

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
July 13, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 5:35 p.m. and noted that all of the Commissioners were present except Commissioner Pettit who was excused.

PUBLIC COMMUNICATIONS

There was no comment.

ADOPTION OF MINUTES

The Planning Commissioner lacked a quorum of Commissioners present who had attended the meeting on June 8th. Assistant City Attorney McLean advised that for approving minutes, it was appropriate for the Commissioners who had not attended to rely on the ones who did attend. Therefore, all the Commissioners were eligible to vote.

June 8, 2011

MOTION: Commissioner Hontz moved to APPROVE the minutes of June 8, 2011 as written. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 4-0-2. Commissioners Strachan and Thomas abstained.

June 22, 2011

Director Eddington read into the record corrections to the June 22, 2011 that Planner Whetstone had submitted in writing.

Page 8 of the work session, page 38 of the Staff report on the Upper Ridge Subdivision, first paragraph, last sentence was corrected to read, "...accessed via a private driveway within a platted ROW."

On that same page, third paragraph, the last sentence was corrected to read, "Mr. Pack stated that three property owners jointly own the 42 lots."

On page 9 of the work session, page 39 of the Staff report, second paragraph, line 5, regarding was corrected to **regrading.**"

Commissioner Strachan referred to page 9 of the minutes, page 51 of the Staff report, Condition of Approval #6 for 929 Park Avenue, and changed the last sentence "The applicant consents to the maximum" to read, "The applicant **agrees** to the maximum". He felt that was more accurate since the applicant had proposed the maximum square footage.

Commissioner Hontz referred to page 5 of the work session, page 35 of the Staff report, first paragraph, third line, and corrected to be inaccurate to read **to being inaccurate.**

Commissioner Hontz referred to page 6 of the work session, page 36 of the Staff report, third paragraph, second line, and corrected document to read **documented.**

Commissioner Hontz requested that someone re-listen to the recording to verify a comment made by Planner Whetstone during the work session. She questioned the comment made by Planner Whetstone on page 7 of the work session, page 37 of the Staff report, the second paragraph, last sentence "...the smaller lots were still 42 individually platted lots." If that was the correct statement, she would dispute the math because it does not add up to 42 platted lots, since some are portions.

In that same paragraph, Commissioner Worel corrected Commissioner Whetstone to read **Planner** Whetstone.

Commissioner Strachan recommended that the minutes be tabled so the corrections could be incorporated and the recording verified.

Commissioner Savage referred to an announcement in the June 22nd minutes regarding a joint meeting with the City Council. He noted that only five of the seven Commissioners were present at the June 22nd meeting. Commissioner Savage heard about the joint meeting by chance, and requested that the Staff make an effort to notify absent Commissioners.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Eddington introduced Matt Evans, the new planner in the Planning Department.

Director Eddington provided a handout for the City Tour and asked any interested Commissioners to contact the Planning Department. The Tour would be to Fort Collins and Estes Park.

Director Eddington reported that the Planning Commission held a joint meeting with the City Council on Thursday, July 7th. It was a productive meeting and they discussed re-development, planning, and larger policy issues. He noted that a second joint meeting was scheduled for Thursday, July 21st at 5:30 p.m. Commissioners Thomas and Worel were unable to attend the joint meeting on July 21st.

Director Eddington provided an update on Treasure Hill. The City is continuing negotiations with Treasure Hill and they are trying to schedule a public outreach meeting to hear public input. Times were tentatively scheduled for Tuesday, July 26th between 4:00-7:00 p.m. at the Eccles Lobby. It would be an informal open house where the public could view design boards and ideas being considered. There would not be a formal presentation. The objective is to let the public know how the negotiations are proceeding and to hear public input. Director Eddington noted that the Planning Commission would see the same presentation during their July 27th work session.

Director Eddington reported that the Treasure Hill CUP was granted an extension through the end of July based on the fact that negotiations were proceeding well and everyone was making a good faith effort to reach an agreement.

CONTINUATION(S) – Public Hearing and Continue to Date Specified

Land Management Code – Amendments to Chapter 1, Chapter 11, and Chapter 15
(Application #PL-11-01203)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

The Staff requested that this item be continued to August 10th.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments to Chapters 1, 11 and 15 to August 10, 2011. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

633 Woodside Avenue – Conditional Use Permit
(Application #PL-11-01270)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE 633 Woodside Avenue – CUP to July 27, 2011. Commissioner Strachan seconded the motion.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 1159 Empire Avenue – Record of Survey (Application #PL-11-01228)

Planner Katie Cattan reviewed an application for a Condominium Record of Survey for an existing four-plex located at 1159 Empire Avenue. The application is to convert the duplex into a condominium conversion. Once the project becomes a condominium conversion the units can be sold separately.

Planner Cattan stated that the home was originally built in 1979 as a four-plex. It is a legal non-conforming use and a legal non-complying structure. At the time the structure was approved it was a legal structure under the Code. Planner Cattan explained that two elements make the structure non-conforming. The first was that the setback requirement is not met on the side yard setback. The second is that the footprint calculation is slightly over the allowed footprint. Planner Cattan stated that another issue is the non-conforming use. The LMC states that, “no conforming use may be moved, enlarged, altered or occupy additional land, except as provided in another section”, which is specific to historic.

Planner Cattan stated that although the existing non-conforming use is not being physically moved, enlarged or expanded into additional land, the ownership interest is being altered by creating a condominium in a manner which would increase the degree of non-conformity, since it would allow for individual ownership of the four units. When subdivision applications or plat amendments are reviewed, the Planning Commission must find good cause. Because this request expands on a non-conformity, the Staff could not find good cause for this application and, therefore, proposed a negative recommendation.

Marshall King, with Alliance Engineering, representing the applicant, agreed that this was a legal non-complying use. He pointed out that the Land Management Code has allowed uses as conditional uses but it does not address ownership. The only place ownership is even considered in the LMC is under condominium conversions, which only says that approval is required from all City departments. Mr. King read from the LMC, “The structure must be brought in substantial compliance with the Building Code as conditional precedent to approval”. He noted that the structure has been inspected by the Building Department and it is a solid, sound concrete structure. It has been used as a four-plex for 30+ years. Being a solid building it would continue to be used within the requirements of the Land Management Code.

Mr. King disputed with the comment in the Staff report that the condominium conversion would increase the degree of non-conformity. He believed the proposal would at least maintain the degree of non-conformity and explained why it could possibly decrease the non-conformity per Code. Mr. King remarked that the chances of someone tearing down a solidly sound structure to build something that would comply was very improbable.

Mr. King stated that the primary reason for disagreeing with the Staff recommendation was based on the fact that the LMC addresses use and not ownership. In addition, the LMC itself perpetuates

continuing a legal non-conforming use due to the fact that if the building was ever destroyed involuntarily it could be rebuilt exactly as it exists today.

Chair Wintzer opened the public hearing.

Jill Sheinberg, a resident in Old Town, questioned why the City would oppose the idea of something that could possibly provide lower income housing units in Old Town. She supported the application.

Craig Elliott, felt the word "alteration" was being twisted, and it could leave the City with a potential precedent that could restrict the ability to do good things in Old Town. Mr. Elliott stated that if the proposal would not change the use, he could not understand why the City would restrict the type of ownership. Mr. Elliott supported moving forward with the requested record of survey.

Commissioner Savage asked Mr. Elliott to elaborate on his comment about twisting the word "alteration". Mr. Elliott understood that the applicant was not making major construction changes to the building. The applicant confirmed that this was correct. Commissioner Savage clarified that Mr. Elliott's point was that the only change was in the form of ownership and not physical changes or alterations.

Chair Wintzer closed the public hearing.

Commissioner Thomas noted that the structure was built in 1979 as an approved use. Over time the Code changed and it is currently a non-complying structure based on the current Code. If the applicant was strictly requesting an ownership change, Commissioner Thomas struggled with why it should be denied. He could not understand the issue of increased non-compliance if the building does not change.

Assistant City Attorney McLean remarked that there were two issues. One is a non-conforming use under the purpose statement of 15-9-1, which states, "While non-conforming uses, non-conforming structures and improvements may continue, this chapter is intended to limit enlargement, alteration, restoration or replacement, which would increase the discrepancy between existing conditions and the development standards prescribed by this Code". Ms. McLean stated that overall, between the State Code and the City Code, the idea is that for non-conforming uses the non-conformities are eventually extinguished. She noted that the Planning Commission has the purview to decide whether or not having separate ownership would increase the likelihood of the structure ever coming into compliance or reducing the non-conformity.

Assistant City Attorney McLean stated that process was another issue. The intent of a subdivision or record of survey is to try to bring things into compliance. Since the request is to change the ownership interest, the Planning Commission needs to evaluate whether or not they want to accept the non-conformity that would exist in perpetuity.

Commissioner Savage asked if an application submitted today to build rental units would be an approved or conditional use. Planner Cattan replied that currently an applicant could apply for a master planned development in that zone, but it would require a specified amount of land and units.

A duplex structure would require a conditional use permit. A structure with more units than a duplex is prohibited in the zone. Commissioner Savage felt the question of conformity was whether they were trying to conform to one set of requirements versus another set of requirements. He noted that the current Code would not allow a four-plex with individual ownership, but it also would not allow someone to build a four-plex from scratch that was designed to be a rental. In his opinion, whether they approve or deny this condominium conversion, it would still remain non-compliant.

Planner Cattan stated that currently it is one structure that sits over three legal lots of record. If the structure was ever demolished, there would be three lots of record on which they could build homes. However, once it is condominiumized there could be four individual owners, and the degree of extinguishing the non-conformance becomes more unrealistic. Planner Cattan noted that another approach would be to apply for a conditional use permit for a duplex and convert the unit four units into two units. If that application was approved, they could condominiumize the duplex and sell those units separately.

Commissioner Savage asked if the same application that was approved in 1979 would have been in compliance if it had been submitted as a condominium with individual ownership at that time. Planner Cattan answered yes.

Commissioner Strachan felt it was a speculative analysis to determine that turning the structure into a condominium would make it less likely to come into compliance. The opposite could occur and four owners may be interested in bringing it into compliance to increase their property value. Commissioner Strachan thought it was difficult to speculate on the outcome of an ownership change because it was impossible to assume what the owners might do.

Assistant City Attorney McLean clarified that in order for a condominium to vacate the Condominium Act, all the owners would need to agree.

Chair Wintzer concurred with the public comment that if there was the possibility to have four for-sale units, 800 square feet or less, it could potentially become affordable housing. Mr. King reiterated that if the building ever came down involuntarily, the Code allows it to be perpetual. The same four units could be built and continue for another 30 years regardless of ownership.

Glen Goldman, the owner and long time resident of Park City, clarified that his intention is to provide low cost housing for people in Old Town to live and enjoy the beauty of Park City. The units are 2 bedroom, 2 bath and slightly over 800 square feet. They are nicely furnished and would be a nice low cost home. Mr. Goldman stated that the units would be much less expensive than anything on the market in Old Town.

Commissioner Thomas still could not understand why the physical building would have an increased non-compliance with four owners. He was comfortable with the plat amendment as proposed, given that the building itself would not change. He believed that through the record of survey process every square foot of the building would be surveyed and documented. That would provide a hard document for the building. Commissioner Thomas was inclined to support the plat amendment.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the record of survey based on the Findings of Fact, Conclusions of Law found in the Staff report.

Assistant City Attorney McLean noted that the findings and conclusions were for denial. If the Planning Commission wanted to forward a positive recommendation, they would need to direct Staff to prepare findings to support that recommendation. The Planning Commission could either request that this item come back at the next meeting, or the Staff could change the findings of fact and conclusions of law based on their recommendation.

Commissioner Savage thought the Planning Commission needed to find good cause for voting against the Staff recommendation. He did not believe they had established good cause.

Assistant City Attorney McLean stated that the Planning Commission must find good cause for a plat amendment, but they did not need good cause to disagree with the Staff recommendation. Commissioner Savage asked for the standards of good cause.

Director Eddington summarized that the Planning Commission had found good cause because there were no physical alterations to the building. Secondly, the Planning Commission found that rental units versus condos were equal and would not create additional impacts. Director Eddington defined good cause as providing positive benefits and mitigating negative impacts. Good cause is determined on a case by case basis, addressing public amenities, benefits, resolving existing issues, promoting excellent and sustainable design, etc.

Commissioner Hontz was comfortable with all the comments. However, she had recent memory of two condominium conversions where the units had been converted and they had to fix a number of issues that were created by the design. Because the units were owned by multiple parties, it was a huge struggle to bring the building into compliance and fix the problems for the units, as well as problems that affected the entire community in terms of sightlines, bus routing, pick-up, safety of children, and other issues. This was a different issue but she could understand how the Staff made their determination. Commissioner Hontz could see good reasons why this structure should be condominiumized, but at the same time, she was concerned about creating future problems for the neighborhood.

Planner Cattan asked Director Eddington to re-read the definition of good cause. Commissioner Eddington read the entire definition. Based on the full definition, Planner Cattan suggested that since it is an existing building it could be considered recycling under sustainable practice. One of the greenest practices is to utilize old buildings. Planner Cattan believed that could be a reason for good cause.

Commissioner Savage noted that currently the units are rentals. He asked if it was possible to mandate that the HOA set aside specific funds for property maintenance to take the financial burden off the owner. He drove the area and while the building and property were in good condition, he thought it could be better.

Mr. Goldman stated that new front and back decks were recently built and the property was re-landscaped. He assured the Planning Commission that the level and competence of the HOA would be sensitive to the needs of Park City. He wants to keep the building as nice as possible and a great amount of work was done to do so. As the current owner he guaranteed that the HOA would continue to keep the landscaping and the building exterior in the same condition that it is today.

Commissioner Worel asked if Mr. Goldman would remain an owner of one of the units. Mr. Goldman answered yes.

Commissioner Thomas revised and restated his motion.

MOTION: Commissioner Thomas made a motion to direct the Staff to prepare Findings of Fact, Conclusions of Law, and Conditions of Approval to support a POSITIVE recommendation to the City Council for the record of survey for 1159 Empire Avenue, based on the discussion this evening, and to bring it back to the Planning Commission for review. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

2. 1555 Iron Horse Loop Road – Modification of Master Planned Development and Ratification of Development Agreement. (Application #PL-10-00890)

Commissioner Worel disclosed that she is the Executive Director of the People Health Clinic and Mark Fischer, the applicant, sits on one of the two Boards. That association would not affect her decision on this application.

Planner Cattan reported that the Master Planned Development for 1555 Iron Horse Loop Road was approved in December 2010. The Staff worked closely with Mark Fischer and his team on the development agreement. Revisions were made and one change was proposed to the plan. Planner Cattan stated that the applicant plans to convert the 25 units at Rail Central into affordable units. In order to meet the full affordable unit requirement they originally planned to build 1,124 square feet affordable unit on site. Depending on when this is built and the ownership, Mr. Fischer would like the flexibility of having the affordable unit at 1440 Empire. Planner Cattan explained that prior to signing off on a building permit for this location for the MPD, the applicant would need to go before the Housing Board, which is the City Council, for approval of their affordable housing proposal.

Mr. Fischer was requesting a change to Finding of Fact #21 as outlined in the Staff report.

Planner Cattan reported that throughout the process the application was referred to as a mixed-use development. In looking at possibly selling, the applicant was unsure whether residential units would definitely be in the proposal. She clarified that even if the uses within the MPD change, the uses within the building would comply with the uses of the District.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to RATIFY the Development Agreement with the modified Finding of Fact #21. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Modified Finding of Fact #21

The project is required to provide 6.14 units equivalents of affordable housing. One unit equivalent of affordable housing is equal to 900 square feet. The applicant is using all 24 units from the adjacent Rail Central Development (4,443 sf) to comply with 4.94 unit equivalents of the affordable housing requirement. The remaining 1.20 affordable units will be satisfied prior to certificate of occupancy, either on or off site. The applicant will deed restrict the units to comply with the 2007 Housing Resolution. The future rents will comply with the 2007 Housing Resolution.

3. Land Management Code- Amendments to Chapter 2.1 (HRL); Chapter 2.2 (HR-1); Chapter 2.3 (HR-2); Chapter 15 (Definitions); Chapter 7 (Subdivisions); including subsections 7.1, 7.2, 7.3 and 7.4 – to limit footprint resulting from lot combinations in the HR-1, HR-2 and HRL Zoning Districts and to limit maximum building sizes in those zones. (Application # PL-11-01281)

Planner Astorga remarked that public input contributes to good planning and he was pleased to see so many people attend the public hearing this evening.

Planner Astorga stated that the objective this evening was for the Planning Commission to review and discuss the proposed amendments to the Land Management Code for Chapters 2.1, 2.2, and 2.3 as described in the Staff report and attached ordinance. The Staff report was drafted by Planner Astorga and Planning Director Eddington and it reflected ideas and proposed changes for specific parameters within the mentioned Chapters.

Planner Astorga reported that on June 3, 2011 the City Council adopted a Temporary Zoning Ordinance, which prohibits the approval of plat amendment applications filed after June 15, 2011 within the proposed Districts.

Planner Astorga stated that in the 1990's a critical development occurred when the Chief Building Official and City Attorney determined that many of the structures were not in conformance with the Universal Building Code and State law in terms of construction across platted lots lines, even if both lots were owned by the same entity. Based on that determination, the City changed its perspective and began requiring a plat amendment whenever that occurred. Planner Astorga remarked that

recently a higher number of plat amendments have come before the Planning Commission, and were forwarded to the City Council for final authority. In reviewing these plat amendments, there was heightened concern regarding the size, volume, mass and area of structure that could be created by these lot combinations.

Planner Astorga stated that the City Council recently requested additional information as a result of lot combinations. Planner Astorga had prepared that analysis, which was included as Exhibit E in the Staff report. The analysis showed an average of structures within 300 feet, 200 feet and 100 feet. It was another method for calculating the plat amendments and the corresponding footprint in terms of averages within the neighborhood.

Planner Astorga noted that the Staff had prepared four general development parameters that were proposed with the LMC amendments. The revised parameters were only suggested for the HR-1, HR-2 and HRL District. Planner Astorga reviewed the four parameters as outlined in the Staff report. The first was lot combinations. Currently the Code does not limit the number of lots that can be combined. The Staff recommendation would be to respect the Snyder's Addition Survey and the Park City Survey, which platted approximately 90% of Old town lots in a 25' x 75' configuration at 1875 square feet. Understanding that historic homes have been built through platted lots, and in order to fix the basic issue, the Staff proposed to allow lot combinations for sites that have been identified by the Historic Sites Inventory as historically significant or landmark sites.

Planner Astorga asked if the Planning Commission could support the plat amendment/lot combination limitation to only historic structures.

The second parameter was the footprint formula. Planner Astorga reviewed an exhibit comparing the old footprint allowed per Code with the new footprint formula.

Commissioner Savage pointed out that the graph on page 159 in the Staff report was different from the graph Planner Astorga had on the screen. Director Eddington clarified that the graph shown in the Staff report was a comparison of the lot to the building footprint size. Therefore, the blue line was the building footprint and the red line was the building footprint. The graph shown by Planner Astorga was the proposed building footprint to existing allowed building footprint.

Planner Astorga pointed out that with the existing formula, as the lot gets larger, the percentage of footprint within the lot decreases. The change proposed by Staff is to leave the one lot configuration and the 1-1/2 lot configuration the same. Once it becomes a double wide lot, the Staff recommends dropping the footprint by 10%. He remarked that the most popular lot combination would be the double-wide.

Planner Astorga asked if the Planning Commission could support the decrease of footprint for any lot size over 1875 square feet and a maximum footprint of 1367 square feet for all lots measuring 3750 square feet or more.

Planner Astorga commented on a platted subdivision in the HR-1 District called the North Star Subdivision, which has very large lots. That subdivision remained in the HR-1 and because the lots ranged from 9,000 to 63,000 square feet, the Staff wrote the Code to cap it at 4500 square feet.

Planner Astorga asked if the footprint of the North Silver Lake lots should also be limited to 1367 square feet and whether the Planning Commission wanted to see additional analysis for possible zones changes for the area as part of the General Plan re-write.

The third parameter was number of stories. Planner Astorga stated that currently the maximum height in these districts is 27 feet from existing grade. In 2009 a change was made to the LMC that limits the number of stories. The adopted ordinance created a three-story maximum limitation. Based on compatibility with historic structures, the Staff proposed the possibility of limiting the number of stories from three down to two. Planner Astorga noted that historically three stories structures were not built in Park City. Historic structures with three stories resulted from additions that were added later. If the Planning Commission finds this proposal too restrictive, the Staff could explore the possibility of allowing two exposed stories and a basement. That would be similar to what is currently allowed by Code through the 27' height limitation.

The fourth parameter was increased setbacks. Planner Astorga indicated a typo on page 167 of the Staff report and removed the numbers in black on the third column. For example, 35 feet should be 5 feet. The Staff believed this parameter was beneficial due to the volume and massing of structures. Increasing the setbacks increases the separation between lots. Therefore the structures do not look as wide. The setbacks would be the same for all three districts.

Planner Astorga asked if the Planning Commission could support the increase in side yard setbacks, and whether the proposed increased setbacks allow enough design flexibility for the architect.

The Staff recommended that the Planning Commission conduct a public hearing, consider public input, provide direction, and consider continuing the public hearing to August 10, 2011.

Commissioner Strachan recalled that the last time changes were made to the LMC, the Planning Commission proposed side yard setbacks and it was reversed by the City Council. Director Eddington replied that the Planning Commission had discussed height, but there were no discussions regarding side yard setbacks.

Planner Astorga reported that in addition to the public input letters included in the Staff report, three or four additional letters were received after the Staff report was published. Those letters were provided to the Planning Commission this evening and would become part of the record.

Commissioner Hontz referred to the question about restricting lot combinations to historic structures, and asked if there was a different process for non-historic properties that currently sit on multiple lots. Planner Astorga replied that the Staff was not recommending another process, but they would be willing to explore that ability. He explained why it would be difficult to add an addition if the structure was not historic.

Planner Astorga presented slides showing examples of possible lot combinations and what could occur on the lot.

Commissioner Savage asked if the recommendations came from the Planning Department. Director Eddington replied that the recommendations were made by the Planning Department for consideration. Commissioner Savage wanted to know the rationale and logic for proposing changes, and what consequences could be expected from making such significant changes.

Director Eddington stated that the recommendations are put forth for consideration either in all or part or none. Based on recent plat applications and subdivisions, the objective was to bring forward possible Code amendments that would address issues that have appeared to be unclear relative to mass and scale of building on various lots. If there is an issue with regard to the Code analysis, these proposals would address many of those issues and concerns.

Commissioner Savage understood that the intent was to generate smaller lots, smaller footprints and shorter structures. He asked if the pendulum was swinging away from the McMansions. Director Eddington replied that it relates to compatibility. Recently a number of plat amendments and subdivisions have come before the Planning Commission and there have been requests for additional analysis with respect to neighboring properties or properties within a 100 to 300 foot radius. That has been done on an individual basis and the Staff tried to recommend a more holistic approach to address the scale and mass of buildings in Old Town as lots are combined.

Commissioner Savage asked if consideration was given to the impact the changes would make on the ongoing preservation of Old Town as it relates to older buildings, and whether there would be an economic incentive for rebuilding the deteriorating buildings that are not part of the historic guidelines. Director Eddington stated that there has not been a formal economic analysis. However, there is an understanding that limiting lot combinations to historic structures would limit what someone could do with a non-historic structure under a lot line.

Planner Astorga noted that one purpose statement of the HR-1 District is to preserve the configuration of the 25' x 75' foot layout.

Chair Wintzer opened the public hearing.

Ruth Gezelius, a 30 year resident in the Historic District, thought the entire proposal was both restrictive and punitive in nature. She felt it was misguided and misdirected based on the goals that were set for the historic district, which is to provide a viable, livable asset to the entire residential and economic community. Diversity in the Historic District is what makes your heart beat. The idea of stepping in with one more restrictive regulation continues to discourage people from maintaining, remodeling and converting very sad, old and horribly maintained properties. Ms. Gezelius stated that the template of town was not a cookie cutter, which was exemplified by the fact that they built across lot lines, and that provided diversity. There are three-story homes on Upper Park Avenue that had a root cellar and two stories above. The idea of just wanting two story houses when over half the homes already have three stories makes no sense. Ms. Gezelius remarked that asking for greater setbacks of the few undeveloped lots or unrestored historic homes is punitive in nature. She stated that 3' foot side yard setbacks on 25 foot lots have been inadequate since Park City was founded. It is part of the challenge of living in Old Town. Mr. Gezelius recalled the garage barrage issue and believes the City went too far with the one car

garage restriction. Ms. Gezelius believed the proposals presented this evening, along with the calculations, needed far more work before they could possibly recommend any type of action.

Tom Hurd, a resident at 4 Silver Queen Court, stated that he and his wife have lived in Park City for over 30 years. During those 30 years he has never encountered a Planning Commission or a City Council that was satisfied with the Historic District. As a result, the ordinance that governs the historic residential zones have been revised and re-written to the final satisfaction of absolutely no one. Mr. Hurd stated that the last permutation was enacted in April 2009 because, to quote one City Council member, "something had to be done". Mr. Hurd remarked that the City Council is once again pursuing their fanciful illusion of what constitutes acceptable historic residential zones. He stated that the Land Management Code is a moving target and what is in today is out tomorrow. Therefore, planning is nearly impossible. Mr. Hurd challenged any member of the City Council to articulate what they think the HR zones should look like. He suspected they would not be able to it. As to the current proposed changes, he did not believe any of them would accomplish any good, and one in particular would severely impact his economic freedom as a lot owner. Mr. Hurd stated that the inability to combine contiguous lots would render worthless the property that he owns in the Millsite Reservation. He questioned whether the proposed amendments were even legal, since it appeared to be a back door way of preventing owners from enjoying the economic benefit of their investments. When rules constantly change, anarchy prevails. Mr. Hurd pointed out that for many years he and his wife lived in the historic 1901 Doyle House at 339 Park Avenue. By current account, that home is four stories tall and 37-1/2 feet high. He asked if chopping off the top stories would make it more historic. Mr. Hurd wondered what standards they were trying to emulate and how much economic damage would be done along the way. This is bad rule making and it should be rejected in whole.

Mel Robertson, a part-time Park City resident, stated that she flew in from California to attend this public hearing. Ms. Robertson had written a letter that was included in the Staff report. She stated that this issue is personal in many ways because the process they went through in an effort to further their future has been railroaded by what could potentially happen with this proposed legislation. She and her husband have owned a condo since 2005 but they have been coming to Park City for over 23 years. After finding a condo they liked in Old Town and deciding that Park City was where they wanted to retire, they set out to find a home to buy or a place to build and retire. Ms. Robertson remarked that they found a boarded up home at 929 Park Avenue and spent three years trying to purchase it. She was struck by the idea that if the City really wants historic authenticity to occur, why would they allow indoor plumbing, microwaves, and more than two bedrooms, since that did not exist back then. Ms. Robertson pointed out that you can only go so far in making the way we live now conform with the way people lived then, because it is an entirely different world. The proposal is very punitive because the house that they bought as a tear down to hopefully build on someday cannot be built with enough square footage to accommodate their family. The house they could build is smaller than their condo. If the rules are changed, she could not sell her property because no one else would want those restrictions. Ms. Robertson remarked that the economic growth that occurs when people remodel would be lost because people give up and walk away. She asked the Planning Commission to use wisdom, compassion and common sense when considering these proposals and the people it would affect.

Joe Tesch, stated that he was representing owners and investors in Old Town. He encouraged the Planning Commission to do nothing. Mr. Tesch asked the Commissioner to think about why they became Planning Commission members and what they intended to do. He believed it was to take care of people. Mr. Tesch remarked that you cannot turn back the clock to a market and time that no longer exists and no longer fits with American families and the American lifestyle. He stated that when you have land use laws, it is important that they remain consistent. You should not change the laws every two years. There was a major change in 2009. He stated that a city or an area like Old Town either moves forward and improvements and remodels are evident investments, or it does not. He believed the proposal as recommended would kill Old Town. If people invest in Old Town based on one set of rules and the rules change and keep changing, no investors will come. You hurt the owners because they cannot sell, and smart investors will not want to invest in Old Town knowing that the rules might change again tomorrow. Mr. Tesch believed the current regulations were a nice balance. This Planning Commission and their predecessors spent hundreds of hours trying to get things right. To now reverse all the wisdom of the people who came before them is a bad idea. Mr. Tesch thought the current guidelines protect Old Town and historic structures, and the Historic Preservation Board makes sure that the visible facades reflect what Park City used to be. Mr. Tesch stated that the City needs to respect the owners who invested believing that they could have a legitimate project. Plat amendments and combining lots is what the market is. This proposal would force non-market conditions, which would kill Old Town and cause it to deteriorate.

Tom Peek stated that he and his wife have been investing financially and emotionally in Old Town for 24 years. He has owned some of his properties for 23 years, but with this proposal he needs to look at things differently. Each time the rules change he modifies his thoughts to conform to the guidelines. However, it is very frustrating and he is beginning to wonder about all these changes. It is a moving target and there is no institutional memory. He noted that in a recent discussion someone mentioned going to the Floor Area Ratio. Mr. Peek remarked that recently the Floor Area Ratio was abandoned because it was an ineffective method. He stated that you cannot buy property in Old Town with any level of certainty. Therefore, many good real estate agents with qualified clients either do not show the area or they direct it elsewhere because of the pending TZO and the specter of the potential change. Mr. Peek stated that he personally purchased properties based on what was approvable at the time and what was built directly adjacent. He pointed out that the guidelines that were put in place in 2009 have not been tested because the current market is as bad as he could ever recall. Therefore, there are no recent examples. The current construction is being done by people who already have approvals and are just starting to build. Mr. Peek expressed interest in being a citizen stakeholder on a committee if that would be helpful. He remarked on an earlier comment about considering two stories with the concession of a basement. He noted that two years ago they eliminated basements because of the excavation and moving dirt around. He pointed out that a high percentage of properties in Old Town are on more than one lot and this proposal would definitely affect their properties. Mr. Peek suggested differentiating between subdivisions and lot combinations. When he was at the Planning Department he heard the comment that they would start restrictive and fight from there. He found it amazing that someone could have the same size home on two lots or 18 lots.

Michael Demkowitz, a property owner at 341 Ontario, Lots 21 and 22. He is also a structural engineer with Alliance Engineering. Mr. Demkowitz believed the proposed recommendations would

affect him personally and professionally. He has two separate parcels and he would like to build a home for a five person family. The lot combination and the maximum footprint restriction would prevent him from doing that. The increased side yard setbacks proposed are too restrictive and it would make it difficult to design a home. Mr. Demkowitz stated that he is on the downhill side of Ontario and if he was limited to two stories it would be impossible to have a garage. To realistically build a home on the downhill side of Ontario, it would have to be two stories. Mr. Demkowitz echoed previous comments about this proposal being a bad idea. He did not want to be restricted from selling this property in the future because of this action.

John Watkins owns property at 335 Woodside. Mr. Watkins is from Utah, but he currently resides in California and comes to Park City four or five times each year. In 2009 he purchased property in Park City and did his due diligence. He visited the Planning Department and talked about the historic guidelines, and he spoke with an architect and a builder before purchasing the property. He has been working with the Planning Department for 18 months and from his understanding, not a single home has been completed under the 2009 guidelines. His home is listed as a landmark structure on the Historic Site Inventory. He has a family of five and family members who want to visit him and enjoy Park City. His objective is to retire in Park City. Mr. Watkins understood that the City Council was pushing this proposal and the Planning Department does not necessarily support it. They are only following direction from the City Council. Mr. Watkins stated that his plat amendment was approved. The existing structure is 26 feet wide and it cannot fit on a 25 foot lot. He was aware of that when it bought it and he was told what he would and would not be able to do. He believes this is a bad recommendation. He wants to restore his house and contribute to the City, but he could not carry out his plans under this proposal. He did not understand why the application he submitted was put on hold, but was beginning to find that other people are experiencing the same frustration. Mr. Watkins requested that the Planning Commission rescind the proposal and allow the 2009 guidelines to be tested.

Jerry Fiat stated that this proposal is very significant and has deep ramifications to property owners, residents, and those wanting to live in Park City in the future. Mr. Fiat recalled a previous meeting regarding density transfers. At that meeting Commissioner Savage was concerned about how the density transfer would affect the neighbors in the area where density would be transferred. Mr. Fiat recognized that the City met the legal requirement by posting a notice in the paper, but 50% of the property owners live out of town and those people have no idea that this proposal is being considered. He finds that very problematic when something this big threatens their investment or future retirement plans. Mr. Fiat pointed out that property owners who live and work in Park City are also unaware of this proposal. He had checked the website on Friday at 5:00 p.m. and the minutes were not posted. Those who were aware only had three days to figure out the ramifications and what it all means. Mr. Fiat stated that in addition to giving property owners enough time to understand how they would be impacted and to have a voice, they also need to be willing to listen to people and hear all the facts. Mr. Fiat had driven up and down streets in Old Town and he was unable to find one house that would be in conformance with the proposed recommendations. They want diversity in homes, which means some are bigger and some are smaller. People who spend money to build larger homes do so because they need it for their family. Mr. Fiat believes lot combinations are necessary because many of the streets are not where they are platted. He owns many lots where a large portion of the lot is in the street. In order to meet the required footprint for

the lot size, it is necessary to combine lots. Mr. Fiat believes the process is unfair and the City should allow the market to drive what is needed.

Craig Elliott, a local architect, believed the turnout this evening said something about the proposed recommendations. Mr. Elliott concurred with the previous speakers. He spends most of his days working with the Codes in Park City. They are very restrictive and make it difficult to design anything with inspiration. He is still waiting for the day when the City allows the architects to do something great and create a great piece of architecture. Instead, every time changes are made, they are allowed to do less and less. There is no creativity in design. He has several out-of-town clients and he received many phone calls asking him about these changes. People are afraid because they do not understand what is going on. Mr. Elliott pointed out that Park City is in the middle of its construction season, yet the City has placed a temporary zoning ordinance that prohibits people from building in the worst economy in memory. Mr. Elliott suggested that the Planning Commission reject this proposal and send it back to the City Council so people can get back to work.

Brad Cahoon, an attorney representing several property owners, echoed previous comments. Mr. Cahoon stated fair and reasonable balance is needed for the competing interests; such as resort/historic/mining town interests versus public/residents/property owners. He was surprised to hear that an economic analysis was not part of this recommendation. Mr. Cahoon remarked that it unfair and unreasonable to include non-living, garage, and storage space in the calculations. He believed those areas should be excluded from the square footage, because what is proposed would create more street parking and affect the street presence. Mr. Cahoon stated that limiting the community to one-bedroom studio apartments creates an unfriendly, anti-family policy. He was certain that would not be best for Old Town. From a property rights perspective, Mr. Cahoon felt it was important to remember that reasonable investment backed expectations are tied to decades of approvals that lead to a wide variety of home sizes and different designs. Implementing heavy regulations that promote a more uniform look conflicts with decades of approvals. People justifiably relied on precedence when making their decision to purchase lots and homes. Mr. Cahoon stated that years ago he was involved in the discussion regarding Round Valley and it was made abundantly clear that Round Valley would not be developed. Therefore, the discussion turned from developing Round Valley to acquiring Round Valley and passing an open space bond. Mr. Cahoon remarked that when regulation goes too far, development becomes impossible and that changes the discussion. He questioned whether the City really wanted to acquire lots and homes and govern how they should be developed, because that would change the discussion from how to regulate to how to compensate. Mr. Cahoon believed that would occur with these proposed changes. He encouraged an extensive analysis and study before any decisions are made.

John Phillips stated that he is a third generation Parkite. His grandfather was born a "stone throw" away from where he currently lives. Mr. Phillips concurred with all the previous comments. He is trying to start a family and he has dreams for where he lives. However, he is beginning to change his mind after hearing these proposals. Mr. Phillips stated that he is part of a very small group of young Parkites who are trying to create a family and live in this neighborhood. If these recommendations are adopted, it would definitely change his thoughts about where he wants to raise his family.

David White, an architect in Park City, stated that he has been a Park City resident for over 30 years and he is a member of the Historic Preservation Board. Mr. White noted that he participated with the HPB in re-writing the new historic design guidelines in 2009. He understood that although several new projects have been reviewed under the new design guidelines, only one project is actually under construction. Mr. White remarked that the HPB endeavored to make the new guidelines more restrictive, and the preservation and documentation of old historic structures became more rigorous. Mr. White requested that the Planning Commission give the new guidelines a chance to work before making new changes.

Mark Kosac, stated that he is a real estate lawyer who lives in Prospect, and he was representing people who have an interest in Old Town. He is a process and procedure person and he objected to the noticing that was published about this meeting. He noted that the notice indicated that this would be a discussion for consideration of limiting maximum building sizes resulting from lot combinations. Mr. Kosac pointed out that from the Staff report that was publicized on Friday evening, the discussion is actually a blanket reduction in properties across the board because it increases setbacks and decreases height on all properties. That is far more reaching than what was disclosed in the noticing. Mr. Kosac stated that whoever motivated this proposal is politically tone-deaf. Placing an umbrella moratorium on the community without ten days notice and a public hearing goes back to a policy that was eliminated in 2005. Before placing moratoriums, the City Council should have a public hearing that is noticed 10 days prior to the public hearing date. He noted that notice was given five days prior to this public hearing that is before the Planning Commission. Mr. Kosac does not live in Old Town, but he had tremendous sympathy for those in the audience who were at risk of losing, 10-40% of the equity in their homes after being decimated by the worst market since the Great Depression. Mr. Kosac pointed out that if these recommendations are adopted as law, the owners would run to the Recorder's Office and file for a referendum. At that point, everything would be frozen until the next election, which would significantly harm the real estate market in Old Town Park City. He could not see out this proposal could produce a good result for anyone.

Mary Wintzer, a resident at 320 McHenry Street and a 40 year resident of Old Town, thought it was important for the Planning Commission to know that there was another contingency that has a different viewpoint. Ms. Wintzer agreed that the recommendations proposed were very extreme and she understood that it was only meant as a starting point. As a business person she knows that Old Town used to be 40% second homeowners. Statistics show that the number has slipped and only 40% are primary residents. Through the years they always talked about Old Town being the gem and Park City's largest asset. Throughout 40 years as an Old Town resident, she invested her heart and soul for quality of life, for community, and for the neighborhoods she lived in. Several years ago a large contingency of architects wanted a larger footprint and a reduction in side yard setbacks. The City lost the battle and many Old Town citizens now have to deal with snow shedding issues as larger homes were built closer to their properties. Ms. Wintzer stated that many residents have felt that their right to quality of life has been diminished. Many of her friends had mega mansions built next to them and she has seen the ramifications. Ms. Wintzer favors diversity of population. In earlier years garages were not allowed in Old Town and those who wanted garages moved to Prospect or Park Meadows. Now they try to squeeze houses into Old Town that the topography cannot accommodate. Ms. Wintzer pointed out that Park City has not always allowed lot combinations, and she believes that combining lots started the downhill slide of Old

Town. If the population of full-time residents is decreasing in Old Town, the question should be how to bring people back. Ms. Wintzer encouraged the City to promote something that allows young families to come back to Old Town and start building back the community. The result of visioning was for a small town historic community and natural settings. She was unsure how they could create a small town community if they create situations to allow 8,000 square foot homes in Old Town. Ms. Wintzer reiterated that the recommendations as proposed are too punitive; however, there is a large Old Town contingency who would like something that allows people to come back to Old Town and build the sense of community that used to exist.

Jim Keisler stated that he actively participated in the changes made in 2009. He was not entirely happy with the outcome, but he still felt they ended up with a workable solution for some of the problems in Old Town. Mr. Keisler believed that the proposal presented this evening was nothing more than a taking of rights of both individual property owners and of Park City itself. The recommendations would sentence Old Town to stagnation and dilapidation. As an example to support his comment, Mr. Keisler commented on an eyesore property that Jerry Fiat developed for the betterment of the neighborhood. He was confident that when Mr. Fiat combines lots he will build a quality product that benefits everyone. Mr. Keisler pointed out that Mr. Fiat would no longer be able to develop something that benefits the community under the proposed ordinance. Mr. Keisler stated that he and his wife own a lot at 402 Woodside. They currently live in Prospector and their plan is to eventually sell that home and build on the Woodside lot. However, if he is limited to two stories instead of three, he is faced with the choice of having a garage or a living room. He would obviously choose the living room, but that means he would be forced to have a parking pad and at least one Tuff-Shed for storage. Mr. Keisler remarked that if the ordinance is adopted, Old Town would get the same generic design and parking pads and storage sheds. He did not believe that was what the citizens would Old Town to become. Mr. Keiser thought the City should allow more time for the Code changes that were enacted in 2009 before taking more draconian steps.

Steve Maxwell, a property owner of three homes, echoed the comments expressed this evening. Mr. Maxwell was particularly interested in the noticing procedure. He lives out of town and has been an owner in Park City for seven years. He happened to get the notice on Thursday of last week after his architect visited the Planning Department for a pre-application. Mr. Maxwell stated that he has an old dilapidated house and a lot line going through his property. He had a permit to build a house three years ago when the market tanked. He re-financed three houses and all of them have lost 50% of their value. Mr. Maxwell believed he represented a culmination of everyone in attendance. He is a developer by trade and this proposal is a taking of rights based on the recommended limitations. Mr. Maxwell objected to the noticing procedure and he requested that the City do nothing with this proposal.

Jill Sheinberg, a resident at 627 Woodside, stated that whenever she attends a public meeting she finds most things inexplicable. She had a horrible experience redoing her house through the historic process. It is difficult for owners because those on the other side of the dais appear to have no idea of what people go through to have a nice house. Ms. Sheinberg stated that the home sat as a deteriorated mess without complaints, until she and her husband tried to improve it. She agreed with Mr. Kosac that there is no process or sense for doing this. Changes were made two years ago and new changes are being proposed. Property owners in Park City cannot rely on anything. They cannot rely on notice because the actual issue is much broader than what was

represented in the notice. She found that to be an insult. Ms. Sheinberg remarked that people come to public hearings because they put in their sweat and blood and money and they all care about what happens to them and their property. She recalled the controversy over the Town Bridge, which was supposed to kill Old Town. To some people Old Town should be Williamsburg, Virginia, but it is not. The Town Bridge was constructed and it has been a boon to Old Town. Ms. Sheinberg stated that the City needs to let things occur as they need to because people need the ability to make changes. Planning for what Old Town was years ago is not what Old Town is today. Changes occur every day and she agrees with some things and disagrees with others, but those changes are the spirit that Old Town represents today. It is not tiny houses that people cannot live in.

Bob Briggs owns a house at 162 Daly. He noted that his house was a one-room cabin that had an addition in the 1920's. Mr. Briggs stated that seven years ago his coal cellar collapsed, which was historic but no longer needed. It took off part of his steps and working with the HPB to rebuild those steps was a nightmare. Mr. Briggs no longer lives in the house and has renters. He would like to contemplate a project to restore the house, but he feels like a deer in the headlights. He agreed with most of the comments expressed.

Gus Sherry, a local civil engineer, thought it was encouraging to see the number of people exercising their rights this evening. Mr. Sherry felt it was clear that the decision would be made by the public and not the Planning Commission, the City Council or the City Manager. He stated that before the public makes their decision, the burden of proof is on the City in a number of key areas. The first is a detailed accounting of those who requested this change in the first place, how it was articulated to the City, and how the City initially responded. He noted that the City bodies serve the public. The City requests information from a developer or applicant when they need to make a decision, and this is the same situation in reverse. The City should provide the necessary information to the public so they can make their decision. Secondly, Mr. Sherry requested 3-dimensional models of building elevations and sample sites at 25% and 50% grades. The Staff provided text language and two graphs, but he felt it was fair for the public to see 3-dimensional models showing what the homes would look like if this initial proposal passes.

Jason Gyllenskog, a developer and property owner in Park City pointed out that in the HRL zone, the City placed overlay zoning requirements that require combining lots. None of the lots were originally platted out at 3750 square feet. The current proposal would disallow what was currently required. Mr. Gyllenskog supported all the comments this evening.

John Pelishue stated that he loves Park City and Old Town. Mr. Pelishue remarked that sometimes the best of intentions produce unanticipated consequences and results. This is most likely the case with the proposed LMC amendments. He is married with four children and he is not a developer or a realtor. He is a CPA. He purchased a raw, undeveloped lot in Old Town to build a home for his family. He purchased the property last year and the lot is approximately 45' x 70 feet. It has a slope but not a steep slope. He noted that under the 2009 LMC he could build a home with a garage, three levels, and approximately 2800 square feet. That home would be very livable for him and his family. It would be smaller than most of the structures in the neighborhood but still compatible. Under the proposed changes he could build a home with a garage and approximately 1,081 square feet of livable space. This was not livable space sufficient to contain his family. Mr. Pelishue stated

that he would have to sell his lot and build elsewhere; however, after speaking with two realtors, he found that the value of his property would be reduced by approximately one-half to one-third of what he paid for it. Therefore, if he sells the lot and pays off the loan he incurred to buy it, he would have no money left to purchase or build a replacement home. Mr. Pelishue remarked that he did a quick analysis of every home within hundreds of feet from his lot, and not one home would be in compliance if the proposed recommendations are passed. In addition to opposing the proposed changes, Mr. Pelishue felt the proposal was rushed without the proper analysis. He stated that Old Town is not a museum. It is a place where real people live and they have cars and kids. He agreed that they should keep the character that makes Old Town special, but a miners shack does not conform with today's lifestyle and the residents in the area. Mr. Pelishue suggested that all the Planning Commission and City Council members disclose any conflicts of interest that would be produced by the increase or decrease of property valuation. Mr. Pelishue remarked that the purpose for the proposed LMC changes was purely aesthetic. The economic impact on many is not fully known but certainly profound. In his case it is catastrophic.

Tracy Nielsen stated that her 16- year-old daughter encouraged her to attend this evening to speak up for her rights and their home. Ms. Nielsen remarked that she was not notified of this proposal and she did not understand what was happening or what it meant. She is a full-time mom in Old Town living in a tiny historic house that she would like to add on to some day. Ms. Nielsen opposed the proposed changes for many reasons.

Jeff Love stated that he lives at 615 Woodside Avenue and owns a nightmare property at 811 Norfolk. He agreed with all the comments, with the exception of Mary Wintzer. Mr. Love found it interesting that the City owned properties at 1450 and 1460 Park Avenue in the HRM zones were excluded from this discussion. He felt it was inappropriate for the City to exclude their properties. Those historic homes are equally as important as every other historic home and they should be impacted the same as everyone else.

Chair Wintzer continued the public hearing.

Commissioner Thomas clarified that the Planning Commission only recently received their packets and had not had time to consider all the issues. He noted that the comments for doing nothing would be taken into consideration.

The Commissioners addressed the first question from Staff regarding applying the lot combination limitation to only historic structures.

Commissioner Hontz did not support restricting the lot combinations to locations or sites with historic structures. She was willing to hear additional input from Staff on specific reasons why that would be a good recommendation. However, in looking at all the different situations for lots and structures in Old Town, she believed the problems should be rectified and cleaned up. The City should want to see lot lines replatted to avoid lot lines in the middle of parcels that create half or minor parcels within the building area. Commissioner Hontz clarified that her comment has nothing to do with building across lot lines because two lots are needed. As far back as the 1980's and 1990's people were not aware of where they were building. In her opinion, it was important to

reconsider the first recommendation or possibly take it off the table because it goes against what they want to accomplish as a community.

Commissioner Worel referred to the comments that the 2009 changes had not been tested, and asked if there were examples of where those were applied. Director Eddington replied that a number of projects went through the Historic District Design Review after the 2009 design guidelines and LMC amendments were adopted. One project is in the ground but not complete. Therefore, they do not have a completed structure to demonstrate what those guidelines effectuate. Planner Cattan reported that the example Director Eddington mentioned was 1059 Park Avenue. The addition is on the back of that building but an accessory structure was also allowed. The accessory structure has not been started. The plans were available in the Planning Department if anyone was interested in seeing them.

Commissioner Strachan could not support a restriction on lot combinations for only historic structures. He believes a lot combination can be an effective tool in the right circumstance. Commissioner Strachan thought the recommendation could be taken off the table initially. In his opinion, the geography of Park City and how the lots were originally drawn requires the ability to do a lot combination. Commissioner Strachan clarified that just because lot combinations are allowed does not mean that homes should continue on the trajectory of size they have been on for the last 30 years.

Commissioner Savage concurred that there was a big difference between continuing on the trajectory and dramatically reducing what was enabled by the Code changes a few years ago. Commissioner Savage stated that to this point, he had not heard any rationale, logic or community benefit associated with supporting the initiative to diminish the ability that already exists for doing lot line combinations. He could not support any of the recommended changes.

Chair Wintzer and Commissioner Thomas concurred with the comments of their fellow Commissioners.

Planner Astorga asked if the Planning Commission would treat lot combinations/plat amendments different for vacant lots. Commissioner Strachan was unsure if they could make a blanket statement for all vacant lots. He believed each lot combination should be considered on a case by case basis. Planner Astorga used two vacant lots at 593 Park Avenue as an example of a plat amendment that was approved but later expired because the developer never recorded the plat.

Commissioner Savage reiterated that no one had come forward with a compelling reason to change what exists in the Code. He believed the issue of vacant lots would be addressed in the second recommendation.

Planner Astorga clarified that the Planning Commission was not able to support the first parameter as contemplated to limit the lot combinations to historic sites only.

Planner Astorga requested comments on the footprint formula as proposed.

Commissioner Thomas thought they should move very carefully through the process. His previous experience on the Planning Commission led him to see negative impacts with regard to the earlier Code. He participated in the 2009 Code revision because he listened to the public complain about houses that were hugely out of scale with the immediate neighborhood. Those homes had impacts to the utilities, grading, views and overall architectural character of the community. Commissioner Thomas was unsure whether averaging things out was the way to balance the community aesthetically. Making everything smaller does not add character or art to the relationship with Old Town, and it does not allow the interest and dynamic nature they currently see as they move through Old Town. Commissioner Thomas agreed with the suggestion for massing models and elevation studies. He believed it would help them better understand the impacts. Commissioner Thomas stated that he has seen the worst and the best architecture done in Old Town, as well as the positives and the negatives. He believed that achieving the maximum square footage was market driven, but it also has the maximum negative impact on the aesthetics. Commissioner Thomas recommended moving forward with additional studies to begin to understand how they can balance the community without turning it into mediocrity. At this point, Commissioner Thomas was unsure whether he could support the 10% reduction or that a simple number would magically achieve what they want.

Commissioner Hontz concurred with Commissioner Thomas. She also wanted additional studies through massing models or other forms of analysis. Commissioner Hontz preferred to lump items 2, 3 and 4 of the recommendations. If they look at the three together, they can begin to understand how it ultimately impacts lots. It would also show them what needs to be changed to make sure they move in the right direction.

Commissioner Hontz remarked that when she looked through the design guidelines, she found illustrations of what not to do in Old Town, however, they were things that recent Code changes have allowed, but people no longer want to see replicated in the community. She felt this discussion needs to continue and they need to look at the three potential regulations to understand the full impact of what they could do. Commissioner Hontz thought the swinging pendulum needed to come back to the center. They have been going too far in a different direction and they need a way to correct that.

Commissioner Savage expressed his preference to look at the recommendations collectively. Like many of the people this evening, he was unaware about this proposal until he read the packet. He did not understand the motivation for these changes and he believed it was an extreme starting point. He also did not understand how it would manifest itself within the context of their ultimate vision for Old Town. Commissioner Savage was pleased with both the quality and the quantity of public input that was expressed. Even with the quality and quantity this evening, he implored KCPW and the Park Record to actively participate in continuing to bring this to the public forum. The quality of public input is invaluable. He also encouraged Mr. Elliott to tell his clients that they should be worried because when things like this get started without the proper process, they end up creating problems that have unforeseen consequences, not the least of which in this current environment, is the economic disincentive they impose on the community as it relates to putting people to work and creating opportunities for more economic stimulus for the community. The idea of increasing the number of full-time residents in Old Town requires a very attractive community and an opportunity for people to afford to live there. In his opinion, that manifestation can only come

about as a consequence of a competent process where they create a General Plan vision for what Old Town should look like in 20 years. Once that is accomplished they can begin to make decisions about lot line amendments and the size of footprints within that vision. He could not understand how they could change the Code without having gone through the proper process. Commissioner Savage stated that starting the process with the pendulum so far to one side was personally infuriating.

Commissioner Strachan echoed Commissioner Thomas' comments. He believed that as an architect, Commissioner Thomas offers an insightful view. Commissioner Strachan remarked that if Commissioner Thomas believes that the creativity and diversity of structures in Old Town would be negatively impacted by the proposed amendments, that opinion is enough cause not to move forward with the proposed changes. Commissioner Strachan pointed out that size is not always the problem. How the structure looks and compares to the surrounding structures is equally as important. Placing a blanket number on the size of the structure could generate ugly 1800 square foot structures. Instead of solving the problem it creates another problem. Commissioner Strachan agreed that size was a problem that could not be ignored, and that some of the homes in Old Town are incompatible. However, he did not believe the proposed amendments address that issue. He felt it was wise to wait until two or three structures are built under the 2009 before they legislate any further or supersede what was done in 2009.

Commissioner Worel concurred with her fellow Commissioners. As a new Commissioner she was trying to understand the advantage for making changes before the past has been tested. She agreed with Commissioner Hontz that the 2, 3 and 4 items should be discussed as one package and not in isolation.

Chair Wintzer concurred. He stated that in his 40 years in Park City there have been three different home heights, and every home was built to that height until the Code was changed to a new height, and the same prevailed. He was concerned that if they set a maximum height for all the lots, every house would be that size. Chair Wintzer believed it was important to have diversity of size and scale in Old Town. Larger homes are out of hand, but he would not favor everything being the same footprint.

Commissioner Thomas commented on the North Star subdivision. He believed it should be re-evaluated as a separate issue and considered for a rezone. He has personally worked in that area and there is a dramatic difference in the size of the structures. The size and space and its relationship with the surrounding neighborhoods makes North Star entirely different. Commissioner Thomas expressed support for a rezone of the North Star subdivision. The Commissioners concurred.

Planner Astorga summarized the comments and direction. They should look at an economic component, which is a process of the General Plan, before moving forward with visioning what Old Town should look like. Other comments included a request for additional analysis with regards to footprint, story and setbacks, as well as examples from the 2009 LMC changes and the Historic District Guidelines.

Commissioner Savage clarified that the intent of his comment was to do nothing until they have a chance to let the General Plan conform with the Land Management Code.

Commissioner Savage wanted to know the motivation for making changes to the existing LMC in the next 12-24 months. Planner Astorga replied that it related to inconsistencies with plat amendments that have gone before the Planning Commission and the City Council regarding specific criteria that the Staff and applicants have been asked to provide. Commissioner Savage asked if there was a solution to address those specific problems that would not require a Land Management Code modification.

Director Eddington understood that the recommendations provided by the Planning Commission were to look at items 2, 3, and 4; footprint, stories, and setbacks, and to see if the graphic analysis could provide a better and consistent result on future lot combinations that come before the Planning Commission. Commissioner Savage asked if it was possible for the Staff to find a recommendation that is consistent with the existing LMC, rather than recommendations that requires making changes. He preferred an interpretive document rather than a legislative document.

Assistant City Attorney McLean stated that the Code is what it is and people are allowed to build to the extent of the Code. Director Eddington pointed out that the guidelines adopted in 2009 are more of a qualitative document. The LMC is quantitative. Given some of the issues encountered over the last eight to ten months, the Staff recommended changes with regard to size and compatibility. He offered to bring back visual analysis so the Planning Commission could determine whether it addresses the issues. The Staff could also do nothing if the Planning Commission did not think it was important as this time.

Commissioner Thomas understood that most of the Commissioners preferred to wait until structures designed under the 2009 Code amendments are built out. He was not sure they all agreed on how fast they wanted the Staff to return with information. Commissioner Savage believed that raised the issue of what to do with the Temporary Zoning Ordinance as they wait to move forward. Commissioner Strachan replied that the City Council has the role of determining the status of the TZO. The Planning Commission does not have the authority to eliminate the TZO or to impose it.

Planner Astorga asked if the Planning Commission was willing to consider a compatibility analysis such as the one provided on Exhibit E. It was requested by the City Council at a recent plat amendment. Although the Council did not specify parameters specific to the study, it was based on Staff interpretation. Commissioner Hontz was interested in seeing additional compatibility analysis.

Commissioner Hontz noted that a number of great comments were given this evening on this restrictive proposal. However, looking beyond the past month or two, when plat amendments were on the agenda, the Planning Commission heard comments from surrounding neighbors expressing the exact opposite of what was heard this evening. In those public hearings five or ten people attend to comment on a specific application, as opposed to the turnout this evening where the proposal would affect everyone. She thought it was unfair when there is so much history, for people to only complain when it affects them. Commissioner Hontz was not comfortable slowing

down or stopping this process. The discussion needs to occur and the time to talk about it is now. She felt it was inappropriate to ignore the history of everything else they have been involved in, and the number of times they listened to equally passionate and emotional people who are impacted by larger, incompatible structures.

Commissioner Savage understood that the 2009 LMC changes were designed to mitigate those concerns. Commissioner Hontz believed there was opportunity to further discuss whether or not the 2009 changes have gone far enough and whether this proposal would further support those changes.

Director Eddington stated that if this item is continued, the Staff could come back with additional analysis relative to footprint size and house sizes. They could also come forward with analysis on the proposed setbacks and how they might change the street façade of a newly proposed building. They could provide an analysis showing how smaller footprints would appear on a lot. Planner Astorga stated that they could also come back with the few single family dwellings that were approved under the 2009 changes. He clarified that would be in the form of visual plans because the buildings have not been constructed.

MOTION: Commissioner Hontz moved to CONTINUE the Land Management Code Amendments to Chapters 2.1 – HRL District; 2.2 – HR1 District; and 2.3 - HR2 District to a date uncertain.

Assistant City Attorney McLean noted that for LMC amendments the noticing policy is to publish notice in the newspaper and on the website. She noted that the City is more proactive with noticing than what the State law requires. They heard a lot of comments from people about not being noticed, and unless the Planning Commission specifies a date in their motion, they will hear the same complaints.

Commissioner Strachan remarked that in every public hearing someone always claims they were not told something was happening. If the public has notice that LMC changes are possible, the public has the responsibility to monitor the agendas. Commissioner Savage reiterated his request to KPCW and the Park Record to proactively participate relative to this discussion because it is critical to the success of the Historic District.

Commissioner Hontz amended her motion to CONTINUE the LMC Amendments to Chapters 2.1, the HRL District; 2.2, the HR1 District; and 2.3, HR2 District to August 24, 2011. Commissioner Savage seconded the motion.

City Council Member, Alex Butwinski remarked that the goal of the City Council was to foster a discussion on this matter. They are committed to public input and he believed the turnout and the comments this evening were a great start. Council Member Butwinski agreed that the proposal recommended by Staff was more over-reaching than what the City Council had intended. However, timing is difficult, and he agreed with Commissioner Savage on the importance of defining what they want to be before they look at ways to get there. City Council Member Butwinski pointed out that the challenge is that people want to begin building now and they want certainty as to what they can do. At the same time, events can overtake what they want to happen, and building will continue to

occur in advance of answering the question of what they want to be. He favored the suggestion from Commissioner Hontz to continue with the discussion.

Council Member Butwinski stated that if the result is that people want Old Town to remain under the 2009 Code, the City Council would respect that decision. The City Council is interested in public input, recognizing that some people have a differing opinion and would like smaller structures and more restrictions, but they are hesitant to speak up. Council Member Butwinski clarified that the City Council had received a request to look at what Old Town is and whether it is on the right track.

Commissioner Savage asked Council Member Butwinski if it made sense to remove the TZO and allow the 2009 Code to operate until they have the opportunity to vet the process. Chair Wintzer believed the motion addressed his question through further discussion.

Chair Wintzer called for a vote on the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 9:05 p.m.

Approved by Planning Commission: _____