

**PARK CITY PLANNING COMMISSION  
WORK SESSION NOTES  
DECEMBER 1, 2010**

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

**WORK SESSION ITEMS**

**Discussion of density transfer options - General Plan**

Planner Katie Cattan clarified that the information provide this evening was not a Staff recommendation. The intent was to show the Planning Commission how the TDR process would work.

Planner Cattan presented examples and noted that the highest priority for consideration was the critical view shed. A high priority was steep slopes. She pointed out that there is no density per se under an MPD in Old Town because they are just lots. The Staff suggestion shown in the example was one development credit per existing minimum lot area within an underlying zone.

Planner Cattan walked through scenarios in the examples to show how development credits would work. In these scenarios, owner/developers were identified as "Sending Sam" and "Receiving Rita".

One scenario addressed a sending zone in the HR-L and within the TDR SOT overlay zone. In step one, "Sending Sam" goes to the Planning Director for determination of development credits. For this scenario, the Code allows one development credit per existing minimum lot area within the underlying zone. The owner has 10,000 square feet in the HR-L zone. Planner Cattan stated that the formula is to divide 10,000 square feet by the minimum lot area in the underlying zone. For the HR-L, the minimum lot area size is 3,750 square feet. Based on the calculation, the result is 2.66 development credits. "Sam" would receive a development credit certificate from the Planning Director for 2.66 development credits. The owner could either develop his existing land or he could sell the 2.66 units to a receiver in a receiving zone.

Planner Cattan referred to another scenario where the receiver, "Receiving Rita" was re-developing a site in the General Commercial zone. Her future development would be economically feasible if she could add two stories and have decreased setbacks. "Rita" plans to purchase 2.66 development rights from "Sam" and submits a plan. Planner Cattan noted that in this case the unit equivalent formula is used for both residential and commercial. A residential UE is worth 2,000 square feet. The commercial is worth 1,000. Therefore, the calculation for 2.66 development rights would be 2,660 square feet of commercial or 5,320 square feet of residential.

Chair Wintzer asked if residential and commercial could be interchanged in any scenario. Planner Cattan stated that the Planning Commission would need to make that decision.

Planner Cattan continued with the development scenario. "Receiving Rita" submits a plan that includes an additional 5,320 square feet of residential within two additional stories and decreased setbacks. When the plan is approved in the receiving zone, "Rita" purchases the development credits from "Sam" in the sending zone, and simultaneously, the Planning Director transfers the development credit certificate to the "Rita", by re-issuing the certificate. "Rita" then needs to record the certificate with Summit County.

Commissioner Savage asked about the decreased setbacks. Planner Cattan stated that the Planning Commission has the ability to place incentives for the receiving zone. In the receiving zone currently proposed, there is no density per unit equivalents. It is all a matter of the General Commercial or Light Industrial zone. When a project comes into those zones, the end result is a result of the setback requirement of an MPD, the zone height, and the open space requirement of an MPD. Therefore, within a transfer of development rights ordinance, the Planning Commission has the ability to change the allowance to allow for more density. In the stated example, under the proposed ordinance, they would be decreasing the setbacks and allowing for two additional stories as an incentive for receiving the density.

Commissioner Luskin understood that the Planning Commission would still need to approve the two additional stories before the owner could purchase the development rights. Planner Cattan replied that this was correct, under this scenario. Director Eddington explained that if TDRs are part of the project, the ordinance would automatically allow five or six stories in the GC zone. The Planning Commission would then be looking at a larger building.

Assistant City Attorney clarified that the Planning Commission would evaluate the project based on the zoning. Because the developer would be asking for increased density, it would entail using the TDRs. Ms. McLean pointed out that the TDR would be another tool they could use, but the Planning Commission was not obligated to approve the project just because they were using credits. She explained that the scenario was set up to allow people the opportunity to obtain an approval before spending money on transferring units.

Commissioner Luskin was concerned about the number of stories allowed. Director Eddington replied that a cap would be set in the LMC to limit the maximum number of stories in the receiving zone. The Planning Commission would need to set parameters for each individual zone when TDRs are used. Chair Wintzer clarified that the zone only changes with TDRs. If TDRs are not used, the project is reviewed under the base underlying zone. Commissioner Hontz pointed out that TDRs do not change the zoning. It changes the density within that particular parcel.

Commissioner Strachan felt there would need to be a way to determine receiving inventory versus sending inventory. If they set caps, at some point all the receiving zones would be maxed out and that would create a problem if density is still available in the sending areas. Commissioner Cattan stated that they could amend the Code to add additional receiving zones, which could occur with annexation or by other means.

Assistant City Attorney McLean remarked that there must be enough receiving zones for the sending zones. Director Eddington stated that the Staff would be doing a specific analysis to address that issue. Based on their cursory analysis, the receiving zone as identified is capable of accepting the capacity of the sending zones. However, that assumes agreement that higher density could go into that receiving zone.

Commissioner Peek asked if the sender records the document against the property or if the City records it against the sender. Planner Cattan replied that it is recorded against the sender and for the receiver. Commissioner Peek clarified that nothing is recorded until the deal is made. Planner Cattan replied that it is recorded once something has been approved in the receiving zone.

Planner Cattan reviewed a West Valley model and noted that West Valley has done extensive work on TDRs since 2000. She stated that the expectations are so clearly defined in their ordinance that West Valley has never had to use the certificates. Once a receiving zone has been approved and the plan has been approved, all the recording is completed at one time. Planner Cattan pointed out that the West Valley ordinance is so clear that if someone owns acreage on the west side of 3200 West and it is in close proximity to wetlands, they are given a certain amount of density per acre. Planner Cattan pointed out that when the limits are clear in the ordinance, the owner knows and understands what they have for underlying rights.

Commissioner Savage asked if the price that a receiver is willing to pay to a sender is negotiable. Planner Cattan replied that it is a free market price and it is negotiable. Commissioner Savage clarified that if multiple receivers are looking for density and only a few people are willing to sell sending density, they are all free to work out the best deal. Director Eddington stated that the buyers and sellers would have the ability to play the free market. Commissioner Savage believed that the validation of the existence of the certificate, whether a physical or virtual document, is important because people need to know they have a pre-authorized ability to negotiate a deal. He understood that a receiver could not come to the Planning or Building Departments until the agreement is consummated. Planner Cattan explained that if a developer wants to be 100% sure that the amount of density is not questioned, they should come to the Planning Department and obtain a certificate from the Planning Director. Commissioner Savage clarified that the back end of the deal could be strictly speculative at the time they receive their certificate. He was told that this was correct.

Commissioner Luskin understood that the certificate is currency. As an example, if he purchased five development credits and only used two, he could receive a new certificate to sell the other two. Planner Cattan answered yes.

To address Commissioner Luskin's question, Planner Cattan reviewed another scenario. In this scenario, they are talking unit equivalents within an MPD. In this example, "Sending Sam" in the sending zone owns 20 residential units of property in the Estate MPD in the transfer of development rights overlay zone sending TH, which is Treasure Hill. The developer goes to the Planning Director for a determination of development rights. The Code allows two development credits per existing MPD unit equivalent if the property remains private property within a conservation easement and the property is located within the TDR-STH zoning. Therefore, the developer has 20 unit equivalents and he will get 2 per unit equivalent. Director Eddington clarified that the developer gets 2 UEs because it is the highest priority. Planner Cattan stated that in this scenario, the Planning Director would create a certificate for 20 development credits. Once the certificate is obtained, the developer could either develop his 20 unit equivalents on site or he could sell all or part of the 40 unit equivalents to a receiver.

Continuing with this same scenario, Planner Cattan stated that "Receiving Rita" is re-developing her site in the GC TDRR zone. Her future re-development would be economically feasible if she could add two stories and have decreased setbacks.

Commissioner Luskin understood how this all worked with development and he believed it was a good tool. However, he asked if the City would be creating a market for trading certificates.

Planner Cattan noted that the certificate is not worth anything unless it runs with the land. A sender could not sell their certificate unless someone on the receiving end had a plan. She pointed out that the certificate is not worth money.

Commissioner Luskin argued that the certificate is worth money and the value changes with the market. Planner Cattan replied that this would only be the case if someone placed a full conservation easement on the property ahead of using the development rights.

Assistant City Attorney McLean agreed that the certificates have value, which is the cost of one unit, and the value could increase. She pointed out that the main objective is to have a tool to move density. Planner Cattan clarified that an owner could not sell the certificate on his land. Commissioner Savage was unsure how they could avoid creating the opportunity for people to make a market with these certificates. Planner Cattan pointed out that the intent of the certificates is to create a market.

Director Eddington suggested that the Planning Commission could place an expiration on the certificate. Assistant City Attorney McLean stated that from a legal perspective they could expire the certificate if there was no conservation easement attached. Once someone attaches a conservation easement, those rights are vested to be used in the receiving zone. Ms. McLean stated that adding a layer of expiring the certificates would only be an initial indication of the number of rights and a length of time for activity. If the certificate expires, the Planning Director would need to re-issue a new certificate before development could occur.

Commissioner Luskin asked about the models. Planner Cattan explained that the Staff had looked at many models before they found one that worked for Park City. The West Valley model was simple and does not depend on any type of money transaction. It is completely in the private market and not mandatory. The owner and developer can decide whether or not to pursue it. Planner Cattan had conversations with the person in West Valley who has worked on their model for ten years, and she was a great asset in clarifying some of the questions.

Commissioner Pettit understood that at the time they implement the ordinance and identify the sending zones and receiving zones, there must be enough capacity in the receiving zones to handle the density in the sending zones. Planner Cattan replied that this was correct. Commissioner Pettit presented the scenario where someone from the sending zone obtains a certificate and records their conservation easement, and then does nothing. If the Code were amended to identify additional receiving zones, she asked if that person would have the ability to sell their development rights to a new receiving zone, even though it was not the one initially contemplated. Director Eddington felt it was doubtful that anyone would place a conservation easement before they actually made a transaction. Planner Cattan noted that they could create more sending than receiving because the economy would balance it out. She did not believe it was necessary to have an exact match of sending and receiving density.

Commissioner Savage pointed out that in addition to number of units, it is also about motivating the owners of the underlying properties in the respective sending and receiving zones. Chair Wintzer thought it was also about timing and the economy when someone is ready to sell.

Joe Tesch commented on the scenario of someone who has a piece of property located in two zones and the City is interested in preserving only half of that for open space. He asked if there would be an accommodation for reducing density by putting a conservation easement on part of the property. Planner Cattan stated that she intended to raise that same issue to the Planning Commission later in the meeting.

Planner Cattan continued with the scenario. "Receiving Rita" plans to purchase the 40 development rights and she adds 8,000 square feet of residential. Once the plan is approved the transaction occurs between the receiver and the sender. Simultaneously, the development certificate is recorded, and with the sale a conservation easement is recorded.

Planner Cattan noted that the next example addressed portions of property. "Sending Sam" owns 20 residential units in the sending TH. He goes to the Planning Director for his 40 development credits. At that point, he can either develop 20 units on site or 40 units in the receiving zone. "Receiving Rita" would like to develop her site and is looking to add two stories and decrease the setbacks. She does not need 40 development rights, so in this scenario she develops 20 units. She decides to add 40,000 square feet of residential within her added two stories and have decreased setbacks. Once the plan is approved, the 20 development rights transfer to "Receiving Rita" and is recorded. With the sale, a conservation easement is recorded for the portion of the land that will not be developed, and a deed restriction is recorded, removing the 10 UEs of development rights from the existing MPD.

Commissioner Savage wanted to know who would make the decision as to which units are transferred and which ones are kept. Planner Cattan stated that the owner would make that decision. Commissioner Savage asked if splitting the units would result in replatting the property, since "Sam" could only build five house rather than ten houses. The assumption was that it would need to be replatted. Commissioner Savage stated that if the property needs to be replatted and "Sam" has a certificate to sell 20, but he can only sell 10, he wanted to know who would approve the replatting prior to consummating the transaction.

Commissioner Strachan was unsure why the conservation easement would need to be recorded. He suggested recording another type of document saying that "Sam" is only entitled to 10 UEs. Director Eddington replied that Commissioner Strachan's suggestion would be appropriate for an MPD site, but it may not work for Old Town lots. Chair Wintzer commented on the importance of making sure the units were not developed on the hillside. Commissioner Strachan remarked that the Planning Commission would have that ability through the CUP or MPD process when an application is submitted to develop those 10 UEs.

Planner Cattan noted that there is a difference between MPDs and Old Town. Based on the model, lots in Old Town were given the best scenario possible for determining unit equivalents. Every square foot of the lot is treated like a flat lot, regardless of slopes, and that determines the number of UEs. In looking at the model, the Staff realized that people could work the system by obtaining the best case number of UEs, only use half, and then apply for development for 5 UEs on the lot. Planner Cattan requested input from the Planning Commission on whether or not there should be an "all or nothing" policy on Old Town lots.

Commissioner Peek asked if all the sending areas needed to have the same ratio of sending credits. Planner Cattan replied that specific equations could be set up to address some of the concerns. For simplicity and to incentivize sending from these areas, the Staff had used the underlying density.

Commissioner Hontz suggested that another way to address the issue would be to tighten the zoning in places that have very steep lots and lack infrastructure access. Another option would be to apply the Sensitive Lands Ordinance in certain places in Old Town. This would make it clear that those areas are challenging for development, or should not be developed, and deserve special attention.

Planner Cattan asked about an “all or nothing” scenario. Commissioner Hontz stated that her first reaction was favorable for splitting it up. However, after giving it more thought, she realized it did not make sense for Old Town. The reason for identifying particular locations is that development does not work and it is not appropriate in those areas. Commissioner Hontz favored the “all or nothing” scenario. Director Eddington agreed that “all or nothing” would make it easier to preserve the intended properties.

Commissioner Savage was concerned about potential issues with the conservation easement. If he lived next to a vacant property in Old Town that was neglected, and the lots were sold off as a conservation easement but remained neglected, he thought a better option would be to allow someone to build a small historic looking house on that lot. He suggested that they should be contemplating the potential aftermath when discussing conservation easements. Director Eddington stated that the Staff could consider that issue if the Planning Commission wanted specific language recorded as part of the conservation easement.

Commissioner Strachan agreed with Commissioner Savage. He assumed that other jurisdictions had faced similar circumstances and he recommended that the Staff look into it. Assistant City Attorney McLean stated that the way conservation easements are typically done in Park City, is that a group monitors the conservation easement and makes sure it is kept as open space. Commissioner Pettit pointed out that certain values go along with the property placed in a conservation easement. Commissioner Savage wanted to know who would have the economic responsibility for maintaining the property. Director Eddington replied that the land owner would be held accountable for Code enforcement and related issues. Commissioner Savage asked if the sender would have an option with Park City to take over the responsibility of that land. Director Eddington stated that it was not anticipated in the ordinance. Commissioner Savage felt this conundrum needed to be resolved.

Planner Cattan stated that in West Valley, an owner receives more development rights if the land is deeded to the City as open space. The Planning Commission could consider that as an option to address the concern.

Planner Cattan asked if any of the Commissioners were opposed to the “all” policy and would like to see partial development. Commissioner Hontz asked if they were talking about Old Town lots versus lots in other areas. In her opinion, MPD properties and Treasure Hill were different situations. Planner Cattan clarified that her question pertained to Old Town sending lots.

Mike Sweeney stated that if he was an Old Town resident and owned three or four lots, he would like the choice of whether to keep development in Old Town or send it out. Planner Cattan clarified that the property owner would have that option because participation would not be mandatory. She explained that the "all or nothing" question was specific to the choice to send. If an owner chooses to send the development rights, all the parcels must be sent. A partial sending would not be allowed.

Director Eddington pointed out that the question was relative to Old Town lots, not MPDs or unit equivalents. Mr. Sweeney stated that he knows people in Old Town who have 30 lots together. He did not think they should be forced to send all 30 lots if they only wanted to send five or ten. Commissioner Hontz suggested that the Planning Commission could look at the identified sending areas to see if partial sending would make sense in particular areas. Commissioner Pettit thought it went to the point of giving full development credit that owners may otherwise not be entitled to if they tried to develop the lots and had to come in for a lot combination or plat amendment.

Chair Wintzer felt it was important to keep an owner from selling the lots on the road and keeping the lots on the hillside. He asked if language could be drafted that requires approval before they transfer the rights, to make sure the appropriate lots are sent. Commissioner Savage pointed out that lots are individually deeded and he did not believe they could place that restriction. Commissioner Peek suggested targeting the credit ratios.

Planner Sitz stated that in their initial discussion for drafting language, the Staff contemplated lots that were not adequate minimum size in certain zones, and would need to apply for a plat amendment prior to any type of development rights. In that scenario, they would not want to give away partial lots because lot combinations would be required to meet the minimums of the zone. In those cases they would want an "all or nothing" package because they would be looking at the entire area and what could be done from partial lots that do not meet the minimum. Planner Cattan stated that of all the areas they looked at, the one area that has lots of record was the SOT-1, which is the Bamberger lots. They have so many lots on the road frontage that they could come in under the RC zone and develop the lots individually.

Commissioner Hontz believed there were specific situations the Planning Commission could use to achieve the right answer. She was unsure if one answer fit all the properties. Commissioner Savage remarked that the objective would be to have an amendment to the rule that would allow the Planning Department to make a determination on the ratio of exchange.

Assistant City Attorney recommended that the Planning Commission set clear parameters as part of the ordinance. Changes could be made by going through the Code amendment process, but the numbers and formulas for transferring development should be clear. She advised the Planning Commission to avoid the appearance of spot zoning.

Commissioner Savage presented a scenario of two neighbors in Old Town who were placed in different subzones that were created in their area per the ordinance. One neighbor is in zone 2 and another neighbor is in zone 3, and there is no apparent distinction for why one owner would have a different sending ability than another. He wanted to know what the property owner could do to be notified before anything happened, and how he could vet his differences prior to the time the

ordinance is codified. Assistant City Attorney McLean replied that the matter would come before the Planning Commission as part of the public process and the typical noticing requirements would apply. Citizens have the obligation to keep themselves informed and to pay attention to notices on the website and published in the paper. When the draft ordinance is posted, people can see the value given to their property. If they believe that assessment is incorrect, they have the opportunity to speak as part of the public process.

Commissioner Savage asked if anyone whose property may be affected as a consequence of the overlay zone would receive communications directly from the City. Ms. McLean stated that the Staff already made an effort to notify people in areas being considered as sending zones. She commented on the requirements for noticing per State Code. Commissioner Savage stated that independent of what State Code requires, he felt an ethical obligation to the citizens of Park City to encourage the Planning Department to be more proactive in notifying people about the overlay zone and what it might mean to them individually as property owners in sending zones. He thought it was very important for people to understand the ordinance and the consequences.

Chair Wintzer understood that each individual sending area was owned by one person or one organization. Planner Cattan replied that ownership was mixed in some areas. Planner Sitz noted that the mix was a small number of property owners. Planner Cattan reported that the Staff had informed the owners in those areas if contact information was available. She was not opposed to a higher level of noticing if that was directed by the Planning Commission.

Commissioner Savage pointed out that the City would be creating a number of boundary conditions between sending zones and receiving zones. He felt the public would rightfully take issue if the City gives their neighbor the right to have significantly higher buildings or greater density without first giving them the pro-active opportunity to protest that decision.

Commissioner Pettit did not disagree with the importance of giving people notice and the opportunity to be heard on issues that impact property rights. However, they do follow the State noticing requirements, as well as the Land Management Code requirements, which goes beyond the State requirements. Commissioner Pettit stated that at some point, it is incumbent upon property owners to be pro-active and aware of what is going on in their City, and not just wait for a letter to come in the mail. She suggested that they should not be too specific since that could lead to creating additional issues in terms of being able to effectively move forward.

Assistant City Attorney McLean agreed with the concept that everyone should be notified. However, on the other hand, under State Code and the LMC, the City only has a certain obligation. Commissioner Savage stipulated to the obligation. However, he felt that the Planning Commission has a level of responsibility to make sure the Staff is diligent about notifying people on the periphery associated with the rezoning, to make sure they understand the nature of the changes contemplated to allow them the opportunity to become educated on the impacts and to have a voice. Ms. McLean understood his sentiment, but from a legal perspective, the Planning Commission has no further obligation. If the Commission directs Staff to go to a higher level, it can be done. However, it ends up being a resource issue in terms of Staff time and money to make sure they obtain all the names and correct information.

Planner Cattan stated that the Staff could post noticing around Bonanza Park. Chair Wintzer

thought the two resort parking lots were more of an issue than Bonanza Park. People who purchased condos with a view of the mountains would be more opposed to allowing additional stories that would obstruct that view. Chair Wintzer was unsure how that issue could be resolved. Since people living near sending zones would benefit from less density, he did not anticipate public opposition. Planner Cattan noted that a potential TDR ordinance would also be discussed several times on the radio and in the newspaper. Chair Wintzer was more concerned about second home owners who did not live in Park City.

Director Eddington stated that the Staff would come back with State and Local noticing requirements. He thought Commissioner Savage might be surprised with how thorough the requirements are. Commissioner Savage remarked that noticing is an important issue and he preferred to table the discussion this evening to allow time to re-visit the noticing requirements.

Planner Cattan asked the Planning Commission for input on how to rate the value of areas being transferred. She asked if more value should be on view sheds versus steep slope. The responsibility for assigning a number would be given to the Economic Development Director. Planner Cattan suggested that they could also prioritize the sending areas identified in the Staff report.

Chair Wintzer preferred that the Staff come back with an aerial photograph of each sending zone to help with their discussion and to identify the impacts. He also suggested the possibility of a site visit. Commissioner Peek requested that the aerial show the existing infrastructure in each area. He also suggested the same type of aerial photos for the receiving zones.

Commissioner Strachan remarked that the Planning Commission needed criteria they could apply to determine what zones should be sending and receiving and how big they should be. He pointed out that at some point they will have to make findings of fact on this ordinance and the criteria will presumably be in those findings. Commissioner Strachan thought the Planning Commission should have the draft findings in hand to reference as they go through the potential sending and receiving zones.

Commissioner Savage asked if there was a simpler way to get the resolution initiated that would provide what they want as it relates to potential legislation from the State, but allow the flexibility to continue to work through the process in a thoughtful fashion. Director Eddington stated that the intent is to hold a public hearing on December 15<sup>th</sup>, to present a draft ordinance, and have a pending ordinance underway. They could then continue to work on the ordinance until they get it right.

Commissioner Strachan assumed there would not be as many sending and receiving zones as they think because most of it has already been developed.

Commissioner Savage asked if the area around Empire Canyon had been considered as a receiving zone. Planner Cattan replied that it was not currently identified as a receiving zone. Commissioner Savage questioned whether Talisker may be interested in having that become a receiving zone. Chair Wintzer thought Empire Canyon would be difficult due to the traffic impacts. He noted that the density in that area was the result of a five year fight. Commissioner Savage

pointed out that they are now drafting a new set of rules and allowing some places to be receiving areas. Before they make the decision of who can and cannot be a receiving area, he thought the public should have the opportunity to participate in making that decision.

Planner Cattan presented an overall zoning map of possible sending and receiving zones compiled by Staff. She asked if the Commissioners felt strongly about areas that should not be included. She noted that Old Town 4 was all open space and that area would be removed from the map. Commissioner Hontz asked about the Silver Lake parking lot and Park City Heights. Planner Cattan explained why the Staff would not recommend Silver Lake as a receiving zone. Commissioner Strachan requested that Silver Lake be kept on the table as a possible sending area. Marsac Avenue and the Mine Road are problem roads and it could be beneficial to lessen the density. Planner Cattan stated that currently Park City Heights is restricted by the annexation agreement from adding additional density at that location.

Chair Wintzer stated that in reading through the General Plan it is difficult to make anything larger. He was unsure if transferring large amounts of density to one location would meet the General Plan. Chair Wintzer recommended that the Planning Commission go through the General Plan and consider potential impacts before they finalize the receiving areas and transfer density. His primary concern is transferring a problem from one location to another. For that reason it is important to know what they would accept in one area and possibly look at restricting some of the receiving areas to a percentage of the approved density.

Director Eddington agreed that in order for a TDR to work there must be a fundamental belief that transferring the density from one area to another is the right decision. If they do not believe that, it is fundamentally flawed. After hearing their comments this evening, the Staff can work on parameters within the sending and receiving zones to address their concerns. Chair Wintzer noted that transferring density also needs to fit with the existing codes and the General Plan.

Director Eddington thought the Staff could prepare massing models to show what could be in the receiving district. With regard to the pending ordinance, he believed they had 180 days after the first public hearing to adopt the ordinance.

Director Eddington reviewed preliminary models the Staff had prepared showing different scenarios for Bonanza Park as a receiving area.

Planner Katie Cattan summarized that the Planning Commission was scheduled to meet again on December 15<sup>th</sup>, at which time she would present a draft ordinance, as well as information on noticing, to help the Planning Commission clearly understand the noticing procedure for a change of ordinance and a zone change. On December 15<sup>th</sup> a sending and receiving map would be available so they can discuss each area and area boundaries. The Staff will prepare a recommendation to initiate discussion. The Staff would also prepare a model of the receiving area that would identify current conditions and future conditions.

Commissioner Savage asked Planner Cattan to put together a time line that extends to the end of the 180 day period. It should include a list of everything that needs to be finished in that 180 period and then work backwards to present day so they can understand the timing for each level of

decision.

Planner Cattan asked if the Planning Commission wanted the Staff to continue to look into TDRs as a viable option under the LMC. There was consensus among the Commissioners for the Staff to move forward. Chair Wintzer requested additional discussion at a future meeting on transferring residential units for commercial units or visa-versa. He believed that issue relates to General Plan questions about bed base and the image they were trying to create for the town.

Planner Cattan suggested that they begin that discussion this evening. If 100 residential units on the hill were transferred into a receiving area, she asked if the Planning Commission would be opposed to changing those units to commercial at 1,000 square feet per unit, or whether the units should remain residential.

Chair Wintzer felt the issue was more involved. He would not favor creating space that would bring traffic into town. However, if it creates commercial that supports a ski resort or the resort community, that could be a different consideration.

Commissioner Hontz stated that she did not have a strong opinion at this point relative to interchanging residential with commercial. She needed more time to consider the matter.

Commissioner Pettit thought the question was difficult to answer without knowing the receiving zone and the components of the MPD. Chair Wintzer agreed.

Planner Cattan pointed out that if an MPD is greater than 10 residential units or greater than 10,000 square feet of commercial, it is required to go through the MPD process and reviewed by the Planning Commission. Chair Wintzer was concerned about creating another conundrum if they go through the MPD process and find that the vested density generates too much traffic. Commissioner Peek noted that the density is not vested until it is recorded. Chair Wintzer understood that the Planning Commission would have to approve the MPD, but he wanted to know what would happen if the developer had already traded their certificate for density. Planner Cattan clarified that it would not apply to the receiving zone until the plan had been approved. If someone was to purchase a certificate prior to approval, they would be taking a large risk.

Assistant City Attorney Polly Samuels McLean explained that currently, if someone has an MPD, they are entitled to a certain amount of density based on the zone. Through the MPD process the Planning Commission can require additional changes as the plan goes through the process. The same procedure would apply with a TDR, because the Planning Commission could allow additional density on the MPD, but it would still need to comply with the MPD criteria. Chair Wintzer was concerned that on a one per one basis, 100 units could become 200 units of density and that may not fit within the MPD. Planner Cattan remarked that typically an owner would not pay for extra units without an approved plan that includes those units. However, she acknowledged that there could be a situation where that could occur.

Commissioner Strachan did not think the issue should be taken off the table until they thoroughly flush out the impacts and consequences. He definitely did not want it included as part of the ordinance.

Commissioner Savage asked if any of the City owned lots were in the proposed sending or receiving zones. Director Eddington replied that the City owns property in Bonanza Park. Commissioner Strachan pointed out that if Park City Heights becomes a receiving zone, the City co-owns that property. Planner Cattan put the matter on a list for further discussion.

Chair Wintzer handed out a list of items he had taken out of the General Plan that he believed should be considered in their discussions regarding transfer of density. He felt it was important to keep the General Plan in mind as they think about creating receiving areas.

Commissioner Pettit pointed out that they are in the process of re-writing the General Plan and need to consider other items that came out of Visioning. There is an opportunity to think about the re-write and what it looks like in terms of their vision for different parts of town. Commissioner Pettit agreed that they needed to work within the current General Plan because a new plan has not been re-written or approved. However, she felt it was important to consider what came out of Visioning because that is the direction they are headed with the re-write.

Commissioner Savage asked about the time frame for having the first draft of the new General Plan. Director Eddington replied that it would be December of 2011 or early in 2012. Commissioner Savage clarified that the 180 days previously discussed was the time frame for establishing the TDR ordinance, and that needed to be done prior to the first draft of the new General Plan.

Assistant City Attorney McLean explained that the 180 days is used for pending ordinances, but it actually ties more into a vesting for property owners. A pending ordinance prevents someone from applying under the old Code while the code is changing. She pointed out that TDRs is an ordinance change, however, the situation is different because it is a new law and no one is vested. Ms. McLean remarked that the intent is to have the tool in place in case the State legislature chooses to take it away. She noted that the State Legislative session begins the third Tuesday in January and they should know fairly soon whether or not the matter is on their agenda.

Commissioner Pettit asked about the concept of grandfathering ordinances and whether a change needs to be fully enacted and effective, versus one that is pending for additional discussion. Commissioner Savage felt it was important to know the answer to Commissioner Pettit's question. Ms. McLean offered to find the answer prior to the next meeting so they would better understand the time line.

The Work Session was adjourned.