CITY OF KETCHUM, IDAHO
PLANNING AND ZONING COMMISSION
Tuesday, July 22, 2025, 4:30 PM
191 5th Street West, Ketchum, Idaho 83340

AGENDA

PUBLIC PARTICIPATION INFORMATION
Public information on this meeting is posted outside City Hall.

We welcome you to watch Commission Meetings via live stream.
You will find this option on our website at www.ketchumidaho.org/meetings.

If you would like to comment on a public hearing agenda item, please select the best option for your participation:

1. Join us via Zoom *(please mute your device until called upon)*.
   Join the Webinar: https://ketchumidaho-org.zoom.us/j/82582438495
   Webinar ID: 825 8243 8495

2. Address the Commission in person at City Hall.

3. Submit your comments in writing to participate@ketchumidaho.org at *(by noon the day of the meeting)*

This agenda is subject to revisions. All revisions will be underlined.

CALL TO ORDER: By Chairman Neil Morrow
ROLL CALL: Pursuant to Idaho Code 74-204(4), all agenda items are action items, and a vote may be taken on these items.
COMMUNICATIONS FROM COMMISSIONERS:
CONSENT AGENDA:
ALL ACTION ITEMS - The Commission is asked to approve the following listed items by a single vote, except for any items that a commissioner asks to be removed from the Consent Agenda and considered separately.

1. Approval of the May 7, 2025 meeting minutes.
2. Approval of the May 13, 2025 meeting minutes.
3. Approval of the May 27, 2025 meeting minutes.
4. Approval of the June 24, 2025 meeting minutes.
5. Approval of the July 08, 2025 meeting minutes.

PUBLIC HEARING:

6. Recommendation to conduct a public hearing and recommend approval of the consolidated DRAFT Ketchum Land Development Code. (Morgan Landers - Director of Planning & Building)

ADJOURNMENT:

CITY OF KETCHUM, IDAHO
MEETING MINUTES OF THE
PLANNING AND ZONING COMMISSION
Wednesday, May 07, 2025
191 5th Street West, Ketchum, Idaho 83340

CALL TO ORDER: By Vice Chairman Brenda at 4:33 pm *(00.00.10 in video)*

ROLL CALL:
Neil Morrow *late arrival at 4:40pm
Susan Passovoy
Matthew McGraw
Brenda Moczygemba
Tim Carter

ALSO PRESENT:
Morgan Landers – Director of Planning and Building
Allison Kennedy – Senior Planner
Abby Rivin – Senior Planner
Genoa Beiser – Associate Planner

COMMUNICATIONS FROM COMMISSIONERS:

- None

CONSENT AGENDA: *(00.00.45 in video)*

1. CONSENT: Recommendation to review and approve the Findings of Fact, Conclusions of Law, and Decision for the PEG Hotel request of a 12-month extension for the Design Review and Floodplain Development Permit approvals. (Morgan Landers - Director of Planning and Building)
2. CONSENT: Recommendation to review and approve Draft Ordinance 1261 which proposes removal of Footnote 37 in Ketchum Municipal Code 17.12.020 in the LI-1 Zone for the "Health and Fitness Facility- Wellness Focus" use. (Genoa Beiser - Associate Planner)

   Motion to approve the consent agenda: Motion made by Susan Passovoy, seconded by Tim Carter
   MOVER: Susan Passovoy
   SECONDER: Tim Carter
   AYES: Susan Passovoy, Tim Carter, Matthew McGraw, & Brenda Moczygemba
   NAYS:
   RESULT: UNANIMOUSLY ADOPTED

PUBLIC HEARING: *(00.01.16 in video)*

3. PUBLIC HEARING: Recommendation to review and approve the 120 N East Avenue Addition Design Review Application P24-074. (Abby Rivin - Senior Planner)
   - Staff presentation – Abby Rivin, Senior Planner *(00.01.34 in video)*
   - Applicant presentation – Mike Brunell, Brunell Architects *(00.10.49 in video)*
   - Commission Questions for Applicant & Deliberations *(00.18.58 in video)*

   PUBLIC COMMENT OPEN *(00.20.55 in video)*
   - None

   PUBLIC COMMENT CLOSED *(00.21.01 in video)*

   - Deliberations *(00.21.04 in video)*

   Motion to approve the 120 N East Avenue Addition Design Review Application P24-074: Motion made by Susan Passovoy, seconded by Matthew McGraw
   MOVER: Susan Passovoy
   SECONDER: Matthew McGraw
   AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
   NAYS:
   RESULT: UNANIMOUSLY ADOPTED

4. PUBLIC HEARING: Recommendation to review the Limelight Hotel Planned Unit Development Conditional Use Permit and Development Agreement Amendment Applications. (Abby Rivin - Senior Planner)
   - Staff presentation – Abby Rivin, Senior Planner *(00.29.23 in video)*
   - Applicant presentation – Jim Garrison, Applicant Representative *(00.42.25 in video)*
   - Commission Questions for Staff and Applicant *(00.52.40 in video)*
   - Jim Laski – Attorney, Laski Lawson Clark *(01.03.50 in video)*

   PUBLIC COMMENT OPEN *(01.05.11 in video)*
   - none

   PUBLIC COMMENT CLOSED *(01.05.26 in video)*

   - Commission Deliberations *(01.05.34 in video)*

   Motion to recommend the Limelight Hotel Planned Unit Development Conditional Use Permit and Development Agreement Amendment Applications to City Council: Motion made by Susan Passovoy, seconded by Tim Carter
   MOVER: Susan Passovoy
   SECONDER: Tim Carter
   AYES: Susan Passovoy, Tim Carter, Brenda Moczygemba, Matthew McGraw, & Neil Morrow
   NAYS: Matthew McGraw
   RESULT: MOTION PASSES, 4 AYES AND 1 NAY

BREAK

- Begin at 6:09pm *(01.36.09 in video)*
- End at 6:22pm *(01.49.09 in video)*

5. PUBLIC HEARING: Recommendation to review and make a recommendation on the Draft Cohesive Ketchum 2025 Comprehensive Plan. (Abby Rivin - Senior Planner)
   - Staff presentation – Abby Rivin, Senior Planner *(01.49.41 in video)*
   - Clarion Associates presentation – Maggie Squyer, Clarion Associates *(01.52.20 in video)*
   - Staff Presentation – Morgan Landers, Director of Planning and Building *(01.58.05 in video)*
   - Commission questions for Staff & deliberations *(02.09.33 in video)*

   PUBLIC COMMENT OPEN *(02.33.37 in video)*
   - Gretchen Flynt*(02.34.24 in video)*
   - Anne Corrock *(02.35.32 in video)*
   - Maya *(02.41.39 in video)*
   - Minette Broschofsky *(02.48.03 in video)*
   - Shannon Flavin *(02.53.14 in video)*
   - Jae Hill *via Zoom *(02.59.50 in video)*

   PUBLIC COMMENT ENDS *(03.04.08 in video)*

   - Staff responses to Public Comment & Commission questions and deliberations *(03.04.20 in video)*

   Motion to continue the public hearing for the Draft Cohesive Ketchum 2025 Comprehensive Plan to May 13, 2025: Motion made by Susan Passovoy, seconded by Matthew McGraw
   MOVER: Susan Passovoy
   SECONDER: Matthew McGraw
   AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
   NAYS:
   RESULT: UNANIMOUSLY ADOPTED

ADJOURNMENT: *(04.21.24 in video)*

Motion to adjourn at 8:54pm: Motion made by Neil Morrow, seconded by Susan Passovoy
MOVER: Neil Morrow
SECONDER: Susan Passovoy
AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

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Neil Morrow – Chairman of P & Z Commission

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Morgan Landers – Director of Planning & Building

CITY OF KETCHUM, IDAHO
MEETING MINUTES OF THE
PLANNING AND ZONING COMMISSION
Tuesday, May 13, 2025, 4:30 PM
191 5th Street West, Ketchum, Idaho 83340

CALL TO ORDER: By Chairman Neil Morrow at 4:33 pm *(00.00.10 in video)*

ROLL CALL:
Neil Morrow
Susan Passovoy
Matthew McGraw
Brenda Moczygemba
Tim Carter

ALSO PRESENT:
Morgan Landers – Director of Planning and Building
Allison Kennedy – Senior Planner
Abby Rivin – Senior Planner
Genoa Beiser – Associate Planner

COMMUNICATIONS FROM COMMISSIONERS:

- None

PUBLIC HEARING: *(00.00.35 in video)*

1. Recommendation to review and make a recommendation on the Draft Cohesive Ketchum 2025 Comprehensive Plan. (Abby Rivin - Senior Planner)
   - Staff Introduction – Abby Rivin, Senior Planner *(00.00.45 in video)*
   - Commissioner questions for Staff, Staff responses, & Deliberations *(00.01.55 in video)*
   - Response to a written to public comment by Tim Carter and request for clarification from the Public Commenter Anne Corrock. *(00.23.10 in video)*
   - Clarification on written comment – Anne Corrock *(00.23.34 in video)*
   - Commissioner questions for Staff, Staff responses, & Deliberations *(00.39.00 in video)*

   Public Comment was closed at the Planning and Zoning meeting on May 7, 2025.

   OPTIONAL PUBLIC COMMENT OPENED: (*01.19.30 in video)*
   - Anne Corrock (*01.20.09 in video)*
   - Jennifer Montogomery (*01.23.23 in video)*
   - Monica Schernthanner (*01.33.25 in video)*
   - Jana Wiedemann (*01.37.13 in video)*
   - Perry Boyle *via Zoom (*01.41.14 in video)*

OPTIONAL PUBLIC COMMENT CLOSED: (*01.45.29 in video)*

- Commissioner questions for Staff, Staff responses, & Deliberations (*01.45.42 in video)*

Motion to recommend the Draft Cohesive Ketchum 2025 Comprehensive Plan with revisions to City Council: Motion made by Matthew McGraw, seconded by Susan Passovoy
MOVER: Matthew McGraw
SECONDER: Susan Passovoy
AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

2. Recommendation to conduct a public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to May 27, 2025. (Morgan Landers - Director of Planning and Building)
   - Staff Recommendation– Morgan Landers, Director of Planning and Building *(01.58.20 in video)*

Motion to continue the public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to May 27, 2025: Motion made by Brenda Moczygemba, seconded by Tim Carter
MOVER: Brenda Moczygemba
SECONDER: Tim Carter
AYES: Susan Passovoy, Tim Carter, Brenda Moczygemba, Matthew McGraw, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

ADJOURNMENT: *(01.59.30 in video)*

Motion to adjourn at 6:32pm: Motion made by Susan Passovoy, seconded by Tim Carter
MOVER: Susan Passovoy
SECONDER: Tim Carter
AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

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Neil Morrow – Chairman of P & Z Commission

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Morgan Landers – Director of Planning & Building

CITY OF KETCHUM, IDAHO
MEETING MINUTES OF THE
PLANNING AND ZONING COMMISSION
Tuesday, May 27, 2025, 4:30 PM
191 5th Street West, Ketchum, Idaho 83340

CALL TO ORDER: By Chairman Neil Morrow at 4:30pm *(00.00.28 in video)*

ROLL CALL:
Neil Morrow
Susan Passovoy *via Zoom
Matthew McGraw
Brenda Moczygemba
Tim Carter

ALSO PRESENT:
Morgan Landers – Director of Planning and Building
Allison Kennedy – Senior Planner
Genoa Beiser – Associate Planner

COMMUNICATIONS FROM COMMISSIONERS:

- None

CONSENT AGENDA: (*00.00.56 in video)*
ALL ACTION ITEMS - The Commission is asked to approve the following listed items by a single vote, except for any items that a commissioner asks to be removed from the Consent Agenda and considered separately.

1. CONSENT: Recommendation to review and approve the Findings of Fact, Conclusions of Law, and Decision for the 120 N East Ave Addition Design Review. (Abby Rivin - Senior Planner)
2. CONSENT: Recommendation to review and approve the Findings of Fact, Conclusions of Law, and Decision for the Limelight Hotel Planned Unit Development Conditional Use Permit and Development Agreement Amendment Applications. (Abby Rivin - Senior Planner)

Motion to approve the consent agenda: Motion made by Brenda Moczygemba, seconded by Matthew McGraw
MOVER: Brenda Moczygemba
SECONDER: Matthew McGraw
AYES: Susan Passovoy, Tim Carter, Brenda Moczygemba, Neil Morrow, & Matthew McGraw
NAYS:
RESULT: UNANIMOUSLY ADOPTED

PUBLIC HEARING: *(00.01.25 in video)*

3. PUBLIC HEARING: Recommendation to conduct a public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to June 10, 2025. (Morgan Landers - Director of Planning and Building)
    - Staff Presentation – Morgan Landers *(00.02.03 in video)*
    - Commission questions for Staff & Staff responses *(00.12.00 in video)*
    - Code Project Consultant Comments – Matt Goebel, Clarion Associates *(01.30.45 in video)*

PUBLIC COMMENT OPENED: *(01.59.30 in video)*

- None

PUBLIC COMMENT ENDS: *(01.59.40 in video)*

Motion to continue the public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to June 10, 2025: Motion made by Susan Passovoy, seconded by Matthew McGraw

MOVER: Susan Passovoy
SECONDER: Matthew McGraw
AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

ADJOURNMENT:

Motion to adjourn at 6:30pm: Motion made by Tim Carter, seconded by Matthew McGraw
MOVER: Tim Carter
SECONDER: Matthew McGraw
AYES: Susan Passovoy, Tim Carter, Matthew McGraw, Brenda Moczygemba, & Neil Morrow
NAYS:
RESULT: UNANIMOUSLY ADOPTED

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Neil Morrow – Chairman of P & Z Commission

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Morgan Landers – Director of Planning & Building

CITY OF KETCHUM, IDAHO
MEETING MINUTES OF THE
PLANNING AND ZONING COMMISSION
Tuesday, June 24, 2025, 4:30 PM
191 5th Street West, Ketchum, Idaho 83340

CALL TO ORDER: By Vice Chair Brenda Moczygemba at 4:35pm *(00.00.10 in video)*

ROLL CALL:
Matthew McGraw **via Zoom*
Tim Carter
Brenda Moczygemba

ALSO PRESENT:
Morgan Landers – Director of Planning & Building
Genoa Beiser – Associate Planner

COMMUNICATIONS FROM COMMISSIONERS:

- None

PUBLIC HEARING: *(00:00.56 in video)*

1. Recommendation to conduct a public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to July 8, 2025. (Morgan Landers - Director of Planning and Building)

PUBLIC COMMENT OPENED: *(00.01.35 in video)*

- None

PUBLIC COMMENT ENDS: *(00.01.54 in video)*

Motion to continue the public hearing for the consolidated DRAFT Ketchum Land Development Code and continue the hearing to July 8, 2025: Motion made by Tim Carter, seconded by Matthew McGraw
MOVER: Tim Carter
SECONDER: Matthew McGraw
AYES: Tim Carter, Matthew McGraw, & Brenda Moczygemba
NAYS:
RESULT: UNANIMOUSLY ADOPTED

ADJOURNMENT: *(00.02.15 in video)*
Motion to adjourn at 4:37pm: Motion made by Tim Carter, seconded by Matthew McGraw
MOVER: Tim Carter

SECONDER: Matthew McGraw
AYES: Tim Carter, Matthew McGraw, & Brenda Moczygemba
NAYS:
RESULT: UNANIMOUSLY ADOPTED

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Neil Morrow – Chairman of P & Z Commission

_____
Morgan Landers – Director of Planning & Building

CITY OF KETCHUM, IDAHO
MEETING MINUTES OF THE
PLANNING AND ZONING COMMISSION
Tuesday, July 08, 2025, 4:30 PM
191 5th Street West, Ketchum, Idaho 83340

CALL TO ORDER: By Chairman Neil Morrow at 4:30pm *(00.00.15 in video)*

ROLL CALL:
Susan Passovoy
Matthew McGraw
Neil Morrow

ALSO PRESENT:
Morgan Landers – Director of Planning & Building
Genoa Beiser – Associate Planner
Lucas King – Administrative Manager

COMMUNICATIONS FROM COMMISSIONERS:

- None

PUBLIC HEARING: *(00:00.35 in video)*

1. Recommendation to conduct a public hearing on the consolidated DRAFT Ketchum Land Development Code and continue the hearing to July 22, 2025. (Morgan Landers - Director of Planning and Building)

Motion to continue the public hearing for the consolidated DRAFT Ketchum Land Development Code and continue the hearing to July 22, 2025: Motion made by Susan Passovoy, seconded by Matthew McGraw
MOVER: Susan Passovoy
SECONDER: Matthew McGraw
AYES: Susan Passovoy, Neil Morrow, & Matthew McGraw
NAYS:
RESULT: UNANIMOUSLY ADOPTED

PUBLIC COMMENT OPENED: *(00.01.02 in video)*

- None

ADJOURNMENT: *(00.01.09 in video)*
Motion to adjourn at 4:33pm: Motion made by Neil Morrow, seconded by Matthew McGraw
MOVER: Neil Morrow

SECONDER: Matthew McGraw
AYES: Susan Passovoy, Neil Morrow, & Matthew McGraw
NAYS:
RESULT: UNANIMOUSLY ADOPTED

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Neil Morrow – Chairman of P & Z Commission

_____
Morgan Landers – Director of Planning & Building

CITY OF KETCHUM | PLANNING & BUILDING
Morgan Landers, AICP | Director
direct: 208.727.5085 | office: 208.726.7801
mlanders@ketchumidaho.org
P.O. Box 2315, 191 5th Street West, Ketchum, ID 83340
ketchumidaho.org

MEMORANDUM

TO:	Planning and Zoning Commission
FROM:	Morgan Landers, AICP – Director of Planning and Building
RE:	2025 Consolidated Land Development Code
DATE:	July 17, 2025

INTRODUCTION

This memorandum serves as a follow-up to the last public hearing by the Commission on the Consolidated Land Development Code on June 10th. In general, the Commission was supportive of the proposed redlines presented on June 10th with the following additional clarifications:

- Non-conforming – cumulative 20% "as of the effective date of the ordinance"
- Change "City" to "Administrator" throughout document
- Correct Parking section I.4.f to read "The Administrator may require additional information as necessary to evaluate the shared parking reduction request."
- Correction of approval language to clarify that approvals are not guaranteed (see example below)

Commissioner Passovoy aptly pointed out that the review and approval language in parts of the code imply that an approval must be granted and does not allude to the discretion in decision making. One example in the Parking Demand Analysis section is:

"Commission shall review the parking demand analysis and accompanying remedies and upon finding that the analysis uses the appropriate methodology and includes an acceptable and reasonable remedy that can be implemented the analysis shall be approved or approved with conditions."

Staff will review the entire document to ensure that the language "approve, approve with conditions, or deny" are options represented in all approval references for the Administrator, Commission, and Council. An example of how this would be implemented is as follows:

"The Commission shall review the parking demand analysis application and shall approve, approve with conditions, or deny the parking demand analysis based on the following criteria:

- The analysis uses an appropriate methodology
- The remedies recommended are acceptable and reasonable, and
- The remedies can be implemented."

DISCUSSION ITEMS

The Commission requested continued discussion on items related to neighborhood meetings, historic preservation, and short-term rentals. Below is additional information on those topics with recommendations on next steps.

Neighborhood Meetings

The Commission discussed the purpose of the new neighborhood meeting provision of the Land Development Code. Comments have been received expressing concern about how much the neighborhood may or may not weight the Commission's decision on the application and whether a report should be provided summarizing the neighborhood meeting. Staff believes a summary memo from the applicant is a helpful piece of information but does not directly relate to approval criteria for applications. For review and determination of applications, the information would be treated as information only. If the purpose of the neighborhood meeting is to provide transparency to the community on a project, then the Commission could determine that the summary memo is not necessary.

Historic Preservation

Staff provided an update to the Historic Preservation Commission (HPC) at their July 1st meeting on the discussions related to the code language that states "Any new construction following demolition shall be of similar size, scale, and general orientation of the original structure being demolished". The recording of that meeting can be found HERE.

The HPC feels that the condition of approval related to the replacement project should remain in the draft code. The HPC is concerned with the current rapid loss of historic structures and the loss of the smaller historic mountain town scale these structures provide to Ketchum's historic identity. The HPC discussed the concern that there is no evaluation criteria associated with the condition and floated the idea of putting further guardrails around the condition to decrease ambiguity and increase predictability for applicants. One suggestion recommended by the HPC was adding language that indicates how much of an increase would be permitted. Such as, allowing a percent increase in height, footprint, or square footage. The HPC agrees that such provisions are entirely within the purview of the PZ Commission and provides this feedback as a recommended consideration.

For next steps by the PZ Commission, staff recommends further discussion of the topic and a formulation of a recommendation to City Council. At the June 10th PZ meeting, some commissioners supported the condition as written, some recommended removing the condition altogether, and other discussion focused on revising the condition. There was additional discussion about whether there should be an exception for "exceptional public benefit" through a discretionary approval where the Commission makes a recommendation to City Council for final decision. When the code is presented to Council, staff will provide an overview of the PZ Commission's recommendation and the HPC recommendations for consideration and final decision.

Short-Term Rentals

The Commission requested staff evaluate the ability to manage/enforce/limit short-term rentals through determinations of "change of use" through the non-conformities section of the Land Development Code or other means. Currently, the State of Idaho restricts the regulation of short-term rentals by counties and cities in Title 16 – Revenue and Taxation and Title 67 – Land Use Planning. Title 16 includes the definitions related to the regulations (linked here) and Title 67 includes the limitations on cities to regulate (linked here). Please see the applicable sections below.

Short-term rentals are defined as:

> "Short-term rental" or "vacation rental" means any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, or owner-occupied residential home that is offered for a fee and for thirty (30) days or less. Short-term rental or vacation rental does not include a unit that is used for any retail, restaurant, banquet space, event center or another similar use.

The state restricts how cities can regulate short-term rentals as follows:

> (1) Neither a county nor a city may enact or enforce any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals in the county or city. A county or city may implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate. A short-term rental or vacation rental shall be classified as a residential land use for zoning purposes subject to all zoning requirements applicable thereto.
> (2) Neither a county nor a city can regulate the operation of a short-term rental marketplace.

The legislation is being tested in a few areas around the state with litigation focused on key pieces of the legislation, more specifically the boundaries of "express or practical effect of prohibiting" and "safeguard the public, health, safety and general welfare in order to protect the integrity of residential neighborhoods". The Idaho Supreme Court just ruled on a case against Lava Hot Springs (see Attachment A). The attachment outlines the ordinance and the facts of the case. In summary, the decision found the following:

- The district court decision was reversed. The Idaho Supreme Court made clear that it finds the Lava Hot Springs ordinance violates the state statute.
- The key issue is that the Lava Hot Springs ordinance prohibits STRs in residential zones.
- The Court's reasoning distinguishes between prohibiting and regulating. Prohibiting (any type of STR) is not allowed. Regulating is allowed; though the Court expresses no opinion and explicitly does not offer guidance on what constitutes a "reasonable regulation." See p. 7.
- The Ketchum STR licensing approach (linked here) appears to remain within the realm of "reasonable regulation" allowed for by the state law, per previous legal analysis.
- The one more certain takeaway from this opinion is that any idea of expanding on the current Ketchum approach to prohibit STRs, even an arguably limited class of prohibition, in any zones would run afoul of the state law.

The Commission discussed whether there was an avenue to decide that a short-term rented unit (single-family or multi-family) could be deemed as an "abandonment of use" of the intended full-time occupancy. Abandonment of use is a term applicable to the city's regulations on non-conformities, KMC 17.136 (linked here). The Land Development Code states that "A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been active for a continuous period of six months".

Conforming and nonconforming uses, are dictated by KMC 17.12.020 - District Use Matrix (linked here). The suggested approach cannot be applied as single-family dwellings and multi-family dwellings are currently permitted, so there cannot be an application of the nonconforming regulations clause related to abandonment of use without making those uses "not permitted". The uses are not "lawful nonconforming". There are some rare instances where single-family dwellings and multi-family dwellings are "lawful nonconforming" because they were constructed prior to our zoning regulations. In these instances, the abandonment of use clause still does not achieve the goal as short-term rentals are permitted. Per KMC 17.136.020, "A nonconforming use may be changed only to a conforming use". To disallow a single or multi-family dwelling from becoming a short-term rental, the city would have to revise the table to note short-term rentals as "not permitted", which without a doubt runs afoul of the law.

As illustrated above, the management and/or restriction of short-term rentals is extremely complex, and management of legal liability is paramount to success. Staff recommends that further review and discussion of regulatory options be conducted during the first installment of Phase 3 code changes as the purpose of the consolidated land development code is to consolidate the titles, remove duplicates and inconsistencies, and provide clarity of process for applicants. Working through changes to short-term rental regulations is a much more extensive effort more appropriate for the next phase of work.

STAFF RECOMMENDATION

Recommendation to recommend approval of the consolidated Land Development Code with the following revisions:

1. Continued clean-up of grammar, typos, and duplications/errors
2. Incorporation of changes outlined in the June 10th memorandum with the amendments listed above.

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 50888

IDAHO ASSOCIATION OF REALTORS, INC., an Idaho non-profit corporation; and JOHN and MICHELLE TAYLOR, a marital community,	)	
Petitioners-Appellants,	)	**Boise, January 2025 Term**
v.	)	**Opinion filed: May 21, 2025**
CITY OF LAVA HOT SPRINGS, an Idaho municipality.	)	**Melanie Gagnepain, Clerk**
Respondent.	)	

Appeal from the District Court of the Sixth Judicial District of the State of Idaho, Bannock County. Robert C. Naftz, District Judge.

The decision of the district court is reversed.

Risch Pisca, PLLC, Boise, attorney for Appellants. Jason S. Risch argued.

Hall Angell & Associates LLP, Idaho Falls; Cooper & Larsen Chartered, Pocatello, attorneys for Respondent. Gary L. Cooper argued.

BEVAN, Chief Justice.

This case requires us to interpret the Short-term Rental and Vacation Rental Act, Idaho Code section 63-1801 to 1804, and Idaho Code section 67-6539 (collectively "Act"). Generally, the Act limits the kind of prohibitions or regulations municipalities may enforce with respect to short-term rentals. The City of Lava Hot Springs regulates short-term rentals based on whether they are occupied by an owner or manager. A short-term rental that is not occupied by an owner or manager is prohibited in residential zones and only permitted in the City's commercial zones. Bed and breakfast-type establishments that are occupied by the owner or manager are permitted in both commercial and residential zones.

This dispute arose when the City denied John and Michelle Taylor's application for a business license to operate a non-owner-occupied short-term rental in the City's residential zone. The Idaho Association of Realtors ("Realtors") and the Taylors sued the City alleging that its regulatory scheme violated the Act, which prohibits a city from enforcing any ordinance "that has the express or practical effect of prohibiting short-term rentals or vacation rentals in the city." But the Act also allows municipalities to enforce reasonable regulations of short-term rentals to "safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals . . . operate." The City brought a summary judgment motion based on its view that its regulation of short-term rentals did not violate the Act. The district court granted the City's motion, finding that the City's regulations did not have the express or practical effect of prohibiting short-term rentals and that the City's regulations were permissible under the health, safety and welfare exception in the Act. The Taylors and the Realtors appeal. We reverse the decision of the district court.

I. FACTUAL AND PROCEDURAL BACKGROUND

Lava Hot Springs is a small town along the Portneuf River in Eastern Idaho. Despite its small size, tourists flock to Lava Hot Springs to float the river, soak in hot pools, and camp. The Chamber of Commerce estimates that over 400,000 tourists visit the City each year. Some of these tourists bring noise, alcohol consumption, and other problems. Lava Hot Springs does not have a police department to help deal with these problems. Instead, the Bannock County Sheriff's Office provides deputies who enforce state statutes and the City's open container ordinance. However, the deputies do not issue citations for violating the City's building, zoning, business license, traffic, noise or parking ordinances. Lava Hot Springs has one code compliance officer who may only issue citations if he witnesses a violation. Additionally, the City has experienced a steady decline in permanent residents over the last two decades: from 521 in 2000 to 358 in 2020. The City Planner, Bruce Parker, attributes the city's decline in permanent residents to decreasing housing stock and increasing housing prices.[1]

[1] In 2022, Parker supervised a study conducted by graduate students at the University of Utah. The study found that Lava Hot Springs had approximately 259 housing units. Of those 259 units, 76 were listed as short-term rentals. This is about thirty percent of the City's housing supply. Additionally, the value of homes within Lava Hot Springs increased 262% from 2013 to 2022. About two-thirds of local residents shared that they were "very" or "extremely" concerned about short-term rentals. Other concerns included: parking, home affordability, noise, community cohesion, and safety.

In 2006, the City amended Lava Hot Springs' zoning code to include Ordinance 2006-5. Under that ordinance, the property at issue here is considered a vacation rental:

> VACATION RENTAL**.** (Also Tourist Home): A single family dwelling unit or multiple family dwelling unit, built or converted, where, for compensation, lodging facilities are provided for a duration for less than thirty (30) days, but not including a tent, recreational coach, motor home, camper, hotel, motel, hospital, yurt or nursing home.

(Capitalization in original). The ordinance prohibits vacation rentals in the City's residential zones. They are allowed in commercial (C-1 and C-2) zones, subject to certain regulatory requirements, such as the requirement to obtain a business license and limitations on on-street parking. The only vacation rentals allowed in residential zones must be owner or manager occupied, which are defined as "BED AND BREAKFAST" short term rentals. These dwellings are allowed in the R-3 residential zone and are a conditional use in the R-2 residential zone. They are also a permitted use in the C-1 and C-2 commercial zones, the same as vacation rentals.

The Taylors own two properties in the City. Realtors is a nonprofit corporation that strives "to protect private property rights, promote equal housing opportunity and preserve the American dream of homeownership." The Taylors sought a business license from the City to operate a "Vacation Rental" as defined under Ordinance 2006-5 at their property, which is located in the R-2 residential zone. As noted above, the City permits short-term rentals in its commercial zones, but it prohibits non-owner-occupied short-term rentals in its residential zones. The Taylors' property qualifies as a short-term rental under the Act. I.C. § 63-1803(4). The City Council denied the Taylors' application because the property was not located in a commercial zone, even after the Taylors pointed out the potential conflict between Ordinance 2006-5 and the Act, which prohibits counties and cities from enacting ordinances that have the effect of prohibiting short-term rentals. After this denial, the Realtors and the Taylors (hereinafter "Petitioners")[2] filed a petition for declaratory judgment—asking that the district court declare that the City's regulatory scheme violated the Idaho Constitution and exceeded the City's statutory authority under Idaho Code section 67-6539. The Petitioners also sought a writ of prohibition precluding the City from enforcing its ordinance. The Petitioners argued that Ordinance 2006-5 conflicted with the Act.

[2] Three other residents challenged the City's regulatory scheme. The district court consolidated the cases. The other three cases were dismissed with prejudice, and the plaintiffs in those cases have not appealed, leaving only Idaho Association of Realtors and the Taylors as petitioners.

The City moved for summary judgment, arguing that there was no conflict between the ordinance and the Act. The City included several declarations from residents about the problems short-term rentals pose to the community and referencing a study conducted with the oversight of Bruce Parker, the city planner. The City argued that the Act does not require the City to allow every type of short-term rental in every part of town. The City also argued that Ordinance 2006-5 does not prohibit vacation rentals but merely regulates them, and that the regulations are necessary to promote the health and welfare of the citizens and visitors to Lava Hot Springs. Thus, the ordinance does not violate the Act.

The district court agreed with the City, concluding that "[b]ecause at least one of the three types of short-term rentals identified by [Idaho Code section] 63-1803(4) are allowed within residential zones, the City has not prohibited short-term rentals in violation of Idaho Code [section] 67-6539." The district court also found that Ordinance 2006-5 was necessary "to safeguard the public health, safety and general welfare of the City's residents and visitors and . . . to protect the integrity of residential neighborhoods." The district court noted that the Petitioners did not provide any evidence to dispute the need for the regulations. Summary judgment was granted in favor of the City. The Petitioners timely appealed.

II. ISSUES ON APPEAL

1. Whether Ordinance 2006-5 violates the Short-term Rental and Vacation Rental Act.

2. Whether either party is entitled to attorney fees on appeal.

III. STANDARDS OF REVIEW

"The interpretation of a statute is a question of law over which this Court exercises free review." *City of Idaho Falls v. H-K Contractors, Inc.*, 163 Idaho 579, 581, 416 P.3d 951, 953 (2018) (alteration and citation omitted). "In addition, this Court reviews an appeal from an order of summary judgment *de novo*, and this Court's standard of review is the same as the standard used by the trial court in ruling on a motion for summary judgment." *Id.* Summary judgment is proper if the "movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." I.R.C.P. 56(a).

IV. ANALYSIS

A. Ordinance 2006-5 violates the Short-term Rental and Vacation Rental Act.

The standard this Court applies when interpreting statutes is well established:

> Interpretation of a statute begins with an examination of the statute's literal words. Where the language of a statute is plain and unambiguous, courts give effect to the

> statute as written, without engaging in statutory construction. Only where the language is ambiguous will this Court look to rules of construction for guidance and consider the reasonableness of proposed interpretations.

City of Idaho Falls, 163 Idaho at 582, 416 P.3d at 954. "The statute should be considered as a whole, and words should be given their plain, usual, and ordinary meanings." *Id.* "[T]he Court must give effect to all the words and provisions of the statute so that none will be void, superfluous, or redundant." *TCR, LLC v. Teton Cnty.*, 174 Idaho 624, ___, 559 P.3d 302, 319 (2024) (quoting *Nelson v. Evans*, 166 Idaho 815, 820, 464 P.3d 301, 306 (2020)). Accordingly, we turn first to the language of the Act.

The Act defines a short-term rental or vacation rental as a dwelling offered for a fee for thirty days or less:

> "Short-term rental" or "vacation rental" means any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, or owner-occupied residential home that is offered for a fee and for thirty (30) days or less. Short-term rental or vacation rental does not include a unit that is used for any retail, restaurant, banquet space, event center or another similar use.

I.C. § 63-1803(4). The Act limits how cities may regulate short-term rentals or vacation rentals:

> Neither a county nor a city may enact or enforce any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals in the county or city. A county or city may implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate. A short-term rental or vacation rental shall be classified as a residential land use for zoning purposes subject to all zoning requirements applicable thereto.

I.C. § 67-6539(1). Thus, no city may enact or enforce any ordinance that has the express or practical effect of prohibiting either short-term or vacation rentals *in the city*. A city may, however, enact "reasonable regulations" to "safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate." *Id*.

The City prevailed below by arguing that its ban on vacation rentals in the City's residential zones is permissible because its ordinance allows bed and breakfasts, one of the three types of short-term rentals defined in Idaho Code section 63-1804(4), in its residential zones. The argument is essentially that, so long as at least one type of short-term rental is allowed in its residential zones, the City has complied with the Act. We disagree.

"Language of a particular section need not be viewed in a vacuum. And all sections of applicable statutes must be construed together so as to determine the legislature's intent." *Friends of Farm to Mkt. v. Valley Cnty.*, 137 Idaho 192, 197, 46 P.3d 9, 14 (2002) (quotation marks and citation omitted). Although sections 63-1801, *et seq*. and section 67-6539 are in different titles of the Idaho Code, we do not look at each provision in a vacuum because they were enacted in the same bill, which dealt exclusively with short-term rentals. *See* H.B. 216, 2017 Idaho Sess. Laws 591–92.

The plain language of the Act provides clear understanding of the intent of our legislature as stated in Idaho Code section 63-1802:

> This act is designed to promote access to short-term rentals and vacation rentals by limiting local governmental authority to prohibit these beneficial property uses, or to specifically target them for regulation, except in circumstances necessary to safeguard public health and welfare. This act is also designed to preserve personal property rights and promote property owner access to platforms for offering their properties as short-term rentals and vacation rentals, and enhancing local tax revenue by permitting platforms to assume tax collection and remittance responsibilities.

The legislative intent in adopting the Act is not just to foster access to some short-term or vacation rentals within a city, but to all of them. The Act "is designed to promote access to [both] short-term rentals *and* vacation rentals by limiting local governmental authority to prohibit these beneficial property uses, or to specifically target them for regulation . . . ." *Id*. (emphasis added). The Act is also to be construed to "preserve personal property rights and promote property owner access to platforms for offering their properties as . . . vacation rentals . . . ." *Id*. We thus take the legislature at its word: the Act expressly disallows any city regulation that "has the express or practical effect of prohibiting short-term rentals *or* vacation rentals in the . . . city." I.C. §67-6539(1).

The City advocates that the use of the disjunctive language in the statute, defining short term rentals as "any individually *or* collectively owned single-family house *or* dwelling unit *or* any unit or group of units in a condominium, cooperative or timeshare, *or* owner-occupied residential home," I.C. § 63-1803(4) (emphasis added), allows it to prohibit certain types of short-term or vacation rentals as long as at least one of the listed categories remains permitted. We disagree. First, because the statute prohibits restrictions on either "short-term rentals *or* vacation rentals," it necessarily applies to all forms of short-term rentals encompassed by the definition, regardless of whether they are owner occupied. Second, nothing in the Act authorizes the City's

spot-zoning approach, in which vacation rentals are selectively prohibited in residential zones—precisely the areas where such rentals are most naturally situated.

The City's retort, which the district court accepted, is that notwithstanding the broad-ranging scope of the Act, the City is explicitly granted the right to "implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate." We acknowledge the numerous declarations from City residents and employees about the effects that vacation rentals can have on City residents. Even so, the second and third sentences of section 67-6539(1) reinforce our reading of the Act.

Regulations are distinct from prohibitions. To prohibit is to "forbid" or "prevent, preclude, or severely hinder." *Prohibit*, BLACK'S LAW DICTIONARY (12th ed. 2024). To regulate is to control, especially through the implementation of rules. *Regulate*, BLACK'S LAW DICTIONARY (12th ed. 2024). Under the plain language of the Act, cities are free to implement necessary regulations to safeguard the public health, safety, and general welfare of residential neighborhoods. I.C. § 67-6539(1). We express no opinion about what might constitute a reasonable regulation. But such regulations may not amount to express or practical prohibitions on any one of the three types of short-term rentals defined by section 63-1803(4).

We thus hold that Ordinance 2006-5 violates the Short-term Rental and Vacation Rental Act. Ordinance 2006-5 expressly prohibits the operation of vacation rentals, a type of short-term rental, in the City's residential zones. As such, Ordinance 2006-5 violates Idaho Code section 67-6539, which precludes the City from enacting any ordinance that has the express effect of prohibiting short-term rentals in the City. Accordingly, Ordinance 2006-5 is invalidated. *KGF Dev., LLC v. City of Ketchum*, 149 Idaho 524, 531, 236 P.3d 1284, 1291 (2010).

B. Neither party is awarded attorney fees on appeal.

The Petitioners do not request attorney fees on appeal, but they do request costs under Idaho Appellate Rule 40. The City requests attorney fees on appeal pursuant to Idaho Code sections 12-121 and 12-117. Because the City has not prevailed on appeal, we decline to award attorney fees. Costs are awarded to Petitioners as the prevailing party under Idaho Appellate Rule 40.

V. CONCLUSION

We reverse the district court's ruling and vacate its grant of summary judgment. Costs on appeal are awarded to Petitioners.

Justices BRODY, MOELLER, ZAHN, and MEYER CONCUR.