



## Planning and Zoning Commission Meeting - Regular MINUTES

Tuesday, March 09, 2021 at 4:30 PM  
Ketchum City Hall  
480 East Avenue North, Ketchum, ID 83340

### **CALL TO ORDER**

The meeting was called to order at 4:36 pm by Chairman Neil Morrow.

### **PRESENT**

Chairman Neil Morrow  
Vice-Chairman Mattie Mead  
Commissioner Tim Carter  
Commissioner Jennifer Cosgrove  
Commissioner Brenda Moczygemba

### **COMMISSION REPORTS AND EX PARTE DISCUSSION DISCLOSURE**

There were no ex parte disclosures by the Commissioners.

### **CONSENT CALENDAR—ACTION ITEMS**

#### **1. 4th and Main Findings of Fact and Conclusions of Law**

Commissioner Moczygemba commented on the bus stop and available parking. She thought the project should not be penalized for off-site parking when Main Street is partially dedicated to a bus stop. She also asked about the access to the garage on 5th street versus 4th Street alley. Vice- Chair Mead agreed with the 5th Street access as 4th Street is a pedestrian walkway.

**Motion to approve the 4th and Main Findings of Fact and Conclusions of Law with the change to the parking garage access as noted.**

*Motion made by Commissioner Moczygemba, Seconded by Commissioner Carter.*

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

#### **2. Warm Springs Ranch Development and Rezoning Agreement, Large Block Preliminary Plat, and Block 1 Subdivision Preliminary Plat Findings of Fact and Conclusions of Law.**

**Motion to approve the Warm Springs Ranch Development and Rezoning Agreement, Large Block Preliminary Plat, and Block 1 Subdivision Preliminary Plat Findings of Fact and Conclusions of Law.**

*Motion made by Vice-Chairman Mead, Seconded by Commissioner Moczygemba.*

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

## **PUBLIC HEARINGS AND COMMUNICATIONS FROM STAFF – ACTION ITEMS**

3. Adi's Townhomes: 124 Short Swing Drive (Lot 7 within Block 1 of Warm Springs Subdivision No. 3) The Commission will consider and take action on a Townhouse Subdivision Preliminary Plat application submitted by Bruce Smith, PLS, of Alpine Enterprises on behalf of property owner Adi Erber. The application proposes to convert an existing duplex building containing two dwelling units into two townhomes.

Associate Planner Abby Rivin introduced the project.

Bruce Smith, Alpine Enterprises, representing the applicant, described the division of the single duplex into two separately platted dwellings.

Chair Morrow opened the floor to Public Comment.

Being no Public Comment, the floor was closed.

**Motion to approve the Adi's Townhome #2 Preliminary Plat to the City Council subject to Conditions of approval 1-10 and authorize the Chair to sign the Findings of Fact and Conclusions of Law and Decision.**

*Motion made by Commissioner Moczygemba, Seconded by Vice-Chairman Mead.*

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

4. Amendment to P18-131 - Swan Streambank Alteration: 401 Northwood Way (Lot 12, Chateau of Northwood), owned by Bob and Sandra Swan, and adjacent riverbed (Ketchum FR NWSE TL 7801 SEC 12 4N 17E River Bed) owned by the City of Ketchum. The Commission will consider a proposed amendment to Floodplain Development / Stream Alteration permit P18-131, the Swan Stream Alteration/Bank Stabilization Floodplain Development and Waterways Design Review Permit.

Senior Planner Brittany Skelton introduced the project with a presentation of the history of the project from 2019 and the effects of the 2017 Flood. Skelton presented the original project and the proposed amendment.

Bob Swan, applicant, related the flood damage from 2017 and asked for approval of the amendment.

Chuck Brockway, Brockway Engineering, spoke to the project and why the amendments were needed. He noted the alterations were done within FEMA regulations. They were asking for a restoration to Pre-2017 flood conditions and restoration to the original grade while meeting the No-Rise Certificate conditions. An agreement could not be reached with the upstream neighbor. He added that if nothing is done, erosion will continue along the East Channel, endangering the town homes downstream.

Evan Robertson, attorney for applicant, asked Staff about the work being done on the adjacent property to stabilize the streambank.

Director Frick responded such application had been received but not approved. This application must stand alone and be decided on its own merits.

Commissioner Moczygemba asked Jennifer Zung of Harmony Design and Engineering, Consultants for the City of Ketchum, about the rock sill. Zung expressed concern over the placement of the rock sill below the channel grade causing upstream erosion. Commissioner Moczygemba asked about the potential collapse of the stream bank and effects downstream. Zung replied the rock sill would redistribute downstream.

The Commission discussed the channel bed gravel, rock sill, the impact to properties upstream or downstream, and increased river velocity. Bank stabilization, gravel removal, potential flooding, and the future impact of the proposed alterations to neighboring properties were also discussed.

Chair Morrow opened the floor to Public Comment.

Ryan Santo, Wood River Land Trust, agreed with Staff conclusions, he supported opening side channels on the West side of the river. He thought riprap was not a long-term solution.

Nick Miller, Hemingway Chapter of Trout Unlimited, agreed with Santo of the Wood River Land Trust. He urged looking at the whole eco-system of the river and not as just as one small project.

Ed Lawson, Attorney representing the Rusacks (neighbor upstream), noted there was an agreement for the work on the Rusack property specified on the original permit but by not doing it, there would be damage to the Rusack property. He questioned why the applicant can't continue with the original plan without the requested amendment. The Rusacks requested their Baldy view across the Swans property not be obstructed.

Brian Collins, Red Fox Lane homeowner, supported the Swan Amendment application.

Nick Krouse, Quadrant Consulting engineer representing Rusacks, worked with Brockway on a follow-along project. The application for the subsequent project was approved by State of Idaho, Army Corp of Engineers, and the Idaho Department of Environmental Quality. This amendment would create a dis-continuity of projects. He was concerned with how to resolve the disparity and felt the original project was the best project.

John Phillips, Red Fox Lane homeowner, supported the Swan application, as 14 homes along the side stream would be affected by not doing the work. He felt the wildlife and fish would be adversely affected if the stream dried up. He urged the permit be issued. He questioned why the Rusacks weren't doing the work on their property. He urged the approval of the Permit Amendment.

Scott Patton, Red Fox Lane homeowner, supported the Swan application and felt his property would be impacted without the amendment.

Jim Connelly, Red Fox Lane homeowner, thought a stable East Channel flow would be a benefit to the property and wildlife. He supported approval of the Swan application.

Steve Johnson, President of the Chateau of Northwood HOA (Red Fox Lane), south of the Swan property on the East Channel, thought they would be in jeopardy of damage without the Swan project. Their owners supported the application.

Jeff Rusacks, upstream homeowner, sympathized with the downstream homeowners. He noted the Red Fox owners had agreed to the original plan. He commented on the potential loss of his Baldy view due to the Swan project.

Brandon Marion, Red Fox Lane homeowner, questioned if there was a remediation process to resolve the situation.

Being no further comment, Chairman Morrow closed Public Comment.

Chair Morrow questioned if there was a way to accomplish the work in a holistic manner instead of several partial projects. Director Frick indicated the original Swan application, which encompassed a holistic approach to include the Rusacks property, was approved with the Condition that the Rusacks gave permission to work on their property. The permit was extended and is still valid. If either party wanted to apply separately, then each project would be evaluated on its own with no impact upstream or downstream. The Rusacks had submitted an application but a permit had not been granted.

Commissioner Carter asked if the Swans' and Rusacks' permits could be connected? Director Frick indicated the City could not compel the Rusacks to take action to mitigate conditions created by the neighboring property.

Sandra Swan commented that the downstream neighbors were in support but the Rusacks had not agreed.

Chuck Brockway clarified the type of construction proposed and that this would be a permanent solution.

Evan Robertson, for applicant, questioned why Rusacks would not co-operate. He questioned why the Rusacks could not be compelled to take action.

The Commission discussion emphasized the need to protect the health of the river without putting the downstream residents on Red Fox Lane in jeopardy. They tended to agree that the original permitted project was the preferred action. The Commission expressed their frustration with the property owners not acting to the benefit of the river and downstream property owners. They wanted to see remediation between the owners.

Director Frick explained the City could not approve a project that might negatively affect an adjoining property or that might put the City in jeopardy. The downstream property owners could make their own application for a course of action if they feel their property was in jeopardy. This proposal cannot be required to remedy problems on downstream properties. While this proposal creates an impact on adjoining properties, another solution could be proposed that would not create an impact on other properties.

Director Frick suggested the Rusacks put their position in writing and the Swans respond in writing. The Commission agreed.

**Motion to continue to March 23, 2021 to allow for Staff to request a written statement from the Rusacks and a response from the Swans to move the originally approved plan forward, the amendment to be withdrawn, and work to commence.**

*Motion made by Commissioner Cosgrove, Seconded by Commissioner Carter.*

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

## **STAFF REPORTS & CITY COUNCIL MEETING UPDATE**

March 15<sup>th</sup> City Council:

- Review the Warm Springs Ranch Project.
- Appoint the Historic Preservation Commission.
- Approve the contract for Logan-Simpson to develop design guidelines and evaluation of the 26 identified properties.

March 23<sup>rd</sup> PZ Meeting:

- Design Review and Preliminary Plat for 2 new projects.

## **ADJOURNMENT**

**Motion to adjourn at 7:20 PM**

*Motion made by Chairman Morrow, Seconded by Commissioner Cosgrove.*

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

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Neil Morrow, Chairman  
Planning and Zoning Commission