

**Minutes of the Interlaken Land Use Hearing
Monday, 9 May 2016, 6:30 PM
Midway Town Hall**

1. Call to Order:

Mayor Pro Tem Simpkins called the hearing to order at 6:35pm (Recording set at 29:00).

2. Roll Call - Members Present:

Lisa Simpkins, Mayor Pro Tem
Greg Harrigan, Council Member
Sue O’Nan, Council Member
Scott Neuner, Council Member

3. Presentations: Mayor Simpkins explained the process used to develop the Interlaken Municipal Ordinances. Starting with the Midway Ordinances, we reviewed and revised the pages to conform to what we feel best suits Interlaken. Town Clerk Smith talked about the changes that were made to the titles posted on the website for review. The Council received feedback regarding setbacks. The original CC&Rs specified the front setback as 30 feet from the center of the road. We originally wanted to change that setback to 30 feet from the road right-of-way. Since the road right-of-way is 33 feet wide, this effectively increased the setback to 30 feet plus 16.5 feet, or 46.5 feet, from the center of the road. We discovered that this was an undue hardship on lot owners, especially those who wanted to add a garage to the front of their property. To solve this issue, the council agreed to modify “Section 11.04.070 Location Requirements” to read as follows:

“A. The main dwelling unit shall be set back at least 30 feet from all lot lines or 30 feet from the closest edge of the roadway right-of-way.” (This did not change from the text as posted for review on the website.)

“B. The accessory building shall be set back at least 30 feet from all lot lines or 30 feet from the center of the roadway right-of-way.” (This has changed from the original posted version.)

“C. A 10 foot setback shall be permitted along the property line that abuts an entity other than Interlaken property, such as the State Park boundary.” (no change)

“D. For corner lots, the main dwelling and any accessory building shall be set back from the rear property line a distance of at least 30 feet.” (no change)

4. Public Comment:

Resident: How do you determine the roadway right-of-way for a cul de sac?

Simpkins: There’s map on our website that shows the roadway corridor. That will define where your setback is.

Bob Marshall: The properties that are already built, for example my garage, that do not meet these setbacks, will we have to do anything?

Simpkins: No. Those are grandfathered in. If it burns down and you have to rebuild it, then you need to go by the new standards.

Harrigan: This grandfather clause is written into the codes. If you alter it, you have to adhere to the new codes.

Greg Cropper: It’s called legal non-conformity.

Bart Smith: Another item we decided to change in the Title 11 code, under Section 11.11.040 Permits Required. It sets out the conditions for when you need a building permit. It originally stated that if your project exceeded \$5,000, you needed a building permit. We decided this was impractical for someone who wanted to redo their roof, do an exterior paint job, and so on. It was rewritten as follows:

“No building or structure shall be constructed, reconstructed, altered, or moved, nor shall the use of any land be changed except after the issuance of a permit for the same by the office authorized by the Town, unless the construction, reconstruction, or alteration is noted as an exemption in the Interlaken Permit Process document prepared by the Town Planning Commission.”

Here is the list of items that currently do not need a permit:

- Single story detached accessory buildings less than 200 square feet
- Fences less than 6 feet which are constructed in the rear yard
- Retaining walls less than 4 feet in height
- Finish work such as painting, tiling, carpeting, cabinets, etc.
- Minor electrical, mechanical or plumbing repairs
- Reroofing projects
- Replacing exterior siding, exterior painting, gutter replacement
- Water heater replacements and furnace replacements
- Kitchen appliance replacements

Steve Wilson: Just a clarification on the front setback that you changed, where the garage could be 30 feet from the center of the road. In Section 11.06.030, Area of Accessory Buildings,

“Accessory buildings in any residential zone shall not cover more than 25 percent of the rear yard.” That’s contradictory to setbacks from the road.

Smith: I don’t think it’s contradictory – we left it in there because it covers the case where you might want to put a barn in behind your house, but it doesn’t have any impact on a garage in the front yard. It is something that Ryan mentioned to us – “do you want to create a rule for the front as well”? In other words, do you want to limit the size, in % square footage, of a building in the front yard? We wanted to preserve many of the features of Interlaken before it became a town. We didn’t want to micromanage building placement, prescribe maximum building size. Things look a lot like they did in the CC&Rs in terms of flexibility in design.

Bill Goodall: Will you provide a list of projects that don’t require a permit?

Smith: Yes. That list will be posted on the website.

Goodall: How about major landscaping?

Harrigan: It came down to use of heavy equipment. Basically, if you’re going to use an excavator, you need a permit.

Goodall: On your list, will it say “landscaping that doesn’t require use of heavy equipment?”

Smith: We have in the code right now a requirement for a site disturbance permit if you’re excavating an area larger than 200 square feet in Section 9.05.020. A permit is not required for:

“Construction activities disturbing less than 200 square feet of land and surface area;
Residential landscaping and gardening activities disturbing less 100 square feet of land

surface area.”

Simpkins: In Section 11, there is a landscaping plan requirement, for any new buildings that are applying for a permit. We were limited regarding what we could put in there regarding irrigation because we are governed by the Utah State Water Board.

Chip Higgins, 470 Eiger Point: For new construction, do you have to landscape?

Simpkins: It means you have to submit a Landscaping Plan. You can leave it natural, but you have to have a plan.

Harrigan: For new construction you don't have to put in any trees or shrubs, but you have to show what the site will look like.

Neuner: For example, if the build was going to cause erosion or other problems, we'd want to know that.

Bill Goodall: Does that plan go to the Wasatch Fire Marshall for approval as part of the process?

Harrigan: The Fire Marshall does sign off on sprinklers. Interlaken is a special wildfire zone. The sprinkler requirement will go through Epic and be submitted to the Fire Marshall.

Simpkins: Also, in our landscaping plans, no trees, no shrubbery within 30 feet of the construction

Goodall: Why are you doing that only for new construction? Why wouldn't it be for new plantings?

Harrigan: Because we're not the police. We have probably 45 buildable lots left. We're not going to knock on people's doors and tell them they have to move trees.

Greg Cropper: But would the Fire Marshall allow new plantings right next to an existing house?

Harrigan: The Fire Marshall doesn't get involved in the planting of trees.

Goodall: You're doing this for fire safety, right? If you talk to the Fire Marshall, he'll tell you that a coniferous tree is a bigger problem than a deciduous tree. He said you could plant a deciduous tree within 15 feet of your house, but please don't do that with a coniferous tree.

Simpkins: We can only encourage people to abide by those. We can't require them, only on new builds.

Neuner: It does seem like something that bears consideration. If we get a fire committee going, one of their jobs could be educating the community about things like that.

Goodall: Where does it say that you have to have sprinklers?

Section 9.10.020 Automatic Fire Sprinkler Systems Are Required

Automatic fire sprinkler systems are required in structures governed by, and built according to, the International Residential Code.

Harrigan: For additions over a certain size, sprinklers will be required. When I did my addition, I had to put sprinklers in just the new part of the house.

Goodall: In addition to fire sprinklers, the wild land urban interface code requires decks to be made of a certain building inflammable material and a number of other things.

Harrigan: That will all be in the plans submitted to Epic.

Goodall: Is there any place to put all that information so they can see that before they start the house.

Smith: It's on the website.

Resident: Do I need a permit to finish it out a basement?

Harrigan: Not unless it's major mechanical or plumbing. If you're installing drywall you don't need one, and you don't need to install sprinklers. If you don't change the outside dimensions of your home, you don't need sprinklers. You need at least a 1" water line into your home for a fire suppression system – otherwise you need a pump and a tank.

Simpkins: I just want to note that Interlaken has 2 types of building application forms that will be available on the website: a building application for new structures, and an application for additions, remodels, and demolitions.

Greg Cropper: I provided some written comments – I want to make sure we get them in the record. One of them regards home occupations. Most private subdivisions will allow home occupations as long as you don't allow customers to come to the door. I think that's especially important where we live where we have crazy roads that are difficult to drive. Regarding the language in this title. Dealing with the idea of approving multiple driveways. The language is bothersome from a lawyer's perspective "except as may be permitted by the Town Council." That's immediately "lawyer food." You have to have a standard that you live by. You can't just say the Council did it for him but not her. Existing multiple entry driveways would be consider legal non-conforming. I don't think it's out of line to limit irrigation to drip, nighttime only. All these years previously, we supposedly didn't allow any irrigation. It was culinary water only.

Sue O'Nan: Our Water Bond specifically states that we have culinary water only. We don't want the State to read our ordinances and find that we allow non-culinary use. We could be in danger of losing that bond, right?

Cropper: Yes we could be in default.

Neuner: Part of our plan for monitoring the water situation is the fees and keeping a close eye on things and raising rates as people use more water. That's the easy way to enforce it.

Cropper: Imagine if every lot in Interlaken had lot line to lot line fencing – it would be a disaster. Right now we're saying we could lock down this entire community – there could be no view corridors or wildlife corridors.

Simpkins: It's also been that way in the CC&Rs and nobody's done it.

Cropper: Now we're drafting ordinances – that's a lot different than the CC&Rs. I've got some issues with trees. The "every effort" thing – if you've ever tried to litigate that, I think that's the wrong standard. We also need to address diseased trees. The town should have the authority to remove dead trees.

Simpkins: I don't know if we want to go that far. Maybe if a disease affected all the trees, or a percentage of trees. Do you go into someone's yard and say that tree needs to come down. Who pays for that.

Cropper: That's step farther than we need to go right now. People have the right, and are encouraged to take down a diseased tree. We haven't done that.

Cropper – Email comments:

I have been going over some of the pending Ordinances, and things are really coming along. It looks like we are really getting close. Thanks for pulling the oars—I know it is a lot of work! A couple of comments re Land Use:

1. Many neighborhoods only permit Home Occupations that do not involve on-site customers. This sort of restriction seems particularly applicable to our circumstances, where we have dangerous and sub-standard roads, no on-street parking. It is fun enough negotiating our roads if one does it every day!

2. Section 11.04.030 states that advertising a short-term rental is a violation. I think it should also state that effecting such a rental is a violation. It is implicit, but why not.
3. Section 11.06.140 has general “except as may be permitted by the Town Council” language re multiple driveways. This is kind of odd in an Ordinance, and I think it is so vague that it is easily subject to abuse and challenge. I think that this sort of thing should be part of the variance process, and that any existing examples be considered legal non-conforming uses.
4. Our water charter has always prohibited irrigation uses. Do we intend to allow any kind of irrigation? None? Drip only? Nighttime only? Our water is mighty good—and mighty precious!
5. Re fences: I think we need to prohibit lot line-to lot-line fences. We absolutely must leave wildlife corridors and open views. A key principle of land use planning and ordinance drafting is we must take things to their logical extreme, and without setbacks for fences, well, imagine what Interlaken would look like and be like if each and every lot had line-to-line fencing. All existing fencing would be subject to the legal non-conforming bit.
6. Do we need to specifically exempt BBQs/Grills from 11.06.260, just to be clear?
7. Re Trees: Section 11.07.070 states “every effort”. I do not believe that there is case law interpreting this standard, and I think we should use something like “commercially reasonable efforts” or “reasonable efforts”. In addition, we need to make allowance for the removal of dead and diseased trees. I have a dead/dying tree now that cannot be saved. Worse still is if we find a diseased tree, in which event the Town should be able to require removal before other trees get infected.
8. Re exterior lighting: 11.07.080 restricts lighting, which is great. As we know, a lot of the existing lighting in Interlaken will be legal non-conforming. State law allows us to require a gradual change-over of non-conforming lighting (amortization), and I think we should consider it.
9. Non-Conforming Lots of Record: Should we require plat amendments wherever appropriate?

Kevin Hawkins, 255 St. Moritz: The way I read these ordinances, there is no transitional provision. Once you pass them they go into effect immediately. I wanted to make sure that homes currently under construction, which had permits under Wasatch County, are still under those codes.

Simpkins: Correct.

Hawkins: I’m trying to tie into a sewer lateral. Midway doesn’t know where the sewer lines are. So they’re making me sign an agreement with my neighbor specifying where Midway’s responsibilities starts and ours start. I feel the town needs an easement so that it’s possible to go in and repair a sewer line on any property in Interlaken.

Harrigan: It’s a good point, but we don’t want to take ownership of those sewer lines. Midway owns those lines and should get an easement for them.

Hawkins: My road is super narrow. I didn’t see anything in here that addresses overnight parking.

Smith: It’s in Title 9.

Hawkins: Another issue – I come from a community where a lady owned 45 dogs. There was no specific standard.

Simpkins: You’re limited to 3 dogs in Interlaken.

Hawkins: The CC&Rs go will sunset in 2020. These ordinances will stay in effect for

perpetuity and I commend you for your work.

Harrigan: Our dog barking rules are more stringent than from where we pulled these rules. We will be levying fines for dogs and parking and there's an escalation that goes to court. No roosters are allowed.

Steve Wilson: Regarding Midway Sanitation, I spoke with Becky B. over there and she told me that this summer they will be trying to identify more of the sewer lines throughout Interlaken. Also, I wanted to bring to everyone's attention building heights. I have a concern with a lack of a limit on accessory buildings. Right now the height limit is 35 feet. Right now if you have a view of the lake, and the homes are built out and you think your view is safe, someone could put up a 35 foot garage. My feeling is that if that happens, it causes problems with neighbors. Limiting the height of accessory buildings doesn't seem outrageous; I don't think a 35 foot tall shed is necessary. People live up here for the views.

Harrigan: Most lots are ½ acre or less so you can't really build a monster garage.

Natasha: I just wondered how long a dark barks before it is considered a nuisance.

Simpkins: 5 minutes.

Smith: Can I read that whole section to you?

Title 5, Animal Control, Animals Defined as a Public Nuisance:

Any non-livestock animal that does any of the following, shall be deemed a public nuisance:

- A. Causes damage to the property of anyone other than its owner or custodian;
 - B. Is a vicious animal as defined in this Title and kept in a manner contrary to this Title;
 - C. Defecates on any public street, or on any private property without the consent of the owner of such private property, or if the owner or custodian of such animal shall immediately remove any such defecation to a proper trash receptacle. Un sighted persons while relying on a guide dog shall be exempt from this Section;
 - D. Barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion. Continuous barking for five minutes or longer shall be deemed excessive;
 - E. If a dog barks repeatedly with no threat or cause for alarm, for example in response to normal vehicular traffic, pedestrian travel, or wildlife, and this noise can be heard from neighboring property, the owner may be cited for public nuisance. If the barking behavior is consistent and repetitive, this would constitute a public nuisance. If the barking is a result of an intruder in the home, an emergency in the vicinity of the home, or an outsider trespassing on their property, it would not be considered a public nuisance;
 - F. Any dog left outside at night between the hours of 10:00PM and 7:00AM who barks, whines, or howls, or makes other disturbing noises for one minute or longer shall be considered a public nuisance. Additional fines or penalties may be invoked for such a disturbance;
- And it goes on.

Smith: We need an enforcement officer.

Harrigan: No one wants to go down the lawsuit path. We know there are people in the neighborhood who are irresponsible dog owners. We know have some teeth. If you

have a neighbor that has a dog that is an issue, tell them they could be fined. We have the authority to hire an Interlaken Enforcement Officer. The discussion has been to get someone from outside the community – someone with a legal background, a retired police officer. Randy was our first choice, but we don't think it's fair to have a neighbor doing it.

Resident: Who do we call?

Harrigan: At this point, email the council.

Resident: Will Animal Control handle it?

Natasha: I went down to Animal Control and they told me now that we're a township, they won't come up. I spoke to the dog owner and she said "go sue me." I should have a right to have peace and quiet in my own home. So what do we do?

Harrigan: I will go talk to her. It's not right for her dog to disturb the neighborhood.

Natasha: Can we say after 10 times she has to get rid of the dog?

Harrigan: We can fine her multiple times.

Bill Goodall: I'm going to have a problem if I'm some place in my house and the deer go by and my dog barks for 61 seconds and I can't get to my dog in time. My point is that you all have common sense, but 10 years from now is someone going to measure my dog's barking.

Neuner: We as a council will try to operate with commons sense, and if there's a council that's not operating with common sense, I think it's the community's democratic duty to get rid of that council.

Resident: A couple questions on Title 11. I didn't see a process laid out for a normal course of action – who does the permit get submitted to, which things are the planning commission going to be the final authority on, or the council. What is the chain of custody and decision-making?

Smith: We have the documents, but they haven't been posted yet. There are two parallel paths. As a Town, we didn't want to just say, go to Epic Engineering and call us when you're done. You're going to submit your plans to both me, the town clerk, and Epic Engineering, digitally. This will initiate the application process. Most of your dealings will be with Epic Engineering. They will be looking carefully at your plans. We don't have the expertise to do that ourselves.

Resident: I understand that. I just think you're going to want to spell that out in the ordinances so that it's a requirement, not a suggestion. My second comment is on the appeal process. There's a piece that says the Council is primarily the appeal authority but that there's a section that says except for variances.

Simpkins: I'm currently working on coordinating with a planning commission member from Daniels and Charleston and Hideout, and we are all going to share in the responsibility of acting as the appeal authority.

Resident: I find it interesting that you can have an appeal authority of one person.

Cropper: That's how it's often done. There's no better way to do that. It's typically a land use planner or a land use lawyer. And the cost of that appeal, if the town is correct, goes to the applicant.

Smith: The code is written generically because we don't know who the appeal authority is yet. It may be an individual, it may this group from several towns, so we left the language general. Every time we change Title 11, we need to have a public hearing which costs us money and time.

Resident: A question about non-conforming structures. Was there a discussion about allowable modifications to a legal non-conforming structure, for example, less than 5% of the structure or 10% of a non-conforming structure? Currently it reads that there can be no addition to a non-conforming structure.

Harrigan: If it's a big enough job that you're going to need a permit for, then it would fall under this restriction. And there is the variance process.

Bill Goodall: The code states no wind energy conversion systems but the technology is going towards smaller and smaller systems. I'd like you to consider saying something like none that are 15 feet taller or something like that. Something that allows a mini wind converter system to be used.

Simpkins: This is something the planning commission could review.

Bill Goodall: I suggest we allow something that is acceptable.

Harrigan: Bring us something and we'll look into it. This is a live document, it will undergo changes. We'll put that on the list. At this point we're leaving it as it is. I also have an issue with allowing fences to cut off wildlife corridors. I would be very upset if someone above me cut off the corridor that allows wildlife to come down to my property.

Smith: There is no setback requirement for fences, just height restrictions and materials.

Neuner: I don't want to feel like we're punting on all these issues. I agree – I love the deer walking through my yard as well. We've heard strong opinions both ways. It's something I'd hesitate to do anything about now.

The process for this is to have the planning commission take it up as a real issue and get the pulse of the full community.

Resident: The CC&Rs have allowed fences since 1960.

Bill Goodall: Would it be wrong to start off with a 10 foot or 15 foot setback?

Harrigan: There are others with an opposing opinion. We decided to go with the way things have been.

Goodall: How does the town get it's voice on this matter heard?

Harrigan: Send your comments to Bart and he'll pass them on to the Town Council.

Smith: We could also take a poll from the town. Attending Council meetings is another way to have your voice heard.

Neuner: Speaking personally, I would love to get the community's pulse. We've heard from probably 10 people, probably split evenly. This is one where I do think a broader study would help us make a decision for the community and not based on our small sample.

(time on recording - 1:34:35)

Chip Higgins: I'm very concerned about Greg's question about buildable lots, talking about slopes because I own a lot that's steep. I bought it with the understanding that I'd be able to build on it.

Harrigan: When I said build, I meant lots without homes on them. We don't want to have any lots not be able to be built on. That's why there's an appeal process. The 30 foot setback is what's going to preclude some lots from being built on. That's why there's actually a variance process.

Higgins: The specific questions I have are on this topic. On page 27 (Section 11.07.080 Hillsides, Slopes, and Natural Grade) it talks about driveways can be built on a maximum of 15% grade although it you can receive a variance.

Harrigan: And that's a Fire Department requirement.

Higgins: And then, section d, "Fifty percent slop crossings." I don't know what 50 percent is, but the steep part of my lot is steep, but the language says

"Under no circumstances shall any street, road, private access road, driveway or other vehicular route cross slopes greater than 50 percent."

I don't know what the slope is on my lot, I don't know if it's 51 percent or 49 percent or 30 percent.

Smith: 50 percent is a cliff. It would be a black diamond run at Park City.

Resident: I don't think it could be cost effective to cross 50 percent, I don't think you could engineer that.

Higgins: That's not helping me sleep at night. I'm just concerned about that where it seems like in a lot of this title seems to be really written, this one says "under no circumstances," where as throughout the rest of the document there's provisions for variances and other determinations. I would be worried about a future planning commission pointing to this and saying "under no circumstances, and your lot is 50.1%, sorry you're out of luck." And then I go to Section 11.12.050 (Appeal Authority) and it says that "The Town Council shall be the appeal authority for review of constitutional takings issues." So then I'm just coming back to you to appeal the constitutional taking of my property.

Cropper: Then your next step is District Court. On a constitutional question you can always go to court.

Harrigan: So Chip you'd be more comfortable if that didn't say "under no circumstances" – is what you're saying? That would be a pretty ??? change.

Higgins: I have no idea how steep this is. I have to use my hands to walk up the slope.

Harrigan: What they're trying to prevent is cutting across that and creating a huge erosion problem.

Higgins: That's not what I want. I would just like the option to be able to build a home and maybe that would require a variance of the setback so it wouldn't have to be built so far down the slope – I don't know. It concerns me where it says "under no circumstances."

Harrigan: We should put that on for the next edits. Thank you for pointing that out. We worked hard to say, because there are lots up there that are virtually unbuildable, just by the nature of how they are, but we don't want to buy people's lots from them. That's not our goal.

Higgins: I don't want to sell.

Harrigan: Again that's a road cutting across it. That's not a home.

Higgins: That's the way I would I read it. I'm not sure how someone else would read it. I just want to be able to put in a driveway to a home at some future point.

Cropper: You think we could leave the prohibition in, but get rid of that "under no circumstances" subject to a variance.

Higgins: 50 percent sounds like reasonable language, but if somebody is 50.1 % ???

Harrigan: Take out "under no" and replace it with "not permitted without a variance."

Higgins: In no place else in here does it say "under no circumstances."

Smith: That's not true – you can't have goats or roosters.

Resident: On that particular issue, it might be worth it to check with Epic to see how easily they could give you a quick slope analysis.

Simpkins: They're doing a slope study survey for us, so we'll have that.

Resident: Because they are some real off-site health, safety, welfare issues with slopes that steep. I mean you could have things slide right off that lot and into a neighbor's house.

Harrigan: Steve your slope was pretty steep, what was yours, 27?

Steve Connor: It varied from 24.2 to 40 percent in one spot. I've been talking with Epic for about 2 weeks. The stuff that they use – that's them being the Town Engineer. They're gonna say if you want to put a road across that lot, they're not going to say no, they're going to do a slope stability analysis and like you said, it could be done, but to make it safe for everybody else...

Higgins: But it says "under no circumstances" – it doesn't need to say that.

Connor: So we'd be falling back on their expertise.

Higgins: So the slope analysis that they're doing, is that for all of Interlaken?

Smith: Yes, they're doing a map for the whole town.

Higgins: So at some future point I'd be able to find my lot.

Smith: The first thing they're going to do is to delineate the 30 percent zones, because that's the max we have right now for building a dwelling. We actually upped that – it was 25 percent. We asked Ryan about that and he said in his experience, most neighborhoods are 25 to 30 percent. That's the number they use.

Resident: If they're doing that, it should be no problem for them to just grade every 10 percent.

Simpkins: They'll work with you.

Harrigan: I think Chip brought up a very good point. When we do our edits, we're going to get this rolling, but we're obviously going to revisit this and have another public hearing, so we encourage everyone to keep on reading and we can make a change to the wording so that it's precluded, but not "under no circumstances."

Cropper: Well you have the option of approving what you have tonight with that one change.

Simpkins: Yes, that's what the motion will be.

Smith: Is that correct, or do we need a separate hearing?

Harrigan: Why don't we just do all the edits at one time and bring them up at a public hearing so everyone's aware of the changes we made? We already published this, I think that would be more appropriate.

Simpkins: Okay.

Harrigan: You're not submitting plans on this lot very soon?

Higgins: No.

Harrigan: Does anyone else have an issue with that? I would rather pass this in its complete form and have the planning commission be planning on having the next public hearing with all the changes we're going to do. I'd rather do that.

(Recording at 1:44:25)

Simpkins: Okay. Sound good to me. Do we have any other questions from anyone? Do we have a summary of letters and emails that we've received.

Smith: We have the one from Greg Cropper. Here's one. This is from H. Macdaniel Ball:

Comments presented outside of the hearing:

H. Macdaniel Ball III: written comment

My wife, Katy, and I are traveling out of state and cannot attend the meeting. I would like to comment on one of the proposed items: "no lawns allowed"

As we all know, there are numerous homes that have areas of grass currently. A blanket restriction of all grass for new homes would be unfair to new residents. We do, however, recognize that we live in a high desert, using a private well. Our plans call for 'water wise' plumbing fixtures, recovery of rain/snow runoff, drip system irrigation. We would like to have an area of drought-resistant grass (using less than 1/2 of the water required for Kentucky bluegrass) for children to play on. We suggest the covenant limit the grass coverage to a maximum sq. footage. We vote against a blanket restriction.

Goodall: For what it's worth, when we built our house, we submitted a landscape plan. We had in the plans an area this large for a dog, and that hasn't been put in, but you might want to consider letting that be included in the landscape plan and discuss it that way rather than saying "no lawn at all."

Smith: The problem is - what do we do when the water board looks at our code? That's the big problem, it's a legal document and they can go on our website and look at it. And if you say anything about you can have a lawn, aren't we...

Goodall: But if you say drought resistant plants, with limited irrigation, there's language for that.

Harrigan: I think our thought process was don't put it in there at all and deal with it on an individual basis. Bring your landscape plan, OK, we're going to see it, better to not have the water board see that...

Sue O'Nan: We're endorsing it. We don't want it endorsed in our ordinances.

Harrigan: When the bond's paid off, we have a little more leeway, 9 years from now.

Simpkins: I did receive an email from Rich and Veronica Miller, just right before this meeting, and it says:

We are unable to make the meeting. We have reviewed Title 11 they think the land use code is well thought out. They think it reflects our views as to how the Town should be guided. We are in complete support of the City Council approval of it. We thank those involved for working on it and when an appeal authority for variances is appointed by the City Council, I will put my name forward for consideration.

Smith: I've got another letter. This is from Gayle and Loye McDonald.

From:

Gary and Loye McDonald

333 Rosewood Park Lane

Draper, Utah 84020

To:

Interlaken Town Council

Attention: Town Clerk

P.O. Box 1256

Midway, Utah 84049

Subject: 307 Interlaken Drive

In response to your notification of the Municipal Code for Interlaken Town:

We will not be able to attend the meeting on the 9th of May , 2016 but would like to voice strong objections to parts of the new code.

When we bought in Interlaken 24 years ago it was a nice laid back community . It seems that things have gotten so restricted that it isn't a fun vacation home anymore. That is a very long list of restrictions and I wonder how they will be enforced.

A neighbor of ours was told by the county animal control that they no longer had any jurisdiction in Interlaken Town. That leaves me with concerns about the police and fire department coming up there when they are needed.

We are non residents , therefore our taxes are about double what the full time residents pay. We or members of our family visit an average of 8 times a year so our consumption of resources & services such as water, roads, etc. are much less than for people who live there and use them daily. Perhaps water meters should be considered. The full time residents need to contribute their share of water usage.

Our biggest concern is the paragraph in section 11.04.030 prohibiting short term rentals.

With costs being as high as they are ,it seems unreasonable that we should be not able to rent our property on occasion to someone wanting to come for a week to ski or engage in other activities that are available in beautiful Heber Valley.

Most of the web sites that offer vacation homes for rent allow you to vet people thoroughly before you allow them in your home. We certainly won't allow irresponsible people in our home.

This restriction will decrease value of property in as much as owners aren't allowed to use their property as they wish.

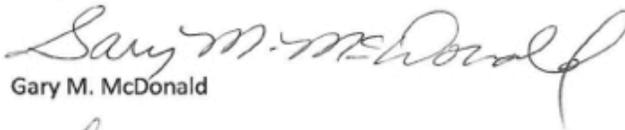
Have you considered the revenue that tourists bring to the area?

Our guests are required to abide by all current parking regulations.

My understanding is that this is still America and we are allowed to own and use our property so long as we don't infringe on the rights of others. It's not the responsibility of a town to determine who I allow to stay in my home.

There are several homeowners who are ready to hire an attorney to fight this restriction, should it pass. Have you stopped to consider the cost of legal fees to Interlaken Town along with the loss of revenue to homeowners should we pursue?

Respectfully



Gary M. McDonald



Loye H. McDonald

Smith: This is something that we should check into (regarding county animal control and other Wasatch County agencies).

Simpkins: We're still paying Wasatch County taxes, so they have to come up here.

Smith: Maybe we should figure out the animal control thing. What if there's a rabid animal?

Simpkins: You call Heber Animal Control.

Simpkins: So that was read into the record. Is there any others?

Smith: Yes, this is from Jim Hadden. His main concern was the setback, but we did change that for a garage. Other concerns are junk – who decides what is junk in your yard?

Simpkins: One man's junk is another's treasure. I think we do need to adjust "junk" to something else.

Smith: He's concerned about the regulation of the gas firepits. We require them to be 15 feet from any building. By the way, I don't how carefully you read that, but we're prohibiting any outdoor wood-burning fireplace or fire pit based on the Fire Marshall's recommendation.

Cropper: Gas grills are fine.

Simpkins: Gas grills, gas fire pits are okay.

Resident: Even a gas fire pit needs to be 15 feet away?

Simpkins: Correct. And it has to be surrounded by non-flammable material on the ground.

Goodall: That's the fire marshal's recommendation?

Simpkins: Absolutely.

Goodall: That was the same for our deck. So what's that material?

Simpkins: Concrete, stone, gravel.

Letter from Jim Hadden:

May 4, 2016

To the Interlaken Town Council,

I appreciate the time and energy that everyone involved with writing the Land Use Code has put in. (It wasn't fun, I'm sure.) My first thought was how do you turn four pages of CC & Rs into 46 pages, but I figured that one out.

Next was, how do I build my garage with the new set back? As you know, Bart and I communicated back and forth and you probably got some of the e-mails. I won't go into that now (but I will at a later time). Once I settled down, two days later, I got a bit wound up again. A more important reason. The reason was that those of us on the Water Board, while campaigning for our community to become a town, promised most things would stay the same including setbacks. Now it seems, for some reason, we need 46.5 feet for a front setback from the middle of the road. You may say, the setback was from our property line. Our CC&Rs do say that but Michael Soper (while on the Board) and Doug Smith (Wasatch County Planner) wrote and told me "from the middle of the road" on my last quest for a garage. Our streets are never going to be much wider than the 16' most of them are now. It can't be done. There isn't the room or the money. I see no problem with 30' from the middle of the road. The hope of the previous Board was to make building in our subdivision easier, especially on some of the more interesting lots.

Other things that caught my eye:

Sec. 11.04.010 A - Should it say, One family dwelling insted of "dwellings"? And why not a shed and greenhouse?

Sec.11.04.070 - Setbacks. You know my feelings about this. Well, maybe not really . . .

Sec.11.05.010 - Second paragraph "IMWC Company Assets Parcel - Parcel?"

Sec. 11.06.020 Yards to be unobstructed! I need some sort of explanation on this one.

Sec. 11.06.060 - junk! If I can't have a garage, my "junk" will be in the yard. And who decides what is junk?

Sec 11.06.070 - appurtenances - had to get out the dictionary for that one! Did you talk about the 35' height maximum being measured from a spot that is an average of the high and low spots of the building footprint? - Just curious.

Sec. 11.06.080 - No matter how many times I read this, I don't understand what it means.

Sec. 11.06.110 Clear triangle - Maybe if the distance was less, people might actually stop at our Stop Signs.

Sec. 11.06.120 Exceptions to setbacks - 150' might work for Midway but our lots are probably wider. The county's requirement is 1400'.

Sec. 11.06.210 Fences - This seems like a CC&R than a Town issue.

Sec. 11.06.260 B - 15' seems excessive. Most of these gas "fire pits" are zero clearance.

Sec. 11.11.040 - This one I hear you may be adjusting. It's hard to do basic house maintenance! for less than \$5000.

Sec.11.11.080 - "reasonable attorney's fees." Isn't that an oxymoron?

Harrigan: Can we go back to that nightly rental thing – that's something we all felt strongly about. The homes that have been short-term rentals have been problematic with parking, parties, things like that. We have every right to restrict that. People can rent their homes for a minimum of 30 days, but we are not a neighborhood that is well set up for nightly rentals. If this guy is willing to pursue a lawsuit, the town will be willing to fight it and we'll win it.

Neuner: We've reviewed regulations from other municipalities.

Simpkins: As a matter of fact, Park City even has a technology that screens all of the VRBOs

and the Craigslist lists and it identifies the addresses, zip codes, and area codes, and all that and pulls that information right out and sends it over to the enforcement officer.

Goodall: Park City allows weekly rentals.

Harrigan: There's a lot of neighborhoods that allow nightly, it depends on the neighborhood.

Simpkins: Depends on where you live.

Steve Connor: In Park City you have to have a million dollar policy and you have to be a landlord.

Simpkins: Yes, because it's a business. You also have to charge tax. There's a big reason a lot of municipalities are cutting down on it because they're tax abating.

Harrigan: The reason we don't want it is because people light fires, they park all over the streets, they have parties, they're driving on our roads – it's not a safe thing for our community.

Resident: Thank you for upholding that.

Harrigan: And if you notice somebody violating that let us know, and it will be a fineable offense.

Simpkins: We try and google it every so often.

Harrigan: There's at least two homes up here right now offering short-term rentals. They'll be made aware it's no longer allowed.

Simpkins: Okay, so I think we've covered everything. One more question in the back?

Resident: I'm just curious about Burgi Hill Ranches – have we been able to collect fees from them, is that being pursued?

Simpkins: That's being pursued. Just to give you a little update, there is a proposed subdivision called Dutch Canyons, on the other side of Dutch Farms. The city of Midway wants to route or connect all of the neighborhoods together – that's their master plan. So what they've proposed is when they gave approval for Burgi Hill Ranches, there was a proposed entrance, so now the Dutch Canyons subdivision is going to connect to Burgi Hill Ranches, the traffic will flow up there, and then come out on Interlaken Drive. However, we have a right...

Cropper: We have an expressed easement over the road and language that restricts anybody from granting rights to anybody else. Although they put a plat note on there expressing granting to others. So now Midway understands they got to deal with us.

Simpkins: We're getting a seat at the table with Midway to talk and part of these negotiations with Midway, if they really want to take over Interlaken Road, they have to work with us in order to get the money from Burgi Hill Ranches. So they're going to be very instrumental in helping us get the money from BHR along with Greg Cropper who we've hired to represent us. We're trying to get a number together of exactly what is owed and we're going to go from there.

Resident: So we don't own the bottom of the road anymore?

Simpkins: Right.

Resident: Is the portion up to where the old dumpsters where we own?

Simpkins: Yes, is it Scotch ditch or something that is right past the second entrance there going into the Valais? So just past that, all the way up.

Cropper: That's where we got the quiet title action that says we don't own it, but we have an easement right which is strong as owning it. It absolutely says that nobody else can be granted access. So it's kind of unrelated to BHR except that their plat note is a mess. But what I'd like to see happen with BHR and the money they owe us is that one of these developer parties either below us or above really needs to get some kind of access through there we get an agreement addressing all kinds of issues like what goes on

below us and sign our claim against all the ranches. We get the money from the developer and he can go sue Burgi.

Simpkins: That would be ideal, but currently for the development for Dutch Canyons, Watts does not need us. But Mr. Zenger will need us to develop his property. So that's an area for negotiations as well. So really Midway wants everything connected, with trails and roads and all that, so we're kind of the thorn in the middle and so now we're opening communication.

Resident: So if Russ Watts gets what he wants and he decides he wants everyone to have access to Interlaken...

Simpkins: He doesn't even want it. He originally proposed two exits to his subdivision and the city of Midway said no we don't want you to do that. We want you to go up through BHR and down Interlaken because their master plan is to connect them all.

Cropper: Before we were a town, Midway could have said we're just going to condemn your easement rights and would have given us some lowball appraisal of the value of that easement but they can't do that.

Simpkins: No, we're a town.

Resident: But we still have to pay them to take care of the road?

Simpkins: Currently, but that will be part of the negotiations as well, because Midway is in a better financial position than we are to redo that entire road. However, one of the stipulations that we did talk to the mayor about was still having Super Dave do the plowing because he does a way better job than Midway ever would.

Resident: And does Zenger intend to???

Simpkins: The Murano plans are off the table. There has been rumor of 5 acre parcels. There have been all kinds of rumors. I know for a fact that he does want to take care of that and get it developed sooner rather than later. So having us be in the position to have a buffer that would cut into his open space percentage – we'll have to see how that all goes. So that's the intent.

Resident: The fire access road, where that subdivision is being built, is that still our access road for us?

Simpkins: What is that, Canyon View? It will be paved soon.

Harrigan: Not all the way through. They'll pave it through Scotch Fields and Zenger will have to continue that up to Luzern at some point.

Resident: Is it Interlaken Road or Interlaken Drive?

Harrigan: It's Interlaken Drive.

Jim McCasland: I have another question. We're getting assessed a fee to pay for the dumpsters, and it says Interlaken only, but everybody and their brother is using it. There was some talk at some time that Valais or BHR would chip in and help pay for them.

Harrigan: This is one of the chips on the table – the dumpsters. Those guys want them gone we want them out of there but we don't have a spot to put them.

Simpkins: There was some talk about building a trail head for the State Park by the Interlaken sign and they would put the trash receptacles in there as well.

Harrigan: The current situation is not good.

Simpkins: Once it's developed, there may be a spot over on Canyon View.

Harrigan: The real trade there is either with Watts or Zenger to get a small piece of property to put our dumpsters on. Midway wants to spend a million dollars on that park by the way. They have a plan to really make that park nice and they don't want our dumpsters there either. They made us move them there so it's their issue as much as it's our issue.

Goodall: As long as we're talking about dumpsters, can we talk about mailboxes?

Harrigan: It think that's a post office deal.

Goodall: The post office said, we want to put them out there, but Interlaken said no.

Harrigan: But we don't own anything down there.

Goodall: All I'm saying is that as long as we're considering space for the dumpsters could you please consider space for mailboxes?

Harrigan: That's a great idea, if we had the right spot. Especially right there at the bottom of Edelweiss. If we got a piece there, and we put a little dumpster house and a bank of mailboxes, that would be great.

Simpkins: But there's no where to turn around.

Harrigan: We'd have to get some land from Watts or Zenger.

Simpkins: That being said, we're going to close public comment. Does Council have any other comments?

5. Council Comments:

Harrigan: Thank you all for coming.

Simpkins: If there are no other comments, I would like to see if there's motion for adjournment.

Smith: We will close the public hearing and go back to the council meeting.

6. Adjournment:

Council Member O'Nan moved to adjourn the meeting. Council Member Neuner seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:10 PM.

The Public Hearing on Land Use will begin in 5 minutes. The Council Meeting will reconvene after the Public Hearing.

7. Council Meeting Reconvenes:

Mayor Pro Tem Simpkins called the meeting to order at 8:13pm.

Approval of ordinances: Title 9 Building & Construction and Title 11 Land Use.

Motion: Council Member Harrigan moved to approve Title 9

Second: Council Member Neuner seconded the motion.

Discussion: no discussion

Vote: : The motion was approved with the Mayor and the Council Members unanimously voting Aye.

Motion: Council Member Neuner moved to approve Title 11

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: : The motion was approved with the Mayor and the Council Members unanimously voting Aye.

8. Adjournment

Council Member O'Nan moved to adjourn the public hearing. Council Member Neuner seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:17 PM.