

# CITY OF KIMBERLY

PLANNING & ZONING COMMISSION  
MEETING AGENDA

OCTOBER 1, 2013  
6:00PM

Planning & Zoning Commission meetings are televised, videotaped and/or recorded

Location: 242 Highway 30, Kimberly, Idaho 83341

## CALL TO ORDER

**WELCOME – PLEASE TURN OFF CELL PHONES – THANK YOU.**

## ROLL CALL OF COMMISSION MEMBERS

### 1. APPROVE -

- a. Minutes from September 3, 2013 Commission Meeting.

### 2. PUBLIC HEARINGS –

- a. Public Hearing and Consideration of an ordinance for a City of Kimberly initiated text amendment to the Kimberly City Code, amending the code by adding under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions. The public hearing was continued from August 6<sup>th</sup> and from September 3<sup>rd</sup>, 2013 P&Z Meetings.

### 3. NEW BUSINESS

- a. Discussion and consideration pertaining to setbacks between an internal lot line at Kimberly High School football facility and concession stands/and bleachers. Zoning Ordinance Table 17.04.130 Official Height and Area Regulations: establishes that school zone setbacks are “as determined by the planning and zoning commission.”
- b. Discussion regarding animated, flashing signs

### 6. NOVEMBER MEETING: –

- a. November 5, 2013

### 7. ADJOURNMENT

**Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 242 Highway 30, Kimberly, Idaho 83341 or call 208-423-4151.**

Ted Wasko	Leland Belin	Perry Dangerfield	Candy Weth	VACANT	Cindy Schmidt	Dan Shewmaker
		<i>Co-Chair</i>	<i>Chairperson</i>		<i>Area of Impact</i>	<i>Area of Impact</i>

Posted Aug. 3, 2013

# **KIMBERLY PLANNING AND ZONING**

## **SEPTEMBER 3, 2013**

### **Call to Order:**

The meeting was called to order at 6:50pm.

### **Welcome**

### **Roll Call of Commission Members:**

Members present were Candy Weth, Leland Belin, Ted Wasko and Perry Dangerfield. Area of Impact representative Cindy Schmidt was also present.

### **1. Approve:**

The minutes from the August 2013 were amended to change the word architect to engineers in the paragraph detailing changes in the lot line ordinance. Cindy Schmidt moved that the Commission accept the minutes with the change and the motion was seconded by Ted Wasko. The motion was carried unanimously.

### **2. Public Hearings:**

A. TKO Homes was before the Commission requesting that the 45 foot long frontage on E. Taylor Street should not be required to install new curbs, gutter and/or sidewalk due to the location and character of the development, at the time of construction of a home. This will not be a public hearing just a decision by the Commission on this request. The Commission discussed the nature of the request and the situation on East Taylor Street. The Commission noted that none of East Taylor Street had curb, gutter or sidewalk. The addition of this construction on the street would divert runoff from rain or melting snow to the neighboring properties which would be undesirable. The property located at 230 E. Taylor Street (Parcel Number K8681001006B), legally described as the Albert tract S.463.34' Lot 6, Exc W 120.23' of S 156 Block 1 in City Kimberly, County of Twin Falls, Idaho is at the end of the street. The driveway will be compacted gravel. The Commission felt that requiring curb, gutter and sidewalk at this time was not necessary. Cindy Schmidt made the motion that due to the location or character of 230 E. Taylor Street (Parcel Number K8681001006B), legally described as the Albert tract S.463.34' Lot 6, Exc W 120.23' of S 156 Block 1 within the City Kimberly, County of Twin Falls, Idaho, the Commission not require the applicant TKO Homes to construct new curbs, gutters and sidewalks spanning the distance of 45' fronting E. Taylor Street and covering the entrance way of the planned future drive entryway to property in compliance with the standards of Kimberly City Code. Ted Wasko seconded the motion. The motion was carried unanimously.

B. Public Hearing and Consideration of an ordinance for a City of Kimberly initiated text amendment to Kimberly City Code Chapter 17.04 District Regulations, add sub-sections 17.04.060 D. Color Pallet Requirements and 17.04.080 D. Color Pallet Requirements. Both sub-sections would state 1. Each building with its trim, and features, shall be

earthtone colors consistent with the earth-tone color pallet in this regulation. The color pallet is proposed to be added at Chapter 17.07 Supplementary Regulations: Section 17.07.120 Color Pallet as part of this text amendment. The public hearing was continued from the August 6, 2013 Commission meeting.

The Commission reviewed the additional colors recommended by staff and agreed that the addition of more colors would be beneficial to all concerned. It was noted that requiring at least 2 colors from that pallet and using up to 3 colors would be appropriate.

There will be the option to appeal to the Commission any variations that businesses may desire to this ordinance. There is a 3 year window for existing structures and that natural rock features need not be painted. Perry Dangerfield moved to recommend the City Council approve the proposed amendments to Kimberly City Code, Development Regulations, adding under Chapter 17.04 District Regulations, Sections 17.04.060 D Color Palette Requirements and 17.04.80 D Color Palette Requirements. Both Subsections would state 1. Each building shall be earth tone colors consistent with the earth tone color palette in section 17.07.120. This approval is also for the color palette requirements and color palette to be included at Chapter 17.07 Supplementary Regulations Section 17.07.120 Color Palette, finding that the amendments are in accordance with the Comprehensive Plan, and that the proposed amendment will promote the public health, safety and general welfare. Cindy Schmidt seconded the motion. The motion was carried unanimously.

C. Continue the Public Hearing and Consideration of an ordinance for a City of Kimberly initiated text amendment to Kimberly City Code, the amendment to add under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions to the October 1, 2013 Commission Meeting. The new section provides that applicants of planning and zoning actions provide required timesensitive notice of such hearings/actions. The section provides that the city planning staff provide either an electronic or a single hard copy of the official notices to be sent or posted to the applicant and provide notice to the official city newspaper, along with notice to political subdivisions (public agencies) providing services within the planning jurisdiction of appropriate planning applications. The public hearing was continued from the August 6, 2013 Commission meeting.

Staff recommended that this Consideration for Noticing Procedure be continued at the October 1 meeting. Cindy Schmidt moved that the Commission continue this Consideration to the October meeting. The motion was seconded by Leland Beling. The motion was carried unanimously.

## **2. Unfinished Business/Old Business:**

No old business before the Commission.

## **3. New Business:**

No new business before the Commission.

## **Adjournment:**

The meeting was adjourned at 7:25pm.

Respectfully submitted,

Perry C. Dangerfield

## STAFF REPORT

**TO:** Kimberly Planning and Zoning Commission

**FROM:** Bart Bingham, Community Development Director

**RE:** Kimberly City Code, Development Regulations Text Amendment- The City of Kimberly initiated text amendment to add under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions. The new section provides that applicants of planning and zoning actions provide a list of 300 ft around property owners, provide printed addressee envelope stickers with property owner's names and mailing addresses already printed upon them, and provide a signed affidavit stating all property owners and easement holders where provided on the list and printed on the address labels . The proposed amendment's objective is to assist planning and zoning applicants in noticing while also delineating staff and applicant noticing responsibilities in the future.

**HEARING:** October 1, 2013

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### Notice

Notice for the public hearing was published in the Times News on July 23, 2013 and mailed to public agencies and area media on July 23, 2013.

### Proposal

The amendment is to the Kimberly City Code, Development Regulations, and add under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions.

### Background

The amendment is being brought to allow for the noticing requirements to be cataloged in a single, central area in the Zoning Ordinance and to provide for easy, fast reference for answering questions and carrying out noticing projects. Additionally, the amendment provides staff and applicants opportunities to share noticing responsibilities so city efforts may extend to both short and long term Community Development goals and objectives.

## FINDINGS OF FACT

**Applicant:** The City of Kimberly

### Procedural History

The text amendment was continued by the Planning and Zoning Commission on August 6, 2013 and on Sept 3, 2013 to the October 1, 2013 meeting.

### Department Comments

Establishing a system where notice responsibilities are shared would spread noticing

responsibilities between many applicants and assist the Community Development Department in focusing in on both short and long term department goals and objectives.

### **Standards of Evaluation**

**Note:** Staff analysis is in lighter type,

**When evaluating any proposed amendment, the Commission and Council shall make findings of fact on the following criteria:**

**a. The proposed amendment is in accordance with the Comprehensive Plan;**  
The Comprehensive Plan shows objectives for the City of Kimberly to grow and to optimize growth and development opportunities projected to come to the area. Establishing a system where notice responsibilities are spread among many applicants and Community Development staff would allow staff to focus in on both short and long term department goals and objectives.

**b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;**

Not applicable

**c. The proposed uses are compatible with the surrounding area; and**

Not applicable

**d. The proposed amendment will promote the public health, safety and general welfare.**

The proposed amendment will promote the public health, safety and general welfare by allowing for Community Development Staff to focus on both short and long term department goals and objectives for the betterment of the City of Kimberly.

### **Summary**

The Commission is required to hold a public hearing and determine whether the proposed amendment is in accordance with the applicable standards of evaluation and make a recommendation to the Council that the proposed amendment be granted or denied, or that a modified amendment be granted.



## RECOMMENDATION

Based upon the above Findings of Fact, the Council makes the following Recommendation:

1. Adequate notice, pursuant to Idaho Code, was given for the public hearing.
2. Upon compliance with the conditions noted above, the application substantially meets the standards of the Kimberly Development Code.
3. The application with the ordinance to amend the Kimberly City Code, is found to be in conformance with the comprehensive plan and is (circle one) approved/ denied to be recommended for approval to the Kimberly City Council..

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Candy Weth, P&Z Commission Chair, City of Kimberly

Attest:

\_\_\_\_\_  
Bart Bingham, Community Development Director, City of Kimberly



**Motion Language**

Approval:

P&Z

Motion to recommend the City Council approve the proposed amendments to Kimberly City Code, Development Regulations, adding under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions, finding that the amendments are in accordance with the Comprehensive Plan, and that the proposed amendment will promote the public health, safety and general welfare.

Denial:

P&Z

Motion to recommend the City Council deny the proposed amendments to Kimberly City Code, Development Regulations, adding under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions, finding that \_\_\_\_\_ [the Commission should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:

Motion to continue the public hearing upon the proposed amendments to Kimberly City Code, Development Regulations, adding under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions, to \_\_\_\_\_ [the Commission should specify a date].

Table:

Motion to table the proposed amendments to Kimberly City Code, Development Regulations, adding under Chapter 17.17 Administration and Enforcement: Section 17:17.060 Procedures for Noticing Planning and Zoning Actions, to a later date: \_\_\_\_\_.



KIMBERLY ORDINANCE NO. \_\_\_\_\_

Procedures for Noticing Planning and Zoning Actions

AN ORDINANCE OF THE CITY OF KIMBERLY, IDAHO, AMENDING KIMBERLY'S CITY CODE, BY ADDING UNDER CHAPTER 17.17 ADMINISTRATION AND ENFORCEMENT: SECTION 17:17.060: PROCEDURES FOR NOTICING PLANNING AND ZONING ACTIONS.

THIS ORDINANCE PROVIDES FOR A SEVERABILITY CLAUSE AND A REPEALER CLAUSE; AND FOR THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR AMENDMENT OF CHAPTER 17: ZONING REGULATIONS UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Kimberly City Council has found that the following amendments to the Kimberly City Zoning Regulations generally conform to the Kimberly Comprehensive Plan; and

WHEREAS the amendments are compatible with the surrounding area.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY KIMBERLY, IDAHO, AS FOLLOWS:

**Ordinance amendments are shown below in bold text**, language deleted is delineated by a single-line strikethrough, and regular text is neither amended nor deleted, but is shown to provide context and placing of the amendments in the ordinance.

**17.17.060: PROCEDURES FOR NOTICING PLANNING AND ZONING ACTIONS:**

**A. Noticing Requirements: Idaho Code requires Planning and Zoning actions shown below to have at least one public hearing (in which interested persons shall have an opportunity to be heard) at the Commission level and at least one at the Council level, except for Variances and Special Use Permits on which the Council does not take action unless it is utilized as an appellate body from Commission determinations. Where Council action is required, the same noticing procedures required prior to Commission action/consideration are also required prior to Council action/consideration. Notice for such public hearings shall be carried out by satisfying the requirements below for each particular action:**

**a. Official Newspaper or Paper of General Circulation: The Community Development Director or designee shall carry-out the notice requirement (a) for Official Newspaper of General Circulation.**



- i. **At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. Such notice is required for the following actions:**
  - 1. **Variance Permit**
  - 2. **Special or Conditional Use Permit**
  - 3. **Zoning Ordinance Text Amendment**
  - 4. **Zoning Map Amendment**
  - 5. **Zoning District Boundary Changes** (see below)
  - 6. **Development Agreements** (adopted or amended by ordinance)
  - 7. **Planned Unit Development Pre & Final Plat**
  - 8. **Subdivision Pre Plat & Final Plat** \*\*\*\*\*
  - 9. **Design Review**\*\*\*\*\*
  - 10. **Annexation**
    - a. **Notice of annexation and zoning designation must be published in newspaper twenty-eight (28) days prior to the public hearing.**
  - 11. **Vacation** (see below)
  - 12. **Adoption/Amendment of Comprehensive Plan**
  - 13. **Recommendation of a plan** (after Commission action , may hold Council Public Hearing)
  - 14. **Adoption of a plan** (after Commission action , may hold Council Public Hearing)
  - 15. **Amendment of a plan** (after Commission action , may hold Council Public Hearing)
  - 16. **Repeal of a plan** (after Commission action , may hold Council Public Hearing)
  - 17. **Commission or Council makes a Material Change from what was noticed for a hearing.**
- ii. **Additional for Zoning District Boundary Changes: Notice of a public hearing for a proposed zoning district change shall be in the official newspaper of the city, once a week for three (3) consecutive weeks, with at least one of said publications being fifteen (15) days prior to the date set for hearing.**
- iii. **For Vacations: Notice of a public hearing for a vacation shall be published once a week for two (2) consecutive weeks in the official newspaper of the city, the last of which shall not be less than seven (7) days prior to the date of said hearing.**

- b. **Political Subdivisions (Public Agencies) providing services: The Community Development Director or designee shall carry-out the notice requirement (b): Notice to Political Subdivisions.**
  - i. **At least fifteen (15) days prior to the public hearing, notice shall be sent to all political subdivisions providing services within the planning**



jurisdiction, including school districts. Such notice is required for the following actions:

1. Variance Permit
2. Special or Conditional Use Permit
3. Zoning Ordinance Text Amendment
4. Zoning Map Amendment
5. Zoning District Boundary Change
6. Development Agreements (adopted or amended by ordinance)
7. Planned Unit Development Pre Plat & Final Plat
8. Subdivision Pre Plat & Final Plat \*\*\*\*\*
9. Design Review\*\*\*\*\*
10. Annexation
11. Vacation
12. Adoption/Amendment of Comprehensive Plan
13. Recommendation of a plan
14. Adoption of a plan (after Commission action , may hold Council Public Hearing)
15. Amendment of a plan (after Commission action , may hold Council Public Hearing)
16. Repeal of a plan (after Commission action , may hold Council Public Hearing)
17. Commission or Council makes a Material Change from what was noticed for a hearing.

c. **Property Owners within three hundred (300) feet – The applicant shall assist to carry-out the notice requirements under this subsection (c) by providing:**

1. An official current 300 ft. around property owner list showing all property owners/easement holders of the property and property owners within 300 feet of it with their mailing addresses. These can be obtained at the County Assessor's Office or through a Title Company.
2. A printed envelope addressee mailing sticker of each property owner /easement holder of the property and property owners within 300 feet.
3. A signed affidavit stating all owners/easement holders of the property and property owners within 300 feet are included on the list and an addressed mailing sticker for each has been provided.
4. Payment for mailing to the number of property owners and easement holders on the list/addressee stickers.
5. The Community Development Director or designee shall carry-out the remaining notice requirements for subsection (c) below.



- i. **At least fifteen (15) days prior to the hearing, additional notice shall be provided by mail to property owners (or purchasers of record) within the land being considered and within three hundred (300) feet of the external boundaries of the land being considered. Also to owners of any additional land determined to be impacted. Such notice is required for the following:**
  1. **Variance Permit** (see below when 200 or more property owners)
  2. **Special or Conditional Use Permit**
  3. **Zoning Map Amendment**
  4. **Zoning District Boundary Change**
  5. **Development Agreements** (adopted or amended by ordinance)
  6. **Planned Unit Development Pre & Final Plat**
  7. **Subdivision Pre Plat & Final Plat**
    - a. **Notification shall be sent by first class mail at least (10) days prior to Commission Meeting**
  8. **Design Review**
  9. **Annexation**
    - a. **Notice of annexation and zoning designation must be mailed twenty eight (28) days prior to the public hearing.**
    - b. **If Annexation is classified as Category C, after completion of all procedures for consideration of a category B annexation, but prior to enactment of an annexation ordinance, the City shall mail notice all private landowners within the area to be annexed, exclusive of owners subject to a consent to annex. Such notice shall invite property owners to give written consent and inform them where the entire annexation record may be examined.**
  10. **Vacations** (see below)
  11. **Commission or Council make a Material Change from what was noticed for the hearing, use ii below to re-notice if more than 200. For annexation or vacation noticing or re-noticing, use regulations below.**
- ii. **When Two Hundred (200) or more property owners (in lieu of mailed notice)**
  1. **Three (3) Newspaper notices required: When notice is required to two hundred (200) or more property owners or residents, notice of said proposed change and the hearing shall be published in the official newspaper of the city once a week for three (3) consecutive weeks, with at least one of said**



publications being fifteen (15) days prior to the date set for the hearing.

- a. For a Variance, the third notice shall appear (10) days prior to the public hearing.

iii. **For Vacations:** Notice of public hearing shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of the public hearing to all property owners within three hundred (300') feet of the boundaries of the area described in the petition.

d. **Posting on Premises-** The applicant shall carry-out appropriate posting for applications requiring it as shown below. The Community Development Director or designee shall carry-out the notice requirement (d): Posting on Premises.

i. At least (1) one week prior to the hearing, notice shall be posted on the exterior boundaries of the premises being considered under the application. Such notice is required for the following:

1. Special or Conditional Use Permit
2. Zoning Map Amendment
3. Zoning District Boundary Change
4. Development Agreements (adopted or amended by ordinance)
5. Planned Unit Development Pre & Final Plat
6. Subdivision Pre Plat & Final Plat \*\*\*\*\*
7. Annexation
8. **When Two Hundred (200) or more property owners (in lieu of mailed notice)**
  - a. There shall be site posting on all external boundaries of the site.

e. **Additional Notice-** Notice shall also be made available to other papers, radio and television stations serving the planning jurisdiction for use as public service announcement. Such notice may be satisfied by posting on the city's official website or by making notices available. The Community Development Director or designee shall carry-out the notice requirements under this subsection (e).

1. This notice shall be made available prior to recommending a plan, amendment to a plan, or repeal of a plan. Others include:
  - a. Special or Conditional Use Permits
  - b. Vacations
  - c. Annexation



NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY KIMBERLY, IDAHO, AS FOLLOWS:

SECTION 1. The above described and shown text amendments are the subject of text amendments to the Kimberly City Code.

SECTION 2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 3. All City of Kimberly ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the approval, and publication according to law.

PASSED AND ADOPTED BY THE KIMBERLY CITY COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2013.

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Tracy Armstrong, Mayor, City of Kimberly

Attest:

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Shoshonie Heitmann, City Clerk

Publish: Times News \_\_\_\_\_, 2013



Table: 17.17.060: PROCEDURES FOR NOTICING PLANNING & ZONING ACTIONS WHICH REQUIRE A PUBLIC HEARING

	Commission Action						Council Action					
	Newspaper	Political Subdivisions	Property Owners w/in 300'	Posting on Premises	Web site	Commission Recommendation	Appeal of Commission Action	Newspaper	Political Subdivisions	Property Owners w/in 300'	Posting on Premises	Web site
Variance Permit	•	•	•	•	•	no	yes	•	•	•	•	•
Special Use Permit	•	•	•	•	•	no	yes	•	•	•	•	•
Zoning Text Amendment	•	•		•	•	yes	no	•	•		•	•
Zoning Map Amendment	•	•	•*	•	•	yes	no	•	•	•*	•	•
Zoning District Boundary Change	•*	•		•	•			•*	•		•	•
Development Agreements	•	•	•			yes	no	•	•	•		
PUD Pre & Final Plat	•	•	•	•	•	yes	no	•	•	•	•	•
Subdivision Pre & Final Plat	•	•	•	•	•	yes	no	•	•	•	•	•
Design Review	•	•	•			no	No Council Action Required					
Annexation	•	•	•**	•	•	yes	no	•	•	•**	•	•
Vacation (sub, plat, road, easement)	•^	•	•***	•	•	yes	no	•^	•	•***	•	•
Adopt/Amd Comp Plan	•	•		•		yes	no	•	•		•	
Dedications (street, easement)	No Commission Action Required						Council Accepts Street or Bond for it w/o noticing					

\* 1. When Two hundred (200) or more property owners or residents, Three (3) Newspaper notices are required (in lieu of mailed notice), so notice of said proposed change and the hearing shall be published in the official newspaper of the city once a week for three (3) consecutive weeks, with at least one of said publications being fifteen (15) days prior to the date set for hearing.

\*\*\* 3. For Vacations: Notice of public hearing shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of the public hearing to all property owners within three hundred (300') feet of the boundaries of the area described in the petition.

Applicant provides 300 ft around property list, printed addressee envelope stickers, and a signed affidavit.

\*\* 2. For Annexation –( Three (3) different time-frame Newspaper notices required): When notice is required to two hundred (200) or more property owners, in lieu of the mail notification, three (3) notices in the official newspaper of the city are sufficient; provided that the third notice appears ten(10) days prior to the public hearing.

^ 4. For Vacations: Notice of a public hearing for a vacation shall be published once a week for two (2) consecutive weeks in the official newspaper of the city, the last of which shall not be less than seven (7) days prior to the date of said hearing.

(Ord. \_\_\_\_\_)