



City of Ketchum
Planning & Building

STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
MEETING OF APRIL 11, 2023

Refined Scope of Work for the Permanent Adoption of Interim Ordinance 1234

Introduction

The Planning & Building Department is working on two major efforts to update the city's land use regulations: (1) the permanent adoption of Interim Ordinance 1234 (the "interim ordinance") and (2) the comprehensive plan update and zoning code rewrite. During their March 8, 2023 meeting, the Planning and Zoning Commission ("Commission") discussed the scope of work for the permanent adoption of the interim ordinance. Staff presented an initial assessment of interim ordinance standards that warrant further analysis and refinement. This initial assessment was based on staff's evaluation of new development projects for conformance with the interim ordinance as well as ongoing feedback gathered from key stakeholders and the city's Technical Advisory Group ("TAG"). In addition to the initial assessment of interim ordinance standards, staff identified zoning code technical corrections, text clarifications, and amendments to address in the short-term through the permanent ordinance while the city's land use regulations are rewritten over the next three years. The Commission recommended that staff prioritize further analysis and refinement of interim ordinance standards rather than expending significant time and effort on additional code amendments to adopt through the permanent list.

The staff report identifies interim ordinance standards that warrant further analysis and refinement as well as the code amendments that have been removed from the list of permanent ordinance additions. The purpose of this discussion is to finalize the scope of work for the permanent adoption of interim ordinance standards and additional zoning code amendments.

Analysis & Refinement of Interim Ordinance Standards

Idaho's Local Land Use Planning Act authorizes local jurisdictions to enact interim ordinances establishing temporary zoning standards effective up to one year while long-term land use regulations are analyzed and prepared. Interim ordinances provide an opportunity for cities to trial run temporary land use regulations and gauge their effectiveness. The purpose of the interim ordinance is to encourage projects that contribute to the community, enhance downtown vibrancy, support and strengthen Ketchum's economy, and increase housing production. The interim ordinance was adopted in October of 2022 and the temporary standards will expire on October 19, 2023 unless the code is amended through the adoption of a permanent ordinance.

Technical expertise is needed to assist staff with the commercial demand analysis and architectural feasibility studies that will inform further refinement of interim ordinance standards. At their April 3, 2023 meeting, the City Council approved professional services contracts for Economic and Planning Systems ("EPS") to conduct the commercial demand analysis and for Holst Architecture to evaluate development feasibility. The commercial demand analysis will build an inventory of existing commercial space, document rental rates and vacancy data, and assess current and future commercial demand. In addition, EPS will create two prototypes to model the financial feasibility of development

projects subject to the interim ordinance. The architectural analysis will include massing and yield studies for developments on 5,500-square-foot interior lots and corner parcels with flat and sloped topography to evaluate development feasibility for the minimum residential density requirements and the minimum 55% commercial ground-floor standard.

The commercial demand analysis, financial feasibility case studies, and architectural evaluation will inform further refinement of interim ordinance standards. Staff’s examination and refinement of interim ordinance standards will be ongoing as EPS and Holst Architecture prepare further analysis, conduct feasibility studies, and provide recommendations. In addition, staff will continue to evaluate new development projects for conformance with the interim ordinance and gather feedback from key stakeholders to help guide refinement of the interim ordinance standards.

Based on ongoing evaluation, stakeholder input, and Commission feedback, Staff has identified the following list of interim ordinance standards that warrant further analysis and refinement.

Expansion of Downtown Properties Requiring Ground-Floor Commercial along Street Frontage

Section 10 of the interim ordinance changed the permitted uses of certain properties in the Mixed-Use Subdistrict of the Community Core (CC-2 Zone) as shown in Figure 1 from the alley west of Main Street to Washington Avenue between 2nd and 5th Streets to prohibit ground-floor residential use with street frontage. These CC-2 properties were selected due to their existing vibrant characteristics and high volume of pedestrian traffic. The expansion of downtown properties subject to the ground-floor commercial along street frontage requirement encompasses key pedestrian corridors, including 4th Street and Sun Valley Road. This expansion increases the downtown properties where commercial use is required on the ground floor with street frontage by 43% promoting vibrant uses that will create an activated, pedestrian-friendly, and engaging downtown environment. The Commission recommended that staff reevaluate the expansion of downtown properties requiring ground floor commercial along the street frontage. This assessment will be informed by the commercial demand analysis that will be prepared by EPS.

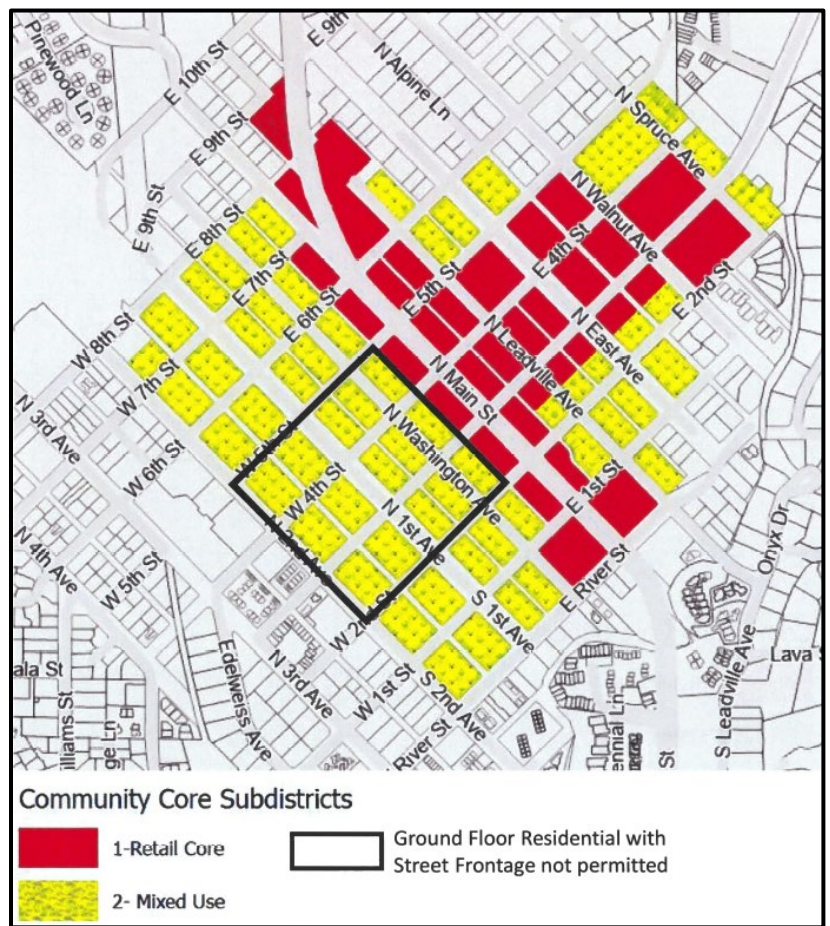


Figure 1: Interim Ordinance 1234 Exhibit B

Adjustment of Requirements through Conditional Use Permit

Section 12 of the interim ordinance states that requirements may be adjusted through a Conditional Use Permit (“CUP”) reviewed and approved by the Commission. Stakeholders have provided feedback that the CUP process increases uncertainty for developers. Additionally, the CUP criteria are broad and challenging to apply to the adjustment of interim ordinance standards. Staff is exploring alternatives to the CUP to evaluate alternative methods to consider adjustments to interim ordinance standards, including crafting a specific waiver with associated criteria. The goal of this alternative method is to provide a clear, transparent, and predictable process to consider adjustments to interim ordinance standards.

55% Commercial Ground-Floor Requirement

Section 11A of the interim ordinance states, “For mixed-use developments, a minimum of 55% of the gross floor area, as defined in KMC 17.08.020, of the ground floor must be commercial use(s).” Recent development trends in Ketchum have prioritized low-density, large, luxury residential units for second homeowners over commercial uses. Market-rate residential units have been prioritized in mixed-use developments above commercial uses as evidenced by residential amenities, including large lobbies, private garages, and storage areas, that occupy large areas on the ground floor of mixed-use developments. The intent of this interim ordinance standard is to promote the prioritization of commercial uses on the ground floor and limit the area dedicated to luxury residential amenities. Based on staff evaluations of recent downtown development projects for conformance with the interim ordinance, most new mixed-use buildings do not comply with the 55% commercial requirement. Refinement of this standard will be informed by the architectural evaluation and feasibility analysis prepared by Holst Architecture.

Parking Exceptions and Standards

Section 8 of the interim ordinance provides a parking exemption for office uses. Staff has received feedback that the city should consider providing a parking exception for personal service uses like beauty salons that provide services with a short time duration resulting in more transient customer parking. In addition to the parking exception provided for offices, section 11D of the interim ordinance states, “Developments shall not provide a total number of parking spaces above the minimum requirements per KMC §17.125.040-Off Street Parking and Loading Calculations, unless the additional parking spaces are designated for public parking use only or for deed restricted community housing.” The Commission has expressed concerns with downtown parking availability and the loss of existing on-street parking spaces resulting from new sidewalk improvements and bulb-outs.

The city and industry expert Dixon Resources are developing a downtown parking action plan that provides management strategies to increase



Figure 2: Downtown Ketchum Parking Map

efficiency and address the parking needs of various users, including workers, shoppers, and tourists. The city has been collecting data through license plate recognition technology that indicates downtown parking availability block by block, duration, and turnover ratio. This data will inform the city’s parking policies, regulations, rates, and management strategies to maximize the efficient use of existing parking spaces and future parking supply. The city’s ongoing development of the downtown parking action plan will assist in the evaluation and refinement of interim ordinance parking standards and exceptions.

Minimum Residential Densities

Section 4 of the interim ordinance establishes minimum residential densities for new development projects that exceed a total floor area ratio of 1.0. Recent development trends in Ketchum have resulted in low-density residential development in areas the comprehensive plan envisions for medium- to high-density residential and mixed-use developments. Luxury residential penthouse units owned by second homeowners are unoccupied most of the year resulting in developments with little to no human activity, which decreases downtown vibrancy. In addition to recent low-density residential development trends, the city is experiencing a significant population increase and severe housing shortage. The city needs between 660 to 980 preserved, converted, or new homes in the next 10 years to meet demand. Goal 2 of the city’s Housing Action Plan (“HAP”) is to update policy to promote housing. Priority actions to support this goal include, “enact interim ordinance while permanent regulations are developed to increase the production of housing.” The minimum residential density requirements support this HAP goal. The city has received feedback that achieving the minimum residential densities on interior Ketchum townsite lots may not be feasible due to building code requirements for zero-lot-line developments. The architectural analysis and yield studies prepared by Holst Architecture will inform further refinement of minimum density residential requirements.

No Net Loss of Dwelling Units

Section 6 of the interior ordinance states, “No demolition permit shall be issued pursuant to Chapter 15.16 of the KMC that results in the net loss in the total number of residential units currently existing on a property.” Recent development trends in Ketchum have demolished older, high-density multi-family developments to accommodate large single-family homes and luxury townhomes. Many older, high-density multi-family residential developments support naturally occurring affordable housing that is unsubsidized but remains affordable regardless of market rent.

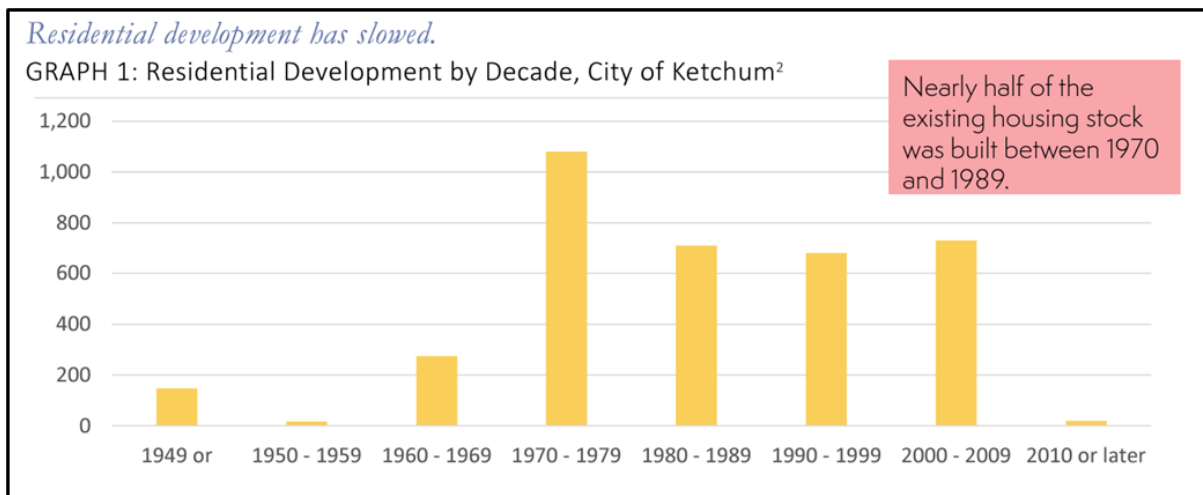


Figure 3: HAP Graph 1 (Page 10)

Ketchum lost 475 long-term rental and ownership housing units from 2000 to 2019. The no net loss of dwelling units regulation will be revised to clarify that the standard applies to all building permit and land use applications submitted for redevelopment projects.

Maximum Size for Penthouse Residential Units

Section 11C of the interim ordinance states that, “individual residential dwelling units cannot exceed a total square footage of 3,000 square feet.” The intent of this interim ordinance standard is to encourage more dwelling units with a variety of sizes, room layouts, and configurations within a building. The city has received multiple inquiries for CUPs to adjust this requirement. The mass, yield, and financial feasibility studies will guide further refinement of this interim ordinance standard.

Code Amendment Additions

Staff’s initial list of zoning code technical corrections, text clarifications, and amendments to address in the short-term through the permanent ordinance is provided in the March 8, 2023 staff report included as Attachment A. Certain code amendment additions originally identified by staff require more extensive analysis and community outreach. Based on the Commission’s direction to prioritize further analysis and refinement of interim ordinance standards, Staff has removed the code amendment additions that will be more challenging to implement due to the limited timeframe provided for the permanent adoption of the interim ordinance.

A workshop is scheduled on the agenda for the April 11, 2023 Planning and Zoning Commission Meeting to clarify Mountain Overlay Design Review criteria and construction regulations on hillsides with 25% or greater slope. Staff recommends these clarifications be memorialized through a formal Commission interpretation, which would provide more time to clarify and refine Mountain Overlay Design Review criteria and hillside development standards through the full code rewrite.

Staff’s initial list of code amendment additions included clarifying green building standards for snowmelt, pools, and hot tubs. During their meeting on April 3, 2023, the City Council provided policy direction regarding snowmelt systems installed as permanent encroachments within the public right-of-way. The City Council is supportive of snowmelt systems installed for downtown development projects as these systems provide a public benefit by keeping sidewalks clear of snow and ice during winter providing a safe pathway for pedestrians. The City Council will not approve future Right-of-Way Encroachments for residential snowmelt systems unless the system is required by the Fire Department for nonconforming driveways with steep slopes or required by the Streets Department to increase the safety, functionality, and street maintenance operations of substandard roadways. In addition to City Council policy direction, the Idaho Legislature recently passed House Bill 287 that prohibits local governments from adopting energy codes that differ from state requirements and eliminates the grandfather clause that has allowed local governments with existing energy efficiency code requirements stricter than what the state allows to remain in place. As a result of City Council policy direction and House Bill 287, staff has removed clarifying green building standards for snowmelt, pools, and hot tubs from the list of interim ordinance additions.

The initial list code amendment additions included clarifying process and standards for when and how performance bonds can be accepted. Performance bonds are referenced in multiples sections of Ketchum Municipal Code, including Title 15—Buildings and Construction, Title 16—Subdivision Regulations, Title 13—Public Services, Title 12—Streets, Sidewalks, Public Utility Easements and Public

Places, and Title 17—Zoning Regulations. Amending the code to clarify the process and standards for performance bonds would require significant time and effort. This code clarification has been removed from the list of interim ordinance additions. Staff is developing an internal system for the acceptance of performance bonds that will improve the process.

Staff is evaluating a zoning code amendment to allow Tiny Homes on Wheels (THOWs) and park model recreation vehicles (RVs) as ADUs. Siting of THOWs and RVs on residential properties in Ketchum is currently prohibited. Staff is considering the potential impacts of permitting THOWs as ADUs and evaluating the effort, including staff analysis and community outreach, that would be required to implement this code amendment. Staff is gathering feedback on THOWs from the Fire and Building departments and will provide the Commission with a recommendation for whether this code amendment should be addressed through the permanent ordinance.

The Commission recommended amending the definition for multi-family dwelling unit to require more density. KMC §17.08.020 defines *dwelling, multiple-family* as, “a building, under single or multiple ownership, containing two or more dwelling units used for residential occupancy.” Staff does not recommend amending the definition for multi-family dwelling unit as it applies to low-density residential and light industrial zoning district and would create multiple that would require significant staff effort to resolve in the zoning code. Staff believes that the goal to increase housing production is adequately addressed through interim ordinance standards, including minimum residential density requirements.

Section 11B of the interim ordinance prohibits the siting of community housing units in basements. During their March 8, 2023 discussion, the Commission recommended that community housing livability standards be added as a code amendment to address through the permanent ordinance. Mountain communities like Teton County, Wyoming and the City of Boulder, Colorado have adopted livability standards for affordable housing. These standards range in scope and detail and may include unit size requirements, room layout and configuration design standards, and regulations for kitchen countertops and cabinets, storage areas, appliances, floor coverings, and windows. While livability requirements help improve the quality of affordable housing, Staff does not recommend the addition of community housing livability standards to the permanent ordinance at this time. The city is currently working to: (1) determine how well current efforts are meeting the community’s housing needs and preferences and has recently launched a survey to gather input and (2) expand and verify the 2022 housing needs assessment with more recent data. The city’s Housing Director has recommended that the community housing livability standards be developed at a later date so that the requirements may be informed by these ongoing efforts.

Staff Recommendation

Due to the short timeframe provided to adopt the permanent ordinance, staff requests the Commission provide final feedback on the proposed code amendment additions (see Attachment A). Moving forward, no additional code amendments will be considered for inclusion in the permanent ordinance.

Next Steps

EPS will present preliminary findings from commercial demand analysis to the TAG during their upcoming meeting on May 4th, 2023. Commission work sessions to review certain interim ordinance

standards and code amendment additions will begin in May. Staff is coordinating an interactive community workshop that will be scheduled for mid-June.

Attachments

- A. March 8, 2023 Staff Report: Interim Ordinance 1234 Revisions & Prioritization of Additional Code Amendments Discussion
- B. Economic & Planning Systems Scope of Work for Commercial Demand Analysis & Financial Feasibility Case Study
- C. Holst Architecture Scope of Services for Architectural Evaluation and Feasibility Studies