

Minutes of the Interlaken Planning Commission
Thursday, 1 September 2016, 5:30 PM
255 Interlaken Drive, Midway, UT

1. Call to Order:

Town Clerk Bart Smith called the meeting to order at 5:35pm.

2. Roll Call - Members Present:

Bill Goodall, Commission Member
Greg Cropper, Commission Member
Bob Marshall, Commission Member
Greg Harrigan, Commission Member
Ryan Taylor (Epic Engr.), Town Planner
Bart Smith, Town Clerk, acting as Secretary

Scott Neuner, Commission Member, was not present

3. Election of Committee Chair and Vice-Chair:

Motion: Commission Member Cropper moved to nominate Bill Goodall as Commission Chair.

Second: Commission Member Harrigan seconded the motion.

Discussion: Cropper described Goodall as someone with an engineering mindset and highly qualified for this position.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

Motion: Commission Member Marshall moved to nominate Greg Cropper as Commission Vice-Chair.

Second: Commission Member Harrigan seconded the motion.

Discussion: Goodall asked if Cropper had any concerns about being an attorney and serving on the commission. Cropper had no concerns.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

4. Approval of Agenda or Changes:

The committee unanimously agreed to reorder the agenda because the committee wanted to take advantage of the presence of Ryan Taylor and his experience with land use issues.

5. General Discussion – Review of Land Use Codes:

Goodall recommended that we create a subcommittee or assign individuals to look into developing a process for reviewing permit applications, making decisions, communicating with the applicant, and forwarding recommendations to the town council.

Cropper presented a 26 step approach that includes all phases of a project, from initial application to certification of occupancy. In brief, this approach reduces the schedule of meetings to 3 if the applicant follows the procedure: initial meeting with Town Clerk, one meeting with the Planning Commission, and one meeting with the Town Council.

1. Applicant reviews website and contacts Town Clerk, who refers Applicant to website and to Town Engineer (currently Epic).
2. Applicant obtains application forms from Town Engineer, which may include

Grading, Excavation, Site Disturbance Construction (any others?).

3. Applicant completes relevant Application and returns them to Town Engineer, together with all required Deposits.
4. Town Engineer recommends that Applicant's design professionals contact Town Engineer for a pre-Application meeting to discuss Interlaken's requirements, and thereafter meets with such design professionals as requested.
5. Town Engineer reviews the Application for completeness, providing Applicant with any necessary additional requirements for completeness.
6. Once the Application is complete, Town Engineer notifies the Applicant and the Planning Commission of the same, making the Application(s) available to the Planning Commission on-line and at Town Engineer offices.
7. Town Engineer conducts a detailed review of the Application(s) in light of Town Ordinances, with one (1) or more Planning Commissioners invited to do so as well (such Planning Commissioner review is discretionary, not required).
8. Town Engineer and any Planning Commissioner(s) engaging in such review establish a prompt deadline for completing such review as soon reasonably possible under the circumstances.
9. Promptly following the above-referenced review, Town Engineer provides comments and requirements regarding the Application as necessary to bring the Application into compliance with Town Ordinances and requirements.
10. Once the Application is complete and in full compliance with Town Ordinances and requirements, Town Engineer notifies Town Clerk of the same.
11. Town Clerk polls Planning Commission to set a date for a Planning Commission work session and subsequent related public hearing.
12. Once such date is established, Town Clerk posts all required notices for such meetings.
13. Town Engineer presents the Application to Planning Commission at such work session.
14. If the Planning Commission raises issues regarding the Application to be addressed and resolved, Town Engineer returns to Applicant with comments and revisions, in which event Town Engineer again notifies Town Clerk when the Application is believed to be in compliance with Town Ordinances and requirements, and another work session and public hearing is scheduled as provided above.
15. Town Engineer again presents the Application to Planning Commission at such work session.
16. The foregoing procedures in 10-15 are repeated as necessary until Planning Commission believes that the Application is ready for final Planning Commission action;
17. Once the Application is ready for final Planning Commission action, Planning Commission opens and conducts public hearing; receiving and considering any comments from the public.
18. At such public hearing, Planning Commission, by majority vote, may (i) remand the Application to Town Engineer for further work, (ii) recommend approval of the Application by Town Council, or (iii) recommend denial of the Application by Town Council.
19. If the Application is remanded, steps 9-15 are repeated as necessary.
20. If the Application is recommended for approval or denial of the Application(s) by Town Council, the Application is passed to Town Council for consideration.

21. Upon passing an Application to Town Council for consideration, Town Clerk coordinates with Town Councilors to schedule a work session and public hearing for the consideration of the Application.
22. At the completion of such work session, Town Council, by majority vote, may (i) remand the Application to Planning Commission for further issue resolution, (ii) approve the Application as presented, or (iii) deny the Application.
23. In the event either Applicant or Planning Commission is not satisfied by Town Council's final action, either Applicant or Planning Commission may appeal such action to the Town Land Use Appeal Authority, followed by the statutory right of appeal to District Court.
24. In the event the Application is approved and not appealed, Applicant and Town Engineer develop a detailed time-line for the approved construction, in accordance with Town Ordinances.
25. Following commencement of construction pursuant to the approved Application, Town Engineer will conduct all necessary monitoring and inspections, promptly informing Planning Commission of any compliance issues, and issuing any "stop work orders" required by the Town or otherwise necessary to ensure full and strict compliance with Town Ordinances.
26. Once Town Engineer determines that all construction pursuant to the approved Application is complete and in full and strict compliance with the approved Application and Town Ordinances, Town Engineer issues the final Certificate of Occupancy and releases to Applicant any deposits that Applicant is entitled to receive.

Cropper agreed to run this plan by Jody Burnett, streamline it if necessary, and make any necessary changes. Marshall suggested we create a corresponding flowchart. Goodall suggested that with some simplification, we may not need a planning commission, and that Epic could handle the entire process. Cropper agreed, but thought that since we have so few builds, the town could be involved. Taylor mentioned that in Hideout, Epic handles the entire process, but for a smaller town, like Daniels, the town is more involved. Taylor suggested that once Epic is done with their review, and they approve, the Planning Commission should give final approval, not the Town Council. Cropper added that this is doable, but there could be some problems with it. Harrigan suggested that Epic do a presentation for both council and planning commission. Cropper said that you couldn't have such a joint meeting, but separate meetings on the same night would be OK.

Goodall mentioned that as it exists right now, there is no reference to the International Urban Wildlife Interface code in our Titles. There is reference to a Wasatch County guidebook on our website and a reference to a Wasatch County wildlife map, but neither is referenced in our code. The International version is more liberal than the county version, and gave some examples of the differences. Goodall asked the group for opinions regarding whether we should look into adding the International version into our land use codes. Goodall gave an example regarding decks – different materials would be required depending on the fire hazard level for the specific lot. Harrigan felt that it would be unfair to hold the remaining 30 or 40 or so lot owners to a level of scrutiny that the existing 140 or so lots weren't given. Marshall felt this could be the work of a subcommittee. Goodall was concerned that Interlaken may be beholden to the existing Wasatch Urban Wildlife interface code, and that unless we adopt our own version, we could be vulnerable to a breach of the Wasatch code. Harrigan mentioned that we have an entire fire safety section of the code that would also need to be reviewed.

Cropper agreed to work on Title 11 along with Ryan Taylor from Epic. Goodall and Marshall agreed to work on Title 9. The goal here is to revise and simplify these titles, remove redundancies, correct errors, and make it more “checklist” like, so that applicants can more easily navigate it and understand it.

The committee discussed the Elevation Certificate requirement referenced in the code. Taylor described it as follows: after the house is built, the ridge and the ground are surveyed, and someone writes a letter that says what was physically measured, matches what was on the plans. Taylor suggested we change the code to clarify that the elevation certificate is needed before the C.O. (Certificate of Occupancy). The current requirement is that an elevation certificate is required for any lot 10% or greater, if the plans indicate a 30 foot or higher elevation. The group agreed that this requirement was appropriate. Refer to item #10 where the motion is made to clarify this requirement.

Harrigan reiterated his concern that we don’t become overly restrictive for the remaining lot owners as we revise and simplify the codes.

6. Discussion of Revisions to Interlaken Municipal Code, Title 11, Land Use:

Goodall opened the discussion regarding building height limits for buildings referenced in Section 11.06.070 “on benches and slopes greater than 10 percent” and referenced in Section 11.06.080: “B. Boundary Delineation. A sensitive hillside or slope area shall be delineated where any slope is 10 percent or greater.” Taylor mentioned that the requirement for chimney height is that it has to be a minimum of 2 feet above anything within a 10 foot radius.

Motion: Commission Member Cropper moved to revise all references to building height restrictions in Title 11 as related to slope from 10 percent to 30 percent.

In particular, to revise Section 11.06.070 C. to read:

“C. Special height requirements for some buildings on benches and slopes greater than 30 percent are imposed by the Sensitive Lands Chapter of this Title. These restrictions on building height shall be applied where applicable.”

And to revise Section 11.07.080 B. to read:

“B. Boundary Delineation: A sensitive hillside or slope area shall be delineated where any slope is 30 percent or greater.”

(note: the Town Clerk recognizes that these two sections are not in agreement – the first references “greater than 30 percent” and the second references “30 percent or greater.” These should be identical in the final revision.

Second: Commission Member Harrigan seconded the motion.

Discussion: Cropper also asked that the Interlaken Slope Study Map be revised to have 2 colors, above 30 percent and anything else.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

Clerk Smith mentioned another issue related to height in Section 11.07.080 I. regarding how building height is measured:

“Buildings in the hillside and mountainside areas shall not be more than 35 feet in height, as measured from the lowest flooring level which has an exterior entrance or a partially or fully exposed wall on the downhill side of the dwelling...” This is different than the height measurement method used for non-sensitive areas (less than 30% slope). The issue

is whether we want to leave this intact, using two different measurement criteria. Goodall suggested we talk about this later, but first visit the issue of what the commission can change with or without a public hearing.

Goodall brought up an issue regarding requirements for a public hearing. In Section 11.12.030 it lists various criteria for a change in land use code that require a public hearing. The question is whether the proposed changes regarding sensitive slope delineation require a public hearing. Cropper's opinion was that it was likely that this list was not all-inclusive, and that we would need a public hearing for our proposed changes. Cropper will verify this with the Town Lawyer (Tim Bywater). Harrigan suggested we get some general guidance from Bywater as to what we can and cannot change without a hearing.

Goodall brought up the Public Noticing issue referenced in Section 11.12.010 and whether we need to publish a notice in the local newspaper. Taylor's recommendation was that we change this section to state that noticing should be in accordance with Utah State Law.

Motion: Commission Member Cropper moved to revise Section 11.12.010 to read: "Notice of the date, time, and place of all public hearings concerning the adoption or modification of a land use ordinance or zoning map shall be posted and delivered in accordance with Utah law."

Second: Commission Member Harrigan seconded the motion.

Discussion: None.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

7. Discussion of Connor Project – 322 Jungrau Hill:

Taylor mentioned that Connor has been given approval to start excavation. However, dirt or rocks from his lot cannot be moved to another lot in Interlaken without that lot owner obtaining a site disturbance permit. Taylor made this clear when Connor visited his office.

Goodall asked what the expected timeframe would be for us to approve the suggested revisions to Title 11, specifically those that revise the sensitive slope delineation from 10 percent to 30 percent. If a public hearing is required, there needs to be a 10 day notice period. Then the earliest date we could have a public hearing would be September 12, the same date as the next Town Council meeting. It was decided to go ahead and notice the public hearing for September 12, and if necessary, it would have the required noticing period. It was recommended that Connor be advised that there is no assurance the code will be changed, that it is subject to public hearing and approval by the Town Council. In addition, if dirt is to be moved somewhere else within the town, then that site requires a site disturbance permit issued from Epic. Epic can turn that permit application around in a day or two, so for approval, it should be submitted by September 9th at the latest. Taylor signs the permit once the project is approved by the Town Council. It was suggested by Taylor that in the future it would be better if the Planning Commission could approve some of the smaller projects, like a site disturbance application, rather than putting it before the Council.

Clerk Smith referenced Title 2 language from Section 2.04.030 that describes the duties of the Planning Commission:

“B. Hear and make recommendations to the Town Council on land use applications.”

Harrigan pointed out language further on in this section that requires the commission to implement a process that:

“B.2. May include a designation of routine land use matters that, upon application and proper notice, receive informal streamlined review and action if the application is uncontested.”

This requirement to expedite uncontested applications could serve the site disturbance permit process, giving the Planning Commission authority to approve.

Cropper pointed out that we need a zoning map and a General plan under Utah law. We have a zoning map, showing R-1 residential and Municipal zones, from our water bond application process. This map should be made available online. Cropper offered to write a draft General Plan to be presented to the Town Council. Taylor offered his assistance, as he’s previously worked on general plans for small towns.

8. Discussion/Status of Additional Projects:

Wilson – 239 Interlaken Dr.: Approved by Town Council and under construction.

Howard – 330 Bern Way: Approved by Town Council and under construction.

Frank – 249 Big Matterhorn: Taylor thinks this application is getting close to approval. They sent out a letter on August 22nd with comments, and just got an email response back today. Goodall brought up the issue of timing – what if there is a delay between Epic’s approval and the next monthly Council meeting? Must the applicant wait potentially a month before getting final approval from the Council? Taylor suggested that if a permit is close to approval, e.g. held up on a couple issues that Epic considers minor, and misses the closest Town Council meeting, that the Council approve the application pending resolution of the remaining issues. The permit is not issued until those issues are resolved and it wouldn’t require another Council meeting.

Goodall suggested that Epic give the applicants the Council and Commission meeting dates to help them gauge timing for their approval. He also thought that 1 week would be sufficient for the Commission to review plans already approved by Epic. In general, Taylor recommends plans be submitted to Epic 3 weeks in advance of the Council meeting to get approval at that meeting. If able, there may be exceptions and ways for Epic to expedite the process.

Taylor mentioned that there may be a problem with the existing driveway for the Frank project (it is a demo and rebuild project) – it may not meet our current code. It may be legal non-conforming. Harrigan mentioned that we need to be careful regarding challenging existing non-conforming structures. Cropper mentioned that there is a difference between legal non-conforming and illegal non-conforming. We could face a potential lawsuit if someone is injured on an approved illegal non-conforming driveway and it’s possible our insurance would not cover any damages. This issue will be addressed during Epic’s review of the permit. Cropper also suggested that Tim Bywater and Jody Burnett could guide us in this matter.

9. Discussion of Revisions to Interlaken Municipal Code, Title 02, Municipal Government:

Cropper confirmed that other towns, like Alta, allow part time residents to hold positions on the Planning Commission. Harrigan expressed his view that elected officials, e.g. Town Council, should be full-time residents. Goodall asked if we are allowed to have electronic meetings. Cropper indicated that he thought it was okay. This would enable Commissioner Marshall to attend meetings when he is out of town. Marshall felt that part time residents should be allowed on the Council as well as this would give better representation.

Motion: Commission Member Cropper moved to add a proviso to Section 2.03.040 B.1. to read:

“1. Commission members shall be full time residents and have lived in Town of Interlaken for a period of at least one year immediately prior to their appointment; provided a maximum of one commission member may be a part-time resident.”

Second: Commission Member Harrigan seconded the motion.

Discussion: None.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

Cropper mentioned that Harrigan, in serving on both the Planning Commission and the Town Council, may have to recuse himself in matters where there could be a conflict of interest.

10. Discussion of Revisions to Interlaken Municipal Code, Title 09, Building and Construction:

Goodall mentioned his concern over Section 9.03.050 which adopts the International Fire Code and it's impact on our codes. In particular, according to Appendix B of the IFC, wooden decks may not be allowed in Interlaken. This issue will be taken up by Goodall and Marshall when they review Title 9.

Clerk Smith brought up Section 9.08.030 – as worded it is confusing.

Motion: Commission Member Cropper moved to revise Section 9.08.030 A. to read: “A. Whenever buildings exceed 30 feet above the ‘Natural Grade’, an Elevation Certificate shall be required before any Certificate of Occupancy is issued.”

Second: Commission Member Harrigan seconded the motion.

Discussion: None.

Vote: The motion was approved with the Committee Members unanimously voting Aye.

11. Other Business:

Cropper mentioned that Harrigan, in serving on both the Planning Commission and the Town Council, may have to recuse himself in matters where there could be a conflict of interest. He will discuss this with Bywater.

Cropper also mentioned potential due process issues with the Council working as both legislative and administrative bodies. He will also discuss this with Bywater.

Cropper pointed out that the Interlaken planning commission is handling tasks that normally would be performed by town staff (in most other towns). For example, issuing a utility permit. Harrigan countered that we need to keep the Planning Commission for now because they are doing work that would fall onto an already overloaded Town Council.

Harrigan suggested that we simplify and revise Titles 9 and 11 within 6 months, before the next build season (March or April). The committee agreed that this was a worthy goal.

12. Review of Planning Commission Calendar

The next Planning Commission meeting will be held at 6pm just prior to the Town Council meeting (6:30pm) on September 12, 2016. Additional meetings for the year will be held on the same dates as the Council meeting, starting at 6pm.

13. Action Items from this Meeting:

- Epic Engineering permit approval checklists – Ryan & Bill.
- International Urban Wildlife Interface Code – research adoption – Bill & Ryan.
- International Fire Code, 2012 edition, Appendix B – fire flow requirements for buildings – Ryan to research, particularly re: decks or outside stuff.
- Section 11.12.030 Notice regarding changes to zoning ordinance requirements – “A” lists 6 changes requiring public hearings – Greg C. to check what can we change without public hearing.
- Zoning Map – someone said we had one? Need to post it to website – Who?
- Question of due process – planning commission vs. town council approvals? – Greg C. to clarify.
- Review/Revision of Title 9 to be completed in 6 months – Bill & Bob.
- Review/Revision of Title 11 to be completed in 6 months – Greg C. & Ryan.

14. Adjournment:

Commission Member Goodall moved to adjourn the meeting. Commission Member Cropper seconded the motion. The motion passed unanimously.

The meeting was adjourned at 7:07 PM.