



CITY OF KETCHUM, IDAHO SPECIAL CITY COUNCIL MEETING

Tuesday, January 21, 2020, 4:00 PM.

480 East Avenue, North, Ketchum, Idaho

AGENDA

- **CALL TO ORDER:** By Mayor Neil Bradshaw
Mayor Neil Bradshaw called the meeting to order at 4:00 p.m.

- **ROLL CALL**
PRESENT
Mayor Neil Bradshaw
Council President Amanda Breen
Councilor Michael David
Councilor Courtney Hamilton
Councilor Jim Slanetz

- **COMMUNICATIONS FROM MAYOR AND COUNCILORS**
Jim Slanetz questioned if 5g will be on the agenda. Mayor explained that this will be scheduled for the first meeting in February.

Mayor Bradshaw advised that the RFP is out to find a general contractor of the fire station.

- **COMMUNICATIONS FROM THE PUBLIC** on matters not on the agenda

Jima Rice, Blaine County Resident advised there were 2 irregularities in the December 9, 2019, City Council Hearing regarding Mr. Barriteau's development breach. She advised that when the meeting opened the Mayor advised that Mr. Barriteau had cured his breach and then opened the meeting to public comment. She questioned why bother to have a public hearing if a decision had already been made. She went onto to talk about the Deed of Trust having only one signature and none of the other documents that were required to prove he'd secured his financing were provided. The deed of trust was necessary but not enough. Jim Slanetz was the only one who noticed. The project should not have been approved.

Mayor Neil Bradshaw closed public comment.

- **CONSENT AGENDA:** Note: **(ALL ACTION ITEMS)** The Council is asked to approve the following listed items by a single vote, except for any items that a Councilmember asks to be removed from the Consent Agenda and considered separately

Mayor Neil Bradshaw welcomed Barrio 75 to the City
 1. Approval of Minutes: Regular Meeting January 6, 2020
 2. Authorization and approval of the payroll register.
 3. Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills in the total sum of \$385,410.52 as presented by the Treasurer.
 4. Monthly Financial State of the City – Director of Finance & Internal Services Grant Gager
 5. Motion to approve Alcohol Licenses for Barrio 75 and Hotel Ketchum.

Motion to approve the consent agenda

Motion made by Councilor Hamilton, Seconded by Council President Breen.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton and Councilor Slanetz

- PUBLIC HEARINGS AND DISCUSSIONS (Public comment and input taken on the following items)

6. **ACTION ITEM:** The PEG Ketchum Hotel LLC proposed Ketchum Boutique Hotel at 260 & 280 River Street and 251 S. Main Street applications for Planned Unit Development, Conditional Use Permit, and Development Agreement hearings – Director of Planning & Building John Gaeddert

Mayor Neil Bradshaw introduced the Hotel and advised the public how tonight's public hearing will work. Mayor Bradshaw advised that we set this date for public to comment and review the requested changes. The updated presentation for the public and the Council was delivered to the city 2 days before the packet and he was hoping for 2 weeks. He requested the PEG hotel to do more outreach with the public.

Nick Blayden advised that this is the 3rd time they are presenting before council and apologized for their presentation not being available sooner.

Justin Heppler, Architect, in charge of project, addressed the 4 waivers that are being requested.

#1 – Minimum Lot Size for PUD. He believes the Council understands that without a waiver to the LOT Size, a hotel could not be built on the proposed property.

#2 – Floor Area Ratio – They have maintained the employee housing component. He showed the first drawing of massing saying the site FAR was 1.9 and showed today's drawing, explaining it is now at 1.57. Council was asking for 1.6 at a maximum. He showed a power point outlining all the changes and how they were able to make that happen.

#3 – Average Setbacks – They are asking for waivers on 3 sides. They are still looking at the zoning code. He talked in detail on each of the 3 sides.

#4 – Height/Contextual Elevations - He showed the elevations of the building and advised that the proposed Marriott is 27' lower than the Barriteau project and 25' feet lower than the Limelight hotel. He talked about the Right of Way Waivers and outlined the curb lines.

Mayor Neil Bradshaw clarified that the encroachment, of the Barriteau/Harriman Project, has not been approved at this time and pointed out that we cannot give variances on ITD land. Justin Heppler talked about the conversations they've had with ITD and advised that they are making some headway. Mayor Neil Bradshaw talked about the coordination that has to continue with with ITD and others. Justin Heppler talked about the sustainable facets they are incorporating and addressed the building envelope and the Ketchum Code. Mayor Neil Bradshaw talked about the letter received from KSAC regarding sustainability. Justin Heppler briefly went over the floor plan and showed different views and went on to talk about the Employee Housing Component. He thanked council for the opportunity to present and asked for questions.

Mayor Neil Bradshaw turned the meeting over to City Attorney Bill Gigray who addressed the letters that have been sent in and talked about standards and variances. He explained that the Planned Unit Development Ordinance stands on its own and the council's deliberation should be based on the Planned Unit Development Ordinance. Bill Gigray advised that the decision by the Idaho Supreme Court outlines what our council can do. It is very important that the Council listens to the facts presented in this case and they follow the PUD Ordinance. He outlined the kinds of conditions that can be granted under the PUD. Attorney Bill Gigray referenced the code and what the council should be looking at and following in the approval process. Variances are only granted for hardship.

Mayor Neil Bradshaw asked Associate Planner Abby Rivin to talk about waivers and how the FAR is calculated as well as setbacks and height waivers. Abby Rivin explained max height and what code allows. She outlined the maximum building height and outlined how these are calculated. Mayor Bradshaw asked Abby Rivin how high the hotel could be on River St. without asking for a waiver. Abby Rivin explained that with no waivers, the building could only be 2' high.

Mayor advised the public of the following:

"I think my role as mayor is to encourage investment that is consistent with our comprehensive plan, preserves the soul and character of our town and aligns with our values as community. It is clearly articulated in both the City's 2014 Comprehensive Plan and the 2007 Gateway Study that hotels located at the four corners around Main and River would be welcome additions to our City. These plans were generated with substantial community input.

That is why in late 2018 I wrote a letter to PEG that encouraged them to go through the application process to bring a hotel to town.

In that letter I said the following:

*Hotels are important to the vibrancy and economic prosperity of our community.
Your project is a good fit for Ketchum and I applaud you for including workforce housing.
We welcome this new project. We will endeavor to make this project a success. City staff will work closely with your team to facilitate the city planning and zoning approval process.
I'm excited about the project and thank you for supporting our community. I look forward to working with you.*

I give similar encouragement to other projects that are aligned with our comprehensive plan and community vision.

Each project has to go through a rigorous approval process in front of both the P&Z commission and ultimately the City Council. They are the final judge in determining whether a project aligns with our goals as a community and preserves the unique character of our town.

Nothing is predetermined, everything has to go through due process and consideration with community input. Council is the final decision maker.

Once a developer makes a formal application, there is no further contact by me (or the council) with the applicant. I only see their formal submission when it comes into the public domain. The formal submission may be close to my expectation or something quite different. It may offer additional benefits or have detrimental characteristics. I won't know this until I see the formal application and we go through the public process.

It is important to state this because while I encourage investment that aligns with our community vision, I don't make any judgement on the project until I see it is presented to me in its entirety. Furthermore, my judgement does not matter unless there is a tie vote amongst the council.

My role as Mayor is to run a great process. One that is rigorous, transparent and informative such that the council can balance all considerations in order to make a decision that, in their judgement, is in the best interest of our community.

I feel the concept of a hotel in this corner of town is broadly supported - many say that they support the hotel, they just don't support the extent of the waivers. Council's job is to grant the level of waivers that balances the interests of the community and is in the best interest of our town.

Ben Worst, Attorney, representing 220 East LLC, neighbor adjacent to the West of the project, proclaimed that the waivers are huge. He talked about the requested waivers saying that Ketchum has never had average setbacks stating it is not in Ketchum Code and practice. He talked about the formulas used to determine the setbacks stating that the point at which it matters to his client is 11' 8" from this project to his client's property line. He is asking for Council to increase that distance as much as possible and hopefully up to 24'. He also addressed the variances explained by City Attorney Bill Gigray and talked about this not being in the Variance Ordinance. He agrees this is in the PUD Ordinance. He questioned what the undue hardship is for the developer. He referenced the PUD Ordinance stating it needs to set conditions. He advised they need to meet the standard by reducing the height, increase the setback and primarily meet the City's standards and compatibility with the neighbors

Scott Hanson, homeowner at Trail Creek Crossing advised that he believes the city misinterpreted the code. He advised the developer was aware of the code and knew of the code prior to the purchase of the land. He quoted code and stated that the proposed waivers are detrimental to the public health & Safety and talked about the signed petitions and opposed letters. He referenced the traffic study and talked about the traffic problems he sees resulting from the proposed project. He talked about the decrease in value of property around the project saying it will only increase the value of the proposed project. He advised Council that the property owners have hired attorneys to represent their interests and they will fight for their rights. He went onto talk about this project being in the Tourist Zone saying the project as proposed is inconsistent with the neighborhood. Granting this waiver constitutes Spot Zoning and will occur without proper rezoning process. He requested council to turn down the waivers.

Jima Rice thanked Mayor Bradshaw for addressing his communications with PEG. She referenced the Mayor and the head of P & Z's communication with PEG for 7 months. to provide guidance to the design of the hotel and said that they just learned that the Mayor and the head of P & Z has solicited the hotel and those communications were not given to the council or the P & Z Commissioners. She talked about open meeting law and what that means. She advised that the public had not heard about this project until April of 2019. She referenced the Mayor's letter of support and talked about the emails on the record and referenced secret decisions and zoning waivers. She suggested the city deny waivers that were defacto approved. If the hotel cannot meet those standards, they must withdraw their application.

Dick Clotfelter, 151 S Main St. in Ketchum requested zoning be protected and asked the council to reject the application before them. He referenced the Tourist Zoning and suggested new plans be brought back to P & Z. He advised he does not reject a hotel at this site but requested Mayor and Council keep with the zoning code. This project is not in the public trust.

John Sahlburg, owns home at Trail Creek crossing said that the height waivers are monumental and that this process is frustrating for the public. This project will forever change Ketchum. The process does not work. He referenced a past comment from a Councilor who said they do not see how we cannot grant this project. about having to grant a height waiver. He talked about how is could not be detrimental to the public and about the letter and petitions that are out there. There is nothing being proposed that is for the public welfare. Property owners on 3 of the 4 sides say this is detrimental to the surrounding area. He requested the council reject this project.

Sharon Patterson Grant, representing the KSAC, talked about the groups support (minus, Council member Courtney Hamilton and City Employee Katrin Sharp) of the sustainability measures PEG has already incorporated and said they are doing a very good job of reflecting KSAC's goals. The only recommendation she has is looking at some levels of 3rd party certification to guarantee energy efficiency such as Leed Certification and advised they are embarking on a Green House Inventory in Blaine County. All jurisdictions are participating, including Ketchum. Sharon Grant advised she is only speaking for water/waste and energy reduction.

Public comment closed at 5:07 p.m.

Mayor Neil Bradshaw asked for a couple of legal clarifications of hardship and detriment to the public. He talked about the massing study that was done in 2007 saying it is appropriate to have a hotel there. Attorney Bill Gigray clarified that Council makes that decision and what meets standard is a finding of fact and the City is the fact finder. Bill Gigray talked about the hardship and said it is a judgement call. The council, as individuals, need to be good fact finders. He advised that the definition of detrimental is a conclusion not a fact. You need to take it all within context. Bill Gigray advised that the code does provide for waivers.

Council President Amanda Breen asked Attorney Bill Gigray about emails and prior communications. Bill Gigray advised it may create, but not open meeting law concerns. He referenced prior meetings before submittal and explained the Mayor's duties. He does not see it as an open meeting law issue. Mayor Neil Bradshaw explained his stand on the concept and advised there has been no contact with the applicant since that time.

Councilor Michael David talked about undue hardship. Attorney Bill Gigray advised that the PUD Ordinance trumps the other ordinances.

Councilor Courtney Hamilton addressed the fact that the public is upset about the concept of waivers. She clarified what concept they are looking at.

Councilor Jim Slanetz feels his job is to represent the constituents. He thinks it's a good project and it's palatable for most people in this town, however, the neighbors are suffering the most. He talked about the zoning laws protecting people. Legally he thinks we are ok; however, he questions what is best for the town? He advised that personally he does not have a horse in this race, but he does care about the general public. He talked about people who signed the petition and people not understanding what they were signing. Jim Slanetz stated that it's a tough property to develop.

Councilor Courtney Hamilton agrees with Jim Slanetz and doesn't know how to weight the context. She stated that there are benefits to having more hotel rooms, as well as there are economic benefits. Developing a lot that may not be developed in the future is a positive, however, she sees the impacts on the neighbors. There are economic issues in town, and she does not know if this will help them or not. This would be a vibrant place, but are we giving up some level of character in our community. Council President Amanda Breen agrees and talked about the community and economic benefits. The question is the detrimental component. She sympathizes with the neighbors. She advised that we don't have any data to determine if this will be detrimental or a benefit to the community.

Councilor Michael David talked about the Marriott Rewards Benefit and the funding that will come from that. He also talked about Jim Slanetz comment about representing the constituents. He referenced the rest of the community that are not neighbors, that have not spoken. He talked about businesses struggling who are in support of the project that have opinions that have not been voiced. He also talked about the positives and negatives he has heard from the community.

Mayor Neil Bradshaw advised council to trust their gut and think about the future and think about what they want to see there in 10 or 20 years. Council President Amanda Breen appreciates that and really thinks about the soul of Ketchum. She does not want to see status quo. Change brings issues to communities. Cities that aren't changing are the cities that are falling behind.

Attorney Bill Gigray advised that the Council depend on the record before them. Not the record that may be out there. He urges council to follow the standards of the PUD Ordinance and he referenced the code. Bill Gigray advised that if council needs time to review standards, they should continue the deliberations to a future date. Mayor Bradshaw advised that they could take all the time they need stating there is no rush or pressure to make good decisions.

Nick Blayden, Applicant, advised this is not the last stopping spot. They still must go back to P & Z. He talked about team and wanting Council to be part of the team. Mayor Neil Bradshaw clarified the process going forward. Director of Planning & Building John Gaeddert clarified that the P & Z needs a general blessing from the council with a 3D design of the building. He advised that Council will want to be sure it's not detrimental. Make sure you go thru all appropriate issues.

Councilor Michael David clarified that he has not had any exparte' communication but does have a lot of conversations about the economic conditions of the community. Council President Amanda Breen clarified what the question is before them. She questioned if they are ready to decide on this or not. Councilor Courtney Hamilton addressed the FAR and the height waiver and stated that the only waiver she is not comfortable with is the side setback to the neighbors. She questioned if they should ask the applicant to look at that again. Amanda Breen asked Director of Planning & Building, John Gaeddert, about zones in the community core. John Gaeddert explained the average set back.

Mayor Neil Bradshaw asked if the council is in favor of a hotel in that area. Councilor Jim Slanetz and Councilor President Amanda Breen voiced support. Jim Slanetz referenced the Gateway study of 2007. Councilor Courtney Hamilton believes there is support in the community. If there is not support of waivers at this location, what are we going to get? She stated what could go there may be something that has no public benefit.

Mayor Neil Bradshaw asked Council how they want to move forward. The Council had a discussion on perceived benefits and perceived detriments. Councilor Jim Slanetz would rather see the developer put more LED into the plan rather than asking for more pros and cons. He thinks juggling it any further would be a waste of time. Council President Amanda Breen agrees. Mayor Neil Bradshaw does not want council to feel rushed.

Jima Rice advised this is a big decision and big decisions take time. She thinks it would be a good idea to weigh out pros and cons further. She referenced the Gateway plan and encouraged the council go back and do their homework. Councilor Amanda Breen pointed out that traffic was discussed at past meetings.

Dick Clofelter advised he has been involved in several PUD's. The Council could enumerate several things that they would like to see in the PUD.

Mayor Bradshaw and the Council discussed making further changes. Attorney Bill Gigray brought Council back to the standard in their ordinance and suggested prescribing conditions that fit the land use policy of the city. Bill Gigray advised that conditions should be added now, and they need to address the adverse impact. There was a discussion among Council and the architect on the setbacks. The Council is comfortable with the Main St. and River St. sides.

Mayor Neil Bradshaw asked Attorney Bill Gigray if he was comfortable with the process. He advised they need to start with the findings and make a motion with changes incorporated.

Motion #1 to approve the Planned Unit Development Conditional Use Permit and CUP for the PEG Ketchum Hotel with the condition in section 2.2.11 that the west set back not be less than 16' and an update to section 4.5.2 that the building be Lead Silver Certified and to direct the City Engineer, consistent with condition 4.2.4 of Attachment E.4.A, to work with the Applicant to complete the State Highway 75 (SH75) Encroachment Permit with the Idaho Transportation Department (ITD) that excludes (other than emergency Access) and direct approach into the project; and Direct the City Attorney and Planning Staff to Prepare Findings of Fact, Conclusions of Law, Order of Decision of the City Council for the City Council's consideration, approval and adoption at the continuance of this hearing.

***Motion made by Councilor Hamilton, Seconded by Council President Breen.
Voting Yea: Council President Breen, Councilor David, Councilor Hamilton
Voting Nay: Councilor Slanetz***

Motion No #2 approval of the Preliminary Plat for the PEG Ketchum Hotel with conditions as set forth in Attachment E.2.A.

Motion made by Council President Breen, Seconded by Councilor Hamilton.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Attorney Bill Gigray explained the process.

Motion No. #3 to continue the public hearings to the Ketchum City Council to be held on February 3, 2020 at 4:00 pm as follows:

- **Regarding the development agreement, to receive applicant reports, staff reports and public testimony for City Council consideration and action; and**
- **Regarding the application for Planned Unit Development Use Permit and CUP in order, to receive the city attorney's and planning staffs prepared Findings of Fact, Conclusions of Law, Order of Decision as directed in Motion No. 1 for City Council consideration, approval and adoption and final action.**

Motion made by Council President Breen, Seconded by Councilor David.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Mayor Neil Bradshaw called a 2 minutes break at 6:40 p.m.

Mayor Neil Bradshaw called the meeting back to order at 6:42 p.m.

- **STAFF AND COUNCIL COMMUNICATIONS (council deliberation, public comment not taken)**
 7. **Recommendation to extend lease with KCDC for City Hall site, provide funding for KCDC for submitting tax credit application and extend contract with GMD Development**

Mayor Neil Bradshaw gave the background and clarified that we did not get the tax credit that was applied for in the past. Mayor Bradshaw advised that his ask from the council is to extend the contract with KCDC and GMD Development and would like to put another proposal in for approval. He advised Council that Charles Friedman is here to answer questions. Council President Amanda Breen clarified that tax credits would be for August of 2020.

Charles Friedman KCDC talked about this area being considered a DDA. He wanted to separate the ask. Councilor Courtney Hamilton clarified that we are giving GMD the opportunity to apply. Mayor advised that next month he will give an update to council. Charles advised this is a 9% application. Mayor Neil Bradshaw suggested a parallel track for KCDC and GMD. City Administrator Suzanne Frick explained the history of the previous lease and the way in which the motion was made. She advised the impacts of the approval of this motion. Councilor Jim Slanetz talked about his hesitation. Council President Amanda Breen advised that if this one is not approved, we may want to think twice prior to applying again. Mayor Bradshaw explained the past and how the tax credits worked. Charles Friedman talked about the past and how he sees the project moving forward. Mayor Neil Bradshaw asked Council how they would like to proceed? Courtney Hamilton talked about this being our only option for a location for affordable housing.

Motion to extend Contract 20370 with GMD Development until February 2021.

Motion made by Councilor Hamilton, Seconded by Councilor David.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Mayor Neil Bradshaw will keep the Council updated

Motion to extend Option to Lease Agreement 20373 between Ketchum Community Development Corporation (KCDC) and the City of Ketchum until February 2021

Motion made by Council President Breen, Seconded by Councilor Hamilton.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Motion to authorize use of Housing In-Lieu Funds in the amount of \$32,639.47 to reimburse KCDC for the 2019 tax credit application expenses.

Motion made by Council President Breen, Seconded by Councilor Hamilton.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

Motion to authorize use of Housing In-Lieu Funds to pay the City's 2020 application not to exceed \$35,000 as well as the permit and impact development fees for the deed restricted housing units.

Motion made by Councilor Slanetz, Seconded by Council President Breen.

Voting Yea: Council President Breen, Councilor David, Councilor Hamilton, Councilor Slanetz

ADJOURNMENT

Motion to adjourn at 7:15 p.m.

Motion made by Councilor David, Seconded by Council President Breen. Voting Yea: Councilor David, Council President Breen, Councilor Hamilton, Councilor Slanetz

Neil Bradshaw, Mayor

Robin Crotty, City Clerk