

**PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION  
CITY HALL, COUNCIL CHAMBERS  
AUGUST 24, 2011**



## **AGENDA**

**WORK SESSION CALLED TO ORDER AT 5:30 PM**

**WORK SESSION** – *Discussion items only, no action will be taken*

Training with Utah League of Cities and Towns

**REGULAR SESSION CALLED TO ORDER AT 7:30 PM**

**ROLL CALL**

**ADOPTION OF MINUTES OF AUGUST 10, 2011**

**PUBLIC COMMUNICATIONS** – *Items not scheduled on the regular agenda*

**STAFF/BOARD COMMUNICATIONS AND DISCLOSURES**

**REGULAR AGENDA** – *Discussion, public hearing, and possible action as outlined below*

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

PL-11-01281

37

*Public hearing and possible recommendation to City Council*

**ADJOURN**

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.  
Planning Commission - August 24, 2011



## **MINUTES – AUGUST 10, 2011**



**PARK CITY PLANNING COMMISSION  
WORK SESSION NOTES  
August 10, 2011**

PRESENT: Charlie Wintzer, Mick Savage, Jack Thomas, Nann Worel, Thomas Eddington, Polly Samuels McLean, Joan Card

Commissioners Pettit, Hontz and Strachan were excused.

## **WORK SESSION ITEMS**

### **Soils Ordinance– Information Update**

Joan Card, Environmental Regulatory Affairs Manager, stated that she has been on contract with Park City since September 2010. Her primary duty is to help the City deal with Environmental Protection Agency issues related to historic mine waste and water quality issues, which dovetail with the City's existing soils ordinance. Ms. Card reported that Jim Blankenaw was the new Environmental Regulatory Program Manager who would be managing the soils ordinance.

Ms. Card briefly introduced herself personally and professionally. She has had a lot of experience in the environmental regulation arena. Working for Park City, she is an environmental regulator with respect to soils.

Ms. Card stated that the Soils Ordinance generally requires property owners within the Soils Ordinance boundary to obtain and maintain a certificate of compliance. The certificate means that the lead level in the top 6" of soils is less than 200 milligrams per kilograms lead. Ms. Card presented a slide showing the current boundary lines in red. The yellow area was Prospector. The boundary started at the Y where Kearns and Park Avenue meet, all the way up Park Avenue and back down Marsac. It also included Masonic Hill, as well as new additions at Silver Star, the Treasure area, the middle reach of Silver Creek downstream where the water treatment plan is being built, and the high school area.

Ms. Card noted that an interactive version of the map was available on the website. The Staff report contained the URL. On the website map you can put in an address to see if it is compliant with the soils ordinance and whether or not it is within the Soils Ordinance boundary. She noted that you could click on the annual reports to learn what occurred in that year with respect to the Soils Ordinance. That report is issued to the public and directly to the Utah Department of Environmental Quality and the EPA.

Ms. Card stated that if a property is within the red boundary, it should have a hard file certificate of compliance. Those certificates are pulled on a daily basis, primarily for real estate transactions. That information is available at the City. Ms. Card remarked that it is necessary to test the top soil in order to obtain and maintain a certificate of compliance. Many of the black lots shown on the map have not had their soil tested. It is impossible to know whether they are out of compliance with the 200 parts per million standard, but they are out of compliance with the Ordinance because they have not tested their soil and received the certificate.

Chair Wintzer asked about the yellow squares in the middle of Prospector. Ms. Card stated that early in the 1980s an improvement district was developed; however, it is a legacy that is no longer

implemented with respect to the soil ordinance. The Environmental Coordinator who prepared the map elected to highlight it to show that it was an improvement district. It had a 1,000 parts per million standard that applied historically. It does not apply anymore. Mr. Card believed all the yellow lots were vacant.

Commissioner Worel asked if there was a timeline in terms of when a home was built and whether it would be more likely to have a certificate of compliance. Ms. Card noted that the ordinance dates back to 1988. The modern version of the ordinance was in 2003. Depending on the time of construction a different standard may have been in place. Mr. Card remarked that the 2003 Ordinance required all lots to be in compliance by 2006. That was the reason why some of the lots shown were out of compliance for 2011.

Ms. Card stated that the City will do the sampling and analysis. Some people with bigger jobs elect to hire an outside source. If the lead levels are found to be greater than 200 parts per million lead, they must add 6" of cover, which is 6" of soil and generally turf. They could also do xeriscaping, which is a recent addition to the ordinance. Paved areas are excluded so concrete driveways or asphalt lots are considered capped and compliant.

Ms. Card noted that disturbing the soil requires maintaining compliance with the 200 parts per million standard. In that case, a person may be required to re-test.

Ms. Card stated that maintenance of the topsoil cap is key to compliance. Vehicles can only be parked on paved surfaces. There is a requirement in the Ordinance to control dust, which generally means to re-vegetate and sometimes water the soils. There are specific requirements for planting trees and bushes if they are not in planters. Those requirements were detailed in the Staff report.

Ms. Card stated that they tell builders and property owners not to disturb or excavate soil without referring to the Ordinance. They are encouraged to come to the City to seek approval and guidance on their project. Depending on the project, some people are asked to consult with the Planning and Engineering Departments. In all cases involving excavation, people are asked to consult with the Building Department to obtain a permit, and to have a plan to deal with soils that is acceptable under the ordinance.

Ms. Card stated that in May 2010 the EPA determined that soils could not be taken from the Park City soils ordinance boundary to the Richardson Flat Soil Repository. As of that date there are limited local options to deal with lead contaminated soils. People are strongly encouraged to reincorporate excavated soil on the site. Berms were built this summer as a small repository for soils over 200 parts per million that are capped with the 6" of soil and turf. If soil cannot be incorporated on site, you have to find a State or Federally approved facility. The only approved facilities in Summit County are the Richardson Flat Repository, which cannot be used at this time, or the Three Mile Landfill at Summit County. On a case by case basis Summit County may take the soils if it meets certain testing requirements. Summit County has been willing to work with people this summer.

Ms. Card stated that the key part of the soils ordinance that people are surprised to learn is that the Soils Ordinance is approved by EPA and DEQ. Those departments prohibit taking soil out of Park City to be used as fill somewhere else. Lead at certain levels can be deemed a hazardous waste

and they do not want to import hazardous waste to unknown areas or facilities within the County or the State.

Ms. Card noted that United Park City Mines Company may possibly take soil if it is under 500 parts per million lead. That is completely discretionary based on their operations and abilities at the time. Soils have also been taken to a disposal facility in Toole County called Grassy Mountain. There is another facility in Southern Idaho. Tooele and Idaho are very expensive options that require long hauls and significant tipping fees. Because of the limited disposal options, the City is engaged in conversations with EPA and the Mine Company to try to develop a new local option similar to Richardson Flats.

Ms. Card explained the reason for the Soils Ordinance. Park City is a mining town and according to the Park City History Museum 1869 was the date of the first mine claim, which was the Flagstaff Mine Claim. Around 1949-1950, large scale mining in Park City stopped. It restarted in small starts after that, but the large scale mining occurred over a period of 80 years. Ms. Card noted that 80 years of mining and milling in town results in a lot of waste. She presented slides showing the Ontario Mine and Mill and explained the mining process. Whatever was remnant in the crushing operation became a tailing and the tailings were wasted down the streams. Ms. Card reviewed slides of other mines that resulted in massive tailings ponds. When the Prospector tailings pond reached its capacity, everything was shipped out to Richardson Flat, which became the next large tailings pond for the mines.

Ms. Card reported that in 1980 Congress enacted the Super Fund Law, also known as CERCLA. Very early after that enactment, the EPA was interested in the Prospector tailings pond, which they called the Silver Creek tailings. They were interested because it was classified as hazardous waste and people were building homes and schools on it. It was a concern to the EPA in the early to mid-1980s. Park City was concerned about it being a priority and was successful in getting legislation passed through Congress that said EPA could not list it as a priority site. Despite that legislation, EPA had concerns and in 1988 they issued a set of recommendations for Park City to consider. Those recommendations eventually became an ordinance. In 1988 the EPA recommended the 6" of soil cover to limit the exposure between the people building homes and the lead contaminated tailings. In 2003 amendments were drafted that created the current Soils Ordinance.

Ms. Card stated that the EPA has agreed to let Park City handle this issue in town as long as they meet certain requirements that the EPA and the State think are important. Those requirements are included in the Soils Ordinance. As long as Park City continues to do a good job implementing the Soils Ordinance, the EPA and the State will not try to take action within those boundaries.

Ms. Card pointed out that the cover material protects people from inhalation and ingestion of lead and the severe health problems that are caused by lead in the human body. She stated that programs are in place to report and document lead poisoning in Park City. To date, nothing has been documented. At this point there is no apparent threat, but the City is trying to address the concern through the Soils Ordinance so it does not become a threat to human health.

Ms. Card noted that the City standard of 200 parts per million exceeds the EPA standard of 400 parts per million. Ms. Card provided her contact information and encouraged the Commissioners to

contact her if they had questions.

Chair Wintzer asked what was being done to find another depository to replace Richardson Flat. He was concerned that all construction could be stopped if there was not a place to deposit contaminated soils. Ms. Card stated that finding another location was her primary duty, and she has been working with the EPA on a daily basis to resolve the issue. The matter is extremely complex because it would be handled under the Super Fund Law. They are working through difficult issues and she hoped they were close to finding a solution.

Commissioner Savage wanted to know why dumping was no longer allowed at Richardson Flat. Ms. Card explained that the Richardson Flat repository is a repository for Super Fund waste. Soils Ordinance waste is technically not Super Fund waste. The EPA has a major Super Fund cleanup plan for lower Silver Creek and they needed a place to put the soils. The EPA chose Richardson Flat.

The Work Session was adjourned.

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PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
AUGUST 10, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Mick Savage, Jack Thomas, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Planner, Kirsten Whetstone Planner; Kayla Sintz, Planner;  
Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Wintzer called the meeting to order at 5:40 p.m. and noted that all of the Commissioners were present except Commissioners Pettit, Hontz and Strachan who were excused.

**ADOPTION OF MINUTES – July 27, 2011**

MOTION: Commissioner Thomas moved to APPROVE the minutes of July 27, 2011.  
Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Eddington reminded the Planning Commission that the next joint meeting with the City Council was scheduled for July 25<sup>th</sup>. The Commissioners would be receiving a Staff report and agenda.

Chair Wintzer stated that he would be out of Town for the next regular Planning Commission meeting on July 24<sup>th</sup> and the joint meeting with the City Council on July 25<sup>th</sup>.

Commissioner Savage asked if the Planning Commission would hold their regular meeting the night before Thanksgiving. Director Eddington replied that due to the holidays, the Planning Commission typically has one meeting in November and December. He could not foresee canceling any other Planning Commission meetings prior to November.

**REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

1. **263 Park Avenue – Conditional Use Permit for a private driveway in a public right-of-way (Application #PL-11-01291)**

Planner Kirsten Whetstone reviewed the application for a conditional use permit for construction in the City right-of-way. The request was for a driveway within the Third Street right-of-way located on the west side of Park Avenue, one block from Main Street, for the historic yellow house at 263 Park Avenue.

Planner Whetstone noted that the application had been reviewed by the Historic Design Review Team to look at providing a garage for the historic home. The design guidelines require that the applicant explore back and side alternatives before placing garages in front of the structure, as a way to avoid impacting the historic front facade. Planner Whetstone remarked that the proposed design would provide parking from the side that is accessed off of the Third Street right-of-way. It is a platted right-of-way. There is not a street in the right-of-way, but it does have a set of public stairs.

Planner Whetstone reviewed slides to indicate the location of the property line. The stairs and the setback to the property line take up approximately 8 feet. The retaining wall is currently in the 30 foot right-of-way. The request was for a 10 foot driveway to go back approximately 20 feet to access a two-car garage with two separate 9-foot wide doors.

Planner Whetstone stated that a conditional use permit for a private driveway in a public right-of-way must meet the standards of review for construction of private driveways within platted unbuilt City streets, as outlined in LMC Section 15-3-5, Off Street Parking.

Planner Whetstone reviewed slides to orient the Planning Commission to the subject property and the right-of-way. She noted that the house sits on a typical 25' x 75' Old Town lot. Planner Whetstone pointed out that the structure has a second story that was not shown in the Staff report. She presented the streetscape showing the historic structures, the right-of-way and the stairs.

Planner Whetstone stated that Ken Martz lives at 305 Park Avenue. Mr. Martz had expressed concerns related to his property. However, after meeting with the Staff he was comfortable with the project and had sent an email in support. Planner Whetstone remarked that the fire hydrant would need to be relocated so the additional ten-foot wide parking space for the public is accessible. Mr. Martz requested that the hydrant be located away from his property. Planner Whetstone indicated a possible location for the hydrant that would not interfere with the entrance to the public space or to Mr. Martz's house.

After speaking with the City Engineer, Planner Whetstone added Condition of Approval #12 stating that when the hydrant is relocated it would be placed to the south of the stairs and not to the north.

Commissioner Savage referred to the expression, "City right-of-way" and asked if the City owns the property or just the right-of-way on the property. Director Eddington replied that the City owns the property unless the right-of-way was vacated and deeded to the adjacent property owners. Commissioner Worel clarified that the platted street would never be built. Chair Wintzer clarified that

this was correct because it was too steep. Planner Whetstone explained that the City installed the stairs instead of building the street. She noted that the new elevator that is being constructed for the Treasure Mountain Inn building is also located in the Third Street right-of-way, as well as associated walls and landscaping which extend from Park Avenue down to Main Street.

Planner Whetstone stated that an encroachment agreement from the City Engineer is required for the driveway. There is also a possibility that the driveway may require City Council approval.

Planner Whetstone noted that page 49 of the Staff report listed the criteria outlined in LMC 15-3-5, as well as the Staff's analysis for compliance with each criteria. There were two additional criteria in Chapter 3 for a driveway. One was the encroachment permit and the second stated that utilities and snow melt devices also require approval. She stated that the applicant was proposing to do a snow melt system, and had expressed interest in the idea of a solar heat melt system to help offset some of the energy use.

Planner Whetstone remarked that the Snyderville Basin Water Reclamation District has a sewer line running through this property. When the property was informally graded out, the sewer line was only three feet deep and presents a frost risk. Therefore, as part of this project, the applicant would be required to move the sewer line away from the stairs and bury it deeper.

Chair Wintzer was concerned that the public parking would be eliminated with the proposed hydrant location. Mr. Baglino, the contractor representing the applicant, explained why the parking would not be affected. Chair Wintzer reiterated his concern and wanted to make sure the parking would not be impacted. Planner Whetstone indicated an alternative location for the hydrant if they find that the proposed location would not provide enough clearance. She emphasized that the parking space would remain.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Director Eddington clarified that the retaining wall would be placed a few feet away from the stairwell and it would be some type of concrete board form. Director Eddington understood that the landscape screen for pedestrians would go between the retaining wall and the stairwell. Planner Whetstone answered yes. Mr. Baglino stated that there would be another buffer at the end of the public parking stall between the driveway and the parking stall. Director Eddington asked if curb cuts or different pavement was being proposed on Park Avenue. He was told that no alterations were planned.

The Staff recommended that the Planning Commission consider approving the 263 Park Avenue conditional use permit according to the findings of fact, conclusions of law, and conditions of approval outlined in the Staff report, with an additional condition that, "The fire hydrant be relocated to an area on the south side of the staircase to avoid conflicts with use of the public parking space".

Chair Wintzer stated that he lives at the other end of the street on the other side of the hill; and part of that property was vacated and abused for the last four years. He wanted to make sure that when the City allows people to build in public right-of ways they are required to post a bond and submit a construction time schedule.

Chair Wintzer added the following conditions of approval:

- The parking space must be maintained during construction.
- The applicant must post a bond for the work done in the right-of-way to guarantee the City that the work will be completed.
- A certification of occupancy is not issued until the work is done.
- As part of the construction mitigation plan with the Building Department, the applicant must provide a schedule to guarantee that the work will be done in a timely manner.

Commissioner Worel asked if there was any way to make sure the applicant maintains the landscaping. Mr. Baglino stated that the landscaping would be native grasses and wildflowers. They also plan to speak with the City Engineer about the possibility of irrigation. He believed the proposed landscaping would require minimal maintenance. Planner Whetstone noted that a condition of approval addresses the responsibility for maintenance. If the applicant does not meet the condition they would be in default. Commissioner Savage thought that would address Commissioner Worel's concern.

MOTION: Commissioner Thomas moved to APPROVE the Conditional Use Permit for 263 Park Avenue with the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Staff report, and with the additional conditions of approval as stated by the Staff and Chair Wintzer. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 263 Park Avenue

1. The property is located at 263 Park Avenue.
2. The zoning is Historic Residential (HR-1).
3. The house at 263 Park Avenue was constructed in 1983. The house is a modified Hall-Parlor house and is listed as a Significant historic structure in the current Park City Historic Sites Inventory.
4. The house is located on Lot 16, Block 2 of the Park City Survey. Lot 16 contains 1,875 square feet and is adjacent to platted right-of-way for un-built Third Street. The City constructed a public staircase in the right-of-way to connect Park Avenue and Woodside Avenue.
5. There is an existing sewer line in the right-of-way and existing overhead power lines cross the eastern twenty feet of the ROW providing power to 263 Park. According to the SBWRD

when the parking area was leveled out the required sewer line depth was compromised. SBWRB has requested the applicant remedy this situation by relocating the line towards the center of the ROW and placing it deeper in the ground to maintain adequate frost depth. The applicant has agreed to do this work.

6. A rear addition was added in the 1940s and a second floor and side deck were added in 1973, according to the County assessor's office. The entire house was remodeled in the last 1990s, including windows, siding, roofing, porch and front stairs were rebuilt, the 19773 side deck was removed, and foundation work was done around the newer area. The rock walls were rebuilt at this time.
7. Access to the house is from Park Avenue via a front entry door facing the street. The house currently has no garage. On-street parking is utilized by the current owner.
8. Third Street ROW to the north of 263 Park Avenue is developed with City Stairs connecting Park Avenue to Woodside Avenue. The stairs and stair setback take up approximately 8.5 feet of the 30' ROW. An area approximately 16' by 12' has been leveled out and graveled to create off-street parking within the ROW. This area is used by the neighborhood for off-street parking. The rebuilt historic rock wall for 263 Park Avenue is located in the southern 2' of the ROW. The wall will be repaired and maintained in the current location. The remaining ROW is undeveloped and contains grasses and weeds and informal stepping stones.
9. On April 19, 2011, the applicant submitted a pre-HDDR application for a garage to be located beneath the historic house. The application was reviewed by the Design Review Team on April 27<sup>th</sup>. The applicant was encouraged to pursue the side facing garage design with access from Third Street and was informed that a Conditional Use Permit would be required to construct a driveway within the platted, un-built Third Street ROW.
10. On June 27, 2011, the applicant submitted a Historic District Design Review. The proposed design does not require the house to be raised or lowered from its existing location. Final grade will remain as it exists at the perimeter of the house, with the exception of the area of the garage. The allowable building height from final grade is within the maximum 27'. The existing access, front porch, and front entry door will remain.
11. The Design Guidelines encourage garages to be placed to the rear of historic structures if there is an option to do so. The proposed garage is located on the side of the house towards the rear and beneath that portion of the house that was modified with the second story. The side access from the Third Street right-of-way minimizes impacts of the garage on the front façade and streetscape and maintains the character of the neighborhood.
12. The first set of public notices for the Historic District Design Review was sent out on July 5, 2011 and the property was posted. Staff is in the process of finalizing the design review application and will condition that review upon approval of a Conditional Use permit for the driveway.

13. The proposed driveway has a 2.5% slope.
14. The driveway is proposed to be 10' wide at the street and 10' side in front of the garage and take up approximately 600 sf of the ROW.
15. There is adequate snow storage at the end of the driveway. A snow melt system is proposed and requires an Encroachment Agreement to be approved by the City Engineer prior to issuance of a building permit.
16. There is a net increase of one parking space, with two spaces removed from Park Avenue and into a garage. and in the location of the informal gravel parking area one paved space will be provided for neighborhood parking.
17. The driveway and related improvements, including the retaining walls and relocated sewer line, are designed to minimize present and future conflicts with public utilities and stairs.
18. The Staff findings in the Analysis section of this report are incorporated herein.

#### Conclusions of Law – 263 Park Avenue

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

#### Conditions of Approval – 263 Park Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The plan shall include a phasing, timing, staging, and coordination of construction with adjacent projects to address mitigation of neighborhood impacts due to the volume of construction in this neighborhood.
3. Measures to protect the historic house and the Third Street stairs shall be included in the Construction Mitigation Plan (CMP). The Chief Building Official shall determine the amount of the historic preservation guarantee, based on the proposed construction plans.
4. City Engineer review and approval of all construction, including grading, utility installation, public improvements and storm drainage plans, and all construction within the ROW, for compliance with City standards, is a condition precedent to building permit issuance.

5. Snyderville Basin Water Reclamation District review and approval of the utility plans for compliance with SBWRD standards and procedures, is a condition precedent to building permit issuance.
6. No building permits shall be issued for this project until the final plans for the garage and retaining walls are reviewed and approved by the Planning Department Staff for compliance with the Historic District Design Guidelines.
7. A final landscape plan shall be submitted for approval by the Planning Department and the landscaping shall be complete prior to issuance of a final certificate of occupancy for the garage. Landscaping shall include the sloped area within 75' of Park Avenue and a minimum of 3' landscape buffer between the driveway and wall along the stairs. The landscape plan shall provide mitigation of the visual impacts of the retaining walls and driveway.
8. An Encroachment Agreement for the driveway is a condition precedent to issuance of a Building Permit to be approved by the City Engineer as to content and by the City Attorney as to form. The Agreement shall include requirements for driveways, utilities, snowmelt system and maintenance of such items, including landscaping and retaining walls. Pervious paving is recommended if it works with the snow melt system.
9. The applicant/property owner is responsible to maintain all landscaping associated with the driveway and retaining walls, including the sloped area within 75' of Park Avenue.
10. Applicant agrees to post a sign noticing the public of the parking space prior to certificate of occupancy of the garage.
11. The applicant stipulates to these conditions.
12. The fire hydrant shall be relocated to an area on the south side of the Third Street stairs to avoid conflicts with use of the public parking space.
13. The public parking space must be maintained during construction.
14. A construction schedule shall be provided to the Building Department with the building plans and a bond shall be posted prior to issuance of a building permit for the driveway to ensure timely completion of the construction project within the City ROW.
15. No certificate of occupancy shall be issued until the work is done.
2. **235 McHenry Avenue – Modification of a Steep Slope Conditional Use Permit (Application PL-11-01273)**

Chair Wintzer disclosed that the applicant, Anita Baer, is his neighbor. He and Ms. Baer have had several conversations regarding this matter, but it was nothing that would change his opinion either way.

Planner Kayla Sintz reviewed the request for a modification to a Steep Slope CUP that was approved July 8, 2009. That approval was for a garage addition and an addition to the home. As part of the original approval, Condition #2 was added stating that, "Hot tub and deck encroachment identified in a Survey of April 8, 2009 will be moved to meet all setbacks within property lines prior to Certificate of Occupancy. Such moving of structure will be shown on building permit plans". Planner Sintz stated that the CUP was granted with that approval and the building permit, which the Staff signed off, also included that modification.

Planner Sintz noted that the hot tub has been removed. She presented slides showing the deck in question, as well as an aerial which identified the encroaching area. Ms. Baer has ownership of both parcels. Planner Sintz reviewed the survey from April 8, 2009, which was submitted to Staff and was how the encroaching deck was discovered. She also presented the HDDR and CUP drawings submitted by the architect, Jonathan DeGray, indicating that the deck encroachment would be removed.

Planner Sintz reported that the Building Department granted a building permit in October 2007. When this project came before the Planning Commission and went through the Development Review process, Ron Ivie, the Chief Building Official at that time, was in support of fixing the error of the building permit being granted and correcting the encroachment issue. That was the reason for adding Condition of Approval #2.

Planner Sintz stated that the applicant submitted a request to remove Condition of Approval #2 in order to keep the deck encroachment. The Staff recommended denying the request and correcting the encroachment problem. Planner Sintz remarked that the applicant had two options. The first would be to remove the encroaching deck and meet the conditions of approval from 2009. The second would be for the applicant to submit a lot line adjustment modifying the lot line. That process could be done administratively. Planner Sintz noted that the Staff report referenced two different plat amendments that occurred for that property. However, there is an issue with granting an easement to oneself regarding the bundle of property rights merges.

Planner Sintz reported on one call she received from a neighbor inquiring about the application in general. She had not received any additional public input from the surrounding neighborhood.

Planner Sintz requested that the Planning Commission review the request for the Steep Slope Conditional Use Permit modification at 235 McHenry to remove Condition #2 and consider denying the request based on the findings of fact and conclusions of law.

Anita Baer, the applicant, reminded the Planning Commission that the Staff admitted that they were unsure how the permit was even granted across the property line. Ms. Baer understood that the City would like her to cut her deck to adhere to the property lines. When her husband built the deck with the City's permission, she was unaware that he crossed the property lines. Her husband passed away in August 2010. Ms. Baer stated that she was unaware that three years ago they

could have asked for an encroachment; however, she did not understand the difference between an encroachment and an easement. Ms. Baer requested that the Planning Commission grant her an encroachment or easement of the existing deck on the adjacent property to the north, which she also owns. If she ever sells that property, they could have the deck back.

Commissioner Savage clarified that Ms. Baer owns the property into which the deck encroaches. He asked why Ms. Baer could not grant an easement to herself to allow an encroachment. Assistant City Attorney, Polly Samuels McLean, replied that easements cannot be granted to oneself. A bundle of rights is associated with the property. You could grant an easement to your neighbor; but under legal principles you cannot grant an encroachment or easement to yourself, because it merges back together into the bundle of rights. Ms. McLean stated that in Park City, allowing those types of easements are more for historic encroachments and not ones that are self imposed. The City allows snow shed easements in Old Town because the setbacks are so small that a building could not be built without an encroachment on the neighbor's property.

Assistant City Attorney McLean pointed out that Ms. Baer had alternatives to address the issue. If the Planning Commission chose to deny the request, she could do a lot line adjustment and push the lot line over so the deck is on the property at 235 McHenry. Commissioner Savage asked if it was possible for the City to devise a mechanism that allowed Ms. Baer to leave the deck and the property status quo, with the understanding that if the other lot sells, the condition of approval could still be enforced at that point. He commented on the issue of property rights and felt Ms. Baer should be allowed to use her property. Commissioner Savage suggested that the City could stay the decision for five years and revisit it at that time. Ms. McLean could not support that suggestion from a legal standpoint. The reason for enforcing property lines is to protect future buyers. She understood that it was a difficult position for Ms. Baer. Commissioner Savage asked if a note could be put on the plat indicating that the illegal encroachment would need to be rectified prior to selling the property. Ms. McLean replied that a plat note would be a plat amendment. It may be possible to record something against the property, but it was not the preferred method. She understood that the City erred when the building permit was issued; however, the City also tried to correct the error as part of the Steep Slope CUP by adding Condition of Approval #2. She pointed out that the applicant agreed to that condition at the time.

Commissioner Thomas sympathized with Ms. Baer's situation, but he felt it was important to consistently apply the Code across the board. Commissioner Thomas suggested that Ms. Baer either apply for a lot line adjustment or remove a portion of the deck.

Planner Sintz clarified that Ms. Baer had the option of an administrative lot line adjustment, which is an internal process reviewed by the Planning Director and City Engineer. It would not go before the Planning Commission or the City Council. The second option would be a plat amendment, in which a plat note would be added with a clause as to when it would be removed. Assistant City Attorney McLean reiterated that she would not legally recommend a plat amendment. She clarified that it was only her legal recommendation, and the Planning Commission had the discretion to make that decision.

Commissioner Thomas reiterated that Ms. Baer had two options to correct the problem. Based on that recourse, he would deny the request based on the Staff's recommendation.

Commissioner Worel expressed sympathy to Ms. Baer on the loss of her husband and for this difficult situation. However, the condition was agreed to when the conditional use permit was approved, and she concurred with Commissioner Thomas that there were other areas of recourse to remedy the situation. Commissioner Worel thought the Planning should deny the request as recommended by Staff.

MOTION: Commissioner Thomas moved to DENY the modification to the Steep Slope CUP for 235 McHenry Avenue to remove Conditions of Approval #2, based on the Findings of Fact and Conclusions of Law outlined in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed 2-1. Commissioners Worel and Thomas voted in favor of the motion. Commissioner Savage voted against the motion.

Because the public hearing was never opened, the motion and vote were withdrawn and the matter was re-opened for a public hearing.

Chair Wintzer opened the public hearing.

Mike Sweeney encouraged the Planning Commission to look at this as a special case. Ms. Baer's property is owned in an IRA account and she cannot move the property line because she is not entitled to do that by the IRS. Mr. Sweeney felt the City needed to be more creative in an effort to help Ms. Baer. He believed it was a matter the City should seriously consider.

Mary Cook thought the Assistant City Attorney had done an excellent job in standing up for the changes that need to be made. Not applying the rules consistently causes confusion. She felt consistency was important, particularly in Old Town, where the property lines have been the same for years and where people are good neighbors. The established laws should be used to the best advantage. Ms. Cook suggested that the City consider challenging the IRS rule that prevents someone from managing their property, particularly since they will probably encounter similar property issues in the future.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to DENY the modification to the Steep Slope CUP for 235 McHenry Avenue to remove Conditions of Approval #2, based on the Findings of Fact and Conclusions of Law outlined in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed 2-1. Commissioners Worel and Thomas voted in favor of the motion. Commissioner Savage voted against the motion.

#### Findings of Fact – 235 McHenry Avenue

1. The property is located at 235 McHenry Avenue within the Historic Residential – Low Density (HR-L) zoning district.
2. This lot is identified as Lot 1 of the Ivers/Baers Subdivision.

3. The Building Department granted a building permit BD-07-13179 for deck expansion/hot tub on October 22, 2007. This permit is open and has not been finalized.
4. The minimum side yard setback as approved with the plat is 10 feet with a total of 24 feet required. This lot has a setback of 14 feet to the south and a non-complying 5 feet to the north, (required to be 10' for any new construction). The north side yard setback is non-complying due to a corner of the pre-existing structure sitting in the setback of 5 feet.
5. The Planning Commission approved a Steep Slope CUP for 235 McHenry Avenue on July 8, 2009 for a garage addition.
6. Condition of Approval #2 from the July 8, 2009 approval indicates:
  2. Hot tub and deck encroachment identified in Survey of April 8, 2009 will be moved to meet all setbacks within property lines prior to Certificate of Occupancy issuance. Such moving of structure will be shown on building permit plans.
7. The Building Department granted a building permit BD-10-15548 for a garage addition which included removal of an encroaching deck, on September 7, 2010. This permit is still active and has not been finalized.
8. Although the hot tub has been removed, the deck still encroaches 7 feet over the property line.
9. Applicant owns the property being encroached upon.
10. On June 7, 2011 the owner submitted an application for CUP Modification to remove Condition of Approval #2, in order for the encroaching deck to remain in place.
11. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 235 McHenry

1. The CUP modification request is not consistent with the Park City Land Management Code.
2. All Conditions from the 2009 Approval continue to apply.
3. **201 Upper Norfolk Avenue – Extension of a Steep Slope Conditional Use Permit (Application #PL-1101240)**

Commissioner Thomas disclosed that he knows the architect and the applicant. He previously worked with the applicant on another site; however, he did not believe that association would impact his ability to be objective on this matter.

Chair Wintzer disclosed that he has known the application for a long time, but he did not believe that association would affect his decision on this matter.

Planner Sintz reviewed the application to extend a steep slope conditional use permit for 201 Norfolk Avenue. The property is in the HR-1 zone and straddles the zone line with the HRL zone.

Planner Sintz reported that on May 27, 2009 the Planning Commission approved this steep slope CUP. On June 9, 2010 the applicants requested a one-year extension, which was also approved by the Planning Commission, and extended the CUP one year from the date of the original approval to May 27, 2011.

Planner Sintz stated that the current request for an additional year would extend the CUP approval to May 27, 2012. A building permit would be required prior to that date or the CUP would expire. Planner Sintz noted that due to a change that occurred in January 2011, the Planning Director can approve the first request for a one-year extension. The request for a second year extension would go to the Planning Commission.

Planner Sintz noted that page 124 of the Staff report contained the Standard of Review for an extension as written in LMC 15-1-10(G). Under the standard, the applicant must be able to demonstrate no change in circumstance that would result in an unmitigated impact. She stated that the only change in circumstance since the original approval was that the 2009 Historic District Guidelines were adopted. Therefore, the Staff recommended Condition of Approval #1, "This approval is subject to the project meeting the current June 19, 2011 Historic District Guidelines". Planner Sintz had done a cursory review and found that because the structure at 201 Norfolk is a contemporary structure, the proposed addition meets the new guidelines. However, the project would go through the posting and noticing process required by the new guidelines.

The Staff recommended that the Planning Commission review the request for an additional year extension of the approval of the Steep Slope Slope CUP at 201 Norfolk Avenue. The Staff had prepared findings of fact, conclusions of law and conditions of approval for consideration.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to extend the Steep Slope Conditional Use Permit for 201 Norfolk Avenue, consistent with the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report.

Assistant City Attorney McLean corrected a typo in condition of approval #10. The condition read, "This approval will expire on May 27, 2012 if an application for a building permit has not been issued prior to this date." The correction was to strike "...an application for..." from the sentence to be consistent with standard language.

Commissioner Thomas amended his motion to include the correction to Approval #10. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 201 Norfolk Avenue

1. The property is located at 201 Norfolk Avenue within the Historic Residential (HR-1) zoning district.
2. The existing building started as a duplex built circa 1970's. In 2000, the 201 Norfolk Avenue Subdivision was approved and recorded. The subdivision created two lots, one for the duplex and the second for a new building located at 205 Norfolk. In 2002, the duplex was rehabilitated and converted into a single family dwelling at the same time as the construction of the adjacent (to the north) 205 Norfolk Avenue by a previous owner.
3. The existing house at 201 Norfolk is approximately 2,310 square feet.
4. The First Amended 201 Norfolk Avenue subdivision was approved in 2007 which included the adjacent (to the south) 16 Sampson Avenue. The First Amended 201 Norfolk Avenue subdivision made the 201 Norfolk property larger in order to create a garage to the south with shared access with 16 Sampson.
5. This lot is adjacent to the HRL zone and is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
6. Access to the property is from a shared driveway with 16 Sampson Avenue.
7. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet.
8. Under the current LMC, the minimum rear yard setback is 10 feet.
9. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 19 feet.
10. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed.
11. The maximum number of stories allowed is three stories.
12. The roof pitch in the HR-1 zone is required to be a minimum of 7:12, unless the roof is a flat vegetated roof.
13. The addition is two stories with a flat, vegetated roof under the 17-foot height requirement.
14. The applicant is proposing two parking spaces within a double car garage with a shared access driveway with 16 Sampson. The garage doors face away from the street.

15. The maximum footprint for the lot is 2,168 square feet, subject to Steep Slope CUP review by the Planning Commission. The proposed footprint is 2,165 square feet with the addition.
16. The Planning Commission approved a Steep Slope Conditional Use Permit on May 27, 2009. The CUP is valid for one year unless a building permit or an extension is granted.
17. The Planning Commission approved a one-year extension on the Steep Slope CUP. The CUP extension is valid for one year unless a building permit or an extension is granted. The extension would expire on May 27, 2011.
18. A complete application for additional year extension was received on May 6, 2011.
19. Pursuant to LMC 15-1-10(G): The Planning Commission may grant an additional one (1) year extension when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request.
20. The Historic District Guidelines have changed since the time of the original application and the request for this extension.
21. The second CUP extension is valid for one year unless a building permit is granted. This extension will expire on May 27, 2012.
22. The findings in the Analysis section of this report are incorporated herein.

#### Conclusions of Law – 201 Norfolk Avenue

1. The CUP and extension, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B) and 15-1-10(G).
2. The CUP extension, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.
5. No change in circumstance that would result in an unmitigated impact has been found.

#### Conditions of Approval – 201 Norfolk Avenue

1. This approval is subject to the project meeting the current (June 19, 2009) Historic District Guidelines.
2. A building permit may not be issued while a structure sits over the property line.

3. All Standard Project Conditions shall apply.
4. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
5. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
6. A final landscape plan shall be submitted for review and approval by the City landscape Architect, prior to building permit issuance.
7. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
8. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
9. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
10. This approval will expire on May 27, 2010 if a building permit has not been issued prior to this date.
11. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission.
4. **16 Sampson Avenue – Steep Slope Conditional Use Permit**  
**(Application #PL-08-00572)**

The application for 16 Sampson Avenue is related to the application for 201 Norfolk Avenue. The applicants own both properties.

Commissioners Wintzer and Thomas made disclosures prior to the discussion on 201 Norfolk. Those same disclosures apply to 16 Sampson Avenue.

Planner Sintz reviewed the application for a Steep Slope CUP, which is required if the total dwelling square footage is greater than 1,000 square feet and constructed on a slope greater than 30%. Planner Sintz stated that the project originally came in as a complete application in November 2008.

It was for renovation to an existing historic house and included adding a garage. The project was subject to the TZO in place at the time, which incorporated a number of changes to the H zones.

The changes included a maximum of three stories, that final grade be returned to existing grade within four feet, and a ten foot step on the third floor façade. Due to the TZO, the project sat through the process. Therefore, it is subject to the new LMC requirements, but it is vested under the Old Historic District Guidelines. The new Historic District Guidelines were adopted in June 2009.

Planner Sintz stated that the project is located in the HRL zone. As previously mentioned, 201 Norfolk is in the HR-1 district and a zone line goes through the property. The existing historic house on the site is listed as Significant on the Historic Sites Inventory. She presented a slide showing the existing 16 Sampson location. In 2007 a plat amendment was done to combine lots in order to enable an expansion to 201 Norfolk. The plat amendment put a subdivision line through the historic structure at 16 Sampson. Lots were also combined in order to facilitate an addition to 16 Sampson. Planner Sintz clarified that the Staff is unsure how the plat through the historic structure occurred, but there have been numerous discussions regarding that issue.

Planner Sintz stated that the existing historic house on the site is 768 square feet. The house went to the Historic Preservation Board in 2009 for a determination of significance. The applicant was requesting that the home be removed from the Historic Sites Inventory. This specific structure has considerable history in terms of being on a certain inventory and then off a certain inventory. When the current Historic Sites Inventory was adopted by the City Council, the City Council had asked the Preservation Consultant and the Staff to broaden the net of historic structures. When the net was broadened, 16 Sampson was put back on the Historic Sites Inventory. Planner Sintz stated that when the application was submitted in 2008 it was assumed that the structure was historic and the applicant moved forward on that basis. The proposal was to move the project back, share a driveway with 201 Norfolk, and remove the non-compliance with the subdivision line going through the project.

Planner Sintz stated that the new proposed footprint, including the historic, house is 2,160 square feet. The total floor area, including the garage with the addition is 3,904 square feet. The Planning Commission previously reviewed this project on May 13<sup>th</sup>, May 27<sup>th</sup>, June 24<sup>th</sup>, August 12<sup>th</sup> and September 23<sup>rd</sup> of 2009. On September 23, 2009 the Planning Commission gave clear direction in regards to the previous design not meeting one of the newly adopted LMC amendments requiring that final grade be returned to four feet within the existing grade.

Planner Sintz indicated an area in the older design that was carved out for a patio. On September 23, 2009 the project was continued to January 13, 2010 to allow the applicant the opportunity to find ways to come into compliance. On January 13, 2010 the applicant requested a continuance to a date uncertain so they could redesign the project to come into compliance. Since that time the applicants have worked with her, Tom Eddington, Dina Blaes, the preservation consultant, and Roger Evans, the acting Chief Building Official at that time, in an effort to revise the plans.

Planner Sintz noted that the application for 16 Sampson Avenue came back at the same time the extension request for 201 Norfolk was submitted. That extension request for the adjacent property is based on construction for both properties occurring at the same time. Planner Sintz pointed out that the historic structure needs to be removed in order for 201 Norfolk to move forward. Planner Sintz stated that the Staff and the applicant discussed modifications to the historic structure,

outlined on page 151 of the Staff report. She noted that the current design is based on a 1930's tax photo. The structure would be reconstructed to similarly match the latest evidence of the historic form.

Planner Whetstone noted that the Planning Commission was provided with copies of three emails in support of the project. The Staff also received two phone calls. One was an inquiry from the Hayes Brothers who have several lots on Norfolk. Another was from John Vrabel in support of the project.

Planner Sintz referred to Finding of Fact #8 and noted that 16 Sampson Avenue should be 201 Norfolk. The Finding was corrected to read, "Access to the property is from a shared driveway with 201 Norfolk".

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP at 16 Sampson Avenue, according to the findings of fact, conclusions of law and conditions of approval.

Tom Bennett, representing the applicant, pointed out that 16 Sampson has been before the Planning Commission five times over a period of two years. Over that time, various criteria of the CUP was reviewed and changes were made. The last time this was before the Planning Commission, the consensus was that all the criteria had been satisfied except the requirement of the four-foot grade change. Mr. Bennett thought the review this evening should be limited to the issue of whether the revised design satisfies the requirement for keeping the finished grade within four feet of the natural grade.

Chair Wintzer opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, thought this was an attractive project. The house is deteriorating and the proposed plan appears to fit in the neighborhood. Ms. Meintsma understood that the project at 16 Sampson was subject to the old design guidelines, but she used the project as an example to show what would occur if the new guidelines were applied. Under the new guidelines the orientation would be considered. She presented a map showing how the project would switch orientation to closely match Norfolk, Woodside and Park Avenue. Because the new guidelines focus on orientation, if 16 Sampson was subject to those guidelines it would be oriented correctly on its own lot and would not encroach the other lot. It would follow the contour lines better, it would maintain the unique character of Sampson, it would be oriented close to the street, and it could still have a small front yard, even with a shared driveway.

Ms. Meintsma clarified that her comments were only intended to show how successful the new guidelines were, and not that 16 Sampson should be subject to those guidelines. She felt it was important to see how applying the new guidelines would enhance the project itself and maintain the character of Sampson a little better than what it would be under the old guidelines, without restricting the applicant or the project.

Chair Wintzer closed the public hearing.

Chair Wintzer stated that Commissioners Pettit and Hontz were out of town and unable to attend this evening. However, he received phone calls from both Commissioners who asked that he relay their comments for the record. Chair Wintzer paraphrased the comments and noted that they were primarily directed to the Planning Commission. Commissioners Pettit and Hontz felt that the Planning Commission erred in allowing the lot line adjustment to move forward and created a non-conforming use. At every meeting the Planning Commission talked about size, scale, and orientation to the road. They had "hung their hats" on a four-foot ordinance in the Code and did not pay attention to the big picture. If the Planning Commission had asked questions about the General Plan and the purpose statements of the two zones, they would have been looking at a different design. Commissioners Pettit and Hontz believed the application had gone too far to ask the applicant to start over, because it was the Planning Commission who erred and not the applicant. Commissioner Pettit and Commissioner Hontz both said that they would vote in favor to approve with added conditions related to the rock work. They suggested that the applicant work with Planner Sintz to minimize some of the rock work in the front of the building. They also suggested that the Planning Commission as a whole should pay more attention to all the issues earlier in the process rather than later.

Commissioner Thomas felt the request to add a condition was unusual since both Commissioners were not present. Assistant City Attorney McLean stated that it was appropriate for the Planning Commission to hear comments from Commissioners Pettit and Hontz; however, how an absent member would vote should not influence the Commissioners who were present. Chair Wintzer did not believe they were trying to influence the Planning Commission. The intent of their comments was to say that the project had gone too far, and while they may not favor it, they would not vote against it.

Commissioner Thomas disagreed with Commissioners Pettit and Hontz regarding the four-foot rule. He visited the property and looked at this project when he was previously on the Planning Commission. Commissioner Thomas believed the four-foot rule was a good idea, and he could not understand why "hats were hung" on that issue. Commissioner Thomas stated that houses to the north of the property are very large and houses to the south are smaller. He believed the applicant had been caught between various codes at various times and the Planning Commission forced them to meet those modifications and changes. Commissioner Thomas thought the Planning Commission should also be reasonable with regard to the historic guidelines, because the project is consistent with the guidelines that were in place when they applied. Commissioner Thomas understood the discussion related to size and scale, purpose statements and the General Plan; however, the physical massing of the building has been broken up in way that addresses the questions and follows the guidelines. For those reasons, Commissioner Thomas supported the project.

**MOTION:** Commissioner Savage moved to APPROVE the Steep Slope Conditional Use permit at 16 Sampson Avenue in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report with the correction to Finding of Fact #8 to change 16 Sampson Avenue to 201 Norfolk.

Planner Sintz noted that the language change that was made to Condition of Approval #8 during the motion on 201 Norfolk would also apply to Condition for Approval #8 for this item. The condition should read, "This approval will expire on August 10<sup>th</sup>, 2012 if a building permit has not been issued.

Commissioner Savage amended his motion to include the correction to Condition of Approval #8. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 16 Sampson Avenue

1. The property is located at 16 Sampson Avenue within the Historic Residential Low Density (HRL) zoning district.
2. The existing footprint of the single story historic house, minus several subsequent footprint is 2,160 with a total floor area, including garage, of 3,904 square feet. A footprint of 2,164.8 square feet is allowed.
3. The lot size is 6,100 square feet.
4. The existing house is considered Historically Significant, is listed on the Park City Historic Sites Inventory, and this designation was affirmed by the Historic Preservation at its meeting on May 6, 2009.
5. The 16 Sampson Avenue subdivision was approved in 2007 concurrently with the adjacent (to the north) First Amended 201 Norfolk Avenue Subdivision. The 16 Sampson Subdivision consolidated four Old Town lots into one lot of record with a road dedicated for existing Sampson Avenue.
6. The first amended 201 Norfolk Avenue subdivision added to the 201 Norfolk property in order to create a garage to the south with shared access with 16 Sampson.
7. The HRL zone is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
8. Access to the property is from a shared driveway with 201 Norfolk.
9. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet. The front of the garage is approximately 26 feet from the front property line at its closest point.
10. Under the current LMC, the minimum rear yard setback is 10 feet. The addition is ten feet from the rear property line.
11. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 18 feet. The north side of the house is 13 feet from the property line and the south side of the house is 5 feet from the property line.

12. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed. The proposed house does not exceed 27 feet in height.
13. Under the current LMC, the maximum number of stories allowed is three stories.
14. The addition is two stories with a flat, vegetated roof under the 27-foot height requirement.
15. The applicant is showing two parking spaces within a double car garage with a shared access driveway with 201 Norfolk Avenue.
16. The findings in the Analysis section of this report are incorporated herein.

#### Conclusions of Law – 16 Sampson Avenue

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

#### Conditions of Approval – 16 Sampson Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department Staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
6. As part of this building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S.

elevation information relating to existing grade as well as the height of the proposed building ridges.

7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
8. This approval will expire on August 10, 2012 if a building permit has not been issued.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to changes from the Historic District Design Review.
- 10: The window well on the north façade will be limited to the minimum egress size of the associated bedroom window and will contain an emergency egress ladder, per IBC.
5. **Land Management Code – Amendments to Chapter 1 (General Provisions), Chapter 11 (Historic Preservation), and Chapter 15 (Definitions) – to amend the review process of reconstructions and panelizations to include the Historic Preservation Board (Application #PL-11-01203)**

Planner Sintz reported that on September 3, 2011, the City Council, the Planning Commission and the HPB held a joint visioning session. During that session a discussion occurred regarding the process for when a reconstruction is permitted as part of the Historic District Design Review application. Public and property noticing, as well as opportunity for public input were also discussed. Direction was given to Staff to expand the review of all reconstructions to include a formal notice review and approval by the Historic Preservation Board. The Staff would make a recommendation and the application would move forward per the criteria currently outlined in the LMC.

Planner Sintz noted that reconstruction is defined as “The act or process of depicting by means of new construction, the form, features and detailing of a non-surviving site, landscape, building structure or object for the purpose of replicating its appearance at a specific period of time and in its Historic location”. She stated that reconstruction is a recognized form of preservation for Park City and industry standards. It is documented in the LMC and in the design guidelines.

Planner Sintz stated that from the Staff review and in preparing the amendments, she recommended adding disassembly to the Historic Preservation Review. The Staff worked with Dina Blaes, the Preservation Consultant, to draft a new definition for disassembly to be included in the Land Management Code. Disassembly would be defined as, “The act or process of taking apart a Historic building or structure in the largest workable components possible for the purpose of accurately reassembling it in its original form, location, and orientation”.

Planner Sintz remarked that anyone who has been actively involved in Historic District Design Reviews knows that disassembly is sometimes called panelization. However, panelization is not a historic preservation term. The Staff recommended that the Planning Commission also add disassembly to the Historic Preservation Board review since reconstruction and disassembly are the only times when a site is scrubbed and nothing is on it while work is being done or a foundation is being poured. Planner Sintz stated that if the original intent was in regards to a project on Park Avenue in which the public was not aware of what was going back up, the Staff would recommend that disassemblies be added to that as well.

Planner Sintz stated that the Staff has also been working with the HPB on a new signage system. Therefore, in addition to the possible change to the LMC, there would be increased signage at the disassembled and reconstructed sites.

Planner Sintz reviewed the proposed amendments and identified the applicable chapters. In Chapter 1, they would add a new noticing matrix required for new applications. The Staff recommended the same noticing that occurs for a conditional use permit. Chapter 11 would add Historic Preservation Board in places where it currently says Planning Staff approval. It would also capitalize the D in disassembly wherever that phrase occurs, since it is a newly defined term. A new definition would be added for Disassembly. Planner Sintz requested input from the Planning Commission as to whether they support including disassembly as part of the amendments.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the draft ordinance.

Chair Wintzer asked if the Historic District Guidelines would be changed to match the proposed amendments. Planner Sintz replied that any language in the guidelines that would conflict with the new LMC would be updated.

Commissioner Savage asked about the vetting process between the HPB and the Planning Department associated with how the LMC amendments were created. He assumed the HPB supported the proposed amendments. Planner Sintz explained that the LMC is not reviewed by the Historic Preservation Board. However, the HPB members favored the idea of being more involved in different historic design reviews, and this was deemed to be an appropriate way for the HPB to be involved. Commissioner Savage asked if they could assume that the HPB would embrace these amendments as being satisfactory to address the issues that caused the problem in the first place.

Director Eddington stated that the HPB fully supports the amendment to the LMC. He summarized that the change started with reconstruction and now includes disassembly, formerly known as panelization. Director Eddington noted that the information presented this evening would be given to the HPB as an information update. Planner Sintz remarked that the HPB would have to receive training in terms of how their review and approval would occur.

Commissioner Savage questioned whether they were putting the cart ahead of the horse as it relates to review by the HPB. If this change to the Land Management Code was being driven by their desire, he suggested that it would be better for the Planning Commission to review the

amendment with the HPB prior to the City Council process. Planner Sintz understood that the direction came from the City Council in terms of what they deemed to be an appropriate role for the Historic Preservation Board. Director Eddington noted that the City Council gave that direction in conjunction with the joint visioning session with the HPB.

Assistant City Attorney McLean stated that the HPB has appointed a liaison to attend Planning Commission meetings when items on the agenda relate to the Historic District. The Liaison would then report back to the HPB.

Commissioner Thomas appreciated the liaison, but he felt it was one-way communication. He asked if the Planning Commission has ever had a liaison to the HPB to see what they do. Assistant City Attorney McLean stated that the Planning Commission could appoint a liaison if they wished. Commissioner Thomas commented on the number of times situations have occurred in the review process, even with the expertise of Dina Blaes, that he has questioned as an architect involved in historic restorations. Commissioner Thomas suggested an educational process to better understand how some things are approved in certain conditions. Assistant City Attorney recommended a joint work session with the Planning Commission and the HPB to discuss those issues. Chair Wintzer asked if it was possible to schedule a joint work session with the HPB prior to a Planning Commission meeting. Director Eddington thought the HPB would be amenable to a joint work session. The HPB also has new members and it would be a good opportunity for everyone to get acquainted. Commissioner Thomas suggested that Dina Blaes be invited to attend the work session.

Chair Wintzer opened the public hearing.

Jeff Brille, was concerned about the redundancy of another review body and the potential of creating additional delays. He agreed with the concerns expressed by the Planning Commission regarding the qualifications of the HPB and their ability to streamline the process. He supported reconstruction but he had reservations about disassembly. In a community where they are trying to be sustainable and productive with energy use, disassembly turns into an intensive process, particularly for mobilizing portions of the structure on and off site. If contractors have facilities in the Valley, transporting up and down the canyon creates energy waste, which would be the case with disassembly.

Ruth Meintsma stated that she had spoken with Planner Sintz about adding additional language to the definition of disassembly. Ms. Meintsma remarked that disassembly in itself is a course process typically done by hard labor. She felt that if the definition was not clear, disassembly could involve babysitting by the Planning Staff. Ms. Meintsma read her suggested language to the definition. "...for the purpose of accurately assembling, and for the purpose of accurately reproducing the placement, scale, and dimensions of the historic elements (windows, doors and porch posts). Ms. Meintsma noted that those words are used in the historic design guidelines under B-2, Exterior Walls. She has seen instances where the forms and panels were saved, but the porch posts that were supposed to be saved were lost. In those cases the porch posts were recreated but they were not like the original. Ms. Meintsma remarked that the lost details take away from the historic.

Mike Sweeney echoed the comments regarding a second layer of review. He pointed out that the City already has a knowledgeable Planning Group, and to add another layer that would require a property owner to spend more time going through the process makes no sense. Mr. Sweeney thought the Staff was more than capable of answering the questions and addressing the issues, and he believed the decision would be the same. It would just take longer and cost more money to reach that decision. Mr. Sweeney preferred to see the process streamlined rather than expanded.

Mary Cook stated that she did not want to cause problems for property owners; however, a friend was visiting Park City and they were walking up Park Avenue. Her friend had lived in Park City many years ago and they were talking about building that had been changed or taken down. The very items being discussed, such as trim, porch posts, shape of windows, etc, were the same things her friend immediately noticed had been removed and replaced with plastic or machined trim. Her friend's commented that you cannot have a historic district if you don't preserve those elements that are the hallmark of that historic time period. Ms. Cook could see arguments on both sides of the issue, but she felt it was important for the Planning Commission to hear her story.

Helen Alvarez stated that her comments were not related to historic preservation or elements or disassembly. She agreed with Commissioner Thomas that the City should not be layering on boards. The Planning Staff and the Legal Staff are paid to make decisions, and the Planning Commission volunteers hours and hours discussing those decisions. As a citizen, she did not feel protected when volunteer citizens assemble as a board to make decisions that should be made by the elected officials and their appointed Planning Commission. Ms. Alvarez urged the Planning Commission not to grant the Historic Preservation Board the right to review projects within the Historic District. She strongly favored professional review and she asked them to consider that. The City is surrounded by competent professionals to serve the citizens. She was not opposed to a volunteer Board in an advisory capacity, but she was strongly opposed if they are placed in a decision making capacity. Ms. Alvarez knows of situations where citizen boards, without the benefit of legal counsel, have said things that could be strongly challenged if the decision went to court. She did not want to be unprotected from that kind of legal action. Ms. Alvarez urged the Planning Commission to assume their responsibility as professionals and not grant their authority or the authority of the Planning Staff to a board.

Chair Wintzer closed the public hearing.

Commissioner Savage understood that the amendment being reviewed was mandated by the City Council. In accordance with that mandate, the Planning Staff recommended a modification to the LMC that the Planning Commission was being asked to review and approve. Commissioner Savage assumed that the Planning Commission was not in a capacity to make a decision as to whether or not this was an appropriate decision on behalf of City Council. They could only determine whether the proposed Land Management Code amendment supports the recommendation from City Council.

Assistant City Attorney McLean explained that as part of the joint visioning in February the City Council gave Staff direction to make the proposed changes to the Land Management Code. The Planning Commission is responsible for their own recommendations and if they disagree with the

City Council they need to stand behind their opinion. When forwarding their recommendation, it is important for the Planning Commission to articulate why they disagree so the City Council has the benefit of that information. Ms. McLean clarified that direction from the City Council does not abdicate the Planning Commission from their duties.

Commissioner Savage stated that he was emboldened by Ms. Alvarez and her comments. If there is a way to facilitate a more efficient process for construction using the existing Staff and the existing mechanisms, he would support that approach. Commissioner Savage believed the recommended modification was a consequence of one incident that created a tumult, and it did not justify adding another layer to an already cumbersome approval process. Commissioner Savage opposed the amendments to the LMC.

Commissioner Worel concurred. She completely supports streamlined processes. Commissioner Worel stated that the HPB has the opportunity as citizens to attend public hearings and make their opinions known, particularly if they have a liaison to the Planning Commission. She believed adding another layer of review would be difficult.

Assistant City Attorney McLean stated that under the current process, if someone applies for a reconstruction it goes to the Planning Department. If the Staff decision is appealed, it would go to the HPB. Director Eddington clarified that the HPB is an appeal body in their current capacity. Ms. McLean pointed out that in those cases, the decision would not come before the Planning Commission. If the Staff's decision is not appealed, the project would move forward without going to another body. Ms. McLean remarked that the proposed amendment would require a public hearing for those reconstructions. If that was appealed it would go to the Board of Adjustment.

Planner Sintz noted that existing LMC criteria must be met. There are four criteria under disassembly and three criteria under reconstruction. Planner Sintz explained the current approval process for disassembly and reconstruction. She clarified that the only difference was that the proposed amendment takes the approval away from the Planning Department and puts it in the hands of the Historic Preservation Board.

Chair Wintzer asked if the Planning Staff needed another layer of review or if they felt they could handle it on their own. Director Eddington replied that the process works well with the Planning Staff. There were issues with a recent reconstruction; however, he did not believe the City Council or the HPB thought a mistake was made. The problem was a lack of public involvement with the reconstruction on Park Avenue. During visioning the City Council and some HPB members thought a public forum at the HPB level would inform the neighbors of the project and what to expect. Director Eddington stated that the Planning Staff was more than capable of architectural review and/or interpreting the guidelines and City Codes. The proposed amendment provides public opportunity that would not occur in the Staff review process.

City Council Member, Alex Butwinski, stated that the City Council is always concerned about not adding another layer of bureaucracy. He clarified that the issue resulted from 657 Park Avenue and the City Council was interested in finding a better way to keep the public informed. Mr. Butwinski agreed with Ms. McLean that the Planning Commission has the purview to offer a different opinion. However, he asked the Planning Commission to consider the potential in the Historic District for

many things falling through the cracks, particularly with regard to reconstruction. The amendment would heighten awareness of the Historic preservation they were striving to maintain in Old Town. Mr. Butwinski remarked that less bureaucracy is generally better, except in this case.

Chair Wintzer stated that having another review board would take the pressure off the Staff from always being the ones to interpret the Code, and it would provide them with back-up. Chair Wintzer favored the amendment.

Commissioner Savage stated that if the Staff wanted to involve the HPB in a given set of decisions, they should have that discretion. However, he was not in favor of compelling the Staff to involve the HPB. Assistant City Attorney McLean thought it was important to have a clear process in place. Ms. McLean pointed out that the HPB is an appeal Board for Staff decisions, and therefore, it would be difficult for the Staff to use the HPB in an advisory capacity. It is not a viable option because of how the Code is structured.

Commissioner Savage reiterated his objection to changing an entire process because of one incident that generated public outcry, particularly since many other applications were successfully reviewed and approved under the same process.

Planner Sintz pointed out that the application on Park Avenue was under the old historic guidelines and was not subject to the new noticing requirements.

Commissioner Thomas agreed with Helen Alvarez. As an architect he was more comfortable with the Staff review procedure and process. He liked the professionalism of the Staff and the fact that the Planning Department has an architect on Staff. He was not comfortable adding another layer to the process. He agreed that there was an obvious hiccup on Park Avenue and they need to consider that in future discussions about the General Plan and the LMC. He believed they could reinforce the design process in the Historic District and he looked forward to having that discussion at a later date. Commissioner Thomas stated that he could not support the recommendation.

**MOTION:** Commissioner Thomas moved to forward a **NEGATIVE** recommendation to the City Council for approval of the Land Management Code Amendment. Commissioner Worel seconded the motion.

**VOTE:** The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 7:55 p.m.

Approved by Planning Commission: \_\_\_\_\_ 3

## **REGULAR AGENDA**



# Planning Commission Staff Report



**Application No:** PL-11-01281  
**Subject:** LMC Amendments  
**Author:** Francisco Astorga, Planner  
**Date:** August 24, 2011  
**Type of Item:** Legislative

## Summary Recommendations

Staff recommends that the Planning Commission review and discuss proposed amendments to the Land Management Code (LMC) for Chapter 2.1 Historic Residential-Low Density (HRL), Chapter 2.2 Historic Residential (HR-1) District, and Chapter 2.3 Historic Residential (HR-2), as described in this report. Staff recommends the Planning Commission conduct a public hearing on the LMC amendments describe herein, consider input, and forward a recommendation to the City Council specifically to:

1. End the TZO without adopting further limitations on maximum footprint solely for plat amendments; and
2. Provide direction to staff to continue with analysis and recommendations regarding a floor area limitation for all new construction (without using either a TZO or the pending ordinance doctrine- all applications may proceed under current code and design guidelines until and unless a new ordinance is adopted).

## Topic

**Project Name:** LMC Amendments to Chapters 2.1 HRL District, 2.2 HR-1 District, and 2.3 HR-2 Districts  
**Applicant:** Planning Department  
**Proposal:** Revisions to the Land Management Code concerning lot combinations and limiting the maximum building sizes in Historic Residential Districts

## Background

On June 23, 2011, the City Council adopted a Temporary Zoning Ordinance (TZO) which prohibits the approval of plat amendment applications filed after June 15, 2011 in the Historic Residential Districts (HRL, HR-1, and HR-2) for a period not to exceed six (6) months until the City Council considers limits on the maximum building footprint allowed as a result of lot combinations in those zones. The proposed Land Management Code (LMC) amendments were noticed on June 15, 2011 and were drafted in order to address the concerns which motivated the TZO.

On July 13, 2011, the Planning Commission conducted a public hearing and reviewed the pending ordinance. The proposed LMC amendments brought forward were broader than the TZO as they addressed overall massing in the historic residential districts and were not limited to only the building size on lot combinations, although such buildings

were also addressed. During this meeting the Planning Commission agreed that they did not support the proposed restriction of lot combinations to sites with historic structures only and they also requested to see additional research and analysis related to the proposed footprint reduction/limitation, number of stories, and increased setbacks. The LMC amendments and public hearing were continued to August 24, 2011.

On July 21, 2011, the City Council held a joint session with the Planning Commission to discuss redevelopment policies and strategies. For the purpose of the joint meeting, the Planning Department introduced the issue of lot combinations as a broad discussion item and as an illustration of the trade-offs involved in setting redevelopment policy. The background information set the stage for a larger policy discussion on lot combinations, density, massing, and compatibility within these residential districts. The broad discussion created clear communication from the City Council and Planning Commission regarding redevelopment in Old Town.

During the joint meeting the City Council clarified, by trying to balance all of their interests (consensus), that their intent behind the TZO was limited solely to the footprint issue resulting from plat amendments. Therefore, City Council requested that Planning Staff prepare a staff report for the next Planning Commission public hearing on August 24, 2011 regarding the TZO – limiting the analysis and recommendations to whether additional footprint restrictions for plat amendment/lot combinations should be codified in the LMC within the HRL, HR-1, and HR2 zoning districts. These limitations will not affect existing lots of record. Existing lots will be able to proceed under the current footprint formula (table), maximum height, and minimum setbacks, etc. as permitted uses subject to the 2009 Historic District Design Guidelines unless the site requires a steep slope Conditional Use Permit (CUP). The analysis and draft ordinance will not propose additional changes to the lot development restrictions (height, setbacks, floors, etc.) in those districts, which are applicable to all new development.

Also during the joint meeting, the City Attorney acknowledged that the Planning Commission may still make their own recommendations to expand the ordinance, including additional regulations and/or applicability to all new development. However, doing so would be contrary to the preliminary direction which the Planning Commission has repeatedly requested greater clarity from the Council on. The City Council makes the final decision on the pending ordinance, and also may decide to repeal the TZO at any time.

At the August 11, 2011 City Council meeting, the Council requested that Staff provide an update on August 25<sup>th</sup> regarding the previous night's Planning Commission meeting, and indicated a desire to consider whether to move forward with the TZO or adopt further exceptions, depending on the progress. The TZO will otherwise expire upon adoption of a new ordinance regulating lot combinations or on December 15, 2011, whichever occurs first.

### **Estimate of Lots and Parcels Impacted by the TZO**

Utilizing Geographic Information Services (GIS), staff has estimated:

- Approximately 73 vacant Old Town parcels (an Old Town parcel is usually identified with a tax id number but contains more than one [1] Old Town lot) located within the HR-L, HR-1, and HR-2 Districts; these parcels equate to approximately 127 Old Town Lots (e.g. a typical 25' x 75' lot).
- Approximately 82 vacant lots (platted lots of record, including typical Old Town lots and lots that have been formally re-platted) within these districts.
- Approximately 275 Old Town parcels (see definition above) with structures (historic or not) on them that would necessitate a plat amendment in order to get rid of discrepancies with platted lot lines.

### **Historical Background**

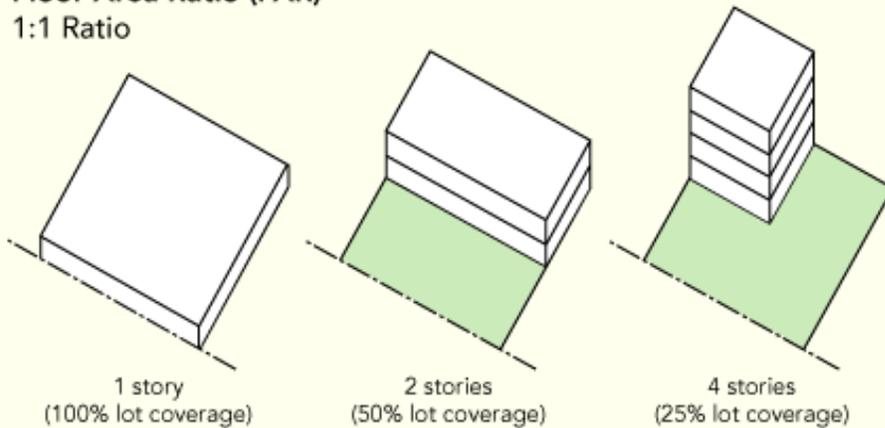
As far back as 1990, there have been concerns expressed by some members of the public, the Planning Department, the Planning Commission, the City Council, and the Historic Preservation Board that the zoning regulations result in unacceptable development density and/or incompatible building sizes in the historic residential districts. In the mid 1990s, a critical development occurred when the Chief Building Official and City Attorney confirmed that the Uniform Building Code and state law did not allow construction across platted lot lines even when both lots were owned by the same person or entity. That decision fundamentally altered [increased] the City's ability to regulate new construction, remodels, and additions to historic structures by mandating plat amendments prior to building permit.

Concerns have also been expressed that the existing LMC plat amendment process allows the possibility of larger lots of record yielding larger structures that are incompatible with the development patterns of the historic neighborhood and existing topography. Amendments to the LMC in the form of Floor Area Ratio and Footprint Formula were made in 1990, 1993, 1995, 1999, 2000, and 2006. These issues were last discussed in 2007. The outcome of the 2007 discussions was the 2009 LMC amendments which reduced the massing and size of buildings and adoption of new Design Guidelines for Historic Districts and Historic Sites, but specifically rejected further alterations to the maximum footprint table by imposing a maximum footprint.

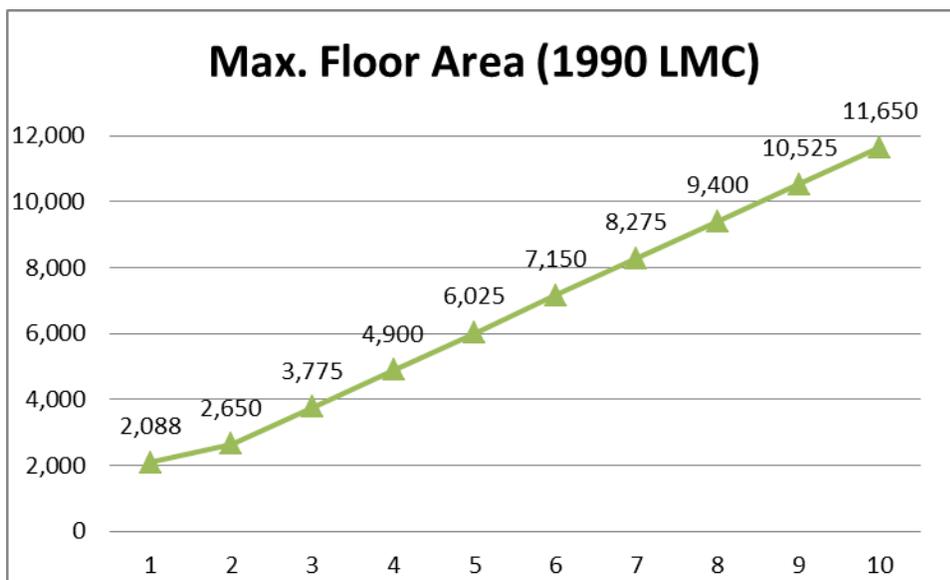
### **1990 LMC - Floor Area Ratio Regulation**

Ordinance 90-17 was the City's first regulation of floor area. The floor area of all new structures constructed within the HR-1 District was limited by the Floor Area Ratio (FAR). FAR is the floor area of a building divided by the total area of the lot or parcel. The exhibit below is an illustrative representation of a FAR. The three (3) areas below contain the same FAR of 1:1.

**Floor Area Ratio (FAR)**  
1:1 Ratio



The 1990 ordinance limited the floor area of a building through the FAR regulation as outlined in the graph below:



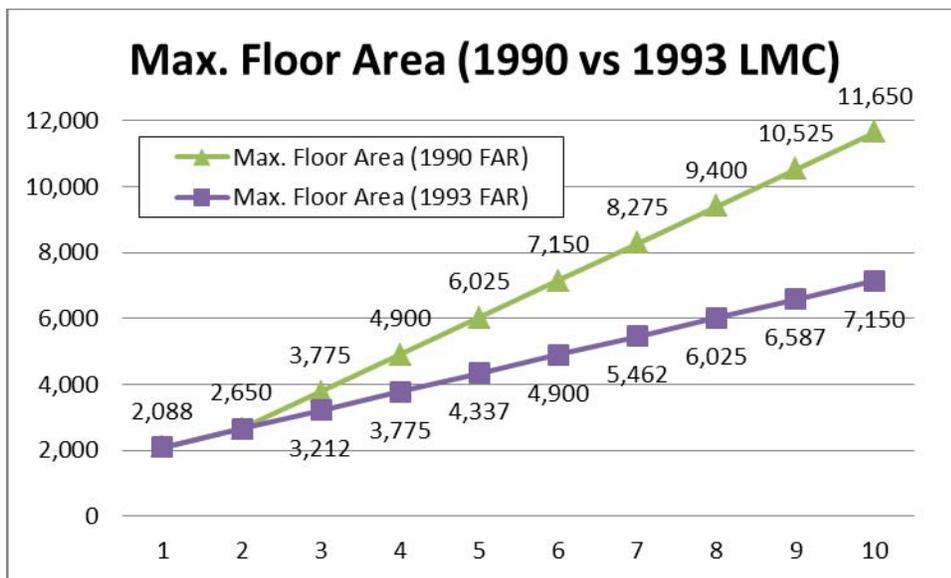
The graph above shows the number of lots (based on the historic Old Town configuration of 1 lot = 25' x 75', 2 lots = 50'x75', 3 lots = 75' x75', etc.) on the X axis (bottom) and the maximum floor area that can be placed on each site (on the Y axis on the left side). The floor area identified above includes an additional area of 400 square feet for a two (2) car garage. The LMC also indicated that in an effort to further encourage adaptive reuse of historic structures within Park City's Historic District, the Floor Area Ratio requirement did not apply to renovations, additions, or expansions to historic structures. Therefore, additions could expressly exceed the FAR, in order to facilitate historic remodels.

Projects submitted during this timeframe also required compliance with the Historic District Design Guidelines adopted in 1983 through submittal of a Historic District

Design Review (HDDR) application. The scale of buildings, their materials, and their site relationships are examples of the specific characteristics that were analyzed and from which the guidelines were developed. Due to the smaller size, scale, and volume of historic sites, the HDDR typically resulted in new projects/remodels that were below the maximum square footage identified above.

1993/1995 LMC - Floor Area Ratio Regulation

Ordinance No. 93-2 amended the City’s floor area regulation established in 1990. The 1993 ordinance further reduced the floor area of a building through the FAR regulation as outlined in the graph below:



The graph above shows the number of lots on the bottom (X axis) and the maximum floor area that can be placed on each site (Y axis). The floor area identified above includes an additional area of 400 square feet for a two (2) car garage. The 1993/1995 LMC also indicated that in an effort to further encourage adaptive reuse of historic structures within Park City’s Historic District, the Floor Area Ratio requirement did not apply to renovations, additions, or expansions to historic structures. Therefore, additions could expressly exceed the FAR, in order to facilitate historic remodels.

The 1993 ordinance was passed to reduce the floor area as the size of the lot combination increased. The additional area consisting of 400 square feet for a two (2) car garage remained in place as well as the exemption of floor area ratio requirement for renovations, additions, or expansions to historic structures.

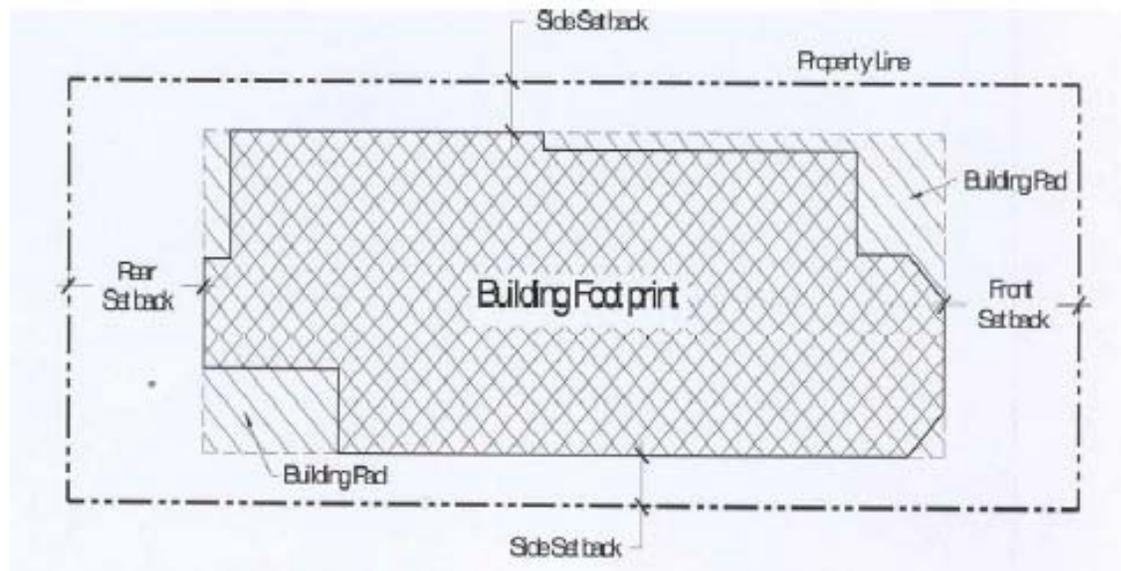
Ordinance No. 95-65, passed in 1995, simplified the verbiage of the floor area ratio requirement; the result remained the same.

Projects submitted during this timeframe also required compliance with the Historic District Design Guidelines adopted in 1983 through submittal of a HDDR application. The scale of buildings, their materials, and their site relationships are examples of the

specific characteristics that were analyzed and from which the guidelines were developed. Due to the smaller size, scale, and volume of historic sites the HDDR typically resulted in new projects/remodels that were below the maximum square footage identified above.

### 1999 Temporary Zoning Ordinance (TZO)

Ordinance No. 99-39, passed in 1999, adopted a TZO for the HRL and HR-1 Districts to establish interim zoning standards pending revisions to the LMC. The primary changes in the **temporary zoning ordinance** to the HRL and HR-1 zoning districts included the elimination of the maximum floor area through the FAR regulation established in 1990 and amended in 1993 (and in 1995). In lieu of a FAR to determine maximum house sizes in these districts, the proposed LMC amendments regulated house size via maximum height, minimum setbacks, and the newly proposed building footprint development standard. The exhibit below is an illustrative representation of building footprint:



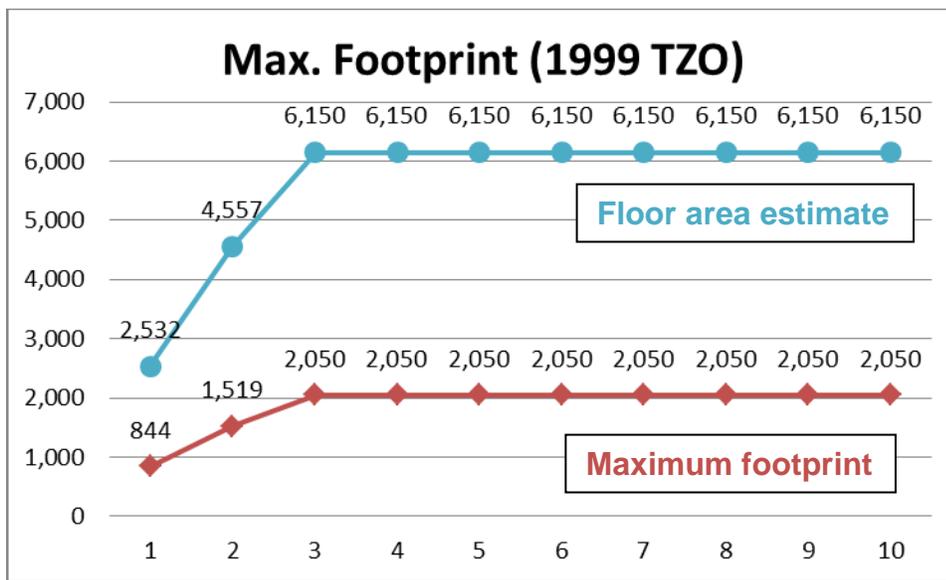
The interim zoning standards pending revisions to the LMC included a formula which specified maximum footprint sizes which were a function of lot area (*e.g. 844 s.f. for a 25' x75' lot; 1,519 s.f. for a 50' x75' lot; and 2,050 for a 75' x 75 x lot*). For larger lots, greater setbacks were required.

As drafted in the interim zoning standards (TZO), the largest achievable building footprint was 2,050 square feet – the maximum building footprint for a three (3) lot combination. If a property owner combined four (4) or more lots, the maximum building footprint permitted remained at 2,050 square feet. The purpose for the Planning Commission limiting the maximum building footprint to a three (3) lot equivalent was to prevent large, potential incompatible, structures from being constructed in Old Town.

Projects submitted during this timeframe also required compliance with the Historic District Design Guidelines adopted in 1983 through submittal of a HDDR application. The scale of buildings, their materials, and their site relationships are examples of the

specific characteristics that were analyzed and from which the guidelines were developed. Due to the smaller size, scale, and volume of historic sites, the HDDR typically resulted in new projects/remodels that were below the maximum square footage identified above.

For the purpose of establishing a comparison between the 1990 and 1993/1995 floor area regulation and the footprint requirement, the light blue line shown on the same graph below indicates the estimated maximum square footage that could be placed on each lot combination based on a three (3) story building, which can be identified as a maximum/extreme scenario.



The ordinance also introduced language for development on a steep-slopes which required a Conditional Use Permit (CUP) process for development of structures over 1,000 square feet in size located on a slope in excess of thirty percent (30%). The proposed CUP review criteria included provisions for the location of development, visual analysis, access, terracing, building location, building form and scale, setbacks, dwelling volume, and building height. The new steep slope CUP regulation also gave the Planning Commission the ability to grant a building height exception not to exceed forty feet (40') subject to specific criteria. Even though the floor area (shown in blue above) is the estimated (maximum/extreme scenario), Planning Staff finds it appropriate for the floor area comparison. However, the language of the TZO was not accepted by the Council in the final ordinance. The footprint limitation was again rejected.

### 2000 LMC - Footprint Regulation

Ordinance No. 00-15, passed in 2000, approved the comprehensive and substantive rewrite of the LMC in conjunction with the aforementioned TZO, specifically for the HRL and HR-1 Districts to address development on steep slopes, lot and site requirements for new construction and additions, building height measurements, permitted and conditional land uses, and vegetation protection. Note that the HR-2 District was

created/adopted in 2000 by Ordinance No. 00-51. The same footprint regulation applied to the HR-L, HR-1, and HR-2 residential districts.

As introduced in the 1999 TZO, the substantive change to these residential districts was the elimination of the floor area ratio (FAR), replaced with a maximum building footprint limitation. The FAR counted square footage on all floors whether they were above or below ground. It was problematic for Staff, designers, and property owners and it was concluded that if the square footage was not visible, it shouldn't be an issue as long as the application meet all other code requirements and the Historic District Guidelines (1983).

The staff report published in conjunction with the proposed ordinance indicated that one of the reasons the building footprint formula was developed was to create an incentive for individuals to combine small (usually difficult to develop) Old Town lots into larger lots resulting in less density and that the maximum building footprint which capped at 2,050 square feet (*a three [3] lot area equivalent*) would lessen the incentive to re-plate in excess of three (3) lot combinations.

Concerns were voiced regarding the maximum building footprint cap during the Planning Commission and City Council public hearings. The public recognized that the maximum footprint formula (calculation) was intended as a tool to provide incentive to combine lots in Old Town. The public indicated that the owners will simply create three (3) lot combinations and stop there, as it will be the most economically viable option since platting four (4) or more lots was subject to the same footprint limitation.

Staff then recommended that City Council discuss eliminating the 2,050 square foot maximum building footprint and not having a specific footprint cap. Staff indicated that it is possible that a property owner could request to combine numerous lots into one (1) larger lot to achieve a bigger structure; however, in doing so, greater setbacks and more open space would be mandated by the maximum building footprint formula. The aforementioned lot combination would result in less potential density and the resulting structure would still be reviewed pursuant to the necessary LMC and HDDR process.

**After many hearings, the City Council rejected the Planning Commission's recommendation regarding a maximum building footprint cap of 2,050 square feet. The newly re-written LMC contained the following regulation regarding building footprint (adopted via Ordinance No. 00-15):**

***BUILDING FOOTPRINT.*** *The maximum Building footprint of any structure shall be calculated as follows:*

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

*Where FP= maximum Building Footprint and A= Lot Area.*

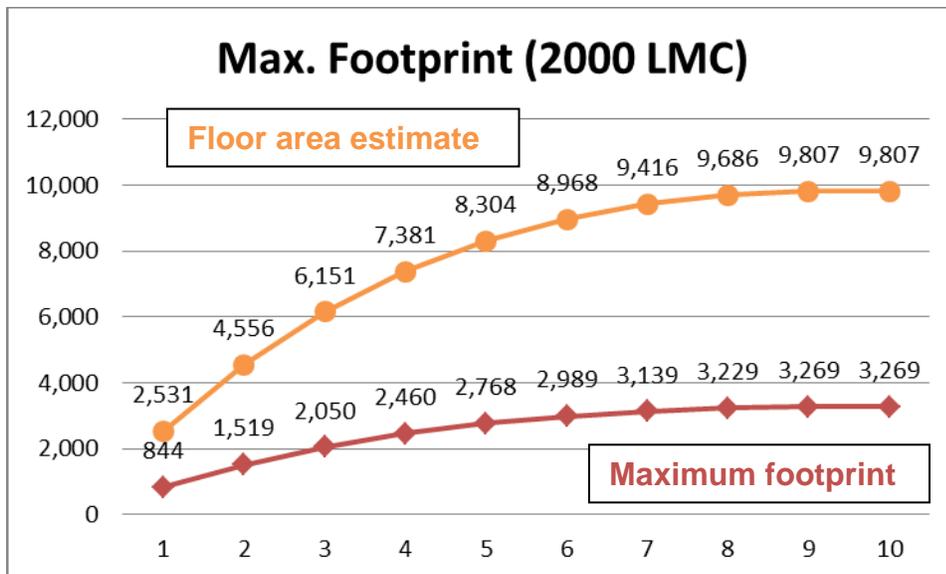
*Example: 3,750 sq. ft. lot:  $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = \underline{1,519 \text{ sq. ft.}}$*

*See the following Table 15-2.2. for a schedule equivalent of this formula.*

**TABLE 15-2.2.**

Lot Depth, <math>\leq</math> ft. *	Lot Width, ft. Up to:	Side Yards Min. Total, ft.		Lot Area Sq. ft.	Bldg. Pad Sq. ft.	Max. Bldg. Footprint
75 ft.	25.0	3 ft.	6 ft.	1,875	1,045	844
75 ft.	37.5	3 ft.	6 ft.	2,813	1,733	1,201
75 ft.	50.0	5 ft.	10 ft.	3,750	2,200	1,519
75 ft.	62.5	5 ft.	14 ft.	4,688	2,668	1,801
75 ft.	75.0	5 ft.	18 ft.	5,625	3,135	2,050
75 ft.	87.5	10 ft.	24 ft.	6,563	3,493	2,269
75 ft.	100.0	10 ft.	24 ft.	7,500	4,180	2,460
75 ft.	Greater than 100.0	10 ft.	30 ft.	Greater than 75 ft.	Per Setbacks and Lot Area	Per formula

As shown below the 2000 LMC limited building footprint (identified with the red line). For the purpose of establishing a comparison between the floor area regulation and the footprint requirement, the orange line shown on the same graph below indicates the estimated maximum square footage that could be placed on each lot combination based on a three (3) story building, which can be identified as a maximum scenario:



The newly adopted 2000 LMC also added that for development over steep-slopes, it required a Conditional Use Permit (CUP) process for development over houses over 1,000 square feet in size located in excess of thirty percent (30%).

#### 2006 LMC - Footprint Regulation

Ordinance No. 06-56, passed in 2006, approved additional amendments to the LMC. The amendments did not change the footprint formula adopted in 1999/2000 but added the following language to the building footprint section of the LMC:

***BUILDING FOOTPRINT.*** *The maximum Building Footprint for any Structure located on a Lot , or combination of Lots, not exceeding 18,750 square feet in Lot Area, shall be calculated according to the following Formula for Building Footprint, illustrated in Table 15-2.2. The maximum Building Footprint for any Structure located on a Lot or combination of Lots exceeding 18,750 square feet shall be 4,500 square feet; with an exemption allowance of 400 square feet, per dwelling unit, for garage floor area. A Conditional Use Permit is required for all Structures with a proposed footprint of greater than 3,500 sf.*

The reason this provision was added was because after a ten (10) lot combination the number calculated by the footprint formula starts decreasing. The LMC was written to specify that a lot combination exceeding 18,750 (equivalent to ten [10] Old Town lots) was capped to a 4,500 square foot building footprint and also required a Conditional Use Permit to be reviewed by the Planning Commission to ensure compatibility with surrounding structures in use, scale, mass, and circulation and that the effects of any differences in use or scale are mitigated through careful planning.

#### 2009 LMC

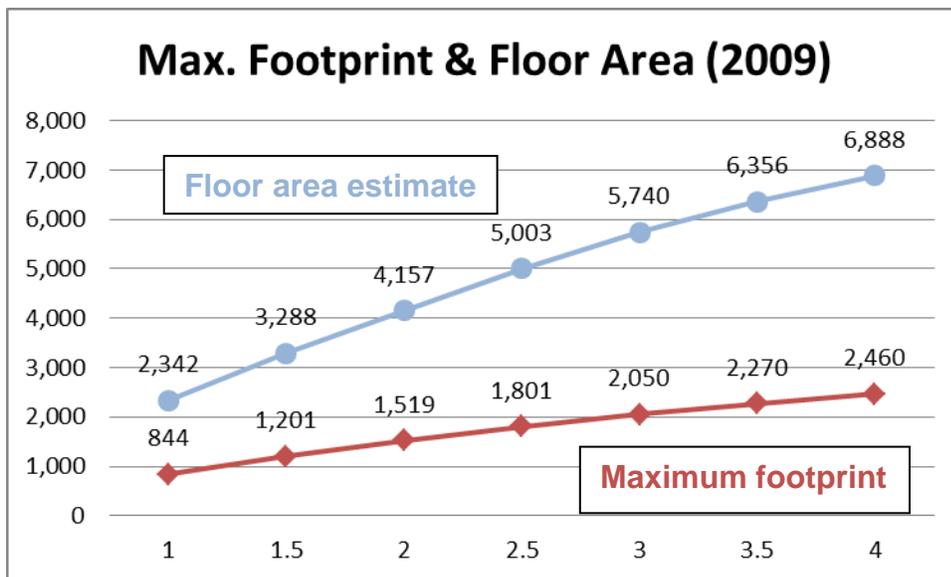
In 2009 the Historic Preservation Board (HPB) adopted Resolution No. 09-01 adopting the Park City Historic Site Inventory (HSI). The City Council adopted specific LMC

amendments pertaining to the updated of Design Guidelines for Historic Districts and Historic Sites and also adopted such Design Guidelines.

Even though the height regulation remained the same as before, twenty seven feet (27') maximum above existing grade, Ordinance No. 09-14 amended the method of measuring height, and it added a maximum of three (3) stories, required a ten (10) foot minimum horizontal break on the third story, and required a specific roof pitch. The amendments that took place in 2009 did not amend the footprint formula adopted in 2000, however, it did decrease the maximum possible floor area due to the story cap and the horizontal step required on the third story.

As shown below, the 2009 LMC limits building footprint, identified with the red line. The new newly adopted LMC indirectly limits floor area via maximum footprint, maximum number of stories (three), and required horizontal step; identified with the blue line. Due to the uncertainty of lot combinations of more than four (4) lots regarding their setbacks, frontage, and aforementioned parameters the graph below shows the lower end of lot combinations. It is worth noting that the most typical lot combination ranges from one and a half (1.5) lots to two (2) Old Town lots.

For the purpose of establishing a comparison between the 1990 and 1993/1995 floor area and the 2000 maximum footprint requirement, the light blue line shown on the same graph below indicates an estimated maximum square footage calculation that could take place on each lot combination based on a three (3) story building (with a ten foot [10'] setback on the third floor), which can be identified as a maximum scenario:



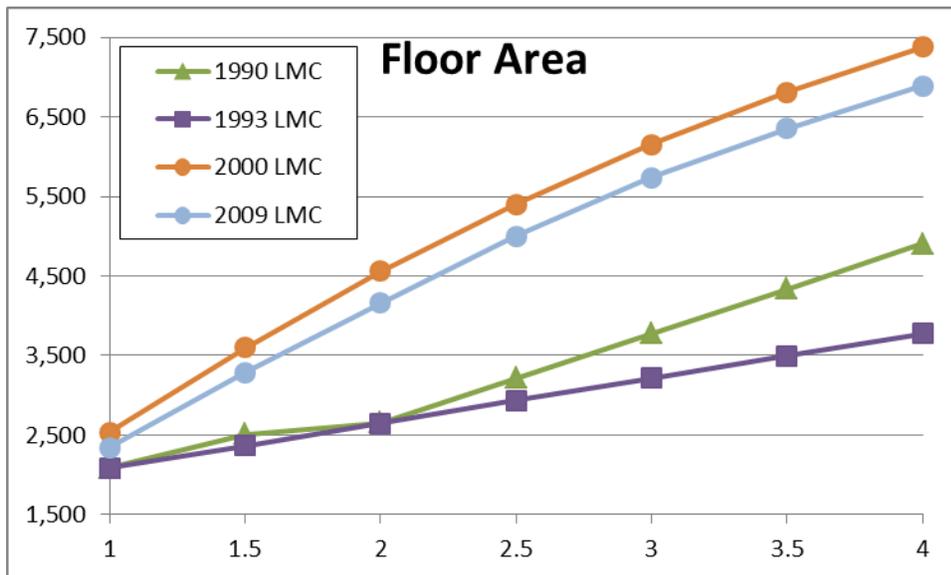
Projects are also subject to required compliance with the updated Historic District Design Guidelines (2009) through submittal of a HDDR application. The updated guidelines provide a foundation for making decisions and a framework for ensuring consistent procedures and fair deliberations. The scale of buildings, materials, and site relationships are examples of the specific characteristics that were analyzed and from

which the guidelines were developed. Due to the smaller size, scale, and volume of historic sites the HDDR resulted in a reduction of the maximum square footage identified as the estimate above.

### **Analysis**

Staff does not recommend a band-aid approach of re-addressing this complicated issue by treating new lot combinations differently than existing lots of the same size. If the City adopted new regulations for lot combinations only, a proposal to combine three (3) lots directly adjacent to a lot that already had been combined would be subject to different regulations.

More recently, there have been a number of plat amendments taken before the Planning Commission and City Council where there has been heightened concern relative to the size and massing of the structures which would be enabled by the lot combinations, despite being consistent with the building footprint table. Staff has prepared the following analysis which represents the evolution of floor area in Old Town since its inception in 1990, to the reduction in 1993, to the current building footprint regulation that started in 1999/2000, and the recent reduction in 2009. Due to the predictability of range of smaller lot combinations the graph below only shows up to four (4) *Old Town lot combinations*:



The graph above establishes the green line as the first floor area regulation enacted in 1990. The purple line shows the 1993/1995 floor area reduction. Note that up to this point the City did not have a floor area requirement for renovations, additions, or expansions to historic structures. See the attached minutes of the 1995 Plat Amendment City Council meeting discussion where the City's prior one and a half lot requirement for a single family permit is referenced (Exhibit A)

When the City eliminated the floor area regulation in 1999/2000 and utilized the building footprint regulation, it significantly increased the maximum floor area estimate (based on

three story buildings) shown in orange. The City in 2009 in an attempt to reduce the mass and volume added development standards that slightly reduced the maximum floor area (based on three story buildings) shown in light blue. Also when the building footprint was enacted in 1999/2000 it applied to all structures, historic or not.

The FAR regulation was utilized in conjunction with the height and setbacks to define the building envelope. The FAR regulation focused on a specific building volume based on a relationship (ratio) with the lot area, whether the building was under or above ground. A structure built under the FAR regulation may cover the entire building pad (lot area minus setbacks).

The building footprint regulation is also utilized in conjunction with the height and setbacks to define the building envelope. The building footprint regulation focuses on the coverage of the lot area, whether the building is under or above ground. A structure built under the building footprint regulation may not cover the entire building pad as the building footprint is smaller than the building pad (lot area minus setbacks). After examining the adopted building footprint formula, Planning Staff identified the following relationship (percentage) of the lot building footprint (coverage) and each lot combination:

No. of Lots	Lot Measurements	Lot Area (sq ft)	Footprint (sq ft)	Lot Coverage (%)
1	25' x 75'	1,875	844	45%
1.5	37.5' x 75'	2,813	1,201	43%
2	50' x 75'	3,750	1,519	41%
2.5	62.5' x 75'	4,688	1,801	38%
3	75' x 75'	5,625	2,050	36%
3.5	87.5' x 75'	6,563	2,270	35%
4	100' x 75'	7,500	2,460	33%

The building footprint acts as a better development regulation than the floor area ratio regulation because not only does it control lot coverage but it also indirectly controls the maximum floor area via combination of the minimum setback regulation, maximum height regulation (including maximum no. of stories), lot coverage, and ultimately with the project achieving compliance with the newly updated Historic District Design Guidelines (2009). Planning Staff recognizes that the maximum building footprint in terms of lot coverage is appropriate.

Even though the floor area has increased with the implementation of the building footprint regulation from the FAR regulation, the City has also amended the LMC to preserve the character of the historic residential districts, encourage the preservation of historic structures, and encourage construction of historically compatible structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods.

Staff finds that due to the recent 2009 update of the Design Guidelines for Historic Districts and Historic Sites, the guidelines will work in conjunction with the current LMC regulations designed to find appropriate size, scale, and volume within the residential districts. In 2008 and 2009 the City held various public Historic Preservation Board, Planning Commission, and City Council meetings in conjunction to the applicable required hearings regarding to the LMC amendments and revisions to the updated guidelines, and therefore Planning Staff does not recommend amending the LMC until these new regulation parameters are given more time to see results. Note that whenever there is a conflict between the LMC and the Guidelines the more restrictive applies.

***Discussion Requested: Does the Planning Commission agree with Planning Staff recommendation of ending the TZO with no further LMC amendments? This would provide the 2009 Guidelines more time to see results in conjunction with the current LMC regulations. The current LMC regulations include maximum building footprint; minimum setbacks; maximum building height including a maximum of three (3) stories, and a ten foot (10') horizontal step in the downhill façade; and specific development standards for construction over steep slopes.***

#### **Future Work Session Discussion**

In a future Planning Commission Work Session Planning Staff could explore the opportunity to allow for an additional floor area regulation that can be added to the HRL, HR-1, and HR-2 Districts. If this is the direction that the Planning Commission desires to entertain, Planning Staff could then recommend adding a floor area regulation based on the current building footprint of the lot.

Given the historical background and analysis of this staff report of the maximum floor area based on the current building footprint, the maximum number of stories, and the ten foot (10') horizontal step in the downhill façade Planning Staff recognizes the large increase of floor area that took place once the FAR regulation was eliminated and the building footprint regulation was adopted.

Staff could then recommend keeping the footprint formula as it has been recognized as an appropriate development parameter for lot coverage and adding a maximum floor area cap. The maximum floor area would be twice (2x) the maximum footprint and be based on the current definition of gross residential floor area:

*The Area of a Building, including all enclosed Areas, Unenclosed porches Balconies, patios, and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 400 square feet, are not considered floor area. Basement and Crawl Space Areas below final grade are not considered Floor Areas. Floor Area is measured from the finished surface of the interior of the exterior boundary wall.*

The floor area regulation would result in the following:

No. of Lots	Lot Measurements*	Lot Area (sq ft)	Footprint (sq ft)	Lot Coverage	Current Floor Area†	Possible Floor Area Cap‡
1	25' x 75'	1,875	844	45%	2,342	1,688 + 400 = 2,088
1.5	37.5' x 75'	2,813	1,201	43%	3,288	2,402 + 400 = 2,802
2	50' x 75'	3,750	1,519	41%	4,157	3,038 + 400 = 3,438
2.5	62.5' x 75'	4,688	1,801	38%	5,003	3,602 + 400 = 4,002
3	75' x 75'	5,625	2,050	36%	5,740	4,100 + 400 = 4,500
3.5	87.5' x 75'	6,563	2,270	35%	6,356	4,540 + 400 = 4,940
4	100' x 75'	7,500	2,460	33%	6,888	4,920 + 400 = 5,320

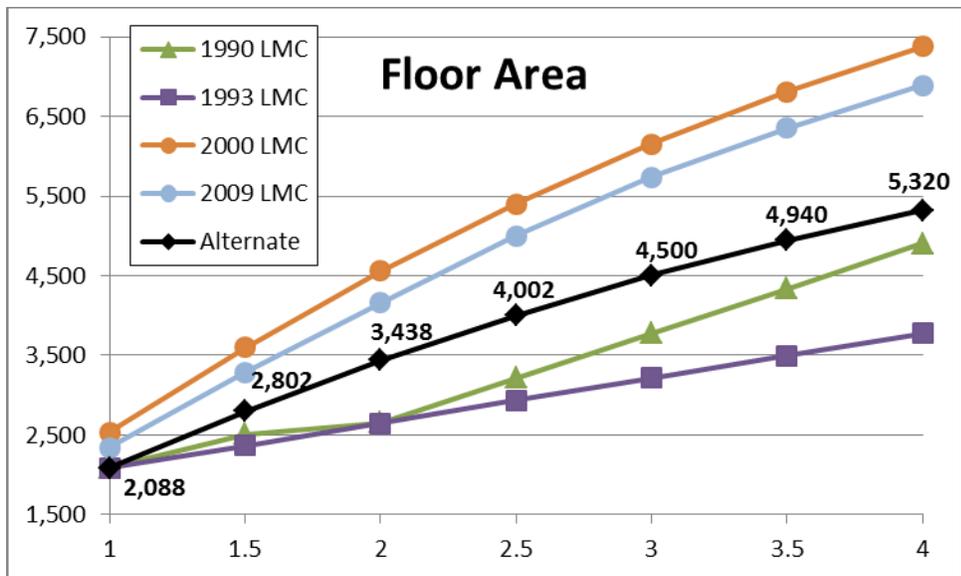
\* For lots  $\square$  75' in depth the footprint formula used.

† Estimated maximum square footage based on a three (3) story building.

‡ Garages up to a maximum area of 400 sq. ft. are not considered floor area.

The benefit of this possible future recommendation would be that the building footprint remains the same but the maximum floor area would be capped to reduce the mass and volume of proposed structures. This possible future recommendation would be in line with the purpose to preserve the character of the historic residential districts, encourage the preservation of historic structures, and courage construction of historically compatible structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods.

In order to compare this possible future recommendation with the maximum floor area outlined throughout this staff report Planning Staff has prepared the following graph below that summaries each LMC regulation that altered the maximum floor area since its inception:



The black line above provides the possible floor area cap that would be twice (2x) the maximum footprint currently identified in the LMC plus a 400 square foot two (2) car garage. The benefit of this possible future recommendation is that it reduces the maximum floor area as it provides the designer appropriate flexibility to still work with the current building footprint. It also gives the property owner an additional 400 square feet should they desire to build a two (2) car garage.

### Department Review

This staff report has been reviewed by the City's Planning and Legal Departments.

### Process

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC §15-1-18.

### Notice

Notice of the public hearing was published in the Park Record on June 18, June 25, and August 10, 2011 and posted according to the requirements in the Land Management Code. The original noticing for the TZO and LMC amendments were on June 15, 2011.

### Public Input

The Planning Department has received many inquiries about the TZO and the pending ordinance.

### Alternatives

- Conduct a public hearing on the LMC amendments described herein or as amended and forward a positive recommendation to the City Council. **This is the recommended alternative.**
- Conduct a public hearing and forward a negative recommendation to the City Council.

- Continue action on the LMC amendments to a date certain.

### **Significant Impacts**

Changes to the LMC are intended to protect the historic district and create greater compatibility within infill to the Historic District.

### **Consequences of not taking the Suggested Recommendation**

Taking the suggested recommendation will leave the LMC unchanged and may provide additional time to apply the recently adopted Design Guidelines for Historic District and Historic Places (2009) in conjunction with the current LMC regulations that were last updated in 2009.

### **Recommendation**

Staff recommends that the Planning Commission review and discuss proposed amendments to the Land Management Code (LMC) for Chapter 2.1 Historic Residential-Low Density (HRL), Chapter 2.2 Historic Residential (HR-1) District, and Chapter 2.3 Historic Residential (HR-2), as described in this report. Staff recommends the Planning Commission conduct a public hearing on the LMC amendments describe herein, consider input, and forward a recommendation to the City Council specifically to:

1. End the TZO without adopting further limitations on maximum footprint solely for plat amendments; and
2. Provide direction to staff to continue with analysis and recommendations regarding a floor area limitation for all new construction (without using either a TZO or the pending ordinance doctrine- all applications may proceed under current code and design guidelines until and unless a new ordinance is adopted).

### **Exhibits**

Exhibit A – City Council Work Session minutes – 01.05.1995 & 01.19.1995

Exhibit B - Public input received after July 13, 2011

- the Council will be asked to consider contribution additional revenues to match the private funding up to an agreed limit (\$25,000).
- a plan and work program will be developed and a standing Advisory Board will be appointed from those asked to contribute to oversee the expenditure of the funds.
- this program will have to be explained and promoted so that a majority of those who benefit will support the imposition of an additional business license surcharge fee.
- this example of public private cooperation can serve as a for other sections of the City wishing to enhance their areas.

Myles emphasized that although the Main Street Merchants Association support the project, not all merchants belong to the group and many have not heard about the project. With the consent of Council, he would like to organize a meeting with Main Street businesses. Jennifer Harrington then showed slides of Main Street areas which could be improved. Pace Erickson reported that the City now spends about \$100,000 on Main Street (i.e., banners, maintenance, decorating but not snow removal). Lou Hudson suggested that this be a volunteer effort, but Ruth Gezelius discussed the difficulty when the building isn't occupied by an owner. Shauna Kerr stated that she was a proponent of this project after the summer tour but suggested that the letter should wait until this is discussed at the Council retreat to make sure this is a priority of Council, and Ms. Gezelius suggested that the feedback from the businesses could be helpful at the retreat and that this is a good community project. Leslie Miller agreed that this needs to be set as a priority and could not justify a \$50,000 expenditure without further discussion. She also considered beautification as an individual responsibility and there may be planning difficulties. She could not support this yet and wanted to make sure that there is a high level of commitment from the Main Street Merchants and that there is good justification in providing matching grants from general taxpayers' dollars. Ms. Miller felt that assessing higher business license fees will not be popular. A meeting with the Main Street Merchants is fine as long as they know "it is not a given". Lou Hudson noted that other commercial areas would request the same consideration and John Sands from the Prospector business district agreed that other areas feel neglected.

The Mayor recommended that this be discussed further at the retreat.

**Procedure for adjusting lot lines.** City Attorney Hoffman explained that this review was prompted by a request from a citizen. In the past, through various administrative actions, staff had facilitated the recombination and resubdivision of Old Town lots without public input and without discretionary review. That process enabled the owners of contiguous Old Town lots either

to develop them as single lots, with small structures, or as combined and reconfigured lots with much larger structures. Over the past year, staff has amended its practice of administrative adjustment of lots within Old Town to conform with state law, particularly with regard to mailed notice to all property owners in the plat.

Ms. Hoffman pointed out the expectations from plats and used the Aspen Springs Subdivision Plat as an example of how view corridors were planned, platted and recorded. The differences between typical plats and the Park City Survey, Millsite Reservation, and Snyders Addition is that the historic plats are very large and the topography and development patterns vary. She discussed steps to streamline the process including, in the long term, legislative action which would take into account the difficulty with historic plats. In the short term, applicants could notice property owners within 300 feet, as provided in the Land Management Code, and place a note on the plat regarding noticing. A third solution would be for the City to subdivide the historic plats into smaller sections so that noticing is more manageable. Council needs to give direction regarding building across lot lines which would require an ordinance amendment. Ruth Gezelius felt that lot combinations should require more review as setbacks should be increased.

Leslie Miller asked why this is occurring now and why previous city attorneys weren't aware of non-compliance with state law. Ms. Hoffman responded that it was just a matter of the right questions being asked and the timing. Ms. Miller noted that property owners were not very comfortable about the plat note. Alison Child, property owner and applicant, felt that lot combinations should occur as permitted uses because that has been the process and lot combinations have the desired effect of lowering densities. She felt that suddenly the rules have changed and that these decisions should be made by the administrative staff and not the elected officials. Rick Brighton, architect, stated that it is absurd to have these applications go to the City Council. Ms. Miller felt it important to be sensitive to applicants, and the City Manager explained that the City could absorb some of the mailing costs for noticing until the proper amendments are made. Ms. Child suggested that the City obtain another legal opinion and questioned that if this is a gray area, why are we spending so much time on this.

Because of time constraints, this matter will be discussed further at another meeting.

**3. School Bond issue.** Dr. Fielder stated that the bond issue totals \$31.5 million for the construction of secondary

Page 3  
City Council Work Session  
January 19, 1995

Council's motion of January 5 with regard to approval of the purchase of the film equipment. Roger Harlan, who made the motion, stated that the minutes accurately reflect his motion and the restated motion. Leslie Miller stated that a specific amount was not identified. Toby Ross discussed that there were two meetings with the Arts Council, and the approach the Arts Council desired to take was substantially different from the proforma included in two packets. Staff didn't feel comfortable that it had the authority to negotiate those changes.

Lou Hudson expressed his position of supporting the project because of community benefit and use of the facility. He felt it appropriate to move ahead because the Film Festival has already begun; Bob Johnston explained that the equipment is installed but has not yet been purchased. Shauna Kerr pointed out that in several packets it was stated that the Arts Festival would pay back \$7,500 and now it appears it can't meet that obligation. She voted against this last meeting because it violated the CIP Fund process but since there is a commitment to the loan, the issue is whether the Council is comfortable in the Arts Council paying it back on a different payment schedule. The Mayor mentioned that he made a statement previously that this was a "thin" deal, at best, at \$7,500 and all of the Arts Council people testified that the pay-back could be accomplished and the Council made a motion on those numbers. Leslie Miller contended that she did not base her vote on those numbers and stated that staff put together the new proforma with options without the benefit of having Arts Council's review and the Arts Council didn't have the information at the last meeting. There are new numbers that will make sense. Bob Johnston explained that the Arts Council had the information before the Council meetings. He continued that as a result of the Arts Council Board meeting, it was determined that this level of commitment was too great. The Mayor felt it inappropriate for the Arts Council to come back for a "better deal" and Ms. Miller felt that was a misrepresentation and that they are trying to make a public facility more accessible to the community.

Roger Harlan emphasized that the motion was based on the reliability of the \$7,500 figure and if the numbers have changed, that is new information. Ms. Miller stated that Council should be open to the new information if it results in a better community project and Lou Hudson agreed. Mr. Hudson pointed out that the City has the funds at this time. Ruth Gezelius stated that there was a lack of procedure and she did not want to feel pressured about making a decision when things are out of order. See regular meeting minutes.

4. **Procedure for adjusting lot lines.** City Attorney Hoffman stated that state law, as it relates to plat amendments, is more

commonly applied that thought earlier. Salt Lake City has older and larger plats and has proposed legislation to address these problems; Park City can incorporate its concerns and that could occur by this spring. State law mandates that one can't erase lot lines without going through a formal plat amendment process. She stated that building over lot lines is a violation of the Land Management Code and Uniform Building Code because of setback requirements. The LMC can be amended for internal lot line adjustments. Applicants wouldn't have to go through a plat amendment process but lot lines would still exist. Option 1 would be a relatively easy administrative process but is not really site specific and doesn't provide the neighbors with notice. Option 1a is a similar option but provides staff with discretion to adjust setbacks and FARs (i.e., Bald Eagle - ratio for homes on two lots).

Ms. Hoffman explained Option 2, where the application would only go to the City Council and not the Planning Commission, streamlining the plat amendment process. There would be site specific review of the structure, staff would have more discretion and easements could be identified. This would require an amendment to the LMC and would comply with state law.

Ron Ivie discussed problems in Old Town where there is construction over lot lines. Examples included Vie Retreat, the little red house on Park Avenue, and a situation on Rossie Hill where the owner represented that he was combining lots and after the home was built, sold one of the lots not located in the footprint. Brent Gold, attorney, pointed out that the balance of the property could have been deed restricted at the time of the building permit to prevent the sale of a lot. Ms. Hoffman responded that deed restrictions would not clean up the right-of-way issue, encroachments and still presents potential lawsuits.

Tom Clyde, attorney and former City Attorney, stated that his concern is that for many years the requirement forced owners to have an equivalent of 1.5 lots to obtain a building permit. This was accomplished in many instances with a quit claim deed and people based their expectations that that was how it was going to work. A plat note to avoid the "double dipping" of selling a lot would put a buyer on notice. Mr. Clyde is concerned about filing plat amendments in the middle of blocks where surveys don't match and the expense incurred to the owners by having to hire professionals. Going through the amendment process has great potential for creating a lot of problems that could be solved through simpler means. He felt Option 1 is preferred where the LMC is amended and the UBC in Old Town only to allow people to build across lot lines and deal with the FARs as a zoning matter. If the FARs are consumed on a lot, it would put a subsequent buyer on notice. There is fear of the discretionary process which may take months and the noticing is onerous. Shauna Kerr clarified that the FARs would be represented in some sort of recorded agreement which

would be revealed in a title report. He emphasized that plat amendments could prompt boundary disputes on every application.

To the extent that Council would like to pursue the administrative lot combination option, Ms. Hoffman asked how many lots are too many to breach? Ms. Hoffman explained to Ms. Miller that there is no distinction between commercial and residential applications. Shauna Kerr felt that an "identifiable" process could be created through formulas. The City Attorney stated that there are a lot of policy issues at stake with regard to these decisions. The law, as written, does protect the public but may be too cumbersome and these options should be reviewed by the Planning Commission for a recommendation.

Alison Child commented that the reasons for this forum is compliance with state law, the lot line problems Ron addressed, and application of the FARs. She emphasized that people are fearful because there are so many unknowns and recommended amending the LMC and FARs which may take a year. She stated that she has supported every amendment to FARs and would just like to know what the rules are now, as opposed to a year from now. Ms. Hoffman reiterated the features of Option 1a. Alison Child noted that the maximum number of lots for lot combinations and house sizes can be specified in the LMC. Ms. Hoffman discussed the merits of Option 2 but Toby Ross commented that Options 1 and 1a seem to have more support. He suggested that four or fewer lots would be workable for administrative lot line combinations to determine setback and easement considerations. There should be a commitment to come back and solve FARs and the broader setback questions as soon as possible. Rick Brighton, architect, added that when there are six to eight lots, it probably would be a condo project and felt that staff should be provided discretion. He pointed out that people building one home on two lots is a good thing as people recognize that there needs to be appropriate setbacks; the focus should be on the intent and not the exceptions that may take advantage of a situation. He doesn't mind if the rules are restrictive as long as they are clear and concise and the process is easy. Ms. Child recommended that there be an "plat czar" because the process is very cumbersome, i.e. limits of disturbance. Many times the City is not getting the best outcome because the applicant does not want to go through the process. Toby Ross suggested that his could be a hearing officer. An Old Town resident complained about "unreasonable" development occurring adjacent to historic homes.

Craig Smith, former Assistant City Attorney, explained that the way we got to this process rather than the plat amendment process was that up to a few years ago it was impossible to amend a plat. Before the law was amended, applicants were required to obtain the signatures of all owners in the plat. He discussed the protection to the City that plats provide. Marianne Cone discussed

the scale of homes and the public notice process. Tom Clyde pointed out that much of the discussion is going back to the land use issues, i.e. scale and setbacks, not lot lines. Mary Wintzer, resident, felt that the notification process is important. Bill Ligety commented that the process should be kept simple, supported deed restrictions, and suggested noticing for 100 feet. Alison Child felt that if people are interested in how a building will look, a simple way to accomplish that would be to require notification at the Historic District Commission level during architectural review. She is opting for clear consensus of the parameters for an application. Toby Ross suggested that an amendment to the LMC could allow people to build across lot lines through an administrative process but there could still be notice of a hearing to address easements or other kinds of things. Ms. Child felt that was reasonable.

Ms. Hoffman stated that she is hearing support for an administrative process that involves some level of public notice, that allows the breach of lot lines, with certain restrictions. She continued that that will be drafted for the Planning Commission a recommendation will be before Council in a couple of months. In the meantime, the simple lot combinations could be accommodated by that process in anticipation of those changes. Ruth Gezelius didn't feel comfortable with that and felt that a plat amendment provides more protection to owners and the City. Shauna Kerr referred to Tom Clyde's comments regarding the potential boundary disputes created by plat amendments which could be a bigger nightmare. All of the alternatives could be presented to the Planning Commission, and Ms. Hoffman stated that her concern is that she needs to enforce the law as written unless there is a consensus and other direction is provided by the Council. The Mayor suggested as an interim solution to implement an administrative process unless there was a circumstance that the City Attorney preferred Council to review. Ms. Hoffman commented that the most prudent thing to do is to streamline the amendment process (Option 2, eliminating Planning Commission approval) until other details are worked out. Shauna Kerr pointed out that in reality there will probably be only one or two applications in the interim period, which is not in the construction season. The Mayor emphasized the importance of reviewing FARs again.

Prepared by Janet M. Scott

July 10, 2011

Dear Planning Commission Members,

In reviewing this Planning Commission Staff Report, I realized the ultimate goal of these LMC Amendments and the reason why the TZO was adopted by City Council.

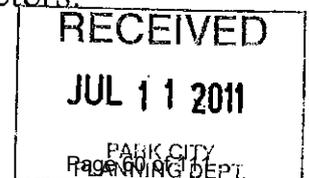
The goal of the LMC Amendments is in response to Applications such as the Upper Ridge Plat Amendment proposal to Planning Commission on June 22, 2011 for a request to reconfigure all or parts of 42 Old Town lots into 6 lots of record, open space and ROW areas.

The author states that the proposed LMC amendments are **broader** than the TZO as they address overall massing. Per City Council, the TZO is to address the limits on the maximum Building Footprint allowed as a result of lot combinations in such zoning districts.

I believe that we need to address one issue at a time, not a multitude of issues, as these potential changes affect hundreds of owners of vacant land and historic homes in the HR Districts.

The LMC Amendments as proposed are penalizing the current owners of small lots for no apparent reason other than a broad statement that homes need to be smaller. In 2009 there were new guidelines approved for the HR Districts which made building even more restrictive. I would like to see examples of these homes that have been built under the new guidelines and why we need additional changes?

The author has proposed four general development parameters.



1. I agree that lot combinations need to be addressed. The Upper Ridge Plat Amendment where taking 42 old town lots and turning them into 6 lots is a great example as to why the TZO was adopted.

2. Footprint Formula- First I would like to know how many platted lots are bigger than 50 feet x 75 feet that are still vacant in the HR District? Not only is the author proposing a 10 percent reduction in footprint, maximum of two stories, but is also proposing huge additional setbacks for any lot over 25 feet wide. The combination of these reductions is overly penalizing owners of smaller platted vacant lots.

3. Maximum of two stories. This is so restrictive it is unbelievable that it is even being proposed. If Park City was flat, the design guidelines would be easy. The author has not given us examples as to what two story homes would look like on steeper uphill and downhill lots that sit on one platted 25 x 75 foot lot? The basics of this proposal would mean that people would not build garages. It is 2011 and garages are very important to keep cars off of the street.

4. Setbacks- Again this is overly restrictive in combination with the reduction in footprint, maximum of two stories and increased setbacks.

First Discussion- Planning Commission needs more information. Planning Commission should not support the plat amendment/lot combination limitation to **only** historic structures.

Second Discussion- Planning Commission again needs more information.

Third Discussion- It is logical to rezone the North Star Subdivision.

The author talks again about a reduction in stories from three to two as a majority of historic structures were not three stories. Yes many of us live in the HR District and it is 2011 not 1890. I bought my first home in Old Town in 1987 and built my first home in 1995 under the FAR (floor area ratio) guidelines. Yes the FAR guidelines needed change, but there have been many revisions since 1990 that are now fair to the owners of vacant land and the neighbors around them. There has always been discussion at the City with regards to new homes and I have never heard once that they have wanted new homes to look or be historic in mass and scale.

Fourth Discussion- The two story proposal cannot be a blanket rule as no two lots in Old Town are the same. The existing three stories is fair and makes for a livable home.

Fifth Discussion- The increased setbacks for smaller lots is overly restrictive.

The property owners of the HR District were blindsided with these new proposed amendments. The staff report was not published until after 4:30 PM, Friday July 8 giving owners very little time to respond.

I personally own two lots in Old Town, live in Old Town and had no idea that Planning Staff was proposing these new rules. I wish I could be at the meeting on Wednesday but made plans to be out of town months ago.

Sincerely,  
Stephen Elrick  
578 & 584 Park Ave.

July 11, 2001

Park City Planning Commission  
Park City Municipal Corporation  
443 Marsac Avenue  
Park City, Utah 84060

Re: Proposed Land Management Code Revisions

Dear Planning Commission,

As the owner of 543 Woodside I recently became aware of proposed changes to the Land Management Code that will cap the footprint, reduce the allowed number of levels and increase setbacks. I have been designing a renovation to the existing historic home on my property. My architect met with the city at a pre-application meeting and received positive feedback to add a garage at the street level. This would add a third, underground level to the home. Right now, the home has no off street parking. As I understand it, under the proposed code change the third level would not be possible. I find this very confusing in that the city staff has said that it is possible to add a garage to this property as a basement level and comply with the design guidelines yet now I am told the LMC code change may prohibit it. It would seem to me that to exclude the ability to add a garage that can comply with the design guidelines just because it is a third level is arbitrary and narrow in scope and will further complicate the parking issues on Upper Woodside.

My home is approximately 1000 square feet on two old town lots. Currently I can expand to 1516 square feet in footprint. Since I cannot build over the existing home this would only allow for an addition of 500 square feet. If I am allowed to add a second level to the addition this might bring the total living area to 2000 square feet. Under the proposed code, my total living area would only be 1600 square feet. In sharp contrast under the proposed ordinance, on a similar site without a historic home, a new home could be as large as 2600 square feet (1300 square feet footprint on 2 levels). This is a disparity of 1000 square feet. The notion that a footprint cap can be applied with equity across the range of varying old town site conditions is greatly flawed.

In 2009, the planning commission and city council worked out design guideline and LMC revisions that reduced building levels to 3, strengthened the application process and required compatibility with existing homes. We were in the design stage at that time and waited until the revised code was ratified. As I understand it, these revised codes have not been tested and no new homes have been built under them. I fail to see the logic in putting forth more restrictive codes for a problem that have already been dealt with and solutions have been implemented.

I ask that you table these poorly conceived revisions in favor of the well developed and conceived code modifications from 2009 which give greater latitude in design and still provide for oversight and required compatibility.

Respectfully,

Steve Maxwell  
543 Woodside Avenue  
404.556.1111

131 Sampson Avenue  
Park City, UT 84060

July 12, 2011

Park City City Council  
Park City Planning Commission  
445 Marsac Avenue  
Park City, UT 84060

Dear City Council Members and Commissioners,

As I have written to you in 2008 and 2009, my husband, Joseph G. Sponholz, and I are proud and happy owners of several homes in Old Town, one in which we live as often as we can, two of which we rent to long term tenants, and one of which is currently boarded up and uninhabitable. We are very strong supporters of maintaining the architectural heritage and history of Park City and the aesthetic sensibilities of its residents and government.

We are horrified to see that the Planning Commission is contemplating new and egregious zoning restrictions that appear to accomplish nothing more than drastically reducing the value of any currently unimproved property while dramatically increasing the value of recent McMansions that were approved by the Council as well as other reasonable new or renovated construction of moderate size.

The last property we purchased in January 2010 was an eyesore and a disaster waiting to happen. We have complied with all the requirements of the town in having the structure thoroughly documented and safely boarded up. Our intention was to build a structure in compliance with the zoning and historical guidelines that we understood to be in effect at that time. We based our purchase on what our real estate agent and architect advised us would be in compliance. The new proposals would significantly restrict what we or any other owner could do, clearly reducing the current value of the property.

All of our properties are on Sampson Avenue and Upper Norfolk, all considered steep slope areas. To limit future construction to only 2 stories in this area is a significant penalty. The current restriction of 3 stories was limiting enough. If the intent of the new zoning is to insure that there is consistency within the neighborhood, I suggest that you tour Sampson and Upper Norfolk before finalizing the rules. The proposed limitations would make new construction dramatically smaller than the existing surrounding structures, with a negative impact on property values and general appearance of the neighborhood. As others have mentioned, parking would have to be outside because an indoor garage would be a prohibitively expensive use of one of only two stories. There is no street parking because the streets are too narrow, even without any snow.

As I have said in the past, the current regulations have kept the size and appearance of all but a handful of Old Town homes in keeping with the historical ambience of the town. Those oversized homes could have been managed by the current regulations. The fact that they weren't

is not sufficient reason to permanently negatively affect the rest of the property owners in Old Town.

There will always be some friction between economic interests of developers and individuals and the aesthetic and historical interests of a community. Park City has appeared to have found a balance between the two. De facto restriction of the size of new construction and the number of stories with no regard to the proximate neighborhood or the topography will have a significant effect on future tax revenues of the city. In addition, there will be a negative impact on the local architects, builders, real estate professionals, and suppliers whose services have already been severely hit in this current economic environment.

As we said before, we strongly urge the City Council to abandon these proposals and refocus its efforts on avoiding McMansion eyesores while protecting the environment, the history and the architectural integrity of our beautiful city.

Sincerely,

Nancy Bronstein Sponholz

## Francisco Astorga

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**From:** David Baglino <DavidBaglino@msn.com>  
**Sent:** Wednesday, July 13, 2011 11:28 AM  
**To:** Park City Planning; Francisco Astorga; Thomas Eddington  
**Cc:** Jonathan DeGray; Michael  
**Subject:** Current TZO/Pending Ordinance on Lot Combinations

Dear Chairman Wintzer and Members of the Planning Commission,

On behalf of Stacey Sachen owner of two homes in Old Town and myself as a General Contractor we would like to express our strong opposition to any change in the current TZO/pending ordinance on Lot Combinations. We strongly urge that you uphold the current three story restriction now in place. We believe the third story allowance that was added in recent years has solved a critical problem in Old Town regarding parking and has begun to alleviate the congested streets by allowing an underground/basement garage to be added as a third story.

Furthermore and specifically we will be negatively impacted on the project we have been working on for months and invested over \$10,000.00 into city and design fees located at 263 Park Ave that has gone through the preapproval with the Historic Design Review Committee to submit full application approved at the end of May. We then went on and completed the design and approval process with SBWRD on June 6, 2011, second the full Historic Design Review application was submitted on June 20, 2011, next we completed and submitted our CUP application on June 24, 2011 and finally at no time between March of when we began this process through the submission of the HDR application were we ever notified of this pending ordinance on Lot Combinations. It is our understanding that the notice was improperly given as well as back dated.

Due to all of these circumstances we feel it would be unjust to further delay this project and have a negative impact on property values in Old Town and making an already bad economy worse. We appreciate your time and effort in reviewing and promptly correcting this issue.

Wasatch Engineering Contractors Inc.  
David Baglino

Off (435) 604-0600  
Cel (435) 640-5806  
Fax (435) 604-0574

July 13, 2011

Park City Planning Commission  
443 Marsac Avenue  
Park City, Utah 84060



Dear Planning Commissioners,

In 2009 the planning commission and city council adopted revisions to the design guidelines and the LMC for the HR-1, HR-2 and HRL zones. These revisions placed a cap of 3 levels for all homes, required reduction in building mass and adopted new design guidelines for the district and historic sites.

During the debate that occurred there was discussion as to whether to cap building to two levels and whether to reduce the allowable footprint. It was concluded at the time that a two level home created very restrictive design options on sloping lots. It was also decided that instead of reducing footprint that the emphasis would be placed on the review process and the requirement for new homes to be compatible in mass and scale with existing homes.

These revisions to the code give the planning staff the ability to work with applicants on a variety of lot configurations that any one size fits all approach cannot. They provide a great deal of latitude to achieve creative design solutions that are also sensitive to adjacent structures.

Due to the economic climate these revisions remain untested. It is my understanding from the planning staff that since their enactment in 2009 there has not been any single family homes build under these guidelines.

That being the case it is difficult for me to understand why at this time we are being told that building size in old town is too large and that this is of such grave importance that a TZO is needed to allow time to review the situation. Since 2009 nothing has changed, there has not been a swell of construction activity in old town that could raise this kind of reaction. There simply does not appear to be good cause for the TZO of this proposed code amendment.

The code amendments propose to:

1. Restrict lot combinations to historic sites
2. Reduce footprint on all lots over 1875 sq. ft. by 10% and to cap footprint on two or more lots to 1367 sq. ft.
3. Reduce stories from 3 to 2
4. Increase setbacks.

Old Town, for the most part, is made up of 25x75 lots. Over time these lots have been combined, split and combined again. There is every conceivable combination and configuration in existence. As long as I can remember it has been encouraged to combine lots in order to avoid the 19' wide home design. To restrict lot combinations to only historic sites will do nothing but give incentive to lot owners with more than one lot to build individual 19' wide homes. This would further increase residential, vehicle and pedestrian density in old town. By placing this restriction it will reduce the variety of building size and design that adds to the character of the zone. It also begs the question, what happens to fragment lots? Are they allowed to be combined with whole lots as the code requires?

Reducing footprint at this time in light of the 2009 revisions seems unreasonable. The code as is allows the staff to require buildings to be compatible in mass and scale. The tools exist in the code to insure compatibility but they also allow for flexibility. By reducing or capping footprint on lots it will limit

design options and potentially create a one home design fits all in old town. Look at any side of old town and you see a verity of building and lot sizes. This is the context we are working in. It is mixed and that is what gives interest. If you say every home has a 1367 footprint then you will lose this diversity.

Right now the code, in terms of footprint, discriminates against property owners with historic homes. If the footprint is capped the living area in historic homes well be reduced even further as compared to new construction. A good example of this is the property at 929 Park Avenue. The Planning Commission just approved a plat amendment for this property. It is a 900 sq. ft. footprint historic home on a 5000 sq. ft. lot. Under the proposed revisions this property would be able to build out a 467 sq. ft. addition. If they are allowed to develop the addition on a second level then the home would yield 1834 sq. ft. gross area including any garage area. A smaller property or 3750 sq. ft. under the proposed revisions without a historic home can build up to 2734 sq. ft. (1367 x2). A 900 sq. ft. difference

With the plat approval the Planning Commission voted unanimously to allow 1688 sq .ft. of footprint on this property. This will yield a home of approx. 2400 sq. ft. on a 5000 sq. ft. lot which is a reasonable and fair size home for the property.

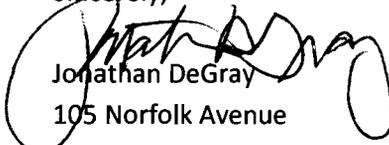
Reducing allowed levels from 3 to 2 will create a number of unwanted effects for new construction and remodels of existing homes. If you are planning to build a home on a sloping lot and are limited to 2 levels it is unlikely that you would opt for a garage as this would eat up one of your levels. What is more likely is that you would build a parking pad to meet your off street parking requirement and then place your building on the lot as high and out of the ground as you could to get windows out of the living space. This will create a street scape of parking pads and long stairs going up or down to the home entry. If the lot gets steep, over 30%, it is unlikely you could meet the code requirement for cuts and fills not to exceed 4'. If this is the case than the only code allowed solution is to build the garage. This would severely affect the living area. On a single uphill lot, over 30% slope, with a max foot print of 844 sq. ft. the max living area you could expect would be under 1000 sq. ft. This is a one bedroom home. Under the current code a single lot like this could yield between 1800 and 2100 sq. ft. of area including a single car garage.

There are many examples of 3 level homes with garages both historic and new properties that have been built which meet the design guidelines. To limit residences to 2 levels will achieve nothing but odd building design solutions, unworkable square footages and more cars on the streets.

The proposal looks to increased setbacks to gain separation between homes. Obviously there is no option on a single lot to increase side yard setbacks but on lots of larger size it is a good option to explore. I do however believe that the increases staff proposes are too large.

To summarize I find the proposed code revisions are greatly flawed and do not offer up any improvement over the current, untested 2009 revisions. The current proposal constitutes a complete overhaul and would have a profound negative effect on building design in old town. Good planning needs to take into account: the needs of the citizens; create an environment in which good design can occur and lastly take into account the effect of planning code, like these being proposed, on the economy. These proposed revisions do none of these things.

Sincerely,

  
Jonathan DeGray  
105 Norfolk Avenue

## Francisco Astorga

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**From:** Katie Cattan  
**Sent:** Wednesday, July 13, 2011 3:07 PM  
**To:** Francisco Astorga  
**Subject:** FW: Preliminary hearing for tonight

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**From:** Tom Bakaly  
**Sent:** Wed 7/13/2011 2:02 PM  
**To:** Thomas Eddington  
**Cc:** Katie Cattan; Polly Samuels McLean; Mark Harrington  
**Subject:** FW: Preliminary hearing for tonight

Please forward to the Planning Commission tonight and Council for future discussions. FYI - I may come hear the discussion tonight at Planning Commission. Thanks - TBB

-----Original Message-----

**From:** Chuck [<mailto:cwmooty@gmail.com>]  
**Sent:** Wednesday, July 13, 2011 1:56 PM  
**To:** Tom Bakaly  
**Subject:** Preliminary hearing for tonight

Tom, My name is Charles Mooty. My wife and I own two vacant lots on Park Avenue as well as a home on Woodside. We put significant investment into the purchase of our lots and subsequent drawings and engineering work for our plans to develop a new home on Park Avenue. We submitted our plans for our new home on Park Ave over 18 months ago. Given the fallout of the housing market here in Park City we put on hold our construction project for a better time to sell our current home. We have just heard of the proposed changes being considered by the city and it will have a huge negative impact to our investment. It simply is not fair to once again constrain our development . When we bought our lots we had purchased them with the understanding of the then building restrictions. We then had to modify our plans plans to the latest restrictions which had already been approved and now have subsequently lapsed. As anyone looking at our plans can see, we have put a plan together which is reasonable and not at all over built. Now under the new proposed guidelines, this plan could not be approved and that is simply is not right.

My request is twofold. I would please like to have my voice of disapproval communicated in print to the council. In this difficult economic period, you cannot wipe out further equity or valuation for these vacant lots from property owners. It simply is not fair or right; particularly when the current restrictions in place are so much more restrictive then the adjacent development around us.

Second, I ask that if this proposal is approved, that we be permitted to have our current plan be reinstated before final approval of the proposition. We have not been given fair notice of this and we certainly would have resubmitted before June 15 had we known about this new proposal. Again, this is not fair and I really don't want to have a legal fight around proper notification.

Our investment is significant in Old Town. We take great pride in the community and understand the concerns for over development. But this is simply too restrictive and forcing us to take a huge personal investment loss if this proposal was to move forward.

Please be smart in these tough economic times to the property owners who have already seen significant decline in market values for real estate here in Park City.

I would greatly appreciate your consideration,

Sincerely,

Charles Mooty  
[chuck.mooty@gmail.com](mailto:chuck.mooty@gmail.com)

Charlie Wintzer - Chair Park City Planning Commission

PO Box 1480

Park City, UT 84060

Subject: Planning vs. Old Town

Dear Charlie:

I was unable to attend the hearing on July 13, 2011 but wanted to share some of my thoughts.

My wife, Carolyn, and I built and operate Woodside Inn located at 1469 Woodside Avenue at the northern portion of "Old Town". Our building was completed in October 2000. There are 8 bedrooms & 3 floors above a 2200 sq.ft. garage.

We conformed to the zoning for this area and hit the limit of 35 feet. The height limit has generally been adhered to in Old Town, exceptions being Marriott's and other hotel/condos getting waivers.

Our garage size is unheard of in Old Town. You are always invited to come by and check it out.

Most property values in Park City, in and out of Old Town, have decreased about 50% since January 2008. The decline might be slowing a little, but the County Assessor does not agree. Last October (2010) I asked the Assessor's office to voluntarily decrease the market value of our property from \$1,825,000 to \$1,500,000. He would not do this so I hired an appraiser who worked on our behalf to reduce our property value which is now \$1,500,000.

The planning department is out to lunch. Most city employees and some council members do not believe we are in a recession. They have protected employment with very good benefits including getting raises and bonuses. This is unheard of in the private sector.

We have all experienced the heavy hand of the federal government with numerous regulations and mandates. To some extent it has reached into our state government (ie DABC). Don't allow this crap to plague Park City!



Shrinking Old Town lots, establishing 2 story limits will eliminate garages which are desperately needed throughout Park City. We have far too many vehicles parking on our streets now making snow removal impossible.

Our garage plus 3 dedicated off street parking spaces was required when we built in 2000. The City widened Woodside Avenue in 2008-2009 and took 4 feet off our property to install a city sidewalk. Across from Woodside Inn is an 8-plex (the City has at least one unit in the building). This building has 16 parking spaces. These units in many cases have multiple renters. One unit has 4 guys, 4 dogs and 4 cars. These cars are now parking on the sidewalk in front of the Woodside Inn & we have lost two parking spaces because of the sidewalk.

I warned Matt Cassel about taking our 2 spaces that planning had demanded. He told me he spoke with planning and the "taking" of the spaces was ok'd. We have 3 garages in another condo building across the street which do not handle cars - only storage for all their junk.

It might come as a surprise, but our guests constantly praise the over all appearance of Old Town. Why even consider these radical changes?

I realize that many areas of this letter will not be received with friendly eyes. The attached article reflects my concern. Park City is not immune to the economy that will persist for several years.

Please share this with your associates. I would be glad to read this letter to any audience.

Sincerely yours, 

Robert (Bob) McCallister

435-640-4039 info@woodsideinn.com

# Fall in Property-Tax Revenue Squeezes Cities 7-15-11

By KELLY NOLAN

Local governments have endured the first back-to-back declines in quarterly property-tax revenue on record, Census Bureau data show, in part because some have been unable or unwilling to raise tax rates fast enough to offset drops in home prices.

Property taxes bring in more than a quarter of local-government revenue, according to Moody's Investors Service. And until recently, they had been a steadier and more reliable income source than sales and income taxes, which react faster to current economic conditions.

But total revenue from property taxes across the U.S. fell 3% in the fourth quarter of 2010 and 1.7% in the first quarter of 2011, compared with a year earlier. Consecutive declines hadn't happened before in census data stretching back to 1963. That has put a squeeze on already-strapped cities, counties and school districts.

Unlike the early years of the most recent recession, property taxes aren't providing "the relief governments are looking for to get them out of their fiscal doldrums," said Richard Ciccarone, chief research officer at McDonnell Investment Management in Oak Brook, Ill.

One reason is the sharp decline in property values, on which the taxes are based. Another factor: Statutory property tax caps in some states and taxpayer resistance to higher property-tax rates in others have prevented local officials from trying to raise rates enough to compensate for falling assessed values of homes, Mr. Ciccarone said.

Property taxes had shown resilience until now because municipalities charge tax rates on assessed real-estate values that often lag market values by at least few years. So the sharp decline seen in property values during the recession is just starting to be reflected in some

valuations. And while the pace of the decline in home prices has eased, tens of thousands of foreclosures and faltering consumer confidence are expected to leave housing markets bumping near their current level for the rest of the year.

Nationally, home prices were down 4% in April from year-ago levels, according to the Standard & Poor's Case-Shiller 20-City index.

Still, said Bob Kurtter, managing director of public finance at Moody's, local governments can offset declining home-value assessments by charging a higher tax rate.

For example, Washington's King County, home to Seattle, increased its tax rate 14.6% but saw its tax levy—or target for property-tax revenue—increase just 0.5% in calendar 2010, according to Moody's.

Such large property-tax increases aren't always politically palatable, though.

Honolulu experienced a 7.6% decline in property assessments for fiscal 2011, Moody's said. Although the city raised its average property tax rate to \$5.21 per \$1,000 of property value from \$5.05, the higher rate wasn't enough to offset the decline in assessed values. Honolulu's tax levy shrank 4.6%.

**From:** Truxes [mailto:truxes@gmail.com]  
**Sent:** Wednesday, July 27, 2011 5:17 PM  
**To:** Kirsten Whetstone  
**Cc:** Susan and Bill Truxes  
**Subject:** Adverse effect of proposed HR-1 footprint/floor reduction, on 3 Northstar subdivision lots [NR-8, 9, and 10].

Kirsten

Thanks for your heads-up! Please print/forward this email on to PCPC and others who may be interested.

*Note: "OTL" means 1 Old Town Lot = 25'x75' = 1,875 sf.  
NR-8 (Our Truxes lot) is 24 OTLs, NR-9 is 22 OTLs and NR-10 is 33 OTLs.*

PCPC and the council knows that all of the buildings uphill from Lowell Ave are considerable larger than all other old town homes. See Tags 1 and 2

As you know we (in the Northstar subdivision) have 3 (1 to 1.5 acre) lots, plated in June 1974, i.e. 17 years ago! Tag 3.

We (Northstar lots NR-8 [Truxes], NR-9[Lozano] and NR-10 [VanDenburgh]) already lost considerable footprint SF value back in 2009 [rewrite of 15-2.2-3(D)] down to a 4,500 sf footprint (+400 sf garage) for 2 stories and a basement, yields MaxSF = 14,700 sf. see HABU, Tag 4.

Now you want to take us from our 14,700 sf to 1,367 sf max footprint [73% of a OTL!] and 2 stories with no basement or total housing sf = 2,734 sf !!!

This leaves us with  $(2,734/14,700 =) 18.6\%$  of what we have been planning on since we bought at a premium and paid taxes on this property for 17 years !

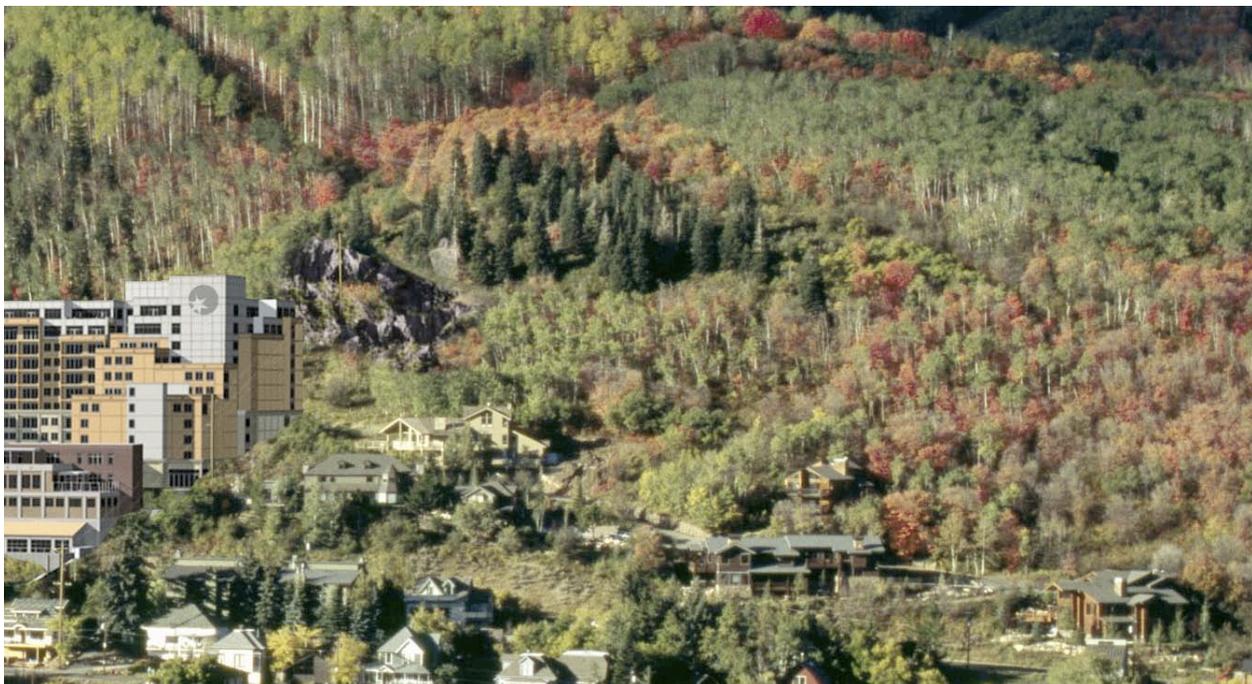
Please do not change 15-2.2-3(D) [the Northstar exception] as suggested. It is unnecessary, just take out the "or combination of Lots" if combos are concern.

It will reduce our property value by millions!

Truxes  
Truxes [truxes@gmail.com]

1 attachment: consisting of  
Tag 1 - Sweeney hotel next to our properties,  
Tag 2 - NS-7, Garda 4 stories,  
Tag 3 - Old town map showing us as largest lots in town and  
Tag 4 - present rules HABU (Highest And Best Use) plan].

Note: Present use of a 400 oz gold bar could be as a paper weight worth \$200.00,  
but at a HABU(gold value) is worth \$617,784!



**Tag 1: Sure looks like more than 2 stories and very big on the up hill side of Lowell Ave. in HR-1!**



**Tag 2: Sure looks like 4 stories, as seen here.  
NR-7, 923 Lowell Ave., 90' facade on 0.68 acre.  
Neighbors at "Yellow Slicker" across Lowell NOT as long or as wide as 911 or 923(above) Lowell Ave.**

# Park City Planning Commission

July 13, 2011 Meeting

1555 IRON HORSE LOOP ROAD  
Master Planned Development

1159 Empire Avenue  
Condominium Conversion

## Tag 3

NR-8, 9 and 10

### Legend

- Road Edges
- Parcels
- Streets



**The Highest and Best Use (HABU) of the subject property at 947 Northstar Dr., Park City Utah.** Page 1 of 2

This property (TAX ID: NR-8) is a Private Ski-In/Ski-Out (SISO), 1.03 acre, heavily wooded lot on the private road.

**Macro-location:** Between the PCMR (Park City Mountain Resort) and 100' to 200' above Old Town area of Park City, Utah USA.

**Micro-location:** Abuts Creole ski run on the PCMR (Park City Mountain Resort) via a deeded and recorded easement Entry No. 00529817.

The *highest and best use* is a concept in real estate appraisal, which states that the value of a property is directly related to the use of that property; the highest and best use is the reasonably probable use that produces the highest property value. This use, the Highest and Best Use, may or may not be the current use of the property. The 4 tests of highest and best use (HABU) are 1. legally allowable, 2. physically possible, 3. financially feasible and 4. maximally productive. [Read all footnotes on Page 2 of 2.]

**1. Legally Allowable** (maximum improvement per [15-2.2-3\(D\)](#), and guest house per [15-2.2-2\(B\)\(2\)](#) and [15-4-6](#)):

- **SISO:** NR-8 private ski-in/ski-out (SISO<sub>1</sub>) access to the abutting Creole ski run on the Park City Mountain Resort (PCMR).
- **Option 1:** 14,700 sf maximum improvement<sub>2</sub>; 12,000 sf build-out of existing improvement up to the top of lot, no guest house<sub>3</sub>.
- **Option 2:** 14,700 sf maximum improvement<sub>2</sub>; new house, demolish existing improvement, no guest house<sub>3</sub>.
- **Option 3:** 13,950 sf maximum improvement<sub>2</sub>; 11,250sf new main house and remodel existing 2,700 sf as guest house<sub>2</sub>.
- **Option 4:** 14,700 sf maximum improvement<sub>2</sub>; demolish existing improvement, new main house with a new guest house<sub>2</sub>.
- **Steep Slope:** Steep slope construction<sub>4</sub> for new house or new main house on subject property, NR-8, per [15-2.2-6](#)
- **Long term lease (All Options) and Nightly Rental (Option 1 and 2 only):** per [15-2.2-2\(A\)\(3\)](#)

**2. Physically Possible:**

- **SISO:** Is physically possible according to Pat and Mike Sweeney (2 of the 3 owners and officers) of the Sweeney Land Company (owner of PC-800-1-Lot 10 which our ski access crosses). Who on Friday, Aug. 22, 2008, walked subject (NR-8) ski access and agreed our ski access is approved by them and very (physically) possible. They offered several alternative trail suggestions that also are physically possible and are under consideration. A well used hand cleared 3 to 10 foot wide ski path already exists. Pat Sweeney suggested we may be able to use our SISO trail for the top of the lot main house construction access also if it is made 12' wide and reclaimed with grass after construction.
- **Option 1:** A 14,700 sf house with a 12,000 sf build-out of existing improvement up hill is physically possible, utilizing steep slope<sub>4</sub> construction techniques, very common in Old Town.
- **Option 2:** A 14,700 sf new house at the top of the lot is physically possible, utilizing steep slope<sub>4</sub> construction techniques. Removing the existing 2,700 sf improvement<sub>3</sub> presents no steep slope<sub>4</sub> considerations and is physically possible.
- **Option 3:** A 13,950sf (= new 11,250sf house at the top of the lot plus remodeling the existing 2,700 sf improvement) The new is physically possible, utilizing steep slope<sub>4</sub> construction techniques and the remodel presents no steep slope<sub>4</sub> considerations and is physically possible.
- **Option 4:** A 14,700 sf new house with a new guest house at the top of the lot is physically possible, utilizing steep slope<sub>4</sub> construction techniques. Removing the existing improvement<sub>3</sub> presents no steep slope<sub>4</sub> considerations and is physically possible.
- **Steep Slope:** Steep slope construction<sub>4</sub> is very common and physically possible in Old Town Park City.
- **Long term lease (All Options) and Nightly Rental (Option 1 and 2 only):** required parking is physically possible.

**3. Financially Feasible** (assume demolition at \$75/sf, remodel at \$100/sf and build new at \$360/sf):

- **SISO:** Cost from (as is) \$0 to (12' wide) \$25,000. Have SISO<sub>1</sub> now. Additional cost to widen to 12' could make construction easier.
- **Option 1:** Cost \$8,065,000<sub>5</sub> for lot, remodeling existing improvement up to top of lot, no guest house. [total cost/sf=\$548.64/sf]
- **Option 2:** Cost \$8,265,000<sub>5a</sub> for lot, building new main house with no guest house (demolish existing). [total cost/sf=\$562.25/sf]
- **Option 3:** Cost \$7,795,000<sub>6</sub> for lot, building new main house plus remodel guest house<sub>7</sub> [total cost/sf = \$558.78/sf]
- **Option 4:** Cost \$8,967,000<sub>8</sub> for lot, building new main house and new guest house. [total cost/sf = \$610/sf]
- **Steep Slope:** Steep slope construction<sub>4</sub> is included in the cost/sf for **Option 1 to 4** and common in the neighborhood.
- **Long term lease (All Options) and Nightly Rental (Option 1 and 2 only):** many management companies in town.

**4. Maximally Productive**(% Potential Profit =  $((MV/cost)-1)*100$ ) and assume demolition at \$75/sf, and sale price new at \$750/sf [or at \$1,000/sf]:

- $\sqrt{\text{Market value (MV) SISO}_{10} \text{ as vacant with demolition}_3}$ : \$3,250,000<sub>9</sub> = 1,700,000<sub>10</sub> + 1,750,000<sub>11</sub> - 200,000<sub>3</sub>.
- $\sqrt{\text{Market value (MV) SISO}_{10} \text{ as vacant without demolition}_{10a}}$ : \$3,450,000<sub>12</sub> = 1,700,000<sub>10</sub> + 1,750,000<sub>11</sub> - 0<sub>10a</sub>.
- $\sqrt{\text{Market value (MV) SISO}_{10} \text{ as is}}$ : \$4,124,000<sub>13</sub> = \$3,450,000<sub>12</sub>+674,000( = 2,700sf at \$250/sf)
- Market value (MV) SISO<sub>10</sub> as **Option 1:** 14,700 sf, remodel up hill: \$11,025,000 at \$750/sf [or \$14,7000 at \$1,000/sf]
  - **Option 1:** % Potential Profit = 36.7% [or 82.9%]=  $((11.025/8.065)-1)*100$  [or  $((14.75/8.065)-1)*100$ ]
- Market value (MV) SISO<sub>10</sub> as **Option 2:** 14,700 sf, all new no guest house: \$11,025,000 at \$750/sf [or \$14,7000 at \$1,000/sf]
  - **Option 2:** % Potential Profit = 33.4% [or 78.5%]=  $((11.025/8.265)-1)*100$  [or  $((14.75/8.265)-1)*100$ ]
- Market value (MV) SISO<sub>10</sub> as **Option 3:** 13,950 sf, new + rem-guest house: \$10,462,500 at \$750/sf [or \$13,950,000 at \$1,000/sf]
  - **Option 3:** % Potential Profit = 41.4% [or 79%]=  $((11.025/7.795)-1)*100$  [or  $((13.95/7.795)-1)*100$ ]
- Market value (MV) SISO<sub>10</sub> as **Option 4:** 14,700 sf, new + new guest house: \$11,025,000 at \$750/sf [or \$14,7000 at \$1,000/sf]
  - **Option 4:** % Potential Profit = 23% [or 64.5%]=  $((11.025/8.967)-1)*100$  [or  $((14.75/8.965)-1)*100$ ]

Determination of Highest and Best Use: Option 3: 11,250 sf new house with private ski access and a remodeled 2,700 sf guest house.

**The Highest and Best Use (HABU) of the subject property at 947 Northstar Dr., Park City Utah.** Page 2 of 2

This property (TAX ID: NR-8) is a Private Ski-In/Ski-Out (SISO), 1.03 acre, heavily wooded lot on the private road.

**Macro-location:** Between the PCMR (Park City Mountain Resort) and 100' to 200' above Old Town area of Park City, Utah USA.

**Micro-location:** Abuts Creole ski run on the PCMR (Park City Mountain Resort) via a deeded and recorded easement Entry No. 00529817.

**Footnotes (947 Northstar Dr. HABU):**

**1: SISO.** Private ski access to Creole Run on the Park City Mountain Resort (PCMR) is legally allowable according to the subject property's (NR-8) abutting easement owner (PCMR, POC: Administrative Director, Jenni Smith) and easement property owner the Sweeney Land Company (POC: Pat Sweeney). see attached [SISO.pdf](#) [deeded and recorded ski easement known as the "Creole Trail, Lift and Base Ease" Entry No. 00529817, ¶1] and [RED.pdf](#). If this SISO access across to Creole is made 12' wide, it provides construction access to the top of the lot.

**2:** The maximum improvement (14,700 sf) for this 1.03 acre lot in zone [HR-1](#) is three times the maximum allowable footprint (MFP) of 4,900 sf (4,500 sf + 400 sf for a garage) per [15-2.2-3\(D\)](#), without a guest house. The MFP of the main house is reduced by the footprint of a guest house [ per [15-2.2-2\(B\)\(2\)](#) and [15-4-6](#)] and in the case of Option 3 (a remodel of the existing improvement with a footprint of 1,150 sf) the maximum allowable square feet of a new main house at the top of the lot would be 11,250 sf (= 3\*(4,900 sf - 1,150 sf) = 3\*3,750 sf).

**3:** Subject NR-8 has existing 2,700 sf improvement that could cost **\$200,000 (~\$75/sf)** to remove. See page 3 of 22, Appraisal File No.: [0709-BH2](#) / Case No.: [3000142749](#).

**4:** See [15-2.2-6](#) DEVELOPMENT ON STEEP SLOPES Requires (B) Conditional Use Permit(CUP) for over 1,000 sf ( A) on 30% slope.

**5:** Cost of Option 1 is \$8,065,000 = \$3,450,000 (lot w/o demolition) + \$4,320,000 (cost of the new 12,000sf(14,700-2,700) addition at †\$360/sf) + \$270,000 (2,700sf remodeled existing improvement at \$100/sf) + \$25,000(12' wide ski/construction access) [Option 1 total cost/sf = \$8,065,000/14,700 sf = **\$548.64/sf**]. † "\$360/sf" from page 4 of 22, Appraisal File No.: [0709-BH2](#) / Case No.: [3000142749](#) / date: 7/23/08.

**5a:** Cost of Option 2 is \$8,265,000 = cost of Option 1 + \$200,000 for demolition (\$75/sf) of existing improvement. [Option 2 total cost/sf = \$8,265,000/14,700 sf = **\$562.25/sf**]

**6:** Cost of Option 3 = \$7,795,000 = \$3,450,000 (lot w/o demolition) + \$4,050,000(new 11,250 sf main house at \$360/sf) + \$270,000 (guest house is 2,700sf remodeled existing improvement at \$100/sf) + \$25,000(12' wide ski/construction access). [Option 3 total cost per maximum allowable sf = (3,450,000+4,050,000+270,000+25,000)/(11,250 sf+2,700 sf) = **\$7,795,000/13,950 sf = \$558.78/sf**]

**7:** "\$100/sf" is cost to remodel existing improvement as a guest house.

**8:** Cost of Option 4 is \$8,967,000 = \$3,450,000 (lot w/o demolition) + \$5,292,000(new main house and new guest house, 14,700 sf at †\$360/sf) + \$25,000(12' wide ski/construction access) + \$200,000 (demolition of existing improvement @ \$75/sf). [Option 4 total cost/sf = \$8,967,000/14,700 sf = **\$610/sf**]

**9:** Market value as vacant with demolition: \$3,250,000 = \$1,700,000(for SISO **10**) + \$1,750,000(for large lot WITHOUT SISO **11**) - \$200,000 (for demolition of existing improvement so *improvement placement doesn't reduce SISO value. This may be unnecessary see note **10a***)

**10: SISO value = \$1,700,000** [i.e. location, location, location]: "*Based on an analysis of the sales found in the area, ski-in/ski-out access is a very valuable attribute which provides a considerable contribution to value (estimated at about \$1,700,000).*" on page 3 of 22 of Appraisal File No.: [0709-BH2](#) / Case No.: [3000142749](#) / date: 7/23/08.

**10a:** "*The value of the ski access is therefore estimated at approximately \$1,700,000 based on paired sales with no adjustment for removal of the improvement.*" on page 4 of 22 of Appraisal File No.: [0709-BH2](#) / Case No.: [3000142749](#) / date: 7/23/08.

**11:** \$1,750,000 is the value of subject property (NR-8) as vacant and without ski access, based on the 7/2/07, \$1,750,000 sale of NR-10 (MLS#: 9969384), a larger (1.44 acre) vacant flag lot 500' to the west on the same private road, Northstar Dr.. Ski access is neither Legally Allowable nor Physically Possible for NR-10, however it is Legally Allowed the same size (no larger) improvement as the subject property (NR-8) per [15-2.2-3\(D\)](#) which states "The maximum Building Footprint for any Structure located on a Lot or combination of Lots, exceeding 18,750 square feet (0.40 acres) in Lot Area, shall be 4,500 square feet; with an exemption allowance of 400 square feet per dwelling unit for garage floor area. A Conditional Use permit is required for all Structures with a proposed footprint of greater than 3,500 square feet." So 4,500 sf + 400 sf times 3 stories = 14,700 sf. This lot, like the subject property (NR-8), is also legally allowed a guest house per [15-2.2-2\(B\)\(2\)](#) and [15-4-6](#).

**12:** Market value of SISO as vacant without demolition: \$3,450,000 = \$1,700,000(for SISO **10**) + \$1,750,000 (for large lot WITHOUT SISO **11**) - \$0 (for not demolishing existing improvement as suggested on page 4 of 22 of Appraisal File No.: [0709-BH2](#) / Case No.: [3000142749](#) / date: 7/23/08, see note **10a**).

**13:** Market value as is: \$4,124,000 = \$1,700,000(for SISO **10**) + \$1,750,000(large lot WITHOUT SISO **11**) + \$674,000 (valued at \$250/sf, replacement cost for existing 2,700 sf improvement 947 Northstar, to be saved as guest house for subject property.).

**14:** this documents name is [HABU.cwk](#) as of 081112W. Also see [HABU lot size.cwk](#) , [4maps.pdf](#) and [561Woodside.cwk](#) and [3AppsAnalysis.cwk](#)

## Francisco Astorga

---

**From:** joy@joypatin.com  
**Sent:** Wednesday, August 10, 2011 1:27 PM  
**To:** Francisco Astorga  
**Subject:** Stop the Madness!

The proposed land and property use change is preposterous. This change cannot be permitted to go through. Property owners in Old Town and throughout Park City will ultimately be affected in a negative way.

Is Park City still part of the United States of America? Historic guidelines are one thing, but such tight restrictions on privately owned property cannot continue. Let's settled down, Park City Council Members, and make decisions that are best for the community at large.

I hope you are listening.

Joy

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Joy Patin  
435/647-6363  
[joy@joypatin.com](mailto:joy@joypatin.com)

Dear Mayor, Council Members and Commissioners:

I am writing this letter to voice my strong opposition, as a local resident of Park City, to the Temporary Zoning Ordinance and the Proposed Ordinance modifying the Land Management Code.

I am strongly in favor of preservation and compatibility, my home is historical, and in the past I have felt the need for some change as my home was adversely affected by a home built adjacent to mine.

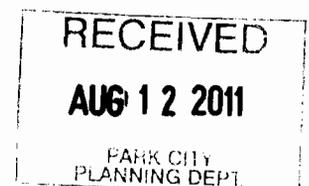
I have followed the 2009 changes and while they are not a perfect fit for me, I feel comfortable with them.

I feel the current Temporary Zoning Ordinance is not needed and the Proposed Ordinance modifying the Land Management has no benefit, would only penalize me and in no way meet the stated objective of preservation and compatibility

Sincerely,



Tracy Nielsen



Dear Mayor,

My name is Kamilla Nielsen, and I am a Senior at Park City High School and an Old Town resident. My mom and dad have been very concerned over the changes that have taken place that affect our property over the last few years and as a result I have been following the process.

The latest sets of changes have deeply upset my parents. It seems that the latest set of changes is unfair to us.

My parents have invested in Park City thinking their home would be a good place to put their savings into.

It seems bad enough that the economy has taken such a turn, but then to have this come up.

These changes in the past and the current proposed changes have caused my parents so much stress, concern and sleepless nights.

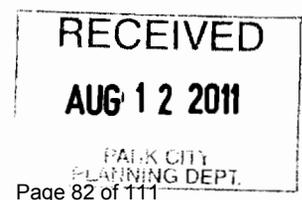
I cannot speak to the need and or reason for these changes, for what I am told and understand they seem unnecessary. What I know and can say for sure is that this has caused great concern, fear, and stress in our lives.

The decisions you make will deeply affect our lives and my future, please take into account that we are people who in good faith believed in this town and the people who run it. Please do not pull the rug out from under us

Sincerely,



Kamilla Nielsen



## Francisco Astorga

---

**From:** David Van Denburgh <David.Vandenburg@AmericanFence.com>  
**Sent:** Friday, August 12, 2011 5:46 PM  
**To:** Francisco Astorga  
**Subject:** Proposed Old Town Ordinance Impact

Commissioners:

As a resident of Park City and "Friend of Old Town," I am writing to express my concern regarding the proposed ordinance being considered. I am concerned about the negative impact this could have on the residents of Park City and feel that the 2009 amendments to the Land Management Code have not been given sufficient time to determine their results. Therefore, at this time I feel any change to the current Code is unacceptable. Our town needs economic investment and reinvestment which further restrictions will effect adversely. As a property owner in Park City, I want to see innovative new construction as well as renovations done to improve the community and support local businesses, not property values reduced as a result of new restrictions. Along with my fellow Friends of Old Town, I encourage you to consider the impact of this proposed ordinance on Park City property owners.

Respectfully,

David S. Van Denburgh  
911 Lowell Ave.  
Park City, UT 84060  
[david.vandenburg@americanfence.com](mailto:david.vandenburg@americanfence.com)  
602-352-7681

## Francisco Astorga

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**From:** jim wilson <jwpcpp@gmail.com>  
**Sent:** Saturday, August 13, 2011 9:33 AM  
**To:** Francisco Astorga  
**Subject:** LMC

Francisco, I would like you to know I am opposed to the proposed changes in the LMC. I have lived in Park City 67 years and it was a great place until about 30 years ago when some one in city government decided that property owners were not smart enough to make their own decisions on what to do with their own property. My house was built around 1900.I may be old but there is nothing historic about it. thanks for your time and effort.  
Jim Wilson 1063 Norfolk Ave.

## Francisco Astorga

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**From:**  
**Sent:** Sunday, August 14, 2011 4:58 PM  
**To:** Francisco Astorga  
**Subject:** TZO/LMC changes

>  
>  
> Hi Francisco,

> How are things going at city hall? Hopefully a bit less contentious  
> than they were during the last meeting on the TZO! I was asked by a  
> few folks to resubmit the letter below to you, hopefully it helps.

> I have owned property in Old Town for over a decade and am quite  
> proud to be a Parkite and a member of a community that prides itself  
> as a prosperous, well managed historic ski town. However, I recently  
> received notice of the TZO re height and footprint and as one of the  
> limited number of recent buyers in Old Town, I found the proposed  
> regulations quite disconcerting. After much due diligence, I  
> purchased the historic property on Ontario Avenue knowing that adding  
> a garage at street level was possible. If I had been aware that such  
> changes were in the works, I certainly would not have purchased the  
> property or anything else in Park City for that matter.

>  
> As a 20 year member of Phi Alpha Theta, I am very much a fan of  
> historical preservation and understand the implications of maintaining  
> the historical integrity of an area. However, in Park City, owning a  
> historic property already comes with with an extremely high amount of  
> regulation even when compared to other historic districts (I have  
> owned historic properties in several other loc'ns as well). Adding  
> more control on footprint and reducing levels to two only adds more  
> regulation and less flexibility in terms of design  
> options/alternatives that would help preserve the historical look yet  
> allow for practical options for  
> owners of such properties. Additionally, taking into account the  
> unique topography in Park City, it is difficult to comprehend how a  
> 'one size fits all' solution on height would make sense. My small  
> home only has foot access that is quite difficult on a very steep  
> slope for example, lending itself only to building up the hill in  
> order to have a garage and maintain the proper historical facade in  
> front while still having safe entry for the average person or even  
> more so for the physically challenged (for example, I have wheel chair  
> bound friends and an elderly mother and there is no way for them to  
> get into this property, hence, they have never been). The neighbors  
> on both sides have added garages similar to what I hoped to eventually  
> do when I purchased this property 2 months ago (although mine would be  
> a bit more subtle and historic portion pretty much unchanged).  
> Changing this now would severely impact my valuation as well as those  
> in similar situations.

>  
> Finally, I would also note that we are in the midst of an extremely  
> weak transition in housing and housing finance if not a double dip  
> which may be made much worse as the GSE's pull away from the market  
> (which they are starting to do). At the end of the day, at best this  
> does not seem to be the time to throw up roadblocks to economic and  
> housing recovery however anemic they may be. Maintaining the  
> integrity of Old Town is one thing, creating overbearing regulations  
> that create a disincentive to recovery of our construction indus.,  
> housing recovery, improvement and maintenance of historic properties  
> and the economy of Park City in general seems quite regressive.  
>  
> Please feel free to contact me if you would like to discuss further as  
> I am obviously very interested in this issue and Park City's  
> regulatory environment in general. Also, can you please add me to any  
> distribution lists you may have to keep me informed regarding any  
> possible changes, hearings, legislation etc (felt kind of blind sided  
> by this one as you can imagine).  
>  
> Best,  
> Bill McKenna  
>  
>

## Francisco Astorga

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**From:** regina white <roocharoon@yahoo.com>  
**Sent:** Sunday, August 14, 2011 1:31 PM  
**To:** Francisco Astorga  
**Subject:** changes

Francisco,

Please add my name to the list of Park City residents who are against the proposed land use ordinances. There is no reason to change them so quickly. The 2009 ordinances haven't had a chance. It's a bad idea.

Regina White  
314 Daly  
Park City

## Francisco Astorga

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**From:** Heidi Gatch <heidi@pru-utah.com>  
**Sent:** Monday, August 15, 2011 3:27 PM  
**To:** Francisco Astorga  
**Cc:** Liz Sharp  
**Subject:** Against further restrictions/down zoning "Land Use Change" in Old Town

Dear Francisco,

I understand you/the staff/City Council and the Planning Commission are in a difficult situation. You have people on both sides of the Land Use Change issue and you're trying to be fair and equitable to all. The problem is you can't please everyone all the time. I appreciate the effort and attention all of you have given to this issue and to everything you do on behalf of the people of Park City. I also think you have more important things to tackle/engage in at this point. If this had occurred 10 to 15 years ago before Park City invited everyone to "Come to Park City", encouraging the 2002 Olympics and as much tourism as we have, I think you could have probably put these more restrictive regulations in place - and they may have made sense. At this point, I think that ship has sailed, so to speak. People have paid very strong prices with existing rules and regulations in place. I think you are setting yourselves up for unnecessary time, effort and expense to try to handle their objections that will most probably follow if the new restrictions are implemented. Yes, some larger homes have been built in Old Town over the last 10+ years but that is what was allowed for and it adds diversity to the fabric of the historic district. You have homes of all shapes and sizes. Some larger homes on larger lots. That's generally what occurs in a neighborhood and that's what occurred in Old Town. If we were still back at 10 - 15+ year ago pricing and build-out, these more stringent restrictions may have been appropriate. At this point, with relatively few remaining lots to develop, I don't think it is appropriate. I think you need to decide/disclose who is actually promoting this movement and have a public forum/discussion to discern what the majority of the public wants in this case. It is very emotional and somewhat confusing at the meetings. I think the staff, board members and those in attendance get discouraged and frustrated and start saying things out of distress. I was uncomfortable at the last meeting by some of the things that were being said back and forth. I don't think that's where anyone wanted the tone of the meeting to go. Speaking for myself, that's not where I wanted it to go. I think it would be more productive, expeditious and fair for those who have bothered to engage in the process, to be able to participate in it. Present, discuss, discern public opinion and vote. I think all would agree the responses at the last meeting clearly demonstrated the majority of attendees were against further restrictions/down zoning.

I don't really understand who is promoting the Land Use Change and what the proponents think the "change" will accomplish? Making properties harder to finance is probably not the way anyone wants to go in current market conditions and I think you have pretty strong Land Use rules and regs in place right now? Ones that haven't really been tested because of market conditions. That's why I'm unclear why they need to be more restrictive and who is promoting the change. I think it would be helpful for you to be able to explain why further restrictions are being considered, who is calling for them and the reasoning behind the movement. It would be helpful to better understand it from all aspects because right now, it doesn't make much sense to me and I think you have more important matters in which to devote your time, effort, talent and expense. (And I mean that sincerely. You all have so much to do I think you should be able to put your energies into those other important things.) That's my personal opinion and we haven't lived in/owned property in Old Town since 2000. We do list/sell Old Town properties year round and on behalf of our friends/clients who live and

own there I don't think further restrictions are fair or appropriate at this time. Especially since the ones on the books have not been able to be tested.

I think a mandate for the City Council and Planning Commission is to represent the best interest of the public. I hope you and the board members will allow the public to participate and to be heard in this important decision.

Thank you very much for your consideration.

Cheers,

Heidi Gatch  
Prudential Utah Real Estate  
HeidiGatch.com  
[Heidi@Pru-Utah.com](mailto:Heidi@Pru-Utah.com)  
[Liz@Pru-Utah.com](mailto:Liz@Pru-Utah.com)  
Private Fax: 435-655-2503  
Toll Free: 800-553-4666  
Heidi cell: 435-640-0892

## Francisco Astorga

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**From:** Gary <gkimball1@msn.com>  
**Sent:** Monday, August 15, 2011 1:32 PM  
**To:** Francisco Astorga; Dana Williams; Sandra Morrison; Patricia Abdullah  
**Subject:** Rape of Old Town

FRANCISCO,

I REALIZE YOU ARE GOING TO GET A TON OF MAIL/E-MAIL FROM THE WELL- OILED *DEVELOPERS MACHINE!* THE MAJORITY OF OLD TOWN RESIDENTS DO NOT WANT THE CHARACTER OF OLD TOWN CHANGED!

OLD TOWN IS PARK CITY'S 4TH RESORT! PLEASE DON'T STAND BY AND LET IT BE DESTROYED BY THE WANTON GREED OF THOSE WHO CHASE THE BUCK!!

THEY HAVE TURNED THE TERM FRIEND INTO A OXYMORON!! DON'T BE A MORON AND BUY INTO THEIR GREED!

SEVENTY-FOUR YEARS IN "OLD TOWN" AND COUNTING,

GARY KIMBALL

## Francisco Astorga

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**From:** Kate Riggs <kate@parkcityrealtors.com>  
**Sent:** Monday, August 15, 2011 11:06 AM  
**To:** Francisco Astorga  
**Subject:** FW: Old Town property rights

Francisco,

Please include the email below in the briefing packet on lot combos.

Many thanks, Kate.

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**From:** Carrie Shoaf [mailto:carrie@luxuryresidencegroup.com]  
**Sent:** Monday, August 08, 2011 10:06 AM  
**To:** kate@parkcityrealtors.com  
**Subject:** Old Town property rights

Kate,  
The proposed changes in Old Town property rights are an outrage and I don't believe city planning has any idea what kind of devastating affects it will have on property owners in Old Town.  
Property values will certainly decrease, rights are being violated, a non conforming property will not be able to get a loan without paying extremely higher interest rates, - the list goes on and on.  
Thanks,  
Carrie

Carrie Shoaf  
Associate Broker  
Luxury Residence Group



[Carrie@LuxuryResidenceGroup.com](mailto:Carrie@LuxuryResidenceGroup.com)  
[LuxuryResidenceGroup.com](http://LuxuryResidenceGroup.com)  
[ParkCityDeerValleyShortSales.com](http://ParkCityDeerValleyShortSales.com)  
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July 6, 2011

Dear Kirsten

I am an owner of a residence at 1096 Lowell Avenue in the Old Town Historic district and I am writing to you regarding the Temporary Zoning Ordinance (TZO), modifying to the existing Historical district regulations, of which our architect Jonathan DeGray, informed us on June 25, 2011.

Specifically, I would like to address the proposed two-story height limit on residences in the Historic District. As a property owner, I strongly oppose these new changes, that in my opinion, are not 1) in the benefit of existing or future owners in the area, 2) not helpful in reducing the density of the Historical District, nor 3) helpful to the already fragile economy. Other opposing reasons are as follows:

- My residence on Lowell Avenue is an existing two story structure on a 35'X 75' lot without a garage. The reason I purchased this property a year ago, was because it allowed me to expand the structure and add a third level with a garage in the future. By adding a third story, my new entrance will be at street level providing easier access to my house from the street. This will be an important consideration in my senior years. More important it will allow me to park my car within my property and out of the street, which is a great benefit to the traffic congestion that occurs on Lowell Avenue during the winter months.
- This proposed change in the zoning ordinance will impact greatly the Real Estate business in the area by limiting the opportunities of existing owners to sell, and of future buyers to build new structures or remodel existing ones.
- This new ordinance change will also punish new owners buy not allowing them to have the same benefits that their existing neighbors with three-story homes possess.
- The existing Park City Municipal Code for the Historical district goes to great efforts to maintain the esthetic appearance of the area by regulating the scale, building height and rooflines of the houses. This new zoning change will go against the uniformity of neighborhood by altering the scale, height and rooflines of the houses by reducing them from three stories to two, and thus loosing the charm and consistency that the Historical District so ardently seeks to maintain.
- Finally, it is a proven fact that the construction industry generates the largest number of jobs and dollars to the economy. By not disallowing owners like me to add a third story and remodel their homes, this negatively impacts the local economy which is already suffering from hard times, by lost revenue and job creation.

I hope that the city leaders realize the damage that these proposed limits will cause to the owners and the economy, and will reconsider their position.

Sincerely,

## Francisco Astorga

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**From:** Angus BEAVERS <angusbeavers@msn.com>  
**Sent:** Tuesday, August 16, 2011 9:01 AM  
**To:** Francisco Astorga  
**Cc:** Angus Beavers  
**Subject:** Old Town style matters. Not size.

Dear Francisco  
Please include these comments in the packet for August 24.

I have owned 3 homes in Old Town since 2003 and i am a Realtor in Park City with Keller Williams.

In a nut shell, the beauty of Old Town is not dependent on the size of the homes but in conserving the architectural continuity of a beautiful Victorian era Miners' Camp. Therefore, don't restrict the size but do constrain the aesthetic of the new buildings. Keep their roots Victorian! But -- as per huge old Victorian Homes in Aspen and in numerous other towns across America -- do not constrain their size to unreasonable standards. Beauty is not about size but it's about balance.

Incidentally, modern interpretations of mine shafts should not be included in this venue --however, cool they may look individually. After all, miners lived in homes in old town -- not mines.

Regards  
Angus Beavers  
435 962-0094  
[angusbeavers@msn.com](mailto:angusbeavers@msn.com)

## Francisco Astorga

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**From:** Lynn Kelley <dlkelley@up.com>  
**Sent:** Tuesday, August 16, 2011 1:55 PM  
**To:** Francisco Astorga  
**Subject:** 905 Woodside

Dear Francisco Astorga:

My husband and I purchased 905 Woodside two years ago with the intention of retiring in Park City within the next five years. I understand that your department is considering proposals that would make it more expensive/difficult for non-residents to own property in Old Town, in order to retain the "Old Town Character." I would submit that people who purchase in Old Town do so specifically because of the "Old Town Character" and in fact, in many ways make it possible for the full-time residents to enjoy that character without having to assume the full tax burden necessary to maintain the character. Given the economic make-up/jobs available in the Park City area, it seems to me that a mix of full-time and part-time residents is necessary to maintain the economic health of the area.

In our case, we have a 200 year old home in Providence and understand the nature of purchasing historic properties. Although our real estate agent strongly advised us NOT to purchase in Old Town because (as she related to us) the "difficulty of working with the planning commission," we viewed the commission as a positive organization. In addition, since we plan on living in Park City full-time in 5 years, it seems to me that additional barriers for people such as us would defeat the end goal, which is to have people in PC who value the historic nature of the city, and who will make it their home.

I urge the Commission to carefully calculate the economic consequences of a decision of this kind. There is a cost to maintaining all of the wonderful services the city has to offer--and I would guess that a fair percentage of that cost is being paid by people who are not taking full advantage of the benefits, while the people who live in the city and take full use of the services, may be getting quite a bargain. Once a change like you have proposed is made, it will take several years to begin to see a diminishing of services, and at that time it may be difficult to undo the damage.

Thank you for your consideration,

Lynn Kelley & Daniel Ross  
905 Woodside

\*\*

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**planning**

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**From:** Jennifer Roberts [jroberts@pru-utah.com] **Sent:** Wed 8/17/2011 11:35 AM  
**To:** Dana Williams  
**Cc:**  
**Subject:** TZO Concerns  
**Attachments:**  [Letter to Council Planning TZO 8 16 11.pdf\(696KB\)](#)

Dear Dana,

I fully support the sentiments of the attached letter.

Thanks for your time and consideration.

Best regards,

**Jenny Roberts**

The Lange Group

Prudential Utah Real Estate

435-901-0324



## Francisco Astorga

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**From:** John Vrael <jvdesign@comcast.net>  
**Sent:** Tuesday, August 16, 2011 4:29 AM  
**To:** Francisco Astorga  
**Subject:** Comments from Old Town resident  
**Attachments:** Copy of IMG\_9064.jpg; Copy of DSC\_008903.r2.jpg

To Park City Offices,  
Planning Department

Re: Large dwellings in Old Town

Dear City Officials,

I applaud your/the city's efforts to look at this issue. Having lived in old town since November of 1968, traffic patterns have developed, and have been observed over time. Park City has always had large dwellings such as Bea's Canyon Lodge, up Daly Avenue, and several boarding-house sized dwellings in the past. The problem is different now. With large dwellings come CARS, either from service vehicles and/or tenants or owners, or all three, etc., cars come. The building code dose not require enough 'off street parking for large re-models and not enough for new construction,' in old town. For example a 41 Sampson Avenue, photos attached, approval, under the 1983 LM Code, allowed a mining era, currently lived-in house of 1100 square feet, to be remodeled into a 4400 square foot new construction, modern home with a one car garage, and one space in front of the garage. The developer, under the code did not even have to have a garage at all. The assumption that a 4400 sqft. Structure will have only one car was and is flawed. The 2009 LM code did a good job of dialing back the '83 code to be much more sensitive to the needs of the historic district and all of old town.

The crux of the problem is: the new code 'still dose not correctly addresses the car problem and under addresses the need in the design phase.' Then it is too late. The structure gets built and may change hands, but rarely dose the car-count decrease over time, rather, it increases.

With regard to your latest effort in old town to restrict large structures, I agree with restricting as in your plan. If larger dwellings, new or remodels, 'required' more parking to accurately reflect the need of the structure, albeit at more development expense, then I believe both could co-exist and not over-congest old town any more than it currently is. Either way the parking issue in old town needs to be more accurately addressed to prevent further parking congestion.  
thank you, john vrael





# Prudential

## Utah Real Estate

**Prudential Utah Real Estate**  
890 Main Street, P.O. Box 1226  
Park City, UT 84060  
Bus 435.615.0700 Fax 435.615.0725  
888.921.7355 www.pureutah.com

August 16, 2011

Mayor Dana Williams  
Members of City Council  
Members of City Planning Commission

We have had many discussions in our Company meetings regarding Old Town and the Temporary Zoning Ordinance recently put in place. While we believe that concern raised over the size of construction in Old Town is a viable and worthy matter to contemplate, it is our position that the TZO is a destabilizing measure during our fragile real estate recovery, with adverse consequences on property values, property financing, and the rights of existing property owners. We urge members of City government to lift the TZO and continue to monitor Old Town planning and construction under the 2009 historic district guidelines.

We further recommend that before any similar new measures be put in place, the City allow the non-primary property owners in Park City an ample period of time and notice to weigh in. We have heard from many of our clients that this TZO was a surprise to them and they feel they were not properly given notice or the time to respond. Our view is that this is not just an Old Town issue, but one that impacts our entire community.

We all recognize that Old Town is the gem of our community and want to preserve and protect its historic fabric. We encourage thoughtful and open debate that will lead to carefully crafted guidelines without unintended consequences.

Respectfully,

Stephen C. Roney  
Chairman, Chief Executive Officer & Owner

Christine Robinson  
Senior Vice President & Principal Broker

## Francisco Astorga

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**From:** John Calhoun <jcalhoun@ewpartners.com>  
**Sent:** Wednesday, August 17, 2011 10:34 AM  
**To:** Dana Williams; Francisco Astorga; planning  
**Cc:** kate@parkcityrealtors.com  
**Subject:** Proposed land use changes for Old Town

Dear Park City Planning Commission and Town Council,

As a general real estate brokerage in Park City, we would like to express our concern over the town's Temporary Zoning Ordinance (TZO) and the proposed land use changes for Old Town.

While we completely understand the need to preserve the historical character and "Zen" of Old Town, we strongly believe the current plan before the Commission may have unintended, far-reaching negatives that will (*and already have to some degree*) affect the economic future of our great town.

What follows are some of the comments that we are hearing from our agents and colleagues:

- The TZO that is now in place is doing irreparable damage to our local real estate market and to homeowners' ability to secure much needed financing. We believe it should be lifted immediately.
- The current discussion of revisiting the land management code is creating market uncertainty and it is our understanding that some investors are pulling out of Park City as a result. It is also our understanding that several real estate transactions have already fallen apart as a result of this uncertainty.

Having heard the basic arguments, we ask that the 2009 historic district design guidelines be allowed to demonstrate their effectiveness.

Most importantly, for the long term interest and success of our community, we urge you to bring certainty back and once again, help us deliver the message that Park City is THE place to live, work, play and invest in.

Thank you for your time and consideration in this important matter

John Calhoun  
Slifer Smith & Frampton Park City  
625 Main St, Park City, UT

## Francisco Astorga

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**From:** Karri Dell Hays <kdhays@sliferpc.com>  
**Sent:** Wednesday, August 17, 2011 4:16 PM  
**To:** Dana Williams; Francisco Astorga; planning  
**Subject:** TZO in Old Town

Hello Dana, The City Council, Planning Commission and Planning Dept. Staff,

As a 40+ year resident, a long-time home-owner on upper Park Avenue and a former Park City Planning Commissioner, I would like to express my concern for the proposed temporary zoning ordinance in my neighborhood.

After reviewing the notes from the July 11<sup>th</sup> joint work session between the City Council and the Planning Commission I would like to address a few things.

1. Re: page 15, The Pros and Cons of Allowing Lot Combinations:

Of the 9 Pros listed on page 15, there are only 4 cons. I would like to individually address all of them.

- a) Allowing a larger footprint on a single lot is the pattern of over  $\frac{3}{4}$  of the homes in Old Town. The perception that homes may “look” too large is not the problem of the home/lot owner, it is in the architectural design of the home. There are plenty of homes in Old Town that would fit into the category of ‘very large’, some don’t even appear to be large from the outside and yet on the inside there may be over 4000 sq ft of living space. While the quest may be to keep the house sizes smaller, perhaps the quest should be to make the houses *appear* smaller.
- b) The reference to the Historic ‘pattern’ in Old Town may have been perceived to be created by the 25X75 lot size created by the gentleman in Boston who platted our town without ever have visited the state of Utah, but to say that the pattern was to maintain a smaller house/lot size is ridiculous. I have lived in Old Town for over 40 years and when our family first came here to visit in the late 1960’s there were many, many houses that straddled two to three lots. The idea of scaling back to an era that has not existed here for over 50 years would be useless, not only because it is not historic in nature, but because there are so many existing homes that currently fall into this “large scale” category you are referring to.
- c) Developers who were maximizing house sizes for re-sale in the 90’s and in early 2000, by and large were fed into this single lot criteria that you are suggesting in the previous paragraph. However, the homes built on single lots have not fared so well as second homes or single family, full time residences because they are simply not suitable for a modern day family to live in. There are no yards and no spare living spaces for a family to dwell comfortably. Allowing larger homes on larger lots would bring more families into Old Town and would also allow for more creativity in the building/architectural process. The single lot homes are (in my opinion)no more than nightly rental condominiums.
- d) Allowing larger additions onto historic homes is seen as Con in your criteria...and for the life of me I cannot understand why this is so??? The mining town home that has not been touched since the late 1800’s was more than likely built with two, 2X4 boards wide and one, 2X4 board deep. I’d like to know how many of you could live in a space that big? Not only are these houses too small to live in with a 21<sup>st</sup> Century, four-person family, they are built so poorly that the insulation was most likely just newspaper, the wiring, knob and tube and if there was heat it was a wood stove....some are still like this! Allowing additions to historic homes is the arena in which we have the opportunity to *celebrate* our historic heritage. We keep the old while bringing the modern world into our lives. One great example of an area where historic homes have been beautifully incorporated into the town is Telluride, CO. There you will find beautiful, amazing, green built treasures in the midst of the heart of town...and they are not small. I urge you to let home-owners of historic homes have the freedom to be creative with their house sizes. Size and Height are NOT the issues in Old Town, it’s in the design.

On the Pros and Cons of Not Permitting Lot Combinations pg. 16, you are mostly addressing garages and cars. Having grown up on Park Ave and also having raised my own three kids on Park Ave. I ask you how a family supposed to live without a garage, or a car? Cars are an issue in Old *because* there are no garages and the current codes aren't allowing the proper design of them. If larger lots were allowed, garages could be oriented in the back of many houses. When my parents bought our home on Park Ave in 1970 there was a garage in the back of the lot with a driveway leading up to it. This is not an unrealistic goal.

You also state, as a Pro, that smaller homes will allow more locals to buy in Old Town. This is simply untrue! Even the smallest, most un-liveable home in Old Town costs more than \$450,000. And the max density-developer-built homes on the 25X75 lots are selling for more than \$700,000. Unless you are someone like me, who purchased a home in Old Town more than 15 years ago, the "Locals" as you call them, will be hard pressed to afford anything that works for a family in Old Town. And why would they buy a home that is not suitable for family living when there are plenty of homes in Park Meadows and Prospecter that are in the \$300,000 range....with yards and garages.

In closing, I grew up in Old Town and as I mentioned, I raised my three kids in Old Town. I have been lucky enough to have a two-car garage and a home that was just large enough to live happily...albeit, by many, many standards our home is still considered to be too small for the average family. I have several neighbors who have also raised their kids in this wonderful area. But, as their families grew, their needs for a larger home were denied by the City for a plethora or reasons. Some were forced to move. From what I have been able to gather from their experiences, the reasons for not letting them expand were simply silly and the criteria in order for them to expand at all was completely cost restrictive. By imposing strict rules on those who already live or own property in Old Town is troublesome not only to me, because I am an historic home-owner but also because I would like to improve my home at some point and with the current direction of the planning dept. I don't think I will be able to achieve any of the goals, architecturally or financially. I urge the City to take into account the need for reasonable exceptions and creative designs. If the goal is to have a varied and diverse historic district, then you must consider the financial abilities of those who already live there to improve their own properties. By imposing zoning ordinances as you are suggesting, you are helping no one. In short, this ordinance does nothing but constrict those who already live and own here and inhibit the future of a creative and diverse community.

Sincerely,  
Karri Dell Hays

Karri Dell Hays  
P.O. Box 2125  
145 Park Avenue  
Park City, UT 84060  
435-640-5711 m

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Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

## planning

**From:** Will Lange [wlange@pru-utah.com] **Sent:** Wed 8/17/2011 11:10 AM  
**To:** Dana Williams; Alex Butwinski; Cindy Matsumoto; Joe Kernan; Liza Simpson; Richard Peek; planning  
**Cc:** Steve Roney; Chris Robinson  
**Subject:** Issues regarding park City TZO  
**Attachments:**  [Letter to Council, Planning, TZO, 8.16.11.pdf\(696KB\)](#)

All,

Attached is a letter that was recently sent to you by Steve Roney of Prudential Real Estate. Please understand that I fully endorse the concerns expressed in the letter.

It is always a fine balance between the government's role in the lives of citizens and the citizens' personal freedoms and liberties. Government is a bureaucracy and the nature of a bureaucracy can allow it to evolve to a point where it propagates itself in order to justify its existence. In other words a bureaucracy can place a higher priority on its own survival as an entity than the mission it is charged to carry out on behalf of its citizens. In situations where this occurs all logic and reason regarding sound and fair policies can be lost.

Intellectual elites who are government employees need to be careful not to assume that they know what is best for the general population by stepping on the rights of productive citizens by implementing ill-advised policies in the name of good governance.

Best,

Will Lange

Prudential Utah Real estate

435 640 0001

## Francisco Astorga

---

**From:** planning  
**Sent:** Wednesday, August 17, 2011 8:35 AM  
**To:** Francisco Astorga  
**Subject:** FW: tzo

---

**From:** Sean Matyja [mailto:sean@enjoyparkcity.com]  
**Sent:** Tuesday, August 16, 2011 5:37 PM  
**To:** planning  
**Subject:** tzo

I would like to add my name in endorsement of the letter sent by Prudential Utah Real Estate concerning the TZO. Our Prudential letter reflects my concerns and thoughts regarding this matter.

I feel the current 2009 guidelines are already strict enough (almost too strict) and any further adjustments to tighten restrictions harms the property rights of the individual owners in the community. I also think the TZO is poorly timed and is a wet blanket over a smoldering fire of activity in our economic recovery which is tied closely to our real estate recovery. We have a long road to go, and don't need another hurdle.

--  
Thanks,

**Sean Matyja**, REALTOR®  
ABR, Accredited Buyer Representative  
**Prudential Utah Real Estate**



**(435) 901-2158 mobile**  
(435) 608-6337 e-fax  
[sean@enjoyparkcity.com](mailto:sean@enjoyparkcity.com)

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August 17, 2011

Mayor Dana Williams  
City Council  
Planning Commission  
Park City Municipal Corporation  
445 Marsac Avenue  
PO Box 1480  
Park City, UT 84060

Via Email: [fastorga@parkcity.org](mailto:fastorga@parkcity.org); [planning@parkcity.org](mailto:planning@parkcity.org); [dana@parkcity.org](mailto:dana@parkcity.org)

***Re: LMC Amendments, Application No. PL-11-01281***

Dear Mayor, Council Members and Commissioners:

I am writing this letter to express our deep concern, as a local real estate broker, to the City's recent actions that directly impact us as a business and our clients' investment in our community.

My clients and I have personally felt the impact of the Temporary Zoning Ordinance (TZO) and the proposed ordinance. The TZO is doing irreparable damage to our local real estate market and to homeowners' ability to secure much needed financing. The City should lift the TZO immediately.

The current discussion of revisiting the Land Management Code is creating market uncertainty. The uncertainty has stymied new investment of capital in our community. Investment is pulling out of Park City.

The 2009 historic district design guidelines made significant changes in the types of homes that may be allowed. These changes, made just two years ago, have not had enough time to demonstrate their effectiveness. Now is not the time to make more changes to the land management code. What we do not want right now is the perception of and discomfort from an ever-changing land management system.

Most importantly, for the long-term interest and success of our community, I urge you to restore certainty and help deliver the message that Park City is THE place in which to live, work, play and invest.

Sincerely,



Thomas Wright

## Website Submissions

The following names and comments are in regard to the proposed LMC changes and have been submitted voluntarily by concerned residents and supporters online.

**Eric Luna - eluna@bonairfinancial.com**

**Aug 17, 2011**

I am opposed to the proposed changes to the LMC currently being discussed by the Planning Commission for the following reasons. 1. The proposed changes are tantamount to a taking of property. I bought two properties in Old Town, which will be affected by the proposed changes. I did so with the expectation that I could rebuild or remodel based on the codes in effect in 2005 and 2006. By adding additional restrictions, you have already lessened the value of my properties, and now you propose to restrict development even further. 2. The proposed restrictions run counter to the nature of early Old Town development, which was often done with minimal setbacks, as evidenced by the zero lot line development of Main Street. 3. Park City is quickly acquiring a reputation as being unfriendly to business. This constant tinkering with the LMC will add uncertainty and further solidify this reputation. 4. The proposed changes will lead to property values falling further than they already have and lower property tax revenues. Please consider the devastating effects the proposed changes will have on the value of your friends' and neighbors' properties, many of whom, as I, are depending on these properties for our retirement. Thank you.

**Steven Delaet - steven.a.delaet@gmail.com**

**Aug 16, 2011**

I have owned a condo at 844 Woodside since 1997 and have watched Old Town change and develop into the wonderful place it is today. I appreciate the efforts of the City Council and the Planning Commission, however, I simply cannot understand the reasoning behind these proposed restrictions. I am very concerned that the negative effects of these restrictions will far outweigh any good that they may do. Also, I would like to know who is behind this proposal and what their motivation is. Respectfully, Steven de Laet

**Carol O'Donoghue - carolodz@comcast.net**

**Aug 16, 2011**

**312 Upper Norfolk**

I believe that your intentions are sincere but the restrictions you plan to impose on current homeowners are all just mathematical figures. Your goals as stated are to preserve the historic character of Old Town and I am 100% behind you in this. But I do not see one thing in your proposed ordinance that deals with the VISUAL character, style, or quality of the construction. I, along with most old town residents I know, would rather see you address VISUAL style of the additions, and new construction making them LOOK historical. The current restrictions in old town are very tight on size and footprint already-especially for the small lots but the ugly buildings and 1970 architectural style of so many of the buildings is what hurts the historic character of our town. Historical style should be at least as important in your codes; yet I am told that the design of the home or addition is NOT even considered (or asked for) when applying for a variance. I love Old Town and want to spend the rest of my life here but I will not be able to do that if you implement these restrictions. My house is 100% below grade at the street and is a terrible eyesore for old town from the street...so it is a good example how these rules will NOT improve our town. I suggest that you work within the already tight restrictions imposed and look instead at improving the "historical style" of old town. Please include my comments in your packet for the Aug. 24th meeting. Thank You, Carol O'Donoghue

**John Rippel - Ripp2@me.com**

**Aug 15, 2011**

**519 Woodside**

Development criteria for lots in Old Town and our particular street are much too stringent and are a impediment to new high quality growth.

**Cyndi Schwandt - cyndi@alpineskiproperties.com**

**Aug 15, 2011**

I do not approve of these changes. Not many people in PC know about this much less all the second homeowners.

**Gary Bush - bushconstruction@qwest.net**

**Aug 15 2011**

**Lower Norfolk**

Much too restrictive. Not well thought out at all!

**Chris Gleeson - cgleeson@kurandapartners.com**

**Aug 14, 2011**

**Park City**

I do not approve of these changes.

**Kamilla Nielson - tracyinparkcity@hotmail.com**

**Aug 12, 2011**

**Old Town**

I do not approve of these changes.

**Shannon & Missy O'Neal - pconeals@comcast.net**

**Aug 12 - 2011**

**Old Town**

We do not approve of these changes. We are old town property owners and wish to be put on your list of contacts.

**David "Jim" Wilson - jwpcpp@gmail.com**

**Aug 11, 2011**

I have lived in Park City for 67 years and the last 20 have been nothing but confusion as to what we can and can't do with our homes in Old Town. The proposed changes only make it worse. If the city wants to control what happens in old town make the home owners reasonable offers and buy the houses. It will soon be impossible to live here

**Marty Graybill - martygraybill@gmail.com**

**Aug, 11 2011**

**Peoa**

I do not approve of these changes.

**Stephen Elrick - stephen@pru-utah.com**

**Aug 11, 2011**

**Old Town**

As a 26 year Old Town resident and land owner, the new proposed changes make no sense as we all know.

The following comments were submitted from the Friends of Old Town web site administrator:

## Website Submissions

The following names and comments are in regard to the proposed LMC changes and have been submitted voluntarily by concerned residents and supporters online.

**Rudolf Otrusnik - otrusnik@yahoo.com**

**Aug 11, 2011**

I own a lot in HRL zone in Park City. Changing the setbacks would completely destroy my chance of building my dream retirement house. I am in the process of designing my house and was actually given green light to proceed with architectural plans in May 2011 after preliminary design review by Park City. After spending around \$20,000 in architectural fees and all the input and work on the project, I found about these proposed changes. Not from the city where I had my preliminary design review, but from a friend in Park City. I feel betrayed by the city.

**Jeri and Robert Briggs - JBradleybriggs@gmail.com**

**Aug 11, 2011**

**Old Town**

We have been Old Town property owners for 24 years. We have started to discuss plans to enhance our historical property, but with these changes, it will be virtually impossible.

**Peter Papineau - papineaubuilders@yahoo.com**

**Aug 11, 2011**

I do not approve of these changes.

**Mary Ciminelli - maryciminelli@yahoo.com**

**Aug 10, 2011**

Please consider the long term ramifications to property values and tourism that your proposed changes.

**Ira Sachs - irasachs2003@yahoo.com**

**Aug 10, 2011**

**Park City**

I do not approve of these changes.

**Kalvin M. Wilde - kalhouns@gmail.com**

**Aug 10, 2011**

I do not approve of these changes. Yes, I oppose what the city is proposing. Park City is what it is, and will always have someone trying to improve it beyond its' capabilities. Get Over It.

**Ray King - rayfranking@earthlink.net**

**Aug 10, 2011**

**Upper Norfolk, Old Town**

I do not approve of these changes.

**Doug King - kingfish135@hotmail.com**

**Aug 10, 2011**

**Upper Norfolk, Old Town**

I do not approve of these changes.

**Cathy Richards Ahlers - cathyarkcity@gmail.com -**

**Aug 10, 2011**

I do not approve of these changes.

**Francisco Lozano - francisco@zeiba.com**

**Aug 10, 2011**

These changes are wrong for PC. This is especially negative for the North Star subdivision, the sizes of these lots are way bigger than the rest of old town. In the past we had the code changed as the formula to compute the FAR was wrong for this part of town. So the planning commission should be left out of HR-1.

**Judy Scipione - judi@jscipione.com**

**Aug 10, 2011**

I do not approve of these changes.

**Jason Racicot - jrparkcity@gmail.com**

**Aug 9, 2011**

Please do not change the Old Town regulations. Old Town is fine just the way it is. The rules are strict enough as is. Thank you.

**John Phillips - john@jpconstructioncompany.com -**

**Aug 6, 2011**

Houses are like people. The outside may attract us but what is inside is what matters.

**Tracy Nielson - tracyinparkcity@hotmail.com - Aug 5, 2011  
Old Town**

I do not approve of these changes.

## Francisco Astorga

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**From:** flint.nate@gmail.com on behalf of Nathan Flint <nate@flintdigital.net>  
**Sent:** Thursday, August 18, 2011 10:19 AM  
**To:** Francisco Astorga; planning; Dana Williams  
**Subject:** My Thoughts Regarding the Proposed Ordinance Change

Francisco,

As part of my professional responsibilities for The Friends of Old Town I've had the opportunity to review the proposed changes and hear to several perspectives. Additionally my wife and I have been property owners in Old Town from 2005-2010.

I do not agree with these changes nor do I see the benefit. Upon reading the changes my initial response is that this is analogous to closing the barn door after the horses are out.

While I believe many in town feel that there have been some pretty bad designs in Park City in the past 40 years, the changes enacted in 2009 seem sufficient to protect us from such egregious architectural assaults while ensuring that the development of the few remaining lots is compatible with existing neighborhoods and livable by current standards. My first question is why the change now after two years, thousands of hours of work by those involved and virtually no building under those changes?

Additionally have you taken the time and examined the potential impacts?

- This would seem to force more on street parking. Is that not an acknowledged problem already?
- Wouldn't this make many existing homes "non-conforming".
- Has any thought been given to the economic impacts? Is so where are those discussed?

From a personal perspective, we have started a family and have been looking for a new home in Park City that can accommodate our needs now and in the future. There are homes in Old Town that previously met our criteria, but with these changes our options are either purchasing a non-conforming home or one that we may not be able make large enough to accommodate our needs in the future. This certainly dampens my enthusiasm for finding a home in Old Town. I am not alone. It is my understanding that talk of these changes have put some Real Estate transactions on ice.

I do not wish to disparage the efforts or the intentions of the Planning Staff or the Planning commission, however I can see little benefit to these changes and a very high cost. I believe that if you listen to to the input from the community members that this will potentially affect, that this will become apparent.

Regards,  
Nate Flint

Flint Creative  
PO Box 4033  
Park City, Utah 84060  
Mobile: [801-455-5609](tel:801-455-5609)  
Office: [435-658-2801](tel:435-658-2801)  
Web: <http://www.flintcreative.net>

  
**KELLER WILLIAMS**  
PARK CITY REAL ESTATE

**1750 Sun Peak Drive  
Park City, Utah 84098  
(435) 649-9882  
(435) 649-0616 (fax)  
[dwj1@KW.com](mailto:dwj1@KW.com)**

August 17, 2011

Mayor Dana Williams  
City Council  
Planning Commission  
Park City Municipal Corporation  
445 Marsac Avenue  
PO Box 1480  
Park City, UT 84060  
Via Email: [fastorga@parkcity.org](mailto:fastorga@parkcity.org); [planning@parkcity.org](mailto:planning@parkcity.org); [dana@parkcity.org](mailto:dana@parkcity.org)

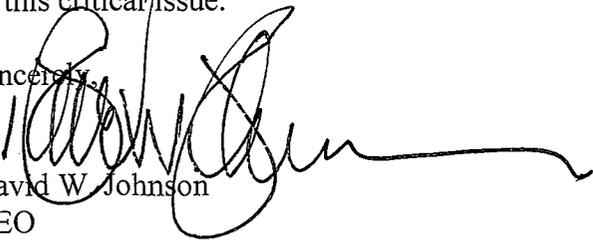
***Re: Proposed Land Management Changes & Temporary Zoning Ordinance (TZO)***

Dear Mayor, Council Members and Commissioners:

On behalf of our brokerage, I would like to express our concern with the recent implementation of Temporary Zoning Ordinance and some of the proposed changes to Park City's Land Management Code. The proposal is not a modest change. As we understand it, the change could have a very significant long-term negative impact on our local economy. At minimum, the proposal merits much more detailed analysis and public input.

We are sensitive to the present and future value of preserving the unique and remarkable character of the Old Town district. At the same time, we are unaware of any current or pressing need to make any changes to the 2009 guidelines that are currently in place. We are all trying to work through a most difficult economic climate. The TZO and the proposed changes, are, if anything, poorly timed. They are creating further uncertainty regarding the value of investing in real estate in Park City. We respectfully ask you to strongly consider lifting the TZO, and to take additional time and public input in the analysis of this critical issue.

Sincerely,

  
David W. Johnson  
CEO



August 17, 2011

**To: Mayor Dana Williams & Members of the City Council & Planning Commission**

As a full-time resident of Park City, a member of the Real Estate community **and** an owner of a historic home in Old Town I am writing to express my concern over the City's Temporary Zoning Ordinance (TZO) and the proposed land use changes for Old Town.

***Do you al really believe that NOW is the time for a change?***

To my understanding, the Land Management Code was thoroughly reworked in 2009 with significant stakeholder input, and these historic district design guidelines have not been given the opportunity to demonstrate their effectiveness. This has created even MORE market uncertainty in an already uncertain economic climate. We are experiencing investors pulling out of Park City as a result.

I purchased a historic home on Park Avenue many years ago as an investment – At that time Park City was a great place to invest! Not only did I believe the home would increase in value, but the potential to renovate the home was always an option. At the time of my purchase I met with Pat Putt who walked me through the guidelines for renovations in Old Town. Now, my investment is in jeopardy...your decisions are making it difficult to determine Old Town property values based on the uncertainty of what a property owner will be able to do with their property. Why can't Old Town have a wonderfully preserved feel of a historic mining town, including a meaningful plan of development with fabulous architecture, and at the same time be adaptable to the living style of the 21<sup>st</sup> century? Do you realize that the values on appraisals have been downscaled and listings have been pulled as a result of the uncertainty?

For the long term interest and success of our community, we urge you to bring certainty back and once again, help us deliver the message that Park City is THE place to live, work, play and invest in.

Thank you,

Cynthia Key

Slifer Smith & Frampton  
625 Main Street  
PO Box 684269  
Park City, UT 84068  
[ckey@sliferpc.com](mailto:ckey@sliferpc.com)  
o. 435.575.4604  
c. 435.640.6580

August 16, 2011

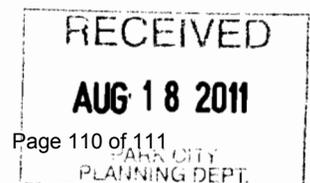
To: The Planning Commission,

I would like to first say that I have the utmost respect for each of you. I realize that these are not your ideas and instead, they are ideas that have been presented to you for your consideration. I urge you to drop the TZO and end the discussion on further limiting the rights of property owners in Old Town. I don't understand the need to make further changes to the LMC when it was already reworked in 2009. Because of the economy and lack of time, these changes have not had the opportunity to prove that they do preserve the integrity of Old Town as you, the Commission, envisioned that they would. There has only been one house constructed under the 2009 changes to the LMC and it's not even complete. I do not approve of the idea of "casting a larger net and then bringing it back in", as stated by a member of the City Council. This gives a false sense of compromise and makes me question the motives of these changes. More diligence and more thought have to be put into these decisions when you are legislating my livelihood.

I am an Old Town resident and am looking forward to raising my family in Old Town. My house is 934sq. ft. and I do not have the ability to knock down my home and start from scratch. This means, for me to reasonably fit a family in my home, I will have to remodel what I already have. I have heard some people imply that if I want to start a family I should move out of Old Town--as if children, and families with children, are not part of the overall "vision" Park City is trying to create of Old Town. I find this attitude sad. I could not imagine raising my children anywhere else. My family has been in Old Town since 1882 and I would like them to continue to have a presence in Old Town for the foreseeable future. However, without the ability to add a third level and add additional livable space, I will not be able to fit a family in the Old Town home I have worked so hard for—in the neighborhood I love living in.

My great grandfather Clifford John Phillips was a contractor here in Old Town, as am I now. His hands built what we are trying to preserve and my hands work diligently to restore what he built. As a contractor, I am concerned about the affects the TZO has already had and will have on the construction industry in Old Town. It is hard enough to deal with the economic conditions as they are, add to that indefinite stand still that many projects have found themselves in and projects that will never happen because owners are leery of dealing with the freeze or the wishy-washy nature of the city.

I urge you to take this matter off the table, lift the TZO and bring certainty back to our town. I believe we could make a bigger difference and get closer to the end that is intended with encouraging architectural details rather than



simply limiting size. I appreciate your service to our community and I hope that you will consider my opinion as an Old Town resident.

Thank you,  
John Phillips  
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