

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
February 13, 2013**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapters 2 and Chapter 15.

On January 9, 2013 the Planning Commission discussed a number of scenarios prepared by the Staff that could occur on downhill lots. The Commissioners would review scenarios for uphill lots for discussion this evening. Planner Astorga had prepared specific scenarios for 50%, 30%, 45% and 60% slopes. He wanted to make sure the Staff and Commissioners had the same understanding regarding the current Land Management Code height provisions in the HR-1, HR-2 and HR-L zones.

Planner Astorga noted that the blue lines on the drawings in the packet represented the property lines on 75' lots. The red line on the bottom represented the grade. The bold red line was the existing regulation that indicates that the final grade shall be within four feet of existing grade on the periphery of each structure. The red line on top was the maximum height, which was capped at 27'. Planner Astorga noted that the Staff had designed what they considered to be worst case scenarios.

Planner Astorga presented Scenario A at 15% grade. The scenario has one exterior and one interior parking space, which pushed the front yard setback to 18 feet; the minimum area required for the exterior parking. This scenario has a mid-level access and a top level rear walk-out. It would be impossible to have a walk-out on the mid-level because it would not be within four feet of existing grade. Director Eddington pointed out that there could be windows on the mid-level. Planner Astorga agreed, noting that there could also be window wells on the basement level. Commissioner Gross asked about cathedral windows. Planner Astorga replied that cathedral windows would be allowed as long as they comply with the Historic District Design Guidelines. It would be challenging but good designers could make it work. The driveway in this first scenario was the 14% maximum.

Commissioner Thomas pointed out that if the driveway is 14% off the edge of the road and there is no transition, you would hit your bumper before you started driving up the hill. He suggested that practical and logical may be less than 14%.

Planner Astorga noted that Scenario A did not include the 10-foot stepback on the front because the basement is completely buried and stepback is not required. Commissioner Strachan asked if the stepback would be required if the basement was not completely

buried and was within four feet of existing grade. Planner Astorga answered yes because a portion of the basement would be exposed.

Planner Astorga presented Scenario B at 15% grade with two interior parking spaces. The driveway is 14%. The house is slightly larger than Scenario A. Commissioner Savage asked why the front distance in Scenario B was shorter than in Scenario A. Commissioner Gross assumed it was because Scenario B had two interior parking spaces and Scenario A parks one car outside. Planner Astorga replied that this was correct.

The Commissioners discussed house size and footprint. Craig Kitterman, a member of the public, remarked that there is a maximum footprint which determines the size of the house. Planner Astorga agreed. He noted that all the scenarios were governed by the maximum building footprint.

Commissioner Strachan had questions regarding the setback. Chair Worel asked if a setback would be required if any part of the bottom level was exposed. Planner Astorga answered yes, except for a window well. He read from Page 3 of the Staff report, second bullet point, "Final grade must be within four vertical feet of existing grade around the periphery of the structure except for the placement of approved window well, emergency egress, and garage entrances". He noted that the basement could still be buried and have a window well, but it would not require the setback.

Commissioner Thomas noted that emergency egress can be any window or door out of a bedroom, and he found that to be problematic.

NOTE: Due to equipment problems, a portion of the meeting was not recorded. The problem was discovered and resolved.

During the non-recorded portion, Planner Astorga had continued his presentation and the Commissioners discussed the remaining scenarios.

Craig Elliott, as a member of the public, questioned why they were having this discussion. He passed around photos that were taken in 2003 and in 2013. From the standpoint of a big picture for the City, he was trying to figure out whether anything was really causing a problem. Mr. Elliott presented boards illustrating various built structures and noted that the majority of the buildings were over 27 feet tall. He stated that in the last ten years there has not been a significant change in Old Town that has created a negative impact to the visual. Mr. Elliott pointed out that with every application the Commissioners want to see a cross-canyon view, but in looking at the illustrations, there is has been no changes over the years, other than the trees grew larger.

Commissioner Thomas remarked that the boards Mr. Elliott presented showed the

perspective from a distance, and it did not take into consideration the streetscape and the visual impact walking down the street. He believed the purpose of the Steep Slope CUP is to bring down the scale.

Mr. Elliott understood that the neighbors complain whenever the Planning Commission reviews a Steep Slope project, but that just happens. Neighbors always fight new development because they want to keep the land next door vacant. However, people have the right to build. Mr. Elliott stated that the difference is minimal between what was there and what changed in ten years through the largest building boom. He realized that the LMC changes in 2009 were in response to specific projects, and in hindsight he should have attended the public hearings to argue about the 3-story limitation. It was a mistake on his part and he was attending now to have this discussion. Mr. Elliott noted that there were nine statements of purpose in the LMC. They might be accurately discussing one, but the rest were going the wrong way. Applicants are always asked whether they read the purpose statement. He was now asking the Planning Commission if the discussion they were having meets the purpose statement. He could not understand the purpose of their discussion and he did not believe anything in their discussions would improve things through the Land Management Code. Mr. Elliott stated that restricting height on a 75' lot to 35' to 37-1/2' might make sense; but he could not understand it for a lot over 75'. The nature of Park City is that it keeps stepping up the mountain.

Commissioner Strachan asked if there would be a difference if Mr. Elliott had taken the picture 25 years ago. Mr. Elliott believed that most of the structures shown were built before the 1980's. Commissioner Strachan believed that most of the larger houses Mr. Elliot was showing were not built 25 years ago. Mr. Elliot pointed out that the larger houses would never go away. If they were to burn down they would be replaced with the same size structure in the same place. He felt that the Planning Commission has spent the last few months talking about heights and squares and angles, when they should be talking about the big picture and why they were having these discussions. If the discussion is that they want to limit the ability to develop, they were moving in the wrong direction.

Commissioner Savage stated that Mr. Elliott is a professional who presented visuals to support his position. He believed Mr. Elliott had a valid point. They can look at the various scenarios presented, but the reality of importance is the sense from the perspective of where these developments will take place and whether something is or is not consistent with that particular location and a particular set of visuals. Commissioner Savage thought that should be their guiding parameters more than trying to create a formula for calculating volume as a function of lot size.

Mr. Elliott stated that he works in Old Town every day. He experiences the streets every day and he walks to most of his projects. He was confident that the things that have happened over the past ten years have not negatively impacted the quality of the town.

Changes are made and it does not make any difference in the overall impact. These discussions have kept people from building houses for the last six months and will cause them to miss two seasons of construction. Mr. Elliott believed the major question was why they were having these discussions and what it would accomplish.

Commissioner Thomas stated that prior to creating the 2009 LMC, they were seeing buildings stepping up the mountainside to maximize the volumetric. That had a dramatic visual impact on the neighbors, the street and the scale of the community. The reason for these discussions is to have a sense of scale to the historic fabric of the community at the street level. He did not think some of the images Mr. Elliott presented was a fair comparison of what this town is about or the character of the town. Mr. Elliott disagreed. Commissioner Thomas stated that the image does not represent what the neighbors experience when someone builds an enormous house next to an historic house. The purpose of the 2009 changes was to respect the neighbors and what was left of the historic fabric that was being whittled away by these monstrous structures.

Mr. Elliott reiterated that the Planning Commission should address the real question of "why" and if whether the "why" fits within the Land Management Code purpose statement. In his opinion it did not.

Commissioner Strachan asked if Mr. Elliott had any recommendations on how they could bring more families and primary homeowners back into Old Town. Mr. Elliott felt that would be driven by a number of different things. He suggested that current projects would bring people into town. He thought they would be fighting the issue of value for a long time because of its proximity to Main Street.

Ruth Meintsma stated that she lives on a street that is primarily second homes and nightly rentals. She does not mind nightly rentals in her neighborhood because it works. However, the houses in-between where people live are very important and adds cohesion to the neighborhood. Ms. Meintsma understood the reasons for limitations. A house across the street from hers is nightly rental. People come in and out and you never talk to them. The number of cars is astounding and the amount of trash in one weekend is more than she creates in two months. Ms. Meintsma believes there needs to be a balance. In talking about limitations, she understood the three stories limit and size reduction for second homes and nightly rentals because extra space is not needed for that type of living. However, when someone has a family they need to think about a new way of living. They need to think about space for storage, tools, food storage, etc. She believes that if there could be a second criteria of house building where a home or a residence is signed in perpetuity to no nightly rental, it would add to affordable housing because people could come in a rent for a minimum of one year. With larger structures people would create a home and it would allow for families. Sometimes the fourth story is necessary for a family. If someone wants to build a home for their family and wants extra space, the City should

hold them to the family home use by having them sign in perpetuity to no nightly rental.

Planner Cattan stated that limiting nightly rental was not necessarily limiting second homes. Ms. Meintsma agreed, but it would still be someone's home. Commissioner Savage commented on the economic impact. If someone did not have the ability for nightly rental they possibly could not afford the home. In other cases, some people buy second homes on the fact that they can enjoy it themselves and offset some of their expenses by renting when they are not there. Ms. Meintsma understood the concern, but if someone was willing to sign their home into perpetuity from nightly rentals, they should be given some incentive such as extra space in their home.

Mary Wintzer stated that when side yard setbacks were reduced years ago, they saw huge impacts with snow shedding and people began to maximize their houses. The lifestyle of those living in Old Town has been drastically affected. Her neighbors raised four kids in a three-story house. When she was growing up people shared bedrooms. Ms. Wintzer was not totally opposed to the incentive of a fourth story, but if they return to what used to be they would not need monstrous homes.

Ms. Meintsma pointed out that lifestyles are completely different than how they used to live. She clarified that she was not talking about greater height or greater mass. She was only talking about an additional story. She understood that excavation was a major concern, but she believed that could be mitigated.

Ms. Wintzer remarked that several years ago four owners on Rossi Hill imposed a house size restriction on themselves. They realized that it would limit their profit when they decide to sell because the lots could not be maximized, but they did it because they value their neighborhood. Ms. Wintzer stated that they love Old Town, they love the mountain and they love what the community has given them. It is the neighborhood, the people and the land, and they are building up every square inch of the earth in Town. She believed they would pay a price some day. The old timers talk about the years when they had bad spring runoff and mud slides on this side of the Canyon. They have not seen that yet, but it is possible. If it occurs, there is no earth left to absorb it because it is all developed.

Commissioner Hontz felt good about this exercise because it was based on the purpose statements and it came out of the realization and the factual evidence of how many undeveloped lots are left and how tightly constrained they are. In her mind this was an exercise of education, but it also explored whether what they have meets what they want to do, how they need to tweak it, if at all, and if the scenarios were representative of what they thought they were trying to achieve. The discrepancy on the definition of story was another reason that prompted the exercise. Without those reasons they would have never done this and nothing would change. Instead, they went through this very thorough discussion to possibly visit some potential changes. Commissioner Hontz thought this was a useful

experience. She was unsure what the result would be based on all their opinions, but this was instrumental in educating the Planning Commission to be able to move forward.

Planner Astorga noted that page 2 of the Staff report contained language from the current Code. He asked if the Planning Commission had issues with any of the regulations and whether it needed to be strengthened or rewritten. He believed there was some consensus for spending more time and resources on adding internal maximum height. He asked if any of the other height parameters needed to be fine tuned. Commissioner Strachan felt it was sufficient to have the internal height limitation.

Commissioner Savage had issues with the third bullet point and the definition of three stories, and whether three stories was measured from a vertical point or by some other metric. Commissioner Strachan thought the three story restriction could be eliminated if they use the internal height restriction. Commissioner Thomas agreed. The internal height gives the designers more flexibility with the floor plan.

Director Eddington understood that the Planning Commission would not have as much consternation with regard to split levels and partial stories inside the building. He was told that this was correct. Commissioner Strachan clarified that applicant could do whatever he wanted within his own box as long as it meets the internal height limit.

Commissioner Thomas suggested a site visit to several sites that reflect the conditions discussed on uphill and downhill lots so they could see them in the field.

General Plan – Discussion and Overview of neighborhoods – the neighborhoods to be discussed include: Thaynes Canyon, Park Meadows, and Bonanza Park/Prospector

Nightly Rentals

Planner Cattan reported that the Staff had prepared a discussion on nightly rental because it was one of the more controversial topics to be discussed neighborhood by neighborhood as they decide to rezone and talk about residential neighborhood versus resort neighborhood. She preferred to start with nightly rentals before moving into the neighborhoods discussion.

Planner Astorga read that the current Land Management Code definition of a nightly rental. "The rental of a dwelling unit for less than 30 days." Another clause states, "Nightly rentals do not include the use of dwelling units for commercial uses." Commissioner Savage asked for clarification on the language regarding the use of dwelling units for commercial uses. Assistant City Attorney McLean explained that as an example, gifting parties cannot be held in a home that is a nightly rental.

Planner Astorga noted that nightly rental is allowed in every zoning district except the ROS, POS, PUT, and the SF. The exception is that it is allowed in the Prospector Village Subdivision. In the HRL zone, nightly rental is allowed through a conditional use permit. Other exceptions are that nightly rentals are not allowed in April Mountain or Mellow Mountain Estates in the RD zone.

Planner Astorga presented a breakdown of the number of nightly rentals by neighborhood. The percentage of nightly rentals city-wide is 46%. There are nearly 4,000 nightly rentals. He noted that the numbers were current as of January 2012 and were taken from the business license. Therefore, the number could actually be higher because some people rent nightly without a license.

Planner Astorga stated that the focus this evening was in the residential districts. Next month they would talk about the resort neighborhoods, including Old Town. Planner Astorga presented the overall numbers per neighborhood. The percentage numbers in green in the fourth column represented the percentage per neighborhood. For that reason, the Staff identified that these neighborhood tend to be residential oriented versus resort oriented.

The Thaynes neighborhood has 2% nightly rental. Iron County used to be zoned RD, which allowed nightly rentals. That is why the percentage is low with only five nightly rentals. The zoning was changed and nightly rentals are no longer allowed in the Thaynes neighborhood. If the five owners kept an active business license, they are legal non-conforming.

Park Meadows has 8% nightly rentals. Bonanza Park and Prospector together had 30%. Masonic Hill has approximately 20% nightly rentals. Commissioner Strachan did not think it was fair to connect Bonanza Park and Prospector in this statistic. He lives in Prospector and there are no nightly rentals in his immediate area. However, there are many in Bonanza Park. Commissioner Strachan thought that they should separate those two neighborhoods. Planner Astorga pointed out that there were actually more nightly rentals in Prospector than in Bonanza Park. Commissioner Strachan assumed the area of Prospector with nightly rentals was the area by the Silver Mill in between Comstock and Bonanza Drive. Planner Astorga offered to look into separating the two.

Commissioner Savage asked what the Staff wanted the Commissioners to look for in this presentation. Planner Astorga stated that they should be thinking about the future of nightly rentals in the five primary residential neighborhoods, and what should be done with nightly rentals.

Planner Astorga presented occupancy types gathered from the census. Vacant housing

means that the house is built but vacant or the owner is trying to sell it. Planner Cattan stated that if it is not the primary residence it can be a second home. It can be vacant because it's on the market, and it could also be vacant because it is long-term rental property that is not occupied at that time. In the census data, nobody claimed that as their home. Occupied housing has a full-time resident and they claimed it as their full-time residency during the census. No housing was the open space areas.

Planner Astorga stated that for the purpose of this exercise, the Staff found that Thaynes, Park Meadows, Bonanza Park and Prospector, Masonic Hill and Quinn's Junction tend to have more occupied housing versus vacant housing.

Planner Astorga reviewed an intensity map taken from the census data. The darker tones indicated a higher percentage of second homes. The lighter tones were a lower percentage of second home ownership. Thaynes was slightly darker, Park Meadows was mostly primary homes, Prospector and Bonanza was slightly lighter and Masonic Hill was 50/50.

The Staff recommendation was that in order to maintain the balance of primary residents and resort oriented neighborhoods, they should focus on keeping these specific neighborhoods as primary residential. Planner Astorga presented the map showing a mix of RD in Park Meadows which allows nightly rentals. The Aerie was single family with nightly rental on the edge near Sunny Slopes. Director Eddington pointed out that while the Aerie has fewer nightly rentals, there were more second homes showing as vacant.

Commissioner Savage clarified that the 46% nightly rental would include any second homes that are part of the nightly rental pool, and exclude second homes that are not part of the nightly rental pool. He asked what percentage of the second homes were nightly rental. The Staff had not calculated that data but they would find it.

Planner Astorga noted that the Staff believes the City should change the LMC to disallow nightly rentals in the primary residential neighborhoods in order to keep a good a mix of primary residential neighborhoods and resort.

The Planning Commission was asked what they thought should be done regarding nightly rentals in these residential neighborhoods: 1) do nothing and let the market drive it; 2) limit the number of nightly rentals and put a maximum cap to the overall number of nightly rentals; 3) prohibit nightly rentals in these neighborhoods and create legal non-conforming situations; 4) prohibit nightly rentals and have some sort of sunset clause.

Commissioner Hontz asked if there was data on how much tax revenue was generated by nightly rentals. Planner Astorga stated that it would be a difficult study because nightly rentals are also second home ownership.

The Commissioners voted on the question using their key pads and the result was 1) 0% 2) 33% 3) 50% 4) 17%

Commissioner Savage asked if it was possible to implement a Code change that would disallow future applicants the ability to have nightly rentals. Planner Astorga replied that the Code could be changed to prohibit nightly rentals in the zones where they are currently allowed.

Commissioner Hontz was concerned about the actual number of nightly rentals if they could capture everyone who was operating without a business license and not paying taxes. Without a better understanding, she preferred to limit the number of nightly rentals. There are areas where nightly rentals are important and she would not favor eliminating them completely.

Planner Cattan stated that 25% of the nightly rentals in the City are located in Old Town; and 48% of the units in Old Town are nightly rentals. The Staff thought there might be a different tool to use within Old Town. Ms. Meintsma believed the number was much higher than 48%.

Using the same four choices in the above question, the Commissioners were asked what they thought should be done for nightly rentals in Old Town. The Commissioners voted with their key pad and the result was 1) 33% 2) 33% 3) 17% 4) 17%.

To allow sufficient time to adequately discuss the specific neighborhoods, the Planning Commission chose to postpone that discussion this evening and hold a special General Plan work session on Wednesday, February 20, 2013 at 5:30 p.m. Planner Cattan provided a brief explanation on the layout of the General Plan document. The time frame is to have the document finalized by the end of March.

The Work Session was adjourned.