within the Land Management Code. She remarked that when putting together a transfer of Development Rights Ordinance, much of it relates to the legal aspects in creating the right mechanisms for collection of the development rights, the transfer and the application. Planner Cattan noted that the model ordinance provided in the Staff report contained a significant amount of legal language that the Planning Commission would not focus on this evening.

Planner Cattan presented an overview of how TDRs work. The TDRs can be historic preservation, open space, hillsides, view sheds. By preserving the land that has development rights, the development rights transfer to another area.

Planner Cattan stated that purpose statements was the first item for discussion this evening. The second would be to identify sending and receiving zones. A third discussion would be density bonus for transfer of receiving zones as an incentive for someone to give up their land. A final discussion would be the receiving zones and how much density should be allowed on a receiving zone.

Planner Cattan requested that the Planning Commission brainstorm ideas and identify purposes they would like to see in a TDR.

Chair Wintzer noticed that the model ordinance did not address traffic. In his opinion, one reason to have a sending zone would be to improve traffic circulation within the City. Commissioner Pettit agreed, particularly in areas where the roads are substandard. Chair Wintzer thought the idea should be to stop traffic further out towards the edge of the city limits and not just in areas like Old Town. Rather than sending traffic further up Empire Pass, it would be logical to stop it closer to the City limits.

Commissioner Peek remarked that sending areas could be areas with inadequate infrastructure, as well as platted City street right-of-ways that are platted but not in place. Planner Cattan noted that TDRs are used a lot for sprawl and to transfer density into outer boundaries. Commissioner Peek asked how specific the sending areas could be. Director Eddington remarked that the definitions for a sending area and a receiving area would need to be very specific. Commissioner Peek stated that some areas bordering the HRL and HR-1 zones may be good sending areas.

Planner Cattan remarked that the Planning Commission could identify certain zones on the

zoning map as sending areas or they could define certain parcels as sending areas. She suggested the parcel by parcel approach. Commissioner Savage asked if it was possible to have a sending area inside a receiving area or visa-versa. Commissioner Strachan asked if they could designate the entire town as both a sending and receiving area. Commissioner Hontz believed that it could be done, but it would not be a benefit moving forward with their goals. One project could go above and beyond and receive a large amount of density adjacent to an areas where someone else had decided to eliminate the density. Director Eddington pointed out that it would work in areas where they were trying to create commercial node development. Commissioner Hontz cautioned against overlapping sending and receiving areas. It is important to have defined districts.

Commissioner Strachan thought it could be worthwhile if the transferor and the transferee have some flexibility to make transfer deals. Commissioner Hontz agreed, as long as transfers occur in designated spaces where the community wants density. Commissioner Strachan asked if the community would have the ability to veto a TDR. Director Eddington answered no. Once the tool is enabled it can be utilized.

Director Eddington believed he and Commissioner Hontz were saying the same thing. If the entire city was a sending zone and as an example, Bonanza Park and the PCMR parking lot were two receiving zones, those would not be receiving and sending zones. They would strictly be geographically defined areas for receiving density, and the whole town could have the opportunity to place density there. Director Eddington clarified that it would be a receiving district in a larger sending zone, based on the planning decision to put density in that location.

Chair Wintzer noted that the Deer Valley parking lot is difficult to reach by car. If the Planning Commission wanted, they could transfer density from that area to reduce the amount of traffic through Old Town. As another example, if they wanted to reduce the amount of traffic going to the top of the mountain, they could send density from a mountain top project back to the Deer Valley parking lot. In those scenarios, Chair Wintzer asked if the Deer Valley parking lot would be considered a sending and receiving area. Director Eddington stated that the Planning Commission would need to make that decision. The first step would be to look at the Deer Valley MPD to see how many UEs they have available to build. The next step would be to do a traffic analysis to see if development could be supported.

Commissioner Savage stated that you run a business opposite from how you read a book. When you run a business you start at the end and do everything possible to achieve that. In his mind the end is the General Plan. Commissioner Savage believed the concept of TDRs significantly interplays with what they believe the General Plan will look like. The only problem is the deadline imposed for approving TDRs in a short time frame. Rather than worrying about what could happen in the Deer Valley parking lot, Commissioner Savage suggested that they step it up a level and present information in a way that helps the Planning Commission analyze the matter on a more directed pathway.

Planner Cattan stated that her advice would be not to read the end of the book at this point, because they are not prepared for the final chapter. She explained that under a TDR ordinance, sending and receiving zones must be created. She suggested that they keep the sending and receiving zones at a minimum to at least get an ordinance in place. Planner

Cattan noted that the sending and receiving zones can be changed at any time, just as the zoning map can be changed. Commissioner Savage clarified that the ability to get in under any potential legislative cut-off dates would not impede the ability to re-assign the sending and receiving zones if deemed necessary at any point. Planner Cattan replied that this was her understanding. Commissioner Savage thought it was a critical question.

Director Eddington remarked that the City is already looking at the General Plan and the Staff is working with Matt Cassel, the City Engineer, and Kent Cassel, the Public Works Director, to create a transportation plan as one element of the General Plan. That information led to the discussion on TDRs and the Staff is beginning to identify areas where issues could arise. Director Eddington believed the Staff was looking at TDRs more comprehensively than what it appears. He was confident about most of the H zones and other areas in the City. Director Eddington thought that Bonanza Park, the Deer Valley and PCMR parking lots, and Treasure Hill are the four main areas that are still loose and ill-defined and those areas need to be further addressed.

Commissioner Savage felt the fundamental question was whether they needed to be definitive on sending and receiving zones prior to the time of the legislative deadline. He wanted to make sure they would have flexibility to modify, add, and adjust the sending and receiving zones once they are incorporated into the Land Management Code.

Assistant City Attorney, Polly Samuels McLean, stated that the City is aware that the State Legislature may try to tamper with this area of the law during the next legislative session. The idea is to have a TDR ordinance in place in case it is not allowed in the future. Currently State Code specifically allows for TDRs. Ms. McLean clarified that the objective this evening was to define general concepts of the policy. There should not be a problem as long as they have a pending ordinance prior to the start of the legislature. Ms. McLean stated that the ordinance starts pending when the Planning Commission conducts a public hearing. She thought it would be noticed for public hearing and proposed language on either December 8<sup>th</sup> or a second meeting in December.

Commissioner Savage asked Ms. McLean if the Planning Commission would have the flexibility of changing the boundaries and re-defining sending and receiving zones at any future time once it is added to the Land Management Code. Ms. McLean answered yes. It can always be amended the same way that zoning can be changed through the public process. Commissioner Savage clarified that there was no urgency in having a definitive map of sending and receiving zones at any point in time. Director Eddington stated that they would need the base framework and base sending and receiving for a pending ordinance.

Chair Wintzer wanted to know how assigning receiving and sending zones would affect developers rights in those zones. Director Eddington replied that it provides the developer with another tool. Ms. McLean stated that it is an overlay zone and a developer would always have the underlying zoning rights for development under the zone.

Planner Cattan stated that the next discussion point was to identify sending and receiving zones. She noted that the Staff had identified Treasure Hill as a sending zone, and the Deer Valley parking lot, the PCMR parking lot and Bonanza Park as receiving zones.

Commissioner Peek thought sending zones should be unimproved platted lots and street right-of-ways bordering the H Districts. Commissioner Hontz remarked that the City has a great map of the open space showing what was acquired and where development has occurred. She thought that map could be helpful when looking for sending and receiving zones.

Commissioner Pettit commented on pockets of platted lots that border the H Districts. The lots are uphill on steep slopes and some are on ridge tops. She thought it made sense to identify those lots as potential sending zones. Director Eddington agreed. Many of those are sensitive areas that may have inadequate road infrastructure.

Commissioner Hontz commented on four points that make a good TDR ordinance work. One is to define the clear sending and receiving zones. The second is understanding what you have and the value of an unplatted lot that is unbuildable. Since Park City has a small geographical area to study, if they can understand what they have it could be incentivized so people would want to participate.

Commissioner Hontz liked the idea of the market driving the value and the price versus the City being involved. The Commissioners discussed values and the worth of remaining development rights. Director Eddington stated that whatever value the developer pays for the unit equivalent, they have to make sure it was added into the square foot costs to see if they could still build it and sell it for a decent profit. If it does not work in the private market no one will utilize the tool. Chair Winter stated that there needs to be an incentive for both the receiver and the sender. Commissioner Peek recalled a previous comment about land trusts getting involved in a TDR bank. He was concerned about big deals that could occur in purchasing and selling and moving the development rights. Planner Cattan explained that someone could come in and instead of putting density rights into a receiving area, they could be bought into a conservation agreement. Commissioner Peek asked if people could purchase and sell development rights. Director Eddington stated that if someone had public money and utilized a bond to buy down density rights, they would have purchased density rights. If someone wanted to preserve certain areas, they could hold the density rights in abeyance. Chair Wintzer asked if there was a time limit from when the rights are purchased and sold. Director Eddington stated that he has seen states and government entities holding development rights for 20 or 30 years. As an example, Commissioner Savage asked if Park City could purchase density from Treasure Hill, bank it and then sell that density to a developer who wanted more density in another location. Director Eddington replied that this was correct. It would require community support and a bond that supported it. Commissioner Peek pointed out that a private investor could do the same thing. Director Eddington replied that a private investor could do it as long as the tool was in place.

Assistant City Attorney McLean pointed out that for purposes of the ordinance the City needs to set a sending zone and a receiving zone. Planner Cattan stated that the ordinances she has research do not have banks. Banks can be confusing and very involved. Director Eddington thought it would be difficult for Park City to set up a bank. He felt it was better to leave it to the private market because Park City is manageable. Commissioner Peek asked if it would be contained within the municipal borders. He was told that it would.

Chair Wintzer understood that the property owner of a sending zone could dispense the units one at a time for the rest of his life. Director Eddington stated that he could as long as that tool is in place.

Commissioner Strachan understood that a receiving zone could not develop more than what is allowed under the original zone. Planner Cattan stated that they would look at the maximums allowed in the zone and create a new maximum as a receiving zone. She noted that receiving areas can be rated to say which areas are appropriate for more or less density.

Commissioner Hontz felt it was important to specify development parameters for individual receiving zones to make sure they understand what development would look like with additional density. Chair Wintzer was concerned about controlling variation in height. Assistant City Attorney McLean stated that currently they have requirements for height variation and they could do the same thing for the receiving zones. Another option would be to allow more density in the center of the receiving zone with a maximum height in the middle. As development branches out the height is reduced to be more compatible with surrounding structures.

Commissioner Savage requested an additional work session in November to further discuss TDRs prior to the public hearing on December 8<sup>th</sup>. He thought it would help the Commissioners be better prepared for public comment. Chair Wintzer concurred. The Commissioners agreed to meet in work session on Tuesday, November 23<sup>rd</sup> at 5:30.

Commissioner Pettit requested that the Staff provide visuals at the next meeting similar to what was presented at a previous meeting for the Bonanza Park area. It would help them understand the volumetrics of the key areas and what it would look like with additional density. Commissioner Hontz requested that the Staff include the Silver Lake area in their presentation.

Chair Wintzer asked if Park City Heights would be an appropriate receiving zone and whether it was worth considering for additional density in the future. Planner Cattan remarked that properties with development agreements need to be reviewed differently before they can be considered. Commissioner Savage believed the challenge was how to resolve the conundrum of not having the specificity needed for the implementation they want.

Director Eddington stated that the Staff would look at the areas mentioned this evening and put them in the map. They would also try to do sketch up modeling to help identify potential receiving zones. He noted that the Staff had drawn up maps, but they needed to be put on to the GIS system before they could be presented to the Planning Commission.

Planner Cattan reported that Treasure Hill would be a sending zone for unit equivalents. Commissioner Pettit understood that there was discussion about expanding the sending zone beyond just Treasure Hill. Planner Cattan replied that this was correct. She clarified that the Planning Commission wanted to look at an open space map to identify other opportunities, as well as looking at unimproved platted lots around the HR-1 zone. Commissioner Peek added platted street right-of ways that are not improved.

Regarding the purpose statements, Planner Cattan summarized that the Planning Commission wanted to include improved traffic circulation to make sure development occurs in an appropriate location. She understood that the areas to be further considered as receiving zones included the Deer Valley parking lot, the Silver Lake parcel, PCMR parking lots, Bonanza Park/Iron Horse District. Planner Cattan stated that the Planning Commission favored creating a density bonus and the Staff would come back with suggestions for discussion.

Commissioner Pettit asked if there was the ability to transfer residential for commercial or if it needed to be residential for residential and commercial for commercial. Planner Cattan replied that there is the ability to transfer residential for commercial. However, it is based on the unit equivalent formula. Commissioner Peek felt that would call into question the affordable housing component and whether a developer would want to sell off their affordable housing obligation to a receiving zone.

Commissioner Strachan was unsure whether they should allow a transfer for affordable housing because those locations were carefully planned. Chair Wintzer understood that the only affordable housing that could be transferred is the percentage of affordable housing that does not get used. Commissioner Strachan believed the affordable units should have to remain in their originally designated location. Chair Wintzer stated that if there is no development, a hundred percent of the affordable units could be transferred to another area. Commissioner Pettit agreed and found that to be a desirable approach. Commissioner Strachan was concerned that developers would continue to transfer deed restricted units because they are not as profitable. Planner Cattan clarified that currently affordable housing does not have to occur on the site of the development. Chair Wintzer understood the point Commissioner Strachan was making, however, he thought it was appropriate for the affordable units to go where the density goes. Commissioner Strachan agreed, but he could see the potential for developers to continually transfer affordable units and only keep the commercial units. The Commissioners concurred that further discussion and clarification was needed regarding the transfer of affordable housing units.

Chair Wintzer asked if the City or the Planning Commission were obligated to approve a transfer. Commissioner Strachan asked if density transfers would come before the Planning Commission for review and approval. He noted that Section 106 in the proposed ordinance only talks about an administrator. Commissioner Peek asked if there would be a TDR conditional use in the zone. Assistant City Attorney McLean explained that by having receiving zones, it would be a new underlying entitlement and would not come before the Planning Commission. These discussions are the opportunity for the Planning Commission to identify appropriate locations for development and density. They have the ability to place restrictions in terms of affordable housing, but once the ordinance is set, people can act on that expectation.

Chair Wintzer suggested that the Commissioner read through the Staff report and email the Staff with any ideas or suggestions prior to the next work session.

The work session was adjourned.