



Recorded

**CITY OF KETCHUM
PLANNING AND ZONING COMMISSION MEETING
June 9, 2014, 5:30 p.m.
Ketchum City Hall Meeting Room, Ketchum, Idaho**

Present: Chairperson Deborah Burns
Commissioner Steve Cook
Commissioner Mike Doty
Commissioner Jeff Lamoureux
Commissioner Erin Smith

Also Present: Ketchum Planning Manager Joyce Allgaier
Ketchum Senior Planner Rebecca Bundy
Ketchum City Attorney Paul Fitzer
Ketchum Recording Secretary Sunny Grant

This meeting at City Hall was preceded by a **SITE VISIT at 105 PINWOOD LANE** in regard to the application of Thomas Monge and Elmar Grabher for a Design Review application at Lot 19 Parkwood Subdivision (105 Pinewood Lane) for a four (4) unit townhouse development in the General Residential – Low Density (GR-L) Zoning District.

1. Chairperson Deborah Burns opened the Regular Planning and Zoning meeting at 5:35 p.m.

2. PUBLIC COMMENT ON ISSUES NOT ON THE AGENDA

There was no public comment at this time.

3. **PUBLIC HEARING** upon the application by **KETCHUM CEMETERY DISTRICT**, for a vacation of several portions of public right of way, including two (2) unimproved portions of 10th Street, an unimproved portion of Walnut Avenue and an unimproved portion of alley in Block 94, Ketchum Townsite. Continue to June 23, 2014.

Chairman Deborah Burns moved to continue the public hearing upon the application by Ketchum Cemetery District for vacation of several portions of public right-of-way to June 23, 2014. Motion seconded by Commissioner Steve Cook, and passed unanimously.

4. **PUBLIC HEARING AND CONSIDERATION** of the application by Thomas Monge and Elmar Grabher for a Design Review and Subdivision application at Lot 19 Parkwood Subdivision (105 Pinewood Lane) for a four (4) unit townhouse development, Vue Townhomes, in the (GR-L) zoning district.

Also Present: Project Architect Nicole Ramey
Architect Michael Doty
Landscape Architect Jacob Thomas
Project Civil Engineer Steve Butler

Commissioner Michael Doty recused himself from this hearing.

Ketchum Planning Director Joyce Allgaier acknowledged additional correspondence from the public in addition to what was in the packet:

- Letter from Jeff and Michelle Bruner received June 6, 2014
- Letter from John, Jini and Erin Griffith received June 6, 2014
- Letter from Lisa Horowitz received June 6, 2014
- Email from Susan Scovell dated June 6, 2014, 4:45pm
- Email from Don King dated June 6, 2014
- Email from Jonathan Neeley dated June 9, 2014
- Email from Bill Sundali dated June 9, 2014
- Email from Robin Davis dated June 9, 2014
- Email from Nancy Haupt dated June 9, 2014.

Allgaier then gave an overview of the proposal:

The Ketchum Planning and Zoning Commission will be reviewing a Design Review application and Town House Subdivision application. Lot 19 of the Parkwood Subdivision is proposed for subdivision into two parcels 19A and 19B, and to be further subdivided into four townhouse sublots—Sublots 1, 2, 3 and 4. The subdivision is accessed from Pinewood Lane, and access to each of the four sublots would be from a proposed new private street, Pinevue Lane.

A vicinity map shows Parkwood Condominiums to the south, the “Blue Tops”, and a variety of duplexes and single family houses to the immediate north and in the vicinity. The project backs up to Atkinson Park and is located a short distance from Warm Springs Road.

Ms. Allgaier noted some threshold issues that she would like to cover with the Commission and city attorney:

- Does Ketchum have jurisdiction to adjudicate a *private* deed restriction on this property limiting further subdivision and development. Does Ketchum have the ability to enforce that private agreement between two parties?
Ketchum City Attorney Paul Fitzer said Ketchum’s position is that CC&Rs, or private deed restrictions, are not within the jurisdiction of the City to enforce and/or adjudicate the relative merits or lack thereof. Whether or not the private deed restriction is viable or not is not within the purview of the City to determine. The Court has determined that it is permissible to make it a condition of approval that that particular issue can be litigated via declaratory judgment action in court. Mr. Fitzer advised the Commission that the City is not in a position to enforce the private contract or deed restriction.
- Determination that Pinevue Lane can be a private street. Pinevue Lane is proposed as a private street to serve the four proposed units and Lot 17, if it is further developed. Ketchum typically asks applicants to allow for continuation of streets onto other property to provide connectivity between subdivisions with minimal streets. The definition of “private street” is that the street serves more than four lots or multi-family dwelling(s). This private street is proposed to serve five units, by providing an access and utility easement to Lot 17 in addition to access to the four subject sublots. Easements on the private street are also granted to the property to the south for utilities.
- Determination of frontage. All proposed lots will face Pinevue Lane, including Sublot 4, on the corner of Pinewood Lane and the newly proposed Pinevue Lane. Sublot 4’s side yard

will be on Pinewood Lane. This is a new subdivision. New subdivisions can define their lot sizes, as well as front, side and rear yards.

Ms. Allgaier then went on to provide more details regarding the proposal.

- This is an existing 20,000+ sf lot, proposed to be divided into two new parent parcels, 19A and 19B, each 8,000 sf, with each parcel proposed to be divided into two sublots. A freestanding single family unit is proposed for each of the four sublots. The units will require Design Review.
- GR-L zoning regulations require an 8,000 sf lot. Lot coverage maximum is 35%; the applicant proposes 29%. Building height in GR is maximum 35 ft; the applicant proposes a 26 ft "tower" architectural feature, with most of the building below that height.
- Front yard setback minimum is 15 ft. The applicant proposes 28 ft minimum. The application exceeds the required rear yard setback of 15 ft. When an applicant proposes a townhouse unit, the subplot boundary can be coincident with the building edge. There is no setback to the subplot boundaries.
- There is also a 13 ft setback requirement to the west, because the zoning on Lot 17 is LR, which requires 1 ft setback for every 2 ft of building height. The application shows all setbacks, pursuant to Ketchum Code, but the site plan needs to be amended to show the accurate west setback. This will be made a condition of approval and will be enforced at the time of building permit application.
- Every lot has a one-car garage and at least one additional onsite uncovered parking space.
- The landscape plan is a repeated pattern that reinforces a townhouse configuration. There are eight new trees proposed on the site. The parking areas are proposed to be paved with permeable pavers. Each parcel has snow storage.
- Pinevue Lane is a common element of all the sublots, and also provides an easement for access and utilities to Lot 17 and for utilities to the Parkwood Condominiums to the south.
- A water main and sewer main will be extended by the developer onto the property to serve this development, which would allow for additional connections if there is future development in the area.
- Pinevue Lane is constructed so the storm drainage flows toward the middle of the street, from both sides and both ends, into a catch basin and drywells located in the easement.

Commissioner discussions:

- Any conditions shall reflect the need to meet all Ketchum Code setbacks, especially between 19A and 19B and the westernmost property line. Staff requires a revised site plan after P&Z approval that reflect any conditions placed by P&Z.
- The applicant and neighbors have discussed fence and vegetation preservation along the property lines. The applicant has offered to preserve certain landscaping as requested by the neighbors.
- Additional landscaping on the south and west. Staff does not recommend that landscaping should be installed in the access easement and where the utilities are located. The applicant will reevaluate buffering toward the south.
- Request from the Commission that there should not be snow storage on the private Pinevue Lane adjacent to Lot 17, without some mitigation to be sure it does not melt and flood onto Lot 17.

Staff recommends approval of the application, provided that these concerns are addressed. Allgaier noted that the project is in a good location for infill and the proposed density provides for a transition to the other housing types and densities in the vicinity. This would be an infill project with modest livable housing, which the Comp Plan encourages.

Project architect Nicole Ramey presented the project:

The developer's goal is to design cost-effective housing for residents who live and work in the vicinity. Neighboring Magpie Townhomes are 31 feet tall. There is already substantial screening between the proposed Vue townhomes project and Magpie Townhomes. Parkway Drive is 20 ft wide of pavement. The project is required to have eight parking spaces; 11 are provided.

Landscape architect Jacob Thomas described the landscaping:

Thomas noted that the landscaping was intended to be simple, natural and drought tolerant, but still allow for outdoor living. The drought tolerant grass mix is meant to grow high, but individual owners can water it more and/or mow it if they want to. In addition to aspen trees, each back yard will have a semi-dwarf fruit tree. Patios are proposed below the deck above. There is a fence and lodgepole pine separating the front door of one unit from the garage wall of the neighboring unit. The neighborhood entry sign is located on private property between some boulders and plantings.

Vegetation is shown in the 20 ft Pinewood Lane setback on the plan now but will be removed. The right of way area is planned to have a gravel surface and provide snow storage, but it could be planted with grass that would not be harmed by snow storage. The applicant will try to save large plantings that currently exist.

The City right-of-way is used for City snow storage. The area in between each building would be used to store snow from the driveways for those two units. The grading plan shows a low point swale and drywell in between each building to provide internal drainage. Snow from Pinevue Lane will be plowed and trucked offsite.

This project proposes four new units, or 8.7 units per acre. There are 94 units in the immediate neighborhood comprising Lot 5 Parkwood, Magpie Townhomes, Pinewood Condos, Parkwood, and Parkside.

The Magpie Townhomes are a little over 31 feet tall, with a 14 ft setback. Vue Townhomes propose 14 or 15 ft setbacks; with flat roof at 24ft and the highest point at 24.10 ft. The roof's highest point is at 26.9ft, which is 5% of the roof area.

Ramey presented elevations and materials to be as follows:

Reclaimed barnwood siding, vintage-finish corrugated metal on the tower, and medium bronze metal flashing and trim.

An aerial photo shows the four buildings superimposed on the lot. The footprint is very compact. Units have interior storage and ample garage storage for toys. Master bedrooms have a small balcony.

Exterior lights are compliant with the Dark Sky Ordinance.

It was noted by the applicant that there will be asphalt paved up to the southernmost property line so the existing vegetation on the property line will mostly be removed. Some shrubs and

small trees may remain; the large cottonwoods may not survive. There is no additional landscaping proposed at that location.

PUBLIC COMMENT:

- Justin Williams, owner of a real estate magazine, feels that Ketchum needs accessibly priced housing. This project and its price point will attract young people. He asked P&Z to approve it.
- Jed Gray, realtor, agreed that price point is important and that this location is well suited to this infill and a good transition between neighboring properties on all sides. It is difficult, with the cost of land in Ketchum, for a project to be affordable to first-time owners or young families. He asked P&Z to approve the project.
- Matthew Gordon, attorney, on behalf of Mark Caputo and Don and Polly King, owners of the Magpie Townhomes and also Steve and Kristin Smith and Marilana Rubitano, neighbors of the project. All are opposed to the project. Gordon expounded on a few of the topics in a letter of opposition he submitted on March 24:
 - Private deed restrictions should be enforced. Mr. Caputo purchased his property, aware of and relying on the restrictions on Lot 19 and with the expectation that those restrictions would be enforced and that any development of Lot 19 would be consistent with those restrictions.
 - Gordon questioned City Attorney Paul Fitzer's position that the City and the P&Z Commission are not able to adjudicate the enforceability of those restrictions. Mr. Gordon asked the City to look at the content of the restrictions, and whether or not the City is legally obligated to enforce them, or whether or not the City is in a position to adjudicate the enforceability of them. Gordon urged P&Z to take a careful look at the many comments submitted via letter and email in opposition to this project and strongly consider the basis of the opposition. Gordon said he'd heard these units would cost about \$750,000, which he questioned was affordable housing for first-time homebuyers and young people.
- Lisa Horowitz, local land use planner representing Bob and Carol Korb on Lot 17, said Mr. Korb is concerned about the location of the bulk on the site, particularly the long wall of the last unit that faces his property. The Commission can use setbacks and yards to create breathing room for neighbors. The biggest yard is always the rear yard, so the determination of front and rear lot lines is very important in providing relief on the rear side. The current proposed setback is 13 feet, and the rear yard would be 20 feet if the front yard of the property were determined to be on the Pinewood Lane street side. A private driveway serves up to four units. Korb's lot is being granted an easement so that Pinevue Lane will serve more than four units and will be considered a private street. Korb does not need nor want access to his backyard as any future development, and he is also bound by the neighborhood deed restriction. Korb has no interest in going to court in order to determine if in the future he can develop his backyard. Korb does not feel that the spirit of the ordinance is being served in this case. Horowitz said the other reason Pinevue Lane does not conform with the way this Commission has reviewed streets in the past is that there is no right-of-way for this street. The biggest reason for right-of-way in Ketchum is probably for snow storage. Horowitz also commented on the street width and

snow storage. Korb has had experience through the years with the adjacent property pushing their snow to the back end of the property, where it pushes his fence over in heavy snow years. When this project is finished and occupied in a few years, the City will not be enforcing snow removal off that private street. The applicant has provided snow storage for the driveways. Screening of parking areas is a review standard. Screening the parking area on the most western lot from Korb's neighboring property would be appreciated.

- Tom Van Slyke, president of the homeowners association of the property to the south, Parkwood Condominiums, expressed concern about screening on the south side of the proposed project. On the site plan, the shaded area south of the property line consists of 36 feet of asphalt. The white area on the south side of the property line is presently filled with irrigated vegetation, including chokecherry, aspen and a couple large cottonwoods that probably straddle the property line. With proposed Pinevue Lane, there is essentially 56 feet of hardscape with a compromised strip of vegetation in-between. A fence and any landscaping along the property line is at the mercy of the forces of snow plowing.
- Grady Garrett said this is a great infill project.
- Fritz Haemmerle, attorney for Infinity Properties (Monge and Grabher), said he'd sent Ketchum two letters on March 21 and June 3 regarding the deed restriction. Haemmerle said City Attorney Fitzer is right in that P&Z should not consider the deed restriction. Political subdivisions in Blaine Count do not consider deed restrictions in zoning decisions, which would force them to look at their ordinances and standards of criteria and deed restrictions and whether they do or do not apply. He suggested P&Z review and make a decision on an application under the ordinance. Haemmerle noted Mr. Gordon's predecessors on Lot 18 received benefit of a subdivision that had the same deed restriction that applies to these properties. Every single property around Lot 19 has been subdivided; every single property contains the same deed restriction. To try to enforce the deed restriction now would be a mistake and a violation of Infinity Properties' right to equal protection. Haemmerle reiterated that P&Z should review the application on its merits and under Ketchum ordinance.
- Tom Monge, project developer, said he and his son looked all over Ketchum for a property that would work for them. They decided this was an excellent property for transition from 64 units in Parkside Village and eight units next door to their project. Monge said they hadn't priced the units yet because they didn't know what it would cost to build them, and the more opposition there was, the more costs go up. They are trying to create housing for people who can come to Ketchum and afford to buy a house. He said SF houses were not available in Ketchum for \$650,000 to \$750,000. These are well-designed small houses on small lots. A homeowners association will be responsible for snow storage and snow plowing.

P&Z COMMISSIONERS:

- Commissioners accepted the legal analysis of the deed restriction as presented by City Attorney Fitzer. They also agreed that the road is a private road and the front yards can be determined in the process of creating a new subdivision.

- Commissioner Steve Cook considered it a good infill project. He understood neighbors who grow accustomed to open space and are unhappy about the project.
- Commissioner Jeff Lamoureux said this is exactly the kind of project the community asked for during the Comp Plan process. His concerns are the proximity of the drive to the south property line, landscape screening, and existing vegetation in the landscape plan. He would like the applicants to address the area especially to the south.
- Chairman Deborah Burns feels this property fits with Ketchum. She would like the parking spaces better screened. She liked the design, but was bothered by the amount of asphalt and the street.
- Commissioner Smith wanted to clarify definition of front yards.

Tom Monge noted the next door Parkwood Condos are mostly rentals, so they had trouble finding owners to discuss the project. He talked to one owner who was willing to talk to other owners about the asphalt. Staff encouraged the applicant early on to talk to their neighbors about the possibility of joint access, maintenance and possibly reducing asphalt, but that could not be accomplished.

Alex Monge said the 20 foot road is a Fire Department requirement. He didn't talk to neighbors because he didn't think they'd see anything positive in sharing a road. He discussed the transformer in the roadway with Idaho Power, and they are going to run the power for the eight units to the south in the access road in the same trench for the Vue units. Monge said he will discuss buffer vegetation on the south property line with neighbors.

Allgaier said the street meets public works specifications for a private street, and will need to be built to Ketchum road and fire department specifications.

Allgaier said the road, drainage and original design have been changed a number of times to address staff and Commission recommendations. There is a proposed condition that the private street be signed as FIRE LANE and NO PARKING on the street itself.

Commissioner Cook asked about overflow parking on Pinewood Lane. Allgaier said this was discussed at pre-application design review. The right-of-way would primarily serve as snow storage. Plant material—some combination of gravel and vegetation—on the road edge should be chosen to withstand cars occasionally parked on it.

Commissioners wanted to protect the landscape buffer on Lot 17. Existing vegetation, including some aspens in the buffer, should be included and incorporated into the landscape plan. The repeated landscaping should be varied on the last lot to provide extra buffer to the west.

- Commissioner Lamoureux asked if the roadway had to extend all the way to the property line.
- Allgaier said the private street easement should be continued all the way to Lot 17, but can stop the pavement 10ft from the west property line. Nothing should be planted in this unpaved part of the easement. Public Works will probably want to continue their water line to the end of the property. Staff doesn't want snow to be pushed to the end and melt onto adjoining properties.
- Commissioner Lamoureux asked how drywells on the south side of the property will be installed, since the driveway abuts the south property line.

- Project civil engineer Steve Butler dug test holes on the site for the geotech report. Dense sands and gravel stand pretty well on the test bed, so the pits for the drywells parallel to the south property line should stand without caving in.
- Commissioner Lamoureux said a standard of approval is screening. He is concerned that the project is not proposing any screening for the new units, and he feels there should be some buffer between residences to the south. He suggested the applicant offer to plant trees on the neighboring property that will survive construction, if the neighbor is amenable to having trees planted on their property. Jacob Thomas said they were certainly open to working something out to have a nice buffer. Neighbor Tom Van Slyke said they would be open to landscape buffer discussions. City Attorney Fitzner had a problem with conditions of approval requiring the alteration of neighboring properties, but it can work if all parties involved agree and wish to put it in writing.
- Commissioner Lamoureux requested a plat note on the subdivision that snow removal must be taken offsite and can't be pushed into the City right-of-way.

The applicant submitted a will-serve letter with their pre-application from Joe's Backhoe indicating they will remove snow from the road. The applicant understands all the snow has to leave and can't impact anyone else's land. The grading plan was analyzed carefully to keep all melting snow and spring runoff onsite and directed into two drywells.

Suggested conditions of approval:

- Revised landscaping plan showing existing vegetation and modification at end of private roadway, with not pavement for the westernmost 10 feet of the private drive.
- Revegetation plan for Pinewood right-of-way be submitted and approved by the public works department.
- Encourage applicant to work with adjoining neighbor on the south to reinforce existing landscaping between the two properties and to replace any significant tree on neighbor's property that dies within a one- or two-year period as a result of construction.
- Green building - Commissioner Lamoureux said the size and siting of the project is its most sustainable attribute.

Chairman Deborah Burns moved to continue the meeting until 8:30, seconded by Commissioner Steve Cook. Motion passed unanimously.

Commissioner Steve Cook recommended to the City Council the approval of the preliminary plat of Vue Townhomes Subdivision, subject to Conditions 1 through 9. Motion seconded by Commissioner Jeff Lamoureux, and passed unanimously.

Added Conditions of approval:

- A revegetation plan be submitted and approved for the Pinewood right-of-way by the Public Works Department.
- A revised landscape plan, including screening on the south, western boundary and Lot 1 parking area, be submitted showing existing and proposed landscaping be approved by the Ketchum Planning Administrator in consultation with two Planning Commissioners.

The applicant will strive to work with the neighboring property to the south to provide adequate screening and replace any significant landscape loss on the neighboring property.

- A revised site plan shall be submitted that shows all required setbacks are met, based upon the underlying zoning. The original parcel was split into two new parcels, 19A and 19B.
- Snow must be removed and hauled from the site, and not be placed in the City right-of-way.

Commissioner Steve Cook moved that this project, Vue Townhomes, does meet Standards for Approval under Design Review, 17.96 of the Ketchum Zoning Code, Title 17, only if Conditions of Approval 1 through 14, as amended, are met. Motion seconded by Commissioner Jeff Lamoureux and passed unanimously, with Commissioner Michael Doty recused.

5. PUBLIC HEARING upon the application by Ketchum Partners LLC Preliminary Plat Townhouse Subdivision for a seven (7) unit townhouse development at 101 First Avenue South (Sun Valley Athletic Club Subdivision, Lot 1A) in the Community Core, Subdistrict C, Urban Residential Zoning District.

Also Present: Project Civil Engineer Steve Butler

Commissioner Michael Doty recused himself from this hearing.

Senior Planner Rebecca Bundy introduced the proposal:

This project received Design Review approval on May 12. This application is for Preliminary Plat approval for a seven-unit townhouse subdivision. The application is for one lot with seven townhouse units and some common space. Normally, Design Review and Subdivision are reviewed concurrently, but the project was not fully noticed when presented for Design Review and was continued for Subdivision.

The approved Design Review site plan and Preliminary Plat proposal are basically identical. Draft CC&Rs are included with Preliminary Plat application.

Common area on the southwest side contains utility meters and is heavily landscaped. Sublots extend all the way out to the property line in front. Staff considers this project fully compliant with the Townhouse Subdivision Evaluation Standards.

Each unit has an attached garage.

Staff will ensure that all ordinances and regulations will be followed through the subsequent Final Plat and Building Permit procedures. Most drainage and grading issues were addressed at Design Review.

The applicant is aware that the City Engineer suggested they try to combine some of the sewer trenches. Staff did not make this a condition of approval.

Staff proposes the standard Townhouse Subdivision Conditions 1 through 6 plus an added condition that applicant submits a copy of the recorded signed Final Plat to the City of Ketchum.

Chairman Deborah Burns moved to recommend to the Ketchum City Council approval of the Preliminary Plat of 101 First Avenue Townhomes, subject to Conditions of Approval 1 through

7. Motion seconded by Commissioner Steve Cook, and passed unanimously, with Commissioner Michael Doty recused.

6. PUBLIC HEARING upon the application by George Gollaher for an amendment to Title 17, Chapter 17.72, Ketchum Municipal Code, Section 17.72.010.B “Conditional Uses Permitted” of the Light Industrial 2, LI-2 Zoning District to modify language so that restaurants and small food establishments in the Light Industrial 2 district may be open to serve food later than nine o'clock (9:00) P.M., the present limitation.

*Also Present: Jim Laski representing Bigwood Plaza LLC
Applicant George Gollaher
Brian Barsotti*

Ketchum Planning Manager Joyce Allgaier introduced the proposal and said that all legal noticing requirements have been met:

This is an application for a text amendment to the Light Industrial District Zone 2. There are two other Light Industrial Districts—LI-3, a buffer area and lighter uses; and LI-1, an intermediate space between the heavier industrial LI-2 and downtown core—that are not affected by this text amendment. The LI-2 is the largest of the three light industrial zoning districts and has the largest number of lots.

Restaurants and small food establishments are Conditional Uses in the LI-2 Zone District and offer support services to the LI. They may not be more than 1,000 sf in size and shall serve food no later than 9:00 p.m. Off-street parking requirements must be met.

Each proposed conditional use must be reviewed by the Planning Commission in a public hearing, to determine if the particular conditional use is a good fit where it is proposed. The Planning Commission may put restrictions on a conditional use to help it fit into a certain district and/or ameliorate impacts to neighbors or the vicinity.

Staff does not think these limitations need to be so explicit, because the Planning Commission has the opportunity to place limitations in reviewing Conditional Use Permits. The existing Bigwood Bread Bakery is a permitted use in the LI. The applicants were given a Conditional Use Permit for a café/restaurant/retail in conjunction with the bakery. The applicants are requesting the restrictive 9:00pm closure be removed from the code, which would affect all properties in the LI-2 Zoning District. Staff recommends in favor of the proposed amendment, since there is a conditional use process in place to provide case by case review.

Disclosure: Commissioner Cook disclosed that he is a property owner in the LI-2 District.

Commissioner Lamoureux asked if other Conditional Use Permit holders would benefit from the same amendment. Director of Planning and Building Joyce Allgaier said she would have to review their conditional use permits, but she remembered that Bigwood Bread at the time of their original CUP application saw no need to serve later than 9:00. Chairman Burns agreed, and added that other restaurants might want to move to the industrial area, with its lower rent, and serve people eating and drinking until midnight.

Chairman Deborah Burns moved to extend the meeting another 15 minutes to 8:45, Motion seconded by Commissioner Steve Cook, and passed unanimously.

City Attorney Fitzer said that, if the original Conditional Use Permit did not specify allowed hours of operation, its approval was governed by the existing ordinance at the time. If restaurant hours are changed, then, in the absence of specifications, restaurant hours conform to whatever the new ordinance is. Otherwise, the Conditional Use Permit will have to be re-addressed.

Jim Laski, representing George Gollaher and Bigwood Plaza LLC, said that the Comprehensive Plan talks about the LI zones having a vibrant environment for living and working. He felt that 9:00 pm is not too late, particularly in the summer, and restricts the applicant's opportunities to have a successful business. Restaurants are not likely to flock to the LI, where they are a conditional use.

Laski said a restaurant seemed to fit right into where the character of the district is going, with more residential uses.

This is a neighborhood, with people in the LI-2 in the Sockeye Building, the Redfish Building, and the Scott Building. Ketchum is trying to accomplish walkability through its Comprehensive Plan. When the new Bigwood Bread opens, the existing Bigwood Café in the industrial district will close. If the text amendment fails, Bigwood Bread will come back to amend their Conditional Use Permit.

PUBLIC COMMENT:

- Lee Echinova, resident in the Scott Building, researched the Bigwood Bakery's Conditional Use Permit before buying his unit. He asked that, if Bigwood Bread's hours are extended, could they be required to increase their soundproofing and landscaping to buffer the noise and presence.
- Jed Gray supports the text amendment. The opportunity for another restaurant in the community to operate on a multitude of different levels, from manufacturing to providing a cooking lessons venue, is beneficial. Ketchum is losing restaurants in the core, and allowing a successful restaurant to stay in business by extending hours is important.

APPLICANT:

- George Gollaher, applicant, said that he was very sensitive to the noise issue. Bigwood Bread has an extremely comprehensive landscape plan to put in mature lodgepole pines where the dead trees are. There is a row of mature trees going in across the parking lot. There will not be many people eating outdoors after 9:00. The new facility is a USDA certified inspected organic baking facility built to International Green Construction Code standards.

COMMISSIONERS COMMENT:

- Commissioner Smith shared her perspective about purchasing an apartment in Tribeca, New York in 1980, when it was the egg, cheese and milk district with trucks rolling through in the middle of the night. It gradually became an expensive area in New York. She did not want to see the LI gradually go away as residents move in and complain about the noise, and all of the LI uses move to Bellevue, Carey and Twin Falls. Commissioner Smith expressed concern that a precedent will be set that others will want to follow.

- Commissioner Cook said it works pretty well right now; he thought business until 9:00 was permissive enough in the LI. He was concerned it would take vitality from the downtown core. He said the Commission could address individual conditional use permits, just like they do now.

Chairman Deborah Burns moved to extend the meeting until 9:00. Motion seconded by Commissioner Steve Cook, and passed unanimously.

Allgaier read Bigwood Bread’s Conditional Use Permit Findings of Fact, “The applicant is proposing 999 sf of restaurant and will only operate within the permitted hours.” Allgaier noted that the industrial district area is very important to the long term economic sustainability of the community. Service and light industrial lands should always be available to serve the community. She indicated that the code says the restaurant and food service businesses should “serve the area” meaning employees who tend to work from approximately 7a.m. – 6 p.m. Discussion by the Commission focused on this provision and their belief in its intent.

- Commissioner Lamoureux said that the Commission still had some control because it was still a conditional use. He asked if they could restrict the permitted hours to midnight or 1:00 a.m. The proposed Code amendment would apply to all properties approved through conditional use permits unless their original CUPs explicitly reference a closing time. Commissioner Lamoureux said this text amendment would enable the Commission to allow extended hours in a CUP.
- Commissioner Doty respects the LI, but agrees that, for this applicant, because the restaurant is tied to a manufacturing facility in the LI, it could be open past 9:00.
- Commissioners were concerned about the three existing restaurant CUPs in the LI. They could each come back and be re-evaluated individually for a compelling argument to be open past 9:00. Perhaps language could be “Until 9:00, unless explicitly stated in the CUP.” As a CUP, each application would be weighed upon its own merits. A text amendment allowing later hours does not give blanket approval to every business.
- Commissioners preferred a benchmark of 9:00 pm, with the language, “shall serve no later than 9:00 pm, unless otherwise permitted and explicitly approved by the Planning Commission in the course of Conditional Use review.” Commissioner Cook remained concerned that businesses in the Core would suffer. Commissioner Smith suggested the word “compelling”.

Chairman Deborah Burns moved to approve recommended language just stated, seconded by Commissioner Steve Cook. Motion passed unanimously.

7. CONSENT AGENDA

a. FINDINGS OF FACT

- 1. YMCA Greenhouse - Design Review and PUD Amendment**
- 2. AWE Development Agreement Amendment**
- 3. Cox Communications - Design Review Amendment**

Chairman Deborah Burns moved to approve the Findings of Fact for the YMCA Greenhouse Design Review and PUD Amendment and Cox Communications Design Review Amendment. Motion seconded by Commissioner Steve Cook, and passed unanimously.

Senior Planner Rebecca Bundy said that the AWE Development Agreement Amendment for the City Council satisfies Condition #4. Staff feels the requirement should remain in the Development Agreement and the Condition can remain in the Development Agreement except to delete the first part of the sentence stating "~~The Development Agreement shall be amended to say that the ...~~" The Commission directed staff to propose to the City Council that some mechanism be put in place that requires their installation of a sidewalk by a certain time.

Commissioner Michael Doty moved to approve AWE LLC Development Agreement Amendment Findings of Fact. Motion seconded by Commissioner Steve Cook, and passed unanimously.

b. APPROVAL OF MINUTES

1. April 28, 2014 Regular Meeting
2. May 12, 2014 Special Meeting

Commissioner Michael Doty moved to approve the April 28, 2014 Regular Meeting minutes. Motion seconded by Commissioner Jeff Lamoureux. Motion passed with Commissioners Doty and Lamoureux in favor. Commissioners Cook and Burns were not present at the April 28 meeting. Commissioner Smith was not a Planning Commissioner at the time.

Chairman Deborah Burns moved to approve the May 12, 2014 Special Meeting minutes. Motion seconded by Commissioner Jeff Lamoureux. Commissioner Doty recused himself; and Commissioner Smith recused herself because she was not a Commissioner at the time.

8. ADJOURNMENT

Chairman Deborah Burns moved to adjourn the meeting at 9:28pm. Commissioner Michael Doty seconded the motion, and it passed unanimously.



Vice - Chairperson Steve Cook

CC: City Council