



REGULAR PLANNING AND ZONING COMMISSION MEETING
Monday, September 28, 2015, 5:00 pm
Ketchum Project Site Visit

Present: Chairperson Steve Cook
Commissioner Betsy Mizell
Commissioner Mike Doty
Commissioner Erin Smith

5:00 p.m. – SITE VISIT at 513 Broadway Boulevard (Lot 3, Block 5, Sun Valley Subdivision First Addition Revised). The Commission will convene for a site visit regarding an application by Linda Di Lello Morton for a Waterways Design Review for riparian enhancement.

The following features of the proposed project were viewed and discussed:

- Location of existing house and paver patio;
- Location of bluestone patios and steps, installed by Ms. Morton;
- Location and condition of existing vegetation;
- Condition of riprapped stream bank; and
- Location of existing irrigation.

Also Present: Micah Austin, Planning and Building Director
Rebecca Bundy, Senior Planner/Building and Development Manager
Linda Di Lello Morton, Applicant
Kelley Weston, Landscape Designer

The Commissioners had no further questions and the site visit was concluded at about 5:25 pm.



Steve Cook
Planning and Zoning Commission Chairperson



Planning and Zoning

Regular Meeting

~ Minutes ~

480 East Avenue North
Ketchum, ID 83340
<http://ketchumidaho.org/>

Monday, September 28, 2015

5:30 PM

Ketchum City Hall

Commissioners Present: Steve Cook, Chairperson
Michael Doty
Erin Smith
Betsy Mizell

Commissioners Absent: Jeff Lamoureux, Vice Chair

Staff Present: Micah Austin, Director of Planning & Building
Rebecca Bundy, Senior Planner
Morgan Brim, Senior Planner

1. 5:00 p.m. – SITE VISIT at 513 Broadway Boulevard (Lot 3, Block 5, Sun Valley Subdivision First Addition Revised). Site visit meeting minutes are approved separately from the regular meeting.

2. 5:30 p.m. RECONVENE AT CITY HALL - CALL TO ORDER

Steve Cook called the meeting to order.

3. CONSENT CALENDAR – No items.

4. PUBLIC COMMENT

- a. Communications from the public for items not on the agenda.

Dennis Hanngi, long-time resident and developer commented as follows regarding the new zoning ordinance and its effect on the GR-H District: The original zoning ordinance in regards to community housing (CH) requirements was onerous, punitive, and economically unfeasible. The new, Phase I zoning code rewrite did not include a fix, even though staff had indicated they were looking at changing the CH requirements. In addition, the exception for ground water sites was deleted. Therefore, the Phase I interim ordinance allows for less density allowed than in GR-L zone. He requested that the deleted section be reinserted as soon as possible.

5. COMMUNICATIONS FROM STAFF

- a. DISTRICT USE MATRIX & SHARED PARKING REDUCTION TEXT AMENDMENT – The Commission will hold a public hearing and take action on an application by Brett Moellenberg, representing the Spot LLC., for amendments to Title 17, Ketchum Municipal Code, Chapter 17.12 Establishment of Districts & Zoning Matrices, Section 17.12.020 "District Use Matrix" to add "Assembly, Place of" as a Conditional Use Permit in the Light Industrial District Number Two (LI-2 District) and adding "Parking, Shared" as a permitted use.

Mr. Brim introduced the proposal: Spot LLC is the applicant. The applicant came before the Commission twice in August in a workshop format. They requested an allowance to operate an assembly use in the LI-2 zone. A text requirement will be required to amend the district use matrix. The Commission

indicated that they did not want assembly uses to be permitted outright in the LI-2 District but seemed to favor allowing them as conditional uses. In the August meetings, the Commission directed staff to do the change via a text amendment. The applicant is also seeking to be able to utilize a shared parking plan in the Light Industrial Districts, similar to that in the Tourist zoning district (Code Section 17.125).

The administrator can approve a parking plan for a permitted use, but the Commission would need to review and approve a parking plan for a conditional use.

Commissioner Smith asked why the proposed shared parking plan was applied to the other LI districts. Brim answered that staff reviewed the zoning code as a whole and recommends that it apply to all three LI districts.

Brim presented his review of the comprehensive plan containing support for the proposal. Five goals in the Art section support the arts needs in the city. Chapter 8, Space Challenges supports the need for inexpensive places for the arts. Conflicts in the comprehensive plan included Core Community Values, which recommend that the vibrancy should occur in the community core. In addition the Mixed-use Industrial Land Use section states that tourist uses and traffic should be minimized in the LI districts. Through the conditional use process, conditions can be placed to limit the impacts of an assembly use.

Staff recommended that if the Commission approves the proposed text amendment, the conditional use permit process will allow elements of the assembly use that do not conform to the comprehensive plan to be mitigated through the addition of conditions.

The Commissioners had no questions. Chairman Cook invited the applicant to speak.

Brett Moellenberg, from the Spot, asked to allow the public to speak before he provides his comments.

Public comment:

- Sarah Gorby, Ketchum resident - Spot provides place for 20-somethings to express themselves in this community. She encourages the Commission to approve the proposal.
- Paul Deriggio, representing the building owners - Building was remodeled a few years ago in the hopes of attracting this type of tenants to the building. The owners support this proposal.
- Lisa Marie Allen - SV resident. Agrees with Sarah Gorby.
- Kristin Allen, SV resident - Parent of two girls who have participated in the Spot. These young people represent the type of people we want in our valley. The venues are small. She supports the proposal.
- Judy Steinbock, SV resident - Supports Gorby's argument that young people need places in this community to live and work.

Moellenberg returned to the podium and commented on the comprehensive plan analysis: He agrees with staff's analysis. The Spot looked to try to relocate to the Community Core, but were unable to find an alternative location. The LI is a ghost town in the evening, and the Spot's productions are relatively infrequent. He solicited questions from the Commission.

Commissioner Mizell expressed her support for the project.

Chairman Cook opened the meeting for additional public comment. There was none.

The Commission began their deliberations:

- Commissioner Doty feels comfortable with a conditional use, subject to some wordsmithing by the Commission.

- Brim suggested a change to the wording of the text amendment to clarify that the administrator will approve shared parking plans for permitted uses and the Commission will approve plans connected to conditional uses.
- Commissioner Smith approved of the wording change.
- Chairman Cook expressed concern about the shared parking language. Brim clarified that the administrator could only approve a shared parking plan for permitted uses, not conditional uses.
- Commissioner Smith suggested the addition of a couple of commas to clarify the sentence.
- Chairman Cook suggested changes to the second sentence: parking demand, noticing, when, how long, limits of terms of the approval, parking location...

Brim suggested an additional sentence: "Said parking plan shall include the following: parking demand, noticing, when, how long, limits of terms of the approval, parking location..."

Mr. Austin recommended that any changes to the text of the ordinance should come back before the Commission before they recommend approval to the City Council. He also informed the Commission that their recommendation to the Council would acknowledge the areas of the comprehensive plan that the proposal conflicts with.

Chairman Cook expressed how he sees the LI districts changing and asked that any major changes are carefully analyzed.

Commissioner Smith supported that idea and expressed support for a clearer plan.

A motion was made to continue the meeting to the next meeting, Oct 12. Many Spot supporters cannot attend the next meeting and will send a representative.

Brim said that part of Phase II of the zoning code revisions includes relooking at each of the zoning districts. A more comprehensive look at the LI district can be undertaken at that time.

Commissioner Doty argues that a conditional use satisfactorily takes care of any negative impacts from the proposal.

RESULT:	CONTINUED [UNANIMOUS]
MOVER:	Mike Doty, Commissioner
SECONDER:	Erin Smith, Commissioner
AYES:	Steve Cook, Mike Doty, Erin Smith, Betsy Mizell

- b. **REED HORNBUCKLE RESIDENCE DESIGN REVIEW** – The Commission will take action on an application by Barbi A. Reed, represented by Brenda Moczygemba, Michael Doty Associates, for Design Review to allow wall height over four feet in the front yard. The property is located at 531 9th Street (Ketchum Townsite, Lot 2A, Block 50) and zoned Tourist – 4000 Zoning District (T-4000). Following their decision, the Commission may take action on item 6a of the agenda.

Mr. Brim introduced the application and presented the staff report. He explained that the project was noticed incorrectly for the previous meeting and re-noticed for this meeting (September 28, 2015). Brim explained that the prior zoning ordinance contained a provision that allowed walls taller than 48" to be approved by the Commission through the Design Review process. Brim stated that all proper noticing had occurred for this meeting and the request is recommended for approval, with conditions.

Brim read the conditions, as listed in the staff report. He opened up the discussion for questions.

Brenda Moczygemba with Mike Doty Associates presented the plans on behalf of the applicant.

Chairman Cook stated that he was absent from the last meeting and would like a brief overview of project.

Moczygemba provided a brief over of the project by showing site plans and elevations which illustrated the location and design of the wall.

Chairman Cook asked Moczygemba questions concerning the height of the wall, materials, and whether the wall could be reduced in size.

Moczygemba answered all questions by referring the elevations and plans presented.

Motion: Smith made a motion to approve the application, subject to the conditions as listed in the staff report. Second: Mizell. Unanimously approved.

RESULT:	ADOPTED [3 TO 0]
AYES:	Steve Cook, Erin Smith, Betsy Mizell
RECUSED:	Mike Doty

c. **MORTON WATERWAYS DESIGN REVIEW – Application by Linda Di Lello Morton for a Waterways Design Review for riparian enhancement located at 513 Broadway Boulevard (Lot 3, Block 5, Sun Valley Subdivision First Addition Revised). The property is zoned Limited Residential (LR).**

Ms. Bundy indicated that there was a site visit for this application conducted at 5:00 PM. The applicant installed landscaping on the property without knowing that a permit was required in the riparian setback. The criteria for evaluation of the application is for preservation or restoration of the inherent natural characteristics of the site.

The home was built in 1980 and predates the 1989 riparian setback. In about 1990 a paver patio was added by former property owner. The city attorney indicated that, absent evidence that the patio was constructed illegally, it should be considered a nonconforming use. Bundy stated that the applicant's designer would overview the proposed landscaping plan with the Commission. She then outlined the conditions of approval as recommended by staff:

- Conditions 1-3 are standard conditions.
- Condition five requires that the bluestone patios and steps be removed in fall 2015, upon signing of the Findings of Fact. Other conditions allow staff to inspect the property occasionally in the future.

Commissioner Smith asked why the bluestone patio needs to be removed this year.

Bundy stated that this project has gone on for a long time and it is important for the applicant to act in good faith to comply with the ordinance.

Commissioner Mizell asked if the silt fence should be removed now.

Bundy indicated that the fence may get beaten up during the winter.

Commissioner Doty asked, since the irrigation system is an existing permanent system, should it be torn up now?

Bundy responded that it should be torn up now or decommissioned and inspected.

Kelly Weston, founder of Native Landscapes, stated that he was commissioned to design a stable and native landscaping scheme for this site. He indicated that ripping out lawns and replacing them with native species is a goal of the county and city. So the applicant was acting in good faith when she removed the lawn. The bank is steep at the high water mark. The landscaping plan includes plants that will survive without irrigation. He assured the Commission that if they approved the plan his client has all intention of completing the work.

Weston recommends doing all of the work at once. All of the plants are largely native grasses and include a variety of native perennials. They provide color and interest for the home owner. This is a riparian enhancement and a property owner's yard.

Commissioner Mizzel asked whether removal of the bluestone will cause that area to be impacted by erosion.

Weston indicated that it would create a large opening but not necessarily erode. He encouraged the Commission to allow the irrigation system to be turned off instead of being torn out.

Commissioner Doty stated that historically applicants promise to do things and then go a different route. He expressed his concern.

Linda Morton, applicant, asked the Commission to consider that her intent in the beginning was to get rid of the lawn and to have a drought resistant yard. Her goal is to have the least amount of irrigation possible. The plan has an inspection date for completion. It would be easier to get the plants and complete everything in the spring. The irrigation has been there for a long time.

Commissioner Smith asked what happens to the irrigation lines if they sit vacant for several years and then someone turns them on again.

Weston stated that someone could turn the irrigation back on and use it again. There are things that can be done to make it more difficult like capping the termination point of the pipe.

Commission Chairman Cook opened the public comment which was then quickly closed due to no comment.

Commissioner Doty stated that tearing out the irrigation, from a practical stand point does not make things better. It will just cost the applicant more money.

Commissioner Smith stated that she is in favor of keeping the bluestone patio area until the spring. She is concerned that erosion could occur if all of the work is not completed at one time. She favors making the irrigation system harder to reconnect.

Commission Chairman Cook asked for clarification regarding the desire for spray heads instead of a drip system.

Weston stated that it is easier to establish a native landscape system with a spray system. Every year the landscaping requires less water.

Commission Chairman Cook asked if there was a combination of irrigation heads.

Morton indicated that the existing irrigation system contains a combination of heads. Some of the spray heads adjacent to the patio have been converted to drip heads. She overviewed the location of the drip and spray heads.

Commissioner Smith asked Morton to show the Commission where the irrigation lines run through the property.

Morton stated that the irrigation lines comes from the side of the house near an alcove and then feeds the front and side yards.

Weston stated that you could decommission the line at the valve point.

Commissioner Doty is concerned that there is not an irrigation plan and stated that regardless the areas out of the riparian zone in the side yard would still contain irrigation lines.

Morton stated that her neighbors on both sides of her have pavers and blue grass. Her intention was make her property even better.

Commission Chair Cook asked if the Commission feels that they should remove the pavers or not. He is in favor waiting until spring and have all of the work occurs at once.

Commissioners Doty, Smith and Mizell all agreed.

Bundy stated that a condition should be added that staff shall inspect the irrigation to see it run through a full cycle to ensure that the line has been caught off.

Commission Chair Cook asked if the intention is not to allow irrigation in the riparian setback.

Bundy responded that there should not be irrigation in the setback and that a condition needs to allow for an inspection to insure that the line has been decommissioned.

Commission Chair Cook added a condition for an inspection in three years to inspect the decommissioning of the irrigation system in the riparian zone. The inspection shall occur at the end of three planting seasons and be inspected by staff. If the plantings are not established within three (3) years, they may be irrigated for an additional two (2) years.

A condition was added requiring the removal of the bluestone patio by spring of next year.

Commissioner Doty motioned as stated in the staff report with conditions 1-9 as amended.

Seconded by Commissioner Smith.

MOTION:	Doty
SECONDED:	Smith
RESULT:	ADOPTED [3 TO 0]
AYES:	Steve Cook, Mike Doty, Erin Smith, Betsy Mizell
RECUSED:	

- d. **VILLAS AT THE CROSSING WATERWAYS DESIGN REVIEW – Application by the Villas at the Crossing Townhouse Homeowners Association for a Waterways Design Review for work in the riparian setback located at 104 and 106 Saddle Road (Villas at Crossing, Common Area). The property is zoned General Residential – Low Density (GR-L), Limited Residential (LR) and Floodplain Overlay (FP). Continued from September 14, 2015.**

Susan Buxton, City Attorney, stated that the attorney for the applicant delivered a letter from the applicant withdrawing their application. The city will now look at a code enforcement action. The applicant's attorney has indicated that he will file a tort violation.

- e. **DISCUSSION OF MINUTES - The city attorney will overview legal requirements for meeting minutes.**

Buxton, City Attorney provided an overview of legal requirements for minutes. Minutes don't need to be too detailed, because, then, sometimes some items are missed.

Minutes must include at a minimum:

- Summary of subject - no quotations.
- All members present
- All motions proposed; and
- Results of all votes and roll call votes if wished.
- Executive sessions have specific requirements: when open and closed, no decisions.

Ketchum has audio and video of all public meetings, for use if needed. Meetings can be transcribed if needed.

Commissioner Smith stated that it is important to document main points expressed in the meeting. She asked, what is the balance?

Buxton stated that people should go back and listen to tape if they need details. The Commission should put their thoughts into their findings. They can put support or dissent into that document.

Commission Chair Cook asked how staff can determine when legal counsel should be involved.

Buxton stated that draft findings don't have specific approval language. Findings need a legal disclaimer. It is okay to have findings on same meeting for ministerial decisions but not for quasi-judicial decisions. Minutes should be a fair summary of what occurred at the meeting.

- f. **DISCUSSION OF JERRY MASON TRAINING – Staff will overview topics discussed during the Jerry Mason training on September 15, 2015.**

Austin handed out copies of slides from the Jerry Mason, Coeur d'Alene attorney, AIC legal counsel, training in Twin Falls two weeks earlier. The training starts with the basics: open meeting requirements, quorum, noticing, agenda content, executive sessions, how to add items to agenda, differences between resolutions and ordinances, fact that speaker phone attendees at meeting are allowed, serial meetings are not allowed, all types of public hearing requirements should be standard with State law, two types of public hearings (legislative and quasi-judicial), site-specific due process, recommended sequencing for application before the Commission, cut-off times for written comments.

The Commission discussed whether to change the order of presentation in their meetings and made a decision to do so.

They considered implementing an order of comment: for, against, neutral. Comments can be done in a written format as well. The Commission conducted a discussion on how to regulate length of time for public comment. The Commission decided to implement the following order: for, neutral, against, rebuttal.

Mason then covered changes to the local land use planning act: comprehensive plan can only guide rezones/text amendments, changes to appeals process (gave power back to boards and requires applicant to request reconsideration within fourteen days - should include as standard language in the findings), appellant court decisions, including Reed v Town of Gilbert, which will affect sign code ordinance throughout the country, including Ketchum's.

g. PHASE II COMPREHENSIVE ZONING ORDINANCE UPDATE. The Commission will discuss the status of the zoning ordinance update.

Brim summarized staff's current process with the Zoning Ordinance Rewrite. He stated that Mr. Haangi's comments at the beginning of the meeting will be taken into consideration by staff.

6. FINDINGS OF FACT AND APPROVAL OF MINUTES

a. FINDINGS OF FACT: Reed Hornbuckle Residence Design Review

The Commission discussed the Findings of Fact, noting a change to Condition #6.

Motion: Smith. Second: Mizell. Recuse: Doty. Abstain: Cook.

RESULT:	ADOPTED [2 TO 0]
AYES:	Erin Smith, Betsy Mizell
ABSTAIN:	Steve Cook
RECUSED:	Mike Doty

b. FINDINGS OF FACT: Rivelo Waterways Design Review

The Commission discussed the Findings and had no comments.

Motion: Doty. Second: Smith. Abstain: Cook. Approved unanimously.

RESULT:	ADOPTED [3 TO 0]
AYES:	Mike Doty, Erin Smith, Betsy Mizell
ABSTAIN:	Steve Cook

c. MINUTES: September 14, 2015, Site Visit

No changes were suggested to the site visit minutes.

RESULT:	ADOPTED [3 TO 0]
AYES:	Mike Doty, Erin Smith, Betsy Mizell
ABSTAIN:	Steve Cook

d. MINUTES: September 14, 2015

The Commission discussed the minutes. Commissioner Smith noted one change to the minutes regarding the Rivelo project.

Brim noted one change with a time stamp on the minutes.

Concerns were raised by Commissioner Smith regarding the materials and landscape plant. She also noted that the condition numbering was incorrect.

Commissioner Doty noted that the concerns in the minutes are Commissioner Lamoureaux's concerns, not his.

Commissioners Smith and Doty noted other changes to the September 14 minutes that were corrected by staff.

Motion: Smith. Second: Mizell. Abstain: Cook

RESULT:	ADOPTED [3 TO 0]
AYES:	Mike Doty, Erin Smith, Betsy Mizell
ABSTAIN:	Steve Cook

7. FUTURE PROJECTS AND NOTICING REQUIREMENTS

Brim summarized the future projects that will require noticing.

Austin summarized a vacation application and the Community School applications as submitted.

8. STAFF REPORTS & CITY COUNCIL MEETING UPDATE

9. Commission reports and ex parte discussion or disclosure

10. ADJOURNMENT

Motion: Doty. Second: Smith. Unanimous.

11. Call to Order

Attendee Name	Title	Status	Arrived
Steve Cook	Chairman	Present	
Mike Doty	Commissioner	Present	
Jeff Lamoureaux		Absent	
Erin Smith	Commissioner	Present	
Betsy Mizell	Commissioner	Present	



Steve Cook
Planning and Zoning Commission Chairperson

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BACKGROUND FACTS

PROJECT:

Morton Waterways Design Review

OWNERS:

Linda Di Lello Morton

REQUEST

Waterways Design Review (WWDR) for riparian enhancement

LOCATION:

513 Broadway Boulevard (Lot 3, Block 5, Sun Valley Subdivision First Addition Revised)

NOTICE:

Adjacent property owners were mailed notice on Tuesday, September 1, 2015 for the Commission's September 14, 2015 meeting. At that meeting, this item was continued on the record to September 28, 2015.

ZONING:

Limited Residential (LR)

OVERLAYS:

Floodplain (FP)

REVIEWERS:

Rebecca F. Bundy, Senior Planner / Building and Development Manager

Regulatory Taking Notice: Applicant has the right, pursuant to section 67-8003, Idaho Code, to request a regulatory taking analysis.

BACKGROUND

1. The applicant is requesting Waterways Design Review approval for enhancement of a portion of the riparian setback on the subject property. The subject property is located on Warm Springs Creek and contains riparian setback but does not contain regulatory floodplain.

2. The existing home on the subject property was built in 1980 and predates the City's riparian setback requirements, which were enacted in 1989. The existing rear yard along the creek was, until recently, planted with turf grass to the edge of the stream bank.

3. In approximately 1990, a paver patio was added in the riparian setback by the former owner of the property. Staff has not been able to ascertain whether permission was obtained for said patio. However, it was constructed right about the time that the City's first riparian setback requirements were enacted and may or may not have preceded the ordinance. Staff has consulted with the City Attorney, and, absent proof that the patio was constructed illegally, it should be considered an existing nonconforming installation. The Planning and Zoning Commission concurred.

4. In the fall of 2014, the current owner of the property removed the turf grass and an aggressive, invasive ground cover, installed stone patios and steps to the creek, placed weed cloth and began replanting the area with shrubs and perennials. This activity was reported to Planning staff, and staff began an enforcement process.

5. In July 2015, the applicant contacted staff and was advised to cease all work in the riparian setback and to make application for Waterways Design Review for riparian enhancement. The applicant hired Kelley Weston, Native Landscapes, to design a landscape plan and submitted her application in mid August.

6. Some of the proposed plantings occur on the adjacent Warm Springs Ranch Resort property, but on the north side of the creek. The applicant has obtained permission from the owner of that property to landscape that area.

7. The property does not contain a pedestrian access easement along the creek.

6. Attachments to the September 28, 2015 staff report:

A. Application

- Application Form, dated August 11, 2015
- Letter from Kelley Weston, Native Landscapes, Inc., received August 14, 2015
- Landscape Plan L-2, dated August 28, 2015

B. Site Photos

C. Public Comment – None

General Requirements for all FPDP Applications				
Compliant			Standards and Conclusion	
Yes	No	N/A	City Code	City Standards and Conclusion
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060.C	Complete Application
				Fire Department ○ No comment
				Public Works ○ No comment
				City Arborist ○ Concurrence with staff findings and applicant's plan.
				Building Official ○ No comment
				Police ○ No comment

Compliance with Zoning District and Overlay Requirements				
Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and <i>Conclusion</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.12.030	Setbacks
			<i>Conclusion</i>	<i>No change.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.12.030	Building Height
			<i>Conclusion</i>	<i>No change.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.12.030	Maximum Building Coverage
			<i>Conclusion</i>	<i>No change.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.124.090.M	Curb Cut
			<i>Conclusion</i>	<i>No change.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.124.090.A.1	Parking Spaces
			<i>Conclusion</i>	<i>No change.</i>

Floodplain Design Review Requirements				
1. EVALUATION STANDARDS: 17.88.060(E)				
Compliant			Standards and Conclusion	
Yes	No	N/A	Guideline	City Standards and <i>Conclusion</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)1 FLOODPLAIN DEVELOPMENT /WATERWAYS DESIGN REVIEW	Preservation or restoration of the inherent natural characteristics of the river and creeks and floodplain areas. Development does not alter river channel.
			<i>Conclusion</i>	<i>The applicant has proposed to remove the existing bluestone patios and steps in the riparian setback and to plant riparian enhancements within the riparian setback. No change is proposed to the stream bank or the channel.</i> <i>Staff recommends the following condition of approval:</i> <ul style="list-style-type: none"> • Prior to commencement of any work in the riparian setback, a silt fence shall be installed along the mean high water mark to keep all silt and debris out of the stream. Said fence shall remain in place for the duration of the riparian landscaping work.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)2	Preservation or enhancement of riparian vegetation and wildlife habitat, if any, along the stream bank and within the required minimum twenty-five (25) foot setback or riparian zone. No construction activities, encroachment or other disturbance into the twenty five foot (25') riparian zone shall be allowed at any time without written City approval per the terms of this ordinance.
			<i>Conclusion</i>	<i>The applicant's proposed planting plan, containing riparian shrubs, as well as native grasses and perennials, as a replacement for the former turf lawn, will provide a substantially improved riparian zone.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)3	No development other than development by the City of Ketchum or development required for emergency access shall occur within the twenty-five (25) foot riparian zone with the exception of approved stream stabilization work. The Planning and Zoning Commission may approve access to property where no other primary access is available. Private pathways and staircases shall not lead into or through the riparian zone unless deemed necessary by the Planning and Zoning Commission.
			<i>Conclusion</i>	<i>See above. The applicant proposes to remove the development that she placed in the riparian setback and to revegetate the area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)4	Plan and time frame are provided for restoration of riparian vegetation damaged as a result of the work done.
			<i>Conclusion</i>	<i>See above. According to Mr. Weston, it is getting too late in the season</i>

Compliant			Standards and Conclusion	
Yes	No	N/A	Guideline	City Standards and Conclusion
				<p>to successfully plant, so the planting will be performed in spring 2016. Staff recommends the following condition of approval:</p> <ul style="list-style-type: none"> The removal of the bluestone patios and steps and the proposed planting in the riparian setback shall occur in spring 2016 and shall be completed and ready for inspection prior to July 15, 2016.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)5	<p>New or replacement planting and vegetation includes plantings that are low-growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings include: red osier dogwood, common choke cherry, service berry, elder berry, river birch, skunk bush sumac, beeb's willow, drummond's willow, little wild rose, gooseberry, and honeysuckle.</p> <p><i>Conclusion</i> Proposed riparian plantings consist of twenty-seven (27) shrubs, including dogwood, willow, rabbit brush, wild rose, white sage, and a mix of native grasses and perennials. The landscape designer has stated that the plantings have been chosen to enhance the riparian zone and to be deep rooted, drought tolerant and low-growing.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)6	<p>Landscaping and driveway plans to accommodate the function of the floodplain to allow for sheet flooding. Flood water carrying capacity is not diminished by the proposal. Surface drainage is controlled and does not adversely impact adjacent properties including driveways drained away from paved roadways. Culvert(s) under driveways may be required. Landscaping berms are designed to not dam or otherwise obstruct floodwaters or divert same onto roads or other public pathways.</p> <p><i>Conclusion</i> The subject property does not contain floodplain. No changes are proposed to the existing driveway on the upland side of the existing house.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.060(E)7	<p>Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not adverse.</p> <p><i>Conclusion</i> No development is proposed in or near the river, and the replacement of turf grass with riparian and more naturalized plantings will be beneficial for the creek. There will be no adverse impact from the development on aquatic life, recreation or water quality.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)8	<p>Building setback in excess of minimum required along waterways is encouraged.</p> <p><i>Conclusion</i> No changes to the existing building are proposed.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)9	<p>The top of the lowest floor of a building located in the 1% annual chance floodplain shall be a minimum of twenty-four inches (24") above the base flood elevation of the subject property.</p> <p><i>Conclusion</i> No development is proposed in the regulatory floodplain.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)10	<p>The back fill used around the foundation in the floodplain provides a reasonable transition to existing grade, but is not used to fill the parcel to any greater extent. Compensatory storage shall be required for any fill placed within the floodplain. A LOMA-F shall be obtained prior to placement of any additional fill in the floodplain.</p> <p><i>Conclusion</i> No development is proposed in the regulatory floodplain.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)11	<p>All new buildings shall be constructed on foundations that are approved by a licensed professional engineer.</p> <p><i>Conclusion</i> No changes to the existing building are proposed.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)12	<p>Driveways comply with effective Street Standards; access for emergency vehicles has been adequately provided for.</p> <p><i>Conclusion</i> No changes to the existing driveway are proposed.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)13	<p>Landscaping or revegetation conceals cuts and fills required for driveways and other elements of the development.</p> <p><i>Conclusion</i> No cut and fill is proposed.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)14	<p>(Stream Alteration) The proposal is shown to be a permanent solution and creates a stable situation.</p> <p><i>Conclusion</i> No stream alteration is proposed.</p>

Compliant			Standards and Conclusion	
Yes	No	N/A	Guideline	City Standards and Conclusion
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)15	(Stream Alteration) No increase to the 100-year floodplain upstream or downstream has been certified by a registered Idaho engineer.
			Conclusion	No stream alteration is proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)16	(Stream Alteration) The recreational use of the stream including access along any and all public pedestrian/fisherman's easements and the aesthetic beauty is not obstructed or interfered with by the proposed work.
			Conclusion	No stream alteration is proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)17	Where development is proposed that impacts any wetland, first priority shall be to move development from the wetland area. Mitigation strategies shall be proposed at time of application that replace the impacted wetland area with a comparable amount and/or quality of new wetland area or riparian habitat improvement.
			Conclusion	The property contains no wetlands.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)18	(Stream Alteration) Fish habitat is maintained or improved as a result of the work proposed.
			Conclusion	No stream alteration is proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)19	(Stream Alteration) The proposed work is not in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.
			Conclusion	No stream alteration is proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060(E)20	(Stream Alteration) The work proposed is for the protection of the public health, safety and/or welfare such as public schools, sewage treatment plant, water and sewer distribution lines and bridges providing particularly limited or sole access to areas of habitation.
			Conclusion	No stream alteration is proposed.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning code, Title 17.
3. The Commission has authority to hear the applicant's Floodplain Development Permit Application pursuant to Chapter 17.88 of Ketchum Code Title 17.
4. The City of Ketchum Planning Department provided adequate notice for the review of this application.
5. The project **does** meet the standards of approval under Chapter 17.88 of Zoning Code Title 17.


DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this Waterways Design Review Application this Monday, September 28th, 2015, subject to the following conditions:

1. Waterways Design Review approval shall expire one (1) year from the date of signing of approved Findings of Fact per the terms of KMC, Section 17.88.060.G, Terms of Approval;
2. This Waterways Design Review approval is based on the plans, dated August 28, 2015, and information presented and approved at the meeting on the date noted herein. Any building or site discrepancies which do not conform to the approved plans will be subject to removal;

3. Pursuant to Chapter 17.88.050.C, no chemicals or soil sterilants are allowed within 100 feet of the mean high water mark. No pesticides, herbicides, or fertilizers are allowed within 25 feet of the mean high water mark unless approved by the City Arborist. All applications of herbicides and/or pesticides within one hundred feet (100') of the mean high water mark, but not within twenty five feet (25') of the mean high water mark, must be done by a licensed applicator and applied at the minimum application rates. Application times for herbicides and/or pesticides will be limited to two (2) times a year; once in the spring and once in the fall unless otherwise approved by the city arborist. The application of dormant oil sprays and insecticidal soap within the riparian zone may be used throughout the growing season as needed.
4. Prior to commencement of any work in the riparian setback, a silt fence shall be installed along the mean high water mark to keep all silt and debris out of the stream. Said fence shall remain in place for the duration of the riparian landscaping work.
5. The removal of the existing bluestone patios and steps and the proposed planting in the riparian setback shall occur in spring 2016 and shall be completed and ready for inspection prior to July 15, 2016.
6. Planning staff shall inspect the riparian setback on occasion to ensure that they are allowed to naturalize in order to stabilize the stream bank and provide wildlife habitat.
7. A permit is required for any subsequent work in the riparian setback occurring after the duration of this approval.
8. Irrigation in the riparian setback shall be temporary and shall be removed or decommissioned after three (3) irrigation seasons, if plant material is deemed sufficiently established by the landscape designer and Planning staff. In no case shall the irrigation remain in place for more than five (5) years from the date of signing of these Findings of Fact. Decommissioning of the existing irrigation system in the riparian setback shall be inspected by staff to ensure compliance with this condition.

Findings of Fact **adopted** this 12th day of October, 2015.



Steve Cook, Chairperson
Planning and Zoning Commission