



## **Planning and Zoning Commission Meeting - Regular MINUTES**

**Tuesday, January 12, 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 4:30 PM by Chairman Neil Morrow.

**PRESENT** via video feed:

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 disclosures from the Commission.

### **CONSENT CALENDAR—ACTION ITEMS**

#### **1. ACTION ITEM - Minutes of December 15, 2020**

**Motion to approve the Minutes of December 15, 2020.**

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

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

#### **2. ACTION ITEM - Findings of Fact and Conclusions of Law for the Decked Building Design Review**

**Motion to approve the Findings of Fact and Conclusions of Law for the Decked Building Design Review.**

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

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

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

#### **3. ACTION ITEM: Recommendation to consider and provide a recommendation to the City Council on an amendment to Development Agreement Amendment #20427 (P20-122) for the 1st Avenue and 4th Street mixed use project. The applicant is Jack Bariteau.**

Director Suzanne Frick introduced the matter. The Commission is asked to consider the dates for the Design Review as specified in the Development Agreement. The Design Review approved on June 19, 2019 expired on June 20, 2020. The Development Agreement stated the complete Building Permit Application was to be received by June 10, 2020 and the Building Permit issued by August 10, 2020. The applicant is requesting: 1) An extension of the Design Review; 2) An extension of the Development Agreement; and 3) A modification of the force majeure. Staff recommends approval of the extension of the Design Review and Development Agreement dates

with the addition of a deadline date for issuance of a Building Permit. Staff did not support the addition of the pandemic to the force majeure clause. The proposed amendments are a result of the pandemic.

Commissioner Cosgrove asked how these changes would affect the Hotel Agreement as to employee housing.

Director Frick noted the Development Agreement states the housing could be for Hotel employees or if the Hotel does not go forward, the housing would be deed-restricted Community Housing.

Vice-Chair Mead asked if the applicant would be required to show proof of funding prior to issuance of a Building Permit.

Director Frick indicated the applicant will need to present proof of financing to the City Council prior to issuance of a building permit and present to City Council evidence of a construction loan within 60 days of the issuance of the building permit.

Applicant Jack Bariteau and Attorney Ed Lawson appeared by video conference. Applicant Bariteau indicated there are 15 separate units, with Baldy views. This project stands alone and is not dependent upon the completion of the Hotel. There is 8000 sq ft of retail space and 8 market-rate, for-sale units. The project was held up by a city ordinance prohibiting dead-end alleys which resulted in a change to the Municipal Code. He related that the architects' offices were closed for 2 months due to the pandemic. They were not aware of the need to extend the Design Review until December 2, 2020. He was asking for an extension to begin construction in April. He estimated the Demolition to be completed by the end of February. He was currently waiting for review of the Building Permit application by City Planning and DBS. He was asking for the extension since the review for the Building Permit was out of his control.

Chair Morrow questioned the attorney's letter which indicated the project was tied to the Hotel but Bariteau confirmed there is no connection.

Bariteau replied the project stands alone. They are abiding by the Development Agreement regardless of the outcome of the Hotel. He cited the lack of control of the timing of the review process.

Commissioner Carter asked how soon he could get a loan commitment from the lender and provide proof to the City. Bariteau indicated the proof of funding will be available.

Commissioner Cosgrove suggested a new timeline could be started with the new dates. Bariteau replied they are only asking for a change of the date.

Chair Morrow asked for a commitment date for ground-breaking and completion, independent of other outside factors.

Attorney Ed Lawson explained the project stands alone and is not dependent on the completion of the Hotel. He asked for a date connected to the approval of the building permit, since the approval was out of their hands.

Commissioner Moczygemba asked about the review process.

Planner Rivin explained the process and the co-ordination of the approvals with all departments.

Director Frick stated the City would be able to issue the permit shortly, but there are 3 requirements not yet met. The applicant needed to submit a Site Restoration Plan, a letter of loan commitment to be approved by City Council and a Letter of Credit for off-site improvements prior to the issuance of the Building Permit.

Bariteau answered the documents are ready to be submitted as soon as tomorrow.

Director Frick indicated the approvals are dependent on the extension of the dates. If the extension to the Development Agreement is approved, then the departments can grant their approvals. However, evidence of financing is needed to proceed to City Council.

Bariteau indicated if the Development Agreement Amendment is granted, he can then obtain the Letter of Credit from the lender. Bariteau asked if a separate exceedance agreement was required. Director Frick indicated it was covered by the Development Agreement.

Chair Morrow asked about the timeline to bring this before the City Council and if all documents can be available by then.

Director Frick indicated this matter could be brought to City Council January 19, 2021.

Chair Morrow opened the floor to Public Comment.

Perry Boyle, Ketchum resident, asked how many units are available and about parking. He thought this was a better community housing project than Bluebird Village. Bariteau replied there are 7 market rate condos and 15 Community Housing apartments with parking provided for 31 cars.

Dave Wilson, neighbor, wanted to make sure the alley is completed before next winter's snowfall to ensure access to his property will not be compromised. Bariteau stated he would be responsible to maintain the alley until the project is completed.

Being no further comments, Public Comment was closed.

Vice-Chair Mead supported the project and would like to see it built but was concerned over the conflicting relationship between this project and the Hotel.

Commissioner Cosgrove agreed with the design and community benefit but thought the Commission should be stricter with the applicants to protect the community.

Commissioner Carter felt this project was connected to the Hotel by the leasing of units for Hotel employees. If there is no hotel, and this project stands alone, then the housing units would become community housing. He felt the delay in signing the Development Agreement shortened the time for review. The late submittal of the Building Permit application resulted in the request for an extension of time. He was willing to grant the extension.

Commissioner Moczygemba recommended starting the time-line upon approval of this amendment to the Development Agreement.

Vice-Chair Mead agreed with Commissioner Moczygemba. He felt if the agreement was not extended, the project may not go forward. He did not want to see the property stay as it currently stands and thought the re-development of the site was an improvement.

Commissioner Cosgrove agreed with the prior comments but had trouble with the procedure of issuing a Demo permit before a Building Permit was approved. She was concerned with the history of this developer and felt a personal responsibility to make good decisions.

Vice-Chair Mead was concerned with the ability of the developer to obtain funding. He urged caution in being overly accommodating to developers and how the right to build is awarded.

Chair Morrow felt the same concerns and did not want to see the developer continue to ask for additional time. He wanted to see firm start and completion dates as a condition of approval to hold the developer accountable.

Vice-Chair Mead agreed with making firm start/completion dates a condition of approval. He did not feel comfortable extending the agreement.

Commissioner Cosgrove agreed and felt a new Development Agreement was in order.

Commissioner Moczygemba questioned the advantage of a new Development Agreement.

Commissioner Cosgrove felt, due to the changes in the proposed use of the building and the variances originally requested by the developer, she was uncertain as to its future and so opposed the granting of the extensions.

Commissioner Carter noted that the original project was approved but the hole-in-the-ground is an unfortunate influence. He pointed out that the developer has had other successful projects in town. He felt safeguards were in place to protect the City and it was reasonable to grant the extension request.

Chairman Morrow thought the safeguards were in place to ensure the project would come to completion. He wanted the safeguards to be emphasized to the City Council.

Commissioner Cosgrove thought it should come back for an independent Design Review.

Commissioner Moczygemba agreed with Commissioner Carter that the timeline should be tied to the City Council approval and not the issuance of the Building Permit. She felt proof of funding should be presented prior to actual excavation.

Chairman Morrow agreed with Commissioner Carter on the inclusion of the conditions.

Vice-Chair Mead agreed with the points made by Commissioner Moczygemba, but he was not comfortable with approving the Amendment to the Development Agreement.

Commissioner Carter respected Commissioner Mead's position but wanted to see the project proceed with a united Commission.

Chair Morrow did not give much weight to the "force majeure" argument but would recommend the extension to City Council.

Director Frick explained the Commission's voting record and concerns would be in the Staff Report to the City Council for their decision.

**Motion to recommend the Amendment to the Development Agreement #20427 to City Council with Commissioner Moczygemba's recommendation to start the timeline at the approval by City Council and proof of funding to be presented prior to demolition.**

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

*Voting Yea: Chairman Morrow, Commissioner Carter, Commissioner Moczygemba*

*Voting Nay: Vice-Chairman Mead, Commissioner Cosgrove*

**STAFF AND COMMISSION COMMUNICATIONS (Planning & Zoning Commission Deliberation, Public Comment may be taken)—ACTION ITEMS**

The January 26<sup>th</sup> meeting will be on the review of the Warm Springs Ranch Development Agreement and Subdivision Application. The Building Code Amendments will be before City Council on January 19<sup>th</sup> for a first hearing. The Floodplain Amendments will also be before Council for the third reading. On Friday, January 15 will be the third reading of the Historic Preservation Ordinance.

Commissioner Cosgrove asked for an update of the City Council's decision at the 2<sup>nd</sup> reading of the Historic Preservation Ordinance.

Director Frick related the Council discussed the list of structures at the second reading but decided to change the list from 26 properties to seven properties. The third reading is Friday at which time changes can still be made.

Commissioner Cosgrove asked about Community response to the changes to the list.

Director Frick explained staff recommended adoption of the list of 26 but the Council was concerned if the right properties were being identified. Staff recommended the Historic Preservation Commission would review the list in greater detail and add or subtract buildings. The Council narrowed the list to seven. It will be up to the Historic Preservation Commission to add to or subtract from the list.

Commissioner Carter asked about the make-up of the HPC.

Director Frick indicated it would possibly be 2-3 PZ members and 2-3 Community members. The make-up will change as the Commission gains more experience.

Commissioner Mead indicated he was appalled by the reduction to the list. He considered some of the properties removed to be "essential Ketchum". He expressed disappointment in the decision of the Council.

**ADJOURNMENT**

**Motion to adjourn at 6:45 PM**

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

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



Neil Morrow, Chairman Planning and Zoning Commission