CITY COUNCIL/ PLANNING COMMISSION
JOINT WORK SESSION
BONANZA PARK AREA PLAN
JUNE 12, 2013

City Council Members: Dana Williams, Cindy Matsumoto, Alex Butwinski, Dick Peek, Liza Simpson, Andy Beerman

Planning Commission: Nann Worel, Brooke Hontz, Jack Thomas, Stewart Gross, Adam Strachan

Ex Officio: Thomas Eddington, Mark Harrington, Polly Samuels McLean, Francisco Astorga, Katie Cattan, Craig Sanchez, Scott Polikov, Sid Ostergaard.

Craig Sanchez facilitated the meeting and opened the work session at 3:00 p.m.

Director Eddington remarked that the purpose of this meeting was to look back at the draft Bonanza Park Plan and to look at the incentives for height and the goal for the vision for Bonanza Park. The Staff first approached the City Council in June 2010 with the idea of considering a Bonanza Park Plan and looking at opportunities for Form Based Code. Director Eddington commented on how much has happened in the three years since the idea was presented. A vision was established for Bonanza Park and the Staff created a plan. They are now at the point of incorporating Form Based Code and looking at new options to create a neo-urbanist environment with walkable streets, connectivity and parks.

Director Eddington stated that as the Staff looks at the plan internally, regardless of Rocky Mountain Power, they still intend to do what is right for the area and to create place and opportunities for affordable housing, attainable housing, work/live, work/art spaces, and a neighborhood that Park City children can return to and afford to live in after college. Director Eddington believed Bonanza Park is the one area in town where they have the opportunity to pro-actively plan and effectuate the most change for the next 20-50 years. This opportunity to utilize redevelopment planning and Form Based Code was significant.

Director Eddington pointed to previous discussions over the years regarding the desired "gets" from this area. At that time some of the "gives" were height and funding. The City Council and the Planning Commission were very clear that doing nothing was not an option. They all wanted to be proactive and plan for this.

Planner Katie Cattan stated that the current zoning limits height to 35'. The Bonanza Park Area Plan talks about giving height for certain things. The matrix shown was taken from the survey that was done in June 2010. The survey showed that in order to consider additional stories, there needed to be adopted neighborhood design guidelines. Planner Cattan pointed out that Form Based Code guides future forms and how would relate to the street. Form Based Code also addresses materials and articulation.

Planner Cattan noted that another desired result was to decrease the carbon footprint for the project. Therefore, the Staff had included a net zero incentive, which aligned with where they are as a community in terms of the goals for decreasing the carbon footprint. Allowing additional building area within the buildings was the extra incentive that was added to help eliminate some of the additional cost for getting to net zero carbon.

Planner Cattan remarked that another incentive for height is if it results in a smaller building footprint with less site disturbance and more open space on site.

Planner Cattan presented a computerized model that the Planning Commission had requested to show the height variations.

Scott Polikov, with Gateway Planning, stated that it is always interesting to watch communities go through the discussion of shifting from a more regulatory driven process to one that is Form Based. He noted that Form Based is more of a partnership approach that marries the private side market dynamic and the public side prescription, much more than normal zoning. After the last meeting with the Planning Commission he gave more thought to why they would want to allow height in certain circumstances. The answer is because in conventional zoning they were primarily looking at regulatory use, how a use functions, and aesthetics for that site. Economics is almost never considered except for that particular project. No thought is given as to whether it works for the grocer or the multi-family developer. Mr. Polikov explained that Form Based Code aligns the economics of multiple owners and the public sector into one economic model for the neighborhood. He pointed out that the historic core of Park City and Main Street works because the single owner does not just worry about his economics. Multiple owners come together to leverage a better outcome and to sustain that outcome over time. Mr. Polikov requested that they have a height discussion in that context. He stated that the notion of just applying the single aesthetic or a single regulation diminishes the power of the individual sites and the character zones to actually function together through variety to create a better synergistic outcome. Allowing for variety is very important because variety drives more value. He remarked that Bonanza Park is not moving forward today in terms of significant investment because the current regulatory system does not encourage variety.

Sid Ostergaard, with Gateway Planning, reviewed the model and noted that specific colors represented the number of stories in the building height. Mr. Polikov noted that the building heights track the character zones. Planner Cattan clarified that a six story building was shown as a gauge within the model. A six story building was not part of the previous character zone discussion. Mr. Polikov explained that the model was a theoretical build out model. It was one version of what redevelopment could look like in terms of scale within the different character zones.

Mayor Williams asked if the purple color representing six stories in Iron Horse and Fireside is a potential area to gain more height in those projects; or if it was assigned a color that was not indicative of the rest of the project. Planner Cattan stated that the Staff talked about the fact that there is a hillside behind it and in the future if they were to redevelop, the City could incentivize more deed-restricted affordable housing by potentially creating a fifth story. Mayor Williams understood that the model pre-supposed relocating the power substation. Planner Cattan replied that it was based on that assumption. Mr. Polikov clarified that the specific plan assumed relocation of the substation, but the policy discussion would be applicable whether or not the substation moves.

Planner Cattan did a walk-through of the model from the standpoint of a 5'7" person walking down Munchkin Drive. Mr. Ostergaard did a fly-through of Munchkin as proposed in the Plan to give a sense of the streetscape. Mr. Polikov stated that the model shows the build-out of the scale but with a variety of different heights from character zone to character zone. He noted that it was less about

the buildings and more about the public spaces in the buildings. Another challenge of stopping at three stories is the lack of flexibility to frame the public spaces in a way that gives the feeling of arrival. In some cases, additional height can help frame the public spaces a little better, depending on the goal.

Commissioner Thomas suggested that they do sun/shade studies on the model to see the impacts. Mr. Ostergaard noted that the model could be set to turn sun on and off, but he was unsure how well it would help at this point. Commissioner Thomas thought it would be valuable to see some sun/shade impacts for the winter solstice, the equinox, and summer. He would like to see the plan with some hypothetical buildings and the impacts of the shadows on adjacent parks.

Mayor Williams understood that the model was intended to show what diversity of size can do in terms of what it accomplishes in the area; and not what is specifically planned for certain areas. He was told that this was correct. Mr. Polikov remarked that it is generally what could occur from character zone to character zone. Therefore, it is aligned to some extent with the current draft proposed character zone map which has different standards.   Planner Cattan explained that the picture shown was based on the current regulating plan with the assumption of moving the power station. Mayor Williams was concerned about putting the cart before the horse when the decision on the substation has not yet been made. He thought the green space was very important because they would be trading setbacks for grass berms, etc., to get the bigger, collective green space. However, the spaces could change depending on whether or not the substation moves.

Mayor Williams liked the idea of filtering down the walkways and pedestrian areas, but he understood that the trade-off was giving up 60% open space and the setbacks. He noted that in a typical MPD credit is given for certain items above and beyond what is required, but credit is not given for walkways because it is required. Mayor Williams was confused about what would get traded for additional density or height. Mr. Sanchez believed the Mayor's question would be addressed later in the agenda. Planner Cattan stated that overall there would be a master plan for the neighborhood that would be linked. The regulating plan may change but the policy they set this evening would influence the "gives" and "gets". She remarked that during previous joint meetings, the true desire was to make this area a connected neighborhood, which is one reason why they went with the scenario presented instead of the typical MPD.

Council Member Beerman asked if the plan assumed all underground parking or structured parking. Director Eddington replied that some of the structures would have parking in the back of the building.   There could also be below ground or above ground parking structures. Another opportunity would be to consider a shared public parking facility. Council Member Beerman wanted to know what Form Based Code requires. Mr. Polikov replied that the location for the parking is regulated so the essential pedestrian experience is maintained. However, in terms of public policy, if there is not an early public investment or shared investment for significant structured shared parking, they would probably not see the build-out at this level. There would most likely be a series of surface parking, but Form Based Code would put those parking lots to the side and setback and behind as opposed to what currently exists.

In response to Mayor Williams, Mr. Polikov stated that one of the trade-offs would be to purchase

rights-of-way to put in the new street network. One opportunity for the "gives/gets" is to ask for a donation, which is a real value in exchange for more height, which then creates better build-to lines and also acts to create a better street experience.

Council Member Simpson stated that what she read in the Staff report did not discuss purchasing rights-of-way as much as taking them as donations, with the City being responsible for the improvements. Mr. Polikov clarified that he was not encouraging the purchase of right-of-way, but the City would have to purchase it if the developer was not willing to donate it. He did not believe they could reinvent the street network of Bonanza Park in a meaningful way without a partnership through donations.

Commissioner Worel asked about view corridors and whether they would be regulated within the individual character zones. Mr. Polikov stated that they looked at view corridors from the neighborhood scale and character zone scale. If they did it from the block or building scale, everyone from each location would request a view corridor and there would never be a context in which to develop. He noted that the analysis was a little different from the normal view corridor analysis. Mr. Polikov remarked that they need to decide the primary goals for this location, and recognize that they cannot satisfy every goal.

Director Eddington stated that when the roads connected all the way through they created a number of view corridors down those roads where there is no connectivity currently. Mr. Polikov pointed out that they tried to align those view corridors and those streets and the street network along property lines instead of through parcels, and that is critical for many reasons. It creates development opportunities for existing ownership and it encourages more donation that acquisition.

Mr. Sanchez asked the group to comment on the first part of the presentation. C Peek commented on the tiers of gives and gets. In Tier 1 he believed everyone would get the zero setback as the first give to get the right-of-way. He understood that in order to get zero setbacks and additional density the developer would have to give up the right-of-way. Mr. Polikov stated that if the City wants great streets they would want a build-to line rather than a setback line. The "get" for the City is great walkable streets and a great neighborhood. They cannot technically relate every element of every give and get because some of it has to be general policy.

Council Member Peek thought the incentive in Tier 1 was forcing people to grant the right-of-way. Planner Cattan agreed, noting that it was put in Tier 1 to ensure that the connectivity occurs and the neighborhood builds out in the desired form. The developer cannot go to Tier 2 without dedicating the desired right-of-way to the City. Planner Cattan clarified that not everyone would utilize the incentive because they were not asking for right-of-way from every property owner.

Planner Cattan stated that within affordable housing the tool they have for Bonanza Park is height and how it fits within the building form.   In the Staff report, Option 1 was listed as the current LMC, which requires affordable housing to be within the building envelope. Option 2 is the area plan enhances option, which is either the attainable housing option or affordable housing within 75% of the fourth story or 25% of the fifth story. They also put in a hybrid option of requiring the affordable

housing within the building envelope, but then allowing a developer to build attainable housing within the fourth and fifth story.

Council Member Matsumoto was concerned that if they continue to "give" additional stories for everything they would eventually lose the variety that is so important. She questioned how they would know when they were giving too many options. Planner Cattan stated that they could draw up the Code differently in terms of how they require a block to be broken out and require differentiation in height. Mr. Polikov stated that it was a constitutional challenge because they need to be careful about being arbitrary and capricious in how they go to the micro-level of what they grant. He believed there was as natural way for the variety to be imbedded if they agree on the overall policy. Parking is a limiting factor and there are many businesses in Bonanza Park that are cash flowing very well today. Mr. Polikov thought they would see new two and three story buildings and the existing two story buildings stay there for a long time. The forces of the different cost of building parking and buying land would naturally create the variety, and it will be dependent on each project and each user.

Mayor Williams clarified that for this question they were being asked whether they wanted to stay with the current LMC, or if they were willing to look at a hybrid option that mandates the current LMC but also has potential additional height or associated attainable housing. Planner Cattan answered yes.

Council Member Butwinski clarified that the attainable housing would not be confined to the fourth or fifth floor and that it could be anywhere in the building. Director Eddington replied that this was correct.

The Commissioners and Council Members voted with their key pads. The result was:

1) Current LMC – 18%
2) The Area Plan enhanced option – 9%
3) Area Plan Hybrid option – 73%

Planner Cattan noted that TDRs are desirable and Bonanza Park was currently a receiving area. The only place to put a TDR would be within additional height. She noted that the Form Based Code as written is that a TDR could be received within Tier 3, which is 100% of the fourth story and 100% of the fifth story. That option was created because they thought they would max out on the 75% of the fourth story and 25% of the fifth story as right-of-way dedications and park dedications, and they wanted to make sure there was an option to receive TDRs.

Commissioner Strachan recalled an earlier comment by Mr. Polikov that he doubted full build-out would ever be reached. Commissioner Strachan pointed out that Tier 3 assumes full build-out plus. Planner Cattan stated that Tier 3 assumes full build-out of Tier 1 and 2, which is open space and right-of-way and affordable housing. Commissioner Strachan did not think that would naturally happen. Director Eddington stated that it would probably not happen in most but this question assumed the worst case scenario for TDRs. Mr. Polikov felt they should assume build-out for the purposes of these questions to make sure there are no unintended consequences. Commissioner Strachan stated that he would assume full build-out for all purposes and the worst case scenario.

Planner Cattan noted that the TDR would come from the historic sending zones in Old Town or from Treasure Hill.

Mayor Williams asked if voting for option two to send more TDRs would determine the percentage of buildings that would be in the five story range. He asked if the result would shape the model or if it fills in parts of the model. Planner Cattan thought it would add to the variety. Mr. Polikov stated that it all comes down to parking. There would never be full build-out in the area unless there is public participation and structured parking. He suggested that the Council and the Planning Commission take each one as a separate policy item and decide whether or not it makes sense. They could come back with a calibrate analysis of how it works together economically.

Council Member Butwinski assumed there was a base density for the whole area in terms of square footage. He understood that if they vote for option two, they would be effectively agreeing to potentially add additional density, which could possibly result in an unintended consequence.

Council Member Peek stated that if there is a demand for Tier 3 and it is all 50% under parked based on the incentives, if the demand is there where is the supply of parking. Planner Cattan pointed out that the building would have to be smaller because it could not be 50% under parked. Mr. Polikov noted that the regulatory requirement may drop, but when the developer tries to finance the project the banker will not underwrite it if they are short parking spaces. For that reason, the developer will find the additional spaces. Mr. Polikov was certain that they would never be able to provide enough parking on 100 acres in this location based on the cost of dirt today, because the private sector cannot pay for all that parking and make a five story building work.

City Manager, Diane Foster, noted that when Mr. Polikov mentioned price of dirt he was not talking about hazardous soils, which is another issue.

Commissioner Strachan asked if every character zone would be a receiving zone. Planner Cattan replied that as of right now the Bonanza Park District is a receiving zone.

The Council Members and Commissioners voted with their key pads and the result was:

Option 1) 64%   Option 2) 36%

The group discussed sending and receiving a TDR. Planner Cattan stated that currently there is a requirement in the TDR zoning that receiving a TDR requires an MPD process. She suggested that they change the requirement and allow it within the Form Based Code because they were moving away from the MPD in this area. Director Eddington noted that on the private side someone would never buy a TDR without having an approved MPD because they would not have the certainty of being able to use it. Council Member Butwinski noted that an MPD goes through the Planning Commission. He asked if that same control would exist with Form Based Code. Director Eddington stated that if the TDR would not meet Code it would be denied.

City Attorney Harrington clarified that as envisioned through the Code, once they approve the Form

Based pre-approved plan, there would not be an additional approval after that. Council Member Butwinski pointed out that someone could buy as many TDRs as they could afford.

Planner Cattan requested discussion on the two options since the vote was split at 64% to 36%. The group would re-vote after the discussion.

Mayor Williams understood that the Form based Code would set the decided form. As time moves on, someone could send TDRs to the Bonanza District if there was still room available in terms of the use of the forms in that area. It would not change the building because it only fills the space with a TDR, but the space would already be determined. Mr. Polikov stated that the City needs to create the envelope and it may be able to grow a little based on the question of TDRs, but if they try to micro-manage the application within the envelope and they do not know how to assign the difference between one application that makes sense and one that does not, that is too much prescription.

Ms. Foster understood that the envelope is for the character zone and not the streetscape. It would not determine the number of stories for specific buildings. Mr. Polikov replied that she was correct; however, different factors would cause the number of stories for each building within the maximum theoretical build-out. The factors include parking, the market, the streetscape and give/gets.

Mayor Williams pointed out that Park City has a history of a strong market-driven economy. He wanted to know what would preclude this from becoming a straight five story project if they move away from the LMC option. Mr. Polikov replied that the architectural treatments of the fourth and fifth story would all be different. The heights would still be varied because of the setback requirements at the fourth and fifth story. Mr. Polikov stated that building height would not insure variety whether its three stories or five stories. The other elements create the variety.

Mr. Polikov had the feeling that the Commissioners and Council Members were opposed to anything taller than three stories. Mayor Williams clarified that they were not opposed, but they were being asked to look outside of the box from a historic zoning that precludes more than three stories and they wanted to understand what would preclude a solid five story project.

Mayor Williams asked for an explanation of Option 1 and Option 2. Planner Cattan stated that Option 1 allows TDRs to come in within Tier 1 and Tier 2, which limits the envelope of the building to be 100% of the first three stories; 75% of the fourth story and 25% of the fifth story. The TDR area could essentially take up the fourth and fifth story. Option 2 creates a separate tier for TDRs and net zero buildings to allow 100% of the fourth story and 100% of the fifth story.

Council Member Beerman asked if there was a middle option of 50% rather than 100%. That would allow for variety but still add incentives or opportunities for TDRs. Mr. Sanchez pointed out that it was not an option set up for voting, but if the group was interested, they could vote by show of hands.

Commissioner Thomas stated that in looking at the two scenarios, the question is which option provides the largest mass. Both allow TDRs but Option 2 creates a larger holistic mass. Mr. Polikov

noted that the hybrid option suggested by Council Member Beerman would allow more sending capacity than Option 1 but there would still be fourth and fifth story requirements for setbacks. If the group preferred that option, he could come back with a recommendation.

The Council members and Commissioners were asked to vote on Options 1 or 2. Not voting at all would indicate a preference for the hybrid option.

The voting results were: Option 1 – 5 votes; Hybrid option – 7 votes.

Planner Cattan noted that net zero buildings have the same options, except no money is involved. The group was asked to vote on Option 1 -Tiers 1 and 2; or Option 2 - Tier 3.

Commissioner Peek clarified that net zero was not construction impacts. It was only the way the building is operated. Mr. Foster stated that the building would physically produce as much energy as it uses. Planner Cattan stated that if they were serious about decreasing the footprint, it may require enhancements to help the developer get there.

Mayor Williams remarked that Snow Creek is the best example of where they did everything possible to achieve net zero, but they still could not do it. He was concerned about putting something so onerous on the developer to try to achieve it. It again results in more height when it is unclear whether net zero is even possible. Council member Peek pointed out that they would be incentivizing the developer but the onus would be on the property manager and the users to make it work.

Ms. Foster thought that it was a policy question of whether or not the City wanted to incentivize the carbon goals with additional density that takes the form of height. Implementation is a separate issue and the Staff would write the Implementation Code with the requirements of what needs to be achieved. Ms. Foster remarked that net zero is doable in a building and she agreed that the cost burden would be on the developer. The question comes down to what is most important; trying to achieve a net zero building or keeping development costs low.

Mayor Williams asked for clarification on the options for the question they were being asked to vote on. Planner Cattan explained that Option 1 would favor incentives in Tier 1 or Tier 2 within the Form Based Code, which limits the percentage on the fourth and fifth story. Option 2 would allow Tier 3, which is 100% of the fourth and fifth story. Planner Cattan stated that those who prefer the hybrid should not vote. The hybrid would possibly allow 100% of the fourth story and 50% of the fifth story.

Ms. Foster suggested a third option which would not provide an incentive for net zero. Commissioner Strachan remarked that some may not want to provide an incentive for height, but they would consider other incentives that may be available to the developer such as straight cash grants, tax breaks, etc. Commissioner Strachan believed the particular question they were being asked was whether they should use the carrot of height as an incentive to achieve net zero.

Director Eddington stated that not voting would indicate the preference for no additional height for net zero. It would not indicate a preference for the hybrid as previously stated.

The Council members and Commissioners were asked to vote on the question and only two people voted. The majority preferred not to use height as an incentive for net zero.

Planner Cattan presented the regulating plan and noted that it may change. The idea was to accumulate open space throughout the neighborhood. The group was asked to choose the tool that was appropriate for acquiring open space in Bonanza Park. Per the current Code the developer would get one square foot of development for each square foot of dedicated open space. The other tool is to purchase public open space from land owners.
Planner Cattan asked the group to vote on whether they felt it was more appropriate to use height or to fund parks. She clarified that the question only addressed the dedication of public open space.

Council Member Butwinski asked if they were voting on the specifics of one for one, or if they were voting on using the tool of some square footage of open space being purchased for another potentially different square footage of building square footage. Director Eddington thought they should first vote on the concept of height versus funding.

The Council and Commissioners voted and the result was:

1) height – 5 votes; 2) funding – 6 votes

The Council and Commissioners were asked vote on a combination of height and funding. 9 people voted in favor of a combined incentive.

Planner Cattan presented a map of the roads in Bonanza Park. The existing roads were shown in darker colors; the rights-of-way were shown in beige or light blue; the trails were identified in green. Planner Cattan noted that the map represented a 50 year build-out.

Planner Cattan stated that the next question related to acquiring right-of-way. It was a policy question of whether for each square foot of dedicated ROW they allow it to move on to a building at some ratio; or whether they preferred to acquire ROW. She pointed out that the two voting choices were height or funding.

Mr. Polikov noted that some acquisition would still be required for some segments because they would never get 100% from dedication. Council Member Matsumoto clarified that voting for height would also mean funding. Mr. Polikov answered yes.

Council Member Peek asked if the height is already on the parcel if an acquired right-of-way goes through that particular parcel. Mr. Polikov replied that it was not a general increase for anyone in that area. Council Member Peek asked if it was owner specific rather than parcel specific. Mr. Polikov needed to work with the City Attorney to define it as closely as possible to being parcel specific. In his personal opinion, it should be parcel specific so the City would have the ability to sell it. Director Eddington agreed that it should be parcel specific.

Council Member Simpson asked why the questions had not been character zone specific. Based on

the Form Based Code, there may be areas where they think four and five stories would be appropriate. However, if the character zone was a maximum of three-stories, would look to the funding option. Council Member Simpson thought the answer would always be hybrid for several of the questions because the other options were not holding to the basis of Form Based Code.

Mr. Polikov assumed that they would go back to the question of treating each character zone differently. However, a general policy needs to be in place before they can answer the global question. Mayor Williams noted that when a new road comes in it would give street frontage to the developer. He questioned why the City would purchase the right-of-way instead of having it come in as part of the design. He could not understand why they would give height, extra density or money when the road increases the property value and benefits the developer.

Commissioner Hontz could not recall ever approving this scenario. She understood that there was a Plan that had been vetted and they had discussed placement of the roads, but she was not comfortable with the proposed scenario. Commissioner Hontz asked if they would ever have the conversation or whether they would continue to see the same road map and what would be put forth as the right-of-way.

Planner Cattan pointed out that what was being presented was only a draft. Commissioner Hontz understood it was a draft but she wanted to know when they would have the conversation. Mr. Polikov stated that the draft Code and the Regulating Plan would be finalized after they finish making the policy decisions on basic issues. He noted that if basic policy parameters are not set, the draft tends to be re-written several times. Mr. Polikov emphasized that they never intended this to be the final Regulating Plan. Planner Cattan pointed out that the Plan had changed since the last meeting based on their input. It is in draft form and it would come back to the Planning Commission once the Staff goes through the Regulating Plan. The Regulating Plan would be adopted with the Form Based Code that would reflect the desired outcome of the Planning Commission.

Mr. Polikov responded to the questions asked by the Mayor and Commissioner Hontz regarding the benefit to the property owner. He explained that in a re-development environment a certain amount of network has to be constructed and put in place for it to be functional. If it is left to the give/gets of each property owner, the network would never get done. The question is whether re-development of Bonanza Park is a common good. If it is, at some point the public sector has to step up and facilitate a certain early capacity of a minimum amount of the network for it to ever be feasible. Mr. Polikov pointed out that it was another policy question.

The Council and Commissioners were asked to vote on the policy question of whether to allow height in exchange for ROW or to acquire the ROW through funding. The group voted and the result was 9 votes for a hybrid option.

Mr. Polikov spoke about improving the ROW and noted that it goes back to the network. The Park City version of suburban development is to basically bring the roads in to serve the concept of a single development to where it needs to go, regardless of whether it is retail, condominium or resort development. Mr. Polikov stated that if they want property interest and businesses and tenants to leverage what is adjacent to them without controlling it, then the role of government in that

environment is to create a walkable common street network. He believed there was a way to encourage developer participation, but there would be no way to jumpstart it without a significant role of government at the beginning. Mr. Polikov outlined a number of ways that could be accomplished. He stated that if the City does not take that role, no amount of planning and rezoning would overcome the challenge of encouraging the kind of development that would be synergistic from ownership to ownership.

Council Member Beerman asked if split costs means 50/50 or some agreement where both sides pay. Mr. Polikov stated that there needs to be an overall economic analysis of what build-out would be relative to the infrastructure estimates, with some idea of how much would be donation of ROW and how much additional would have to be acquired. He thought a macro-analysis would show that proportion.

The Council and Commissioners were asked to vote their preference regarding ROW improvements. The result was: 1) City pays – 1 vote; 2) Developer pays – 0 votes;
3) Split cost between City and developer through agreement based on impact analysis – 7 votes.

Commissioner Hontz stated that she would have voted for Option 1 if the City would not have to assume the cost of acquiring the ROW. Council Member Simpson suggested that acquiring the ROW may be part of splitting the cost.

The group discussed Administrative Review. Mr. Polikov noted that some have voiced concern that some projects would never materialize. He stated that in reality, because there is so much prescribed graphical information, the level of discretion by the Staff in reviewing an application would be minimal. It should be clear early in the process whether a project fits. Mr. Polikov remarked that the question of taste was a separate issue. If something is a gray area, the Staff would encourage the applicant to go before the Planning Commission. Mr. Polikov believed there would be a natural tendency to go back to the Planning Commission on cases that are not clear.

Mr. Polikov stated that Administrative Review is important because complexity requires the ability for market forces to come together within a vision and the ability for creative partners, tenants, landowners, architects, and equity sources to come together when something is in demand. If it takes a year to go through the process when something makes sense at that moment, the opportunity may be lost. Mr. Polikov stated that the power of Form Based Code is lost if they do not allow the market forces to take hold on projects that are clearly within the purview of the standards that have been developed.

Council Member Simpson was concerned about the sentence in the Staff report stating that, "There is no public noticing requirement for administrative applications beyond posting the building permit at the time of approval". She understood the benefit of not going before the Planning Commission unless it is a punt/punt situation, but she was concerned that the public would not be noticed until the decision was made.

Mr. Polikov stated that as long as the public side, i.e. the Park City Government, can do something with the public comment. Otherwise, if they encourage public comment but it cannot be used in the

process, it becomes a disaster.

Council Member Simpson understood the process and the basis for Form Based Code, but she was uncomfortable because the City has always encouraged public comment and they have become more diligent with public notice. Mr. Polikov suggested that they could take public input as long as it is clear that the comments were purely advisory and there was no legal significance. The challenge is the burden that it puts on the Staff. Mr. Polikov stated that the policy question is the purpose of notice. The purpose of notice is impacting property rights and the public interest.

Director Eddington noted that the process could be similar to public noticing for an HDDR. They work with the individual to makes sure they fully understand the decision, and inform them of their right for appeal of the HDDR with the Historic Preservation Board. Mr. Polikov remarked that the purpose of notice could be addressed in the Form Based Code process, and they could look at other options with regard to Bonanza Park to make sure the community feels like it has input into the character of the neighborhood.

Council Member Peek believed there was a difference between the public aspect of noticing and the adjacent property notice. He used a net zero building as an example to explain his point.

Commissioner Thomas remarked that Form Based Code provides predictability on the development possibilities. They do not have that predictability under the current process. Form Based Code provides structure and network that involves the community to create the criteria. It streamlines the process because the work was done early with Form Based Code to set the pattern of scale, variation and the desired amenities for the community. Commissioner Thomas stated that if they move towards Form Based Code, they need to have a mechanism to evaluate it. Mr. Polikov stated that they should assume that the ordinance would need to be tweaked over time as development plays out.

Commissioner Thomas suggested that as they move into a finite plan and have something that is more comprehensible, everyone would feel more comfortable seeing massing scenarios created with the final street plan. Mr. Polikov pointed out that they were set up to do that.

Commissioner Strachan felt this was one of the more dangerous decisions because it takes away a lot of the accountability for decisions in Bonanza Park. He pointed out that a Staffer under an employment contract, an unelected official who may or may not live in the community, would be making decisions about a multiple story building. There would be no accountability on behalf of an elected official who does understand the community. Commissioner Strachan explained that a decision could be appealed, but by that time it is too late. He recommended that the administrative review process should include an elected public official to be involved in the review and the decision of what buildings go where, how they are articulated, and when they should step back. Mr. Polikov noted that the details of the Form Based Code would not give the Staff person that discretion. Commissioner Strachan thought the City Council and the Planning Commission should be able to apply it just as easily. Mr. Polikov stated that those entities would not need to apply it because they would have already created de facto discretion by going back to the political body. He explained that the administrative review looks at compliance with the objective design details in the Form

Based Code. If not, it would go before the Planning Commission. Commissioner Strachan reiterated his opinion that the initial decision should be made by an elected official.

Mr. Polikov stated that it is not the role of government for an elected official to decide if a 20-foot setback in the plan is 20 feet back. That would be the obligation of professional Staff. Commissioner Strachan felt it was a fallacy to say that the Staff was only making objective determinations. Any time a person applies the Code, it is a subjective analysis, because the Staff has a different subjective view about when a building application comes in and whether or not it looks good. Mr. Polikov stated that once they adopt the Form Based Code and the quality of materials and scale has been decided, government is out of that decision regardless of whether it is a Staffer or an elected official. They need to make a policy decision to back away from taste and what looks good relative to the level of the bar raised on all the other elements. He clarified that Form Based Code takes government out of the business of deciding whether a metal building and a timber building should be adjacent to each other. That would be allowed in the Form Based Code and the City would find itself in an arbitrary and capricious situation if it goes back to the Planning Commission and it becomes a matter of taste. Once they get into matters of taste beyond the minimum requirements, it would be impossible to effectively enforce Form Based Code.

Commissioner Strachan concurred, but he did not believe it was the Staffer's position as an unaccountable, unelected official to make that call. Mr. Polikov reiterated that the Staff would not have the ability to make the call on the metal versus timber structures and neither would the Planning Commission as an elected body. Commissioner Strachan felt that was the problem. Mr. Polikov stated that they needed to first solve the problem at the policy level of whether or not to do Form Based Code. If they make the decision to accept Form Based Code, they cannot decide that everything needs to come back to the Planning Commission. Before deciding on whether to advocate the power of Form Based Code, they need to decide whether or not they want to follow what the Form Based Code suggests.

Planner Cattan noted that there are suggested materials within the Form Based Code. For example, metal is not suggested for the character zones except within the Iron Horse District. She pointed out that they could build up qualifiers to protect the Staff from specific scenarios. Commissioner Strachan remarked that Bonanza Park would be the time that the City has ever employed Form Based Code. Building will be constructed and some people will question why the City allowed that to happen in Bonanza Park because it was not what they envisioned. As City officials, when they are approached for answers, it would not be appropriate to tell someone that the Staff did it. Mr. Polikov agreed and suggested that it was a policy decision they would have to make. They also need to recognize that everything comes with a risk and sometimes they may get a bad building. Commissioner Strachan felt the risk was higher in Bonanza Park because they only have two major landowners. It is more than the mistake of one bad building. It is the potential problem of having an entire area developed incorrectly because an accountable elected official was not involved.

Council Member Butwinski thought Commissioner Strachan's point leads to another point. If there is no mechanism in the process for an interim check, if someone makes an honest mistake it would not be discovered until after the fact. He could see the merit in having an elected official or a

Planning Commissioner review the application for completeness and accuracy.

Mr. Polikov suggested that they could notify the Chair of the Planning Commission when the Staff receives an application and the Chair would have to verify and sign off that the application had been reviewed by Staff. The Chair could look over the application to see if the application was reviewed correctly or if issues still needed to be addressed. The added step in the process would provide an oversight review. However, they would need to be careful not to open it up to a complete re-review of what is already entitled. Mr. Polikov pointed out that the Chief Building Official would have to be trained in Form Based Code and understand how to implement it.

Council Member Simpson favored the suggestion to have the Planning Commission Chair sign off on the administrative review.

Ms. Foster asked if the Council and Commissioners were voting on whether the administrative review should include the step for a review by the Planning Commission Chair to ensure that the Administrative Review was done in compliance with the Form Based Code. Commissioner Strachan answered no. He thought the question should be whether or not it should be an Administrative Review. The Code could be tweaked to allow the step involving the Planning Commission Chair or a Council Member. Mr. Polikov agreed.

Mr. Polikov explained the process for appeal an Administrative Review decision and the difference between a friendly appeal and an adversarial appeal.

Mr. Sanchez called for vote on whether or not to accept the Administrative Review. He pointed out that there were no hybrids for this question. The vote was taken and the result was: Yes – 64% No – 36%.

Commissioner Hontz clarified that conditional uses in Form Based Code would go before the Planning Commission regardless. She was told that this was correct.

Ms. Foster requested that just the City Council vote on the same question. The Council voted and the result was: Yes – 67% No – 33%.

The Work Session adjourned at 5:15 p.m.