

BLAINE COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING on February 26, 2019

REGARDING AN APPLICATION OF: Alan and Donna Kinsel, Trustees, to amend Lot 12 of Gimlet Last Subdivision by expanding the existing building envelope.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
--	--

REQUESTED ACTION: Public hearing and consideration of a plat application by property owners Alan and Donna Kinsel, Trustees, to amend Lot 12 of Gimlet Last Subdivision by expanding the existing building envelope 25' to the south, making room for a new office and basement. Also known as 219 Wall St., the 12.4 acre lot includes Planned Residential Development (R-2), Rural Remote (RR-40) and Rural Residential (R-10) zoning with some Mountain Overlay District (MOD). The building envelope area, however, is in (R-2) zoning and free of overlay districts.

APPLICABLE REGULATIONS:

Title 10 (Subdivision Regulations): Chapters 1-5

Title 9 (Zoning Regulations): Chapter 9

Title 8 (Comprehensive Plan)

Representative: Bruce Smith; Alpine Enterprises Inc.

I. GENERAL BACKGROUND

1. **Notice of this February 26, 2019 public hearing was:**
 - i. Published in the Idaho Mountain Express on 2-6-19;
 - ii. sent by first class mail on 2-6-2019 with preliminary plat, to all property owners within 300 feet of the external boundaries of these lots, and to all subdivision lot owners;
 - iii. sent to all political subdivisions on 2-4-2019 and
 - iv. posted on subject property on 2-11-2019, as evidenced by the affidavit in file, which is more than seven days prior to the hearing.

► **FINDING:** Upon motion by Commissioner Fosbury, second by Commissioner McCleary, and a vote of 3 to 0, the Board finds notice to be in compliance with applicable regulations. §10-4-7 of the Subdivision Ordinance.

2. No disclosures made.

3. Incorporated by reference are the following exhibits:

"A" Exhibits—Application Materials

All application materials were received on January 22, 2019 unless indicated otherwise.

- A-1: Completed application form
- A-2: Authorization letter from property owner Trustees
- A-3: Vicinity and Adjoiner's Map
- A-4: Adjoiner's addresses
- A-4.5: Warranty Deed
- A-5: Commitment for Title Ins.
- A-6: Preliminary plat (large and 11x 17)
- A-7: Revised site plan; rec'd 1-30-2019

"B" Exhibits—Agency Comments

- B-1: South Central Public Health District- stamped revised site plan; rec'd 2-6-2019
- B-1: Ketchum Rural Fire District- stamped revised site plan; rec'd 2-6-2019

"C" Exhibits—Additional Information

- C-1: Governing Gimlet Last Sub. Plat recorded June 29, 1994 as Instrument No. 367718 with legible plat notes.
- C-2: Aerial map with overlays

"D" Exhibits—Public Comments: none rec'd

II. PLAT AMENDMENT CRITERIA

Subdivision Regulations §10.4.7(D) Plat Amendment and Correction

D. Plat Amendment And Correction:

1. *Administrative Review: A minor correction of a mistake on a final plat or a minor amendment...*
 - ▶ **FINDING:** This is not a minor correction or minor amendment.
2. *Board Approval: Any other requested amendment to a plat that does not create a new lot shall be acted upon by the Board after not less than one public hearing for which each record holder of property within the subdivision, if determined by the Board to be necessary, and all property owners within three hundred feet (300') of the exterior boundary of the lots proposed for plat amendment were sent notice by mail. The Board may approve an application if the applicant has demonstrated that the proposed amendment:*

- a. Does not alter the existing character of the subdivision; and
 - b. Satisfies to the extent practical all the applicable requirements of this Code, as amended.
- **FINDING:** The southern building envelope boundary is proposed to expand to the south by 25', reducing the setback on Lot 13 from 100' to 75'. A 25' reduction in the setback does not change the character of the area. See Exhibits A-6 and A-7, the proposed plat and the revised site plan. Also C-2, Aerial map.

Findings for applicable requirements of the Code are below.

3. *Modifications To Building Envelope Or Centroid: If the amendment involves any modification to a building envelope or centroid, the applicant, in addition to meeting the requirements of subsection D2 of this section, must demonstrate that:*

- a. *The proposed location is not within or farther within a natural resource overlay district or hazard area.*
- **FINDING:** The existing and proposed expanded envelope are not within a natural resource overlay district or hazard area. See preliminary plat, Exhibit A-6 and Exhibit C-2, aerial map with overlays.

III. DESIGN AND IMPROVEMENT STANDARDS
 Subdivision Regulations §10-5-1, §10-5-2, §10-5-3

10-5-1: ADMINISTRATIVE STANDARDS: *No preliminary plat application shall be considered by the board or commission until the administrator makes a positive finding with regard to each of the following standards:*

A. *Other regulations: To the extent applicable, subdivision proposals shall comply with:*

1. *The following sections of this code:*

- a. *Any chapter of title 3 with the recommendation or approval of the health district; SCPHD has approved the revised site plan which includes the building envelope expansion (see Ex. B-1).*
- b. *Any chapter of title 6 with the recommendation or approval of the county engineer and recreation district if appropriate; . . . No change is warranted that requires County Engineer or recreation district review.*
- c. *Any chapter of title 7 with the recommendation or approval of the building official and fire official in an established district. . . Ketchum Rural Fire District has approved the revised site plan which includes the building envelope expansion (see Ex. B-1).*
- d. *Chapter 2 of title 8; and. . . The lot is not within any Area of City Impact (ACI).*
- e. *Any chapter of title 9. Findings for the applicable Title 9-Zoning Regulations are reviewed below.*

2. *Adopted Idaho transportation department standards, if the applicant seeks a new or expanded access onto a state highway. N/A*

B. Resource Protection Requirements:

1. *Floodway Areas: Floodways, as determined by adopted floodplain studies, N/A*
2. *Avalanche Areas: No new habitable buildings shall be located within a high (red) avalanche hazard area, as determined by a professional study. There is blue and red avalanche area to the east of the building envelope, but not within it. There is an existing Plat Note #5 on Ex. C-1; Governing Plat, that states "Non-habitable structures may be located outside the designated building envelope." Mountain Overlay District on this lot is located to the east of the red avalanche line (A-6; Prelim. Plat). Staff recommends and the Board to agrees to amend Plat Note #5 to say: "Non-habitable structures may be located outside the designated building envelope but not within the mapped Mountain Overlay District or its sub districts."*
3. *Riparian Areas: . . . N/A.*
4. *Wetlands Areas: No new buildings shall be located within seventy five feet (75') from "wetlands" as defined in section 9-19-2 of this code. . . This lot does not have any National Wetlands Inventory (NWI) indicated on it and no waterways or floodplain. No site specific wetlands evaluation was required.*

C. **Drainage:** Drainage systems shall not discharge into any sanitary sewer facility. N/A – no change to drainage proposed.

D. Lot requirements:

1. *Lot sizes, uses and the location of uses shall satisfy any zoning regulations and other applicable sections of this code... The proposed building envelope exceeds the minimum required R-2 south side yard setback (25') by 50'. No other setback changes are proposed. . . .*
6. *All buildings on lots located adjacent to public lands shall have a minimum thirty foot (30') setback from public lands. The east (rear) property line is adjacent to BLM (see Ex. C-2). See recommended expanded Plat Note #5 above under 10-5-1(B) (2), which brings this standard into compliance as well.*

E. **Utilities:** N/A – no change to utilities proposed.

F. **Water Supply:** N/A – no change to water supply proposed.

G. **Sewage Disposal:** N/A – no change to sewage disposal proposed.

H. **Street Improvements:** N/A – no streets adjacent to the subject lot.

I. **Intersection Location And Specifications:** N/A – no intersections adjacent to the subject lot.

J. **Street Specifications:** N/A – no streets adjacent to the subject lot.

K. **Lighting Standards:** All outdoor lighting in the proposed subdivision shall comply with title 9, chapter 29A of this code. All exterior lighting is reviewed at time of building permit for compliance with zoning chapter 29A: Outdoor Lighting.

- **ADMINISTRATOR'S FINDING FOR ADMINISTRATIVE STANDARDS:** The proposed plat amendment complies with the applicable administrative standards with amended Plat Note #5.

AMENDED PLAT NOTE 5. Non-habitable structures may be located outside the designated building envelope but not within the mapped Mountain Overlay District or its sub districts.

10-5-2: THRESHOLD STANDARDS: *No preliminary plat application shall be approved unless the board determines that the application complies with each of the following standards:*

- A. **Administrative Standards:** The Board finds the administrator's finding on the standards set out in section 10-5-1 of this chapter are acceptable. The administrator's finding on administrative standards are noted above.
- B. **Comprehensive Plan:** *The proposed subdivision of land conforms to and is in accordance with the comprehensive plan text and map.* N/A .
- C. **Impact on Public Facilities and Services:** *The proposed subdivision shall not adversely affect the quality of essential public services and facilities...* N/A –this is not a proposed subdivision.
- D. **Land Under Floodplain:** *No residential structure or structure . . .* N/A- no floodplain on this lot.
- E. **Agricultural And Rural Land (A-20, A-40, R-10 And RR-40 . . .** N/A –this is not a proposed subdivision.
- F. **Avalanche Areas:** *Land subject to avalanche hazards, as determined by a professional study, shall not be used for private roads unless the hazards are mitigated or overcome by approved design and construction plans. Red and Blue avalanche are indicated on the plat. The proposed building envelope is not within them.*
- G. **Unsuitable Land:** N/A –this is not a proposed subdivision.
- H. **Applicant Or Landowner:** If the applicant or landowner with respect to an application for a subdivision under this chapter is the state of Idaho... N/A
- I. **Water Quantity And Quality:** N/A.

► **FINDING:** The applicable Threshold Standards are in compliance.

10-5-3 DESIGN STANDARDS: *No preliminary plat application shall be approved unless the board makes a positive finding that the application complies with each of the following standards. No waiver of any of these standards may be granted except pursuant to section 10-8-5 of this title.*

A. **Preservation Of Natural Features:** *Where found practicable and appropriate, the following specific areas regardless of location shall be left undeveloped and undisturbed:*

1. *Unique or fragile areas such as geologic features and natural topography of the land with the goal of preserving the character, natural features and configuration of land terrain; ... in compliance with amended Plat Note #5.*

B. **Lot Requirements:**

1. *Each lot shall contain a satisfactory building site which is properly related to topography. ... The proposed building envelope is properly related to topography. The plat note allowing non-habitable structures outside of the envelope will also be properly related to topography with the amended Plat Note #5.*
3. *Natural habitat and other areas of significant value to wildlife, including migration corridors as identified by Idaho fish and game; . . . Commissioner Fosbury adds a plat note as stated below.*

NEW PLAT NOTE: "No feeding of big game is permitted without Idaho Fish and Game written approval."

C. **Blocks:** N/A.

D. **Utilities:** N/A.

- E. Drainage: N/A
- F. Water Supply: N/A
- G. Sewage Disposal: N/A
- H. Solid Waste Disposal: N/A.
- I. Park Or School Site Dedication: N/A.
- J. Access Easements: N/A
- K. Development Rights: N/A.
- L. Hillside Standards: N/A
- M. Design Of Subdivisions Within Or Adjacent To Lands Zoned A-20, A-40, R-10 Or RR-40: N/A
- N. Street Improvements: N/A
- O. Intersection Location And Specifications: N/A.
- P. Landscaping And Grading: N/A
- Q. Nonmotorized Facilities: N/A.
- R. Wildlife: N/A.
- S. Gates: N/A.
- T. Riparian And Wetland Areas: N/A

- ▶ **FINDING:** The applicable design standards are in compliance with amended Plat Note #5 and the addition of the new plat note regarding no feeding of big game.

III. DECISION AND CONDITIONS:

▶ **DECISION:** Having considered the information presented and the above criteria, the Board of Commissioners, upon a motion by Commissioner Fosbury, a second by Commissioner McCleary, and 3 to 0 vote, approves this plat amendment application by property owners Alan and Donna Kinsel, Trustees to amend Gimlet Last Subdivision by replatting Lot 12 as proposed and discussed, finding the application complies with the applicable criteria set forth under Title 10, Subdivision Regulations and applicable criteria of Title 9, Zoning Regulations, subject to the following conditions and plat notes:

Conditions of approval:

1. Plat shall include plat notes from the current plat, with the exception of #5 which has been amended as stated below;
2. Record the final plat within one year of final approval or seek and be granted an extension at the Board's discretion within that period;
3. Pay all county engineer fees, if any, prior to obtaining the final county signatures;
4. Place the standard health department signature note on the face of the final plat;
5. Set out the square footage of each lot on the final recorded plat;
6. Satisfy the monumentation requirements of state law and §10-4-5(H);
7. Comply with the survey requirements of Blaine Co. Resolution #2002-54;
8. Add to the plat an I.C. §50-1334 certificate regarding the type of domestic water system;

Plat note additions and changes:

- Septic systems shall be built with riser, out-flow filters and drainfield inspection ports on each system.
- Domestic well water shall be limited to use on a maximum of one-half acre.
- No feeding of big game is permitted without Idaho Fish and Game written approval.
- Amended plat note #5 from previous plat: Non-habitable structures may be located outside the designated building envelope but not within the mapped Mountain Overlay District or its sub districts.

Notice pursuant to I.C. 67-6535(c): The owner of the property subject to this application and decision may request regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this 5 day of March, 2019


BLAINE COUNTY BOARD OF COMMISSIONERS


~~Jacob Greenberg, Chairman~~ Angenic McCleary, Vice-Chair

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 5th day of March, 2019, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

Bruce Smith
bsmith@alpineenterprisesinc.com



Staff Member