



Planning & Zoning Commission Special Meeting - MINUTES

Monday, June 22, 2020 at 5:30 PM
Ketchum City Hall
480 East Avenue North, Ketchum, ID 83340

CALL TO ORDER

The meeting was called to order at 5:39 PM by Chairman Neil Morrow.

PRESENT

Chairman Neil Morrow
Vice-Chairman Mattie Mead
Commissioner Tim Carter
Commissioner Jennifer Cosgrove
Commissioner Kurt Eggers

COMMISSION REPORTS AND EX PARTE DISCUSSION DISCLOSURE

Commissioner Jennifer Cosgrove disclosed she had driven by 3020 Warm Springs Rd. There were no further disclosures.

PUBLIC HEARINGS AND COMMUNICATIONS FROM STAFF – ACTION ITEMS

1. **ACTION - 3020 Warm Springs Rd. (Waddell/Roush) Duplex Design Review:** 3020 Warm Springs Rd. (Wills Condominium Subdivision No. 2) The Commission will consider and take action on a Design Review application submitted by architect Craig Lawrence, on behalf of property owners Doug and Stacey Waddell, for the development of a new duplex and associated site improvements within the General Residential Low Density (GR-L) Zoning District. *Continued from May 19, 2020 and June 8, 2020.*

Associate Planner Abby Rivin gave a synopsis of the changes made to the project since the last meeting. Changes included exterior materials and a set-back of the third floor.

Architect Craig Lawrence, representing the applicants, described the changes made to the design, including the exterior materials, upper level facade, changes to the roof, increase of the horizontal and vertical undulation and increased variety. The rear windows were added to the lower level and pilasters and window trim were added. He requested approval of the project.

Vice-Chair Mead asked about the location of the air conditioning units. Lawrence indicated the back of the building was the best placement to allow for future building on adjacent property. Equipment will be screened as per code.

Commissioner Carter asked about the radon fan vent, which Lawrence confirmed would be on the roof.

Commissioner Cosgrove complimented Lawrence on the changes to the design. She asked for more detail on the windows on the upper floor.

Chair Morrow appreciated the efforts put into making the desired changes. He liked the new design.

Public Comment:

Mark Kern, resident, felt the concerns of the neighbors were not being addressed. They were concerned with the bulk of the building and the loss of the view. They asked for a smaller building overall. He felt the changes made to the sides would not improve the view from the rear of the building.

Brian Poster, contractor for the project, related the improvements to the size, texture and colors of the project. He spoke to the low decibel level of the HVAC unit, and felt the project met all design criteria. He asked for approval of the project.

Commenting by phone:

Doug and Stacey Waddell, applicants, said they are not maximizing dimensions and are trying to be good neighbors. He asked for approval.

James and Joy Rouch, applicants, noted the changes made, and asked for approval of the revised design.

Steve Hart, neighbor, thought improvements had been made to the rear of the building. The current structure has a backyard, but the new project has no backyard or rear access. He did not feel this project met the Ketchum Code with a three-story blank wall.

There were no further comments and Public Comment was closed.

The Commission discussed the conflict between a proposed structure that meets the design review standards and the objections of the neighbors. The rights of the property owner vs the objections of the neighbors were discussed.

Vice-Chair Mead thought the design team had done a good job, and he understood the concerns of the neighbors, but the project does conform to code.

Director Frick noted that the code allows the Commission broad discretion and judgement in the approval of projects. The Commission can require more restrictive standards to ensure a project is compatible with the surrounding area.

Commissioner Cosgrove asked for additional landscaping at the rear of the building. The Commissioners discussed the location and types of venting.

Motion to approve the Waddell/Roush Design Review with Conditions 1-10 with the addition of Condition 11 for venting of the radon fan on the roof and landscaping at the rear of the building.

Motion made by Commissioner Cosgrove, Seconded by Commissioner Eggers.

Voting Yea: Chairman Morrow, Vice-Chairman Mead, Commissioner Carter, Commissioner Cosgrove, Commissioner Eggers

2. **ACTION: Administrative Appeal of Zoning Administrator's Decision on 201 Garnet Street.**

Recommendation to 1) Accept Administrator's certification of procedural requirements; 2) Accept the record of the case; 3) Set the appeal hearing for June 8, 2020; 4) Affirm the determination of the Planning and Zoning Administrator and direct preparation of Findings of Fact. *Hearing continued from June 8, 2020.*

Senior Planner Brittany Skelton presented the points of the appeal including determining the setbacks, snow storage, and drainage. The current setback does not allow adequate room for basic City services. This would require a different level of service than the standards met by any other development. All other developments are required to build to today's standards.

Commissioner Carter asked about the City liability for damage occurring during snow removal when the structures are non-conforming.

Director Frick related the City is responsible for damage on private property outside of the right-of-way. The street standard is for a 60-foot wide right-of-way with a paved area of about 26 feet to assist with snow removal. Garnet Street is an easement with a 20-foot-wide paved road and no right-of-way which does not allow for snow storage areas. In the past, the City has paid for damages. It is highly likely that anything within the 15-foot setback will be damaged. This decision will affect future developments. The fence, porch and the building are all within the 15-foot setback. The City had declined to continue plowing the street since it was too narrow, and damages were common. The residents said it was a public street and should be plowed. The City is developing a plan to name it a street with a setback of 15 feet on each side of the center line. Issues will have to be addressed on a case-by-case basis.

Fritz Haemmerle, attorney for the appellant, stated the previous comments to the Commission were untrue. He felt the Local Land Use Planning Act dealing with uniformity in zoning was not addressed. He stated the code cited was not a bulk requirement and the setback is measured from the property line. He argued a 15-foot setback is not required in the Ketchum Code. He stated not all of the building is in the 15-foot setback. The staff report stated the setback is 11' but claimed the setback ranges from 11' 8" to 12' 3" for one-third of the building frontage. The eaves do not encroach because there are no posts. The code does not require snow storage on the property. The drainage concerns were addressed by re-sloping the driveway. The fence can be removed, if need be. The client is willing to hold the City harmless for the portion of the building in the setback. Haemmerle related the streets had been paved by the City, and sewer and waterlines had been installed. The issue is one-third of the house encroaching 3 feet into the right-of-way. The owner is willing to indemnify and hold the City harmless.

Commissioners Carter and Eggers asked about Emerald and Topaz Streets. Haemmerle noted that the Timbers was built on the property line with no setbacks. He calculated the 30% snow storage to include the driveway and walkway. The fence will be removed to allow for snow plowing.

Commissioner Cosgrove urged the appellant to address the Commission with respect. Haemmerle thought it should go both ways.

Chairman Morrow asked if the house could be moved back 3 feet to avoid these problems. Haemmerle replied it is a non-conforming street. The Commission discussed the merits of public vs private streets, non-conforming properties, easements, right-of-way, setbacks, and Uniform Zoning Code.

Chairman Morrow asked Staff how best to deal with non-conforming areas.

Director Frick related the research done on the Gem Streets. There had been no consistency in applying the Code. Two lots, 202 and 204 Garnet dedicated a 15-foot right-of-way to the city, as did the Timbers on Emerald St.

Chair Morrow restated that new buildings should conform to current code.

Eggers thought it is a colorful neighborhood. A 60-foot right-of-Way is not reasonable for this area. He thought the setback should be measured from the property line, regardless of snow storage. He would allow the current site plan with the indemnity to the city and an easement for drainage and snow storage.

Vice-Chair Mead found this to be a difficult question of conformity but supported the project with indemnification of the City.

Commissioner Carter considered the recommendations of the Street Department and the City Engineer. He wanted to see the uniqueness of the neighborhood preserved. He thought the Commission could apply discretion and was comfortable with allowing the plan as presented. He wanted to see the standards upheld but supported approval with indemnity.

Commissioner Cosgrove felt more inconsistency was not appropriate.

The Commission further discussed conformity of easements, streets, and private roads.

Director Frick informed the Commission this matter would go before the City Council to resolve the easement question and indemnification agreement with the City. The decision of the City Council would become the Standard for the Gem Streets.

Motion to modify the Zoning Administrator's determination to establish a 10-foot unobstructed easement from the edge of the pavement, enter into an indemnification clause for any damage to structures within the 15-foot setback of the pavement, and eliminate the proposed fence within the 15-foot setback.

Motion made by Commissioner Carter, Seconded by Commissioner Eggers.

Voting Yea: Chairman Morrow, Vice-Chairman Mead, Commissioner Carter, Commissioner Cosgrove, Commissioner Eggers

STAFF REPORTS & CITY COUNCIL MEETING UPDATE

Senior Planner Brittany Skelton proposed a change to the PZ Commission meeting dates and starting time. It was decided to hold PZ Commission meetings at 4:30 PM on the 2nd Tuesday of the month starting with the August 2020 meeting.

The Commissioners requested the packet be sent to the commission as separate PDF's.

ADJOURNMENT

The meeting was adjourned at 8:00 PM

Motion to adjourn

Motion made by Chairman Morrow, Seconded by Commissioner Cosgrove.

Voting Yea: Chairman Morrow, Vice-Chairman Mead, Commissioner Carter, Commissioner Cosgrove, Commissioner Eggers

Neil Morrow
Chairperson